

## CEQA FINDINGS - EXHIBIT B

### I. PROJECT DESCRIPTION

The originally proposed project is an Agricultural Residential Cluster Subdivision on a 3,778-acre portion of the Santa Margarita Ranch in unincorporated San Luis Obispo County, southeast of the community of Santa Margarita. The proposed Agricultural Residential Cluster Subdivision would subdivide this portion of the Ranch into: 111 residential lots, five agricultural parcels, one 2.5 acre building envelope with a Primary Dwelling and a Ranch Headquarters' site on an open space parcel, one Ranch Headquarters' site at the Portuguese corrals and a remainder parcel, and would place 3,633 acres in agricultural conservation easements (ACEs). In addition, the EIR evaluates a conceptual Future Development Program for buildout of several locations within the remaining portions of the approximately 14,000-acre Ranch property. No action is being taken at this time to authorize, approve or provide entitlement to any project in the Future Development Program. The originally proposed project and alternatives are described in more detail in the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR, and Appendices thereto.

The Amended Project (Alternative 12; for which these CEQA Findings are prepared) is an alternative to the Agricultural Residential Cluster Subdivision that was analyzed in the Final EIR. This alternative would have essentially the same development characteristics as the proposed project (111 dwelling units), but would incorporate project features that addresses some of the identified environmental constraints. This includes a reorganized lot layout, reorganized project roadways, and incorporation of building envelopes and height restrictions. This alternative was the Environmental Superior Alternative for a project will 111 lots and was superior to the originally proposed project.

Access to the Amended Project would be provided via one existing driveway and one new driveway from West Pozo Road. Sewer service would be provided by individual septic systems and ground water would be provided by a Mutual Water Company. Water tanks would remain as proposed. This alternative would include a supplemental water connection to the Nacimiento Water Project to off-set the use of groundwater. This alternative would connect to the Nacimiento waterline at the northern extent of Encina Avenue within the community of Santa Margarita. A pipeline would be constructed within the existing Encina Avenue right-of-way to the southern extent of the roadway at the Ranch boundary. The untreated Nacimiento water would then be land applied to the existing agricultural irrigation system.

The Amended Project is described in more detail in Section 6.0, *Alternatives*, of the Final EIR.

### II. THE RECORD

For the purposes of CEQA and the Findings IV-V, the record of the Board of Supervisors relating to the application includes:

1. Documentary and oral evidence received and reviewed by the Board of Supervisors and Planning Commission during the public hearings on the project.
2. The Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR (June 2008).
3. The Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program application and supporting materials.
4. The Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Staff Report prepared for the Board of Supervisors.

5. Matters of common knowledge to the Board of Supervisors which it considers, such as:
  - a. The County General Plan, including the land use maps and elements thereof;
  - b. The text of the Land Use Element;
  - c. The California Environmental Quality Act (CEQA) and the CEQA Guidelines;
  - d. The County of San Luis Obispo Environmental Quality Act Guidelines;
  - e. The County Annual Resources Summary Report;
  - f. The Clean Air Plan;
  - g. The SLO County Public Facilities Financing Plan;
  - h. The Countywide Settlement Pattern Strategy Phase 1 and 2 Reports;
  - i. The Countywide Smart Growth Ordinance;
  - j. The Countywide Growth Management Ordinance;
  - k. The County Land Use Ordinance Section 22.22.150 Agricultural Lands Clustering;
  - l. Other formally adopted County, State and Federal regulations, statutes, policies, and ordinances;
  - m. Additional documents referenced in the Final EIR for the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program.

### **III. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT**

The Board of Supervisors adopt the following with respect to the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR:

- A. The Board of Supervisors has reviewed and considered the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR.
- B. The Final Environmental Impact Report for the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program has been completed in compliance with the California Environmental Quality Act.
- C. The Final Environmental Impact Report, and all related public comments and responses have been presented to the Board of Supervisors, and they have reviewed and considered the information contained in the Final Environmental Impact Report and testimony presented at the public hearings prior to approving the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project .
- D. The Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR reflects the independent judgment of the Board of Supervisors, acting as the lead agency for the project.

#### **IV. FINDINGS FOR IMPACTS IDENTIFIED AS INSIGNIFICANT (Class III)**

*Class III impacts are impacts that are adverse, but not significant.*

The FEIR include discussion of class III impacts relating to air quality, biology, noise, public safety, public services, recreation, transportation and circulation, and water and wastewater. Because these impacts are adverse but not significant, no mitigation is required.

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant.

##### **A. Air Quality (Class III)**

1. **Impact AQ-3.** The Amended Project involves development of private septic systems, which have the potential to generate odor nuisance effects. These impacts are Class III, less than significant.
  - a. **Mitigation** – No mitigation is required.
  - b. **Findings-** Septic systems are required to be installed per County Private Sewage Disposal System standards, and would only create nuisance odors of not properly installed. Odor from a wastewater treatment facility would not be expected to generate significant odor effects.
  - c. **Supportive Evidence** – Please refer to pages 4.2-17 through 4.2-18 and page 6-119 of the Final EIR.

##### **B. Biological Resources (Class III)**

1. **Impact B-1.** The Amended Project would result in the conversion of the common habitat types California Annual Grassland to residential uses and associated improvements. This is a Class III, less than significant impact.
  - a. **Mitigation** – No mitigation is required to address the loss of this common habitat type. However, California annual grassland within the Staff Recommended the golden eagle, white-tailed kite, loggerhead shrike, and the pallid bat and potential foraging habitat for merlin, prairie falcon, bald eagle, and ferruginous hawk. It also potentially provides nesting habitat for the horned lark and den habitat for the American badger. California red-legged frog (CRLF) may also use these habitats for dispersal during the rain season. In addition, these habitats could potentially support special-status reptile species including the silvery legless lizard and coast horned lizard. Therefore, impacts to these habitat types would represent impacts to special status wildlife species. Measures B-8(a) (California Red-legged Frog Avoidance, Minimization, and Mitigation Measures), B-9 (a) (Legless and Horned Lizard Capture and Relocation), B-9(c) Pre-construction Bird Survey) and B-9(d) (American Badger Avoidance) would mitigate for special-status species that may use California annual grassland habitat should it occur on-site. No special-status plant species were observed within this habitat.

- b. **Findings** – The California Annual Grassland habitat is located in flatter areas and areas bordering oak woodland habitats while Central (Lucian) Coastal Scrub and Chamise Chaparral habitats are primary located on south and west facing hillsides. These habitat types are not considered to be rare plant communities as they relate to botanical resources, since they are common throughout the region and central to southern portions of the state.
- c. **Supportive Evidence** – Please refer to pages 4.3-35 through 4.3-39 and pages 6-119 through 6-120 if the Final EIR.

**C. Drainage, Erosion, and Sedimentation (Class III)**

- 1. **Impact D-1.** During construction, disrupted soil may be subject to erosion, sedimentation, and pollutant discharges. This is a Class III, less than significant impact.
  - a. **Mitigation** – Compliance with the National Pollutant Discharge Elimination System (NPDES) program and compliance with the county grading and storm water ordinances would ensure less than significant impacts.
  - b. **Findings** – The Amended Project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) that contains specific actions, termed Best Management Practices (BMPs), to control the discharge of pollutants, including sediment, into the local surface water drainages.
  - c. **Supportive Evidence** – Please refer to page 4.5-5 and page 6-121 of the Final EIR.
- 2. **Impact D-3.** The Amended Project would not be located in a 100-year flood zone. Impacts related to flood hazard exposure are Class III, less than significant.
  - a. **Mitigation** – No mitigation measures are required.
  - b. **Findings** – The Amended Project would not be within the 100-year flood zone.
  - c. **Supportive Evidence** – Please refer to page 4.5-9 and page 6-121 of the Final EIR.

**D. Noise (Class III)**

- 1. **Impact N-3.** The Amended Project would not place sensitive receptors in areas exposed to nuisance noise levels. Class III, less than significant, impact would result.
  - a. **Mitigation** – No mitigation is required.
  - b. **Findings** – The Amended Project lots located nearest area roadways would experience noise levels below the County threshold.
  - c. **Supporting Evidence** – Please refer to pages 4.8-12 through 4.8-13 and page 6-121 of the Final EIR.

2. **Impact N-4.** The Amended Project will likely be exposed to noise generated by aircraft flying overhead. Although these events could produce periodic noise levels greater than 60 dBA, the 24-hour CNEL noise levels at the Amended Project residential properties would not exceed the County CNEL threshold of 60 dBA. This is a Class III, less than significant impact.
  - a. **Mitigation** – because the Amended Project would not expose future residents to aircraft noise that exceeds 60 dBA CNEL, mitigation is not required.
  - b. **Findings** – Because of the distance to the air strip and the infrequent use by air craft, 24-hour noise levels at the Amended Project would not exceed the 60 dBa CNEL standards.
  - c. **Supporting Evidence** – Please refer to pages 4.87-13 through 4.8-14 and page 6-121 of the Final EIR.
3. **Impact N-5.** The Amended Project would place additional sensitive receptors in the vicinity of the Union Pacific Railroad (UPRR), exposing future residents to periodic nuisance noise levels. However, the 24-hour CNEL noise levels at the Amended Project residential properties would not exceed the County threshold of 60 dBA CNEL. This is a Class III, less than significant impact.
  - a. **Mitigation** – Because the Amended Project would not expose future residences to railroad noise that exceeds 60 dBA CNEL, mitigation is not required.
  - b. **Findings** – Because the Amended Project would be within 1,000 feet of these crossings (linearly), noise levels exceeding 60dBA CNEL would be experienced within approximately 572 feet of the railroad. The Amended Project not place sensitive receptors within this contour.
  - c. **Supporting Evidence** – Please refer to pages 4.8-14 through 4.8-15 and page 6-121 of the Final EIR.

#### **E. Public Safety (Class III)**

1. **Impact S-1.** Due to the presence of current and historic agricultural practices on the Santa Margarita ranch, soils within the Amended Project area may contain contaminants that could pose a risk to health. However, site disturbance would not occur in an area of historical croplands. Impacts would be Class III, less than significant.
  - a. **Mitigation** – No mitigation is required.
  - b. **Findings-** Agricultural practices other than grazing have been confined to the southern portions of the Agricultural Residential Cluster Subdivision site, where disturbance would not occur under the Amended Project. The northern portion of the property (where site disturbance for residences, roadway, and utility lines would occur) is composed primarily of grazing land. In addition, slopes in the Amended Project area are relatively steep, resulting in further constraints to agricultural production. The likelihood that future residences and construction/maintenance workers could be exposed to residual agricultural chemicals in on-site is minor.

c. **Supporting Evidence** – Please refer to pages 4.9-7 and 6-122 of the Final EIR.

2. **Impact S-2.** Highway and railway accidents that involve hazardous materials could potentially create a public safety hazard by exposing people to contaminants. Due to the distance between transportation corridors and the Amended Project development, as well as regulations already in place, impacts would be Class III, less than significant.

a. **Mitigation** – No mitigation is required.

b. **Findings** – due to the distance of Highway 101 from the Amended Project (approximately 1/1/4 miles), accidents on this route would pose no risk to this development. The lots nearest SR 58 would be located over 1,000 feet from this roadway. The distance between major area roadways and the Amended Project would prevent future residents from being exposed to toxic chemicals in the event of an accident, whether in liquid or gas form. In addition, lots nearest the UPRR would be located approximately 3,000 feet south this rail corridor. Regulations already in place and the distance between the UPRR line and development areas will render impacts associated with exposure to hazardous materials less than significant.

c. **Supporting Evidence** – Please refer to pages 4.9-7 and 6-122 of the Final EIR.

#### F. Public Services (Class III)

1. **Impact PS-1.** The Amended Project would increase the population by approximately 300 residents. This may incrementally increase demands on the San Luis Obispo County Sheriff's Department. However, upon payment of public facility fees as a condition of project approval, the Amended Project would not substantially affect the personnel, equipment or organization of the Sheriff's Department. This is a Class III, less than significant impact.

a. **Mitigation** – Beyond the required fees described in the impact statement, no additional mitigation measures are required.

b. **Findings** – The Amended Project would generate an estimated 300 residents. This population increase would result in the need for additional department service. However, responding to additional service calls would not significantly compromise response time goals, upon payment of public facility fees. As a condition of project approval, the applicant will be required to pay this fee at the time each building permit is issued.

c. **Supporting Evidence** – Please refer to pages 4.10-2 and 6-122 of the Final EIR.

2. **Impact PS-4.** The Amended Project would generate an estimated total of 48 elementary, junior high and high school students. Students generated by the project would not increase enrollment at Santa Margarita Elementary School, Atascadero Junior High School, or Atascadero High School beyond the designated capacity. The impact to schools is Class III, less than significant.

- a. **Mitigation** – the applicable State – mandated school impact fees would be collected at the time of building permit issuance. No mitigation beyond this standard requirement is required.

Findings – Based on current AUSD loading standards, Santa Margarita Elementary School, Atascadero Junior High School, and Atascadero High School could accommodate students generated by the Amended Project. Implementation of the Amended Project would require payment of full development fees to the Atascadero Unified School District. These fees would contribute funding for new school facilities for the students potentially generated by the Amended Project.

- b. **Supporting Evidence** – Please refer to pages 4.10-13 through 4.10-14 and page 6-122 of the Final EIR.

3. **Impact PS-6.** The Santa Margarita Library is undersized to serve the increase in population associated with Amended Project. Payment of required library fees as a condition of approval would ensure Class III, less than significant, impacts to the community library.

- a. **Mitigation** – Beyond the required fees described in the impacted statement, no additional mitigation measures are required.

- b. **Findings** – According to the San Luis Obispo County Public Facilities and Financing Plan for Unincorporated Area Facilities (Revised June 24, 2006), the cost of providing additional library facilities necessary to maintain established standards is currently \$172 per resident. As a condition of project approval, the applicant will be required to pay this fee at the time each building permit is issued.

- c. **Supporting Evidence** – Please refer to pages 4.10-23 and 6-122 of the Final EIR.

#### G. Recreation Class (III)

1. **Impact R-1.** Implementation of the Amended Project would generate demand for parkland. The applicant would be required to pay parkland in-lieu fees in the amount established by County Ordinance. With payment of these fees, the applicant would offset the additional demand for parkland. Impacts would be Class III, less than significant.

- a. **Mitigation** – No mitigation measures are required.

- b. **Findings** – Payment of in-lieu park fees would result in funding equivalent to the provision of neighborhood and community parks in accordance with State Quimby Act standards and as required by the County.

- c. **Supporting Evidence** – Please refer to pages 4.11-3 through 4.11-4 and page 6-122 of the Final EIR.

#### H. Transportation and Circulation (Class III)

1. **Impact T-3.** Development of the Amended Project may generate parking demands in excess of the anticipated parking supply. This would generate a Class III, less than significant, impact.

- a. **Mitigation** – No mitigation is required.
- b. **Findings** – The applicant is required to comply with County Land Use Ordinance Section 22.18.050(C), which requires residential to provide two off-street parking spaces per single-family unit, as a condition of project approval. Pursuant to compliance with the requirement, impacts related to parking demand would be less than significant.
- c. **Supporting Evidence** – Please refer to page 4.12-31 through 4.12-32 and page 6-122 of the Final EIR.

#### I. Water and Wastewater (Class III)

1. **Impact W-4.** Implementation of the Amended Project alternative would result in septage load that cannot be managed by existing local facilities. This will result in Class III, less than significant impacts.
  - a. **Mitigation** – No mitigation measures are required.
  - b. **Findings** – The closest septage receiving station to the Santa Margarita Ranch is the Santa Maria Wastewater Treatment facility, located in Santa Maria, approximately 40 miles south of the community of Santa margarita. This facility is currently at capacity. Although an expansion of the treatment facility is planned, septage loads would need to be hauled to other, more distant facilities in the interim. The hauling and disposal of septage is required to comply with County health and water quality standards, as well as State and federal regulations.
  - c. **Supporting Evidence** – Please refer to pages 4.14-17 and 6-123 of the Final EIR.

### V. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (Class II)

*Class II impacts are those which are significant, but can be mitigated to insignificance by implementation of certain mitigation measures.*

#### A. Air Quality (Class II)

1. **Impact AQ-2.** The Amended Project will generate construction-related emissions as the site develops. These emissions would exceed PM<sub>10</sub> significance thresholds. Construction activities could also expose people to naturally-occurring asbestos. Construction related air quality impacts are Class II, significant but mitigable.

##### a. **Mitigation** –

**AQ-2(a) Construction Equipment Controls.** Upon application for grading permits, the applicant shall submit grading plans, the proposed rate of material movement and a construction equipment schedule to the APCD. In addition, the applicant shall implement the following measures to mitigate equipment emissions:

- All construction equipment and portable engines shall be properly maintained and tuned according to manufacturer's specifications;
- All off-road and portable diesel powered equipment, including but not limited to bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets,



**As directed by The Board of Supervisors 12/19/08**

compressors, auxiliary power units, shall be fueled exclusively with CARB-certified motor vehicle diesel fuel;

- The applicant shall maximize to the extent feasible, the use of diesel construction equipment meeting the California Air Resources Board's 1996 (or newer) certification standard for off-road heavy-duty diesel engines.
- All on and off-road diesel equipment shall not be allowed to idle for more than 5 minutes. Signs shall be posted in the designated queuing areas to remind drivers and operators of the 5 minute idling limit;
- The applicant shall electrify equipment where feasible;
- The applicant shall substitute gasoline-powered for diesel-powered equipment where feasible;
- The applicant shall use alternatively fueled construction equipment, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel, where feasible; and
- The applicant shall apply Best Available Control Technology (CBACT) as determined by the APCD.

**AQ-2 (b) Dust Control.** The following measures shall be implemented to reduce PM<sub>10</sub> emissions during construction:

- Reduce the amount of the disturbed area where possible;
- Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Water shall be applied as soon as possible whenever wind speeds exceed 15 miles per hour. Reclaimed (nonpotable) water should be used whenever possible;
- All dirt-stock-pile areas shall be sprayed daily as needed;
- Permanent dust control measures shall be identified in the approved project revegetation and landscape plans and implemented as soon as possible following completion of any soil disturbing activities;
- Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast-germinating native grass seed and watered until vegetation is established;
- All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
- All roadways, driveways, sidewalks, etc., to be paved shall be completed as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
- Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- All trucks hauling dirt, sand, soil or other loose materials shall be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;

- Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site; and
- Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where feasible.

The above measures shall be shown on development plans.

**AQ-2(c) Cover Stockpiled Soils.** If importation, exportation, or stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting material shall be tarped from the point of origin.

**AQ-2(d) Dust Control Monitor.** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress.

**AQ-2(e) Active Grading Areas.** Prior to commencement of tract improvements, a Construction Management Plan shall be submitted for county approval that shows how the project will not exceed continuous working of more than four acres at any given time (according to the APCD, any project with a grading area greater than 4 acres of continuously worked area will exceed the 2.5 ton PM<sub>10</sub> quarterly threshold). The Dust Control Monitor shall verify in the field during tract improvements that the Construction Management Plan is being followed.

**AQ-2(f) Naturally Occurring Asbestos.** Prior to grading on the Amended Project site, the applicant shall ensure that a geologic evaluation is conducted to determine if naturally occurring asbestos is present within the areas that will be disturbed. At a minimum, the geologic evaluation must include:

1. A general description of the property and the proposed use;
2. A detailed site characterization which may include:
  - a. A physical site inspection;
  - b. Evaluation of existing geological maps and studies of the site and surrounding area;
  - c. Development of geologic maps of the site and vicinity;
  - d. Identification and description of geologic units, rock and soil types, and features that could be related to the presence of ultramafic rocks, serpentine, or asbestos mineralization; and
  - e. A subsurface investigation to evaluate the nature and extent of geologic materials in the subsurface where vertical excavation is planned; methods of subsurface investigation may include, but are not limited to borings, test pits, trenching, and geophysical surveys;
  - f. Off-site geological evaluation of adjacent properties;
3. A classification of rock types found must conform to the nomenclature based on the International Union of Geological Science system;
4. A description of the sampling procedures used;

**As directed by The Board of Supervisors 12/19/08**

5. A description of the analytical procedures used, which may include mineralogical analyses, petrographic analyses, chemical analyses, or analyses for asbestos content;
6. An archive of collected rock samples for third party examination; and
7. A geologic evaluation report documenting observations, methods, data, and findings; the format and content of the report should follow the Guidelines for Engineering Geologic Reports issued by the State Board of Registration for Geologists and Geophysicists.

If naturally occurring asbestos is not present, an exemption request must be filed with the APCD. If naturally occurring asbestos is found, the applicant must comply with all requirements outlined in the State ARB's Asbestos Air Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations. These requirements may include but are not limited to: 1) an Asbestos Dust Mitigation Plan which must be approved by APCD before construction begins, and 2) an Asbestos Health and Safety Program.

The Asbestos Dust Mitigation Plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible crossing the property line, and must include one or more provisions addressing: track-out prevention and control measures; adequately watering or covering with tarps active storage piles; and controlling for disturbed surface areas and storage piles that will remain inactive for more than seven (7) days.

An Asbestos Health and Safety Program would be required if grading were to occur in serpentine or ultramafic rock deposits with such concentrations of asbestos present that there is potential to exceed the Cal OSHA asbestos permissible exposure limit (PEL: 0.1 fiber/cc). If required, the Asbestos Health and Safety Program shall be designed by a certified asbestos consultant to ensure the personal protection of workers. The Asbestos Health and Safety Program will include, but will not be limited to, an air monitoring plan approved by the APCD to include: air monitoring in the worker breathing zone, the use of respirators, and/or decontamination.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.2-11 through 4.2-17 and pages 6-93 through 6-94 of the Final EIR.

**B. Biological Resources (Class II)**

1. **Impact B-2.** The Amended Project would result in direct impacts to Native Perennial Grassland, which is a rare plant community and includes Valley Needlegrass Grassland, which is a CDFG Sensitive Natural Community. This would be a Class II, significant but mitigable impact.

**a. Mitigation –**

**B-2(a) Native Perennial Grassland Restoration Plan.** The applicant shall contract with a qualified biologist to develop a Native Perennial Grassland Restoration Plan to be approved by the County Planning and Building Department. The Plan would consist of enhancing the remaining Native Perennial grassland habitat found on-site or creating Native Perennial Grassland habitat within areas presently vegetated by

**As directed by The Board of Supervisors 12/19/08**

California annual grassland. Specifically, the area of restoration should include at least a 2:1 ratio (restoration area to impacted area) with at least 10 percent cover by purple needlegrass, deergrass, or California oatgrass, and should include open areas within blue oak woodland and coast live oak woodland. In addition, native forbs shall be established in the restoration areas representing the species composition and relative cover that is present in the areas to be lost. Other areas consisting of California Annual Grassland are also suitable for enhancement. In such areas, grassland management strategies such as seasonal mowing shall be employed, which will allow for a higher likelihood that perennial grasses could compete with the annual grasses found within these areas. The following measures shall be implemented.

1. A county-approved botanist/biologist shall develop a Plan that provides specific measures to enhance and maintain the remaining on-site occurrences of Native Perennial Grassland. This Plan shall be focused on adaptive management principles, and shall identify detailed enhancement areas and strategies based on the parameters outlined below, with timing and monitoring long-term requirements. The Plan shall:
  - a. Provide an up-to-date inventory of on-site occurrences of Native Perennial Grassland habitat;
  - b. Define attainable and measurable goals and objectives to achieve through implementation of the Plan;
  - c. Provide site selection and justification;
  - d. Detail restoration work plan including methodologies, restoration schedule, plant materials (seed), and implementation strategies.
  - e. Provide a detailed maintenance plan to include mowing to provide a sufficient disturbance regime to keep non-native plant species from further reducing the extent of this habitat type on the property over time. This approach would also have the residual benefit of providing wildland fire protection. Enhancement and maintenance options shall employ recent techniques and effective strategies for increasing the overall area of Native Perennial Grassland on-site and shall include but not be limited to reseeding disturbed areas with an appropriate native plant palette;
  - f. Define performance standards. Within the Amended Project area, the restored area should include at least a 2:1 ratio with at least 10 percent cover by native perennial grasses; and,
  - g. Provide a monitoring plan to include methods and analysis of results. Also, include goal success or failure and an adaptive management plan and suggestions for failed restoration efforts.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.3-39 through 4.3-42 and pages 6-94 through 6-99 of the Final EIR.

6.

2. **Impact B-4.** The Amended Project would impact wetland and waters of the U.S. regulated by the U.S. Army Corps of Engineers (ACOE) and Regional Water Quality Control Board (RWQCB) and riparian areas regulated by the California Department of Fish and Game (CDFG). These impacts are Class II, significant but mitigable.

a. **Mitigation –**

**B-4(a) Wetland and Riparian Protection.** Implementation of the following measures within the 676 acre cluster field is required to mitigate the loss of riparian/wetland habitat where feasible so as not to prevent existing or future agricultural operations, improving and maintaining existing ranch roads, installing utilities, and improving crossings to allow access to the proposed homesites site, or development of lots as provided in the plans for the Applicants Amended Project:

1. Building envelopes shall be located so that all riparian and wetland habitat is buffered from development (including grading) by a minimum 200 -foot setback from Trout, and the portions of Tostada Creeks with aquatic habitat, or any other habitats found to support CRLF or Steelhead. Other wetlands and waters of the U.S. or state shall have a minimum setback of 100 feet where feasible. If seasonal pools contain VPFS, a minimum 300 foot setback shall be required. Setback requirements may be increased by the Corps, RWQCB, CDFG, NMFS and/or USFWS.
2. The wetland and riparian habitat area buffer zones for preserved wetland and riparian areas shall be shown on all grading plans and shall be demarcated with highly visible construction fencing to ensure that these areas are not impacted during construction-related activities.
3. Erosion control measures including, but not limited to straw wattles, silt fences, and fiber mats shall be implemented at the limits of grading to reduce sediments from entering the wetland and riparian habitat area buffer zones.
4. Outlet structures shall minimize disturbance to the natural drainage and avoid use of hard bank structures. Where erosion of outlet structures is a concern and bank stabilization must be utilized, bioengineering techniques (e.g., fiber mats and rolls, willow wattling, and natural anchors) shall be used for bank retaining walls. If concrete must be used, then prefabricated crib wall construction shall be used rather than pouring concrete. Rock grouting shall only be used if no other feasible alternative is available as determined by Planning and Building.
5. Disturbance to drainage bottoms due to the installation of any drain or outlet structures shall be minimized to the greatest extent possible and shall be permitted by all appropriate regulatory agencies as described in 8 below.
6. A grease trap and/or silt basin shall be installed in all drop inlets closest to the creek to prevent oil, silt and other debris from entering the creek. Such traps/basins shall be maintained and cleaned out every spring and fall to prevent overflow situations and potential mosquito habitats from forming;

If impacts to wetland and/or riparian habitat are not fully avoided, the following shall be implemented.

7. The applicant shall obtain a permit from the ACOE pursuant to Section 404 of the Clean Water Act, a water quality certification from the RWQCB pursuant to Section 401 of the Clean Water Act, and a Streambed Alteration Agreement from the CDFG pursuant to Section 1600 et seq. of the California Fish and Game Code for any grading or fill activity within drainages and wetlands.

For development of Roads C, D, and H, which are proposed to cross Tostada Creek, the applicant shall consult with the ACOE and CDFG in designing creek crossings. Where appropriate, and if there is concurrence with ACOE and CDFG, pre-engineered bridge structures are recommended to minimize disturbance within the western portion of Tostada Creek.

It is recommended that the applicant contact these agencies prior to final plan submittal in order to incorporate any additional requirements into the project design. As part of the permitting process, the applicant will be required to provide a compensatory habitat mitigation and monitoring program for impacts to jurisdictional areas. The Plan shall follow the minimum criteria described in 9 below.

8. A compensatory mitigation program at a minimum 2:1 ratio for the loss of any wetlands, including those not under federal or state jurisdiction but meeting one-parameter criteria (hydrology, vegetation, or soils), shall be designed and implemented by a qualified biologist. Regulatory agencies may require a greater mitigation ratio. At a minimum, the plan shall include the following components:
  - a. Mitigation plantings for the loss of existing wetland and riparian habitat shall be located in the drainages that are proposed to be modified or preserved as part of the project to the fullest extent feasible.
  - b. As part of the plan, the applicant shall include a mitigation-phasing section to ensure that all restoration plantings are in place with sufficient irrigation prior to final inspection.
  - c. Restoration/revegetation activities shall use native riparian and wetland species from locally collected stock.
  - d. Removal of native species in the creeks/drainages that are to be retained shall be prohibited; however, select willow cuttings and emergent plant division are permissible.
  - e. Prior to commencement of grading, the applicant shall file a performance security with the County to complete restoration and maintain plantings for a seven (7) year period.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance
- c. **Supportive Evidence** – Please refer to pages 4.3-52 through 4.3-57 and pages 6-94 through 6-99 and Comment DE in the Response to Comments of the Final EIR. The Draft EIR identified setbacks of 100 feet from Trout Creek and 50 feet from Tostado Creek, wetlands, and Waters of the US. The RDEIR increased the setback on Tostado Creek to 100 feet and required a 50 foot setback on ephemeral drainages. The FEIR recommended a 200 foot setback from Trout Creek and Tostado Creek

**As directed by The Board of Supervisors 12/19/08**

and 100 foot setback from wetlands, Waters of the US. The RDEIR Comments letter provided by Althouse and Meade dated March 27, 2008 indicates that the Department of Fish and Game typically recommends 100-foot setbacks from perennial drainages and 50-foot setbacks from ephemeral drainages. The application of the set-back mitigations recommended in the FEIR, unless qualified, would render the project infeasible of construction by denying improved access to the project site, preventing continuing existing agricultural access and activities or future agricultural activities, or the development of building envelopes shown in the Applicant's Amended project. The conditions are applied to the "676.6 acre cluster field" since that is the only area of development for which there is a rational nexus and rough proportionality between the project impacts and the mitigation condition.

3. **Impact B-5.** The Amended Project would impact San Luis Obispo Mariposa Lily, and may impact San Luis Obispo County morning glory, which are Special-Status Plant Species. This would be a Class II, significant but mitigable impact.

- a. **Mitigation –**

**B-5(a) Follow-up Special-status Plant Surveys.** Follow-up special-status plant surveys for San Luis Obispo mariposa lily and San Luis Obispo County morning glory shall be performed in the spring prior to commencement of ground disturbance. The survey for San Luis Obispo mariposa lily shall be required only on potential impact areas containing San Luis Obispo mariposa lily that are delineated on Figure 4.3-2 of the EIR. The applicant shall submit to the County an updated San Luis Obispo mariposa lily population survey report of the Amended Project site conducted by a County approved botanist.

The San Luis Obispo County morning glory has not previously been observed in the project area, but it is known to occur adjacent to the site southeast of Yerba Buena Creek in the Miller Flats area. Since suitable habitat exists, surveys shall be conducted prior to grading to determine whether this species exists in the project area.

The purpose of the follow-up special-status plant surveys is to provide accurate baseline information for the preparation of the San Luis Obispo mariposa lily and San Luis Obispo County morning glory mitigation and monitoring plan for construction areas. The follow-up will ensure a current and accurate assessment of the numbers of individuals that will be impacted by the applicant's Amended Project. The updated survey shall quantify the total number of individuals within each lot and road segment. Areas occupied by these species shall be flagged (and/or identified using a Global Positioning System) for future bulb and plant salvage and seed collection efforts.

**B-5(b) San Luis Obispo Mariposa Lily and San Luis Obispo County Morning Glory Mitigation and Monitoring Plan.** Prior to the issuance of any grading permits, a mitigation and monitoring plan that addresses impacts to the San Luis Obispo mariposa lily and San Luis Obispo County morning glory (if present) shall be prepared and approved by the County and CDFG. The detailed mitigation and monitoring plan shall be developed by a County-approved qualified biologist to protect and enhance the remaining occurrences of these species within the Cluster field of the Amended Project and describe a collection and restoration plan to mitigate for impacted areas. The mitigation and monitoring plan shall at a minimum to include the following:

- A worker education program that shall include identification of special-status plant species and their habitat, the limits of construction, efforts required to reduce impacts to these species, and a fact sheet summarizing this information;
- Description of a collection plan to ensure that all San Luis Obispo mariposa lily bulbs and seeds from San Luis Obispo County morning glory plants located within 25 feet of the Amended Project lots and roads will be removed by a qualified biologist during the appropriate season prior to clearing and grading activities associated with lot development and road construction;
- Description of proposed propagation techniques using collected material;
- Specific areas proposed for revegetation and rationale for why these sites are suitable;
- Specific habitat management and protection concepts to be used to ensure long-term maintenance and protection of the San Luis Obispo mariposa lily and San Luis Obispo County morning glory such as annual population census surveys and habitat assessments; establishment of monitoring reference sites; fencing of species preserves and signage to identify the environmentally sensitive areas; a seasonally-timed weed abatement program; and seasonally-timed plant/seed/bulb collection, propagation, and reintroduction of San Luis Obispo mariposa lily and San Luis Obispo County morning glory into specified receiver sites;
- Success criteria based on the goals and measurable objectives to ensure a viable San Luis Obispo mariposa lily and San Luis Obispo County morning glory populations on the Amended Project site in perpetuity;
- An adaptive management program to address both foreseen and unforeseen circumstances relating to the preservation and mitigation programs;
- Remedial measures to address negative impacts to San Luis Obispo mariposa lily and San Luis Obispo County morning glory and their habitat that may occur during construction activities, as well as post-construction when dwellings are occupied;
- An education program to inform residents of the presence of San Luis Obispo mariposa lily, San Luis Obispo County morning glory, and other sensitive biological resources on-site, and to provide methods that residents can employ to reduce impacts to species occurrences in protected open space areas;
- Reporting requirements to track success or failure of the mitigation program and to ensure consistent data collection and reporting methods used by monitoring personnel; and,
- Maintenance and cost estimates.

The mitigation ratio (habitat area created to habitat area impacted) will be 2:1 for special-status plant species' habitat impacted by development of the applicant's Amended Project. Mitigation for the San Luis Obispo morning glory may also occur in mitigation area designated for the Valley Needlegrass Grassland as this is the preferred habitat for this species [please refer to measure B-2(a)].

**B-5(c) Protective Fencing.** A qualified biologist shall oversee the installation of temporary fencing around habitat containing the San Luis Obispo mariposa lily and/or San Luis Obispo County morning glory occurrences prior to any construction



activities in the vicinity. Protective fencing shall remain in place throughout construction activities.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.3-57 through 4.3-63 and pages 6-94 through 6-99 of the Final EIR.
4. **Impact B-6.** The Amended Project could result in a direct take of the federally threatened Vernal Pool Fairy Shrimp (VPFS) through grading activities for the development, and sediment runoff into seasonal pools. This potential impact is Class II, significant but mitigable.

a. **Mitigation –**

**B-6(a) Vernal Pool Fairy Shrimp Presence/Absence Determination.** Prior to issuance of Grading Permits, a USFWS protocol wet season survey shall be conducted prior to 2010/2011 by a qualified and federally permitted biologist to complete protocol survey requirements to conclusively determine the presence or absence of VPFS within the Amended Project area. The wet season survey shall include surveys of Seasonal Pools 1, 2, and 3, 4, 5, 6, and 7 identified on Figure 4.3-2 in the FEIR per the USFWS (1996) guidelines. A report consistent with current federal reporting guidelines shall be prepared to document the methods and results of surveys. Should the presence of VPFS or additional special-status wildlife species be determined, a map identifying locations in which these species were found shall be prepared and included in the report.

If the surveys produce a negative finding for the presence of VPFS, then no further mitigation would be required. If VPFS are identified within Seasonal Pools 1, 2, 3, 4, 5, 6, or 7 identified on Figure 4.3-2 in the FEIR, then B-6(b) would be required.

**B-6(b) Mitigation for Vernal Pool Fairy Shrimp.** This measure shall only apply if VPFS are identified during USFWS protocol surveys.

The applicant shall implement measures that minimize adverse effects on VPFS. Subject to concurrence by and coordination with USFWS, required measures may include the following:

- Avoidance of occupied habitats and a three hundred-foot setback from occupied habitats; and
- Where avoidance is not possible, compensatory mitigation approved by County Planning and Building, shall be developed for impacts to occupied habitats at a 3:1 ratio, and impacts to potentially suitable habitats in which VPFS were not found at a 2:1 ratio.

A USFWS permitted biologist familiar with VPFS habitat "creation" techniques shall review VPFS compensatory mitigation areas. Enhancement of the on-site vernal pool/wetland habitat that is undisturbed by the Amended Project may also be a part of the mitigation program for any impacted VPFS habitats. Upon approval from the USFWS, an appropriate salvage and relocation methodology will be selected that will include the following:

- Shrimp cysts shall be collected during the dry season from the existing habitat and placed into storage;

**As directed by The Board of Supervisors 12/19/08**

- Topsoil shall also be removed and stored under conditions suitable to retain cysts, and used as a top dressing for created vernal pools as proposed in the VPFS mitigation plan;
  - If topsoil is not used, preserved cysts would be added to the recreated vernal pool/wetlands in December or January, after sufficient pooling has occurred.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.3-63 through 4.3-66 and pages 6-94 through 6-99 of the Final EIR.
5. **Impact B-7.** The Amended Project could result in a direct take of the federally threatened South/Central California Coast Steelhead and/or the loss of federally designated Steelhead Critical Habitat through grading activities for the development, and sedimentation of occupied creeks. This potential impact is Class II, significant but mitigable.

a. **Mitigation –**

**B-7(a) South/Central California Coast Steelhead (Steelhead) Mitigation, Minimization and Protection Plan.** Steelhead have been identified on-site and setbacks from their identified habitat shall be implemented to avoid or minimize impacts to this federally listed species and its habitat. Prior to development, a Steelhead Protection Plan shall be prepared by a qualified Steelhead biologist to protect Steelhead within the on-site portions of Trout and Tostada Creeks. These measures apply to areas within the 676 acre cluster field where feasible so as not to prevent existing or future agricultural operations, improving and maintaining existing ranch roads, installing utilities, and improving crossings to allow access to the proposed homesites site, or development of lots as provided in the plans for the Applicants Amended Project. The plan shall include, but not be limited to the following:

- A 200 foot permanent buffer from the top of bank of Trout and the areas of Tostada Creeks with aquatic habitat and 100 foot buffer or minimum setback from ephemeral drainages that are tributaries to Trout Creek shall be established and maintained in perpetuity. In the short term, this buffer will ensure construction activities do not increase the erosion potential in the area or facilitate construction related sediment from entering the creek. The buffer shall be demarcated with highly visible construction fencing for the benefit of contractors and equipment operators. In the long term, this buffer will reduce the amount of sediment and pollutant runoff that would enter these waterways. Grading, landscaping, structures and other types of disturbance shall be prohibited within these buffer areas, with the exception of road improvements and road crossings, as detailed below.
- Road crossings of Trout and Tostada Creeks are allowable (if permitted by the appropriate agencies) if the following measures are implemented. The crossings must be designed following the NMFS Southwest Region's (2001) Guidelines for Salmonid Passage at Stream Crossings [<http://swr.nmfs.noaa.gov/hcd/MNFSSCG.PDF>]. Clear-span structures are recommended. Areas of temporary disturbance resulting from the construction or improvements to road crossings shall be restored using native vegetation at a minimum of 2:1 (area restored to area

temporarily impacted). However, agency permitting for impacts to riparian and/or wetland resources may require a higher ratio. Additional details required for riparian restoration are contained within measure B-4(a).

- The applicant shall prepare and submit for approval to the County a sediment and erosion control plan that specifically seeks to protect waters and riparian woodland resources adjacent to construction sites. Erosion control measures shall be implemented to prevent runoff into Trout and Tostada Creeks, ephemeral drainages, and wetlands. Silt fencing, straw bales, and/or sand bags shall be used in conjunction with other methods to prevent erosion and sedimentation of the stream channel. The plan shall specify locations and types of erosion and sediment control structures and materials that would be used on-site during construction activities. The plan shall also describe how any and all pollutants originating from construction equipment would be collected and disposed.
- During construction activities, washing of concrete, paint, or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing will not be allowed in locations where the tainted water could affect sensitive biological resources.

The applicant shall coordinate with the NOAA National Marine Fisheries Service and ACOE, and shall demonstrate compliance with Section 7 (federal nexus) and/or Section 10 (no federal nexus) of the federal Endangered Species Act (FESA), as applicable. This consultation may necessitate the issuance of a NMFS Biological Opinion and/or the preparation of a Habitat Conservation Plan for Steelhead and their habitat. The applicant shall also coordinate with CDFG and other resource agencies, as applicable. The applicant shall implement all measures prescribed by these agencies.

- b. Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. Supportive Evidence** – Please refer to pages 4.3-66 through 4.3-70 and pages 6-94 through 6-99 and Comment DE in the Response to Comments of the Final EIR. The Draft EIR identified setbacks of 100 feet from Trout Creek and 50 feet from Tostado Creek, wetlands, and Waters of the US. The RDEIR increased the setback on Tostado Creek to 200 feet and required a 100 foot setback on ephemeral drainages. The FEIR recommended a 200 foot setback from Trout Creek and Tostado Creek and 100 foot setback from wetlands, Waters of the US. The RDEIR Comments letter provided by Althouse and Meade dated March 27, 2008 indicates that the Department of Fish and Game typically recommends 100-foot setbacks from perennial drainages and 50-foot setbacks from ephemeral drainages. The application of the set-back mitigations recommended in the FEIR, unless qualified, would render the project infeasible of construction by denying improved access to the project site, preventing continuing existing agricultural access and activities or future agricultural activities, or the development of building on building envelopes shown in the Applicant's Amended project. The conditions are applied to the "676.6 acre cluster field" since that is the only area of development for which there is a rational nexus and rough proportionality between the project impacts and the mitigation condition.

**6. Impact B-8.** The Amended Project could result in take of the federally threatened California red-legged frog through grading activities for the development, and would fragment the amount of available habitat potentially used for movement and dispersal. This potential impact is Class II, significant but mitigable.

**a. Mitigation – These mitigation measures apply to the 676 acre cluster field.**

**B-8(a) California Red-legged Frog Avoidance, Minimization, and Mitigation Measures.** Subject to concurrence by and coordination with the County and USFWS, required measures shall include the following where feasible so as not to prevent existing or future agricultural operations, improving and maintaining existing ranch roads, installing utilities, and improving crossings to allow access to the proposed homesites site, or development of lots as provided in the plans for the Applicants Amended Project:

- At least 45 days prior to the onset of activities, the applicant shall submit the name(s) and credentials of biologists who would conduct activities specified in the following measures. No project activities shall begin until proponents have received written approval from the USFWS that the biologist(s) is qualified to conduct the work.
- A County approved biologist shall survey the work site and suitable habitat within 330 feet of work sites two weeks before the onset of activities. If CRLF, tadpoles, or eggs are found, relocations shall be conducted only if authorized by the USFWS. If USFWS approves moving animals, the approved biologist shall be allowed sufficient time to move CRLF from the work site before work activities begin. Only County approved biologists shall participate in activities associated with the capture, handling, and monitoring of CRLF. All conditions specified by the USFWS exemption or authorization shall be implemented regarding relocation of this species.
- If CRLF are found during the preconstruction surveys within 330 feet of any work area, and for any areas already known to be occupied by CRLF, work within 330 foot of these habitats must be limited to the period between April 30 to July 30 or the work area must be surrounded by exclusionary fencing to reduce impacts to frogs that are in upland areas during the rainy season or juvenile dispersal. The exclusionary fencing shall be at least three feet high and keyed into the ground, made of solid mesh (such as silt fence; orange construction fence is not suitable) and shall be maintained throughout the construction period. This fencing can also function for erosion and sedimentation control. An approved biologist must survey the project limits for CRLF each morning prior to the start of work. Any CRLF found within the work area shall be relocated, if authorized by the USFWS. If relocations are not authorized by the USFWS, the fence shall be modified to allow the frog to pass through to suitable habitat, and work shall not commence until it has left.
- Before any construction activities begin on the applicant's Amended Project, a County approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the CRLF and its habitat, the importance of the CRLF and its habitat, the general measures that are being implemented to conserve the CRLF as they relate to the project, and the boundaries within which the project may be

accomplished. Brochures, books, and briefings may be used in the training session, provided that a qualified person is on hand to answer any questions.

- A County approved biologist shall be present at the work site until such time as all removal of California red-legged frogs, instruction of workers, and habitat disturbance have been completed. After this time, the contractor or permittee shall designate a person to monitor the on-site compliance with all minimization measures. The USFWS approved biologist shall ensure that this individual receives training outlined above and in the identification of CRLF. The monitor and the County approved biologist shall have the authority to halt any action that might result in impacts that exceed the levels anticipated by USFWS during review of the proposed action. If work is stopped, USFWS, and the ACOE as applicable, shall be notified immediately by the USFWS-approved biologist or on-site biological monitor.
- During project activities, all trash that may attract predators shall be properly contained, removed from the work site and disposed of regularly. Following construction, all trash and construction debris shall be removed from the work areas.
- All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 100 feet from any riparian habitat or water body. The permittee, and ACOE as applicable, shall ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the permittee shall prepare and comply with a plan to allow a prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.
- A County approved biologist shall ensure that the spread or introduction of invasive non-native plant and animal species, especially bullfrogs, shall be avoided to the maximum extent possible. Invasive exotic plants and animals in the development shall be removed and destroyed.
- Riparian and wetland areas shall be revegetated with an appropriate assemblage of native riparian wetland and upland vegetation suitable for the area. A species list and restoration and monitoring plan shall be included with the project proposal for review and approval by USFWS, and the ACOE as applicable. Such a plan must include, but not be limited to: location of the restoration, species to be used, restoration techniques, time of year the work will be done, identifiable success criteria for completion, and remedial actions if the success criteria are not achieved.
- The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary for development. Routes and boundaries shall be clearly demarcated, and these areas shall be outside of riparian and wetland areas. Where impacts occur in these staging areas and access routes, restoration shall occur as identified in the above measures.
- A 200 foot setback shall be established around water bodies with confirmed occurrences of CRLF. This includes the portions of Trout Creek, Tostada Creek with aquatic vegetation which are within the cluster development area. Landscaping, grading for structures, structures, and other types of non agricultural disturbance shall be prohibited within these buffer areas. Road

crossings, improvements to widen the existing ranch road to CalFire requirements, and driveways are allowed within the buffer area. A reduced buffer may be allowed as approved by the Department of Fish and Game.

- Areas of temporary disturbance resulting from the construction or improvements to road crossings shall be restored using native vegetation at a minimum of 2:1 (area restored to area temporarily impacted). However, agency permitting for impacts to riparian and/or wetland resources may require a higher ratio.
  - Restrictions on the use of pesticides near water bodies with confirmed occurrences of CRLF.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance
- c. **Supportive Evidence** – Please refer to pages 4.3-70 through 4.3-77 and pages 6-94 through 6-99 and Comment DE in the Response to Comments of the Final EIR. The Draft EIR identified setbacks of 100 feet from Trout Creek and 50 feet from Tostado Creek, wetlands, and Waters of the US. The RDEIR increased the setback on Tostado Creek to 100 feet and required a 50 foot setback on ephemeral drainages. The FEIR recommended a 200 foot setback from Trout Creek and Tostado Creek and 100 foot setback from wetlands, Waters of the US. The RDEIR Comments letter provided by Althouse and Meade dated March 27, 2008 indicates that the Department of Fish and Game typically recommends 100-foot setbacks from perennial drainages and 50-foot setbacks from ephemeral drainages. The application of the set-back mitigations recommended in the FEIR, unless qualified, would render the project infeasible of construction by denying improved access to the project site, preventing continuing existing agricultural access and activities or future agricultural activities, or the development of building envelopes shown in the Applicant's Amended project. The conditions are applied to the "676.6 acre cluster field" since that is the only area of development for which there is a rational nexus and rough proportionality between the project impacts and the mitigation condition.
7. **Impact B-9.** The Amended Project would directly and indirectly reduce the populations and available habitat for wildlife in general, including special-status wildlife species. Because of the size of the site, degree of habitat diversity, and known or potential presence of a number of special-status wildlife species on-site, the loss of wildlife habitat is a Class II, significant but mitigable impact.
- a. **Mitigation** –

**B-9(a) Legless and Horned Lizard Capture and Relocation.** Immediately prior to the initiation of construction in the developable area, capture and relocation efforts shall be conducted for the silvery legless lizard and coast horned lizard. Designated areas in permanent open space shall be identified within the Amended Project site for release of captured legless lizards and coast horned lizards.

Surveys shall be conducted by a County approved biologist, and shall include the following minimum requirements:

- Raking of leaf litter and sand under shrubs within suitable habitat in the area to be disturbed to a minimum depth of eight inches for the silvery legless lizard.

**As directed by The Board of Supervisors 12/19/08**

- In addition to raking, "coverboards" shall be used to capture silvery legless lizards and coast horned lizards. Coverboards can consist of untreated lumber, sheet metal, corrugated steel, or other flat material used to survey for reptiles and amphibians. Coverboards shall be placed flat on the ground and checked regularly in the survey areas. Coverboards shall be placed in the survey area a minimum of two weeks, but preferably at least four weeks, before surveys begin and will be checked once a week during raking surveys. Captured lizards will be placed immediately into containers containing sand or moist paper towels and released in designated release areas no more than three hours after capture.

During all grading activities, a County approved qualified biologist shall be on-site to recover any silvery legless lizards that may be excavated/unearthed with native material. The unearthed lizards shall be immediately relocated and released to the designated release area.

**B-9(b) Southwestern Pond Turtle Avoidance, Capture and Relocation.** A County approved biologist shall conduct spring surveys for this species before the onset of construction activities. The survey area shall include ponds located within the Amended Project area with ponded water as well as on-site drainage corridors. If any southwestern pond turtles are found within 1,000 feet of construction activities such as lot grading or road construction, the approved biologist shall contact CDFG to determine if moving any individuals is appropriate. If CDFG approves moving animals, the biologist shall be allowed sufficient time to move the animals from the work site before work activities begin. If CDFG does not recommend moving the animals, a 1,000 foot buffer from the pond, seasonal pool, in stream pools, and/or nesting site shall be implemented. No grading or other construction activities shall occur within the set buffer. Only the approved biologist shall participate in activities associated with the capture and handling of turtles. Measures B-4(a), B-6(b), and B-8(a) will also benefit this species. B-4(a) will reduce direct impacts (development), restore impacted areas, and reduce potential indirect impacts (sedimentation and concrete/oil runoff) into wetlands and riparian habitat used for breeding and foraging by the southwestern pond turtle. B-6(b) will provide protection to seasonal pool/wetland habitat that are occupied by the federally threatened VPFS and that may also be used by the SWPT and B-8(a) will provide federal protection to seasonal pool/wetland habitat that are occupied by the federally-threatened CRLF and that may also be used by the SWPT.

**B-9(c) Pre-construction Bird Survey.** To avoid impacts to nesting special-status bird species, namely the state Fully Protected white-tailed kite and golden eagle, the federally-threatened and Fully Protected bald eagle, other special-status bird species listed in Table 4.3-4 of the Final EIR, and all birds protected under the Migratory Bird Treaty Act, the initial ground-disturbing activities and tree removal shall be limited to the time period between September 1 and February 15. If initial site disturbance, grading, and tree removal cannot be conducted during this time period, a pre-construction survey for active nests within the limits of grading shall be conducted by a qualified biologist at the site two weeks prior to any construction activities. All potential nest locations shall be searched by the biologist including, but not limited to grassland, chaparral, central coastal scrub, and oak woodlands. If active nests are located, all construction work must be conducted outside a buffer zone from the nests to be determined by a qualified biologist. No direct disturbance to nests shall occur until the adults and young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to the start of construction in the buffer zone. Surveys following the

Protocol for Evaluating Bald Eagle Habitat and Populations in California Bald Eagle (Jackson and Jennings, 2004) are also required.

**B-9(d) American Badger Avoidance.** The mitigation measures below are recommended to determine whether badgers are present in the area prior to development and to prevent American badgers from becoming trapped in burrows during construction activities.

- A pre-construction survey for active American badger dens shall be conducted within one month of initial ground disturbance activities by a County qualified biologist. To avoid the potential direct take of adults and nursing young, no grading shall occur within 50 feet of an active badger den as determined by a County-approved biologist between March 1 and June 30.

Construction activities during July 1 through March 1 shall comply with the following measures to avoid direct take of adult and weaned juvenile badgers:

- A County-approved biologist shall conduct a biological survey of the entire development area prior to the start of ground clearing or grading activity. The survey shall cover the entire development area. Surveys shall focus on both old and new den sites. If dens are too long to see the end, a fiber optic scope (or other acceptable method such as den characteristics) shall be used to assess the presence of badgers. If no fiber optic scope is available, occupation of the potential dens by badgers can be ascertained by dusting the den openings with a fine layer of dust for three successive nights and looking for footprints or other evidence of occupation. Inactive dens shall be excavated by hand with a shovel to prevent badgers from re-using them during construction.

**B-9(e) Native Landscaping.** All landscape plants for the Amended Project shall be on the County's approved plant list. To ensure that project landscaping does not introduce invasive non-native plant species into the vicinity of the site, the final landscaping plan shall be reviewed and approved by a County approved biologist and County Environmental and Resource Management Division prior to implementation. All invasive plant species shall be removed from the landscaping plan.

**B-9(f) Pet Brochure.** The applicant shall prepare a brochure that informs prospective homebuyers about the impacts associated with non-native animals, especially cats and dogs, and other non-native animals to the project site. Similarly, the brochure shall inform potential homebuyers of the potential for coyotes to prey on domestic animals.

**B-9(g) Night Lighting Standards.** Night lighting of public areas shall be kept to the minimum necessary for safety purposes. Exterior lighting within 100 feet of open space shall be shielded and aimed as needed to avoid spillover into open space areas. Decorative lighting shall be low intensity and be less than 25 watts.

**B-9(h) Minimize Road Widths.** Roadway widths adjacent to open space/agricultural areas shall be reduced to the minimum width possible, while maintaining Fire Department Requirements for emergency access, with slower speed limits introduced. Posted speed limits should be 25 mph or less.



- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.3-77 through 4.3-84 and pages 6-94 through 6-99 of the Final EIR.

**C. Cultural Resources (Class II)**

- 1. **Impact CR-3.** Construction of the Amended Project could disturb previously unidentified buried archeological deposits. This is a Class II, significant but mitigable impact.

**a. Mitigation –**

**CR-3(a) Buried Site Testing at Isolate Locations.** Isolated artifacts shall be tested by a qualified archaeologist to determine whether or not isolated artifacts within or adjacent to the Amended Project represent more substantial buried components. Such testing shall involve hand excavation of shovel probes and/or other sampling units. The type and distribution of sampling units shall be determined by a qualified professional archaeologist, who will carry out the isolate testing in the presence of a Native American monitor. If isolate testing reveals the presence of a buried site, then site boundary definition and avoidance, or mitigative data recovery, shall be carried out in accordance with measures CR-2(a) or CR-2(b).

At the commencement of construction, an archaeologist and a Native American representative shall conduct an orientation for construction workers to describe site avoidance requirements, the possibility of exposing unexpected archaeological resources, and the steps to be taken if such a find is encountered.

A qualified archaeologist and Native American representative shall monitor all earth moving activities within native soil. If multiple pieces of heavy equipment are in use simultaneously at diverse locations during construction, each location may be monitored individually. In the event that archaeological remains are encountered during construction, all work in the vicinity of the find will be halted until such time as the find is evaluated by a qualified archaeologist and appropriate mitigation, if necessary, is implemented.

**CR-3(b) Archaeological Resource Construction Monitoring.** An archaeological resource monitoring plan prepared by a qualified archaeologist shall be submitted for review by the County Environmental Coordinator. The plan shall include a list of personnel involved in monitoring activities, and descriptions of monitoring methods, resources expected to be encountered, circumstances that would result in halting work, procedures for halting work, and procedures for monitoring reporting.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.4-23 through 4.4-25 and page 6-99 of the Final EIR.

e.

2. **Impact CR-4.** There is the potential that Amended Project construction will disturb previously unidentified human remains. This is a Class II, significant but mitigable impact.

- a. **Mitigation –**

**CR-4(a) Treatment of Human Remains.** In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps will be taken:

- I. State Health and Safety Code Section 7050.5 requires that there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - A. The County Coroner is contacted to determine that no investigation of the cause of death is required, and
  - B. If the coroner determines the remains to be Native American, the coroner has 24 hours to notify the Native American Heritage Commission. The Native American Heritage Commission shall identify the person or persons it believes to be most likely descended from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.
- II. If the Native American Heritage Commission is unable to identify a most likely descendent; or if the most likely descendent fails to make a recommendation within 24 hours after being notified by the commission; or if the landowner or his authorized representative rejects the recommendation of the descendent, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner, then the landowner or his authorized representatives shall reinter the Native American human remains and associated grave items with appropriate dignity on the property in a location not subject to further subsurface disturbance. However, any such activity shall be supervised by a Chumash representative if a most likely descendent is either not identified or fails to respond to notification.

- b. **Findings –** Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.

- c. **Supportive Evidence –** Please refer to pages 4.4-25 through 4.4-26 and page 6-99 of the Final EIR.

3. **Impact CR-5.** Implementation of the Amended Project could result in indirect impacts to identified or unidentified archaeological and historical resources. This is a Class II, significant but mitigable impact.

- a. **Mitigation –**

**CR-5(a) Prohibition of Archaeological Site Tampering.** Off-road vehicle use, unauthorized collecting of artifacts, and other activities that could destroy or damage archaeological or historical sites shall be prohibited and shall be punishable by fine. The applicant shall prepare a brochure for all homebuyers and other occupants

describing the cultural sensitivity of the area and explaining the prohibitions. Informational material shall be general in content and shall not include any information that could lead to the identification or location of sensitive cultural resources. Homebuyers and other occupants shall acknowledge receipt and understanding of such prohibitions in writing.

**CR-5(b) Periodic Monitoring of Archaeological Site Condition.** To ensure that prohibitions on site tampering and vandalism are effective, the applicant shall fund an annual inspection of cultural resources within or adjacent to the development areas, during which the condition of the sites shall be assessed and any degradation of integrity from vandalism, erosion, or other factors shall be identified. A qualified professional archaeologist and/or a Native American representative trained in site assessment shall carry out the annual site inspections and prepare a brief report for the County, with recommendations for addressing any apparent site degradation. The applicant shall also develop a list of threatened and sensitive cultural resources sites on other lands within the Amended Project area, and shall retain a qualified archaeologist to inspect and report to the County Environmental Coordinator on the condition of those sites annually.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.4-26 through 4.4-28 and page 6-99 of the Final EIR.
4. **Impact CR-6.** The Amended Project facilities and infrastructure could impact fossil-bearing strata and could damage or destroy significant fossil materials. This is a Class II, significant but mitigable impact.

a. **Mitigation** –

**CR-6(a) Preparation of a Paleontological Resource Monitoring Plan.** Prior to issuance of grading permits, the applicant shall retain a qualified accredited paleontologist to prepare a Paleontological Resource Monitoring Plan based on the specific construction plans. The monitoring plan shall detail the procedures for monitoring construction in areas of high or unknown sensitivity, collecting fossil remains and relevant geographic and stratigraphic data, stabilizing and preserving recovered specimens, and cataloguing and curating the collection [see measures P-1(b) and P-1(c)]. The monitoring plan shall include provisions for collecting a representative sample of invertebrates from the identified site at the staff recommended development area prior to construction, documenting the site according to the standards developed by the National Research Council (1987), and assessing the potential of this site to contain significant vertebrate remains.

**CR-6(b) Paleontological Monitoring.** A qualified paleontological monitor shall observe any initial excavation, grading, or other ground disturbance which extends below the upper soil layers in in situ sedimentary rock where paleontological sensitivity is high or unknown. Any excavation into in situ older Quaternary Alluvium, Paso Robles, Monterey, Santa Margarita, Vaqueros, Atascadero, or Toro formations shall be monitored. The areas covered by late Quaternary strata shall be monitored if excavation is undertaken below the uppermost few feet of sediment, because these strata have yielded vertebrate remains elsewhere in San Luis Obispo County. Shallow excavations in the Quaternary deposits are unlikely to yield significant fossils and do not need monitoring. Paleontologists who monitor excavations must be

qualified and experienced in salvaging fossils and authorized to temporarily divert equipment while removing fossils. They must be properly equipped with tools and supplies to allow for rapid removal and preparation of specimens, and trained in safe practices when working around construction equipment. If multiple pieces of heavy equipment are in use simultaneously at diverse locations during construction, each location may be monitored individually.

**CR-6(c) Treatment of Paleontological Remains Discovered During Monitoring.**

If paleontological resources are found during excavations or other ground disturbance, work shall cease temporarily in the immediate area of the discovery. Ground disturbance may be redirected to another area so that the significance of the fossil find may be assessed. If an accredited paleontologist is not already on site, a vertebrate paleontologist with regional experience will be contacted to inspect the excavation, assess the significance of the fossil find, recover any exposed fossils of significance, and recommend additional mitigation measures, if necessary.

A standard sample (3–12 cubic meters) of matrix from each site will be taken for identification of microvertebrates (rodents, birds, rabbits), especially when the potential for microvertebrates is high. The monitors also will determine whether the fossils are part of an archaeological deposit. If the fossils are found with cultural material, the site then will be considered an archaeological discovery and treated according to the procedures specified in measure CR-3(b).

Significant fossils found during construction shall be preserved by prompt removal whenever feasible. Due to the potential for rapid deterioration of exposed surface fossils, preservation by avoidance is not an appropriate measure. When a significant fossil cannot be removed immediately, stabilization is needed to prevent further deterioration prior to removal. The fossil location must be stabilized under the direction of a professional paleontologist.

At the time of collecting, each specimen or group of specimens will be clearly located and plotted on a USGS topographical quadrangle map. Field methods, other excavation activities, and working conditions during monitoring of the paleontological resources will be recorded in a field notebook or on a paleontological resources record or worksheet such as those developed by the National Research Council (1987).

Recovered specimens will be stabilized and prepared for identification. Sedimentary matrix with microfossils will be screen washed and sorted to identify the contained fossils. Removal of excess matrix during preparation reduces long-term storage requirements. Competent qualified specialists will classify individual specimens to the lowest identifiable taxon, typically to genus, species, and element. Batch identification and batch numbering (e.g., "mammal, 25 specimens") shall be avoided.

Paleontological specimens will be cataloged according to current professional standards, and a complete list of collected specimens must be prepared. A complete set of field notes, geologic maps, and stratigraphic sections must accompany the fossil collections.

All fossil remains recovered during construction and operation must be curated by a recognized, nonprofit paleontological specimen repository with a permanent curator, such as a museum or university. Specimens must be stored in a fashion that allows researchers to retrieve specific individual specimens in the future. In addition to the LACM and UCMP, qualified research facilities include California State Polytechnic

University, San Luis Obispo; the Santa Barbara Museum of Natural History; or Santa Barbara City College.

The project paleontologist will complete a final report summarizing findings, describing important fossil localities (vertebrate, megainvertebrate, or plant) discovered in the project area, and explaining any mitigation measures taken. The report will include a summary of the field and laboratory methods, site geology and stratigraphy, an itemized inventory of recovered specimens, faunal lists, and site records. The report also shall discuss the importance of the recovered fossil materials. The reports will be prepared by a professional paleontologist and distributed to the appropriate agencies, museums, colleges, or universities.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.4-28 through 4.4-30 and page 6-99 of the Final EIR.

#### D. Drainage, Erosion, and Sedimentation (Class II)

- 1. **Impact D-2.** The Amended Project would introduce paved and roofed areas and thus has the potential to result in increased peak storm water discharges and volumes of runoff. Impacts are Class II, significant but mitigable.

- a. **Mitigation** –

**D-2(a) Yerba Buena Drainage System.** Runoff from the Amended Project must be detained in on-site detention basins. The proposed detention structure for the portion of the Amended Project site draining to Yerba Buena creek shall be designed to comply with County criteria (reduction of the 50 year, 10 hour post-development peak flow to 2 year, 10 hour pre-development conditions). A Drainage Study shall be prepared by a qualified hydrologist to identify detention volumes and release rates for the proposed facilities. The study shall also address flow routing and relative times of concentration in the watershed at the detention facility compared with the existing channel. The detention facility shall be located within an Agricultural Conservation Easement, in an area that does not contain oak trees, special status species or habitat, identified cultural resources, or prime agricultural soils.

The design of all facilities must be reviewed and approved by County Public Works staff.

**D-2(b) Trout Creek Drainage System.** Runoff from the Amended Project must be detained in on-site detention basins. Prior to approval of a Land Use Permit, the applicant shall design a detention structure for the portion of the Amended Project site that drains to the unnamed tributary to Trout Creek. This detention structure shall be designed to comply with County criteria (reduction of the 50 year, 10 hour post-development peak flow to 2 year, 10 hour pre-development conditions), as well as reduce the 100-year 10-hour post-development runoff to 100 year 10 hour predevelopment conditions. A Drainage Study shall be prepared to identify detention volumes and release rates for the required facilities. The study should also address flow routing and relative times of concentration in the watershed at the detention facility compared with existing channels. The detention facility shall be located within an Agricultural Conservation Easement, in an area that does not contain oak trees, special status species or habitat, identified cultural resources, or prime agricultural soils.

**As directed by The Board of Supervisors 12/19/08**

**D-2(c) LID-Integrated Management Practices.** Low Impact Development (LID) design technologies shall be employed by individual lot developers to the maximum extent practicable. LID is an alternative site design strategy that uses natural and engineered infiltration and storage techniques to control storm water runoff where it is generated to reduce downstream impacts. The following LID practices shall be implemented, as feasible, to re-establish pre-development runoff conditions:

1. Bioretention cells;
2. Tree boxes to capture and infiltrate street runoff;
3. Vegetated swales, buffers and strips;
4. Roof leader flows directed to planter boxes and other vegetated areas;
5. Permeable pavement;
6. Impervious surface reduction and disconnection;
7. Soil amendments to increase infiltration rates; and
8. Rain gardens, rain barrels, and cisterns.

Only natural fiber, biodegradable materials shall be used.

Since LID is intended to mimic the pre-development regime through both volume and peak runoff rate controls, the flow frequency and duration for the post-development conditions should be identical (to the greatest degree possible) to those for the pre-development conditions.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.5-6 through 4.5-9 and pages 6-99 through 6-100 of the Final EIR.
2. **Impact D-4.** Due to the intensification of uses associated with the applicant's Amended Project, there is the potential for storm water transport of pollutants, bacteria, and sediment into downstream facilities. Impacts are Class II, significant but mitigable.

a. **Mitigation** –

**D-4(a) Pollutant Removal Techniques.** In addition to LID-integrated management practices required by measure D-2(c), the applicant shall integrate into project design other available technologies and techniques to remove pollutants from site runoff prior to entering the drainage courses. Such techniques shall include reduced slope grading, drainage through vegetative zones (e.g., bio-swale) and other options to intercept pollutants being conveyed toward drainage paths. Technological solutions such as gravelly filter blankets or particulate filters (e.g. Fossil Filters) should also be installed as pollutant-removal solutions. Only natural fiber, biodegradable materials shall be used.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.5-9 through 4.5-10 and pages 6-99 through 6-100 of the Final EIR.

6.

## E. Geologic Stability (Class II)

1. **Impact G-1.** Due to the presence of active and potentially active faults in the vicinity of the applicant's Amended Project, the site and surrounding area is subject to strong ground shaking. Ground shaking has the potential to cause fill material to settle, destabilize slopes, and cause physical damage to structures, property, utilities and road access. This is a Class II, significant but mitigable impact.

- a. **Mitigation –**

- G-1(a) UBC Compliance.** Above-ground structures shall be designed and built according to the latest UBC Seismic Zone 4 standards.

- b. Findings –** Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.

- c. Supportive Evidence –** Please refer to pages 4.6-23 through 4.6-24 and page 6-100 of the Final EIR.

2. **Impact G-2.** Soils on the Amended Project site have the potential to present soil-related hazards (expansive soils, erosive soils, settlement) to structures, utilities, and roadways. This is a Class II, significant but mitigable impact.

- a. **Mitigation –**

- G-2(a) Soils/Foundation Report.** Upon implementation of the applicant's Amended Project, individual property developers proposing development within the areas identified as having a high shrink-swell potential, high to very high erosion hazard and/or potential for settlement shall submit a soils/foundation report as part of the application for any Building Permit(s). To reduce the potential for foundation cracking, one or more of the following shall be implemented and/or as recommended by a qualified engineer:

1. Use continuous deep footings (i.e., embedment depth of 3 feet or more) and concrete slabs on grade with increased steel reinforcement together with a pre-wetting and long-term moisture control program within the active zone.
      - a. Removal and recompaction of loose soils.
    2. Removal of the highly expansive material and replacement with non-expansive compacted import fill material.
    3. The use of specifically designed drilled pier and grade beam system incorporating a structural concrete slab on grade supported approximately 6 inches above the expansive soils.
    4. Chemical treatment with hydrated lime to reduce the expansion characteristics of the soils.
    5. Where necessary, construction on transitional lots shall include over excavation to expose firm sub-grade, use of post tension slabs in future structures, or other geologically acceptable method.

- G-2(b) Grading and Erosion Control Plan.** A grading and erosion control plan that minimizes erosion, sedimentation and unstable slopes shall be prepared and implemented by the applicant or representative thereof, prior to issuance of tract-wide Grading Permits. It must include the following:

- a. Methods such as retention basins, drainage diversion structures, spot grading, silt fencing/coordinated sediment trapping, straw bales, and sand bags shall be used to minimize erosion on slopes and siltation into Yerba Buena, Santa Margarita and Trout Creeks (including the unnamed tributary to Trout Creek) during grading and construction activities.
- b. Grading associated with the residential cluster, except for roads and road crossings shall be prohibited within 100 feet of Trout Creek and within 50-feet of the unnamed tributary to Trout Creek, wetlands, and waters of the U.S. where feasible so as not to prevent existing or future agricultural operations, improving and maintaining existing ranch roads, installing utilities, and improving crossings to allow access to the proposed homesites site or development of lots as provided in the plans for the Applicants Amended Project [refer to B-4(a)].
- c. Graded areas shall be revegetated within 4 weeks of grading activities with deep-rooted, native, drought-tolerant species to minimize slope failure and erosion potential. If determined necessary by Planning and Building, irrigation shall be provided. Geotextile binding fabrics shall be used if necessary to hold slope soils until vegetation is established.
- d. Temporary storage of construction equipment and equipment washing areas shall be limited to a minimum of 100 feet from Trout Creek and 50-feet from the unnamed tributary to Trout Creek, wetlands, and waters of the U.S.
- e. After construction of tract improvements, exposed areas shall be stabilized to prevent wind and water erosion, using methods approved by the Planning and Building Department Grading Division and the Air Pollution Control District (APCD). These methods may include the importation of topsoil to be spread on the ground surface in areas having soils that can be transported by the wind and/or the mixing of the highly erosive sand with finer-grained materials (silt or clay) in sufficient quantities to prevent its ability to be transported by wind. The topsoil or silt/clay mixture is to be used to stabilize the existing soil to prevent its ability to be transported by wind. At a minimum, six inches of topsoil or silt/clay/sand mixture is to be used to stabilize the wind-erodible soils.
- f. Landscaped areas adjacent to structures shall be graded so that drainage is away from structures.
- g. Irrigation shall be controlled so that overwatering does not occur. An irrigation schedule shall be reviewed and approved by Planning and Building prior to issuance of grading permits.
- h. Grading on slopes steeper than 5:1 shall be designed to minimize surface water runoff.
- i. Fills placed on slopes steeper than 5:1 shall be properly benched prior to placement of fill.
- j. Brow ditches and/or berms shall be constructed and maintained above all cut and fill slopes, respectively.
- k. Cut and fill benches shall be constructed at regular intervals.
- l. Retaining walls shall be installed to stabilize slopes where there is a 10-foot or greater difference in elevation between buildable lots.
- m. The applicant shall limit excavation and grading to the dry season of the year (typically April 15 to November 1, allowing for variations in weather) unless a



Planning and Building Department approved erosion control plan is in place and all measures therein are in effect.

- n. The applicant shall post a bond with the County and hire a Planning and Building-qualified geologist or soils engineer prior to issuance of grading permits, and to ensure that erosion is controlled and mitigation measures are properly implemented.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.

**Supportive Evidence** – Please refer to pages 4.6-24 through 4.6-27 and page 6-100 and Comment DE in the Response to Comments of the Final EIR. The Draft EIR identified setbacks of 100 feet from Trout Creek and 50 feet from Tostado Creek, wetlands, and Waters of the US. The RDEIR increased the setback on Tostado Creek to 100 feet and required a 50 foot setback on ephemeral drainages. The application of the set-back mitigations recommended in the FEIR, unless qualified, would render the project infeasible of construction by denying improved access to the project site, preventing continuing existing agricultural access and activities or future agricultural activities, or the development of building on building envelopes shown in the Applicant's Amended project. The conditions are applied to the "676.6 acres cluster field" since that is the only area of development for which there is a rational nexus and rough proportionality between the project impacts and the mitigation condition.

- 3. **Impact G-3.** The Amended Project area contains several steep slopes and is subject to moderate landslide potential. Landsliding has the potential to damage and destroy structures, roadways and other improvements as well as to alter or block drainage channels, causing further damage and erosion. Soil slumping can damage or destroy structures and lead to erosion problems. These are Class II, significant but mitigable impacts.

a. **Mitigation –**

**G-3(a) Lot Geotechnical Investigations and Practices.** Each lot shall be inspected to ensure a low risk of landslides or soil slumping. Geotechnical engineering measures, such as shoring soils of any landslide areas shall be required to ensure that the slope will not be destabilized during the grading activity. Remedial measures during grading may include the removal of the slump or debris slide from the top to the toe of slope.

In accordance with the applicable building codes, lot investigations shall be performed prior to construction in areas determined to have a moderate or higher landslide hazard (as seen in Figure 4.6-5 of the EIR). Investigations and practices shall include the following:

- a) Prior to issuance of any building permits, a qualified geotechnical engineer and/or engineering geologist shall prepare thorough lot geologic/geotechnical studies, and a slope stability analysis which shall incorporate lot-specific recommendations. The slope stability analysis shall at a minimum meet the requirements of CDMG 1997 (Guidelines for Evaluating and Mitigating Seismic Hazards in California, Special Publication 117). In addition, the stability analysis shall meet the requirements of the County Planning and Building Department.

- b) During grading, engineering geologists and geotechnical engineers shall confirm preliminary findings reported in the preliminary studies.

All applicable recommendations of final geologic and geotechnical investigations shall be implemented. These recommendations may include: avoidance of or setbacks from historic landslide deposits or areas susceptible to a potential for landslides; the restriction of grading in areas with landslide hazards; drainage improvements to ensure potential landslide areas do not become saturated; excavating standard keyways and benches in a stair-step configuration; water addition or drying-out as needed to bring soils to an acceptable moisture content; limitations on cut and fill slope gradients; and/or removal and backfilling or potential landslide areas.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.6-28 through 4.6-29 and page 6-100 of the Final EIR.
4. **Impact G-4.** Seismic activity could produce sufficient ground shaking which may result in liquefaction of soils near on-site streams. Amended Project lots could be subject to high liquefaction hazards. This is a Class II, significant but mitigable impact.

a. **Mitigation** –

**G-4(a) Reduction of Liquefaction Potential.** Appropriate techniques to minimize liquefaction potential shall be prescribed by an engineering geologist and implemented by the applicant prior to issuance of Building Permits. Suitable measures to reduce liquefaction impacts shall include one or more of the following as recommended by a qualified engineer: specialized design of foundations by a structural engineer, removal or treatment of liquefiable soils to reduce the potential for liquefaction, drainage to lower the groundwater table to below the level of liquefiable soils, in-situ densification of soils, or other alterations to the ground characteristics. All on-site structures shall comply with applicable methods of the Uniform Building Code [refer to G-1(a) (UBC Compliance)].

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to page 4.6-30 and 6-100 of the Final EIR.
5. **Impact G-5.** Surface materials in portions of the Amended Project site allow for percolation of groundwater and may result in seepage into building foundations. This is a Class II, significant but mitigable impact.

a. **Mitigation** –

**G-5(a) Subdrains.** An engineering geologist or a soils engineer shall observe construction activities to review the potential for subsurface water on lots located on any of the following soils: Arnold-San Andreas complex (30-75 percent slopes), Hanford and Greenfield fine sandy loams (2-9 percent slopes), Hanford and Greenfield gravelly sandy loams (0-2 percent slopes and 2-9 percent slopes), Oceano loamy sand (2-9 percent slopes), San Andreas sandy loam (15-30 percent slopes), or San Andreas-Arujo sandy loams (9-15 percent slopes). As determined

necessary by a qualified engineer, subdrains shall be installed within foundations, soft soils, or roadways, to alleviate ponding of water.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.6-31 and 6-100 of the Final EIR.

#### F. Land Use (Class II)

1. **Impact LU-1.** Construction activity associated with the Amended Project would create temporary noise, air quality, and visual impacts due to the use of construction equipment and generation of fugitive dust and debris. These effects could cause nuisances at adjacent properties and disrupt agricultural activity. However, these impacts would be temporary in nature and are Class II, significant but mitigable.
  - a. **Mitigation** – No mitigation measures are required beyond those identified in Sections 4.8, Noise, 4.2, Air Quality, and 4.13, Visual Resources, of the Final EIR.
  - b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.7-3 and 6-100 of the Final EIR. Please also refer to the Tract Map Findings (Exhibit C) and CUP Findings (Exhibit E), as well as the Applicant's booklet submittals to Board of Supervisors responding to the staff report prepared for the Board.

#### G. Noise (Class II)

1. **Impact N-1.** Construction of the Amended Project would generate nuisance noise levels at the nearest sensitive receptors. Later phases of construction would also expose occupants of previous phases of subdivision development to nuisance noise levels. This is a Class II, significant but mitigable impact.

##### a. **Mitigation** –

**N-1(a) Construction Hours.** Hours of construction noise which will cross a property line shall be limited to the hours between 7 a.m. and 7 p.m. on weekdays and 8 a.m. to 5 p.m. on weekends.

**N-1(b) Construction Noise Attenuation.** For all construction activity on the Amended Project site, additional noise attenuation techniques shall be employed as needed to ensure that noise remains within levels allowed by the County of San Luis Obispo noise standards. The following measures shall be incorporated into contract specifications to reduce the impact of construction noise.

- All construction equipment shall have properly maintained sound-control devices. No equipment shall have an unmuffled exhaust.
- Contractors shall implement appropriate additional noise attenuation techniques including, but not limited to, siting the stationary construction equipment away from residential areas to the extent possible, and notify adjacent residents in advance of construction work.

**N-1(c) Construction Equipment.** Stationary construction equipment that generates noise that exceeds 60 dBA CNEL at the boundaries of adjacent residential properties shall be baffled. All construction equipment powered by internal combustion engines

shall be properly muffled and maintained. Unnecessary idling of internal combustion engines shall be prohibited. Whenever feasible, electrical power shall be used to run air compressors and similar power tools.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.8-9 through 4.8-11 and page 6-105 of the Final EIR.

#### H. Public Safety (Class II)

- 1. **Impact S-3.** Two water storage tanks would be constructed to serve the applicant's Amended Project. The potential public safety impact associated with failure of the water storage tanks is Class II, significant but mitigable.

- a. **Mitigation** –

**S-3(a) Property Protection.** Properties located adjacent to the tank area shall be protected in the event of tank failure. This protection shall include a berm or diversionary structure that can withstand the force of water flowing against it, as determined by a qualified engineer. Future property owners of lots in the vicinity of the tanks shall be informed of the potential risk of property damage and a notice shall be recorded on the property Title describing the risk of tank failure.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.9-8 through 4.9-9 and page 6-105 of the Final EIR.

- 2. **Impact S-4.** The Amended Project includes land uses that may involve the use, transport, or storage of limited quantities of hazardous chemicals. Residential land uses would not be expected to use chemicals in quantities that would pose a significant health risk if properly used. However, the potential public safety impact associated with the use, transport and/or storage of water tank treatment chemicals would be a Class II, significant but mitigable impact.

- a. **Mitigation** –

**S-4(a) Chemical Storage.** All chemicals are to be stored in a locked and labeled enclosure. The enclosure shall be properly placarded in accordance to County of San Luis Obispo Fire Department requirements. Emergency telephone numbers shall be properly displayed in and near the chemical storage areas. Material Safety Data Sheets shall be kept within the enclosure in a location accessible to all who handle the chemicals. All chemicals shall be used in a manner consistent with their purpose. Personnel who handle chemicals shall be trained in their proper use, storage, and disposal.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.9-9 through 4.9-10 and page 6-105 of the Final EIR.

3. **Impact S-6.** Large-scale grading and excavation operations during Amended Project development could expose construction workers and other individuals to valley fever. Impacts are Class II, significant but mitigable.
  - a. **Mitigation** – Measures AQ-2(b) (Dust Control), AQ-2(d) (Dust Control Monitor), and AQ-2(e) (Active Grading Areas) would minimize dust generation, thereby minimizing exposure to valley fever, should it be present.
  - b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.9-10 through 4.9-11 and page 6-105 of the Final EIR.

**I. Public Services (Class II)**

1. **Impact PS-2.** The Amended Project lacks sufficient defensible space features that could result in impacts related to public safety at the site. Such safety concerns would be a Class II, significant but mitigable impact.
  - a. **Mitigation** –

**PS-2(a) Defensible Space Features.** The applicant shall implement defensible space features, including security lighting, in common areas, subject to the review and approval of the Sheriff's Department. In addition, individual lot developers shall incorporate structural defensible space features, including burglary-resistant hardware, into individual building plans.
  - b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.10-2 through 4.10-3 and pages 6-105 through 6-106 of the Final EIR.
2. **Impact PS-3.** The Amended Project would increase the number of residents served by the CalFire and is located within a high fire hazard area. The Amended Project may substantially affect the personnel, equipment or organization of the Fire Department which could impede emergency access to the Amended Project residences. This would be a Class II, significant but mitigable impact.
  - a. **Mitigation** –

**PS-3(a) Fire Station.** The applicant shall provide for the construction of a new CalFire Station to be located near the Amended Project site either through the dedication of land or through the payment of in lieu fees, as determined by CalFire and County Planning and Building Department.

**PS-3(b) On-Site Fire Protection.** Road widths and circulation, as well as the placement of fire hydrants and installation of automatic sprinkler systems, shall be designed with the guidance of the Fire Department. A road system that allows unhindered Fire Department access and maneuvering during emergencies shall be provided. Specifically, the following measures are required:

    - Amended Project roads must be an all weather surface at least 20 feet in width unless otherwise approved by CalFire, unobstructed by parking. Cul-de-sacs and turnouts must be to Fire Department standards. As the on-site

- Class A Roofs. All Amended Project structures shall have non-wood Class A roofs, with the ends of tile blocked, spark arresters visible from the street, proper vent screens, and non-combustible gutters and down spouts. No combustible paper in or on attic insulation shall be allowed.
  - Design of Accessory Features. Decks, gazebos, patio covers, and fences, must not overhang slopes and must be of one-hour fire retardant construction. Front doors shall be solid core, minimally 1 ¾ inch thick. Garage doors shall be noncombustible.
  - Power Lines. All new power lines shall be installed underground in order to prevent fires caused by arcing wires.
  - Fire Walls. Structures along the perimeter or exposed to internal open space areas shall have one hour rated exterior fire walls, with exterior walls being more than two inches thick, and must not contain vinyl or plastic window frames or rain gutters or down spouts.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.10-6 through 4.10-10 and pages 6-105 through 6-106 of the Final EIR.
3. **Impact PS-5.** The Amended Project would generate approximately 110 tons of solid waste per year. The solid waste disposal services and landfill that would serve the Amended Project have adequate capacity to accommodate the waste generated by the project. However, the Amended Project would result in the use of part of the limited remaining capacity of the landfill. Therefore, solid waste generation would be a Class II, significant but mitigable impact.
- a. **Mitigation** –
- PS-5(a) Construction Solid Waste Minimization.** During the construction phases of the applicant's Amended Project, the following mitigation measures shall be implemented to reduce solid waste generation to the maximum extent feasible:
- Prior to construction, the contractor shall arrange for construction recycling service with a waste collection provider. Roll-off bins for the collection of recoverable construction materials shall be located on-site. The applicant, or authorized agent thereof, shall arrange for pick-up of recycled materials with a waste collection provider or shall transport recycled materials to the appropriate service center. Wood, concrete, drywall, metal, cardboard, asphalt, soil, and land clearing debris may all be recycled.
  - The contractor shall designate a person to monitor recycling efforts and collect receipts for roll-off bins and/or construction waste recycling. All subcontractors shall be informed of the recycling plan, including which materials are to be source-separated and placed in proper bins.
  - The contractor shall use recycled materials in construction wherever feasible.

The above construction waste recycling measures shall be incorporated into the construction specifications for the contractor.

**PS-5(b) Recycling Plan.** A long term plan for recycling shall be developed by the applicant with specific collection goals for each recyclable material category and a method to track quantities of materials. The goal shall be a 50 percent waste stream diversion. The applicant shall provide this plan prior to final occupancy. The plan shall include, at a minimum upon concurrence of the Public Works Department, the following items:

- Description of all activities which shall reduce solid waste generation by a minimum of 50 percent;
  - Methodology for monitoring activities for program effectiveness/efficiency;
  - Compilation and provision of quarterly diversion updates/reports to the County 30 days after the end of each calendar quarter listing the amount of wastes disposed and recycled by tons;
  - Listing of solid waste/recycling/service providers utilized to provide recycling/composting/waste reduction programs; and
  - Annual evaluation of program submitted to the Public Works Department.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.10-18 through 4.10-20 and pages 6-105 through 6-106 of the Final EIR.

#### J. Transportation and Circulation (Class II)

1. **Impact T-2.** The internal roadway systems of the Amended Project would be designed to provide adequate circulation. However, site access to the Amended Project area could result in an inadequate stopping sight distance. Class II, significant but mitigable impacts would result.

a. **Mitigation** –

**T-2(a) West Driveway Relocation.** The Amended Project west driveway shall be relocated at least 590 feet to the east to eliminate stopping site distance impacts associated with the West Pozo Road crest located west of the driveway. The relocated driveway will be in close proximity to the driveway for the cemetery located on the north side of Pozo Road.

The design of the driveways shall follow recommended guidelines as stated in the Caltrans Highway Design Manual.

- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. **Supportive Evidence** – Please refer to pages 4.12-30 through 4.12-31 and page 6-106 of the Final EIR.
2. **Impact T-4.** The addition of traffic generated by the Amended Project may result in conflicts with pedestrians and bicyclists, as well as increase demand for transit services. Although impacts on transit services would be less than significant, impacts related to pedestrian movement and bicycle conflicts are Class II, significant but mitigable.

2-

a. **Mitigation –**

**T-4(a) El Camino Real/Encina Avenue In-Pavement Flashing Lights.** Pedestrian in-pavement flashing lights shall be installed on the eastbound and westbound approaches to the intersection of El Camino Real and Encina Avenue to warn drivers of the presence of pedestrians crossing at the intersection. The precise location for beacon installation shall be determined in consultation with Caltrans under the encroachment permit process, and shall include any required ramps or other Americans with Disabilities Act (ADA) upgrades. The applicant shall fund and install the in-pavement flashing lights on El Camino Real.

The design of the pedestrian in-pavement flashing lights shall be consistent with the Santa Margarita Design Plan, adopted October 9, 2001, which recommended pedestrian improvements along El Camino Real in downtown Santa Margarita. Because El Camino Real (SR 58) is a state-maintained roadway, this measure would require Caltrans approval and an encroachment permit.

**T-4(b) Pedestrian Pathway.** The pedestrian pathway between the Amended Project lots and the community shall be open for public use. No-climb fencing shall be installed for the length of the trail. A road maintenance agreement shall be established to maintain the pathway. The trail shall also permit bicycle transportation.

b. **Findings –** Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.

c. **Supportive Evidence –** Please refer to pages 4.12-32 through 4.12-34 and page 6-106 of the Final EIR. Also refer to the Applicants testimony during the Planning Commission and Board of Supervisors hearings that the project is not proposing a homeowners association and thereby a road maintenance agreement and project conditions, covenants and restrictions would be the mechanism for maintenance of the trail. As a condition of approval, the CC&R's and road maintenance agreements would be subject to the review and approval of the Planning Director prior to final map recordation.

**K. Visual Resources (Class II)**

1. **Impact VR-1.** The Amended Project has the potential to alter the aesthetic character of the Santa Margarita Ranch vicinity through alteration of scenic vistas, the introduction of new light and glare generators in to the area, and the changing of the area's character from a rural to rural-residential condition. This is Class II, significant and mitigable impact to the aesthetic character of the area.

a. **Mitigation –**

**VR-1(a) Prohibition of Structural Silhouetting.** Building heights shall be limited on lots located near ridgelines consistent with the lot development matrix prepared for the project and vegetative screening shall be provided such that the residential units do not silhouette against the sky when viewed from off-site viewpoints.

**VR-1(b) Architectural and Landscape Guidelines.** The applicant shall develop and implement Architectural and Landscape Guidelines that include the components listed below. The Guidelines shall include clear criteria and requirements to guide the design, layout, and landscaping of individual residential lots. All future development



shall comply with the Guidelines. Enforcement of compliance with the Guidelines shall be the responsibility of the Planning and Building Department.

*Tract landscaping.* Landscaping guidelines shall describe the following elements:

- Landscaping shall emulate and be compatible with the surrounding natural environment; only natural fiber, biodegradable materials shall be used;
- Fuel management techniques shall be used, including, but not limited to, fire resistive landscaping, defensible space features, and strictly controlled vegetation within defensible space;
- Fire-resistant vegetation shall be used in tract landscaping.

*Individual House Landscaping.* Landscaping Plans for individual houses shall be prepared by a qualified Landscape Architect or Landscape Contractor, and shall be designed to screen and blend the Amended Project into the surrounding area while preserving identified viewsheds. Individual lot landscaping plans shall incorporate plants consistent with the San Luis Obispo County Approved Plant List. Only natural fiber, biodegradable materials shall be used.

*Roofing and Feature Color and Material.* Development plans shall include earth-tone colors on structure roofing and other on-site features to lessen potential visual contrast between the structures and the hilly terrain that constitutes the visual backdrop of the area. Natural building materials and colors compatible with surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including fences.

*Avoidance of Visual Prominence.* Building heights shall be consistent with the heights identified in the Lot Development Matrix a copy of which is attached.

*Understory and Retaining Wall Treatment.* Understories and retaining walls higher than six (6) feet shall be in tones compatible with surrounding terrain using textured materials or construction methods which create a textured effect.

**VR-1(c) Oak Tree Avoidance.** The removal of oak trees shall be avoided where feasible. New roads shall be designed around existing trees by using modified street design, off-street parking, bulb-outs, or split lanes. Home sites should be located where oak trees are less dense on the lot.

**VR-1(d) Bury Water Tanks.** The water tanks shall be placed below grade to reduce their visual profile. The tanks shall be placed at a depth such that the tanks do not silhouette against the sky. If burying water tanks is infeasible, natural building materials and colors compatible with surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces.

**VR-1(e) Lighting.** New lighting shall be oriented away from sensitive uses, and should be hooded, shielded, and located to direct light pools downward and prevent glare. The following standards shall also be implemented:

- All exterior lighting shall be designed as part of the overall architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with the building design, the lighting design and hardware of the public spaces, and the overall visual environment of the County.
- Lighting shall be used for safety and security to illuminate building entrances, parking and loading areas, and pedestrian walkways.

- Light fixtures with exposed light bulbs shall generally be avoided.

All light fixtures shall be shielded to confine the spread of light within the Amended Project boundaries.

**VR-1(f) Street Light Limitations.** Streetlights shall be pedestrian in scale, not to exceed a height of 10 feet, and shall be architecturally compatible with surrounding development. Streetlights, where they are included, shall be primarily for pedestrian safety (at roadway intersections only), and shall not provide widespread illumination.

**VR-1(g) Clear Excess Debris.** Upon completion of each phase of development, the developer shall clear the project site of all excess construction debris.

**VR-1(h) Grading.** Grading should preserve hillsides and natural topography to the maximum extent feasible. Grading transitions should be gentle rather than abrupt.

**VR-1(i) Accessory Structures/Infrastructure.** New roads shall be blended into the landscape and follow existing topography and vegetation patterns. Cut and fill slopes shall be contoured to conform to the prevailing adjacent landforms and landscapes and drainage swales should be used rather than curbs. Utility service for new development shall be underground.

- b. Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
- c. Supportive Evidence** – Please refer to pages 4.13-4 through 4.13-19 and page 6-106 of the Final EIR. The Applicants project has been designed and modified to avoid visual prominence. The Applicant has also proposed lot-specific height limits based upon visual analysis (including those prepared by RRM Design Group), and prepared a Lot Develop Matrix, a copy of which is attached hereto and incorporated herein by this reference. These limitations provide the same level of mitigation as a blanket 22 foot height restriction which is legally infeasible because there is no rational nexus or rough proportionality between a blanket 22 foot height restriction and the visual impacts of the project as redesigned and mitigated.

#### **L. Water and Wastewater (Class II)**

- 1. Impact W-2.** The Amended Project soils provide sufficient percolation to support effluent disposal fields. However, percolation tests have not been completed for all lots. Improper disposal field design could result in health hazards or potential ground and surface water contamination. Therefore, the Amended Project would result in Class II, significant but mitigable impacts related to wastewater disposal.

- a. Mitigation** –

**W-2(a) Septic Tank Maintenance Plan and Monitoring.** The applicant shall prepare a Septic Tank Maintenance Plan. The Plan shall require a minimum tank cleaning frequency of once every five years, delineate proposed groundwater monitoring locations (up gradient and down gradient of the Amended Project ), and recommended frequency of collection and analysis. The applicant shall install groundwater monitoring wells, which shall be sited and designed by a qualified hydrogeologist. At a minimum, three groundwater monitoring wells shall be located up gradient of the Amended Project area and three shall be located downgradient.

**W-2(b) Septic Tank and Leach field Site Plans.** The applicant shall develop and submit septic tank and leach field site plans for each lot, as well as percolation tests and borings in accordance with County leach field design/construction requirements.

- The applicant shall demonstrate sufficient leach field percolation for each residential unit and lot, or as allowed by the Land Use Ordinance in accordance with County standards.
- b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.14-14 through 4.14-16 and pages 6-106 through 6-107 of the Final EIR.
2. **Impact W-3.** Wastewater discharge systems can degrade groundwater quality if wastes are put into the discharge systems that are harmful to groundwater quality. Impacts from the Amended Project are Class II, significant but mitigable.
- a. **Mitigation** –
    - W-3(a) Water Softeners.** Future residents of the Amended Project shall be prohibited from installing water softeners which require on-site regeneration or are self-regenerating. Off-site regenerated water softeners shall be allowed if they are regenerated outside the Amended Project site.
    - W-3(b) Pollutant Input Minimization.** The Santa Margarita Ranch Mutual Water Company shall annually include a written statement with resident water bills that describes methods to prevent degradation of water quality in septic systems. The flyer shall state that chemicals, paints, solvents, pesticides, herbicides, or other household hazardous wastes shall not enter drains.
  - b. **Findings** – Changes or alterations have been required in, or incorporated into, the Amended Project which mitigate or avoid the significant effects on the environment to a level of insignificance.
  - c. **Supportive Evidence** – Please refer to pages 4.14-16 through 4.14-17 and pages 6-106 through 6-107 of the Final EIR.

**VI. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE (Class I)**

*Class I impacts are those which are significant, and cannot be mitigated to insignificance by implementation of mitigation measures. The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations (See Section VII). The findings below are for Class I impacts, where implementation of the project may result in the following significant, unavoidable environmental impacts:*

**A. Agricultural Resources (Class I)**

1. **Impact AG-1.** The Final EIR states that the Amended Project could permanently compromise the sustainability of a 676.7-acre grazing unit and would convert 21 acres containing prime soils to non-agricultural uses however public testimony provided at the Planning Commission and the Board of Supervisors indicated that actual experience with other ag cluster projects such as Varian Ranch over the past 20 years, have demonstrated that grazing units adjacent to residential cluster lots have successfully co-existed without compromises agricultural viability. Further testimony provided by Dr. Thomas Rice indicated that soil map unit 182 is not a prime soil. 80 acres of grazing land will be converted as part of the project and up to 5 acres of Class 1 and 2 soils will be converted. Impacts related to agricultural conversion would be Class I, significant and unavoidable.

- a. **Mitigation** – The FEIR states that no feasible measures are available that would mitigate impacts to portions of the grazing unit where residences or other improvements would be located or prime soils located on the Amended Project site. However the project would permanently preserve over 900 acres of Prime Farmland and existing vineyards and over 2,000 acres of grazing lands.
  - b. **Findings** – Changes or alterations have not been incorporated in to the Amended Project to avoid or substantially lessen the significant environmental effects as identified in the Final EIR; these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
  - c. **Supportive Evidence** – Please refer to pages 4.1-16 through 4.1-17 and pages 6-87 through 6-93 of the Final EIR and public testimony before the Board of Supervisors on November 18, 2008.
2. **Impact AG-2.** The Amended Project would create conflicts between urban uses and existing and future agricultural uses. Potential land use conflicts are a Class I, significant and unavoidable, impact.

a. **Mitigation** –

Mitigation measures AG-2(a) Disclosure of Potential Nuisance

**ARCS AG-2(a) Disclosure of Potential Nuisance.** In accordance with the County Right to Farm Ordinance (No. 2050), upon the transfer of real property on the Agricultural Residential Cluster Subdivision site, the transferor shall deliver to the prospective transferee a written disclosure statement that shall make all prospective homeowners in the proposed Agricultural Residential Cluster Subdivision aware that although potential impacts or discomforts between agricultural and non-agricultural uses may be lessened by proper maintenance, some level of incompatibility between the two uses would remain. This notification shall include disclosure of potential nuisances associated with on-site agricultural uses, including the frequency, type, and technique for pesticide spraying, frequency of noise-making bird control devices, dust, and any other vineyard practices that may present potential health and safety effects. In addition, the notification shall identify that adjoining agricultural land is permanently protected for agricultural uses, and that future agricultural uses may vary from current uses and might include processing facilities, nighttime operation, wind machines, odor, dust, noise, legal chemical applications, use and creation of compost, and/or changes in irrigation patterns and water use. The establishment of new agricultural uses, if established in accordance with standard agricultural practices, will not be considered a nuisance from the time of establishment.

AG-2(b) Agricultural Buffers

The applicant shall maintain buffered lot locations from existing vineyards as shown on the building envelope exhibits for the Amended Project and considered in the FEIR.

AG-2(c) Oak Tree Retention

All existing oak trees located between Agricultural Residential Cluster Subdivision lots and vineyards shall be retained for screening/buffering purposes. Should oak tree removal be required for safety reasons, trees shall be replaced in accordance with Agricultural Residential Cluster Subdivision measure B-3(b) (Oak Tree Replacement, Monitoring, and Conservation).

AG-2(d) No-Climb Fencing.

Existing fencing located between the outer perimeter of Agricultural Residential Cluster Subdivision residential lots and vineyards shall be maintained in perpetuity, or new no-climb fencing shall be installed, to reduce trespass potential.

- b. **Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. **Supportive Evidence** – Please refer to pages 4.1-17 through 4.1-21 and pages 6-87 through 6-93 of the Final EIR.

**B. Air Quality (Class I)**

1. **Impact AQ-1.** The Amended Project will result in operational air pollutant emissions, primarily from vehicular traffic. This would result in an exceedance of the APCD thresholds, and would be a Class I, significant and unavoidable impact. The off-site mitigation fee recommended in the FEIR is not legally feasible because it would amount to nine million dollars according to the testimony of APCD representative, or ninety thousand dollars per housing unit, and because there is no rational nexus or rough proportionality between the impacts attributable to the applicants' Project and the imposition of this condition. Such a sum is excessive and would render the project infeasible, and is not similar to other fees charged in the County.

a. **Mitigation** –

Mitigation measures AQ-1(a) Energy Efficiency

**ARCS AQ-1(a) Energy Efficiency.** The applicant shall increase building energy efficiency ratings by at least 10% above what is required by Title 24 requirements. Potential energy consumption reduction measures include, but are not limited to:

- Using roof material with a solar reflectance value meeting the EPA/DOE Energy Star® rating to reduce summer cooling needs and/or installing photovoltaic roof tiles;
- Using high efficiency gas or solar water heaters;
- Using built-in energy efficient appliances;
- Installing double-paned windows;
- Installing door sweeps and weather stripping if more efficient doors and windows are not available;
- Installing low energy interior lighting;
- Using low energy street lights (i.e. sodium); and
- Installing high efficiency or gas space heating.

AQ-1(b) Shade Trees

Shade trees **native to the Santa Margarita Ranch** shall be planted to shade **the southern exposure of on-site homes and structures**, decreasing indoor temperatures and reducing energy demand for air conditioning. The landscape plan shall be submitted

to the San Luis Obispo APCD for review and comment. County Planning and Building shall review project landscaping plans for consistency with this mitigation measure.

#### AQ-1(c) Outdoor Electrical Outlets

All new homes shall be constructed with outdoor electrical outlets to encourage the use of electric appliances and tools.

#### AQ-1(d) Telecommuting, AQ-1(e)

All new homes shall be constructed with internal wiring/cabbling that allows telecommuting, teleconferencing, and telelearning to occur simultaneously in at least three locations in each home. This control measure seeks to reduce emissions by promoting telecommuting for any employee whose job can accommodate working from home.

#### **ARCS AQ-1(e) Residential Wood Combustion**

All new homes shall only be permitted to install APCD-approved wood burning devices, as applicable. Approved devices include:

- All EPA-certified phase II wood burning devices;
- Catalytic wood burning devices which emit less than or equal to 4.1 grams per hour of particulate matter which are not EPA-certified but have been verified by a nationally-recognized testing lab;
- Non-catalytic wood burning devices which emit less than or equal to 7.5 grams per hour of particulate matter which are not EPA-certified but have been verified by a nationally-recognized testing lab;
- Pellet-fueled wood heaters; and
- Dedicated gas-fired fireplaces.

"Backyard" green waste burning shall be prohibited due to nuisance and negative health effects.

#### AQ-1(f) Off-Site Mitigation.

Prior to issuance of grading permits, the applicant shall work with APCD to define a fee, due at issuance of individual building permits, to assist in the implementation of off-site emission reduction measures. The fee shall be similar to and not exceed the South County Air Quality Mitigation Fee. Off-site emission reduction measures may include, but would not be limited to:

- Off-site emission reduction measures may include, but would not be limited to:
- Developing or improving park-and-ride lots;
- Retrofitting existing homes in the project area with APCD-approved wood combustion devices;
- Retrofitting existing homes in the project area with energy-efficient devices;
- Constructing satellite worksites;
- Funding a program to buy and scrap older, higher emission passenger and heavy-duty vehicles;

- Replacing/re-powering transit buses;
  - Replacing/re-powering heavy-duty diesel school vehicles (i.e. bus, passenger or maintenance vehicles);
  - Funding an electric lawn and garden equipment exchange program;
  - Retrofitting or re-powering heavy-duty construction equipment, or onroad vehicles;
  - Re-powering marine vessels;
  - Re-powering or contributing to funding clean diesel locomotive main or auxiliary engines;
  - Installing bicycle racks on transit buses;
  - Purchasing particulate filters or oxidation catalysts for local school buses, transit buses or construction fleet;
  - Installing or contributing to funding alternative fueling infrastructure (i.e. fueling stations for CNG, LPG, conductive and inductive electric vehicle charging, etc.);
  - Funding expansion of existing transit services;
  - Funding public transit bus shelters;
  - Subsidizing vanpool programs;
  - Subsidizing transportation alternative incentive programs;
  - Contributing to funding of new bike lanes;
  - Installing bicycle storage facilities; and
  - Providing assistance in the implementation of projects that are identified in City or County Bicycle Master Plans.
- b. **Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. **Supportive Evidence** – Please refer to pages 4.2-6 through 4.2-11 and pages 6-93 through 6-94 of the Final EIR.
2. **Impact AQ-4.** The Amended Project would exceed the population growth assumptions of the 2001 Clean Air Plan (CAP). In addition, due to the distance of the site from services, Amended Project implementation would result in a substantial increase in vehicle miles traveled. Therefore, the Amended Project is inconsistent with the CAP. This is a Class I, significant and unavoidable impact.
- a. **Mitigation** – No feasible measures are available to reduce the population generation associated with the Amended Project without substantially redesigning the alternative. In addition, no measures are available to substantially reduce the vehicle miles traveled associated with the applicant's Amended Project, due to the distance between the alternative and community services.
- b. **Findings** – Changes or alterations or not available to be incorporated in to the Amended Project to avoid or substantially lessen the significant environmental effects as identified in the Final EIR; these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. **Supportive Evidence** – Please refer to pages 4.2-18 through 4.2-20 and pages 6-93 through 6-94 of the Final EIR.

3. **Impact B-3.** The Amended Project would result in the removal of and/or impacts to an estimated 250 to 350 blue oak, coast live oak, and valley oak trees as well as the conversion of native oak woodland habitat. In accordance with Kuehl Bill mitigation techniques, half of the oak trees that are removed or impacted can be replaced, but due to the long time-period required for the planted trees to possess equivalent oak woodland habitat values and the fact that there is no assurance that oak trees designated to remain on the lots will be protected in the future, impacts to oak trees and oak woodlands are Class I, significant and unavoidable.

**a. Mitigation**

Mitigation measures B-3(a) Oak Tree Inventory, Avoidance, and Protection Plan

ARCS B-3(a) Oak Tree Inventory, Avoidance, and Protection Plan. The applicant shall prepare an Oak Tree Inventory, Avoidance and Protection Plan as outlined herein. The plan shall be reviewed by the County approved arborist prior to approval of grading permits, and shall include the following items:

1. Comprehensive Oak Tree Inventory. This shall include the following information:
  - a) An inventory of all trees at least 5 inches in diameter at breast height within 50 feet of all proposed Agriculture Residential Cluster Subdivision impact areas. All inventoried trees shall be shown on maps. The species, diameter at breast height, location, and condition of these trees shall be documented in data tables.
  - b) Identification of trees which will be retained, removed, or impacted. This information shall be shown on maps and cross-referenced to data tables described in Item (a).
  - c) The location of proposed structures, utilities, driveways, septic tanks, leach fields, grading, retaining walls, outbuildings, and impervious surfaces shall be shown on maps. The applicant shall clearly delineate the building sites/building control lines containing these features on the project plans. In addition, the plans shall include any fenced areas for livestock or pets and clearance areas prescribed by CalFire.
  - d) A landscaping plan that describes the size and species of all trees, shrubs, and lawns proposed to be planted in the project area, including the limits of irrigated areas.
  - e) Revised drainage patterns that are within 100 feet upslope of any existing oak trees to remain. All reasonable efforts shall be made to maintain historic drainage patterns and flow volumes to these trees. If not feasible, the drainage plan shall clearly show which trees would be receiving more or less drainage.
2. Oak Tree Avoidance Measures. Grading and development within proposed lots shall avoid the removal of oak trees to the maximum extent possible. Such activities must minimize potential disturbance to oaks and their associated root zones to the maximum extent possible, with final site plans requiring concurrence from County staff to ensure compliance with this provision.
3. Oak Tree Protection Guidelines. Tree protection guidelines and a root protection zone shall be established and implemented for each tree to be retained that occurs within 50 feet of impact areas. The following guidelines shall be included:
  - a) A qualified arborist shall determine the critical root zone for each retained tree on a case-by-case basis, based upon tree species, age, and size. This area will vary from 1.0 to 1.5 times its diameter at breast height [as specified in Harris, Clark and Matheny



**As directed by The Board of Supervisors 12/19/08**

(2004) Arboriculture]. At a minimum, the critical root zone shall be the distance from the trunk to the drip line of the tree.

b) All oak trees to remain within 50 feet of impact areas (construction or grading) shall be marked for protection and the root zone fenced prior to any grading. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. The project arborist must approve any work within the root protection zone.

c) Care shall be taken to avoid surface roots within the top 18 inches of cut and not left exposed above ground surface.

d) Unless previously approved by the County, the following activities shall be prohibited within the root zone of remaining oak trees: year round irrigation (no summer watering, unless "establishing" a new tree or native compatible plant for up to 3 years); grading (includes cutting and filling of material); compaction (e.g., regular use of vehicles); placement of impermeable surfaces (e.g., pavement); or disturbance of soil that impacts roots (e.g., tilling).

Trimming oak branches shall be minimized, especially for larger lower branches, and the amount done in one season shall be limited to 10 to 30% of the canopy to reduce stress/shock. If trimming is necessary, the applicant shall either use a qualified arborist or utilize accepted arborist's techniques.

**B-3(b) Oak Tree Replacement, Monitoring, and Conservation.**

Of those trees identified under Agricultural Residential Cluster Subdivision measure B-3(a) as being removed or impacted, 50% shall be replaced per County and Kuehl Bill standards. A conservation easement or monetary contribution to the Oak Woodlands Conservation Fund shall be used for the remaining mitigation.

1. Replacement. The County approved arborist shall provide or approve an oak tree replacement plan at a minimum 4:1 ratio for oak trees removed and a minimum replacement ratio of 2:1 for oak trees impacted (i.e., disturbance within the root zone area).

a) Replacement plantings shall be from regionally- or locally-collected seed stock grown in vertical tubes or deep one-gallon tree pots. Four foot diameter shelters shall be placed over each oak tree to protect it from deer and other herbivores, and shall consist of 54" tall welded wire cattle panels (or equivalent material) and be staked using T-posts. Wire mesh baskets, at least two-foot diameter and 2-feet deep, shall be used below ground. Planting during the warmest, driest months (June through September) shall be avoided. The plan shall provide a species-specific planting schedule. If planting occurs outside this time period, a landscape and irrigation plan shall be submitted prior to permit issuance and implemented after approved by the County. Average tree densities shall be no greater than one tree every twenty feet and shall average no more than four planted per 2,000 square feet. Trees shall be planted in random and clustered patterns to create a natural appearance. Replacement trees shall be planted in a natural setting on the north side of and at the canopy/dripline edge of existing mature native oak trees; on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g., lawns, leach lines, etc). Replanting areas shall be either in native topsoil or areas where native topsoil has been reapplied. A seasonally timed maintenance program, which includes regular

weeding (hand removal at a minimum of once early fall and once early spring within at least a three-foot radius from the tree or installation of a staked "weed mat" or weed-free mulch) and a temporary watering program, shall be developed for all oak tree planting areas on the Agricultural Residential Cluster Subdivision. A qualified arborist/botanist shall be retained to monitor the acquisition, installation, and maintenance of all oak trees to be replaced within the Agricultural Residential Cluster Subdivision. Replacement trees shall be monitored and maintained by a qualified arborist/botanist for at least seven years or until the trees have successfully established as determined by the County's Environmental Coordinator. Annual monitoring reports will be prepared by a qualified arborist/botanist and submitted to the County by October 15 each year. Annual monitoring reports will include specifics discussed below.

b) The restored area shall be at a minimum equal in size to the area of oak woodlands lost or disturbed.

c) An approved arborist shall submit to the County an initial postplanting letter report, and thereafter annual monitoring reports shall be submitted. All trees planted as mitigation shall have an 80% survival rate after seven years. If any trees planted as mitigation do not survive at seven years from the time of planting, they will be replaced as soon as possible as determined by the arborist/botanist.

d) A cost estimate for the planting plan, installation of new trees, and maintenance of new trees for a period of seven years shall be prepared by a qualified individual and approved by the County. Prior to site grading/issuance of construction permits, a performance bond, equal to the cost of the estimate, shall be posted by the applicant. The replacement mitigation trees shall also have an overall survival rate of 80% after seven years from date of planting.

2. Maintenance. Unless previously approved by the County, the following activities are not allowed within the root zone of newly planted oak trees:

a) Year-round irrigation (no summer watering, unless 'establishing' a new tree or native compatible plant for up to 3 years);

b) Grading (includes cutting and filling of material);

c) Compaction (e.g., regular use of vehicles);

d) Placement of impermeable surfaces (e.g., pavement); or

e) Disturbance of soil that impacts roots (e.g., tilling). Trimming oak branches shall be minimized, especially for larger lower branches, and the amount done in one season shall be limited to 10 to 30% of the canopy to reduce stress/shock. If trimming is necessary, the applicant shall either use a qualified arborist or utilize accepted arborist's techniques.

3. Conservation Easements and/or Contribution to the Oak Woodlands Conservation Fund. Replanting detailed above can account for up to 50% of the mitigation requirement. The remaining mitigation shall be in accordance with the County's Oak Woodland Mitigation Plan. Per the County's draft Plan, the mitigation shall be a minimum of a 2,000 square foot conservation easement per tree removed (based upon an

**As directed by The Board of Supervisors 12/19/08**

average 50 foot diameter canopy). The oak conservation area shall be designated onsite and be managed by a third party.

**b. Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.

**c. Supportive Evidence** – Please refer to pages 4.3-42 through 4.3-52 and pages 6-94 through 6-99 of the Final EIR.

**C. Cultural Resources (Class I)**

**1. Impact CR-1.** As defined in Appendix E (Cultural Landscape Report), the historic core of the Santa Margarita Ranch is a rural historic district eligible for the CRHR. The Amended Project is located in one of the character-defining areas of the district. Development of the Amended Project in this area would substantially diminish the integrity of the design, setting, materials, feeling, and association of this important character-defining area. In addition, implementation of the Amended Project would adversely impact traditional Native American values. This is a Class I, significant and unavoidable impact. The FEIR mitigation designating the Santa Margarita Ranch as a rural Historic District is legally infeasible because there is no rational nexus or rough proportionality between the impacts attributable to the applicants' project and the imposition of this condition. Many of the historical resources identified in the FEIR are located on a parcel that is not part of this project.

**a. Mitigation**

Mitigation measures CR-1(a) Avoidance

The preferred mitigation measure is avoidance of the impacts described above. If avoidance cannot be achieved, other forms of mitigation, such as graphic documentation (photographs, drawings, etc.) and archaeological data recovery, will lessen the impacts but will not mitigate the loss of integrity to a less than significant level.

CR-1(b) Cultural Design Guidelines

The Architecture and Landscape Guidelines (refer to Agricultural Residential Cluster Subdivision measure VR-1(b) in Section 4.13, *Visual Resources*) shall incorporate the design principles, plans, and massing of historic ranch structures, such as sandstone or adobe construction, gable roofs, shiplap siding, and/or natural landscaping. The County will have final approval over the project design elements, based in part on consultation with a qualified historian.

CR-1(c) Viewshed Preservation

Because the native flora of the ranch is a key character defining feature of the historic landscape and a critical element of the historic viewshed, non-agricultural open space should be left in natural grasses, with native trees and other flora.

It should be noted that Agricultural Residential Cluster Subdivision measure VR-1(a) in Section 4.13, *Visual Resources*, which prohibits structural silhouetting on ridgelines, would also reduce this impact.

#### CR-1(d) Preservation of Key Landscape Elements

New roads on the ranch shall follow the natural topography to the extent possible, without substantial cuts or fills; the roads shall be as narrow as allowed by County requirements, with no verges. Signage must be subdued, and not mar or interfere with the views. Historic types of fencing shall be used. To facilitate preservation of these landscape elements, historic roads and other landscape remnants shall be recorded and mapped in greater detail. In particular, a survey of El Camino Real shall be carried out by a qualified professional using the location on the 1858 and 1889 maps as a guide. Any remnants or other physical evidence of these roads shall be thoroughly documented, and no development of any kind shall be located in the path of El Camino Real or other historical transportation elements. The current local historic place names indicate the history of the ranch and the people who impacted the landscape. These names shall be retained and incorporated into any development. New place names shall reflect the historical usage.

- b. Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. Supportive Evidence** – Please refer to pages 4.4-15 through 4.4-21 and page 6-99 of the Final EIR.

- 4. Impact CR-2.** Thirty-two prehistoric and historical archaeological sites and six isolates are located within or immediately adjacent to the Amended Project site. All of these resources contribute to the significance of the Santa Margarita Ranch Rural Historic District and are eligible for the California Register of Historic Resources (CRHR) under multiple significance criteria. Recovery of the important information in these sites through excavation would lessen the impacts. However, damage to or destruction of the important associations of these sites, and disruption of their setting and feeling, is a Class I, significant and unavoidable impact.

#### **a. Mitigation**

##### Mitigation measures CR-2(a) Avoidance

As feasible, all cultural sites within Tract 2586 shall be avoided during development. To ensure avoidance, the boundaries of all sites within or adjacent to the housing cluster shall be defined through a program of systematic subsurface boundary testing using shovel probes, surface test units, and other appropriate sampling units. The type and distribution of sampling units shall be determined by a qualified professional archaeologist, who will carry out the boundary testing in the presence of a Native American monitor. After site boundaries are defined, an exclusion zone shall be placed around each site. An exclusion zone is a fenced area where construction equipment and personnel are not permitted. The exclusion zone fencing shall be installed (and later removed) under the direction of a qualified archaeologist and shall be placed five meters beyond the defined site boundary to avoid inadvertent damage to sites during installation. If multiple pieces of heavy equipment are in use simultaneously at diverse locations during construction, each location may be monitored individually. If avoidance cannot be achieved, other forms of mitigation, such as data recovery, will lessen the impacts but will not mitigate the loss of integrity to a less than significant level.

CR-2(b) Mitigative Data Recovery Excavation.

If avoidance of an archaeological site(s) is not possible, data recovery excavation shall be completed prior to issuance of grading permits. A data recovery plan shall be submitted by a qualified archaeologist for review by the County Environmental Coordinator. Data recovery shall be funded by the applicant, shall be performed by a County-qualified archaeologist, and shall be carried out in accordance with a research design consistent with the requirements of the California Office of Historic Preservation Planning Bulletin 5, *Guidelines for Archaeological Research Design*. At a minimum, data recovery shall include:

- Mapping of site boundaries and the distribution of surface remains;
  - Surface collection of artifacts;
  - Excavation of a sample of the cultural deposit to characterize the nature of the site and retrieve a representative sample of artifacts and other remains within the proposed impact area;
  - Monitoring of excavations at Native American sites by a tribal representative;
  - Technical studies and analysis of the recovered sample, including radiocarbon dating, typological and technical analysis of tools and debris, identification and analysis of preserved faunal and floral remains, and other studies appropriate to the research questions outlined in the research design;
  - Cataloguing and curation of all artifacts and records detailing the results of the investigations at a county approved curation facility;
  - submission of a final technical report detailing the results of the investigations;
  - preparation of an interpretive report suitable for distribution to the general public.
- b. **Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. **Supportive Evidence** – Please refer to pages 4.4-21 through 4.4-23 and page 6-99 of the Final EIR.

**D. Noise (Class I)**

1. **Impact N-2.** Long-term traffic generated by the Amended Project would incrementally increase noise levels at existing receptors located adjacent to roadways in the Santa Margarita Ranch vicinity. The effect of this noise on off-site sensitive receptors in the area is a Class I, significant and unavoidable impact.
- a. **Mitigation** – The implementation of structural measures (e.g., sound walls, solid core doors, and/or double paned windows) would be infeasible due to physical, economic, or other constraints, and would rely upon the cooperation of off-site property owners, which cannot be assured. Therefore, no feasible measures are available that would mitigate impacts to existing sensitive receptors.
- b. **Findings** – Changes or alterations or not available to be incorporated in to the Amended Project to avoid or substantially lessen the significant environmental effects as identified in the Final EIR; these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.

- c. **Supportive Evidence** – Please refer to pages 4.8-11 through 4.8-12 and page 6-105 of the Final EIR.

#### E. Transportation and Circulation (Class I)

1. **Impact T-1.** Development of the Amended Project would result in the addition of 1,154 average daily trips (88 AM peak hour and 119 PM peak hour trips) to study-area roadways and intersections. Although this would not result in exceedances of roadway or intersection level of service standards, with the exception of the US 101/SR 58 interchange northbound off-ramp, the Amended Project will add traffic to locations with existing hazards and deficiencies. The mitigation measures T-1(b) and T-1(c), U.S. 101 Northbound and Southbound Off-Ramps to SR 58 (FEIR 4.12-26) is not legally feasible because there is no rational nexus or rough proportionality between the impacts attributable to the Applicant's Project and the imposition of this condition. This deficiency regarding the 101 Northbound and Southbound Off-Ramps to SR 58 is pre-existing condition. The implementation of these conditions are beyond the control of the Applicant and are not feasible because it cannot be accomplished within a reasonable time if at all. The FEIR recognized that there is "uncertainty regarding Caltrans approval of facilities with State jurisdiction" (FEIR ES-33), thereby further rendering the imposition of this condition infeasible. Implementation of proposed mitigation measures below would improve hazards and deficiencies. However, due to uncertainty regarding Caltrans approval of facilities within State jurisdiction, Class I, significant and unavoidable impacts would result.

##### a. **Mitigation** –

Mitigation measures T-1(a) SR 58 South of J Street

1. Install radar feedback signs and advisory speeds on each approach to the 90- degree on SR 58 near J Street.

As these improvements would occur within Caltrans jurisdiction, an encroachment permit from Caltrans would be required if the cost of the improvements is less than three million dollars. A Project Study Report and associated approval from Caltrans would be required if the cost of the improvements exceeds three million dollars.

T-1(b) U.S. 101 Northbound Off-Ramp to SR 58

The park-and-ride facility is located adjacent to the northbound offramp, reconfiguration of the parking lot and access to a nearby frontage road is required. The applicant shall include designs for the revised park and ride and frontage road access in the permit with Caltrans.

As these improvements would occur within Caltrans jurisdiction, an encroachment permit from Caltrans would be required if the cost of the improvements is less than three million dollars. A Project Study Report and encroachment permit from Caltrans would be required if the cost of the improvements exceeds three million dollars.

T-1(e) Estrada Avenue/H Street Warning Beacon.

A pedestrian-activated advanced warning beacon shall be installed on the northbound approach to the intersection of Estrada Avenue and H Street, before the crest on Estrada Avenue, to warn drivers of the presence of pedestrians crossing at the

**As directed by The Board of Supervisors 12/19/08**

intersection. A pedestrian-activated beacon shall also be installed for southbound Estrada Avenue traffic. The precise location for beacon installation shall be determined in consultation with Caltrans under the encroachment permit process, and shall include any required ramps or other Americans with Disabilities Act (ADA) upgrades. The applicant shall fund and install both advanced warning beacons.

- b. Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.
- c. Supportive Evidence** – Please refer to pages 4.12-16 through 4.12-30 and page 6-106 of the Final EIR.

**F. Water and Wastewater (Class I)**

- 1. Impact W-1.** The Amended Project would connect to the Nacimiento Water Project for water supply. During the public testimony before the Planning Commission and Board of Supervisors the County Director of Public Works testified that the Santa Margarita Ranch has an allocation of 200 AFY of Nacimiento Water and that the pipeline and distribution facility are under construction. He also state the water from the Nacimiento Water project would be available to able to serve the project.

**a. Mitigation –**

Mitigation measure W-1(a) Water Conservation Measures.

The applicant shall implement water conservation measures, including, but not limited to:

- Using available and proven technologies and equipment that provide adequate performance with a substantial water savings. This may include the installation of high efficiency washing machines and ultra-low flush toilets during construction and/or the use of micro sprinklers or drip tape for domestic and agricultural irrigation, installation of hot water pipe circulating systems or “point-of-use” water heaters. Installation of these water conservation measures shall be included in CC&Rs for residential lots and monitored by a homeowners association or similar entity;
  - Implementing tiered commodity rates for water sales that increase with higher water usage to financially encourage each resident to conserve water;
  - Establishing low water use landscaping on all common landscaped areas greater than 0.1 acres, including low water use irrigation methods such as drip irrigation; and
  - Limiting total residential irrigated landscape areas to 3,000 square feet and limiting turf (lawn) areas to no more than 25 20% of residential irrigated landscape areas (or 600 square feet at maximum); and
  - Providing and updating an educational brochure regarding water conservation.
- b. Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; however, these effects have not been lessened to a level of insignificance. These impacts are acceptable by reason of the overriding considerations discussed in Section VII.

b.

- c. **Supportive Evidence** – Please refer to pages 4.14-5 through 4.14-13 and pages 6-106 through 6-107 of the Final EIR and also refer to the public testimony provided by the County Public Works Director, and John Hollenbeck, Nacimiento Water Project Manager, and Curtis Hopkins.

## VII. FINDINGS FOR GLOBAL CLIMATE CHANGE IMPACTS

The primary source of greenhouse gases (GHGs) in California is fossil fuel combustion. The primary GHG associated with fuel combustion is carbon dioxide (CO<sub>2</sub>), with lesser amounts of methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O). The Amended Project would result in emissions of these GHGs due to fuel combustion in motor vehicles, which would contribute to potential cumulative impacts of GHG emissions on global climate.

In its report to the Governor and the Legislature, the Climate Action Team recommended strategies that could be implemented by various state boards, departments, commissions, and other agencies to reduce GHG emissions. The design of the Amended Project would result in inconsistencies with the Climate Action Team Strategy "Smart Land Use and Intelligent Transportation," which promotes jobs/housing proximity, transit-oriented development, and high density residential/commercial development along transit corridors. Inconsistencies with this strategy from the Amended Project are outlined below.

- The Amended Project would not be located in close proximity to any commercial or job center (approximately 8 miles to Atascadero and approximately 10 miles to San Luis Obispo). As a result, it would reduce job/housing proximity and increase vehicle trips and travel distances.
- The Amended Project would not be located along an established transit route and would be unlikely to create demand for transit facilities due to the relatively low density of the development.
- The Amended Project would be developed at a relatively low density in a rural area.

The Amended Project would be inconsistent with the "Smart Land Use and Intelligent Transportation" strategy, and would result in an incremental contribution to cumulative quantities of global climate change (GCC).

The San Luis Obispo County APCD has identified mitigation measures which are required to reduce impacts related to GCC. These measures include the following construction equipment controls: maintaining equipment according to manufacturer's specifications; maximizing the use of diesel construction equipment; idling limitations; and using electric or alternatively fueled construction equipment. These controls are included in measure AQ-2(a) (Construction Equipment Controls). In addition, the following mitigation measures are required:

**AQ-GCC(a) Construction Phase Mitigation to Reduce Fuel Usage and thus Greenhouse Gases.** In addition to construction equipment controls required by measure AQ-2(a), the following construction equipment measures shall be implemented to improve fuel efficiency and reduce greenhouse gas (GHG) emissions such as CO<sub>2</sub>:

1. Maximize, to the extent feasible, the use of on-road heavy-duty equipment and trucks that meet the CARB's 1998 or newer certification standard for on-road heavy-duty diesel engines.



2. Add a section to the Construction Management Plan identified in measure AQ-2(e) (Active Grading Areas) that schedules construction-related trips during non-peak hours to reduce peak hour and congestion-related emissions.

**AQ-GCC(b) Operational Phase Mitigation to Reduce Fuel Usage and thus Greenhouse Gases.** In addition to energy efficiency measures listed in measure AQ-1(a) (Energy Efficiency), the following green building techniques shall be implemented where feasible:

1. Engineer and position buildings to eliminate or minimize the development's active heating and cooling needs (e.g., solar orientation).
2. Install solar systems to reduce energy needs (e.g., solar panels).
3. Install solar water heaters.
4. Plant native, drought resistant landscaping.
5. Use locally-produced building materials.
6. Use renewable or reclaimed building materials.
7. Increase building energy efficiency ratings by at least 20 percent above what is required by Title 24 requirements, rather than 10 percent as required by measure AQ-1(a) (Energy Efficiency):

**AQ-GCC(c) Alternative Transportation.** The Amended Project shall further offset greenhouse gas (GHG) emissions by improving nearby transit amenities to help expand the interest and use of transit, thus reducing vehicle trips, fossil fuel consumption, and related GHG impacts. The mitigation requiring the funding by the RTA to implement SMART signage for the four bus stops in Santa Margarita is infeasible as the infrastructure is not in place to implement the mitigation. The implementation of this condition is beyond the control of the applicant because it cannot be accomplished within a reasonable timeframe, if at all.

1. Provide Regional Transit Authority (RTA) approved transit shelters for the three unsheltered RTA bus stops in the community of Santa Margarita.
2. Work with RTA to include bus stops at the two project entrances for the Santa Margarita Lake Shuttle

**Findings** – Changes or alterations have been required in, or can be incorporated in to the Amended Project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

**Supportive Evidence** – Please refer to pages 4.2-25 through 4.2-32 of the Final EIR.

## **VIII. CUMULATIVE IMPACTS**

The Final EIR discloses potential impacts associated with buildout of the Amended Project in combination with the Future Development Program. The incremental contribution of the Amended Project to cumulative impacts is captured in the project-level analysis throughout the Final EIR. Class I impacts associated with the Amended Project and the Future Development Program are compared below:

**Class I Impacts: Amended Project**

**Class I Impacts: Future Development Program**

**Class I Impacts: Amended Project**

- Impact AG-1: Agricultural Lands Conversion
- Impact AG-2: Agriculture-Urban Conflicts
- Impact AQ-1: Operational Air Pollutant Emissions
- Impact AQ-4: Clean Air Plan Consistency
- Impact B-3: Oak Tree Removal
- Impact CR-1: Impacts to Historical Character and Native American Values
- Impact CR-2: Damage or Destruction of Prehistoric and Historic Archaeological Sites
- Impact N-1: Long-term Traffic Noise Generation
- Impact T-1: Addition of Traffic to Locations with Existing Hazards and Deficiencies
- Impact W-1: Water Supply

**Class I Impacts: Future Development Program**

- Impact AG-1: Agricultural Lands Conversion
- Impact AG-2: Agriculture-Urban Conflicts
- Impact AQ-2: Clean Air Plan Consistency
- Impact B-2: Oak Tree Removal
- Impact CR-1: Impacts to Historical Character and Native American Values
- Impact CR-2: Damage or Destruction of Prehistoric and Historic Archaeological Sites
- Impact N-1: Long-term Traffic Noise Generation
- Impact T-1: Addition of Traffic to Locations with Existing Hazards and Deficiencies
- Impact T-2: Inadequate Site Access and Internal Circulation
- Impact VR-1: Alteration of Aesthetic Character
- Impact W-1: Water Supply

As shown above, the only Class I impact associated with the Future Development Program that was not captured by the Amended Project analysis relates to inadequate site access and internal circulation. The Amended Project would not contribute to this impact, as this impact relates to the potential site design of conceptual future development. No action is being taken at this time to authorize, approve or provide entitlement to any project in the Future Development Program. The incremental contribution of the Amended Project to other cumulative impacts (i.e. those classified as Class II or III) is similarly captured in the project-level analysis. As a result, the Amended Project is not responsible for any cumulative impacts beyond those disclosed for the project itself.

**IX. STATEMENT OF OVERRIDING CONSIDERATIONS**

Findings pursuant to CEQA Guidelines sections 15093 and 15092.

A. The applicant's Amended Project's significant, unmitigable, unavoidable adverse effects are as follows:

1. The Final EIR states that the Amended Project could permanently compromise the sustainability of a 676.7-acre grazing unit and would convert 21 acres containing prime soils to non-agricultural uses. However public testimony

provided at the Planning Commission and the Board of Supervisors indicated that actual experience with other ag cluster projects such as Varian Ranch over the past 20 years, have demonstrated that grazing units adjacent to residential cluster lots have successfully co-existed without compromising agricultural viability. Further testimony provided by Dr. Thomas Rice indicated that soil map unit 182 is not a prime soil. 80 acres of grazing land will be converted as part of the project and up to 5 acres of Class 1 and 2 soils will be converted. Impacts related to agricultural conversion would be Class I, significant and unavoidable. The FEIR states that no feasible measures are available that would mitigate impacts to portions of the grazing unit where residences or other improvements would be located or prime soils located on the Amended Project site. These specific losses of building sites for cattle grazing and limited prime soils losses could not be completely eliminated even with mitigation through permanently preserving over 900 acres of prime farmland and existing vineyards and over 2,000 acres of grazing land.

2. The FEIR states that the development in accordance with the Amended Project would create conflicts between proposed residential cluster uses and proposed and existing agricultural uses. While the public testimony referred to above and the experience with agricultural clusters indicates that cluster residential uses does not impair agricultural viability, there would still be residential uses adjacent to agricultural uses where none existed before, and that this would still be a condition which did not exist without the project.
3. The development in accordance with the Amended Project would result in operational air pollutant emissions.
4. The development in accordance with the Amended Project would exceed the population growth assumptions of the 2001 Clean Air Plan, and would result in a substantial increase in vehicle miles traveled and associated increase in emissions.
5. The development in accordance with the Amended Project would result in the removal of and/or impacts to 250 to 350 oak trees, as well as the conversion of native oak woodland habitat by placing homes within portions of the oak woodland which would not exist without the project.
6. The development in accordance with the Amended Project would add residential cluster units into a previously undisturbed area, although the cluster division would be consistent with creating a rural character for the new homes and area. However, the addition of new homes would change the current undeveloped rural character.
7. The development in accordance with the Amended Project could damage or destroy the important associations of prehistoric and historical archaeological sites.
8. The development in accordance with the Amended Project would incrementally increase noise levels at existing receptors located adjacent to roadways in the Santa Margarita Ranch vicinity.
9. The development in accordance with the Amended Project would result in the addition of 1,154 average daily trips to study area roads and intersections, which will add traffic to locations with existing hazards and deficiencies.

9.

10. The development in accordance with the Amended Project may not have an assured long-term water supply, due to uncertainties regarding timing and availability of the Nacimiento Water Project.

**B. Findings** – The Board of Supervisors has weighed the benefits of the Amended Project against its unavoidable environmental impacts. Based on the consideration of the record as a whole, the Board of Supervisors finds that the benefits of the project outweigh the unavoidable adverse environmental impacts to the extent that the unavoidable adverse environmental impacts become “acceptable”.

**C. Supporting Evidence**

1. Social, Economic and Environmental Benefits. The Amended Project would result in the following social and economic benefits:
  - a. The Amended Project will preserve over 3,620 acres on five separate parcels with permanent open space / agricultural conservation easements (ACEs) parcels.
  - b. The Amended Project will preserve over 900 acres of land mapped by the Department of Conservation as Prime Farmland and over 2,000 acres of grazing land.
  - c. The Amended Project will protect and preserve the rural character of the area by protecting the region's aesthetic value.
  - d. Although the Amended Project will result in a limited amount of tree removals, its approval will result in the preservation of over 1,400 acres of oak woodlands,
  - e. The Amended Project will result in the preservation / protection of 31 acres of wetlands, and 30 miles of waterways, and other important biological habitat.
  - f. The permanent open space / agricultural conservation easements (ACEs) parcels will preserve identified and unidentified archeological sites
  - g. The construction of the Amended Project will result in both short-term and long-term economic benefits to the County of San Luis Obispo and its residents.
    - i. The project will increase contributions to County property taxes.
    - ii. The project will indirectly provide for a number of jobs relating to construction of and maintaining approximately 111 new homes and related improvements.
    - iii. The project will increase the countywide available housing stock by 111 units.
2. **Mitigation Enhancement** - The Final EIR contains mitigation measures which will substantially lessen the significant environmental Impacts of the project. The following are some of the more substantial environmental benefits:
  - a. Provisions for 3,621 acres of permanent agricultural land/open space.
  - b. Preservation and restoration of sensitive vegetation found on the subject property.
  - c. Preservation and enhancement of oak woodland
  - d. Minimizing potential impacts to special status plant and animal species
  - e. Minimizing impacts to air quality by the implementation of on-site and off-site mitigation measures.

- f. On-site mitigation measures include standard and discretionary site design and operations/PM10 measures.
  - g. Off-site mitigation measures include improvements and additions to the existing transit facilities in Santa Margarita to make them more convenient and user friendly to the residents of the North County and Santa Margarita.
  - h. Provisions for setbacks and separations between the residential uses and on-site agricultural operations
  - i. Height limitations on select home sites to ensure that the visual character of the site when viewed from off-site public roads remains intact.
  - j. Avoidance as feasible and preservation of archeological resources.
  - k. Transportation related improvements to areas with existing hazards including the installation of pedestrian activated warning beacon at Estrada Avenue and H Street, Installation of radar feedback signs and advisory speeds on each approach to the 90-degree corner on SR 58 near J street, and the installation of pedestrian in pavement flashing lights on the eastbound and westbound approaches to the intersection of ECR and Encina Avenue.
3. Alternatives. The Amended Project (Alternative 12) is an alternative to the Agricultural Residential Cluster Subdivision that was analyzed in the Final EIR. The project alternatives identified in the Environmental Impact Report, are rejected because of not meeting the applicant's objectives for the project. Alternative 12 is the Environmentally Superior Alternative which meets the applicant's objectives and is consistent with the applicable Salinas River Area Plan, Land Use Category, and Agricultural Cluster ordinance, and the approval would be consistent with the applicable, objective general plan and zoning standards applicable to the property, and the project would not have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards.

The FEIR discusses a variety of alternatives which are specifically rejected:

Alternative 1.: No Project/No Development. This alternative is inconsistent with the General Plan, Salinas River Area Plan Standards, the Land Use Designation, and does not meet the applicant's objectives for the project. This alternative is also rejected since the Amended project is consistent with the applicable, objective general plan and zoning standards applicable to the property, and the project would not have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards. This alternative would also not provide permanent protection of approximately 96% of the project site which would be achieved by the Amended Project, agricultural easements protecting existing vineyard operations and on-going cattle operations on the project site.

Alternative 2: No Project/Existing Zoning. This alternative assumes that the agricultural residential cluster division is not constructed, and that further development of the site continues in accordance with all applicable County policies. This alternative assumes that two residential units would be developed on each of the existing 28 parcels in accordance with existing Agriculture zoning. This alternative is rejected as not achieving the applicant's objectives, and further because it is inconsistent the General Plan and Area Plan standards which provide for an agricultural clustering subdivision rather than the development of existing lots.

This alternative is also rejected since the Amended project is consistent with the applicable, objective general plan and zoning standards applicable to the property, and the project would not have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards. This alternative would also not provide permanent protection of approximately 96% of the project site which would be achieved by the Amended Project, agricultural easements protecting existing vineyard operations and on-going cattle operations on the project site.

This alternative proposes a traditional pattern of development according to existing lot lines is environmentally inferior to an agricultural cluster subdivision which permanently preserves open space and agriculturally viable operations.

Alternative 3: This alternative involves a reconfiguration of the agricultural residential cluster subdivision design but does not achieve the project applicant goal and would not maintain the rural character of the development due to site design, and would more closely resemble a traditional subdivision.

Alternative 4: Revised Cluster Location 1. This alternative assumes that the proposed agricultural residential cluster subdivision is relocated north of and immediately adjacent to the community of Santa Margarita, continuing the existing community grid pattern. This alternative is rejected because it is inconsistent the project applicant's goals and is legally infeasible as being inconsistent with the existing General Plan and Salinas River Area Plan standards, the Agriculture land use category. This alternative is also inconsistent with the applicant's project goals. This location would include development within the 100 year FEMA floodplain and be located on prime agricultural soils. It would also be located near the Nacimiento Fault Zone and in areas of high landslide potential. (See FEIR, Figure 6-2.)

Alternative 5: Revised Cluster Location 2. This alternative is located south of the town of Santa Margarita and is legally infeasible as inconsistent with the adopted General Plan and area plan standards. This alternative would result in greater impacts to prime soils and grazing units (FEIR, 6-33). The direct impacts to California annual grassland, emergent wetland, and riparian/riverine habitat types would be greater than the Applicant's Project Alternative. (FEIR, 6-33.) It is also in a location with drainage issues and in which the applicant has dedicated drainage basin easements to the County. This alternative would locate lots directly atop the Nacimiento Fault Zone which bisects the alternative site, and would result in greater impacts related to surface rupture and similar impacts related to groundshaking, soil-related hazards, and landslide potential when compared to the Applicants Amended project. (FEIR, 6-35) This alternative is would result in greater visibility of the residential uses from residential properties. (FEIR, 6-37)

Alternative 6: Revised Cluster Location 3. This alternative is southwest of the community and is legally infeasible as inconsistent with the adopted General Plan and area plan standards. This alternative would include areas of prime agricultural soils regardless of irrigation.. (FEIR, Figure 6-4.) Direct impacts to blue oak woodland and California annual grassland habitat types would be greater than the Applicant's Project Alternative. (FEIR 6-41) The noise impacts from this alternative would be similar to and worse than the Applicant's Project Alternative (FEIR 6-42). This alternative would result in public safety impacts both similar to and greater than the Applicant's Project Alternative. (FEIR 6-42). More homes may be visible from roadways within the Community of Santa Margarita and State Route 58 west of the Community of Santa Margarita. (FIR, 6-44)

Alternative 7: Tighter Cluster Alternative: This alternative is a reconfiguration of the agricultural residential cluster subdivision design. This alternative is legally infeasible as it is inconsistent with the adopted General Plan and area plan standards. It is also inconsistent with the applicant's project goals. This alternative would result in the direct conversion of approximately 46.8 acres of prime soils (Figure 6-5 in the Draft EIR and Figure 2-2 Final EIR), and would result in greater impacts related to direct conversion of prime soils than the Applicants Alternative Project. (FIER 6-45) The design of this alternative more closely resembles a traditional subdivision and would therefore more greatly impact the rural character of the area. (FIER 6-52) The tighter cluster would result in more concentrated urbanized appearance within the rural context and more homes may be visible from roadways within the community of Santa Margarita. (FEIR 6-52)

Alternative 12: Amended Project. This alternative contains the same development characteristics and the originally proposed project but incorporates a reorganized lot layout to avoid placing lots on prime soils, reduces visual impacts, reduces impacts to oak trees, and avoids archaeologically sensitive areas; reorganization of roadways, and incorporation of building envelopes and height restrictions. Alternative 12 is the Environmentally Superior Alternative which meets the applicant's objectives and is consistent with the applicable Salinas River Area Plan, Land Use Category, and Agricultural Cluster ordinance, and the approval would be consistent with the applicable, objective general plan and zoning standards applicable to the property, and the project would not have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards.

Alternative 13: Santa Margarita Town Expansion: This alternative is a reconfiguration of the agricultural residential cluster subdivision design adjacent to the community of Santa Margarita. This alternative is infeasible since it is located in an area where the owners have dedicated a drainage easement to the County for drainage purposes and protection of the community of Santa Margarita. This alternative would result in increased prime soil conversion. (FEIR 6-108) This site contains a larger area of emergent wetland habitat than the Applicant's Project Alternative. (FEIR, 6-111). This alternative would reduce the project density and therefore be inconsistent with the Applicants project goals. This reduced density could not be supported by findings that the reduction in density is required because the Applicant's Project Alternative would have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct and unavoidable impact based on objective, identified written public health or safety standards, and is therefore legally infeasible.

Alternative 14: Reduced Project. This alternative would cluster 40 lots including one open space lot. This alternative would reduce the project density and therefore be inconsistent with the Applicants project goals. This reduced density could not be supported by findings that the reduction in density is required because the Applicant's Project Alternative would have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct and unavoidable impact based on objective, identified written public health or safety standards, and is therefore legally infeasible.

Staff Recommended Alternative. This alternative was made to the Planning Commission and would cluster 39 lots in the northern most portion of the subdivision site. The design of this alternative more closely resembles a traditional subdivision

and would therefore more greatly impact the rural character of the area. (FIER 6-52) The tighter cluster would result in more concentrated urbanized appearance within the rural context and more homes may be visible from roadways within the community of Santa Margarita. This alternative would reduce the project density and therefore be inconsistent with the Applicants project goals. This reduced density could not be supported by findings that the reduction in density is required because the Applicant's Project Alternative would have a specific, adverse impact upon the public health or safety, that is, a significant, quantifiable, direct and unavoidable impact based on objective, identified written public health or safety standards, and is therefore legally infeasible.

#### **X. CEQA GENERAL FINDINGS**

- A. The Board of Supervisors finds that changes or alterations have been incorporated into the project to mitigate or avoid significant impacts to the greatest degree practicable. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR.
- B. The Board of Supervisors finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

#### **XI. MITIGATION MONITORING PROGRAM**

- A. The applicant, Santa Margarita Ranch, LLC, will be responsible for implementing the mitigation measures. The County Planning and Building Department will be responsible for monitoring to ensure that all project mitigation measures are properly implemented. Mitigation measures will be programmed to occur at, or prior to, the following milestones:
- *Prior to commencement of construction/vegetation removal.* These are measures that need to be undertaken before earth moving activities begin. These measures include items such as staking the limits of environmentally sensitive areas or vegetation to remain, prepare and approve biological mitigation plans with resource agencies, and completing additional field surveys as required by conditions of approval.
  - *During project construction/vegetation removal.* These measures are those that need to occur as the Amended Project is being constructed or the vegetation being removed. They include monitoring the construction site for the proper implementation of dust and emission controls, erosion controls, biological protection, and examining grading areas for the presence of cultural materials.
  - *Prior to completion of construction.* These measures apply to project components that would go into effect at completion of the Amended Project construction phase, including items such as management or monitoring plans (e.g., revegetation, etc.). In order for the plan to be available for use at project completion, it will need to be prepared and completed before Amended Project construction is finished.



**As directed by The Board of Supervisors 12/19/08**

- *At the time of project completion/during operation of the project.* These are active measures that will commence upon completion of the construction phase and, in most cases, will continue through the life of the applicant's Amended Project.
- *Prior to approval of discretionary or building permit and/or recordation of the final map.*
- *Prior to occupancy or final inspection of the development.*

Connecting each of the mitigation measures to these milestones will integrate mitigation monitoring into existing County processes, as encouraged by CEQA. In each instance, implementation of the mitigation measure will be accomplished in parallel with another activity associated with the project.

- B.** As lead agency for the Santa Margarita Ranch Agricultural Residential Cluster Subdivision Project and Future Development Program Final EIR, the Board of Supervisors hereby certifies that the approved Mitigation Monitoring Program is adequate to ensure the implementation of the mitigation measures described herein.