

Edward E. Yates, Esquire SB# 135138
LAW OFFICE OF EDWARD E. YATES
20 Skylark Dr. #12
Larkspur, CA Telephone: (415) 990-4805
Email: eyates@marinlandlaw.com

Attorney for Petitioner
FRIENDS OF WEST TAM VALLEY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN**

FRIENDS OF WEST TAM VALLEY,)	Case No.:
)	
Petitioner/Plaintiff,)	VERIFIED PETITION FOR WRIT OF
)	MANDATE, INJUNCTIVE AND
v.)	DECLARATORY RELIEF FOR
)	VIOLATIONS OF THE CALIFORNIA
COUNTY OF MARIN,)	PUBLIC RECORDS ACT WITH
)	EXHIBITS 1 THROUGH 15
Respondent/Defendant.)	
)	
)	<i>[Cal. Gov't. Code Section 6250 et seq.]</i>

This action seeks relief from the failure of Respondent/Defendant COUNTY OF MARIN to perform as required by the California Public Records Act ("CPRA")¹ and a California Constitution.² Petitioner/Plaintiff FRIENDS OF WEST TAM VALLEY seeks a writ of mandate, injunctive and declaratory relief under California Code of Civil Procedure sections 1085 and 1060 and Government Code sections 6258 and 6259. In this verified Petition, Petitioner alleges as follows:

¹ Government Code, Section 6250, *et seq.*

² Article I, Section 3

1
2 **THE PARTIES**

3 1. Petitioner/Plaintiff, FRIENDS OF WEST TAM VALLEY ("Friends"), and
4 all times mentioned in this Petition has been and is a community group concerned with
5 community character, safety and environmental protection and is formed in the
6 County of Marin, in the State of California. As such, it has a beneficial interest in
7 Respondent's performance of its legal duties under the CPRA.

8 2. Respondent/Defendant COUNTY OF MARIN ("Respondent" or
9 "COUNTY") is a "local agency" as defined by Government Code, Section 6252(a), and
10 is, therefore, subject to the CPRA. The County is governed by a publicly-elected, five -
11 member board ("Board of Supervisors"). The County's main office is located at Civic
12 Center Drive, in the County of Marin, located in Marin County, California.

13 **JURISDICTION AND VENUE**

14 3. This Court has jurisdiction over this matter pursuant to Code of Civil
15 Procedure sections 1085 and 1060 and Government Code sections 6258 and 6259.

16 4. Venue is proper in this court as Respondent is located within the County
17 of Marin and the acts and events giving rise to the claims occurred in the County of
18 Marin.

19 **FACTS SUPPORTING THE CAUSE OF ACTION**

20 5. According to Marin County records, on February 25, 2016, Mitch Brown
21 purportedly submitted an application for a grading permit to the Marin County
22 Building Department and an application for design review of one single family
23 residence at 576 Alta Way in unincorporated Mill Valley to the Planning Division for
24 one new single family home and grading of what is currently a "paper street" on Alta
25 Way. A true and correct copy of that application, as provided by Marin County, is
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1 attached hereto as **Exhibit 1.**³ On March 10, 2016, members of Friends submitted a
2 letter to the County requesting scrutiny of the project due the fact that it did not
3 adequately address admitted future planned development in adjacent lots and
4 potential cumulative impacts to the entire neighborhood or address safety impacts due
5 to the possible future homes and road construction on steep slopes. A true and correct
6 copy of that communication is attached hereto as **Exhibit 2.**

7 6. On April 27, 2016, Friends received via email a copy of a letter dated
8 April 21, 2016 to Brian Crawford, Director of Community Development, County of
9 Marin from John McCormick of the Tam Design Review Board ("TDRB"). The TDRB, a
10 Marin County advisory body, opined that the Design Review request "is a Trojan Horse
11 for future sub-division along the present paper streets," and recommended that the
12 County require that a Master Sub-Division Plan, with all required planning
13 requirements including an Environmental Impact Report. A true and correct copy of
14 the Marin County Tam Design Review Board cover email and letter dated April 21,
15 2016 is attached as **Exhibit 3.**

16 7. A document provided by the County to Friends, dated June 2, 2016,
17 purportedly notified the applicant that their February 25, 2016 application has
18 remained incomplete for over 60 days and has expired. A true and correct copy of the
19 County of Marin Community Development Agency – Planning Division letter dated
20 June 2, 2016 is attached as **Exhibit 4.**

21 8. On or about June 1, 2016, it is understood that an application was
22 submitted by Mitch Brown and other individuals for a grading permit for portions of
23 Alta Way, without an application for construction of the single family residence. This
24 record was provided for inspection but no copies were provided to Friends.

25
26
27 ³ All exhibits referenced in this Petition are true and correct copies of the documents that they
28 purport to be or that Marin County has provided to Petitioners, and are incorporated into the
Petition by reference as if set forth in full.

1 9. On September 10, 2016, attorney Edward Yates, on behalf of Friends,
2 submitted a CPRA request to the County of Marin for records regarding development
3 of the number lots listed in an Attachment A and for any records for the: "a) Brown
4 Design Review application (P1151) for development of one parcel by Portage LLC (049-
5 041-42); and b) Chador grading permit or other grading permit for Alta Way and/or
6 Fairview Avenue, or the road marked on the attached Assessors map; and c) any
7 records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam
8 Cummings and Greg O'Donnell." Also requested were "all records regarding the
9 ownership, transfer sale, deeds or easements regarding any "paper street" roads that
10 extend from Alta Way to Fairview, and all parcels that front on the Alta Way and
11 Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed
12 from them" and "all records regarding Marin County procedures and requirements for
13 applying for grading permits and other ministerial permits, including any
14 requirements regarding public hearings, notices and postings." In his CPRA request,
15 Petitioner's attorney expressly noted that he was willing to meet or correspond with the
16 County to facilitate and hasten the production of the responsive records. A true and
17 correct copy of Mr. Yates' letter is attached as **Exhibit 5**.

18 10. On October 12, 2016, Members of Friends visited Marin County Offices,
19 Room 308 to inspect the requested records. At that time Friends requested copies of
20 all requested records. Marin County Deputy County Counsel Stephen Raab emailed
21 Mr. Yates acknowledging this request, and stating that any official [building and road]
22 plans maintained by the County may be inspected but that copies can only be obtained
23 by submittal of an affidavit provided for under Health and Safety Code (H&S) Section
24 19851. A true and correct copy of Mr. Raab's email is attached as **Exhibit 6**.

25 11. On October 18, 2016 Mr. Yates sent an email to Mr. Raab stating H&S
26 Section 19851 does not apply to roads, requesting the form provided for in H&S Section
27 19851 in order to request official plans; inquiring why requestors cannot use a scanner
28 to avoid copy fees; and stating that six weeks to provide copies of documents was

unnecessarily long. On October 28, 2016 Mr. Yates sent another email to Mr. Raab, stating that Mr. Raab had neither responded to Mr. Yates October 18, 2016 email nor provided the requested form for official plans. This second email also provided an affidavit requested by Mr. Raab regarding Friends' request for copies of official plans. True and correct copies of Mr. Yates' emails of October 18, 2016 and October 28, 2016 are attached as **Exhibit 7**.

12. On November 1, 2016 members of Friends visited Marin County Offices to pick up copies of the requested and inspected records. According to a Friends member, Lee Budish, and Curtis Havel of the Marin County Planning Department, only Planning Department records were copied and provided and other requested records were not provided. Ms. Budish visited the Marin County Department of Public Works to request those copies but was told the relevant staff person, Berenice Davidson, was not in. True and correct copies of Ms. Budish and Mr. Havel's emails of November 1 and 2, 2016 are attached as **Exhibit 8**.

13. On November 17, 2016 a Friends member, Lee Budish, emailed Berenice Davidson of the Marin County Public Works Department stating that Friends had not received requested copies of requested records, asked when those copies could be paid for and picked up and identified those records. A true and correct copy of Ms. Budish's email of November 17, 2016 is attached as **Exhibit 9**. Ms. Budish identified the missing records as including the following:

1. Ownership, transfer sale, deeds or easements regarding ALL parcels on Attachment A. There are 32 vacant parcels and we only received one actual current deed which was to parcel APN 049-041-42 with the original proposed house.
2. Records, documents, emails pertaining to paper roads Alta Way and Fairview Avenue submitted to the Department of Public Works and Code Enforcement:
 - a. Records, documents, emails between 2007 to present day related to roads, including applications, civil plans, grading, grading permits, permitting, engineering plans, staking plans, etc., as well as code enforcement documents related to the past and present attempts/applications to grade and develop the roads on Alta Way and Fairview Avenues.
 - b. California Environmental Quality Act records, documents, emails and use permits related to past and present (2007-present day) attempts to grade, develop Alta Way and Fairview Roads.
3. Records, documents, emails requested, submitted as part of the California Environmental Quality Act for review by the Environmental Coordinator, 2007 though present day for proposed development of Alta Way and Fairview Roads.
4. Marin County procedures

1 and requirements for applying for grading permits and other ministerial permits, including any
2 requirements regarding public hearings, notices and postings.

3 14. On December 5, 2016, Mr. Yates sent a second CPRA request to Marin
4 County. A true and correct copy of that December 5, 2016 letter is attached as
5 **Exhibit 10**. In the December 5, 2016 letter, Mr. Yates requested the following
6 additional documents:

- 7 1. all records, including, but not limited to, documents, file materials, surveys, deeds, and permit
8 materials relating to any and all of the numbered lots listed in in the "Attachment To E Yates
9 PRA Request To Marin County" provided in my September 10 request and below.
- 10 2. records for properties with APN # 049-041-42; and records pertaining to Alta Way Partners
11 LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.
- 12 3. all records regarding the ownership, transfer, sale, deeds or easements regarding any "paper
13 street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way
14 and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed
15 from them.

16 In reference to the September 10 CPRA request, Mr. Yates's December 5, 2016 letter
17 also stated that:

18 As of this time, the County has not responded to my September 10 requests for Marin
19 County records: 1) held by the Department of Public Works (including those listed
20 above under #3), 2) regarding Marin County procedures and requirements for applying
21 for grading permits and other ministerial permits, including any requirements regarding
22 public hearings, notices and postings, and/or 3) regarding the ownership, transfer sale,
23 deeds or easements regarding any "paper street" roads that extend from Alta Way to
24 Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets
25 (all the way to Highway One), or are otherwise accessed from them.

26 Additionally, Mr. Yates's December 5, 2016 letter stated that he would be happy to
27 discuss the previous and current CPRA requests with the County and "provide any
28 clarification that will help expedite your attention to my request."

15. On December 16, 2016, Mr. Yates sent a letter to Ms. Davidson, stating
that all the requested copies of records requested in Mr. Yates September 10, 2016
CPRA request had not been received. This letter also requested a copy of the required
H&S Section 19851 form to request official plans and provided a signed hard copy of

1 the H&S Section 19851 affidavit requested by Mr. Raab. A true and correct copy of Mr.
2 Yates' December 16, 2016 letter is attached as **Exhibit 11**.

3 16. Also on December 16, 2016, Mr. Raab sent a letter to Mr. Yates, stating
4 his understanding was that Ms. Budish had met with Ms. Davidson and had inspected
5 the requested records. In the December 16, 2016 letter, Mr. Raab asked: "is it the
6 claim that your clients did not obtain copies of the records?" A true and correct copy
7 of Mr. Raab's December 16, 2016 letter is attached as **Exhibit 12**.

8 17. On December 26, 2016, Mr. Yates sent a fourth letter to the County, a
9 response to Mr. Raab's December 16 letter, stating that all records had not been
10 provided for inspection and copies of Department of Public Works records and other
11 records had not been received as set out in Ms. Budish's November 17, 2016 email to
12 Ms. Davidson, which email was attached to Mr. Yates letter. Mr. Yates letter pointed
13 out that no one from the County had contacted him or his clients to assist in finding or
14 providing records since October 12, 2016. Mr. Yates also offered to meet with Mr.
15 Raab and other County staff. A true and correct copy of Mr. Yates' December 26 letter
is attached as **Exhibit 13**.

16 18. On February 8, 2017 Mr. Yates sent a fifth letter to the County and the
17 second to Mr. Raab. This letter noted that Mr. Raab had not responded to Mr. Yates's
18 December 26 letter and provided a history of CPRA requests and communications
19 regarding those requests. Mr. Yates's letter detailed the events surrounding his CPRA
20 requests on behalf of FTWV, attached all of the relevant correspondence, and asked for
21 the County to provide the records by February 20, 2017. The County never responded.
22 This letter also stated that "In sum, I have not received requested: Public Works
23 Department records shown to my clients, building and street plans; requested lot
24 specific planning and building records; and requested Assessors Department records."
25 A true and correct copy of Mr. Yates' February 8, 2017 letter is attached as **Exhibit 14**.

26 19. On March 7, 2017, Friends sent a letter to Respondent Marin County's
27 Board of Supervisors urging the County to not initiate an Initial Study regarding
28 development of Alta Way lots under the California Environmental Quality Act (Pub.

1 Res. Code § 21000 et seq.) because neither the Friends nor County staff know how
2 many parcels are owned by the developers and whether all parcels are legal lots. A true
3 and correct copy of the Friends March 7, 2017 letter is attached as **Exhibit 15**.

4 20. Even though Petitioner's CPRA request was made over five (5) months
5 ago, the County has not produced copies of many of the responsive records, and has
6 failed to respond to all further attempts to meet and confer regarding the request.
7 Therefore, Petitioner is forced to bring this action to enforce his statutory and
8 constitutional right to obtain public records.

9
10 **CAUSE OF ACTION**

11 **FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT**

12 (RELIEF PURSUANT TO GOV. CODE § 6258; CODE CIV. PROC. §§ 1060, 1085)

13 21. Petitioner hereby realleges and incorporates herein by this reference
14 Paragraphs 1 thorough 17 of this Petition as though set forth herein in full.

15 22. The CPRA defines terms relevant to this cause of action as follows:

16 "Public records" includes any writing containing information relating to
17 the conduct of the public's business prepared, owned, used, or retained by
18 any state or local agency regardless of physical form or characteristics....

19 "Local agency" includes a county; city, whether general law or
20 chartered; city and county; school district; municipal corporation; district;
21 political subdivision; or any board, commission or agency thereof; other
22 local public agency; or entities that are legislative bodies of a local agency
23 pursuant to subdivisions (c) and (d) of Section 54952.

24 "Writing" means any handwriting, typewriting, printing, photostating,
25 photographing, photocopying, transmitting by electronic mail or facsimile,
26 and every other means of recording upon any tangible thing any form of
27 communication or representation, including letters, words, pictures,
28 sounds, or symbols, or combinations thereof, and any record thereby
created, regardless of the manner in which the record has been stored.

23. Government Code section 6253(b), provides, in pertinent part, that:

1 Except with respect to public records exempt from disclosure by express
2 provisions of law, each state or local agency, upon a request for a copy of
3 records that reasonably describes an identifiable record or records, shall
4 make the records promptly available to any person upon payment of fees
covering direct costs of duplication, or a statutory fee if applicable. Upon
request, an exact copy shall be provided unless impracticable to do so.

5
6 24. The documents requested by Petitioner were prepared, owned, used or
7 retained by the County, and are, therefore, deemed to be public records pursuant to
8 Government Code § 6252(e).

9 25. Government Code § 6253(c) requires that:

10 Each agency, upon a request for a copy of records, shall within 10 days
11 from receipt of the request, determine whether the request, in whole or
12 part, seeks copies of disclosable public records in the possession of the
agency and shall promptly notify the person making the request of the
determination and the reasons therefor.

13 26. In unusual circumstances, Government Code § 6253(c) allows for the time
14 limit prescribed above to be extended by 14 days. As used this section, "unusual
15 circumstances" is defined as one of the following circumstances:

- 16
17 (1) The need to search for and collect the requested records from field
18 facilities or other establishments that are separate from the office
processing the request.
19 (2) The need to search for, collect, and appropriately examine a
20 voluminous amount of separate and distinct records that are
demanded in a single request.
21 (3) The need for consultation, which shall be conducted with all
22 practicable speed, with another agency having substantial interest
23 in the determination of the request or amount two or more
24 components of the agency having substantial subject matter
interest therein.
25 (4) The need to compile data, to write programming language or a
26 computer program, or to construct a computer report to extract
data.
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1 27. Notwithstanding, Government Code § 6253(d) clarifies that, "[n]othing in
2 this chapter shall be construed to permit an agency to delay or obstruct the inspection
3 or copying of public records."

4 28. The County has failed to respond as required by the CPRA and has
5 obstructed the production of these public records, thereby violating Government Code §
6 6253(d).

7 29. The People of California have elevated the right to open government to
8 one protected by their State Constitution. The California Constitution, Article 1, Section
9 3, Paragraphs (a) - (b) states:

10 The people have the right to instruct their representatives, petition
11 government for redress of grievances, and assemble freely to consult for
12 the common good.

13 The people have the right of access to information concerning the conduct
14 of the people's business, and, therefore, the meetings of public bodies and
15 the writings of public officials and agencies shall be open to public
16 scrutiny.

17 A statute, court rule, or other authority, including those in effect on the
18 effective date of this subdivision, shall be broadly construed if it furthers
19 the people's right of access, and narrowly construed if it limits the right of
20 access.

21 30. Petitioner has exhausted its administrative remedies. Petitioner has
22 requested copies of unredacted, disclosable public records from the County, but County
23 has refused to provide access to those public records. The only plain, speedy, and
24 adequate remedy left to Petitioner is the relief provided by Government Code § 6258.

25 31. Government Code § 6258 provides:

26 Any person may institute proceedings for injunctive or declarative relief or
27 writ of mandate in any court of competent jurisdiction to enforce his or
28 her right to inspect or to receive a copy of any public record or class of
public records under this chapter.

32. Government Code § 6259 provides:

1 Whenever it is made to appear by verified petition to the superior court of
2 the county where the records or some part thereof are situated that certain
3 public records are being improperly withheld from a member of the public,
4 the court shall order the officer or person charged with withholding the
5 records to disclose the public record or show cause why he or she should
6 not do so. The court shall decide the case after examining the record in
7 camera, if permitted by subdivision (b) of Section 915 of the Evidence
8 Code, papers filed by the parties and any oral argument and additional
9 evidence as the court may allow.

10 33. Code of Civil Procedure § 1060 provides:

11 Any person interested ... who desires a declaration of his or her rights or
12 duties with respect to another ... may, in cases of actual controversy
13 relating to the legal rights and duties of the respective parties, bring an
14 original action or cross-complaint in the superior court for a declaration of
15 his or her rights and duties in the premises, including a determination of
16 any question of construction or validity arising under the instrument or
17 contract. He or she may ask for a declaration of rights or duties, either
18 alone or with other relief; and the court may make a binding declaration of
19 these rights or duties, whether or not further relief is or could be claimed
20 at the time....

21 34. Petitioner has demonstrated that an actual controversy exists between
22 the parties regarding the County's responsibility to disclose records under the CPRA.

23 35. The County has a ministerial duty to perform according to the laws of
24 State of California, including the CPRA.

25 36. Petitioner has an interest in having the laws executed and public duties
26 enforced and, therefore, has a beneficial interest in the outcome of the proceedings.

27 37. Petitioner has a clear, present, and legal right to the County's
28 performance of its ministerial duties, as required by the CPRA.

38. The County has a present legal duty and present ability to perform its
ministerial duties, as required by the CPRA.

39. The County has failed to perform its ministerial duties as required by the
CPRA.

1 40. Through this action, Petitioner seeks no greater relief than would be
2 afforded to any other member of the public.

3 41. Therefore, this Court should find that the records requested by Petitioner
4 are disclosable public records and that County has violated the CPRA by refusing to
5 release these records, and should order the County to immediately release copies of all
6 responsive public records.

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11 **WHEREFORE, PETITIONER PRAYS AS FOLLOWS:**

12 1. That after a trial of this action, to be held on notice, this Court issue a
13 declaration that:

14 (a) The records requested by Petitioner are public records;

15 (b) No exemption applies to their disclosure; and,

16 (c) Respondent COUNTY OF MARIN violated the California Public
17 Records Act by failing to properly respond to Petitioner's request
18 for records.

19 2. That this Court issue a writ of mandate ordering Respondent COUNTY
20 OF MARIN to perform as required by the California Public Records Act and to release
21 the requested records to Petitioner;

22 3. That Petitioner/Plaintiff FRIENDS OF WEST TAM VALLEY recover
23 attorneys' fees incurred in this action pursuant to Government Code Section 6259
24 and/or Code of Civil Procedure Section 1021.5;

25 4. For an award of costs incurred in this action; and,

26 5. For such other and further relief as the court deems just and proper.
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1 DATED: March 11, 2017

LAW OFFICES OF EDWARD E. YATES

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4 Edward E. Yates
5 Attorney for Petitioner
6 FRIENDS OF WEST TAM VALLEY
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Petitioner, Friends of West Tam Valley

FRIENDS OF WEST TAM VALLEY, Petitioner, v. COUNTY OF MARIN, Respondent

This Verification was executed on March 11, 2011 at Mill Valley
California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Hei Bundesk

(C.C.P. § 2015.5)

FRIENDS OF WEST TAM VALLEY, Petitioner. v. COUNTY OF MARIN, Respondent

This Declaration was executed on March 11, 2017 at Larkspur, California.

Sh. L. E. J.

EXHIBIT 1

PROJECT DESCRIPTION

ALTA WAY PAPER ROAD & HOUSE @ 42 ALTA WAY (IPA, Inc 2-18-16)

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PAPER ROAD DEVELOPMENT

The Alta Way paper road project includes the extension of an existing road known as Alta Way located in unincorporated Mill Valley. The plan proposes improving a currently unimproved paper street portion of the existing road right of way as follows: (Please see Project Plans Prepared by CSW Engineers)

- Road Length and width will connect with the end of the paved roadway. The new road will extent an additional 526 feet at a width of 20 feet wide. The maximum slope of the road will not exceed 15% grade.
- The improvements of the paper street will be included within the historic road right of way. The construction grading, due to slope construction cuts and fill will extend beyond the strict boundaries of the road right of way on to private lots fronting on the road. The grading on private lots will be done within existing established road grading and maintenance easements over the private lots.
- Total area of land disturbed for road improvements including grading and drainage and paving improvements is approximate 35,600 square feet.
- Road grading cut and fill quantities include 1910 cubic yards of cut and 1450 cubic yards of fill resulting in a net export of 460 cubic yards of earth materials. (Note: these numbers are from the FG to EG contour and don not account for over excavation, trenching and pavement sections.)
- The roadway extension does not include sidewalk and there are no turnouts or parking planned on road shoulders. The roadway does include 2 ft road shoulder on the downhill side.
- The roadway improvement includes a fire turnaround at the end of the improved road right of way designed to meet current County of Marin fire roadway standards. See Figure #1 next page.

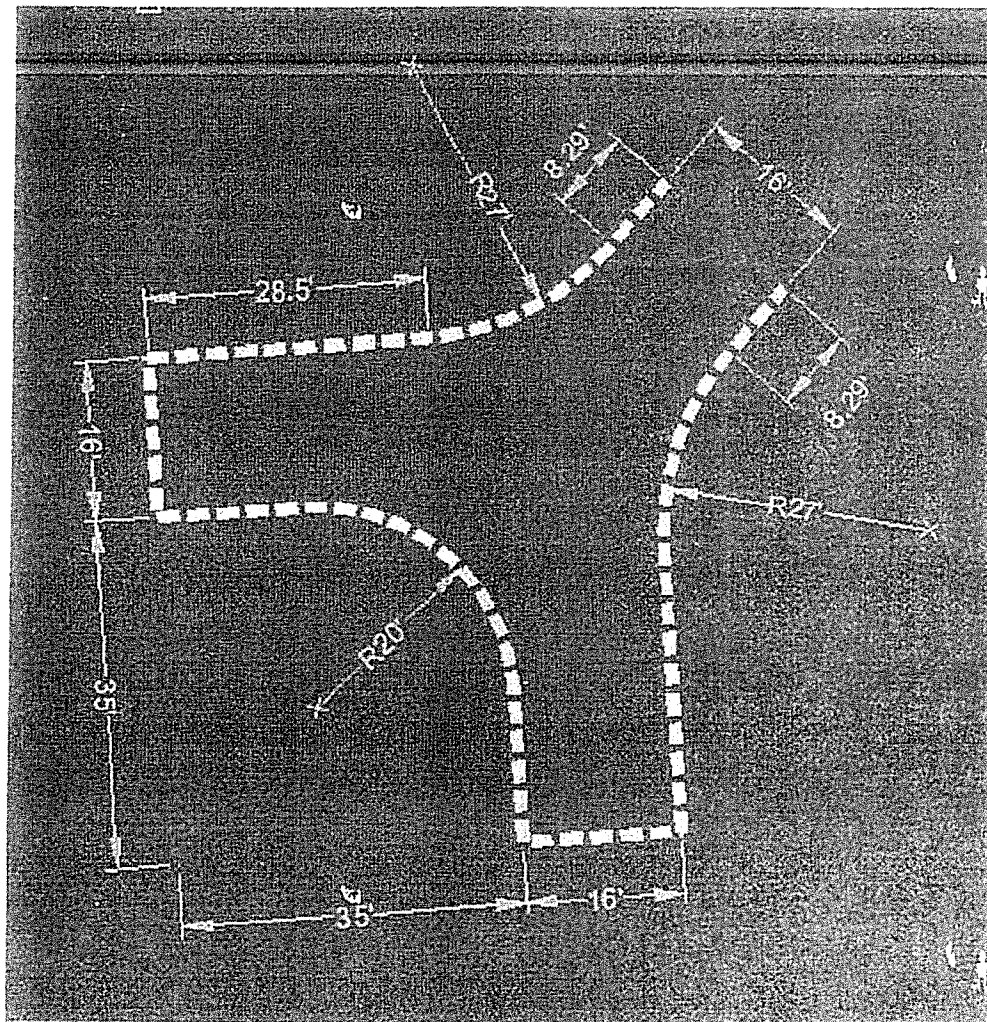


Figure #1 Fire Turnaround - End of Alta Way Road Extension

- The roadway development work includes vegetation removal, grading, trenching, installing utilities, and paving. Construction would occur in two sequential or overlapping phases. For construction management best management practices proposed please see the attached Construction Management Plan Alta Way

42 ALTA WAY – NEW HOME DEVELOPMENT

The Alta Way project also includes the development of one new single family home with the following details:

- The vacant lot known as #42 Alta Way will be improved with a new 3-story single family home.
- The house will include 4 bedrooms and 3 baths and a 2 car garage.

- The house will include 2,161 square feet of habitable floor area and the garage will be 480 square feet.
- Parking includes 4 on-site parking spaces as follows: 2 car parking in the garage and 2 additional guest parking spaces provided in the driveway.
- Parking for extra guest parking is provided in the Alta Road right of way between the property line and the paved path of roadway travel.
- **Architectural Design** – the physical mass of the house has been broken up in order to give it visual interest and to provide a play of shade and shadow with the various overhangs and steps in the facade. In addition, different exterior materials are proposed to provide further visual interest and variety to the exterior appearance. Corner windows are integrated into the design to take the building by delineating the solidity of the building's corners and reflecting the surrounding landscaping in the glazing. A simple shed roof is proposed to reduce the height of the building and to provide a simplicity in how the building nestles itself into the hillside. (See Sheets A1- A3.0)

EXHIBIT 2

March 10, 2016

Kathrin Sears, Supervisor, District 3 KSears@marincounty.org
Maureen Parton, Aide to Supervisor MParton@marincounty.org
Room 329

Alicia Guidice, Project Planner AGuidice@marincounty.org
Curtis Havel, Senior Planner CHavel@marincounty.org
Community Development Agency/Planning Division
Suite 308

Rudy Rojas, Director RRojas@marincounty.org
Berenice Davidson, Senior Civil Engineer BDavidson@marincounty.org
Richard Simonitch, P.E., P.L.S., Associate Engineer RSimonitch@marincounty.org
Jason Wong, Assistant Engineer JWong@marincounty.org
Department of Public Works/Land Use Division
Suite 304

3501 Civic Center Drive
San Rafael, CA 94903

Re: Brown Design Review (P1151),
West Tam Valley residential construction project

Dear County Representatives,

On behalf of our community, we respectfully submit this letter regarding the Brown Design Review application (P1151) for development of one parcel by Portage LLC (049-041-42).

Background

If approved as submitted, the Brown project will spur development of another 19 parcels, the ramifications of which will alter permanently conservation of the neighborhood's scale of community and strain municipal infrastructure. We urge the County to consider the impact from development of four (4) acres, not just one parcel, on West Tam Valley density, environment, drainage, sewerage, safety, traffic, noise, and wildlife, so that the County makes a decision now about land use compatible with our community in the future.

The Brown project is subject to land use guidelines in the Marin Countywide Plan 2007 (amended 2009, 2012) and Tamalpais Area Community Plan 2009. Also, the Brown project is subject to Tam Design Review Board jurisdiction because the project is discretionary, proposing development along two paper streets (Alta Way, Fairview Ave) within the historic subdivision of Garden Valley Park. Development in Historic Subdivisions and development in Historic Subdivisions on Paper Streets are Community Wide Issues regulated by Land Use Objectives LU.3 and LU.7, respectively.

The road and utilities extension in the Brown project provides access for immediate development of another ten (10) parcels, five (5) owned by Portage LLC (049-041-48, 049-044-14, 049-044-08, 049-044-07, 049-042-01) and five (5) owned by others (049-041-43, 049-041-44, 049-044-31, 049-044-29, 049-044-30). If Fairview Ave is extended beyond that in the Brown project, then future development of another nine (9) parcels, two (2) owned by Portage LLC (049-041-45, 049-041-46) and seven (7) owned by others (049-041-38, 049-041-27, 049-041-28, 049-041-29, 049-041-30, 049-041-31, 049-041-47), is possible.

Brown Design Review (P1151)

March 10, 2016

Concerns and Expectations

We know that the County shares our concern about the **cumulative impact of future residential development** that begins with a single home construction project and **has set precedents**. In 2007, the County issued a Negative Declaration of Environmental Impact for the Cheng Design Review (570 Alta Way, formerly parcel 049-041-37). The County found that the Cheng project would result in **significant or potentially significant environmental impacts** related to topical issues 6 and 7 (transportation/ circulation and biological resources). Cheng attempted to circumvent the County requirement for an Environmental Impact Report (EIR) by classifying the Alta Way road extension as a 'home driveway', stating that "one need not consider the cumulative impact of the proposed construction because this was 'just one home' and that any future proposed construction should be considered on its merits rather than the totality or cumulative impact at this point in time." In 2006, the County declined the Nichols project for 574 Alta Way (parcel 049-041-43). In 1997, the County determined that the Wolf Design Review (parcel 049-041-08) was subject to environmental review. In 1989, the County required an EIR for the Garden Valley Park Design Review (19 residence development by Pacific Union Homes, Inc.).

We have the same 'cumulative impact' concern about the **proposed extension and connection of two paper streets**, Alta Way and Fairview Ave. The streets intersection is situated below Chamberlain Court on a remarkably steep hillside. The proposed excavation and grading of these paper streets significantly will alter the water table, transform drainage to and from surrounding homes, and undermine the already-fragile creeks that run parallel to Shoreline Highway and under, behind and along-side many homes in the area. At present, with **inadequate culverts**, the creeks barely accommodate above-average volume of seasonal water flow.

Lastly, we have equal concern about **safety and fire access and egress** during the Brown project and after future residential development. The sole entrance to Alta Way is off Shoreline Highway at the Loring Avenue turn.

The potential development of 19 parcels comprising approximately four (4) acres of land along the paper streets of Alta Way and Fairview Ave, after completion of the Brown project, would impact traffic along Shoreline Highway, from lower West Tam Valley up to the intersection of Shoreline and Panoramic Highways, as well as neighborhoods of Alta Way, Sunnybrook Lane, Blue Jay Way, Browning Street, Browning Court, West Fairview Ave, Little City Farms, Denise Court, Everest Court, Chamberlain Court, Loring Avenue, Ventura Avenue, and Alturas Way.

We expect the County to require that the Brown project application include a comprehensive environmental review that complies with California Environmental Quality Act and County guidelines, detailed studies of surrounding geology and drainage into backyards, creeks, and storm water drains, and proposed measures to mitigate environmental impacts based on a master plan for development of both the Brown project parcel and other 19 parcels.

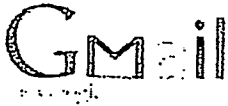
We appreciate your thoughtful consideration of our concerns and requests and welcome involvement in this planning process. To date, the Brown project team has not contacted any of us.

Sincerely,

/s/ 562 Alta Way
/s/ 569 Alta Way
/s/ 558 Alta Way
/s/ 556 Alta Way
/s/ 532 Alta Way
/s/ 529 Alta Way
/s/ 517 Alta Way
/s/ 516 Alta Way
/s/ 510 Browning Ct
/s/ 508 Browning Ct
/s/ Browning St
/s/ 806 Denise Ct
/s/ 804 Denise Ct
/s/ 802 Denise Ct
/s/ 803 Everest Ct
/s/ 805 Everest Ct
/s/ 545 W. Fairview Ave
/s/ 550 W. Fairview Ave

Garden Valley-Little City Farms Neighborhood Association
Executive Committee Contacts: Richard Hayes, Lee Budish

EXHIBIT 3



Tam Design Review - Letter

1 message

John Mc Cormick

Wed, Apr 27, 2016 at 11:12 AM

To: "lbudish@comcast.net" <lbudish@comcast.net>,

Hi, a copy of the letter sent to the county.

John McCormick



Letter 576 Alta Way - Subdivision .docx
132K

Tam Design Review Board

Date: April 21, 2016

Brian Crawford, Director Community Development, County of Marin

Subject: TDRB concerns – 576 (42) Alta Way, Mill Valley

Ref: Brown Design Review, Project ID-P1151, 576 (42) Alta Way, Mill Valley
APO #049-041-42

TDRB reviewed the referenced project on April 6, 2016, and is concerned that the project was misrepresented as - a single family home on a paper street.

A. The paper street at the end of Alta Way will be extended 526 feet with extensive grading to build a road – the home is located at mid point of the road improvements.

B. A new sewer system will be build to the new home and extend 300 feet past the home with new manholes.

C. The applicants have attended the November 5, 2014 TDRB Design Review meeting and requested an informal review for multiple homes along the same paper streets. Public records shows that Alta Way Partners LLC & Portage LLC owns 10 parcels along the paper streets. Noted in the W-Trans - Traffic Study for Alta Way Project, Dated 2/9/2016 " It is understood that the extension of Alta Way to serve your project will result in the potential for development of nine additional homes on adjacent sites. "

TDRB is concerned that this Design Review request is a Trojan Horse for a future sub-division along the present paper streets.

TDRB recommends that county planning request a Master Sub-Division Plan, with all the required planning requirements - EIR, Stream ordinance review, Road size & grading impacts, Fire hydrants, Tree removal impacts, Utility improvements –elec., water- gas – storm water, sewer, home site grading impacts, Road plan showing the paper streets connecting to existing surrounding roads and the traffic impact, etc.

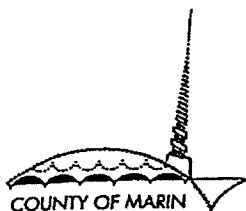
A piece-meal development approach will have cumulative impacts to the surrounding community, people that live on the present Alta Way, and the 14 streets bounded by this development will be impacted for years. TDRB questions if major development of this size is appropriate for the area ?

Sincerely , TDRB

Loren Mollner, April Post, Alan Jones, John McCormick, Dorn Dreksler

Cc: Kate Sears - Supervisor, County of Marin, Thomas Lai - Assistant Director,
Jeremy Tejriran - Planning Manager Ali Giudice - Planner
Maureen Parton – Board Aide

EXHIBIT 4



COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

June 2, 2016

Mitch Brown
30 N. San Pedro Road#195
San Rafael, CA 94903

RE: Brown Design Review
576 Alta Way, Mill Valley
Assessor's Parcel 049-041-42
Project ID P1151

Dear Applicant

On March 25, 2016, the Community Development Agency, Planning Division, requested that you submit additional information regarding the above-referenced project within 30 days of the original request. This information has not been submitted and your application has remained incomplete for over 60 days. Accordingly, this is to notify you that your application has expired and the Agency Director has withdrawn your application. If you have any questions you may contact me at 415-473-7043 or by email at agiudice@marincounty.org.

Sincerely,

Ali Giudice
Planner

cc: Portage Properties LLC
Daniel Chador
Scott Hochstrasser

Portage Properties LLC
476 Cane St #7
Larkspur CA 94939

International Planning Associates
Scott Hochstrasser
141 Bolinas Rd
Fairfax, CA 94930

EXHIBIT 5

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-990-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

September 10, 2016

Charlie Haase, Chief Information Officer,
Information Services and Technology
3501 Civic Center Drive
San Rafael, CA 94903
By email to: chaase@marincounty.org

Mr. Haase;

Pursuant to rights under the California Public Records Act (Government Code Section 6250 et seq.), and on behalf of the Friends of West Tam Valley, I ask to inspect and possibly obtain copies of the following records, from all Marin County departments and agencies, held by your agency: all records, including documents, file materials, deeds, permit materials (including applications), communications, California Environmental Quality Act documents and land use permits granted for or relating to any development of the numbered lots listed in "Attachment To E Yates PRA Request To Marin County."

This request also specifically includes records, including any email or letter communications, regarding any permits, including grading, building and development permits for the: a) Brown Design Review application (P1151) for development of one parcel by Portage LLC (049-041-42); and b) Chador grading permit or other grading permit for Alta Way and/or Fairview Avenue, or the road marked on the attached Assessors map; and c) any records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.

I also request all records regarding the ownership, transfer sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

I also request all records regarding Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings.

I ask for a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the record[s] in question. Upon

being notified of the availability of the files, I intend to visit your office to inspect the records and make copies.

If you determine that any or all of the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so why you believe it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed. *If I can provide any clarification that will help expedite your attention to my request*, please contact me at 415-990-4805 or preferably, by email at - eyates@marinlandlaw.com. I would be happy to discuss my request with you or the appropriate City staff.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a horizontal line extending to the right.

Edward E. Yates

Attachment

Cc:

Brian Crawford

Raul Rojas

ATTACHMENT TO E YATES PRA REQUEST TO MARIN COUNTY - September 10, 2016

List of undeveloped lot APNs on Alta W

049-041-48	049-012-64
049-041-43	049-012-65
049-041-42	049-012-66
049-044-14	049-012-04
049-044-31	049-012-05
049-044-29	049-012-03
049-044-30	049-012-02
049-044-08	049-012-67
049-044-04	
049-044-07	
049-041-44	
049-042-01	
049-041-38	
049-041-45	
049-041-46	
049-041-27	
049-041-28	
049-041-29	
049-041-30	
049-041-31	
049-041-47	
049-012-61	
049-012-62	
049-012-63	

EXHIBIT 6



Edward Yates <eyates@marinlandlaw.com>

Public Records Act Response from County of Marin

Raab, Stephen <SRaab@marincounty.org>

Wed, Oct 12, 2016 at 11:49 AM

To: Edward Yates <eyates@marinlandlaw.com>

Cc: "Magnuson, Kelsey" <KMagnuson@marincounty.org>, Lee Budish

<lbudish@comcast.net>, "Davidson, Berenice" <BDavidson@marincounty.org>, "Havel, Curtis" <CHavel@marincounty.org>

Mr. Yates,

My understanding from the inspection is that a request for copies of all records was made. The County can copy emails and other related documents at 15 cents a page. However, the official plans maintained by the County are subject to Health and Safety Code § 19851. While inspection is freely allowed under the Public Records Act, copying of the plans requires permission from the professional who created the plans and the current owner of the property. The request for copies must also include an affidavit by the person requesting the duplication of the plans stating several things, the most significant being that the only purpose of the copy of the plans shall be for the maintenance, operation and use of the building. (H&S Code § 19851(c)(1)). There is then a process that is similar to a subpoena for securing permission.

Please let me know if the certification can be made regarding the use of the plans.

Stephen Raab

Deputy County Counsel

From: Edward Yates [mailto:eyates@marinlandlaw.com]

Sent: Wednesday, October 12, 2016 10:08 AM

To: Havel, Curtis

Cc: Magnuson, Kelsey; Lee Budish; Davidson, Berenice; Raab, Stephen

[Quoted text hidden]

[Quoted text hidden]

Email Disclaimer: <http://www.marincounty.org/main/disclaimers>

EXHIBIT 7



Edward Yates <eyates@marinlandlaw.com>

Public Records Act Response from County of Marin

Edward Yates <eyates@marinlandlaw.com>

Tue, Oct 18, 2016 at 12:36 PM

To: "Raab, Stephen" <SRaab@marincounty.org>

Mr. Raab,

Thank you for this response. Per my email to Curtis Havel, I have the following questions:

1. Could you please explain why Health and Safety Code § 19851 applies here? The building plans have not yet been approved.

§ 19850, to which § 19851 refers, states: "The building department of every city or county shall maintain *an official copy*, which may be on microfilm or other type of photographic copy, of the plans of every building, during the life of the building, *for which the department issued a building permit.*" (My emphasis.)

2. Also, copies of the building plans in the Planning Department should be able to be copied because the Planning Department is not covered by Health and Safety Code § 19851, which only covers "The official copy of the plans maintained by the building department of the city or county...."

3. Health and Safety Code § 19851 does not cover roads, so such plans should be available to be copied.

4. Please provide the form provided for in Health and Safety Code § 19851. Mr. Havel has not done so.

5. Would you please explain why my clients cannot use a scanner to copy the records? If there is County written guidance on this issue and on PRA response guidelines, please provide it to me. Mr. Havel has not responded to this question or request.

Finally, six weeks to provide public documents from two departments seems like an unreasonable amount of time. I would appreciate you reminding your clients that the PRA prohibits delay. Given that the building department is currently processing a permit that is the subject of the PRA, time is important in this case.

If you feel it would be helpful to meet or chat, I would be happy to do so.

Thank you,

2/27/2017

Law Office of Edward E. Yates Mail - Public Records Act Response from County of Marin

Ed Yates

[Quoted text hidden]



Edward Yates <eyates@marinlandlaw.com>

Public Records Act Response from County of Marin

Edward Yates <eyates@marinlandlaw.com>

Fri, Oct 28, 2016 at 5:50 PM

To: "Raab, Stephen" <SRaab@marincounty.org>

Bcc: Bob Silvestri <communityventurepartners@comcast.net>

Mr. Raab,

I have not been contacted by the County regarding the availability of copies of the documents that I requested on behalf of my client. Again, the PRA request was made 6 weeks ago and copies were requested 2 weeks ago. I do not understand the various delays. I would appreciate it if you would at least respond to my communications.

If I do not hear from the County by Tuesday, November 1, with a date by November 3 to pick up the copies, I will interpret the County's failure to respond and provide copies as a denial of my request.

Also, I have not heard back from you regarding my email of October 18 regarding several questions regarding the requested county road and building records.

Additionally, you stated that an affidavit is necessary regarding requesting copies of the plans. I am happy to do so, but I requested that you send the form for the affidavit that each municipality is required to provide (Health and Safety Code Section 19851(c)) in order to obtain permission from the architect or holder of the building plans. The County has not sent me such a form.

In case Marin County has not prepared the required form, I submit the following affidavit.

I hereby attest that the copies of the plans shall only be used for the maintenance, operation and use of the building, that the drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed or registered professional of record, and that a licensed architect who signs and stamps plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent unauthorized changes to or uses of those plans.

Edward Yates

[Quoted text hidden]

EXHIBIT 8



Edward Yates <eyates@marinlandlaw.com>

Document Pick Up

Lee Budish <budishlee@gmail.com>

Tue, Nov 1, 2016 at 12:24 PM

To: Edward Yates <eyates@marinlandlaw.com>

Cc: "communityventurepartners@comcast.net" <communityventurepartners@comcast.net>

Well. I just met with Curtis and he was kind and accommodating. He gave me a big packet. In short I asked about the copies for the road plans. He told me that what he gave me was the Planning Departments response to the Pra and that anything related to grading permit road application was to be fulfilled separately by DPW. So I went to Dpw and met with Roger Bray, Jr. engineer and asked for Berenice Davidson or Jason Wong to follow up and get their documents. She was not in. He took down my info.

..

Sent from my iPhone

On Nov 1, 2016, at 10:34 AM, Edward Yates <eyates@marinlandlaw.com> wrote:

[Quoted text hidden]



Edward Yates <eyates@marinlandlaw.com>

Public Records Act Viewing of Documents at Public Works and Planning

Havel, Curtis <CHavel@marincounty.org>

Wed, Nov 2, 2016 at 10:43 AM

To: Edward Yates <eyates@marinlandlaw.com>

Cc: Lee Budish <lbudish@comcast.net>, "Magnuson, Kelsey" <KMagnuson@marincounty.org>, "Davidson, Berenice" <BDavidson@marincounty.org>, "Raab, Stephen" <SRaab@marincounty.org>, Rick Hayes <Rick@fcccpas.com>, "Reed, Michelle" <MIReed@marincounty.org>, "Lofton, Letitia" <LLOfton@marincounty.org>, "Alves, Linda" <LAlves@marincounty.org>, "Bassett, Patricia" <PBassett@marincounty.org>

Hello Mr. Yates,

This email is to notify you that Ms. Lee Budish visited the Marin County Community Development Agency – Planning Division yesterday and took possession of the documents requested in your Public Records Act Request of September 10, 2016 (received September 12, 2016) for information related to Alta Way in Mill Valley. The information obtained by Ms. Budish is from files on record with the Marin County Community Development Agency – Planning Division only and does not represent any files that may be on record with other agencies in Marin County.

Regards,

Curtis Havel

Senior Planner

Marin County Community Development Agency

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

(415) 473-2755

(415) 473-7880 (fax)

EXHIBIT 9



Edward Yates <eyates@marinlandlaw.com>

Follow up request for PRA Documents dated September 9, 2016

1 message

Lee Budish <lbudish@comcast.net>

Thu, Nov 17, 2016 at 8:54 PM

To: "Davidson, Berenice" <BDavidson@marincounty.org>

Cc: Edward Yates <eyates@marinlandlaw.com>, "Magnuson, Kelsey"

<KMagnuson@marincounty.org>, "Raab, Stephen" <SRaab@marincounty.org>, Rick Hayes <Rick@fcccpas.com>, Michelle Reed <MIReed@marincounty.org>, Letitia Lofton <LLofton@marincounty.org>, Linda Alves <LAlves@marincounty.org>, Patricia Bassett <PBassett@marincounty.org>

Dear Berenice,

On October 12, 2016 at 10:00am, Rick Hayes and I met with you and Jason Wong by appointment at the counter to view and copy documents as part of our Public Records Act request dated September 9, 2016, request is attached. We have asked you at that time if we were able to scan all these documents. You had advised us that we were not able to use a scanner. Since there were so many documents we kindly asked Jason Wong to make copies of all and we would pay for them and pick them up the following week.

On November 1, 2016, we were advised by Curtis Havel that the PRA documents were copied and available for us to pick up. These were the documents requested by Edward Yates in the PRA dated September 9, 2016 regarding Alta Way. We picked up these documents and paid for them. Curtis told me at that time (he later followed up via email in which he copied you) that the documents supplied were the Planning Department's portion of compliance of our request. When I asked about the documents related to the proposed road of Alta Way/Fairview, he told me that those documents rested with DPW. I then walked over to the DPW counter and asked Roger Bray to see if you were available. He replied that you were unavailable. I told him why I was there. I then requested that he ask you to contact me. He took down my name and number. I have yet to receive a formal response to my request.

Berenice, can you please advise me when I may come pick up and pay for the copies of the documents requested in the PRA?

Below is a list of the documents that are outstanding per our original request.

Thank you in advance for your time.

Lee Budish

1. Ownership, transfer sale, deeds or easements regarding ALL parcels on Attachment A. There are 32 vacant parcels and we only received one actual current deed which was to parcel APN 049-041-42 with the original proposed house.
2. Records, documents, emails pertaining to paper roads Alta Way and Fairview Avenue submitted to the Department of Public Works and Code Enforcement:
 - a. Records, documents, emails between 2007 to present day related to roads, including applications, civil plans, grading, grading permits, permitting, engineering plans, staking plans, etc., as well as code enforcement documents related to the past and present attempts/applications to grade and develop the roads on Alta Way and Fairview Avenues.
 - b. California Environmental Quality Act records, documents, emails and use permits related to past and present (2007-present day) attempts to grade, develop Alta Way and Fairview Roads.
3. Records, documents, emails requested, submitted as part of the California Environmental Quality Act for review by the Environmental Coordinator, 2007 through present day for proposed development of Alta Way and Fairview Roads.
4. Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings.

Thank you in advance.

Lee Budish

2 attachments



PRA Request to Marin County re Garden Valley_09-09-16.pdf
222K



Attachment to PRA Request re Garden Valley_09-09-16.pdf
180K

EXHIBIT 10

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-990-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

December 5, 2016

Charlie Haase, Chief Information Officer,
Information Services and Technology
3501 Civic Center Drive
San Rafael, CA 94903
By email to: chaase@marincounty.org

Mr. Haase;

This letter clarifies and adds to my Public Records Act request made on September 10, 2016 on behalf of the Friends of West Tam Valley.

I ask to inspect and possibly obtain copies of the following records, from the Marin County Assessor-Recorder-Clerk Office:

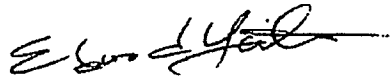
1. all records, including, but not limited to, documents, file materials, surveys, deeds, and permit materials relating to any and all of the numbered lots listed in in the "Attachment To E Yates PRA Request To Marin County" provided in my September 10 request and below.
2. records for properties with APN # 049-041-42; and records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.
3. all records regarding the ownership, transfer, sale, deeds or easements regarding any 'paper street' roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

As of this time, the County has not responded to my September 10 requests for Marin County records: 1) held by the Department of Public Works (including those listed above under #3), 2) regarding Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings, and/or 3) regarding the ownership, transfer sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

If I can provide any clarification that will help expedite your attention to my request, please contact me at 415-990-4805 or preferably, by email at - eyates@marinlandlaw.com. I would be happy to discuss my request with you or the appropriate City staff.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a stylized flourish at the end.

Edward E. Yates

ATTACHMENT TO E YATES PRA REQUEST TO MARIN COUNTY - September 10, 2016

List of undeveloped lot APNs on Alta W

049-041-48	049-012-64
049-041-43	049-012-65
049-041-42	049-012-66
049-044-14	049-012-04
049-044-31	049-012-05
049-044-29	049-012-03
049-044-30	049-012-02
049-044-08	049-012-67
049-044-04	
049-044-07	
049-041-44	
049-042-01	
049-041-38	
049-041-45	
049-041-46	
049-041-27	
049-041-28	
049-041-29	
049-041-30	
049-041-31	
049-041-47	
049-012-61	
049-012-62	
049-012-63	

EXHIBIT 11

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-890-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

December 16, 2016

Berenice Davidson
County of Marin
Department of Public Works
3501 Civic Center Drive, Ste. 304
San Rafael, CA 94903

Dear Ms. Davidson:

I represent Friends of West Tam Valley. Per my December 5 letter to Mr. Haase, regarding my September 10, Public Records Act request (attached) to the County, neither my clients nor I have received all of the requested documents. As part of that request, I requested records regarding permits for named properties. My request includes any related building or road plans.

This letter responds to Deputy County Counsel Stephen Raab's stated requirement in his email of October 12 that I submit an affidavit regarding the building and road plans requested on September 10 in order for the County to obtain permission for me to obtain copies of those plans from the architect or holder of the plans. I already submitted an affidavit to Mr. Raab in an email of October 28, but am providing it again in this letter, in hard copy.

Also, I requested that the County send a form for the affidavit that each municipality is required to provide (Health and Safety Code Section 19851(c)) in order to obtain permission from the architect or holder of the building plans. The County has not sent me such a form.

I submit the following affidavit in order to comply with Health and Safety Code Section 19851:

Page 2

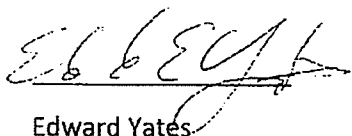
12-16-16 Letter to Berenice Davidson

The following facts are within my personal knowledge and if called as a witness to testify thereto, I could and would competently do so. My mailing address is stated above.

The copy of the plans I am requesting shall only be used for the maintenance, operation, and use of the original building for which the plans were drawn. The plans I am requesting are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record. I am aware that pursuant to subdivision (a) of Section 5536.25 of the Business and Professions Code, a licensed architect who signs and stamps plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports, or documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved in writing by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the written authorization or approval was not unreasonably withheld by the architect and the architectural service rendered by the architect who signed and stamped the plans, specifications, reports, or documents was not also a proximate cause of the damage. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on December 16, 2016, at 20 Skylark Dr., #403, Larkspur.

Signed

A handwritten signature in black ink, appearing to read "Edward Yates", with a horizontal line drawn across the middle of the signature.

Edward Yates

Cc: Stephen Raab, Office of County Counsel

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-990-4805 Fax: 415-991-8998
eyates@marinlandlaw.com

September 10, 2016

Charlie Haase, Chief Information Officer,
Information Services and Technology
3501 Civic Center Drive
San Rafael, CA 94903
By email to: chaase@marincounty.org

Mr. Haase;

Pursuant to rights under the California Public Records Act (Government Code Section 6250 et seq.), and on behalf of the Friends of West Tam Valley, I ask to inspect and possibly obtain copies of the following records, from all Marin County departments and agencies, held by your agency: all records, including documents, file materials, deeds, permit materials (including applications), communications, California Environmental Quality Act documents and land use permits granted for or relating to any development of the numbered lots listed in "Attachment To E Yates PRA Request To Marin County."

This request also specifically includes records, including any email or letter communications, regarding any permits, including grading, building and development permits for the: a) Brown Design Review application (P1151) for development of one parcel by Portage LLC (049-041-42); and b) Chador grading permit or other grading permit for Alta Way and/or Fairview Avenue, or the road marked on the attached Assessors map; and c) any records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.

I also request all records regarding the ownership, transfer sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the A'ta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

I also request all records regarding Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings.

I ask for a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the record[s] in question. Upon


being notified of the availability of the files, I intend to visit your office to inspect the records and make copies.

If you determine that any or all of the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so why you believe it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed. *If I can provide any clarification that will help expedite your attention to my request*, please contact me at 415-990-4805 or preferably, by email at - eyates@marinlandlaw.com. I would be happy to discuss my request with you or the appropriate City staff.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a long horizontal flourish extending to the right.

Edward E. Yates

Attachment

Cc:

Brian Crawford

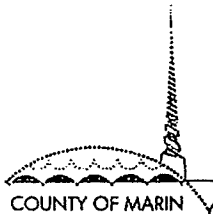
Raul Rojas

ATTACHMENT TO E YATES PRA REQUEST TO MARIN COUNTY - September 10, 2016

List of undeveloped lot APNs on Alta W

049-041-48	049-012-64
049-041-43	049-012-65
049-041-42	049-012-66
049-044-14	049-012-04
049-044-31	049-012-05
049-044-29	049-012-03
049-044-30	049-012-02
049-044-08	049-012-67
049-044-04	
049-044-07	
049-041-44	
049-042-01	
049-041-38	
049-041-45	
049-041-46	
049-041-27	
049-041-28	
049-041-29	
049-041-30	
049-041-31	
049-041-47	
049-012-61	
049-012-62	
049-012-63	

EXHIBIT 12



OFFICE OF THE
COUNTY COUNSEL

December 16, 2016

Steven M. Woodside
COUNTY COUNSEL

Jack F. Govi
ASSISTANT COUNTY COUNSEL

Renee Giacomini Brewer
SUPERVISING DEPUTY

Mari-Ann G. Rivers
David L. Zaltsman
Michele Keno
Patrick M. K. Richardson
Stephen R. Raab
Steven M. Perl
Sheila Shah Lichtblau
Edward J. Kiernan
Jessica Mills Sutherland
Brian C. Case
Jenna J. Brady
Valerie R. Boughey
Kerry L. Gerchow

DEPUTIES

Jeanine Michaels
ADMINISTRATIVE ASSISTANT

Marin County Civic Center
3501 Civic Center Drive
Suite 275
San Rafael, CA 94903
415 473 6117 T
415 473 3796 F
415 473 2226 TTY
www.marincounty.org/cl

Edward Yates, Esc.
20 Skylark, Suite 12
Larkspur, CA 94939
eyates@marinlandlaw.com

Re: Public Records Act request

Dear Mr. Yates,

I am in receipt of your letter from December 5, 2016 regarding the Public Records Act request you made on September 10, 2016 on behalf of the Friends of West Tam Valley. Your letter states that the County has not responded to the September 10 request for records held by the Department of Public Works. On October 12, 2016, your clients, Lee Budish and Rick Hayes, inspected County of Marin records responsive to the request. At that time, your clients met with Berenice Davidson of the Department of Public Works. Ms. Davidson provided the responsive records from the Department of Public Works for inspection.

My understanding is that your clients inspected the procedures for applying for grading permits. A copy of the procedures and requirements is attached to this letter.

The Public Records Act request also sought records regarding the ownership, transfer sale, deeds and easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets, or are otherwise accessed from them. My understanding is that these records were inspected. Are you claiming that your clients did not review these records? Or is the claim that your clients did not obtain copies of these records? Please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. Raab".

Stephen R. Raab
Deputy County Counsel

cc: Curtis Havel; Berenice Davidson

EXHIBIT 13

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-990-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

December 26, 2016

Stephen Raab
Office of County Counsel
3501 Civic Center Drive
San Rafael, CA 94903
By email to: sraab@marincounty.org

Mr. Raab,

Thank you for your letter of December 16. I believe your letter, sent by email, and my letter of December 16, by U.S. mail, crossed paths. My letter of December 16 provides a hard copy to the County of my affidavit that I sent to you by email on October 28. I sent the hard copy because you did not respond to my email of October 28 in which I provided the affidavit.

Regarding your letter of December 16, it appears you are not personally in possession of communications that have already been sent to the County regarding my PRA requests. These include Ms. Budish's email of November 17 and letters I sent to the County. I have attached those communications and some others.

I believe my letter of December 5 and Ms. Budish's November 17 email to Ms. Davidson provide specificity on what records are missing yet your letter of October 16 asks me what is missing, if anything. In answer to your question, Ms. Budish requested copies of *all* records that were requested yet only received planning department records. No requested public works or assessors department records have been provided.

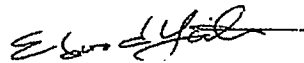
My understanding is that Ms. Davidson has not responded to Ms. Budish's requests to meet or speak by phone nor to Ms. Budish's emails and you have not responded to my emails and you do not appear to have all the communications involved in this case. Therefore, your formal letter does not assist me, the requester, in either obtaining or identifying the requested records.

Please provide copies of the requested records by January 4; the original request was made over three months ago and the follow up request three weeks ago. Additionally, the Planning Application Guide you attached is non-responsive because it does not address grading or other ministerial permits.

If the County has questions regarding these PRA requests, please contact me as soon as you are able to discuss these issues. A phone or personal meeting, that may include me and you and my clients and your clients, would be more helpful than another formal letter.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a horizontal line extending to the right.

Edward E. Yates

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-890-4805 Fax: 415-891-8998
eyates@marinlandlaw.com

September 10, 2016

Charlie Haase, Chief Information Officer,
Information Services and Technology
3501 Civic Center Drive
San Rafael, CA 94903
By email to: chaase@marincounty.org

Mr. Haase;

Pursuant to rights under the California Public Records Act (Government Code Section 6250 et seq.), and on behalf of the Friends of West Tam Valley, I ask to inspect and possibly obtain copies of the following records, from all Marin County departments and agencies, held by your agency: all records, including documents, file materials, deeds, permit materials (including applications), communications, California Environmental Quality Act documents and land use permits granted for or relating to any development of the numbered lots listed in "Attachment To E Yates PRA Request To Marin County."

This request also specifically includes records, including any email or letter communications, regarding any permits, including grading, building and development permits for the: a) Brown Design Review application (P1151) for development of one parcel by Portage LLC (049-041-42); and b) Chador grading permit or other grading permit for Alta Way and/or Fairview Avenue, or the road marked on the attached Assessors map; and c) any records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.

I also request all records regarding the ownership, transfer sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

I also request all records regarding Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings.

I ask for a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the record[s] in question. Upon

being notified of the availability of the files, I intend to visit your office to inspect the records and make copies.

If you determine that any or all of the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so why you believe it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed. *If I can provide any clarification that will help expedite your attention to my request*, please contact me at 415-990-4805 or preferably, by email at - eyates@marinlandlaw.com. I would be happy to discuss my request with you or the appropriate City staff.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a stylized flourish at the end.

Edward E. Yates

Attachment

Cc:

Brian Crawford

Raul Rojas

ATTACHMENT TO E YATES PRA REQUEST TO MARIN COUNTY - September 10, 2016

List of undeveloped lot APNs on Alta W

049-041-48	049-012-64
049-041-43	049-012-65
049-041-42	049-012-66
049-044-14	049-012-04
049-044-31	049-012-05
049-044-29	049-012-03
049-044-30	049-012-02
049-044-08	049-012-67
049-044-04	
049-044-07	
049-041-44	
049-042-01	
049-041-38	
049-041-45	
049-041-46	
049-041-27	
049-041-28	
049-041-29	
049-041-30	
049-041-31	
049-041-47	
049-012-61	
049-012-62	
049-012-63	



Edward Yates <eyates@marinlandlaw.com>

Follow up request for PRA Documents dated September 9, 2016

1 message

Lee Budish <lbudish@comcast.net>

Thu, Nov 17, 2016 at 8:54 PM

To: "Davidson, Berenice" <BDavidson@marincounty.org>

Cc: Edward Yates <eyates@marinlandlaw.com>, "Magnuson, Kelsey"

<KMagnuson@marincounty.org>, "Raab, Stephen" <SRaab@marincounty.org>, Rick Hayes <Rick@fcccpas.com>, Michelle Reed <MIReed@marincounty.org>, Letitia Lofton <LLOfton@marincounty.org>, Linda Alves <LAlves@marincounty.org>, Patricia Bassett <PBassett@marincounty.org>

Dear Berenice,

On October 12, 2016 at 10:00am, Rick Hayes and I met with you and Jason Wong by appointment at the counter to view and copy documents as part of our Public Records Act request dated September 9, 2016, request is attached. We has asked you at that time if we were able to scan all these documents. You had advised us that we were not able to use a scanner. Since there were so many documents we kindly asked Jason Wong to make copies of all and we would pay for them and pick them up the following week.

On November 1, 2016, we were advised by Curtis Havel that the PRA documents were copied and available for us to pick up. These were the documents requested by Edward Yates in the PRA dated September 9, 2016 regarding Alta Way. We picked up these documents and paid for them. Curtis told me at that time (he later followed up via email in which he copied you) that the documents supplied were the Planning Department's portion of compliance of our request. When I asked about the documents related to the proposed road of Alta Way/Fairview, he told me that those documents rested with DPW. I then walked over to the DPW counter and asked Roger Bray to see if you were available. He replied that you were unavailable. I told him why I was there. I then requested that he ask you to contact me. He took down my name and number. I have yet to receive a formal response to my request.

Berenice, can you please advise me when I may come pick up and pay for the copies of the documents requested in the PRA?

Below is a list of the documents that are outstanding per our original request.

Thank you in advance for your time.

Lee Budish

1. Ownership, transfer sale, deeds or easements regarding ALL parcels on Attachment A. There are 32 vacant parcels and we only received one actual current deed which was to parcel APN 049-041-42 with the original proposed house.

2. Records, documents, emails pertaining to paper roads Alta Way and Fairview Avenue submitted to the Department of Public Works and Code Enforcement:

a. Records, documents, emails between 2007 to present day related to roads, including applications, civil plans, grading, grading permits, permitting, engineering plans, staking plans, etc., as well as code enforcement documents related to the past and present attempts/applications to grade and develop the roads on Alta Way and Fairview Avenues.

b. California Environmental Quality Act records, documents, emails and use permits related to past and present (2007-present day) attempts to grade, develop Alta Way and Fairview Roads.


3. Records, documents, emails requested, submitted as part of the California Environmental Quality Act for review by the Environmental Coordinator, 2007 through present day for proposed development of Alta Way and Fairview Roads.

4. Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings.

Thank you in advance.

Lee Budish

2 attachments

 **PRA Request to Marin County re Garden Valley_09-09-16.pdf**
222K

 **Attachment to PRA Request re Garden Valley_09-09-16.pdf**
180K

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-890-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

December 5, 2016

Charlie Haase, Chief Information Officer,
Information Services and Technology
3501 Civic Center Drive
San Rafael, CA 94903
By email to: chaase@marincounty.org

Mr. Haase;

This letter clarifies and adds to my Public Records Act request made on September 10, 2016 on behalf of the Friends of West Tam Valley.

I ask to inspect and possibly obtain copies of the following records, from the Marin County Assessor-Recorder-Clerk Office:

1. all records, including, but not limited to, documents, file materials, surveys, deeds, and permit materials relating to any and all of the numbered lots listed in the "Attachment To E Yates PRA Request To Marin County" provided in my September 10 request and below.
2. records for properties with APN # 049-041-42; and records pertaining to Alta Way Partners LLC and Portage LLC, Daniel Chador, Adam Cummings and Greg O'Donnell.
3. all records regarding the ownership, transfer, sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

As of this time, the County has not responded to my September 10 requests for Marin County records: 1) held by the Department of Public Works (including those listed above under #3), 2) regarding Marin County procedures and requirements for applying for grading permits and other ministerial permits, including any requirements regarding public hearings, notices and postings, and/or 3) regarding the ownership, transfer sale, deeds or easements regarding any "paper street" roads that extend from Alta Way to Fairview, and all parcels that front on the Alta Way and Fairview Avenue paper streets (all the way to Highway One), or are otherwise accessed from them.

If I can provide any clarification that will help expedite your attention to my request, please contact me at 415-990-4805 or preferably, by email at - eyates@marinlandlaw.com. I would be happy to discuss my request with you or the appropriate City staff.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a horizontal line extending to the right.

Edward E. Yates

ATTACHMENT TO E YATES PRA REQUEST TO MARIN COUNTY - September 10, 2016

List of undeveloped lot APNs on Alta W

049-041-48	049-012-64
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049-044-30	049-012-02
049-044-08	049-012-67
049-044-04	
049-044-07	
049-041-44	
049-042-01	
049-041-38	
049-041-45	
049-041-46	
049-041-27	
049-041-28	
049-041-29	
049-041-30	
049-041-31	
049-041-47	
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049-012-62	
049-012-63	

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94939
Ph: 415-990-4805 Fax: 415-991-8999
eyates@marinlandlaw.com

December 16, 2016

Berenice Davidson
County of Marin
Department of Public Works
3501 Civic Center Drive, Ste. 304
San Rafael, CA 94903

Dear Ms. Davidson:

I represent Friends of West Tam Valley. Per my December 5 letter to Mr. Haase, regarding my September 10, Public Records Act request (attached) to the County, neither my clients nor I have received all of the requested documents. As part of that request, I requested records regarding permits for named properties. My request includes any related building or road plans.

This letter responds to Deputy County Counsel Stephen Raab's stated requirement in his email of October 12 that I submit an affidavit regarding the building and road plans requested on September 10 in order for the County to obtain permission for me to obtain copies of those plans from the architect or holder of the plans. I already submitted an affidavit to Mr. Raab in an email of October 28, but am providing it again in this letter, in hard copy.

Also, I requested that the County send a form for the affidavit that each municipality is required to provide (Health and Safety Code Section 19851(c)) in order to obtain permission from the architect or holder of the building plans. The County has not sent me such a form.

I submit the following affidavit in order to comply with Health and Safety Code Section 19851:

Page 2

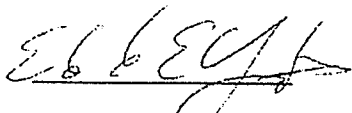
12-16-16 Letter to Berenice Davidson

The following facts are within my personal knowledge and if called as a witness to testify thereto, I could and would competently do so. My mailing address is stated above.

The copy of the plans I am requesting shall only be used for the maintenance, operation, and use of the original building for which the plans were drawn. The plans I am requesting are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record. I am aware that pursuant to subdivision (a) of Section 5536.25 of the Business and Professions Code, a licensed architect who signs and stamps plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports, or documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved in writing by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the written authorization or approval was not unreasonably withheld by the architect and the architectural service rendered by the architect who signed and stamped the plans, specifications, reports, or documents was not also a proximate cause of the damage. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on December 16, 2016, at 20 Skylark Dr., #403, Larkspur.

Signed



Edward Yates

Cc: Stephen Raab, Office of County Counsel

EXHIBIT 14

Law Office of Edward E. Yates

20 Skylark, Suite 12
Larkspur, CA 94938
Ph: 415-890-4805 Fax: 415-891-8999
eyates@marinlandlaw.com

February 8, 2017

Stephen Raab
Office of County Counsel
3501 Civic Center Drive
San Rafael, CA 94903
By email and mail to: sraab@marincounty.org

Mr. Raab,

I have not received a response to my December 26, 2016 letter to you.

In that letter, I outlined my previous Public Records Act requests and the follow up requests from members of my client organization, Friends of West Tam Valley.

In brief, those include:

- September 10, 2016 - Original PRA to Mr. Haase;
- October 16, 18 and 28 emails to you describing how requested records were not supplied and requesting a response on County procedures;
- November 17, 2016 - Emails from Lee Budish, of FWTV, to Berenice Davidson describing how requested records were not supplied;
- December 5, 2016 - Second PRA request to Mr. Haase requesting new records and describing how requested records were not supplied;
- December 16, 2016 – Letter to Ms. Davidson providing a written declaration regarding building plans; and
- December 26, 2016 - Letter to you describing how requested records were not supplied.

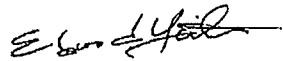
In sum, I have not received requested: Public Works Department records shown to my clients, building and street plans; requested lot specific planning and building records; and requested Assessors Department records.

Your only communications, below, have not included any offers to assist me in obtaining records:
October 12, 2016
December 16, 2016

I would note that no other County communication has offered the required assistance to find or provide the requested but-not-provided records as required by Government Code Section 6253.1. At this point, the County has also violated the Public Records Act by unreasonably delaying compliance with my requests, per Government Code Section 6253(d). Please respond to this letter by February 20, 2017. At that time, my client will consider its legal options in obtaining the records.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Yates", with a horizontal line extending to the right.

Edward E. Yates

Cc:

Brian Crawford, Director, Marin County Community Development Department

Brian E. Washington, Marin County Counsel

Kate Sears, Marin County Supervisor, District 3

PROOF OF SERVICE

I am over the age of 18, not a party to this action, and am employed in the County of Marin. My business address is 1000 Fourth Street, Suite 875, San Rafael, California 94901.

On the date specified below, I served copies of the following document(s):

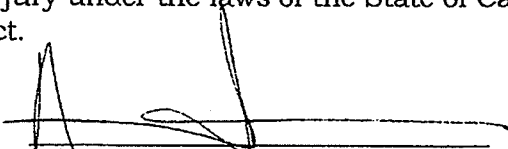
LETTER TO STEPHEN RAAB

on each person named below as follows:

- ☒ **By Mail:** By enclosing them in a sealed envelope addressed as shown below, with postage fully prepaid, and placing the envelope for collection and mailing on the date shown in San Rafael, California, following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. Or, the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
- ☒ **By Email:** By transmitting them via email.
- ☐ **By Fax:** By transmitting them via telephone facsimile.
- ☐ **By Personal Delivery:** By personally delivering such documents on each person named below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 13, 2017


ASHLEY M. MARSHALL

NAME AND ADDRESS OF EACH PERSON SERVED

Stephen Raab
Office of County Counsel
3501 Civic Center Drive
San Rafael, CA 94903
sraab@marincounty.org

EXHIBIT 15



Friends of West Tam Valley

March 6, 2017

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Re: Initial Study for the proposed Alta Way Extension Project

Dear Chair and Members of the Board,

The Friends of West Tam Valley (FWTV) respectfully request that you remove the initiation of the Alta Way Extension Project, Initial Study, from the agenda for the Marin County Board of Supervisors meeting on Tuesday, March 7, 2017.

We believe that this project applications materials are inconsistent and incomplete at this time and that initiating CEQA review would be improper and unreasonable acceding to the developer's demands to the County to hurry. We believe that this application for an extension of Alta Way road is only the first "step" and an attempt to camouflage a much large-scale development to come.

This assertion is based on the fact that the Initial Study notice received on Thursday, February 23, 2017 clearly states:

"The ten parcels that will be potentially developed in the future area are: 049-041-48, 049-041-43, 049-041-42, 049-44-14, 049-044-07, 049-044-08, 049-044-30, 049-044-29, 049-044-31, 049-044-14."

But we don't really know how many parcels are owned by the developers, nor does County staff. Further, there is uncertainty whether these and other related lots are legal lots. Some of these lots are on an ancient subdivision map with no certificates of compliance. The County first needs to determine whether these lots can be developed.

In addition, we are in complete agreement with the Tam Design Review Board's (TDRB) recommendation that County Planning require a new Master Subdivision Plan with all its requirements, as well as a full Environmental Impact Report (EIR) for this development proposal. In the minutes of the TDRB meeting of April 6, 2016, it states:

"This is a major subdivision and should be looked at as such. It needs all of the studies that a Master Plan provides, including an EIR, traffic study, riparian biologist report, soils and drainage studies clear plans for sewer, road, and fire protection. The development of these paper streets will impact the whole neighborhood for years while it is being built, and needs to be carefully planned, not piecemeal. Once the Master Plan is complete, we would be happy to look at this proposal again."

TDRB also followed up with a letter to Brian Crawford dated April 21, 2016, voicing their concern that the project, which was initially an application for one home and partial grading of Alta Way, was a "Trojan Horse" meant to obscure the full extent of the potential future development.

We also believe that because of the total, 32 vacant parcels that exist on the baseline 1919 Map, we must anticipate that additional homes will be built in the near future. These would require an additional extension of paper street Fairview Avenue towards Shoreline Highway. However, the application fails to mention that the Alta Way Extension will join paper street Fairview Avenue opening up the area for continued future development of homes. Therefore, the Paper Street Ordinance will apply to not only one paper street but to two paper streets.

Section 23.08.026 of the Marin County Municipal Code (MCMC) states that where lots were created in pre-1953 maps and not physically developed and improved, "proposed development shall be subject to the securing of a grading and/or excavation permit as set forth in this section...." This section and other grading permit sections (e.g. §23.08.080) provide the Director of Public Works with substantial discretion to require in depth hydrological and engineering studies, in instances such as this.

We believe in this instance it is incumbent upon the Board of Supervisors to require the Director of Public Works to comply fully with sectional of the provisions of the Paper Street Ordinance and the County Subdivision Ordinance.

The Paper Street Ordinance requires that "the director of public works may require full and complete topographic information for the length of the Paper Street or paper streets which services all the parcels under such ownership, legal interest or control. **All such ownership interest or other agreements** which potentially access the paper street in question **shall be revealed and specified at the time of application.**" (MCMC § 23.08.026 (5)(a).) [Emphasis added]

We believe the Director of Public Works must ask the Applicant for full disclosure.

The Paper Street Ordinance also contains a legislative finding that pre-1953 were not "designed and improved" and that a 1919 Map is not an adequate subdivision map to be used as a baseline for future development.

Therefore, we respectfully request that this project be subject to the requirements of a new Master Plan and Subdivision Map as a condition of the application being reviewed by the County Development Agency, and that the project be required to undertake a full environmental impact report, prior to review by the Board of Supervisors.

An Initial Study to determine whether a full EIR or Negative Declaration is mandated appears to be a waste of County resources and taxpayer dollars. A large-scale development of this nature on a hillside, in an area prone to documented landslides (as recently as this year), in a high fire danger zone, one-way egress, and significant run off into a nearby creeks clearly demands a full EIR under CEQA.

Only with a Master Plan and Subdivision Map and EIR, can the County Development Agency and the Board of Supervisors fully assess the cumulative impacts of a project of this scope and magnitude of those impacts on the environment and the health and safety of neighboring residents.

Respectfully,

/s/ Lee Budish and Richard Hayes

Executive Committee Co-Chairs
Friends of West Tam Valley

cc: Rachael Reid, Environmental Coordinator