

# **PLANNING COMMISSION**

## **Staff Report**



**DATE:** March 4, 2014

**TO:** Planning Commission

**FROM:** Debbie Chamberlain, Planning Services Manager  
By: Cindy Yee, Associate Planner

**SUBJECT:** Public Hearing No. 6 for the Revised Faria Preserve Project (VTM 9342)  
DPA 12-310-003, MJ 12-900-002, AR 200-046 and IS 12-250-004

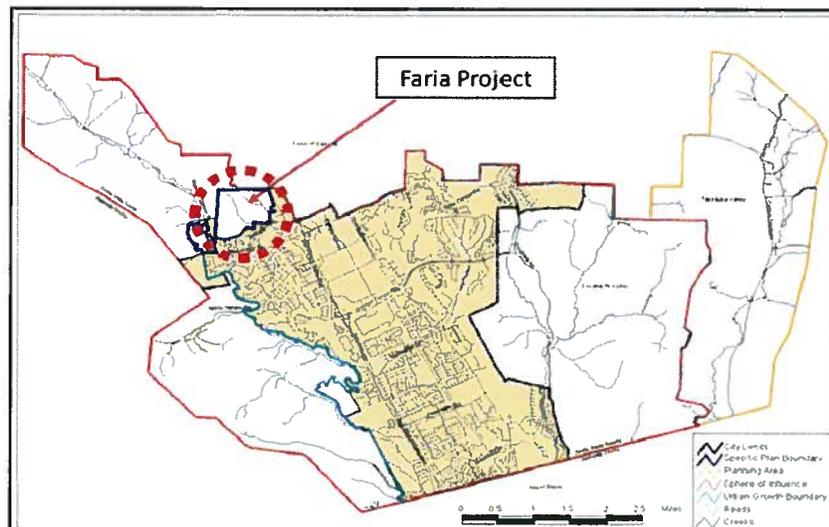
### **RECOMMENDED ACTION**

1. Staff recommends the Planning Commission receive the presentation; open the public hearing; take public testimony; close the public testimony portion of the hearing; provide comments to staff; and
2. That the Planning Commission continue the Public Hearing to April 15, 2014 for additional public comment on the proposed applications.

### **INTRODUCTION**

#### **A. Location**

The project site is located on approximately 286.5-acres east of Bollinger Canyon Road, north of Deerwood Drive, west of the Crow Canyon Specific Plan area, and south of the city limit lines within the Northwest Specific Plan Area (APNs: 208-240-005, -007, -008, -052 to -055, -057, -058, 208-260-046, and 208-250-011).



**B. Applicant/Property Owner:**

Pat Toohey for  
Lafferty Communities  
5000 Executive Parkway, No. 530  
San Ramon, CA 94583

**C. Environmental Review/California Environmental Quality Act (CEQA):**

Section 15070 of the State CEQA Guidelines provides that, if all of the Project's impacts can be mitigated to a less-than-significant level, the lead agency may prepare a mitigated negative declaration whereby mitigation measures are incorporated into the project. An Initial Study/Mitigated Negative Declaration (IS 12-250-004) has been prepared for the project. Circulation of the document (State Clearinghouse No. 2013122009) for a 30-day public review period began on December 6, 2013 and closed on January 13, 2014 in accordance with section 15070 and 15073 of the California Environmental Quality Act (CEQA) guidelines. The City of San Ramon received 11 written comments on the environmental analysis.

At the January 21, 2014 public hearing, the applicant stated that based on comments received through the public hearing process, they have modified the project to relocate the project entryway from Deerwood Road to Purdue Road. As a result, the City's environmental consultant is preparing a memorandum to examine if the Project modifications will result in changes to the Project's environmental impacts and mitigations measures. Through discussions with the City Attorney's office and with concurrence from the applicant, the City will be re-circulating the previously prepared IS/MND and the memorandum evaluating the environmental impacts of the Project's changes. The 30-day public review period would provide additional time for comments on the City's intent to adopt a Mitigated Negative Declaration. It is anticipated that the memorandum will be completed and the notice for recirculation sent shortly after the March 4<sup>th</sup> Planning Commission meeting.

**D. Public Notice**

On November 19, 2013, the Planning Commission held a duly noticed public hearing. The public hearing was continued to the December 17, 2013 Planning Commission meeting to provide time for additional review of the project and preparation of the Initial Study/Mitigated Negative Declaration. A joint notice of intent to adopt a mitigated negative declaration and public hearing notice was sent on December 6, 2013 to all listed property owners within 1,000 feet of the subject property and to the interested parties list. Property owners within the "Thomas Ranch" neighborhood, along the Deerwood Road/Omega Road intersection, and San Ramon Valley Boulevard north of Crow Canyon Road were also sent notifications of the public hearing. On January 7, 2014, the Planning Commission held a third public hearing after continuation of a duly-noticed public hearing on December 17, 2013 to further discuss the proposed Project. The public hearing was subsequently continued to the January 21, 2014, February 4, 2014, and March 4, 2014 Planning Commission meetings to provide additional time for public comment of the project.

## **BACKGROUND**

In October 2012, a vesting tentative map, development plan amendment, architectural review and environmental review applications were submitted by Lafferty Communities for development of a revised 786-unit subdivision Faria Preserve Project. In October 2012 and January 2013, the City held a public workshop and a study session to discuss the proposal. As part of the development review process, the applicant presented the project to the Architectural Review Board (ARB) at seven meetings between February and August 2013. Comments received from the ARB resulted in project changes including a reduction of eleven residential units.

Typically, park design and planning is a condition of Project approval. However, as part of the originally approved 2006 plan, a conceptual park design was completed and received approval from the Parks and Community Services Commission (PCSC). Due to project modifications from the 2006 plan, the applicant presented a revised conceptual park plan to the PCSC and the Facilities Committee of the PCSC during four public hearings and held one public workshop. After review of the applicant's proposal, the PCSC approved the Master Plan for the Faria Preserve Park and Rose Garden. Additionally, on October 24, 2013, the applicant presented the Faria Preserve affordable housing commitment to the Housing Advisory Committee (HAC). The Committee reviewed the applicant's proposal is recommending that the Planning Commission approve the project.

On November 19, 2013, the Planning Commission held its first public hearing on the revised Faria Preserve Project. Three residents spoke in opposition to the project citing concerns over traffic, school impacts and the grading of the hillside, and one letter was received from the East Bay Regional Park District indicating that they have been working with the City and the developer to implement the objectives of their 2008 settlement agreement. The Commission expressed their interest in reviewing the Project's environmental analysis and continued the public hearing to December 17, 2013 for the opportunity to further review and discuss the Project.

On December 17, 2013, the Planning Commission held its second public hearing on the revised Faria Preserve Project. Ten residents spoke in opposition to the project citing concerns over traffic, school impacts, and grading of the hillside. The Commission continued the public hearing to January 7, 2014 to further review and discuss the Project.

On January 7, 2014, the Planning Commission held its third public hearing, received comments from three speakers, and focused their discussion on the proposed Deerwood Road entrance. The applicant presented exhibits detailing the proposed Deerwood Road access point to the project and an alternative road alignment that could connect the proposed project to Purdue Road. The Commission continued the public hearing to January 21, 2014 and requested additional information be provided for the Commission's consideration.

On January 21, 2014, the Planning Commission held its fourth public hearing where seven speakers provided comments related to the project. At the meeting, the applicant indicated that based on comments received through the public hearing process, they will be modifying the project to relocate the proposed project entryway from Deerwood Road to Purdue Road. The

Commission continued the public hearing to February 4, 2014 to allow time for the public to view the scaled project model and provide comments.

On February 4, 2014, the Planning Commission held its fifth public hearing where three speakers provided comments related to the project. The Commission continued the public hearing to March 4, 2014 to allow time to evaluate the environmental impacts of the updated Purdue Road project entryway and the preparation of draft project Conditions of Approval for the Commission's consideration.

**PROJECT DISCUSSION ITEMS**

Included as attachments to this staff report are three letters received by the City related to the Project. Also, at the February 4, 2014 meeting, the Planning Commission requested additional information on the governing standards for the proposed Faria Preserve Park sport facility lights. The adopted Northwest Specific Plan provides both zoning and development standards for the NWSP districts and Table 7-3 of the Specific Plan addresses standards for sports facilities lighting. At such time when the applicant submits their park development design to the Parks and Community Services Commission (PCSC), the PCSC will ensure that the standards of the Specific Plan are met.

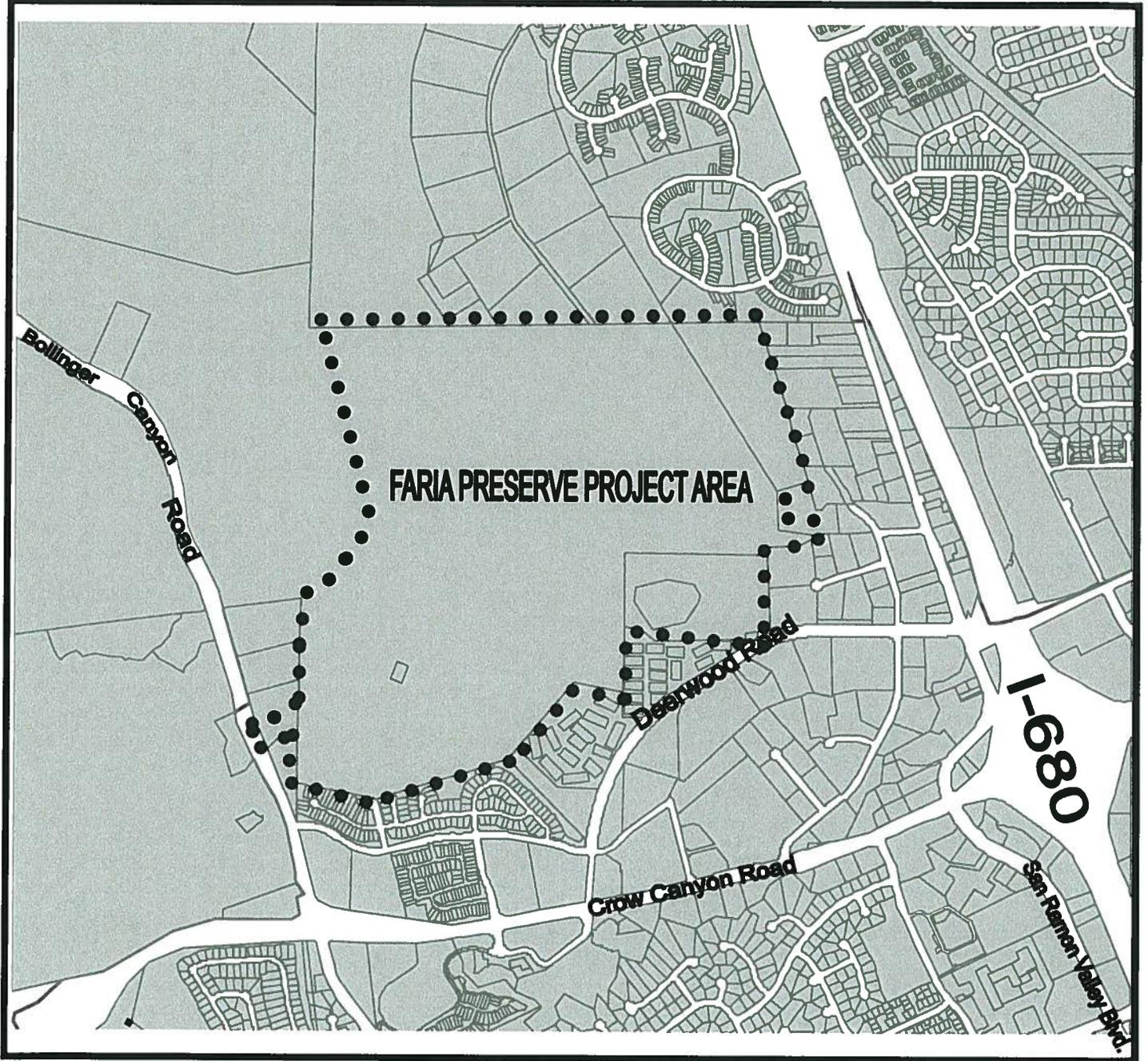
**SUMMARY/NEXT STEPS**

To facilitate the recirculation of the Mitigated Negative Declaration, staff recommends that the Commission continue the public hearing to April 15, 2014 to allow for the 30-day public review of the environmental analysis. Additionally, staff will be preparing draft Conditions of Approval to be presented at the April 15, 2014 meeting.

**ATTACHMENTS**

- A. Vicinity Map
- B. Correspondence from the Department of Fish and Game to Lafferty Communities, dated February 6, 2014
- C. Correspondence from Nikky and Brad Brar to Lafferty Communities, dated February 19, 2014
- D. Correspondence from Nikky and Brad Brar to Lafferty Communities, dated February 24, 2014





**CITY OF SAN RAMON PLANNING SERVICES**



**REVISED FARIA PRESERVE PROJECT VICINITY MAP**

DPA 12-310-003, MJ 12-900-002,  
AR 12-200-046, & IS 12-250-004

● ● ● ● ● Faria Preserve Project Area



(Not to Scale)





State of California – The Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
Bay Delta Region  
7329 Silverado Trail  
Napa, CA 94558  
(707) 944-5500  
[www.dfg.ca.gov](http://www.dfg.ca.gov)

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



February 6, 2014

RECEIVED

FEB 10 2014

CITY OF SAN RAMON  
PLANNING SERVICES

Mr. Patrick Toohey  
Vice President of Operations  
Faria LT Ventures, LLC  
5000 Executive Parkway, Suite 530  
San Ramon, CA 94583

Dear Mr. Toohey:

Subject: Incidental Take Permit Application for Faria Preserve Project, 2081-2013-065-03

The California Department of Fish and Wildlife (CDFW) has reviewed your request dated October 25, 2013 and subsequent update dated January 13, 2014 for authorization, pursuant to Fish and Game Code section 2081(b), to incidentally take Alameda whipsnake (*Masticophis lateralis euryxanthus*), a species designated as threatened pursuant to the California Endangered Species Act (CESA) (Fish and Game Code, § 2050 et seq.). [Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(D)]. CDFW has determined that the above-referenced application, which concerns the Faria Preserve Project, is complete.

In accordance with the California Code of Regulations, Title 14, Section 783.5, CDFW has 90 days from the date CDFW deems an application complete to finalize the Permit. CDFW cannot finalize the Permit until CDFW has received your certified California Environmental Quality Act (CEQA) document along with the Findings, Notice of Determination, and a copy of proof of payment for the environmental filing fee. In addition, this notification letter of completeness approves the project concept but does not provide approval for the Habitat Management (HM) Land, the approval of HM Land shall occur over the course of the permit issuance process. If you have any questions, please contact Mr. Robert Stanley, Environmental Scientist, at (707)944-5573; or Mr. Craig Weightman, Environmental Program Manager, at (707) 944-5577.

Sincerely,

Scott Wilson  
Regional Manager  
Bay Delta Region

cc: California Department of Fish and Wildlife  
Ryan Mathis – Habitat Conservation Planning Branch, Sacramento  
Robert Stanley – Bay Delta Region, Napa  
Craig Weightman – Bay Delta Region, Napa

*Conserving California's Wildlife Since 1870*

ATTACHMENT B



# RECEIVED

FEB 20 2014

February 19, 2014

## CITY OF SAN RAMON PLANNING SERVICES

Dear City of San Ramon Planning Department,

At the San Ramon City Council meeting on February 4, 2014 Mr. Pat Toohey introduced the plans to build a church on Lot A at the site of the Swenson Lots. Currently there is a house on Lot A and directly behind there is a deep ravine with a creek. The new church site will require the grading of not only Lot A but also the ravine and creek behind Lot A. While Mr. Toohey was introducing his plans he casually, as if an afterthought, mentioned he would be speaking with the Brars who own Lot B, directly in front of Lot A. We, the Brars, were shocked that Mr. Toohey would introduce such a plan at the city council meeting as we had been speaking and working with him for the past year and a half and he never once mentioned this plan to us. Our conversations with Mr. Toohey outlined his plans with regard to our lot (Lot B) which included a quit claim to a one time easement, building retaining walls, readying the lot with sewage services and utilities, and no disturbance to the dirt on the lot. These issues are outlined in the agreement attached to this letter and were to have been completed by December 2013. For our part we had shared with Mr. Toohey the plans we had for development on our lot (Lot B) during the last quarter of 2012. Our intention was to be able to get the work done, that was agreed upon between both parties, in a timely manner. We did not make our own improvements on the lot (Lot B) as we were under the impression from Mr. Toohey that the work his organization agreed to do would be finished by December 2013 as agreed.

Mr. Toohey's new plans feel like a slap in the face as there has been no concern for the possible effects these plans will have on our lot (Lot B) and no attempt to have an open discussion about these new plans with the parties being affected. Our concerns include the fact that; our lot will now be affected with respect to the monetary value, when we bought the lot we were assured there would only be residential development on lots C & D surrounding our lot (Lot B), and there will now be increased traffic, noise, and bright lights at night due to the building of the Church, which is to include a day care that will be operational 7 days a week. It was never our understanding that this plan would be part of the Faria development nor that Lot A would be converted from a completely residential zone to a semi-residential zone. Not only was this not discussed with us beforehand but also the plans were only discussed publically after the promised date (December 2013) of lot improvement for Lot B had passed.

We, the Brars, have been San Ramon residents for the past fifteen years. Our kids are part of the San Ramon Valley School system, they participate in San Ramon Valley recreational sports, and our business is located in San Ramon. Our lives are completely and totally in San

ATTACHMENT C

Ramon. It's with this love of San Ramon in mind that when the opportunity to purchase land and build our dream home came about we chose a lot in San Ramon to start that process. We are deeply disappointed in the dealings with Mr. Toohey and his organization as it seems their aim is to bulldoze, quite literally, their way through our interests with respect to Lot B as well as their way through the San Ramon City administrators. There have been several public hearings with regard to the Faria Project previous to the February 4, 2014 council meeting and not once was the plan to build a church on Lot A brought up. These new plans drastically affect our future plans of living peacefully and contently in San Ramon. Had these plans to build a church on Lot A been a part of the original Faria Project plans our outlook on purchasing Lot B would have been extremely different, to the point of possibly not even purchasing the lot.

We thank you for your time and consideration in this matter.

Sincerely,



Brad and Nikky Brar  
18880 BOLLINGER CANYON RD  
LOT B  
SAN RAMON, CA  
C# 949-322-3249

## Exhibit E

### Recap of the General Scope of Work and Responsibilities of Faria for

#### Lots B, C, and D of MS 902-09

(the "Scope B, C, D")

- A. Upon the commencement of the construction of the MS Improvements and the Faria Improvements (of which the Faria Preserve Parkway is a part), Faria is obligated to deliver Lots B, C, and D of MS 902-09 in a Finished Lot Condition. "Finished Lot Condition" shall mean:
- (i) a lot which is graded in accordance with all grading plans approved by the applicable government agencies, with a pad certified by a civil engineer with respect to vertical and horizontal elevations, and with soils engineer's certification as to construction and compaction, reasonably acceptable by any required governmental agency, and suitable for the construction of a wood frame, residential structure upon the lot;
  - (ii) a lot for which all public sewer improvements, including, without limitation, a sewer lateral stub that serves the lot, has been constructed;
  - (iii) a lot for which all public storm drain improvements that serve the lot have been constructed, including, without limitation, the required private, onsite C3 stormwater cleansing and private, onsite detention basin(s);
  - (iv) a lot which has all public water improvements stubbed to it, including, without limitation, fire hydrants, a 1" water lateral and a 1" water meter and box;
  - (v) a lot for which all underground electrical, natural gas, telephone, cable television, fiber optic (if applicable) improvements have been stubbed to the Lot; in addition, the undergrounding of existing overhead utilities as required by the City of San Ramon; the public street light improvements that serve such lot have been constructed, energized, and are functioning, the undergrounding of existing overhead utilities as required by the city;
  - (vi) a lot for which all public street improvements, including but not limited to, fine grading, baserock, pavement, curb and gutter, sidewalks (if required), driveway approaches (if required), signage, striping, monuments, and barricades, that are necessary to serve that lot have been constructed;
  - (vii) a lot for which all property corners are surveyed and marked;

- (viii) a lot for which all required SWPPP measures have been implemented. UPON COMPLETION, MAINTENANCE IS THE LOT OWNER'S RESPONSIBILITY. Owner will file its own Notice of Intent with the Regional Water Quality Control Board, as necessary. Being under five acres, MS 902-09 will be a Risk Level I project that does not require reporting;
- (ix) a lot which has been cleared of all debris;
- (x) a lot for which Swenson can obtain a building permit (after the governing municipality has completed its review and plan-checking of Swenson's architectural plan set), and to which a certificate of occupancy upon completion of the construction of the home would be issued; and
- (xi) a lot for which all finished lot improvements have been accepted by the appropriate jurisdictions having authority, and all bonds have been exonerated for same.

B. What is excluded:

- (a) There are no perimeter walls or retaining walls required to be built unless such are necessary as a part of the Faria Improvements, as required by the City of San Ramon;
- (b) No common-area landscaping is included. The slope area adjacent to Bollinger Canyon Road and the Faria Preserve Parkway frontage will be hydroseeded per the SWPPP;
- (c) No new mailboxes are to be built; and
- (d) There are no representations or warranties as to the FEMA status of the lots.

# RECEIVED

FEB 25 2014

February 24, 2014

## CITY OF SAN RAMON PLANNING SERVICES

Dear City of San Ramon Planning Office,

We, the owners of Lot B of the Swenson Lots, are writing again to express our concerns regarding the development on Lot A of the Swenson Lots at the Faria Project Site. There are several things we would like to discuss and they are enumerated below.

- 1) Noise and Light Pollution- Not only during the construction and development phase at Lot A but also once the house of worship structure is completed; there will be non-stop noise, traffic, and bright lights at the site which will impact Lot B.
  - i) This noise and light pollution will interfere with meaningful enjoyment of Lot B
  - ii) This noise and light pollution will affect stress and health levels of the land and occupants at Lot B
- 2) Not a One Time Nuisance- The development of Lot A is not something that is a one and done project. There will be ongoing construction and development as well as the complete use of Lot A once construction is complete.
  - i) Despite no actual physical presence on Lot B the effects of the ongoing development will be felt. (i.e.: keeping the drapes and curtains shut at all times due to bright lights that will shine from Lot A onto Lot B)
- 3) Change in Zoning- At the time of sale for Lot B all the lots were zoned as residential. This new construction and development at Lot A is now only partially residential.
  - i) The general public will not have full use of Lot A as it will be a public house of worship, as Lot A looks down on Lot B, Lot B's privacy will be invaded at much higher rate than would normally occur had the zone stayed completely residential.
- 4) Non-disclosure of land use at time of sale- When we purchased Lot B no plans for construction and development of Lot A were disclosed to us.
  - i) Had the plans for construction and development been disclosed to us our purchase of Lot B may have not taken place.

We appreciate your time and consideration with this matter.

Sincerely

Brad and Nikky Brar

ATTACHMENT D

