

4.9 LAND USE AND PLANNING

This chapter provides a description of the existing land uses in the vicinity of the Project site and an analysis of the effects that the proposed Project would have on land use in the surrounding area. Additionally, this chapter contains an analysis of the Project's consistency with local plans, policies, and regulations applicable to the Project.

A. Regulatory Framework

This section identifies and describes the local plans, policies, and regulations applicable to the Project.

1. City of Lafayette General Plan

The Lafayette General Plan, adopted in 2002, guides development in the City over the course of its 20-year planning horizon. The Land Use Element of the General Plan regulates land use within the city limits, establishing specific land use designations to express the desired pattern of development. The Land Use Element contains a General Plan Land Use Map, which designates the Project site as Administrative/Professional/Office/Multi-Family Residential. This land use designation provides for a mixture of professional office and multifamily residential uses adjacent to the downtown that are close to public transit, shopping, and public facilities. The maximum height allowed under this designation is 35 feet, the maximum density for multi-family residential uses is 35.0 dwelling units per acre (du/ac), and the maximum floor area ratio (FAR) is 0.40.

General Plan goals and policies intended to guide land use in the City are listed below in Table 4.9-1. Under this section, a detailed consistency analysis is provided for each goal and policy applicable to the proposed Project.

The General Plan also establishes 11 Residential Entryways to the City which are intended to be distinctive and attractive, establish a positive image of the community, and reflect the semi-rural residential character of the community.

2. City of Lafayette Municipal Code

a. Zoning Regulations

Contained in Title 6, Planning and Land Use, of the Lafayette Municipal Code, the City's zoning regulations implement the land use goals and policies established in the General Plan. The zoning regulations identify specific zoning districts within the city and describe the development standards which apply to each district. The Project site is zoned Administrative/Professional Office (APO) in the Lafayette Municipal Code (LMC). Within the APO district, multi-family buildings are allowed with a permit and height limits range from 22.97 to 36.09 feet depending on the location within the Project site. As shown on Figure 3-3 of the Project Description, building height limits, measured from the lowest point where the lowest foundation wall intersects with the ground, are established as follows:

- ◆ Height Area I (36.09 feet)
- ◆ Height Area II (22.97 feet)
- ◆ Height Area III (29.53 feet)
- ◆ Height Area IV (32.81 feet)

Additionally, the zoning regulations stipulate that 20 percent of a lot in the APO district must be planted and maintained with growing plants.

b. City of Lafayette Hillside Development Requirements

Chapter 6-20 of the Lafayette Municipal Code sets out Hillside Development Requirements intended to preserve the distinctive hillside viewsheds that characterize Lafayette and to minimize the potential for damage from environmental hazards. The purpose of this chapter is to:

- ◆ Maintain the semi-rural character and beauty of the city by preserving its open and uncluttered topographic features in their natural state;
- ◆ Encourage an alternate approach to conventional flat land development practices;
- ◆ Minimize grading and cut and fill operations consistent with the retention of the natural character of the hillsides;

- ◆ Achieve land use densities in keeping with the general plan while retaining the significant natural features of hillside areas through densities that diminish as the slope of terrain increases;
- ◆ Minimize water runoff and soil erosion when terrain is graded to meet onsite and offsite development needs;
- ◆ Maintain steep slopes, riparian areas and woodlands in as nearly natural a condition as is feasible;
- ◆ Prohibit development on significant ridgelines and prohibit development which when viewed from lower elevations protrudes above these ridgelines;
- ◆ Preserve the predominant views both from and of the hillsides;
- ◆ Regulate the development of hillside and ridgelines areas by imposing standards for ridgeline setbacks, streets, trails and other improvements consistent with the purpose of this chapter; and
- ◆ Regulate the development of hillside and ridgeline areas in a manner so as not to take private property without just compensation.

Article 2 of the Hillside Development Requirements establishes the Hillside Overlay District, a special zoning district with specific regulations applicable to development of ridgeline, hillside, and other rural residential areas of Lafayette. These regulations apply to residential lots existing on July 8, 2002, to subdivisions of land into two or more lots, and to lot line adjustments under certain conditions. Uses permitted by right and by discretionary permit in the Hillside Overlay District are the same as those permitted in the underlying zoning district; however, Hillside Overlay District regulations take precedent over the regulations of the underlying principal zoning district in the event of conflict.

The Hillside Development Requirements also establish three classes of ridgeline in Lafayette, depending on ridgeline location, height, and significance in relation to other nearby topographical features. Classification also considers the impact that development on or near the ridgeline would have on scenic

views of ridges and hillsides and the protection of open space, wildlife corridors, and native grassland, oak woodland, chaparral, and riparian areas.

Hillside Development Requirements stipulate ridgeline setbacks for Class I, II, and III ridgelines. For Class I ridgelines, no development is allowed within 400 feet (measured in plan view) of the ridgeline. For Class II ridgelines, no development is allowed within 200 feet of the ridgeline. The Lafayette Planning Commission may grant exemptions from the ridgeline setback requirement provided that certain findings can be made and that no portion of any building located within a Class I or Class II ridgeline setback is higher than a plane sloping downward at an angle of 15 degrees from the horizontal intercept of the ridgeline. For Class III ridgelines, no structure may be erected adjacent to the ridge that is higher than a horizontal plane that intercepts the ridgeline. The horizontal plane shall be measured at the nearest point of development to the ridgeline, and shall be perpendicular to the ridgeline or have an arc of 90 degrees from the endpoint of the ridgeline.

c. Creek Setback Requirements

Section 6-18, Article 5 of the Lafayette Municipal Code outlines Creek Setback Requirements designed to protect property in the vicinity from landslides. Creeks setbacks apply to buildings and structures bordering unimproved creek channels. No permanent structure other than fences, drainage features, or erosion protection improvements may be built within the setback area, which is determined according to the formula set forth in Section 6-1841. Landscaping with trees and shrubs, however, is permitted.

d. Design Review Requirements

As described above, the Project site is zoned Administrative/Professional Office (APO), a designation that requires design review for new construction that will be visible from public property.¹ According to the Municipal Code, design review will look at a variety of aesthetics-related aspects of the Project,

¹ LMC Title 6, Part 3, Chapter 6-10, Article 1, Administrative/Professional Office District.

including, but not limited to, building form, site layout, circulation, and contextual design, to assure that the final development design meets the City's standards.² Design review is conducted by the City of Lafayette Design Review Commission. Through the design review process, the Commission provides oversight of project design and evaluates compatibility with the existing visual character or quality of a proposed development's site and its surroundings. The required findings that must be met are:

- ◆ The approval of the plan is in the best interest of the public health, safety and general welfare;
- ◆ General site considerations, including site layout, open space and topography, orientation and location building vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development;
- ◆ General architectural considerations, including the character, scale and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings; and
- ◆ General landscape considerations, including the location, type, size, color, texture, and coverage of plant materials, provisions for irrigation, maintenance, and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement buildings and structures and to provide an attractive environment for the enjoyment of the public.

e. Tree Protection Regulations

Chapter 6-17 of the Lafayette Municipal Code pertains to tree protection. Please see Chapter 4.3, Biological Resources, for a detailed description of the City's tree protection requirements.

² LMC Title 6, Part 1, Chapter 6-2, Applications and Permits.

B. Existing Conditions

1. Project Site Characteristics and Existing Land Uses

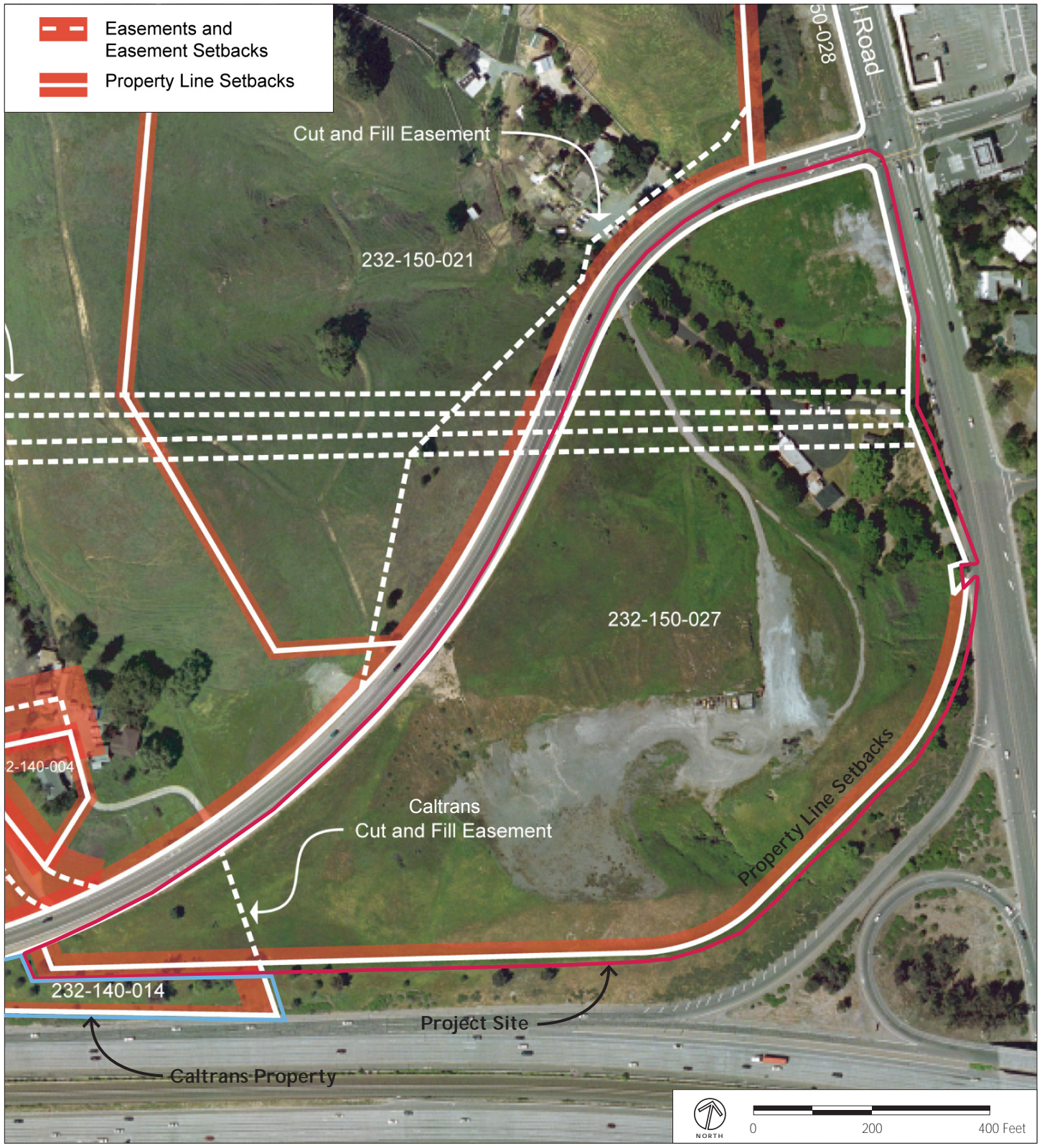
The majority of the Project site is undeveloped grassland, situated on a steep hillside, which slopes downward and to the south. An unimproved intermittent creek channel traverses the northeast corner of the Project site, as shown in Figure 4.3-3 in Chapter 4.3. A prominent manmade feature of the site's topography is the terracing of the hillside, which includes four relatively flat terraces ranging in elevation from 310 to 463 feet above mean sea level. As shown on Figure 4.5-4 in Chapter 4.5, Geology, Soils, and Seismicity, the site has significant areas of cut, fill, and other disturbance. The review of historic records indicates the Project site operated as a quarry between 1967 and 1970. It is likely the quarry was used as a source of borrow material for the local road and highway improvements.³

Currently, there are approximately 27,000 square feet of paved roadways and parking areas on-site, as well as several small structures totaling approximately 5,000 square feet in area. Existing on-site structures include two single-story office buildings, a vacant single-family home, a garage, a cargo storage container, and a construction trailer clustered near the center of the site. The lower portion of the site adjacent to Pleasant Hill Road has been the site of an annual Christmas tree lot since 1997.

There are two types of easement existing on the Project site. East Bay Municipal Utilities District (EBMUD) has two parallel tunnel easements that run through the site in an east-west direction, as shown in Figure 4.9-1. These easements ensure a setback from the two water transmission pipelines installed approximately 200 feet below the ground surface.⁴ The terms of the EBMUD easements stipulate that the grantor may not use or permit the land

³ Phase I and Phase II Environmental Site Assessment prepared by ENGEO, Incorporated on June 21, 2011 (see Appendix K of this Draft EIR).

⁴ City of Lafayette, Eastern Deer Hill Opportunities and Constraints Analysis, August 2006, page 18.



Source: Eastern Deer Hill Opportunities and Constraints Analysis, 2006.

FIGURE 4.9-1
EXISTING EASEMENTS

to be used in any way that would interfere with, damage, or endanger the EBMUD tunnels. Additionally, there is a cut and fill easement in the western portion of the site that was granted to the California Department of Transportation (Caltrans) during the construction of State Highway 24 and Deer Hill Road. The Caltrans cut and fill easement, which provides access to the Caltrans parcel (APN 232-140-014), is also shown in Figure 4.9-1.

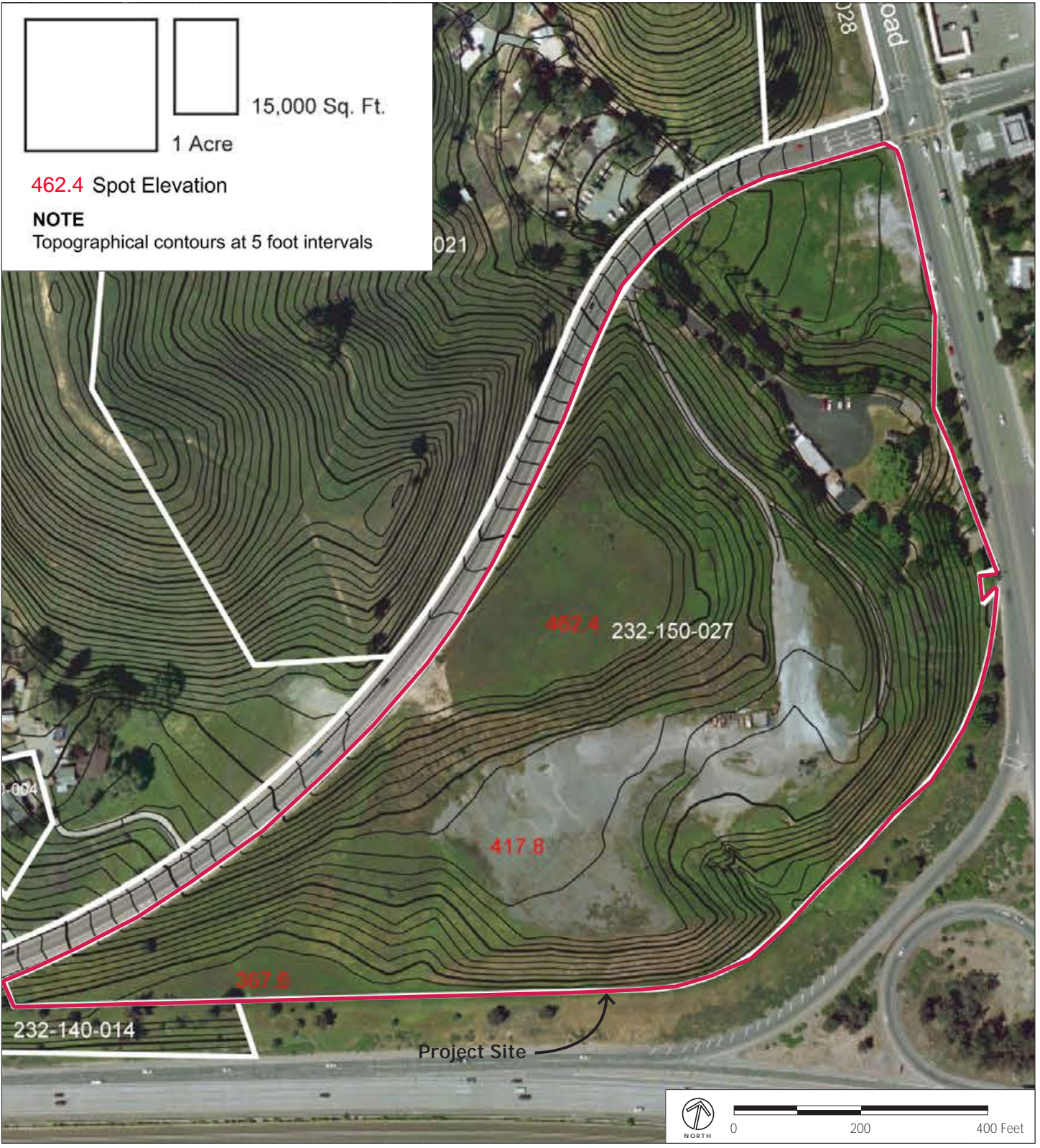
The Hillside Overlay Area Map from the Lafayette General Plan, shown in Figure 3-4 in Chapter 3, shows the eastern end of Lafayette Ridge extending onto the Project site. As shown, the 400-foot Class I Ridgeline Setback associated with Lafayette Ridge extends to the center of the Project site. However, as shown in Figure 4.9-2, existing topographical maps and site surveys indicate that Lafayette Ridge does not extend to the south of Deer Hill Road.⁵ Nevertheless, measured from the end point of the ridgeline north of Deer Hill Road, the Class I Ridgeline Setback would still extend several hundred feet into the Project site.

Although existing on-site structures were probably developed in conformance with the applicable regulations of the day, today many of these structures are legally non-conforming given their location within a Class I Ridgeline Setback as established in the Municipal Code.

2. Surrounding Land Uses

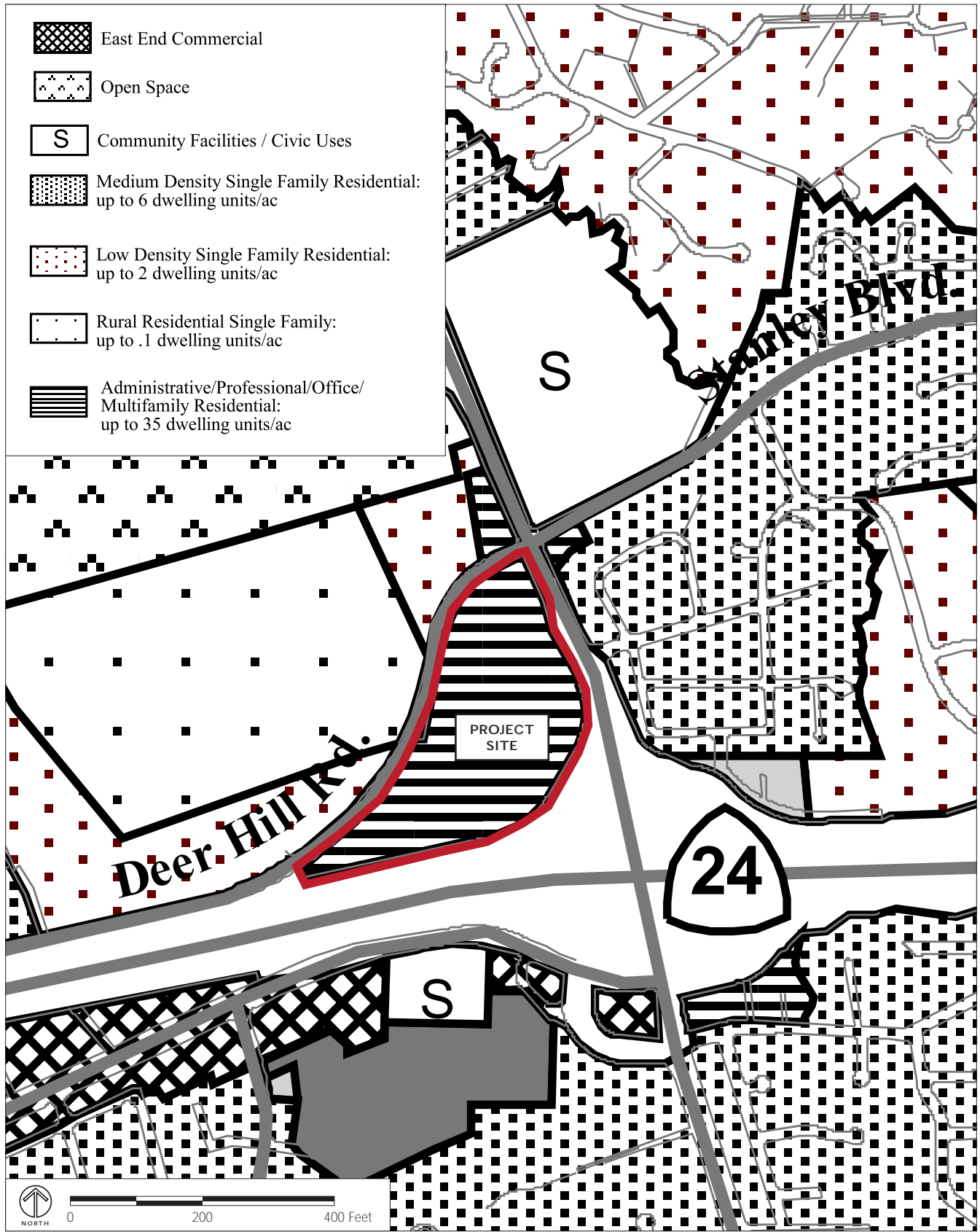
The triangular-shaped Project site is bounded by State Highway 24 to the south, Pleasant Hill Road to the east, and Deer Hill Road to the north and west. Figure 4.9-3 and 4.9-4 show the General Plan land use designations and zoning for the Project Site and the surrounding area, respectively. As shown, there is a small, undeveloped parcel immediately adjacent to the Project site, to the west between State Highway 24 and Deer Hill Road. This parcel shares the same General Plan land use designation as the Project site and is also zoned APO. Downtown Lafayette is located to the south of the Project

⁵ City of Lafayette, Eastern Deer Hill Opportunities and Constraints Analysis, August 2006, page 22.



Source: Eastern Deer Hill Opportunities and Constraints Analysis, 2006.

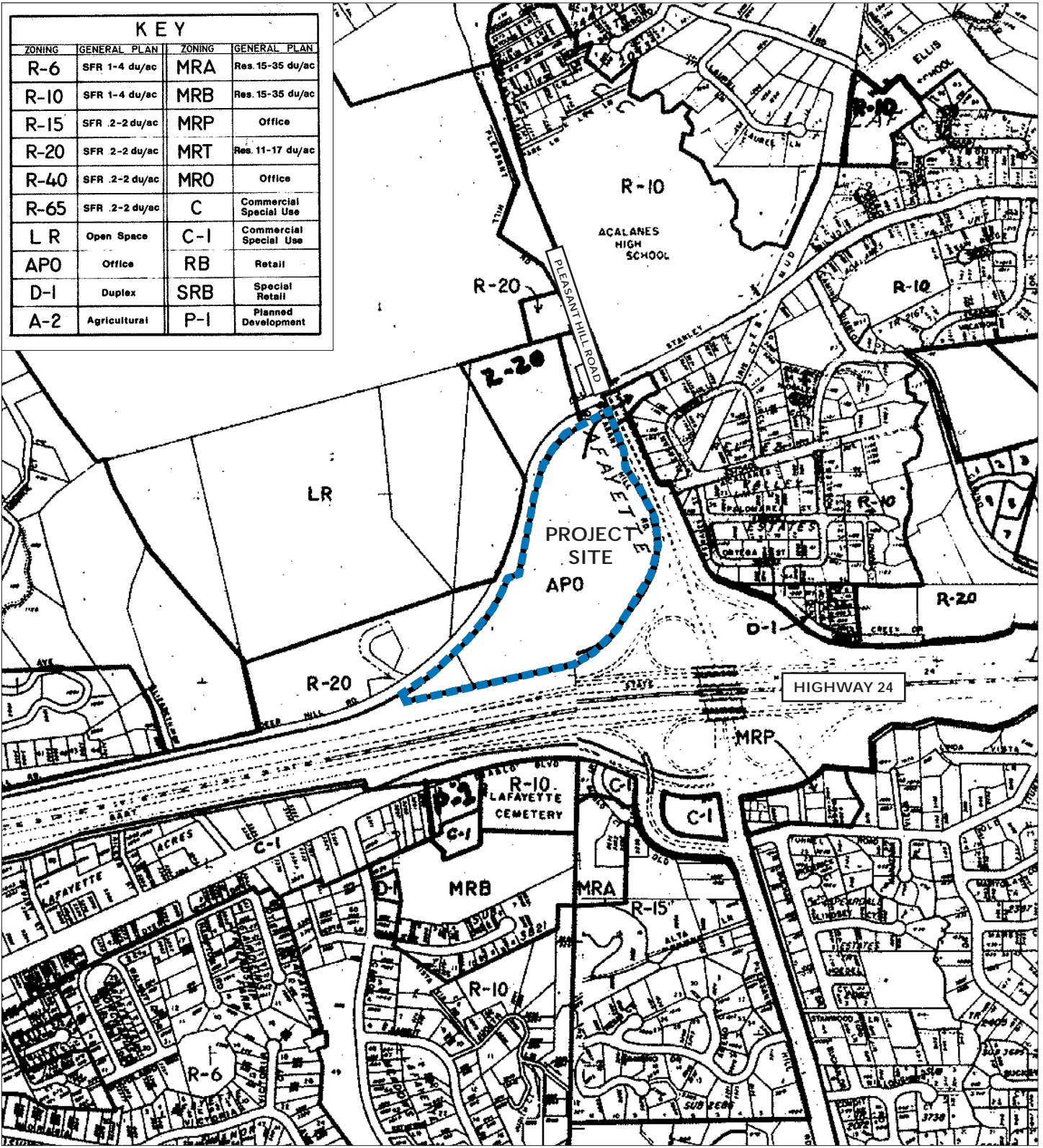
FIGURE 4.9-2
PROJECT SITE TOPOGRAPHY



Source: City of Lafayette General Plan, 2002.

FIGURE 4.9-3

LAND USE MAP FOR PROJECT SITE AND SURROUNDING AREA



Source: City of Lafayette, 1981, Zoning and General Plan Land Use Designation Map.

FIGURE 4.9-4
 ZONING FOR PROJECT AND SURROUNDING AREA

site, on the other side of State Highway 24. The General Plan land use designations for the East End of Downtown Lafayette directly south of the Project site are East End Commercial and Community Facilities / Civic Uses. Applicable zoning districts in this same portion of Downtown include Single-Family Residential (R-10), Multiple-Family Residential A (MRA), Multiple-Family Residential B (MRB), Planned Unit Development (PUD), and General Commercial 1 (C-1).

Across Pleasant Hill Road, to the east of the Project site is a residential neighborhood. Existing land uses include single-family residences, Acalanes High School, and a gas station. The General Plan land use designations for this area are Medium Density Single-Family Residential and Community Facility / Civic Uses. Applicable zoning districts include Single-Family Residential (R-10) and Two-Family Residential 1 (D-1).

Parcels located north of the Project site on the other side of Deer Hill Road are generally undeveloped and abut Briones Regional Park to the north. Uses on these parcels include a ranch with outdoor classes and a summer camp for children directly north of the Project site across Deer Hill Road. Parcel 232-140-004 is developed with several accessory structures and out buildings. Its General Plan land use designation is Single-Family Residential and it is zoned Single-Family Residential (R-20). The larger surrounding parcel, APN 232-140-016, is largely undeveloped open space, although there are several existing accessory structures on it, including a telecommunications facility. This parcel has two General Plan land use designations: Single-Family Residential in its southern portion and Low Density Residential in the north. It is split-zoned, Single-Family Residential (R-20) in the south and Low Density Residential 10 (LR-10) in the north. The adjacent parcel to the east, APN 232-150-021, also has two General Plan land use designations: Single-Family Residential in its eastern portion and Low Density Residential in the west. Similarly, it is also split-zoned with Single-Family Residential (R-20) in the east and Low Density Residential 10 (LR-10) in the west.

3. Planning Context

The Project site is located at the intersection of Deer Hill Road and Pleasant Hill Road, one of 11 Residential Entryways to the City identified in the General Plan. The General Plan stipulates that the Residential Entryways should be distinctive and attractive, establish a positive image of the community, and reflect the semi-rural residential character of the community. Additionally, the Project site itself is identified as the most significant undeveloped property in the City, due to its prominent location and its proximity to major thoroughfares. Given the importance of the Project site and its immediate vicinity, the General Plan recommends a Specific Plan be prepared for the area in order to ensure that any development is consistent with the semi-rural character of the community.

The General Plan designates the area on both sides of Deer Hill Road between Pleasant Hill Road and Elizabeth Street, including the Project site, as the Eastern Deer Hill Road Planning Area and established the following goal, policies, and programs to guide development within its boundary:

- ◆ Goal LU-13: Ensure that the Eastern Deer Hill Road area near the intersection of Pleasant Hill Road is developed, where development is appropriate, in a manner consistent with Lafayette’s community identity.
- ◆ Policy LU-13.1: Preserve and enhance the semi-rural single-family residential character north of Deer Hill Road where not adjacent to Pleasant Hill Road.
- ◆ Policy LU-13.2: Consider options for development south of Deer Hill Road and north of Deer Hill Road where adjacent to Pleasant Hill Road.
- ◆ Program LU-13.2.2: Prepare through a community planning process an Eastern Deer Hill Road Specific Plan that includes the following requirements:
 - a. Protect and enhance the rural character of the area north of Deer Hill Road where not adjacent to Pleasant Hill Road.
 - b. Preserve prominent views.

- c. Include development standards that maintain the semi-rural character of the area and the community.
- d. Utilize the property south of Deer Hill Road to help communicate the image of Lafayette as a semi-rural community.

However, subsequently after several years of consideration and discussion at public hearings, the City Council determined that a Specific Plan for the Eastern Deer Hill Road Planning Area was not required, and on June 8, 2009, directed City staff to initiate General Plan and zoning amendments for several of the subject properties in order to ensure that development in the area would be compatible with adopted General Plan goals and policies.⁶ This directive has resulted in a Planning Commission recommendation that the City Council:

- ◆ Certify and adopt a 2011 Addendum to the Lafayette General Plan Revision Final Environmental Impact Report demonstrating that the proposed General Plan and zoning amendments will not result in any new impacts or increase the significance of potential impacts and will not impact or reduce the City's ability to comply with the Housing Element and provision of housing;
- ◆ Amend General Plan Land Use Map I-1 to reclassify the proposed Project parcel's Land Use to Rural Residential Single Family-5.
- ◆ Amend the General Plan to revise the text regarding Eastern Deer Hill Road and the preparation of a Specific Plan and General Plan Land Use Map I-1 to remove the boundary line and notation for "Eastern Deer Hill Road Study Area;" and
- ◆ Rezone the Project parcel to Low Residential (LR-5), which allows for 1 dwelling unit per 5 acres.

⁶ Christine Sinnette, Senior Planner, City of Lafayette Staff Report, August 15, 2011, page 4. The direction given by the Planning Commission made changes to Land Use and Zoning for all of the parcels that made up the proposed Eastern Deer Hill Road Specific Plan area; however, only the Project site is discussed in this EIR.

Since this directive, the City has reconsidered whether to proceed with the rezoning. On April 9, 2012, the City Attorney issued a staff report indicating that the City will wait until after this EIR for the proposed Project has been completed before recommending General Plan amendments and rezoning for the Project site.⁷ Given this and because the Eastern Deer Hill Road Specific Plan was never prepared or adopted, Project consistency with the policies listed above is not discussed below. However, Project consistency with the General Plan's Residential Entryways standards described above is discussed below.

C. Standards of Significance

The proposed Project would result in a significant land use impact if it would:

1. Physically divide an established community.
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
3. Conflict with any applicable habitat conservation plan or natural community conservation plan.
4. Create or exacerbate a conflict between land uses on the project site and in the surrounding area.

⁷ Malathy Subramanian, City Attorney, 2012, Staff Report to the City Council Re: Eastern Deer Hill Road Area General Plan Amendment and Rezone Process Update.

D. Impacts Discussion

1. Physically divide an established community.

As described above, the Project site is entirely contained within a single parcel, APN 232-150-027, bounded by Deer Hill Road to the north, State Highway 24 to the south, and Pleasant Hill Road to the east. Existing development on the site is minimal and surrounding development is generally limited to the residential neighborhood and high school situated to the east of Pleasant Hill Road. As such, buildout of the proposed Project would not physically divide an established community and there would be *no impact*.

2. Conflict with any applicable land use plan, policy, or regulation.

The Project would result in a significant impact if it would conflict with Lafayette General Plan goals and policies, or with the provisions of the Lafayette Municipal Code, including zoning regulations, hillside development requirements, or creek setback requirements. Consistency of the Project with each of these regulatory tools is discussed under a separate sub-section below.

a. Lafayette General Plan

This section discusses whether the Project would be consistent with land use designations, goals, and policies in the General Plan.

i. General Plan Land Use Designation

As described above, the General Plan Land Use designation applicable to the Project site is Administrative/Professional/Office/Multi-Family Residential. Under this designation, the maximum allowable residential density is 35 dwelling units per acre (DU/acre) and the maximum allowable floor area ratio (FAR) is 0.4. The proposed development of multiple-family dwelling units on the site is generally consistent with this designation, which envisions a mixture of professional office and multi-family residential uses adjacent to Downtown. Development of 315 units on the 22.27-acre site as proposed would result in a residential density of 14 du/acre. The total area of the proposed buildings is 332,395 gross square feet (gsf), which is equivalent to an FAR of 0.34. Therefore, the proposed Project would be consistent with the

residential density and FAR provisions of the existing Land Use designation applicable to the site. **(Consistent)**

ii. General Plan Goals and Policies

Table 4.9-1 lists relevant goals and policies from the Lafayette General Plan and provides a discussion regarding whether the Project would be consistent with each goal and policy. As discussed in Table 4.9-1, the Project would be inconsistent with the following policies in the General Plan: Policy LU-2.1, Policy LU-2.2, Policy LU-2.3. This would be a *significant* impact.

In addition, the Project would be inconsistent with Goal LU-2 and Policies LU-4.1 and LU-20.1 in the General Plan. Regarding the inconsistency with Goal LU-2, please see the discussion of Impacts BIO-5 and BIO-7 in Chapter 4.3, Biological Resources. The proposed Project would eliminate the two acres of native blue wildrye, considered a sensitive natural community, and additional areas of native grassland could be affected by off-site wetland enhancement activities. The proposed Project would also remove 91 of the 117 existing trees on the site which qualify as “protected trees” under the City’s Tree Protection Ordinance, eliminating about 78 percent of the trees on the site, including the 58-inch valley oak which is one of the largest trees of its kind in the City. These impacts could not be mitigated to less-than-significant levels without a substantial redesign of the proposed Project, and therefore are considered to be significant and unavoidable.

Regarding the inconsistency with Policy LU-4.1, please see the discussion of Impact AES-1 in Chapter 4.1, Aesthetics and Visual Resources, pertaining to impacts associated with lighting. As discussed in Chapter 4.1, the Project would increase lighting and glare levels from the existing conditions. Proposed lighting would comply with the levels permitted for residential uses in the Lafayette Municipal Code and would be installed in conformance with the City’s exterior lighting requirements. In addition, lighting would be low level illumination and exterior lighting would be shielded (downward facing) to minimize light spill, glare, and reflection and maintain “dark skies.”

TABLE 4.9-1 LAFAYETTE GENERAL PLAN POLICY CONSISTENCY ANALYSIS

Goal/Policy Number	Goal/Policy Content	Consistency Discussion
Goal LU-2	Ensure that development respects the natural environment of Lafayette. Preserve the scenic quality of ridge-lines, hills, creek areas, and trees.	Not Consistent. The proposed Project would involve the removal of trees and filling an estimated 295 linear feet of creek channel on the site. As discussed in Chapter 4.8, construction of the Project could result in the creation of impervious surfaces (roads, houses) and slight changes of local topography that have the potential to alter surface runoff rates and drainage patterns from the site and increase surface runoff rates, peak flows, and sediment transport downstream. Mitigation Measures HYDRO-1a, -1b, and -2 would ensure that impacts to water quality would be less than significant. As described in Chapter 4.3, Mitigation Measures BIO-1 through BIO-8 would all serve to reduce the potential impacts of the Project on wildlife habitat and wildlife movement opportunities, particularly measures recommended to retain existing native grasslands and oaks, and provide for avoidance of sensitive resources and adequate replacement of sensitive habitat affected by proposed grading and development. However, Impacts BIO-5 and BIO-7 would be significant and unavoidable because proposed mitigation would not be sufficient to reduce impacts to less-than-significant levels. In addition, Mitigation Measure BIO-8 would further reduce the impacts of the Project on movement opportunities and habitat values along the existing creek.
Policy LU-2.1	Density of Hillside Development: Land use densities should not adversely affect the significant natural features of hill areas.	Not Consistent. As described above, the construction of 315 units on the 22.27-acre site as proposed would result in a residential density of 14 du/acre. The proposed residential density would not exceed the maximum of 35 du/acre allowed under the existing General Plan land use designation; however, construction of the proposed Project would result in substantial development on the hillside within the Project site such that the hillside would no longer appear undeveloped, as described below. Therefore, while the Project site is a highly disturbed area, the proposed residential density would adversely affect the natural appearance of the Project site and as such, construction of the Project would not be consistent with Policy LU-2.1.
Policy LU-2.2	Cluster Development: Preserve important visual and functional open space by requiring development to be clustered on the most buildable portions of lots, minimizing grading for building sites and roads.	Not Consistent. The Lafayette Municipal Code defines clustering as the grouping of residential buildings on a parcel so as to create substantial contiguous open space that is separate from development on the parcel (Section 6-2003). As shown on Figure 3-7 of this EIR, the 14 proposed buildings are generally spread throughout the Project site and after buildout of the Project substantial contiguous open space would not remain. Although the Project would not exceed the maximum FAR permitted for the General Plan land Use designation applicable to the site, the proposed site plan is not consistent with the requirement for cluster development specified in Policy LU-2.2.

TABLE 4.9-1 LAFAYETTE GENERAL PLAN POLICY CONSISTENCY ANALYSIS (CONTINUED)

Goal/Policy Number	Goal/Policy Content	Consistency Discussion
Policy LU-2.3	Preservation of Views: Structures in the hillside overlay area shall be sited and designed to be substantially concealed when viewed from below from publicly owned property. The hillsides and ridgelines should appear essentially undeveloped, to the maximum extent feasible.	Not Consistent. Visual simulations were prepared for the Project and are provided in Chapter 4.1. As shown in the six representative views, with substantial landscaping on the site within 5 years of completion of construction of the Project, the structures would be screened from view at these locations. The same visual simulations indicate that ridgelines would appear generally undeveloped; however, the hillside of the Project site would appear substantially developed. Therefore, the proposed Project is not consistent with Policy LU-2.3.
Goal LU-3	Encourage well-designed residential development.	Consistent. Pursuant to section 6-271 of the Lafayette Municipal Code, the proposed Project would be subject to design review. Design review would be conducted by the Design Review Commission in order to evaluate the aesthetic elements of the Project, including: height, mass, lot coverage, setbacks, relationship of structures, site plan, continuity of design, relationship to neighboring properties and terrain, and other aspects. The Lafayette Municipal Code stipulates specific findings which the Design Review Commission must make in granting final approval for a project. Therefore, compliance with the design review provisions of the Lafayette Municipal Code would ensure consistency with Goal LU-3 to the maximum extent practicable.
Policy LU-4.1	Infrastructure Design: Public and private infrastructure should reinforce the semi-rural qualities of residential neighborhoods.	Not Consistent. Figure 3-8 of this EIR shows the proposed lighting plan for the Project site. As described above, the Project would be subject to design review and the lighting plan would be evaluated together with the other aesthetic elements of the Project at that time. In granting final approval for a project, the Design Review Commission must make specific findings, including findings related to screening of exterior appurtenances and exterior lighting. Therefore, compliance with the design review provisions of the Lafayette Municipal Code would help to ensure consistency with Policy LU-4.1 to the maximum extent practicable. However, as discussed in Chapter 4.1, the introduction of new light and glare sources on the essentially unlit Project site would result in significant lighting impacts and the Project would not be consistent with Policy LU-4.1. Please see Impact AES-2 for a discussion of impacts associated with proposed lighting.
Goal LU 14	Protect the single-family residential neighborhoods north of Highway 24 from commercial and multi-family development.	Consistent. North of State Highway 24, two single-family residential neighborhoods are located in proximity to the Project site. Immediately to the east of the Project site across Pleasant Hill Road, the closest residences are located approximately 150 feet from the eastern boundary of the Project site. A residential neighborhood is also located to the west of the Project site on the far side of Elizabeth Street; the nearest residence in this neighborhood is approximately 0.25 miles from the western boundary of the Project site. Neither of these neighborhoods adjoins the Project site. Pleasant Hill Road physically separates the Project site from the neighborhood to the east, and undeveloped open space on the hillside to the north of Deer Hill Road acts as a buffer between the Project site and the neighborhood west of Elizabeth Street.

TABLE 4.9-1 LAFAYETTE GENERAL PLAN POLICY CONSISTENCY ANALYSIS (CONTINUED)

Goal/Policy Number	Goal/Policy Content	Consistency Discussion
Policy LU-20.1	Traffic Service Standards: Consider the level of service (LOS) goals and standards set forth in the Circulation Chapter when evaluating development proposals.	Not Consistent. Chapter 4.13, Transportation and Traffic, of this EIR evaluates the proposed Project against the LOS standards set forth by the City’s General Plan. Impact TRAF-1 would be significant and unavoidable because no feasible mitigation measures are available to reduce this impact to a less-than-significant level.
Policy LU-20.4	Fire: Review all development projects for their impacts on standards for fire service specified in the General Plan: fire stations three miles apart in urban areas, six miles apart in rural areas, with a five-minute response time. Require fair share payments and/or mitigation measures to ensure that these standards or their equivalent are maintained.	Consistent. As described in Chapter 4.12, the Contra Costa County Fire Prevention District would assess an impact fee of \$285 per dwelling unit on the Project and collection of this fee would be sufficient to accommodate new development without further compromising the delivery of fire services in the vicinity of the Project site.
Policy LU-20.12	Growth Management Implementation: Review development projects for conformance with adopted performance standards and require mitigation measures where necessary to maintain adopted standards. Capital improvements shall be in place at the time of project implementation when necessary to maintain adopted performance standards.	Consistent. As described in Chapter 4.11, the Project is consistent with local and regional growth projections and would not result in unplanned growth. Additionally, as explained in Chapter 3, Project utilities would connect to existing water, sewer, stormwater, natural gas, and electrical infrastructure and no new capital improvements would be required to support development of the proposed Project.

Source: Lafayette General Plan, 2002; The Planning Center | DC&E, 2012.

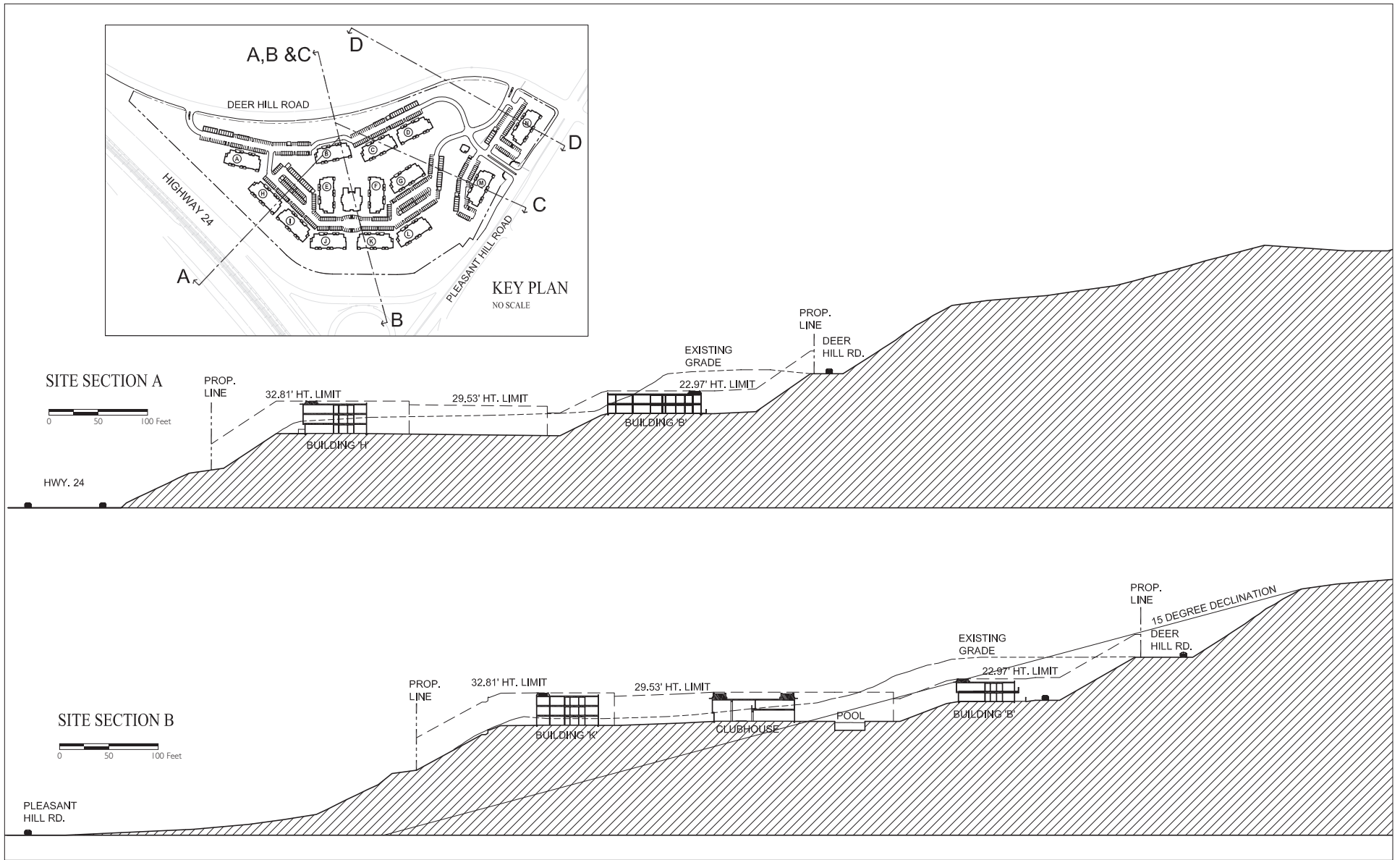
Nevertheless, because the Project would bring new light and glare sources to the site, which currently contains no light sources, Impact AES-2 is found to be significant and unavoidable.

Regarding the inconsistency with Policy LU-20.1, please see the discussion of Impact TRAF-1 in Chapter 4.13, Transportation and Traffic. Under Existing plus Project conditions, the Deer Hill Road – Stanley Boulevard/Pleasant Hill Road intersection would operate at LOS F during the AM peak hour. No feasible mitigation measures would reduce this impact to a less-than-significant level, and therefore the impact is considered to be significant and unavoidable.

b. Zoning Regulations

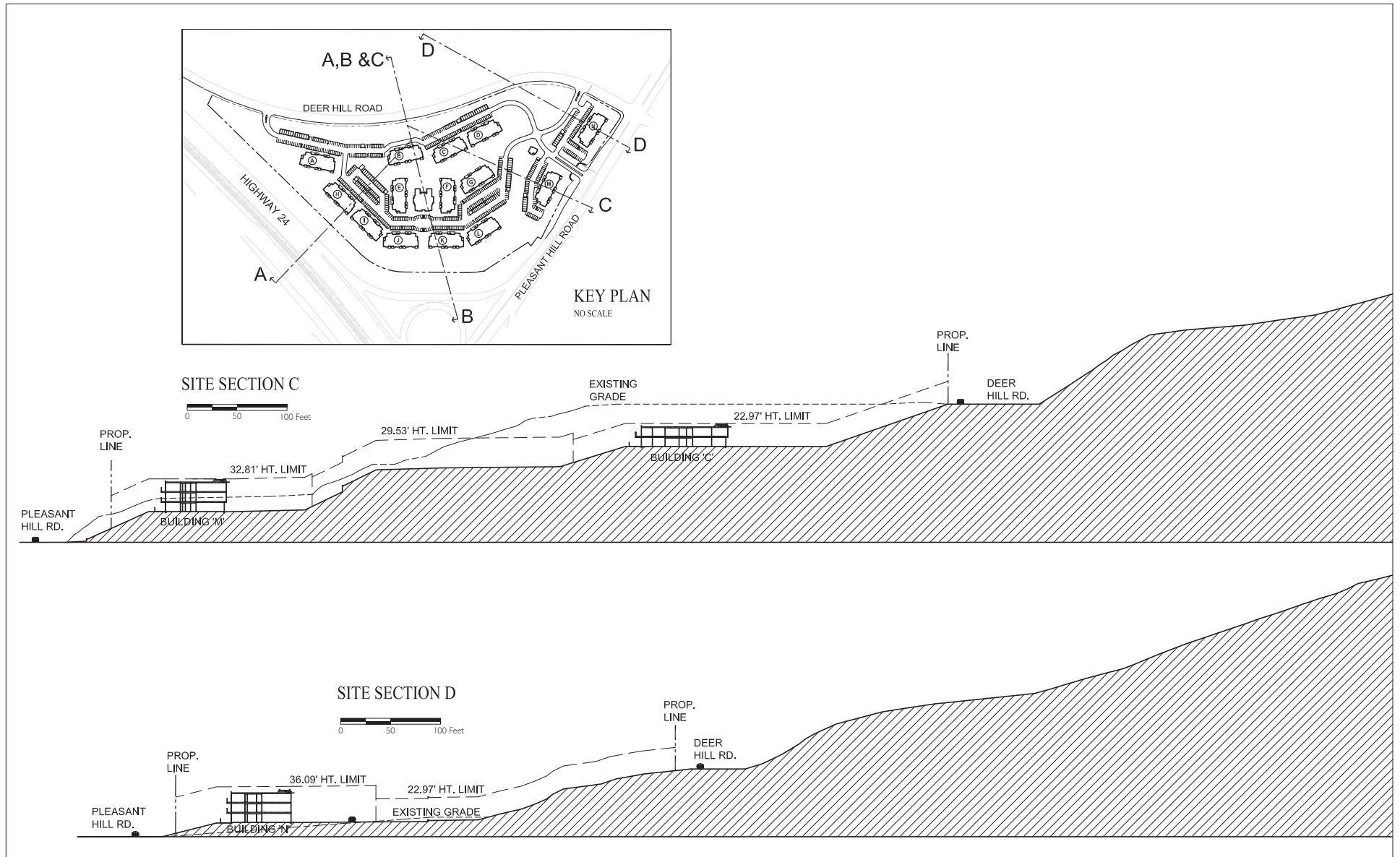
This section discusses whether the Project would be consistent with use, building height, setback, and landscaping requirements set forth by the City's zoning regulations.

- ◆ **Permitted Uses.** Uses permitted by right in the APO district are primarily administrative and professional offices, such as medical-dental offices, editorial or executive offices where no merchandise is handled, or the offices of law firms and engineers. However, multiple-family residential buildings are allowed in the APO district with a land use permit. Therefore, the proposed uses would be consistent with zoning regulations for the APO district upon issuance of the required land use permit. (**Consistent**)
- ◆ **Building Heights and Setbacks.** As shown on Figures 4.9-5 and 4.9-6, proposed building heights would conform to the requirements for each of the four zones identified in the zoning regulations for the APO district. Figures 4.9-5 and 4.9-6 demonstrate that the high point of buildings in each of the four zones would not exceed the applicable height limit. Additionally, the Project plans show that the proposed single-story structures would be set back at least 26.25 feet from Deer Hill Road and the proposed multi-story buildings would be set back at least 49.21 feet from



Source: LCA Architects, 2011.

FIGURE 4.9-5
 PROPOSED BUILDING HEIGHTS - SECTION VIEWS A AND B



Source: LCA Architects, 2011.

FIGURE 4.9-6
PROPOSED BUILDING HEIGHTS - SECTION VIEWS C AND D

Deer Hill Road, as required in the APO district. Setback areas would be landscaped to create visual buffers, as shown in Figure 3-8 of this EIR. Also, see Figures 4.1-3 through -8 for representative views of the site with proposed landscaping. **(Consistent)**

- ◆ **Landscaping.** In the APO district, 20 percent of any lot must be planted and maintained with growing plants. As shown on Figure 3-9 in Chapter 3, extensive landscaping of the Project site is proposed, and over 4.4 acres of the 22.27 acre site would be planted with ornamental and native woodland trees and shrubs, as well as grass and wildflowers. **(Consistent)**

As discussed above, the Project would be consistent with the use, height, setback, and landscape regulations applicable to the Project site. Therefore, the impact would be *less than significant*.

c. Hillside Development Requirements

Table 4.9-2 lists relevant sections of the hillside development regulations set forth by the City's Municipal Code and provides a discussion regarding whether the Project would be consistent with each regulation. This section discusses whether the Project would be consistent with the hillside development requirements. As discussed in Table 4.9-2, the Project would not be consistent with the following Hillside Development Permit requirements set forth in the Municipal Code:

- ◆ The development is consistent with the applicable goals and policies of the General Plan and is in conformance with applicable zoning regulations.
- ◆ The development will preserve open space and physical features, including rock outcroppings and other prominent geological features, streams, streambeds and ponds, native vegetation, native riparian vegetation, animal habitats and other natural features.

TABLE 4.9-2 HILLSIDE DEVELOPMENT REQUIREMENTS CONSISTENCY ANALYSIS

Municipal Code Section	Summary of Requirement	Consistency Discussion
Hillside Overlay District Provisions (Section 6-2013)	Historical photographs of the Project site indicate that existing structures, including the vacant single-family residence, have been present on-site since at least 1974. Additionally, the Administrative/Professional/Office/ Multi-Family Residential General Plan Land Use designation apply to the site. As such, the provisions of the Hillside Overlay District (HOD) from the Lafayette Municipal Code apply to the Project site. The uses permitted in the HOD are the same as those permitted by right and by discretionary permit in the underlying APO district.	Consistent. Proposed multiple-family residential uses are consistent with the provisions of the APO district. Therefore, the Project is also consistent with the uses allowed in the HOD.
Ridgeline Setback Exception (Sections 6-2028, 6-2029, 6-2067, and 6-2071)	As described above and illustrated on Figure 3-4 in Chapter 3, a portion of the Project site is located within a Class I Ridgeline Setback area. Findings Required for Grant of Exemption: In granting an exemption to the prohibition on development with a Ridgeline Setback area, the Planning Commission must find that the Project would be consistent with the 15-degree declination restrictions and Hillside Development Permit Requirements (described below).	Not Consistent. As described below, the proposed Project would be consistent with the 15-degree declination restrictions but would not be consistent with several of the Hillside Development Permit requirements.
15-Degree Declination Restriction	Applications for an exemption permitting development within a Class I Ridgeline Setback area are subject to the 15-degree declination restrictions established in the Hillside Development Requirements. The requirements stipulate that no development shall be approved that will result in any portion of a building within a Class I ridgeline setback that is higher than a plane sloping downward at a declination of 15 degrees from the horizontal intercept of the ridgeline as shown in Figure 4.9-5. The measurement shall be made at the nearest point of the development to the ridgeline and measured perpendicular to the ridgeline or as a radius from the endpoint of the ridgeline.	Consistent. Proposed buildings do not exceed the 15-degree declination.

TABLE 4.9-2 HILLSIDE DEVELOPMENT REQUIREMENTS CONSISTENCY ANALYSIS (CONTINUED)

Municipal Code Section	Summary of Requirement	Consistency Discussion
Hillside Development Permit (Sections 6-2015, 6-2031 through 6-2034, 6-2067, and 6-2070)	<p>Building and grading permits would be required for construction of the proposed Project, and therefore, a Hillside Development Permit for an existing lot of record would also be required for construction within the HOD, pursuant to Sections 6-2015, 6-2031 through 6-2034, 6-2067, and 6-2070 of the Hillside Development Requirements. Upon issuance of this permit, the Project would be consistent with the Hillside Development Requirements. The following findings must be made for a Hillside Development Permit:</p> <ul style="list-style-type: none"> ◆ The development is consistent with the applicable goals and policies of the General Plan and is in conformance with applicable zoning regulations. ◆ The development will preserve open space and physical features, including rock outcroppings and other prominent geological features, streams, streambeds and ponds, native vegetation, native riparian vegetation, animal habitats and other natural features. ◆ The development and each associated improvement is located and designed to complement the natural terrain and landscape of the site and surrounding properties, and relates to the development pattern, including density and distribution, of the surrounding neighborhood. ◆ Structures in a Hillside Overlay District will, to the extent feasible, be located away from prominent locations such as ridgelines, hilltops, knolls and open slopes. ◆ Development grading will be minimized to reduce cut and fill, preserve existing geologic features, topographic conditions and existing vegetation, reduce short and long-term erosion, slides, and flooding, and abate visual impacts. ◆ Each structure proposed complies with the city’s residential design guidelines, and development landscaping will ensure visual relief and complement each proposed structure to provide an attractive environment. 	<p>Not Consistent. As described above, the Project would be inconsistent with a goal and policies in the General Plan.</p> <p>Not Consistent. The Project would not preserve certain open space and physical features, including native vegetation and native riparian vegetation.</p> <p>Not Consistent. Because of the large amount of grading, the Project does not complement the natural terrain of the surrounding properties to the north.</p> <p>Consistent. Proposed building heights were designed to use the existing terraces and to comply with the height limits required under the Hillside Overlay District. Heights would be limited to two or three stories, depending upon location within the Project site.</p> <p>Not Consistent. The proposed Project includes extensive grading and would result in visual impacts and the loss of existing vegetation.</p> <p>Consistent. The Project would be required to meet design review findings.</p>

TABLE 4.9-2 HILLSIDE DEVELOPMENT REQUIREMENTS CONSISTENCY ANALYSIS (CONTINUED)

Municipal Code Section	Summary of Requirement	Consistency Discussion
Hillside Development Permit (continued)	<ul style="list-style-type: none"> ◆ The development will not create a nuisance, hazard, or enforcement problem within the neighborhood or the city, nor require the city to provide an unusual or disproportionate level of public services. ◆ The new or replacement vegetation for the development is native to the surrounding area in areas abutting open space and natural areas, such as oak woodland, chaparral, grassland and riparian areas, excluding planting for erosion control or land stabilization. 	<p>Consistent. The Project would contain residential uses that would not cause any unusual nuisances, hazards, or enforcement problems.</p> <p>Consistent. The Project would provide native replacement vegetation.</p>
	<p>For projects on existing lots of record within the Hillside Overlay District, the following additional findings must be made:</p>	
	<ul style="list-style-type: none"> ◆ When within a L-R-10 or L-R-5 district, within 100 feet of a restricted ridgeline area, or when an exception to a ridgeline setback has been granted, the development will result in each structure being substantially concealed when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide to establish locations from which views are considered. ◆ The development uses site planning techniques to the extent feasible to preserve hillsides, knolls, and ridgelines and open space, minimize grading and impacts to habitat, and preserve on-site open space and vegetation, terrain, scenic vistas, streams or other courses, or other areas of ecological significance. ◆ The development provides adequate emergency vehicle access, including turn-around space, to the building site and surrounding on-site undeveloped or isolated areas while protecting trees, minimizing grading, and preserving to the extent feasible the natural hillside character of the site. 	<p>Not Consistent. As shown by the visual simulations, not all of the structures would be substantially concealed when viewed from lower elevations from publicly owned properties.</p> <p>Not Consistent. The Project site plan would result in the loss of on-site open space and vegetation, would involve extensive grading and impacts to habitat, and would not preserve scenic vistas.</p> <p>Not Consistent. While the Project would provide adequate emergency vehicle access, it would do so by removing trees and with extensive grading.</p>

TABLE 4.9-2 HILLSIDE DEVELOPMENT REQUIREMENTS CONSISTENCY ANALYSIS (CONTINUED)

Municipal Code Section	Summary of Requirement	Consistency Discussion
Hillside Development Permit (continued)	<ul style="list-style-type: none"> ◆ The development, including site design and the location and massing of all structures and improvements will, to the extent feasible: <ul style="list-style-type: none"> • Preserve the open space and uncluttered topography of the city; • Minimize the loss of privacy to surrounding residents; • Not have a significant visual impact when viewed from lower elevations from publicly owned properties (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide; and • Not interfere with a ridgeline trail corridor or compromise the open space or scenic character of the corridor. 	Not Consistent. The Project would have significant visual impacts.

Source: Lafayette Municipal Code; The Planning Center | DC&E, 2012.

- ◆ The development and each associated improvement is located and designed to complement the natural terrain and landscape of the site and surrounding properties, and relates to the development pattern, including density and distribution, of the surrounding neighborhood.
- ◆ Development grading will be minimized to reduce cut and fill, preserve existing geologic features, topographic conditions and existing vegetation, reduce short and long-term erosion, slides, and flooding, and abate visual impacts.
- ◆ When within a L-R-10 or L-R-5 district, within 100 feet of a restricted ridgeline area, or when an exception to a ridgeline setback has been granted, the development will result in each structure being substantially concealed when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide to establish locations from which views are considered.
- ◆ The development uses site planning techniques to the extent feasible to preserve hillsides, knolls, and ridgelines and open space, minimize grading and impacts to habitat, and preserve on-site open space and vegetation, terrain, scenic vistas, streams or other courses, or other areas of ecological significance.
- ◆ The development provides adequate emergency vehicle access, including turn-around space, to the building site and surrounding on-site undeveloped or isolated areas while protecting trees, minimizing grading, and preserving to the extent feasible the natural hillside character of the site.
- ◆ The development, including site design and the location and massing of all structures and improvements will, to the extent feasible:
 - Preserve the open space and uncluttered topography of the city;
 - Minimize the loss of privacy to surrounding residents;
 - Not have a significant visual impact when viewed from lower elevations from publicly owned properties (including freeways, roadways, open space, parks and trails), using the viewing evaluation map as a guide; and

- Not interfere with a ridgeline trail corridor or compromise the open space or scenic character of the corridor.

Inconsistency with the Hillside Development Permit requirements listed above would be a *significant* impact.

d. Creek Setback Requirements

The unimproved seasonal creek which traverses the northeastern portion of the Project site has a channel depth between 0 to 6 feet. Pursuant to Creek Setback Requirements, development should be setback 12 feet from the top of the creek bank on each side. The creek enters the Project site through a culvert running under Deer Hill Road. A portion of the creek corridor immediately south of Deer Hill Road would be preserved on-site with construction of the Project; however, the remainder of the creek corridor would be developed and water from the creek would be collected in a treated storm drain pipe and directed to a detention basin, as shown in preliminary civil engineering plans provided in Appendix E. Please see the discussion of Impacts BIO-6 and BIO-8 in Chapter 4.3, Biological Resources, regarding impacts associated with the creek. With the implementation of Mitigation Measures BIO-6a, BIO-6b, BIO-6c, and BIO-8, impacts to the creek would be mitigated to *less-than-significant* levels.

3. Conflict with an adopted habitat conservation plan or natural community conservation plan.

There are no habitat conservation plans or natural community conservation plans applicable to the Project site,⁸ and therefore buildout of the Project would have *no impact* with respect to conservation plan conflicts.

4. Create or exacerbate a conflict between land uses on the project site and in the surrounding area.

Buildout of the proposed Project could create land use conflicts if land uses in the vicinity of the Project site would be adversely affected by proposed on-site

⁸ City of Lafayette, 2002. *Lafayette General Plan Revision Revised Draft Environmental Impact Report*, page 201.

uses, or if future residents of the proposed Project's residential buildings would be affected by off-site land uses in the vicinity. The Project site is directly adjacent one parcel: a small, undeveloped parcel to the west between State Highway 24 and Deer Hill Road. The Project site is bounded by State Highway 24 to the south, Pleasant Hill Road to the east, and Deer Hill Road to the north and west. Across Pleasant Hill Road to the east is a residential neighborhood. Existing land uses on the east side of Pleasant Hill Road include single-family residences, Acalanes High School, and a gas station. To the south of the Project site across State Highway 24 are a mix of land uses in the eastern end of the downtown, including Lafayette Cemetery and various residential and commercial uses. Parcels located north of the Project site on the other side of Deer Hill Road are generally undeveloped and abut Briones Regional Park to the north. Uses on these parcels include a ranch with outdoor classes and a summer camp for children directly north of the Project site across Deer Hill Road. Parcels directly north of the Project site are largely undeveloped but include several accessory structures and out buildings, as well as a telecommunications facility. The Lafayette Ridge Trail Staging Area into Briones Regional Park is located approximately 500 feet north of the Deer Hill Road/Pleasant Hill Road Intersection.

The Project proposes a residential development comprised of two- and three-story apartment buildings, a two-story clubhouse for residents, and a one-story leasing office. The Project includes on-site amenities for Project residents, including fitness facilities, a game room, an outdoor pool, picnic areas, a dog mini-park, a turf play area for lawn games, and on-site pedestrian trails. The Project would include on-site parking and pedestrian trails. Proposed residential uses would be consistent with the residential neighborhoods surrounding the Project site. The Project proposes apartment buildings, while the nearest residential properties north of State Highway 24 are developed with single-family uses. However, the Project site is located in close proximity to the multi-family land uses south of State Highway 24 in downtown Lafayette. In addition, proposed apartment buildings would not directly abut any adjacent properties. Therefore, apartment buildings would not create conflicts for off-site properties. Proposed recreational amenities and parking

facilities would be located within the Project site would be consistent with nearby recreational uses at Briones Regional Park and Acalanes High School, and would not directly abut any adjacent properties. Therefore, the proposed Project would not result in land use conflicts and the impact would be *less than significant*.

5. Cumulative Impacts

This section analyzes potential impacts related to land use that could occur from a combination of the proposed Project with other past, present, and reasonably foreseeable projects in the surrounding area. Cumulative projects considered in this analysis are situated within three miles of the Project site and are listed in Chapter 4.0. Cumulative impacts would occur if development associated with the Project together with other cumulative projects listed would physically divide an existing community; conflict with applicable land use plans, policies, or regulations, or with an adopted conservation plan; or create a conflict between land uses.

As discussed above, the proposed Project would conflict with applicable land use policies and regulations. Policy inconsistencies would be specific to the proposed Project and would not result in adverse physical impacts on the environment. Therefore, policy inconsistencies would not be considered cumulatively significant impacts. The proposed Project would not exacerbate the existing physical divide in the existing community, nor would the proposed Project conflict with an adopted habitat conservation plan. Because the proposed Project would result in less-than-significant impacts to land uses in the vicinity of the Project site and would not conflict with nearby land uses, the Project would not contribute to any cumulative land use impacts and this impact would be *less than significant*.

E. Impacts and Mitigation Measures

Impact LU-1: The Project would be inconsistent with General Plan Policy LU-2.1 and Policy LU-2.3. Policy LU-2.1 states, “Density of Hillside Development: Land use densities should not adversely affect the significant natural

features of hill areas.” Policy 2.3 states, “Preservation of Views: Structures in the hillside overlay area shall be sited and designed to be substantially concealed when viewed from below from publicly owned property. The hillsides and ridgelines should appear essentially undeveloped, to the maximum extent feasible.” This would be a *significant* impact.

Mitigation Measure LU-1: No feasible mitigation measure would maintain the natural, undeveloped appearance of the hillside on the Project site.

Significance after Mitigation: *Significant and Unavoidable.* Although the proposed density of the Project would not exceed the maximum density allowed under the applicable General Plan land use designation and the buildings constructed by the Project would largely be screened by vegetation, construction of the proposed Project would adversely affect the natural appearance of the Project site. Therefore, consistency with Policies LU-2.1 and LU-2.3 would not be possible without substantial adjustments to the proposed Project, making the Project infeasible as proposed, and this impact remains significant and unavoidable.

Impact LU-2: The proposed Project would be inconsistent with General Plan Policy LU-2.2: “Cluster Development: Preserve important visual and functional open space by requiring development to be clustered on the most buildable portions of lots, minimizing grading for building sites and roads.” This would be a *significant* impact.

Mitigation Measure LU-2: No feasible mitigation measure would achieve the definition of clustering set forth by the Lafayette Municipal Code.

Significance after Mitigation: *Significant and Unavoidable.* Consistency with Policy LU-2.2 would not be possible without substantial adjustments to the proposed footprint of development, making the Project infeasible as proposed. Therefore, this impact remains significant and unavoidable.

Impact LU-3: The Project would be inconsistent with the several Hillside Development Permit requirements set forth in the Municipal Code. This would be a *significant* impact.

Mitigation Measure LU-3: No feasible mitigation measure would achieve consistency with the Hillside Development Permit requirements.

Significance after Mitigation: *Significant and Unavoidable.* Consistency with Hillside Development Permit requirements would not be possible without substantial adjustments to the proposed extent of grading and footprint of development, making the Project infeasible as proposed. Therefore, this impact remains significant and unavoidable.