



SIERRA CLUB MARIN GROUP

Box 3058 San Rafael CA 94912 sanfranciscobay.sierraclub.org/marin
c/o Gordon Bennett 40 Sunnyside Dr Inverness CA 94937 415-663-1881/gbatmuirb@aol.com

November 14, 2005

Community Development
3501 Civic Center Drive Rm 308, San Rafael, Ca 94903-4157

Re: Mease/Salah Master Plan Waiver Request, Land Division, Precise Development Plan and Design Review, 701 Nicasio Valley Road (AP #121-200-01)

On behalf of the Sierra Club's 7,000 Marin County members, our 205,000 California members, and our 750,000 national members, we submit the following comments on the CEQA Negative Declaration re the above project.

- 1) **Master Plan Waiver** Neg Dec III Sec A (pg 5) references Code Section 22.44.040, which notes: *The following requirements of a Master Plan shall be waived for the following:...One single-family dwelling, in a planned district, on a parcel having no residual development potential for additional dwellings based upon the potential maximum density established by the governing zoning district. The development potential for additional dwellings referred to in this section shall not include residential second units or agricultural worker housing.* We believe that this waiver may only be considered after the proposed land division, which we believe may be incorrect.
- 2) **Land Division** Neg Dec III Sec B (pg 6) and Neg Dec VII Sec 1-a (pg 31) describe the basis for the proposed division of the 19.75-acre parcel into two lots, which we question on three grounds:
 - a) Code section 22.02.020 C (2), cited (pg 31) as permitting the lot split, states: *Residential density. When the number of housing units allowed on a site are calculated based on density limits established by a zoning district, any fraction of a unit of 0.9 or greater shall be counted as a whole unit; any fraction of a unit less than 0.9 shall be rounded down to the next lowest whole number. For example, a planned zoning district allows one housing unit for each one thousand square feet of lot area; a lot of eight thousand five hundred square feet would be allowed eight housing units (8,500 / 1,000 = 8.5, rounded down to eight). A lot of eight thousand nine hundred square feet would be allowed nine housing units (8,900 / 1,000 = 8.9, rounded up to nine).* We believe that the applicable code section is 22.02.020 C(1), not C(2). C(1) states: *“Minimum lot area and number of lots. The fractional/decimal results of calculations of the number of parcels allowed through subdivision based on a minimum lot area requirement shall be rounded down to the next lowest whole number. For example, the R-1 zoning district minimum lot area requirement of seven thousand five hundred square feet would allow division of a twenty-one thousand lot into two lots (21,000/7,500 = 2.66, rounded down to two).”* If C(1) applies, then the Neg Dec VII Section 1 a) calculation is inconsistent: *“A CWP maximum density of one primary dwelling unit per 20 acres or 871,020 square feet, equals a density of one unit*

per 860,310 square feet or 19.75 acres rounded up to 20 acres...therefore the proposed two-lot land division of the 39.5 acre property is consistent with the CWP AG2 land designation.” Per the C(1), the calculation should be 20 acre minimum x 43,560 sq ft / ac = 871,200 minimum lot size. Applicant’s lot size of 1,720,620 divided by 871,200 = 1.975, which per Code Section 22.02.020 would be rounded down to 1, not rounded up to 2, as proposed by the Neg Dec. Please clarify why C(2) is used and not C(1).

- b) We question the Neg Dec VII Section 1 a) calculation that uses “*average gross density*” as the basis for splitting the 39.5 acre parcel into a 23.7 acre parcel and a 15.8 acre parcel. An example should make our concern clear: assume the example parcel is 2 acres larger than the subject parcel (ie 41.5 vs 39.5). Using the average gross density argument, the 41.5 acre parcel could be split into a 40.5 acre parcel and a 1-acre parcel, but then the remaining 40.5 acre parcel could subsequently be split into a 39.5 acre parcel and second 1-acre parcel, and finally the 39.5 acre parcel could be split into two-parcels, so the example 41.5 acre parcel would have been split into a total of 4 parcels, which is clearly not the intention of the Code. Consequently, we believe that a minimum, not an average lot size of 20 acres is required.
- c) The assessors map shows the parcel as 38± acres, and while we understand that this map was prepared only for assessment purposes and may not be accurate for zoning purposes, we note that the applicant’s subsequent survey coincidentally determined that the subject parcel was 1,720,620 square feet, the precise footage required by zoning for splitting per Section C(2) into two lots. This coincidence to the exact square foot strikes us as unlikely, so we would urge that the accuracy of the survey be independently verified.
- 3) **Streamside Conservation Area:** Neg Dec VII Sec 1-b (pg 36) notes in its Streamside Conservation Area paragraph that the parcel contains a stream that supports riparian vegetation and that “no development activities associated with this project will be located within the 100 foot wide Stream Conservation Area. The SCA as includes that area 50 feet beyond the edge of the riparian vegetation or 200 feet from the creek bank, whichever is larger. Consequently, the Neg Dec misidentifies the SCA and cannot therefore should not conclude that “no development activities associated with this project will be located within the 100 foot wide Stream Conservation Area” until a vegetation map is prepared showing whether the SCA extends beyond the 100 line.
- 4) **Agricultural Use** Neg Dec III C (pg 6-7) and Neg Dec VII Sec 1(c) (pg 38-39) note that “*generally a minimum of 10 to 30 acres of viable agricultural land with prime soils is required for small-scale commercial operation, such as an orchard of row crops and a minimum of 100 acres is required for a full-production...animal grazing operation.*” Although Figure 20, showing ag use, contains no lot split lines, it appears that the proposed 23.7 acre Lot A contains most of the grapes, while the proposed 15.8 acre Lot B includes almost no grapes. Since neither lot contains prime soils and the overall parcel has “limited agricultural production potential”, we believe that the overall agricultural potential of the parcel would best served by leaving it undivided as potential grazing land,

- just as the surrounding ag parcels are used. One of the primary goals of the Nicasio Valley Community plan (per Neg Dec VII (1) (a) include "preservation of the best agricultural land in the Valley in parcels large enough to permit continuing and future agricultural production." Consequently, we not only believe that merely planting grapes on this parcel does not provide justification for its being sub-divided into two lots, but we are further concerned that grape growing is simply an artifice that attempts to justify what is in essence a residential subdivision. We note that the grapes require use of herbicide, significantly increase water withdrawals (5 acres of grapes = 64,000 gallons per week) and inject fertilizer into the water table. We urge that the parcel remain as undivided potential grazing land with fencing of the Streamside Conservation Area required should grazing occur.
- 5) **Trails** Neg Dec VII Sect 1-f (pg 40) Sierra Club members have used the existing fire road along the ridgeline of the "Lands of Mease" as a multi-use trail for decades. This section is particularly important since it is the last significant link in a system of trail easements that extends from Open Space lands in the east to Samuel P Taylor State Park and GGNRA lands in the west. In order to resolve this assertion of a prescriptive easement, this project should include the dedication of this trail easement.
- 6) **Water** Neg Dec VII Sec 4-d (pg 48) addresses water use but only from the residential use. It does not but should also include agricultural use. Currently (per pg 6) water use on the 1.5 acres of grapes is 1500 vines @ 4 gal vine twice / wk= 12,000 gal/wk. Therefore the proposed 5 acres of grapes would use 64,000 gallons per week of agricultural use. Contrast this to 4 bedrooms x 75 gal/day x 2 house = 4,200 gallons per week of residential use. Not only does the Neg Dec not account for this agricultural use, but also it does not provide the cumulative analysis necessary to understand the impact to groundwater and flow into MMWD's Nicasio reservoir if every parcel along Nicasio Valley Road were to diversify into grape or other irrigated crop production. If there is, as we believe, inadequate water to allow every agricultural parcel to diversity into irrigated crops, then this parcel should be retained for low-water-using agricultural production. Lastly, there is no document listed on pg 22 that would indicate that any stream studies were done by professionally qualified consultants that would provide any basis for the findings of "less than significant impact" claimed in 4-d, 4-e and 4-f.
- 7) **Spotted Owl** Neg Dec VII Sec 7-a (pg 52) notes that "*the proposed removal of mature fir trees in conjunction with the proposed projects may affect potential foraging or roosting habitat for the owl*", yet the mitigations are directed to only to "nesting owls." We request that similar restrictions (no construction activities or tree removal) should also be in place in the event of a spotted owl foraging or roosting on the site based on surveys adequate to determine such.

Thanks you for the opportunity to comment

Gordon Bennett, Chair
Sierra Club Marin Group