

February 24, 2012

Marin County Planning Commission
c/o Debra Stratton, Commission Secretary
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San Rafael CA 94903
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SUBJECT: FINAL SUPPLEMENT TO THE GRADY RANCH/BIG ROCK RANCH MASTER PLAN 1996
DRAFT ENVIRONMENTAL IMPACT REPORT, AS AMENDED, and PRECISE DEVELOPMENT PLAN

Dear Staff and Commissioners:

Marin Conservation League (MCL) understands that the Planning Commission hearing on February 27, 2012, will consider both the certification of the subject Final SEIR as Amended (February 2012) and the merits of the Grady Ranch Precise Development Plan. We have reviewed the consultant's responses to comments on the Final SEIR and find that some clarifications and revisions to the Final SEIR are still necessary to complete the environmental phase of review. This letter addresses first the certification of the Final SEIR as Amended, and then considers the merits of the Precise Development Plan (PDP) and the sufficiency of conditions contained in the Resolution to approve the PDP.

We appreciate that, in response to MCL's and others' comments on the FSEIR, the Amendment has done the following: made available schematic building elevations; added the 2009 *Construction Management Plan, Grady Ranch*, which details construction phasing and equipment; corrected Table 2-2 by adding elevations of the constructed knoll; clarified the wine cave excavation amount; provided a more detailed visual analysis of views toward the project site and distant views from various neighboring vantage points; and added a new mitigation measure HYDRO-1, that presents a plan for 5-year monitoring of the stream restoration plan. And thank you for the mini-treatise on CEQA Guidelines regarding "... the acceptability of referencing prior environmental documents or other information to support environmental conclusions. . . "(Response 3-2, Amended FSEIR). The fact remains that the County, whose document this is, has made available an extensive bibliography of referenced documents but also made it very difficult for both Planning Commission and the interested public to review a coherent analysis of important elements of the project in the published FSEIR and Appendices.

Final SEIR as Amended Requires Clarification of the SCA Restoration and Enhancement Plan and Revision to New Mitigation Measure HYDRO-1

We will focus on the plan for stream restoration, since that is the most substantial change from the Master Plan. Section 2.6.8 of the FSEIR gives a summary description of the Stream Conservation Area (SCA) Restoration and Enhancement Plan, illustrating it in plan-view and two cross sections. For details of the Plan, one is referred to Brown and Hecht 2009, and to several Balance Hydrologics documents, available on line. Additional background information on the hydrology setting is found in Section 2.3.6 of the SEIR. Section 2.6.8, in describing the Restoration Plan, states that the base level of creeks will be

raised by as much as eight feet. For the quantity of fill (68,000 cu. yd.), however, one must turn to Table 2-2 in Section 2.8. The FSEIR does not provide performance standards for the Plan beyond a summary of general objectives: 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. A search through other sections of the FSEIR yields several more beneficial outcomes, but no standards. The description states that periodic inspections . . . would be conducted to ensure that design elements of the restoration project are intact. (Note that Condition 55 (d)(i), (ii), (iv) suggests that there continue to be uncertainties in the Plan as presented.)

Discussion of impacts and mitigation for the Restoration Plan is found in three sections of the FSEIR: Biological Resources, Geology and Soils, and Hydrology and Water Quality. Although the restoration is intended to have long-term benefits, there will be short-term disturbance (impacts) to steelhead habitat from construction and initial channel response (FSEIR Page 3-29). For a full understanding of mitigation measures for short-term impacts, one must refer to WRA 2011a for the Section 7 Biological Assessment, whose basic terms are summarized on Page 3-39 of the FSEIR.

For discussion of long-term impacts, one turns to Hydrology and Water Quality, where there is extensive discussion of “inherent risk of failure” (Pages 3-74, 3-75, 3-76, and 3-78). The response to MCL’s comment that the long-term impacts of the stream restoration had not been addressed adequately in the FSEIR (Addendum, Comment 3-11) was as follows:

“The SEIR did not identify any new significant impact or substantially more severe significant impact as a result of implementation of the stream restoration portion of the project. Therefore, no mitigation . . . is required. However, as noted on page 3-75 of the Final SEIR, the applicant has agreed that periodic inspections/surveys would be conducted to ensure that key design elements of the restoration project are intact and functioning as designed. To clarify this applicant-proposed mitigation, the text on page 3-76 is revised to include the following (quoted in part): . . . Mitigation Measure 5.2-2 would reduce potential erosion impacts to a less-than-significant level. The text of these mitigation measures is included below. In addition, the following applicant-proposed mitigation measure would ensure that the proposed stream restoration plan would be monitored and maintained to ensure that potential sediment transport effects would be less than significant. (The text of HYDRO-1 with suggested revisions follows).”

The evident purpose of this new Mitigation Measure HYDRO-1, *proposed on behalf of the applicant* (emphasis added) is to “minimize the inherent risk that certain designed elements (of the stream restoration plan) could fail, resulting in erosion and downstream sedimentation” (FSEIR, Pages 3-74, 3-75, 3-76, and 3-78). In our view, the repeated acknowledgment of inherent risk of failure on these pages is equivalent to acknowledging a potentially significant impact on downstream reaches of Miller Creek, including steelhead habitat, and should be stated as such! The new mitigation measure, presented as though it were a generous gesture on the part of the applicant, should have been required by the County in the FSEIR.

One also finds that to fully mitigate the stream restoration component will take a combination of MM 5.2-2, which immediately directs one to MM 5.1-2 for preparation of a generic Erosion Control Plan, plus WRA 2011 *Contingency Plan (Habitat Mitigation and Monitoring Plan)* (available on line), in order to assemble sufficient details of an inspection and maintenance plan for the proposed stream restoration.

The new mitigation measure HYDRO-1 attempts to capture these details in one mitigation measure but presents two problems that it must address: 1) the monitoring plan should be carried out by an objective third party, not by the *applicant's* staff, as suggested in the WRA report; and 2) the “financial assurances to provide a cushion for unforeseen costs of management activities in the event of a fire, flood, or other natural disaster . . .etc.”, also suggested in the WRA Plan, should be required to cover contingencies during and also extending beyond the five-year monitoring period. We recommend the following revision to HYDRO-1:

Mitigation Measure Hydro-1 [N]

Following construction of the stream restoration project, the Countyproject applicant shall ensure that inspections/surveys of the restoration project are conducted at least once annually for five years by a qualified profession (hydraulic engineer/geomorphologist) selected by the County at the applicant's expense to ensure that key design elements of the restoration project are intact and functioning as designed. These inspections shall be conducted annually prior to the rainy season and following runoff events equal to or larger than the five-year frequency storm. Repeated cross sectional surveys at key monitoring stations also shall be conducted towould-be-an-effective-method-of examining changes that occur slowly over time, which may indicate if a particular element is trending towards failure. If the inspections/surveys discover any area of potential weakness or potential loss of integrity of the restored stream features, the applicant shall notify the Marin County Community Development Agency or Department of Public Works and all applicable federal, state, and regional agencies in a timely manner with proposed actions to be implemented to prevent erosion and/or failure of key grade control features. During the five years this measure is in place, the applicant will submit annual monitoring reports to the Marin County Community Development Agency. In addition, the applicant shall post bond or provide other financial assurance to cover unforeseen costs of necessary management actions in the event of flood or other natural disaster that might result in downstream damage during the five-year monitoring period and extending for a period of xx years beyond.

We note that Condition # 77 does incorporate most of the provisions of HYDRO-1. This condition should be tightened to reflect the recommendations above.

The new mitigation measure HYDRO-1 has another limitation. In focusing on the possibilities for failure, it does not provide a very useful mechanism for monitoring whether the Plan is actually effective in attaining its other objectives, either within the project boundaries or downstream in lower Miller Creek. Because there are limited analogs for the proposed plan for raising the creek bed, it will be to the benefit of both applicant and County to include in the annual report data and analysis that can be useful for future restorations similar to the one proposed. Marin County has numerous examples of creeks that are deeply incised due to past overgrazing and other land management abuses.

(Of more than passing interest, the Staff Report on Page 15 gives another reason for raising the elevation of Miller Creek to historic levels [and increasing the height of the grassy knoll]: that is, to reduce potential truck traffic by balancing excavation and fill on the site. A least it's an honest admission of practical benefit.)

Merits of the Grady Ranch Project – A Massive Project in an Inappropriate Location

It is not productive to revisit history and try to change its course; 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.

The project was then, and continues to be, a massive structure for a use that is quasi-industrial in nature located in an inappropriate location – inappropriate because of its proximity to residential neighborhoods in a community that values its quiet and natural setting; and inappropriate because its bulk requires total reshaping of narrow wooded valley to accommodate the equivalent building length of two football fields and heights ranging from 55 to 85 feet. The Staff Report, on 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 now – to hide that “creative design” from public view behind a constructed knoll with new vegetation.

The unfortunate results of this inappropriate location will be (in the short term) several years of community disruption from noise, dust, traffic, and general invasion of equipment, materials, and workers to construct the largest project in Marin County since the Administrative Wing of the Civic Center was built in the late 1960s. The habitats of myriad wildlife will also be disrupted in the short-term, some, but not all, to recover. The majority of the 122 conditions of approval address this prolonged construction phase. The key to effective conditions, however, lies in vigilant monitoring and reporting.

In the mid-term (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 affected streams will have to recover from intensive reconstruction, replanting and recovery of habitat. We have reviewed the conditions and find that they are comprehensive, with the noted exception of those dealing with the stream restoration and enhancement plan. Monitoring of this plan must continue beyond the typical five-years, in view of the extensive nature of restoration. Also missing from conditions is any mention of future elements 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 review if and when they are proposed.

Finally, in the long term, 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.

Thank you for this opportunity to comment.
Sincerely,

Nona Dennis, Vice President

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Sincerely,

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