

The Calabasas Coalition™



*“Voices of the Community”*

Email: [Info@thecalabasascoalition.org](mailto:Info@thecalabasascoalition.org)  
[www.thecalabasascoalition.org](http://www.thecalabasascoalition.org)

July 2, 2019

City of Calabasas Planning Commissioners  
City of Calabasas  
100 Civic Way  
Calabasas, CA 91302

Re: West Village at Calabasas EIR Comments - Calabasas Planning Commission.

Dear Commissioners Washburn, Kraut, Mueller, Fassberg, Harrison and Sikand

Thank you for the opportunity to present this report. This is the combined effort of people who have lived in Calabasas for many years and care deeply about the special natural beauty of Calabasas.

We thank you for your service on the Planning Commission. You are in a unique position to make decisions regarding the planning and control of future construction, growth and development. We believe that responsible development should balance demands for growth with the need to protect open space and the environment. The City’s vision that new development fit in rather than replace the area’s unique natural features has been codified into law and contained in the Calabasas Land Use and Development Codes. Codes that apply are discussed in the report.

This vision of responsible development and protection of open space is also evidenced by City Council members unanimously supporting ballot arguments for Measure D. In turn, at the ballot box, voters passed Measure D by a greater than 90% majority showing the support of city residents for open space protection. Ironically, the EIR states that Measure D does not protect open space, but approving this project will. That doesn’t make any sense!

The voting public again agreed with this vision with Measure F that rejected the previous project that had been approved for this site. In November 2016, Measure F resulted in 64.8% voting against to only 35.1% voting for the project. Every precinct in the city agreed. They did not want hillsides destroyed by bulldozers that turned them into manufactured slopes.

The Woolsey Fire awakened us to the fact that there is a “New Normal”. Wildfires are expected to be more frequent and more devastating. This was especially evident on the west side where homes were totally lost or damaged. Building new homes adjacent to open space plus adding hundreds of additional cars to already overburdened streets is a public safety issue that must be considered.

Thank you for your consideration.

Sincerely,

John Suwara  
for The Calabasas Coalition

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As an introduction to the Calabasas Coalition report, we have compiled a synopsis of codes applicable to the proposed project.

The full text of the codes follows the synopsis; our report provides supporting documentation.

**APPLICABLE CALABASAS MUNICIPAL LAND USE CODES**  
**(“Document”)**

This Document in its entirety is made a part of and incorporated into the West Village at Calabasas EIR Comments - Calabasas Planning Commission dated July 2, 2019.

The following is a synopsis of applicable codes. The full codes are at the end of this document.

- 17.90.20** Development means any grading or construction activity or alteration of the land, its terrain contour or vegetation”
- 17.20.070(C)** Proposed development in a scenic corridor shall comply with Scenic Corridor Guidelines.
- 17.20.150(C)1** Buildings should be located in the most geologically stable portion or portions of a site
- 17.18.040(A)** The purpose of -SC zoning is to protect an important economic and cultural base of the city by preventing destruction of the natural beauty and environment of the city; safeguard open spaces.
- 17.18.040(D)** All development in -SC zoning shall comply with Performance Standards for Hillside Development and any applicable specific plan, master plan, corridor design plan or design guidelines.
- 17.20.050(A)** The following Performance Standards for Biotic Resources shall apply to all development:
1. Disturbances of biotic resources shall be avoided, to the extent feasible as determined by the review authority.
  2. Vegetative resources which contribute to habitat carrying capacity and other significant biotic features are to be preserved in their existing location and condition.
  3. The significant impacts identified in Table 6-2 in Chapter 17.60 shall be avoided, to the extent feasible as determined by the review authority.
- 17.20.055(A)** Topography and preservation of open space shall be balanced to determine location of lots. Open space shall be generally configured as large, contiguous areas of undisturbed native habitat. The set aside calculation should not include landscaping, manufactured slopes, or other artificially landscaped features but may include habitat restoration areas.
- 17.20.150(A)** All development shall comply with applicable hillside development performance standards of this chapter, including, but not limited to standards for hillside development addressing grading.
- 17.20.150(B)1** Performance Standards for Hillside Development. Projects within hillside areas shall be designed to protect important natural features and to minimize the amount of grading. The intent of this section is to limit the amount of grading on the steeper portions of a lot.
- 17.20.150(B)2** Grading and project design shall address and avoid impacts to habitat linkages and wildlife corridors.
- 17.20.150(B)3** A development should preserve the hillside rather than alter it to fit the development
- 17.20.150(B)6** Structures shall be sited in a manner that will
- (a) Fit into hillside contours and the form of the terrain;
  - (b). Retain outward views from units and maintain the natural character of the hillside; and
  - (c). Preserve natural hillside areas and ridgelines views from the public right-of-way
- 17.20.150(B)12** The overall scale/massing of structures shall respect the natural surroundings and unique visual resources of the area by incorporating designs which (i) minimize bulk and mass, (ii) follow natural topography, and (iii) minimize visual intrusion on the natural landscape.
- 17.13.020(A)4** Densities greater than the minimum may be permitted only if impacts of the proposed development are less than those in Table 6-2.

## **Full Text of Applicable Calabasas Municipal Land Use Codes**

- 17.90.20** Development means any grading or construction activity or alteration of the land, its terrain contour or vegetation, including the addition to, erection, expansion, or alteration of existing structures.”
- 17.20.070(C)** “Proposed development and new land uses within a scenic corridor designated by the -SC overlay zoning district shall comply with the city’s Scenic Corridor Development Guidelines”.
- 17.20.150(C)1** General Siting Principles. Buildings should be located in the most accessible, least visually prominent, and most geologically stable portion or portions of a site. Buildings should be located in the least visually prominent locations of a property, on open, grassy hillsides, where the prominence of buildings should be minimized by placing them in locations where they will be screened by existing vegetation, rock outcroppings, or depressions in topography.
- 17.18.040(A)** Purpose. The purpose of the -SC overlay zoning district is to protect an important economic and cultural base of the city by preventing the destruction of the natural beauty and environment of the city; to safeguard and enhance property values; to protect public and private investment, buildings and open spaces; and to protect and enhance the public health, safety, and welfare.
- 17.18.040(D)** Development Standards. All development within the -SC overlay zoning district shall comply with all applicable provisions of the Performance Standards for Hillside. Development and Urban Design Standards of Chapter 17.20, the Scenic Corridor Development Guidelines adopted by the council, all applicable provisions of this development code, and any applicable specific plan, master plan corridor design plan or design guidelines.
- 17.20.050(A)** Biotic resource protection. The following Performance Standards for Biotic Resources shall apply to all development projects:
1. Disturbances of biotic resources shall be avoided, to the extent feasible as determined by the review authority.
  2. Vegetative resources which contribute to habitat carrying capacity (vegetative species diversity, faunal resting areas, foraging areas and food sources) and other significant biotic features are to be preserved in their existing location and condition.
  3. The significant impacts identified in Table 6-2 in Chapter 17.60 shall be avoided, to the extent feasible as determined by the review authority.
- 17.20.055** Cluster development Standards.
- A. Cluster Development Standards for HM and RR Zones. In accordance with General Plan policies, clustered development standards allow for superior subdivision design in situations where sensitive or significant natural features warrant preservation or conservation. By adhering to the following standards, clustered development will generally result in the preservation of a greater amount of open space with fewer impacts to the environment, including reduced site grading and a reduced development footprint, fewer oak tree impacts, fewer biological impacts, and minimization of the urban-wildland interface. Accordingly, the following standards apply to all clustered development projects:
5. Where an average slope for a project exceeds twenty (20) percent, dwelling units should be clustered together on the more level portions of a site and steeper areas should be preserved in a natural state.
  7. The following factors, among other relevant factors, shall be balanced to determine the location of lots: topography and efficiency of access, preservation of open space, need for secondary access, geologic hazards and constraints, visual impacts, and conservation of natural resources and landscape features.

9. The open space shall be generally configured as large, contiguous areas of undisturbed native habitat capable of serving the various purposes of such open space, including view preservation of the natural areas, habitat preservation and wildlife corridor preservation. The open space set aside calculation should not include lawns, landscaping, manufactured slopes, or other artificially landscaped features but may include habitat restoration areas.

**17.20.150(A)** Performance Standards. All development shall comply with the applicable performance standards of this chapter. These include, but are not limited to the performance standards for hillside development addressing grading, project site planning, architectural design, landscape treatment and slope maintenance, and hazards (seismic, geologic and fire).

**17.20.150(B)** Performance Standards for Hillside Development. Grading and project design shall conform to the city's grading ordinance (Title 15) and the following standards:

1. Projects within hillside areas shall be designed to protect important natural features and to minimize the amount of grading. To this end, grading plans shall conform to the following guidelines:

- a. Slopes less than ten (10) percent: For property on slopes less than ten (10) percent, redistribution of earth over large areas may be permitted.

- b. Slopes between ten (10) and twenty (20) percent: Some grading may occur on property on slopes between ten (10) and twenty (20) percent, but landforms must retain their natural character. Padded building sites may be allowed, but split level designs, stacking and clustering are required to mitigate the need for large padded building areas.

- c. Slopes between twenty (20) and thirty (30) percent: Limited grading may occur on property on slopes between twenty (20) and thirty (30) percent; however, major topographic features including ridge lines, bluffs, rock outcroppings, and natural drainage ways shall retain their natural landforms. Special hillside architectural and design techniques shall be required in order to conform to the natural land form, by using techniques such as split level foundations of greater than eighteen (18) inches, stem walls, stacking and clustering.

- d. Slopes between thirty (30) and fifty (50) percent: Development and limited grading can occur on property on slopes between thirty (30) and fifty (50) percent, but only if it can be clearly demonstrated that safety hazards, environmental degradation, and aesthetic impacts will be avoided. Variable setbacks and building structural techniques (e.g., stepped or post and beam foundations) is required for development and limited grading on these properties. Structures shall blend with the natural environment through their shape, materials and colors. Impact of traffic and roadways is to be minimized by following natural contours or using grade separations.

- e. Slopes greater than fifty (50) percent: Except in areas limited in size and in isolated locations development in areas with slopes greater than fifty (50) percent shall be avoided.

The intent of this section is to limit the amount of grading on the steeper portions of a lot. In order to ensure compliance with the intent of this section, the director may require a slope analysis to determine areas and subareas of different slope conditions

**17.20.150(B)2:** Grading and project design shall address and avoid impacts to habitat linkages and wildlife corridors.

**17.20.150(B)3** Overall project design and layout shall adapt to the natural hillside topography and maximize view opportunities to and from a development. A development should preserve the hillside rather than alter it to fit the development.

**17.20.150(B)6** Structures shall be sited in a manner that will

- a. Fit into hillside contours and the form of the terrain;
- b. Retain outward views from the maximum number of units and maintain the natural character of the hillside; and,
- c. Preserve natural hillside areas and ridgelines views from the public right-of-way.

**17.20.150(B)12:** The overall scale and massing of structures shall respect the natural surroundings and unique visual resources of the area by incorporating designs which (i) minimize bulk and mass, (ii) follow natural topography, and (iii) minimize visual intrusion on the natural landscape.

**17.13.020(A)4:** Residential district general development standard. Densities greater than the minimum may be permitted up to the maximum *only if the impacts of the proposed development are less than those identified in Table 6-2 (Development Impacts of Individual Development Projects)* in Chapter 17.60 and are consistent with the performance standards in Chapter 17.20.

Table 6-2 Development Impacts of Individual Development Projects	
Issue	Development Impact
Preservation of Open Space	A new discretionary development project that would prevent the city from achieving (i) its open space objective of 4,000 acres of designated natural open space within the city limits, or (ii) an open space network of protected areas with a high degree of visual and physical continuity.
Hillside Management	Discretionary development projects that are not in compliance with hillside grading performance standards.
Biotic Resources	A discretionary development project that results in a net loss of habitat value in an area mapped as a significant ecological area, wildlife linkage or corridor on General Plan Conservation Element Figure IV-1, or that is otherwise identified as an area containing any biological species or habitat identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or the U.S. Fish and Wildlife Service. Figure IV-1 is to be updated periodically.  The construction of channelized flood control works, debris basins, and retention/detention facilities within a perennial or intermittent stream or wetlands area and any net loss of wetland area.
Air Quality	<ul style="list-style-type: none"> <li>• A discretionary development project that: Interferes with attainment of Federal or State ambient air quality standards, hinders attainment of the greenhouse gas emission reduction objectives of AB 32, or is inconsistent with the AQMP.</li> <li>• Causes a violation of the State's one hour or eight hour standard for carbon monoxide (CO).</li> </ul>
Water Resources	<ul style="list-style-type: none"> <li>• A discretionary development project that: Involves an amendment to the zoning map that increases water consumption beyond water supplies available from the Las Virgenes Municipal Water District.</li> <li>• Fails to incorporate best management practices in plumbing fixtures or is inconsistent with the city's Water Efficient Landscape Criteria.</li> <li>• Is located in an area for which providing reclaimed water supplies is feasible, and could legally use reclaimed water supplies, but is not designed for such use.               <ul style="list-style-type: none"> <li>• Is inconsistent with applicable NPDES permit requirements.</li> </ul> </li> </ul>

Soil Conservation	A discretionary development project where grading or subsequent operations result in deposits of soils on public streets or on downstream properties at a rate greater than natural erosion. Employment of "best management practices" and compliance with applicable NPDES requirements are presumed to reduce the impacts of a development to a less than significant level.
Energy Conservation	A discretionary development project that does not meet all applicable Title 24, California Code of Regulations and Calabasas Green Building Ordinance energy conservation requirements, and, in addition, does not employ best management practices for passive energy conservation.
Solid Waste Management	A discretionary development project inconsistent with the city's Source Reduction and Recycling Element.
Mineral Resources	Any extraction of mineral resources for off-site use that is inconsistent with the hillside management provisions of the General Plan.
Seismic, Geologic, Flooding, and Fire Hazards	<ul style="list-style-type: none"> <li>• A discretionary development project that does not meet Title 15 of this Code.</li> <li>• Placement of a discretionary development project within a FEMA 100-year flood zone unless FEMA issues a letter of map revision indicating that the site has been removed from the 100-year flood zone.</li> <li>• Placement of development adjacent to a creek that has shown evidence of past erosion unless a hydrology study indicates that the project will not be subject to erosion-related damage and will not create further downstream erosion.</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• A discretionary development project that: Would create noise in excess of the standards outlined in the Calabasas Noise Ordinance.</li> <li>• Is located in an area that currently exceeds or will exceed the "normally acceptable" range for the proposed use, as outlined on Figure VIII-3 of the General Plan Noise Element, unless mitigation can either reduce exterior noise levels to the normally acceptable level or achieve an acceptable interior noise level (45 dBA CNEL for residences)</li> <li>• Would generate traffic noise that would be audible at a sensitive receptor location and would increase the long-term CNEL along a roadway by <ul style="list-style-type: none"> <li>— 7 dB or more where the existing CNEL is less than 50 dBA</li> <li>— 5 dB or more where the existing CNEL is between 50 dBA and 55 dBA</li> <li>— 3 dB or more where the existing CNEL is 55 dBA and 60 dBA</li> <li>— 2 dBA or more where the existing CNEL is between 60 dBA and 50 dBA</li> <li>— 1 dBA or more where the existing CNEL is between 65 dBA and 75 dBA</li> <li>— Any amount where the existing CNEL is greater 75 dBA</li> </ul> </li> </ul>
Hazardous Materials	A discretionary development project that is inconsistent with the most current Los Angeles County Hazardous Waste Management Plan.
Disaster Response	A discretionary development project that would be inconsistent with adopted standards of the city or other disaster response agency.
Population Growth	A discretionary development project that would result in a population or employment increase in excess of that included in SCAG's regional forecasts for the City of Calabasas, as accepted by the city,
Housing	<p>A discretionary development project that:</p> <ul style="list-style-type: none"> <li>• Prevents the city from meeting its share of regional production needs (Table V-3 of the General Plan Housing Element) <ul style="list-style-type: none"> <li>• Results in the net loss of any subsidized affordable housing units</li> </ul> </li> <li>• Results in the net loss of rental housing at any time the vacancy rate for rental housing is below five percent (5%)</li> </ul>

Land Use	<ul style="list-style-type: none"> <li>• A discretionary development project that: Would cause significant impacts on other properties based on other standards included in this table</li> <li>• Is inconsistent with standards contained in the development code unless it can be demonstrated that a variance from applicable standards would not cause significant impacts on other properties based on other standards included in this table</li> </ul>
Circulation	<ul style="list-style-type: none"> <li>• A discretionary development project that: Roadway level of service along nearby streets exceeds the performance objectives outlined in the "Vehicular Circulation" objectives of the General Plan Circulation Element: <ul style="list-style-type: none"> <li>— Prior to project development</li> <li>— Subsequent to project development</li> <li>— At General Plan buildout; and</li> </ul> </li> <li>• The project will create a peak hour volume-to-capacity (V/C) increase in excess of the criteria outlined in General Plan Circulation Element Table VI-3.</li> </ul>
Fiscal Management	A discretionary development project that increases the cost or lowers the level of municipal services or facilities that are being provided to existing development.
Community Design	A discretionary development project that would be inconsistent with a policy of the General Plan Community Design Element
Historical and Cultural Resources	A discretionary development project that impacts an identified historical or archaeological resource pursuant to Section 15064.5 of the State CEQA Guidelines or would be inconsistent with the city's Historic Preservation Ordinance.
Parks and Recreation	<p>A discretionary development project that:</p> <ul style="list-style-type: none"> <li>• Prevents the use of an existing or proposed public or private park; or</li> <li>• Does not provide mitigation for increased demand for parks as required by this Development Code</li> </ul>
Municipal Services and Facilities	<p>A discretionary development project that:</p> <ul style="list-style-type: none"> <li>• Would not meet adopted performance standards of the affected municipal service or facility provider; or</li> <li>• Reduces the level of service provided to existing development below adopted performance standards of municipal service and facility providers; or ;eoll;</li> <li>• Results in any further reduction in the level of service to existing development where the level of service being provided to existing development is already below the adopted performance standards of municipal service or facility providers.</li> </ul>
Responsible Regionalism	A discretionary development project that would create impacts in excess of these standards outlined in this table within other jurisdictions without providing offsetting benefits to those jurisdictions.
Quality of Life	<p>A discretionary development project that:</p> <ul style="list-style-type: none"> <li>• The increase in nighttime intensity of light would be inconsistent with the city's Dark Skies Ordinance; or</li> <li>• Humidity, heat, cold, or glare is noticeable without instruments by the average person on an adjacent property; or</li> <li>• Unpleasant odors are created that would be perceptible by the average person on an adjacent property.</li> </ul>



## **EXECUTIVE SUMMARY**

**CMC17.20.150(3)** Hillside and ridgeline development, states, “Overall project design and layout shall adapt to the natural hillside topography and maximize view opportunities to and from a development. A development should preserve the hillside rather than alter it to fit the development.” The hillsides contained within this land parcel are precious and this CMC law is most certainly applicable to them.

The FEIR states “All project impacts would be mitigated to less than significant levels, except for the project’s aesthetic impact related to the change in visual character of the project site, which would be significant and unavoidable.”

This is an inconsistency with the 2030 General Plan Open Space Element and in direct conflict with the intent of Measure D, which is to “preserve open space in the City” and “reserve to voters of the City the ultimate determination whether open space lands should be converted to other uses.” (Ord. No. 2005-225, §1). Further the Measure D ordinance preamble states “The People of the City of Calabasas hereby find that the remaining areas of open space in the City are a precious resource in an increasingly urban society. The prevalence of open space in Calabasas contributes greatly to the quality of life of the community.” The General Plan specifically states that preservation of Open Space is of the highest priority to the community.

It is worth noting that the ballot argument in favor of Measure D, signed by all five City Council members, includes these statements: “Open space is irreplaceable. Once lost, it is gone forever; and once developed, the character of the land is forever altered.” and “The Open Space Initiative will invest in the people the power to make important decisions regarding future growth.” Please keep in mind the will of the people that has already been confirmed in the City’s own survey and the results of the No on Measure F ballot referendum.

As registered voters and members of the Calabasas public, we have spoken to you in Oral Comments delivered at several Planning Commission meetings earlier this year. In each case, we have pointed out specific CMC laws and 2030 General Plan Policies, Goals and Objectives that support our contentions. We asked that you do research into these matters for yourselves. We ask that these CMC laws and 2030 General Plan Policies, Goals and Objectives be enforced to the benefit of the public and its interests.

Does the right to develop privately owned property include the right to supersede the public’s right to preserve and protect Open Space within Calabasas in a natural, undisturbed state? It is our position that the answer is “NO”. You have a fiduciary duty to take into consideration both sides of that question.

Building new homes adjacent to open space is adding fuel for fires. Adding hundreds of additional cars to already overburdened streets is putting residents in danger. It is a public safety issue that must be given serious consideration.

## **ENVIRONMENTAL IMPACT ANALYSIS**

With regard to the Woolsey Fire, it is stated that the project site is included in the areas the fire burned but the EIR considers impacts to pre-fire condition environmental resources in accordance with Section 15125(a) of the CEQA Guidelines. However, this does not preclude taking into consideration the effects of the Woolsey Fire or the post-fire condition environmental resources; it only states that pre-fire condition must be included. Post-fire conditions on the project site have resulted in a greater impact, and they must be considered.

## **AESTHETICS**

The City’s 2030 General Plan identifies both significant visual resources and scenic corridors in the vicinity of the project site (City of Calabasas 2015). The significant scenic corridors identified in the 2030 General Plan that are affected by the proposed project include the U.S. 101 Freeway Scenic Corridor and the Las Virgenes Road Scenic Corridor.

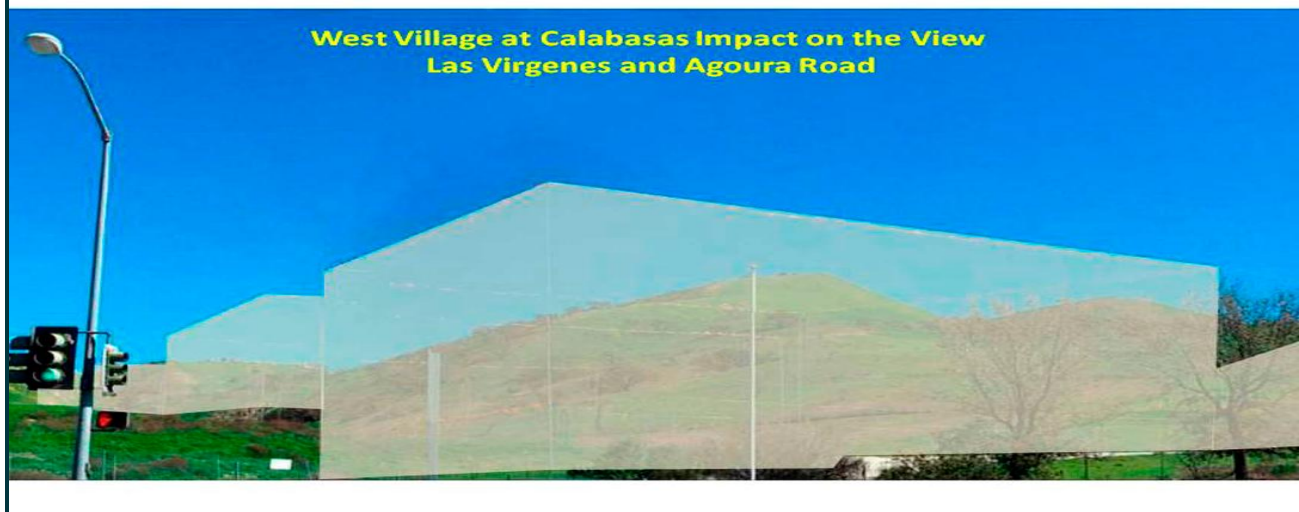
## **PROJECT IMPACTS AS STATED IN THE EIR**

The EIR claims in Impact AES-1 that the proposed project would alter views from the U.S. 101 and Las Virgenes

Road. Existing views include designated significant ridgelines and rolling hillsides, as well as open space. Impacts to scenic views from portions of Las Virgenes Road, a designated scenic corridor, will be potentially significant. Existing views are dominated by open space and rolling hills in the foreground and middle ground and by ridgelines in the distance. These views will be obscured by 15 massive three-story buildings. Mitigation includes a landscaping plan, which calls for planting of vegetation that could grow to a height of 30 feet, further blocking the views of the scenic hills.

It should be noted that photo simulations for this impact on the view in the EIR are from the Jack-in-the-Box on Agoura Road, several hundred feet west of Las Virgenes Road. The impact on the view depicted in that simulation is not nearly as impactful as it would be if it were from Las Virgenes Road.

The picture below is a photograph taken from the southwest corner of Agoura and Las Virgenes Roads that includes the story poles on the site that depict the buildings' actual mass, size, and impact on the view. This is what people will see when stuck in traffic at this intersection or when walking or driving by the proposed project. The views of the hillsides and ridgelines will be blocked by the buildings. THE VIEW IMPACTS CANNOT BE MITIGATED.



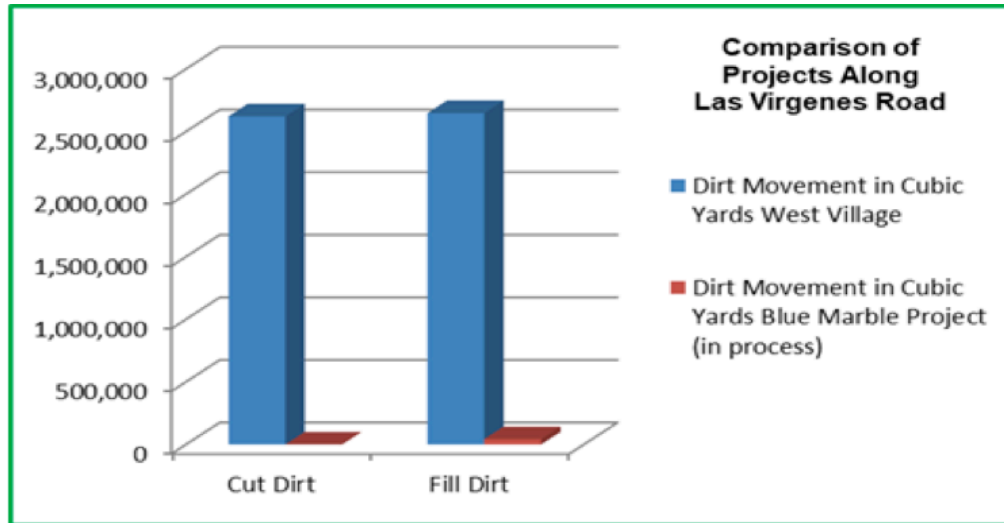
The EIR claims in Impact AES-2 that the proposed site grading and development would alter existing scenic resources on the project site. The modification of natural slopes and removal of on-site oak trees and other native vegetation would damage scenic resources.

Please note that “modification of natural slopes” means replacing natural slopes with manufactured hillsides like those adjacent to the 101 Freeway northbound on/off ramps at the recently completed Lost Hills interchange.

The project would involve grading of approximately 36 acres of the site’s natural landforms, which are marked by natural hillsides, oak trees, seep-fed wetlands, and ephemeral drainages. The proposed grading would involve re-contouring of the existing hillsides and filling of the existing canyon to create building pads for 15 three-story buildings.

In order to remediate an existing ancient landslide feature on the project site, the project would involve approximately 2,403,418 cy of cut and an estimated 2,406,971 cy of fill. An additional 218,770 cy of cut and 240,785 cy of fill is also proposed as non-remedial site grading.

**THIS IS MORE THAN 10 TIMES THE AMOUNT OF GRADING DONE ON THE PAXTON/BLUE MARBLE SITE.**



The EIR claims in Impact AES-3 that the proposed project would substantially alter the visual character of the project site through site grading and the addition of new residential and commercial development in a current undeveloped area.

The change in visual character would be a Class I, *significant and unavoidable* impact.

The bottom line is that currently approximately 61 acres of the 77-acre parcel is already designated Open Space-Development Restricted. The developer will be disturbing this designated Open Space-Development Restricted zoned land, leaving only 41.42 acres undisturbed. Another 24.58 acres would be “landscaped” into manufactured slopes and other unnatural “landforms”. To say that they will minimize the visual effect of the grading “to the degree feasible” is totally open-ended on their behalf. Does the FEIR’s phrase, “return the area to a quasi-natural condition in the long-term,” refer to manufactured slopes? That is not what made Calabasas unique. Las Virgenes Road is “The Gateway to the Santa Monica Mountains”. Natural hillsides and views support that message.

Mitigation to address the change in visual character beyond proposed design features intended to minimize the project’s visual impact are not available.

Significance: The impact related to the change in visual character from an undeveloped hillside to a commercial/residential development would be significant and unavoidable.

The project causes significant and unavoidable impacts in the area of Aesthetics. When a project’s impacts are significant and unavoidable CEQA requires a Statement of Overriding Consideration that sets forth the specific social, economic or other reasons supporting approval.

**There are no benefits to the community that will override the degrading of the hillsides and viewshed.**

- The environmental impacts alone of the grading will forever change this bucolic canyon and surrounding iconic hillsides.
- The assertion that there are economic benefits is questionable. There is no need for an additional 6,000 square feet of commercial/retail space. Currently in Calabasas, there are at least twenty-five vacant storefronts totaling over 50,000 square feet, including the Coco’s site, which has been vacant for over 4 years. There is no need for more empty storefronts.
- The housing market is softening as demonstrated by the inability to sell the Paxton/Blue Marble townhomes currently under construction.
- The maximum density that the developer is asking for will be substantially impactful to area roadways.

- Fifteen (15) residential buildings with 180 units crammed into approximately 9 acres is not compatible with the neighboring single-family residential community in terms of housing density, site design, building design and architecture.
- This project will not alleviate the regional housing shortage by increasing housing supply in an area where new housing units for sale are **not** selling.

## **BIOLOGICAL RESOURCES**

Per the FEIR, “legislative mandates, regulatory authorities have defined special-status biological resources as those specific organisms that have regionally declining populations, such that they may become extinct if declining population trends continue. Habitats are also considered special-status biological resources if they have limited distributions, have high wildlife value, include special-status species, or are particularly susceptible to disturbance.” The FEIR also notes that habitat linkages are especially important for low-mobility species because it allows for genetic diversity over the long term.

The entire site of the proposed project is within the Calabasas Wildlife Linkage and Corridor. It is barely outside of the Santa Monica-Sierra Madre Connection (by just ¼ mile). California Native Plant Society notes that, “In as much as the West Village site may not be within the Santa Monica Mountains/Sierra Madre Connection, it and the adjacent open space areas are well documented as important feeder sites for nurseries, breeding, plant and animal connectivity.” It is also entirely within a Los Angeles County Significant Ecological Area (SEA). The City of Calabasas is not bound by County SEA guidelines, but the dual designation indicates the uniqueness and importance of this land. The parcel supports a total of four wetlands, fed by year-round springs. It also has an ephemeral stream that discharges to the Las Virgenes Creek and ultimately the Pacific (via Malibu Creek)

### **Wildlife Linkage and Corridor**

The FEIR notes that “connectivity of the habitats on-site with adjacent habitat has been limited by the conversion of natural habitats west of the project site into urban development...”. It also notes the conversion of habitats east of the project site. The translation: development has already limited habitat connectivity, which makes the existing Linkage and Corridor and its resources all the more crucial.

The proposed project would result in a significant impact that is not mitigated: a 25% loss in the width of the Calabasas Wildlife Linkage and Corridor. The FEIR notes that Policy IV-2 of the General Plan’s Conservation Element states that loss of habitat linkages is unacceptable.

The FEIR’s Topical Response B: Wildlife Corridor Impacts makes the argument that the City has not recommended a minimum width. It notes that the Conservation Element states “The General Plan establishes a number of policies and requirements for maximizing the preservation of the habitat areas to the maximum extent feasible while allowing property owners to maintain basic property rights.” That does not change the fact that the General Plan’s Conservation Element IV-2 explicitly lists loss of habitat linkages as “unacceptable biological impacts”.

It can be argued that this project goes far beyond “basic property rights”. One could argue that “basic property rights” would be the five-acre minimum development as outlined in the Planned Development Land Use, 17.16.040(B). The code states that “the minimum area may be less provided the director finds (i) there is a unique character to the site, to the proposed land use, or the proposed improvements; and (ii) the proposed reduction is consistent with the goals of the General Plan.” We believe a five-acre or smaller project on this site would qualify for the above provisions.

Aside from the General Plan, the CMC supports the protection of the Wildlife Linkage and Corridor. CMC 17.20.150(B) 2 states “Grading and project design shall address and avoid impacts to habitat linkages and wildlife corridors.”

Table 6-2 in the CMC provides a list of impacts to be avoided. Loss of wildlife linkage and corridor is in the third category of impacts. The Biotic Resource Protection code 17.20.050(A)3 states “The significant impacts identified in Table 6-2 in Chapter 17.60 shall be avoided to the extent feasible as determined by the review authority.” Alternative projects have shown that a smaller project would have fewer impacts. Additionally,

17.13.020(A)4 (Residential district general development standards) states, “Densities greater than the minimum may be permitted up to the maximum only if the impacts of the proposed development are less than those identified in Table 6-2 (Development Impacts of Individual Development Projects) in Chapter 17.60 and are consistent with the performance standards in Chapter 17.20.” This by itself dictates that a smaller project must be preferred.

Expert comments provided by California Department of Fish and Wildlife warrants careful consideration. CDFW notes that in addition to constricting the Wildlife Linkage and Corridor one quarter mile, “An undisclosed amount will further impact the wildlife corridor when fuel modification and landslide remediation are included in the analysis.” CDFW “concur[s] with the City’s Wildlife Corridor and Linkage designation that a minimum 1-mile wide corridor remain, to continue to allow safe and protected exchange of wildlife and access to perennial water.”

Note that the proposed “mitigation” is use of wildlife-friendly fencing. Such fencing does not make up for the Linkage and Corridor loss. The DEIR is deficient because this significant impact is not addressed, nor mitigated.

Topical Response B: Wildlife Corridor Impacts argues that “perpetual protection is not currently afforded to the Wildlife Linkage and Corridor under the existing land use and zoning designations for open space because these designations can be amended by the City decision-makers with a two-thirds voter approval”, citing the CMC for Measures D and O. In the November 2016 Measure F ballot referendum, voters rejected a similarly-sized project with similar negative impacts by a margin of nearly 2:1 in order to protect the designated Open Space-Development Restricted zoned land. Accordingly, it is unlikely they would vote otherwise to amend this zoning designation.

### **Special-status Species**

There are two special-status plant species, Catalina mariposa lily and California black walnut. Both species have a California Rare Plant Rank (CRPR) of 4.2. This means the species are on a Watch List due to limited distribution. The “.2” is a threat rank that denotes that they are “fairly endangered in California (20-80% occurrences threatened). The California Native Diversity Database (CNDDDB) issues a Global and State Rank; both species are ranked G3/S3.2. This means the species is classified as Vulnerable (“vulnerable to extirpation or extinction”). The State rank includes a threat rank of “.2” indicating the same level of threat as in the CRPR (20-80% occurrence threatened/ moderate degree and immediacy of threat).

The FEIR notes that the species are “uncommon enough that in the CDFW’s opinion, their status should be monitored regularly”. Yet the FEIR downplays the impact the proposed project would have on these two species, stating “Individual mariposa lilies and walnut trees observed on-site would be affected as a result of the proposed project activities; however, removal of a few individuals would not reduce the population of either species to the point that reproductive capacity would be restricted. Therefore, the loss of a few locally important Catalina mariposa lilies and walnut trees would be a Class III, less than significant, impact.”

Remediating the ancient landslide in OS-DR lands will affect 12.8 acres of purple sage scrub. The FEIR notes this plant community does not have special-status, but is an important alliance within coastal California scrub. The FEIR states this is a potentially significant impact and proposes planting 12.8 acres as part of its Upland Restoration Plan (BIO-3a), claiming it would be restored to “pre-impact conditions”. However, in their comments, the Santa Monica Mountains Conservancy states, “The proposed mitigation measures to recreate purple sage scrub habitat on irrigated, compacted slopes with a v-ditch network cannot be supported.”

Six special-status plant communities considered significant biotic habitat under the Calabasas General Plan Conservation Element are on-site: Coast live oak Woodland; wetland communities are Cattail-Saltgrass Marsh, Yerba Mansa Meadow and Bulrush-Saltgrass Marsh; riparian communities are Mulefat Thickets and Arroyo Willow Thickets.

The Yerba Mansa Meadow Alliance (*Anemopsis californica*-*Helianthus nuttallii*-*Soliago spectabilis* Herbaceous Alliance) is ranked S2 (“Imperiled”), which indicates there are 6-20 occurrences. The DEIR omits the rankings of the alliances/associations. The following rankings were easily found using CNPS’ Manual of California Vegetation Online website:

- American bulrush marsh (*Schoenoplectus americanus*) has a rank of S3.2, classified as Vulnerable, with a

Threat ranking of “Fairly endangered (20-80% occurrences threatened).

- California brittle bush – ashy buckwheat scrub (*Encelia californica* – *Eriogonum cinereum* Alliance) is ranked S3, also classified as Vulnerable.

Virtually all of the Cattail-Saltgrass Marsh, Yerba Mansa Meadow and Mulefat Thickets will be affected.

Five special-status animals are on-site: Cooper’s hawk, Nuttall’s woodpecker, Allen’s hummingbird, oak titmouse and southern California rufous-crowned sparrow. Additionally, the FEIR states, “There are nine special-status animal species that have a moderate to high potential to occur on-site”: California red-legged frog, coastal whiptail, coast horned lizard, San Diego desert woodrat, American badger, western mastiff bat, pallid bat, hoary bat and western red bat.

The California red-legged frog (CRLF) is listed as a threatened species under the Endangered Species Act. It has been found just 900-feet from the project site. The FEIR acknowledges potential for the California red-legged frog to be on-site and that suitable upland habitat exists. It also states that “Due to the ephemeral nature of the water occurring within the site, however, the hydroperiod necessary for CRLF to successfully breed may not be present; therefore the potential for there to be suitable CRLF aquatic breeding habitat within the project site is low.” This ignores the fact that breeding season for CRLF is November through March (typically our “wet” season), with earlier breeding in southern localities, per FWS.gov. Californiaherps.com features year-round photos of a pond that is completely dry in some months, but has sustained breeding and young California red legged frogs in the wetter months.

<http://www.californiaherps.com/salamanders/pages/a.californiense.pond.html>

The FEIR notes that “CRLF may burrow under the soil surface and therefore may be undetectable until the soil is disturbed. Indirect impacts may occur from increased human presence and soil disturbance that may disturb potential breeding and dispersal activities of CRLF on the project site.” The proposed mitigation for this is to monitor “initial grading activities” (defined as the top four feet of soil). This mitigates potential damage and disturbance to a “less than significant impact”?

## **Wetlands**

There is a combined 3.56 acres of jurisdictional waters that fall under the authority of the U.S. Army Corps of Engineers and Regional Water Quality Control Board. Approximately 84% will be “disturbed”. There are 2.62 acres of jurisdictional waters and adjacent Riparian Habitat that fall under the authority of California Department of Fish and Wildlife. Approximately 76% will be “disturbed” by the proposed development.

The CDFW states, “Indirectly impacting seeps through dewatering of the landslide slope may result in the removal of sensitive vegetation communities including oak (*Quercus lobata* alliance-S3) and walnut woodlands (*Juglans californica* alliance-S3) on the slope outside of the landslide remediation footprint due to dewatering the hill and lowering local groundwater levels.” CDFW recommends “redesigning the Project to avoid impacts to the existing, natural seep-fed wetlands supporting sensitive vegetation communities including *Anemopsis californica*-*Juncus arcticus* var. *mexicanus* association (ranked S2). If this is not feasible, especially given that this feature facilitates regional wildlife movement and provides a source of water to wildlife, CDFW recommends creation of a similar habitat (including full hydrologic and geomorphic function) at a ratio that ensures no net loss of function and value.” However, the Alternative projects show that it is possible to avoid these significant impacts.

Comments on the DEIR were submitted requesting information on studies demonstrating the success -or failure- rate of “reconstructed” wetlands. The FEIR sidesteps the request by referring to their Habitat Mitigation and Monitoring Plan (HMMP) as the method to determine successful effective mitigation. But shouldn’t decision-makers and our community know whether their plan is likely to succeed before bulldozing begins? Heal the Bay submitted comments stating, “Nationwide, methods to replace wetlands have largely proven unsuccessful in fully recreating the biodiversity and habitat lost in areas where the wetlands have been impacted or destroyed. Research shows that in general, mitigation requirements in 401 and 404 permits have been shown to be insufficient to ensure high performance in mitigated wetlands.”

The “CDFW recommends conducting studies that track wildlife movement and use of the perennial seep water sources. The results, including mapped data, and a discussion of how the Project will affect the use of these

features should be provided in a recirculated DEIR in order for CDFW to make meaningful recommendations to avoiding impacts to regionally important perennial water sources.” The FEIR ignores this request for additional information that would allow CDFW to more accurately assess the impacts and help address and avoid them. Instead, Topical Response B: Wildlife Corridor Impacts conflates issues by stating “studies may provide more information on what species are utilizing the corridor; however, this would not affect the Draft EIR’s finding that the project would potentially impact the wildlife corridor despite retaining the majority of the corridor for wildlife movement, an impact that is less than significant once the required Biological Resources mitigation measures are incorporated.” (A reminder: there is no mitigation for the reduction in the Corridor.)

## **Oak Trees**

A total of 42 oak trees will be removed; of these, 25 are heritage oaks. California Native Plant Society comments point out that “The biotic, economic, climate, and social values that mature oaks and their associated habitat bring cannot be understated. The proposed 1:1 mitigation for take of the trees, even combined with the proposed landscaping tree elements, are not adequately analyzed in the DEIR considering the 100+ years it will take to fully realize and recover the valuable services that will be lost by removal of the existing trees and adjoining habitat.”

## **GEOLOGY AND SOILS**

The Las Virgenes Canyon drainage is the master drainage for the area located west of the Calabasas grade and east of the Chesebro rise. This portion of the Santa Monica Mountains is underlain by bedrock of the Miocene Monterey (Modelo) Formation, which conformably overlies the older Topanga Formation. The lower Monterey and Upper Topanga Formations are comprised predominantly of siltstone and shale bedrock with minor sandstone and limestone beds. The bedrock in both of these formations is relatively young, of relatively low strength, and is known to be susceptible to landslides on steeper and higher slopes.

Due to a relatively large tributary area in the Las Virgenes Canyon, the canyon has been subject to extremely high flow rates and corresponding rates of erosion in the geologic past. As a result of erosion and downcutting in the weak sedimentary bedrock materials the Las Virgenes Canyon contains some of the largest and deepest bedrock landslides in the Santa Monica Mountains.

The West Village at Calabasas project is located at the toe of a large ancient landslide. The landslide is mapped on several published geologic maps and has been the subject of extensive studies dating back to the early 1980’s. The most recent report for the site was issued in 2014.

A large number of reports and corresponding county review letters have been generated since the original studies were completed. Based on review of those studies it is clear that much dissention exists among professionals regarding the limits and depth of the landslide(s). Original studies suggested a large and relatively deep landslide, which moved downward and to the west, with the toe of the landslide located roughly along Las Virgenes Road. More recent studies have postulated a smaller and much shallower landslide than the previous studies. Geologists favoring the shallow and laterally less-extensive landslide interpretation have mapped bedrock at the base of the ancient landslide suggesting that the landslide is not present in the area east of Las Virgenes Road. This interpretation has allowed two developments (Paxton/Blue Marble Property and The Colony) to be constructed at the toe of the ancient landslide without any consideration to stabilizing the ancient landslide mass above. Both of these developments have been excavated into the toe of the ancient landslide.

The landslide at the West Village at Calabasas project, as mapped by the current consultant, failed to the northwest into the bottom of the existing canyon. The direction of movement is not toward Las Virgenes Road. Further movement of the landslide mass as mapped by the consultants is not possible since the mass has come to rest against the north (opposite) wall of the canyon. The north canyon wall prevents any additional movement of the slide mass from occurring since that canyon wall buttresses or impedes further movement in that direction. The existing landslide is presently at its lowest potential energy, is stable, and does not represent a hazard to the public or to adjoining properties.

The portion of the property north of the existing creek channel is not underlain by a landslide. Extensive grading in the form of fill placement has already been conducted on this portion of the property. The area south of the creek channel where the landslide exists is predominantly natural ground that has been designated as resource-protected open space.

Responsible development of this property should be limited to the area north of the creek channel where more stable geologic conditions exist and where past grading has already been conducted. Significant flat pad areas already exist on the northern portion of the site, and additional level pad areas can be created using conventional grading techniques where extensive remedial grading is not required to make a safe development. The landslide stabilization is merely a convenient scheme to allow the developer to conduct grading on natural open space slopes and generate fill materials to create a larger and higher “Master Pad”.

The developer should not be allowed to engage in a large grading operation that permanently alters natural land designated open space resource-protected. The proposed fill placement will block a natural drainage course and result in the complete burial of three natural year-round springs that are currently used year-round by wildlife. In the summer, when it is hot and dry, they are key to the survival of wildlife.

The grading will produce a visible scar on the natural slopes that are highly visible from two designated scenic corridors (the 101 Freeway and Las Virgenes Road). The remedial grading will permanently alter the view shed by creating unnatural manufactured slopes on the west side of Calabasas and should not be permitted.

The entire area north of the creek channel has been identified as containing natural slopes comprised of “in place” (non-landslide) stable bedrock materials, and that a development north of the creek channel will not require the type of extensive slope remediation that is needed for a development located south of the creek channel. A project such as that would be consistent with more of the Calabasas Municipal Codes and General Plan Policies highlighted throughout this document.

The proposed development should be revised so that landslide remediation is not included or required.

## HYDROLOGY AND WATER QUALITY

Clean water and clean air are both basic human rights, necessary for people and wildlife to survive.



The West Village at Calabasas developer proposes to channelize and cover the creek that flows from east to west through the center of the project site. In April 2019, US Fish and Wildlife Service (USFWS) personnel, City of Calabasas staff, and consulting biologists visited the site. It was determined that the creek has the potential to provide habitat for a threatened species, the federally-listed California Red Legged Frog (CRLF). Destroying the creek bed will destroy the habitat and with it, the ability for the CRLF to inhabit this area.

After the Woolsey Fire, the CRLF and several CRLF egg masses were observed in Las Virgenes Creek south of the 101 Freeway, near the Agoura Road overpass bridge, approximately 900 feet from the West Village at Calabasas site. The CRLF has successfully migrated down from the Las Virgenes

Open Space Reserve and is reproducing in a section of the creek that was restored by the City of Calabasas. (Note: For a number of years, The Mountain Restoration Trust has been successfully clearing the invasive crayfish from Las Virgenes Creek that had preyed on the CRLF. Their removal has allowed the CLRF to flourish in this area.)



The CRLF was not observed on the West Village property during the April 2019 survey. However, it is possible that they have migrated onto the property from Las Virgenes Creek and have yet to be observed. As a result, the EIR now includes statements that the site will be inspected a week before construction starts. If the CRLF is observed, the USFWS will be contacted to remove them from the site. This is to recommend that the site be thoroughly inspected by CRLF expert biologists from the USFWS prior to any clearance, grading and construction activity.

The EIR (BIO-1 pg. 195) states no critical habitat would be affected by the project. However, water quality in Las Virgenes Creek will be negatively impacted because of pollutants, domestic animal waste and other debris entering the creek from the project, in the short term from construction, and in the long term from urbanization of a large, dense housing project. This will affect the potential for CRLF habitat in the creek water. Therefore, the EIR is deficient in not addressing the effect of water quality on the CRLF.

The EIR (BIO-1(a) pg. 198) states that there will be continuous monitoring during construction involving vegetation clearing, or modification of natural habitat. The EIR is deficient because it does not define who performs that monitoring. We recommend that a biologist with an organization not affiliated with the developer, such as the Santa Monica Mountain Conservancy (SMMC) or the USFWS, perform the monitoring.



The EIR is deficient with regard to its conclusion that no suitable habitat for the CLRf exists on the project site. There is no discussion of the tank that is located in the middle of the marsh grass just north of the trail on the eastern end of the property. A suitable pond for the CRLF exists onsite, surrounded by wet earth. An abandoned tank, approximately 3 feet high, 5 feet in diameter and at least 5 feet deep, is constricting water. If removed, the pond will emerge quickly as it is spring-fed year-round. Frogs have been observed in the tank during summer months.

The US Government and other agencies, including the City of Calabasas, have spent millions of dollars to safeguard threatened species. Restoration of Las Virgenes Creek to improve habitat by eliminating invasive species such as the crayfish and creating conditions that facilitate movement for fish, amphibians and wildlife, are just some of the benefits of the many projects undertaken.

Construction pollution, storm water and urban runoff (oil, fertilizer, and animal waste) from the project site will feed into storm drains, carrying polluted contaminated water from the project site immediately downstream into the Las Virgenes Creek restoration area. The short and long term effects of this will pollute Las Virgenes Creek for years to come. Millions of dollars are being spent to clean up urban runoff flowing from Mountain View Estates into Gates Canyon Creek. It's taken nearly thirty years to address the issue. Las Virgenes Creek will be faced with the same problem.

## LAND USE AND PLANNING

The ultimate determination of whether the proposed project is consistent with the General Plan lies with the decision-making bodies (Planning Commission and City Council - FEIR).

The FEIR describes the proposed project: "The planned development would convert a portion of the site's natural areas, which contain natural hillsides, oak trees, seep-fed wetland features, and ephemeral drainages, into graded pads designed to support buildings, roadways, drainage improvements, and re-contoured and remediated slopes. Overall, proposed grading would involve re-contouring the existing hillsides and filling the existing canyon feature to create a series of building pads."

**Per CMC 17.90.020.D** - Definitions of specialized terms and phrases, "Development" "means any grading or construction activity or alteration of the land, its terrain contour or vegetation, including the addition to, erection, expansion, or alteration of existing structures. New development is that which occurs, after the effective date of this development code."

The FEIR's Topical Response D: Grading in the OS-DR acknowledges that "grading and other non-permanent development activities, such as fuel modification or environmental remediation" *are types of development*. It suggests that non-permanent activities are not prohibited in OS-DR. However, re-contouring of the OS-DR to enable a larger development is a *permanent use* because the hillsides and quality of the affected habitat would be forever negatively transformed.

CDFW states, "Since the proposed open space area would be surrounded by developments, trails, and irrigated slopes, the value of this open space will be dramatically reduced for native plants and animals." Their recommendation included "...reducing the footprint of the landslide remediation and/or eliminating parks and development to reduce the disturbance acreage." They also stated, "Mitigation measures should emphasize avoidance and reduction of project impacts."

CNPS comments included "The DEIR analysis states that permanent disturbance would occur only within the development footprint. CNPS disagrees in that the science is clear that all ground disturbance activities, especially from heavy machinery and grading, either permanently scar or alter soils, plant communities, biota, and introduce non-native species. The DEIR should thus correctly state that nearly 50% of the site, which is the area to be modified, will be permanently disturbed."

The DEIR Response to CNPS contends "If the impacted area is not restored to pre-project condition, it is classified as permanent. The characterization of temporary and permanent biological resource impacts in the Draft EIR is correct and reflects the planned post-remediation restoration of the southwestern slope. The project's permanent development footprint would be approximately 11.13 acres. Approximately 24.67 acres would be temporarily disturbed and restored to pre-project condition..." The graded OS-DR will never be returned to pre-project condition because, as noted above, the re-contouring and compaction of earth will be a *permanent change of condition*. Accounting for the permanent transformation of the 19.8 acres OS-DR land would bring the development footprint to a total of 30.93 acres.

**CMC 17.18.040(D)** Development Standards. All development within the -SC overlay zoning district *shall* comply with all applicable provisions of the Performance Standards for Hillside Development and Urban Design Standards of Chapter 17.20, the Scenic Corridor Development Guidelines adopted by the council, all applicable provisions of this development code, and any applicable specific plan, master plan corridor design plan or design guidelines.

**CMC 17.20.150(B)** Performance Standards for Hillside Development. Grading and project design *shall* conform to the city's grading ordinance (Title 15) *and* the following standards:

1. Projects within hillside areas *shall be designed to protect important natural features and to minimize the amount of grading*.  
Subheadings *a-e* specify the restrictions of grading based on slope percentage.

The end of the code's above subheading (e) further makes clear "*The intent of this section is to limit the amount of grading on the steeper portions of a lot*. In order to ensure compliance with the intent of this section, the director may require a slope analysis to determine areas and subareas of different slope conditions." The following are among the Performance Standards included:

2. Grading and project design *shall address and avoid impacts to habitat linkages and wildlife corridors*.
3. Overall project design and layout *shall adapt to the natural hillside topography* and maximize view opportunities to and from a development. *A development should preserve the hillside rather than alter it to fit the development*.
6. Structures shall be sited in a manner that will:
  - a. Fit into the hillside contours and the form of the terrain;
  - b. Retain outward views from the maximum number of units and maintain the natural character of the hillside; and,
  - c. Preserve natural hillside areas and ridgelines views from the public right- of-way.
12. The overall scale and massing of structures *shall respect the natural surroundings* and unique visual resources of the area by incorporating designs with (i) minimize bulk and mass, (ii) *follow natural topography*, and (iii) minimize visual intrusion on the natural landscape.

As noted in the Wildlife Linkage and Corridor portion of this document, the FEIR does not address or avoid impacts to the Wildlife Linkage and Corridor. The FEIR's own description of the project and its 2.6 million cubic yards of grading seem to be the antithesis of the above code.

With regard to the OS-DR zone, **CMC Section 17.11.010, Table 2-2**, which lists allowed land uses by zone, does not list any allowed land uses in the OS-DR zone, thereby prohibiting permanent land uses. There is no language that states that grading is an allowed land use. Grading isn't even listed. The only temporary and interim uses allowed for OS-DR zoned land is location filming.

**CMC 17.11.010 Permitted, conditional and ancillary land uses – all zoning districts.**

B. Uses Not Listed. Land uses that are not listed on the table or when a space in the table is blank in a particular zoning district, the land use is prohibited, except where provided by **Section 17.11.020**.

The Community Development Director can make a determination of "similar use" for anything not listed but it must meet the criteria below. Any such determination by the Community Development Director can be appealed to the Planning Commission and/or the City Council.

**CMC 17.11.020 Determination of Similar Use.**

A. Allowable Uses of Land. When a use is not specifically listed in this development code, the use is prohibited.

The Community Development Director can make a determination of "similar use" for anything not listed, "provided, the unidentified use has similar impacts, functions and characteristics."

Subheading (A)2. In making a determination of similar use, the director may attach reasonable conditions and restrictions to the use, in addition to those required by this development code, which will ensure that the use:

- a. Will not endanger the public health, safety or general welfare;
- b. Will not injure the value of adjoining or abutting property;
- c. Will not result in any significant environmental impacts;
- d. Will be in harmony with the area in which it is located; and
- e. Will be in conformity with the General Plan and/or applicable specific plan(s).

The proposed project does not meet subheading (b) as this project will directly negatively impact some of the home values in the adjoining Colony development. It also does not meet subheading (c) as grading the OS-DR land would result in significant environmental impacts.

Subheading (C) Findings. In making a determination of similar use, the director shall clearly establish the following findings of fact:

1. The proposed use meets the intent of, and is consistent with, the goals, objectives and policies of the adopted General Plan;
2. The proposed use meets the stated purpose and general intent of the zoning district in which the use is proposed to be located;
3. The proposed use will not adversely impact the public health, safety or general welfare of the city's residents; and
4. The proposed use shares characteristics common with, and is not of a greater intensity, density or generate more environmental impact than, those listed in the zoning district in which it is to be located.

Grading of Open Space-Development Restricted land does not meet the intent of the goals, objectives and policies of the General Plan. It does not meet the stated purpose and general intent of the zoning district and it does not share characteristics in common with OS-DR. Additionally, it would be of a greater intensity, density or generate more environmental impact than what is listed in the zoning district. It should be noted that in OS-DR lands, not even temporary real estate signs are allowed (**CMC 17.30.030(K)1a**).

**Per CMC 17.20.055(A)9** - Cluster development standards, "The open space shall be generally configured as large, contiguous areas of undisturbed native habitat capable of serving the various purposes of such open space, including view preservation of the natural areas, habitat preservation and wildlife corridor preservation. The open space set aside calculation should not include lawns, landscaping, manufactured slopes, or other artificially landscaped features but may include habitat restoration areas."

The DEIR's Topical Response D: Grading in the OS-DR suggests that particular code does not define open space for the entirety of the CMC and instead specifically sets standards for the HM and RR zones. While HM and RR zones are mentioned in the code, the City of Calabasas has routinely used this definition for other projects by excluding lawns, landscaping, etc. from open space calculations. It stands to reason that this code would hold true for this proposed project.

Additionally, in November 2014, New Home Company, the developer of this proposed project, as well as Avanti (formerly known as "The Village at Calabasas") used a similar definition of "open space" in their Quimby Credit Justification Analysis, citing the Calabasas Parks and Recreation Master Plan: "The Master Plan defines natural open space and greenbelt areas as, "undeveloped lands primarily left in their natural environment with recreation uses as a secondary objective." It's clear from the description used by New Home Company that landscaped areas are not open space. Note the use of the term "natural open space".

Pursuant to **Section 17.50.030(G)6 Credit for Private Recreation or Open Space**, the Council must find for the following:

- 1) Yards, court areas, setbacks and other open areas required to be maintained by Titles 15 and 17 of the CMC are not included in the computation of the private open space;

In May 2007, Rincon Consultants authored a Draft Issue Paper on Open Space for the City of Calabasas as part of its General Plan Update. They wrote on page 4 "Note that lands zoned OS do allow for single family residential development at a very low density, while the other zoning designations OS-DR and REC do not allow for development except for the recreational facilities permitted under REC." At the time that Rincon wrote this, the West Village at Calabasas site was under different ownership and different zoning. Less than three years after Rincon's writing, the zoning for the majority of the parcel would be changed to OS-DR. Clearly Rincon understood the concept that OS-DR lands do not allow development.

Grading on OS-DR land permanently changes its undisturbed, natural condition. Changing OS-DR land to manufactured slopes excludes it from the open space set aside calculation as specified in **CMC 17.20.055(A)9** - Cluster development standards. If the land is excluded as open space, then there has been a change that triggers Measure D. This also reduces the quantity of open space in the city, which is not consistent with the 2030 General Plan Open Space Element.

The CMC Table 6-2 Development Impacts of Individual Development Projects is a list of impacts *that are to be avoided*. The first impact to be avoided is a "discretionary development project that would prevent the city from achieving (i) its open space objective of 4,000 acres of *designated natural open space* within the city limits, or (ii) an open space network of protected areas with a high degree of visual and physical continuity."

Again, note the term "*natural open space*". This clearly does not intend to have *graded* open space. As noted earlier, "development" is grading; once graded, the land must be considered developed and is no longer "*natural open space*". Therefore, it must be removed from the City's inventory. The proposed project is inconsistent with the CMC.

Below are codes from the CMC and Policies from the 2030 Calabasas General Plan that are applicable to the Land Use and Planning of the West Village at Calabasas proposed development.

### **Open Space Element**

**Policy III-11:** Maintain the existing visual character of hillsides, recognizing both the visual importance of hillsides from public view areas and the importance of providing panoramic views from hillsides.

**Policy III-14:** *Preserve* all significant ridgelines and *other significant topographic features such as canyons, knolls, rock outcroppings, and riparian woodlands*. Significant ridgelines are shown on Figure III-4. Exceptions may be granted to accommodate General Plan designated trails, viewpoints, and fuel modification measures needed for the protection of public health and safety.

The proposed remediation of an ancient landslide is only to enable a larger project than the land actually allows.

Alternative projects in the FEIR show that a smaller project could safely be done without landslide remediation. (Also see Safety Element). This project would fill in a canyon, which is inconsistent with the Open Space Element.

**Policy III-15:** Preserve natural drainage courses and provide drainage in a more natural appearing condition rather than with standard concrete box drainage channels.

The proposed development will include concrete box drainage channels in direct conflict with Policy III-15.

### **Conservation Element**

**Policy IV-2:** Ensure that new developments, including roads, maintain the biotic habitat value of riparian areas, oak woodlands, habitat linkages, and other sensitive biological habitats. Specifically, the following are unacceptable biological impacts:

Net loss of wetlands or riparian vegetation.

Measurable reduction in species diversity.

*Loss of* breeding and roosting areas, foraging areas, *habitat linkages*, or food sources that will result in a measurable reduction in the reproductive capacity of biotic resources.

The FEIR fails to note in its Table 4.7-4 2030 General Plan Policy Consistency that the proposed project is inconsistent with Policy IV-2. The proposed project will result in a 25% loss in the width of the Calabasas Wildlife Linkage and Corridor. The project proposes the use of wildlife friendly fencing (BIO-5) as a mitigation, but that does nothing to address the loss. There is no mitigation for this loss of habitat linkage.

### **Land Use Element**

**Policy II-8:** Emphasize retention of Calabasas' natural environmental setting, neighborhood character, and scenic features as a priority over the expansion of urban areas.

Policy II-10: Promote an assembly of distinct neighborhoods that encompass a range of housing types that:

- Are visually attractive and *compatible in intensity*, dwelling unit size, and structural design with the need to protect the surrounding natural environment; and
- Meet the needs and suit the small town and rural lifestyles of present and future residents.

The proposed project is more than twice the size and twice the density of its adjacent neighborhoods that share the same topography. The Colony, immediately adjacent is 50 homes on 5.4 acres; Paxton is 78 units on 5 acres. The FEIR does not note this inconsistency.

### **Safety Element**

**Policy VII-4:** Discourage development within potential landslide areas and areas with severe soil limitations as *the City's preferred management strategy*, and as a higher priority than attempting to implement engineering solutions.

The FEIR alternative projects show that a smaller project can safely be done without remediating the landslide. The remediation simply enables a larger project that the land actually allows. The FEIR acknowledges that it “may not be consistent with the spirit of Policy VII-4. However, engineering solutions are available...”. The General Plan policy acknowledges that engineering solutions are available, but specifies that *avoidance is the higher priority*. For this reason, the project is inconsistent with Policy VII-4.

#### **17.01.030 - Authority—Relationship to General Plan.**

B. This development code is the primary tool used by the city to implement the goals, objectives and policies of the Calabasas General Plan. The Calabasas council intends that this development code be consistent with the Calabasas General Plan, and that any land use, subdivision or development approved in compliance with this development code will also be consistent with the Calabasas General Plan.

**CMC 17.16.010 - Purpose.**

D. OS-DR (Open Space-Development Restricted) District. The OS-DR zoning district is intended for areas of the city with existing open space that have been development restricted through the use of deed restrictions, conservation easements or dedications of common open space as part of an approved subdivision. The OS-DR zoning district will also accommodate publicly owned open space land.

**CMC 17.18.040 - Scenic corridor (-SC) overlay zone.**

D. Development Standards. All development within the -SC overlay zoning district shall comply with all applicable provisions of the Performance Standards for Hillside Development and Urban Design Standards of Chapter 17.20, the Scenic Corridor Development Guidelines adopted by the council, all applicable provisions of this development code, and any applicable specific plan, master plan corridor design plan or design guidelines.

**Scenic Corridor Guidelines**

Guidelines include:

- All structures shall be designed and situated on site to minimize adversely impacting views.
- Grading for public and private projects shall be kept to an absolute minimum.

Views of the hillsides from the right-of-way are obliterated. Grading 2.6 million cubic yards of earth is inconsistent with these applicable Scenic Corridor Guidelines.

**Las Virgenes Gateway Master Plan**

“Maximum densities contained in this Plan *shall be balanced against topographic and natural site constraints* and be subject to the General Plan Consistency Review program. The following list contains excerpts of important existing policies and standards that should be emphasized in the review of new development:

Hillside Management: Minimize the alteration of existing land forms and maintain the natural topographic characteristics of hillside areas, *allowing only the minimal disruption required to recognize basic property rights.*”

**CMC 17.20.055 - Cluster development standards.**

(A)9. The open space shall be generally configured as large, contiguous areas of *undisturbed native habitat* capable of serving the various purposes of such open space, including view preservation of the natural areas, habitat preservation and wildlife corridor preservation. The open space set aside calculation should not include lawns, landscaping, manufactured slopes, or other artificially landscaped features but may include habitat restoration areas.

**CMC 17.20.070 - Design considerations.**

C. Scenic Corridor Areas. Proposed development and new land uses within a scenic corridor designated by the -SC overlay zoning district shall comply with the city's Scenic Corridor Development Guidelines.

**Community Design Element 2030 General Plan Policy IX-10:** Within residential neighborhoods, protect neighborhood character by maintaining the mass, scale, and height of structures at a size that is compatible with the size of the parcel upon which the structure is located, as well as the size of adjacent development.

Other Plans and Policies. Various City Ordinances and adopted design criteria reinforce the above objectives and policies and therefore do not merit additional discussion. However, in addition to the General Plan Objectives and Policies listed above, the City of Calabasas has adopted the Las Virgenes Gateway Master Plan and the Las Virgenes Corridor Design Plan. The Las Virgenes Gateway Master Plan set goals and objectives to guide land use planning efforts, revitalization plans, and the review of new private development proposals. The Las Virgenes Road Corridor Design Plan provides a comprehensive master plan for a six-mile length of Las Virgenes Road addressing beautification and circulation planning. In both planning documents, the project site is considered a prominent parcel and thus specific direction is provided for the project site due to the need for special standards that address unique features, conditions, and constraints.

**(Ord. No. 2010-265, § 3, 1-27-2010)**

1. **Terminology.** When used in this development code, the words "shall," "must," "will," "is to" and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words "includes" and "including" shall mean "including but not limited to..."

The EIR states that the Development Footprint and Land Use Objectives are not consistent with Las Virgenes Gateway Master Plan.

The proposed project would be in conformance with all the design related objectives of the Las Virgenes Gateway Master Plan but would not be in conformance with the land uses and density objectives because the Las Virgenes Gateway Master Plan recommends single-family residential while the project includes multi-family residential.

The finding that grading on OS-DR zoned land is a temporary allowed use is not supported by any determination that has been made by either the Community Development Director, nor the Planning Commission or the City Council.

Grading on OS-DR land permanently changes its undisturbed, natural condition and cannot be construed to be a temporary use. It is a permanent use.

Please see the table below that lists development projects in Calabasas. With regard to the highlighted listings, the Oaks and Mont Calabasas were approved by LA County, and not by the City of Calabasas. As such is the case, these developments are not examples of non-permanent land uses in OS-DR zoned areas, approved by the City of Calabasas.

In addition, the inclusion of the pedestrian bridge that goes over the creek on Lost Hills Road and the water storage tanks are not examples of non-permanent or temporary land use.

Slope Maintenance, Drainage Infrastructure, and Other Uses in OS-DR Zoned Areas				
No.	Type of Use or Facility	Location	Area (s.f.)	Notes
1	Pedestrian Bridge & Path	West of A. E. Wright School	4,200	
2	Storm channel access drive	West of A. E. Wright School	5,500	
3	Storm channel & access drives	Las Virgenes Cr South of Agoura Rd	1,192,500	Restored streambed with access drives and trail
4	Las Virgenes Creek - Conc. Channel	North of Thousand Oaks Blvd.	340,000	Channelized concrete streambed with access drives
5	Man-made slope with terrace drains	North of "The Oaks" Subdivision	357,758	Maintained by The Oaks of Calabasas HOA
6	Man-made slope with terrace drains	Northwest of "The Oaks" Subdiv.	248,771	Maintained by The Oaks of Calabasas HOA
7	Man-made slope with terrace drains	West of "The Oaks" Subdiv.	271,202	Maintained by The Oaks of Calabasas HOA
8	Man-made slope with terrace drains	North of Mont Calabasas	583,704	Maintained by Mont Calabasas HOA
9	Man-made slope with terrace drains	West of Calabasas View Estates	450,000	Owned & Maintained by Calabasas View HOA
10	Man-made slope with terrace drains	NW of De Anza Park	71,460	Owned & Maintained by Calabasas View HOA
11	Man-made slope with terrace drains	Mountain Park Estates Open Space	229,599	Owned & Maint. By Mountain Park HOA
12	Man-made slope with terrace drains	Part of Wilson property	358,063	Includes terrace drain slopes & the driveway
13	Man-made slope with terrace drains	North of Saint Andrews Lane	170,973	Within CPHA open space area
14	Man-made slope with terrace drains	East of Tanterra Condos	137,214	Owned & Maintained by Tanterra HOA
15	Neighborhood Park (HOA)	NE of Cairnloch St. & Via del Prado	144,619	Owned & Maintained by Mulholland Heights HOA
16	Man-made slope with terrace drains	NE of Mulholland Heights N-hood	150,282	Maintained by Mulholland Heights HOA
17	Utility Access Road	East of Mulholland Heights N-hood	20,000	Access Road to Water Tanks and Area Trails
18	Debris Basin	East of The Colony	39,270	Flood Control Facility
19	Man-made slope with terrace drains	South of Claridge Neighborhood	95,810	Owned & Maintained by Claridge HOA
20	Man-made slope with terrace drains	South of The Ridge neighborhood	161,120	Owned & Maintained by Calabasas Ridge HOA
21	Neighborhood Park (HOA)	Calabasas Hills Community Park	225,641	Owned & Maint. by Calabasas Hills HOA
22	Man-made slope with terrace drains	East of the Calabasas Hills N-Hood	75,190	Owned & Maint. by Calabasas Hills HOA
23	Neighborhood Park (HOA)	NE of Westridge at Pkwy Calabasas	204,500	Owned & Maint. by Westridge HOA
24	Slope Maint., Drainage & Access	West of Mont Calabasas	55,760	
25	Water Storage Tank & Access Road	West of Mont Calabasas	179,467	LVMWD
26	Water Storage Tank & Access Road	NE of The Estates at the Oaks	394,218	Large water tank facility (2 tanks)
27	Water Storage Tank & Access Road	West of The Oaks	64,615	LVMWD parcel and easement
28	Man-made slope with terrace drains	NW portion Oaks/ CPE Open Space	260,489	Owned by Oaks of Calabasas HOA
29	Electrical equipment enclosure	NW portion Oaks/ CPE Open Space	2,046	
30	Debris Basin	NW portion Oaks/ CPE Open Space	16,290	Owned by Oaks of Calabasas HOA
31	Debris Basin	NW portion Oaks/ CPE Open Space	15,790	Owned by Oaks of Calabasas HOA
<b>Total Area (s.f.):</b>			<b>6,526,051</b>	
<b>Total Area (acres):</b>			<b>149.8</b>	

**TRAFFIC AND CIRCULATION**

A Staff Report prepared by Robert Yalda and Benjamin Chan for the City Council, dated April 26, 2019, recommended that the City elect to be exempt from the Congestion Management Program. This program is a 1990 era state-mandated performance-based program that attempts to link land use and transportation decisions. The Council voted unanimously to be exempt from the Congestion Management Program.

The Congestion Management Program is based on a “Level of Service” (LOS) performance metric that uses vehicle delay as a basis for measuring congestion. Data is collected over just 1 or 2 mid-week days. This is merely a snapshot in time and does not reflect the reality of everyday congestion right in front of the proposed project. Yet this outdated methodology is what is cited in the EIR.

The LOS criteria is being phased out and replaced with new state-mandated performance measures such as “Vehicle Miles Traveled” (VMT). Vehicle Miles Traveled measures the amount of travel for all vehicles in a geographic region over a given period of time, typically a one-year period. Vehicle Miles Traveled data plays an integral role in transportation and traffic planning as it indicates growth patterns, travel demands and behavior. The Lead Agency/developer may elect to use this new methodology now. It becomes law in 2020.

Considering that the Rondell Oasis Hotel has begun construction and the Paxton townhomes are now apartments, a more comprehensive traffic study would better serve the community. The following are impacts noted in the EIR.

The EIR claims in Impact T-1 that the Las Virgenes/Mureau Road intersection would operate at LOS Level E from 4-6 PM.

Please note that LOS Level E (the next-to-lowest possible Level of Service) during that time means poor progression, long cycle lengths, and high vehicle to capacity ratios. Individual cycle failures are frequent. Yet they state that the impact is less than significant. Not so to anyone who is stuck in traffic!

The EIR claims in Impact T-2 that the project would add fewer than 10 peak hour trips to the Lost Hills Road/U.S. 101 interchange

There are nearly 400 parking spaces planned for this development. The likelihood that more than 10 additional peak hour trips is high. How is this data collected and how can the finding of “less than significant” be justified?

The EIR claims in Impact T-3 that under opening year (2023) plus project conditions, the Las Virgenes Road/Mureau Road and U.S. 101 Southbound Ramps/Las Virgenes Road intersection would continue to operate at LOS Level E from 4-6 PM. Therefore, impacts to project area intersections would be *less than significant*.

If intersections operate at LOS Level E how can the finding of “less than significant” be justified?

The EIR claims in Impact T-4 that the proposed project-generated trips added to the 101 freeway would be below the CMP threshold for freeway monitoring locations. Therefore, impacts would be *less than significant*.

Remember that the City opted out of the Congestion Management Program, yet they are using criteria in the 1990 era program to justify impacts as less than significant.

The EIR claims in Impact T-5 that construction of project-generated improvements to Las Virgenes Road and the Las Virgenes Road/Agoura Road intersection would have the potential to disrupt traffic flows, but impacts to area roadways would *less than significant*.

The EIR states that site improvements related to the project are estimated to take 18-24 months, with grading to begin in approximately October of 2019.

As you look at this construction schedule that states site improvements are expected to take 18-24 months, keep in mind the Paxton project just down the road. Grading requirements for that project are 1/10th that of the West Village at Calabasas proposed development. Grading began over 4 years ago at the Paxton development and they are still not done. Any timeline minimizing traffic impacts should be taken with a grain of salt. The entire Las Virgenes Corridor will be impacted for years during construction.



Traffic impacts include not only the day-to-day frustrations of congestion but also the ever-present situation of emergency preparedness in the event of a fire like the Woolsey Fire. Las Virgenes Road is a designated Disaster Route for emergency vehicles. It was closed during the Woolsey Fire, as was the 101 freeway in both directions. Secondary roads were either gridlocked (Agoura Road) or closed (Mureau Road). Evacuation routes were not readily accessible.

The City has the responsibility to plan judiciously and not put residents in harm's way. We live in a Wildlife-Urban Interface zone where buildings are adding new fuel for the fire. Preparation for such emergencies includes making sure that roads can safely carry people to safety when needed. That requires using common sense, not just empirical data and outdated criteria. The roadways are already over-burdened. It just doesn't make sense to add more people, more buildings and more traffic.