

RESOLUTION NO. 2006-63

RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
APPROVING THE LAS CUMBRES
LAND DIVISION 00-7

5748 LUCAS VALLEY ROAD, NICASIO
ASSESSOR'S PARCELS 121-210-51, 121-210-52

SECTION I: GENERAL FINDINGS

- I. WHEREAS, Steven Arago and Terry Mason, representing property owner's estate trustee Margaret Boyden, submitted applications for the Las Cumbres Land Division Tentative Map and Master Plan, to divide an existing 832-acre site into four residential parcels: Parcel A – 24 acres, Parcel B – 45 acres, Parcel C – 323 acres, and Parcel D - 440 acres. A new single family residence is proposed on each of the four parcels (with the exception of Parcel B, which already contains a single family residence). Each of the two largest parcels (Parcels C and D) is also proposing a second unit within the primary building envelopes. The two second units are proposed to be income restricted so that they qualify as affordable units for low-income individuals. Parcel C and Parcel D also each contain an accessory building envelope (alternative accessory building envelope C2 and accessory building envelope D2, respectively) to be used for barns, garages, storage, etc., in a separate location from the primary residential building envelope. Any structures developed in the accessory building envelope under this Master Plan/Land Division approval would be accessory in nature to the primary residence. The proposed Master Plan also allows future owner(s) of Parcel C and Parcel D to subdivide land around alternative accessory building envelope C2 and accessory building envelope D2, and convert the accessory building envelope to a single family residential building envelope. The two additional parcels and residences are not being proposed as part of the project at this time. However, they are included in the Initial Study as part of the potential buildout total of six residences and two second units. Parcel boundaries, building envelopes, leachfield locations, road and utility locations, and proposed open space areas are included as part of the project applications. Access to the parcels would be from a combination of existing paved roads and dirt roads, and new driveways varying in length from 50 to 750 feet in length. Sanitary service would be provided by individual septic systems. Water services would be provided by wells. Limited tree removal is proposed in the primary and accessory building envelopes on Parcel D. Approximately 6 acres of land is proposed for development, with the remaining 826 acres of land proposed as permanent private open space. An open space easement is proposed along the southern boundary of Parcel D, with an access easement on the ridgeline portion of the Los Pinos fire road, and a floating trail easement for a future trail in the southwesterly portion of Parcel D. Access to the various lots and building envelopes would be via a combination of internal roads in the Rancho Santa Margarita subdivision, including Via Gonzales, Los Pinos, Rancho Santa Margarita, smaller existing spur roads, and new driveways. The address of the subject property is **5748 Lucas Valley Road, Nicasio**, and further identified as **Assessor's Parcels 121-210-51, and 121-210-52**.
- II. WHEREAS, a Mitigated Negative Declaration (Negative Declaration) was prepared for the project for compliance with the California Environmental Quality Act (CEQA). The Planning Commission has adopted a separate resolution recommending that the Board of Supervisors approve the Negative Declaration as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County Environmental Review Procedures, and as adequate and complete for consideration in making a decision on the merits of the project.

- III. WHEREAS, the Marin County Planning Commission held a duly-noticed public hearing on December 12, 2005 to consider the merits of the proposed project, and hear testimony in favor of, and in opposition to, the project., and continued the hearing for the purpose of evaluating the feasibility of modifying the location of building envelopes to address various concerns relating to consistency with County policy and standards and environmental consequences of the project.
- IV. WHEREAS, the Marin County Planning Commission held a duly noticed public hearing on March 13, 2006 to review alternative building envelopes and other project changes intended to address the Planning Commission's concerns, including but not limited to the relocation of building envelope C2 and D1 (referred to hereafter as "alternative accessory building envelope C2" and "alternative building envelope D1"), and a revised access scheme for building envelope C1. (Note: alternative accessory building envelope C2 and alternative building envelope D1 are referred to as substitute mitigation in the context of CEQA analysis and findings.)
- V. WHEREAS, the Marin County Planning Commission, at the conclusion of the public hearing on March 13, 2006, voted 4-3 to recommend that the Board of Supervisors adopt a resolution approving Las Cumbres Land Division 00-7.
- VI. WHEREAS, the Marin County Board of Supervisors held duly-noticed public hearings on April 11 and May 16, 2006 to consider the Planning Commission recommendation to approve the Las Cumbres Land Division application based upon the findings and subject to conditions of approval, and to consider the merits of the proposed project, and hear testimony in favor of, and in opposition to the Land Division.
- VII. WHEREAS, at the April 11, 2006 public hearing, the Marin County Board of Supervisors approved the Mitigated Negative Declaration (Negative Declaration) that was prepared for the project as adequate and complete in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County Environmental Review Procedures, and as adequate and complete for consideration in making a decision on the merits of the project.
- VIII. WHEREAS, the Marin County Board of Supervisors finds that the Las Cumbres Land Division, as modified by the conditions of approval herein, is consistent with the following policies contained in the Marin Countywide Plan (CWP) and the Nicasio Valley Community Plan (NVCP), for reasons listed as:
- A. The project site is located in the Inland Rural Corridor and contains both AG2 (Agricultural, minimum lot size 10-30 acres) and AG1 (Agricultural, minimum lot size 31-60 acres) land use designations. The proposed Land Division would result in a gross density/lot size of one unit per 208 acres. Even with the potential for the two additional parcels being divided off of Parcels C and D (for an eventual total of six lots) the average lot density would be one unit per 139 acres, less than half the lowest CWP lot density (60 acres). While the residential nature of the project does not further agricultural use or development of the site, the property has been identified as marginal for agricultural purposes due to its steep topography, shallow soils, generally wooded aspect, and difficult access for grazing or crop purposes. The site has not been used for any sort of agricultural purpose for several decades. Preservation of 99 percent of the 832-acre site as open space will allow for future compatible agricultural uses. Finally, the site's zoning is A-RP 20 (Agricultural, Residential Planned, one unit per 20 acres) and A-RP 60 (Agricultural, Residential Planned, one unit per 60 acres). The Marin County Development Code states:

"The ARP zoning designations identify areas suitable for residential development, with varied housing types designed without the confines of specific yard, height, or lot area requirements, where the amenities resulting from this flexibility in design will benefit the public or other properties in the community."

- B. The County's planned zoning development standards stipulate that "no development shall occur on top of, or within 300 feet horizontally or 100 feet vertically of visually prominent ridgelines, whichever is more restrictive, unless no other suitable locations are available." (Marin County Code Section 22.16.030.F.2.). The majority of the building envelopes have been carefully selected in locations that are well down from any primary ridges or secondary or finger ridges. The proposed alternative accessory building envelope C2 is located within a saddle area of an interior ridgeline that has limited visibility from distant off-site locations and within the project site. However, this building envelope does not violate the above standard because the saddle area of the ridge and building envelope are situated below more visually prominent portions of the ridgeline. In addition, conditions of approval require a low profile residence and adjustments to the configuration of the envelope to minimize the visibility of future development. Furthermore, although the property contains 832 acres, the constraints analysis performed in connection with the proposed Master Plan, and previous iterations thereof, have demonstrated that development of other sites located completely outside of the ridgeline setback area cited above would result in greater impacts, such as excessively long driveways, grading and other substantial alterations of land forms, and tree removal.
- C. Stream and Conservation Areas (SCA's), listed in CWP policies EQ-2.1 – 2.6, are designated as important environmental resources for which protections including setbacks are listed in the Countywide Plan. The overriding objective of the SCA policies is to preserve, protect, and enhance existing species and habitat diversity from erosion, sedimentation, pollution and habitat destruction. The project site contains a perennial blue line stream running southeast to northwest through the approximate middle of the site. Additionally, there are several smaller ephemeral or intermittent riparian areas located in various areas on the site. The project does not propose building envelopes within the SCA's, however there are several proposed vehicular access routes on either existing improved roadways or on fire roads that would cross the smaller water courses. This is allowed under the County's SCA policies, and potential environmental impacts to the SCA zones have been mitigated so that no impacts could occur with subsequent development of any project. Substitute mitigation for alternative building envelope C1 requires a revised access that reduces driveway proximity to smaller intermittent water courses.
- D. Open Space preservation is discussed in CWP policies EQ-3.11 – 3.34a, encouraging protection of open space and the preservation of the natural environmental and visual resources. Open space impacts were identified as potentially significant in the Initial Study. The project on its face is exemplary with respect to preservation of open space. Only 6 of the 832 acres are proposed to be inside building envelopes, with a small additional area of land dedicated for road improvements and utilities. Over 150 acres along the primary ridgeline running along the southern boundary of Parcel D will be dedicated to the County Open Space District as permanent open space. The applicant is stipulating that the remainder of the property outside the building envelopes and dedicated open space via County Open Space easement be shown on the Land Division map as "Permanent Private Open Space." A mitigation measure has been included in the Initial Study and conditions of approval that allows County to enforce the open space restriction.
- E. The project is consistent with CWP policy EQ-3.5 since it would not affect potential archaeological or cultural resources. No such resources have been found at the site, and mitigations have been included to ensure that no impacts will occur if such resources should be found.

- F. The project will satisfy the County's inclusionary housing ordinance (Marin County Code Chapter 22.22) by paying fees in-lieu of providing one affordable housing unit, as provided for in County Code for developments of less than five units and with the characteristics of this proposed development. Additionally, the applicant will provide a second unit each on Parcel C and Parcel D, providing housing stock that serves as an important affordable housing resource in Marin County. The payment of in-lieu fees in conjunction with two residential second units will provide equal or greater value than the dedication of one affordable unit (Marin Countywide Plan policy H3.21 and H3.23). The inclusion of affordable housing in this project is impractical due to the low density and large lot development pattern approved herein.
- G. The Nicasio Valley Community Plan (NVCP) contains a policy specific to the Gonzales (Las Cumbres) property, recommending a low density planned district zoning designation, minimal road building, minimal removal of significant trees and other vegetation, and cluster development. The Nicasio Design Review Board has concluded that in general this project complies with the NVCP, with the proviso that building envelope C2 be located to take advantage of screening topography and minimize visual impacts. Road construction will be minimized through use of existing fire roads, and tree removal will be kept to a minimum. Consistent with the NVCP, the project proposes a very low density in relation to the potential maximum density assigned to the ARP zoning, as described in Finding X.A below.
- IX. WHEREAS, the Marin County Board of Supervisors finds that the proposed project, as modified herein, is consistent with the requirements of the ARP-20 (Agricultural, Residential Planned, one unit per 20 acres) and ARP-60 (Agricultural, Residential Planned, one unit per 20 acres) zoning districts and the Planned District development standards contained in Section 22.16.030 of the Marin County Code, based on the following.
- A. The density of the land development with this four-lot residential Land Division is one unit per 208 acres. While the theoretical maximum density allowed under the zoning designations would be approximately 28 lots, the applicant is proposing four lots with this application, and a maximum of 6 lots (with a resultant density of one unit per 139 acres) at future buildout.
- B. Site planning standards are reflected in the proposed project and included in mitigations and the conditions of approval. The future residential development will be clustered in a manner that is consistent with the land use patterns of Rancho Santa Margarita subdivision, located in building envelopes that are conveniently accessible, screened by topography and vegetation, and most geologically stable.
- C. No development areas will be located within a mapped Ridge and Upland Greenbelt (RUG) area. The majority of the building envelopes have been carefully selected in locations that are well down from any ridges. One of the proposed building envelopes on Parcel C, alternative accessory building envelope C2, is located near an interior ridgeline; however, the building envelope and any future development will comply with policies governing development in close proximity to ridgelines by implementing mitigations and conditions of approval that include specific provisions for grading, structural siting, other improvements, tree preservation and planting, and miscellaneous design review requirements including visual simulations and design, height, and color restrictions. (See Finding VIII.B above.)

D. The Master Plan includes a conceptual access design for the future roadways and driveways that generally maintain slopes of 15% or less, and do not exceed a maximum slope of 20%. This is below the County's title 24 road standards for a maximum slope of 25%. Although maximum slopes at times exceed the 15% grade recommended in the Planned District Development Standards, the majority of the steeper roadway pitches are on existing paved or fire roads. The Department of Public Works has determined that the proposed roadway improvements, including maximum grades, are acceptable.

X. WHEREAS, the Marin County Board of Supervisors finds that mandatory findings for approval of a Land Division, pursuant to Marin County Code Section 22.84.060, could be made for the project, as follows.

A. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the Marin Countywide Plan, Local Coastal Program, and any applicable Community Plan and Specific Plan, and that none of the findings for denial in Subsection D below (Findings Requiring Denial) can be made. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.

Discussion: The project is consistent with the Marin Countywide Plan based on the findings that are noted in Finding VIII above. None of the findings requiring denial of the Tentative Map could be made based on Finding X.D below.

B. In addition to the findings required for approval of a Tentative Map by Subsection A. above (Required Findings for Approval), the following findings are also required when they are applicable to the specific subdivision proposal.

1. It is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map, where road improvements are required (see Section 22.82.080).

Discussion: Road improvements are not proposed or required in conjunction with the four-lot Land Division application at this time. For Parcels A, C, and D of the Tentative Map, detailed road improvement plans to the future residential development would be required at the time of the subsequent review of a Parcel Map. Driveway improvements for Parcels A, B, C, and D would be required in conjunction with subsequent Design Review for any future residences.

2. Any findings required by Sections 22.88.030 (Condominium Conversions) for condominium conversions.

Discussion: This finding is not applicable to the project.

C. If waiver of a Parcel Map has been requested with the Tentative Map application, the review authority shall determine whether the findings required by Section 22.86.030 (Waiver of Parcel Map) can also be made.

Discussion: Since the project does not include a request for a Parcel Map waiver, this finding does not apply to the project.

D. The following findings for denial of a Tentative Map and as required by State Subdivision Map Act Section 66474, cannot be made for the project.

1. The proposed subdivision including design and improvements is inconsistent with the Marin Countywide Plan or an applicable Community Plan or Specific Plan.

Discussion: As discussed above in Finding IX above, the proposed Land Division is consistent with the Marin Countywide Plan and the Nicasio Valley Community Plan.

2. The site is not physically suitable for the type or proposed density of development.

Discussion: The site is physically suitable for the type and proposed density of development. Each of the four proposed lots would have sufficient land area (a minimum of 24 acres), with building envelopes underlain by adequate geological materials to support future residential development with County-approved access, utilities, and services, without resulting in a significant disruption to the surrounding natural and built environments. The project would not create any adverse environmental impacts relating to physical suitability of the sites or building envelopes.

3. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or injure fish or wildlife or their habitat.

Discussion: The design of the Land Division and improvements will not cause substantial adverse environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The development footprint impacts less than one percent of the total area of the project site, with the remainder of the area remaining in permanent open space. The areas proposed for development have been selected, and the project has been conditioned, to avoid any significant and adverse effects on streams, wetlands, or other sensitive habitat areas for special status species of plants or animals.

4. The design of the subdivision or type of improvements is likely to cause serious public health or safety problems.

Discussion: The design of the Land Division and improvements will not cause serious public health problems because there will be adequate provision of water, sewage, drainage, fire protection, and emergency vehicular services to the future residential development. Additionally, the future development would utilize fire-resistant materials in conformance with the latest Fire Code requirements, vegetation management techniques would be incorporated to minimize fire hazards, and new landscaping and development would be restricted to designated building envelopes.

5. The design of the subdivision or the type of improvements will conflict with easements acquired by the public at large for access through or use of, property within the proposed subdivision. This finding may not be made if the review authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the review authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision.

Discussion: There are no known public easements over the property. An existing open space easement encumbering 152 acres in the southeast corner of the property will remain in effect and will not be diminished by the project. The applicant is proposing a new public trail easement in a form satisfactory to the Marin County Open Space District that will provide for the first time a public access easement across the fire road on the southerly boundary of the property, and on a future trail in the southwestern portion of the property.

6. The proposed subdivision is not consistent with all applicable provisions of this Development Code, any other applicable provisions of the County Code, and the Map Act.

Discussion: The proposed project is consistent with all applicable provisions of Marin County Code, including, but not limited to the Subdivision Ordinance contained in Chapter 22.84, for the reasons set forth in Finding VIII and Finding IX above, and this Finding X.

- XI. WHEREAS, the Marin County Board of Supervisors finds that the project complies with the requirements of Marin County Code Section 22.98.040 (Parkland Dedications and Fees) and will provide for the dedication of land area which meets the park and recreational facilities that are required by the State Subdivision Map Act Sections 66477 et seq. (Quimby Act). The proposed dedication of an easement area containing more than 10,000 lineal feet of public trail to a public entity, the Marin County Open Space District, would accommodate the expected population increase as a result of the future residential developments and more than meet the Countywide Plan's standard of 2.5 acres of land per 1,000 persons residing within the community. Based on an estimate of approximately 100 people living in the Rancho Santa Margarita community, the project's approximately 5 acres of public trail easement area represent a standard of 50 acres of land per 1,000 residents, which would more than comply with the parkland requirements.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors approves a resolution approving the Las Cumbres Land Division 00-7, subject to the following conditions of approval.

(Note: The following conditions of approval also include mitigations contained in the Initial Study.)

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapters 22.44 and 22.84 of the Marin County Code, the Las Cumbres Land Division 00-7 is approved for the following
 - A. The subdivision of an existing 832-acre site into four residential parcels: Parcel A – 24 acres, Parcel B – 45 acres, Parcel C – 323 acres, and Parcel D - 440 acres.
 - B. Primary building envelopes for four single family residences on each of the parcels identified above in Condition 1.A, including alternative building envelope D1 as generally described in Condition 24 below. (Parcel B contains an existing single-family residence; building envelopes for Parcels A, C and D are approved to accommodate a new single-family residence and accessory improvements subject to obtaining Precise Development Plan or Design Review approval and other applicable permits.) Primary building envelopes C1 and/or D1 may be developed as accessory building envelopes, in which case accessory building envelopes C2 and/or D2 shall be converted to primary building envelopes consistent with these conditions of approval.

- C. Alternative accessory building envelope C2 and building envelope D2 are approved for accessory structures, such as barns, garages, storage, etc., in a separate location from the primary residential building envelope, subject to compliance with these conditions of approval. Any structures developed in the accessory building envelope under this Master Plan/Land Division approval would be accessory in nature to the primary residence, and would require Design Review and other required authorizations. Accessory building envelopes C2 and/or D2 may be developed as primary building envelopes, in which case primary building envelopes C1 and/or D1 shall be converted to accessory building envelopes consistent with these conditions of approval. No more than one primary single-family residence is permitted on Parcels C and D by this Land Division approval.
- D. Parcels C and D are approved for a residential second unit subject to final approval according to procedures and standards set out in the Marin County Development Code (Marin County Code Section 22.32.140).
- E. The Master Plan retains the potential for up to two additional single family residential lots to be subdivided from Parcels C and D for accessory building envelopes C2 and D2, subject to Tentative Map/Land Division and Precise Development Plan approvals.
- F. Access to the parcels is provided from a combination of existing paved roads and dirt roads, and new driveways varying in length from approximately 50 to 750 feet in length.
- G. Sanitary service would be provided by individual septic systems subject to approval by the Community Development Agency Environmental Health Services Division.
- H. Water service is provided by wells identified as wells 1, 2, and 4, subject to approval by the Community Development Agency Environmental Health Services Division.
- I. Approximately 6 acres of land is designated for building envelopes, with additional areas of the property being devoted to driveway access and sewage disposal systems. The remaining approximately 826 acres of land are to remain as permanent open space, including an open space easement located along the southern boundary of Parcel D, with an access easement on the ridgeline portion of the Los Pinos fire road, and a floating trail easement for a future trail in the southwesterly portion of Parcel D. All areas located outside of the approved building envelopes, and not otherwise approved for ancillary improvements, such as roads and sewage disposal systems, shall remain in their current undeveloped condition as private open space in accordance with Condition 5 below.

The address of the subject property is **5748 Lucas Valley Road, Nicasio**, and further identified as **Assessor's Parcels 121-210-51, and 121-210-52**.

- 2. The Las Cumbres Land Division comprises a general development layout that is depicted in plans on file in the Community Development Agency and identified as "Exhibit A," entitled "Las Cumbres Master Plan/Tentative Map," consisting of 14 sheets, prepared by CSW/Stuber-Stroeh Engineering Group, Inc., and dated received January 13, 2006.
- 3. Pursuant to Marin County Section 22.44.030(C) (2), no development, land improvements and/or building construction shall commence until Precise Development Plan or Design Review is approved.
- 4. The required Parcel Map must be in substantial conformance with "Exhibit A," including, but not necessarily limited to, the approved boundary lines, utility and access easements. Prior to recordation of the Parcel Map, the Parcel Map must be submitted to the County Surveyor for review and approval. Parcel Map data and form must be in compliance with provisions of Marin County Code Chapter 22.86. No development, land improvements and/or building construction shall commence until the Parcel Map is approved.

5. Prior to recordation of a Parcel Map, the applicant shall clearly and precisely define and designate on the map the area(s) on each lot to be preserved as permanent private open space in addition to the approved building envelope locations. Minor adjustments to the boundaries of the private open space area and building envelopes may be approved at the discretion of the Community Development Agency Director or through the Design Review or Precise Development Plan process. Substantive changes or relocation of building envelopes approved herein shall require approval of an amendment to this Master Plan ordinance. The applicant will list those activities and changes (for example, erosion control, grazing, and crop growing) that are permitted in the open space area(s). In general, uses and activities within the private open space area shall be limited to agriculture, equestrian, and passive recreation. The designated private open space shall be maintained in an open and natural condition, with the exception that small-scale structures and other minor improvements accessory and reasonably related to the conduct or management of open space activities (for example, horse corral/shelter or small agricultural equipment shed) may also be permitted in the open space areas, subject to prior approval of the Community Development Agency Director. Such structures or improvements may be subject to Design Review and/or an agricultural management plan. Otherwise, structural development, new roads, etc., shall be prohibited within the open space areas. Removal of existing trees or native vegetation shall be prohibited, except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the County and the State Food and Agriculture Department, and to prevent safety hazards to people and property as approved by the County. The Marin County Community Development Agency has the authority to access the parcels for inspection, monitoring, and compliance purposes.
6. These conditions of project approval and Notice of Decision contained herein must be recorded against the title of the property concurrently with the Parcel Map.
7. Except for the future division of one parcel of land around each of building envelopes C2 and D2, or for conveyance of land to a governmental agency, public entity, or public utility, further subdivision of land within this Las Cumbres Master Plan and Tentative Map is prohibited. This prohibition shall be written on the Parcel Map.
8. Any further subdivision of land within this Las Cumbres Master Plan and Tentative Map shall be subject to Tentative Map/Final Map and Precise Development Plan processing requirements. The Community Development Agency Director may waive the requirements for a Precise Development Plan if the Tentative Map is found to be in complete conformance with the approved Master Plan.

Development

Future development within the Las Cumbres Land Division shall be subject to the following requirements:

9. Except as otherwise specified in these conditions, total structural floor area within any building envelope, including garages and accessory structures, shall be limited to a potential maximum of 7,000 square feet. Actual allowed square footage in any building envelope may be less, depending on specific and design information provided in the Design Review process.
10. Development of Parcels C and D shall include plans for a second unit consistent with policies and standards contained in Marin County Development Code Subsection 22.32.140. The second unit shall be completed prior to final inspection for the residence.
11. Any structures located within building envelopes C2, D1, and D2 shall be one-story (18 feet in height maximum) unless it can be conclusively demonstrated through the Design Review process (with story poles, visual simulations, etc.) that the structure(s) maintains a one-story appearance from off-site view.

12. Exterior lighting shall be minimized with respect to number and light output, and shall be shielded from offsite view to the greatest extent possible.

Building envelopes

The building envelopes shall be subject to the following requirements:

13. Finalized boundaries of all building envelopes shall be included in any future development plans, including a survey that clearly identifies topography, drainage, trees, and other visible natural features (e.g., rock outcroppings) located within the building envelope. The number of trees proposed for removal shall not exceed the number of each species shown in the Master Plan/Tentative Map plans as proposed for removal within the building envelopes, unless the Community Development Agency Director finds that additional tree removal is warranted to develop the approved Master Plan and said work complies in all respects with the findings and conditions herein and in the approved Negative Declaration for the project.
14. Any application for development on Parcel B shall include detailed building envelopes for all existing and proposed development. A building envelope shall be designated for the existing accessory structure on the west portion of Parcel B, with dimensions of approximately 100' x 100.'
15. Total structural area in building envelope C1 is limited to a potential maximum of 3,500 square feet.
16. Total structural area within building envelope D1 is limited to a potential maximum of 3,000 square feet.
17. Total structural area within alternative building envelope D1 is limited to a potential maximum of 7,000 square feet.
18. Measures to protect California newts (*Taricha torosa*) shall be incorporated into the design of and construction activities for the driveway to building envelope C1. Said measures shall incorporate but not be limited to: elimination of curbs, retaining walls, or other impediments to overland newt movement within 100 feet of any stream course, seasonal restrictions on construction activities, and provision of an approximately 50 foot bridge spanning both water courses where the access driveway crosses the confluence of two streams, providing clear bridge span beyond the banks of the water courses to minimize streambed and bank disturbance and allow unrestricted newt passage.
19. As part of the Design Review application, a surveyed site/landscaping plan shall be provided that accurately locates all trees within 100 feet of both alternative building envelopes D1, and building envelope D2, with an evaluation by a certified consulting arborist that contains recommendations oriented towards maximizing the long-term health and vigor of all trees identified. All existing trees are to be permanently preserved and protected, unless a report by a certified consulting arborist prior to tree removal conclusively demonstrates that the tree is dead or dying, or tree removal is otherwise permitted by these conditions. Tree preservation shall be evaluated through the Design Review or Precise Development Plan process for future development of these building envelopes with the objective of integrating the future residences and other structures into the surrounding woodland setting as viewed from public and private vantage points.

20. Any application for development in both alternative building envelopes D1 and building envelope D2 shall include a detailed tree survey that identifies all trees in and adjacent to the building envelope, including those proposed for removal. The number of trees to be removed in the following building envelopes shall not exceed:
- a. For building envelope D1, five Douglas Firs and five Coast Live Oaks of 6" or greater in diameter, unless additional trees are allowed to be removed through the Precise Development Plan or Design Review process;
 - b. For building envelope D2, six Douglas Firs of 12" or greater in diameter, unless additional trees are allowed to be removed through the Precise Development Plan or Design Review process.
21. Prior to the issuance of building or grading permits for building envelopes D1 and D2 and development of access therein, a qualified wildlife biologist shall conduct a site survey and prepare a report that determines whether Northern Spotted Owls and/or their nests are present on or within disturbance proximity of building envelopes D1 and D2. The report shall also evaluate the specific location and design of the proposed developments and recommend any necessary design changes to conform to standard development practices to protect Spotted owl habitat. If owls or nests are found, a hold shall be placed on any building or grading permits to the site in question, limiting all construction work to occur only from July 15th through February 15th (outside of nesting season), and/or until the biologist reports that all nestlings have fledged.
22. Development within any accessory building envelope shall clearly be accessory and subordinate to the primary building envelope for that parcel.

Geotechnical and drainage

23. Design Review application submittal materials for any single family residence or accessory structure, or Grading Permit application submittal, shall include a "Stability Report", prepared by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer for review and approval by Department of Public Works staff. A detailed final soils investigation and report that includes field investigation and laboratory test with detailed information and recommendations relative to all aspects of grading, filling, and other earthwork, foundation design, pavement design, and subsurface and surface drainage shall be provided. The report shall direct the applicant in how to avoid unstable areas and shall include actions that will prevent structural damages to improvements, control erosion, and prevent sedimentation or damage to off-site property.
24. In accordance with Countywide Plan and Nicasio Valley Community Plan policies, mitigation emphasis shall be placed on low-impact, non structural, and location selection approaches versus structural design approaches, to minimize disruption to and impacts on existing natural features. All aspects of the roadway/driveway and residential improvements shall minimize cut and fill, grading, and overall ground disturbance.
25. The improvement plans submitted in connection with grading and/or building permits for each dwelling shall be reviewed and approved by a Registered Civil Engineer with soils expertise or a Registered Soils Engineer in order to verify proposal feasibility, adequacy, and compliance with engineering standards. Certification shall be either by the engineer's stamp and signature on the plans or by stamped and signed letter.

26. Design Review, building permit, and grading permit plans shall be submitted providing complete information consistent with Countywide Plan and Nicasio Valley Community Plan policies and recommended measures in the geotechnical report(s).
27. As part of the Design Review submittals for the respective parcels, the applicants shall provide Stormwater Runoff Pollution Control plan(s) describing the proposed drainage and stormwater treatment programs for building envelopes A, C1, C2, D1, and D2, and the access roadways/driveways to those building envelopes. The level of detail in those reports shall be adequate to ensure general accordance with "Baseline Urban Runoff Control Plan for the Cities and County of Marin." If any plans are proposed for substantial modifications to already developed Parcel B, a Stormwater Runoff Pollution Control plan shall also be required.
28. Before issuance of grading permits, building permits, or approval of other improvement plans, the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) which complies with MCSTOPPP/Phase II Attachment 4 standards and best management practices to minimize offsite runoff, address erosion control and rock stabilization provisions during construction, and provides long-term permanent erosion control mechanisms throughout the property. For example, the design of the drainage system shall meet standard civil engineering specifications in Marin County Code Sections 24.04.520 through 24.04.550, and Sections 24.04.620 through 24.04.627. Best Management Practices (BMP's) are to be in accordance with the "Baseline Urban Runoff Control Plan for the Cities and County of Marin" and the "Manual of Standards for Erosion and Sediment Control Measures" of the Association of Bay Area Governments. Standards, specifications, and practices include: adequate sizing of drainage facilities to accommodate runoff and prevent erosion impacts, structurally sound design, minimize grading, linking of BMP's, and provide adequate surety for installation of improvements.
29. For all frequency storm events up to 100-year, all project improvements shall minimize flood hydrograph peak flow or flood volume increases into drainage courses. To this end, design features including, but not limited to: porous pavement, pavers, maximizing overall permeability, drainage infiltration, disconnected impervious surfaces, swales, bioretention, green roofs, etc., shall be integrated into all projects, including future project phases. Increases in peak flow shall be held to less than 1 (one) percent.
30. Where the project design and resulting local conditions (e.g., steep slope, soil composition and ground stability) preclude reinfiltration in the immediate area, the applicant must demonstrate through review and approval of the improvement plans that existing erosion-causing runoff-related conditions on the project parcel have been abated so as to minimize overall increases in runoff and erosion into the drainage system from the parcel. Increases in peak flow shall be held to less than 1 (one) percent.
31. Before issuance of any Design Review approval, grading permits, building permits, or approval of improvement plans, the applicant shall submit a pre-and post-project hydrology and hydraulic report detailing the amount of new impervious surface area and accompanying surface runoff from all improvement areas including driveways, to confirm that increases in peak flow shall be held to less than 1 (one) percent.
32. All components of the project design and drainage system shall be oriented to minimize changes in the hydrograph (peak level and flood volume of runoff) over existing conditions. Design elements shall include where possible detention basins, dry wells, gravel surfacing, pervious/porous paving, mitigation of existing erosive conditions related to surface runoff (for example, existing fire road erosion), and all other BMP measures as recommended by a hydrological engineer to minimize peak flows and total runoff volume.

33. Grading shall not occur in the rainy season from October 15 through April 15, unless an erosion control plan which implements best management practices is approved before the onset of the rainy season by the Department of Public Works, for limited work items to prevent erosion and downslope transport of sediments. This plan shall be included in the grading permit or building permit plans submitted to the Department of Public Works, Land Use and Water Resources Division for their review and approval.

Easements

34. Prior to recordation of the Parcel Map, the applicant shall dedicate an easement to the County protecting in perpetuity the area of land within the Streamside Conservation Area boundary, extending 100 feet beyond the top of each creek bank for the entire length of the blue line creek on the project site. The top of bank shall be established by a qualified riparian ecologist. The easement shall be permanent and run with the land, shall preclude new development within the 100-foot setback, shall be shown and referenced on the Parcel Map, and shall be recorded against the title of the affected parcel(s).

Utilities and roads

35. The location of all pipelines and utilities shall be selected to minimize site disturbance and maximize restoration after disturbance. To that end, existing road cuts shall be used for utilities wherever possible, trenches or other disturbances shall be located to go around tree groves or other sensitive natural habitat, equipment shall be used to create trenches and install utilities that minimizes overall disturbance, and a protection and restoration plan shall be developed for each utility site, with site-specific measures for achieving the above.
36. The location of all pipeline routes, appropriate water line easements, and water distribution pipes shall be shown and easements and agreements shall be recorded concurrent with the Parcel Map.
37. All utilities shall be undergrounded.
38. Before issuance of any grading permits, building permits, or approval of Improvement Plans, the applicant shall submit detailed roadway/driveway improvement plans, including profiles, centerline slopes, cross-sections with cut-and-fill detailed, retaining wall plans including complete elevations, turnouts and emergency vehicle turnarounds. Road improvements shall be designed to minimize cut and fill, grading, and overall ground disturbance wherever feasible. Design of the driveways/roadways shall meet standard civil engineering specifications in Marin County Code, and shall incorporate Best Management Practices. This plan shall be submitted to the Department of Public Works, Land Use and Water Resources Division for their review and approval.
39. Ongoing maintenance of the portion of the roadway outside of the private common roadways shall be the applicant's (and future property owner's) responsibility. The project sponsor shall submit a maintenance agreement(s) that provides for the ability of the drainage and roadway improvements to be maintained by the associated parcels, to be provided to the Department of Public Works for review and approval (when in acceptable form). The agreements shall be recorded concurrent with the Parcel Map.
40. Prior to recordation of the Parcel Map, the project sponsor shall sign and record an agreement running with the land in a form acceptable to the County that permanently and irrevocably binds the property owners to pay their proportionate share of common private road maintenance expenses.

41. All improvements shall conform to Title 24 of the Marin County Code or as approved by the Department of Public Works and the Fire Department. For all new roadway or driveway sections, plans must show the profile, cross section, slope, drainage, and intersection approaches. Written approval from the Fire Department must be obtained prior to issuance of building or grading permits.
42. The current condition of any existing paved roadways shall be documented prior to initiating any permitted work. A condition report shall be prepared by a qualified civil engineer, with photographic information, and submitted to the Department of Public Works prior to initiating construction. Any damage caused by construction shall be repaired at the applicant's expense prior to final approval.
43. If the Rancho Santa Margarita Property Owners Association desires to maintain in a passable condition the portions of the Camino Margarita and the Los Pinos roads above where those roads intersect with Parcel D, the applicant shall enter into an agreement with the Association to do so.

Miscellaneous

44. The landscape plan shall incorporate predominantly fire-resistive, native, and drought tolerant plant species.
45. Prior to recordation of the Parcel Map, the applicant or property owner shall pay in lieu participation fees (affordable housing fees). At the option of the applicant or property owner, in-lieu participation fees may be paid as proceeds from sales of Parcel A, C, or D. If the in-lieu fees are not paid in full at the time of parcel map recordation, the unpaid fees shall constitute a lien on the property, which shall be recorded as a separate document at the recordation of the parcel map. The in lieu participation fees shall be due within 24 months of the date of project approval regardless of whether the individual parcels have been sold. The project shall be subject to the requirements of Marin County Code Chapter 22.22 (Affordable Housing Regulations) in effect at the time the Parcel Map is determined to be complete by the County. Based on the current requirements, it is acceptable to pay a housing fee for one affordable housing unit in lieu of providing the one affordable housing unit. In no case shall the number of inclusionary residential units or in-lieu housing fees that are required for the development be less than that which is required at the time of this Master Plan approval.
46. Any new water tanks installed to serve new development shall be screened with respect to location, color, vegetation, and other effective screens to minimize visual impacts.
47. The applicant shall defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Las Cumbres Master Plan and Land Division, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the subdivider of any claim, action, or proceeding and the County shall cooperate fully in the defense.
48. If archaeological resources are discovered during grading, trenching, or other construction activities all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director.

49. Any changes or additions to the project shall be submitted to the Community Development Agency – Planning Division for review to determine whether a Master Plan Amendment is required.

Marin County Department of Public Works (DPW)

Prior to recordation of Parcel Map

50. Provide current Title Report (dated within the last 6 months).
51. Show on Parcel Map easements identified in Title Report dated January 14, 1999, in particular, items 7, 8, 13, 14, 19, 21, and 28. Plot and describe (document reference) all the easements on sheet C1.
52. The Title Report dated January 14, 1999, indicates that it describes "A Fee as to parcel One; Easement as to Parcels Two thru Seven." The body of the report only describes Parcels 1-3, therefore provide and show Parcels 4-7 in Title Report or otherwise provide documentation that the parcels no longer exist.
53. The project sponsor shall submit a maintenance agreement(s) that provides for the ability of the drainage and roadway improvements to be maintained by the associated parcels. Such agreement shall be provided to the Department of Public Works for review and approval. The agreement (s) shall be recorded concurrent with the Parcel Map.
54. Show the location of all pipeline routes, appropriate water line easements, and water distribution pipes.
55. Make a correction to notes on Sheet C1 – Driveways over eighteen percent grade shall be surfaced with P.C.C. and given a broomed or otherwise roughened finish. (MCC § 24.04.300)

Prior to issuance of Residential Building Permits

56. Traffic mitigation fees of \$5,679.83, based on January 2002 dollars, for each single family residence and adjusted annually based on the ENR Construction Cost Index shall be paid to DPW Traffic Division.

Prior to issuance of Grading Permit or Building Permit

57. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and the Fire Department.
58. Indicate width of existing paved sections and existing roadside drainage along all access easements. The road or driveway shall be improved to comply with Marin County Title 24 requirements. For all new roadway or driveway sections plans must show the profile, cross section, slope, drainage, and intersection approaches.
59. Provide written documentation from fire department approving access improvements and turnaround.
60. Provide DPW with professional engineering calculations for the allowable bridge load at Nicasio Valley Creek on Via Gonzales. Additional requirement may be imposed by DPW to strengthen the existing bridge.

61. Submit a Stormwater Runoff Pollution Control Plan which addresses both interim (during construction) and final (post construction) stormwater pollution control measures, referred to as Best management Practices (BMP). Permanent BMPs may include, but are not limited to, artificial wetlands and ponds, sediment basins, infiltration trenches, grassed swales, filter strips and buffers, oil/water separators, and site and landscaping management procedures. The Plan should follow guidelines as established in "Start at the Source", published by the Bay Area Stormwater Management Agencies Association. The Marin County Department of Public Works must approve the Stormwater Runoff Pollution Control Plan prior to issuance of a grading permit or improvement plan approval.
62. Submit a detailed soils investigation and report that includes field investigation and laboratory test with detailed information and recommendations relative to all aspects of grading, filling, and other earthwork, foundation design, pavement design, and subsurface and surface drainage. The report shall also recommend any required corrective action for the purpose of preventing structural damages to improvements and any special precaution required for erosion control and the prevention of sedimentation or damage to off-site property.
63. The plans shall be reviewed and approved by a Registered Soils Engineer. Certification shall be by the engineer's signature and stamp on the plans or signed and stamped letter.
64. Note on the plans that prior to final inspection, the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and site retaining wall construction was done in accordance with plans and field directions, and that site improvements shall be inspected by a Department of Public Works Engineer.

Marin County Fire Department

Access

65. Access roads and driveways must meet Marin County Title 24 standards and California Code Regulations, Title 14, Sections 1270, 1276. Roads and driveways must meet minimum widths, slope, surface, turnarounds.
66. Marin County Fire Department (MCFD) approval for gates on the access road and/or driveway, including provision of a Knox rapid entry system if the gate is locked in any fashion, is required prior to framing inspection, to ensure compliance with Fire Department standards.
67. Defensible space and fire apparatus clear zone is required along access roads and driveways. Vegetation shall be cleared to a minimum of 15 feet vertically (no exceptions) and 10 feet horizontally (no exceptions first 5 feet).

Addressing

68. Numbers must be posted at the intersection of the road and driveway to each structure and on the structures themselves. Numbers are to be a minimum of 4 inches in height with a 3/8 inch stroke, on a sharply contrasting background, and shall be installed prior to MCFD final inspection and approval.

Defensible Space

69. A defensible space zone meeting the MCFD standards is required for all structures, and must be in place prior to framing. The specific requirements for each zone are available from the MCFD. Annual maintenance is required. Trees shall not be planted in a location where they may eventually contact overhead power lines. The minimum defensible space zone required is:

75' to 100'	Down slope
50' to 75'	Cross slope
30' to 50'	Up slope

70. All chimney openings must have an approved spark-arresting screen with openings of not more than ½ inch.

Fire Protection Water Supply

71. A minimum fire water supply of 10,000 gallons per residence must be in place and tested prior to framing. A temporary water supply may be acceptable, subject to the written approval of MCFD. Plans for the tank and water system must be submitted to the fire department and include required construction details. Two single wharf head hydrants are required to supply water in the event of a fire to the three structures. If the water system is not operational when framing begins, provisions must be made for an acceptable temporary water supply. Maintenance of the tank and water supply system shall be the permanent responsibility of the property owners. An agreement running with the land and guaranteeing permanent maintenance of the water tank and supply system must be received by the County and found to be acceptable prior to issuance of any building permits.

72. All new residences shall be equipped with an automatic sprinkler system. Sprinklering systems are to be reviewed and approved by the Community Development Agency – Building Division.

Propane tanks

73. Any Liquid Propane Gas tanks must be installed at least 20 feet from any structure, and at least 10 feet from the driveway and roads. Seismic bracing, automatic earthquake shutoff, and defensible spacing requirements must be followed. County standards for location, installation, and maintenance of and around any Liquid Petroleum Gas tanks must be detailed on the building permit plans and receive approval with those plans.

SECTION IV: VESTING

NOW, THEREFORE, BE IT FURTHER RESOLVED the Las Cumbres Land Division (Tentative Map) shall be valid for a period of 3 years from the date the resolution is adopted. The Land Division (Tentative Map) shall be vested by filing and recording a Parcel Map with the County Recorder within 3 years of the date of Tentative Map approval. Extensions of time not to exceed a maximum of 3 one-year extensions beyond the initial time limit above may be granted administratively by the Community Development Agency Director pursuant to Marin County Code Section 22.84.140 upon written request by the subdivider and payment of the appropriate extension fee before the date of expiration of the approval or previous extension.

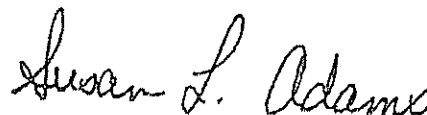
SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 16th day of May, 2006, by the following vote:

AYES: SUPERVISORS Charles McGlashan, Harold C. Brown, Jr., Steve Kinsey,
Cynthia L. Murray, Susan L. Adams

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK