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October 5, 2020

Re: Appeal of the Planning Commission Decision to the Board of Supervisors on Dipsea Ranch Subdivision, Tentative Map and Mitigated Negative Declaration

Ladies and Gentlemen:

The following comments to the County of Marin on the Dipsea Ranch Subdivision and Tentative Map, Initial Study (IS), Mitigated Negative Declaration (MND) and additional Failure of Public Notice are being submitted on behalf of the Sierra Club Marin Group (SCMG), Watershed Alliance of Marin (WAM) and petitioners from Friends of Muir Woods.

These comments will argue for the inadequacies of the IS/Mitigated Negative Declaration and the obvious need for a full Environmental Impact Report (EIR) that would address these inadequacies in depth.

For our comments to the failure of posting site notice and notice to interested and concerned parties, please see all previous correspondence. The Property was also not site noticed for this hearing. Marin County Code 22.118.020 (A, B, C, D). Appellants were not noticed as per code.

For our comments to the Subdivision and Tentative Map, please see Attorney Ed Yates letter dated October 1, 2020. Additionally, the project property, called out specifically in the Tamalpais Community Plan (TACP) Appendices A-7 LU31, 31.1, are inconsistent with the accepted subdivision. (Map 1)

The other inconsistencies with the TACP include Land Use Policies: Tamalpais Community Area Plan "Appendices." The parcel used to be 046-161-10.¹

¹ https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/tamalpais_area_community_plan_appendices.pdf

Appendix A - A-7 LU31.1 and LU 31.1a

A-15

Individual Waste Disposal Systems in Muir Woods Park

PS.3 Retain individual waste disposal systems in the Muir Woods Park neighborhood.

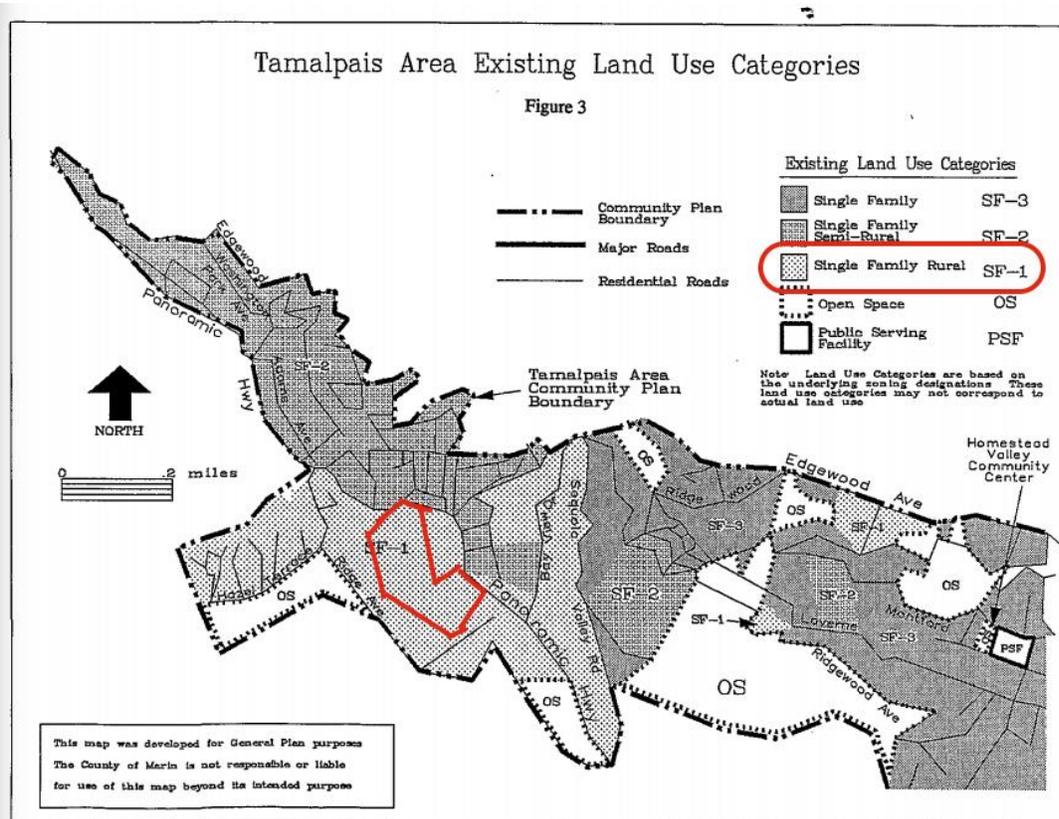
PS3.1a Permit existing dwellings with failing or marginal septic systems to; a) Use alternative methods of sewage disposal, b) Join a contracted septic system maintenance program, c) Hook up to an existing public sewerage system, where feasible, without forcing neighborhood annexation.

Appendix H - Page 85 (actual) Properties with subdivision potential – Subject property not listed.

It calls out this specific property for open space. This property is not listed in Appendix H for subdivision. The plan map also, does not have this property zoned differently from the surrounding ones - single family rural. See Map 1.

“The Muir Woods Park area has many forested, undeveloped parcels in close proximity to Mount Tamalpais State Park Muir Woods National Monument and the lands of the Marin Municipal Water District. These areas first should be considered for open space acquisition and for careful growth control to prevent harm to parklands from development.”

Tamalpais Area Community Plan 1992 (TACP) Land Use III-29



Map 1 TACP Page Land Use doc. III-3

Some of the other designations specific to this property are Tamalpais Area Community Plan Appendices:

LU.31 Protection and Enhancement of existing open space areas.

LU.31 Protect the significant local and regional open space values of the Muir Woods Park area.

LU31.1a APN 46-161-10. The Community desires this site to remain open in appearance.

LU31.1b Consider programs to acquire the forested undeveloped parcels in close proximity to Mount Tam State Park, Muir Woods National Monument and the lands of MMWD.

People move to Muir Woods Park for nature, wildlife, peace and the beauty of this environment and those values are supported within the Tamalpais Area Community Plan. This project, unfortunately, represents the loss of respect for nature and the community, its' character, the TACP and a diminution of this ethos.

The following addresses the specific issues with the inadequate MND.

Issue: 1. TRANSPORTATION

According to the MND Section 17 c) this question was not properly addressed. “Substantially increased hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses?” There are numerous unaddressed hazards that will be created and exacerbated by the project.

A. BUILD OUT

The impacts of the implementation of the Dipsea Ranch Subdivision, construction and build-out on traffic, even after suggested mitigation measures proposed in the MND are implemented, will be detrimental to the environment and the physical and psychological health of Marin County residents.

B. STILLWATER SCIENCES: REDWOOD CREEK WATERSHED ASSESSMENT FINAL REPORT²

This is an important report and addresses a number of issues. This is an independent report requisitioned and adopted by the National Park Service by an extremely reputable consultant.

P. 3-2

Several important issues with relevance to watershed planning are associated with human habitation in the watershed: septic systems, accelerated runoff and soil erosion, congestion on area roads, water use, and introduction of non-native plants and animals. All houses in the watershed, excepting those in Muir Woods National Monument, currently operate on septic systems, and problems with overloaded or poorly sited septic fields are noted in community plans. Further development, including redevelopment to larger residences, is expected to exacerbate these problems. Similarly, increasing development, home sizes, paving of roads and driveways, and removal of native vegetation also are expected to increase water runoff and the potential for soil erosion and water pollution. NPS water quality monitoring occasionally has found Redwood Creek bacteria levels to exceed state standards for human contact and elevated nitrogen levels. Problems with traffic congestion also are exacerbated by full-time residents in the watershed, caused by the area’s narrow and winding road system. Watershed residents make numerous daily trips, but what proportion of total traffic they represent is unknown. A traffic study is warranted.

The MND cited traffic study does not address increased uses of Panoramic Hwy. from Covid 19 and Climate Change.

C. NEIGHBOR DRIVEWAY HAZARDS NOT ASSESSED

The MND says traffic will not be a significant issue. We strongly protest this determination and the mitigation. Directly across the street at 446 Panoramic Hwy, residents will be prevented from turning left out of their driveway from a significantly enhanced traffic hazard of two lanes (the existing a new acceleration lane in front of their driveway) coming together in front of their steep driveway and with limited sight distances from two blind curves.

The MND fails to provide substantiated evidence that the proposed mitigation measures in the MND will reduce traffic congestion. General traffic will likely worsen during AM and PM peak traffic hours and on weekends, taking into consideration the certain increase in traffic to and from

² Stillwater Sciences: Redwood Creek Watershed Assessment Final Report
https://www.nps.gov/goga/getinvolved/upload/RCWA_FINAL.pdf

the construction site and parklands, service workers, and the cumulative and potential additional 11 housing units. The MND does not take into consideration impacts from the addition of the proposed stop sign and acceleration lane on 455 Panoramic Hwy at the driveway entrance on neighboring properties of 471, 473, 469, 446, 442 and 440 Panoramic Hwy.

D. SIGHT LINES

Further, the number and impact of trucks during construction that will be exiting and entering a driveway at 455 Panoramic Hwy. on a double-blind curve, where there are ever increasing numbers of bicyclists, vehicles and pedestrians has not been analyzed sufficiently and therefore the mitigations are moot.

E. ACCIDENTS IN THE ENTRYWAY OF 455 PANORAMIC HWY.

When traffic accident reports for this section of Panoramic for the past several years were requested via Public Records Act requests, only three were provided, and these three were all in the entryway to the Dipsea Ranch property. These occurred in the past 5 years, in the entryway driveway at 455 Panoramic Hwy. (Figure 1 & 2 Appendices). The driveway engineering designs and the MND failed to consider the hazards of the turn, the inadequate sight lines, impacts to neighboring properties and the accidents that have already occurred there. At 318 Panoramic Hwy, a longtime resident backing out her driveway was broadsided by a speeding motorcyclist who flew dozens of feet and was almost killed.

F. INCREASED TRAFFIC SINCE COVID-19

Traffic has exponentially intensified because the 2020 COVID Pandemic has increased recreational usage in the parklands, causing further traffic impacts, hazards and congestion. Impatient drivers pass cyclists, vehicles and pedestrians on blind curves and blind driveways into the oncoming lane, taking huge chances and often while speeding. There are scores of blind streets and driveways. These issues have not been addressed in the MND. Residents are already hard-pressed to leave their homes on the weekends because of constant traffic. Motorists' willingness to pass cyclists and cars on blind stretches, creating a head-on traffic situation is a constant problem.

Weekend traffic for people going to the parklands of Muir Woods, Marin Municipal Water District lands, Mt. Tamalpais State Parks have all increased and the road to those parks is narrow, winding and dangerous. In fact, it is considered one of the most dangerous roads in Marin County and there have been numerous fatal accidents.

G. PUBLIC RECORDS ACT REQUEST INADEQUATE REPOSENSE FROM COUNTY

The County has failed to fully provide the requested traffic accident data, requested twice, from the County Sheriff, Community Development, and Department of Public Works. There should not be further endangerment from increased traffic and construction equipment until these PRAs are complied with and all traffic accident and Covid-19 use reports and subsequently included in an EIR.

H. POST CONSTRUCTION TRAFFIC IMPACTS

According to the MND, traffic will increase during construction, but is not being considered as significant. The estimated trips per day during and post construction are grossly underestimated for a potential build out of up to 11 new homes, and with post construction service workers and employees. Construction will likely also occur on busy weekends.

I. DAMAGE TO THE ROAD BED and LACK OF PROPER MAINTENANCE

The impacts to the roadbed itself were also not thoroughly investigated. Photos of the road in this area show numerous cracks, even in newly patched areas, which will be exacerbated by construction trucks. This increased immitigable road hazard and degradation of the roadbed integrity have not been assessed. Clogged roadside drainages, that are the responsibility of the applicant, have not been maintained and have led to excessive water run off on neighboring properties causing property damage.

G. NO ADDRESS IN TRAFFIC STUDIES OF IMPACTS TO NEIGHBORING PROPERTIES

Adding road widening and vehicular capacity at the property entrance (acceleration and deceleration lanes) will not solve the present or future danger created by this poorly planned driveway. We fear that more accidents at this already troubled driveway entrance will certainly occur. The MND does not mention how the traffic/driveway plan for the subdivision mitigates any of these issues.

All the above-referenced changes due to this project will only increase traffic hazards, which the MND fails to admit will cause immitigable, **significant and unavoidable impacts**. These impacts will contribute to unsafe conditions, the further degradation of air quality, physical and emotional health of community residents. Traffic impacts that will be significant and unavoidable are not acceptable.

J. CUMULATIVE IMPACTS

The cumulative impacts relating to parking for the new residents and their visitors, construction and other workers are not adequately addressed, especially in conjunction with the further traffic congestion and displacement of available neighborhood parking that will be caused by project associated people parking on Panoramic Hwy. To date, though the applicant has room for dozens of cars on the property, his employees are found parking in front of 446 Panoramic Hwy. (conversations with employees)

The cumulative, **immitigable, significant and unavoidable impacts** effect of all the additional traffic, idling cars and construction equipment at the (new) stop sign and increased traffic, ongoing construction, new acceleration lane on a ridge line between two blind curves with multiple driveways across the street, will have an increased adverse effect on the physical and emotional health and well-being of Muir Woods Park residents.

The proposed acceleration lane addition will only make the area prohibitively dangerous. This will need to be disclosed in any future sales by across the street property owners and will likely inhibit property values. It will also have an adverse impact on residents of the surrounding communities creating excessive stress from increased hazards. Similarly, it will impact a wildlife corridor and endanger crossings in the area by endangered and threatened wildlife. It will be unsightly where there used to be trees and flowering plants it will be pavement and would likely also impact neighboring property values.

Pedestrians have nowhere to walk except on an extremely narrow and unsafe slanted gravelly embankment leaning towards the street in front of 442 Panoramic Hwy. This project has not been adequately analyzed for the impact on this already dangerous pedestrian access.

K. AESTHETIC DAMAGE THAT VIOLATES THE TAMALPAIS COMMUNITY PLAN TO PRESERVE OPEN SPACE ASPECTS OF THE COMMUNITY.

The driveway plan will turn the small two lane street into an aesthetically degraded highway, with an added stop sign and paved acceleration lanes that directly conflict with the resident use of the 446 Panoramic Hwy driveway and will likely impact driveway safety at 440 and 442 Panoramic Hwy where residents must back out onto Panoramic on a blind turn.

Issue 2. AIR QUALITY

The impacts of the implementation of the MND on air quality, even after mitigation measures are implemented, will be detrimental to the environment and the health of Marin County residents.

A. CUMULATIVE IMPACTS FROM POLLUTION

Smoke filled skies leading to Spare the Air Alerts extend for months on end now. The late summers and fall of the past 3 years are proof of a new pattern emerging caused by Climate Change and massive wildfires throughout the state. The dry smoky air is already causing respiratory issues for residents compromising their ability to breathe and exacerbating any underlying health issues. Residents are warned not to go outside and close their homes. Any assessment of air quality must consider these facts that require a cumulative impact analysis. Two stroke engine use that are highly polluting will increase to maintain a new and complex landscape plan unless CC & R's are implemented.

B. CONSTRUCTION AND POST CONSTRUCTION IMPACTS

The mitigation measures proposed in the MND do not address, provide solutions, and will not reduce Volatile Organic Compounds (VOC) and Reactive Organic Gases (ROG)³ emissions, other pollutants and greenhouse gases. New construction, adhesives, lubricants, heavy equipment all have the capacity to increase VOCs and ROGs. Panoramic Hwy will serve to increase pollutants and greenhouse gases and will increase damage to the physical and emotional health of the residents of Muir Woods Park, park visitors, the surrounding communities, as well as to the people sitting in traffic. Also, the density increase in the buildout of as many as 11 new residential units and will contribute to an increase in air pollutants. With an average of 2.3 residents per unit, there could be 25 new residents with vehicles and at the 455 Panoramic property. Service vehicles have not been calculated.

Without there being a specific project EIR, one cannot completely analyze the full effects of the additional buildings and construction on air quality. The impact of the ongoing construction, which may take years, will also contribute a decline in local air quality. Fumes from gas and diesel powered machinery will settle downhill onto neighboring properties. Impacts of fumes on wildlife and wildlife corridors have not been addressed. Mitigation measures suggested in the MND fall short of mitigating the issues. The MND does not adequately analyze the effects on people conducting outdoor activities nearby.

Issue 3. GLOBAL CLIMATE CHANGE

The impacts of global climate change and sea level rise over the next 25 years have not been adequately addressed. Increased fire risk has caused the State of California to implement new guidelines under CEQA that the IS/MND fails to adequately respond to. The increased hazards of wildfires at the location of the proposed new development is exceedingly "high risk" and within the Wildland Urban Interface (WUI). The IS/MND does not adequately address the effects of the inevitable wildfire in the development area and Panoramic Highway community of Muir Woods Park, especially regarding how residents and workers within Muir Woods Park, Stinson Beach and Muir Beach will evacuate homes and how visitors to Muir Woods, Mount Tamalpais State Park and Marin Municipal Water District lands will evacuate during earthquake, landslide and wildfire events. Land use managers such as Marin County, California State Park; one adjacent property away (also owned by Weissman) from the Dipsea Ranch; National Park Service ½ mile away; Golden Gate National Recreation Area; and Marin Municipal Water District have no evacuation plans. Reviewing the impacts of adding more new homes and residents in the WUI is a new requirement of CEQA. This has not been answered.

This required category of CEQA assessment in the Wildfire Initial Study and was dismissed and omitted. We find this exclusion completely unacceptable and in violation of CEQA requirements of address.

³ https://ww3.arb.ca.gov/ei/speciate/voc_rog_dfn_11_04.pdf

The MND also does not comprehensively address increasing climate stressors combined with the intentional anthropogenic caused impacts including habitat loss on indigenous plants and animals from construction, the degradation and elimination of habitat from the site, loss of riparian wildlife corridors, increased temperature, desiccation of creeks necessary for hyporeic flows vital to salmonid survival and increased light pollution, stormwater run-off and noise pollution.

What are the plans for wildfire events on residents, workers and visitors to the Dipsea Ranch area? Allowing increases to the built environment in an area that is at the highest risk for wildfire will cause **significant and unavoidable impacts**.

Issue 4. NOISE and VIBRATION

The increased traffic and the associated noise from construction and the post construction addition of more residents and their motorized vehicles will create a negative environmental effect on nearby residents and wildlife. This will likely impact special status species and potentially violate the Endangered Species Act (ESA) resulting in a “take.” The MND has not provided sufficient mitigation for noise impacts on ESA listed species. Nesting birds will be flushed out of their habituated sites because of the construction and vibration. Ground nesting birds have continued to be impacted in the area since the excessive native vegetation removal of acres of Coyote Brush on the property 9 years ago. In Marin County unincorporated, gas powered equipment is used anytime during daylight and maintenance work from an increasingly built and landscaped environment will likely result in noise producing landscape service equipment use on a regular basis.

Increases of the built environment and human population’s ramifications in areas where known stressors are already present will create **significant and unavoidable impacts** for wildlife. Studies will need to be conducted to address the effect of increased noise on residents and wildlife in the project area and surrounding communities. Those studies must include Federal and State protocol level studies⁴ be conducted for endangered Northern Spotted Owls.

Issue 5. BIOLOGICAL RESOURCES

5a. Wildlife Corridors

A. UNFOUNDED ASSESSMENT

The statement below from the MND, that the boundaries of the SCA “contain” the wildlife and therefore animals won’t be impacted by the project is unfounded and lacks credibility.⁵ MND p. 58, emphasis ours.

“The riparian woodlands fall within a designated SCA, where development is restricted; see topic d below, for further discussion. Impacts on seasonal wetlands are discussed under topic c below. No work is proposed within the riparian woodlands; therefore, the Project would have no impact on this sensitive natural community.”

B. LOCATION OF RIPARIAN CORRIDORS

⁴ See USFWS and CDFW recommendations and listings California Natural Diversity Database (CNDDDB)

⁵ E.g.: Recent increased vehicular mortality of Mountain Lions because of their habituated crossings encountering highways, have led conservation advocates and municipalities in the state to adopt and construct safe wildlife crossings under freeways. There is no attempt here to mitigate this issue so it remains unmitigated.

446 Panoramic Hwy. 30 feet from the Dipsea Ranch has been established as a wildlife sanctuary. Documentation of wildlife from almost three decades will verify this. The significance of this location to wildlife and its accessibility has likely been enhanced by the corridors that exist.

The main corridor logically follows the Conlon Reach of Redwood Creek and transits the headwaters at Panoramic Hwy. As in most all animal migration species cross watersheds at the drainage divide to instinctively breed with those genetically removed to improve diversity as a survival mechanism.

The MND incorrectly assumes that because the project will take place at the north end of the property it will not impact wildlife corridors. It appears that the IS/MND did not assess the wildlife corridor potential of the neighboring properties at the North end of the project. Directly across the street at 446 Panoramic Highway (WAM's offices) is a bucolic property of 2 acres, adjacent to a several acres redwood forest at Edgewood Ave. and hardwood forest on Brighton with both with over a thousand of feet of riparian habitat, with abundant wildlife and hundreds of trees with scores of native trees scores over 100'+ high. A primary wildlife crossing is between the Dipsea Ranch, 455 Panoramic Hwy. at the ridgeline at the entryway and 446 Panoramic Hwy where the two watersheds of Redwood Creek and Arroyo Corte Madera del Presidio converge. This is the crossing point for much wildlife in this vicinity and can be verified by almost daily sightings of migrating wildlife corroborated by visual and photo evidence.

The eastern watercourse and decades of visual evidence and photos by neighbors near the "fire road" berm indicates that area is another valuable riparian wildlife corridor.

The dual headwater watershed location of the Dipsea Ranch entry driveway will have an impact on wildlife because of the preponderance of heavy equipment at the wildlife crossing during construction. That crossing comes up from the westernmost watercourse and crosses the highway next to the mailboxes. It is also County right of way. The western watercourse, although rarely contained within the subject property, is within the SCA, which indicates the project will impact wildlife.

C. BIODIVERSITY

Biodiversity is maintained through wildlife corridors and watershed crossings. Not all wildlife crossings are in covered riparian areas. Most animals take advantage of transition edges, where they can hunt and move with the advantage of long, clear sightlines and room to give chase to prey animals. The transition edges of riparian corridors are primary habitat.⁶ To further impact these areas results in habitat fragmentation.⁷ Riparian value to wildlife is as much about nesting, protection from predators as water sources, food and cover.

Terrestrial species using those corridors include: fox, black tailed deer, bobcat, coyote, raccoon, rare ringtail⁸ cat, California giant salamander, and many more. Birds and bats likely

⁶https://www2.dnr.state.mi.us/publications/pdfs/huntingwildlifehabitat/landowners_guide/Resource_Dir/ Acrobat/Edges_and_Fragments.PDF

⁷ Habitat fragmentation affects numerous ecological process across multiple spatial and temporal scales, including changes in abiotic regimes, shifts in habitat use, altered population dynamics, and changes in species compositions (Schweiger et al. 2000). Principles of Wildlife Corridor Design Monica Bond Center for Biological Diversity October 2003

⁸ Ringtail cat sightings in the Mt. Tam State Park, adjacent to the owner's property, were also confirmed by State Park Ranger Tom Frazer (415 388-3653 -- personal conversation with Laura Chariton week of 9/15/20 at Alice Eastwood Road). Laura Chariton and Douglas Ullman of 446 Panoramic Hwy have also seen ringtail cat three times in early fall of 2019 on that property and coming from the direction of the subject property.

traverse the ridge between the two properties of 455 and 446 Panoramic Hwy. where there are accounts from over 20 years. Wildlife corridors need to be protected and require further study from long term wildlife camera monitoring before impacts of the project can be assessed.

D. CONSTRUCTION IMPACTS TO WILDLIFE AND RIPARIAN CORRIDORS

Anthropogenic caused vibrations, heavy and light mechanical equipment, ground disturbance from grading, noise, light, fumes and stormwater runoff, during and after construction, will all impact the animals that use riparian and wildlife corridors. Further, the property has had recent substantive vegetation removal in the riparian corridor below the primary residence. Damaging impacts to wildlife can occur far from the site being worked on or inhabited, which argues the reason for an EIR to address all these impacts.

E. POST CONSTRUCTION IMPACTS include: human presence nearby, new and heavier yard use by new residents of all the property's trails, changed drainage and watercourses, manufactured and natural scents (known influencers), heavy equipment caused by the project, domestic and predator pets, increased noise and light pollution.

F. CUMULATIVE IMPACTS

The dismissal and discounting of impacts to "wildlife corridors" in the IS/MND as "insignificant" where there is historic evidence of heavy corridor use by wildlife, including terrestrial predators and birds, is concerning. The assessment that impacts will *only* occur during construction is inadequate and insupportable. Increased traffic from the project and post project will occur – this has not been assessed. The cumulative impacts of the project post construction and hydrology on the wildlife corridors, traffic, biology, and hydrology have not been thoroughly considered.

G. CORRIDOR SIGNIFICANCE NOT ANALYZED

The IS/MND evaluation failed to consider the surrounding properties including parklands that are clearly used by wildlife and seen from the 446 Panoramic Highway, WAM offices. The significance of all wildlife corridors, including those on the subject property, is that headwater crossings support genetic diversity via movement into other watershed habitats where animals would encounter mates. They will continue to access WAM's property and cross a road of ever increasing traffic. This is the only passageway at the Northwest end of the Conlon reach watershed.

Marin Countywide Plan (CWP) Bio-2.4: Protect Wildlife Nursery Areas and Movement Corridors. Ensure that important corridors for wildlife movement and dispersal are protected as a condition of discretionary permits, including consideration of cumulative impacts. Features of particular importance to wildlife for movement may include riparian corridors, shorelines of the coast and bay, and ridgelines. Linkages and corridors shall be provided that connect sensitive habitat areas such as woodlands, forests, wetlands, and essential habitat for special-status species, including an assessment of cumulative impacts.

Bio-2.6: Identify Opportunities for Safe Wildlife Movement. Ensure that existing stream channels and riparian corridors continue to provide for wildlife movement at roadway crossings, preferably through the use of bridges, or through over-sized culverts, while maintaining or restoring a natural channel bottom. Consider the need for wildlife movement in designing and expanding major roadways and other barriers in the county.

2007 CWP (p. 2.4-4) Riparian Habitat:

They also provide critical wildlife movement corridors between important habitats for both aquatic and terrestrial species. Ephemeral channels are important for maintaining healthy watersheds. Regulatory standards are generally not available to define appropriate development setbacks necessary to protect sensitive resources, **requiring site-specific protective measures.** Natural communities, habitats, and corridors essential to wildlife health and movement and plant dispersal are vulnerable. Intensive development and inadequate buffers threaten streams, and protected open space lands. Riparian corridors... can be altered by filling, draining, removal of vegetative cover, and other modifications, eliminating their habitat values and functions. Wetlands and other sensitive resources can also be indirectly affected by development as a result of water quality degradation, lighting, introduction and spread of invasive exotic species, **and increased activity of humans and pets.”**

H. CONCLUSION

This property must have thorough assessment of all special status wildlife and with special attention paid to the riparian wildlife corridors. What has been assessed is completely inadequate as evidenced by the missed Special Status species, list of acceptable habitat values, and corresponding lack of protocol level surveys.

5b. Special Status Species

A. NEED FOR COMPREHENSIVE ANALYSIS

The analysis of wildlife, plants and animals and the mitigation recommendations in Sections BIO-1 through BIO-11 are inadequate. More adequate studies of indigenous wildlife, plants and trees, especially special status species *should have been conducted prior to consideration of the Dipsea Ranch MND*, not after. The identity of the wildlife, plants and trees, especially special status species, in the area and in surrounding communities should be more clearly identified and the studies on the effect of higher density development on these species and their habitats should be addressed prior to approval of the MND.

B. ENDANGERED SPECIES ACT

The Endangered Species Act (ESA) was created to protect certain species within their existing habitat. Special Status species do not need to be present to establish a critical habitat designation. The MND must prove that the proposed mitigation measures are not in violation of the ESA. We believe that the methodology cited in the MND will result in an incidental taking of special status species and their habitats as a direct result of the proposed Dipsea Ranch project. With respect to special status species, the MND must analyze the mitigation measures against potential critical habitat designations of the ESA as well as federal and state recovery plans, loss of biodiversity and habitat.

C. UNASSESSED CONSTRUCTION AND POST CONSTRUCTION IMPACTS

There is considerable riparian habitat [3] through all the riparian zones, and the native willow and chaparral areas are known to have important nesting potential for quail, mourning doves, warblers, thrushes, vireos, finches, sparrows, jays, hummingbirds, etc. There is no limitation put on how the lands will be used or protected from increased human usage and no scientific monitoring has been done to determine species presence to guide protections.

D. ISOLATING RIPARIAN AND WATERSHED FUNCTIONS CREATES HABITAT FRAGMENTATION

Destroying the contiguity of the relationship of the riparian vegetation to nearby streams is well documented as causing water quality and habitat degradation. Mycorrhizal fungi in soil are the support system of riparian zones and forests and are extremely susceptible to soil compaction. The compaction of soil and creation of “vegetation islands” caused by the proposed construction would also cause increased surface run-off, erosion, sediment delivery,

and loss of top-soil, loss of groundwater retention, inhibition of future vegetative growth degradation of forest and creek health and loss of species and biodiversity.

E. CUMULATIVE IMPACTS

Any increases to the built environment with human population increases will have a **significant, unavoidable and cumulative impact to already stressed special status species and their habitat.** Therefore, an EIR analysis would provide a vital and important assessment those impacts that remain unmitigated in the MND.

E. AFFECTED SPECIES

All properties in this area border open space and parklands and are used extensively by wildlife. The biology report did not take into account investigating potential Special Status Species. Wildlife known to be in this area includes: Listed Butterflies, Northern Spotted Owls (at 446 Panoramic Hwy), Marbled Murrelets, Pallid and other listed Bats (may roost in trees at 446 Panoramic Hwy. additional analysis needed), Oak Titmouse (identified at 446 and 455 Panoramic Hwy; probably nests onsite), Red-legged frog (inconclusive), California Giant Salamander (seen in two phases locally), Coho Salmon and Steelhead (downstream), Western Pond Turtle (inconclusive).

**F. NORTHERN SPOTTED OWLS & MARBLED MURRELET^{9, 10}
FURTHER PROTOCOL LEVEL ANALYSIS NEEDED¹¹**

On these issues, LSA is wrong. A glaring example of research shortcomings in the MND is the determination for federally listed endangered Northern Spotted Owls (NSO) and Marbled Murrelets as “Less Than Significant Impact with Mitigation Incorporated.” Simply monitoring and stopping work if they are detected, without conducting protocol level and longer presence surveys required by US Fish and Wildlife Service and California Department of Fish and Wildlife puts the local NSO and Marbled Murrelets (MM) population at risk. The conclusion of the MND is not supported by evidence and is suppositional. Where the County of Marin as lead agency has the responsibility to adequately study special status species that may be impacted by the project, they have not. The proximity of the project is less than one-quarter mile from Critical Habitat for MM (Map 2). The reason the property is not listed as Critical Habitat is because private property is not generally listed.¹² There appears to have been no communication or consultation or protocol level response from U.S. Fish and Wildlife Service regarding any of these federally listed special status species.

To complete a valid analysis of the project’s potential NSO impacts there would need to be a study of several months to a year through the nesting and fledging season – February 1 through July 31. That has not occurred. Fledging and hunting by NSOs have occurred WAM’s property which is 30 feet from the project site and where there are numerous Dusky

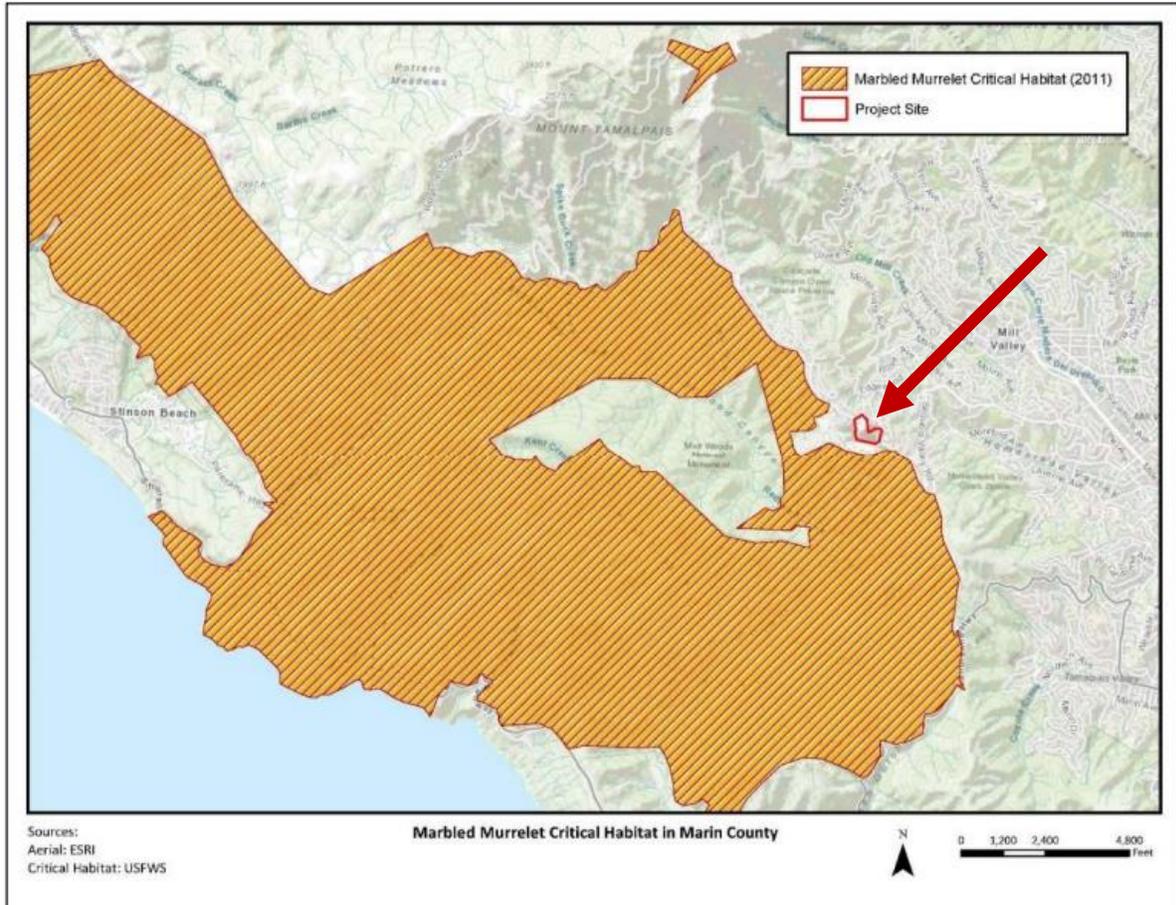
⁹ **NORTHERN SPOTTED OWL SOUND AND VISUAL HARASSMENT DECISION SUPPORT TOOLS DRAFT USER GUIDE** Version 1.12 MARCH 2004

¹⁰ <https://www.fws.gov/arcata/es/birds/MM/documents/MAMU-NSO%20Harassment%20Guidance%20NW%20CA%202006Jul31.pdf>

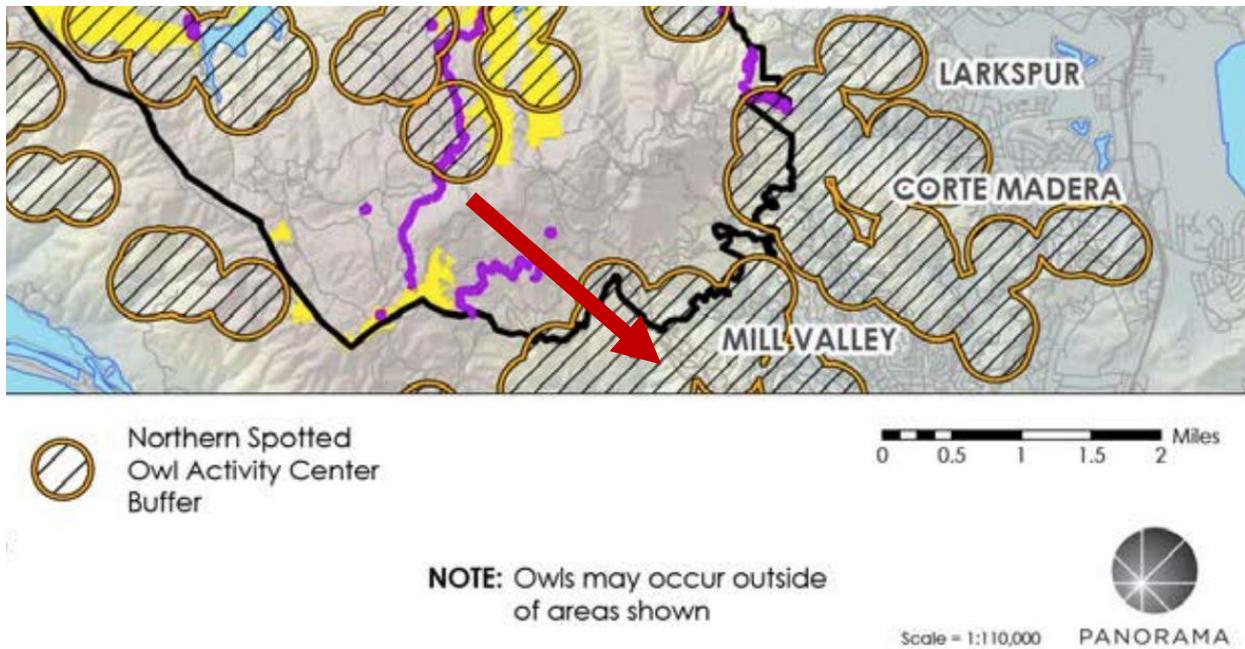
¹¹ **PROTOCOL FOR SURVEYING PROPOSED MANAGEMENT ACTIVITIES THAT MAY IMPACT NORTHERN SPOTTED OWLS** Endorsed by the U.S. Fish and Wildlife Service February 2, 2011 Revised January 9, 2012
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline>

¹² A **critical habitat** designation does not directly affect **private** actions on **private property** or non-federal public **property** (e.g., state-owned **property**). However, **federal** agencies must ensure that their actions do not destroy or adversely modify **critical habitat**, in consultation with the Service. (USFWS)

Footed Woodrat Nests, a major food source of the NSO. Documented NSO are also found in the within 1 to 2 miles in the Arroyo Corte Madera del Presidio watershed near Miller Park. Recent scientific evidence has come to light showing that NSO are expanding their range into areas just like Dipsea Ranch (Map 3).



Map 2 Sicular Environmental Consulting & Natural Lands Management
letter 9/22/20



Map 3 – Source Sicular Environmental Consulting & Natural Lands Management letter 9/22/20
 NSO Activity Centers with 0.25 Mile Buffer, New Fuelbreaks, and Ecosystem Restoration/WAFRZ
<https://www.marinwater.org/DocumentCenter/View/7003/BFFIP-Appendix-F>

NSO AND MM SURVEYS^{13, 14}

The LSA NSO surveys are insufficient and outdated. A more comprehensive survey is necessary as the current MND (page 50 and 55) fails to protect an endangered species or to identify any Dusky Footed Woodrat nests on the subject property. Laura Chariton has sighted NSOs (Spring 2020) in Mt. Tam State Park, 1 mile from the subject property, and last year potentially a sighting (with photos) in a grove in Mill Valley’s Homestead Valley, less than a mile away. The MND determination under 4.a. “Less Than Significant Impact with Mitigation Incorporated,” is therefore not supported by evidence and uses outdated information for review for Northern Spotted Owls (NSO). Accepted noise levels and visual levels used are not matched by the USFWS’s auditory limits for NSO disturbance. The cumulative levels of ambient and combined noises are required to be used for protocol level monitoring.

The higher decibel level allowances that have been used potentially result in harassment of NSO and Marbled Murrelets^[2]. Also, not assessed is the protracted construction over time of 4-11 homes that would have an ultimate extirpative cumulative impact under CEQA.

Visual and auditory impacts to NSO’s resulting from construction are not adequately assessed. Multiple factors must be considered and careful measuring of the impacts from equipment considered. This may reveal that multiple pieces of equipment are not able to operate simultaneously and this is not included in the MND. A project of this size and scope in NSO territory will become augmented and prolonged by the sound and visual limits necessary to preserve the species. Weighing the cons of efficiency over species

¹³ BIODIVERSITY, FIRE, AND FUELS INTEGRATED PLAN CALIFORNIA ENVIRONMENTAL QUALITY ACT (See References)

<https://www.marinwater.org/DocumentCenter/View/7003/BFFIP-Appendix-F>

¹⁴ PROTOCOL FOR SURVEYING PROPOSED MANAGEMENT ACTIVITIES THAT MAY IMPACT NORTHERN SPOTTED OWLS Endorsed by the U.S. Fish and Wildlife Service February 2, 2011 Revised January 9, 2012

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline>

protection, we know developers will preserve his/her profit margin first, putting the species in that locale in jeopardy.

California Giant Salamanders *Dicamptodon Ensatus*

(see Appendices p. 20))

The project area was assumed to not have any breeding habitat for *Dicamptodon Ensatus* or a plethora of other species because there has not been a valid wildlife study.

On Page 9 of Master Comments LSA determines that there is not suitable habitat for *Dicamptodon ensatus* on the project property. That is erroneous because *Dicamptodon ensatus* have been found across the street at 446 Panoramic on several occasions and must be breeding in intermittent streams and subterranean areas and may be migrating from across the street where the 30' wide road is the only non-natural surface. Also, *Dicamptodon* young have been found in the soil under dense ivy near ephemeral and intermittent streams on a few occasions. <https://animaldiversity.org/accounts/Dicamptodon-ensatus/> states that:

Mature adults migrate to suitable streams or springs for breeding. This is believed to occur from spring to autumn but not much is really known. The female deposits.... eggs in a subterranean or underwater nest site.

Salmonids^{15, 16, 17}

The MND ignores Federal and State Recovery plans for salmonids. The Master Responses attempt to justify the unjustifiable by parsing and isolating issues disregarding the intent of CEQA to analyze **cumulative impacts**. Watershed-based Redwood Creek salmon and NSO recovery plans from 2012, 2016 NOAA NMFS, 2004 CDFW or USFWS, important Federal and State watershed-wide plans for listed species recovery include the subject property, yet the IS/MND and Master responses do not reference them. The IS/MND failed in their objectivity using the latest science as required by CEQA. Any additional construction on this property, which is bounded by 1600 feet of headwater streams, would have significant impacts to recovering species downstream, yet the Master Responses states: "These fish occur in downstream stream reaches, but the Project site does not support perennial streams and no habitat for salmonids is present." This shows a lack of well-proven scientific understanding of the significance of headwater streams, including ephemerals, and riparian vegetation in contributing to water quality and quantity of the perennial flows one mile downstream. NOAA NMFS California Central Coast Coho Recovery Plan clearly state that any further development in this watershed has a high adverse impact to salmon survival. The Federal and State plans also contain the most recent science, data or surveys which are not represented in the mitigations for Redwood Creek Watershed. Watersheds connect wildlife and this IS/MND does not address this.

The Department of the Interior, National Park Service letter from Craig Kenkel is attached (see appendices 1.) here because the issues raised in 2017 have not been answered. The NPS request was for an assessment of these issues and there is none in the files.

¹⁵ National Marine Fisheries Service. 2012. Final Recovery Plan for Central California Coast Coho Salmon Evolutionarily Significant Unit. National Marine Fisheries Service, Southwest Region, Santa Rosa, California. <https://www.fisheries.noaa.gov/resource/document/recovery-plan-evolutionarily-significant-unit-centralcalifornia-coast-coho>

¹⁶ California Department of Fish and Game. 2004. Recovery Strategy for California Coho Salmon. Report to the California Fish and Game Commission. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99401&inline>

¹⁷ Final Coastal Multispecies Recovery Plan for California Coastal Chinook Salmon, Northern California Steelhead and Central California Coast Steelhead *October 01, 2016* <https://www.fisheries.noaa.gov/resource/document/final-coastal-multispecies-recovery-plan-california-coastal-chinook-salmon>

- Potential impacts to Redwood Creek Water quality during construction and following construction from additional residential homes in the community
- Potential impacts to Redwood Creek Steelhead trout and Coho salmon and habitat because of increased storm water runoff and sedimentation
- Potential for less than adequate stormwater improvements proposed for the subdivision access roads and driveways
- Need for a septic/sewage disposal plan designed to avoid impacts to the Watershed
- Potential adverse impacts to historic and prehistoric site and resources
- Potential to negatively impact visitors to Muir Woods National Monument and current residents in the local community with increased automobile traffic
- Potential to negatively impact the Monument’s recreation values and visual resources

The NPS looks forward to providing more detailed comments when the CEQA analysis for the proposed project is released for public scoping. As noted in the Planning Commission’s Dipsea Public Statement, the Marin County Board of Supervisors will not approve the project until it determines whether the project would have the potential to cause significant environmental impacts to resources within and adjacent to the project location. The NPS requests the analysis to also include the potential for significant impacts to the Watershed and Downstream resources protected by the NPS in the Monument and at the end of Redwood Creek at Muir Beach. NPS letter 5/6/ 2017 Kenkel (emphasis ours)

Conclusion: Additional land development will impact water quality (sediment, toxins, erosion) and quantity (impermeable surfaces, removal of critical native vegetation). These are known issues and limiting factors to coho and steelhead survival that are directly called out in the recovery plans even though only 5% of the watershed is in private control or apt to be built upon. The IS/MND ignores this.

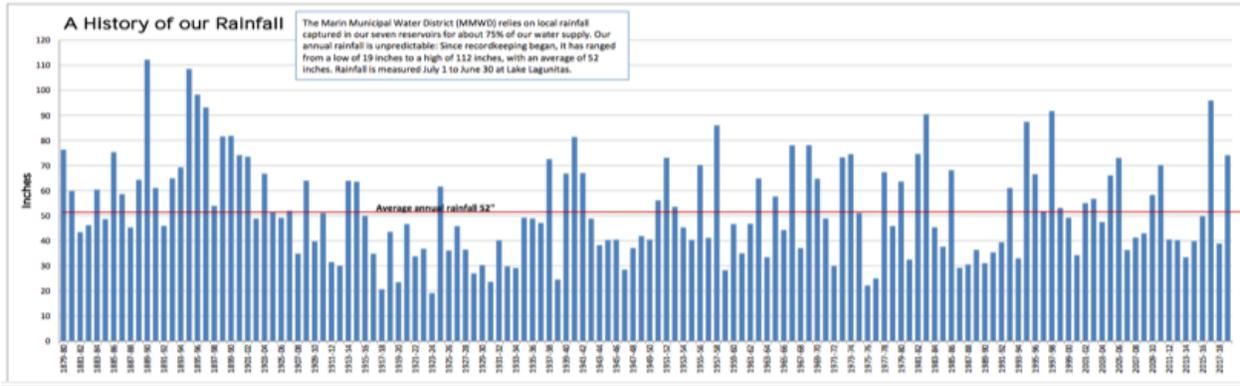
Hydrology

RAINFALL TOTAL UNDERESTIMATED

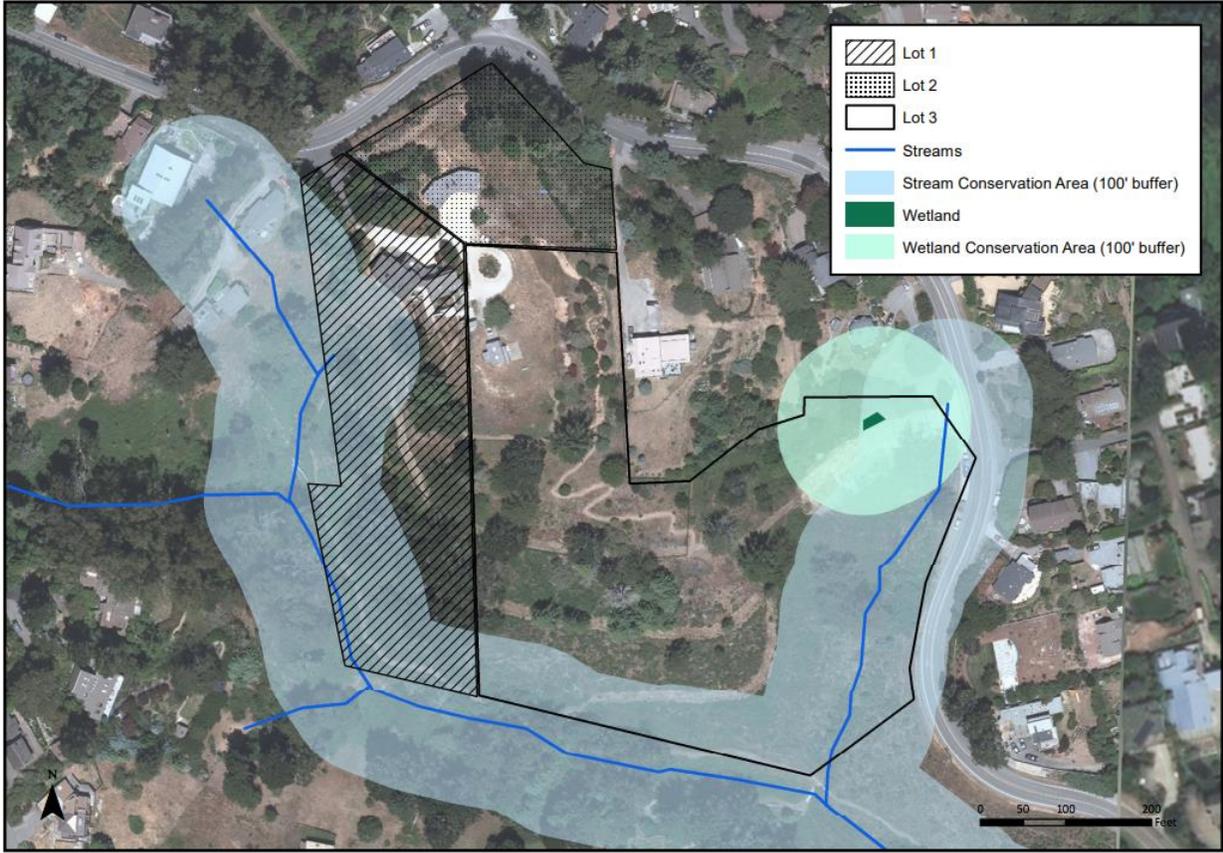
The hydrology report fails to address climate change affecting site conditions and does not use accurate hyperlocal rainfall totals. An independent preliminary hydrology report obtained by Watershed Alliance of Marin reveals underestimation of rainfall totals of 34” that could affect runoff and undersized drainage systems leading to watershed/hydrologic function and damage issues.¹⁸ Marin Municipal Water district lists rainfall averages at 52” annual for Kentfield just a few miles away and which is a comparable elevation, with orographic lift. The Lotic-Environmental study examines multiple sources for estimations that vary from 40” on up to 63” at West Peak Tamalpais. Also noteworthy is the February 9, 2014 storm of 23” inches in 72 hours.

Stormwater management is critical to survival of salmonids, California Giant Salamander and other wildlife. There is no mention in the MND of Climate Change with its predicted heavier winter storms in the area. Any increase to the impermeable surface area of this property will affect hydrology both in winter and in summer. Highly manipulated stormwater via bio swales, retention basins and cisterns do not replace landscape-wide rainwater infiltration. Both changes will lead to a loss in hyporeic summer stream flows that are critical for salmonid survival.

¹⁸ Preliminary Hydrology Report, Lotic-Environmental 9/25/20



STREAM CLASSIFICATIONS¹⁹



Source: Aerial and Stream, ESRI 10/2017

Figure 4-1
Proposed Land Division and Conservation Areas

Note: Lot line boundaries, wetland, streams, and Map 4-1

We agree with Figure 4-1 as the basis and conclusion of protecting the known Stream and Wetland Conservation Areas and excluding all future development in these areas. However, the applicant has already done much vegetation removal and landscaping, unpermitted grading and trail building within the SCA. Under these circumstances, the applicant must be required to restore all these areas to an ecologically sound benchmark in order to comply and resolve the concerns of the Department of the Interior, National Park Service and the California Department of Fish and Wildlife.

¹⁹ LSA MND (Figure 4-1 and Hydrology Study by Lotic-Environmental 9/25/20 Stream Classifications

BASIS FOR DRAINAGE PLAN

Based on rainfall underestimates and 4 or 5 recent 100-year storm events in the past 25 years, we question the sizing and capability of the design for the stormwater management and drainage of the Hydrology Report.

STILLWATER SCIENCES: REDWOOD CREEK WATERSHED ASSESSMENT FINAL REPORT²⁰

The entire Stillwater Sciences report related to hydrology is for consideration and referenced throughout.

COUNTY PROJECT COORDINATION MEETINGS

We have found no evidence that the Applicant and his team of experts met with the Marin County Stormwater Pollution Prevention Program administrators who conduct a monthly free meeting with several important agencies that inform the permitting process for watercourse impacting projects.

Conclusion: In the biology report by LSA is comprehensive in describing the eastern watercourse. LSA's stream classifications conflict with the Ziegler report that recognizes only ephemerals and maps nothing in some instances. LSA report conflicts with the Ziegler report. Yet the Ziegler study is the foundation of the drainage plan. Increased imperviousness from buildout should be assessed and is lacking. The drainage plan drains lot three property to the eastern watercourse that is not listed by Ziegler.

An independent assessment by a qualified hydrogeologist must be done. It must be conducted over a year, in different seasons, and after intense storms like the February 9, 2014, three day, 23-inch precipitation event. We are deeply concerned that the system will not be able to handle this sort of rain event, causing irreparable harm to National and State park resources as well as neighbors downstream in both watersheds. Historical data should be consulted to take into account potential current year study anomalies.

Issue 6. GEOLOGY AND SOILS

We have great concern about the possibilities of landslides and flooding onto the neighboring areas. The "fire road" berm, after having 3 borings and assessed by the geologist, was determined to be unstable. Though most of the development will be built on the promontory it is likely that runoff totals will far exceed the calculations by the Hydrology study by Ziegler because the rainfall estimates are too low.²¹ The instability of several historic and active landslide areas as well as the "fire road" could lead to more catastrophic failures.

Stormwater will cease having dispersed infiltration because of the increase in impervious surfaces will be diverted into complex stormwater systems, and will change the groundwater hydrology. Historic accumulations from groundwater infiltration and subsequent slow release hyporeic flows will be altered by the stormwater system and diversions of surface water. Year round hyporeic stream flows critical to

²⁰ Stillwater Sciences: Redwood Creek Watershed Assessment Final Report
https://www.nps.gov/goga/getinvolved/upload/RCWA_FINAL.pdf

Pages 2-9 through 2-16

Table G-1 Page 330 RE: Conlon Canyon and Headwater Tributaries.

²¹ Hydrology Study by Lotic-Environmental 9/25/20 Rainfall totals

salmonid water temperatures and water quality and quantity, particularly from headwater creeks that provide year round flows for salmonids will be adversely impacted.

Surface flows have already been diverted at the site of the “fire road” berm. Massive road cuts into the slopes created decades ago²² became overgrown and stabilized with vegetation but recent vegetation removal from those road cuts on steep hillsides has caused new slides and will likely be made worse by the project’s hardening of the landscape.

With full saturation of the property in winter, soil stability along road cuts should be further analyzed. Removal of the unstable “fire road” berm should be restored. A culvert under the original road was covered by the “fire road.” Failure of these particular exposed and steep slopes of 40% or more could lead to more landslides impacting salmonids downstream by releasing excess sediment during spawning season- fall into midwinter.

Issue 7. Cultural Resources

The headwater creeks from this property flow directly down to Muir Beach and the ocean, where Coast Miwok villages have been found. They were uncovered as part of the Muir Beach/Big Lagoon National Park Service restoration project. In downtown Mill Valley, where Chief Marin was born in the vicinity of 48 Locust Ave., huge middens covered those areas. Mill Valley Coast Miwok expert such as Betty Goerke, anthropology professor of Native American Studies and author of “Chief Marin,” should have been contacted regarding this important issue. The Coast Miwok in the area of the project’s watershed would likely have used it for hunting, communication or spiritual purposes. That property contains views to all the other potential promontories throughout the bay and is therefore a likely location for native uses.

It was very concerning that the planner failed to contact the correct tribe of the Federated Indians of Graton Rancheria, who instead contacted the Ione. They only then made one outreach to a graduate student at Sonoma State to determine if an archaeologist had ever covered that area and found anything. It is well understood that these recorded reports are incomplete, which is why reaching out to proper tribal authorities is necessary.

It is more than likely based on previous promontory vicinity assessments (e.g., the Tiburon Peninsula) that the property might contain significant sacred artifacts. The County needs to reach out to the tribe in a more intentional and meaningful way.

Conclusion: The general area of the Dipsea Ranch and surrounding communities in Marin County have shown repeated evidence of containing prolific artifacts of Native American culture. Archeologists and representatives from local Native American tribes, including the Federated Indians of Graton Rancheria need to be consulted and involved in the review of the proposed Dipsea Ranch development *at this time* and prior to an approval of a MND, EIR. If not, **immitigable, significant and unavoidable impacts** could occur to historic, spiritual and scientifically important sites.

Issue 8. Water Supply

Water resources in Marin County are at historic lows. Within the last thirty-five years, the number of drought years has increased and are projected to keep increasing due to Global Warming. The western portion of the United States where this property is located is currently experiencing a mega drought, where the city of Albuquerque is on the verge of running out of water. The largest fires in California history are occurring as of this writing. Improving and protecting the water supply for the existing residents and for wildlife is the only sustainable solution. Factually, an assessment on the amount of water used per-capita in the Muir Woods Park community would be a start. Previous attempts to limit

²² 1987 Google Earth Map

water abusers and equalize and allocate use wound up in court against the Marin Municipal Water District Board. Any future hook-ups will create austerity impacts on existing residents, wildlife and the environment. The MND has not adequately studied the cumulative impact of all the proposed Dipsea Ranch potential developments on water supply, alternative water resources and the cost to ratepayers of developing these. Irrigation on the subject property has been exceptionally high for a single-family dwelling. Will this continue? There is no assessment as to how this project will affect long-term water supply for firefighting capability.

The MND needs to supply a more thorough study on where the water will come from that will supply the new Dipsea Ranch development and the estimated cost to Marin Municipal Water District customers for developing increased water supply sources if needed.

Issue 9. Wildfire

The IS/MND has erroneously categorized the wildfire risk of this property as “less than significant” in every category, yet this project is in a high fire risk area and in the Wildland Urban Interface. Even the applicant has acknowledged this, speaking repeatedly about the threat of fire and that the property had previously been picked for fire department training. The property was considered such a very high fire danger risk to the community that the Fire Dept. has spent in excess of \$175,000 of public funds on vegetation management over the past 17 years on this site. The applicant since has not properly maintained this work. Invasive acacias, broom, pampas grass and rip gut grass have taken over. Increasing the number of wooden buildings and the potential buildout density on this site may present a public safety issue.

There has been no assessment of wildfire hazard and the newest CEQA guidance requires a thorough assessment of risk. ^[1] This was not addressed in the IS that erroneously concludes that there is no significant impact. The State of California has provided an updated section in September of 2018 CEQA Law requires EIR level fire evaluation for properties in the WUI reflecting the increase in catastrophic fire potential. This failure of proper address of the most serious threat to the community puts the entire community at greater risk and therefore is deficient.

Other Hazards: In addition, the excessive removal of native trees/vegetation on this 40% average gradient slope property, where there have already been 13 landslides, threatens downstream properties and coho streams.

Conclusion:

We must live within our natural ecological means, thereby reducing our excessive carbon footprint, as described in the Marin Countywide Plan of 2007. This MND does not address the core issues of our time for project impacts to the environment in a meaningful way. The IS/MND inadequacy reinforces a failed paradigm that goes against science, community safety and recent California State Governor’s EXECUTIVE ORDER S-21-09 to reduce greenhouse gas emissions. Building up to 7000 square foot homes in the WUI and away from public transit with as many as 12 homes and the vehicle trips associated with them, are also against Marin’s commitment to Drawdown and the urgent need to address Climate Change by protecting our watersheds, trees, and reducing the number of trips via fossil fuel vehicles, our largest source of GHG.

Because the MND is a preliminary report and not one that addresses a specific project, it cannot possibly fully and completely analyze the effects of the Dipsea Ranch project on the environment which will be caused by the increased traffic, the new buildings, increase fire risk, landslides, flooding, loss of biodiversity, loss habitat and species, degradation of watershed health, etc. **We find numerous immitigable, significant and unavoidable impacts throughout the MND.** Because of this, we

recommend that the Marin County Board of Supervisors members vote to conduct a comprehensive environmental review via a full EIR. In this way, your Board will be adhering to the 2007 CWP, current state guidance on addressing climate change, your own commitment to Drawdown and Marin's historic commitment to environmental protections.

The IS/MND fails in its assessments and should not be approved. The County must enact its own protective policies when addressing this property and use the utmost concern for protecting it.

Thank you,

Joyce E. Britt, Vice President, Watershed Alliance of Marin