



TO: Mayor and Town Council

June 18, 2013

**SUBJECT:** Resolution No. 60-2013, certifying a Final Environmental Impact Report and adopting findings and a Statement of Overriding Considerations; approving Major Subdivision request DEV10-0071; approving Final Development Plan request DEV10-0072; and approving Tree Removal request TR10-28.

Ordinance No. 2013-02, approving Preliminary Development Plan - Rezoning request LEG10-0004, rezoning the 410 +/- acre site from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to a new P-1; Planned Unit Development District.

The project site is located on the south side of Diablo Road and Blackhawk Road extending approximately two miles east from the intersection of Diablo Road/Green Valley Road/McCauley Road and is further identified as APNs: 202-050-071, 073, 078, 079 and 080; 202-100-017, 019, 038 and 040; and 215-040-002 (Magee Ranch - SummerHill Homes).

**DESCRIPTION**

This application is for a Preliminary Development Plan - Rezoning request (LEG10-0004), a Major Subdivision request (DEV10-0071), a Final Development Plan request (DEV10-0072), and a Tree Removal request (TR10-28), which would collectively serve to: 1) rezone the property from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to P-1; Planned Unit Development District; 2) subdivide the 410 +/- acre site to create 69 single family residential lots (in order to comply with the Town's Inclusionary Housing Ordinance, 10 percent of the lots would include a second dwelling unit; 3) provide for architectural design and landscape details for the development, and; 4) allow for the removal of 12 Town-protected trees (total 56 trees).

This application was reviewed by the Danville Planning Commission during the Commission's regular meetings of April 23, 2013 and May 14, 2013. At the May 14th meeting, the Commission recommended that the Town Council approve the development application with changes that included the elimination of the proposed three residential lots accessed from McCauley Road. As a result, the Planning Commission recommends a project that consists of 66 residential lots.

As stated above, the project application requests approval of 69 residential lots, and the project plans referenced within Town Council Resolution No. 60-2013 is for a 69 unit project in order to align with the environmental documents. Should the Town Council wish to accept the Planning Commission's recommendation to eliminate the three proposed lots accessed from McCauley Road, resulting in a 66 unit project, the following condition of approval should be added to the Resolution:

*"The vesting tentative map shall be modified to eliminate the proposed three lots accessed from McCauley Road. This area shall remain in its natural state and shall be added to the project's permanent open space area."*

The 410 +/- acre site is generally characterized by open grass-covered hills with scattered trees, and includes ridgeline areas, areas with slopes exceeding 30 percent, wooded ravines, and flatter areas in the northeast portion of the site. The site is surrounded by residential uses and open space, with the existing Magee Ranch neighborhood to the east (259 homes on 590 +/- acres), and the Creek Ledge, Diablo Creek, Cameron Court, Jillian Way, Arends Drive, and Tree Creek neighborhoods to the north. Additional existing residential neighborhoods are located south of Short Ridge. The Hidden Valley neighborhood is located southwest of the site. Institutional uses, including San Ramon Valley Fire Protection District Station 33, the Sunrise Assisted Living Facility, and Green Valley Elementary School are located to the west.

The proposed project, as submitted, would result in 69 single family homes on the approximately 410 acre site. Three homes are proposed on McCauley Road, south of the Diablo Road/McCauley Road/Green Valley Road intersection, and the remaining 66 homes would be located on the eastern portion of the property, accessed by a new driveway just east of Jillian Way. Six of these lots are proposed as larger custom lots, ranging in size from one acre to two and one-half acres. The remaining 60 lots range in size from approximately 10,000 square feet to over 19,000 square feet in size. Approximately 38 acres of the site would be developed with residential lots, with the remaining 372 +/- acres to be retained as permanent open space. The open space would be privately owned by either an existing Geologic Hazard Abatement District (GHAD) which the project is proposing to annex into, or the project's Homeowners Association (HOA). The developer would be required to offer in dedication pedestrian access easements to the East Bay Regional Parks District over an existing fire trail on the property, providing for a possible pedestrian connection between Sycamore Valley to the south, and Mount Diablo to the north.

## **BACKGROUND**

The project site is the last undeveloped portion of the original approximately 1,200 acre Magee Ranch which has been subdivided and developed in phases over the last 35 years. These developments include the land subdivision that resulted in the Diablo Creek neighborhood and homes off of Jillian Way. In 1989, approximately 590 acres were subdivided into the 259 single family homes, resulting in the existing Magee Ranch neighborhood. In 2001, another 100 acre portion of the ranch was sold to the Purcell family who developed one single family home, a detached second unit, and accessory structures. The remaining 410 acres is the subject of the current application.

The initial application, submitted in October of 2010, proposed a total of 85 lots on the 410 acre site. Through the application and environmental review process, the proposal has subsequently been revised and reduced in scope in order to increase the total open space to be provided and to reduce environmental impacts. A resubmittal in October, 2011, reduced the number of proposed lots to 78. A third resubmittal in February, 2013, further reduced the proposed number of lots to 69. The February 2013 resubmittal eliminated the five lots that were previously proposed across from Fairway Drive and five custom lots previously proposed on the western portion of the project site due to traffic access constraints that would have resulted in significant aesthetic impacts along the corridor. As recommended by the Planning Commission at its May 14<sup>th</sup> public hearing, the project has been reduced to 66 single family homes.

A fourth and final resubmittal (June 5, 2013) shifts the proposed main entry drive approximately 20 feet to the west as it approaches the creek crossing, allowing the roadway to avoid encroaching onto an adjacent parcel which has a General Plan land use designation of General Open Space. The Town and the applicant have been aware for some time that, in the previous submittals, approximately 350 square feet of the roadway encroached onto this parcel. However, the Town has been comfortable with this encroachment as there are existing instances of roadways located within areas designated General Open Space in the Town. However, the applicant has chosen to modify the project plans to avoid any encroachment and any potential General Plan inconsistencies. The proposed roadway would still maintain an approximately 35 foot setback from the westerly property line, and substantial plant material to provide for a buffer between the roadway and the adjacent homes is shown on the project plans.

### **Public Notification**

On October 26, 2010, shortly after the initial project submittal, a request for comments was mailed to all surrounding property owners within a 1,000 foot radius of the project site, and responsible or concerned agencies. The Planning Commission held a public scoping session on November 30, 2010, to solicit input regarding the scope of the

Environmental Impact Report (EIR) being prepared for the project. The Town held a public hearing to allow for public comments on the adequacy of the Draft EIR on February 29, 2013. Public notification was also mailed to advise of the April 23, 2013 and May 14, 2013 Planning Commission meetings, as well as for this Town Council meeting.

As a parallel process, the Town's Design Review Board (DRB) reviewed the architectural, landscape, and site design aspects of the project on June 16, 2011, December 15, 2011, February 28, 2013, and March 28, 2013. At the March 28, 2013 meeting, the DRB recommended that the Planning Commission accept the design related aspects of the project (see Attachment E).

As noted earlier, the Planning Commission approved Resolution No. 2013-05 at its May 14, 2013 meeting, recommending that the Town Council certify the Final Environmental Impact Report and approve the project with changes (see Attachment D, draft Planning Commission Summary of Actions). The Planning Commission's recommended changes include the elimination of three proposed lots that are accessed from McCauley Road (reducing the project size to 66 units), imposition of additional restrictions that limit construction related traffic to avoid the peak morning and afternoon traffic periods, provision of a small gravel parking lot on the east side of the main project entry road on the south side of the bridge to provide access to area trails, and requirement for the Geologic Hazard Abatement District (GHAD) proposed as part of the project to submit annual reports to the Town for the first five years.

## **EVALUATION**

### **Conformance with General Plan**

The General Plan Land Use Map identifies the land use designations for the project site. The site contains the following four General Plan land use designations: 1) General Open Space, 2) Agricultural, 3) Rural Residential, and 4) Single Family - Low Density. The extent of the respective land use designations across the project site are discussed below:

- a. Rural Residential land use designation covers approximately 201 acres of the site. The General Plan specifies that the allowable density for lands with this designation as one unit per five acres. The General Plan also specifies that the zoning districts of P-1; Planned Unit Development District and the A-2; General Agricultural District are consistent with this land use designation.
- b. The Agricultural land use designation covers approximately 199 acres of the project site. This designation does not have a specific density range; density is

established according to the applicable site-specific zoning. The General Plan establishes that the Town's A-2; General Agricultural District is consistent with the Agricultural land use designation. The A-2; General Agricultural District establishes a density of one unit per five acres.

- c. The General Open Space land use designation covers approximately 5.9 acres of the project site. No development is permitted under this designation. The General Plan establishes that the Town's P-1; Planned Unit Development District and A-4; Agricultural Preserve District are consistent with this land use designation.
- d. The Single Family - Low Density land use designation covers an approximately five acre portion of the project site along Diablo Road opposite Fairway Drive. This designation allows a residential development density range of 1-3 units per acre. The General Plan also specifies that the Town's P-1; Planned Unit Development District and the R-40, R-20 and R-15; Single Family Residential Districts are consistent with this land use designation.

### **Uses allowed under the Agricultural Land Use Designation**

The General Plan lists the Town's A-2; General Agricultural Zoning District as a consistent zoning district when the land is not under Williamson Act Contract. The Town's A-2; General Agricultural District includes a list of uses allowed within the District (see Attachment F). The A-2; General Agricultural District lists "a detached single family dwelling on each parcel and the accessory structures and uses normally auxiliary to it" as a use permitted by right within the District.

### **Special Concern Area**

While the Agricultural land use designation does not specifically list the P-1; Planned Unit Development District as a consistent zoning category, the Magee Ranch property is identified as one of 14 Special Concern Areas in both the 2010 and the 2030 General Plan. The Special Concern Area text states that:

*"The Special Concern Areas require consideration of planning issues that are unique to a particular geographic area within the Town. The Special Concern Areas text presented below identifies land use policies not shown on the Land Use Map or reflected in other parts of the General Plan."*

The General Plan language for the Magee Ranch Special Concern Area includes the following relevant direction:

- The Plan describes Diablo Road in this area as retaining “the flavor of an ambling country road. The Town strongly supports retention of this character and protection of the views and vistas from the road.”
- “[P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged.”
- “As on the other large undeveloped hillside sites in Danville, protection of scenic slopes and ridgelines is imperative. Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre ‘ranchette’ sites similar to those in the Tassajara Lane/Sherburne Hills area is strongly discouraged. Such development would require grading and road construction that could substantially diminish the visual qualities of the area. On the other hand, transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open space. This would also provide opportunities to establish park and trail connections and to preserve wildlife corridors between this area and the Sycamore Valley Open Space.”

The Town’s P-1; Planned Unit Development District is the only zoning district available to allow for the transfer of density that clusters development. Based on the General Plan’s recognition that Special Concern Areas may contain policies not found elsewhere in the General Plan and the specific direction provided within the Magee Ranch Special Concern Area, the proposed use of P-1; Planned Unit Development District zoning to allow the clustering of development as part of the project is consistent with the General Plan.

### **Williamson Act Contract**

Under a Williamson Act, properties receive preferential property tax treatment and, in exchange, voluntarily agree to use their properties only for agricultural purposes while the property is under contract. The Williamson Act allows the property owner to opt out of the contract by providing a notice of non-renewal.

No portion of the project site is currently under Williamson Act Contract. Pursuant to the California Land Conservation Act of 1965, approximately one-half of the 410 acre site (the portion designated as Agricultural under the General Plan) was previously under Williamson Act Contract. A notice of non-renewal was submitted in 2000, and the property came out of Williamson Act Contract in 2010.

Of the total 410 acre site, 199 acres are zoned A-4; Agricultural Preserve Zoning District. This area was previously zoned A-2; General Agricultural District prior to entering into

the Williamson Act Contract. It has been Contra Costa County's and, upon incorporation in 1982, the Town of Danville's practice to rezone properties to A-4; Agricultural Preserve District concurrently with the approval of a Williamson Act Contract. It has also been the Town's position (as well as Contra Costa County's) that once a property is no longer under Williamson Act Contract, the A-4; Agricultural Preserve District is no longer necessary or appropriate. While the zoning does not automatically revert to the A-2; General Agricultural District, the property owner has the right to pursue other zoning categories described as consistent within the General Plan. Requiring that a property remain under the A-4; Agricultural Preserve Zoning District after the Williamson Act Contract is cancelled would be a disincentive for entering into a Williamson Act Contract.

### **Measure S**

Passed by Danville voters in 2000, Measure S amended the Town's General Plan by adding a new policy regarding the process for changing three of the land use designations in the General Plan: General Open Space, Parks and Recreation, and Agricultural. Measure S provides that the General Plan land use designations of these properties may only be changed by either a vote of the people or by a 4/5's vote of the Town Council based on specific findings.

Measure S does not (1) apply to rezonings or other land use decisions that are allowed by a property's existing land use designations; (2) alter any other existing General Plan policies that may be applicable to the properties with one of the three land use designations; or (3) eliminate or reduce any development potential for those properties with these land uses designation. The proposed project involves a rezoning that is consistent with the General Plan, and therefore is not subject to Measure S.

Given that neither the General Open Space nor the Parks and Recreation land use designations have residential development potential, Measure S has had the greatest effect on the development of lands carrying the Agricultural land use designation. Effectively, Measure S presents two options for land owners who wish to develop properties with this land use designation. The first option would be to request development densities in excess of the underlying development potential, which would require a General Plan Amendment and would therefore be subject to a vote of the people or a 4/5's vote of the Town Council. The second option would be to request development densities consistent with the underlying development potential, which would not be subject to a vote of the people.

Since the passage of Measure S, the Town has received two development applications on lands with the Agricultural land use designation: the Elworthy Ranch development and the subject Magee Ranch - SummerHill application. In both cases, the applicants have opted to pursue the second option.

### *Measure S Case Study: Elworthy Ranch*

In 1998, prior to Measure S, the Town received a development application with two alternate plans on the 459 acre Elworthy Ranch property that proposed residential densities that exceeded what was allowed by the site's Agricultural land use designation (one plan proposed 224 lots while another proposed 313 lots). The proposals required a General Plan Amendment and after a lengthy review process, it was ultimately withdrawn after the Town recommended denial.

In 2005, after the passage of Measure S, a subsequent development application for the Elworthy property was submitted. In compliance with Measure S, the applicant elected to propose a significantly lower density project, at a total of 97 homes. The project did not require a General Plan Amendment and was therefore not subject to Measure S. As encouraged by the General Plan, the allowable density was clustered on a 12+/- acre portion of the property, located on the lowest portion. The remaining 97% of the site, totaling 447 acres, was set aside as permanent open space.

### *Measure S Case Study: Magee Ranch (Existing and Proposed)*

In 1983, the Town approved an application for a 259 single family home development on approximately 590 acres, which is now the Magee Ranch neighborhood. This development application required a General Plan Amendment to change the land use designation from Agricultural to a combination of Residential - Single Family - Low Density and General Open Space. The site was subsequently rezoned from A-4; Agricultural Preserve District to P-1; Planned Unit Development District. Under Measure S, it would require approval of a General Plan Amendment, which is subject to a vote of the people.

Subsequent to the passage of Measure S, the current Magee Ranch - SummerHill application proposes 69 lots on a 410-acre site. Approximately 199 acres of the site are under the Agricultural land use designation and 201 acres are designated Residential - Rural Residential. A five acre portion of the site is designated Residential - Single Family - Low Density, and approximately six acres of the site are designated General Open Space. The property's allowable base density has been determined to be a maximum of 78 units. Since the proposed density is less than one unit per five acres, the project is consistent with the allowable density, a General Plan Amendment is not required and the project is therefore not subject to Measure S.

In both cases, the net effect of Measure S is the reduction in the development densities on properties with Agricultural land use designations.

<b>PRIOR TO MEASURE S</b>	<b>Units Per Acre</b>	<b>Units Per Five Acres</b>
Elworthy Ranch (1998 submittal)	0.48-0.68	2.8-3.4
Magee Ranch Neighborhood (1983)	0.44	2.2
<b>AFTER PASSAGE OF MEASURE S</b>	<b>Units Per Acre</b>	<b>Units Per Five Acres</b>
Elworthy Ranch (2005 submittal)	0.16	0.8
Magee Ranch – SummerHill	0.17	0.84

### **Architecture/Landscaping**

The applicant proposes to construct homes on all of the lots within the project, except for the six larger custom lots located at the end of proposed Courts C and F. For the 63 production lots, four floor plans are proposed, ranging in size from 3,102 to 4,116 square feet (see Attachment Q). Plan 1 is single story, and the other three plans are two-story plans. Plans 2, 3 and 4 are designed to accommodate a 500 +/- square foot attached second dwelling unit “casita” as an option. The architectural plans were reviewed by the Town’s Design Review Board on four different occasions and were recommended for approval. A recommended condition of approval would require that homes to be built on the six proposed custom lots be subject to review and approval by the Town under separate Development Plan applications.

The development would include the installation of a significant amount of landscaping throughout the project (see Attachment Q). Landscaping would be installed along both sides of the proposed new entry drive, as well as the median in the entry drive and along the creek trail. This landscaping and irrigation would be maintained by the project’s Homeowners Association. The developer would also install all front yard landscaping for all of the lots. The landscape plans for the project were reviewed and recommended for approval by the Town’s Design Review Board.

### **GHAD/HOA**

The applicant is proposing to annex into an existing Geologic Hazards Abatement District (GHAD) to provide for the maintenance of geologic and related features associated with this project. A GHAD is an independent agency which serves to provide an ongoing resource for managing geologic hazards within the boundaries of the GHAD. The GHAD is also proposed to maintain the storm water detention basin which would be built as part of this project.

A Homeowners Association (HOA) would also be formed as part of the project. The HOA would be responsible for maintaining common landscaping and fences, as well as landscape irrigation.

## **Scenic Easements**

The approximately 372 acre portion of the project site that would not be developed, would be required to be dedicated as permanent open space. In addition, a scenic easement which would prohibit the development of structures or significant grading would be dedicated to the Town of Danville. The open space area would be maintained by the project's GHAD.

## **Inclusionary Housing**

Consistent with the Town's Inclusionary Housing Ordinance, 10 percent of the units (seven units) within this project would be required to incorporate second dwelling units. If rented, these second units shall be rented at an affordable rate, as set by the California Department of Housing and Community Development, to be affordable to low income households. Three of the proposed floor plans for the project are designed to incorporate an attached 500 +/- square foot second dwelling unit.

## **ENVIRONMENTAL IMPACT REPORT**

In accordance with the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for this project. The EIR was prepared by the consulting firm of Denise Duffy and Associates (DD&A), working under direct contract to the Town. An EIR is a tool for decision making and is intended to provide detailed information regarding environmental impacts that may be associated with a project. The EIR for this project studied the potential environmental impacts in the areas of Aesthetics, Agricultural and Forest Resources, Air Quality, Biological Resources, Cultural Resources, Geotechnical and Geologic Hazards, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Traffic and Circulation, and Utilities. The EIR concluded that there would be no significant unavoidable environmental impacts associated with this project. While potentially significant environmental impacts were identified in a number of areas, mitigation measures were identified which would reduce the impacts to a less than significant level. Identified mitigation measures are included as recommended conditions of approval for the project.

The Town is recommending that the Town Council adopt a Statement of Overriding Considerations for Mitigation Measure 4.12-2 related to the improvements to the Mt. Diablo Scenic/Diablo Road intersection. This mitigation measure would require the applicant to make a fair share contribution toward the future construction of a traffic signal at this intersection. This contribution would mitigate the project's impacts on this intersection. However, the intersection is located completely within unincorporated Contra Costa County. Therefore, it will ultimately be the County's decision whether to

actually build the signalized intersection. Approval of the Statement of Overriding Consideration would be required for project implementation should the County choose to not construct the signalized intersection. Detailed findings for CEQA and the Statement of Overriding Considerations can be found in the CEQA Findings (Attachment 1 of Attachment A).

## **ENVIRONMENTAL ISSUES**

The following are Town responses to concerns raised regarding specific environmental issues.

### **Flooding and Erosion**

Concerns have been raised regarding additional stormwater run-off that would be produced as a result of the new impervious surfaces that would be associated with this proposed development. Concerns have been raised relating to both potential downstream flooding and downstream erosion.

#### **Response**

The hydrologic analysis that was prepared for the project and described in detail within Section 4.8 of the Draft Environmental Impact Report (DEIR) concluded that the project would mitigate potential hydrologic impacts related to increases in peak flow rates by installing a detention basin that would maintain post-project peak flows at pre-project levels. The project is not only mitigating for a 10-year rainfall event but, as currently designed, for a 100-year event. As a result, the project would not result in an increase in peak flows in the creek.

The proposed detention basin would also incorporate drainage features to comply with the current Contra Costa County Clean Water Program standards, including conformance with watershed hydromodification requirements. These standards require new development projects to slowly meter smaller flows specifically to mitigate downstream erosion. The hydromodification requirement has been in effect in Contra Costa County since 2006 and is a far more rigorous hydrologic mitigation measure than previously required. Given that peak flows would not increase with implementation of the detention basin and that smaller erosive flows would be addressed through hydromodification controls, potential impacts to downstream receiving waters would be reduced to less than significant levels.

Concerns have also been raised that the Town has not adequately addressed the Contra Costa County Flood Control District's (CCCFCD) comments regarding the project's potential impacts on Green Valley Creek. Comment number nine of the CCCFCD's

letter of January 29, 2013 (Letter 6 contained within the Final EIR) discusses the possible need to complete a downstream inventory of the creek to identify any critical locations prone to erosion. However, this comment states that the inventory is recommended “if peak flows are increased.” As described above, the proposed detention basin would assure that post-project peak flows are maintained at pre-project levels.

The Town and the project Engineers have worked closely with the CCCFCD to assure that the hydrologic analysis and the Stormwater Pollution Control Plan meet the standards, methodology, and requirements of the CCCFCD. The CCCFCD has reviewed the study and project plans, and have stated that they are satisfied with the analysis (see Attachment G, Letter from the CCCFCD dated May 8, 2013).

### **TRAFFIX Program**

Comments were raised with regard to whether the TRAFFIX Program would be redirected to areas of growth such as the Dougherty Valley. In addition, one Commissioner expressed a desire for the applicant to contribute towards an assurance that future residents of the development would also use the TRAFFIX program as another way of establishing a culture of bus ridership and further ensuring the program’s ongoing success along the corridor.

### Response

A letter from the TRAFFIX Committee (see Attachment H), dated April 23, 2013, speaks to the concern that there was a possible redirection of TRAFFIX service from the Green Valley/Diablo Road corridor to the Dougherty Valley. In summary, the TRAFFIX Board has never considered the expansion of service in the Dougherty Valley at the expense of an existing service area with strong ridership.

With regard to building a culture of bus ridership within the new development, SummerHill Homes proposes to establish a fund (with a preset amount of \$30,000) that would be used to purchase TRAFFIX bus passes for new homeowners for the first few years of the development’s existence. Similar to other transit incentive programs, this fund would help establish a habit of transit use that would further reduce the project’s impacts to the roadway corridor. With the development projected to generate 47 students in the K-8 grade levels, the \$30,000 fund would provide for a little over three years of TRAFFIX bus passes (47 students x \$200 early bird price = \$9,700 per year).

### **Residential Lots on McCauley**

A few comments/questions were raised with regard to the appropriateness of the lots off of McCauley Road, adequate sight distance to/from the proposed new residential

driveway, and how the proposed restriping would mitigate potential backup. There was also a question raised regarding the possible need to off-haul dirt as a result of the creation of these lots.

#### Response

The proposed lots on McCauley Road are relatively more visible than other proposed lots in the project as a result of their placement, but they do not conflict with adopted development guidelines. As illustrated in Attachment I, the location of the proposed new driveway allows for it to meet minimum stopping sight distance requirements of 250-feet for the design speed of the roadway.

Also, as illustrated on Attachment K, the restriping of McCauley Road would provide for a queuing lane for vehicles heading southbound toward the rear parking lot of the Green Valley Elementary School. The provision of this queuing lane allows other southbound vehicles, headed for either the three McCauley Road lots or further into the Hidden Valley subdivision, to travel unimpeded.

Finally, the applicant's engineer has confirmed that the grading required to create these lots would be balanced on site, with no need to off-haul dirt.

#### **Thresholds of Significance - Traffic**

Comments/questions were raised with regard to (a) whether and why the Town uses project-specific thresholds for traffic impacts; and (b) how the project-specific threshold was established.

#### Response

As described at the May 14<sup>th</sup> Planning Commission hearing, the evaluation of traffic impacts consists of a two-part analysis. The first part of the analysis seeks to determine whether the proposed project – by itself – would cause a study intersection to degrade to unacceptable levels. The threshold of significance for this first part of the analysis is defined and adopted by the Danville General Plan (LOS “D” for Basic Routes) and the Tri-Valley Transportation Plan/Action Plan (LOS “E” for Routes of Regional Significance). The analysis shows that the project does not cause any degradation of the study intersections in existing or cumulative scenarios.

The second part of the analysis seeks to determine the threshold of significance for study intersections that are *already at* unacceptable levels or *projected to* degrade to unacceptable levels because of cumulative background growth. This part of the analysis uses project-specific thresholds of significance in order to reflect the unique characteristics of each project's setting.

The California Environmental Quality Act (CEQA) allows lead agencies to create project specific thresholds and does not require that these thresholds be adopted before they are used. Section 15064(b) of CEQA specifically recognizes that an agency may need to create specific thresholds based on the unique setting of each project. Further, this approach has been recently upheld by case law.

The project-specific traffic threshold of significance used for the SummerHill EIR was based on an analysis of what would be a perceptible change in existing traffic congestion along the Diablo Road corridor. For many jurisdictions, an imperceptible change in congestion (e.g., due to the normal daily fluctuations of traffic throughout the year) is considered to be an insignificant impact.

The Town conducted an analysis of the Green Valley/Diablo Road intersection in recent years and measured the average change (the amount of normal fluctuation) of the intersection’s volume-to-capacity (v/c) ratio. The v/c ratio is a measurement of congestion at an intersection.

During the period between the years of 2004 - 2010, the overall average change in the v/c ratio was 0.064 (AM Peak) and 0.080 (PM Mid-Day Peak). During the period between the years of 2008 - 2010, which discounts the pre-recession years where high traffic volumes may skew the average, the overall average change in the v/c ratio is 0.057 (AM Peak) and 0.073 (PM Mid-Day Peak).

Count Date	AM Peak	Delta	PM Mid-Day Peak	Delta
May 2004	0.78	-	N/A	-
November 2004	0.65	0.13	0.61	-
May 2006	0.63	0.02	0.71	0.10
September 2008	0.70	0.07	0.56	0.15
September 2009	0.69	0.01	0.57	0.01
October 2010	0.60	0.09	0.51	0.06
Overall Average (2004-2010):		0.064		0.080
Recessionary Average (2008-2010):		0.057		0.073

As illustrated above, the Town elected to use the lowest average change in the v/c ratio (0.05) as a conservative measurement of perceptibility. In other words, if a project caused the v/c of an intersection to increase by 0.05 or more at a signalized or unsignalized intersection, then the change is considered perceptible (beyond normal) and would therefore be considered to be significant.

## Diablo Road Bicycle Lane Analysis

A number of questions were raised with regard to what would be done to address the issue of bike safety on Diablo Road. The Planning Commission also requested an analysis of what would occur if bike lanes were to be constructed along Diablo Road.

### Response

Diablo Road is described in the Danville 2010 and 2030 General Plans as an important scenic corridor with the character of an “ambling country road” and states that the “Town supports the retention of this character.”

Diablo Road is also one of many two-lane roadways throughout the Bay Area that carries both vehicular and recreational bicycle traffic, particularly during the weekends. In recognition of the recreational function of Diablo Road, the Town considered alternative facilities that could accommodate bicycles as well as pedestrian traffic that is consistent with the direction of the Danville General Plan. The envisioned solution - identified in the 1989 Townwide Trails Master Plan and carried forward in the 2006 Parks, Recreation and Arts Strategic Plan - is a separate 8-foot wide paved multi-use facility that could accommodate both bicyclists and pedestrians along an alignment that is parallel to Diablo Road. A funding mechanism to help implement this vision was established through the North East Roadway Improvement Assessment District (NERIAD), where partial funding for the trail has already been collected to help implement the project. To date, the remaining obstacle to the construction of this long envisioned trail gap is public access through the Magee Ranch property.

The Magee Ranch - SummerHill development application would provide the public with access for this multi-use trail, which consists of two segments (Attachment L):

1. **Public Trail Easement** (approximately 3,600 linear feet) extending from Diablo Road, near the intersection of Alameda Diablo, and follow along an existing jeep trail along the south side of Diablo Road eastward terminating at the intersection of the proposed project’s emergency vehicle access road (EVA) and Diablo Road.
2. **Public Paved Trail** (approximately 3,750 linear feet) extending from the termination of the public access easement eastward through the subdivision and extends out to Blackhawk Road through the proposed development’s main project entrance.

Collectively, the trail easement and the paved trail segment would enable the closure of a significant trail gap long envisioned by the Town’s long range policy documents. It also represents a permanent public non-vehicular alternative to Diablo Road.

## Forecasted 2% Traffic Growth

A number of commenters asserted the use of 2% for projected future traffic growth effectively minimizes the project's contribution to the corridor, and therefore reduces the project's impact as analyzed within the EIR.

### Response

The assertion is erroneous because it incorrectly assumes that the project's impacts are measured against the total forecasted growth. Rather, in all standard traffic studies (including this Traffic Impact Analysis), a project's impacts are expressed through a volume-to-capacity (v/c) ratio. The forecasted growth is *added* to the project traffic and is then measured against the roadway capacity as illustrated in the equation below.

$$\text{The Actual Calculation: } \frac{v}{c} = \frac{\text{Project Traffic + Forecasted Growth}}{\text{Roadway Capacity}}$$

Therefore, a higher forecasted growth rate would express more traffic impacts. The following examples illustrate this concept using a 1% versus 2% growth forecast (where the illustrative numbers represent volumes and capacities during the AM Peak):

Example A. Using estimated 1% Forecasted Growth

$$\frac{v}{c} = \frac{\text{Project Traffic + Forecasted Growth (1\%)}}{\text{Roadway Capacity}} = \frac{89+1,000}{3,000} = \frac{1,089}{3,000} = 0.36$$

Example B. Using 2% Forecasted Growth

$$\frac{v}{c} = \frac{\text{Project Traffic + Forecasted Growth (2\%)}}{\text{Roadway Capacity}} = \frac{89+1,355}{3,000} = \frac{1,444}{3,000} = 0.48$$

Note 1: These examples use westbound am peak hour traffic volumes and roadway capacity identified in the Traffic Impact Analysis. The 1% forecasted growth is an estimate used for illustration purposes only.

As illustrated, the use of a higher forecasted growth rate (2%) results in a higher and therefore more conservative expression of traffic impacts.

## **Green Valley/Diablo Intersection Improvement**

A number of comments were raised with regard to how the intersection improvements would improve traffic at the Green Valley/Diablo Road intersection.

### Response

The westbound lanes at Green Valley/Diablo Road intersection consist of a single left-turn lane, two through lanes and one right-turn lane. Currently, the length of the through lanes are insufficient to accommodate the existing westbound queue on Diablo Road, particularly during the AM Peak. This morning peak hour queue has been observed to extend approximately 1/3 mile, requiring several signal cycles to clear the intersection.

One major issue associated with inadequate lane storage is that the turn movements and through movements are intermingled. In many instances, the westbound through movements are blocking the westbound right-turn movements. Currently there is a short (i.e., 60 feet) second westbound through lane at the intersection. Because the second lane is so short, it does not allow for adequate queuing. The Diablo Road improvements would extend the second through lane to a length of 270 feet, adding about 210 feet of storage capacity to the westbound movement (see Attachment N). This additional queuing storage for the through movements lessens the issue of the through movements blocking the right-turn movements from reaching the right-turn lane, and thereby increasing the operational effectiveness of the intersection.

The net effect of the improvement would be a reduction in the overall delay, where the weighted average delay of the intersection has been reduced by 25 - 27 percent throughout the three peak periods of the day.

More specifically, a westbound vehicle would be able to travel through the intersection in 1 - 2 signal cycles (2½ to 5 minutes) when it currently takes 2 - 3 signal cycles (5 to 8 minutes). A traffic simulation, illustrating how these improvements would improve traffic operations and reduce queuing, will be provided at the June 18, 2013, Town Council meeting.

### **PARK DEDICATION FEES**

The applicant has requested a waiver of the Town's Park Dedication Fees which this development would otherwise be subject to. The Town's Park Dedication Fee is currently \$9,435.00 per single family unit, and would total \$651,015.00 for the proposed 69 unit project. The Town's Park Dedication Ordinance requires that new development either pay the fee or provide active public parkland, found to be acceptable to the

Town, at a ratio of five acres per 1,000 people. The Ordinance also allows for up to 50% partial credit for the dedication of private open space and recreational facilities within the development. The project meets the parkland requirement through the dedication of approximately 372 acres of permanent private open space, and the dedication of approximately 6.3 acres of public trail easements.

### **FISCAL IMPACT**

Insignificant.

### **RECOMMENDATION**

*The Town staff recommended to the Planning Commission that they approve a 69 unit project. After two Planning Commission meetings, the Planning Commission is recommending a 66-unit project to the Town Council eliminating the three proposed lots accessed from McCauley Road. The Town Council may choose to approve the project with 66 units, 69 units, or another unit count found to be appropriate. Should the Town Council choose to approve this development application with a unit count that is something other than the 69 unit plan, the Town Council Resolution and attached CEQA findings will be modified accordingly.*

Adopt Resolution No. 60-2013, certifying a Final Environmental Impact Report and adopting findings and a Statement of Overriding Considerations; approving Major Subdivision request DEV10-0071; approving Final Development Plan request DEV10-0072 related to architectural and landscape design features of the project; and a Tree Removal request TR10-28 authorizing the removal of 12 Town-protected trees (a total of 56 trees would be removed as part of the project).

Introduce and read by title only Ordinance No. 2013-02, approving Preliminary Development Plan - Rezoning request LEG10-0004, rezoning the 410 +/- acre site from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to a new P-1; Planned Unit Development District and return for a second reading on July 2, 2013.

Introduce and read by title only Ordinance No. 2013-02, approving Preliminary Development Plan - Rezoning request LEG10-0004, rezoning the 410 +/- acre site from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to a new P-1; Planned Unit Development District and return for a second reading on July 2, 2013.

Prepared by:

  
David T. Crompton, AICP  
Principal Planner

- Attachments:
- A - Resolution No. 60-2013
    - Attachment 1: CEQA Findings
    - Attachment 2: Mitigation Monitoring and Reporting Program
  - B - Ordinance No. 2013-03
  - C - Vicinity and Public Notification Map, and Property Owner Notification List
  - D - Planning Commission Summary of Actions
  - E - Design Review Board Notes
  - F - A-2; General Agricultural District Ordinance (partial)
  - G - Letter from the Contra Costa County Flood Control District dated May 8, 2013
  - H - Letter from TRAFFIX dated April 23, 2013
  - I - McCauley Road Site Distance Exhibit
  - J - McCauley Road Intersection Striping Exhibit
  - K - Diablo Road Widening Exhibit
  - L - Trail Plan
  - M - Letter from Contra Costa County dated May 10, 2013
  - N - Diablo/Green Valley Rd. Intersection Improvement Exhibit
  - O - Letters received as of June 7, 2013
  - P - Planned Unit Development Site - Summary Sheet and Vesting Tentative Map Package
  - Q - Planned Unit Development Site Summary Sheet, Architectural Plans and Landscape Plans

**RESOLUTION NO. 60-2013**

**CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTING  
FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS,  
ADOPTING MITIGATION MEASURES AND A MITIGATION  
MONITORING AND REPORTING PROGRAM AND APPROVING  
PRELIMINARY DEVELOPMENT PLAN - REZONING REQUEST  
LEG10-0004, MAJOR SUBDIVISION REQUEST DEV10-0071,  
FINAL DEVELOPMENT PLAN REQUEST DEV10-0072  
AND TREE REMOVAL REQUEST TR10-0028  
(APN: 202-050-071, 073, 078, 079, 080, 202-100-017, 019,  
038, 040, 215-040-002 - SUMMERHILL HOMES)**

**WHEREAS**, SUMMERHILL HOMES (Applicant ) and Magee Investment Company & Teardrop Partners, L.P (Owners) have requested approval of a Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-28, on a 410 +/- acre site; and

**WHEREAS**, the site is located on the south side of Diablo Road and Blackhawk Road extending approximately two miles east from the intersection of Diablo Road/Green Valley Road/McCauley Road; and

**WHEREAS**, the site is also identified as Assessor's Parcel Numbers 202-050-071, 073, 078, 079, and 080; 202-100-017, 019, 038, and 040; and 215-040-002; and

**WHEREAS**, the Town deemed these applications complete on November 7, 2010; and

**WHEREAS**, collectively, these approvals would: 1) rezone the property from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to P-1; Planned Unit Development District; 2) approve the subdivision of the 410 +/- acre site to create 69 single family residential lots and associated parcels; 3) authorize a minimum of 10% of the lots created to include a second dwelling unit ("casita"); 4) provide for architectural design and landscape details for the development, and; 5) authorize the removal of 12 Town-protected trees (a total of 56 trees would be removed as part of the project); and

**WHEREAS**, the Town of Danville P-1; Planned Unit Development District Ordinance requires approval of a Preliminary Development Plan - Rezoning request prior to approval of a Major Subdivision and/or Final Development Plan request; and

**WHEREAS**, the Danville Tree Preservation Ordinance requires approval of a Tree Removal permit prior to the removal of Town-protected trees; and

**WHEREAS**, the project's parkland dedication obligations have been satisfied through the project's provision of adequate acreage of private and public open space and recreational facilities; and

**WHEREAS**, the development applications were defined a "project" under the California Environmental Quality Act (CEQA) and the Town of Danville determined that preparation of an Environmental Impact Report (EIR) for the project would be required; and

**WHEREAS**, the Town of Danville prepared and circulated a Notice of Preparation (NOP) on November 17, 2010, for a 30-day review period ending on December 6, 2010, soliciting guidance from the public and interested agencies on the scope and content of the EIR; and

**WHEREAS**, the NOP was sent to the California State Clearinghouse and the EIR was assigned the Clearinghouse Number 240112042; and

**WHEREAS**, the Town of Danville held a publicly noticed scoping session on the EIR on November 30, 2010; and

**WHEREAS**, the Town of Danville subsequently completed a Draft Environmental Impact Report (Draft EIR) in accordance with CEQA; and

**WHEREAS**, on November 29, 2012, the Draft EIR was released by the Town of Danville to the public and interested agencies for a 60-day review period, which exceeded the CEQA mandated 45-day review period, for commenting on a Draft EIR; and

**WHEREAS**, the public review period ended on January 28, 2013, and

**WHEREAS**, notice was mailed to more than 1,200 addresses advertising the availability of the Draft EIR and a public hearing on the Draft EIR which occurred on January 28, 2013; and

**WHEREAS**, public comment was received by the Planning Commission at the January 28, 2013 hearing; and

**WHEREAS**, after preparation of the Draft EIR, on February 28, 2013, the applicant revised its development plans to reduce the number of requested lots in the project

from 70 to 69 by removing three custom lots and their associated access points along Diablo Road and increased the open space area from 302 to 372 acres (two new lots were added in the eastern portion of the project site); and

**WHEREAS**, the applications defined above along with all revisions are collectively referred to as the "Project"; and

**WHEREAS**, the Town of Danville prepared a Draft Environmental Impact Report (EIR) and a Final EIR (collectively, EIR) and released it to the public and interested agencies on April 12, 2013; and

**WHEREAS**, on April 23, 2013, and May 14, 2013, the Danville Planning Commission held public hearings to consider the EIR and the Project; and

**WHEREAS**, at the May 14, 2013, meeting, the Planning Commission approved Resolution No. 2015-05 recommending that the Town Council certify the EIR and adopt findings and a Statement of Overriding Considerations and approve Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-28; and

**WHEREAS**, on June 18, 2013, the Danville Town Council held a public hearing to consider the EIR and the Project; and

**WHEREAS**, a staff report was submitted recommending that the Town Council certify the Final EIR, approve a Statement of Overriding Considerations, adopt mitigation measures and a Mitigation Monitoring and Reporting Program and approve the Project; and

**WHEREAS**, after the conclusion of the public hearings on the EIR and the Project, the Town Council determined that the EIR has been prepared in compliance with CEQA; and

**WHEREAS**, the Town Council reviewed and considered the information contained in the EIR and the testimony presented at the public hearings prior to making a recommendation on the Project; and

**WHEREAS**, the Town Council finds that the EIR reflects its independent judgment and analysis; and

**WHEREAS**, the Town Council finds that all feasible mitigation measures were considered and recommended for adoption, and to the extent a measure or alternative was not feasible, that there are specific economic, legal, social, technological, and other considerations explaining why a measure or alternative was not feasible to reduce those impacts to a less than significant level; and

**WHEREAS**, prior to taking action, the Town Council declares that it has heard and been presented with, reviewed, and considered all of the information and data in the administrative record, including the EIR and other documentation relating to the Project; and

**WHEREAS**, the Town Council also adopts a Statement of Overriding Considerations which evaluates the benefits of the Project against any unavoidable impacts; and

**WHEREAS**, the required CEQA Findings and Statement of Overriding Considerations are attached to this Resolution as Attachment 1; now, therefore, be it

**RESOLVED** that the Town Council makes the following findings:

**Section 1.** The Town Council finds that the EIR has been prepared in compliance with CEQA, and reflects the independent judgment and analysis of the Town of Danville.

**Section 2.** The Town Council declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate, through adoption of all feasible mitigation measures, all potential impacts that may result from the Project.

**Section 3.** The Town Council concurs with the CEQA Findings and Statement of Overriding Considerations in Attachment 1 to this Resolution and incorporated herein by this reference and finds, that if an environmental impact remains significant and unavoidable, the benefits of the Project outweigh any potential significant and unavoidable environmental impact. The Town Council also concurs that there are no additional feasible alternatives or mitigation measures within its powers that would substantially lessen or avoid any significant and unavoidable impacts that may result from the Project.

**Section 4.** The Town Council certifies the EIR for the Project and approves the Project.

**Section 5.** The Town Council authorizes that a Notice of Determination shall be filed within five working days of approval of the Project.

**And, be it further**

**RESOLVED**, that the Danville Town Council approves Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-0028 per the conditions contained herein, and makes the following findings in support of these actions:

**FINDINGS**

**PRELIMINARY DEVELOPMENT PLAN - REZONING**

1. The rezoning of the site to P-1; Planned Unit Development District is consistent with the Town of Danville 2010 General Plan. The General Plan contains policies that encourage clustering of development on flatter portions of properties to preserve open space and natural features. 2010 General Plan Policies 1.07, 2.05, and 18.02 contain such provisions, with Policies 1.07 and 18.02 specifically identifying PUD or P-1 zoning as implementation measures. All three of these policies are carried forward in the Danville 2030 General Plan, with Policy 18.02 being renumbered 20.02. In addition, Municipal Code section 32-63.1b provides that the P-1 zoning district is intended to be used for properties identified as Special Concern Areas in the General Plan: the subject property is identified as a Special Concern Area.
  
2. The project site is identified as a Special Concern Area in the General Plan. The text for the Special Concern Area of the Magee Ranch property (on page 58 of the 2010 General Plan) includes the following relevant direction:
  - The Plan describes Diablo Road in this area as retaining “the flavor of an ambling country road. The Town strongly supports retention of this character and protection of the views and vistas from the road.”
  - “[P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged.”
  - “As on the other large undeveloped hillside sites in Danville, protection of scenic slopes and ridgelines is imperative. Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre ‘ranchette’ sites similar to those in the Tassajara Lane/Sherburne Hills area is strongly discouraged. Such development would require grading and road construction that could substantially diminish the visual qualities of the area. On the other hand, transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open

space. This would also provide opportunities to establish park and trail connections and to preserve wildlife corridors between this area and the Sycamore Valley Open Space.

P-1 zoning is the only zoning designation that permits this clustering of potential development, without creation of 5-acre “ranchettes,” which the Special Concern Area language specifically discourages on the property.

3. The Town further finds that the rezoning for residential development is within the maximum permitted density under the existing General Plan land use designations on the property, which include Single Family-Low Density, Rural Residential, Agricultural and General Open Space.
4. The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent districts. The proposed infill housing is an efficient development pattern consistent with surrounding residential subdivisions and will add to existing infrastructure that services the adjacent single family residential uses.

#### **FINAL DEVELOPMENT PLAN - MAJOR SUBDIVISION**

1. The proposed subdivision is in substantial conformance with the goals and policies of the 2010 General Plan, including the requirements of Measure S. The Town’s 2010 General Plan recognizes the site as an important site that merits specific direction for its development. As such, the site is designated as one of 14 Special Concern Areas within the General Plan. The Special Concern Area language includes the following provisions, which are addressed through the proposed project:
  - The Plan describes Diablo Road in this area as retaining “the flavor of an ambling country road. The Town strongly supports retention of this character and protection of the views and vistas from the road.” The revised project removes all lots with direct driveway access to Diablo Road and, with the exception of the main driveway into the project, reduces the visibility of the project from Diablo Road.
  - The Plan provides that “[P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged.” The project would transfer all but three lots to the area of the site which is the least environmentally sensitive. The clustering of homes would comply with this directive.
  - The Plan provides that “As on the other large undeveloped hillside sites in Danville, protection of scenic slopes and ridgelines is imperative. Despite

the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre "ranchette" sites similar to those in the Tassajara Lane/Sherburne Hills area is strongly discouraged. Such development would require grading and road construction that could substantially diminish the visual qualities of the area. On the other hand, transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open space. This would also provide opportunities to establish park and trail connections and to preserve wildlife corridors between this area and the Sycamore Valley Open Space." The project, through the use of P-1 zoning to cluster the permitted development, would avoid creation of "ranchette" sites, would limit grading and road construction and substantially preserve the visual quality of the area. The clustering of the project would also permanently preserve 372 acres, or approximately 91% of the site as open space, which would include trail connections to the Sycamore Valley Open Space and preserve wildlife corridors through the site.

2. The design of the proposed subdivision is in conformance with the P-1; Planned Unit Development District since the subject P-1; Planned Unit Development District is customized to the subject Development Plan. The P-1; Planned Unit Development District is an appropriate zoning designation for infill projects and lands designated as Special Concern Areas in the General Plan. Additional detailed findings regarding P-1 zoning consistency can be found under Preliminary Development Plan - Rezoning above.
3. The design of the subdivision and the type of associated improvements will not likely cause serious public health problems, because water and sanitary facilities services will be available to the new parcels.
4. The site of the subdivision is physically suitable for the proposed density of development. The proposed development of 69 lots on the 410 +/- acre site falls within the allowable maximum density range of up to 78 units, consistent with the site's Danville 2010 General Plan land use designations of Residential - Single Family - Low Density, Rural Residential, Agricultural and General Open Space.

With respect to density on the portions of the site designated as "Agricultural" in the 2010 General Plan, the General Plan provides the following:

"Because properties with this designation are bound by Williamson Act contract to remain in agricultural uses, a density range is not applicable. In the event that Williamson Act contracts are not renewed, continued agricultural use is

encouraged and the underlying zoning density (one unit per 20 acres or one unit per five acres) would apply upon the contract expiration.”

The portions of the site designated as Agricultural are no longer bound by Williamson Act contract. In such situations, the Town’s practice (and that of Contra Costa County, prior to the Town's incorporation in 1982) was to zone lands to A-4; Agricultural Preserve District (20 acre minimum) upon execution of a Williamson Act contract, regardless of the size or prior zoning of the property. The purpose of this A-4; Agricultural Preserve District zoning designation is to show that the property is under a Williamson Act contract. For example, the Town rezoned the “Borel” property (APN 218-090-031) from P-1; Planned Unit Development District to A-4; Agricultural Preserve District upon execution of a Williamson Act contract, despite the entire parcel being only 17 acres. Under the A-4; Agricultural Preserve District zoning designation one home per 20 acres is allowed.

Upon expiration of a Williamson Act contract, the General Plan dictates that the Town apply the “underlying” zoning, which has been the zoning in effect prior to entering into the contract. This reflects the intent to place the property in the position it held prior to entering into the contract, neither increasing nor decreasing the property’s development potential. This practice was previously applied by the Town with respect to Assessors Parcels 202-100-017, -018, and -019 on the subject property. In February 1986, the Town approved a Williamson Act contract for these parcels and at the same time adopted an ordinance rezoning them from A-2; General Agricultural District to A-4; Agricultural Preserve District. In March 1988, after discovery that the contract had never been properly executed, the property owner requested, and the Town approved, an ordinance rezoning the property back to the prior designation of A-2; General Agricultural District. The property owner in this case did not apply to rezone the property after the Williamson Act contract expired. However, in determining potential density for purposes of this application, the Town used the underlying zoning of A-2; General Agricultural District (with the corresponding maximum development density of one unit per five acres) as provided for in the General Plan and consistent with prior applications, including the Elworthy Ranch project approved by the Town in 2008 under the approval granted for Preliminary Development Plan – Rezoning request PUD 2005-02.

5. The design of the proposed subdivision and improvements are not likely to cause substantial environmental damage or subsequently injure fish or wildlife or their habitat. The Environmental Impact Report prepared for the project found that, with implementation of recommended mitigation measures, the

project would have no significant negative impacts on the wildlife on site, including California Red Legged Frogs, wetlands, trees and plant life.

6. The design of the proposed subdivision and proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. There are currently no existing public easements for access through or use of the subdivision. Through project conditions of approval, the subdivision will offer new easements for public access.
7. The project will not cause on-site flooding or add to existing downstream flooding as detailed in the Hydraulic Report prepared for the project by ENGE0, Inc. and as concurred with by the Contra Costa County Flood Control and Water Conservation District.

### **TREE REMOVAL PERMIT**

The project as proposed would preserve 262 trees of more than 300 surveyed trees and many other trees located throughout the site, and remove 56 trees. Of the 56 trees to be removed, 12 are designated as Town-protected trees under the Town's Tree Preservation Ordinance.

The findings below address only the 12 trees designated as protected under the Town's Tree Preservation Ordinance. The EIR for the project analyzes the potential environmental impacts of removing all trees, whether or not they are designated as protected.

1. Necessity. The primary reason for removal of the 56 trees, including 12 Town-protected trees, is that preservation of those trees would be inconsistent with the proposed residential development of the property, including the creation of a new roadway to access the main project area, including a new creek crossing, to be located east of Jillian Way, and the widening of the Diablo Road/Green Valley Road/McCauley Road intersection to the south to improve the function of that intersection.
2. Erosion/surface water flow. Removal of the 12 Town-protected trees and 56 total trees would not cause significant soil erosion or cause a significant diversion or increase in the flow of surface water.
3. Visual effects. With respect to other trees in the area, the project site contains a significant number of additional trees, including Town-protected Oak trees that

would not be removed for the project. In addition, the project proponent will be required to replace all Town-protected trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's Tree Preservation Ordinance. Tree replacement will be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project proponent will also be required to replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1.

Removal of the 56 trees, including 12 Town-protected trees, would not significantly affect off-site shade or adversely affect privacy between properties due to the site's topography, the other trees that would remain, and the locations of the trees in relation to other properties.

### **CONDITIONS OF APPROVAL**

Conditions of approval with an asterisk (\*) in the left-hand column are standard project conditions of approval.

Conditions of approval typed in *italicized text* are mitigation measures derived from the Environmental Impact Report prepared for the project.

Unless otherwise specified, the following conditions shall be complied with prior to recordation of the final map for the project or the issuance of grading permits or building permits (as determined appropriate by the Planning Division). Each item is subject to review and approval by the Planning Division unless otherwise specified.

#### **A. GENERAL**

1. This approval is for Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-28 which would collectively serve to: 1) rezone the property from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to P-1; Planned Unit Development District; 2) approve the subdivision of the 410 +/- acre site to create 69 single family residential lots and associated parcels; 3) authorize 10% of the lots created to include a second dwelling unit; 4) provide for architectural design and landscape details for the development, and; 5) authorize the removal of 12 Town-protected trees (a total of 56 trees

would be removed as part of the project). Development shall be substantially as shown on the project drawings as follows, except as may be modified by conditions contained herein;

- a. Planned Unit Development Site Summary Sheet labeled "Subdivision 9291 - Magee Ranches," as prepared by Ruggeri-Jensen-Azar, consisting of one sheet, dated May 31, 2013.
- b. Vesting Tentative Map labeled "Subdivision 9291 - Magee Ranches," including Site Plans, Grading Plans, Utility Plans, and Storm Water Treatment Plans, as prepared by Ruggeri-Jensen-Azar, consisting of 13 sheets, dated May 31, 2013.
- c. Architectural Plans labeled "Magee Ranches," consisting of floor plans, elevations, roof plans, and details as prepared by Dahlin Group Architecture and Planning consisting of 14 sheets and dated June 3, 2013.
- d. Conceptual Landscape Site Plan labeled "Magee Ranches," as prepared by Ripley Landscape Architecture Land Planning, consisting of five sheets, dated June 5, 2013.
- e. Draft Environmental Impact Report as prepared by Denise Duffy & Associates dated November 2012, and Final Environmental Impact Report as prepared by Denise Duffy & Associates dated April 2013.
- f. Preliminary Stormwater Management Plan as prepared by Ruggeri-Jensen-Azar, dated April 19, 2013.
- g. Design and construct improvements for the intersection of Diablo Road and McCauley Road/Green Valley Road as shown on the plan labeled "Magee Ranches - Conceptual Diablo Road at McCauley/Green Valley Road Improvements," by Ruggeri-Jensen-Azar, dated March 6, 2012.

- \* 2. All Town and other related fees that the property may be subject to shall be paid by the applicant. These fees shall be based on the current fee schedule in effect at the time the relevant permits are secured, and shall be paid as listed below:

The following fees are due at final map approval for the above-mentioned project:

1. Map Check Fee (71 parcels).....\$ 6,358.00
2. Improvement Plan Check Fee ..... 3% of cost estimate
3. Engineering Inspection Fee ..... 5% of cost estimate
4. Grading Plan Check, Permit & Inspection ..... TBD
5. Base Map Revision Fee (71 parcels) .....\$ 6,248.00
6. Excavation Mitigation Fee (Green Valley Creek)..... \$ 87,950.00

The following fees are due at building permit issuance for the above-mentioned project:

1. Child Care Facilities Fee .....\$ 335/lot
2. Storm Water Pollution Program Fee.....\$ 51/lot
3. Finish Grading Inspection Fee .....\$ 76/lot
4. SCC Regional Fee.....\$ 1,233/lot
5. Residential TIP Fee .....\$ 2,000/lot
6. Tri-Valley Transportation Fee.....\$ 2,279/lot

3. Prior to the recordation of the final map, the applicant shall reimburse the Town for notifying surrounding residents of the public hearing. The fee shall be \$5,122.00 (\$105 + 1,209 notices X \$0.83 per notice X 5 mailings).

\* 4. Prior to the issuance of grading or building permits, the applicant shall submit written documentation that all requirements of the San Ramon Valley Fire Protection District and the San Ramon Valley Unified School District have been, or will be, met to the satisfaction of these respective agencies.

\* 5. The applicant shall submit to the Town of Danville fees required to file a Notice of Determination for this project as required by AB 3185. The fee shall be \$2,995.50. In addition, the applicant shall pay a \$50.00 administrative fee. Both checks shall be made payable to the Contra Costa County Clerk and shall be submitted to the Town within five days of project approval.

6. *If during the course of project construction, archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional archaeologist can evaluate it. Work shall not recommence until the project archaeologist has submitted*

*documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.*

7. *Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, no further excavation or disturbance shall be conducted on the site or any nearby area reasonably suspected to overlie adjacent remains. The Contra Costa County Coroner shall be notified and make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.*
8. *If during the course of project construction, paleontological resources are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional paleontologist can evaluate it. Work shall not recommence until the project paleontologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.*
- \* 9. Prior to any construction work on the site, including grading, the applicant shall install a minimum 3'x3' sign at the project entry which specifies the allowable construction work days and hours, and lists the name and contact person for the overall project manager and all contractors and sub-contractors working on the job.
- \* 10. The applicant shall provide security fencing as determined necessary and, to the satisfaction of the City Engineer and/or the Chief Building Official, around the construction site during construction of the project.
- \* 11. If the applicant intends to construct the project in phases, then the first submittal for building permits shall be accompanied by an overall phasing plan. This plan shall address: off-site improvements to be installed in conjunction with each phase; erosion control for undeveloped portions of the site; timing of delivery of emergency vehicle access connections; and phasing of project grading. No structure shall be occupied until construction activity in the adjoining area is complete and the area is safe, accessible, provided with all reasonably expected services and amenities,

and appropriately separated from remaining additional construction activity. The phasing plan shall be subject to the review and approval of the City Engineer and Chief of Planning.

- \* 12. The applicant shall submit a written Compliance Report, signed by the applicant, detailing how the conditions of approval for this project have been complied with as part of the initial submittal for the final map, plan check, and/or building permit review process (whichever occurs first). This report shall list each condition of approval followed by a description of what the applicant has provided as evidence of compliance with that condition. The report is subject to review and approval by the City Engineer and/or Chief of Planning and/or Chief Building Official, and may be rejected by the Town if it is not comprehensive with respect to the applicable conditions of approval.
- \* 13. Planning Division sign-off is required prior to final Building Inspection sign-off.
- 14. *The project proponent shall implement the following measures to control diesel exhaust emissions associated with grading and new construction. A plan indicating how compliance will be achieved shall be submitted to the Town of Danville prior to construction.*
  - a. *During the grading phase, the developer or contractor shall provide a plan for approval by the Town or BAAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2010; This plan should address all equipment that will be on site for more than 2 working days.*
  - b. *During the building construction phase, establish on-site electric power to reduce the use of diesel-powered generators and where feasible, on-site generators with internal combustion engines shall utilize alternative fuels such as bio-diesel blended fuels.*
  - c. *Arrange for service to provide on-site meals for construction workers to avoid travel to off-site locations;*
  - d. *Stage construction equipment at least 200 feet from existing or new habitable residences.*
  - e. *Properly tune and maintain equipment for low emissions.*
  - f. *Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes in accordance*

*with the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations. Clear signage shall be provided for truck operators and construction workers at all access points.*

- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.*
  - h. Require an on-site disturbance coordinator to ensure that the construction period mitigation measures are enforced. This coordinator shall respond to complaints regarding construction activities and construction caused nuisances. The phone number of this disturbance coordinator shall be clearly posted at the construction site and provided to nearby residences. A log documenting any complaints and the timely remedy or outcome of such complaints shall be kept.*
- 15. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to less-than-significant. The contractor shall implement the following best management practices:*
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.*
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.*
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.*
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.*
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.*
  - f. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.*
- 16. In order to minimize potential human health hazards associated with the historical use of hazardous materials on portions of the project site, the project proponent shall retain a trained professional to prepare a Site Management Plan to maintain the safety of construction workers and assure proper management of any contaminated soils on the site in accordance with federal, state and local*

*regulatory requirements. This plan shall be subject to review and approval by Contra Costa County Health Services, and evidence of approval provided to the Town of Danville, prior to the issuance of any grading permit, demonstrating that all necessary remedial actions have been completed pursuant to the approved Site Management Plan. At a minimum, the Site Management Plan shall include 1) the collection and chemical analysis of soil samples from the former UST location and 2) excavation and soils characterization to confirm that sufficient soils removal has occurred for OCPs and elevated 4, 4-DDE at location SB-3, and 3) proper removal and disposal of all hazardous materials on the site, including contaminated soils, chemical containers observed in the storage shed, and herbicides spray bottles at an approved disposal facility.*

17. *The diesel generator enclosure and surrounding area at the western edge of the Magee West site shall be periodically monitored for evidence of a diesel release. An annual report on the status of the enclosure shall be submitted to the Town of Danville.*
18. *The applicant shall pay a school impact fee pursuant to the criteria set forth within California Government Code Section 65995. Prior to the issuance of building permits, the applicant shall pay required school mitigation fees, subject to the review and approval of the Town of Danville and San Ramon Valley Unified School District. The fees set forth in Government Code Section 65996 constitute the exclusive means of both "considering" and "mitigating" school facilities impacts of projects [Government Code Section 65996(a)]. They are "deemed to provide full and complete school facilities mitigation" [Government Code Section 65996(b)].*
19. *Prior to the issuance of grading permits, the applicant shall retain a specialist to assess rodent control impacts anticipated to be associated with grading activity and installation of subdivision improvements. As deemed necessary, following the Planning Division's review of the specialist's assessment, the applicant shall develop and implement a rodent control plan to reduce impacts to surrounding properties to the extent reasonably possible for the time periods of heavy construction activity. The report shall include a schedule for regular rodent inspections and mitigation in conjunction with the developer and the Town based on the development schedule for the project. This report shall be subject to review and approval by the Planning Division.*
20. *The applicant shall be responsible for washing the exterior of abutting residences, and cleaning pools, patios, etc. at the completion of mass grading activities. The residences to receive cleaning, the extent of the*

cleaning efforts to be performed and the timing (and frequency) of such cleaning shall be subject to review and approval by the Planning Division.

B. SITE PLANNING

1. *All buildings shall be designed so that reflective surfaces are limited and exterior lighting is down-lit and illuminates the intended area only. Building applications for new structures shall include an exterior lighting plan subject to approval by the Town of Danville that includes the following requirements: 1) exterior lighting shall be directional; 2) the source of directional lighting shall not be directly visible; and 3) vegetative screening shall be installed, where appropriate.*
- \* 2. The location of any pad mounted electrical transformers shall be subject to review and approval by the Planning Division prior to installation. To the extent feasible, such transformers shall not be located between any street and the front of any building.
- \* 3. Any on-site wells and septic systems shall be destroyed in accordance with Contra Costa County Health Services Department - Environmental Health Division regulations. Environmental Health Division permit and inspections for this work shall be obtained. Wells used for irrigation or cattle may be retained subject to approval of the Contra Costa County Health Services Department - Environmental Health Division.
4. Zoning standards and land uses for the development shall be as follows:

Primary Frontyard Setback:	20' Minimum
Secondary Front Yard Setback:	15' Minimum
Rearyard Setback:	20' Minimum
Sideyard Setback:	5' Minimum
Aggregate Sideyard Setback:	15' Minimum

All other development standards, allowed uses and conditional uses shall be as listed under the Town's R-15; Single Family Residential District Ordinance.
5. As part of the subject P-1; Planned Unit Development District, the remaining approximately 372 acre undeveloped portion of the site shall be preserved as permanent open space, and shall be designated as such on the final map for the project. In addition, the applicant shall dedicate to the Town of Danville a Scenic Easement covering the undeveloped

portions of the project site. The scenic easement shall preclude any future development on these portions of the project site. The public trail easement area to be located along Diablo Road shall be excluded from the scenic easement.

6. In conformance with the Townwide Trails Master Plan dated January 1989 and the Town's adopted Parks, Recreation, and Arts Strategic Plan dated February 2006, the applicant shall dedicate a public trail easement to the Town covering the trail from the main entry at Blackhawk Road near Jillian Way, south along Street "A", west along the north side of Street "B" (south side of Green Valley Creek), then northwest over the proposed emergency vehicle access (EVA) roadway, and finally west over the existing agricultural/fire trail along the south side of Diablo Road. The easement shall terminate at the point where a pedestrian bridge crossing over Green Valley Creek is possible near the Alameda Diablo/Diablo Road intersection. The easement shall be not less than 20 feet wide with larger areas where landslide repairs may be needed, where topographic constraints dictate a wider construction envelope, and/or where the future pedestrian bridge will be located. Prior to recordation of the final map, the applicant shall provide a conceptual design of the future public trail and pedestrian bridge to the Town to aid in determining the required easement width.
7. The applicant shall construct a public trail from Blackhawk Road near Street "A" to a point where the EVA connects to Diablo Road, as part of the subdivision improvements. The trail design standard shall be that of a "Paved Trail" as described in the Townwide Trails Master Plan dated January 1989 and the Town's adopted Parks, Recreation, and Arts Strategic Plan dated February 2006. The trail shall be separate and distinct from any internal sidewalks within the subdivision. Signage, trash/recycling receptacles, doggy-bag dispensers, entry gates, and benches shall be provided as required by the Town according to current design standards. Maintenance of the trail improvements shall be provided by the project Homeowner's Association and/or the GHAD. The Town will have the responsibility for the future construction of the extension of the public trail from the EVA west along the south side of Diablo Road, as part of a future Capital Improvement Project. The exact design/alignment of the trail and construction timing will be determined by the Town at a future date.

8. The applicant shall dedicate a pedestrian access easement to the East Bay Regional Park District (EBRPD) which links Diablo Road with Sycamore Valley to the south. The easement shall be a minimum width of 25' wide and shall generally follow the existing fire trail as shown on plans referenced under Condition of Approval A.1.a. above. The exact alignment of the trail shall be subject to review and approval by the Town and the EBRPD prior to recordation of the final map.
9. The existing Green Valley Creek culverts along the developments frontage with Diablo Road require the following improvement measures to assure a properly functioning drainage course:
  - a. At Clydesdale Drive there exists a double 10'-wide by 6'-high reinforced concrete box culvert. The applicant shall remove the ranch-constructed cattle gate (corrugated sheet metal) that currently obstructs flows through one of the two adjacent culverts, and shall remove accumulated sediment and debris from within the culvert.
  - b. At Alameda Diablo there exists a 12'-diameter corrugated steel structural plate culvert. The applicant shall repair the deteriorated invert of the culvert as determined appropriate by the Town.
  - c. At the creek crossing located approximately 150 yards west of Avenida Nueva there exists a 12'-wide by 10'-high reinforced concrete box culvert. The applicant shall remove the ranch-constructed cattle gate (corrugated sheet metal) that currently obstructs flows.

The above stated improvements shall be performed to the satisfaction of the Town of Danville Engineering Division and shall be done prior to acceptance of the subdivision improvements.

10. The developer shall provide a gravel parking area to accommodate up to four motor vehicles in the area on the east side of the project's main entry drive, south of the bridge. The final design of this area shall be subject to review and approval by the Town's Design Review Board prior to recordation of the final map.

C. LANDSCAPING

- \* 1. Final landscape and irrigation plans shall be submitted for review and approval by the Planning Division and the Design Review Board. The plan shall include common names of all plant materials and shall indicate the size that various plant materials will achieve within a five-year period of time.
- \* 2. All plant material shall be served by an automatic underground irrigation system and maintained in a healthy growing condition.
- \* 3. All trees shall be a minimum of 15-gallon container size. All trees shall be properly staked. All remaining shrubs used in the project, which are not used as ground cover, shall be a minimum of five gallons in size. A minimum of 25% of the true shrubs planted in the project shall be 10 or 15-gallon container size shrubs.
- \* 4. All landscaped areas not covered by shrubs and trees shall be planted with live ground cover or covered with mulch. All proposed ground cover shall be placed so that it fills in within two years.
- \* 5. If site construction activity occurs in the direct vicinity of the on-site and off-site protected trees which are not approved for removal, a security deposit in the amount of the assessed value of the tree(s) (calculated pursuant to the Town's Tree Protection Ordinance) shall be posted with the Town prior to the issuance of a grading permit to maximize the probability that the affected trees will be retained in good health. The applicant shall be required to secure an appraisal of the condition and value of all such potentially affected trees. The appraisal shall be done in accordance with the current edition of the "Guide for Establishing Values of Trees and Other Plants," by the Council of Tree and Landscape Appraisers under the auspices of the International Society of Arboriculture. The appraisal shall be performed by a Certified Arborist, and shall be subject to review and approval by the Chief of Planning. A tree preservation agreement shall be prepared and shall be submitted for review and approval by the Planning Division that outlines the intended and allowed use of funds posted as a tree preservation security deposit. That portion of the security deposit still held by the Town two full growing seasons after project completion shall be returned upon verification that the trees covered by the deposit are as healthy as can be provided for under the terms of the approved tree preservation agreement.

- \* 6. A minimum of two street trees per lot (three for corner lots) shall be incorporated into the final landscape and irrigation plan for the project.
- 7. The proposed open wire fencing shall include a rigid and durable top bar to prevent the fence from sagging. All applicant-installed fencing shall be subject to review and approval by the Planning Division and the Design Review Board as part of a Final Fencing Location, Design and Construction Details submittal.
- 8. The project's Homeowner's Association shall be responsible for the maintenance of any landscaping within the public right-of-way along Blackhawk Road at the main project entry.

D. ARCHITECTURE

- 1. Final architectural elevations, details and revisions shall be submitted for review and approval by the Design Review Board prior to issuance of building permits for the project. Six full size sets of construction drawings for the project shall be submitted to the Planning Division for design review concurrent or prior to, the applicant initiating the Building Division plan check process.
- 2. Residences to be constructed on the six custom lots approved as part of this project (Lots 61-66) shall be subject to review and approval by the Planning Division and the Design Review Board under separate Development Plan applications. Development of these lots shall be consistent with the development standards contained within the Town's Major Ridgeline and Scenic Hillside Development Ordinance.
- 3. All ducts, meters, air conditioning and/or any other mechanical equipment whether on the structure or on the ground shall be effectively screened from view with landscaping or materials architecturally compatible with the main structures.
- \* 4. The street numbers for each building in the project shall be posted so as to be easily seen from the street at all times, day and night by emergency service personnel. If the street numbers are under four inches in height, they shall be eliminated consistent with the Uniform Building Code.
- \* 5. Samples of final materials and the proposed color palette shall be submitted for review and approval by the Design Review Board prior to the issuance of building permits for the project.

6. If project entry signage for the development is desired, a Sign Review Permit shall be submitted to the Town for consideration under a separate application.

\* 7. The location, design and number of gang mailbox structures serving the project shall be subject to review and approval by the Design Review Board and the local Postmaster.

E. BIOLOGICAL

1. *The project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:*

- a. *Prior to the start of construction, the project proponent shall retain a qualified biologist to train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.*
- b. *Prior to the start of construction, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that CRLF are absent from the construction area. If CRLF are present, a qualified biologist possessing all necessary permits shall relocate them or they shall be allowed to move out of the construction area on their own.*
- c. *Immediately following the pre-construction surveys and a determination that CRLF are not present in the construction zone, the construction zone shall be cleared and silt fencing erected and maintained around construction zones to prevent CRLF from moving into these areas.*
- d. *The project proponent shall retain a qualified biological monitor to be present onsite during times of construction within the riparian habitat of East Branch Green Valley Creek to ensure no CRLF are harmed, injured, or killed during project buildout.*

2. *The project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:*

- a. *The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be lowered to restore the natural flow of this portion of the creek.*
  - b. *The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.*
  - c. *The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.*
  - d. *The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be planted with native species appropriate for the corridor.*
3. *The project would impact approximately 0.5 acres of jurisdictional waters that are of a degraded quality and marginal value for the CRLF. The project shall replace the lost functions and value of this impact to aquatic habitats at a minimum of 1:1 replacement-to-loss acreage ratio. The final mitigation amounts will be based on actual impacts to be determined during the design phase. Habitat replacement via creation of and/or enhancements to existing waters shall occur onsite. Onsite lands proposed to be preserved as open space are within the same watershed as the offsite detention basin known to support breeding CRLF and are expected to fully accommodate creation of and/or enhancements to aquatic habitats that would be of substantially higher value to CRLF than the impacted waters. Compensation for impacts to jurisdictional waters to benefit the CRLF will include all of the aforementioned components along with improving the wetland character of the onsite stock pond and enhancing the associated riparian habitat between the stock pond and the detention basin. (Refer also to mitigation measures 4.4-13 and 4.4-14 below for impacts to jurisdictional waters.)*
  4. *The project proposes to preserve approximately 372 acres of the project site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The project proposes to create a geologic hazard abatement district (GHAD) to provide*

*suitable funding for management and long-term maintenance of the site. Upland habitats shall be managed via a long-term management plan to maintain the quality of the habitat for the movement and dispersal of CRLF. Prior to construction, the project proponent shall retain a qualified biologist to prepare an open space management plan for the explicit purpose of managing and monitoring the proposed open space area. This plan shall be submitted to the Town of Danville for review and approval prior to issuance of grading permits. At a minimum this plan shall include the following components:*

- a. Identify the location of the restoration efforts for replacing jurisdictional waters and riparian habitats. The replacement ratio for both habitats will be at a minimum of a 1:1 ratio.*
  - b. Identify the approaches to be used, including the extent that the onsite stock pond be expanded, reconfiguring of the pond bottom and increase in depth, and providing evidence that sufficient water budget exist for any proposed enhancement.*
  - c. Identify a suitable planting regime for restoring wetland and riparian habitats.*
  - d. Identify success criteria for monitoring both the wetland and riparian habitats that are consistent with similar habitats regionally.*
  - e. Monitor restored wetland habitats for at least five years and restored riparian habitats for 10 years.*
  - f. Define and identify the GHAD maintenance and management activities to manage the open space habitats to meet the stated goals of support habitat characteristics suitable for the CRLF. This would include suitable fencing so as to control access, limited cattle grazing or other procedures to manage grass height and forage production at levels that benefit the CRLF, and removal of trash.*
  - g. Define the financial mechanism for the GHAD to manage the open space into perpetuity.*
- 5. Prior to the start of construction, the project proponent shall retain a qualified biologist to train construction personnel regarding habitat sensitivity, identification of special status species, and required practices.*
  - 6. Prior to the start of construction within the East Branch Green Valley Creek riparian area, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that western pond turtles are absent from the*

construction area. If western pond turtles are present, a qualified biologist possessing all necessary permits shall be retained to relocate them.

7. If western pond turtles are found to be absent from the construction zone, immediately following the pre-construction surveys the project proponent shall clear the construction zone and install/maintain silt fencing around the construction zone to prevent western pond turtles from entering these areas.
8. During construction within the East Branch Green Valley Creek riparian area, the project proponent shall retain a biological monitor to be present onsite during times of construction to ensure that turtles are not harmed, injured, or killed.
9. To the maximum extent practicable, the project proponent shall remove trees during the non-breeding season (September 1 through January 31). If it is not possible to avoid tree removal and associated disturbances during the breeding season (February 1 through August 31), the project proponent shall retain a qualified biologist to conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and 250 feet of the footprint, if such disturbance would occur during the breeding season. This survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (a minimum of 150 feet up to a maximum of 250 feet) shall be determined at that time and may vary depending on location and species. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities.
10. In order to avoid impacts to active burrowing owl nests, the project proponent shall retain a qualified biologist to conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys shall be conducted in a manner consistent with the CDFG's burrowing owl survey methods (CDFG 2012b). If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1

through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be used to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as described above.

11. Pre-construction surveys conducted for burrowing owls shall also be used to determine the presence or absence of badgers in the development footprint. If an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, the project contractor shall establish a construction-free buffer around the den of up to 300 feet or a distance specified by the resource agencies (i.e., CDFG). Because badgers are known to use multiple burrows in a breeding burrow complex, the project contractor shall retain a biological monitor during construction activities to ensure the buffer is adequate to avoid direct impacts to individuals or nest abandonment. The monitor shall be present onsite until it is determined that young are of an independent age and construction activities would not harm individual badgers.

Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.

12. The project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 372 acres of the site proposed as open space. Prior to issuance of a grading permit, the project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:

- a. *Define the location of all restoration/creation activities;*
  - b. *Provide evidence of a suitable water budget to support any created wetland and riparian habitats;*
  - c. *Identify the species, amount, and location of plants to be installed;*
  - d. *Identify the time of year for planting and method for supplemental watering during the establishment period;*
  - e. *Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success;*
  - f. *Identify adaptive management procedures that include (but are not limited to) measures to address colonization by invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;*
  - g. *Define management and maintenance activities (weeding of invasives, providing for supplemental water, repair of water delivery systems) of the proposed GHAD; and*
  - h. *Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.*
13. *The project proponent shall comply with all state and federal regulations related to construction work that will impact aquatic habitats occurring on the site. Prior to construction, the project proponent shall obtain a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and/or Section 1600 Streambed Alteration Agreement from the CDFG, and submit proof of such documentation to the Town of Danville.*
14. *Prior to issuance of a grading permit, a tree preservation plan shall be prepared for all trees to be retained that identifies all protection and mitigation measures to be taken and includes the tree preservation guidelines by HortScience in their tree report(s). These measures shall remain in place for the duration of construction activities at the project site.*

15. *Upon completion of construction, the project proponent shall replace all ordinance-size trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's tree ordinance. Tree removal shall be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project proponent shall replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1. To the maximum extent practicable, all native trees that are removed shall be replaced with like species. All non-native trees that are removed shall be replaced with species that are known to occur naturally within similar habitats in the region.*
16. *Prior to construction, the project proponent shall retain a qualified arborist to develop a monitoring plan for replacement trees (outside the riparian habitat) and submit it to the Town of Danville during the permit process. The basic components of the monitoring plan shall include final success criteria, specific performance criteria, monitoring methods, data analysis, monitoring schedule, contingency/remedial measures, and reporting requirements.*
17. *If the Town determines that the improvements to the Diablo Road/Green Valley Road intersection are required, the project shall implement Mitigation Measures 4.4-14 through 4.4-16 above, as applicable.*

F. GRADING

- \* 1. Any grading on adjacent properties will require prior written approval of those property owners affected.
- \* 2. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site, to the homeowner associations of nearby residential projects and to the Town of Danville Development Services Department, a notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to initiate corrective action in their area of responsibility. The names of individuals responsible for dust, noise and litter control shall be expressly identified in the notice.

- \* 3. Development shall be completed in compliance with a detailed soils report and the construction grading plans prepared for this project. The engineering recommendations outlined in the project specific soils report shall be incorporated into the design of this project. The report shall include specific recommendations for foundation design of the proposed buildings and shall be subject to review and approval by the Town's Engineering and Planning Divisions.
- \* 4. Where soils or geologic conditions encountered in grading operations are different from that anticipated in the soil report, a revised soils report shall be submitted for review and approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from settlement and seismic activity.
5. *In order to avoid water quality impacts, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods. The SWPPP shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Stormwater permit (No. CAS612008). The project proponent shall obtain a NPDES General Construction Permit and prepare the SWPPP in accordance with all legal requirements, prior to the issuance of a grading permit. Additional requirements for erosion control are detailed in mitigation measure 4.6-1 in 4.6 Geotechnical and Geologic Hazards.*
- \* 6. All new development shall be consistent with modern design for resistance to seismic forces. All new development shall be in accordance with the Uniform Building Code and Town of Danville Ordinances.
- \* 7. All cut and fill areas shall be appropriately designed to minimize the effects of ground shaking and settlement.
- \* 8. Stockpiles of debris, soil, sand or other materials that can be blown by the wind shall be covered.
- \* 9. If toxic or contaminated soil is encountered during construction, all construction activity in that area shall cease until the appropriate action is determined and implemented. The concentrations, extent of the contamination and mitigation shall be determined by the Contra Costa County Health Department. Suitable disposal and/or treatment of any contaminated soil shall meet all federal, state and local regulations. If deemed appropriate by the Health Department, the applicant shall make provisions for immediate containment of the materials.

10. Runoff from any contaminated soil shall not be allowed to enter any drainage facility, inlet or creek.
11. *In order to minimize potential impacts from landslides, final project design plans shall incorporate the recommendations in the preliminary geotechnical report (Appendix E in the Draft EIR), which includes the following corrective measures:*
  - a. *Landslide avoidance;*
  - b. *Construction of catchment areas between landslides and proposed improvements;*
  - c. *Partial landslide debris removal and buttressing with engineered fill; and*
  - d. *Complete landslide debris removal and replacement as engineered fill*

*The table below sets forth the required mitigation measures by landslide area (shown in Figure 4.6-2 of the Draft EIR).*

<b><i>Landslide</i></b>	<b><i>Mitigation</i></b>
1	<i>Partial landslide removal and buttressing with engineered fill</i>
2	<i>Construction of catchment areas between landslides and proposed improvements</i>
3	<i>Partial landslide removal and buttressing with engineered fill</i>
4	<i>Construction of catchment areas between landslides and proposed improvements</i>
5	<i>Complete landslide removal and replacement as engineered fill</i>
6	<i>Complete landslide removal and replacement as engineered fill</i>
7	<i>Complete landslide removal and replacement as engineered fill</i>
8-16	<i>Landslide avoidance</i>

*Corrective grading for custom lot areas outside the proposed grading envelopes shall be evaluated when more detailed plans are available. Detailed 40-scale corrective grading plans for the entire project will be prepared when project*

*grading plans have been finalized. Final plans showing the identified recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.*

12. *In order to minimize potential impacts from expansive soils, final project design shall incorporate the recommendations in the preliminary geotechnical report (see Appendix E of the Draft EIR) that include special measures for mitigating adverse impacts from expansive soils, as follows:*
  - a. *Conditioning the expansive soils to higher moisture content during site preparation and grading.*
  - b. *Supporting the houses on structural slab foundations designed to withstand potential movements of expansive soils.*
  - c. *Presoaking the near-surface expansive soils prior to concrete placement for the slab foundations.*
  - d. *Conditioning the expansive subgrade soils in exterior concrete flatwork area to higher moisture content prior to the placement of baserock or concrete (if the flatwork is supported directly on the subgrade).*
  - e. *Providing surface drainage away from the house foundations and draining the rainwater collected on the roof through pipes connecting to the adjacent storm drains.*

*The final project plans incorporating all the finalized geotechnical recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.*

13. *Prior to any grading or other construction activities, the applicant shall develop a construction mitigation plan in close coordination with the Town of Danville staff to assure the construction activities are scheduled to minimize noise disturbance. The following conditions shall be incorporated into the building contractor specifications.*
  - a. *Muffle and maintain all equipment used on site. All internal combustion engine driven equipment shall be fitted with mufflers, which are in good condition. Good mufflers shall result in non-impact tools generating a maximum noise level of 80 dB when measured at a distance of 50 feet.*
  - b. *Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.*

- c. *Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.*
- d. *Prohibit unnecessary idling of internal combustion engines.*
- e. *Prohibit audible construction workers' radios on adjoining properties.*
- f. *Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.*
- g. *Do not allow machinery to be cleaned or serviced past 6:00 p.m. or prior to 7:00 a.m. Monday through Friday.*
- h. *Limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site for any purpose to Monday through Friday between 7:00 a.m. and 6:00 p.m.*

The allowable hours for delivery of materials and equipment to the site and truck traffic coming to and from the site for any purpose shall be further limited to avoid the area's peak morning and afternoon weekday school commute hours of between 7:00 a.m. and 9:00 a.m. and between 2:00 p.m. and 4:00 p.m.

- i. *Do not allow any outdoor construction or construction-related activities at the project site on weekends and holidays. Indoor construction activities may be allowed based on review/approval of the Town.*
- j. *Allowable construction hours shall be posted clearly on a sign at each construction site.*
- k. *Designate a Disturbance Coordinator for each of the clustered development sites for the duration of the Phase 1 (site work) and for each home site during the Phase 2 (home building) construction. Because each home would be constructed individually and would have its own building permit, a Disturbance Coordinator should be designated during the construction of each home. The requirement for a Disturbance Coordinator for each home site should be incorporated in the CCRs of the development, such that responsibility of the Property Owners' Association and/or home builder to designate this Disturbance Coordinator for each lot for the duration of construction until full site buildout. The Disturbance*

*Coordinator shall conduct the following: receive and act on complaints about construction disturbances during infrastructure installation, landslide repair, road building, residential construction, and other construction activities; determine the cause(s) and implement remedial measures as necessary to alleviate significant problems; clearly post his/her name and phone number(s) on a sign at each clustered development and home building site; and, notify area residents of construction activities, schedules, and impacts.*

14. Concurrent with the submittal of the final grading plans, the applicant shall submit a plan detailing all retaining walls greater than three feet in height in the project. Details shall include wall height, design, construction materials, and method of provision for drainage behind the walls. The plans shall also depict which retaining walls will be maintained by the Homeowners Association. Final wall design shall be subject to approval by the Planning Division prior to issuance of grading permits.

G. STREETS

- \* 1. The applicant shall obtain an encroachment permit from the Engineering Division or the Contra Costa County Public Works Department prior to commencing any construction activities within any public right-of-way or easement.
- \* 2. Street signing shall be installed by the applicant as may be required by the City Engineer. Traffic signs and parking restriction signs, which may be required to be installed, shall be subject to review and approval by the Transportation Division and the Police Department.
- \* 3. All mud or dirt carried off the construction site onto adjacent streets shall be swept each day. Water flushing of site debris or sediment or concrete washing is expressly prohibited.
- \* 4. Any damage to street improvements now existing or done during construction on or adjacent to the subject property shall be repaired to the satisfaction of the City Engineer, at full expense to the applicant. This shall include slurry seal, overlay or street reconstruction if deemed warranted by the City Engineer.

- \* 5. All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be constructed in accordance with approved standards and/or plans and shall comply with the standard plans and specifications of the Development Services Department and Chapters XII and XXXI of the Town Code. At the time project improvement plans are submitted, the applicant shall supply to the City Engineer an up-to-date title report for the subject property.
- \* 6. Handicapped ramps shall be provided and located as required by the City Engineer.
- \* 7. Public streets shall be improved to the standards in #G.5. above. Private streets shall be improved to public street structural standards. Private street improvements, and their dimensions, shall be as shown on the project plans identified in #A.1. above and shall conform to Standard Plan 104 a & b.
- \* 8. The Project shall be required to stripe curbs and install any necessary parking or circulation signage, as determined by the Transportation Division.
- \* 9. Prior to the approval of the Improvement Plans, Danville Transportation Division shall review and approve the location, type and design of the speed control device, as well as, the locations and number of signage and striping.
- 10. *Per the Town of Danville, signalize the intersection of Hidden Oaks Drive/Magee Ranch Road and Blackhawk Road. Because the impact occurs under cumulative conditions and not under existing plus project conditions, the project is not the sole cause of the impact. For this reason, the project applicant shall make a fair share contribution toward signalization at this intersection. With signalization, the intersection would operate at LOS B or better under all scenarios.*
- 11. For the traffic operational improvements at the Hidden Oaks/Magee Ranch intersection, the applicant shall provide the development's fair share contribution towards the future construction cost of the identified improvements. These improvements would not be implemented until the traffic signal warrants at this intersection have been met and there is concurrence by both Contra Costa County and the Town of Danville to install the traffic signal.

The cost of the signal and roadway improvements shall be determined through the preparation of a conceptual design based on Danville, County and Caltrans standards. The applicant shall incur the costs associated with the conceptual design, which is subject to the review and approval of the Town of Danville and Contra Costa County.

The applicant's fair share contribution towards future construction of the signal and roadway improvements shall be not less than the difference between the estimated total project cost and the prior funding amount, nor more than the ratio of 'project traffic' to 'existing + project traffic' volumes during the AM Peak Hour multiplied by the estimated total cost of the signal and roadway improvements.

12. *The intersection of Mt. Diablo Scenic Boulevard/Diablo Road should be considered for signalization. The project is not the sole cause of the impact. For this reason, the mitigation for this impact shall be the project applicant's fair share contribution towards the installation of a traffic signal. With signalization, the intersection would operate at LOS C or better under all scenarios.*
13. For the traffic operational improvements at the Mt. Diablo Scenic Boulevard/Diablo Road intersection, the applicant shall provide the development's fair share contribution towards the future construction cost of the identified improvements. These improvements could only be implemented by Contra Costa County, as the intersection lies within the County's jurisdiction.

The cost of the traffic operational improvements shall be determined through the preparation of a conceptual design based on Contra Costa County and Caltrans standards. The applicant shall incur the costs associated with the conceptual design. The applicant shall deposit a fair share contribution towards future construction of the traffic operational improvements, which shall be calculated based on the ratio of 'project traffic' to 'existing + project traffic' volumes during the AM Peak Hour multiplied by the estimated total cost of the traffic operational improvements. Said fair share contribution shall be collected by the Town and transferred to Contra Costa County. The deposit shall then be kept in the County Roads Trust Fund until such time that improvements are warranted at the intersection.

14. *The project proponent shall modify the roadway striping along McCauley Road between the intersection and approximately 350 feet south of the Diablo*

*Road/Green Valley Road. The modified roadway striping shall substantially conform to the following: a) reconfigure the existing 17-foot southbound through lane to a 10-foot shoulder and a 12-foot through lane; b) replace the existing 3-foot double-double yellow centerlines with a single double yellow center-line; c) maintain the existing 10-foot northbound left turn lane while shifting it two feet toward the easterly curb line; d) reduce the existing 16-foot northbound through/right turn lane to 13 feet; and e) transition existing downstream (to the south) centerline/left turn lane on McCauley Road accordingly to accommodate the new configuration, as illustrated in the body of the Final EIR.*

15. *The project proponent shall install a new pedestrian crossing, with in-pavement lighting or other equivalent pedestrian safety improvement, at the project main entrance on Blackhawk Road. The crossing shall physically connect the project's pedestrian traffic to the existing paved pathway located along the north side of Blackhawk Road.*
16. The applicant shall retain the services of a qualified/licensed engineer to prepare the design of the pedestrian safety improvement, subject to the review and approval of the Town of Danville and Contra Costa County. If Contra Costa County elects not to maintain the selected pedestrian safety improvement, then said maintenance shall be provided by the project Homeowner's Association.
17. The applicant shall design and construct improvements for the intersection of Diablo Road and McCauley Road/Green Valley Road in conformance with the document titled "Magee Ranches - Conceptual Diablo Road at McCauley/Green Valley Road Improvements" by Ruggeri-Jensen-Azar dated March 6, 2012 (referenced under Condition of Approval A.1.g above). All costs for said improvement shall be the responsibility of the applicant and will not be subject to any impact fee credits. The aesthetic qualities of the proposed retaining wall along the south side of Diablo Road, east of the intersection are subject to review and approval by the Town's Design Review Board. The constructed retaining wall shall be coated with an anti-graffiti material. This intersection improvement shall be completed prior to final occupancy of the project. The timing of the construction work shall be subject to review and approval by the Town.
18. The applicant shall apply for a Large Road Encroachment Permit from Contra Costa County Public Works for the construction of the intersection of Street "A" with Blackhawk Road. The applicant shall contact the

Engineering Services Division of the County Public Works Department (925-313-2000) to process a Road Acceptance Agreement along with the review of plans associated with the encroachment permit. The application shall include the applicant's proposal to close off Jillian Way to create a single point of ingress/egress to Blackhawk Road.

19. No construction work requiring closure or detour from any portion of Diablo Road or Blackhawk Road shall be performed during the morning or evening commute hours, or on weekends or holidays. Commute hours shall be assumed to be between the hours of 6:00 a.m. and 10:00 a.m. and between 3:00 p.m. and 7:00 p.m.
20. According to the Final Map for Subdivision 7985 (recorded on June 3, 1999 in Book 392 of Map at Pages 47-48), temporary right-of-way was granted to the Town across a portion of Lot 6 in order to provide the residents of Jillian Way access to Blackhawk Road. A note on the map indicates that the Town will abandon this right-of-way and give fee title back to Lot 6 when alternative access is provided through the adjoining property to the east. Since the applicant's development project seeks to grant alternative access to the Jillian Way residents and seeks to close-off the access through Lot 6 to Blackhawk Road, the applicant shall provide the Town with a legal description and plat map to effectuate the abandonment.
21. The applicant shall establish a fund (with a preset amount of \$30,000) that shall be used to purchase TRAFFIX bus passes for new homeowners for the first few years of the development's existence. Similar to other transit incentive programs, this fund would help establish a habit of transit use that would further reduce the project's impacts to the roadway corridor.

#### H. INFRASTRUCTURE

- \* 1. Domestic water supply shall be from an existing public water system. Water supply service shall be from the East Bay Municipal Utility District water system in accordance with the requirements of the District.
- \* 2. All wastewater shall be disposed into an existing sewer system. Sewer disposal service shall be from the Central Contra Costa Sanitary District sewer system in accordance with the requirements of the District.
- \* 3. Drainage facilities and easements shall be provided to the satisfaction of the City Engineer and/or the Chief Engineer of the Contra Costa County Flood Control & Water Conservation District.

4. *In order to reduce wind and water erosion on the project site, an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods (see mitigation measure 4.8-1.).*

*The project shall prepare an erosion control plan in accordance with the Town's Erosion Control Ordinance. The project proponent shall implement the following measures, where appropriate, to control erosion: 1) keep construction machinery off of established vegetation as much as possible, especially the vegetation on the upwind side of the construction site; 2) establish specific access routes at the planning phase of the project, and limits of grading prior to development, which should be strictly observed; 3) utilize mechanical measures (i.e., walls from sand bags and/or wooden slat or fabric fences) to reduce sand movement; 4) immediate re-vegetation (plus the use of temporary stabilizing sprays), to keep sand movement to a minimum; and 5) for larger-scale construction, fabric or wooden slat fences should be placed around the construction location to reduce sand movement. This erosion control plan shall be submitted to the Town of Danville for review and approval prior to issuance of a grading permit.*

- \* 5. Roof drainage from structures shall be collected via a closed pipe and conveyed to an approved storm drainage facility in the street curb. No concentrated drainage shall be permitted to surface flow across sidewalks.
- \* 6. Any portion of the drainage system that conveys runoff from public streets shall be installed within a dedicated drainage easement or public street.
- \* 7. If a storm drain must cross a lot, or be in an easement between lots, the easement shall be equal to or at least double the depth of the storm drain.
- \* 8. The applicant shall furnish proof to the City Engineer of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site temporary or permanent road and drainage improvements.
- \* 9. All new utilities required to serve the development shall be installed underground in accordance with the Town policies and existing ordinances. All utilities shall be located and provided within public utility easements, sited to meet utility company standards or in public streets.

- \* 10. All utility distribution facilities, including but not limited to electric, communication and cable television lines, within a residential or commercial subdivision shall be underground, except as follows:
  - a. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter boxes, and concealed ducts;
  - b. Metal poles supporting street lights.
  
- \* 11. All street, drainage or grading improvement plans shall be prepared by a licensed civil engineer.
  
- 12. *Prior to final map recordation, the applicant shall enter into a Low Pressure Service Agreement with East Bay Municipal Utility District for each residential parcel located entirely or partially above the 650 elevation contour. All appropriate water supply infrastructure, including pumping and storage facilities, shall be provided in accordance with the Low Pressure Service Agreement. For new residential parcels that are partially located above the 650 foot contour residential building envelopes may be delineated below the 650' contour to avoid the need for additional site-specific infrastructure, subject to approval by the Town of Danville. New building envelopes, if identified, shall be coordinated directly with East Bay Municipal Utility District. These facilities shall be incorporated into the final design-level infrastructure drawing for the project. The applicant shall sign and execute a Low Pressure Service Agreement prior to final map recordation. All infrastructure improvements shall be incorporated into design-level drawings.*
  
- 13. *Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings to the East Bay Municipal Utility District and the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.*
  
- 14. *The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District's existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility District's right-of-way (R/W 1581). Any and all activities proposed within the right-of-way shall be coordinated with East Bay*

*Municipal Utility District. This easement shall be reflected in all final design-level improvement plans and appropriate notes shall also be included, subject to the review and approval of the East Bay Municipal Utility District and the Town of Danville.*

15. *In order to ensure that energy demand is reduced to avoid the wasteful or inefficient use of energy, the project proponent shall submit detailed design-level plans to the Town of Danville identifying that energy conservation measures have been incorporated into design and operation of the project, prior to the issuance of any building permit. The proponent shall implement the following or comparable energy conservation measures, including, but not limited to:*
- a. Final-design that takes advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use. Project shall meet and/or exceed the requirements of Title 20 and Title 24.*
  - b. Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.*
  - c. Install light-colored cool pavements, and strategically placed shade trees.*
  - d. Install energy efficient heating and cooling systems, appliances and equipment, and control systems. Including:*
    - smart meters and programmable thermostats.*
    - Heating, Ventilation, and Air Condition (HVAC) ducts sealing.*
  - e. Install light emitting diodes (LEDs) for outdoor lighting.*
  - f. Provide outdoor electrical outlets.*

*The project applicant may proposed substitute measures provide they achieve comparable energy use reductions as the measures proposed above. If alternative measures are proposed, the applicant shall provide detailed evidence demonstrating the measures efficacy at reducing energy demand.*

16. The final map for the applicant shall abandon all abutters rights to the project site along Diablo Road and Blackhawk Road except for the approved main entry drive and the Emergency Vehicle Access road.

I. MISCELLANEOUS

- \* 1. The project shall be constructed as approved. Minor modifications in the design, but not the use, may be approved by Staff. Any other change will

require Planning Commission approval through the revised final Development Plan review process.

- \* 2. Conditions of this approval may require the applicant to install public improvements on land over which neither the applicant, nor the Town, has easement rights to allow for the installation of the improvements. The applicant shall be responsible for acquisition of said easement rights through private negotiations. If the applicant is unsuccessful in negotiations, the applicant shall apply to the Town for use of eminent domain powers in accordance with Town Resolution No. 78-85. All easement rights shall be secured prior to Town Council final approval of any subdivision map. All costs associated with such acquisition shall be borne by the applicant.
- \* 3. Pursuant to Government Code section 66474.9, the applicant (including the applicant or any agent thereof) shall defend, indemnify and hold harmless the Town of Danville and its agents, officers and employees from any claim, action or proceeding against the Town or its agents, officers or employees to attack, set aside, void, or annul, the Town's approval concerning this application, which action is brought within the time period provided for in Section 66499.37. The Town will promptly notify the applicant of any such claim, action or proceeding and cooperate fully in the defense.
- \* 4. The project homeowners' association, through project-specific covenants, conditions and restrictions (CC&Rs), shall be responsible for maintenance of all common landscape areas and common fencing. Draft project CC&Rs shall be submitted to the Town of Danville for review and approval a minimum of 45 days prior to recordation of the final map.
- 5. A Geologic Hazard Abatement District (GHAD) shall be established or annexed into. The GHAD shall consider implementing measures to prevent, mitigate, abate, or control geologic hazards and also mitigate or abate structural hazards that are caused by geologic hazards. Said GHAD shall be established or the property annexed into a GHAD according to Public Resources Code §26500 et seq. The GHAD should consider owning or maintaining the approximately 372 acres of permanent open space. The GHAD should consider assuming responsibility for maintenance and upkeep of the detention basin, other stormwater pollution control and hydromodification facilities constructed as part of the project, and the future public trail to be constructed by the Town between the western

EVA terminus and the western terminus of the trail near the Diablo Road/Alameda Diablo intersection. The GHAD should consider establishing a comprehensive plan to maintain the restored creek and bridge and provide corrective measures as needed. If any duties listed above are unable to be included as part of the GHAD's responsibilities, they shall be included as the responsibility of the project's Homeowner's Association (HOA). An annual report regarding GHAD funding and activities shall be prepared for the first five years after the GHAD assumes responsibilities under the Plan of Control and submitted for review by the Town and made available for review by other watershed stakeholders.

6. The project is in the San Ramon Creek watershed. The project shall mitigate the impact of additional stormwater runoff draining to San Ramon Creek by either of the following methods:
  - Remove 1 cubic yard of channel excavation material from the inadequate portion of San Ramon Creek for each 50 square feet of new impervious surface area created by the development. All excavated material shall be disposed of off-site by the developer at his own cost. The site selection, land rights, and construction staking will be performed by the FC District.

OR, upon written request by the developer:

- Provide for a cash payment in lieu of actual excavation and removal of material from the inadequate portion of San Ramon Creek. The cash payment will be calculated at a rate of \$0.10 per square foot of new impervious surface area created by the development. The added impervious surface area created by the development will be based on the FC District's standard impervious surface area ordinance. The FC District will use these funds to work on San Ramon Creek annually.
7. The project site is also upstream of known inadequate reaches of Green Valley Creek. As a result, this project shall be subject to the Green Valley Creek Mitigation fee of \$0.10 per square foot of newly created impervious surface area. This fee is based on the Contra Costa County Flood Control District's Report on Impervious Surface Ordinance. The Town shall collect this fee for transfer to the County's Drainage Deficiency Fund.
  8. As required by Division 1010 (Drainage) of the County Title 10 Ordinance, the applicant shall obtain a drainage permit (1010 Permit) from the Flood Control District prior to conducting any work (including but not limited

to new storm drain outfalls, bridges, and road widening) in natural or man-made watercourses located in unincorporated Contra Costa County.

9. The applicant shall construct the detention basin and drainage facilities in accordance with the Regional Hydrologic Analysis prepared by Engeo Incorporated and dated June 8, 2011, and revised on April 17, 2012. Prior to allowing any changes to these drainage facilities as modeled, the developer shall submit a revised Hydrologic Analysis for Contra Costa County Flood Control District review and the Town's approval.
10. The applicant shall submit a final stormwater control plan for review and approval by the Town and the Contra Costa County Flood Control District prior to recordation of the final map.
- \* 11. Use of a private gated entrance is expressly prohibited.
- \* 12. As a part of the issuance of a demolition permit and/or building permit for the project, the developer shall submit a recycling plan for building and construction materials and the disposal of green waste generated from land clearing on the site. Prior to obtaining framing inspection approval for the project, the applicant/owner shall provide the Planning Division with written documentation (e.g. receipts or records) indicating that waste materials created from the demolition of existing buildings and the construction of new buildings were/are being recycled according to their recycling plan or in an equivalent manner.
- \* 13. The project shall conform to the Regional Water Quality Control Board post-construction C.3 regulations which shall be designed and engineered to integrate into the project's overall site, architectural, landscaping and improvement plans. These requirements are contained in the project's Stormwater Control Plan and are to be implemented as follows:
  - Prior to issuance of permits for building, site improvements, or landscaping, the permit application shall be consistent with the applicant's approved Stormwater Control Plan and shall include drawings and specifications necessary to implement all measures in the approved plan. The permit application shall include a completed Construction Plan C.3 Checklist as described in the Town's *Stormwater C.3 Guidebook*.
  - As may be required by the City Engineer and the Chief of Planning,

drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment (Best Management Practices) BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants.

- Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs.
  - Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for the Town's review and approval, a Stormwater BMP Operation and Maintenance Plan in accordance with the Town of Danville guidelines. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Appendix F of the Town's *Stormwater C.3 Guidebook*.
14. The project shall conform to the Town's Inclusionary Housing for Affordable Residential Housing Ordinance. The developer shall provide at least seven below market rate for-rent second units, as defined by the Ordinance. If rented, these second units shall be rented at an affordable rate, as set by the California Department of Housing and Community Development, to be affordable to low income households. The development and tenant occupancy of below market rate units shall be subject to an affordable housing agreement, which shall be subject to review and approval by the Town Council prior to recordation of the final map for the project. In addition, a deed restriction shall be recorded with the Contra Costa County Recorder in accordance with the Town's Second Dwelling Unit Ordinance precluding concurrent use of the second units and the respective primary residence as rental units. This condition does not preclude future property owners in this subdivision from building additional second dwelling units in compliance with the Town's Second Dwelling Unit Ordinance and State Law.

APPROVED by the Danville Town Council at a regular meeting on June 18, 2013, by the following vote:

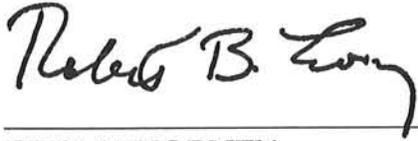
AYES:

NOES:

ABSTAINED:

ABSENT:

APPROVED AS TO FORM:



CITY ATTORNEY

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**MAGEE RANCHES**

**CEQA FINDINGS**

**AND**

**STATEMENT OF**

**OVERRIDING CONSIDERATIONS**

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## SECTION I STATEMENT OF FINDINGS

### 1.0 INTRODUCTION

Section 1.1 provides a description of the required CEQA findings for a project. Section 1.2 provides a description of the public review process that has lead decision makers to their conclusions regarding the Magee Ranches project. Section 2.0 presents the purpose and background of the project, including a project description, to provide the context upon which these Findings are based. Section 3.0 presents the substantiation for certification of the EIR. The Findings in Section 4.0 relate to those impacts that have been determined to be less than significant. Section 5.0 contains Findings for impacts have been identified as potentially significant impacts. Section 6.0 contains the Findings for cumulative impacts and Section 7.0 contains Findings regarding monitoring of mitigation measures. Section 8.0 contains Findings regarding the alternatives to the project. Section 9.0 contains Findings for growth-inducing impacts. The Statement of Overriding Considerations is contained in Section II.

### 1.1 California Environmental Quality Act

The California Environmental Quality Act ("CEQA") (Public Resources Code §21000-21177) and the State CEQA Guidelines (Cal. Code of Regulations, Title 14, §15000-15387) require that specific findings be made if a lead agency decides to approve a project which will have significant impacts. §21081 of the California Public Resources Code states:

“[N]o public agency shall approve or carry out a project for which an Environmental Impact Report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one, or more, of the following findings with respect to each significant effect:
  - (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
  - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
  - (3) Specific economic, legal, social, technological, or other considerations. Including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

The Environmental Impact Report ("EIR") for the project (State Clearinghouse No. 2010112042) identifies significant or potentially significant environmental impacts which, prior to mitigation, may occur as a result of implementation of the project. Thus, in accordance with the provisions of CEQA, the Town of Danville, as the “lead agency” hereby adopts these Findings.

### 1.2 Environmental Review Process

In conformance with CEQA, the Town of Danville conducted an environmental review process on the project. The environmental review process included the following:

◆ **Scoping Process:**

The Town of Danville prepared a Notice of Preparation (NOP) for the project in accordance with §15082 of the CEQA Guidelines. The NOP was distributed for public review on November 17, 2010. Environmental issues raised by comments received in response to the NOP during its 30-day public review period were considered for inclusion in the Draft EIR. Public and agency comments received on the NOP were reviewed and incorporated into the Draft EIR.

Pursuant to §15060(C) of the CEQA Guidelines, and §21083.8 of the CEQA Statute, the Town of Danville proceeded with preparation of an EIR. The Draft EIR addressed environmental impacts in the following categories:

- ◆ Aesthetics
- ◆ Agricultural and Forest Resources
- ◆ Air Quality
- ◆ Biological Resources
- ◆ Cultural Resources
- ◆ Geotechnical and Geological Hazards
- ◆ Greenhouse Gas Emissions
- ◆ Hazards and Hazardous Materials
- ◆ Hydrology and Water Quality
- ◆ Land Use and Planning
- ◆ Noise
- ◆ Public Services
- ◆ Traffic and Circulation
- ◆ Utilities and Service Systems

◆ **Preparation of a Draft EIR by the Town of Danville:**

The Draft EIR was distributed to Responsible Agencies, other affected agencies, and interested parties. The Notice of Completion (NOC) of the Draft EIR was distributed as required by CEQA, including publication of notice in the *San Ramon Valley Times* on November 29, 2012. An extended 60-day review period occurred, ending on January 28, 2013. During the public review period, the Draft EIR, including appendices, was made available and circulated for public review.

◆ **Public Hearing on the Draft EIR:**

A public hearing was held by the Town of Danville Planning Commission on January 28, 2013 to receive public comment on the Draft EIR. The Town responded to all questions submitted verbally or in writing in the Final EIR.

◆ **Preparation of the Final EIR:**

Pursuant to Public Resources Code §21092.5, the Town prepared the Final EIR in response to comments on the Draft EIR. The Final EIR contains the following: refinements and clarifications to the Draft EIR; written comments received on the Draft EIR; responses to those comments; and testimony presented to the Planning Commission and responses thereto. The Final EIR was issued on April 12, 2013.

◆ **Public Hearings before the Planning Commission on EIR and Project:**

The Planning Commission held public hearings on the Draft EIR and Final EIR (collectively "EIR") and project on April 23, 2013 and May 14, 2013. At the May 14 meeting, pursuant to Resolution No. 2013-05, the Planning Commission recommended certification of the EIR and approval of the project with revisions to the Town Council. The major project revisions from the Planning Commission included: 1) removal of the three proposed lots on McCauley Road, 2) the addition of a staging area on the east side of the project entrance to provide access to the proposed public trail system, 3) implementation of the improvements to Diablo Road/Green Valley Road intersection, and 4) a one-time \$30,000 fee to be paid by the applicant to be used to purchase TRAFFIX bus passes for new homeowners in the Project.

◆ **Public Hearings before the Town Council on EIR and Project:**

The Town Council held a public hearing on the EIR and project on June 18, 2103. The Town Council, pursuant to Resolution No.60-2013, certified the EIR and approved the project as set forth herein.

## **2.0 PURPOSE AND BACKGROUND**

### **2.1 Description of the Project**

The project evaluated in the Draft EIR consists of development of a 410 acre property referred to as Magee Ranches (Magee West and Magee East) in the Town of Danville. Magee West extends east of McCauley road just south of the intersection of Diablo/McCauley Road and South of Diablo/Blackhawk Road east of the Diablo McCauley intersection. Magee East lies south of Diablo/Blackhawk Road, roughly between Jillian Way and Creekledge Court.

The project evaluated in the Draft EIR proposed to subdivide the property into 70 single family lots, with six lots on Magee West and 64 lots on Magee East. The Project proposed to locate the lots on approximately 108 acres of the flatter portions of the site, avoiding the steeper slopes and ridges. The remaining  $\pm$  302 acres of the site would be preserved as permanent open space. A minimum of 10% of the homes would include second dwelling units in accordance with the Town's Inclusionary Housing Ordinance.

On February 8, 2013, after the Draft EIR was submitted for public review and comment, the applicant submitted Project revisions ("revised plan") to the Town of Danville to address concerns expressed by the public relating to access and visual changes along Diablo Road. The revised plan includes the following changes:

1. Reducing the number of lots from 70 to 69 by removing three custom lots and their associated access points along Diablo Road and adding 2 custom lots on Magee East. The revised plan includes 3 lots on Magee West (accessed from McCauley Road) and 66 lots on Magee East.
2. Creating two new custom lots on Magee East and reducing the developed area. The first new lot was created by splitting Lot 61 at the end of Court C as shown in the Draft EIR into two lots (Lots 61 and 62 on the revised plan). The second new lot was created by reducing the overall size of Lots 62, 63, and 64 at the end of Court F as shown in the Draft EIR and adding an additional lot within this reduced area (Lots 63-66 on the revised plan).
3. Increasing the open space area on the site from 302 to 372 acres.

On June 5, 2013, an additional revision to the project was submitted to the Town by the applicant. The entrance road for the Magee East portion of the project was moved to the west approximately 20 feet so that no portion of the entrance road would be located on a parcel designated in the General Plan as "General Open Space." This revision is also included within the definition of "revised plan."

The revised plan reflects minor changes to the project analyzed in the Draft EIR and further reduces some environmental impacts evaluated in the Draft EIR. Specifically, the revised plan would reduce the unit count to 69, eliminate the three custom lots and associated access points along Diablo Road at the Magee West portion of the site, reduce the size of the custom lots on Magee East and assure that the main project entrance road is not located within a parcel designated "General Open Space". These changes would: (1) increase the amount of open space and habitat preservation area by 70 acres, (2) eliminate potential noise impacts to the originally proposed residences along Diablo Road (as discussed in Section 4.10 of the Draft EIR), (3) decrease the potential impacts related to landslides and soils for those areas along Diablo Road (as discussed in Section 4.6 of the Draft EIR) and (4) ensure the project entrance is not located within a parcel designated as "General Open Space."

Based on a revised visual simulation, the Final EIR concluded that the addition of the two lots on Magee East does not change the analysis or conclusions in the Draft EIR relating to the visual impacts of the Project. Although this portion of the proposed development would remain visible, it would be largely screened by existing and proposed landscaping (refer to the analysis on page 4.1-23 of the Draft EIR). The removal of the three custom home lots along Diablo Road will allow this area to remain in its natural state so the visual character of this area will not change.

It has been determined that the revised plans do not increase the number or severity of any environmental impacts analyzed in the EIR, nor will it change the overall conclusions in the EIR, primarily because the changes increase the open space area within the Project site. The revised plans, along with the staging area and improvements to Diablo Road/Green Valley Road included in the conditions of approval recommended by the Planning Commission, are included in the definition of "Project" used in this document.

The overall objectives of the Project are to:

- ◆ Develop a residential project that is consistent with the Town of Danville Agricultural, General Open Space, Rural Residential, and Single Family-Low Density General Plan Land use designations for the site as well as the General Plan's Magee Ranch Special Concern Area language,
- ◆ Provide 69 residential lots, including 66 home sites at the east end of the site south of Blackhawk Road and 3 home sites near the southeast corner of the Diablo Road/McCauley road intersection,
- ◆ Design the project to cluster development on the lower portions of the site to minimize visual impacts and limit disturbance on the property,
- ◆ Provide for a minimum of 10% of the 69 lots to include a second dwelling unit ("casita") to satisfy the Town's affordable housing requirements,
- ◆ Preserve approximately 372 acres of the project site as permanent open space, and
- ◆ Preserve significant features of scenic hillsides and major ridgeline areas.

The objectives have been updated from those stated in the Draft EIR to reflect the latest revisions to the Project.

## **2.2 Purpose of the EIR**

Pursuant to CEQA, Public Resources Code sections 21000 et seq., and the CEQA Guidelines, California Code of Regulations, Title 14, §15000 et seq., the Town prepared the EIR to analyze the Project's potential environmental effects. The Draft EIR was circulated for public review for an extended 60-day period beginning November 29, 2012 and ending on January 28, 2013 (CEQA only requires a 45-day review period). Responses to comments were prepared and are contained in the Final EIR.

## **2.3 Description of the Record**

For purposes of CEQA and these Findings, the record before the Town includes, without limitation, the following:

- 1) The NOP;
- 2) The Draft EIR and all appendices to the Draft EIR;
- 3) The Final EIR and all appendices to the Final EIR;
- 4) All notices, staff reports, and presentation materials related to the Project;

- 5) All studies and reports conducted for the Project which are contained in, or referenced by, staff reports, and EIR;
- 6) All public reports and documents related to the Project prepared for the Town and other agencies;
- 7) All documentary and oral evidence received and reviewed at public hearings and workshops and all transcripts and minutes of those hearings related to the Project and EIR;
- 8) For documentary and informational purposes, all locally-adopted land-use plans and ordinances, including, without limitation, specific plans and ordinances, master plans together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area;
- 9) Any proposed decisions or findings or statements submitted to the decisions makers by staff or others;
- 10) Documentation of the final decisions, including the EIR, as well as all documents relied on in the Town's CEQA Findings and statement of overriding considerations; and
- 11) Any additional items not included above, if they are required by law.

## **2.4 Discretionary Actions**

The discretionary action for the Project involves the following approval by the Town Council:

- 1) Certification of the EIR for the Project
- 2) Project approvals including:
  - Preliminary Development Plan and Final Development Plan to rezone approximately 410 areas from A-4, A-2 and P-1, to a new P-1 (LEG 10-0004, DEV 10-0071, DEV 10-0072) (“rezoning”);
  - Vesting Tentative Map to create 69 single family lots (SD 9291) (“VTM”);
  - Architectural design and landscapes details; and
  - Tree Removal Permit (TR-10-0028) (“Tree Permit”).

The Town Council adopts these Findings pursuant to §15091 of the CEQA Guidelines and adopts the Statement of Overriding Considerations pursuant to §15093 of the CEQA Guidelines.

## **3.0 GENERAL FINDINGS**

### **3.1 Terminology of Findings**

CEQA Guidelines §15091 requires that, for each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three allowable conclusions. The first is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the [Final] EIR.” The second potential finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” The third permissible conclusion is that “[s]pecific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.”

For purposes of these Findings, the term “mitigation measures” shall constitute the “changes or alterations” discussed above. The term “avoid or substantially lessen” will refer to the effectiveness of one or more of the mitigation measures or alternatives to reduce an otherwise significant environmental effect to a less-than-significant level.

If the Town adopts a mitigation measure it is also finding that the mitigation measure is feasible. Pursuant to the CEQA Guidelines, “feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines, §15364.) When the Town finds a measure is not feasible, evidence for its decision will be provided.

### **3.2 Certification of Environmental Impact Report and Adoption of Findings**

On June 18, 2013, the Town Council certified the EIR and approved the Project. Based upon the substantial evidence in the record, the Town Council finds and declares as stated herein.

**3.3** The Town of Danville is the "lead agency" for the Project. The Town Council finds that the EIR has been prepared in compliance with CEQA and the State CEQA Guidelines.

**3.4** The EIR evaluates all potentially significant environmental impacts that can result from the Project. The EIR considered the significant and unavoidable environmental effects, if any, as well as cumulative impacts in each of these environmental topic areas in Chapter 4 of the Draft EIR. Additionally, the Draft EIR considered the following issues in Chapters 5 and 6: growth inducement, cumulative impacts, significant unavoidable impacts, irreversible environmental changes and alternatives. The cumulative impacts of the Project and other past, present, and reasonably foreseeable future projects were considered in the EIR as required by CEQA (Public Resources Code §21083) and the State CEQA Guidelines (Cal. Code of Regulations, Title 14, §15130). The cumulative analysis at the end of each section in Chapter 4 of the Draft EIR includes an analysis of future environmental conditions in the Town of Danville and surrounding areas to the extent required in order to determine the significance of the Project's incremental contribution to cumulative impacts.

**3.5** The Town Council finds that the EIR provides objective information to assist the Town's decision-makers and the public-at-large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the public review period and responds to comments made during the public review period (November 29, 2012 through January 28, 2013), as well as those made at, or prior to the noticed public meetings and/or public hearings on the issues relevant to the EIR.

**3.6** The Town Council finds that the Town evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the Town prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith, and reasoned responses to the comments received by the Town. The Town has reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR, consistent with Public Resources Code §21092.1 and CEQA Guidelines §15088.5. Specifically, changes resulting from comments made on the Draft EIR do not result in the following:

1. A significant new environmental impact that would result from the Project or recommended mitigation measure;
2. A substantial increase in the severity of an environmental impact that is not reduced to a level of less than significant by adopted mitigation measures;

3. A feasible Project alternative or mitigation measure not adopted that is considerably different from others analyzed in the Draft EIR that would clearly lessen the significant environmental impacts of the Project; or
4. Information that indicates that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR.

The Town Council has based its decision on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the EIR.

- 3.7 These Findings are based upon substantial evidence in the entire record before the Town.
- 3.8 The references to the EIR set forth in these Findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings.
- 3.9 These Findings reflect the Town Council's decisions regarding the significance of impacts of the Project.
- 3.10 The Town Council certifies that it has independently reviewed and analyzed the EIR.
- 3.11 CEQA defines the term "project" as the whole of an action or "activity which is being approved and which may be subject to several discretionary approvals by governmental agencies." Accordingly, the Town Council certifies the EIR and approves these Findings for the entirety of the actions described in these Findings and in the EIR as comprising the Project.

It is contemplated that there may be a variety of discretionary actions undertaken by other federal, state and local agencies (who might be referred to as "responsible agencies" under CEQA), concerning the Project, including without limitation:

- ◆ California Department of Fish and Wildlife (CDFG)
- ◆ California Regional Water Quality Control Board (RWQCB)
- ◆ San Francisco Bay Regional Water Quality Control Board (SFBRWQCB)
- ◆ U.S. Army Corps of Engineers (ACOE)
- ◆ U.S. Fish and Wildlife Service (USFWS)

Other agencies, organizations, and/or special interest groups not formally identified as a responsible agency, but otherwise anticipated to be participants in the local review process for the Project include:

- ◆ East Bay Municipal Utilities District (EBMUD)
- ◆ Contra Costa County Flood Control and Water Conservation District (CCCFWCD)
- ◆ Contra Costa Local Agency Formation Commission (LAFCo)
- ◆ East Bay Regional Parks District (EBRPD)
- ◆ Contra Costa County

Because the Town of Danville is the lead agency for the Project, the EIR which the Town has prepared is intended to be the basis for compliance with CEQA for each of the possible discretionary actions by other agencies to carry out the Project.

- 3.12 Having received, reviewed, and considered the above described information, as well as all other information and documents in the record, the Town Council hereby finds as stated in these Findings.

3.13 Pursuant to Public Resources Code §21081.6 and California Code of Regulations, Title 14, §15091, the Town of Danville is the custodian of the documents and other material that constitute the record of proceedings upon which the Town's decision is based, and such documents and other material are located at Town of Danville Development Services Department, 510 La Gonda Way, Danville, California, 94526.

#### 4.0 FINDINGS REGARDING LESS-THAN-SIGNIFICANT ENVIRONMENTAL IMPACTS

The EIR finds that there are less-than-significant environmental impacts in the following subject areas:

- ◆ Agricultural Resources
- ◆ Land Use and Planning

The Town Council is not required to adopt mitigation measures for impacts that are less than significant.

**Discussion:** The Project site has historically been used and is currently used for beef cattle operations. The site does not contain any of the mapping categories or important agricultural lands (i.e., Prime Farmland, Farmland of Statewide Importance, etc.). In addition, the Project site does not border lands with an important mapping category. Portions of the Project site were formerly under a Williamson Act contract. A Notice of Non-Renewal was submitted to the Town in 2000 on these lands, recorded by Contra Costa County and the Williamson Contract has since expired. The site does not include any forest resources (forest land, timberland or land zoned for Timberland Production) as identified in CEQA. As a result, the Project does not have the potential to result in a significant impact on agricultural resources as defined in CEQA.

With respect to land use and planning, as thoroughly explained in various sections of the record, including in the Draft EIR, Final EIR under Master Response to Planning/Zoning/Measure S, and in staff reports to the Planning Commission and Town Council on the EIR and Project, the Project is consistent with and implements direction, goals, and policies in the General Plan, and is consistent with Measure S which is part of the General Plan, zoning and other rules and regulations of the Town (i.e., Scenic Hillside and Major Ridgeline Development Ordinance and Tree Preservation Ordinance). The Project does not physically divide an established community as defined in CEQA since it does result in a physical barrier but rather is consistent with and compliments the residential uses and areas that surround the Project site.

**Finding:** The Town Council finds that the Project will not have significant environmental impact on agricultural resources or land use and planning and thus, no mitigation measures are required.

#### 5.0 FINDINGS REGARDING POTENTIALLY SIGNIFICANT IMPACTS

The EIR identified potentially significant impacts in the areas identified below. The EIR recommended mitigation measures to reduce all potentially significant impacts to a level of insignificance. The mitigation measures in these Findings are those measures from the Summary Table (Table 2-1) in the Draft EIR as revised by the Final EIR. These mitigation measures have been updated to the extent necessary in these Findings to reflect the Project as revised and approved as discussed in Section 2.1 of these Findings.

##### 5.1 Aesthetics

**Impact re: new sources of light** The project would create new sources of light that would adversely affect nighttime views in the area.

**Mitigation Measure 4.1-1** All buildings shall be designed so that reflective surfaces are limited and exterior lighting is down-lit and illuminates the intended area only. Building applications for new structures shall include an exterior lighting plan subject to approval by the Town of

Danville that includes the following requirements: 1) exterior lighting shall be directional; 2) the source of directional lighting shall not be directly visible; and 3) vegetative screening shall be installed, where appropriate.

**Discussion:** Measure 4.4-1 will ensure that lighting will be minimized and directed at the intended areas only. The landscaping plan that is also part of the Project will provide additional screening for the Project. These measures will ensure that lighting will not spill over into unintended areas.

**Finding:** The Town Council adopts Mitigation Measure 4.1-1. The Town Council finds that with the adoption of the Measure and conditions of approval related to this potential impact, the impacts on aesthetics as described above will be mitigated to a less than significant level.

## 5.2 Air Quality

**Impact re: NOx emissions** Construction activities, including clearing, excavation and grading operations, would generate diesel exhaust emissions (NOx) that exceed BAAQMD thresholds.

**Mitigation Measure 4.3-1** The Project proponent shall implement following measures to control diesel exhaust emissions associated with grading and new construction. A plan indicating how compliance will be achieved shall be submitted to the Town of Danville prior to construction.

- a. During the grading phase, the developer or contractor shall provide a plan for approval by the Town demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2010; This plan should address all equipment that will be on site for more than 2 working days.
- b. During the building construction phase, establish on-site electric power to reduce the use of diesel-powered generators.
- c. Arrange for service to provide on-site meals for construction workers to avoid travel to off-site locations.
- d. Stage construction equipment at least 200 feet from existing or new habitable residences.
- e. Properly tune and maintain equipment for low emissions.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes in accordance with the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations. Clear signage shall be provided for truck operators and construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Require an on-site disturbance coordinator to ensure that the construction period mitigation measures are enforced. This coordinator shall respond to complaints regarding construction activities and construction caused nuisances. The phone number of this disturbance coordinator

shall be clearly posted at the construction site and provided to nearby residences. A log documenting any complaints and the timely remedy or outcome of such complaints shall be kept.

**Discussion:** Mitigation Measure 4.3-1 requires a plan to be prepared and approved by the Town that contains mandatory measures to reduce diesel exhaust emissions (NOx) from construction activities. This Measure will ensure that construction activities, including clearing, excavation and grading operations that generate diesel exhaust emissions (NOx) will be mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.3-1. The Town Council finds that with the adoption of this Measure and applicable conditions of approval relating to this potential impact, the impact on air quality as described above will be mitigated to a less than significant level.

**Impact re: dust generation** If uncontrolled, dust generated by grading and construction activities represents a significant air quality impact.

**Mitigation Measure 4.3-2** Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to less-than-significant. The contractor shall implement the following Best Management Practices that are required of all projects:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

**Discussion:** The above Measure will ensure that dust generation construction activities are controlled and will not result in a significant air quality impact. This Measure requires the contractor to implement the Best Management Practices so that air quality impacts are mitigated. This Measure is recommended by BAAQMD to reduce air quality impacts associated with grading and new construction

**Finding:** The Town Council adopts Mitigation Measure 4.3-2. The Town Council finds that with the adoption of the Measure, other applicable Measures relating to air quality such as Mitigation Measure 4.3-1 and conditions of approval relating to this potential impact, the impact on air quality as described above will be mitigated to a less than significant level.

### 5.3 Biological Resources

**Impact re: California red-legged frog**

Construction of the proposed subdivision could result in potential impacts to California red-legged frog.

**Mitigation Measure 4.4-1**

The Project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:

- a. Prior to the start of construction, the Project proponent shall retain a qualified biologist to train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.
- b. Prior to the start of construction, the project Proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that CRLF are absent from the construction area. If CRLF are present, a qualified biologist possessing all necessary permits shall relocate them or they shall be allowed to move out of the construction area on their own.
- c. Immediately following the pre-construction surveys and a determination that CRLF are not present in the construction zone, the construction zone shall be cleared and silt fencing erected and maintained around construction zones to prevent CRLF from moving into these areas.
- d. The Project proponent shall retain a qualified biological monitor to be present onsite during times of construction within the riparian habitat of East Branch Green Valley Creek to ensure no CRLF are harmed, injured, or killed during project buildout.

**Mitigation Measure 4.4-2**

The Project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The Project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:

- a. The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be lowered to restore the natural flow of this portion of the creek.
- b. The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.
- c. The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.
- d. The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be

planted with native species appropriate for the corridor.

**Mitigation Measure 4.4-3**

The Project would impact approximately 0.5 acres of jurisdictional waters that are of a degraded quality and marginal value for the CRLF. The Project shall replace the lost functions and value of this impact to aquatic habitats at a minimum of 1:1 replacement-to-loss acreage ratio. The final mitigation amounts will be based on actual impacts to be determined during the design phase. Habitat replacement via creation of and/or enhancements to existing waters shall occur onsite. Onsite lands proposed to be preserved as open space are within the same watershed as the offsite detention basin known to support breeding CRLF and are expected to fully accommodate creation of and/or enhancements to aquatic habitats that would be of substantially higher value to CRLF than the impacted waters. Compensation for impacts to jurisdictional waters to benefit the CRLF will include all of the aforementioned components along with improving the wetland character of the onsite stock pond and enhancing the associated riparian habitat between the stock pond and the detention basin. (Refer also to Mitigation Measures 4.4-13 and 4.4-14 below for impacts to jurisdictional waters.)

**Mitigation Measure 4.4-4**

The Project proposes to preserve approximately 372 acres of the site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The Project proposes to create a geologic hazard abatement district (GHAD) to provide suitable funding for management and long-term maintenance of the site. Upland habitats shall be managed via a long-term management plan to maintain the quality of the habitat for the movement and dispersal of CRLF. Prior to construction, the Project proponent shall retain a qualified biologist to prepare an open space management plan for the explicit purpose of managing and monitoring the proposed open space area. This plan shall be submitted to the Town of Danville for review and approval prior to issuance of grading permits. At a minimum this plan shall include the following components:

- a. Identify the location of the restoration efforts for replacing jurisdictional waters and riparian habitats. The replacement ratio for both habitats will be at a minimum of a 1:1 ratio.
- b. Identify the approaches to be used, including the extent that the onsite stock pond be expanded, reconfiguring of the pond bottom and increase in depth, and providing evidence that sufficient water budget exist for any proposed enhancement.
- c. Identify a suitable planting regime for restoring wetland and riparian habitats.
- d. Identify success criteria for monitoring both the wetland and riparian habitats that are consistent with similar habitats regionally.
- e. Monitor restored wetland habitats for at least five years and restored riparian habitats for 10 years.
- f. Define and identify the GHAD maintenance and management activities to manage the open space habitats to meet the stated goals of support habitat characteristics suitable for the CRLF. This would include suitable fencing so as to control access, limited cattle grazing or other procedures to manage grass height and forage production at levels that benefit the CRLF, and removal of trash.
- g. Define the financial mechanism for the GHAD to manage the open space into perpetuity.

**Discussion:** The Project has been designed to avoid impacts to riparian and aquatic resources to the maximum extent possible. The Project site consists of approximately 410 acres. Of that acreage, only 9% (38 acres) will be developed with residential uses. The remaining 91% (372 acres) will remain in permanent open space. The Project will provide a conservation easement over the 372 acres of the open space property to ensure no additional development occurs on that property. The Project also includes a Waters of the U.S. and Riparian Mitigation & Monitoring Plan and Conservation Management Plan (“HMMP”) that sets forth measures to protect the California red-legged frog and other biological creatures and features. These Project components, along with the above Measures will ensure that the potential impact to the California red-legged frog is mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measures 4.4.1 through 4.4.4. The Town Council finds that with the adoption of these Measures, other applicable mitigation measures in these Findings, and the conditions of approval and Project components that protect the California red-legged frog, the impacts as described above will be mitigated to a less than significant level.

**Impact re: western pond turtle** Construction of the proposed subdivision could result in potential impacts to the western pond turtle.

**Mitigation Measure 4.4-5** Implementation of the avoidance, minimization, and compensation measures for the CRLF (see discussion above) would also address impacts to western pond turtles. The project proponent shall also implement the following measures.

Prior to the start of construction, the Project proponent shall retain a qualified biologist to train construction personnel regarding habitat sensitivity, identification of special status species, and required practices.

**Mitigation Measure 4.4-6** Prior to the start of construction within the East Branch Green Valley Creek riparian area, the Project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that western pond turtles are absent from the construction area. If western pond turtles are present, a qualified biologist possessing all necessary permits shall be retained to relocate them.

**Mitigation Measure 4.4-7** If western pond turtles are found to be absent from the construction zone, immediately following the pre-construction surveys the Project proponent shall clear the construction zone and install/maintain silt fencing around the construction zone to prevent western pond turtles from entering these areas.

**Mitigation Measure 4.4-8** During construction within the East Branch Green Valley Creek riparian area, the Project proponent shall retain a biological monitor to be present onsite during times of construction to ensure that turtles are not harmed, injured, or killed.

**Discussion:** The Project would result in a minor encroachment into habitat that likely supports the western pond turtle (0.3 acres). The loss of this habitat is considered less than significant since the habitat area is very small and the Project is preserving 372 acres in permanent open space. The pre-construction surveys, training of construction personnel, and other construction preventive measures as identified above will ensure that individual turtles are not impacted. The Project also includes a HMMP that sets forth the measures to protect the western pond turtle and other biological creatures and features. These Project components, along with the above Measures will ensure that the potential impact to the western pond turtle is mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measures 4.4-5 through 4.4-8. The Town Council finds that with the adoption of these Measures, other applicable Measures in these Findings, and the conditions of approval and Project

components that protect the western pond turtle, the potential impact as described above will be mitigated to a less than significant level.

**Impact re: nesting raptors and migratory birds** Construction of the proposed subdivision could result in potential impacts to nesting raptors and migratory birds.

**Mitigation Measure 4.4-9** To the maximum extent practicable, the Project proponent shall remove trees during the non-breeding season (September 1 through January 31). If it is not possible to avoid tree removal and associated disturbances during the breeding season (February 1 through August 31), the Project proponent shall retain a qualified biologist to conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and 250 feet of the footprint, if such disturbance would occur during the breeding season. This survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (a minimum of 150 feet up to a maximum of 250 feet) shall be determined at that time and may vary depending on location and species. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities.

**Discussion:** The Project has been designed to avoid impacts to biological resources to the maximum extent possible. The Project site consists of approximately 410 acres. Of that acreage, only 9% (38 acres) will be developed with residential uses. The remaining 91% (372 acres) will remain in open space. The Project will provide a conservation easement over the 372 acres of the open space property to ensure no additional development occurs on that property. The Project had preserved the oak woodlands along Diablo Road by eliminating homes along that corridor. Trees will only be removed at the Project entrance and for the improvements to the Diablo Road/Green Valley Road intersection. The Project also includes a HMMP that sets for measures to protect nesting raptors and migratory birds and other biological creatures and features. These Project components, along with the above measures will ensure that the potential impact to nesting raptors and migratory birds is mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.4-9. The Town Council finds that with the adoption of the Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that protect nesting raptors and migratory birds, the potential impact as described above will be mitigated to a less than significant level.

**Impact re: burrowing owls** Construction of the proposed subdivision could result in potential impacts to burrowing owls

**Mitigation Measure 4.4-10** In order to avoid impacts to active burrowing owl nests, the Project proponent shall retain a qualified biologist to conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys shall be conducted in a manner consistent with the CDFG's burrowing owl survey methods (CDFG 2012b). If pre-construction surveys determine that burrowing owls occupy the site during the

non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be used to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as described above.

**Discussion:** The Project had preserved the oak woodlands along Diablo Road by eliminating homes along that corridor. Trees will only be removed at the Project entrance and for the improvements to the Diablo Road/Green Valley Road intersection. The Measure above will ensure that if any burrowing owls are found during construction, the owls will be protected. The Project also includes a HMMP that sets for measures to protect burrowing owls and other biological creatures and features. These Project components, along with the above measures will ensure that the potential impact to burrowing owls is mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.4-10. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that protect the burrowing owl, the impacts as described above will be mitigated to a less than significant level.

**Impact re: American badgers** Construction of the proposed subdivision could result in potential impacts to American badgers.

**Mitigation Measure 4.4-11** Pre-construction surveys conducted for burrowing owls shall also be used to determine the presence or absence of badgers in the development footprint. If an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, the project contractor shall establish a construction-free buffer around the den of up to 300 feet or a distance specified by the resource agencies (i.e., CDFG). Because badgers are known to use multiple burrows in a breeding burrow complex, the project contractor shall retain a biological monitor during construction activities to ensure the buffer is adequate to avoid direct impacts to individuals or nest abandonment. The monitor shall be present onsite until it is determined that young are of an independent age and construction activities would not harm individual badgers. Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.

**Discussion:** Conversion of grasslands to urban development would result in a less than significant impact on the habitat for the badger. The loss of this habitat is considered less than significant since the Project is preserving 372 acres in permanent open space. The Project could result in harm to an individual badger. The retention of a qualified biologist and pre-construction surveys and the other preventative measures mentioned above will provide adequate mitigation to reduce this potential impact to a level of insignificance. In addition, the Project also includes a HMMP that sets for measures to protect the American badger and other biological creatures and features. These Project components, along

with the above measures will ensure that the potential impact to American badgers is mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.4-11. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that protect the American badger, the impacts as described above will be mitigated to a less than significant level.

**Impact re: wetlands**                      Development of the proposed subdivision would impact wetlands (0.5 acres) and riparian habitat (0.3 acres).

**Mitigation Measure 4.4-12**              The Project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 372 acres of the site proposed as open space. Prior to issuance of a grading permit, the Project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:

- a. Define the location of all restoration/creation activities;
- b. Provide evidence of a suitable water budget to support any created wetland and riparian habitats;
- c. Identify the species, amount, and location of plants to be installed;
- d. Identify the time of year for planting and method for supplemental watering during the establishment period;
- e. Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success;
- f. Identify adaptive management procedures that include (but are not limited to) measures to address colonization by invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;
- g. Define management and maintenance activities (weeding of invasives, providing for supplemental water, repair of water delivery systems) of the proposed GHAD; and
- h. Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.

**Mitigation Measure 4.4-13**              The Project proponent shall comply with all state and federal regulations related to construction work that will impact aquatic habitats occurring on the site. Prior to construction, the Project proponent shall obtain a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and/or Section 1600 Streambed Alteration Agreement from the CDFG, and submit proof of such documentation to the Town of Danville.

**Discussion:** The Project includes an HMMP that contains the above measures and additional measure to protect riparian and aquatic resources on site. For example, the Project will restore portions of the East Branch Green Valley Creek on site by removing a wet crossing, an existing bridge and cattle gates. The Project has been designed to avoid impacts to biological resources to the maximum extent possible. The Project site consists of approximately 410 acres. Of that

acreage, only 9% (38 acres) will be developed with residential uses. The remaining 91% (372 acres) will remain in open space. In addition, the Project will be required to apply for and receive permits from all applicable resource agencies before work begins that can impact aquatic habitat and other protected resources.

**Finding:** The Town Council adopts Mitigation Measures 4.4-12 and 4.4-13. The Town Council finds that with the adoption of these Measures, other applicable Measures in these Findings, and the conditions of approval and Project components that protect wetlands and riparian habitat, the impacts as described above will be mitigated to a less than significant level.

**Impact re: trees on Project site** The Project would result in the removal of 56 trees on the site (12 of which are designated as Town protected trees under the Town's Tree Preservation Ordinance), which represents a potentially significant impact. This total includes the removal of 18 trees within the Town right-of-way necessary to allow construction of the roadway improvements at the Diablo Road/Green Valley Road intersection, which improvements are required as conditions of approval for the Project.

**Mitigation Measure 4.4-14** Prior to issuance of a grading permit, a tree preservation plan shall be prepared for all trees to be retained that identifies all protection and mitigation measures to be taken and includes the tree preservation guidelines by HortScience in their tree report(s). These measures shall remain in place for the duration of construction activities at the project site.

**Mitigation Measure 4.4-15** Upon completion of construction, the Project proponent shall replace all ordinance-size trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's tree ordinance. Tree removal shall be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project proponent shall replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1. To the maximum extent practicable, all native trees that are removed shall be replaced with like species. All non-native trees that are removed shall be replaced with species that are known to occur naturally within similar habitats in the region.

**Mitigation Measure 4.4-16** Prior to construction, the Project proponent retain a qualified arborist to develop a monitoring plan for replacement trees (outside the riparian habitat) and submit it to the Town of Danville during the permit process. The basic components of the monitoring plan shall include final success criteria, specific performance criteria, monitoring methods, data analysis, monitoring schedule, contingency/remedial measures, and reporting requirements.

**Mitigation Measure 4.4-17** If the Town determines that the improvements to the Diablo Road/Green Valley Road intersection are required, the project shall implement Mitigation Measures 4.4-14 through 4.4-16 as applicable.

**Discussion:** The Project as revised preserves the oak woodlands along Diablo Road by eliminating homes along that corridor. Trees will only be removed at the Project entrance and for the improvements to the Diablo Road/Green Valley Road intersection. The Project will preserve 262 out of 300 surveyed trees and many other trees located throughout the site and remove 56 trees. Of the 56 trees to be removed, 12 are Town-designated protected trees. Trees to be re-

moved in the riparian corridor would require replacement at a 5:1 ratio, with like species or with species known to occur naturally within riparian habitat in the region. These trees would be planted within the East Branch Green Valley Creek riparian corridor or in other riparian designated areas. The HMMP, which is part of the Project, provides for a suitable tree replacement plan for any trees removed in the riparian corridor. Trees that are removed outside the riparian corridor would require replacement with like species. Tree removal shall also be mitigated according to the Town's Tree Protection Ordinance. The Town Council has conditioned the Project to make improvements to the Diablo/Green Valley Road intersection as described in the EIR. Up to 18 trees will need to be removed out of the Town right-of-way for these improvements. Eleven of these trees are Town-designated protected trees and none are heritage trees.

**Finding:** The Town Council adopts Mitigation Measures 4.4-14 through 4.4-17. The Town Council finds that with the adoption of these Measures, other applicable Measures in these Findings, and the conditions of approval and Project components that protect trees, the impacts as described above will be mitigated to a less than significant level be mitigated to a less than significant level.

**5.4 Cultural Resources**

**Impact re: archaeological resources and/or human remains** Construction of the Project may result in the discovery and disturbance of unknown archaeological resources and/or human remains.

**Mitigation Measure 4.5-1** If during the course of project construction, archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional archaeologist can evaluate it. Work shall not recommence until the project archaeologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.

**Mitigation Measure 4.5-2** Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, no further excavation or disturbance shall be conducted on the site or any nearby area reasonably suspected to overlie adjacent remains. The Contra Costa County Coroner shall be notified and make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

**Discussion:** Neither the archaeological pedestrian survey nor the subsurface mechanical testing performed on the site identified any evidence of archaeological resources. Therefore, it is unlikely a significant cultural resource is present. It is possible that undetected small, discrete, or isolated archaeological material or deposits could be encountered during construction. With the Measures above that set out criteria to follow if a resource is found, this potential impact will be mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measures 4.5-1 and 4.5-2. The Town Council finds that with the adoption of these Measures, the potential impacts on cultural resources as described above will be mitigated to a less than significant level.

**Impact re: paleontological resources** Construction of the Project may result in the discovery and disturbance of unknown paleontological resources.

**Mitigation Measure 4.5-3** If during the course of Project construction, paleontological resources are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional paleontologist can evaluate it. Work shall not recommence until the project paleontologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.

**Discussion:** The EIR concluded that there are no known significant fossil resources on the site. However, excavation required for construction can penetrate undisturbed alluvium sediments which could contain fossil resources. The requirements set forth in the Measure above will ensure potential impacts to paleontological resources are mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.5-3. The Town Council finds that with the adoption of the Measure, the impacts on cultural resources as described above will be mitigated to a less than significant level.

**5.5 Geotechnical**

**Impact re: erosion** Construction of the Project could result in temporary soil erosion and loss of topsoil.

**Mitigation Measure 4.6-1** In order to reduce wind and water erosion on the project site, an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods (see mitigation measure 4.8-1 in 4.8 Hydrology and Water Quality).

The Project shall prepare an erosion control plan in accordance with the Town’s Erosion Control Ordinance. The project proponent shall implement the following measures, where appropriate, to control erosion: 1) keep construction machinery off of established vegetation as much as possible, especially the vegetation on the upwind side of the construction site; 2) establish specific access routes at the planning phase of the project, and limits of grading prior to development, which should be strictly observed; 3) utilize mechanical measures (i.e., walls from sand bags and/or wooden slat or fabric fences) to reduce sand movement; 4) immediate re-vegetation (plus the use of temporary stabilizing sprays), to keep sand movement to a minimum; and 5) for larger-scale construction, fabric or wooden slat fences should be placed around the construction location to reduce sand movement. This erosion control plan shall be submitted to the Town of Danville for review and approval prior to issuance of a grading permit.

**Discussion:** The Project will require grading which will mainly occur on the Magee East portion of the site. Grading is proposed to balance with no import or export of soil material. Displacement of soils by wind or water can undermine buildings, roads, and other developments and contribute to siltation of local streams and water bodies. Erosion impacts can result from construction activities and long term Project conditions where vegetation cover is not reestablished following development. To ensure erosion is controlled, erosion control plans will be required in accordance with the above Measure and requirements of the Town.

**Finding:** The Town Council adopts Mitigation Measure 4.6-1. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to erosion control, the impacts as described above will be mitigated to a less than significant level.

**Impact re: landslides**

The Project would be exposed to potential adverse effects from the seven existing landslides on the Project site located near the areas of proposed development.

**Mitigation Measure 4.6-2**

In order to minimize potential impacts from landslides, final project design plans shall incorporate the recommendations in the preliminary geotechnical report (Draft EIR, Appendix E), which includes the following corrective measures:

- a. Landslide avoidance
- b. Construction of catchment areas between landslides and proposed improvements
- c. Partial landslide debris removal and buttressing with engineered fill
- d. Complete landslide debris removal and replacement as engineered fill

The table below sets forth the required mitigation measures by landslide area (shown in Draft EIR, Figure 4.6-2).

<b>Landslide</b>	<b>Mitigation</b>
1	Partial landslide removal and buttressing with engineered fill
2	Construction of catchment areas between landslides and proposed improvements
3	Partial landslide removal and buttressing with engineered fill
4	Construction of catchment areas between landslides and proposed improvements
5	Complete landslide removal and replacement as engineered fill
6	Complete landslide removal and replacement as engineered fill
7	Complete landslide removal and replacement as engineered fill
8-16	Landslide avoidance

Corrective grading for custom lot areas outside the proposed grading envelopes shall be evaluated when more detailed plans are available. Detailed 40-scale corrective grading plans for the entire project shall be prepared when project grading plans have been finalized. Final plans showing the identified recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.

**Discussion:** The Project’s preliminary geotechnical report includes corrective measures for potential landslides as explained above. With these corrective measures, the potential impacts from landslides will be mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.6-2. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to landslides, the impacts as described above will be mitigated to a less than significant level.

**Impact re: expansive soils**

The Project site contains expansive soils that could damage proposed residential development, infrastructure, and associated structures

**Mitigation Measure 4.6-3**

In order to minimize potential impacts from expansive soils, final project design shall incorporate the recommendations in the preliminary geotechnical report (see Draft EIR, Appendix E) that include special measures for mitigating adverse impacts from expansive soils, as follows:

- a. Conditioning the expansive soils to higher moisture content during site preparation and grading.
- b. Supporting the houses on structural slab foundations designed to withstand potential movements of expansive soils.
- c. Presoaking the near-surface expansive soils prior to concrete placement for the slab foundations.
- d. Conditioning the expansive subgrade soils in exterior concrete flatwork area to higher moisture content prior to the placement of baserock or concrete (if the flatwork is supported directly on the subgrade).
- e. Providing surface drainage away from the house foundations and draining the rainwater collected on the roof through pipes connecting to the adjacent storm drains.

The final project plans incorporating all the finalized geotechnical recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.

**Discussion:** Soils on the site are highly to critically expansive. Expansive soils shrink and swell as a result of seasonal fluctuation in moisture content that can cause heaving and cracking of slabs-on-grade, pavement, and other structures founded on shallow foundations. Building damage due to volume changes associated with expansive soils can be reduced through proper foundation design. The recommendations in the preliminary geotechnical report and stated above include special measures for mitigating adverse impacts from expansive soils.

**Finding:** The Town Council adopts Mitigation Measure 4.6-3. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to expansive soils, the impacts as described above will be mitigated to a less than significant level.

## 5.6 Hazards & Hazardous Materials

**Impact re: release of hazardous materials**

Development of the Project, including excavation and other land disturbance, could result in the release of hazardous materials that may be present on portions of the Project site, exposing construction personnel and the environment to potential health and safety risks.

**Mitigation Measure 4.7-1**

In order to minimize potential human health hazards associated with the historical use of hazardous materials on portions of the Project site, the Project proponent shall retain a trained professional to prepare a Site Management Plan to maintain the safety of construction workers and assure proper management of any contaminated soils on the site in accordance with federal, state and local regulatory requirements. This plan shall be subject to review and approval by Contra Costa County Health Services, and evidence of approval provided to the Town of Danville, prior to the issuance of any grading permit, demonstrating that all necessary remedial actions have been completed pursuant to the approved Site Management Plan. At a minimum, the Site Management Plan shall include 1) the collection and chemical analysis of soil samples from the former UST location and 2) excavation and soils characterization to confirm that suf-

efficient soils removal has occurred for OCPs and elevated 4, 4-DDE at location SB-3, and 3) proper removal and disposal of all hazardous materials on the site, including contaminated soils, chemical containers observed in the storage shed, and herbicides spray bottles at an approved disposal facility.

**Mitigation Measure 4.7-2** The diesel generator enclosure and surrounding area at the western edge of the Magee West site shall be periodically monitored for evidence of a diesel release. An annual report on the status of the enclosure shall be submitted to the Town of Danville.

**Discussion:** Due to the historical and current use of the site for beef cattle operations, soil samples were collected on the site. These samples identified the potential for hazardous materials in the soils that may require removal and appropriate disposal. If it is determined that the soils are contaminated, these soils must be handled and disposed of properly. The measure above contains criteria and standards for handling potential hazardous soils.

**Finding:** The Town Council adopts Mitigation Measures 4.7-1 and 4.7-2. The Town Council finds that with the adoption of these Measures, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to the potential release of hazardous materials, the impacts as described above will be mitigated to a less than significant level.

## 5.7 Hydrology & Water Quality

**Impact re: water quality** Construction and operation of the Project could impact surface water quality.

**Mitigation Measure 4.8-1** In order to avoid water quality impacts, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods. The SWPPP shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Stormwater permit (No. CAS612008). The project proponent shall obtain a NPDES General Construction Permit and prepare the SWPPP in accordance with all legal requirements, prior to the issuance of a grading permit. Additional requirements for erosion control are detailed in mitigation measure 4.6-1 in 4.6 Geotechnical and Geologic Hazards.

**Discussion:** Site preparation and construction activities would disturb soil and could increase siltation into local streams and water bodies, especially the East Branch Green Valley Creek. In addition, upon completion of the Project, residential development could generate urban pollutants affecting water quality for sources such as oil, grease, and trace metals from vehicles. The Project includes measures to prevent the mobilization of materials and hydrologic designs that reduce and slow the runoff that reaches natural surface waters. Source controls include 1) maximizing vegetated areas while minimizing impervious areas, 2) reducing irrigation practices, 3) reducing directly connected impervious areas, 4) educating new homeowners on reducing herbicide, pesticide and fungicide uses, and 5) labeling all catch basins- "No Dumping – drains to Creek. With these Project components and the preparation of a SWPPP, the potential impacts to water quality will be mitigated to a level of insignificance.

**Finding:** The Town Council adopts Mitigation Measure 4.8-1. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to water quality, the impacts as described above will be mitigated to a less than significant level.

## 5.8 Noise

**Impact re: Lots 69 and 70** The noise environment would exceed the City's noise level goal for normally accepta-

ble exterior noise (55 dBA) L<sub>dn</sub> at residential building sites for custom lots 69 and 70 near Diablo Road, which represents a potentially significant noise impact.

**Mitigation Measure 4.10-1**

In order to avoid noise impacts at proposed residential lots located near Diablo Road, the project proponent shall prepare site-specific acoustical analyses where proposed homes are located in noise environments that exceed 55 dBA L<sub>dn</sub> (i.e., custom lots 69 and 70). Exterior and interior noise levels at these residences shall be maintained in accordance with the standards presented in the General Plan and Municipal Code. The specific determination of necessary treatments, such as forced-air mechanical ventilation or sound-rated windows shall be conducted on a unit-by-unit basis for affected lots based on the results of the site-specific acoustical studies. Evidence shall be provided to the Town of Danville, prior to the issuance of the building permit for the affected lots, demonstrating that all acoustical recommendations have been incorporated into final design.

Site planning may be adequate to minimize noise in outdoor activity areas, i.e., locating the outdoor activity areas behind homes or in courtyards. If site planning cannot bring noise levels to acceptable levels, then solid noise barriers shall be incorporated into final design plans to interrupt the sound transmission path between roadway traffic and private outdoor use areas of lots 69 and 70, which may be exposed to an L<sub>dn</sub> greater than 55 dBA. The type and height of such barriers shall be determined through the site-specific acoustical analyses described above to reduce the L<sub>dn</sub> at the primary outdoor areas of these lots to an L<sub>dn</sub> of 55 dBA or less. Barriers should be airtight over the surface and at the base, with a minimum surface weight of 3.0 pounds per square foot. Evidence shall be provided to the Town of Danville, prior to the issuance of the building permit for the affected lots, demonstrating that noise barriers have been incorporated into final design.

**Discussion:** The Project no longer includes Lots 69 and 70 along Diablo Road. As a result, the impact stated above no longer exists and no mitigation is required.

**Finding:** The Town Council finds that the above impact no longer exists because the Lots 69 and 70 along Diablo Road have been eliminated from the Project. The Town Council determines that Mitigation Measure 4.10-1 is not necessary and therefore, rejects the Measure.

**Impact re: construction noise** Construction of the project would result in significant short-term noise impacts on nearby sensitive receptors.

**Mitigation Measure 4.10-2**

Prior to any grading or other construction activities, the applicant shall develop a construction mitigation plan in close coordination with the Town of Danville staff to assure that construction activities are scheduled to minimize noise disturbance. The following conditions shall be incorporated into the building contractor specifications.

- a. Muffle and maintain all equipment used on site. All internal combustion engine driven equipment shall be fitted with mufflers, which are in good condition. Good mufflers shall result in non-impact tools generating a maximum noise level of 80 dB when measured at a distance of 50 feet.
- b. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.

- c. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- d. Prohibit unnecessary idling of internal combustion engines.
- e. Prohibit audible construction workers' radios on adjoining properties.
- f. Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.
- g. Do not allow machinery to be cleaned or serviced past 6:00 p.m. or prior to 7:00 a.m. Monday through Friday.
- h. Limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site for any purpose to Monday through Friday between 7:00 a.m. and 6:00 p.m.
- i. Do not allow any outdoor construction or construction-related activities at the project site on weekends and holidays. Indoor construction activities may be allowed based on review/approval of the Town.
- j. Allowable construction hours shall be posted clearly on a sign at each construction site.
- k. Designate a Disturbance Coordinator for each of the clustered development sites for the duration of the Phase 1 (site work) and for each home site during the Phase 2 (home building) construction. Because each home would be constructed individually and would have its own building permit, a Disturbance Coordinator should be designated during the construction of each home. The requirement for a Disturbance Coordinator for each home site should be incorporated in the CCRs of the development, such that responsibility of the Property Owners' Association and/or home builder to designate this Disturbance Coordinator for each lot for the duration of construction until full site buildout. The Disturbance Coordinator shall conduct the following: receive and act on complaints about construction disturbances during infrastructure installation, landslide repair, road building, residential construction, and other construction activities; determine the cause(s) and implement remedial measures as necessary to alleviate significant problems; clearly post his/her name and phone number(s) on a sign at each clustered development and home building site; and, notify area residents of construction activities, schedules, and impacts.

**Discussion:** The Measure above includes measurable and mandatory criteria to ensure that temporary construction noise levels are kept to a level of insignificance. Implementation of this Measure will ensure that the Project meets the requirements of the Danville Municipal Code and reduces the effects of construction noise on neighboring residences in the area to a less than significant impact.

**Finding:** The Town Council adopts Mitigation Measure 4.10-2. The Town Council finds that with the adoption of this Measure, other applicable Measures in these Findings, and the conditions of approval and Project components that relate to short term noise impacts from construction, the impacts as described above will be mitigated to a less than significant level.

5.9 Public Services

**Impact re: schools** The Project would result in an incremental increase in the student population in the SRVUSD.

**Mitigation Measure 4.11-1** The applicant shall pay a school impact fee pursuant to the criteria set forth within California Government Code Section 65995. Prior to the issuance of building permits, the applicant shall pay required school mitigation fees, subject to the review and approval of the Town of Danville and San Ramon Valley Unified School District. The fees set forth in Government Code Section 65996 constitute the exclusive means of both “considering” and “mitigating” school facilities impacts of projects [Government Code Section 65996(a)]. They are “deemed to provide full and complete school facilities mitigation” [Government Code Section 65996(b)].

**Discussion:** State Law significantly limits the application of CEQA to consideration of school impacts and mitigation and provides that the payment of school impact fees by new development is the exclusive means for mitigating impacts on school facilities.

**Finding:** The Town Council adopts Mitigation Measure 4.11-1. The Town Council finds that with the adoption of this Measure, the potential impacts on schools as described above will be mitigated to a less than significant level.

5.10 Traffic & Circulation

**Impact re: Hidden Oaks/Magee Ranch/Blackhawk Intersection** The Project trips added to the intersection of Hidden Oaks Drive/Magee Ranch Road and Blackhawk Road during the cumulative plus project AM peak hour would increase the v/c ratio by 0.13, which constitutes a significant impact based on the thresholds of significance.

**Mitigation Measure 4.12-1** Per the Town of Danville, signalize the intersection of Hidden Oaks Drive/Magee Ranch Road and Blackhawk Road. Because the impact occurs under cumulative conditions and not under existing plus Project conditions, the project is not the sole cause of the impact. For this reason, the project applicant shall make a fair share contribution toward signalization at this intersection. With signalization, the intersection would operate at LOS B or better under all scenarios.

**Discussion:** Signalization of this intersection is identified within the Town’s Capital Improvement Program with funds collected for its installation as part of the North East Roadway Improvement Association District. The Measure above requires the Project to contribute its fair share to these future improvements since the Project will contribute to cumulative traffic impacts at this intersection.

**Finding:** The Town Council adopts Mitigation Measure 4.12-1. The Town Council finds that with the adoption of the Measure, the impacts at the Hidden Oaks/Magee Ranch/Blackhawk Road intersection as described above will be mitigated to a less than significant level.

**Impact re: Mt. Diablo Scenic/Diablo Road** The Project trips added to the intersection of Mt. Diablo Scenic Boulevard and Diablo Road during the cumulative plus project AM and school PM peak hour would increase the v/c ratio by more than 0.05, which constitutes a significant impact based on the thresholds of significance.

**Mitigation Measure 4.12-2** The intersection of Mt. Diablo Scenic Boulevard/Diablo Road should be considered

for signalization. The Project is not the sole cause of the impact. For this reason, the mitigation for this impact shall be the Project applicant's fair share contribution towards the signalization of a traffic signal. With signalization, the intersection would operate at LOS C or better under all scenarios.

**Discussion:** This intersection is within the jurisdiction of Contra Costa County and not the Town. The County has written a letter to the Town dated May 10, 2013 (a copy of which is included in the record), recognizing that a future traffic operational improvement will be needed at this intersection. The fair share contribution by the Project for this improvement will be deposited into County Road Improvement Trust Fund Account 1392 that is earmarked for these improvements, as requested by the County.

**Finding:** The Town Council adopts Mitigation Measure 4.12-2. The Town Council finds that with the adoption of the Measure, the impacts at the intersection of Mt. Diablo Scenic/Diablo Road as described above will be mitigated to a less than significant level.

The Town Council further finds that implementation of Mitigation Measure 4.12-2 is within the responsibility and jurisdiction of Contra Costa County and not the Town. If the County does not implement this Measure, this cumulative traffic impact will be significant and unavoidable. For this reason, the Town Council finds that benefits of the Project outweigh this potential significant and unavoidable impact for the reasons set forth in the Statement of Overriding Considerations in Section II.

**Impact re: Driveway D** Access to Driveway D (southbound left) during the AM and school PM peak periods has the potential to cause unsafe conditions and vehicle queuing.

**Mitigation Measure 4.12-3** The Project proponent shall modify the roadway striping along McCauley Road between the intersection and approximately 350 feet south of the Diablo Road/Green Valley Road. The modified roadway striping shall substantially conform to the following: a) reconfigure the existing 17-foot southbound through lane to a 10-foot shoulder and a 12-foot through lane; b) replace the existing 3-foot double-double yellow centerlines with a single double yellow center-line; c) maintain the existing 10-foot northbound left turn lane while shifting it two feet toward the easterly curb line; d) reduce the existing 16-foot northbound through/right turn lane to 13 feet; and e) transition existing downstream (to the south) centerline/left turn lane on McCauley Road accordingly to accommodate the new configuration, as illustrated in the Draft EIR at page 4.12-39.

**Discussion:** The EIR has determined that these improvements along McCauley Road will allow left turn access into Driveway D and prevent southbound vehicles queues spilling back to the Green Valley Road and Diablo Road intersection. This will mitigate the traffic impact discussed above.

**Finding:** The Town Council adopts Mitigation Measure 4.12-3. The Town Council finds that with the adoption of the Measure, the potential impacts with respect to access to Driveway D as described above will be mitigated to a less than significant level.

**Impact re: Project entrance** The Project main entrance (Driveway A) has the potential to provide an unsafe condition for pedestrian crossings of Blackhawk Road.

**Mitigation Measure 4.12-4** The Project proponent shall install a new pedestrian crossing, with in-pavement lighting or other equivalent pedestrian safety improvement, at the project main entrance on Blackhawk Road. The crossing shall physically connect the project's pedestrian traffic

to the existing paved pathway located along the north side of Blackhawk Road.

**Discussion:** The Project includes a pedestrian crossing at the Project entrance that connects the Project pedestrian traffic to the existing paved pathway located along the north side of Blackhawk Road. This Measure will ensure that an appropriate safety improvement is installed at the crossing.

**Finding:** The Town Council adopts Mitigation Measure 4.12-4. The Town Council finds that with the adoption of this Measure, and the conditions of approval and Project components that relating to the pedestrian crossing, the impact as described above will be mitigated to a less than significant level.

## 5.11 Utilities

### Impact re: water

Development of the Project would require the construction of new water infrastructure in order to serve the project. EBMUD has identified that specific improvements may be necessary to serve new uses located above the 650 foot elevation contour. These improvements are necessary to mitigate potential water supply infrastructure impacts.

### Mitigation Measure 4.13-1

Prior to final map recordation, the applicant shall enter into a Low Pressure Service Agreement with East Bay Municipal Utility District for each residential parcel located entirely or partially above the 650 elevation contour. All appropriate water supply infrastructure, including pumping and storage facilities, shall be provided in accordance with the Low Pressure Service Agreement. For new residential parcels that are partially located above the 650 foot contour residential building envelopes may be delineated below the 650' contour to avoid the need for additional site-specific infrastructure, subject to approval by the Town of Danville. New building envelopes, if identified, shall be coordinated directly with East Bay Municipal Utility District. These facilities shall be incorporated into the final design-level infrastructure drawing for the project. The applicant shall sign and execute a Low Pressure Service Agreement prior to final map recordation. All infrastructure improvements shall be incorporated into design-level drawings.

### Mitigation Measure 4.13-2

Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings to the East Bay Municipal Utility District and the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.

### Mitigation Measure 4.13-3

The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District's existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility District's right-of-way (R/W 1581). Any and all activities proposed within the right-of-way shall be coordinated with East Bay Municipal Utility District. This easement shall be reflected in all final design-level improvement plans and appropriate notes shall also be included, subject to the review and approval of the East Bay Municipal Utility District and the Town of Danville.

**Discussion:** The Project applicant is required to work with EBMUD and enter into appropriate agreements so that water can be provided to the site. Implementation of the Measures will ensure that coordination with EBMUD occurs and that water can be adequately provided to the site.

**Finding:** The Town Council adopts Mitigation Measures 4.13-1 through 4.13-3. The Town Council finds that with the adoption of these Measures, the impacts on water as described above will be mitigated to a less than significant level.

**Impact re: electric/gas consumption** Development of the Project would increase demands for electricity and natural gas consumption.

**Mitigation Measure 4.13-4** In order to ensure that energy demand is reduced to avoid the wasteful or inefficient use of energy, the project proponent shall submit detailed design-level plans to the Town of Danville identifying that energy conservation measures have been incorporated into design and operation of the project, prior to the issuance of any building permit. The proponent shall implement the following or comparable energy conservation measures including, but not limited to, the following:

- a. Final-design that takes advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use. Project shall meet and/or exceed the requirements of Title 20 and Title 24.
- b. Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.
- c. Install light-colored cool pavements, and strategically placed shade trees.
- d. Install energy efficient heating and cooling systems, appliances and equipment, and control systems. Including:
  - o smart meters and programmable thermostats.
  - o Heating, Ventilation, and Air Condition (HVAC) ducts sealing.
- e. Install light emitting diodes (LEDs) for outdoor lighting.
- f. Provide outdoor electrical outlets.

The Project applicant may proposed substitute measures provide they achieve comparable energy use reductions as the measures proposed above. If alternative measures are proposed, the applicant shall provide detailed evidence demonstrating the measures efficacy at reducing energy demand.

**Discussion:** Implementation of the above Measure will ensure that the Project mitigates its potential impacts on energy demand.

**Finding:** The Town Council adopts Mitigation Measure 4.13-4. The Town Council finds that with the adoption of this Measure, and the conditions of approval and Project components that relating to energy, the impact as described above will be mitigated to a less than significant level.

## 6.0 FINDINGS RELATED TO CUMULATIVE IMPACTS

CEQA Guidelines require consideration of the potential cumulative impacts that could result from a proposed project in conjunction with other projects in the vicinity. Such impacts can occur when two or more individual effects create a considerable environmental impact or compound other environmental consequences. An explanation of the cumulative impact analysis is located in Section 5.2 of the Draft EIR.

Two cumulative impacts were found for the Project, in the area of traffic (Impact 4.12-1 and 4.12-2). These cumulative impacts can be mitigated to a level of insignificance as discussed above. If for some reason the County fails to implement Measure 4.12-2 (improvements to Mt. Diablo Scenic/Diablo Road) then this impact will be significant and una-

voidable. There is no evidence in the record to indicate the County will not implement the Measure; to the contrary, there is evidence in the record that demonstrates that the County will implement this measure (see discussion under Mitigation Measure 4.12-2). However, a Statement of Overriding Considerations is included in Section II in response to that unlikely scenario.

## 7.0 FINDINGS REGARDING MONITORING OF MITIGATION MEASURES

In order to ensure that the mitigation measures identified herein are implemented, the Town Council adopts the Mitigation Monitoring and Reporting Program (MMRP) included with the Project approvals. The MMRP reflects all of the mitigation measures adopted herein.

## 8.0 FINDINGS REGARDING ALTERNATIVES

CEQA Guidelines §15126.6 requires a discussion of a reasonable range of alternatives to the project or to the location of the project. However, an EIR need not consider an alternative whose implementation is remote or speculative. An EIR is required to describe and comparatively evaluate a range of reasonable alternatives to a project, or location of the project, that 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. Thus, the range of alternatives evaluated in the Draft EIR was dictated by CEQA and by the range of significant impacts identified in the Draft EIR, and evaluated alternatives were limited to those that theoretically could have reduced or eliminated identified environmental impacts.

As discussed in the Draft EIR, all Project impacts would be less than significant with the implementation of the recommended Mitigation Measures. Alternatives are discussed in Section 6 of the Draft EIR.

The Draft EIR also considered and rejected two alternatives from further consideration. One alternative was the applicant's originally submitted development plan for 85 lots and the second alternative was for an alternative location. The 85 lot alternative was rejected because the number of lots proposed exceeded the 78 units which could be allowed under the existing General Plan land use designations for the property. The alternative site was rejected since there is no other site that can accommodate the Project and implement the criteria specified in the General Plan that identifies this site as an Area of Special Concern.

The Draft EIR discussed the following alternatives in detail:

1. No Project/No Build
2. No Project/Build without Subdivision
3. More Clustered Alternative/Minimum 5,000 SF Lots
4. Non-Clustered Alternative
5. Modified Design Alternative/Minimum  $\pm 20,000$  SF Lots

Each of these alternatives was evaluated under the same environmental categories as presented for the Project and as identified in Chapter 4 of the Draft EIR. Based on the comparison of the relative merits of each alternative compared to the Project, each of the alternatives was found to be deficient in meeting the Project's goals and objectives.

The Final EIR at pages 250 – 251 in response to a comment, also explains why a detailed analysis of an alternative that would include 20 acre non-clustered lots on the A-4 portions of the site with clustered development on the rural residential and single family low density areas was not included in the Draft EIR. That alternative was rejected as infeasible since 1) it would be inconsistent with the Town's interpretation of potential development on the A-4 portion of the site, 2) would be inconsistent with the clustering polices in the General Plan, including the Special Concern Area requirements for the property, and 3) a similar scenario was already analyzed within the Non-Clustered Alternative and Modified Design Alternative/Minimum  $\pm 20,000$  SF Lots in the Draft EIR.

The overall objectives of the Project are to:

- ◆ Develop a residential project that is consistent with the Town of Danville Agricultural, General Open Space, Rural Residential, and Single Family-Low Density General Plan Land use designations for the site as well as the General Plan's Magee Ranch Special Concern Area language,
- ◆ Provide 69 residential lots, including 66 home sites at the east end of site south of Blackhawk Road, and 3 homes sites near the southeast corner of the Diablo Road/McCauley road intersection,
- ◆ Design the project to cluster development on the lower portions of the site to minimize visual impacts and limit disturbance on the property,
- ◆ Provide for a minimum of 10% of the 69 lots to include a second dwelling unit ("casita") to satisfy the Town's affordable housing requirements,
- ◆ Preserve approximately 372 acres of the Project site as permanent open space, and
- ◆ Preserve significant features of scenic hillsides and major ridgeline areas.

## **8.1 No Project/No Build Alternative**

### **8.1.1 Description of Alternative 1**

CEQA requires the discussion of the No Project Alternative "to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." For the purposes of this analysis the No Project Alternative represents the "no development" scenario in which the site is left in its current generally undeveloped condition (per CEQA Guidelines Section 15126.6(e)(3)) and existing ranching uses continuing to operate. This alternative would eliminate the preservation of over 372 acres of the site in permanent open space proposed by the project.

### **8.1.2 Rejection of Alternative**

The No Project Alternative would avoid all of the environmental impacts of the Project. The No Project Alternative would result in the continuation of the existing operation of ranching uses on the site. The No Project Alternative would fail to meet the Project objectives to build a residential community on the site consistent with the General Plan and zoning and would not preserve 372 acres in permanent open space. In addition, the No Project Alternative would not provide public access to open space, a trail system, a staging area to access the open space, a pedestrian/bicycle path providing an alternative to Diablo Road and would not implement improvements to the Diablo Road/Green Valley Road intersection.

This alternative was identified in the Draft EIR as the environmentally superior alternative. The Town Council hereby finds that all the benefits of the Project that would not otherwise be provided with this alternative, outweigh any additional environmental harm that may be caused by the Project in comparison with this alternative.

## **8.2 No Project/Build Without Subdivision**

### **8.2.1 Description of Alternative**

The No Project/Build Alternative consists of eliminating the proposed subdivision and developing the project site with one residential lot per existing parcel. Since the site currently contains seven buildable parcels, this alternative would result in the construction of a total of seven residential homes on the site. This alternative would require the provision of infrastructure to each individual parcel, including roads, water, power, and sanitary sewer. It is assumed that each lot

would require its own water well and septic system, although it may be technically possible to connect these parcels to the public system via lengthy lateral extensions. This alternative would eliminate the preservation of over 372 acres of the site in permanent open space proposed by the Project.

### **8.2.2 Rejection of Alternative**

This alternative would lessen the environmental impacts of the Project by decreasing total unit count from 69 lots to 7 lots. This alternative would not be consistent with the Project's objectives to develop a 69 lot residential community on the site and preserve 372 acres in permanent open space. In addition, the No Project Alternative would not provide public access to open space, a trail system, a staging area to access the open space, a pedestrian/bicycle path providing an alternative to Diablo Road and would not implement improvements to the Diablo Road/Green Valley Road intersection.

This alternative was identified in the Draft EIR as substantially decreasing impacts by reducing the number of units. The Town Council hereby finds that all the benefits of the Project that would not otherwise be provided with this alternative, outweigh any additional environment harm that may be caused by the Project in comparison with this alternative.

## **8.3 More Clustered Alternative/Minimum 5,000 S.F. Lots**

### **8.3.1 Description of Alternative**

This alternative consists of the development of the site with 78 lots sized a minimum of 5,000 square feet, within a smaller development footprint than the proposed project. This alternative would eliminate development on approximately ten acres, primarily within the south portion of Magee East, by eliminating the southernmost portion of Court F. This area of development was eliminated to provide a logical boundary for the smaller footprint scenario, primarily from an engineering perspective. This alternative comprises six lots on Magee West and 72 lots on Magee East. A total of three of these would be custom lots. This alternative is intended to reduce overall site disturbance compared with the Project.

### **8.3.2 Rejection of Alternative**

The 5,000 SF lot alternative would lessen some impacts of the Project associated with site disturbance since the development footprint would be reduced. These areas include aesthetics, cultural resources, and geology. This alternative would increase impacts associated with the increase in lot/unit count in the areas of public services and utilities (traffic impacts were determined to be equal to the proposed Project as both are below the 78 units studied in the traffic study). For many areas, the impact is relatively unchanged due to the similar magnitude of development. This alternative is not entirely consistent with the Project objectives to provide larger lot sizes for the majority of proposed lots. Moreover, the Project, as approved, includes fewer housing units.

This alternative was identified in the Draft EIR as the environmentally superior alternative. CEQA requires another alternative to be identified as the environmentally superior alternative if the "No Project" alternative(s) are identified as such. The Town Council hereby determines that the potential environmental impacts that will result from the Project are very similar to those that would result from this alternative. In addition, the Town Council hereby finds that all the benefits of the Project that may not otherwise be provided with this alternative, outweigh any additional environment harm that may be caused by the Project in comparison with this alternative.

## **8.4 Non-Clustered Alternative**

### **8.4.1 Description of Alternative**

This alternative consists of the development of the project site with 78 lots, with most lots sized a minimum of five acres. This alternative comprises 67 five-acre lots on the portions of the site covered by the Town's Residential – Rural Residential or Public and Open Space – Agricultural General Plan land use designations. The five acre portion of the site covered with the Town's Residential – Single Family – Low Density General Plan land use designation (opposite Fairway Drive) contains 11 lots with a minimum size of 13,000 square feet. This alternative would eliminate the preservation of over 372 acres of the site in permanent open space proposed by the Project.

This alternative would not cluster development on the flatter portions of the site but rather develop the majority of the project site with five-acre "ranchettes." This alternative consists of 24 lots on Magee West and 54 lots on Magee East. The lot configuration under this alternative would not allow for preservation of large portions of the project site in open space. This alternative is being evaluated at the request of the community at the EIR scoping meeting as well as because it is the type of development that could occur on the site using zoning that is consistent with the Town's 2010 General Plan land use designations for the project site other than the P-1; Planned Unit Development District. This alternative would not conform to the Town's General Plan policies that recommend development be concentrated on the flatter less visible portions of the site.

#### **8.4.2 Rejection of Alternative**

This alternative would generally increase all of the environmental impacts of the Project by introducing non-clustered development on the entire site. This would result in substantially greater, significant aesthetic impacts due to viewshed alteration. This alternative would result in greater land disturbance impacts by requiring additional grading, an extensive roadway system, and additional project infrastructure to provide service and access to each lot. The overall impacts of this alternative would be substantially greater than the Project. This alternative would not meet the Project objectives to cluster development on the flatter portions of the site and minimize grading and infrastructure requirements. Moreover, the Project, as approved, includes fewer housing units. This alternative would be inconsistent with the Magee Ranch Special Concern Area identified in the General Plan, which "strongly discourages" subdivision of the property into 5-acre ranchettes and encourages clustering of development. In addition, this alternative would not provide the significant amount of contiguous open space area, trail system or staging area provided by the Project.

### **8.5 Modified Design Alternative/±20,000 SF Lots**

#### **8.5.1 Description of Alternative**

This alternative consists of developing the site with minimum approximately 20,000 square foot lot sizes that are generally consistent with the densities of the surrounding neighborhoods. This alternative would subdivide the property into a total of 66 lots; with 20 lots on Magee West and 46 on Magee East. Ten of these would be custom lots. This alternative proposes 11 approximately 19,000 minimum square foot lots within Magee West opposite Fairway Drive, as allowed under the current General Plan and zoning designations. It also includes three custom lots along Diablo Road within Magee West.

### 8.5.2 Rejection of Alternative

This alternative would increase impacts associated with the addition of 14 lots onto Magee West in the Diablo Road/Fairway Drive area. The overall reduction in lots, from 69 to 64, may reduce some of the project's impacts on resources and services. However, this reduction is so small to be considered negligible. This alternative would generally not meet the objectives of the Project to develop 69 residential lots on the site, clustered primarily on the Magee East portion of the property. This alternative would allow additional development along Diablo Road within the Magee west portion of the site which was eliminated by the Project due to objections made by the public.

**Finding:** For the reasons stated above, the Town Council rejects the alternatives to the Project and approves the Project.

## 9.0 GROWTH INDUCING IMPACTS

Chapter 5, Section 5 of the Draft EIR presents the growth-inducing impacts that can be anticipated from the Project. CEQA Guidelines §15126(d) requires that an EIR address the growth-inducing impacts. Not all growth inducement is necessarily negative. Negative impacts associated with growth inducement occur only where the projected growth would cause adverse environmental impacts.

**Finding:** Town Council finds that the Project will not result in significant growth inducing impacts because the Project does not allow for development that creates population or other growth beyond what is currently permitted under the Town's 2010 General Plan and 2030 General Plan. The Project would not establish policies nor add infrastructure which would induce further growth in the vicinity.

## SECTION II STATEMENT OF OVERRIDING CONSIDERATIONS

### 1.0 Introduction

In determining whether to approve a project that creates significant and unavoidable impacts, CEQA Guidelines §15093 requires a public agency to balance the benefits of the project against its unavoidable environmental risks. The EIR identified mitigation measures that can reduce all potential environmental impacts to less than significant level. The mitigation measure to reduce the Project's cumulative contribution to traffic at the intersection of Mt. Diablo Scenic/Diablo (Measure 4.12-2), is within the responsibility and jurisdiction of Contra Costa County and not the Town. If the County does not implement this Measure, this cumulative traffic impact will be significant and unavoidable. There is no evidence in the record that Contra Costa County will not implement this Measure. Rather, letters from the County commenting on the Draft EIR (Comment Letter 4 in Final EIR) and in the May 14, 2013 staff report to the Planning commission indicate support for the Measure.

However, because the Town does not have jurisdiction to require the County to implement this Measure, a Statement of Overriding Considerations is presented. In accordance with Public Resources Code §21081(b) and CEQA Guidelines §15093, the Town Council has, in determining whether or not to recommended approval of the Project, balanced the economic, social, technological, environmental, and other benefits of the Project against this potential unavoidable environmental effect, and has found that the benefits of the Project outweigh this possibility, for the reasons set forth below. This Statement of Overriding Considerations is based on the Town Council's review of the EIR and other information in the administrative record. The Town Council finds that each of the following benefits is an overriding consideration, independent of the other benefits, that warrants approval of the Project notwithstanding the possibility of a significant unavoidable impact.

### 2.0 Overriding Considerations

Substantial evidence is included in the record of these proceedings and in documents relating to the Project demonstrating the benefits which the Town would derive from the implementation of the Project. The Town Council has balanced the economic and social benefit of the Project against the possible unavoidable environmental impact that can occur if the County fails to implement Mitigation Measure 4.12-2, and concludes that the economic and social benefits that will be derived from the Project outweigh that potential environmental impact. Upon balancing the environmental risks and countervailing benefits, the Town Council concludes that the benefits derive from the Project outweigh that potential environmental risk.

The specific benefits are as follows:

- The Project is consistent with the goals and policies in the Town's General Plan (specifically including the Magee Ranch Special Concern Area), Zoning Ordinance and other planning documents and provides a density of 69 units which is below the allowable density range of 78 units. .
- The Project is consistent with the direction in the General Plan relating to contemplated development in the Planning Area/Special Concern Area for this property by clustering development to the least sensitive and obstructive areas of the site.
- The Project will provide 372 acres (out of 410 acres) in permanent open space.
- The Project as conditioned will be required to make improvements to the intersection of Diablo Road/Green Valley Road even though the Project by itself does not create significant traffic impacts at this intersection. These improvements will improve traffic flow at the intersection.

- As documented in the fiscal analysis contained in Attachment E of the Final EIR, the Project will not negatively impact the Town's General Fund. Rather, the analysis concluded that the Project will result in a small, positive net impact to the Town's General Fund, which includes the additional cost of police services, by \$92,000 annually. In addition, the Project will result in a positive net fiscal impact on the San Ramon Valley Fire Protection District's General Fund. The fiscal surplus for the District is estimated at \$131,000 each year after completion of the Project.
- The Project will provide 69 housing units to the area, in addition to 7 affordable units. These new units will increase the housing alternatives available to home buyers and generate economic activity in the Town.
- The General Plan establishes the goal of providing affordable housing opportunities. The Project will help meet these affordable housing needs by constructing seven casitas as affordable housing.
- The Project will provide a pedestrian/bicycle trail through the project area and an easement allowing future construction of a pedestrian/bicycle path adjacent to Diablo Road. This trail is consistent with the Town's Master Trails plan, will link to existing trails east and west of the Project along Diablo Road and will provide a safe alternative to Diablo Road for pedestrians and cyclists. In addition, the Project will provide hiking trails that will allow opportunities to establish park and trail connections to Sycamore Valley Open Space.
- The Project will provide an alternative access route to be used in emergencies along a segment of Diablo Road.
- The Project will provide a staging area for the public to access the open space portions of the site, including trails connecting to the Sycamore Valley Open Space.
- The Project will establish a fund with a present amount of \$30,000 that shall be used to purchase TRAFFIX bus passes for new homeowners in the Project. This transit incentive program would establish a habit of transit use that would further reduce the Project's impacts to the roadway/corridor.

The Town Council finds that the above described benefits which will be derived from the Project, when weighed against the absence of the Project, override the significant and unavoidable environmental impact that may result.

### **3.0 Conclusion**

Based on the foregoing Findings and the information contained in the Record, the Town Council has made one or more of the following findings with respect to each of the significant environmental effects of the Project:

- 1) Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.
- 2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. This Finding relates to Traffic Impact 4.12-2.
- 3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

Based on the foregoing findings and the information contained in the record, it is determined that:

- 1) All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
- 2) Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations and the Town Council approves the Project

**MITIGATION MONITORING AND REPORTING PROGRAM - MAGEE RANCHES**  
**June 2013**

NOTES: Section 21081.6 of the Public Resources Code requires all state and local agencies to establish monitoring or reporting programs whenever approval of a project relies upon an environmental impact report (EIR). The purpose of the monitoring or reporting program is to ensure implementation of the measures being imposed to mitigate or avoid the significant adverse environmental impacts identified in the EIR.

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>The project would create new sources of light that would adversely affect nighttime views in the area.</p>	<p><b>4.1-1</b> All buildings shall be designed so that reflective surfaces are limited and exterior lighting is down-lit and illuminates the intended area only. Building applications for new structures shall include an exterior lighting plan subject to approval by the Town of Danville that includes the following requirements: 1) exterior lighting shall be directional; 2) the source of directional lighting shall not be directly visible; and 3) vegetative screening shall be installed, where appropriate.</p>	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<p><input type="checkbox"/></p>
<p>Construction activities, including clearing, excavation and grading operations, would generate diesel exhaust emissions (NOx) that exceed BAAQMD thresholds.</p>	<p><b>4.3-1</b> The project proponent shall implement following measures to control diesel exhaust emissions associated with grading and new construction. A plan indicating how compliance will be achieved shall be submitted to the Town of Danville prior to construction.</p> <p>a. During the grading phase, the developer or contractor shall provide a plan for approval by the Town or BAAQMD demonstrating that the heavy-duty (&gt;50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2010; This plan should address all equipment that will be on site for more than 2 working days,</p> <p>b. During the building construction phase, establish on-site electric power to reduce the use of diesel-powered generators and where feasible, on-site generators with internal combustion engines shall utilize alternative fuels such as bio-diesel blended fuels;</p>	<p>Prior to Building Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<p><input type="checkbox"/></p>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>If uncontrolled, dust generated by grading and construction activities represents a significant air quality impact.</p>	<p>c. Arrange for service to provide on-site meals for construction workers to avoid travel to off-site locations;</p> <p>d. Stage construction equipment at least 200 feet from existing or new habitable residences;</p> <p>e. Properly tune and maintain equipment for low emissions.</p> <p>f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes in accordance with the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations. Clear signage shall be provided for truck operators and construction workers at all access points.</p> <p>g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</p> <p>h. Require an on-site disturbance coordinator to ensure that the construction period mitigation measures are enforced. This coordinator shall respond to complaints regarding construction activities and construction caused nuisances. The phone number of this disturbance coordinator shall be clearly posted at the construction site and provided to nearby residences. A log documenting any complaints and the timely remedy or outcome of such complaints shall be kept.</p>				
<p>4.3-2 If uncontrolled, dust generated by grading and construction activities represents a significant air quality impact.</p>	<p><b>4.3-2</b> Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to less-than-significant. The contractor shall implement the following best management practices:</p> <p>a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</p> <p>b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</p>	<p>During Project Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>Construction of the proposed subdivision could result in potential impacts to California red-legged frog.</p>	<p>c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</p> <p>d. All vehicle speeds on unpaved roads shall be limited to 15 mph.</p> <p>e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>f. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p> <p><b>4.4-1</b> The project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:</p> <p>a. Prior to the start of construction, the project proponent shall retain a qualified biologist to train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.</p> <p>b. Prior to the start of construction, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that CRLF are absent from the construction area. If CRLF are present, a qualified biologist possessing all necessary permits shall relocate them or they shall be allowed to move out of the construction area on their own.</p> <p>c. Immediately following the pre-construction surveys and a determination that CRLF are not present in the construction zone, the construction zone shall be cleared and silt fencing erected and maintained around construction zones to prevent CRLF from moving into these areas.</p>	<p>Prior to Project Construction</p>	<p>Applicant &amp; Qualified Biologist</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>See impact for Mitigation Measure 4.4-1</p>	<p>d. The project proponent shall retain a qualified biological monitor to be present onsite during times of construction within the riparian habitat of East Branch Green Valley Creek to ensure no CRLF are harmed, injured, or killed during project buildout.</p> <p><b>4.4-2</b> The project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:</p> <ol style="list-style-type: none"> <li>The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be lowered to restore the natural flow of this portion of the creek.</li> <li>The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.</li> <li>The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.</li> <li>The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be planted with native species</li> </ol>	<p>Prior to Project Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<p><input type="checkbox"/></p>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
See impact for Mitigation Measure 4.4-1	<p>appropriate for the corridor.</p> <p><b>4.4-3</b> The project would impact approximately 0.5 acres of jurisdictional waters that are of a degraded quality and marginal value for the CRLF. The project shall replace the lost functions and value of this impact to aquatic habitats at a minimum of 1:1 replacement-to-loss acreage ratio. The final mitigation amounts will be based on actual impacts to be determined during the design phase. Habitat replacement via creation of and/or enhancements to existing waters shall occur onsite. Onsite lands proposed to be preserved as open space are within the same watershed as the offsite detention basin known to support breeding CRLF and are expected to fully accommodate creation of and/or enhancements to aquatic habitats that would be of substantially higher value to CRLF than the impacted waters. Compensation for impacts to jurisdictional waters to benefit the CRLF will include all of the aforementioned components along with improving the wetland character of the onsite stock pond and enhancing the associated riparian habitat between the stock pond and the detention basin. (Refer also to mitigation measures 4.4-13 and 4.4-14 below for impacts to jurisdictional waters.)</p>	Prior to Project Construction	Applicant	Town of Danville	<input type="checkbox"/>
See impact for Mitigation Measure 4.4-1	<p><b>4.4-4</b> The project proposes to preserve approximately 302 acres of the project site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The project proposes to create a geologic hazard abatement district (GHAD) to provide suitable funding for management and long-term maintenance of the site. Upland habitats shall be managed via a long-term management plan to maintain the quality of the habitat for the movement and dispersal of CRLF. Prior to construction, the project proponent shall retain a qualified biologist to prepare an open space management plan for the explicit purpose of managing and monitoring the proposed open space area. This plan shall be submitted to the Town of Danville for review and approval prior to issuance of grading permits. At a</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
	<p>minimum this plan shall include the following components:</p> <ol style="list-style-type: none"> <li>Identify the location of the restoration efforts for replacing jurisdictional waters and riparian habitats. The replacement ratio for both habitats will be at a minimum of a 1:1 ratio.</li> <li>Identify the approaches to be used, including the extent that the onsite stock pond be expanded, reconfiguring of the pond bottom and increase in depth, and providing evidence that sufficient water budget exist for any proposed enhancement.</li> <li>Identify a suitable planting regime for restoring wetland and riparian habitats.</li> <li>Identify success criteria for monitoring both the wetland and riparian habitats that are consistent with similar habitats regionally.</li> <li>Monitor restored wetland habitats for at least five years and restored riparian habitats for 10 years.</li> <li>Define and identify the GHAD maintenance and management activities to manage the open space habitats to meet the stated goals of support habitat characteristics suitable for the CRLF. This would include suitable fencing so as to control access, limited cattle grazing or other procedures to manage grass height and forage production at levels that benefit the CRLF, and removal of trash.</li> <li>Define the financial mechanism for the GHAD to manage the open space into perpetuity.</li> </ol>				
Construction of the proposed subdivision could result in potential impacts to western pond turtle.	<p><b>4.4-5</b> Prior to the start of construction, the project proponent shall retain a qualified biologist to train construction personnel regarding habitat sensitivity, identification of special status species, and required practices.</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>
See impact for Mitigation Measure 4.4-5	<p><b>4.4-6</b> Prior to the start of construction within the East Branch Green Valley Creek riparian area, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that western pond turtles are absent from the construction area. If western pond turtles are present, a qualified biologist</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
See impact for Mitigation Measure 4.4-5	possessing all necessary permits shall be retained to relocate them.				
See impact for Mitigation Measure 4.4-5	<p><b>4.4-7</b> If western pond turtles are found to be absent from the construction zone, immediately following the pre-construction surveys the project proponent shall clear the construction zone and install/maintain silt fencing around the construction zone to prevent western pond turtles from entering these areas.</p> <p><b>4.4-8</b> During construction within the East Branch Green Valley Creek riparian area, the project proponent shall retain a biological monitor to be present onsite during times of construction to ensure that turtles are not harmed, injured, or killed.</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>
Construction of the proposed subdivision could result in potential impacts to nesting raptors and migratory birds.	<p><b>4.4-9</b> To the maximum extent practicable, the project proponent shall remove trees during the non-breeding season (September 1 through January 31). If it is not possible to avoid tree removal and associated disturbances during the breeding season (February 1 through August 31), the project proponent shall retain a qualified biologist to conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and 250 feet of the footprint, if such disturbance would occur during the breeding season. This survey shall be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (a minimum of 150 feet up to a maximum of 250 feet) shall be determined at that time and may vary depending on location and species. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-</p>	During Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
Construction of the proposed subdivision could result in potential impacts to burrowing owls.	<p>construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities.</p> <p><b>4.4-10</b> In order to avoid impacts to active burrowing owl nests, the project proponent shall retain a qualified biologist to conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys shall be conducted in a manner consistent with the CDFG's burrowing owl survey methods (CDFG 2012b). If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be used to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as described above.</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>
Construction of the proposed subdivision could result in potential impacts to American	<p><b>4.4-11</b> Pre-construction surveys conducted for burrowing owls shall also be used to determine the presence or absence of badgers in the development footprint. If an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, the project contractor shall establish a</p>	Prior to Project Construction	Applicant & Qualified Biologist	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
badgers.	<p>construction-free buffer around the den of up to 300 feet or a distance specified by the resource agencies (i.e., CDFG). Because badgers are known to use multiple burrows in a breeding burrow complex, the project contractor shall retain a biological monitor during construction activities to ensure the buffer is adequate to avoid direct impacts to individuals or nest abandonment. The monitor shall be present onsite until it is determined that young are of an independent age and construction activities would not harm individual badgers. Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.</p>				
<p>Development of the proposed subdivision would impact wetlands (0.5 acres) and riparian habitat (0.3 acres).</p>	<p><b>4.4-12</b> The project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 302 acres of the site proposed as open space. Prior to issuance of a grading permit, the project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:</p> <ol style="list-style-type: none"> <li>Define the location of all restoration/creation activities;</li> <li>Provide evidence of a suitable water budget to support any created wetland and riparian habitats;</li> <li>Identify the species, amount, and location of plants to be installed;</li> <li>Identify the time of year for planting and method for supplemental watering during the establishment period;</li> <li>Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success;</li> </ol>	<p>Prior to Issuance of Grading Permit</p>	<p>Applicant &amp; Qualified Biologist</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
	<p>f. Identify adaptive management procedures that include (but are not limited to) measures to address colonization by invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;</p> <p>g. Define management and maintenance activities (weeding of invasives, providing for supplemental water, repair of water delivery systems) of the proposed GHAD; and</p> <p>h. Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.</p>				
See impact for Mitigation Measure 4.4-12	<p><b>4.4-13</b> The project proponent shall comply with all state and federal regulations related to construction work that will impact aquatic habitats occurring on the site. Prior to construction, the project proponent shall obtain a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and/or Section 1600 Streambed Alteration Agreement from the CDFG, and submit proof of such documentation to the Town of Danville.</p>	Prior to Project Construction	Applicant	Town of Danville	<input type="checkbox"/>
The project would result in the removal of 38 trees on the site, which represents a potentially significant impact.	<p><b>4.4-14</b> Prior to issuance of a grading permit, a tree preservation plan shall be prepared for all trees to be retained that identifies all protection and mitigation measures to be taken and includes the tree preservation guidelines by HortScience in their tree report(s). These measures shall remain in place for the duration of construction activities at the project site.</p>	Prior to Issuance of Grading Permit	Applicant	Town of Danville	<input type="checkbox"/>
See impact for Mitigation Measure 4.4-14	<p><b>4.4-15</b> Upon completion of construction, the project proponent shall replace all ordinance-size trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's tree ordinance. Tree removal shall be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project</p>	Upon Completion of Project Construction	Applicant	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
	<p>proponent shall replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1. To the maximum extent practicable, all native trees that are removed shall be replaced with like species. All non-native trees that are removed shall be replaced with species that are known to occur naturally within similar habitats in the region.</p>				
<p>See impact for Mitigation Measure 4.4-14</p>	<p><b>4.4-16</b> Prior to construction, the project proponent retain a qualified arborist to develop a monitoring plan for replacement trees (outside the riparian habitat) and submit it to the Town of Danville during the permit process. The basic components of the monitoring plan shall include final success criteria, specific performance criteria, monitoring methods, data analysis, monitoring schedule, contingency/remedial measures, and reporting requirements.</p>	<p>Prior to Project Construction</p>	<p>Applicant &amp; Qualified Arborist</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>The improvements to the Diablo Road/Green Valley Road intersection would require the removal of 18 trees within the Town right-of-way.</p>	<p><b>4.4-17</b> If the Town determines that the improvements to the Diablo Road/Green Valley Road intersection are required, the project shall implement Mitigation Measures 4.4-14 through 4.4-16 above, as applicable.</p>	<p>Prior to Project Construction</p>	<p>Applicant &amp; Qualified Arborist</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>Construction of the project may result in the discovery and disturbance of unknown archaeological resources and/or human remains.</p>	<p><b>4.5-1</b> If during the course of project construction, archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional archaeologist can evaluate it. Work shall not recommence until the project archaeologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.</p>	<p>During Project Construction</p>	<p>Applicant &amp; Qualified Archaeologist</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>See impact for Mitigation Measure 4.5-1</p>	<p><b>4.5-2</b> Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during</p>	<p>Prior to Grading Permit and</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
	<p>construction, no further excavation or disturbance shall be conducted on the site or any nearby area reasonably suspected to overlie adjacent remains. The Contra Costa County Coroner shall be notified and make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p>	During Project Construction			
<p>Construction of the project may result in the discovery and disturbance of unknown paleontological resources.</p>	<p><b>4.5-3</b> If during the course of project construction, paleontological resources are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional paleontologist can evaluate it. Work shall not recommence until the project paleontologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.</p>	During Construction	Applicant & Qualified Paleontologist	Town of Danville	<input type="checkbox"/>
<p>Construction of the project could result in temporary soil erosion and loss of topsoil.</p>	<p><b>4.6-1</b> In order to reduce wind and water erosion on the project site, an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods (see mitigation measure 4.8-1 in 4.8 Hydrology and Water Quality).</p> <p>The project shall prepare an erosion control plan in accordance with the Town's Erosion Control Ordinance. The project proponent shall implement the following measures, where appropriate, to control erosion: 1) keep construction machinery off of established vegetation as much as possible, especially the vegetation on the upwind side of the construction site; 2) establish specific access routes at the planning phase of the project, and</p>	Prior to Issuance of Grading Permit	Applicant	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X												
<p>The project would be exposed to potential adverse effects from the seven existing landslides on the project site located near the areas of proposed development.</p>	<p>limits of grading prior to development, which should be strictly observed; 3) utilize mechanical measures (i.e., walls from sand bags and/or wooden slat or fabric fences) to reduce sand movement; 4) immediate re-vegetation (plus the use of temporary stabilizing sprays), to keep sand movement to a minimum; and 5) for larger-scale construction, fabric or wooden slat fences should be placed around the construction location to reduce sand movement. This erosion control plan shall be submitted to the Town of Danville for review and approval prior to issuance of a grading permit.</p> <p><b>4.6-2</b> In order to minimize potential impacts from landslides, final project design plans shall incorporate the recommendations in the preliminary geotechnical report (Appendix E), which includes the following corrective measures:</p> <ol style="list-style-type: none"> <li>Landslide avoidance</li> <li>Construction of catchment areas between landslides and proposed improvements</li> <li>Partial landslide debris removal and buttressing with engineered fill</li> <li>Complete landslide debris removal and replacement as engineered fill</li> </ol> <p>The table below sets forth the required mitigation measures by landslide area (shown in Figure 4.6-2).</p> <table border="1" data-bbox="1089 846 1398 1560"> <thead> <tr> <th>Landslide</th> <th>Mitigation</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Partial landslide removal and buttressing with engineered fill</td> </tr> <tr> <td>2</td> <td>Construction of catchment areas between landslides and proposed improvements</td> </tr> <tr> <td>3</td> <td>Partial landslide removal and buttressing with engineered fill</td> </tr> <tr> <td>4</td> <td>Construction of catchment areas between landslides and proposed improvements</td> </tr> <tr> <td>5</td> <td>Complete landslide removal and replacement as</td> </tr> </tbody> </table>	Landslide	Mitigation	1	Partial landslide removal and buttressing with engineered fill	2	Construction of catchment areas between landslides and proposed improvements	3	Partial landslide removal and buttressing with engineered fill	4	Construction of catchment areas between landslides and proposed improvements	5	Complete landslide removal and replacement as	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>
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Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X								
<p>The project site contains expansive soils that could damage proposed residential development, infrastructure, and associated structures.</p>	<table border="1" data-bbox="240 844 425 1558"> <tr> <td></td> <td>engineered fill</td> </tr> <tr> <td>6</td> <td>Complete landslide removal and replacement as engineered fill</td> </tr> <tr> <td>7</td> <td>Complete landslide removal and replacement as engineered fill</td> </tr> <tr> <td>8-16</td> <td>Landslide avoidance</td> </tr> </table> <p>Corrective grading for custom lot areas outside the proposed grading envelopes shall be evaluated when more detailed plans are available. Detailed 40-scale corrective grading plans for the entire project will be prepared when project grading plans have been finalized. Final plans showing the identified recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.</p>		engineered fill	6	Complete landslide removal and replacement as engineered fill	7	Complete landslide removal and replacement as engineered fill	8-16	Landslide avoidance				
	engineered fill												
6	Complete landslide removal and replacement as engineered fill												
7	Complete landslide removal and replacement as engineered fill												
8-16	Landslide avoidance												
<p><b>4.6-3</b> In order to minimize potential impacts from expansive soils, final project design shall incorporate the recommendations in the preliminary geotechnical report (see Appendix E) that include special measures for mitigating adverse impacts from expansive soils, as follows:</p> <ol style="list-style-type: none"> <li>Conditioning the expansive soils to higher moisture content during site preparation and grading.</li> <li>Supporting the houses on structural slab foundations designed to withstand potential movements of expansive soils.</li> <li>Presoaking the near-surface expansive soils prior to concrete placement for the slab foundations.</li> <li>Conditioning the expansive subgrade soils in exterior concrete flatwork area to higher moisture content prior to the placement of baserock or concrete (if the flatwork is supported directly on the subgrade).</li> <li>Providing surface drainage away from the house foundations and draining the rainwater collected on the roof through pipes connecting to the adjacent storm drains.</li> </ol> <p>The final project plans incorporating all the finalized geotechnical recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.</p>		<p>Prior to Issuance of a Building Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>								

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>Development of the proposed project, including excavation and other land disturbance could result in the release of hazardous materials that may be present on portions of the project site, exposing construction personnel and the environment to potential health and safety risks.</p>	<p><b>4.7-1</b> In order to minimize potential human health hazards associated with the historical use of hazardous materials on portions of the project site, the project proponent shall retain a trained professional to prepare a Site Management Plan to maintain the safety of construction workers and assure proper management of any contaminated soils on the site in accordance with federal, state and local regulatory requirements. This plan shall be subject to review and approval by Contra Costa County Health Services, and evidence of approval provided to the Town of Danville, prior to the issuance of any grading permit, demonstrating that all necessary remedial actions have been completed pursuant to the approved Site Management Plan. At a minimum, the Site Management Plan shall include 1) the collection and chemical analysis of soil samples from the former UST location and 2) excavation and soils characterization to confirm that sufficient soils removal has occurred for OCPs and elevated 4, 4-DDE at location SB-3, and 3) proper removal and disposal of all hazardous materials on the site, including contaminated soils, chemical containers observed in the storage shed, and herbicides spray bottles at an approved disposal facility.</p>	<p>Prior to Issuance of Grading Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>See impact for Mitigation Measure 4.7-1</p>	<p><b>4.7-2</b> The diesel generator enclosure and surrounding area at the western edge of the Magee West site shall be periodically monitored for evidence of a diesel release. An annual report on the status of the enclosure shall be submitted to the Town of Danville.</p>				<input type="checkbox"/>
<p>Construction and operation of the project could impact surface water quality.</p>	<p><b>4.8-1</b> In order to avoid water quality impacts, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods. The SWPPP shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Stormwater permit (No. CAS612008). The project proponent shall obtain a NPDES General Construction Permit and prepare the SWPPP in accordance with all legal requirements, prior to the issuance of a</p>	<p>Prior to Issuance of Grading Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance
<p>The noise environment would exceed the City's noise level goal for normally acceptable exterior noise (55 dBA) Ldn at residential building sites for custom lots 69 and 70 near Diablo Road, which represents a potentially significant noise impact.</p>	<p>grading permit. Additional requirements for erosion control are detailed in mitigation measure 4.6-1 in 4.6 Geotechnical and Geologic Hazards.</p> <p><b>4.10-1</b> In order to avoid noise impacts at proposed residential lots located near Diablo Road, the project proponent shall prepare site-specific acoustical analyses where proposed homes are located in noise environments that exceed 55 dBA Ldn (i.e., custom lots 69 and 70). Exterior and interior noise levels at these residences shall be maintained in accordance with the standards presented in the General Plan and Municipal Code. The specific determination of necessary treatments, such as forced-air mechanical ventilation or sound-rated windows shall be conducted on a unit-by-unit basis for affected lots based on the results of the site-specific acoustical studies. Evidence shall be provided to the Town of Danville, prior to the issuance of the building permit for the affected lots, demonstrating that all acoustical recommendations have been incorporated into final design.</p> <p>Site planning may be adequate to minimize noise in outdoor activity areas, i.e., locating the outdoor activity areas behind homes or in courtyards. If site planning cannot bring noise levels to acceptable levels, then solid noise barriers shall be incorporated into final design plans to interrupt the sound transmission path between roadway traffic and private outdoor use areas of lots 69 and 70, which may be exposed to an Ldn greater than 55 dBA. The type and height of such barriers shall be determined through the site-specific acoustical analyses described above to reduce the Ldn at the primary outdoor areas of these lots to an Ldn of 55 dBA or less. Barriers should be airtight over the surface and at the base, with a minimum surface weight of 3.0 pounds per square foot. Evidence shall be provided to the Town of Danville, prior to the issuance of the building permit for the affected lots, demonstrating that noise barriers have been incorporated into final design.</p>	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville <input type="checkbox"/></p>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>Construction of the project would result in significant short-term noise impacts on nearby sensitive receptors.</p>	<p><b>4.10-2</b> Prior to any grading or other construction activities, the applicant shall develop a construction mitigation plan in close coordination with the Town of Danville staff to assure that construction activities are scheduled to minimize noise disturbance. The following conditions shall be incorporated into the building contractor specifications.</p> <ul style="list-style-type: none"> <li>a. Muffle and maintain all equipment used on site. All internal combustion engine driven equipment shall be fitted with mufflers, which are in good condition. Good mufflers shall result in non-impact tools generating a maximum noise level of 80 dB when measured at a distance of 50 feet.</li> <li>b. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.</li> <li>c. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.</li> <li>d. Prohibit unnecessary idling of internal combustion engines.</li> <li>e. Prohibit audible construction workers’ radios on adjoining properties.</li> <li>f. Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.</li> <li>g. Do not allow machinery to be cleaned or serviced past 6:00 p.m. or prior to 7:00 a.m. Monday through Friday.</li> <li>h. Limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site for any purpose to Monday through Friday between 7:00 a.m. and 6:00 p.m.</li> <li>i. Do not allow any outdoor construction or construction-related activities at the project site on weekends and holidays. Indoor construction activities may be allowed based on review/approval of the Town.</li> <li>j. Allowable construction hours shall be posted clearly on a sign at each construction site.</li> <li>k. Designate a Disturbance Coordinator for each of the clustered</li> </ul>	<p>Prior to Project Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
	<p>development sites for the duration of the Phase 1 (site work) and for each home site during the Phase 2 (home building) construction. Because each home would be constructed individually and would have its own building permit, a Disturbance Coordinator should be designated during the construction of each home. The requirement for a Disturbance Coordinator for each home site should be incorporated in the CCRs of the development, such that responsibility of the Property Owners' Association and/or home builder to designate this Disturbance Coordinator for each lot for the duration of construction until full site buildout. The Disturbance Coordinator shall conduct the following: receive and act on complaints about construction disturbances during infrastructure installation, landslide repair, road building, residential construction, and other construction activities; determine the cause(s) and implement remedial measures as necessary to alleviate significant problems; clearly post his/her name and phone number(s) on a sign at each clustered development and home building site; and, notify area residents of construction activities, schedules, and impacts.</p>				
<p>The project would result in an incremental increase in the student population in the SRVUSD.</p>	<p><b>4.11-1</b> The applicant shall pay a school impact fee pursuant to the criteria set forth within California Government Code Section 65995. Prior to the issuance of building permits, the applicant shall pay required school mitigation fees, subject to the review and approval of the Town of Danville and San Ramon Valley Unified School District. The fees set forth in Government Code Section 65996 constitute the exclusive means of both "considering" and "mitigating" school facilities impacts of projects [Government Code Section 65996(a)]. They are "deemed to provide full and complete school facilities mitigation" [Government Code Section 65996(b)].</p>	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville and San Ramon Valley Unified School District</p> <p><input type="checkbox"/></p>	
<p>The project trips added to the intersection of Hidden Oaks Drive/Magee Ranch</p>	<p><b>4.12-1</b> Per the Town of Danville, signalize the intersection of Hidden Oaks Drive/Magee Ranch Road and Blackhawk Road. Because the impact occurs under cumulative conditions and not</p>	<p>Prior to Issuance of Building</p>	<p>Applicant</p>	<p>Town of Danville</p> <p><input type="checkbox"/></p>	

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>Road and Blackhawk Road during the cumulative plus project AM peak hour would increase the v/c ratio by 0.13, which constitutes a significant impact based on the thresholds of significance.</p>	<p>under existing plus project conditions, the project is not the sole cause of the impact. For this reason, the project applicant shall make a fair share contribution toward signalization at this intersection. With signalization, the intersection would operate at LOS B or better under all scenarios.</p>	<p>Permit</p>			
<p>The project trips added to the intersection of Mt. Diablo Scenic Boulevard and Diablo Road during the cumulative plus project AM and school PM peak hour would increase the v/c ratio by more than 0.05, which constitutes a significant impact based on the thresholds of significance.</p>	<p><b>4.12-2</b> The intersection of Mt. Diablo Scenic Boulevard/Diablo Road should be considered for signalization. The project is not the sole cause of the impact. For this reason, the mitigation for this impact shall be the project applicant's fair share contribution towards the installation of a traffic signal. With signalization, the intersection would operate at LOS C or better under all scenarios.</p>	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>Access to Driveway D (southbound left) during the AM and school PM peak periods has the potential to cause unsafe conditions and vehicle queuing.</p>	<p><b>4.12-3</b> The project proponent shall modify the roadway striping along McCauley Road between the intersection and approximately 350 feet south of the Diablo Road/Green Valley Road. The modified roadway striping shall substantially conform to the following: a) reconfigure the existing 17-foot southbound through lane to a 10-foot shoulder and a 12-foot through lane; b) replace the existing 3-foot double-double yellow centerlines with a single double yellow center-line; c) maintain the existing 10-foot northbound left turn lane while shifting it two feet toward the easterly curb line; d) reduce the existing 16-foot northbound through/right turn lane to 13 feet; and e) transition existing downstream (to the south) centerline/left turn lane on McCauley Road accordingly to accommodate the new configuration, as</p>	<p>During Project Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>The project main entrance (Driveway A) has the potential to provide an unsafe condition for pedestrian crossings of Blackhawk Road.</p>	<p>illustrated in the body of the EIR.</p> <p><b>4.12-4</b> The project proponent shall install a new pedestrian crossing, with in-pavement lighting or other equivalent pedestrian safety improvement, at the project main entrance on Blackhawk Road. The crossing shall physically connect the project's pedestrian traffic to the existing paved pathway located along the north side of Blackhawk Road.</p>	<p>During Project Construction</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>Development of the proposed project would require the construction of new water infrastructure in order to serve the project. EBMUD has identified that specific improvements may be necessary to serve new uses located above the 650 foot elevation contour. These improvements are necessary to mitigate potential water supply infrastructure impacts.</p>	<p><b>4.13-1</b> Prior to final map recordation, the applicant shall enter into a Low Pressure Service Agreement with East Bay Municipal Utility District for each residential parcel located entirely or partially above the 650 elevation contour. All appropriate water supply infrastructure, including pumping and storage facilities, shall be provided in accordance with the Low Pressure Service Agreement. For new residential parcels that are partially located above the 650 foot contour residential building envelopes may be delineated below the 650' contour to avoid the need for additional site-specific infrastructure, subject to approval by the Town of Danville. New building envelopes, if identified, shall be coordinated directly with East Bay Municipal Utility District. These facilities shall be incorporated into the final design-level infrastructure drawing for the project. The applicant shall sign and execute a Low Pressure Service Agreement prior to final map recordation. All infrastructure improvements shall be incorporated into design-level drawings.</p>	<p>Prior to the Recordation of the Final Map</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>
<p>See impact for Mitigation Measure 4.13-1</p>	<p><b>4.13-2</b> Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings to the East Bay Municipal Utility District and the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.</p>	<p>Prior to the Recordation of the Final Map</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
See impact for Mitigation Measure 4.13-1	<p><b>4.13-3</b> The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District's existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility District's right-of-way (R/W 1581). Any and all activities proposed within the right-of-way shall be coordinated with East Bay Municipal Utility District. This easement shall be reflected in all final design-level improvement plans and appropriate notes shall also be included, subject to the review and approval of the East Bay Municipal Utility District and the Town of Danville.</p>	Prior to Issuance of Building Permit	Applicant	Town of Danville	<input type="checkbox"/>

Impacts	Mitigation Measures	Timing of Implementation	Implementation Responsibility	Verified for Compliance	X
<p>Development of the proposed project would increase demands for electricity and natural gas consumption.</p>	<p><b>4.13-4</b> In order to ensure that energy demand is reduced to avoid the wasteful or inefficient use of energy, the project proponent shall submit detailed design-level plans to the Town of Danville identifying that energy conservation measures have been incorporated into design and operation of the project, prior to the issuance of any building permit. The proponent shall implement the following or comparable energy conservation measures, including, but not limited to:</p> <ol style="list-style-type: none"> <li>a. Final-design that takes advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use. Project shall meet and/or exceed the requirements of Title 20 and Title 24.</li> <li>b. Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.</li> <li>c. Install light-colored cool pavements, and strategically placed shade trees.</li> <li>d. Install energy efficient heating and cooling systems, appliances and equipment, and control systems. Including: <ul style="list-style-type: none"> <li>• smart meters and programmable thermostats.</li> <li>• Heating, Ventilation, and Air Condition (HVAC) ducts sealing.</li> </ul> </li> <li>e. Install light emitting diodes (LEDs) for outdoor lighting.</li> <li>f. Provide outdoor electrical outlets.</li> </ol> <p>The project applicant may proposed substitute measures provide they achieve comparable energy use reductions as the measures proposed above. If alternative measures are proposed, the applicant shall provide detailed evidence demonstrating the measures efficacy at reducing energy demand.</p>	<p>Prior to Issuance of Building Permit</p>	<p>Applicant</p>	<p>Town of Danville</p>	<input type="checkbox"/>

**ORDINANCE NO. 2013-02**

**APPROVING PRELIMINARY DEVELOPMENT PLAN - REZONING  
REQUEST LEG10-0004 (MAGEE RANCH - SUMMERHILL HOMES)**

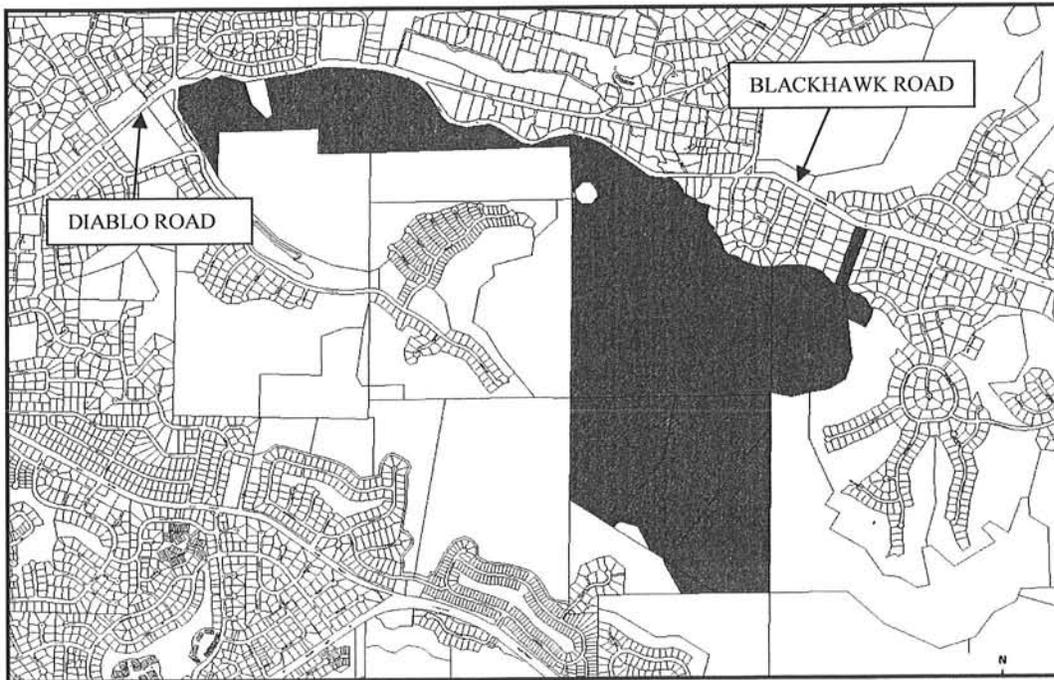
The Town Council of the Town of Danville does ordain as follows:

SECTION 1.                      Rezoning.

The 410 +/- acre site, located on the south side of Diablo Road and Blackhawk Road extending approximately two miles east from the intersection of Diablo Road/Green Valley Road/McCauley Road, and is further identified as APNs: 202-050-071, 073, 078, 079 and 080; 202-100-017, 019, 038 and 040; and 215-040-002, is rezoned from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to a new P-1; Planned Unit Development District (LEG10-0004). Rezoning is based upon approved Major Subdivision request DEV10-0071, Final Development Plan DEV10-0072 and the findings and conditions of approval contained within Town Council Resolution No. 60-2013. Resolution No. 60-2013 and all attachments thereto, are hereby incorporated by reference.

SECTION 2.                      Zoning Map.

The zoning map has been amended accordingly.



SECTION 3.

Publication.

The City Clerk shall either a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or b) have a summary of this ordinance published twice in a newspaper of general circulation once five days before its adoption and again within 15 days after adoption.

SECTION 4.

Effective Date.

This ordinance becomes effective 30 days after its adoption.

The foregoing ordinance was first read and introduced on June 18, 2013, and approved and adopted by the Danville Town Council at a regular meeting on July 2, 2013, by the following vote:

- AYES: -
- NOES: -
- ABSTAIN: -
- ABSENT: -

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

ATTEST:

  
\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
CITY CLERK

CLERK'S CERTIFICATE

I, Marie Sunseri, City Clerk of the Town of Danville, hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2013-02 of said Town and that said ordinance was published according to law.

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk of the Town of Danville