

Final EIR

2023-2031 Housing Element Update

SCH No.: 2021100069

Prepared by



In Consultation with
50 YEARS
EST. 1972
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SECTION 1.0 INTRODUCTION

This document, together with the Draft Program Environmental Impact Report (Draft PEIR), constitutes the Final Program Environmental Impact Report (Final PEIR) for the proposed Housing Element Update (“Project”).

1.1 PURPOSE OF THE FINAL EIR

In conformance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the Town of Danville (“Town”) in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project; and
- (3) The Final EIR reflects the lead agency’s independent judgment and analysis.

1.2 CONTENTS OF THE FINAL EIR

CEQA Guidelines Section 15132 specify that the Final EIR shall consist of:

- a) The Draft EIR or a revision of the Draft;
- b) Comments and recommendations received on the Draft EIR either verbatim or in summary;
- c) A list of persons, organizations, and public agencies commenting on the Draft EIR;
- d) The Lead Agency’s responses to significant environmental points raised in the review and consultation process; and
- e) Any other information added by the Lead Agency.

1.3 PUBLIC REVIEW

In accordance with CEQA and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City shall provide a written response to a public agency on comments made by that public agency at least 10 days prior to certifying the EIR. The Final PEIR and all documents referenced in the Final PEIR are available for public review at Danville Town Office, 510 La Gonda Way, Danville, CA 94526 on weekdays during normal business hours. The Final PEIR is also available for review on the Town’s website:

<https://danvilletowntalks.org/HousingElement>.

SECTION 2.0 DRAFT EIR PUBLIC REVIEW SUMMARY

The Draft EIR for the Housing Element Update project, dated September 2022, was circulated to affected public agencies and interested parties for a 45-day review period from September 13, 2022 through October 28, 2022. The Town undertook the following actions to inform the public of the availability of the Draft EIR:

- A Notice of Availability of Draft EIR was published on the Town’s website (www.DanvilleTownTalks.org/HousingElement) and notice of the Planning Commission Hearing to discuss the Draft EIR was posted at several public locations in the Town;
- Notification of the availability of the Draft EIR was mailed to members of the public who had indicated interest in the project;
- The Draft EIR was delivered to the State Clearinghouse on September 13, 2022, as well as sent to various governmental agencies, organizations, businesses, and individuals (see Section 3.0 for a list of agencies, organizations, businesses, and individuals that received the Draft EIR); and
- Copies of the Draft EIR were made available on the Town’s website (www.DanvilleTownTalks.org/HousingElement), the Danville Town Office (510 La Gonda Way, Danville, CA 94526), and the Danville Library (400 Front Street, Danville, CA 94526)

SECTION 3.0 DRAFT EIR RECIPIENTS

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on the Draft EIR prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies.

The following agencies received a copy of the Draft EIR from the Town or via the State Clearinghouse:

- California Air Resources Board
- California Department of Conservation
- California Department of Fish and Wildlife, Region 3
- California Department of Housing and Community Development
- California Department of Transportation (Caltrans), District 4
- California Department of Parks and Recreation
- California Department of Toxic Substances Control
- Caltrans, Division of Transportation Planning
- California Department of Water Resources
- California Highway Patrol
- California Natural Resources Agency
- California Native American Heritage Commission
- California Office of Emergency Services
- California Office of Historic Preservation
- California Regional Water Quality Control Board, Region 2
- State Water Resources Control Board, Division of Drinking Water
- Contra Costa County Clerk Recorder (Posted)
- Amah Mutsun Tribal Band – Valentin Lopez
- Amah Mutsun Tribal Band of Mission San Juan Bautista – Irenne Zwierlein
- Bay Area Air Quality Management District – Henry Hilken
- Contra Costa County (CCC) Conservation and Development – John Kopchik
- CCC Flood Control and Water Conservation District – Michelle Cordis, Catherine Windham
- CCC Hazardous Materials Programs – Planning
- CCC Public Works – Jerry Fahy
- CCC Transportation Authority – Diane Bodon
- City of San Ramon – Debbie Chamberlain
- Comcast – Serviceability Team
- Contra Costa Mosquito and Vector Control District – Jeremy Shannon
- Central Contra Costa Sanitary District – Russell Leavitt

- Contra Costa County Environmental Health Department – John Wiggins
- East Bay Regional Park District – Chris Barton & Sean Dougan
- East Bay Municipal Utility District – Water Distribution Manager
- Indian Canyon Mutsun Band of Costanoan – Ann Marie Sayers
- Ione Band of Miwok Indians – Randy Yonemura
- Local Agency Formation Commission (LAFCO) – Planning Services
- Muwekma Ohlone Indian Tribe of the SF Bay Area – Charlene Nijmeh
- North Valley Yokuts Tribe – Katherine Erolinda Perez
- Pacific Gas & Electric – Chris Medders
- Republic Services – Kimberly Lam
- San Ramon Valley Fire Protection District – Roy Wendel
- San Ramon Valley Unified School District – Tina Perault
- Sonoma State University – Bryan Much
- Southwest Area Transportation Committee – Lisa Sobadilla
- The Ohlone Indian Tribe – Andrew Galvan
- Tri-Valley Transportation Council – Lisa Sobadilla
- U.S. Army Corps of Engineers – Kathleen Dadey
- U.S. Environmental Protection Agency – Kathy Goforth
- U.S. Fish and Wildlife Services – Ryan Olah
- U.S. Postal Service – Romy DeGuzman
- Wilton Rancheria – Troy Hatch

SECTION 4.0 RESPONSES TO DRAFT EIR COMMENTS

In accordance with CEQA Guidelines Section 15088, this document includes written responses to comments received by the Town of Danville on the Draft PEIR. This section also addresses the four verbal comments received at the Planning Commission hearing on September 27, 2022. Verbal comments were received from three individuals that subsequently provided written comments: Rob Culin (Comment Letter S), Bob Loreen (Comment Letter E), and Nashmia Tavir (Comment Letters Q and R). These verbal comments have been responded to in their respective comment letter. One additional individual provided verbal comments:

- **Rahul Choudhry**

Comment: noted concerns with the possible re-zoning and development of the open space in Sub Area 6.

Response: As stated on page 12 of the Draft PEIR, the Town has prepared an inventory of land suitable for residential development, including vacant sites and sites that have potential for redevelopment. In order to meet the 2023-2031 Regional Housing Needs Allocation (RHNA) allocation and provide sufficient capacity for housing development, the Housing Element identifies sites to increase allowed residential densities to meet affordability requirements. While, the candidate housing sites could yield 4,681 housing units, the Town's RHNA allocation (2,241 housing units) and the required 15 percent buffer (336 housing units) amounts to 2,577 total housing units. The Draft PEIR acknowledges that not all candidate housing sites will ultimately be included in the Housing Element.

As part of the Housing Element Update, the General Plan and Zoning Ordinance would be amended to account for any proposed changes in land use and would be subject to Planning Commission and City Council approvals. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment letters are organized under headings containing the source of the letter and its date. The specific comments from each of the letters and/or emails are presented with each response to that specific comment directly following. Copies of the letters and emails received by the Town of Danville are included in their entirety in Appendix A of this document. Comments received on the Draft EIR are listed below.

Comment Letter and Commenter

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FEDERAL AND STATE AGENCIES

A. California Department of Toxic Substances Control (dated November 9, 2022)

Comment A.1: The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for the Town of Danville 2023-2031 Housing Element Update (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. A State of California environmental regulatory agency such as DTSC, a Regional Water Quality Control Board (RWQCB), or a local agency that meets the requirements of Health and Safety Code section 101480 should provide regulatory concurrence that Project sites are safe for construction and the proposed use.

Response A.1: As stated on page 154 of the Draft PEIR, future residential development under the Housing Element Update would be required to prepare a Phase I Environmental Site Assessment consistent with General Plan Policy 28.02. If potential hazardous materials concerns are identified, General Plan Policy 28.02 requires sites are cleaned up to residential standards under appropriate regulatory agency oversight, such as the Department of Toxic Substances Control (DTSC) or the Regional Water Quality Control Board (RWQCB) prior to development. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment A.2: 2. The EIR acknowledges the potential for historic or future activities on or near project sites to result in the release of hazardous wastes/substances on the project sites. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

Response A.2: As noted in response A.1 above, General Plan Policy 28.02 requires a Phase I ESA when development changes an existing use to a more sensitive use (i.e., commercial use to residential use). In the event that hazardous material concerns are identified, General Plan Policy 28.02 requires sites are cleaned up to residential standards under appropriate regulatory agency oversight, such as the DTSC or the RWQCB prior to development. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment A.3: 3. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions

from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for any project sites described in the EIR.

Response A.3: As noted in the responses above, future residential development would be required to prepare a Phase I ESA. In the event that the Phase I ESA identifies concerns related to aerially deposited lead (ADL), the Town will require that future development implement the recommendations of the Phase I ESA, which may include further investigations, such as soil sampling. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment A.4: If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's *2001 Information Advisory Clean Imported Fill Material*.

Response A.4: No specific development is being proposed at this time; therefore, it is not known whether soil importation would be required. Testing of soils is required by the Town prior issuance of a Grading Permit. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment A.5: If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's *2008 Interim Guidance for Sampling Agricultural Properties (Third Revision)*.

Response A.5: As noted in the responses above, future residential development would be required to prepare a Phase I ESA. In the event that the Phase I ESA identifies concerns related to past agricultural uses, the Town will require that future development implement the recommendations of the Phase I ESA, which may include further investigations, such as soil sampling. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment A.6: DTSC appreciates the opportunity to comment on the EIR. Should you choose DTSC to provide oversight for any environmental investigations, please visit DTSC's Site Mitigation and Restoration Program page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at DTSC's Brownfield website.

Response A.6: This comment is a general statement and does not raise any specific issues about the adequacy of the EIR.

REGIONAL AND LOCAL AGENCIES

B. East Bay Municipal Utility District (dated October 27, 2022)

Comment B.1: East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update, which encompasses the entire Town of Danville (Town). EBMUD commented on the Notice of Preparation of a Draft EIR for the project on November 4, 2021 and these comments (see enclosure) still apply regarding water service, water recycling, and water conservation.

Response B.1: Responses to the comments received on the Notice of Preparation are provided below.

Comment B.2: East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the 2023-2031 Housing Element Update for the Town of Danville (Town). EBMUD has the following comments.

WATER SERVICE

Effective January 1, 2018, water service for new multiunit structures shall be individually metered or sub-metered in compliance with Section 537 of California's Water Code & Section 1954.201-219 of California's Civil Code, which encourages conservation of water in multifamily residential and mixed-use multi-family and commercial buildings by requiring metering infrastructure for each dwelling unit, including appropriate water billing safeguards for both tenants and landlords. EBMUD water services shall be conditioned for all development projects that are subject to these metering requirements and will be released only after the project sponsor has satisfied all requirements and provided evidence of conformance with Section 537 of California's Water Code & Section 1954.201-219 of California's Civil Code.

EBMUD's Diablo Pressure Zone, with a service elevation range between 450 and 650 feet and Danville Pressure Zone, with a service elevation range between 250 and 450 serves the Housing Element area. Main extensions that may be required to serve individual projects within the Housing Element area to provide adequate domestic water supply, fire flows, and system redundancy will be installed at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements, due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. When development plans are finalized, individual project sponsors should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to their projects within the Housing Element area. Engineering and installation of new and relocated pipelines and services require substantial lead time, which should be provided for in the project sponsor's development schedule.

A minimum 20-foot-wide right-of-way is required for installation of new and replacement water mains. Additional utilities installed in the right-of-way with the water mains must be located such that the new water mains meet the minimum horizontal and vertical separation distances as set forth in the California (Waterworks Standards) Code of Regulations, Title 22, Section 64572 (Water Main Separation) and EBMUD requirements for placement of water mains within a right-of-way. The

minimum horizontal separation distance requirements include, but are not limited to, 10 feet between the water main and sewer, 5 feet between the water main and storm drain, 7 feet from the face of the curb, and 5 feet from the edge of the right-of-way. In addition, water mains must be vertically located a minimum of one foot above sewers and storm drains. EBMUD cannot maintain water mains and services installed under pervious pavement; therefore, an alternative to pervious pavement would be required if installation of EBMUD water mains or services on site is required.

Response B.2: As stated on page 250 of the Draft PEIR, development under the Housing Element Update may require future upgrades to existing utilities. Several policies in the Town's General Plan would facilitate these future upgrades, including Policy 20.02 that requires the Town coordinate development approvals with the appropriate agencies (i.e., EBMUD) to ensure that adequate water quantity, quality, and distribution can be provided without adverse impacts. Policy 20.03 would ensure that all water infrastructure would meet EBMUD standards. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment B.3: EBMUD's Standard Site Assessment Report indicate the potential for contaminated soils or groundwater to be present within the Housing Element area. Individual project sponsors should be aware that EBMUD will not install piping or services in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may be hazardous to the health and safety of construction and maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping or services in areas where groundwater contaminant concentrations exceed specified limits for discharge to the sanitary sewer system and sewage treatment plants. Individual project sponsors must submit copies to EBMUD of all known information regarding soil and groundwater quality within or adjacent to the project boundary and a legally sufficient, complete and specific written remediation plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of contaminated soil and groundwater.

EBMUD will not design piping or services until soil and groundwater quality data and remediation plans have been received and reviewed. In addition, underground work will not start until remediation has been carried out and documentation of its effectiveness has been received and reviewed. If no soil or groundwater quality data exists, or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil and groundwater that may be encountered during excavation, or EBMUD may perform such sampling and analysis at the project sponsor's expense. If evidence of contamination is discovered during EBMUD work on the project site, work may be suspended until such contamination is adequately characterized and remediated to EBMUD standards.

Response B.3: As discussed on page 155 of the Draft PEIR, future construction activities on the candidate housing sites could disturb residual hazardous materials contamination present in the soil or groundwater, which has the potential to impact construction workers and adjacent land uses. There are several policies in the General Plan that serve to reduce the risk from hazardous materials, including Policy 28.02 which requires a Phase I ESA when development changes an existing use to a more sensitive use (i.e., commercial use to residential use). In the event that hazardous

material concerns are identified, the development would be required to appropriately remediate the site in accordance with regulatory standards and oversight. Further, as indicated in response B.2 above, General Plan Policy 20.02 requires the Town coordinate development approvals with the appropriate agencies (i.e., EBMUD) and Policy 20.03 would ensure that all water infrastructure would meet EBMUD standards. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment B.4: WATER RECYCLING

EBMUD’s Policy 9.05 requires that customers use non-potable water, including recycled water, for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant, fish and wildlife to offset demand on EBMUD’s limited potable water supply. Appropriate recycled water uses include landscape irrigation, commercial and industrial process uses, toilet and urinal flushing in non-residential buildings, and other applications.

EBMUD does not currently have any recycled water service in the Town; however, the Town is located within EBMUD’s San Ramon Valley Recycled Water Project service boundaries and future expansion plans will extend recycled water to the Town that could potentially serve a significant portion of the Housing Element area. EBMUD will assess and consider the feasibility of providing recycled water to individual projects within the Housing Element area for appropriate uses including landscape irrigation, commercial and industrial process uses, toilet and urinal flushing.

EBMUD requests that each individual project submits an estimate of expected water demand for potential recycled water uses to determine the feasibility of providing recycled water to the project. As EBMUD advances plans and implements its recycled water supply expansion to the Town, EBMUD requests the Town and its developers continue to coordinate closely with EBMUD during the planning of the various Housing Element components to further explore the options and requirements relating to recycled water use.

Response B.4: As noted on page 248 of the Draft PEIR, recycled water is provided in a limited area in the Town through the San Ramon Valley Recycled Water Program (SRVRWP). The Town will coordinate with EBMUD, consistent with General Plan Policy 20.02, to ensure that the potential for recycled water is explored for future development under the Housing Element Update. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment B.5: WATER CONSERVATION

Individual projects within Housing Element may present an opportunity to incorporate water conservation measures. EBMUD requests that the Town include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, “Model Water Efficient Landscape Ordinance,” (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). Individual project sponsors should be aware that Section 31 of EBMUD’s Water Service Regulations requires that water service shall not be furnished for new or expanded service

unless all the applicable water- efficiency measures described in the regulation are installed at the project sponsor's expense.

Response B.5: As discussed on page 252 of the Draft PEIR, there are several General Plan policies that promote efficient water use by encouraging drought tolerant landscaping, use of water efficient plumbing fixtures, use or reclaimed water (Policies 31.01 and 31.02). As stated in the responses above, the Town will coordinate development approvals with EBMUD to ensure that all water infrastructure would meet EBMUD standards. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

ORGANIZATIONS, BUSINESSES, AND INDIVIDUALS

C. 350 Contra Costa Action (dated October 27, 2022)

Comment C.1: 3.0, Section 3.6:

- Natural Gas, page 117: The EIR states that the expected increase in natural gas use will be minor (on the scale of State energy use), but neglects to mention that natural gas is primarily methane, one of the most potent GHG's (as noted in section 3.8 of the EIR). The EIR also fails to address the danger that the natural gas system exposes the community:
 - Potential catastrophic explosions at pipeline leaks - especially during earthquakes.
 - Indoor air pollution from cooking with gas.

Response C.1: The Draft PEIR clearly established that the use of natural gas would conflict with state greenhouse gas (GHG) reduction requirements (refer to Impact GHG-2.1). As stated on page 140 of the Draft PEIR, BAAQMD has determined that projects that do not include natural gas would not result in any wasteful, inefficient, or unnecessary energy usage and would be doing their fair share of implementing the goals of carbon neutrality by 2045.¹ As discussed on page 140 of the Draft PEIR, future development under the Housing Element Update would be subject to mitigation measure MM GHG-2.1, which would require that the Town adopt development standards that would prohibit natural gas in new residential development. The Draft EIR has been updated to clarify that natural gas is primarily methane (refer to Section 5.0 Draft EIR Text Revisions).

The Draft PEIR does not fail to address potential impacts resulting from the existing natural gas system. Rather, consistent with CEQA Guidelines Section 15126, the purpose of the Draft PEIR is to evaluate the significant environmental effects of implementing the Town's Housing Element update on the environment. Therefore, the PEIR does not evaluate impacts beyond the project's scope (i.e., impacts resulting from the existing natural gas system). Further, as previously stated, the Draft PEIR includes mitigation measure GHG-2.1, which would prohibit natural gas in an effort to be consistent with California's long-term climate goal of achieving carbon neutrality by 2045.

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*), effects of the environment on the project are not considered CEQA impacts. CEQA does not require analysis of indoor air quality impacts from natural gas and it is assumed that future development would be constructed based on the current building code; therefore, the EIR did not include an analysis of potential indoor air quality impacts for future residents. Regardless, as

¹ Bay Area Air Quality Management District. Justification Report: CEQA Thresholds for Evaluating Significance of Climate Impacts from Land Use Projects and Plans. April 2022. <https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-thresholds-2022/justification-report-pdf.pdf?la=en>

noted above, implementation of MM GHG-2.1 would prohibit natural gas in future residential development under the Housing Element Update. Therefore, this comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment C.2: In the Energy Impacts section of the EIR (3.6.2), it ought to be pointed out that the CARB May 2022 draft Scoping Plan Update makes a case for the urgent need to phase out fossil fuel use (including natural gas).

Response C.2: Page 112 of the Draft PEIR acknowledges that consistent with EO-B-55-18, CARB has been directed to ensure that future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal. The May 2022 Scoping Plan Update referenced in the comment is not an approved or adopted plan. Regardless, the Draft PEIR has incorporated measures (MM GHG-2.1) that would assist the state in achieving carbon neutrality through the restriction of natural gas in future residential development allowed under the Housing Element Update. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment C.3: Therefore the EIR should make clear that any increase in natural gas use/burning of methane is not acceptable from environmental, occupant health and community safety standpoints.

Response C.3: Refer to responses C.1 and C.2 above. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment C.4: Fuel for Motor Vehicles, page 117: As with natural gas, the EIR suggests that the increase in gasoline use will be relatively small, and therefore insignificant. As we note about potential increases in natural gas use, above, any increase in fossil fuel burning is contrary to local and state goals on countering global heating.

Response C.4: Fossil fuel burning is a global issue that cannot be solved by any one project. The project's GHG impacts are presented in Section 3.8 of the Draft PEIR. As stated on page 138 of the Draft PEIR, implementation of the Housing Element Update would result in long-term operational GHG emissions associated with vehicular traffic, among other things. Table 3.8-2 of the Draft PEIR summarizes the unmitigated GHG emissions associated with the Housing Element Update. The Draft PEIR discloses that implementation of the Housing Element Update would result in significant and unavoidable GHG impacts (Impact GHG-1.1). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment C.5: 3.8 GHG Mitigations, Buildings: We are thankful that the EIR calls for banning natural gas heating systems in new buildings. We are hopeful that the city council will support this measure, given the environmental, health and safety benefits. And numerous studies show that most all-electric buildings are less expensive to build than buildings that use both natural gas and electric systems. The policy of banning natural gas in new buildings will also be beneficial to property

owners who build all-electric, and therefore won't end up with heating systems (e.g. space heating, water heating, cooking) that is either too expensive or no longer available.

Comment to policymakers: While town staff are designing an electric building ordinance, due consideration ought to be made for including significant building additions and alteration projects. Some jurisdictions use project cost or project size as "triggers". We suggest a fairly simple mandate based on the proposed project scope (and assuming that the town is not yet ready to mandate electric systems in the case of simple change-outs of obsolete equipment): Mandate that new heating systems be electric when they are in addition to existing heating equipment, and when replacement heating equipment will be located in a new area.

Response C.5: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

Comment C.6: 3.8 GHG Mitigations, Transportation:

- VMT Reductions: We believe that the most important strategy for reducing VMT is to focus new housing in higher density mixed use projects, and high-density residential projects, built within walking distance or easy biking distance of amenities that residents need in their daily lives: Shopping, office spaces, cultural facilities, parks and the like.

Response C.6: This comment is a general statement and does not raise any specific issues about the adequacy of the EIR.

Comment C.7:

- EV Charging Infrastructure: Over the lifetime of residential buildings constructed in the near future, we expect that most, if not all, residents will be driving EV's. Therefore, it is vital that new multi-family buildings plan for this eventuality. While it is a step in the right direction to call for EV charging requirements to meet CalGreen Tier 2, the practical differences in charging requirements between mandatory CalGreen, CalGreen Tier 1 and Tier 2 are minor. At the minimum, we suggest that new multi-family projects meet the Ready and the Chargers portion of mandatory CalGreen, plus requiring one parking space per every dwelling unit that is not already covered by the Ready and Charging requirements to meet the Capable protocols (i.e. wired for future installation of electrical receptacles or stations for charging).

Response C.7: Consistent with BAAQMD's thresholds to address current and future State efforts to reduce GHG emissions to 40 percent below 1990 levels by 2030 and carbon neutrality by 2045, implementation of the Housing Element Update would require that the Town adopt development standards that would require compliance with the most recently adopted CalGreen Tier 2 requirements. The Town could consider additional requirements as part of the decision-making process for the Housing Element Update. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

D. Andy McClure (dated October 27, 2022)

Comment D.1: My name is Andy McClure and I have been a Danville resident since 2002. I am greatly concerned about the climate crisis because the window of opportunity we have for slowing down our dangerous trajectory, and helping our children avoid at least some of the worst effects, is rapidly closing.

I reviewed the Housing Element plan and the EIR and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for all new housing. I am familiar with similar measures enacted in Berkeley, for example, because I am an active member of the Climate Reality Project and our regional chapter.

I think electrification is a necessary step for as many municipalities as possible to take. This would be a good way for Danville to meet GHG reduction targets with very limited negative impact. I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1

Response D.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

E. Bob Loreen (dated September 23, 2022)

Comment E.1: I am aware of the Housing Project Initiative in Danville, and would like to formally express my strong concerns about the addition of the property directly behind our home in Danville, Sub Area 6, Tassajara and Liverpool in the EIR, that has been ‘Open Space’ is now showing as MF-HD. On the last round, this area was not showing as being changed, so something obviously happened to have this now included. Not sure what this was, but I want to document my concerns and give some input. I will, of course, be watching and participating until this all reaches a conclusion.

We purchased our home in the latter part of 2015, and had moved from another larger house in Diablo West, where we had lived since 2005. Like much of Danville, we had a large amount of open space in Diablo West, and when we noticed the same openness behind our house in Tassajara Cottages, this attracted us to the development, and have a number of friends on this side of the town as well. We asked our realtor, Nina Peles, a long time agent in this town, about the status of this open space behind us, as we would not purchase this property if there was going to be building on it, as we would have no idea what would be built, how it would impact our view, blocking of light, drainage issues, noise, etc.

We heard the words...”Open Space”, so I then called the city and spoke to someone on the phone, and they said this is zoned as ‘Open Space’ only. Through more talking, density was talked about and that Open Space was a beneficiary of areas of higher density. I’m in Sales, and I will ask the same question a couple of different ways, to make sure that I understand the answer. I had no more questions after this phone call and then ended up purchasing the house. Many people purchase homes in Danville due to the volume of ‘Open Space’, as this differs from many other cities, so housing

values stay strong for all in Danville. Note: other neighbors said they had made the same phone calls, and were told the same thing.

Response E.1: As stated on page 12 of the Draft PEIR, the Town has prepared an inventory of land suitable for residential development, including vacant sites and sites that have potential for redevelopment. In order to meet the 2023-2031 RHNA allocation and provide sufficient capacity for housing development, the Housing Element identifies sites to increase allowed residential densities to meet affordability requirements. While, the candidate housing sites could yield 4,681 housing units, the Town's RHNA allocation (2,241 housing units) and the required 15 percent buffer (336 housing units) amounts to 2,577 total housing units. The Draft PEIR acknowledges that not all candidate housing sites will ultimately be included in the Housing Element.

As part of the Housing Element Update, the General Plan and Zoning Ordinance would be amended to account for any proposed changes in land use and would be subject to Planning Commission and City Council approvals. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment E.2: 2. The property is well off the 680 freeway and seems to be the farthest East area shown on the Proposed Properties map, and does not seem to match up with the goal and objective- Not close to BART, not close to any transit, and with Camino Tassajara and Crow Canyon being the major streets, these major streets are very impacted right now. Every morning full with commuters/ students-parents going to work and school. In fact, there was a recent situation where a person was killed crossing the crosswalk around the Woodranch development.

Response E.2: Figure 3.17-3 of the Draft PEIR identifies existing transit services in the Town. No transit service is shown along Camino Tassajara, consistent with the comment.

Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. As discussed on page 237 of the Draft PEIR, future development under the Housing Element Update would be subject to, and constructed in accordance with, applicable roadway design and safety guidelines and General Plan Policies 12.03, 12.04, and 12.09.

Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the Town has level of service (LOS) standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and Contra Costa Transportation Authority (CCTA) LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and

would continue to do so with the addition of traffic from the proposed project. In the event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment E.3: 3. We have drainage concerns about building behind us. All of our properties are below grade and well below, and we have deep concerns about drainage runoff, land instability as a result of possible building activity behind us. As you probably know, the City of Danville has some natural foundation issues, so this could make things much worse, again due to our property being down below.

Response E.3: Impacts to Geology and Soils are presented on pages 119 to 132 of the Draft EIR. Impacts to Hydrology and Water Quality are presented on pages 160 to 173 of the Draft PEIR.

As discussed on pages 129-130 of the Draft PEIR, future housing would be built in accordance with the CBC, be subject to the Town's Grading Ordinance, and General Plan Policy 24.03 (which requires a soils and geologic report for areas susceptible to landslide and other hazards and an erosion control plan to reduce the loss of topsoil). Further, General Plan Policy 24.04 requires all hillside development to be designed and constructed to minimize cutting and filling of slopes and avoid high risk landslide areas.

As detailed on page 171 of the Draft PEIR, future development under the Housing Element Update would be required to meet the 100-year flood capacity of the Town's flood control system consistent with General Plan Policy 26.03. Future development would also need to demonstrate no net increase in peak flow runoff, unless adequate drainage capacity exists or other mitigation measures are provided, consistent with General Plan Policy 26.06. In addition, future development of the candidate housing sites would be subject to Provision C.3 of the MRP and Town's Stormwater Management and Discharge Control Ordinance (refer to page 171 of the Draft PEIR). Consistent with General Policy 20.08, future housing development under the Housing Element Update would be required to prepare a Storm Water Control Plan to ensure that future development incorporates site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment E.4: 4. We enjoy the wildlife- deer, owls, coyotes, birds and other animals, as they find this open space as a safe haven for them and this open space in Danville helps to promote more wildlife for all who live in Danville. Open Space is what really makes Danville different than some of our neighboring cities to the North and South.

Response E.4: Impacts to biological resources, including wildlife, are presented on pages 63 to 101 of the Draft PEIR. As discussed on page 91 of the Draft PEIR, the

2030 General Plan contains goals and policies that call for the protection of special status wildlife species, including General Plan Policy 21.7 and 21.10, which require preparation of a site-specific biological assessment for sites that are determined to have the potential to contain special-status species. With adherence to these General Plan policies, future development of candidate housing sites would be required to prepare a biological assessment by a qualified biologist in order to identify special-status species known to occur, potential impacts, and appropriate measures for protecting special-status species in accordance with state and federal laws. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment E.5: 5. Any proposed MF-HD buildings would impact the light to our house and others in our development, with likely no privacy at all, and likely block our entire view of Mt. Diablo, which we paid a good premium for this as any view property would, and in the end lead to lower housing values.

I look forward to hearing back from you on this area, and that Danville will continue to protect its 'Open Space' in its growth plans for the future.

Response E.5: Visual and aesthetic impacts are discussed on pages 26 to 40 of the Draft PEIR. As discussed on page 38 of the Draft PEIR, future development projects would be subject to design review and approval to address lighting and glare from new buildings and developments consistent with General Plan Policy 2.01. Further, impacts to private views and property values are not subject to CEQA review. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

F. Bobby and Lauren Wilson (dated September 30, 2022)

Comment F.1: We are the current owners of 116 Center Ct. in Danville, CA. I am extremely concerned by the current draft plans of the Danville Housing Element Project which seem to be seeking to change the "Open Space" designation behind my home to a "Multi-Family/High Density Housing (MF/HD)" designation. A development on that property would negatively impact the property value of current home owners like myself.

Response F.1: CEQA requires the analysis of the impacts of a project on the physical environment. CEQA does not require the analysis of non-physical effects of a project, such as the economic effects raised by the commenter. For this reason, no further response is required.

Comment F.2: A development in the what is now an open space would considerably increase traffic and noise as well as impact the environment.

Response F.2: Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the

Town has level of service (LOS) standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and CCTA LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and would continue to do so with the addition of traffic from the proposed project. In the event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743).

Noise impacts are presented in Section 3.13 Noise on pages 182-197 of the Draft PEIR. The Draft PEIR found that with implementation of General Plan policies (Policy 27.12 and 27.13) and standard noise reduction measures, construction noise would be reduced to less than significant levels. In addition, traffic noise increases attributable to the Housing Element Update were found to not result in a substantial permanent increase in noise levels in the community (page 187 of the Draft EIR). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment F.3: Over the years I have witnessed beautiful wildlife flourishing in the open space behind my home. I have been able to enjoy a quiet breakfasts, lunches and dinners on my patio.

Response F.3: Impacts to biological resources, including wildlife, are presented on pages 63 to 101 of the Draft PEIR. As discussed on page 91 of the Draft PEIR, the 2030 General Plan contains goals and policies that call for the protection of special status wildlife species, including General Plan Policy 21.7 and 21.10, which require preparation of a site-specific biological assessment for sites that are determined to have the potential to contain special-status species. With adherence to these General Plan policies, future development of candidate housing sites would be required to prepare a biological assessment by a qualified biologist in order to identify special-status species known to occur, potential impacts, and appropriate measures for protecting special-status species in accordance with state and federal laws. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment F.4: We purchased in Danville 10+ years ago because it was quiet, easy to navigate, had beautiful open land and had the small town look and feel. A change in designation of that land would set a dangerous precedent and further deteriorate the beauty, small town living experience and openness of Danville. Please consider these very negative impacts on your citizens, my fellow neighbors and our community when making your final decisions.

Response F.4: Consistent with the requirements of CEQA, the purpose of the PEIR is to provide objective information regarding the environmental consequences of the proposed Housing Element Update. The Final PEIR will be used by the Town in making decisions about the Housing Element Update. This comment does not

provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

G. Bruce Wilke (dated September 27, 2022)

Comment G.1: My name is Bruce Wilke and I've been a Danville resident since 1991. I am greatly concerned about the climate crisis in our Town, State, Country, and our World. It appears humans are warming the planet in so many ways that we are creating health and environmental hazards for all living creatures, including ourselves. I'm confident that as a community, we can make some changes that can help offset this crisis.

I reviewed the Draft Environmental Impact Report 2023-2031 Housing Element Update and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for new housing. I think that's a great idea because the technology appears to be available and the solutions cost effective, so this would be a good way for the Town of Danville to meet greenhouse gas reduction targets with very limited negative impact.

I want to thank you for the good work you have done and to encourage you to favorably support the EIR and the recommended Mitigation Measure GHG-2.1.

Response G.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

H. Gregg Pottorff (dated October 22, 2022)

Comment H.1: My name is Gregg Pottorff and I've been a Danville resident since 1992. I am greatly concerned about the climate crisis because I've seen first-hand the effects of drought on our food supply in California and fear that some of our most beautiful and valued coastal communities may soon be underwater due to sea level rise.

I reviewed the Housing Element plan and the EIR and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for new housing. I think that's a great idea because the technology appears to be available right now and the solutions are increasingly cost effective, so this would be a good way for Danville to meet GHG reduction targets with very limited negative impact.

I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Response H.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

I. Jason (John) Hickey (dated October 25, 2022)

Comment I.1: My name is Jason (John) Hickey and I've been a resident of Danville for 30 years.

I've always been impressed and appreciative of how well the town of Danville is run. I was especially pleased to see the continued support addressing the climate crisis in the recent Environmental Impact Report.

I reviewed the housing element plan in the Environmental Impact Report and wanted to offer my support of all electric construction for new housing. I think this is a logical and cost effective way to help Danville meet GHG reduction targets and I want to encourage you to support of the Environmental Impact Report and the recommended mitigation measure GHG- 2.1.

Response I.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

J. Jeffrey Lo (dated September 26, 2022)

Comment J.1: I was just informed by a neighbor that there may be a planned development on the Meridian owned open plot of land near the corner of Tassajara and Crow Canyon.

Response J.1: As discussed on page three of the Draft EIR, the Town of Danville is currently in the process of updating its Housing Element, one of eight required elements of the General Plan. State Housing law requires that all cities within the nine Bay Area counties complete the 6th Cycle Housing Element Update by January 2023. Therefore, as required by State housing law, the 2023-2031 Housing Element is being prepared to make adequate provision for the existing and projected housing needs of all economic segments of the community.

As a part of the required Housing Element update, cities must determine whether enough land is available to accommodate their RHNA assignment. If not, then the city is required to designate new sites for this purpose – usually through amending the General Plan and Zoning designation to allow for multifamily housing development.

No specific development is being proposed at this time and future housing development would be driven by the private market. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment J.2: As a homeowner in the Tassajara Cottages Neighborhood, i believe any development on this hill is quite concerning for several reasons:

1. Environmental Concern - All the surrounding houses may risk possible land erosion and stability of surrounding housing, and we will be a direct recipient of this.

Response J.2: As noted above in Response J.1, no specific development is proposed at this time. As described on page 12 of the Draft PEIR, the Town is evaluating candidate housing sites across eight Sub Areas in the Town, including Sub Area 6 (APN 217040021 and 218010047).

As discussed on pages 129-130 of the Draft PEIR, future housing would be built in accordance with the CBC, be subject to the Town's Grading Ordinance, and General Plan Policy 24.03 (which requires a soils and geologic report for areas susceptible to landslide and other hazards and an erosion control plan to reduce the loss of topsoil). Further, General Plan Policy 24.04 requires all hillside development to be designed and constructed to minimize cutting and filling of slopes and avoid high risk landslide areas. Additionally, development of any future housing site over one acre in size would also be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) in compliance with the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Future development on sites less than one acre in size would be subject to the BMP requirements under the Town's Municipal Regional Permit (MRP) NPDES permit. With these regulatory programs currently in place, the Draft PEIR concluded that the possible impacts of soil erosion during construction of future development of the candidate housing sites would be less than significant. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment J.3: 2. Infrastructure is lacking - Traffic is already quite congested especially during traffic hours such as going to work or dropping off kids at school.

Response J.3: Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the Town has level of service (LOS) standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and CCTA LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and would continue to do so with the addition of traffic from the proposed project. In the event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment J.4: 3. Lack of Communication - None of our neighbor had been informed about this study, which appears to be uncaring and disrespectful to the community of this area.

Response J.4: The Town of Danville began holding informational workshops on the Housing Element Update in June 2021 through September 2021. During that time, five workshops were held with members of the community on June 12, June 29, July 8, August 19, and September 18, 2021. In accordance with Section 15082 of the CEQA Guidelines, the Town prepared a Notice of Preparation (NOP) for the Housing Element Update PEIR. The NOP was

circulated to local, state, and federal agencies on October 12, 2021 for the standard 30-day comment period. The Town also held a public scoping meeting on October 26, 2021 (virtually) to discuss the project and solicit public input as to the scope and contents of the PEIR.

Beginning in the Winter of 2021, the Town invited the community to participate in identifying potential housing sites to be included in the Housing Element Update. During that time, nine workshops were held by the Town on March 9, March 17, March 26, March 28, July 1, July 7, July 13, and July 20, 2022.

This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment J.5: 4. Other Considerations - What other plots are being considered? There should be a more suitable and flatter piece of open land that will not only help expand the housing initiative without putting neighbors at risk.

Response J.5: As explained on page 12 of the Draft PEIR, the Town is evaluating candidate housing sites across eight Sub Areas in the Town (refer to Figure 2.3-3 of the Draft PEIR). The purpose of the PEIR is to evaluate the potential environmental effects of implementing housing on all of the proposed candidate housing sites. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

K. Jennifer Cyrnak (dated October 19, 2022)

Comment K.1: My name is Jennifer Cyrnak and I have been a resident of Danville for over ten years. Like many others, I am greatly concerned about rising global temperatures due to GHG emissions.

I have reviewed the Housing Element plan and the EIR and was happy to see on page 140 that the City of Danville is contemplating an all-electric construction ordinance for new housing, like many other CA jurisdictions have already passed. I am a retired geophysicist and current student of Sustainability Management at UC Berkeley and I am convinced that the technology to make this happen is both readily available and cost effective. I'm actually planning to replace my own gas furnace with an electric heat pump in the coming months. It seems like a great way for Danville to meet its GHG reduction targets and help the planet with very little downside. Clearly, this is the future.

I strongly encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG 2.1.

Response K.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

L. Judith Hayes (dated September 26, 2022)

Comment L.1: All the input from various governing bodies does not appear to address our current crisis regarding WATER or ELECTRICITY. More housing means more demands on both that are already inadequate for those who already live here.

Response L.1: Impacts to water supply are presented on page 251 of the Draft PEIR. As discussed under Impact UTL-2.1, the water demanded associate with the Housing Element Update would exceed the water projections in East Bay Municipal Water District's (EBMUD) adopted Urban Water Management Plan. As noted in the Draft PEIR, this constitutes a significant and unavoidable impact. Future housing development would be subject to same drought restrictions required of all District customers during multi-year droughts and would be consistent with General Plan Policy 20.02, would be reviewed by the Town to ensure adequate water supply is available to serve the proposed development. In addition, there are several General Plan policies that promote efficient water use by encouraging drought tolerant landscaping, use of water efficient plumbing fixtures, use or reclaimed water (Policies 31.01 and 31.02).

Impacts to electricity are discussed on page 117 of the Draft PEIR. As disclosed in the Draft PEIR, it is estimated that residential development under the Housing Element Update would use approximately 9,963,790 kWh of electricity, which would be less than a 0.004 percent increase in the state's annual use.² Future residential development under the Housing Element would be built to the most recent CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of future residential development. For these reasons, the Draft PEIR concluded that residential development under the Housing Element Update would not result in a substantial increase in electricity demand. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment L.2: Please don't let ABAG dictate something our infrastructure cannot support.

Response L.2: The need for every city and county in California to plan for their fair share of the projected housing need is based on Housing Element Law, enacted in 1969 (Government Code Section 65583). RHNA is a process in which the State of California projects each region's housing needs for all income groups for an eight-year cycle. The State has determined that the Bay Area must plan for an additional 441,176 new units, of which Danville is required to provide 2,241 new housing units.

Response L.1 provides information on the Housing Element Update's impacts to water supply and electricity.

² As of the latest available data (2020), California's total electricity consumption in 2020 was 279,510 GWh. Source: <http://ecdms.energy.ca.gov/elecbycounty.aspx>

The comment does not raise any issues about the adequacy of the EIR, therefore, no further response is required.

M. Kevin Christoffersen (dated October 27, 2022)

Comment M.1: My name is Kevin Christoffersen and I have lived in Danville for 24+ years. In reviewing the Housing Element plan I was pleased to see that we (the City of Danville) are considering an all-electric construction rule for new housing. I believe this is good because 1) it has a positive impact on greenhouse gas reduction individually and 2) doing so, will help us meet our broader GHG reduction targets.

As such, I want to thank you for all the effort in developing this plan and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Response M.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

N. Layton Slimm (dated October 25, 2022)

Comment N.1: My name is Layton Slimm and my wife Judy and I have been Danville residents 1998. The climate crisis is a topic of discussion often in our home so I would like to weigh in on the town's Housing Element Plan and the EIR. I was pleased to see in the EIR that our City is contemplating an all-electric construction ordinance for new housing. I support this idea as the technology appears available and the solutions cost effective. This would be a good way for Danville to meet Green House Gas reduction targets with little downside. I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Response N.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

O. Lisa Nicolini (dated September 2022)

Comment O.1: I have reviewed the DPEIR with particular attention on Sub Area 6 at Tassajara and Liverpool. I was surprised to see a designated open space property proposed for development. Before I purchased my home on Center Court, I visited the Town Offices to better understand what the indication as Open Space meant. I was told that the land behind my house was in fact officially designated Open Space and would never be developed. This was certainly material information used in making my decision to buy my house. The DPEIR itself indicates that the Town's policies include preserving Danville's visual qualities by maintaining Open Space in the community. Also, the Open Space Element of the Contra Costa County General Plan includes goals and policies that aim to protect, conserve, and enhance open space and park lands in the county, per the DPEIR. Why would we then propose our open space for development? I have noted that open space is often a result of negotiations with developers. If the town has a practice of asking developers for open space when projects are negotiated, and then turns around and allows development on this property, trust in the

Town and the Planning Commission will be lost. If the voters know that open space will not be protected, I doubt proposals like the recent Magee Preserve would gain approval.

Response O.1: As stated on page 12 of the Draft PEIR, the Town has prepared an inventory of land suitable for residential development, including vacant sites and sites that have potential for redevelopment. In order to meet the 2023-2031 RHNA allocation and provide sufficient capacity for housing development, the Housing Element identifies sites to increase allowed residential densities to meet affordability requirements. While, the candidate housing sites could yield 4,681 housing units, the Town's RHNA allocation (2,241 housing units) and the required 15 percent buffer (336 housing units) amounts to 2,577 total housing units. The Draft PEIR acknowledges that not all candidate housing sites will ultimately be included in the Housing Element.

As part of the Housing Element Update, the General Plan and Zoning Ordinance would be amended to account for any proposed changes in land use and would be subject to Planning Commission and City Council approvals. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.2: The Town's policies also include protecting the visual qualities of designated scenic routes of which Camino Tassajara is so designated. I am confident that a MF-HD building on top of a hill on Camino Tassajara would not protect the visual qualities of this route.

Response O.2: The commenter correctly states that Camino Tassajara is one of nine scenic routes identified in the Town of Danville 2030 General Plan. As described on page 36 of the Draft PEIR, consistent with General Plan Policy 2.08, future residential development would be required to protect the visual qualities of designated scenic routes as part of the review process. There are also several policies in the General Plan that seek to restrict development on scenic hillsides and ridgeline areas, including General Plan Policies 2.02, 2.03, and 2.04. Where development is allowed on scenic hillsides and ridgeline areas, these policies ensure that project design is sensitive to visual impacts. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.3: Another area of concern relates to Goal 3 under the Project Objectives. As the DPEIR itself notes, the impact on global climate change will not be minimized by developing Sub Area 6 due to the inability to reduce the VMT below Town-wide thresholds. This is a significant impact. The Report states that even with the proposed mitigation measures, the impact of VMT remains significant. These mitigation measures include subsidizing or discount transit passes and increased transit service. It's important to note that there is currently NO transit service out this far on Camino Tassajara in spite of the County Connections website indicating that there is. I have waited three separate times with my daughter at a stop that supposedly has a bus to take her downtown. It has never shown up. I have lived here seven years and have never seen a bus in this area. The potential VMT reduction related to these items should be zero as there is no service to increase or service to give passes to.

Response O.3: The commenter correctly states that implementation of the Housing Element Update would result in significant vehicle miles travelled (VMT) impacts (refer to Impact TRN-2.1 on page 234 of the Draft PEIR). As detailed on page 236 of the Draft PEIR, even with the implementation of mitigation measure MM TRN-2.1, VMT in Sub Area 6 would only be reduced to 22.0, which would still exceed the Town-wide threshold of 19.0 VMT per resident, this constitutes a significant and unavoidable VMT impact. Potential reduction measures include ride-sharing programs, subsidized transit passes (as noted by the commenter), price and manage parking, and other community-scale strategies. These measures are derived from the CCTA's Growth Management Program Implementation Guide (refer to page 234 of the Draft PEIR).

Figure 3.17-3 of the Draft PEIR identifies existing transit services in the Town. No transit service is shown along Camino Tassajara, consistent with the comment. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.4: Also, Camino Tassajara has become a scary road. The accidents have increased and the intersection with Crow Canyon can be chaotic. The increased traffic right before this intersection will be problematic should Sub Area 6 at Liverpool and Blackhawk be developed.

Response O.4: Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. As discussed on page 237 of the Draft PEIR, future development under the Housing Element Update would be subject to, and constructed in accordance with, applicable roadway design and safety guidelines and General Plan Policies 12.03, 12.04, and 12.09.

Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the Town has level of service (LOS) standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and CCTA LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and would continue to do so with the addition of traffic from the proposed project. In the event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743). This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.5: Also of concern is the increased lighting and glare from the MF-HD building that would negatively impact nearby neighborhoods.

Response O.5: As discussed on page 38 of the Draft PEIR, future development projects would be subject to design review and approval to address lighting and glare from new buildings and developments consistent with General Plan Policy 2.01. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.6: The Open Space being considered is on higher ground than the surrounding neighborhoods. Given that Center Court has already experienced issues with foundations of a few homes near the hillside, it seems there is a risk that developing the Open Space above the surrounding properties will cause drainage issues and hillsides to slide.

Response O.6: As detailed on page 171 of the Draft PEIR, future development under the Housing Element Update would be required to meet the 100-year flood capacity of the Town's flood control system consistent with General Plan Policy 26.03. Future development would also need to demonstrate no net increase in peak flow runoff, unless adequate drainage capacity exists or other mitigation measures are provided, consistent with General Plan Policy 26.06. In addition, future development of the candidate housing sites would be subject to Provision C.3 of the MRP and Town's Stormwater Management and Discharge Control Ordinance (refer to page 171 of the Draft PEIR). Consistent with General Policy 20.08, future housing development under the Housing Element Update would be required to prepare a Storm Water Control Plan to ensure that future development incorporates site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff.

As discussed on pages 129-130 of the Draft PEIR, future housing would be built in accordance with the CBC, be subject to the Town's Grading Ordinance, and General Plan Policy 24.03 (which requires a soils and geologic report for areas susceptible to landslide and other hazards and an erosion control plan to reduce the loss of topsoil). Further, General Plan Policy 24.04 requires all hillside development to be designed and constructed to minimize cutting and filling of slopes and avoid high risk landslide areas. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.7: Because this building will be above the surrounding areas, existing homes would no longer have privacy in their backyards and even into the bedroom windows. This development would block current residents' views of Mount Diablo causing decreased property values.

Response O.7: Private views and property values are not subject to CEQA review. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment O.8: I understand all comments will be responded to in writing as part of the Final EIR. I would also be interested in the names of those on the Planning Commission that are supportive of Open Space being developed. Thanks very much for your consideration of these items.

Response O.8: As noted by the commenter, all responses to comments have been included as part of this Final PEIR. The Town is evaluating candidate housing sites across eight subareas in the Town, no decision has been made by the Planning Commission at this time. The comment does not raise any issues about the adequacy of the EIR, therefore, no further response is required.

P. Michelle LaPena on behalf of Confederated Villages of Lisjan Nation (dated September 26, 2022)

Comment P.1: Thank you for the opportunity to review and comment on the Draft EIR for the Update to the Danville Housing Element. We appreciate this opportunity to work with the City to ensure that the Update includes the most recent language because the laws regarding the protection and preservation of Tribal Cultural Resources have been improved over the last ten years. For example, AB 52 was passed in 2014, and it substantially changed the process for reviewing project applications that may have an impact on Tribal Cultural Resources. AB 52 also requires lead agencies to consult with culturally-affiliated California Native American Tribes regarding such project and to work together to establish appropriate avoidance or mitigation as appropriate for each development proposal.

In addition to AB 52, there are also new measures that were adopted in the past few years, that address loopholes that can arise when a particular project may be fall under a streamlined CEQA review. We did not have sufficient time to develop all of that language for you in this markup of the Cultural Resources section of the Update, but we hope to work with you to refine the language to bring it into compliance with applicable laws.

Please let me know when we could meet again to discuss the attached suggested language. We hope this Update will result in greater consideration and preservation of important Tribal Cultural Resources in Danville. I have also pasted some helpful information for your planners to refer to in the future regarding protection of TCR's.

Part XI (scahome.org)

Tribal Cultural Resources (AB 52) - Office of Planning and Research (ca.gov)

Response P.1: As discussed on page 240 of the Draft PEIR, the Town received a request from the Confederated Villages of Lisjan on April 26, 2022 to consult pursuant to Assembly Bill 52 (AB 52). The Town met representatives of the Confederated Villages of Lisjan on September 7, 2022. On September 22, 2022, the Town received comments on Section 3.5 Cultural Resources of the Draft PEIR from the Confederated Villages of Lisjan (via their representative, Ms. LaPena) and a request to meet to discuss the comments. The Town met with Ms. LaPena on October 7, 2022 to discuss the comments. During the meeting, the Town clarified that tribal cultural resources were in fact evaluated in their own section (Section 3.18) of the Draft PEIR. Ms. LaPena acknowledged this and indicated that subsequent comments may be provided upon further review. To date, no subsequent comments were received.

The Town reviewed the comments that were received on Section 3.5 Cultural Resources of the Draft PEIR. The Town is not considering revisions to the existing cultural resource policies of the General Plan as part of the Housing Element Update but will review the cultural resource policies to address AB 52 when the General Plan is comprehensively updated in the future. The Town has also reviewed the comments as they relate to cultural resource regulations and found the existing summaries of those requirements to be adequate.

As stated on page 242 of the Draft PEIR, future development under the Housing Element Update would be required to adhere to General Plan Policy 8.14, which requires that future development not result in the loss of significant archaeological resources (including tribal cultural resources) by requiring compliance with State and federal laws regarding assessment and recovery of such resources. Further, consistent with General Plan Policy 8.14, the Town would require that future residential development located along Diablo Road and adjacent to San Ramon Creek implement a condition of approval that would require presence/absence exploration prior to approval of the entitlement. The presence/absence plan will be prepared in consultation with culturally affiliated Tribe(s). Consistent with the requirements of AB 52, the Town will provide notice of future projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified.

The Town has not received any further comments from tribal representatives of the Confederated Villages of Lisjan and, therefore, considers the tribal consultation process complete.

Q. Nashmia Tanvir (dated September 25, 2022)

Comment Q.1: Hope you are well.

I have been following the Housing Project initiative in Danville closely and I have certain significant concerns that I would like to highlight regarding property that was not previously included in the EIR. This is property in Sub Area 6 at Tassajara and Liverpool which is currently an 'Open Space'.

According to the EIR, this property is now being considered for rezoning from Open Space to MF-HD which has raised a lot of concerns:

- We purchased our home in March 2020 after assurances from the Town office that this property will always remain to be an Open Space, especially since Danville has an established policy for maintaining open spaces. The consideration for rezoning now feels like we were misled.
- As mentioned above, this property was not on the map for public input and comments. As a result, our community was unable to voice our concerns earlier.

Response Q.1: As stated on page 12 of the Draft PEIR, the Town has prepared an inventory of land suitable for residential development, including vacant sites and sites

that have potential for redevelopment. In order to meet the 2023-2031 RHNA allocation and provide sufficient capacity for housing development, the Housing Element identifies sites to increase allowed residential densities to meet affordability requirements. While, the candidate housing sites could yield 4,681 housing units, the Town's RHNA allocation (2,241 housing units) and the required 15 percent buffer (336 housing units) amounts to 2,577 total housing units. The Draft PEIR acknowledges that not all candidate housing sites will ultimately be included in the Housing Element. Please note that Sub Area 6 was shown on the Housing Site Suggestion Map (https://danvilletowntalks.org/housingelement?tool=map#tool_tab) as early as June 2022.

As part of the Housing Element Update, the General Plan and Zoning Ordinance would be amended to account for any proposed changes in land use and would be subject to Planning Commission and City Council approvals. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment Q.2:

- Our community is below this Open Space property and any grading on the hillside will likely result in slides and runoffs, thereby damaging our homes. As per my knowledge, several of our neighbors have already experienced foundation issues, small slides and runoff problems. Any development on the surrounding space is bound to increase these issues.

Response Q.2: Impacts to Geology and Soils are presented on pages 119 to 132 of the Draft EIR. Impacts to Hydrology and Water Quality are presented on pages 160 to 173 of the Draft PEIR.

As discussed on pages 129-130 of the Draft PEIR, future housing would be built in accordance with the CBC, be subject to the Town's Grading Ordinance, and General Plan Policy 24.03 (which requires a soils and geologic report for areas susceptible to landslide and other hazards and an erosion control plan to reduce the loss of topsoil). Further, General Plan Policy 24.04 requires all hillside development to be designed and constructed to minimize cutting and filling of slopes and avoid high risk landslide areas.

As detailed on page 171 of the Draft PEIR, future development under the Housing Element Update would be required to meet the 100-year flood capacity of the Town's flood control system consistent with General Plan Policy 26.03. Future development would also need to demonstrate no net increase in peak flow runoff, unless adequate drainage capacity exists or other mitigation measures are provided, consistent with General Plan Policy 26.06. In addition, future development of the candidate housing sites would be subject to Provision C.3 of the MRP and Town's Stormwater Management and Discharge Control Ordinance (refer to page 171 of the Draft PEIR). Consistent with General Policy 20.08, future housing development under the Housing Element Update would be required to prepare a Storm Water Control Plan to ensure

that future development incorporates site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment Q.3:

- The current Open Space supports a great deal of wildlife, including (but not limited to) deers, owls, raccoons and turkeys. Any development would take away this habitat from them.

Response Q.3: Impacts to biological resources, including wildlife, are presented on pages 63 to 101 of the Draft PEIR. As discussed on page 91 of the Draft PEIR, the 2030 General Plan contains goals and policies that call for the protection of special status wildlife species, including General Plan Policy 21.7 and 21.10, which require preparation of a site-specific biological assessment for sites that are determined to have the potential to contain special-status species. With adherence to these General Plan policies, future development of candidate housing sites would be required to prepare a biological assessment by a qualified biologist in order to identify special-status species known to occur, potential impacts, and appropriate measures for protecting special-status species in accordance with state and federal laws. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment Q.4:

- The significant loss of privacy and increased lighting/glare from a high density housing such as the one proposed is also very worrisome for our community since these will impact our quality of living.

Response Q.4: Visual and aesthetic impacts are discussed on page 26 to 40 of the Draft PEIR. As discussed on page 38 of the Draft PEIR, future development projects would be subject to design review and approval to address lighting and glare from new buildings and developments consistent with General Plan Policy 2.01. Further, impacts to private views are not subject to CEQA review. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment Q.5:

- Traffic related issues on Tassajara are already known to all with back-ups during rush hour and the increased number of accidents. With no connecting bus routes or BART access, adding 40+ houses will magnify the traffic risk and issue.

In light of the above, I am hopeful that Danville will protect this Open Space and look forward to hearing back from you.

Response Q.5: Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA

(see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the Town has LOS standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and CCTA LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and would continue to do so with the addition of traffic from the proposed project. In the event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743).

As discussed on page 237 of the Draft PEIR, future development under the Housing Element Update would be subject to, and constructed in accordance with, applicable roadway design and safety guidelines and General Plan Policies 12.03, 12.04, and 12.09. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

R. Nashmia Tanvir (dated September 27, 2022)

Comment R.1: I have been following the Housing Project initiative in Danville closely and I have certain significant concerns that I would like to highlight regarding the property at Tassajara and Liverpool in Sub Area 6 that is included in the draft EIR.

According to the EIR, this property is being considered for rezoning from Open Space to MF-HD which has raised a lot of concerns:

- We purchased our home in March 2020 after assurances from the Town office that this property will always remain to be an Open Space, especially since Danville has an established policy for maintaining open spaces. The consideration for rezoning now feels like we were misled.

Response R.1: Refer to Response Q.1 above.

Comment R.2:

- Our community is below this Open Space property and any grading on the hillside will likely result in slides and runoffs, thereby damaging our homes. As per my knowledge, several of our neighbors have already experienced foundation issues, small slides and runoff problems. Any development on the surrounding space is bound to increase these issues.

Response R.2: Refer to Response Q.2. above.

Comment R.3:

- The current Open Space supports a great deal of wildlife, including (but not limited to) deers, owls, and turkeys. Any development would take away this habitat from them.

Response R.3: Refer to Response Q.3 above.

Comment R.4:

- The significant loss of privacy and increased lighting/glare from a high density housing such as the one proposed is also very worrisome for our community since these will impact our quality of living.

Response R.4: Refer to Response Q.4 above.

Comment R.5:

- Traffic related issues on Tassajara are already known to all with back-ups during rush hour and the increased number of accidents. With no connecting bus routes or BART access, adding 40+ houses will magnify the traffic risk and issue.

In light of the above, I am hopeful that Danville will protect this Open Space and look forward to hearing back from you.

Response R.5: Refer to Response Q.5 above.

S. Rob Culin (dated October 13, 2022)

Comment S.1: Thank you for conducting a public meeting engaging the community on the entire Housing Element and this DPEIR.

I've been a Danville resident since the mid 90's and have become very concerned about the impact of climate change on our community. We are living through the early stages of this change today, and all science tells us that this is going to get worse and worse in the coming years. Yet, most of us continue to want to avoid any modifications to our behavior. I think it's clear that we are going to have to make changes, and our goal should be to find the least painful and least risky approach to make an impact.

This Housing Element provides us an opportunity to do that – to begin to reduce the GHGs that we are emitting from our homes in a way that actually works better and saves money. Danville's own analysis shows us that the use of natural gas in homes is our 2nd leading contributor to GHGs (2013 SAP), and the draft EIR states that we should begin to replace gas with efficient electric appliances in all new buildings. (Section 3.8 in the EIR).

I want to express my strong support for the identification of Significant Impacts GHG-2.1 and GHG-2.2, and the recommended Mitigation Measures GHG-2.1 and GHG-2.2 (on pages 140 and 141 of the EIR). I'm urging the town Staff and Council to follow through on these recommendations and quickly pass new building ordinances that will require all new buildings to be all-electric. In addition, I would strongly encourage that the ordinance include not just new housing but include all new buildings plus major renovations that would be using new appliances. These types of ordinances are now being used across California and within Contra Costa County.

The recommended ordinances would provide a very efficient & prudent way for us to do our part to limit GHG emissions and make a positive impact on environmental warming. I look forward to following the action on this.

Response S.1: The comment does not raise any issues about the adequacy of the EIR, in fact this comment supports the conclusions made in the EIR. Therefore, no further response is required.

T. Sandra Hill Howard (dated September 29, 2022)

Comment T.1: I have been following with interest the Housing Project initiative in the Town. I have attended all in person meetings as well as Zoom meetings on the subject and understand the challenge that the Town is facing. I would like to express my deep concern for the property that is now included in the EIR that did not previously show on the project map. This property is in Sub Area 6 at Tassajara and Liverpool, currently designated as Open Space.

The EIR says that this space might be rezoned from Open Space to MF-HD. My significant concerns and input are as follows:

1. Danville has an established policy of maintaining Open Space (as noted on page 27, section 2.02 of the EIR). We purchased our home in 2014 only after visiting with the Town office and receiving reassurance that this designation was in perpetuity. Earlier this year I again visited the Town office and received the same reassurance. The fact that this property is now in consideration feels as if the Town misrepresented this space to us. This space did not appear on the map for public input and comments so I can only assume that the Town offices placed our Open Space into consideration for development. I have contacted all neighbors in my community and they are very concerned with any changes to our surrounding space.

Response T.1: As stated on page 12 of the Draft PEIR, the Town has prepared an inventory of land suitable for residential development, including vacant sites and sites that have potential for redevelopment. In order to meet the 2023-2031 RHNA allocation and provide sufficient capacity for housing development, the Housing Element identifies sites to increase allowed residential densities to meet affordability requirements. While, the candidate housing sites could yield 4,681 housing units, the Town's RHNA allocation (2,241 housing units) and the required 15 percent buffer (336 housing units) amounts to 2,577 total housing units. The Draft PEIR acknowledges that not all candidate housing sites will ultimately be included in the Housing Element. Please note that Sub Area 6 was shown on the Housing Site Suggestion Map (https://danvilletowntalks.org/housingelement?tool=map#tool_tab) as early as June 2022.

As part of the Housing Element Update, the General Plan and Zoning Ordinance would be amended to account for any proposed changes in land use and would be subject to Planning Commission and City Council approvals. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment T.2: 2. Relative to the EIR, the grading on this hillside presents a potential issue as existing homes are below the Open Space property and slides and runoff could be a risk. Several homes in our community have already had small slides, foundation issues and runoff problems that would only be exacerbated by a development above our land.

Response T.2: Impacts to Geology and Soils are presented on pages 119 to 132 of the Draft EIR. Impacts to Hydrology and Water Quality are presented on pages 160 to 173 of the Draft PEIR.

As discussed on page 130 of the Draft PEIR, future housing would be built in accordance with the CBC, be subject to the Town's Grading Ordinance, and General Plan Policy 24.03 (which requires a soils and geologic report for areas susceptible to landslide and other hazards).

As detailed on page 171 of the Draft PEIR, future development under the Housing Element Update would be required to meet the 100-year flood capacity of the Town's flood control system consistent with General Plan Policy 26.03. Future development would also need to demonstrate no net increase in peak flow runoff, unless adequate drainage capacity exists or other mitigation measures are provided, consistent with General Plan Policy 26.06. In addition, future development of the candidate housing sites would be subject to Provision C.3 of the MRP and Town's Stormwater Management and Discharge Control Ordinance (refer to page 171 of the Draft PEIR). Consistent with General Policy 20.08, future housing development under the Housing Element Update would be required to prepare a Storm Water Control Plan to ensure that future development incorporates site design, source control and runoff treatment controls to reduce the rates, volumes and pollutant loads of runoff. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment T.3: 3. Traffic on Tassajara in this area is already a huge issue with schooltime backups, excessive speeding and recent accidents (including a recent pedestrian fatality). An additional 40+ housing units in this area would create an increased traffic risk, especially for pedestrians. I am a daily walker in this area and find that I have to exercise extreme caution with existing traffic, never mind additional residential vehicles.

Response T.3: Transportation impacts are discussed in Section 3.17 Transportation on pages 222-239 of the Draft PEIR. Pursuant to state and local regulations, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). As discussed on page 232 of the Draft PEIR, the Town has level of service (LOS) standards for its local roadways. General Plan Policy 14.03 requires that new development maintain level of service standards for Danville streets. As detailed on page 232 of the Draft PEIR and consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to show that measured against applicable municipal and CCTA LOS standards, all study intersections operate at an acceptable LOS during the AM and PM peak hours and would continue to do so with the addition of traffic from the proposed project. In the

event that LOS deficiencies were identified, future development projects would be required to identify improvements to the multi-modal network. However, this deficiency would not be a significant impact under CEQA (pursuant to SB 743).

As discussed on page 237 of the Draft PEIR, future development under the Housing Element Update would be subject to, and constructed in accordance with, applicable roadway design and safety guidelines and General Plan Policies 12.03, 12.04, and 12.09. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment T.4: 4. This property is the farthest east on the map of proposed properties. There are no connecting bus routes to this area so our traffic increase would be significant.

Response T.4: As noted in Response T.3 above, a project's effect on automobile delay is no longer considered an impact under CEQA (see page 222 regarding SB 743). Consistent with General Plan Policy 14.02, future residential development projects that generate significant volumes of traffic would be required to prepare a traffic study to evaluate LOS deficiencies. Pursuant to SB 743, Any LOS deficiencies would not be a significant impact under CEQA. Figure 3.17-3 of the Draft PEIR identifies existing transit services in the Town. No transit service is shown along Camino Tassajara, consistent with the comment. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment T.5: 5. This property also supports wildlife. Residents in my community enjoy our local deer, raccoon, fox, coyote, owls, hawks and falcons. Since Danville has the desire and intent to support wildlife, this small habitat area is a haven to many animals in the midst of an otherwise developed area.

Response T.5: Impacts to biological resources, including wildlife, are presented on pages 63 to 101 of the Draft PEIR. As discussed on page 91 of the Draft PEIR, the 2030 General Plan contains goals and policies that call for the protection of special status wildlife species, including General Plan Policy 21.7 and 21.10, which require preparation of a site-specific biological assessment for sites that are determined to have the potential to contain special-status species. With adherence to these General Plan policies, future development of candidate housing sites would be required to prepare a biological assessment by a qualified biologist in order to identify special-status species known to occur, potential impacts, and appropriate measures for protecting special-status species in accordance with state and federal laws. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

Comment T.6: 6. Increased lighting and glare from a high density housing area would negatively impact nearby residents and development would block views of Mt. Diablo. Certain areas of development would also look directly down upon some of the homes in our community thus creating a privacy risk to residents.

I look forward to hearing back from you and to hearing that indeed, Danville intends to protect its Open Space as part of the growth plans for the future.

Response T.6: Visual and aesthetic impacts are discussed on page 26 to 40 of the Draft PEIR. As discussed on page 38 of the Draft PEIR, future development projects would be subject to design review and approval to address lighting and glare from new buildings and developments consistent with General Plan Policy 2.01. Further, impacts to private views are not subject to CEQA review. This comment does not provide new information that would change the analysis or conclusions disclosed in the Draft PEIR.

SECTION 5.0 DRAFT EIR TEXT REVISIONS

This section contains revisions to the text of the Town of Danville 2023-2031 Housing Element Update Draft EIR dated September 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 34 Section 3.1.1.2 Existing Conditions (under Scenic Corridors and Highways):
REVISE the third paragraph as follows:

Candidate housing sites may be visible from Danville Boulevard, San Ramon Valley Boulevard, Diablo Road, Sycamore Valley Road, Crow Canyon Road, Camino Tassajara, and I-680.

Page 114 Section 3.6.1.2 Existing Conditions (under Natural Gas): REVISE the paragraph as follows:

PG&E provides natural gas³ services to the Town of Danville. In 2020, approximately two percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.⁴ In 2020, California used 2,144 trillion Btu of natural gas.⁵ In 2019, Contra Costa County used approximately 1,062 million therms of natural gas,⁶ or approximately 106,175 billion Btu (GBtu).⁷ This equates to approximately five percent of the state's total consumption of natural gas in 2020.⁸

³ Natural gas is a naturally occurring mixture of gaseous hydrocarbons consisting primarily of methane in addition to various smaller amounts of other higher alkanes.

⁴ California Gas and Electric Utilities. 2020 *California Gas Report*. Accessed October 26, 2021.
[https://www.socalgas.com/sites/default/files/2020-](https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_UTILITY_Biennial_Comprehensive_Filing.pdf)

[10/2020_California_Gas_Report_Joint_UTILITY_Biennial_Comprehensive_Filing.pdf](https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_UTILITY_Biennial_Comprehensive_Filing.pdf).

⁵ United States Energy Information Administration. "State Profile and Energy Estimates, 2020." Accessed July 5, 2022. <https://www.eia.gov/state/?sid=CA#tabs-2>.

⁶ California Energy Commission. "Natural Gas Consumption by County." Accessed July 21, 2022.
<http://ecdms.energy.ca.gov/gasbycounty.aspx>.

⁷ One therm = 99,976 Btu. 1062 million therms x 99,976 = 106,175 billion Btu

⁸ California Energy Commission. "Natural Gas Consumption by County." Accessed July 21, 2022.
<http://ecdms.energy.ca.gov/gasbycounty.aspx>.

Appendix A: Draft EIR Comment Letters



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

November 9, 2022

Mr. David Crompton
Town of Danville
510 La Gonda Way
Danville, CA 94526
DCrompton@danville.ca.gov

DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TOWN OF DANVILLE
2023-2031 HOUSING ELEMENT UPDATE – DATED SEPTEMBER 2022
(STATE CLEARINGHOUSE NUMBER: 2021100069)

Dear Mr. Crompton:

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (EIR) for the Town of Danville 2023-2031 Housing Element Update (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. A State of California environmental regulatory agency such as DTSC, a Regional Water Quality Control Board (RWQCB), or a local agency that meets the requirements of [Health and Safety Code section 101480](#) should provide regulatory concurrence that Project sites are safe for construction and the proposed use.
2. The EIR acknowledges the potential for historic or future activities on or near project sites to result in the release of hazardous wastes/substances on the project sites. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment

should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

3. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil DTSC, recommends collecting soil samples for lead analysis prior to performing any intrusive activities for any project sites described in the EIR.
4. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 [Information Advisory Clean Imported Fill Material](#).
5. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\)](#).

DTSC appreciates the opportunity to comment on the EIR. Should you choose DTSC to provide oversight for any environmental investigations, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

Mr. David Crompton
November 9, 2022
Page 3

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Gavin McCreary". The signature is written in a cursive style with a long, sweeping tail on the "y".

Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov



October 27, 2022

David Crompton, Chief of Planning
Town of Danville Planning Division
510 La Gonda Way
Danville, CA 94526

Re: Notice of Availability of a Draft Environmental Impact Report for the 2023-2031
Danville Housing Element, (SCH 2021100069), Danville

Dear Mr. Crompton:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update, which encompasses the entire Town of Danville (Town). EBMUD commented on the Notice of Preparation of a Draft EIR for the project on November 4, 2021 and these comments (see enclosure) still apply regarding water service, water recycling, and water conservation.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,

A handwritten signature in blue ink that reads 'David J. Rehnstrom'.

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:MSW:djr
sb22_319 Danville Housing Element

Enclosure



November 4, 2021

David Crompton, Chief of Planning
Town of Danville, Planning Division
510 La Gonda Way
Danville, CA 94526

Re: Notice of Preparation of a Draft Environmental Impact Report for the 2023-2031
Housing Element Update, Danville

Dear Mr. Crompton:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the 2023-2031 Housing Element Update for the Town of Danville (Town). EBMUD has the following comments.

WATER SERVICE

Effective January 1, 2018, water service for new multiunit structures shall be individually metered or sub-metered in compliance with Section 537 of California's Water Code & Section 1954.201-219 of California's Civil Code, which encourages conservation of water in multifamily residential and mixed-use multi-family and commercial buildings by requiring metering infrastructure for each dwelling unit, including appropriate water billing safeguards for both tenants and landlords. EBMUD water services shall be conditioned for all development projects that are subject to these metering requirements and will be released only after the project sponsor has satisfied all requirements and provided evidence of conformance with Section 537 of California's Water Code & Section 1954.201-2019 of California's Civil Code.

EBMUD's Diablo Pressure Zone, with a service elevation range between 450 and 650 feet, and Danville Pressure Zone, with a service elevation range between 250 and 450 serves the Housing Element area. Main extensions that may be required to serve individual projects within the Housing Element area to provide adequate domestic water supply, fire flows, and system redundancy will be installed at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements, due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. When development plans are finalized, individual project sponsors should

contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to their projects within the Housing Element area. Engineering and installation of new and relocated pipelines and services require substantial lead time, which should be provided for in the project sponsor's development schedule.

A minimum 20-foot-wide right-of-way is required for installation of new and replacement water mains. Additional utilities installed in the right-of-way with the water mains must be located such that the new water mains meet the minimum horizontal and vertical separation distances as set forth in the California (Waterworks Standards) Code of Regulations, Title 22, Section 64572 (Water Main Separation) and EBMUD requirements for placement of water mains within a right-of-way. The minimum horizontal separation distance requirements include, but are not limited to, 10 feet between the water main and sewer, 5 feet between the water main and storm drain, 7 feet from the face of the curb, and 5 feet from the edge of the right-of-way. In addition, water mains must be vertically located a minimum of one foot above sewers and storm drains. EBMUD cannot maintain water mains and services installed under pervious pavement; therefore, an alternative to pervious pavement would be required if installation of EBMUD water mains or services on site is required.

EBMUD's Standard Site Assessment Report indicate the potential for contaminated soils or groundwater to be present within the Housing Element area. Individual project sponsors should be aware that EBMUD will not install piping or services in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may be hazardous to the health and safety of construction and maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping or services in areas where groundwater contaminant concentrations exceed specified limits for discharge to the sanitary sewer system and sewage treatment plants. Individual project sponsors must submit copies to EBMUD of all known information regarding soil and groundwater quality within or adjacent to the project boundary and a legally sufficient, complete and specific written remediation plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of contaminated soil and groundwater.

EBMUD will not design piping or services until soil and groundwater quality data and remediation plans have been received and reviewed. In addition, underground work will not start until remediation has been carried out and documentation of its effectiveness has been received and reviewed. If no soil or groundwater quality data exists, or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil and groundwater that may be encountered during excavation, or EBMUD may perform such sampling and analysis at the project sponsor's expense. If evidence of contamination is discovered during EBMUD work on the project site, work may be suspended until such contamination

is adequately characterized and remediated to EBMUD standards.

WATER RECYCLING

EBMUD's Policy 9.05 requires that customers use non-potable water, including recycled water, for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant, fish and wildlife to offset demand on EBMUD's limited potable water supply. Appropriate recycled water uses include landscape irrigation, commercial and industrial process uses, toilet and urinal flushing in non-residential buildings, and other applications.

EBMUD does not currently have any recycled water service in the Town; however, the Town is located within EBMUD's San Ramon Valley Recycled Water Project service boundaries and future expansion plans will extend recycled water to the Town that could potentially serve a significant portion of the Housing Element area. EBMUD will assess and consider the feasibility of providing recycled water to individual projects within the Housing Element area for appropriate uses including landscape irrigation, commercial and industrial process uses, toilet and urinal flushing.

EBMUD requests that each individual project submits an estimate of expected water demand for potential recycled water uses to determine the feasibility of providing recycled water to the project. As EBMUD advances plans and implements its recycled water supply expansion to the Town, EBMUD requests the Town and its developers continue to coordinate closely with EBMUD during the planning of the various Housing Element components to further explore the options and requirements relating to recycled water use.

WATER CONSERVATION

Individual projects within Housing Element may present an opportunity to incorporate water conservation measures. EBMUD requests that the Town include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). Individual project sponsors should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

David Crompton, Chief of Planning
November 4, 2021
Page 4

If you have any questions concerning this response, please contact Timothy R. McGowan,
Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,

A handwritten signature in blue ink that reads "David J. Rehnstrom". The signature is written in a cursive style.

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:WTJ:grd
sb21_315 2023-2031 Danville Housing Element



October 27, 2022

David Crompton, Chief of Planning
City of Danville

RE: COMMENTS ON THE SEPTEMBER 2022 DANVILLE HOUSING ELEMENT DRAFT EIR

350 Contra Costa Action, a non-profit organization with members who live in Danville, is focused on getting local governments to take quick and bold actions to address the climate crisis. Studies conducted under the auspices of the U.N. (Intergovernmental Panel on Climate Change, <https://www.ipcc.ch/>), backed by overwhelming numbers of climate scientists, indicate that the world is not close to preventing catastrophic climate change – where feedback effects will create a situation where GHG-caused climate changes will not be stoppable.

We have reviewed the draft EIR to the city’s Housing Element update, and offer the following comments:

3.0, Section 3.6:

- **Natural Gas**, page 117: The EIR states that the expected increase in natural gas use will be minor (on the scale of State energy use), but neglects to mention that natural gas is primarily methane, one of the most potent GHG’s (as noted in section 3.8 of the EIR). The EIR also fails to address the danger that the natural gas system exposes the community:
 - ◆ Potential catastrophic explosions at pipeline leaks – especially during earthquakes.¹
 - ◆ Indoor air pollution from cooking with gas.

In the Energy Impacts section of the EIR (3.6.2), it ought to be pointed out that the CARB May 2022 draft Scoping Plan Update² makes a case for the urgent need to phase out fossil fuel use (including natural gas).

Therefore the EIR should make clear that any increase in natural gas use/burning of methane is not acceptable from environmental, occupant health and community safety standpoints.

- **Fuel for Motor Vehicles**, page 117: As with natural gas, the EIR suggests that the increase in gasoline use will be relatively small, and therefore insignificant. As we note about potential increases in natural gas use, above, any increase in fossil fuel burning is contrary to local and state goals on countering global heating.

1 NRDC, Pipeline Incident Statistics Reveal Significant Dangers, Jan. 2019
<https://www.nrdc.org/experts/amy-mall/pipeline-incident-statistics-reveal-significant-dangers>

2 CARB draft Scoping Plan May 2022. See for example Severity of Climate Change Impacts, page 3, and Imperative to Act, page 6. <https://ww2.arb.ca.gov/sites/default/files/2022-05/2022-draft-sp.pdf>

3.8 GHG Mitigations, Buildings: We are thankful that the EIR calls for banning natural gas heating systems in new buildings. We are hopeful that the city council will support this measure, given the environmental, health and safety benefits. And numerous studies show that most all-electric buildings are less expensive to build than buildings that use both natural gas and electric systems. The policy of banning natural gas in new buildings will also be beneficial to property owners who build all-electric, and therefore won't end up with heating systems (e.g. space heating, water heating, cooking) that is either too expensive or no longer available.

Comment to policymakers: While town staff are designing an electric building ordinance, due consideration ought to be made for including significant building additions and alteration projects. Some jurisdictions use project cost or project size as "triggers". We suggest a fairly simple mandate based on the proposed project scope (and assuming that the town is not yet ready to mandate electric systems in the case of simple change-outs of obsolete equipment): Mandate that new heating systems be electric when they are in addition to existing heating equipment, and when replacement heating equipment will be located in a new area.

3.8 GHG Mitigations, Transportation:

- VMT Reductions: We believe that the most important strategy for reducing VMT is to focus new housing in higher density mixed use projects, and high-density residential projects, built within walking distance or easy biking distance of amenities that residents need in their daily lives: Shopping, office spaces, cultural facilities, parks and the like.
- EV Charging Infrastructure: Over the lifetime of residential buildings constructed in the near future, we expect that most, if not all, residents will be driving EV's. Therefore, it is vital that new multi-family buildings plan for this eventuality. While it is a step in the right direction to call for EV charging requirements to meet CalGreen Tier 2, the practical differences in charging requirements between mandatory CalGreen, CalGreen Tier 1 and Tier 2 are minor. At the minimum, we suggest that new multi-family projects meet the Ready and the Chargers portion of mandatory CalGreen, plus requiring one parking space per every dwelling unit that is not already covered by the Ready and Charging requirements to meet the Capable protocols (i.e. wired for future installation of electrical receptacles or stations for charging).

Please feel free to contact us should you have any questions about our comments on the Danville Housing Element Draft EIR.

Lisa Jackson
Rob Culin
Gary Farber
for 350 Contra Costa Action

cc: Danville Town Council

From: [Andy McClure](#)
To: [David Crompton](#)
Subject: Mitigation Measure GHG 2.1
Date: Thursday, October 27, 2022 9:46:01 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi David,

My name is Andy McClure and I have been a Danville resident since 2002. I am greatly concerned about the climate crisis because the window of opportunity we have for slowing down our dangerous trajectory, and helping our children avoid at least some of the worst effects, is rapidly closing.

I reviewed the Housing Element plan and the EIR and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for all new housing. I am familiar with similar measures enacted in Berkeley, for example, because I am an active member of the Climate Reality Project and our regional chapter.

I think electrification is a necessary step for as many municipalities as possible to take. This would be a good way for Danville to meet GHG reduction targets with very limited negative impact. I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1

Warm regards,

logo



Andy McClure, *Sherpa Business Development*

925-683-1685 | andy@sherpabizdev.com



From: [David Crompton](#)
To: [Bob Loreen](#)
Subject: RE: EIR- Concerns about rezoning Sub Area 6 Tassajara and Liverpool from Open Space to MF-HD

Hi Bob,

This site is one of about of about 80 properties that were identified as potential sites to help the Town meet its State mandated Regional Housing Needs Assignment (RHNA). The site was suggested as part of the Town's review and input received by the public. It is been part of the survey since the draft housing element was made available for public review in July.

The Town's RHNA shortfall is about 1,800 housing units. The total potential housing units identified in the inventory is over 3,000. Therefore, many of the potential identified sites won't end up being selected. The additional units in the inventory will give the Town Council some flexibility when choosing sites.

The subject site is problematic for a number of reasons: It is designated as open space, and the Town has no track record of changing open space to allow development; a redesignation of open space to allow development would be subject to Danville Measure S, which requires a public vote to affirm such a change; as you mention, topography, drainage and vehicular access would be significant challenges for development. As a result, it is unlikely that staff will recommend that this site be included as a site to accommodate housing.

The Housing Element, recommended land use amendments and rezonings, and an associated Environmental Impact Report will need to go through a public hearing process before the Planning Commission and then Town Council for review and approval. Hearings are expected to take place late this year and early next year. You can stay informed by visiting the Town Website [Housing Element | Danville Town Talks](#). Also, feel free to contact me anytime for an update or any additional comments or questions.

Sincerely,

David Crompton
Chief of Planning

From: Bob Loreen <blor8816@gmail.com>
Sent: Friday, September 23, 2022 4:29 PM
To: David Crompton <DCrompton@danville.ca.gov>
Subject: EIR- Concerns about rezoning Sub Area 6 Tassajara and Liverpool from Open Space to MF-HD

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a

Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

David,

I am aware of the Housing Project Initiative in Danville, and would like to formally express my strong concerns about the addition of the property directly behind our home in Danville, Sub Area 6, Tassajara and Liverpool in the EIR, that has been 'Open Space' is now showing as MF-HD. On the last round, this area was not showing as being changed, so something obviously happened to have this now included. Not sure what this was, but I want to document my concerns and give some input. I will, of course, be watching and participating until this all reaches a conclusion.

1. We purchased our home in the latter part of 2015, and had moved from another larger house in Diablo West, where we had lived since 2005. Like much of Danville, we had a large amount of open space in Diablo West, and when we noticed the same openness behind our house in Tassajara Cottages, this attracted us to the development, and have a number of friends on this side of the town as well. We asked our realtor, Nina Peles, a long time agent in this town, about the status of this open space behind us, as we would not purchase this property if there was going to be building on it, as we would have no idea what would be built, how it would impact our view, blocking of light, drainage issues, noise, etc. We heard the words..."Open Space", so I then called the city and spoke to someone on the phone, and they said this is zoned as 'Open Space' only. Through more talking, density was talked about and that Open Space was a beneficiary of areas of higher density. I'm in Sales, and I will ask the same question a couple of different ways, to make sure that I understand the answer. I had no more questions after this phone call and then ended up purchasing the house. Many people purchase homes in Danville due to the volume of 'Open Space', as this differs from many other cities, so housing values stay strong for all in Danville.

Note: other neighbors said they had made the same phone calls, and were told the same thing.

2. The property is well off the 680 freeway and seems to be the farthest East area shown on the Proposed Properties map, and does not seem to match up with the goal and objective- Not close to BART, not close to any transit, and with Camino Tassajara and Crow Canyon being the major streets, these major streets are very impacted right now. Every morning full with commuters/students-parents going to work and school. In fact, there was a recent situation where a person was killed crossing the crosswalk around the Woodranch development.
3. We have drainage concerns about building behind us. All of our properties are below grade and well below, and we have deep concerns about drainage runoff, land instability as a result of possible building activity behind us. As you probably know, the City of Danville has some natural foundation issues, so this could make things much worse, again due to our property being down below.
4. We enjoy the wildlife- deer, owls, coyotes, birds and other animals, as they find this open

space as a safe haven for them and this open space in Danville helps to promote more wildlife for all who live in Danville. Open Space is what really makes Danville different than some of our neighboring cities to the North and South.

5. Any proposed MF-HD buildings would impact the light to our house and others in our development, with likely no privacy at all, and likely block our entire view of Mt .Diablo, which we paid a good premium for this as any view property would, and in the end lead to lower housing values.

I look forward to hearing back from you on this area, and that Danville will continue to protect its 'Open Space' in its growth plans for the future.

Thank you.

Bob Loreen
BLor8816@gmail.com
925-575-5749

From: [Bobby Wilson Wilson](#)
To: [David Crompton](#)
Subject: Concerned citizen of Danville with Danville Housing Element Project
Date: Friday, September 30, 2022 6:04:50 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir,

We are the current owners of 116 Center Ct. in Danville, CA. I am extremely concerned by the current draft plans of the Danville Housing Element Project which seem to be seeking to change the "Open Space" designation behind my home to a "Multi-Family/High Density Housing (MF/HD)" designation. A development on that property would negatively impact the property value of current home owners like myself. A development in the what is now an open space would considerably increase traffic and noise as well as impact the environment. Over the years I have witnessed beautiful wildlife flourishing in the open space behind my home. I have been able to enjoy a quiet breakfasts, lunches and dinners on my patio. We purchased in Danville 10+ years ago because it was quiet, easy to navigate, had beautiful open land and had the small town look and feel. A change in designation of that land would set a dangerous precedent and further deteriorate the beauty, small town living experience and openness of Danville. Please consider these very negative impacts on your citizens, my fellow neighbors and our community when making your final decisions.

Regards,
Bobby and Lauren Wilson

From: [Bruce Wilke](#)
To: [David Crompton](#)
Subject: Reducing Danville's Climate Impact
Date: Tuesday, September 27, 2022 9:10:20 AM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

September 27, 2022

Mr. David Crompton
Chief of Planning
Town of Danville, California

Dear Mr. Crompton,

My name is Bruce Wilke and I've been a Danville resident since 1991. I am greatly concerned about the climate crisis in our Town, State, Country, and our World. It appears humans are warming the planet in so many ways that we are creating health and environmental hazards for all living creatures, including ourselves. I'm confident that as a community, we can make some changes that can help offset this crisis.

I reviewed the Draft Environmental Impact Report 2023-2031 Housing Element Update and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for new housing.

I think that's a great idea because the technology appears to be available and the solutions cost effective, so this would be a good way for the Town of Danville to meet greenhouse gas reduction targets with very limited negative impact.

I want to thank you for the good work you have done and to encourage you to favorably support the EIR and the recommended Mitigation Measure GHG-2.1.

Sincerely,

Bruce Wilke

From: [Gregg Pottorff, MD](#)
To: [David Crompton](#)
Subject: To : Chief of Planning David Crompton -- Please Support the EIR & Housing Element Plan in the Mitigation Measure GHG-2.1
Date: Saturday, October 22, 2022 7:38:30 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Crompton:

My name is Gregg Pottorff and I've been a Danville resident since 1992.

I am greatly concerned about the climate crisis because I've seen first-hand the effects of drought on our food supply in California and fear that some of our most beautiful and valued coastal communities may soon be underwater due to sea level rise.

I reviewed the Housing Element plan and the EIR and was very happy to read on page 140 of the EIR that the City of Danville is contemplating an all-electric construction ordinance for new housing.

I think that's a great idea because the technology appears to be available right now and the solutions are increasingly cost effective, so this would be a good way for Danville to meet GHG reduction targets with very limited negative impact.

I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Thank you,

Gregg Pottorff, MD
Danville

From: [Jason Hickey](#)
To: [David Crompton](#)
Subject: All electric construction for new housing
Date: Tuesday, October 25, 2022 11:42:35 AM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

My name is Jason (John) Hickey and I've been a resident of Danville for 30 years.

I've always been impressed and appreciative of how well the town of Danville is run. I was especially pleased to see the continued support addressing the climate crisis in the recent Environmental Impact Report.

I reviewed the housing element plan in the Environmental Impact Report and wanted to offer my support of all electric construction for new housing. I think this is a logical and cost effective way to help Danville meet GHG reduction targets and I want to encourage you to support of the Environmental Impact Report and the recommended mitigation measure GHG-2.1.

Thank you

Jason (John) Hickey
(925-209-5540)

From: [Jeffrey Lo](#)
To: [David Crompton](#)
Subject: Re: Possible Planned Development
Date: Monday, September 26, 2022 6:05:03 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi David,

Thank you for your prompt and thoughtful response. I look forward to seeing the town conducting proper research before making final and informed decisions. Danville has been great to us, and so far it has lived up to the reason why we moved to this wonderful town in the first place.

Thanks
Jeff

On Mon, Sep 26, 2022, 3:02 PM David Crompton <DCrompton@danville.ca.gov> wrote:

Hi Jeffery,

This site is one of about of about 80 properties that were identified as potential sites to help the Town meet its State mandated Regional Housing Needs Assignment (RHNA). The site was suggested as part of the Town's review and input received by the public. It's been part of the survey since the draft housing element was made available for public review in July.

The Town's RHNA shortfall is about 1,800 housing units. The total potential housing units identified in the inventory is over 3,000. Therefore, many of the potential identified sites won't end up being selected. The additional units in the inventory will give the Town Council some flexibility when choosing sites.

The subject site is problematic for a number of reasons: It is designated as open space, and the Town has no track record of changing open space to allow development; a redesignation of open space to allow development would be subject to Danville Measure S, which requires a public vote to affirm such a change; as you mention, topography, drainage and vehicular access would be significant challenges for development. As a result, it is unlikely that staff will recommend that this site be included as a site to accommodate housing.

The Housing Element, recommended land use amendments and rezonings, and an associated Environmental Impact Report will need to go through a public hearing process before the Planning Commission and then Town Council for review and approval. Hearings are expected to take place late this year and early next year. You can stay informed by visiting the Town Website Housing Element | Danville Town Talks. Also, feel free to contact me anytime for an update or any additional comments or questions.

Sincerely,

David Crompton

Chief of Planning

From: Jeffrey Lo <jeffreylo.1980@gmail.com>
Sent: Monday, September 26, 2022 12:20 PM
To: David Crompton <DCrompton@danville.ca.gov>
Subject: Possible Planned Development

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To Whom This May Concern,

I was just informed by a neighbor that there may be a planned development on the Meridian owned open plot of land near the corner of Tassajara and Crow Canyon.

As a homeowner in the Tassajara Cottages Neighborhood, i believe any development on this hill is quite concerning for several reasons:

1. Environmental Concern - All the surrounding houses may risk possible land erosion and

stability of surrounding housing, and we will be a direct recipient of this.

2. Infrastructure is lacking - Traffic is already quite congested especially during traffic hours such as going to work or dropping off kids at school.

3. Lack of Communication - None of our neighbor had been informed about this study, which appears to be uncaring and disrespectful to the community of this area.

4. Other Considerations - What other plots are being considered? There should be a more suitable and flatter piece of open land that will not only help expand the housing initiative without putting neighbors at risk.

Please let me know your thoughts. I look forward to your response.

Thanks,

Jeffrey Lo

Danville Tassajara Cottages Homeowner

From: [Jennifer Cyrnak](#)
To: [David Crompton](#)
Subject: GHG Mitigation in Danville
Date: Wednesday, October 19, 2022 10:41:49 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. David Crompton,

My name is Jennifer Cyrnak and I have been a resident of Danville for over ten years. Like many others, I am greatly concerned about rising global temperatures due to GHG emissions.

I have reviewed the Housing Element plan and the EIR and was happy to see on page 140 that the City of Danville is contemplating an all-electric construction ordinance for new housing, like many other CA jurisdictions have already passed. I am a retired geophysicist and current student of Sustainability Management at UC Berkeley and I am convinced that the technology to make this happen is both readily available and cost effective. I'm actually planning to replace my own gas furnace with an electric heat pump in the coming months. It seems like a great way for Danville to meet its GHG reduction targets and help the planet with very little downside. Clearly, this is the future.

I strongly encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG 2.1.

Thank you for your consideration,
Jennifer

From: [Judy Hayes](#)
To: [David Crompton](#)
Subject: Draft EIR
Date: Monday, September 26, 2022 9:24:14 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

All the input from various governing bodies does not appear to address our current crisis regarding WATER or ELECTRICITY. More housing means more demands on both that are already inadequate for those who already live here. Please don't let ABAG dictate something our infrastructure cannot support.

*40 year Danville resident
Judith Hayes*

From: [Kevin Christoffersen](#)
To: [David Crompton](#)
Subject: Danville Housing Plan
Date: Thursday, October 27, 2022 4:58:46 PM

*****CAUTION*** THIS EMAIL WAS NOT SENT FROM DANVILLE STAFF**

This email originated from outside of the Town of Danville and was not sent from a Town Staff member! Do not click on links or open attachments unless you recognize the sender and know the content is safe.

David,

My name is Kevin Christoffersen and I have lived in Danville for 24+ years. In reviewing the Housing Element plan I was pleased to see that we (the City of Danville) are considering an all-electric construction rule for new housing. I believe this is good because 1) it has a positive impact on greenhouse gas reduction individually and 2) doing so, will help us meet our broader GHG reduction targets.

As such, I want to thank you for all the effort in developing this plan and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Thank you,

Keviin Christofersen

From: lnslimm@gmail.com
To: [David Crompton](#)
Subject: Environmental Impact Report
Date: Tuesday, October 25, 2022 2:59:27 PM

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Good Afternoon David,

My name is Layton Slimm and my wife Judy and I have been Danville residents 1998. The climate crisis is a topic of discussion often in our home so I would like to weigh in on the town's Housing Element Plan and the EIR. I was pleased to see in the EIR that our City is contemplating an all-electric construction ordinance for new housing. I support this idea as the technology appears available and the solutions cost effective. This would be a good way for Danville to meet Green House Gas reduction targets with little downside. I want to thank you and encourage you to vote in support of the EIR and the recommended Mitigation Measure GHG-2.1.

Regards,
Layton Slimm
1654 St David Drive
Danville, CA 94526

From: lnicolini2@gmail.com
To: [David Crompton](#); [Development Services](#)
Subject: Comments Regarding the Town of Danville DPEIR
Date: Monday, September 26, 2022 1:07:25 AM

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Regarding Planning Commission Meeting September 27, 2022
Agenda Item Number 5.1

Mr. Crompton
Chief of Planning:

I have reviewed the DPEIR with particular attention on Sub Area 6 at Tassajara and Liverpool. I was surprised to see a designated open space property proposed for development. Before I purchased my home on Center Court, I visited the Town Offices to better understand what the indication as Open Space meant. I was told that the land behind my house was in fact officially designated Open Space and would never be developed. This was certainly material information used in making my decision to buy my house. The DPEIR itself indicates that the Town's policies include preserving Danville's visual qualities by maintaining Open Space in the community. Also, the Open Space Element of the Contra Costa County General Plan includes goals and policies that aim to protect, conserve, and enhance open space and park lands in the county, per the DPEIR. Why would we then propose our open space for development? I have noted that open space is often a result of negotiations with developers. If the town has a practice of asking developers for open space when projects are negotiated, and then turns around and allows development on this property, trust in the Town and the Planning Commission will be lost. If the voters know that open space will not be protected, I doubt proposals like the recent Magee Preserve would gain approval. The Town's policies also include protecting the visual qualities of designated scenic routes of which Camino Tassajara is so designated. I am confident that a MF-HD building on top of a hill on Camino Tassajara would not protect the visual qualities of this route.

Another area of concern relates to Goal 3 under the Project Objectives. As the DPEIR itself notes, the impact on global climate change will not be minimized by developing Sub Area 6 due to the inability to reduce the VMT below Town-wide thresholds. This is a significant impact. The Report states that even with the proposed mitigation measures, the impact of VMT remains significant. These mitigation measures include subsidizing or discount transit passes and increased transit service. It's important to note that there is currently NO transit service out this far on Camino Tassajara in spite of the County Connections website indicating that there is. I have waited three separate times with my daughter at a stop that supposedly has a bus to take her downtown. It has never shown up. I have lived here seven years and have never seen a bus in this area. The potential VMT reduction related to these items should be zero as there is no service to increase or service to give passes to. Also, Camino Tassajara has become a scary road. The accidents have increased and the intersection with Crow Canyon can be chaotic. The increased traffic right before this intersection will be problematic should Sub Area 6 at Liverpool and Blackhawk be developed.

Also of concern is the increased lighting and glare from the MF-HD building that would negatively impact nearby neighborhoods. The Open Space being considered is on higher ground than the surrounding neighborhoods. Given that Center Court has already experienced issues with foundations of a few homes near the hillside, it seems there is a risk that developing the Open Space above the surrounding properties will cause drainage issues and hillsides to slide. Because this building will be above the surrounding areas, existing homes would no longer have privacy in their backyards and even into the bedroom windows. This development would block current residents' views of Mount Diablo causing decreased property values.

I understand all comments will be responded to in writing as part of the Final EIR. I would also be interested in the

names of those on the Planning Commission that are supportive of Open Space being developed. Thanks very much for your consideration of these items.

Lisa Nicolini
PO Box 2699
Danville, CA 94526

From: [Michelle LaPena](#)
To: [David Crompton](#)
Cc: [Corrina Gould](#)
Subject: RE: Danville Consultation
Date: Monday, September 26, 2022 5:55:32 PM
Attachments: [Comments regarding Danville Housing Element.docx](#)

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Good evening David,

Thank you for the opportunity to review and comment on the Draft EIR for the Update to the Danville Housing Element. We appreciate this opportunity to work with the City to ensure that the Update includes the most recent language because the laws regarding the protection and preservation of Tribal Cultural Resources have been improved over the last ten years. For example, AB 52 was passed in 2014, and it substantially changed the process for reviewing project applications that may have an impact on Tribal Cultural Resources. AB 52 also requires lead agencies to consult with culturally-affiliated California Native American Tribes regarding such project and to work together to establish appropriate avoidance or mitigation as appropriate for each development proposal.

In addition to AB 52, there are also new measures that were adopted in the past few years, that address loopholes that can arise when a particular project may be fall under a streamlined CEQA review. We did not have sufficient time to develop all of that language for you in this markup of the Cultural Resources section of the Update, but we hope to work with you to refine the language to bring it into compliance with applicable laws.

Please let me know when we could meet again to discuss the attached suggested language. We hope this Update will result in greater consideration and preservation of important Tribal Cultural Resources in Danville. I have also pasted some helpful information for your planners to refer to in the future regarding protection of TCR's.

[Part XI \(scahome.org\)](#)

[Tribal Cultural Resources \(AB 52\) - Office of Planning and Research \(ca.gov\)](#)

Respectfully,

Michelle Lee LaPena
The Circle Law Group, P.C.
930 F Street
Sacramento, CA 95814
Phone: (916) 809-8900
Fax: (916) 809-8901

Cell: (916) 204-5724
michelle@thecirclelaw.com

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From: David Crompton <DCrompton@danville.ca.gov>
Sent: Thursday, September 22, 2022 1:44 PM
To: Michelle LaPena <Michelle@thecirclelaw.com>; Corrina Gould <cvttribe@gmail.com>
Subject: RE: Danville Consultation

Hi,

I have asked our consultant to send me a copy in word if it would still be helpful?

David

From: Michelle LaPena <Michelle@thecirclelaw.com>
Sent: Thursday, September 22, 2022 12:59 PM
To: David Crompton <DCrompton@danville.ca.gov>; Corrina Gould <cvttribe@gmail.com>
Subject: RE: Danville Consultation

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David,

I was able to make a Word version of this section. It isn't as clean as an original document, but we will provide line edits on our copy and get it to you asap.

Respectfully,

Michelle Lee LaPena
The Circle Law Group, P.C.
930 F Street
Sacramento, CA 95814
Phone: (916) 809-8900
Fax: (916) 809-8901
Cell: (916) 204-5724
michelle@thecirclelaw.com

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From: Michelle LaPena
Sent: Thursday, September 22, 2022 12:34 PM
To: David Crompton <DCrompton@danville.ca.gov>; Corrina Gould <cvltribe@gmail.com>
Subject: RE: Danville Consultation

Greetings David,

I am working on our comments to get them to you today, but my progress is slowed by the fact that I don't have a Word document for the Cultural Resources section of the EIR. Is it possible for you to send that to me? I really only need those pages. Thank you!

Respectfully,

Michelle Lee LaPena
The Circle Law Group, P.C.
930 F Street
Sacramento, CA 95814
Phone: (916) 809-8900
Fax: (916) 809-8901
Cell: (916) 204-5724
michelle@thecirclelaw.com

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client or work product privilege that may be available to protect confidentiality.

From: David Crompton <DCrompton@danville.ca.gov>
Sent: Wednesday, September 14, 2022 1:12 PM
To: Corrina Gould <cvltribe@gmail.com>; Michelle LaPena <Michelle@thecirclelaw.com>
Subject: RE: Danville Consultation

From: Corrina Gould <cvltribe@gmail.com>
Sent: Wednesday, September 14, 2022 12:52 PM
To: David Crompton <DCrompton@danville.ca.gov>; Michelle Lee LaPena <michelle@thecirclelaw.com>
Subject: Re: Danville Consultation

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Hello David,

My legal team is requesting the language for the housing element so that they can respond quickly. Could you please forward that as soon as possible?

'Uni (Respectfully),

Corrina Gould, Tribal Chair
Confederated Villages of Lisjan Nation

On Fri, Sep 9, 2022 at 11:49 AM David Crompton <DCrompton@danville.ca.gov> wrote:

Hi Corrina,

It was nice to talk to you the other day.

Attached is a map and sketch of sites that I am aware of that cultural resources have been found in the past. This is just my recollection as the Town does not maintain an official data base. The

site are highlighted in red. The proposed housing sites are highlighted in green.

Also, may I ask the status of any official letter you are writing? We are on a title timeline and would like to be able to incorporate your comments ASAP.

Thanks,

David Crompton
Chief of Planning

3.5 CULTURAL RESOURCES The following discussion is based, in part, on a Cultural Resources Sensitivity Report prepared for the Project by Archaeological/Historical Consultants. The report, dated July 2022, is confidential and can be viewed by registered archaeologists on a need-to-know basis, at the Department of Planning in the Danville Town Office.

3.5.1 Environmental Setting

3.5.1.1 Regulatory Framework

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

Per 36 CFR Part 60.4, a property is eligible for listing in the NRHP if it meets one or more of the following criteria:

Criterion A: Are associated with events that have made a significant contribution to the broad patterns of our history

Criterion B: Are associated with the lives of persons significant in our past

Criterion C: Embody the distinctive characteristics of a type, period, or method of installation, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction

Criterion D: Have yielded, or may be likely to yield, information important in prehistory or history

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility include:

- The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);
- It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
- It possesses at least one of the following characteristics:
 - o Association with events that have made a significant contribution to the broad patterns of history;
 - o Association with the lives of persons significant in the past;
 - o Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction; or

o Has yielded, or may yield, information important to prehistory or history.

California Register of Historical Resources

The CRHR was established in 1992 and codified by PRC §§5024.1 and 4852. The CRHR is an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change (Public Resources Code, 5024.1(a)). The criteria for eligibility for the CRHR are consistent with the NRHP criteria but have been modified for state use in order to include a range of historical resources that better reflect the history of California (Public Resources Code, 5024.1(b)). Unlike the NRHP however, the CRHR does not have a defined age threshold for eligibility; rather, a resource may be eligible for the CRHR if it can be demonstrated sufficient time has passed to understand its historical or architectural significance (California Office of Historic Preservation 2006). Further, resources may still be eligible for listing in the CRHR even if they do not retain sufficient integrity for NRHP eligibility (California Office of Historic Preservation 2006). Generally, the California Office of Historic Preservation recommends resources over 45 years of age be recorded and evaluated for historical resources eligibility (California Office of Historic Preservation 1995:2).

Properties are eligible for listing in the CRHR if they meet one of more of the following criteria:

Criterion 1: Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage

Criterion 2: Is associated with the lives of persons important to our past

Criterion 3: Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values

Criterion 4: Has yielded, or may be likely to yield, information important in prehistory or history

~~The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.⁴²~~

~~Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.~~

~~The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.~~

Senate Bill 18

Commented [ML1]: The language in the draft does not accurately reflect the eligibility determination for the CHRIS.

The intent of SB 18 is to aid in the protection of traditional tribal cultural places through local land use planning by requiring city governments to consult with California Native American tribes on projects which include adoption or amendment of general plans (defined in Government Code Section 65300 et seq.) and specific plans (defined in Government Code Section 65450 et seq.). SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains. Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Tribal Cultural Resources (AB52)

A resource type recently added to CEQA is the tribal cultural resource. This resource type was added to CEQA as a result of the passage of Assembly Bill 52 (Gato) in 2014 that took effect in July 2015. CEQA Statute Section 21074 contains guidance for determining what constitutes a tribal cultural resource. If a resource meets the definition of a tribal cultural resource, then it is a significant historical resource pursuant to CEQA. In addition, the statute contains direction concerning meaningful consultation regarding tribal cultural resources that must take place with California Native American tribes, should they request such consultation, on a project-by-project basis (CEQA Statute Section 21080.3.1).

It is the obligation of the lead agency, not a professional consultant, to carry out the consultation process. Professional consultants may be involved in the process, but the lead agency is obligated to take the lead. A lead agency staff person will be identified as having the responsibility to conduct consultation with tribes. This consultation, which is confidential, recognizes that the tribes have expertise in determining if a tribal cultural resource is present within a project area, as well as proposing and determining the adequacy of mitigation measures proposed to avoid or substantially lessen potential significant impacts to a tribal cultural resource (CEQA Statute Section 21080.3.2). Required AB 52 consultation is carried out with tribes, not individuals, that have been recognized by the Native

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Commented [ML2]: This section ignores Tribal Cultural Resources which is covered at length in the CEQA Guidelines for Determining the Significance of and Impacts to Cultural Resources- Archaeological, Historic and Tribal Cultural Resources. I suggest at least having a paragraph or two that distinguishes TCR's with archaeological resources because this draft omits the operative language of AB 52, which will govern the process for identifying TCR's through tribal consultation. That is missing here.

Commented [ML3]: This language is borrowed from the CEQA Guidelines for Determining the Significance of and Impacts to Cultural Resources- Archaeological, Historic and Tribal Cultural Resources. It outlines the pieces that are missing from this section, which is the process set forth in AB 52. Some of the text might need edits to fit in this document, but I have pasted the relevant sections in the interest of time.

American Heritage Commission and who have requested to have such consultation with the lead agency.

Tribal Cultural Resource Definition

Tribal cultural resources may be sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe (CEQA Statute Section 21074). While CEQA contains guidance regarding the identification and determination of the significance of some of these resource types (e.g., CEQA Guidelines Sections 15064.5), CEQA contains little to no guidance regarding cultural landscapes or sacred places. CEQA recognizes the expertise of tribes in identifying all tribal cultural resources, but additional guidance may be provided by the Native American Heritage Commission, which keeps an inventory of sacred lands, to the extent that tribes wish such lands to be included in that inventory. Additional guidance may also be found in National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties. Although the National Register process uses evaluation criteria that are somewhat different than those used in CEQA, the general guidance provided in this bulletin is quite useful in the determination of significance of tribal cultural resources such as cultural landscapes.

Tribal Cultural Resources (CEQA Statute Section 21074)

(a) "Tribal cultural resources" are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

Consultation with Tribes Regarding Tribal Cultural Resources

A critically important aspect of the evaluation and treatment of tribal cultural resources is consultation with tribes, who are recognized as experts for this type of resource. Once formally requested by a tribe, the lead agency must offer that tribe the opportunity for consultation on any project for which a

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Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report will constitute the CEQA document. Additional guidance documents exist, including a tribal consultation process timeline that details how and when a tribe must be given the opportunity to consult, and the Governor's Office of Planning and Research Tribal Consultation Guidelines (2005).

Three sections of the Public Resource Code discuss the requirements for consultation.

Tribal Consultation (CEQA Statute Section 21080.3.1)

(a) The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.

(b) Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the Government Code.

(c) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.

(d) Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

(e) The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

Tribal Consultation (CEQA Statute Section 21080.3.2.)

(a) As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or

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significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.

(b) The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

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(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

(c) (1) This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact.

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(2) This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(d) If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.

Tribal Consultation (CEQA Statute Section 21082.3.)

(a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.

(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(3) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(4) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any Information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or

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environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

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(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

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(3) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code, Section 6254.10 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

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(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

Local Town of Danville 2030 General Plan

The following policies in the Town's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the Housing Element Update.

Policy Description

8.01 Ensure that the remodeling and renovation of historic buildings respects the character of the building and its setting.

8.02 Encourage new projects in the Downtown area to be compatible with nearby historic buildings, the historic Downtown street pattern, and the area's historic, pedestrian-oriented character.

8.03 Discourage the demolition of historically important buildings. Where it is no longer feasible to continue using an older building for its originally intended use, the reuse of the buildings for contemporary purposes should be encouraged.

8.04 Encourage the use of the State Historic Building Code for historic buildings and other structures that contribute to the Town's historic character. Use flexibility when applying zoning regulations to historic sites and buildings.

8.05 Where appropriate and feasible, retain physical elements of Danville that contribute to the aesthetic and historic character of agricultural areas and former agricultural areas, such as barns, outbuildings, bridges, heritage trees, and fences.

8.06 Recognize heritage trees, landscapes, and other outdoor features as potential contributors to historic character, and afford protection to such features where appropriate.

8.08 Where feasible and relevant, ensure that the Town's historic preservation program meets state and federal standards.

8.13 Continue to survey and inventory historic resources in Danville, using criteria that are consistent with the U.S. Secretary of the Interior standards.

8.14 Ensure that development approvals do not result in the loss of Tribal Cultural Resources and significant archaeological resources by requiring full compliance with state and federal laws regarding the assessment and recovery of such resources.

8.15 Ensure that tribal consultation occurs for all projects that may require an EIR.

8.16 Comply with all applicable laws regarding the preservation of Tribal Cultural Resources and avoidance of Native American Human remains whenever possible.

Danville Heritage Resource Commission

The Heritage Resource Commission (HRC) is a seven-member board responsible for establishing criteria for identifying historic sites, inventorying and protecting these sites, and developing preservation incentives for property owners. The HRC has the authority to recommend the adoption of standards to the Town Council for the alteration, construction, rehabilitation, restoration, or removal of designated improvements and to enforce these standards through the review of building permit and development applications. The review process provides an opportunity for public comment on proposed changes to historic structures and the design of new buildings in the historic Downtown area.

Historic Preservation Ordinance

The Town of Danville Historic Preservation Ordinance (Municipal Code 32-72.1) addresses the community's desires for preservation of historical resources. The Ordinance mandates the Town adopt a survey of historical resources that could be protected from demolition or exterior alterations. Property owners can request that their properties be designated as heritage resources, which are eligible for economic and land use incentives.

Criteria for Designation of a Historic Resource

Section 32-72.4 of the Municipal Code establishes criteria for determining whether a structure, site (or portion of a site), improvement or natural feature may be considered for designation as a heritage resource pursuant to subsection 32-72.6 if it has maintained its historic integrity, is over fifty (50) years of age (less than fifty (50) years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and meets at least one (1) of the following criteria:

- i. Is representative of a particular architectural style or reflects special elements of a distinct historical period, type, style or way of life important to the Town;
- ii. Is a type of building or is associated with a business or use that was once common but is now rare;
- iii. Is representative of the evolution or development or associated with the cultural, religious, educational, political, social or economic growth of the community, region, state or nation;
- iv. Represents the work of a notable builder, engineer, designer, artist or architect;
- v. Is the site of an historical event or is associated with persons or events that have made a meaningful contribution to the community, region, state or nation;
- vi. Has a high potential for yielding information or archaeological interest;
- vii. Embodies elements of outstanding or innovative attention to architectural or engineering design, detail, craftsmanship or use of materials; and familiar visual feature of the neighborhood, community or Town;

Commented [ML4]: Ideally, there would be language such as this in the Danville General Plan.

viii. Is a geographically definable area, possessing a significant concentration or continuity of site, improvements, natural features or objects unified by past events or physical development; or

ix. Is an unusual natural feature.

x. A Site, feature, place, cultural landscape, sacred place, and object with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

~~ix.~~ (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

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Commented [ML5]: Ideally, there would be language such as this in the Historic Preservation Ordinance.

Criteria for Designation of a Historic District

Section 32-72.5 of the Municipal Code establishes criteria for determining whether a geographic area may be considered for designation as a historic district. Pursuant to subsection 32-72.6 if a contiguous area that includes a group of parcels that are over fifty years of age (less than fifty years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and at least one of the following criteria apply:

- i. A significant number of the parcels reflect significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes or distinctive examples of park or community planning; or
- ii. A significant number of the parcels convey a sense of historic or architectural cohesiveness through their design, setting, materials, workmanship or association; or
- iii. A significant number of the parcels have historic significance and retain a high degree of integrity; or
- iv. The area in general is associated with a historically significant period in the development of the community or is associated with special historical events; or

v. A significant number of the parcels embody distinctive characteristics of a style, type, period or method of construction, or are a valuable example of the use of indigenous materials or craftsmanship; or vi. A significant number of the parcels represent the works of notable builders, designers or architects.

~~v.~~vi. The site contains a Tribal Cultural Resource as defined in CEQA Statute Section 21074.

Commented [ML6]: Ideally, there would be language such as this in the Historic Preservation Ordinance.

3.5.1.2 Existing Conditions

Historic Resources

Pursuant to Section 15064.5(a) of the CEQA Guidelines, a resource is generally considered by a lead agency to be "historically significant" if the resource is listed in, or determined to be eligible for listing in, the California Register of Historical Resources (California Register); or the resource is included in a local register of historic resources as defined by State law or identified as significant in an historical resource

survey meeting the requirements of State law. A historic resource listed in, or formally determined to be eligible for listing in, the National Register of Historic Places (National Register) is, by definition, included in the California Register. The eligibility criteria for listing on the National and California Registers are summarized in Section 3.5.1.1.

There are three properties eligible for listing on the NRHP and/or CRHR within the eight candidate housing site Sub Areas: the Mendenhall House and Eddy Cabin at 2900 Camino Tassajara (Sub Area 6), and the Borel Ranch at 3020 Fostoria Way (Sub Area 7).

Sub Area 1

No historic resources or properties listed on federal, State, or local inventories were identified in Sub Area 1. A review of aerial photography from 1965 suggests that several buildings in Sub Area 1 are over 50 years old.

Sub Area 2

Sub Area 2 includes part of historic downtown Danville and includes many properties that are over 50 years of age, including three properties (180 Hartz Avenue 268 Rose Street, and 254 Rose Street) on the "Identified Potential Resources" or "To Be Considered" lists established by the Town of Danville. A review of aerial photography suggests that several buildings in Sub Area 2 are over 50 years old.

Sub Area 3

One property in Sub Area 3 includes a building (1435 San Ramon Valley Boulevard) identified on the Town's list of Potential Historic Resources. One other property (1453 San Ramon Valley Boulevard) appears to have a building built prior to 1947 based on a review of aerial photographs.

Sub Area 4

No historic resources or properties listed on federal, State, or local inventories were identified in Sub Area 4. Review of aerial photography from 1965 suggests that several buildings in Sub Area 4 are over 50 years old.

Sub Area 5

No historic resources or properties listed on federal, State, or local inventories were identified in Sub Area 5. The buildings in Sub Area 5 appear to be less than 50 years of age.

Sub Area 6

The Mendenhall House and Eddy Cabin (2900 Camino Tassajara) are both Contra Costa County Structures of Historic Significance and are therefore historical resources under CEQA.

Sub Area 7

The Borel Ranch complex, located at 3020 Fostoria Way, includes a residence, tank house, two barns, outbuildings, and an orchard. The Borel Ranch complex was found eligible for listing on the NRHP in 1990 by survey evaluation, and is therefore a CEQA historical resource.

Sub Area 8

No historic resources or properties listed on federal, State, or local inventories were identified in Sub Area 8. The buildings in Sub Area 8 appear to be less than 50 years of age.

Archaeological Resources/Tribal Cultural Resources

~~Tribal cultural resources may be sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe (CEQA Statute Section 21074). Archeological resources are material remains of human life or activities that can provide information about past human behavior. Prehistoric archaeological resources include a variety of artifactual and non-artifactual remains of human activity. Tribal Cultural Resources are located within the Project Area. Typical prehistoric artifacts include flaked stone tools (arrowheads, scrapers), ground stone tools (mortars, pestles, milling slabs, net weights), bone tools (fishhooks, awls), and decorative or social items (bone flutes, bone gaming sticks, shell beads, shell or stone pendants, obsidian tinklers). Non-artifactual remains may include human remains; architectural remnants such as house pits; evidence of cooking such as fire-affected rock, ash, animal bone or shell; midden soil, which is dark brown to black with a high organic content and typically contains charcoal, animal bone; or shell middens, which are deposits of shell or shell mixed with midden soil and artifacts. Historic archaeological resources may include filled hollow features such as privies, trash pits, or wells; architectural features such as foundations, concrete pads, adobe brick, or fence posts; diffuse or concentrated trash scatters containing glass bottles, domestic ceramics, or metal; and trash dumps containing food debris such as animal bone, shellfish, seeds, or pits.~~

A record search for previously recorded cultural resources was conducted at the Northwest Information Center (NWIC) on March 3, 2022 and a supplemental search was submitted on June 24, 2022. The search covered the eight candidate housing site Sub Areas, including a quarter mile radius. The results of the record search identified eight Tribal Cultural Resources. Two of the resources are ~~Native American archaeological sites, the sites~~ have not been previously evaluated for eligibility for listing. Of the remaining six resources, three are eligible for the CRHR and/or NRHP (refer to discussion above under Historic Resources).

There are two known ~~Native American sites~~ Tribal Cultural Resources located ~~in Sub Area 2; in the Project Areas, and other aspects of the~~ Sub Areas 1, 3, 5, 6, and 7 are considered ~~archaeologically sensitive either due to their proximity to known Native American sites or to San Ramon Creek importance and connection to California Native American Tribes.~~ There are no known ~~Native American archaeological resources or archaeological~~ Tribal Cultural Resources located ~~sensitivity~~ within Sub Areas 4 and 8.

Archaeological/Paleontological Resources

Need to include a new discussion about actual Arch/paleo resources consistent with the updated CEQA Checklist and Guidelines

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on Tribal Cultural Resources, Historical Resources or Archaeological ~~cultural~~ resources, would the project:

Commented [ML7]: It seems like this discussion is dealing with Tribal Cultural Resources as opposed to archaeological resources. In the past, TCR's were grouped in with archaeological resources and paleontological resources, but with AB 52 and the updates to the CEQA Checklist and Guidelines, TCR's are a stand-alone separate category. As a result, this discussion may need to be revised.

1) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

2) Cause a substantial adverse change in the significance of Tribal Cultural Resources pursuant to CEQA Guidelines Section

3) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

3) Disturb any human remains, including those interred outside of dedicated cemeteries?

3.5.2.1 Project Impacts

Impact CUL-1: The project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. (Less than Significant Impact)

Within the eight candidate housing site Sub Areas, there are three properties eligible for listing on the NRHP and/or CRHR including the Mendenhall House and Eddy Cabin at 2900 Camino Tassajara (Sub Area 6), and the Borel Ranch at 3020 Fostoria Way (Sub Area 7). In addition, Sub Areas 2 and 3 contain buildings identified on the Town's list of Potential Historic Resources. Based on a review of aerial photographs, several buildings in Sub Areas 1, 2, 3, and 4 appear to be over 50 years of age.

Future development of the candidate housing sites in Sub Areas 1-4 and 5-7 could directly or indirectly affect historic resources, including those that are currently listed and those that have yet to be identified and evaluated. Examples of direct impacts include demolition, relocation, or inappropriate or unsympathetic modification (e.g., use of incompatible materials, designs, or construction techniques in a manner that alters character-defining features). Indirect impacts could occur if:

- new construction conflicts with or isolates historic buildings or structures;
- changes to the historic fabric or setting materially impair the resource's ability to convey its significance; and/or
- there is deliberate incremental deterioration due to inaction/neglect, lack of occupancy, or inappropriate uses.

Impacts to historic resources and structures over 50 years in age that are potentially historic, would be avoided through implementation of 2030 General Plan policies. General Plan Policies 8.01, 8.03, 8.04, 8.05, 8.06, and 8.08 require the preservation, protection and identification of historic buildings. With implementation of 2030 General Plan policies, the Town's Historic Preservation Ordinance and existing regulations, future development under the Housing Element Update would not result in a significant impact to historic resources. (Less than Significant Impact)

Impact CUL-2: The project may would not cause a substantial adverse change in the significance of a Tribal Cultural Resource and an archaeological resource pursuant to CEQA Guidelines Section 15064.5. (Less than Significant Impact requiring consultation and mitigation)

Based on the results of the records search, Sub Areas 1 to 3 are considered sensitive for buried archaeological resources due to their proximity to known Native American sites. Sub Areas 5 to 7 are

sensitive for buried archaeological resources due to their proximity to San Ramon Creek. Sub Areas 4 and 8 are not considered sensitive for buried archaeological resources.

Future development of the candidate housing sites in Sub Areas 1 to 3 and 5 to 7 have the potential to encounter ~~archaeological deposits~~ Tribal Cultural Resources during ground disturbing construction activities due to their proximity to known Native American sites or to San Ramon Creek. There are two known Tribal Cultural Resources ~~Native American sites~~ in Sub Area 2. Construction activities such as grading and excavation may result in the accidental destruction or disturbance of archaeological sites, which could convey important information about Danville's history. General Plan Policy 8.14 requires that future development not result in the loss of significant archaeological resources by requiring compliance with State and federal laws regarding assessment and recovery of such resources. ~~With implementation of 2030 General Plan policies and existing regulations, future development under the Housing Element Update would not result in a significant impact to archaeological resources. (Less than Significant Impact)~~

Impact CUL-3: The project ~~would not~~ may disturb any human remains, including those interred outside of dedicated cemeteries. (Less than Significant Impact)

Development under the Housing Element Update would involve excavation that could uncover human remains. General Plan Policy 8.14 requires that development approvals not result in the loss of significant archaeological resources by requiring compliance with State and federal laws regarding assessment and recovery of such resources.

In the event that human remains are found, the Project shall comply with the procedures set forth by Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.94 of the State of California, this includes the following:

- In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.
- If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Commented [ML8]: This is not true. This proposal only mitigates impacts if there is avoidance. We would need to work on this language further to get more specific on project level details to make such a determination.

With implementation of 2030 General Plan policies and existing regulations, future development under the Housing Element Update would have a less than significant impact due to potential disturbance of human remains. (Less than Significant Impact)

3.5.2.2 Cumulative Impacts

Impact CUL-C: The project would not result in a cumulatively considerable contribution to a cumulatively significant cultural resources impact. (Less than Significant Cumulative Impact)

The geographic area for cumulative impacts to cultural resources includes the Town of Danville.

Historic Resources

The General Plan 2030 EIR concluded that buildout of the General Plan would result in less than significant cumulative impacts to historic resources, with the implementation of General Plan policies. Future cumulative development, including the Project, would be required to implement General Plan Policies 8.01, 8.03, 8.04, and 8.13. For these reasons, the Project would not contribute to a cumulatively significant historic resource impact.

Archaeological Resources

Future cumulative development may require excavation and grading or other activities that may affect archaeological resources. General Plan Policy 8.14 requires that future development not result in the loss of significant archaeological resources by requiring compliance with State and federal laws regarding assessment and recovery of such resources. As a result, cumulative development (including the Project) would not result in significant cumulative impacts to archaeological resources.

Human Remains All cumulative projects (including the Project) are required to comply with existing regulations, including California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99 to reduce impacts to human remains (if discovered) to a less than significant level. Tribal consultation will be necessary in order to evaluate the potential impact to Tribal Cultural Resources, including Native American Human Remains. After such consultation, it can be determined whether any measures can be developed to mitigate the impact to Tribal Cultural Resources to a less than significant impact. For these reasons, the cumulative projects (including the Project) would not result in significant cumulative impacts to human remains. (Less than Significant Cumulative Impact

Commented [ML9]: We will need to discuss this section in more detail to determine appropriate avoidance and mitigation to get to a conclusion here.

Commented [ML10]: This is not accurate as written. We will need to discuss this section in more detail to determine appropriate avoidance and mitigation to get to a conclusion here.

From: [David Crompton](#)
To: nashmias@gmail.com
Subject: RE: Significant Concerns for Open Space-EIR Feedback

Hi Nashmia,

This site is one of about of about 80 properties that were identified as potential sites to help the Town meet its State mandated Regional Housing Needs Assignment (RHNA). The site was suggested as part of the Town's review and input received by the public. Its been part of the survey since the draft housing element was made available for public review in July.

The Town's RHNA shortfall is about 1,800 housing units. The total potential housing units identified in the inventory is over 3,000. Therefore, many of the potential identified sites won't end up being selected. The additional units in the inventory will give the Town Council some flexibility when choosing sites.

The subject site is problematic for a number of reasons: It is designated as open space, and the Town has no track record of changing open space to allow development; a redesignation of open space to allow development would be subject to Danville Measure S, which requires a public vote to affirm such a change; as you mention, topography, drainage and vehicular access would be significant challenges for development. As a result, it is unlikely that staff will recommend that this site be included as a site to accommodate housing.

The Housing Element, recommended land use amendments and rezonings, and an associated Environmental Impact Report will need to go through a public hearing process before the Planning Commission and then Town Council for review and approval. Hearings are expected to take place late this year and early next year. You can stay informed by visiting the Town Website [Housing Element | Danville Town Talks](#). Also, feel free to contact me anytime for an update or any additional comments or questions.

Sincerely,

David Crompton
Chief of Planning

From: Nashmia Tanvir <nashmias@gmail.com>
Sent: Sunday, September 25, 2022 2:53 PM
To: David Crompton <DCrompton@danville.ca.gov>
Subject: Significant Concerns for Open Space-EIR Feedback

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the sender and know the content is safe.

Hello,

Hope you are well.

I have been following the Housing Project initiative in Danville closely and I have certain significant concerns that I would like to highlight regarding property that was not previously included in the EIR. This is property in Sub Area 6 at Tassajara and Liverpool which is currently an 'Open Space'.

According to the EIR, this property is now being considered for rezoning from Open Space to MF-HD which has raised a lot of concerns:

- We purchased our home in March 2020 after assurances from the Town office that this property will always remain to be an Open Space, especially since Danville has an established policy for maintaining open spaces. The consideration for rezoning now feels like we were misled.
- As mentioned above, this property was not on the map for public input and comments. As a result, our community was unable to voice our concerns earlier.
- Our community is below this Open Space property and any grading on the hillside will likely result in slides and runoffs, thereby damaging our homes. As per my knowledge, several of our neighbors have already experienced foundation issues, small slides and runoff problems. Any development on the surrounding space is bound to increase these issues.
- The current Open Space supports a great deal of wildlife, including (but not limited to) deers, owls, raccoons and turkeys. Any development would take away this habitat from them.
- The significant loss of privacy and increased lighting/glare from a high density housing such as the one proposed is also very worrisome for our community since these will impact our quality of living.
- Traffic related issues on Tassajara are already known to all with back-ups during rush hour and the increased number of accidents. With no connecting bus routes or BART access, adding 40+ houses will magnify the traffic risk and issue.

In light of the above, I am hopeful that Danville will protect this Open Space and look forward to hearing back from you.

Thank you,
Nashmia Tanvir
415-910-9987

I look forward to hearing back from you and to hearing that indeed, Danville intends to protect its Open Space as part of the growth plans for the future.

From: [Crystal Rosewicz](#) on behalf of [Development Services](#)
To: [David Crompton](#); [Kristine Meidberg](#)
Subject: FW: Comments: Planning Commission - Special Meeting 9/27: Agenda Item 5.1
Date: Tuesday, September 27, 2022 8:59:46 AM

Thank you,

Crystal R.

From: Nashmia Tanvir <nashmias@gmail.com>
Sent: Tuesday, September 27, 2022 12:05 AM
To: Development Services <DevServ@danville.ca.gov>
Subject: Comments: Planning Commission - Special Meeting 9/27: Agenda Item 5.1

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Hello,

With regards to the Planning Commission Special Meeting on 9/27 and Agenda Item 5.1, I wanted to provide the following comments:

I have been following the Housing Project initiative in Danville closely and I have certain significant concerns that I would like to highlight regarding the property at Tassajara and Liverpool in Sub Area 6 that is included in the draft EIR.

According to the EIR, this property is being considered for rezoning from Open Space to MF-HD which has raised a lot of concerns:

- We purchased our home in March 2020 after assurances from the Town office that this property will always remain to be an Open Space, especially since Danville has an established policy for maintaining open spaces. The consideration for rezoning now feels like we were misled.
- Our community is below this Open Space property and any grading on the hillside will likely result in slides and runoffs, thereby damaging our homes. As per my knowledge, several of our neighbors have already experienced foundation issues, small slides and runoff problems. Any development on the surrounding space is bound to increase these issues.
- The current Open Space supports a great deal of wildlife, including (but not limited to) deers, owls, and turkeys. Any development would take away this habitat from them.
- The significant loss of privacy and increased lighting/glare from a high density housing such

as the one proposed is also very worrisome for our community since these will impact our quality of living.

- Traffic related issues on Tassajara are already known to all with back-ups during rush hour and the increased number of accidents. With no connecting bus routes or BART access, adding 40+ houses will magnify the traffic risk and issue.

In light of the above, I am hopeful that Danville will protect this Open Space and look forward to hearing back from you.

Thank you,
Nashmia Tanvir
415-910-9987

From: [Rob Culin](#)
To: [David Crompton](#)
Cc: [Newell Arnerich](#); [David Fong](#)
Subject: Housing DPEIR Comments
Date: Thursday, October 13, 2022 11:57:05 AM

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Hello.

Thank you for conducting a public meeting engaging the community on the entire Housing Element and this DPEIR.

I've been a Danville resident since the mid 90's and have become very concerned about the impact of climate change on our community. We are living through the early stages of this change today, and all science tells us that this is going to get worse and worse in the coming years. Yet, most of us continue to want to avoid any modifications to our behavior. I think it's clear that we are going to have to make changes, and our goal should be to find the least painful and least risky approach to make an impact.

This Housing Element provides us an opportunity to do that – to begin to reduce the GHGs that we are emitting from our homes in a way that actually works better and saves money. Danville's own analysis shows us that the use of natural gas in homes is our 2nd leading contributor to GHGs (2013 SAP), and the draft EIR states that we should begin to replace gas with efficient electric appliances in all new buildings. (Section 3.8 in the EIR).

I want to express my strong support for the identification of Significant Impacts GHG-2.1 and GHG-2.2, and the recommended Mitigation Measures GHG-2.1 and GHG-2.2 (on pages 140 and 141 of the EIR). I'm urging the town Staff and Council to follow through on these recommendations and quickly pass new building ordinances that will require all new buildings to be all-electric. In addition, I would strongly encourage that the ordinance include not just new housing but include all new buildings plus major renovations that would be using new appliances. These types of ordinances are now being used across California and within Contra Costa County.

The recommended ordinances would provide a very efficient & prudent way for us to do our part to limit GHG emissions and make a positive impact on environmental warming. I look forward to following the action on this.

Regards,
Rob Culin

From: [Crystal Rosewicz](#) on behalf of [Development Services](#)
To: [David Crompton](#)
Subject: FW: Feedback for meeting Sept 27, agenda item 5.1
Date: Monday, September 26, 2022 8:12:42 AM

Thank you,

Crystal R.

From: Sandy <sandraehill7@gmail.com>
Sent: Sunday, September 25, 2022 4:18 PM
To: Development Services <DevServ@danville.ca.gov>
Subject: Feedback for meeting Sept 27, agenda item 5.1

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Hello,

I have been following with interest the Housing Project initiative in the Town. I have attended all in person meetings as well as Zoom meetings on the subject and understand the challenge that the Town is facing. I would like to express my deep concern for the property that is now included in the EIR that did not previously show on the project map. This property is in Sub Area 6 at Tassajara and Liverpool, currently designated as Open Space.

The EIR says that this space might be rezoned from Open Space to MF-HD. My significant concerns and input are as follows:

1. Danville has an established policy of maintaining Open Space (as noted on page 27, section 2.02 of the EIR). We purchased our home in 2014 only after visiting with the Town office and receiving reassurance that this designation was in perpetuity. Earlier this year I again visited the Town office and received the same reassurance. The fact that this property is now in consideration feels as if the Town misrepresented this space to us. This space did not appear on the map for public input and comments so I can only assume that the Town offices placed our Open Space into consideration for development. I have contacted all neighbors in my community and they are very concerned with any changes to our surrounding space.
2. Relative to the EIR, the grading on this hillside presents a potential issue as

existing homes are below the Open Space property and slides and runoff could be a risk. Several homes in our community have already had small slides, foundation issues and runoff problems that would only be exacerbated by a development above our land.

3. Traffic on Tassajara in this area is already a huge issue with schooltime backups, excessive speeding and recent accidents (including a recent pedestrian fatality). An additional 40+ housing units in this area would create an increased traffic risk, especially for pedestrians. I am a daily walker in this area and find that I have to exercise extreme caution with existing traffic, never mind additional residential vehicles.
4. This property is the farthest east on the map of proposed properties. There are no connecting bus routes to this area so our traffic increase would be significant.
5. This property also supports wildlife. Residents in my community enjoy our local deer, raccoon, fox, coyote, owls, hawks and falcons. Since Danville has the desire and intent to support wildlife, this small habitat area is a haven to many animals in the midst of an otherwise developed area.
6. Increased lighting and glare from a high density housing area would negatively impact nearby residents and development would block views of Mt. Diablo. Certain areas of development would also look directly down upon some of the homes in our community thus creating a privacy risk to residents.

I look forward to hearing back from you and to hearing that indeed, Danville intends to protect its Open Space as part of the growth plans for the future.

Sincerely,

Sandra Hill Howard
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