

*Wetland Friends*

# The Vineyards at Marsh Creek and Annexation Sites

SCH # 2003062019

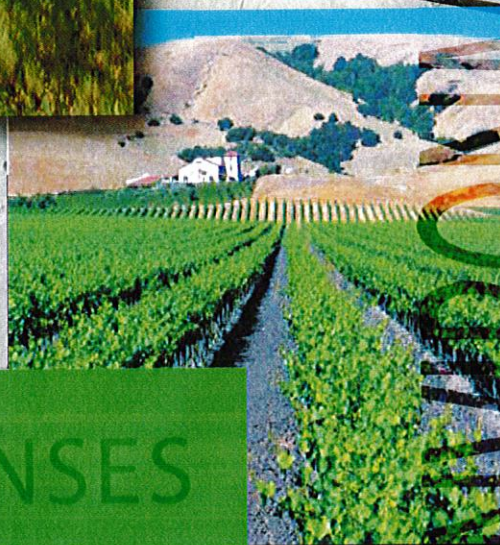
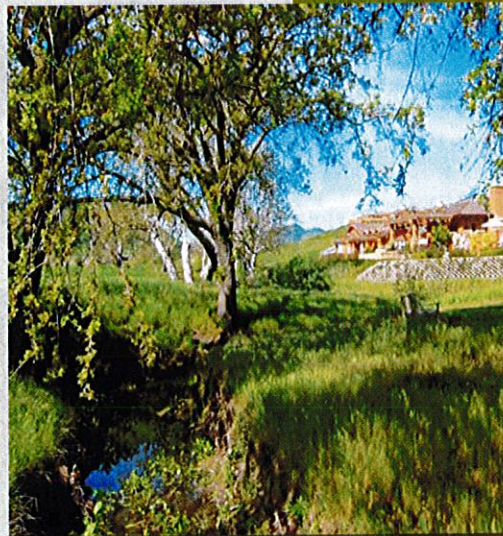
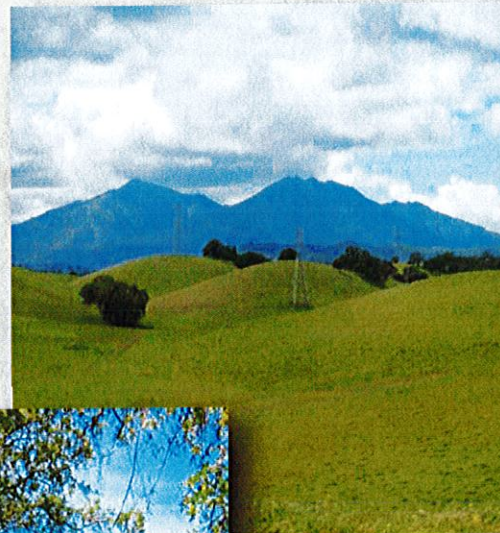
*Prepared for:*



*Prepared by:*



*February 2004*



ENVIRONMENTAL IMPACT REPORT

VOLUME 4: RESPONSES  
TO COMMENTS



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

public March 5

## *Responses to Comments*

# The Vineyards at Marsh Creek and *Annexation Sites* EIR

SCH # 2003062019

**Prepared for:**

City of Brentwood  
Community Development Department  
708 Third St.  
Brentwood, CA 94513  
Attention: Mitch Oshinsky, Director  
Fax: 925- 516-5407

Contact:  
Mitch Oshinsky, Director

**Prepared by:**

RBF Consulting  
500 Ygnacio Valley Blvd, Suite 270  
Walnut Creek, CA 94596-3847

Submitted by:  
Julia M. LeBoeuf, Project Manager

February 2004



## TABLE OF CONTENTS

Section	Page
1.0 Introduction .....	1-1
2.0 Comments Received on the Draft EIR and Written Responses .....	2-1
Master Response A: Driving Characteristics of Active Adult Residents .....	2-5
Master Response B: East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (East County HCP/NCCP) .....	2-13
Master Response C: Background on the Formation of the Project Site and Adjacent State Park Lands .....	2-17
Master Response D: Segment 3 of State Route 4 Bypass .....	2-23
Letter 1 and Responses: U.S Army Corps of Engineers .....	2-25
Letter 2 and Responses: California Department of Fish & Game .....	2-27
Letter 3 and Responses: California State Assembly, Fifteenth District .....	2-53
Letter 4 and Responses: State of California, Department of Parks and Recreation .....	2-55
Letter 5 and Responses: State of California, Governor’s Office of Planning and Research .....	2-63
Letter 6 and Responses: State Department of Transportation (Caltrans) .....	2-67
Letter 7 and Responses: Bay Area Air Quality Management District .....	2-75
Letter 8 and Responses: The Colleges of Contra Costa .....	2-85
Letter 9 and Responses: Contra Costa County, Community Development Department .....	2-89
Letter 10 and Responses: Contra Costa County Flood Control & Water Conservation District .....	2-95
Letter 11 and Responses: East Bay Regional Park District .....	2-115
Letter 12 and Responses: Local Agency Formation Commission (LAFCO) .....	2-133
Letter 13 and Responses: Los Medanos College .....	2-137
Letter 14 and Responses: TRANSPLAN Committee .....	2-139
Letter 15 and Responses: Greenbelt Alliance .....	2-143
Letter 16 and Responses: Natural Heritage Institute .....	2-169



Letter 17 and Responses: Save Mount Diablo.....2-171

3.0 Erratum .....3-1

    I. Text Changes to the DEIR Based on Responses to Comments.....3-1

    II. Other Technical Changes Made to the DEIR .....3-x





**LIST OF TABLES**

<b>Table</b>		<b>Page</b>
2-1	Proposed General Plan Land Use Designations for Vineyards at Marsh Creek Project .....	2-2
A-1	Trips Per Day by Age .....	2-7
A-2	Total Miles and Driving Time Per Day .....	2-7
A-3	Household Lifecycles Statistics.....	2-8

**LIST OF EXHIBITS**

<b>Exhibit</b>		<b>Page</b>
A-1	Chart of Active Adult Trip Generation.....	2-6
A-2	Existing Dimes-a-Ride Route.....	2-10
B-1	Public Open Space / Preserved Land.....	2-21
2-2	Local Vicinity Map .....	2-49
R-11.1	Regional Trails .....	2-130
R-11.2	Views from State Park to Vineyards Project.....	2-131
3.4-1	Existing Roadway Network.....	3-x
3.4-2	Existing Intersection Locations .....	3-x
3.4-3	Existing Plus Approved Intersection Locations .....	3-x
3.4-4	Long-Term Intersection Locations .....	3-x
3.4-6	Existing Intersections Lane Configurations and Traffic Control .....	3-x
3.4-7	Near-Term Vineyards Project Roadway Improvements.....	3-x
3.4-8	Near-Term Trip Distribution .....	3-x
3.4-12	Existing Plus Approved Conditions Lane Configurations and Traffic Control.....	3-x
3.4-13	Near-Term Project Mitigations.....	3-x
3.4-16	Long-Term Trip Distribution.....	3-x
3.4-17	Long-Term Roadway Improvements.....	3-x



3.10-2 Storm Discharge & Regional Flow – Existing .....3-x

3.10-3 Storm Discharge & Regional Flow – Post Project .....3-x

3.10-4 Locations of Marsh Creek Cross-sections .....3-x

3.10-5 Cross-section of Marsh Creek at River Station 3409 .....3-x

3.10-6 Cross-section of Marsh Creek at River Station 2283 .....3-x

3.10-7 Cross-section of Marsh Creek at River Station 534 .....3-x

3.10-8 Cross-section of Marsh Creek at River Station 479 .....3-x



## 1.0 INTRODUCTION

On November 25<sup>th</sup>, 2003, the City of Brentwood distributed to public agencies and the general public the Draft Environmental Impact Report (DEIR – SCH # 2003062019) for the proposed Vineyards at Marsh Creek and Annexation Sites project. The DEIR contains the environmental analysis of significant or potentially significant impacts of the proposed project on the environment. Together, the DEIR and Appendices and this Response to Comments document constitute the Final Environmental Impact Report (FEIR) for the Vineyards at Marsh Creek project and Annexation Sites projects.

In accordance with Public Resources Code § 21091 and State CEQA Guidelines § 15087, a public review period of at least 45 days was provided for the DEIR. The public review period ended on January 12<sup>th</sup>, 2004. During the public review period, comments were received from public agencies and individuals on the environmental analysis contained in the DEIR. This document includes a copy of the comments received during the 45-day public review period and written responses to those comments.

**Chapter 2.0** of this document includes a copy of the comments received on the DEIR and presents responses to significant environmental issues raised in the comments. Each comment letter is numbered in alphabetical order by the following categories:

- ❖ Federal Agencies
- ❖ State Agencies
- ❖ Regional and County agencies
- ❖ Organizations
- ❖ Individuals

Individual comments are sequentially numbered within each comment letter. As an example, the third comment received in the first letter would be numbered comment 1-3 (1 being number of the comment letter and 3 being the comment within that letter). Responses to comments, which immediately follow the letter that they address, are labeled to match the comment(s). Therefore, for example, Response to Comment 1-3 is labeled to match Comment 1-3.

- ❖ **Chapter 3.0** (Erratum) provides changes to the DEIR text or graphics. These DEIR changes are made in response to one or more comments. Changes to the DEIR include any necessary revisions to the Executive Summary table of the DEIR.

The focus of the responses to comments is the disposition of significant environmental issues that are raised in the comments, as specified by State CEQA Guidelines § 15088(b). Some comments have been raised on the Vineyards at Marsh Creek project itself, or the Annexation Sites project. Unless these comments raise significant environmental issues, a written response is not required.



*THIS PAGE INTENTIONALLY LEFT BLANK*

## 2.0 COMMENTS RECEIVED ON THE DRAFT EIR AND WRITTEN RESPONSES

This section of the Responses to Comment document includes a record of the comments received on the Vineyards at Marsh Creek and Annexation Sites Draft EIR (DEIR) (SCH # 2003062019) during the 45-day public review period for the DEIR that started on November 25<sup>th</sup>, 2003 and ended on January 12<sup>th</sup>, 2004. Listed below is a record of the written comments received on DEIR. As indicated below, 17 letters were received from Responsible Agencies (e.g., the Bay Area Air Quality Management District, Local Agency Formation Commission). The remainder of written comments was received from organizations and individuals.

A copy of each letter received during the 45-day review period is reproduced herein, including the entire letter and any attachments. The author's name appears on the front page of each letter. Each letter is designated as "LETTER X" in the upper right hand corner. The individual comments within each letter are numbered sequentially. The written responses are numbered to match the comment letter and comment number. Therefore, the first comment of the first letter is labeled 1-1, as is the corresponding response. The second comment of letter 1 is 1-2, and so on). Text deletions are shown in strike out (~~strike-out~~) and additions are shown in bold (**underline**).

Table 2-1 (beginning next page) lists the letter commenting entity and author, the date of the comment letter, and the subjects addressed in the comment letter. Comments are organized in the order of Federal Agencies, State Agencies, Regional and County Agencies, Organizations, and Individuals.

A few comments were raised for similar issues. Therefore, comprehensive "Master Responses" have been prepared to respond to these few issues to provide readers with a complete (or fuller) response. Master Responses are presented first, followed by the individual written responses to individual comments raised in each comment letter. Master Responses are provided for the following:

- ❖ Master Response A: Driving Characteristics of Active Adult Residents
- ❖ Master Response B: East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (East County HCP/NCCP) Process
- ❖ Master Response C: Background on the Formation of the Project Site and Adjacent State Park Lands
- ❖ Master Response D: Segment 3 of State Route 4 Bypass

**TABLE 2-1  
COMMENTS RECEIVED  
VINEYARDS AT MARSH CREEK AND ANNEXATION SITES DEIR**

Letter Number	Agency/Author	Date of Letter	Environmental/Topic(s) Addressed
<b><i>Federal Agencies</i></b>			
1	U.S. Army Corps of Engineers Mark W. Connelly, Lieutenant Colonel	12/24/03	No environmental issues raised. Letter is a direct response to an inquiry from the Mayor
<b><i>State Agencies</i></b>			
2	California Department of Fish & Game	1/14/04	Biological Resources
3	California State Assembly Honorable Guy Houston, Assemblyman, Fifteenth District	1/9/04	No environmental issues raised; commentor supports Vineyards at Marsh Creek project
4	State of California, Department of Parks and Recreation Brian P. Hickey, Bay Sector Superintendent	1/23/04	Impacts to, and mitigation of impacts to State park and to John Marsh House; cumulative impacts; wildland fire; trail access points into the State park.
5	State of California, Governor's Office of Planning and Research, State Clearinghouse and Planning Unit Terry Roberts, Director, State Clearinghouse	1/12/04	No environmental issues raised. Letter indicates DEIR was distributed to select state agencies by the State Clearinghouse
6	State Department of Transportation (Caltrans) Timothy C. Sable, District Branch Chief	1/6/04	Traffic
<b><i>Regional &amp; County Agencies</i></b>			
7	Bay Area Air Quality Management District Jack P. Broadbent, Executive Officer/APCO	1/6/04	Jobs/housing balance; Project location; alternative air quality mitigation measures
8	The Colleges of Contra Costa Thomas A. Beckett, Vice Chancellor, Facilities and Operations	1/5/04	Evaluation of traffic effects

**TABLE 2-1  
COMMENTS RECEIVED  
VINEYARDS AT MARSH CREEK AND ANNEXATION SITES DEIR**

Letter Number	Agency/Author	Date of Letter	Environmental Topic(s) Addressed
9	Contra Costa County, Community Development Department  Patrick Roche, Advance Planning Division	1/9/04	Land uses inside/outside of ULL; traffic; HCP
10	Contra Costa County Flood Control & Water Conservation District  Paul R. Detjens, Associate Civil Engineer, Flood Control Engineering	1/8/04	Surface water quality and quantity; regional detention basin; 100-year flood control; permitting required for work in/around creek
11	East Bay Regional Park District  Lindy L. Lowe, Senior Planner, Interagency Planning	1/28/04	Marsh Creek Trail; Cowell Ranch State Park; East Contra Costa County HCP/NCCP; mitigation for biological resources; development footprint and edge effects; transportation; visual impacts; John Marsh Home
12	Local Agency Formation Commission (LAFCO)  Annamaria Perrella, Executive Officer	12/9/03	LAFCO responsibilities under Cortese- Knox-Hertzberg Act (CKHA); adequacy of DEIR relative to CKHA issues
13	Los Medanos College  Peter Garcia, President	1/6/04	No environmental issues raised; commentor supports community college project.
14	TRANSPLAN Committee (East County Transportation Planning)  John Greitzer, TRANSPLAN Staff	12/22/03	Traffic analysis; transit; impacts to SR 4; use of East County Travel Demand Model; traffic mitigation
<b>Organizations</b>			
15	Greenbelt Alliance  Lee Huo, East Bay Field Representative	12/31/03	Project setting; jobs/housing balance; land use; HCP; population growth; agriculture; transportation; air quality; visual resources; biological resources;

**TABLE 2-1  
COMMENTS RECEIVED  
VINEYARDS AT MARSH CREEK AND ANNEXATION SITES DEIR**

Letter Number	Agency/Author	Date of Letter	Environmental Topic(s) Addressed
			alternatives; project description
16	Natural Heritage Institute Rich Walkling, Environmental Planner	1/5/04	Restoration of fall-run Chinook salmon in Marsh Creek
17	Save Mount Diablo Seth Adams, Director of Land Programs	1/9/04	Buffers around regional parks; visual effects; biological resources impacts and mitigation;



## MASTER RESPONSE A

### Driving Characteristics of Active Adult Residents

Some commentors have suggested that the location of the project site could adversely affect traffic conditions or associated air pollution emissions on a local or regional basis. In addition, a few commentors have indicated that the EIR should provide a more detailed discussion of transit.

Both issues require an understanding of the driving characteristics particular to residents living in Active Adult communities as well as the type of community and amenities being proposed with the Vineyards at Marsh Creek project.

Fehr & Peers Associates, Transportation Consultants (“Fehr & Peers”), has been conducting an on-going study of the traffic characteristics of Active Adult residents, living characteristics of Active Adult residents as they age, and their driving characteristics. Their analysis relies on a variety of sources, including the *United States 2000 Decennial Census* and the *National Household Travel Survey*, the *National Household Travel Survey* conducted by the U.S. Department of Transportation and the Bureau of Transportation Statistics, site-specific surveys of Active Adult communities, and other studies.

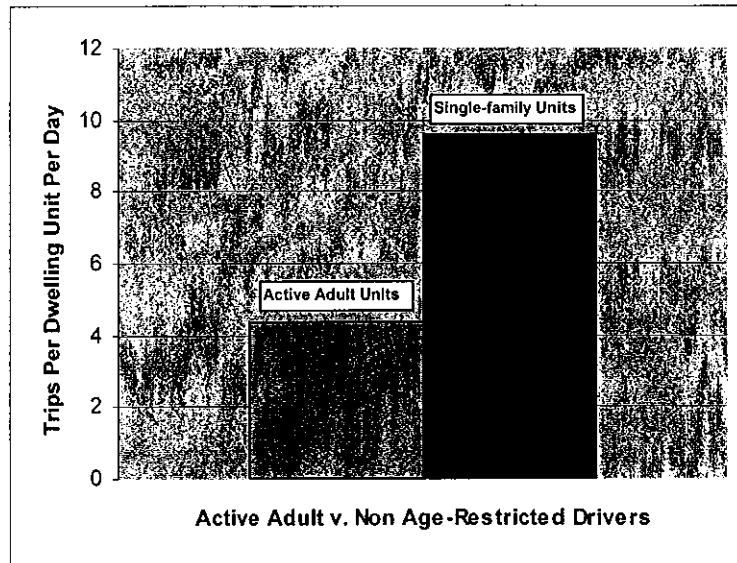
#### Active Adult Communities Generate Fewer Trips Per Unit Than Typical Non Age-Restricted Single-Family Uses

Single-family residential uses typically generate approximately 10 trips per day (9.6 trips per dwelling unit according to the *Institute of Transportation Engineers [ITE] Trip Generation Manual – 6<sup>th</sup> Edition*). However, published data regarding trip generation for Active Adult communities is limited. To provide more specific data regarding trip generation for Active Adult uses, Fehr & Peers conducted traffic surveys of the Summerset Active Adult community in Brentwood, California (in December 1999), and at Sun City Lincoln Hills in Lincoln, California (June 2001). Both communities have age restrictions on their residents. Only adults of age 55 and older can reside at these communities.

Survey data indicates that residents of the Active Adult communities generate from between 4.26 trips (Brentwood) to 4.59 trips (Lincoln) per dwelling unit (du), or about one-half of the number of average daily trips as “traditional” non-age-restricted communities (Exhibit A-1).

Moreover, survey results indicate that Active Adult residents generate fewer peak-hour trips than residents from non age-restricted communities. This is perhaps due to the fact that many Active Adult residents no longer need to work, or only one resident works, and they therefore have the ability to avoid traveling during peak hours during each day. ITE trip generation rates indicate that typical single-family uses generate approximately 1.01 trips per du during the PM peak hour (i.e., 4 PM to 6 PM), that Active Adult uses generate approximately 0.44 (Brentwood) to 0.34 (Lincoln) trips per du during the same peak hour. This rate is about one-half of the PM peak hour trips generated by typical, non age-restricted communities.

**EXHIBIT A-1  
ACTIVE ADULT TRIP GENERATION**



Source: Fehr & Peers Associates

**Older Persons Take Fewer Trips, Which are Shorter in Mileage and Duration, as Compared To Most Other Demographic Groups**

Research of National data (i.e., the *National Household Travel Survey*) indicates that elder Americans (age 65 or more) tend to take fewer and shorter average daily trips than most other age groups. Data indicate that while there are no substantial differences between men and women in the number of daily trips taken (differences do exist in the length and duration of trips), differences do exist based on age and employment status.

Generally, employed people of ages 25-54 years drive the greatest number of daily trips (4.6 per day on average). Newly licensed drivers (ages 15-19) drive the fewest daily trips (12 on average) and are followed closely behind by older drivers (age 65 +), who drive an average of 3.4 daily trips (Table A-1).

Similarly, results from the *National Household Travel Survey* indicate that newly licensed drivers (ages 15-19) drive for the shortest amount of time per day, followed closely behind by older drivers (age 65 +), who drive an average of 39 minutes per day (Table A-2). This fact may indicate that persons from the 65(+) age group tend to make trips that center around their residences, and that they are not generally commuting to and from work.

Age Range	Total Number of Trips Per Day
0-5	3.2
5-14	3.5
15-19	4.0
20-24	4.1
25-54	4.6
55-64	4.1
65+	3.4
Employed	4.5
Unemployed	3.7
Male	4.1
Female	4.1
All Persons	4.1

Source: Fehr & Peers Associates (U.S. Department of Transportation, Bureau of Transportation Statistics, NHTS 2001 Highlights Report, BTS03-05.)

Age Range & Employment	Total Miles Driven Per Day	Total Driving Time Per Day
15-19	12	25
20-24	29	52
25-54	35	64
55-64	30	58
65+	17	39
Employed	36	65
Unemployed	16	35
Male	38	67
Female	21	44
All Persons	29	55

Source: Fehr & Peers Associates (U.S. Department of Transportation, Bureau of Transportation Statistics, NHTS 2001 Highlights Report, BTS03-05.)

Last, the number and age of children in a household (“lifecycle”) affects trip characteristics. Research indicates that a household lifecycle strongly determines behaviors, including driving. The number of annual miles traveled per driver in households with one or two adults and varying numbers of children at different ages is 13,680 miles (on average) (Table A-3). Retired persons with no children traveled over 7,000 annual miles per driver *fewer* than the national average, and drove the least annual miles per driver among all life cycles studied. Households with two parents and children of 5 years or younger drive *more* than 2,000 annual miles per driver in the household, and the most of all life cycles studied.

Since the Active Adult communities are age-restricted, many residents tend to be retired or considering retirement and have no children living at home with them. Therefore, many of these residents would fall into the last two categories shown on Table A-3. The residents at these life cycles drive the fewest number of annual vehicle miles per driver in the household than any other life cycle group.

<b>Household Life Cycle</b>		<b>Annual Vehicle Miles Traveled per Driver</b>
<b>No of Adults</b>	<b>No. of Children/Ages</b>	
1	No Children	14,290
2 (+)	No Children	15,230
1	Youngest Child 0-5	12,100
2 (+)	Youngest Child 0-5	15,750
1	Youngest Child 6-15	13,330
2 (+)	Youngest Child 6-15	14,910
1	Youngest Child 16-21	12,350
2 (+)	Youngest Child 16-21	13,480
1 Adult Retired	No Children	6,610
2 (+) Adults Retired	No Children	9,120
<b>All Groups</b>		<b>13,680</b>
Source: Fehr & Peers Associates (2001 National Household Travel Survey, U.S. Department of Transportation and the Bureau of Transportation Statistics)		

**Active Adult Residents “Age In Place” and Generate Less Traffic Impacts Over Time**

Many Active Adult residents “age in place,” meaning they remain in their homes or in their local community – if living accommodations are available - as they age. This desire can be achieved because many Active Adult communities are designed with diverse living, recreational, and visiting accommodations and provide medical support. For example, many Active Adult communities accommodate aging residents by providing single-story homes with smaller yards, which generate less demand for maintenance. As residents age, they continue to reside in the home that they purchased at age 55 or 60 until alternate living arrangements become available or necessary. Many Active Adult communities are designed to provide residential needs that provide additional support, such as assisted living resources or nursing home. Since a person will drive less as they age (once past the age of 55), an Active Adult community will generate fewer trips over time.

A recent study completed by the Amherst H. Wilder Foundation supports this contention when it found that “for 70 percent of us, the final home we move into before we turn 65 will be the home that we’ll grow old in”. Therefore, as the residents within the Active Adult community age, the number and length of their trips will tend to decrease.

### **Vineyards at Marsh Creek is an Active Adult Community Designed for Residents at Multiple Stages in Their Life**

The Vineyards at Marsh Creek is designed to accommodate Active Adult residents in various stages of their lives. The Vineyards provides a diversity of housing types for persons 55 years and older ranging from single-family homes to institutional congregate care. For the more active residents, the Vineyards project includes a recreation center, parks, and golf cart access throughout the project site and to the golf course at the Summerset communities. The project is sited adjacent to easy access to State Route 4, and to local City of Brentwood business, restaurants and other uses. The Village Center includes a Village Green and a diversity of neighborhood serving retail uses. The winery and 2,500-seat amphitheater are planned “destination” amenities for the Vineyards.

The project provides senior apartments, which require less intensive maintenance by residents while providing the security of an on-site property manager and maintenance crew. Should residents develop medical needs, the project also provides institutional levels of congregate care.

Therefore, the Vineyards project parallels characteristics of other Active Adult communities and would result in the generation of fewer, shorter trips than a traditional non age-restricted community.

#### **Active Adult Transit Use**

The Vineyards community is expected to generate relatively little transit use. Active Adult residents are typically not commuters who would benefit from shuttles to the BART, the potential E-Bart, and other commuter-oriented transit services. Secondly, the project provides on-site amenities such as convenience commercial (banking, restaurants, and personal services) and on-site recreational opportunities intended to conveniently serve the residents. Residents would be able to satisfy many of their daily shopping needs through short-distance trips (golf cart-accessible) to adjacent neighborhood serving commercial and recreational areas. The proximate John Muir Medical Center, located on Balfour Road, will provide convenient medical service that can substantially reduce medically-oriented trips. Third, the Vineyards would provide an extensive network of bicycle, pedestrian, and golf cart facilities that would connect the active adult residences to the Village Center, the Safeway development on Balfour Road, and to the golf course in the Summerset development. Based on these considerations, shuttle bus service would provide little to no benefit.

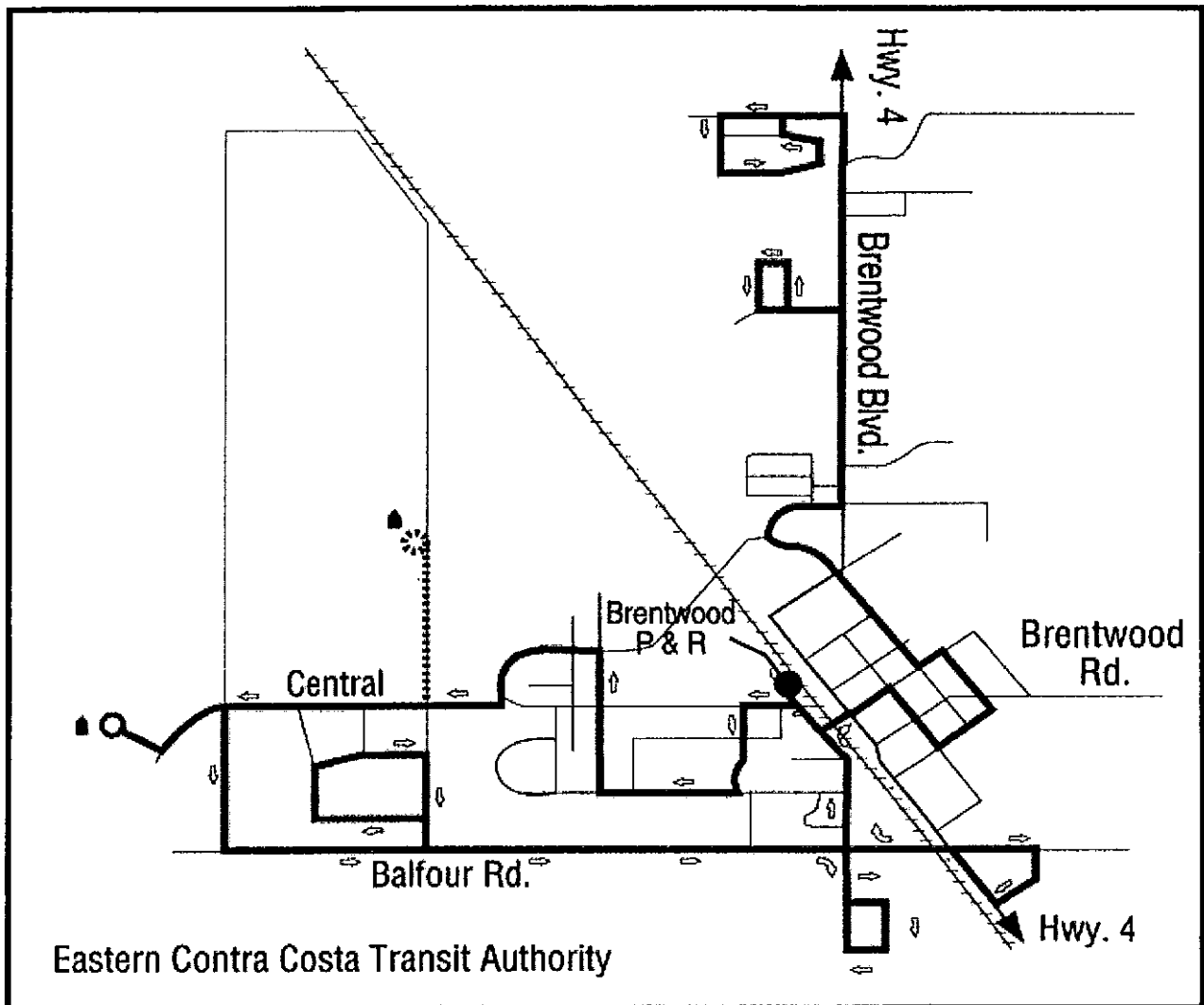
It should also be noted that the Vineyards project does not adversely affect existing transit operations in the project area since the nearest bus line (Brentwood Dimes-A-Ride) is at least one mile away. The project would not impede any potential transit expansions that might serve the Vineyards at Marsh Creek project or future development at the proposed Community College site.

#### **Transit Availability**

As mentioned on DEIR p. 3.4-10, regular transit service is not currently available to the Vineyards at Marsh Creek project site or the Annexation Sites. *Dimes-a-Ride*, a local shuttle service in the City of Brentwood, operates along Brentwood Boulevard and – at the nearest point to the Vineyards project - Balfour Road to the north of the project (Exhibit A-2).



EXHIBIT A-2  
EXISTING DIMES-A-RIDE ROUTE



*Dimes-a-Ride* service is provided by Tri-Delta Transit. The service is subsidized by the City of Brentwood to help provide this service in the City at an affordable rate. Nonetheless, the City of Brentwood does not determine the routes or operating schedule for *Dimes-a-Ride*.

According to Tri-Delta Transit (e-mail from Tom Harais, Director of Planning and Grants at East Contra Costa Transit Authority to Brian Holt, Environmental Planner at RBF Consulting on January 28, 2004), transit opportunities may be increased in the project vicinity in the future in accordance with demand.

“...Tri Delta Transit does plan to increase our regular, fixed route services in the Brentwood area and in the residential areas south of Balfour Road in the future, as development there raises the demand for such services as to make them viable. I can see us running bus service along the SR4 Bypass, Concord Avenue and/or Fairview Avenue in five to ten years. This is dependant of course on the build out

of the area of Brentwood that lies south of Balfour Road and the expected ridership (both trip generating and destination based) that would result from that build out. It is also dependant on the receipt of sufficient capital funding by Tri Delta Transit to purchase additional rolling stock (buses) to add service to this, and other areas as the need arises. We could be looking at service to the area in five to ten years.

You also have to consider that there is a proposal being worked on at this time for a so called eBART or BART service extension to East County by several local political bodies. And the proposals for that service would have Tri Delta Transit running bus service from all corners of East County to the stations that might be built for such a rail transit service.

Tri-Delta Transit also explained that, while Dimes-A-Ride Service is not available currently at the project site, paratransit service for ADA qualified individuals is available to the site at this time. Further, Tri-Delta Transit clarified that capital funding for additional buses is generally obtained through federal dollars from Federal Transit Administration with a local funding match. In addition, Tri-Delta Transit has purchased some buses with California Transportation Act (TDA) monies, which are part of state sales taxes. (e-mail from Tom Harais, Director of Planning and Grants at East Contra Costa Transit Authority to Brian Holt, Environmental Planner at RBF Consulting on January 29, 2004). Until such time as transit is expanded into the project vicinity, transit planning will occur as normal. Generally, during the environmental review for a project, *Dimes-s-Ride* (and/or Tri-Delta) may comment on the environmental document to indicate their interest in coordinating with the project proponent to provide transit support services.

For the Vineyards at Marsh Creek project, no comment was made by either Dimes-a-Ride or Tri-Delta. However, it is normal practice for the City of Brentwood to condition a project, such as the Vineyards at Marsh Creek, to coordinate with the transit authority. In anticipation of such a condition, the Vineyards at Marsh Creek proponent has contacted *Dimes-a Ride* to engage the transit provider in reviewing tentative (and/or) final map plans for transit service facilities that are called for in DEIR Mitigation Measures 3.5-E1 and E.2. Bus turnouts could be easily incorporated into the proposed 140-ft Fairview Avenue right-of-way.

If the community college is developed and/or further development occurs in south Brentwood, then market demand may be increased, thereby creating a stronger demand for transit opportunities in the project vicinity. In the meantime, the Vineyards project will construct transit support facilities, in accordance with Mitigation Measures 3.5-E.1. and -E.2.

*THIS PAGE INTENTIONALLY LEFT BLANK*

**MASTER RESPONSE B**  
**East Contra Costa County Habitat Conservation Plan /**  
**Natural Community Conservation Plan Process (East County HCP/NCCP)**

A few comments were received requesting additional information regarding the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (East County HCP/NCCP) process which is currently underway. The proposed HCP/NCCP area includes the Vineyards at Marsh Creek project site and Annexation Sites (as well as a much larger East Contra Costa area). Some comments indicated that approval of the Vineyards at Marsh Creek project should be delayed until the HCP is adopted.

The potential East County HCP/NCCP is not adopted, is still under development, and must proceed through many steps before it can be finalized, approved and implemented. Since the ultimate parameters of the potential HCP/NCCP are unknown and the potential HCP/NCCP does not currently apply to the project, it was not addressed in great detail in the DEIR. However, in response to inquiries received, the following information is presented with regard to the East County HCP/NCCP. Most of the information is summarized from the website (<http://www.cocohcp.org>) that has been developed for that HCP planning process.

**Background on the East County HCP/NCCP**

The interest to prepare an East County HCP/NCCP began on March 18, 1998 when the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) sent a letter to local government agencies urging that a regional Habitat Conservation Plan (HCP) be developed for Eastern Contra Costa County.

“On January 25, 2000, the Contra Costa County Board of Supervisors declared its intent to participate in the development of an HCP for East Contra Costa County.

On June 30, 2000, the East Contra Costa County Habitat Conservation Plan Association Agreement went into effect. This agreement established the East Contra Costa Habitat Conservation Plan Association (HCPA) as the lead agency in drafting the Habitat Conservation Plan for submittal to the governing boards and councils of member agencies, oversee compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), and would serve as the lead agency under CEQA for developing the HCP.” East Contra Costa County HCP/NCCP website.

A consulting firm was selected in the fall of 2001 to commence preparation of the East Contra Costa HCP. In general, the purpose for an HCP is to:

“...establish a coordinated process for permitting and mitigating the incidental take of endangered species. This process creates an alternative to the current project-by-project approach. Rather than individually surveying, negotiating, and securing mitigation, project proponents typically receive an endangered species permit by simply paying a fee, though some HCP's may contain alternative or additional permit conditions (dedication of on-site mitigation is one standard alternative to paying a fee). The fees are collected by an implementation authority defined during development of the HCP, often a Joint Powers Authority, such as the East Contra Costa Habitat Conservation Plan Association, which is composed

of representatives of local agencies. The implementation authority uses the fee money, as well as grants and any other funding sources established in the plan, to purchase habitat lands or easements from willing sellers. Collected funds are also used for monitoring and any habitat enhancement or management actions...” East Contra Costa County HCP/NCCP website.

Member agencies in the East Contra Costa County HCPA include representatives from Contra Costa County, Contra Costa Water District, East Bay Regional Park District, and the cities of Brentwood, Clayton, Oakley, and Pittsburg.

### **Stages for HCP/NCCP Completion**

The HCPA consultant developed a multi-step plan to be completed over approximately 2½ years for completion of the East Contra Costa County HCP. Among the “milestone” steps required for completion of the HCP are:

- ❖ Conduct of on-going public involvement and stakeholder meetings
- ❖ Development of baseline inventory
- ❖ Develop of conservation strategies
- ❖ Development of an economic analysis of conservation funding
- ❖ Development of the HCP
- ❖ Prepare environmental documentation in accordance with the CEQA and NEPA (the National Environmental Policy Act - including preparation of public Notices and public distribution periods in accordance with state and federal requirements)
- ❖ Preparation of an Implementation Agreement
- ❖ Obtain Clean Water Act Sections 404 and 401 Compliance Documentation
- ❖ Obtain CDFG Code Section 1601 Compliance Agreement
- ❖ Submission of the proposed HCP/NCCP to the USFWS and CDFG
- ❖ Issuance of a public notice regarding the proposed HCP/NCCP and CEQA/NEPA document
- ❖ Public review and submission of comments on the proposed HCP/NCCP and CEQA/NEPA document
- ❖ USFWS and CDFG evaluation of public comments, consideration of whether to make changes to the HCP/NCCP and CEQA/NEPA documents, and preparation of responses to comments
- ❖ USFWS and CDFG evaluation of final proposed HCP/NCCP
- ❖ USFWS and CDFG decision whether to approve the HCP/NCCP and issue requested incidental take authorizations

Many of these steps require a number of “internal steps” and will require approvals and issuance of permits by resource agencies such as the U.S. Army Corps of Engineers, CDFG and U.S. Fish and Wildlife Service (USFWS).

### **Milestones and Events Completed to Date**

On August 12, 2003, the CDFG issued a Notice of Availability of a Proposed Planning Agreement (“Agreement”) to inform the public of their intent to enter into the Planning Agreement with the HCPA and the USFWS. The Agreement was prepared in accordance with the Natural Community and Conservation Planning Act (NCCPA). The primary purpose of the Agreement is to “define the goals and obligations in the development of a NCCP/HCP for Eastern Contra Costa County.” East Contra Costa County HCP/NCCP website. The Agreement is an agreement among the CDFG, USFWS and HCPA for a process for the development of a proposed NCCP/HCP, but it is not the approval of an NCCP/HCP. The comment period for the Notice of Availability of a Proposed Planning Agreement closed on, or about, September 2, 2003.

On November 20, 2003, a Preliminary Working Draft HCP/NCCP was released to the Executive HCPA Governing Committee (“EGC”) and Coordination Group members, as well as to the public and was also posted on the HCPA website. Comments from the Coordination Group were requested to be submitted by January 31, 2004.

### **Next Steps**

The following are noted at “next steps and schedule” on the HCPA website:

- January 31, 2004: Comments requested from Stakeholders on Preliminary Working Draft HCP/NCCP
- Spring 2004: Draft HCP/NCCP, EIR/EIS Implementation Agreement. *This is the EIR/EIS document that could be circulated to the public for review and comment.*
- Fall 2004: Final Draft HCP/NCCP, EIR/EIS Implementation Agreement and local agency decisions on approving the plan;
- Spring 2005: Expected Completion of Wildlife Agency Review and Permit Issuance;  
Spring 2005: Local agency’s form an Implementing Entity (likely a JPA of permit holders) and likely adopt Implementing Ordinance

The City of Brentwood is a member of the HCPA. The City understands that the HCPA does not currently have funding in place to complete the development of the proposed HCP/NCCP. Accordingly, the schedule identified above (which already is too late to accommodate the Vineyards at Marsh Creek project) is likely to be extended.

### **Summary**

This response may omit many of the smaller steps that have been completed thus far in preparation of the East Contra Costa County HCP/NCCP. These “omissions” are not intended to avoid important data in the preparation of the HCP/NCCP process. However, the response simply tries to provide an overview of many “major events” that have occurred thus far, as well as the remaining and upcoming steps before completion of the HCP/NCCP, completion of the mandatory CEQA/NEPA document and approval of the HCP/NCCP and issuance of the requested incidental take permits. As shown, much work has been conducted towards the preparation of the East

Contra Costa County HCP/NCCP. However, given the steps yet to be completed and the timelines associated with them, it will likely be several years before the HCP/NCCP process is completed.

Until the HCP/NCCP environmental process is complete and the HCP/NCCP is approved, member agencies with the authority to review “projects” within their jurisdiction can continue to review project applications, conduct environmental and other project reviews, and approve projects. Once the HCP/NCCP is approved, member agencies would incorporate “implementation strategies” from the HCP/NCCP as agreed to under the conservation plan.

**MASTER RESPONSE C****Background on the Formation of the Project Site and Adjacent State Park Lands**

Some comments were received indicating that the preservation of the Cowell Ranch State Park is “independent of and does not serve as mitigation for the projects considered in the DEIR.” These comments further indicate that all biological impacts of the proposed projects should be mitigated.

This two-part response is provided to address both issues. **Part I** provides further clarification of the relationship between the Vineyards at Marsh Creek project site and the State Park. For further reference, see DEIR Section 2.2 (Vineyards Project History). **Part II** addresses mitigation provided in the DEIR for impacts to biological resources. Also please refer to Responses to the California Department of Fish and Game Comments (Letter 2).

**PART I: Vineyards at Marsh Creek Project Site and State Park Land are Linked**

The site of the Vineyards project and the adjacent State Park Lands was once part of a much larger (17,000-acre) area called Rancho de Los Meganos or “Sand Dunes Ranch.” The ranch was purchased by John Marsh in the 1830’s and subsequently passed through a series of owners including a Scottish investment company, Balfour-Guthrie, who sold off smaller parcels in the early 1900s’. Upon the death of S.H. Cowell in 1955, trust was established called the Cowell Foundation. Trust assets primarily consisted of real estate including the Cowell Ranch site. By the 1980s, the Cowell Foundation had donated, or sold at below-market-value, some of the trust’s land for permanent open space. Among the gifts was the 14-acre John Marsh Home site, which the Foundation donated to the Contra Costa County Historical Society (the home site was later conveyed to the state park system). Other Trust lands were sold for development and other uses in order to create an endowment that would support the Foundation’s charitable-giving activities. In an effort to raise additional funds for grant-making, the trustees began to explore the possibility of developing Cowell Ranch.

Although Cowell Ranch was designated for agricultural use on the Contra Costa County General Plan, 2,000 acres were placed inside the County’s Urban Limit Line (ULL) by the end of the 1980’s. Being inside the ULL made the property, which included the Vineyards project and a portion of the State Park property, potentially eligible for urban development.

**Cowell Foundation Project Applications of 1992:**

According to the Cowell Ranch Draft EIR,<sup>1</sup> in 1992 the Cowell Foundation submitted an application to Contra Costa County for a General Plan Amendment (GPA) and adjustment to the Urban Limit Line (ULL), which was soon followed by a revised GPA and rezoning request to P-1 (Planned Unit District) and associated preliminary development plan. This application would have allowed for development of approximately 6,879 rural, single-family detached, and multi-family residential units, 750,000 sq. ft. of commercial, 1,750,000 sq. ft. of business park, a 27-hole golf course, an equestrian facility and recreation center outside of the ULL (in place at the time), public uses and approximately 1,500 acres of open space and agricultural uses. The Cowell Foundation subsequently amended the 1992 development application to alleviate some of the environmental effects of that proposed plan, and to respond to related suggestions by County Staff.

<sup>1</sup> Contra Costa County. 1996 (Oct.) Cowell Ranch General Plan Amendment and Related Actions. Draft EIR, Volume I.



### **Cowell Foundation Project Applications of 1995**

According to the Contra Costa County EIR for the Cowell Ranch (ibid), in 1995, the Cowell Foundation submitted an amended development application to the County for a GPA, ULL adjustment, and rezoning to P-1 (Planned Unit District) and A-2 (Exclusive Agricultural District). The development site covered 4,277 acres. This excluded 630 acres to the south of the development site, most of which (i.e., 444 acres) was located in the Los Vaqueros Watershed Acquisition Area. The development applications were reviewed by Contra Costa County and the City of Brentwood, which resulted in another change to the proposed plan.

On January 9, 1996, the Cowell foundation submitted a revised plan requesting a GPA, ULL adjustment map, P-1 zoning map, and circulation plan map. On April 1, 1996, the applicant submitted the Cowell Ranch *P-1 Planned Unit District Development Standards, Cowell Ranch Infrastructure Report*, and other information comprising the development plan. On May 6, 1996, the applicant submitted an application for a Development Agreement. These application components anticipated, but did not rely upon, annexation of all or part of the urban areas to the City of Brentwood. This “project” was evaluated by Contra Costa County through preparation of an environmental impact report (EIR).

### **Formal Agreement City of Brentwood Participation**

On August 22, 1995, the City of Brentwood and the Cowell Foundation entered into a Cooperative Planning Memorandum of Understanding (MOU). Contra Costa County subsequently endorsed the MOU as an appropriate mechanism for County and City review of project applications on the property. The MOU confirmed the participation by the County, the City of Brentwood, and the applicant in processing applications for the property. The MOU established a Policy Advisory Committee (PAC), and a Technical Advisory Committee (TAC) to assist in the review of the development applications.

### **Municipal Planning Activities Add Complexity to the Application Review**

In January of 1999 the City of Brentwood began an update of its General Plan. The population of the City of Brentwood soared in the 1990s, nearly doubling from 1993 to 2001. The City Council embarked on a General Plan update process designed to “reduce the City’s ultimate population, create more high quality employment opportunities, and preserve and enhance Brentwood’s quality of life.” The update specifically focused on the City’s Land Use, Circulation and Growth Management Elements. After several community workshops, guidance from a citizen’s steering committee, telephone surveys with residents, and public hearings, the City formalized a new 20-year vision. Part of this vision addressed the greater Cowell Ranch area, including the current Vineyards project site and the adjacent State Park, and designated the area as “Special Planning Area J” in the 2001 General Plan. The plan noted that the “size of the property presents a unique opportunity to create a balanced, mixed use, master planned development that offers a range of housing and employment opportunities along with open space, schools, parks, recreational facilities, commercial activities, and appropriate civic uses.” While a master-planned development on Cowell Ranch such as that proposed by the Cowell Foundation was deemed consistent with the City’s vision for the future, the City also designated much of the ranch (the area outside the City’s sphere-of-influence) as open space, with the goal of permanently protecting those areas for wildlife habitat, recreation and agricultural uses.

That same year (i.e., 1999), Contra Costa County began studying changes to its ULL. The County's study examined two different options for addressing the ULL around the Brentwood area, both of which placed the majority of Cowell Ranch outside the ULL. A Contra Costa Taxpayers Association publication of February 4, 1999 reported the following:

“While the proposed General Plan Study to consider ‘adjustment of the ULL’ grabbed the headlines, the Board of Supervisors also adopted the recommendation ‘related to Agriculture and Open Space Preservation’ that states: ‘AFFIRM that policy direction supporting funding mechanisms for open space acquisition is adequately provided for in the open Space Element of the County General Plan; AFFIRM that the Board should continue to seek funding for agriculture and open space preservation from available sources; and REFER to the Finance Committee for additional study and recommendations the issue of funding for agricultural and open space preservation.’”

However, as also reported by the Contra Costa Taxpayers Association in the same publication, the County did not have an established funding mechanism to implement the Agriculture and Open Space Preservation recommendations that they had identified at the time.

“What ‘funding mechanisms’? The Board had the options described in a November 12, 1998 report from the Community Development Department (CDD) which updated an earlier version by adding ‘the feasibility of raising the sales tax.’ To the credit of author John Kopchik, the overview of local public funding sources is quite comprehensive and straight forward. It notes that ‘if and when the Board decides to narrow its options...research should be done on these methods to clearly define the legal guidelines and constraints associated with their implementation.’ Clearly one of the ‘constraints’ will be the voter approval requirements of Propositions 13, 62 and 218. The recent voter rejection of a sales tax increase for library services and a parcel tax increase for regional park maintenance coupled with strained public service budgets in many jurisdictions (Consolidated Fire District, for example) and the probable need to renew the expiring measure C transportation tax make approval of new taxes for new purposes very unlikely.

Regarding further review of the Cowell Foundation development application, discussions with the County, and City of Brentwood, the trustees of the Cowell Foundation led to the applicant/s reconsideration of their earlier development proposals. In light the City and County planning efforts, they began working on the possibility of a sale that would preserve the vast majority of the ranch as permanent open space, while retaining acreage inside the ULL for development. The Board of Supervisors temporarily postponed its decision on changes to the Brentwood ULL pending the outcome of the Cowell Foundation's negotiations for the sale of most of the ranch as open space. In an August 1, 2000 resolution, the Board declared its intent to choose among the ULL alternatives “based upon the potential sale of the Cowell Foundation property to a land trust for permanent open space purposes, excepting that portion of the property to be conveyed to a private land developer.”

In the event that the Board was “not satisfied that such a sale had been contracted,” the Board said it would adopt the most restrictive ULL boundary studied. If, however, the Cowell Foundation reached an open space agreement, it would consider “placing approximately 448 (+/-) acres of the ranch site inside the Urban Limit Line.”

### **Cowell Foundation's Land Transactions**

On September 8, 2000, the Cowell Foundation reached an agreement with the Trust for Public Land. The Foundation agreed to a below market-value sale of approximately 3,942 acres for \$13 million. The Trust for Public Land would raise the necessary open space funding from various public agencies and park bonds. After verifying the open space agreement was in place, the Board of Supervisors unanimously voted on September 26, 2000, to exclude all of Cowell Ranch from the ULL, with the exception of 448 acres, which was to be retained inside the Urban Limit Line and conveyed to a private developer. The 448 acres retained inside the ULL constitutes the current Vineyards at Marsh Creek project site.

In July 2002, the Cowell Foundation entered into an agreement to sell the final 481-acre portion of Cowell Ranch to the Vineyards at Marsh Creek LLC. The sale includes the 448 acres that the Board of Supervisors specifically retained inside the Urban Limit Line, plus 33 additional acres outside of the ULL, which may be used for purposes such as a water tank, detention basin and State Route 4 Bypass. The Trust for Public Land conveyed the remaining Cowell Ranch lands to the state park system and the Contra Costa Community College District in November 2002.

### **Mutually Beneficial Transaction**

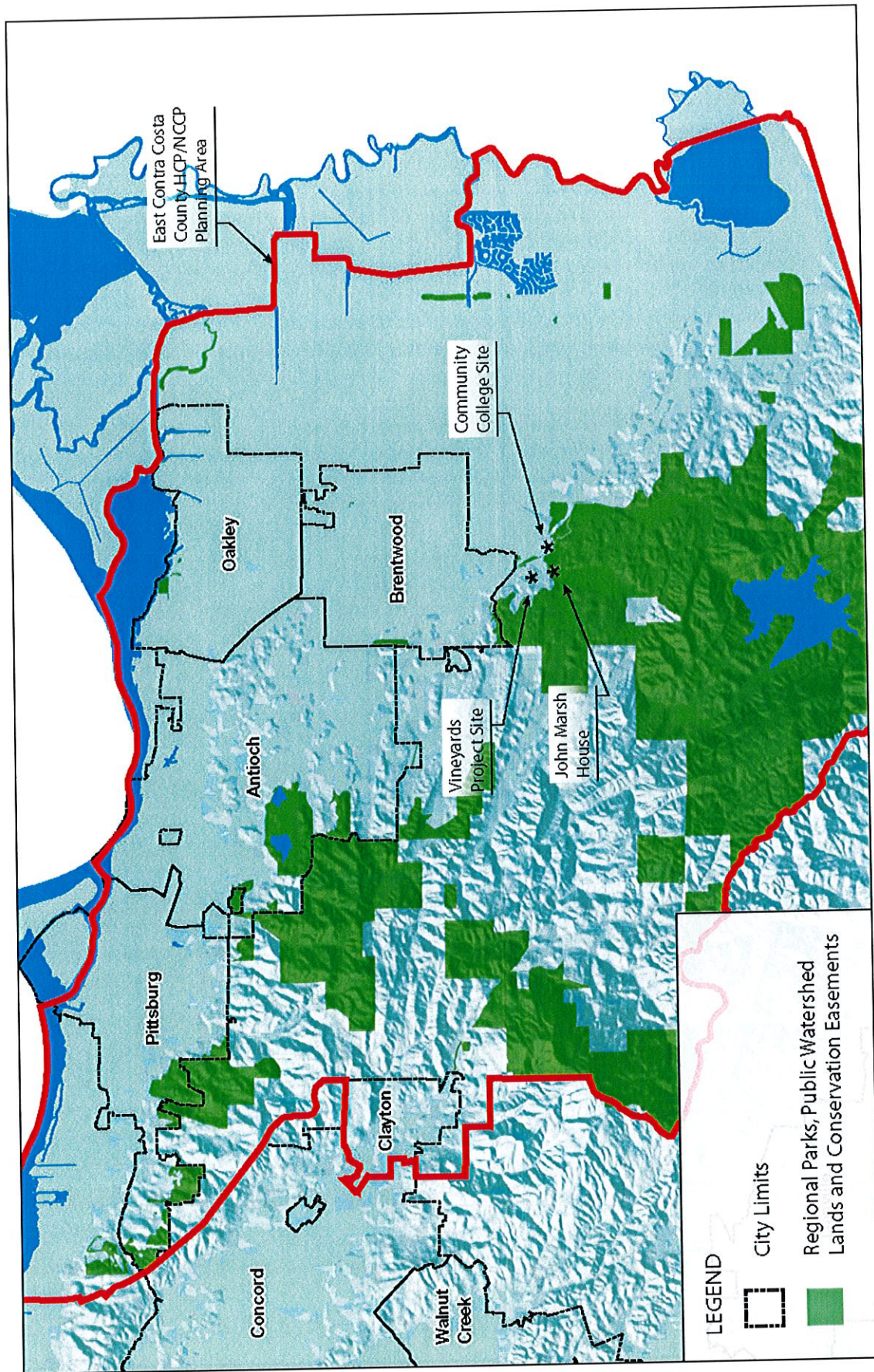
The Cowell Foundation development proposals and continued dialogue with Contra Costa County and the City of Brentwood allowed the County to finalize its ULL that was in review at the time. Moreover, the development proposal and activities of the Cowell Foundation, County, and City of Brentwood resulted in County approval of nearly 4,000 acres of land for open space (which later became the State Park) and retention of 448 acres of land for development (which evolved into the Vineyards at Marsh Creek project site). Therefore, while some commentors would disagree, there is indeed a relationship between the formation of the Cowell Ranch State Park and the Vineyards Project Site.

## **PART II: Mitigation of Vineyards at Marsh Creek EIR**

DEIR Section 3.8 presents an evaluation of the Vineyards project impacts on biological resources. For every significant impact, mitigation measures are presented to reduce impacts to a less than significant impact. Those mitigation measures can be accomplished without reliance upon the acquisition, preservation or enhancement of land located within the state park property. Moreover, mitigation on activities (such as wetlands creation and habitat enhancement) the State Park property is not currently being considered because the State Department of Parks and Recreation has not prepared a "General Plan" for the ultimate use, management, maintenance or operation of the park; this precludes the State from considering any mitigation activities on the park property.

For many of the biological resource impacts identified for the Vineyards project, however, mitigation would require the acquisition of off-site mitigation land. There is undeveloped land adjacent to the state park, as illustrated on Exhibit B-1 (Public Open Space / Preserved Land). There is some other undeveloped land in other portions of Contra Costa County, and a greater abundance in Solano and San Joaquin Counties. Property in Contra Costa County or adjacent counties is preferred for mitigation.





**LEGEND**

- City Limits
- Regional Parks, Public Watershed Lands and Conservation Easements

Source: East Contra Costa County HCP/NCCP website (2003)



02/10/04 JN 35-100230

THE VINEYARDS AT MARSH CREEK AND ANNEXATION SITES EIR

# Public Open Space / Preserved Land

Exhibit B-1

However, what appears to be "available" undeveloped land may or may not be ultimately available for off-site mitigation of the Vineyards project. If the land is already a mitigation bank approved by permitting agencies, then the cost of the property, acres available, proximity to the development site, and ability to support the resources being mitigated are among the greatest factors to be considered. If the land is not in a mitigation bank, the "availability" of land is dependent upon a great many factors including: willingness of sale by the landowner; acceptability of the property by permitting agencies; cost of the property; possibilities for long-term maintenance of resources located to the land; satisfaction of "negotiations" by all parties involved, etc. The project applicant is currently seeking "acceptable" off-site mitigation sites to mitigate impacts from the Vineyards project and, while several potential sites have been identified, the aforementioned factors are under current consideration. Once the applicant has identified a potentially suitable site (or sites), it will present the offsite mitigation areas to the U.S. Fish & Wildlife Service (USFWS).

On a related subject, the Vineyards project would not hinder the creation of a wildlife and recreational corridor between Round Valley and Black Diamond Mines. The new approximately 3,900-acre Cowell Ranch State Park located west of the Vineyards project and the Annexation Sites is located east and northeast of Round Valley between Round Valley and either the Vineyards project or Annexation Sites. Black Diamond Mines is situated some four miles northwest of the State Park at the nearest point, and approximately 5-½ miles northwest of the Vineyards project at the nearest point. Depending upon availability, price, habitat value, and other factors, acquisition, preservation and enhancement of land located within the corridor between Round Valley and Black Diamond Mines potentially could serve as mitigation for project impacts.

While the EIR does not rely upon the former Cowell Ranch properties for offsite mitigation, the former Cowell Ranch property remains relevant in several regards. For example, the events that led to delineation of the ULL and the below-market sale of the remainder of the Cowell Ranch property to the Trust for Public Lands, and then to the State for park purposes are relevant to the analysis of the project's consistency with plans and policies, the City of Brentwood's land use planning objectives, and the City's policy decisions in choosing between various options for avoiding or mitigating project impacts. The City can consider those facts when it makes land use policy choices within its discretion. The project's proximity to the large undeveloped state park area also is relevant to assessing the significance of environmental effects, including determining the degree to which wildlife travel corridors would be affected by project development. In addition, the acquisition of the former Cowell Ranch land by the State affects the EIR's analysis of cumulative effects.

It also bears noting that were the State's park planning process farther along, the former Cowell Ranch property may have provided opportunities for mitigation through the restoration or enhancement of existing habitat within the parkland and creation of habitat such as breeding ponds and other wetlands. However, at this point, the City has been informed that the State Department of Parks and Recreation cannot commit to a mitigation program until the park planning process has been completed.



**MASTER RESPONSE D**  
**Segment 3 of State Route 4 Bypass**

Some commentors have questioned whether the anticipated construction of Segment 3 of the State Route 4 (SR4) Bypass will be completed in time to mitigate the project's traffic impacts. Substantial information is available which indicates that Segment 3 of the SR4 will be constructed in a timely fashion.

The State Route Bypass Authority website<sup>2</sup> indicates that "...the total estimated cost for the Bypass portion of Segment 3A is \$14.4 million and for improvements to Marsh Creek Road, \$5.0 million. The year 2002-2003 workplan and budget includes the following improvements.

State Route 4 Bypass Segment 3 Program No. 60400			
WORK ORDER	ITEM	ITEM DESCRIPTION	Estimated budget
<b>SEGMENT 3A</b>			
6X4470	Administration	Project Management and coordination with other agencies	25,000
6X4471	Environmental Activities	Begin permit process	75,000
6X4472	Preliminary and Design Engineering	Complete ultimate GAD, provide interim GAD and 35% design.	250,000
6X4473	R/W Engineering and Services, Property Acquisition	Complete right of way mapping and acquire Cowell Ranch property.	400,000
<i>Subtotal</i>			<i>\$750,000</i>

The website further indicates that "[t]he County Public Works Department is designing the both phases of the Segment 3 project and will be administering and coordinating all consultant contracts and engineering studies on behalf of the Authority." The latest information from the State Route 4 Bypass Authority indicates that the design of the Bypass is well into the review of 35% design plans, which are currently under review. Fehr & Peers participated in this design plan review to ensure that the design of the Bypass provides sufficient capacity for the anticipated development in the area. The next stages for review of Segment 3 will include 65%, 90% and 100% design plans. Bypass Authority engineers plan to submit 65% complete plans to Caltrans for review in April of 2004. The bid package for construction of Segment 3 is planned to be ready for release at the end of December 2004 and out for bid in the first part of year 2005. The official website for the State Route 4 Bypass Authority indicates that Segment 3 will be open for traffic sometime between 2005 and 2010.

The Bypass Authority web page also provides information regarding the funding programs that have been established to fund the Bypass improvements. Excerpts from that web page indicate the following:

"The State Route 4 Bypass is funded by two regional fee programs, the East Contra Costa Regional Fee and Financing Authority (ECCRFFA) and the East County Transportation Improvement Authority (ECTIA).

<sup>2</sup> [http://sr4bypass.org/Information/Segment3/Projectinfo\\_descriptseg3.htm](http://sr4bypass.org/Information/Segment3/Projectinfo_descriptseg3.htm)

ECCRFFA was formed in 1994 as a joint exercise of powers agency and includes the Cities of Antioch, Brentwood, Oakley and Pittsburg, and the County of Contra Costa. A transportation mitigation fee program was established at this time and fee ordinances adopted by each jurisdiction this transportation fee program funds three regional projects in eastern Contra Costa County: the Buchanan Road Bypass, State Route 4 East improvements and the State Route 4 Bypass project. The ECCRFFA is responsible for administering the fee program and setting policy direction for the three projects.

ECTIA was formed in 2002 as a joint exercise of powers agency and includes the same agencies as the ECCRFFA except for the City of Pittsburg. This agency was also established to administer a transportation mitigation fee program that is assessed in each member agency jurisdiction. The fee program funds a larger set of regional transportation projects, including the ECCRFFA projects.

ECCRFFA and ECTIA adopted the 2002 East Contra Costa Transportation Strategic Plan at a public hearing on February 13, 2003 after considering comments from the public, agencies, and organizations on the draft document.

There is a funding mechanism, the East County Regional Fee and Financing Authority, that is collecting regional traffic fees from future development.

Given the progress that has been made on the design of Segment 3 of the SR4 Bypass and the available funding mechanism, it is reasonable to assume that the Bypass will be able to serve as mitigation for the project's traffic impacts in the Near-Term Scenario.

LETTER  
1



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922

Regulatory Branch (200300007)

Honorable Brian Swisher  
City of Brentwood  
703 Third Street  
Brentwood, California 94513-1396

CITY OF BRENTWOOD  
DEC 23 2003  
CITY CLERK

Dear Mayor Swisher:

I am responding to your letter dated December 2, 2003, concerning the Vineyards at Marsh Creek project.

In your letter, you expressed concern about delays by my Regulatory Branch in responding to requests from the project proponent. I want to assure you we always strive to complete our actions in a timely manner, based on the best information and science available. Unfortunately, due to increasing development in the Delta and requests for Corps authorization, it is becoming a challenge to respond as quickly as we would like. With regard to the Vineyards at Marsh Creek, we verified the wetland delineation by letter dated November 24, 2003. Once the project proponent submits a permit application to my Regulatory Branch, we will begin our review process and initiate consultation with the U.S. Fish and Wildlife Service. I understand an application for a standard permit will be submitted in the next few weeks. Applications for such permits are considered a high priority under our Regulatory Program.

1-1

You also indicated in your letter that the project proponent may be willing to assist my Regulatory Branch in preparing documents and maps. I appreciate the offer. Such assistance should help expedite our review.

Thank you for your interest in this matter. We look forward to receipt of the permit application for the project. For additional information, please contact Michael Jewell, Acting Chief of my Regulatory Branch by telephone at (916) 557-5254 or email at michael.s.jewell@usace.army.mil.

Sincerely,

Mark W. Connelly  
Lieutenant Colonel,  
Corps of Engineers  
Acting District Engineer

<sup>1</sup> Contra Costa County. 1996 (Oct.) Cowell Ranch General Plan Amendment and Related Actions. Draft EIR, Volume I.



LETTER  
1  
RESPONSES

United States Army Corps of Engineers  
December 23, 2003

- 1-1 This comment provides information about the Army Corps of Engineers permit process in response to a letter sent by the mayor of the City of Brentwood. No new environmental issues are raised. This comment is noted.

LETTER  
2

JAN-14-2004 14:43 FISH & GAME  
State of California - The Resources Agency  
DEPARTMENT OF FISH AND GAME  
<http://www.dfg.ca.gov>  
POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500

ARNOLD SCHWARZENEGGER, Governor  
P. 02/11

January 14, 2004

JANICE GANN  
209-

Mr. Mitch Oshinsky  
Director of Community Development  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513-1396  
Via Fax (925) 516-5407

Dear Mr. Oshinsky:

The Vineyards at Marsh Creek and Annexations  
Draft Environmental Impact Report  
City of Brentwood, Contra Costa County

Department of Fish and Game (DFG) personnel have reviewed the "Vineyards at Marsh Creek Draft Environmental Impact Report" (DEIR), dated November 2003, Contra Costa County. The DEIR discusses the 481-acre Vineyards at Marsh Creek mixed-use development and the annexation, rezoning, and proposed General Plan amendments for two sites that are approximately 100 acres in size. The Vineyards site is located within the urban limit line on Concord Avenue, south of Balfour Road, and north of Marsh Creek Road. The annexation sites are within the City of Brentwood's sphere of influence, but outside the County Urban Limit Line and include the John Marsh Home site, which is currently part of the California Department of Parks and Recreation's (DPR) system, and a 30-acre Contra Costa Community College site. The feasibility of the plans for the Community College site depends, in large part, on the infrastructure which will be paid for by the Vineyards at Marsh Creek Project.

2-1

PUBLIC INVOLVEMENT

DFG participated in the initial public workshops for the project. The presentation to the public was a well advanced project design that included the fundamental elements of the project. The degree of development on the site had already been largely determined and input was solicited for changes within the project footprint. The adjacent Cowell Ranch conservation

2-2

*Conserving California's Wildlife Since 1870*

JAN-14-2004 14:47

FISH & GAME

98%

P. 02

LETTER

2

Mr. Mitch Oshinsky  
 January 14, 2004  
 Page 2

area was labeled as a "State gift" and was changed to "State Park" after objections from DFG, DPR, and the East Bay Regional Park District. Comments from members of the public repeatedly focused on land use plans for the Cowell Ranch site instead of the actual Vineyards at Marsh Creek development project. DPR representative Brian Hickey clarified that land use plans on the State Park area were not within the purview of this private developer. The presentation blurred the distinction between the development project and the conservation area. It is important to maintain this distinction.

2-2

#### IMPACTS AND MITIGATION MEASURES

The project site supports a variety of habitat types including non-native annual grassland with scattered mature blue oaks, alkali meadow (valley sink scrub) and grassland, freshwater marsh, seasonal wetlands, riparian forest along Marsh Creek, four stock ponds, several seasonal wetlands, and four ephemeral drainages. The Vineyards project, as proposed, develops the majority of the 481-acre site. The development has not been planned to avoid special status plants, animals, or unique and important habitat types, and results in substantial encroachment into the adjacent preserve area. DFG concerns about the extent of on-site development and the configuration of the project site have not been given serious consideration. The applicant has maximized development of the site without regard to the sequence of events DFG recommends when planning a development. The project should be designed first to avoid impacts and next to minimize impacts. Mitigation should be proposed only for unavoidable impacts. There are two reasons given for the infeasibility of avoidance as a mitigation measure. The first reason is that the conserved area of the original Cowell Ranch provides some level of mitigation and the project area was selected by the County for development because the acreage was most appropriate for urban development. DFG disagrees with this reasoning. The Cowell Ranch area, excluding the project area and annexation sites, was conserved through the efforts of the Trust for Public Lands which completed a 13 million-dollar public purchase of the ranch that had previously been proposed for urban development. Public funds were contributed through DPR, State Coastal Conservancy, Wildlife Conservation Board, California Department of Transportation,

2-3

2-4

LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 3

U. S. Bureau of Reclamation, and Contra Costa County Flood Control and Water Conservation District. The purchase protected the approximately 3,900 acres of the ranch that was placed outside of the urban limit line by the Contra Costa County Board of Supervisors in response to strong local support for smaller development and preservation of open space in the County. With regard to the project acreage being the most appropriate for urban development, it is important to remember that this decision was based primarily on the project area being located in proximity to planned infrastructure. No effort has been made to avoid or minimize impacts to biological resources within the project footprint.

2-4

Second, it also stated that avoidance would result in habitat fragmentation with limited functional value. DFG disagrees with this assessment. The project should be reduced to avoid areas that extend out into the adjacent preserve area. Direct impacts to on-site resources would be reduced, including ponds in these extended areas that will gain value because of their proximity to the Cowell Ranch preserve. More importantly, reduction of the extensions from the project core area would reduce potentially significant impacts of the proposed project on adjacent undeveloped lands and protected open space and habitat areas. It is well known that impacts on adjacent habitat lands extend well beyond the edge of the development project. Some of these impacts include the intrusion of domestic pets, invasive exotic species and urban-friendly predatory species, introduction of light and noise, land disturbance to provide increased fire protection measures, and human intrusion including foot traffic and bicycles. Larger, dedicated open space buffers should be required to reduce these impacts and could be accomplished through reduction of the project footprint.

2-5

2-6

2-7

HCP/NCCP

Preparation of a Habitat Conservation Plan, Natural Communities Conservation Plan (HCP/NCCP) is underway for east Contra Costa County, including the proposed project site. Seven local agencies are participating in the HCP/NCCP effort, including the City of Brentwood, as well as resource agencies that have permitting authority over the proposed project,

2-8

LETTER

2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 4

including DFG and the U. S. Fish and Wildlife Service. The project site provides critical habitat for native species such as alkali wetlands and migration corridors for numerous species, including the San Joaquin kit fox, mountain lion, and bobcat. In consideration of the magnitude and significance of the development of the project area, the only way for the project to reduce unavoidable impacts to less than significant is to acquire and manage in perpetuity land which contributes to local conservation of the affected species and habitat types. Habitat models and the preliminary draft impacts analysis and conservation strategy developed for the HCP/NCCP are available and should be used in planning and review of any interim projects in the area. The City of Brentwood, as lead agency, should require mitigation that is consistent with the preliminary conservation strategy identified in the HCP/NCCP.

2-8

As an alternative to the applicant independently proposing and implementing an off-site mitigation program that is located proximate to the project site and that addresses mitigation requirements and ratios for the various species and habitats discussed below, DFG would be willing to consider a proposal for the applicant to meet biological mitigation obligations through early compliance with the HCP/NCCP. Under such an alternative, the applicant could pay the fee anticipated under the HCP/NCCP. The fee could be held in an escrow account until the HCP/NCCP is implemented and then used by the local agencies implementing the HCP/NCCP to acquire and restore habitat in the first year of implementation. The current draft of the HCP/NCCP anticipates fees of between \$11,000 and \$18,000 per acre. The applicant could pay a mid-range fee in the interim and the amount could be adjusted subsequently as the final fee is set. This alternative may greatly assist successful implementation of an HCP/NCCP, which we believe holds enormous potential for allowing for orderly development while providing for meaningful habitat conservation in eastern Contra Costa County. For these reasons, DFG is willing to consider pre-payment of a fee in lieu of independent mitigation.

2-9

LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 5

**Seasonal Wetlands - Vernal Pool Branchiopods, Curved-Foot Hygrotus Diving Beetle, and Molestan Blister Beetle**

The project will fill 22 seasonal wetlands which are known to support or provide suitable habitat for a variety of brachiopods and beetles. On-site avoidance should be increased and mitigation for unavoidable impacts should be done locally in east Contra Costa County.

2-10

**Plants**

There will be significant impacts to a number of sensitive plant species on the site. Impacts to plants were based on the number of individuals observed on-site. Plants are known to have great fluctuations in numbers of individuals from year to year. It would be more reasonable to estimate impacts based on appropriate habitat and soil type. The most significant impact is to Crownscale. To reduce impacts to less than significant as required under CEQA, the applicant has proposed off-site acquisition of occupied habitat as well as development of a Plant Mitigation Plan, which will include seed collection and distribution to the extent feasible given the time period for site grading. The seed collection period should include at least one full blooming period. Without this commitment from the applicant, this will not be considered an effective mitigation measure. On-site avoidance should be increased.

2-11

2-12

**California Tiger Salamander (CTS)**

The evaluation of suitable habitat on the site is inaccurate. The applicant has defined suitable on-site habitat as areas of ground squirrel concentrations and areas within 600 feet of breeding ponds. There is clear evidence supported by local data that CTS move up to a mile from breeding locations and disperse in all directions over varied terrain. Therefore, a 600-foot radius is clearly inadequate. In addition, there are more than three suitable breeding locations on the site. CTS breed in a variety of water features. There were also ponds which have been compromised because their berms have failed. Due to the longevity of this species, it is likely that there are still estivating CTS associated with these areas.

2-13

2-14

2-15

Mr. Mitch Oshinsky  
 January 14, 2004  
 Page 6

On-site avoidance should be increased and an accurate assessment of suitable CTS habitat on the site should be provided. At this time, DFG considers the entire site (481 acres) to be suitable and occupied habitat. Areas that are unsuitable for estivation, breeding, and dispersal due to significant barriers could be excluded after presentation of supporting evidence. The applicant should preserve equivalent habitat for all acreage disturbed by grading or otherwise made unsuitable for CTS. Mitigation sites must be occupied by CTS. Sites which are accessible and adjacent to known occupied sites may be considered.

2-16

2-17

Salvage and, when appropriate, translocation efforts are required as part of the minimization effort. Exclusion fencing must be in place for a minimum of one entire wet season. Without this commitment from the applicant, this will not be considered an effective mitigation measure.

2-18

#### Red-legged Frog

It is likely that red-legged frogs use the upland areas of the site for dispersal and refuge. Filling, realigning, changes in hydrology due to urban runoff of creeks and ponds, and development of adjacent land may result in significant impacts to dispersal, breeding, and foraging habitat of the red-legged frog. The project should be designed to provide a minimum 300-foot buffer along both sides of the creek or development on one side of the creek only. Recent research has shown that red-legged frogs frequently utilize upland habitat adjacent to water features. Regular movement of red-legged frogs has been documented between 200 to 300 feet from the edge of creeks, and several frogs in one study were documented moving over one and one-half miles during dispersal. No roads, buildings, yards, fences or detention basins should be permitted within this buffer. Trails should be located outside of any riparian areas as far away from the creek as possible. Enhancement of creeks in permanently preserved open space areas may be considered to offset impacts to red-legged frog habitat. Areas conserved for CTS and restored riparian and wetland areas may also provide habitat for red-legged frogs. A bull frog reduction/control program should be funded if dry season discharges to Marsh Creek are unavoidable.

2-19

2-20

LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 7

**Western Pond Turtle**

2-21

Due to the difficulty of detecting nests, if a western pond turtle is found it must be assumed that a nest will be destroyed and mitigation provided through preservation of a known occupied site.

**Nesting Raptors, Birds and Bats**

2-22

DFG considers loss of nesting habitat in the magnitude of the project site to be significant. Direct take of nests outside of the breeding season does not reduce the impact to a level of less than significant for birds known to have high site fidelity such as burrowing owl, red-shouldered hawk, Swainson's hawk, red-tailed hawk, ferruginous hawk, and barn owl. If there will be direct take of nests on the project site for species known to have high site fidelity, mitigation measures should be required to reduce impacts to a less than significant level. These should include protection and enhancement of known nesting sites at a location acceptable to DFG in accordance with established protocol, if available.

2-23

2-24

2-25

To mitigate impacts to any active bat roosts, suitable replacement habitat should be provided.

2-26

**San Joaquin Kit Fox**

The applicant states that there is low potential for kit fox to occur on the Vineyards project site based, in part, on the fact that observations are separated temporally and spatially. Low densities and habitat conditions in the northern range have made detection extremely difficult. Two sightings, within eight and five miles of the project site within the last two years, are significant and relative to movement capabilities, and are within easy dispersal distance of the project site. The conclusion was made that there is low potential for kit fox to occur on the project site. DFG disagrees with this finding relative to densities in the northern range. It is also stated that conclusions made by LSA in 1993 that kit fox probably occur on State Park property (now the State Park, Vineyards, and annexation sites) were based on earlier studies, not the more recent evaluation of the Vineyards

2-27



LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 8

project site. Since the 1993 LSA studies, there have been at least five additional sightings within dispersal distance of the project site. DFG would conclude that there is more evidence now than in 1993 that the site is valuable for kit fox in the area. The project site provides suitable foraging, denning and dispersal habitat for San Joaquin kit fox. The project lies in an area which provides the link between kit fox in the most northern part of the range and the remainder of the population. More importantly, the project and associated infrastructure will contribute to cumulative impacts to the kit fox from increased amounts of fast moving traffic, one of the greatest threats to effective dispersal and sustainability of this species. In addition to the best management practices typically required of construction projects working in kit fox habitat, mitigation for unavoidable impacts to kit fox populations in the area should include: increased undisturbed open space along the western and southern boundaries of the site; local replacement of suitable habitat at a 3:1 ratio; funding of road barrier studies and installation of grade separated crossings.

2-27

2-28

**Alkali Meadow**

As proposed, all eight acres of alkali meadow habitat on the Vineyards project site will be destroyed. This habitat type is increasingly rare and confined to very limited areas in the east county area. It is very valuable, in part, because it supports a disproportionately large number of native and rare species. On-site avoidance should be increased. All acreage conserved as mitigation should support the same suite of species and should be acquired locally and managed in perpetuity. In addition, funds should be dedicated for improved management and data collection for alkali meadows that are already conserved.

2-29

2-30

**Creeks and Wetlands**

Impacts to creeks and wetlands should be avoided where possible. Impacts would include, but are not limited to, road crossings, culverts, channelization, and rip rap. A Streambed Alteration Agreement, issued by DFG, will be required for any disturbance to streams and associated riparian areas. There should be no net loss of either wetland acreage or wetland habitat value. Mitigation for lost wetlands or creeks must

2-31

2-32

LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 9

include the creation of new wetlands. Disturbance to riparian vegetation should be minimized, exotic species removed, and disturbed areas revegetated with native species. Riparian vegetation removed should be replaced on a 3:1 in-kind basis using native species.

2-32

2-33

**Water Quality**

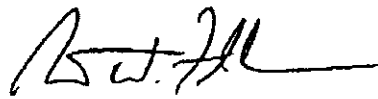
Potential impacts due to grading, increased storm water runoff, hydrocarbons and sediments from streets and parking lots, potential oil spills, and fertilizer, herbicide and pesticide applications, must all be discussed. Potential changes in groundwater availability and the changes that may occur to the creeks and wetlands within the project site must be carefully evaluated. Off-site discharge should be minimized and summer nuisance flows eliminated.

2-34

Again, all mitigation should be consistent with the conservation strategy outlined in the preliminary draft HCP/NCCP documents.

We appreciate your consideration of our comments. DFG personnel are available to discuss our concerns. If you have any questions regarding our comments, please call Janice Gan, Environmental Specialist, at (209) 835-6910; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely



Robert W. Floerke  
Regional Manager  
Central Coast Region

cc: See next page

LETTER  
2

Mr. Mitch Oshinsky  
January 14, 2004  
Page 10

cc: Ms. Sheila Larsen  
U. S. Fish and Wildlife Service  
2800 Cottage Way, W2605  
Sacramento, CA 95825

Mr. Brian Hickey  
Department of Parks and Recreation  
96 Mitchell Canyon Road  
Clayton, CA 94517

East Bay Regional Parks District  
2950 Peralta Oaks  
Oakland, CA 94605-0381

Contra Costa County  
Community Development Department  
651 Pine Street, 2<sup>nd</sup> Floor, North Wing  
Martinez, CA 94553

Mr. Seth Adams  
Save Mount Diablo  
1196 Boulevard Way #10  
Walnut Creek, CA 94596

Honorable Tom Torlakson  
Senator  
2801 Concord Boulevard  
Concord, CA 94519

Honorable Guy Houston  
Assemblyman  
1635-A Chestnut Street  
Livermore, CA 94551

JAN-14-2004 14:49

FISH & GAME

99%

TOTAL P.11  
P.11

State of California  
Department of Fish and Game  
January 14, 2004

LETTER  
2  
RESPONSES

- 2-1. The majority of this comment is introductory. However, a clarification is needed. In the alternatives section, the Draft EIR explains that the Community College could be developed independent from the Vineyards at Marsh Creek Project, and regardless of whether the City annexes the Community College site. The infrastructure specific to the Community College that would be provided by the Vineyards at Marsh Creek project is at most, a turnout at the possible future access road to the Community College, and a sign. The Bypass Authority has funding for, has acquired the right-of-way, and will be constructing Marsh Creek Road from south of the new Fairview Avenue intersection, through the Bypass and east to Walnut Boulevard as part of the approved Segment 3 project. Other infrastructure improvements that would be built as part of the Vineyards at Marsh Creek project would benefit the Community College because roadway access to the area would be improved and utilities would be closer to the College site than if the Vineyards project were not constructed; however, no analysis has been conducted to determine whether the feasibility of the Community College depends upon the provision of these infrastructure improvements.
- 2-2. The City appreciates the Department of Fish & Game's participation in the public workshops for the Vineyards at Marsh Creek project. The workshops were intended to gather information regarding concepts for development, including site features and opportunities and constraints. The boundary of the proposed Vineyards at Marsh Creek project was presented based upon the area slated for development by the lengthy public process that resulted in the County's current Urban Limit Line. Other site constraints also were examined, as were the City of Brentwood's planning objectives that had been adopted through its General Plan Update in 2001. The public process recognized the extensive planning that had been conducted both on the County level and by the City prior to the formation of a project-level proposal. The workshops also examined design concepts so that the public could weigh in on issues such as ridgeline protection, open space, protection of the John Marsh Home, and creation of a community that would benefit the existing Brentwood residents. The workshops were well attended, and almost all members of the public and agency representatives who attended the public workshops commended the City on its extensive outreach efforts.

The public workshops were not intended to mislead the public in any manner regarding the boundary between the Vineyards at Marsh Creek project and the State Park property. Members of the public naturally were curious about the State's plans for the State Park property. The workshops provided an opportunity for the State Department of Parks and Recreation (also known as "California State Parks") to explain to City of Brentwood community members that the State will undertake a comprehensive park planning process at a future date. The City agrees that the project applicant for the Vineyards at Marsh Creek project does not control development of the State Park property.

Please see Master Response C for additional information regarding the relationship between the State Park property, the Vineyards at Marsh Creek project, and the annexation sites. Also, please see Master Response C for additional information regarding

the below-market conveyance of the former Cowell Ranch to the Trust for Public Lands, and then to the State.

- 2-3. The development footprint for the Vineyards at Marsh Creek project is within the Urban Limit Line, which is the area specified for urban development in the Contra Costa County General Plan. The Urban Limit Line is, in large part, intended to protect the most sensitive areas of the County, while encouraging development of areas within the Urban Limit Line. Policies regarding preservation of sensitive habitat, open space needs, agricultural preservation, and ridgeline protection were considered in detail when the Urban Limit Line was adopted. The Vineyards project development footprint also is within the area specified for urban development in the City of Brentwood General Plan. The City of Brentwood weighed competing land use policies when it adopted its General Plan Update. While it is correct that the Vineyards project site contains a number of sensitive biological resources, it is important to recognize that those same resources also occur on a regional basis. Tremendous steps have been made to preserve these resources, and will continue to be made in the future.

Please see Master Response B for a description of the City's participation in a potential regional Habitat Conservation Plan. Also, please see Master Response C for more information regarding the former Cowell Ranch property, and clarification that the EIR does not treat the State Park property as mitigation for the impacts associated with the proposed project.

Also, please note that the proximity of the Vineyards at Marsh Creek project to major infrastructure and existing urban development was not the only basis for the location of the current Urban Limit Line. The specific boundaries of the Vineyards at Marsh Creek project area were selected during the Urban Limit Line process in order to take into account watershed concerns, and to protect the higher ridgeline areas by constraining the development footprint to the lower valley areas. This is the reason for the non-uniform nature of the project boundary, and the appearance of finger-shaped areas of development on the western boundary of the project site. Drawing the Urban Limit Line to place the same amount of developable acreage within a more regular geometric configuration would have resulted in ridgeline development, and would have caused increased surface water flows from the developed area onto the State Park property. The irregular boundary adopted as the Urban Limit Line is preferable to a more regular geometric boundary from a habitat protection perspective and from a community planning perspective. The boundary has long been designed in a manner intended to protect the habitat value of the adjacent property, as well as views of the project site.

With regard to sensitive biological resources within the boundaries of the Vineyards project site, the Draft EIR includes two types of analysis. First, in the impacts section, the Draft EIR identifies the impacts of the project as it has been proposed. The impacts section of the Draft EIR then describes mitigation measures that could be imposed by the City of Brentwood to reduce all of the project's impacts to biological resources to a less than significant level. Second, the Draft EIR evaluates potential avoidance of some of the

LETTER  
2  
RESPONSES

sensitive biological resources on the project site by describing and analyzing a project alternative designed for this very purpose.

DEIR Chapter 6.0 (Alternatives) presents Alternative 4, which includes a 60 percent reduction of the Vineyards developable property. Alternative 4 constitutes a conceptual plan under which most of the proposed Vineyards project components would be built on approximately 40 percent of the project site (i.e., 60% developable land area reduction) (Exhibit 6-2). The remaining area within the Vineyards project site (286 acres) would become open space use (Table 6-1). The boundary between the developed area and the open space area was drawn in a manner designed to avoid areas of sensitive habitat. The Alternative 4 development area would be generally bounded by Fairview Avenue on the west. It would exclude the development areas in the valleys between ridgelines in order to avoid seasonal wetlands, ponds and some of the California tiger salamander aestivation sites located along the western Vineyards project. Similarly, the developable area would not extend as far to the east as the Vineyards project to avoid additional biological resources known to exist in these areas.

As seen in Exhibit 6-2, Alternative 4 development boundaries would avoid a number of wildlife species listed by state and federal agencies for protection as well as sensitive habitats. Fairview Avenue would be maintained in the same location as the proposed Vineyards project. The potentially significant biological resource impacts on the Annexation Sites would remain with the Alternative 4 project in that the community college could still potentially be developed regardless of whether or not it is annexed into the City of Brentwood. The EIR Alternatives Section provides detailed environmental analysis including land use, applicable plans and policies, agricultural resources, population and housing, transportation circulation, air quality, noise, aesthetics/visual resources, biological resources, geology, hydrology, hazards and hazardous materials, cultural and historic resources, public services, and utilities and service systems. The EIR Alternatives Section concludes that Alternative 4 is not consistent with a number of the project objectives (see page 6-40). This Alternative is included so that members of the public and decision-makers can determine whether re-design of the project in order to avoid impacts to some of the sensitive biological resources on the project site is preferable to mitigation of impacts to biological resources through other means, including the preservation and enhancement of habitat off-site.

In deciding whether or how to approve the proposed project, the City of Brentwood can take into consideration the Department's preference for avoidance over other means of mitigation.

Also, please see Master Response C for more information regarding the former Cowell Ranch property, and clarification that the EIR does not treat the State Park property as mitigation for the impacts associated with the proposed project.

- 2-4. For clarification purposes, the DEIR does not state that avoidance is infeasible *because* "...conserved area of the original Cowell Ranch *provides some level of mitigation* and the project area was selected by the County for development because the acreage was most

LETTER  
2  
RESPONSES

appropriate for urban development.” (emphasis added). DEIR p. 3.8-29 explains that the original site proposed by development by the Cowell Foundation was the 4,907-acre Cowell Ranch property and that the County – in redefining their Urban Limit Line (ULL) - opted to protect some lands (i.e., what evolved into the State Park) and to allow development on other land (i.e., property within the ULL, including the Vineyards project site). Please refer to Master Response C for discussion of how the Vineyards at Marsh Creek project site was created. The Trust for Public Land purchased 3,942 acres of the former Cowell Ranch for \$13 Million. This is \$3,298/acre. In comparison, it was reported that the EBRPD paid \$3.8 Million for 673 Acres in the Las Trampas Area. This is \$5,646/acre. This is a difference of \$2,348/acre, 58%, which represents a purchase savings nearing \$9,255,816.

- 2-5. The project area consists solely of private land as opposed to preserved public land and the project does not extend into a preserved area. Please see Response to Comment 3, above, for additional explanation regarding the finger-shaped portions of the project boundary. The City also notes that the adjacent State Park land is not necessarily “preserved” for biological resource purposes, and thus it is incorrect to describe the adjacent State Park land as a “preserve.” Generally speaking, State Parks can and often do contain significant development in the form of constructed trails, roads, parking lots, visitor facilities, etc. California State Parks has not yet developed a master plan for the adjacent State Park land, which plan will determine how the State Park will be managed.
- 2-6. See Response to Comment 3, above, for a description of Alternative 4 in the Draft EIR. In its analysis of Alternative 4, the Draft EIR considers the potential for habitat avoidance; however, the analysis also shows that habitat fragmentation would occur were an avoidance alternative adopted. Because the sensitive biological resources (including California tiger salamander breeding and aestivation areas, burrowing owl, alkali meadow, and vernal pool fairy shrimp) are widely distributed throughout the project site (Exhibit 3.8-2) avoidance of impacts, both direct and indirect, is not possible. Alternative 4, which avoids many of the sensitive biological resources, creates a significant barrier between the avoided California tiger salamander aestivation areas, seasonal wetlands, and occupied burrowing owl burrows to the east and the California tiger salamander breeding ponds and open space areas to the west (Exhibit 6-2). Additionally, pond 1 in the avoidance Alternative 4 is cut off from all open space. The avoidance of these habitats in Alternative 4 is not considered as beneficial or meaningful to the sensitive species and habitats as suitable off-site mitigation provides. Off-site mitigation land criteria for this project include lands contiguous to open space, large in scale, preserved in perpetuity, habitat values equal to or greater than those on the project site, and restoration and enhancement opportunities.
- 2-7. The EIR Biological Resources Section (page 3.8-23) discusses wildlife movement corridors as linkages between on-site and off-site habitats. Please also refer to Exhibit B-1 (contained within Master Response B) regarding the public open space and preserved lands available around the Vineyards project site that allows wildlife movement. The mitigation measures account for impacts to biological resources including direct, indirect, and cumulative impacts (cumulative impacts are analyzed on pages 3.8-56 and -57). In

LETTER  
2  
RESPONSES

addition, buffers around Marsh Creek will be established to maintain this wildlife movement corridor.

The Vineyards at Marsh Creek project has been designed to avoid significant impacts to offsite sensitive biological resources. The project applicant has offered to install a fence at the project boundary in order to prevent substantial intrusion onto the state park property by domestic pets and people. The fence is expected to be similar to the fence that currently exists between the Blackhawk area in Danville and the Mt. Diablo State Park area would be maintained by the homeowners association. This fence is a black plastic-coated wire fence with a square grid pattern spaced closely enough to prevent humans, cats and dogs from passing through the fence. The top of the fence also is designed in a manner to discourage humans and pets from climbing over the fence. While such a fence cannot completely prevent all intrusion by domestic pets and humans, it would minimize intrusion to the degree that humans and domestic pets would not be likely to substantially degrade the sensitive habitat areas on the State Park property. Further, such a fence likely would constitute an improvement over the existing condition. Currently, widely spaced three-wire barbed fences control cattle grazing occurring on the State Park and Vineyards project site. Since cattle grazing could continue on the State Park Site, this fence is also necessary to separate the homes from the grazing activities. Domestic animals from existing nearby development can easily pass under these existing fences onto the State Park property. While the Vineyards project development could bring additional humans and domestic animals closer to the State Park property, it also would improve the barrier between developed areas and the park property. The erection of the fence at the project boundary also would discourage urban-friendly predatory species from congregating at the boundary between the State Park property and the Vineyards project site.

With regard to invasive plant species, significant impacts from development projects are usually associated with importing soils to the project site for large scale grading and filling. Under such circumstances, spores and seeds entrained in the imported soil can become airborne, and can result in the spreading of invasive plant species. In this case, the Vineyards at Marsh Creek project has been designed to result in a balance between the cut and fill areas, such that soil importation for grading and filling would not occur.

Substantial invasion of exotic plant species associated with normal residential and commercial landscaping is highly unlikely. The Vineyards at Marsh Creek project includes a 15 to 25 foot buffer surrounding the developed area. The buffer provides an area for maintenance, drainage collection (from the State Park and graded slopes from the Vineyards Project area) and areas for oak tree plantings. This buffer area would prevent landscape plant species from encroaching upon the State Park property. Grape vines and olive trees also tend to be relatively noninvasive. It also bears noting that the grasslands adjacent to the project site are not native, and are themselves considered to be invasive species.

The Draft EIR provides an evaluation of light and noise effects in Sections 3.6 and 3.7. Most project-related noise sources would be relatively quiet given the predominance of residential uses in the Vineyards project. The amphitheater is anticipated to generate the



highest level of noise on the site, but is nonetheless considered not to be substantial. This is because the amphitheater would host a limited number of seasonal engagements, and the distance between the amphitheater stage and potential raptor nesting trees is quite far. The amphitheater is anticipated to host five to ten events annually, and primarily in the summer. Because these events would not occur continuously, daily, or throughout the year, this noise is not considered to result in a substantial and adverse effect. Moreover, the distance between the amphitheater stage and the nearest potential raptor nesting trees in Marsh Creek is approximately 700 feet to the south (generally considered two “urban blocks” in distance). A typical non-disturbance development buffer ranges between 250-500 feet depending on the species. If nesting raptors were to select trees to the south of the amphitheater, 700 feet is believed to be sufficient distance to avoid substantial adverse effects.

With the Draft EIR’s proposed mitigation, light effects from the proposed project similarly are not expected to be significant. The Draft EIR points out that there is an existing atmospheric effect from lights north of Brentwood in the Cities of Antioch and Pittsburg, and to a lesser extent in the City of Brentwood. With the mitigation measures identified in the Draft EIR, the Vineyards Project would not substantially affect night sky conditions.

With regard to land disturbance to provide areas for fire protection, the Vineyards project incorporates a buffer area onsite for that purpose. The EIR preparers contacted the Department of Parks and Recreation during the preparation of the EIR in order to determine the anticipated fire protection measures that might be taken on the State park land. The State Department of Parks and Recreation replied that because the park is so new, State Parks has yet to develop a wildfire management plan. However, the state parks wildfire plan would normally include maintenance of existing fuel breaks.

In sum, the proposed Vineyards at Marsh Creek project is not expected to result in substantial effects to biological resources on adjacent State Park property. Nevertheless to further ensure that such effects do not occur, the following additional mitigation measures are recommended:

**Recommended Mitigation 3.8-X. Offsite effects from intrusion of humans and domestic animals (Vineyards project).** Potential intrusion of humans and domestic animals onto adjacent State Park property shall be minimized by erecting a fence at the Vineyards at Marsh Creek project/State Park boundary. The fence shall be designed in a manner that would prevent humans and domestic animals from passing through the fence onto State Park property, and would discourage humans and domestic animals from climbing over the fence. Gates providing limited access to the State Park property may be provided in order to provide access to the State Park property for emergency vehicles, and, subject to consultation with the State Department of Parks and Recreation, pedestrian access from authorized access points.

LETTER  
2  
RESPONSES

**Recommended Mitigation 3.8-Y. Offsite invasion of exotic plant species (Vineyards project).** In order to prevent substantial encroachment of exotic plant species onto State Park property, the buffer area between the Vineyards project development and the State Park property will exclude non-native landscape plant material.

- 2-8. Please refer to DEIR p. 3.8-23 for a discussion of wildlife movement corridors. The maintenance of the adjacent state park lands as open space will continue to provide corridors for numerous wildlife species moving to and from surrounding undeveloped areas. Potential San Joaquin kit fox movement routes are identified in the Draft East Contra Costa County HCP (Figure 5.4). A potential movement route is identified through the state park land to the southwest and intercepts the southwestern property boundary, however, the potential movement route, as identified in the Draft HCP, does not traverse the Vineyards at Marsh Creek project site. Also, please note that the Vineyards at Marsh Creek project site has not been designated as Critical Habitat under the federal Endangered Species Act.
- 2-9. Please see Master Response B for a discussion of the status of the East Contra Costa County HCP. A "Preliminary Working Draft" HCP is available on the East Contra Costa County Habitat Conservation Plan Association ("HCPA") website ([www.cocohcp.org](http://www.cocohcp.org)). The HCPA, a Joint Powers Authority consisting of seven public agencies (including the City of Brentwood), continues to work on developing an HCP that at some undetermined point in the future could be submitted to the U.S. Fish and Wildlife Service and the California Department of Fish and Game as part of an application to receive incidental take authorization under the federal Endangered Species Act and the California Endangered Species Act and/or Natural Communities Conservation Planning Act. At this time, the HCPA has not completed its own internal draft of an HCP. No Draft HCP has been submitted to the USFWS or CDFG for approval, no environmental review document has been completed for the HCP, no public review and comment has been conducted on the HCP or the environmental document, and no approvals of the HCP have been issued by the USFWS or CDFG. Consequently, no agency has determined whether the Preliminary Working Draft HCP/NCCP Process should be adopted in its present form, and it is highly likely that the measures in the Preliminary Working Draft HCP will undergo substantial revision. Thus, there is no legal requirement that the City of Brentwood apply the mitigation measures in the Preliminary Working Draft HCP to the current project, and as a policy matter, the Draft HCP is not far enough along to warrant strict adherence to the current version of the proposed measures.

Nevertheless, because the commenter has asked for such an assessment, this response compares the basic mitigation strategies in the Draft HCP to the mitigation strategies that the City has identified in the EIR for the Vineyards project. If the Preliminary Working Draft HCP were adopted as it currently is written, it would require compensation for impacts to land cover types at the following ratios: riparian woodland 1:1 (restored: impacted), alkali wetland 2:1 (restored: impacted), seasonal wetland 2:1 (restored: impacted), ponds 1:1 (created: impacted), streams 1:1 (restored or created: impacted). The mitigation measures in the Vineyards project EIR require compensation for impacts to

LETTER  
2  
RESPONSES

riparian and aquatic impacts at the following ratios: riparian woodland 3:1 (restored: impacted), alkali meadow 1:1 (restored: impacted), seasonal wetland 2:1 (restored: impacted) or 1:1 (created: impacted), ponds 1:1 (restored: impacted) or 2:1 (created: impacted), and streams 2:1 (restored or created: impacted).

Therefore, all aquatic habitat mitigation ratios identified in the EIR are consistent with or *greater* than those identified in the Preliminary Working Draft HCP with the exception of alkali wetland which would be mitigated at 2:1 in the Preliminary Working Draft HCP versus 1:1 in the Vineyards EIR. The Vineyards EIR includes additional measures to reduce the effect of the loss of alkali meadow, and focuses on collection of seeds from the sensitive plant species in the alkali meadow on the project site. Oak savanna habitat impacts are compensated at a 1:1 ratio in the Preliminary Working Draft HCP. The Vineyards EIR requires San Joaquin kit fox habitat is preserved at a 1:1 mitigation ratio, which is consistent with this measure.

The Department of Fish & Game proposes that the project applicant meet biological mitigation obligations through “early compliance” with the potential HCP/NCCP by prepayment of a fee rather than implementation of the mitigation program identified in the Draft EIR. If the Department is able to achieve a consensus with all other state and federal permitting agencies that prepayment of such a fee would constitute full and adequate compensation for all biological resource impacts associated with the Vineyards at Marsh Creek project, and would provide an adequate basis for the issuance of all state and federal permits associated with impacts to biological resources, and if the amount of such a fee were equal to or less than the amount required to implement the mitigation program outlined in the Draft EIR, such a fee may be considered.

- 2-10. See Response to Comment 2-3, above, for a description of Alternative 4 in the Draft EIR. As seen in Exhibit 6-2, *Alternative 4* development boundaries would avoid seasonal wetlands where the vernal pool fairy shrimp have been found. However, based upon the site topography this alternative likely would result in changes to the hydrology of the seasonal wetlands, and adverse effects from surface water runoff from the developed area of the project site into the seasonal wetland area. Even with avoidance of the seasonal wetland area, the vernal pool wetland species likely would be adversely affected by project development. Thus, in this case offsite mitigation is more likely to be effective compared to onsite avoidance.

The Draft EIR specifies that offsite mitigation sites for the loss of vernal pool fairy shrimp and their habitat must be located within Contra Costa County or its surrounding counties. This geographic requirement ensures that habitat areas would be similar to the project area, while providing enough flexibility to also ensure that sufficient amounts of suitable habitat could be acquired, preserved and enhanced. Suitable offsite mitigation property could exist in Solano, Sacramento, Alameda, San Joaquin and Stanislaus counties.<sup>2</sup>

<sup>2</sup> Ericksen, C.H. and Belk, D. 1999. *Fairy Shrimps of California's Vernal Pools, and Playas*. Mad River Press. Eureka, Ca.

LETTER  
2  
RESPONSES

- 2-11. Impacts to alkali meadow, the vegetation community which supports three of the four special-status plant species found on site (including crownscale), are quantified on page 3.8-47. Impacts to plant species were not calculated solely by quantifying the number of plants existing during the survey year; instead, impacts and mitigation are based upon the acreage of actual and potential habitat for these species. The project biologist mapped the larger crownscale habitat (alkali meadow) in addition to mapping the areas within that habitat where crownscale were identified during botanical surveys. As stated under mitigation measure 3.8-O.1 the applicant will acquire and preserve an equivalent amount of the larger habitat area (alkali meadow) off site.
- 2-12. The crownscale fruiting period, which will follow the flowering period, is anticipated to include the periods between the beginning of June and the end of September. While some construction may occur close to areas occupied by crownscale during this period, the applicant anticipates that the majority of the area occupied by crownscale will be undisturbed during the summer of 2004. Thus, the applicant will commit to collecting seed during the fruiting period in the undisturbed areas where crownscale exist. All seed will be stored properly.
- 2-13. The most prevalent California tiger salamander aestivation habitat present on the project site consists of ground squirrel burrows. Most adult salamanders retreat to ground squirrel burrows although a small percentage use other rodent burrows, soil crevices, or downed logs for refugia<sup>3</sup>. California tiger salamander will use both occupied and unoccupied burrows but require an active population of burrowing small mammals to maintain the burrows<sup>4</sup>. Thus, in order to calculate upland CTS aestivation habitat for the Vineyards site, areas with sufficient concentrations of ground squirrel burrows were mapped and included as upland habitat for the CTS. The analysis did not limit upland habitat to a 600-foot radius; although such a limitation has been supported at other sites. At a study site in Monterey County, it is estimated that most likely 95% of the California tiger salamanders reside in burrows within 568 feet of the pond in which they have bred<sup>5</sup>. Here, however, given that most of the ground squirrel burrow concentrations, and therefore aestivation habitat, on the project site lie beyond a 600 foot radius around breeding ponds, the area encompassed by the ground squirrel burrow concentrations was also calculated and added to the area within a 600 foot radius of breeding ponds to determine the total amount of aestivation habitat on site. Mitigation measure 3.8-D.1 requires that upland aestivation habitat acquired and preserved in perpetuity to compensate for project impacts to California tiger salamander be contiguous to aquatic breeding sites and characterized by suitable grasslands with fossorial mammal activity present.
- 2-14. With the exception of the three ponds where California tiger salamander larvae were found during 2003, the other water features on the site do not pond to sufficient depth or

<sup>3</sup> Loredo, I., D Van Vuren, and M.L. Morrison. 1996. Habitat Use and Migration Behavior of the California Tiger Salamander. *Journal of Herpetology* 30:282-285.

<sup>4</sup> Ibid.

<sup>5</sup> U.S. Fish and Wildlife Service (USFWS). 2000. Final Rule to List the Santa Barbara County Distinct Population of California Tiger Salamander as Endangered. *Federal Register/ Vol. 65, No. 184/ September 21, 2000.*

LETTER  
2  
RESPONSES

for a sufficient length of time to allow for California tiger salamander larval development and maturation. Please see the Sycamore Associates report entitled *California Tiger Salamander Focused Survey for the Vineyards at Marsh Creek Project* (June 11, 2003).

- 2-15. The aestivation habitat (areas with sufficient concentrations of ground squirrel activity) surrounding ponds compromised by failed berms has been included in the CTS aestivation habitat impact calculation.
- 2-16. See Response to Comment 2-3, above, for a description of Alternative 4 in the Draft EIR. As seen in Exhibit 6-2, *Alternative 4* development boundaries would avoid many of the areas in which California tiger salamanders were observed during site surveys. However, CTS habitat would be fragmented under Alternative 4. A significant barrier would be created between the avoided California tiger salamander aestivation areas and seasonal wetlands to the east and the California tiger salamander breeding ponds and open space areas to the west (Exhibit 6-2). Additionally, pond 1 in the avoidance Alternative 4 is cut off from all open space. The avoidance of these habitats in Alternative 4 is not considered as beneficial or meaningful to the California tiger salamander as suitable off-site mitigation provides.
- 2-17. The Draft EIR specifies that similar or higher quality aquatic breeding habitat for the CTS must be created or acquired, preserved in perpetuity and enhanced through management for the benefit of the species, or equivalent credits can be purchased at an approved mitigation bank. In order for habitat to be similar or higher quality than the breeding habitat on the project site, it would almost certainly be occupied habitat or adjacent to occupied habitat. It is possible that created habitat that is not occupied or adjacent to occupied habitat could be deemed similar or higher quality breeding habitat, but only if additional steps were taken to translocate CTS or CTS larvae in amounts sufficient to be likely to result in establishment of a breeding population. The requirement that breeding habitat be similar or higher in quality compared to the habitat affected by the project constitutes a performance standard that will be monitored and enforced.
- 2-18. Mitigation 3.8-D.1 reduces the impact to the CTS to a less than significant level. If breeding habitat is preserved and enhanced in a location that is already occupied by CTS or adjacent to an area occupied by CTS, salvage and translocation of adult CTS or larvae would not be necessary. As explained above, if breeding habitat is created in a location that is not within or adjacent to occupied CTS habitat, then translocation of adult CTS or larvae would be necessary in order to meet the performance standard specified in the mitigation measure. As an additional measure, as stated in recommended mitigation measure 3.8-D.2 (page 3.8-35), the applicant would direct a permitted biologist to relocate CTS larvae to suitable aquatic habitat to the extent feasible prior to grading. Exclusion fencing in order to salvage adult CTS is not considered to be feasible due to the size of the project area and the timing of proposed project construction. If, however, the construction schedule changes and salvage and translocation of adult CTS is needed in order to create CTS habitat at a location that is not occupied by CTS or adjacent to habitat occupied by CTS, then exclusion fencing would be in place for a minimum of one entire wet season. This clarification is hereby added to Mitigation 3.8-D.1.

**Mitigation 3.8-D.1. California Tiger Salamander (CTS) – Vineyards Project.** Prior to the issuance of a building permit, similar or higher-quality aquatic breeding habitat for the CTS shall be created or acquired, preserved in perpetuity, and enhanced through management for the benefit of the species (at a 1:1 acreage ratio for preserved/enhanced habitat or a 2:1 ratio for created habitat, or through a combination of preserved and created breeding habitat using these same ratios) at a location offsite or equivalent credits can be purchased at an approved mitigation bank. If translocation of adult CTS is needed to create CTS habitat at a location that it not occupied by CTS or adjacent to habitat occupied by CTS, then exclusion fencing will be provided and remain in place for a minimum of one entire wet season. Aquatic breeding habitat will contain the following features:

1. Emergent vegetation
2. absence of known CTS predators, and
3. water quality and hydrological conditions suitable to breeding and larval development

In addition, upland aestivation habitat with the following features shall be acquired, preserved in perpetuity, and enhanced through management for the benefit of the species at a 1:1 acreage ratio:

1. contiguous to the aquatic breeding site and
2. grassland habitat,
3. presence of ground squirrel or other fossorial mammals.

(Less Than Significant Impact).

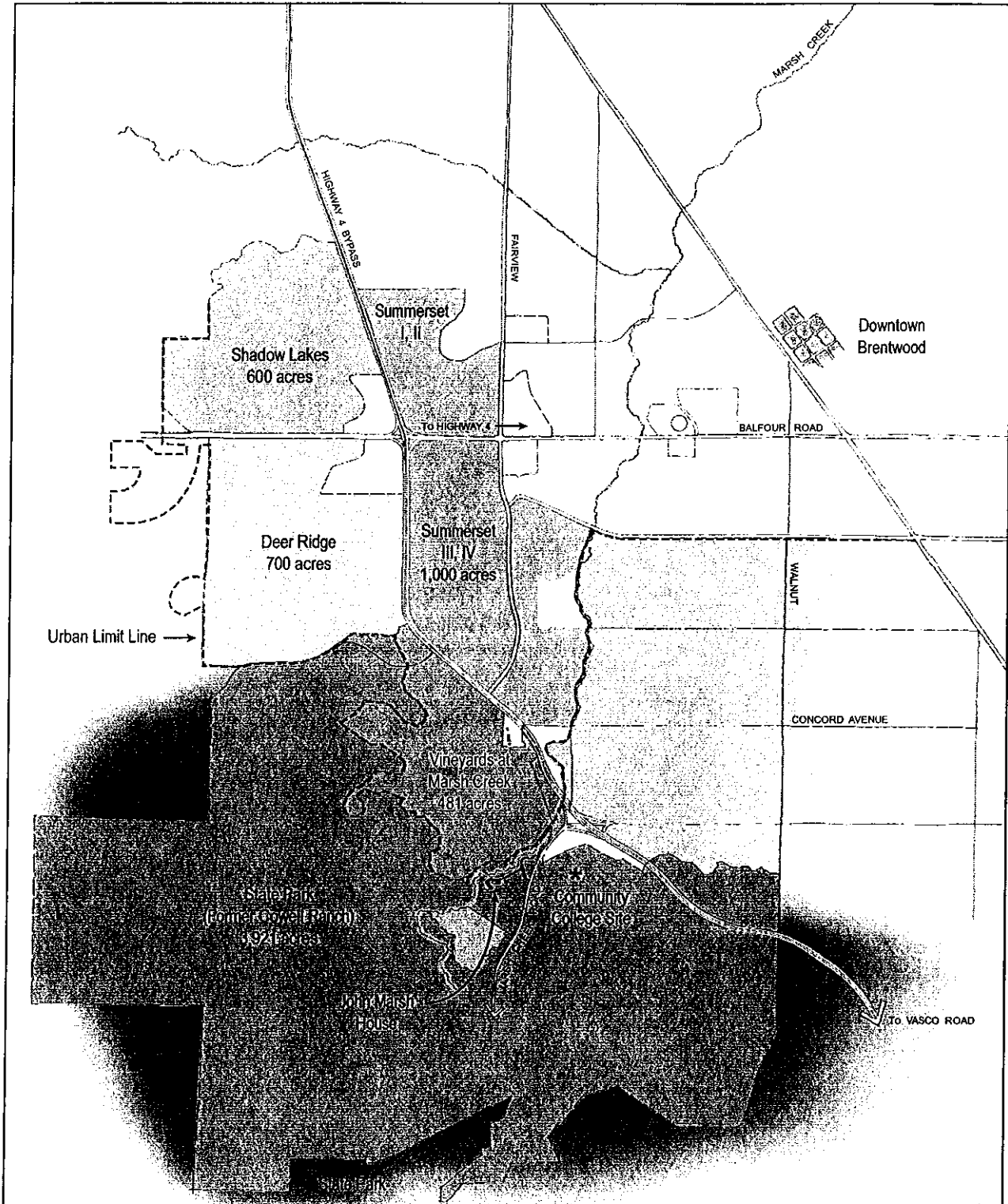
- 2-19. The likelihood that California red-legged frogs use the upland portions of the site for dispersal and refuge is very low as the findings of focused surveys were negative and California red-legged frogs have not been observed incidentally during numerous nocturnal surveys conducted on the site. There are no known populations immediately adjacent to the site. In addition, the closest reported occurrence to the site is 1.5 miles away and was observed ten years ago. Given the very low likelihood that California red-legged frogs would be present, and the lack of a population of this species in the project vicinity, the Draft EIR's measure requiring preconstruction surveys within 300 feet of Marsh Creek and exclusion of any California red-legged frogs from construction areas will be sufficiently protective to reduce potential significant impacts to a less-than-significant level.
- 2-20. A final Stormwater Management Plan will be prepared and presented to the Regional Water Quality Control Board prior to construction to assure that the project meets applicable water quality standards and requirements. The criteria of water quality and detention will include dry down specifications for vector control and reduction/control of other undesirables, such as bull frogs.

- 2-21. DEIR p. 3.8-36 indicates that there is a moderate potential for western pond turtle to occur in the project impact area. It also acknowledges that it is difficult to locate western pond turtle nests. The DEIR concludes that if western pond turtles are found on the site, that a significant impact would result and provides Mitigation Measures 3.8-F.1 and -F.2 to reduce the potential impact to a less than significant level. Because of the difficulty in locating western pond turtle nests, it is also impracticable to find nests for preservation on mitigation lands.
- 2-22. Suitable nesting habitat will remain within the riparian corridor along Marsh Creek in addition to that within the adjacent parkland. Raptors returning to nest on the project site will not have to travel far to find alternate nest sites.
- 2-23. Ferruginous hawks should not be considered part of the list of birds known to have high site fidelity, as they are not known to nest in California.
- 2-24. Seventy-one trees (Valley Oaks, Blue Oaks, and Sycamore/Trees of Heaven) were identified in and around the development site. Of these, twenty-one are proposed to be removed by the Vineyards Project, and fifty trees will be preserved within the development area. These trees will continue to provide nesting habitat for many avian species. Red-shouldered hawks and Swainson's hawks are often found nesting in residential areas and many individuals can tolerate high levels of human activity<sup>6</sup>.
- 2-25. The CDFG protocol for burrowing owl habitat replacement has been followed in the mitigation measure in the EIR (page 3.8-39).
- 2-26. The Draft EIR includes mitigation measures designed to protect nesting bat species. Nevertheless, to further reduce potential impacts to special status bat species, the following mitigation measure is hereby added:

**Mitigation 3.8-K3. Special-Status Bat Species – Vineyards Project. If active maternity roosts or hibernacula are found in trees that will be removed as part of project construction, the applicant will develop a bat and bird nest box plan for the project area. State-of-the-art bat and nest box technology will be employed. Lindsay Wildlife Museum wildlife biology specialists will be asked to review the design and placement of nest boxes.**

- 2-27. The information in the EIR regarding the potential for kit fox to occur on the Vineyards project site was provided by qualified biologists hired by the City of Brentwood to assist in the preparation of the EIR. The determination that there is a low potential for kit fox to occur on the Vineyards project site constitutes the expert opinion of the City's biologists, and is not a statement by the project applicant. The information summarized in the Department of Fish and Game's comment letter is also summarized in the Draft EIR and

<sup>6</sup> Bloom, Peter H. and McCrary, Michael D. 1996. Raptors in Human Landscapes.



Source: Hart Howerton (2003)



Not to scale

1/28/04 JN 35-100230

THE VINEYARDS AT MARSH CREEK AND ANNEXATION SITES EIR

# Local Vicinity Map

Exhibit 2-2





LETTER  
2  
RESPONSES

was taken into account by the biologists who prepared the EIR. This information, along with other information summarized in the Draft EIR, provided the basis for the EIR's determination that potential use of the project site by the San Joaquin kit fox could not be ruled out. Thus, the EIR recognizes that the loss of potential kit fox habitat and potential kit fox corridors due to project implementation is considered a potentially significant impact.

While this loss is considered significant, the impact must be understood in context. The 3,900 acres (over six square miles) of State Park land adjacent to the project site are likely to remain largely as open space, maintaining a wildlife movement corridor. Therefore, development of the project site will not create a barrier between the most northern part of the kit fox range and the remaining population to the south. In addition, potential San Joaquin kit fox movement routes are identified in the Draft East Contra Costa County HCP (Figure 5.4). A potential movement route is identified through the state park land to the southwest and intercepts the southwestern property boundary, however, the potential movement route, as identified in the Draft HCP, does not traverse the project site.

Given the low probability of kit fox occurrence on the project site, and the likely continued existence of kit fox movement corridors in areas that will be unaffected by project implementation, a 3:1 habitat replacement ratio is excessive. Similarly, there is no need to increase the open space area on the western and southern boundaries of the project site. A very large corridor for movement of San Joaquin kit fox will continue to exist along those boundaries.

With regard to impacts from fast-moving traffic, the project does not include the construction of new roadways through open space that would be likely to serve as kit fox movement areas. No grade separations or roadway barriers would be needed in the project area because kit fox would be expected to avoid the development area. To the extent that the commentor is referring to increases in traffic on existing or independently planned roadways such as the State Route 4 Bypass, please see Master Response A regarding the driving characteristics of active adult residents. Because active adult residents do not tend to be commuters, the project is not expected to result in a noticeable increase in traffic on roadways that traverse open space areas. Traffic associated with the project will primarily be internal to the project area, and within the developed areas of the City of Brentwood and adjacent communities. Such traffic would not be expected to affect the San Joaquin kit fox. Cumulative impacts to biological resources associated with overall population growth in the City of Brentwood are analyzed in the EIR for the City's General Plan Update, and are summarized on pages 3.8-56 and 3.8-57 of the Draft EIR for this project.

- 2-28. The EIR recognizes that alkali meadow habitat supports an uncommon suite of alkaline tolerant hydrophytic plants including special-status plant species. In this case, the alkali meadow habitat supports crownscale, the loss of which is considered significant. Overall, the value of alkali meadow habitat to special-status wildlife species on the project site is no greater than that of the drainages, ponds, and seasonal wetlands that are not characterized by alkaline soils (Exhibit 3.8-2). Please see the discussion of Alternative 4

regarding potential onsite avoidance of the alkali meadow habitat. The Draft EIR includes a Mitigation 3.8-O.1, requiring that the project applicant replace the loss of alkali meadow habitat at a 1:1 mitigation ratio by acquiring, preserving and enhancing existing alkali meadow habitat. This measure is hereby clarified to specify that the acquired habitat must support crownscale, or must be enhanced such that it supports crownscale.

**Mitigation 3.8-O.1. Alkali Meadow – Vineyards Project: The project applicant will replace the loss of alkali meadow habitat at a 1:1 mitigation ratio, by acquiring, preserving, and enhancing through management (including among other measures, grazing control) existing alkali meadow habitat.**

**Acquired habitat must support crownscale, or must be enhanced such that it supports crownscale. Mitigation requirements may be met through the purchase and set aside of 8.0 acres of existing alkali meadow habitat within Contra Costa or surrounding counties or purchase of credits in an approved mitigation bank. (Less Than Significant Impact).**

- 2-29. Mitigation measure 3.8-0.1 (page 3.8-47) requires alkali meadow to be preserved in Contra Costa or surrounding counties. This geographic requirement ensures that habitat areas would be similar to the project area, while providing enough flexibility to also ensure that sufficient amounts of suitable habitat could be acquired, preserved and enhanced. This habitat is also found in Solano, Sacramento, Alameda, San Joaquin and Stanislaus counties.
- 2-30. The area preserved will be managed to enhance the alkali meadow habitat as required by Mitigation Measure 3.8-0.1 (page 3.8-47) and this commonly includes include data collection.
- 2-31. Impacts to Marsh Creek are identified due to the Fairview Avenue bridge crossing and associated rip-rap in addition to three outfalls and associated riprap. Culverts and channelization are not proposed as part of this project. A CDFG Streambed Alteration Agreement will be obtained.
- 2-32. Creation of in-kind wetlands for impacts to creeks is generally regarded as impracticable. Therefore preservation and enhancement of streams and riparian habitats as compensation for these impacts is the preferred approach.
- 2-33. Riparian areas disturbed through installation of outfalls and the Fairview Avenue bridge will be revegetated with native species. Marsh creek riparian vegetation removed will be replaced on a 3:1 in-kind basis, as described in Mitigation Measure 3.8-Q, using native species and exotic species will be removed in wetland mitigation areas to the extent feasible. Moreover, enhancement of riparian habitat would include removal of non-native species and planting with native species to the extent feasible and monitoring for five years. Mitigation Measures 3.8-Q and 3.8-R are hereby amended to reflect this clarification.

**Mitigation 3.8-Q. Loss of Great Valley Mixed Riparian Forest – Vineyards Project.** The loss of trees and shrubs within the riparian corridor of Marsh Creek will be mitigated by habitat enhancement at a ratio of 3:1 (i.e., three acres of habitat enhancement for each acre of impact). Areas situated directly adjacent to the creek's top-of-bank that currently support a mixture of non-native grasses and forbs will be used for enhancement via planting with native trees and shrubs. Willow and pole cuttings used in enhancement plantings will be taken from local stock.

A qualified biologist, in coordination with the City, will determine the location of potential mitigation sites along Marsh Creek. A detailed riparian habitat enhancement plan will be prepared in consultation with a qualified biologist. This plan shall provide for the following:

- ❖ Compensation for lost acreage at a ratio of 3:1 (mitigation to impacts).
- ❖ Enhancement of areas adjacent to Marsh Creek currently supporting relatively low-quality riparian habitat including the removal of non-native species and planting of native species to the extent feasible.
- ❖ Tree replacement consistent with the typical City of Brentwood tree replacement ratios (see Impact 3.8-U).
- ❖ Development of a monitoring plan to track habitat enhancement. At a minimum, this shall provide for 75% survival at year 5 of all shrubs and trees.

(Less Than Significant Impact).

**Mitigation 3.8-R. Encroachment Upon the Great Valley Mixed Riparian Forest of Marsh Creek – Vineyards Project.** If encroachment into the riparian setback is necessary, then a commensurate amount of riparian habitat along Marsh Creek will be enhanced to compensate for the loss of habitat caused by the encroachment. Part of the enhancement area may be the restoration of the area previously affected by the ECCID irrigation canal. Enhancement will include the removal of non-native species and planting of native species to the extent feasible. The ratio of enhancement habitat will vary depending upon the extent of encroachment into the 100 foot setback buffer: encroachment into the first 50% shall be mitigated at a ratio of 1:1 (mitigation:impacts); encroachment into the remaining 50% shall be mitigated at a ratio of 2:1 (mitigation:impacts). This mitigation shall adhere to the stipulations outlined in the direct impacts section above. (Less Than Significant Impact).

LETTER  
2  
RESPONSES

- 2-34. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared to address water pollution during construction (please refer to modified Mitigation Measure 3.8-10.A. in the Erratum). The SWPPP is designed to reduce potential impacts to surface water quality during construction, assess construction site and planned activities, and identify and select Best Management Practices (BMPs).

*A Preliminary Modeling and Analysis for Stormwater Management Planning, Vineyards at Marsh Creek Project, City of Brentwood, California*, dated August 20, 2003 has been prepared by Balance Hydraulics, Inc. The preliminary plan assesses site and watershed conditions and gives a clear understanding of the hydrologic conditions and/or concerns. It also, presents the basis for, and calculations to support the sizing of the water quality and detention basins. In addition, it identifies candidate BMPs and develops a plan for BMP maintenance. It also, includes a Hydrologic Analysis of Marsh Creek and the routing of major storms.

The January 7, 2004 follow up letter from Balance Hydraulics, Inc describes possible basin designs that provide the necessary regional benefit to Marsh Creek per the request of the Contra Costa County Flood Control and Water Conservation District. The letter confirms that the sizing of the basins will reduce flood flows to less than 2300 cubic feet per second (cfs) at Sand Creek. Flows below 2300 cfs will assist with reducing existing flood flows downstream of the site.

A final Stormwater Management Plan will be prepared and presented to the Regional Water Quality Control Board prior to construction to assure that the project meets applicable water quality standards and requirements. The criteria of water quality and detention will include dry down specifications for vector control and other undesirables. In addition, maximized treatment volumes per RWQCB specifications, final stormwater routing plans inlet and out let design, final maintenance and monitoring plans, and funding and responsibility assurances will be provided.

LETTER  
3

COMMITTEES:  
VICE CHAIRMAN  
TRANSPORTATION  
MEMBER  
BANKING AND FINANCE  
LABOR AND EMPLOYMENT

Assembly  
California Legislature  
GUY HOUSTON  
ASSEMBLYMAN, FIFTEENTH DISTRICT

RECEIVED  
JAN 12 2004  
CITY OF BRENTWOOD

STATE CAPITOL  
P.O. BOX 842648  
SACRAMENTO, CA 95848-0015  
(916) 319-2015  
FAX (916) 319-2115  
DISTRICT OFFICE  
1635-A CHESTNUT STREET  
LIVERMORE, CA 94561  
(925) 608-4890  
FAX (925) 608-4488  
SATELLITE DISTRICT OFFICE  
CITY OF BRENTWOOD  
CITY COUNCIL CHAMBERS  
734 THIRD STREET  
BRENTWOOD, CA 94513  
(925) 513-8558

Copy: RBF  
file

January 9, 2004

Mr. Mitch Oshinsky  
Director of Community Development  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513

Dear Mr. Oshinsky:

I write to you in support of the Vineyards at Marsh Creek project under brainstorm in the City of Brentwood. I see many positive outcomes for the community and citizens surrounding this area, including: (1) a 30-acre piece of land given to the city for a future community college, (2) utilities and access to the local State Park which includes the John Marsh Historic home, (3) a site for a "full production" winery where the sky is the limit as to its use and community character, and (4) permit fees that will contribute millions of dollars to the Highway 4 Bypass project.

This project is a win-win situation for the City of Brentwood. Overall this is more than an active adult residential community, it is a bridge in the relationship between city, county, and state projects and well as addressing a development need for all our constituents.

Please do not hesitate to contact me if I can answer and questions or provide any other information, again I send my support to the Vineyards at Marsh Creek project.

Sincerely,

Guy S. Houston  
Assemblyman, 15<sup>th</sup> District

3-1

E-MAIL: [Assemblymember.Houston@assembly.ca.gov](mailto:Assemblymember.Houston@assembly.ca.gov)  
WEB: <http://www.assembly.ca.gov/houston>  
Printed on Recycled Paper

LETTER  
3  
RESPONSES

Guy S. Houston  
Assemblyman, 15<sup>th</sup> District  
January 9, 2004

- 3-1 The commentor writes in support of the project. No new environmental issues are raised. This comment is noted.

LETTER  
4



State of California - The Resources Agency  
 DEPARTMENT OF PARKS AND RECREATION  
 Diablo Vista District - Bay Sector  
 96 Mitchell Canyon Road  
 Clayton, CA 94517  
 925-673-2891

Arnold Schwarzenegger, Governor  
 Ruth G. Coleman, Director

January 23, 2004

Mitch Oshinsky  
 City of Brentwood  
 708 Third Street  
 Brentwood, CA 94513

Dear Mr. Oshinsky:

City of Brentwood, The Vineyards at Marsh Creek and Annexation Sites  
 Draft Environmental Impact Report, SCH# 2003062019

Thank you for accepting and considering our comments at this date on the Draft Environmental Impact Report. As was stated in the notice of preparation letter, California State Parks is concerned about the potential effects of the Vineyards at Marsh Creek on the adjacent Cowell Ranch State Park property. We had asked you to consider all potential direct and indirect impacts to the Park in the Environmental Impact Report. We find that the Draft Environmental Impact Report does not adequately consider these impacts on the entire Cowell Ranch State Park properties. The document rather focuses on the annexation of the John Marsh home (a part of Cowell Ranch State Park), which is one of the subjects of the DEIR, as well as the impacts to Marsh home portion of the Park. 4-1

The project has numerous unmitigated impacts on the adjacent Cowell Ranch, a unit of the California State Park System. The proposed site plan for the Vineyard project would significantly intrude into the adjacent Cowell Ranch, thereby decreasing the biological values of the park due to edge effects, impacts from exotic species and domestic animals, and light and noise disturbance, just to name a few. There should be a buffer between the development and the Park that would help mitigate some of these impacts. The project should be scaled back to eliminate the intrusion of development directly into the State Park that would compromise its biological integrity by fragmenting the habitat. 4-2

It is our understanding that a Habitat Conservation Plan (HCP) is currently under development for East Contra Costa County. Very little reference is made to this HCP under development. Permitting agencies, including the City of Brentwood, should use any preliminary plans or evaluations in assessing this development project and mitigating unavoidable impacts. This area has a high habitat value for numerous sensitive species such as the San Joaquin kit fox, burrowing owl, California tiger salamander, California red-legged frog, and several rare plants. 4-3

The mitigation ratios appear inadequate; they are deficient to protect and restore impacted habitat and species. It is not clear from the document if these ratios have been approved by regulatory agencies. The DEIR includes seasonal wetland mitigation ratios of 2 acres 4-4



LETTER  
4

preservation. 1 acre impacted or 1:1 creation credits within an approved mitigation bank for seasonal wetlands which provide habitat for vernal pool species. This mitigation level may not adequately preserve local populations of vernal pool fairy shrimp and diving beetles. Similarly, the proposed direct-loss mitigation of 1:1 for acquisition, preservation and enhancement of downslope is deficient in protection of this rare oak habitat and its associated rare species. The 1:1 proposed ratio for loss of San Joaquin kit fox habitat does not adequately mitigate the proposed impacts to this species whose presence in the area is likely. Greater mitigation ratios for these and other impacted species are necessary. There are several special status species and habitats in the project area.

4-4

Enhancements to mixed riparian forest should include removal of non-native species. Local genetic integrity should be preserved by collecting plant material for propagation within the watershed. The survival rate at year 5 should be used for all shrubs and trees as is employed elsewhere in the document. It is unclear as to why survival rate at year 3 is instead employed for this mitigation ratio. A 2:1 ratio (mitigation:impacts) at a minimum should be used for all mixed riparian forest encroachment versus 1:1 for the first 50% and 2:1 for subsequent encroachment as the document states.

4-5

The historic, cultural landscape of John Marsh home and Cowell Ranch will be affected by the proposed project. The document does not adequately address these changes. The screening vegetation and plan review proposed does not appear sufficient to mitigate these impacts. Creation of a buffer around the project would assist in the mitigation of these impacts.

4-6

State Parks had requested that the impacts of adjacent new residences be mitigated through design. We are concerned about every yard becoming an access point to the Park and the associated impacts this may cause aside from the human-use impacts, for example, intrusion of domestic pets and feral animals into the Park, introduction of non-native plants, light and noise pollution and increased erosion. We did not see the potential impacts of domestic animals on the park addressed in the environmental document. Ideally a fencing or wall around the development would prevent residents and their domestic animals from entering the park from their backyards. The environmental document did not include an analysis of the potential impacts of landscaping on the park including aggressive non-native plant species.

4-7

The cumulative impacts of this project do not appear to be adequately addressed. Although a Habitat Conservation Plan is being developed, it is not clear that any of the provisions are included in this development. Stating that the City of Brentwood is a participant in this process does not adequately address potential cumulative impacts in the project area. The cumulative impacts of this and nearby developments has the potential to negatively impact the biological and cultural attributes of Cowell Ranch State Park that was the reason for its acquisition.

4-8

The impacts to park operations from some of the issues raised above as well as enforcement and emergency response was not adequately assessed in the document. Park visitation is expected to significantly increase with housing development directly adjacent to the Park. For example, section 3.13 does not address the increased need for Park rangers resulting from an increase in park visitation. There is an accompanying staffing and financial burden associated with increased visitation for California State Parks.

4-9

Page 5-56 appears to have a typo that needs correcting. Mitigation 3.9-0-1 states incorrectly that California State Parks will prepare a geotechnical design study for any proposed buildings at the community college site. We believe the intention was for such a study if additional buildings were proposed at the John Marsh home annexation site.

4-10

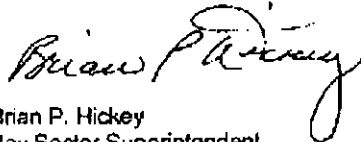
LETTER  
4

With regard to wildland fire, it is recommended that homes be built utilizing materials known to help ameliorate damage to structures caused by wildland fires. These include using roofing and structural materials recommended by fire agencies to reduce risk of fire. In addition, landscaping around homes can be designed so as to reduce impacts from fires. 4-11

Potential changes in traffic and noise with respect to the Cowell Ranch State Park do not appear to be adequately addressed in the document. 4-12

Finally, we would like you to consider planned access points that are consistent with the trail design on the adjacent State Park properties. In the absence of an approved trail plan for Cowell Ranch State Park, we ask that State Parks be consulted prior to the finalization of the trail layout and trailhead locations within the Vineyards at Marsh Creek project. 4-13

Sincerely,



Brian P. Hickey  
Bay Sector Superintendent

State of California  
Department of Parks and Recreation  
January 23, 2004

LETTER  
4  
RESPONSES

- 4-1. This comment is generally introductory to the remainder of the letter. The Department's specific comments regarding potential impacts to State Park properties are addressed below. In addition, please note that where impacts to a particular site do not exist, the EIR generally is silent regarding the issue. That silence does not mean that the site or resource was not considered or evaluated during preparation of the environmental analysis. As an example, the land use analysis in the EIR considers consistency with plans and policies adopted for the purpose of avoiding or mitigating an environmental effect. In performing this analysis, the EIR preparers contacted the State Department of Parks and Recreation to determine whether any plans or policies had been adopted for the State parkland adjacent to the project sites. No plans have been prepared or adopted. As another example, the EIR preparers recognized that were the Vineyards Project to be located in a manner that would result in substantial amounts of surface water flowing onto the State Park land, potential effects could result, ranging from flooding on the State Park property to effects on the quality of wetland and other sensitive habitat on the park property. Upon investigation, however, it was determined that the project location and design does *not* result in substantial flows to the state park land. In fact, the hydrology of the site is such that almost all of the surface water flows from the state park lands onto the Vineyards project site – not the other way around.

The Draft EIR calls out specific impacts to State Park property where such impacts potentially could occur. For example, in the Hazards and Hazardous Materials section, the draft EIR discusses exposure to wildland fires. (DEIR p. 3.11-19 to 3.11-21). The Draft EIR explains the park's susceptibility to wildfires, wildfire protection and suppression on the State Parkland, and a buffer on the Vineyards project site to be maintained for fire prevention and suppression purposes. As another example, the Draft EIR also recognizes, on page 3.13-23, that project residents may use the newly formed State Park; however, no significant impact is expected to result.

Finally, in some cases, potential impacts to the State Parkland would be limited primarily to the John Marsh Home and its immediate vicinity or are best characterized by the John Marsh Home. Thus, for example, the Draft EIR's noise analysis identifies the John Marsh Home as a sensitive receptor. (DEIR Exhibit 3.6.2, p. 3.6-11). The John Marsh Home is on the portion of the State Parkland located closest to noise-generating uses such as roadway traffic and the proposed commercial area. As another example, the Draft EIR's analysis of visual resources examines views of the Vineyards Project site from the John Marsh Home portion of the State Park. (DEIR Exhibit 3.7-5, p. 3.7-10). This view was analyzed because this portion of the State Park land was considered to be the most sensitive in terms of the number of potential viewers and the anticipated public use of the area. As is explained in more detail, below, views from other areas of the park are not expected to be affected.

- 4-2. Please refer to the responses to the CDFG letter (Letter 2).

LETTER  
4  
RESPONSES

- 4-3. Please refer to Master Response B regarding the potential East Contra Costa County HCP/NCCP. As stated in the comment, the HCP/NCCP is being developed but it will be quite a while before mitigation strategies are determined and the HCP is completed and adopted. Between initial proposals and final adoption (if the HCP is approved at all), the mitigation strategies likely will undergo substantial change. In the meantime, it is not only appropriate, but necessary for member agencies to continue to review and process environmental documents and development applications that have been submitted and to consider mitigation for individual projects.
- 4-4. The DEIR evaluates impacts to the sensitive biological resources that occur (or potentially occur) on the Vineyards at Marsh Creek project site and, at a programmatic level, on the Annexation Sites. For every significant or potentially significant impact to biological resources (i.e., DEIR, Section 3.8), the DEIR provides mitigation measures to reduce these effects to a less than significant level. Among in the biological impacts addressed in Section 3.8 are the following:
- Impact 3.8-E: California red-legged frog
  - Impact 3.8-B and 3.8-C: rare plants
  - Impact 3.8-A: vernal pools
  - Impact 3.8-D: California tiger salamander
  - Impact 3.8-H: burrowing owls
  - Impact 3.8-L and 3.8-M: San Joaquin kit fox
  - Impact 3.8-O: alkali meadows

Mitigation measures were developed in consultation with numerous biologists based upon the specific habitat and species on or potentially on the project site. To the extent regulatory agency approvals will be required, the mitigation measures will be presented to those agencies for their consideration. Regulatory agencies with approval authority may impose different requirements than those identified in the EIR. Please also see Responses to Comments to the letter submitted by the California Department of Fish and Game (CDFG), and particularly Responses to Comments 2-9 and 2-27. The project applicant is well into a consultation process with the U.S. Army Corps of Engineers (USACE), U.S. Fish & Wildlife Service, CDFG, and other permitting agencies.

- 4-5. Please see amended Mitigation Measure 3.8-Q as indicated in Response to Comment 2-33. As indicated, this mitigation measure has been amended to include the removal of non-native species, where feasible, use local stock for willow enhancement, and that restoration be monitored for five (5) years.
- 4-6. The proposed project would not physically alter the John Marsh House or site. Fairview Avenue right-of-way is proposed adjacent to the existing John Marsh House driveway. The house remains over 800 feet south of the proposed roadway. At the request of the City of Brentwood and to assist the State with their desired future plans for the property should state funding become available, the project is providing a driveway cut off Fairview Avenue for future access. No trees or other substantial landscaping would be

LETTER  
4  
RESPONSES

removed on the John Marsh property or surrounding state land, except within the Fairview Avenue right-of-way.

Development of the Vineyards at Marsh Creek, and particularly the Fairview Avenue crossing, would be visible from the John Marsh House. However, it is a judgment call as to the extent of the effect that this will have on the historic property. Review of Exhibit 3.7-5 (view of the Vineyards at Marsh Creek from the John Marsh House to the Vineyards at Marsh Creek) indicates that the rural, pastoral setting from that location would be changed initially to a distant view of development on the Vineyards site. The Vineyards project would plant landscaping (oak and riparian trees) between the site and Marsh Creek. Larger trees currently in the landscape would remain before and after the Vineyards project. After 10 years of growth on planted landscaping, the views from the John Marsh House would return to a landscape setting, though the views of distant hills would be more limited when looking toward the project area. Views of hills and grasslands would be unaffected looking in all other directions. These changes are not considered “adverse and substantial” and were not, therefore, identified as a significant impact.

No existing vegetation in Marsh Creek between the John Marsh House and the Vineyards Project is proposed to be removed except where Fairview Avenue is proposed to cross Marsh Creek. This right-of-way will be heavily landscaped when it is complete.

The John Marsh House Board Members played an active roll during the public workshops held in spring/summer 2003. While a change to the house’s current setting is acknowledged, it was discussed how landscaping and project design could help soften the change. In addition, the Vineyards project represents a potential funding source for actual restoration of the home (once it is annexed to the City of Brentwood) through payment of development fees and for ongoing park maintenance through annual CFD tax funds.

The City recognizes the John Marsh House as both an historic and local treasure. In response to many years of discussions with the John Marsh House Board regarding their goals to restore the house, the City of Brentwood is proposing to annex the property. By doing this, the City will have the ability to partner with the John Marsh Foundation and channel park funds and CFD proceeds to the restoration and maintenance effort. Both the City and the John Marsh Board appreciate the benefits of a future partnership – further bridged by the Vineyards Project.

- 4-7. Please refer to Response to Comment 2-7 regarding fencing to be placed entirely around the proposed Vineyards project, domestic and feral animal intrusion, and invasive plant species.
- 4-8. Please refer to Master Response B regarding the East Contra Costa County HCP. Please also refer to Response to Comment 2-9 for a comparison of project mitigation measures to those currently contemplated in the HCP. The DEIR provides a complete evaluation of impacts to cultural and biological resources. The cumulative analysis are provided

<p style="text-align: center;">LETTER 4 RESPONSES</p>
---

in these subject areas in Impact 3.12-J (beginning DEIR p. 3.12-21), Impact 3.8-W (beginning on DEIR p. 3.8-56) and in Chapter 4, Cumulative Impacts. As stated in the DEIR discussion, the City of Brentwood acknowledged that the “general plan level” and cumulative loss of biological impacts would result in a significant cumulative impact. When it adopted its General Plan Update, the City of Brentwood determined that mitigation for the cumulative loss of biological resources would be the City’s on-going participation in development of the East County HCP/NCCP, which is occurring. Conditions regarding cumulative effects on biological resources have not changed substantially since the City adopted its General Plan Update in 2001. Development of the Vineyards at Marsh Creek site and other nearby development was anticipated at that time.

- 4-9. In conversations with the State Department of Parks and Recreation, the Department indicated that park operations and facilities would not be known until the Department completed a General Plan for the park. Therefore, precise park operation plans and potential staff needs can not be known now. However, such information will be much clearer when the General Plan is prepared and adopted. Consequently, the “impacts” to park staff and financing cannot be precisely determined until that plan is complete.

The potential for staffing and transportation trips was discussed with the author of this comment letter and evaluated in the Estimated Jobs-Housing Analysis by Hausrath Economics Group, and incorporated into this EIR. In the Hausrath report, Mr. Hickey represented that:

“The estimate of state park jobs represents a high-end estimate for managing the 3,800 acre park and the 14-acre John Marsh House site. The estimate reflects what is typically required for a park of this scale and interpretive possibilities. The estimate of 12 jobs accounts for seven permanent positions and six seasonal (9-month) positions. Actual employment will depend on the budget and state legislature. At the low end, the state might have to allocate existing resources from other units resulting in no net additional employment associated with this new addition to the system.”

The CEQA question regarding parks revolves around would a project alter demands such that additional facilities need be developed which could result in impacts to the environment. That is the question answered in DEIR Section 3.13. However, the potential increase for State Park staff is a staffing issue that will be integrally linked to the General Plan. As per the authors previous comments, the need for additional staff would be part of the State’s overall operations plan for the park with the provision of additional staff to be funded by the State.

- 4-10. Yes, this is indeed a typo. The language for Mitigation Measure 3.9-D.1 is hereby corrected to read as follows:

**Mitigation 3.9-D.1 Strong Seismic Ground-Shaking – Annexation Sites: Improvements to the John Marsh Home could include restoration of the John**

LETTER  
4  
RESPONSES

**Marsh Home, installation of a parking lot, or addition of an interpretive center inside the Home. In the event that a structure is proposed on the site, the following measure would minimize the potential that a significant impact would occur:**

- ❖ **The California Department of Parks and Recreation will retain a qualified engineering geologist to prepare a detailed geotechnical engineering design study for any proposed building sites improvements on the community college-site John Marsh House. Any recommended design and engineering solutions to ensure sufficient foundation stability shall be incorporated into the project's design plans. (Less Than Significant Impact).**

4-11. Review of the preliminary design review plan set for the Vineyards at Marsh Creek indicate that roofs will be composed of concrete tiles, and the building exteriors will be made primarily of stucco. Moreover, there is a 15-25 foot break (and in some cases wider) between the structures of the project and the state park.

4-12. Traffic effects are evaluated in DEIR Section 3.4, and noise effects are evaluated in Section 3.6. Traffic and noise effects from increased traffic along Marsh Creek Road are quantified in those DEIR sections.

As shown in Exhibit 2-5 (Proposed Site Plan), no major roadways are proposed between the Vineyards at Marsh Creek project and the state park. Almost all roadways are double-sided, meaning that homes are located on either side of the roads – which provides buffering between roads (and any affiliated noise) and the state park. Except for the Fairview Avenue extension, all roadways internal to the project are local roadways and would carry minimal traffic and generate similarly minimal levels of noise.

4-13. The State Department of Parks and Recreation will be consulted before the finalization of any trail layout and trailhead locations between the Vineyards at Marsh Creek and the state park.

LETTER  
5



Arnold  
Schwarzenegger  
Governor

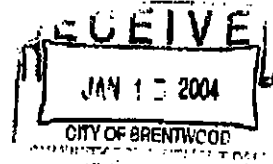
January 12, 2004

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Jan Boet  
Acting Deputy  
Director

Copy: RB7.  
file



Mr. Mitch Oshinsky  
City of Brentwood  
134 Oak Street  
Brentwood, CA 94513

Subject: Vineyards at Marsh Creek Project and Annexation Sites  
SCU#: 2003062019

Dear Mr. Mitch Oshinsky:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 9, 2004, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

5-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts  
Director, State Clearinghouse

Enclosures  
cc. Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
(916)445-0613 FAX:(916)323-3018 www.npr.ca.gov



LETTER  
5

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2003062019  
**Project Title** Vineyards at Marsh Creek Project and Annexation Sites  
**Lead Agency** Brentwood, City of

**Type** EIR Draft EIR  
**Description** Vineyards = (+/-) 481 acre Active Adult community (residential; Village Center w/office, commercial, residential, institutional congregate care and hotel & conference center), winery & amphitheater, includes annexation of existing PG&E facility with no change to use.

**Lead Agency Contact**

**Name** Mr. Mitch Dahinsky  
**Agency** City of Brentwood  
**Phone** 925 516-5405 **Fax**  
**email**  
**Address** 104 Oak Street  
**City** Brentwood **State** CA **Zip** 94513

**Project Location**

**County** Contra Costa  
**City** Brentwood  
**Region**  
**Cross Streets** Concord Avenue SR/ 4 Bypass  
**Parcel No.** Multiple  
**Township**

Range	Section	Base
-------	---------	------

**Proximity to:**

**Highways** 4  
**Airports**  
**Railways**  
**Waterways** Marsh Creek  
**Schools**  
**Land Use** Residential Ranchette Estate  
 Residential Very Low Density  
 Residential Low Density  
 Mixed Use Business Park  
 General Commercial  
 School Site  
 Park Site  
 Urban Reserve

**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Economics/Jobs; Cumulative Effects; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Reclamation Board; Department of Water Resources; Regional Water Quality Control Board, Region 2; Caltrans, District 4; California Highway Patrol; Department of Housing and Community Development; Department of Food and Agriculture; Native American Heritage Commission

**Date Received** 11/25/2003      **Start of Review** 11/25/2003      **End of Review** 01/09/2004

Note: Blanks in data fields result from insufficient information provided by lead agency.

Terry Roberts  
Director, State Clearinghouse  
January 12, 2004

LETTER  
5  
RESPONSES

- 5-1 The Governor's Office of Planning and Research acknowledges receipt and circulation of the Vineyards at Marsh Creek and Annexation Sites DEIR. This comment is noted.

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
6

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY

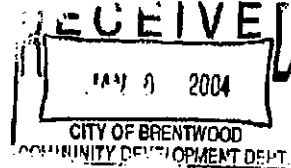
ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**  
111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623 0660  
PHONE (510) 286-5505  
FAX (510) 286-5559  
TTY (800) 735-2929

Copy: RBF  
File



For your power!  
Be energy efficient!



January 6, 2004

CC004717  
CC-4-43.97  
SCH2003062019

Mr. Mitch Oshinsky, Director  
Community Development Department  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513

Dear Mr. Oshinsky:

**Vineyards at Marsh Creek – Draft Environmental Impact Report**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the Draft Environmental Impact Report for the Vineyards at Marsh Creek and have the following comments to offer:

As stated in our attached letter dated July 1, 2003 in response to the Notice of Preparation, our primary concern with the project is the potentially significant impact it may have to traffic volumes and congestion. A traffic impact analysis should be done for the critical intersections with State Route 4 (Brentwood Blvd.), at Oak Street, Sellers Avenue, and Marsh Creek Road. If the traffic impacts are significant at these intersections, mitigation measures should be considered and the traffic impact analysis should be expanded to mainline State Route 4.

6-1

Also, if Exhibit 2.2 is existing Local Vicinity, the designation "To Highway 4" would more accurately point east on Balfour Road.

6-2

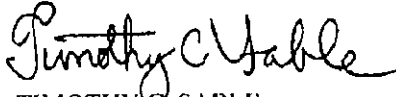
*"Caltrans improves mobility across California"*

LETTER  
6

Mr. Mitch Oshinsky, Director  
January 6, 2004  
Page 2

Should you require further information or have any questions regarding this letter, please call Lisa Carboni of my staff at (510) 622-5491.

Sincerely,



TIMOTHY C. SABLE  
District Branch Chief  
IGR/CEQA

Attachment

c: Rose Garcia (State Clearinghouse)

*'Caltrans improves mobility across California'*

LETTER  
6

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

GRAY DAVIS, Governor

**DEPARTMENT OF TRANSPORTATION**  
 P. O. BOX 23660  
 OAKLAND, CA 94623-0660  
 (510) 286-4444  
 (510) 286-4454 TDD



*Flex your power!  
Be energy efficient!*

July 1, 2003

CC004717  
 CC-4-43.97  
 SCH2003062019

Mr. Mitch Oshinsky, AICP  
 City of Brentwood  
 708 Third Street  
 Brentwood, CA 94513

Dear Mr. Oshinsky:

**Vineyards at Marsh Creek – Notice of Preparation**

Thank you for including the California Department of Transportation in the early stages of the environmental review process for the proposed project. We have examined the Notice of Preparation and have the following comments to offer:

Our primary concern with the project is the potentially significant impact it may have to traffic volume and congestion on State Route 4 and the State Route 4 Bypass. We recommend a traffic impact analysis be prepared that evaluates the mainline, roadway segments, weaving area, ramps and ramp junctions. The traffic impact analysis should include, but not be limited to the following:

- |   |     |
|---|-----|
| 1. Information on the project's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed.          | 6-3 |
| 2. Average Daily Traffic (ADT) and AM and PM peak hour volumes on all significantly affected streets and highways, including crossroads and controlling intersections.  | 6-4 |
| 3. Schematic illustration of the traffic conditions for: 1) existing, 2) existing plus project, 3) cumulative, and 4) cumulative plus project for the intersections and roadway segments in the project area. | 6-5 |
| 4. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated.                   | 6-6 |

*\*Caltrans improves mobility across California\**

LETTER  
6

Mr. Mitch Oshinsky/ City of Brentwood  
July 1, 2003  
Page 2

5. Mitigation measures should consider highway and non-highway improvements and services. Special attention should be given to the development of alternate solutions to circulation problems that do not rely on increased highway construction. | 6-7

6. All mitigation measures proposed should be fully discussed, including financing, scheduling, implementation responsibilities, and lead agency monitoring. | 6-8

We recommend you utilize Caltrans' "Guide for the Preparation of Traffic Impact Studies" which can be accessed from the following webpage: | 6-9  
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>

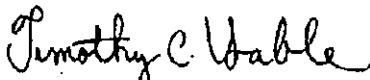
The Draft Environmental Impact Report (DEIR) should also address the potential for traffic noise when the new State Route 4 Bypass becomes operational and the Vineyards at Marsh Creek is added. | 6-10

We look forward to reviewing the traffic study and DEIR for this project. Please send two copies to:

Lisa Carboni  
Office of Transit and Community Planning  
Department of Transportation, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660

Should you require further information or have any questions regarding this letter, please call Lisa Carboni of my staff at (510) 622-5491.

Sincerely,



TIMOTHY C. SABLE  
District Branch Chief  
IGR/CEQA

State of California  
Department of Transportation  
July 1, 2003 and January 4, 2004

LETTER  
6  
RESPONSES

- 6-1. Section 3.4 of the DEIR provides a traffic analysis of the Vineyards at Marsh Creek project and the Annexation Sites. This analysis evaluated the impact of the project at over twenty intersections surrounding the project for a variety of scenarios. The DEIR includes analysis at the SR4/Balfour Road, SR4 Marsh Creek Road and Sellers Avenue/Marsh Creek Road, among others. However, the intersection at Brentwood Boulevard and Oak Street was not studied because this intersection is 3.6 miles from the Vineyards project site and review of the distribution patterns indicated that project traffic would not substantially effect this intersection.

In general, the DEIR determined that mitigation measures were required at four locations in the "near-term," defined generally as conditions before Segment 3 of the SR4 Bypass is complete. Feasible mitigation measures were identified for these impacts that would reduce them to a less than significant level.

- 6-2. The label of "To Highway 4" at the top of DEIR Exhibit 2-2 is hereby modified (see Exhibit at the end of this comment).
- 6-3. Please see DEIR Section 3.4, Transportation/Circulation for the requested information.
- 6-4. Please see DEIR Section 3.4, Transportation/Circulation for the requested information.
- 6-5. Please see DEIR Section 3.4, Transportation/Circulation for the requested information. It should be noted that the Long-Term project scenario includes buildout of the City of Brentwood in accordance with the City of Brentwood General Plan as stated in the second paragraph on DEIR p. 3.4-15. DEIR p. 4-1 states that the cumulative scenario is also buildout of the Brentwood General Plan. Therefore, the Long-term traffic assessment is the same as the cumulative scenario. Consequently, the analysis requested in this comment is included within Section 3.4 of the DEIR.
- 6-6. Please refer to DEIR, Appendix D for the requested information. The analysis included the impacts of traffic from proposed and planned developments in the study area. Documentation regarding these anticipated developments is provided in Appendix D (Near-Term) and Appendix G (Cumulative). These appendices detail those developments that are anticipated to generate traffic in the future that would impact the study area roadway network.
- 6-7. The mitigation measures to reduce traffic impacts of this project to a less than significant level include funded roadway improvements (e.g., State Route 4 Bypass) and other minor intersection improvements. The State Route 4 Bypass is included because it is a fully approved project.

Please refer to Master Response D regarding Segment 3 of the SR 4 Bypass.



LETTER 6 RESPONSES
--------------------------

- 6-8. Please see DEIR Section 3.4, Transportation/Circulation and Appendix D for the requested information. Also, please see Master Response D.
- 6-9. The DEIR traffic analysis incorporates all of the elements included in the *Guide for the Preparation of Traffic Impact Studies* as well as relevant requirements of Contra Costa County and the City of Brentwood.
- 6-10. Please see DEIR Section 3.6 for the noise analysis. The analysis takes into account the future State Route 4 Bypass.

INSERT Revised Exhibit 2-2 here

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
7

01/08/2004 10:59 4159288560

BAY AREA AIR QUALITY

PAGE 01/04



**BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT**

**ALAMEDA COUNTY**  
Roberta Cooper  
Scott Haggarty  
(Chairperson)  
Nate Milay  
Sheila Young

**CONTRA COSTA COUNTY**  
Mark DeSaunier  
Mark Ross  
Gayle Ulkema  
(Secretary)

**MARIN COUNTY**  
Harold C. Brown, Jr.

**NAPA COUNTY**  
Brad Wagenknecht

**SAN FRANCISCO COUNTY**  
Willie Brown, Jr.  
Chris Daly  
Jake McGoldrick

**SAN MATEO COUNTY**  
Jerry Hill  
Mariland Townsend  
(Vice-Chairperson)

**SANTA CLARA COUNTY**  
Liz Knies  
Patrick Kwok  
Julia Miller  
Dena Messar

**SOLANO COUNTY**  
John F. Silva

**SONOMA COUNTY**  
Tim Smith  
Pamela Tortiell

Jack P. Broadbent  
EXECUTIVE OFFICER/APCO

January 6, 2004

Mitch Oshinsky  
Community Development Department Director  
City of Brentwood  
708 Third Street  
Brentwood, CA 94513

Subject: Vineyards at Marsh Creek

Dear Mr. Oshinsky:

Bay Area Air Quality Management District (District) staff have received your agency's Draft Environmental Impact Report (DEIR) for the Vineyards at Marsh Creek Project. The Vineyards project includes the annexation of a 481 acre site as well as the annexation of two adjacent properties currently outside the Urban Limit Line. The proposed project would include approximately 1,100 active adult units, 150 single family homes, a 45 acre village center with commercial space, office space, an 18.5 acre winery, a hotel, senior apartments and senior services as well as multi-family residential units. Development of two additional lots proposed for annexation to the City would include a 17 acre park and 30 acres for a future Community College site. On July 3, 2003, we submitted a comment letter to your agency in response to the Notice of Preparation for this DEIR, and we have the following additional comments.

District staff continue to have serious concerns about the project's air quality impacts. As mentioned in the DEIR, Brentwood and other eastern Contra Costa County cities already have a significant jobs/housing imbalance, with more than twice as much housing as employment in the city. As a result, residents must make longer commutes to their jobs, often driving alone. Cumulatively, those trips harm air quality and public health. According to the DEIR, one of the project's objectives is to "alleviate a regional housing shortage by providing housing that is close to major transportation corridors" (p. 2-20). While we are generally supportive of providing more housing in the region, the location and density of new residential development and its proximity to services is extremely important. We are in favor of appropriate infill development that is of a moderate to high density, has a variety of land uses and encourages alternative modes of transportation. Such projects are generally much less automobile-dependent and thereby generate less air pollution than conventional sprawl development. We consider the development of residential units on infill properties near transit to be a more sustainable approach to providing additional housing in the region. On a local level, this project does not help the City reach its own goal of balancing jobs with housing in Brentwood. If the Vineyards project is developed as proposed, there will be 3,575 new residents but only 800 new jobs created in Brentwood.

We are aware that land is currently available for development within Brentwood city limits and that the City is not close to maximum build-out. Instead

7-1

7-2

939 ELLIS STREET • SAN FRANCISCO CALIFORNIA 94109 • 415.771.6000 • [www.baaqmd.gov](http://www.baaqmd.gov)

JAN-08-2004 11:03

4159288560

98%

P.02

LETTER  
7

01/09/2004 10:59 4159288560

BAY AREA AIR QUALITY

PAGE 02/04

Mr. Mitch Oshinsky

-2-

January 6, 2004

of annexing new land outside the City's boundaries, we encourage the City to accommodate growth by channeling housing and infrastructure investments in Brentwood's downtown and other existing employment and commercial centers, and along transit corridors, where development would be less reliant on automobiles. We reiterate the suggestion in our earlier comment letter that the EIR include an alternative that would accommodate the same amount of proposed development on infill sites located closer to existing transit and services. The approval of projects like the Vineyards at Marsh Creek, as it is currently proposed, eliminates much of the incentive to take advantage of infill opportunities. If Brentwood approves this project as it is currently proposed, the Vineyards development will likely contribute to air quality problems locally and regionally.

7-2

7-3

If the City decides that the Vineyards area is the most appropriate location for new development despite significant air quality impacts, we strongly urge the City to commit to aggressive mitigation measures in order to reduce air quality impacts as much as possible. Some impacts can be mitigated in several ways. First, we urge the City to work with project sponsors to substantially rework the land use component of this project to make it less auto-dependent. The average gross residential density for most of the project is 3 dwelling units per acre (du/ac), a number that is too low to support transit service. Low density housing leads to a higher likelihood that residents will travel via single-occupant vehicles. The project should be reworked so that residential densities are increased, especially in areas within walking distance of major arterial roadways. Higher density housing near major roadways of at least 15 du/ac (a density commonly regarded as able to support transit service) means that more residents will be able to access future transit service in this part of Brentwood. Second, the project should incorporate neighborhood-serving commercial and community uses throughout the plan area, not just in the Village Center Mixed Use Business Park portion. Finally, the commercial and community uses should be located within close proximity to the residential units and be pedestrian and bicycle accessible. If shops and community services are within walking or biking distance from homes, residents will be less likely to drive and less vehicle trips will be generated, thereby reducing the air quality impacts of the development.

7-4

As we mentioned in our earlier comment letter, the lack of public transit options in this area is a cause for concern. The DEIR fails to mention any current or future transit service to the Vineyards site. The FEIR should provide detail on how project sponsors will work with local transit operators to provide future transit service to the area. Currently, the Brentwood Dimes-A-Ride local bus and Tri Delta Transit's express buses operate more than 3 miles away from the Vineyards site. Without substantial outside assistance, Tri Delta Transit, like many Bay Area transit providers currently in financial crisis, is unlikely to expand their service to this area in the near future. In the interim, there are additional on-site measures that can help to mitigate the air quality impacts of traffic generated by the project. The City should work with project sponsors to provide a private shuttle service from the Vineyards area to the Pittsburg/Baypoint BART station, Downtown Brentwood and other transit or activity centers. We suggest that shuttle services be closely monitored and adjusted as necessary to assure that the number and scheduling of shuttles provides prompt, convenient service.

7-5

JAN-09-2004 11:03

4159288560

98%

P.03

LETTER  
7

01/08/2004 10:59 4159288560 BAY AREA AIR QUALITY PAGE 03/04  
 Mr. Mitch Oshinsky -3- January 6, 2004

We are pleased to note that several of the mitigation measures from our earlier comment letter were mentioned in the DEIR including the provision of sidewalks, bus shelters, bike racks, bike lanes, and bike parking. We fully support these Transportation Demand Management (TDM) measures as well as other measures proposed in the DEIR. In addition, we urge the City to commit to extra mitigation measures to further reduce the air quality impacts from residential uses. For example, the DEIR mentions that residents of active adult developments often use golf carts or similar vehicles for transportation. In order to help mitigate impacts from residential uses, the project sponsors could provide shared electric golf carts for residents to access nearby transit nodes and to use on other short, local trips within a certain vicinity of the development. Project sponsors should also provide convenient electric vehicle charging stations throughout the project area. In addition, the DEIR describes the inclusion of dedicated pedestrian and bicycle pathways throughout the development that will link the neighborhoods, commercial center, recreation facilities and winery. We recommend that the City require project sponsors to also link those proposed Vineyards bicycle and pedestrian paths with the surrounding local and regional pedestrian and bicycle route network.

7-6

In order to help mitigate impacts from the commercial and/or institutional uses, project sponsors should consider reducing the number of proposed parking spaces and implementing a parking cash-out program. Many suburban business parks tend to provide much more parking than is required by the City. This over-supply of parking is one of the many reasons why more commuters do not consider alternatives to driving alone. Parking cash-out requires employers to provide transit and/or ridesharing subsidies to non-driver employees in amounts equivalent to the value of subsidized parking, thereby encouraging those who would normally drive alone to consider a commute alternative.

7-7

In addition, the City can further reduce vehicle trips from future commercial uses by implementing as many appropriate TDM measures as possible, including: transit subsidies such as the Commuter Check program for employees; guaranteed ride home program; flexible work schedules; bicycle and pedestrian incentive programs; and others listed in our guidance document, *BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts of Projects and Plans (1999)*.

7-8

Finally, in our earlier comment letter, we expressed our concern about the amount of particulate matter that could be produced from woodburning stoves and fireplaces installed in the Vineyards area. The DEIR made no mention of the potential air quality impacts from woodsmoke generated by this project. Therefore, we continue to encourage the City to adopt a woodsmoke ordinance for fireplaces and woodstoves to reduce particulate pollution in Brentwood. Such an ordinance would require that all future development in the City include only clean-burning EPA-certified wood-burning appliances, pellet-fueled stoves, or natural gas fireplaces in future residential units. District staff are available to assist the City in the development of a local woodsmoke ordinance. Until a suitable ordinance is in place, we recommend that the City make the inclusion of natural gas fireplaces in the residential units part of the conditions of future project approval.

7-9

LETTER

7

01/06/2004 10:59 4159288560

BAY AREA AIR QUALITY

PAGE 04/04

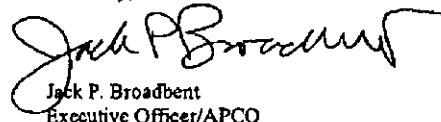
Mr. Mitch Oshinsky

-4-

January 6, 2004

If you have any questions regarding these comments, please contact Suzanne Bourguignon, Environmental Planner, at (415) 749-5093.

Sincerely,



Jack P. Broadbent  
Executive Officer/APCO

JPB:SB

cc: BAAQMD Director Mark DeSaulnier  
BAAQMD Director Mark Ross  
BAAQMD Director Gayle Uilkema

Bay Area Air Quality Management District  
January 6, 2004

LETTER  
7  
RESPONSES

- 7-1. The proposed Vineyards at Marsh Creek project is consistent with smart growth principles and sustainability goals. Active adult housing is a dense housing type. The units are constructed on small lots, with small setbacks. Units are constructed close to one another. Active adult housing development is considered “low density” under the City of Brentwood General Plan’s land use designation is due to the extensive network of greenbelt areas traversing the development, where pedestrian and alternative vehicle pathways will be located. The housing itself is not low density. Active Adult Lots are smaller and have smaller setbacks based on a homeowner preference to maintain small areas individually, and to maintain larger community-wide areas by means of a Homeowners Association (HOA). The active adult enjoy community pools, recreation centers, golf courses and trails in large open spaces funded by the HOA, instead of having individual amenities in their backyard. All Active Adult units are single-story and no children are allowed to live in the community.

In comparison, Brentwood is also permitting the development of similar small-lot products in town. Typical 4,000-7,000 square foot lots for families are usually two-story, and generate much more traffic, demand for schools, and City-funded community facilities.

In addition, the project includes neighborhood-serving commercial development in order to reduce automobile trips and associated pollution. The project includes trail and alternative vehicle paths that also connect to other nearby development, including the new Safeway store at Balfour and Fairview, as well as the adjacent active adult communities and golf course. The proposed Village Center also would include higher density housing such as apartments, and congregate care facilities. Further, the proposed project is located adjacent to existing development and to a major roadway—the State Route 4 Bypass.

With regard to the City’s jobs/housing balance, the Draft EIR includes an analysis of the City’s goals, and recognizes that the SPA J area will not be able to provide as much job-generating development as was previously anticipated in the City’s General Plan

Hausrath Economics Group calculated that the jobs to housing ratio that could have been accomplished under the SPA J designation, as compared to the Vineyards at Marsh Creek project and found that the jobs:housing balance could have been lower, or higher, depending on what actually developed in SPA J. With full development of the commercial and business park land designated as SPA J, a jobs:housing ratio of between 2.47-to-1.0 could have been accomplished. According to the DEIR, the Vineyards at Marsh Creek would accomplish a jobs:housing ratio of 0.4:1, as stated on DEIR . 3.3-11. The Hausrath analysis of jobs:housing balance is provided in Section 3.3 of the DEIR (particularly p. 3.3-11). The majority of the commercial and business park acreage is now located outside the County’s ULL.



LETTER  
7  
RESPONSES

The Project History (DEIR, Section 2.2, beginning p. 2-1) explains the lengthy history behind the creation of a “development site” in the location of the Vineyards at Marsh Creek (see also Master Response C). In summary, the Vineyards site is the only developable property remaining in southeast Brentwood that can accommodate a project of the size and character as the proposed Vineyard at Marsh Creek. Over 4,000 acres of the original Cowell Foundation land in southern Brentwood was negotiated, resulting in the dedication of nearly 4,000 acres for a state park, but preserving approximately 450 acres for development. That developable land became the Vineyards at Marsh Creek site.

However, because so much of SPA J was reserved for state park use, the City of Brentwood could no longer achieve the 2:1 jobs:housing balance they had planned for SPA J.

From a policy perspective, whether to approve active adult housing in Brentwood in light of the local and regional jobs/housing balance will be considered by the City decision-makers. To the extent that local jobs/housing goals are intended to alleviate regional traffic and associated air pollution from commute trips, active adult housing units do not thwart these goals. Please refer to Master Response A regarding the driving characteristics of Active Adult residences. Active adult housing residents generally are not regional commuters. Thus, locating active adult housing in a portion of the County more distant from regional job centers makes sense from a regional travel perspective. Were active adult housing units to be located adjacent to regional job centers, the result likely would be longer commute distances and more associated air pollution from the workers traveling to and from the job centers. On a local level, the proposed project brings jobs associated with the Village Center, the winery, the amphitheatre and the active adult community itself. These jobs may be filled by numerous City residents.

- 7-2. While there is some undeveloped land within the City of Brentwood municipal boundaries, many of those undeveloped sites are too small for a project such as the Vineyards at Marsh Creek or already have “approved” but undeveloped projects on them. There are no sites of approximately 500 acres within the City’s municipal boundaries that are vacant and available. As stated above, the proposed Vineyards project is an active adult community in proximity to other active adult communities.

As explained above, the Vineyards project also proposes uses for residents during their active, near retiring stages, and as they enter later and perhaps less active years in life. Therefore, it is anticipated that this development would not generate a substantial number of typical “commuters” as would a traditional single-family residential development.

Please refer to Master Response A for discussion of driving characteristics of the Active Adult population and the realities of using transit to substantially reduce vehicle trips at Active Adult communities.

LETTER  
7  
RESPONSES

- 7-3. The City of Brentwood certainly understands the notion of providing high density developments on “infill” sites to use land and infrastructure systems more efficiently and to maximize opportunities to take advantage of transit opportunities and thus reduce user dependency on single-occupancy vehicles. However, at this time, transit opportunities in Brentwood are limited. *Dimes-a-Ride* operates one major route in the City of Brentwood and no light rail exists in the City.

Please refer to Response to Comment 7-1 (herein) regarding the relationship between the Vineyards at Marsh Creek project and the Summerset I, II, III and IV Active Adult communities. In many ways, the Vineyards at Marsh Creek project site is a very suitable location for the Vineyards project because it “shares” a similar population with similar characteristics and needs as the population of the Summerset communities. The Vineyards project would have amenities and community features (e.g., recreation center) that can be shared between the Vineyards and the Summerset communities.

Please refer to Master Response A for discussion regarding transit and its applicability to the proposed project.

Currently, that availability is somewhat limited. Both the Vineyards at Marsh Creek and – if a community college does come to fruition on the Community College site – may promote more transit activity in the project vicinity. In the meantime, mitigation measures for air quality (e.g., Mitigation Measures 3.5-E.2 and 3.5-E.2) require the developer at the Vineyards at Marsh Creek to construct transit-support elements in conjunction with Tri Delta (e.g., bus turnouts) and to provide preferential parking for carpools/vanpools. The project would also provide electric vehicle charging stations at the recreation center and commercial center. Mitigation measure 3.5-F, applicable to the Annexation Sites, provides similar mitigation.

- 7-4. The Vineyards at Marsh Creek would be developed with Active Adult residential uses and commercial uses that would support the Vineyards community and nearby residences in the area. The project is – in effect – the fifth phase of other active adult uses (i.e., Summerset I, II, III and IV) developed and occupied in the immediate project area. In that regard, the Vineyards at Marsh Creek is not “sprawl” but a community in character with the unique Active Adult uses that are developing in that portion of the City of Brentwood. Each of the Summerset communities and the proposed Vineyards at Marsh Creek project have golf cart access throughout the community for “internal project” access. The Vineyards at Marsh Creek cart paths would provide direct access from residential areas to onsite commercial uses at the Village Center as well as offsite commercial uses (Safeway on Balfour Road and the Clubhouse) from the residential uses (see Exhibit 3.4-26). This cart access, coupled with direct project access (via Fairview Avenue and Marsh Creek Road) to SR 4 bypass make it an appropriate location for development. “Electric charging stations” will be available at the Village Center and the

LETTER  
7  
RESPONSES

Recreation Center, and homebuyers will have the option to have a private charging outlet installed in their garage.

The Vineyards at Marsh Creek project site is a suitable location for the Vineyards project because it shares a similar population with similar characteristics and needs as the population of the Summerset communities. The Vineyards project would amenities and community features (e.g., golf course) that can be shared between the Vineyards and the Summerset communities.

- 7-5. Please refer to Master Response A for discussion regarding transit in the project vicinity.
- 7-6. As presented in Mitigation Measure 3.5-E.1 of the DEIR, the project will “provide electric vehicle charging stations at [the] recreation center and commercial area” among the mitigation measures for air quality. As indicated on DEIR Exhibit 3.4-26, pedestrian/cart paths are planned for connection into the Summerset Communities and golf courses located to the north of the Vineyards project site, and to the state park and the John Marsh House. Internal pedestrian/cart paths also will connect the residential areas to the proposed Village Center, the winery and amphitheater, and the recreation center.

All home plans have room for golf cart storage in individual garages, and buyers have the option of purchasing a golf cart with their home. While golf carts continue to be a popular choice among active adults, the public "multi-use" trail along Fairview Avenue proposed for the community is designed to handle pedestrians and bicycle traffic as well. The Recreation Center, the Village Center and the Winery are easily reachable via these trails on Fairview, or by private automobile, or privately through the neighborhoods. While the idea of "shared golf carts" might be beneficial to a few residents, it's cost as a separate program, and the multiple modes already available to the public to get from place to place, do not justify the need for it.

- 7-7. While parking cash-out programs and other similar TDM measures can provide tangible benefits at large employment centers, their applicability to the commercial component of the Vineyards project are limited. This project includes a limited portion of commercial property and institutional uses that do not have the employment of a business park or a large employment center.
- 7-8. As discussed in Response 7, above, the Vineyards project does not include large employment centers that benefit from these types of TDM measures. It also bears noting that in 1995, the California Legislature enacted SB 437, which amended the California Clean Air Act, and prohibits air pollution control districts, air quality management districts, congestion management agencies and any other public agencies from requiring an employer to implement an employee trip reduction program unless the program is expressly required by federal law. At least one treatise on CEQA (Guide to

LETTER  
7  
RESPONSES

the California Environmental Quality Act by Remy et. al.) concludes “the State legislation eliminates employee trip reduction programs as one of the types of mitigation that cities and counties can impose under CEQA for impacts on air quality and transportation facilities.” In any event, in this case, the suggested mitigation would not be effective.

- 7-9. No wood burning stoves are proposed with the Vineyards at Marsh Creek project.

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
8

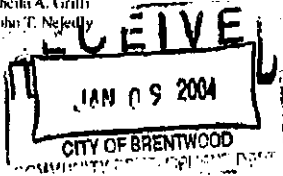
**Governing Board**

David N. MacDiarmid, *President*  
David W. Girard, *Vice President*  
Jess H. Reyes, *Secretary*  
Sheila A. Grillo  
John T. Nejezly



**Cancellor**  
Charles C. Spence

**College Presidents**  
Contra Costa College: Helen Carr  
Diablo Valley College: Mark G. Finkelstein  
Los Marinos College: Peter Garcia



January 5, 2004

Copy: RBF  
File

Mr. Mitch Oshinsky  
Director of Community Development  
City of Brentwood  
104 Oak Street  
Brentwood, California 94509

Dear Mr. Oshinsky,

The Contra Costa Community College District (CCCCD) is pleased to submit the following comments on the Draft Environmental Impact Report (DEIR) for the Vineyards at Marsh Creek and Annexation Sites (SCH 2003062019). The District's comments are limited to the Transportation/Circulation section of the DEIR, and the District may provide additional comments under separate cover. CCCCDD appreciates this opportunity to provide input to the DEIR for this project, and to have these comments reflected in the record of the environmental review process.

**Background**

The site of the future Brentwood Center Campus of the CCCCDD is located adjacent to the Vineyards at Marsh Creek development, and is addressed in the DEIR under the category "Annexation Sites". The traffic and transportation aspects of the community college campus are covered in the Long Term 2025 Cumulative development analysis, and the potential trip generation and traffic impacts of the proposed campus are presented in the DEIR. The DEIR's cumulative traffic analysis concludes that acceptable operating conditions and peak period level-of-service (LOS) will be maintained at all of the study intersections with the addition of traffic volumes from the Vineyards at Marsh Creek and Annexation Sites, including the CCCCDD campus. The Long Term 2025 analysis scenario assumes completion of several future roadways in the project vicinity, including the State Route 4 Bypass and the extension of Fairview Avenue to Marsh Creek Road.

8-1

The proposed Brentwood Center Campus site is located to the southeast of Marsh Creek Road and the SR4 Bypass, with access to the campus to be provided via a new roadway opposite the future extension of Fairview Avenue through the Vineyards at Marsh Creek project.

**Comments on DEIR**

- 1. Project Description for the Community College Campus.** The CCCCDD community college campus is described in the DEIR as a 5000-student campus. This estimate may overstate actual campus population, as the "full-time equivalent" (FTE) student population is typically lower than the total enrollment. FTE student population is calculated by dividing the total number of student classroom hours by 15 to reflect the "full-time" student load at the campus. While FTE is a valuable planning tool, it can confuse the estimation of project traffic generation, and obscures the alternative

8-2

Contra Costa Community College District  
500 Court Street, Martinez, California 94553  
(925) 229-1000 www.Acd.net

LETTER  
8

scheduling of courses during off-peak traffic periods. At its existing campuses, CCCCD has tailored its schedule to meet the needs of employed students, offering classes at night and on weekends, when ambient traffic is at lower-than-peak levels. Therefore, the estimates of potential peak period traffic generation from the Brentwood Center community college campus may be somewhat overstated. An alternative approach would be to use the square footage of the proposed campus facilities as the project description and independent variable for the calculation of potential traffic generation. Based on CCCCD preliminary planning and comparable facilities, the proposed Brentwood Center Campus will include approximately 200,000 square feet of assignable building area. Using building area as the independent variable for estimating trip generation reduces the uncertainty associated with estimates based on student population.

8-2

2. **Estimated Trip Generation for Community College Campus.** The Institute of Transportation Engineers (ITE) has surveyed trip-making characteristics of community college projects, and has presented their results in *Trip Generation, 7<sup>th</sup> Edition*. The ITE rates provide for either number of students or building square footage as the independent variable for calculation of trip generation estimates for community colleges. If building area is used to estimate the trip generation potential of the 200,000 square foot community college campus facility, the resulting estimates of daily and peak hour traffic generation would be:

Land Use	Daily Rate	Daily Trips	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
200,000 Square Foot Community College	27.49/1,000SF	5,498	443	155	598	295	213	508

8-3

By comparison, the DEIR traffic study estimated that the community college campus would generate 700 AM peak hour trips and 850 PM peak hour trips. (Table 3.4-9) These estimates are significantly higher than those based on building area, and may overstate the potential trip generation of the community college campus.

Since the DEIR presents a “worst case” scenario of potential traffic impacts resulting from the community college project, and no significant impacts were identified at any of the study intersections in the cumulative analysis, CCCCD is not requesting that the trip generation estimates be revised at this time. However, in a future traffic study focusing on the Brentwood Center Campus itself, the project’s potential trip generation may be revisited, with differing estimates based on a more detailed project description and site plans.

3. **Future Design of Community College Access Roadway.** The DEIR traffic analysis presents future intersection geometric designs at several of the study intersections, including the community college access roadway at the intersection of Marsh Creek Road and Fairview Avenue. (Exhibit 3.4-22A) The proposed design provides for dual left-turn lanes and a shared through-right turn lane from southbound Marsh Creek Road to the community college access roadway, a single left-turn lane plus a shared through-right turn lane from northbound Marsh Creek Road, dual left-turn lanes plus a shared through-right turn lane on eastbound Fairview Avenue, and one right-turn lane, one through lane and one left-turn lane on the community college exit. Based on anticipated cumulative traffic volumes (including trips from the community college campus), this future design provides adequate capacity and maintains acceptable levels-of-service at this intersection. Although not specifically mentioned in the DEIR traffic analysis, the inbound campus access roadway must provide two eastbound through traffic lanes to match the dual left-turn lanes from southbound Marsh Creek Road. However, northbound Marsh Creek Road at the community college access road should be configured to provide an exclusive right-turn lane, a through traffic lane and a left-turn lane to Fairview Avenue. The addition of a right-turn lane will decrease the volume in the through lane, thereby reducing the length of the signal phase for that movement, improving the overall operation of the intersection.

8-4

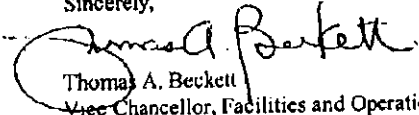
LETTER  
8

This completes CCCC'D's comments on the Transportation/Circulation section of the DEIR for the Vineyards at Marsh Creek and Annexation Sites. CCCC'D offers these comments as constructive observations on the treatment of the Brentwood Center Campus component of the DEIR, does not request any specific changes to the analysis, and supports the conclusions of the traffic study that no significant traffic impacts will result from completion of the proposed project(s). However, the District believes that it is important to go on record that the traffic study may significantly overstate potential trip generation from the community college campus. Additionally, the District believes that future traffic conditions at the campus' access roadway from Marsh Creek Road can and should be improved by implementation of the suggested design features.

8-5

Once again, the Contra Costa Community College District appreciates this opportunity to provide comments on the DEIR for the Vineyards at Marsh Creek and Annexation Sites. If we may provide any additional information or clarification of our comments, please feel free to contact me at (925) 229-1000 ext. 1270, or via e-mail at tbeckett@4cd.net.

Sincerely,



Thomas A. Beckett  
Vice Chancellor, Facilities and Operations  
Contra Costa Community College District

Cc: Peter Garcia, President Los Medanos College



The Colleges of Contra Costa County  
January 5, 2004

LETTER  
8  
RESPONSES

- 8-1. These comments are introductory to the remainder of the letter and confirm the location of the potential community college.
- 8-2. The comment indicates that the DEIR's assessment of the impacts associated with a total enrollment of 5,000 students may overstate impacts associated with the campus population because the "full-time equivalent" student population is typically lower than the total enrollment. The comment provides an alternative method of calculating peak-hour traffic effects, based upon a CCCCDCampus of 200,000 square feet of assignable building area rather than based upon total enrollment.
- The City of Brentwood appreciates learning of this alternative method of calculating traffic effects of a new community college campus and will consider its use in future environmental analyses in the Brentwood Planning Area.
- 8-3. The CCCCDCampus provides an estimate of peak-hour traffic effects of the potential community college based on use of "assignable square footage of building area" rather than on number of students, as was used in the DEIR. As calculated by the CCCCDCampus, the DEIR would overstate Long-term Peak Hour traffic by a total of 102 trips (700 – 598) in the AM, and by 342 trips (850-508) in the PM by using student generation rather than the assignable square footage of building area. The City of Brentwood concurs that since the DEIR presents a "worst-case" scenario and nevertheless concludes that Long-term traffic would result in less than significant impacts, that no changes are necessary to the DEIR at this time.
- 8-4. The project applicant and the City of Brentwood are currently developing conceptual designs for this intersection. Both the project applicant and the City realize the important of providing sufficient access to the Community College site.
- 8-5. Please see the responses to Comment Nos. 3 and 4, above. As planning for the community college site progresses, the City of Brentwood looks forward to continued consultation with CCCCDCampus in order to plan for provision of infrastructure, utilities and services in a manner that is sensitive to the needs of both CCCCDCampus and the City.

LETTER  
9

20 02 96 2221333226 JAN-09-2004 17:26

**Community Development Department**  
County Administration Building  
651 Pine Street  
4th Floor, North Wing  
Martinez, California 94553-0095  
Phone:



Dennis M. Barry, AICP  
Community Development Director

January 9, 2004

Mr. Mitch Oshinsky, Director  
Community Development Department  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513

Subject: *Comments on Draft EIR  
Vineyards at Marsh Creek Project and Annexation Sites*

Dear <sup>Mitch</sup> Mr. Oshinsky:

Thank you for sending us the Draft Environmental Impact Report (DEIR) prepared for the Vineyards at Marsh Creek Project and Annexation Sites.

Staff from the Community Development Department have reviewed the document. We offer the following comments regarding the DEIR:

1. Page 2-12, Exhibit 2-4, Proposed General Plan: This is a map illustrating the proposed Brentwood General Plan land uses for the Vineyards at Marsh Creek and Annexation Sites. It also includes the land use designations for former Cowell Ranch parcels and Flood Control District parcels. According to this map, the former Cowell Ranch parcels placed on the outside of the Urban Limit Line which are now a part of the new State Park, are labeled as RE (Ranchette Estate) and UR (Urban Reserve), and the Flood Control District parcel is labeled as CR (Urban Reserve). The land area involved is supposed to remain in the unincorporated area. Should there be a desire by Brentwood to identify a land use designation for this area because it is in your Planning Area, it would be more appropriate to designate them as non-urban uses. It is suggested that the State Park be designated parklands and the Flood Control District property be designated as a public use. 9-1
2. Page 2-18, Sequencing/Timing of Development of Vineyards Project: This is a description of the anticipated sequencing or timing of development. For environmental review purposes the Draft EIR appropriately considers the worst case scenario of development of all residential components and a small portion of commercial within the 2005-2007 timeframe. However, given that full funding for the third phase of the SR-4 Bypass is still rather uncertain, the City of Brentwood should consider linking actual project entitlements for the residential and commercial components of the project to firm commitments that funding will be in place to complete this phase of the SR-4 Bypass. 9-2

Office Hours Monday - Friday: 8:00 a.m. - 5:00 p.m.  
Office is closed the 1st, 3rd & 5th Fridays of each month

NO. 219 COMMUNITY DEVELOPMENT JAN. 9. 2004 5:18PM

LETTER  
9

P.03

99%

925335:222

JAN-09-2004 17:27

Letter to M. Oshinsky, comments on Vineyards DEIR  
January 9, 2004  
Page 2

- 3. Page 3.1-19, Impact 3.1-E. Habitat Conservation Plans: While the document appropriately notes that no Habitat Conservation Plan is currently in place for the project site, as you are aware the East Contra Costa County Habitat Conservation Plan (HCP) is in progress and the project site is within the HCP planning area. As the City of Brentwood is participating in this effort, it would be reasonable to expect that City will condition development entitlement for all components of the project based on participation with the agreed measures in the HCP.
- 4. Impact 3.4-C. Marsh Creek Rd./Walnut Blvd. and Mitigation 3-4.C: The traffic impacts and proposed mitigation measures for this intersection are in the unincorporated area. The City of Brentwood and the EIR consultant team should consult with the County Public Works Department to assure that the proposed mitigation measures are feasible.
- 5. Impact 3.4-D. Walnut Blvd./Concord Avenue and Mitigation 3-4.D: The traffic impacts and proposed mitigation measures for this intersection are in the unincorporated area. The City of Brentwood and the EIR consultant team should consult with the County Public Works Department to assure that the proposed mitigation measures are feasible.

9-3

9-4

9-5

Contra Costa County appreciates the opportunity to review and comment on the Draft EIR for the Vineyards at Marsh Creek and Annexation Sites, and requests that the comments and questions raised in this letter be addressed.

Should you have any questions regarding this comment letter, please contact me by telephone at (925) 335-1242 or by e-mail at [proeh@cd.ca.gov](mailto:proeh@cd.ca.gov).

Sincerely yours,

  
Patrick Roche  
Advance Planning Division

CC: D. Barry, CDD-Director  
Chron file

C:\Users\pkroeh\Documents\Documents\kirk\Vineyards DEIR.doc

P.03

COMMUNITY DEVELOPMENT

JAN 9 2004 5:18PM

Contra Costa County  
Community Development Department  
January 9, 2004

LETTER  
9  
RESPONSES

- 9-1. The proposed General Plan amendments are consistent with the County's Urban Limit Line policies. Generally, the western and southern boundaries of the Vineyards at Marsh Creek project site are contiguous with the Contra Costa County Urban Limit Line (ULL) (i.e., the ULL forms the western and southern project boundaries). As contemplated by the County's land use policies, land uses inside of the ULL will be developed with urban uses. Two small portions of the Vineyards at Marsh Creek project are located outside of the ULL—the sites of the water tank and the detention basin. Both uses are allowed uses outside of the ULL.

The Annexation Sites (i.e., John Marsh Home and Contra Costa Community College District site) are located outside of the ULL. However, the John Marsh Home is part of the State Park system and would be designated on the Brentwood General Plan as a park. Park use is an allowed use outside of the ULL. The community college site has been dedicated to the Contra Costa Community College District (CCCCD). A community college also is an allowed use outside of the ULL.

Neither the applicant nor the City of Brentwood has proposed changing the existing City of Brentwood General Plan land use designations for the remainder of the land located in SPA J outside of the ULL. As the County points out, and the EIR recognizes, much of that land is now state parkland. The EIR has not assumed urban uses in the areas outside of the Urban Limit Line. The decision whether or when to change these land use designations lies within the land use planning discretion of the City of Brentwood, and no change is proposed at this time. Thus, Exhibit 2-4 correctly depicts the existing land use designations. Should the City propose to change these land use designations in the future, possibly at the time of the State Park develops its General Plan, the County's comments will be taken into consideration.

- 9-2. The City concurs that Segment 3 of the State Route 4 Bypass would avoid or mitigate traffic impacts of the Vineyards project and Annexation Sites. Therefore, as a condition of approval for the Vineyards at Marsh Creek project, the City of Brentwood requires the project to provide its fair share of funding through the payment of fees, or construction of necessary improvements facilitating Segment 3 of the SR4 Bypass. Please see Master Response D for further detail regarding the progress on Segment 3 of the SR4 Bypass.

Ultimately, the Bypass will cut off existing Concord Avenue, which disconnects a local route in the southern portion of the City. The Vineyards project is constructing a number of Segment 3 Bypass improvements early on to keep this local road network intact. These include 1) construction of Realigned Concord Avenue (north of the Bypass) 2) reconstruction of Fairview Avenue below the ultimate Bypass, between Realigned Concord Avenue and John Muir Parkway, and the 3) reconstruction of John Muir Parkway and the PG&E driveway at the Vineyard Project's northern boundary. In addition, the project is making a financial contribution towards the Fairview Avenue/Marsh Creek Road intersection as well as funding the signal at this location.

LETTER  
9  
RESPONSES

Moreover, the City of Brentwood and the project proponent for the Vineyards at Marsh Creek project are currently in negotiations for a Development Agreement. It is during these discussions that the City will ensure that development does not proceed substantially in advance of funding for the State Route 4 Bypass or constructed improvements.

The project engineers have also been coordinating with the Bypass Authority. It can be noted that the State Route 4 Bypass Authority sent a letter to the City of Brentwood on January 13, 2004<sup>1</sup> indicating that their review of the proposed conceptual plans and alignment of John Muir Parkway (JMP) "...appear to work with [their] plans for the ultimate SR4 freeway facility." The realignment of the John Muir Parkway is one necessary project for completion of Segment 3 of the bypass.

With the local roadway network intact, the Vineyards project construction items remove potential future delays related to the right-of-way and road closures in anticipation of Segment 3 construction. The construction timing for Segment 3 is currently expected to coincide with the latter phases of the Vineyards project.

The EIR includes mitigation measures requiring that the construction of Segment 3 of the Bypass be completed prior to occupancy of the community college and completion of the Vineyards at Marsh Creek Village Center. These measures, combined with the most current information regarding Bypass funding and timing, support the conclusion that traffic impacts will be less than significant.

- 9-3. Please see Master Response B for additional information regarding the process and accomplishments, to date, for the East Contra Costa County HCP/NCCP.

Since an HCP is not currently adopted for East Contra Costa County, conditioning a project to conform to future undefined measures that may be adopted with the HCP would not constitute adequate mitigation. Further, it would not be appropriate to impose open-ended conditions that do not provide the project applicant notice of the terms of conditions prior to acceptance of land use entitlements and commencement of construction. The EIR for the Vineyards at Marsh Creek and Annexation Sites, therefore, recommends project-specific mitigation measures that can be applied to the project should the City approve the project. If an HCP is adopted in the future, it may be possible to replace some or all of the project-specific measures with participation in the HCP. However, the feasibility of doing so will depend upon the timing of HCP adoption and the extent to which the project applicant already has mitigated the impacts of the project.

<sup>1</sup> State Route 4 Bypass Authority. Jan. 13, 2004. Letter sent by Dale Dennis, Program Manager of the SR4 Bypass Authority to Mr. Bailey Grewal, City Engineer, City of Brentwood.

LETTER 9 RESPONSES
--------------------------

- 9-4. This intersection will be improved in conjunction with the construction of Segment 3 of the State Route 4 Bypass. These improvements are currently in the design stage (35% roadway design plans).
- 9-5. The proposed mitigation for this impact is the installation of a traffic signal and can be easily accommodated with the existing configuration of the intersection.

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
10

JAN. 9. 2004 4:38PM CCC PUBLIC WORKS

NOV. 2003 P. 2



Contra Costa County  
**FLOOD CONTROL**  
& Water Conservation District

Maurice M. Shiu  
ex officio Chief Engineer  
255 Glacie Drive, Martinez, CA 94553-4825  
Telephone: (925) 313-2000  
FAX (925) 313-2333

January 8, 2004

Mr. Mitch Oshinsky  
City of Brentwood  
Community Development Department  
104 Oak Street  
Brentwood, CA 94513-1396

Our Files: 97-107

Dear Mr. Oshinsky:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Vineyards at Marsh Creek (VMC), which was received by our office on November 26, 2003. During our review we have discovered a number of inconsistencies that need to be resolved prior to the certification of the EIR. We submit the following comments:

1. Before certification, the EIR should include verification that the project's stormwater discharge into Marsh Creek will not increase the existing major peak stormwater flows in Marsh Creek. Our hydrologist has produced the enclosed hydrographs for the pre-project 100-year 6-hour storm for various locations along Marsh Creek channel from the Marsh Creek Reservoir to the confluence of Marsh Creek and Sand Creek. These hydrographs show the effect of downstream tributary areas on Marsh Creek. Please note that the Flood Control District's (District's) hydrographs assume watershed build-out to General Plan land uses, expansion of the Deer Creek Reservoir, and the construction of the upper and lower Sand Creek detention basins. These facilities are currently only constructed to an interim size and will be expanded as the watershed further develops. The hydrographs come from our most up-to-date watershed model and provide an estimate of the future flow conditions after these projects have been constructed. Though not representative of existing conditions, the hydrographs illustrate the "local peak" from development downstream of the Marsh Creek Reservoir. The goal of the District is to find ways of reducing the local peak as much as possible, with a specific target to keep the flow rates downstream of the Marsh Creek confluence with Sand Creek below 2,300 cubic feet per second (cfs). The flow rate of 2,300 cfs is the 100-year design capacity of the Marsh Creek channel at that location. 10-1
2. In our July 3, 2003, comments on the Notice of Preparation of the project EIR, we had recommended that a regional detention basin be considered for the VMC site. Past District hydrology studies had included a large regional basin at the VMC site that kept stormwater flows in Marsh Creek at Sand Creek below the target level. Unfortunately, the stormwater basin proposed in the DEIR does not provide a regional benefit and actually increases the storm water flows in Marsh Creek farther downstream. This is a significant impact. 10-2
3. To address this significant impact, the District has been working with the developer and their consultant team to develop a revised basin design. Attached is a copy of a January 7, 2004, letter report from Balance Hydrologics describing two possible basin designs that provide the necessary regional benefit to Marsh Creek. We have not yet had an opportunity to verify the basin design parameters. We have, however, included the outflow hydrographs from the two basins in our 10-3

JAN-09-2004 16:39

9253132333

99%

P. 02



LETTER  
10

JAN. 9. 2004 4:35PM CCC FUELIC WORKS

10.000 1.0

Mitch Oshinsky  
January 8, 2004  
Page 2

regional hydrology model for Marsh Creek and agree with Balance's findings that they provide the necessary regional benefit. The mitigation measures in the EIR should be modified to require further development of these basin alternatives in place of the basin design in the DEIR.

10-3

4. The following items also need to be addressed before the EIR is certified:

- a. Section 3.10.1 incorrectly states that the Marsh Creek Reservoir will not release flows over the emergency spillway during 100-year event. The reservoir was designed to contain the 50-year storm without spilling, and it has spilled twice since it was constructed. Emergency spillway flows were witnessed in January of 1982 and February of 1986 during storms that were statistically less than the 50-year event. Subsequent study of the antecedent moisture conditions and refinements of the watershed parameters would not duplicate the spilling conditions. However, when we run the model with a smaller storm preceding the design storm, we are better able to model the emergency spillway release. Therefore, when evaluating the reservoir, we first route a 10-year storm through it and note the water surface elevation in the reservoir 24 hours after the peak of the 10-year storm inflow hydrograph. We then use this water surface elevation as the starting water surface for the 100-year event.

The District's design scenario for the Marsh Creek watershed is the 100-year 6-hour storm. Therefore, the post-project flow rates should also be modeled using the 100-year 6-hour storm (instead of the 12-hour storm as analyzed in the report). The 10-year 6-hour storm was used to precede the 100-year 6-hour storm in the reservoir. To assess the impacts of the development and effectiveness of the project's post project mitigation measures (detention basins), the 100-year 6-hour hydrographs should be used. We have provided the Marsh Creek Reservoir outflow hydrograph for this condition to Balance Hydrologics, Inc. for their use in evaluating the proposed detention basin designs and flows in Marsh Creek. The January 7, 2004, letter report discussed in paragraph 3 above reflects Balance's use of this hydrograph.

10-4

- b. The developer's engineer should include cross-sections of Marsh Creek that show the post-project 100-year 6-hour flowrates and the resulting water surface elevations; so we may verify the capacity of the unimproved portion of Marsh Creek.
- c. Figures 10 and 11 should show the 100-year 6-hour hydrographs for the Marsh Creek channel instead of the 100-year 12-hour hydrographs.
- d. It is appropriate for the 1,600 cfs flowrate to be used in the creek capacity analysis, since 1,600 cfs was used by the FEMA to map the FEMA floodplain.
- e. The Figure 11 legend should be corrected. It appears to be inconsistent with Figure 10.
5. As mentioned above, it is critical that the discharge from the project's basin(s) be metered out in a manner that will not increase the existing peak flows in Marsh Creek far downstream from the project. We recommend that the City require a more detailed analysis of the basins and their performance prior to the approval of any subdivision tentative maps, so that the basin area is more accurately determined before map acceptance. It is important that an adequate amount of area be reserved for the development of the detention basins. As a mitigation measure, this study should be reviewed by the District.

10-5

JAN-09-2004 16:40

9253132333

98%

P.03

LETTER  
10

JAN. 9. 2004 4:39PM CCC PUBLIC WORKS

Mitch Oshinsky  
January 8, 2004  
Page 3

6. Page 3.10-15 of the DEIR states the Vineyards at Marsh Creek basin will only recover 93% of its capacity after 48 hours for the 100-year storm. Although our District detention basin guidelines require 100% capacity recovery after 48 hours, we understand the longer recovery period is due to the delayed discharge of the basin. Because the delayed discharge of the basin (or basins) benefits the regional watersbed hydrology and Marsh Creek channel, we will accept this recovery standard for this particular project.
7. The project detention basins will require ongoing maintenance to preserve their stormwater quantity benefits. As a mitigation measure, the EIR should identify a maintenance entity (such as the District or the City of Brentwood) and perpetual funding source for maintaining the detention basins and the storm drain facilities. We recommend the EIR include a specific mitigation measure requiring the formation of a benefit assessment area, community services district, or other suitable agency, covering the project to ensure perpetual funding for maintenance. Provided perpetual funding exists and the design is in accordance with District Standards, the District can maintain detention basins that provide a regional benefit to Marsh Creek and are in excess of 15 acre-feet. In the event the District becomes the owner of the regional detention basins, the EIR should specifically acknowledge the necessary right-of-way transaction between the developer and the District.
8. In addition to the stormwater quantity benefits, the basin are sized to provide stormwater quality benefits by capturing "first flush" sediments. This sediment will need to be periodically removed to maintain the water quality aspects of the facility. Currently, the District's other regional detention basins were not designed, nor are they maintained, to improve water quality. The District has reservations about assuming maintenance of the water quality features given the many unknowns in the scope and cost of the necessary work. If these issues can be addressed in a manner acceptable to the District, the District is willing to maintain the water quality portions of the basins, provided the scope of the maintenance can be clearly defined and an adequate, assured and perpetual funding source is in place. These issues can be addressed in the necessary Operation and Maintenance Manual discussed below.
9. As a mitigation measure, the EIR should require the developer to supply an Operation and Maintenance Manual (O & M), which, as a minimum, requires annual inspections of the facility. The manual should address all aspects of the basin's maintenance, such as sediment removal, weed and trash abatement, excessive vegetation growth at the outfall and low flow channel, maintenance of inlet and outlet structures, embankment maintenance, acceptable chemical use in the basin, disposal of hazardous material accumulation, provisions to limit liability, basin access and other pertinent issues. Possible permit requirements from regulatory agencies should be discussed with respect to future maintenance activities and practices and included in the O & M manual. This manual should also include as-built survey of the basins to document the constructed storage volume. In order to determine the rate of soil loss erosion in the upper reaches of the watershed, the Universal Soil Loss Equation (USLE) developed by the Agricultural Research Service (Wischmeier and Smith, 1965) has been used in the past. Sediment and debris load in the basins can be calculated with ABAG and District standards. Calculations of erosion and sediment rate affecting the basins will be necessary to determine the accumulation rate and hence the removal frequency. A draft of the O & M manual should be reviewed and accepted by the District prior to approval of the first final map for the VMC project. The manual should be written in such a manner that it could be given to the crew of any maintenance entity and function as a complete guide to maintenance requirements of the basins.

10-6

10-7

10-8

10-9

JAN-09-2004 16:40

9253132333

98%

P. 04

LETTER  
10

JAN. 9. 2004 4:40PM CCC PUBLIC WORKS

NO. 000 P. 0

Mitch Oshinsky  
January 8, 2004  
Page 4

- 10. The mitigation measure should require a separate O & M manual for the water quality features of the basins. This manual should be similar in scope to the water quantity Operation and Maintenance Manual and provide an estimate of annual maintenance costs, and a discussion of the funding mechanism for maintenance of the basin water quality features. It is critical to ensure the funding source is controlled by the agency responsible for maintenance and can be adjusted as necessary to ensure adequate financial resources for perpetual maintenance of the facility, even with potential changes in environmental regulations. 10-10
- 11. While detention basins can mitigate peak flows to pre-project levels, they do not decrease the volume of flows that reach the downstream watercourse. Increased volume has the impact of increased saturation of the channel banks, and subsequently an increased potential for channel erosion. One way to mitigate the impact of extended peak flow duration is to regulate development flows to below pre-project levels. Another way is to perform off-site bank stabilization techniques, where necessary. The EIR should address this impact and require necessary mitigation measures. 10-11
- 12. Saturation of the channel banks caused by increased volume and extended duration of peak flows has the potential to generate increased levels of sediment in watercourse. Stabilization of Marsh Creek as a mitigation measure should be considered. This impact may also be mitigated through implementation of long-term Best Management Practices (BMPs). Bioengineering in critical sections of the watercourse is one option. Short term BMPs to mitigate sediment transport into and within the watercourse should be utilized during the construction phase of the development and should be included as a mitigation measure. 10-12
- 13. We accept Recommended Mitigation 3.10-A Changes in Drainage Patterns/Stormwater – Vineyards Project with the following exceptions: 10-13

  - a. Add the following bullets to the list of materials that the project proponent shall submit to the District for review and approval:
    - A final hydraulic study showing how the project will mitigate for any negative impacts occurring downstream caused by post-project peaks;
    - An erosion control study identifying inadequate sections of Marsh Creek (which may be impacted by increased duration of post-project peak flows) and recommended off-site bank stabilization techniques;
  - b. After the above changes have been made, please remove the adjective "Recommended" from Mitigation 3.10-A.
- 14. The 17-acre John Marsh site straddles two drainage areas within the Marsh Creek watershed: formed Drainage Areas (DA) 107 and DA 109. The portion in DA 107 will be subject to drainage area fees in accordance with Contra Costa County Ordinance 90-77. The portion in DA 109 will be subject to drainage area fees in accordance with Contra Costa County Ordinance 94-75. The 30-acre Community College is located in DA 109 and will be subject to drainage area fees in accordance with Contra Costa County Ordinance 94-75. 10-14

JAN-09-2004 16:41

9253132333

98%

P. 05

LETTER  
10

JAN. 9. 2004 4:40PM \*\*\* CCC PUBLIC WORKS

NO. 000 P. 0

Mitch Oshinsky  
January 8, 2004  
Page 5

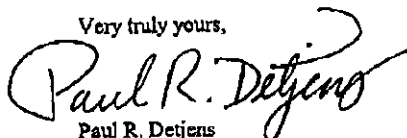
Under Annexation Sites, page 3.10-3, the third sentence should be corrected to read the following:  
"The John Marsh Home site is located within Drainage Areas 107 and 109 and the community college site is located within Drainage Area 109."

15. The EIR should address all of the permits that may be required for work in and around creeks, and identify the timing requirements for these permits/water certifications. Not all of Marsh Creek is currently in District right-of-way (easement or fee title area). Work in Marsh Creek and not within Flood Control right-of-way would be permitted under a City or County drainage permit, depending on the jurisdiction it is in at the time of construction. As a mitigation measure, the EIR should include a requirement for the developer to obtain a Flood Control Permit for any work in the District's right-of-way or a drainage permit for any work in unincorporated County areas not in District right-of-way. Bob Hendry at the County Application and Permit Center at (925) 646-1607 should be contacted for any work in Marsh Creek if the project site is within County jurisdiction or District right-of-way. Any work outside of the District right-of-way and under City of Brentwood jurisdiction would be subject to City permitting, design, and inspection requirements. Any drainage improvements that the District subsequently agrees to maintain after construction (such as detention basins with regional benefit) will need to be reviewed under a Flood Control Permit. This provides for District design review and construction inspection as well as compensation for District staff time in performing those reviews.

10-15

We appreciate the opportunity to review projects involving drainage matters and welcome continued coordination. We look forward to reviewing the EIR incorporating our comments and subsequent design information for the regional detention basins. If you have any questions, please call me at (925) 313-2394 or Hannah Wong at (925) 313-2381.

Very truly yours,



Paul R. Deijens  
Associate Civil Engineer  
Flood Control Engineering

PRD.HSW.MB.cw  
G:\CnpData\FldCtrlDev\CTTES\Brentwood  
Vineyards at Marsh Creek\Response to VMC DEIR.doc  
Enclosure

cc: G. Conasigione, Flood Control  
R. Parano, Flood Control  
M. Boscher, Flood Control  
B. Borstein, City of Brentwood  
E. Ballman, Balance Hydrologics  
T. Purcell, cbg

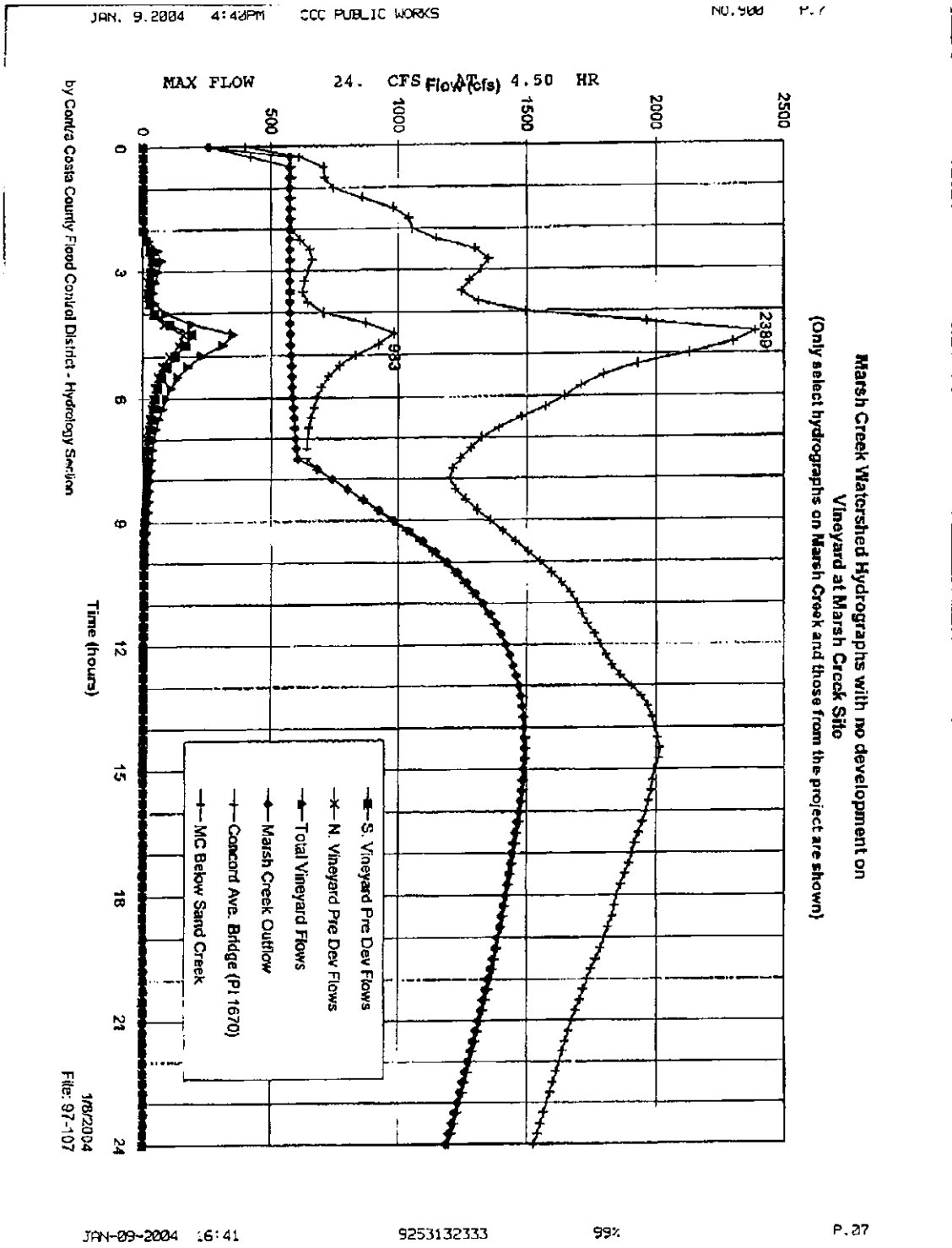
JAN-09-2004 16:41

9253:32333

99%

P.06

LETTER  
10



LETTER  
10

JAN. 9. 2004 4:41PM CCC PUBLIC WORKS

NO. 900 P. 8



## Balance Hydrologics, Inc.

511 Folsom Avenue • Berkeley, CA 94710-2800  
(510) 704-8000 • (510) 704-1000 • email: office@balancehydro.com

January 7, 2004

Mr. Thomas Purcell, P.E.  
Carlson, Barbee & Gibson, Inc.  
2603 Camino Ramon, Suite 100  
San Ramon, CA 94583

**RE: Alternative Regional Stormwater Management Options for the Vineyards  
at Marsh Creek Project, City of Brentwood**

Dear Mr. Purcell:

As you are aware, we recently received verbal comments and hydrologic modeling output from staff at the Contra Costa County Flood Control and Water Conservation District (County Flood Control) related to the proposed stormwater management strategy for the Vineyards at Marsh Creek project in the City of Brentwood, Contra Costa County.

We had previously met with County Flood Control staff and provided them with the hydrologic modeling and other background documents that formed the basis for the drainage plan presented in our report "Preliminary Modeling and Analyses for Stormwater Management Planning" (August 2003). It was clear from the discussions at these meetings, that from a flood control perspective, the Marsh Creek system presents a relatively complicated watershed with a number of reservoirs and detention facilities that must properly interact to minimize peak storm flows in the creek. Therefore, we encouraged County Flood Control to review our recommended stormwater management plan in the context of their larger hydrologic model, which covers the entire Marsh Creek watershed upstream from the confluence with Sand Creek.

### *Regional Flood Control Perspective*

The comments from County Flood Control staff include an important performance goal for limiting peak storm discharge in Marsh Creek. This goal is to reduce peak flow in Marsh Creek below the Sand Creek confluence to no more than 2300 cfs during the base design

202206 Regional Analysis Letter 01-07-04.doc  
Integrated Surface and Ground Water Hydrology • Water Quality and Sediment Quality • Erosion and Sedimentation • Wetlands

JAN-09-2004 16:41

9253132333

99%

P. 08

JAN. 9. 2004 4:41PM CCC FLELIC WORKS NO. 900 P. 9

Balance Hydrologics, Inc.

Mr. Thomas Purcell, P.E.  
January 7, 2004  
Page 2

storm.<sup>1</sup> This is a considerable challenge given that the County regional model shows that the peak discharge at this point is projected to be 2389 cfs when all other County facilities are in place, but without development of the Vineyards site. County Flood Control has indicated that they would prefer to see additional detention capacity at the Vineyards project that would help achieve the desired reduction to 2300 cfs.

Another important aspect of the regional hydrology revealed in the County model is that the peak discharge in Marsh Creek at Sand Creek is the result of the early (or local flow) peak in the hydrograph that occurs approximately ten hours before the peak outflow from the Marsh Creek Reservoir, located immediately upstream of the Vineyards site. Our report of August 2003 recommended that runoff from the South sub-watershed should be directed to Marsh Creek after passing through a water-quality basin, but without detention for large storm events. This approach is valid for avoiding coincidence of peaks with the outflow from the Reservoir (detention basins move the peak discharge back in time). However, the County model shows that control of the regional peak requires some level of detention to attenuate the peak flow from the South sub-watershed.

#### *Alternative Detention Configurations for Meeting Regional Goals*

The Vineyards project has consistently been committed to providing stormwater management facilities that further the goals of the CCCFCWCD to the extent practicable. Therefore, we have used the regional modeling parameters provided by the County to develop alternative detention configurations for the South sub-watershed and assess the size of facilities that would be needed to meet the overall goal of 2300 cfs at Sand Creek.

The two options identified include an on-line and an off-line detention basin. As you know, in an on-line configuration, all of the runoff is directed to the basin. In an off-line configuration, a diversion weir is constructed in the main storm drain pipe that allows lower flows to continue downstream unimpeded, but would divert higher flows to the detention basin.

The design characteristics of the two detention basins are summarized in Tables 1 and 2. The on-line basin would need to be roughly 50 percent larger in volume, since it must accommodate runoff from the early parts of the storm, before the larger peak flows arrive. However, the total surface area of the on-line basin (approximately 4.0 acres with access road) is only somewhat larger than the surface area of the off-line facility (approximately 3.1 acres). In all cases, the basins would still be designed to function as water-quality facilities, storing approximately 5.0 acre-feet of runoff at the lower elevations that drains through a separate water-quality outlet.

<sup>1</sup> The base design storm in this case is the 100-year 6-hour storm. In the case of the Marsh Creek Reservoir, this storm is modeled as beginning 24 hours after the 10-year event to provide a more conservative initial storage level in this large reservoir.

M:\2006 Regional Analysis Letter 01-07-04.doc

JAN-09-2004 15:42

9253132333

99%

P. 09

LETTER  
10

JAN. 9. 2004 4:41 PM CCC PUBLIC WORKS

NO. 999 P. 10

Balance Hydrologics, Inc.

Mr. Thomas Purcell, P.E.  
January 7, 2004  
Page 3

Either of the South detention basin options could be constructed within the proposed development area of the project. If detention is to be included for runoff from the South sub-watershed, it would be logical to locate a South basin at the local low point adjacent to the utility easement roughly midway between Fairview Avenue and the alignment of the SR4 Bypass (see Figures 1 and 2). This would require the relocation of the outfall structure from the location shown in our August 2003 report.

The grading for the detention basin in the North sub-watershed (adjacent to Concord Avenue) would remain unchanged. Minor adjustments would be made to the outlet structure for this basin to optimize reductions in peak flows in concert with the South basins.

#### *Alternate Storm Drain Alignment*

Recent refinements in the storm drain alignments for the project have led to minor revisions in the post-project watersheds. For consistency, we requested revised hydrographs from County Flood Control for these new watersheds to provide up-to-date inflow values for modeling the alternative detention configurations. These hydrographs are included as Appendix A.

It is important to note that minor adjustments were made to the peaks of these hydrographs for modeling purposes to reflect a recent shift of area to the post-project North sub-watershed compared to that submitted with the hydrograph request. This shift of area includes 62.5 acres from the post-project South to the post-project North sub-watersheds. It was assumed that this area shift would decrease the post-project peak flow to the South by ten percent from the County post-project values and increase the peak in the North by ten percent. These values are reflected in the modeling included in Appendix B.

#### *Modeling Results*

The results of the modeling with the two alternative South detention basins are summarized in Table 3. The full HEC-1 model output is presented in Appendix B. For initial design, the U.S. Army Corps of Engineers HEC-1 package can suitably emulate the County's hydrologic model.

The model output shows that either of the proposed designs can reduce the predicted peak flow in Marsh Creek at Sand Creek to 2300 cfs. There would be a slight increase in peak discharge at Concord Avenue, but there would be essentially no increase in flood elevations. In fact, it is important to note that the predicted peak discharge at Concord Avenue would still be well below the 1600 cfs value used in the currently-effective FEMA study. Communications with Mark Boucher, senior hydrologist at CCCFCWCD, confirms

202096 Regional Analysis Letter 01-07-04.doc

JAN-09-2004 16:42

9253132333

99%

P. 10



LETTER  
10

JAN. 9. 2004 4:42PM CCC PUBLIC WORKS

Balance Hydrologics, Inc.

Mr. Thomas Purcell, P.E.  
January 7, 2004  
Page 4

that the proposed alternative designs actually perform better in the County hydrologic model than indicated in the HEC-1 modeling.

*Closing*

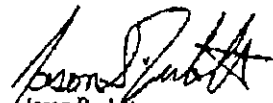
The alternative detention configurations discussed in this letter provide viable approaches to assist the CCCFCWCD in meeting the overall regional goals for controlling peak discharge in the Marsh Creek system. Either configuration would be consistent with the conclusions presented in our August 2003 report in terms of mitigating for potential changes in watershed hydrology and water-quality.

Do not hesitate to contact our office if you have any questions or need any other documentation related to these supplemental analyses.

Sincerely,



Edward D. Ballman, P.E.  
Civil Engineer / Hydrologist



Jason Brulotte  
Engineer / Hydrologist

Attachments: Tables 1, 2 and 3  
Figures 1 and 2  
Appendices A and B

Cc: Roy Clark, Blackhawk Services Company  
Mark Boucher, Contra Costa County Flood Control and Water Conservation District

202096 Regional Analysis Letter 01-07-04.doc

JAN-09-2004 16:43

9253132333

99%

P. 11

LETTER  
10

JAN. 9. 2004 4:42PM CCC PUBLIC WORKS

INC. 500 P. 12

Table 1. Stage-storage-discharge table for on-line South detention basin, Vineyards at Marsh Creek, City of Brentwood

Orifice width 1 WQ 0.50  
Orifice height 1.00 0.50  
Orifice flowline 126.00 122.0

Elev ft	Storage ac-ft	Orifice 1		WQ Orifice		Q ft <sup>3</sup> /s	Q Total ft <sup>3</sup> /s
		Flow Area ft <sup>2</sup>	Head ft	Flow Area ft <sup>2</sup>	Head ft		
122.0	0.0	0.00	0.00	0.00	0.00	0.0	0.0
124.0	3.1	0.00	0.00	0.25	1.75	1.6	1.6
126.0	7.0	0.00	0.00	0.25	3.75	2.3	2.3
128.0	11.3	1.00	1.50	0.25	5.75	2.9	5.8
130.0	16.0	1.00	3.50	0.25	7.75	3.4	12.4
132.0	21.2	1.00	5.50	0.25	9.75	3.8	15.1
134.0	26.9	1.00	7.50	0.25	11.75	4.1	17.3
136.0	33.0	1.00	9.50	0.25	13.75	4.5	19.3

©2004, Balance Hydrologics, Inc.

202096 Alternative Detention Tables.xls, Table 1

JAN-09-2004 16:43

9253132333

39%

P. 12

LETTER  
10

JAN. 9. 2024 4:42PM CCC PUBLIC WORKS

NO. 900 P. 13

Table 2. Stage-storage-discharge table for off-line South detention basin, Vineyards at Marsh Creek, City of Brentwood

Orifice width 1.00 W/Q  
Orifice height 1.00 0.50  
Orifice flowline 126.00 122.0

Elev ft	Storage ac-ft	Orifice 1		WQ Orifice		Q ft <sup>3</sup> /s	Q ft <sup>3</sup> /s	Q Total ft <sup>3</sup> /s
		Flow Area ft <sup>2</sup>	Head ft	Flow Area ft <sup>2</sup>	Head ft			
122.0	0.0	0.00	0.00	0.00	0.00	0.0	0.0	0.0
124.0	2.2	0.00	0.00	0.25	1.75	1.6	1.6	1.6
126.0	4.9	0.00	0.00	0.25	3.75	2.3	2.3	2.3
128.0	8.1	1.00	1.50	0.25	5.75	2.9	8.8	8.8
130.0	11.6	1.00	3.50	0.25	7.75	3.4	12.4	12.4
132.0	15.5	1.00	5.50	0.25	9.75	3.8	15.1	15.1
134.0	19.8	1.00	7.50	0.25	11.75	4.1	17.3	17.3
136.0	24.5	1.00	9.50	0.25	13.75	4.5	19.3	19.3

©2004, Balance Hydrologics, Inc.

202066 Alternative Detention Tables.xls, Table 2

JAN-09-2004 16:43

9253132333

99%

P. 13

LETTER  
10

JAN. 9. 2004 4:42PM CCC PUBLIC WORKS

NO. 900 P. 14

**Table 3. Summary of modeled discharges for alternative regional detention configurations in Marsh Creek, City of Brentwood, California**

Location	Pre-Vineyards (cfs)	On-line South Basin (cfs)	Off-line South Basin (cfs)	On-line South Basin (% change)	Off-line South Basin (% change)
Concord Avenue	1496	1514	1518	1.2%	1.5%
Below 107C / 107D	1525	1542	1547	1.1%	1.4%
Below Sand Creek	2397	2299	2300	-4.1%	-4.0%

These values are from the HEC-1 model developed to emulate the County's regional model for Marsh Creek using the 100-year 6-hour storm beginning 24 hours after the 10-year 24-hour storm. Final confirmation with the County's model will be needed, but previous runs showed good overall agreement with the County values. Note that in all cases the overall reduction in peak discharge in Marsh Creek below Sand Creek achieves the CCC-CWCD goal of 2300 cfs or less. Modest increases in peak flow at more upstream points (e.g. Concord Avenue) are unavoidable due to the outflow characteristics of the Marsh Creek Reservoir and phasing of outflow with the Vineyards detention basins.

©2004, Balance Hydrologics, Inc.

202096 Alternative Detention Tables.xls, Table 3

JAN-09-2004 16:43

9253132333

99%

P. 14

Contra Costa County  
Flood Control and Water Conservation District  
January 8, 2004

LETTER  
10  
RESPONSES

- 10-1. The Contra Costa County Flood Control and Water Conservation District (“District”) identifies a performance target for limiting peak discharge in Marsh Creek. Specifically, this limit is 2,300 cfs for the 100-year event in Marsh Creek downstream of the confluence with Sand Creek. The effectiveness of stormwater management strategies in assisting the District in reaching this target are evaluated using a regional hydrology model constructed by the District as described in the District letter of January 8 to “Balance Hydrologics.”

Unfortunately, the regional hydrology model was not available at the time of the preparation of the DEIR. Since that time, the District has provided the essential structure of the model to assist in optimization of the design for the Vineyards project. Interestingly, the regional model shows that the peak discharge in Marsh Creek downstream from Sand Creek is the result of the “local” stormwater flow in the watershed, before the peak outflow from the Marsh Creek Reservoir. Therefore, the key to achieving the performance target identified by the District is control of the early peak in the storm hydrograph (see revised Figures 10 and 11, which are now included in the EIR as Exhibits 3.10-2 and 3.10-3). This requires an adjustment in the use of stormwater detention from that presented in the DEIR, which was based on hydrologic modeling of the Marsh Creek watershed upstream from Concord Avenue and assumed that the peak downstream discharge occur during peak outflow from the Reservoir.

As the project has always intended to fully mitigate potential impacts and assist the District in achieving its goals for the Marsh Creek watershed, the detention component of the stormwater management strategy was modified to provide additional detention capacity for flows originating in the South sub-watershed. Hydrologic modeling based on the same assumptions used by the District shows that the performance target can be met using an off-line detention basin in the South sub-watershed with a total capacity of approximately 24.5 acre-feet. A conceptual configuration for this basin is provided in Figure 2 of our January 7 letter report to the District, which is attached with this response for your reference. This basin would cover an area of approximately 3.1 acres and is thus somewhat larger than the roughly 1.0 acre water-quality basin presented in the DEIR. The larger basin area and volume could be provided within the project with no additional environmental impacts.

This alternative detention basin was presented to the District in a letter report dated January 7, 2004 as discussed below.

- 10-2. District staff appears to imply that the stormwater management strategy presented in the DEIR did not include a regional detention basin. However, the very large detention basin within the North sub-watershed was designed to accommodate runoff from significant areas outside of the Vineyards project. For example, the North basin was designed to accept the runoff from roughly 25 acres of the SR 4 Bypass project as well as significant acreage in the nearby PG&E facility. In this sense, the basin is much larger than required simply to mitigate for the effects of the project.

LETTER  
10  
RESPONSES

The City believes believe that the detention basin described in the DEIR provides a regional benefit. As indicated in the response above, the basin receives runoff from 286 acres of the Vineyards project and 29 additional acres proposed for development. Therefore, the City disagrees with District comments that the proposed basin would not provide significant mitigation of the impacts of these changes in land use, both from a local and regional perspective.

Nonetheless, the City recognizes that the regional hydrologic modeling carried out by the District shows that additional benefits could be gained by providing increased detention capacity to reduce the early peak in the Marsh Creek hydrograph as described in the response to Comment 1 above.

- 10-3. In this comment District staff notes that the off-line South detention alternative presented in the January 7 letter report by Balance Hydrologics would meet their performance target for peak discharge in Marsh Creek downstream of Sand Creek. It is important to note that the 2300 cfs target represents a four percent reduction in peak discharge at this point (using District values). In fact, to meet the regional target, the first peak in the hydrograph at Concord Avenue must be reduced approximately 25 percent from the existing conditions. Therefore, the alternative detention configuration goes well beyond mitigating the impacts of the Vineyards project.

The considerable regional benefit afforded by the increased detention capacity should be recognized in the mitigation measures in the FEIR. Mitigation Measure 3.10-A has been modified to recognize this benefit (see Response 16, below).

- 10-4. District staff points out a number of items that they feel need to be addressed before certification of the EIR. Each of these points is addressed below:

- a. The District letter notes that Section 3.10.1 of the DEIR incorrectly states that the Marsh Creek Reservoir will not experience spillway flow for the 100-year event and then goes on to describe the manner in which the District models the Reservoir to better simulate previous spillway flows in 1982 and 1986. The improved simulation routes a 10-year 6-hour storm followed 24 hours later by the 100-year 6-hour storm.

However, the analyses in the August 2003 Balance Hydrologics report did recognize the potential for spillway flows from the Reservoir, without which there would be no justification for using the 1600 cfs peak flow for the hydraulic modeling and floodplain delineation. DEIR Section 3.10.1 simply noted that the Reservoir would not have spillway flow if it started to empty at the beginning of the District's 100-year design storms. Additionally, the August 2003 report considered a wide range of design storms to verify which storm duration (or durations) had the most significant constraints.

LETTER  
10  
RESPONSES

In any case, the salient point is that the regional hydrologic model used by the District does include two major storms and does have spillway flow at the Reservoir. This Reservoir hydrograph was indeed used in the modeling of the off-line South sub-watershed detention alternative described in the letter report of January 7. The City concurs with District staff that the 100-year 6-hour event should be used for consistency with their regional model of the watershed and have updated our models accordingly.

- b. The suggestion is made to include cross-sections from the unimproved sections of Marsh Creek to show the post-project flow rates and water surface elevations. This is a good suggestion that helps to put the potential impacts of the project in perspective. New DEIR Exhibits 3.10-5, -6, -7 and -8 are included in the Erratum per this suggestion. Exhibit 3.10-5 and -6 illustrate cross-sections downstream of the South sub-watershed outfall, but upstream of the North sub-watershed outfall. Exhibit 3.10-7 is a cross-section downstream of the North outfall and upstream of the Concord Avenue bridge. Exhibit 3.10-8 illustrates a cross-section downstream of Concord Avenue. New DEIR Exhibit 3.10-4 (Figure 14 from the August 2003, Balance Hydrologics report to the District) has also been included to show the locations of the cross-sections along the creek channel.

These figures illustrate three important facts. Firstly, there is a slight (generally on the order of one percent) increase in peak discharge in these reaches solely due to the trailing discharge from the two detention basins overlapping with the Reservoir outflow. This is an unavoidable consequence of using detention to meet the performance target established by the District for Marsh Creek downstream of Sand Creek. Secondly, the increases in discharge, water surface elevation and velocity are all insignificant. Lastly, the creek has adequate capacity to convey the predicted flood flow.

- c. Per the suggestion of the District, revised versions of DEIR Exhibits 3.10-2 and 3.10-3 (Figures 10 and 11 from the August 2003 Balance Hydrologics report) are incorporated into the Erratum and referred to in this response to illustrate the existing and post-project hydrographs for the 100-year 6-hour storm.
- d. The City concurs with the District that the 1,600 cfs flow rate is relatively conservative for analyzing the capacity of the creek and limits of the floodplain based on the District's regional hydrologic model. The 1,600 cfs flow rate is consistent with the value used in the FEMA detailed study downstream of Concord Avenue.

LETTER  
10  
RESPONSES

- e. The legend for DEIR Exhibit 3.10-3 (previously Figure 11) has been revised to reflect the new hydrographs displayed.
- 10-5. This comment notes the importance of using stormwater detention in meeting the District's performance target and recommends that the City require more detailed analyses of the basins prior to map approval. This is a good recommendation that will increase the confidence in the final design. The City agrees that review of any further studies by the District be included as a mitigation measure. Mitigation Measure 3.10-A will be modified to respond to this comment. (Since other changes are made to this Mitigation Measure in response to this comment, please refer to Response No.16 in which all modifications to Mitigation Measure 3.10-A are made.)
- 10-6. This comment relates to the recovery of storage capacity in the North basin for the 100-year storm, and the District agrees that the need to drastically reduce the early storm peak to meet the regional performance target necessitates recovering somewhat less than 100 percent of the basin storage volume in 48 hours. It should be noted that the proposed South off-line basin would fully recover its storage volume within 48 hours.
- 10-7. The City concurs that an appropriate maintenance plan is important to ensure that the proposed basins provide benefits on an ongoing basis. The City of Brentwood will ultimately own the basins and will be responsible for the ongoing maintenance of the facilities. Funding would be provided through the Landscape and Lighting District (LLD) or Community Facilities District (CFD) established as part of the project.
- 10-8. District staff notes that the proposed basins are designed to provide water-quality benefits in addition to mitigation of runoff. Although the District may not currently have basins designed for multiple benefits, the overall maintenance requirements will be very similar to other facilities that the District currently maintains. In fact, the overall maintenance requirements will likely be less in many regards, such as eliminating the need for sediment removal, which will be markedly reduced once the project is completed and management plans are enacted on the contiguous open space areas. The City strongly agrees that these issues are best addressed in a well-framed Operations and Maintenance Manual (OMM).
- 10-9. The requirements for an appropriate OMM are clearly identified by the District. The City particularly appreciates the thorough manner in which the District has presented the critical topics for the OMM.
- The project recognizes the need for such an OMM and this is the reason that key maintenance issues were identified in the DEIR (for example, Mitigation Measure 3.10-A). A thorough and practical OMM will be completed as part of the ongoing permitting process, with input from the District as appropriate, recognizing that the City will ultimately own the facilities.
- 10-11. District staff suggests a separate OMM for the water-quality features of the basins. However, the City believes that it is more appropriate to have a single OMM that covers all operations and maintenance of the basins. The District is correct in noting the



importance of distinguishing between the operational modes of the basins and of assuring a proper funding source within the framework of the OMM. In fact, this is the standard approach of the Regional Water Quality Control Boards and has been successfully applied in many locations throughout the State.

- 10-12. This comment notes that the project would increase the total volume of runoff from the site and suggests that this might lead to increased saturation of the channel banks and an increased potential for erosion. This issue, one form of hydromodification, was addressed in the DEIR and even more thoroughly in the August 2003 Balance Hydrologics report submitted to the District.

Location within a watershed is of critical importance in assessing the potential for hydromodification impacts. Development of open space areas in the upper headwaters of a watershed may have significant impacts due to increases in total runoff volume. However, this is distinctly not the case at the Vineyards project. The project site is located well below the headwaters areas of Marsh Creek. Therefore, any increases in total runoff are very small compared to the total runoff metered out by the Marsh Creek Reservoir immediately upstream. This is well illustrated in Figures 1 through 4 (of a previous Balance Hydrologics letter to the District) and the revised Figures 10 and 11 that are attached. Increased runoff volume is not predicted to substantially increase peak discharge, water surface elevations or stream velocities. This is particularly true for smaller storm events where the large water-quality treatment volume (on the order of 10 acre-feet between the two basins) would dramatically attenuate flows and release runoff at a combined rate (average discharge of 2.5 cfs) that is well below erosive levels.

It is also important to note that the Marsh Creek channel at the project site has evolved under the much higher peak flow conditions that typified this reach prior to the construction of the Marsh Creek Reservoir. Therefore, the increase in channel width that would often be seen with development on unregulated streams would not be expected.

- 10-13. District staff suggests that increased runoff volume and extended duration of peak flows may require stabilization of Marsh Creek as a mitigation measure. However, these impacts are not expected for the reasons cited in the response to Comment 11 above.

The suggestion to include construction-phase Best Management Practices (BMPs) is a good one and was included in the DEIR (refer to Mitigation Measures 3.10-C.1 and .2 and 3.10-D.1 and .2).

- 10-14. This comment suggests additional materials to be submitted to the District for review and approval including a final hydraulic study and an erosion control study. The former study was recommended in the DEIR and should be extended to include analyses of the project impact on peak discharge in Marsh Creek at Sand Creek as discussed in the response to Comments 1 through 3 herein. The latter study does not seem appropriate given that no significant impacts are anticipated with respect to the stability of the Marsh Creek channel as described in the response to Comment 11. However, a thorough Stormwater Pollution

LETTER  
10  
RESPONSES

Prevention Plan (SWPPP) will be needed to address construction-phase erosion control measures and this is an appropriate addition to the materials listed in Mitigation Measure 3.10-A. Modifications will be made to mitigation Measure 3.10-A (another change it made to this mitigation measure in response to comment No. 16, herein).

- 10-15. District staff is correct to note that the projects addressed in the DEIR include areas in two separate Drainage Areas. This is stated on DEIR p. 3.10-3 (1<sup>st</sup> and 2<sup>nd</sup> paragraphs).
- 10-16. This comment suggests that the need to obtain the appropriate permits for work in and around the creeks be included in the EIR. We agree that the FEIR should include language that recognizes the need for the proper permits and the fact that not all of the creek is in District right-of-way. Please see changes made to Mitigation Measure 3.10-A (and incorporating all changes from above comments). Mitigation Measure 3.10-A is hereby modified to read as follows:

**Recommended Mitigation 3.10-A. Changes in Drainage Patterns/Stormwater - Vineyards Project:** The Vineyards project includes a stormwater management plan that would avoid significant drainage impacts; therefore, no mitigation is required. However, to minimize further the potential for a significant impact to occur, the following measure is recommended:

Prior to the approval of grading permits from the City of Brentwood or the CCCFC&WCD (for creek areas outside of City jurisdiction) flood control permits, and/or drainage permits, the project proponent shall submit to the CCCFCWCD the following materials for review and approval:

- ❖ **A final hydrology study showing post-project peaks of downstream hydrographs and the contribution of the project to meeting CCCDFWD's goal of reducing peak discharge in Marsh Creek at San Creek to no more than 2300 cfs. This final hydrology study will explicitly consider the final land use plan and detention basin configuration;**
- ❖ A geotechnical report of the proposed stormwater and water quality basins;
- ❖ Detailed design and construction plans of proposed water quality and detention basins;
- ❖ An Operations and Maintenance plan which addresses all aspects of basin maintenance including, but not limited to, prevention of sediment accumulation, vegetation management, access, structural maintenance, and monitoring plans.
- ❖ **A Storm Water Pollution Prevention Plan (SWPPP).**  
(Less Than Significant Impact).

*THIS PAGE INTENTIONALLY LEFT BLANK*



LETTER  
11

JAN-28-2004 WED 09:13 AM

FAX NO. 4

2

trail is a trail that is separated from the roadway, multi-use, with a minimum of 10-foot of paved surface with 2-foot shoulders on either side. The Parks, Trails and Recreation Master Plan identifies Marsh Creek Trail as a significant regional and city trail stating, "Trail development has been minimal, with only four trails city wide totaling approximately six miles. Of the four current trails, the significantly longest is the Marsh Creek Trail. It is the City's only trail crossing the length of the City limits, running from North to South." The plan also discusses developing a trail along Marsh Creek that incorporates restoration of the riparian corridor, interpretive signage and a formal trail system.

11-2

In addition to describing compatibility with the City of Brentwood's General Plan, the DEIR should discuss the proposed project's compatibility with the City's Parks, Trails and Recreation Master Plan, which is referenced by the General Plan and with the District's Master Plan. It is difficult to determine by looking at the site plans provided in the DEIR how trails are being incorporated within the project. Currently, Marsh Creek Trail runs for 8 miles from Big Break at the Delta to Concord Avenue in Brentwood. The critical gap in this trail is in the vicinity of the project, from Concord Avenue to the John Marsh Home. Between these two points the trail will need to maintain the appropriate distance from Marsh Creek to protect the natural resources and find a way to cross under the proposed Highway 4 alignment and safely across any busy arterials.

As the surrounding area develops, demand for trails and recreation areas will increase with the population. Additionally, once the John Marsh Home is restored, it will become a significant regional asset, along with the open space areas in the state park and the land uses in the proposed Vineyard development. The City of Brentwood, the California Department of Parks and Recreation and the District have been working together on a planning process for the John Marsh Home which would result in the restoration of the site and the Home and would develop a number of community facilities at the site. The completion of the gap between Concord Avenue and the John Marsh Home in the Marsh Creek Trail would allow the recreation areas and trails in the southern portion of the City to keep pace with the development proposed in the area. It is also important to develop the Marsh Creek Trail during this project to ensure that the most appropriate alignment is not precluded by the development of the Vineyards project and the infrastructure that will be required to serve the project.

11-3

In addition to the segment of Marsh Creek Trail described above, the development should incorporate trails and pathways that link to Marsh Creek Trail and possibly through to Cowell Ranch State Park. A link between the Marsh Creek Trail and Cowell Ranch State Park through the development would provide the residents and visitors with controlled access to regional recreation facilities and allow for access for the purposes of fire and land management.

11-4

In order to clearly demonstrate consistency with the City's General Plan, its Parks, Trails and Recreation Master Plan and the District's 1997 Master Plan, the final EIR should include an exhibit depicting the proposed trail system and a more detailed discussion of this system than currently exists in the DEIR. The Vineyards project should be designed

11-5

JAN-29-2004 09:18

4

95%

P 03

JAN-28-2004 WED 09:14 AM

FAX NO. 4

LETTER  
11

3

to improve and enhance public access to the Marsh Creek Trail and Cowell Ranch State Park. The District looks forward to working with the City, the applicant and the California Department of Parks and Recreation on the details of the trail plan.

11-5

Any trails plan should also incorporate plans for funding development, management and operation of the new trails. The District has a variety of tools that have worked in the past and looks forward to working with the City of Brentwood, the applicant and the Department of Parks and Recreation to find ways to develop, manage and operate the regional trails that are associated with the Vineyards project.

**Mitigation**

The project site has a number of important resources, including vernal pools, alkali meadows, Marsh Creek, California tiger salamander breeding ponds, breeding pairs of burrowing owls and potential habitat for the California red-legged frog, the Western pond turtle and the San Joaquin kit fox. The project will have both direct and indirect effects, eliminating habitat and impacting wildlife corridors, while increasing the traffic, noise and light in the area. While avoidance is the preference, where impacts are unavoidable, these impacts should be fully mitigated as close to the impact area as possible. Additionally, the mitigation program should be designed to be consistent with the Draft East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan.

11-6

The cities in East Contra Costa County are developing at a rapid pace. This has resulted in a significant loss of habitat areas and of local populations of the native species found in East Contra Costa County. In addition to direct habitat loss, the rapid pace of development has also impacted migratory corridors used by local populations of native species. For these reasons, it is important that the projects that are developing in the area make every attempt to mitigate locally by preserving and restoring nearby habitat areas and migratory corridors. Only by preserving large, local tracts of land that are connected by viable migratory corridors, a project can truly mitigate for the loss to local populations.

**Development Footprint**

In addition to mitigating for the unavoidable impacts to the project site and the surrounding area, the project should incorporate design features to reduce the impacts associated with the project. Design features that would reduce the impacts of the project include incorporating an appropriate buffer around Marsh Creek and incorporating a buffer between the proposed development areas and Cowell Ranch State Park. Currently, the project is designed with two fingers of development that extend westward from the core project area. These areas depict residential lots backing onto the state park, with little or no buffer between the lot lines and the edge of park. This design increases the number of edge effects such as pet predation, illegal dumping, exotic and invasive plants, illegal access, light pollution and noise impacts and makes fire and land management more difficult. By providing a buffer between the development and the park the indirect effects of the development can be significantly reduced, a firebreak can be developed,

11-7

JAN-28-2004 09:19

4

56%

P. 04

JAN-28-2004 WED 09:14 AM

FAX NO. 4

LETTER  
11

4

encroachments can be eliminated and noise, light and visual impacts significantly reduced by pulling the development away from the park's edge.

There are a variety of design tools that can reduce the edge effects and visual impacts associated with the project, while providing emergency access for land and fire management and an area for fuel load management to reduce the risk of fire. These tools include pulling the development back from the boundary with the park, placing single-loaded streets along the boundary instead of backyards, appropriate fencing and minimizing the length of urban/rural interface by creating a development footprint with straight edges. The incorporation of such tools should also reduce the visual impacts of the project from the surrounding open spaces and trails.

11-7

In addition to the single-family homes along the western edge of the project boundary, the proposal also includes a vineyard and an amphitheater at the southern boundary of the development. The edge effects of the vineyard include increased runoff from any irrigation needed for the vineyard, noise associated with the vineyard and pollutants from pest control at the vineyard. The edge effects of the auditorium include potentially significant visual and noise impacts, light pollution and uncontrolled access into the state park. The final EIR should include a discussion of the measures that will be included to ensure that these impacts will be addressed through buffers, screening, limited hours of operation and event management.

The project should also incorporate a buffer along Marsh Creek to preserve the habitat value of Marsh Creek. Marsh Creek Trail should be designed to ensure that the trail does not impact the habitat values of the Marsh Creek and its adjacent vegetative communities and upland areas. The buffer should be designed to meet the habitat requirements of the Red-legged frog, which is known to regularly move 300 feet from the edge of creeks that they inhabit. For further details on the creek buffer, refer to the Department of Fish and Game's comment letter dated January 14, 2004. This letter, which refers to the habitat needs of the Red-legged frog as commonly extending 200 to 300 feet from their water habitat, states, "[i]n]o roads, buildings, yards, fences or detention basins should be permitted within this buffer."

11-8

**Transportation**

The Vineyards proposal appears to be relying on the development of Segment 3 of the Highway 4 Bypass project. It is important to recognize that this portion of the Highway 4 Bypass project is not yet funded and has not been designed beyond alternatives and preliminary alignments. This should be further discussed in the final EIR. Segment 3 of the Highway 4 Bypass is still in such a preliminary phase that it seems premature to rely on it for the Vineyards proposal.

11-9

The proposal should include a discuss transit options in greater detail. The developer should consider providing the residents with a complimentary commuter shuttle to BART. This would reduce traffic, air quality and parking impacts that are associated with people driving to BART stations rather than taking transit. A shuttle could be made more feasible for residents by increasing the density of the project, reducing the development

11-10

JAN-28-2004 09:15

4

96%

P. 25

JAN-28-2004 WED 09:15 AM

FAX NO. 6

LETTER  
11

5

footprint and providing a system of trails that are safe and easy for the public to use. A more compact development could also reduce the other impacts associated with the current project design, while allowing the project proponents to still achieve the goals of the project.

11-10

The design of the extension of Fairview Avenue from Concord Avenue in Marsh Creek Road is not clear from the exhibits in the DEIR. In some exhibits, Fairview Avenue is depicted as ending at John Marsh Home. In other exhibits, Fairview Avenue connects to Marsh Creek Road. The final EIR should depict what the project is proposing. If the project only proposes to extend Fairview Avenue to John Marsh Home, then the impacts to John Marsh Home could increase by creating a dead end near this resource. This could increase the number of people that trespass on the site and result in vandalism to this resource.

11-11

The existing segment of Fairview Avenue is designed at a 45-mile an hour design speed. The project should consider designing the remaining length of the roadway at a 30-or-35-mile an hour design speed by using traffic calming measures. This roadway will be passing through the center of the Vineyards development and also separate the City of Brentwood from the John Marsh Home site and the Cowell Ranch State Park. It is important that Fairview Avenue does not become a significant barrier to pedestrian and bicycle movement through the community and does not isolate the park and John Marsh Home from the community.

11-12

**Visual Impacts**

The proposal has the potential to result in significant visual impacts from the surrounding parkland, the regional trails and John Marsh Home. Fortunately, many of these impacts could be reduced through the siting and design of the development. The project should keep the ridgelines free of development; pull structures back from slope edges and use landform rather than mass grading techniques to create the landforms necessary to develop the project. Additionally, the structures, fencing, signage and other project features should be designed to compliment the surrounding parkland and respect the rural nature of the area that surrounds the project to the east, west and south.

11-13

**John Marsh Home**

The final EIR should include more detail regarding the impact of the proposal on the John Marsh Home site. The DEIR describes the impacts associated with annexing the site, but fails to identify the impacts that could result from the Vineyards development to the north. These impacts include additional visitors to the site, increased opportunity for vandalism, increased automobile traffic, changes to the views from the site, light and noise pollution and the impacts from Fairview Avenue traveling across the northeast portion of the site. All of these impacts have the potential to significantly reduce the resource values of the John Marsh Home site and significantly increase the management difficulties associated with the site. The final EIR should include a discussion of these impacts and describe how the proposal intends to address these impacts.

11-14

JAN-28-2004 09:20

4

96%

P. 26



JAN-28-2004 WED 09:15 AM

FAX NO. 4

LETTER  
11

6

**Cultural Resources**

The Vineyards project site contains significant cultural resources. The land surrounding the Vineyards project site also contains significant cultural resources. Although the project identifies mitigation measures for the steps that will be taken if significant resources are found in the course of construction, the DEIR does not address the impacts that will result from increasing the population of residents and visitors to this area. The final EIR should include a discussion of the possibility of increased vandalism and theft of these resources and how the project proponents will mitigate this impact.

11-15

**Compatibility with the Draft East Contra Costa County Habitat Conservation Plan**  
The District is a participant in the East Contra Costa County Habitat Conservation Plan process and is concerned about the proposed project's impacts on habitats and species covered by this draft plan and the project's proposal to develop outside of the HCP/NCCP process. The City of Brentwood's General Plan, adopted in 2001, includes Policy 7.2.6 that states "Require a Habitat Conservation Plan to be prepared and adopted prior to any General Plan Amendments in the southwestern portion of the Planning Area."

The project proponents are requesting an amendment Brentwood's General Plan to eliminate the requirement for an HCP prior to the development of the property. The DEIR explains the purpose of eliminating this requirement as, "[T]he timing to form an HCP is out of the City's control. Continued coordination with the East County HCP Process is continuing. The southwestern area of SPA J is now a state park. The permanent protection of this ownership will preserve the vegetation and associated wildlife habitat of the area." The District has several concerns with the proposed amendment and the reasons listed for the change. The City of Brentwood understood the timeframe of the HCP/NCCP when it developed this policy. The HCP/NCCP is proceeding according to schedule and a draft plan was recently released which includes significant guidance on mitigation requirements, a proposed preserve design and development fee structure, and on the design of projects at the urban/rural interface to minimize edge effects. Since the City of Brentwood is a participant in this process and a draft plan does exist, it would be appropriate for these concepts to be incorporated into the design of, and mitigation for, the Vineyards project, rather than the requirement to be removed from the General Plan.

11-16

Another concern that the District has regarding the above statement and other similar statements in the DEIR, is that the DEIR seems to be relying on the neighboring Cowell Ranch property for mitigation credit. Although it is true that the property is now preserved as a state park, the remaining developable property contains significant environmental resources and also has the potential to impact the Cowell Ranch property and reduce its resource potential. It should be made clearer that the preservation of Cowell Ranch as a state park is not mitigation for either the open space or the resource impacts associated with the proposed project and that the impacts associated with this project will be fully mitigated in compliance with the HCP/NCCP when adopted or with the draft HCP/NCCP.

11-17

JAN-29-2004 29:20

4

56%

P. 07

JAN-28-2004 WED 09:18 AM

FAX NO. 4

LETTER  
11

Thank you again for the extension of time provided to the District to comment on the DEIR. The District looks forward to working with the City of Brentwood, the California Department of Parks and Recreation and the applicants on the issues identified in the letter. We would be happy to meet with you and the applicants and discuss the ideas presented further, particularly with respect to siting, funding, management and operation of Marsh Creek Trail. Please feel free to contact me at 510-544-2623 to set up a meeting or if you have any questions.

Sincerely,

Lindy L. Lowe  
Senior Planner, Interagency Planning

cc. Bob Doyle, EBRPD, Assistant General Manager  
Brad Olson, EBRPD, Environmental Programs Manager  
Steve Fiola, EBRPD, Trails Development Program Manager  
Larry Tong, EBRPD, Interagency Planning Manager

JAN-28-2004 09:20

4

96%

P.08

East Bay Regional Parks District  
January 27, 2004

LETTER 11 RESPONSES
---------------------------

- 11-1. The City of Brentwood wishes to acknowledge that since East Bay Regional Parks District was inadvertently provided a late edition of the DEIR (and City apologies for that), that the City did agree to allow this comment letter to be taken past the "posted" public review period. Most of the remainder of this comment is introductory to comments that follow. The specific comments are responded to below.
- 11-2. The City of Brentwood recognizes the need for, and benefits of, ensuring project compatibility with all applicable parks, recreation, and trails plans concerning the Marsh Creek Trail including the City of Brentwood's Parks, Trails, and Recreation Master Plan and the East Bay Regional Parks District Master Plan. Both of these plans identify the corridor adjacent to Marsh Creek in the project vicinity as a potential alignment for the Marsh Creek Trail, which as the comment notes is the location of a critical gap in the development of the San Francisco Bay to San Joaquin River Trail (refer to Exhibit R-11.1, herein).

During review of the Vineyards project, and specifically the Village Center portion of the project, the City and the applicant have been mindful of plans for the Marsh Creek Trail. Early in the planning process for the Vineyards project, the City of Brentwood requested that the project proponent construct the extension of the Marsh Creek Trail that traverses the project site after the City acquires the right to do so. The project proponent agreed to do so.

The City of Brentwood's Parks, Trails and Recreation Master Plan identifies this portion of the Marsh Creek Trail as a Class I trail, which is a bike path with a completely separated right of way for the exclusive use of bicycles and pedestrians with minimal cross-flow. The project proponent proposes developing the trail to the standards of the East Bay Regional Parks District with a standard 10-foot asphalt right-of-way, with two feet of clearance on each side, that parallels the creek near the drip line of the existing trees. In some areas, the trail will be provided underneath the canopy of trees to provide additional shade to trail uses. Additional oak trees will be planted along the trail in areas to provide additional shade.

The project would provide a minimum setback of 100 feet from the drip line of the riparian corridor along most of Marsh Creek, leaving ample opportunity for the development of the gap in the Marsh Creek Trail while maintaining an appropriate distance from the creek and preserving restoration opportunities. The project would be compatible with the City of Brentwood's Parks, Trails, and Recreation Master Plan and the East Bay Regional Parks District Master Plan and seeks to complement the land uses proposed in those plans.

The intersection at Fairview Avenue and Marsh Creek Road is proposed to be a signalized intersection. The extension of the Marsh Creek Trail proposed by the project applicant would be directed to this signalized intersection and safe crossing of Fairview Avenue would be provided. The trail is anticipated to cross under Fairview Avenue.

LETTER  
11  
RESPONSES

11-3. The City concurs that restoration of the John Marsh House and completion of the regional Marsh Creek trail will be assets for residents and visitors in the region. Much of the gap in the Marsh Creek Trail is on land owned by the State. The City of Brentwood has the ability to construct a trail via easements on a portion of the length that does not cover the trail's entire length. The City of Brentwood is currently in the process of getting permission to have this portion of the trail constructed. The portion of Marsh Creek Trail within the City's Planning Area has been identified on the City's Parks and Trails Master Plan. The City requested the Vineyards project proponent to construct that portion of the trail that borders the project site and the proponent agreed. Therefore, the Vineyards project should benefit the EBRPD in developing a portion of this important link of the Marsh Creek trail and the proposed development would not preclude this portion of the trail to be constructed.

11-4. The proposed Vineyards at Marsh Creek development includes trails and pathways that would link the Marsh Creek Trail with the Village Center and the rest of the community. The project proponent recognizes that the adjacency of the State Park and park trails is a great asset to the project and that every opportunity should be taken to enhance trail access and recreation opportunities to its residents and visitors. As shown on Exhibit 3.4-26 of the DEIR, trails are planned to connect the Village Center to the Marsh Creek Trail and to provide pedestrian access to the future potential Community College and to the John Marsh Home.

However, the project proponent does not have the authority to determine where access points to the State Park will occur. The State Park is in its infancy and has yet to complete its general planning process, which would specify where park access points could occur. Exhibit 3.4-26 shows a number of potential access points. However, ultimately it is the California Department of Parks and Recreation, which would decide where trail connections should occur on their property.

Fire and land management access would be provided through a number of facilities proposed by the Vineyards project. These include a 15-25 foot (and larger in some areas) undeveloped "swath" of land that would surround the entire project site that could be used for access to the park in the event of an emergency. Also, please refer to discussion related to DEIR Impacts 3.11-I and -J re: Exposure to Wildland Fires for further discussion.

11-5. Please refer to Response to Comment 11-4, herein. Exhibit 3.4-26 of the DEIR shows the potential locations of trails on the Vineyards project site, with potential connections to the State Park shown as well. The Marsh Creek Trail is the only planned regional trail in the direct vicinity of the project site. The City has requested that the project proponent construct the segment of the trail that borders the site in accordance with the City's Parks, Trails, and Recreation Master Plan, and therefore, compatibility with the applicable trails plans of the City of Brentwood and the East Bay Regional Parks District would be maintained.

LETTER  
11  
RESPONSES

Again, the project proponent recognizes the benefits of the planned adjacent Marsh Creek Trail and of the adjacent State Park and wishes to maximize access opportunities to both. However, the project proponent does not have the authority to decide where access points are located or how many there will be into the State Park.

Since the project proponent has agreed to construct this portion of the regional trail, funding for this portion of the trail would be built into the development costs for the Vineyards project. On-going maintenance will be funded through Community Facility District (CFD) proceeds and based upon an agreement between the City of Brentwood and the state.

- 11-6. Please refer to Responses to all Comments to the California Department of Fish and Game for species-specific mitigation measures provided in the DEIR. Please refer to Response to Comment 15-19 regarding mitigation for biological resources close to the project site. Please refer to Master Response B regarding the East Contra Costa County HCP/NCCP and its approval timing.
- 11-7. The DEIR provides mitigation measures for each significant or potentially significant impact identified in the EIR. Mitigation measures are able to reduce all but operational air quality effects to a less than significant level.

The project provides an undeveloped open space buffer of between 15-25 feet (and greater in many locations) between the project site and the state park. The least intensive development in the proposed Vineyards project is also planned along the western portion of the project site. This western project area includes executive lots (i.e., 1/8-acre or so), the winery and amphitheater. The Contra Costa County Urban Limit Line (ULL) boundary, which is the boundary of most of the Vineyards project, prohibits development potential on the ridgetops, but allows development in the "valleys" of the hills. The combination of non-development land, low intensity land uses along the west, and preservation of hilltops provides a buffer between the park and the Vineyards project.

There are many locations along the Vineyard's project western boundary where emergency fire access to the State Park may be made. However, the State park has not prepared its "General Plan" to describe the uses, facilities, and location of facilities that will be situated within the park. Until the General Plan is completed, it may be difficult for the State to determine desired locations for fire access from the Vineyards project to the State park. The project applicant is willing to provide "gates" within the Vineyards project site to allow fire access should the State Department of Parks and Recreation indicate where access points should be located.

The Vineyards at Marsh Creek project includes fencing along the project's boundary with the State Parkland. The project does not include a straight boundary line because the

LETTER  
11  
RESPONSES

boundary has been designed to keep development off the ridgelines. Were the boundary straightened some development would extend up onto the ridge line, increasing visual impacts and potentially causing surface water flows from the project site onto the State Parkland.

Because impacts from project development are mitigated to a less-than-significant level, it is not necessary to increase the undeveloped buffer between the project site and the State Parkland. However, the EIR includes an analysis of a reduced footprint alternative, alternative 4, so that members of the public and city decision makers can determine the potential effects of such an alternative.

Regarding the winery, the winery will also have the boundary fence, which will prohibit “unrestricted” access into the state park. Also, as discussed on DEIR p. 3.5-32, the City of Brentwood has an adopted “Right-to-Farm” ordinance that requires a project proponent to inform potential homebuyers within a 2,000 foot radius that they may “...experience inconveniences or discomfort due to (but not limited to) ‘...noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, solid amendments, seed herbicides and pesticides.’ Moreover, the City’s Right-to-Farm Ordinance requires the City to include a condition of approval that the owner(s) seeking land use entitlements – as with the Vineyards project – sign and record the disclosure statement in a final form approved by the City’s Community Development Department. The signed disclosure statement would run with the land.”

The vineyards associated with the winery may require periodic application of sulfur to control powdery mildew. Sulfur is a fungicide commonly used by wineries in Napa County, Sonoma County and elsewhere in the world. This fungicide may cause a temporary and unpleasant odor that dissipates shortly after application of the product but does not cause health effects. No “hazardous materials” or toxins that may cause offsite health effects are known to be required for maintenance of the vineyard.

Views of the Vineyards project from the state park can be seen in Exhibit R-11.2 (refer to Response to Comment 11-7). Because most of the development is situated within the valleys (rather than on hillforms), most of the Vineyards project site cannot be seen from within the state park (and none of it in this particular section view). For example, the water tank (at approximately 320 feet elevation) is the highest developed feature of the Vineyards project and it cannot be seen from Briones Valley or most of the state park. Moreover, with the Draft EIR’s proposed mitigation, light effects from the proposed project are not expected to be significant. The Draft EIR points out that there is an existing atmospheric effect from lights north of Brentwood in the Cities of Antioch and Pittsburg, and to a lesser extent in the City of Brentwood. With the mitigation measures identified in the Draft EIR, the Vineyards Project would not substantially increase night sky conditions.

Regarding noise, since most of the roadways are internal to the Vineyards project, they would be buffered from the state park by homes. Except for Fairview Avenue, most of the roads within the project are local two-way streets with right-of-way widths of between

LETTER  
11  
RESPONSES

30-35 feet and would not carry a substantial amount of traffic. Therefore, traffic generation of noise would be minor. Fairview Avenue is too far from the state park (300 feet or more) to generate substantial noise levels.

The amphitheater is anticipated to generate the highest level of noise on the Vineyards site. The amphitheater stage would face towards the south. The amphitheater is anticipated to hold approximately five to ten events annually, and primarily in the summer. These events would not occur continuously, daily, or throughout the year. The distance between the amphitheater stage and Marsh Creek is approximately 700 to 900 feet. The nearest park uses in that area would be the Marsh Creek trail and, if funding becomes available for renovation, the John Marsh House. Bikers would be exposed to sounds generated from the amphitheater as they pass by on the trail and, therefore, for brief durations. If the John Marsh House is renovated, visitors would be exposed to amphitheater noise during seasonal events across the creek at a distance of approximately 1,000 feet or more. Amphitheater noise is considered not to be significant because it would occur infrequently, and the park users would be sufficiently far away or passing by when noise would be generated.

- 11-8. The Vineyards project has been designed to provide a buffer along Marsh Creek. Generally, development would be set back at least 100 feet from the dripline of the riparian corridor. A distance of 100 feet from the dripline of the riparian corridor provides a buffer from Marsh Creek. The EIR recognizes that an existing irrigation canal already is located within this buffer area, a relatively small amount of project development could occur within this area, and the trail alignment previously established by the City of Brentwood is located within the buffer area. On page 3.8-50, the DEIR identifies mitigation to reduce impacts of encroachment into the riparian setback. This mitigation will reduce any effects on the riparian corridor to a less than significant level.

Please refer to DEIR pgs. 3.8-17 regarding existing California red-legged (CRF) frog conditions and Impact 3.8-E. regarding impacts to the CRF. No CRF were observed during focused surveys conducted according to the USFWS protocol for this species on the project site or in Marsh Creek in the project vicinity. Nevertheless, the DEIR stated that the potential for CRF exists during construction of the outfall or bridge crossing within Marsh Creek (current designs are for the creek crossing to *span* the creek). Therefore, extensive mitigation measures were provided to avoid or reduce significant impacts and would result in less than significant CRF impacts due to the Vineyards project.

- 11-9. Please refer to Master Response D regarding the status of State Route 4 Bypass. Based upon the currently known information regarding Segment 3 of the State Route 4 Bypass, it is reasonable to conclude the Bypass will be constructed in the near-term.
- 11-10. Please refer to Master Response A regarding transit. Given the nature of the project, a shuttle to BART is unlikely to substantially reduce air quality effects. Also see the Responses to BAAQMD. The project has been designed with small residential lots and small setbacks. A system of trails and cart pathways will link residences with commercial areas, recreational facilities and regional trails.

LETTER  
11  
RESPONSES

It is highly unlikely that an even more compact development would further reduce vehicle trips and associated air pollution. Vehicle trips associated with active adult communities are relatively low and the project already includes substantial facilities for pedestrian and alternative fueled modes of transit.

- 11-11. Fairview Avenue will cross the creek and terminate at Marsh Creek Road.
- 11-12. The design of Fairview Avenue incorporates bicycle and pedestrian amenities designed to foster walking and the use of bicycles. Given the relatively low traffic volumes projected for Fairview Avenue, it is unlikely that there will be traffic volumes large enough to serve as a barrier to alternate transportation modes. Additionally, much of the traffic on Fairview Avenue will be local residents and attendees at the Community College, rather than commuters who currently use other segments of Fairview Avenue.
- 11-13. The development areas of the Vineyards at Marsh Creek project are sited within the "valleys" of the hilly terrain of the project site. Therefore, the topography is anticipated to obscure much of the project from surrounding areas. Please refer to Exhibit R-11.2 included with responses to this letter, which provides a section view from the state park to the Vineyards at Marsh Creek project. The DEIR Visual Resources discussion presents how the design of the Vineyards project will protect major ridgelines (e.g., limiting development to lands of 270-foot elevation or lower and maintaining a vertical distance between rooftops and ridgelines to 95 feet; providing distance between on-site and off-site uses (see DEIR, pgs. 3.7-18, -19 and -20). DEIR pgs. 3.7-20 and p. 3.7-16 discuss how adverse views of a proposed water tank will be mitigated (e.g., landscaping; use of soil nail wall for above ground sides; grading to minimize elevation to below ridgelines). Buffers of between 15-25 feet (and greater in many areas) are provided entirely around the Vineyards project. Six time-elapsd visual simulations of the Vineyards project are presented to illustrate views of the Vineyards project from public locations at initial completion and at 10 years or vegetative growth. The DEIR Project Description (p. 2-6) discusses landscaping to be planted that is thematic to the winery (i.e., grape vines and olive trees):

"The City of Brentwood began a series of community workshops to plan for the future of the 481-acre parcel in April 2003. The proposal that evolved out of those workshops contemplates the development of an active adult community with recreational trails that connect it to the surrounding open space and State Park. A key feature of the Vineyards project is the maintenance of the area's rich agricultural history. The project includes the establishment of a vineyard and winery. Ribbons of open space would be planted with grape vines and/or olive trees, and woven throughout the project site, to create an integrated agricultural theme." DEIR p.2-6.

Also, please refer to Response to Comment 17-3, which shows a section view from the park to the Vineyards project site. As shown, the residences on the Vineyards project site would not be visible from the state park. However, the City of Brentwood would be visible from some locations in the state park (e.g., on higher elevations).



- 11-14. The Draft EIR addresses the potential for additional visitors to the State Park property (which includes the John Marsh Home). (DEIR p. 3.13-23). Because the project would provide sufficient parkland to meet the recreational needs of its residents, the additional usage of State Parkland was not considered significant. Under CEQA, an impact to park facilities is not deemed significant unless the project would result in the need for new or altered facilities – which would have an adverse effect on the environment. Here, the John Marsh Home is not currently open to the public; the Home is in need of substantial repairs and restoration. At this point, the only manner in which the Vineyards project would increase visitors would be if project-related fees are used to restore the home. This would provide a *benefit* to the John Marsh Home, not an adverse effect. With regard to vandalism, it is important to keep in mind that no children will be living in the 1,100 active adult residential units – and it is highly unlikely that adults aged 55 and older will be inclined to vandalize the John Marsh Home. In any event, the Vineyards site will be fenced, and will not provide new routes for unauthorized access onto the John Marsh Home property. The Draft EIR addresses automobile traffic on Marsh Creek Road, as well as associated air pollutant emissions and traffic noise.

No significant localized concentrations of air pollutant emissions are expected at the John Marsh Home, or at any other location.

The significant emissions associated with project operation are regional in nature. Traffic noise associated with project operation also is not predicted to significantly increase at the John Marsh Home. In addition, the Draft EIR addresses light and glare at pages 3.7-21 and 3.7-22 with mitigation, the project would not result in a significant increase in light pollution.

- 11-15. An extensive amount of cultural work has been conducted on the Vineyards project site (and records search on the Vineyards site and vicinity) in relation to the proposed projects (see DEIR Section 3.12). Substantial and significant resources were identified on the Vineyards project site, particularly in pathway of the planned Fairview Avenue extension.

For the Vineyards project, literature review and consultations were conducted. Field inspections were conducted of recorded sites on the Vineyards property. Backhoe and shovel testing was conducted in areas of known resources. Evaluative test excavations were conducted on the significant resources identified near the roadway extension.

Significant impacts were identified with regard to the Vineyards at Marsh Creek project for which mitigation measures were devised to reduce impacts to known and previously unknown resources to a less than significant level. A records search was conducted on the Annexation Sites. However, site-specific backhoe and shovel testing and further cultural and historical resource assessment was not conducted on the Annexation Sites because site-specific plans have not been prepared and, therefore, potential impact “sites” cannot be determined. However, the DEIR provides substantial mitigation for the Annexation Sites, including site-specific investigation of potential resources, and performance-oriented mitigation measures to reduce potential impacts to a less than significant level.

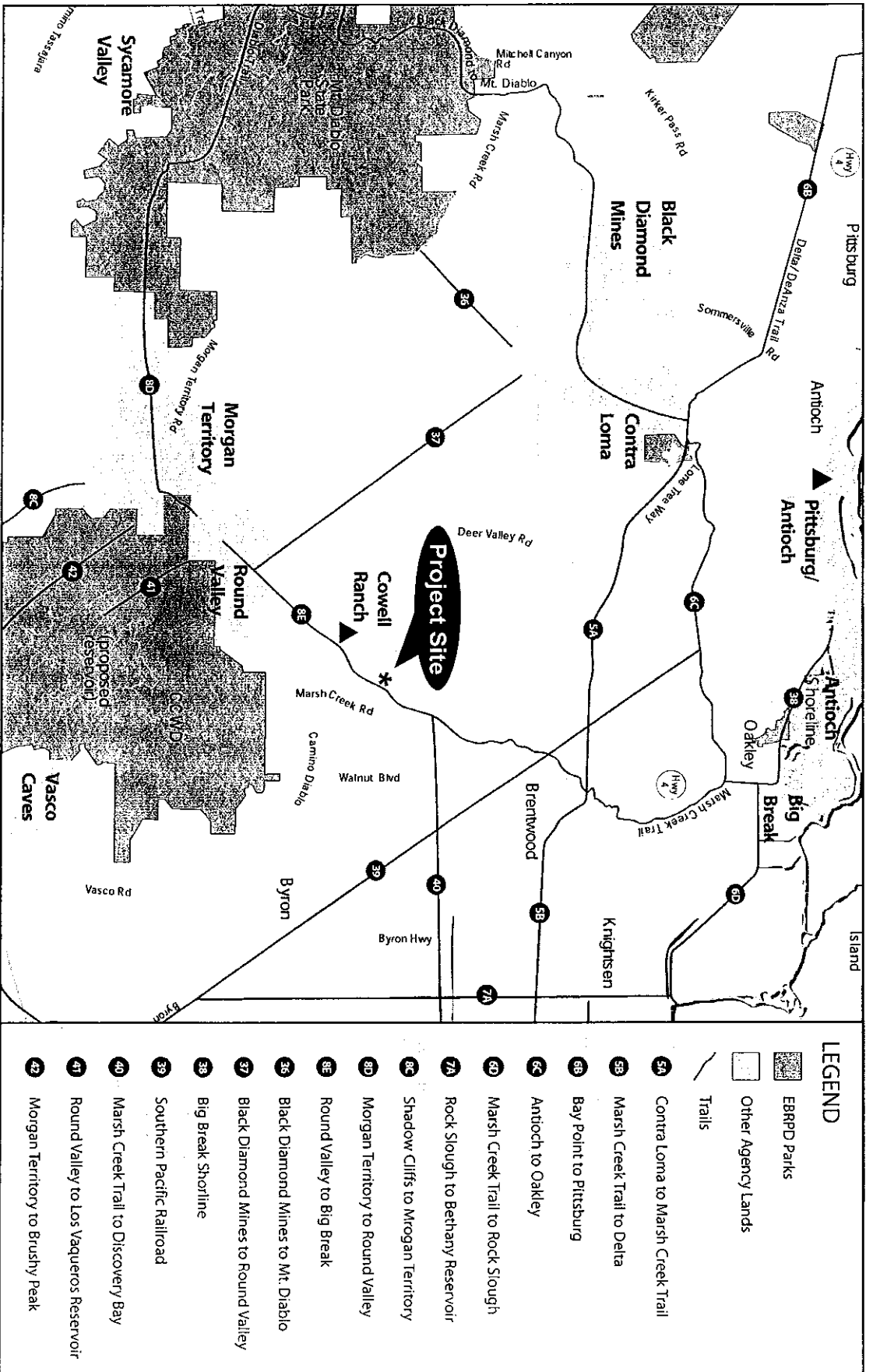
LETTER  
11  
RESPONSES

By law, mapped locations of known archaeological resources cannot be made available to the public specifically to prevent (or minimize) vandalism or destruction of known resources. Therefore, while the Vineyards project would introduce a new population to the area, the potential loss of archaeological resources on the Vineyards project site will have already been mitigated before grading begins (or will halt grading if previously unknown resources are discovered). Since the location of any archaeological resources is not public, the new population would not result in substantial opportunity for vandalism or destruction of resources.

- 11-16. The EIR does not rely upon the State Park as mitigation for impacts from the Vineyards project or the Annexation Sites. The EIR identifies mitigation measures for all significant or potentially significant impacts for either project evaluated in the DEIR. Those mitigation measures can be accomplished without reliance upon the acquisition, preservation or enhancement of land located within the state park property.

In the context of the amendment to the General Plan, the statement that the southern part of SPA J is State park property was meant to explain that the potential development area in SPA J is now substantially smaller than was anticipated when the City adopted the General Plan Update. When the City adopted its General Plan Update (in November of 2001), the developable area of SPA J comprised 4,437 acres.

At the time the City of Brentwood adopted its General Plan update (in November of 2001), the organization for development of the HCP was just being created. The USFWS and CDFG had sent a letter to the City of Brentwood along with other local agencies urging that an East County HCP be pursued (see Master Response B) only in March of 1998. However, it was not until January of 2000 that the Contra Costa County Board of Supervisors indicated its intent to participate in the development of an east County HCP. In June of 2000, the East Contra Costa County Habitat Conservation Plan Association Agreement went into effect and established the East County Habitat Conservation Plan Association (HCPA) as the lead agency for preparation of the HCP. So there was much interest for preparation of an HCP, and the early formation of an administrative body, but little, if anything, had been prepared in terms of an actual HCP at the time that the City of Brentwood adopted its General Plan update.



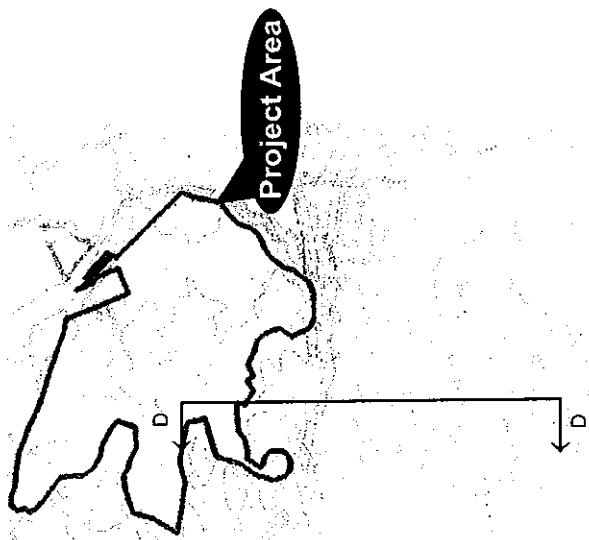
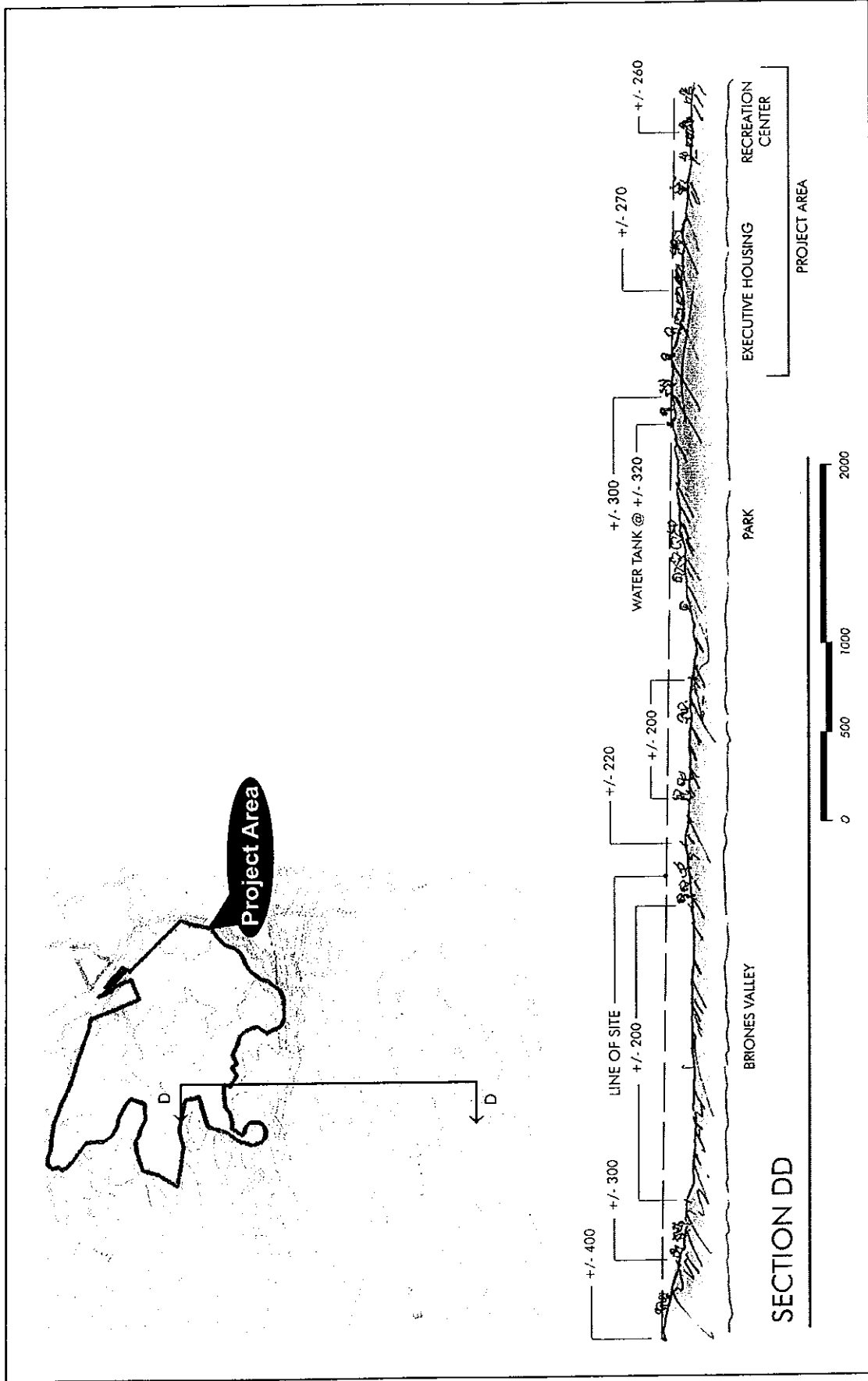
THE VINEYARDS AT MARSH CREEK AND ANNEXATION SITES EIR

**Regional Trails**

Exhibit R-11.1



027/0005 JIN 35-100230



Source: Dahlin Group (2004)

THE VINEYARDS AT MARSH CREEK AND ANNEXATION SITES EIR

# Views from State Park to Vineyards Project

Exhibit R-11.2



0218004.JN 35-100230

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
12



→ all these should also go to Julie at R.D.F. mo

CONTRA COSTA COUNTY LOCAL AGENCY FORMATION COMMISSION  
651 Pine Street, Eighth Floor • Martinez, CA 94553-1229  
(925) 646-4090 • FAX (925) 646-2240

COMMISSIONERS ALTERNATE COMMISSIONERS

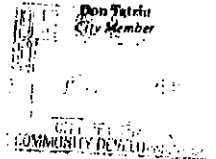
EXECUTIVE OFFICER  
ANNAMARIA PERRELLA

Helen Allen  
City Member  
Federal Glover  
Supervisor Member  
David Jameson  
Special District Member

David Kurrent  
Public Member  
Dwight Meadows  
Special District Member  
Rob Schruder  
City Member

Richard Barke  
Public Member  
Millie Greenberg  
Supervisor Member  
George H. Schmidt  
Special District Member

Gayle B. Ulickas  
Supervisor Member



December 9, 2003

Mitch Oshinsky, Director  
City of Brentwood Community  
Development Department  
708 Third Street  
Brentwood, CA 94513

Re: Draft – The Vineyards at Marsh Creek and Annexation Sites EIR

Dear Mr. Oshinsky:

Thank you for forwarding the subject document to LAFCO for review and comment. The annexation(s) to Brentwood, as described in the document, is a "LAFCO project", so this Commission will act as a responsible agency pursuant to the requirements of the California Environmental Quality Act (CEQA) when acting on the proposed annexation(s). However, I can find no record of the City forwarding a Notice of Preparation (NOP) of the Draft EIR to LAFCO for review and comment (generally, LAFCO is afforded the opportunity to provide initial input through the NOP process).

12-1

The proposed Vineyards project (+/- 481 acres), also known as Special Planning Area (SPA) J, includes annexation into the City of Brentwood; General Plan Amendment; rezoning and zoning consistent with the City's zoning ordinance; Design Review; subdivision map(s) to create multiple Parcels and, potentially, a Development Agreement between the applicant (Vineyards at Marsh Creek LLC) and the City. The proposed project site is located on Concord Avenue, south of Balfour Road and north of Marsh Creek Road. It is within the City's sphere of influence (SOI) boundary and the County's Urban Limit Line (ULL).

12-2

Mitch Osinsky

2

The City is proposing to annex two additional properties: the John Marsh Home site (currently part of the California State Park system) and a potential Contra Costa County Community College site. Both sites are located within the City's Planning Area and (SOI) but are outside the ULL. The John Marsh Home (+/- 40 acres) is located south of the proposed Vineyards project and across Marsh Creek, and the College site (+/- 60 acres) is east of Marsh Creek Road and the John Marsh Home.

LAFCO has specific responsibility for evaluating certain impacts and environmental issues to fulfill its responsibilities under the Cortese-Knox-Hertzberg Act (CKH). Issues that should typically be addressed in an environmental document, and which are of particular jurisdictional importance to LAFCO, include the following (note: LAFCO's analysis and determinations on such issues may be different under CKH than under CEQA):

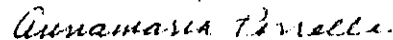
- Impacts to public service agencies including, but not limited to, water supply and distribution systems; wastewater treatment and sewer collection systems; solid waste disposal capacity and collection; fire protection; and public facilities maintenance districts;
- Premature conversion of agricultural lands to urban uses and protection/preservation of prime agricultural lands and resources;
- Growth inducement.

12-2

While LAFCO's analysis and determinations on such issues may be different under CKH than under CEQA, it appears that, for LAFCO purposes, the above-noted issues are adequately addressed in the Draft EIR.

If you have any questions regarding comments raised in this letter, please call me at 925-646-4090; e-mail at [apert@lafco.co.contra.costa.ca.us](mailto:apert@lafco.co.contra.costa.ca.us).

Sincerely,



Annamaria Perrella

cc: LAFCO Commissioners

Contra Costa County Local Agency Formation Commission  
December 9, 2003

LETTER 12 RESPONSES
---------------------------

- 12-1. The City agrees that the Local Agency Formation Commission (LAFCO) is a Responsible Agency, as defined by CEQA, for proposed annexations of the projects evaluated in the Vineyards at Marsh Creek and Annexation Sites EIR.

The City of Brentwood records indicate that a Notice of Preparation (NOP) was sent to LAFCO regarding the proposed projects. It is unclear what may have happened in the certified mailing of the NOP. The City of Brentwood apologizes to LAFCO for any error on the City's part related to LAFCO having no record of receipt of the NOP and will make every effort to ensure that NOPs reach LAFCO.

- 12-2. The City of Brentwood appreciates LAFCO's clarification of the issues of jurisdictional importance for LAFCO under the Cortese-Knox-Hertzberg Act (CKHA). Further, the City of Brentwood appreciates LAFCO's assessment that the Vineyards at Marsh Creek and Annexation Sites DEIR adequately addresses environmental issues of concern for LAFCO.



*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
13



LOS MEDANOS  
COLLEGE

2700 East Leland Road Pittsburg, CA 94565-6197  
voice 925.439.2181 fax 925.427.1699  
www.losmedanos.net

January 6, 2004

Mr. Mitch Oshinsky, Director  
Community Development City of Brentwood  
Community Development Department  
104 Oak Street  
Brentwood, CA 94513

Re: Vineyards at Marsh Creek Project - Draft Environmental Impact Report

Dear Mr. Oshinsky:

Los Medanos College, whose future Brentwood Education Center site is included as an Annexation Site within the Draft Environmental Impact Report for the Vineyards at Marsh Creek, strongly supports the development of the project by the City of Brentwood. The college's future Brentwood Center development is vital to addressing the higher education needs of your city and the other communities of Far East County.

To assist our efforts in developing the parcel for future use, the Blackhawk Services Company has been proactive and most forthcoming by offering assistance to the College District with regard to providing access and infrastructure elements, essential to supporting our construction of educational facilities at the property. We appreciate their assistance and desire to assure that access to our educational opportunities is provided to the local communities in the Brentwood area.

It is a pleasure to express Los Medanos College's support for the Vineyards at Marsh Creek project and our hope for the future development of an expanded Brentwood Center. Please contact me if I can be of further assistance to this approval process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Garcia'.

Peter Garcia  
President

Cc: C. Spence  
T. Beckett

13-1

-THE COLLEGES OF CONTRA COSTA-

Peter Garcia  
President, Los Medanos  
January 6, 2004

LETTER  
13  
RESPONSES

- 13-1. The Los Medanos College writes in support of the project and acknowledges efforts on the part of the project proponent to work with the college. This comment is noted.

**TRANSPLAN COMMITTEE****EAST COUNTY TRANSPORTATION PLANNING**

Antioch • Brentwood • Oakley • Pittsburg • Contra Costa County  
651 Pine Street -- North Wing 4<sup>TH</sup> Floor, Martinez, CA 94553-0095

December 22, 2003

Mitch Oshinsky, AICP, Director of Community Development  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513

Dear Mr. Oshinsky:

Thank you for the opportunity to review the Draft Environmental Impact Report for the proposed *Vineyards at Marsh Creek and Annexation Sites*. TRANSPLAN staff has reviewed the document in keeping with TRANSPLAN's role in administering the Measure C-88 growth management program in East County. I offer the following comments on Section 3.4, Transportation/Circulation.

**1. Analysis of delay index and vehicle occupancy should be performed.** The document includes the level-of-service forecasts that are required for routes of regional significance, but it does not include the required forecasts of delay index and vehicle occupancy as outlined in the East County Action Plan for Routes of Regional Significance. The applicable standards that should be analyzed include a delay index of less than 2.0 for Balfour Road, Marsh Creek Road and Walnut Boulevard, and less than 2.5 for Vasco Road; and vehicle occupancy of at least 1.2 persons per vehicle on Vasco Road during the morning peak. The analysis should indicate whether the project would impede East County's ability to meet these objectives.

14-1

**2. Traffic impacts of State Route 4 Bypass Segment 3 warrant further consideration.** On page 3.4-30, the document states the traffic analysis "assumes there is no redistribution of traffic following the completion of SR 4 Bypass, Segment 3." However, a statement on page 3.4-32 says the Bypass "will relieve several major movements contributing to the poor level of service" at the Balfour Road/Fairview Avenue intersection. In stating the analysis "assumes there is no redistribution of traffic" from completion of Segment 3, does the term "redistribution" refer to trip distribution (origins and destinations), or does it refer to how traffic distributes itself on the local road network (trip assignment)? It seems reasonable to assume completion of Segment 3 will not change trip distribution, but it could change trip assignment, thereby changing the relative amounts of traffic on each road in the network. The statement on page 3.4-32 seems to support this. Clarification of this issue would be helpful.

14-2

**3. Transit considerations should be evaluated and reported.** I found no mention of bus transit or rail transit in the Transportation/Circulation section. It would be advisable to consider transit in the Draft EIR, and to work with Tri Delta Transit on the issue of possible impacts on bus ridership and service. The project location appears to be roughly three miles west of the MocoCo line, which is planned for future "eBART" commuter rail service. The East County Action Plan includes a traffic service objective that calls for increasing East County's total transit ridership by 25 percent between 2000 and 2010. While this objective isn't specific to any particular development project or any particular regional route, a discussion of potential transit ridership would be advisable in the environmental document, since transit could help reduce potential traffic impacts.

14-3

Phone: 925.335.1201 Fax: 925.335.1300 [jgrei@cd.co.contra-costa.ca.us](mailto:jgrei@cd.co.contra-costa.ca.us) [www.transplan.us](http://www.transplan.us)

LETTER  
14

4. **Modifications to the East County travel demand model should be reviewed with the Technical Advisory Committee prior to use.** The Draft EIR on page 3.4-44 states the consultants used the East County Travel Demand Model but with modifications. For future reference, please be aware that any revisions to the East County travel demand model are to be reviewed with the TRANSPLAN Technical Advisory Committee prior to using them for environmental impact reports. This is a provision of the growth management program.

14-4

5. **Mitigation 3.4-D is located in another jurisdiction and therefore may not be feasible as a mitigation measure.** This mitigation calls for installation of a traffic signal at the intersection of Walnut Boulevard and Concord Avenue. This intersection is located outside the City of Brentwood in an unincorporated area. The Draft EIR doesn't indicate any planned annexation by the City. The City should coordinate with the other jurisdiction before identifying this traffic signal as a mitigation measure.


14-5

6. **Jurisdictional boundaries would be helpful on maps showing the roadway network in an environmental document.** Related to comment #5 above, it would be helpful if the maps of existing roads and intersections in the study area (such as Exhibit 3.4-2) showed jurisdictional boundaries. This would show the project network in a regional context and would make it easier for reviewers to understand the inter-jurisdictional impacts of the project.

14-6

Please contact me if you have questions about these comments.

Sincerely,



John Greitzer  
TRANSPLAN staff

D:\Greitzer D:\TRANSPLAN\letter Vineyards Brentwood DEIR dec 03.doc

c: TRANSPLAN Committee  
TRANSPLAN Technical Advisory Committee

Transplan Committee  
December 22, 2003

LETTER 14 RESPONSES
---------------------------

- 14-1. The delay index has been calculated for the specified roadways including Balfour Road, Marsh Creek Road, Walnut Boulevard, and Vasco Road. These calculations indicate that none of the roadways would exceed their specified delay indices. Additionally, the 2025 traffic volumes on Vasco Road were evaluated to determine vehicle occupancy with the additional traffic from the project. This analysis indicated that the vehicle occupancy would be at least 1.2 persons per vehicle. Please note that this project would increase the traffic volumes on Vasco Road by a minimal amount since most of the project trips would be directed to areas inside the project and other areas of Brentwood which are directly adjacent, such as the Safeway at Balfour Road Shopping Center.
- 14-2. The statement on DEIR p. 3.4-30 presents an analysis for a specific mitigation measure. The proposed intersection improvements would improve the operation of the intersection to acceptable levels even if there is no change in travel patterns after completion of Segment 3 of the State Route 4 Bypass. To clarify the document, redistribution refers to changes in trip assignment based on future roadway improvements, such as the State Route 4 Bypass.
- 14-3. See Master Response A regarding transit.
- 14-4. Please note that the changes to the model made for the project involved updating the land use and roadway network data for the City of Brentwood. Fehr & Peers will coordinate with the Transplan Technical Advisory Committee when making significant changes to the East County travel demand model in the future.
- 14-5. According to the City of Brentwood Traffic Engineer, recent improvements were made by the City of Brentwood at this intersection to add turn lanes on Walnut Boulevard. Contra Costa County performed this work as a contractor. With these recent improvements, it is unlikely that the installation of a traffic signal would be infeasible.
- 14-6. This comment is acknowledged.

*THIS PAGE INTENTIONALLY LEFT BLANK*

LETTER  
15



December 31, 2003

Mr. Mitch Oshinsky, Director  
City of Brentwood  
Community Development Department  
708 Third Street  
Antioch CA 94513

Subject: Comments on the Draft Environmental Impact Report for the  
Vineyards at Marsh Creek and Annexation Sites

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Vineyards at Marsh Creek project (Vineyards) and the proposed annexations of the John Marsh Home site and the Contra Costa County Community College (CCCCC) site. Greenbelt Alliance submits this letter to provide comments on the DEIR and to express our concern that the DEIR is inadequate and does not comply with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, Section 15000 *et seq.* (CEQA Guidelines). The DEIR fails to provide an adequate project description and an adequate project setting. The DEIR also fails to adequately analyze or adequately mitigate the project's significant impacts on land use, population growth, agricultural resources, transportation, air quality, visual resources, and biological resources. In addition, the DEIR fails to seriously look at and analyze alternatives 1-5 or a true environmentally superior alternative as required under CEQA.

15-1

**Inadequate Project Setting**

The DEIR fails to adequately and accurately describe key aspects of the project setting. Such a failure is fatal under CEQA because without an adequate description of the project's local and regional context, the DEIR, and thus the public and decision-makers who rely on the DEIR, cannot accurately assess the potentially significant impacts of the proposed project.

15-2

MAIN OFFICE ♦ 550 Bush Street, Suite 303, San Francisco, CA 94108 ♦ (415) 398-3730 ♦ Fax (415) 398-6530  
 SOLANO/NAPA OFFICE ♦ 725 Texas Street, Fairfield, CA 94533 ♦ (707) 427-2308 ♦ Fax (707) 427-2315  
 SOUTHI BAY OFFICE ♦ 1922 The Alameda, Suite 213, San Jose, CA 95126 ♦ (408) 983-0539 ♦ Fax (408) 983-1001  
 EAST BAY OFFICE ♦ 1601 North Main Street, Suite 103, Walnut Creek, CA 94596 ♦ (925) 932-7776 ♦ Fax (925) 932-1970  
 SONOMA/MARIN OFFICE ♦ 50 Santa Rosa Avenue, Suite 307, Santa Rosa, CA 95404 ♦ (707) 575-3661 ♦ Fax (707) 575-4275  
 info@greenbelt.org ♦ www.greenbelt.org



LETTER  
15

Such missing setting elements include, but are not limited to:

- (1) information concerning infill potential (including jobs and housing uses) within the City of Brentwood and the region. This information is critical to determining whether there is a need for the project and to informing project alternatives.
- (2) information concerning where residents of Brentwood, Antioch, and Oakley currently work – this information is critical to the analysis of impacts associated with traffic, air quality, and jobs/housing balance.

15-2

**Land Use**

Under Impact 3.1-E, the DEIR states that a Habitat Conservation Plan (HCP) does not exist for the project areas in the DEIR. However, the DEIR does not provide adequate information or discussion of the HCP that is currently being prepared for East Contra Costa County, including the proposed project site. The HCP will identify those lands containing high habitat values and provide significant funding for their protection. Eight agencies are participating in the HCP effort, including resource agencies that have permitting authority over the proposed project (e.g. California Department of Fish and Game (CDFG), U.S. Fish and Wildlife Service (USFW)).

Following local approvals related to the proposed project in this DEIR, USFW and CDFG, among other agencies participating in the HCP effort will have permitting authority over the proposed project. If the project DEIR fails to adequately set forth the environmental impacts and provide adequate mitigation for impacts to species and their habitats, the project(s) will likely be required to provide additional information and possibly major redesign of the development area in order to obtain permits. It is senseless for local approvals to be undone by the subsequent permitting process. Local decision-makers should be informed about the types of information and mitigation that will be required by permitting agencies so that they can consider this information in their action on the proposed project. For all of these reasons, action on the proposed project should await completion of the HCP. If interim rules are established by the HCP workgroup for development projects to proceed in advance of the completion of the HCP, the project could be considered consistent with those rules.

15-3

**Population Growth**

The DEIR states under Impact 3.3-B that the CCCC annexation "would not substantially increase the population of the City of Brentwood." As stated earlier, the future use of the CCCC site is uncertain from the project

15-4

LETTER  
15

description and discussion provided in the DEIR. The DEIR assumes the use of the site for a community college with 5,000 students, but does not commit to this use and does not provide sufficient project details for adequate analysis of its impacts on population growth and other areas of concern.

15-4

Given the DEIR's assumption that there would be a 5,000 student community college on site, the analysis that the CCCCC site "would not substantially increase the population of the City of Brentwood" is flawed and based on inadequate information. A 5,000 student population will undoubtedly attract students from outside of the City of Brentwood that would seek and require housing within Brentwood. These growth inducing impacts need to be analyzed and mitigated in a revised DEIR.

**Agricultural Resources**

The DEIR identifies that the project would create the loss of 11.5 acres of prime farmland and farmland of statewide importance. However, the DEIR also states that no mitigation for this loss is required under Impact 3.2-A. Any loss of prime farmland or farmland of statewide importance should be mitigated on at least a 3:1 ratio. The mitigation must permanently set aside similar prime farmland or farmland of statewide importance for agricultural purposes and be located within the vicinity of the project site.

15-5

**Transportation**

The DEIR's analysis of transportation impacts is inadequate for the following reasons:

*First*, the DEIR fails to provide existing data concerning transit capacities and to adequately analyze the impacts of the project on transit. A revised DEIR must provide adequate analysis of transit impacts.

15-6

*Second*, the measures proposed to mitigate traffic impacts primarily involve the construction of segment 3 of the Highway 4 Bypass. Although this segment of the Highway 4 Bypass has been authorized at a policy level, it is infeasible as mitigation for traffic impacts related to this project since the decision to actually begin construction of the Highway 4 bypass and the timing of the construction is not solely within the City of Brentwood's control. As a result, a revised DEIR must include feasible mitigation measures that are within the City of Brentwood's control for reducing traffic impacts from the proposed project.

15-7

LETTER  
15

*Third*, the DEIR fails to identify and analyze indirect impacts associated with proposed mitigation measures to address traffic impacts. Such indirect impacts include, but are not limited to: growth inducement, loss of biological resources and impacts to biological resources, reduced air quality, noise and the like. An analysis of the potentially significant indirect impacts of the mitigation measures must be included in a revised DEIR.

15-8

*Fourth*, the geographic study area for the transportation analysis is focused primarily in Brentwood. Brentwood, Oakley, and Antioch are predominantly "bedroom" communities with significant out-commuting of residents to jobs in Walnut Creek, Concord, San Francisco, Silicon Valley, and beyond. A much larger geographic study area is therefore warranted, both for impacts to BART and the roadway network. Based on information concerning where residents of Brentwood, Antioch, and Oakley currently work, and projections of where new residents of Vineyards project area are likely to work based on housing prices and projected demographics, a revised study area must be developed and included in revised analyses in a new DEIR. The revised study area should include, but not limited to, traffic along Marsh Creek Road from Brentwood to Concord and traffic along Highway 4 from Brentwood to Martinez.

15-9

*Finally*, the DEIR fails to include feasible mitigation measures such as requirements that condition new development on the completion of needed roadways or mitigation related to the provision of improved transit. Land use based alternatives, including "walkable" design, early development of services and jobs, more compact – higher density development supportive of transit, an infill alternative, and the like, must also be seriously considered and adequately analyzed in a revised DEIR.

15-10

**Air Quality**

The DEIR's analysis of air quality impacts is inadequate for the following reasons:

*First*, the DEIR identifies a number of air quality impacts as significant and unavoidable, including emissions that would exceed the Bay Area Air Quality Management District (BAAQMD) thresholds of significance for ROG and PM-10 by a substantial amount. Yet, no land use based alternatives are included in the DEIR, which would redesign the project to include design elements of "walkable" projects (e.g. residential uses, retail, and jobs all within walkable range; compact development, and the like).

15-11

LETTER  
15

**Second**, the mitigation measures proposed for the air quality impacts are inadequate to mitigate to a less than significant level. A revised DEIR must consider the provision of public transit options and land use designations that are transit supportive. Although the DEIR identifies mitigation measures that would require the construction of transit facilities, it does not specifically identify the establishment of actual transit service as a mitigation measure.

15-12

**Visual Resources**

The DEIR's analysis of visual impacts and identification of mitigation measures for visual impacts is inadequate for the following reasons.

**First**, the mitigation measures identified state that visual impacts will be minimized through design review and that the design of the project shall meet the Brentwood Municipal Codes and Design Guidelines. However, the DEIR does not specifically identify detailed design criteria that would minimize or mitigate the visual impacts of the proposed project. As such, the mitigation measures identified are inadequate for reducing the visual impacts that would be caused by the project. A revised DEIR must specifically identify detailed design criteria that would reduce the visual impacts of the project

15-13

**Second**, mitigation measures excluded from consideration include large buffers between the State Park lands and development, reducing the project development footprint, eliminating development for highly visible areas, and the like. A revised DEIR must include this information. Buffers between the State Park lands and the proposed development should be adequate to minimize all visual impacts and should extend around the entire boundary of the State Park and development area.

15-14

**Biological Resources**

The DEIR's analysis of biological impacts is inadequate, as well as its identification of mitigation for biological impacts due to the following reasons:

**First**, the DEIR's analysis of impacts does not adequately identify and discuss the potentially significant environmental impacts that would occur at the "edge" between proposed developed and undeveloped areas including the State Park lands. These "edge" impacts include increased incidence of invasive non-native plants and animals, increased predation of native species by domestic pets, increased illegal dumping, polluted runoff, vandalism, noise and light intrusion. The DEIR must evaluate these potential significant impacts and identify potential mitigation for them. Such mitigation measures should include, but not limited to, large buffer zones between the State Park lands and development areas.

15-15

LETTER  
15

*Second*, the DEIR does not provide adequate information for many special status species which would allow for adequate analysis of the impacts of the proposed project on those species. Initial surveys have not been conducted for many of the special status species known to range within the project area. In addition, the DEIR concludes that numerous significant biological impacts affecting these special status species will be reduced to less than significant with mitigation. However, many of the mitigation measures are in the form of surveys done prior to construction and the removal of individual species members from the project site if found during construction. However, current readers of the DEIR cannot adequately evaluate the impacts of the proposed project on many special status species or the effectiveness of any mitigation measures since no surveys or studies have been done to determine the number, range, and usage of habitat for many special status species within the project area. As such, the DEIR's impacts analysis is flawed, and surveys and studies need to be conducted regarding the number, range, and use of habitat by special status species including, but not limited to, the San Joaquin Kit Fox, nesting special status passerines, special status bats, White-Tailed Kites, Golden Eagles, and other special status raptors. In addition, adequate mitigation must be identified for any special status species that are impacted by the project.

15-16

*Third*, the DEIR states that no California Red-legged Frogs were found on site during an initial survey. However, the DEIR did not discuss the methodology of how the survey was conducted to maximize the likelihood of discovering California Red-legged Frogs on the project site. Since the project site is located in an area that is known to have California Red-legged Frogs and does have habitat known to be frequented by California Red-legged Frogs, a more extensive survey that expands through a larger range of time and seasons should be conducted and analyzed in a revised DEIR.

15-17

*Fourth*, in order to account for the loss of species individuals and habitat loss, habitat mitigation for vernal pools and Tiger Salamander habitat, and replacement of individuals taken from the 800 Crownscake populations should be mitigated and replaced on a 3:1 ratio. In addition, all mitigation should be done within the local vicinity of the project site in order to preserve local diversity of these populations and habitats.

15-18

*Fifth*, the DEIR states that nine burrowing owls were identified on the project site. Any habitat mitigation should be located within the local vicinity of the project site in order to benefit the local population of displaced burrowing owls in order to preserve the diversity within the local population.

15-19

*Sixth*, the DEIR states that the project site is currently utilized by Swainson's Hawks for foraging. A survey of the existing population on the site and the number of nesting pairs should be conducted and analyzed in a revised DEIR in order to allow adequate analysis of the project's impacts on the Swainson's

15-20

Hawk population on the project site. This information will also allow for adequate analysis of the mitigation measures necessary to offset the impacts of the proposed project on the Swainson's Hawk population at the project site. In addition, any Swainson's Hawk habitat impacted by the project should be mitigated through the purchase and preservation of similar habitat near the project vicinity.

15-20

*Lastly*, the DEIR's discussion and analysis of cumulative biological impacts is inadequate and cursory in nature. The cumulative impacts analysis needs to be more detailed and take into consideration the proposed development and associated biological impacts of all projects proposed or already authorized within the local planning area including projects within the Cities of Brentwood, Antioch, and Oakley such as the Sand Creek Specific Plan area.

15-21

**Alternatives 1-5**

CEQA mandates that lead agencies such as the City of Brentwood include in their EIRs an analysis of a reasonable range of potential project alternatives that would "avoid or substantially lessen any of the significant effects of the project." CEQA Guidelines § 15126.6. The analysis must provide sufficient information about the alternatives to "allow meaningful evaluation, analysis and comparison with the proposed project." *Id.* A proper analysis of alternatives is essential if an EIR is to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. See Pub. Res. Code § 21002. The information provided in the alternatives section should be accurate, and the analysis must be evenhanded. The City of Brentwood's analysis of alternatives in the Draft EIR fails to satisfy these minimum requirements of CEQA. The alternatives analysis provided in the DEIR is flawed because it is improperly skewed in favor of the proposed project and against the feasible alternatives. The proposed project is identified as the "environmentally superior alternative" when it clearly creates substantial and significant impacts to biological resources, air quality, transportation, etc. The DEIR fails to identify a true environmentally superior alternative which could involve the preservation of the entire project site as open space and locate all of the development proposed by this project within the existing City of Brentwood boundaries. The City of Brentwood is only 50-60% built out within its existing boundaries and the development proposed in this project could easily be sited within the existing Brentwood City boundaries. This alternative would truly be environmentally superior yet meet all of the goals of the proposed project. A revised DEIR should include this environmentally superior alternative, and provide an adequate and thorough analysis of alternatives 1-5.

15-22

15-23

**Inadequate Project Description**

The DEIR does not provide an adequate project description for the proposed John Marsh Home site or the CCCCC site. The project description simply states that the two sites would be annexed and may potentially be developed as a visitor center and a community college, but it does not provide any specific details for these two uses or any guarantees of how these two sites would be utilized. As such, the project description is insufficient and incomplete to allow an adequate analysis of the impacts of the proposed projects at the John Marsh Home site and the CCCCC site. Without an adequate analysis of the projects proposed for these two sites in the DEIR, commenting agencies and the general public will not be able to make a fully informed review and comment of the DEIR.

15-24

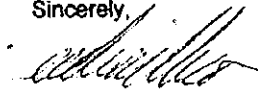
Until detailed information can be provided for the specific type and intensity of uses proposed for the John Marsh Home site and CCCCC site, it is impossible to adequately analyze the impacts of the project on such issues as compliance with Contra Costa County's General Plan and Urban Limit Line policies, biological resources, transportation, etc. The project analyzed in this DEIR should be removed from consideration until a specific and adequate project description can be provided for the John Marsh Home site and the CCCCC site, and a revised DEIR based on the detailed project description is recirculated.

**Conclusion**

For the reasons set forth above, Greenbelt Alliance respectfully requests that no further consideration be given to the proposed Vineyards a Marsh Creek project and the John Marsh Home site and Contra Costa County Community College site annexations until an adequate EIR that fully complies with CEQA and the CEQA Guidelines is prepared and circulated for public review.

15-25

Sincerely,



Lee Huo  
East Bay Field Representative

R

Greenbelt Alliance  
December 31, 2003

LETTER  
15  
RESPONSES

- 15-1. Comment appears to be introductory to subsequent comments. These specific comments are addressed below.
- 15-2. Consistent with CEQA's requirements, the DEIR provides extensive information regarding the Project Setting. Each environmental topic evaluated in the EIR commences with an Existing Conditions description. The Existing Conditions description presents information for each of the environmental subjects relative to the Vineyards project and the Annexation Sites. Regional and local setting information is presented to understand how the proposed projects may alter the physical environment for each of the environmental topics analyzed in the DEIR.

There is no CEQA requirement for an EIR to justify the need for a project. CEQA does require an evaluation of the merits of a project. Rather, the purpose of CEQA is to evaluate the physical effects of a project on the existing environment. Consequently, to the extent information concerning available infill sites in the City of Brentwood and the region is requested in order to assess the merits of the project, that request falls outside the scope of the CEQA environmental analysis for this project.

Decisions regarding the location of properties that should or should not be developed with urban uses are made by the applicable agencies during their land use planning processes. The City recently completed a comprehensive update of its General Plan's land use element. It is through this planning process that the City determined which areas should or should not be developed with urban uses. As shown on Exhibit 2-3 in the DEIR, the City's General Plan anticipated more (not less) urban development on the combined Vineyards project site, Annexation sites and the adjacent areas than has been proposed.

The City's General Plan identifies other sites within the City's sphere of influence that are planned for urban development. None of these areas is large enough to accommodate the proposed Vineyards project. Further, most of the housing proposed for the Vineyards Project is active adult housing. Placing active adult housing adjacent to existing active adult housing within the City allows for pedestrian, bicycle, and golf cart connections between the active adult communities. These connections provide amenities to the residents in the community, and reduce vehicle trips and associated traffic and air pollutant emissions. The proposed Vineyards project also includes a neighborhood-serving commercial area, which further reduces automobile trips and associated traffic and air pollutant emissions. In addition, the proposed projects are located adjacent to existing infrastructure and to Segment 3 of the State Route 4 Bypass. Thus, the policy considerations relevant to infill development have been considered by the City during its planning processes, and will continue to be considered by the City.

With regard to the identification of project alternatives, as stated on DEIR p. 6-1, "State CEQA Guidelines requires that an EIR include 'a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen one or more of the



LETTER  
15  
RESPONSES

significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.' ” As explained above, none of the other sites planned for urban development within the City is large enough to accommodate the proposed project an no feasible alternative site exists within the City that would attain the basic project objectives.

Information regarding where residents of Brentwood, Antioch, and Oakley currently work is taken into account by the regional transportation agency in developing the regional traffic model used in the EIR. Beginning on DEIR p. 3.4-1, the document describes the project area for the Vineyards project and the Annexation Sites. It describes the existing roadways and their characteristics, current intersections and their performance in terms of traffic, existing traffic counts, and existing intersection controls. The project impact analysis is based on the regional traffic model, which incorporates the cities of Pittsburgh, Antioch, Oakley and Brentwood. Therefore, the relative location of both population and employment in adjacent areas is incorporated in to the analysis. Please note that a majority of the project is composed of active adult residents, who produce fewer trips of shorter duration than residents of conventional single-family homes. Please see Master Response A for additional information.

The impact analysis evaluates what effects the project would have on the existing roadway network and intersections. Among the factors considered are the additional trips the project would add to the roadway network and where on the network these trips would be added. The locations where residents of Brentwood, Antioch, and Oakley currently work are considered both in the regional traffic model used to evaluate traffic effects in the DEIR, and in the existing traffic counts that are evaluated in the DEIR.

The air quality analysis is based in part on the traffic analysis. It is also, however, based on Bay Area Air Quality Management District (BAAQMD) thresholds for the entire air basin. These thresholds are developed based upon regional data about where Bay Area populations work and live, based in large part on adopted General Plans throughout the Bay Area. Therefore, specific work sites for residents of Brentwood, Antioch, and Oakley is less relevant for air quality analysis than regional population, housing and employment data which is embedded in the BAAQMD air quality plans and the addition of project-specific traffic onto local and regional roadway networks.

DEIR Section 3.3 provides a project-specific analysis of population and housing including jobs/housing balance. While an analysis of a jobs/housing balance is not required by CEQA, it is included in the EIR for informational purposes.

- 15-3. Please see Master Response B for information regarding the current schedule for preparation of the East Contra Costa County Habitat Conservation Plan and its associated environmental analyses. The City of Brentwood and the EIR preparers are knowledgeable about the HCP process. Discussion of the potential East Contra Costa

County HCP is found in various sections of the DEIR where it appears to be relevant. For example, Section 3.8, Biological Resources, of the EIR relative to Impact 3.8-L states the following:

“...Although the aforementioned observations are widely separated both temporally and spatially, these, and other records indicate that the kit fox may be present regionally, albeit in extremely low numbers. Additionally, the East Contra Costa County Habitat Conservation Plan (HCP)/Natural Communities Conservation Plan (NCCP) process has tentatively identified the project site as suitable core habitat and as potential kit fox movement route, within the City of Brentwood’s Urban Limit Line. Accordingly, there is a potential impact to habitats and corridors used by San Joaquin kit foxes.

Furthermore, the DEIR states:

**“Mitigation 3.8-L. Potential Impacts to San Joaquin Kit Fox– Vineyards Project:** The project applicant will compensate for the loss of potential kit fox habitat and potential kit fox travel corridor on the subject property by, at a 1:1 ratio, (a) acquiring, preserving, and enhancing through management for the benefit of the species habitat suitable for foraging, denning, and travel corridors by the San Joaquin kit fox; or (b) participation in the HCP/NCCP, once it becomes operational; or (c) acquisition of credits in an approved mitigation bank. Lands acquired independent from the NCCP/HCP should be primarily grasslands, and should be managed for the San Joaquin kit fox. (Less Than Significant Impact).”

As the commentor indicates, the DEIR also recognizes the USFWS and CDFG would have additional permitting authority over aspects of the project. Indeed, a Section 7 Agency consultation is currently in process with the USFWS for the Vineyards project specifically for the purpose of discussing permitting requirements.

The timing dilemma posed by the commentor is a dilemma common to many projects in which more than one agency has permitting authority over a project. Here, the City of Brentwood has land use jurisdiction over the project. It has substantial discretion in approving, disapproving, conditioning, and modifying the proposed project. Other agencies also retain discretion in granting or denying permits, and in some cases conditioning the granting of permits. Each of those agencies’ jurisdiction, however, is more limited than the City’s jurisdiction. Thus, for a project such as this, the City is the lead agency under CEQA and the project is presented to the City in the first instance for approval. Subsequently, other agencies consider the approvals within their jurisdictions. If those permitting processes result in changes to the proposed project, then a further analysis is conducted in order to determine whether the change would result in a new or substantially more severe environmental impact than previously disclosed. In some cases, the changes do not result in a new impact and no further CEQA documentation is

LETTER  
15  
RESPONSES

required. Because it is unknown whether or how each agency will approve the project, the present EIR must analyze the project as proposed.

With regard to the timing of project approval, the City is not required to wait until a potential HCP is adopted (or rejected) before granting project approvals. No moratorium has been adopted. By including the comment letter in the Final EIR, the City will have before it the commentator's policy views when it takes action on the project.

- 15-4. As stated in numerous locations throughout the DEIR (including the Project Description beginning at the bottom of p. 2-19), there are no specific site or development plans for the community college. The Cowell Foundation donated 30 acres to the Contra Costa Community College District (CCCCD) for a campus that would serve the far east portion of the County (see DEIR p. 2-6, "Community College Receives a Gift of 30 Acres). Preliminary communications with the CCCC indicate that the campus could be designed to replace or augment the Los Medanos College. Discussions with the Los Medanos College indicated that the college could serve approximately 5,000 students. The only "project action" to be considered at this time is annexation of the site, rezoning and zoning. The EIR therefore analyzes the information that is available at this time regarding potential future development of the college site.

The potential for additional population due to the Community College is discussed in DEIR Section 3.3 (Population and Housing) and in Chapter 7.0, Growth-Inducement. See, for example, following excerpts from Chapter 7.0:

From p. 7-2, re: removing obstacles to population growth: "...Should a community college be ultimately developed on the college site, it would generate a new student population. It is anticipated, however, that the majority of students that would attend the college would be from an already existing local/regional population and not substantially increase the demand for new housing in the City of Brentwood."

The assumption that students would come from the already existing local/regional population is based on the source of students currently attending Los Medanos College. Since the students would largely be coming from the local/regional population, most would not require new housing. If additional housing were necessary for some students, there would be some market rate apartments available at the Vineyards project Village center, should that project be approved.

- 15-5. DEIR p. 3.2-5 describes the Vineyards project impacts on loss of Prime Farmland. As explained in the DEIR, the project site includes 11.5 acres of prime farmland and/or farmland of statewide importance, 7.5 acres of which would be used for a detention basin. The remaining 4 acres would remain undeveloped. As further explained in the DEIR:

“... Therefore, any conversion of designated farmland that would result from the development of the Vineyards project would involve fewer than 10 acres.

Moreover, a major component of the Vineyards project would involve the planting of approximately 60 acres of vineyards and olive groves throughout the public and private open space areas. The Vineyards project would therefore create approximately 60 new acres of farmlands, which would more than offset any conversion of the small amount of farmland resulting from the project.” DEIR, p. 3.2-5.

Based on the fact that less than 10 acres of actual Prime Farmland would be converted to a detention basin and that the project would create approximately 60 acres of productive farmland (a 6:1 ratio), the City concluded that this impact would be less than significant. Therefore, additional mitigation is not required.

- 15-6. See Master Response A regarding the issue of transit.
- 15-7. See Master Response D regarding the status of the State Route 4 Bypass
- 15-8. As the commenter states previously, the State Route 4 Bypass serves as the primary mitigation measure for some of the project’s traffic impacts. Any impacts generated by the construction of the Bypass have been addressed by environmental documents prepared for the Bypass itself. A comprehensive environmental document for the State Route 4 Bypass was certified in 1994. The other mitigations for the project, which include intersection improvements and traffic signal installations, are unlikely to generate significant environmental impacts given their small scale.
- 15-9. As detailed previously, the Vineyards at Marsh Creek will be composed of active adult residents, who generate fewer trips of shorter duration than residents of conventional single-family developments. These residents are not commuters with current commute patterns. With the adjacent convenience commercial and other proposed developments (John Muir Medical Center), many of the daily needs of the residents will be satisfied within the immediate area surrounding the project. Given the travel patterns of active adult residents, as established by survey data, it is unnecessary to revise the EIR to address a wider study area or provide information on likely employment locations. Please see Master Response A for additional information.
- 15-10. The traffic analysis for the DEIR includes mitigations measures that are feasible, such as planned intersection improvements and Segment 3 of the State Route 4 Bypass, which is currently under design. Additionally, the project includes significant facilities related to alternative transportation modes. These facilities include multi-use paths for pedestrians, bikes and golf carts as well as on-street bicycle lanes, and paths for golf carts. Given that the project trip generation estimates are based on previous studies taken at similar communities including the nearby Summerset Community, any potential trip reductions are already factored into the analysis. Additional mitigations are unnecessary since all of the identified impacts are fully mitigation through the recommended mitigations.

- 15-11. The design of the project already includes many of the items commonly included in a “walkable” community identified by the commentor. The project is a mixed-use project, incorporating both commercial and residential uses. In addition to residential uses, the proposed Vineyards project includes a Village Center, which would accommodate neighborhood-serving commercial uses accessible to proposed residential uses. In addition, the project includes an onsite recreation center designed to be used for the active adult residents’ athletics, community meetings, social and recreational group meetings and gatherings, and other community-oriented functions. The proposed project would provide extensive pedestrian, bicycle, and golf cart paths, including multi-use paths throughout the community, linking the residential areas with each other, the Village Center, the recreation center, nearby active adult communities, the Marsh Creek Trail, and the John Marsh Home (see DEIR p.3.4-70, and Exhibit 3.4-26). In addition, Mitigation Measure 3.5-E.1 on page 3.5-34 of the DEIR requires that electric vehicle charging stations be provided in the recreation center and commercial center. While the proposed project has been designed in a manner that would encourage less-polluting modes of travel, the air quality experts who prepared the EIR are aware of no scientifically accepted method for quantifying the resulting emissions reductions. Thus, the EIR concludes that the air quality impact would remain significant and unavoidable.
- 15-12. As indicated in the comment, the DEIR provides mitigation that would require the applicant to construct transit facilities, which is consistent with the policies adopted by the City of Brentwood in its General Plan. Transit service in the City of Brentwood is provided by Tri-Delta Transit, which operates Brentwood *Dimes-a-Ride* and other transit service in the City of Brentwood. Please refer to Master Response A regarding transit. The City of Brentwood’s adopted policies do not require private developers to become transit providers. Transit service in the City of Brentwood is provided by Dimes-a-Ride. As stated on DEIR p. 3.4-10,

“[t]here is currently no regular transit service in the project area. Brentwood *Dimes-a-Ride*, a local shuttle service, operates along Balfour Road to the north of the project. However, this service does not have designated stop locations or a defined schedule in the project area.”

Because the determination of transit routes is made based upon a variety of factors that cannot be determined at this time, the most feasible mitigation is to require the applicant to construct facilities designed to accommodate transit service should such service be provided if the transit agency requires them. Mitigation Measure 3.5-E.1 requires the project applicant to construct transit facilities (e.g., bus turnouts, bus bulbs, benches, shelters). Further requirements in this mitigation measure require the applicant to do the following:

- ❖ At office buildings, provide preferential parking (e.g., near building entrance, sheltered area, etc.) for carpool and vanpool vehicles;
- ❖ Provide secure, weather-protected bicycle parking for employees in the commercial area;

- ❖ Provide electric vehicle charging stations at the recreation center and commercial center;
- ❖ Provide safe, direct access for bicyclists to adjacent bicycle routes;
- ❖ Provide short-term bicycle parking for retail customers and other non-commute trips; and
- ❖ Provide direct, safe, attractive pedestrian access from the project area to transit stops and adjacent development.

Moreover, Mitigation Measure 3.5-E.2 requires the applicant to:

- ❖ Provide bicycle lanes and/or paths, connected to community-wide network;
- ❖ Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.

15-13. The analysis of visual effects of the proposed Vineyards project has been one of the key factors leading to the proposed land use plan and project design. The public was involved in the design of the project through multiple days of public charettes, and attendance and communication with the Brentwood Planning Commission and City Council during public meetings. DEIR p. 2.7 describes “Public Involvement in Vineyards Project Design.” One of the outcomes of the charette process was the public identification of themes that should be developed in the Vineyards project including the following:

- ❖ Protect the ridgelines
- ❖ It’s all about the open space
- ❖ Make the Village Center a neighborhood amenity
- ❖ Enhance Neighborhood lifestyle with synergy between land uses
- ❖ Learn from the best of Brentwood and “do it better,” not different
- ❖ Respect the significance and importance of the John Marsh Home

The DEIR Visual Resources discussion presents how the design of the Vineyards project will protect major ridgelines (e.g., limiting development to lands of 270-foot elevation or lower and maintaining a vertical distance between rooftops and ridgelines to 95 feet; providing distance between on-site and off-site uses (see DEIR, pgs. 3.7-18, -19 and – 20). DEIR pgs. 3.7-20 and p. 3.7-16 discuss how adverse views of a proposed water tank will be mitigated (e.g., landscaping; use of soil nail wall for above ground sides; grading to minimize elevation to below ridgelines). Buffers of between 15-25 feet (and greater in many areas) are provided entirely around the Vineyards project. Six time-elapsd visual simulations of the Vineyards project are presented to illustrate views of the Vineyards project from public locations at initial completion and at 10 years or vegetative growth. Page 2-6 of the DEIR (in the Project

LETTER  
15  
RESPONSES

Description) discusses landscaping to be planted that is thematic to the winery (i.e., grape vines and olive trees):

“The City of Brentwood began a series of community workshops to plan for the future of the 481-acre parcel in April 2003. The proposal that evolved out of those workshops contemplates the development of an active adult community with recreational trails that connect it to the surrounding open space and State Park. A key feature of the Vineyards project is the maintenance of the area’s rich agricultural history. The project includes the establishment of a vineyard and winery. Ribbons of open space would be planted with grape vines and/or olive trees, and woven throughout the project site, to create an integrated agricultural theme.” DEIR p.2-6.

Additional workshops were held with the Planning Commission on October 21, 2003 and January 6, 2004.

Following the description of what the Vineyards project proposes to minimize adverse visual effects, the DEIR then presents additional mitigation measures to further reduce adverse visual effects including, in summary (and in no specific order):

- ❖ Preparation of landscape plans by a licensed landscape architect that “shall pay special attention to screening portions of the development that may be considered visually unappealing and disharmonious from view of the John Marsh Home and surrounding State Park. Any industrial portions of the Village Center and winery shall be screened from offsite residences and roadways. Agricultural staging areas and equipment storage areas shall also be screened from the view of offsite residences, the John Marsh Home, and roadways...”
- ❖ Design review approval by the Brentwood Planning Commission, which “...shall review the proposed project to ensure that it: represents a well-composed urban design that is harmoniously related to adjacent developments; has a high quality exterior design with regard to lighting, building heights, site layout, building materials, color, and landscaping; is of a quality that serves to protect the value of private and public investments in the vicinity; and meets the provisions and criteria established in the Brentwood Municipal Code Chapter 17.820 and the Brentwood Design Guidelines.”
- ❖ Preparation of a lighting plan for Planning Commission approval that “...shall be part of the review and approval by the Brentwood Planning Commission. To minimize potential disturbance that may be caused by outdoor lighting to the maximum extent possible, and to avoid excessive contributions to atmospheric nightsky conditions, outdoor lighting shall include the following standards:

LETTER  
15  
RESPONSES

- Parking lot and exterior building lighting shall be installed to the approval of the Community Development and Police Departments.
- All lighting shall be shielded from abutting properties.
- No lighting shall be of the type or in a location such that it constitutes a hazard to vehicular traffic, either on private property or on abutting streets.
- The spacing and height of the standards and luminars shall be such that a maximum of seven foot candles and a minimum of one foot candle of illumination are obtained on all vehicle access ways and parking areas.
- The height of light standards shall not exceed 20 feet.
- To prevent damage from automobiles, standards shall be mounted on reinforced concrete pedestals or otherwise protected.
- Under canopy lighting elements shall be recessed or concealed in such a manner as not to be directly visible from a public street.
- Lighting shall be installed around the perimeter of the building and be vandal resistant.

Therefore, the DEIR describes the design elements relevant to the assessment of how the project would avoid or minimize adverse effects to visual quality, and requires additional feasible mitigation measures developed to further minimize those effects, including identification of the goals that the City will adhere to in completing its Design Review. The commentator is invited to participate in the design review process and to present information on detailed project designs as they are considered by the City.

- 15-14. The proposed Vineyards project provides open space between the development and the State Park. This is for many purposes including wildland fire protection, as stated on DEIR p. 3.11-20:

“The Vineyards project proposes a buffer between development and the state park of at least between 15 to 25 feet and often more (varies by location). This buffer will be used for drainage, trails, and access by maintenance vehicles. In addition, this area could be used to access the State Park Land for fire fighting. The Homeowners Association would maintain the buffer area annually. In addition, all homes would be equipped with automatic fire suppression sprinklers inside the homes.”

Providing additional buffers to minimize all visual impacts to the Vineyards project is unnecessary to mitigate impacts to a less than significant level given the extensive project design features to do the same (see previous Response to Comment). However, with regard to minimizing visual impacts from the State Park, most of the State Park is located on the western side of the Vineyards project. Please refer to Response to Comment 11-7 for a section view of the Vineyards at Marsh Creek project from the state park and related discussion. Also, with the Draft EIR’s proposed mitigation, light effects from the



proposed project similarly are not expected to be significant. The Draft EIR points out that there is an existing atmospheric effect from lights north of Brentwood in the Cities of Antioch and Pittsburg, and to a lesser extent in the City of Brentwood. With the mitigation measures identified in the Draft EIR, the Vineyards Project would not substantially increase night sky conditions.

The land uses proposed on the west side of the Vineyards project include a 30-acre winery (on 60 acres of land) and executive residential lots which average  $\frac{1}{3}$ -acre in size. These are the least intensive uses proposed with the project and by their very nature, minimize adverse visual impacts from the State Park. Consequently, the commentor's request for "large buffers" is not warranted given the extensive design features included with the project to minimize visual effects and the addition of mitigation measures. Also, please refer to Response to Comment 11-7 regarding visibility of the Vineyards project from the park and Briones Valley.

15-15. Please refer to Response to Comment 2-7.

15-16. An extensive amount of biological research, surveying, mapping and documentation was conducted with regard to the Vineyards project and is summarized in the EIR. As explained in the first pages of Section 3.8, Biological Resources, Sycamore Associates conducted research and surveys from November 2002 through June 2003, with additional special-status plant surveys in September of 2003. All of Sycamore Associates' work was peer-reviewed on behalf on the City of Brentwood by another biology firm, H.T. Harvey & Associates. In preparation of the peer review, H.T. Harvey also conducted reconnaissance surveys of the Vineyards project site. The reports listed below are available at the City of Brentwood, Planning Department, 104 Oak Street, Brentwood, CA, 94513. Though lengthy, it is important to the response to replicate text from DEIR pgs. 3.8-1 and 3.8-2, as follows:

"Vineyards Project

This section describes potential impacts to biological resources on the Vineyards project site, and identifies measures to eliminate or to substantially reduce those impacts. Existing plant communities, wetlands, wildlife habitats, and potential for special-status species and communities are discussed.

The biological resources discussion for the Vineyards project is based on biological surveys conducted by Sycamore Associates biologists on the proposed project site from November 2002 through June 2003. The biological resources report was subsequently peer-reviewed by H.T. Harvey & Associates on behalf of the City of Brentwood for use in this EIR. H.T. Harvey & Associates' peer-review included overview surveys of the project site to verify site conditions and site conditions described in the Sycamore Associates reports. Impacts and mitigation measures were written by H.T. Harvey & Associates. In addition to biological surveys conducted by Sycamore Associates, the following existing information was reviewed:

- ❖ Section 404 Jurisdictional Delineation (Zentner and Zentner 2002)
- ❖ Jurisdictional Delineation Map (Zentner and Zentner 2003)
- ❖ Tree Survey, Assessment, and Protection Recommendations (Levison 2003)
- ❖ Focused Botanical Surveys for the Vineyards at Marsh Creek Project Site (Sycamore 2003g)
- ❖ Biological Assessment for the Vineyards at Marsh Creek Project (Sycamore 2003a)
- ❖ Vernal Pool Crustacean Wet Season Survey (Entomological Consulting Services, Ltd. 1998)
- ❖ Vernal Pool Crustacean Habitat Assessment Update (Entomological Consulting Services, Ltd. 2003)
- ❖ California Tiger Salamander Focused Survey for the Vineyards at Marsh Creek Project (Sycamore 2003e)
- ❖ Site Assessment for the California Red-legged Frog, Vineyards at Marsh Creek Project (Sycamore 2003h)
- ❖ California Red-legged Frog Focused Survey for the Vineyards at Marsh Creek Project (Sycamore 2003d)
- ❖ Burrowing Owl Habitat Assessment and Winter Focused Survey for the Vineyards at Marsh Creek Project (Sycamore 2003b)
- ❖ Burrowing Owl Nesting Season Focused Survey for the Vineyards at Marsh Creek Project (Sycamore 2003c)
- ❖ Early Evaluation for the San Joaquin Kit Fox, Vineyards at Marsh Creek Project (Sycamore 2003f)
- ❖ City of Brentwood General Plan Update EIR (EIP *et al.* 2001)

Sycamore Associates also conducted additional surveys for special status plant species in September of 2003. No new (previously unidentified) special-status plant species or additional acreage of previously identified special status plant species were found during those surveys.”

The comment does not identify which special status species have not been surveyed. However, as indicted above (and in the DEIR), surveys have been conducted for the following special status wildlife species: vernal pool crustaceans; California tiger salamander; California red-legged frog; burrowing owl; and San Joaquin kit fox. Moreover, the Biological Assessment describes the potential for nesting special status passerines, special status bats, White-tailed kites, golden eagles and other special status raptors (see also DEIR pgs. 3.8-19 and -20 and Table 3.8-3, “birds” and “mammals”).

LETTER  
15  
RESPONSES

The presence and status of many of these species on site is noted in the Biological Assessment and other studies conducted for special-status species.

Focused botanical surveys have also been conducted for the Vineyards at Marsh Creek project. Moreover, wetlands surveys have been conducted, including jurisdictional maps. A tree survey was conducted.

These extensive surveys were used, along with additional research, as the basis to determine potential impacts of the Vineyards project, their severity, and were used as the basis for development of mitigation measures presented in the DEIR.

The biological resources section of the EIR provides a comprehensive description of the types of wildlife and flora conditions that exist, or have the potential to exist, on and near the site today. The acreage proposed for development in the Vineyards project (approximately 481 acres) and types of facilities and utilities necessary to support the community proposed for development require that development occur over a period of time. While mass site grading is proposed to allow for balancing of soils on the site, subsequent development will occur over multiple years following. Consequently, pre-construction surveys are essential to provide the most up-to-date information regarding a presence or absence of biological resources prior to additional development activity at specific locations.

Therefore, an initial step in many of the mitigation measures is the conduct of “pre-construction surveys.” In some cases, pre-construction surveys are called for in the mitigation IF construction is planned to occur during nesting season for birds, or within proximity to Marsh Creek. In other cases, pre-construction surveys are called for species, which have the potential to occur, but were not found on the site during surveys conducted for the Vineyards project. These surveys are used to understand whether or not species are located in precise locations prior to further grading or construction activities are to occur (e.g., for Burrowing owl, for California red-legged frog).

However, there are no instances in which pre-construction surveys alone are considered mitigation. Instead, the pre-construction surveys are to be used as a tool to determine which of the next steps – also identified in the mitigation measure – would be required to minimize or avoid significant impacts.

In conclusion, extensive research and surveys were conducted regarding the types, number, range, and use of habitat by special status species. Moreover, this information was used to develop feasible mitigation measures that are appropriate to be applied both immediately, and over time in conjunction with the proposed development.

15-17. Two reports were prepared specifically addressed to California red-legged frogs:

- ❖ Site Assessment for the California Red-legged Frog, Vineyards at Marsh Creek Project (Sycamore 2003h)
- ❖ California Red-legged Frog Focused Survey for the Vineyards at Marsh Creek Project (Sycamore 2003d)

LETTER  
15  
RESPONSES

These reports are available in their entirety at the City of Brentwood Planning Department, 104 Oak Street, Brentwood, CA 94513. DEIR on p. 3.8-18 states that surveys were conducted in accordance with U.S. Fish & Wildlife protocols. These reports describe when surveys were conducted.

- 15-18. See responses prepared for the CDFG Letter (Letter 2). Given the specific features of the site, the biologists who conducted the work have indicated that mitigation is adequate to reduce impacts to a less than significant level.
- 15-19. The project applicant is working with the California Department of Fish and Game to identify suitable off-site mitigation sites for Burrowing owl and other species for which off-site mitigation would be required. Any off-site lands used for mitigation of biological resources would be secured based on a number of factors such as: land that is available for such purposes; negotiations between those land owners and the project applicant(s); acceptability of the land by permitting agencies for mitigation purposes; land costs and other negotiated factors. Given the complexity of these factors, the off-site mitigation lands may or may not be able to be provided at a local site near the projects. Much of the selection of any off-site mitigation sites will relate to what land/sites are available. The comment regarding a preference for off-site mitigation sites to be in close proximity to the Vineyards at Marsh Creek project site to preserve the diversity within the local population is acknowledged. However, the burrowing owl species is the same. No genetic subspecies has been identified in the State of California. Therefore, the preservation of a local population is not necessary.
- 15-20. Impact 3.8-I (DEIR p. 3.8-40) describes the potential loss of Swainson's hawk foraging habitat. However, as described in the DEIR, similar Swainson's hawk foraging habitat is abundantly available in the vicinity, including the 3,700-acre state park located immediately adjacent to the Vineyards project site. Loss of foraging habitat has, therefore, been identified in the DEIR as a less than significant impact.
- However, as described in the DEIR, the potential loss of a Swainson's hawk nesting trees would be considered a significant impact. Mitigation 3.8-I would minimize this potential impact to a less than significant level. In summary, the mitigation measure provides that (1) protocol level pre-construction surveys be conducted **and**, if a nest is found, that (2) the nesting tree may be removed only during non-nesting season **or** (3) that an adequate buffer be provided around the nest such that disturbance would be avoided. Consequently, the DEIR identifies that one and perhaps two Swainson's hawk nests were seen on the Vineyards at Marsh Creek site in proximity to Marsh Creek and that mitigation is designed to avoid or minimize significant and adverse effects of development of the Vineyards project. Because the Vineyards project will be built over time, it is somewhat less important to survey for, and identify, all of the current Swainson's hawk nesting trees now, than it is to design mitigation that would be applied into the future, when a potentially significant impact would result.
- 15-21. Cumulative impacts to biological resources from proposed and planned development in the City of Brentwood and the Brentwood vicinity were analyzed in the General Plan Update EIR, and the City of Brentwood remains committed to the mitigation measures

LETTER  
15  
RESPONSES

identified in that EIR. In addition, the analysis of each project-specific impact in the Vineyards Project and Annexation Sites DEIR is based upon the regional context, including anticipated future development. [Have the biologists provide examples of how the determination whether an impact was significant depended upon the cumulative loss of that particular habitat.] [Provide some additional context and specific information about the Sand Creek Specific Plan and other development in the Brentwood vicinity.]

- 15-22. DEIR Chapter 6.0 (Alternatives) is intended to describe a range of reasonable alternatives to the project "...which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any [not all] of the significant effects of the project, and evaluate the comparative merits of the alternatives (italics added to complete the CEQA text not acknowledged in the comment). In addition to the No Project alternative (mandated for discussion by CEQA § 15126.6 (e) *et seq.* of CEQA, the DEIR presents four alternatives to the proposed project that are designed to avoid or minimize significant effects of the proposed project.

The environmental topic for which the proposed project would result in the greatest number of significant or potentially significant impacts is biological resources. Following not too far behind in number of significant or potentially significant impacts are traffic and the related subjects of air quality and noise. Therefore, Alternative 4 was designed as a project alternative to develop the proposed project on only 40% of the land in an attempt to avoid significant impacts to biological resources. Alternative 5 was designed as an alternative to reduce the "Near-term Project" by 80% to avoid or reduce Near-term significant traffic, and related air quality and noise impacts.

Each alternative provides an evaluation and discussion for each environmental subject that has been evaluated for the proposed project. The conclusions portion of each alternative summarizes which of the significant project impacts are reduced by that alternative.

The information contained in each Alternative is "even-handed" in its analysis because it discusses, in a comparative fashion to the proposed project, the ability of the Alternative to avoid or reduce significant project impacts.

The first alternative to be found "Environmentally Superior" to the proposed project is the "No Project" alternative under which the entire project site would remain in an undeveloped state. However, as required under CEQA § 15126.6 (e) (2), when the No Project is identified as the Environmentally Superior alternative, another among the other alternatives must also be selected as the Environmentally Superior Alternative. Therefore, based on the evaluation of all factors presented in the DEIR, the proposed project is identified as the Environmentally Superior project – subsequent to designating the "No Project" as the Environmentally Superior alternative.

The reasons for selecting the Proposed project are described in the DEIR beginning p. 6-48. In summary, the proposed project was selected because, among other reasons, it: (1) avoids or mitigates for all significant impacts except for operational regional criteria

LETTER  
15  
RESPONSES

pollutant emissions (air quality) impacts and cumulative air quality impacts. (see also the Erratum for a correction to DEIR p. 6-48) which none of the other alternatives avoid; (2) the proposed project would meet all of the Project Objectives, unlike other alternatives; (3) the proposed project meets City of Brentwood General Plan and SPA J policies for a mixed-use community near to the State Route 4 Bypass; (4) the project provides for mixed density/types of housing, also sought by the Brentwood General Plan and (5) in proximity to State Route 4 to help alleviate regional housing shortages. Therefore, the DEIR identifies the proposed project based on an objective evaluation of the facts surrounding the proposed project.

- 15-23. While it appears that ample developable property is available in the City of Brentwood for the Vineyards at Marsh Creek project, the available land within the City is smaller than the proposed project site. No sites exist in the City of Brentwood that are of sufficient size to accommodate the Vineyards project.

One of the key considerations for the development of the proposed Vineyards project at the particular project site is the historic evolution of a potential development site at this unique location. As discussed in the Project History (Section 2.2, beginning DEIR p. 2-1), the Vineyards project site is a particular "opportunity site." The property was originally acquired in 1924 by Samuel Henry Cowell (S.H. Cowell). Before he died in 1955, Cowell created a trust to "to ensure that his family's charitable works lived on" (DEIR, p. 2-3). Throughout the following decades, the S.H. Cowell Foundation provided a number of gifts and grants for charitable purposes. "By the 1980s, the Cowell Foundation had donated, or sold at below-market-value, some of the trust's 82,000 acres for permanent open space"... including the John Marsh House. In the 1980's, the S.H. Cowell Foundation trustees began to explore the possibility of developing Cowell Ranch in an effort to raise additional funds for grant-making." Recently, through a long and politically-charged series of events, approximately 3,700 acres of land was set aside for what has become a new State Park, located to the south and west of the Vineyards at Marsh Creek project site.

One of the important political decisions being made during the late 1990's early 2,000's was to be made by the Contra Costa County Board of Supervisors ("Board"). The Board was contemplating expanding their Urban Limit Line (ULL) which would place more land "outside" the ULL and unavailable for urban development.

As stated in the Project History (DEIR, Section 2.2):

"In an August 1, 2000 resolution, the [Contra Costa County] Board [of Supervisors] declared its intent to choose among the ULL alternatives 'based upon the potential sale of the Cowell Foundation property to a land trust for permanent open space purposes, excepting that portion of the property to be conveyed to a private land developer.'" In the event that the Board was "not satisfied that such a sale had been contracted," the Board said it would adopt the most restrictive ULL boundary studied. If, however, the Cowell Foundation reached an open space agreement, it

would consider “placing approximately 448 (+/-) acres of the ranch site inside the Urban Limit Line.” (Contra Costa County Res. No. 2000/366).

On September 8, 2000, the Cowell Foundation reached an agreement with the Trust for Public Land. The Foundation agreed to a below market-value sale of approximately 3,942 acres... After verifying the open space agreement was in place, the Board of Supervisors unanimously voted on September 26, 2000, to exclude all of Cowell Ranch from the ULL, with the exception of 448 acres, which was to be retained inside the Urban Limit Line and conveyed to a private developer (Contra Costa County Res. No. 2000/451).

In July 2002, the Cowell Foundation entered into an agreement to sell the final 481-acre portion of Cowell Ranch to Blackhawk-Nunn. The sale includes the 448 acres that the Board of Supervisors specifically retained inside the Urban Limit Line, plus 33 additional acres outside of the ULL, which may be used for purposes such as a water tank and detention basin.”

The City of Brentwood also planned the site for urban development during the life of the General Plan. According to Table 4 of the General Plan Update (adopted in November 2001), the estimated yield for land uses in SPA J included the following:

- 46 acres of commercial office
- 76 acres of business park
- 84 acres of public
- 3,008 acres of open space/roads
- 1,750 s.f. of dwelling units
- 3,476 multi family dwelling units

Because the Proposed project site already has been planned for urban development through an extensive public process, and because the site offers amenities for unique site features (e.g., the site for the winery and amphitheater), an analysis of an offsite alternative would not address the key decisions currently before the City—how implement the planning decisions that have been made to develop this site for urban uses. Moreover, another 481-acre site is not available in the City of Brentwood that is adjacent to the planned extension of a major highway (State Route 4 Bypass). An alternative site in the City of Brentwood would not be relevant to the project under evaluation.

- 15-24. The Project Description for the Annexation Sites (i.e., John Marsh Home and potential Contra Costa Community College District [CCCCD] site) includes the details that are available at this time for potential future changes to these sites. The Project Description provides maps and a description of the locations and acreages of these sites. It provides a reasonable description of the potential future modifications (John Marsh Home) or uses (CCCCD) for the sites. That is why the Project Description explains that the environmental evaluation for the Annexation Sites is at a “programmatic” level of detail. DEIR p. 2-11 states:

LETTER  
15  
RESPONSES

“...This EIR also includes an evaluation of the annexation of two sites (“Annexation Sites”) into the City of Brentwood, their rezoning, and proposed General Plan Amendments. However, there are no specific development or improvement plans for these two properties. There are also many uncertainties regarding the timing and funding of development of these annexation projects and, therefore, the EIR provides only a conceptual (i.e., ‘programmatic’) level of evaluation of these properties.”

As is stated in many locations in the DEIR, the John Marsh Home exists. The site is proposed for annexation into the City of Brentwood and rezoning. The City will also consider a General Plan Amendment *from* Business Park *to* Parks on the John Marsh Home State Park site. State funding is currently not available to renovate the Home, but renovation is the wish of the State of California for the Home. Therefore, the only known actions to be approved under this EIR are annexation of the site into the City of Brentwood, rezoning, and City of Brentwood approval of a General Plan amendment. Contemplated changes for the John Marsh Home site are restoration of the Home, the addition of surface parking (for public park use) and development of an interpretative center inside the Home (see DEIR p. 2-19).

For the CCCCDC site, no site plans or development plans have been prepared for future development of a community college. Preliminary discussions between the City of Brentwood and the CCCCDC indicate that the CCCCDC would like to develop a community college to serve approximately 5,000 students (see Response to Comment 8-8 and 8-9 wherein the CCCCDC indicates that 5,000 students may “overstate” the number of full-time equivalent students that may be served at a potential future community college at this site). Therefore, again the DEIR explains that it has limited information about future environmental changes at the CCCCDC site – because very little is known about a potential community college. Known actions for which this EIR is to be used with regard to the CCCCDC site are: annexation of the site into the City of Brentwood and rezoning, and amendment to the Brentwood General Plan *from* Business Park *to* Schools, community college. The City will also consider adoption of the following text for the land use category to allow potential future development of a college: adding “CC community college” specifically to the School General Plan Categories, in Table 3 of the [Brentwood] General Plan.

It should be noted that the Local Agency Formation Commission (LAFCO) indicated that, as a Responsible Agency, they will be required to evaluate a number of issues in accordance with the Cortese-Knox-Hertzberg Act (CKHA) for annexation of the sites (see Comment Letter 12). This analysis may differ in the level of detail for CKHA (vs. CEQA) purposes. However, LAFCO concluded that the Vineyards at Marsh Creek and Annexation Sites DEIR adequately addresses their issues of concern on the Annexation Sites for CEQA purposes.

CEQA does not require that a public agency delay land use and planning decisions until detailed information is known about potential future construction and operation. In fact, such a process is the antithesis of planning. If no planning and jurisdictional boundary decisions could be made until a concrete proposal for development was presented to the



LETTER  
15  
RESPONSES

decision-making body, land use decisions necessarily would be based upon a project-by-project incremental basis rather than based upon comprehensive plans designed to achieve the community's overall goals. Instead, CEQA requires that an agency evaluate environmental impacts by considering the information that is known, and by making reasonable forecasts. As agencies continue to plan and consider approvals relating to future development of the Annexation Sites, any more detailed information will be evaluated at that time to determine the extent to which future CEQA compliance is required.

- 15-25. Please see the responses set forth above, which respond to each of the specific comments summarized in this comment.. The comment letter will be included in the Final EIR and the commentor's views will be before the City decision-makers when considering whether to certify the EIR and whether to approve the proposed projects.

LETTER  
16

01/05/2004 08:45 5106444428

NATURAL HERITAGE

PAGE 02



Natural  
Heritage  
Institute

2140 SHATTUCK AVE., 5th FLOOR  
BERKELEY CA 94704  
TEL.: (510) 644-2900 / FAX: (510) 641-4428  
WWW.N-H.ORG  
EMAIL: nh@n-h.org

Non-Profit Law and Science for Global Resource Solutions

January 5, 2004

City of Brentwood, Community Development Department  
708 Third St.  
Brentwood, CA 94513  
Attention: Mitch Oshinsky, Director  
Fax: 925-516-5467

Re: Public Comments on Vineyards at Marsh Creek Draft EIR

Dear Mr. Oshinsky:

In section 3.8, the Draft EIR discusses Special Status Fish. Specifically, it states:

*Nevertheless, due to the current lack of suitable habitat, the presence of the drop-structure, and lack of documented occurrences, special-status fish species are not expected to occur in the portion of Marsh Creek adjacent to the project area.*

I would like to better represent the current efforts to address passage of fall-run Chinook salmon on Marsh Creek. Ideally, these comments will inform revisions to this section in the Final EIR.

The Natural Heritage Institute has been working closely with the City of Brentwood, the Contra Costa County Flood Control and Water Conservation District, the Department of Water Resources Fish Passage Improvement Program, the California Coastal Conservancy, the Delta Science Center, American Rivers, the U.S. Geological Survey, the Natural Resource Conservation District, and others to plan, design, and fund modification and removal of the barrier by the City of Brentwood WWTP. The group has spent the past 18 months working intently and forging a consensus on how to proceed. As of January 4, 2004 the group has three outstanding proposals to fund the project and several more will be submitted this winter. If all goes as expected, it is likely that salmon will return to the portion of Marsh Creek adjacent to the Vineyards at Marsh Creek project area by fall of 2005.

The portion of Marsh Creek adjacent to the project area is critical to our efforts. Rapid bio-assessments performed in that reach confirm that the area is suitable spawning habitat for fall-run Chinook salmon. The Draft EIR recognizes and states this fact. Any modifications in or near the creek must make every attempt to preserve or improve the habitat quality of that reach. Two creek crossings are planned in this area: Fairview Avenue and Hwy 4 bypass (the latter is outside of the scope of this project). These crossings must span and not culvert the creek and must maintain passage for fall-run Chinook salmon otherwise our downstream passage efforts are futile. Additionally, I would recommend that any mitigation funds for stream crossings be re-directed to either this reach of Marsh Creek or to the City's fish passage project downstream.

Thank you for your consideration and I would be glad to answer any questions you may have. I look forward to coordinating efforts with the Vineyards at Marsh Creek project.

*RPW*  
Sincerely,

Rich Walzing  
Environmental Planner, Natural Heritage Institute  
510.644.2900 x109, rpw@n-h.org

16-1

16-2

JAN-05-2004 08:49

5106444428

98%

P.02

Natural Heritage Institute  
January 5, 2004

LETTER  
16  
RESPONSES

- 16-1. The City of Brentwood is a stakeholder and has been cooperating with a number of agencies in efforts to develop a preferred plan for the modification (e.g., removal) of the barrier in Marsh Creek near the City of Brentwood wastewater treatment plant. The site for removal of the barrier is approximately five miles downstream of the Vineyards at Marsh Creek project site. Once a preferred plan is finalized, the City understands that an environmental review, conducted in accordance with CEQA, will need to be conducted. Just as with any environmental review conducted in accordance with CEQA, the environmental document must be approved (i.e., certification of an EIR or adoption of a Negative Declaration) before any construction project can be approved.

The City of Brentwood understands that the California Department of Fish and Game (CDFG) was the primary funding source for the barrier modification project. Recent state funding constraints have temporarily put this project on hold, or at least severely limited the ability to move forward at this time. Consequently, the fall of 2005 appears to be unlikely for the return of salmon in Marsh Creek.

Nonetheless, the Fairview Avenue extension is currently being designed to span Marsh Creek. There are no other proposed Vineyards at Marsh Creek project components that would impede the return of salmon to Marsh Creek.

- 16-2. The planned extension of Fairview Avenue over Marsh Creek is proposed to span the creek, and there is no plan to culvert the creek in connection with this bridge. The EIR recognizes that the direct impacts associated with the bridge would be limited to the permanent and/or temporary removal of riparian vegetation. The City concurs with the commentor's suggestion that mitigation for effect on the riparian area occur, to the extent feasible, within the area adjacent to Marsh Creek on or near the project site. The City also will consider the commentor's suggestion that mitigation funds, if any, be applied to the City's fish passage project.

LETTER  
17

save MOUNT DIABLO

RECEIVED  
JAN 09 2004  
CITY OF BRENTWOOD  
COMMUNITY DEVELOPMENT DEPT.  
Copy RB  
File

*Board of Directors:*  
Malcolm Sprout  
*President*  
Arthur Bonwet  
Allan Priger  
*Vice Presidents*  
Amara Morrison, J.D.  
*Secretary*  
John Mercurio  
*Treasurer*  
Ruth Baseler  
Mary L. Bowerman, Ph.D.  
Donald de Fremery, Ph.D.  
Stephen Joseph  
Douglas Krauer  
Robert Marx  
Steven Mchlinan, J.D.  
Robert Nunn  
David Sargent  
David Trotter

*Staff*  
Ronald Brown  
*Executive Director*  
Scott Adams  
*Director of Land Programs*  
Suzanne Bitz  
*Office Manager*

*SMD Mailing Address*  
1190 Boulevard Way #10  
Walnut Creek, CA 94595

*Telephone:*  
(925) 947-3333  
*Fax:*  
(925) 947-3603  
*Website:*  
www.savemountdiablo.org

Mitch Oshinsky, Director  
City of Brentwood  
708 Third Street  
Brentwood, CA 94513

Via FAX 925 516-5407

Re: dEIR "Vineyards at Marsh Creek", SCH #2003062019

January 9, 2004

Mr. Oshinsky,

Save Mount Diablo is a Contra Costa based conservation organization founded in 1971 and including 7000 supporters. Many of our members live in Brentwood and within East County. We are a pragmatic organization with goals including the expansion of public open space and the preservation of scenic vistas, wildlife habitat, and public recreational opportunities. We acquire land and work within the land use planning process, working with all segments of the community in pursuit of public benefit.

Thanks for the opportunity to comment on the dEIR for the Vineyards at Marsh Creek project. Please place Save Mount Diablo on the notification and agenda lists for hearings and documents related to the project.

Although Save Mount Diablo's primary focus is the expansion of Mt. Diablo State Park, we also work to expand and buffer nearby city and regional parks within Diablo's foothills including Cowell Ranch State Park, Black Diamond Mines and Round Valley Regional Preserves. Save Mount Diablo has identified the creation of a Round Valley to Black Diamond Mines scenic, wildlife and recreational corridor as one of our most important goals. Substantial land mitigation as a condition of proposed development projects will be important in the creation of this corridor.

Just as importantly, projects adjacent to public parks and open space must be sensitively designed in order to protect and buffer resources, and ideally to enhance them.

Save Mount Diablo supported the County's Urban Limit Line (ULL) adjustment in 2000, which created this parcel and provided for the public acquisition of the

17-1

17-2

LETTER  
17

Jan 09 04 04:55P Ron Brown 925-947-3603 P. 6

neighboring Cowell Ranch State Park, and we are not opposed to sensitive development of the site, the community college or of annexation to the city. Preservation of Cowell Ranch State Park, however, is independent of and does not serve as mitigation for either of those proposals. Environmental impacts should be fully mitigated—notably on visibility from within the State Park, endangered species habitat and on the adjacent John Marsh House.

**3.7 Visuals**  
Cowell Ranch State Park is an almost 4000-acre State Park. It has the potential for providing isolation and solitude to park visitors. While the impacts on visual character from the John Marsh home are important, impacts on Cowell Ranch State Park at other points are equally important—from Briones Valley and other lowlands throughout the park. The applicants appear amenable to ridgeline protection; the site includes a variety of knolls and swales with complicated view corridors into the park.

—more extensive topographic maps and models should be included in the EIR, and the ridgeline between the park and the project should be defined in order to show whether houses below one ridgeline daylight another, or intrude into the park. Additional visual simulations should be included in the EIR in order to understand the impacts on this grassland State Park. Any houses which would daylight above ridgelines and intrude on the visual character of the isolated parts of the park should be pulled downhill and out of sight.

-- Project design elements of both the Vineyards project and of the college should be planned to embrace and enhance the architectural elements of the Marsh House while buffering and enhancing Marsh Creek. Design of the Village Center is key in that commercial areas are proposed in close proximity to the House and the Creek.

**3.8 Biological Resources**  
Preservation of Cowell Ranch State Park is independent of and does not serve as mitigation for the projects considered in the dEIR. While SMD does not oppose development, biological resources should be fully mitigated.

As you know, the two projects are adjacent to Marsh Creek and in close proximity to the Marsh Creek reservoir; Marsh creek is confirmed for a variety of listed animal species, notably the California red-legged frog. We are aware of proposed impacts on rare plants, vernal pools, California tiger salamander breeding areas, Marsh creek and California red-legged frog and Western pond turtle habitat, burrowing owls, San Joaquin kit fox habitat, and alkali meadows.

17-2

17-3

17-4

17-5

17-6

LETTER  
17

Jan 09 04 04:56p Ron Brown

925-947-3603

P.03

- a current map showing public open space and preserved land should be included in the EIR, in order to demonstrate the potential for wildlife movement.

17-7

- Any off-site open space and biological mitigation efforts, including land acquisition, should be local and preferably near the project site. We support open space preservation onsite to mitigate for endangered species impacts but recognize that off site mitigation is more likely in this case. Off-site mitigation should be directed at preserving wildlife corridors between Black Diamond Mines, Cowell Ranch State Park and Round Valley.

17-8

- The number and confluence of biological impacts suggests that preservation of a significant property with high resource values should be undertaken.

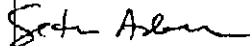
17-9

- Save Mount Diablo requests that a significant buffer be preserved along Marsh Creek.

17-10

I can be reached at the address above and at (925) 947-3535.

Sincerely,



Seth Adams  
Director of Land Programs

JAN-09-2004 17:00

925 947 3603

95%

P.03

Save Mount Diablo  
January 9, 2004

LETTER  
17  
RESPONSES

- 17-1. This portion of the comment letter introduces the Save Mount Diablo organization and requests that notification and agendas be sent to the organization for future hearings and CEQA documents related to the project. The City of Brentwood has added Save Mount Diablo to the list for future notifications.
- 17-2. The proposed Vineyards project would not hinder the creation of a wildlife and recreational corridor between Round Valley and Black Diamond Mines. The new approximately 3,900-acre Cowell Ranch State Park located west of the Vineyards project and the Annexation Sites is located east and northeast of Round Valley between Round Valley and either the Vineyards project or Annexation Sites. Black Diamond Mines is situated some four miles northwest of the State Park at the nearest point, and approximately 5-½ miles northwest of the Vineyards project at the nearest point (refer to Exhibit R-11.1). Depending upon availability, price, habitat value, and other factors, land located within the corridor between Round Valley and Black Diamond Mines potentially could serve as mitigation for project impacts.

Consistent with the commentor's statement, the EIR does not rely upon the State Park as mitigation for impacts from the Vineyards project or the Annexation Sites. The EIR identifies mitigation measures for all significant or potentially significant impacts for either project evaluated in the DEIR. Those mitigation measures can be accomplished without reliance upon the acquisition, preservation or enhancement of land located within the state park property. For example, please refer to Section 3.7 of the DEIR for evaluation of visual impacts and related mitigation measures and Section 3.8 for biological resources and related mitigation measures. Also, please see Exhibit 3.7-5 (Visual Simulations from John Marsh House Looking Northwest) and related text beginning on DEIR page 3.7-7 for an analysis of visibility of the project from the John Marsh Home. Also refer to text on DEIR pgs. 3.7-11 and -15, as well as Mitigation Measures 3.7-A.1 and 3.7-B.2.

While the EIR does not rely upon the former Cowell Ranch properties for offsite mitigation, the former Cowell Ranch property remains relevant in several regards. For example, the events that led to delineation of the Urban Limit Line and the below-market sale of the remainder of the Cowell Ranch property to the Trust for Public Lands, and then to the State for park purposes (see also Master Response C) are relevant to the analysis of the project's consistency with plans and policies, the City of Brentwood's land use planning objectives, and the City's policy decisions in choosing between various options for avoiding or mitigating project impacts. The City can consider those facts when it makes land use policy choices within its discretion. The project's proximity to the large undeveloped state park area also is relevant to assessing the significance of environmental effects, including determining the degree to which wildlife travel corridors would be affected by project development. In addition, the acquisition of the former Cowell Ranch land by the state affects the EIR's analysis of cumulative effects.

It also bears noting that were the State's park planning process farther along, the former Cowell Ranch property may have provided opportunities for mitigation through the restoration or enhancement of existing habitat within the parkland and creation of habitat

such as breeding ponds and other wetlands. However, at this point, the City has been informed that the State Department of Parks and Recreation cannot commit to a mitigation program until the park planning process has been completed.

- 17-3. Please refer to Response to Comment 11-7.
- 17-4. A design does not yet exist for the potential community college, and no visual impacts to visitors to the John Marsh Home are expected to occur from construction of the college. Construction of the college also is expected to avoid the Marsh Creek riparian corridor. That is because access to the community college is anticipated to be primarily from Marsh Creek Road, which is parallel to the creek. An extension of Fairview Avenue is also planned through the Vineyards at Marsh Creek project and could provide access to the community college site in the future. Current plans for the extension of Fairview Avenue include a new crossing that would span over Marsh Creek. As stated on DEIR p. 3.7-11, the Vineyards project is proposed with design elements to complement, but not replicate, the architecture of the John Marsh Home.

“The commercial center of the [Vineyards project] development is planned in a manner reminiscent of historic village centers that were common throughout California. The project has been designed with substantial public input, including the desire to have the winery and commercial areas of the project compliment the John Marsh Home without replicating its architecture (refer to § 2.3). The project would be subject to the City’s Design Review process where implementation of the project’s design objectives will be verified.”

In addition, the Vineyards project has been designed to provide a buffer along Marsh Creek. Generally, development would be set back at least 100 feet from the dripline of the riparian corridor and would provide a buffer from Marsh Creek. The EIR recognizes that an existing irrigation canal already is located within this buffer area, a relatively small amount of project development could occur within this area, and the trail alignment previously established by the City of Brentwood is located within the buffer area. DEIR p. 3.8-50 provides mitigation to reduce impacts of encroachment into the riparian setback. This mitigation will reduce any effects on the riparian corridor to a less than significant level.

The commentator is invited to attend any of the City of Brentwood Planning Commission hearings to provide public testimony during the Design Review of the Vineyards project to further assist in accomplishing the mutual objectives of ensuring compatibility with the John Marsh Home and of planning development in a manner sensitive to Marsh Creek.

- 17-5. As stated in Response No. 2, earlier in this Response to Comment, the City of Brentwood has not relied upon the State Park as mitigation for either the Vineyards project or Annexation Sites. Mitigation measures are provided to reduce or avoid all significant or potentially significant biological resources impacts of the Vineyards project and the Annexation Sites.



- 17-6. Section 3.8 of the DEIR describes the significant and potentially significant biological resources impacts of the Vineyards project and the Annexation Sites. Please see discussion under the following for discussion of the Vineyards project impacts to resources identified in the comment.
- Impact 3.8-E: California red-legged frog
  - Impact 3.8-B and 3.8-C: rare plants
  - Impact 3.8-A: vernal pools
  - Impact 3.8-D: California tiger salamander
  - Impact 3.8-F: Western pond turtle
  - Impact 3.8-H: burrowing owls
  - Impact 3.8-L and 3.8-M: San Joaquin kit fox
  - Impact 3.8-O: alkali meadows
- 17-7. DEIR Exhibits 3.13-1 (Regional Park Facilities), 3.13-2 (Local Parks and Trails) and Exhibit 3.8-3 (Regional Open Space) illustrate public open space in the vicinity of the Vineyards project and the Annexation Sites. However, Exhibit B-1 has also been added to Master Response B, which indicates public open space and preserved land in the area of the Vineyards project and Annexation Sites.
- 17-8. The comment indicates a preference for off-site lands used for mitigation of biological resources are local and near the project site. Any off-site lands used for mitigation of biological resources would be secured based on a number of factors such as: land that is available for such purposes; negotiations between those land owners and the project applicant(s); acceptability of the land by permitting agencies for mitigation purposes; land costs and other negotiated factors. Given the complexity of these factors, it is not possible to predict the exact location of the off-site mitigation lands at this time.
- However, the areas between the state parkland, Round Valley and Black Diamond Regional Mines will be considered and could potentially provide sites for offsite mitigation.
- 17-9. See Response to Comment 17-8 (herein) regarding how land would be secured for off-site mitigation of biological resources.
- 17-10. Please see the Response to Comment 17-4, above, regarding the buffer area along Marsh Creek. With the mitigation identified in the DEIR, the project is not expected to significantly affect Marsh Creek, or its riparian corridor.

### 3.0 ERRATUM FOR THE DEIR

This Section contains changes and modifications to the Vineyards at Marsh Creek and Annexation Sites Draft EIR (DEIR), November 2003, (SCH# 2003062019). The changes made are the result of responses to comments and editorial clarifications made by the City of Brentwood. The changes are presented in the order in which they appear in the DEIR, and are identified by the page number(s) and paragraph order in the DEIR. Changes may include modifications to the DEIR text, exhibits or tables.

A revised Executive Summary Table and Mitigation Monitoring and Reporting Program are also included in this erratum

Text deletions are shown in strike out (~~strike-out~~) and additions are shown in bold (**bold underline**).

#### **I. TEXT CHANGES TO THE DEIR BASED ON RESPONSES TO COMMENTS**

The changes made to the DEIR text in response to comments is provided below. Exhibits that have been added to the DEIR or revised in response to comments follow the text changes and are found at the end of Section I, herein.

1. In Response to Comment 6-2, Exhibit 2-2 has been modified (shown at the end of Section I).
2. In Response to various Comments raised in Letter 10 (Contra Costa County Flood Control and Water Conservation District), new Exhibits were added to DEIR Section 3.10 (Hydrology, Drainage, and Water Quality), as shown on following pages. These exhibits provide further clarification of comments raised in Letter No. 10, but do not change DEIR conclusions.
3. In Response to Comments 10-3, 10-5, 10-14 and 10-16, one “collective” change is hereby made to Mitigation Measure 10-16 on DEIR pages 3.10-6 and S-67 as follows:

**Recommended Mitigation 3.10-A. Changes in Drainage Patterns/Stormwater - Vineyards Project:** The Vineyards project includes a stormwater management plan that would avoid significant drainage impacts; therefore, no mitigation is required. However, to minimize further the potential for a significant impact to occur, the following measure is recommended:

**Prior to the approval of grading permits from the City of Brentwood or the CCCFC&WCD (for creek areas outside of City jurisdiction) flood control permits, and/or drainage permits, the project proponent shall submit to the CCCFCWCD the following materials for review and approval:**

- ❖ **A final hydrology study showing post-project peaks of downstream hydrographs and the contribution of the project to meeting CCCDFWD’s goal of reducing peak discharge in Marsh Creek at San Creek to no more than 2300 cfs. This final hydrology study will explicitly consider the final land use plan and detention basin configuration;**

*etc.*

