



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
October 3, 2007**

TO: Mayor and City Council

FROM: Corey Simon, Senior Planner
Albert Lopez, Deputy Community Development Director

SUBJECT: General Plan Amendment to re-designate approximately 3 acres of a 5½ acres site, located at 635 Vine Hill Way from “Open Space” to “Residential.”

DATE: September 28, 2007

RECOMMENDATION:

Accept recommendation of Planning Commission and deny requested General Plan Amendment.

If the Council finds that that the visual impact of possible development and loss of open space can be effectively mitigated by the draft Mitigation Measures contained within the Initial Study, or specified future conditions of approval, then direct staff to prepare appropriate findings of approval for both the environmental document and the general plan amendment, for action at the next meeting.

BACKGROUND:

The subject lot, and its “Open Space” General Plan designation that limits development to one unit, was created in the mid 1970’s as part of the “Pine Meadows” subdivision. The requirement for privately owned open space was the result of a compromise reached by the City and the developer to allow development in the Morello & Center Avenue area while preserving the semi-rural visual character of Vine Hill Way. Private ownership may have been intended to both preserve some economic utility of the open space area (a “horse set up lot”) and avoid maintenance cost to the City. A similar open space restriction was placed on four other large lots within the “Pine Meadows” subdivision. The applicant is the original owner of the property. Mr. Freitas has twice before applied for re-designation of the 5 acre private open space area to allow residential development; neither application was approved by the City. Both the 1989 proposal (for 5 lots), and the 2003 proposal (for 4 lots) are substantially different from the current proposal. Both previous proposals would have spread the new residences across the entire Vine Hill Way/Morello Avenue frontages. The current proposal is generally on the eastern side of the property. The applicant has consolidated the development area in response to public and Planning Commission comments regarding his 2003 application. The applicant withdrew that 4-lot

application in April 2004, in anticipation of the Planning Commission’s pending recommendation of denial. Additional historical background is provided as “Attachment H”.

PROJECT OVERVIEW and PLANNING COMMISSION RECOMMENDATION:



Location Map

In 2006, the property owner initiated the application process for the current proposal for 4 new residential lots. The current proposal would retain the open space designation on the westerly third of the property (“Coward Knoll” at the corner of Morello Avenue and Vine Hill Way). The four new residential lots would be created along Vine Hill Way between the remaining open space area and the eastern property line (see exhibits provided by applicant). Access to the 4 new lots would be from the existing driveway at the property owner’s residence. Unlike the past two proposals, there would be no new access points from Vine Hill Way or Morello Avenue (which would have disrupted an existing trail). Along the Vine Hill frontage, a short retaining wall is proposed to separate the development from an existing hiking and horse trail. The existing trail is proposed to be rebuilt and improved with new landscaping, paving and other required trail amenities. Most of the existing trees will be retained.

The current proposal was first reviewed by the Planning Commission on February 2007 at a noticed Study Session. At that meeting, the Commission was unable to reach consensus as whether to oppose or support the application moving forward. Generally, Commission members expressed their desire for the City Council to “weigh-in” on its possible support of changing General Plan land use designations prior to acting on the complete subdivision/detailed site plan request. Thus, the applicant has requested that only the General Plan Amendment request go

forward for final action at this time. (Applicant's letter provided as Attachment 1; a comparative illustration of the current and proposed General Plan designations is provided as Attachment 2). The item was returned to the Planning Commission on July 24, 2007, as Planning Commission referral is required prior to City Council action on General Plan Amendments. (Planning Commission staff report and minutes provided as Attachments 3 and 4) The Commission voted 5-2 to recommend denial. (Planning Commission resolution provided as Attachment 5). It should be noted that 2 of the 5 Commissioners voting to recommend denial (Hughes and Kluber) were not fundamentally opposed to allowing additional residential development of the property, but voted with the majority, because based on the conceptual plan being shown, they could not support the General Plan Amendment without first seeing either revisions to the plan or more details. The 3 other Commissioners who voted to recommend denial (Allen, Burt and Korbacher) were fundamentally opposed to changing the General Plan designation from Open Space to residential.

DISCUSSION:

Issue #1 – Basis for existing “Open Space” General Plan land use designation & standards for approving/denying amendment:

The current Open Space designation was required in 1976 as part of the City's approval of “Pine Meadows” subdivision. These 1976 approvals imply that the open space value the City was trying to preserve was visual – wishing to retain a more rural image along Morello Drive and Vine Hill Way as the area urbanized. Except for the ½ acre Freitas home site (which was developed at the same time and by the same builder as the surrounding Pine Meadows neighborhood), the site was left ungraded. The city intended for the property (“Lot 22”) to be preserved as private open space, and to be sold as “a horse set up” lot. In order to further enhance the desired rustic character, the developer of Pine Meadows was required to install the trail and trees between the Vine Hill Way and Morello Avenue roadways and the subject private lot (i.e. within the rights-of-way).

The requirements for open space preservation and trail construction were part of a larger effort to secure open space along Vine Hill Way, Center and Morello Avenues, (see Attachments 6 & 7). When viewed within the context of an overall open space corridor spanning from Chilpancingo Parkway to the Morello/Center Ave intersection, it is clear that the 1976 Open Space designation that preserved the hillsides adjacent to Vine Hill Way and Morello Avenue was a deliberate action. Many of the policies of the Hidden Lakes Specific Area Plan created the unique mix of development and open space that currently exists and has been enjoyed by Martinez residents for many years. A similar land use planning approach was successfully used at the same time by City of Pleasant Hill as Paso Nogal (between Morello and Alhambra Avenues) urbanized.

So to change the Open Space designation at this time, the City Council is considering if the change is consistent with existing Hidden Lakes General Plan policy which states:

32.411 Essential open space masses and vital elements of the terrain should be protected while still allowing development densities reasonably consistent with the patterns established on adjoining properties.

Unlike the typical “findings of consistency” that a decision-making body makes to approve a subdivision, there are no prescribed findings the City Council must make to amend the General Plan other than the policy above. Should the Council wish to consider approval, the Council discussion should address how, with inclusion of mitigations measures, the proposed land use change is consistent with the General Plan’s broad policies of scenic preservation and open space. A consideration of approval could also include a discussion on how the request is consistent with those City policies not linked to Open Space and scenic resource preservation (e.g. provision of additional housing opportunities at various income levels).

Issue #2 – Proposed General Plan Amendment, visual impact and possible mitigation measures:

Unlike the 2004 plan, the current plan preserves some of the existing scenic qualities, and does not change off-site views onto “Coward Knoll” as this visual critical area (as per 1976 discussions) would still remain as open space. The applicant has indicated their desire to dedicate the knoll to the City of Martinez, however staff does not envision this becoming a publicly owned parcel, as maintenance for such “scenic” open space preserves is typically borne by an individual lot owner or homeowner’s association (HOA). Staff recommends that the maintenance of this remaining open space and the improved trail be the sole responsibility of the HOA.

While of secondary importance, the open space designation was also intended to preserve the site’s undeveloped visual character when viewed from the Vine Hill Townhome neighborhood (“Ashwood Drive”), as well as from east and west bound Vine Hill Way. As part of the required environmental analysis of the proposal (Initial Study and draft mitigated negative declaration) visual simulations of the possible development were prepared by the City’s consultant. Taken from four different “windshield” perspectives, the visual simulations (Attachment 8) illustrate the impact of the proposed development, with 4 views of each of the four perspectives: “existing conditions”, “proposed massing” and “proposed with landscaping.” It should be noted that the houses are shown as simple building envelopes, with roof pitches and windows added for scale: these do not represent actual architectural proposals. While the existing trees along the unusually wide right-of-way between edge of pavement and subject property (trail and plantings also part of original 1976 subdivision) provide some mitigation, additional design-related changes are proposed as mitigation measures to reduce the visual impacts of the new units. The preservation of views currently enjoyed by Meadowvale Court residents above the site should also be considered. With the mitigations listed below (which are taken from the draft Initial Study as required by CEQA), the units themselves would be visually diminutive, preserving the original intent of the open space designation (and thus reducing the environmental impact to “less than significant impact” as required by CEQA).

- 1. The property line between proposed Lots 1 and 2 be moved approximately 100’ eastward, so that the side yards areas of the two lots “line up” with Ashwood Drive, preserving more of the unbuilt appearance of the site from northbound Ashwood Drive.*

2. *The visual height of the units ultimately to be built on the proposed lots (Design Review approval entitlements not requested at this time) be reduced by either lowering the average elevation of the homesite by off-haul grading and/or imposition of a more restrictive height limit (e.g. single story 18' maximum) than the 2 story 25' maximum typically allowed in the proposed R-10 Zoning District.*

Should the City Council approve the requested General Plan Amendment, with the proposed mitigation measures, such design changes would be evaluated by the Planning Commission when the item returns for final subdivision approval.

Alternatively, the City Council can modify mitigation measures as it finds appropriate. If the Council deletes or substitutes mitigation measures as currently drafted in the environmental document, special written findings will have to be prepared for City Council consideration and adoption. Based on the concerns raised by the applicant, the Council may also wish to consider (in addition to the alternative wording that may be offered by the applicant) simply altering the existing language to read: *“The visual height the units ultimately be built on the proposed lots (Design Review approval entitlements not requested at this time) be reduced by **such design elements as** lowering the average elevation..”* to give both the applicant and the City the widest range of possible design solutions.

Finally, should the Council approve the General Plan Amendment, staff should be directed to add to future subdivision conditions of approval a requirement that the applicant upgrade the trail across from the site along the Vine Hill Way frontage west of Morello Ave. that was initially installed as part of the Pine Meadow subdivision in the late 1970's, that could now benefit from enhancements. Such improvements would be a “one-time” condition of approval and would not be maintained by the homeowners association. These improvements could include but not be limited to: landscaping, paving, street crossing, lighting, benches and drainage. This trail upgrade would be in addition to the above mitigation measures and would be consistent with General Plan policy of protecting the semi-rural terrain and open spaces of the project area.

FISCAL IMPACT:

Possible cost to City to maintain proposed open space lands if accepted by City (not recommended by staff).

ACTION:

Direct staff to prepare resolution, written findings, if any, and a final environmental document as per Council direction.

It should also be noted that the City Attorney has verified that pursuant to our Municipal Code, a 4/5 vote of City Council (as opposed to the regular 3/5 vote), or general election vote, is required to replace the “Open Space” designation with a different land use on any parcel in Martinez, irrespective of the property's ownership. While the City does not have a fee or easement “ownership” of the 5 acres, an “open space easement,” for these purposes is defined as *“any limitation of future use of real property by way of deed, covenant, servitude, easement or other”*

property restriction imposed or required by the City for the purposes of preserving the natural, scenic or open character of the property which limitation results from the City's (conditional) approval of a plan amendment, zoning change, use permit, subdivision or any other entitlement permit for development". So while the current open space area is not within a formal "easement," the definition of open space easement as described above applies to this project .

ATTACHMENTS:

Site context map and photo

- 1) Applicant's letter
 - 2) Current and proposed General Plan designations
 - 3) July 24, 2007 Planning Commission meeting minutes
 - 4) July 24, 2007 Planning Commission staff report
 - 5) Planning Commission resolution recommending denial
 - 6) Illustration of open space areas within Center Avenue/Morello Avenue/Vine Hill Way area
 - 7) Illustration of open space areas along Vine Hill Way
 - 8) Visual simulations
- "H" Historical overview
Initial Study and draft Mitigated Negative Declaration
Correspondence as of July 24, 2007

EXHIBITS:

Plans and illustrations provided by applicant

APPROVED BY:


City Manager

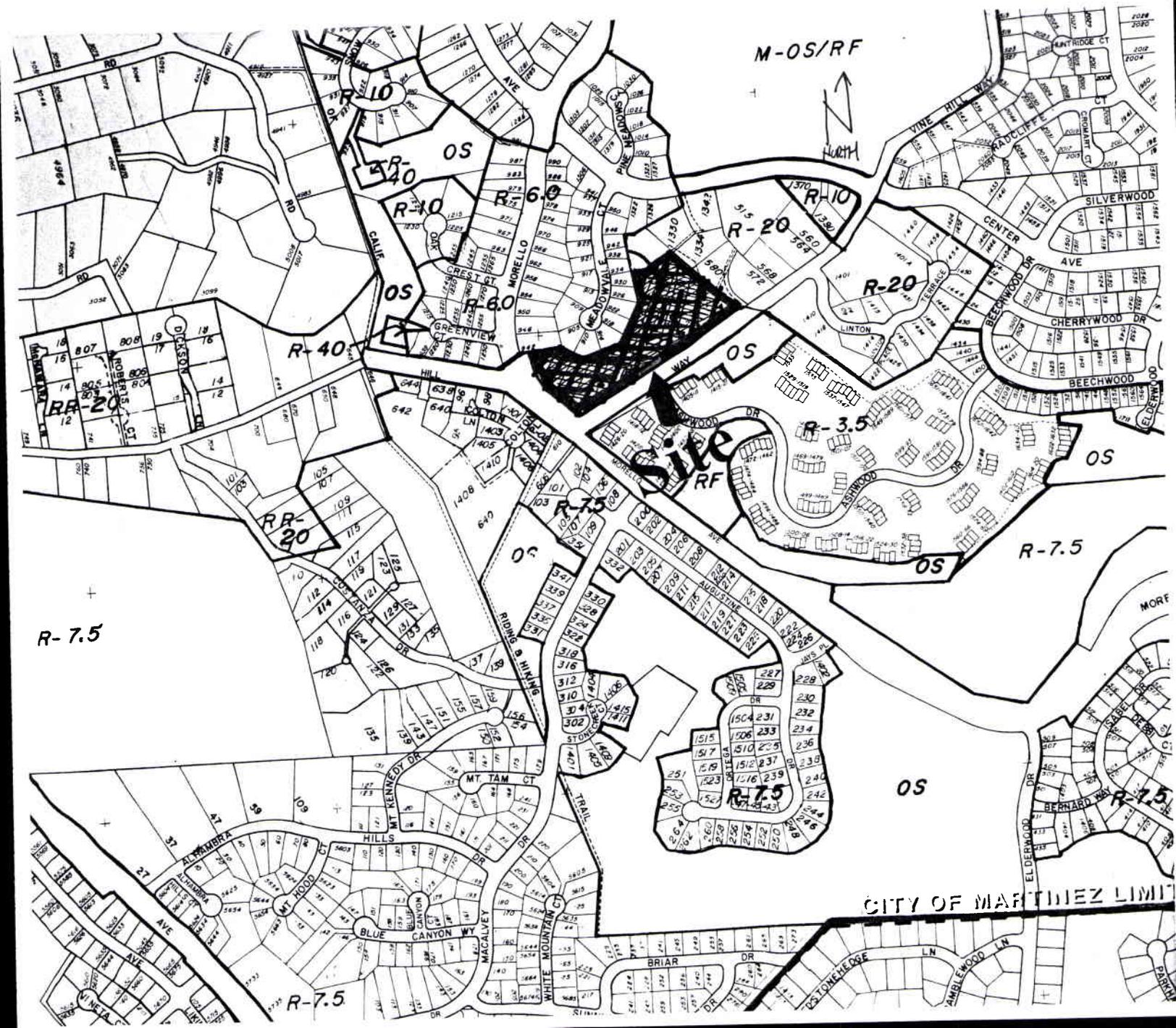
APPROVED BY:


Assistant City Manager
Community & Economic Development

SITE CONTEXT MAP

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

“Freitas Property” – 635 Vine Hill Way



SITE CONTEXT PHOTO

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

“Freitas Property” – 635 Vine Hill Way



SITE



— GENERAL AREA OF PROPOSED DEVELOPMENT - 4 NEW LOTS

ATTACHMENT 1
CITY COUNCIL STAFF REPORT - 2007.OCTOBER.03

Letter from Applicant

GARY R. FREITAS
635 Vine Hill Way
Martinez, CA 94553



March 13, 2007

City of Martinez
525 Henrietta St.
Martinez, CA 94553

Attn: Mr. Cory Simon
Senior Planner

Re: 5-Unit Subdivision
635 Vine Hill Way

Dear Mr. Simon:

I hereby respectfully request that the City of Martinez Planning Department proceed with the application of my project for a general plan amendment.

I would like to process our application as a general plan amendment prior to processing the formal tentative map.

Would you please inform me as to the first available Planning Commission hearing date.

Sincerely,

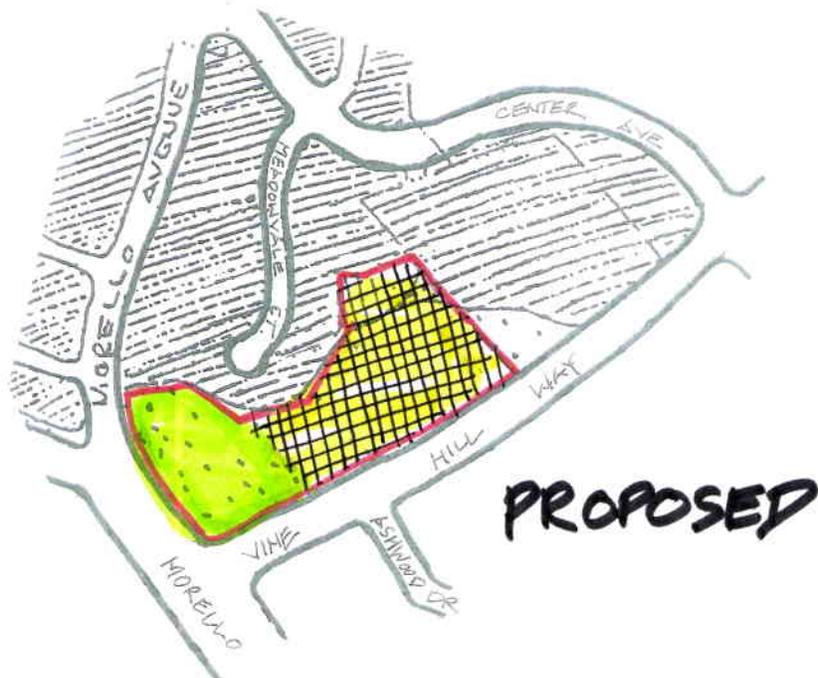
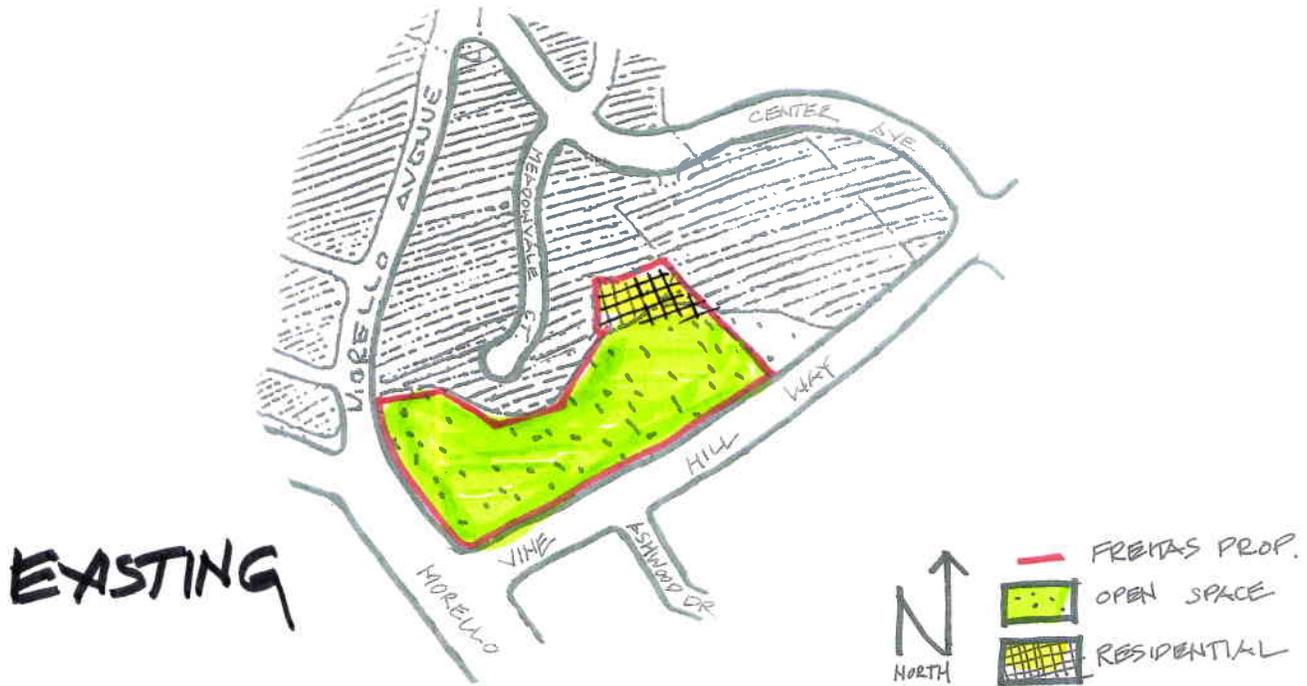
A handwritten signature in cursive script that reads "Gary R. Freitas".

Gary R. Freitas

ATTACHMENT 2

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

Current & Proposed General Plan Land Use Designations



ATTACHMENT 3

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

July 24, 2007 Planning Commission meeting minutes

CITY OF MARTINEZ
PLANNING COMMISSION
REGULAR MEETING
July 24, 2007

A regular meeting of the Martinez Planning Commission was called to order by Chair Mark Hughes at 7:05 P.M. on Tuesday, July 24, 2007, at City Hall Council Chambers, 525 Henrietta Street, Martinez, California.

PRESENT: Commissioners Allen (alternate), Burt, Busby, Glover, Hughes, Kluber, Korbmacher

ABSENT: Avila.

STAFF: Assistant Planner Anjana Mevani
Senior Planner Corey Simon
Deputy Director of Community Development Albert Lopez
Deputy Director of Park and Community Services Joann Tool

REGULAR ITEMS

5. Freitas Subdivision Sub 9120

Public hearing to consider: a) adoption of a Mitigated Negative Declaration and b) a General Plan Amendment to re-designate approximately 3 acres from "Open Space" to "Residential," to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site. The Planning Commission will make its recommendation to the City Council, which will consider the possible amendment at a future date to be announced. Should the General Plan Amendments be approved by the City Council, the Planning Commission will then consider, at a future hearing date, requests for a Rezoning from Open Space to R-10 (One Family Residential:10,000 square feet minimum site area) and approval of a 5-lot Major Subdivision.

Senior Planner Corey Simon presented the staff report, including a brief background and history of the site. He acknowledged that the Planning Commission had been reluctant to handle the request until the City Council had weighed in, but the City Attorney had said that it must be heard by the Planning Commission in a timely manner, and he reviewed the process. He also discussed the history of the Pine Meadows subdivision from 1976 forward, noting that this is this third request from this applicant to consider amending the General Plan designation. He

commented on the difficult balance between environmental/visual impacts and the continued need for more housing. He reviewed potential visual impacts from 4 different approaches.

Mr. Simon also commented on engineering mitigation measures that could be considered to minimize the visual impacts. He acknowledged there were difficult questions, but he noted that the applicant has made progress in the design.

Commissioner Busby asked for clarification on the number of homes proposed; Mr. Simon said there would be 4 new homes making a total of 5.

Public hearing opened.

GARY FREITAS, applicant, expressed appreciation for the in-depth report. He noted that he was the original owner of the property, and he reviewed changes in the area over the last 20-30 years. He agreed the community has changed, as well as his goals for the property. He noted that he had been unable to meet with the City Council as the Commission had wished, so he had submitted a new General Plan Amendment (GPA) to the City.

TIFFANY LATHROP, Peabody Engineering, asked for the focus to be on the GPA for a portion of the property. She indicated that under the current proposal, Coward Knoll would be preserved and dedicated to the City for its use, and the rural feel of the area would be maintained as much as possible. She commented on issues raised at the February meeting, including the sensitive nature of the views of the area, and efforts made by the applicant to accommodate neighbors' concerns. She urged the Planning Commission to recommend approval.

Commissioner Kluber asked if Peabody was still recommending that the area behind the lots be an open space corridor. Ms. Lathrop said yes. Commissioner Kluber said he didn't think that could be maintained as a public area; but perhaps it could be dedicated as open space.

HENRY BENTON, Pine Meadows resident, asked how many times this issue has to be addressed since the lot is supposed to be open space and has been that way from the beginning. He was strongly against the GPA, expressing concern about view blockage and tree growth, and the lack of City enforcement. He questioned why the view from existing homes was not shown in presentation. Mr. Simon explained the visual perspective was focused on neighborhood aesthetics. He acknowledged Mr. Benton had a valid concern; and perhaps the property could be lowered to mitigate the impact.

Mr. Benton said there were original limits on the Pine Meadows subdivision for landscaping height, but the City does not enforce them. He also expressed concern about the adverse effect on existing homes.

JOHN MIFFLETON, condo owner nearby, said when he bought his property the Freitas lot was open space. He questioned what community benefit would result from the loss of open space area. He also commented on the acoustic phenomenon of a natural amplified amphitheatre effect from the contours of the property and potential noise impacts from the development. He asked the Planning Commission to preserve the open space designation on the property.

Chair Hughes read comments from ELAINE JACKSON, BOB BOUCHARD and MARYLOU BOUCHARD against the project.

ELEANOR SOUZA expressed concern about the loss of rural view and noise impacts, lighting impacts, wildlife and bird life, as well as traffic/parking issues. She was strongly opposed to the project.

STEVE SCHMIDT commented on property value impacts from the development of open space. He was concerned about the precedent from land speculation and the loss to the City if the property is developed. He suggested Mr. Freitas consider building a mansion to sell if he wants to make money off the property.

Chair Hughes read comments from ROGER GOODWIN, who was opposed to any current or future change of open space designation for the property.

ROBERT HAYWORTH expressed support for the General Plan amendment request, saying that Martinez needs to change; this may be the first of many GPAs. He was confident that the proposal should result in nice homes with landscaping, trees, and wildlife, while the Knoll will be preserved as open space. He also noted that Mr. Freitas' deed says nothing about the land being open space. He encouraged the Commission to recommend approval.

LESLIE CHERNAK referred to a letter by Lorna Thompson and quotation from the state Supreme Court that the open space designation should not be given as a placeholder for future development. Ms. Chernak noted that she had paid a premium price for her property and her view. She was also concerned about noise impacts and the precedent that could be set if the GPA is approved.

JEFF LAPERRY commented on the positive character of the people involved, and the community benefit from more homes and the 2 acres given to the City. He expressed support for Mr. Freitas and the GPA.

RICH ROBINSON, 40 year resident of the area, commented on the many developments over time. He expressed concern that Mr. Freitas is not being given the same rights as others in the neighborhood that have already been developed. He urged the Commission to support the GPA.

SHIRLEY SWITALSKI said Mr. Freitas should have known that the property was designated open space. She noted that open space preservation was one reason she was drawn to Martinez. She was concerned about impacts on wildlife access and the potential breach of faith on the part of the City if approval of this GPA is granted. She urged the Commission to listen to the voters, and keep the open space designation on the parcel.

JAN SWITALSKI suggested building on developable sites before taking open space for new development. He reminded the Commission that promises were made to nearby property owners that should be honored. He questioned whether a scenic easement designation for part of the property would be enforced.

RUSSELL ROOFENER expressed support for the project as high-end well-designed homes that will be an asset to the neighborhood.

CAROL BAIER said she was encouraged by the earlier statement that adequate recreation and open space area is mandated by the City's General Plan. She expressed concern about impacts on existing oak trees and the water table from grading above.

Comments from MARY WALSH and WILLIAM JOHNSOON were read into the record as supportive of the development proposal.

ALBERT TURNBAUGH said he was in favor of the application. Those who were promised something by realtors should seek recompense from them, not Mr. Freitas. He also noted that there had been many new developments over the last 20 years, and earlier residents have given up much more open space than is proposed now. He urged the Commission to protect property rights; since General Plan amendments are allowed.

PETER CARPENTER commented on the asset to the neighborhood from the open space that is currently there, adding that there should be some recompense to them if the lot is developed. He was also concerned about maintenance issues for the open space along the back of the properties, adequate turn around space for trucks, etc and safety issues for children. He asked the Planning Commission to recommend against the project.

MIKE GEORGE discussed points made by Ms. Thompson in her letter by Ms. Thompson. He also stated that his realtor told him the Freitas lot was "permanent open space" that cannot be changed. He noted that nothing has changed since past public hearings, so why should a development be approved now? He agreed surrounding property owners would lose from a GPA.

JOAN SAVARIES agreed open space should be preserved, as a past promise and commitment that should be upheld.

CHRIS DEAN, daughter of the original property owner (Coward Ranch), was supportive of the GPA request. She questioned the validity and origin of the open space designation. She also commented on the value of the democratic process that allows public input. She noted that Mr. Freitas has considered and incorporated the neighbors' concerns into the plans. She was supportive of the project, especially since Coward Knoll would be preserved and donated to the City.

GARY HERNANDEZ noted he was told "you're going to ruin our home values" when he developed his property, but actually the neighbors benefited from property value increases as a result. He also commented on the fire hazards and weedy condition that currently exist on the property, adding that the area would be improved by high-end homes instead. He was supportive of the added value to the community.

Chair Hughes asked Mr. Simon to review how the property was designated open space, which he did, indicating it was private open space. He also said a scenic easement was supposed to be recorded on the deed.

Seeing no further speakers, Chair Hughes closed the public hearing.

Rebuttal

Mr. Freitas commented on his history with the City and the promises made to him in the past. He noted that the Superior Court accepted his 50% support from neighborhood homeowners allowing a change to the CCRs. He also indicated he has cooperated with the City's requests, which will make this project better.

Commission comment

Commissioner Busby asked if a tentative map and a General Plan amendment can be filed at the same time. Mr. Simon acknowledged that they usually are. He explained that they were separated because of the Planning Commission's hesitation to approve the General Plan amendment without City Council input.

Commissioner Korbmacher said the city he works for takes great pride in its open space stock. He clarified that the original land was not open space; but ranchland. He pointed out that four parcels were set aside for open space when the land was sold by the original owners. He also noted that realtors did not mislead clients with their claims about the open space designation; since City records show the same. He questioned whether there would be any real benefit to the City in changing the open space designation to residential for only four additional homes. He acknowledged there was ample documentation in the staff report regarding past decisions on the matter. He agreed that the applicant is free to apply as many times as he likes, and the City is free to deny the application. He was opposed to the General Plan amendment.

Vice Chair Glover disagreed, noting that the original 1976 concerns were visual impacts; but those are lessened because there has already been so much development in the area. He felt the impacts of the project can be mitigated. He noted that since the site is currently private property, with no access on and off; the open space designation is not a land use. He also agreed that there are maintenance and safety issues with the site as it is, adding that allowing the GPA provides an opportunity to honor the original intent to preserve the knoll. He also felt that the impacts of the development will be addressed in the approval process. He thought the GPA application should be sent to the City Council, and the final product will be an enhancement to the City.

Commissioner Kluber said he was generally in favor of the project; with his recommendation for an open space corridor along the back of the properties. He agreed the value of the open space area is the knoll, and he expressed admiration for Mr. Hayworth's property, noting the same could be done on these lots. He expressed hesitation, however to move the project forward without changes to the site plan. He was also concerned about impacts to the health of the oak trees. He suggested an arborist report be required, and that the maintenance costs for the knoll should be the responsibility of a homeowners association.

Commissioner Allen agreed with Commissioner Korbmacher, partly because of the timing of the application. She noted that the original designation of this property as open space was part of the mitigation for the environmental impacts from the original development. She was concerned about piecemeal consideration of GPAs, and she was glad that the City Council has included a General Plan update in the budget. She felt that any change to this lot should be part of an overall General Plan update. Property owners should do their due diligence before purchasing a lot, but the current General Plan designates this site as open space. She indicated there should be no change without input from the public through the General Plan update process.

Commissioner Burt agreed with Commissioners Korbmacher and Allen that this is a crucial issue with legal and moral implications. She acknowledged that many people made important purchasing decisions based on the designation of permanent open space. She also acknowledged the need for more housing, especially single-story and affordable. While this could be a good site, it is presently designated open space, and the value of open space is held very strongly by the residents of Martinez. She agreed, however, that there is a process for amending/updating the General Plan. She concluded by saying she cannot support a General Plan amendment for this site except as part of a full General Plan update.

Commissioner Busby noted that Mr. Freitas has been maintaining this site for 30 years. She was concerned about delaying consideration of his application while waiting for a General Plan update. She also commented on the difference between private open space and public open space, and she felt the questions raised by Commissioner Kluber can be addressed through the process, as can tree preservation issues. Landscape buffers can be created to minimize visual impacts. She would support moving the project forward and leave the other questions for later in the process.

Chair Hughes indicated he was supportive of the project concept, but he would need to see a development plan and tentative map first. He said he could not recommend approval of a GPA at this point, but he was confident that the project can be an enhancement to the community eventually.

There was discussion between the Commission and staff on how to proceed.

Vice Chair Glover suggested approving the GPA, contingent on the issues being adequately addressed. Commissioner Burt said the Commissioners need to feel comfortable in what they are advocating before overturning past City Council and Planning Commission actions.

Commissioner Busby said the Commission should set time constraints on the process, noting again that all the questions can be answered through the normal process.

Chair Hughes said the majority of the Commission seems to be in support; but would rather wait to approve or deny a total project, not the GPA alone. Mr. Simon urged the Commission to call the question, allowing input from the applicant.

Ms. Lathrop said the applicant was willing to mitigate for the oak trees at the tentative map stage, as well as the design review process, but they would like to take the GPA to the City Council first.

Commissioner Allen asked how many GPAs the City Council has approved this year; staff said none so far.

The Commission recessed briefly

The Commission reconvened at 9:53 with all members present as indicated.

Chair Hughes asked the applicant's preference as to whether to come back to the Planning Commission with a more complete project, or to make a recommendation to the City Council

tonight. Ms. Lathrop said they would like the Commission to vote tonight to send a recommendation (for or against) to the Council.

MOTION

On motion of Vice Chair Glover, seconded by Commissioner Busby, the Commission present voted to recommend that the City Council approve Subdivision 7120, including the Negative Declaration and request for a General Plan Amendment.

AYES: Glover, Busby

NOES: Hughes, Allen, Burt, Kluber, Korbmacher

ABSENT: Avila

ABSTAIN: None.

Motion failed.

Chair Hughes said he could not support the project currently, noting that Martinez is a town of neighbors; and issues have been raised that the applicant can address. He indicated, however, that he was supportive of the project in its broadest sense.

MOTION

On motion of Commissioner Korbmacher, seconded by Commissioner Burt, the Commission present voted to recommend that the City Council deny Subdivision 7120, including the request for a General Plan Amendment.

AYES: Korbmacher, Burt, Allen, Hughes, Kluber

NOES: Busby, Glover

ABSENT: Avila

ABSTAIN: None.

Motion carried.

At Commissioner Burt's request, Mr. Simon reviewed the next steps in the process.

* * *

ATTACHMENT 4

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

July 24, 2007 Planning Commission Staff Report



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: Corey Simon, Senior Planner

REVIEWED BY: Albert Lopez, Deputy Community Development Director

GENERAL INFORMATION

OWNER/ APPLICANT: Gary Freitas/Peabody Engineering, Ross Peabody

LOCATION: Approx. 5½ acre parcel located at northeast corner of Vine Hill Way and Morello Avenue; 635 Vine Hill Way; APN: 162-420-003

GENERAL PLAN:

- "Private Permanent Open Space"; approx. 5 acres
- "Residential; 0 - ½ units/acre"; approx. ½ acre

ZONING:

- OS (*Open Space*); approx. 5 acres
- R-20 (*One-Family Residential, 20, 000 sq. ft. Min. Lot Size*); approx. ½ acre

ENVIRONMENTAL REVIEW: The attached initial study evaluating this project's environmental impact was prepared and circulated as required by the California Environmental Quality Act (CEQA). The initial study found the project would not have a significant impact, with the proposed mitigation measures, and a Notice of Intent to Adopt a Mitigated Negative Declaration was prepared. The 20-day comment period began on Monday, July 2, 2007 and ends on Monday, July 23, 2007.

PROPOSAL: Re-designation of General Plan Land Use Designations for approximately 3 acres from "Open Space" to "Residential," to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site. Applicant's request requires a) adoption of a Mitigated Negative Declaration and b) a General Plan Amendment. The Planning Commission will make its recommendation to the City Council, which will consider the possible amendment at a future date to be announced. Should the General Plan Amendments be approved by the City Council, the Planning Commission will then consider, at a future hearing date, requests for a Rezoning from Open Space to R-10 (One Family Residential:10,000 square feet minimum site area) and approval of a 5-lot Major Subdivision.

RECOMMENDATION

Review proposal, accept public comment, and if the Commission finds that that the visual impact of development can be effectively minimized as per the Draft Mitigation Measures contained within the Initial Study, direct staff to prepare findings of approval recommending approval of both the environmental document and the general plan amendment, for action at the next meeting.

PROJECT INTRODUCTION and BACKGROUND

The applicant's proposal is unchanged from when the Planning Commission heard the item, as a study session, in February 2007. The study session staff report, with additional background information, is provided as Attachment F. A more complete outline of the site history and applicant's effort to gain approval for development is provided as Attachment H.

At the February meeting (minutes provided as Attachment G), the Commission was unable to reach consensus as whether to oppose or support the application moving forward. Of key importance was the broad and fundamental question of changing the General Plan land use designation from "Open Space" to "Residential." Generally, Commission members expressed their desire for the City Council to "weigh-in" on its possible support of the needed General Plan Amendment prior to the item returning to the Planning Commission. While some Commissioners wished to defer consideration of the request until the City-wide General Plan is completed, the majority hoped the Council could take the item up as a study session prior to the completion of any City-wide update (which could be several months, or more, in the future). Staff discussed the possibility of a City Council study session with the City Attorney, who advised against such a meeting. The City Attorney expressed concern that were Council members asked to give opinions in a study session, individual Council member's impartiality over his/her final action could be challenged in litigation. Thus the Council will not be able to give direction to Commission in the way the Commission desired.

As an alternative to returning the proposal (which would include a tentative subdivision map, which has yet to be completed), the applicant has requested that only the General Plan Amendment request go forward for final action (Applicant letter provided as Attachment B). Thus the Planning Commission is now being asked to make its recommendation on the General Plan Amendment to the City Council. Regardless of the Commission's recommendation, or even if no consensus for a recommendation is reached, the General Plan Amendment can be forwarded on to the City Council for final action. Only then if the Amendment is approved by Council, would the applicant return to the Planning Commission to address final actions on a zoning recommendation and subdivision approval. The focus of this report is thus on the General Plan Amendment, as well as those portions of the attached Initial Study (Attachment I), which address the impacts on "Aesthetic" Environmental factors raised by the proposed General Plan Amendment.

DISCUSSION on GENERAL PLAN AMENDMENT

Topic One –Basis for existing "Open Space" General Plan land use designation:

- Open Space Designation required in 1976 as part of "Pine Meadows" subdivision. (1976 General Plan amendment approved for Pine Meadows provided as Attachment C). Except for the ½ acre Freitas home site (which was developed at the same time and by the same builder as the surrounding Pine Meadows neighborhood), the site was left ungraded. The developer of Pine Meadows

installed the trail and trees between the Vine Hill Way and Morello Avenue roadways and the subject private lot (i.e. within the rights-of-way). The city intended for the property ("Lot 22") to be preserved as private, open space, and to be sold as "a horse set up" lot. These 1976 approvals imply that the open space value the City was trying to preserve was visual – wishing to retain a more rural image along Morello Drive and Vine Hill Way as the area urbanized. A similar land use planning approach was used at the same time by City of Pleasant Hill as Paso Nogal (between Morello and Alhambra Avenues) urbanized.

- Pine Meadows EIR and preservation of "Coward Knoll". In order to evaluate the appropriateness of deleting or altering the existing open space designations, it may be helpful to note that the preservation of what was then referred to as "Coward Knoll" (The Coward family being the sellers of the property to the developers of Pine Meadows) was a priority of the original planning process for the area. The 1973 General Plan called for the whole knoll to be preserved, but the approved Pine Meadows development (1976), preserved the slope faces as a compromise. (the knoll's summit is now the Meadowvale cul-de-sac bulb.) This compromise was largely based on the site lines from Vine Hill Way, which made the slope faces more visually prominent than the knoll top itself. Ironically, the best view of the slope face, from northbound Morello Drive, was not a factor in 1976 as Morello Drive had yet to be built. Excerpts from the EIR are provided as a part of Attachment H. It should be noted that while this 1976 Environmental document is helpful in understanding the intent of those past mitigation measures that led to most of site becoming private open space, the City Attorney has stated that those "mitigation measures" in and of themselves do not restrict the City from taking an action on the applicant's new proposal, Similarly, a new EIR would not automatically be required.

Topic Two – Explanation of current "Open Space" designation, and special requirements to approve its removal:

- The terms "Private Open Space" and "Private Permanent Open Space" are synonymous in the implementation of the current General Plan Prior discussions with the applicant, residents and Commissioners have been overly concerned with the semantic inclusion of the word "permanent," even while the subject documents have used the terms interchangeably. For example, the 1976 City Council Resolution creating the designation refers to "Private Open Space" while the attached graphic calls it "Private *Permanent* Open Space." The use of the word "permanent" comes from the 1973 General Plan's creation of two classes of Open Space Land Use Designations:

"Permanent Open Space" was seen as those areas, where additional units are prohibited, and *"which should be preserved for protection of the scenic setting of the community."*

"Open Space/Conservation Use Land" were seen as those areas where additional units could be permitted (at the approximate density of one unit/acre), without the need of a General Plan amendment, if certain environmental studies

and criteria were met (this designation was largely made obsolete with the subsequent adoption of the Alhambra Hills and Franklin Hills Plans)

Thus the use of the word "permanent" was used to distinguish this site from those "conservation use lands" - where some additional development could occur without a General Plan amendment - and the subject site, where no additional development was ever envisioned. The term "permanent" was not intended to create a special type of unchangeable General Plan land use designation, and therefore the current designation is no more or less "permanent" than any other General Plan land use designation.

- Special requirement for applicant to receive a "recommendation of approval" from the Planning Commission Per California State code, "A recommendation for approval shall be made by the affirmative vote of *not less than a majority of the total membership* of the Commission." In the Martinez case, what would mean no less than 4 members of the Planning Commission would need to vote in the affirmative to recommend approval to the City Council. Other options could be a recommendation for denial, or no recommendation.
- 4/5 vote of City Council, or general election vote, required to re-designate Open Space lands It should be stressed that the 5 acre's subject "Open Space" General Plan designation is irrespective of the property's ownership; and while the City does not have a fee "ownership" of the 5 acres, the City's regulations requires a 4/5 vote of the City Council to replace an "open space easement," which per Code section 22.28.070 is defined as "*any limitation of future use of real property by way of deed, covenant, servitude, easement or other property restriction imposed or required by the City for the purposes of preserving the natural, scenic or open character of the property which limitation results from the City's (conditional) approval of a plan amendment, zoning change, use permit, subdivision or any other entitlement permit for development*".

Topic Three— Standards for approving/denying requests for General Plan Amendments:

- City has full discretion to approve or deny request. While the current proposal has removed some of the key reasons the 2004 plan was rejected, it must be stressed that the City is under no obligation to approve any additional development on this property. Additional development may however be considered if a consensus is reached that such development would not be a detriment to the neighborhood and that the new development itself is consistent with the City's unchanged goals of preserving the semi rural visual quality of Vine Hill Way.
- No need to make "finding" for recommendation to approve or deny. As a legislative act of the City Council, there are no prescribed findings for the approval and/or denial of an application to amend the General Plan. The Commission would thus not need to find a broad public benefit to recommend that the City Council approve the request for an additional development. But in recommending approval of such

an amendment, the Commission's discussion should address either how the request is not in conflict with other related City policies (e.g. the visual character of Vine Hill Way can still be retained) and/or how the amendments addresses other City polices (e.g. provision of additional housing opportunities.)

Topic Four – Proposed General Plan Amendment, visual impact and possible mitigation measures:

- Area with Open Space land use designation to be reduced from 5 ac. to 2 ac. (comparison of existing and proposed General Plan designations provided as Attachment E). Unlike the 2004 plan, the views onto the remaining knoll would be largely unaffected by the current development proposal, as the most visual critical (as per 1976 discussions) area would remain as open space. It should however be noted that while the applicant has indicated that an approximate 2 acre area is to be "dedicated to the City of Martinez," staff does not envision this becoming a publicly owned parcel, as maintenance for such "scenic" open space preserves is typically borne by an individual lot owner or homeowner's association (HOA).
- Visual impacts, as shown on consultant's simulations, may require additional mitigations (simulations provided as Attachment E) Taken from four different "windshield" perspectives, the attached visual simulations illustrate the impact of the proposed development, with 4 views of each of the four perspectives: "existing conditions", "proposed massing" and "proposed with landscaping." It should be noted that the houses are shown as simple building envelopes, with roof pitches and windows added for scale: these do not represent actual architectural proposals. While the existing trees along the unusually wide right-of-way between edge of pavement and subject property (trail and plantings also part of original 1976 subdivision) provide some mitigation, additional design refinements are recommended to reduce the visual impacts of the new units. With the mitigations listed below (which are taken from the draft Initial Study as required by CEQA), the units themselves would be visually diminutive, preserving the original intent of the open space designation (and thus reducing the environmental impact to "less than significant impact" as required by CEQA).

The property line between proposed Lots 1 and 2 be moved approximately 100' eastward, so that the side yards areas of the two lots "line up" with Ashwood Drive, preserving more of the unbuild appearance of the site from northbound Ashwood Drive.

The visual height the units ultimately be built on the proposed lots (Design Review approval entitlements not requested at this time) be reduced by either lowering the average elevation of the homesite by off-haul grading and/or imposition of a more restrictive height limit (e.g. single story 18' maximum) than the 2 story 25' maximum typically allowed in the proposed R-10 Zoning District.

Should the City Council approve the requested General Plan amendment, with the proposed mitigation measures, such design changes would be evaluated by the

Planning Commission when the items returns for final subdivision approval.

RECOMMENDATION

Review proposal, accept public comment, and if the Commission finds that that the visual impact of development can be effectively minimized as per the Draft Mitigation Measures contained within the Initial Study, direct staff to prepare findings of approval recommending approval of both the environmental document and the general plan amendment, for action at the next meeting.

ATTACHMENTS

- "A" Site Context Maps and Photos
- "B" Applicant's letter requesting GPA be acted on prior to zoning and subdivision
- "C" 1976 General Plan amendment resolution and graphic
- "D" Graphic of existing and proposed General Plan designations
- "E" Visual simulations
- "F" February 13, 2007 study session staff report
- "G" February 13, 2007 study session staff report minutes
- "H" Historical outline and backup graphics
- "I" Correspondence since February 13, 2007 study session
- "J" Initial Study and Draft Mitigation Measures

NOT INCLUDED IN CITY COUNCIL REPORT 2007. OCT. 03

F:\Community Development\All Projects\MAJOR SUBDIVISIONS\Sub-9120 - Freitas2006@635 Vine Hill Way\Freitas200.GPA-PC-Rpt-2007.07.24.doc

ATTACHMENT 5

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

July 24, 2007 Planning Commission Resolution Recommending Denial

RESOLUTION NO. PC 07-13 [DRAFT]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARTINEZ, RECOMMENDING DENIAL OF A PROPERTY OWNER'S REQUESTED GENERAL PLAN AMENDMENT TO RE-DESIGNATE APPROXIMATELY 3 ACRES OF A 5½ ACRE PARCEL FROM "OPEN SPACE" TO "RESIDENTIAL" LOCATED AT 635 VINE HILL WAY (GPA #06-03)

WHEREAS, the City received a request for a General Plan Amendment from "Open Space" to "Residential"; Rezoning from OS (Open Space) to R-10 (Single Family Residential, minimum 10,000 square feet per dwelling unit) and 5-lot Major Subdivision approval for the creation of 4 new residential lots in addition to an existing residence; and

WHEREAS, the Planning Commission held a duly noticed study session on February 13, 2007, and listened to testimony from the applicant and public; and

WHEREAS, at the February 13, 2007 meeting, the Planning Commission was unable to reach a consensus as how to direct the applicant, noting its preference for the City Council to first provide direction regarding the broad General Plan amendment portion of the applicant's requests; and

WHEREAS, absent the City's ability to place the General Plan question before the City Council prior to the Commission's review as required by Government Code Sections 65353 and 65354, the applicant, on March 13, 2007, requested that the City proceed with the General Plan Amendment portion of the application prior to Rezoning and Tentative Map applications, and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) the City completed an Initial Study to address the project's potential impacts on the environment, which included visual simulations of the proposed development; and

WHEREAS, the Planning Commission held a duly noticed public hearing on July 24, 2007, and listened to testimony from the applicant and public; and

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

1. That the above recitals are found to be true.
2. That the Planning Commission considered the Mitigated Negative Declaration prepared for this project prior to making their recommendation, which is for denial.
3. That the City Council deny the requested General Plan Amendment #06-03, to replace

the current designation of "Open Space" with "Residential", as deletion of the Open Space designation is not in the public interest, in that:

- a. Integral to the granting the entitlements to allow development of the Pine Meadows Subdivision, of which the subject property is part, the City Council of the City of Martinez, on August 18, 1976, amended the General Plan /Hidden Lakes Study Area Plan, designating the subject area as "Private Permanent Open Space"; in order to preserve the areas' rustic character by retaining unbuilt and/or wooded areas, including but not limited to the western and southern faces of the "Coward Knoll" along Vine Hill Way.
- b. The subject Open Space area is part of larger context within the Vine Hill Way corridor between Morello and Center Avenues, in which Vine Hill Way frontage of the nearby Vine Hill (Tr 4259) and Linton Terrace (Tr 4702) developments were set aside for the same scenic purposes.
- c. The scenic assets that the City acted to preserve as open space in mid 1970's are still of value to the community, and the Planning Commission supports their continued preservation as scenic assets. Commissioners Korbmacher, Burt and Allen find that no development should be considered, while Commissioners Kluber and Hughes find that some form of development may be possible, but that the design as currently proposed by the applicant does not appear to adequately preserve the desired rustic scenic quality.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 24th day of July, 2007:

AYES: Allen, Burt, Hughes, Kluber & Korbmacher
NOES: Busby & Glover
ABSENT:
ABSTAINED:

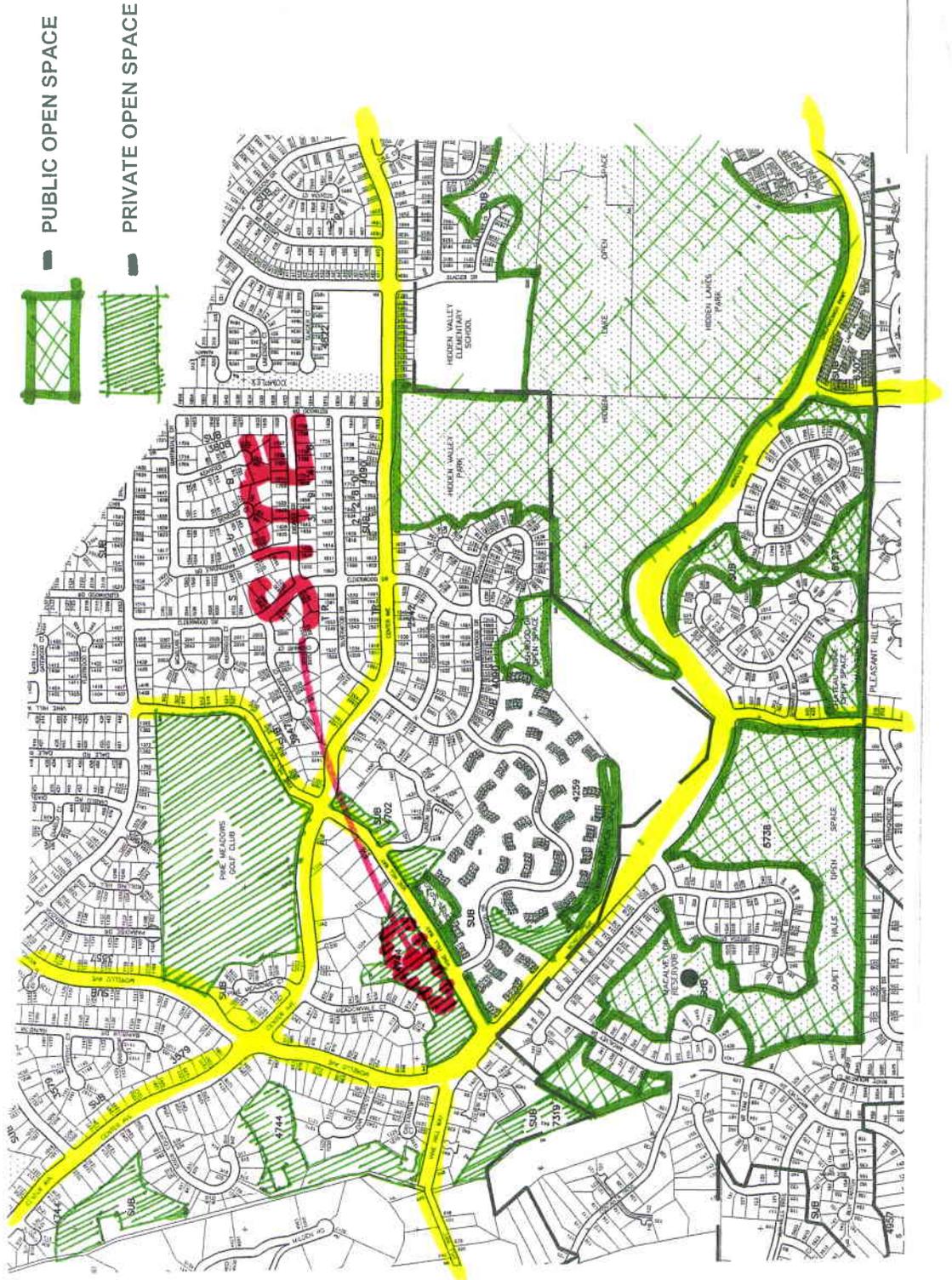
BY: _____
Mark Hughes
Planning Commission Chair

Corey M. Simon
Senior Planner

ATTACHMENT 6

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

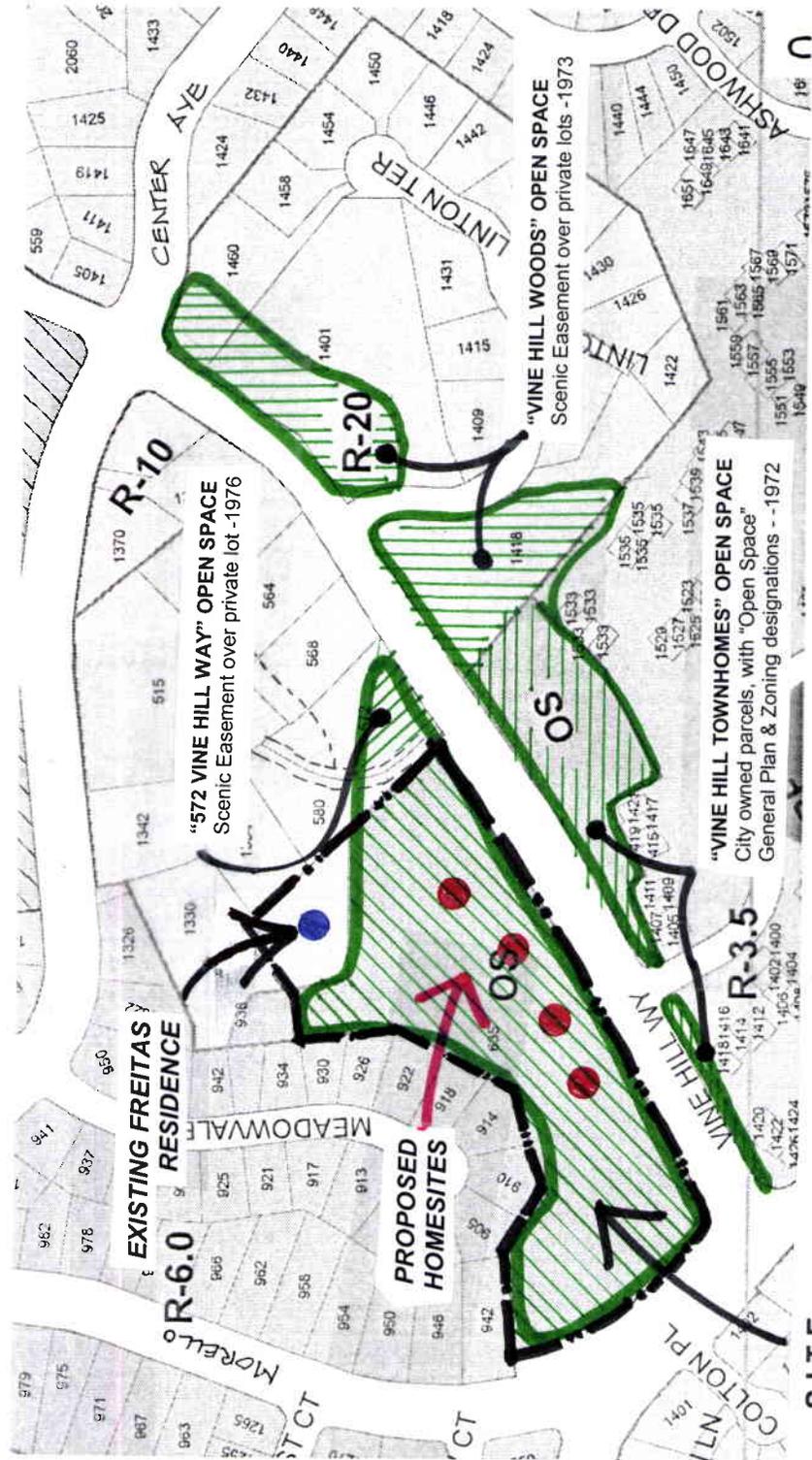
Open Space areas in vicinity of Morello & Center Avenues



ATTACHMENT 7

CITY COUNCIL STAFF REPORT - 2007.OCTOBER.03

Open Space areas along Vine Hill Way, between Morello & Center Avenues



SITE
"635 VINE HILL WAY" OPEN SPACE
Private lot with "Open Space"
General Plan & Zoning designations -1976

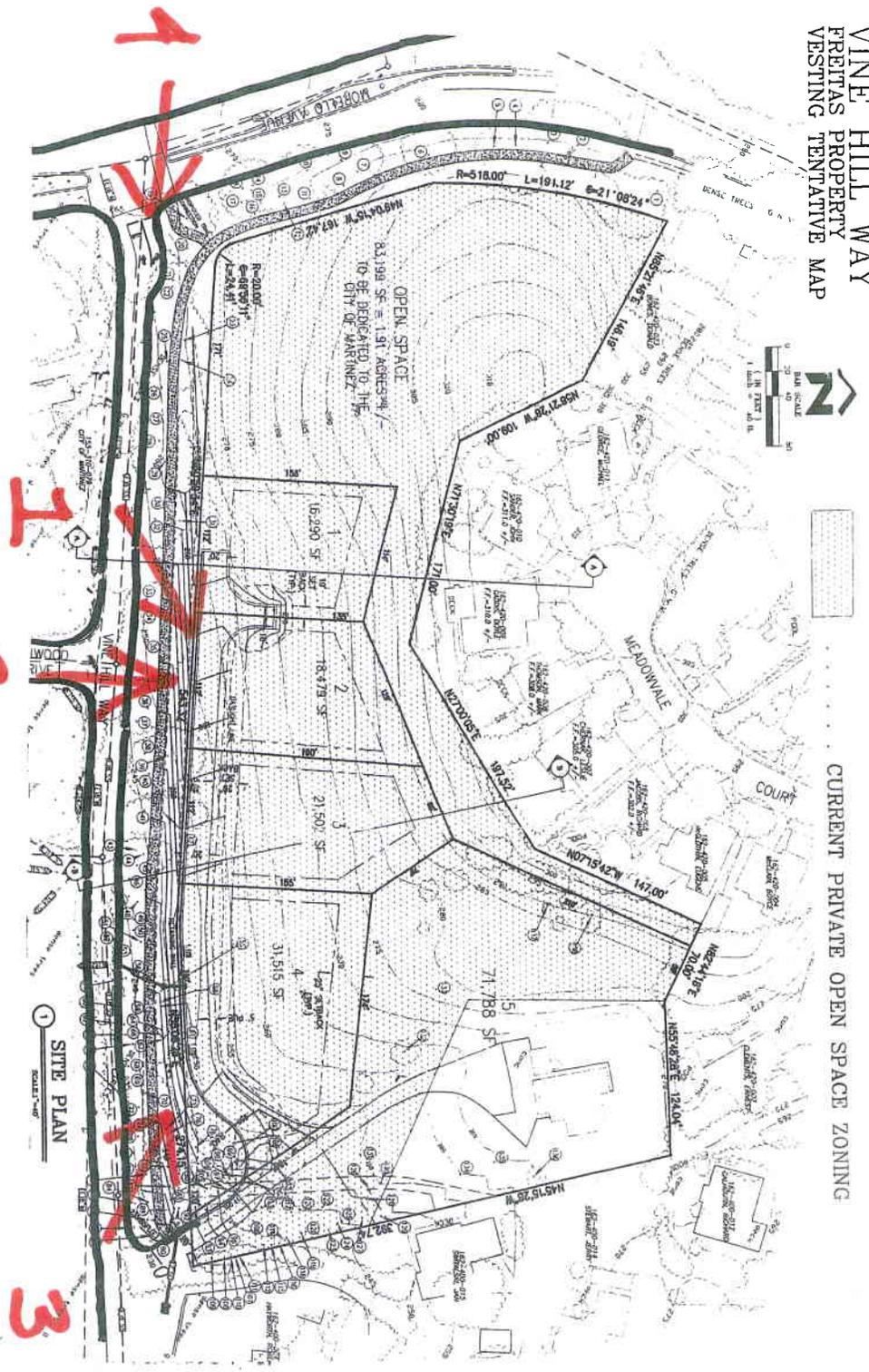
ATTACHMENT 8

Visual simulation of proposed development

CITY COUNCIL STAFF REPORT - 2007.OCTOBER.03

VISUAL ANALYSIS - EXISTING AND PROPOSED CONDITIONS
 FREITAS PROJECT Initial Study, 2007.06.29

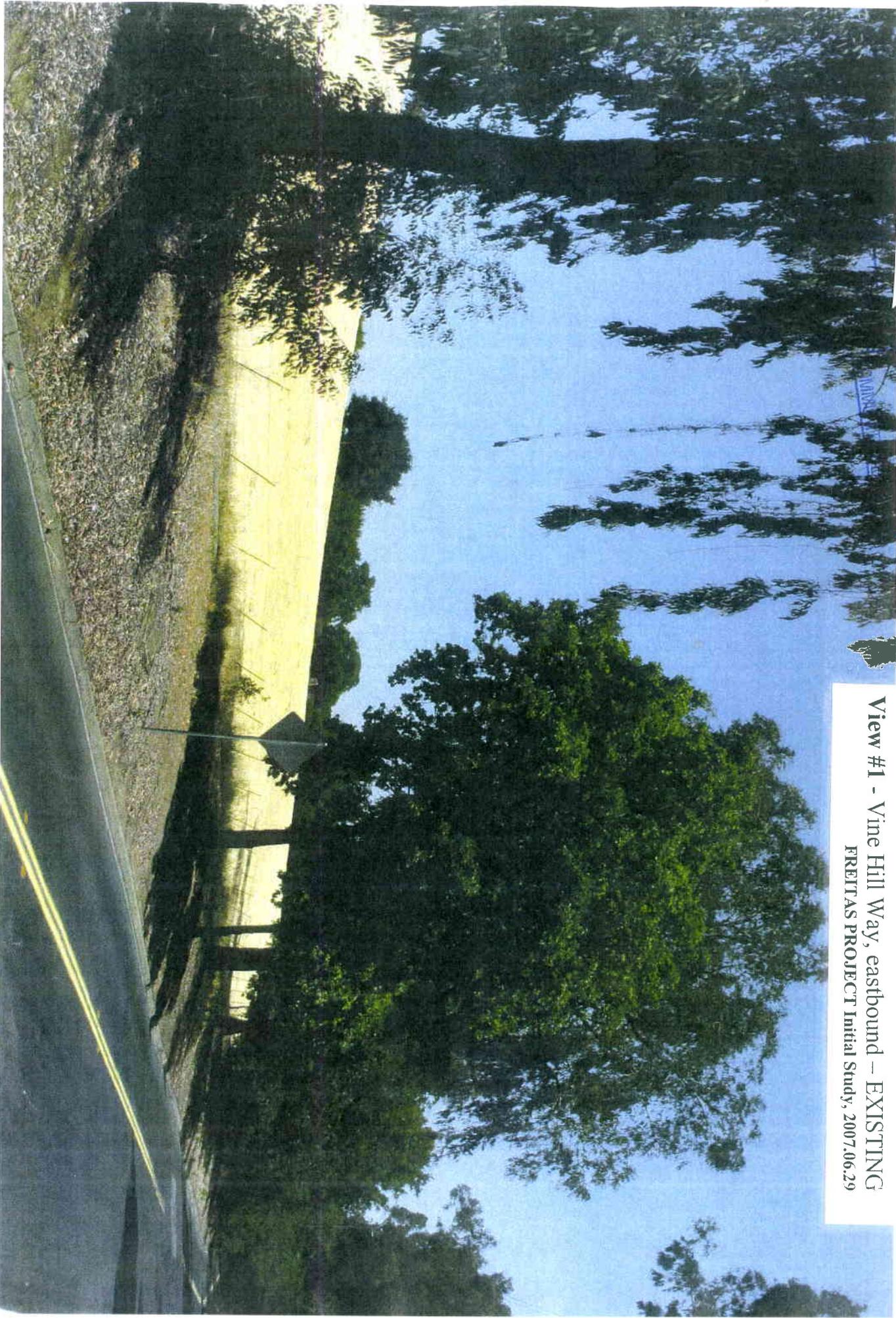
VINE HILL WAY
 FREITAS PROPERTY
 TENTATIVE MAP



1 SITE PLAN
 SCALE: 1"=40'

RECEIVED
JUN 19 2007

View #1 - Vine Hill Way, eastbound - EXISTING
FREITAS PROJECT Initial Study, 2007.06.29



2/13

View #1 - Vine Hill Way, eastbound - PROPOSED MASSING
FREITAS PROJECT, Initial Study 2007.06.29



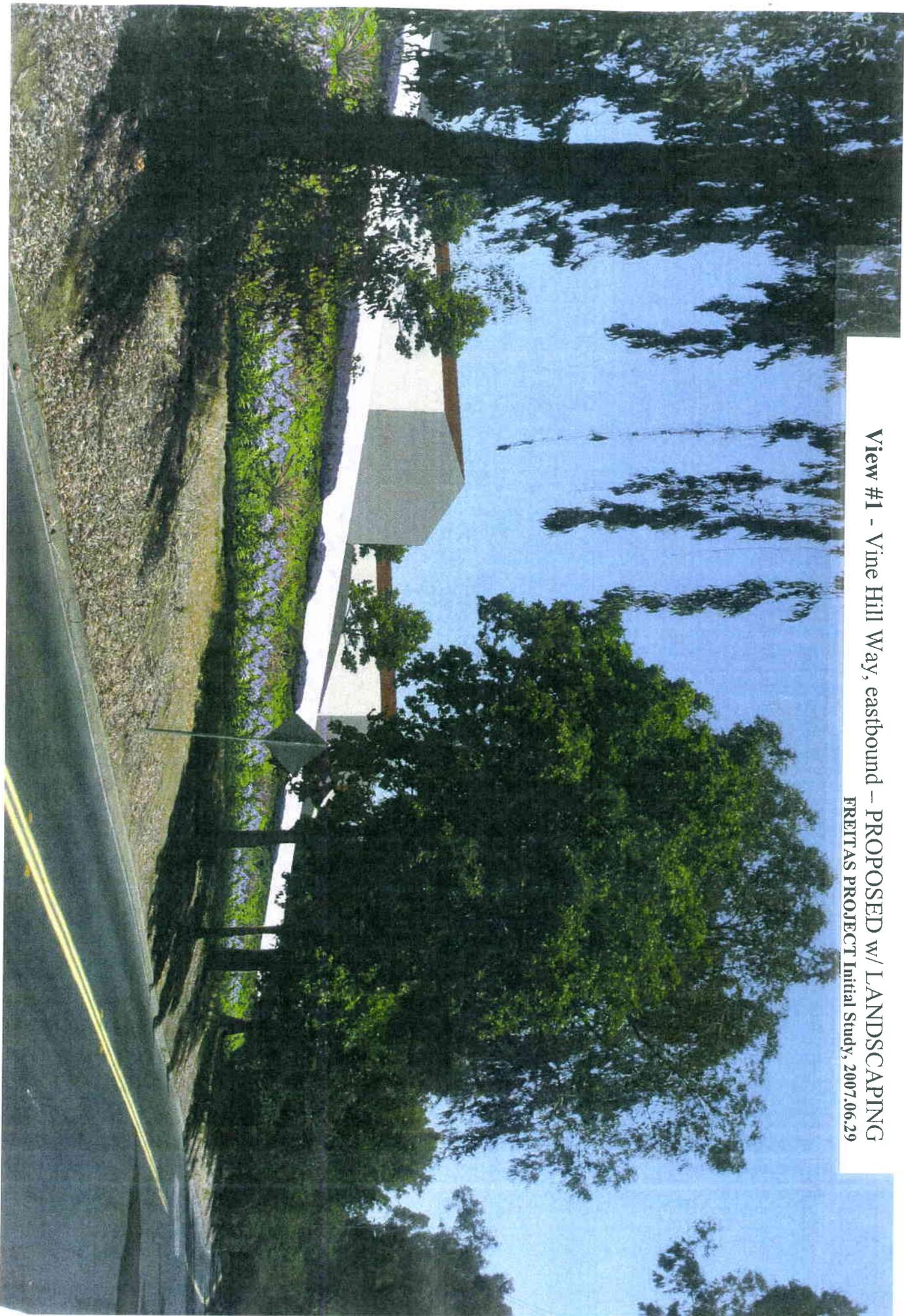
New House

4' Retaining wall

Fence

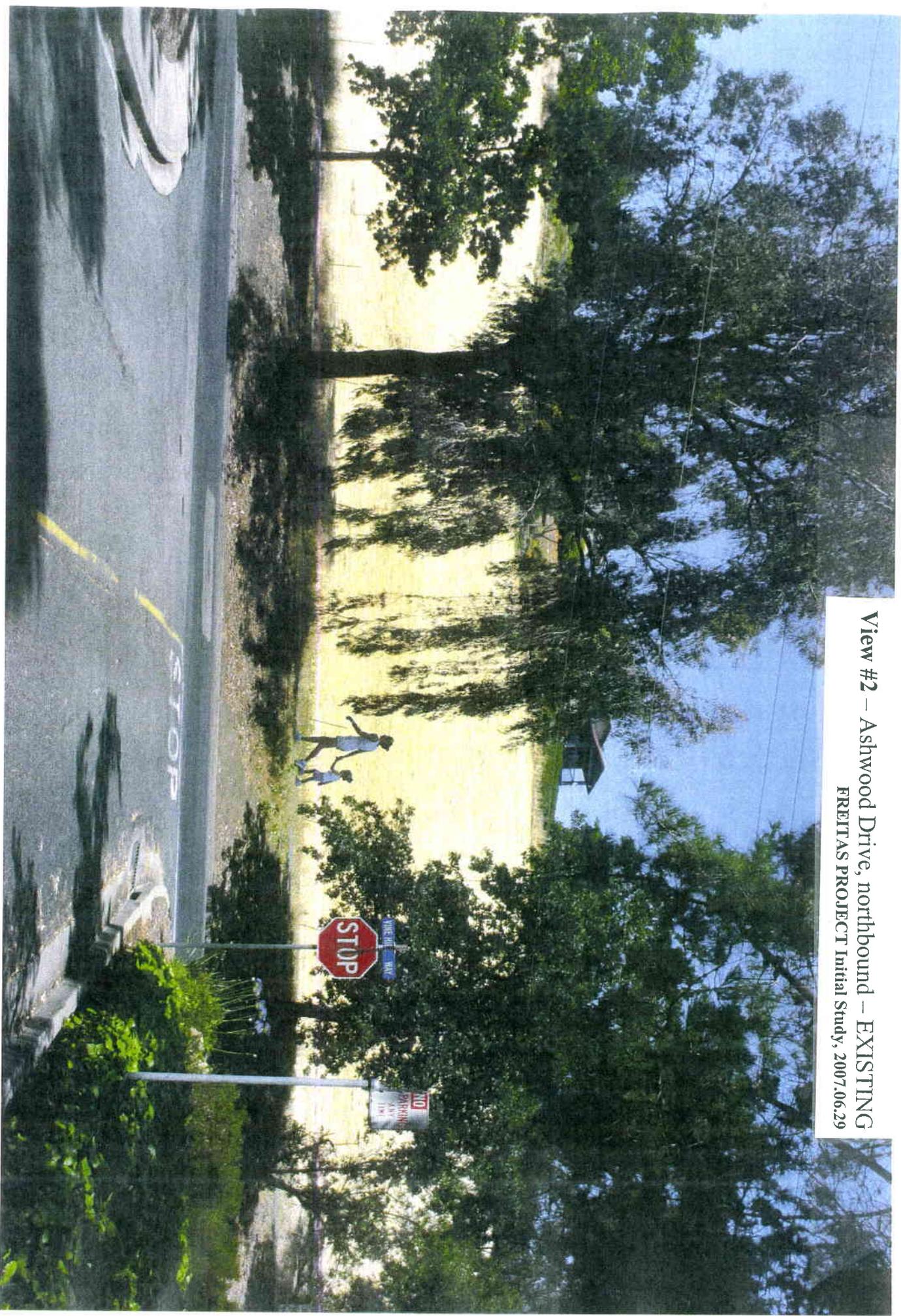
3/13

View #1 - Vine Hill Way, eastbound – PROPOSED w/ LANDSCAPING
FRETAS PROJECT Initial Study, 2007.06.29



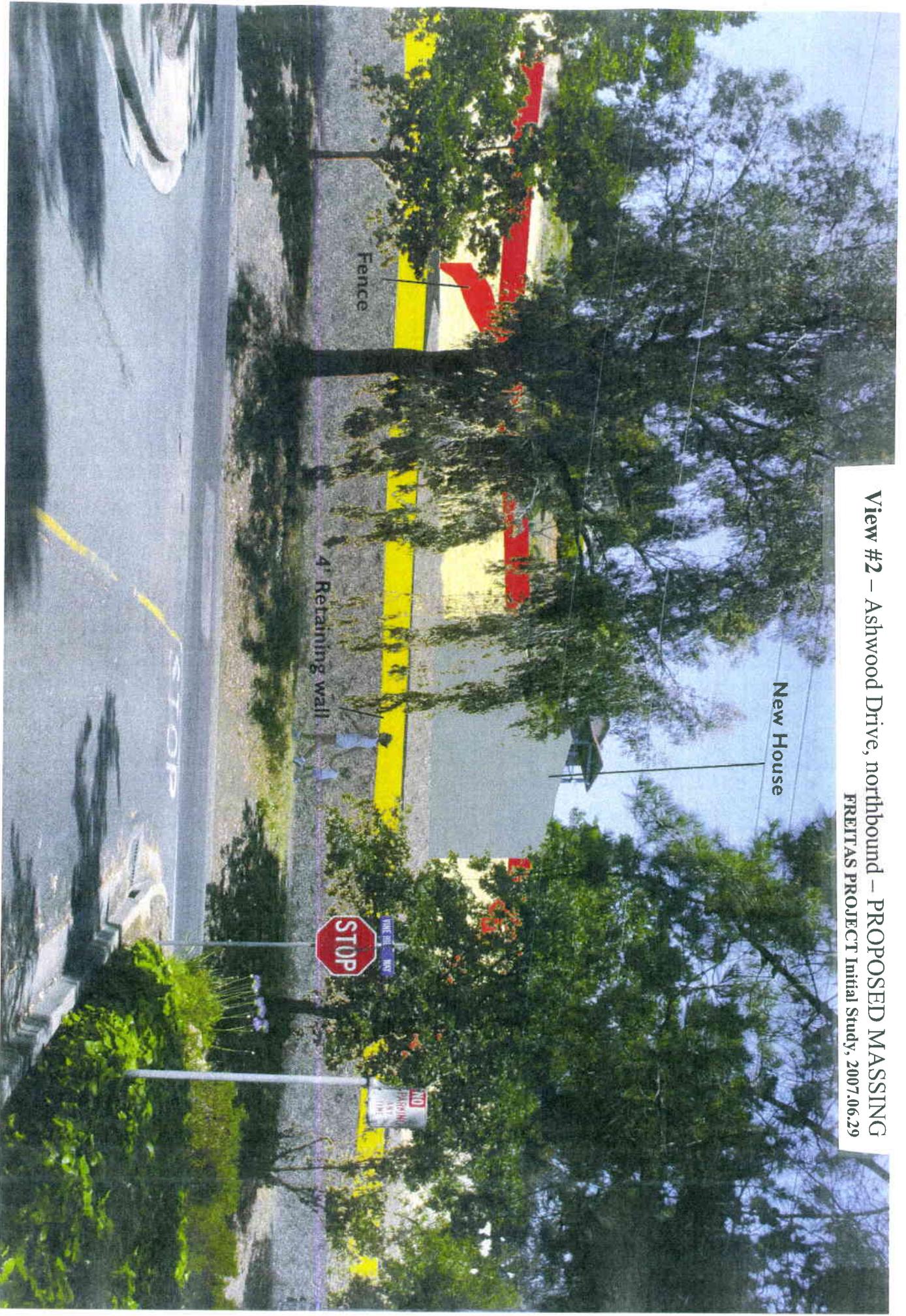
4/13

View #2 – Ashwood Drive, northbound – EXISTING
FRETAS PROJECT Initial Study, 2007.06.29



5/13

View #2 – Ashwood Drive, northbound – PROPOSED MASSING
FREITAS PROJECT Initial Study, 2007.06.29



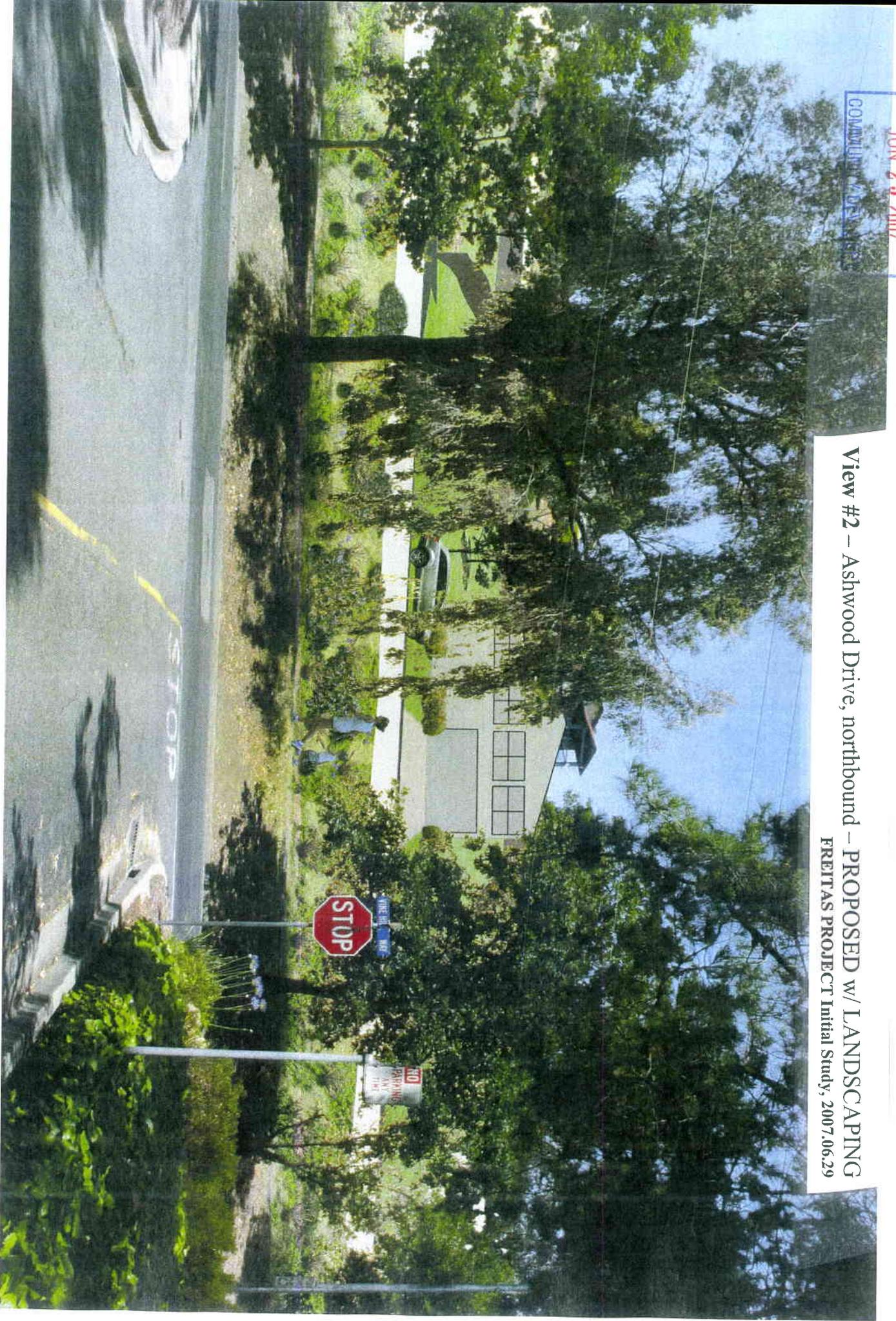
2/13

RECEIVED

JUN 25 2007

COMMUNITY DEVELOPMENT

View #2 – Ashwood Drive, northbound – PROPOSED w/ LANDSCAPING
FREITAS PROJECT Initial Study, 2007.06.29



7/13

View #3 - Vine Hill Way, westbound - EXISTING
FREITAS PROJECT Initial Study. 2007.06.29



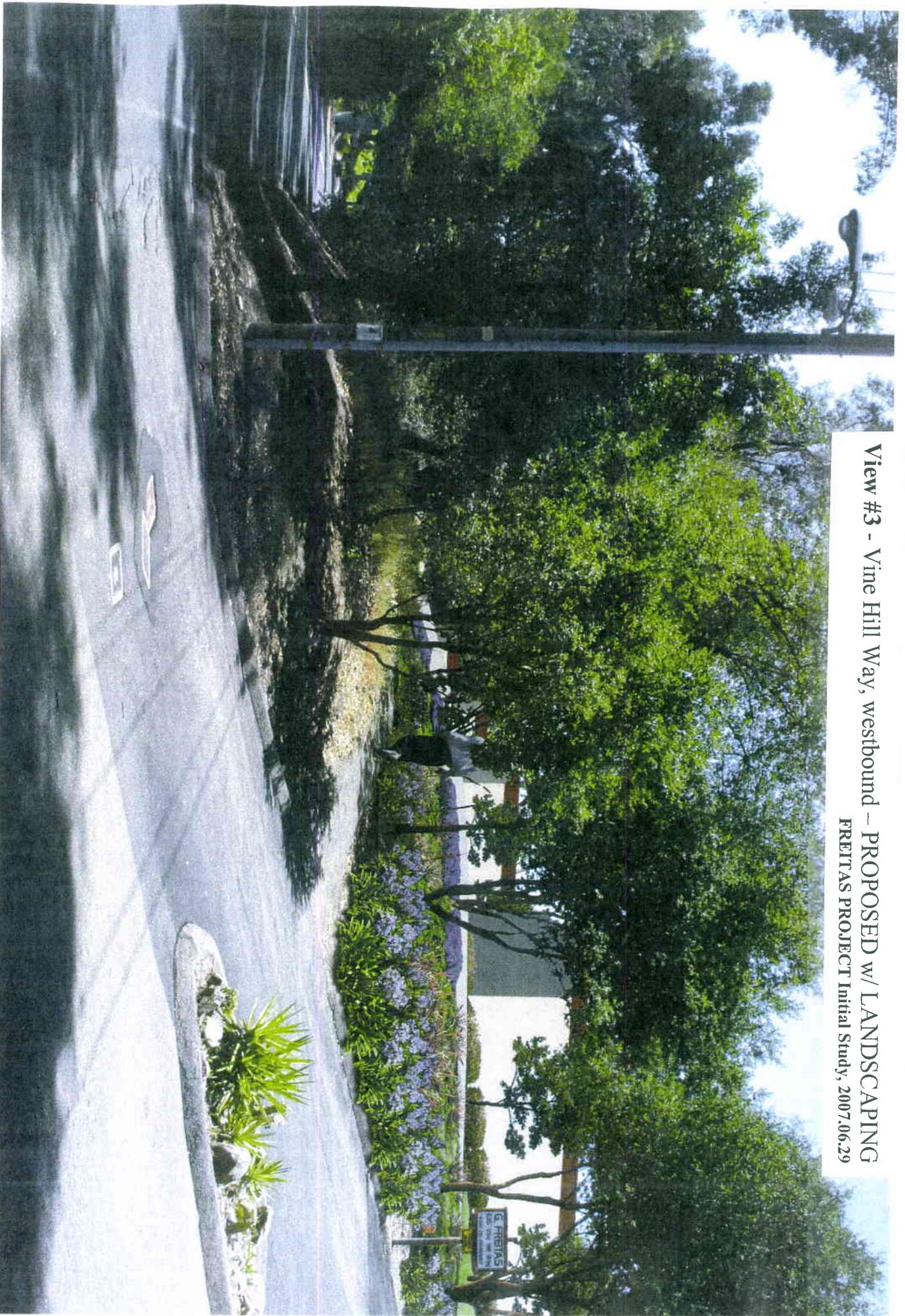
8/13

View #3 - Vine Hill Way, westbound - PROPOSED MASSING
FREITAS PROJECT, Initial Study 2007.06.29



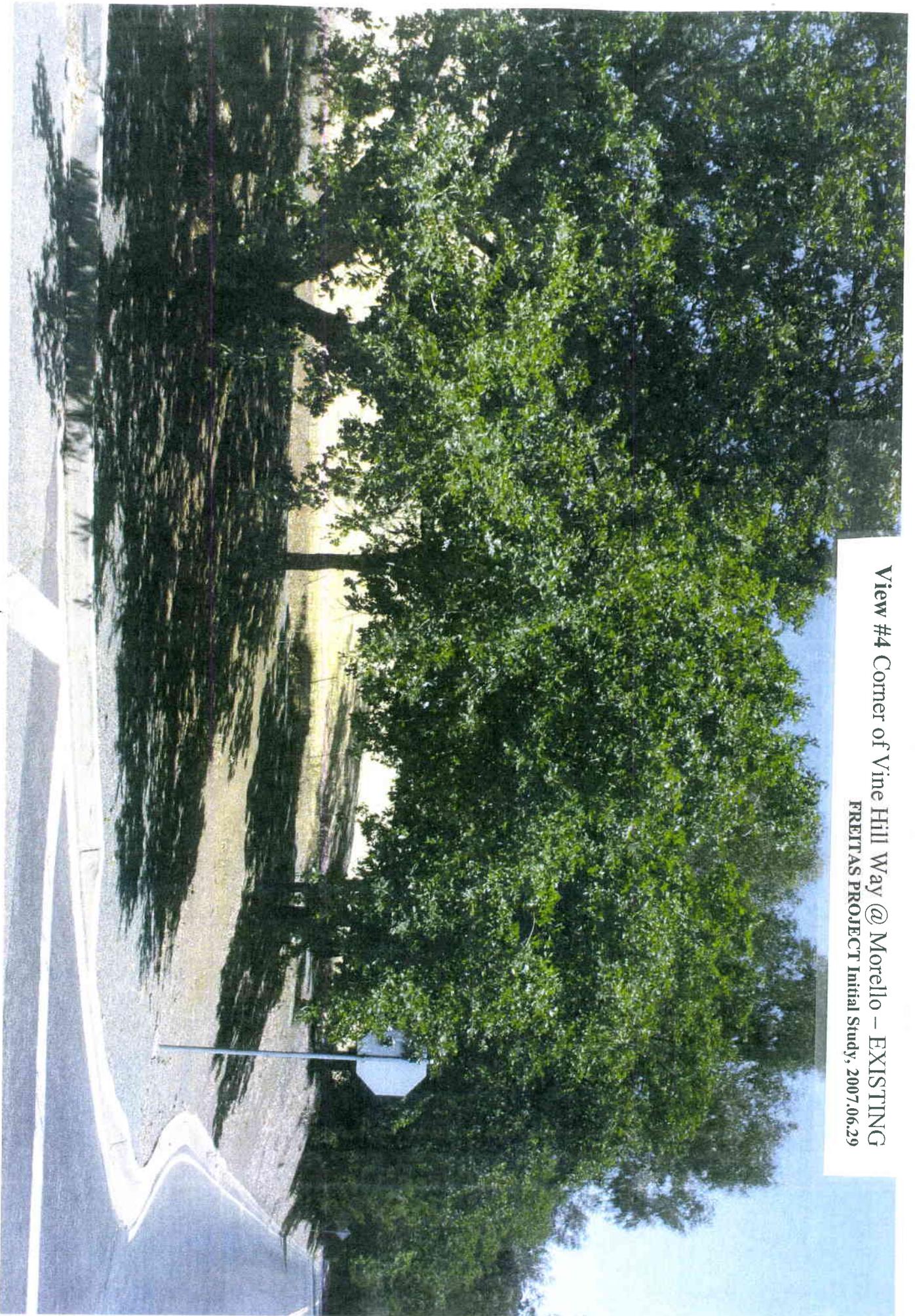
9/13

View #3 - Vine Hill Way, westbound – PROPOSED w/ LANDSCAPING
FREITAS PROJECT Initial Study, 2007.06.29



10/13

View #4 Corner of Vine Hill Way @ Morello - EXISTING
FREITAS PROJECT Initial Study, 2007.06.29



11/13

View #4 Corner of Vine Hill Way @ Morello – PROPOSED MASSING
FREITAS PROJECT Initial Study; 2007.06.29



4' Retaining wall

12/13

View #4 Corner of Vine Hill Way @ Morello – PROPOSED w/ LANDSCAPING
FREITAS PROJECT Initial Study, 2007.06.29



12/13

ATTACHMENT "H"

CITY COUNCIL STAFF REPORT – 2007.OCTOBER.03

"FREITAS PROPERTY" – GPA, Rezone & Sub # 9120 - Site & Project History – 2007.October.03

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
1971-73	General Plan & Hidden Lakes Specific Area Plan	<p>Entire area that is now "Pine Meadows" (subdivision 4744) was designated as "Open Space":</p> <ul style="list-style-type: none"> • The General Plan designated entire area as "Public Permanent Open Space." • Hidden Lakes Specific Area Plan designated the portion of sub 4744 that becomes Freitas Property & Meadowvale Court as "Open Space - 30% Over Slopes." Most other areas of future sub 4744 designated "Open Space- Other Values."
1973, Dec 12	Hidden Lakes Study Area General Plan Amendments (GPA)	<p>Hidden Lakes Study Area GPA amends above plan in anticipation of greater development potential than envisioned in 1971 [Exhibit H-1]:</p> <ul style="list-style-type: none"> • The "Coward Knoll" area of Pine Meadows (area that becomes the bulb of Meadowvale Court and the Freitas Property) was re-designated as "Permanent Open Space" from "Open Space - 30% Over Slopes." • Balance of the future Pine Meadows area was re-designated for single-family residential development - 0-6 units/acre.
1975, February	Application for subdivision 4744 filed	<p>Developer (Security Owners Corporation/James Busby) filed tentative map application for subdivision:</p> <ul style="list-style-type: none"> • Proposal was delete all open space areas. "Coward Knoll" and (future) Freitas property were to have been mass graded for residential lots. • Planning Commission denied the application, Developer appealed to Council, who referred item back to the Commission, and directed developer to provide alternate plan.

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
1976, March	Revised tentative map for sub 4744 submitted	<p>Revised map closer to 1973 Hidden Lakes Study GPA, but still reduced Open Space Areas. Staff generally supported revised map as a compromise:</p> <ul style="list-style-type: none"> The Environmental Impact Report (EIR) staff prepared for the new map recognized the area to become the Freitas Property as "mitigation" for adverse visual impacts: "a minimum 250-300 foot wide scenic and open space easement is planned adjoining Vine Hill Way, between the street grade and the lots at the top of the knoll." [Exhibit H-2].
1976, Jul 6	PC report and recommendations to City Council – General Plan Amendments and rezoning supported.	<p>Planning Commission recommended that the City Council adopt General Plan Amendments to permit the approval of the March 1976 map:</p> <ul style="list-style-type: none"> The open space area at "Coward Knoll" is reduced from 8-10 acres to approximately 6 acres, "of private open space alongside Vine Hill Way, incorporated into a horse set-up lot restricted by a 'scenic easement' prohibiting the erection of structures, obscure fencing or grading."
1976, Jul 6	PC conditions of approval for sub 4744	<p>Revised sub 4744 tentative map approved by PC [Exhibit H-3]:</p> <ul style="list-style-type: none"> A condition of approval required that for all of Lots 26 and 27 (now part of Freitas Property), "scenic easements prohibiting grading, tree removal, construction of obscure fencing and structures of any type except barns... shall be dedicated to the City of Martinez."
1976, Aug 18	City Council resolution 108-76 approving GPA's	<p>City Council amends General Plan/Hidden Lakes Study area with designations to match approved sub 4744 tentative map [Exhibit H-4]:</p> <ul style="list-style-type: none"> Lots 26 and 27 (to be purchased by Freitas), as "Private Permanent Open Space."
1977, March	City Council ord.# 856 C.S., rezoning areas within sub 4744	<p>City Council amends Zoning Map with designations to match approved sub 4744 tentative map [Exhibit H-5]:</p> <ul style="list-style-type: none"> Lot 25 (which was ultimately combined with Lots 26 and 27) rezoned from "R-7.5" to "R-20" District. Thus the ½ acre "homesite" portion of the Freitas property is within a different zoning district than the balance of the property Lots 26 and 27 (total size of approximately 5 acres) rezoned from "R-7.5" to "Open Space". (A four-fifths vote of the City Council is now required to delete an open space zoning designation).

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
1977, Nov 4	Final Map for sub 4744 recorded	<p>As per the July 6, 1976 conditions of approval for sub 4744:</p> <ul style="list-style-type: none"> • Lots 25, 26 and 27 were consolidated into one parcel, to be known on the final map as Lot 22. (to be purchased by Freitas). <p>Other differences between tentative map (as conditioned) & final map:</p> <ul style="list-style-type: none"> • Access to Lot 22 shifted from "flag" off Meadowvale Court to Vine Hill Way. • Required scenic easements omitted (see below).
1977, Dec 6	C C & C's for sub 4744 recorded.	<p>Developer recorded "standard" C C & R's for subdivision which included restriction on <u>all lots</u> within sub 4744 that:</p> <ul style="list-style-type: none"> • "no building shall be ... permitted ... other than one single family dwelling ... No lot shall be re-subdivided for the purposes of creating one or more additional home sites."
1978, November	-	Gary Freitas purchased property, begins intermittent pasturing of horses
1979, Jul 10	PC recommendation that City Council accept sub 4744 (e.g. engineering improvements, landscaping etc.)	<p>Subdivision was accepted, but PC Staff report stated:</p> <ul style="list-style-type: none"> • "due to an oversight by the developer and City, scenic easements were <u>not</u> recorded with the final map." • Council and Developer advised of situation, and developer offered to facilitate amending the recorded map of willing property owners. All but one property owner were <u>unwilling</u> to have the scenic easements recorded. • No scenic easements ever recorded on Lot 22.
1988, Nov 23	Gary Freitas filed application for 6-lot subdivision, and for GPA's and rezone	<p>Commission took testimony at the February 28 1989 and March 14 1989 meetings:</p> <ul style="list-style-type: none"> • Many neighbors were opposed to the application, and refer to the C C & R's as a "contract" prohibiting additional subdivision of existing lots. • The Commission's consensus was that the open space should be retained, and denied the GPA, rezone and subdivision. • Mr. Freitas filed an appeal to City Council, but subsequently withdrew it, asking the Council to consider reviewing open space restrictions as they apply to privately held property.

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
1990, Nov 6	Staff's Development Review Committee's review of preliminary application for swimming pool on Lot 22	The Committee found the swimming pool request to be inconsistent with existing open space general plan and zoning designations, so Mr. Freitas was told that general plan amendment and rezoning applications were required. (no formal application for this request were made).
1998, ?	-	Mr. Freitas meets with staff to again discuss possibility of development. Staff reminds the property owner of CC&R's general prohibition against any additional subdivision of all residential lots within sub 4744. Staff advises Mr. Freitas that he should work with property owners to amend CC&R's to allow the possibility of a subdivision, before the City takes any further action.
1998-1999	Draft amendment to C C & C's circulated and voted on	Property owners of sub 4744 are asked to vote on amending subdivision's C C & R's to read "no lot may be re-subdivided for the purpose of creating additional home sites <i>"except for Lot 22, which may be subdivided to allow for four new single family residences (for a total of five)..."</i>
1999, May 17	Superior Court order, accepting petition of Gary Freitas to amend C C & R's	With over 50% of affirmative votes of 127 property owners in sub 4744 (57.94% of votes cast, 50.39% of total property owners) the judge finds against the opponents of the petition, stating that the change in density is not "unreasonable." The above change in C C & R's is ordered to be recorded, and mailed to all lot owners. [NOTE: <u>the Court's order does not mandate approval of a 5 lot subdivision</u> - it just removes the prohibition of such a possibility. The City retains the full range of discretionary options in approving, conditionally approving or denying any general plan amendment, rezone and subdivision request.]
1999, Nov 15	Project Review Committee (PRC) review of Mr. Freitas revised plan with 5-lot subdivision	Staff did not "believe this property is prime open space and could support the construction of several homes, as long as there is support from the surrounding home owners." Staff gave instructions regarding the submittals of the required applications, including conformance to the <i>Hillside Development Regulations</i> .

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
2000, Sep 19	Application for subdivision 8452 (a re-subdivision of Lot 22, sub 4744) filed, along with request for GPA to "Residential 0-6 units/acre" and Rezone to R-15.	<ul style="list-style-type: none"> Staff continued to work with Mr. Freitas' consultants to complete application package. Preliminary architectural plans were submitted on March 30, 2001. Applicant and staff continue to work on application, with allowable slope density issues remaining outstanding. <p>On January 15, 2002, Mr. Freitas hosted a neighborhood meeting, with notices sent to owners within 300' of his property, to discuss concerns and alternatives to the Sept. 2000 plans. Meadowvale Court owners expressed concern that their views should not be blocked by new development below them.</p>
2002, Mar-Aug	Application is amended, along with GPA request now for "Residential, Slope Density " and rezone request from R-15 to R-10.	<p>Applicant refines and alters applications package with various plans and documents. Of note:</p> <ul style="list-style-type: none"> Issues regarding allowable "slope density" and applicable <i>Hillside Development Regulations</i> (HDR's) are clarified. Requested general plan designation would allow residential density up to the maximum permitted by HDR's. In order to permit 5 lots, the R-10, rather than the R-15 district would be necessary.
2003, Jan 14	Staff report and minutes for first PC study session re: current application.	<p>Commissioners requested additional historical background and continued the study session to future meeting.</p> <ul style="list-style-type: none"> Of specific concern was whether any type of "promise" was made in the approval process for sub 4744 to keep the Freitas property as open space. Only 3 neighboring residents spoke at meeting - all 3 were in favor of applicant's proposal.
2003, Feb 25	Staff report and minutes for second PC study session re: current application	<p>Staff presented its limited research, which at that time, appeared to support the applicant's [erroneous] claim that the subject property was never intentionally made protected open space as part of the City's land use approvals for sub 4744 :</p> <ul style="list-style-type: none"> February 10 letter from James Coward, who sold the area that became sub 4744 to developer James Busby in the mid 1975's, contributes to this view by stating that "<i>there was never any indication that any of my land was going to be zoned 'open space'...nowhere in the paperwork for the sale of the</i>

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
		<p><i>property of it for subdivision, is there any reference to open space...I don't know who could promise private property would be open space."</i> (sic)</p> <ul style="list-style-type: none"> Mr. Coward's opinion is inconsistent with historical record, as preservation of this property as open space was confirmed by the Council's GPA's in November 1973 and again in August 1976. Mr. Coward's, and subsequently staff's, confusion may have arisen from the fact that <u>public dedication</u> of the (Freitas) open space property was not made a condition of sub 4744's approval. At this study session, only one neighbor spoke and was in favor of the application. With the appearance of neighborhood "buy-in" and the appearance of no pre-existing policy to permanently preserve the property as open space, the Commission concludes that it would be appropriate for the application to proceed through the hearing process.
2003, April	<p>Design Review Committee reviews architectural and landscape plans for subdivision.</p>	<p>DRC supports the design as proposed, and recommends approval to the PC.</p>
2003, Sept-Nov	<p>Current tentative map submitted by applicant, copies sent to interested agencies (i.e. Fire Protection District) for comment</p>	<p>No opposition from other agencies was received.</p>
2003, Dec 18	<p>City's geotechnical consultant completes "peer review" of applicants soils study</p>	<p>City's consultant generally accepts applicant's plans and soil engineers' recommendations, but recommends some minor refinements</p>

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
2004, Jan 27	Staff report and minutes for first PC public hearing re: current application	<p>No action was taken at first hearing, as staff became aware that the public notice and draft Negative Declaration had erroneously identified the rezone request to R-15 (as per the originally application) as opposed to the current request for R-10. Staff recommended that the Commission take public testimony, and continue the item. Application re-noticed with corrected rezoning request for March 23 hearing:</p> <ul style="list-style-type: none"> • Prior to meeting, 5 letters were received (4 in opposition, 1 in support). • Over 20 residents spoke at hearing; a slight majority was opposed to application. Several stated that this was the first public meeting notice they had received, which implies that the earlier study sessions were not as widely noticed as the current hearing (1/4 mile radius notification required for a hearing to act on a major subdivision request). • Since Jan 27 hearing, 2 more letters in opposition, and one in support, have been received. • Commission direct staff to conduct further research into the site's history.
2004, Mar 23	Meeting minutes	Additional testimony taken from public, and discussion by Commissioners. Commission again continues item, directs staff to prepare resolution with findings for denial, for action at future meeting.
2004, April 1	letter of withdrawal	Mr. Freitas withdraws all pending applications, no further Commission action is taken. Commissioners discuss possibility of adopting resolution in support of retaining the open space designation as per sub 4744's original approval, but Commission does not reach consensus.
2006-2007	Revised application	Current application (sub 9120 filed). Development shifted eastward, avoiding "coward Knoll" hill face. Application found to be incomplete. Staff recommends Study Session with Planning Commission (prior to formal completion of tentative map application) to allow public and Planning Commission comment prior to further expense.
2007, Feb 13	Staff report and meeting minutes	Prior to completion of application, "2006" application return to Planning Commission as study session item, commission unable to reach consensus; hopes that City Council can "weigh-in" on fundamental General Plan question

DATE	DOCUMENT	ADOPTED POLICY OR ACTION
2007, Mar-June	Letter from applicant, & Initial Study with visual simulations	<p>first. City Attorney recommend against such an approach, as it may create the opportunity for a challenge to Council member's "impartiality" when they take final action on the project.</p> <p>Rather than go to a study session at the City Council, the applicant, with staff's concurrence, requests the City take final action on the GPA first. Action on GPA trigger the preparation of a new Entail Study (focus of environmental doc on visual impact, simulations prepared) Staff circulates draft "mitigated neg dec, recommending "mitigations measures" (lower grade and/or building heights) to reduce visual impact to "less than significant impact."</p>
2007, July 24	Staff report	Planning Commission recommends denial of GPA on 5-2 vote.
2007, Oct 03	Staff report	City Council hearing on GPA request

EXHIBIT H-1

SITE AS "PERMANENT OPEN SPACE"



H-1
(p. 1-3)

STORM AVE - GENERAL PLAN / A MEMORANDUM - 11/73

North

H-1
(p.2 of 3)

RESOLUTION NO. 154
(1973 Series)

AMENDS GENERAL PLAN - HIDDEN LAKES STUDY AREA

WHEREAS, there has been presented to this meeting of the City Council of the City of Martinez, that since all of the changes have been incorporated into the Hidden Lakes policies, by the Planning Commission, they should now be adopted as part of the General Plan so as to be accurately reflected in the new plan document under preparation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that the General Plan, "Hidden Lakes Study Area," parcels #12-16 is hereby amended.

* * * * *

I HEREBY CERTIFY that the above is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a regular meeting of said Council, held on the 12th day of December, 1973, by the following vote:

AYES: KRAUSE, RADKE, THELEN, SPARACINO

NOES: NONE

ABSTAIN: NONE

ABSENT: LANCE

City Clerk of Martinez

511
H-1
P 3 of 3

On motion by J. Thelen, seconded by T. Radke, and by unanimous vote of the Council present, Resolution No. 152 (1973 Series) was duly adopted.

HUMAN RESOURCES ART AND ESSAY CONTEST AWARDS

Mr. Tom Dorris, representing the Human Resources Commission, appeared and spoke on the high quality of entrances in this contest.

Awards were presented to each winner in the Art and Essay Contest, and Mayor Sparacino congratulated each youngster for his achievement.

COUNCIL RECESSED AT 8:15 P.M. AND RECONVENED AT 8:25 P.M.

RESOLUTION NO. 153 (1973 Series) - Authorizes Publication of Notice of Election

This resolution has for its purpose authorizing the City Clerk to publish a Notice of Election and further ratifies the fee to be charged as a deposit for the Statement of Qualifications for council nominees. The deposit was set in the sum of \$100.

On motion by J. Thelen, seconded by T. Radke, and by unanimous vote of the Council present, Resolution No. 153 (1973 Series) was duly adopted.

RESOLUTION NO. 154 (1973 Series) - "Hidden Lakes Study Area"

Planning Director Barry Whittaker stated that the Planning Commission approved an amendment to the General Plan in the Hidden Lakes Study Area at its meeting of November 20, 1973. Except for the "Musser/James" property, all the changes have been incorporated into the Hidden Lakes policies and should now be officially adopted as part of the General Plan so as to be accurately reflected in the new plan document under preparation.

On motion by J. Thelen, seconded by J. Krause, and by unanimous vote of the Council present, Resolution No. 154 (1973 Series) was duly adopted. This resolution has for its purpose amending the General Plan "Hidden Lakes Study Area", parcels #12 - 16.

PARK DEDICATION FEE SCHEDULE

Consideration of the adoption of a revised park dedication fee schedule was deferred to the next council meeting.

RESOLUTION NO. 155 (1973 Series) - Agreement for Rate Study on Televents

This resolution has for its purpose authorizing the Mayor to execute an agreement with the firm of CH2M providing for the conduct of a rate study of Televents, and further approves a budget adjustment for the City of Martinez' share in the joint project.

On motion by J. Krause, seconded by J. Thelen and by unanimous vote of the Council, Resolution No. 155 (1973 Series) was duly adopted, as outlined above.

REQUEST FOR RATE INCREASE FROM TELEVENTS

On motion by J. Krause, seconded by J. Thelen, and by unanimous vote of the Council present, a request for an increase in rates, made by Televents, Inc., was denied, in view of the authorization for participation in a rate study, just approved by Resolution No. 155 (1973 Series).

RESOLUTION NO. 156 (1973 Series) - Off-Highway Vehicles

This resolution has for its purpose authorizing the Mayor to execute a Joint Exercise of Powers Agreement for Planning of Off-Highway Vehicles, and was adopted on motion by J. Thelen, seconded by T. Radke, and by unanimous vote of the Council present.

CORRESPONDENCE - Accepted for Filing

By order of the Chair, a communication from the East Hillside Neighborhood Association was acknowledged and ordered filed, and assurance was given to the Association that any assistance with regard to use of waterfront property will be given acknowledgement and consideration.

On motion by J. Krause, seconded by T. Radke, and by unanimous vote of the Council present, a copy of the Board of Supervisor's resolution establishing energy conservation and appointment of a Contra Costa County Energy Conservation Commission, was ordered filed.

Inasmuch as no objection was raised by Chief of Police Jerry Warren, the Council ordered the filing of a communication from the Alcoholic Beverage Control Board regarding a license transfer from 719 Main Street to 530 Main Street.

RESOLUTION NO. 157 (1973 Series) - AMTRAC

This resolution has for its purpose urging AMTRAC to establish the City of Martinez as a regular passenger stop on the proposed new San Joaquin Valley Route, and was approved on motion by T. Radke, seconded by J. Thelen, and by unanimous vote of the Council.

as beneficial to the school districts, which have been experiencing financial difficulties from declining enrollment (and hence, declining State aid, but more or less fixed facility and overhead expenses).

3. Visual Impact: Adverse visual impacts are expected to occur in two locations--along Vine Hill Way (and from some of the Vine Hill Townhouses which overlook a portion of the site) adjoining the projects and from several lots within Muir Oaks overlooking the subject projects.

a. Vine Hill Way: Since originally submitted, the project plans have been extensively modified to reduce the visual impact along Vine Hill Way. As now proposed, no lots front Vine Hill Way; hence, none but minor improvements are proposed for Vine Hill Way. From Morello Avenue westerly severn lots back onto Vine Hill Way. However, these lots are planned to be developed at near natural grade. In addition, the rear 50 feet adjoining Vine Hill Way, is planned to be dedicated as a scenic easement, and planted with trees, to act as a buffer between Vine Hill Way and the fenced-in padded lots. From Morello Avenue easterly a minimum of 250 - 300 foot wide scenic and open space easement is planned adjoining Vine Hill Way, between the street grade and the lots at the top of the knoll.

Most obtrusive from Vine Hill Way will be the new houses at the top of the "Coward Knoll". Although cutting of this knoll has been reduced to about 10 feet on the latest plans, the houses on top of this knoll will be quite visible from Vine Hill Way. The greatest impact would be at the crest of the hill on Vine Hill Way. A second area of impact is on several of the knoll top units in the Vine Hill townhouse project, who have an excellent view of the present knoll, and to whome the knoll top houses will be most visible. (See Fig. 2.)

→ Mitigation: In addition to the mitigation already incorporated into the plans (in the nature of moving lots away from Vine Hill Way, reducing cuts and saving an oak tree), a requirement that lots on the knoll-top be restricted to a single-story construction above street grade would minimize their impact on the scene.

b. Muir Oaks: Six lots on Mildren Road (4919 to 5014 Mildren Road) immediately adjoin and overlook the 140-lot tract. Their view is of the central county area, from Buchanan Airfield northerly, with natural terrain, open hillsides and knoll in the immediate foreground. The foreground view would be replaced instead by houses on graded pads. The extension of Snow Drive in particular would result in new houses on padded R-10 lots (10,000 square feet minimum area) adjacent and very visible to 4919, 4927, and 4941 Mildren Road. The other impacted lots would have either R-40 minimum lots adjacent or somewhat longer range views of the R-10 lots.

Mitigation: Extensive mitigation in the nature of reducing the number of lots in this area, increasing their minimum and average size, and reducing the grading has already been incorporated into the plan. The addition of a requirement that the knoll-top lots be restricted to one-story construction (above the street) would further



City of Martinez

H-3
(p2 of 3)

525 HENRIETTA STREET • MARTINEZ
CALIFORNIA 94553 • (415) 228-4400

July 9, 1976

Mr. James Busby
P.O. 430
Martinez, CA 94553

Dear Mr. Busby:

At its meeting of July 6, 1976 the Planning Commission certified an EIR and Addendum for Pine Meadows subdivision, voted to recommend to the City Council that the property be rezoned to R-6.0, R-10, R-40 and Open Space, and approved a tentative map for the subdivision.

Conditions of Approval for the tentative map are as follows:

1. Approval is conditioned upon the necessary General Plan amendment and rezonings being adopted by the City Council.

2. LOTS: Revisions shall be made to the lotting as follows:

- a. Lots #26 and 27 shall be eliminated and combined with Lot #25.
- b. Lot #59 shall be eliminated and combined with Lot #26.
- c. Lots #77 and 78 shall be eliminated and combined, along with a rear portion of Lot #67, with Lot #66, making Lot #66 a minimum size of two acres.
- d. Lot #135 shall be eliminated and combined with Lot #134.

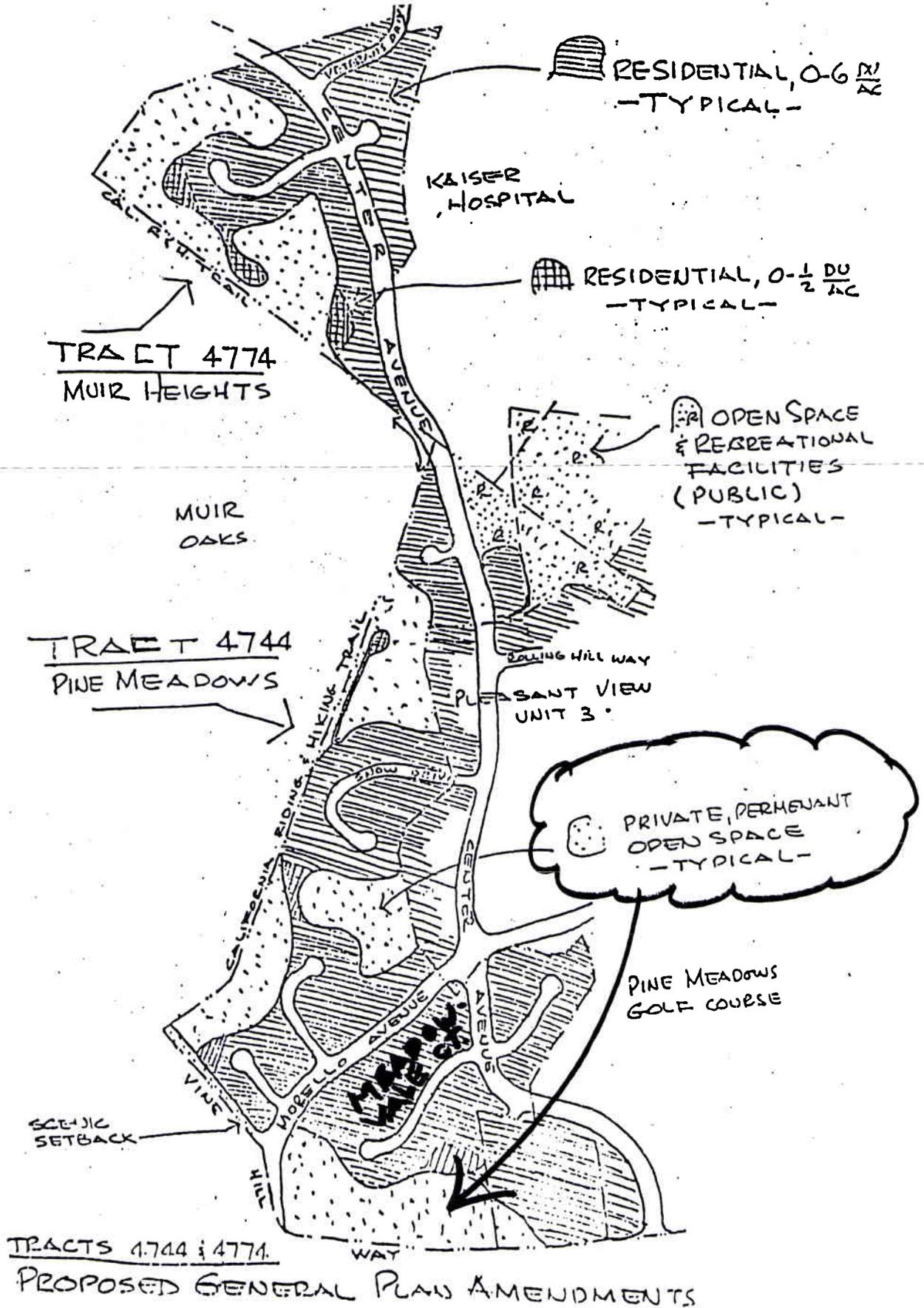
The net result is 132 residential lots plus Lot #134 (+135) planned for park dedication.

5. Scenic Easements: Scenic easements prohibiting grading, tree removal, construction of obscure fencing and structures of any type except barns and/or sheds associated with and incidental to the keeping of animals on the site shall be dedicated to the City of Martinez over all of Lots #26, 27, 59, 77 and 78, and all of Lots #25, 66, 67, 102-106, 107 and 112 except reasonable area for residences and associated buildings and yards therefor (all lots as shown on the proposed Tentative Map).

EXHIBIT H-4

1976 GDA TO PRIVATE O.S.

H-4
(P1 of 4)



TRACTS 4744 & 4774
PROPOSED GENERAL PLAN AMENDMENTS

H-4
(p2 of 4)

RESOLUTION NO. 108-76

AMENDS GENERAL PLAN TO TRACTS 4744 and 4774

WHEREAS, the City Council of the City of Martinez has received a recommendation from the Planning Commission to amend the General Plan to Tracts 4744 and 4774 in the vicinity of the Veteran's Administration Hospital area; and

WHEREAS, the effect of the General Plan amendment is to increase the total number of lots in the two subdivisions by 22⁺, reduce permanent open space by approximately two acres, change some permanent public open space to permanent private space and grade and build on three knolls adjoining Muir Oaks; and

WHEREAS, the EIR and addendum were certified to by the Martinez Planning Commission prior to its recommendation to the City Council; and

WHEREAS, the City Council held a public hearing this date and considered the recommendations.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Martinez that the General Plan be and the same is hereby amended, pertaining to Tracts 4744 and 4774, bounded by Vine Hill Way, Muir Oaks, V.A. Hospital, Orleans Plaza, Kaiser Hospital, Pleasant View No. 3 and Pine Meadows Golf Course, and changes Tract 4774 from "Parkway Holding Zone" to Residential, 0-6 du/acre and permanent open space; and Tract 4744 providing for minor changes in boundaries between Residential, 0-6 du/acre, and permanent open space, and changes their permanent open space from "planned public open space" to "Private open space".



* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a regular meeting of said Council held on the 18th day of August, 1976, by the following vote:

AYES: Councilmen - GIANNO, KRAUSE, LANCE, THELEN, SPARACINO

NOES: Councilmen - NONE

ABSTAIN: Councilmen - NONE

ABSENT: Councilmen - NONE

Luth A. Steiner, Deputy
City Clerk of Martinez

Staff
Recommendation:

That the Planning Commission, by resolution, adopt the recommended amendment to the General Plan and recommend to the City Council that it do the same.

H-4
(p. 3-4)

Discussion:

The effects of amending the General Plan as recommended are summarized as follows:

1. Density increases:

- a. Tract 4744: The plan recommended for approval will yield about 132 lots consistent with the General Plan amendment, as opposed to about 116 lots if developed to conformance to present General Plan policy:
EFFECT: Increase of 16 lots +.
- b. Tract 4774: The plan recommended for approval will yield about 60 lots consistent with the General Plan amendment, as opposed to about 54 lots if developed in conformance to present General Plan policy extended onto this site:
EFFECT: Increase of 6 lots +.

2. Permanent Open Space:

- a. Reduction of Area, Tract 4744: There would be a reduction of permanent open space of about 2 acres over that required by present General Plan policy, due to the construction of eight houses and lots on the Coward Knoll adjoining Vine Hill Way, rather than this area remaining as permanent open space. Impact of change is visual.
- b. Change of designation from planned permanent public open space to planned permanent private open space; Present General Plan policy calls for an 8-10 acre public open space area along Vine Hill Way including the top of Coward's knoll; revised policy would call for approximately 6 acres of private open space along-side Vine Hill Way, incorporated into a "horse set-up" lot, restricted by a "scenic easement" prohibiting the erection of structures, obscure fencing, or grading.

(Underlining from original)

(The original Hidden Lakes area General Plan policies called for preservation of the entire Coward site, including the Pine Meadows Golf Course and all adjoining undeveloped property, as permanent public open space. An amendment in 1973 revised this by City Council directive, to allow for development of all of the undeveloped 23 acre area (except the Golf Course) except for the small "permanent public open space" area noted above. In retrospect, no reason remained for the "public" designation, as no reasonable public use of this area can be foreseen.)



H-4
(p. 4 of 4)

City of Martinez

MEMORANDUM

TO: City Council
FROM: Planning Commission
SUBJECT: General Plan Amendment

DATE: July 9, 1976

The Martinez Planning Commission held a Public Hearing July 6, 1976 on, and unanimously approved, an amendment to the General Plan for the areas covered by subdivisions 4744 and 4774, bounded by Vine Hill Way, Muir Oaks, V.A. Hospital, Orleans Plaza, Kaiser Hospital, Pleasant View #3 and Pine Meadows Golf Course. The amendment approved changes the General Plan designation for Tract 4774 from "Parkway Holding Zone" to Residential, 0-6 du/acre and permanent open space, and for Tract 4744 makes relatively minor adjustments in the boundaries between Residential 0-6 du/acre and permanent open space, and changes the permanent open space from "planned public open space" to "private open space".

The effect of the General Plan amendment is to increase the total number of lots in the two subdivisions by 22+, reduce permanent open space by about two acres, change some permanent public open space to permanent private open space and grade and build on three knolls adjoining Muir Oaks.

An EIR for the two projects concludes that, while there will be adverse impacts from the proposed projects, a project in strict compliance with the present General Plan policy would be not significantly different from the proposed project in terms of environmental impact. The EIR and addendum were certified immediately prior to action on the General Plan amendment.

The Planning Commission requests the Council to amend the General Plan in the area of tracts 4744 and 4774 to comply with the attached map.

Barry E. Whittaker
Barry E. Whittaker, Secretary
Martinez Planning Commission

mf
Encl.



H-5
(p.1of2)

ORDINANCE NO. 856 C.S. (Adopted) Rezones Subdivision No. 4774

This ordinance has for its purpose rezoning Subdivision No. 4774 in the vicinity of the Veteran's Hospital from R-20 to R-6, R-10, R-40, and O.S., and was introduced March 2, 1977.

Councilman John Sparacino moved to waive reading and adopt this ordinance. Second to the motion was made by J. Krause. On the question, Councilman A. Turnbaugh stated that he cannot support this ordinance because he feels that it required amending the General Plan and lowering the standards for knoll development and grading.

Reading was waived, and Ordinance No. 856 C.S. was adopted by the following vote:

- AYES: Councilmen - SPARACINO, KRAUSE
- NOES: Councilmen - TURNBAUGH
- ABSTAIN: Councilmen - NONE
- ABSENT: Councilmen - LANCE, THELEN

ORDINANCE NO. 857 C.S. (Adopted) Rezones Subdivision No. 4744

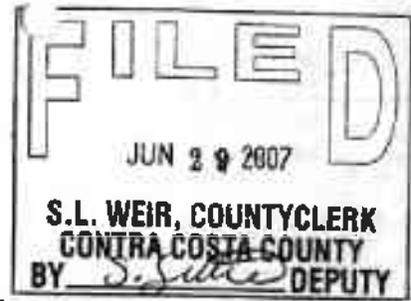
This ordinance has for its purpose rezoning Subdivision No. 4744 in the vicinity of Veteran's Hospital from R-7.5 and R-20 to R-6, R-10, R-40, O.S. and R.F., and was introduced on March 2, 1977.

Councilman John Sparacino moved to waive reading and adopt this ordinance. Second to the motion was made by J. Krause. On the question, Councilman A. Turnbaugh stated that he cannot support this ordinance for the same reasons as stated for the previous ordinance. Councilman Turnbaugh stated that an additional reason for not supporting it is that this area is in the Mt. Diablo School District, and the children will experience difficulties with transportation.

Reading was waived, and Ordinance No. 857 C.S. was adopted by the following vote:

- AYES: Councilmen - SPARACINO, KRAUSE
- NOES: Councilmen - TURNBAUGH
- ABSTAIN: Councilmen - NONE
- ABSENT: Councilmen - LANCE, THELEN

March 16, 1977



CITY OF MARTINEZ

PUBLIC NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

- PROJECT NAME:** Freitas Development - Subdivision 9120, requiring General Plan Amendment and Rezoning of portion of Private "Pine Meadows" Open Space
- LEAD AGENCY:** City of Martinez
525 Henrietta Street
Martinez, CA 94553
- Contact Person: Corey M. Simon, Senior Planner (925) 372-3518
- PROJECT LOCATION:** The project site is located at 633 Vine Hill Way, at the northeast corner of Vine Hill Way and Morello Avenue, within the City of Martinez, in Contra Costa County.
- PROJECT APPLICANT:** Gary Freitas/Peabody Engineering, Ross Peabody
- PROJECT DESCRIPTION:** The property owner proposes to subdivide a 5.57 acre parcel to allow the development of 4 new single family homes, in addition to the one existing single-family home, at 635 Vine Hill Way. The development requires a General Plan Amendment and Rezoning of approximately 3 acres from "Open Space" to "Residential." Proposed lots will range between $\pm 16,000$ to $\pm 72,000$ square feet. The 4 new residential lots would generally be located adjacent to the intersection of Ashwood Drive and Vine Hill Way. Project would require the rezoning of approximately 3 acres from OS (Open Space) to R-10 (One-Family Residential: 10,000 square feet minimum site area). The property is mostly grassland, which has been seasonally mowed since this lot was created in the mid 1970's as a part of the "Pine Meadows" subdivision. The northeast corner of the property has been improved with a single family residence and accessory structures, all of which are within the $\frac{1}{2}$ acre portion of the site currently zoned "residential." The remaining 5 acres is currently zoned as "Open Space." At the time of the subdivision's approval, the parcel was envisioned as a "horse set up" lot, preserving the ungraded slopes adjacent to Vine Hill Way and Morello Avenue frontages as scenic mitigations within the then urbanizing Vine

Hill Way corridor. The frontages themselves were planted with naturalizing tree species and improved with a rustic walking trail. The proposal would create a new "shared driveway" behind the trail, parallel to Vine Hill Way. Approval for the grading and design of the customs home for the 4 new lots is not being requested at this time.

INITIAL STUDY:

The Initial Study and proposed Mitigated Negative Declaration can be reviewed at the City of Martinez's Community Development Department, Martinez City Hall, 525 Henrietta Street, Martinez, CA 94553, which is open from 8:00 a.m. to 12 noon and 1:00 p.m. to 5:00 p.m.. This environmental review process and Negative Declaration filing is pursuant to Title 14, Division 6, Chapter 3, Article 6, sections 15070, 15071, and 15072 of the California Administrative Code.

PUBLIC HEARING:

A 20-day public comment period on this Initial Study / Draft Mitigated Negative Declaration begins on Monday, July 2, 2007 and ends on Monday, July 23, 2006. Written comments regarding this project addressing the findings of the proposed Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study, may be submitted to the City of Martinez Community Development Department (at the above address) during this comment period. **A public hearing before the City of Martinez Planning Commission to consider the Mitigated Negative Declaration and project is scheduled on July 24, 2007 at 7:00 PM.** Additional public hearing(s) before the City of Martinez City Planning Commission, as well as a final public hearing before the City of Martinez City Council, will be scheduled at a later dates, to be determined. All hearings and meetings will be located in the Martinez City Hall Council Chambers, 525 Henrietta Street, Martinez, CA 94553.

City of Martinez
Corey M. Simon
Senior Planner
(925) 372-3518

CITY OF MARTINEZ

Initial Study

1. **Project title:** Freitas Subdivision – 635 Vine Hill Way
2. **Lead agency name and address:** City of Martinez
3. **Contact person and phone number:** Corey M. Simon, Senior Planner, (925) 372-3515
4. **Project location:** 635 Vine Hill Way, (APN 162-420-003)
5. **Project sponsor's name and address:** Gary Freitas, c/o
Peabody Engineering; Ross Peabody
1700 Alhambra Blvd, #102
Sacramento, CA 95816

6. **General Plan:** (HIDDEN LAKES SPECIFIC AREA PLAN)
EXISTING
 - Private Open Space; 5 ac.
 - Residential; 0 - ½ units/acre; ½ acrePROPOSED
 - Residential; 0 – 6 units/acre; 3½ acre
 - Public Open Space; 2 ac.
7. **Zoning:** EXISTING
 - "OS" - Open Space; 5 ac.
 - "R-20" - Residential Single Family, 20,000 sq ft. min lots size; ½ ac.PROPOSED
 - "R-10" - Residential Single Family, 10,000 sq ft. min lots size; 3½ ac.
 - "OS" - Open Space; 2 ac.

8. **Description of project:** The property owner proposes to subdivide and develop a 5.57 acre parcel into five residential lots, with a 2 acre "remainder" to become public open space. The property is located at the northeast corner of Vine Hill Way and Morello Avenue. The site is irregular in shape with an upward slope from Morello Avenue and Vine Hill Way. The property is mostly grassland, which has been seasonally mowed since this lot was created in the mid 1970's as a part of the "Pine Meadows" subdivision. The northeast corner of the property has been improved with a single family residence and accessory structures, all of which are within the ½ acre portion of the site currently zoned "residential." The remaining 5 acres is currently zoned as "Open Space." At the time of the subdivision's approval, the parcel was envisioned as a "horse set up" lot, preserving the ungraded slopes adjacent to Vine Hill Way and Morello Avenue frontages as scenic mitigations within the then urbanizing Vine Hill Way corridor. The frontages themselves were planted with naturalizing tree species and improved with a rustic walking trail.

The property is within the boundaries of the Hidden Lakes Specific Plan, which designates 5 acres of the site as "Private Open Space." The proposal requires a General Plan Amendment as well as a rezone to permit the development of four additional single family homes. In addition, the applicant is proposing a re-zoning of 3½ acres of the property from OS to R-10 (One-family Residential: 10,000 minimum lots). Proposed lots will range between ±16,000 to ±72,000 square feet. A variance to the density limitations of the Hillside Development Regulations is also requested, as with average slopes in the 10 to 30% range, a maximum of 4 units would typically be allowed in the proposed development area.

Minimal site grading and access improvements are proposed; the developer plans to grade a shared access driveway, taking access for all five parcels from the current access point for 635 Vine Hill Way and constructing a frontage drive parallel to Vine Hill Way. Grading for the 4 homesites, as well as architectural plans, are being deferred to future buyers.

The project requires the following entitlements:

- (a) General Plan Amendment to change the land use designations from Open Space to Residential.
- (b) Rezoning from OS to R-10
- (c) Variance to allow exception to the density limitations of the Hillside Development Regulations
- (d) Major Subdivision Map to allow for 5 single family lots and public open space parcel

9. **Surrounding land uses and setting:** The site is within a largely urbanized area of residential uses, with Vine Hill Way retaining a somewhat of a rural appearance due to open space strips (including the subject site) along its frontage. The area immediately to the north consists of "standard" 1970's production subdivision, and the west and east are larger homes and lots of varying styles and ages. The area to the immediate south (across Vibe Hill Way) is a landscaped area zoned Open Space, beyond which is a townhome development from the early 1970's.
10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement).** No other public agency approval is required
11. **Other project Assumptions:** The Initial Study assumes compliance with all applicable State, Federal, and Local Codes and Regulation including, but not limited to the City of Martinez Improvement Standards, the California Building Code, the Contra Costa County Water Agency Code, the Contra Costa County Flood Control Water Conservation District Design Criteria and Standards, the State Health and Safety Code, and the State Public Resources Code.

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a potentially significant impact or potentially significant unless mitigated impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Corey M. Simon, Senior Planner

June-29, 2007

Date

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input checked="" type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture Resources	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Geology / Soils
<input type="checkbox"/> Hazards & Hazardous Materials	<input checked="" type="checkbox"/> Hydrology / Water Quality	<input type="checkbox"/> Land Use / Planning
<input type="checkbox"/> Mineral Resources	<input checked="" type="checkbox"/> Noise	<input type="checkbox"/> Population / Housing
<input type="checkbox"/> Public Services	<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation / Traffic
<input type="checkbox"/> Utilities / Service Systems	<input type="checkbox"/> Mandatory Findings of Significance	

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is provided in the Discussion section for all answers except "No Impact" answers that are adequately supported by the information sources cited in the question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer is explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers take account of the entire action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact". Mitigation measures are described and how they reduce the effect to a less than significant level. Measures from earlier analyses may be cross-referenced.
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or Negative Declaration.
6. Where ever possible references to information sources for potential impacts (e.g., general plans, zoning ordinances) are incorporated into the checklist. Where appropriate, a reference to the page or pages where the statement is substantiated is included. A source list is attached, and other sources used, or individuals contacted, are cited in the discussion.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS — Would the project:				
a) Have a substantial adverse effect on a scenic vista?		X		
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?		X		
c) Substantially degrade the existing visual character or quality of the site and its surroundings?		X		
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X

Discussion:

a-d) The site subject 5.5 acre parcel, the majority of which is designated private open space, is the result of the environmental review/public review process that created the 1976 subdivision (“Pine Meadows”) of which it’s a part. At that time, the City wished to preserve the rural appearance of Vine Hill Way, then the only through road within the urbanizing area. The perspective toward what was then known as “Coward’s Knoll” (now cul-de-sac bulb of Meadowvale Court) was seen as the most significant, thus the western third of the site is proposed to remain as open space. Of secondary significance was the view onto the site from Vine Hill Townhomes, and the “windshield perspective” east of the knoll.

Visual simulations illustrate the impact of the proposed development, as illustrated in Attachment 1. While the existing trees along the unusually wide right-of-way between edge of pavement and subject property (trail and plantings also part of original 1976 subdivision) provide some mitigation, additional design refinements are needed to reduce the visual impacts of the new units. With the mitigations listed below, the units themselves would be visually diminutive, thus preserving the original intent of the open space designation.

- **Mitigation Measure AES-1:** The property line between proposed Lots 1 and 2 be moved approximately 100’ eastward, so that the side yards areas of the two lots “line up” with Ashwood Drive, preserving more of the unbuilt appearance of the site from northbound Ashwood Drive.
- **Mitigation Measure AES-2:** The visual height the units ultimately be built on the proposed lots (Design Review approval entitlements not requested at this time) be reduced by either lowering the average elevation of the homesite be off-haul grading and/or imposition of a more restrictive height limit (e.g. single story 18’ maximum) than the 2 story 25’ maximum typically allowed in the proposed R-10 Zoning District.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				X
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

Discussion.

- a-c) The project area is in an urbanized setting while the specific land use category targets open space the site has already been developed with a single family home. The project area is an urbanized setting where there are no agricultural resources.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
III. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Discussion:

- a) The project would not conflict with or obstruct implementation of an applicable air quality plan.
- b) The project will result in an increase to the existing neighborhood development density. The minimal increase in car trips and emissions resulting from the addition of any new units will not result in a violation of any existing or projected air quality standards.

The effects of construction activities would be increased dustfall and locally elevated levels of particulates downwind of construction activity. Construction dust has the potential to create an annoyance at nearby properties or at previously completed portions of the proposed project. In addition to annoyance effects, excess dustfall can increase maintenance and cleaning requirements and could adversely affect sensitive electronic devices. Emissions of particulate matter of visible emissions are regulated by the BAAQMD under Regulation 6 "Particulate Matter and Visible Emissions." Specifically, visible particulate emissions are prohibited where the particulates would be deposited on real property other than that of the person responsible for the emissions. Implementation of the following mitigation measure would reduce fugitive dust-related air quality impacts to a less-than-significant level:

- **Mitigation Measure AIR-1:** The "Basic Measures" and the "Enhanced Measures" listed in Table 1 shall be incorporated into the construction plans for the proposed project. The "Optional Measures" listed in Table 1 shall be incorporated in further emission reductions are deemed necessary by the City. The City shall review the project's construction plans prior to issuance of a building permit to ensure these measures have been incorporated

TABLE 1:

FEASIBLE CONTROL MEASURES FOR CONSTRUCTION EMISSIONS OF PM10

Basic Control Measures. - The following controls should be implemented at all construction sites.

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

Enhanced Control Measures. - The following measures should be implemented at construction sites greater than four acres in area.

- All "Basic" control measures listed above
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible

Optional Control Measures. - The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors or which for any other reason may warrant additional emissions reductions.

- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all

c-e) Development of the site is considered infill and a continuation of the nearby residential use of the property. Residential developments and the uses normally associated with them do not tend to

create objectionable odors. The introduction of any potential units in this area would not result in a cumulative net increase for any criteria pollutant for which the region is non-attainment under federal or state air quality standards.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES — Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

Discussion:

- a) The area is developed with multiple and single family residences and does not provide habitats for special or endangered species.
- b) The site and its immediate vicinity do not contain any riparian habitats or sensitive natural communities as identified by any local or state agencies and policies.
- c) There are no wetlands on or near the project site.
- d) There are no natural watercourses or wildlife habitats in the area.
- e) The project will most likely have an impact on a stand of dense trees located along Vine Hill Way. A tree survey shall be required as a part of the project application indicating the number, size, species, and location of the dripline of all trees on the property.
- f) There are no local, regional, or state habitat conservation plans applicable to the site. A tree table has been included as part of the submittal, but no plans are yet drawn for tree removal. The intent is to preserve major trees along the hiking trail at Vine Hill Way, which is major tree stand in the area.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES — Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

Discussion:

a-c) There are no known cultural resources on the property.

d) There are no known human remains on the site, however, to protect against previously unknown conditions, the developer will be required to follow the appropriate procedures as outlined by the California Health and Safety Code Section 7050.5 in the event that any human remains are discovered. If human remains are encountered at any point during project construction, all work within 50 feet of the find shall be halted and the Contra Costa County Coroner shall be notified immediately. In addition, a qualified archaeologist shall be contacted to examine the situation. If the human remains are of Native American origin, the coroner shall notify the Native American Heritage Commission within 24 hours of the identification. Pursuant to section 5097.98 of the Public Resources Code, The Native American Heritage Commission shall identify a Native American most likely descendant to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The construction contractor shall abide by these recommendations.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS — Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
• Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
• Strong seismic ground shaking?				X
• Seismic-related ground failure, including liquefaction?				X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
• Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

Discussion:

a-c) There are no known faults on the site or its area. Seismically induced ground shaking with minor structural damage may occur within the economic life of the development.

d) There is a moderate expansion potential of the on-site clayey soil, as is typical throughout the entire area. The property owner's geotechnical report, and subsequent City peer review, did not indicate any restriction to development of the nature that has already occurred on the surrounding properties. As a custom home development, foundations will be reviewed on a case-by-case basis.

e) Sanitary sewer systems will be utilized at this site.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS				
— Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?				X

Discussion:

- a-d) The project will result in the continuation of existing residential use. The activities normally associated with residential use would not result in the creation, emission, or transport of hazardous materials.
- e-f) The project is not located within an airport land use plan or within the vicinity of a private airstrip.
- g) The proposed subdivision would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- h) The project site is contained within an established residential neighborhood with no significant open spaces or wildland areas nearby. Therefore, the risk of exposure to wildland fires is non-existent.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY — Would the project:				
a) Violate any water quality standards or waste discharge requirements?		X		

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?		X		
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place a building within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

Discussion:

a,c-f)As a residential use, there will be discharge of wastewater, other than typical residential sewage. The Site is within the Central Contra Costa Sanitation District, who is responsible for wastewater treatment. There are no natural watercourses on the project site or its area.

Runoff water quality is regulated by the Federal National Pollution Discharge Eliminating System (NPDES) Nonpoint Source Program (established through the Clean Water Act). The NPDES program objective is to control and reduce pollutants to water bodies from nonpoint discharges. The Program is administered by the California Regional Water Quality Control Boards. The project site would be under the jurisdiction of the San Francisco Bay RWQCB.

The City of Martinez is a participant in the Contra Costa Clean Water Program. The Clean Water Program maintains compliance with the NPDES Storm Water Discharge Permit and promotes storm water pollution prevention within that context. Compliance with the NPDES Permit is mandated by State and Federal statutes and regulations.

New development and significant redevelopment projects that are subject to Provisions C.3 of the NPDES Permit are grouped into two categories based on project size. The proposed project would be considered a Group 1 project, a redevelopment project that would create or replace more than one acre of impervious surface (e.g. roof area, streets, sidewalks, parking lots). This project is subject to the provisions included below:

- Numeric Sizing Criteria For Pollutant Removal Treatment Systems
- Operation and Maintenance of Treatment Measures
- Limitation on Increase of Peak Stormwater Runoff Discharge Rates

The proposed project has been designed at a conceptual level. Final grading, drainage, or landscape plans have not yet been developed for the site. Construction activities and post construction land uses could result in degradation of water quality in nearby surface water bodies by reducing the quality of storm water runoff. Implementation of the following mitigation measures would ensure compliance with the above noted standards and guidelines to ensure potential impacts to water quality would be less than significant.

- Mitigation Measure HYD-1: The project applicant shall submit grading and drainage plans to the City Engineering Division for their review and approval. The grading plan and the drainage plan for the project shall be prepared by a licensed professional engineer. The plans shall include drainage components that are designed in compliance with City of Martinez standards. In addition, the applicant shall submit a complete Stormwater Control Plan for all phases of project, an Operations and Maintenance Plan, and apply for a C.3. Permit.
- Mitigation Measure HYD-2: The applicant shall file a Notice of Intent (NOI) to comply with the General Construction Activity permit. This permit requires that the project proponent prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on site and made available to RWQCB, or City staff upon request. The SWPPP shall be submitted to the City prior to approval of the grading plan. The City shall review and approve the final design for operational period BMP's. The SWPPP shall include:
 - Specific and detailed Best Management practices (BMP's) designed to mitigate construction related pollutants to a level of insignificance. At minimum, BMP's shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

- An important component of the storm water quality protection effort is knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.
- The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. In addition, in accordance with the State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable runoff" The developer shall retain an independent monitor to conduct weekly inspections and provide written monthly reports to the City of Martinez to ensure compliance with the SWPPP. RWQCB personnel, who may make unannounced site inspections, are empowered to levy considerable fines if it is determined that the SWPPP has not been properly prepared and implemented.
- BMP's designed to reduce erosion of exposed soil, may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins,. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMP's selected shall focus on erosion control, which is, keeping sediments on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1st and irrigated as necessary to ensure that adequate root development has occurred prior to October 1st. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash down facilities shall be provided and designed to be accessible and functional during both dry and wet conditions.
- Mitigation Measure HYD-3: The applicant shall fully comply with the requirements and intent of the current County NPDES permit. The permit requires a comprehensive approach to stormwater management that implements: a) site design measures to minimize impervious area, reduce direct connections between impervious area and the storm drain system, and mimic natural systems; and employs; b) source control, and c) treatment control measures, which can reduce runoff and the entry of pollutants into stormwater and receiving waters. The project shall incorporate site design measures for reducing water quality impacts of the project in compliance with the NPDES Permit Provision C.3 requirements.
- Mitigation Measure HYD-4: Landscaping proposed as part of the project shall utilize Integrated Pest Management (IPM) practices to reduce the potential sources of pollution on the site. The applicant shall include procedures to reduce pesticide, fertilizer, and water use, and designate an IPM certified applicator in the Operations and Maintenance Plan submitted to the City prior to issuance of a Certificate of Occupancy.
- g-h) The site is not located within a 100-year flood hazard area (Flood Insurance Rate Map, Community Panels #0650440002 B, May 2, 2002).
- i) The project will not affect a levee or dam.
- j) The project is not in a coastal location which could be subject to seiche or tsunami. There are no significant natural watercourses in the area that could cause mudflow.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING — Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Discussion:

- a) The project will result in the infill development on 4 new parcels within a developed residential neighborhood of similar density. The project would be integrated into the established residential community rather than divide it.
- b) The project site is part of a pre existing Open Space zoning district, which does not allow residential development. The project applicant has requested both a zone change and a General Plan Amendment . The existing zoning is OS (Open Space), and the General Plan Designation is Open Space. As discussed under "Aesthetics" above, the open space designation was driven more by visual, rather than land use, as the City wished to preserve the rural appearance of the Vine Hill Way corridor. At the time the subject subdivision was under consideration, custom home development was not considered as an optional means of preserving the rural aesthetic. The proposed reduction in open designated land is a less than significant impact in light of the limited visual impact of the proposed units location and configuration on the 5.5 acre parcel.
- c) There are no habitat conservation plans applicable to the property and its vicinity.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES — Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Discussion:

- a, b) The project site does not contain known mineral resources nor is the site delineated in the City's General Plan as a locally-important mineral resource recovery site.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE — Would the project:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion:

a-d) The project will result in the continuation of the site's current residential use. The introduction of five new dwelling units to the area will not substantially increase existing ambient noise levels. Future noise sources that may occur when the site is redeveloped would come from car noise and human voices. These levels are not anticipated to exceed the City's exterior standard of 60 decibels. Construction noise will occur when the site is redeveloped. The City's Noise Ordinance mitigates the impact of noise through regulating construction work hours.

e-f) The project site is not located within an airport zone or near a private airstrip.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING — Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Discussion:

- a) The number of units proposed for the site will not result in a significant increase to population. Based upon a household population of 3 persons/dwelling, the site can be expected to accommodate 12 additional persons with the addition of 4 new residences. This is not considered a substantial increase in the population of the neighborhood.
- b-c) No housing or substantial numbers of people will be displaced under this proposal.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES —				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
• Fire protection?				X
• Police protection?				X
• Schools?				X
• Parks?				X
• Other public facilities?			X	

Discussion:

- a) Increasing the residential density will not have an adverse impact on the fire district. Design details for any specific development project will require review by the district to ensure the plan meets district requirements.
- The intensity of development will probably not result in an increase in the number of police calls as a result of crowded conditions. The department to ascertain whether appropriate crime prevention measures have been incorporated into the overall plan will review development plans.

- The change in land use and the potential build out of the site is not expected to create an impact on other public services.
- The potential population would not create an impact on local parks/recreation facilities. City code requires the applicant to pay park dedication fees to offset impacts on existing park facilities. It should be noted however that due to financial limitations, it has not been the City's policy to accept, as public property, small "undeveloped" open spaces parcels, such as the 2 ac site proposed for public dedication. Such parcels are usually places within scenic easements, and are privately maintained. Given the proposal for a shared driveways and related landscaping within the Vine Hill Way right-of-way, establishment of a HOA for maintenance is anticipated.
- The change in land use and the potential build out of the site is not expected to create an impact on other public services.
- The applicant will be required to pay all applicable fees as mandated by State Law.
- The applicant will be required to pay all applicable city fees as mandated by the City.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIV. RECREATION —				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X

Discussion:

- The change in land use would not create a significant additional demand for parks or recreational facilities.
- There are no recreational facilities proposed in the subdivision plans. The proposed open space is solely for scenic purposes. City code requires the applicant pay any appropriate park dedication fees.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC — Would the project:				
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?			X	
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

Discussion:

- a) The change in land use will not cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.
- b) The projected vehicle volumes would not exceed projected levels of service either individually or cumulatively. It is anticipated that both Vine Hill Way and Morello Avenue will continue to function at an acceptable level of service.
- c) The proposed new land use does not affect air traffic patterns.
- d) The shared driveway access off of Vine Hill Way (already used by existing residence and approximately 5 residences at 560-580 Vine Hill Way) will need to be reconfigured to avoid potential points of conflict. Staff and applicant envision a more conventional "cul-de-sac" type bulb to adjoin Vine Hill Way itself, with three distinct "driveways" (one for 560-580 Vine Hill Way, a second for existing residence, and a third for the 4 new lots being proposed) to provide access to the homes themselves. Specific alignments and driveway plans will be reviewed by the City to determine conformity with subdivision code s and traffic safety standards.
- e) All units will have adequate emergency access from frontage road as proposed.
- f) Since the actual "frontage" of the individual lots will be on a shared private drive, as opposed to a public street, visitor parking could become an issue for future residence unless provisions were made on each lot. Subdivision requirements are envisioned to require a minimum of 2 off-driveway spaces (in individual private driveway and or parking bay), in addition to required garage parking.

- g) No conflicts with alternate transportation programs will result.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS —				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

Discussion:

WATER SERVICE: The Contra Costa Water District (CCWD) provides untreated water, or "raw" water, to the City of Martinez., with the City acting as its own water service provider. The CCWD takes its water from the Sacramento-San Joaquin Delta, which is the primary source of water for 430,000 residents in central and eastern Contra Costa County. The CCWD supplies treated water to all urbanized areas in central Contra Costa County that are not serviced by BBMUD.

SEWER SERVICE: The Central Contra Costa Sanitation District (CCCSD) provides wastewater collection and treatment services to portions of the City of Martinez.

ELECTRIC AND NATURAL GAS SERVICE: Pacific Gas and Electric Company provides electric service to the Hercules Pump Station and residents and businesses in the City of Martinez.

CABLE SERVICE: Comcast Company provides cable service to residents and businesses in the City of Martinez.

TELEPHONE SERVICE: SBC / AT&T provides telephone service and access to local and long distance carriers to the City of Martinez.

GARBAGE AND RECYCLING SERVICE: Pleasant Hill Bayshore Disposal (aka Allied Waste) serves the City of Martinez.

Discussion:

- a-b) The proposed change in land use designation, and proposed development, will not cause an increase in wastewater treatment requirements that would exceed current carrying capacity, nor will the project result in the need to construct new water or wastewater treatment facilities.
- c) Future development will be required to provide on-site storm drainage that would be conveyed into the existing system.
- d-e) The proposed project is located within the service areas of the wastewater provider (Central Contra Costa Sanitary District) and water supplier (Contra Costa Water District). As such, development of the site has been considered in the purveyors' projections to serve.
- f) The City of Martinez is currently served by Allied Waste, which handles solid waste and recycling services for the City. All household refuse is first taken to the Allied Waste transfer station (unincorporated area of Martinez.), and that which is not recycled is taken to the Keller Canyon Landfill in Pittsburg, which has sufficient capacity for the County's waste stream.
- g) There is no impact because this question does not pertain to the project.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE —				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? (±Cumulatively considerable± means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)				X
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?				X

Discussion

- a-c) The change in the land use designation and resultant residential development will not substantially degrade the environment, create cumulative impacts that cannot be mitigated or cause substantial adverse effects on human beings.

SUPPLEMENTAL INFORMATION

Attachments:

1. Site Plan
2. Photo simulations of proposed residential development

Martinez City Council,



October 3, 2007

We often have to choose between development to keep up with our increasing population and our sanity as we choose how close to one another we want to live. In the past we have chosen to find a happy middle point and leave some Open Space for everyone to enjoy. One of these spaces was intended to remain as Open Space and serve as a buffer between developed parts of our community. It also provides critical wildlife habitat for species that once thrived here. The parcel found at the corner of Morrelo Ave. and Vine Hill Way should be left as it was promised to us and the wildlife that reside here.

Open Space gives relief to those who do not have the time in their busy lives to travel to the country and escape the madness of a hectic work week. Once this space is developed, it will be gone. The grateful new residents of a new development will at first not miss the loss of the open space. But, over time, the lack of room to escape from the suburban sprawl will start to affect our community. It is our duty to make sure that everyone has something to enjoy in a community that belongs to everyone. It is our responsibility to take action and protect these spaces so that our community can remain peaceful. Most of all, it should be a priority on everyone's list to visit these sites and enjoy what nature has to offer us.

As we continue to alter and convert natural habitat to uses other than what has been traditional for centuries before, we upset the balance of species within this area. This has caused problems as we loose touch with our natural environment. Our children have lost the basic knowledge of what wildlife is and how a balanced system benefits their survival. Even small patches, such as the parcel we talk about tonight, serve as a means to connect our residents with the importance of wildlife habitat. These small patches also give wildlife residing near our neighborhoods a refuge to live and hide from the frantic and chaotic human ways. If we take these spaces away, we do not fulfill our commitment to protect the well being of our residing and transient wildlife.

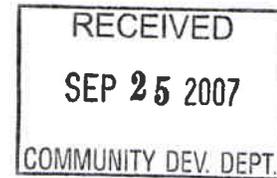
We need to work hard on resolving this issue and save these parcels from development. If we take the short term approach and try to fit in a few new homes for the ever increasing population, what will we do when there is no more room? The loss of land to development in today's dollars is too small when calculating the benefit of the developed land. But try to think how valuable Open Space will be when all other communities in other parts of the developing portions of the State choose to ignore future benefits and take the Open Space away. This Open Space represents a natural resource that we can all be proud of. If we save this land, our residents will benefit greatly and our future generations will thank us for thinking about them. Please help with this quest to save a little bit of sanity in our community.

Regards,

Bill Feil, Ph.D.
Environmental Science, Policy, and Management
UC Berkeley
bhfeil@nature.berkeley.edu

I am Chair of Friends of Pleasant Hill Creeks a Board Member of the local non-profit group called Land for Urban Wildlife Inc. I could not attend tonight's meeting because our FOPHCreeks meeting is also tonight. I also want to stress the fact that you are developing in a watershed that our group helps to manage. Additional development will affect this water shed with increased storm water runoff, which will lead to sedimentation increases in the local creeks. Developing the land with a higher density of homes will make a bad situation worse. I urge you to think about the promises of keeping Open Space and deny any request for additional further development on these lands. Please do not hesitate to contact me if you want to discuss these issues further.

Shirley and Jan Switalski
580 Vine Hill Way
Martinez, CA 94553



September 23, 2007

City Council of the City of Martinez
525 Henrietta St.
Martinez, CA 94553

Subject: General Plan Amendment to re-designate "Open Space" to "Residential" at 635 Vine Hill Way.

Dear City Council:

We strongly oppose the request to amend the General Plan to re-designate "Open Space" to "Residential" at 635 Vine Hill Way for a number of reasons:

1. Open Space should be the very last land to be developed. Open space should only be developed after all other build-able land has been developed and there is nowhere else to build. The premature loss or destruction of Open Space will have a significant negative impact on our families, our City, our communities, and our neighborhoods.
2. The immediate adjacent area has done its part to provide housing for Martinez, with approximately 113 new houses being constructed since 1980, off of Morello Ave. from Colton Place to Jay's Place and Costanza Drive.
3. In 1980 Martinez city planners told us that this area was Permanent Open Space and it would remain undeveloped. This influenced our decision to build our home in this area of Martinez because we did not want to live in a highly developed area. To rezone and develop this Open Space would be a serious breach of faith. As has been expressed in the multiple previous applications to the Planning Commission to rezone this property, other adjacent property owners or their realtors, were also told this land was Permanent Open Space.
4. Developing established Open Space goes against the current direction of our Governor and State, as well as, the majority of the scientific community to stop and control global warming.
5. In previous Planning Commission meetings, it was stated that as part of the Pine Meadows development, the original intent was that this land, and the approximately four other similar lots, would be recorded as Private Permanent Open Space, with a Scenic Easement. It is our understanding that a Scenic Easement designation would make the Open Space impossible to rezone. Due to a recording error, the Scenic Easement was not recorded. If this was a condition for approval of the Pine Meadows development, why has this condition not been enforced?
6. The five or so Permanent Open Space lots were taken into consideration for the original Pine Meadows development when the housing density was approved. This density factor should not be disregarded now.
7. In one of the previous applications to the Planning Commission to rezone this Open Space, one of the Martinez Planning Commission members stated that Gary Freitas knew the land was zoned Permanent Open Space when he obtained the property. In fact, Gary did the surveying for the Pine Meadows development.
8. Building on this Open Space would cause a loss of wildlife habitat. Currently, we and our neighbors have the opportunity to see deer, hawk, coyote, fox, and a variety of other wildlife in this Open Space. This wildlife adds immeasurably to the quality of our lives and enriches our

neighborhood. We and our neighbors will only become very upset voters if you take this from us.

9. This section of Vine Hill Way is a narrow, shoulder-less street, lined with trees on both sides. There are traffic safety considerations to additional building at this site.

Many people live in Martinez because it is a thoughtfully and intelligently planned community. Martinez has planned for areas of Open Space and a variety of development, both residential and commercial. This area of Vine Hill Way is so beautiful and visually peaceful that people from all over the neighborhood come to this particular section of Vine Hill Way to jog, walk their dog, or simply stroll, often with young children. Building on this Open Space will negatively change our neighborhood and people will remember that when each of you are up for re-election. We want our lives to improve not deteriorate.

Consider the lyrics of a popular song of 1970,

“Don't it always seem to go
That you don't know what you've got
Till it's gone”

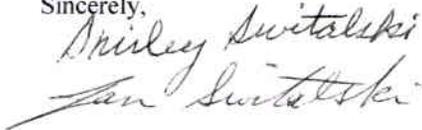
Let us not prematurely destroy our City's precious Open Space.

Let part of your legacy be that you voted to retain the remaining Open Space of Martinez.

We have lived on Vine Hill Way adjacent to this property for 26 years and feel that the loss of this Open Space would have a negative impact on our family and our community. Our quality of life would be damaged. Once Open Space is developed, we cannot go back and reclaim it. We hope that the Martinez City Council will have the vision and foresight to retain this Open Space and deny the request to amend the General Plan to re-designate the Open Space to Residential.

Thank you for your consideration of this matter.

Sincerely,

Handwritten signatures of Shirley Switalski and Jan Switalski. The signature for Shirley Switalski is written in cursive and is positioned above the signature for Jan Switalski, which is also in cursive.

Shirley Switalski
Jan Switalski

cc: Corey Simon, Senior Planner

Martinez Planning Commission
525 Henrietta St.
Martinez, Ca. 94553

July 24, 2007



RE: Gary Freitas / Peabody Engineering, Ross Peabody

To whom it may concern

My name is Richard Calhoun and I live at 1330 Center Ave. my property is adjacent to the proposed rezoning. I rise in opposition to rezoning for the following reasons

The original planning commission granted development setting aside a portion of land that they deemed reasonable to maintain a balance of development and open space. The Morello ave. corridor from Center ave. to Chilpancinco shows evidence of their foresight in maintaining balance. When this portion of open space was said to be owned as private property for the use as an open space for horse pasture this also aligned with the commissions view of allowing balanced development. And know that the owner of said private owned open space no longer wishes to use this land as horse pasture they seek a change of direction from this planning commission. I would ask this commission to safe guard that which has been previously set aside cautioning that what has been done should not be undone.

Sincerely

A handwritten signature in cursive script, appearing to read "Richard D. Calhoun".

Richard Calhoun

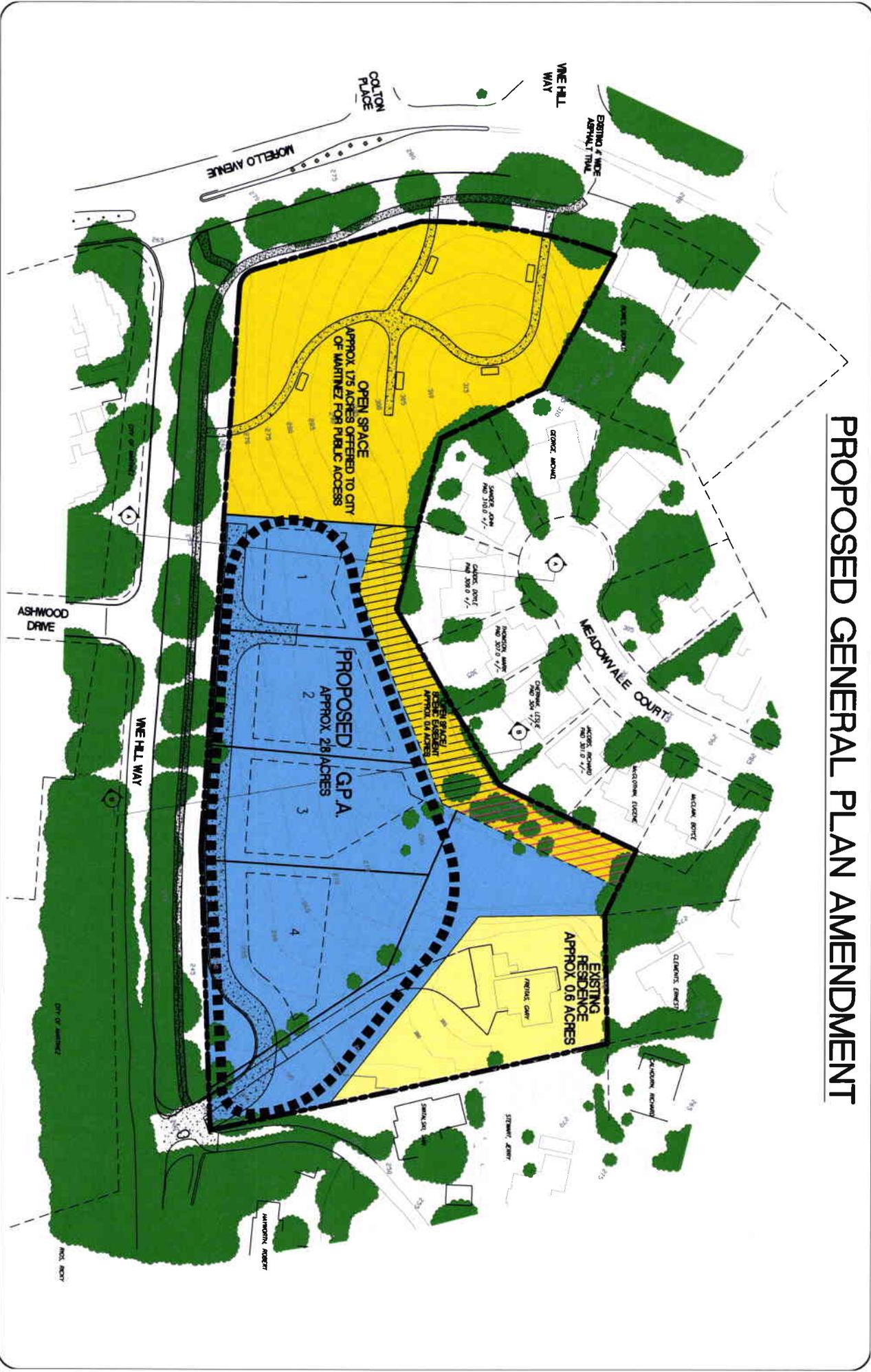
EXISTING PARCEL AND TREE PLAN

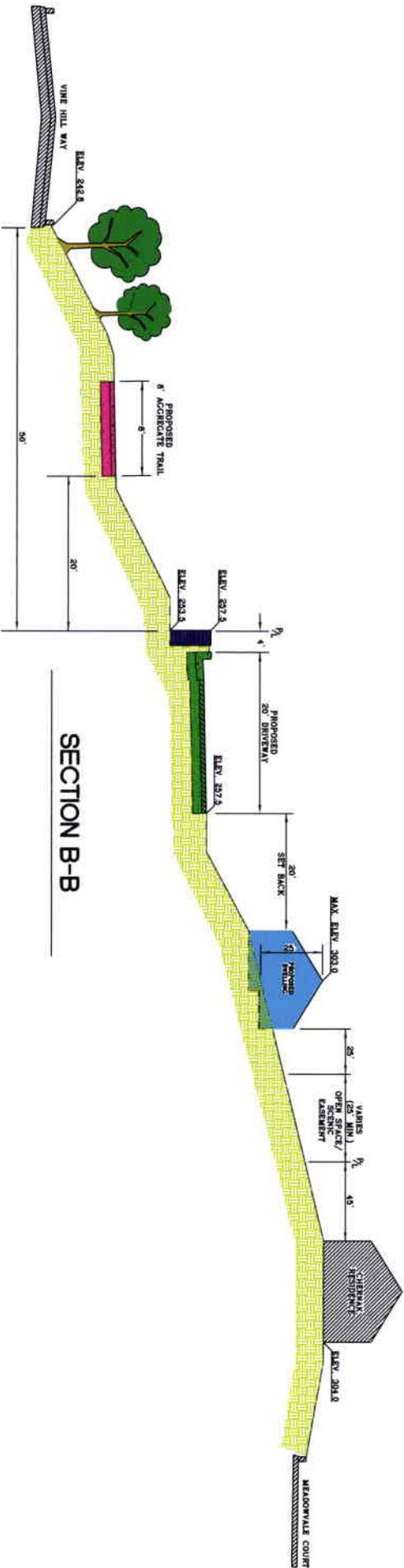
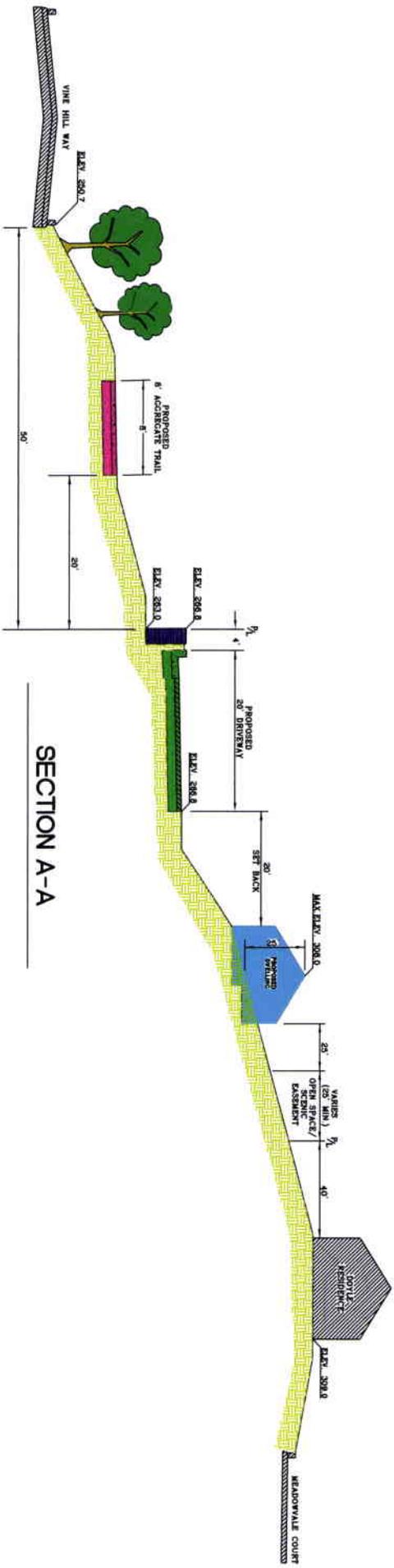


EXISTING LANDUSE / ZONING PLAN



PROPOSED GENERAL PLAN AMENDMENT





CROSS SECTIONS WITH ELEVATIONS THROUGH PROJECT