



Protecting Marin Since 1934

September 9, 2017

Marin County Board of Supervisors
c/o Curtis Havel
Community Development Agency
County of Marin
3501 Civic Center Drive
San Rafael, CA 94903

By email: CHavel@marincounty.org

RE: Easton Point Environmental Impact Report Certification, Rezoning and Master Plan Applications

Dear President Arnold and Members of the Board:

Marin Conservation League has been tracking the development proposal(s) for the Martha Company property since 1992. We have reviewed and commented on many planning and environmental documents concerning this project over the years. We appreciate the detailed analysis and significant effort in the current materials that were made available on September 5. However, the extensive packet is daunting in its volume and complexity, and *the time allowed for public review is wholly inadequate.*

MCL's review is preliminary but prompts two basic conclusions, below. We then explain in further detail why the FEIR should not be certified and will follow-up with comments on the merits of the project in a later comment.

- The Final EIR should not be certified. Given the extent of revisions in the June 6, 2017 revised site plan and technical reports, MCL believes that neither your board nor the public has sufficient information needed to certify the FEIR as adequate on September 19. The revisions, in our view, raise impacts that were not analyzed in the EIR. In addition, a number of mitigation measures fundamental to conditioning the Master Plan (including but not limited to health and safety and endangered species) continue to be reliant on ambiguous or unsustainable means of implementation and thus warrant further consideration by your board. The Mitigation Monitoring and Reporting Program also is incomplete. Therefore, it is premature to make findings based on the EIR's conclusions. These and other outstanding environmental issues should be addressed in a Supplement to the Final EIR and recirculated, or, at a minimum, an Addendum.

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- The Master Plan is not ready for approval. Without assurance as to how many mitigation measures may be “new” or revised, or how they will be implemented, some of them “in perpetuity,” it is impossible to begin reviewing the merits of the project or evaluating the sufficiency of the extensive Conditions of Approval necessary for approving the Master Plan.

Why the Final EIR should not be certified

New Impacts

Since MCL last submitted comments on the Easton Point site plan in March 2014, the Modified Master Plan and landscape site plan submitted on June 6, 2017 and August 4, 2017, respectively, show extensive revisions. We acknowledge that the modified plan addresses some previously identified impacts. For example, former lots #1 through #7 have been moved to create an onsite mitigation area for rare plants that is contiguous with existing open space. To offset the loss of those lots, new lots #17, 18, 19, and 20, and #25, 26, and 27 are shown in new areas. Other lots have been shifted or building envelopes have been reduced to lessen off-site visual impacts, and/or to lower elevation to improve water pressure.

These shifts, while intended to be beneficial, may have “new” impacts that were not previously analyzed. Several lots have been relocated into previously undisturbed areas. For example, lots #19 and 20 encroach nearer to the head/source area for Landslide 4, which prompts a new approach to stabilization. The requirement also affects Lot 21. Similarly, Lot 39 needs further stabilization. In one sense, these shifts are equivalent to a new “alternative” that is sufficiently different from alternatives analyzed in the EIR to warrant analysis in a public CEQA document. Although mitigation measures, such as landslide stabilization methods, are generally recommended in the FEIR, they may need to be modified to address specific conditions.

The most conspicuous modification in the site plan involves removing an existing 1,000,000 gallon MMWD water tank, and constructing a smaller one at a different location and elevation. Along with the new water supply tank to be constructed for the project, these are essential project elements to ensure adequate fire-flow to upper parts of the Easton Point project, in compliance with MMWD’s standards and those of the Tiburon Fire Protection District.

This new “sub-project” requires additional analysis under a number of environmental topics. We are assured that the loss of oak trees can be mitigated at a roughly equivalent ratio in the site trade-off. However, the removal of the existing tank and new tank construction will require new excavation, will add to construction noise, and will add heavy equipment and truck traffic to the already significant construction-related traffic impacts of the project. Other potential impacts include landslides, slope stability, artificial fill, and expansive soils, as well as hydrology and water quality. The County, as lead agency for the overall project, is responsible for ensuring adequate CEQA review of these potential impacts, a responsibility that MMWD would assume if this were independent of the Easton Point application.

Other revisions to the site plan involving roadway widening and realignment within the site should also be evaluated for their environmental impacts, in that they may involve intrusion into previously undisturbed land as well as additional grading or recalculation of cut and fill.

Significant impacts with questionable mitigation measures

In addition to the “new” impacts due to plan modifications that need to be addressed, a number of other significant impacts are mitigated by measures that are either ambiguous or cannot be assured and therefore may not reduce significant impacts to a less-than-significant level. Most of them are to be carried out for the “life of the project” or “in perpetuity.” MCL’s greatest concern lies with mitigation measures that are reliant on a small property owners association (OA).

The POA would consist of only 43 members, initially far fewer, whose three neighborhoods are geographically separated, with three different points of access. Their responsibilities would be substantial, including several private streets, landslide monitoring and repair, maintenance and proper operation of erosion control, drainage, and water quality protection devices, architectural control, and enforcement of extensive CC&Rs on nearly 110 acres of difficult terrain. In the absence of a willing public agency such as the Marin County Open Space District to take dedication of roughly 74 acres of open space parcels A and B, the protection *in perpetuity* of endangered species, rare plant species and other sensitive biological communities, as premised in a Resource Management Plan, would be reliant on the POA. Either these impacts must be identified as significant and unavoidable impacts of the project, subject to a finding of overriding considerations, or more realistic mitigation measures must be offered by the applicant.

While the POA as a private “governing” entity is technically feasible, the likelihood of sustained long-term success for the association is small. MCL agrees with the analysis set forth by the Town of Tiburon – that these are serious long-term obligations, fraught with liability – and with their conclusion (September 9, 2017): “Insofar as a small homeowner association is unlikely to be able to perform these complex and difficult land management tasks consistently over the life of the project, health and safety impacts remain unresolved over the long term despite the best intentions of the preparers of the EIR.” MCL asks your Board to once again examine the veracity of this fundamental assumption in the EIR.

Thank you for the opportunity to comment, and we urge you to give careful consideration to issues that continue to encumber this project.

Sincerely yours,



Kate Powers, President