
Land Use and Planning

This chapter describes existing land uses, the General Plan land use classification and zoning designation of the Project sites, and applicable General Plan policies. The chapter evaluates the Project's consistency with applicable policies, and describes the extent to which any inconsistency represents a significant environmental effect.

The Project site is located in the Fairview area of unincorporated Alameda County in the rolling hills east of the city limits of Hayward. Surrounding land uses include residential subdivisions bordering D Street and Fairview Avenue. These nearby residential areas are interspersed with several large undeveloped parcels of one-half acre to ten or more acres, all of which are designated for residential use. The community character is a mixture of suburban and rural residential uses, and various institutional and semi-public uses. Development on the south side of Fairview Avenue (from Hansen Road to Five Canyons Parkway) is generally more sparse and rural than properties to the north.

Regulatory Setting

Alameda County General Plan

The Alameda County General Plan expresses the County's vision for the future and is the roadmap for achieving the community's desired quality of life. It is an assessment of current and future needs, and the resources needed to implement its goals and policies. The Alameda County General Plan consists of several documents. The countywide Housing, Conservation, Open Space, Noise, Seismic and Safety, and Scenic Route Elements contain goals, policies, and actions that apply to the entire unincorporated area. Additionally, three Area Plans contain land use and circulation elements for their respective geographic areas, as well as area-specific goals, policies and actions for circulation, open space, conservation, safety, and noise. The Project site falls within the Eden Area portion of the General Plan, although the Eden Area Plan notes that the *1997 Fairview Area Specific Plan* contains the goals, policies, and zoning regulations that apply to this area.

Fairview Area Specific Plan

The *Fairview Area Specific Plan* is part of the Alameda County Eden Area General Plan and, as such, is the controlling document to guide land use decisions with planning policies, principles and guidelines applicable to the Project site. The Specific Plan (hereafter after referred to as the Specific Plan, or Plan) provides detailed planning policy for the Fairview sub-area of the County, and is a component of the adopted County General Plan. The Plan provides land use, circulation, development, environmental, infrastructure and implementation policies for the Fairview Area.

As noted in the Plan, the Specific Plan may be administered as, and thus have the force of, zoning. Policies and regulation developed in the Fairview Area Specific Plan take precedent over and replace standard zoning and the provisions of the Alameda County Zoning Ordinance within the Plan Area.

Where the Specific Plan is silent, provisions of the Zoning Ordinance apply. Enforcement of the provisions of the Plan is to be done in the same manner as enforcement of the provisions of the Zoning Ordinance, and similarly violation of the provisions of the Plan constitute a violation of the Zoning Ordinance. The *Plan* states its fundamental purpose and intent as follows:

“The intent of the Plan is to preserve existing residential areas, *protect and preserve important environmental resources and significant natural features* in the Fairview area, and promote development that is sensitive to variations in topography and the rural residential character of the area” (emphasis added).¹

The Specific Plan identifies a variety of important environmental resources or significant natural features throughout its policies, principles and guidelines, as found in the Natural Features chapter and subsequent sections (Geology, Erosion and Sedimentation, Flood Hazards, etc.). Some of its policies and guidelines are explicit and clearly directive, such as “The County shall require that roadways and developments be designed to minimize impacts to wildlife corridors and regional trails.” Other policies use phrases and terms such as “shall encourage”, “should” (as opposed to shall) and “minimize”, each of which require interpretation as to whether non-compliance would be considered to be a conflict. However, in this chapter, each environmental resource or feature referenced in a policy, principle or guideline of the *Specific Plan* is recognized as important or “significant”, and that preserving or avoiding damage or loss of such resources or features is the intent of the *Specific Plan*. The Plan’s land use limitations on density, setbacks, height, uses and open space are recognized as intended to maintain and enhance the development qualities of the Fairview area. It is Alameda County Planning Department’s view that conflict with certain of the *Plan*’s development limitations represents an adverse environmental consequence or significant impact for the purposes of CEQA. The focus of CEQA is on physical and adverse changes to the environment, and it is therefore important to distinguish which policies and guidelines serve the purpose of avoiding or mitigating an environmental effect, and which policies and guidelines were included for other purposes (i.e., general neighborhood quality, home design, setbacks, etc.).

The *Specific Plan* establishes zoning districts for several different areas or neighborhoods within the *Plan* area. The Project site is designated in the R-1-B-E district (Single Family Residential, with a combining B-E district overlay, specifying a minimum building site area requirement of 10,000 square feet). The Plan also provides that in hillside areas (sites with an average slope exceeding 10%), the maximum allowable density is 3.5 units per gross acre of developable area of a site, which includes only areas of less than 30% slope, areas outside private streets, shared driveways, visitor parking, and riparian areas as defined in the Plan.

Impacts and Mitigation Measures

The following section describes potentially significant Project impacts related to conformity with the land use policies and guidelines set forth in the *Fairview Area Specific Plan*. Mitigation recommendations are made to avoid, minimize, or mitigate such impacts where feasible.

Significance Criteria

The Project would have a significant environmental impact if it were to:

¹ *Fairview Area Specific Plan*, Adopted by the Alameda County Board of Supervisors, September 4, 1997, p. 1.

1. Physically dividing an established community.
2. Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an environmental effect.
3. Conflict with any applicable habitat conservation plan or natural community conservation plan.

Division of an Established Community

Land Use-1: Development at the Project site would not divide an established community. **(No impact)**

The Project site is located within a previously developed neighborhood and is not located between nor used for passage between existing communities.

Conflicts with Land Use Plan, Policy or Regulation

Land Use-2: The Project would conform to the vast majority of the applicable land use policies and guidelines of the Fairview Area Specific Plan, but would conflict with certain policies and guidelines that were adopted by the County to avoid or mitigate environmental effects, including substantial changes to topography and natural characteristics, and result in potentially significant adverse effects. **(Significant – Less than Significant with Mitigation)**

The Fairview Area Specific Plan, adopted by the County Board of Supervisors in 1997, includes principles and guidelines addressing a broad range of topic areas including land use, residential density, open space and other environmental considerations. Policies and guidelines that pertain to natural features generally call for retention of natural topography and other natural characteristics of sites within the Fairview area, and define those existing visual and natural characteristics that should be preserved with new developments.

The Fairview Area Specific Plan policies applicable to the Project site are set forth in **Table 9.1** below, along with a consistency assessment that evaluates the degree to which relevant elements of the Project are consistent with, or inconsistent with each such provision. Although the Project conforms to the vast majority of the Plan policies and guidelines, it is not consistent with several selected policies and guidelines, as indicated below. In a few cases, consistency is undetermined because there is insufficient detail available about the Project; however, conditions of approval and final plan preparation may provide an assurance of compliance. The Project's most substantial anticipated physical changes to the site and the area are related to its required grading. Figures 9.1 and 9.2 illustrate existing and post-Project topographical conditions on the sites, and aid in the analysis below.

Table 9.1: Evaluation of Consistency with Fairview Area Specific Plan

| Fairview Area Plan Policies, Principles and Guidelines: | Project's Relative Consistency: | |
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| Policy A.: Extent of Urban Area – the Urban Area Boundary in the Specific Plan defines the area in which urban development is allowed. | Consistent | The Project site is within the Urban Area Boundary as identified by the Specific Plan. |
| Policy B.1: Conventional Single-Family Development. New single family parcels must be consistent with the existing land use pattern of the surrounding neighborhood, and may not create lots substantially smaller or narrower than prevailing lots in the neighborhood. In the hillside areas as defined by the Plan to include sites with average slope of more than 10%, the maximum density allowed is 3.5 units per gross acre of developable site area. Developable site area includes only areas of less than 30% slope, areas outside private streets, shared access streets and driveways, and outside riparian or wetland areas. | Consistent | The currently proposed lot sizes (including area and width) and overall density of the Project's proposed residential lots are consistent with the existing land use pattern of single-family development and prevailing lot sizes and widths of the surrounding neighborhood. The Project site is in a hillside area and is therefore limited to 3.5 units per acre. The Project's eastern tract would have a total developable area 5.04 acres with a small amount of 30% or steeper slope subtracted (estimated as 5,700 square feet); no private street is proposed. The resulting density would be 3.0 units per acre of developable site area on the eastern tract, well within the limit of 3.5 units per acre. The western tract has a gross developable area of 4.55 acres of its total 4.61 acres, after a small amount of 30% or steeper slope (about 2,400 square feet) is deducted. The proposed 16 units on the western site would thus result in about 3.5 units per acre, and thus compliant with the allowable density. |
| Policy B.4: Residential Building Setbacks – minimum 15' side and 30' front, in the R-1-B-E (10,000 sq. ft. min. bldg. site area) district. (Note: Policies B.2 and B.3 are not relevant to the subject Project) | Consistent | The lot dimensions and proposed building setbacks are consistent with (or exceed) the applicable minimum setback requirements of the Specific Plan for the zone district. |
| Policy B.5: Residential Building Lot Coverage – not more than 30 percent in the R-1-B-E (10,000 sq. ft. min. bldg. site area) district | Consistent | Proposed building envelopes range from 7 percent to 24 percent of the gross area of each lot, and are therefore less than the 30 percent maximum lot coverage, consistent with the Specific Plan. |
| Policy B.6: Residential Open Space – minimum of 1,000 sq. ft. of private, usable open area per lot. Such open areas include only: 1) areas not visible from the fronting street; 2) areas with a ground slope less than 20% gradient; 3) areas not covered by off-street parking or any access thereto; 4) any open area with a minimum 15 feet in its least dimension; and 5) roof-top areas designed for outdoor residential use or outside deck spaces more than 8 feet in least dimension. | Consistent | The Project's Site Plan shows that each lot would have at least 1,000 square feet of usable open space area, consistent with the dimensional standards of the Specific Plan. As illustrated on Figures 3-5 and 3-6 , the Project would provide level rear yards on most of the eastern tract, but almost no level rear yards on any of the western tract lots. However, the 15-foot wide side yards could be counted as useable open spaces, and as limited to maximum building lot coverage of 30 percent, there would be adequate useable open space. |
| Policy B.7: Residential Building Height – two stories and 25 feet except as provided for by the Zoning Ordinance, and Specific Plan | Consistent | All homes would be 25 feet or less in average height, consistent with the <i>Specific Plan</i> . The exception provided for by the Zoning Ordinance |

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| guidelines to step structures with the natural terrain, or cut into the hillside to reduce effective bulk, and using graduated heights and varied setbacks to reduce building scale. | (which also incorporates the County's 2014 <i>Residential Standards and Design Guidelines</i>), requires height to be measured above natural grade, and allows a height of up to 30 feet for building portions that are at least 15 feet from any property line (which would apply to all building portions due to the 15-foot minimum setback). On the Tract 8296 Tract, Lots 9 through 16 will have split grades. |
| Policies C. Traffic and Circulation | Note: The policies for traffic and circulation are addressed in Chapter 11, Transportation. No significant transportation impacts or conflicts with the Plan's circulation policies were identified. |
| Policy D.1.a: The County shall encourage that existing riparian woodland habitat be protected. | Consistent There is no riparian or oak woodland habitat on the Project site. |
| Policy D.1.b: The County shall encourage no net loss of riparian and seasonal wetlands. | Consistent There is no riparian or seasonal wetland habitat on the Project site. |
| Policy D.1.c: The County shall encourage the preservation of oak woodland plant communities. | Consistent There are no oak woodland plant communities on the Project site. |
| Policy D.1.d: The County shall encourage preservation of areas known to support special status species. | Consistent There are no known special status species on the Project site. |
| Policy D.1.e: The County shall require that roadways and developments be designed to minimize impacts to wildlife corridors and regional trails. | Consistent There are no known wildlife corridors through the Project site, and no regional trails cross through the Project site. |
| Principle D.2.a: All development proposals shall strive for maximum retention of the natural topographic features, landscape features, and qualities of the site. Development should seek to enhance these natural features and qualities. | Inconsistent The Project does not strive for maximum retention of the natural topography, but would instead substantially re-grade the two sites to accommodate development on flat pads, whereas the existing sites feature slopes of 5 to 20% or greater. Figures 9.1 and 9.2 illustrate existing and post-Project topographical conditions on the sites. Cut and fill throughout both Tracts would result in cuts of over 20 feet (Lot 1 of the eastern tract has an existing elevation of 587' above sea level and is proposed with a pad elevation of 565' above sea level; Lot 15 also in the eastern tract would have a similar extent of excavation), and fill in other locations of up to 20 feet. However, it is difficult to ascertain how the development could better serve to enhance the sites' natural |

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| Fairview Area Plan Policies, Principles and Guidelines: | Project's Relative Consistency: |
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| | topography and qualities, and it is well-established and accepted practice to grade slopes to create flat pads for homes and conventional level outdoor yard areas. <i>See text for further discussion.</i> |
| <p>Principle D.2.b: All development proposals shall take into account and be judged by the application of current principles of land use planning, soil mechanics, engineering geology, hydrology, civil engineering, environmental and civic design, architecture, and landscape architecture in hill areas. Such current principles include but are not limited to:</p> <p>1): Planning of development to fit the topography, soils, geology, hydrology, and other conditions existing on the proposed site;</p> | <p>Consistent The engineering aspects of the Project, including its geotechnical engineering, hydrology and drainage management and treatment and street and utility design have been reviewed by County Public Works Agency staff and have been found, in principle, consistent with County civil engineering standards for drainage, hydrology, geotechnical and environmental considerations. With regard to architecture and landscape architecture design in hill areas, the project is typical of hillside subdivisions in the nearby vicinity and region-wide. Detailed landscape plans have not yet been prepared.</p> |
| <p>2): Orienting development to the site so that grading and other site preparation is kept to a minimum;</p> | <p>Consistent The Project does not minimize grading or site preparation; however, grading is kept to a minimum to meet the basic objectives of the proposed development.</p> |
| <p>3): Shaping of essential grading to complement and blend with natural landforms and improve relationships to other developed areas;</p> | <p>Inconsistent The Project's proposed grading does not closely match or blend with natural landforms or adjacent development. Many new 2:1 slopes are proposed around most of the sites perimeters. In the upper or eastern tract, proposed grading would remove the northern hilltop and greatly reshape the "saddle" topography to create flat development pads. On the lower Tract, the Project would re-grade sloping property to create a flat roadbed and benched building pads. However, the Project's grading would be consistent with nearby development, such as along Carlson Court and Jelincic Drive. <i>See text for further discussion.</i></p> |
| <p>4): Develop large tracts in workable units on which construction can be completed within one construction season;</p> | <p>Consistent The 31-unit Project is comprised of two "workable" units that can be completed jointly in one construction season, and would not need to leave earth exposed during the rainy season.</p> |
| <p>5): Allocating to public or private open space, those areas not well suited to development;</p> | <p>Consistent The Project site does not have areas of exceptional topography (very steep slopes or outcrops) or natural or riparian areas that are not suited for development.</p> |
| <p>6): Landscaping of areas around structures, and blending them with the natural landscape;</p> | <p>Consistent The Project applicant would employ Bay-Friendly landscaping principles to the landscaping around future homes and around the detention</p> |

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| | basins and within Parcel A. The Project's new landscaping would help to screen and blend the new development with the surroundings over time. |
| 7): Placing, grouping and shaping of man-made structures to complement one another, the natural landscape, and provide visual interest; | Inconsistent The Project's new residential structures would not be grouped or shaped to compliment the natural landscape, but would instead be constructed in a linear pattern fronting the Project's relatively straight and leveled internal roadways. Relatively deep excavations are proposed to create large flat lots at locations where split pads and reduced excavation would be feasible, would provide greater visual interest and would be more complementary to natural landforms. See <i>text for further discussion</i> . |
| 8): Locating building pads so that the views of prominent ridgelines are not interrupted or interfered with by buildings; | Consistent The photo-simulations in Chapter 4 show that views of the Project from public viewpoints off-site will be substantially obscured by existing intervening houses, trees and landforms. This would be true whether the new homes were placed on building pads under the mass grading plan as proposed, or were constructed on existing native grades. The Project's new homes would be visible on the ridgeline, but existing structures are already visible along this ridgeline including some of those structures that the Project will replace. |
| 9): Using a variety of housing types, housing clusters and special house construction techniques in residential areas to permit steep slopes, wooded areas, and areas of special scenic beauty to be preserved | Consistent Neither of the Project's sites contains wooded areas or areas of special scenic beauty that might be considered for preservation, nor do the Project sites have substantial areas with steeper slopes of particular visual interest. |
| 10): Giving special consideration to the design of public and private streets to minimize grading and other site alteration; | Inconsistent The Project does not minimize grading or other site alteration, including the grading proposed for new local streets. |
| 11): Giving special consideration to the design of such visual elements as street lighting, fences, sidewalks, pathways, and street furniture to enable maximum identity and uniqueness of character to be built into each development; | Undetermined Street furniture, fencing details and special features have not yet been proposed. However, these concerns are not within the scope of the environmental review of this EIR, and will be dealt with by separate County planning analysis or by recommended conditions of approval. |
| 12): Minimizing disruption of existing plant and animal life; | Consistent Mitigation measures have been identified to ensure that special-status or other unique plant and animal life will be protected (see Chapter 6, Biological Resources); related analysis also indicates there is limited |

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| Fairview Area Plan Policies, Principles and Guidelines: | Project's Relative Consistency: |
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| | potential on the Project sites for such species. |
| 13): Design lots so that adequate area is available for yards and landscaping; | Consistent As illustrated with conceptual building outlines on Figures 3-5 and 3-6, the Project would provide level rear yards on most of the eastern tract, but almost no level rear yards on any of the western tract lots. Final building footprints would be limited to maximum building lot coverage of 30 percent and would be required to provide useable open space, which could include the 15-foot wide side yards. |
| 14): Designing an attractive, safe, and convenient network of walkways for pedestrians throughout a development; with connections to public facilities such as schools, parks, and existing trail systems; | Consistent The Project includes sidewalks on each side of the public street and will add new sidewalks along its D Street frontage. Although there is no direct sidewalk connection to public facilities or trail systems provided along D Street or otherwise on the site, it is not substantially the developer's obligation to provide sidewalks on public streets for this purpose, but primarily a County obligation. <i>However, see text for further discussion.</i> |
| Guideline D.3.a. Natural and man-made slopes of 30% gradient or greater should not be developed or altered. Exceptions may be granted for road construction if it is the only feasible access to a site, modifications of minor terrain features, and custom designed homes and lots that otherwise conform to the intent of these policies. | Consistent Neither of the Project sites contain substantial areas with slopes of 30% or greater. Minor, isolated areas of 30% or greater slopes are present, but are not prominent features of the site. |
| Guideline D.3.b. Only individual lot grading should occur in areas exceeding 20% slope (such grading is defined as that which can be wholly contained within a single lot, as needed to fit the house, an access driveway and useful yard areas). | Inconsistent There are some limited areas with slopes exceeding 20% on the eastern tract, and a more substantial area on the western tract. On the eastern tract, the largest such area would be graded for the new street and the Guideline is therefore not applicable. On the western tract, however, a larger area is proposed for mass, uniform grading to accommodate flat building pads, instead of individual lot grading. |
| Guideline D.3.c. Buildings should be designed with stepped, pier and grade beam, or a custom foundation to reduce grading, to avoid contiguous stair-stepped padded lots, and to retain a more natural appearance. On sloping lots, tall downhill facades should be avoided by stepping structures with the natural terrain. (This policy is understood to promote stepping or splitting the grade of lots between the front and back, but to limit uniform side-to-side stepping between adjacent lots, and to encourage buildings that similarly 'step | Inconsistent The Project proposes split pad foundations on the west side of the western tract, which may be recognized as custom foundations. The split pad homes would step down with the slope to avoid tall downhill façades. All other lots would have single pad elevations, which implies they would use only slab foundations and not pier and grade beam foundations (i.e., that do not rely on a level pad). The Project would avoid side-to-side, uniform "stair-stepped" lots (evenly distributed |

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| Fairview Area Plan Policies, Principles and Guidelines: | Project's Relative Consistency: |
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| down' parallel to the sloping grade or split grades). | retaining walls along lot lines) by developing nearly level streets. |
| Guideline D.3.d. The vertical height of a graded slope or combination retaining wall and slope between single-family dwellings should not exceed 10 feet in the rear yards, or 5 feet within a side yard between lots | Inconsistent Generally, most of the Project would not include graded slopes or retaining walls between new homes. However, one new lot (Lot 15 on the eastern tract) would have slopes exceeding 10 feet between this lot and two adjacent lots of the subdivision. |
| Guideline D.3.e. The maximum horizontal distance of graded slope should not exceed 20 feet, at 2:1 (horizontal to vertical) gradient. | Inconsistent The Project proposes several portions of the Project site with regraded slopes of 2:1 and that would substantially exceed more than a 20-foot length. |
| Guideline D.3.f. Development near or on a prominent ridgeline should be subordinate to the surrounding environment. Residences should blend into the natural topography creating minimal visual disturbance to the existing ridgeline and views. Rows of residences with similar setbacks and elevations shall be discouraged. | Inconsistent The portion of the Project that is proposed along the upper ridgeline of the upper Tract (8297) would include rows of new homes with similar setbacks and building elevations. Due to the relatively deep excavations of the ridgeline to provide building pads on lots 1 and 2 of the eastern tract, the two-story homes would have a lower profile on the ridge than if they were built on or closer to the existing grade, or on split pads, and therefore the development may be considered as "blending" into the natural topography and minimizing visual disturbance of the ridgeline and area views, including from Lone Tree Cemetery and area homes. The Project would also establish four rows of residences with nearly identical setbacks and elevations that would be monotonous on a broad scale, even though design details as shown in preliminary elevations (see Figures 3-5 and 3-6) could moderate such an effect. |
| <p>Policy D.4 – Large, mature, natural and introduced trees are to be preserved unless: a) Alternative designs that would preserve the trees are found by the County to be infeasible or undesirable; or b) a certified arborist, as determined acceptable by the County Planning Director, recommends that the trees be pruned or removed because they are: 1) dead, dying, or in irreparable condition; or 2) will be a fire or safety hazard.</p> <p>Eucalyptus trees shall be thinned and pruned for safety reasons. Any eucalyptus trees removed shall be replaced with native trees, with reestablishment by the developer of at least five 15-gallon-sized trees or one boxed, native specimen tree for every large tree removed, subject to Planning Director approval of the species, location and</p> | <p>Undetermined /Potentially Inconsistent The Project sites contain numerous mature trees, which are described broadly in Chapter 6 (Biological Resources) as including a mix of native and non-native species, introduced ornamental and screening trees. An arborist report has not yet been commissioned by the developer or requested by the County, as the biological analysis is deemed to provide adequate description for the purposes of CEQA and this EIR. A more formal inventory by the biological resource consultant or an arborist will be required as a condition of approval in order to determine how the developer will comply with Policy D.4.</p> <p>The Project grading as proposed would require removal of all trees on the sites. An alternative design that preserves all the trees is not feasible, but some preservation does appear feasible without</p> |

Table 9.1: Evaluation of Consistency with Fairview Area Specific Plan

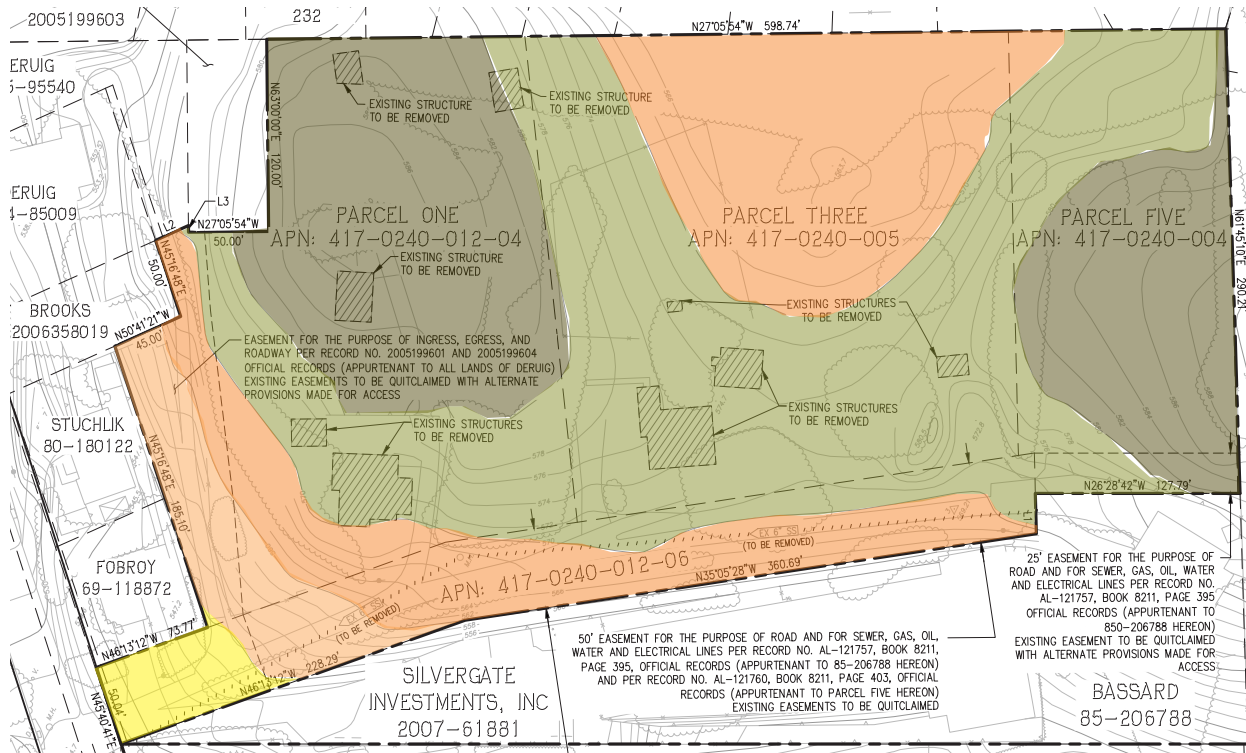
| Fairview Area Plan Policies, Principles and Guidelines: | Project's Relative Consistency: |
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| method of installation. Large, mature trees are those of the following sizes: a) 20" diameter breast height (dbh) or greater in circumference measured 4.5 feet above ground level for trees native to this area of California; and b) 30" dbh or greater in circumference measured 4.5 feet above ground level for introduced tree species (e.g., eucalyptus). | substantially altering the Project's lot sizes and configuration. The preservation of eucalyptus trees is generally undesirable due to fire safety considerations, although the individual specimens on the south side of the western tract are prominent in most views toward the site (see Chapter 4, Figures 4.2 and 4.3). In general, however, no significant visual impacts are associated with removal of trees from the sites. |
| Policy D.6. A landscape plan prepared by a registered landscape architect shall be submitted for all development projects. The plan shall include landscaping of slopes, especially around the development's perimeter, to mitigate the effects of grading and man-made structures. The landscaping shall be installed and inspected (or guaranteed through a bond) as a part of the grading improvements or subdivision improvements. The Planning Director may waive this requirement for projects which retain significant natural vegetation. | Inconsistent/ Undetermined A landscape plan has not yet been prepared or submitted, pending review of the draft EIR. However, a plan will be required to be submitted prior to consideration of the Project by the County Planning Commission, unless, as provided by the policy, significant natural vegetation is retained, which could include the trees on the sides of the Project sites noted above. |

Under the 1970 CEQA Statute and its adopted Guidelines, conflicts with applicable plans, policies or regulations do not typically result in a significant effect on the environment. As stated in Section 15358 (b) of the CEQA Guidelines (definitions, *effects* or *impacts*), “effects analyzed under CEQA must be related to an adverse physical change.” A related definition of the *environment* extends to “physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance.” (Section 15360). Further, Appendix G of the CEQA Guidelines (the environmental checklist form, which is the effective basis for significance criteria in this and any EIR) makes explicit the focus on whether a project would “conflict with any applicable land use plan, policy, or regulation . . . adopted for the purpose of avoiding or mitigating an environmental effect.” A response in the affirmative, that there is a conflict with a land use policy, does not necessarily indicate the Project would have a significant environmental effect, unless an adverse physical change would occur.

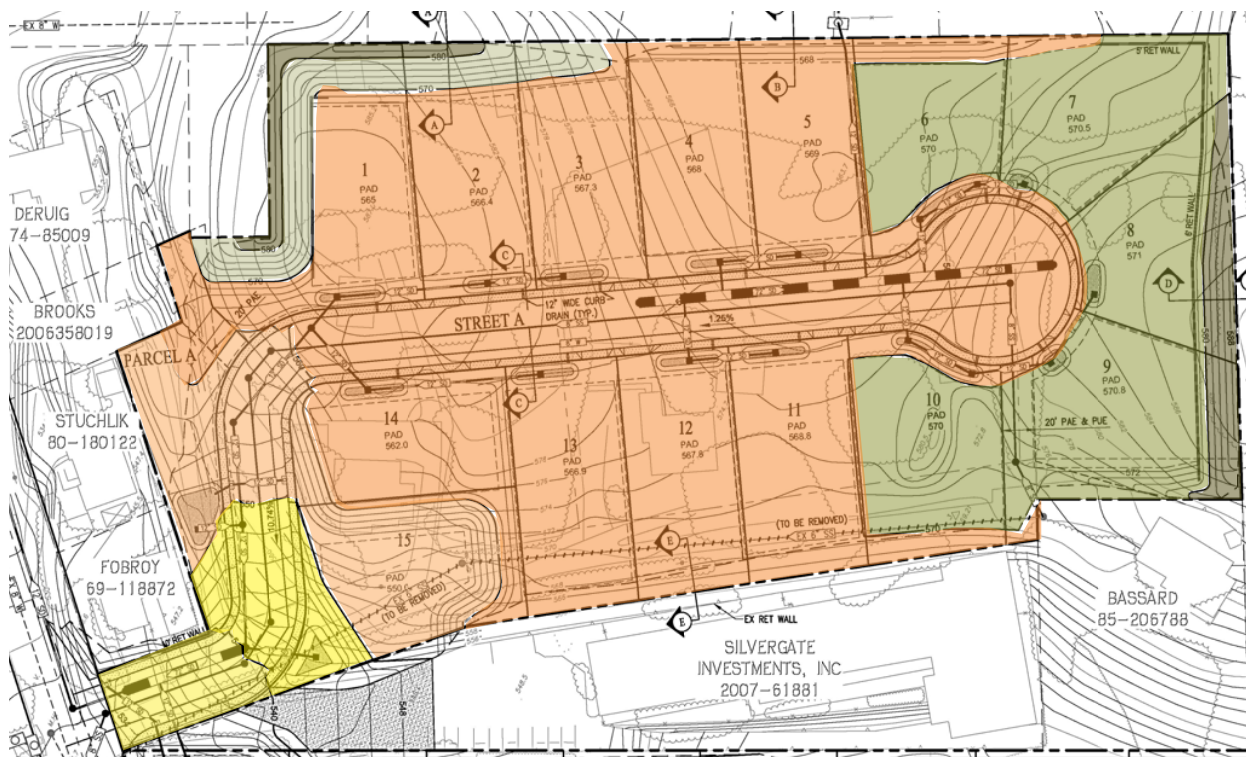
However, the County considers conflict with adopted policies of its General Plan (which extend to the Fairview Area Specific Plan) to represent potentially significant environmental impacts, where those policies are specifically adopted to protect environmental qualities. Neither the CEQA Statutes nor Guidelines provide specific thresholds of significance for such impacts. Rather, Section 15064.7 provides that “each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects.” The same section defines thresholds of significance as “an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency.”

As indicated above in Table 9.1, the Project is consistent with the substantial majority of the principles and guidelines of the Fairview Area Specific Plan. However, as also shown in Table 9.1, inconsistencies with the Plan’s principles include:

- Principle D.2.a/2.b-3/2.b-7 – Substantial regrading of the Project sites and deep excavations would not retain natural topographic features or blend with its natural landforms (see **Figures 9.1 and 9.2**);
- Principle D.3.b – Mass site grading is proposed across areas where existing slope exceeds 20%, rather than individual lot grading (see **Figure 9.3**);
- Principle D.3.c – Flat pad lots are used throughout most of the Project sites that do not retain a natural appearance, rather than custom foundations;
- Principle D.3.d/e – Grading would result in new slopes with heights greater than 10 feet between homes, and 2:1 slopes that exceed 20 feet in horizontal distance (see **Figures 9.4 and 9.5**);
- Principle D.3.f – Rows of residences with similar setbacks and elevations would be created;



Natural Topography



Graded Landform

Figure 9-1
Changes in Natural Topography - Tract 8297



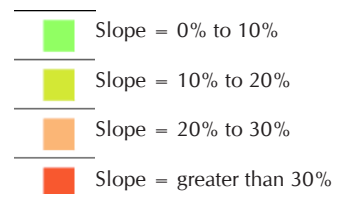
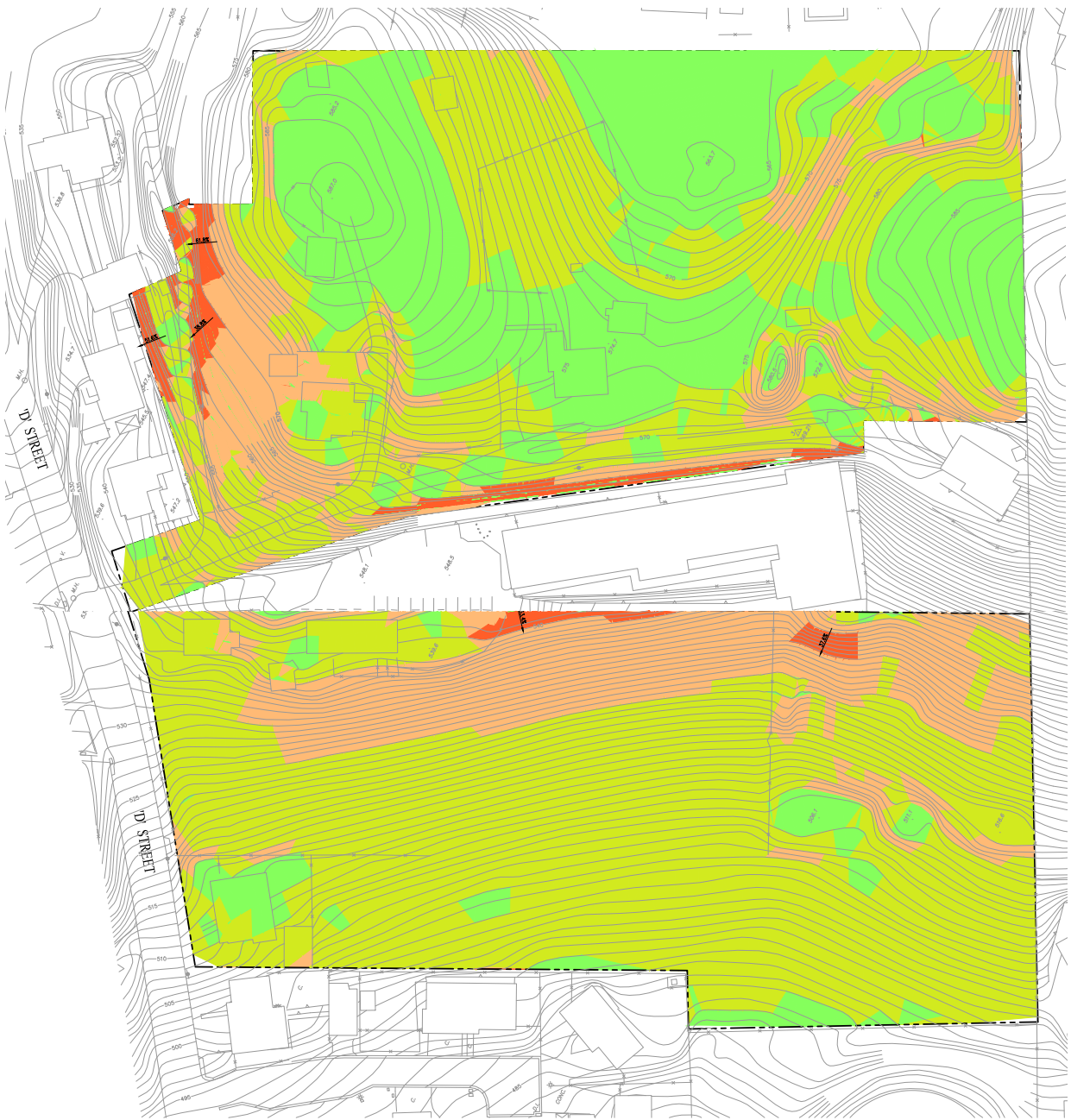


Figure 9-3
Existing Slope at Project Sites



Source: CB&G, Inc.

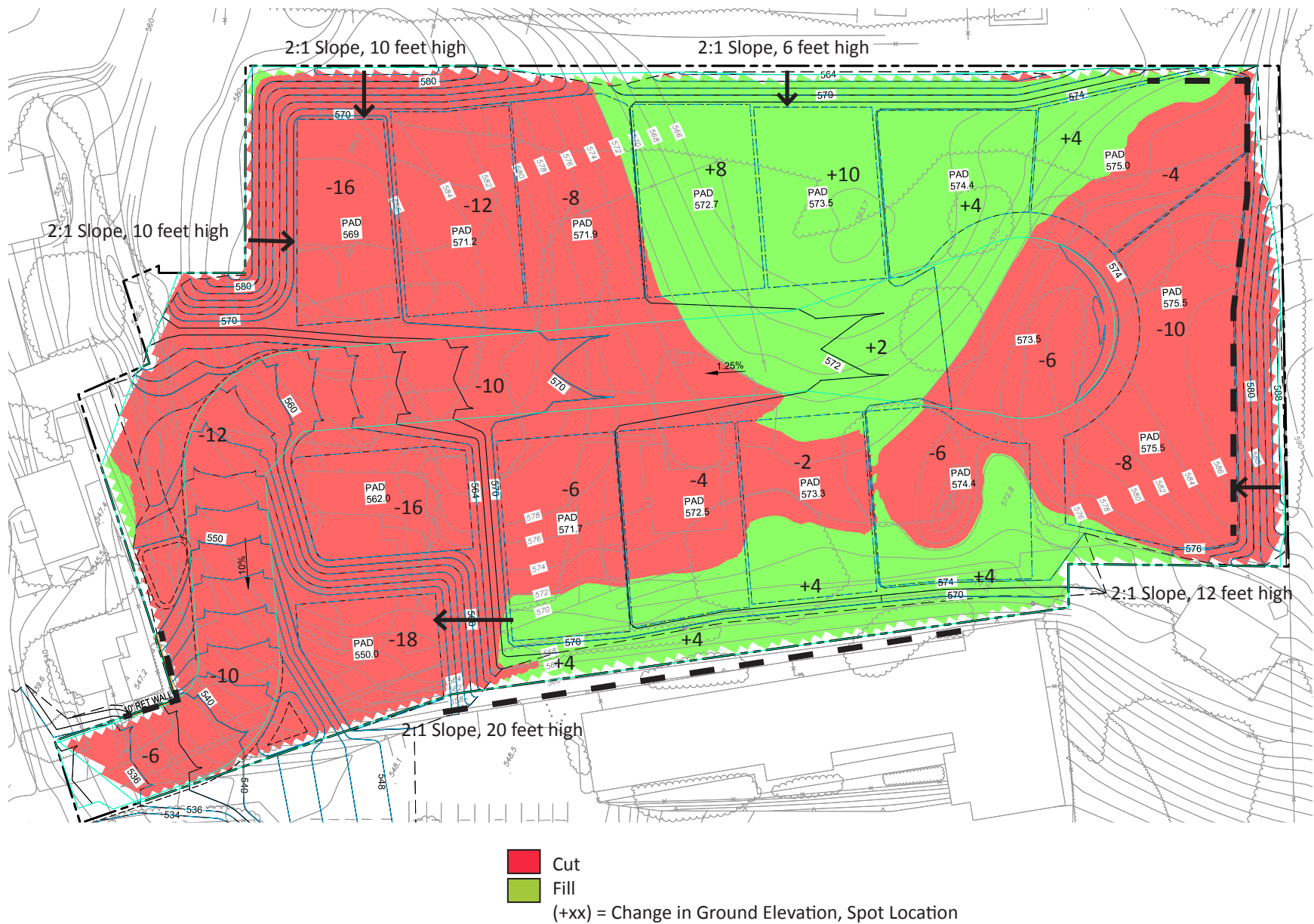


Figure 9-3
Cut and Fill Diagram, Tract 8297

Source: CB&G, Inc.

Certain of those physical changes identified in Table 9.1 as being inconsistent with the Fairview Area Specific Plan (i.e., long and/or tall slopes, flat building pads or similar-appearing residences) are not necessarily adverse environmental effects under CEQA, but rather may be interpreted as policy matters more relevant to the County's decision-making process when considering the merits of the Project. However, the County considers substantial changes to topography, and development that is in sharp conflict with certain *Fairview Plan* policies pertaining to the natural environment to be significant environmental impacts. *Failing to achieve* certain development characteristic sought in the *Plan* may not result in environmental effects, but *physical changes* to existing topography resulting from new development, where the topography is clearly recognized as an essential environmental quality of the district, is an adverse effect. The key question is whether such effects are significant or less-than-significant. The *Plan* provides clearly defined guidelines that serve as appropriate thresholds to determine significance, primarily in the Natural Features section (Principles and Guidelines leading with the letter D) and particularly with Principle D.2.b and the 14 enumerated principles.

The *Plan* also anticipates a review process for new development, including community input and decision-making on the relative merits of projects based on their consistency with neighborhood character. The *Plan* states that "significant changes to the neighborhood character that cannot be mitigated, or which can be mitigated but which significantly adversely impact the neighborhood, may be grounds for denial of a project."² The *Plan* requires an evaluation to address traffic conditions, street widths, parking, public services and utilities, building height, natural features such as mature vegetation and creeks, slopes and grading, and retention of existing areas of contiguous open space. These evaluations are not necessarily part of the CEQA process, but are fundamental to the process of deciding whether to approve, deny or require modifications to the Project:

- traffic and related concerns and public utilities and services are addressed in other sections of this draft EIR;
- building height is not an environmental concern for a project of this type;
- mature trees, slopes and grading are discussed in Table 9.1, but there are no creeks on the sites and there are no existing areas of contiguous open space (i.e., critical natural habitat, woodlands, creek banks or wetland areas) on or immediately adjacent to the site.
- The changes to topography from Project's proposed grading are not strictly aesthetic or visual effects. Chapter 4: Aesthetics concluded that no substantial adverse effects on a scenic vista, scenic resources or the existing visual character or quality of the site or its surroundings would occur. Furthermore, the Project's altered land form would not be substantially visible from public off-site viewing locations.

Additionally, many of the principles and policies in Table 9.1 are not mandatory requirements, but advisory. This includes Principle D.2.a, whereby; "All development proposals *shall strive for maximum retention* of the natural topographic features, landscape features, and qualities of the site. Development *should* seek to enhance these natural features and qualities" (emphasis added). This principle combines the terms 'shall', 'strive,' 'maximum' and 'should', such that there is not a clearly defined guideline or threshold by which a conflict can be measured. Whereas Principle D.2.b leads with the word 'shall', it is understood to be advisory that the layout of subdivisions take into account and be judged by the more specific design principles.

² Ibid, p. 4.

Nonetheless, the topographical alteration of the site by the Project is considered by the County to represent a significant adverse conflict with plan policies adopted to preserve natural physical features, and therefore Project changes, mitigation measures or alternatives to the Project are required to be considered.

Mitigation Measures

Mitigation Measure Land Use-2: Topography Preservation. The grading of the Project sites shall provide for split pads on Lots 1, 2, 8 and 15 of Tract 8297. Custom grading with the same effect, or pier and grade beam construction may be substituted on all or a portion of these lots, to the satisfaction of the Planning Director.

Resulting Level of Significance

Implementation of Mitigation Measure Land Use-1 would reduce the severity of topographic changes and incompatibility with the Specific Plan to a less-than-significant level, and provide for adequate conformity to the existing topography and community characteristics as defined in the Fairview Area Specific Plan.

Conflict with a Conservation Plan

Land Use-3: Development at the Project site would not conflict with any conservation plan. **(No impact)**

The Project site is not within an applicable conservation plan regional boundary. Project consistency with relevant conservation strategies is addressed in Chapter 6: Biological Resources.

Cumulative Land Use Impacts

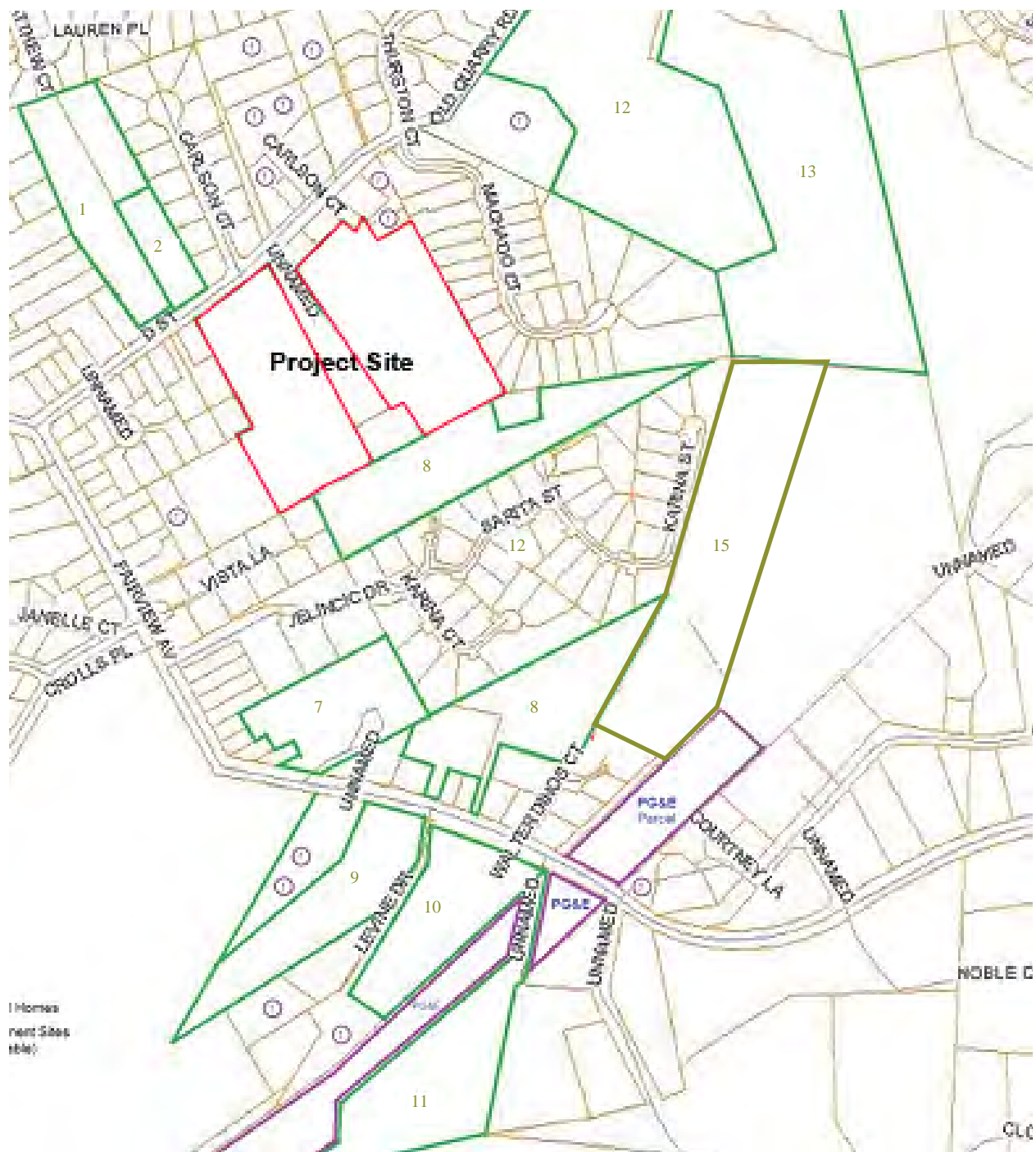
Land Use-4: Cumulative Land Use Effects. The Project, in combination with other past, present and reasonably foreseeable future development is not anticipated to result in cumulatively significant land use impacts.

Section 15130 of the CEQA Guidelines requires an EIR to discuss cumulative impacts of a proposed Project when the Project's incremental effect may be cumulatively considerable.

Potential Cumulative Development Scenario

For this EIR, an estimate of potential future development in the Fairview area was prepared by Alameda County Planning Department staff, looking forward over a 20-year time horizon. The geographic area where future development potential is projected involves undeveloped properties in the immediate vicinity of the Project site (see **Figure 9.6**). County staff has identified the potential future cumulative development scenario for these properties, as described below.

A total of 205 additional single-family residential dwelling units could theoretically be approved and built on currently undeveloped or under-developed residentially-designated parcels in the vicinity of the Project sites, as shown in **Table 9.2**. This estimate is a result of a simple mathematical calculation of lot sizes and allowable residential densities based on zoning; no constraining environmental or other factors are taken into account. Most of these potential future residential lots (an estimated 65%) would be subject to the same 10,000 square foot minimum lot size restriction that applies to the Project site; 14% would involve 20,000 square foot minimum lot sizes, and 21% would be on 1-acre or larger lots.



Numbers shown indicate potential number of new residential units under cumulative development

Figure 9-6
Other Potential Cumulative Development
in the Vicinity



Source: Alameda County Planning Department

This quantity of new residential development is unlikely to be achieved due to the necessity of setting aside between 15% and 30% of the gross area of each site for roadway access and other infrastructure, as well as accommodating other physical constraints (e.g., slope and other environmental factors). The net new development on these identified parcels would likely result in a reduction in gross development potential, such that a more likely and feasible net cumulative development potential is a total of approximately 130 residential units.

Historical growth rates in the Fairview area are relatively low, with an average of only 4 new residential units being built annually over the past 56 years (since 1960). The annual projected growth rate for this area, as estimated by the Association of Bay Area Governments (ABAG - the regional planning agency for the San Francisco Bay Area) is only 0.9% per year. At this growth rate, only about half of these potential 130 likely potential net new residential units would be built over the next 30 years.

County staff has estimated that the most likely cumulative development potential for this portion of the Fairview area is represented by construction of approximately half of the 130 assumed net development potential, or approximately 65 new residential units over the next 18 years (between now and 2035), reflecting an average growth of about 1 percent per year.

Cumulative Land Use Impacts

Together with the Project, all anticipated cumulative development in this portion of the Fairview area would not physically divide an established community. This projected cumulative development would occur as redevelopment of more sparsely-developed rural areas on the edge of the suburban communities of Fairview, and would represent an increase of infill of suburban density development. This cumulative development would not conflict with any applicable habitat conservation plan or natural community conservation plan, as no such plans apply to this area.

Table 9.2: Gross Cumulative Development Potential, Likely Developable Parcels

| Site No. | Site APN | Street Address | Acres (est.) | Gross Potential Units |
|---------------|-----------------------|---------------------------------------|--------------|-------------------------|
| - | 417-220 & 240 – var. | D St. & Ohlone Way | 1.7 | 7 |
| - | 417-220 & 240 – var. | Fairview Ave. | 2.8 | 6 |
| - | 425-0050-022-1 etc. | Noble Canyon ¹ | 9.8 | 4 |
| - | 417-261-017 to 056 | Sarita & Karina St. ¹ | 7.1 | 31 |
| 1 | 417-220-11-1 & 12-1 | 3216 D St. | 3.4 | 15 |
| 2 | 220-11-4 | 3230 D St. | 1.0 | 4 |
| 3 | 261-61 | 3290 Jelincic | 4.4 | 19 |
| 4 | 261-10 | 24694 Fairview | 3.0 | 13 |
| 5 | 270-003/006 | 24830 Fairview | 4.3 | 19 |
| 6 | 425-010-002-02 | 24717 Fairview | 3.7 | 8 |
| 7 | 425-020-001-02 | 24787 Fairview | 3.3 | 7 |
| 8 | 425-020-003-04 | 24867 Fairview | 5.6 | 12 |
| 9 | 417-260-4-0 & 270-9-0 | 24850 Fairview | 10.1 | 15 |
| 10 | 417-0230-005-01 | 3664 D St. (Quarry Rd.) | 10.0 | 9 |
| 11 | 417-0230-006-00 | 3552 D St. (Quarry Rd.) | 12.2 | 12 |
| 12 | 85A-6000-004 to 028 | 5262 to 5499 Hilltop Rd. ¹ | 31.0 | <u>24</u> |
| Totals | | | | ±205² |

¹ Approved subdivision without homes built, except some on Sarita & Karina Streets. (No reductions due to net or environmental factors).

² Includes 15 units already on these sites.

Like the Project, other cumulative development distributed in the Fairview area would also be subject to the County's land use entitlement and environmental review process. County zoning under the Fairview Area Specific Plan identifies this area for residential development at densities at, or higher than the densities assumed under the cumulative development scenario. It is reasonable to assume that future cumulative development on these other sites would be of densities similar to the Project, and consistent with existing zoning. Each project under the cumulative development scenario would also be evaluated and considered with respect to consistency and applicability of the policies, principles and guidelines of the *Fairview Area Specific Plan*. As such, this cumulative development scenario is not expected to result in cumulative land use effects to which the Project would contribute.