

April 2, 2012

Marin County Board of Supervisors
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SUBJECT: CERTIFICATION OF FINAL SEIR FOR GRADY RANCH AND APPEAL OF PDP APPROVAL

Dear Supervisors:

On February 27, 2012, the Marin County Planning Commission recommended that the Final Supplemental Environmental Impact Report (FSEIR) for the subject project be certified and approved the Precise Development Plan, with conditions. Subsequent to those actions, the Lucas Valley Estates Homeowners' Association (Appellants) filed an appeal, alleging that the SFEIR violates the California Environmental Quality Act. The Appeal hearing before the Board of Supervisors is scheduled for April 3.

MCL has been concerned about risks and downstream impacts of project's stream restoration plan.

Initially, Marin Conservation League (MCL) considered submitting comments for the April 3 hearing focusing on one issue that, in our opinion, had not been fully resolved in either the FSEIR or Conditions of approval, i.e., the need to tighten the Mitigation Monitoring and Reporting Plan to avoid risk of failure associated with the Applicant's stream restoration plan. This plan is the most substantial change in the project from the approved Master Plan and, according to the FSEIR and numerous technical background documents, will be accomplished, in part, by depositing about 68,000 cubic yards of the total 240,000 cubic yards of material to be excavated for the main building.

The beneficial objectives of the restoration scheme, which involves raising the base level of Miller Creek and tributaries, are summarized in the FSEIR. They include attenuating flows, eliminating fish passage barriers, and allowing for additional aquifer storage, while minimizing channel erosion and sediment delivery to the lower Miller Creek watershed. (Of more than passing interest, the Staff Report for the February 17 Planning Commission hearing, on Page 15, gives another reason for raising the elevation of Miller Creek to historic levels [and increasing the height of the knoll to hide the structure from public view]: that is, to reduce potential truck traffic by balancing excavation and fill on the site.)

The potential risks of the proposed restoration plan on downstream reaches of Miller Creek and threatened steelhead habitat also are discussed in the FSEIR (Pages 3-74, 75, 76, and 78). In light of anticipated benefits of the plan, however, the FSEIR dismisses the risks as not

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constituting a significant impact, therefore *requiring no mitigation*. The FSEIR goes on to state that the Applicant *offers* to monitor for any problems that might arise (emphasis added). The FSEIR then introduces a new mitigation measure to address this issue. MCL submitted a letter protesting the measure as insufficient and recommended rewording to require monitoring of the restoration by an independent third party, extending the monitoring period beyond the five-years typical of CEQA, if warranted, and requesting that the Applicant put up a bond as financial recourse in the event of failure.

New information has come to light that changes the project and raises potential new impacts.

In a March 28, 2012 letter to the Board of Supervisors, Michael Graf Esq., on behalf of the Appellants, throws a new light on the project as proposed, as well as on the conduct of the CEQA process. It is evident from attachments to Mr. Graf's letter that three responsible and trustee agencies – San Francisco Bay Area Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service – and the Applicant were engaged in a parallel environmental review of the Miller Creek restoration plan in late 2011 and that their evaluation was not included in the FSEIR or made available to the Planning Commission or public at the February 27 hearing.

In their detailed review, the agencies determined, in sum, that: 1) the project poses *significant risks* to downstream flows, stream channel stability and steelhead trout; and 2) the project as currently proposed *cannot be approved* in its present form. Attachment 1 to Mt. Graf's letter – Memorandum to the Applicant's representative Georgia McDaniel (CSW/ST2), dated December 8, 2011 – states:

“ . . . given the risks of using fill as a channel erosion- incision management strategy vs. the relatively low risks and high success rates of using woody debris to meet objectives to slow velocities, increase sediment storage, reduce sediment transport and reduce bank erosion (based on areas which may be contributing excessive fines), we recommend and can permit the latter approach.”

It is not clear in Attachment 3 – Memorandum from Balance Hydrologics to the Applicant's representative, dated March 16, 2012 – whether the Applicant has clearly embraced a change in the project description. In view of the agencies' rejection of the *proposed* project, however, this would be necessary for the overall project to proceed.

The County cannot approve a project if it violates CEQA.

To summarize key points from Mr. Graf's analysis, the County is now proposing to approve a project that involves the filling of Miller Creek and tributaries when, in fact, the project as proposed must be revised due to its unacceptable risks to downstream resources. If this is true, the changed project raises other issues that are not addressed in the SEIR, including: 1) how the revised restoration plan will function in the absence of raising the Miller Creek

stream bed; and 2) how the applicant will now deal with an approximate 68,000 cubic yards of soil that will no longer be used to fill stream channels.

MCL concurs that both the County and the public must be given the opportunity to consider this “new information,” which should include, at a minimum, a revised project description, technical data and correspondence to support the revision that may not have been disclosed, identification of potentially significant impacts resulting from the new information, such as the impacts of disposing of some 68,000 cubic yards of excavated material, and mitigation measures for any new significant impacts. This information should be made available to the decision makers and the public in an updated and re-circulated FSEIR.

The County is obliged to protect the local community from impacts of massive project construction

It is not productive to attempt to change the course of history; the Master Plan for Big Rock Ranch and Grady Ranch projects was approved more than 15 years ago, and in many respects the current project either follows the general shape of the previously approved project or somewhat decreases its size.

Notwithstanding the purported benefits of the Lucasfilm facility at Grady Ranch and the Applicant’s past contributions – e.g., dedication of land to open space, preservation of agricultural easements, road improvements, jobs, etc. – the project continues to be a massive structure located in close proximity to a residential community that values its quiet and natural setting. The project’s bulk requires total reshaping of a narrow wooded valley to accommodate the equivalent building length of two football fields with heights ranging from 55 to 85 feet. The February 27 Staff Report (Page 16) states that “the general 30-foot height limit for structures in the project’s RMP zoning district was waived by the County (in 1996) with findings, among others, that the structure employed a creative design . . . and that reducing the building height would result in a larger building footprint with greater geologic, biotic, and visual impacts.” Ironically, every effort was made then – and continues to be made – to hide that “creative design” from public view behind a constructed, revegetated knoll .

The consequences of project approval will be (in the short-term construction phase) several years of community disruption from noise, dust, traffic, and invasion of equipment, materials, and workers to construct one of the largest projects in Marin County since the Administrative Wing of the Civic Center was built in the late 1960s. (Only the Buck Center rivals it in magnitude.) The majority of the 123 conditions of approval address this lengthy construction phase. The key to effective conditions, however, lies in vigilant monitoring and reporting by the County.

In the mid-term, or operational, phase of the project, the immediate neighbors and community will have to be protected from light, noise, traffic, and other possible disruptions to their

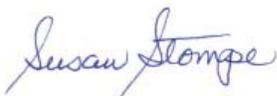
quality of life. And the wildlife impacted by large-scale reconfiguring of the landscape and tree removal will have to recover as habitats are recreated – a slow process at best. We have reviewed the conditions placed on the project and find that they are generally comprehensive. As with the construction phase, however, the effectiveness of conditions lies in vigilant monitoring, which should continue past the 5 years typically associated with CEQA.

Missing from conditions is any mention of future elements or buildings to complete the project for which entitlement was granted under the Master Plan. These were not examined in the SEIR, and should be subject to supplementary environmental review if and when they are proposed.

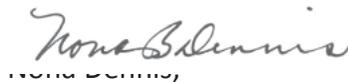
Finally, in the long term, the entitlement runs with the land, not with the Applicant. There are sufficient uncertainties as to the longevity of George Lucas' tenure at this site – and the future of digital filming technology itself – to warrant asking such questions as: How long will this facility serve the purposes for which it is being designed? And how will it be used in the future? To ensure that any future use is restricted to no greater impacts than allowable under the current plan, the conditions must be sufficiently detailed to prevent any future expansion if Lucasfilm Ltd. decides to abandon the site.

MCL appreciates this opportunity to comment.

Sincerely,



President



Vice President

cc. Tom Lai, Community Development Agency
Neal Osborne, CDA
Rachel Warner, CDA