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**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

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**RESOLUTION ATTACHMENT 6**

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**ADDENDUM TO A CERTIFIED ENVIRONMENTAL IMPACT REPORT**

The County of Mendocino, California, does hereby prepare, declare and publish this Addendum to a certified Environmental Impact Report (EIR) for the following described project:

**PROJECT NAME:** **Bella Vista Subdivision** (formerly known as "Garden's Gate Subdivision")  
**PROJECT NO.:** **#S 2020-0001** (original file number: #S 3-2005)  
**SCH NO.:** **2007052006**

This Addendum to the certified Final EIR for the Garden's Gate Subdivision evaluates a proposal to modify the approved and fully entitled Garden's Gate Subdivision project (approved by the Mendocino County Board of Supervisors on October 6, 2009, as amended on April 27, 2010). The current property owner (Rancho Yokayo, L.P.) and applicant (Guillon, Inc.) have filed an application to modify the project approvals. The revised project is known as the "Bella Vista Subdivision."

The requested modifications include amendments to the Garden's Gate Subdivision Vesting Tentative Map (Subdivision Modification #S\_2020-0001), Garden's Gate Development Agreement (DEV\_2020-0001), and Garden's Gate Inclusionary Housing Plan. As proposed, the site configuration is modified to include land immediately adjacent to South State Street, and to remove land in the northwest corner of the site (Tract 261) for which a Parcel Map has been recorded. Total acreage is increased from 46.1 acres to 48.8 acres (2.7-acre increase). The total number of residences is decreased from 197 to 171 (decrease of 26 units). The number of single-family lots is increased from 123 to 132 (increase of nine single family lots) and the project now includes 39 age-restricted lots. The circulation layout is modified to eliminate the proposed secondary access from Gobalet Lane and to add a new secondary access street to the south of the proposed roundabout at the main entry to the project. The total acreage of onsite parks is increased from 2.31 to 2.79 acres and the location/configuration of parks is modified. Rather than identifying 36 for-sale units for moderate-income households, the modified inclusionary housing plan provides a senior housing development of 39 age-restricted units and identifies 10% of the non-age-restricted units (13 units) to be sold to moderate-income households.

The County of Mendocino Department of Planning & Building Services has reviewed the proposed modifications to the project and, on the basis of the whole record before it, has determined that there is no substantial evidence that the Modified Project, as identified in the attached Addendum, would have a significant effect on the environment beyond that which was evaluated in the certified EIR. A supplemental or subsequent EIR is not required pursuant to the California Environmental Quality Act of 1970 (Section 21000, et seq., Public Resources Code of the State of California).

The Addendum to a certified EIR has been prepared pursuant to Title 14, Sections 15162 and 15164 of the California Code of Regulations. It may be reviewed at the offices of the Planning & Building Services Department, 860 North Bush St., Ukiah, California 95482 during public counter hours, or on the County's website at: <https://www.mendocinocounty.org/government/planning-building-services/plans-guidelines-and-eirs> or <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>

Date: February 23, 2023

By: Julia Krog  
Julia Krog, Director of Planning & Building Services  
County of Mendocino, California

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# Addendum to Final Environmental Impact Report for the Garden's Gate Subdivision

(renamed "Bella Vista Subdivision")

SCH No. 2007052006

Mendocino County, California

## **Mendocino County**

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February 2023

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**Exhibits:**

- 1. Regional Location Map
- 2. Site Location Map

3. Zoning Designations Map
4. Airport Combining Zone Map
5. Garden's Gate Subdivision Vesting Tentative Map
6. Bella Vista Amended Vesting Tentative Map

**Appendices:**

- A. Bella Vista Drainage Report & Stormwater Control Plan (LACO Associates; March 2021)
- B. Will-Serve Letter for Water (Willow County Water District; September 2021)
- C. Biological Resources Assessment for the Bella Vista Subdivision Project (Gallaway Enterprises; July 2021)
- D. Technical Memorandum: Assessment of Biological Issues of the Bella Vista Subdivision Project in Relation to the Certified EIR for the Garden's Gate Project (Gallaway Enterprises; July 2021)
- E. Tree Inventory Report (Horticultural Associates; July 2021)
- F. Draft Delineation of Jurisdictional Waters of the United States (Gallaway Enterprises; June 2021)
- G. Traffic Analysis for the Bella Vista Housing Project (WTrans; March 2021)
- H. Air Quality and Greenhouse Gas Assessment (Illingworth & Rodkin, Inc.; January 2021)
- I. Bella Vista Development-Water Supply Verification (Luhdorff & Scalmanini, September 2021)
- J. UVSD Capacity to Serve Sewer for Bella Vista Subdivision (UVSD; March 2021)

**BELLA VISTA SUBDIVISION (#S 2020-0001)**  
**Addendum to the Garden's Gate Subdivision Environmental Impact Report**  
**SCH No. 2007052006**

## 1. FILE NUMBER/PROJECT NAME

Subdivision Modification (#S 2020-0001) - Bella Vista Subdivision  
 Development Agreement Amendment (#DEV\_2020-0001)  
 Administrative Permit (#AP 2022-0034)

## 2. PROJECT LOCATION

The project site is located at 3000 South State Street, in the unincorporated area of Mendocino County, California, just south of the Ukiah city limits ([Exhibit 1: Regional Location Map](#)). The site is bounded by South State Street (CR# 104A) and commercial and industrial uses to the east; Gobalet Lane (private road) and residential uses to the north; private lands and rural residential uses to the east; and agricultural, residential and institutional uses to the south. The project site is located on the *Elledge Peak, California* United States Geological Survey (USGS) 7.5-minute Quadrangle, (Latitude 39.112° N; Longitude -123.200° E).

The project site is assigned four Assessor's Parcel numbers: 184-110-28 (4.48± acres); 184-110-21 (0.67± acre); 184-110-29 (15.19± acres); 184-120-01 (29.18± acres) ([Exhibit 2: Site Location Map](#)).

The project site is currently undeveloped. The east end of the site is grassland that was previously used for agricultural purposes. West of this is a 28-acre fallow area that, until recently, was used as a vineyard that extended to the base of the western hills. The vineyard was removed in 2021. The west end of the site includes the lower portion of a wooded hillside. Cleland Mountain Creek, an intermittent tributary to the Russian River, traverses 280 feet of the site adjacent to the northwestern property boundary. The site is not under a Williamson Act contract.

## 3. EXISTING PLAN DESIGNATIONS AND ZONING

The Mendocino County General Plan and the Ukiah Valley Area Plan assign two separate land use classifications to the project site. The easternmost two-thirds of the property is classified Suburban Residential (SR) and the western third is classified Rural Residential (RR). The Mendocino County Inland Zoning Code assigns three zoning classifications to the property. A swath adjacent to South State Street is zoned Multiple-Family Residential (R-3), the central portion is zoned Suburban Residential (SR) and the westernmost portion is zoned Rural Residential (RR-5) ([Exhibit 3: Zoning Designations](#)). The property is within the Airport Zone combining district ([Exhibit 4: Airport Combining Zone Map](#)).

## 4. PROJECT DISCUSSION

### 4.1 Garden's Gate Project - Background

On November 14, 2006, the Board of Supervisors adopted Resolution No. 06-216 authorizing a density bonus application and concessions for the 197-unit Garden's Gate residential project. On October 6, 2009, the Board adopted Resolution No. 09-230 certifying the final Environmental Impact Report for the Garden's Gate Subdivision Project ("FEIR"). The Board also adopted Resolution No. 09-230 approving a Vesting Tentative Subdivision Map (#S 3-2005), Project Site Plan, Project Phasing Plan, Master Building Plan and Inclusionary Housing Agreement. On October 20, 2009, the Board adopted Ordinance 4229 approving the Garden's Gate Development Agreement. The Board subsequently amended the

Development Agreement on July 13, 2010 by adoption of Ordinance 4264. Collectively, these actions are referred to as the "Project Approvals." The Project Approvals are summarized in Table 1: Summary of Project Approvals and Requested Modifications.

The approved Vesting Tentative Subdivision Map is shown in Exhibit 5: Garden's Gate Subdivision Vesting Tentative Map. The Garden's Gate project includes 197 single family dwellings, two parks, and associated streets and infrastructure on a 46.1-acre site (including a 13.1-acre remainder parcel). The residential uses include 123 detached units and 74 attached townhouses in two- and four-unit structures. The project includes one- two- and three-story components.

#### 4.2 Summary of Significant & Unavoidable Impacts identified in FEIR

On October 6, 2009, the Mendocino County Board of Supervisors adopted Resolution No. 09-230 certifying the Final Environmental Impact Report for the Garden's Gate Subdivision Project ("FEIR"), making findings regarding project impacts, and adopting a Statement of Overriding Considerations. The resolution identifies the following significant, unavoidable adverse impacts:

- (a) Constructing the project will emit at least the equivalent of 7,388 tons of carbon dioxide into the atmosphere. Therefore, the project will be an increment of a significant and unavoidable cumulative impact on Global Climate Change (Impact 3.6-B).
- (b) Future residential use of the project will emit the equivalent of approximately 2,589 tons of carbon dioxide per year. The emissions can be reduced by recommended mitigation measures, but the emissions will remain above the zero net increase significance threshold. Therefore, the project will be an increment of a significant and unavoidable cumulative impact on Global Climate Change (Impact 3.6-F).
- (c) The project will convert 31 acres of Prime Farmland and 2 acres of Unique Farmland to non-agricultural use. (Impact 3.10-A).

The Statement of Overriding Considerations found that the benefits of the project outweigh the significant impacts due to the following considerations:

- (a) The benefits of the project in providing housing outweigh the impacts associated with the emission of greenhouse gases during project construction and during future residential use of the project site, since there is no way that any new development could feasibly occur in the County or the State if it was required to have no new emissions.
- (b) The benefits of the project in providing housing outweigh the impacts associated with the loss of Prime Farmland and Unique Farmland to non-agricultural use since the project site has been designated and zoned for residential use since 1981 and there is little developable land available for the development of new housing to meet demand that does not involve loss of agricultural land in the Ukiah Valley.

#### 4.3 Proposed Amendments to Project Approvals

The current property owner (Rancho Yokayo, L.P.) and applicant (Guillon, Inc.) have filed an application to modify the following components of the Project Approvals:

- Garden's Gate Subdivision Vesting Tentative Map (Subdivision Modification #S\_2020-0001) including the Project Site Plan, Master Building Plan and Project Phasing Plan
- Garden's Gate Development Agreement
- Garden's Gate Affordable Housing Agreement

The proposed modifications to the Project Approvals for the Garden's Gate project are referred to in this document as the "Modified Project" and are summarized in Table 1: Summary of Project Approvals and Requested Modifications.

Table 1 - Summary of Project Approvals and Requested Modifications

|                            | Project Approvals<br>(Garden's Gate)  | Requested Modifications<br>(Bella Vista)  |
|----------------------------|---|---|
| Acreage                    | 46.1 acres, includes: <ul style="list-style-type: none"> <li>▪ 4.48 acres along S. State Street is not included in the project</li> <li>▪ 13.1-acre remainder parcel</li> </ul>     | 48.8 acres, includes: <ul style="list-style-type: none"> <li>▪ 1.68 acres in Tract 261 has been removed from the map. A Final Map for 4 lots has been recorded for Tract 261.</li> <li>▪ The acreage along S. State Street is included in the project with the exception of 1.59-acre "Parcel A" at northeast corner which is not included in the project</li> <li>▪ 12.19-acre remainder parcel</li> </ul> |
| Number of residential lots | 197 lots <ul style="list-style-type: none"> <li>▪ 123 single family lots</li> <li>▪ 74 townhome lots</li> </ul>   | 171 lots <ul style="list-style-type: none"> <li>▪ 132 single-family lots</li> <li>▪ 39 age-restricted lots</li> </ul>   |
| Average Lot Size           | <ul style="list-style-type: none"> <li>▪ Single-family: 3,774 SF</li> <li>▪ Townhomes: 2,125 SF</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Single-family: 6,219 SF</li> <li>▪ Age-restricted: 4,907 SF</li> </ul>   |
| Circulation                | Two access points to S. State Street: <ul style="list-style-type: none"> <li>▪ Roundabout at main entry</li> <li>▪ Connection to Gobalet Lane (200' north of roundabout)</li> </ul> | Two access points to S. State Street: <ul style="list-style-type: none"> <li>▪ Roundabout at main entry</li> <li>▪ New south entry street (600' south of roundabout)</li> <li>▪ Eliminated access via Gobalet Lane</li> </ul>   |
| Parks                      | Total Park area: 2.31 acres <ul style="list-style-type: none"> <li>▪ Park A: 0.9 acres</li> <li>▪ Park B: 1.4 acres</li> </ul>  | Total Park area: 2.81 acres <ul style="list-style-type: none"> <li>▪ Neighborhood Park: 1.99 acres (playground; stormwater detention)</li> <li>▪ Linear Park: 0.58 acres (930 linear feet of multi-use trail)</li> <li>▪ Cottage Park: 0.24 acre</li> </ul>   |
| Phasing Plan               | 7 phases  | 7 phases  |

|                    | Project Approvals<br>(Garden's Gate)  | Requested Modifications<br>(Bella Vista)  |
|--------------------|---|---|
| Housing types      | 2,500 SF two-story units- 26 lots<br>760-1,370 SF one-story units (cottage) - 15 lots<br>1,400-1,900 SF two-story units (garden court) - 72 lots<br>944-1,300 SF units(duplex/fourplex) - 74 lots | 1,200-2,200 SF one- and two-story units - 132 lots<br>900-1,400 SF one-story units (cottage) - 39 lots (age-restricted) |
| Affordable Housing | 36 for-sale units targeted to moderate-income households  | 39 age-restricted units<br>10% of non-age restricted units (13 units) targeted to moderate-income households            |

The proposed modified Vesting Tentative Subdivision Map for the Bella Vista subdivision is shown in Exhibit 6: Bella Vista Amended Vesting Tentative Map. The Modified Project is a 171-lot multi-generational subdivision that consists of 132 single family residential lots and 39 age-restricted residential lots. All of the residential units will be single story. The project includes 2.79 acres of parkland. The development would be accessed via two new public streets entering from South State Street. A roundabout would be constructed at the northerly entrance which is aligned with Plant Road on the east side of South State Street.

## 5. APPROACH TO CEQA ANALYSIS

In the case of an application requiring discretionary approval on a project for which an EIR has been certified (as is the case for the requested modifications to the Garden's Gate project entitlements), the California Environmental Quality Act (CEQA) requires the lead agency to determine whether a supplemental or subsequent EIR is required. The requirement is codified in Public Resources Code section 21166 and CEQA Guidelines Section 15162. Section 15162 provides guidance in this process by requiring an examination of whether, since the certification of the EIR and approval of the project, changes in the project or conditions have been made to such an extent that the proposal may result in substantial changes in physical conditions that are considered significant under CEQA. If so, the County would be required to prepare a subsequent EIR or supplement to the EIR.

The following review examines the Modified Project in accordance with Section 15162. The evaluation concludes that the conditions set forth in Section 15162 are not present, and that an Addendum to the EIR is the appropriate CEQA document pursuant to CEQA Guidelines Section 15164.

Each of the following standards, as set forth in Section 15162(a), are addressed in this Addendum.

- 1) Are substantial changes proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?
- 2) Have substantial changes occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects?

- 3) Is there new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, that shows any of the following:
- (a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (b) Significant effects previously examined will be substantially more severe than shown in the previous EIR (or negative declaration);
  - (c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Pursuant to CEQA, this Addendum evaluates the Modified Project to determine whether circumstances are present that could require a supplemental environmental document. Based on the Addendum, County staff recommends that: (a) the Modified Project's impacts are within the scope of those analyzed in the FEIR for the Garden's Gate Subdivision Project that was reviewed and certified by the County; (b) the FEIR requires only minor changes, and (c) the FEIR provides a sufficient and adequate analysis of the environmental impacts of the Modified Project.

#### 5.1 "Substantial Changes in the Project" Standard

The Modified Project would not alter the uses originally proposed for the site (residential uses, streets, parks). The Modified Project includes fewer residential units and an overall decrease in density as compared to the project evaluated in the FEIR. The Modified Project is consistent with the General Plan and zoning designations for the project site.

The Modified Project includes changes to the proposed internal street layout and improves the project's connection to the existing County-maintained street network by eliminating the secondary access on Gobalet Lane and replacing it with an access located south of the proposed roundabout at the main entry to the project site.

The Modified Project retains open space and provides parkland along the eastern frontage of the site along South State Street and establishes a Neighborhood Park in this area, just south of the main entry road.

The Modified Project does not include the portion of the site encompassed by Lots 194, 195, 196 and 197 in the northwest corner of the site, as identified on the approved Vesting Tentative Map. The County has approved a Final Map for four lots in this location ("Tract 261") consistent with the certified FEIR and Garden's Gate Vesting Tentative Map and, consequently, there is no need to include this area in the Modified Project.

One of the requirements of CEQA is the examination of whether a proposed project would conflict with existing plans and regulations, including the general plan, zoning regulations, and other planning documents. Inconsistencies may suggest that a project would have environmental effects that have not been identified in advance, and for which planning or analysis has not occurred. As discussed in this Addendum, the Modified Project would be consistent with the Mendocino County General Plan, zoning regulations, the Ukiah Municipal Airport Land Use Compatibility Plan, the Ukiah Valley Area Plan, and other planning documents.

The proposed modifications to the approved Vesting Tentative Map would not result in any substantial changes from what has been previously analyzed and would not involve new significant impacts not identified in the FEIR or result in a substantial increase in the severity of previously identified significant impacts. The proposal, therefore, does not constitute a substantial change in the project.

### 5.2 "Substantial Changes in the Circumstances" Standard

Pursuant to Section 15162(a)(2) of the CEQA Guidelines, this section presents a discussion of whether changes to the project site or the vicinity have occurred subsequent to the certification of the FEIR that would result in new significant impacts or a substantial increase in the severity of a previously identified significant impact.

The only physical change to the project site that has occurred since the FEIR was certified is the removal of an on-site vineyard in 2021. This change was contemplated and addressed in the FEIR. For this reason, the Modified Project would not result in any substantial physical changes to the project site that would constitute a change in circumstances from what was identified for the original project approval that would affect any issue of environmental significance.

No substantial changes have occurred on the site or in the site vicinity. Surrounding land uses have not changed from those evaluated in the FEIR and development in the region has occurred at a slower pace than anticipated in the FEIR. Based on the environmental baseline identified in the FEIR, the physical changes to the project site and vicinity that have occurred are consistent with the analysis of the FEIR and the cumulative projects considered in the FEIR. There have been no substantial changes in the circumstances of the project as considered in the FEIR.

### 5.3 "New Information of Substantial Importance" Standard

Pursuant to Section 15162(a)(3) of the CEQA Guidelines, this section includes a discussion of whether the Modified Project would result in new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified. New information of substantial importance includes: (1) one or more significant effects not discussed in the previous EIR; (2) significant effects previously examined that are substantially more severe than shown in the previous EIR; (3) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (4) mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR and that would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Based on the passage of time since the FEIR was certified, the County of Mendocino required the project proponent to provide the following updated environmental analyses to determine whether there are significant effects not discussed in the FEIR or that are more severe than shown in the FEIR:

- Biological Resource Assessment (including wetlands delineation and tree inventory)
- Water Supply Verification
- Stormwater Control Plan
- Traffic Analysis
- Air Quality and Greenhouse Gas Assessment

The Modified Project's consistency with the environmental resource analysis in the FEIR is summarized in Section 6 "Environmental Factors," below. As discussed, the Modified Project would not result in any new significant effects not discussed in the FEIR. The project proponents have agreed to incorporate new or modified mitigations identified in these updated studies into the Modified Project and the mitigations are incorporated into an Amended Mitigation Monitoring and Reporting Program.

## 6. ENVIRONMENTAL FACTORS

### 6.1 Geology, Seismicity and Soils (FEIR, Chapter 3.1)

The FEIR determined that the plan area is in a seismically active region that includes major active fault systems capable of producing a maximum earthquake event of 6.7 or greater (Richter Magnitude) on the San Andreas fault. The EIR identifies mitigation measures to minimize seismic hazard risks and concludes that, if implemented, seismic hazards would be less than significant. The Modified Project would implement the same mitigation measures and federal and State requirements as those referenced in the FEIR to minimize seismic hazard risks (MM 3.1-A.1). There is no potential for new impacts associated with seismic hazards, beyond what was already evaluated and disclosed in FEIR. Therefore, implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR determined that excavation and grading for development would require a combination of engineered fill slopes, fill and cut slopes restrained by retaining walls, and cut slopes exposing soils and bedrock. The alteration of topography, combined with the natural geologic and soils limitations of the site, represents a potentially significant impact. The Geology section of the FEIR identifies mitigation measures to minimize impacts associated with soil erosion (MM 3.1A-1 and MM 3.1-B.1) and concludes that, if implemented, impacts related to soil erosion would be less than significant. In addition, the Hydrology section of the EIR addresses impacts related to soil erosion and sedimentation and concludes that, with implementation of MM 3.2-C.1 and MM 3.2-C.2, impacts associated with soil erosion would be reduced to a less than significant level.

The FEIR determined that during and after construction, cut slopes could fail due to the removal of toe support, and engineered fills and/or retaining walls could fail if improperly designed or constructed. As a consequence, damage could be caused to structures and their occupants could be harmed which is a potentially significant impact. However, with the implementation of required mitigation measures (MM 3.1-C.1, MM 3.1-C.2, MM 3.1-C.3, MM 3.1-C.4) to reduce the potential for slope failure, general and differential settlement, lurch cracking, sloughing, and other forms of instability as identified in the FEIR, this impact would be reduced to a less than significant level.

The FEIR concludes that the project site has locally expansive soils which extend to a depth of about four feet below existing ground surface and that the presence of expansive soils on the site is a potentially significant impact. The FEIR identified a mitigation measure requiring excavation and replacement of expansive soils in accordance with recommendations of a geotechnical engineer (MM 3.1-D-1). Compliance with the mitigations in the FEIR would reduce impacts associated with expansive soils to a less than significant level.

The Modified Project would be subject to the same geologic risks as the project evaluated in the FEIR and, with the implementation of the required mitigation measures, risks associated with soil erosion, geologic hazards such as lateral spreading, liquefaction, and landslides, and potential impacts associated with expansive soils would be minimized. Implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The Modified Project has a similar footprint and a lower intensity of development than the project analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR will be required as set forth in the MMRP and no considerably different mitigation measures that may substantially reduce impacts have been identified or rejected. The Modified Project does not propose substantial geological, seismic, or soils changes beyond those analyzed in the FEIR or require major revisions to the FEIR.

A minor modification to one mitigation measure is proposed to address the Modified Project. MM 3.1-C.2 is revised to eliminate the reference to the sidewalk extending to Oak Court Road as the connecting roadway was removed in the final approval of the Garden's Gate project. Furthermore, that portion of the site is not included in the Modified Project as a separate Final Map was recorded for the four parcels on

Tract 261. The reference to "10" hillside lots is removed as the configuration and number of the lots has changed in the Modified Project. These modifications do not alter the effectiveness of mitigation measure MM 3.1-C.2.

### Mitigation Measures - Geology, Seismicity and Soils

- MM 3.1-A.1** A final geotechnical report shall be prepared that incorporates the recommendations set forth in the 2005 RGH Report as modified by mitigation measures recommended in this EIR. The project applicant shall design project structures and foundations to withstand expected seismic forces in accordance with the California Building Code as adopted by the County of Mendocino. Since the project site is located within Seismic Zone 4, it is considered potentially seismically active. The County shall not issue building permits until seismic design criteria are reviewed and approved. During construction, adherence to design criteria shall be monitored, and a final report issued documenting conformance prior to occupancy.
- MM 3.1-B.1** Potentially unstable surface soils shall be remediated by strengthening the soils during site grading. The strengthening will be achieved by excavating the weak soils and replacing them as properly compacted engineered fill. All site grading and foundation construction shall follow the recommendations of the Geotechnical Engineer of Record for the project. The process will include excavation of surface soils and placement of all fill soils at a minimum of 90 percent compaction relative to the maximum dry density near the optimum moisture content as determined in accordance with ASTM D 1557. Site soils will be tested during construction by the Geotechnical Engineer of Record or by a Special Inspector to confirm that minimum standards are met. A final report documenting results of fill testing will be submitted to the County of Mendocino Department of Planning and Building Services and will be subject to the review of that department.
- MM 3.1-C.1** Cut and fill slopes should be designed and constructed as slope gradients of 2h:1v or flatter, unless otherwise approved by the Geotechnical Engineer-of-record in specified areas. The interior slopes of the retention basin should be inclined no steeper than 3h:1v. If steeper slopes are required, retaining walls shall be used. Fill slopes steeper than 2h:1v will require the use of a Geogrid reinforcing material to increase stability. Fill slopes shall be constructed by over-filling and cutting the slope to final grade. Graded slopes shall be planted with fast-growing, deep-rooted groundcover to reduce sloughing and erosion.
- Fills placed on terrain sloping at 5h:1v or steeper shall be continually keyed and benched into firm, undisturbed bedrock or firm soil. The benches shall allow space for the placement of select fill of even thickness under settlement sensitive structural elements supported directly on the fill.
- MM 3.1-C.2** Retaining walls shall be designed to retain planned cut slopes for the ~~40~~ hillside lots that exceed 2h:1v in slope steepness ~~and for the sidewalk between the project access and Oak Court Road~~. These cuts are planned to be as great as 13 feet in height. The Geotechnical Engineer-of-record shall provide revised recommendations for retaining walls if needed to meet current building code requirements. All retaining walls shall be designed by a State of California Registered Civil Engineer in accordance with requirements of the ~~2007~~ current edition of the California Building Code including seismic design considerations. Retaining wall design shall be reviewed by the County of Mendocino Department of Planning and Building Services to ensure conformance with state and local building code requirements.
- MM 3.1-C.3** Plan Review will be performed by the County of Mendocino Department of Planning and Building Services to ensure conformance with grading and drainage requirements. The

Geotechnical Engineer-of-Record shall prepare a geotechnical review letter documenting that the plans meet with the intent of geotechnical recommendations.

**MM 3.1-C.4** The Geotechnical Engineer of Record and/or Special Inspector shall perform construction observation and testing to ensure conformance with design requirements and geotechnical recommendations. Testing and monitoring shall include:

- Verification of compaction requirements for engineered fill and subgrade soils. Unless otherwise stated, all engineered fill shall be compacted to at least 90 percent of the maximum dry density at moisture contents above the optimum in accordance with ASTM D 1557 test method. Subgrade beneath foundations and pavement sections shall be additionally compacted to at least 95 percent of the maximum dry density at moisture contents near the optimum.
- Verification of the installation of subsurface drainage in accordance with project plans and specifications.
- Verification that footings are excavated into stable material and footing excavations are of sufficient depth and breadth to adequately support structures with minimal or no settlement.
- Materials Testing and Special Inspection of concrete, steel, asphalt, wood members and other structural elements to establish conformance with the design standards.
- Verification of correct installation of erosion control measures and adherence to the requirement of the approved Stormwater Pollution Prevention Plan (SWPPP) for the project.

**MM 3.1-D.1** Where spread footings are chosen for foundation support, weak, porous, compressible, and locally expansive surface soil shall be excavated to within 6 inches of their entire depth. Excavation of weak, compressible, and locally expansive soils shall extend a minimum of 12 inches below exterior concrete slabs and/or asphalt concrete pavement subgrade. These soils shall be replaced with select fill material. Additionally, excavation of weak, porous, compressible, expansive, creep-prone surface materials shall extend at least 5 feet beyond the outside edge of exterior footings of the proposed buildings and 3 feet beyond the edge of exterior slabs and/or pavements. These soils shall also be replaced with select fill material as described below.

Select fill material shall be free of organic matter, have a low expansion potential, and conform in general to the following requirements: 100% passing 6" sieve; 90-100% passing the 4" sieve; 10-60% passing the No. 200 sieve (all percentages by dry weight); LL-40 max; PI-15 max; R-value-20 min. The Geotechnical Engineer of Record shall approve imported material prior to use as compacted fill.

## 6.2 Hydrology and Water Quality (FEIR, Chapter 3.2)

The FEIR determined that development of the residential lots and accompanying streets and driveways in the Garden's Gate project would increase the amount of stormwater runoff into the existing drainage system which consists of an existing drainage ditch that runs along the southern boundary of the property and a stretch of Cleland Mountain Creek that runs through the northwestern corner of the property. The FEIR found that impacts related to sedimentation as a result of the development were potentially significant and identified MM 3.2-C-1 and MM 3.2-C.2 which, if implemented, would reduce potential impacts to a level of insignificance. The FEIR also found that episodic discharge of stormwater

contaminated with urban pollutants would be potentially significant and MM 3.2-D.1 and MM 3.2-D.2 were identified. The FEIR determined that, if implemented, these mitigation measures would reduce potential impacts on water quality to a level of insignificance.

The Modified Project includes an onsite stormwater system that relies on onsite detention, similar to the approved project, although the location of the stormwater detention facility has been modified. Whereas the approved project had stormwater detention facilities located in two onsite parks, the new plan relocates the detention basin to the new Neighborhood Park adjacent to South State Street between the two site access streets. The drainage system also collects stormwater along the southern boundary of the property and diverts it into the detention basin, rather than into the existing surface drainage ditch. An updated *Bella Vista Drainage Report & Stormwater Control Plan* (LACO Associates; March 2021) was prepared for the Modified Project ([Appendix A](#)). The *Stormwater Control Plan* describes and evaluates the drainage system, including the detention facilities, in the Modified Project to ensure that the project meets Mendocino County Standards for stormwater detention and the Mendocino County Low Impact Development Standards Manual.

The FEIR did not specifically address potential impacts of the project on groundwater supplies and/or groundwater recharge relative to groundwater management of the basin. The project would not directly impact groundwater supplies either through extraction (as no wells are proposed) or through reduced groundwater recharge as the stormwater management system would include facilities to recharge runoff back into the aquifer. The FEIR determined that Willow County Water District (WCWD) would provide potable water service to the project from its existing sources. WCWD has provided an updated will-serve letter for the Modified Project ([Appendix B](#)). WCWD's water sources include seasonal surface water rights and year-round rights to divert underflow from the Russian River as well as the contractual purchase of water from the Russian River Flood Control District.

The FEIR determined that during and after project construction, exposed slopes on site would be at increased risk of erosion and that such erosion could decrease the storage capacity of the onsite vault detention system. The FEIR also concluded that the proposed bridge crossing over Cleland Creek could result in the discharge of sediment into the creek. These impacts were deemed significant, however, with implementation of MM 3.2-C.1, MM 3.2-C.2, MM 3.2-D.1 and MM 3.2-D.2, the impacts would be less than significant. The Modified Project includes modifications to the stormwater collection and detention system. It would be required to comply with the mitigation measures presented in the FEIR and also with the recommendations presented in the *Bella Vista Drainage Report* ([Appendix A](#)). The Modified Project does not include the bridge crossing over Cleland Creek as the roadway extension to Oak Knoll Road was eliminated. Implementation of the Modified Project would not introduce new erosion impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR determined that the project would create new impervious surfaces, increasing the rate and amount of stormwater runoff which could contribute to flooding in the vicinity of the project site. The FEIR found that less than 0.5 acres of impervious surface from the development would drain into Cleland Mountain Creek, an amount which would not perceptibly alter peak flow rates. The FEIR found that the increased runoff into Cleland Mountain Creek would not perceptibly affect peak flow rates. Flooding impacts to Cleland Mountain Creek, both within and downstream of the project, would be less than significant. For the remainder of the site, however, potential downstream flooding was identified as a potentially significant impact. The FEIR indicates that most of the stormwater runoff generated by the project would flow into an existing drainage ditch that runs along the southern boundary of the property. The FEIR found that the proposed onsite stormwater detention facilities would manage flows to the southern drainage ditch and concluded that, unless the stormwater retention/detention facilities are properly designed, constructed and maintained, the project could cause flooding along the southern drainage ditch, which would be a potentially significant impact. Implementation of MM 3.2-A.1 and MM 3.2-A.2 was determined to reduce potential impacts to a less than significant level.

The Modified Project includes modifications to the onsite stormwater management system. The updated system does not discharge into the southern ditch, but rather into two detention basins on the eastern portion of the site adjacent to South State Street. The updated *Bella Vista Drainage Report* (Appendix A) includes specifications and recommendations to ensure that the stormwater collection and detention facilities are sized appropriately to prevent runoff that exceeds the capacity of existing or planned drainage systems. Therefore, implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR found that four of the proposed residential lots are located within the 100-year floodplain of Cleland Mountain Creek which crosses the northwest corner of the property (Lots 20, 21, 196 and 197). Flooding impacts were identified as a potentially significant impact and MM 3.2-B.1 identified two alternative means of reducing the impact to a less than significant level. The Modified Project does not include Lots 196 and 197 as they are part of Tract 261 (Oak Knoll, Unit One) for which a separate Parcel Map has been recorded. The lot configuration on the south side of the creek where Lots 20 and 21 were previously situated, is revised in the Modified Project. The new configuration includes four parcels (Lots 122, 123, 124 and 125) - however, per MM 3.2-D.2, these lots must be eliminated from the project and the project proponent has agreed to comply with that condition. Therefore, implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR did not evaluate whether the project would result in impacts that would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. The Modified Project would incorporate Best Management Practices (BMPs) from the updated Stormwater Control Plan. These standard measures would ensure, to the maximum extent practicable, that the Modified Project would not result in pollutants entering groundwater. Therefore, impacts would be less than significant, and no additional analysis is required.

In conclusion, the Modified Project does not change the type or extent of development analyzed in the FEIR. The Modified Project would be developed in compliance with the Mitigation Measures identified in the FEIR. The Modified Project does not propose substantial changes to the development that would affect hydrology and water quality beyond the effects analyzed in the FEIR or require major revisions to the FEIR.

Minor modifications are proposed for MM 3.2-A.1 and MM 3.2-A.2 to remove the references to maintenance of drainage vaults (as these features are replaced with detention basins in the Modified Project) and to remove the reference to Lots 20 and 21 and replace them with references to the analogous lots in the Modified Project. These modifications do not alter the effectiveness of the mitigation measures.

### Mitigation Measures - Hydrology and Water Quality

**MM 3.2-A.1** The project shall not cause flooding downstream of the project site, and post-development peak flows discharged to the 18-inch CMP storm drain beneath South State Street shall not exceed pre-development peak flows. At final project design, the applicant shall calculate the amount of runoff that will be generated by the developed, ~~southern~~ portions of ~~Lots 20 and 21~~, lots that drain into Cleland Mountain Creek and factor that increase into the analysis performed by Sandine and Associates to determine whether peak flow rates will remain below pre-development levels and the risk of flooding in the project site and off-site downstream will not be increased. If the post-project peak flow rates exceed the pre-development levels, the applicant shall increase the volume of the ~~vault system storage and/or~~ detention basin capacity to achieve the target peak flow discharge. The 18-inch storm drain facility beneath South State Street shall be located, inspected by video camera or other method, and a report submitted to the County Department of Transportation at the time of the final design of the subdivision storm drainage system,

substantiating the adequacy of the existing facility to accommodate the design runoff or recommending improvements necessary to the facility to adequately accommodate project runoff. Those recommendations shall be constructed.

**MM 3.2-A.2** As part of the Development Agreement, establish a Homeowners Association (HOA) maintenance agreement that details the provisions for regular monitoring of the ~~status of the vault and~~ detention pond storage capacities, as well as requirements for ~~vault and~~ detention pond cleanouts, when necessary, to maintain design stormwater storage levels. Establish a monitoring protocol that is acceptable to the County that monitors implementation of this maintenance, including a bond or other funding agreement that reimburses the County if the County is required to conduct required maintenance due to the HOA not implementing required maintenance.

**MM 3.2-B.1** The project shall not result in flooding of residences on the project site. To minimize the risk of flooding during the FEMA-designated 100-year base flood, the applicant shall implement one of the following alternatives:

A) Redesign the grading plan for Lots 21-22 and 196-197 in the vicinity of Cleland Mountain Creek so that building finished floor elevations are a minimum of one foot above the land surface elevations inferred by the FIRM Zone A SFHA mapping, or

B) Prepare a Letter of Map Revision (LOMR), accompanied by the appropriate technical documentation, and submit it to FEMA (or its sponsored contractor), to petition for a change in the FEMA SFHA designation for the project site. Required technical documentation would include an updated flood backwater profile modeling of Cleland Creek, including the proposed Plant Road bridge crossing, which was excluded from the original HEC-RAS analysis conducted by Sandine Associates. If the modeling results verify that the published FEMA mapping is inaccurate and that Lots 20-21 and 196-197 are outside of the redefined SFHA, then the lots could be developed as proposed, subject to possible regulatory restrictions or conditions imposed by the California Department of Fish and Game (CDFG) and the Mendocino County Water Agency (MCWA) for disturbance of the riparian corridor. If the modeling results verify that the published FEMA flood mapping was accurate, then Alternative A would be required for development of the lots. The same potential regulatory restriction or conditions imposed by CDFG or the MCWA would apply.

**MM 3.2-C.1** The project shall not cause significant erosion. The applicant shall submit a detailed Erosion Control Plan as part of the Stormwater Pollution Prevention Plan (SWPPP) to the Mendocino County Water Agency (MCWA) and to the State Water Resources Control Board (SWRCB), in conjunction with the filing of a Notice of Intent (NOI) with the SWRCB. The County shall not issue a Grading Permit until the County Water Agency agrees that the plan contains adequate Best Management Practices for controlling erosion.

At a minimum, the Erosion Control Plan shall include the following restrictions, guidelines, and measures: (1) grading and earthwork shall be prohibited during the wet season (typically October 15 through April 15) and such work shall be stopped before pending storm events during the spring-fall construction season; (2) erosion control/soil stabilization techniques such as straw or wood mulching, erosion control matting, and hydroseeding, or their functional equivalents shall be utilized in accordance with applicable manufacturers specifications and erosion control Best Management Practices (BMPs) published in the *California Stormwater BMP Handbook - Construction* (California Stormwater Quality Association, 2005) and/or similar proscriptions outlined in the *Erosion and Sediment Control Field Manual* (SF Bay RWQCB, 2002); (3) bales of hay or accepted

equivalent methods shall be installed in the flow path of graded areas receiving concentrated flows, as well as around storm drain inlets; (4) installation of silt fencing and other measures to segregate the active flow zone of Cleland Mountain Creek from the near overbank disturbance associated with bridge abutment construction; and (5) post-construction stormwater treatment measures.

These and other erosion control BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The applicant shall be responsible for implementing any remedial actions recommended by the County. After construction is completed, all drainage facilities shall be inspected for accumulated sediment, and these drainage structures shall be cleared of debris and sediment. Silt fence shall be left in place until the hydroseed has become established.

**MM 3.2-D.1** The project shall not cause substantial pollution of Cleland Mountain Creek or the Russian River. The applicant shall prepare an NOI and SWPPP for the project and incorporate the following additional site-appropriate BMPs or their equivalents for short- and long-term implementation by the Homeowners Association (HOA) and/or individual lot owners, in order to comply with the requirements of the NPDES General Permit and provisions of the Mendocino County Stormwater Management Program. The BMPs will result in stormwater leaving the site at least meeting the NCRWQCB water quality objectives for the Russian River. The SWPPP shall be approved by the Mendocino County Water Agency and the State prior to project construction.

- Impervious surfaces shall be minimized by using such techniques as driveway strips with bordering pervious pavement material (rather than a full paved driveway); using pervious materials for parking areas; directing runoff from rooftops and streets to landscaping buffers and/or recharge trenches.
- Install oil-grease separators at locations where street runoff enters the southern swale; or replace all or a portion of the detention pond outlet storm drain with a grass swale (i.e., bioswale) to enhance stormwater filtration of contaminants and increase local infiltration. The alignment of the drain-swale configuration could be adjusted to parallel the Plant Road entrance and then South State Street. The swale design should follow guidelines set forth by the North Coast RWQCB, or equivalent agencies (e.g., CA Stormwater Best Management Practice Handbooks, Construction Activity, Camp Dresser & McKee, et al., 1993). In particular, swale slopes and the swale base course material should be selected to allow adequate subsurface storage for the site soil characteristics.
- These and other BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The Homeowners Association shall be responsible for implementing any remedial actions recommended by the County. The applicant shall establish a monitoring protocol that is acceptable to the County that monitors implementation of these measures, including a bond or other funding agreement that reimburses the County if the County needs to conduct required maintenance due to the HOA not implementing required maintenance. The County can require that monitoring be done by a third party acceptable to the County; costs of all monitoring and any maintenance will be borne by the Homeowners Association.

Since the objective of erosion control and water quality treatment measures would be to reduce contaminant loading to the maximum extent practicable with implementation of the best available technologies, the recommended BMPs are not fixed. Other measures can

be applied as long as the applicant can demonstrate to the satisfaction of MCWA that those measures can provide equivalent levels of reduction in contaminant loading.

The applicant shall prepare a plan that describes the roles and responsibilities of the HOA, lot owners, and/or the County for implementing the BMPs and monitoring the results. If the County will be responsible for monitoring or implementing any actions, then a funding mechanism will be established. The County will review and approve this plan prior to the onset of construction.

- MM 3.2-D.2** Per the recommendations of the CDFG, Lots ~~21, 22~~, 121, 122, 123, 124 and ~~197~~ Lot 4 of Tract 261 shall be removed from the project in order to provide the minimum creekside buffer required to filter contaminants, including sediment, from stormwater runoff. These four lots may be relocated elsewhere in the subdivision in accordance with the Restated Development Agreement.

### 6.3 Biological Resources (FEIR, Chapter 3.3)

As part of the FEIR, the project study area was surveyed by the EIR botanist and the EIR wildlife biologist and four biological resource evaluations were prepared:

- Special Status Species Report-Botanical Survey (NCRM; September 14, 2005)
- Addendum to the Previously Submitted Botanical Report (NCRM; December 13, 2006)
- Biological Assessment of Garden's Gate Residential Subdivision (NCRM; November 15, 2005)
- Addendum to the Biological Assessment (NCRM; December 13, 2006)

In order to assess the biological resource impacts of the Modified Project, the following additional biological resource studies were prepared:

- *Biological Resource Assessment for the Bella Vista Subdivision Project* (Gallaway Enterprises; July 2021) (Appendix C, "BRA").
- *Technical Memorandum: Assessment of Biological Issues of the Bella Vista Subdivision Project in Relation to the Certified EIR for the Garden's Gate Project* (Gallaway Enterprises; July 2021) (Appendix D, "Technical Memo").
- *Tree Inventory Report* (Horticultural Associates; July 2021) (Appendix E; "Tree Inventory").
- *Draft Delineation of Jurisdictional Waters of the United States* (Gallaway Enterprises; June 2021) (Appendix F, "Wetlands Delineation").

**Special Status Species.** The FEIR concludes that the project site does not contain any special status species of plants or animals. However, the FEIR noted that the stretch of Cleland Mountain Creek on the project site may support native steelhead trout when there is water in the creek. The FEIR includes a mitigation requiring establishment of a Riparian Enhancement Area (MM 3.3-A.1), a mitigation requiring establishment of building envelopes and deed-restricted riparian setbacks on portions of Lots 20, 21 and 197 (MM 3.3-B.1), and a mitigation measure (MM 3.2-D.2) requiring Lots 20, 21 and 197 to be removed from the project in order to provide the minimum creekside buffer required to filter contaminants, including sediment from stormwater runoff. The FEIR includes two additional mitigations to address potential water quality impacts (MM 3.2-C.1, MM 3.2-C.2). The FEIR concludes that implementation of these mitigation

measures would reduce impacts to water quality and, therefore, to listed salmonid species, to a less than significant level.

The *BRA* determined that the site does not contain any Sensitive Natural Communities and that there are no federally- or state-listed botanical species present within the project site. The habitat assessment identified a lack of necessary habitat elements for special status plant species. The *BRA* determined that there is a low potential for occurrence of California Coastal Chinook salmon and Central California Coast Steelhead on the site when Cleland Mountain Creek is flowing (because it is hydrologically connected to the Russian River) and there is no potential for occurrence when the creek is dry. The *BRA* also identified a low potential for occurrence for Western pond turtles, grasshopper sparrows, and Townsend big-eared bats, and a moderate possibility of occurrence for pallid bats.

As noted below, the applicant incorporated a number of additional mitigation measures into the Modified Project as recommended in the *BRA* to ensure that the Modified Project would not introduce new special-status species impacts or create more severe special-status species impacts than those analyzed in the FEIR. These mitigations include MM 3.3-A.5 requiring a pre-construction/demolition bat survey prior to removal of the existing outbuilding, and MM 3.3-A.3 requiring a survey for western pond turtles if work is performed in the vicinity of Cleland Mountain Creek when water is present.

**Oak Woodland Habitat.** The FEIR notes that project construction would potentially remove up to 25 oaks and convert oak woodland habitat to urban uses. This was identified as a potentially significant impact. MM 3.3-A.1 requires establishment of a Riparian Enhancement Area that includes Lots 20, 21 and 197 and calls for replacement tree plantings at a 3:1 ratio for trees that are removed. This is a higher replacement ratio than that specified in Action Item Resource Management (RM) 28.1 of the County General Plan which provides a 2:1 mitigation planting ratio. Further, MM 3.2-D.2 requires that Lots 20, 21 and 197 be removed from the project and that no development be permitted in order to provide the minimum creekside buffer required to filter contaminants, including sediment, from stormwater runoff. The FEIR notes that these lots contain 24 Oregon white oak along with two Oregon ash trees and one California bay tree. It concludes that:

"By preserving most of the remaining large oaks and Oregon ash on the site and by replanting the most biologically sensitive and valuable portion of the site, the project would reduce impacts to oak woodlands (as well as to woodlands and riparian habitat) to a less than significant level."

As presented in Appendix E, a *Tree Inventory Report* (Horticultural Associates, July 2021) was prepared to survey the trees in areas on the site that would be affected by construction, to provide information about expected impacts of the Modified Plan, and to present recommendations based on a general review of tree health and structural condition. The report notes that a total of 11 native oaks will be removed and that the Oregon Ash trees will remain. MM 3.3-B.1 requires the replacement of oak and hardwood trees that are removed at a 3:1 ratio. The *Tree Inventory Report* notes that the mitigation trees may be used to vegetate the riparian creek setback corridor, in the Linear Park, or as part of the park along South State Street (Neighborhood Park).

**Riparian and Wetland Habitat.** The FEIR notes that the project site is hydrologically dry with no significant seeps or springs and it does not contain any vernal pools or wetlands. Rainfall infiltrates the relatively course and well-drained soils and either continues downward or laterally into small adjoining ephemeral drainages. The FEIR notes that two drainage channels (Cleland Mountain Creek and a ditch along the southern edge of the site) are likely to qualify as waters of the U.S., but neither feature supports any significant wetland or riparian habitat on the project site.

The FEIR states that the reach of Cleland Mountain Creek on the site is largely devoid of riparian vegetation except for a few willow saplings on the east end of the creek. It notes that:

"The Cleland Mountain Creek creekbed has important generic values as a part of the local riparian corridor even though the on-site reach has already been severely compromised [...]. (Garden's Gate Draft EIR, p. 107)

The FEIR states that a proposed bridge across the creek would have abutments constructed 20 feet from the top of the banks and no construction activity would take place on the banks or in the creek channel. Therefore, the EIR concludes that bridge construction would have no impact on the creek channel and a less than significant impact on creek resources. It is also noted that MM 3.3-A.1 would ensure protection of the creek and foster the enhancement of riparian habitat in the area, thereby further reducing potential impacts on creek resources to a less than significant level.

The FEIR concludes that, because the creekbed and banks would not be directly affected by the development, and because the creek does not currently support riparian habitat, the project would have a less than significant impact on riparian habitat. It notes that MM 3.3-A.1 and MM 3.3-B-1 would ensure protection of the creek and foster the development of riparian habitat in the area, further reducing potential impacts to the resource.

MM 3.2-D.2 requires the removal of Lots 20, 21 and 197 (now identified as Lots 121, 122, 123, 124 and Lot 4 of Tract 261) from the subdivision and remains applicable to the Modified Project. This will ensure that at least a 100-foot creek setback is secured as recommended by the California Department of Fish and Wildlife (CDFW). The mitigation is modified to include language indicating that the four lots may be relocated elsewhere in the subdivision in accordance with the Restated Development Agreement.

In the Modified Project, the bridge across Cleland Mountain Creek is eliminated from the design. A 12" water main will be installed in an easement that traverses the creek to connect to the existing water main on Oak Knoll Road. The area of temporary impact in the creek bed associated with the new water main is estimated by the project engineers to be 62 square feet. The alignment of the easement was selected to minimize impacts to trees and vegetation in the Riparian Enhancement Area. In addition, a *Wetlands Delineation* was prepared for the project site in June 2021 ([Appendix F](#)). The study found that Cleland Mountain Creek functions as an intermittent Tributary to Traditional Navigable Waters (i.e., the Russian River). The survey identified a total area of 251.93 square feet (0.006 acres) on site that is associated with the Cleland Mountain Creek drainage and classified as "waters of the United States."

The applicant has incorporated two new mitigation measures into the project (MM 3.3-A.6 and MM 3.3-A.7) to ensure that any required permits from CDFW and the U.S. Army Corps of Engineers be obtained prior to work within the creek channel. In addition, the applicant has agreed to new MM 3.3-A.2 which establishes that construction activities within Cleland Mountain Creek shall be limited to the dry season when no flowing water is present in the channel and that channel disturbance shall be kept to a minimum.

**Nesting Habitat.** The FEIR indicates the large trees in the Riparian Enhancement Area provide important nesting habitat. The remainder of the project site is currently vineyard or non-native grassland which does not provide valuable habitat. The FEIR concludes that development of the area along the creek would have a potentially significant impact on nesting habitat. It notes that implementation of MM 3.3-A.1 would reduce impacts to nesting habitat to a less than significant level.

The applicant has agreed to a new mitigation measure (MM 3.3-A.4) recommended by the *BRA* which places limitations on the removal of nesting habitat to avoid impacts to nesting birds and requires nesting surveys and coordination with CDFW if work is performed during the nesting season.

The *Technical Memo* concluded that:

"Changes in project design and implementation of the current project as compared to the previous project are minor and in some instances superior to the previously approved project, and do not result in any new significant environmental effects or a substantial increase in the severity of previously identified resources."

In conclusion, the Modified Project does not change the type or extent of development as analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR and MMRP would continue to apply and additional measures as recommended in the *BRA* have been incorporated into the project. The Modified Project does not propose substantial biological resource changes beyond those analyzed in the Garden's Gate EIR or require major revisions to the FEIR. Therefore, the Modified Project would not involve new or more severe biological resource impacts than those previously identified and analyzed in the FEIR.

### Mitigation Measures - Biological Resources

- MM 3.3-A.1** The applicant shall preserve water quality in Cleland Mountain Creek. A Riparian Enhancement Area that includes Lots ~~21, 22,~~ 121, 122, 123, 124 and ~~497~~ Lot 4 of Tract 261 shall be established to include all areas within a setback of 20 feet from the top of bank of this creek and deed restricted to prohibit grading, tree cutting, trash deposition, landscaping other than natural habitat restoration, storage of materials, filling, structures, dumping of chemicals, or disruptive activities. The applicant shall replant the Riparian Enhancement Area. The planting and maintenance of the plantings shall be conducted per a plan prepared by a qualified biologist. The replanting shall include riparian species along the creek and oaks, bay, and buckeye further from the creek. The plan shall include the planting of at least three replacement trees (of the same species as the tree removed) for each oak, bay, buckeye, and Oregon ash that is removed. Within the 20-foot riparian habitat setback, appropriate native ground covers and shrubs will also be established to filter runoff from developed portions of nearby lots. All plantings established under this plan shall be irrigated and replaced as needed as well as monitored by the plan preparer for a period of no less than 3 years to ensure successful establishment. The Riparian Enhancement Area shall be maintained by the HOA pursuant to this plan.
- MM 3.3-B.1** An assessment shall be conducted that determines the area and number of oaks and other native hardwoods that would be removed or adversely impacted as a result of project development on Lots ~~21, 22,~~ 121, 122, 123, 124 and ~~497~~ Lot 4 of Tract 261. Building envelopes on Lots ~~21, 22,~~ 121, 122, 123, 124 and ~~497~~ Lot 4 of Tract 261, as well as driveway and utility connection locations, shall be adjusted if needed to avoid loss or both short-term and long-term adverse effects on native trees. The area outside of these building envelopes shall be deed restricted to require maintenance of existing native trees, and prohibition of lawns and landscaping incompatible with long-term survival of these trees, while allowing pruning and removal of any dead or dying trees, dead limbs and brush, and any clearances required as needed to reduce wildland fire hazard. All removed hardwoods shall be replaced with the same species at a minimum replacement ratio of 3:1 within the 20-foot riparian setback zone along the top of the bank of Cleland Mountain Creek. A minimum 3-year monitoring plan shall track planted trees and replace all that are dead or dying.

In addition to Biological Resources MM 3.3-A.1 and MM 3.3-B.1, the applicant has agreed to implement the following additional mitigation measures that were identified in the *BRA*. These measures are not recommended to address new or more severe impacts to biological resources associated with the Modified Project as the impacts of the Modified Project on biological resources are similar to those

identified in the Garden's Gate EIR. These additional mitigation measures are recommended to implement best management practices that have evolved since the Garden's Gate EIR was certified,

- \*MM 3.3-A.2** Construction activities within Cleland Mountain Creek shall be limited to the dry season when no flowing water is present in the channel. Channel disturbance shall be kept to a minimum during construction activities within the channel and only occur within designated areas.
- \*MM 3.3-A.3** When water is present within Cleland Mountain Creek, a qualified biologist shall conduct a clearance survey to determine the presence or absence of western pond turtle individuals immediately prior to the start of work. If western pond turtles are observed where they could be potentially impacted by Project activities, then work shall not be conducted within 100 feet of the turtle(s) until a qualified biologist has relocated the turtle(s) outside of the Project boundary. If turtle eggs are uncovered during construction activities, then all work shall stop within a 25-foot radius of the nest and CDFW shall be notified immediately. The 25-foot buffer shall be marked with identifiable markers that do not consist of fencing or materials that may block the migration of young turtles to the water or attract predators to the nest site. No work will be allowed within the 25-foot buffer until CDFW has been consulted.
- \*MM 3.3-A.4** Removal of nesting habitat (for grasshopper sparrows, migratory birds and raptors) from the work area shall only take place between September 1 and January 31 to avoid impacts to nesting birds. If removal of nesting habitat is required during the nesting season, a nesting bird survey shall be conducted by a qualified biologist no more than 5 calendar days prior to disturbance. If an active nest is located, the biologist will coordinate with CDFW to establish appropriate buffers and any monitoring requirements. Removal of existing vegetation shall not exceed the minimum necessary to complete operations.
- \*MM 3.3-A.5** A pre-construction/demolition bat survey shall be conducted by a qualified biologist within 5 days prior to the removal of suitable bat habitat (i.e., existing outbuilding). Mature trees and the existing outbuilding present on the project site should only be removed between September 16 and March 15, outside of the bat maternity season. Trees should be removed at dusk to minimize impacts to roosting bats.
- \*MM 3.3-A.6** Prior to any discharge or fill material into waters of the U.S., authorization under a Nationwide Permit shall be obtained from the U.S. Army Corps of Engineers, if necessary. For fill requiring a Corps permit, a water quality certification from the Regional Water Quality Control Board shall also be obtained.
- \*MM 3.3-A.7** Prior to any activities that would obstruct the flow of or alter the bed, channel, or bank of any perennial, intermittent, or ephemeral creeks, notification of streambed alteration shall be submitted to the CDFW, and, if required, a Lake and Streambed Alteration Agreement shall be obtained.

#### 6.4 Cultural Resources and Tribal Cultural Resources (FEIR, Chapter 3.4)

As described in the FEIR, a cultural resources survey was conducted for the project site by North Coast Resources Management. The survey found one small trash dump dating to the 1940s to 1950s and concluded that it was not a potentially significant historic resource. The Mendocino County Archaeological Commission reviewed the survey report and determined that no additional surveying or analysis of the site was required. The FEIR concludes that, although the site does not appear to contain important historical resources, there remains a chance that cultural resources may be unearthed and damaged or

destroyed during site development, resulting in a potentially significant impact on a historical resource. Implementation of MM 3.4-A-1 would reduce this impact to a less than significant level.

The cultural resources survey prepared for the FEIR found one "very sparse lithic scatter" consisting of five Franciscan chert flakes and three Konocti obsidian flakes in one location on the site. Trenching was conducted to determine whether there were any subsurface deposits in the area, and there were not. The Mendocino County Archaeological Commission reviewed the cultural resources survey report and determined that no additional surveying or analysis of the site was required. The FEIR concludes that, although the site does not appear to contain important cultural resources, there remains a chance that cultural resources may be unearthed and damaged or destroyed during site development, resulting in a potentially significant impact on an archaeological resource. Implementation of MM 3.4-A-1 would reduce this impact to a less than significant level.

The FEIR determined that no paleontological resources or unique geologic features are known to exist within or near the project site, however subsurface construction activity could uncover previously undiscovered paleontological resources (i.e., fossils) which could result in a potentially significant impact. The FEIR concluded that implementation of MM 3.4-B.1 would ensure that, if paleontological resources are discovered, impacts would be less than significant.

The FEIR determined that no human remains or cemeteries are known to exist within or near the project site but subsurface construction activity could uncover previously undiscovered human skeletal remains which could result in a potentially significant impact. The FEIR concluded that implementation of MM 3.4-A.2 would ensure that, if human remains are discovered, impacts would be less than significant.

Tribal consultation under Assembly Bill 52 (AB 52) was not required at the time the FEIR was certified and the project approved. As part of the development review process for the Modified Project, tribal consultation efforts were conducted by the County of Mendocino pursuant to AB 52. This effort did not identify any significant Tribal Cultural Resources ("TCRs") meeting the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. As a result, the Modified Project would not impact known TCRs. The Modified Project is on the same site and has a similar footprint to the approved project. The Modified Project with the incorporation of applicable mitigation measures identified in the FEIR and incorporated into the MMRP, would not impact known TCRs and would not involve new significant or more severe impacts to TCRs than those associated with the project analyzed in the FEIR.

The Modified Project would be within a similar development footprint as that addressed in the cultural resources survey. The Modified Project would not change the type or extent of development as analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR will be required as set forth in the MMRP and no considerably different mitigation measures that may substantially reduce impacts have been identified or rejected. The Modified Project would not involve new significant or more severe cultural or tribal cultural resource impacts than those previously identified and analyzed in the FEIR. Furthermore, implementation of MM 3.4-A.1, MM 3.4-A.2 and MM 3.4-B.1 would ensure that any potential impacts to undiscovered historic, archaeological, or paleontological resources would be less than significant. Therefore, implementation of the Modified Project would not introduce new cultural resource impacts or create more cultural resources impacts than those analyzed in the FEIR.

### **Mitigation Measures - Cultural Resources**

**MM 3.4-A.1** If cultural resources are discovered on the site during construction activities, all earthmoving activity in the area of impact shall be halted until the applicant retains the services of a qualified archaeological consultant. These archaeological sites will be documented (by a professional meeting the Secretary of the Interior qualification standards) on DPR (Department of Parks and Recreation) forms and evaluated for their eligibility for the California Register. The archaeological consultant shall identify specific measures to mitigate impacts to the resource if it is deemed eligible for the California

Register. Mitigation shall include data recover operations, protection in situ of deposits, and/or archival research, if appropriate. The applicant shall abide by the recommended proposals.

- MM 3.4-A.2** In the event that human skeletal remains are discovered, work shall be discontinued in the area of discovery and the County Coroner shall be contacted. If skeletal remains are found to be prehistoric Native American remains, the Coroner shall call the Native American Heritage Commission within 24 hours. The Commission will identify the person(s) it believes to be the "Most Likely Descendant" of the deceased Native American. The Most Likely Descendant would be responsible for recommending the disposition and treatment of the remains. The Most Likely Descendant may make recommendations to the landowner or the person responsible for the excavation/grading work for means of treating or disposing of the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.
- MM 3.4-B.1** During project grading operations, should any undiscovered evidence of paleontological resources be encountered, work at the place of discovery shall be halted, and a qualified paleontologist shall be consulted to assess the significance of the finds. Prompt evaluations can then be made regarding the finds, and a management plan consistent with CEQA cultural resources management requirements shall be adopted.

## 6.5 Transportation (FEIR, Chapter 3.5)

The FEIR determined that traffic generated by the project would have a less than significant impact on congestion at study area intersections and at the US 101/South State Street interchange. The FEIR also found that the proposed project access roadway connection to Oak Knoll Road would have acceptable sight lines and that the additional traffic on Oak Knoll Road and South Dora Street related to the project was less than significant and would pose no hazards for pedestrians. Prior to approval of the project and the Development Agreement, the site access road to Oak Knoll Road was eliminated from the project as requested by neighboring property owners.

An updated traffic study was prepared for the Modified Project (*Traffic Analysis for the Bella Vista Housing Project*; WTrans, March 2021; see [Appendix G](#)). The traffic study concludes that the Modified Project would have a net reduction in trip generation due to the reduction in housing units (from 197 to 171 homes) and the designation of 39 homes as age-restricted. The traffic study also evaluated potential impacts based on updated traffic volumes and found that impacts would be less than significant.

The traffic study evaluated the Modified Project's connections to Mendocino Transit Authority (MTA) transit stops and found that additional improvements should be constructed in conjunction with the roundabout at the project entry to ensure safe pedestrian access to the existing bus stop on Plant Road and that the applicant should work with MTA to investigate the feasibility of an additional southbound MTA stop in the site vicinity. MM 3.5-F.1 is revised to reflect the fact that an MTA bus stop on Plant Road now exists (it did not exist when the Garden's Gate EIR was certified). This bus stop provides both service to and from the site vicinity to locations to the north in the City of Ukiah and beyond. The modifications to this condition do not alter the effectiveness of the mitigation measure in addressing the need for safe and convenient connections to public transit for project residents. Implementation of the Modified Project would not introduce new circulation system impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR does not evaluate the project's consistency with the guidance in CEQA Guidelines Section 15064.3(b) regarding significance thresholds for transportation impacts. This section, which requires lead agencies to base impact analyses on "vehicle miles travelled" (VMT) was added in 2018 to implement

Senate Bill (SB) 743. The FEIR determined that the project would not have any congestion-related impacts on streets and intersections in the study area.

The *Traffic Analysis for the Bella Vista Housing Project* includes an analysis of the Modified Project using the regional baseline VMT threshold adopted by the Mendocino Council of Governments (MCOG). The MCOG baseline study included a review of the approved Garden's Gate project as a test case for applying the recommended approach, which compares the VMT per service population (based on the number of residents and employees) in the project's traffic analysis zone (TAZ) to the VMT in the corresponding sub-regional area. The analysis determined that the Garden's Gate project is consistent with the General Plan and Regional Transportation Plan and with the Suburban Residential zoning designation in the Ukiah Valley Area Plan. Using MCOG's screening tool, it was determined that the Ukiah Adjacent sub-regional mean VMT was 27.2, and the recommended threshold was 23.3, 14.3 percent below the sub-regional mean. The VMT per service population for TAZ 770, which includes the project site, is 17.3, which is 25.8 percent below this threshold. Based on this analysis, the transportation impact of the project was determined to be less than significant. Since the Bella Vista project is located within the same footprint as the Garden's Gate project and has the same land use and a lower density, it would be expected to have a similar or lower VMT per service population. Therefore, the impact of the Modified Project would be less than significant.

The FEIR determined that the proposed roundabout at the project's entry could have a potentially significant impact unless designed to accommodate turning and through movements by large vehicles. MM 3.5-C.1 addresses the need for review and approval by the County Department of Transportation. The FEIR also indicates that the proposed bus pullout location on the project site poses safety concerns and MM 3.5-F.1 requires relocation of the internal bus stop. The Modified Project does not include an on-site transit stop but rather, relies upon the existing northbound bus stop on Plant Road that did not exist at the time the Garden's Gate EIR was certified.

The *Traffic Analysis for the Bella Vista Housing Project* recommends that a pedestrian walkway be constructed between the project entry/roundabout and the existing bus stop on Plant Road and that the applicant work with the MTA to investigate the feasibility of providing a bus stop for southbound bus service within walking distance of the project site. The traffic study concludes that, with the inclusion of pedestrian improvements and provision of access to a southbound bus stop near the site, the Modified Project would have a less than significant impact in terms of program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. Implementation of the Modified Project would not introduce new traffic safety hazards impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR determined that the emergency access to the project site, which included access via a roundabout to be constructed at the intersection of South State Street/ Plant Road, and a secondary access via a connection from an interior street to Gobalet Lane, just north of the project was sufficient. In the Modified Project, the primary access remains at the proposed roundabout, however the secondary access would be located approximately 500 feet south of the roundabout rather than via Gobalet Lane.

Resolution No. 09-230, adopted by the County Board of Supervisors on October 6, 2009, certified the FEIR and indicated that "an alternative mitigation has been proposed by the developer and has been approved by the Ukiah Valley Fire Protection District that such an alternative mitigation including fire sprinklers will adequately address fire protection." Further, the Conditions of Approval associated with the approved project indicated that "in lieu of an emergency evacuation access, the developer agrees to provide fire sprinklers in all structures and will continue to seek an alternative access to the south of the project." As required in the Conditions of Approval, the site plan identifies future connections along the south side of the project, providing stubs for roadway connections to future development on the adjoining parcels.

Since the Modified Project is consistent with the required mitigations in the FEIR and the physical distance between the two project access points is greater than in the previously approved project, the project is expected to have a less than significant impact related to emergency access. Therefore, implementation of the Modified Project would not introduce new emergency access impacts or create more severe impacts than those analyzed in the FEIR.

The Modified Project would generate less traffic than the approved project. A traffic analysis based on VMT concluded that the Modified Project would have a less than significant impact on regional traffic volumes. The project, with the implementation of applicable mitigation measures previously identified in the FEIR, as set forth in the MMRP, would have less than significant transportation impacts. The Modified Project does not propose substantial transportation changes beyond those analyzed in the FEIR or require major revisions to the FEIR. It would not involve new significant or more severe transportation impacts than those previously identified and analyzed in the FEIR.

### Mitigation Measures - Transportation

- MM 3.5-C.1** The project applicant shall design the proposed South State Street/Plant Road roundabout to accommodate all existing and anticipated buses and large trucks. Turning template diagrams shall be provided to the County Department of Transportation for the largest bus and trucks anticipated to be using the roundabout.
- MM 3.5-F.1** ~~The proposed bus stop internal to the project site shall be relocated to the outside of the Plant Road curve in order that all patrons will enter/exit by the bus via a sidewalk, and not the middle of the street. The bus stop shall be covered and protected from the wind. To provide access for project residents to the existing Mendocino Transit northbound bus stop on Plant Road across from the project site, a pedestrian walkway shall be constructed between the proposed roundabout at South State Street/ Plant Road-Charlie Barra Drive and the bus stop. The applicant shall also work with Mendocino Transit Authority to investigate the feasibility of providing a bus stop for southbound bus service within walking distance of the project site.~~
- MM 3.5-I.1** The applicant and/or future site developers shall pay the adopted Ukiah Valley Area Transportation Impact Fee at the time that building permits are issued.

### 6.6 Air Quality (FEIR, Chapter 3.6)

The Mendocino County Air Quality Management District (MCAQMD) is not required to prepare or implement an air quality plan, however, it is responsible for enforcing State and federal air quality regulations. Because the County does not have an air quality plan, no impacts would occur with regard to potential conflicts with an applicable air quality plan. The FEIR notes that the MCAQMD has prepared a PM<sub>10</sub> Attainment Plan and that implementation of the project would not obstruct or affect implementation of this plan. The Modified Project is on the same site, is the same use, and has a lower density than the project previously analyzed in the FEIR and, similarly, no impacts would occur with regard to potential conflicts with an applicable air quality plan.

The FEIR identifies Mendocino County as a federal attainment area or unclassified for all criteria pollutants and a State attainment area or unclassified for all pollutants, except for PM<sub>10</sub> for which the area is classified as nonattainment with respect to State standards. The FEIR analyzed emissions related to construction and found that maximum daily emissions from construction activities are lower than their respective significance thresholds for all pollutants except for PM<sub>10</sub>. Project generated construction-related emissions of PM<sub>10</sub> could cause local increases in dust generation that could exceed air quality standards, and adversely affect sensitive receptors if not mitigated. This impact was identified as potentially significant if not mitigated. Mitigation Measure 3.6-A.1 was proposed to require implementation

of a dust control program. The FEIR found that implementation of the mitigation measure would reduce the impact to a less than significant level.

An updated *Air Quality and Greenhouse Gas Assessment* ("AQ/GHG Assessment") was prepared for the Modified Project. It is included in Appendix H (Illingworth & Rodkin, Inc.; January 2021). The updated *AQ/GHG Assessment* prepared for the Modified Project evaluates construction-related emissions and operational emissions related to traffic and energy usage. The *AQ/GHG Assessment* compares the Modified Project with the previously approved project and evaluates consistency with current air quality standards. The *AQ/GHG Assessment* concludes that Maximum Daily Average Project Emissions for all pollutants, including PM<sub>10</sub>, are below the applicable MCAQMD thresholds. The Modified Project's emissions are significantly lower than those modeled for the previously approved subdivision for all pollutants except reactive organic gases (ROG), and ROG emissions remain substantially below current MCAQMD thresholds.

The *AQ/GHG Assessment* calculates daily and total annual emissions from the Modified Project and compares them to the emissions modeled for the previously approved project. In all cases, the operational emissions for the Modified Project are lower than those presented in the FEIR and well below the MCAQMD thresholds. Based on the updated analysis of air quality impacts presented in the *AQ/GHG Assessment*, the Modified Project would not introduce new environmental impacts or create more severe environmental impacts than those analyzed in the FEIR.

The FEIR indicates that the portion of the North Coast Air Basin within MCAQMD's jurisdiction is an attainment area for all federal and State standards for criteria pollutants and ozone precursors except for PM<sub>10</sub>. The FEIR found that, while exceedances of the PM<sub>10</sub> standard had not occurred over the prior three years in Ukiah, cumulative buildout under the Draft 2007 Ukiah Valley Area Plan is projected to result in exceedances of the significance threshold for PM<sub>10</sub>. However, the FEIR notes that the significance criterion applies to discrete projects and there is no criterion for groups of projects. The FEIR notes that the project's contribution to the cumulative impact is 1.8% and that the project is consistent with the MCAQMD's Particulate Matter Attainment Plan. Therefore, the FEIR concludes that the project's contribution to cumulative air quality impacts is less than significant. It is noteworthy that, when the Ukiah Valley Area Plan was adopted in 2011, the Board of Supervisors approved a Statement of Overriding Considerations related to the cumulative impacts of development in the Ukiah Valley on air quality.

The Modified Project is on the same site as the project previously analyzed in the FEIR and fewer residential lots are proposed. In addition, the Modified Project is being constructed at a later date than that which was assumed in the FEIR and improvements in technology and more stringent regulatory requirements will result in lower emission factors for construction equipment than previously identified. Therefore, construction impacts associated with the Modified Project would be similar or less than the FEIR construction analysis and the Modified Project would not result in construction-related cumulative impacts.

The Modified Project would result in lower emissions of each criteria air pollutant than the previously approved project except for ROG and would individually not exceed the applicable MCAQMD Thresholds of Significance. Therefore, the operational cumulative impact related to criteria pollutants and ambient air quality would be less than significant.

The FEIR assessed whether the project would expose sensitive receptors to substantial pollutant concentrations. It concluded that project-generated construction related emissions of PM<sub>10</sub> could cause local increases in dust generation that could exceed air quality standards and adversely affect sensitive receptors if not mitigated. The impact is reduced to a less than significant level with implementation of Mitigation Measure 3.6-A.1 which requires a dust control program to limit construction emissions of PM<sub>10</sub>.

The FEIR concluded that mobile source emissions generated by project traffic would increase carbon monoxide (CO) concentrations at intersections in the project vicinity, however since none of the

intersections affected by project-related traffic were operating at or were projected to operate at unacceptable Levels of Service (LOS E or F), CO concentrations are not expected to significantly increase as a result of project traffic. Therefore, the impacts of carbon monoxide hotspots on potential sensitive receptors were deemed less than significant.

The Modified Project is on the same site as the project previously analyzed in the FEIR and has a similar footprint and density. As with the previously approved project, the Modified Project would be a temporary source of air pollutant and Toxic Air Contaminant (TAC) emissions during construction. The *AQ/GHG Assessment* performed a health risk assessment of project construction activities to evaluate the potential health effects to nearby sensitive receptors from construction emissions. The modeling indicates that the unmitigated maximum increased cancer risks and maximum annual PM<sub>2.5</sub> concentrations from construction would not exceed the BAAQMD threshold that is used by the MCAQMD. Therefore, the Modified Project would not introduce new environmental impacts or create more severe environmental impacts than those analyzed in the FEIR.

The FEIR concluded that the project would not create objectionable odors affecting a substantial number of people. No impacts would occur. The Modified Project is on the same site and includes similar uses as the project previously analyzed in the FEIR. As such, the Modified Project would not create objectionable odors affecting a substantial number of people. No additional analysis is required.

Air quality impacts associated with the Modified Project would be consistent or lesser than those identified in the FEIR analysis. The Modified Project is on the same site and is substantially the same use and density as the project analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR and MMRP will be required and additional measures to further reduce air quality impacts have been incorporated into the Modified Project. The Modified Project would not result in substantial air quality changes beyond those analyzed in the FEIR or require major revisions to the FEIR.

### Mitigation Measures - Air Quality

- MM 3.6-A.1** The project applicant and construction contractor shall for all construction project phases prepare and implement a dust control program to limit construction emissions of PM<sub>10</sub>. The program shall include at least the following provisions from MCAQMD Rule 1-430 Fugitive Dust. Because the site is over one acre in size, a Grading Permit must be approved by MCAQMD, and MCAQMD may require additional mitigations.
- a. Covering open bodied trucks when used for transporting materials likely to give rise to airborne dust.
  - b. The use of water or chemicals for control of dust in the demolition of existing buildings or structures.
  - c. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions.
  - d. All unpaved surfaces, unless otherwise treated with suitable chemicals or oils, shall have a posted speed limit of 10 miles per hour.
  - e. Earth or other material that has been transported by trucking or earth moving equipment, erosion by water, or other means onto paved streets shall be promptly removed.
  - f. Asphalt, oil, water or suitable chemicals shall be applied on materials stockpiles, and other surfaces that can give rise to dust emissions.
  - g. All earthmoving activities shall cease when sustained winds exceed 15 miles per hour.

- h. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours.
- i. The operator shall keep a daily log of activities to control fugitive dust.

The Modified Project would result in air quality impacts that are similar to or less than those evaluated in the FEIR and there have been no changed circumstances that would merit additional mitigations. However, the applicant has identified four additional measures that will be incorporated into the Modified Project to implement best management practices relating to dust control and construction impact mitigation as follows:

- \*MM 3.6-A.2** The proposed development will require the preparation of a detailed grading and erosion control plan subject to review and approval by the County prior to earth moving activities (Municipal Code section 18.70.060 – Grading Permit Requirements). Grading will be completed in compliance with County standards.
- \*MM 3.6-A.3** Dust control rules and regulations as required by the MCAQMD will be adhered to (Rule 1-200, 1-400(a), 1-410, 1-420, 1-430). These regulations minimize fugitive dust particle during construction. Measures imposed by the MCAQMD include, but not limited to:
  - All visibly dry disturbed soil surfaces shall be watered to minimize fugitive dust.
  - Installation of a “stabilized construction entrance/exit” as detailed in the Department of Transportation storm water handbook (TC-1) will be utilized.
  - Earth or other material tracked on to neighboring paved roads shall be removed promptly.
  - Dust generating activities will be limited during periods of high winds (over 15 mph).
  - Access of unauthorized vehicles onto the construction site during non-working hours shall be prevented.
  - A weekly log shall be kept of fugitive dust control measures that have been implemented.
  - Restrict idling of diesel engines on the site to less than 5 minutes.
  - All haul trucks transporting soil, sand or other loose materials off-site shall be covered.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure title 13, Section 2485 of the California Code of Regulations). Clear signage shall be provided for construction workers at access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - Post a publicly visible sign with telephone number for the applicant’s representative regarding dust complaints. This person shall respond and take corrective action within 48 hours. The MCAQMD phone number shall also be visible to ensure compliance with applicable regulations.

- \*MM 3.6-A.4** All off road construction equipment with engines greater than 50 horsepower (hp) and operating on the site for more than two days or 20 hours shall meet, at a minimum, U.S. EPA particulate matter emission standards for Tier 4 engines or equivalent. In the event that such equipment is not available, the use of Tier 3 construction equipment is sufficient so long as it can be demonstrated to the County that similar Tier 4 construction equipment is not readily available.
- \*MM 3.6-A.5** The applicant shall submit a Construction and Demolition Waste Management Plan (CWM) to the Mendocino Solid Waste Management Authority prior to the start of construction-related activities in accordance with Mendocino Solid Waste Management Authority requirements (Ordinance 4301). The CWM will outline measure to capture and recycle materials that would otherwise end up in the waste stream.

### 6.7 Energy & Greenhouse Gas Emissions (FEIR, Chapter 3.6)

The FEIR describes the types of energy consumption that would result from the project during construction and operation and concludes that there is no evidence that the proposed project would cause wasteful or inefficient use of energy. It also concludes that the proposed project is not of sufficient size to generate a substantial increase in energy use. Nevertheless, the FEIR identifies the GHG increase related to the project, albeit a relatively small increase, as a potentially significant cumulative impact because "any increase in emissions from today's levels makes achievement of statewide GHG reduction goals by Mendocino County difficult to impossible to attain." MM 3.6-F-1 requires the project to implement a variety of energy efficient design measures including compliance with energy performance standards for Title 24, and installation of a solar system to offset electrical use by facilities owned or managed by the Homeowner's Association. The FEIR concluded that, even with implementation of mitigation, the project's GHG emissions would result in a significant and unavoidable cumulative impact on the global climate. When it certified the FEIR and approved the Garden's Gate subdivision project, the Board of Supervisors adopted a Statement of Overriding Considerations finding that "the benefits of the project in providing housing outweigh the impacts associated with the emission of greenhouse gases."

The FEIR determined that development of the project would comply with California's "Energy Efficiency Standards for Residential and Nonresidential Buildings" and would not result in the wasteful use of energy. The Modified Project will also be required to comply with State regulations which limit idling from both on-road and off-road diesel-powered equipment during construction and the State's Title 24 energy efficiency standards for residential buildings.

At the time the FEIR was prepared, the State of California had not prepared GHG significance thresholds, therefore the FEIR adopted the conservative significance threshold of zero new GHG emissions based on the belief that: (1) all GHG emissions contribute to global climate change and could be considered significant, and (2) not controlling emissions from smaller sources would be neglecting a major portion of the GHG inventory. The FEIR found that construction-related GHG emissions would be potentially significant with the concrete alone resulting in direct emission of 7,388 tons of CO<sub>2</sub>e. Construction-related GHG emissions are identified as a significant and unavoidable impact. Additionally, the FEIR found that project operation would use energy and thereby generate GHG emissions that would adversely affect the global climate. With implementation of MM 3.6-F.1, the FEIR found that the project's overall GHG emissions would be approximately 2,114 tons of CO<sub>2</sub>e per year (GHG emissions expressed as equivalent to carbon dioxide). While the FEIR found that the project itself is too small to have a significant impact on global climate change, it found the project's incremental impact on GHG emissions to be a significant and unavoidable cumulative impact on the global climate.

An updated *Air Quality and Greenhouse Gas Assessment* (Illingworth & Rodkin, Inc.; 1/19/21) was prepared for the Modified Project and is included in Appendix H. The updated study ("AQ/GHG

*Assessment*") found that GHG emissions associated with the Modified Project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, energy and water usage, and solid waste disposal. Emissions for the Modified Project were predicted in the *AQ/GHG Assessment* using the methodology recommended in the BAAQMD CEQA Air Quality Guidelines that MCAQMD recommends. The CalEEMod model (version 2016.3.2) was used to model GHG emissions associated with electricity usage that are based on the expected electricity consumption of the new residences combined with the anticipated emissions rate reported for the utility company providing the electricity.

GHG emissions associated with construction of the proposed land uses were computed to range from about 400 to 600 metric tons of CO<sub>2</sub>e per year under the modeled construction scenario. The total construction period emissions were computed as 1,019 metric tons. These are the emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the County nor MCAQMD have an adopted threshold of significance for construction-related GHG.

Following construction, emissions would occur on a nearly continuous basis as the project operates through traffic generation, energy usage, water usage, and waste generation. The CalEEMod model was used to predict annual emissions associated with operation of the fully-developed project, both for the approved project and for the Modified Project. The operational emissions were assumed to be at the highest levels in 2026 if built out and fully occupied by that time. The Modified Project emissions are reflective of the GHG reduction features that the applicant has incorporated into the Modified Project. Modified Project emissions would be over 450 metric tons per year lower than the approved project.

Since the Modified Project would have fewer residential units and would cause less traffic, the *AQ/GHG Assessment* found that GHG emissions would be less than those identified in the FEIR for the Garden's Gate Subdivision. Furthermore, the Modified Project would include additional features to reduce GHG emissions that were not included in the Garden's Gate project. The Modified Project would not introduce new environmental impacts or create more severe environmental impacts related to GHG emissions than those analyzed in the FEIR.

As noted above, at the time the FEIR was prepared and certified, there were no adopted plans, policies and regulations for GHGs. Nevertheless, the FEIR conservatively established a "net zero" threshold whereby any increase in GHG emissions was deemed to be a significant and adverse impact. In approving the project, the Mendocino County Board of Supervisors adopted a Statement of Overriding Considerations relating to GHG emissions.

The *AQ/GHG Assessment* found that GHG emissions for the Modified Project would be less than those identified in the FEIR for the Garden's Gate Subdivision. Furthermore, the Modified Project would include additional features to reduce GHG emissions that were not included in the Garden's Gate project. The Modified Project would not introduce new environmental impacts or create more severe environmental impacts related to GHG emissions than those analyzed in the FEIR.

The Modified Project would have fewer residential units than the project analyzed in the FEIR. The Modified Project would have lower GHG emissions than those analyzed in the FEIR and therefore, the Modified Project would not involve new significant or more severe energy or GHG emission impacts than those previously identified and analyzed in the FEIR.

Applicable mitigation measures previously identified in the FEIR will be required as set forth in the MMRP. MM 3.6-F.1 is modified to eliminate the requirements for solar hot water heaters and a photovoltaic solar electric system to be owned and operated by the HOA. The intended benefits of these components would be addressed by two new mitigation measures proposed by the applicant for the Modified Project. New mitigation measure MM 3.6-F.2 requires compliance with standards of Title 24 of the California Building Code (CBC). The CBC has been updated substantially with regard to energy conservation since the FEIR

was certified. All new single-family residences are now required to have solar panels. In addition, the Modified Project would be an all-electric project and, per MM 3.6-F.3, it would have no natural gas hook-ups. The proposed revisions to MM 3.6-F.1 would not result in any change in the effectiveness of the mitigations for the project, but rather the revisions, coupled with new mitigation measures MM 3.6-F.2 and MM 3.6-F.3 reflect the updated approach to energy conservation that is incorporated into the Modified Project.

### Mitigation Measures - Energy & Greenhouse Gas Emissions

**MM 3.6-F.1.** The project shall minimize the emission of greenhouse gases by including at least the following:

- ~~Install solar hot water heaters with a back-up electric water heater.~~
- The project shall be constructed to incorporate the 2010 Title 24 building standards (or whatever standards have been adopted at the time that building permits are issued).
- ~~The project shall include a photovoltaic (PV) solar electricity system that will be owned and operated by the Homeowner's Association for the benefit of the future residents. The system will be sized sufficiently so that it totally offsets electrical use from project parks, recreational facilities, and other facilities owned or managed by the Homeowner's Association.~~
- Project residential units shall be oriented for maximum solar access. Roofs shall be constructed to allow easy and efficient retrofitting with roof-top solar panels.
- The project applicant shall ensure that the CC&Rs of the Homeowner's Association develops and maintains energy- and water-efficient practices for the common areas of the subdivision and follows a landscaping plan that does not impair the efficient operation of the solar collection facilities.

In addition to the above mitigation measure from the FEIR, the applicant for the Modified Project has identified the following measures that will be incorporated into the Modified Project to further reduce Energy and GHG-related impacts:

**\*MM 3.6-F.2** All residences would be constructed in accordance with the most recent edition of Title 24 of the California Building Code (CBC). The CBC contains mandatory requirements that apply to residential buildings that will be a part of the project which include high performance attics insulation and walls, high efficacy lighting, windows, water heating and HVAC systems. Specific energy conservation features include:

- Structures will incorporate natural cooling by utilizing window overhangs, awnings, front and rear patios, shade from neighboring structures, radiant heat-reflective barriers in the attic and appropriate tree plantings or a combination thereof.
- Structures will be constructed in compliance with solar requirements found in Title 24 of the California Building Code.
- Project will incorporate Energy Star Certified Appliances. At a minimum, the following appliances are recommended to be Energy Star rated: dishwasher and water heater.
- Natural lighting may be incorporated into the home through solar tubes and sky lights.
- Windows, sky lights and other fenestration will meet energy code requirements and will be Energy Star certified. These elements will have low U-factor (U-value)

rating. U-factors is a rate of non-solar heat loss or gain through a while window assembling. The lower the U-factor, the greater a window's resistance to heat flow and the better its insulating value.

- Project will incorporate the use of low flow toilets and faucets that meet the standards as set forth by the California Energy Commission.
- All landscaping will be installed to AB 1881 (The Water Conservation in Landscaping Act of 2006) standards, which promotes water efficiency and conservation, using mulch, bubblers, and timed sprinkler systems.

**\*MM 3.6-F.3** The following features shall be included in the Modified Project to reduce GHG emissions:

- No fireplaces;
- Include solar power for each of the residential lots;
- No natural gas hook-ups;
- Include infrastructure to promote electric car charging (i.e., provide 220VAC outlets);
- Meet latest CalGreen Title 24 standards);
- Include energy-efficient appliances;
- Include low-flow water fixtures; and
- Include water-efficient irrigation systems (drip systems).

## 6.8 Noise (FEIR, Chapter 3.7)

The FEIR determined that the easternmost residential units in the project could be exposed to future exterior noise levels of up to 62 Ldn due to motor vehicle traffic on South State Street. The FEIR found that, further west, sound levels would comply with the 60 Ldn exterior noise standard due to shielding from intervening structures and noise reduction with increasing distances. MM 3.7-A.1 requires project-specific acoustical analysis to ensure that measures are incorporated, if necessary, to ensure that indoor and outdoor noise levels do not exceed standards for residential uses. This mitigation would apply to the Modified Project and ensure that impacts are reduced to a less than significant level. Therefore, implementation of the Modified Project would not introduce substantial temporary or permanent noise impacts beyond those analyzed in the FEIR.

The FEIR found that construction of project improvements would generate construction noise over a period exceeding one year and that such impacts would be potentially significant. MM 3.7-C-1 was identified to reduce construction-related noise impacts to a less than significant level. This mitigation would apply to the Modified Project and ensure that impacts are reduced to a less than significant level. Therefore, implementation of the Modified Project would not introduce construction-related noise impacts beyond those analyzed in the FEIR.

The FEIR determined that the project would not be expected to generate groundborne vibration or noise and, thus, would not generate any vibration-based impacts. Similarly, the Modified Project would have no groundborne vibration or noise impacts.

The FEIR determined that the project site is outside of the 55 CNEL contours associated with the existing and future operations of the Ukiah Municipal Airport. The FEIR concluded that airport noise alone would be compatible with the planned residential uses, according to the County's noise standards, however, when combined with motor vehicle noise from South State Street, the FEIR concluded that aircraft noise

could increase the margin by which noise compatibility levels are exceeded. MM 3.7-A.1 requires project-specific acoustical analysis to ensure that measures are incorporated, if necessary, to ensure that indoor and outdoor noise levels do not exceed standards for residential uses. This mitigation would apply to the Modified Project and ensure that impacts are reduced to a less than significant level. Therefore, implementation of the Modified Project would not introduce substantial temporary or permanent noise impacts beyond those analyzed in the FEIR.

The Modified Project does not include changes in use or density beyond those analyzed in the FEIR. Applicable mitigation measures identified in the FEIR will be required as set forth in the MMRP and no considerably different mitigation measures that may substantially reduce impacts have been identified or rejected. The Modified Project would not result in substantial noise and vibration impact changes beyond those analyzed in the FEIR and major revisions to the FEIR would not be required.

### **Mitigation Measures - Noise**

**MM 3.7-A.1** Project-specific acoustical analyses shall be required to confirm that outdoor activity areas are provided with Ldn values at or below 60 dBA, and interior Ldn values will not exceed 45 dBA. Sound insulation measures, including any mechanical ventilation systems needed to permit closed windows, should be designed by an experienced acoustical consultant and incorporated into construction documents submitted for permits.

**MM 3.7-C.1** Project construction shall not cause excessive noise. To accomplish this standard, the following measures are required:

- Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way should be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. No construction activities should occur on weekends or holidays.
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios, CD players, etc. to a point that they are not audible at existing residences bordering the project site.
- Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Notify existing residents when especially noisy operations are scheduled near their property, allowing the residents to plan activities accordingly. Examples of especially noisy sources: heavy earth moving equipment, jack hammers, pile drivers.

### 6.9 Aesthetics, Light and Glare (FEIR, Chapter 3.8)

The FEIR determined that, while the vineyard and open space on the project site are scenic, such views are common visual resources in the Ukiah Valley and the County has not defined the site as having identified scenic vistas. Therefore, the FEIR concluded that the project would not adversely affect a scenic vista. The Modified Project has a similar footprint to the previously approved project.

U.S. 101 to the east of the project site is not a designated State Scenic Highway and, therefore, the FEIR concluded that the potential for damage to scenic resources within the viewshed of a State Scenic Highway would be less than significant. Additionally, there are no rock outcroppings or historic buildings on the site. The Modified Project is similar to the previously approved project that was evaluated and disclosed in the FEIR.

The FEIR considered the change in public views across the site from South State Street and other vantage points to the east of the site. Existing views of open space and vineyards would be replaced with views of residential development. The FEIR concluded that the project would change the visual character of the area by extending the developed area of Ukiah onto the project site and would have a potentially significant impact on views from the east due to the fact that the project site serves as a southern "gateway" to the City. The FEIR found that adherence to the proposed design guidelines and proposed landscaping plans would reduce the impact on views from the east to a less than significant level. However, since the County does not have a design review process or landscaping standards, the FEIR identified two mitigation measures (MM 3.8-A.1 and MM 3.8-A.2) to establish design and landscaping requirements. The FEIR also evaluated the project's impact on views from locations to the south, east and north of the site. It concluded that development of the subdivision would have a less than significant impact on views from the south (i.e., residences along Stipp Lane and other residences to the south), views from the east, and views from upper elevations to the northwest (i.e., residences along Oak Knoll Road and possibly residences at upper elevations to the northwest). The FEIR found that the impacts on these views were acceptable as the County has long designated the site for residential development, thereby accepting that there would be an eventual loss of open space views on the project site. The FEIR found that the change in views from Gobalet Lane immediately north of the project site would be potentially significant because the proposed residential structures adjacent to Gobalet would include three-story buildings. The FEIR concluded that, with implementation of the two mitigation measures, that impact would be less than significant. The Modified Project would have similar impacts on views from the east as the previously approved project, although the frontage on South State Street would be enhanced by the relocation of the neighborhood park to an area along South State Street immediately south of the main entry road. Views from the south and the northwest would be similar to those evaluated in the FEIR. The Modified Project would not include the three-story buildings next to Gobalet Lane, so the visual impact from that vantage point would be less than significant. Implementation of the Modified Project would not introduce new visual impacts or create more severe visual impacts than those analyzed in the FEIR.

The FEIR concluded that the project would introduce new sources of nighttime lighting that would be noticeable to residents living near the site and to drivers along South State Street. This was identified as a potentially significant impact. MM 3.8-F.1 requires a lighting plan that minimizes light escape from the site and the lighting plan is required to be included in the Declaration of Covenants, Conditions and Restrictions (CC&Rs) for the Homeowners Association. The Modified Project would produce sources of nighttime lighting similar to those analyzed in the FEIR. Therefore, implementation of the Modified Project would not introduce new nighttime lighting or create more severe nighttime lighting impacts than those analyzed in the FEIR.

The Modified Project does not propose a change in use, an increase in density, or a change in the extent of development as analyzed in the FEIR. The Modified Project does not propose substantial visual

changes beyond those analyzed in the FEIR or require major revisions to the FEIR. Therefore, the Modified Project would not involve new significant aesthetic impacts or more severe aesthetic impacts than those previously identified and analyzed in the FEIR. No additional analysis of Aesthetics is required.

### **EIR Mitigation Measures - Aesthetics, Light and Glare**

- MM 3.8-A.1** Final project design and landscape plan shall undergo design review by the County Department of Planning and Building Services and/or the County Planning Commission to ensure consistency with the design guidelines adopted for this project. The final project shall be revised, if requested, to comply with the County's review recommendations.
- MM 3.8-A.2** Landscaping will be mature within 15 years of initial project construction (Phase 1). Mature means that perimeter trees shall be at least 20 feet tall. The final landscape plan shall include tree landscaping along the north and east sides of the site using species that fully screen views from the east and screens at least half of the buildings on the north side. The plan shall include specifications for planting, irrigating, fertilizing, and replacing dead trees so that the landscaping will be mature within 15 years.
- MM 3.8-F.1** The final design shall include a lighting plan that minimizes light escape from the site. The final plan shall become part of the CC&Rs for the Homeowners Association. This plan shall include the following:
1. *Light shielding is required.* Except as otherwise, exempt, all outdoor lighting fixtures shall be constructed with full shielding. Shielding shall prevent the light source from being visible to adjacent residential properties.
  2. *Minimum/Maximum Level of Illumination.* The minimum and maximum levels of illumination permitted are listed below. A photometric study listing the number type, height, and level of illumination of all outdoor lighting fixtures shall be required prior to issuance of a building permit or site improvement plans to ensure compliance with these provisions.
    - a. Minimum security lighting for sidewalks, walkways, parking areas, and similar areas shall be 1.0 foot-candles, measured at ground level, not to exceed 4.0 foot-candles on average.
    - b. In order to minimize light trespass on abutting property, illumination measured on the property line of a subject parcel shall not exceed 0.5 foot-candles, measured on a vertical plane along the property line.
    - c. Building-mounted decorative or security lights shall not exceed 5.0 foot-candles, measured a distance of five feet from the light source. All building lighting shall be reviewed and authorized by Mendocino County prior to the initiation of lighting installation.
  3. *Maximum Height of Outdoor Light Fixtures.* The maximum height of freestanding outdoor light fixtures for multi-family residential development and non-residential development abutting a single-family residential zoning district or use shall be 20 feet. Otherwise, the maximum height for freestanding outdoor light fixtures shall be 25 feet.
  4. *Type of illumination.* All outdoor lighting fixtures shall be energy efficient. Energy efficient lights include all high-intensity discharge lamps (mercury vapor, high-pressure sodium, low-pressure sodium, and metal halide). The concentrated and/or exclusive use of either low-pressure sodium or metal halide lighting is prohibited.
  5. *Hours of illumination.* Automatic timing devices shall be required for all outdoor light fixtures on multi-family residential and no-residential development (e.g., parks) with off

hours (exterior lights turned off) between 11:00 p.m. and 6:00 a.m. Exceptions are that outdoor lights may remain on in conjunction with the hours of operation of the corresponding use, for security purposes, or to illuminate walkways, roadways, equipment yards, and parking lots.

6. *Prohibited Lighting.* The following outdoor light fixtures shall be prohibited as specified below.
  - a. Lighting of parks for active nighttime recreation.
  - b. Up-lighting/back-lit canopies or awnings.
  - c. The concentrated and/or exclusive use of either low-pressure sodium or metal halide lighting.
  - d. Neon tubing or band lighting along building structures.
  - e. Searchlights.
  - f. Flashing lights.
  - g. Illumination of entire buildings. Building illumination shall be limited to security lighting and lighting of architectural features authorized by the designated Approving Authority in conjunction with required development permit(s).
  - h. Roof-mounted lights except for security purposes with motion detection and full shielding so that the glare of the light source is not visible from any public right-of-way.

#### 6.10 Utilities and Service Systems (FEIR, Chapter 3.9)

The FEIR determined that the project would contribute to the need for the Willow County Water District (WCWD) to replace and expand an existing water storage tank located on Fircrest Drive. The FEIR indicated that the storage tank project was underway and included MM 3.9-H.1 requiring the developer to pay a capital improvement fee to WCWD to fund the project's share of the expanded water storage tank. The mitigation would reduce the impact to a less than significant level. The FEIR identified the proposed installation of a water line connecting the existing water main in South State Street with the water main in Oak Knoll Road which would provide a more reliable looped water system for the surrounding area as well as the project site.

A Water Supply Verification for the Modified Project prepared for WCWD (Appendix I; *Bella Vista Development - Water Supply Verification*; Luhdorff & Scalmanini; 09/09/21) found that the District currently has adequate water storage capacity to provide for operational storage, fire safety, and emergency storage.

The FEIR determined that the project would increase the demands for water by approximately 100,000 gallons of water per day, but it would not result in a need for new water entitlements. The WCWD approved a "will serve" letter for the project (dated June 7, 2005) indicating that it will supply water to a 210-unit subdivision on the project site. WCWD's conclusions regarding the adequacy of water supplies were confirmed by the State Department of Health Services in 2007.

The WCWD provided an updated "will serve" letter stating that it can and will supply water for the Modified Project (Appendix B; *09/14/21 letter from J. Walker; Willow County Water District*). The updated "will serve" letter was issued based on a Water Supply Verification for the project that was prepared for WCWD (Appendix I; *Bella Vista Development - Water Supply Verification*). The *Water Supply Verification* concluded that, even with water supply reductions such as those implemented in 2021 due to the drought, WCWD has sufficient water supply to serve the Modified Project. Therefore, implementation of the

Modified Project would not introduce new water demand impacts or create more severe impacts that would prevent WCWD from providing sufficient water supplies beyond those analyzed in the FEIR.

The FEIR determined that the project would have a less than significant impact on the Ukiah Valley Sanitation District (UVSD) treatment and disposal system. The UVSD had issued a will-serve letter to the project and no mitigation was required beyond the payment of UVSD connection fees. The UVSD issued an updated "Capacity to Serve" letter for the Modified Project (Appendix J; UVSD Capacity to Serve Sewer for Bella Vista Subdivision; 03/11/21). Implementation of the Modified Project would not introduce new wastewater treatment capacity impacts or create more severe impacts than those analyzed in the FEIR.

The applicable natural gas, electrical power, and telecommunications providers would serve the Modified Project, similar to the project analyzed in the FEIR. Therefore, implementation of the Modified Project would not result in the need for relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities or create more severe impacts than those analyzed in the FEIR.

The FEIR indicated that the Ukiah Valley Transfer Station had a permitted capacity of 400 tons per day, but currently received an average of 120 to 130 tons of solid waste per day. The amount of household waste generated by the project was estimated to represent an approximately 0.7% increase in the average that was handled at the Ukiah Valley Transfer Station. The projects impact on solid waste facilities was determined to be less than significant. Implementation of the Modified Project would not increase the amount of solid waste entering the waste stream or create more severe impacts than those analyzed in the FEIR.

The FEIR indicated that the project and other new development in the project vicinity would be required to comply with applicable, federal, State, and local regulations related to solid waste and future development would not impede the ability of the Ukiah Valley Transfer Station to meet waste diversion requirements or violate other applicable regulations related to solid waste and no impact would occur. Implementation of the Modified Project would not introduce new solid waste impacts or create more severe impacts beyond those analyzed in the FEIR.

The Modified Project would not change the type or extent of development allowed under the approved project as analyzed in the FEIR. Development of the Modified Project would be in accordance with the mitigation measures identified and analyzed in the FEIR. The Modified Project does not include substantial changes to utilities beyond those analyzed in the FEIR or require major revisions to the FEIR.

### **Mitigation Measures - Utilities and Service Systems**

**MM 3.9-H.1** The applicant shall enter into an agreement with the Willow County Water District to pay a capital improvement fee (estimated at \$400,000) to fund the project's share of the replacement and expansion of the Fircrest Drive water storage tank.

### **6.11 Public Services (FEIR, Chapter 3.9)**

The FEIR determined that fire protection services for the project would be provided by the Ukiah Valley Fire District (UVFD) and that the project would increase demands on the UVFD but would not require the construction of new facilities. The FEIR further concludes that, if a new fire station is needed in the future, it could be constructed without having significant and unavoidable impacts and no mitigation is required. The Modified Project would place similar demands on the UVFD as the approved project. Therefore, implementation of the Modified Project would not introduce new fire protection service impacts or create more severe fire protection service impacts than those analyzed in the FEIR.

The FEIR concluded that the addition of 197 new residential units would increase the demand for police response from the County Sheriff's Office and from the Ukiah Police Department if mutual aid is required. The FEIR concluded that this impact was less than significant and that the project would not require new police facilities or the expansion of existing police facilities and police service impacts would be less than significant. The FEIR identified MM 3.9-C.1 which required review of the final project design by the Sheriff's Office to ensure adequate security measures are incorporated. The Modified Project would not result in an increase in demand for police protection services beyond that previously analyzed in the FEIR.

The FEIR determined that the project, at buildout, would generate approximately 85 new school-aged students, most of whom would attend schools within the Ukiah Unified School District. The FEIR indicates that there is sufficient excess capacity and new school facilities would not be needed to accommodate project-generated students. The FEIR determined that school service impacts were determined to be less than significant. The Modified Project has fewer residences than the approved project and 29 of those residences are age-restricted, thus the impact of the Modified Project on schools would likely be less than that of the approved project. Therefore, implementation of the proposed project would not introduce new school service impacts or create more severe school service impacts than those analyzed in the FEIR. No additional analysis is required.

The FEIR determined that the project, plus other potential development would increase demands on the Emergency Medical Service (EMS) system in the Ukiah Valley and that, absent funding solutions to ensure the continuation and growth of a quality EMS system, the project could have a potentially significant impact on the EMS system. MM 3.9-F.1 was identified to address short-term funding shortfalls. The FEIR indicates the mitigation reduces the impact to a less than significant level. The Modified Project would not increase demands on the EMS system beyond those evaluated in the FEIR for the approved project. It would not introduce new impacts or create more impacts to EMS system than those analyzed in the FEIR. No additional analysis is required.

The Modified Project does not change or intensify the land use analyzed in the FEIR. Development of the Modified Project would be in subject to the mitigation measures identified in the FEIR and the approved MMRP. The Modified Project does not pose substantial public service impacts beyond those analyzed in the FEIR or require major revisions to the FEIR. Therefore, the proposed project would not involve new significant or more severe public service impacts than those previously identified and analyzed in the FEIR. No additional analysis is required.

### **Mitigation Measures - Public Services**

- MM 3.9-C.1** The final project design shall be reviewed by the Sheriff's Office to determine if it provides adequate access, security lighting, and other factors affecting police response. The final map shall incorporate security measures required by the Sheriff's Office.
- MM 3.9-F.1** If the County has not adopted additional funding for the EMS system at the time of approval of the Development Agreement, then the applicant shall agree within the Development Agreement to pay any fees that the County adopts for EMS funding prior to and/or within five years of approval of the Development Agreement.

### **6.12 Recreation (FEIR, Chapter 3.9)**

The approved project includes a 1.4-acre park near the main entrance that would be open to the public. The park would have open areas and landscaping for passive recreation activities and small gatherings. In addition, a 0.9-acre park located in the interior of the site would provide open space and seating areas. The FEIR found that the proposed facilities do not meet the active recreational needs of the new residents and that increased use of existing parks and recreation facilities could lead to overuse and deterioration of these

facilities which is a potentially significant impact. The FEIR includes MM 3.9-M.1 and MM 3.9-M.2 which require inclusion of playground equipment and payment of a County park "in-lieu fee" which would reduce the impacts on recreation facilities to a less than significant level.

The Modified Project includes a revised layout for on-site recreation facilities, however it would be subject to the Mitigation Measures identified in the FEIR and the adopted MMRP. The Modified Project does not include a change in use or an increase in residential densities that could increase demands and result in deterioration of parks and recreation facilities. Therefore, implementation of the Modified Project would not introduce new impacts to park or recreational facilities or create more impacts than those analyzed in the FEIR. The FEIR concluded that the project's increased demand on recreation facilities would not have an adverse physical effect on the environment and no impacts would occur.

The Modified Project does not include a change in use or increase in development intensity that potentially could result in a significant increase in recreational facility use or demand that would necessitate the need for new or expanded facilities not previously contemplated in the FEIR. Therefore, implementation of the Modified Project would not introduce new impacts or create more impacts than those analyzed in the FEIR.

The Modified Project would not increase demands for recreational facilities beyond that analyzed in the FEIR. Development of the Modified Project would be in accordance with the Mitigation Measures identified in the FEIR and incorporated into the MMRP. The Modified Project does not propose substantial development changes beyond those analyzed in the FEIR or require major revisions to the FEIR. It would not involve new significant or more severe recreation impacts than those previously identified and analyzed in the FEIR.

The Modified Project does not propose changes in land use or development intensity that could potentially result in an increase in park demand not previously contemplated in the FEIR. This precludes the potential for the proposed project to introduce new or more severe impacts than those evaluated in the FEIR. Therefore, implementation of the proposed project would not introduce new park service impacts or create more severe park service impacts than those analyzed in the FEIR.

As noted below, MM 3.9-M.2 allows the developer to pay a "park in lieu fee" to address recreation impacts if such a fee was established by 2012. It is recommended that this mitigation be revised to eliminate the reference to payment of in lieu fees as the County has not established a park in lieu fee program. Additional text is incorporated into MM 3.9-M.2 to ensure that the playing area within the proposed Neighborhood Park is of a sufficient size and dimensions for use as a youth soccer field. The requirement to notify future homebuyers that the park may be developed with an active playfield is eliminated because the Modified Project includes development of the Neighborhood Park in the first phase of the project. The revisions to MM 3.9-M.2 do not reduce the effectiveness of the mitigation measure in offsetting impacts identified in the FEIR. As noted above, the impacts of the Modified Project on recreation are similar to those of the project analyzed in the FEIR and, in fact, elimination of the option to pay an in lieu park fee ensures that recreational facilities will be developed onsite in the Modified Project.

### **Mitigation Measures - Recreation**

- MM 3.9-M.1** Construct and maintain a "tot lot" with playground equipment on one of the two project parks. The tot lot will be maintained by the Homeowner's Association.
- MM 3.9-M.2** ~~The project applicant will agree to pay the County's park in lieu fee when the County adopts the fee program. If the County has not adopted such a fee by 2012, then the applicant will be required to construct the soccer field or ballfields. The applicant shall notify in writing all future homebuyers on the project that the park may be developed with an active playfield at some point in the future. The Neighborhood Park and the contours of the detention basin shall be modified to establish suitable terrain for a multi-purpose playing field that provides a minimum of 100' x 200' of level playing area.~~

### 6.13 Hazards and Hazardous Materials (FEIR, Chapter 3.9)

The FEIR determined the residential uses proposed in the project would not involve routine use, storage, transport, or disposal of the types or amounts of materials considered hazardous. Typical residential uses would consist of commonly used household cleaners, pesticides, solvents and petrochemicals. However, the use would not occur in significant amounts and no impacts are anticipated. The Modified Project has the same uses as those evaluated in the FEIR and would be anticipated to also result in no impacts related to the use, storage, transport or disposal of hazardous materials.

The FEIR indicates that a Phase I Environmental Site Assessment was prepared for the project. The report describes potential hazards associated with former fuel storage facilities on the site, old septic systems and unused water wells. The Phase I Environmental Site Assessment contains recommendations to address potential toxic materials on the site. The FEIR identifies the risk of exposure to toxic materials as a potentially significant impact that, with implementation of MM 3.9-R.1, would be reduced to a less than significant level. The Modified Project has the same uses as those evaluated in the FEIR and would be anticipated to have the same level of impact.

The FEIR concludes that, because the project would not include the use, transport, or storage of hazardous materials, there would not be a release of such material near a school. Therefore, the FEIR determined no impact would occur. The Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR indicates that the project site is located in an area that is designated Zone C, "Common Traffic Pattern" by the Mendocino County Airport Comprehensive Land Use Plan (CLUP) which addresses airport safety and viability as well as community safety and compatibility. The CLUP allows residential development up to 15 units per acre in this zone and determined that residential uses would not face significant hazards from aircraft use at the airport. The impact was deemed less than significant in the FEIR and no mitigation was required.

An updated CLUP was adopted in May 2021 ("UKIALUCP"). As shown on Exhibit 4 - Airport Combining Zones, the UKIALUCP designates a sliver of land adjacent to State Street (where the Neighborhood Park is situated in the Modified Project) as Zone 2 "Inner Approach/Departure Zone." To the west of that, a swath of the project site is designated Zone 3 "Inner Turning Zone"/Urban Overlay, and to the west of that, the site is designated Zone 6 "Traffic Pattern Zone." The Risk Level in Zone 2 is high. In Zone 3, it is moderate to high. In Zone 6, it is low.

On December 16, 2021, the Airport Land Use Commission evaluated the consistency of the Modified Project with the UKIALUCP. Policy 2.3.5(b) of the UKIALUCP addresses the ALUC's review of revisions to previously authorized projects and identifies the following types of changes that could raise questions as to the validity of earlier findings of consistency:

- (1) For residential uses, any increase in the number of dwelling units to a level exceeding the criteria set forth in this UKIALUCP unless the increase is a development by right. The Modified Project proposes to decrease the number of units from 197 units in the previously approved project to 171 units.
- (2) Any increase in the height of structures or other design features such that the height limits established herein would be exceeded or exceeded by a greater amount. The Modified Project would have all one- and two-story residences. The previously approved project had residences that ranged from one to three stories in height.
- (3) Major site design changes (such as incorporation of clustering or modifications to the configuration of open land areas proposed for the site) if site design was a factor in the initial review of the project. The Modified Project incorporates lands along the South State Street frontage of the site into the

project. This frontage area was previously not a part of the project. The Modified Project identifies two large parcels along the frontage: Parcel A (68,219 SF) and Parcel B (86,549 SF). Under the Modified Project, no development is proposed on Parcel A. Parcel B would be developed with a Neighborhood Park that would also function as a stormwater detention basin. This use would comply with both the sitewide and single-acre Intensity limitations.

- (4) Any new design features that would create visual hazards (e.g., certain types of lights, sources of glare, and sources of dust, steam, or smoke). The Modified Project does not include features that would create visual hazards.
- (5) Any new equipment or features that would create electronic hazards or cause interference with aircraft communications or navigation. The Modified Project does not include new equipment or features that would create electronic hazards or interference with aircraft communications or navigation.
- (6) Addition of features that could attract wildlife that is potentially hazardous to aircraft operations. The Modified Project does not include new features that could attract wildlife that is potentially hazardous to aircraft operations. The ALUC considered the possibility of the detention basin attracting birds and determined that the facility would only hold standing water for short periods of time during and following rain events.

The ALUC determined that the Modified Project is consistent with the UKIALUCP based on the purpose and intent of the Airport Compatibility Zones 2, 3, and 6, as well as the information presented to the ALUC. Per the recommendation of the ALUC, a condition will be added to the project approvals requiring recordation of an aviation easement on all parcels located in zones 2 and 3.

The FEIR indicated that the project site, adjacent to South State Street and near Highway 101 ramps, has good access for emergency response and evacuation. The FEIR notes that the project's street system extends to Oak Knoll Road which would provide an additional emergency response and evacuation route. The FEIR concluded that the project's impact on emergency response and evacuation is less than significant and no mitigation is required. When the project was approved by the County Board of Supervisors, the internal street connection to Oak Knoll Road was eliminated in lieu of a requirement that all of the residences have automatic fire sprinklers. The Modified Project includes enhanced access to South State Street by relocating the secondary access to the south end of the site (instead of utilizing Gobalet Lane). The primary access would be through a new roundabout aligned with the Plant Road intersection, similar to the site access for the approved project. Implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The Modified Project would not change the type or extent of development analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR will be required as set forth in the MMRP and no considerably different mitigation measures that may substantially reduce impacts have been identified or rejected. Development of the Modified Project does not pose substantial hazards beyond those analyzed in the FEIR or require major revisions to the FEIR.

### **Mitigation Measures - Hazards and Hazardous Materials**

**MM 3.9-R.1** All potential toxic wastes and materials shall be removed and/or remediated prior to site grading. The applicant shall do the following as recommended in the Phase I Environmental Site Assessment:

- Abandon any inoperable water supply wells on the site following all the requirements of the Mendocino County Division of Environmental Health.
- Collect soil samples in the area of the former underground storage tank and the aboveground fuel storage tank. The soil samples shall be tested for Total Petroleum Hydrocarbons (as gasoline) and the constituents benzene, toluene, ethylbenzene,

xylenes, fuel oxygenates, lead scavengers, and total lead. Results of the testing shall be provided to the Mendocino County Division of Environmental Health. If the Division determines that additional testing or remediation is required, the applicant shall fulfill all County requirements.

- If volatile organic compounds are discovered on the site, a human health risk assessment will be performed per requirements of the County Division of Environmental Health. That assessment will identify measures needed to ensure that workers and future residents are not exposed to County- and State-defined harmful levels of these compounds.
- Dispose of any waste oil, lubricants, paints, or other liquids in accordance with all applicable regulatory requirements.
- Investigate the fuel source for the prune dryer that formerly was located on the west side of the site to determine its fuel sources. If it was gasoline, then conduct soil tests at that site as describe above.
- Assess whether the workshop/storage building has the potential for lead paint or asbestos. If so, then demolition shall follow all requirements established by the Mendocino County Division of Environmental Health.

#### 6.14 Wildfire (FEIR, Chapter 3.9)

The FEIR determined that the project site has good access for emergency response and evacuation due to its adjacency to South State Street and proximity to US 101. The FEIR found that the project's impact on emergency response and evacuation plans was less than significant and no mitigation was required. The Modified Project is on the same site and has a lower density and intensity of development than the project analyzed in the FEIR. Therefore, implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR identified the portion of the project site on the hillsides to the west of the area to be developed as a high fire hazard area. While the project evaluated in the FEIR did not encroach upon the high fire hazard area, the FEIR identified its adjacency as a potentially significant fire risk. With implementation of MM 3.9-O.1 which requires the project to be designed and constructed to comply with Ukiah Valley Fire District requirements, the FEIR concluded that impacts related to wildfires would be reduced to a less than significant level. The Modified Project is on the same site and has a lower density and intensity of development than the project analyzed in the FEIR. The Modified Project would be required to implement MM 3.9-O.1 thus lowering the risk of loss, death, or injury because of wildfire. Therefore, implementation of the Modified Project would not introduce new impacts or create more severe impacts than those analyzed in the FEIR.

The FEIR determined that emergency access to the site is sufficient and that the project would not require emergency water sources because sufficient water supplies would be provided by WCWD. New electrical power and other utility lines would be installed in accordance with required codes and utility regulations. Therefore, the Modified Project would not increase fire risk due to installation or maintenance of associated infrastructure and impacts would be less than significant.

The Modified Project does not include a change in the type or increase in the intensity of development on the site as analyzed in the FEIR. Applicable mitigation measures previously identified in the FEIR will be required as set forth in the MMRP and no considerably different mitigation measures that may substantially reduce impacts have been identified or rejected. The Modified Project would not involve new significant wildfire hazard impacts and no additional analysis is needed.

**Mitigation Measures - Wildfires**

**MM 3.9-O.1** The project shall be designed and constructed to minimize risk of wildfire destroying residences. The Ukiah Valley Fire District shall review project plans and determine in writing that adequate access, emergency response, and fire flow are available, and that the project complies with the most current state requirements for development in the wildland/urban interface. Final project design shall conform with any changes that the District requires.

## 6.15 Land Use and Planning (FEIR, Chapter 3.10)

The FEIR determined that the project would not create any type of barrier that would physically divide the existing community and there would be no impacts. The Modified Project, similarly, would not divide an established community. It would not introduce new impacts or create more severe impacts that would divide an established community than those analyzed in the FEIR. No additional analysis is required.

Neither the approved project nor the Modified Project would induce population growth beyond that anticipated by the Mendocino County General Plan and the Ukiah Valley Area Plan, both of which designate the project site for residential development. The project would have no impacts related to unplanned population growth.

The project site is currently undeveloped. Neither the approved project nor the Modified Project would result in the displacement of any existing people or housing. The project would have no impacts related to residential displacement.

The Modified Project would not result in unplanned population growth or displacement of existing people or housing. While this impact was not addressed in the FEIR, there is no need for further analysis of impacts relating to population and housing.

The FEIR determined that the conversion of 31 acres of Prime Farmland and two acres of Unique Farmland to residential uses would be a significant and unavoidable adverse impact. There is no mitigation for this impact short of not developing all or part of the site. The FEIR notes that the project site has long been slated for residential development. The Board of Supervisors, when approving the project, adopted a Statement of Overriding Considerations for this impact. The Modified Project would not introduce new impacts or create more severe impacts related to the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses than those analyzed in the FEIR.

The Modified Project does not change the type or extent of development or propose substantial land use or development changes beyond those analyzed in the FEIR or require major revisions to the FEIR.

**Mitigation Measures - Land Use and Planning**

None.