

RESOLUTION NO. 46-2019

**CERTIFYING A FINAL REVISED ENVIRONMENTAL IMPACT REPORT,
ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING
CONSIDERATIONS, MITIGATION MEASURES AND A MITIGATION
MONITORING AND REPORTING PROGRAM, AND APPROVING
MAJOR SUBDIVISION REQUEST, FINAL DEVELOPMENT
PLAN REQUEST AND TREE REMOVAL REQUEST
(MAGEE PRESERVE - DAVIDON HOMES)**

WHEREAS, DAVIDON HOMES (Applicant) and MAGEE INVESTMENT COMPANY & TEARDROP PARTNERS, L.P (Owners) have requested approval of a Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-0028, on a 410 +/- acre site; and

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

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

WHEREAS, collectively, these approvals would: 1) rezone the property from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to P-1; Planned Unit Development District; 2) approve the subdivision of the 410 +/- acre site to create 69 single family residential lots and associated parcels; 3) authorize a minimum of 10% of the lots created to include an Accessory dwelling unit ("casita"); 4) provide for architectural design and landscape details for the development, and; 5) authorize the removal of 15 Town-protected trees (a total of 67 on and off-site trees would be removed as part of the project); and

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

WHEREAS, the Town's Subdivision Ordinance requires approval of a tentative map prior to the recordation of the final map; and

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

WHEREAS, the development applications would authorize a “project” under the California Environmental Quality Act (CEQA) and the Town of Danville determined that preparation of a Revised Environmental Impact Report (REIR) for the project would be required; and

WHEREAS, a substantially similar development application and a Final Environmental Impact Report were approved by the Danville Town Council in July, 2013; and

WHEREAS, a lawsuit was filed to challenge the project approvals, alleging that the project’s 2013 Final EIR inadequately addressed impacts to traffic, bicycle safety, pedestrian safety, California red-legged frog, emergency access, safe evacuation, flooding, erosion, and siltation. The lawsuit further alleged that the EIR failed to adequately respond to public comments, failed to consider project alternatives that would have eliminated traffic impacts, and should have been recirculated for public comment. Finally, the lawsuit alleged that the project was inconsistent with the Town’s General Plan and with other land use restrictions; and

WHEREAS, the Court of Appeal rejected all allegations except the claim that the EIR did not adequately address impacts to bicycle safety. As to bicycle safety, further CEQA analysis was required before the Town considers approval of the proposed project; and

WHEREAS, on April 19, 2016, the Town Council adopted Resolution No. 39-2016 setting aside and rescinding certification of the EIR and project approval; and

WHEREAS, in February 2017, Davidon Homes became the project applicant; and

WHEREAS, the Town of Danville prepared and circulated a Notice of Preparation (NOP) on August 31, 2017 for a 30-day review period ending on October 2, 2017, soliciting guidance from the public and interested agencies on the scope and content of the EIR; and

WHEREAS, the NOP was sent to the California State Clearinghouse under Clearinghouse Number 2010112042; and

WHEREAS, the Town of Danville subsequently completed a Draft Revised EIR in accordance with CEQA; and

WHEREAS, on August 31, 2018, the Draft Revised EIR was released by the Town of Danville to the public and interested agencies for a 45-day public review period; and

WHEREAS, the public review period ended on October 15, 2018; and

WHEREAS, public comment on the Draft Revised EIR was received by the Planning Commission at the September 25, 2018 hearing; and

WHEREAS, the Town of Danville prepared a Final Revised EIR and released it to the public and interested agencies on May 16, 2019; and

WHEREAS, on May 28, 2019, the Planning Commission held a public hearing on the Final Revised EIR and Project; and

WHEREAS, a staff report was submitted recommending that the Danville Planning Commission recommend the Town Council certify the Final Revised EIR, approve a Statement of Overriding Considerations, adopt mitigation measures and a Mitigation Monitoring and Reporting Program and approve the development applications; and

WHEREAS, at that meeting, the Planning Commission approved Resolution No. 2019-05 recommending the Town Council certify the Final Revised EIR, approve a Statement of Overriding Considerations, adopt mitigation measures and a Mitigation Monitoring and Reporting Program, and approve the development applications; and

WHEREAS, on July 2, 2019, the Town Council held a public hearing on the Final Revised EIR and Project; and

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

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

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

WHEREAS, the Town Council finds that the Final Revised EIR reflects the Town's independent judgment and analysis; and

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

WHEREAS, prior to taking action, the Town Council declares that it has heard and been presented with, reviewed, and considered all of the information and data in the

administrative record, including the Final Revised EIR and other documentation relating to the Project; and

WHEREAS, the Planning Commission also recommended approval of a Statement of Overriding Considerations which evaluates the benefits of the Project against its significant and potentially unavoidable traffic congestion impacts; and

WHEREAS, the required CEQA Findings and Statement of Overriding Considerations are attached to this Resolution as Exhibit 1 and the required Mitigation Monitoring and Reporting Program is attached this Resolution as Exhibit 2; now, therefore, be it

RESOLVED that the Danville Town Council makes the following findings:

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

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

Section 3. The Town Council concurs with the CEQA Findings and Statement of Overriding Considerations in Exhibit 1 to this Resolution and incorporated herein by this reference and finds, that if an environmental impact remains significant and unavoidable, the benefits of the Project outweigh any potential significant and unavoidable environmental impact. The Town Council also herein incorporates the project's Mitigation Monitoring and Reporting Program attached as Exhibit 2 to this Resolution. The Town Council also concurs that there are no additional feasible alternatives or mitigation measures within its powers that would substantially lessen or avoid any significant and unavoidable impacts that may result from the Project.

Section 4. The Town Council certified the Final Revised EIR,

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

And, be it further

RESOLVED, that the Danville Town Council approve Preliminary Development Plan – Rezoning request (LEG10-0004), Major Subdivision request (SD9291 & DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request (TR10-0028) per the conditions contained herein, and makes the following findings in support of these actions:

FINDINGS

PRELIMINARY DEVELOPMENT PLAN - REZONING

1. The rezoning of the site to P-1; Planned Unit Development District is consistent with the Town of Danville 2030 General Plan. The General Plan contains policies that encourage clustering of development on flatter portions of properties to preserve open space and natural features. 2030 General Plan Policies 1.07, 2.05, and 21.02 contain such provisions, with Policies 1.07 and 21.02 specifically identifying PUD or P-1 zoning as implementation measures. In addition, Municipal Code Section 32-63.1b provides that the P-1; Planned Unit Development District is intended to be used for properties identified as Special Concern Areas in the General Plan: the subject property is identified as a special concern area.

2. The project site is identified as a Special Concern Area in the General Plan. The text for the Special Concern Area of the Magee Ranch property (on pages 3-49 and 3-50 of the 2030 General Plan) includes the following relevant direction:
 - The Plan describes Diablo Road in this area as retaining “the character of a country road. The Town strongly supports retention of this character and protection of the views and vistas from the road.”
 - “[P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged.”
 - “As on the other large undeveloped hillside sites in Danville, protection of scenic slopes and ridgelines is imperative. Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre ‘ranchette’ sites similar to those in the Tassajara Lane/Sherburne Hills area is strongly discouraged. Such development would require grading and road construction that could substantially diminish the visual qualities of the area. Transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open space. This would also provide opportunities to establish park and trail connections and to preserve wildlife corridors between this area and the Sycamore Valley Open Space.

P-1 zoning is the only zoning designation that permits this clustering of potential development, without creation of 5-acre “ranchettes,” which the Special Concern Area language specifically discourages on the property. With clustering, the new residences would not be visible to motorists on Diablo Road. Approximately 381 acres of the project site would be set aside as permanent open space and two miles of trails would be dedicated to create connections to the Sycamore Valley Open Space.

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

FINAL DEVELOPMENT PLAN - MAJOR SUBDIVISION

1. The proposed subdivision is in substantial conformance with the goals and policies of the 2010 General Plan, including the requirements of Measure S. The Town's 2030 General Plan recognizes the site as an important site that merits specific direction for its development. As such, the site is designated as one of 11 Special Concern Areas within the General Plan. The Special Concern Area language includes the following provisions, which are addressed through the proposed project:
 - The Plan describes Diablo Road in this area as retaining "the character of a country road. The Town strongly supports retention of this character and protection of the views and vistas from the road." The project residences would be clustered at the lowest, flattest areas of the project site, where they would not be visible to motorists on Diablo Road.
 - The Plan provides that "[P]roposals which transfer the allowable number of homes to the least sensitive and obtrusive parts of the site are encouraged." The clustering of homes would comply with this directive.
 - The Plan provides that "As on the other large undeveloped hillside sites in Danville, protection of scenic slopes and ridgelines is imperative. Despite the A-2 (General Agricultural) zoning on much of the site, subdivision of this Special Concern Area into five-acre "ranchette" sites similar to those in the Tassajara Lane/Sherburne Hills area is strongly discouraged. Such development would require grading and road construction that could substantially diminish the visual qualities of the area. Transferring allowable densities to a limited number of areas within the ranch would enable the bulk of the site to be set aside as permanent open space. This would also provide opportunities to establish park and trail connections

and to preserve wildlife corridors between this area and the Sycamore Valley Open Space.” The project, through the use of P-1 zoning to cluster the permitted development, would avoid creation of “ranchette” sites, would limit grading and road construction and substantially preserve the visual quality of the area. The clustering of the project would also permanently preserve 381 acres, or approximately 93% of the site as open space, which would include trail connections to the Sycamore Valley Open Space, provision of easements necessary to create a bicycle/pedestrian trail parallel to Diablo Road, and preservation of wildlife corridors through the site.

2. The design of the proposed subdivision is in conformance with the P-1; Planned Unit Development District since the subject P-1; Planned Unit Development District is customized to the subject Development Plan. The P-1; Planned Unit Development District is an appropriate zoning designation for infill projects and lands designated as Special Concern Areas in the General Plan. Additional detailed findings regarding P-1 zoning consistency can be found under Preliminary Development Plan – Rezoning above.
3. The design of the subdivision and the type of associated improvements will not likely cause serious public health problems, because water and sanitary facilities services will be available to the new parcels.
4. The site of the subdivision is physically suitable for the proposed density of development. The proposed development of 69 lots on the 410 +/- acre site falls within the allowable maximum density range of up to 78 units, consistent with the site’s Danville 2030 General Plan land use designations of Residential – Single Family – Low Density, Rural Residential, Agricultural and General Open Space.

With respect to density on the portions of the site designated as “Agricultural” in the 2030 General Plan, the General Plan provides the following:

“Because properties with this designation are bound by Williamson Act contract to remain in agricultural uses, a density range is not applicable. In the event that Williamson Act contracts are not renewed, continued agricultural use is encouraged and the underlying zoning density (one unit per 20 acres or one unit per five acres) would apply upon the contract expiration.”

The portions of the site designated as Agricultural are no longer bound by Williamson Act contract. In such situations, the Town’s practice (and that of Contra Costa County, prior to the Town's incorporation in 1982) was to zone lands to A-4 (20 acre minimum) upon execution of a Williamson Act contract,

regardless of the size or prior zoning of the property. The purpose of this A-4 zoning designation is to show that the property is under a Williamson Act contract. For example, the Town rezoned the "Borel" property (APN 218-090-031) from P-1 to A-4 upon execution of a Williamson Act contract, despite the entire parcel being only 17 acres. Under the A-4 zoning designation one home per 20 acres is allowed.

Upon expiration of a Williamson Act contract, the General Plan dictates that the Town apply the "underlying" zoning, which has been the zoning in effect prior to entering into the contract. This reflects the intent to place the property in the position it held prior to entering into the contract, neither increasing nor decreasing the property's development potential. This practice was previously applied by the Town with respect to Assessors Parcels 202-100-017, -018, and -019 on the subject property. In February 1986, the Town approved a Williamson Act contract for these parcels and at the same time adopted an ordinance rezoning them from A-2 to A-4. In March 1988, after discovery that the contract had never been properly executed, the property owner requested, and the Town approved, an ordinance rezoning the property back to the prior designation of A-2.

The property owner in this case did not apply to rezone the property after the Williamson Act contract expired. However, in determining potential density for purposes of this application, the Town used the underlying zoning of A-2 (with the corresponding maximum development density of one unit per five acres) as provided for in the General Plan and consistent with prior applications, including the Elworthy Ranch project approved by the Town in 2008 under the approval granted for Preliminary Development Plan - Rezoning request PUD 2005-02.

5. The design of the proposed subdivision and improvements are not likely to cause substantial environmental damage or subsequently injure fish or wildlife or their habitat. The Revised Environmental Impact Report prepared for the project found that, with implementation of recommended mitigation measures, the project would have no significant negative impacts on the wildlife on site, including California Red Legged Frogs, wetlands, trees and plant life.
6. The design of the proposed subdivision and proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. There are currently no existing public easements for access through or use of the subdivision. Through project conditions of approval, the subdivision will offer new easements for public access.

7. The project will not cause on-site flooding or add to existing downstream flooding as detailed in the Hydraulic Report prepared for the project by ENGEO, Inc. and as concurred with by the Contra Costa County Flood Control and Water Conservation District.

TREE REMOVAL PERMIT

The project as proposed would preserve 272 trees out of the 321 surveyed trees and many other trees located throughout the site, and remove 49 trees. Of the 49 trees to be removed, seven are designated as protected trees under the Town's Tree Preservation Ordinance. In addition, to construct roadway improvements at and near the intersection of Diablo Road/Green Valley Road/McCauley Road, the project would remove 18 trees, including eight protected trees.

The findings below address only the 15 trees designated as protected under the Town's Tree Preservation Ordinance. The EIR for the project analyzes the potential environmental impacts of removing all trees, whether or not they are designated as protected.

1. Necessity. The primary reason for removal of the 67 trees, including 15 Town-protected trees, is that preservation of those trees would be inconsistent with the proposed residential development of the property, including the creation of a new roadway to access the main project area, including a new creek crossing, to be located east of Jillian Way, and the widening of the Diablo Road/Green Valley Road/McCauley Road intersection to the south to improve the function of that intersection.
2. Erosion/surface water flow. Removal of the 15 Town-protected trees and 67 total trees would not cause significant soil erosion or cause a significant diversion or increase in the flow of surface water.
3. Visual effects. With respect to other trees in the area, the project site contains a significant number of additional trees, including Town-protected Oak trees that would not be removed for the project. In addition, the project proponent will be required to replace all Town-protected trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's Tree Preservation Ordinance. Tree replacement will be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project proponent will also be required to replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1.

Removal of the 67 trees, including 15 Town-protected trees, would not significantly affect off-site shade or adversely affect privacy between properties due to the site's topography, the other trees that would remain, and the locations of the trees in relation to other properties.

CONDITIONS OF APPROVAL

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

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

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

A. GENERAL

1. This approval is for Preliminary Development Plan - Rezoning request (LEG10-0004), Major Subdivision request (DEV10-0071), Final Development Plan request (DEV10-0072), and Tree Removal request TR10-0028 which would collectively serve to: 1) rezone the property from A-4; Agricultural Preserve District, A-2; General Agricultural District, and P-1; Planned Unit Development District to P-1; Planned Unit Development District; 2) approve the subdivision of the 410 +/- acre site to create 69 single family residential lots and associated parcels; 3) authorize 10% of the lots created to include an accessory dwelling unit ("casita"); 4) provide for architectural design and landscape details for the development, and; 5) authorize the removal of 15 Town-protected trees (a total of 67 trees would be removed as part of the project); and

Development shall be substantially as shown on the project drawings as follows, except as may be modified by conditions contained herein;

- a. Planned Unit Development Site Summary Sheet labeled "Subdivision 9291 - Magee Preserve," as prepared by Ruggeri-Jensen-Azar, consisting of one sheet, dated July 24, 2017.
- b. Vesting Tentative Map labeled "Subdivision 9291 - Magee Preserve," including Site Plans, Grading Plans, Utility Plans, and

Storm Water Treatment Plans, as prepared by Ruggeri-Jensen-Azar, consisting of 13 sheets, dated January 22, 2019.

- c. Architectural Plans labeled "Magee Preserve," consisting of floor plans, elevations, roof plans, and details as prepared by Dahlin Group Architecture and Planning consisting of 39 sheets and dated January 16, 2018.
- d. Conceptual Landscape Site Plan labeled "Magee Preserve," as prepared by Ripley Landscape Architecture Land Planning, consisting of six sheets, dated November 6, 2017.
- e. Environmental Impact Report dated November, 2013, as prepared by Denise Duffy and Associates, Draft Revised Environmental Impact Report as prepared by Denise Duffy & Associates dated August, 2018, and Final Revised Environmental Impact Report as prepared by Denise Duffy & Associates dated May 2019.
- f. Preliminary Stormwater Management Plan as prepared by Ruggeri-Jensen-Azar, dated April 19, 2013.

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

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

- a. Map Check Fee (71 parcels)\$ 7,130.00
- b. Improvement Plan Check Fee3% of cost estimate
- c. Engineering Inspection Fee5% of cost estimate
- d. Grading Plan Check, Permit & InspectionTBD
- e. Base Map Revision Fee (71 parcels).....\$ 6,674.00
- f. Excavation Mitigation Fee (Green Valley) ...\$ 87,950.00

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

- a. Child Care Facilities Fee..... \$ 335/lot
- b. Storm Water Pollution Program Fee \$ 56/lot
- c. Finish Grading Inspection Fee \$ 84/lot

- d. SCC Regional Fee \$ 1,404/lot
 - e. Residential TIP Fee \$ 2,000/lot
 - f. Tri-Valley Transportation Fee \$4,457.63/lot
3. Prior to the recordation of the final map, the applicant shall reimburse the Town for notifying surrounding residents of the public hearing. The fee shall be \$4,985.00 (\$105 + 1,176 notices X \$0.83 per notice X 5 mailings).
4. Prior to any grading or other construction activities, the applicant shall develop a construction mitigation plan in close coordination with the Town of Danville staff to assure that construction activities are scheduled to minimize noise disturbance. The following conditions shall be incorporated into the building contractor specifications:
- a. Muffle and maintain all equipment used on site. All internal combustion engine driven equipment shall be fitted with mufflers, which are in good condition. Good mufflers shall result in non-impact tools generating a maximum noise level of 80 dB when measured at a distance of 50 feet.
 - b. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - c. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
 - d. Prohibit unnecessary idling of internal combustion engines.
 - e. Prohibit audible construction workers’ radios on adjoining properties.
 - f. Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.
 - g. Do not allow machinery to be cleaned or serviced past 6:00 p.m. or prior to 7:00 a.m. Monday through Friday.
 - h. Limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site

for any purpose to Monday through Friday between 7:00 a.m. and 6:00 p.m.

- i. Do not allow any outdoor construction or construction-related activities at the project site on weekends and holidays. Indoor construction activities may be allowed based on review/approval of the Town.
 - j. Allowable construction hours shall be posted clearly on a sign at each construction site.
 - k. Designate a Disturbance Coordinator for each of the clustered development sites for the duration of the Phase 1 (site work) and for each home site during the Phase 2 (home building) construction. Because each home would be constructed individually and would have its own building permit, a Disturbance Coordinator should be designated during the construction of each home. The requirement for a Disturbance Coordinator for each home site should be incorporated in the CCRs of the development, such that responsibility of the Property Owners' Association and/or home builder to designate this Disturbance Coordinator for each lot for the duration of construction until full site buildout. The Disturbance Coordinator shall conduct the following: receive and act on complaints about construction disturbances during infrastructure installation, landslide repair, road building, residential construction, and other construction activities; determine the cause(s) and implement remedial measures as necessary to alleviate significant problems; clearly post his/her name and phone number(s) on a sign at each clustered development and home building site; and, notify area residents of construction activities, schedules, and impacts.
- * 5. Prior to the issuance of grading or building permits, the applicant shall submit written documentation that all requirements of the San Ramon Valley Fire Protection District and the San Ramon Valley Unified School District have been, or will be, met to the satisfaction of these respective agencies.
- * 6. The applicant shall submit to the Town of Danville fees required to file a Notice of Determination for this project as required by AB 3185. The fee shall be \$3,271.00. In addition, the applicant shall pay a \$50.00 administrative fee. Both checks shall be made payable to the Contra Costa

County Clerk and shall be submitted to the Town within five days of project approval.

7. *If during the course of project construction, archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional archaeologist can evaluate it. Work shall not recommence until the project archaeologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.*
8. *Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction, no further excavation or disturbance shall be conducted on the site or any nearby area reasonably suspected to overlie adjacent remains. The Contra Costa County Coroner shall be notified and make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-enter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.*
9. *If during the course of project construction, paleontological resources are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional paleontologist can evaluate it. Work shall not recommence until the project paleontologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.*
- * 10. Prior to any construction work on the site, including grading, the applicant shall install a minimum 3'x3' sign at the project entry which specifies the allowable construction work days and hours, and lists the name and contact person for the overall project manager and all contractors and sub-contractors working on the job.
- * 11. The applicant shall provide security fencing as determined necessary and, to the satisfaction of the City Engineer and/or the Chief Building Official, around the construction site during construction of the project.

- * 12. If the applicant intends to construct the project in phases, then the first submittal for building permits shall be accompanied by an overall phasing plan. This plan shall address: off-site improvements to be installed in conjunction with each phase; erosion control for undeveloped portions of the site; timing of delivery of emergency vehicle access connections; and phasing of project grading. No structure shall be occupied until construction activity in the adjoining area is complete and the area is safe, accessible, provided with all reasonably expected services and amenities, and appropriately separated from remaining additional construction activity. The phasing plan shall be subject to the review and approval of the City Engineer and Chief of Planning.

- * 13. The applicant shall submit a written Compliance Report, signed by the applicant, detailing how the conditions of approval for this project have been complied with as part of the initial submittal for the final map, plan check, and/or building permit review process (whichever occurs first). This report shall list each condition of approval followed by a description of what the applicant has provided as evidence of compliance with that condition. The report is subject to review and approval by the City Engineer and/or Chief of Planning and/or Chief Building Official, and may be rejected by the Town if it is not comprehensive with respect to the applicable conditions of approval.

- * 14. Planning Division sign-off is required prior to final Building Inspection sign-off.

- 15. Although the project would not exceed the BAAQMD significance thresholds, the project shall be subject to the following BAAQMD Best Management Practices:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud and dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
 - e. All roads, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. A publicly visible sign shall be posted with the telephone number of the person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
 - g. All off-road construction equipment shall have at least Tier 2 engines with Level 3 verified retrofits for diesel emissions.
16. *The applicant shall pay a school impact fee pursuant to the criteria set forth within California Government Code Section 65995. Prior to the issuance of building permits, the applicant shall pay required school mitigation fees, subject to the review and approval of the Town of Danville and San Ramon Valley Unified School District. The fees set forth in Government Code Section 65996 constitute the exclusive means of both "considering" and "mitigating" school facilities impacts of projects [Government Code Section 65996(a)]. They are "deemed to provide full and complete school facilities mitigation" [Government Code Section 65996(b)].*
17. Prior to the issuance of grading permits, the applicant shall retain a specialist to assess rodent control impacts anticipated to be associated with grading activity and installation of subdivision improvements. As deemed necessary, following the Planning Division's review of the specialist's assessment, the applicant shall develop and implement a rodent control plan to reduce impacts to surrounding properties to the extent reasonably possible for the time periods of heavy construction activity. The report shall include a schedule for regular rodent inspections and mitigation in conjunction with the developer and the Town based on the development schedule for the project. This report shall be subject to review and approval by the Planning Division.
18. The applicant shall be responsible for washing the exterior of abutting residences, and cleaning pools, patios, etc. at the completion of mass grading activities. The residences to receive cleaning, the extent of the cleaning efforts to be performed and the timing (and frequency) of such cleaning shall be subject to review and approval by the Planning Division.

- 19. *In order to minimize potential human health hazards associated with the historical use of hazardous materials on portions of the project site, the project proponent shall retain a trained professional to prepare a Site Management Plan to maintain the safety of construction workers and assure proper management of any contaminated soils on the site in accordance with federal, state and local regulatory requirements. This plan shall be subject to review and approval by Contra Costa County Health Services, and evidence of approval provided to the Town of Danville, prior to the issuance of any grading permit, demonstrating that all necessary remedial actions have been completed pursuant to the approved Site Management Plan. At a minimum, the Site Management Plan shall include 1) the collection and chemical analysis of soil samples from the former UST location and 2) excavation and soils characterization to confirm that sufficient soils removal has occurred for OCPs and elevated 4, 4-DDE at location SB-3, and 3) proper removal and disposal of all hazardous materials on the site, including contaminated soils, chemical containers observed in the storage shed, and herbicides spray bottles at an approved disposal facility.*

B. SITE PLANNING

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

| | |
|--------------------------------|-------------|
| Primary Frontyard Setbacks: | 20' Minimum |
| Secondary Front Yard Setbacks: | 15' Minimum |
| Rearyard Setbacks: | 20' Minimum |

| | |
|-----------------------------|-------------|
| Sideyard Setbacks: | 5' Minimum |
| Aggregate Sideyard Setback: | 15' Minimum |

All other development standards, allowed uses and conditional uses shall be as listed under the Town's R-10; Single Family Residential District Ordinance.

5. As part of the subject P-1; Planned Unit Development District, the remaining approximately 381 acre undeveloped portion of the site shall be preserved as permanent open space, and shall be designated as such on the final map for the project. In addition, the applicant shall dedicate to the Town of Danville a Scenic Easement covering the undeveloped portions of the project site. The scenic easement shall preclude any future development on the portions of the project site not approved for development as part of this project. The public trail easement area to be located along Diablo Road shall be excluded from the scenic easement.

6. In conformance with the *Townwide Trails Master Plan* dated January 1989 and the Town's adopted *Parks, Recreation, and Arts Strategic Plan* dated July, 2017, the applicant shall dedicate a public trail easement to the Town covering the trail from the main entry at Blackhawk Road near Jillian Way, south along Street "A", west along the north side of Street "B" (south side of Green Valley Creek), then northwest over the proposed emergency vehicle access (EVA) roadway, and finally west over the existing agricultural/fire trail along the south side of Diablo Road. The easement shall terminate at the point west of the Diablo Road and Alameda Diablo intersection. The easement shall be a floating easement covering the entirety of the affected parcels, as determined appropriate by the Town. Excess easement areas will be relinquished by the Town after completion of the trail.

7. The applicant shall construct a public trail from Blackhawk Road near Street "A" to a point where the EVA connects to Diablo Road, as part of the subdivision improvements. The trail design standard shall be that of a "Paved Trail" as described in the *Townwide Trails Master Plan* dated January 1989 and the Town's adopted *Parks, Recreation, and Arts Strategic Plan* dated July, 2017. The trail shall be separate and distinct from any internal sidewalks within the subdivision. Signage, trash/recycling receptacles, doggy-bag dispensers, entry gates, and benches shall be provided as required by the Town according to current design standards. Maintenance of the trail improvements shall be provided by the project Homeowner's Association and/or the GHAD. The Town will have the

responsibility for the future construction of the extension of the public trail from the EVA west along the south side of Diablo Road, as part of a future Capital Improvement Project. The exact design/alignment of the trail and construction timing will be determined by the Town at a future date.

8. The applicant shall dedicate a pedestrian access easement to the East Bay Regional Park District (EBRPD) which links Diablo Road with Sycamore Valley to the south. The easement shall be a minimum width of 25' wide and shall generally follow the existing fire trails as shown on plans referenced under condition of approval A.1.a. above. The exact alignment of the trail shall be subject to review and approval by the Town and the EBRPD prior to recordation of the final map.
9. The existing Green Valley Creek culverts along the developments frontage with Diablo Road require the following improvement measures to assure a properly functioning drainage course:
 - a. At Clydesdale Drive there exists a double 10'-wide by 6'-high reinforced concrete box culvert. The applicant shall remove the ranch-constructed cattle gate (corrugated sheet metal) that currently obstructs flows through one of the two adjacent culverts.
 - b. At Alameda Diablo there exists a 12'-diameter corrugated steel structural plate culvert. The applicant shall pay \$100,000 toward the future repair of this facility.
 - c. At the creek crossing located approximately 150 yards west of Avenida Nueva there exists a 12'-wide by 10'-high reinforced concrete box culvert. The applicant shall remove the ranch-constructed cattle gate (corrugated sheet metal) that currently obstructs flows.

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

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

C. LANDSCAPING

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

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

D. ARCHITECTURE

- 1. Final architectural elevations, details and revisions shall be submitted for review and approval by the Design Review Board prior to issuance of building permits for the project. Six full size sets of construction drawings for the project shall be submitted to the Planning Division for design review concurrent or prior to, the applicant initiating the Building Division plan check process.
- 2. All ducts, meters, air conditioning and/or any other mechanical equipment whether on the structure or on the ground shall be effectively screened from view with landscaping or materials architecturally compatible with the main structures.
- * 3. The street numbers for each building in the project shall be posted so as to be easily seen from the street at all times, day and night by emergency service personnel. If the street numbers are under four inches in height, they shall be illuminated consistent with the Uniform Building Code.
- * 4. Samples of final materials and the proposed color palette shall be submitted for review and approval by the Design Review Board prior to the issuance of building permits for the project.

5. If project entry signage for the development is desired, a Sign Review permit shall be submitted to the Town for consideration under a separate application.
- * 6. The location, design and number of gang mailbox structures serving the project shall be subject to review and approval by the Design Review Board and the local Postmaster.
7. The development of Lots 1, 67, 68, and 69 of this subdivision shall be limited to single story homes only.

E. BIOLOGICAL

1. *The project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:*
 - a. *Prior to the start of construction, the project proponent shall retain a qualified biologist to train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.*
 - b. *Prior to the start of construction, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that CRLF are absent from the construction area. If CRLF are present, a qualified biologist possessing all necessary permits shall relocate them or they shall be allowed to move out of the construction area on their own.*
 - c. *Immediately following the pre-construction surveys and a determination that CRLF are not present in the construction zone, the construction zone shall be cleared and silt fencing erected and maintained around construction zones to prevent CRLF from moving into these areas.*
 - d. *The project proponent shall retain a qualified biological monitor to be present onsite during times of construction within the riparian habitat of East Branch Green Valley Creek to ensure no CRLF are harmed, injured, or killed during project buildout.*
2. *The project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:*

- a. *The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be lowered to restore the natural flow of this portion of the creek.*
 - b. *The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.*
 - c. *The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.*
 - d. *The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be planted with native species appropriate for the corridor.*
3. *The project would impact approximately 0.5 acres of jurisdictional waters that are of a degraded quality and marginal value for the CRLF. The project shall replace the lost functions and value of this impact to aquatic habitats at a minimum of 1:1 replacement-to-loss acreage ratio. The final mitigation amounts will be based on actual impacts to be determined during the design phase. Habitat replacement via creation of and/or enhancements to existing waters shall occur onsite. Onsite lands proposed to be preserved as open space are within the same watershed as the offsite detention basin known to support breeding CRLF and are expected to fully accommodate creation of and/or enhancements to aquatic habitats that would be of substantially higher value to CRLF than the impacted waters. Compensation for impacts to jurisdictional waters to benefit the CRLF will include all of the aforementioned components discussed under "Compensation: riparian restoration," along with improving the wetland character of the onsite stock pond and enhancing the associated riparian habitat between the stock pond and the detention basin. (Refer also to mitigation measures 4.4-13 and 4.4-14 below for impacts to jurisdictional waters.)*
4. *The project proposes to preserve approximately 381 acres of the project site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The project proposes to create a geologic hazard abatement district (GHAD) to provide suitable funding for management and long-term maintenance of the site. Upland*

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

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

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

feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as described above.

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

12. *The project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 381 acres of the site proposed as open space. Prior to issuance of a grading permit, the project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:*
 - a. *Define the location of all restoration/creation activities;*
 - b. *Provide evidence of a suitable water budget to support any created wetland and riparian habitats;*
 - c. *Identify the species, amount, and location of plants to be installed;*
 - d. *Identify the time of year for planting and method for supplemental watering during the establishment period;*

- e. Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success;*
 - f. Identify adaptive management procedures that include (but are not limited to) measures to address colonization by invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;*
 - g. Define management and maintenance activities (weeding of invasives, providing for supplemental water, repairing of water delivery systems) of the proposed GHAD; and*
 - h. Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.*
- 13. The project proponent shall comply with all state and federal regulations related to construction work that will impact aquatic habitats occurring on the site. Prior to construction, the project proponent shall obtain a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and/or Section 1600 Streambed Alteration Agreement from the CDFG, and submit proof of such documentation to the Town of Danville.*
- 14. Prior to issuance of a grading permit, a tree preservation plan shall be prepared for all trees to be retained that identifies all protection and mitigation measures to be taken and includes the tree preservation guidelines by HortScience in their tree report(s). These measures shall remain in place for the duration of construction activities at the project site.*
- 15. Upon completion of construction, the project proponent shall replace all ordinance-size trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's tree ordinance. Tree removal shall be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project proponent shall replace all non-ordinance-size trees (i.e., trees less than 10 inches in diameter for single-trunk trees or less than 20 inches in diameter for multi-trunk trees) at a replacement-to-removal ratio of 1:1. To the maximum extent practicable, all native trees that are removed shall be replaced with like species. All non-native trees that are removed shall be replaced with species that are known to occur naturally within similar habitats in the region.*

16. *Prior to construction, the project proponent must retain a qualified arborist to develop a monitoring plan for replacement trees (outside the riparian habitat) and submit it to the Town of Danville during the permit process. The basic components of the monitoring plan shall include final success criteria, specific performance criteria, monitoring methods, data analysis, monitoring schedule, contingency/remedial measures, and reporting requirements.*
17. *For tree removal necessitated by the improvements to the Diablo Road/Green Valley Road intersection, the project shall implement Conditions of Approval 14-16 above, as applicable.*

F. GRADING

- * 1. Any grading on adjacent properties will require prior written approval of those property owners affected.
- * 2. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site, to the homeowner associations of nearby residential projects and to the Town of Danville Development Services Department, a notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to initiate corrective action in their area of responsibility. The names of individuals responsible for dust, noise and litter control shall be expressly identified in the notice.
- * 3. Development shall be completed in compliance with a detailed soils report and the construction grading plans prepared for this project. The engineering recommendations outlined in the project specific soils report shall be incorporated into the design of this project. The report shall include specific recommendations for foundation design of the proposed buildings and shall be subject to review and approval by the Town's Engineering and Planning Divisions.
- * 4. Where soils or geologic conditions encountered in grading operations are different from that anticipated in the soil report, a revised soils report shall be submitted for review and approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from settlement and seismic activity.

5. *In order to avoid water quality impacts, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods. The SWPPP shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Stormwater permit (No. CAS612008). The project proponent shall obtain a NPDES General Construction Permit and prepare the SWPPP in accordance with all legal requirements, prior to the issuance of a grading permit. Additional requirements for erosion control are detailed in mitigation measure 4.6-1 in 4.6 Geotechnical and Geologic Hazards.*
- * 6. All new development shall be consistent with modern design for resistance to seismic forces. All new development shall be in accordance with the Uniform Building Code and Town of Danville Ordinances.
- * 7. All cut and fill areas shall be appropriately designed to minimize the effects of ground shaking and settlement.
- * 8. Stockpiles of debris, soil, sand or other materials that can be blown by the wind shall be covered.
- * 9. If toxic or contaminated soil is encountered during construction, all construction activity in that area shall cease until the appropriate action is determined and implemented. The concentrations, extent of the contamination and mitigation shall be determined by the Contra Costa County Health Department. Suitable disposal and/or treatment of any contaminated soil shall meet all federal, state and local regulations. If deemed appropriate by the Health Department, the applicant shall make provisions for immediate containment of the materials.
10. Runoff from any contaminated soil shall not be allowed to enter any drainage facility, inlet or creek.
11. In order to minimize potential impacts from landslides, final project design plans shall incorporate the recommendations in the preliminary geotechnical report, which includes the following corrective measures:
 - a. Landslide avoidance;
 - b. Construction of catchment areas between landslides and proposed improvements;
 - c. Partial landslide debris removal and buttressing with engineered fill; and

- d. Complete landslide debris removal and replacement as engineered fill.

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

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

Detailed 40-scale corrective grading plans for the entire project will be prepared when project grading plans have been finalized. Final plans showing the identified recommendations shall be submitted to the Town of Danville for review and approval prior to issuance of a building permit.

12. In order to minimize potential impacts from expansive soils, final project design shall incorporate the recommendations in the preliminary geotechnical report (see Appendix E of the Draft EIR) that include special measures for mitigating adverse impacts from expansive soils, as follows:
- a. Conditioning the expansive soils to higher moisture content during site preparation and grading.
 - b. Supporting the houses on structural slab foundations designed to withstand potential movements of expansive soils.

- c. Pre-soaking the near-surface expansive soils prior to concrete placement for the slab foundations.
- d. Conditioning the expansive subgrade soils in exterior concrete flatwork area to higher moisture content prior to the placement of base rock or concrete (if the flatwork is supported directly on the subgrade).
- e. Providing surface drainage away from the house foundations and draining the rainwater collected on the roof through pipes connecting to the adjacent storm drains.

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

13. Prior to any grading or other construction activities, the applicant shall develop a construction mitigation plan in close coordination with the Town of Danville to minimize noise disturbance. The following conditions shall be incorporated into the building contractor specifications:
- a. Muffle and maintain all equipment used on site. All internal combustion engine driven equipment shall be fitted with mufflers, which are in good condition. Good mufflers shall result in non-impact tools generating a maximum noise level of 80 dB when measured at a distance of 50 feet.
 - b. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
 - c. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
 - d. Prohibit unnecessary idling of internal combustion engines.
 - e. Prohibit audible construction workers' radios on adjoining properties.
 - f. Restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.

- g. Do not allow machinery to be cleaned or serviced past 6:00 p.m. or prior to 7:00 a.m. Monday through Friday.
- h. Limit the allowable hours for the delivery of materials or equipment to the site and truck traffic coming to and from the site for any purpose to Monday through Friday between 7:00 a.m. and 6:00 p.m.

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

- i. Do not allow any outdoor construction or construction-related activities at the project site on weekends and holidays. Indoor construction activities may be allowed based on review/approval of the Town.
- j. Allowable construction hours shall be posted clearly on a sign at each construction site.
- k. Designate a Disturbance Coordinator for each of the clustered development sites for the duration of the Phase 1 (site work) and for each home site during the Phase 2 (home building) construction. Because each home would be constructed individually and would have its own building permit, a Disturbance Coordinator should be designated during the construction of each home. The requirement for a Disturbance Coordinator for each home site should be incorporated in the CCRs of the development, such that responsibility of the Property Owners' Association and/or home builder to designate this Disturbance Coordinator for each lot for the duration of construction until full site buildout. The Disturbance Coordinator shall conduct the following: receive and act on complaints about construction disturbances during infrastructure installation, landslide repair, road building, residential construction, and other construction activities; determine the cause(s) and implement remedial measures as necessary to alleviate significant problems; clearly post his/her name and phone number(s) on a sign at each clustered development and home building site; and, notify area residents of construction activities, schedules, and impacts.

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

G. STREETS

- * 1. The applicant shall obtain an encroachment permit from the Engineering Division or the Contra Costa County Public Works Department prior to commencing any construction activities within any public right-of-way or easement.
- * 2. Street signing shall be installed by the applicant as may be required by the City Engineer. Traffic signs and parking restriction signs, which may be required to be installed, shall be subject to review and approval by the Transportation Division and the Police Department.
- * 3. All mud or dirt carried off the construction site onto adjacent streets shall be swept each day. Water flushing of site debris or sediment or concrete washing is expressly prohibited.
- * 4. Any damage to street improvements now existing or done during construction on or adjacent to the subject property shall be repaired to the satisfaction of the City Engineer, at full expense to the applicant. This shall include slurry seal, overlay or street reconstruction if deemed warranted by the City Engineer.
- * 5. All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be constructed in accordance with approved standards and/or plans and shall comply with the standard plans and specifications of the Development Services Department and Chapters XII and XXXI of the Town Code. At the time project improvement plans are submitted, the applicant shall supply to the City Engineer an up-to-date title report for the subject property.
- * 6. Handicapped ramps shall be provided and located as required by the City Engineer.

- * 7. Public streets shall be improved to the standards in #G.5. above. Private streets shall be improved to public street structural standards. Private street improvements, and their dimensions, shall be as shown on the project plans identified in #A.1. above and shall conform to Standard Plan 104 a and b.
- * 8. The Project shall be required to stripe curbs and install any necessary parking or circulation signage, as determined by the Transportation Division.
- * 9. Prior to the approval of the Improvement Plans, Danville Transportation Division shall review and approve the location, type and design of the speed control device, as well as the locations and number of signage and striping.
- 10. *If approved by Contra Costa County, install a traffic signal at the intersection of Diablo Road/Blackhawk Road and Mt. Diablo Scenic Boulevard at the applicant's expense. The traffic signal shall be installed prior to occupancy of the 35th residence in the project, or within one year of the County's final approval of the intersection improvement plan, whichever comes last.*
- 11. The project proponent shall modify the roadway striping along McCauley Road between the intersection and approximately 350 feet south of Diablo Road/Green Valley Road. The modified roadway striping shall substantially conform to the following: a) reconfigure the existing 17-foot southbound through lane to a 10-foot shoulder and a 12-foot through lane; b) replace the existing 3-foot double-double yellow centerlines with a single double yellow center-line; c) maintain the existing 10-foot northbound left turn lane while shifting it two feet toward the easterly curb line; d) reduce the existing 16-foot northbound through/right turn lane to 13 feet; and e) transition existing downstream (to the south) centerline/left turn lane on McCauley Road accordingly to accommodate the new configuration, as illustrated at page 4.3-44 of the Draft REIR. This improvement shall be completed prior to issuance of building permits for any of the three residences just east of McCauley Road.
- 12. The project proponent shall install a new pedestrian crossing and supplemental pedestrian-actuated warning system at the project main entrance on Blackhawk Road. The crossing shall physically connect the project's pedestrian traffic to the existing paved pathway located along the north side of Blackhawk Road. The project proponent will be required to submit improvement plans to Contra Costa County for review and approval. If Contra Costa County elects not to maintain the

selected pedestrian safety improvement, then said maintenance shall be provided by the project Homeowner's Association.

13. The applicant shall apply for a Large Road Encroachment Permit from Contra Costa County Public Works for the construction of the intersection of Appaloosa Street with Blackhawk Road. The applicant shall contact the Engineering Services Division of the County Public Works Department (925-313-2000) to process a Road Acceptance Agreement along with the review of plans associated with the encroachment permit. The application shall include the applicant's proposal to close off Jillian Way to create a single point of ingress/egress to Blackhawk Road.
14. No construction work requiring closure or detour from any portion of Diablo Road or Blackhawk Road shall be performed during the morning or evening commute hours, or on weekends or holidays. Commute hours shall be assumed to be between the hours of 6:00 a.m. and 10:00 a.m. and between 3:00 p.m. and 7:00 p.m.
15. According to the Final Map for Subdivision 7985 (recorded on June 3, 1999 in Book 392 of Map at Pages 47-48), temporary right-of-way was granted to the Town across a portion of Lot 6 in order to provide the residents of Jillian Way access to Blackhawk Road. A note on the map indicates that the Town will abandon this right-of-way and give fee title back to Lot 6 when alternative access is provided through the adjoining property to the east. Since the applicant's development project seeks to grant alternative access to the Jillian Way residents and seeks to close-off the access through Lot 6 to Blackhawk Road, the applicant shall provide the Town with a legal description and plat map to effectuate the abandonment.
16. The applicant shall establish a fund (with a preset amount of \$30,000) that shall be used to subsidize TRAFFIX use or other transportation programs.
17. The applicant shall make an offer of dedication to the Town of approximately 50 feet of frontage along the project site's Diablo Road frontage from the Diablo Road/McCauley Road intersection easterly to the intersection of the project's Emergency Vehicle Access/pedestrian trails and Diablo Road (approximately 7,200 linear feet). The exact width of the dedication shall be subject to review and approval by the City Engineer prior to recordation of the Final Map.

18. The project shall be required to install two solar powered radar signs along the project site's Diablo Road frontage. The exact location shall be determined by the Town prior to recordation of the final map.
19. The improvements for the Diablo Road/Green Valley Road/McCauley Road intersection, as shown on the approved project plans, shall be completed prior to occupancy of the 18th residence in the development.

H. INFRASTRUCTURE

- * 1. Domestic water supply shall be from an existing public water system. Water supply service shall be from the East Bay Municipal Utility District water system in accordance with the requirements of the District.
- * 2. All wastewater shall be disposed into an existing sewer system. Sewer disposal service shall be from the Central Contra Costa Sanitary District sewer system in accordance with the requirements of the District.
- * 3. Drainage facilities and easements shall be provided to the satisfaction of the City Engineer and/or the Chief Engineer of the Contra Costa County Flood Control & Water Conservation District.
4. *In order to reduce wind and water erosion on the project site, an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods (see mitigation measure 4.8-1.).*

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

- * 5. Roof drainage from structures shall be collected via a closed pipe and conveyed to an approved storm drainage facility in the street curb. No concentrated drainage shall be permitted to surface flow across sidewalks.

- * 6. Any portion of the drainage system that conveys runoff from public streets shall be installed within a dedicated drainage easement or public street.
- * 7. If a storm drain must cross a lot, or be in an easement between lots, the easement shall be equal to or at least double the depth of the storm drain.
- * 8. The applicant shall furnish proof to the City Engineer of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site temporary or permanent road and drainage improvements.
- * 9. All new utilities required to serve the development shall be installed underground in accordance with the Town policies and existing ordinances. All utilities shall be located and provided within public utility easements, sited to meet utility company standards or in public streets.
- * 10. All utility distribution facilities, including but not limited to electric, communication and cable television lines, within a residential or commercial subdivision shall be underground, except as follows:
 - a. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter boxes, and concealed ducts;
 - b. Metal poles supporting street lights.
- * 11. All street, drainage or grading improvement plans shall be prepared by a licensed civil engineer.
- 12. *Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings approved by the East Bay Municipal Utility District to the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.*
- 13. *The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District's existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility District's right-of-way (R/W 1581). Any and all*

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

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

I. MISCELLANEOUS

- * 1. The project shall be constructed as approved. Minor modifications in the design, but not the use, may be approved by staff. Any other change will require Planning Commission approval through the revised final Development Plan review process.
- * 2. Conditions of this approval may require the applicant to install public improvements on land over which neither the applicant, nor the Town, has easement rights to allow for the installation of the improvements. The applicant shall be responsible for acquisition of said easement rights through private negotiations. If the applicant is unsuccessful in negotiations, the applicant shall apply to the Town for use of eminent domain powers in accordance with Town Resolution No. 78-85. All easement rights shall be secured prior to Town Council final approval of any subdivision map. All costs associated with such acquisition shall be borne by the applicant.
- * 3. Pursuant to Government Code section 66474.9, the applicant (including the applicant or any agent thereof) shall defend, indemnify and hold harmless the Town of Danville and its agents, officers and employees from any claim, action or proceeding against the Town or its agents, officers or employees to attack, set aside, void, or annul, the Town's approval concerning this application, which action is brought within the time period provided for in Section 66499.37. The Town will promptly notify the applicant of any such claim, action or proceeding and cooperate fully in the defense.
4. The project homeowners' association, through project-specific covenants, conditions and restrictions (CC&Rs), shall be responsible for maintenance of all common landscape areas and common fencing. Draft project CC&Rs shall be submitted to the Town of Danville for review and approval a minimum of 45 days prior to recordation of the final map. The CC&Rs

shall also include language notifying homeowners of the public trails through the project, the public parking area/trailhead, and that the public may park on the neighborhood streets to access area trails.

5. A Geologic Hazard Abatement District (GHAD) shall be established or annexed into. The GHAD shall consider implementing measures to prevent, mitigate, abate, or control geologic hazards and also mitigate or abate structural hazards that are caused by geologic hazards. Said GHAD shall be established or the property annexed into a GHAD according to Public Resources Code §26500 et seq. The GHAD should consider owning or maintaining the approximately 381 acres of permanent open space. The GHAD should consider assuming responsibility for maintenance and upkeep of the detention basin, other stormwater pollution control and hydromodification facilities constructed as part of the project, and the future public trail to be constructed by the Town between the western EVA terminus and the western terminus of the trail near the Diablo Road/Alameda Diablo intersection. The GHAD should consider establishing a comprehensive plan to maintain the restored creek and bridge and provide corrective measures as needed. If any duties listed above are unable to be included as part of the GHAD's responsibilities, they shall be included as the responsibility of the project's Homeowner's Association (HOA). A quarterly report regarding GHAD funding and activities shall be prepared for the first five years after the GHAD assumes responsibilities under the Plan of Control and submitted for review by the Town and made available for review by other watershed stakeholders.
6. The project is in the San Ramon Creek watershed. The project shall mitigate the impact of additional stormwater runoff draining to San Ramon Creek by either of the following methods:
 - Remove 1 cubic yard of channel excavation material from the inadequate portion of San Ramon Creek for each 50 square feet of new impervious surface area created by the development. All excavated material shall be disposed of off-site by the developer at his own cost. The site selection, land rights, and construction staking will be performed by the Contra Costa County Flood Control District ("FC District").

OR, upon written request by the developer:

 - Provide for a cash payment in lieu of actual excavation and removal of material from the inadequate portion of San Ramon Creek. The cash

payment will be calculated at a rate of \$0.10 per square foot of new impervious surface area created by the development. The added impervious surface area created by the development will be based on the FC District's standard impervious surface area ordinance. The FC District will use these funds to work on San Ramon Creek annually.

7. The project site is also upstream of known inadequate reaches of Green Valley Creek. As a result, this project shall be subject to the Green Valley Creek Mitigation fee of \$0.10 per square foot of newly created impervious surface area. This fee is based on the Contra Costa County Flood Control District's Report on Impervious Surface Ordinance. The Town shall collect this fee for transfer to the County's Drainage Deficiency Fund.
8. As required by Division 1010 (Drainage) of the County Title 10 Ordinance, the applicant shall obtain a drainage permit (1010 permit) from the Flood Control District prior to conducting any work (including but not limited to new storm drain outfalls, bridges, and road widening) in natural or man-made watercourses located in unincorporated Contra Costa County.
9. The applicant shall construct the detention basin and drainage facilities in accordance with the Regional Hydrologic Analysis prepared by Engeo Incorporated and dated June 8, 2011, and revised on April 17, 2012. Prior to allowing any changes to these drainage facilities as modeled, the developer shall submit a revised Hydrologic Analysis for Contra Costa County Flood Control District review and the Town's approval.
10. The applicant shall submit a final stormwater control plan for review and approval by the Town and the Contra Costa County Flood Control District prior to recordation of the final map.
- * 11. Use of a private gated entrance is expressly prohibited.
- * 12. As a part of the issuance of a demolition permit and/or building permit for the project, the developer shall submit a recycling plan for building and construction materials and the disposal of green waste generated from land clearing on the site. Prior to obtaining framing inspection approval for the project, the applicant/owner shall provide the Planning Division with written documentation (e.g. receipts or records) indicating that waste materials created from the demolition of existing buildings and the construction of new buildings were/are being recycled according to their recycling plan or in an equivalent manner.

- * 13. The project shall conform to the Regional Water Quality Control Board post-construction C.3 regulations which shall be designed and engineered to integrate into the project's overall site, architectural, landscaping and improvement plans. These requirements are contained in the project's Stormwater Control Plan and are to be implemented as follows:
- Prior to issuance of permits for building, site improvements, or landscaping, the permit application shall be consistent with the applicant's approved Stormwater Control Plan and shall include drawings and specifications necessary to implement all measures in the approved plan. The permit application shall include a completed Construction Plan C.3 Checklist as described in the Town's *Stormwater C.3 Guidebook*.
 - As may be required by the City Engineer and the Chief of Planning, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment (Best Management Practices) BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants.
 - Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall execute any agreements identified in the Stormwater Control Plan which pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs.
 - Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for the Town's review and approval, a Stormwater BMP Operation and Maintenance Plan in accordance with the Town of Danville guidelines. Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Appendix F of the Town's *Stormwater C.3 Guidebook*.
14. The project shall conform to the Town's Inclusionary Housing for Affordable Residential Housing Ordinance. The developer shall provide at least seven below market rate for-rent second units, as defined by the Ordinance. If rented, these second units shall be rented at an affordable rate, as set by the California Department of Housing and Community Development, to be affordable to low income households. The

development and tenant occupancy of below market rate units shall be subject to an affordable housing agreement, which shall be subject to review and approval by the Town Council prior to recordation of the final map for the project. In addition, a deed restriction shall be recorded with the Contra Costa County Recorder in accordance with the Town's Second Dwelling Unit Ordinance precluding concurrent use of the second units and the respective primary residence as rental units. This condition does not preclude future property owners in this subdivision from building additional second dwelling units in compliance with the Town's Second Dwelling Unit Ordinance and State Law.

15. The project shall include the following sustainable design features:

- Rooftop solar installations
- GreenPoint rated design
- Tankless hot water heaters
- High efficiency irrigation systems
- Low emitting insulation at walls and ceilings
- Insulation on all hot water pipes
- Energy Star appliances
- Low VOC paints, caulking and construction adhesives
- Energy Star bath fans
- Low flow toilets
- HVAC filters
- High efficiency air conditioners with environmentally responsible refrigerants
- Electric vehicle chargers

APPROVED by the Danville Town Council at a regular meeting on July 2, 2019, by the following vote:

AYES: Arnerich, Blackwell, Morgan, Stepper, Storer

NOES: None

ABSTAINED: None

ABSENT: None

DocuSigned by:

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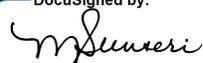
MAYOR

APPROVED AS TO FORM:

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Robert B. Ewing
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CITY ATTORNEY

ATTEST:

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CITY CLERK

**MAGEE PRESERVE
CEQA FINDINGS
AND
STATEMENT OF
OVERRIDING CONSIDERATIONS**

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SECTION II. STATEMENT OF OVERRIDING CONSIDERATIONS

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SECTION I STATEMENT OF FINDINGS

1.0 INTRODUCTION

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

1.1 California Environmental Quality Act

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

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

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

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

1.2 Environmental Review Process

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

◆ **Relationship to 2013 EIR:**

In June 2013, the Town certified an Environmental Impact Report for and approved SummerHill Homes' applications for a 69-lot residential project on the Project site. SOS-Danville Group then filed suit to challenge the project approvals, alleging that the Environmental Impact Report for the project inadequately addressed impacts to traffic, bicycle safety, pedestrian safety, California red-legged frog, emergency access, safe evacuation, flooding, erosion, and siltation. The lawsuit further alleged that the 2013 EIR failed to adequately respond to public comments, failed to consider project alternatives that would have eliminated traffic impacts, and should have been recirculated for public comment. Finally, the lawsuit alleged that the project was inconsistent with the Town's General Plan and with other land use restrictions and that a public vote under the Town's Measure S was required before the project could be approved.

The only claim that prevailed in the litigation was that the EIR did not adequately address impacts to bicycle safety. As to bicycle safety, the Court of Appeal required further CEQA analysis before the Town could make a decision whether to re-approve the project. As required by the final judgment in the litigation, the Town rescinded its approvals of the 2013 project pending further CEQA review on this issue.

In February 2017, Davidon Homes became the project applicant. Davidon Homes revised the Project proposal to reduce developed area and correspondingly increase protected open space by approximately nine acres; to replace, rather than remove, the existing corral on the site; to include an electric vehicle charging station on each residential lot; and to include as Project elements certain requirements that had been imposed as mitigation measures in 2013.

In August 2017, the Town issued a Notice of Preparation of a Revised Draft Environmental Impact Report and an Initial Study/CEQA Environmental Checklist ("NOP/Checklist") that compared the impacts of the Project to the impacts of the project as analyzed in the 2013 EIR. The NOP/Checklist stated the Town's determination that the Revised Draft EIR would address not only bicycle safety, but also update the 2013 EIR's analyses of other aspects of transportation and circulation, as well as air quality, greenhouse gas emissions, noise, and energy. As to all other environmental topics, the NOP/Checklist explained that the analysis in the 2013 EIR remained applicable to the Project.

◆ **Scoping Process:**

The Town of Danville prepared the NOP for the Project in accordance with §15082 of the CEQA Guidelines. The NOP was distributed for public review on August 29, 2017. Environmental issues raised by comments received in response to the NOP during its 30-day public review period (August 31 - October 2, 2018) were considered for inclusion in the Draft REIR. Public and agency comments received on the NOP were reviewed and addressed in the Draft REIR.

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

The Draft REIR was distributed to Responsible Agencies, other affected agencies, and interested parties. The Notice of Completion (NOC) of the Draft EIR was distributed as required by CEQA, including publication of notice in the *San Ramon Valley Times* on August __, 2018. The 45-day public review period began on August 31, 2018 and ended on October 15, 2018. During the public review period, the Draft REIR, including appendices, was made available and circulated for public review.

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

A public hearing was held by the Town of Danville Planning Commission on September 25, 2018 to receive public comment on the Draft REIR. The Town responded to all environmental questions submitted verbally or in writing in the Final REIR.

◆ **Preparation of the Final REIR:**

Pursuant to Public Resources Code §21092.5, the Town prepared the Final REIR in response to comments on the Draft REIR. The Final REIR contains the following: refinements and clarifications to the Draft REIR; written comments received on the Draft REIR; responses to those comments; and testimony presented to the Planning Commission and responses thereto. The Final REIR was issued on May 16, 2019.

2.0 PURPOSE AND BACKGROUND

2.1 Description of the Project

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

The Project evaluated in the Draft REIR proposes 69 single family lots, with three lots on Magee West and 63 lots on Magee East. The Project proposes to locate the lots, along with road rights-of-way and privately-operated open space, on approximately 29 acres of the flatter portions of the site, avoiding the steeper slopes and ridges. The remaining ± 381 acres of the site would be preserved as new permanent open space. A minimum of 10% of the homes would include second dwelling units in accordance with the Town's Inclusionary Housing Ordinance. The Project would provide a publicly accessible trail along Green Valley Creek and would dedicate land to the Town for the Town's potential trail along the south side of Diablo Road.

The overall objectives of the Project are to:

- ◆ Develop a residential project that is consistent with the Town of Danville Agricultural, General Open Space, Rural Residential, and Single Family-Low Density General Plan Land use designations for the site as well as the General Plan's Magee Ranch Special Concern Area language,
- ◆ Provide 69 residential lots, including 66 home sites at the east end of the site south of Blackhawk Road and 3 homes home sites near the southeast corner of the Diablo Road/McCauley road intersection,
- ◆ Design the project to cluster development on the lower portions of the site to minimize visual impacts and limit disturbance on the property,
- ◆ Provide for a minimum of 10% of the 69 lots to include a second dwelling unit ("casita") to satisfy the Town's affordable housing requirements,
- ◆ Preserve approximately 381 acres of the project site as permanent open space, and
- ◆ Preserve significant features of scenic hillsides and major ridgeline areas.

The objectives have been updated from those stated in the 2013 Final EIR to reflect the Project's increase in permanent open space from 372 to 381 acres.

2.2 Purpose of the REIR

Pursuant to CEQA, Public Resources Code sections 21000 et seq., and the CEQA Guidelines, California Code of Regulations, Title 14, §15000 et seq., the Town agency prepared the REIR to analyze the Project's potential environmental effects. The Draft REIR was circulated for public review for a 45-day period beginning August 31, 2018 and ending on October 15, 2018. Responses to comments were prepared and are contained in the Final REIR. The REIR includes

Appendix A, the NOP/Checklist, which examined the Project for potential changes in impacts since the 2013 EIR and determined that additional analyses would be prepared not only as to bicycle safety, but also as to Air Quality/Greenhouse Gas, Noise, Transportation and Circulation issues other than bicycle safety, and Energy.

2.3 Description of the Record

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

- 1) The NOP/Checklist for the REIR;
- 2) The Draft REIR and all appendices to the Draft REIR;
- 3) The Final REIR and all appendices to the Final REIR;
- 4) All notices, staff reports, and presentation materials related to the Project;
- 5) All studies and reports conducted for the Project which are contained in, or referenced by, staff reports, the Draft REIR, or the Final REIR;
- 6) All public reports and documents related to the Project prepared for the Town and other agencies;
- 7) All documentary and oral evidence received and reviewed at public hearings and workshops and all transcripts and minutes of those hearings related to the Project, the Draft REIR, and the Final REIR;
- 8) For documentary and informational purposes, all locally-adopted land-use plans and ordinances, including, without limitation, specific plans and ordinances, master plans together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area;
- 9) Any proposed decisions or findings or statements submitted to the decision makers by staff or others;
- 10) Documentation of the final decisions, including the REIR, as well as all documents relied on in the Town's CEQA Findings and statement of overriding considerations;
- 11) The Record of Proceedings for the 2013 EIR; and
- 12) Any additional items not included above, if they are required by law.

2.4 Discretionary Actions

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

- 1) Certification of the REIR for the Project
- 2) Approval of:
 - Preliminary Development Plan and Final Development Plan to rezone approximately 410 acres from A-4, A-2 and P-1, to a new P-1 (LEG 10-0004, DEV 10-0071, DEV 10-0072) ("rezoning");
 - Vesting Tentative Map to create 69 single family lots (SD 9291) ("VTM"); and
 - Tree Removal Permit (TR-10-0028) ("Tree Permit").

These Findings are made by the Planning Commission pursuant to §15091 of the CEQA Guidelines. The Planning Commission is also recommending the adoption of a Statement of Overriding Considerations pursuant to §15093 of the CEQA Guidelines.

3.0 GENERAL FINDINGS

3.1 Terminology of Findings

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

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

In the process of adopting any mitigation, the Town would also make decisions on whether each mitigation measure proposed in the Draft REIR is feasible or infeasible. Pursuant to the CEQA Guidelines, “feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” (CEQA Guidelines, §15364.) When the Town finds a measure is not feasible, evidence for its decision will be provided.

3.2 Certification of Environmental Impact Report and Adoption of Findings

On May 28, 2019, the Planning Commission of the Town of Danville recommended certification of the EIR to the Town Council and approval of the Project (Resolution No. _____). Based upon the substantial evidence in the record, the Planning Commission finds and declares as stated herein.

- 3.3** The Town of Danville is the "lead agency" for the Project evaluated in the REIR. The Planning Commission finds that the REIR has been prepared in compliance with CEQA Statute and the State CEQA Guidelines.
- 3.4** The REIR evaluates all potentially significant impacts that can result from the Project. The REIR considered the significant and unavoidable environmental effects, if any, as well as cumulative impacts in each of these environmental topic areas in Chapter 4 and Appendix A of the Draft REIR. Additionally, the Draft REIR considered the following issues in Chapters 5 and 6: growth inducement, cumulative impacts, significant unavoidable impacts, irreversible environmental changes and alternatives. The cumulative impacts of the Project and other past, present, and reasonably foreseeable future projects were considered in the REIR as required by CEQA (Public Resources Code §21083) and the State CEQA Guidelines (Cal. Code of Regulations, Title 14, §15130). The cumulative analysis at the end of each section in Chapter 4 of the Draft REIR includes an analysis of future environmental conditions in the Town of Danville and surrounding areas to the extent required in order to determine the significance of the Project's incremental contribution to cumulative impacts.
- 3.5** The Planning Commission finds that the EIR provides objective information to assist the Town's decision-makers and the public-at-large in their consideration of the environmental consequences of the Project. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the oppor-

tunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the public review period and responds to comments made during the public review period (August 31, 2018 through October 15, 2018), as well as those made at, or prior to the noticed public meetings and/or public hearings on the issues relevant to the REIR.

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

1. A significant new environmental impact that would result from the Project or recommended mitigation measure;
2. A substantial increase in the severity of an environmental impact that is not reduced to a level of less than significant by adopted mitigation measures;
3. A feasible Project alternative or mitigation measure not adopted that is considerably different from others analyzed in the Draft REIR that would clearly lessen the significant environmental impacts of the Project; or
4. Information that indicates that the public was deprived of a meaningful opportunity to review and comment on the Draft REIR.

The Planning Commission has based their recommendation on full appraisal of all viewpoints, including all comments received up to the date of adoption of these Findings, concerning the environmental impacts identified and analyzed in the REIR.

3.6 These Findings are based upon substantial evidence in the entire record before the Town as described in Section 2.4.

3.7 The references to the Draft REIR and Final REIR set forth in these findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

3.8 These Findings reflect the Planning Commission's recommendations regarding the significance of impacts of the Project.

3.9 The Planning Commission certifies that it has independently reviewed and considered the information in the REIR.

3.10 CEQA defines the term "project" as the whole of an action or "activity which is being approved and which may be subject to several discretionary approvals by governmental agencies." Accordingly, the Planning Commission is recommending certification of the REIR and approval of these Findings for the entirety of the actions described in these Findings and in the REIR as comprising the Project.

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

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

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

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

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

- 3.11 In several comments on the Draft REIR, various measures were suggested by commenters as proposed additional mitigation measures. Most of the proposed mitigation measures were for impacts that were less than significant. Based on the explanation and analysis in the REIR, these requests for additional mitigation measures are declined.
- 3.12 Having received, reviewed, and considered the above described information, as well as all other information and documents in the record, the Planning Commission hereby finds as stated in these Findings.
- 3.13 Pursuant to Public Resources Code §21081.6 and California Code of Regulations, Title 14, §15091, the Town of Danville is the custodian of the documents and other material that constitute the record of proceedings upon which the Town's decision is based, and such documents and other material are located at: Town of Danville Development Services Department, 510 La Gonda Way, Danville, California, 94526.

4.0 FINDINGS REGARDING POTENTIALLY SIGNIFICANT IMPACTS AND MITIGATION MEASURES

The REIR identified potentially significant impacts in the areas identified below. The REIR recommended mitigation measures to reduce all potentially significant impacts to a level of insignificance. All of these mitigation measures were also identified in the 2013 EIR; some have been modified to reflect Project changes (e.g., 381 rather than 372 acres of permanent open space) or feedback from agencies (e.g., EBMUD). Several mitigation measures identified in the 2013 EIR are not included in the REIR either because they have been incorporated into the Project Description or because they are no longer applicable to the Project as revised.

4.1 Aesthetics

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

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

tional; 2) the source of directional lighting shall not be directly visible; and 3) vegetative screening shall be installed, where appropriate.

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.1-1. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impact on aesthetics as described above will be mitigated to a less than significant level.

4.2 Biological Resources

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

Mitigation Measure 4.4-1 The project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:

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

Mitigation Measure 4.4-2 The project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:

- a. The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be low-

ered to restore the natural flow of this portion of the creek.

- b. The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.
- c. The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.
- d. The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be planted with native species appropriate for the corridor.

Mitigation Measure 4.4-3

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

Mitigation Measure 4.4-4

The project proposes to preserve approximately 381 acres of the site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The project proposes to create a geologic hazard abatement district (GHAD) to provide suitable funding for management and long-term maintenance of the site. Upland habitats shall be managed via a long-term management plan to maintain the quality of the habitat for the movement and dispersal of CRLF. Prior to construction, the project proponent shall retain a qualified biologist to prepare an open space management plan for the explicit purpose of managing and monitoring the proposed open space area. This plan shall be submitted to the Town of Danville for review and approval prior to issuance of grading permits. At a minimum this plan shall include the following components:

- a. Identify the location of the restoration efforts for replacing jurisdictional waters and riparian habitats. The replacement ratio for both habitats will be at a minimum of a 1:1 ratio.
- b. Identify the approaches to be used, including the extent that the onsite stock pond be expanded, reconfiguring of the pond bottom and increase in depth, and providing evidence that sufficient water budget exist for any proposed enhancement.

- c. Identify a suitable planting regime for restoring wetland and riparian habitats.
- d. Identify success criteria for monitoring both the wetland and riparian habitats that are consistent with similar habitats regionally.
- e. Monitor restored wetland habitats for at least five years and restored riparian habitats for 10 years.
- f. Define and identify the GHAD maintenance and management activities to manage the open space habitats to meet the stated goals of support habitat characteristics suitable for the CRLF. This would include suitable fencing so as to control access, limited cattle grazing or other procedures to manage grass height and forage production at levels that benefit the CRLF, and removal of trash.
- g. Define the financial mechanism for the GHAD to manage the open space into perpetuity.

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.4-1 through 4.4-4. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on biological resources as described above will be mitigated to a less than significant level.

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

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

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

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

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

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

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.4-5 through 4.4-8. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on biological resources as described above will be mitigated to a less than significant level.

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

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

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.4-9. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on biological resources as described above will be mitigated to a less than significant level.

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

Mitigation Measure 4.4-10 In order to avoid impacts to active burrowing owl nests, the project proponent shall retain a qualified biologist to conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys shall be conducted in a manner consistent with the CDFG's burrowing owl survey methods (CDFG 2012b). If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be used to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as de-

scribed above.

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.4-10. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on biological resources as described above will be mitigated to a less than significant level.

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

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

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.4-11. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on biological resources as described above will be mitigated to a less than significant level.

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

Mitigation Measure 4.4-12 The project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 381 acres of the site proposed as open space. Prior to issuance of a grading permit, the project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:

- a. Define the location of all restoration/creation activities;
- b. Provide evidence of a suitable water budget to support any created wetland and riparian habitats;
- c. Identify the species, amount, and location of plants to be installed;
- d. Identify the time of year for planting and method for supplemental watering during the establishment period;
- e. Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success;
- f. Identify adaptive management procedures that include (but are not lim-

ited to) measures to address colonization by invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;

- g. Define management and maintenance activities (weeding of invasives, providing for supplemental water, repair of water delivery systems) of the proposed GHAD; and
- h. Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.

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

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.4-12 through 4.4-13. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on biological resources as described above will be mitigated to a less than significant level.

Impact: **The project would result in the removal of 49 trees on the site, which represents a potentially significant impact.**

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

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

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

reporting requirements.

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.4-14 through 4.4-16. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on biological resources as described above will be mitigated to a less than significant level.

Impact: **The improvements to the Diablo Road/Green Valley Road intersection would require the removal of 18 trees within the Town right-of-way, which represents a significant impact.**

Mitigation Measure 4.4-17 The Project shall implement Mitigation Measures 4.4-14 through 4.4-16 as applicable.

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.4-17. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on biological resources as described above will be mitigated to a less than significant level.

4.3 Cultural Resources

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

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

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

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.5-1 through 4.5-2. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on cultural resources as described above will be mitigated to a less than significant level.

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

Mitigation Measure 4.5-3 If during the course of project construction, paleontological resources are accidentally

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

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.7-1. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on hazards and hazardous materials as described above will be mitigated to a less than significant level.

4.6 Hydrology & Water Quality

Impact: Construction and operation of the project could impact surface water quality.

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

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.8-1. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on hydrology and water quality as described above will be mitigated to a less than significant level.

4.7 Public Services

Impact: The project would result in an incremental increase in the student population in the SRVUSD.

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

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.11-1. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on public services as described above will be mitigated to a less than significant level.

4.8 Transportation & Circulation

Impact: The project trips added to the intersection of Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard under Existing plus Project and Cumulative plus Project Conditions will increase the V/C ratio by more than 5 percent during the AM and School PM peak hours, which constitutes a significant impact based on the established thresholds of significance.

Mitigation Measure 4.3-1 Install a traffic signal at the intersection of Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard at the applicant’s expense. With signalization, the intersection would operate at LOS A or B under all scenarios.

Finding: The Planning Commission recommends the adoption of Mitigation Measure 4.12-1. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of the Measure, the impacts on traffic and circulation as described above will be mitigated to a less than significant level.

The Planning Commission further finds that Mitigation Measure 4.3-1 is within the responsibility and jurisdiction of Contra Costa County and not the Town, and that the County can and should adopt this Measure. If the County does not adopt this Measure, this traffic congestion impact will be significant and unavoidable. The Planning Commission addresses this potential significant and unavoidable impact in the Statement of Overriding Considerations in Section II.

4.9 Utilities

Impact: Development of the proposed project would require the construction of new water infrastructure in order to serve the project. EBMUD has identified that specific improvements may be necessary to serve new uses. These improvements are necessary to mitigate potential water supply infrastructure impacts.

Mitigation Measure 4.13-2 Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings approved by the East Bay Municipal Utility District to the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.

Mitigation Measure 4.13-3 The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District’s existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility

District's right-of-way (R/W 1581). Any and all activities proposed within the right-of-way shall be coordinated with East Bay Municipal Utility District. This easement shall be reflected in all final design-level improvement plans and appropriate notes shall also be included, subject to the review and approval of the East Bay Municipal Utility District and the Town of Danville.

Finding: The Planning Commission recommends the adoption of Mitigation Measures 4.13-2 and 4.13-3. Based on the explanation and analysis in the REIR, the Planning Commission finds that with the adoption of these Measures, the impacts on utilities as described above will be mitigated to a less than significant level.

5.0 FINDINGS RELATED TO CUMULATIVE IMPACTS AND MITIGATION MEASURES

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

One significant cumulative impact was found for the Project, in the area of traffic congestion. This cumulative impact can be mitigated to a level of insignificance as discussed above. If the County declines to adopt Mitigation Measure 4.3-1 (signalization of the Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard intersection) then this impact will be significant and unavoidable. There is no evidence in the record to indicate the County will not adopt the Measure. However, a Statement of Overriding Considerations is included in Section II in response to that unlikely scenario.

6.0 FINDINGS REGARDING MONITORING OF MITIGATION MEASURES

In order to ensure that the mitigation measures identified herein are implemented, the Planning Commission recommends the adoption of the Mitigation Monitoring and Reporting Program include with the Project approvals.

7.0 FINDINGS REGARDING ALTERNATIVES

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

The Draft REIR also considered and rejected two alternatives from further consideration. First, an alternative location was not carried forward for analysis since there is no other site that can accommodate the Project and implement the criteria specified in the General Plan that identify the Project site as an Area of Special Concern. Second, Alternative 5 from the 2013 EIR (a 66-unit, 20,000-sf-lot alternative) was not carried forward for analysis because the proposed Project no longer includes custom lots; 20,000-square-foot lots would increase footprint impacts compared to the Proposed Project; and the number of residential lots in this alternative (66) was virtually the same as the 69 lots in the proposed Project and in Alternative 3.

The Draft REIR discussed the following alternatives in detail:

1. No Project/No Build

2. No Project/Build without Subdivision (7 residential lots)
3. More Clustered Alternative/Minimum 5,000 SF Lots (69 residential lots)
4. Non-Clustered Alternative (78 residential lots, no zone change)

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

The Final REIR at pages 27-28, explains why alternatives suggested by commenters would not meet project objectives, would not reduce environmental impacts, or both. These alternatives are: a) a reduction in residential lots sufficient to avoid the Project's significant traffic congestion impact at Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard (which would not require the applicant to signalize the intersection and therefore would maintain the intersection's current LOS E and F at AM peak and School PM Peak hours, respectively); b) nine 20-acre parcels on land currently zoned Agricultural, with small clusters elsewhere on the site (which would spread development more widely across the site, adding to visual impacts and failing to meet the project objective of extensive public open space); and c) elimination of the three residential lots at Magee West (which would not avoid any significant traffic impact). The overall objectives of the Project are to:

- ◆ Develop a residential project that is consistent with the Town of Danville Agricultural, General Open Space, Rural Residential, and Single Family-Low Density General Plan Land use designations for the site as well as the General Plan's Magee Ranch Special Concern Area language,
- ◆ Provide 69 residential lots, including 66 home sites at the east end of site south of Blackhawk Road, and 3 home sites near the southeast corner of the Diablo Road/McCauley road intersection,
- ◆ Design the project to cluster development on the lower portions of the site to minimize visual impacts and limit disturbance on the property,
- ◆ Provide for a minimum of 10% of the 69 lots to include a second dwelling unit ("casita") to satisfy the Town's affordable housing requirements,
- ◆ Preserve approximately 381 acres of the project site as permanent open space, and
- ◆ Preserve significant features of scenic hillsides and major ridgeline areas.

7.1 No Project/No Build Alternative

7.1.1 Description of Alternative 1

CEQA requires the discussion of the No Project Alternative "to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." For the purposes of this analysis the No Project Alternative represents the "no development" scenario in which the site is left in its current generally undeveloped condition (per CEQA Guidelines Section 15126.6(e)(3)) and existing ranching uses continuing to operate. This alternative would eliminate the preservation of over 381 acres of the site in permanent open space, with public trails, proposed by the Project.

7.1.2 Rejection of Alternative

The No Project Alternative would avoid all of the environmental impacts of the proposed Project. The No Project Alternative would result in the continuation of the existing operation of ranching uses on the site (which would also be continued on most of the Project site under the proposed Project). The No Project Alternative is infeasible because it

would fail to meet any project objectives, including to build a residential community on the site consistent with the existing zoning and General Plan and preserve over 381 acres in permanent open space. The Alternative would not provide public access through a trail system.

7.2 Project/Build Without Subdivision

7.2.1 Description of Alternative

The No Project/Build Alternative consists of eliminating the proposed subdivision and developing the project site with one residential lot per existing parcel. Since the site currently contains seven buildable parcels, this alternative would result in the construction of a total of seven residential homes on the site. This alternative would require the provision of infrastructure to each individual parcel, including roads, water, power, and sanitary sewer. It is assumed that each lot would require its own water well and septic system, although it may be technically possible to connect these parcels to the public system via lengthy lateral extensions. This alternative would eliminate the preservation of over 381 acres of the site in permanent open space proposed by the Project.

7.2.2 Rejection of Alternative

This alternative would lessen the environmental impacts of the Project by decreasing total unit count from 69 lots to 7 lots. This alternative is infeasible because it would fail to meet any project objectives, including to develop a 69-lot residential community on the site and preserve over 381 acres in permanent open space.

7.3 More Clustered Alternative/Minimum 5,000 S.F. Lots

7.3.1 Description of Alternative

This alternative consists of the development of the site with 69 lots sized a minimum of 5,000 square feet, within a smaller development footprint than the proposed Project. This alternative would eliminate development on approximately ten acres, primarily within the south portion of Magee East, by eliminating the southernmost portion of Court F. This area of development was eliminated to provide a logical boundary for the smaller footprint scenario, primarily from an engineering perspective. This alternative comprises three lots on Magee West and 66 lots on Magee East. This alternative is intended to reduce overall site disturbance compared with the Project.

7.3.2 Rejection of Alternative

The 5,000 SF lot alternative would lessen some impacts of the Project associated with site disturbance since the development footprint would be reduced. These areas include aesthetics, cultural resources, and geology/soils, which represent potential significant but mitigable impacts for the proposed Project. For many areas, including traffic congestion, the impacts would be unchanged due to the number of residential units. This alternative is rejected as infeasible because it would create an abrupt change in density compared to existing residential neighborhoods adjoining the project site.

7.4 Non-Clustered Alternative

7.4.1 Description of Alternative

This alternative consists of the development of the project site with 78 lots, with most lots sized a minimum of five acres. This alternative comprises 67 five-acre lots on the portions of the site covered by the Town's Residential – Rural Residential or Public and Open Space – Agricultural General Plan land use designations. The five-acre portion of the site covered with the Town's Residential – Single Family – Low Density General Plan land use designation (opposite Fairway Drive) would contain 11 lots with a minimum size of 13,000 square feet. This alternative would eliminate the preservation of over 381 acres of the site in permanent open space proposed by the Project.

This alternative would not cluster development on the flatter portions of the site but rather develop the majority of the project site with five-acre “ranchettes.” This alternative consists of 24 lots on Magee West and 54 lots on Magee East. The lot configuration under this alternative would not allow for preservation of large portions of the project site in open space. This alternative is being evaluated at the request of the community at the scoping meeting for the 2013 EIR, as well as because it is the type of development that could occur on the site using zoning that is consistent with the Town’s 2010 General Plan land use designations for the project site other than the P-1; Planned Unit Development District. This alternative would not conform to the Town’s General Plan policies that recommend development be concentrated on the flatter less visible portions of the site.

7.4.2 Rejection of Alternative

This alternative is infeasible because it would increase environmental impacts compared to the proposed Project and would not meet project objectives. This alternative would introduce non-clustered development on the entire site. This would result in substantially greater, significant aesthetic impacts due to viewshed alteration. It would result in greater land disturbance impacts by requiring additional grading, an extensive roadway system, and additional project infrastructure to provide service and access to each lot. The overall impacts of this alternative would be substantially greater than the Project. This alternative would not meet the Project objectives to cluster development on the flatter portions of the site and minimize grading and infrastructure requirements. Moreover, the Project, as approved, includes fewer housing units. This alternative would not conform to the policy of the Magee Ranch Special Concern Area identified in the General Plan, which “strongly discourages” subdivision of the property into 5-acre ranchettes and encourages clustering of development.

8.0 GROWTH INDUCING IMPACTS

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

SECTION II

STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 Introduction

In determining whether to approve a project that creates significant and unavoidable impacts, CEQA Guidelines §15093 requires a public agency to balance the benefits of the project against its unavoidable environmental risks. The REIR identified mitigation measures that can reduce all potential environmental impacts to less than significant level. The Mitigation Measure to reduce the Project's contribution to traffic at the intersection of Mt. Diablo Scenic/Diablo (Measure 4.3-1), is within the responsibility and jurisdiction of Contra Costa County and not the Town. If the County does not adopt this Measure, this traffic impact will be significant and unavoidable. There is no evidence in the record from Contra Costa County will not implement this Measure. Rather, the letter from the County commenting on the Draft REIR (Comment Letter 1 in Final REIR) is supportive of the measure..

The Planning Commission has found, in Section I above, that the County can and should adopt Mitigation Measure 4.3-1. Nevertheless, it is not certain at this stage that the County will adopt this measure. For this reason, a Statement of Overriding Considerations is presented. In accordance with Public Resources Code §21081(b) and CEQA Guidelines §15093, the Planning Commission has, in determining whether or not to recommended approval of the Project, balanced the economic, social, technological, environmental, and other benefits of the Project against this potential unavoidable environmental effect, and has found that the benefits of the Project outweigh this possibility, for the reasons set forth below. This Statement of Overriding Considerations is based on the Planning Commission's review of the REIR and other information in the administrative record. The Planning Commission finds that each of the following benefits is an overriding consideration, independent of the other benefits, that warrants approval of the Project notwithstanding the possibility of a significant unavoidable impact.

2.0 Overriding Considerations

Substantial evidence is included in the record of these proceedings and in documents relating to the Project demonstrating the benefits which the Town would derive from the implementation of the Project. The Planning Commission has balanced the economic and social benefit of the Project against the possible unavoidable environmental impact that can occur if the County fails to adopt Mitigation Measure 4.3-1, and concludes that the economic, social and environmental benefits that will be derived from the Project outweigh that potential environmental impact. Upon balancing the environmental risks and countervailing benefits, the Planning Commission concludes that the benefits derive from the Project outweigh that potential environmental risk.

The specific benefits are as follows:

- The Project is consistent with the goals and policies in the Town's General Plan, Zoning Ordinance and other planning documents and provides a density of 69 units which is below the allowable density range of 78 units.
- The Project implements the direction in the General Plan relating to contemplated development in the Planning Area/Special Concern Area for this property by clustering development to the least sensitive and obstructive areas of the site.
- The Project will provide 381 acres (out of 410 acres) in permanent open space.
- The Project as conditioned will be required to make improvements to the intersection of Diablo Road/Green Valley Road even though the Project does not create significant traffic impacts at this intersection. These improvements will improve traffic flow at the intersection.
- The Project will provide 69 housing units to the area, in addition to 7 affordable units. These new units will increase the housing alternatives available to home buyers and generate economic activity in the area.

- The General Plan establishes the goal of providing affordable housing opportunities. The Project will help meet these affordable housing needs by constructing seven casitas as affordable housing.
- The Project will provide a pedestrian/bicycle trail adjacent to Diablo Road and hiking trails that will allow opportunities to establish park and trail connections to Sycamore Valley Open Space.
- The Project will provide an alternative access route to be used in emergencies along a segment of Diablo Road.

The Planning Commission finds that the above described benefits which will be derived from the Project, when weighed against the absence of the Project, override the significant and unavoidable traffic congestion impact that may result.

3.0 Summary

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

- 1) Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.
- 2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. This Finding relates to Mitigation Measure 4.3-1.
- 3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

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

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

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM – MAGEE PRESERVE
May 2019

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

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|--|--|---|--|-------------------------|---------------------------------|
| <p>The project would create new sources of light that would adversely affect nighttime views in the area.</p> | <p>4.1-1 All buildings shall be designed so that reflective surfaces are limited and exterior lighting is down-lit and illuminates the intended area only. Building applications for new structures shall include an exterior lighting plan subject to approval by the Town of Danville that includes the following requirements: 1) exterior lighting shall be directional; 2) the source of directional lighting shall not be directly visible; and 3) vegetative screening shall be installed, where appropriate.</p> | <p>Prior to Issuance of a Building Permit</p> | <p>Applicant</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |
| <p>The project trips added to the intersection of Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard under Existing plus Project and Cumulative plus Project Conditions will increase the V/C ratio by more than 5 percent during the AM and School PM peak hours, which constitutes a significant impact based on the established thresholds of significance.</p> | <p>4.3-1 Install a traffic signal at the intersection of Diablo Road/Blackhawk Road & Mt. Diablo Scenic Boulevard at the applicant's expense. With signalization, the intersection would operate at LOS B under all scenarios.</p> <p>The above mitigation would reduce the traffic impact to a less-than-significant level. However, this intersection is within the responsibility and jurisdiction of Contra Costa County and not the Town. If the County does not implement this measure, the traffic impact will be significant and unavoidable.</p> | <p>Upon Completion of Project Construction</p> | <p>Contra Costa County</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |
| <p>Construction of the proposed subdivision could result in potential</p> | <p>4.4-1 The project proponent shall implement the following measures during construction activities in or along East Branch Green Valley Creek to avoid take of individual CRLF:</p> | <p>Prior to and During Project Construction</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
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| <p>impacts to California red-legged frog.</p> | <p>a. Prior to the start of construction, the project proponent shall retain a qualified biologist to train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.</p> <p>b. Prior to the start of construction, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that CRLF are absent from the construction area. If CRLF are present, a qualified biologist possessing all necessary permits shall relocate them or they shall be allowed to move out of the construction area on their own.</p> <p>c. Immediately following the pre-construction surveys and a determination that CRLF are not present in the construction zone, the construction zone shall be cleared and silt fencing erected and maintained around construction zones to prevent CRLF from moving into these areas.</p> <p>d. The project proponent shall retain a qualified biological monitor to be present onsite during times of construction within the riparian habitat of East Branch Green Valley Creek to ensure no CRLF are harmed, injured, or killed during project buildout.</p> | | | | |
| <p>See Impact for Mitigation Measure 4.4-1</p> | <p>4.4-2 The project would impact approximately 0.3 acres of moderate-quality riparian habitat resulting from construction of the vehicular bridges across East Branch Green Valley Creek. The project shall replace the lost value of this impact by restoring the impacted riparian habitat at a minimum 1:1 replacement-to-loss ratio. (Final mitigation amounts will be based on actual impacts to be determined during the design phase.) This shall be accomplished by restoring riparian habitat at the four following locations:</p> <p>a. The existing wet crossing and asphalt near the panhandle (i.e., where the new bridge is to be constructed) shall be removed. The silt and sediment buildup behind and</p> | <p>Prior to Project Construction</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|---|---|--------------------------------------|-------------------------------|-------------------------|--------------------------|
| <p>See Impact for Mitigation Measure 4.4-1</p> | <p>adjacent to the wet crossing and asphalt shall also be removed and the creek bed shall be lowered to restore the natural flow of this portion of the creek.</p> <p>b. The existing crossing from San Andreas Drive shall be removed and the creek restored in this area.</p> <p>c. The two existing cattle grates on Magee West near the existing culverts shall be removed. One of these is causing sediment build up and adversely impacting the creek. The natural flow of this channel shall be restored back to its original condition prior to the original installation of the grates.</p> <p>d. The riparian corridor along the East Branch of Green Valley Creek will be enhanced with suitable planting and placement of riparian vegetation along the proposed trail on Magee East. Approximately 2 acres along East Branch Green Valley Creek between the creek and the trail is available to accommodate the minimum 0.3 acres of riparian enhancement plantings. The enhancement area shall be planted with native species appropriate for the corridor.</p> | | | | |
| <p>4.4-3. The project would impact approximately 0.5 acres of jurisdictional waters that are of a degraded quality and marginal value for the CRLF. The project shall replace the lost functions and value of this impact to aquatic habitats at a minimum of 1:1 replacement-to-loss acreage ratio. The final mitigation amounts will be based on actual impacts to be determined during the design phase. Habitat replacement via creation of and/or enhancements to existing waters shall occur onsite. Onsite lands proposed to be preserved as open space are within the same watershed as the offsite detention basin known to support breeding CRLF and are expected to fully accommodate creation of and/or enhancements to aquatic habitats that would be of substantially higher value to CRLF than the impacted waters. Compensation for impacts to jurisdictional waters to benefit the CRLF will include all of the aforementioned</p> | | <p>Prior to Project Construction</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
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| See Impact for Mitigation Measure 4.4-1 | <p>components along with improving the wetland character of the onsite stock pond and enhancing the associated riparian habitat between the stock pond and the detention basin. (Refer also to mitigation measures 4.4-13 and 4.4-14 below for impacts to jurisdictional waters.)</p> <p>4.4-4 The project proposes to preserve approximately 381 of the project site as open space. Areas to be preserved would be placed under a conservation easement or deed restriction to prohibit construction and preserve conservation value. The project proposes to create a geologic hazard abatement district (GHAD) to provide suitable funding for management and long-term maintenance of the site. Upland habitats shall be managed via a long-term management plan to maintain the quality of the habitat for the movement and dispersal of CRLF. Prior to construction, the project proponent shall retain a qualified biologist to prepare an open space management plan for the explicit purpose of managing and monitoring the proposed open space area. This plan shall be submitted to the Town of Danville for review and approval prior to issuance of grading permits. At a minimum this plan shall include the following components:</p> <ul style="list-style-type: none"> a. Identify the location of the restoration efforts for replacing jurisdictional waters and riparian habitats. The replacement ratio for both habitats will be at a minimum of a 1:1 ratio. b. Identify the approaches to be used, including the extent that the onsite stock pond be expanded, reconfiguring of the pond bottom and increase in depth, and providing evidence that sufficient water budget exist for any proposed enhancement. c. Identify a suitable planting regime for restoring wetland and riparian habitats. | Prior to Project Construction | Applicant & Qualified Biologist | Town of Danville | <input type="checkbox"/> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
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| <p>Construction of the proposed subdivision could result in potential impacts to western pond turtle.</p> | <p>d. Identify success criteria for monitoring both the wetland and riparian habitats that are consistent with similar habitats regionally. e. Monitor restored wetland habitats for at least five years and restored riparian habitats for 10 years. f. Define and identify the GHAD maintenance and management activities to manage the open space habitats to meet the stated goals of support habitat characteristics suitable for the CRLF. This would include suitable fencing so as to control access, limited cattle grazing or other procedures to manage grass height and forage production at levels that benefit the CRLF, and removal of trash. g. Define the financial mechanism for the GHAD to manage the open space into perpetuity.</p> | <p>Prior to Project Construction</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>See Impact for Mitigation Measure 4.4-5</p> | <p>4.4-5 Prior to the start of construction, the project proponent shall retain a qualified biologist to train construction personnel regarding habitat sensitivity, identification of special status species, and required practices. 4.4-6 Prior to the start of construction within the East Branch Green Valley Creek riparian area, the project proponent shall retain a qualified biologist to conduct pre-construction surveys to ensure that western pond turtles are absent from the construction area. If western pond turtles are present, a qualified biologist possessing all necessary permits shall be retained to relocate them.</p> | <p>Prior to Project Construction</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <input type="checkbox"/> |

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

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|--|---|--------------------------------------|--|-------------------------|---------------------------------|
| <p>Construction of the proposed subdivision could result in potential impacts to burrowing owls.</p> | <p>4.4-10 In order to avoid impacts to active burrowing owl nests, the project proponent shall retain a qualified biologist to conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys shall be conducted in a manner consistent with the CDFG's burrowing owl survey methods (CDFG 2012b). If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be used to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet shall be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers may not enter the enclosed setback areas. Buffers must remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls may take place as described above.</p> | <p>Prior to Project Construction</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |
| <p>Construction of the proposed subdivision could result in potential impacts to American badgers.</p> | <p>4.4-11 Pre-construction surveys conducted for burrowing owls shall also be used to determine the presence or absence of badgers in the development footprint. If an active badger den is identified during pre-construction surveys within or immediately adjacent to the construction envelope, the project contractor shall establish a construction-free buffer around the den of up to 300 feet or a distance specified by the resource agencies (i.e., CDFG). Because badgers are known to use multiple burrows in a breeding burrow</p> | <p>Prior to Project Construction</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|--|--|--|--|-------------------------|---------------------------------|
| <p>Development of the proposed subdivision would impact wetlands (0.5 acres) and riparian habitat (0.3 acres).</p> | <p>complex, the project contractor shall retain a biological monitor during construction activities to ensure the buffer is adequate to avoid direct impacts to individuals or nest abandonment. The monitor shall be present onsite until it is determined that young are of an independent age and construction activities would not harm individual badgers. Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.</p> <p>4.4-12 The project proponent shall replace wetland and riparian habitat at a 1:1 replacement-to-loss ratio. It is expected that all compensation measures can be accommodated within the 381 acres of the site proposed as open space. Prior to issuance of a grading permit, the project proponent shall retain a qualified biologist to prepare an onsite habitat mitigation and monitoring plan (HMMP) that includes both an aquatic habitat restoration plan and a riparian habitat restoration plan. The HMMP would specifically address the wetland and riparian habitats and is separate from the Open Space Management Plan identified in Mitigation 4.4-4, although there may be some overlap. The HMMP shall include the following components, at a minimum:</p> <ul style="list-style-type: none"> a. Define the location of all restoration/creation activities; b. Provide evidence of a suitable water budget to support any created wetland and riparian habitats; c. Identify the species, amount, and location of plants to be installed; d. Identify the time of year for planting and method for supplemental watering during the establishment period; e. Identify the monitoring period, which should be not less than 5 years for wetland restoration and not less than 10 years for riparian restoration, defines success criteria that will be required for the wetland restoration to be deemed a success; f. Identify adaptive management procedures that include (but are not limited to) measures to address colonization by | <p>Prior to Issuance of Grading Permit</p> | <p>Applicant & Qualified Biologist</p> | <p>Town of Danville</p> | <p><input type="checkbox"/></p> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|--|--|--|-------------------------------|-------------------------|--------------------------|
| | <p>invasive species, unexpected lack of water, excessive foraging of installed wetland plants by native wildlife, and similar;</p> <p>g. Define management and maintenance activities (weeding of invasives, providing for supplemental water, repair of water delivery systems) of the proposed GHAD; and</p> <p>h. Provide for assurance in funding the monitoring and ensuring that the created wetland and riparian habitats fall within lands to be preserved and managed into perpetuity. Confirm that the proposed GHAD will meet these responsibilities.</p> | | | | |
| <p>See Impact for Mitigation Measure 4.4-12</p> | <p>4.4-13 The project proponent shall comply with all state and federal regulations related to construction work that will impact aquatic habitats occurring on the site. Prior to construction, the project proponent shall obtain a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and/or Section 1600 Streambed Alteration Agreement from the CDFG, and submit proof of such documentation to the Town of Danville.</p> | <p>Prior to Project Construction</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>The project would result in the removal of 49 trees on the site, which represents a potentially significant impact.</p> | <p>4.4-14 Prior to issuance of a grading permit, a tree preservation plan shall be prepared for all trees to be retained that identifies all protection and mitigation measures to be taken and includes the tree preservation guidelines by HortScience in their tree report(s). These measures shall remain in place for the duration of construction activities at the project site.</p> | <p>Prior to Issuance of Grading Permit</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>See Impact for Mitigation Measure 4.4-14</p> | <p>4.4-15 Upon completion of construction, the project proponent shall replace all ordinance-size trees to be removed with approved species "of a cumulative number and diameter necessary to equal the diameter of the tree(s) which are approved for removal" in accordance with the Town's tree ordinance. Tree removal shall be conducted in accordance with the Town's requirements, including planting a mixture of small and large box trees to meet the cumulative diameter number of the removed trees. The project</p> | <p>Upon Completion of Project Construction</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |

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

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
|--|--|--|--|-------------------------|--------------------------|
| <p>Construction of the project may result in the discovery and disturbance of unknown paleontological resources.</p> | <p>4.5-3 If during the course of project construction, paleontological resources are accidentally discovered during construction, work shall be halted within 20 feet of the find until a qualified professional paleontologist can evaluate it. Work shall not recommence until the project paleontologist has submitted documentation to the Town indicating that discovered resources have been adequately salvaged and no further resources have been identified within the area of disturbance.</p> | <p>During Project Construction</p> | <p>Applicant & Qualified Archaeologist</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>Construction of the project could result in temporary soil erosion and loss of topsoil.</p> | <p>4.6-1 In order to reduce wind and water erosion on the project site, an erosion control plan and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods (see mitigation measure 4.8-1 in 4.8 Hydrology and Water Quality).</p> <p>The project applicant shall prepare an erosion control plan in accordance with the Town's Erosion Control Ordinance. The project proponent shall implement the following measures, where appropriate, to control erosion: 1) keep construction machinery off of established vegetation as much as possible, especially the vegetation on the upwind side of the construction site; 2) establish specific access routes at the planning phase of the project, and limits of grading prior to development, which should be strictly observed; 3) utilize mechanical measures (i.e., walls from sand bags and/or wooden slat or fabric fences) to reduce sand movement; 4) immediate re-vegetation (plus the use of temporary stabilizing sprays), to keep sand movement to a minimum; and 5) for larger-scale construction, fabric or wooden slat fences should be placed around the construction location to reduce sand movement. This erosion control plan shall be submitted to the Town of Danville for review and approval prior to issuance of a grading permit.</p> | <p>Prior to Issuance of Grading Permit</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>Development of the proposed project, including excavation and other land disturbance, could result in</p> | <p>4.7-1 In order to minimize potential human health hazards associated with the historical use of hazardous materials on portions of the project site, the project proponent shall retain a trained professional to prepare a Site Management Plan to maintain the</p> | <p>Prior to Issuance of Grading Permit</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
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| <p>the release of hazardous materials that may be present on portions of the project site, exposing construction personnel and the environment to potential health and safety risks.</p> | <p>safety of construction workers and assure proper management of any contaminated soils on the site in accordance with federal, state and local regulatory requirements. This plan shall be subject to review and approval by Contra Costa County Health Services, and evidence of approval provided to the Town of Danville, prior to the issuance of any grading permit, demonstrating that all necessary remedial actions have been completed pursuant to the approved Site Management Plan. At a minimum, the Site Management Plan shall include 1) the collection and chemical analysis of soil samples from the former UST location and 2) excavation and soils characterization to confirm that sufficient soils removal has occurred for OCPs and elevated 4, 4-DDE at location SB-3, and 3) proper removal and disposal of all hazardous materials on the site, including contaminated soils, chemical containers observed in the storage shed, and herbicides spray bottles at an approved disposal facility.</p> | | | | |
| <p>Construction and operation of the project could impact surface water quality.</p> | <p>4.8-1 In order to avoid water quality impacts, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared for the site preparation, construction, and post-construction periods. The SWPPP shall incorporate best management practices consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) Municipal Stormwater permit (No. CAS612008). The project proponent shall obtain a NPDES General Construction Permit and prepare the SWPPP in accordance with all legal requirements, prior to the issuance of a grading permit. Additional requirements for erosion control are detailed in mitigation measure 4.6-1 in 4.6 Geotechnical and Geologic Hazards.</p> | <p>Prior to Issuance of Grading Permit</p> | <p>Applicant</p> | <p>Town of Danville</p> | <input type="checkbox"/> |
| <p>The project would result in an incremental increase in the student population in the SRVUSD.</p> | <p>4.11-1 The applicant shall pay a school impact fee pursuant to the criteria set forth within California Government Code Section 65995. Prior to the issuance of building permits, the applicant shall pay required school mitigation fees, subject to the review and approval of the Town of Danville and San Ramon Valley Unified School District. The fees set forth in Government Code Section</p> | <p>Prior to Issuance of Building Permit</p> | <p>Applicant</p> | <p>Town of Danville and San Ramon Unified</p> | <input type="checkbox"/> |

| Impacts | Mitigation Measures | Timing of Implementation | Implementation Responsibility | Verified for Compliance | X |
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| Development of the proposed project would require the construction of new water infrastructure in order to serve the project. These improvements are necessary to mitigate potential water supply infrastructure impacts. | <p>65996 constitute the exclusive means of both “considering” and “mitigating” school facilities impacts of projects [Government Code Section 65996(a)]. They are “deemed to provide full and complete school facilities mitigation” [Government Code Section 65996(b)].</p> <p>4.13-2 Prior to the recordation of the final map for each phase of development, the applicant shall submit detailed design-level infrastructure drawings approved by the East Bay Municipal Utility District to the Town of Danville for review and approval. All new water supply infrastructure shall be designed in accordance with all applicable East Bay Municipal Utility District specifications. All water supply infrastructure plans shall be reviewed and approved prior to final map recordation.</p> | Prior to Recordation of the Final Map | Applicant | School District | <input checked="" type="checkbox"/> |
| See Impact for Mitigation Measure 4.13-2 | <p>4.13-3 The East Bay Municipal Utility District maintains a right-of-way (R/W 1581) through the project site, which provides access to the Green Valley Reservoir. In order to avoid potential effects to East Bay Municipal Utility District’s existing operations, the final map shall clearly delineate all known easements, including East Bay Municipal Utility District’s right-of-way (R/W 1581). Any and all activities proposed within the right-of-way shall be coordinated with East Bay Municipal Utility District. This easement shall be reflected in all final design-level improvement plans and appropriate notes shall also be included, subject to the review and approval of the East Bay Municipal Utility District and the Town of Danville.</p> | Prior to Issuance of Building Permit | Applicant | Town of Danville and EBMUD | <input type="checkbox"/> |