



## Revised Environmental Review

Pursuant to Public Resources Code § 21083.3 and California Environmental Quality Act Guidelines §15183.

**CITY OF ORINDA**

22 Orinda Way  
Orinda, CA 94563

Phone: (925) 253-4210

Fax: (925) 253-7719

---

This Revised Environmental Review document contains revisions to the Environmental Review document for the Lavenida Lane Subdivision that the City distributed for public review on December 22, 2011 and that the Planning Commission adopted on January 24, 2012. The Revised Environmental Review document provides additional details that clarify and amplify the prior environmental analysis. However, the Project has not changed, and the Revised Environmental Review document still concludes that there are no environmental effects peculiar to the Project and that the Project's individual and cumulative impacts are less than significant. Deletions and additions to the original document are indicated in ~~strike-out~~ and underline.

1. **Project Title:** Lavenida Lane Subdivision
2. **Lead Agency Name and Address:** City of Orinda  
Planning Department  
22 Orinda Way  
Orinda, CA 94563
3. **Contact Person and Phone Number:** Scott Pacheco, AICP  
Associate Planner  
City of Orinda  
925 253-4213
4. **Project Location:** The west side of the intersection of Lavenida Drive and Donna Maria Way (APN 271-120-011)
5. **Project Sponsor's Name and Address:** Moraga General Properties, LLC  
899 Hope Lane  
Lafayette, CA 94549
6. **General Plan Designation:** Residential-Single Family Low Density (1-2 units/acre)
7. **Zoning** RL-40

### 8. **Purpose and Structure of This Environmental Review**

The proposed Lavenida Lane Project ("Project") is located in the City of Orinda ("City") at the intersection of Lavenida Drive and Donna Maria Way and consists of one parcel (Assessor's Parcel Number 271-120-011). The Project site is designated as "Low Density Residential" in the City of Orinda General Plan and zoned RL-40 Residential in the Orinda Municipal Code ("OMC"). The density of this residential infill project, 8 units, is consistent with the development densities that the existing General Plan specifies for this parcel, as described in further detail below. In 1987, the City adopted the General Plan and certified an environmental impact report ("EIR"). Accordingly, the City is reviewing the Project pursuant

to the streamlined environmental review provisions mandated by the California Environmental Quality Act (“CEQA”), Public Resources Code Section 21083.3 and its parallel CEQA Guidelines provision, Section 15183.

Public Resources Code Section 21083.3 and CEQA Guidelines section 15183 provide that a lead agency shall streamline environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects that are peculiar to the project or its site. Public Resources Code Section 21083.3 and CEQA Guidelines §15183(a). The Guidelines specify that where the project’s density is consistent with the general plan, the public agency shall limit its examination of the project’s environmental effects to those effects that the agency determines (1) are peculiar to the project or parcel on which the project would be located, (2) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (3) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR, and (4) were identified in the prior certified EIR but substantial new information, not known at the time the EIR was certified, evidences that the effect is more severe. CEQA Guidelines §15183(b).

CEQA further provides that the environmental effects of a project shall not be considered peculiar to the project or its site if the agency has adopted uniformly applied development policies or standards with a finding that these policies or standards will substantially mitigate that environmental effect when applied to future projects. If the agency did not make such a finding at the time it initially adopted the uniformly applied development policies or standards, it may hold a public hearing prior to approving a proposed project in order to consider whether, as applied to that project, such standards or policies substantially mitigate the project’s effects. CEQA Guidelines § 15183 (f). An additional EIR does not need to be prepared for a project that is subject to this streamlining provision if there is no impact that is peculiar to the parcel or to the proposed project. CEQA Guidelines §15183(c).

#### Project Density Under the City’s General Plan

The City’s existing General Plan consists of the 1987 General Plan (“General Plan”) as updated, including, but not limited to, the 2004 Housing Element (“Housing Element”). The General Plan and Housing Element identify the same number of potential housing units for the area in which the Project is located (“relevant area”). The General Plan refers to the relevant area as the “South Orinda Area” and specifically refers to the Project site as “Lavenida,” whereas the Housing Element refers to the relevant area as “Ivy Drive.” See, 1987 General Plan Technical Supplement, Table 3.13 “Sites Available for Development of Housing” pages 3-26 and 3-27; and 2004 Housing Element, Table 4 “Vacant Land Inventory” page 14.

The General Plan identifies the potential for 35 units to be developed in the ‘South Orinda Area’ (13 units on the subject (Lavenida) parcel, and 22 units on other “small subdividable parcels”). See, 1987 General Plan Technical Supplement, Table 3.13 “Sites Available for Development of Housing” pages 3-26 and 3-27. The Housing Element identifies the potential for 30 housing units in the South Orinda/Ivy Drive area. The change from the 35 units designated in the General Plan to the 30 units in the Housing Element is attributable to changed conditions on the ground (i.e., five of the parcels originally identified as developable have since been developed). Thus, the Housing Element identifies the same number of potential housing units in the same geographic area as specified in the General

Plan, and the allowable density on the Project site, and in the 'South Orinda/Ivy Drive' area as a whole, has not changed since the City adopted the General Plan and certified the EIR.<sup>1</sup> The EIR for the General Plan analyzed the 35-unit development density projected for the South Orinda area.

The Project proposes to construct 8-single family homes on the Project site, which is less than the 13 units that the General Plan contemplated for the Lavenida parcels in the South Orinda Area. See the 1987 General Plan Technical Supplement, Table 3.13 "Sites Available for Development of Housing" pages 3-26 and 3-27. Therefore, the proposed Project is consistent with the use and development density for the site established by the City's existing General Plan and analyzed in the certified EIR for the General Plan.

Framework for Analysis of Project's Environmental Effects:

The following discussion analyzes the Project's impacts consistent with the provisions of PRC section 21083.3 and CEQA Guidelines section 15183. This environmental review first examines whether the certified EIR for the General Plan analyzed the identified environmental issue and, if so, whether the EIR provides feasible mitigation measures to address the Project-specific effects in this impact category. (Note that the City must make a finding at a public hearing on the Project that the feasible mitigation measures identified in the GP EIR will be undertaken. PRC § 21083.3 (c).) The environmental review then discusses any uniformly applied development policies or standards that the City has adopted that will substantially mitigate the identified environmental effect of the Project. The next section of the analysis for each environmental issue addresses any effects that are peculiar to the Project, meaning impacts that are not mitigated by measures specified in the GP EIR and/or City-adopted and uniformly applied development policies or standards. To the extent that the GP EIR identified significant effects which, based on substantial new information that was not known at the time the EIR was certified, are now determined to have a more severe impact, the discussion below also addresses those effects. Finally, this environmental review examines whether there are any potentially significant off-site or cumulative impacts that were not addressed in the GP EIR.

**9. Description of Project**

*Project Location and Existing Land Uses*

The Project site is located on a hillside, elevated above an existing single-family residential development to the northeast along Donna Maria Way, the Miramonte High School property to the east, the 20.33 acre J&J Ranch site to the northwest, and the green for hole 14 and the tee box and fairway of hole 15 of the Moraga Country Club Golf Course, along the southwest site boundary, which also defines the municipal boundary line between the City of Orinda and the Town of Moraga. Del Rey Elementary School is located on El Camino Moraga, north of the property within walking distance of the site.

A 13 lot subdivision is proposed to be developed on the adjacent J&J Ranch site on which the Joaquin Moraga Adobe is located. The adobe structure itself is over 350 feet from the subject property. Dense vegetation exists along the northwest property line and at the south corner of the Project site, which is located in an area designated as a Very High Fire Hazard

---

<sup>1</sup> The City complied with CEQA by certifying a Mitigated Negative Declaration for its 2004 Housing Element.

Severity Zone.

Two ephemeral drainages traverse the site and flow generally in an easterly direction into Moraga Creek, which is 350 feet northeast of the Project site. One of the drainages runs along the northwest side of the site while the other crosses the southeast corner of the site.

Proposed Project

The Project would subdivide the 12.2-acre site into 8 single-family home sites and would result in construction of a cul-de-sac roadway, a bioretention/detention basin and fencing completely surrounding the basin, and construction of a pedestrian trail along the roadway, realignment of a trail on the Miramonte High School property with the installation a low split-rail fencing on each side of the trail and bollards at the entry; installation of underground utilities within the new roadway (Lavenida Lane), including water, sewer, storm drains, power and telecommunications systems; vehicular and pedestrian bridge/culvert over the proposed detention basin; and installation of landscaping along the private roadway, around the detention bioretention/basins and on the down-slope areas from the future home sites on each of the lots.

Home sites within the proposed subdivision would range in size from 54,518 square feet to 64,677 square feet. The number of developable lots permitted is determined by the zoning of the site and by using a slope density calculation equation that can be found in Chapter 17.7- *Residential Minimum Lot Size and Hillside Development* of the OMC. The site is zoned RL-40 and the average slope of the Project site is 22.02 percent (Appendix A). Home designs have not been prepared as a part of this subdivision proposal but will be designed to comply with all development standards and regulations in Title 17 of the OMC.

Design review approval will be required for all new homes in the subdivision subsequent to Project approval and prior to issuance of a building permit in accordance with OMC Chapter 17.30. All construction would comply with all local and state building ordinances and the requirements of the fire district.

The Project as proposed includes dedication of an open space/conservation easement that complies with required creek setbacks as mandated by the Orinda Municipal Code (OMC § 16.64.220), thereby establishing development areas away from sensitive wetlands and riparian areas. The easement also creates a buffer between the Lavenida site and the J&J Ranch site in order to preserve privacy and views for the Joaquin Moraga Adobe.

Almost the entire site will be graded to repair the two landslides on the property that were identified in the Preliminary Geologic and Geotechnical Reconnaissance Report (“Geology Report”) prepared for the Project. The Geology Report is attached as Appendix A-B and incorporated by reference. However the finished grade following completion of the subdivision improvements will be designed to resemble the natural hillsides of the area. Because of the grading and the proposed subdivision improvements, 79 of the 196 trees on the site will be removed. The 79 trees to be removed are: 60 Black Walnut trees, 16 Oak trees, two Bay trees and one Hawthorne tree. (June 2010 Arborist Report by Hort Science) Section 17.21 of the OMC requires 362 native trees be planted as replacement for the 79 trees being removed.

Landscaping

The proposed landscape plan will re-vegetate the site to resemble natural oak woodlands. The landscaping will be planted in two phases. Phase I will be planted as a part of the

subdivision improvements and Phase II will be implemented when the new single family homes are constructed. Phase I includes 144 trees and 108 shrubs and other ground cover plants. This planting will mostly be along the roadway, around the bioretention/detention bioretention-basins and on the lower portions of the new sites away from the logical future construction areas. Two hundred and two (202) of the 252 trees and shrubs to be planted as a part of the subdivision improvements are native and therefore will be counted toward the total tree replacement requirement of 362 trees. The remaining 160 replacement trees and shrubs will be planted in Phase II when the future homes are built. If additional protected trees are proposed for removal with the subsequent development of home sites then a tree removal permit would be required at that time. The Landscape Plan will also include s the removal of invasive vegetation on the site and a plan to manage vegetation to reduce wildfire hazards consistent with Chapter 17.17-*Landscaping* of the OMC.

#### Utilities and Storm Water Drainage

The Project site would be served by existing power and water and sewer system mains located in the Donna Maria Way right-of-way with connecting infrastructure installed under Lavenida Lane. A new sanitary sewer line would be connected to the site to serve the proposed residences. The sewer system will comply with the design policies of the Central Contra Costa Sanitary District, including the utilization of gravity service, compliance with street location specifications, compliance with public easement requirements and adherence to hillside and creek policies.

The Project once built out would result in approximately 126,028 square feet of impervious surfaces. Much of the site will be graded to stabilize the soils on the site.

A Stormwater Control Plan (SWCP), prepared by P/A Design Resources, Inc. for the site, was reviewed by the City Engineer and includes estimates of stormwater flows and a system to manage runoff from the Project site. The SWCP, which is attached as Appendix BC, is incorporated by reference and all recommendations in the report are incorporated as elements of the Project. The plan indicates that with the exception of the rear of the future residence of Lot 4, which will require an individual stormwater facility (i.e., a bioretention planter box), all pervious and impervious developed area within the Project will utilize the common bioretention/detention facilitybasin. All upstream post-development runoff for the entire site, including roads, driveways, roofs, patios, and landscaping will be collected by the on-site drainage system and conveyed to the common bioretention/detention facilitybasin located at the Project entry. This on-site system is disconnected from the off-site storm drain system by means of the bioretention facility. The bioretention/detention basin has been designed to accommodate a 100-year storm event in accordance with requirements of the Contra Costa County Flood Control and Water Conservation District. The basin functions to store runoff generated by development and discharges this runoff in an underground pipe system to Moraga Creek. The rate and quality of runoff from pervious surfaces will remain unchanged from existing conditions and will continue to be conveyed to Moraga Creek. In conformance with the requirements of the City's National Pollutant Discharge Elimination System ("NPDES") permit, a private storm drain system for each of the eight individual lots will be designed in the future and Lavenida Lane has been designed to convey Project-related runoff to the bioretentiondetention basin that will be located downhill on Lots 1, 2 and 3. After treatment in the detention basin, runoff would be combined with the overland runoff and discharged into Moraga Creek at a rate that does not exceed the pre-Project discharge rate.

The bioretention/detention basin is not a water feature. The basin will be dry for approximately 8 to 9 months of the year and will drain in approximately 12 hours after a 100

year storm event.

The Regional Water Quality Control Board (RWQCB) also requires a Storm Water Pollution Prevention Plan (SWPPP) for this Project. The goal of the SWPPP is to identify potential pollutants and develop activities or structural improvements (Best Management Practices BMPs) to eliminate or reduce discharges of these pollutants to storm water and, thereby, improve storm water runoff quality.

Circulation

Access to the subdivision would be from the end of Lavenida Drive at the intersection of Lavenida Drive and Donna Maria Way. There is an existing curb cut and gate near the approximate location of the proposed roadway. Near the site entrance on the Project site, the proposed roadway will bridge over the storm water detention basin, ascend the hillside at a 20 percent slope then flatten out near the cul-de-sac to access the proposed home sites. The proposed roadway will be approximately 600 feet long and end in a cul-de-sac. Nine on-street parking spaces are proposed, two on the north side of the new roadway near the end of the cul-de-sac and seven on the south side of the new roadway.

Driveway access to Lot 3 would likely be from the portion of the proposed roadway just beyond (uphill of) the detention basin where the roadway begins its ascent. A hammerhead fire turnaround is proposed off the southeast side of the new roadway just past the steepest portion of the road and Lots 4, 5, and 6 will take their access from this fire turnaround. Lots 1 and 2 will take their access directly from the downslope side of the roadway, while Lots 7 and 8 will share a 220' +/- access driveway off the end of the new cul-de-sac.

A pedestrian path is proposed on the northeast side of the new roadway, connecting to Lavenida Drive and to the existing paths on the school district property. The Project also includes realignment of an existing trail used by Miramonte High School from the Project site to the adjacent school site east of the property. The developer has consulted with the school district and the school district has provided a letter of support for the Project.

Fire apparatus access has been designed to meet all fire district criteria. Further details are provided in section XIV, Public Services below.

A traffic study prepared for the Project includes an evaluation of proposed/potential impacts related to traffic from the Project site. The traffic study, which is attached as Appendix CD, is incorporated by reference and all recommendations in the report are incorporated as elements of the Project.

Construction Activities

The Project would result in moving approximately 50,000 cubic yards of earthwork in an on-site balanced operation of total cut and fill volumes so that no earth will be imported to, or exported from, the site. Site preparation (i.e., remedial grading, civil design grading, installation of utilities, street paving and trail construction) will take approximately six months.

Landslide stabilization and site preparation will include use of diesel-powered, heavy construction equipment including two scrapers, one bulldozer, one front-end loader with a rear-mounted backhoe, one water truck and two compactors. The heavy equipment needed to complete other site improvements include two front-end loaders with a rear-mounted backhoe, one water truck, one dump truck, one grader, one compacter, one

asphalt paving machine, and one cement mixer truck. The hours of operation of the heavy equipment will be limited to weekdays between 8:00 am to 6:00 pm in accordance with provisions in OMC § 17.39.3. The equipment staging area will be on-site in the location of the proposed bioretention/detention basin. Prior to the start of construction, fencing will be installed to secure the site.

The proposed Construction Management Plan, attached as Appendix— E, addresses construction vehicle circulation and contractor rules, neighborhood traffic safety during construction, work hours, construction generated noise, and tree protection during construction. All construction and grading activities will employ best engineering practices to avoid erosion, slides, or flooding, and to minimize the Project's effect on the environment, pursuant to the regulations in the California Building Code and Orinda Municipal Code.

The Geology Report (attached as Appendix B) includes an evaluation of proposed impacts related to unstable soils on the site. The Geology Report and all recommendations in the report are incorporated as elements of the Project. The Project applicant will remove two landslides as identified in the Geology Report and will rebuild these areas as a well-compacted engineered fill with appropriate subsurface drainage. Grading will be performed as described in the geotechnical reports and as approved by the City's Engineering and Public Works Department and the County Building Inspection Division.

#### **10. Other Agencies Approvals Required**

Army Corps of Engineers, Department of Fish & Game, Regional Water Quality Control Board, Bay Area Air Quality Management District, Contra Costa County Building Division, Contra Costa County Flood Control and Water Conservation District, City of Orinda Engineering and Public Works Department.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**I. AESTHETICS – Would the project:**

a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The 12.2 acre site is part of an undeveloped hillside visible from short-, medium- and long-range vantage points to the north, northeast and east of the Project site. Short-range vantage points include the intersection of Lavenida Drive and Donna Maria Way (Appendix D-E, Visual Simulation 1), which is directly adjacent to the northeast property line of the site. Medium-range vantage points include a location on Coral Drive near the Ardith Drive intersection, which is approximately 2,000 feet away (Appendix D-E, Visual Simulation 2); the end of Crestview Court and segments of Crestview Court, which are approximately 4,500 and 5,300 feet away (Appendix D-E, Visual Simulation 3). Long-range views of the site can be taken from Donald Drive, which is approximately 6,200 feet, or 1.2 miles, away (Appendix D-E, Visual Simulation 4). From short-, medium- and long-range vantage points, future residences on the proposed lots and portions of the proposed roadways would be visible, although these views would be increasingly screened over time as Project landscaping matures. However; the scenic value and qualities of the Project site have previously been compromised due to existing development surrounding the property (e.g., roadways; the nearby golf course; the nearby schools; the existing residential development in the surrounding neighborhoods; and vacant residential building pads behind and uphill of the site in the Town of Moraga). Dense trees dominate the north and northeast edge of the Project site and existing and proposed vegetation will provide screening between the site and the adjoining existing and proposed residential neighborhoods.

The undeveloped hillsides above Dolores Way and above the golf club fairway southwest of the Project site have greater scenic qualities due to their prominence and natural forested state.

The Project applicant has developed visual simulations depicting the future development of the Project and the surrounding properties from short-, medium-, and long range vantage points, which are attached as Appendix D-E and incorporated by reference.

**Project Elements**

The Project incorporates landscaping along the roadway and around the detention basin to screen the subdivision improvements from off-site vantage points (Appendix E-G, Plan Sheet L2), and future development of the home sites will be required to blend into the existing landscape and natural context, protect undeveloped ridgelines and hillsides, maintain the

dominance of the wooded and open ridges and hillsides, and preserve significant or unique scenic vistas. Additional landscaping will be required when the future home sites are developed. The design of the residences will be consistent with the design review standards in the Orinda Municipal Code and the City's Hillside and Ridgeline Design Guidelines. Because of the topography of the area, the existing and proposed vegetation on the site and regulations in place as a part of the OMC, future build out of the Project will not obstruct views of the scenic undeveloped hillsides above Dolores Way and above the golf club fairway southwest of the Project site.

### **Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR addressed aesthetic impacts of development consistent with the General Plan on page 4-18 and concludes General Plan policies in the Land Use Element and the Conservation Element would minimize visual impacts to less than significant levels. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

Several General Plan policies are designed to maintain the dominance of wooded and open ridges and hillsides, to preserve scenic views, and ensure that natural-appearing contours are maintained. Below is a summary of the applicable policies in the General Plan that would apply to the Project.

General Plan Policy 2.1.2, reproduced below, contemplates the development of design ordinances or guidelines to preserve the semi-rural character of the City. As explained below, the City has since adopted provisions in section 17.30 of the OMC related to design review to address these community values and future development of the home sites within the Project will require compliance with the discretionary standards in Section 17.30

#### **2.1.2 Land Use: Implementing Policies**

- E. Residential Area Design and House siting: Consider ordinances to maintain semi-rural character with respect to the following:*
- *Regulating the relationship of house size in relation to lot size to maintain low-density character;*
  - *Removal of natural vegetation;*
  - *Disturbance of existing groundforms;*
  - *Disturbance of creek corridors;*
  - *Street design to avoid wide, straight streets;*
  - *House placement in relation to ridgelines to avoid or minimize visibility around designated ridges and scenic hillsides through the adoption of an appropriate hillside and ridgeline ordinance giving due consideration to such ordinances from adjoining cities;*
  - *Height of new houses and additions;*
  - *Solar orientation of new houses.*
- G. Develop residential subdivision design guidelines for future developments.*

General Plan Policy 2.3.2 identifies a Scenic Corridor on Moraga Way from its intersection with Camino Pablo south to the City limits. (General Plan, Policy 2.3.2(P), p. 23.) The General Plan also recognizes Highway 24 as meriting "special consideration to maintain its integrity as a California Scenic Highway as it passed through Orinda." (General Plan, Policy

2.3.2(T), p. 23.) The implementing procedures include a requirement that any proposed development or subdivision within view of scenic routes shall “*be designed to blend with and permit the natural environment to be maintained as the dominant visual element*” and “*not lessen the scenic value of existing visual elements.*” (General Plan, Policy 2.3.2(R, S), p. 23.) Moreover, “[s]pecial care shall be taken to provide a well-landscaped and open feeling along Scenic Corridors...utilizing such techniques as generous landscaped setbacks and open-space acquisition, where appropriate.” (General Plan, Policy 2.3.2(Q), p. 23.) The Project site is 0.5 miles from Moraga Way which is designated a scenic corridor and approximately 3 miles from Highway 24. Because of the topography and existing landscaping in the area the Project site is not visible from these scenic corridors.

General Plan Conservation Element Policy 4.1.1 directs the City to endeavor to “[a]chieve aesthetically sensitive grading that conforms to the natural contours, ensures safety and preserves trees and other vegetation to the greatest extent possible.” (General Plan, Policy 4.1.1(F), p. 71.)

The site grading is proposed to correct two landslides on the site and to construct the subdivision improvements. The Project site outside of the improvements will be re-graded to resemble a natural hillside and will not be graded either with flat building sites for future development or unnatural slope intersections.

### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

#### Municipal Code Provisions

To further preserve and enhance the semi-rural character of the City, maintain property values, conserve and enhance the visual character of the community and protect the public health, safety, and general welfare of Orinda, the City has adopted design review procedures as part of the municipal code that must be followed prior to issuance of a building permit for single-family homes. (OMC § 17.30.1; 17.30.3.) Review standards cover a broad range of resources, including consideration of neighboring uses and views. (OMC § 17.30.5.)

For instance, to obtain design review approval, applicants must demonstrate that homes they propose meet the following standards:

1. Siting and Neighborhood Context  
*The proposed development is designed and located on the site so that it is visually harmonious with, but not necessarily identical to, other structures in the neighborhood. The proposed development is designed to blend into the existing landscape and natural context, protect undeveloped ridgelines and hillsides, maintain the dominance of wooded and open ridges and hillsides, and preserve significant or unique scenic vistas.*
2. Design  
*The design elements are visually harmonious, in scale with the size of the structure, and balance environmental considerations. If the proposed development is an addition or remodel of an existing structure, the existing construction and proposed construction are visually harmonious. Facades and exterior walls shall be designed to reduce the blocky or massive features of building surfaces and provide articulation.*
3. Privacy, views, light and air  
*The proposed development does not impair the existing views, block access*

*to light and air, or infringe on the privacy of neighbors in a substantial fashion. In considering this factor, decisionmakers shall balance the importance of minimizing impacts on neighboring properties and the applicant's ability to develop the property. The term "view" shall be defined in Section 17.22.4.*

4. Landscaping

*Primary landscaping elements complement and are appropriate for the structure, the site, and the neighborhood.*

(OMC 17.30) Heightened review is warranted where special circumstances apply, such as development of a home greater than 7,000 square feet (OMC § 17.30.6) or on severe slopes or within a ridgeline overlay zone. (OMC § 17.30.7.) The Project would be subject to design review procedures and requirements that apply based on the future development of the individual sites.

In addition to the design review sections listed above, the Project would also be subject to all of the requirements of the OMC. Some of the more applicable sections include the Residential Minimum Lot Size and Hillside Development chapter of the OMC (Chapter 17.7), which "encourage[s] minimal grading which respects the natural contour of the land" and "require[s] retention of natural landmarks and prominent natural features that enhance the character of a particular area of the city" (OMC § 17.7.2.) and that hillside development should "preserve the natural terrain, environmental quality and aesthetic character of the city ...." (OMC § 17.7.1(b).) Future development will also be subject to the regulations in the Floor Area and Building Height chapters of the OMC. These chapters regulate home sizes in relation to lot sizes and the height of the structures to ensure the aesthetic harmony of development. (OMC §§ 17.6; 17.4.19.)

The Project is also subject to compliance with the Municipal Code's Tree Management chapter (OMC, Ch. 17.21), which establishes criteria designed to preserve protected trees by requiring consideration of the extent to which development proposals can be modified to minimize removal of protected trees and requires consideration of factors such as the number of other trees to remain in an area.

Tree protection measures under Chapter 17.21 include:

"Care of Protected Trees. In order to protect each protected tree on a site where grading or building is to take place, an applicant shall meet the following requirements:

1. Before starting, the applicant shall securely fence off every protected tree at the protected perimeter. The fence shall remain continuously in place for the duration of work undertaken in connection with the building or grading permit. The fenced area may not be used as a storage area or altered or disturbed except as may be permitted by the Planning Director.

2. If the proposed development or work on-site encroaches upon the protected perimeter of a protected tree, the applicant shall take special measures, as approved by the Director, to allow tree roots to obtain oxygen, water and nutrients as needed.

3. An authorized excavation, filling or compaction of the existing ground surface within the protected perimeter of a tree shall be minimized and subject to such reasonable conditions as may be imposed by the Director.

4. No significant change in existing ground level may be made within the dripline of a protected or heritage tree.

5. No burning or use of equipment with an open flame may occur near or within the

protected perimeter.

6. All brush, earth and debris shall be removed in a manner that prevents injury to the tree.

7. No oil, gas, chemical or other substance that may be harmful to a tree may be stored or dumped within the protected perimeter of a protected tree or at any other location on the site from which such substances might enter the protected perimeter of a tree.

8. Trenching for utilities shall avoid interfering with roots of protected trees wherever possible. If complete avoidance of the root zone is impractical, a tunnel shall be made below the roots. A trench shall be consolidated to serve as many units as possible. Trenching and tunneling within the protected perimeter shall be avoided to the extent possible and shall be done only under the on-site supervision of a professional arborist.

9. No concrete, asphalt or other impervious paving shall be placed within the protected perimeter of a protected tree. No supplementary irrigation shall occur within the protected perimeter of a native oak.”

The regulatory measures that apply to the Project and Project site - including General Plan policies, municipal code provisions, and design review procedures - would ensure that there are no significant environmental effects that are peculiar to the parcel or the Project. In addition, there is no substantial new information showing that the previously identified environmental effects will have a more severe adverse impact than discussed in the General Plan EIR.

#### **Impacts Peculiar to the Project or to the Project Site**

Because the proposed Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant aesthetic impacts that are peculiar to the parcel or the Project. See also discussion of Project Density Under the City's General Plan and discussions of General Plan Measures and Uniformly Applied Development Policies or Standards, above. Moreover, there is no substantial new information indicating that development at this site would result in greater aesthetic impacts than the levels described in the environmental review documents for the General Plan.

#### **Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of Project Density Under the City's General Plan, above.

The proposed J & J Ranch subdivision, which was also anticipated in the General Plan, would create 13 residential lots. Combined, the two projects would account for development of 21 units, which is substantially below the development potential of 35 units identified in the 1987 General Plan and EIR and the General Plan Updates for the subject area. Like the Lavenida Lane Project, the J & J project would be subject to uniformly applicable policies and standards as discussed above that would ensure the development would not obstruct views of undeveloped hillsides southwest of the Project site or result in other visual impacts. Therefore, the J & J Ranch project along with other anticipated development in the area would not result in significant cumulative visual impacts.

Elements of design for the Project, such as the open space/conservation easements and the proposed landscaping, would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact to aesthetic resources.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project site is not visible from Highway 24, the closest state scenic highway. Thus, the Project would have no impact to scenic resources visible from a state scenic highway.				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section I.a, above.</i>				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> Existing residential development is located to the north east of the Project site along Donna Maria Way and Lavendia Drive and Miramonte High School is located on the adjacent parcel east of the site. The area therefore has some existing sources of light and glare associated with surrounding development.</p> <p><b>Project Elements</b> The Project does not include any street lighting and the only sources of outdoor light would include minimal residential, exterior lighting. Because of the slope of the sites, future development would be subject to the Hillside and Ridgeline Design Guidelines which state that residential lighting on hillsides and ridgelines should be unobtrusive.</p> <p><b>Analysis of Impact Analyzed in General Plan EIR</b> See section I.a. above.</p> <p><b>General Plan Measures That Substantially Mitigate Potential Project Impacts</b> See section I.a. above.</p> <p><b>Uniformly Applicable Development Policies and Standards That Substantially Mitigate Potential Project Impacts</b> Per Municipal Code, section 17.15.2(C)(2), outdoor security lighting may only be indirect or diffused and, per section 15.12.110, lighting fixtures shall be so installed, controlled or directed that light will not glare or be blinding on an adjoining property. In addition, design review approval pursuant to Chapter 17.30 of the municipal code is a requisite to approval, and this process would evaluate design elements that include lighting.</p> <p>All ordinances that address lighting were adopted subsequent to the General Plan and thus were contemplative of development footprints that include the Project site and surrounding areas. The aforementioned development policies are uniformly applicable to all residential development within the City, and would ensure that any potential Project-related impacts are reduced to a less-than-significant level. The ordinances regulating lighting in the City's municipal code are designed to minimize lighting impacts to the maximum extent possible.</p>				

There is no significant new information to indicate that visual impacts from development that is consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR.

**Impacts Peculiar to the Project or to the Project Site**

Because the proposed Project is consistent with the General Plan, and all potentially significant impacts will be substantially mitigated, there are no significant impacts related to light and glare that are peculiar to the parcel or the Project. (See also discussion of Project Density Under the City's General Plan and discussion of Uniformly Applied Development Policies or Standards, above). Moreover, there is no substantial new information indicating that development at this site would result in greater impacts related to light and glare than the levels described in the environmental review documents for the General Plan.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of Project Density Under the City's General Plan, above.

The Lavenida Lane Project and the J&J Ranch project would be subject to compliance with the comprehensive regulatory provisions that ensure the projects would not result in impacts related to light and glare as discussed above.

Elements of design for the Project, such as limited exterior residential lighting, no street lighting, and requiring future landscaping plans that will include screening of the units with vegetation, would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact to aesthetic resources.

8	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
---	--	--	---	---	---

**II. AGRICULTURE AND FOREST 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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board. Would the project:

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project site is located within a residential area and is zoned for residential development. According to the Contra Costa County Important Farmland 2008 Map, the site is located within an “Urban and Built-up Land” area. There is no farmland land directly adjacent to the Project. Therefore, the Project would have no impact on Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.					
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> According to the Contra Costa County 2007 Agricultural Preserves Map, which identifies properties under Williamson Act contracts, the Project site is not under such a contract. The 2007 Agricultural Preserves Map is accessible to the public on the Contra Costa County’s website: <a href="http://www.co.contracosta.ca.us">http://www.co.contracosta.ca.us</a> .					
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project site is zoned for residential development and does not result in rezoning of forest land, timberland, or timberland zoned Timberland Production.					
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project site is located in an urban area and is not considered to be forest land.					

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** Development of the Project site would not result in the conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The City of Orinda is within the jurisdiction of the Bay Area Air Quality Management District (BAAQMD), which regulates air quality in the San Francisco Bay Area. The most recent BAAQMD plan for attaining California Ambient Air Quality Standards, the Bay Area 2010 Clean Air Plan (2010 CAP), was adopted by BAAQMD in September 2010. The 2010 CAP serves to update the Bay Area ozone plan in compliance with the requirements of Chapter 10 of the California Health & Safety Code. In addition, the 2010 CAP provides an integrated, multi-pollutant strategy to improve air quality, protect public health, and protect the climate. The 2010 CAP demonstrates how the San Francisco Bay Area will achieve compliance with the State standards for ozone and particulate matter pollution and includes reduction measures for both.

**Project Elements**

The Project design incorporates BAAQMD construction emission reduction measures as elements of the Project. The City and the County Building Department will enforce their implementation. These policies include the following:

BAAQMD Basic Control Measures

- A. Water all active construction areas at least twice daily.

- B. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- C. 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.
- D. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- E. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public or private streets.
- F. Limit traffic speeds on unpaved roads to 15 mph
- G. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- H. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes. Clear signage shall be provided for construction workers at all access points.
- I. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- J. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take correction action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

In addition, to the BAAQMD Basic Control Measures, the Project includes the following components to further reduce construction emissions:

- all diesel-powered construction equipment engines with a horsepower rating of 50 horsepower or greater shall implement particulate matter filters capable of attaining a minimum particulate matter control level of 50 percent;
- earth moving activities would be phased over a 40 day period and no more than two acres would be disturbed on a daily basis.

#### **Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR evaluated air quality impacts associated with growth levels consistent with the General Plan on pages 4-11 through 4-14. The General Plan EIR found that build out under the General Plan may lead to increased emissions, but that these emissions would not result in significant air quality impacts. General Plan EIR, p. 4-14.

#### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

The City of Orinda mandates by ordinance that every use comply with the regulations and standards of BAAQMD. (OMC § 17.15.2.) The requirement to comply with regulations and standards of BAAQMD is uniformly applicable to all proposed development within the City, and would ensure that any potential Project-related impacts are reduced to a less-than-significant level such that there would be no impacts peculiar to the Project site necessitating further environmental review. There is no significant new information to indicate that air quality impacts from development that is consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR.

#### **Impacts Peculiar to the Project or to the Project Site**

Because the density of the proposed Project is consistent with the General Plan and all

potentially significant impacts will be substantially mitigated there are no significant air quality impacts that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above, and discussion of *Uniformly Applied Development Policies or Standards*, above. Moreover, there is no substantial new information indicating that development at this site would result in greater air quality impacts than the levels described in the General Plan EIR.

The following evaluation using BAAQMD environmental guidelines of construction and operational impacts is provided for informational purposes. The 2010 BAAQMD CEQA Guidelines include screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant need not perform a detailed air quality assessment of the project's air pollutant emissions, and impacts are deemed less-than-significant. [\[BAAQMD Guidelines at 3.5.\]](#)

For single family developments, those projects that include more than 325 dwelling units are deemed to have the potential to result in significant operational impact related to criteria pollutants; projects that include more than 56 dwelling units are deemed to have the potential to result in significant operational impacts related to greenhouse gas emissions; and those projects that include more than 114 dwelling units are deemed to have the potential to result in significant construction emission impacts. [BAAQMD Guidelines, Table 3-1 at 3-2.] Thus, this Project, which consists of 8 residential units, ~~does not meet the~~ [below the applicable screening level size specified in the BAAQMD screening criteria. Construction-related activities would not include any of the following: demolition, two construction phases \(e.g. paving and building construction\) occurring simultaneously, simultaneous construction of more than one land use type, or transport of materials off-site. Site preparation for the Project as designed would be phased as described in section III.a above so that resulting construction emissions would not exceed the default assumptions used in the Urban Land Use Emissions Model \[URBEMIS\]. Personal communication, Ian Peterson, BAAQMD Environmental Planner II, March 28, 2012. Thus, in accordance with BAAQMD guidance, and construction-related impacts on air quality would be less than significant. \[ BAAQMD Guidelines at 3.5.\]](#)

BAAQMD also sets forth guidelines designed to minimize construction emissions. While the Project would have no peculiar significant air quality impacts warranting detailed analysis, the applicant has incorporated BAAQMD construction emission reduction measures as elements of the Project, as described above. According to BAAQMD, temporary, construction period air quality impacts (for all pollutants) are considered less-than-significant if standard BAAQMD particulate matter control measures are implemented.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

The Lavenida Lane Project along with the proposed J&J Ranch project would construct a total of 21 units, which is significantly lower than the BAAQMD screening criteria of 325 units for potential air quality impacts. Therefore, the Project along with the proposed J&J Ranch project would not result in cumulatively significant air quality emission impacts. See also discussion of *Project Density Under the City's General Plan*, in section 8 above and III.c. below.

b) Violate any air quality standard or contribute substantially to an existing	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

or projected air quality violation?					
<i>See section III.a, above.</i>					
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)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR</b> See also discussion of <i>Project Density Under the City's General Plan</i>, in section 8. above.</p> <p>The City and BAAQMD characterize air quality impacts as necessarily cumulative and, though sometimes presented as measuring an individual project's impact, the applicable methodologies in fact measure whether a project's contribution to a cumulative impact is considerable. (See BAAQMD CEQA Guidelines, p. 2-1 [May 2011]; <a href="#">personal communication with Dave Vintz, BAAQMD Air Quality Planning Manager, March 28, 2012.</a>) Therefore, the analysis described above addresses the Project's potential contribution to cumulative conditions. In addition, since residential homes do not constitute stationary sources, as identified in the General Plan EIR (p. 4-13), associated emissions sources necessarily are vehicular traffic. The General Plan EIR also captured associated off-site impacts. The Lavenida Lane Project along with the proposed J&amp;J Ranch subdivision would construct 21 units, which is significantly lower than the BAAQMD screening criteria for potential air quality impacts. Therefore, the proposed Project along with the proposed J&amp;J Ranch project would not result in cumulatively significant air quality impacts.</p>					
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> Sensitive receptors located in the vicinity of the Project site include residential uses to the north of the site (<a href="#">the closest residence being located approximately 60 feet from future construction activities</a>) and two schools: Miramonte High School (located on the adjacent property to the east with the sports fields and school buildings being approximately 400 and 1000 feet, respectively, from the future construction activities on Lot 3) and Del Rey Elementary School (located approximately ¼ - mile north of the Project site.) No other sensitive receptors (e.g., nursing homes, retirement communities, or hospitals) are located within ½-mile of the Project site.</p> <p><b>Project Elements</b> See III.a above.</p>					

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

See section III.a above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

See section III.a above.

**Impacts Peculiar to the Project or to the Project Site**

Residents and other sensitive receptors in the vicinity of the Project site would be temporarily exposed to dust and diesel engine exhaust during the construction period initial site improvements due to grading and the operation of construction equipment. Refer to the Project Description above for more information about anticipated construction activities.

Because of the small size of the Project and the required control measures the Project will not have a significant impact on the surrounding properties. A Construction Health Risk Analysis Report was prepared for the proposed adjacent J&J Ranch development. Construction Health Risk Analysis Report, Michael Brandman Associates, September 2011 (attached as Appendix H). The analysis assumed a worst-case scenario that construction activities for both the J&J Ranch project and the proposed Project would take place concurrently. The analysis of health risks to sensitive receptors in the vicinity resulting from construction emissions concluded that the concentration of diesel emissions on both sites, and the duration of exposure to these emissions by sensitive receptors in the vicinity, would not result in significant adverse health effects. Therefore, if construction activities of both projects combined would result in less than significant adverse health effects, the health risk from construction activities occurring only on the proposed Project site would also be less than significant.

See related discussion in III.a above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8. above.

e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** The Project would not generate objectionable odors or place sensitive receptors adjacent to a use that generates odors (*e.g.*, landfill.)

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

A Biological Assessment, entitled *Biological Resources Assessment and Preliminary Jurisdiction Determination for the 12-acre "Lavenida Lane" Project Site*, ([Appendix JF](#)) was prepared for the Project by AECOM, Inc in June 2010 (the "AECOM Report"), and is hereby incorporated by reference. The AECOM Report evaluated the potential for suitable habitat for special status species known to occur in the vicinity and evaluated impacts on biological resources associated with initial site preparation, construction and operation of Project roads and utilities, and construction and occupation of the residences.

According to the AECOM Report, the site is comprised of a variety of biological community types, and is characterized largely by open space with a mix of ruderal and native plant species sprouting from recently disked bare earth. Several black walnut trees remaining from a remnant orchard are present in the center of the site, as well as some coast live oaks and dead trees. An unnamed drainage runs along the northwest side of the study area, and another cuts through the southeast corner. These drainages are characterized by a dense riparian canopy and understory. Both drainages connect directly to Moraga Creek, which is located approximately 350 feet northeast of the Project site. The southeast corner of the study area, on the south side of the drainage, contains dense scrub habitat dominated by a thick growth of coyote brush. Based on a preliminary wetland delineation prepared by AECOM, the site contains approximately 0.22 acres of wetlands and other jurisdictional waters, and approximately 5.7 acres of riparian corridor. No special status plant species were detected on the site during the July 28, 2009 to August 19, 2009 reconnaissance surveys; however, 15 special-status plant species have a low potential to occur on the site. According to the AECOM report, 24 special status wildlife species have the potential to occur within the Project area.

**Project Elements**

Both construction and operation of the Project have been designed to minimize potential adverse impacts to biological resources. The proposed open space/conservation easement complies with City-required creek setbacks and also creates construction buffers. The

majority of the Project disturbance and construction activity will occur in the center of the site, away from the riparian areas which have the highest potential to harbor special status wildlife species. Aquatic habitats will be avoided by the Project with the exception of installation of a storm drain outfall within an existing culvert. AECOM report p. 51. Installation of the outfall will employ bore and jack techniques to avoid impacts to the waterway and riparian habitat. This will avoid direct effects to sensitive habitat within the Project site. *Id.* Thus, the Project development area would avoid all sensitive natural communities, including wetlands, freshwater marsh, and riparian woodlands. Most of the habitat affected is ruderal or remnant orchard (i.e., 5.86 acres ruderal vegetation and 2.79 acres remnant orchard). Approximately 1.65 acres of native habitat will be disturbed (i.e. 1.38 acres Coast live oak Woodlands, 0.04 acres Central Coast Riparian Scrub, and 0.23 acres Coyote Brush Scrub)

The Project includes design elements, as prescribed in the AECOM Report. The City will include these elements as conditions of approval to assist in monitoring compliance of these requirements. These measures include the following:

**I. To preserve possible sensitive plant species on site:**

1. A qualified botanist shall perform focused presence/absence surveys in early spring, late spring, and early summer for the potentially occurring special-status plant species that are considered to have potential to occur within the study area. These surveys are timed to coincide with the appropriate blooming periods necessary for proper identification of the target species. If special-status plant species are found on site, the following measures will be implemented:

- a. Permanently preserve, through use of a conservation easement or other similar method, an equal amount of acreage, either within the project area or off-site, that contains the plants; or
- b. Harvest the plants to be lost, and relocate them to another suitable and equal sized area either within the project site or off-site that will be permanently preserved through a conservation easement or other similar method; or
- c. Harvest seeds from the plants to be lost, or use seeds from another appropriate source, and seed an equal amount of area suitable for growing the plants either within the project site or off-site that will be permanently preserved through a conservation easement or other similar method.
- d. These measures will be completed by a qualified biologist with experience working with the relevant special status plant species.
- e. A Biological Conditions of Approval and Tracking Plan describing the conditions of approval and performance standards shall be prepared if habitat is preserved or acquired for special-status plant species.

**II. To preserve possible sensitive wildlife species: (General)**

**Prior to construction**

1. The Project applicant will consult with the USFWS to establish additional reasonable and prudent measures to avoid take of Alameda whipsnake and California red-legged frog. If deemed necessary by the USFWS, the Project applicant will obtain an incidental take permit before Project implementation, a copy of which will be provided to the City of Orinda Planning Department.

2. A qualified biologist will survey the worksite two weeks before the onset of construction activities for California red-legged frog, foothill yellow-legged frog, Alameda whipsnake and western pond turtle. The pre-construction surveys for western pond turtle shall be conducted

in all construction areas of potential aquatic habitat or dispersal habitat located within the Project area within 48 hours before initiation of construction activities. If California red-legged frog tadpoles or eggs are found, the approved biologist will contact the USFWS to determine if moving any of these life-stages is appropriate. If Alameda whipsnake or adult red-legged frog are found they will first be allowed to leave the area on their own and USFWS will be contacted. If the USFWS approves moving the animals, the qualified biologist will be allowed sufficient time to move frogs from the worksites before work activities begin. If foothill yellow-legged frog tadpoles or eggs or western pond turtle nests are found, they will be relocated as necessary to a location deemed suitable by the biologist and CDFG (i.e., a location which is a sufficient distance from construction activities).

### 3. Breeding Birds and Raptors

a. The removal of any trees or shrubs shall occur from September 1 through December 15, outside of the avian nesting season. If any construction activity, including grading, ground-disturbing activities, or the removal of buildings, trees, or shrubs begins between December 15 and August 31 (avian nesting season), a nesting bird survey will be performed by a qualified biologist within 14 days before the removal or disturbance of potential nesting structures, trees, or shrubs. For ground-nesting birds, surveys will be conducted by walking narrow transects through the grassland.

b. For those potential nesting trees, buildings, or shrubs within the Project site and within 500 feet of the Project boundaries that will not be removed, a nesting bird survey will be performed by a qualified biologist 14 days before initiation of construction activities that will occur in the vicinity.

c. All vegetation and structures with active nests will be flagged and an appropriate non-disturbance buffer zone will be established around the nesting site. The size of the buffer zone will be determined by the Project biologist in consultation with CDFG and will depend on the species involved, site conditions, and type of work to be conducted in the area.

d. A qualified biologist will monitor active nests to determine when the young have fledged and are feeding on their own. The Project biologist and CDFG will be consulted for clearance before construction activities resume in the vicinity.

### 4. American Badger

a. A qualified biologist will conduct pre-construction surveys for American badger in all construction areas identified as potential dispersal habitat located within the Project area two weeks prior to initiation of construction activities. If an American badger or active burrow, indicated by the presence of badger sign (i.e. suitable shape and burrow size, presence of scat, etc.) is found within the construction area during pre-construction surveys, the California Department of Fish and Game will be consulted to obtain permission for animal relocation.

b. If the qualified biologist detects potential dens (i.e. suitable shape and burrow size, presence of scat, etc.) but determines that they are inactive, the biologist shall excavate these dens by hand with a shovel to prevent badgers from re-using them during construction.

c. If the qualified biologist determines that potential dens may be active, the entrances of the dens shall be blocked with soil, sticks, and debris for three to five days to discourage use of these dens prior to Project disturbance. The den entrances shall be blocked to an incrementally greater degree over the three to five day period. After the qualified biologist determines that badgers have stopped using active dens within the Project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.

### 5. Roosting Bats

a. For ground disturbing activities occurring during the bat breeding season (March 1 through

August 31), a qualified bat biologist would conduct preconstruction surveys within 14 days before any removal of trees or structures of all potential bat breeding habitat within 200 feet of grading or earthmoving activities within the Project area. If no active roosts are found, then no further action would be warranted.

b. If active maternity roosts or hibernacula are found in trees that will be removed as part of Project construction, the Project will be redesigned to avoid the loss of the tree or structure occupied by the roost to the extent feasible as determined by CDFG. If an active maternity roost is located and the Project cannot be redesigned to avoid removal of the occupied tree or structure, demolition will commence before maternity colonies form (i.e., before March 1) or after young are flying. Disturbance free buffer zones as determined by a qualified biologist in coordination with CDFG will be observed during the maternity roost season (March 1 through August 31).

c. If a non-breeding bat hibernacula is found in a tree or structure scheduled for removal, the individuals will be safely evicted, under the direction of a qualified biologist (as determined by a Memorandum of Understanding with CDFG), by opening the roosting area to allow airflow through the cavity. Demolition will then follow at least one night after initial disturbance for airflow. This action should allow bats to leave during darkness, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight. Trees with roosts that need to be removed will first be disturbed at dusk, just before removal that same evening, to allow bats to escape during the darker hours.

#### 6. Dusky Footed Woodrat

a. Two weeks prior to initiating construction activities, a qualified biologist will conduct pre-construction surveys for dusky footed woodrat within 100 feet of all construction areas identified as potential habitat. Construction activities shall not occur within 50 feet of any San Francisco dusky-footed woodrat nests where feasible.

b. If construction activities cannot be feasibly modified to remain at least 50 feet away from San Francisco dusky-footed woodrat nest, then nests shall be relocated by a qualified biologist in coordination with CDFG. Relocation areas shall be determined in advance in agreement with CDFG.

7. With the exception of work required in Moraga Creek, exclusionary fencing (i.e., silt fencing or specialized animal exclusion fencing) will be installed around the entire Project site.

8. A qualified biologist will conduct a training session for all construction personnel. At a minimum, the training will include photos of species-status species with potential to occur within the Project area for identification purposes, a description of the species and their habitat, general measures that are being implemented to conserve these species as such measures relate to the Project, consequences of violating the terms of FESA and CESA, and the boundaries within which construction activities will occur.

9. A plan describing pre-Project conditions and restoration methods of disturbed areas within 100 feet of Moraga Creek required for jack and bore of the storm drain outfall will be prepared by a qualified biologist, reviewed and approved by CDFG.

10. A spill prevention plan for potentially hazardous materials will be prepared and implemented. The plan will include proper procedures for handling and storing potentially hazardous materials, as well as for cleaning up and reporting any spills. If necessary, containment berms will be constructed to prevent spilled materials from reaching aquatic habitats (e.g., Moraga Creek or the unnamed drainages on site).

During construction

1. If any special-status species are found present within the Project area, all construction activities within 200 feet of the animal will cease. The animal will be allowed to leave on its own, and if it does not then it will be relocated to suitable habitat outside of the Project area in consultation with USFWS and CDFG.

2. A qualified biologist will be present at active worksites until the removal of special status species, instruction of construction personnel, and habitat disturbance have been completed. After this time, the contractor or permittee will designate a person to monitor on-site compliance with all minimization measures.

3. All work activities within 100 feet of Moraga Creek or the unnamed drainages on site will be completed between May 1 and November 1 (with the concurrence of CDFG, which typically requires in-stream work to be completed by October).

4. During work activities, all trash that may attract predators will be properly contained, removed from the worksite, and disposed of regularly. Following construction, all trash and construction debris will be removed from work areas.

After construction

An education program for residents will be developed that outlines avoidance and minimization measures for wildlife that occur in adjacent open space areas. This may include, but is not limited to, guidelines for storage of trash receptacles, non-invasive landscaping, and responsible domestic pet ownership practices.

**III. To preserve waters of the U.S:**

1. A wetland delineation shall be submitted to the U.S. Army Corps of Engineers for verification prior to construction activities and determination of any permitting requirements.

2. All necessary permits shall be obtained from the RWQCB, CDFG, and USACE for installation and operation of the storm drain outfall.

3. All fueling and maintenance of vehicles and other equipment and staging areas will occur at least 50 feet away from any riparian habitat or water body. Proper and timely maintenance for vehicles and equipment used during construction activities will be performed to reduce the potential for mechanical breakdowns to lead to a spill of materials into or near aquatic habitat. Maintenance and fueling will be conducted in an area that meets the criteria set forth in the spill prevention plan (*i.e.*, away from aquatic habitat).

4. Staging and storage areas for equipment, materials, fuels, lubricants, and solvents will be located outside of aquatic habitat. Stationary equipment such as motors, pumps, generators, and compressors located within or adjacent to aquatic habitat will be positioned over drip pans or excavated areas with plastic lining to contain potential spills. Any equipment or vehicles driven or operated within or adjacent to aquatic habitats will be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life. Vehicles will be moved at least 50 feet away from aquatic habitats before refueling and lubrication, when feasible. No debris such as trash or spoils will be deposited within 50 feet of any aquatic habitat.

5. All construction adjacent to aquatic habitat shall be regularly monitored to ensure that impacts do not exceed those included within the protective standards of the Conditions of

Approval. Work performed within 100 feet of aquatic habitat shall be monitored by a qualified biologist, who shall document pre- and post-Project conditions to ensure permit compliance.

6. The Project applicant will restore areas disturbed during construction activities with an appropriate assemblage of native vegetation suitable for the area. Channel banks, if disturbed, will be returned to original grade slope, and appropriate bank stabilization techniques will be implemented to reduce the potential for erosion and sedimentation.

7. All concrete dust generated as part of the work within 100 feet of any aquatic features will be vacuumed away immediately.

8. No litter, debris, or sidecasts shall be dumped into aquatic habitats. Trash and debris shall be removed from the site daily.

9. Vehicles and equipment shall only be driven within established roads and crossings. Routes and boundaries shall be clearly marked and will be located outside of aquatic areas.

10. Equipment staging and parking of vehicles will occur on established access roads and laydown yards avoiding aquatic habitats.

11. The boundary of aquatic habitats that are to be avoided will be clearly marked with brightly colored fencing, staking, or flagging for work crew avoidance.

12. Worker education and awareness training will be conducted for work crews regarding aquatic habitats and sensitive species that they support. The integrity and effectiveness of construction fencing and erosion control measures will be inspected on a daily basis. Corrective actions and repairs will be carried out immediately for fence breaches and ineffective BMP's. Fueling, washing, and maintenance of vehicles will occur 100 feet away from aquatic habitats. Equipment will be regularly maintained to avoid fluid leaks. Any leaks shall be captured in containers until equipment is moved to a repair location. Hazardous materials shall be stored more than 100 feet away from aquatic habitats. Containment and clean up plans will be prepared and put in place for immediate clean up of fluid or hazardous materials spills.

13. Storm Water Pollution Prevention Plan (SWPP) inspections will occur at appropriate intervals.

#### **Impact Analyzed in General Plan EIR**

The General Plan EIR (pages 4-9 to 4-11) addressed biological resources impacts from development consistent with the General Plan and concluded that General Plan policies in the Conservation Element would minimize impacts to less than significant levels. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

#### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

General Plan Policy 2.2.1 of the Land Use Element, "Open Space" sets forth policies to preserve open space; retain steep and unstable slopes as open space; and retain creeks and wildlife access corridors as open space. (General Plan Policy 2.2.1 (B-D) page 17)

General Plan Policy 4.1.1 of the Conservation Element sets forth policies to preserve rare

and endangered species; preserve valuable wildlife habitats (particularly riparian habitats); preserve oak woodlands and other native trees, protect creeks, achieve aesthetically sensitive grading that conforms to natural contours, ensure safety and preserve trees and other vegetation and encourage planting and reforestation of oaks and other natives in hillside areas. (General Plan, Policy 4.1.1(B-G), p. 71.)

General Plan Policy 4.1.2 is designed to implement Policy 4.1.1 and requires an “environmental habitat assessment for any major development determined to be in an environmentally sensitive area.”

### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

#### Orinda Municipal Code Provisions

The City of Orinda is required to comply with all federal and State standards and City ordinances expressly recognize and incorporate these standards into the Municipal Code as described below. (See, e.g., OMC § 17.44.5 (use permit may be revoked for violation of local, state, or federal law); 18.02.010 (municipal code intended to be consistent with Porter-Cologne Water Quality Control Act and the federal Clean Water Act for preservation of water quality and related habitat); 18.02.070 (NPDES permit contemplated; requiring compliance with all federal, state, regional, city or county best management practices for discharge of pollutants.) City ordinances also, separately and independent of state and federal law, address and protect biological resources within the City, and govern development of the Project site. These include: OMC sections 17.1.2(K) (zoning decisions to be made with purposes of minimizing environmental degradation); 17.4.6 (setback requirements for water channels; 17.7.1 (residential development on hillsides to preserve the environmental quality of the city); 17.7.7 (grading required to have minimal effect on environment); and 17.7.8 (open space areas to be located in areas of environmental significance).

In addition, under Chapter 18.30, Article 2, no person, firm, or corporation may impair, impede, redirect, or affect waters in a watercourse; construct, alter, or repair a watercourse; excavate, grade, or otherwise alter the surface of land so as to affect the capacity of a watercourse; destroy or significantly alter vegetation at or near a watercourse; or install or construct a new structure or improve or expand an existing structure within or across a watercourse without first obtaining a written permit from the Planning Director, and where the City may impose as conditions of approval any conditions reasonably related to the public health, safety and welfare, including but not limited to riparian habitat restoration. (See OMC §§ 18.03.080.) Each application for construction of a new residential structure must include a landscape plan, which also shall provide appropriate native riparian vegetation and other improvements designed to protect the environment, including allowance for wildlife movements construction practices protective of native trees. (See OMC § 17.7.1; 18.04.010.)

To the extent that protected trees on the Project site may be affected, the provisions of the OMC Chapter 17.21 Tree Management (set forth in Section I-*Aesthetics* above) establishes criteria designed to preserve protected trees by requiring consideration of the extent to which development proposals can be modified to minimize removal of protected trees and requires consideration of factors such as the number of other trees to remain in an area.

#### Federal and State Standards

A number of federal and state policies provide the regulatory framework that guides the protection of biological resources. The following is a list of the regulations that are most

relevant to biological resources on the Project site. A summary of each of the regulations can be found on pages 40-47 of the AECOM report.

*Federal*

1. Federal Endangered Species Act
2. Sections 404 and 401 of the Clean Water Act
3. Migratory Bird Treaty Act
4. Bald and Golden Eagle Protection Act

*State*

1. California Endangered Species Act
2. Porter-Cologne Water Quality Control Act
3. Section 1602 of the California Fish and Game Code
4. Section 3503 of the California Fish and Game Code
5. Section 3511 of the California Fish and Game Code
6. CEQA Guidelines Section 15206
7. CEQA Guidelines Section 15380
8. Native Plant Protection Act
9. Oak Woodlands Conservation Act

The numerous regulatory measures that apply to the Project and Project site — including General Plan policies, municipal code provisions, and design review procedures — would ensure that there are no significant environmental effects that are peculiar to the parcel or the Project.

**Impacts Peculiar to the Project or to the Project Site**

Because the proposed Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant biological resource impacts that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applied Development Policies or Standards*, above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts to biological resources than the levels described in the General Plan EIR.

In addition, the AECOM report ensures that prescribed construction practices and measures incorporated as elements of the Project would result in the avoidance of any potential impacts.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8 above.

Both the Lavenida Lane Project and the J&J Ranch project would be subject to compliance with the comprehensive regulatory provisions that ensure the projects would not result in significant impacts to biological resources, as discussed above.

In addition, specific elements of the proposed Lavenida Lane Project, such as clustering and dedication of an open space/conservation easements as described in the *Description of the Project* in section 9, above, would minimize any potential impacts such that the Project would not make a considerable contribution to cumulative impacts to biological resources.

<p>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>See section IV.a, above.</i></p>					
<p>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?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>See section IV.a, above.</i></p>					
<p>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?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>See section IV.a, above.</i>					
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section IV.a, above.</i>					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section IV.a, above.</i>					
	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>V. CULTURAL RESOURCES</b> -- Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Setting**

A Historical/Cultural Resources Study (henceforth Cultural Resources Study), including an intensive pedestrian survey, was conducted by Pacific Legacy and Carey & Co. in June 2011 for the Project site, and is hereby incorporated by reference ([Appendix GJ](#)). Based on the record search and literature review, no previously recorded cultural resources are present on the Project site. Two previously unidentified cultural resources were recorded during the field survey of the project area. These resources consist of the remnants of a walnut orchard dating to the late 1940s and an abandoned fence-lined road segment. Neither of these resources appear to be eligible for the California Register of Historical Resources (California Register).

The Joaquin Moraga Adobe (Moraga Adobe), on the adjacent J&J Ranch parcel, is listed on the National Register of Historic Places (National Register). The Moraga Adobe was constructed in approximately 1841 and is the oldest remaining adobe residence in Contra Costa County. The Moraga Adobe was recently reviewed by Architectural Resources Group (ARG) for a proposed subdivision of the J&J Ranch. That study identified the period of significance for the Moraga Adobe as 1841 to 1941.

### **Project Elements**

To ensure preservation of views from the Moraga Adobe on the adjacent parcel, the closest home in the Lavenida Lane development plan is approximately 400 feet from the Moraga Adobe, similar to distances to existing residences north of the Moraga Adobe. Roof heights would be limited as described in the Project Description, and implementation of a Landscape Plan submitted by the applicant will ensure that new roadways will be largely screened by topography and naturally occurring vegetation. The design of the residences will be consistent with the City's Hillside and Ridgeline Design Guidelines and subject to design review.

### **Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR (pages 4-14 to 4-15) addressed impacts on prehistoric, archaeological, and historical resources existing within the City. The General Plan EIR identified the Moraga Adobe structure and site as a potentially impacted resource. The General Plan EIR identified policies in the General Plan Conservation Element to protect cultural resources, and directed the City to prepare a Landmarks Preservation Ordinance that designates sites, structures, and natural elements for protection and regulates permit applications for construction, alteration or demolition on such sites. General Plan, Policy 4.1.2(B); see discussion, below of OMC Chapter 17.25 (Historic Landmarks ordinance). The applicable measures, policies, or standards, described immediately below, shall be applied to the Project as appropriate.

### **General Plan Measures That Substantially Mitigate Potential Project Impacts** General Plan.

The General Plan Conservation Element policies referenced above include the following:

General Plan Policy 4.1.1(A) addresses the preservation of the City's historical structures and sites, unique trees and landforms. (General Plan, p. 71.) Implementing Policy 4.1.2, directs the City to: "*Conduct an archival study of resources, map the general locations of resources, and review development proposals to determine the potential impacts on archaeological and historic resources and the need for more detailed study. Require*

*additional study of development proposals on sites with moderate probability that such resources exist.”* (General Plan, p. 72.) The Cultural Resources study, incorporated above, was undertaken in compliance with this policy.

See also discussion of *General Plan Measures That Substantially Mitigate Potential Project Impacts* in Section I.a. above.

### **Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

#### Orinda Municipal Code Provisions

See discussion of *Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts* in Section I.a. above.

In addition, Project activities that have the potential to impact views from the Moraga Adobe site will comply with a number of federal and state regulations to the extent applicable, including:

#### Federal Regulations

The National Historic Preservation Act of 1966 (NHPA), as amended, established the National Register of Historic Places (NRHP), which contains an inventory of the nation’s significant prehistoric and historic properties. Under 36 CFR 60, properties are recommended for possible inclusion on the NRHP if the property is at least 50 years old, has integrity, and meets one of the following criteria:

- A. Is associated with significant events in history, or broad patterns of events;
- B. Is associated with significant people in the past;
- C. Embodies the distinctive characteristics of an architectural type, period, or method of construction, or is the work of a master, or possesses high artistic value, or that represents a significant and distinguishable entity whose components may lack individual distinction; and/or
- D. Has yielded, or may yield, information important in history or prehistory.

Certain types of resources are usually excluded from consideration for listing in the NRHP, but can be considered if they meet special requirements in addition to meeting one of the above criteria. Such resources include religious sites, relocated structures, graves and cemeteries, reconstructed structures, commemorative structures, and structures that have achieved significance within the past fifty years. A resource that meets the NRHP criteria is typically considered a historical resource for purposes of CEQA evaluations. However, a resource that does not meet the NRHP standards may still be considered a historical resource if: it meets the state criteria for listing; it is included on a local register of historical resources; or it has been identified as significant in an historical resource survey meeting statutorily defined requirements.

#### State Regulations

As defined by Section 15064.5(a)(1) of the State CEQA Guidelines, a resource shall be considered historically significant if it has been listed in, or determined to be eligible by the State Historical Resources Commission for listing in, the California Register of Historic Resources (CRHR). However, a resource need not be listed on any register to be found historically significant for CEQA purposes (Public Resources Code Section 21084.1). Guidelines Section 15064.5(a)(3) explains that a resource may be determined by the lead agency to be an historical resource if the agency’s determination is supported by substantial

evidence: “Generally a resource shall be considered by the lead agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources...”

Given that the CRHR was modeled after the NRHP, it has very similar eligibility criteria. Criteria for inclusion under the CRHR are essentially the same as for the NRHP. In order to understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. A resource less than fifty (50) years old may be considered for listing in the California Register if it can be demonstrated that sufficient time has passed to understand its historical importance. 14 CCR § 4852(d)(2). Generally, to be eligible for listing on the CRHR (and therefore considered a historical resource under CEQA), a resource must possess integrity and demonstrate eligibility under at least one of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

Section 15064.5(c) of the State CEQA Guidelines applies to the analysis of effects on archaeological sites. When a project would affect an archaeological site, a lead agency must determine whether the site is an historical resource, and therefore subject to the CRHR criteria listed above (particularly Criterion D4), or whether the site is a unique archaeological resource, as defined in Section 21083.2 of CEQA, and whether the provisions of that section for mitigation apply. If a lead agency determines that an archaeological site is neither historic nor unique, the resource requires no further consideration, other than recordation of its existence if the lead agency so elects.

The State Historical Resources Commission (SHRC) is responsible for reviewing, commenting, and approving nominations to the NRHP, CRHR, California Historical Landmarks, and California Points of Historical Interest. According to federal regulations, a property cannot be listed in the NRHP without the owner’s consent. A property can, however, be determined eligible for listing by the Keeper of the Register if the owner opposes the listing. Those resources that the Keeper of the Register approves for listing or determines eligible for listing are also listed in the CRHR. Properties recommended and approved for listing by the SHRC as California State Historical Landmarks and California State Points of Historical Interest are also listed on the CRHR.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts to historical and cultural resources that are peculiar to the parcel or the Project. The numerous regulatory measures that apply to the Project and Project site — including General Plan policies, municipal code provisions, and design review procedures — would ensure that there are no significant environmental effects that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City’s General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applied Development Policies or Standards*, above.

In addition, the Cultural Resources Study conducted for the Project site ensures that prescribed construction practices and measures incorporated as elements of the Project would result in the avoidance of any impacts to potential resources onsite and to the Moraga Adobe on the adjacent site. With implementation of the Project elements as recommended by the cultural resource consultants, there is no substantial new information indicating that development at this site would result in greater impacts to cultural resources than the levels described in environmental review documents for the General Plan. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan* in Section 8. And discussion of above *Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR* in Section I.a. above.

Like the Lavenida Lane Project, the proposed J&J Ranch project would be subject to uniformly applicable policies and standards as discussed above that would ensure the development would not result in impacts to historical and cultural resources. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative historical and cultural resource impacts.

Project elements of the Lavenida Lane Project, including clustering, an open space/conservation easements, height restrictions, and landscaping, will minimize any potential impacts such that the Project will not make a considerable contribution to any significant, cumulative impact to historical and cultural resources.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The Cultural Resources Study conducted for the Project site revealed that there are no known archeological deposits. Pacific Legacy/Carey and Co. Study at pp. 22 and 23. The Study indicates that unknown and potentially significant cultural and archaeological resources could exist subsurface or within the portions of the Project area that were not accessible. Pacific Legacy/Carey and Co. Study at p. 28.

**Project Elements**

The proposed Project will implement as Project elements all recommendations from the Cultural Resources Study. The recommendations are summarized below.

- A qualified archaeologist will be present to monitor initial vegetation removal and ground-disturbing activities with the potential to impact native soils. If any cultural materials are identified they will be avoided. If avoidance is not feasible, Project impacts will be mitigated in accordance with the recommendations of the evaluating archaeologist and CEQA Guidelines §15126.4 (b)(3)(C), which require development and implementation of a data recovery plan that would include recommendations for the treatment of the discovered

archaeological materials. The data recovery plan will be submitted to the City of Orinda for review and approval. Upon approval and completion of the data recovery program, the archaeologist will prepare a report documenting the methods and findings and submit it to the City of Orinda. Once the report is reviewed and approved by the City of Orinda, a copy of the report will be submitted to the Northwest Information Center (NWIC).

- A qualified archaeologist shall conduct a training session for all construction personnel prior to the beginning of construction. Training should address the proper procedures to follow in the event that cultural resources are uncovered during excavations and should include an explanation of the regulatory policies protecting resources; basic identification of cultural resources; and the protocol to follow in case of a discovery of such resources. If deposits of prehistoric or historic archaeological materials are encountered during Project activities on the Project site, all work within 25 feet of the discovery will be stopped and a qualified archaeologist meeting federal criteria under 36 CFR 61 will be contacted to assess the deposit(s) and make recommendations.

Implementation of these Project elements ensure that any potential impacts to archaeological resources would be reduced to less-than-significant levels.

**Impact Analyzed in General Plan EIR**

See corresponding discussion in section V.a. above.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section V.a. above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

See also discussion of *Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts* in sections I.a. and V.a. above.

The following regulations from the State Public Resources Code (PRC), the California Code of Regulations (CCR), the California Environmental Quality Act (CEQA), and the California Penal Code apply to archeological and paleontological resources:

PRC, Division 5, Chapter 1.7, Section 5097.5 establishes that unauthorized removal of archaeological and paleontological resources on sites located on public lands is a misdemeanor. As used in this section, "public lands" means lands owned by, or under the jurisdiction of the state, or any city, county, district, authority or public corporation, or any agency thereof.

PRC, Division 5, Chapter 1.75, Section 5097.98 prohibits obtaining or possessing Native American artifacts or human remains taken from a grave or cairn; sets penalties.

PRC, Division 13, Chapter 2.6, Section 21083.2 establishes that the CEQA lead agency determines whether a project may have a significant effect on unique archaeological resources. If a potential for damage to unique archaeological resources can be demonstrated, such resources must be avoided; if they can't be avoided, mitigation measures will be required; discusses excavation as mitigation; discusses cost of mitigation for several types of projects; sets time frame for excavation; defines "unique and non unique archaeological resources," provides for mitigation of unexpected resources.

California Penal Code, Title 14, Section 622.5 establishes that anyone who damages an item of archaeological or historic interest is guilty of a misdemeanor.

CCR, Title 14, Division 3, Chapter 1, addresses paleontological resources. Section 4307: Geological Features states that “No person shall destroy, disturb, mutilate, or remove earth, sand, gravel, oil, minerals, rocks, paleontological features, or features of caves.” Section 4309: Special Permits states that “The Department may grant a permit to remove, treat, disturb, or destroy plants or animals or geological, historical, archaeological or paleontological materials; and any person who has been properly granted such a permit shall to that extent not be liable for prosecution for violating the foregoing.”

CCR, Title 14, Division 6, Chapter 3 (CEQA Guidelines), Sections 15000, et seq., Appendix G (j), specifically defines a potentially significant environment effect as occurring when the proposed project would “...disrupt or adversely affect...an archeological site, except as part of a scientific study.”

CCR, Title 14, Division 6, Chapter 3 (CEQA Guidelines), Sections 15000, et seq., Appendix G(V)(c) addresses impacts to paleontological resources. Paleontological resources are fossilized remains of plants and animals, and associated deposits. CEQA requires that a determination be made as to whether a project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature (CEQA Appendix G[V][c]). If an impact is significant, CEQA requires feasible measures to minimize the impact (CCR Title 14[3] Section 15126.4[a][1]).

In addition, the Cultural Resources Study, cited above, identifies no new information that would demonstrate the uniformly applicable regulations would not substantially mitigate environmental effects. The Cultural Resources Study concludes that with the recommended measures incorporated into the Project’s design, the Project will not result in significant impacts to archaeological resources. Pacific Legacy/Carey and Co. Study at p. 28.

**Impacts Peculiar to the Project or to the Project Site**

See corresponding discussion in section V.a. above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See corresponding discussion in section V.a. above and discussion of *Project Density Under the City’s General Plan*, in section 8. above.

In addition, Project elements for the Lavenida Lane Project, such as having a qualified archaeologist monitor initial vegetation removal and ground-disturbing activities and providing training by a qualified archaeologist for all construction personnel would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact to archaeological resources.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The assessment of paleontological resources conducted for the Project site revealed a high

potential for a fossiliferous Siesta formation to be present on the site that may include a unique paleontological resource. Pacific Legacy/Carey and Co. Study at p. 29.

**Project Elements**

The Project will implement as Project elements the following recommendations from the Cultural Resources Study:

- Prepare a paleontological monitoring plan that ensures paleontological monitoring during construction activities; avoidance measures; implementation of a paleontological salvage program developed by a professional paleontologist should artifacts be discovered; provisions for recovered specimens to be housed in an institutional paleontological repository; and preparation of a Final Report to be reviewed by a vertebrate paleontologist designated by the City.

**Impact Analyzed in General Plan EIR**

See corresponding discussion in section V.a. above.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section V.a. above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section V.b. above.

**Impacts Peculiar to the Project or to the Project Site**

See corresponding discussion in section V.a. above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See corresponding discussion in section V.b. above and discussion of *Project Density Under the City's General Plan*, in section 8 above.

In addition, Project elements for the Lavenida Lane Project, such as preparing of a monitoring plan outlining avoidance measures, a salvage program, and recordation of the paleontological resources should be they encountered would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact to paleontological resources.

d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The potential to uncover Native American human remains exists in locations throughout California. According to the Cultural Resources Study, although not anticipated, human remains may be encountered during site-preparation and grading activities. Pacific Legacy/Carey and Co. Study pp. 29 and 30.

**Project Elements**

The Project will implement as Project elements the following recommendations from the Historical/Cultural Resources Study:

- In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, excavation or disturbance of the site or any nearby area will cease until the County Coroner has examined the remains. If the County Coroner recognizes the remains as being of Native American origin, he/she is responsible to contact the Native American Heritage Commission (NAHC) within 24 hours. The Commission has various powers and duties, including the appointment of a Most Likely Descendant (MLD) to the project. The MLD, or in lieu of the MLD, the NAHC, has the responsibility to provide guidance as to the ultimate disposition of any Native American remains.

- The archaeological consultant, City of Orinda, and MLD would then make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the project will follow Section 5097.98(e) of the PRC, which states that “the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.”

Implementation of these Project elements ensures that any potential impacts to human remains would be reduced to less-than-significant levels.

**Impact Analyzed in General Plan EIR**

See corresponding discussion in section V.a. above.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section V.a. above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section V.b. above.

**Impacts Peculiar to the Project or to the Project Site**

See corresponding discussion in section V.a. above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8. above.

Both the Lavenida Lane Project and the J&J Ranch project would be subject to compliance with the comprehensive regulatory provisions that ensure the Projects would not result in impacts related to cultural resources as discussed above.

Project elements for the Lavenida Lane Project, as described immediately above, would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact to cultural resources.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>VI. GEOLOGY AND SOILS --</b> Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) 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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b>            Alan Kropp &amp; Associates prepared a Geologic/Geotechnical Investigation (“Kropp Report”), dated June 16, 2010 for the Project. (This report was peer reviewed by the City’s consultant, Cal Engineering and Geology.) The Kropp Report, <u>and subsequent clarification correspondence, is-are</u> hereby incorporated by reference and attached as <u>Appendix AB</u>.</p> <p>According to the Kropp Report, seismicity in the Orinda area is related to activity on the San Andreas Fault system, including major active faults to the east and west of the site. The principal active faults of the region are the San Andreas, 21 miles southwest of the site; the Hayward, 3.2 miles to the southwest; and the Calaveras, 9.6 miles to the east. The site is not within one of the Alquist-Priolo Earthquake Fault Zones established by the State of California around known active faults. According to the Kropp Report, the Moraga fault, which terminates about one mile west of the site, is not considered active. Kropp Report, p. 3. A thrust fault mapped by Ron C. Crane (1988 Geologic Map of the Oakland East Quadrangle: in Field Trip Guide to the Geology of the San Ramon Valley and Environs) through the site has not been confirmed on other published maps according to the Kropp</p>					

Report. *Id.* In addition, the Kropp Report states that if such a fault does exist, it is most likely an ancient fault and no longer active. No active faults are known to cross or project toward the site.

The Kropp Report describes three landslides on the Project site. Kropp Report, p. 15 and Figure 1, Geologic Map. Landslide A, located on the central portion of the site, lies wholly within the subject property. Landslide B is the probable toe of a larger landslide that originally extended into the golf course area to the southwest of the site. Landslide C lies in the extreme southeastern portion of the site and is outside the proposed development area. Kropp Report, p. 15 and Figure 1, Geologic Map.

According to the Kropp Report, the site is underlain by moderate to high plasticity clay-rich soils and relatively shallow depth bedrock which would not be subject to liquefaction. Kropp Report, p. 18.

### **Project Elements**

The Project design incorporates elements, based on the recommendations in the Kropp report, to minimize impacts related to ground-shaking and unstable soils. These elements include, but are not limited to:

- compliance with specifications for engineering of cut and fill materials;
- compliance with specifications for subdrainage on the site;
- removal and repair of two of the slide areas on the site;
- compliance with specifications for structure foundations when houses are constructed; and
- compliance with specifications for construction of retaining walls.

According to the Kropp Report, implementation of the recommendations in the report ensures that any potential impacts related to seismic ground shaking would be reduced to less-than-significant levels. Kropp Report at p. 19.

### **Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR addressed seismic and geologic hazards of development at pages 4-17 and 4-18. The General Plan EIR identified the Hayward and Calaveras faults, located about four miles from the City, as active faults capable of producing weak-to-strong ground shaking. General Plan EIR, p. 4-17. The General Plan EIR acknowledged that slope stability in the area is generally considered to be poor, favoring "landsliding and rapid erosion," but determined that policies within the General Plan Safety Element requiring site-specific studies for individual projects would reduce impacts to a less-than-significant level. General Plan EIR, pp. 4-17 to 4-18. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

### **General Plan Measures That Substantially Mitigate Potential Project Impacts** General Plan.

The General Plan Safety Element policies referenced above include the following.

General Plan Implementation Policies 4.2.2 A. and B. require a geotechnical investigation and report, including assessments of seismic and landslide risks for all new development, including single family residences in Orinda. The Geologic/Geotechnical Investigation, incorporated above, was undertaken in compliance with these policies. Policies 4.2.2. C. and D. direct the City to develop regulations to ensure necessary geotechnical improvements

for new development are implemented and maintained. As explained below, the City has since adopted provisions in OMC section 16.20.030 in compliance with these policies.

**Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

Orinda Municipal Code Provisions

Applications for tentative maps are subject to review by the Planning Department, and such review requires the project applicant to provide copies of geologic and/or soil reconnaissance reports, prepared and signed by an engineering geologist, which are then peer reviewed by a Contra Costa County engineering geologist. (See OMC § 16.20.030.) The City's municipal code also provides strict and comprehensive regulations for new subdivisions that address drainage (OMC Ch. 16.64) and grading (OMC Ch. 15.36).

Other Uniformly Applied Development Policies or Standards

Relevant seismic design criteria account for peak ground acceleration, soil profile, and other site conditions, and they establish corresponding design standards intended primarily to protect public safety and secondly to minimize property damage. Such regulations include:

- The California Building Code ("CBC"), Part 2 of the California Building Standards Code ("CBSC"), which is codified as Title 24 of the California Code of Regulations ("CCR"). The CBC is based on the 2006 International Building Code and includes additional provisions and modifications specific to California. The CBC pertains to building design and construction and is separate from other parts of the CBSC such as the electrical code, plumbing code, mechanical code, fire code, energy code, etc. In terms of addressing concerns related to geology and seismicity, the CBC provides standards for structural integrity, earthquake loads, and soils and foundations (CBC Chs. 16, 16A, 17, 17A, 18, and 18A.) The provisions of the CBC apply to the construction, alteration, movement, replacement, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout California. (See *also* OMC § 15.08.010 [City expressly adopts CBC].)
- Local Review. Construction of new buildings is subject to review by both the Planning and Building departments; detailed soils reports, including grading, landslide repair, building foundation design, retaining walls, sub-drainage, etc. are required for each single-family residence on each proposed parcel; as a part of the standard development review and building permit process, these reports will also be peer reviewed by the City's consulting engineers prior to any approvals and permits issued; and construction is subject to the current seismic code requirements, as described above. (See OMC § 16.20.030.) The City's municipal code also provides strict and comprehensive regulations for new subdivisions that address drainage (OMC Ch. 16.65) and grading (OMC Ch. 15.36).

The numerous regulatory measures that apply to the Project and Project site — including General Plan policies, municipal code provisions, and other regulations and standards — would ensure that there are no significant environmental effects associated with seismicity or unstable soils that are peculiar to the parcel or the Project.

In addition, the Kropp Report, cited above, identifies no new information that would demonstrate the uniformly applicable regulations would not substantially mitigate such environmental effects. The Geologic/Geotechnical Investigation concludes that with the recommended measures incorporated into the Project's design, the Project will not result in

significant impacts related to seismicity and unstable soils. Kropp & Associates Report at p. 19.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts associated with seismicity or unstable soils that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applied Development Policies or Standards*, above.

In addition, the Geologic/Geotechnical Investigation conducted for the Project site ensures that prescribed construction practices and measures incorporated as elements of the Project would result in the avoidance of any impacts. With implementation of the Project elements as recommended by the geotechnical consultants, there is no substantial new information indicating that development at this site would result in greater impacts related to seismicity and unstable soils than the levels described in the environmental review documents for the General Plan. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan* in Section 8. above.

The Kropp Report describes two landslides on the Project site that may extend onto areas adjacent to the site. The landslides are depicted in Figure 1 of the Kropp Report. Landslide B is the probable toe of a larger landslide that originally extended into the golf course area to the southwest of the site. Landslide C lies in the extreme southeastern portion of the site and is outside the proposed development area. (Landslide A, located on central portion of the site, lies wholly within the subject property.) Kropp Report, p. 15 and Figure 1, Geologic Map.

The Project incorporates as Project elements all recommendations from the Kropp Report addressing these slide areas. Specifically, landslide areas A and B would be removed and rebuilt with engineered fill and appropriate subsurface drainage. Because landslide C is outside the development area, it will not be disturbed. As indicated by Kropp and Associates, due to its location, Landslide C would not impact the proposed Project and the Project would not have a destabilizing effect on Landslide C. Appendix B, March 9, 2012 Alan Kropp & Associates, memo providing geotechnical clarification on Landslide C.

Other Project elements include compliance with all recommendations related to engineering of subdrainage for the site and construction of foundations and retaining walls. With implementation of the aforementioned Project elements, the Lavenida Lane Project would not result in significant off-site impacts.

In addition, geologic, soil, and seismic impacts tend to be localized because the stability of soils on a project site is largely unaffected by the stability of soils that are not immediately adjacent. No destabilizing activities (such as grading or other construction activities) are anticipated on the developed areas in the immediate vicinity of the Project. The proposed development on the adjacent J&J Ranch project site is neither located uphill nor downhill from the Lavenida Lane Project site, but laterally to the northwest. Thus, any unstable soils on the Lavenida Lane site are not connected to soils on the J&J Ranch site. The proposed open space/conservation easement on the west property line between the Lavenida Lane

Project and the J&J Ranch site would also provide a substantial buffer between the two developments.					
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See corresponding discussions in section VI.a.i above.					
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See corresponding discussions in section VI.a.i above.					
iv) Landslides?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See corresponding discussions in section VI.a.i above.					
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section VI.a.ii and iii, above. In addition to the analysis above, there are additional regulatory requirements, summarized below, that are uniformly applicable and would ensure impacts regarding erosion would be less than significant.					
<u>Federal and State Regulations</u>					
The applicant's SWPPP prepared in compliance with the NPDES General Permit, combined with compliance with other regulations set forth in the CBC and prescribed by the City, would ensure the environmental impacts of the Project would be mitigated to a less-than-significant level, and are thus not peculiar to the site. See section IV.a above for more details about NPDES requirements.					
<u>Municipal Code Provisions</u>					
Locally, the City mandates by ordinance the following in section 18.02.070 of the OMC:					
<ul style="list-style-type: none"> <li>• <u>Construction Activities</u>. All construction shall conform to the requirements of the California Stormwater Quality Association ("CASQA") Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the Association of Bay Area Government ("ABAG") Manual of Standards for Erosion and Sediment Control Measures, the city's grading and erosion control requirements and other generally accepted engineering practices for erosion control as required by the approving authority when undertaking construction activities. The city may establish controls on the rate of storm water runoff from new developments and redevelopment as may be appropriate to minimize the volume of runoff and the discharge and transport of pollutants.</li> <li>• <u>Development Runoff Requirements</u>. For each new development and redevelopment project subject to development runoff requirements of the city's NPDES permit, every applicant will submit a storm water control plan and implement conditions of approval that reduce storm water pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Similarly, increases in runoff volume and flows shall be managed in accordance with the development runoff requirements.</li> <li>• <u>Compliance with BMPs</u>. Where guidelines or requirements for best management</li> </ul>					

practices have been adopted by any federal, state, regional, city or county agency, for any activity, or operation of premises which may cause or contribute to non-storm water discharges, every person undertaking such activity or operation or owning and operating such premises shall comply with such guidelines or requirements.

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

See sections VI.a.i, VI.a.ii, VI.a.iii, and VI.b, above.

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

*See section VI.a.iii, above.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**No Impact.** The Project does not propose the use of septic tanks or alternative waste water disposal systems. Connections to the existing public sewer system will be made when residential units are constructed on the proposed parcels. According to Russell Leavitt, a representative from the Central Contra Costa Sanitation District (“CCCSD”), the Project site is within CCCSD’s boundaries and sewer service has been planned for this area. Thus, the Project would not result in any impacts associated with soils incapable of supporting the use of alternative waste water disposal systems.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

<b>VII. GREENHOUSE GAS EMISSIONS –</b> Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting**  
See section III. Air Quality above.

**Project Elements**  
See section III. Air Quality above.

**Analysis of Impact Analyzed in General Plan EIR**  
The General Plan EIR addressed air quality impacts of development consistent with the General Plan at pages 4-13 and 4-14. Greenhouse gas emissions were not included in the General Plan EIR.

As discussed in section III. Air Quality above, the ~~2010~~ BAAQMD CEQA Guidelines include screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant need not perform a detailed air quality assessment of the project’s air pollutant emissions, and impacts are deemed less-than-significant. (BAAQMD CEQA Guidelines, pp. 3-1, and 4-4.)

Under the screening criteria for single family developments, those projects that include more than 56 dwelling units are deemed to have the potential to result in significant operational impacts related to greenhouse gas emissions. (BAAQMD Guidelines, Table 3-1 at 3-2.) BAAQMD does not specify screening criteria for construction-related greenhouse gas emissions. This Project, which proposes to construct 13 residential units, does not meet the BAAQMD operational emissions screening criteria, and thus, impacts related to greenhouse gas emissions would be less than significant. Because operational impacts would be less than significant, construction emissions, which would take place over a relatively short duration compared to operational emissions, would also be considered less than significant. Because impacts would be less than significant, the Project would not result in impacts peculiar to the parcel or the Project.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**  
See corresponding discuss in Section III. above.

**Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

Orinda Municipal Code Provisions

OMC chapter 15.62 – Construction and Demolition Debris Reuse and Recycling requires diversion of 50 percent of the construction and demolition debris from landfills. BAAQMD CEQA Guidelines section 8.2 encourages lead agencies to incorporate best management practices, including reuse or recycling of at least 50 percent of construction waste or demolition materials to reduce GHG emissions during construction.

See also corresponding discussion in Section III above.

State Regulations

The following regulations would apply to construction of the Project and operation by its users (i.e., the homeowners) and are uniformly applicable to all proposed developed in the City.

- California Energy Efficiency Standards. Although it was not originally intended to reduce greenhouse gas emissions, California Code of Regulations Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient technologies and methods. The 2008 Standards went into effect January 1, 2010, and supersede the 2005 Standards. Projects that apply for a building permit on or after this date must comply with the 2008 Standards. Energy-efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases greenhouse gas emissions.
- California Green Building Code. California also adopted, on January 1, 2009, the Green Building Standards Code in Title 24, Part 11. The code imposes standards with regard to building features such as the exterior envelope and materials, and the aim is to reduce energy usage in non-residential buildings by 20 percent by year 2015, compared to energy usage that would have occurred in the absence of the code's adoption. Compliance with the Green Building Standards Code is mandatory as of January 1, 2011.

These standards would ensure the Project would reduce energy use, and therefore greenhouse gas emissions. There is no significant new information to indicate that air quality impacts from development that is consistent with the City's policies and standards, including greenhouse gas emissions, would result in significant impacts. The applicable BAAQMD CEQA Guidelines indicate that the Project would not have any potential significant operational impacts; therefore there is no new substantial information that the regulatory background would not be effective.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan, and because the Project does not meet the BAAQMD screening criteria, impacts related to greenhouse gas emissions would be less than significant. See also discussion of *Project Density Under the City's General Plan* in Section 8 above, and discussion of *Uniformly Applied Development Policies or Standards*, above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

The City and BAAQMD characterize air quality impacts as necessarily cumulative and, though sometimes presented as measuring an individual project's impact, the applicable methodologies in fact measure whether a project's contribution to a cumulative impact is considerable. (See BAAQMD CEQA Guidelines, p. 2-1 [May 2011]; [personal communication](#)

with Dave Vintz, BAAQMD Air Quality Planning Manager, March 28, 2012.) Therefore, the analysis above addresses the Project's potential contribution to cumulative conditions. The Lavenida Lane Project along with the proposed J&J Ranch project would construct a total of 21 units, which is significantly lower than the BAAQMD screening criteria of 56 units for potential greenhouse gas emission impacts. Therefore, the Project along with the proposed J&J Ranch project would not result in cumulatively significant greenhouse gas emission impacts.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** See section III. Air Quality and section VII.a immediately above.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**VIII. 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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**  
Sensitive receptors located in the vicinity of the Project site include residential uses to the north of the site and two schools: Del Rey Elementary School (located 1,000 feet north of the project site) and Miramonte High School (located approximately 1,000 east of the project site). No other sensitive receptors (e.g., nursing homes, retirement communities, or hospitals) are located within 1/2-mile of the project site.

Two unnamed watercourse segments traverse the Project site. One runs along the northwest side of the site and the other traverses the southeast corner of the site. Both are ephemeral

tributaries and flow west to east. Lower Moraga Creek is located approximately 400 feet north of the project site.

### **Project Elements**

Project construction activities may involve the use, transport and disposal of hazardous materials such as gasoline, diesel fuel, lubricating oil, hydraulic oil, lubricating grease, automatic transmission fluid, paints, solvents, glues, and other substances used during construction. Construction of the project would also require the use of gasoline and diesel-powered heavy equipment, such as bulldozers, backhoes, water pumps and air compressors.

The Project includes implementation of an approved SWPPP that will specify Best Management Practices (“BMPs”) to prevent construction pollutants from contacting storm water with the interest of protecting the quality of receiving waters. As described in section IX.. Implementation of the SWPPP would reduce potential impacts resulting from accidental spills or releases of hazardous chemicals to less-than-significant levels.

Project operation would not result in the use, transport and disposal of hazardous materials except for incidental use of household chemicals by residents on the site.

### **Impact Analyzed in General Plan EIR**

The General Plan EIR (pp. 4-16 and 4-17) addressed impacts associated with the increased pollution from development consistent with the General Plan and found there would be increase in the likelihood of urban pollutants, such as petrochemicals, detergents, pesticides, herbicides and fertilizers, to enter the drainage system. The General Plan EIR concludes that General Plan Conservation element policies 4.1.1 and 4.1.2 prevent adverse impacts on creeks and drainages. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section IX.a. Hydrology and Water Quality below.

### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

#### Orinda Municipal Code Provisions

See corresponding discussion in sections VI.b. above and IX.a. below.

#### Other Applicable Provisions

Contra Costa County developed the Hazardous Waste Management Plan (HWMP) to protect human health and the environment through hazardous materials emergency planning and community programs. The HWMP provides for notification, evacuation, and clean up in the event of any incidents.

### **Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts associated with the use, transport, or disposal of hazardous materials that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts associated with hazardous materials than the levels described in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8 above.

The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&J Ranch project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure the development would not result in significant cumulative impacts related to the use of hazardous materials. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative impacts.

In addition, Project elements described above, such as preparation of a SWPPP and implementation of BMPs, would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact related to hazardous materials or accidental releases of those materials.

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

*See section VIII.a, above.*

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

*See section VIII.a, above.* The proposed residential development is located within one quarter mile of the Del Rey Elementary School on El Camino Moraga. As discussed above, in sections III. Air Quality and VIII.a, construction of the Project would involve construction emissions and incidental use of hazardous materials. However, the uniformly applicable standards identified in section III.a and VIII.a, above, would substantially mitigate impacts such that the Project would not result in impacts peculiar to the parcel or the Project.

<p>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?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>The Project is not on any of the lists compiled pursuant to Government Code section 65962.5 which are as follows:</p> <ul style="list-style-type: none"> <li>• hazardous waste and substance sites (compiled by the Department of Toxic Substances Control) :</li> <li>• leaking underground storage tank sites [compiled by the California Water Board (CWB)],</li> <li>• solid waste disposal sites (compiled by CWB),</li> <li>• cease and desist orders and cleanup and abatement orders (compiled by CWB).</li> </ul> <p>See section VIII.a, above.</p>					
<p>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?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>NO IMPACT.</b> The Project is not located within an airport land use plan nor is it located within two miles of an airport or private airstrip. Therefore, the Project would not result in impacts to airports.</p>					
<p>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?</p>	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>See section VIII.e, above.</i>					
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>NO IMPACT.</b> The project site is accessible from Lavenida, a public street that feeds directly to Moraga Way which is a major arterial. The development lies at the edge of the City's development footprint and there are no residences or other uses lying beyond the Project site. The construction and inhabitation of 8 single-family homes would not physically interfere with any emergency response plan or emergency evacuation plan.</p>					
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<b>X</b>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> The Project site is located in a "High Hazard" area for wildfires. General Plan, p. 75. According to the General Plan, fire hazards in Orinda are increased by the potential for wildfires on open-space lands, dense tree cover, and slopes. All three of these characteristics are present on the Project site.</p> <p><b>Proposed Project Design</b> The Orinda-Moraga Fire District has reviewed the Project and the applicant has incorporated all recommendations proposed by the District as elements of Project design. The Project complies with the City's fire safety ordinance, the California Fire Code, fire safety provisions of the City's building and subdivision ordinances and the California Building Code. Specifically, the Project would incorporate the following elements:</p> <ul style="list-style-type: none"> <li>• Fire apparatus roadways (public, private streets, roads and in some instances driveways used for vehicle access) shall extend to within 150 feet of any portion of an exterior wall of the first story of any building.</li> <li>• Fire apparatus roadways in excess of 150 feet in length shall make provisions for approved fire apparatus turnarounds.</li> <li>• Fire apparatus roadways shall have a minimum unobstructed width of 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.</li> <li>• Adjacent to fire hydrants, fire apparatus roadways shall be a minimum of 28 feet in width for at least 20 feet in both directions from the fire hydrant.</li> </ul>					

- Fire apparatus roadways less than 36 feet in width, but more than 28 feet shall be marked as a fire lane on one side only. Fire apparatus roadways less than 28 feet in width shall be marked as fire lanes on both sides of the street.
- Fire apparatus roadways with restricted parking designated as fire lanes shall be marked with red curbs and fire lane signs or red curbs and face of curb stenciling stating: "NO STOPPING FIRE LANE – CVC 22500.1"
- Fire apparatus roadways shall be capable of supporting the imposed weight of fire apparatus (40,000 pounds) and shall be provided with a paved or concrete surface.
- Fire apparatus roadways (public or private streets or roads used for vehicle access) shall be installed and fire hydrants in service prior to commencement of framing: Compliance with this requirement shall be verified by inspection by the fire district.
- The Project will include wet barrel, standard steamer type (1-4 ½" and 1-2 ½ ") outlet fire hydrants.
- Fire flow shall be per California Fire Code and shall be between 1,500 gpm and 2,000 gpm.
- The landscape plan includes a vegetation management plan to reduce wildfire hazards consistent with OMC Ch. 8.20 and with the California Fire Code
- Residential fire sprinkler systems will be required in all structures.

#### **Impact Analyzed in General Plan EIR**

The General Plan EIR (p. 4-20) evaluated potential hazards related to wildfire from development consistent with the General Plan and recognized that wildfire potential, narrow roads and grades can slow response time and that unnumbered houses and fire fighting on slopes are all problems. As mitigation, the General Plan EIR prescribed the adoption of an ordinance requiring fire-resistant building materials and landscaping, and adequate new road and driveway design. The General Plan EIR concluded that, with implementation of the aforementioned mitigation, impacts related to fire hazard would be reduced to less-than-significant levels. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

#### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

The General Plan Safety Element includes the following policies:

Guidance Policy 4.2.1. B and Implementation Policy 4.2.2 F direct the City to encourage a high level of fire protection to residential and commercial development and to encourage fire prevention education. Implementation Policy 4.2.2 G. directs the City to develop an ordinance requiring fire protection features, such as: fire- retardant roof material for new and replacement roofs, sprinklers for new construction, adequate provisions for emergency access, and other fire protection features. As explained immediately below, the City has since adopted OMC section OMC Ch. 8.20 in compliance with this policy.

#### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

##### Orinda Municipal Code Provisions

The City adopted a fire safety ordinance and the California Fire Code (OMC Ch. 8.20), which addresses, among other things, landscaping and access. The City has also set forth fire safety provisions in its building and subdivision ordinances (OMC, Titles 15 and 16) that

require the review of subdivision plans by the fire district, the provision of fire hydrants, and that anyone selling or offering for sale a residential dwelling prior to its completion offer buyers an option to install a sprinkler system in the buyer's home. In addition, the City has adopted the California Building Code, which sets forth rigorous fire and smoke protection standards. (CBC Ch. 7.)

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts associated with wildfire hazards that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above. Moreover, there is no substantial new information indicating that the regulatory background would not be effective or that development at this site would result in greater impacts related to wildfire hazards than the levels described in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8 above.

The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&J Ranch Project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure the development would not result in a significant cumulative risk of wildfires. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative impacts.

In addition, the construction practices and measures described above, which are incorporated as elements of the Project, would minimize impacts related to wildfire risk so that any incremental contribution to increased risk of wildfire would not be cumulatively considerable.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**IX. HYDROLOGY AND WATER QUALITY -- Would the project:**

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

The project site is situated on a hillside and two unnamed watercourse segments traverse the Project site. One runs along the northwest side of the site and the other cuts across the southeast corner of the site. Both are ephemeral tributaries and flow west to east. Lower Moraga Creek is located approximately 400 feet north of the Project site.

A portion of the site currently drains overland to the west side of the site, another portion drains overland to the drainage course at the southwest corner of the site. The majority of the site drains by sheet-flow across the site, northward to Donna Maria Way and the portions of

the high school property east of Lavenida.

### **Project Elements**

A Preliminary Stormwater Control Plan (SWCP) was prepared for the Project site by P/A Design Resources, Inc (Appendix [BC](#)). The Project has been designed to minimize potential adverse impacts to water quality. As described in the *Description of the Project* in section 9 above, and detailed in the SWCP, the storm drainage system has been designed to ensure that soil erosion is minimized and hazardous construction materials are adequately contained. See Project Description and [Appendix BC](#). The Project as designed incorporates facilities to separate the runoff from undeveloped portions of the site and upstream lands (pervious surface flow) from runoff coming from the developed portions of the site. After treatment within the detention basin, the runoff would be discharged into Moraga Creek at a rate that does not exceed the pre-project rate. Additionally, the site design features include a flow through planter for Lot 4 and a small storm drain system with energy dissipater. The perimeter of the Project site to the east, south, and west will remain undeveloped. These areas of pervious natural landscaping will not drain to the on-site [Bioretention/detention Facilitybasin](#); they are considered self-treating and will drain as they do presently by overland flow. The Project includes dedication of an open space/conservation easement that coincides with creek setbacks, thereby establishing development areas away from sensitive wetlands and riparian areas.

### **Impact Analyzed in General Plan EIR**

The General Plan EIR (p. 4-17) evaluated impacts to water quality and determined that development consistent with the General Plan would result in an increase in impermeable surface area by up to 20 percent. The concentration of oil and grease, heavy metals, suspended solids, garden fertilizers, and other urban pollution components in the runoff would increase with residential units, population, and traffic. *Id.* However, the General Plan EIR determined that compliance with General Plan policies (sections 4.1.1 and 4.1.2) will prevent adverse impacts to water quality. *Id.*

### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

Construction activities on the site would be subject to compliance with uniformly applicable regulations that would substantially mitigate potential impacts to water quality. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project. General Plan

- Policy 4.1.1(E): Protect creeks from siltation, pollution, and debris buildup.
- Policy 4.1.2(F): Develop a creek maintenance ordinance. See OMC Chapter 18.03.
- Policy 4.1.2(G): Develop an erosion control ordinance. See OMC Chapter 18.02.
- Policy 4.1.2(H): Review development proposals to ensure site design and construction methods that minimize soil erosion and volume and velocity of surface runoff, and mitigate impacts on properties below. See OMC Chapter 15.36.

### **Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

#### Orinda Municipal Code Provisions

The City's municipal code requires subdivisions to design all improvements in conformance with certain standards, including those required by the City Building Official and in accordance with standard specifications on file in the Building Inspection Department. (OMC §§ 15.36.960

et seq. [Drainage]; 16.64.010 et seq. [Drainage; Protection from Surface Waters].)

OMC section 16.64.220 requires that structure setbacks from unimproved water channels be shown on the final map. These setbacks are required to protect structures from flood hazards and other surface waters. OMC Section 17.4.6 Setback Required for Water Channels will also require setbacks from water channels for any future development of the site. The Project includes an open space easements ~~that are~~ designed to meet the requirements of the code. (Appendix EG, plan sheet C6)

In addition the Project would be subject to the provisions in section 18.02.070 of the OMC, which require the following:

- Any person owning or operating premises that may contribute pollutants to the city's storm water system shall undertake all practicable best management practices to reduce the potential for pollutants entering the system. Examples of such premises include, but are not limited to, parking lots, swim clubs, gasoline stations, industrial facilities, and other commercial enterprises.
- Construction Activities. All construction shall conform to the requirements of the CASQA Stormwater Best Management Practices Handbooks for Construction Activities and New Development and Redevelopment, the ABAG Manual of Standards for Erosion and Sediment Control Measures, the City's grading and erosion control requirements and other generally accepted engineering practices for erosion control as required by the approving authority when undertaking construction activities. The City may establish controls on the rate of storm water runoff from new developments and redevelopment as may be appropriate to minimize the volume of runoff and the discharge and transport of pollutants.
- Development Runoff Requirements. For each new development and redevelopment project subject to development runoff requirements of the city's NPDES permit, every applicant will submit a storm water control plan and implement conditions of approval that reduce storm water pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Similarly, increases in runoff volume and flows shall be managed in accordance with the development runoff requirements.
- Compliance with BMPs. Where guidelines or requirements for best management practices have been adopted by any federal, state, regional, city or county agency, for any activity, or operation of premises which may cause or contribute to non-storm water discharges, every person undertaking such activity or operation or owning and operating such premises shall comply with such guidelines or requirements.

Compliance with these policies, regulations, and standards and preparation of the SMWP and SWPPP, would ensure the Project would reduce potential water quality impacts such that there would be no impacts peculiar to the Project site necessitating further environmental review. There is no significant new information to indicate that development consistent with the City's policies and standards would result in significant impacts. Therefore there is no new substantial information that the regulatory background would not be effective.

#### **Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated, there are no significant water quality impacts that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above. In addition, implementation of the SWPPP, as described under Description of Project Paragraph 9, would reduce potential water quality impacts to less-than-significant

levels during construction. There is no substantial new information indicating that impacts related to increased pollutants from development consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of Project Density Under the City's General Plan, in section 8 above.

The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&J Ranch project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure the Project along with other anticipated development in the area would not result in significant cumulative impacts.

In addition, Project elements described above, such as preparation of a SWPPP and implementation of BMPs, would minimize any potential impacts such that the Project would not make a considerable contribution to any significant, cumulative impact related to hazardous materials or accidental releases of those materials.

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)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** The eight proposed residences will be served by the East Bay Municipal Utility District for domestic water service. As stated in the EBMUD Review of Agency Planning Application received August 17, 2010 (Appendix HK) "a main extension, at the Project sponsor's expense will be required to serve the proposed development."

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

See sections VI.b and IX.a, above.

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 that would result in flooding on- or	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

off-site?					
See sections IX.a and IX.c, above.					
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT:</b> There are no 100-year flood zones within the project area. (See General Plan EIR, p. 4-17.)					
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section IX.g, above.					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See sections IX.g, above.					
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project area is located within the southwestern hills of the City, and the elevation and surrounding topography of the Project site, coupled with its distance from any large body of water, eliminates the potential for damage from a seiche or tsunami. The Project does not expose people or structures to potential substantial adverse effects involving landslides or mudflows because engineering specifications incorporated as Project elements would ensure that any potential impacts related to ground failure would be reduced to less-than-significant levels. See section VI.a.ii and iii above.					
	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>X. LAND USE AND PLANNING --</b> Would the project:					

a) Physically divide an established community?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>The physical division of an established community would typically involve construction of large features (such as arterial roadways or freeways) that function as a barrier between communities. The Project would not construct a barrier that would physically divide an established community. As described in the Description of the Project in section 9 above, the Project would construct trails to maintain the existing connection between the Project site and Miramonte High School.</p> <p>Because the Project would not construct barriers and would enhance pedestrian access in the Project area, it would not physically divide the existing residential communities adjacent to the site.</p>					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> See discussion in <i>Project Density Under the City's General Plan</i> in section 8 and <i>Description of the Project</i> in section 9 above.</p> <p><b>Project Elements</b> See discussion in <i>Project Density Under the City's General Plan</i> in section 8 and <i>Description of the Project</i> in section 9 above.</p> <p><b>Impact Analyzed in General Plan EIR</b> The General Plan EIR (pp. 4-8 and 4-9) addresses land use impacts of development consistent with the General Plan and found that General Plan policies in the Land Use Element and the Conservation Element would minimize land use impacts to less than significant levels. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.</p> <p><b>General Plan Measures That Substantially Mitigate Potential Project Impacts</b> As discussed in section 8 above, the Project is consistent with land use designation and development density established for the site in the City of Orinda's General Plan. Below is a discussion of the Project's consistency with applicable General Plan policies.</p>					

**2.1.1 – Land Use: Guiding Policies**

A. Maintain the semi-rural character of Orinda.

**Consistent:** The Project conforms with the density requirements of the General Plan and Zoning Ordinance. It also incorporates a conservation easements that comprise more than 10 percent of the Project site (1.32 acres), and includes extensive landscaping as part of the Project design that shields other Project elements from public view. The Project is therefore consistent with this General Plan policy.

B. Maintain the dominance of wooded and open ridges and hillsides.

**Consistent:** See above. The Project footprint does not extend on or near a ridgeline and does not intrude upon undisturbed hillsides to the south of the Project site. The Project is therefore consistent with this General Plan policy.

**2.1.2 – Land Use: Implementing Policies**

C. Low-Density: Maintain regulations that permit one to two single-family dwelling units per net acre on flat land and require progressively lower density as slope increases consistent with the previously existing slope density formula. Exceptions are areas designated for multi-family housing on the Plan map.

**Consistent:** The Project area is designated low density and would site 8 units on more than 12 acres. The Project therefore maintains a density of between one and two single-family dwellings per net acre.

**2.2.1 – Open Space and Parks: Guiding Policies**

A. Support preservation of EBMUD watershed lands.

**Consistent:** There are no EBMUD watershed lands on which the Project would encroach, and thus the Project is consistent with this policy.

C. Retain steep or unstable slopes as open space.

**Consistent:** Steep open space areas on the Project site are primarily located along the riparian corridors and are preserved through a conservation easements.

D. Retain creeks and wildlife access corridors as open space for preservation of natural resources, consistent with flood control.

**Consistent:** The Project includes an open space/conservation easement that coincides with required creek setbacks, wetlands, and sensitive riparian habitat, establishing developed areas outside these footprints.

E. Retain existing private and public recreational open space, and acquire additional land for public park development to meet the needs of all sectors of Orinda and all age groups in the community. A minimum of five acres of land for each 1,000 city residents should be devoted to public park and recreational purposes but more may be needed.

**Consistent:** The Project would benefit the community by improving existing pedestrian paths, adding additional trails and paying Park Dedication fees per the City's adopted fee schedule.

**2.2.2 – Open Space and Parks: Implementing Policies**

- D. Set dedication and in-lieu fees required as a condition of tentative subdivision map approval by ordinance to enable acquisition of needed parkland. **Consistent:** The payment of all applicable in-lieu fees will be a condition of approval of the Project.
- G. Where paths are shown along various roadways, they should provide for bicycle use if feasible. Until full development of these paths is accomplished, bicycle lanes should be implemented. Until the designation of bicycle lanes becomes feasible, these routes may be designated by routes. **Consistent:** The Project site does not contain any roadways designated bicycle lanes.

**2.3.1 – Circulation: Guiding Policies**

- A. Permit new development only when adequate transportation systems and parking are provided. **Consistent:** A traffic study was prepared for the Project showing development of Project would not have any perceptible impacts on the transportation system.
- B. Design roadways to compliment semi-rural character following natural contours, and maintaining natural topography and vegetation close to road edges, where such can be done without compromising safety. **Consistent:** The Project includes minimal roadways that would follow the topography of the Project site and would not include any street lighting. Moreover, the Project includes landscaping that will consist of locally native trees, shrubs, and groundcover that would be adjacent to Project roadways.
- C. Strive to retain the existing peak hour level of service (LOS) of “C” or better at those intersections where it now prevails and improve the LOS at all other intersections. **Consistent:** A traffic study (attached as Appendix D) was prepared for the Project showing development of Project would not cause any studied intersections to degrade below a LOS “C” and, where a substandard intersection was evaluated, it was determined the Project would not have any perceptible impacts on this intersection.
- E. Expand pedestrian and bicycle paths to provide a safe alternative to auto use, particularly to provide safe paths near schools and in other locations where they are heavily used for circulation. A pedestrian path would be created on the northeast side of the new roadway, connecting to Lavenida Drive and to the existing paths on the School District’s property. The Project also includes realignment of an existing trail used by Miramonte High School from the Project site to the adjacent school site east of the property.
- F. Make traffic control decisions to benefit local and discourage through traffic. **Consistent:** The Project would not create any routes that encourage through traffic through any residential neighborhoods.
- G. It is the goal of the City of Orinda to preserve and retain, in the most natural condition possible, scenic vehicular entryways, routes and corridors in the community. **Consistent:** As discussed in greater detail in the aesthetic analysis, above, the Project includes elements such that aesthetic impacts on views of the Project site would be less than significant. In addition, Project roadways are designed to be of limited visibility from off-site

vantage points through development and implementation of a private roadway landscape plan. This plan, attached as [Appendix EG](#), page L2, consists of locally native trees, shrubs and groundcover to be planted prior to final map approval. Landscaping will be planted in clusters along the roadways in the subdivision, all of which are private, and shall be consistent with the City's Hillside and Ridgeline Design Guidelines. The Project applicant has developed visual simulations demonstrating the limited visibility of the Project. Therefore, the Project would be consistent with the City's goal to preserve the scenic quality of the Project site and its surroundings.

### 2.3.2 – Circulation: Implementing Policies

A. Consider requiring transportation management system measures that may include carpooling, vanpooling, shuttle buses or staggered work hours to reduce traffic impacts where appropriate.

**Consistent:** The Project consists of eight residential homes sites and thus would not warrant carpooling, shuttle buses, or staggered work hours. Moreover, a traffic study ([attached as Appendix D](#)) prepared for the Project demonstrates it would not have any perceptible impact on the traffic network. At the same time, the Project would include new trails and encourage pedestrian travel.

B. Establish a transportation system improvement fee to be paid as a condition of approval of all development projects based on travel and parking demand generated by the project and its location.

**Consistent:** The Project is subject to the City's adopted traffic impact fee schedule

C. Discourage new intersections and driveways on arterial roads where access can be provided from another street or be combining driveways.

**Consistent:** The Project would not create any new intersections or driveways on an arterial street.

H. Adopt standards for pavement width and other design features of roads in residential areas that are consistent with the semi-rural character of Orinda, utilizing progressively higher standards consistent with intensity of use and public safety. Street lighting should not normally be required except where necessary for safety purposes.

**Consistent:** The Project is consistent with the City's adopted road width standards and with the Hillside and Ridgeline Design Guidelines as they pertain to roadway design. No street lights are proposed.

K. Develop on-site parking standards for single-family zoning districts which require 1) a minimum of 4 on-site parking spaces, and 2) a percentage of covered parking. Also consider standards providing for shared parking in the multi-tenant commercial developments.

**Consistent:** Parking standards adopted by the City are contained in Chapter 17.16 of the OMC. As designed, the home sites will not preclude development of single family homes in a manner that is consistent with the adopted parking standards.

M. Do not make roadway improvements at the expense of established bicycle and

**Consistent:** The proposed roadway that would serve the Project residences would not

<p>pedestrian paths, except where in the interest of public safety.</p>	<p>encumber any established bicycle or pedestrian paths.</p>
<p>N. Support bus transit, vanpools and carpool service to reduce peak-hour traffic volumes.</p>	<p><b>Consistent:</b> A traffic study <u>(attached as Appendix D)</u> was prepared for the Project showing development of the Project would not have any perceptible impacts on the transportation system.</p>
<p>R. Any proposed development or subdivision along a Scenic Corridor or Scenic Highway shall be designed to blend with and permit the natural environment to be maintained as the dominant visual element. It shall not lessen the scenic value of existing visual elements.</p>	<p><b>Consistent:</b> The Project site is not located directly along any Scenic Corridor or Highway. As discussed in greater detail in the aesthetic analysis, above, the Project includes elements that minimize aesthetic impacts on views of the Project site to less than significant levels. Project roadways would be designed to be of limited visibility from off-site vantage points through implementation of a private roadway landscaping plan. This plan includes planting of locally native trees, shrubs and groundcover. Landscaping will be planted in clusters along the roadways in the subdivision, all of which are private, and shall be consistent with the City's Hillside and Ridgeline Design Guidelines. The Project applicant has developed visual simulations demonstrating the limited visibility of the Project. Thus, the Project would be consistent with the City's goal to preserve the scenic quality of the Project site and its surroundings.</p>
<p>S. Where structures are permitted, they shall be designed to blend with and permit the natural environment to be maintained as the dominant visual element.</p>	<p><b>Consistent:</b> See above.</p>
<p><b>4.1.1 – Conservation Element: Guiding Policies</b></p>	
<p>A. Preserve Orinda's historic structures and sites, unique trees and landforms.</p>	<p><b>Consistent:</b> The Project will not impact the nearby Moraga Adobe. To ensure preservation of views from the Moraga Adobe, the applicant's development plan incorporates the recommendations of the cultural and historical resource study <u>(attached as Appendix J)</u> completed for this Project regarding setback distances to avoid Project impacts. Further, there are no unique trees or landforms on the Project site. To the extent protected trees are on site, the Project applicant will comply with City ordinances that address such trees.</p>
<p>B. Preserve rare and endangered species.</p>	<p><b>Consistent:</b> As further detailed in the analysis of biological resources, the Project includes multiple elements to avoid impacts to plant and wildlife species. In addition, the Project complies with the existing regulatory framework, ensuring the preservation of rare and</p>

	endangered species.
C. Preserve valuable wildlife habitats, particularly riparian habitats.	<b>Consistent:</b> See above. In addition, the open space/conservation easement establishes developed areas away from the creeks and associated riparian areas.
D. Preserve oak woodlands and other native trees, and encourage planting and reforestation of oaks and other natives in hillside areas.	<b>Consistent:</b> The Project fully complies with the City's tree ordinance, and the Project proposes a private roadway landscape plan consisting of locally native trees, shrubs and groundcover that is subject to Planning Department approval.
E. Protect creeks from siltation, pollution, and debris buildup to minimize the danger of flooding in storms to retain the aesthetic and habitat values of the creeks in their natural state, and enhance and restore them where possible. Prohibit major channelization.	<b>Consistent:</b> The Project applicant has submitted a Storm Water Management Plan and will submit a Storm Water Prevention Pollution Plan (including a list of Best Management Practices) as a condition of approval. In compliance with NPDES permit requirements, the Project BMPs are designed to reduce discharge of pollutants to the maximum extent practicable. In addition, the open space / conservation easement establishes developed areas away from the creeks and associated riparian areas and erosion gullies will be fortified with energy dissipation structures and plantings.
F. Achieve aesthetically sensitive grading that conforms to the natural contours, ensures safety and preserves trees and other vegetation to the greatest practical extent.	<b>Consistent:</b> Grading on the Project site would employ best engineering practices and conform to requirements set forth in OMC section 17.7.7 to avoid environmental impacts. In addition, the open space/conservation easement preserves 30 percent of the Project site in its natural state. Project roads have been designed to conform to the natural contours of the Project site. In addition, the Project applicant has prepared a landscape plan consisting of locally native trees, shrubs and groundcover, which is subject to Planning Department approval.
G. Protect visually prominent ridgelines and hillsides from development.	<b>Consistent:</b> The Project site is not located on a visually prominent ridgeline or hillside.
K. Limit septic tanks to very low-density areas.	<b>Consistent:</b> The Project will not utilize septic tanks.
N. Encourage undergrounding of power lines and replacement of utility towers with single poles.	<b>Consistent:</b> The Project will underground all power lines.
<b>4.1.2 – Conservation Element: Implementing Policies</b>	
A. Conduct an archival study of resources, map the general locations of resources, and review development proposals to determine the potential impacts on archaeological and historic resources and the need for more	<b>Consistent:</b> A Historical/Cultural Resources study ( <u>attached as Appendix J</u> ) was completed for the Project, identifying to the extent feasible all archaeological, historic, and paleontological resources, and the Project incorporates its

detailed study. Require additional study of development proposals on sites with moderate probability that such resources exist.

- C. Require environmental habitat assessment for any major development determined to be in an environmentally sensitive area. This assessment will include an on-site inspection, and a written description of any habitats, plant and animal species observed, species likely to be present, likely impacts of the proposed project, and mitigation measures which will preserve the habitats.

- D. Where possible, maintain connecting open-space areas so that wildlife can have free movement through the area, bypass urban areas, and have access to adjacent regional parks and open space.

- E. Preserve drainage easements along creeks in order to protect adjacent buildings from flooding, and to preserve valuable riparian vegetation. Where riparian vegetation has to be disturbed for construction, re-vegetation with local riparian species is required. The City shall develop design policies for development near creeks.

- H. Review development proposals to ensure site design and construction methods that minimize soil erosion and volume and velocity of surface runoff, and mitigate impacts on properties below.

Soil erosion can result in siltation of creeks and eventual siltation in San Pablo Reservoir. Erosion can be controlled by limiting surface runoff, minimizing exposure of raw soil during storm season, early mulching and seeding of slopes, and temporary or permanent siltation ponds. Stream bank erosion can be prevented using upstream detention basins and siltation basins.

recommendations as elements of the Project design.

**Consistent:** An environmental habitat assessment for the Project was prepared in accordance with the elements of the applicable policy. The findings and recommendations in the assessment were incorporated into elements of the Project design, as further detailed in the biological analysis, above.

**Consistent:** As further detailed in the analysis of biological resources, the Project includes multiple elements that take account of plant and wildlife species that may be found on site. The Project includes an open space/conservation easement that coincides with required creek setbacks, wetlands, and sensitive riparian habitat, and comprises more than 10 percent of the Project site. Where Project circulation elements cross a watercourse, the Project will include culverts or other structures that ensure free movement of wildlife through wildlife corridors.

**Consistent:** The Project includes an open space/conservation easement that coincides with required creek setbacks, wetlands, and sensitive riparian habitat, and comprises more than 10 percent of the Project site (1.32 acres).

**Consistent:** The Project applicant has submitted a Storm Water Management Plan and will submit a Storm Water Prevention Pollution Plan (including a list of Best Management Practices) as a condition of approval. In compliance with NPDES permit requirements, the Project BMPs are designed to reduce discharge of pollutants to the maximum extent practicable. Moreover, to avoid the siltation of creeks and erosion, and as further detailed in the Project description, the Project includes an open space/conservation easement that coincides with required creek setbacks, wetlands, and sensitive riparian habitat, and erosion gullies will be fortified with energy dissipation structures and plantings. The Project also includes extensive drainage and

subdrainage facilities designed to ensure erosion is minimized. (See sections VI.b and IX.a, of impacts analysis above.)

- L. Control septic tank use by ordinance. Septic tanks will be permitted only where they conform to City and County standards.

**Consistent:** The Project will not utilize septic tanks.

**4.2.1 – Safety Element: Guiding Policies**

- A. Geologic and seismic hazards shall be mitigated or development shall be located away from geologic and seismic hazards in order to preserve life and protect property.

**Consistent:** A geologic report ([attached as Appendix B](#)) was prepared for the Project, which was peer-reviewed by the City's consultant. This report determined the Project site is not within an Alquist-Priolo Earthquake Fault Zones established by the State of California around known active faults. The Project design incorporates recommendations of the report as elements of the Project design. Design and construction of homes and retaining walls will incorporate engineering specifications and construction practices that minimize seismic risks and geologic hazards.

- B. Encourage a high level of fire protection and fire-prevention education.

**Consistent:** The Orinda-Moraga Fire District has reviewed the Project, and the Project has incorporated all recommendations proposed by the District as elements of Project design. The Project complies with the City's fire safety ordinance, the California Fire Code fire safety provisions of the City's building and subdivision ordinances and the California Building Code.

- C. Development shall be located away from flood-prone areas unless flood risks can be mitigated.

**Consistent:** The Project is not located in a flood prone area.

- D. Provide public protection from hazards associated with the use, storage and transportation of hazardous materials.

**Consistent:** Operation of the Project will not involve the transport, use, or disposal of hazardous materials beyond incidental household use by residents. The transportation, storage, use, and disposal of hazardous materials during construction activities would comply with a host of uniformly applicable federal, state, and local statutes and regulations that would substantially mitigate any impacts. See section VIII.a. above.

**4.2.2 – Safety Element: Implementing Policies**

- A. A geotechnical investigation and report, including assessments of seismic and landslide risks shall be required for new development in Orinda, including single-family residences unless exempted by the City of Orinda. Any other facility that could create a geologic hazard, such as a road on hillside terrain, must also have such an investigation.

**Consistent:** A geologic report ([attached as Appendix B](#)) was prepared for the Project, which was peer-reviewed by the City's consultant. This report determined the Project site is not within one of the Alquist-Priolo Earthquake Fault Zones established by the State of California around known active faults. The Project design incorporated recommendations of the report as elements of Project design. Construction of

	Project homes and retaining walls will incorporate engineering specifications and construction practices that minimize seismic risks and geologic hazards.
B. Evidence of probable geologic hazard will require a geotechnical study by a registered soil engineer or registered geologist to be reviewed by geotechnical consultants selected by the City.	<b>Consistent:</b> See above.
E. Land development shall be consistent with the natural carrying capacity of nearby creeks, streams and other waterways.	<b>Consistent:</b> The Project includes an open space/conservation easement that establishes developed areas away from the creeks and associated riparian areas. In addition, subdrainage facilities are designed to ensure there is sufficient capacity consistent with natural carrying capacity. (See sections VI.B and IX.a of impacts analysis, above.)
F. Encourage a high level of fire protection to residential and commercial development.	<b>Consistent:</b> The Orinda-Moraga Fire District has reviewed the Project, and the Project has incorporated all recommendations proposed by the District as elements of Project design. The Project complies with the City's fire safety ordinance, the California Fire Code, fire safety provisions of the City's building and subdivision ordinances and the California Building Code.
G. Ordinances shall be developed requiring fire protection features, such as: fire-retardant roof material for new and replacement roofs, sprinklers for new construction, adequate provisions for emergency access, and other fire protection features.	<b>Consistent:</b> See above.
H. Minimize damage from grass fires through the development of firebreaks in dedicated open space and fire-access easements. Firebreaks and fire-access easements should be made a condition of project approval.	<b>Consistent:</b> See above.
I. Reduce the level of risk from toxic and hazardous materials in Orinda by regulating the transportation and storage of these materials into, through, and out of Orinda, and through an educational program on the proper disposal methods for hazardous, toxic and polluting materials.	<b>Consistent:</b> Operation of the Project will not involve the transport, use, or disposal of hazardous materials beyond incidental household use by residents. The transportation, storage, use, and disposal of hazardous materials during construction activities would comply with a host of uniformly applicable federal, state, and local statutes and regulations that would substantially mitigate any impacts. See section VIII.a, above.
J. Prepare and adopt fire-resistant landscaping requirements for new subdivisions. The	<b>Consistent:</b> The Orinda-Moraga Fire District has reviewed the Project, and the Project has

Orinda Fire Protection District currently uses guidelines developed by the State Department of Forestry. A committee will be appointed to review these guidelines and develop an ordinance for Orinda.

incorporated all recommendations proposed by the district as elements of Project design. In addition, the Project applicant prepared a landscape plan, subject to Planning Department approval, that incorporates fire resistant plantings.

- K. Establish standards for public and private roads that ensure adequate access for fire—protection equipment.

**Consistent:** See above.

**4.3.1 – Noise Element: Guiding Policies**

- A. Where practical, mitigate traffic noise to acceptable levels.

**Consistent:** A traffic ~~study study~~ (attached as Appendix D) was prepared for the Project, which demonstrated the Project would not cause the degradation of area intersections to levels of service below adopted standards, and otherwise would have an imperceptible effect on the traffic network.

- B. Prevent unnecessary noise from all sources.

**Consistent:** Project operation and construction would comply with applicable City noise ordinances, which would prevent unnecessary noise.

**4.3.2 – Noise Element: Implementing Policies**

- A. Require an acoustical study and any necessary noise level mitigation where new residential or commercial development is proposed along the Highway 24 corridor and adjacent to major arterials where projected noise contours are 60 Ldn or more.

**Consistent:** The Project site does not lie within a 60 Ldn noise contour. (General Plan, Noise Element, Figure 9.)

**5.3.3 – Implementing Policies and Programs: General (Required)**

- A. Local Development Mitigation Program. The City has adopted and will continue to implement the Transportation Improvement Program Fee Ordinance requiring developers to mitigate impacts of their development projects on the local and regional transportation system. Impacts may be mitigated on Regional Routes, Basic Routes or transit systems.

**Consistent:** The Project applicant will pay all requisite development fees as a condition of Project approval.

**5.3.4 – Implementing Policies and Programs: Review of Development Applications**

- A. Traffic Impact Study Requirements. As part of the application review process for development projects estimated to generate over 50 peak-hour vehicle trips, the City will conduct a traffic impact study consistent with the Technical Guidelines published by the CCTA.

**Consistent:** Although the Project was determined to generate less than 50 peak-hour vehicle trips, a traffic study (attached as Appendix D) that was prepared for the Project demonstrated it would not cause the degradation of area intersections to levels of service below adopted standards, and otherwise would have an imperceptible effect on the traffic network.

**5.4.2 – Performance Standards**

- A. Parks - Dedication of parkland or payment of an in-lieu parkland dedication fee equivalent to five acres of parkland per

**Consistent:** The Project applicant will pay all requisite development fees as a condition of Project approval.

1,000 residents for new residential development. This standard is referenced in Orinda's Park Dedication & In Lieu Fee Ordinance and General Plan- Policy 2.2.I.E.

- B. Fire - Respond to all structural fires with three engine companies.

**Consistent:** The Orinda-Moraga Fire District has reviewed the Project to determine if fire service may adequately be provided, and the Project has incorporated all recommendations proposed by the district as elements of Project design.

- C. Police - Provide capital facilities sufficient to maintain an average two-beat minimum patrol configuration.

**Consistent:** The Orinda police chief has reviewed the Project and determined that adequate police services can be provided to the Project site.

- D. Sanitary Sewer - Capacity to carry and treat 100 gallons per capita per day for residential uses and 1,500 gallons per acre per day for commercial uses. Sewer mains should be designed to be 2/3 full and trunk lines should be designed to be 100% full.

**Consistent:** CCCSD has confirmed there is sufficient capacity to accommodate Project users.

- E. Water - Provide a secure, reliable, high quality water supply to customers.

**Consistent:** EBMUD has confirmed there is sufficient capacity to accommodate Project users.

- F. Flood Control - Enforce provisions of existing Ordinance regulating development in areas of Special Flood Hazards (Ordinance 87-13) and provisions of existing Flood Control Ordinance and Subdivision Ordinance for new development (Title 9 and 10 of the Ordinance Code of Contra Costa County).

**Consistent:** The Project does not lie in a flood prone area or an area of Special Flood Hazards, and will comply with all applicable flood control and subdivision ordinances as a condition of Project and map approval.

#### 5.4.3 – Implementation Policies and Programs for Capital Projects

- A. Development Mitigation Program. The City will adopt and implement a development mitigation program to ensure that new growth is paying its share of the costs associated with the provision of facilities for services provided by the City including parks, police and flood control. Working with other agencies, the City will assist and facilitate in the adoption and implementation of a development mitigation program to ensure that new growth is paying its share of the costs associated with the provision of facilities for services not provided by the City including fire, sanitary-facilities and water.

**Consistent:** The Project applicant will pay all requisite development fees as a condition of Project approval.

- B. Findings on Performance Standards. The City will approve development projects only

**Consistent:** The City will make the requisite findings prior to considering approval of the

after making findings that one or more of the following conditions are met:  
 (1) Assuming participation in adopted mitigation programs, an approved project will be required to contribute its share toward maintenance of performance standards identified in Section 5.4.3; or  
 (2) Because of the characteristics of the development project, project-specific mitigation measures are needed in order to contribute toward maintenance of standards, and such measures will be required of the project sponsor; or  
 (3) Capital projects planned by the City or special district(s) will contribute toward maintenance of standards.

Project. The Project applicant will pay all requisite development fees as a condition of Project approval. Otherwise, the Project has incorporated various components as elements of Project design that make mitigation unnecessary, as explained in the Project Description and in the analyses throughout this document.

Specific Plan; Community Plan: There is no specific or community plan that applies to the Project site.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** No applicable habitat conservation or natural community conservation plans encompass the Project site.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**XI. 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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

**NO IMPACT.** There are no known mineral resources on the site. General Plan section 4.3.9.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	----------	--------------------------	--------------------------	--------------------------

See section XI.a, above.

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
--	--	--	---	---	---

**XII. NOISE** - Would the project result in:

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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**  
See section I.a. above. Sensitive receptors located in the vicinity of the Project site include residential uses to the north of the site and two schools. The closest residences are approximately 75-60 feet away from the bio-retention ponds and site grading and approximately 200 feet away from nearest future home construction. The Del Rey Elementary School is located approximately 1,300 feet north and Miramonte High School is located on the property adjacent to the site and the sports fields are approximately 400 feet and the school building are approximately 1,000 feet east, respectively, of the Project site. No other sensitive receptors (e.g., nursing homes, retirement communities, or hospitals) are located within 1/2-mile of the Project site.

**Project Elements**  
Construction hours on the Project site will be consistent with provisions in OMC § 17.39.3. Specifically, construction will be limited to the hours between 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 5:00 p.m. on Saturdays. Construction activities on Sunday will be limited to minor maintenance and would not involve the use of heavy construction equipment. Construction activities will not take place on holidays.

In addition, the proposed open space/conservation easement serves to create a buffer between the Project site and adjacent uses. This buffer would reduce residents' exposure to noise during construction and after the new residences are constructed.

The new residents at the Project site would be located approximately 900 feet away from major roadways (Moraga Way) and according to the General Plan noise contour map (Figure 8), the Project site is outside the 60 day/night average noise level (Ldn). There are no other major sources of noise in the Project area. Thus, new residents would not be exposed to noise levels in excess of standards established by the City's noise ordinance.

### **Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR (page 4-25) evaluated potential noise impacts of development consistent with the General Plan. The General Plan EIR identified significant noise impacts only for those residential areas that are located in close proximity to highways or major arterials. The General Plan EIR did not identify significant noise impacts related to planned development on the site. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

### **General Plan Measures That Substantially Mitigate Potential Project Impacts**

The General Plan Noise Element includes the following policies:

General Plan Implementation Policies 4.3.2 C. and F. direct the City to develop a comprehensive noise ordinance. As explained immediately below, the City has since adopted OMC sections 17.39.2 and 17.39.3 in compliance with these policies.

### **Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

#### Orinda Municipal Code Provisions

The City's municipal code contains the following noise provisions:

OMC section 17.39.3 applies the following controls to construction of a project.

B. General. It is unlawful to conduct or maintain construction activities in the city of Orinda during times other than those set forth in this subsection.

1. Weekdays. Monday through Friday, construction activities may occur between the hours of eight a.m. and six p.m.

2. Saturdays. On Saturdays, construction activities may occur between the hours of ten a.m. and five p.m.

3. Sundays. On Sundays, construction activities are prohibited except for minor maintenance and improvement projects conducted by no more than two persons, one of whom resides on the property full-time, between the hours of ten a.m. and five p.m. and not involving the use of heavy construction equipment.

4. Holidays. On the following holidays, construction activities are prohibited: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. This rule supersedes the restrictions in subsections (B)(1), (B)(2) and (B)(3) of this section. No exceptions from this holiday prohibition may be granted.

C. Notice. An applicant for a building permit or grading permit shall post a sign describing the permitted hours of construction and permitted hours for use of heavy equipment in a conspicuous location near the property entrance legible from the edge

of the roadway. The exact wording of the sign shall be prescribed by the Planning Department. In addition, an applicant for a building permit or grading permit shall provide written notice to each residence within three hundred (300) feet of any portion of the subject property in the form and manner prescribed by the Planning Department.

D. Heavy Construction Equipment. It is unlawful to use heavy construction equipment for residential construction on Saturdays and Sundays except as otherwise provided in this chapter. The Zoning Administrator shall have the discretion to determine if a particular machine is considered "heavy construction equipment" for purposes of Section 17.39.2.

OMC section 17.39.2 provides that "[n]o person shall cause or permit noise on property owned, leased, occupied or otherwise in the control of that person which exceeds sixty (60) decibels as measured at a listening point on any other property," subject to certain exceptions. (See also OMC § 17.3.1(B) [zoning designed and implemented to "protect residents from the harmful effects of excessive noise ...."] Thus, homeowners in the proposed subdivision would be subject to the City's noise restrictions. In addition, any vehicle traffic generated by the inhabitants of the Project's 8 residential homes would not have any measurable impact on the noise environment.

Compliance with these policies and regulations would ensure that the Project would reduce potential noise impacts such that the Project would not result in significant noise impacts necessitating further environmental review. In addition, there is no substantial new information showing that the existing regulatory framework will not substantially mitigate environmental effects as intended in the General Plan.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant noise impacts that are peculiar to the parcel or the Project. See also discussion of Project Density Under the City's General Plan in section 8 above, and discussions of General Plan Measures and Uniformly Applied Development Policies or Standards, above. Moreover, there is no substantial new information indicating that development at this site would result in greater noise impacts than the levels described in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of Project Density Under the City's General Plan in section 8 above.

The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&J Ranch project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure the development would not result in significant cumulative noise impacts. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative impacts.

In addition, elements of design for the proposed Lavenida Lane Project, as described above, would minimize any potential impacts such that the Project would not make a considerable contribution to noise impacts.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section XII.a, above.</i>					
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section XII.a, above.</i>					
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section XII.a, above.</i>					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project is not located within an airport land use plan or within the vicinity of a private airstrip.					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>See section XII.e, above.</i>					

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>XIII. POPULATION AND HOUSING --</b> 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)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Setting**

See discussion on Project Density Under the City’s General Plan in section 8. and section I.a. above.

**Project Elements**

See discussion of Description of the Project in section 9 Above.

**Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR (p. 4-50) evaluated potential growth inducing impacts of development consistent with the General Plan. The General Plan EIR identified growth-inducing impacts associated with the construction of Gateway Boulevard and with development of the Gateway Valley. The General Plan EIR did not identify any growth-inducing impacts related to development on the Project site or in the surrounding area. Residential growth in the City has not exceeded the projections included in the General Plan; therefore there is no substantial new information indicating that growth-inducing impacts from development consistent with the City’s policies and standards would result in greater impacts than described in the General Plan EIR.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

There are no applicable General Plan measures related to growth inducement.

**Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

There are no uniformly applicable development policies related to growth-inducement.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan, and the General Plan EIR did not

<p>identify any growth-inducing impacts related to development on the Project site or the surrounding area, there are no significant growth-inducing impacts that are peculiar to the parcel or the Project. See also discussion of Project Density Under the City's General Plan in section 8 above. Moreover, there is no substantial new information indicating that development at this site would result in greater growth-inducing impacts than the levels described in the environmental review documents for the General Plan.</p> <p><b>Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR</b> See discussion of Project Density Under the City's General Plan in section 8 above.</p>					
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>NO IMPACT.</b> The Project would not displace existing housing; it would add eight additional housing units.</p>					
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>See section XIII.b, above.</i></p>					
	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>XIV. PUBLIC SERVICES</b>					

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:	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section VIII.h, above. In addition, the Orinda-Moraga Fire District has reviewed the Project and confirmed existing capacity to serve development of the Project site.					
Police protection?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> See discussion on Description of the Project in section 9. above.</p> <p><b>Project Elements</b> See discussion on Description of the Project in section 9. above.</p> <p><b>Analysis of Impact Analyzed in General Plan EIR</b> The General Plan EIR (p. 4-19) evaluated impacts on police services of development consistent with the General Plan. The General Plan evaluation was based on a projected five percent increase in population. <i>Id.</i> The General Plan EIR assumed that population- and property-related calls for service would increase in the same proportions, and concluded there was no justification or support for adding additional police services.</p> <p>Residential growth in the City has not exceeded the projections included in the General Plan; therefore, there is no substantial new information indicating that impacts related to increased police services from development consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR. In addition, Jeff Jennings, the City of Orinda's Police Chief, indicated in recent communications that the Orinda Police Department can serve the Project with its existing staff and facilities. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.</p>					

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

There are no applicable General Plan measures related to growth inducement.

**Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

There are no uniformly applicable development policies related to growth-inducement.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan, and the General Plan did not identify potentially significant impacts to police services, there are no significant impacts that are peculiar to the parcel or the Project. See also discussion of Project Density Under the City's General Plan in section 8 above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts to police services than the levels described in the environmental review documents for the General Plan.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See discussion of Project Density Under the City's General Plan in section 8. above.

Schools?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
----------	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

See discussion on Description of the Project in section 9 above.

**Project Elements**

See discussion on Description of the Project in section 9 above.

**Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR evaluated impacts on City schools based on the addition of 1,358 dwelling units citywide, which included the level of development associated with the Project. General Plan EIR, p. 4- 21. The General Plan EIR determined that all schools other than Sleepy Hollow Elementary School were projected to have adequate capacity to accommodate enrollment associated with build out of the General Plan. General Plan EIR, p. 4-22; Table 4.6, p. 4-23. However, the General Plan EIR determined any capacity issues with Sleep Hollow Elementary School could be addressed by transferring children to another school. The General Plan EIR did not identify any capacity impacts at the intermediate and high school levels. Overall, development consistent with the General Plan is expected to generate a total of 1,960 students, and capacity was listed at 2,025 students, resulting in a capacity surplus of 65 students even at full build out. Id.

The Project site is associated with the Del Rey Elementary School, which according to the Orinda Union School District Facilities Master Pan, has a capacity of 443 students as the school currently is configured, with a potential capacity of 558 upon utilization of vacant rooms and rooms not currently used as regular classrooms. At the time of the General Plan EIR, enrollment was 346 students; recent statistics show enrollment has risen to 402 students. According to a traffic impact study prepared for the proposed J&J Ranch project by TJKM Transportation Consultants, dated May 21, 2010, the J & J Ranch project would generate fewer than three students for the Del Rey Elementary School. The Lavenida Lane Project, which would construct 8 units as compared to 13 units proposed by J&J Ranch, would thus generate even fewer students for the Del Rey Elementary School. Even assuming a generation rate double the figure estimated for the larger J& J Ranch project (owing to the

desirability of Orinda schools and the proximity to the elementary school), the Del Rey Elementary School would continue to have surplus capacity. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that are not evaluated in the General Plan EIR.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

There are no applicable General Plan measures related to school services.

**Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.**

There are no uniformly applicable development policies related to school services.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and the Project would not result in impacts to school capacity, there are no significant impacts to schools that are peculiar to the parcel or the Project. See also discussion of Project Density Under the City's General Plan in section 8 above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts to schools than the levels described in the environmental review documents for the General Plan.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See discussion of Project Density Under the City's General Plan in section 8 above.

Construction of both the Lavenida Lane Project and the adjacent J&J Ranch project would result in a level of development substantially below the development potential identified for the area in the General Plan. The General Plan EIR did not identify any impacts to school capacity resulting from development consistent with the General Plan. Assuming an equal number of students generated from the Lavenida Lane Project as was estimated for the larger J&J Ranch project for a rounded total of 11 new students, the Del Rey Elementary School would have a surplus capacity of 30 as currently configured, and 145 under potential configurations that would maximize classroom space. Thus, the proposed developments would not result in any capacity exceedance at the elementary school. Therefore, there are no unstudied significant off-site or cumulative impacts warranting further environmental review.

Parks?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------	--------------------------	----------	--------------------------	--------------------------	--------------------------

**Setting**

See discussion on *Description of the Project* in section 9 above.

**Project Elements**

See discussion on *Description of the Project* in section 9 above.

**Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR (p. 4-9) evaluated impacts to parklands associated with development consistent with the General Plan and concluded that build out would not result in adverse impacts to parkland capacity. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

The General Plan Open Space, Parks, Schools and Utilities Element includes policies to ensure adequate parklands to serve the City's needs. General Plan Implementation Policy 2.2.2 D directs the City to set dedication and in-lieu fees required as a condition of tentative

subdivision map approval by ordinance to enable acquisition of needed parkland. General Plan Implementation Policy 2.2.2 E directs the City to develop an ordinance that includes criteria to be applied in determining compliance with open-space policies as conditions of approval of new projects. As explained immediately below, the City has since adopted provisions in OMC § 3.28 in compliance with these policies.

***Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.***

*Orinda Municipal Code Provisions*

The City’s municipal code addresses parkland provisions as follows:

OMC § 3.28.040 specifies that, as a condition of approval of a subdivision, the sub-divider must dedicate land, pay an in-lieu fee, or do a combination of both for park, trail, or recreational purposes. The fee and dedication amounts are based on a standard the City has set by ordinance, requiring five acres of parkland and recreational property for each 1,000 persons residing within the City. (OMC § 3.28.060 et seq.) Once land is dedicated or fees are collected, such resources only may be used for the purpose of developing new facilities or rehabilitating existing trail, park, or recreational facilities in compliance with the City’s capital improvement plan. (OMC § 3.28.130.)

Compliance with these policies and regulations would ensure that the Project would reduce potential impacts on parklands such that there would be no significant impacts that are peculiar to the parcel or the Project site necessitating further environmental review. In addition, there is no substantial new information showing that the existing regulatory framework will not substantially mitigate environmental effects as intended in the General Plan.

***Impacts Peculiar to the Project or to the Project Site***

Because the Project is consistent with the General Plan and the General Plan EIR did not identify significant impacts associated with parklands, there are no significant impacts to parklands that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City’s General Plan* in section 8 above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts to parklands than the levels described in the environmental review documents for the General Plan.

***Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR***

See discussion of *Project Density Under the City’s General Plan* in section 8 above.

The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&J Ranch project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure that the Project along with other anticipated development in the area would not result in significant cumulative impacts to parklands.

Other public facilities?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The Project would not result in impacts to any other public facilities.					

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>XV. RECREATION -</b> -					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section XIV.a discussion of park impacts, above.					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p><b>No Impact.</b> The Project includes construction of a pedestrian path on the northeast side of the new roadway connecting to Lavenida Drive and to the existing paths on the adjacent School District property. See Appendix <u>E-G</u> Plan Sheet C8. The Project also includes relocation of an existing trail from the Project site to the adjacent Miramonte High School property. Potential impacts related to construction of these facilities have been considered as part of development of the site plan throughout this environmental review, including but not limited to, sections I, III, V, VI, and IX above. See also section XIV.a discussion of park impacts, above.</p>					
	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<p><b>XVI. TRANSPORTATION/TRAFFIC --</b> Would the project:</p>					
<p>a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?</p>					
	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> See discussion under the <i>Description of the Project</i> in section 9 above. A traffic study conducted by TJKM Transportation Consultants in August 2011 evaluated traffic impacts associated with development of the Project and it is hereby incorporated by reference and attached as <u>Appendix GD</u>. The TJKM study evaluated proposed traffic operations as well as external site access and driveway operations.</p>					

According to the TJKM study, three of the four intersections in the vicinity of the Project site currently operate at Level of Service (LOS) C or better, which is within the City's acceptable standards set forth in General Plan policy 2.3.1. The intersection at Lavenida Drive and Moraga Way currently operates at LOS D during the a.m. peak hour, which is below the City's standards. In addition, the TJKM study showed that existing traffic operations at the Del Rey Elementary School are congested between 7:45 a.m. and 7:55 a.m. when children are arriving.

**Project Elements**

See also discussions under the *Circulation and Construction Activities* sections of the *Description of the Project* in section 9 above. Access to all the residential lots will be from Lavenida Lane which will extend from the intersection of Lavenida Drive and Donna Maria Way.

The fire apparatus access roadways have been designed to meet all fire district criteria. Further details are provided in section XIV. Public Services below.

The Project includes construction of a pedestrian path on the northeast side of the new roadway connecting to Lavenida Drive and to the existing paths on the adjacent School District property. The Project also includes realignment of an existing trail from the Project site to the adjacent Miramonte High School.

**Analysis of Impact Analyzed in General Plan EIR**

The General Plan EIR (pp. 4-26 to 4-48) addressed traffic impacts associated with development consistent with the General Plan and identified traffic volume increases that would reduce the level of service at some intersections to below LOS C. General Plan EIR, p. 4-39. General Plan Policy 2.3.1 directs the City to strive for LOS C at all intersections. The General Plan EIR concluded that striving for LOS C at all intersections was not judged to be feasible unless the City achieves traffic improvement by changing traffic volume at peak hours by increasing carpooling, bus use and varying business hours. *Id.* The General Plan EIR did not identify significant impacts related to planned development on the Project site.

According to the General Plan (Policy 5.3.4, p. 86), those projects that generate less than 50 peak-hour vehicle trips are determined not to have an impact and do not warrant a traffic impact study. The TJKM study found that the Project would result in 6 trips during the a.m. peak hour and 8 trips during the p.m. peak hour. TJKM study, p. 1. Therefore, the Project would not have any impacts and no further study is required. However, the following discussion is provided for informational purposes.

The TJKM study evaluated traffic conditions at five study intersections during the a.m. (7 a.m. – 9 a.m.) peak and p.m. (4 p.m. – 6 p.m.) peak hours for a typical weekday. The five study intersections include: Donna Maria Way/El Camino Moraga, Don Gabriel Way/El Camino Moraga, El Camino Moraga/Moraga Way, Lavenida Drive/Moraga Way, and Estabueno Drive/Moraga Way. The Project will generate approximately 77 daily trips on a typical weekday and fewer than 10 trips at peak hours. The study concluded that implementation of the Project would not result in a substantial increase in traffic or in perceptibly degraded conditions at any of the intersections. TJKM study, p.17.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**  
General Plan.

The General Plan Circulation Element includes policies intended to manage traffic and address alternative modes of transportation. Relevant policies include the following:

General Plan Guiding Policy 2.3.1 A. directs the City to permit new development only when adequate transportation systems and parking are provided.

General Plan Guiding Policy 2.3.1 B. requires that roadways are designed to complement the City's semi-rural character.

General Plan Guiding Policy 2.3.1 C. directs the City to strive to retain the existing peak hour level of service (LOS) of "C" or better at those intersections where it now prevails and improve the LOS at all other intersections.

General Plan Guiding Policy 2.3.1 E. directs the City to expand pedestrian and bicycle paths to provide a safe alternative to auto use, particularly to provide safe paths near schools and in other locations where they are heavily used for circulation.

General Plan Guiding Policy 2.3.1 G. establishes the City's goal of preserving and retaining, in the most natural condition possible, scenic vehicular entryways, routes and corridors in the community.

General Plan Implementing Policies 2.3.2 H. and K. direct the City to adopt standards for pavement width and other design features of roads in residential areas and to develop parking standards for single-family zoning districts. The City has adopted provisions in OMC Chapter 12.12 Article 4 Road Standards and section 17.16.2 Off-street Parking and Loading Basic Requirements for Single Family Residence in compliance with these policies

General Plan Implementing Policy 2.3.2 M. directs the City to not make roadway improvements at the expense of established bicycle and pedestrian paths, except where it is in the interest of public safety.

General Plan Policy 5.3.4 – Implementing Policies and Programs: Review of Development Applications, Policy A. requires a traffic impact study for projects that generate over 50 peak-hour trips and Policy B. requires findings of consistency with City standards for projects that generate over 100 peak-hour trips. As explained immediately above, the Project would result in 8 trips or fewer during peak-hour so that a more detailed traffic impact study and a consistency finding are not required.

***Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.***  
*Orinda Municipal Code Provisions*

See discussion of *Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts* in Section I.a. above, which describes the City's Design Review procedures. (OMC §§ 17.30.1; 17.30.3.).

***Impacts Peculiar to the Project or to the Project Site***

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts related to Transportation/Traffic that are peculiar to the parcel or the Project. The numerous regulatory measures that apply to the Project and Project site — including General Plan policies, municipal code provisions, and design review procedures — would ensure that there are no significant environmental effects that are peculiar to

the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applied Development Policies or Standards*, immediately above.

The proposed Construction Management Plan, attached as Appendix —E, addresses construction vehicle circulation and contractor rules, neighborhood traffic safety during construction, and work hours during construction. All construction activities, including staging, materials storage, and equipment parking would be on the Project site. During the construction period a minor increase in roadway traffic along Lavenida Drive and Donna Maria Way would occur due to construction-related traffic. During site preparation (grading and improvements) the Project is estimated to generate approximately 37 vehicle trips per day (each vehicle's arrival and departure is considered two trips) for the construction period. Future construction of the homes is estimated to generate 75 trips per day for approximately 16 months. The construction traffic estimate assumes that construction of all 8 homes will take place simultaneously, and is thus a worst case scenario. The Construction Management Plan is designed to minimize potential conflicts between pedestrian/bicycle/neighborhood and school traffic during the construction period by: providing traffic controls or construction equipment/material delivery escorts on Lavenida Drive as needed; restricting or prohibiting construction activities and material deliveries during school drop-off/pick-up times and requiring specific routes of travel for construction-related traffic. The Construction Management Plan prohibits construction-related vehicles from parking along Lavenida Drive, Donna Maria Way, and Estabuena Drive and access to these roadways will be maintained free and clear to the extent practicable. Thus, the addition of construction-related vehicle trips to the roadways serving the Project site would not be substantial relative to the existing traffic volumes and would not disrupt traffic flows on these roadways.

In addition, the TJKM Study conducted for the Project site concluded that the Project operation after construction is completed would generate approximately 77 trips per day, which would not result in any significant impacts to traffic or transportation. See TJKM Traffic Study, attached as Appendix D. Thus, there is no substantial new information indicating that development at this site would result in greater impacts to traffic than the levels described in the General Plan EIR. Therefore, there are no significant impacts that are peculiar to the parcel or the Project that were not addressed in the General Plan EIR.

***Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR***

See also discussion of *Project Density Under the City's General Plan* in Section 8. And discussion of *Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR* in Section I.a. above.

The Lavenida Lane Project together with the proposed J&J Ranch project would result in approximately 200 daily trips (77 trips from the Lavenida Lane project and 124 trips from the J & J Ranch Project), and approximately 21 trips during peak hours (10 trips from the Lavenida Lane Project and 11 trips from the J & J Ranch project) . According to the TJKM study, the Lavenida Lane Project together with the J&J Ranch project would add a less than one second delay to the Lavenida Drive/Moraga Drive intersection during peak hours and would thus not cause an increase in traffic that would be significant. TJKM Appendix D, p. 21.

Like the Lavenida Lane Project, the proposed J&J Ranch project would be subject to uniformly applicable policies and standards as discussed above that would ensure the development would not result in significant impacts related to traffic and transportation. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative transportation impacts.

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>NO IMPACT.</b> See section XVI.a, above. The Project site does not lie along or near any roadways within the Congestion Management Plan (“<u>CMP</u>”), and the projected number of vehicle trips associated with the Project would not have any measurable impact on the <u>CMP-Congestion Management Plan</u> network.</p>					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>NO IMPACT.</b> The Project would not involve changes in air traffic patterns, and would not affect air traffic. No impacts would occur as a result of the Project.</p>					
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b> See discussion in the <i>Description of the Project</i> in section 9 above.</p> <p><b>Project Elements</b> See also discussion in the <i>Description of the Project</i> in section 9 and section XVI.a, above.</p>					

The Project includes construction of Lavenida Lane, a private roadway extending from Lavenida Drive to access the lots in the proposed subdivision. The roadways have been designed to meet all applicable City standards including OMC Chapter 17.7. The design of these roadways would not substantially increase hazards due to a design feature or incompatible uses.

**Impact Analyzed in General Plan EIR**

See corresponding discussion in section XVI.a above.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section XVI.a above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

See corresponding discussion in section XVI.a above.

**Impacts Peculiar to the Project or to the Project Site**

See corresponding discussion in section XVI.a above.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See discussion of *Project Density Under the City's General Plan*, in section 8. and corresponding discussion in XVI.a above.

e) Result in inadequate emergency access?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section VIII.g and XVI.a, above.					
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>NO IMPACT.</b> The City has not adopted any alternative transportation plans that apply to the Project site. The City has adopted a vehicle trip reduction ordinance (OMC Ch. 10.70), but this chapter applies only to employers with 100 or more employees at a single work site, all complexes with 100 or more non-retail employees, and the City. (OMC § 10.70.040.) Therefore, the Project would not conflict with any adopted plans for alternative transportation.					

	Mitigation Measures in GP EIR Address Potentially Significant Impact	City Development Policies or Standards Mitigate Potential Impact	Potentially Significant Off-Site or Cumulative Impact	New Information Indicates Impact More Severe Than GP EIR Analyzed	Environmental Effects Peculiar to Project
<b>XVII. UTILITIES AND SERVICE SYSTEMS --</b> Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See section IX.a, above, and section XVII.b below.					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>See section XVII.d, below, for discussion of water facilities. Discussion immediately below concerns wastewater.</i></p> <p><b>Setting</b> Per a conversation on November 21, 2011 with Russell Leavitt, Engineering Assistant III with the Central Contra Costa Sanitary District (“CCCSD”), the Project site is within CCCSD’s jurisdictional boundaries, and sewer service has been planned for this area. The existing main sewer has adequate capacity to accommodate the additional wastewater that will be generated by the Project. However, CCCSD facilities farther downstream do not have adequate flow carrying capacity under CCCSD’s current design criteria for ultimate conditions.</p>					

To maintain its system and ensure the system carries adequate capacity into future years, CCCSD has developed a ten-year Capital Improvement Plan for the District's capital facilities and financing needs, which is updated every year and funded by various fees and charges levied throughout the district boundaries. Specifically, the plan identifies and prioritizes capital projects needed to accomplish CCCSD's mission, as well as their estimated costs. These improvements would occur regardless of the development of the Project, and are not a part of this Project.

See also section IX.a above.

***Project Elements***

See discussion under the "Utilities and Storm Water Drainage" section of the *Description of the Project* in section 9 above.

***Impact Analyzed in General Plan EIR***

The General Plan EIR (page 4-20) evaluated potential impacts from wastewater facilities and services that would result from development consistent with the General Plan and, except for some development sites in North Orinda, determined impacts were not significant because connection to the local sanitation district was feasible. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

***General Plan Measures That Substantially Mitigate Potential Project Impacts***

General Plan Policy 5.4.2 – Performance Standards, section D. establishes performance standards for sanitary sewer capacity. Specifically, this policy requires capacity to carry and treat 100 gallons per capita per day for residential uses. The Policy further directs that sewer mains should be designed to be 2/3 full and trunk lines should be designed to be 100% full.

General Plan Implementation Policy 5.4.3 requires that all new development projects contribute to or participate in the improvement of public services, including sanitary sewers and water, in proportion to the demand generated by project users as determined by the City. As explained immediately below, the City has adopted provisions in OMC § 16.44.020 in compliance with these policies.

***Uniformly Applicable Development Policies That Substantially Mitigate Potential Impacts.***

OMC § 16.44.020-Reponsibility of subdividers

Within the City of Orinda, water is provided by EBMUD and wastewater treatment facilities are provided by CCCSD. OMC section 16.44.020 requires that the applicant of a subdivision make the required arrangements with the utility companies, including fair-share payments for planned improvements as described in the Setting section immediately above. This ordinance was adopted subsequent to the General Plan and thus was contemplative of development footprints that include the Project site and surrounding areas. The aforementioned policy is uniformly applicable to all residential development within the City and ensures that any potential Project-related impacts to utility services are reduced to a less-than-significant level. There is no significant new information to indicate that impacts related to the provision of utilities from development that is consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR.

<p><b>Impacts Peculiar to the Project or to the Project Site</b>                  Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts from wastewater facilities and services that are peculiar to the parcel or the Project. See also discussion of <i>Project Density Under the City's General Plan</i> in section 8 above, and discussions of <i>General Plan Measures</i> and <i>Uniformly Applied Development Policies or Standards</i>, above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts from wastewater facilities and services than the levels described in the General Plan EIR.</p>					
<p><b>Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR</b>                  See also discussion of <i>Project Density Under the City's General Plan</i> in section 8 above. The regulations, policies and standards discussed above are uniformly applicable to both the Lavenida Lane Project and the J&amp;J Ranch project, as well as to any other development proposed in Orinda. Compliance with these requirements will ensure the development would not result in significant cumulative impacts. Therefore, the Project along with other anticipated development in the area would not result in significant cumulative impacts.</p>					
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?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
See sections IV.a. and IX a. above.					
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b>                  Per a response letter from the East Bay Municipal Utilities District ("EBMUD") dated August 16<sup>2</sup>, 2010 <u>(attached as Appendix K)</u>, the Project site is within EBMUD's jurisdictional boundaries, and water service has been planned for this area. Separately and independently from this Project, EBMUD has adopted an Urban Water Management Plan ("UWMP") that addresses long range water demand, water supplies, and necessary facilities. The UWMP accounts for build out projected under municipal general plans and other planning documents, including Orinda's planning documents.</p>					

**Project Elements**

See discussion under the “Utilities and Storm Water Drainage” section of the *Description of the Project* in section 9 above.

**Impact Analyzed in General Plan EIR**

The General Plan EIR (p. 4-20) evaluated potential impacts from water supply facilities and services that would result from development consistent with the General Plan and, except for some development sites in North Orinda, determined impacts were not significant because connection to the local infrastructure was feasible. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.

**General Plan Measures That Substantially Mitigate Potential Project Impacts**

General Plan Policy 5.4.2 – Performance Standards, section D establishes performance standards and requires that the City “provide a secure, reliable, high quality water supply to customers.” See also corresponding discussion under Section XVII.b immediately above.

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts.**

See corresponding discussion under section XVII.b immediately above.

**Impacts Peculiar to the Project or Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant impacts related to water supply facilities that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City’s General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts*, above. Moreover, there is no substantial new information indicating that development at this site would result in greater impacts associated with water supply than the levels described in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

As discussed throughout this Environmental Review, the General Plan EIR evaluated impacts associated with build out pursuant to the General Plan and, except for some development sites in North Orinda, determined EBMUD would be able to serve anticipated residential growth. (General Plan EIR, p. 4-20.) The Project is consistent with the level of development planned for the site and the surrounding area and updates to the General Plan since the General Plan EIR have not resulted in any changes to the level of development allowed for the Project site and the surrounding area. Therefore, the General Plan EIR included evaluation of cumulative impacts related to increased water supply and there is no new information to indicate that development consistent with the City’s policies and standards would result in greater impacts to water supply than described in the General Plan EIR.

<p>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?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>See sections XVII.b, above.</i></p>					
<p>f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Setting</b>  The Project site is in an area served by Keller Canyon Landfill. This landfill, which currently handles 2,500 tons of waste per day, is permitted to manage up to 3,500 tons of waste per day at the facility. The landfill has 50 years of available capacity remaining, with a maximum permitted capacity of 75 million cubic yards and a remaining capacity of about 63 million cubic yards.</p> <p><b>Project Elements</b>  The Project would not induce solid waste needs beyond that of typical single-family residences. The Central Contra Costa Solid Waste Authority (CCCSWA) provides solid waste and residential recycling services for the City of Orinda through franchise agreements with Allied Waste Services for the collection, transfer and disposal of residential solid waste, and with Valley Waste Management for the collection of residential recycling, green waste and compostable waste. Thus, the Project residences would be served with trash and recycling pick-up service currently provided to the adjacent neighborhoods.</p> <p><b>Impact Analyzed in General Plan EIR</b>  The General Plan EIR (p. 4-2) addressed impacts to public services of development consistent with the General Plan and concludes that the projected five percent increase in population and less than 20 percent increase in the number of housing units would not result in significant impacts to any City services. The applicable measures, policies, or standards, described immediately below, shall be applied to the Project.</p> <p><b>General Plan Measures That Substantially Mitigate Potential Project Impacts</b>  There are no applicable General Plan measures or standards.</p>					

**Uniformly Applicable Development Policies And Standards That Substantially Mitigate Potential Project Impacts**

Orinda Municipal Code Provisions

The City of Orinda mandates by ordinance that every use comply with the regulations and standards of the CCCSWA. (OMC § 8.28.010.) The CCCSWA's Ordinance regulates solid waste, green waste and recyclable material collection, processing, disposal and litter. (Ordinance No. 97-01 of the CCCSWA). The requirement to comply with regulations and standards of the CCCSWA is uniformly applicable to all proposed development within the City, and would ensure that any potential Project-related impacts are reduced to a less-than-significant level.

**Impacts Peculiar to the Project or to the Project Site**

Because the Project is consistent with the General Plan and all potentially significant impacts will be substantially mitigated there are no significant solid waste impacts that are peculiar to the parcel or the Project. See also discussion of *Project Density Under the City's General Plan* in section 8 above, and discussions of *General Plan Measures and Uniformly Applied Development Policies or Standards*, above. There is no significant new information to indicate that solid waste impacts from development that is consistent with the City's policies and standards would result in greater impacts than described in the General Plan EIR.

**Significant Off-site or Cumulative Impacts Not Discussed in the General Plan EIR**

See also discussion of *Project Density Under the City's General Plan*, in section 8 above. Construction of both the Lavenida Lane Project and the adjacent J&J Ranch project would result in a level of development substantially below the development potential identified for the area in the General Plan. The General Plan EIR did not identify any impacts to landfill capacity resulting from development consistent with the General Plan. Thus, the proposed developments would not exceed capacity at the landfill. Therefore, there are no unstudied significant off-site or cumulative impacts warranting further environmental review.

g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	----------	--------------------------	--------------------------	--------------------------

NO IMPACT. See section XVII, f, above for a discussion of the Project's compliance with local and regional regulations. There are no additional state and federal regulations that apply to single-family residential developments.

**Appendices**

<u>A.</u>	<ul style="list-style-type: none"> <li>• <u>April 2010, Project Application Slope Calculations and Topography Map</u></li> </ul>
<u>AB.</u>	<ul style="list-style-type: none"> <li>• June 16, 2010 Alan Kropp &amp; Associates Geological Report</li> <li>• February 25, 2011 Cal Engineering &amp; Geology, Geotechnical Peer Review</li> <li>• March 31, 2011 Alan Kropp &amp; Associates, Response to Peer Review</li> <li>• May 5, 2011 Cal Engineering &amp; Geology Second Review</li> <li>• <u>May 20, 2011 Alan Kropp and Associates Response to Second Round of Geotechnical and Geologic Peer Review</u></li> <li>• <u>March 9, 2012 Alan Kropp &amp; Associates, memo providing geotechnical clarifications.</u></li> </ul>
<u>BC.</u>	<ul style="list-style-type: none"> <li>• September 2010 Preliminary Stormwater Control Plan</li> </ul>
<u>CD.</u>	<ul style="list-style-type: none"> <li>• August 16, 2011 TJKM Traffic Impact Study</li> </ul>
<u>E.</u>	<ul style="list-style-type: none"> <li>• <u>March 28, 2012 Applicant's Construction Management Plan</u></li> </ul>
<u>DE.</u>	<ul style="list-style-type: none"> <li>• Visual Simulation 1: Intersection of Lavenida Drive and Donna Maria Way</li> <li>• Visual Simulation 2: On Coral Drive near Ardith Drive Intersection</li> <li>• Visual Simulation 3: The end of Crestview Court and Segments of Crestview Court</li> <li>• Visual Simulation 4: Donald Drive</li> </ul>
<u>EG.</u>	<ul style="list-style-type: none"> <li>• P/A Design Resources, Inc. Conceptual Plans</li> </ul>
<u>H.</u>	<ul style="list-style-type: none"> <li>• <u>September 2011 Michael Brandman Associates Construction Health Risk Analysis Report</u></li> </ul>
<u>FI.</u>	<ul style="list-style-type: none"> <li>• June 11, 2010 AECOM Biological Resources Assessment and Preliminary Jurisdictional Determination for the 12-acre "Lavenida Lane" Project Site</li> <li>• May 8, 2011 Michael Brandman Associates Peer Review</li> <li>• June 20, 2011 AECOM Response to Peer Review</li> </ul>
<u>GJ.</u>	<ul style="list-style-type: none"> <li>• <u>September 2011</u> Pacific Legacy, Inc. and Carey &amp; Co., Inc. Cultural/Historical Resources Study</li> </ul>
<u>HK.</u>	<ul style="list-style-type: none"> <li>• Acalanes Union High School District Comments</li> <li>• U.S. Army Corps of Engineers Comments</li> <li>• August 16, 2010 East Bay Municipal Utility District Review of Agency Planning Application</li> <li>• February 15, 2011 East Bay Utility District Review of Agency Planning Application</li> <li>• Contra Costa Environmental Health Services Comments</li> <li>• Moraga-Orinda Fire-Rescue District Comments</li> </ul>

	<ul style="list-style-type: none"><li>• June 2010 Hort Science Arborist Report</li></ul>

324414.3