

## **APPENDIX M**

### **RESPONSES TO COMMENTS ON REVISED EIR**

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In accordance with the CEQA Guidelines Section 15088, the City has evaluated comments on environmental issues received from persons and agencies that reviewed the Draft EIR, and from comments made to and by the Planning Commissioners at a public hearing on April 17, 2008, and has prepared a written response to each comment below. The comment letters are presented in Appendix L.

In some cases, the responses to comments have resulted in changes to the text presented in the Draft Revised EIR. These changes are noted in the responses to comments, and with underlined sections in the text of the proposed Final Revised EIR.

#### **M.1 Fax from Ridge Baccash, no date, and Braemar Ranch Homeowners Association, dated April 23, 2008.**

##### **Response I-1**

This comment, starting on the fax cover letter transmitting the comment letter from the Braemar Ranch Homeowners Association (BRHA), expresses support for the conclusions in the Revised EIR. No additional response is necessary.

The initial comment on the BRHA letter also expresses support for City efforts in completing the Revised EIR, and no response is necessary.

##### **Response I-2**

This comment expresses support for the conclusions in the Revised EIR. The language used, however, is inconsistent with the use of certain words and phrases in the context of the California Environmental Quality Act (CEQA). The lack of alternative access, other than Alan Road discussed in the EIR, and the impacts of the Alan Road access, do not “mitigate” the impacts of the project as proposed in the sense of avoiding or reducing those impacts. Instead, the conclusions of the Revised EIR indicate that the alternative access at Alan Road may not be feasible, and may cause additional impacts. The intent of the comment is clear, however, and no additional response is necessary.

##### **Response I-3**

The significant and unavoidable impact associated with the Alan Road Access Alternative (noted in Section 4.5.3) relates to its contribution to the Level of Service (LOS) F at the Cliff Drive/Las Positas Road intersection. This impact is not necessarily a “more significant adverse impact” than the impacts associated with the bridge crossing as proposed, but it is a component in the overall consideration of the Alan Road Access Alternative. As noted in the comment, the quality of life for Alan Road residents is also an important consideration.

#### **Response 1-4**

The current LOS F condition at the intersection of Cliff Drive/Las Positas Road will not be improved by the bridge access to the project as proposed, but at least it will not be worsened. Traffic management strategies at the project entrance, whether related to Caltrans procedures or the City of Santa Barbara, also will not affect the Cliff Drive/Las Positas Road intersection. Measures in the Veronica Meadows project design to restore Arroyo Burro Creek, and to minimize the effects of the proposed bridge crossing, are positive aspects of the proposal but will not entirely mitigate the impacts of the bridge. They are, however, aspects of the project that will be considered in the review and approval process.

#### **Response 1-5**

This closing comment expresses support for the conclusions in the Revised EIR, and no additional response is necessary.

### **M.2 Letter from J. Rution, Allied Neighborhood Association, dated April 23, 2008**

#### **Response 2-1**

This introductory comment explains that the Allied Neighborhood Association met and considered the project, and has concerns regarding information missing from the EIR. It does not raise specific concerns at this point, so no response is necessary.

#### **Response 2-2**

The Association requests that an economic analysis be performed for the project. Their specific concern is that "...a reasonable development of the land should be considered, not one dictated by maximum profit." The City considers the project as proposed and other alternatives considered to be within the range of reasonable development. In reaching this conclusion, the City considers factors such as consistency with General Plan goals, objectives, and policies, environmental concerns, input from residents and groups, and other information to determine what reasonable development may be for a specific project. The potential for maximum profit, or any profit, for an applicant is not a factor. The City does recognize, however, that the costs for public and private improvements, creek restoration as proposed in this case, and other costs may influence the overall feasibility of a project or alternatives. The City generally does not require economic analyses for private development projects.

#### **Response 2-3**

As explained in Section 4.5.2, the EIR cannot make a final determination of exactly what is and is not "feasible" based on all of the considerations that are involved in that decision. For this reason, inconsistencies may be interpreted in the EIR as suggested in the comment. An effort was made to edit the text so that usage and references to feasibility were more consistent, and additional changes in that regard have been made in the proposed Final Revised EIR. It must be remembered, however, that the final determination of feasibility for mitigation measures or for a specific

alternative must be made by the decision makers for this project—the Planning Commission and the City Council.

An EIR can describe what is feasible from an engineering or technical viewpoint, and the original EIR tended to focus on this narrow definition when it discussed “feasibility.” An EIR can also present information that relates to feasibility from an environmental viewpoint—alternatives that result in additional impacts are less feasible than those that do not. Other concerns, such as quality of life or perceived effects of traffic, noise, air pollution, and safety issues when they are below specific environmental thresholds for a significant impact, are difficult to address in an EIR. The hearing process, however, provides considerable information in the form of submittals and testimony from individuals and groups regarding the unacceptability of specific alternatives. These other concerns may or may not rise to a level that influences a determination of feasibility. Economic considerations can certainly influence feasibility, but a single absolute threshold for economic feasibility cannot be presented. Information in the EIR and presented throughout the hearing process can provide a relative assessment of feasibility from an economic viewpoint—those alternatives involving less costs for public and private improvements and/or more residential units are more feasible than alternatives with more improvements and fewer residences.

#### **Response 2-4**

This comment references the possibility of a lower density alternative. The EIR contains several alternatives involving fewer units than proposed in the original or in the current project. These include the Avoid Landslides Alternative in Section 4.8 and the 100-foot Creek Setback Alternative in Section 4.10 (in two different configurations). In addition, a variant of the Alan Road Access Alternative with a reduced number of units (15) was requested by, and presented to, the City Council in 2006. As noted in Section 4.5.2 of the EIR, other than the applicant, no one testified in support of this alternative, and the City Council ultimately directed the applicant to return to the project with vehicle access via a bridge from Las Positas Road. Thus, several lower density alternatives have already been addressed and it is not necessary to analyze additional alternatives.

#### **Response 2-5**

The comment asserts that the Planning Commission may call for additional information requested by the public, which is true. It is not true, however, that responding to all such information requests is vital for a decision to comply with the intent of CEQA or for the decision to incorporate appropriate mitigation measures.

### **M.3 Letter from Daniel Wilson, dated April 25, 2008**

#### **Response 3-1**

This initial comment does not raise issues about the EIR. The letter is included as part of the Final Revised EIR and is part of the administrative record for this project. No response is necessary.

### **Response 3-2**

This comment expresses opposition to the project, stating that its benefits do not outweigh its impacts. The comment also references opposition to the project as being a case of “Not In My Backyard.” These comments do not address the content or conclusions of the EIR, so no additional response is necessary.

### **Response 3-3**

This comment expresses opposition to the proposed bridge over Arroyo Burro Creek, and provides a succinct summary of the basic dispute in consideration of this project: balancing issues related to preserving the habitat along Arroyo Burro Creek with those associated with a single alternative access off of Alan Road. Contrary to the implication in the comment, CEQA is a procedural statute that does not prescribe a single outcome that must be followed. The project as proposed has received no “exceptions” from CEQA.

### **Response 3-4**

This comment points out what was stated in the original EIR, and is re-stated in the Revised EIR: the Alan Road Access Alternative is feasible, if the only considerations are whether it would be technically possible to build (it would) and whether it would lead to a significant traffic impact on Alan Road using City thresholds (it would not). These are not the only considerations, however, in judging overall feasibility and acceptability, as discussed in Section 4.5.2 of the Final EIR. Although sole access via Alan Road would not cause a significant environmental impact on Alan Road, it would result in a significant traffic impact at the Cliff Drive/Las Positas Road intersection (as discussed in Section 4.5.3 of the Revised EIR).

### **Response 3-5**

The comment summarizes information from the EIR and related traffic report, and explains that it would be possible to improve the intersection Level of Service (LOS) at Cliff Drive and Las Positas Road through signalization, or reconfiguring the intersection to a roundabout. The comment is correct in stating that the poor LOS at the intersection is not caused directly by the project or by an Alan Road Access Alternative. The City of Santa Barbara, however, has established a threshold to judge the effect of projects on existing intersections operating worse than LOS C at 0.77 V/C, and the threshold to define a new project-specific impact is a contribution of greater than 1 percent to peak hour traffic. The stated “mitigation alternatives” (signalization or roundabout) are not reasonable and legitimate alternatives to impose on a single project as they are clearly disproportionate to the effect of the project. The project will be required to contribute its fair share contribution towards intersection improvements (mitigation measure TR-6), but that would not avoid the project-specific impact under the Alan Road Access Alternative.

### **Response 3-6**

The comment expresses opposition to the project based on its negative effects to traffic flow on Las Positas Road, used by nearby neighborhoods, general members of the public, and tourists to

Hendry's Beach. The comment deems these effects an "unnecessary burden upon the community." The original EIR included an assessment of the traffic impact of the project at its entrance intersection with Las Positas Road (also the entrance to Elings Park across Las Positas Road). The analysis shows that the project will cause slight delays or increases in congestion at this intersection, but not to a level that exceeds the City threshold for a significant impact (see Tables 3-15, 3-16, 3-17 and 3-18).

One of the City's charges in considering the project is the policy consistency issue related to an alternate route for bicycle and pedestrian traffic. This alternative route would be provided by the proposed project, via the proposed bridge across the creek and the connecting path to access Hendry's Beach and the coastline. In this respect, the project would provide a benefit to these users of Las Positas Road, which should also benefit automobile drivers.

### **Response 3-7**

This comment frames the disputes involving the project as a trade-off between a few residents along Alan Road versus the common good of the community on the whole. While representing the commenter's opinion, the analysis does not reflect the record of this project. Opposition to the Alan Road Access Alternative arises from more than just the residents along Alan Road itself. Opposition to the use of Alan Road for through traffic, even if originating just from local development, has been in place before the consideration of the current project as evidenced by City Council Resolution 7528, passed in 1972. The Braemar Ranch Homeowners Association, most of whose members would not be affected by traffic from the Alan Road Access Alternative, has opposed that alternative throughout the processing for this project. Thus, the balance or trade-off is more complex than implied in the comment. The Revised EIR has attempted to present and to clarify information related to these issues so that the decision makers—the Planning Commission and City Council—can consider the proper balance in their deliberation and action on the project.

### **Response 3-8**

Removal of the oak tree near the location of the proposed bridge is one of the factors that led to the conclusion in the EIR that the biological effect of the project design was significant and not mitigable. The comment agrees with that conclusion.

### **Response 3-9**

The project does not give public land to a private party for profit. The only use of public land within the project is the granting of an encroachment permit across a city-owned parcel for the proposed bridge construction and creek restoration. Upon completion, the bridge and associated road will be publicly dedicated to the City, and will be part of the City street system.

### **Response 3-10**

As noted above in response 3-6, the degree to which the project will "...impede traffic flow for the greater community" is below the City's threshold defining a significant impact. The comment again implies that project approval would merely appease a smaller fraction of the populace. Responses 3-

6 and 3-7 above address this opinion. The comment does not relate to conclusions in the EIR, so no additional response is necessary.

### **Response 3-11**

This comment summarizes the author's opinion that the Alan Road Access Alternative is preferable to the bridge over Las Positas Creek (Arroyo Burro), but does not raise any specific issue related to the content or conclusions in the EIR. No response is necessary.

## **M.4 Letter from Ben Pitterle, Santa Barbara Channelkeeper, dated April 17, 2008**

### **Response 4-1**

This comment expresses concern regarding the City's consideration of the project, and re-states a conclusion from the EIR. No response is necessary.

### **Response 4-2**

This comment reviews several efforts and expenditures by the City of Santa Barbara to restore creek habitat and take other measures to improve surface water quality in drainages. As in the preceding paragraph, this comment repeats the conclusion from the EIR that the project impact on the creek habitat of Arroyo Burro Creek would be significant and not mitigated. No response is necessary.

### **Response 4-3**

The cumulative water quality impacts caused by loss of habitat throughout the watershed are recognized in the EIR (see Section 5, and Section 3.2.2.5). Unlike much of the development in the watershed, however, the proposed project will include a series of design measures and conditions of approval that will minimize its contribution to water quality impacts. The EIR does not characterize the alteration of creek ecosystems as "worthwhile" but it does recognize the value of the proposed creek restoration in helping to offset the negative effect of the project and of previous development throughout the Arroyo Burro Creek watershed.

### **Response 4-4**

As noted in a previous comment (4-2), the City of Santa Barbara has a strong commitment to retaining and restoring natural creek habitat throughout the City. For the proposed Veronica Meadows project, measures have been incorporated into the design and conditions of the development to minimize and to compensate for adverse effects to the creek habitat as much as possible. The feasibility of an alternative (Alan Road access) that would further reduce the impact is at issue in reviewing and considering this project. The commenter believes that this alternative is feasible, while others do not. It is up to the decision makers, the Planning Commission and City Council, to make that determination.

#### **Response 4-5**

The City recognizes its obligations to the citizens to protect natural resources and water quality, to implement the General Plan, to provide appropriate public improvements, to protect existing neighborhoods, and to balance conflicting goals or desires when considering land use decisions.

#### **Response 4-6**

The City also recognizes its obligations under CEQA, and has ensured full public disclosure of its decision making process, a full explanation of the environmental effects of this project, and its determinations regarding the feasibility of alternatives and other considerations involved in the decision process.

A final determination as to the feasibility of the Alan Road Access Alternative will be made by City decision makers.

#### **Response 4-7**

Denial of the Veronica Meadows project, as suggested in the comment, would not necessarily resolve or avoid adverse effects along Arroyo Burro Creek. While the specific impacts of this project would be avoided, ongoing activities that adversely affect habitat and water quality would continue (as described in Section 4.2.1 and 4.2.3). It is also likely that a similar development proposal could occur in the future, or could be pursued in the unincorporated area as has already happened in the past along Arroyo Burro Creek. The commenter's opinion that the project should be denied will be forwarded on to decision-makers as part of their deliberations.

### **M.5 Letter from Timothy Leigh Rodgers, M.D., dated March 31, 2008**

#### **Response 5-1**

This comment describes specific difficulties for traffic movement at the intersection of Cliff Drive and Alan Road. This intersection was discussed in the original traffic report (Appendix J), in the Traffic Study Addendum prepared by ATE (Appendix F) and in the traffic review prepared by Penfield & Smith (see Penfield & Smith, February 20, 2008, Supplemental Traffic Analysis for the Proposed Veronica Meadows Residential Development page 8). That general discussion concluded that the Alan Road Access Alternative would add 239 average daily trips (ADT) to this roadway, a volume that would be well within the Alan Road capacity and would not cause a significant impact. The Alan Road/Cliff Drive intersection operates at LOS A-B during peak hours, and would continue to operate at this level with the 19-25 added peak hour trips under the Alan Road Access Alternative.

#### **Response 5-2**

Congestion associated with the intersection of Las Positas Road/Cliff Drive is discussed in the EIR, and it is recognized that this intersection currently operates at an unacceptable Level of Service (LOS) F. Congestion at this intersection likely combines with the high traffic volume on Cliff Drive noted in the comment, to contribute to the difficulty in making left turns from Alan Road to Cliff

Drive. Using City of Santa Barbara thresholds, the added traffic from the Alan Road Access Alternative would contribute to a significant impact at Cliff Drive and Las Positas Road, but not at the intersection with Alan Road identified in the comment. The comment expresses an opinion that the effect would be dangerous.

### **Response 5-3**

This comment summarizes the position that access to the Veronica Meadows project should be from any point besides Alan Road. No issues regarding the content or conclusions in the EIR are raised, so no additional response is necessary.

## **M.6 Letter from Goleta Water District, dated April 28, 2008**

### **Response 6-1**

This comment states the current situation, and does not address the EIR. No response is necessary.

### **Response 6-2**

The City recognizes the Goleta Water District's concern, and is preparing a draft agreement that will be sent to the District shortly for further discussion. The City acknowledges the District's desire to complete a detachment of the entire remaining overlap area, and the City remains interested in finalizing a suitable agreement on the issue. The orderly annexation and change in district service boundaries is a matter for consideration by LAFCO, who must approve the project annexation to the City and related district changes.

### **Response 6-3**

Water service to the project site by the City of Santa Barbara was addressed in the original EIR (Section 3.11.1). The Goleta Water District did not comment on the project at that time. While the City will work with the District to plan for the orderly changes in boundaries in this area, the City does not agree that individual land use decisions should be delayed until this future action is accomplished. The City has the capability to service this project now. We respectfully disagree that this individual detachment from the District will make it more difficult to resolve the water service issue. The City also believes that environmental impacts from this or any future development that might occur in this area are related to the land uses and physical construction that might occur, consistent with County or City General Plan and zoning. Thus, this detachment from the Goleta Water District will not involve any environmental effects not already identified in the project EIR.

## **M.7 Letter from Steven Amerikaner (applicant representative), dated April 28, 2008**

### **Response 7-1**

Information in Table 4-6 was taken directly from the Tentative Subdivision Map submitted by the applicant. The City recognizes that details of each lot (lot area, building area, floor area ratio) may change with final design and that the contents of the Specific Plan will govern the formulation of



these details. The table is included in the proposed Final Revised EIR to identify the basis for the updates of the analysis in Section 3.3 regarding biological impacts. The changes shown in Table 3-10 are very minor, and do not affect the conclusions regarding impacts and mitigation. The text of the proposed Final Revised EIR has been edited in Section 4.13.1 to acknowledge that minor variations from these assumptions may be expected within the limits set by the development standards in the Specific Plan.

## **M.8 Letter from David Pritchett, undated**

### **Response 8-1**

This comment requests that the use of the term “stabilization” be used instead of the term “restoration”. Section 3.3.2.3 of the RDEIR refers to the Arroyo Burro Creek corridor as highly disturbed due to the increasing presence of giant reed and other noxious weeds displacing native riparian species. The project includes a plan to restore and enhance riparian habitat along the creek. In addition, the project also proposes to restore two eroded portions of the creek bank. Since the plan is to stabilize and restore the creek area both terms are used to describe the project’s creek corridor plans.

### **Response 8-2**

Mitigation Measures W-2 and BIO-1 require that the applicant submit final creek bank stabilization and creek corridor habitat restoration plans for City approval. Analysis of the final plans will allow for the appropriate City staff members to review detailed assessments of hydrological, geomorphological and biological investigations as these elements relate to the successful implementation of the creek bank stabilization and creek corridor habitat restoration plans. Since the original EIR was released, additional mitigation measures and design features have been incorporated into the project’s creek restoration plan.

Comments from the Park and Recreation Commission and Creeks Committee have been provided to City decision makers as part of the record on this project.

### **Response 8-3**

Areas of the creek corridor are either on City-owned property or will be in an open space easement to the City. In both areas, the City will have authority to inspect and enforce project conditions.

### **Response 8-4**

Restoration work at the mouth of Arroyo Burro Creek was oriented primarily towards improving habitat by opening a tributary drainage and revegetating low lying areas. Water quality benefits would be associated with this effort, but components specifically designed to improve water quality were not part of the project. The water quality impacts associated with the Veronica Meadows project have been addressed in the EIR and mitigation measures to address potential construction and development impacts have been incorporated in the current project design in order to minimize impacts to downstream areas. Section 3.3.2.8 specifically addresses water quality impacts associated

with the development of the project. With the inclusion of Mitigation Measure W-4 the stormwater pollution from the project has been determined to be less than significant.

#### **Response 8-5**

The creek bank stabilization and creek corridor habitat restoration plans are a part of this project and will be implemented if the project is approved. Potential adverse effects of this aspect of the project are associated with proposed work to stabilize eroded stream banks, and are addressed in Section 3.3.2.3, along with mitigation measures Bio-1 and W-2, which will reduce the potential impact to a less than significant level. As noted in the EIR, the overall effect of the creek restoration plan is considered beneficial. The City will continue to review the plans as described in response 8-2.

#### **Response 8-6**

The City Creeks Advisory Committee and Parks and Recreation Commission have reviewed and commented on various aspects of the project. There is no current plan for the City to prepare a creek bank stabilization and creek corridor habitat restoration plan on the City property.

#### **Response 8-7**

The Veronica Meadows project has been the subject of environmental reviews, meetings, and public hearings, for several years. The City owned property will not be given away to suit the needs of a private developer. The City will be granting permission for the construction of public improvements, creek restoration, and landscaping on City-owned property, and will retain ownership of the property and improvements. The City property has been identified in the project description as requiring annexation (which has subsequently occurred) and City Council approval of encroachment permits to perform the work.

#### **Response 8-8**

The creek restoration and stabilization plan is a part of the proposed residential development and as a part of the development needs to be evaluated in this EIR for environmental effects. Preliminary creek restoration plans were reviewed during preparation of the EIR. Refinements were made in the creek restoration plans, in part to respond to issues raised in the EIR, and revised plans were submitted although they are still preliminary. The City will review all plans associated with the development of this project, and the creek restoration plan must be in substantial conformance with the preliminary plans submitted. Absent the proposed development project, there is no active proposal for restoration of this segment of Arroyo Burro Creek.

#### **Response 8-9**

Comments regarding the effects of market-based housing, and the appropriateness of such housing, do not directly relate to the content of the EIR. In the sense of the project consideration, market-based housing to help meet housing demand within the City is considered by the City to be a reasonable objective. The comment raises issues of cumulative effects and effects related to

population growth. Impacts associated with cumulative effects of the project are addressed in the original EIR page 5-1. Growth inducing impacts are also discussed in the original EIR page 6-1.

### **Response 8-10**

The perception of market rate housing as a community detriment, and the political discourse regarding this issue, reflect a socioeconomic or political concern that is not directly related to physical changes in the environment. The City maintains that the provision of adequate housing, including appropriate market based housing, is a legitimate objective for the project.

### **Response 8-11**

The hearing process utilized by the City is designed to provide opportunity for the public to comment on applications being considered. As with most local government hearing procedures, it provides an opportunity for an applicant to clarify or respond to issues that may have been raised. The hearing process is not designed to facilitate a continuous debate between proponents and opponents of a project.

### **Response 8-12**

The referenced Executive Estate design was briefly considered by the City. The project deciders have, in fact, been reviewing the full range of options for this project for several years. Over the course of that review, some options have been dropped, while others have been studied and considered in some detail. The alternatives presented in the EIR cover a range of options, including some with fewer units than proposed. The project applicant had no role in defining the alternatives in the EIR, other than incorporating several mitigation measures from the original EIR to arrive at what is referenced as the 2008 design in the Revised EIR.

### **Response 8-13**

A bridge only suitable for bicycles and pedestrians would require the use of Alan Road for vehicular access to and from the project. The EIR addresses the Alan Road Access Alternative, and a variation on this alternative was presented to the City Council in October 2006. As presented, that variation provided an easement for a pedestrian/bicycle bridge, but did not include developer funding to construct the bridge. Since the project itself would have no impacts related to pedestrian and bicycle use, it is not clear that the City could successfully require the construction of, or funds for, such an improvement. It is likely, therefore, that the City would be responsible for providing this funding.

A prefabricated bridge would still require an abutment in order to provide stability for the structure. The bridge as proposed has already been designed to minimize impacts, and with the exception of reducing the width, cannot technically be designed to further reduce impacts to the creek area. If constructed to accommodate bicycle and pedestrian use, per current standards, it would have a width of 12 feet instead of just over 30 feet. The assumption that a narrower bridge would avoid a Class I impact is not necessarily true. The EIR discussion from the outset placed the bridge construction in the context of other man-made effects which alter the riparian habitat in the area. The concluding sentence of the discussion in the EIR makes this clear:

“However, in light of the narrow riparian corridor at this location and the close proximity of other human disturbances that affect wildlife (i.e., Las Positas Road, Stone Creek Condominiums), the overall impact of the bridge on riparian habitat and associated wildlife is considered significant and unmitigable (Class I).”

Thus, a narrower bridge, while possibly reducing effects, would not necessarily avoid a significant impact. The effect of the traffic signal at the project entrance and Las Positas Road may be important from an economic or safety viewpoint, but it is not germane to the discussion of impacts to riparian habitat.

#### **Response 8-14**

As presented in the Revised EIR, the Alan Road Access Alternative was responsible for only a small contribution to the significant and not mitigated impact at the intersection of Cliff Drive and Las Positas Road. Section 4.5.3 explains that not only the Alan Road Access Alternative as presented in the EIR, but also the option considered by the City Council in October 2006 with 15 residences, would pass the 1 percent threshold to be considered a significant impact. The October 2006 option was, however, very close to the threshold so only a slight additional reduction in units would be necessary to avoid this particular impact. Other alternatives with slightly fewer units were in fact considered in the EIR. Therefore, the EIR covered a reasonable range of alternatives and it is not necessary to continue iterating and modifying alternatives. All traffic studies base their estimates of trip generation on empirically derived averages or ranges, which account for all trip types associated with different types of land uses.

#### **M.9 Letter from William Parkin for Citizens Planning Association and Santa Barbara Urban Creeks Council, dated April 28, 2008**

#### **Response 9-0**

This comment introduces the commenter, and alleges a lack of information regarding the project and alternatives. The Introduction to the Revised EIR sections makes it very clear that the document only includes those Chapters to which changes have been made. The original EIR remains available and provides additional project information.

#### **Response 9-1**

Circulation of only the revised chapters of the EIR is appropriate and adequate under CEQA Guidelines Section 15088.5. The entire document has been reviewed by agencies, the public, the City Planning Commission and the City Council since its original Draft form in 2004. As explained in Section 1.4.1 of the Revised EIR, CEQA explicitly provides for the re-circulation of only those sections of an EIR that have been revised. The changes in the project design are indeed minor, in the sense that they do not substantially alter the analysis and conclusions of the EIR. Some of the changes represent incorporation of mitigation measures that were set forth in the original EIR.

The comment incorrectly states that Table 3-10 was changed substantially. This table identifies the specific acreages of each vegetation type affected by the project design. Examination of the table

reveals that each of the changes is quite small, involving only a fraction of an acre. The table was changed to reflect the 2008 project design, and the numerical values were used to update acreages referenced in the text. The changes were minor and do not affect the conclusions of the EIR. There is no need to update the project description or to recirculate the EIR in its entirety.

### **Response 9-2**

The lead paragraph in the Executive Summary simply states that the Court disagreed with the findings of the City Council, not the adequacy of the EIR. Review of the Court's Statement of Decision shows this statement to be true. The commenter's letter includes the complete Statement of Decision as an attachment, which can be consulted directly for the full explanation from the Court.

### **Response 9-3**

The explanation of "significant" information in the context of 14 CCR Section 15088.5 is provided in Section 1.4.2 of the Revised EIR. No new impacts are identified in the Revised EIR. The severity of impacts is not changed in the Revised EIR. The Revised EIR does not contradict or remove any conclusions from the original EIR. The primary changes to the alternative analysis are additions to the discussion of the Alan Road Access Alternative, and the inclusion of the current (2008) project design changes. All aspects of the 2008 design were included in the original EIR in the form of the proposed project and proposed mitigation measures and alternatives.

### **Response 9-4**

The commenter's citation from page 3-1 of the Revised EIR (that an irreversible environmental section is not included) is incomplete. The full reference from the Revised EIR states the following:

"This EIR does not include a specific section for irreversible changes. However, permanent and long-term impacts of the project are fully described in the issue subsections of the EIR, and are distinguished from temporary or short-term effects."

Significant irreversible changes of the project are related to the permanent (i.e. long-term) changes and habitat alterations. The CEQA Guidelines do not mandate that required content always be separated into distinct sections. 14CCR 15121(a) states:

"Environmental Impact Reports shall contain the information outlined in this article, but the format of the document may be varied. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed."

The explanation on page 3-1 of the Revised EIR follows this direction. The issue subsections of Section 3.0 identify long-term effects within each Impacts discussion.

### **Response 9-5**

The Planning Commission is being asked to certify the proposed Final EIR for the project. The Final EIR is comprised of the Final Revised EIR and the original EIR. The Commission has already voted on the permit applications (on December 1, 2005). Procedurally, the permit applications are pending before the City Council following the court judgment and subsequent City Council action of rescinding the permit approvals granted by the City Council on December 12 and 19, 2006. Thus, the permit applications are presently pending before the City Council. The Planning Commission lacks jurisdiction to consider the permit applications a second time.

### **Response 9-6**

The text of the proposed Final Revised EIR has been revised to identify certification of the Final EIR as one of the actions that the City Council must take prior to approving the project.

### **Response 9-7**

The City's position on appeal processes is unrelated to the content of the EIR.

### **Response 9-8**

Given the answer to the previous comment/question, this comment is no longer applicable.

### **Response 9-9**

The EIR preparers endeavor to keep information in the document current, and it was current at the time of publication. The text of the Final Revised EIR has been revised to acknowledge that the County may act on the lot line adjustment, if that consideration occurs prior to annexation of the project area to the City.

### **Response 9-10**

The County of Santa Barbara was notified regarding preparation of each version of the EIR.

### **Response 9-11**

The CEQA Guidelines require that the Lead Agency (City) do the following:

- Send a Notice of Preparation to the responsible agency (County) (Section 15082(a))
- Convene a consultation meeting with the responsible agency, if requested (Section 15082(c))
- Conduct at least one scoping meeting for projects of this type (Section 15082(c)(1), and provide notice of that meeting to the bordering County and Responsible Agency (Section 15082(c)(2)(A and B))

These steps and notices, and more, were performed by the City. CEQA does not require a specific consultation concerning the potential action by a Responsible Agency, such as the lot line adjustment, as stated in the comment.

### **Response 9-12**

The status of the applicant's submittals to the County does not relate to the content of the Revised EIR—which deals with the potential environmental effects of the project. The City has no responsibility for tracking the status of applications in other jurisdictions. In answer to the question, City staff understands that the applicant's request for a lot line adjustment in the County jurisdiction remains active.

### **Response 9-13**

The County of Santa Barbara has several options to comply with CEQA if it is considering a lot line adjustment. The County may choose to await certification of the EIR by the City. The County may choose to certify the document for its own purposes. Alternatively, the County may choose some other course of action to comply with CEQA in processing and considering the lot line adjustment application. The City of Santa Barbara has no position regarding the CEQA process used by the County. This comment does not relate to the contents of the Revised EIR.

### **Response 9-14**

As part of the project, the applicant proposed to construct a bridge and access road from Las Positas Road to the property owned by the applicant. After construction, the bridge and the access road will be dedicated to the City with the other roads in the subdivision, which is typical for such circulation improvements. Thus, there is no need for the City to grant an easement to the applicant for construction of the bridge and access road. A temporary encroachment permit for construction is the only City approval typically used in these circumstances.

The commenter is incorrect in stating that the City-owned parcel was given to the City “for parkland protection of the Creek.” The 1998 deed from the Las Positas Park Foundation includes no such covenant. The “Grant Deed” from 1993 (attached to the commenter's letter) conveyed the property from the California Province of the Society of Jesus (“Jesuits”) to the Las Positas Park Foundation (“Foundation”). That Grant Deed included a specific use restriction. However, that use restriction was extinguished by the recording of a subsequent Quitclaim Deed from the Jesuits to the Foundation on December 8, 1998, which occurred prior to the conveyance of the property to the City.

When the City accepted the property, it did so by means of a “Certificate of Acceptance” which included the words “for public park purposes” in its title. Consequently, the City accepted the property for park purposes within the meaning of Charter Section 520. No grant funds were used to acquire this property.

Charter Section 520 applies where park property is “sold, leased or otherwise transferred, encumbered or disposed of.” None of those events will occur here. The property will continue to be owned and occupied by the City, even after the proposed bridge and access road are completed.

Charter Section 520 also specifically authorizes “permits...compatible with and accessory to” park purposes. Typically, a City-owned improvement that affords public access to park property could be found by the City Council to be “compatible with” and “accessory to” the park use.

**Response 9-15**

Refer to 9-14.

**Response 9-16**

Refer to 9-14.

**Response 9-17**

Refer to 9-14.

**Response 9-18**

Refer to 9-14.

**Response 9-19**

Refer to 9-14.

**Response 9-20**

Refer to 9-14.

**Response 9-21**

Refer to 9-14.

**Response 9-22**

As described in Section 4.13.1 of the Revised EIR, the roadway and bridge design under the current (2008) project design are identical to those in the original project description. The Project Description shows the location, dimensions, and design in Figures 2-3, 2-5, and 2-9a and 2-9b, the latter two figures showing a cross section and longitudinal section. The dimensions of the bridge are approximately 32 feet wide by 140 feet long. References to an “easement” in describing the corridor across the City-owned land within which the roadway and bridge would be located originate from the original EIR, and are incorrect. In fact, the roadway and bridge will be public improvements constructed with an encroachment permit, and which will be offered for dedication to the City upon their completion.

**Response 9-23**

Refer to 9-14.



### **Response 9-24**

Refer to 9-14.

### **Response 9-25**

The relationship between internal roads and Arroyo Burro Creek is evident in Figure 4-7 in the Revised EIR. From that figure, the following approximate distances can be estimated between the proposed road system and the centerline of the creek:

- For the Public Road
  - Vicinity of lot 9                    120 feet
  - Most of its length                200 feet
  
- For the Private Drive
  - Vicinity of lot 6                    120 feet
  - Near its southern end            180 feet

For a presentation of the relationships between the roadway locations and the estimated top of the creek bank, or the edge of riparian vegetation, please see Figure 3-12b.

### **Response 9-26**

The EIR presents the full language of PRC Section 30236 as follows:

“**Policy 30236.** Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.”

The project does not involve channelization, dams, or other substantial alteration of rivers and streams. The improvement that appears to be the subject of the comment is the proposed spanning bridge, which would cross the creek with a minimum of physical encroachment. Even if this improvement were judged to be in conflict with the stated policy, the policy is part of the Coastal Act and does not apply to the bridge, which is 550 feet outside of the Coastal Zone as illustrated in Figure 3-12b. The text of the EIR cited in the comment does identify components of the project that are in the coastal zone—the proposed bank stabilization and creek restoration, which do have as their primary function “...the improvement of fish and wildlife habitat” and will not constitute a “substantial alteration” of a river or stream. An adequate buffer has been provided to protect structures from creek erosion in the coastal zone. The primary purpose of bank stabilization in that portion of Arroyo Burro Creek in the coastal zone is to restore the creek and minimize erosion and sedimentation of the creek.

Thus, the project is consistent with this Coastal Act Statutory policy, and with the similar language of City LCP Policy 6.11.

### **Response 9-27**

As presented in the EIR, the referenced policy language is as follows:

“**Policy 30240.** (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.”

The discussion in the EIR (page 3-68) is clear that the components of the project within the Coastal Zone are consistent with this policy. These components include the proposed creek restoration and pedestrian path. At issue, is whether components of the project outside of the Coastal Zone (bridge and other aspects of development) would cause the environmentally sensitive habitat area of the creek in the Coastal Zone to suffer a “...significant disruption of habitat values,” or whether the project development would be “sited and designed to prevent impacts which would significantly degrade those areas,” and is “compatible with the continuance of those habitat and recreation areas.”

As stated in the EIR, it is possible that the bridge could potentially restrict wildlife movement and increase habitat fragmentation of the lower Arroyo Burro watershed, the southern portion of which is located in the coastal zone. However, given the distance of the bridge from the coastal zone and existing development and other restrictions to wildlife in the coastal zone portion of the watershed, a final determination has not been made as to whether indirect impacts from the bridge would result in "significant disruption of habitat values" in the coastal zone.

Statements in the EIR are not the ultimate determination regarding consistency of the project with policies. The decision makers (Planning Commission and City Council) must make the final decision in this regard, and the discussion in the EIR serves to inform them about the issues to be decided. Testimony at hearings, staff reports, and other information in the public record also provide information to be used in making these determinations.

### **Response 9-28**

The statement cited from the EIR is a reasonable summary for one of the responsibilities that the Lead Agency (City) is assigned by CEQA—determining significant effects on the environment. The exact language from CEQA (PRC 21082.2(e)) is as follows:

“Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.”

This language is one of several directives provided by CEQA regarding the determination of significant effects. This determination is sometimes a difficult process that requires consideration of complex information and the exercise of judgment. The fact that the statements in an EIR are not necessarily determinative of significant impacts is not at odds with the public's understanding. In fact, the public (and the author of the comment) frequently argues that statements in EIRs are in error, and should not be accepted as a final determination of impacts.

An EIR is an informational document prepared by lead agency staff and consultants as part of a public process, which is ultimately provided to the decision-makers as part of the more complete administrative record on which a decision-making body can base its determinations. On the other hand, the findings reflect the views of the agency decision makers, based on review of the whole administrative record (Public Resources Code §21081, subd. (a); CEQA Guidelines, §15091, subd. (a), 15092, subd. (b)(2)(A)). Thus, the City's decision-makers are not bound by the conclusions of an EIR, rather they have discretion to reach conclusions that differ from those set forth in the EIR based on both environmental considerations and non-environmental considerations; those conclusions will be upheld if they are supported by substantial evidence in the record. (*Environmental Council v. Sacramento County Bd. of Supervisors* (1982) 135 Cal.App.3d 428, 435-439 [EIR concluded project's impacts on agricultural land and growth would be "potentially significant"; agency decision makers did not abuse discretion in adopting findings that these impacts would be "less than significant"].)

### **Response 9-29**

The discussion in the EIR is clear. Under the County General Plan and zoning, the maximum number of residential units possible on the 10.28 acre parcel is 47. Consideration of various constraints, including creek setbacks, open space requirements, and steep slopes, would lead to a reduction from this maximum. The estimated number of residential lots would be about 20-25. This number is similar to that proposed by the project. It is possible that a development in the County would have less public open space, or more units, than proposed by the project. This is why the EIR notes that this alternative could have a potentially higher density. In general terms, however, the overall effect of development would be similar, or slightly higher. From an environmental perspective, the overall impacts of such a development would be similar to, or slightly greater than, the proposed project. A more detailed analysis beyond this review would be speculative.

### **Response 9-30**

The issue of affordability levels might be a factor for political or socio-economic consideration of the project. It does not, however, relate to environmental impacts. The City of Santa Barbara is not under any CEQA requirement to match the County's stated affordability procedures or to provide an analysis of how its procedures regarding affordable housing compare with those of the County. The project as proposed does include two specific units that will be available at below-market costs consistent with City housing programs.

### **Response 9-31**

The City consulted with the County of Santa Barbara in drafting the Las Positas Valley & Northside Pre-Annexation Study, which was released in February 2000. This Pre-Annexation Study was part of the City's Annexation Policy Update, initiated in 1995. The land that is the subject of the Veronica Meadows Specific Plan is included in Area 8 Campanil East and Area 11 Arroyo Burro Creek. The information received from the County is included in the EIR as the development potential under current General Plan and zoning ordinances.

### **Response 9-32**

As noted in response 9-29 above, the determination of development potential in the County jurisdiction was made as described in the EIR, with the information presented there for the public and decision makers to review.

### **Response 9-33**

This comment misinterprets the discussion from the EIR as concluding the development potential in the County jurisdiction is the maximum allowable value computed from the maximum density in the General Plan designation and zoning. As noted in response 9-29 above, and as cited in the comment 9-29, the conclusion in the EIR is that the development potential would be significantly less than this maximum, resulting in an overall number of units similar to or slightly higher than the proposed project. The conclusion cited from the City staff report is quite similar to the concluding language in the EIR discussion of this matter. The estimated potential for development under the County General Plan and zoning is 20-25 residential lots, or slightly more, as stated in the EIR.

### **Response 9-34**

As stated in response 9-29 above, and in the EIR discussion of this matter, a creek setback was one of the assumptions made in estimating the development potential of the property in the County jurisdiction.

### **Response 9-35**

The comment is correct in noting that the County Planning and Development Department expressed a position in favor of the Alan Road Access Alternative. The alternatives analysis need not be revised, since it already includes a discussion of the Alan Road Access Alternative, which would be quite similar to the result of development in the County without use of the bridge access.

### **Response 9-36**

Phase 1 construction may involve some heavier truck traffic capable of making louder noises, and in the project as proposed this noise impact would affect Alan Road residents. The comment is correct in noting that, under the Alan Road Access Alternative, this particular noise impact (from vehicles used for bridge construction) would not occur. Response 9-40 provides more information in this regard. The discussion in Section 4.5.3, however, is quite clear-- all other (non-bridge) truck traffic for construction of the project would necessarily be routed in and out via Alan Road since it

would be the only access. This is why the construction noise impacts would be greater under the Alan Road Access Alternative.

### **Response 9-37**

Section 3.9.3.2 of the original EIR explains that Phase 1 will include construction of the bridge, landslide stabilization, and major grading and infrastructure. Phase 2 will overlap with Phase 1, and include home construction and site landscaping. A key feature of the description is the concept that all construction traffic would use the bridge from Las Positas Road as soon as possible, and this is set forth in mitigation measure N-2.

### **Response 9-38**

The original EIR (page 3-129) estimates from 30-40 round trips per day, or from 4-5 truck trips per hour along Alan Road during Phase 1 construction.

### **Response 9-39**

Daily construction trips for Phase 2 were not estimated in the original EIR, since construction at individual homesites would be highly variable and all of the traffic would be routed via the project bridge to Las Positas Road, and would not affect Alan Road residents. Under the Alan Road Access Alternative, 100 percent of all types of trucks would be using Alan Road for access during the entire period of construction.

### **Response 9-40**

Phase 1 construction noise would be very similar on a day-to-day basis when comparing the project as proposed and the Alan Road Access Alternative. Deletion of the bridge from the latter may lead to a shorter overall duration of construction, say 5 months instead of 6 months. The key comparison, however, is that under the Alan Road Access Alternative, all Phase 1 traffic and all Phase 2 traffic would use Alan Road. Under the project as proposed (with mitigation measure N-2), as soon as possible, remaining Phase 1 traffic and all Phase 2 traffic would not be using Alan Road.

### **Response 9-41**

As described in the original EIR (page 3-129) Phase 2 would include home construction and landscaping. It is also likely that some finish paving and similar work would be in Phase 2.

### **Response 9-42**

Yes, the City distinguishes between short-term impacts and long-term impacts, and has significance thresholds for each, if applicable.

### **Response 9-43**

Construction traffic for the three lots at the end of Alan Road would continue to use Alan Road for access. These lots are specifically excluded from mitigation measure N-2. Under the current (2008)

design, three lots would use Alan Road for access during Phase II construction rather than two as under the original project. The additional construction trips associated with one new lot using Alan Road during Phase II construction do not change the overall impact analysis.

#### **Response 9-44**

Contrary to the comment, CEQA Section 21002 and the CEQA definition of “feasible,” which was presented in the Revised EIR takes into account “social” factors. The discussion in Section 4.1 provides more information.

#### **Response 9-45**

The history of this project makes it clear that the City has allowed for and carefully considered the objections and input from the Citizens Planning Association and other groups. In fact, the City Council in 2006 directed the applicant to present a variant of the Alan Road Access Alternative, with a lower density than the proposed project. This alternative was presented at a public hearing in October 2006. The Citizens Planning Association chose not to support that alternative. The definition of feasibility, and its component parts, is only one of several factors that the City must consider when making a final decision on the project.

#### **Response 9-46**

The EIR does not confuse the content of Resolution 7528, stating a Council intent to prohibit through traffic from Las Positas Road onto Alan Road, with the potential to serve development at Veronica Meadows via the same route. The reference to this resolution in Section 4.5.2 is part of the description of the degree, and the duration, of interest in this matter by the residents of Alan Road and the surrounding neighborhoods.

#### **Response 9-47**

The original EIR did include a sentence that started: “This alternative is feasible...” The remaining part of the sentence, however, and the remaining paragraph explain the viewpoints from which this feasibility conclusion is determined. These include sufficient road capacity along the Alan Road segment, requiring only a slight modification to the project design, maintaining consistency with City Circulation Element policies and programs to improve mobility, continuing to meet City Fire Department Requirements. The paragraph then concluded, “As such, this alternative is considered feasible.”

The subsequent paragraph then explains that the Alan Road Access Alternative would meet some project objectives as well as or better than the proposed project, while others (compatibility with surrounding neighborhood) would not be met as well. The following section then explains that the Alan Road Access Alternative would have several new environmental impacts, not present in the proposed project, while it would also avoid some impacts from the project. Finally, the discussion notes that the Alan Road Access Alternative would forego one positive benefit of the project—that of providing an important pedestrian and bicycle link.

When the entire discussion is retained, it is clear that the Alan Road Access Alternative has both advantages and disadvantages when compared to the project as a whole. The original discussion focused on the technical or engineering aspects of feasibility. The proposed Final Revised EIR does not eliminate these considerations, but it does expand the discussion to incorporate other factors important in considering what is “feasible.” The Revised EIR does not change its conclusion that the Alan Road Access Alternative is feasible, it merely refines the discussion and deems it “potentially feasible.” The proposed Final Revised EIR also makes it clear that, ultimately, feasibility must be evaluated and determined by the decision-making body.

Individuals concerned with preventing impacts from bridge construction can focus on portions of the discussion to support their viewpoint. Others, who oppose the Alan Road Access Alternative can choose other statements from the EIR. For example, the original EIR ended its discussion of the Class I impact from the bridge construction by stating, “It should be noted that the conclusion that the bridge would have a significant impact does not, in and of itself, require that the City reject the bridge option.” The responsibility of the City Council is to review all of the available information, and then to make a decision that is based on the evidence and in a process that is consistent with CEQA and other applicable requirements, including those non-environmental considerations which the City Council deems appropriate.

#### **Response 9-48**

The project objectives were formulated by City staff and consultants under contract to the City, with some input from the applicant in their project description.

#### **Response 9-49**

The project objectives include: Develop the project site in a manner that respects and accommodates site constraints and is compatible with the natural setting and existing development of the surrounding area. Several concepts are included in this objective, one of which is “...compatible with ...existing development of the surrounding area.”

#### **Response 9-50**

Judgments regarding neighborhood compatibility involve factors beyond the quantifiable issues of traffic level of service and decibels of noise. Considerations such as the historically established character of the neighborhood (including home size and design, among others), safety and isolation from through traffic, nuisance levels of noise or exhaust that may be less than significant per City thresholds, and other factors may enter into the issue of compatibility. The focus on the physical environment and on physical change and quantifiable thresholds that has become integral to the CEQA process is not well suited for addressing issues which are more subjective but nonetheless legitimate considerations.

#### **Response 9-51**

The comment is based on the premise that the applicant has defined the project objectives, which is not true. The particular circulation improvements under consideration—access that includes pedestrian and bicycle improvements—are shown in the City’s Bicycle Master Plan (specifically a

connection from Torino Drive to Alan Road). The project has no significant adverse impacts on such facilities. Therefore, the City has little recourse or ability to require or extract construction or funding of these public improvements as part of the project. This is why, when the variant of the Alan Road Access Alternative was presented to the Council in October 2006, it provided trail connections within the project and easements for a bicycle and pedestrian bridge but no capital funding. The City cannot represent the applicant in determining what costs are acceptable and unacceptable. Despite its higher cost, the applicant may see other benefits to his project with the bridge access. For these reasons, without the roadway bridge access, the City has no immediate prospect for funding the pedestrian and bicycle bridge improvements.

### **Response 9-52**

The benefit of linking the park areas to the beach has not been provided by the referenced “new trail section.” The “trail” is a substandard, 3-foot wide trail surfaced with decomposed granite. It does not provide a surface or a width that can safely accommodate bicycle and pedestrian traffic. It was constructed within the Caltrans right of way, without an encroachment permit, and has yet to be accepted by Caltrans. This information need not be included in the EIR.

### **Response 9-53**

The comment is incorrect. The referenced statement on page 4-15 explains that the 15-unit project, with Alan Road Access, would avoid the significant impact in the a.m. peak hour only, not in the p.m. peak hour. It is recognized, however, that an alternative with a slightly reduced number of units could avoid this impact. It is not necessary to craft an additional alternative, however, since the EIR already evaluated an alternative with fewer units in Section 4.8. While this alternative was oriented around avoiding landslide deposits, it resulted in the reduction of 11 units as well. An EIR is not required to examine every possible alternative and its permutations, only to provide a reasonable range of alternatives. To reduce the number of units by a substantial margin (11 in this case), and retain the bridge and other capital costs of the project, would apparently reduce the economic return of the project. While the City does not know, nor need not know, the exact point or combination of factors that lead to economic infeasibility, it is clear that a substantial reduction in the number of units without a concomitant reduction in costs would greatly reduce feasibility.

Examination of an even lower density would not provide meaningful additional information, and would involve a reduced economic feasibility.

### **Response 9-54**

From the responses to 9-29, and related comments above, it is clear that the daily noise impacts from a reduced alternative would be similar to those from the project. It would remain true, however, that such an alternative with only Alan Road access, would have much greater noise impacts during all of Phase 1 and all of Phase 2.

### **Response 9-55**

At the current time, the Cliff Drive/Las Positas Road roundabout project is tentatively scheduled for construction to begin in July 2011, with an estimated completion date of June 2012. The



roundabout project is not currently designed and a cost estimate has not yet been prepared, therefore no funds have been programmed for this improvement. Funding of this improvement is not tied to the Veronica Meadows project, although payment of a fair share contribution by the developer would be required mitigation. Any traffic impact at this intersection would persist until completion of the roundabout project. Since the improvements are not yet funded, their implementation is not certain. Therefore, the Alan Road Access Alternative would result in a significant and unavoidable traffic impact.

### **Response 9-56**

This comment is very similar to that in 8-13; much of that response is repeated here. A bridge only suitable for bicycles and pedestrians would require the use of Alan Road for vehicular access to and from the project. The EIR addresses the Alan Road Access Alternative, and a variation on this alternative was presented to the City Council in October 2006. As presented, that variation allowed for a pedestrian/bicycle bridge easement, but did not include developer funding. Since the project itself would have no impacts related to pedestrian and bicycle use, it is not clear that the City could successfully require the construction of such an improvement. It is likely, therefore, that the City would be responsible for providing this funding.

A prefabricated bridge would still require an abutment in order to provide stability for the structure. The bridge as proposed has already been designed to minimize impacts, and with the exception of reducing the width, cannot technically be designed to further reduce impacts to the creek area. If constructed to accommodate bicycle and pedestrian use, it might have a width on the order of 10-12 feet instead of just over 30 feet. The assumption that a narrower bridge would avoid a Class I impact is not necessarily true. The EIR discussion from the outset placed the bridge construction in the context of other man-made effects which alter the riparian habitat in the area. The concluding sentence of the discussion in the EIR makes this clear:

“However, in light of the narrow riparian corridor at this location and the close proximity of other human disturbances that affect wildlife (i.e., Las Positas Road, Stone Creek Condominiums), the overall impact of the bridge on riparian habitat and associated wildlife is considered **significant and unmitigable (Class I)**.”

Thus, a narrower bridge, while possibly reducing effects, would not necessarily avoid a significant impact. Different bridge sites were also considered (Section 4.12.1), and were found to have similar impacts.

### **Response 9-57**

As noted in response 9-56 above, a pedestrian/bicycle bridge would have a width of about 12 feet (minimum). This width meets Caltrans and national standards.

### **Response 9-58**

See response 9-56.

### **Response 9-59**

At issue is not the cost of the bridge, but who pays for it. As proposed, the applicant would pay for a vehicle bridge that would include pedestrian and bicycle facilities. In the Alan Road Access Alternative, if a separate pedestrian/bicycle bridge were to be built, it would not be at applicant expense.

### **Response 9-60**

The assertion is made on a comparative basis, given a relatively fixed cost of public improvements for the project. In the previous 15 unit proposed by the applicant in October 2006, Alan Road was to provide the only access. Without the capital cost of the creek bridge, the applicant considered that alternative feasible. To reduce the number of units by a substantial margin, and retain the bridge and other capital costs of the project, would apparently reduce the economic return of the project. While the City does not know, nor need not know, the exact point or combination of factors that lead to economic infeasibility, it is clear that a substantial reduction in the number of units without a concomitant reduction in costs would greatly reduce feasibility.

This comment is identical to the claim made in the litigation that there was no substantial evidence to support a finding of economic infeasibility of the Avoid Landslides Alternative. The court judgment specifically rejected this claim (see Statement of Decision attached as Exhibit A to the commenter's letter, page 5). Thus, the issue has been determined and is binding on the parties under the "law of the case" doctrine. *Federation of hillside and Canyon Associations v. City of Los Angeles* (2004), 126 Cal.App.4<sup>th</sup> 1180.

### **Response 9-61**

Refer to 9-60.

### **Response 9-62**

Refer to 9-60.

### **Response 9-63**

Refer to 9-60.

### **Response 9-64**

The conclusion—that the Alternative Creek Setback alternative is environmentally superior—and the reasons for not designating the Alan Road Alternative as the environmentally superior alternative are presented Section 4.14.

It should be noted, however, that this comment appears to be based, in part, on a confusing statement contained in Section 4.10.3 dealing with the Alternative Creek Setback Alternatives. The discussion includes a list of three Class II impacts (significant but mitigated), dealing with creek

resources. The three Class II impacts were (1) water quality, (2) indirect effects from human activity, and (3) loss of oak trees. The subsequent paragraph as published in the EIR reads as follows:

“No significant unavoidable impacts to creek resources would occur under the proposed project (as mitigated), nor under the three setback alternatives. However, the setback alternatives would provide greater protection to creek resources than the proposed project, as well as provide additional incidental benefits of greater public open space and more visual screening at the project site.”

The first sentence in the paragraph was intended to reference the immediately preceding three Class II impacts, and not the Class I impact to riparian habitat associated with the creek bridge. The text in the proposed Final Revised EIR has been revised to state the discussion more clearly.

### **Response 9-65**

The habitat restoration plan has been drafted in a preliminary form. The mitigation measure provides the City control in reviewing and accepting the plan in substantial conformance with the one that has been submitted. No revisions to the EIR are necessary.

### **Response 9-66**

No formal surveys for sharp-shinned hawks have been performed in recent years.

### **Response 9-67**

Changes in runoff water quality are addressed in the EIR, and mitigation measures were identified. In particular, it was recommended that the project drainage design be revised to provide more points of discharge to the creek to reflect a more natural pattern of runoff, avoiding the concentration of runoff and potential to increase erosion and sedimentation. The current 2008 project design incorporates this measure. Other requirements, including Best Management Practices during construction and the drainage design that uses basins and features to minimize effects of runoff after construction, will serve to reduce potential water quality impacts. The project is sufficiently far upstream, and incorporates mitigation measures as described, so its water quality effects on tidewater goby habitat will be insignificant.

### **Response 9-68**

Figure 3-11 of the original EIR contains a detailed vegetation map, including identification of individual oaks or small clusters of oak trees. A specific total count is not provided in the figure.

### **Response 9-69**

Details of the bank re-design are included in the preliminary creek restoration plan. The intent of the EIR discussion was to identify the potential impact associated with the proposed stabilization, highlight the issue as warranting special concern in the plans, and provide a monitoring checkpoint or highlight to direct City review to this specific item.

### **Response 9-70**

The only indirect impact of the bridge on the coastal zone is related to its possible role in fragmenting riparian habitat, and to the extent that it might affect the movement of animals within that habitat into and out of the Coastal Zone. This issue is identified in the EIR as a policy issue, See response 9-27 above. Effects of the project on erosion, sedimentation, and water quality are addressed. Potential impacts are identified, and mitigation measures are detailed.

### **Response 9-71**

The statement from the EIR in Section 4.5.2 refers specifically to the hearing held in October 2006, after the City Council directed staff and the applicant to prepare an alternative using only Alan Road for access and having a reduced density, well below that of the originally proposed project. At that time, neither the Citizens Planning Association nor the Urban Creeks Council supported the Alan Road Access Alternative variant with a reduced density. The City recognizes that these and other groups remain opposed to any development in the area that incorporates a bridge across Arroyo Burro Creek.

### **Response 9-72**

The commenter will receive a copy of the Notice of Determination, as requested.

### **M.10 Letter from Naomi Kovacs, Citizens Planning Association of Santa Barbara County, Inc., dated April 28, 2008**

### **Response 10-1**

This comment introduces CPA and their role. No response is necessary.

### **Response 10-2**

Please refer to comment 10-7 below.

### **Response 10-3**

The assessment of project impacts, including contributions to cumulative impacts, was based on the baseline conditions at the time the project was deemed complete as directed by CEQA. It is not necessary to update the analyses, particularly for alternatives, regarding traffic effects of the project.

Nevertheless, City staff considered this issue as part of preparation of the Draft Revised EIR and determined that the traffic conditions identified in the traffic study and EIR are still representative of the current traffic situation in the area.

Cumulative traffic volume forecasts used to analyze the project were developed in accordance with CEQA Guidelines Section 15130 (b)(1)(A) using a list of approved and pending projects (EIR Appendix K).

Staff did review the pending and approved list and the projects on it and determined that it has not changed substantially. Commenter states that the Elings Park project has gotten bigger. The Elings Park project now includes the south property, but the improvements within the park have not been enlarged. Some projects have been scaled down, or abandoned. Overall, the projects identified are still representative of an appropriate cumulative analysis.

Commenter notes that in the City's recently released Development Trends Report, greater development in the Outer State Street area is identified. However, the Development Trends Report only identifies potential locations for additional development. No specific development projects are proposed and the development discussed in the Development Trends Report is not reasonably foreseeable in the context of the Veronica Meadows Specific Plan project.

#### **Response 10-4**

The EIR is not required to analyze the project's compliance with City Charter Section 1507. Although the EIR did not explicitly address the declaration of Charter Section 1507, it did discuss the various environmental and service issues identified in the Charter Section. The original EIR, through citations to the Initial Study for the project, addressed the adequacy of the City's water and wastewater treatment systems to serve the project. The EIR addressed water, air quality and traffic impacts, as well as other issues. Remaining components of Charter Section 1507 deal with the votes necessary to approve amendments to the City's General Plan and Zoning Ordinance. The findings noted in the comments regarding Charter Section 1507 will be considered by the City Council if the project is approved.

#### **Response 10-5**

As required by CEQA, a range of reasonable alternatives were included as Alternatives to the proposed project. Reduced density alternatives were discussed by the Planning Commission in 2003 and again in 2005, however they were not included in the EIR because they were rejected by decision-makers due in part to their inability to meet project objectives and/or loss of project benefits.

#### **Response 10-6**

Commenter states that the EIR is inconsistent in its discussion in the Alternatives section as to how the specific alternative reduces or eliminates the Project's Class I impacts. Within the Alternative Chapter, each Alternative includes a section that discusses its environmental impacts. Within this section is an evaluation of the alternative's ability to reduce or eliminate the project's significant (Class I and Class II) impacts.

#### **Response 10-7**

Section 4.1 provides additional clarification on the term "feasible":

“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.”

Public Resources Code §21002.1 (b) expressly provides that “Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” However, subsection (c) of §21002.1 makes it clear that “if economic, social, or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency (i.e. the “decision-making body” as CEQA uses that term) if the project is otherwise permissible under applicable laws and regulations.”

CEQA does not prescribe a specific methodology or requirement for assessing the potential feasibility of alternatives. Rather, it seeks a level of information to allow meaningful evaluation, analysis, and comparison with the proposed project. The appropriateness of each alternative as being feasible is discussed throughout the section. Based on the above clarification, each alternative is described as capable of being constructed. Section 4.5.2 of the Revised EIR describes the potential feasibility of the Alan Road Access Alternative through the above factors. CEQA guidelines include “social” for consideration of the feasibility of alternatives.

The DREIR further states:

“However, this EIR does not make final determinations on the feasibility of alternatives presented, particularly with respect to economic, social, and housing factors that need to be considered in any final analysis of feasibility. These factors will be considered by the Planning Commission and City Council during their comprehensive review of the proposed project at public hearings following completion of the Final EIR.”

Some minor text changes have been made to the Alternatives Chapter to make the discussion of feasibility more clear where possible. However, the decision making body of the local jurisdiction will further review and refine the feasibility assessments of the alternatives. The RDEIR provides a level of discussion of feasibility but this review is not the definitive finding that will be made by the public agency during the public hearing portion of the review in accordance with Public Resources Code §21002.1.

### **Response 10-8**

Please refer to the response in 10-7, above. Also, response 9-7 discussed the issue of feasibility in more detail. An Alan Road Access Alternative, combined with an additional reduction in density below that in the variant considered by the City Council in October 2006, is not likely to be found feasible by the decision-making body. Response 8-14 provides additional information on this issue.

### **Response 10-9**

Please refer to the response for 10-7

### **Response 10-10**

The DREIR is focused on the revisions to the original EIR and does not reiterate project components previously addressed in the EIR dated January 2005. Important changes—those which

have a bearing on the discussions of impacts and mitigation—in the current (2008) project design are presented in Section 4.13 of the Revised EIR.

### **Response 10-11**

An EIR shall describe a range of reasonable alternatives to the project or to the location of the project which would feasibility attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. There is no explicit definition in CEQA regarding “basic objectives.” As the Lead Agency, the City of Santa Barbara determined the appropriate objectives for this project. The objectives identified in the RDEIR include City objectives, objectives essential for the applicant in developing the project, and benefits to future residents and the general public. Adequately meeting the City’s annexation criteria and LAFCO requirements is a legitimate objective.

### **Response 10-12**

The use of a Specific Plan as the zoning for the site does not necessarily result in increased density. Commenter states that including parcel 047-010-011 in the Specific Plan results in an overall increased density for the project. Per the Specific Plan, the only allowed uses on parcel 047-010-011 (referred to therein as Area B) are: public trails along the creek corridor; brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal; and utilities, flood control projects or other infrastructures as approved by the City. The maximum number of units allowed for the entire Veronica Meadows Specific Plan Area is 25, and these units are restricted to Area A of the Specific Plan, which is the 14.8-acre portion of the site. The EIR includes estimates of potential density based of various land use and zoning designations, both existing and proposed (Sections 4.3 and 4.4). The proposed development would not be a PUD.

### **Response 10-13**

Section 4.2.3 of the RDEIR states:

“Under this alternative, the environmental impacts associated with the proposed project would not occur. The significant impacts of the proposed project include the following (Class I and II impacts):”

The list of impacts following that statement is a summary of the project impacts, which would be avoided by the alternative.

### **Response 10-14, 15**

The assumptions described in the No Annexation Alternative are reasonable assumptions based on the County and City documents currently available. During any application process with the County, further refinements would be anticipated and that expectation is considered in the unit estimate of 20-25. Further assumptions of an even lower density and access from Alan Road are not reasonable to predict without a formal application review by the County. Response 9-29 contains

more discussion of this issue. Response 10-3 above addresses use of the Development Trends Report in this analysis.

### **Response 10-16**

In February 2000, the City released the Draft Las Positas Valley & Northside Pre-Annexation Study as a resulting of increasing interest in establishing a clear understanding of City policies and expectations for properties in the unincorporated areas. This Pre-Annexation Study was part of the City's Annexation Policy Update, initiated in 1995. The land that is the subject of the Veronica Meadows Specific Plan is included in Area 8 Campanil East and Area 11 Arroyo Burro Creek. Given the amount of time, effort and public participation in this process, the City believed it was important to reflect the results of those efforts by incorporating an alternative that utilized its density recommendations. The commenter is correct in stating that this alternative does not reduce any of the project's Class I impacts.

### **Response 10-17**

While these two alternatives merely address component options within the project design, they are in response to questions or issues that arose during consideration of the project. The comment is correct in noting that these alternatives do not bear directly on significant environmental impacts or mitigation.

### **Response 10-18**

Please refer to response 9-60.

### **Response 10-19**

The Current (2008) Project Design alternative represents a slight improvement or better condition in terms of biological impacts as compared to the previously reviewed project.. The two elements of improvement for biological resources are preserving the existing sycamore tree on the west side of the creek, south of the bridge location and the revised stabilization plan that provides for a greater open area under the bridge, which allows for more light and greater success of the revegetation plan. In addition, the mitigation measures associated with stormwater impacts have been incorporated into the 2008 project design, and creek setbacks have been increased in some areas. The increase in traffic impacts for the current design is negligible since it represents a fraction of one percent of increase from the 2005 EIR dated January 2005.

### **Response 10-20**

This closing comment continues to argue that the EIR fails to disclose impacts, and fails to discuss appropriate mitigation and alternatives. The Draft Revised EIR, as circulated for public review in March 2008, only included selected chapters with minor revisions or clarifications reflecting the project design, or clarifications of previous discussions in the original EIR. The EIR is adequate with respect to meeting the requirements of CEQA by identifying and disclosing the environmental effects of the project and in identifying mitigation measures and project alternatives. Response 9-2 contains more information in this regard.



## **M.11 Letter from Wendy Dishman, undated**

### **Response 11-1**

This comment introduces the commenter and describes the location of her residence in Stonecreek Condominiums near Arroyo Burro Creek. No response is necessary.

### **Response 11-2**

This comment expresses opposition to the Veronica Meadows project. No response is necessary.

### **Response 11-3**

This comment hints at the degree of conflict among various groups regarding this project, but does not deal with the content of the EIR.

This comment expresses an opinion related to the costs and benefits, and is so noted.

### **Response 11-4**

This comment repeats some of the discussion from the EIR regarding the complexities of riparian ecosystems and creek restoration. The proposed bank stabilization within the Veronica Meadows will not affect or increase the risk of flooding upstream at the Stonecreek condominiums. Changes downstream will not impact the accumulation of debris and toxins upstream.

### **Response 11-5**

The “meadows” affected by the project are non-native grasslands created in part through prior disturbances at the project site. The project is not expected to put the health of other residents along the creek at risk. At the present time, there is no plan or available funding to accomplish public creek restoration or stabilization along this segment of Arroyo Burro Creek.

### **Response 11-6**

Traffic effects of the project have been described in the EIR. Improvements at Las Positas Road and the entrance to the project (and Elings Park) are not expected to adversely affect the Level of Service at that location.

## **M.12 Letter from Eddie Harris, Urban Creeks Council, dated April 28, 2008**

### **Response 12-1**

This comment introduces the Urban Creeks Council, and their involvement with the project.

### **Response 12-2**

This comment states the interest of the Urban Creeks Council in the project, and does not address issues in the EIR. No response is necessary.

### **Response 12-3**

This comment agrees with the conclusion in the EIR regarding the Class I biological impact associated with the proposed bridge construction. The remaining portions of this comment disagree with material submitted by Althouse and Meade, Inc. regarding effects of the project on the riparian habitat, and not with the analysis and discussions in the EIR. No response is necessary.

### **Response 12-4**

Based on updated designs and material submitted by the applicant, and on a recent field check by URS biologists, the Sycamore tree near the proposed bridge can be retained but will likely suffer some disturbance, including branch and root pruning. A distance of approximately 25 feet from the trunk of the tree can be preserved. The Revised EIR addresses this issue.

### **Response 12-5**

As with comment 12-3 above, this comment provides arguments against the material submitted by Althouse and Meade Inc., and does not dispute information in the EIR.

### **Response 12-6**

Again, this comment deals with the Althouse and Meade Inc., report, and not with the EIR.

### **Response 12-7**

Coastal sage vegetation is within the upland habitat area identified in Table 3-10, which is titled "Habitat Impacts." The top half of the table identifies areas of different vegetation types within the project area, those areas that will be lost (residences plus roads and paths) and those areas that will be retained. The bottom half shows the total areas to be retained, as well as the areas of vegetation types on the city open space parcel, and computes percentages of areas to be lost and retained. The table does not indicate increases in riparian habitat, sage scrub habitat or other vegetation types that will be created or restored by the project.

### **Response 12-8**

Please see response 12-4 above.

### **Response 12-9**

This comment regarding the bridge effects appears to be consistent with the discussion in the EIR regarding regrowth of vegetation under the bridge.

### **Response 12-10**

This comment agrees with the conclusions in the EIR. The Althouse and Meade Inc. report presents information and an alternate interpretation of project effects. The conclusion of the Class I impact to riparian habitat from the bridge construction is a complex issue, dependent on many

factors including past and proposed constrictions in the habitat corridor represented by the creek. The Althouse and Meade Inc. report presents information that may support a Class II (significant but mitigable) conclusion. However, the City continues to support the more conservative or protective conclusion presented in the EIR.

### **Response 12-11**

This comment identifies impact statements in the EIR, by referencing the discussion on page 3-63. The referenced discussion, however, concludes that potential water quality impacts would be less than significant, and identifies a mitigation measure (W-4) that would ensure this conclusion. That mitigation measure—involving modifications to the drainage system—has been incorporated into the current project design. Thus, the potential effects of the project on water quality are expected to be less than significant.

### **Response 12-12**

See response 12-11, above. There is no need to change the discussion relative to Policy 6.8.

### **Response 12-13**

The referenced Policy 5 occurs in the City Conservation Element. Discussions in the Conservation Element reference the federal and state definitions of endangered and threatened (federal) and rare and threatened (state). A list of such species is included in the EIR. The EIR discussion of Policy 5 is accurate.

### **Response 12-14**

The 100-foot creek setback measured from the top of bank is addressed as an alternative in the EIR.

### **Response 12-15**

The Campanil drainage does not support riparian vegetation or habitat under the current conditions. The proposed project includes the retention of an open landscaped channel for this drainage as an aesthetic feature. An alternative with an attempt to establish and retain riparian habitat here would not provide a reduction of impacts from the project.

### **Response 12-16**

The proposed bank stabilization at two locations does not constitute channelization of the creek. Figure 3-14 shows the general areas that would be affected by the bank stabilization and creek restoration plan, which were considered in the EIR. The EIR does not address any future channelization of the creek.

### **Response 12-17**

The project proposed includes stabilization of slopes on the project site as part of the land development. The project geology report and design of the slope stabilization work considers the

instability of adjacent land. The project also includes bank restoration and stabilization at two areas along the creek. The work on this plan by Swanson Hydrology and Geomorphology considers the condition of the creek and its banks in the watershed upstream from the project site. It is possible that future landslide or erosion events upstream may result in the deposition and transport of sediment in the creek. These are natural events, part of the existing conditions, typical of all creeks in the region, and do not present a unique threat to the riparian ecosystem. The proposed creek restoration includes monitoring and maintenance components.

### **Response 12-18**

This comment essentially restates the information from comment 12-17. All creek restoration projects occur in a dynamic system. The proposed restoration program includes monitoring and maintenance components. There is no need for the EIR to include a detailed analysis of all upstream hazards or a full description of all changes occurring throughout the Arroyo Burro drainage system.

### **Response 12-19**

Response 9-52 addresses this new trail section. While it does represent an extension of the existing trail system from within Elings Park, the trail as constructed cannot accommodate bicycle and pedestrian traffic according to City and Caltrans standards.

### **Response 12-20**

This comment repeats the agreement with the EIR conclusions. No response is necessary.

### **Response 12-21**

This comment states that feasible alternatives exist that would avoid the Class I impacts to riparian habitat associated with the bridge construction. As explained in the EIR, the issue of feasibility involves more than mere constructability and must be determined by the City decision makers based on other factors as well. The EIR discusses in detail use of Alan Road as an alternative to bridge construction. The comment also narrowly describes the Class I impact, by assigning it solely to the bridge. This discussion of this issue occupies several pages in the EIR. Even in the original EIR, this was recognized as a complex issue. The conclusion, as stated in the original and Revised EIR, reads as follows:

“Hence, a gap in and of itself is not necessarily significant to wildlife movement. However, in light of the narrow riparian corridor at this location and the close proximity of other human disturbances that affect wildlife (i.e., Las Positas Road, Stone Creek Condominiums), the overall impact of the bridge on riparian habitat and associated wildlife is considered significant and unmitigable (Class I).”

### **Response 12-22**

The CEQA requirements for preparing and circulating the revised portions of the EIR are explained clearly in Section 1.0. There is no need to recirculate the entire EIR. Environmental review of the

project has proceeded in accordance with CEQA. No shortcuts or abbreviated environmental review have occurred, either with the original EIR or with the Revised EIR.

### **Response 12-23**

An economic analysis of a reduced project density with access via Alan Road is not necessary. The City is not concerned with the profitability of the project for the developer, only with the feasibility of different alternatives and mitigation measures. An alternative with a substantially lower number of residential units was analyzed in the EIR. An alternative with Alan Road access and a substantially lower number of residential units was also considered by the Council in October 2006 and rejected. CEQA does not provide a justification and means for preparing an economic analysis. CEQA does say that socioeconomic factors may be used as one criterion in judging the significance of physical changes (14 CCR 15064(e)), and CEQA includes economic factors among the topic that may affect feasibility (15364). It is the City Council however, not an EIR, that bears the responsibility for making findings as to whether economic, legal, social, or other considerations make an alternative feasible.

### **M.13 Letter from Elaine Bowie, dated April 9, 2008**

#### **Response 13-1**

This comment references and agrees with the three Class I impacts identified in the EIR (riparian habitat impacts associated with the bridge construction, cumulative traffic impacts, and temporary construction noise impacts). The comment also expresses the desire that the City do more than require fair share traffic impact fees for improvements to intersections. The details of the City's capital improvements program and limitations on available funding for various projects, as well as the involvement of Caltrans in maintaining Las Positas Road, are beyond the scope of this EIR.

#### **Response 13-2**

This comment expresses opposition to the project, and notes the same potential impacts if the applicant were to proceed with development under the County jurisdiction. No response is necessary.

#### **Response 13-3**

These closing comments again express opposition to the project. No response is necessary.

### **M.14 Comments Made at Planning Commission Meeting, April 17, 2008**

#### **Response 14-1-a, b, c**

Richard Frickman, resident. These comments express opposition to the project and request an alternative with 1/3 the number of units, which would amount to approximately eight residential lots. The EIR already discussed alternatives with fewer units (11 fewer units in the Avoid Landslides Alternative), and suggested on a comparative basis that this alternative may not be feasible. Response 9-60, and Response 14-4d below provide additional discussion of reduced density

alternatives. The existing land is vacant, with minimal uses, and was described as open space in the EIR. The land on which development is proposed, however, is not “open space” in the proper sense of being designated as such in the Santa Barbara County General Plan.

#### **Response 14-1-d**

An economic analysis “...to determine the minimum number of units feasible for this project site.” is far outside the scope of an Environmental Impact Report. The issue of feasibility involves much more than just the number of residential units, and the City is not in a position to make a determination of feasibility solely on the basis of economic performance. The City can judge relative feasibility of mitigation measures or alternatives, and the developer may indicate an estimate of feasibility through alternatives that have been presented over the years for this property.

#### **Response 14-2-a, b**

Mike Fealy, resident. These comments agree with conclusions in the EIR.

#### **Response 14-2-c**

See response to 14-1d, above.

#### **Response 14-3-a**

Naomi Kovacs, Citizens Planning Association. This first comment does not address the EIR.

#### **Response 14-3-b**

See response 14-1d above relative to the issue of preparing an economic feasibility study. The EIR presented the Alan Road Access Alternative, which would have avoided the Class I impact to riparian habitat. A variant of this alternative, including a reduced number of residential units (15 instead of 24) was presented to the City Council in October 2006. Other alternatives considered by the EIR addressed specific environmental concerns or issues that arose as the project was reviewed. These were rejected primarily because they provided little or no improvement from an environmental perspective, or had other new impacts.

#### **Response 14-3-c**

The EIR was not intended to address economic feasibility in a definitive fashion. The alternatives section did discuss relative economic feasibility in the sense that alternatives with a number of lots similar to that proposed were presumed to be feasible. An alternative with a substantial reduction in the number of lots (Section 4.8) was identified with questionable economic feasibility, although other considerations could affect that conclusion. Other discussions of economic feasibility raised related issues, but did not attempt to reach any final conclusion in this regard. Economic factors are only one component of determining overall feasibility. Minor revisions have been made in the proposed Final Revised EIR to make the discussions where feasibility is referenced more consistent.

### **Response 14-3-d**

The EIR did analyze an alternative with a substantial reduction in the number of lots in Section 4.8 (Avoid Landslides Alternative), and a different alternative (a variation of the Alan Road Access Alternative) was presented to the City Council in October 2006. Thus, a reasonable range of alternatives has been considered.

### **Response 14-3-e**

This project has been under review by the City, environmental groups, neighborhood groups, and the public for several years. A concern about rapid review and responding to issues at this point in time is noted, but the City believes that ample opportunity has been provided to all interested groups and individuals for review and input.

### **Response 14-4-a, b, c**

Judith Hauer, Ventura resident. Responses 14-1d and 14-3c address the issue of an economic feasibility study. The homeowners association and individual landowners will be responsible for maintenance of common open space areas and private lands within the project. The developer and homeowners association will be responsible for the creek restoration and initial monitoring and maintenance until vegetation is established.

### **Response 14-5-a, b, c, d, e**

Eddie Harris, Urban Creeks Council. These comments are similar to written comments submitted by the Urban Creeks Council. In particular, Responses 12-17 and 12-16 address the issue of slope instability, and the fact that channelization of the creek is not proposed. The two referenced statements from the EIR are not inconsistent - the first places the on-site habitat in context within the Arroyo Burro creek system, while the second provides a general description of the habitat.

### **Response 14-6-a**

Mike Jordan, resident. This comment agrees with conclusions in the EIR. No response is necessary.

### **Response 14-7-a, b**

Elaine Bowie, resident. These comments express opposition to the project, and do not involve conclusions in the EIR. No response is necessary.

### **Response 14-7-c**

See responses 13-1 through 13-3.

## **M.15 Comments by Planning Commissioners at Planning Commission Meeting, April 17, 2008**

### **Response 15-1-a**

Commissioner Harwood White. Although the EIR did not explicitly address the declaration of Charter Section 1507, it did discuss the various environmental and service issues identified in the Charter Section. The original EIR, through citations to the Initial Study for the project, addressed the adequacy of the City's water and wastewater treatment systems to serve the project. The EIR addressed water and air quality and traffic impacts, as well as other issues. Remaining components of Section 1507 deal with the votes necessary to approve amendments to the City's General Plan and Zoning Ordinance. The Zaca Fire burned from July through September, 2007—more than two years after preparation of the EIR for the project. While the Zaca Fire affected habitat and may affect erosion and sedimentation over a large area of northeastern Santa Barbara County, it is not likely to have a discernable effect on resources related to this specific project.

### **Response 15-1-b**

Mitigation measures identified in the EIR would reduce impacts to the maximum extent feasible. The EIR Alternatives Section did include alternatives capable of further reducing impacts. The City must make the ultimate decision regarding the feasibility of alternatives or additional mitigation measures.

### **Response 15-1-c, d**

This issue—identifying an Alan Road Access Alternative with a lower number of units to avoid any Class I traffic impact—is addressed in Response 8-14. A portion of that response is repeated here. As presented in the Revised EIR, the Alan Road Access Alternative was responsible for only a small contribution to the significant and not mitigated impact at the intersection of Cliff Drive and Las Positas Road. Section 4.5.3 explains that not only the Alan Road Access Alternative as presented in the EIR, but also the option considered by the City Council in October 2006 with 15 residences, would pass the 1 percent threshold to be considered a significant impact. The October 2006 option was, however, very close to the threshold so only a slight additional reduction would be necessary to avoid this particular impact. Other alternatives with slightly fewer units were in fact considered in the EIR. Therefore, the EIR covered a reasonable range of alternatives and it is not necessary to continue iterating and modifying alternatives.

The issue of feasibility involves several different components, and a degree of judgment and balance in considering these components along with project objectives, and other environmental issues. The EIR presents information related to feasibility, but cannot be relied upon exclusively for making this judgment. Minor revisions have been made in the proposed Final Revised EIR to make the discussions where feasibility is referenced more consistent.



### **Response 15-1-e**

Economic issues are one component of the determination of feasibility. While the City may consider economic feasibility analyses in some instances, they are not routinely performed for private development projects as it is not the City's role to provide or guarantee a level of profitability for any given project. Uncertainties involved in such studies performed at an early stage, such as a General Plan amendment, also make them unreliable in predicting the ultimate feasibility of any given project. For example, economic conditions can change in such a way that the projected sale price could increase or decrease, resulting in changes to profitability.

### **Response 15-1-f**

Mission Street is not involved in any of the intersections specifically analyzed in the EIR, based on the distribution of trips from the project site to various intersections, as outlined in the Traffic Analysis in the original EIR. This question, related to the effects of adding a bicycle lane and altering a turn lane, may be a matter for separate research by City staff but is not related to this project.

### **Response 15-2-a**

Commissioner Stella Larson. The issue of an economic feasibility analysis is addressed in Responses 15-1e, 14-1d, and 14-3c, and others.

### **Response 15-2-b**

The referenced Supreme Court case is *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* [(2007)40Cal. 4 th 412, 449-450, 150 P..3d 709, 53 Cal. Rptr. 3d 821]. Language from that decision emphasizes the disclosure function of EIRs, and their role to inform decision makers and the public about the environmental consequences of a project. The environmental consequences of the Veronica Meadows project have been presented in the EIR and circulated for public review twice. The project has been presented, discussed, and considered at public workshops and hearings since 2003. This process has provided ample disclosure of the project's effects.

### **Response 15-3-a**

Commissioner Bruce Bartlett. Drawings of the preliminary bridge design were presented in the EIR. Figures 2-9a and 2-9b in the original EIR present the plan view, cross section, and longitudinal section drawings for the bridge. The bridge and associated public improvements would be built to City specifications prior to being offered to the City, as is the case with all public improvements. The issue of the precise cost of the bridge and related improvements is outside of the scope of the EIR.

### **Response 15-3-b, c**

These comments support the proposed creek restoration activity, and note the extent of roads and driveways in the project. The project does include the use of a private driveway to provide access to a number of lots, which reduces the width of paving for this route. Alternate setbacks were

analyzed in the EIR which did not reduce the overall extent of paving but did examine how it could be located farther from the creek habitat. The Council reviewed a 15-lot alternative that reduced the amount of road and driveway area. However, that approach resulted in a number of parcels backing up to the creek area, resulting in potential adverse impacts from back yard use and reduced public access to Arroyo Burro Creek.

#### **Response 15-4-a**

Commissioner Addison Thompson. This comment does not deal with the content of the EIR, but rather with the short schedule for completion of the Final Revised EIR.

#### **Response 15-4-b, c**

These comments concur with other Commissioners' comments. The Althouse and Meade Inc. report related to the bridge impacts was included as additional information in the distribution of the Draft Revised EIR, and was briefly addressed in the document. Much of the information in that outside report was submitted as part of comments on the original EIR, which were addressed in the responses to comment in that document. See Appendix F, Topical Response Number 2.

#### **Response 15-4-d, e**

This comment disagrees with the Class I impact conclusion regarding riparian habitat, as does the Althouse and Meade Inc., report mentioned in Comment 15-4c. While this report and Mr. Thompson's comments make strong arguments in support of a Class II impact on the riparian habitat, EIR preparers and city staff have determined that this constitutes a "difference among experts" under CEQA and has decided to stay with the more conservative conclusion. The Class II impact addressed relates to potential effects from the proposed bank stabilization, which could involve erosion and sedimentation during construction, or longer term effects if implemented poorly. Implementation of the creek restoration plan, with appropriate monitoring, as proposed should avoid this impact.

#### **Response 15-5-a**

Commissioner George Myers. This comment addresses the issue of referencing Charter Section 1507, which is discussed in response 15-1a, above.

#### **Response 15-5-b**

This comment disagrees with comments regarding the importance of including an economic feasibility analysis. No response required.

#### **Response 15-5-c**

The issue of upstream slope instability is addressed in responses 12-16, 12-17, and 14-5a-e. It is outside of the scope of this EIR to consider all of the development that has occurred in the Arroyo Burro Creek watershed or Las Positas Road corridor.

### **Response 15-5-d**

This comment concurs with information presented in the Draft Revised EIR.

### **M.16 Letter from Stephen J. Bigelow, dated April 29, 2008**

#### **Response 16-1**

This comment expresses opposition to the project, and does not raise any issues related to the content or the EIR. No response is necessary.

#### **Response 16-2**

This comment agrees with the conclusion of the EIR. The comment also requests an economic analysis of the Alan Road Access Alternative. This alternative is analyzed in the EIR, and a variant of this alternative was presented to the City Council in October 2006. An economic analysis would not influence conclusions in the EIR relative to impacts and mitigation. Such an analysis may provide information regarding economic feasibility for the project or for an alternative. As discussed in Section 4.1 of the EIR, economic factors are only one of several issues to be considered in determining feasibility.

### **M.17 Letter from Steve Clark, dated April 29, 2008**

#### **Response 17-1**

This comment expresses opposition to the project, based on biology and traffic issues, and does not raise any issues related to the content of the EIR. No response is necessary.

### **M.18 Letter from Nicole Vernstrom, dated April 29, 2008**

#### **Response 18-1**

This comment expresses opposition to the project, suggesting that the property be purchased by the public as a preserve or park. The comment also suggests investigating more alternatives. The EIR includes a wide range of alternatives, from the No Project alternative that would retain the property in its current condition, through several different densities and configurations, and to the current 2008 configuration. CEQA does not require that all possible alternatives be investigated, only a reasonable range of alternatives that could reduce impacts. In this regard, the alternative capable of reducing the major project impact is the Alan Road Access Alternative that was presented in the original EIR. A variation of this alternative with a lower density was also presented to the City Council in October 2006. The proposed Final Revised EIR retains the expanded discussion of this alternative.

## **M.19 Letter from Caroline Walker, dated April 28, 2008**

### **Response 19-1**

This comment expresses opposition to the project, and agrees with conclusions in the EIR. No response is necessary.

### **Response 19-2**

This comment agrees with conclusions regarding the Class I impact to riparian habitat. No Response is necessary.

### **Response 19-3**

The contribution of the Alan Road Access Alternative to the traffic impact at Cliff Drive/Las Positas Road is not the only negative effect of this alternative. While the Alan Road Access is feasible from an engineering and technical viewpoint, there are other objections to it. The discussion in Section 4.5 reviews this information.

### **Response 19-4**

An economic analysis of the Alan Road Access Alternative, with a reduced density, is not necessary for consideration of the project. The EIR reviews the effects of the Alan Road Access Alternative (Section 4.5) and the effects of several alternatives with fewer units than the project proposes. A variation of the Alan Road Access Alternative with substantially fewer residences than proposed was presented to the City Council in October 2006. Economic issues are only one of several factors that affect feasibility, as discussed in Section 4.1 of the EIR.

### **Response 19-5**

The City has complied with the Superior Court ruling by rescinding prior approvals and reconsidering the project in the current process.

### **Response 19-6**

This comment does not involve the content or conclusions of the EIR. No response is necessary.

### **Response 19-7**

This comment requests re-circulation of the entire EIR. The document was recirculated, and Sections 1.0 and 1.4 address recirculation of selected chapters following procedures in the CEQA Guidelines (Section 15088.5).

### **Response 19-8**

This comment expresses opposition to the project, and does not involve the content or conclusions of the EIR. No response is necessary.

**M.20 Letter from Annette Magneheim, dated April 28, 2008**

**Response 20-1**

This comment expresses opposition to the project, on the basis of impacts to riparian habitat and traffic, and agrees with conclusions in the EIR. No response is necessary.