

## **RESPONSE TO PUBLIC COMMENTS**

### **Proposed Mitigated Negative Declaration Annexation of the Lands of Jansheski to the Tiburon Sanitary District (District #5)**

#### **Comments Received**

Several letters of comment have been received for the above referenced project. Many of the comment letters address issues related to a reimbursement agreement, desire to include specific properties in the annexation action, and the possibility of shortening the sewer lateral by connecting to an existing sewer line at the Paradise Cove/Paradise Drive intersection. This discussion only responds to those comment letters that address the scope and adequacy of the proposed Mitigated Negative Declaration. Several comment letters repeat the comments made in the March 8, 2007 letter from James and Barbara Kautz. In those instances, the responses have not been repeated. Though not required by the California Environmental Quality Act, these responses are intended to assist decision-makers with understanding the issues that have been identified. Each response has been enumerated to correspond with the numbered comment written in the attached letter.

#### **March 8, 2007 Letter from James and Barbara Kautz**

##### **Annexation of Properties on Acacia Drive and Hacienda**

1. The comment identifies several factors which suggest that the properties on Acacia Drive and Hacienda should be included in annexation action. These properties could be included in the annexation action without requiring additional environmental review or recirculation of the Mitigated Negative Declaration. Specifically, Section 15073.5(c)(2) of the CEQA Guidelines specifies that when new project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects, recirculation of the environmental document is not required.

In response to the request to include these properties in the annexation action, the project sponsor generated additional information to allow for analysis of the feasibility and effect of extending sewer service to the Acacia/Hacienda properties. Specifically, the project sponsor has provided to potential alignments for the sewer service to this area, has provided a written and graphic description of what work would be needed to extend sanitary sewer service to this area, and has submitted an arborists report and geotechnical analysis that address potential impacts to environmental effects. As described, the project sponsor would have to install a 200 gallon storage tank and pumps on property located adjacent to the Acacia Drive cul-de-sac. The holding tank would be 6-feet in diameter and be 10-feet deep. From the holding tank, approximately 1,500 lineal feet of 3-inch

diameter discharge line would be placed in a 12-inch wide and 3-foot deep trench running down slope to Paradise Drive where it would connect to the proposed force sewer main. This construction would generate approximately 280 cubic yards of soil that would have to be off hauled and is estimated to have a 3-week construction duration. The project sponsor has shown two possible alignments for this sewer line. The arborists report concludes that a sewer line could be installed in either of the proposed alignments without harm to existing trees. Similarly, the geotechnical analysis indicates that both alignments would avoid unstable geotechnical features and are feasible.

The Mitigated Negative Declaration included analysis of annexing the Acacia and Hacienda properties to Sanitary District 5, but excluded these properties because there was inadequate information related to how service would be extended. The Acacia and Hacienda properties were designed and constructed with sanitary sewer infrastructure so that they could ultimately connect to a public sewer system. One of the homes on Acacia Drive is already included in the Sanitary District 5 boundaries. Based on the information provided by the project sponsor, the work associated with providing a connection from these homes to Sanitary District 5 would not result in harm of existing mature vegetation or result in, or be impacted by existing, geotechnical instability. Accordingly, project revisions that add sanitary sewer service to the Acacia and Hacienda properties as suggested by this comment and as generally described in the project sponsors written and graphic material, would not result in new avoidable significant effects, and could be added without recirculation of the environmental document.

#### General Comments on the Initial Study/Negative Declaration

1. Under the California Environmental Quality Act, "Responsible Agency" means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project. LAFCO is the "Lead Agency" for this project. Responsible Agencies include the County of Marin, the Town of Tiburon, the San Francisco Bay Conservation and Development Commission (BCDC), the State Regional Water Quality Control Board (RWQCB), and the Tiburon Sanitary District.

LAFCO, as Lead Agency, the County of Marin, as the Responsible Agency that has discretionary approval authority over the majority of the project area, and the Tiburon Sanitary District, as the Responsible Agency that will accept proposed improvements and treat effluent, will be primarily responsible for mitigation compliance monitoring. The Town of Tiburon and BCDC will have Responsible Agency obligations over those portions of the project area located within their jurisdiction (e.g. Seafirth improvements). Though the RWQCB delegates permit authority for sewage disposal to the Tiburon Sanitary District, and surface runoff pollution prevention to the County of Marin and Town of Tiburon, it is a

Responsible Agency because it may have to make discretionary decisions as to how adequately the Sanitary District, County and Town dispatch their delegated duties.

2. The Notice of Preparation and distribution memorandum for the proposed Negative Declaration indicate that the environmental document was circulated to the following agencies for review and comment:

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3. The Public Works Departments for both the County of Marin and the Town of Tiburon are responsible for monitoring mitigations related to geotechnical and surface run off issues. Sanitary District 5 will also be reviewing and approving the final design to ensure the proper functioning of the sewage disposal system. The Public Works Departments regularly evaluate geotechnical issues associated with improvements within the public right-of-way and have a permitting and inspection procedures in place to insure adequate mitigation monitoring. Because they already have staffing and an established process for monitoring such mitigation, the Mitigated Negative Declaration recommends that they be designated as the responsible agency. Should the Commission wish to designate Sanitary District 5 as the responsible agency, they could do that.
4. The comment suggests that the environmental document that LAFCO is considering adopting adequately evaluates the potential impacts associated with the public acceptance of an existing 6-inch gravity sewer line located in the Paradise Drive/Paradise Cove Road intersection (hereafter referred to as the '93 Line). At present the proposed Mitigated Negative Declaration acknowledges that '93 Line exists and that connecting the proposed force main to this existing line would reduce the excavation, construction duration and potential impacts associated with extending the Jansheski line an additional 1,300 feet south of this intersection to connect to a public sewer line. The proposed Mitigated Negative Declaration also evaluates the environmental impacts of annexing the properties served by the '93 Line to Sanitary District 5.

When the '93 Line was constructed, it was subject to environmental review, potential impacts were evaluated, and the project was found to be Categorically Exempt. Though the '93 line was supposed to become a public sewer line, Sanitary District 5 never accepted it as a part of their sewer system. Because the physical impacts of constructing the '93 Line were considered at the time permits were issued for it's construction, and because the proposed Mitigated Negative Declaration evaluates the impacts associated with annexing the properties served by the '93 Line to Sanitary District 5, no potentially significant immitigable impacts would be associated with connecting the Jansheski line to the '93 Line.

CEQA is specific that when new measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA and which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect, no recirculation is required. Accordingly, staff recommends that, provided the project sponsor is able to secure necessary connection rights, the Commission impose conditions requiring that the Jansheski Line connect to the '93 Line and that the resulting facility be accepted by Sanitary District 5.

### Recommended Mitigation Measures

1. Comment noted. Typically, specific runoff protection is established by the local agency as part of the SWPPP. To ensure that adequate protections are in place, staff recommends modifying Mitigation Measure D.3.1 as follows.
  - D.3.1 As part of the site Improvement Plan, the project sponsor should submit a SWPPP (as a component of an Erosion Control Plan) which complies with the Marin County and Town of Tiburon Stormwater Pollution Prevention Program. Such a plan provides both interim (during construction) and post construction stormwater pollution control measures. During construction, the project sponsor shall maintain existing drainage patterns and preserve unobstructed flow in existing drainage facilities. Best Management Practices should be incorporated into the long-term site management program to ensure the removal of non-point source pollutants in stormwater runoff. At a minimum, drainage system filtering devices or traps should be installed that would protect nearby water resources from discharges of petroleum-based pollutants collected on impervious parking surfaces. A long-term maintenance program for the long-term water quality control facilities should be developed.
2. Standard practices established by the County and the Town of Tiburon would ensure that excavated materials be protected and controlled by site watering and covering truck loads transporting earth materials. Based on the scale and nature of this project, and the existing administrative practices of the County and Town, this project would not result in a potentially significant environmental impact related to air borne particulates.
3. Comment noted. To ensure that adequate notification of adjoining residents, staff recommends modifying Mitigation Measure F.3.1 as follows.
  - F.3.1 The project sponsor should submit a construction management plan that provides for traffic control measures to preserve emergency vehicle access throughout construction. This plan should include provisions for contacting property owners at least 24 hours in advance of any planned construction obstruction to vehicular access.

4. Standard practices established by the County and the Town of Tiburon would ensure that construction noise would be limited to prescribed hours, and that all equipment and machinery be operated in compliance with governing rules. Based on the scale and nature of this project, and the existing administrative practices of the County and Town, this project would not result in potentially significant noise impacts.
5. Through the encroachment permit process, other utility service providers will be contacted & the location of existing lines will be established in the field.
6. Comment noted. Please refer to the Response to General Comment 4 above.

Other

1. Comment noted. LAFCO has required that the annexation waivers be executed.
2. Comment noted. There were no site specific recommendations made in the geotechnical analysis submitted by the project sponsor. Mitigation Measures C.1.1 through C.1.4 require detailed, site specific analysis that will likely generate more specific recommendations to mitigate instability issues.

**Marin County Department of Public Works Letter, March 19, 2007**

1. Comment noted. Sanitary District #5 would own and operate the force main after construction is completed and found to be acceptable.
2. All longitudinal approaches would have to be owned and operated by Sanitary District #5.
3. Comment noted. Staff is recommending that mitigation measures C.1.1, C.1.2, and C.1.4 be modified as follows:

C.1.1 A California Registered Civil Engineer (PE) with soils engineering expertise, a Registered Geotechnical Engineer or a Certified Engineering Geologist (CEG) should perform a final, detailed geotechnical investigation of the site before completion of the final pipeline, structure and/or building design. At a minimum, the geotechnical investigation should include the following tasks:

C.1.2 All subsequent construction plans should incorporate the recommendations of the final geotechnical investigation, as approved by the Marin County Department of Public Works. The final project design should conform also to the requirements of Marin County Code, Titles 23 (Grading) and 24 (Development Standards), the Uniform Construction Standards adopted by

the Cities of Marin and the County of Marin, and the Uniform Building Code.

C.1.4 All improvements should be designed by an appropriate engineering professional to meet earthquake design standards.

4. The commenter correctly notes that the Building and Safety Division, not the Department of Public Works issues building permits. The monitoring measure is intended to ensure that no permits, regardless of issuing agency, are issued until the mitigation is completed. To reflect the fact that the encroachment permit is likely to be the first permit issued, Staff is recommending that Mitigation Monitoring Measure C.1.A be modified as follows:

C.1.A Prior to issuance of encroachment, grading or building permits, review the final geotechnical investigation to verify that it adequately addresses the potential geologic hazards on the project site.

5. As stated in subparagraph 3 of this section, the potentially significant impacts identified in this section are mitigated by the measures imposed in Section C.1. Because the mitigations are imposed elsewhere, they were not repeated in this section.
6. The proposed project would not result in land use changes that are not already contemplated under the existing General Plan Land Use Designations or Zoning Districts. The County already has a mechanism in place to collect public facilities transportation fees from future development projects under these land use conditions. Because the project would not alter land use or interfere with the County's ability to collect impact fees, the project would not significantly impact traffic flows under current or future cumulative conditions.
7. Comment noted. Staff is recommending modifications to Mitigation Measure F.2.A as follows:

F.2.A Prior to issuance of any grading or building permit, staff should review and approve the Construction Management Plan (CMP).
8. Comment noted. Because the project is located almost entirely with developed roadbed, it is unlikely that archaeological resources will be uncovered. Should archaeological resources be discovered during the course of construction the contractor has a legal obligation to stop work and report such discovery. Similarly, during the course of regular inspection, should a public official identify resources, they have an obligation to stop work until the resource can be evaluated. Mitigation Monitoring Measure N.1.A merely reflects this fact.
9. Comment noted. The analysis of noise impacts (Section J.2) concludes that the short term duration of this project would not result in potentially significant Noise impacts, and does not establish time limitations as a mitigation measure. The

analysis does, however, acknowledge that the proposed hours of construction would eliminate nuisance associated with construction noise during what would otherwise be considered quiet periods. To the extent that DPW wishes to establish more restrictive hours than those proposed by the project sponsor, there would be no conflict with the proposed environmental document. Because, however, the community and LAFCO have relied on the project sponsor's proposed hours of operation, the environmental analysis did not consider potential impacts from construction activity at other times. Though, if there is a compelling reason to extend the hours, such activity may not result in a potentially significant impact, but should only be required if the surrounding community has been informed and given an opportunity to comment on such change.

10. Comment noted, The Paragraph should read as follows:

“ contains slope stability zones 1, 2, 3, and 4. Though bayfront and hill top portions of the project area are located in a Slope Stability Zones 1 and 2, the majority of the project area has a slope stability zone classification of 3 or 4. Typically Zone 1 is the most stable condition, while Zone 2 includes narrow ridge and spur crests that are underlain by relatively competent bedrock. Zone 3...”