June 24, 2020

ATTN: Alameda County Planning Department, 224 W. Winton Ave., Hayward CA 94541

RE: Appeal of Planning Director's Approval of PLN2019-00024

Per Planning Director Lopez's letter dated 6/17/2020 and received 6/19/2020, please accept our $250 check to appeal his approval of the project PLN2019-00024. The community has spoken out strongly and consistently against this project since the public was first notified, including at the 11/25/2019 Castro Valley Municipal Advisory Council. The many undersigned community organizations collectively appeal on the following grounds:

1) the Director lacked the authority to administratively approve the project;

2) the project is inconsistent with the General Plan, the 2009 Land Use Study, and community needs;

3) the project was approved without complying with CEQA;

4) the project will create hazards and decrease the safety, health, and wellness of residents;

5) lack of authority to approve due to failure to first offer the Caltrans land to other public agencies.

Details on these grounds will follow. Please advise us as to the timing of the appeal hearing and any other deadlines that must be met in order to preserve our rights to appeal this project's approval.

Sincerely,



Ann E. Maris, PhD
1490 Grove Way
Castro Valley, CA 94546

Grove Way Neighborhood Association, Castro Valley, CA

Ohlone Audubon Society, Hayward, CA

Cherryland Community Association, Hayward, CA

My Eden Voice! Parks and Open Space Committee, Castro Valley, CA

Eden Community Land Trust, Castro Valley, CA

Padres Unidos de Cherryland, Hayward, CA

Friends of San Lorenzo Creek, Castro Valley, CA

2 Summary of Impacts

The EIR identifies the potential environmental impacts of implementing the new Castro Valley Plan and their level of significance. Because the proposed Plan contains policies and actions that are intended to mitigate potential impacts to less than significant levels, based on the analysis in the EIR, no additional mitigation measures are required. Table 2-1 lists the impacts the EIR identified with the associated General Plan policies and actions.

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
3.1 Land Use			
3.1-1 The proposed Plan makes policy and land use changes to areas covered by specific and redevelopment plans.	Less than Significant	Actions 4.7-2, 5.3-6, 5.3-7, 5.3-8, 4.7-3, 4.7-4, 4.7-8, and 4.10-1	Not Applicable—No Mitigation Required
3.1-2 The proposed Castro Valley General Plan may not be compatible with the policies of the Eden Area General Plan.	Less than Significant	Policies 6.1-1, 6.1-4, 6.2-1, 8.2-1, 8.2-4, 8.2-10, 6.5-1, 6.5-3, 6.6-1, 6.6-3, 6.6-4, 6.6-5, 6.6-6, and 6.6-7 Actions 6.2-3, 8.2-1 and 4.9-10	Not Applicable—No Mitigation Required
3.13-3 The Plan may conflict with policies in the County's Resource Conservation, Open Space, and Agriculture elements.	Less than Significant		Not Applicable—No Mitigation Required
3.13-4 Changes to land use designation along certain roads may conflict with the Alameda County Scenic Routes Element.	Less than Significant	Policies 5.2-4, 5.2-5 Action 5.2-12, 4.10-4	Not Applicable—No Mitigation Required
3.2 Parks			
3.2-1 Future development could result in increased use of existing parks and recreation facilities, causing deterioration of park facilities.	Less than Significant	Policies 8.2-1, 8.2-2, 8.2-3, 8.2-4, 8.2-5, 8.2-6, 8.2-7, 8.2-8, 8.2-9, 8.2-10, 8.2-11, 8.2-12, 8.2-13, 8.2-14, 8.3-1, 8.3-2, 8.3-3, 8.4-3, and 8.4-4 Actions 8.2-1, 8.2-2, 8.2-3, 8.2-4, 8.2-5, 8.2-6, 8.2-7, 8.2-8, 8.2-9, 8.2-10, 8.2-11, 8.2-12, 8.3-1, 8.3-2, 8.3-3, 8.3-4, 8.4-1, 8.4-4, 8.4-5, 4.10-2, 4.6-3, and 5.3-9	Not Applicable—No Mitigation Required
3.3 Public Facilities			
3.3-1Increased residential development may require new or expanded school facilities.	Less than Significant	Policies 9.1-1, 9.1-3, 9.1-5, 8.4-1 and 8.4-6	Not Applicable—No Mitigation Required
3.3-2 Implementation of the proposed Plan would increase the population, amount of development, and number of jobs in the Planning Area, which would require additional police and fire services.	Less than Significant	Policies 9.1-1, 9.1-4, 9.2-1, 9.2-2, 9.2-3, 9.2-4, 9.2-5, 9.2-6, and 9.2-7 Actions 9.2-1, 9.2-2, 9.2-3, 9.2-4, and 9.2-6	Not Applicable—No Mitigation Required
3.3-3 Implementation of the proposed Plan would result in new resi-	Less than	Policies 9.3-1, 9.3-2,	Not Applicable—

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
dential and commercial development, which could increase the demand for water beyond available distribution capacity.	Significant	Action 9.3-2	No Mitigation Required.
3.3-4 New development may exceed wastewater treatment requirements of the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB).	Less than Significant	Policies 9.4-1, 9.4-2, 9.4-3, 9.4-4, 9.4-8, and 9.5-3 Action 9.5-2	Not Applicable—No Mitigation Required
3.3-5 New development would result in increased demand for solid waste disposal at the County landfill.	Less than Significant	Policy 9.6-1 Actions 9.6-1, 9.6-2 and 9.6-3	Not Applicable—No Mitigation Required
3.4 Transportation			
3.4-1 Implementation of the proposed General Plan would increase traffic along I-580.	Less than Significant	Policies 6.1-1, 6.2-2 Action 6.2-3	Not Applicable—No Mitigation Required
3.4-2 Implementation of the proposed General Plan would increase traffic along local roadways.	Less than Significant	Policies 6.2-1, 6.3-1 Actions 6.1-3, 6.1-4, 6.2-3, 6.2-4, 6.2-6, 6.2-7, 6.2-8	Not Applicable—No Mitigation Required
3.4-3 Implementation of the proposed General Plan would increase traffic at the study intersections.	Less than Significant	Policies 6.2-2, 6.5-1, 6.5-2, 6.5-3, 6.5-4, 6.5-5, 6.6-1, 6.6-2, 6.6-3, 6.6-4, 6.6-5, 6.6-6, and 6.6-7	Not Applicable—No Mitigation Required
3.4-4 Implementation of the proposed General Plan would make parking less convenient in the Central Business District, which could have an impact on traffic conditions.	Less Than Significant	Policies 4.7-10 and 6.3-2 Actions 4.7-15 and 4.7-16	Not Applicable—No Mitigation Required
3.5 Biological Resources			
3.5-1 Implementation of the proposed General Plan could result in substantial adverse effects on steelhead, western pond turtle, California tiger salamander, California red-legged frog, or their habitat.	Less than Significant	Policies 7.1-1, 7.1-3, 7.1-5, 7.1-7, 7.1-8, 7.1-10, 7.2-1; 7.2-2, 7.2-4, and 7.2-5 Actions 7.1-2, 7.1-3, 7.2-1, 7.2-5, and 7.2-6	Not Applicable—No Mitigation Required
3.5-2 Implementation of the proposed General Plan could result in disturbance to nesting raptors, special-status nesting birds, or yellow warbler.	Less than Significant	Policies 7.1-1, 7.1-3, 7.2-1, 7.2-2, 7.2-4, 7.1-2, 7.1-11, 7.3-1, 7.3-2, 7.3-3, and 7.3-4 Actions 7.1-2, 7.1-3, 4.3-5, and 7.3-1	Not Applicable—No Mitigation Required
3.5-3 Implementation of the proposed General Plan could result in	Less than Significant	Policies 7.1-1, 7.1-2, 7.1-3, 7.1-11, 7.2-4, 7.3-1, 7.3-2,	Not Applicable—

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
substantial adverse effects on special status bat species or their habitat.		7.3-3, and 7.3-4 Actions 7.1-2, 7.1-3, and 7.3-1	No Mitigation Required
3.5-4 Future development could result in direct impacts to Alameda whipsnake or habitat for this listed species.	Less than Significant	Policies 7.1-1, 7.1-2, 7.1-3, 7.1-11, 7.2-4, and 7.3-4 Actions 7.1-2 and 7.1-3	Not Applicable—No Mitigation Required
3.5-5 Implementation of the General Plan could adversely impact sensitive natural communities and special status plant species and trees.	Less than Significant	Policies 7.1-1, 7.1-2, 7.1-3, 7.1-11, 7.2-4, 7.3-1, 7.3-2, 7.3-3, and 7.3-4 Actions 7.1-2, 7.1-3, 7.3-1, 7.3-3, and 7.3-4	Not Applicable—No Mitigation Required
3.5-6 Implementation of the General Plan could adversely affect riparian areas, wetlands and "other waters of the United States."	Less than Significant	Policies 7.1-1, 7.1-3, 7.1-5, 7.1-10, 7.2-2, 7.2-4, and 7.2-5 Actions 7.1-2, 7.1-3, 7.2-3, 7.2-5, 7.2-6, 7.2-7, and 7.3-5	Not Applicable
3.6 Fire Hazards			
3.6-1 Development in the northern, eastern, and southeastern areas of Castro Valley, where residential areas border wooded areas, may increase risk from wildland fires.	Less than Significant	Policy 10.1-1 Actions 10.1-1, 10.1-2, 10.1-3, 10.1-4, 10.1-5, 10.1-6, 10.1-7, 10.1-8, 10.1-9, 10.1-11, 10.1-12, and 10.1-13	Not Applicable—No Mitigation Required
3.7 Air Quality			
3.7-1 Construction and demolition activities associated with new development under the proposed General Plan would generate and expose sensitive receptors to short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions.	Less than Significant	Policy 11.2-5 Action 11.2-5	Not Applicable—No Mitigation Required
3.7-2 Development under the proposed General Plan would be consistent with the population and vehicle miles traveled (VMT) assumptions used in the regional air quality plan.	Less than Significant	Policies 11.2-1, 11.2-2, 6.1-3, 6.1-4, 6.2-1, 6.3-1, 6.4-1, 6.5-1, 6.6-11, 4.5-3, 4.7-7, 4.7-8, 4.7-9, and 4.9-8 Actions 11.2-1, 11.2-2, 6.1-4, 6.1-5, 6.4-1, 6.4-2, 6.4-3, 6.4-4, 6.4-8, 6.4-9, 6.4-10, 6.4-11, 6.4-12, 6.4-13, 6.4-15, 6.5-3, 4.5-1, and 4.7-1	Not Applicable—No Mitigation Required
3.7-3 The proposed General Plan would be consistent with the Clean Air Plan Transportation Control Measures (TCMs).	Less than Significant	Same as Impact 3.7-2	Not Applicable—No Mitigation Required

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
3.7-4 Development pursuant to the proposed General Plan would allow a mix of residential and non-residential uses in the Plan area, as well as locate sensitive land uses (including residential) adjacent to major transportation corridors, which could result in odor and toxic emissions problems at sensitive receptors.	Less than Significant	Policies 4.9-8, 11.2-3, and 11.2-4 Actions 11.2-3 and 4.5-2	Not Applicable—No Mitigation Required
3.7-5 Development under the proposed General Plan would increase traffic along some roadways in the Planning Area, which in turn could result in the exposure of sensitive receptors to substantial pollutant concentrations and localized air quality impacts.	Less than Significant	Same as Impacts 3.7-2 and 3.7-4	Not Applicable—No Mitigation Required
3.8 Noise			
3.8-1 New development under the proposed General Plan could expose persons to or generate noise levels in excess of 60 dB for single family, duplex, and mobile homes; 65 dB for residential multi-family and high density residential, mixed use, motels, and hotels; 70 dB for schools, libraries, churches, hospitals, nursing homes, playgrounds, neighborhood parks, and office buildings, business, commercial and professional uses.	Less than Significant	Policies 11.1-1, 11.1-2, 11.2-3, and 11.2-4 Actions 11.1-1, 11.1-2, 11.1-3, 11.1-4, 11.1-5, 11.2-3, and 11.2-4	Not Applicable—No Mitigation Required
3.8-2 Construction and demolition activities associated with new development under the proposed General Plan would potentially expose noise-sensitive uses to construction-related noise.	Less than Significant	Action 11.1-6	Not Applicable—No Mitigation Required
3.9 Seismic, Soils, and Landslide Hazards			
3.9-1 Buildout of the proposed General Plan would expose people or structures to strong seismic ground-shaking or seismic-related ground failure.	Less than Significant	Policy 10.3-1 Actions 10.3-1, 10.3-2, and 10.3-3	Not Applicable—No Mitigation Required
3.9-2 Development under the proposed General Plan would be subject to risk from settlement and/or subsi-	Less than Significant		Not Applicable—No Mitigation

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
dence of land, lateral spreading, or expansive soils, creating substantial risks to life or property.			Required
3.9-3 Buildout of the proposed General Plan may result in soil erosion.	Less than Significant		Not Applicable—No Mitigation Required
3.10 Hydrology, Flooding, and Water Resources			
3.10-1 Implementation of the proposed General Plan would cause increased construction activity, which could violate water quality standards or waste discharge requirements and substantially degrade water quality.	Less than Significant	Actions 4.2-2, 10.2-1, 10.2-2, 10.2-3, 10.2-4, and 10.2-5	Not Applicable—No Mitigation Required
3.10-2 Excavation and dewatering that would occur during increased construction activity resulting from implementation of the proposed General Plan could substantially degrade surface water quality and interfere with groundwater recharge.	Less than Significant	Action 10.2-6	Not Applicable—No Mitigation Required
3.10-3 New development could occur under the proposed General Plan that would result in additional releases of nonpoint source pollutants into the storm drain system or waterways, which could substantially degrade surface water quality. However, new development is not expected to add substantial sources of nonpoint pollutant runoff.	Less than Significant	Policies 9.4-2, 9.4-3, 9.4-4, 9.4-5, and 9.4-6 Actions 10.2-7, 10.2-8, 10.2-9, 9.4-1, 9.4-2, and 9.4-3	Not Applicable—No Mitigation Required
3.10-4 New development that would occur under the proposed General Plan could alter drainage patterns and increase impervious surfaces, which would reduce infiltration and increase rates and amounts of runoff and pollutant levels. This could result in increased downstream flooding.	Less than Significant	Policies 7.1-1, 7.1-4, 7.1-5, 7.1-8, 7.1-10, 7.1-11, 7.2-1, 7.2-2, 7.2-3, 7.2-4, and 7.2-5 Actions 7.1-2, 7.1-3, 7.2-1, 7.2-4, 7.2-5, 7.2-6, 7.2-7, 7.3-2 7.3-5, 10.2-10, 10.2-11, 10.2-12, 10.2-13, 10.2-14, 10.2-15, 10.2-16, 10.2-17, and 10.2-18	Not Applicable—No Mitigation Required
3.10-5 The proposed General Plan does not propose residential uses or structures within 100-year flood hazard areas, nor would it expose people or structures to significant risk due to failure of a levee or dam.	Less than Significant	Action 10.2-20 Action 10.2-21	Not Applicable—No Mitigation Required

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
3.10-6 The General Plan does not propose development that would expose people and building to significant risk due to inundation by seiche, tsunami, or mudflow.	Less than Significant	Policy 10.3-1 Actions 10.3-1, 10.3-2, 10.3-3, and 10.3-5	Not Applicable—No Mitigation Required
3.11 Hazardous Materials			
3.11-1 Activities attributed to development under the General Plan could increase the transportation, use, and disposal of hazardous materials within Castro Valley.	Less than Significant	Actions 10.4-1, 10.4-2, 10.4-3, and 10.4-4	Not Applicable—No Mitigation Required
3.11-2 Development on land impacted by petroleum hydrocarbons or other chemical constituents, or resulting in the demolition of existing buildings containing hazardous building materials, could potentially expose people or the environment to hazardous conditions.	Less than Significant		Not Applicable—No Mitigation Required
3.12 Cultural Resources			
3.12-1 New development under the proposed General Plan has the potential to adversely affect historic resources that appear on State historical or archaeological inventories or may be eligible for inclusion on such lists.	Less than Significant	Policies 5.4-1, 5.4-3, and 5.4-5 Actions 5.4-1, 5.4-2, 5.4-4, and 5.4-6	Not Applicable—No Mitigation Required
3.12-2 New development has the potential to disturb known or previously unidentified cultural resources that are not eligible for a federal or State listing but may have historic or cultural significance to the community or an ethnic or social group.	Less than Significant	Policy 5.4-2 Action 5.4-5	Not Applicable—No Mitigation Required
3.13 Visual Quality			
3.13-1 Changes to land use and residential density could affect scenic vistas and visual character along scenic routes and from public viewpoints.	Less than Significant	Policies 4.4-1 and 4.5-5 Actions 4.5-4, 4.6-7, 4.9-5, 5.1-1 and 5.4-2	Not Applicable—No Mitigation Required
3.13-2 Multi-unit infill development may use glass or other reflective materials that would generate substantial glare and obscure visual resources.	Less than Significant	Policy 4.4-1 Actions 4.6-7, 4.7-11, 4.7-12 4.9-5 and 5.1-1	Not Applicable—No Mitigation Required

Table 2-1 Summary of Impacts and General Plan Policies

Environmental Impact	*Significance before Mitigation*	*General Plan Policies and Actions that Reduce Impact's Significance*	*Significance after Mitigation*
3.13-3 Encouragement of school recreation fields and public parks for dual use may result in nighttime activities that require strong lights, which may create a visual annoyance. Residential development in formerly agricultural parcels along Crow Canyon Road may also result in nighttime lighting that would disrupt the visual character of that scenic route.	Less than Significant	Policies 4.2-7 and 4.4-1	Not Applicable—No Mitigation Required
3.13-4 The reconstruction of the Castro Valley Medical Center to meet State seismic standards, which is accommodated by the proposed Plan, will result in building heights and siting that could have a significant impact on visual character.	Less than Significant	Policies 4.8-2 and 4.8-4 Action 4.8-1	Not Applicable—No Mitigation Required
3.14 Climate Change			
3.14-1 Implementation of the Castro Valley General Plan will increase the number of residents and employees in the Planning Area, which will result in an increase in the total emission of greenhouse gases that could have a significant impact on climate change.	Less than Significant	Policies 12.2-1 through 12.2-4 and Actions 12.2-1 through 12.2-7	Not Applicable—No Mitigation Required

ASSESSMENT OF STEELHEAD PRESENCE AND HABITAT IN SAN LORENZO CREEK WATERSHED

A University Thesis Presented to the Faculty

of

California State University, Hayward

In Partial Fulfillment

of the Requirements for the Degree

Master of Science in Riparian Wildlife Ecology

By

Lawrence Patrick Kobernus

December, 1998

Abstract

Steelhead (*Oncorhynchus mykiss*), a federally listed threatened species, were once common in San Lorenzo Creek, a highly modified urban stream in the east San Francisco Bay Area. Since the 1940's, increased urbanization of the watershed has degraded stream habitat, and construction of dams and flood control channels have eliminated most of the upstream habitat from steelhead access. Despite these extensive impacts, there have been occasional reports of steelhead in the creek during wet years, such as 1982-83.

Downstream migrant trapping in the spring of 1997, visual surveys for parr in the fall of 1997, and isolated electroshocking surveys in 1997-98 failed to find any young steelhead in the stream system. During adult steelhead surveys in the winter and spring of 1997-98, persistent turbidity inhibited the ability to survey the stream, especially deeper pools, using either visual or electroshocking methods. Exotic fishes were found to be present in San Lorenzo Creek, but two native fishes; California roach and Sacramento sucker were found to be the dominant species throughout the stream system.

Evaluation of San Lorenzo Creek for steelhead habitat found limitations for the species at every life stage. Upstream migrant access was evaluated at a 4.6-mile concrete channel on San Lorenzo Creek and a 1670-foot concrete box

culvert on Crow Creek in the winter of 1997-98. When compared to established maximum cruising (swimming) speeds for steelhead, these flood control channels were found to be virtually impassable barriers. Only very shallow depths were found where flow velocities were suitable for steelhead passage within San Lorenzo Creek concrete channel (maximum depth of 1.2 feet in channel center (e.g. V-notch)). In a section where steel baffles were placed in the V-notch to reduce velocities, maximum depth suitable for passage increased to only 1.8 feet in the channel center, and 1.0 feet along inside bends. No suitable conditions for steelhead passage were found at the Crow Creek box culvert.

Steelhead spawning and rearing habitat were evaluated in spring 1998 in both San Lorenzo Creek and a reference stream, San Francisquito Creek, which still retains a steelhead run. Results revealed four limitations in steelhead spawning and rearing habitat in San Lorenzo Creek: 1) few pools; 2) lack of large woody debris; 3) sedimentation of riffle habitats; and 4) low abundances of benthic macroinvertebrates.

Most or all of the San Lorenzo Creek sites scored below, and sometimes well below, the San Francisquito watershed sites for pool volume ($P=0.037$), pool length x average depth ($P=0.018$), and % pool (based on length) ($P=0.037$). Large woody debris was noted to occur 3.3 times less frequently within San

Lorenzo Creek sample sites. Results from pebble counts from both watersheds showed a pattern of higher percent fines (< 4 mm), and greater embeddedness within potential spawning gravels in San Lorenzo Creek watershed. Samples of benthic macroinvertebrates taken from two locations within each watershed showed abundances to be from 2 to 27 times lower at San Lorenzo Creek sample sites, though the highest number of EPT taxa occurred at a San Lorenzo Creek site (Crow Creek).

A review of water quality data collected by Alameda County Clean Water Program, augmented with additional data collected in this study, found extremely high water temperatures in the San Lorenzo concrete channel during spring and summer that would likely impact out-migrating steelhead smolts and in-migrating spring-run adults. Higher stream water temperatures in the summer and fall immediately downstream of the reservoirs could also impact rearing steelhead parr.

Due to the adaptability of steelhead and the wandering tendency of the species, recolonization of San Lorenzo Creek is possible, yet appears highly unlikely given the current access, spawning, and rearing habitat limitations. Some management, restoration, and research measures are recommended for improving habitat for steelhead in San Lorenzo Creek.

ASSESSMENT OF STEELHEAD PRESENCE AND HABITAT IN SAN LORENZO CREEK WATERSHED

By

Lawrence Patrick Kobernus

Approved: Date:

Acknowledgments

This project was an interdisciplinary study that was done as a special major. It could not have been completed without the assistance of many professors, colleagues, friends, and associates. I wish to thank my thesis committee: Dr. Scott Stine, Dr. Sam McGinnis, and Peter Vorster. Special thanks to Jon Walton for field assistance and historical background on steelhead in San Lorenzo Creek, Dr. Bruce Trumbo for assistance with statistics, Arleen Feng for assistance with macroinvertebrate sampling and identification, Dr. Alan Launer for steelhead information and access permission into San Francisquito Creek, and Pete Alexander for EBRPD fisheries information and field assistance.

I also wish to thank the numerous people who helped with field assistance and advice: Gordon Becker, Manny da Costa, Jeff Hagar, Ian Gilroy, Merritt Smith Consulting, Will Luddington, Jeff Miller, Bob Bathgate, Scott Ferriman, Philip Russo, Robert Clarke, Mike Vukman, Antoinette Kervin, Richard Wetzig, Laura Kilgour, Obaid Kahn, Alvin Kaun, Jim Gibbons, Paul Randall, Paul Modrell, Mark Westerhout, Woody Trihey of Trihey Associates, David Manning, Bill Eastwood, Darren Fong, and Stacey Fairchild. Also thanks to all the property owners along Crow Creek that granted access permission, and all the fisherman who provided information on the creek. And of course, I wish to thank my Mother and Father, Gil and Norma Kobernus, for their support over the years.

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CHAPTER 1: INTRODUCTION AND BACKGROUND

Purpose of Study

Steelhead (*Oncorhynchus mykiss*) were once common in San Lorenzo Creek, a highly modified urban stream in the east San Francisco Bay Area. Steelhead have not been thoroughly surveyed for in San Lorenzo Creek since 1975 (CDFG, 1975), and there have been occasional reports of adult steelhead in the creek during wet years, such as in 1982-83. Given the recolonization ability of this species, more recent surveys were needed.

Since the 1940's, increased urbanization of the watershed has degraded stream habitat, and construction of dams and flood control channels has cut-off or eliminated most of the historic upstream habitat for this species. The particular factors responsible for the decline and limitation of this species within San Lorenzo Creek have not been identified. Better understanding of these factors will assist in developing and evaluating restoration plans for this species. The recent listing in 1997 of steelhead as a threatened species in the Central California Coast region by the National Marine Fisheries Service (NMFS) underscores the importance of understanding and protecting this species within the drainages of San Francisco Bay.

This study was undertaken to: 1) assess the historical and present

conditions of San Lorenzo creek watershed; 2) survey for steelhead parr and adults in San Lorenzo Creek watershed in the spring, fall, and winter of 1997/98; 3) assess upstream accessibility for migrating steelhead through concrete flood control channels in San Lorenzo Creek and it's tributaries; and 4) assess habitat quality for steelhead spawning and parr rearing at randomly selected locations within San Lorenzo Creek watershed and compare these conditions to a reference watershed.

Background: Steelhead

Life History

The steelhead is the anadromous form of rainbow trout. This species is considered to have a greater diversity of life history patterns than any other Pacific Salmonid species (Shapovalav & Taft, 1954). This diversity can include varying degrees of anadromy, differences in reproductive biology, and plasticity of life history between generations.

Steelhead can be divided into two basic reproductive ecotypes. The stream-maturing type (summer steelhead) , which enter fresh water in a sexually immature condition and require several months to mature and spawn; and the ocean-maturing type (winter steelhead), which enter fresh water reproductively mature with developed gonads and spawn shortly thereafter. Most steelhead

populations are of the ocean-maturing type, while stream-maturing types are limited to a few northern California coastal rivers (NMFS, 1996).

In this region, (based upon data from Waddell Creek--Shapovalav & Taft, 1954--and Sacramento River--Hallock, 1986*: in NMFS, 1996*), steelhead typically spend two years in freshwater, and either one or two years in the ocean before returning to their natal stream to spawn. Steelhead can smolt and out-migrate at various age classes, and actual age distribution and timing of out-migration in San Lorenzo Creek is unknown.

Steelhead are different from other anadromous salmonids in that they can make more than one spawning migration from the ocean to freshwater in a lifetime. Most steelhead returning to freshwater are first-time spawners (83%), but a small percentage return to spawn two times (15%), three times (2%), and as many as five times in very rare cases (Shapovalav & Taft, 1954).

Steelhead migrate into streams in the late fall, winter and early spring when flows are relatively high. Typically the fish prefer to move at night during either a rising or falling stage, avoiding peak streamflows. Although steelhead and other salmonids are known to return to spawn in their natal stream, they will sometimes wander -- that is come up and spawn in streams other than their natal stream. Some steelhead populations have been found to wander more than

others–(i.e. Waddell Creek– Shapovalav & Taft, 1954). Wandering is likely an important mechanism for recolonization of streams in Central and Southern California where stream flows can fluctuate year to year between perennial and intermittent conditions.

Table 1. Hypothetical sequence of steelhead life cycle for San Lorenzo Creek (based upon historical observations of San Lorenzo Creek steelhead and research from other local streams).

Month	Run	Adults	Smolts D/S migrants	Age class (year 0)	Age class (year 1)	Age class (year 2)
December	Winter	ascending/ spawning		eggs	parr	parr
January	Winter	ascending/ spawning		eggs	parr	parr
February	Winter & Spring	ascending/ spawning	descending	eggs/fry	smolt	smolt
March	Spring	ascending/ spawning	descending	eggs/fry	smolt	smolt
April	Spring	ascending/ spawning	descending	fry/parr	smolt	smolt
May-November		Stream resident		parr	parr	parr

Most steelhead in the San Francisco Bay Area tend to migrate into streams in the winter months of January, February, and March after the migration of king (chinook) salmon in the fall. They tend to migrate in groups, and once in freshwater they essentially stop feeding. Their response to fishing lures is thought to be an instinctive response, rather than a need to feed. They can spend anywhere from a few days to a few months in freshwater before spawning,

depending upon stream conditions.

Spawning occurs in shallow water, typically at the upstream end of a riffle, and downstream of a pool. Steelhead require coarse, clean gravels relatively free of silt with ample water movement (velocities of 20-90 cm/second) through the gravels to provide oxygen and remove metabolic wastes. The developing embryos require oxygen levels at or near saturation, and cool water temperatures in the range of 4-15° C (Reiser and Bjornn, 1979; Barnhart 1986; Merritt Smith, 1995). Eggs hatch after about 30 days, and the steelhead fry complete early development and emerge from the gravels about 2-3 weeks later (typically in spring) depending upon temperature.

Steelhead young will typically spend two years growing and maturing in freshwater before migrating back to the ocean in spring. Age 0+ steelhead (recently hatched) have been found to prefer riffles with large woody debris, while age 1+ steelhead (hatched the previous year) prefer plunge, trench, and lateral scour pools with woody debris and undercut banks (Bisson, et. al. 1981). In the San Francisco Bay Area, stream levels drop during the summer and fall dry period, and steelhead young are dependent upon remnant pools with low water temperatures for survival during this period.

Steelhead feed on a variety of aquatic and terrestrial invertebrate species

depending upon availability. In Alameda Creek (the largest stream in the East San Francisco Bay Area), Keith (1995) found that rainbow trout fed predominately upon insects in the Diptera, Ephemeroptera, and Trichoptera orders; overall diet however was diverse and corresponded closely to the taxonomic composition of benthic macroinvertebrates in rearing pools.

The peak out-migration for steelhead smolts is during high flow conditions in spring (Merritt Smith Consulting, 1995; Shapovalav & Taft, 1954), with the actual time depending upon the stream flow of each particular creek. As is the case with the upstream migrants, the downstream migrating fish tend to move at night.

Steelhead Status

During the last 30 years, population numbers of steelhead have dropped precipitously along the entire west coast of the contiguous United States. The National Marine Fisheries Service (NMFS) conducted a status review of 178 populations of steelhead in the states of Washington, Idaho, Oregon, and California. Of these, the NMFS identified 15 reproductively isolated populations or "evolutionary significant units" (ESU's) of steelhead within this range. Of these 15, the NMFS has listed five as endangered and five as threatened under the Endangered Species Act (Federal Register, August, 1997). Almost all ESUs

have declined steeply since the mid-1980's. Among the factors that are believed to be responsible for this decline are: regional climate change, ocean and freshwater over-fishing, increased sedimentation and pollution, loss of riparian vegetation, loss of in-stream habitat complexity, and barriers to fish movement (NMFS, 1996).

The Central California Coast ESU, which comprises the coastal drainages from the Russian River to Soquel Creek in Santa Cruz County and the drainages of San Francisco and San Pablo Bays (excluding the Sacramento-San Joaquin River Basin), is one of five ESUs that has received threatened status. Most steelhead runs in streams tributary to San Francisco Bay and San Pablo Bay are thought to be extirpated (McEwan and Jackson 1996). Nehlsen (1991) cited sedimentation and channel degradation due to poor land management practices as the factors responsible for the extirpation. Another important factor that is likely to have influenced the extirpation is the installation of flood control structures that prevent steelhead from reaching upstream spawning areas.

Historic Steelhead Run

Although there are no records of population sizes of steelhead in San Lorenzo Creek, there is much anecdotal information from local fisherman. According to these accounts, San Lorenzo Creek had highly productive

steelhead runs up until the early 1950's (D. Staley, M. Steveco, J. Walton, D. Pulverosa personal communication). The stream system reportedly supported both a winter (8-12 lb fish) and spring (2-3 lb fish) steelhead run (J. Walton, personal communication). One longtime fisherman (D. Staley) referred to it as "one of the best steelhead streams in this area".

The California Department of Fish and Game characterized steelhead spawning attributes in San Lorenzo Creek as "severely limited" as early as 1953 (State of California, 1953). Fisheries surveys were conducted in 1960 and in 1975. The most comprehensive survey was done in 1960 when all of the major tributaries of San Lorenzo Creek (Cull, Palomeras, Crow, and Eden creeks) were surveyed by CDFG biologists. Rainbow trout and/ or steelhead fry were found in Palomeras Creek only. This was the last published observation of steelhead and/or rainbow trout fry in the system. The biologists characterized most of the habitat as poor to marginal for steelhead, and they noted that landowners were pumping water from the creek and this was cited as a probable reason for the observed lack of pools. In addition, burial of spawning gravels with fine sediments was observed in many places. This was attributed to overgrazing in the upper watershed, and to local landowners dumping yard waste into the stream (CDFG, 1960).

The CDFG survey in 1975 covered San Lorenzo and Crow Creeks and

found resident adult rainbow trout in Bolinas Creek (a tributary of Crow Creek), but no young fish (CDFG, 1975). They also recorded fecal contamination and fish kills in the creek from horse stables along Crow Creek. California Department of Fish and Game biologists in 1975 concluded that the stream system no longer supported a viable steelhead run due to upstream migration barriers (i.e. Don Castro Dam, completed in 1965), and to channel degradation of the remaining available habitat (CDFG, 1975). Since that time only a few spot surveys have been done. Surveys by Leidy in 1981 (Leidy, 1984), and East Bay Regional Parks Department in 1996 (P. Alexander, personal communication), did not locate any adult or young salmonids. Periodic drought conditions in the 1970's, in the late 1980's, and early 1990's has on occasion caused much of the upper watershed tributaries to go dry during the summer months. This may have potentially caused the extirpation of any native steelhead/rainbow trout still surviving in the system.

Although young steelhead/rainbow trout have not been recorded in surveys since 1960, and adult fish since 1975, there have been reports of a few adult steelhead and rainbow trout being caught by local fisherman or observed in San Lorenzo Creek during wet years in the 1980's (Walton, pers. comm. 1997). In the early 1980's (between 1981 and 1983), one local fisherman observed a few steelhead trapped within the concrete channel section of San Lorenzo Creek between Grove Way and East 14th Street (S. Volkers, personal communication).

During this same period, Jon Walton reported catching wild steelhead in the section between Don Castro Dam and Center Street. These reports appear to be authentic based upon the tenability of the sources, and the description of the fish (elongate bodies and complete "square" tails).

Also reported, John Rusmiser with the Mosquito Abatement District recalled seeing "a couple old guys" attempting to catch steelhead with pitchforks and gunny sacks in the concrete channel near Hampton Road in the 1970's and 80's (J. Rusmiser, personal communication). This "pitchfork" method was apparently used often in the Creek to catch steelhead in the days before fishing regulations were in place or enforced.

Rainbow trout have been observed in San Lorenzo Creek and Cull Creek downstream of the Don Castro dam, and in Palomeras Creek upstream of the dam. These fish appear to have been hatchery-raised fish that were planted in the system, rather than native trout. In January 1997, I observed two adult steelhead in Castro Valley Creek near the confluence with San Lorenzo Creek, and was able to capture and photograph one of the individuals. This steelhead had markings (i.e. tail-fin wear) that was consistent with hatchery-raised fish (J. Smith, P. Alexander, personal communication). The fish was likely planted in Lake Don Castro, and washed over the spillway and into San Lorenzo Creek during high flows. It may have migrated back to the stream after spending time

in the ocean, or may have taken on the physical characteristics of a steelhead after spending a few months in Lake Don Castro. This phenomenon of changing to a more silvery appearance has been observed in planted trout that have not migrated to the ocean (P. Alexander, personal communication). The extreme pectoral and anal fin wear, however, and "opalescent" coloration suggest that this particular individual had made a sea run and returned to the creek through the concrete channel (J. Walton, personal communication).

Background: San Lorenzo Creek Watershed

Climate, Hydrology, Soils, and Vegetation

San Lorenzo Creek is a highly modified urban stream in the east San Francisco Bay Area (Figure 1). It drains one of the largest watersheds in the East Bay Hills (50.1 $mi.^2$). The upper watershed comprises largely undeveloped foothills (74%) that are used primarily for cattle grazing, parkland, and low-density residential housing. In contrast, the lowland areas comprise 23% of the basin and are characterized by intensive residential and commercial land-uses (Woodward-Clyde, 1991). Vegetation consists of mixed oak woodland, grassland, and chaparral in the hills; while most of the flatland areas are nearly completely urbanized.

Soils in the hills of the watershed are the Millsholm - Los Gatos - Los Osos

association, which are brownish soils developed on moderately sloping to very steep hillsides of hard sedimentary rocks (USDA Soil Survey, 1966); and the Xerorthents -Maymen - Millsholm association, which are well drained and somewhat excessively drained soils that have various textures that occur on steep to very steep slopes.

On the flatlands, soils are composed of the Sycamore - Yolo association which are nearly level, well drained and poorly drained silt loams on flood plains and alluvial fans; and the Danville - Botella association which are nearly level to moderately sloping, well drained loams and silty clay loams on low terraces and alluvial fans (USDA Soil Survey, 1977).

Seven major tributaries--Crow Creek, Cull Creek, Eden Creek, Palomeras Creek, Hollis Creek, Castro Valley Creek, and Chabot Creek--flow into San Lorenzo Creek (Figure 1). In most years, all of these tributaries are perennial in their lower reaches and intermittent in their upper reaches. Each is fed by several smaller forks. The most consistent year-to-year flow appears to occur in Crow creek and Castro Valley Creek.

Average rainfall in the watershed is approximately 20 inches per year, with the hills of the upper watershed generally receiving 5-10 inches more annual rainfall than the valley. The past three years have been above average with

average annual rainfall totals of 28 inches in 1995-96, 24 inches in 1996-97, and 45 inches in 1997-98 (Alameda County Water Resources rain gauge data).

Average daily flows for San Lorenzo Creek range from about 5 cfs (cubic feet per second) in the summer dry period to about 1000 cfs during storms in the winter months. Maximum flood peaks range from about 900 cfs in dry years to over 5300 cfs in extremely wet years (USGS streamflow data; San Lorenzo Creek at San Lorenzo station).

History of Watershed

The flatland areas of the watershed were partially built up by the towns of Hayward and San Lorenzo even as early as 1878 (Figure 2). Roads were already in existence at this time along San Lorenzo, Crow, Palomeras, and Cull Creeks. The mouth of San Lorenzo Creek opened to the bay at Mulford's Landing, approximately 1.5 miles northwest of it's present location. Sometime between 1878 and 1947 a small twenty-foot-wide ditch had been cut that bypassed the old channel in a shorter, more direct route to the bay at Robert's Landing. The present mouth is a much larger earthen channel, and was constructed sometime before 1958, just south of this ditch.

Most of the valley portion of the watershed was already urbanized in many

areas by the 1940's. Then in the late 1940's and 50's, the post-World War II building boom established residential neighborhoods along most of the remaining portions of the creek. Today (1998) urbanization covers nearly 100% of the valley portions of the watershed.

The hills of the watershed remained undeveloped and were used for ranching, orchards, dry farming, and other rural land-uses until the 1970's. In the 70's, 80's, and 90's large-scale residential developments were constructed on the ridge lines bordering Cull Canyon, Crow Canyon, Eden Canyon, and Don Castro Reservoir. The majority of land in the hill areas is still being used for ranching and grazing, but much of it is privately owned, which does not preclude future development.

Since the 1960's vegetation in the hills of the upper watershed appears to be (in several places along the creeks), gradually converting from grassland to scrub and woodland vegetation types, perhaps in response to the reduction in grazing and dry farming. The lack of wildfires due to fire suppression is also likely to be influencing this observed successional change from grassland to woody vegetation.

Impacts to Habitat Accessibility

Flood Control Modifications

Urbanization causes an increase in impervious surfaces in a watershed, and this leads to "flashier" streams, which rise and fall quickly due to less infiltration and greater runoff. To offset the resultant increased risk of flooding, flood control agencies have constructed dams, drop structures, retention basins, culverts, and concrete channels to control streamflows. These structures in most cases inhibit or prevent the upstream movement of fishes. For anadromous fishes that must move into upstream areas as part of their reproductive cycle, these structures can eliminate their entire population.

In the 1950's, 60's, and 70's San Lorenzo Creek was modified by a series of flood control projects. The largest of these modifications, a 4.6 mile-long concrete channel from San Francisco Bay to Foothill Boulevard in Hayward, was constructed between 1953 and 1962 by the U.S. Army Corps of Engineers. At the time, local fisherman and biologists feared that the concrete channel would be a barrier to steelhead returning to the stream. In response to this concern, a V-notch for fish passage was incorporated into the channel design. Additionally, CDFG recommended that removable steel baffles be placed within the V-notch to reduce flow velocities during the migration period of the fish (State of California, 1953). The steel baffles were apparently used only for a short period and then removed due to maintenance problems caused by sedimentation (CDFG memo,

1963).

In the early 1960's dams were constructed on Cull Creek creating Cull Reservoir (completed in 1962), and on Palomeras Creek creating Lake Don Castro (completed in 1965). These dams cut off two of the three major tributaries in the watershed (and their respective forks) from steelhead access. Then in 1972, a 1670-foot section of Crow Creek was culverted under Crow Canyon Road, possibly also cutting off Crow Creek from steelhead access. Since no fish passage structures (i.e. fish ladders or baffles) were incorporated into the design of these flood control structures, the potential impact was to render nearly all of the upstream spawning and rearing habitat inaccessible to steelhead. Table 2 shows the length of tributary reaches that are impeded by dams or extensive concrete culverts. Only 2 miles (6%) of tributary reaches are unimpeded by flood control structures.

Concrete Channels as Potential Velocity Barriers

Concrete channels are efficient at transporting high streamflows, but due to their higher velocity and greater uniformity of flow, they may present barriers to migrating fish. Fish migrate by expending short bursts of energy to dart through fast-water sections, or to jump over obstructions (USACE, 1991). After expending this energy, they require areas of slower velocities to rest. The banks

of natural streams often have refuge areas, such as behind tree roots, logs, or boulders, where velocities are reduced. Steelhead and other Salmonids will typically hold up in these areas.

Table 2. Approximate lengths (in miles) of tributary reaches impeded by dams or extensive concrete culverts in San Lorenzo Creek watershed. (Does not include the 4.6 mile concrete channel at the mouth of San Lorenzo Creek).

Tributary	**Natural unimpeded**	**Natural-- upstream of Dams**	**Natural-- upstream of Concrete Culverts**	**Concrete Channel**	**Lake**
Crow Creek (including Bolinas Creek)	0	0	7.4	0.5	0
Cull Creek and section D/S of Cull/ Crow confluence	1.0	6.0	0	0.1	0.5
Palomeras Eden & Hollis creeks	0	12.1	--	0.2*	0.6
Castro Valley and Chabot Creek	1.0	0	0.1	3.0	0
Totals	2.0	18.1	7.5	3.8	1.1
Percent of total tributary miles	**6%**	**56%**	**23%**	**12%**	**3%**

* In addition to the dam on Palomeras creek, there is also a 0.2 mile concrete culvert under the 580 Freeway upstream of Don Castro Reservoir.

In concrete channels, however, resting areas for fish are absent and

channel velocities may be too high and too consistent from bank to bank for salmonids to migrate through before exhaustion sets in. Steelhead can swim at velocities up to 27 f/s, but can maintain velocities of only up to 4.6 f/s for extended periods, such as during migration. In the design of in-stream facilities, velocities must be kept well below their maximum swimming capability for general passage (USACE, 1991).

Two reaches of San Lorenzo Creek in particular are characterized by potential velocity barriers to adult steelhead migration: 1) the 4.6-mile-long concrete channel between San Francisco Bay and Foothill Boulevard in Hayward; and 2) the 1670-foot concrete culvert on Crow Creek under Crow Canyon Road. There are 2 additional culverted sections along Crow Creek, each approximately 500 feet in length, which may also be velocity barriers. Steelhead may be able to traverse these sections as high flows recede, but their opportunity for passage may be very limited because water depth quickly becomes very shallow.

Impacts to Spawning and Rearing Habitat

Ever since the post-World War II building boom, fisheries biologists have documented an acceleration in the decline of fisheries across the state. The problems from the construction of dams, pollution, and erosion have been "the

three horseman of civilization", that have destroyed valuable stream fisheries across the state (Cordone, 1960). While the quantity of habitat for steelhead has been severely limited by flood control structures, the quality of the remaining habitat has been degraded by increasing urbanization (CDFG, 1953; CDFG 1960; CDFG, 1975). For successful reproduction, stream habitat needs to be of a high enough quality to allow for both spawning and rearing. Impacts to habitat that could inhibit successful spawning and rearing in San Lorenzo Creek include sedimentation and turbidity, increased temperature, chemical pollution, and introduced species.

Sedimentation and Turbidity

The degree of silting is likely the principle factor in determining the survival rate for salmonids in the embryo stage (Shapovalav & Taft, 1954). Salmonids build their nests or "redds" in fairly coarse gravels, usually in the 2-10 cm diameter range, to insure a steady flow of oxygenated water over the eggs. Low levels of silt characterize natural, less-disturbed stream systems, and spawning salmonids will winnow fine sediment from streambed gravels during construction of the redd (Kondolf, 1993). High amounts of silt will fill the interstices in the gravel and inhibit water flow through the redd, resulting in suffocation of the developing embryos. Numbers of benthic insectivore and herbivore fish species have been shown to be reduced as the percentage of silt increases, and this is

likely due to the reduction of available insect foods inhabiting the voids within the gravels (Berkman and Rabeni, 1987).

The County of Alameda Public Works Department and the National Resource Conservation District (NRCD) have identified high levels of turbidity in Cull, Crow, and Norris creeks. In 1998, the level of silt in Lake Don Castro has been the highest in many years, with large islands now visible above the water line in much of the eastern part of the lake. Park personnel and local fisherman believe the source of this siltation to be the Five Canyons housing development on the east side of the lake. In Cull Reservoir, a similar sedimentation problem of lesser magnitude has been occurring and desilting operations are planned for both reservoirs as soon as permitting is finalized (C. Schultheis, Alameda County Water Resources, personal communication).

Management of both riparian and upland areas is important for controlling sediment pollution to streams. Rabeni and Smale (1995) found that even in areas where intensive management was being done to reduce soil erosion from upland areas, there was still no detectable change in streambed sediment composition because high rates of erosion and sedimentation continued to occur within the channel itself.

Norris Creek, Palomeras Creek, Crow Creek, and Cull Creek all have roads bordering them, and there are several locations where the roads impinge

on the natural sinuosity of these tributaries, causing erosion scars. The major sediment sources to Cull Reservoir are believed to be stream banks, road cuts, storm drain culverts, gullies, and landslides--whereas sheet and rill erosion (affected mostly by range management practices) probably only contributes about 4% of the total sediment load to the reservoir (Alameda County Flood Control District, 1980). Stream restoration measures such as realignment of culverts to direct flows away from eroding banks, and revegetation of eroded banks and roadcuts, are therefore likely to be a higher priority than upland erosion control in reducing sediment supply to San Lorenzo Creek and it's tributaries.

Temperature

Lakes, open concrete channels, water diversions, and reduction in canopy cover can all raise stream water temperatures. Steelhead and other salmonids prefer a temperature range of 4 - 15° C, (39 - 59° F). Steelhead mortality occurs at approximately 25 - 27° C (William Kier Associates, 1991; Merritt Smith, 1995), though this varies depending on the local adaptability of the stock. Steelhead caught in Walnut Creek, (about 30 miles northeast of San Lorenzo Creek) have been found to survive in water temperatures of 29°C(84° F) (Terri Williamson, personal communication).

Sublethal temperatures can promote lethal infection by pathogens, cause loss of body weight and adverse gonadal development, and inhibit parr/ smolt transformation (Bouck, 1977). For Columbia River salmon, these effects became apparent at temperatures above 16.5° C.

The temperature thresholds for sublethal and lethal effects on steelhead in Central California streams have been found to be higher than the temperature ranges established in the literature, which are based on higher latitude streams in Washington, Oregon, and Northern California. It is therefore best to assess temperature impacts to steelhead by comparing stream temperatures to steelhead temperature thresholds that have been established in the same region.

Chemical Pollution

Prior to the establishment of landfills, many people used the creeks as a dumping ground. This was practiced ever since the area was settled in the mid-19th century. As an urban creek with rural landowners in the upper watershed, high density residential and commercial land uses in the flatlands, and a large homeless community living along the creek, an assortment of contamination problems are still observed today in San Lorenzo Creek watershed. While surveying the creeks in 1996-98, I observed paint, car batteries, concrete sand, soap, and motor oil pollution in the stream system.

Contamination of the creek was likewise observed during past field surveys. In the early 1970's a chlorine spill (source unknown) resulted in a fish kill in Cull Creek downstream of Cull reservoir (J. Walton, M. Steveco, personal communication). In the 1975 CDFG fisheries survey, fecal contamination from horse stables and an associated fish kill was observed in Crow Creek, (CDFG, 1975). In 1985, a fish kill resulted from dumping of well-drilling sediments into Crow Creek (CDFG, 1985). Stormwater runoff from highway 580 flows into the lake Don Castro and there have been two major freeway accidents in the past 5 years that have caused one quarter to one half of the lake surface to be contaminated by diesel oil (D. Defrees, personal communication).

Pesticides can have significant impacts on aquatic fauna. Diamond (1967) found that following spraying of DDT, an organochlorine pesticide, total insects and short-generation taxa such as midges among bottom fauna had returned to normal numbers after one year, but that recovery of forms with longer generations, (e.g. caddisflies) required 2-3 years to recover. Likewise drift, which develops from aquatic insect population surpluses, did not occur until 3-4 years after spraying (Dimond, 1967).

Diazinon, an organophosphate insecticide used widely in California, is a potential source of toxicity in San Lorenzo Creek watershed. Diazinon is expected to break down much sooner than organochlorine pesticides such as

DDT, but due to a variety of physical and chemical factors it's environmental fate is still unknown. Alameda County scientists have confirmed persistence of Diazinon concentrations in Castro Valley Creek of over 300 ng/l for periods of 48 hours after storm flows have receded. These exposures were sufficient to kill some macroInvertebrate animals in laboratory settings. Diazinon is toxic to mayflies at 10-40 ug/l, and to midges at 9-30 ng/l. However, these toxicity levels (LC 50 values) have been established using 48-hour static tests at 20° C, and have not been verified under actual stream conditions.

Sources of Diazinon are widespread throughout the Castro Valley Creek watershed (Alameda County, 1997). Event mean concentrations ranged from 180-820 ng/l as measured during several storm events in the 1995-96 water year. Applications of liquid diazinon to home perimeter areas by residents is believed to be the source.

The Alameda County Mosquito Abatement District uses insecticides to control Mosquito larvae in the watershed, but primarily focuses on the San Lorenzo Creek concrete channel. The natural sections are sprayed infrequently, in response to mosquito complaints, approximately 2-3 times per year. Treatment is usually done in the summer (June - September) and is focused on controlling mosquitos in slack-water areas. Three substances are used: Altosid (an insect growth regulator); BTI *(Bacillus thuringiensis Israellensis*), a bacterial

insecticide; and a larvaecide oil. Altosid is toxic to most insects, but only when applied to late in-stars. Larvaecide oil impacts all emerging insects by preventing species from emerging through the water surface, and BTI is more specific to dipteran larvae, which feed on the bacterial spores (personal communication; Pat Turney, Alameda County Mosquito Abatement District).

The impact of the Mosquito Abatement District's insecticide applications on the native macroinvertebrates is not known, but since they are applied in the summer time (after the peak emergence period in spring), are infrequently applied in the upper watershed areas, and do not persist in flowing environments, they are not expected to be a major impact upon the macroinvertebrate fauna.

Toxicity levels in the creeks may not be consistent, but in theory this may not be necessary to impact macroinvertebrate populations. In steep canyons where there are topographic barriers that inhibit the ability of adult insects to recolonize a site, periodic pulses of toxicity at vulnerable times of year (spring or fall), every few years may be sufficient to keep aquatic insects from recolonizing and reaching normal population levels.

Introduced Species

The stream system is stocked with fish each year by East Bay Regional Parks (EBRPD) , CDFG, Mosquito Abatement District, and individuals that

release their own aquarium fish.

Don Castro and Cull Reservoirs are stocked with hatchery-raised fishes several times per year for recreational fishing by EBRPD and CDFG. Between 1990 and 1997, an average of 3,200 lbs of channel catfish (*Ictalurus punctatus*), 10,600 lbs of rainbow trout, and 60 largemouth bass (*Micropterus salmoides*) fingerlings were planted annually into Don Castro (East Bay Regional Parks fish stocking records).

Rainbow trout planted by EBRPD are "Hildebrand strain" raised at Mt. Lasson Fish Hatchery. These fish range from 3/4 -17 lbs, and are genetically engineered (triploid gene structure) to be larger and heavier than the typical genetic strains. Recently a brown trout (*Salmo trutta*) and rainbow trout cross were planted. The rainbow trout planted by CDFG are primarily the Shasta and Coleman strains, and to a lesser extent the Eagle Lake and Whitney strains (personal communication P. Alexander). These fish are stocked at a smaller size, approximately one-half-pound each, and for at least the last 3 years have had their adipose fins clipped (T. Stagnero, personal communication).

An average of 1000 lbs of channel catfish and 40 fingerlings of large mouth bass have been planted into Cull Reservoir annually from 1990-1997. Records show that prior to 1990 other fishes such as bluegill (*Lepomis macrochirus*) and black bass were planted (P. Alexander, personal

communication).

The Alameda County Mosquito Abatement District has stocked mosquitofish (*Gambusia affinis*) in the San Lorenzo Creek system for many years. The district has been in operation in this area since the 1930's. In the period 1986 - 1996, plants were done in Cull Creek, Crow Creek, Eden Canyon Creek, Upper Castro Valley Creek, Norris Canyon Creek, and San Lorenzo Creek. Crow and Cull creeks have received the largest number of plantings, with a couple hundred fish on average nearly every year. All other locations have received only a few plantings over the past 10 years. In addition to the mosquitofish plantings, "bucketfuls" of California roach (*Hesperoleucus symmetricus*) and other fishes are sometimes caught and moved from one area of the stream system to another to better control mosquito breeding (J. Rusmiser, personal communication).

Other sources of exotic fish include overflowing stockponds and aquaria. Various landowners in Crow, Cull, and Palomeras Canyons have cattle ponds that are often stocked with bass or other non-native fishes. During storms these can overflow into the creeks. Individuals have planted aquarium fishes into the creek such as goldfish (*Carassius auratus*), Koi (*Cyprinus sp.*), green sunfish (*Lepomis cyanellus*), bluegill, and probably many other species.

Two introduced crayfish species have been thriving in the stream system for years, and the Chinese mitton crab (*Eriocheir sinensis*) has recently become established in San Lorenzo Creek watershed. It is unknown what impact these species would have on steelhead, but since they do not prey or compete directly with steelhead, it is unlikely that they would have as much of an impact as the highly competitive and predatory centrarchid (i.e. bass, sunfish and bluegill) and Ictalurid (catfish) fishes.

The introduced eucalyptus (*Eucalyptus globulus*) tree has been planted along the banks of the creeks in several locations. The relatively shallow root system and the strong allelopathic oils in the leaves of these trees inhibit growth of native vegetation and lead to bare banks that have less resilience to erosion. The eucalyptus leaves break down very slowly in the stream compared to other native tree species such as big leaf maple (*Acer macrophylum*) and box elder (*Acer negundo*), and this may decrease the amount of vascular plant tissue being converted to food resources by certain benthic macroinvertebrates called "shredders". Shredders serve an important function in stream food webs by converting vascular plant tissue in the form of coarse particulate organic matter (CPOM) to fine particulate organic matter (FPOM). The FPOM is then fed upon by other organisms (Cummins, et al. 1989).

Unregulated Fishing

Fishing, both legal and illegal, is likely to be a frequent occurrence in the creek. Adult steelhead that get stranded in the concrete channel or in shallow pools make easy targets. There are occasional reports of fisherman taking steelhead from the creek. In addition, a large homeless community exists along the creek and the creek is often used as a travel corridor. I have often seen fishing poles and equipment left on the banks of the creek. The impact of illegal fishing is unknown, but is likely a serious threat given the low numbers of this species.

CHAPTER 2: ASSESSMENT OF STEELHEAD PRESENCE

Methods: Fish Surveys

Steelhead were surveyed for in San Lorenzo Creek and it's major tributaries in 1997 and 1998 using a variety of methods. In spring 1997, downstream migrant trapping for smolts was undertaken with a downstream migrant pipe-trap that was constructed and set up in San Lorenzo Creek. In the fall of 1997, walking visual surveys (and one electroshocking survey) for juveniles was done on extensive stretches of San Lorenzo Creek and most of it's major tributaries. And in the winter and spring of 1997-98, spot surveys for adult spawners (using angling, observation or electroshocking) was conducted.

Downstream Migrant Trapping

Downstream migrant trapping has been used effectively on several streams in California and Oregon to assess numbers of out-migrating salmonids (Manning, unpublished; GGNRA, unpublished). Unlike electroshocking and seining, which must be done in several locations in a stream to assess population size, downstream migrant trapping can be used in a single location to estimate the numbers of out-migrating fish. In stream systems such as San Lorenzo Creek where most of the adjacent land is in private ownership and access for surveying is limited, this method is a convenient alternative to other

methods. Downstream migrant trapping requires consistent (at least once a day) monitoring while the trap is in operation, and should be removed when flows exceed 80 cfs (B. Eastwood, personal communication).

In May of 1997, a downstream migrant pipe-trap (Figure 3) was constructed and set up in San Lorenzo Creek. The trap was located near the 580 Freeway overpass, approximately 1500 feet upstream of the Center Street bridge (Figure 4). Both a CDFG scientific collection permit and an Alameda County Public Works encroachment permit were obtained to operate the trap in the creek. The upstream end of the trap was erected in a flat bottomed run section, just upstream of a riffle. One-eighth-inch mesh nylon fencing was erected in a V-shape and anchored into the stream bed with T-posts every 4 feet. At the head of the V, a 2 foot x 3 foot plywood board was secured to the fencing, and an eight inch diameter plastic pipe was fit tightly into a hole in the board. The pipe extended 20 feet downstream and opened up into a 2 foot' x 2 foot x 4 foot live car that was submerged in a 3 foot deep pool. Signs were placed on the fencing to notify people that the trap was a California State University Hayward research project.

The trap was operated only at night and was checked once a day in the morning for twenty days, from May 11 to May 30, 1997. The live car was removed from the trap during the day. All fish were removed from the trap with a

dipnet, and then identified, counted, weighed, measured for fork length, and returned to the creek downstream of the trap. All other species (i.e. crayfish and aquatic insects) were counted and released. On May 30, 1997 the trap was damaged by vandals and was removed from the creek.

Fall Parr Surveys

Visual surveys were undertaken in September and October 1997 when stream levels were low and water clarity was high. Figure 5 shows all surveyed areas of the stream. Each stream section was approached by one observer from the downstream direction and fish were identified and numbers estimated. A small dip net was used to periodically catch fish to verify identification. Overhanging banks and submerged vegetation were inspected for fish with a 14 watt halogen underwater flashlight. For pools with good visibility, identifications and abundance estimates were made from the banks with short focal length binoculars.

Since much of the upper watershed sections of the creek are privately owned, access was limited. A mailer was sent out in September 1997 to over 100 landowners along Crow Creek asking for access permission. Approximately 15% of those surveyed granted permission. Surveys were done in these sections, as well as where public property bordered the creeks.

By visiting other streams populated with steelhead parr, certain morphological and behavioral characteristics that allow them to be distinguished from other fishes were noted. These characteristics are outlined in Table 3.

Table 3. Physical and behavioral differences between steelhead and other common fishes.

Steelhead/ Rainbow trout (*Oncorhynchus mykiss*)	**California Roach** (*Hesperoleucus symmetricus*)	**Sacramento Sucker** (*Catostomus occidentalis*)
relatively large eye	relatively small eye	relatively small eye
6-10 distinct black marks (parr marks) on side body	dark lateral body stripe	2-3 black splotches on dorsal side
blunt head/mouth profile	tapered head/mouth profile	tapered head profile inferior mouth position
less tightly schooled than roach, quicker movements than roach or suckers	typically found in large schools	found in large schools when young (less so as adults)

Winter Adult Surveys

Spot visual surveys for upstream migrating adults were conducted in the winter and early spring of 1997-1998. The surveys were done by one observer with either short focal-length binoculars or polarized sunglasses at pools that have had a history of steelhead presence or had good potential for steelhead use (Figure 4).

Results: Fish Surveys

Downstream Migrant Trapping

The downstream migrant trap data did not detect any young steelhead/ rainbow trout in San Lorenzo Creek in the spring of 1997. This was not conclusive in determining if steelhead were in the system however, because no significant rainfall occurred while the trap was in operation. The spring of 1997 was extremely dry, with the months of February, March, April, and May yielding a combined rainfall totaling just 2 inches.

Table 4 shows the results of the downstream migrant trapping. The most common species trapped were California roach, Sacramento sucker, and largemouth bass. Figure 6 shows the total numbers of each fish species trapped over the 19-day trap period (May 11 to May 30).

Fall Parr Surveys

Approximately 5.7 miles of the San Lorenzo Creek system were visually surveyed, including 116 pools (Figure 5). Portions of all streams with perennial flow were surveyed. No steelhead/rainbow trout parr were observed in the San Lorenzo Creek system. Table 5 shows the encounter rates, length of reaches surveyed, and the number of pools/runs surveyed in each reach.

Table 4. San Lorenzo Creek downstream migrant trap results including fish species and numbers, spring 1997.

Date	Ca. Roach	Sac. sucker	mosquito-fish	Lm bass	blue-gill	black crappie	green sunfish	gold-fish	cray-fish
5/11/97	44		1			1			
5/12/97	62			3	2	1			1
5/13/97	30			3	2	2			3
5/14/97	17				1				4
5/15/97	18			8					3
5/16/97	6			5	3	3			4
5/17/97	33			2					7
5/18/97	25	1		3		1			?
5/19/97	31			7	1				5
5/20/97	25			9			1	1	5
5/21/97	42	15		6	2				1
5/22/97	21	5		1	1				3
5/23/97	1					1			1
5/24/97		1		2					6
5/25/97	2	2		75	2		1		4
5/26/97	5	2		65	1	1			4
5/27/97	5	3		26		1			4

Date	Ca. Roach	Sac. sucker	mosquito-fish	Lm bass	blue-gill	black crappie	green sunfish	gold-fish	cray-fish
5/28/97	12	4		7					?
5/29/97	11	3	1	3					?
Totals	**390**	**36**	**2**	**225**	**15**	**11**	**2**	**1**	**55**

The dominant species encountered in the stream system were two native fishes--California roach and Sacramento sucker. California roach were found to be common in all streams in the system. Sacramento suckers were also found to be common, but were not detected in Chabot or Castro Valley creeks. Non-natives such as mosquitofish, large mouth bass and channel catfish were observed in more than one stream section.

Table 5. Encounter rates of fishes in the San Lorenzo Creek system, based on visual surveys. Encounter rate equals the number of pools and runs that each species was encountered per mile of stream.

Creek	Reach Length (mi.)	Species	Pools/ Runs Present	Encounter Rate
San Lorenzo (unchannelized section above Foothill Blvd.)	1.42	California roach	34	23.9
		Sacramento sucker	12	8.5
		largemouth bass	7	4.9
		green sunfish/ crappie/ bluegill	4	2.8
		channel catfish	1	0.7
		carp/ koi	1	0.7
San Lorenzo	0.39	California roach	3	7.7

D/S (concrete channel near mouth)		mosquitofish/ rainwater killifish	2	5.1
		carp/ kol	1	2.6
		channel catfish	1	2.6
Crow	1.91	California roach	25	13.1
		Sacramento sucker	4	2.1
Cull (Below dam)	0.13	largemouth bass	1	7.7
		green sunfish/ crappie/ bluegill	1	7.7
		Sacramento sucker	1	7.7
		mosquitofish	1	7.7
Crow/Cull	0.36	California roach	6	16.7
		Sacramento sucker	5	8.5
		mosquitofish	1	2.8
		largemouth bass	1	2.8
Palomeras	0.24	California roach	1	4.2
		Sacramento sucker	1	4.2
		three-spined stickleback	2	8.3
Castro Valley	0.31	California roach	18	58.1
		channel catfish	1	3.2
Chabot	0.91	California roach	22	24.2
		goldfish	5	5.5

The number of species encountered was higher in the larger streams such as San Lorenzo Creek, and Crow /Cull below the confluence of Crow and Cull creeks, while the smaller tributaries such as Crow Creek had fewer numbers of species (Figures 7 and 8). This disparity was primarily due to the presence of non-native fishes in the larger stream sections.

Two electroshocking surveys were done in the fall, one in San Lorenzo and Castro Valley creeks upstream of Foothill Boulevard in Hayward in 1997, and one in San Lorenzo Creek upstream of A Street in the fall of 1998. The locations for all electroshocking surveys are shown in Figure 9. Species detected agreed with the fall parr surveys, with the exception of finding two (hatchery) rainbow trout adults, and one prickly sculpin (*Cottus asper*).

Winter Adult Surveys

No adult steelhead were detected in San Lorenzo Creek, or it's tributaries in the 1997-98 adult surveys. Surveys were hampered by the consistent rainfall in 1997-98, in which over 200% average rainfall occurred. This made for turbid conditions in most creeks in the watershed throughout the winter and spring.

Table 6. Results of winter surveys for adult steelhead.

Location	Survey Dates	Method	Results	Water Clarity
Castro Valley Creek Pool @ Japanese Gardens	12/10/97	Observation	0	Clear
	12/19/98	Observation	0	Clear
	12/24/97	Observation	0	Clear
	1/9/98	Observation	0	Turbid No visibility

Location	Survey Dates	Method	Results	Water Clarity
	1/24/98	Observation	0	Clear
	3/4/98	Observation	0	Clear
	4/11/98	Observation	0	Clear
San Lorenzo Creek Pool @ Arlette Ave.	12/24/97	Observation)	0	Turbid <1' visibility
	1/9/98	Observation	0	Turbid No visibility
San Lorenzo Creek Glide @ concrete channel juncture of vertical & trapezoidal channels	12/13/97	Observation	0	Moderately Clear 2' visibility
	4/11/98	Observation)	0	Turbid <6" visibillty
San Lorenzo Creek Pool below DC spillway	3/1/98	Angling (from spillway to Crow/Cull confluence	0	Turbid <1' visibility
	3/21/98	Electro-shocking (from spillway d/s 1000 feet)	0	Moderately Clear 1'+ visibility
	4/11/98	Observation	0	Turbid <6" visibility
Cull/Crow and San Lorenzo confluence pool @ Grove Way	12/6/98	Observation	0	Turbid
	12/24/97	Observation	0	Turbid (More turbidity from San Lorenzo/ Don Castro tributary)

Location	Survey Dates	Method	Results	Water Clarity
	3/22/98	Angling (from Crow/Cull confluence d/s 700 feet	0	Turbid <1' visibility
Cull/ Crow Pool @ East Castro Valley Blvd.	12/13/97	Observation	0	Moderately clear visibility 1'
	12/24/97	Observation	0	Moderately clear visibility 1-2'
San Lorenzo Creek near mouth @ Railroad Bridge	12/13/97	Observation	0	Moderately clear
	12/19/97	Observation	0	Turbid visibility <1'
	12/24/97	Observation	0	Moderately clear visibility 1-2'

Discussion: Fish Surveys

Steelhead

The primary intent of the steelhead surveys was to determine if the

historical native steelhead/ rainbow trout were present in the San Lorenzo Creek system. A thorough survey of the system was conducted using a variety of methods. Streams above dams, (upper Cull and Palomeras), were not as thoroughly surveyed. These creeks have been isolated from steelhead access for over 30 years, and could not support an anadromous fish population. They also have less flow than other tributaries (such as Crow creek), and are therefore more likely to have gone completely dry during drought episodes.

It should be noted that the visual surveys were biased towards pelagic fishes. Species such as prickly sculpin which are known to occur in San Lorenzo Creek, may have not been detected solely because of their cryptic coloration and behavior of sitting nearly motionless on the stream bottom. Other fishes such as Sacramento sucker may be under-represented in the counts for the same reason. In addition, deeper pools (>3 feet) were difficult to survey due to low water clarity. Pools this size were infrequent in the tributaries, but were more common in the main stem of San Lorenzo Creek.

The results of the visual surveys are presented as species occurrence per habitat unit (encounter rates). This was done because it is difficult to make accurate abundance estimates in streams relying solely on visual inspection. A test was conducted to determine the accuracy of visual counts to single-pass electroshocking and revealed that visual surveys tended to miss fish that were

hiding under rocks. Alternatively, electroshocking seemed to miss fish in deeper pools where fish could dart around the "shock zone".

Downstream migrant trapping was done in the late spring (May) of 1997. The timing of trapping was based on the reported peak timing of the out-migration for the species in Waddell Creek (Shapovalav and Taft, 1954). Due to a lack of rainfall in the spring of 1997, however, the trapping was not conclusive in determining that steelhead parr were no longer in the system. As a result, the visual surveys were conducted in the fall of 1997. Again, no steelhead/rainbow trout parr were found. Steelhead parr are readily visible in clear-water conditions, preferring both riffle and pool habitats. For this reason, the negative result of the visual surveys appears to indicate that the species is no longer reproducing in the San Lorenzo Creek system.

Although no steelhead adults were observed during the winter adult surveys, it was not conclusive that steelhead were not migrating into the system because observations were inhibited by turbid water. From observations of San Lorenzo Creek, Crow, and Cull Creek (below Cull reservoir), it typically takes 2 weeks or more for these streams to clear up after a storm event. This extreme level of water turbidity is not found in Castro Valley or Chabot creeks which tend to clear up within a few days after a storm event.

In watersheds adjacent to San Lorenzo Creek, (i.e. San Leandro Creek, 5 miles north; Ward Creek, 5 miles south; and Alameda Creek, 7 miles south), steelhead were observed during March and April 1998. These streams do not have the extensive concrete channel that San Lorenzo Creek has, which may prevent adults from reaching the natural sections of San Lorenzo Creek. Anecdotal information from knowledgeable fisherman indicates that a few wild steelhead have navigated the concrete channel in prior El Nino years, and made it into upstream tributaries in the 1970's and 80's (personal communication Marty Steveco, Jon Walton).

Although rainbow trout/ steelhead did not turn up in the downstream migrant trapping, nor in the adult and parr visual surveys, there were occasions that adult rainbow trout were caught through electroshocking, and seen during informal surveys. These fish all had hatchery-raised characteristics (e.g. stout body form, worn caudal fin), and appeared to be planted fish that were wash-overs from Lake Don Castro.

Introduced Fishes

The visual surveys and the downstream migrant trapping revealed that native and exotic species are found in the lower sections of San Lorenzo Creek,

while the tributaries upstream of the dams appear to be exclusively native fishes. Exotic species such as largemouth bass, black crappie, green sunfish, bluegill, mosquitofish, channel catfish, and others are common to rare in the main stem of San Lorenzo Creek, downstream of the reservoirs. These species do not appear to have colonized the upper reaches of Crow, Cull, and Palomeras creeks. The dams on Cull and Palomeras creeks and the 1670-foot-long culvert on Crow Creek under Crow Canyon Road, combined with the intermittent flow conditions has likely kept these species from establishing in these tributaries.

These results are consistent with research in other impacted streams in the San Francisco Bay area (Leidy, 1983). Leidy found that the number of species in stream sections altered by flood control levees was greater than in undisturbed stream sections. This was due to the presence of exotic fishes, and therefore species diversity is not a good indicator of stream health in disturbed streams.

The presence of exotic species, especially Centrarchids (sunfish family) and Ictalurids (catfish family) are potential limiting factors on steelhead trout survival. In streams where these species are present, trout and other salmonids are often compromised from increased competition and predation. Channel catfish have been shown to be important predators on out-migrating juvenile salmonids (Poe, et al 1991). Although exotic species are a likely factor in the

decline of steelhead in San Lorenzo Creek, the degree to which these exotic species have impacted or are preventing re-establishment of steelhead is unknown.

CHAPTER 3: ASSESSMENT OF STEELHEAD ACCESS

Methods: Assessment of Steelhead Access

This chapter focuses on an evaluation of access for upstream-migrating adult steelhead in San Lorenzo Creek. In the San Lorenzo Creek system, dams prevent adult steelhead from accessing Palomeras and Cull creeks. Steelhead may also be prevented from accessing nearly all upstream habitat by the 4.6-mile concrete channel located in San Lorenzo Creek, and the three concrete box culverts on Crow Creek (one that is 1670 feet long at mile 0.4, and two approximately 500 feet long at miles 1.7 and 2.0).

Also influencing the velocities within the concrete culverts on Crow Creek, and creating another likely barrier for steelhead are high-gradient concrete ramps. The long (1670-foot) box culvert on Crow Creek has an upstream ramp that extends for 60 feet and has a gradient of 8%. The next concrete culvert upstream (550 feet long at mile 1.7) has an upstream ramp that is 28 feet long and has a slope of 3.6 %. These ramps alone are probable barriers due to their steep gradients and shallow water depths under nearly all flow conditions.

To assess the impact of the concrete channel and culverted sections on adult steelhead upstream movement, flow velocities were measured at 5 different stations in the stream system in January, 1998 (Figure 10). Data was collected

sequentially from upstream to downstream during a three-day rainy period from January 12-15, 1998. Each station represented a different set of conditions (Table 7). Stations were visited 5-10 times during the storm period in order to catch rising, peak, and descending flow stages. A few additional data points were gathered in late January and in the spring to capture low flow stages.

Velocities were measured using floats, (grapefruits), which were timed through a straight 50-meter stretch. Results of this method were compared to flow velocities recorded during low-flow stages with a *Flo-mate* (model 2000) portable flow meter and found to be within .01 m/s. At each station, surface velocities were measured at three locations in the channel (right bank, middle, and left bank). Replicates were taken on occasion and these were averaged. Measurements were taken at various flow stages and were then converted into actual depths. Average surface velocities were then converted into mean column velocities by multiplying by a coefficient (0.90 for concrete channels and culverts, 0.85 for natural channels), based on USGS flow measurements in San Lorenzo Creek (personal communication Jim Gibbons, USGS). Within the concrete V-notch, which had a more pitted surface and higher friction due to the constriction of the V shape, a coefficient of 0.85 was used (based on flow meter measurements).

Table 7. Water velocity stations, San Lorenzo and Crow Creeks.

Station	Description

SLC-1	Concrete Rectangular Channel - San Lorenzo Creek at Washington Avenue, straight section, steel baffles in V-notch in center of channel, approximate gradient 0.3 %.
SLC-2	Concrete Rectangular Channel - San Lorenzo Creek at Wickman Ct., straight section, approximate gradient 0.4 %.
CC	Concrete Box Culvert - Crow Creek at Crow Canyon Rd. (1670 feet long), approximate gradient 0.8%
SLN	Natural channel - San Lorenzo Creek, straight section downstream of I-580 overpass, approximate gradient 0.7%
CN	Natural channel- Crow Creek, straight section adjacent to Crow Canyon Road, approximate gradient 0.7%.

Results: Assessment of Steelhead Access

Flow velocity results are presented in Figures 11 through 17. Because of the V-notch in the center of the concrete channel in San Lorenzo Creek, velocities for the center and banks are presented separately (Figures 11 through 14). The V-notch is approximately 1.1 feet deeper than the rest of the channel. Steelhead need a minimum of 0.6 ft. water depth for passage (Thompson, 1972). In each figure, measured velocities are shown with respect to the maximum cruising speed for steelhead (4.6 f/s). This speed is the expected maximum velocity that steelhead can maintain for hours, such as during migration. Table 8 shows the swimming speeds for steelhead (Bell, 1990).

Table 8. Steelhead swimming speeds. Velocity ranges determined for steelhead 2.0-2.7' in length (Bell, 1990).

Steelhead swimming speed category	Velocity (f/s)	Duration
Cruising (migration)	0 - 4.6	hours
Sustained (passage through difficult areas)	4.6 - 13.7	minutes
Darting (escape and feeding)	13.7 - 26.5	seconds

At station SLC-2, at the right and left banks (Figure 11), and at station CC (Figure 15), water velocities exceeded maximum cruising speeds for steelhead at all depths above 0.6 feet.

For station SLC-1, streamflow velocities were below maximum steelhead cruising speed when flows were below 1.0 feet deep at the right and left banks, (Figure 13), and when flows were below 1.8 feet deep at the channel center (Figure 14). At station SLC-2 , at the channel center (Figure 12), velocities were below maximum cruising speed for steelhead when depths were 1.2 feet or less.

Water velocities recorded at Stations CN (Crow Creek natural) and SLN (San Lorenzo Natural) are shown in Figures 16 and 17. Velocities were measured during the same flow conditions as those in the concrete channels, however, velocities are plotted against stages rather than depths, since depth varied on the stream bottom. Both stations in the natural channel sections had flow velocities that were under steelhead maximum cruising speed in at least one or more location within the channels (i.e. right bank, left bank, or center), even at high flow stages. Maximum cruising speeds weren't exceeded in the channels

until flow stages reached above about 8-9 feet.

Discussion: Assessment of Steelhead Access

Sources of Error

Velocities were measured with floats (grapefruits) and a stopwatch over 50-meter distances along streambanks. Recording error was approximately 0.5 seconds over the 50-meter distance. This corresponds to an error of $\pm$ 0.1 f/s at a velocity of 5 ft/s, and $\pm$ 1.2 f/s at a velocity of 20 ft/s.

Velocities were measured in straight sections of the concrete channel due to the variation of depth and velocities at channel bends. Variation in depth at channel bends ranged from 0-2 feet, due to superelevation of the channel bottom. At baseflow conditions this confines most of the flow to the center of the channel within the V-notch and along the lower inside wall, leaving the outside bend of the channel dry. At higher flows, inside bends have slower velocities (estimated 20-50% slower) than outside bends (personal observation, and communication with Jim Gibbons, USGS). Stations were established in straight channel sections to avoid this difference in water velocities at bend cross-sections. However, bends just downstream of SLC-1 and SLC-2 stations appeared to effect recorded channel velocities, especially at lower flows. At most flow stages above one foot in depth, flow velocities along right and left banks

were comparable.

Mean column velocities are a good representation of velocities in the channel even near the banks and bed due to the low Manning roughness coefficient (0.01 - 0.015) of smooth concrete. The friction caused by the banks and bed is not thought to provide refuge for fish, since the boundary layer is likely to be less than one inch thick, as opposed to a natural channel where channel roughness can range from 0.025 - 0.05 and provide a boundary layer of up to one foot thick (personal communication, Woody Trihey). The location of bank velocity measurements was within 25% of the bank side portion of the channel width. Most measurements ranged from approximately 0.5 - 4 feet from the bank, yet exact location did not seem significant due to the swiftness and uniformity of flow in the concrete channel under most flow conditions.

Steelhead Access Implications

Based on established swimming speeds of steelhead and minimum depth requirements for passage, the concrete flood control channel on San Lorenzo Creek and the concrete culverts on Crow Creek present virtually impassable velocity barriers for migrating fish. The exception to this is the area where steel baffles were placed within the V-notch of the channel at Washington Avenue (station SLC-1). Even here, however, the range of depths where flow velocities

are suitable for steelhead passage are extremely limited (0.6 - 1.0 feet along the left bank, and 1.1 - 1.8 feet within the V-notch–Figures 13 and 14). Unlike the concrete channels where velocities rose quickly with increasing stage height and depth, the velocities recorded in the natural channels varied considerably at all but the highest stages due to turbulence and eddies which caused the floats to follow complex paths.

Within the concrete channel, the suitable range of depths and velocities typically only exists for a few hours, due to the transport efficiency of the channels, though it depends on the intensity and duration of rainfall and the amount of saturated ground within the watershed. Steelhead could theoretically come up the V-notch during base flow conditions (0.6 - 1.1 feet). Velocities measured at in the V-notch at baseflow were 2.0 ft./s at SLC-1, and 2.8 ft/s at SLC-2). The question is whether steelhead would use the V-notch during baseflow conditions. Since these fish are cued by rising or falling flows (Shapovalav & Taft, 1954; Merritt Smith, 1995), it seems unlikely that they would. Even during baseflow, however, velocities are constant, and there are virtually no resting areas available for four miles once a steelhead has entered the V-notch.

Based on the average velocity within the V-notch during baseflow conditions (2.4 ft./s), a steelhead swimming at maximum cruising speed (4.6 ft/s) would take 2.6 hours to migrate through the concrete channel. However this

rate of travel is dependent upon a steelhead making the entire four-mile journey without rest. Based upon the Alaska curve (Zelmer *in CDFG, 1994*) the recommended distance between resting pools for migrating salmon at a water velocity of 2.4 ft./s is approximately 260 feet.

The few steelhead that have been seen in upper San Lorenzo Creek since the completion of the concrete channel in 1963 must have been able to migrate through the channel by swimming at speeds above maximum cruising speed within the V-notch and then resting at times in slower, shallower water, perhaps along the inside of bends in lower-gradient sections. They likely would have had to complete the four-mile journey in a matter of hours to prevent either 1) being stranded outside the V-notch as flows receded, or 2) being washed back to the bay with even a small rise in stage. Any steelhead that do make it into the natural sections of San Lorenzo Creek, would have to spawn either in San Lorenzo Creek below Don Castro Dam, or in Cull/ Crow Creek below the confluence of Cull and Crow creeks.

CHAPTER 4: ASSESSMENT OF STEELHEAD SPAWNING AND REARING HABITAT

In contrast to the uniform shape of concrete channels and culverts, natural channel sections have uneven bedrock, boulders, and large woody debris that contribute to a complex channel shape. These obstructions cause turbulence and eddies to form which provide lower velocity areas where steelhead can successfully migrate through during even high flow conditions. Once competing this journey, steelhead must locate adequate habitat conditions for successful spawning and rearing of their young.

Salmonids such as steelhead require different types of habitat for spawning and rearing. For spawning and subsequent survival of developing eggs and alevins, riffles or shallow runs that have instream gravels of a suitable size class range with appropriate water velocities and adequate levels of dissolved oxygen are required. Rearing juvenile fish (parr), require pools or deep runs with adequate cover, cool water temperatures, and sufficient food resources throughout the warm and dry summer/fall period. Once development has reached the smolt stage (1-3 years later) the fish require suitable flows and temperatures to allow movement downstream and back to the ocean (in this case via San Francisco Bay).

Spawning and rearing habitat were evaluated by comparing habitat

conditions in San Lorenzo Creek to a similar local stream that still supports a steelhead population (San Francisquito Creek in Palo Alto, California). Since steelhead adapt to different conditions in different regions (i.e. temperature regimes, diet preferences), it is more appropriate to compare streams within the same region when possible.

San Francisquito Creek (Reference Stream)

San Francisquito Creek in the West San Francisco Bay Area drains a 46 mi^2 watershed (Figure 18). The mouth of San Francisquito Creek empties into San Francisco Bay, 12.6 miles southwest from the mouth of San Lorenzo Creek. This stream is similar in size to San Lorenzo Creek, yet has higher-elevation tributaries that drain a more densely vegetated upper watershed (the east side of the Santa Cruz Mountains). Vegetation consists of redwood forest, oak woodland, chaparral, and grassland. Three major tributaries flow into San Francisquito Creek: Bear Creek, Los Trancos Creek, and Corte Madera Creek. Soils are similar to San Lorenzo Creek watershed in the flatlands, consisting of Botella clay loam and alluvial fans.

San Francisquito Creek still has a steelhead run. Although population numbers have not been estimated, upstream migrants are often seen in the winter, and oversummering parr are known to occur in high numbers in the upper

sections of San Francisquito Creek, Bear Creek, and Los Trancos Creek (A. Launer, personal communication). Steelhead/ rainbow trout fry were encountered in Bear and San Francisquito creeks during the habitat assessments in spring 1998.

San Francisquito has a similar land-use pattern as San Lorenzo Creek, with urbanization in the lower watershed, and rural land-uses in the upper watershed. San Francisquito Creek watershed has an estimated impervious cover of 22% (EOA, 1998), compared to 23% for San Lorenzo Creek (Woodward Clyde, 1991). Impacts are also similar in both watersheds, but less severe in San Francisquito Creek. Roads, equestrian centers, and ranching occur adjacent to upper San Francisquito Creek (similar to upper San Lorenzo Creek).

Despite these similarities, differences between the two watersheds are significant. San Francisquito watershed does not have extensive concrete channelization on it's lower reaches like San Lorenzo Creek, nor does it have concrete box culverts on any of it's tributaries in the upper watershed. It is also less impacted from development in it's upper watershed, and has portions of it's wateshed protected within a biological peserve (Jasper Ridge Biological Preserve, Stanford University).

Hydrology of San Lorenzo and San Francisquito Creeks

Hydrographs for the two streams from three successive water years (1979-80, 1980-81, and 1981-82) are shown in Figures 19 through 24 (historical cfs data from USGS). These years represent low, medium, and high streamflow conditions. The San Lorenzo Creek data is from the gauging station at Center Street in Hayward, (drainage area = 37.5 mi^2). The San Francisquito Creek data is from the USGS gauging station at Sand Hill Road (drainage area = 37.4 mi^2).

In several instances, flood peaks during winter and spring are almost identical for both streams. In summer and fall however, the two streams differ. Base flow conditions in San Lorenzo Creek are higher through the summer drought period, which would be more beneficial to sustaining a steelhead population (Figures 20, 22, and 24).

Methods: Assessment of Spawning and Rearing Habitat

A total of eight 250-meter-long reaches were randomly selected from within San Lorenzo Creek (5) and San Francisquito Creek (3) watersheds. Sampling sites were selected from upstream tributaries and lower valley sections in each stream system.(Table 9). Sites within San Francisquito Creek were chosen in areas upstream of major urban land-use impacts, and in specific areas where steelhead parr are known to occur in high numbers (Stanford University

Center for Conservation Biology, 1997).

Table 9. Creek reaches evaluated for steelhead spawning and rearing habitat, spring 1998.

Treatment Group	Creek	Date of Habitat Assessment	Gradient (%)	Est. Flow (CFS)	Land-use
Experimental	San Lorenzo U/S	6/22/98	0.7	--*	Residential
	San Lorenzo D/S	6/22/98	0.7	11	Residential
	Crow	5/15/98	1.0	5	Residential / Ranching
	Palomeras	6/23/98	1.8	2	Residential / Ranching
	Castro Valley	6/24/98	1.8	--*	Residential
Control	San Francisquito U/S	6/25/98	1.1	9	Open space preserve
	San Francisquito D/S	6/25/98	0.8	11	Agriculture Equestrian
	Bear	6/25/98	1.3	3	Open space preserve

* Flow measurements were not made at these sites or did not appear representative of actual flow conditions.

Gradient was measured for reaches using USGS 7.5 minute quadrangles. This method gives a "ball park" estimate and was used to establish comparable stream sections in both watersheds. Gradient was measured on Crow Creek using a hand level and rod and was consistent (within 1%) with measurements from USGS maps.

Spawning and rearing habitat were evaluated at the same time, during the early summer of 1998. All reaches were evaluated within a 3-day period, with the exception of Crow Creek. Although steelhead spawn during winter and early spring, it was assumed that spawning substrate would not change substantially and could be assessed at the same time as rearing habitat. All creeks evaluated exhibited abnormally high base flow conditions due to the high rainfall of 1997-98.

Spawning Habitat

When assessing spawning gravels, two life stages should be considered, the sedentary egg and alevin stage, and the emerging fry stage. Egg and alevin development have been shown to be impacted by fine silt (particle sizes of <0.85 mm), whereas emergence of the fry has been shown to be impacted by sand and small gravel (0.85-9.5 mm). Therefore two methods were used in this study to assess spawning gravels: bulk sampling to assess fine silt within the gravels, and pebble counts (Wolman, 1954) to assess framework size which is indicative of the ability of fry to emerge (as recommended by Kondolf, 1988). Pebble counts consisted of collecting 100 pebbles from a single location in the sample reach. Rocks that could not be moved were recorded as embedded. Bulk sampling consisted of taking two substrate samples using a small shovel from each reach.

Knowledge of historical steelhead spawning locations in San Lorenzo Creek was not available for this study. In order to choose potential spawning locations for habitat assessment, stream channel conditions established in the literature for spawning steelhead were used. The criteria included: pool/ riffle interfaces with gravels in the 2-10 cm range; velocities from 20-90 cm/s; and depths between 10-70 cm--Barnhart, 1986. Primary emphasis was placed upon gravel size, since flow conditions at the time of evaluation (spring) may not have been representative of flow condtions at the time of spawning (winter).

Rearing Habitat

The most important habitat type for salmonids as far as rearing habitat is concerned is pool habitat. Pool habitat and other physical habitat data was collected using methods based on the California Salmonid Stream Habitat Restoration Manual (CDFG, 1991). Data collected included habitat types, habitat dimensions (width, length, depth), shelter types, and shelter % cover. Table 10 shows the types of rearing habitat data collected and the method used for each.

Shelter cover was measured at pools only. For each pool, the number of shelter types and percent cover within and directly above the water was estimated. These were then multiplied together to give an index of shelter cover.

Benthic macroinvertebrates were evaluated using the California Stream Bioassessment Procedure (CDFG, 1998). These protocols are used by biologists and citizen monitors to assess the condition of fish habitat and water quality conditions statewide. Two methods were used, the point and the nonpoint source method. The same number of samples and size of sample area are used in both methods, except that three samples are taken from within one riffle in the point method, while for the non-point method one sample from three replicate riffles are used. The point method was used at San Francisquito Creek watershed sites, while the non-point method was used at San Lorenzo Creek watershed sites.

Macroinvertebrate samples were taken on May 18 for San Francisquito and Bear Creeks, April 30 for Crow Creek, and June 4, 1998 for San Lorenzo Creek. Sampling area was standardized between field sample sites. Samples were taken in the field with a D-shaped kick net for all sample sites except for Crow Creek where a Hess sampler was used. Three replicate 100-organism samples were analyzed from each San Francisquito Creek site whereas one-100 organism sample was analyzed for each San Lorenzo Creek site. All organisms were keyed out to family level using keys from the CDFG biomonitoring protocol and McCafferty (1983).

Table 10. Spawning and rearing habitat evaluation methods.

Spawning and Rearing Habitat Data	Method
Potential Spawning Gravel (emergence stage)	Pebble Count sampling in potential spawning habitat in one location within each 250 meter section
Potential Spawning Gravel (egg and alevin stage)	Bulk sampling in potential spawning habitat in two locations within each 250 meter section
Potential Rearing Habitat	Habitat types and dimensions (length, average width, and average depth for each habitat unit, and maximum depth for pools) (CDFG fisheries assessment protocol)
Shelter	Shelter rating and % cover (CDFG fisheries assessment protocol)
Macroinvertebrates	CDFG Rapid Bioassessment Protocol for Macroinvertebrates. Point and Nonpoint sampling method.
Turbidity	Lamotte® turbidity test kit (model #7519) and Alameda County Water Resources turbidity data
Water Temperature	Hand thermometer and Alameda County Water Resources data
CFS	Water velocity, width and depth measurements at 3-7 locations along a cross-section within a glide or similar homogenous habitat type
Gradient	USGS 7.5 minute quadrangle maps

Flow was measured in each stream section by timing a float (tennis ball or other object) over approximately a meter at several points along a cross-section at a homogenous channel location (glide). Depth was measured where each velocity measurement was taken and a flow velocity was calculated for each cross-section unit. Stream flow was determined by adding the calculated flows for each unit (USGS, 1982).

Methods: Assessment of Water Quality

Substantial water temperature, dissolved oxygen, and turbidity data has been collected on San Lorenzo Creek by Alameda County Public Works, Water Resources Division. This data was collected in different reaches of the watershed at different times of year. For this study, some additional temperature data was collected downstream of the reservoirs and within San Lorenzo Creek concrete channel to provide more data on where temperature may be a problem for steelhead within the watershed.

Results and Discussion: Spawning Habitat

Pebble Counts and Bulk Sampling

Table 11 shows the pebble counts recorded at all sample sites. Figure 26 shows the percentage (by count) of particles <4 mm and embedded in all sample reaches. With the exception of Castro Valley/Chabot Creek, all San Lorenzo Creek sites had a higher percentage of fines than San Francisquito Creek sites. Similar results were found for embeddedness, with the exception of both Castro Valley Creek and Palomeras Creek.

When testing the <4 mm size class counts, no significant differences were found between San Francisquito and San Lorenzo Creek watershed sites at the 5% level using the Mann-Whitney-Wilcoxon (MWW) statistical test (one-sided

only). Although San Lorenzo Creek sites had higher counts for the <4 mm size class than most of the San Francisquito Creek sites, the one exception–Castro Valley Creek--had the lowest outcome of all, and no significance was found. A similar result was found when comparing the embedded size class for both watersheds. Although a general pattern of greater numbers for embeddedness counts were found at San Lorenzo Creek sites, no significance was found at the 5% level using the MWW test (one-sided only).

The results of the bulk substrate sampling are shown in Table 12. Surprisingly, percent fines were in many instances as high or higher at San Francisquito Creek sites than at San Lorenzo Creek sites. Statistical tests were not conducted on this data due to the lack of any discernable pattern.

The results of the bulk sampling, and to a lesser degree the pebble counts conflict with the substrate appearance in streams of both watersheds. San Lorenzo watershed streams appeared to be more dominated by a mud bottom substrate than San Francisquito watershed streams.

The lack of conclusiveness is thought to be the result of the small number of samples taken (16 total) and the heterogeneity of the stream substrate. Although sampling was standardized as well as possible, the variability of grain size both horizontally and vertically within the stream substrate may obscure

actual patterns. In addition, the high rainfall of 1997-98 may have brought in more silt than normal to both systems, and obscured differences that would have been detected in a normal rain year.

Table 11. Pebble counts at sample reaches in San Lorenzo and San Francisquito Creek watersheds.

Size classes (mm)	SF U/S	SF D/S	Bear	SLor-U/S	SLor-D/S	Crow	Palomer.	CV/ Chabot
<2	6	7	7	14	15	40	19	5
2-4	5	5	3	6	4	5	9	4
4-8	15	4	7	7	12	6	6	15
8-16	33	27	19	14	28	11	20	31
16-32	18	35	23	28	10	4	25	22
32-64	6	13	9	8	6	1	12	9
64-128		5	8	3		1	3	1
128-256	3	1		8		6	1	5
256-512								
512-1024								
embed.	7		5	20	13	32	3	5
Total	93	97	81	108	88	106	98	97
%< 4mm	12	12	12	19	22	42	29	9
% embed	8	0	6	19	15	12	3	5

In San Francisquito Creek watershed, silt levels are identified as being a potential problem, especially within Corte Madera Creek, which flows into Searsevile Lake. Searsevill Lake has filled up with silt over the years, and is believed to currently have only 20% it's original depth (A. Launer, personal communication).

It is important to consider that salmonids remove significant silt from gravels when spawning. Amounts removed can vary depending upon size of fish, species, and streams. For trout, an average of 30% of fines were removed from redds during the act of spawning (calculated from several studies--Kondolf, 1988). Steelhead have been observed to spawn successfully in reaches of the Guadalupe River with 40% embeddedness (D. Salsbury, personal communication). Steelhead appear to be capable of spawning with some success in stream systems that have higher levels of silt, regardless whether this is the result of natural processes or stream degradation. It is likely that silt levels are naturally higher for streams in the San Francisco Bay Area and subsequently steelhead reproduction is limited to a greater degree than it is in streams of other regions (i.e. Pacific northwest). Because of this, it is likely even more critical to protect suitable spawning gravels within these streams from further influxes of silt.

Table 12. Bulk sampling results at sample reaches in San Lorenzo and San Francisquito Creek watersheds.

Sample Site	% finer 4.75 mm	% finer 2.0 mm	% finer 0.85 mm
*San Francisquito @221m	34	25	17
*San Francisquito @99m	34	17	9
*San Francisquito @85.5m	21	12	8

Sample Site	% finer 4.75 mm	% finer 2.0 mm	% finer 0.85 mm
*San Francisquito @260m	38	22	10
*Bear @194.5m	42	28	18
*Bear @9m	44	30	19
San Lorenzo @107.5m	21	14	8
San Lorenzo @213m	98	78	42
San Lorenzo @94m	51	28	13
San Lorenzo @14m	33	23	15
Crow @220m	37	24	18
Crow @300m	32	22	16
Palomeras @66m	18	14	10
Palomeras @154.5m	25	17	10
Castro Valley/ Chabot @82m	32	20	10
Castro Valley/ Chabot @197m	22	12	5

* Control sites

Results and Discussion: Rearing Habitat

Habitat Typing

The most meaningful measure variable from the habitat typing is the amount of pool habitat. Results are shown in Figures 27, 28, and 29. Figure 27 shows total pool volume between sample sites. All control sites had greater pool volume than experimental sites, with the exception of the San Lorenzo Creek D/S site, which showed higher pool volume than Bear Creek. Using the Mann-

Whitney-Wilcoxon (MWW) nonparametric statistical test (one-sided only), pool volume was significantly lower (P=0.037) at San Lorenzo Creek sites than at San Francisquito Creek sites. Table 13 shows the summary of statistical tests.

Figure 28 shows average pool depth multiplied by pool length. This measure excludes width. All control sites had greater values than experimental sites using this index. Using the MWW statistical test, pool depth x length was significantly lower at San Lorenzo Creek sites than at San Francisquito Creek sites for both one-sided (P=0.018) and two-sided tests (P=0.037). This measure was applied as a supplement to the pool volume measure because it appeared that when comparing higher-order streams with lower-order streams, stream width could skew results in favor of higher-order streams.

Table 13. Summary of P-values for statistical tests.

	Two-sample t test		Mann-Whitney-Wilcoxon test	
Measure	One sided	Two sided	One sided	Two sided
Pool Volume	0.071	0.141	0.037*	0.074
Pool Depth X Length	0.044*	0.088	0.018*	0.037*
Percent Pool	0.017*	0.034*	0.037*	0.074
Shelter Cover	0.097	0.195	0.067	0.134

* Indicates significance at the 5% level.

For example, although Bear Creek had 10 pools and totaled 92 meters of pool length over a 250-meter sample reach, San Lorenzo Creek D/S scored higher in pool volume, even though San Lorenzo Creek D/S had only two pools

totaling 34 meters in length over the same 250-meter sampling length. Ideally only streams of similar order should be compared, but due to the small sample sizes used in this study, it would not have been possible to make statistical comparisons.

Figure 29 shows a comparison of the pool/run/riffle ratio (based on length) for each creek sampled. A high ratio of pools is indicative of good steelhead habitat. Upper San Francisquito and Bear Creek had the highest percentage of pools, with close to 40%. With the exception of Castro Valley Creek (27%), all San Lorenzo Creek sites were 20% or less. Upstream San Lorenzo Creek (U/S) had the worst pool percentage with <1%. Using the MWW statistical test, percentage of pool habitat was significantly lower at San Lorenzo Creek sites than at San Francisquito Creek sites for the one-sided test (P=0.037). A two-sample t-test showed significance for both the one-sided test (P=0.017), and the two sided test (P=0.034).

The nonparametric Mann-Whitney-Wilcoxon rank sum test is probably the appropriate statistical test for the pool data. It does not assume the data are normally distributed. Two-sample t-tests conducted on the data show significance only for the percent pools measure. However such tests assume the data are normally distributed. Neither theoretical considerations based on the type of data, nor evidence from the small amount of data available settles

whether the data are near enough to normal for t-tests to be preferred over MWW tests.

The MWW test is based solely on the relative ranks of the observations. In each case, three stream segments are compared to five. With such small sample sizes, statistical significance is hard to achieve. Before data were collected, it was expected that any observed differences would be in the direction of higher quality for the San Francisquito sites, thus one-sided tests are warranted.

Of the San Lorenzo Creek watershed sites, Castro Valley Creek and San Lorenzo Creek (D/S) had the highest values for pool habitat. Castro Valley Creek had substantial pool development compared to other San Lorenzo Creek sites. San Lorenzo Creek (D/S) had fair pool development, while San Lorenzo Creek (U/S) had extremely poor pool development. This is partly the result of this sample site being located within a section dominated by runs, step-runs, and glides. However the fact that either most or all of the San Lorenzo Creek sites scored below and sometimes well below the San Francisquito watershed sites on every measure of pool habitat suggests a system-wide deficiency in pool habitat.

In urban streams, a decrease in pools, and an increase in run/glide habitats has been observed (CRWQCB, 1996). The causes for this are threefold; 1) increase of peak flow during storm events due to increased

watershed imperviousness which in turn causes greater erosive flows; 2) removal of bank vegetation which intensifies bank erosion; and 3) removal of instream pool-creating objects such as large woody debris (i.e. log jams) by flood control maintenance operations. The increased flows in urban streams erodes stream banks, causing bank material to collapse and deposit in the stream channel, filling pools and creating wider, shallower channels.

These hydraulically simple reaches, dominated by runs and glides, contrast sharply with the complex hydraulic characteristics of healthy streams. Pearsons (1992) found that following floods, hydraulically complex stream reaches lost proportionately fewer fish and had generally higher fish diversities than simple reaches.

Studies by Harza Northwest on urban streams in the Puget Sound area within the cities of Dent, Renton, and King County, found that low gradient glides were biologically depauperate in terms of macroinvertebrates and juvenile coho salmon (Allee, 1996). The percentage of pool habitat had been reduced to 1-2% of available instream habitat, and the highest densities of coho juveniles were found in a concrete-lined detention pond, underscoring the importance of deep pool habitat for rearing salmonids.

Shelter

An average index of shelter cover was calculated for each reach sampled. Results are shown in Figure 30. Average shelter cover was found to be highest at the San Francisquito Creek (D/S) and Bear Creek sample reaches. San Lorenzo Creek U/S had the next highest shelter rating. Although there was an observable pattern of higher values for San Francisquito watershed sample sites when compared to San Lorenzo Creek sample sites (Figure 30), the sites were not found to be significantly different at the 5% level using either the MWW test or the two-sample t-test (Table 13).

Shelter cover was estimated using a qualitative measure (number of cover types multiplied by the estimated percent cover for each). Based on visible differences during field observations of the two watersheds, it seems likely that with larger sample sizes a statistically (and biologically) significant difference in shelter cover between experimental and control sites could be found. The fact the differences between the two watersheds are not as extreme for shelter cover as they are for amount of pool habitat, however, indicates that shelter cover may not be as limiting when compared to other habitat components.

What is perhaps most revealing is the difference in presence of large woody debris between the two watersheds. Large woody debris is considered the most important type of shelter cover for salmonids, and is also an important

structural component in pool formation. Large woody debris is often missing from urban streams due to removal by maintenance crews for flood control purposes. Large woody debris was noted to occur 3.3 times more frequently within San Francisquito Creek sample sites (average of 2 times per reach) than in San Lorenzo Creek sample sites (average of 0.6 times per reach).

Benthic Macroinvertebrates

Taxonomic groups identified at each sampling site are shown in Table 14, Metrics calculated from the taxonomic groups identified and the number of organisms within each group are shown in Table 15.

Figure 31 shows benthic macroinvertebrate abundances for each creek sampled. Each sample represents a 6 ft.^{2} sample area. Both San Francisquito watershed sites (San Francisquito Creek and Bear Creek) show benthic macroinvertebrate abundances in the thousands of individuals per sample area. In contrast, Crow and San Lorenzo creeks are in the hundreds of individuals per sample area.

Table 14. Benthic macroinvertebrate taxonomic groups recorded in San Lorenzo Creek, Crow Creek, San Francisquito Creek and Bear Creek during spring 1998.

Order	Family	San Lorenzo	Crow	San Francisquito	Bear
Trichoptera	Hydropsychidae	X		X	

Order	Family	San Lorenzo	Crow	San Francisquito	Bear
	Lepidostomatidae				
	Rhyacophilidae		X		
Plecoptera	Perlodidae				X
	Chloroperlidae		X		
Ephemeroptera	Baetidae	X	X	X	X
	Ephemerellidae		X	X	X
	Leptophlebiidae			X	X
	Heptageniidae		X	X	
	Caenidae			X	
Coleoptera	Elmidae				X
Diptera	Ceratopogonidae			X	X
	Simuliidae	X	X	X	X
	Chironomidae	X	X	X	X
	Empididae				X
*Other	Oligochaeta	X		X	X
	Suborder: Acari				X
	Daphnia			X	
	Ostracoda			X	
	Gastropoda			X	
Totals		**5**	**8**	**13**	**10**

San Francisquito Creek and Bear Creek benthic macroinvertebrate samples were collected and analyzed at the California Stream Bioassessment Workshop held at Jasper Ridge Biological Preserve, May 18-20, 1998. Data presented here with permission of Jim Harrington and the American Fisheries Society.
* Non-insect groups.

The most dramatic differences were found between Bear and Crow

creeks, with Bear Creek (calculated abundance of 3537 organisms per sample area) having 27 times the abundance of Crow Creek (calculated abundance of 131 organisms per sample area).

Differences between the San Francisquito Creek sampling site and the San Lorenzo Creek sampling site also showed large differences. San Francisquito Creek had approximately two times the abundance of San Lorenzo Creek per sample area.

Table 15. Macroinvertebrate metrics for San Lorenzo Creek and San Francisquito Creek Sample Sites. Standard deviations are shown in parenthesis.

Metric	San Lorenzo	Crow	San Francis-quito[1]	Bear[1]
Taxa Richness[2]	**5**	**8**	**10** (0)	**9** (0.8)
EPT Taxa	**2**	**6**	**5** (0.5)	**3** (0.5)
EPT Index	17	62	9 (1.5)	23 (5.8)
% Dominance	55	36	61 (0.5)	51 (5.1)
Tolerant Taxa	5.81	4.09	5.8 (0.1)	5.5 (0.3)
Sample #	100	100	94 (5.5)	93 (2.4)
Abundance	**864**	**131**	**1633** (83)	**3537** (1404)

[1] San Francisquito Creek metrics are an average of 2 replicates, (one replicate thrown out due to suspected bias in recording), while Bear Creek metrics are an average of 3 replicates.
[2] Non-insect groups were excluded from taxa richness calculations.

Figure 32 shows the number of all taxa (taxa richness), and number of

EPT taxa (Ephemeroptera, Plecoptera, and Trichoptera) recorded at each site. High numbers of EPT taxa are good indicators of stream health (Merritt and Cummings, 1996, Chapter 7). Both San Francisquito Creek sites had higher numbers of taxa richness than the San Lorenzo Creek sites, although Crow Creek had the highest number of EPT taxa (6).

Sampling time may have affected macroinvertebrate data at one sampling site (San Lorenzo Creek sampling site). Sampling was done in June at this site and may have missed the peak emergence time. Samples taken at the Crow Creek, San Francisquito Creek, and Bear Creek sample sites were taken during April and May and should have intercepted the peak emergence period for these locations (A. Feng, personal communication).

The high rainfall of 1997-98 could have reduced macroinvertebrate abundances by "blowing out" existing leaf packs, loose substrate, and woody debris from San Lorenzo Creek. This is not likely to be the cause for the disparity between watersheds however, because San Francisquito Creek experienced some of the worst flooding this century in 1998, yet still had much higher benthic macroinvertebrate abundances than San Lorenzo Creek the following spring.

Benthic macroinvertebrate abundance can be highly variable statistic due

to natural variation in spatial distribution and timing of emergence (Merritt and Cummings, 1996, Chapter 6). However the large disparity between abundances in San Lorenzo Creek and San Francisquito Creek is suggestive of degraded conditions within San Lorenzo Creek watershed. Good representation of EPT taxa yet very poor abundances is similar to previous years findings on Crow Creek (A. Feng, personal communication).

A number of factors are potentially responsible for this observed reduction in abundance. Factors include: 1) a lack of nutrient-rich leaf packs that are the primary producers in the stream food web; 2) reduction in living space for benthic macroInvertebrates due to siltation of riffle habitat; 3) reduction in natural cobble and gravel substrate and increase in concrete rubble substrate; and 4) stormwater/pesticide pollution.

Leaf packs provide an important nutrient source to the stream food web. The lack of pool habitat suggests that there are less slow-water areas where leaf packs can develop. In addition, the types of leaves within leaf packs in the San Lorenzo Creek watershed are often composed of non-native blue-gum eucalyptus *(Eucalyptus globulus)* leaves. Genera of this family tend to exhibit low biological processing rates compared to other (especially deciduous) trees (Cummins et al., 1989).

The high incidence of fine sediments (<4 mm) found in riffles with the

pebble count data suggests that there may be a deficiency of microhabitat living space for benthic macroinvertebrates within San Lorenzo Creek watershed. In addition, the prevalence of embedded concrete rubble in the substrate as opposed to cobble and/or gravel substrate further reduces available habitat for these animals.

Pesticides may also be responsible for impairing macroinvertebrate numbers. Diazinon, an organophosphate insecticide used widely in California, is a potential source of toxicity in San Lorenzo Creek watershed (see water quality discussion on pesticides).

Results and Discussion: Water Quality

Temperature

Stream water temperature is affected by factors such as depth, velocity, shade, substrate absorbence, and temperature of supplying waters. There is a natural rise in stream temperatures as water moves downstream through the watershed, moving from steeper, more shaded canyons to lower gradient meandering higher-order streams. This natural slow increase in temperature with distance has been magnified in San Lorenzo Creek due to the presence of reservoirs and open concrete flood control channels.

Water temperatures in the upstream natural sections of San Lorenzo

Creek watershed appear to be relatively healthy for steelhead. Weekly water temperature data collected by the County of Alameda in 1995 and 1996 showed San Lorenzo Creek to be between 9.5 - 23.7°C. Data recorded every two hours with Hobo© remote temperature data loggers in August of 1996 showed a diurnal range of 2-3°C, with a minimum temperature of 17° C, and a maximum of 22° C for the entire month (Alameda County Water Resources, station SLZ- 3). Slightly lower temperatures were recorded for Crow Creek. Weekly water temp-eratures for Crow Creek in 1995 and 1996 ranged from 8.1-20.4° C, while remote temperature data taken in August 1996 ranged from 14-20° C, with a diurnal fluctuation of 1.5-4° C (Alameda County Water Resources, station SLZ-5).

In contrast, water within the concrete channel in lower San Lorenzo Creek has very high water temperatures during spring, summer, and fall. The concrete channel is not suitable for spawning or rearing, and so provides only a migration corridor for steelhead. Temperatures during the winter months, when adult steelhead are migrating upstream, tend to stay relatively cool (8-16° C in February, with a diurnal fluctuation of 0.5-4° C). During the spring (the period of steelhead smolt outmigration), however, temperatures rise. In March and April 1996, temperatures ranged from 10 - 24° C , with a fluctuation of 2.5 -10° C in a 12-hour period. In late spring and summer water temperatures range from 14 -31°C, with a 12-hour fluctuation of 10 - 15° C (Alameda County Water Resources, station SLZ-2). These severe temperature swings would likely cause

sublethal effects (e.g. increased parasitism, adverse development) on smolts attempting to migrate through the channel during the spring. In the summer, water temperatures would likely be lethal to steelhead.

Water temperatures in the open concrete channel also increase in a downstream direction. I measured water temperatures in the San Lorenzo concrete channel on a warm summer day (August 23, 1996), using a thermometer. Taking measurements every one-quarter mile over a three-hour period, I found that water temperatures increased by about 2.2° C per mile within the unshaded concrete channel. This corresponded to a 10° C increase (from 19.5° C to 29.5 ° C) over the entire 4.6 mile concrete channel section from Foothill Boulevard in Hayward to the Southern Pacific RR crossing near the mouth of the Creek.

Sources of thermal pollution into the upper San Lorenzo Creek system include heated runoff from urban areas and heated water from reservoir spillways. Temperatures measured by hand thermometer upstream and downstream of the reservoirs in June 1998, showed an increase of 5° C (from 16 to 21° C) at Cull Reservoir, and an increase of 3° C (from 17 to 20° C) at Lake Don Castro.

The present water temperatures in the upper watershed tributaries (Crow,

Palomeras, Cull) are probably close to the natural condition since tree canopy cover is good and there are no unusual thermal inputs into these streams. Water temperatures in the concrete channel during winter, the time of steelhead upstream migration, are also not likely to be a problem. However, within the concrete channel section of San Lorenzo Creek during the spring, and creek sections immediately below Don Castro and Cull Reservoirs, there are significant temperature increases. State and Federal Water Quality Standards for California require that elevated temperature waste (ETW's) shall not raise receiving water temperature greater than 5° F beyond 1000 feet downstream of the point of discharge. This water quality standard is probably exceeded downstream of Don Castro reservoir and within the open concrete channel of San Lorenzo Creek during warm weather periods in the spring, summer, and fall. Heated waters discharging from Cull Reservoir are partially ameliorated by the larger and cooler flows of Crow Creek, only a few hundred feet from the Cull Reservoir spillway.

Theoretically the optimum temperature range for steelhead is 4-15° C. Water temperatures above about 18° C are unfavorable, and sustained temperatures from 22-27° C are lethal to embryos and juveniles. As stated earlier, these temperature thresholds were established in cooler climates than the San Francisco Bay Area. During episodic heat waves in summer and fall, stream water temperatures in relatively natural sections of San Lorenzo Creek

can rise to 22-23° C. If there is substantial macroinvertebrate prey and good oxygen levels, native steelhead parr can sustain themselves through these periods (J. Hagar, personal communication). With low macroinvertebrate abundances, and additional thermal inputs to these streams, survival becomes less likely.

Dissolved Oxygen

Weekly dissolved oxygen (DO) measurements in the unchannelized sections of Crow and San Lorenzo creeks by Alameda County Water Resources during 1995 and 1996 show dissolved oxygen levels at or above 7 mg/ l during the summer and fall. During the winter DO was typically at 10 mg/l and near 100% saturation. These measurements were typically taken during the morning at stations in the concrete channel, and during the afternoon at stations in the upper watershed (L. Kilgour, personal communication).

Dissolved oxygen measurements in the concrete channel showed extreme levels of oxygen (supersaturation) during the spring and summer. This is likely the result of the exposed conditions, shallow water, and high algae blooms. At night and during algae die-off periods the channel likely has large DO drops from biological oxygen demand. Dissolved oxygen therefore is likely to be an additional problem for smolts (or spring-run adults) moving through the concrete

channel during the spring.

Low DO levels are not uncommon within remnant pools during the summer and fall dry period, and the measured levels of water column DO appear to be sufficient to sustain steelhead parr in the upstream natural sections of the watershed. However intragravel DO (an important measure of DO available to eggs and developing alevin) may be limiting due to the high amounts of silt in the stream system.

Turbidity

Turbidity data collected during habitat assessments in mid-summer did not reveal a turbidity problem in any of the creeks sampled. (All measurements < 5 Jackson Turbidity Units (JTU). Turbidity, however, is more likely to be a problem during winter when higher flows are actively eroding stream banks. Turbidity data collected by Alameda County Water Resources once a week for several weeks during the winter of 1995, 1996, and 1997 documented a turbidity problem in all creeks except Castro Valley Creek. Table 16 shows turbidity data for San Lorenzo Creek, Crow Creek, Palomeras Creek, and Castro Valley Creek over a 7-week period in the winter of 1997. The county has identified extreme turbidity problems in Norris and Crow Creeks, where turbidity levels >12,000 JTU have been recorded.

Turbidity data collected by Alameda County in 1995, 1996, and 1997 is consistent with my visual observations during the winter of 1998. Castro Valley Creek was observed to take approximately 2 days to clear after a storm event, while all other streams in the watershed would take approximately 2 weeks or more.

Table 16. Turbidity levels in San Lorenzo Creek, winter 1997.

Date	San Lorenzo (station SLZ-3)*	Crow (Station SLZ-5)*	Palomeras	Castro Valley
1/3/97	560	480	--	50
1/10/97	25	50	50	5
1/16/97	50	70	80	0
1/24/97	220	180	200	5
1/30/97	200	320	320	0
2/6/97	80	400	160	0
2/13/97	40	160	120	0
2/20/97	30	60	120	5

*Alameda County Water Resources San Lorenzo Creek water quality station designations.

California water quality standards state that where natural turbidity is between 0-50 JTU, increases shall not exceed 20%. For 50-100 JTU, increases shall not exceed 10 JTU, and for over 100 JTU, increases shall not exceed 10%. It is difficult to say with confidence what the natural turbidity level is for San Lorenzo Creek watershed. Castro Valley Creek is mostly confined within

concrete or bedrock and naturally has lower turbidity than the other tributaries of the watershed which flow through unconsolidated sediments consisting primarily of clay. However the persistence of turbid conditions for weeks after rainfall events is indicative of unnaturally high levels of fine silt and clay coming in to these streams.

SUMMARY AND CONCLUSIONS

Based on the negative results from fish surveys that included downstream migrant trapping, visual surveys for parr, and electroshocking surveys in 1997-98, it appears that steelhead are no longer reproducing in San Lorenzo Creek watershed. Reports of adult native steelhead migrating into the creek in wet years could not be confirmed from surveys conducted in 1997-98, however persistent turbidity in the creek inhibited the ability to survey the stream. Exotic fishes were found to present in San Lorenzo Creek, but two native fishes; California roach and Sacramento sucker, were found to be the dominant species throughout the stream system.

Evaluation of San Lorenzo Creek for steelhead habitat found limitations for the species at every life stage. Upstream migrant access was evaluated at a 4.6-mile concrete channel on San Lorenzo Creek and a 1670-foot concrete box culvert on Crow Creek in the winter of 1997-98. When compared to established maximum cruising (swimming) speeds for steelhead, these flood control channels were found to be virtually impassable barriers. Only very shallow depths were found where flow velocities were suitable for steelhead passage within San Lorenzo Creek concrete channel (maximum depth of 1.2 feet in channel center (e.g. V-notch)). In a section where steel baffles were placed in the V-notch to reduce velocities, maximum depth suitable for passage

increased to only 1.8 feet in the channel center, and 1.0 feet along inside bends. No suitable conditions for steelhead passage were found at the Crow Creek box culvert.

By comparing spawning and rearing habitat conditons in San Lorenzo Creek to a reference stream (San Francisquito Creek), four limitations in steelhead spawning and rearing habitat were revealed: 1) lack of pool habitat; 2) lack of large woody debris; 3) excessive silt deposition in potential spawning areas; and 4) low abundances of benthic macroinvertebrates.

Most or all of the San Lorenzo Creek sites scored below, and sometimes well below, the San Francisquito watershed sites for pool volume ($P=0.037$), pool length x average depth ($P=0.018$), and % pool (based on length) ($P=0.037$). Large woody debris was noted to occur 3.3 times less frequently within San Lorenzo Creek sample sites. Results from pebble counts from both watersheds showed a pattern of higher percent fines (< 4 mm), and embeddedness within potential spawning gravels in San Lorenzo Creek watershed. Samples of benthic macroinvertebrates taken from two locations within each watershed showed abundances to be from 2 to 27 times lower at San Lorenzo Creek sample sites, though the highest number of EPT taxa occurred at a San Lorenzo Creek site (Crow Creek).

High water temperatures in the San Lorenzo concrete channel during spring and summer would likely impact out-migrating steelhead smolts and in-migrating spring-run adults. In addition, elevated stream water temperatures downstream of the reservoirs may impact rearing habitat in these stretches.

Due to the wandering ability of steelhead, recolonization of San Lorenzo Creek is possible, yet appears highly unlikely given the current access, spawning, and rearing habitat limitations.

It is important to recognize that steelhead do appear to persist in some urban streams such as San Francisquito Creek. The habitat components that are still intact in these systems can be instructional as to what is most important for preserving anadromous fish populations in urban streams.

The lower (valley) portion of San Francisquito Creek is highly urbanized, and is similar to upstream San Lorenzo Creek in it's level of degradation. Conversely, much of the upstream portions of San Francisquito Creek and it's tributaries are in good condition, partially the benefit of less development in the upper watershed, and having portions protected within a biological preserve (Jasper Ridge Biological Preserve). It is because of the existence of this high-quality protected habitat in the upstream section, combined with the lack of any significant access barriers in the downstream section, that this watershed still

supports a steelhead population.

Alternatively San Lorenzo Creek watershed has little protected land, and several access barriers. Protected stream-side parkland areas are small, totaling approximately 500 meters in length (this includes all stream-side parks combined). All portions of the stream system are isolated by access barriers, and the least impacted tributaries (i.e. Cull, Crow, and Palomeras Creeks) are completely inaccessible to steelhead.

If the various stakeholders within San Lorenzo Creek watershed agree that restoring this stream system for steelhead is a worthwhile endeavor, then restoring access, spawning, and rearing habitat will need to be pursued. Meanwhile continued development in the watershed will further degrade the system, unless streamside areas are protected.

RECOMMENDATIONS

1) Improve Access

- Solicit designs for modifying the concrete channel in San Lorenzo Creek to allow fish passage by lowering velocities and providing pool refuge areas while still maintaining flood capacity.

- Investigate using baffles in upstream concrete culverts on Crow Creek (i.e. Washington baffles), to allow fish passage.

- Reduce temperatures within the San Lorenzo concrete channel by providing shade through tree planting or other methods.

2) Improve Spawning and Rearing Habitat

- Institute erosion control projects using biotechnical erosion control methods that can restore streambank integrity and increase habitat values.

- Conduct a focused sediment loads study to identify specific sediment source areas in both hillside areas and along stream banks in San Lorenzo Creek watershed.

- Install pool enhancement structures using large woody debris in upstream sections of the stream system.

3) Improve Protection and Understanding of Steelhead

- Provide better protection of steelhead from poachers, especially during the spawning season.

- Establish the carrying capacity of San Lorenzo Creek for steelhead and identify target population estimates for different restoration scenarios.

3) Improve Watershed and Stream Function

- Establish County-wide stream side buffer zones for all new development. A suggested corridor width is a minimum of 10 times the stream bank width (top of bank).

- Institute projects to reduce the amount of impervious surface area in the watershed and decrease peak flows to San Lorenzo Creek.

- Continue stormwater pollution and monitoring especially within the highly urbanized sections of the watershed (i.e. Castro Valley, Hayward, and San Lorenzo).

- Reduce stormwater runoff temperatures by continuing urban forestry programs in the watershed.

- Continue watershed education programs to foster greater understanding and involvement in the protection of stream ecosystems.

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APPENDIX A: VELOCITY MEASUREMENTS IN SAN LORENZO CREEK, JAN.-APRIL, 1998.

APPENDIX A: VELOCITY MEASUREMENTS IN SAN LORENZO CREEK, JAN.-APRIL, 1998.

APPENDIX B: HABITAT ASSESSMENT DATA FROM SAN LORENZO CREEK AND SAN FRANCISQUITO CREEK WATERSHEDS, SPRING, 1998.

APPENDIX B: HABITAT ASSESSMENT DATA FROM SAN LORENZO CREEK AND SAN FRANCISQUITO CREEK WATERSHEDS, SPRING, 1998.

DRAFT 2015 HOUSING ELEMENT SITES INVENTORY - LOTS WITH MERGER POTENTIAL

Map ID	APN	Street Number	Street Name	Zone	Sub-zone	Allowable Density	Square Feet	Lot Acres	Existing Use	Year Built	PDA	Env. Const.	Existing Units (A)	Maximum Capacity	Realistic Capacity (B)	Net Yield (B-A)	Notes	Community/ Area or Specific Plan	Plan Designation
V24	084D119000405	4806	Sorani Way	R-1	B-E-CSU-RV	6.22	25,265	0.58	Res,Single Family Residence	1973	N	N	1	4	3	2	Possible merger with V23-V25	Castro Valley/ Castro Valley	Suburban and Low Density Residential
V25	084D119000502		Proctor Rd	R-1	B-E-CSU-RV	6.22	24,394	0.56	Vacant,Res Land Zoned 4 Units		N	N	0	3	3	3	Possible merger with V23-V25	Castro Valley/ Castro Valley	Suburban and Low Density Residential
Merged Estimate						6.22	79,280	1.82					1	11	8	7			

V28	415 016000100	21112	Oak St	R-S	DV	21.78	10,464	0.24	Vacant, Public Agency, Exempt		N	Y	0	5	4	4	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family
V29	415 016000200	21120	Oak St	R-S	DV	21.78	9,740	0.22	Vacant, Public Agency, Exempt		N	Y	0	5	4	4	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family
V30	415 016000300	21128	Oak St	R-S	DV	21.78	8,935	0.21	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family
V31	415 016000400	21134	Oak St	R-S	DV	21.78	8,373	0.19	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family
V32	415 016000500	21144	Oak St	R-S	DV	21.78	8,006	0.18	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family
Merged Estimate						21.78	45,536	1.05					0	23	17	17			

V33	415 023001100	22447	Ruby St	R-S	D-20	21.78	7,500	0.17	Single Family Residence,		N	Y	1	4	3	2	State Property, 238 Study area,	Castro Valley/ Castro Valley	Unspecified in current General
V34	415 023001200	22459	Ruby St	R-S	D-20	21.78	7,500	0.17	Single Family Residence, Public Agency, Exempt		N	Y	1	4	3	2	State Property, 238 Study area, within creek buffer. Lot merger possible V33 to V46, V47 and V48.	Castro Valley/ Castro Valley	Unspecified in current General Plan. Proposed: Residential, Medium Density Multi-family

DRAFT 2015 HOUSING ELEMENT SITES INVENTORY - LOTS WITH MERGER POTENTIAL

APN	Street Number	Street Name	Zone	Sub-zone	Allowable Density	Square Feet	Lot Acres	Existing Use	Year Built	PDA	Env. Const.	Existing Units (A)	Maximum Capacity	Realistic Capacity (B)	Net Yield (B-A)	Notes	Community/ Area or Specific Plan	Plan Designa
084D119000405	4806	Sorani Way	R-1	B-E-CSU-RV	6.22	25,265	0.58	Res,Single Family Residence	1973	N	N	1	4	3	2	Possible merger with V23-V25	Castro Valley/ Castro Va	Suburba Low Des Resident
084D119000502		Proctor Rd	R-1	B-E-CSU-RV	6.22	24,394	0.56	Vacant,Res Land Zoned 4 Units		N	N	0	3	3	3	Possible merger with V23-V25	Castro Valley/ Castro Valley	Suburba Low Des Resident
3 Estimate					6.22	79,280	1.82					1	11	8	7			
415 016000100	21112	Oak St	R-S	DV	21.78	10,484	0.24	Vacant, Public Agency, Exempt		N	Y	0	5	4	4	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecif current G Plan. Pr Resident Medium Multi-fam
415 016000200	21120	Oak St	R-S	DV	21.78	9,740	0.22	Vacant, Public Agency, Exem		N	Y	0	5	4	4	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecif current G Plan. Pr Resident Medium Multi-fam
415 016000300	21128	Oak St	R-S	DV	21.78	8,935	0.21	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecif current G Plan. Pr Resident Medium Multi-fam
415 016000400	21134	Oak St	R-S	DV	21.78	8,373	0.19	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecif current G Plan. Pr Resident Medium Multi-fam
415 016000500	21144	Oak St	R-S	DV	21.78	8,006	0.18	Vacant, Public Agency, Exempt		N	Y	0	4	3	3	Vacant State property, Alquist-Priolo Study area. Lot merger possible for sites V28 -V32	Castro Valley/ Castro Valley	Unspecif current G Plan. Pr Resident Medium Multi-fam
4 Estimate					21.78	45,538	1.05					0	23	17	17			
415 023001100	22447	Ruby St	R-S	D-20	21.78	7,500	0.17	Single Family Residence		N	Y	1	4	3	2	State Property, 238 Study area.	Castro Valley/ Castro Valley	Unspecif current G
415 023001200	22459	Ruby St	R-S	D-20	21.78	7,500	0.17	Single Family Residence, Public Agency, Exempt		N	Y	1	4	3	2	State Property, 238 Study area, within creek buffer Lot merger possible V33 to V40, V47 and V48.	Castro Valley/ Castro Valley	Unspecif current G Plan Pr Resident Medium Multi-fam

Ann E. Maris, PhD
Organizer Grove Way Neighborhood Association
1490 Grove Way
Castro Valley, CA 94546

April 9, 2019

Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Attn: Nisha Chauhan nisha.chauhan@acgov.org, Andrew Young Andrew.young@acgov.org

Re: Eden Housing, Inc. Development Application PLN2019-00024

Dear County Planner Chauhan,

I am writing to voice my concerns about the Eden Housing, Inc. proposal to build a new development on Ruby Street, Castro Valley. My family has lived on Grove Way since 1972 and we have seen a lot of changes. I am disappointed that the public has received little-to-no notice of this proposed development, including the lot line changes already carried out with this development in mind. If it weren't for neighbors communicating among ourselves, we wouldn't even know about this development. Although only a few neighbors directly border the CalTrans properties on Ruby Street, the lives of many people would be negatively impacted by the drastic change of the area proposed by this development. The public needs to receive better notification of what is planned for the area in order to provide the County with accurate public input. The public also needs to be given more time between the announcement and the time allotted to provide comments. Ten days is too short of a window.

Eden Housing has not communicated well with neighbors. They held a January 2019 meeting in which the audience was not permitted to ask questions until protests erupted and one question was permitted. After the Eden Housing presentation, various representatives were available at the rear of the room to answer questions. I met with their biologist who told me that the deer and wildlife "will go elsewhere" and that the deer can live in the creek. When I protested that deer don't live in the creek, rather they live in the meadow, he replied that he

saw them in the creek when he did his site visit. The Eden Housing project has made no provisions for resident wildlife or their continued existence. In fact, their biologist did the opposite, dismissing the value of their presence. The neighborhood's peaceful enjoyment of wildlife in Ruby Meadow forms a large part of the character and benefits of the neighborhood; therefore, the wildlife's continued presence must be considered and even encouraged. Specifically, the Castro Valley General Plan shows that these Ruby Street parcels are in a highly sensitive biological area that needs special consideration. Details were outlined to your department in a March 26, 2019 letter from Bruce King, Friends of San Lorenzo Creek. I agree with his expert analysis and concerns.

Overall, the proposed Eden Housing development is in stark contrast with the Castro Valley General Plan, the Watercourse Protection Ordinance, and other standards. The 2012 CV General Plan (pages 2-4) describes the "clear vision" for Castro Valley that emerged though "community input and planning analysis." Six **key objectives** are described. The first involves revitalizing the central business district. The Eden Housing proposal needs to be considered in light of the other five key objectives: 1) "Preserve the area's defining natural characteristics, embodied in the hills, canyons, creeks, and rural corridors, and views to those natural areas;" 2) "Improve access for children to schools, parks and recreation facilities, and provide safer streets for walking and bicycling, in order to create a good environment for raising a family;" 3) "Provide facilities for activities and entertainment venues for all age groups... Ensure safe residential streets where traffic speed and noise do not dominate residential streets, and where residents, especially children, can walk or bike to schools, neighbors, stores, and other destinations;" 4) "Preserve the small town "rural" character of Castro Valley, with low scale buildings, views to the natural areas...;" 5) "Reduce impacts of regional traffic and freeway traffic, so that local streets contribute rather than detract from the quality of life in the community."

The creek-side trail in the Eden Housing proposal is not dependent on new development and should be built by H.A.R.D. and Friends of San Lorenzo Creek. It makes sense to extend Carlos Bee Park to include Ruby Meadow. This trail and park area would fulfill key General Plan objectives by 1) preserving the area's natural characteristics and views to those areas, 2)

providing safe access for bikes and pedestrians, 3) contributing to activities and entertainment for all age groups, 4) preserve rural Castro Valley character and views to natural areas, and 5) allowing Ruby Street to contribute rather than detract from the quality of life in the community. Ruby Street neighbors already complain about drivers cutting through from A Street, speeding, traffic back-ups, and difficulty getting out of the driveway during commute hours. Almost 80 more residences on this tiny semi-rural street would be tragic.

The Eden Housing proposal would degrade living conditions in the neighborhood in terms of increased population density, blocked skyline, increased ambient noise, trash, automobile and pedestrian traffic, and the removal of wildlife. Over and over again, both newcomers and long-term residents here describe how the best part of our neighborhood is the wildlife and peaceful views of nature. The Ruby Street parcels are the last undeveloped green spot in the neighborhood and contribute greatly to the quality of life here.

The Castro Valley General Plan also discusses residential development rates (pages 3-16). The 15-year annual average between 1990-2005 is 135 units built per year; however, those data include several "very large subdivisions." For example, between years 2004-2005, the average was only 32 units per year. The Eden Housing proposal alone adds 225% more than this. This proposed development is large and will have significant impact on the neighborhood. Furthermore, the General Plan anticipated that there were "no large sites remaining that can be subdivided." The Eden Housing lot line changes and proposal combines approximately twenty separate parcels together in order to build more homes than the original lot sizes and zoning would have allowed. In addition, this large development is proposed in an area of highly sensitive biological habitat.

The Eden Housing proposal includes pervious pavement, which requires periodic vacuuming. This loud noise in already sensitive habitat would further terrify any resident wildlife, disrupting their nesting, feeding, and natural activities.

The proposed building is a bad idea because it is in highly sensitive Oak Riparian Woodland, and the trail also would wind through this sensitive area. The trail's location is a huge question with regard to pedestrian, bicycle, and other transport modalities which disturb resident wildlife. The trail is almost indescribably valuable to residents for both travel and recreation, but it cannot be built directly next to the creek or within the protected setback area. Therefore, when we consider proper placement of the trail, the developable land shown by Eden Housing's plan is reduced, making this building project excessive and inappropriate for the area. The creek cuts deeply into the earth, bordered by tall cliffs. Vegetative and artificial barricades must be planned for public safety and to preserve the current and potential wildlife habitat. Trail construction should be done where and how it is the least disruptive and dangerous, and the most economically feasible, not in the leftover unstable land below high-rise rental housing.

Chapter 5 of the CV General Plan is about Community Character and Design: "Castro Valley has a unique character that has evolved based on its natural setting and its history. Residents of Castro Valley feel strongly about preserving the character of Castro Valley, and enhancing the aspects of it that they enjoy. This element contains policies and actions to preserve and enhance the community character and design of Castro Valley. The main features that define the desired character of Castro Valley are its "natural setting" and "neighborhood character." **"The natural amenities that contribute [to] Castro Valley's quality of life include: hillsides, canyons, creeks, trees, and the views of these natural resources."** Physical features reflect the agricultural and small-town character of Castro Valley before it became a suburban bedroom community. These include **"undeveloped hillsides and canyons, neighborhoods with streets without curbs and sidewalks, and mature trees in front yards and along streets."** The development of Ruby Meadow would destroy natural amenities of Castro Valley as described in Chapter 5. Ruby Street is a neighborhood without curbs and sidewalks, and with mature trees in front yards and along the street. Neighbors like it this way, as noted in the Castro Valley General Plan, and want it to stay this way. *We want the aspects of Castro Valley that we enjoy enhanced, not removed.*

The August 2011 EPA report, *The Green Solution Project*, describes San Lorenzo Creek: (Section 10.2, pages 10-12) "While all the creeks in the planning area have some issues with erosion, siltation, and urban or agriculture runoff, **only San Lorenzo Creek is listed as impaired.** The pollutant diazinon has been identified in this creek, which indicates agricultural pesticides have entered it through runoff and sewer lines. Even though there are no major discharges to Castro Valley Creek, copper has been found in it." Castro Valley Creek joins San Lorenzo Creek just beyond Eden Housing's proposed development, and continues to the San Francisco Bay. Diazinon is a pesticide, outlawed for residential use in 2004 but still permitted for agriculture. It is considered to be of relatively high toxicity for vertebrates (17-mg per kg body weight kills 50% of mice tested). Not only Eden Housing's proposed development, but any development next to creeks has been shown time and time again to result in increased pollutants in the water and increased temperatures, damaging both habitat and wildlife.

Public Works' commented on this proposal in August 2018 about unstable soil and dangerous conditions. The building's base must be constructed at least one foot above the flood plain, but yet the flood plain map is inaccurate. How tall will this building be? The proposed four-story building already exceeds local building height by double. It also doesn't make sense to park a huge building onto the small unstable lot and then force massive amounts of engineering to design it safely when Eden Housing could simply build at an alternate location.

For example, the Eden Housing project could be built on another CalTrans lot, which the City of Hayward calls "Parcel 9." Hayward presented the idea of building a hotel there at their March 14, 2019 public meeting. Neighbors don't want another hotel here in the area because the two currently on Foothill Blvd, a few hundred feet from Hayward's proposed hotel, bring unnecessary crime and blight to the neighborhood. The two existent hotels have the lowest yelp ratings of all the businesses here on Foothill Blvd between Grove and City Center Drive. Consumers don't like them and residents don't like them. The neighborhood does not need another low budget hotel. Instead, we would feel more positive about having additional rental housing in Parcel 9, such as the project proposed by Eden Housing. Also, please

consider creating housing in nearby buildings that have been vacant for decades. For example, the former Hayward City Hall could accommodate many more dwellings than Ruby Meadow and building there would not damage open space land that could be restored. Several other developments in the area have already been approved, so also developing in Ruby Meadow would further burden an area already full of new developments.

In summary, I ask that the Eden Housing proposal be denied as presented and that Eden Housing considers building in locations outside of Ruby Meadow. I ask that Alameda County coordinates better with the City of Hayward, the neighbors, and relevant agencies, to consider the entire area around Grove Way (Ruby Meadow + Parcel 8 + Parcel 9) when building on CalTrans land that has been off the tax books for fifty years. I agree with the analysis from Friends of San Lorenzo Creek and with the community letter circulated by the Fishman/Wah family. Please help our neighborhood improve and recover from the damages inflicted by CalTrans.

Sincerely,

Ann E. Maris, PhD
Grove Way Neighbor and
Organizer Grove Way Neighborhood Association

Decisions made in a vacuum

How does "amount natural resource destroyed to build" figure into LEED certification? For example, in my neighborhood, we have many vacant blighted lots, but Eden Housing Inc And its Affiliates is planning to destroy our last wildlife habitat here by the creek, and almost 100 tress, including 81% of the heritage trees and 82% of native trees in the development area. The project aspires to Silver LEED status. Does removing all of these carbon sinks and natural cooling affects figure in to certification?

General Plan Elements Must Be Consistent

State Law requires the General Plan to be consistent. The housing element must be consistent with all other elements, and claims to be (2015 Housing Element pg vii). The open space element is another of the seven required elements. With the exception of the housing element, which must be updated every five years, cities and counties are not required to update the general plan. The 2015-2023 Alameda County Housing Element is the most recent housing element adopted by the Board of Supervisors (May 5th, 2015).

Conservation Element Not Yet Updated

AB 162 requires Alameda County to review, and if necessary, identity new information for its Conservation and Safety Elements of its General Plan upon the next revision of the Housing Element, on or after January 1, 2009. The Housing Element states that the Safety Element was updated in 2013 and that "amendments to the County's Conservation Element are in development."

Chapter 7 of the 2012 Castro Valley General Plan (CVGP) contains the Biological Resources element for the Ruby Meadow area. The chapter states that Alameda County is updating its Resource Conservation, Open Space and Agriculture (ROSA) elements. The yet-to-be updated ROSA will replace existing documents including the *1973 Open Space Element* (amended 1994) and the *1977 Specific Plan for Areas of Environmental Significance* (2012 CVGP pg 7-1). Until

ROSA is updated, these documents continue to stand as parts of the most recent Alameda County Conservation Element. The Alameda County Housing Element claims and was certified not create housing at the expense of goals and policies within the Conservation Element of the General Plan that was adopted by the Board of Supervisors.

Ruby Meadow Is Not An Infill Site And Is A High Priority Biological Resource

The 2012 CVGP does not include Ruby Meadow as an area of proposed infill. Ruby Meadow is identified as an area of "high biological significance," requiring additional scrutiny before any development is approved and does not guarantee that the maximum units allowed by zoning will be permitted (2012 CVGP, pg 7-5). The 1973 and 1977 conservation elements, as well as the 2012 CVGP goals and policies clearly support preserving and restoring Ruby Meadow. Goal 7.1-1: **Protect Castro Valley's native wildlife through conservation and restoration of natural habitat.**

Half of The Ruby Meadow Parcels Are In The Housing Element

The 2015 Alameda County Housing Element (ACHE) identifies potential housing development sites. The Housing Element lists 10 of the 20 Ruby Meadow parcels, providing for a possible maximum of 43 units. The ten remaining Ruby Meadow parcels are not listed in the 2015 ACHE.

All twenty parcels are being bundled together using lot line changes and boundary adjustments by Eden Housing Incorporated and Its Affiliates. This process of creating a larger parcel for development did not include public input, nor was the public notified.

The ten Ruby Meadow parcels listed in the ACHE are R-S-D-20 zoning district, requiring a minimum of 2000 sqft of land per dwelling unless a lot dimension is less than 100 linear ft, in which case 3500 sqft are required per dwelling. The land use should conform to the relevant general plan, in this case, the CVGP. The Plan designation for the first listed parcel, APN 415-

230-11 is "unspecified" with no future proposed zoning change. The ACHE notes that the parcel is included in the 238 Land Use Study.

, which shows the parcel as "open space." Many large trees, including redwood and oak are in this area and will be removed for a parking lot and driveway. The ACHE sets the

that the parcel is in the in the Castro Valley General Plan and proposed medium density multi-family. The CVGP designates the other two lots, Lots -14 and -15, "suburban and low density residential." These two lots are at the center of the Ruby Street combined parcel boundary. The ACHE proposes 21 residences are possible in just these two lots, which is about half of the maximum ACHE proposed allotment.

Lots -3 and -5 bordering Crescent Avenue are not in the ACHE. Lots -69, -70, -72, and -73 were also not in the ACHE. All of these lots were taken from the Ackerman family in 1969 by eminent domain proceedings in Superior Court.

the parcels are identified and unzoned and neighboring a creek.

The ten parcels included in the 2015 ACHE are the properties lining Ruby Street and A Street, not the creek/riparian habitat parcels nor the Crescent Street Open Space parcels.

Two houses were removed that existed at 22447 and 22459 Ruby Street. Other homes were also removed.

?The front door/building frontage of the project does not face the street=waiver or concession to guidelines. A building may have a maximum of three secondary frontages.

Housing Element
https://www.acgov.org/cda/planning/generalplans/documents/CompleteHousingElementBOSAdopted050515.pdf

AB 162 http://leginfo.ca.gov/pub/07-08/bill/asm/ab_0151-0200/ab_162_cfa_20070822_103523_sen_comm.html

1) Figures in the 2012 Castro Valley General Plan (CVGP) that indicate **specific zoning changes** in the Grove Way neighborhood are referenced to "Dyett & Bhahia" with no supporting documents available nor relevant discussion found in meeting minutes. (Figure 4-1 Existing Land Use *vs* Figure 4-2 and 4-3)
2) GWNA verbally requested supporting documents for creation of Figures 4-1 and 4-2 was told there are none.
3) These changes are being implemented by CVGP changes during 2019 *Castro Valley General Plan Implementation*.
4) Data of Figure 4-1 is also represented in Chart 4.1-1, which references the Alameda County Assessor, Dyett & Bhatia, 2010.
5) Public/Institutional definition? CVGP Page 4-5: "Public and quasi-public uses, *including schools, churches, and public facilities,* comprise about 12% of the land."
   4% vacant = 257 acres, so 12% public = 257x3= 771 acres (should be 826?)
   *Typo page 4-5: should be 4% = 275 (275x3=825)
6) Page 4-6: "The focus of the General Plan effort has been to formulate more detailed land use and density regulations that reflect *a deeper understanding of existing conditions*, community character, *environmentally sensitive areas*, and new types of residential development."
7) Page 4-6: "The General Plan Land Use Map (Figures 4-2 and 4-3) and Land Use Classification Tables Tables 4.2-1A, -1B, and -1C) contained in this section represent a *comprehensive revision* to the land use regulatory framework, tailored specifically to Castro Valley. The Land Use Map is structured to *function as a new zoning map* for Castro Valley."
8) Page 4-6: "Figure 4-4, Substantive Zoning Changes, shows locations where *the new Land Use Map* will require changes." Figure 4-4 *does not show zoning changes in Ruby Meadow*, but CVGP Zoning Implementation map does show zoning changes in Ruby Meadow.
9) Page 4-10 (Table 4.2-1B) lists no particular current zoning for public facilities. CVGP Implementation proposes the new "PF" zoning. What is the process to change previously "Public Land Use" to any particular zoning?
10) Table 4.2-1B also lists the Biological Resources Overlay Zone (BROZ) as new proposed zoning as shown in Figure 7-2. In fact, the main purpose of Chapter 7 was to create the BROZ (Page 7-1): *"its main provision is the creation of the Biological Resources Overlay Zone."*

process and reach out to parts of the community that aren't usually engaged.

Dr Maris, 1490, Grove Way, CV, spoke on behalf of the Grove Way Neighborhood Association, asking that the Council make a recommendation to Alameda County that policy look at the former Caltrans 238 lands at the boarder of Hayward and Castro Valley and that zoning is not changed to a higher density.

Ann Maris, 1490 Grove Way, CV, spoke about not wanting her home rezoned to RSL with a higher density and that she was not involved in the decision making for the re-zoning. The Chair suggested having a special CVMAC meeting dedicated to the Caltrans 238 properties and the issues they face.

Alan Fishman spoke on behalf of himself and the Grove Way Neighborhood Association, siting inconsistancies with the zoning on these properties and the need to protect Ruby Meadows as a natural resource.

Tyler Dragoni, 18596 Haven Street, Hayward, asked that the community have input on the re-zoning of the Caltrans 238 properties and spoke of the lack on infrastructure in place to handle what is proposed.

Marvin Dishel, 1614 Knot Street, CV, spoke of his dislike for Caltrans and concerns regarding parking for the proposed 238 Hayward projects.

Bruce King agreed with the Chair that a special CVMAC meeting is needed for the Grove Way neighborhood to look at the zoning needs and spoke of the natural resources that need to be preserved.

Charles Pisano, 377 Perkins Drive, Hayward, agreed that a special CVMAC meeting is needed regarding the Grove Way neighborhood.

Don Osborne agreed that a special CVMAC meeting is needed regarding the Grove Way neighborhood and requested that Nate Miley attend the meeting.

Peter Rosen spoke of the need for community involvement regarding the zoning of the Caltrans parcels and agrees that a special CVMAC meeting is needed for this neighborhood.

Kristine Stanley, 1728 Crescent Avenue, CV, spoke of the lack of public participation in the zoning changes that are being implemented, the lack of Code Enforcement and the need for a CVMAC meeting to address the Grove Way Neighborhood and Ruby Meadows.

Amber Jayanti, 21670 Shadyspring Road, CV, spoke in support of having a special CVMAC meeting for the Grove Way neighborhood and the preservation of their natural resources.

Carmin Cerullo, 21578 Knoll Way, CV, spoke of the need for more public input in the zoning changes that are being made to the Grove Way neighborhood and the need to protect the natural resources of Castro Valley.

Marlina Rose Selva, 22572 Chestnut Street, Hayward, spoke of the natural resources that are being displaced,

Dec 5, 2019 ACPRHC Ann's Notes

The CEQA Exemption document for building in Ruby Meadow claims "less than significant impact" in each and every category. It "piggybacks" off the CV General Plan EIR.

CEQA document only addresses destruction of cultural resources that may occur at the site and does not address the site itself as a cultural and historic resource.

Cultural Resources—The San Lorenzo Creek at Ruby Meadow was a resource for the Hayward Steam Laundry and for the Hayward Water Supply.

1989 Historic Resources Report for public works

Visual Quality—changes to land use affect scenic vistas from public viewpoint.

• Chocenyo territory of the Costanoan native people. CA-ALA-566 Known Ohlone site is 30-ft from the development's proposed driveway on Crescent Avenue. The site is eligible for the federal registry. The study area normally includes everything within 0.25 miles.

Three other sites are within 1 mile of Ruby Meadow: ALA-58 (1959), ALA-60 (1961), and ALA-412 (1978)

• Spanish period entrapped and confined natives, subjecting them to labor punishment, abuse, inadequate diet and new diseases. Favorable reports from Spanish expeditions led by Ortega 1769, Portola & Crespi 1769, De Anza & Font 1776, and others led to the founding of seven Missions in Costanoan territory. Between 1802 and 1822 the largest Mission baptized 4, 573 natives and performed 1,376 marriages. 2, 933 natives died at the mission. By 1822, only 1620 natives survived. By 1828 horsemeat had replaced acorns as the main food of the Ohlone. The Spanish philosophy founded presidios, missions and secular towns, while the later mixican philosophy stressed individual land ownership. The land grants to Castro were during the Mexican period and into the American period (1841 and 1865)

• Knox Sr was a contemporary with William Meek Sr, among others. He was a founding member of Alameda County, of agriculture, and it was Knox's cherries that went across the U.S. in the first refrigerated rail car. The Knox family burial site is directly adjacent to the Meek family burial site in the historic San Lorenzo Pioneer Cemetery. Knox Jr and Meek Jr were both some of the first students at Hayward High School. Knox Jr was an inventor and public speaker. The Knox Estate was part of the agriculture lab of the old Hayward High, which was all completely torn down by the City of Hayward. No plaque or building or recognition remains of Knox's contributions to the development of modern Hayward and Castro Valley. However, the daughter of Knox Jr, Ruby Knox, has contributed information to the Hayward Area Historical Society until her passing in 1981. There are many mentions of the Knox family in the historical newspapers, but there is still much research remining to do.

EDEN HOUSING

www.edenhousing.org

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510.582.1460 Phone
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January 10, 2019

Phil Sawrey-Kubicek
Planning Department
Community Development Division
County of Alameda
224 W. Winton Avenue, #111
Hayward, CA 94544

RE: Ruby Street Apartments, Castro Valley - Density Bonus Request Information

Dear Phil:

Eden Housing is writing as a follow up to the Density Bonus request for our Ruby Street Apartments project in Castro Valley. This request follows the December 3, 2018 letter submitted by Theresa Ballard, our project architect at PYATOK.

Eden and PYATOK are working diligently to design an attractive, efficient building for our residents while honoring the neighborhood context, working within a highly constrained site, and keeping costs within budget. The relief requested through the State Density Bonus law will greatly assist in the process to make this important project financially and physically feasible. Please see the following information for more details:

1. **Site Plan:** Site Plan and Unit Plans will be submitted with a Site Development Review application in January 2019. While the site is 6.24 acres, 3.74 acres are restricted from development due to the San Lorenzo Creek, the Caltrans Conservation Easement, and the proposed Right of Way for Alameda County's Active Transportation Corridor. The developable site area assumed for the purpose of this application is 2.5 acres.

2. Unit Count:

Ruby Street Affordable Unit Matrix					
Maximum No. Units permitted by zoning and general plan					56
Unit Mix by AMI					
	30%	50%	60%	Mngr	Total
Studio	5	3	0		8
1-br	7	13	7		27
2-br	4	7	7	1	19
3-br	5	3	10		18
Total	14	26	26	1	72
No. Bonus Units Proposed					16

3. **Tenure:** This project will be 100% affordable rental housing with the affordability of the units restricted for a period of 55 years by a California Tax Credit Allocation Committee (CTCAC) regulatory agreements.

4. **Existing units:** There are currently no residential dwelling units on the site. Existing commercial structures will be demolished.

5. **Affordability Restrictions:** Ruby Street Apartments will be funded with the use of Federal Low-Income Housing Tax Credits (LIHTC). This funding, which is overseen by CTCAC,

Eden Housing does not discriminate based on race, color, religion, sex, handicap, familial status, national origin, or any other arbitrary basis. TDD/TTY 1.800.735.2922

will mandate a regulatory agreement, restricting the project to affordability requirements for a period of 55 years.

6. **Description of Requested Concessions:**

Since 100% of the units will be for very low and extremely low income families, the project qualifies for three concessions. Following Eden's review of the construction drawings and costs, and in accordance with Govt. Code §Section 65915(d)(2)(C), we hereby seek relief from the following:

1) The requirement for private open space per Table 2.5-1 Multi-Family Residential Standards, page 2-69 of the 2014 Residential Design Standards and Guidelines: 350 SF total usable open space per unit, with no less than 100 SF as private usable space (balcony minimum dimensions of 7'), and no less than 1000 SF as common open space:

The project will not provide private balcony or patio open space.

2) The requirements for residential storage units per Table 2.5-1 Multi-Family Residential Standards, page 2-70 of 2014 Residential Design Standards and Guidelines: 175 to 250 cubic feet per unit. Per page 3-29, bulk storage is to be provided in garages or in units, for the purpose of encouraging garages for automobile parking as opposed to storing household goods in garages. This reasoning isn't applicable as parking is provided in an open lot. This requirement totals 14,775 cu ft for this project, or 1,875 SF, plus circulation.

The project will not provide residential storage units separate from closet space provided in units.

7. **Evidence of Cost Reductions:**

Requested Relief	Details	Cost
1. Removal of patios and balconies (Construction Costs)	Removal of 57 balconies at $13,000/unit. Removal of 15 patios at $5,200/unit.	($803,400)
2. Removal of Balconies (Maintenance Costs)	Reduction in $150/unit/year in maintenance costs. This is a total of $8,550/year and leads to an increase in our mortgage loan (measured by cash flow available for debt service) by about $170,000.	($125,000)
3. Removal of Storage Units	Reduction of storage space per unit allows for a smaller building footprint; cost provided is value of square foot and storage partition reduction due to the storage space reduction.	($1,800,000)
TOTAL		$2,728,400

The requested concessions, totaling approximately $2.7 million, will reduce project costs to assist in building 72 units of affordable housing.

8. **Mixed-Use Incentive:** N/A – This project is not using the density bonus incentives to allow for a mixed-use building.

8. **Mixed-Use Incentive:** N/A – This project is not using the density bonus incentives to allow for a mixed-use building.

9. **Development Standards Waivers & Modifications:** Please see the letter provided by PYATOK Architects on December 3, 2018 for details on the requested waivers and modifications.

10. **Parking Reduction:** This project is seeking a parking reduction. Please see the letter provided by PYATOK Architects on December 3, 2018 for details.

11. **Land Donation:** N/A – This concession is not being requested for a land donation.

12. **Child Care Facility:** N/A – This concession is not being requested for a child care facility.

13. **Condominium Conversion:** N/A – This concession is not being requested for a condominium conversion.

We thank you for your time and attention to this request and look forward to continuing to work with the County of Alameda on this important project.

Sincerely,

Linda Mandolini
President

Attachment: PYATOK Affordable Housing Density Bonus Request, December 3, 2018

PYATOK

ATTN: Phil Sawrey-Kubicek
Assistant Deputy Director
Alameda County Planning Department

2/7/19

Dear Mr. Sawrey-Kubicek,

This letter is a summary of the requests we are making on behalf of this project through California's density bonus law. (This letter replaces my earlier analysis of 12/4/18, and supplemented by Eden Housing's letter of 1/1019.)
As a 100% affordable housing project, we believe this project is entitled to the following:

- A Density Bonus of up to 35% over the maximum allowable residential density;
- Reduced Parking Requirements;
- Any necessary Waivers (defined as relief against any development standard" that would physically preclude the construction of a project with the density bonus and the incentives or concessions to which the developer is entitled);
- Up to three Concessions (defined as resulting in identifiable, financially sufficient, and actual cost reductions).

We have prepared the following explanation of the specific requests being made, for the feasibility of this proposed project.

SITE:

Located at Ruby and Crescent Streets, Castro Valley
Zoning designation is R-S-20.
Castro Valley General Plan designation is Residential – Low Density Multifamily.

PROJECT CONSTRAINTS:

For the proposed affordable housing development on Ruby Street in Castro Valley, we find that we must request consideration of the state's Density Bonus Laws. This project is under various constraints:

- Financial constraints:
    - *Limited funding for construction.* As a 100% affordable housing project by a non-profit developer, available construction funding is limited to publicly awarded grants, loans, and tax credit financing. In order to ensure that scarce public funds stretch as far as possible, it's necessary to constrain the physical design of the building to minimize cost while maintaining quality.

- *Limited income for ongoing operating expenses and debt service.* Project operating revenue is limited to rental income, which is tied to residents' incomes and restricted based on long-term regulatory agreements. These rents are 20% to 80% lower than average market rate rents in Alameda County. Restrictions on the project's revenue place limits on the amount of debt financing and maintenance costs the project can support.
- *Geotechnical report indicates lateral spread potential.* The top of bank at the northwestern portion of the property have soil conditions that would require ground improvements up to 30' in depth to allow for building construction. This would create an incredible cost burden and would significantly disrupt habitat. Since building in that portion of the site is financially and physically infeasible, we have elected to constrain the site plan to the portions of the site where the ground is the most stable.

- Physical Constraints:
  - Site configuration: The site configuration is unusual and irregular, with a deep zig-zag shape that fronts on three public streets but also has significant areas with no frontage. The depth presents challenges for fire-fighting access, requiring either roomy truck turnarounds or a connecting paved access road (which consumes sizeable site area.)
  - San Lorenzo Creek: The creek meanders along the full extent of the western property line, and has a setback requirement based upon the slope of the creek banks. Depending upon slopes, this Creek Setback varies from 20' to about 35' from the top of bank.
  - Conservation Easement: CalTrans has identified a Conservation Easement protecting riparian habitat on the property (which does not coincide with the Creek Setback), where development may not occur.
  - Watercourse Protection Ordinance (WPO): This county ordinance disallows development of any kind (including a trail) within the Creek Setback.
  - Transportation Corridor: Alameda County Flood Control District and Hayward Area Recreation District have designated this site to accommodate expansion of the San Lorenzo Creek Multi-Use Trail. This project is recommended in the County's Bicycle and Pedestrian Master Plan for Unincorporated Areas (April 2012). The proposed affordable housing development must accommodate adequate space for the future construction of this multi-modal trail, and the trail should respect the WPO by locating outside the Creek Setback. One appropriate standard for the trail is the Department of Transportation's Class I Bikeway (Bike Path). (This Trail is intended for pedestrian use as well, and should meet accessibility requirements.) The minimum dimensions for this type of Trail are 10' to 12' wide plus 2' to 3' of shoulder on each side (14' to 18' total).
  - Existing Trees. There are a number of very large coastal oak trees on the property. While Alameda County doesn't identify any required mitigations for removal of heritage trees, our design seeks to preserve some of these to the extent feasible.

DEVELOPMENT STANDARDS REQUIRING BONUS ACTION:

The residential property is 2.952 acres. It is immediately adjacent to another 2.987 acres including a designated Conservation Easement (of which 0.79 acres are across the San Lorenzo Creek and in the City of Hayward) and Creek Setback. The residential property is designated by the Hayward Area Recreation District to include linkage to the San Lorenzo Creek Trail (an accessible multi-modal transportation corridor). The county's Water Protection Ordinance identifies the land available for trail development as being fully outside the Creek Setback (defined as a 2:1 slope from the creek bottom + 20'). The Department of Transportation Class 1 Bikeway standards designate a minimum width for the trail proper.

1. Affordable Housing Density Bonus.
   At 2.952 acres, and with the current R-S-D20 zoning, up to 65 (round up from 64.3) units may be developed on this site. That number is not adequate to generate sustainable operating revenue over the life of the building. The Affordable Housing Density Bonus permits the property to increase the maximum number of residential units by 35%, allowing a total of up to 88 (round up from 87.75) units. The proposed unit count is: 72.

The development will apply for federal tax credits designated for family housing. According to the California Tax Credit Allocation Committee (CTCAC), this funding source requires that 50% of residential units be 2br and 3br units. This requirement has a direct impact on the physical size of the building, and the quantity of parking spaces that must be provided. The proposed unit mix is as follows:
8 Studios; 27 1BR; 18 2BR; 19 3BR units.

The existing county parking standards for multifamily development in this zone would require as many as 159 parking spaces. (The requirement is 1 space per studio, 1.5 per 1br unit, and 2 spaces per 2-3br unit, with one space per unit covered, and guest parking of 0.5 spaces per unit.) There is inadequate site area available to provide parking spaces for this number of vehicles. The proposed site plan already maximizes all available site area for parking, but is constrained by the long/narrow site dimensions, the physical presence of the creek, space needs for fire trucks, and the need to provide stormwater treatment areas.

2. Reduced Parking Requirement.
   The Affordable Housing Density Bonus Law defines a maximum number of parking spaces that a jurisdiction may require a qualified affordable development to provide. That number is limited to 1 space per studio or 1br unit, and 2 spaces per 2 or 3br unit. A jurisdiction also may not require covered parking or carports, and must allow the use of tandem spaces toward reaching that number. The proposed project provides the number of parking spaces corresponding to that reduced requirement, 109 spaces total, without using tandem spaces.

The zoned height limit is 30' per Table 2.5-1 (or 35' where at least 25' from property lines), with an 8' exception for limited non-habitable architectural projections. The zoned maximum stories is 3 stories for multifamily development. This allowable height is incompatible with the allowable stories, as it does not account for roof structure, and it assumes very low ceilings. For this project we are proposing a pitched roof with overhanging eaves, which feels less massive than a parapet with flat roof, but. results in a higher numerical height measurement.

3. Requested Waiver: Height/Stories

Given the limited site area, and the requirement to provide adequate parking, there is not remaining site area sufficient to achieve the allowed number of units while also limiting building height to three stories. Recognizing that the existing neighborhood is developed at a lower density, our proposal presents a 2- and 3-story height along Ruby Street (where the building is visible from the Public Way). Rear portions of the building are proposed to be 4 stories, which allows us to achieve a unit count of 70 units. The proposed maximum heights are 42 feet along Ruby Street, and 52 feet elsewhere. From the street, the fourth story is not visible.

4. Requested Waiver: Setbacks (Table 2.5-1)

The Residential Design Standards require varied setbacks depending on number of stories. In order to fit into the odd-shaped site with the proposed number of units, and in order to minimize the street presence and preserve existing street trees, the project must infringe on some of these standards. The setbacks we propose are as follows:

Proposed Setbacks:

- Ruby Street: varies, 10' to 24' (Requirement is 20')
- Side yard: varies, minimum 16' to 19' proposed (Requirement is 10' to 15', and 20' at a fourth story if allowed)
- Rear yard: The building backs up to the creek and is a minimum of 27' outside of the Creek Setback (requirement is 20' to 25', and 30' at a fourth story if allowed)

The County requires private and common open space be provided based upon the number of units. While the Density Bonus allows additional units in Affordable Housing development, that also creates an additional burden on a project to leave additional landscaped site area.

Required: 350 SF total per unit, with 100 SF minimum per unit as private, and 100 SF minimum per unit as common. (Minimum dimension of 25' for common space)

5. Requested Concession: Private Open Space

The required total open space is 25,200 SF, but we propose to provide 17,500 SF common open space only. Private open space in a multi-story building would necessarily have to be constructed as balconies and is the construction cost is prohibitively high. No private outdoor

space is provided. Common outdoor space is supplemented by the availability of the San Lorenzo Creek Trail, which will be approximately 16,000 SF of paved usable surface. In addition, the building provides indoor amenity spaces such as a Community Room and a Computer Lab/Library at about 1500 SF.

OTHER DEVELOPMENT STANDARDS:

6. Requested Waivers: Parking Location and Design (Table 2.5-1) - Frontage
On Ruby Street and on Crescent, the parking frontage exceeds 30% of the total street frontages. This is due to the odd configuration of the site, and the presence of the creek limiting available developable area. On Crescent street, there is no building frontage at all, and on Ruby Street the parking will extend for nearly half of the frontage. This is balanced with a well-articulated building frontage on Ruby, and with the use of landscaping to minimize the presence of the parking.
Additionally Planning had advised a 20' setback from street-facing property lines. This is not possible, given the constraint of the creek trail width. A setback of 10' is what is feasible to provide. Given the distance between the edge of pavement and the property line, the net effect is still a distance of 20' from the roadway to the edge of parking.

7. Requested Concession: Storage Areas
Due to the prohibitive cost, private storage areas (between 100 and 250 cu ft per unit) for residents are not proposed. This allows us to reduce the overall square footage of the building by approximately 2,000 SF minimum (plus necessary circulation), which results in an overall substantial cost reduction for the construction budget.

We hope this explanation of our proposed use of Density Bonus Law is helpful to the County in evaluating our application. Please feel free to contact me with questions as they arise.

Best Regards,

Therese Ballard, AIA
Associate Principal
PYATOK

cc: Ellen Morris, Eden Housing

Ann E. Maris, PhD
Organizer Grove Way Neighborhood Association
1490 Grove Way
Castro Valley, CA 94546

July 8, 2019

Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Attn: Nisha Chauhan nisha.chauhan@acgov.org

Re: Eden Housing, Inc. Development Application PLN2019-00024

Dear County Planner Chauhan,

I am writing to represent the concerns of the Grove Way Neighborhood Association (GWNA) regarding Eden Housing's proposal to build a four-story apartment building on Ruby Street next to the San Lorenzo Creek in Castro Valley. GWNA membership consists of neighbors and other groups and people who are interested maintaining and improving living conditions in the Grove Way area, primarily between A Street and Foothill Boulevard. The proposed Ruby development will eliminate a great pleasure of the neighborhood that we have enjoyed for as many decades as any of us can remember—wildlife, peacefully grazing in a meadow by the creek, under heritage trees, new baby deer, powerful bucks, juvenile deer kicking up their heels, water fowl, raptors, woodland birds, marsupials, and even carnivorous predators. Neighbors do not want the meadow habitat destroyed, and instead support building new housing on plentiful vacant lots, such as on Oak Street. Neighbors need to be included in the public discussion *before* the County changes lot lines, rezones, and allows destruction of creek habitat in this former public Caltrans land. Many of us previously wrote comments to the County about the 4-story apartments proposed for Ruby Meadow. This new version actually proposes grading the creek banks down in order to make more room for apartments, instead of *building the development out of the creek setback* as the ordinances require. Eden Housing is required by their purchase contract to attempt to develop, but they are not required to develop Ruby Meadow. In fact, their purchase contract recognizes that development may not be possible in Ruby Meadow.

The Ruby Meadow site at San Lorenzo Creek has multiple special significant effects peculiar to this specific site that need to be examined by conducting a full Environmental Impact Report. This development proposal is not consistent with the 2012 Castro Valley General Plan Goals (4.2-1, 4.10-1, 5.1-1, 5.2-1, 5.6-1, 6.2-1, 7.1-1, 7.2-1, 7.3-1, 10.2-1, 10.3-1) or Policies (4.2-1, 4.3-1, 4.3-3, 5.1-1, 5.2-1, 5.6-

2, 5.6-3, 5.6-5, 7.1-1, 7.1-2, 7.1-5, 7.2-1, 7.3-2, 8.2-1, 8.2-3, 8.2-14, 10.2-4) (Also see Chapter 4.10, Actions 5.2-4, 8.3-3, and Figures 3-1, 4-1, 4-2, 4-4, 5-1, 7-1, 7-2, 10-2, 10-4)

The developer, Eden Housing, proposes skipping any environmental assessment (CEQA), and instead wants approval to simply "tier" from the 2012 Castro Valley General Plan's EIR (Environmental Impact Report). This is not okay, because the Ruby Meadow development is not consistent with the CV General Plan; therefore, Ruby Meadow development was not part of the previous EIR. Ruby Meadow and San Lorenzo Creek have multiple special significant effects peculiar to the site, such as its use by the Ohlone for a transitional campsite, the location of the first reliable water source "San Lorenzo Water Company," and its location in a neighborhood dense with seniors and disabled persons who need access to parks facilities. Although only a few neighbors directly border the CalTrans properties on Ruby Street, the lives of many people would be negatively impacted by the drastic change of the area proposed by this development.

Eden Housing has made no provisions for resident wildlife or their continued existence. In fact, their biologist did the opposite, dismissing the value of their presence. The neighborhood's peaceful enjoyment of wildlife in Ruby Meadow forms a large part of the character and benefits of the neighborhood; therefore, the wildlife's continued presence must be considered and even encouraged. Specifically, the Castro Valley General Plan shows that these Ruby Street parcels are in a highly sensitive biological area that needs special examination.

Listed here are 14 specific reasons that neighbors do not want development in Ruby Meadow along the San Lorenzo Creek:

Importance of Contiguous Habitat

Carlos Bee Park connects two open space wildlife reserves (Parcel 8 and Ruby Meadow) in an urban area. It is important to evaluate the Caltrans properties here as a whole for natural resources and potential habitat restoration because Parcel 8 and Ruby Meadow *are connected* by the open space in Carlos Bee Park. Studies show that having continuity between patches of habitat allows the wildlife to continue existing in an urban environment.

The Ruby Street properties lie directly next to San Lorenzo Creek and the area is designated by the Castro Valley General Plan to be a High Priority Biological Resource (Figures 7-1 and 7-2), because the Oak Riparian Woodland is potential habitat for several special status species and is a wildlife corridor. The Eden Housing proposal includes pervious pavement, which requires periodic vacuuming. This loud noise

in already sensitive habitat would further terrify any resident wildlife, disrupting their nesting, feeding, and natural activities.

Community Health and Wellness

The Caltrans properties surrounding Carlos Bee Park allow a special opportunity to examine many historical features of the natural and manmade world. Not only does this area enhance community health by being a large green space in a more and more densely populated urban area, but it provides many untapped educational opportunities.

Important Component of San Francisco Bay

The San Lorenzo Creek is a large contributor to the SF Bay waters. It is also recognized as being one of the most polluted creeks in the Bay area. The number one contributor to creek pollution is urban development. San Lorenzo Watershed health is important because Ruby Meadow is the last natural creek (riparian corridor/habitat) before San Lorenzo Creek is channeled (in a concrete channel) for the remainder of its trip to the SF Bay.

In this small area, there are two separate creek confluences: first the North Fork of the San Lorenzo Creek combines Castro Valley Creek and Chabot Creek at Carlos Bee Park, then that waterway joins San Lorenzo Creek at the Japanese Gardens. Preservation and restoration of the Ruby Meadow creek habitat is critical because the water of the San Lorenzo Creek Watershed travels directly to the San Francisco Bay, meaning that development next to the creek will further degrade our water quality.

Geological Resource: Active and Inactive Faults

The active Hayward fault runs nearby and is statistically overdue. At least two other faults here (Chabot and Carlos Bee) have been inactive for over 30,000 years, but the hills and twisted creeks here show geologically how their activity shaped the land. Many yet undiscovered and/or documented fissures exist here. The soil type changes from the west side of the hill to the east side. The soil type also changes north to south across the face of the parcel 8 hill. The tip of Parcel 8 is the exposed gabbro rock of a much older era, the floor of the Jurassic ocean. This is geological evidence that earth movements caused the prehistoric ocean floor to push upward, forming the hills. The way that San Lorenzo Creek snakes through Ruby Meadow demonstrates prehistoric land movements.

Ruby Meadow Development Contradicts Castro Valley General Plan

Ruby Meadow is shown as protected habitat in the Castro Valley General Plan. The Castro Valley General Plan describes the necessity to protect natural, historic, or community resources, which Ruby Meadow is. The issue of zoning in the Caltrans properties as they pass from public to private ownership, after sixty years, was not discussed publicly and neighbors were unaware of what is happening. Ruby Meadow should be zoned Open Space and protected, not zoned for apartments. The Castro Valley General Plan for in-fill development does not include Ruby Meadow, or indicate that its zoning will change, yet Ruby Meadow has had lot line changes done, zoning changes, and in-fill development plans that include housing density bonuses and skipping the Environmental Impact Report. This is not consistent with preserving valuable natural resources.

Ruby Meadow is an obvious oak riparian woodland and creek wildlife corridor that requires protection and preservation as covered in the Castro Valley General Plan. The General Plan designates Ruby Meadow as *Sensitive Habitat - Oak Riparian Woodland/Wildlife Corridor* and an area of *High Priority Biological Resource.* In addition, The General Plan states that all areas supporting native vegetation such as naturalized native trees, areas providing suitable habitat for special status species (i.e., at least three potential species in this case), and creeks are considered sensitive habitat to be protected. The Plan also extensively states that wildlife corridors, especially along Castro Valley's creeks, need to be preserved. It's apparent that native trees and wildlife inhabit this meadow and use this wildlife corridor.

Chapter 5 of the CV General Plan is about Community Character and Design: "Castro Valley has a unique character that has evolved based on its natural setting and its history. Residents of Castro Valley feel strongly about preserving the character of Castro Valley, and enhancing the aspects of it that they enjoy. This element contains policies and actions to preserve and enhance the community character and design of Castro Valley. The main features that define the desired character of Castro Valley are its "natural setting" and "neighborhood character."
"The natural amenities that contribute [to] Castro Valley's quality of life include: hillsides, canyons, creeks, trees, and the views of these natural resources.". Physical features reflect the agricultural and small-town character of Castro Valley before it became a suburban bedroom community. These include **"undeveloped hillsides and canyons, neighborhoods with streets without curbs and sidewalks, and mature trees in front yards and along streets."** The development of Ruby Meadow would destroy natural amenities of Castro Valley as described in Chapter 5. Ruby Street is a neighborhood without curbs and sidewalks, and with mature trees in front yards and along the street. Neighbors like it this way, as noted in the Castro Valley General Plan, and want it to stay this way. *We want the aspects of Castro Valley that we enjoy enhanced, not removed.*

Alameda County does not Recognize the Value of Ruby Meadow

The Housing Authority of Alameda County *should not* have offered Ruby Meadow for high-density development purposes because it is a valuable cultural, historical, environmental, and community resource. A **full** Environmental Impact Report needs to be done for the proposed Ruby Meadow development because Ruby Meadow has never been examined for this type of proposed development. Previous EIRs that do mention the Ruby area are outdated and only looked at Ruby Meadow as a minor component of the larger, defunct, 238 freeway project. This is the last undeveloped bit of green in the area and it is vital to maintain the wildlife corridor. Another local Caltrans property, Parcel 9 on Oak Street, would be more appropriate for this development, instead of market rate housing or a hotel, because Parcel 9 is closer to public transportation and commercial services and is not suitable for habitat like Ruby Meadow is.

Ohlone Indians Lived and Camped Near the San Lorenzo Creek

Published research from Caltrans, and others, show that Ohlone human remains and artifacts have been unearthed at multiple sites in the area, including near San Lorenzo Creek and Ruby Meadow (Site CA-566). The Ohlone were not a migratory society, and data show that they usually lived and died within only a few square miles; therefore, Native Americans found within a mile or two of Ruby Meadow relied on the San Lorenzo Creek for sustenance. Recently, a 1500-year-old Ohlone man's body was discovered beneath the nearby Green Shutter Hotel. A 1200-year-old Ohlone woman's body, with rare snail shell beads, was recently found under a public storage building by San Lorenzo Creek. Specifically near Ruby Meadow, published data show that the Ohlone camped here on their journeys between the bay and the larger inland settlements. Food items cooked in the 1000+ year-old campsite were identified and classified by plant species. Many pre-Columbian items have been found in the area.

Historic Foundations of Alameda County, Infrastructure, and Agricultural Commerce

Ruby Meadow is part of the Knox Tract, a subdivision of the Knox property that took place in 1892. William Knox, Sr. came to the area from Ohio with his wife. He is listed as a founding member of Alameda County. William Knox was the third largest land owner at the 1853 establishment of Alameda County. He, his wife, and their children and grandchildren, are buried in the historic San Lorenzo Pioneer Cemetery. In 1894, his son William Knox Jr and Milo Knox built one of the first water pumps and reservoir systems in the San Lorenzo Creek near Ruby Meadow. Remnants of a road, bridge, and possibly pumping pipes and reservoir concrete, is visible in the San Lorenzo Creek at Ruby Meadow. Ruby Street is named after William Jr's daughter, Ruby Knox. Knox Street (formerly William Street) is one block north, at the North

Fork of the San Lorenzo Creek (now called Castro Valley Creek). The Knox brothers grew cherries and shipped them across the country to New York, contributing to the development of California agriculture when shipping was a new and difficult technology.

Cohesiveness with the Neighborhood

A huge 4-story apartment building would block the sunlight for tenant gardens in the adjoining apartments, removing their ability to farm their own food and limiting any solar access. No other building in the area is this tall. Four-stories is too high for this residential neighborhood and will drastically change the skyline and other visuals.

Neighbors want to continue to enjoy the peaceful character of the wildlife that we see living in Ruby Meadow. CalTrans properties have now been (mis)managed for over fifty years; the public has been excluded from enjoying full benefits of this public property and it is time to improve the neighborhood instead of further hurting it.

The Ruby Street properties adjoin the Japanese Garden/Senior Center/Douglas Morrisson Theater and so it makes sense to expand the public park area to Ruby Meadow. The Foothill and San Lorenzo Creek trail will coincide in Ruby Meadow, and lead to Carlos Bee Park, so it makes sense to include this meadow in the larger plan of improving Carlos Bee Park.

The greater Grove Way area, particularly between A Street and Foothill Blvd, needs to be considered in planning development here: consider the combined possibilities of Ruby Meadow + Parcel 8 + Parcel 9 during development planning. Our neighborhood has many seniors and disabled people who need accessibility to parks.

Traffic and Parking Problems

Ruby Street is used for cut-through traffic and it is currently very difficult to get out onto A Street. No actual traffic studies have been done. Traffic goals are not being met, and this development will further contribute to traffic congestion. The Association of Bay Area Governments (ABAG) recommends that new housing is built in a designated Transit Priority Area (TPA) or Priority Development Area (PDA), neither of which is Ruby Meadow.

The proposed development uses street parking spots to meet their parking space requirements, burdening the neighborhood. The public street should remain open to the public and development should not reduce currently available parking.

Sustainable Community

In order to address the climate crisis and reduce greenhouse gases, workers need to live near their jobs. Eden Housing takes tenants from nationwide wait lists and does not prioritize housing for local people. The Eden Housing proposal would degrade living conditions in the neighborhood in terms of increased population density, blocked skyline, increased ambient noise, trash, automobile and pedestrian traffic, and the removal of wildlife. Over and over again, both newcomers and long-term residents here describe how the best part of our neighborhood is the wildlife and peaceful views of nature. The Ruby Street parcels are the last undeveloped green spot in the neighborhood and contribute greatly to the quality of life here.

The creek-side trail in the Eden Housing proposal is a community benefit, but should not be dependent on new development. It makes sense to extend Carlos Bee Park to include Ruby Meadow. This trail and park area would fulfill key General Plan objectives by 1) preserving the area's natural characteristics and views to those areas, 2) providing safe access for bikes and pedestrians, 3) contributing to activities and entertainment for all age groups, 4) preserve rural Castro Valley character and views to natural areas, and 5) allowing Ruby Street to contribute rather than detract from the quality of life in the community. Ruby Street neighbors already complain about drivers cutting through from A Street, speeding, traffic back-ups, and difficulty getting out of the driveway during commute hours. Almost 80 more residences on this tiny semi-rural street would be tragic.

Neighbors are not being sufficiently informed

The property lines on Ruby Street were already adjusted, *without public input*, to accommodate the Eden Housing development, indicating a lot of planning outside the public eye has been happening. Public notices are only being sent to a few directly adjacent neighbors. Other residents will also be impacted because they enjoy the area on walks, live nearby, or use the neighboring public facilities, are they not being notified.

Ruby Meadow is simply too small for this huge development.

Eden Housing initially miscalculated the minimum creek setbacks. Their new solution is to grade (remove) the creek bank in order to reduce the required setback. In addition, the riparian oak woodland

present in Ruby Meadow was not assessed nor included in the setback, as required by the Watercourse Protection Ordinance (WPO). Most importantly, these minimum WPO setback areas do not necessarily include the area and habitat needed to sustain wildlife in the creek corridor. A full environmental impact report (EIR) needs to be conducted.

Ruby Meadow area was originally planned to stay as open space in the 238 freeway plan. The creek at Ruby Meadow already serves as a restoration project area because of required environmental mitigation for another freeway project.

The Quimby Act Open Space Requirements are not being met for residents

Ruby Meadow should be park and open space. Residents in the unincorporated area have a deficit of park and open space in comparison to standards set for a healthy living environment in the Quimby Act. Residents in the unincorporated area have about one-tenth of the recommended park space, whereas Hayward residents have a sufficient quantity. Alameda County needs to work with HARD to bring the amount of park space in this area closer to standards, and Ruby Meadow is prime park space.

This proposal is the opposite of community sustainability and the opposite of the "highest and best use" for former public land--affordable housing is needed on Oak Street and Ruby Meadow needs to stay wildlife habitat! Please support urban wildlife, healthy creeks, and healthy people, by not allowing development in Ruby Meadow. Ruby Meadow's creek and meadow habitat be preserved! Buildings should be developed on plentiful vacant lots (e.g. Oak Street), not in dwindling wildlife habitat (Ruby and Parcel 8)!!

Sincerely,

Ann E. Maris, PhD
Grove Way Neighbor and
Organizer Grove Way Neighborhood Association

5/9/19 CVGP Zoning Implementation Workshop: Public Speaker Comments

1. Ashland, Eden Housing/First Pres Church Zoning problem ?? Community Commercial zoning Meeting 6/6/19
2. Cherryland, Important to save **Ruby Meadow**. Audience pointed out CVGP Figure 4.1. Planner Horrisberger claims Ruby Meadow was not CalTrans property and is corrected by CVMAC and audience; directs public to talk to Planner Nisha Chauhan for Eden Housing/Ruby Meadow project.
3. CV, WELO has new standards, lists many issues in CV which CVMAC says they know and will work on.
4. Does Community Commercial allow residential?
5. Zoning implementation needs to consider open space/parks and recreation, studies show necessary for mental and physical health. Damage natural land—destroy ecosystems. UN report on massive loss of biodiversity. Bees go, we all go.
6. Health and Wellness, Gavin Newsom, lots of new housing—also need to provide parks (not schools or undevelopable land), keep higher density near transit, do not build in **Ruby Meadow**. Not enough local parks to go toss a ball with child.
7. Need to save waterways, importance of creek, San Lorenzo Trail, higher density okay, but in correct location.
8. GWNA spoke about the need for an plan for the Castro Valley Former CalTrans 238 land including Ruby Meadow and Oak Street--CVGP Fig 4.1 blue area at CV-Hayward border, creeks, hills, problems with zoning, inconsistencies in CVGP, actual land use over 50 years of CalTrans, neighborhood neglected in planning 2012 CVGP, neighborhood cannot support dense housing, traffic. U zoning on CalTrans 238 property. When was zoning changed? Private homes changed from R-1 with no notice. CVMAC said they would meet w GWNA to discuss.
9. Affirmed audience sentiment about saving creek and habitat in **Ruby Meadow**, protect creeks
10. Health and Wellness--County plan, but not being followed, community health, Ashland has seven 7-11 stores and does not need another one at Mattox/Foothill, what about Air B&B in zoning? Hotels? CVMAC to Planner Horrisberger: prohibit? Conditional use? CUP will look into it
11. Importance of wildlife corridor must have enough space to function as habitat, save **Ruby Meadow**, Asked Planner Horrisberger about application status. EIR required? CEQA? Planner says Ruby Meadow zoning was not ever U, has been RSD-20 for at least 50 years, RLM zoning. Audience asks about all twenty parcels. Directs
12. Building height in zoning? Quimby Act--area has 1/10 the open space required, San Lorenzo Creek, Schools aren't parks.
13. Local deer need more habitat than just his backyard to survive. Save **Ruby Meadow** and local open space. Regularly sees deer, turkey, opossum… in area, CV creek damaged by erosion, trash flow from culverted upstream creeks. Creeks need protection.

5/9/19 CVGP Zoning Implementation Workshop: Public Speaker Comments

Online References for Items Discussed

Gavin's new housing order: https://www.gov.ca.gov/wp-content/uploads/2019/01/EO-N-06-19.pdf

Water efficient landscaping: https://water.ca.gov/Water-Basics/Conservation-Tips/Plant-and-Landscape-Guide

Castro Valley General Plan Zoning Implementation website:
http://www.cvgpimplementation.com/

Unincorporated Alameda County General Plans (Castro Valley and Eden Area):
https://www.acgov.org/cda/planning/generalplans/index.htm

Hayward General Plan: https://www.hayward-ca.gov/your-government/documents/planning-documents/general-plan

The Brown Act: https://en.wikipedia.org/wiki/Brown_Act

2007 California Transportation Commission Presentation:
https://drive.google.com/open?id=1FgNieC9T6j0DWxVNursQqaH61wVavgk5

Page 1 Item 5
Castro Valley General Plan Land Use Designation of **RLM not yet implemented; implementation of zoning change is subject to general plan amendment.**
Hayward General Plan Land Use Designation is not provided. (see Item 7 description of Project location jurisdiction)

Page 1 Item 6
All 21 parcels are not subject to R-S-D-20 Zoning; some are. (see Item 7 description of Project location jurisdiction)

Page 1 Item 7
Hayward City boundary is incorrectly described with respect to the project site: "adjacent to the project site" is incorrect since part of the site is inside the City of Hayward. The San Lorenzo Creek flows *through* the site, which is not indicated.

Figure 1-1, Project Location and Vicinity Map, *1744 Ruby Street Google 2017*, shows the **entire site is contiguous riparian habitat** (yellow outline) but does not indicate that it **connects to Carlos Bee Park which is not indicated on map.** Map does not indicate the connecting contiguous waterways of the San Lorenzo Creek (creek line is blue), which are observed by tracing the path of riparian trees. Specifically, **the connecting north fork of the San Lorenzo Creek is not indicated**, which comprises the Chabot Creek and Castro Valley Creek.

Page 8 note 5, county height definition is wrong (old standard)

Page 14, "42 of 58 existing trees removed"? 72% 96 replacement trees fig 1-10

Page 40/41, protection of bio resources

Page 49 only half of site is being developed? Therefore conforms? Development only on newly formed "A" which also includes parcels NOT in the housing element.
"properties" are being changed to maximize development.
50% density of properties being developed, maybe.

Monday, Nov. 25th 6 PM, CVMAC at Castro Valley Library, Agenda Item #5:

PLN2019-0024, Ruby Meadow developer and Alameda County Planning claim that the project is exempt from further environmental review. We disagree.

Neighbors argue that the project

1) is not eligible for exemption because is not consistent with CV general plan and policies,
2) may not "piggy-back" off of the Castro Valley General Plan Environmental Impact Report (CVGP EIR) because the site was not specifically addressed, *except* to be included in the highest priority Biological Resources Overlay Zone (BROZ),
3) cumulative native habitat damage over time is not a reason to destroy the property—Ruby Meadow can and should be restored for public benefit,
4) the project does not fit the site *nor* the neighborhood and alternative sites are abundant,
5) there is more public benefit to preserving and restoring Ruby Meadow than there is to destroy resources by building apartments there.

Meeting agenda:
http://acgov.org/cda/planning/calendar.htm?/calendar_app/DisplayListServlet?site=internet&ag=CDA&ty=PLAN

Agenda item documents:
http://acgov.org/cda/planning/landuseprojects/currentprojects.htm

PDF of CEQA document:
Community Plan Exemption Checklist pursuant to CEQA Guidelines §15183 - October 2019

Pursuant to California Code of Regulations (CCR), the developer applied to the County of Alameda for exemption from a full environmental review (EIR) because of the project's meeting the requirements of Section 15183, "Projects Consistent with a Community Plan, General Plan, or Zoning." If the project fits these criteria, Section 15183 says the developer is only required to examine "project-specific effects which are peculiar to the project or its site." The developer did this in their CEQA document and concluded that any project impacts, in fifteen different categories, were "less-than-significant (LTS).

By combining lots, the developer avoids having to apply for a conditional use permit for building parking lots on adjacent parcels. By combining lots, the developer can decide which portions are "high priority biological resource" versus following the significance of the individual parcels designated in the CVGP BROZ.

Higher Public Benefit as Open Space Resource Than Housing

• Serves today's residents by not changing their ways of living and peaceful enjoyment of their neighborhoods and homes. *walks, wildlife, quiet, theater, Japanese gardens, creek, trees, health*

• Serves future residents by having potential to be an Interpretive and education resource for natural and cultural history in the Eden Township area.

geological—earth channel formation, Chabot fault, soil types and layers, paleontology
hydrological—the water works, steam laundry, steam lodges, watershed, urbanization
ecological—riparian habitat, grassland habitat, oak woodland habitat, biodiversity, urbanization
cultural--

• Serves past land residents, Native, Spanish, and pioneers, by respecting their roles in modern-day development of the Eden area.

5.5 Approval of Letter of Intent for Parkland Dedication in the Proposed Ruby Street Apartments Development

On a motion by Director Hodges and second by Director Pereira, the Board of Directors voted unanimously 4-1-0 to approve the Letter of Intent for Parkland Dedication in the Proposed Ruby Street Apartments Development; Authorized the General Manager to sign a Letter of Intent with Ruby Street, L.P. for property located on A Street just west of the intersection of Ruby Street in Hayward.

Director Hatcher opened public comments
1. Dr. Ann Maris provided a photo of the Ruby Street parcel and wants HARD to write a letter of protest against Eden Housings plan for the property. She stated the parcel has the highest need for restoration of the habitat and should be HARDs priority.

2. Peter Rosen states this site has historical significance and should not be for housing. This location is outside of transit priority area, whereas other sites are available for sale that will meet the need for housing. This would be a great opportunity for DMT and HASC expansion. Eden Housing is not subject to CEQA. Rosen has concerns about the site, if the Board accepts the MOU, add a line item that HARD in no way endorses the project being developed.
Director Hatcher closed public comments and proceeded with the Board discussion.

Director Hatcher reopened public comments at 7:59 PM.
1. Ann Maris spoke again and stated the reason behind the purchase of the parcel had to due with the 2010 Case Settlement between the City of Hayward and CalTrans; this gave administrative the authority to decide on which property they wanted.

2. Peter Rosen stated the City of Hayward was in charge of the dispositions. He requested the HARD Board if you do approve the MOU consider not approving the development.
Encouraged the Board to attend the MAC meeting on the 28th to understand what is going on.
Director Hatcher closed public comments and proceeded with the Board discussion and a vote at 8:03 PM.
Board President, Hatcher stated the Board does not encourage Eden Housing to develop on the Ruby Street property; the Board directed Staff and General Counsel to research the process Eden Housing and CalTrans took to acquire the Ruby Street parcel.

February 3, 2020
Submitted to the Alameda County Parks, Recreation, and Historical Commission

Statement from Dr. Ann E. Maris about Ruby Meadow

Organizer Grove Way Neighborhood Association, ann@grovewayneighborhood.org
Chair, My Eden Voice Parks and Open Space Committee
Member Friends of San Lorenzo Creek
Eden Community Land Trust
Cherryland Community Association

- Want the properties (Parcel 8 and Ruby Meadow) comprehensively evaluated.

- Want special surveillance for watershed components, such as underground aquifers

Importance of Contiguous Habitat

Carlos Bee Park connects two open space wildlife reserves (Parcel 8 and Ruby Meadow) in an urban area. It is important to evaluate the Caltrans properties here as a whole for natural resources and potential habitat restoration because Parcel 8 and Ruby Meadow *are connected* by the open space in Carlos Bee Park. Studies show that having continuity between patches of habitat allows the wildlife to continue existing in an urban environment.

Community Health and Wellness

The Caltrans properties surrounding Carlos Bee Park allow a special opportunity to examine many historical features of the natural and manmade world. Not only does this area enhance community health by being a large green space in a more and more densely populated urban area, but it provides many untapped educational opportunities. Life, and history, revolves around the creek, from the indigenous peoples thousands of years ago to European civilization and industrial uses of the creek. Ruby Meadow is a green space adjacent to the Hayward Senior Center, the Douglas Morrisson Theater, the Japanese Gardens, Carlos Bee Park, and new development planned at Foothill Boulevard. This peaceful wildlife habitat should be preserved because it is a prime location for residents to enjoy their connection to nature, do art, and to learn about history.

Component of San Francisco Bay

The San Lorenzo Creek is a large contributor to the SF Bay waters. It is also recognized as being one of the most polluted creeks in the Bay area. San Lorenzo Watershed health is important. Ruby Meadow is the last natural creek (riparian corridor/habitat) before San Lorenzo Creek is channeled (in a concrete channel) for the remainder of its trip to the SF Bay. Creeks come into confluency at two separate points in this small area: first, at Carlos Bee Park the North Fork of the San Lorenzo Creek (the Castro Valley Creek) meets the Chabot Creek (google map calls it Coyote Creek), and then secondly, at the Japanese Gardens, that tributary meets the San Lorenzo Creek flowing from Ruby Meadow.

Geological Resource: Active and Inactive Faults

The active Hayward fault runs nearby. At least two other faults here (Chabot and Carlos Bee) have been inactive for over 30,000 years, but the hills and twisted creeks here show geologically how their activity shaped the land. Many yet undiscovered and/or documented fissures exist here. The soil type changes from the west side of the hill to the east side. The soil type also changes north to south across the face of the parcel 8 hill. The tip of Parcel 8 is the exposed gabbro rock of a much older era, the floor of the Jurassic ocean. This is geological evidence that earth movements caused the prehistoric ocean floor to bend and push upward, forming the hills. The way that San Lorenzo Creek snakes through Ruby Meadow demonstrates prehistoric land movements.

Ruby Meadow Development Contradicts Castro Valley General Plan

Ruby Meadow is shown as protected habitat in the Castro Valley General Plan because it is in the Biological Resources Overlay Zone. The Castro Valley General Plan describes the necessity to protect natural, historic, or community resources, all of which Ruby Meadow is. The issue of zoning in the Caltrans properties as they pass from public to private ownership, after sixty years, was not discussed publicly and neighbors were unaware of what is happening. Ruby Meadow should be zoned Open Space and protected, not zoned for apartments. The 2008/9 238 Land Use Study recommends this for its post-freeway use, and if the freeway had gone through, preserving Ruby Meadow was planned for mitigation purposes.

The Castro Valley General Plan for in-fill development does not include Ruby Meadow, nor indicate that its zoning will change, yet Ruby Meadow has had lot line changes done, zoning changes, and in-fill development plans that include building density bonus, building height increase, decreased residential amenities, and skipping the Environmental Impact Report.

Alameda County does not Recognize the Value of Ruby Meadow

The Housing Authority of Alameda County *should not* have offered Ruby Meadow for development purposes because it is a valuable community resource that the community did not have a chance to weigh in on. A full Environmental Impact Report needs to be done for the proposed Ruby Meadow development because Ruby Meadow has never been examined for this type of proposed development. Previous EIRs that mention the Ruby area are outdated and only looked at Ruby Meadow as a minor component of the larger, defunct, 238 freeway project.

Ohlone Indians Lived and Camped Near the San Lorenzo Creek

Published research from Caltrans, and others, show that Ohlone human remains and artifacts have been unearthed at multiple sites in the area, including near San Lorenzo Creek at Ruby Meadow. The Ohlone were not a migratory society, and data show that they usually lived and died within only a few square miles; therefore, Native Americans found within a mile or two of Ruby Meadow relied on the San Lorenzo Creek for sustenance. Recently, a 1500-year-old Ohlone man's body was discovered beneath the nearby Green Shutter Hotel. A 1200-year-old Ohlone woman's body, with rare snail shell beads, was recently found under a public storage building by San Lorenzo Creek. Specifically near Ruby Meadow, published data show that the Ohlone camped here on their journeys between the bay and the larger inland settlements.

Food items cooked in the 1000+ year-old campsite were identified and classified by plant species. An older level of human artifacts at the same location dating to approximately 5000 years ago was documented but not explored. Many pre-Columbian items have been found in the area.

Historic Foundations of Alameda County, Infrastructure, and Agricultural Commerce

Ruby Meadow is part of the Knox Tract, a subdivision of the Knox property that took place in 1892. William Knox, Sr. came to the area from Ohio with his wife. He is listed as a founding member of Alameda County. William Knox was the third largest landowner listed at the time of the 1853 establishment of Alameda County. Knox obtained his land directly from Guillermo Castro. William Sr., his wife, and their children and grandchildren, are buried in the historic San Lorenzo Pioneer Cemetery. The Knox family monuments are adjacent to the Meek family monuments. Carvings of various fruits adorn the Knox monument, representative of the family's agricultural history. In 1894, his son William Knox Jr and Milo Knox built one of the first water pumps and reservoir systems in the San Lorenzo Creek near Ruby Meadow. Remnants of a road, bridge, and possibly pumping pipes and reservoir concrete, is visible in the San Lorenzo Creek at Ruby Meadow. The water was pumped out of Ruby Meadow and piped across the Hayward border over to the reservoir, located where a water reservoir still exists today. Ruby Street is named after William, Jr.'s daughter, Ruby Corrine Knox. Knox Street (formerly William Street) is one block north at Castro Valley Creek (formerly the North Fork of the San Lorenzo Creek. The Knox brothers grew fruit, such as cherries, and shipped the fruit from California to New York, contributing to the origins of refrigerated shipping when cross-country agricultural commerce required new and difficult technology. Throughout historical documents William Knox, Sr. and William Knox, Jr. are contemporaries of William Meek, Sr. and William Meek, Jr.

The western red bat is not federally protected but is a California Species of Special Concern(SSC).

It was not previously identified in the CVGP, the CVGP EIR, nor the EBRPD bat survey, but the habitat identified at Ruby is particularly significant to the western red bat since it has been found to be associated with riparian areas and mature trees with dense foliage (Anderson & Geluso 2018).

The western red bat was determined to be a separate species from the eastern red bat in 1988 and little is known about its habitat requirements and sensitivity, making it is especially reckless to damage documented existing habitat when bat populations are in critical decline.

The riparian habitat was insufficiently identified, resulting in a smaller habitat than exists in the riparian corridor, red bats are more abundant in larger riparian areas (Calvert & Neiswenter 2012.

Wildlife in ruby meadow are isolated and protected from human disturbance and flee upon encounter because they are not habituated to human development.

** references are included in this directory

Hi Neighbors,

It is difficult to keep on top of what our local government is doing in our name. Even for a well-traveled, college-educated, biochemist, molecular biologist, teacher, and community activist such as myself—"they" make it difficult to find meetings, to be informed about meeting topics and about local development decisions. So don't ever be fooled into thinking the problem is you! The confusion is maintained by those in charge. Goals and guidelines describe the importance of community involvement, but in reality, community just causes "them" problems. Why today do I feel more like it is us versus them? Why do I feel so unsupported by the local government we voted in, by their staff, and by the system of social control that we have created? I will tell you why using my story starting when I arrived here on Grove Way.

In 1972, a single mother with three young kids rented a home on Grove Way, next to Baywood Elementary School. She was a schoolteacher, born in Oakland. The homeowner decided to sell his rental when he got married, so the family was displaced. They moved to some apartments across from First Pres church for a while, but there was a lot of violent crime and drugs there. At 11 years old I was first exposed to marijuana, cocaine, prostitution, and violence there at those apartments. In 1976, my mom found a rental home through Caltrans. It was on Grove Way. I was too young to know about freeways and such, but I knew my mom was constantly worried about losing our home because of the 238 freeway. All her plants stayed in pots. She never put a tree in the ground because we never knew when we would have to move again. She, like the other tenants, was afraid to complain too much, because the house could simply be condemned and not rented any longer. We heard rumor that if the freeway was ever cancelled, we might be able to buy our homes. My mom, and other tenants, waited decades for this golden chance to purchase, tolerating poor home upkeep. Kids grew up and moved out. We waited. And waited.

In 2009, the Caltrans tenants settled a class action lawsuit against the City of Hayward and Caltrans that gave Hayward the responsibility of "disposing" of the 238 properties and outlined how the tenants could buy their rental homes. A land use study that gave best options for the land's use was done in 2008 and adopted by Hayward in 2009. In 2010, Caltrans officially rescinded the 238 freeway and property disposals began.

Although we asked, and had been asking, what the plans were, nobody ever gave us an answer. This is true to date. I personally ran across Grove Way to talk to the State agents whenever we knew they were here, made calls, wrote letters, attended every single meeting that was ever held for tenants (because my mom was a tenant—I didn't even live here then). However, I found the most information by scanning the internet for auction ads because no one would tell us what was happening in our neighborhood. That is how I found Hayward's 238 Land Use Study. In 2016, Hayward entered into a sales agreement with Caltrans to buy only certain 238 properties. The rest were sold at auction, to existing tenants, or through private closed-door dealings, such as is the case for the twenty parcels at Ruby Meadow.

The twenty Ruby Meadow parcels were offered to Eden Housing, Inc. in 2011 by Alameda County and Caltrans. County Supervisor Nate Miley was described as a strong supporter. At that time, parks should have had priority for purchase rights, but there is no evidence to-date that anyone other than Eden Housing, Inc. was ever offered the properties. In late 2018/early 2019 neighbors first became aware of the plans for Ruby Meadow because lot lines and zoning were changing and Eden Housing, Inc. held a public meeting about the project. Notification was poor and most neighbors had no idea anything was happening until Grove Way Neighborhood Association (GWNA) learned about it and put out the word. The second meeting that Eden Housing, Inc. held was well-attended; however, neighbors were not allowed to speak or ask questions during the presentation. There have been no further public meetings held by Eden Housing, Inc.

Currently, neighbors and concerned community members from the Eden area attend every government meeting in Hayward or County that has anything to do with the Caltrans 238 properties in the Grove Way area. The Castro Valley Municipal Advisory Council (CVMAC) agreed to address the situation, creating a 238 subcommittee, and discussing issues such as the 238 properties in the Castro Valley General Plan, the zoning of the 238 properties, and the environmental analysis of the Ruby Meadow parcels. However, the issue has been dropped from the CVMAC agenda and we were told by County planning on January 13, 2020, that the Ruby Meadow project was "on hold" and the planning department became unresponsive to questions.

I often check the multiple websites that list upcoming government meetings. After the beginning of 2020, County agencies were slow to update their calendars and no meetings involving the former Caltrans 238 properties in the Grove Way area were indicated. January 18, 2020, I attended a Nate Miley fundraiser in Castro Valley where we discussed Ruby Meadow with the supervisor, who said it would be a long process with plenty of opportunity for public input and that he had not yet made a decision because the subject had not yet come to him for a decision. He said it would be inappropriate for him to weigh in on a topic that was still going through "the process."

February 6, 2020, the Alameda County Parks, Recreation, and Historical Commission (PRHC) approved a letter to the CVMAC supporting the natural and historic value of Ruby Meadow and asking for further analysis before development proceeded. December 5, 2019, County Planner Liz McElligot had e xplained the project timeline to the PRHC commissioners, telling us all that the project's next meeting would be at the CVMAC, then at the planning commission, then with the county supervisors. On February 13, 2020, Planner McElligot also presented updates to the My Eden Voice! Parks and Open Space Committee that I chair in Supervisor Miley's office.

February 16th, I checked the websites for meetings, as usual, and discovered that on February 4, 2020, the Alameda County Board of Supervisors (BOS) had approved 8.8 million dollars of Measure A1 housing money for the Ruby Meadow development. Eden Housing was allotted 33 million dollars total of our A1 money, so the 8.8 million dollars for the Ruby Meadow development was only 27% of the total money they will receive from the electorate. District 4

Supervisor Nate Miley was the only supervisor absent from the vote. Because this is public money for development of a publicly funded project on former public land, there are A1 pre-approval requirements including public outreach and completing the environmental analysis. According to the County's scoring system provided in the BOS meeting agenda, Eden Housing, Inc. received 100% of the possible points and the project is fully approved.

Because Grove Way Neighborhood Association received erroneous information from the planning department that the Ruby Meadow project was on hold, this was the false information that I passed on in the February 4, 2020, GWNA newsletter. I also passed this erroneous information on to the Audubon Society, the Sierra Club, and all of our other supporters. I apologize because my whole aim has been to update the community about what is happening in the Grove Way neighborhood 238 properties.

The voices of those neighbors who refused to participate in GWNA because "nothing we do matters" ring in my head. Last night, as I tried to hide my head under the pillows, my boyfriend lectured me on how the system works and how I am fooling myself if I think we really have any say in what happens here. I think of the Tibetan monks who self-immolate because it really doesn't matter. The truth and the reality is that if those in power don't want us to know what's happening, we won't know. We can only contribute input if they allow us to. From my google searches, I once saw a federal government training manual that said, "don't worry about public meetings, you just need to let them talk, you don't have to do anything they say." In our case, they don't even want to let us talk.

Today, the agenda was posted for the 2/24/2020 CVMAC land use meeting, listing one agenda item to be voted on: Castro Valley Zoning Implementation. However, the agenda contains no staff report nor details to let us know what components will be discussed and voted on. Planner Rodrigo Orduna has gone on to greener pastures and Planning Director Lopez is out on family leave and not responding to email. The phone number I had is disconnected. A phone message left for Director Lopez's direct supervisor, Community Development Agency Director Chris Bazar, has not yet been returned. The website for the Castro Valley General Plan Zoning Implementation has not been updated since community started attending the meetings. I plan to attend the 2/24/2020 CVMAC, regardless, just because I am so disturbed at the behavior of the Alameda County government towards the Grove Way neighborhood electorate. I am awaiting a time/date when Supervisor Miley will meet with concerned neighbors and I will continue to keep GWNA informed as best I can. Please feel free to address any of these issues with County or State representatives directly as you have the ability to help. Hope to see you at the 2/24/2020 CVMAC.

**update just received regarding the 2/4/2020 BOS vote on funding Ruby development: the matter will come before the BOS one more time before the 8.8 million dollars is disbursed to Eden Housing, Inc. Although planning is part of the Community Development Agency (CDA), the planners knew nothing about the project's being funded or its being on the 2/4/2020 BOS agenda. Planning has not yet approved the project. So they say. The Measure A1 oversight committee will meet next Thursday 2/27/2020 but no agenda yet.

I object to the Castro Valley General Plan (CVGP) designation of RLM for the entire twenty lots which are being combined for this project. In addition, there is no mention of half the lots being in the CVGP Biological Resources Overlay Zone. The problem with this is that County Staff is misrepresenting the facts to the public who base their knowledge off of what the County informs them. County has changed lot lines and blurred the zoning on these twenty lots in order to find that the project is eligible for the CEQA community plan exemption, which it is not.

The staff report continues to provide misleading background information because their report states that the site is in the Alameda County Housing Element. Only half of the twenty lots are in the County Housing Element and 15 out of the entire 20 lots are in the protected Biological Resources Overlay Zone. Of the 11 lots in the proposed building and parking lot area, 7 are in the Biological Resources Overlay Zone, let alone the historical and archeological resources there that are proposed to be paved over.

Even of the eleven lots that are proposed to be the developed building and parking areas, eight are in the Housing Element and three are not. By contrast, two lots on A Street that are in the County Housing Element are proposed to be given to Hayward Area Parks and Recreation for parks or a parking lot and are not proposed for housing. It is most appropriate to put housing where housing was and to protect the riparian corridor that is more beneficial as habitat and as a public parks resource.

ATTACHMENTS

1) Nov. 2009 *(retrieved 6/21/2020 from https://www.eastbaytimes.com/2009/11/05/my-word-neighborhood-being-destroyed-by-hayward-caltrans/)*

My Word: Neighborhood being destroyed by Hayward, Caltrans

By Debra L. Lewis Published November 5, 2009

JUST OFF A Street in Hayward sits a wonderful little neighborhood. Cozy historic houses, adorned by gardens filled with rare old-stock ornamental plants, sit beneath the protecting shade of large oak and walnut trees. A creek offers drinking water to local wildlife that find sanctuary in the grassy fields near the tributary's banks.

Men and women come home at the end of the day and settle into their private paradises with their families. They work very hard to pay rent and mortgages but it is worth it to live in this lovely community. There is only one problem with this neighborhood, and others like it scattered about in Alameda County: Caltrans owns some of the homes and green open spaces — a situation that is providing local government with an opportunity to make mischief.
Local government does not like gentlefolk, nature and wild creatures. It likes bulldozers, cement and asphalt. It likes to pass legislation that allows it to destroy the public's quality of life without first asking for approval from the voters.

Local government likes to change the zoning of occupied 80-year-old houses to make them illegal to stand alone. And worst of all, local government doesn't give a fig for what the people want. City employees are spending $12 million to throw people out of the historic homes. They have cut services and lowered the salaries of city employees because they say they have no money. Yet they can find $12 million for gathering data, softening the eviction of people from their homes by giving them a small cash settlement and hiring appraisers to value the property they wish to exploit.

A property owner called the Planning Commission office to ask about what is going on with the plans for her neighborhood, and the employee said that the city is not involved with the project. "It's a county thing," she was told. I have the documents for the plan to ruin this neighborhood and the city is right there on the pages, hosting the meeting in which it informed hundreds of people that they would be losing their homes and administrating the spending of millions of dollars for preconstruction. The city does not say where it is going to get the money to build the 237 tenements that it hopes to erect in the Highway 238 corridor that includes Ruby Street.

A neighbor is struggling to pay off a $255,000 mortgage on property that has decreased in value to $190,000. The city intends to devalue her property even further by building high-density tenements that will do very little to solve the overwhelming problem of affordable housing in this area. The city government has been indifferent to the needs and wants of the voters for decades. The same system that I watched destroy my parents' neighborhood is now

cooperating with the county's plan to bulldoze precious old gardens, historic wooden houses and open spaces so they can build 237 earth-choking tenements.

Assemblywoman Mary Hayashi, state Sen. Ellen Corbett and Bijan Sartipi, District 4 director of the state Department of Transportation, along with the city, decided to promote this folly. Our local government needs a complete overhaul; a cleanup of major proportions. Perhaps rehabilitating the power structure into a benign institution that serves the public is an unrealistic goal. I guess the only solution is to get out of town.

Debra Lewis of Castro Valley is a fine arts artist who has lived in the area all her life. She was born in San Lorenzo, and moved to Hayward at age 14. She lived in Hayward for more than 50 years.

2) Nov. 2009 *(retrieved 6/21/2020 from https://www.eastbaytimes.com/2009/11/05/my-word-caltrans-property-on-ruby-street-carefully-formulated/)*

My Word: Caltrans property plan on Ruby Street in Castro Valley is carefully formulated

By Bob Swanson Published November 17, 2009

I'D LIKE to respond to Debra Lewis' My Word of Nov. 6 regarding Caltrans owned property on Ruby Street in Castro Valley. I thank her for her concern for the environment, the tenants and the neighborhood.

For more than two years, Caltrans, the city of Hayward and the Caltrans tenants worked on an agreement that gives a stipend to each of the Caltrans tenant families to be used for relocation. The stipend also can be used toward a downpayment by tenants in single-family homes who want to purchase their home at appraised value.

Some of the homes are in very poor condition and would not qualify for financing, and will likely be torn down. A number of the homes in the Hayward hills are lacking some city amenities, and those homes still are being evaluated for possible sale to tenants.

Money from selling the Caltrans property will come back to the city and county for local alternative transportation projects. The city has agreed, over a period of years, to build 237 replacement housing units within the city to make up for lost housing stock.

State Sen. Ellen Corbett, Assemblywoman Mary Hayashi and the Hayward City Council have approved the housing program, and the governor has signed the appropriate legislation into law. The riparian area and the creek next to the Hayward Senior Center will be protected.

Caltrans still owns the property on Ruby Street. Alameda County will have an opportunity to purchase that property. If the county does not purchase the property, it will be sold at auction by the state to a private party.
If Alameda County buys the property, what are the options? Lewis would like to see some open space around the riparian area. One person suggested a Castro Valley postal annex, although that does not seem likely at this time. Another person suggested senior housing and senior services in conjunction with the Hayward Area Recreational District's Senior Center.

I am open to meeting with Lewis and listening to her ideas and those of others. I would like to thank Corbett, Hayashi and the Hayward City Council for their work on this fair plan and their genuine concern for the impact of this transition on the people and the environment.

Bob Swanson, a Castro Valley resident, is founder of the Caltrans Tenants Organization.

3) 2010 CDBG
In the City of San Leandro Community Development Block Grant updates, dated 1st Quarter 2010, it states among other things: "Last month also **met with County Supervisor Nate Miley to request his assistance in moving the project (Ruby & A St development) forward.** Supervisor Miley is a long-time supporter of the project and he will participate in our next meetings with County staff." In the 2nd Quarter of 2010 updates it states: "Also attended a **follow up meeting with County Supervisor Nate Miley** to keep him apprised of our progress. Supervisor Miley is a long-time supporter of the project and we expect he will participate in some of our subsequent meetings with county staff. "

4) March 2010
Alameda County Redevelopment Agency Castro Valley Citizens Advisory Committee (*retrieved 6/21/2020 from* http://www.acgov.org/cda/redevelop/meetings/Minutes030911final.pdf)

"Housing Site Update: The Agency is currently in discussions with Eden Housing Inc a non-profit affordable housing developer to **explore the feasibility of an affordable housing development project that would be located on several properties near Ruby Street and A Street.** Given the sites' proximity to nearby amenities like the Hayward Area Senior Center and a grocery store, staff believes the site could be a good location for senior housing. Staff indicated that over the past several years, the Castro Valley Sub-Area has finally accumulated enough housing set-aside funds to pursue such a project. The committee was enthusiastic about the project concept. A committee member expressed some concern over the possibility that Hayward could annex this property once it was developed by the Agency. Staff explained that the Agency would retain control over the entire redevelopment project area for the life of the redevelopment plan and therefore the all of the parcels that are within the redevelopment plan's boundaries would continue to remain in the unincorporated area. As more information is available, staff will present it to the committee. Additionally, Eden Housing will attend a future committee meeting to provide an overview of their organization and present examples of other projects they have completed in the area. "

5) March 2011

Alameda County Redevelopment Agency Castro Valley Citizens Advisory Committee (*retrieved 6/21/2020 from http://www.acgov.org/cda/redevelop/meetings/Minutes030911final.pdf*)

"Eden Housing Project: The Agency has been working with Eden Housing, a non-profit affordable housing developer, towards the development of a 70-unit housing project that would serve both seniors and families on a portion of the former Caltrans property located within unincorporated Alameda County, just adjacent to A Street near the City of Hayward border. The proximity to the existing Kenneth C. Aitken Senior Center, a grocery store and regional attractions make this site an ideal fit for this type of affordable housing development. Katie Lamont, Associate Director of Real Estate Development with Eden Housing, introduced herself and the project, presenting the committee with a portfolio of existing projects that could help guide the design of this upcoming proposal. Each new development is fully staffed with on-site property management and Eden Housing expects to design a **two or three story building with a density of about 11 units per acre.** The mixed design of senior and family housing will use secure, separate entrances for the family housing component, while the senior housing will be designed with an internal corridor. The units will likely be mixed throughout the building, and one, two and three bedroom family housing units will be included. In collaboration with the Redevelopment Agency, Eden Housing is considering co-locating a community based facility within the development. Spectrum Inc. / Meals on Wheels have expressed interest in relocating to a new, larger commercial kitchen to expand their regional services for the elderly. Eden Housing will return to the committee at a future date with site design plans and traffic impact analyses."

6) 7-20-2011 HACA Minutes

5-3. ACTION: PURCHASE OPTION OF SURPLUS CALTRANS PROPERTY Christine Gouig presented the staff report. Ms. Gouig reported that the **California State Department of Transportation (Caltrans) has notified HACA** of its intent to sell surplus land located in Castro Valley. She reported that **Eden Housing has asked HACA to option the site and reconvey it** to them. Ms. Gouig explained that Eden has been working with Spectrum Community Services on a development plan for the site that will include affordable housing and flexible use spaces for Spectrum's community services, including a production kitchen for the Meals on Wheels program. Ms. Gouig recommended that the Commission authorize HACA to option the site for reconveyance to Eden and read the following resolution into the record: **"Now therefore be it resolved that the Housing Commission hereby authorizes the Executive Director or her designee to sign and submit an offer to purchase said surplus land to the California State Department of Transportation, enter into an option agreement, and execute any and all documents and approvals that may be required by any party to complete the transaction."** A copy of the resolution was distributed to the Commission. Recommendation: Adopt a resolution authorizing the execution and submission of a notification of interest to purchase surplus land offered for sale by Caltrans and authorize the Executive Director to execute an

option agreement. Motion/Second: Atkin/Reed. Commission Discussion: Chairperson Steiner asked if HACA's offer will be considered first in the 7 event other agencies submit offers. Ms. Gouig explained that **HACA will receive priority as a public agency** with plans to develop affordable housing on the site. Chairperson Steiner commented that the Commission on Aging is willing to submit a letter of support for this project. Cmr. Natarajan asked where Eden will get funding for the project and Ms. Gouig indicated that Eden will look at a wide array of funding sources. Cmr. Atkin asked what HACA will do with the property in the event Eden is not able to secure the funding. Ms. Gouig explained that **HACA will not move forward with the purchase of the property if Eden is unable to secure funding for the project.**
Ayes: All Motion passed. APPROVED AS RECOMMENDED.

7) **2012** (*retrieved 6/21/2020 from https://www.cityonahillpress.com/2012/01/12/failed-caltrans-freeway-looms-over-bay-area-renters/*)

Failed Caltrans Freeway Looms over Bay Area Renters

By City on a Hill Press, Published January 12, 2012

Leo Herbert, a lively and outspoken man in his mid seventies, still remembers April 21, 1971, the day he received a letter from the California Department of Transportation (Caltrans) that said it needed to purchase the rights to his property.

Herbert's home, located in the foothills of Hayward, California, 15 minutes south of Oakland, sat in the middle of a 10-mile corridor of land where Caltrans planned to develop a freeway that would link I-580 in Castro Valley with I-680 in Fremont.

"They said, 'We need your house for a freeway, so [if] you go out and find a house that you want, then we will give you a fair price'," said Herbert from his back patio, motioning to the vacant field behind his home where Caltrans planned to build the freeway.

In preparation for the construction of the "Foothill Freeway," in some instances Caltrans utilized eminent domain, the process by which the state seizes private property, to purchase 620 parcels of land in the Hayward area during the late 1960s and early 1970s.

Herbert was not threatened by eminent domain. He resisted the demands of Caltrans while others in the area were bought out by the agency, which then began to rent out the newly acquired property to tenants while freeway plans stalled.

During the next three decades, a series of lawsuits were filed against Caltrans by local environmental organizations and tenants, stymieing Caltrans' freeway plans in Alameda County courts until the project was abandoned completely in the mid-2000s.

While freeway plans languished, Caltrans became one of the largest landlords in the Hayward area, amassing several hundred properties in a corridor from the Hayward foothills and Mission Boulevard east to the west, and north to south from unincorporated Alameda County to Industrial Boulevard in south Hayward.

Caltrans' takeover of properties has had a lasting impact on neighborhoods like Herbert's, which sits on the edge of the Hayward foothills, just east of downtown.

"That little house across the road was immaculate. You know what they use that for now? Storage," said Herbert, pointing to the boarded-up home opposite his that was owned by his neighbor prior to the Caltrans buyout in 1971. "It's a shame. They could have rented it out to so many people, people wanted to buy it, but they wouldn't sell. It's just a shed now."

As of late, the proposed sale of these vacant Caltrans properties, along with hundreds of other occupied residencies owned by the state, has drawn controversy. Some long-term tenants who have lived in the constant shadow of the proposed freeway are unable to purchase the Caltrans residences they have come to call home.

"We have been given no definite time of when we have to be out, but it's still annoying that we're going to get a letter from Caltrans saying, 'OK, it's time to move,'" said Shannon Stewart, a Hayward Caltrans tenant who resides just east of downtown Hayward.

In 1970, La Raza Unida, an organization composed of predominantly low-income Hayward residents, brought a suit against the state of California which called for the blocking of the freeway proposal on the grounds that the project violated local environmental standards.

By the mid-1970s, plans to connect I-580 in Castro Valley with I-680 in Fremont were abandoned by the state, and an alternative plan dubbed the "Hayward Bypass" was implemented. The plan proposed the connection of I-580 in Castro Valley with Industrial Boulevard in South Hayward by means of a 5.3-mile corridor that would run through the Hayward foothills.

Sherman Lewis, who founded the Hayward Area Planning Association (HAPA) in 1978, has spent three decades fighting this proposal.

As he sat in the basement of his Hayward home surrounded by boxes and file cabinets full of research pertaining to the proposed freeway construction, Lewis recalled some of the factors that drove him to take a stand against the project.

"I was involved because I was pissed off, and you don't want to piss off intellectuals," Lewis said. "This was an extremely destructive project in many ways, they were subsidizing driving, and as a result destroying the environment."

In 2001, HAPA and Citizens for Alternative Transportation (CATs) won a case against the state, which banned use of a half-cent sales tax titled Measure B, which was implemented in 1986 to fund the "Hayward Bypass" project.

According to Lewis, during the late 1990s, city leaders had performed what he called a "bait and switch" on the ballot, which lead voters to believe that Measure B funds were used to fund an alternative transportation project through Hayward, not the bypass project. He said the local government knew voters would not have approved due to its intended route through the Hayward foothills.

In 2004, "Hayward Bypass" project plans were all but ended for good by judges in an Alameda County appeals court.



Caltrans, deeming some homes ineligible to be purchased, leave some Hayward neighborhoods littered with vacant houses
By December 2009, after it became known Caltrans was planning to begin the sale of the properties, a settlement between Caltrans, the city of Hayward and Caltrans tenants was reached, designating which of a selected 193 Caltrans homes located in the corridor would qualify for purchase by tenants.

According to the settlement, structures that do not conform to single-family residence zoning qualifications are deemed ineligible for purchase.

The settlement also provides relocation assistance in the form of lump sum stipends for tenants unable to purchase their Caltrans homes, which is calculated according to the number bedrooms and income level of single family residences. For example, a three-bedroom single family residence occupied by a low-income family would receive $22,310, which could be then used for moving expenses and relocation costs.

Stacy Sorensen, who works for the City of Hayward as the 238 Caltrans project manager, will monitor the sale process of the 107 Caltrans homes deemed eligible for purchase by the settlement.

"We work as the facilitator, the administrative piece to the pie, we work with tenants on receiving stipend amounts and work with tenants on purchasing their home or another home if they so choose," Sorensen said. "We are looking forward to helping tenants make the best decision for them and their family both emotionally and financially, if you will."

Since the 2009 settlement, nearly 50 Caltrans tenants have opted into the Opportunity to Purchase Program (OPP), which allows to buy their Caltrans homes if they qualify for purchase.

According to Sorensen, residents eligible to purchase their homes and have taken stipend checks, awarded to tenants in January of 2010, have until July 6th, 2012 to opt back into the program.

Although no Caltrans homes have been sold to tenants as of yet, Sorensen remains hopeful that in the coming months the first homes will be sold.

"We have a couple that are close, but as of today none have been sold," Sorensen said. "There have been eight properties approved by Caltrans that are now ready to be purchased."

Marilyn Batler, a long-term Caltrans tenant and Hayward resident, lives in one of the 45 homes deemed ineligible for purchase.

Batler said unless her house is declared a historical landmark, she will have to accept relocation assistance provided by the settlement and move elsewhere.

"They told me I would have to move in three months because of the freeway construction plans and I said 'OK, whatever,'" said Batler, recalling when she began renting her Hayward Caltrans home in 1981. "If that would have happened back then it would have been alright, but after 30 years you kind of make a place your home."

Batler's home doesn't meet single-family residence requirements zoning qualifications, and is not eligible for purchase.

"The way I saw it, they picked and chose the properties that they wanted for themselves. In my case they rezoned it from single-family residence to high density, then they turned around and said it is ineligible to purchase because the zoning didn't conform," said Batler, whose home and accompanying land was appraised at around $225,000.

While the 2009 settlement provided relocation assistance on behalf of the city of Hayward, Batler has developed a strong connection to her home and is fighting for the right to buy her property.

"Caltrans said, 'We will offer you another house on the corner.' No, I want the house that I have lived in for 30 years, I don't want to move," Batler said. "I have lived here half my life. You think I want to pack up and go?"

Some tenants who do have the option to purchase the homes they rent do not see this as a wise investment, largely due to the poor condition of the structures.

"The appraiser basically told me that I could never get a loan on my house, the retaining wall is falling back, looks like there is water leaking in through the foundation, there is a sink hole in the back yard that is falling in because Cal Trans didn't put a replacement on leaking gutters," said Bob Swanson, a longtime Caltrans tenant who lived in unincorporated Alameda County.

Swanson feels years of property neglect on behalf of Caltrans created an unrealistic purchasing scenario, and took the lump sum stipend provided through the 2009 settlement.

"There is no chance for me here, so I took my stipend and bought a house in Castro Valley and I am very happy with it," Swanson said. "The cost to bring the Caltrans house up to code would be an incredible amount of money, and if I can't get a loan on it then I can't buy, so I bought a house that's in way better shape and it works for me."



Some long-term tenants who have lived with the Caltrans freeway project for years are unable to purchase the residences they have come to call home.

Shannon Stewart, a Caltrans tenant for nearly two decades, lives on a stretch of Fourth Street just east of downtown Hayward, where nearly 10 Caltrans houses sit vacant.

Stewart, whose home is surrounded on three sides by vacant Caltrans properties, claims the local Caltrans agent evicted several tenants more than five years ago, and the houses were never rented again due to plans to begin to sell off properties.

Although Caltrans public affairs spokesperson Tracy Brews acknowledged that most recently some Caltrans properties have been offered for sale, no timeline could be provided on when vacant houses like those in Stewart's neighborhood would be sold.

"We are in a real dead spot," Stewart said. "I keep my Christmas lights on year-round because the street is so dark. We petitioned the city of Hayward to put up another street light, but we got turned down."

Stewart, who is upset with both state and city responses to the problem, said vacant homes attract suspicious activity to the neighborhood.

"We have people walking down our driveway all the time — it's actually kind of scary," said Stewart while, motioning down to the pathway which runs past her door and leads to a vacant home sitting virtually right behind her home.

Stewart also claims that Caltrans and police are largely unresponsive to the problems of trespassers. As of press time, Caltrans could not be reached for comment regarding this matter.

"We call the police [and] they don't care; we call Caltrans they don't care either," Stewart said. "We have actually told them 'There are people in the house right now, we have just watched them walk in and they are squatting on state property.' But this is Hayward, they have real crime to fight."

Stewart, who is not eligible to purchase her house due to its location on a land parcel with three other homes, plans to take her lump sum stipend and move.

According to City Project Manager Stacy Sorensen, the fate of Caltrans properties ineligible for purchase by tenants is still up in the air.

"Caltrans may sell them at auction, they may demolish them, they may leave them as they are, they may have the developer come in and take over," Sorensen said.

Bunker Hill, which sits below Cal State East Bay, is unique in that it contains a substantial amount of the 41 homes labeled 'unclassified' by the September 2009 settlement. This means there has not yet been a decision on whether the homes will be made eligible for sale to tenants or sold to a private developer.

According to Lewis, longtime anti-Caltrans freeway activist, much of this decision rests on prospective development plans and the infrastructure of Bunker Hill, as much of area requires road widening and the installation of new sewage systems.

"One of the issues up there is that they need lot line adjustments, so determining the boundaries is one of the things we need to move forward with," Sorenson said. "We are still talking with Caltrans about what that process looks like, then we can do a proper appraisal of properties."

This could be a lengthy process, one that Melanie Cedeno, a seven-year resident of the neighborhood, believes may not be worth the wait, especially in light of the current state of her home.

"Up here, the biggest issue is retaining walls — the dirt is falling and they don't do that stuff," Cedeno said. "If they did a few things, with the foundation or any of the few things that need to be fixed before you a buy a home, I really would like to buy it, because it is really nice up here."

While Cedeno and other tenants no longer live in the shadow of the proposed construction of a phantom freeway, uncertainty surrounding future living arrangements looms as they wait for a decision on when Caltrans will begin to sell off more property.

For tenants like Stewart, Caltrans' mismanagement of a once well kept neighborhood has had such an effect that moving on will not seem as difficult a task a initially conceived.

"If the condition of the neighborhood was kept up I would have liked to stay," Stewart said. "But it's just no fun living in a dead zone."

8) 2019 *(retrieved 6/21/2020 from* https://castrovalleymatters.org/2019/05/27/a-freeway-would-run-through-it-reflecting-on-the-history-of-the-238-parcels-and-who-decides-their-future*/)*

A freeway would run through it: Reflecting on the history of the 238 parcels and who decides their future

By Ann E. Maris, PhD, Published May 27, 2019

Over 50 years ago, the State of California "purchased more than 400 parcels of property for construction of a 14-mile 238 Corridor Bypass Freeway to run through the City of Hayward and

parts of unincorporated Alameda County."

Many people fought the project since its inception in 1961. Sustained activism and lawsuits resulted in a 2004 decision halting the project.

While the status of the project was litigated, Caltrans rented out the homes it had purchased, initially to low-income families, and later at market rate. Some buildings and lots were used for open space or community services. But Caltrans was a poor property manager, allowing homes and neighborhoods to decline into disrepair. Buildings were not re-rented and left abandoned, many surrounded in chain link fences.

With the legal issues settled and the 238 freeway extension abandoned, Caltrans began selling off the properties to current tenants, at auction, or to Hayward and Alameda County, who now are selling them to other developers. But no post-238 plan was ever made to restore the neighborhoods, and the public has not been allowed to participate in meaningful decisions. It is not yet clear what these public lands will become and neighbors need a balanced plan that provides local benefits, such as affordable housing and open space trails that both support local wildlife habitat and connect neighbors to retail, recreation and community.

History of the Caltrans 238 Neighborhoods



An abandoned home within the 238 parcel neighborhood
I realize we are just the current breath in a long, wide, and deep contingency of residents who have fought for this Caltrans 238 land. But whom are we fighting?

They fought; they died. I sit these days and write the same letters they wrote decades ago. We have been fighting for a long time now. I was so young then, when they were old that I didn't even know what was going on. But I look through the public records and hundreds of letters and comments. I read their struggles, their hopes, their words, and I feel their disappointment and loss. Over and over, they fought for information and to be heard by those making the decisions. Many people who live here care about this land.

George Godinez was one. He lived on Ruby Meadow, at 1418 A Street, Castro Valley, in a historic 1893 building on a large lot. There were several hundred-year-old buildings in the path of the proposed 238 freeway. In the early 1990s, George complained to the Hayward Council that Castro Valley residents could not vote on the 238 freeway. I guess the freeway was always Hayward's baby. Out of the cancelled freeway came that dreaded Hayward Loop.

George attended the meetings and asked Hayward and Caltrans for information about the freeway plans that never came, and he asked again and again. He often complained to Caltrans about maintenance problems with his historic house. I'm not sure where he came from but I know he was passionate about his neighborhood and its future. George died in his Caltrans home when it caught fire one night while he was sleeping.

Besides his imprint in the public records, George was written about in two books that I know of: one book that documents the failed 238 project, and one autobiography about a Filipino activist who was once George's Caltrans rental agent. He writes that he expected a big surly guy by his letters and pushy reputation in the office, but was surprised when they first met to discover George was thin and kind. They had a mutually respectful relationship that was significant in the activist's personal development. The author also has passed on.

Strangely enough, while I was researching information about George, I discovered another man had died in the same home a few decades earlier. Maurice D. Bejach was a high school science teacher who also taught math and philosophy. He moved to the Bay area in 1929 and retired from teaching in 1947. He was a Mason and an active volunteer. In 1968, he passed away at home after a brief illness. It may have been fortunate timing because he didn't have to see what Caltrans did to his neighborhood. Most homes were purchased by Caltrans between 1967-1972. I moved to California from Pennsylvania in 1972. It was quite a different Bay then.



My mom is a third generation California native, but I happened to be born in Germany. However, I grew up here, living at three different addresses on Grove Way, with the final home being a Caltrans rental in 1976. When I was 13, we lost the dirt hill we played on and the A/C Flea Market because 509 Mesa Verde Condos were built. I had a big crush on the contractor's son. My mom remained in the home as her kids went off to college, started a family, and joined the Navy. She was a teacher but retired from the Hayward Library. Tenants like my mom stayed because they were promised the chance to eventually buy their rentals. But we never knew if we could plant a tree or would be evicted for the freeway. It was up and down and always felt tenuous.

Our neighbors behind us were already tenants when Caltrans bought their home, so they just switched landlords. Two sons were born to our good friend and neighbor, and now her grandson goes to the public meetings. My good friend died in her home two years ago of pancreatic cancer. She was my buddy and we fought hard for the right to buy our homes. We gardened together and walked our dogs on the land. I miss her all the time, and have met several other good women and men who fight with me now.

But whom are we fighting? Why should it be a fight? Doesn't the government exist for our benefit? The people ignoring us and the pleas for our neighborhood are paid workers, who see

only technical words on paper and not the lives who live here, and lived here, and will live here. Many have never even walked the earth here. Others just don't care. If we read the sensible General Plans, if we read the pretty resolutions by council, if we read the Brown Act, one might think or believe our voices matter. But the dark sludge of reality smears our historical archives with unheard voices. Words only mean something to those we fight when the weight of development dollars supports them. Others words are ignored, like the fall leaves from a tree, softly piling up on the ground, and then swept away.

July 5, 2020

Alameda County Supervisor District 4

Dear Supervisor Miley,

We are writing to object to your Planning Director's administrative approval of the Ruby Meadow site development review, lot line and zoning changes, and CEQA exemption (PLN2019-00024). This approval came as a surprise because, at four (4) different gatherings in the last few months, you, Community Development Agency Director Chris Bazar, Planning Director Albert Lopez, and Assistant Planning Director Liz McElligot all told community, commissioners, and the Castro Valley Advisory Council (CVMAC) that "the process" would proceed to the Planning Commission after the CVMAC. Instead community members in a socio-economically disadvantaged area, already struggling during the COVID-19 pandemic, are now forced to quickly pay money in order to appeal this administrative decision made **before the public has actually had a chance to participate with any actual decision-making body** such as the planning commission.

For over ten years, community has spoken out loudly and clearly to you in many ways that they do not want Ruby Meadow destroyed, and want the riparian corridor instead restored and protected as a public asset (attachment 1). You repeatedly claim to have made no decision and that we just need to follow "the process." While we have attempted to do this as instructed, you and the County staff that you supervise have **excluded the public from the decision-making process**. The process has been and is extremely biased against community. **We never had a chance.**

The language of the Ralph M. Brown Act clearly proclaims that the people of the State of California ***"do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."***

I, Dr. Ann E. Maris, am personally just one of the children of former Caltrans tenants. There are many of us. It has easily been three generations now. Your community liaison Bob Swanson organized The Caltrans Tenant Organization and the tenant class action lawsuit against Caltrans and the City of Hayward which was settled in 2009. Tenants like my mother were used as pawns to achieve the end result which still did not provide the senior housing that was promised. We didn't learn until after the settlement was signed that tenants were excluded from negotiations between Hayward and our lawyer. My mother was paraded around as one of the eldest senior citizen tenants who needed this settlement. ***If we weren't deceived about what was happening I would not have advised her to sign the class action settlement. Signing it was a mistake on many levels. Positive aspects like maintaining the properties as rentals were not followed and the settlement took away tenant rights such as appealing to a judge.***

For decades now we have asked and asked and tried to know what is happening here in our neighborhood. We were here, waiting and asking what is happening. When, how, and who made the decision to combine twenty lots at Ruby Meadow to build a 51-foot tall building with two parking lots? Public records research has shown these decisions were made outside the public eye despite community's repeated requests for information. Here are several of the lost opportunities for community engagement we discovered regarding the land use at Ruby Meadow.

Before the 238 freeway was officially cancelled, public money paid for the 2009 Land Use Study which developed three different plans and an overall recommendation for the best non-freeway uses of the 400 acres or so of former 238 land. **This land use study is not being followed and neighbors were not notified about the study when it was performed.** In 2009, a tenant's newspaper article displays the state of affairs at Ruby Meadow at that time and a community member calls out for help and recognition of this natural gem. No help was received. In fact, your employee Bob Swanson had the gall to respond to the author that he was "open to meeting" to listen to ideas for the Ruby Meadow property and inaccurately said that the creek and riparian areas would be protected (attachment 2). Why did your employee Bob Swanson think he himself controlled what would happen to the land? ***Where was public transparency and the forum for community input and decision consensus when we were crying out and asking for it?***

In 2010 a $30,000 Community Development Block Grant (CDBG) to Spectrum services was used to locate a new site for Spectrum food services. Spectrum ended up choosing a non-Caltrans 238 site. The CDBG report to Housing and Urban Development (HUD) writes that Eden Housing decided they wanted the **Ruby Meadow site for housing and that you, Supervisor Miley, were a strong supporter of the plan and would help push it forward** (attachment 3). Community was neither included nor asked about their needs.

In 2010, Caltrans tenants were afraid of losing their homes if they could not afford to purchase. The moving stipend from the settlement was only a small fraction of the purchase prices. Although the City of Hayward had homebuyer financial assistance for Hayward tenants, unincorporated Alameda County offered tenants no help. Tenants at Ruby Meadow were unable to purchase because of the zoning and the tenant settlement conditions. As they moved out, the **houses were not re-rented and were left to disrepair in direct violation of the 2009 tenant class action settlement.**

Your staff reassured my mom and other seniors that senior housing would be built on the 238 land at N. 3rd Street between Knox and Crescent, near the Hayward Senior Center. The Land Use Study and the Castro Valley General Plan designate this location for housing. This senior housing never happened to-date. Instead the Caltrans land there was sold and is currently used as a construction storage yard with existing small houses. Perhaps senior housing was not built by the senior center because this is the location where archeological exploration resulted in evidence of native American history dating up to 4500 years ago (CA-ALA-566). These artifacts are located 30-feet from the proposed Ruby Meadow paved development because the Ruby

Meadow riparian area is exactly the type of land known to be important to Ohlone life. ***Why was senior housing never built where land is already built up and zoned for dense housing, but the natural Ruby Meadow must be destroyed, once again with no community choice or input?***

March 2010 Redevelopment Agency's Castro Valley Citizens Advisory Council meeting minutes indicate "the agency" and Eden Housing are currently in talks regarding development of the Caltrans 238 Ruby parcels (attachment 4). **Local residents were not invited to any of these meetings nor informed that they were happening. Minutes do not reflect any community input and the advisors were not accurately informed of what existed at Ruby Meadow.**

In June 2010 The State of California officially cancelled the 238 bypass. We tenants were told the 238 properties would be auctioned off and that Hayward would be paid to administrate the sales per the tenant class action lawsuit. This process was slow and no government agency--county, city or state was transparent about what was being planned, so neighbors didn't know what was happening. We asked and asked and received no guidance. Each agency pointed at the other and we got no clear answers. The only way to see what was being sold to whom was to constantly scan the online auctions and much was happening behind the scenes and not at auction. ***We were excluded from choice and from the process. Residents impacted the most were blocked from self-determination at every turn.***

March 2011 Redevelopment Agency's Castro Valley Citizens Advisory Council meeting minutes indicate "the agency" and Eden Housing are currently working together to develop the Caltrans 238 Ruby parcels (attachment 5). Eden Housing said they would return to the Council with more details and this never happened. **Local residents were neither invited to any of these meetings nor informed they were happening.**

Minutes from the July 2011 Alameda County Housing Authority (HACA = Board of Supervisors) and its appointed Housing Commission report that Caltrans offered the Ruby Meadow site to HACA and that Eden Housing told HACA it wants the property reconveyed to it (attachment 6). Community was not notified and therefore no public comments were received. No staff report is available to the public. The commission voted unanimously to allow the real estate transfer to proceed **if and only if Eden Housing obtained funding first.** Eden Housing **did not receive project funding first** and yet the reconveyance occurred including rezoning and lot line changes via the Community Development Agency and Planning Department. The **Community Development Agency Director Bazar, Planning Director Lopez, and the Housing Director continue to tell community we are confused and that they had nothing to do with the sale to Eden Housing when it is clear several agencies worked together to construct the development plan outside the public eye.**

Public records requests reveal the Ruby Meadow properties were never offered back to owners who lost their land through eminent domain, nor were any other agencies offered the land prior to Eden Housing. Between 2011-2014 Caltrans tenants at Ruby Meadow lost their homes and their homes were razed, all while still under Caltrans ownership, in preparation for sale and

transfer to Eden Housing. The tenant class action settlement provided that homes would be re-rented and properties would be sold with tenants intact and it was not. The neighbors were not informed of plans (attachment 7).

The 2014 Castro Valley General Plan recognizes Measure D was passed in 2000 which directs new development into the urban areas to prevent sprawl and protect natural resources. However, the main provision of Chapter 7 was to create the Biological Resources Overlay Zone (BROZ) which provides protection for urban natural resources, given that Measure D allows development only in urban areas. Half of the twenty Ruby Meadow parcels are designated in the BROZ. Half of the twenty parcels are NOT in the 2015 County Housing Element. County staff has dropped the BROZ from the current CV zoning implementation process and told community that the BROZ doesn't mean anything. The proposed development puts park space in designated Housing Element sites on the street frontage and puts dense development in sensitive biological areas that are NOT in the housing element. The site is not designated for infill development nor is it transit-oriented development as modern planning requires. **Community has been misled by the County General Plan documents which are not being followed.**

In 2014 my family was allowed to purchase (at market rate) the Caltrans 238 rental that my mother paid rent on for 38 years (attachment 8). In 2016 the City of Hayward and Caltrans entered into a Purchase and Sales Agreement (PSA) involving hundreds of acres of other 238 land. Why some land went to Hayward's PSA, and not others, community doesn't know. ***Local community was not part of the process in any way.***

Community began formally appealing to your office regarding what was happening with the Caltrans 238 properties in 2017. As a result the CVMAC formed the 238 subcommittee in January 2018. At the same meeting, the CVMAC rules were changed to disallow ordinary citizens on its subcommittees. **The public has never received an update from this 238 committee with the exception of one notification of a Hayward meeting.**

2018 Planning Director Albert Lopez's Zoning Verification letter to the Eden Housing developers does not include all twenty parcels and says that a subdivision application would be required, which would have included public input. **The required subdivision application was never performed and instead everything has been approved administratively without public input.**

Community members have requested information and help from the CVMAC, the County Planning Commission, the Hayward Planning Commission, the Hayward City Council, Alameda County Parks Recreation and Historic Commission (PRHC), and your office. In return, we have been subjected to name calling by County and Eden Housing representatives, told by the CVMAC Chair to "move" if we don't like it, told by Eden Housing they "own it and will do what" they want, and misled about "the process."

Even the PRHC commissioners were misled about "the process" by Assistant Planning Director Liz McElligot. In the early stages of planning, County Redevelopment staff inaccurately told the

CV Citizens Advisory Council that the project would have less dense units per acre and have additional community benefit before they voted in favor of the site's development. The issue never returned to the council as promised. Housing Director Christine Gouig misled the housing commissioners before their vote for the project by claiming the Ruby property reconveyance would not occur unless Eden Housing procured funding first, which they did not. Director Gouig reported to the commissioners that Caltrans offered the site to HACA, but public information requests show Caltrans offered the site to only Eden Housing and that no other offers were made, including no offer to Hayward Area Parks and Recreation District which had first option at that time.

Most recently at the June 2020 CVMAC video meeting, Planning Director told concerned Councilmembers that the future housing would be for unincorporated County residents, which is not legal, to procure their votes. Even with those false assurances by the Planning Director, two members voted to NOT recommend the project for Planning Commission approval. Then with no warning, and contrary to the process we expected, Director Lopez approved the project administratively, forcing community to appeal his decision.

It is extremely difficult for community to know what is happening even without the deception, omissions, and redirections we have been subject to. The public must search at least three different County websites to find meeting agendas pertaining to the development of the Caltrans 238 land. There is no one central location. The public has no ability to search through the Board of Supervisors meeting minutes. And now during the COVID-19 pandemic our community that you know is full of low-income, elderly, and disabled people cannot attend meetings, except electronically, if they are able to, and many are not capable. Yet you, Supervisor Miley, are not only allowing your staff to rapidly push this Ruby Meadow development through regardless of abundant community sentiment against it but are also allowing your staff to change "the process" midstream.

Community has difficulty believing that you don't know what is happening and that you'll make your decision when it gets to the Board of Supervisors. This is deeply disheartening because you have been our County Supervisor for decades and your campaigns have been run on your integrity and community involvedness. So why do your actions show you care so little for us in the Grove Way area? Due to the behind-the-scenes collusion necessary to bring this Ruby Meadow development project together outside of community input, and regardless of actual community need, there should be an investigation into the actions of your County staff and your office employees, past and present, by an outside team. Perhaps this Ruby Meadow Development is an orchestration that runs so deep that it requires State or Federal investigation.

Now that seven community organizations and many concerned individuals have come together to pay to appeal the Planning Director's approval of the Ruby project, our community continues to be disadvantaged by your staff. We were informed by Planner Chauhan (attachment 9) that even as official appellants, **"If you are allowed to present, it will likely be similar to the last Ruby Street meeting, where you will receive 2-3 minutes to speak."** If allowed to present? We will only

2-3 minutes to present our appeal? How is this fair when Eden Housing has made repeated presentations and probably will again? Is every commissioner's mind already made up? Where is this proper process you told us to be part of?

Even if community input is not a weighty component of the County staff's decision-making process, please insist that they put more considerable weight on our health and safety. We need you to protect us, your constituents, and assure our neighborhood environment becomes better, and does not continue its decline. Eden Housing and County Staff need to recognize community's need that they are crying out about and respond accordingly. We ask you Supervisor Miley to hold your staff to higher expectations of civility and responsiveness. We ask that businesses supported by voter-approved funds that you allocate, such as Measure A1 funds, are truly community-responsive and community-serving, in contrast to the mis-actions of Eden Housing, Inc.

Sincerely,

Ann E. Maris, PhD
1490 Grove Way
Castro Valley, CA 94546
510-303-4968

Organizer Grove Way Neighborhood Association
Chair My Eden Voice! Parks & Open Space Committee
Director Eden Community Land Trust
Director Friends of San Lorenzo Creek

ATTACHMENTS

1) Nov. 2009 *(retrieved 6/21/2020 from https://www.eastbaytimes.com/2009/11/05/my-word-neighborhood-being-destroyed-by-hayward-caltrans/)*

My Word: Neighborhood being destroyed by Hayward, Caltrans

By Debra L. Lewis Published November 5, 2009

JUST OFF A Street in Hayward sits a wonderful little neighborhood. Cozy historic houses, adorned by gardens filled with rare old-stock ornamental plants, sit beneath the protecting shade of large oak and walnut trees. A creek offers drinking water to local wildlife that find sanctuary in the grassy fields near the tributary's banks.

Men and women come home at the end of the day and settle into their private paradises with their families. They work very hard to pay rent and mortgages but it is worth it to live in this lovely community. There is only one problem with this neighborhood, and others like it scattered about in Alameda County: Caltrans owns some of the homes and green open spaces — a situation that is providing local government with an opportunity to make mischief. Local government does not like gentlefolk, nature and wild creatures. It likes bulldozers, cement and asphalt. It likes to pass legislation that allows it to destroy the public's quality of life without first asking for approval from the voters.

Local government likes to change the zoning of occupied 80-year-old houses to make them illegal to stand alone. And worst of all, local government doesn't give a fig for what the people want. City employees are spending $12 million to throw people out of the historic homes. They have cut services and lowered the salaries of city employees because they say they have no money. Yet they can find $12 million for gathering data, softening the eviction of people from their homes by giving them a small cash settlement and hiring appraisers to value the property they wish to exploit.

A property owner called the Planning Commission office to ask about what is going on with the plans for her neighborhood, and the employee said that the city is not involved with the project. "It's a county thing," she was told. I have the documents for the plan to ruin this neighborhood and the city is right there on the pages, hosting the meeting in which it informed hundreds of people that they would be losing their homes and administrating the spending of millions of dollars for preconstruction. The city does not say where it is going to get the money to build the 237 tenements that it hopes to erect in the Highway 238 corridor that includes Ruby Street.

A neighbor is struggling to pay off a $255,000 mortgage on property that has decreased in value to $190,000. The city intends to devalue her property even further by building high-density tenements that will do very little to solve the overwhelming problem of affordable housing in this area. The city government has been indifferent to the needs and wants of the voters for

decades. The same system that I watched destroy my parents' neighborhood is now cooperating with the county's plan to bulldoze precious old gardens, historic wooden houses and open spaces so they can build 237 earth-choking tenements.

Assemblywoman Mary Hayashi, state Sen. Ellen Corbett and Bijan Sartipi, District 4 director of the state Department of Transportation, along with the city, decided to promote this folly. Our local government needs a complete overhaul; a cleanup of major proportions. Perhaps rehabilitating the power structure into a benign institution that serves the public is an unrealistic goal. I guess the only solution is to get out of town.

Debra Lewis of Castro Valley is a fine arts artist who has lived in the area all her life. She was born in San Lorenzo, and moved to Hayward at age 14. She lived in Hayward for more than 50 years.

2) Nov. 2009 *(retrieved 6/21/2020 from https://www.eastbaytimes.com/2009/11/05/my-word-caltrans-property-on-ruby-street-carefully-formulated/)*

My Word: Caltrans property plan on Ruby Street in Castro Valley is carefully formulated

By Bob Swanson Published November 17, 2009

I'D LIKE to respond to Debra Lewis' My Word of Nov. 6 regarding Caltrans owned property on Ruby Street in Castro Valley. I thank her for her concern for the environment, the tenants and the neighborhood.

For more than two years, Caltrans, the city of Hayward and the Caltrans tenants worked on an agreement that gives a stipend to each of the Caltrans tenant families to be used for relocation. The stipend also can be used toward a downpayment by tenants in single-family homes who want to purchase their home at appraised value.

Some of the homes are in very poor condition and would not qualify for financing, and will likely be torn down. A number of the homes in the Hayward hills are lacking some city amenities, and those homes still are being evaluated for possible sale to tenants.

Money from selling the Caltrans property will come back to the city and county for local alternative transportation projects. The city has agreed, over a period of years, to build 237 replacement housing units within the city to make up for lost housing stock.

State Sen. Ellen Corbett, Assemblywoman Mary Hayashi and the Hayward City Council have approved the housing program, and the governor has signed the appropriate legislation into law. The riparian area and the creek next to the Hayward Senior Center will be protected.

Caltrans still owns the property on Ruby Street. Alameda County will have an opportunity to purchase that property. If the county does not purchase the property, it will be sold at auction by the state to a private party.
If Alameda County buys the property, what are the options? Lewis would like to see some open space around the riparian area. One person suggested a Castro Valley postal annex, although that does not seem likely at this time. Another person suggested senior housing and senior services in conjunction with the Hayward Area Recreational District's Senior Center.

I am open to meeting with Lewis and listening to her ideas and those of others. I would like to thank Corbett, Hayashi and the Hayward City Council for their work on this fair plan and their genuine concern for the impact of this transition on the people and the environment.

Bob Swanson, a Castro Valley resident, is founder of the Caltrans Tenants Organization.

3) 2010 CDBG
In the City of San Leandro Community Development Block Grant updates, dated 1st Quarter 2010, it states among other things: "Last month also **met with County Supervisor Nate Miley to request his assistance in moving the project (Ruby & A St development) forward.** Supervisor Miley is a long-time supporter of the project and he will participate in our next meetings with County staff." In the 2nd Quarter of 2010 updates it states: "Also attended a **follow up meeting with County Supervisor Nate Miley** to keep him apprised of our progress. Supervisor Miley is a long-time supporter of the project and we expect he will participate in some of our subsequent meetings with county staff. "

4) March 2010
Alameda County Redevelopment Agency Castro Valley Citizens Advisory Committee (*retrieved 6/21/2020 from http://www.acgov.org/cda/redevelop/meetings/Minutes030911final.pdf*)

"Housing Site Update: The Agency is currently in discussions with Eden Housing Inc a non-profit affordable housing developer to **explore the feasibility of an affordable housing development project that would be located on several properties near Ruby Street and A Street.** Given the sites' proximity to nearby amenities like the Hayward Area Senior Center and a grocery store, staff believes the site could be a good location for senior housing. Staff indicated that over the past several years, the Castro Valley Sub-Area has finally accumulated enough housing set-aside funds to pursue such a project. The committee was enthusiastic about the project concept. A committee member expressed some concern over the possibility that Hayward could annex this property once it was developed by the Agency. Staff explained that the Agency would retain control over the entire redevelopment project area for the life of the redevelopment plan and therefore the all of the parcels that are within the redevelopment plan's boundaries would continue to remain in the unincorporated area. As more information is available, staff will present it to the committee. Additionally, Eden Housing will attend a future committee meeting to provide an overview of their organization and present examples of other projects they have completed in the area. "

5) March 2011

Alameda County Redevelopment Agency Castro Valley Citizens Advisory Committee (*retrieved 6/21/2020 from http://www.acgov.org/cda/redevelop/meetings/Minutes030911final.pdf*)

"Eden Housing Project: The Agency has been working with Eden Housing, a non-profit affordable housing developer, towards the development of a 70-unit housing project that would serve both seniors and families on a portion of the former Caltrans property located within unincorporated Alameda County, just adjacent to A Street near the City of Hayward border. The proximity to the existing Kenneth C. Aitken Senior Center, a grocery store and regional attractions make this site an ideal fit for this type of affordable housing development. Katie Lamont, Associate Director of Real Estate Development with Eden Housing, introduced herself and the project, presenting the committee with a portfolio of existing projects that could help guide the design of this upcoming proposal. Each new development is fully staffed with on-site property management and Eden Housing expects to design a **two or three story building with a density of about 11 units per acre.** The mixed design of senior and family housing will use secure, separate entrances for the family housing component, while the senior housing will be designed with an internal corridor. The units will likely be mixed throughout the building, and one, two and three bedroom family housing units will be included. In collaboration with the Redevelopment Agency, Eden Housing is considering co-locating a community based facility within the development. Spectrum Inc. / Meals on Wheels have expressed interest in relocating to a new, larger commercial kitchen to expand their regional services for the elderly. Eden Housing will return to the committee at a future date with site design plans and traffic impact analyses."

6) 7-20-2011 HACA Minutes

5-3. ACTION: PURCHASE OPTION OF SURPLUS CALTRANS PROPERTY Christine Gouig presented the staff report. Ms. Gouig reported that the **California State Department of Transportation (Caltrans) has notified HACA** of its intent to sell surplus land located in Castro Valley. She reported that **Eden Housing has asked HACA to option the site and reconvey it** to them. Ms. Gouig explained that Eden has been working with Spectrum Community Services on a development plan for the site that will include affordable housing and flexible use spaces for Spectrum's community services, including a production kitchen for the Meals on Wheels program. Ms. Gouig recommended that the Commission authorize HACA to option the site for reconveyance to Eden and read the following resolution into the record: **"Now therefore be it resolved that the Housing Commission hereby authorizes the Executive Director or her designee to sign and submit an offer to purchase said surplus land to the California State Department of Transportation, enter into an option agreement, and execute any and all documents and approvals that may be required by any party to complete the transaction."** A copy of the resolution was distributed to the Commission. Recommendation: Adopt a resolution authorizing the execution and submission of a notification of interest to purchase surplus land offered for sale by Caltrans and authorize the Executive Director to execute an

option agreement. Motion/Second: Atkin/Reed. Commission Discussion: Chairperson Steiner asked if HACA's offer will be considered first in the 7 event other agencies submit offers. Ms. Gouig explained that **HACA will receive priority as a public agency** with plans to develop affordable housing on the site. Chairperson Steiner commented that the Commission on Aging is willing to submit a letter of support for this project. Cmr. Natarajan asked where Eden will get funding for the project and Ms. Gouig indicated that Eden will look at a wide array of funding sources. Cmr. Atkin asked what HACA will do with the property in the event Eden is not able to secure the funding. Ms. Gouig explained that **HACA will not move forward with the purchase of the property if Eden is unable to secure funding for the project.**
Ayes: All Motion passed. APPROVED AS RECOMMENDED.

7) **2012** (*retrieved 6/21/2020 from https://www.cityonahillpress.com/2012/01/12/failed-caltrans-freeway-looms-over-bay-area-renters/*)

Failed Caltrans Freeway Looms over Bay Area Renters

By City on a Hill Press, Published January 12, 2012

Leo Herbert, a lively and outspoken man in his mid seventies, still remembers April 21, 1971, the day he received a letter from the California Department of Transportation (Caltrans) that said it needed to purchase the rights to his property.

Herbert's home, located in the foothills of Hayward, California, 15 minutes south of Oakland, sat in the middle of a 10-mile corridor of land where Caltrans planned to develop a freeway that would link I-580 in Castro Valley with I-680 in Fremont.

"They said, 'We need your house for a freeway, so [if] you go out and find a house that you want, then we will give you a fair price'," said Herbert from his back patio, motioning to the vacant field behind his home where Caltrans planned to build the freeway.

In preparation for the construction of the "Foothill Freeway," in some instances Caltrans utilized eminent domain, the process by which the state seizes private property, to purchase 620 parcels of land in the Hayward area during the late 1960s and early 1970s.

Herbert was not threatened by eminent domain. He resisted the demands of Caltrans while others in the area were bought out by the agency, which then began to rent out the newly acquired property to tenants while freeway plans stalled.

During the next three decades, a series of lawsuits were filed against Caltrans by local environmental organizations and tenants, stymieing Caltrans' freeway plans in Alameda County courts until the project was abandoned completely in the mid-2000s.

While freeway plans languished, Caltrans became one of the largest landlords in the Hayward area, amassing several hundred properties in a corridor from the Hayward foothills and Mission Boulevard east to the west, and north to south from unincorporated Alameda County to Industrial Boulevard in south Hayward.

Caltrans' takeover of properties has had a lasting impact on neighborhoods like Herbert's, which sits on the edge of the Hayward foothills, just east of downtown.

"That little house across the road was immaculate. You know what they use that for now? Storage," said Herbert, pointing to the boarded-up home opposite his that was owned by his neighbor prior to the Caltrans buyout in 1971. "It's a shame. They could have rented it out to so many people, people wanted to buy it, but they wouldn't sell. It's just a shed now."

As of late, the proposed sale of these vacant Caltrans properties, along with hundreds of other occupied residencies owned by the state, has drawn controversy. Some long-term tenants who have lived in the constant shadow of the proposed freeway are unable to purchase the Caltrans residences they have come to call home.

"We have been given no definite time of when we have to be out, but it's still annoying that we're going to get a letter from Caltrans saying, 'OK, it's time to move,'" said Shannon Stewart, a Hayward Caltrans tenant who resides just east of downtown Hayward.

In 1970, La Raza Unida, an organization composed of predominantly low-income Hayward residents, brought a suit against the state of California which called for the blocking of the freeway proposal on the grounds that the project violated local environmental standards.

By the mid-1970s, plans to connect I-580 in Castro Valley with I-680 in Fremont were abandoned by the state, and an alternative plan dubbed the "Hayward Bypass" was implemented. The plan proposed the connection of I-580 in Castro Valley with Industrial Boulevard in South Hayward by means of a 5.3-mile corridor that would run through the Hayward foothills.

Sherman Lewis, who founded the Hayward Area Planning Association (HAPA) in 1978, has spent three decades fighting this proposal.

As he sat in the basement of his Hayward home surrounded by boxes and file cabinets full of research pertaining to the proposed freeway construction, Lewis recalled some of the factors that drove him to take a stand against the project.

"I was involved because I was pissed off, and you don't want to piss off intellectuals," Lewis said. "This was an extremely destructive project in many ways, they were subsidizing driving, and as a result destroying the environment."

In 2001, HAPA and Citizens for Alternative Transportation (CATs) won a case against the state, which banned use of a half-cent sales tax titled Measure B, which was implemented in 1986 to fund the "Hayward Bypass" project.

According to Lewis, during the late 1990s, city leaders had performed what he called a "bait and switch" on the ballot, which lead voters to believe that Measure B funds were used to fund an alternative transportation project through Hayward, not the bypass project. He said the local government knew voters would not have approved due to its intended route through the Hayward foothills.

In 2004, "Hayward Bypass" project plans were all but ended for good by judges in an Alameda County appeals court.



Caltrans, deeming some homes ineligible to be purchased, leave some Hayward neighborhoods littered with vacant houses By December 2009, after it became known Caltrans was planning to begin the sale of the properties, a settlement between Caltrans, the city of Hayward and Caltrans tenants was reached, designating which of a selected 193 Caltrans homes located in the corridor would qualify for purchase by tenants.

According to the settlement, structures that do not conform to single-family residence zoning qualifications are deemed ineligible for purchase.

The settlement also provides relocation assistance in the form of lump sum stipends for tenants unable to purchase their Caltrans homes, which is calculated according to the number bedrooms and income level of single family residences. For example, a three-bedroom single family residence occupied by a low-income family would receive $22,310, which could be then used for moving expenses and relocation costs.

Stacy Sorensen, who works for the City of Hayward as the 238 Caltrans project manager, will monitor the sale process of the 107 Caltrans homes deemed eligible for purchase by the settlement.

"We work as the facilitator, the administrative piece to the pie, we work with tenants on receiving stipend amounts and work with tenants on purchasing their home or another home if they so choose," Sorensen said. "We are looking forward to helping tenants make the best decision for them and their family both emotionally and financially, if you will."

Since the 2009 settlement, nearly 50 Caltrans tenants have opted into the Opportunity to Purchase Program (OPP), which allows to buy their Caltrans homes if they qualify for purchase.

According to Sorensen, residents eligible to purchase their homes and have taken stipend checks, awarded to tenants in January of 2010, have until July 6th, 2012 to opt back into the program.

Although no Caltrans homes have been sold to tenants as of yet, Sorensen remains hopeful that in the coming months the first homes will be sold.

"We have a couple that are close, but as of today none have been sold," Sorensen said. "There have been eight properties approved by Caltrans that are now ready to be purchased."

Marilyn Batier, a long-term Caltrans tenant and Hayward resident, lives in one of the 45 homes deemed ineligible for purchase.

Batier said unless her house is declared a historical landmark, she will have to accept relocation assistance provided by the settlement and move elsewhere.

"They told me I would have to move in three months because of the freeway construction plans and I said 'OK, whatever,'" said Batier, recalling when she began renting her Hayward Caltrans home in 1981. "If that would have happened back then it would have been alright, but after 30 years you kind of make a place your home."

Batier's home doesn't meet single-family residence requirements zoning qualifications, and is not eligible for purchase.

"The way I saw it, they picked and chose the properties that they wanted for themselves. In my case they rezoned it from single-family residence to high density, then they turned around and said it is ineligible to purchase because the zoning didn't conform," said Batier, whose home and accompanying land was appraised at around $225,000.

While the 2009 settlement provided relocation assistance on behalf of the city of Hayward, Batier has developed a strong connection to her home and is fighting for the right to buy her property.

"Caltrans said, 'We will offer you another house on the corner.' No, I want the house that I have lived in for 30 years, I don't want to move," Batier said. "I have lived here half my life. You think I want to pack up and go?"

Some tenants who do have the option to purchase the homes they rent do not see this as a wise investment, largely due to the poor condition of the structures.

"The appraiser basically told me that I could never get a loan on my house, the retaining wall is falling back, looks like there is water leaking in through the foundation, there is a sink hole in the back yard that is falling in because Cal Trans didn't put a replacement on leaking gutters," said Bob Swanson, a longtime Caltrans tenant who lived in unincorporated Alameda County.

Swanson feels years of property neglect on behalf of Caltrans created an unrealistic purchasing scenario, and took the lump sum stipend provided through the 2009 settlement.

"There is no chance for me here, so I took my stipend and bought a house in Castro Valley and I am very happy with it," Swanson said. "The cost to bring the Caltrans house up to code would be an incredible amount of money, and if I can't get a loan on it then I can't buy, so I bought a house that's in way better shape and it works for me."



Some long-term tenants who have lived with the Caltrans freeway project for years are unable to purchase the residences they have come to call home.

Shannon Stewart, a Caltrans tenant for nearly two decades, lives on a stretch of Fourth Street just east of downtown Hayward, where nearly 10 Caltrans houses sit vacant.

Stewart, whose home is surrounded on three sides by vacant Caltrans properties, claims the local Caltrans agent evicted several tenants more than five years ago, and the houses were never rented again due to plans to begin to sell off properties.

Although Caltrans public affairs spokesperson Tracy Brews acknowledged that most recently some Caltrans properties have been offered for sale, no timeline could be provided on when vacant houses like those in Stewart's neighborhood would be sold.

"We are in a real dead spot," Stewart said. "I keep my Christmas lights on year-round because the street is so dark. We petitioned the city of Hayward to put up another street light, but we got turned down."

Stewart, who is upset with both state and city responses to the problem, said vacant homes attract suspicious activity to the neighborhood.

"We have people walking down our driveway all the time — it's actually kind of scary," said Stewart while, motioning down to the pathway which runs past her door and leads to a vacant home sitting virtually right behind her home.

Stewart also claims that Caltrans and police are largely unresponsive to the problems of trespassers. As of press time, Caltrans could not be reached for comment regarding this matter.

"We call the police [and] they don't care; we call Caltrans they don't care either," Stewart said. "We have actually told them 'There are people in the house right now, we have just watched them walk in and they are squatting on state property.' But this is Hayward, they have real crime to fight."

Stewart, who is not eligible to purchase her house due to its location on a land parcel with three other homes, plans to take her lump sum stipend and move.

According to City Project Manager Stacy Sorensen, the fate of Caltrans properties ineligible for purchase by tenants is still up in the air.

"Caltrans may sell them at auction, they may demolish them, they may leave them as they are, they may have the developer come in and take over," Sorensen said.

Bunker Hill, which sits below Cal State East Bay, is unique in that it contains a substantial amount of the 41 homes labeled 'unclassified' by the September 2009 settlement. This means there has not yet been a decision on whether the homes will be made eligible for sale to tenants or sold to a private developer.

According to Lewis, longtime anti-Caltrans freeway activist, much of this decision rests on prospective development plans and the infrastructure of Bunker Hill, as much of area requires road widening and the installation of new sewage systems.

"One of the issues up there is that they need lot line adjustments, so determining the boundaries is one of the things we need to move forward with," Sorenson said. "We are still talking with Caltrans about what that process looks like, then we can do a proper appraisal of properties."

This could be a lengthy process, one that Melanie Cedeno, a seven-year resident of the neighborhood, believes may not be worth the wait, especially in light of the current state of her home.

"Up here, the biggest issue is retaining walls — the dirt is falling and they don't do that stuff," Cedeno said. "If they did a few things, with the foundation or any of the few things that need to be fixed before you a buy a home, I really would like to buy it, because it is really nice up here."

While Cedeno and other tenants no longer live in the shadow of the proposed construction of a phantom freeway, uncertainty surrounding future living arrangements looms as they wait for a decision on when Caltrans will begin to sell off more property.

For tenants like Stewart, Caltrans' mismanagement of a once well kept neighborhood has had such an effect that moving on will not seem as difficult a task a initially conceived.

"If the condition of the neighborhood was kept up I would have liked to stay," Stewart said. "But it's just no fun living in a dead zone."

8) 2019 *(retrieved 6/21/2020 from* https://castrovalleymatters.org/2019/05/27/a-freeway-would-run-through-it-reflecting-on-the-history-of-the-238-parcels-and-who-decides-their-future/*)*

A freeway would run through it: Reflecting on the history of the 238 parcels and who decides their future

By Ann E. Maris, PhD, Published May 27, 2019

Over 50 years ago, the State of California "purchased more than 400 parcels of property for construction of a 14-mile 238 Corridor Bypass Freeway to run through the City of Hayward and

parts of unincorporated Alameda County."

Many people fought the project since its inception in 1961. Sustained activism and lawsuits resulted in a 2004 decision halting the project.

While the status of the project was litigated, Caltrans rented out the homes it had purchased, initially to low-income families, and later at market rate. Some buildings and lots were used for open space or community services. But Caltrans was a poor property manager, allowing homes and neighborhoods to decline into disrepair. Buildings were not re-rented and left abandoned, many surrounded in chain link fences.

With the legal issues settled and the 238 freeway extension abandoned, Caltrans began selling off the properties to current tenants, at auction, or to Hayward and Alameda County, who now are selling them to other developers. But no post-238 plan was ever made to restore the neighborhoods, and the public has not been allowed to participate in meaningful decisions. It is not yet clear what these public lands will become and neighbors need a balanced plan that provides local benefits, such as affordable housing and open space trails that both support local wildlife habitat and connect neighbors to retail, recreation and community.

History of the Caltrans 238 Neighborhoods



An abandoned home within the 238 parcel neighborhood
I realize we are just the current breath in a long, wide, and deep contingency of residents who have fought for this Caltrans 238 land. But whom are we fighting?

They fought; they died. I sit these days and write the same letters they wrote decades ago. We have been fighting for a long time now. I was so young then, when they were old that I didn't even know what was going on. But I look through the public records and hundreds of letters and comments. I read their struggles, their hopes, their words, and I feel their disappointment and loss. Over and over, they fought for information and to be heard by those making the decisions. Many people who live here care about this land.

George Godinez was one. He lived on Ruby Meadow, at 1418 A Street, Castro Valley, in a historic 1893 building on a large lot. There were several hundred-year-old buildings in the path of the proposed 238 freeway. In the early 1990s, George complained to the Hayward Council that Castro Valley residents could not vote on the 238 freeway. I guess the freeway was always Hayward's baby. Out of the cancelled freeway came that dreaded Hayward Loop.

George attended the meetings and asked Hayward and Caltrans for information about the freeway plans that never came, and he asked again and again. He often complained to Caltrans about maintenance problems with his historic house. I'm not sure where he came from but I know he was passionate about his neighborhood and its future. George died in his Caltrans home when it caught fire one night while he was sleeping.

Besides his imprint in the public records, George was written about in two books that I know of: one book that documents the failed 238 project, and one autobiography about a Filipino activist who was once George's Caltrans rental agent. He writes that he expected a big surly guy by his letters and pushy reputation in the office, but was surprised when they first met to discover George was thin and kind. They had a mutually respectful relationship that was significant in the activist's personal development. The author also has passed on.

Strangely enough, while I was researching information about George, I discovered another man had died in the same home a few decades earlier. Maurice D. Bejach was a high school science teacher who also taught math and philosophy. He moved to the Bay area in 1929 and retired from teaching in 1947. He was a Mason and an active volunteer. In 1968, he passed away at home after a brief illness. It may have been fortunate timing because he didn't have to see what Caltrans did to his neighborhood. Most homes were purchased by Caltrans between 1967-1972. I moved to California from Pennsylvania in 1972. It was quite a different Bay then.



My mom is a third generation California native, but I happened to be born in Germany. However, I grew up here, living at three different addresses on Grove Way, with the final home being a Caltrans rental in 1976. When I was 13, we lost the dirt hill we played on and the A/C Flea Market because 509 Mesa Verde Condos were built. I had a big crush on the contractor's son. My mom remained in the home as her kids went off to college, started a family, and joined the Navy. She was a teacher but retired from the Hayward Library. Tenants like my mom stayed because they were promised the chance to eventually buy their rentals. But we never knew if we could plant a tree or would be evicted for the freeway. It was up and down and always felt tenuous.

Our neighbors behind us were already tenants when Caltrans bought their home, so they just switched landlords. Two sons were born to our good friend and neighbor, and now her grandson goes to the public meetings. My good friend died in her home two years ago of pancreatic cancer. She was my buddy and we fought hard for the right to buy our homes. We gardened together and walked our dogs on the land. I miss her all the time, and have met several other good women and men who fight with me now.

But whom are we fighting? Why should it be a fight? Doesn't the government exist for our benefit? The people ignoring us and the pleas for our neighborhood are paid workers, who see

only technical words on paper and not the lives who live here, and lived here, and will live here. Many have never even walked the earth here. Others just don't care. If we read the sensible General Plans, if we read the pretty resolutions by council, if we read the Brown Act, one might think or believe our voices matter. But the dark sludge of reality smears our historical archives with unheard voices. Words only mean something to those we fight when the weight of development dollars supports them. Others words are ignored, like the fall leaves from a tree, softly piling up on the ground, and then swept away.

9) email from Planning to Dr. Maris re Aug 3 appeal process

From: "Chauhan, Nisha, CDA" <nisha.chauhan@acgov.org>
Subject: RE: Ruby appeal received 06.24.2020 (PLN2019-00024)
Date: July 1, 2020 at 1:49:00 PM PDT
To: "Ann E. Maris" <ann0000@gmail.com>, "Lopez, Albert, CDA" <Albert.Lopez@acgov.org>
Cc: "Littlejohn, Heather M., County Counsel" <Heather.Littlejohn@acgov.org>

Hello Ann,

The COVID-19 infection rates are very high, and increasing, in our County, and especially in the areas near our office. I am not willing to risk my life or the health of my family to attend a public meeting in person.

This PC meeting will be held via Zoom, similar to the last CVMAC meeting you attended. So, you do not need to bring a laptop or a cord. If you are allowed to present, it will likely be similar to the last Ruby Street meeting, where you will receive 2-3 minutes to speak. If you have a presentation, please prepare it ahead of time, and when it is your turn to speak, the meeting moderator can share you presentation on the screen. This is very easy to do.

Albert may weigh in with additional details.

Regards,
Nisha

Dear Supervisor Miley,

Although zoom meetings are useful, they don't substitute for a substantive collaborative meeting with productive outcome. Supervisor Miley, you were responsive to our requests and held a great meeting on February 27, 2020 between various community representatives and County staff (please see attached MEVI Letter).

Nobody from Eden Housing was there, although the issue at heart was their destruction of Ruby Meadow's natural habitat. It is sensitive riparian oak woodlands and grassland habitat that has been damaged by fifty years of Caltrans neglect. The outcome of our February 27th meeting was that you asked County to arrange a meeting between community, Eden Housing, and County staff. Other stakeholders could also be there, such as Hayward Area Parks and Rec and the City of Hayward. The Eden Area Castro Valley Chamber of Commerce offered to facilitate the meeting, i.e. procure the setting and arrange the meeting. You informed us that you must remain impartial until the project reaches the Board of Supervisors, so cannot participate but would be observing. We appreciated that and agreed to all of your decisions. We re-elected you in March and the pandemic hit. While everything has changed, development is moving forward as it must.

The Ruby Meadow issue we brought to you is not an island. There are over 30 acres being developed in our dense urban neighborhood of Castro Valley and Cherryland and Hayward City. We need your help because of the longterm impactful decisions being made without a cohesive plan. At one end, beautiful serene natural habitat is being destroyed for housing, while at the other end, a vacant lot by the freeway is being rezoned from residential to put in a hotel instead. Can you not hear our pleas for sensible balanced development?

Hayward and County and community need an overall plan for this area. We don't need another informational meeting by Eden Housing, Inc, telling us how they will tread on our backs to create more corporate tenants using government money. This morning I woke up to Hayward Police pulling people from an empty former Caltrans home on Grove Way. Some they arrested and some wandered up into the dirt at Parcel 8. Something is wrong here.

We have seen meeting after meeting where Eden Housing, Inc has presented how they will destroy the Ruby Meadow Sanctuary. The first "community meeting" Eden Housing held about Ruby Meadow had few residents because nobody was informed. The second and last "community meeting" was well attended but no questions

were allowed. Your own Alameda County Parks, Recreation, and Historical Commission (PRHC) took public testimony at many meetings about Ruby Meadow and wrote a letter to the Castro Valley Municipal Advisory Council (CVMAC) explaining important issues. When Eden Housing, Inc was at the PRHC, they jeered at and taunted community members in the audience, your constituency. Eden Housing, Inc. takes lots of government money but does not have public board meetings or agendas because apparently they are a PRIVATE non-profit, not a public non-profit. Their process is not accountable to the public. This puts even more of the burden of transparency on Alameda County and the City of Hayward because they are the agencies authorizing government funds for Eden Housing, Inc and approving their plans.

Issues raised at the November CVMAC have never been answered. Will this informational meeting on 5/14/2020 answer any of these questions, such as why the twenty parcels were combined although they were not all zoned the alike. At our February meeting with you, the Community Development Agency Director Chris Bazar asked Planning Director Lopez to look into the zoning at the time the lot line changes were first proposed. What zoning was proposed for the best option chosen in the publicly-financed 2009 Land Use Study? At a PRHC meeting, a commissioner asked Eden Housing, Inc. if they had considered building their project anywhere else and they said "no." When asked why, Eden Housing reps told us, "because we own the land and we'll do what we want."

Residents have taken part in every possible part of the process. You need to acknowledge that the deck is stacked against us because County staff is helping Eden Housing, and not helping community. What is the community role if we have no say in how our neighborhood is developed? Please take a broader look at what is happening to us here and help us build a better neighborhood, not destroy what good we have.

The 5/14/2020 does not sound like it is the meeting we agreed to in February and we would still need the Eden Housing developers to discuss alternatives to destroying Ruby Meadow. County and City need to support saving Ruby meadow habitat as part of their larger plan for the entire 30+ acres of former Caltrans land here. What is the plan? The general plans do not agree.

Sincerely,

Ann E. Maris, PhD
1490 Grove Way
Castro Valley, CA 94546

Grove Way Neighborhood Association

MEVI Parks and Open Space Committee

Friends of San Lorenzo Creek

Eden Community Land Trust

The Measure A1 Project Rating System has problems if it ranks the Ruby Meadow project identically to the Madrone Terrace project! Either the criteria are lacking in appropriate detail, or the assigned points were a case of "garbage-in-garbage-out" type of data analysis.

At just a superficial comparison between the two projects, assuming both building structures and plans are equally magnificent, one project is supported by community and tears up concrete along a busy transit corridor to add community amenities, while the other project has community in an uproar, goes against the General Plan, and destroys sensitive open space habitat, reducing community amenities. These two projects are by no means equal.

Examining the specific Measure A1 Rating Criteria, there are several opportunities where the data presented to the raters could have delineated these differences between the two projects. For example, criterion number 6 rates the project's progress toward community outreach—community outreach is an important component of Measure A1, but should positive points be awarded for a community meeting where community is not even allowed to speak (i.e. Ruby project)? Should positive points be given for a project when a majority of community is adamantly opposed (i.e. Ruby project)? Should positive outreach points be given when the developer staff not only refuses to compromise with community, but also is demeaning and aggressive toward community members at public meetings (i.e. Ruby project)? Something might be wrong with the way that criterion number 6 is analyzed or applied. However, this community outreach criterion is only 2/119 points (1.7%), so will have little impact on the overall project scoring.

From: "Ann E. Maris" <ann0000@gmail.com>
Subject: 5/14/2020 Ruby meeting with Eden Housing
Date: May 8, 2020 at 1:02:03 PM PDT
To: "Henninger, Tona, BOS Dist4" <Tona.Henninger@acgov.org>

Dear Supervisor Miley,

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Sincerely,

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Western North American Naturalist 78(2), © 2018, pp. 174–183

Roost characteristics and clustering behavior of western red bats (*Lasiurus blossevillii*) in southwestern New Mexico

BRETT R. ANDERSEN[1,*] AND KEITH GELUSO[1]

[1]*Biology Department, University of Nebraska at Kearney, Kearney, NE 68849*

ABSTRACT.—The western red bat (*Lasiurus blossevillii*) is a foliage-roosting species of riparian habitats in arid regions of the southwestern United States. Only limited published anecdotal observations exist for roost sites used by this species. Western red bats were split taxonomically from the eastern red bat (*Lasiurus borealis*) in 1988, but summaries of roosting behaviors for western red bats still appear to stem from former associations with the commonly studied eastern red bat. Our study represents the first comprehensive research on the roosting ecology of western red bats. We radio-tracked 14 adult bats to 19 different day roosts along the Mimbres River of southwestern New Mexico. While we documented that western red bats had an affinity for densely foliated trees (79%), we did not detect any selection for tree species or size. At our study site, western red bats roosted in cottonwoods (47%, *Populus* spp.), velvet ash (21%, *Fraxinus velutina*), box elder (16%, *Acer negundo*), and red mulberry (16%, *Morus rubra*). We also described clustering behavior, where groups of 2–3 adults roosted in direct contact with one another. Although the species was deemed to roost solitarily, the frequency of clustering behavior in our study suggests otherwise. If bats were observed in clusters, they typically exhibited greater roosting fidelity than solitary individuals. Because arid riparian corridors in the southwestern United States generally are considered threatened systems, protection and preservation of mechanisms that create and maintain the diversity of these riparian corridors is necessary for the survival of this uncommon and poorly understood species.

RESUMEN.—El murciélago rojo del desierto (*Lasiurus blossevillii*) es una especie de hábitat ribereño que anida en follajes de las regiones áridas del suroeste de los Estados Unidos. Existen escasas observaciones anecdóticas de los sitios donde percha esta especie. Los murciélagos rojos del desierto se separaron taxonómicamente del murciélago colorado del este (*Lasiurus borealis*) en 1988. Sin embargo, la información sobre la conducta de percha de *Lasiurus blossevillii* aún parece surgir de antiguas asociaciones con el murciélago *Lasiurus borealis*. Nuestra investigación representa el primer estudio exhaustivo sobre la ecología de percha de *Lasiurus blossevillii*. Realizamos radio monitoreos de 14 murciélagos adultos en 19 diferentes sitios de percha diurnos a lo largo del río Mimbres, al suroeste de Nuevo México. Encontramos que *Lasiurus blossevillii* muestra afinidad hacia los árboles frondosos (79%). No obstante, no detectamos afinidad alguna hacia una especie o tamaño de árbol en particular. En nuestro sitio de estudio, *Lasiurus blossevillii* percha en álamos (47%, *Populus* spp.), en fresnos terciopelo (21%, *Fraxinus velutina*), en arces negundos (16%, *Acer negundo*) y en moras rojas (16%, *Morus rubra*). También, describimos la conducta de agrupamiento, en la que grupos de 2 a 3 individuos adultos se encontraron perchando en contacto directo entre sí. Aunque, anteriormente se consideraba que esta especie perchaba solitariamente, la frecuencia de agrupamientos en nuestro estudio sugiere lo contrario. Los murciélagos observados en grupos, exhibieron mayor fidelidad al sitio de percha que los individuos solitarios. Debido a que, por lo general, las zonas ribereñas áridas del suroeste de los Estados Unidos se consideran sistemas amenazados, la protección y la preservación de los mecanismos que crean y mantienen la diversidad en estas zonas ribereñas es necesaria para la supervivencia de esta especie poco común y poco conocida.

Day roosts serve a variety of important functions necessary for the survival of bats, including protection from predators, shelter from adverse environmental conditions, and refuge to bear and raise offspring (Humphrey 1975, Kunz and Lumsden 2003). Of the various structures used as day roosts, both natural and artificial, trees are used by many bats. In the continental United States, 7 species of lasiurids have specialized adaptations in their morphology, behavior, and reproduction to exploit the foliage of trees for roosts (Carter and Menzel 2007, Altringham 2011, Harvey et al. 2011). Despite technological advances and increased interest in the roosting habits of bats since the early 1980s (Fenton 1997), few studies have investigated roost selection of lasiurids (Kalcounis-Rüppell et al. 2005, Carter and

*Corresponding author: brett.andersen@ttu.edu

BRA orcid.org/0000-0002-7606-791X

Menzel 2007). However, because climatic shifts, changing habitats, and human disturbances pose threats to this specialized group of bats (Barclay et al. 2007, Kunz et al. 2007, Arnett et al. 2008), understanding their roosting habits will be important for their conservation, as some populations are declining or are suspected to decline (Carter et al. 2003, Carter and Menzel 2007, Arnett et al. 2008, Frick et al. 2017). One such species with scant roosting data that resides in threatened habitats is the western red bat (*Lasiurus blossevillii*).

The western red bat occurs from northern California to central Argentina (Shump and Shump 1982, Cryan 2003, Gardner and Handley 2007). In the United States, the majority of its range occurs in the arid Southwest (Adams 2003). Presence of foliage-roosting western red bats in arid ecosystems often correlates with deciduous riparian corridors (Findley et al. 1975, Adams 2003), and only a few published observations on roosts and roosting behavior are known throughout the entire distribution (Grinnell 1918, Hargrave 1944, Orr 1950, Constantine 1959, Carter and Menzel 2007). A limited understanding of roosting habits of western red bats likely stems in part from their taxonomic split from eastern red bats (*Lasiurus borealis*). Red bats once were considered a single species distributed across parts of North and South America, comprising 5 subspecies (Shump and Shump 1982). Two of these subspecies, an eastern clade (*L. b. borealis*) and a western clade (*L. b. teleotis;* Hall 1981, Shump and Shump 1982), occurred in the United States. Phylogenetic analyses demonstrated that these 2 clades represent distinct species, *L. borealis*, the eastern red bat, and *L. blossevillii*, the western red bat (Baker et al. 1988, Morales and Bickham 1995). Although the eastern red bat is the most studied foliage-roosting bat in the United States, few published studies have investigated the natural history of the western red bat (Cryan 2003, Carter and Menzel 2007). In 1998, the Western Bat Working Group emphasized the need to prioritize funding for the species in all parts of its range in the United States (Adams 2003).

In New Mexico, few captures exist for western red bats, and not a single roost is known in the state (Constantine 1961, Jones 1961, 1966, Mumford and Zimmerman 1963, Jones and Suttkus 1972, Findley et al. 1975, Cook 1986, Valdez et al. 1999). The western red bat is a species of greatest conservation need in New Mexico due to a paucity of ecological data for this uncommon bat (NMDGF 2006). Excluding an extralimital record in Texas (Genoways and Baker 1988), southwestern New Mexico represents the eastern distributional extent for western red bats in the United States (Adams 2003). Understanding the roosting ecology of this species is imperative for conservation and long-term success of populations, as many arid riparian habitats are threatened throughout the southwestern United States (Stromberg et al. 2012, Gori et al. 2014). In this study, we identified roost characteristics of trees used by western red bats along the Mimbres River in southwestern New Mexico and described clustering behavior of adults at these locations.

METHODS

Study Area

From 13 May to 10 June 2015 and from 19 May to 9 June 2016, we examined roost characteristics and behaviors of western red bats along the Mimbres River, Luna County, in southwestern New Mexico. Our netting efforts were centered around 2 areas along a 3.25-km stretch of river. At the northern netting site (32.58689° N, 107.92105° W; WGS84; 1539 m elevation), the river flowed continually during the study, with the river about 1 to 3 m wide and 2 to 4 cm deep in most areas. This area also contained an irrigation diversion that generated a pool of water approximately 18 m across. Shallow pools were created by the intermittent flow of the river at the southern netting site (32.57600° N, 107.92145° W; 1529 m elevation) before the river became completely subterranean. The narrow riparian corridor was dominated by large cottonwoods (*Populus* spp.) and shrub-like willows (*Salix* spp.). Near the southern netting site, a 7.5-ha grove of trees with a fairly open understory provided the greatest density of trees in the immediate area. This deciduous grove was dominated by velvet ash (*Fraxinus velutina*), but also contained box elder (*Acer negundo*), walnut (*Juglans* spp.), and red mulberry (*Morus rubra*). Several large cottonwoods also were scattered across a sacaton grassland (*Sporobolus wrightii*) that covered the majority of the floodplain in the area. Beyond the floodplain,

a honey mesquite (*Prosopis glandulosa*) scrubland offered no roosts for foliage-roosting bats.

Bat Capture and Radiotelemetry

We captured bats in mist nets (Avinet Inc., Portland, ME) that ranged in size from 6 to 18 m and were placed across calm surfaces on the river, in constriction points of riparian flyways and beneath densely foliated trees, especially when the aforementioned areas were illuminated with moonlight. We recorded forearm length (mm), weight (g), sex, and reproductive status (nonreproductive or pregnant) of each captured individual. We used surgical adhesive (Perma-Type Company, Inc., Plainville, CT) to affix a 0.27–0.35-g radio transmitter (Holohil Systems Ltd., Ontario, Canada) to the backs of western red bats after fur was clipped between the scapulae. Because multiple bats were observed roosting together in trees in 2015, a uniquely painted, split aluminum alloy bat ring (size 2.4 mm; Porzana Ltd., United Kingdom) was placed on each bat in 2016 for easier identification of tagged individuals in the event that untagged individuals were identified in the roost. Capture and handling of bats was conducted under animal care and use protocol #020614 approved by the University of Nebraska at Kearney and met guidelines recommended by the American Society of Mammalogists (Sikes et al. 2011).

We used telemetry receivers (R-1000, Communication Specialists Inc., Orange, CA) and 3- or 5-element Yagi antennas to track bats to roost trees. On each day signals were detected, we identified the roost trees, and if possible, visually located bats in the foliage. For some roosts, we identified individuals roosting in direct contact with one another and classified these groups as clusters. When signals were not detected, previous roosts were revisited, and if a bat was observed possessing a color-coded forearm band, we could determine whether the radio transmitter was shed or the battery was dead.

Roost Tree Metrics

Once each roost tree was identified, we recorded species, condition (live or dead), and diameter at breast height (DBH). Tree and roost heights were measured using a clinometer (Suunto Co., Helsinki, Finland). Roost orientation was determined by standing at the base of the tree and assessing the compass direction of the roost from that position. We visually estimated the distance from the location of each bat to the outer edge of the canopy of the roost tree, and we qualitatively recorded foliage density of roost trees depending on the amount of light penetrating to the ground at midday (dense, >75% shade; moderate, 50%–75% shade; sparse, <50% shade). Distances from capture sites to roosts and any subsequent roosts were measured in ArcMap 10.3.1 (Esri, Redlands, CA).

We compared characteristics of roost trees and surrounding trees by recording the species, condition (live or dead), and diameter of all trees with a DBH >9.5 cm within a 0.1-ha circular plot surrounding the roost (Perry and Thill 2007). To compare characteristics of roost trees to random trees, identical measurements were taken on the first tree with a DBH >9.5 cm selected at a distance between 50 m and 100 m from the roost (Willis and Brigham 2005). Due to the limited number of trees at the study site and the presence of isolated trees in the sacaton grasslands, some comparison trees ($n = 6$) were not measured because they were either not within the target distance (>100 m) or they were in close proximity (<50 m) to a roost tree causing overlap in analysis. After noticing trends in roost selection, we chose 5 trees that met our criteria and visually scanned them for presence of bats; those trees were not included in statistical analyses.

Statistical Analysis

To evaluate selection of tree species and foliage density by western red bats, we adopted an electivity index utilized in prey selection of fish (Strauss 1979):

$$L = r_i - p_i,$$

where r_i and p_i represent relative abundance of each characteristic of trees selected for roosts and those available in the environment, respectively. The continuous variable L can range from +1 to −1, where values close to +1 indicate selection, values close to −1 indicate avoidance, and values near 0 indicate lack of selection (Strauss 1979). A threshold value of ±0.15 was used to determine selection for or against certain characteristics (Dettmers and Stein 1992, Sullivan et al. 2011, 2012).

To compare differences between roost orientation and random direction, we used a Rayleigh's test (Zar 1999). We conducted Mann–Whitney–Wilcoxon tests in RStudio (Version 0.99.903, Boston, MA) with a 95% confidence interval to assess differences in characteristics between roost trees and random trees. We also compared roost characteristics between solitary and clustering bats. If multiple tagged bats were observed using a roost tree, we only used measurements of the tree (DBH, height, foliage density, etc.) once in averages and statistical analyses. However, when solitary and clustering roosts were compared, if a tree possessed both solitary and clustering bats, it was factored in both categories.

RESULTS

Radiotelemetry

We tracked a total of 14 adult western red bats (13 females, 1 male) to 19 different roost trees. All roosts were located in live deciduous trees in the floodplain along the Mimbres River. We visually confirmed western red bats in 18 of 19 trees, and all bats were located within 1.5 m of the canopy edge. All roosts were shaded from above by dense leaves or clumps of samaras but open from below, allowing for easy observation from the ground. Average roost height was 9.4 m (SE 1.0) above the ground, but ranged from 3.0 to 17.1 m. Roost sites were oriented in all directions from the trunk, and we did not detect a specific orientation for roosts in trees (Rayleigh's $Z = 0.318$, $P = 0.375$). One roost site used by a cluster in May 2016 was revisited on 23 June 2016, and 4 juvenile western red bats were observed in the exact location where a radio-tagged bat roosted earlier that month.

Roost Metrics

Roosts consisted of cottonwoods (47%), velvet ash (21%), box elder (16%), and red mulberry (16%). We did not detect any tree species that exceeded the ±0.15 threshold for selection (Fig. 1). However, when comparing foliage density to surrounding trees, we found that western red bats selected trees with dense foliage (i.e., >75% shade, $L = 0.33$) and avoided trees with sparse foilage (i.e., <50% shade, $L = -0.22$; Fig. 1). We did not detect a difference in average tree height (16.7 m, SE 1.4) or DBH (89.6 cm, SE 15.3) from randomly selected trees (Table 1). The number of trees surrounding roosts within the 0.1-ha circular plot were significantly fewer than those surrounding randomly selected trees ($P = 0.04$). Average roost distance from the capture site was 0.2 km (SE 0.1), and distance between roosts was 0.1 km (SE 0.03).

While tracking western red bats to roosts at the study site, we developed a search image for potential roost trees. We selected densely foliated trees and searched the edge of the canopy for untagged western red bats. After scanning a total of 5 trees that met our criteria, we identified 2 solitary bats roosting in the foliage of a cottonwood. We stretched mist nets under these possible roosts and caught, tagged, and tracked 3 western red bats to the densely foliated overstory trees.

Clustering Behavior

Upon locating bats in roost trees, we observed that 6 roosts possessed multiple bats in small clusters of 2 or 3 adults. Groups of 2 individuals were observed roosting face to face (Fig. 2A, 2B) and face to back (Fig. 2C). Two groups of 3 individuals each exhibited all bats face to face (Fig. 2D). One group consisted of 2 tagged bats tracked individually to 3 different trees prior to being observed in a cluster 4 d after capture. Although untagged bats in clusters could not be confirmed as the same bat each day, it can be assumed, based on the presence of the same tagged bat, that these were also the same individuals. Clusters of bats were observed in cottonwoods and box elders. In 2016, a cluster of 3 bats consisting of 1 tagged adult female, 1 tagged adult male, and 1 unidentified bat was observed in almost the exact location of a large cottonwood where a cluster of 3, containing 1 tagged female bat, was observed a year earlier in 2015.

Unlike solitary bats, which only remained in a roost for a maximum of 3 days, clustered bats remained in roosts consistently throughout the duration of the study, unless disturbed. In comparing roosts between clustering and solitary bats, we did not detect a difference in tree height, roost height, or DBH (Table 2). The number of trees surrounding roosts was similar ($P = 0.14$), but trees surrounding cluster roosts were significantly smaller in diameter than those surrounding solitary roosts ($P < 0.01$).

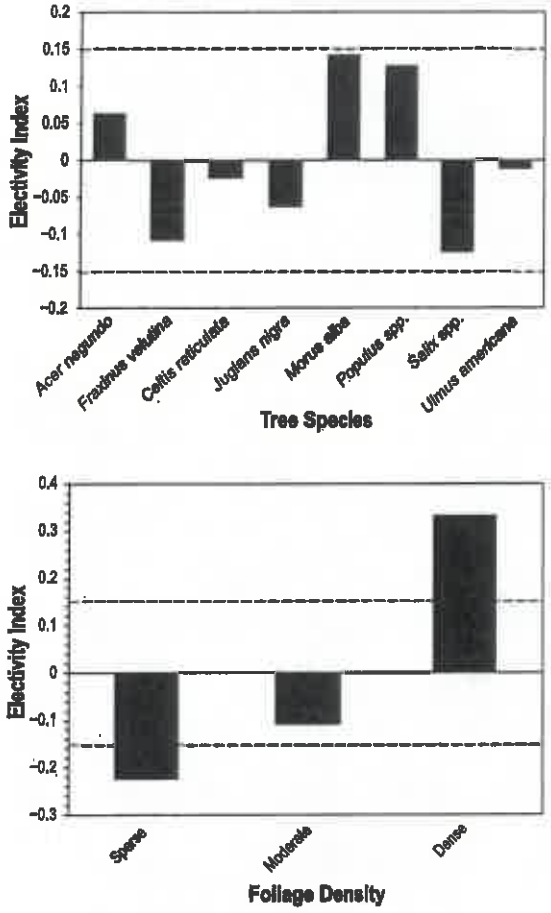


Fig. 1. Electivity index adopted from Strauss (1979) to evaluate roost selection of western red bats (*Lasiurus blossevillii*) in southwestern New Mexico. Selection for roost characteristics is significant if the index threshold value is greater than 0.15, and selection against is significant if the index threshold value is less than −0.15 (Dettmers and Stein 1992). No selection was evident among tree species (top), but selection was detected for dense foliage (bottom).

TABLE 1. Comparison of roost characteristics for western red bats (*Lasiurus blossevillii*) between roost trees and random trees along the Mimbres River in southwestern New Mexico. Results are significant if $P < 0.05$. Means are given with standard error in parentheses.

Tree characteristic	Roost	Random	P
Height (m)	16.7 (1.5)	17.2 (1.9)	0.48
DBH (cm)	89.7 (15.4)	72.1 (10.4)	0.35
No. of surrounding trees	9.1 (1.7)	13.1 (2.7)	0.04
Surrounding tree DBH (cm)	48.9 (2.6)	43.3 (2.0)	0.17

DISCUSSION

Western red bats in southwestern New Mexico regularly roosted in densely foliated deciduous trees with no apparent selection for tree species or tree size. Multiple observations of adults clustering at roost sites contradicts previous descriptions of the species being solitary. Our data on roost selection and behavior differ from those on other species in the genus, including the closely related eastern red bat. In addition, we observed differences in roost fidelity between solitary and clustering western red bats in the study area. Our data represent the first roosts reported in New Mexico and the most comprehensive study on roosts used by this species throughout its distribution.

Unlike other lasiurids that commonly select for large trees in their environment (Mager and Nelson 2001, Elmore et al. 2004, Hein et al. 2008a), western red bats did not select trees differing in size from random trees, but they did select greater foliage density. A lack of use of large trees might be explained by the presence of large trees with sparse foliage (*Populus* spp.) and small leaves (*Fraxinus velutina* and *Juglans* spp.). Moreover, several isolated cottonwood trees used as roosts in sacaton grasslands possessed denser foliage than many cottonwoods along the river corridor. Additionally, roosting sites in canopies occurred near dense bundles of leaves or clumps of samaras that provided protection from above and were open from below. Such roost characteristics have been described for other lasiurids including eastern red, hoary (*Lasiurus cinereus*), and northern yellow (*Lasiurus intermedius*) bats (Constantine 1959, 1966, Saugey et al. 1998, Hutchinson and Lacki 2000, Mager and Nelson 2001, Willis and Brigham 2005, Coleman et al. 2012). These types of roosts likely provide shade, protection from precipitation and strong winds, easy departure in case of disturbance, and easy access upon arrival (Walsberg 1986, Hutchinson and Lacki 2000, Mager and Nelson 2001, Willis and Brigham 2005, Mormann and Robbins 2007). We observed that, with patience, bats with radio tags could be discovered in trees, but roosts in dense bundles of leaves or clumps of samaras were difficult to find and likely aid in camouflage and protection from predators as well, especially when viewed from the top or

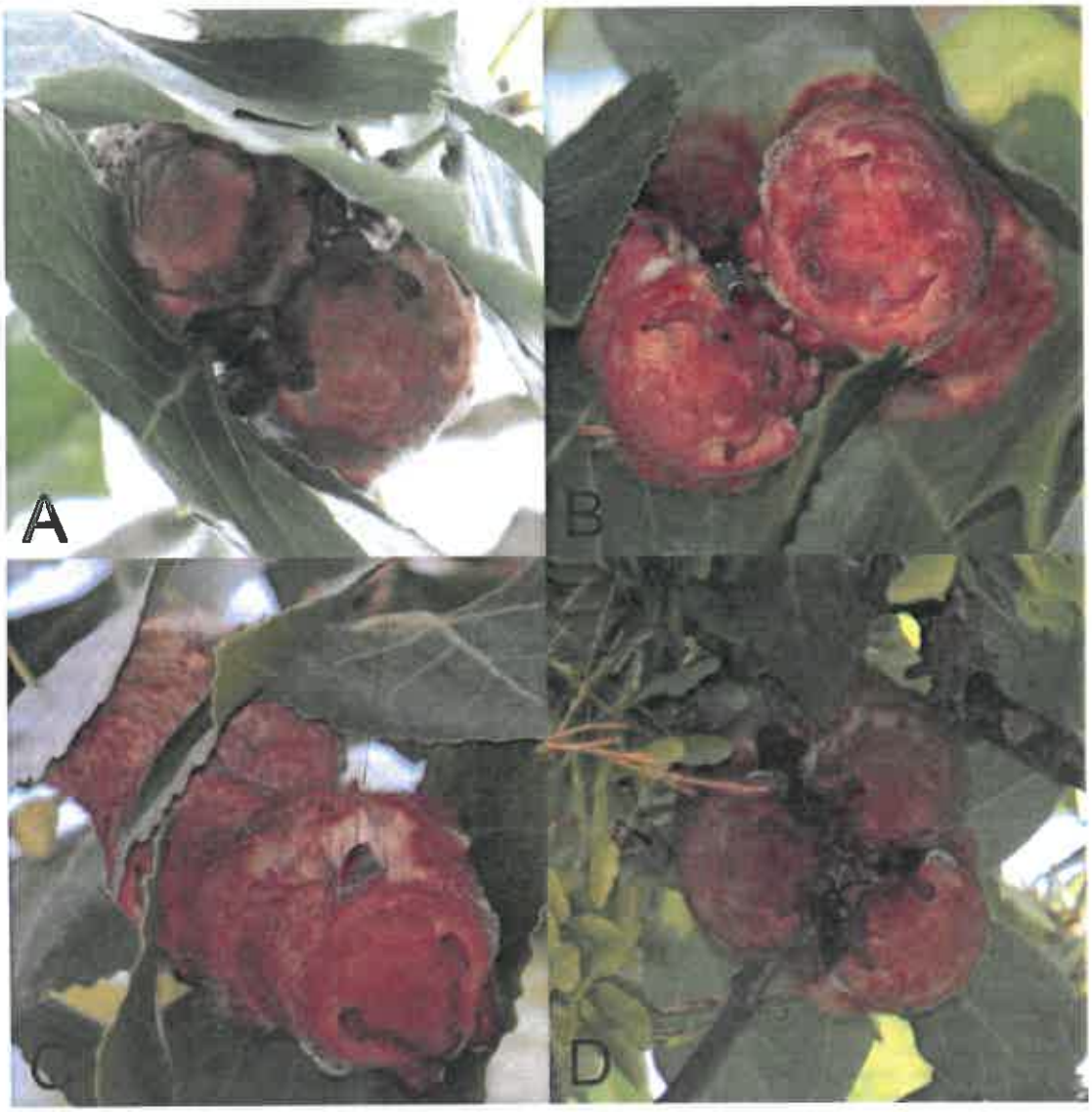


Fig. 2. Clusters of western red bats (*Lasiurus blossevillii*) roosting in deciduous trees along the Mimbres River in southwestern New Mexico. Panels A and B represent face-to-face pairs in cottonwoods (*Populus* spp.). Panel C represents a face-to-back pair in a cottonwood. Panel D represents a cluster of 3 individuals in a box elder (*Acer negundo*).

side. Overall, lack of selection for specific roost tree species or size suggests that use of these trees was driven by foliage density.

We did not observe western red bats using a specific orientation (i.e., directional aspect) of the tree canopy for roosting sites along the Mimbres River in New Mexico. Observations by Constantine (1959) also suggested that western red bats do not exhibit aspect selection during summer months. However, some studies have noted selection for orientation by other lasiurids (Willis and Brigham 2005, Mormann and Robbins 2007, Perry and Thill 2007, Hein et al. 2008a), whereas others have noted a lack of selection (Menzel et al. 1998, Mager and Nelson 2001). The hot, arid environment likely precludes selection for a particular orientation, as thermoregulation is equally as good in all directions. Instead, western red bats appear to roost under dense bundles of leaves and samaras, possibly in part to protect from direct solar radiation in this hot environment.

Most lasiurids are described as solitary, including western red bats (Adams 2003,

TABLE 2. Comparison of roost tree characteristics for western red bats (*Lasiurus blossevillii*) between solitary and clustering individuals. Results are significant if $P < 0.05$. Means are given with standard error in parentheses.

Tree characteristic	Solitary roost	Cluster roost	P
Height (m)	15.2 (3.4)	15.7 (1.3)	0.63
DBH (cm)	88.1 (17.9)	101.7 (37.6)	0.92
Roost height (m)	9.5 (1.1)	8.3 (2.3)	0.52
No. of surrounding trees	5.5 (1.5)	11.2 (4.0)	0.14
Surrounding tree DBH (cm)	57.0 (3.1)	31.5 (3.6)	<0.01

Harvey et al. 2011). Our observations of multiple adults roosting in clusters represent a novel behavior for this species. Constantine (1959) described finding a cluster of 3 western red bats in an orchard in California, but due to the time of year (August), it is likely that this grouping was a mother with volant young. He also noted that a group of 15 individuals was flushed, but it is unclear whether those bats were roosting as a group or whether they simply were driven from the same tree. Because female western red bats have 3 to 4 offspring per year (Shump and Shump 1982), a group of 15 bats could potentially consist of multiple adults with volant young. Another anecdotal record noted 4 individuals roosting together in the foliage of an exotic plant during fall and winter (Orr 1950). However, those bats were not disturbed, so the sex and age of the individuals were not recorded. For eastern red bats, the only evidence for clustering was reported in Iowa where Constantine (1966) noted 34 different clusters of bats ranging from 2 to 4 individuals. Those clusters were either described as mothers with juveniles or as mating pairs. Because our clusters were observed prior to parturition in May and early June and after the mating season, we can rule out these 2 possible explanations for this behavior. Further study is warranted to test hypotheses about why western red bats roosted in groups (i.e., microclimate, relatedness) in New Mexico, and whether this behavior is exhibited throughout the range of the species.

Due to limited observational records on roosting ecology, it is possible that the perception of the western red bat as solitary stems from the assumption that its behaviors are similar to its eastern counterpart, the eastern red bat. Menzel et al. (1998) noted a similar situation between Seminole (*Lasiurus seminolus*) and eastern red bats in the southeastern United States. Following a study in Georgia and South Carolina, researchers noted that the 2 species differed significantly in roost selection (Menzel et al. 1998). Ninety-seven percent of eastern red bat roosts were observed in hardwoods, whereas 94% of Seminole bat roosts were in conifers. The results from Menzel et al. (1998) and our study indicate that generalizing roost selection of lasiurids is not appropriate.

We observed that solitary western red bats switched roosts regularly, exhibiting low roost fidelity, but their roosts were located in close proximity to one another, indicating high site fidelity. Roost fidelity commonly is low among lasiurids (Menzel et al. 1998, Hutchinson and Lacki 2000, Menzel et al. 2000, Elmore et al. 2004, Mormann and Robbins 2007), but observations of high site fidelity have been described in eastern red (Menzel et al. 1998, Hutchinson and Lacki 2000, Elmore et al. 2004), Seminole (Menzel et al. 1998, Hein et al. 2008a, 2008b), northern yellow (Hein et al. 2005), and hoary bats (Veilleux et al. 2009). In our study, high site fidelity might reflect that individuals were confined to the narrow ribbon of trees in the river floodplain. In areas where habitat is more expansive for western red bats, lower site fidelity might be observed.

Clustering western red bats differed from solitary individuals by exhibiting high roost fidelity, oftentimes remaining in the same roost tree and identical locations within the canopy throughout the study, unless disturbed. Although high roost fidelity possibly resulted from limited roost availability, roost switching by solitary bats indicates that other adequate roosts were available (Lewis 1995, Carter and Menzel 2007). Interestingly, 2 individuals captured on separate nights roosted in a number of trees before being discovered in a cluster after several days of tracking. Those bats remained in the same roost from that point on; thus we likely disrupted individuals when we captured them, and frequent roost switching likely was a result of individuals trying to locate one another again. Based on these observations, we can assume that there is some association between the roost and individuals roosting in that group. Repeated use of select locations in trees might be associated with microclimate

parameters. Alternatively, communication between individuals or olfactory cues left at the roosts, as suggested by Constantine (1966), might aid in the location of roost sites. Further research on roost and site fidelity of the western red bat is needed across its distribution to determine whether trends observed in our study are specific to this study site or are widespread throughout its distribution.

Our study on the western red bat highlights the need for additional studies on this species to provide proper management suggestions for its long-term persistence throughout its distribution. Identification of clustering behaviors, high roost fidelity for clustering individuals, and selection for tree characteristics other than size indicates that the western red bat differs in roosting ecology from other lasiurids. Likewise, such behaviors suggest that densely foliated trees along riparian corridors are important. As deciduous riparian corridors in the arid southwest continue to be threatened, preservation of densely foliated trees will aid in the long-term persistence of this uncommon foliage-roosting species in the region.

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Meeting with Supervisor Miley and Staff
February 27, 2020 10:30 AM-noon Redwood Road Office

On February 4, 2020, the Alameda County Board of Supervisors (BOS) voted to approve funding to a variety of projects using Measure A1 funding. One of these projects was the strongly contested Ruby Meadow development (PLN2019-00024 and Resolution 2020-34)

This funding approval is despite being publicly told by Supervisor Nate Miley as recently as January 18, 2020 that the project had not yet reached the board of supervisors and he had made no decision for or against the project.

This funding approval is despite Planner Director Liz McElligot informing the public and the Alameda County Parks, Recreation, and Historical Commission on multiple occasions details of the process that would include more public meetings.

This funding approval is despite the matter having been before the Castro Valley Municipal Advisory Council multiple times with large community audiences against the project and despite the fact that Chair Crawford told the public the process would continue to be heard.

This funding approval is despite the fact the Planner Nisha Chauhan informed the public January 13, 2020 that the project is "on hold" and has not responded to further inquiries.

At the February 4, 2020 BOS meeting, Supervisor Miley was absent, and a mass action vote was used to approve about 50 motions including Item 22 involving the funding of the Ruby Meadow project.

Unincorporated County has 17 million dollars of Measure A1 funding available for low-income housing. There were only two applicants for only two projects, both of which were funded by dividing the 17 million dollars in half. One was the Eden Housing project at Ruby Street. The fact that the award was a noncompetitive process is alarming and points to the lack of performance on the part of the Community Development Department. Eden Housing, Inc., who has been nonresponsive and downright offensive to community was awarded over 33 million dollars of Measure A1 funding:

16. *Community Development Agency* - Adopt the following three separate resolutions committing funds to rental housing developments under the Measure A1 Rental Housing Development Fund Base City Allocation funding to the following affordable housing developments in Alameda County, to enable them to meet the requirements to apply for State funding programs and State and Federal Low Income Housing Tax Credits through the State of California Tax Credit Allocation Committee and other financing:

A. Up to $4,621,067 for the Granite Ridge Apartments project developed by Eden Housing Inc., for 73 total units of housing, which includes 72 affordable units and one resident manager unit in Fremont;

B. Up to $4,743,935 for the Avance project developed by MidPen Housing Corporation for 45 total units of housing, which includes 44 affordable units and one resident manager unit in Livermore; and

C. Up to $8,787,121 for the Lazuli Landing project developed by MidPen Housing Corporation for 81 total units of housing, which includes 80 affordable units and one resident manager unit in Union City

- CAO Recommends: Approve
Attachment 16

21. *Community Development Agency* - Adopt three separate resolutions committing funds in the total amount of $24,599,135 to rental housing developments under the Measure A1 Rental Housing Development Program Regional Pool Allocation for the East County Region to enable them to increase the inventory of affordable rental housing in Alameda County, and to meet requirements to apply for State funding programs and State and Federal Low-Income Housing Tax Credits:

A. Up to $14,402,382 for Downtown Livermore Apartments, developed by Eden Housing Inc. with 78 affordable units in the City of Livermore;

B. Up to $6,197,490 for the Vineyard, developed by Housing Consortium of the East Bay with 23 affordable units in the City of Livermore; and

C. Up to $3,999,263 for Pacific Avenue Senior Homes developed by Satellite Affordable Housing Associates with 139 affordable units in the City of Livermore

- CAO Recommends: Approve
Attachment 21

22. *Community Development Agency* - Adopt two resolutions committing funds in the total amount of $17,704,703 to rental housing developments under the Measure A1 Rental Housing Development Base City Allocation for the Unincorporated County, to increase the affordable rental housing inventory in the Unincorporated County and enable the two projects to meet requirements to apply for State funding programs and State and Federal Low-Income Housing Tax Credits:

A. Up to $8,852,351.50 for Madrone Terrace developed by Resources for Community Development for 78 units of affordable housing in the unincorporated area of Ashland; and

B. Up to $8,852,351.50 for Ruby Street Apartments developed by Eden Housing Inc. for 71 units of affordable housing in the unincorporated area of Castro Valley

- CAO Recommends: Approve
Attachment 22

23. *Community Development Agency* - Adopt four separate resolutions committing funds in the total amount of $30,185,486 to rental housing developments under the Measure A1 Rental Housing Development Program Regional Pool Allocation for the South County Region to increase the affordable rental housing inventory in Alameda County and enable these projects to meet requirements to apply for State funding programs and State and Federal Low-Income Housing Tax Credits:

A. Up to $12,200,000 for the Irvington Senior project developed by Allied Housing for 90 total units which includes 89 affordable units, and one resident manager unit in the City of Fremont;

B. Up to $8,452,654 for the 34320 Fremont Blvd. Family Housing project developed by Allied Housing for 54 total units which includes 53 affordable units, and one resident manager unit in the City of Fremont;

C. Up to $5,078,933 for the Granite Ridge Apartments project developed by Eden Housing Inc. for 73 total units, and one resident manager unit which includes 72 affordable units in the City of Fremont; and

D. Up to $4,453,899 for the Lazuli Landing project developed by MidPen Housing Corporation for 81 total units, and one resident manager unit which includes 80 affordable units in the City of Union City

- CAO Recommends: Approve
Attachment 23

Southwestern Association of Naturalists

BATS IN RIPARIAN-RESTORATION SITES ALONG THE LOWER COLORADO RIVER, ARIZONA
Author(s): Allen W. Calvert and Sean A. Neiswenter
Source: *The Southwestern Naturalist*, Vol. 57, No. 3 (SEPTEMBER 2012), pp. 340-342
Published by: Southwestern Association of Naturalists
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Accessed: 04-06-2020 21:35 UTC

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climatic change (Hackenberg and Benequista, 2001; Serrat-Capdevila et al., 2007; Dixon et al., 2009). Further monitoring of the San Pedro River and its tributary streams would be useful to clarify the status of this population. Additionally, multiple invasive species can have additive effects that impact the native community in a different way than either species would alone (e.g., Johnson et al., 2008); thus, future studies of impacts of the various non-indigenous organisms in the San Pedro River would inform management of these species.

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BATS IN RIPARIAN-RESTORATION SITES ALONG THE LOWER COLORADO RIVER, ARIZONA

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Abstract—During 2007–2010, we captured the western red bat (*Lasiurus blossevillii*) and Arizona myotis (*Myotis occultus*) in riparian-restoration areas along the lower Colorado River. Previously, the western red bat had not been reported along the lower Colorado River and the Arizona myotis was presumed to be extirpated from that area.

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Resumen—Durante los años 2007–2010, capturamos el murciélago rojo occidental (*Lasiurus blossevillii*) y el murciélago de Arizona (*Myotis occultus*) en sitios de restauración riparia ubicados a lo largo del río Colorado. El murciélago rojo occidental no ha sido registrado en el tramo inferior del río Colorado y el murciélago de Arizona se presumía ausente del área.

The lower Colorado River, which spans from just upstream of Lake Mead to Mexico, has been altered intensely due to anthropogenic disturbances. Researchers estimate that >160,000 ha of native riparian vegetation occurred historically on the lower Colorado River between Fort Mohave and Fort Yuma (Mearns, 1907). The natural flow and flood-pulse regime has been altered by construction of dams and channelization of the river. As a result, native riparian vegetation has been reduced by 94%, with >85% of woody riparian vegetation now dominated by invasive saltcedars (*Tamarix*). Prior to the Lower Colorado River Multi-Species Conservation Program (http://www.lcrmscp.gov/publications/VolumeII.pdf), 2,739 ha of native cottonwoods (*Populus*) and willows (*Salix*) occurred on the river in mostly small patches of ≤4 ha scattered throughout large stands of *Tamarix*. To date, >750 ha of native riparian vegetation have been planted along the river in large patches ≥40 ha. These restoration areas were planted with native species such as Fremont cottonwood (*Populus fremontii*), Goodding's willow (*Salix gooddingii*), coyote willow (*Salix exigua*), and honey mesquite (*Prosopis glandulosa*). Previously, most restored areas were cultivated.

Herein, we report on two species of bats that are noteworthy because they either have never been reported from the lower Colorado River (western red bat, *Lasiurus blossevillii*) or were presumed extirpated (Arizona myotis, *Myotis occultus*). In lowland desert regions of the southwestern United States, both species depend on riparian habitats for roosting, foraging, or both (Grinnell, 1914; Cockrum, 1960; Barbour and Davis, 1969; Hoffmeister, 1986). Documentation of these species within artificially created, native-riparian habitats may prove useful in measuring success of habitat-restoration projects (McCoy and Mushinsky, 2002; Palmer et al., 2005).

Western red bats have been recorded previously in Arizona in riparian systems such as the Big Sandy, San Pedro, and the Bill Williams rivers (Hoffmeister, 1986). Prior to our efforts, western red bats had not been reported along the lower Colorado River. We captured the first western red bat there in February 2009. In subsequent surveys, we captured 10 additional individuals. All captures were within three habitat-restoration areas: 'Ahakhav Tribal Preserve (34.1269°N, 114.3342°W), ca. 1.2 km SW Parker, La Paz County, Arizona; Palo Verde Ecological Reserve (33.6908°N, 114.5261°W), ca. 3.6 km NE Blythe, Riverside County, California; and Cibola Valley Conservation Area (33.4105°N, 114.6634°W), 1.2 km N Cibola, La Paz County, Arizona. Four males were captured during winter (January–February) and five males and two females were captured during late summer (August–September).

Arizona myotis occur commonly throughout high-elevation pine forests in Arizona and New Mexico (Findley and Jones, 1967; Barbour and Davis, 1969; Valdez et al., 1999). A few exceptions at lower elevations include populations along several large rivers (Colorado, Verde, and Rio Grande rivers), where they occupy cottonwood-dominated riparian habitats (Grinnell, 1914; Allen, 1922; Stager, 1943; Hayward, 1963). Arizona myotis was first described on the lower Colorado River (Hollister, 1909). The last known colony along the lower Colorado River was in Blythe Bridge, Riverside County, California, and La Paz County, Arizona (Stager, 1943), which was replaced in the 1950s. The species has been presumed extirpated from the Colorado River (P. Brown, pers. comm.). Since 2007, 15 individuals have been captured at the 'Ahakhav Tribal Preserve. All females captured during May 2007 were either pregnant or lactating, indicating a maternity colony. In 2010, two specimens were captured at the Cibola Valley Conservation Area. Voucher specimens from each site were deposited in the University of New Mexico Museum of Southwestern Biology (accessions 224058 and 224059).

These species of bats may prove useful for justifying restoration and monitoring success of restoration in southwestern riparian habitats. For example, preliminary data show higher rates of activity of western red bats in riparian areas >20 ha. Small restoration areas monitored concurrently with large areas indicated no change in activity of western red bats over time. Presence of western red bats at large restoration areas was detected within 3–5 years of planting, which offers relatively quick feedback on use of habitats by this species. We anticipate that these trends will continue as more riparian habitats are created and suggest further research on the utility of these species as indicators of success of restoration programs.

We thank The Colorado River Indian Tribes for allowing access to the 'Ahakhav Tribal Preserve. We acknowledge personnel of the Arizona Game and Fish Department and California Department of Fish and Game for logistical assistance. T. Olson, S. Broderick, J. Kahl, C. Dodge, M. Given, J. Hill, S. Hines, L. Piest, and B. Vizcarra provided assistance in the field. We thank C. Dodge for translating the abstract and N. Muirhead for reviewing and editing the manuscript prior to submittal. P. Brown and B. Berry provided valuable knowledge and guidance that was the impetus for our research along the lower Colorado River. Funding was provided by the Lower Colorado River Multi-Species Conservation Program.

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BREEDING COLONIES OF LEAST TERNS (*STERNULA ANTILLARUM*) IN NORTHERN SONORA, MEXICO, 2006–2008

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ABSTRACT—We document distribution of breeding least terns (*Sternula antillarum*) in northern Sonora, Mexico, 2006–2008. We report breeding activity at six sites with active colonies, including three previously undocumented colonies.

RESUMEN—Documentamos la distribución del charrán mínimo (*Sternula antillarum*) reproduciéndose en el norte del estado de Sonora, México, 2006–2008. Reportamos actividad reproductiva en seis sitios con colonias activas, incluyendo tres colonias no documentadas anteriormente.

The least tern (*Sternula antillarum*) is federally protected in Mexico (Secretaría de Medio Ambiente y Recursos Naturales, 2010) and its nests on barrier beaches and peninsulas are susceptible to pressure from encroachment by humans. Limited information is available on distribution and numbers of least terns nesting in Sonora, Mexico. Starting in 1991, parts of the northern coast of Sonora were surveyed sporadically (Mellink and Palacios, 1993). A colony at La Purinera, estimated at 200 nesting pairs, was surveyed intermittently during 1991–1995 (Palacios and Mellink, 1996; Zuria and Mellink, 2002, 2005). Two small colonies at Morúa East and West also were recorded in 1992 (Alcock, 1992; Mellink and Palacios, 1993). Two pairs of terns in 1991 and one pair in 1992 were recorded nesting in the salt flat west of Bahía Adair (Mellink and Palacios, 1993). Two other small

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The ruby street project is wrong for many reasons. In previous communications to the county of Alameda Planning Department I have discussed land use and impacts to local residents. I will now address how the Ruby Street project is in contrast to measures of the Community Climate Action Plan.

The Green Infrastructure section recognizes the importance of carbon sequestration and of urban trees. The land use and transportation sections discuss the importance of placing new development within ½ mile of transit hubs, such as Castro Valley or Hayward BART. The Ruby site is approximately one mile from either CV or Hayward BART. It is in a riparian area which should be restored to provide ecosystem health, not destroyed. Other areas should be developed before this project because they conform to climate action plan guidelines.

The location of the 4-story building will completely block the ability of neighboring apartment tenants to grow their own food by blocking the sun.

The CEQA Cultural Resources D, on the CEQA checklist as well as N, Tribal Cultural Resources.

The CEQA states several times that "a Registered Professional Archeologist performed a records search at the NWIC, as well as a focused review of pertinent archeological, historical, and environmental publications. The archeologist also conducted pedestrian surveys", but the document never identifies the archeologist or their credentials. I have to argue that a pedestrian survey is not indicative of what lies beneath nor adequate enough to base these conclusions and if in fact they researched pertinent archeological publications, they would have come to a different conclusion.

The CEQA goes on to state: "This background research determined that there are no recorded archeological resources in the project site. Archeological excavations conducted in 2014, as well as site surveys conducted for the project, did not identify deposits associated with P-01-001795/ CA-ALA-566".

This is not a true statement. The ALA-566 dig uncovered numerous artifacts: "the presence of a well dated mid-holocene deposit is especially significant due to the rarity of such finds". A 1997 newspaper article (which is referring to ALA-566 dig) confirms not only sites from 500-600 years old, but also a campsite estimated to be 5000 years old. The newspaper article and the ALA-566 document also refer to, two Native American grave sites being found in the late 1930's.

In the CEQA, under N, Tribal Cultural Resources, it states that a list of tribes that have requested notification in the projects vicinity, were notified on behalf of the county to the tribes on the list. They also state that no responses were received within the statutory 30 day period of time.

While we don't doubt that the letters were sent to the Tribes, the letter states, "has determined that the likelihood of the P-01-001795/CA-ALA-566 extending into the Project Site is extremely low". We contend that this is not accurate. There have been numerous digs in the past in this area. When considering widening A St, it is stated that 3 sites are located within 1 mile of the project site (A St.). The three digs are ALA-58, ALA-60 and ALA-412 (Historic Property Survey Report HPSR 1989). The Cultural Resources Review (CRR) 2001 document also goes on to indicate, "The majority of the City of Hayward has been designated as within areas of high and moderate sensitivity for archeological resources, but the

city has several selected areas designated as *extreme* (Quartenary Research Group 1976). The extreme areas in the city of Hayward are located in the vicinity of A Street, and Winton Street and north and south of Tennyson Road west of Interstate Route I-880."

The ALA-58 dig had at least two burials (CRR page 19). This dig is calculated as ½ mile from ALA-566 dig (30 feet away from the proposed development). There were 2 bodies found at the 1238 A St. dig. These were accessioned in the Phoebe A. Hearst Museum at the University of California. The ALA-60 dig is "one of the oldest archeological sites excavated in the Bay Area, dating from at least the lower Archaic (4630/5530 BC)". This site has been "determined potentially eligible for inclusion National Register Historic Pales in 1981 (USNPS 1989b).

We believe that if the letter was more forth coming regarding past digs, the discovery of several bodies at different locations, the fact that the proposed site falls in Hayward "extreme" area, and the fact that ALA-60 is potentially eligible for inclusion on the NRHP that Planning Department would have received a response and that the response would have been opposed to the development.

Document attached 4.4 (from 2009 Route 238 Bypass Land Use Study) references P-01-001795 states "indicate the presence of one Native American archeological site within the Project area, this P01, a large former settlement that includes burials.

Ruby Meadow is 30 feet away from the ALA-566 dig, the bottom border of the dig was Crescent Ave. The Crescent Avenue driveway location and proposed paved parking lot with 71 spaces, may very well obscure the artifacts from future analysis, as some of them are quite deep and may not be located during construction. We contend that this is not a "might find remains" situation that there is definitely archeological evidence in Ruby Meadow.

The CEQA states "In most cases, archeological sites that are found to be significant (e.g. eligible for listing in the California Register) would qualify as "historical resources" under CEQA". It stands to reason that Ruby Meadow would qualify as both a Cultural Resource as well as a Historical Resource.

As further evidence, The Ohlone were hunter gathers (see attached newspaper article from 1978), "During the harvest seasons, most of the tribe migrated from

the main village site and set up camps near the coast for shellfish, by the rivers for salmon, near marshes for ducks and geese, in oak groves for acorns. See next attached article stating: In addition to acorns, the Ohlone gathered and roasted a number of different plant seeds, and ate the nuts of the buckeye tree. The ALA-566 document quotes "riparian vegetation remains in the creek channels and numerous oak, bay, pine and redwood trees are present". Because the Creekside location, with a flat plateau, is a typical landscape where Ohlone performed daily functions like harvesting food, preparing food, health and cleanliness activities, and religious ceremonies it stands to reason that even closer to the creek was also part of their camps during the harvest season, which is the Ruby Meadow area.

The CEQA Conclusion for both D, Cultural Resources and N, Tribal Cultural Resources are listed as less than significant, which we find inadequate and feel that this project deserves a full EIR review. These impacts were not analyzed as significant in the EIR, but they are significant because of site specific conditions including the adjacent ALA-566 site. A valuable Ohlone resource will be obscured or removed, which negates any future value as a teaching resource, or as a local history and cultural resource.

We are not opposed to low income housing, we are not opposed to development in general. We are simply vehemently opposed to developing on Ruby Meadow. We are well aware of the housing crisis that every county in the Bay Area is facing. However, there seem to be other alternatives for Eden Housing nearby (parcel 8 or parcel 9 comes to mind), with low cultural, historical, biological and community impact. We are looking for responsible, considerate growth for the Eden area.

Additionally the Quimby Act does call for a percentage of open space per capita. Castro Valley is deficient in this area. The only park in the southern Castro Valley area is Carlos Bee Park. Saving Ruby Meadow would be another way to satisfy the Quimby Act recommendations.

This is the last open space next to the creek that exists. It seems counter intuitive to take this pristine woodland meadow which currently houses a rich wildlife habitat as well as a rich cultural history, in the heart of downtown and develop it, when in fact there are alternatives that would not disrupt this area.

Thank you for your consideration.

Renee Sutton, Vice Chair, MEVI Parks and Open Space Committee

RE: Grove Way Neighborhood Response to Ruby Meadow project PLN2019-00024 (formerly PLN2018-00167 and including PLN2019-00006) California Environmental Quality Act (CEQA) Community Plan Exemption Documents Involving Alameda County Parcel Numbers: 415-230-002, 415-230-003, 415-230-005, 415-230-011, 415-230-012, 415-230-013, 415-230-014, 415-230-015, 415-230-016, 415-230-017, 415-230-018, 415-230-019, 415-230-021, 415-230-022, 415-230-023, 415-230-024, 415-230-069, 415-230-070, 415-230-072, and 415-230-073.

I, Dr. Ann E. Maris, am a Castro Valley resident and represent our local neighborhood group, Grove Way Neighborhood Association (GWNA). We have no resident-members who are professionals in any of this planning or environmental analysis, but **we whole-heartedly know that this development is wrong for our neighborhood and for the greater community.** We object to the County's approval of the streamlined CEQA because the project does not comply with the Castro Valley General Plan Land Use Designations and has many site-specific considerations that were not fully examined. The process of a full Environmental Impact Report is required to properly analyze impacts to the site and surrounding neighborhood.

Zoning Designation

The County has made it very difficult for neighbors to know what is going on at this site. Even in this CEQA comment process, only the Draft CVGP EIR is available on County's website. No CV General Plan was available at the CV Library until GWNA put it there in 2019. Extensive pre-planning and feasibility studies, paid for with public money, have occurred without public input. We consider that County's avoidance of public input early in the process constitutes suppression of highly relevant information and has therefore not provided residents with time nor resources to achieve a full understanding of the environmental impacts and planning issues. The County appears to be making little to no effort to protect irreplaceable resources at the Ruby Meadow site for our lasting environmental health, community welfare, biodiversity preservation, and historical record. It seems that the Alameda County Community Development Agency's mentality is to push this project through *at any and all costs*. In

addition, Linda Gardner, Director of Housing and Community Development, has solicited community members for letters of support for the development, while residents have no County advocate.

Castro Valley General Plan Zoning in the 238 Properties

Zoning and lot lines in the twenty (or more) former 238 freeway parcels have been changed without any public knowledge or input. At the time of the Castro Valley General Plan adoption by the Board of Supervisors (2012), most residents were unaware that the freeway had been cancelled in 2010 and that County zoning would now have relevance after *fifty years* of non-relevance. We were not informed that we had a critical resource nor were we invited to partake in critical decision-making involving our neighborhood. The community knows best and cares most for its residents and for the long-term economic and environmental stability of the area.

Residents have repeatedly asked Caltrans, the City of Hayward, State representatives, and the County what will be going on with the 238 parcels in our neighborhood. Information has been vague, obtuse, incorrect, or absent. The subject of the Castro Valley 238 parcels finally came to the CVMAC for the first time in January 2018, and the 238 subcommittee was created. On August 13, 2018, the Ruby Meadow project (PLN2018-00167) was first presented to the CVMAC, but neighbors were unaware, uninformed, and not present. One community member happened to be there and spoke about his concern for the creek protection. We have received no updates, to-date, from the 238 subcommittee except to verbally notify its audience about the Hayward's March 14, 2019, Parcel 8 & 9 meeting.

May 9, 2019, County Planning and CVMAC held a public study session regarding Castro Valley zoning implementation (no meeting minutes available). Many residents packed the room to express concerns about zoning in the former 238 parcels. At the next CVMAC Zoning Implementation Presentation, May 13, 2019, residents raised concerns that zoning in the 238 parcels had never been discussed (meeting public comments attached). Again, at the June 10, 2019 CVMAC, residents complained that the upcoming zoning implementation for the Castro Valley General Plan included the Ruby Meadow project site, but there had never been any public discussion about the zoning in the 238 parcels (meeting public comments attached). There is no plan for the almost 30 acres of developable Castro

Valley 238 property, let alone a cohesive, balanced plan that neighbors have had a chance to weigh in on. County accommodated neighbors by pulling the 238 properties from the zoning implementation and holding a special CVMAC public meeting regarding their zoning and use.

The special CVMAC meeting regarding zoning in the Castro Valley 238 properties took place on 8/26/19. The meeting minutes, including our discussions specifically about Ruby Meadow, are still not available as of 11/24/2019, but comments echoed the previous zoning implementation meetings.

The Alameda County Planning Department staff report for the 8/26/19 CVMAC states "a few" 238 parcels had already had their density up-zoned but does not describe which. The project background states that both the Castro Valley and Eden Area plans *"were in their final stages of completion when disposition of the 238 parcels began," which is not accurate*. The Alameda County General Plan Annual Report for 2017 provides the date of last major revision of the Eden Area plan, which was March 2010. This is before the 238 freeway project was rescinded, and property disposition did not begin until appraisals were completed in 2011/2012. The last major revision of the CV General Plan was March of 2012, but once again, neighbors were not notified that freeway was finally officially rescinded, after decades of ongoing legal disputes, or that the County zoning would now have relevance.

238 Land Use Study

The project background of the 8/26/19 staff report goes on to say that *"from 2007 to 2009, the County participated in the preparation of the City of Hayward's Route 238 Bypass Corridor Land Use Study, which was funded through a Community-Based Transportation Planning Grant from Caltrans"*. The result of this publicly-funded study was an overall plan for the use of the 238 properties *in both Hayward and unincorporated County*. In 2009, the City of Hayward adopted both the study and the zoning changes necessary to implement the plan. The Ruby Meadow project site was designated to remain *open space*. Zoning reflects these decisions on the City of Hayward parcels of the Ruby Meadow project (possibly 415-230-69; 415-230-72, 415-230-73) but Alameda County zoning does not reflect the land use study's recommendations and conclusions. When did Alameda County decide not follow the land use recommendations?

The 8/26/19 staff report concludes the project background section by stating, "*During this process, County staff sought input from the CVMAC regarding appropriate land uses for the unincorporated corridor parcels at public meetings, including a field trip to the properties*". It is unclear to which process the report is referring, and the word choice suggests the process was the 238 Land Use Study. However, neither meeting nor field trip occurred prior to the 8/26/19 CVMAC. I believe and understand that the public meeting mentioned *was* the 8/26/19 meeting. The "*field trip*" took place on 8/19/19, the week prior to the CVMAC public meeting and was not a past action like the report suggests.

Route 238 Master Development Plan

The staff report describes that some zoning in 238 parcels will be increased, and some zoning will be decreased. County Planner Horrisberger explained to me that residents had not been notified of these zoning changes at the time of the Castro Valley General Plan because it was a large, overall change, and residents are only notified of smaller changes. The staff report cites the Route 238 Master Development Plan, which has never been revealed to the public, if it exists. The Hayward process seems to create Master Development Plans for each development area, not one Master Plan. The closest we have seen to a Master Plan is the 238 Land Use Study which is being disregarded by County Planning.

Biological Resources Overlay Zone

The outcome of the 8/26/19 CVMAC, as I witnessed and recall it, was that the councilmembers commented to County and the developer that public should be allowed input on the Ruby Project CEQA documents, which they claimed was not required. At this point, to claim the zoning is already determined and the streamlined CEQA is appropriate is not fair to the public process since the zoning implementation process for these parcels is still underway. We have alternately heard some parcels were rezoned and no parcels were rezoned. There is public confusion between Zoning District, Zoning Designation, Existing Land Use, Proposed Designations, and Overlay Zoning. County Planner McElligot said that any future zoning changes don't matter because the zoning in place at the time of application

is applied to the project. Regardless of the zoning, the majority of the project parcels are in the Biological Resources Overlay Zone (BROZ), which is repeatedly cited in the Castro Valley Environmental Impact Report as the reason many impacts will be avoided. The BROZ is not mentioned in the 8/26/19 Staff report.

2015 County Housing Element

The 8/26/19 staff report discusses the 2015 Alameda County Housing Element (ACHE) and states that, within the 238 parcels, the Housing Element Sites Inventory provides capacity for 185 residential units. Staff claims that "*If the permitted land use on any of these parcels were to change from residential to another use, or if the permitted density were to be significantly reduced, the County may be required to identify other properties within the Unincorporated Area that could be rezoned to a higher density to make up for the lost capacity to accommodate its RHNA.*" This is an absurd claim regarding zoning in the Ruby Meadow project because only 29 units are in the 2015 ACHE, which are easily made up by denser building in other neighboring 238 parcels which are not in the BROZ. Table 1 summarizes the zoning, land use, planning, and housing element data on the twenty Ruby Meadow parcels being combined by this project. Only seven out of the eleven parcels comprising the new parcel A, which is the developed site, are in the 2015 Alameda County Housing Element.

We disagree with the purpose of combining of twenty parcels into three new parcels because it, in effect, changes the BROZ, which changes the zoning to accommodate the project. Housing density bonuses are inappropriate when zoning has been changed to accommodate the project and the Community Plan exemption is not appropriate because the project is not consistent with the Community Plan.

General plan elements are required to be consistent with each other. The seven state-required elements are land use, open space, conservation, housing, circulation, noise, and safety. The elements are not consistent with regard to zoning in the Ruby Meadow project. Ten out of the twenty project parcels are listed in the 2015 Housing Element. Their Community Plan Designation is "unspecified" and proposed to be residential medium density multifamily. The County zoning district of these ten parcels

is R-S-D-20. Five of the housing Element parcels are also located in the CVGP BROZ. **These five parcels in the highest priority BROZ are also the parcels on which the project places the majority of development, in the new parcel A.** Allowing construction and almost complete coverage in the BROZ, and concentrating development in the highest priority BROZ, rather than areas outside the BROZ is inconsistent with the General Plan Goals, Policies, and the CVGP EIR.

A principal issue underlying problems with the (1) environmental analysis and (2) general plan consistency is that twenty lots were combined into three lots by the developer. Alameda County ordinance does not require a public comment period and allows administrative approval by the Planning Director. However, these lot line changes and boundary adjustments have not yet been recorded by the Alameda County Recorder's office.

Boundary Adjustment (PLN2019-00006) and Lot Line Changes were used to create 3 new parcels (A, B, C). The Boundary adjustment application, item 4, states that the developer may need to submit additional information...after final action on the application... before the project can be implemented, including but not limited to the following:" information for CEQA review, information to clarify or address questions raised by interested parties or **the general public** who submit written or oral testimony at the hearings, revised plans, or additional required materials. The developer's stated purpose in their boundary adjustment application was to build housing and protect the creek, but we believe the purpose was to avoid the BROZ and to build in sensitive habitat.

Page 16) Parcel C, riparian corridor management and protection plans are unclear because "personal communication" is cited, and no documentation or specifics is provided. Considering that the purpose cited in PLN2019-00006 for changing the lot lines was to protect the creek, a solid plan should be in place. All of the responsibility is placed with Alameda County Flood Control and Water Conservation District, but none of the cited personal communications are from the Flood Control District representatives. Once again, the zoning is dependent on the lot lines and it is unclear what the zoning will be in parcel C since zoning implementation is still in process for the 238 parcels. Table 1 shows that 6 out of the 7 parcels combined into the new Parcel C are in the BROZ, but zoning varies in them.

Grading the creek bank to dump the project's storm water into the creek is not protecting the riparian corridor and is wrong. The "minor grading" cited would drop the bank approximately 4 feet below the adjacent trail, which is not minor.

Although the property is directly adjacent to the City of Hayward boundary, zoning, special districts, and historic districts (City of Hayward GIS), Hayward's environmental and development parameters of the bordering parcels are not discussed in the CEQA document. The "two small parcels" in the City of Hayward (page 1) is inaccurate because the Hayward parcels are 0.76 acres (415-230-73), the third largest parcel, and parcel 415-230-72 is the eight largest of twenty parcels at 0.23 acres. The project site was owned and then subdivided in 1892. William Knox, Sr. obtained the site directly from Guillermo Castro. Site-specific relevance and historical roles of the Knox Water Works, the pioneer Knox family, Ruby Street (named for Ruby Knox), and the Knox Tract are barely brushed upon. The CEQA document claims nothing of the Knox Water Works could be reconstructed, which is incorrect. William Knox patented a boulder moving device that could be reconstructed by students as an educational resource. Large boulders are stacked in the creek banks which could have been placed there by Knox's boulder-moving device. This is a site-specific and off-site impact because these resources will be lost by building this project. No description or is given of the role of Knox (and his contemporary Meek) during the early days of the Eden Township or how instrumental Knox was in early development. This specific site holds undescribed value in the creek banks, the rocks, the trees, the grasslands, and their relationship to their surroundings. None of the impacts of paving over and building on this has been effectively discussed. The impacts to this site-specific history was not thoroughly examined and are more severe than described in the EIR or CEQA Exemption. In addition, the project site could easily have been a stopping point for the de Anza exploration and no data is presented describing how one site was chosen over another (Hayward chose a location at Foothill Boulevard).

Page 17) "Required Approvals" is confusing because lot merger approval is listed but has already been approved by planning director with no public input (perhaps this CEQA process is a public comment period for boundary adjustments but nobody was told that?). Is this a list of required approvals that

have been obtained or are still needed? It is unclear. The Planning Director already approved the CEQA Exemption but that is not on this list. Does this mean other approvals that were required have already been obtained, or not, such as from the Fire Department or the peer-reviewed soils report?

Page 22) Project Consistency with General Plan and Zoning.

Although the base zoning appears to accommodate the residential development, this zoning is from fifty years ago, before the 238 freeway was proposed, before the 238 freeway was rescinded in 2010, and the on-going zoning implementation process has not yet finalized what the zoning will be in the former 238 properties. It is negligent of the County to approve such a large development, with such extensive coverage, in an area of the highest priority biological resources. The biological assessment was not thorough, for example no raptors were identified although neighbors have frequently photographed raptors around our homes, migrating birds were not evaluated nor discussed although we see egrets yearly in our neighborhood, no bats were identified although this is a prime location and bats have always been here, no discussion of the cumulative effects that has already caused the losses of steelhead and frogs was discussed, no discussion of biodiversity or impacts to the food web was discussed, no alternative sites for the project were considered, and procedures have not yet been established to implement the Biological Resources Overlay Zone. The CEQA frequently cites the General Plan Actions, which are future goals often not yet implemented and have not yet gone through the required process (pgs. 20, 25, 33, 41, 44, 48, 54, 57, 67, 68, 69, 70, 73, 74, 80, 82, 89, 90, 91, 93, 104, 115, 117, 118, 136). CEQA code, Section 15183, requires the project requesting the streamlining exemption to be, **"consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified."** The danger of following Actions instead of Goals and Policies is that changes are normally made during the implementation process. For example, an Action might suggest "50%," but during the implementation process the specific percentage might be changed to 100% under certain circumstances. We just don't yet know because the implementation process has not yet happened. Besides following existing laws and ordinances, the most weight should be given to the vetted Castro Valley General Plan Goals and Policies, or to Actions which have been already implemented, not to unimplemented Actions. Page 23 concurs that CEQA law requires the project to comply with policies identified in the General Plan EIR.

Page 96) Land Use and Planning, Criterion "l." Although the County maintains that the project is consistent with the Castro Valley General Plan and zoning, the zoning on the site itself is, and has been, the subject of Phase I of the CVGP Zoning Implementation. County maintains that any zoning changes that may occur within the site a) have no relevance because the project is eligible for the zoning at the time of application, so changes won't matter, and, b) the proposed zoning changes maintain the housing density, so the changes don't matter. These arguments avoid the facts that community has not yet had a chance to weigh in on, or been informed of, zoning changes and plans that have been taking place at the project site and will consist of amendments to the Alameda County Ordinance. Community deserves a chance to weigh in on serious changes in land use as proposed on this Ruby Meadow site. These arguments ignore the fact that, recently, once neighbors were informed and included in the process, there was an overwhelming majority of community opinion that Ruby Meadow must be preserved as a biological, historical, and cultural resource. The land itself, its existing contents, and its current role are important to maintain the character of our existing neighborhood, a primary purpose of the zoning ordinance itself.

The General Plan EIR found all land use or policy impacts to be less than significant because xxx. The land use percentages are not actually correct because of overlapping land uses, such as in Ruby Meadow where the stated existing land use of the twenty plus parcels is "public." The existing land use of these Caltrans 238 properties was actually residential and open space, which is not indicated, so consequently improperly calculated and analyzed when impacts of anticipated zoning changes are discussed. Obviously, going from riparian oak woodland habitat to a paved set of parking lots and a 52-foot tall building in a project that removes 90% of the existing trees (many old growth habitat) is a severe impact, which is not acknowledged in the CEQA exemption.

Criterion 1.a and 1.b: The CEQA document state that this site "is surrounded on all sides by urban development" which is not true. The Parks and Open Space zoning in at least two of the project parcels (415-230-72 and -73) is not discussed here.

The large building and extensive parking lots do conflict with the existing land use pattern which is primarily a single-family neighborhood with a few multi-family buildings and the H.A.R.D. Senior Center complex. This is a very quiet, peaceful, and nature-oriented location full of wildlife, which will drastically change with this development. The existing land use in the Castro Valley General Plan is "public" and community has not yet had a chance to participate in new uses for the land (see above general comments about inappropriateness of CEQA exemption). The CEQA document mentions that the land use compatibility will be reviewed later during the site development process, but the impacts to this neighborhood are peculiar to this project site, much more severe than described, and not fully disclosed in this CEQA document, and will cause multiple off-site impacts due to this project's land use being much more dense and not in character with the immediately surrounding neighborhood. Changing the land use from low to no residents and extensive wildlife habitat to a dense and tall apartment building is a conflict with the existing land use pattern. The fact that other projects have been approved by the City of Hayward on the other (Hayward) side of the creek is not explained and is also not a reason to destroy this existing land use. It will cause severe impacts to the residents, the community, and to populations in neighboring communities which deserve the opportunity to observe nature and wildlife in its natural state.

For example, although the neighboring sites across Crescent Avenue are also zoned for higher density, development will not happen there due to its location of the Ohlone Site CA-ALA-566. These properties are also part of the current zoning implementation process. The trail proposed by this project is not along the San Lorenzo Creek as described in this section. The trail is proposed within the development of the new Parcel A which will not connect the public more to the creek, which is already fully accessible nearby. In addition, the meadow and creek area here are located in the CVGP Biological Resources Overlay Zone, because it is a sensitive environmental resource. The public trail location has not yet been determined in the General Plans and may instead be relocated to the street at this site

due to trail standards and wildlife habitat. The project will divide existing community by removing and/or blocking from view the nature at the riparian habitat that is a valuable part of the community here.

Criterion 1.c: The Castro Valley General Plan EIR clearly says ROSA cannot be used in CEQA analysis because it does not yet exist (page 3.5-1). The CEQA incorrectly says in section 1.c that the project does not cause a significant environmental impact due to conflicts with the General Plan, Specific Plans, or the Resource, Open Space, and Agriculture Element (ROSA). ROSA has not yet been completed, so the current documents that must be considered are part of the Alameda County General Plan Open Space, Land Use, and Conservation Elements—1973 Open Space Element and 1977 Specific Plan for Areas of Environmental Significance (SPAES). Goals and policies in these two documents have neither been mentioned nor discussed in this CEQA exemption document. Portions of these two documents are found in the CVGP, but the CVGP does not supersede SPAES which is a current component of the Alameda County General Plan (General Plan Annual Report, 2017).

Specific Plan for Areas of Environmental Significance (SPAES)

The SPAES defines a riparian area as "the vegetation or wildlife dependent on or associated with any of" the riparian area definitions listed in the SPAES (page 8), which includes the San Lorenzo Creek riparian corridor. The CEQA and project documents incorrectly define that the grasslands and scattered oaks are not part of the riparian corridor, when these features are essential to riparian wildlife. The SPAES defines the riparian area as those components which form the environmental focal point.
The SPAES states that "The Riparian Area of Environmental Significance will normally be considered the demarcation line between the vegetation zones of wetland and upland" but will extend to other bodies of water so that all riparian vegetation is included. The difficulty with the definition of the riparian area is the project site is that cumulative damages have already occurred due to mis-use by fifty years of Caltrans management and urbanization beginning in the late 1800's. These cumulative effects at this specific project site are not examined in the CEQA exemption nor the EIR. They are impacts specific to this site and are more severe than discussed in the EIR. The impacts to Ruby Meadow were not analyzed as significant but they are because wildlife, including migratory water fowl need not only the

creek and its banks, but also the adjacent open space grasslands with scattered mature Oaks. Areas that can be restored and could support the required riparian biodiversity should be restored and conserved, not further degraded. In fact the CVGP EIR discusses the need for "replacement mitigation required for riparian woodland habitat and wetlands removed by development." Why remove more sensitive habitat when our goals are to recognize and preserve these areas?

SPAES says that the procedures to protect habitat "will apply to all development totally or partially within these corridors." By changing the lot lines and creating three new parcels out of twenty, the project developers are attempting to avoid and redefine the established BROZ. The policies, goals, objectives, and actions found in the CVGP and its related documents all support meaningful and productive land use. The CEQA exemption denies that this sensitive habitat exists at this specific site, it denies the importance and relevance of this specific site to the neighborhood, it denies that the site is the richest in our area for cultural, historical, biological resources. The site-specific features are mentioned but then disregarded as being significantly impacted by this project. The site-specific features are not thoroughly analyzed and will require a full EIR to understand the severity of the impacts.

The CVGP EIR lists significant impacts will occur if buildout proposed by the General Plan would physically divide an established community, which this project will by blocking and removing the usual presence of the Ruby Meadow and its wildlife in front of the creek that everyone sees as they drive by on Ruby Street.

The CVGP EIR lists significant impacts will occur if the type of land use is significantly changed; see CVGP Figures 4-1 (existing) versus 4-2 (proposed) which changes the "public" land use in Ruby Meadow to residential. These impacts are not examined. In fact, what development and what impacts will occur on the entirety of the almost 30 acres in our neighborhood of former Caltrans 238 properties are not examined nor described.

The CVGP EIR states that "the existing Alameda County Resources Conservation Element (RCE) requires the County to locate uses or development that would seriously impact or jeopardize biological resources *away* from areas with significant biological resource value." The RCE requires the County to prioritize the preservation of lands that should be left substantially undeveloped. The RCE also requires the County to encourage protection and restoration of sensitive and rare habitat types, including native grasslands, riparian woodlands, and to designate sensitive habitat areas (which the CVGP may have done in designating the BROZ shown in Fig 7-2). If County ignores the efforts, plans, and purpose put into preserving and restoring sensitive areas, what was the purpose of pretending like it is important to do?

Over and over, in the CVGP, the BROZ is cited as the reason any impacts due to land use will be reduced or nonexistent (Page 3.5-21). The EIR recognizes the value of preserving creek areas because they serve as movement corridors for wildlife. The County and the developer suggest that wildlife does not need Ruby Meadow and the neighborhood will not be impacted if wildlife is constrained to the immediate creek setback. The EIR and CEQA do not discuss the effects of placing a large and tall development directly adjacent to sensitive habitat, and do not discuss whether this human activity will impact any wildlife that could use this valuable habitat space. This is not a vacant lot the project is proposing to develop on, although our neighborhood has many alternate sites which are vacant lots. An alternative site is not considered.

SPAES policy, which is currently in effect: Policy 4) If the environmental limitations warrant, most development may be prohibited in certain cases. This actual component of the certified General Plan supersedes the hypothetical 50% less development that may be required by the not-yet-implemented BROZ. SPAES Policy 8) The long-term preservation of natural and seminatural riparian areas and wildlife habitat shall be a guiding criterion in public decisions. Site Development Review implementation would not occur until the riparian corridor study was completed for any watercourse. This CEQA exemption does not rise to the level of a riparian corridor study, which might be accomplished as part of a full EIR.

Please reconsider the approval of this CEQA exemption and boundary adjustments. The proposal is extremely detrimental to the neighborhood, both in the short-term and in the long-term. The site contains irreplaceable resources that should not be taken from the community. The project requires many waivers and exemptions in order to fit such a large project in such a tiny space. No alternate project sites were considered where the impacts would not be so severe. Relevant figures and an incomplete list of CEQA document errors is provided below.

Sincerely,

Ann E. Maris, PhD
1490 Grove Way
Castro Valley, CA 94546
Organizer Grove Way Neighborhood Association
Chair, My Eden Voice Parks and Open Space Committee

CASTRO VALLEY

MUNICIPAL ADVISORY COUNCIL
Advisory to Supervisor Nate Miley, 4th District
224 W. Winton Avenue, Suite 111, Hayward, CA 94544 (510) 670-5400 FAX (510) 785-8793

GENERAL PURPOSE MEETING

Monday, January 29, 2018
6:00 p.m.

Council members present: Marc Crawford, Chair, Sheila Cunha, Dave Sadoff, Chuck Moore, Linda Tangren, Ted Riche

Location: Castro Valley Library – 3600 Norbridge Avenue, Castro Valley, CA 94546

Summary Minutes

II. City of Hayward's Ownership of former Caltrans Properties in Castro Valley

Kelly McAdoo, City Manager, City of Hayward, Patrick O'Keefe, Management Partners, consultant, for disposition, Kevin Briggs, Senior Civil Engineer, City of Hayward.

After Caltrans abandoned its plans for the 238 Bypass Freeway project in 1971, now more than 40 years, later approximately 50 individual parcels have traded hands from state ownership to the City of Hayward.

In 2009, the City entered a Settlement Agreement with Caltrans in which the parcels were determined surplus and designated for sale. In order to ensure that future development of these parcels aligns with the City's land use policies and overall vision, the City has negotiated a Purchase and Sale Agreement with Caltrans to assume responsibility for the sale of these properties to private developers. The parcels are combined into 10 separate groups, of which 8 will be planned by Design Workshop.

The City of Hayward will purchase, plan and sell the parcel groups before the expiration of the Purchase and Sale Agreement with Caltrans in January 2022. Throughout 2018, the City will work with the selected master plan design team on development concepts.

This process will allow the City to facilitate the public input process, plan associated infrastructure upgrades, and conduct the environmental analysis needed. Upon completion of the Master Development Plan, the parcel groups will be offered for sale through a Request for Proposals (RFP) process to evaluate specific development plans submitted.

Speakers

Ted Crofton is concerned about loss in property values and also stated that there were problems with the CalTrans ownership of the properties. Also the property is on the Hayward fault.

Frank Goulart, Hayward resident, expressed an idea to connect the Ridge Trail and the Bay Trail.

Patricia Ruiz, homeowner, lives on Gary near Grove, has children, pets on- no one is talking about infrastructure and roads, more residential living and the roads are so congested would hate to see more; think about the animals, having a quaint area to call home, massive traffic, better roads and just looking for financial gain.

Helena Weiss-Duman, thanked Paul Sanftner, putting together this meeting and she plans to use this forum to stay informed.

Susan Hull, since lived there has had 4 fires from homeless encampments; very hard to get someone to clear homeless individuals out; what is the process to upkeep the property.

Jason Lovely Gail Drive, closure by Strobridge, directly correlates to the two development sites; mixed use, this is a good opportunity to have the developers foot the bill for the majority of the restructuring of the roads and put in a park.

Aaron Powell, bought the house because of the bay view, concerned about the view disappearing. Great deal of wildlife; will this be steered toward development?

Abandoned boarded homes, what are they going to do immediately to make it look better?

Larry Williams asked how to stay informed on what is going on with the properties.
(Mr. Williams was referred to the City of Hayward website in addition to City of Hayward Code Enforcement (510) 583-4143.

Discussion from MAC

Dave Sadoff supports keeping the wildlife trail.

Linda Tangren asked if the City of Hayward has any plans to annex the properties that fall within the Castro Valley General Plan area.
(The City of Hayward has no plans to annex the properties.)

Sheila Cunha stated that the City of Hayward has a right to develop the properties but the subcommittee will work with the City of Hayward to make sure that whatever goes there works with Castro Valley.

Approval of a Castro Valley General Plan amendment should have a financial benefit to Castro Valley.

The MAC will create a subcommittee to work with the consultant and the City of Hayward on the development of the properties.

III. CalTrans Properties Nuisance Issues (Grove Way)

Mark Shindler, Cal Trans Representative, stated that he was available to answer any questions the community has about the CalTrans Properties. The properties will be demolished within three to six months. Mr. Shindler apologized for the blight and ill-management of the properties, however CalTrans has spent several thousands of dollars on weed abatement and clean-up of the properties with the assistance the Sheriff's Office and the California Highway Patrol.

Speakers

Helen Weiss-Duman thanked community members for attending the meeting and distributing flyers.

Chris Lilley stated that the properties are in total disarray and it is not fair to the residents of the Baywood area; He has called Cal Trans several times with no results.

Dan Duman stated that the community should consider this an opportunity to partner with the City of Hayward and educate them on what the needs are and reach out in a positive way.

Albert Aguilar is concerned about traffic that is going to be caused by high density housing. There are animals and children in that neighborhood. What is going to be done about mitigating the traffic?

Tyler stated that a "silver lining" is that residents do not live under a freeway.

Sergeant Brett Schueller stated that the area has been a nuisance with recent homeless encampments; the Sheriff's Office is familiar and tries to address the situation as best as possible. Cal Trans has been very responsive.

Ted Crofton stated that the homeless issue is a completely different issue,

Pennie Savage asked about other homes in the area that are in disarray.
(Cal Trans does not own any more houses in the area)

Steve Perea, Commander, California Highway Patrol (510) 581-9028
Creating a briefing item to get the CHP to drive the properties about three times per day.

5/9/19 CVGP Zoning Implementation Workshop: Public Speaker Comments

1. Ashland, Eden Housing/First Pres Church Zoning problem ?? Community Commercial zoning Meeting 6/6/19
2. Cherryland, Important to save **Ruby Meadow**. Audience pointed out CVGP Figure 4.1. Planner Horrisberger claims Ruby Meadow was not CalTrans property and is corrected by CVMAC and audience; directs public to talk to Planner Nisha Chauhan for Eden Housing/Ruby Meadow project.
3. CV, WELO has new standards, lists many issues in CV which CVMAC says they know and will work on.
4. Does Community Commercial allow residential?
5. Zoning implementation needs to consider open space/parks and recreation, studies show necessary for mental and physical health. Damage natural land—destroy ecosystems. UN report on massive loss of biodiversity. Bees go, we all go.
6. Health and Wellness, Gavin Newsom, lots of new housing—also need to provide parks (not schools or undevelopable land), keep higher density near transit, do not build in **Ruby Meadow**. Not enough local parks to go toss a ball with child.
7. Need to save waterways, importance of creek, San Lorenzo Trail, higher density okay, but in correct location.
8. GWNA spoke about the need for an plan for the Castro Valley Former CalTrans 238 land including Ruby Meadow and Oak Street--CVGP Fig 4.1 blue area at CV-Hayward border, creeks, hills, problems with zoning, inconsistencies in CVGP, actual land use over 50 years of CalTrans, neighborhood neglected in planning 2012 CVGP, neighborhood cannot support dense housing, traffic. U zoning on CalTrans 238 property. When was zoning changed? Private homes changed from R-1 with no notice. CVMAC said they would meet w GWNA to discuss.
9. Affirmed audience sentiment about saving creek and habitat in **Ruby Meadow**, protect creeks
10. Health and Wellness--County plan, but not being followed, community health, Ashland has seven 7-11 stores and does not need another one at Mattox/Foothill, what about Air B&B in zoning? Hotels? CVMAC to Planner Horrisberger: prohibit? Conditional use? CUP will look into it
11. Importance of wildlife corridor must have enough space to function as habitat, save **Ruby Meadow**, Asked Planner Horrisberger about application status. EIR required? CEQA? Planner says Ruby Meadow zoning was not ever U, has been RSD-20 for at least 50 years, RLM zoning. Audience asks about all twenty parcels. Directs
12. Building height in zoning? Quimby Act--area has 1/10 the open space required, San Lorenzo Creek, Schools aren't parks.
13. Local deer need more habitat than just his backyard to survive. Save **Ruby Meadow** and local open space. Regularly sees deer, turkey, opossum… in area, CV creek damaged by erosion, trash flow from culverted upstream creeks. Creeks need protection.

Public comment was taken.
Rebecca Stanek-Rykoff, 2754 Somerset Avenue, Castro Valley, spoke of the General Plan Implementation workshops and asked for transparency throughout the process, the housing crisis in Castro Valley, the need for mixed use businesses and to improve the walkability of Castro Valley.

Michael Kusick, 18366 Carmel Drive, Castro Valley, spoke of the need to solve the parking problem within Castro Valley and to build a walkable community.

Ann Maris, 1490 Grove Way, Castro Valley, spoke on behalf of the Grove Way Neighborhood Association and believes that no zoning changes should be made to 238 Caltrans property.

Jake Medcalf, 18590 Carlton Avenue, Castro Valley, with First Presbyterian Church of Hayward, spoke with the Council regarding zoning changes, the need for more affordable housing and mixed-use buildings in Castro Valley.

Ron Kilby, 4932 Lone Oak Place, Castro Valley, with First Presbyterian Church of Hayward, spoke of the housing crisis in Castro Valley and the need for mixed use properties.

Chizu Buckalew, 2490 Grove Way, Castro Valley with First Presbyterian Church of Hayward spoke of the housing crisis in Castro Valley, the need for more local jobs and a walkable community.

Roxann Lewis, asked that the Council review the inconsistent zoning for the Madison area and gave examples of the inconsistancies.

Micheal Freed, 855 Hampton Road, Castro Valley, spoke of the outdated open space element of the General Plan.

Meta McAulay, 19054 Almond Road, Castro Valley, spoke about the zoning for the 238 Corridor property and asked when zoning changes had been made to this area.

The Chair stated the revisions to the General Plan were done in 2005 and that the item before the Council is the implementation of the changes that were previously approved.

Peter Rosen, spoke about the need for more parking downtown, mixed use properties, and that the Council find a way to engage the public better for the General Plan Implementation process.
Public comment was closed.

The Chair addressed the confusion regarding zoning districts that currently do and do not exist, and the history behind mixed use properties and residential. He clarified that zoning changes cannot be made through this current process, that this was done previously and addressed the concerns from the public that the General Plan Implementation information is hard to process.

Public comment was taken.
Michael Kusiak, 18366 Carmel Drive, CV spoke of the need to find alternative ways to engage the public in this process and reach out to parts of the community that aren't usually engaged.

Dr Maris, 1490, Grove Way, CV, spoke on behalf of the Grove Way Neighborhood Association, asking that the Council make a recommendation to Alameda County that policy look at the former Caltrans 238 lands at the boarder of Hayward and Castro Valley and that zoning is not changed to a higher density.

Ann Maris, 1490 Grove Way, CV, spoke about not wanting her home rezoned to RSL with a higher density and that she was not involved in the decision making for the re-zoning. The Chair suggested having a special CVMAC meeting dedicated to the Caltrans 238 properties and the issues they face.

Alan Fishman spoke on behalf of himself and the Grove Way Neighborhood Association, siting inconsistancies with the zoning on these properties and the need to protect Ruby Meadows as a natural resource.

Tyler Dragoni, 18596 Haven Street, Hayward, asked that the community have input on the re-zoning of the Caltrans 238 properties and spoke of the lack on infrastructure in place to handle what is proposed.

Marvin Dishel, 1614 Knot Street, CV, spoke of his dislike for Caltrans and concerns regarding parking for the proposed 238 Hayward projects.

Bruce King agreed with the Chair that a special CVMAC meeting is needed for the Grove Way neighborhood to look at the zoning needs and spoke of the natural resources that need to be preserved.

Charles Pisano, 377 Perkins Drive, Hayward, agreed that a special CVMAC meeting is needed regarding the Grove Way neighborhood.

Don Osborne agreed that a special CVMAC meeting is needed regarding the Grove Way neighborhood and requested that Nate Miley attend the meeting.

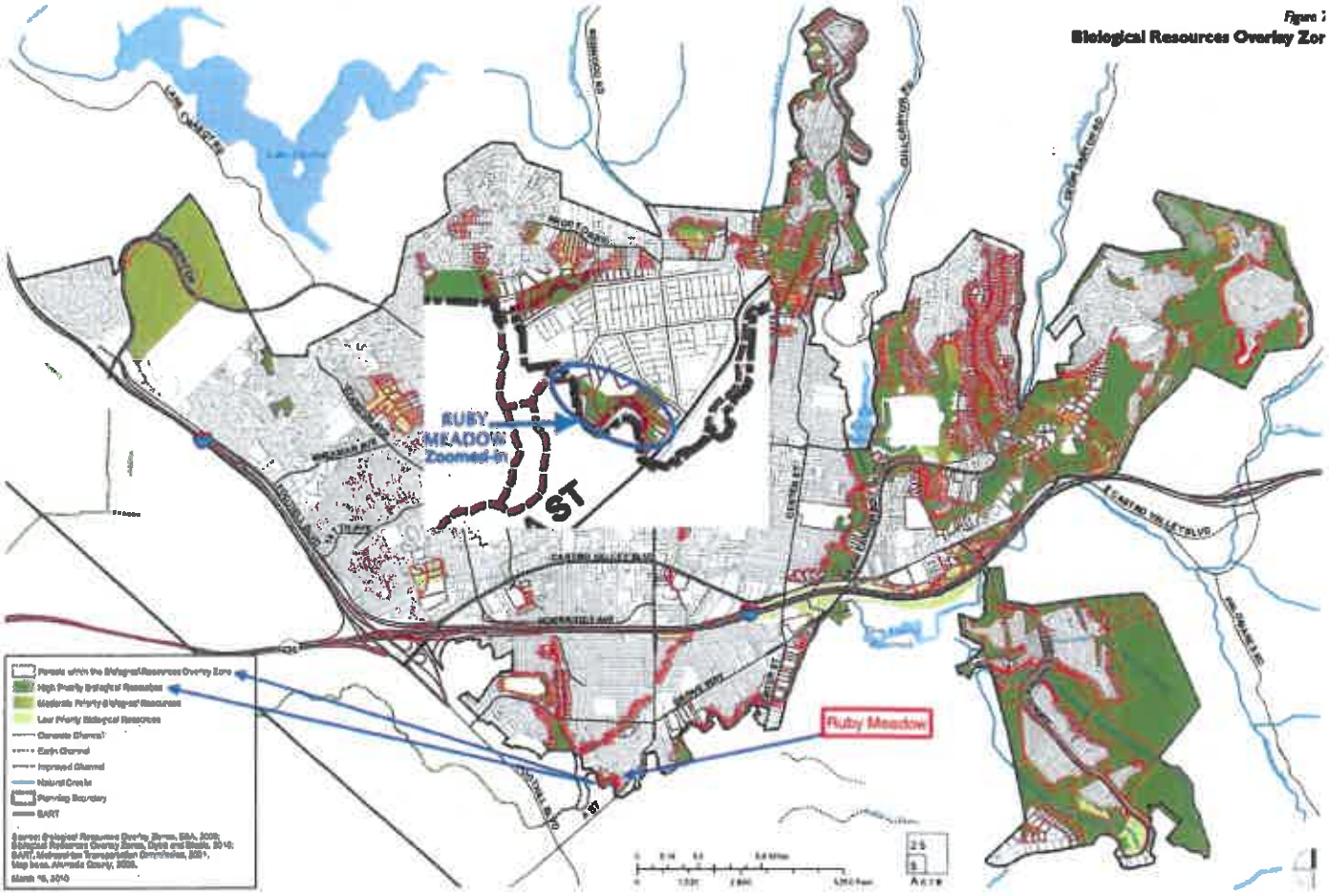
Peter Rosen spoke of the need for community involvement regarding the zoning of the Caltrans parcels and agrees that a special CVMAC meeting is needed for this neighborhood.

Kristine Stanley, 1728 Crescent Avenue, CV, spoke of the lack of public participation in the zoning changes that are being implemented, the lack of Code Enforcement and the need for a CVMAC meeting to address the Grove Way Neighborhood and Ruby Meadows.

Amber Jayanti, 21670 Shadyspring Road, CV, spoke in support of having a special CVMAC meeting for the Grove Way neighborhood and the preservation of their natural resources.

Carmin Cerullo, 21578 Knoll Way, CV, spoke of the need for more public input in the zoning changes that are being made to the Grove Way neighborhood and the need to protect the natural resources of Castro Valley.

Marlina Rose Selva, 22572 Chestnut Street, Hayward, spoke of the natural resources that are being displaced, the change to the water shed in her area and the bio diversity that is being taken away.
Public comment was closed.



BROZ (CVGP Fig 7-2)

Parcel APN# 415-230-	Street Address	Zip Code	Square Feet	Acreage	2018 Alameda County Housing Element (ACHE) Community Area or Specific Plan Designation	Included in 2009 238 Study	ACHE within Creek Buffer	ACHE # units	2012 CV General Plan Existing Land Use	2012 CV General Plan Existing Zoning	General Plan Existing Designation	8/28/19 CVGP Zoning Implementation	CVGP Biological Resources Overlay Zone	New Lot Lines Parcel	% Estimated Development Coverage	ACHE Units in BROZ	ACHE Units Not in BROZ
69	CRESCENT AVE	94541	298	0.00	n/a	Y			Public		Parks & Rec	No Homework	Y	C			
2	CRESCENT AVE	94541	298	0.00	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	N	C			
18	RUBY ST	94541	9,240	0.21	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	Y	C			
16	22513 RUBY ST	94541	6,345	0.15	Unspecified in current General Plan	Y	Y	2	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	100%	2	
15	RUBY ST	94541	6,439	0.15	Suburban and Low Density Residential	Y	Y	2	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	100%	2	
17	[illegible]	94541	6,694	0.15	Unspecified in current General Plan	Y	Y	3	Public	RS-D-20	Res. Low Density Multi-family	Y	N	A			3
21	1483 A ST	94546	6,969	0.16	Unspecified in current General Plan	Y	Y	3	Public	RS-D-20	Res. Low Density Multi-family	Y	N	B			3
14	1484 A ST	94541	7,021	0.16	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	Y	C			
17	RUBY ST	94546	7,040	0.16	Unspecified in current General Plan	Y	Y	3	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	100%	3	
11	[illegible]	94541	7,471	0.17	Unspecified in current General	Y	N	3	Public	RS-D-20	Res. Low Density Multi-family	Y	N	A			3
12	1492 A ST	94541	7,539	0.17	Unspecified in current General Plan	Y	Y	2	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A			2
19	RUBY ST	94541	8,378	0.19	Unspecified in current General Plan	Y	Y	3	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	100%	3	
72	ROCKAWAY LN	94541	10,554	0.23	n/a	Y			Public		Open Space	No Homework	Y	C			
73	1418 A ST.	94545	11,294	0.26	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	Y	C			
70	1472 CRESCENT AVE	94541	12,928	0.30	n/a	Y			Public	RS-D-20	RLM	Y	Y	A	50%	0	
18	RUBY ST	94541	13,756	0.32	Unspecified in current General Plan	Y	Y	5	Public	RS-D-20	Res. Low Density Multi-family	Y	N	A			5
3	CRESCENT AVE	94541	13,894	0.32	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	N	A			
71	ROCKAWAY LN	94541	30,080	0.70	n/a	Y			Public		Open Space	No Homework	Y	C			
14	RUBY ST	94541	52,301	1.20	Suburban and Low Density Residential	Y	Y	19	Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	75%	19	
5	1481 CRESCENT AVE	94541	52,752	1.21	n/a	Y			Public	RS-D-20	Res. Low Density Multi-family	Y	Y	A	100%	0	
				4.88													

Table 1. Size, zoning, Land Use, ACHE, and BROZ in the Twenty former 238 Parcels. Yellow shadow indicates parcels that are in both the protected CVGP BROZ and the new parcel A, which is the development site. Most of the parking lots and building is within the BROZ, not on less biologically significant sites.

Errors in the CEQA

Errors and Misstatements

1) 11/25/19 Staff report mentions a letter from HARD. This letter does not endorse the project but rather accepts a 0.3 acre parcel. The agenda description for the Board to discuss signing the letter erroneously described the project. Item 5.5, Hayward Area Recreation and Park District October 7, 2019 Board of Directors Meeting Agenda: *three-story* multi-family residential project, when the structure is actually a *four-story*, 51-foot tall apartment building.

2) Distances of Ruby Meadow to transit in the CEQA document: Ruby Meadow *is not* in a Transit Priority Area (TPA), as specified by the Associates of Bay Area Governments and Metropolitan Transportation Commission (ABAG/MTC). In addition, the distance tenants will have to travel to reach transportation is erroneously minimized by the CEQA document, regardless which driveway is used to calculate the distance. The below table calculates the distances from both proposed driveways, one on Crescent Avenue and one on Ruby Street.

			driving	walking
	1473 Crescent (main driveway)	CEQA	Actual	
580 On-ramp		0.65 mi	**0.8 mi**	**0.8 mi**
CV BART		0.7 mi	**1.3 mi**	**1.0 mi**
Hwd BART		0.9 mi	**1.3 mi**	**1.2 mi**
Bus 28 Stop		0.11 mi	n/a	**0.5 mi** (11 minutes)

			driving	walking
	22490 Ruby (other driveway)	CEQA	Actual	
580 On-ramp		0.65 mi	**0.8 mi**	**0.8 mi**
CV BART		0.7 mi	**1.3 mi**	**1.0 mi**
Hwd BART		0.9 mi	**1.1 mi**	**1.1 mi**
Bus 28 Stop		0.11 mi	n/a	**0.3 mi** (7 minutes)

3) CEQA exemption document states 42/58 trees are planned to be removed, but we counted 97 trees with 87 killed for development (90%).

4) CEQA page 41: mis-cites Action 7-1.2; should be 7-1.1

5) Fig 1-3 Existing Area View upper left is misidentified. These are the two-story apartments directly adjacent to the project. The 52-ft tall four-story building will be visible directly behind these apartments. The project building is to the south of these existing apartments, and will

therefore block existing tenants' sunlight and prevent existing tenant vegetable gardens. Figure 1-4, upper left, has the same existing apartments from the project site. The building and parking lots will fill the viewed area.

6) Fig 1-3 Existing Area View lower right is misidentified. This is the Douglas Morrison Theater. The building visible in the background is the Hayward Senior Center. The Japanese Gardens are beyond that building.

7) CEQA page 1, "two small parcels" is inaccurate because the parcels 73 is 0.76 acres, which is the third largest parcel. Parcel 72 is the eighth largest of twenty parcels at 0.23 acres.

Cherryland Community Association
P.O. Box 292
San Lorenzo, CA 94580-0051
510 909 5775

Castro Valley Municipal Advisory Council
c/o Alameda County Community Development Agency Planning Department
224 West Winton Avenue, Room 111, Hayward, CA 94544

To:
Alameda County Community Development Agency:
Chris Bazar, Agency Director
Albert Lopez, Department Director
Castro Valley Municipal Advisory Council:
Marc Crawford, Chair, Ted Riche, Vice Chair, Chuck Moore, Dolly Adams, Kenneth Carbone, Shannon Kilebrew, Sheila Cunha

I am part of a group of citizens interested in ensuring that all new residential development falls under a cohesive, balanced plan to serve all local communities' needs. This includes Castro Valley, Cherryland, Ashland, San Lorenzo, as well as Hayward. This should address the needs for affordable housing, senior housing, homeless housing and along with market rate housing. Keeping parkland, open space and trails in reserve, where those undeveloped land currently remain. Given that open space has become an invaluable and limited resource that must be protected in perpetuity and other locations for development opportunities should be considered.

The goal is to keep Ruby Meadow as the prime open space as was intended. To also encourage Eden Housing to move their small number of units to much better available locations, for a number of reasons, that actually follow the guidelines for existing in priority development and transportation areas.

The following are better alternatives to seriously consider offering to Eden Housing in lieu of Ruby Meadow to accommodate low income, senior and homeless housing:

- The blighted apartments above Oak Street.
- The lower end of Parcel 8 at Grove Way and Foothill, where Spectrum used to be located.
- Parcel 9, which is on the City of Hayward and Alameda County land.
- The site of the 'Old City Center' above Safeway.
- Redwood & Grove, on property of the First Presbyterian Church.

Ruby Meadow is not in a priority development or transportation area, therefore Eden Housing is in violation of environmental regulations by claiming a CEQA exemption.

A broader regional view should be considered due to the strategic location of Ruby Meadow as an integral connection between the trail consisting of bike and pedestrian access to the Bay Trail, and expanded enhancement to the HARD Senior Center and Japanese Teagarden and the Douglas Morrisson Theatre.

Hayward just took $4 million dollars from the CalTrans 238 property money and bought the old city center, which is in a priority area. Per deputy city manager of Hayward, Jennifer Ott, "The City is currently planning to demolish the old city center building next year because it is unsafe. Later next year we will be starting the development and planning process on how to develop that property and the cities other adjacent properties and would welcome any and all of what should get developed there."

In closing, please consider taking a broader and more inclusive look at other options to consider the wants and needs of concerned community members looking toward the betterment of the greater Eden Area.

Thank you for your time and attention to this timely and important matter.

Sincerely,

Michael Freed
Board Member, Cherryland Community Association

11/2019

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

cc: Castro Valley Municipal Advisory Council Members
Kenneth A Carbone
Sheila Cunha
Marc Crawford
Chuck Moore
Dolly Adams
Shannon Killebrew
Ted Riche
Nate Miley, Alameda County Supervisor District 4

Date: November 25, 2019

Subject: affordable housing in and around the Baywood neighborhood of Castro Valley, and CEQA analysis of Eden Housing's proposed Ruby Street project

To our esteemed public servants:

We are writing to express support for development of affordable housing in our neighborhood. Many neighbors share our opinion. We have previously proposed the development of affordable housing on the Centennial Hall property, portions of Parcel 8, and all of Parcel 9 of the 238 Bypass properties. The neighborhood was dismayed to find that the subsidized rentals on Grove Way in Parcel 8 (three blocks from our home) were vacated and then razed without a plan in place to replace this stock of affordable housing. This is a modest neighborhood of many long-time residents, and many of us could not afford to live here if we had to buy homes at their current prices. We are very sympathetic to those who are priced out of the Bay Area housing market. **We have previously written to ask that the City of Hayward and the County of Alameda work together to coordinate plans for affordable housing in this area, and in this letter we repeat this request.**

However, we are NOT in favor of Eden Housing's proposed Ruby Street project, and we object to Eden Housing's characterization of our opposition as lack of support for affordable housing in this area. **We wish to express our support for the Friends of San Lorenzo Creek (FSLC) comments on the September 2019 CEQA Analysis of Eden Housing's Proposed Ruby Street Project dated 11/24/19** and the previous comments on the Site Development Review submitted on 3/26/19.

There are many reasons that Ruby Meadow, in contrast to the other locations we have proposed, is uniquely unsuited to housing development, but Eden Housing has failed to respond to community requests to consider reasonable alternatives in the same neighborhood. A complete Environmental Impact Review is necessary to

- evaluate the impact that this project would have on the surrounding environment and the neighborhood, not just the immediate site and
- compare the impact of the placing the proposed project in this location with others nearby.

We outline some of these impacts below.

Ecological and Environmental Impacts

Of the 238 Bypass parcels in the area, Ruby Meadow is the only one that is adjacent to a creek. There are many state and local laws that protect riparian areas, and Chapter 7 of the Castro Valley General Plan has repeated references to the importance of preserving oak riparian woodland, riparian habitat, and areas along watercourses. (See the FSLC comments and appendices for details.) Furthermore, because it is a "patch" of the right size and shape, located next to a creek, and contiguous with two other parks, it is just the kind of rare space which urban ecological scientists encourage us to preserve. (See the discussions beginning on page 22 in San Francisco Estuary Institute's 2019 project report, *Making Nature's City:a science-based*

framework for building urban biodiversity at https://www.sfei.org/documents/making-natures-city.)

In its CEQA analysis, Eden Housing argues that this parcel is not worth preserving as habitat because it contains no protected species. This disregards the unique potential of Ruby Meadow and the adjacent creek for restoration as native habitat in the future as part of efforts throughout Alameda County to promote biodiversity and improve the health of the watershed.

Ruby Meadow has many large trees and considerable wildlife. The project's plan is for the removal of many large trees, which will be replaced by smaller trees and shrubs. A parking lot is planned for the area containing some of the largest trees, necessitating their removal. **In its CEQA analysis, Eden Housing presents no evidence that this tree removal and replacement with a parking lot will not result in damage to the environment.** California's native oaks are some of the best plants for carbon sequestration, and obviously large oaks are better than small oaks. Large trees, both native and non-native, but especially oaks, are critical components of the ecosystem, and small landscaping plants will not adequately substitute for their loss. Replacement of a meadow with an impervious parking lot so close to the creek has the potential of increasing run-off that will negatively affect water quality.

Due to its proximity to the creek, Ruby Meadow supports an abundance of wildlife, including both native and naturalized species. During the twenty months of construction, this wildlife will be forced to disperse. **In its CEQA analysis, Eden Housing makes the very dubious claim that the wildlife will return after construction. They have not provided evidence for this claim.** Even if this were plausible, wildlife would have nothing to return to, since most of the large trees will have been removed and much of the site will be covered with buildings, walkways, a barbecue pit, a playground, and over 24,000 square feet of parking spaces.

Community Impacts

Unlike the part of Castro Valley north of the freeway, this neighborhood is poorly served by parks and recreation areas. **In its CEQA analysis, Eden Housing vastly overstates the recreational opportunities in this area, even creating a fictional recreational area called the "Douglas Morrison Botany Grounds."** In fact, the only recreational area for children and families in the neighborhood is a small play structure and picnic area in Carlos Bee Park where parents do not allow children to go unattended because of its isolation. Rather than setting aside the pretty forested area closest to the creek as open space or a park for the community, Eden Housing's plan designates this as a parking lot. H.A.R.D. has been offered for park space a small parcel of less than half an acre ("Parcel B") currently occupied by commercial buildings, and directly on A Street. Since no one will use a park located next to one of the busiest streets in downtown Hayward, this will be of no use to the community. Eden Housing has also offered to build an asphalt trail with a view of its parking lots that will allow community members to reach this tiny park located on a major traffic corridor. Any other recreational or open space amenities will be for the restricted use of Eden Housing residents, not the entire community. **An accurate CEQA analysis would compare the value to the community of a trail beside parking lots and a pocket park on A Street with the alternative of H.A.R.D. ownership and restoration or park development on the entire Ruby Meadow property.**

The neighborhood for the proposed project is one of modest older homes and small apartment buildings. Assuming an average size of 1500 square feet for single family homes in the neighborhood, the proposed parking lots will occupy the equivalent of living space for sixteen families. The proposed multistory buildings will also be the tallest buildings in the neighborhood. In its CEQA analysis, Eden Housing claims incorrectly that the proposed project will not have an impact on the character of the neighborhood. **An accurate CEQA analysis would compare the neighborhood impact of large parking lots and a multistory apartment building on Ruby Meadow with the alternative of similar size project on Parcel 8, Parcel 9, or the Centennial Hall property.**

In its CEQA analysis of traffic and transportation, Eden Housing makes what are probably incorrect assumptions about the convenience of public transportation and the number of car trips expected in and out of the property. It therefore almost certainly understates traffic impact on the neighborhood and overstates

the benefit to residents of available transportation. Any affordable housing should be located very close to schools and public transportation to reduce the residents' need for the expense of car ownership. While Parcels 8 and 9 are both within walking distance of Strobridge Elementary, parents living in the proposed Ruby Meadow development would be likely to drive their children to school. Likewise, while Parcel 8, Parcel 9, and Centennial Hall are all directly on AC Transit Route 93 connecting Castro Valley BART and Hayward BART, residents of a Ruby Meadow project would have to cross A Street to access transportation on B Street. **An accurate CEQA analysis would compare the neighborhood impact on traffic (taking into consideration both of public transportation and proximity of schools) of the proposed Ruby Meadow project with the alternative of a project on Parcel 8, Parcel 9, or the Centennial Hall property.**

We hope you will seriously consider our comments when evaluating the adequacy of the CEQA analysis of Eden Housing's proposed Ruby Street project.

Sincerely,

Anita Wah
Alan M. Fishman
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Castro Valley, 94546
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American Society of Mammalogists

Seasonal Distribution of Migratory Tree Bats (Lasiurus and lasionycteris) in North America
Author(s): Paul M. Cryan
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Journal of Mammalogy, 84(2):579–593, 2003

SEASONAL DISTRIBUTION OF MIGRATORY TREE BATS (*LASIURUS* AND *LASIONYCTERIS*) IN NORTH AMERICA

PAUL M. CRYAN*

United States Geological Survey, Arid Lands Field Station, Fort Collins Science Center, Department of Biology, University of New Mexico, Albuquerque, NM 87131, USA

Despite evidence of migration in North American tree bats (genera *Lasiurus* and *Lasionycteris*), details regarding seasonal movements in these widely distributed species are few. This study attempted to clarify patterns of seasonal distribution by mapping museum occurrence records by month. Monthly changes in the distribution of records indicate seasonal movements of tree bats. Northward migration during spring by *Lasiurus cinereus* appears to stem from wintering grounds in California and Mexico. During summer, male *L. cinereus* is mainly distributed in western North America, whereas females dominate samples from eastern regions. *Lasiurus borealis* winters in southeastern areas and expands its range into more northern regions during warmer months. Seasonal dispersal of *Lasiurus blossevillii* from California is apparently limited, and it is unclear if this group mixes with others to the south and east. *Lasionycteris noctivagans* also shows movement at the continental scale, although movements may differ between western and eastern groups. Museum records provide little evidence of major movement by any species between North and South America. Despite inherent biases, museum records are a viable means of investigating bat migration.

Key words: Chiroptera, *Lasionycteris noctivagans*, *Lasiurus blossevillii*, *Lasiurus borealis*, *Lasiurus cinereus*, migration, occurrence records, seasonal distribution

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Bats are among the few terrestrial small mammals capable of escaping seasonally harsh conditions by moving rapidly over long distances (>100 km) to more favorable areas. Despite this potential to occupy different regions over the course of a year, our understanding of seasonal distribution and movement in many species of bats is incomplete. Range maps of mammal distributions typically depict areas in which a species is known to occur and usually include records gathered throughout the year. Such maps do not account for seasonal variation in distribution, which can be problematic for bats (Hoffmeister 1970). Further compounding the problem of seasonal variation in range, male and female bats often differ in distribution at both local (Cryan et al. 2000) and larger scales (Findley and Jones 1964). Differences in distribution between sexes are often noted, typically as skewed sex ratios in local studies, but rarely mapped or quantified across the entire range of a species. A necessary step toward understanding the ecology or conservation status of bats is developing a thorough understanding of their seasonal movement patterns and how these movements differ between the sexes. Clarification of seasonal distributions may be particularly important for bats that are widely distributed, show skewed sex ratios at local scales, or make long-distance movements between seasons.

Several species of the genera *Lasiurus* and *Lasionycteris*, commonly referred to as tree bats for their propensity to roost in the foliage or trunks of trees (Griffin 1970), are

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presumed to be highly migratory (Barbour and Davis 1969). These species are hoary bats (*Lasiurus cinereus*), western and eastern red bats (*Lasiurus blossevillii* and *Lasiurus borealis*, respectively—see Baker et al. 1988; Morales and Bickham 1995), and silver-haired bats (*Lasionycteris noctivagans*). Circumstantial evidence of migration in tree bats began accumulating over 150 years ago (Howell 1908; Jones 1884; Linsley 1842; Mearns 1898; Merriam 1887; Miller 1897; Rhodes 1903).

Evidence of migration in *L. cinereus* typically involves its appearance on remote islands and distant locations. These occurrences include scattered records from Bermuda (Jones 1884; Van Gelder and Wingate 1961), Newfoundland (Maunder 1988), the Northwest Territories, Canada (Hitchcock 1943), Iceland (Hayman 1959), and the Orkney Islands off the coast of Scotland (Hill and Yalden 1990). In addition to these records of apparently wayward migrants, other evidence of migration includes diurnal flocks (Hall 1946; Howell 1908), collisions with buildings (Saunders 1930; Timm 1989), and the regular appearance of hoary bats on the Farallon Islands (Tenaza 1966; P. Pyle, pers. comm.), which are approximately 32 km off the coast of California. The majority of these encounters occur during autumn. Although reports of apparently migratory *L. borealis* are known from spring, most encounters also occur in autumn. Examples of encounters with *L. borealis* that were apparently migrating include diurnal flocks (Mearns 1898), seasonal peaks in local abundance (Barclay 1984), bats landing on ships at sea (Carter 1950; Mackiewicz and Backus 1956; Norton 1930; Peterson 1970; Thomas 1921), collisions with buildings (Crawford and Baker 1981; Saunders 1930; Terres 1956; Timm 1989), and occasional appearances on Bermuda (Jones 1884; Van Gelder and Wingate 1961). Observations of migration in *L. blossevillii* are few, but evidence indicates that seasonal movements may occur in California (Constantine 1959; Grinnell 1918) and that *L. blossevillii* moves south out of New Mexico during winter (Findley et al. 1975). Evidence of migration in *L. noctivagans* includes records of bats landing on ships at sea (Mackiewicz and Backus 1956; Thomas 1921), seasonal peaks in local abundance (Barclay et al. 1988; Bogan and Cryan 2000), collisions with buildings (Saunders 1930), and their occasional appearance on Bermuda (Van Gelder and Wingate 1961).

Despite such evidence of migration in tree bats, few studies have detailed their seasonal movements in North America. Much of what we know about movement in tree bats comes from observations of different researchers working in relatively limited areas and during different seasons. Notwithstanding the scope of these individual observations, when compiled, they can reveal general trends in seasonal distribution. The most comprehensive study to date on movement in tree bats used museum records to map the seasonal distribution of hoary bats at the continental scale (Findley and Jones 1964). This method proved successful in uncovering previously undocumented patterns of distribution and potential movement of *L. cinereus*, but there have been few subsequent efforts of its kind. In hopes of expanding on the work of Findley and Jones (1964) and clarifying the seasonal distributions of other species, I used a similar method and mapped the monthly distribution of museum occurrence records of *L. borealis*, *L. blossevillii*, *L. cinereus*, and *L. noctivagans* in North America.

Materials and Methods

I requested data pertaining to species, sex, age, reproductive status, capture date, and capture locality from specimens of *L. noctivagans* and *Lasiurus* species housed in mammal collections throughout the Americas. Specimen records were incorporated into a computer database. Geographic coordinates were assigned to each record based on place names that were recorded as the collection locality; latitude and longitude coordinates were assigned to each record using the United States Geological Sur-

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vey's Geographic Names Information Server (GNIS at Internet site http://geonames.usgs.gov/index.html) for localities in the United States, the Geographical Names Board of Canada's name server (http://geonames.nrcan.gc.ca) for sites in Canada, and the United States National Imagery and Mapping Agency's GEOnet Names Server (http://164.214.2.59/gns/html/index.html) for all other countries. Records were categorized by species and mapped for both male and female bats using a geographic information system (GIS—ARC/INFO 8.1, ArcView 8.1, Environmental Systems Research Institute, Redlands, California). Records with no specific locality information were mapped in the center of the state or county from which they came. Records for which there were no associated date or sex, data were not mapped. All maps are presented in Lambert-azimuthal projection (center latitude 45°, center longitude −110°). There is a broad area of potential sympatry between *L. borealis* and *L. blossevillii* in western Texas, New Mexico, and Mexico (Genoways and Baker 1988; Ramírez-Pulido and Castro-Campillo 1994; Valdez et al. 1999). Because I have not examined specimens from areas of potential sympatry, identifications from these regions should be treated cautiously. Only data from sources associated with museum voucher specimens were included in this analysis. Multiple individuals were collected from many of the localities shown in Figs. 1–3. Therefore, areas of relatively high record density for each month and sex were computed and mapped using the density analysis function of ArcView Spatial Analyst software (Environmental Systems Research Institute). Areas of relatively high density were delineated by taking the range of available density values for each month and sex, classifying that range of values into 4 equal-interval categories, and then plotting the extent of the highest-value category. These density areas are relative to the number of records available for a given sex each month and are not comparable among months or between sexes. Because the focus of this article is movement of tree bats in North America, Nearctic seasons are implied: spring (March–May); summer (June–August); autumn (September–November); winter (December–February).

Results and Discussion

Data were acquired from 127 mammal collections (Appendix I) throughout North and South America. Records for which there were adequate locality and sex data (Figs. 1–3) are as follows: *L. cinereus* (n = 3,217); *L. blossevillii* (n = 935); *L. borealis* (n = 4,778); *L. noctivagans* (n = 1,627). Although museum records offer a convenient and previously underused means of mapping the seasonal distributions of bats, interpretation of these data should be treated cautiously. Museum records indicate presence only; absence of records from an area does not necessarily mean that bats do not occur there. Biases associated with variable collection techniques (e.g., shooting or hand capture versus netting) and variation in seasonal activity levels of both bats and biologists must also be considered. For example, many of these bats are likely capable of torpor or hibernation (Genoud 1993; Kunz 1982), and some of the northward progression of records during spring may simply indicate previously dormant individuals becoming active with the northward progression of warm temperatures (Baker 1978). Other potential biases to these data likely include underrepresentation of records from seasons during which biologists are not conducting fieldwork or lack of records from areas where specimen collection is not commonly practiced. In addition, the age and reproductive condition of bats may also affect likelihood of encounter (e.g., pregnant females and juveniles may be more likely to be captured). Despite these inherent biases of museum records, other trends in the data, such as the summer disappearance of records from wintering areas or disappearance of only 1 sex from an area, probably indicate actual movement patterns. Regardless of potential biases, museum records are abundant, verifiable, and relatively traceable since the advent of GIS technology. Consolidation and analysis of such data present a coarse yet underused means of studying bat distribution.

Lasiurus cinereus.—Hoary bats range throughout the Americas from northern Canada south to Argentina and Chile (Hall

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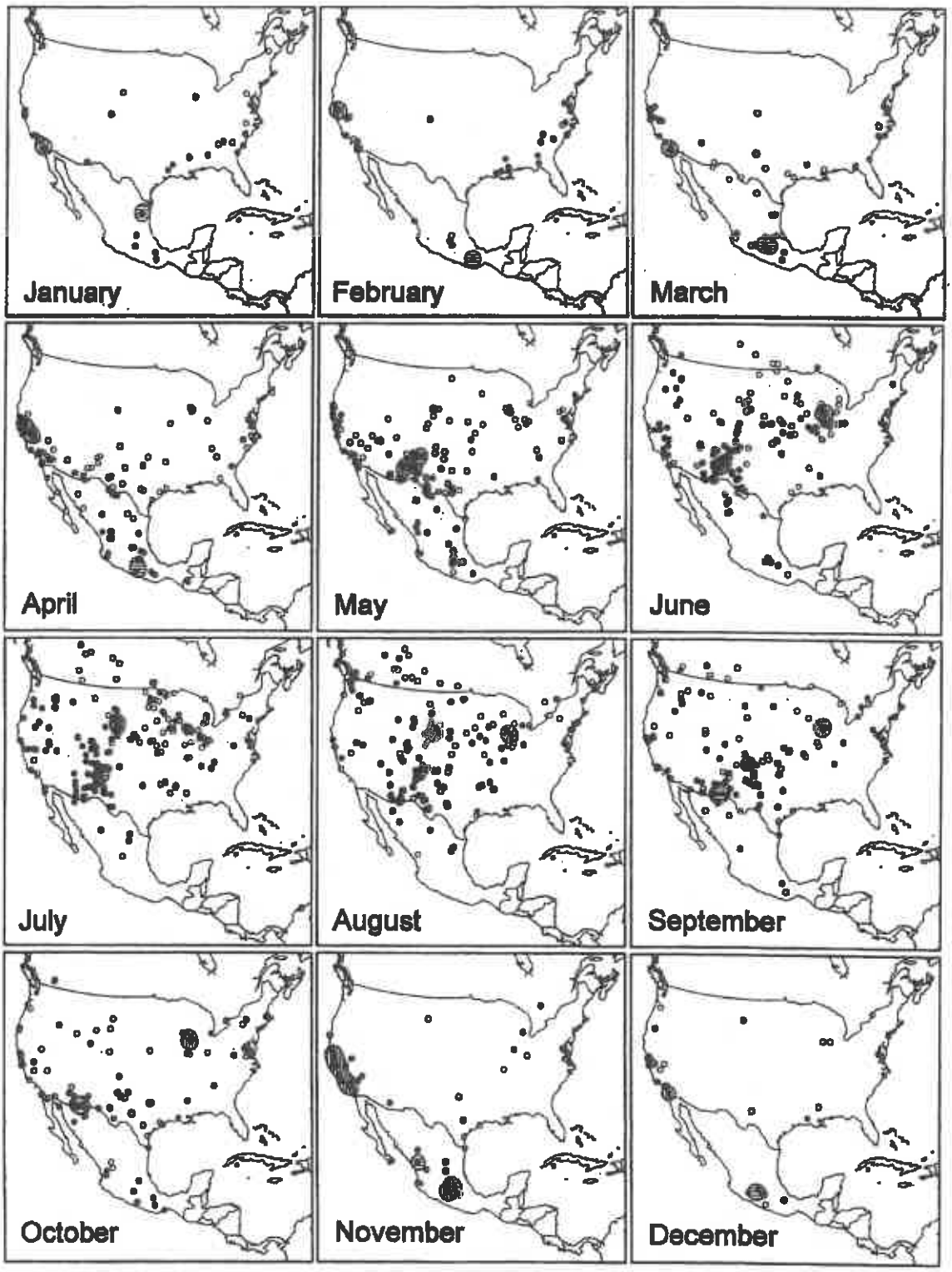


FIG. 1.—Monthly distribution of hoary bats (*Lasiurus cinereus*) in North America, occurrences based on museum records; closed circles = males, open circles = females. Hatched areas represent regions with the highest number of occurrences per unit area; horizontal hatching = areas of high male density, vertical hatching = areas of high female density. See "Materials and Methods" section for description of density calculation.

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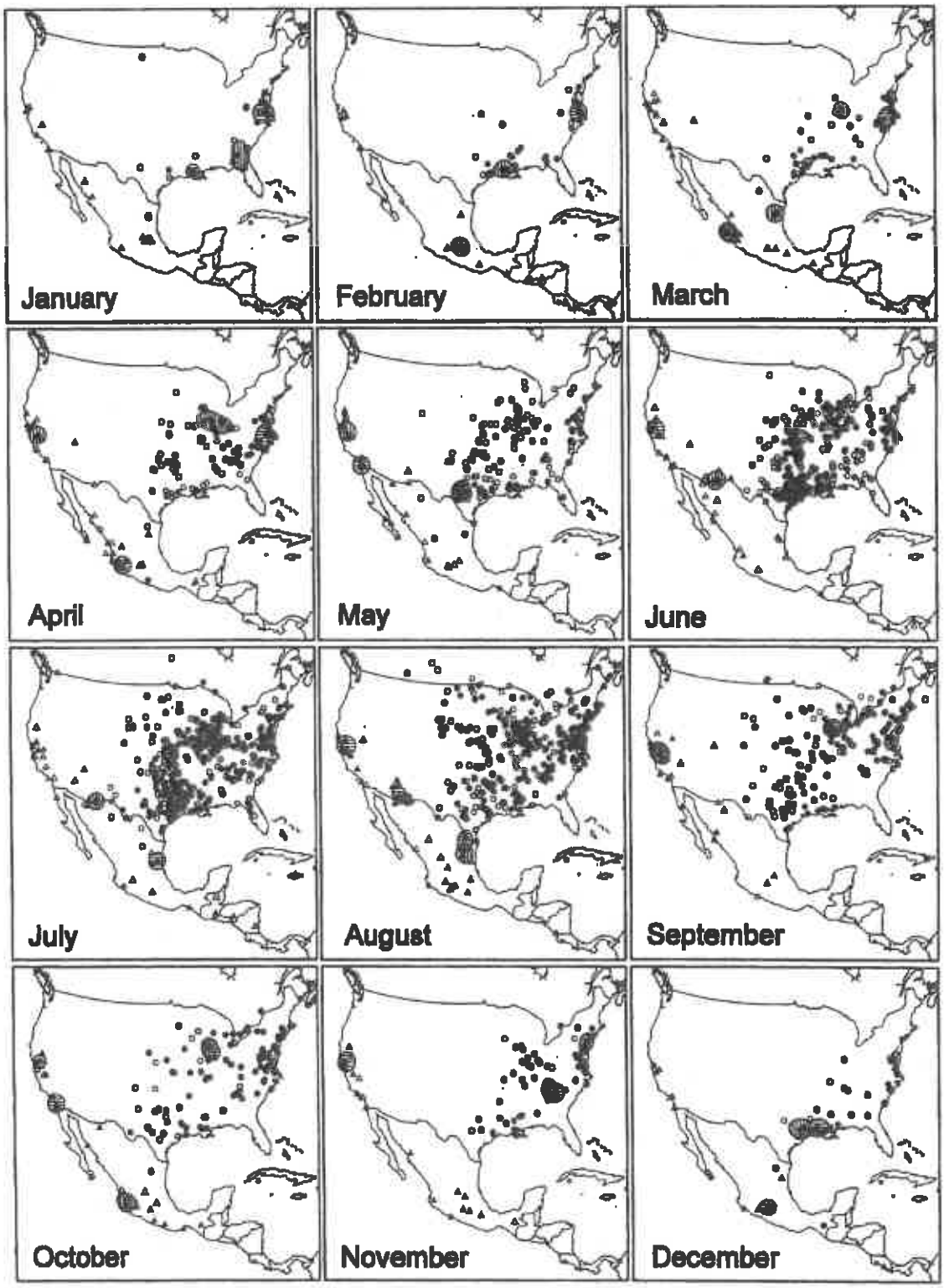


FIG. 2.—Monthly distribution of red bats (*Lasiurus borealis* and *Lasiurus blossevillii*) in North America, occurrences based on museum records; closed circles = male *L. borealis*, open circles = female *L. borealis*, closed triangles = male *L. blossevillii*, open triangles = female *L. blossevillii*. Hatching as in Fig. 1. See text for description of density calculation.

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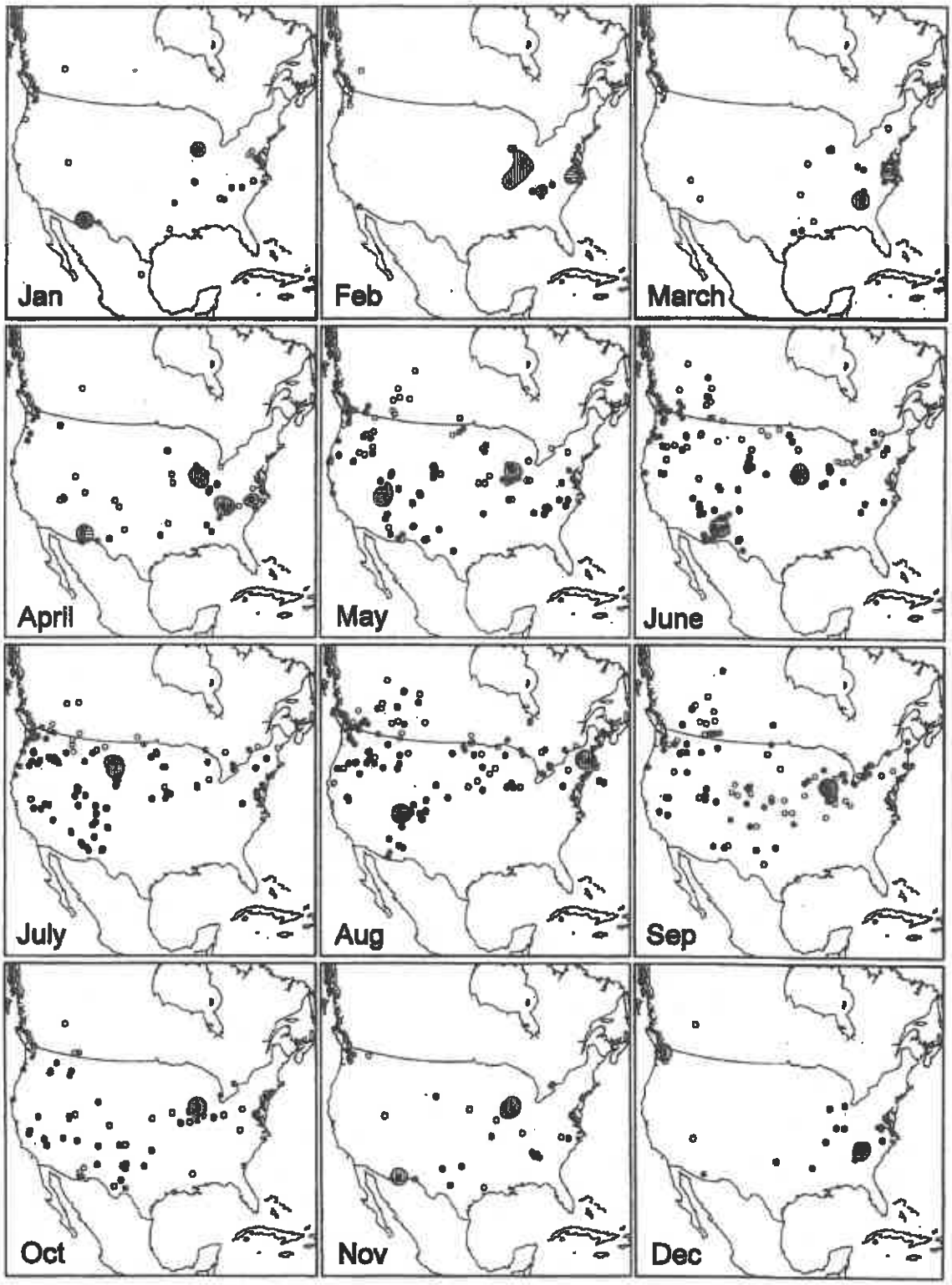


FIG. 3.—Monthly distribution of silver-haired bats (*Lasionycteris noctivagans*) in North America, occurrences based on museum records. Symbols and hatching as in Fig. 1. See text for description of density calculation.

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1981; Shump and Shump 1982b). During winter, they are found at scattered localities throughout North America, including eastern regions of the United States, California (Findley and Jones 1964), and Mexico (Polaco et al. 1992; Watkins et al. 1972). Records from winter in the eastern half of the continent ($n = 48$) are widely dispersed, whereas records during this season from California ($n = 71$) and Mexico ($n = 47$; Fig. 1) are more concentrated. Before confirmation that *L. cinereus* occurred in Mexico during winter, Findley and Jones (1964:470) suspected that "an extensive undetected wintering population of hoary bats exists south of the United States." However, the importance of Mexico and points farther south as wintering areas for *L. cinereus* remains undetermined. Although records show that overwintering occurs in Mexico, available evidence does not indicate that both sexes frequent Mexico during winter. Records of male *L. cinereus* during winter ($n = 43$) outnumber those of females ($n = 4$) in Mexico, whereas sex ratios in California during winter are more even ($n = 38$ males, 33 females). California was also the only state in the United States from which there were more than 3 records of both male and female *L. cinereus* during winter.

During spring, *L. cinereus* has been captured in concentrated groups (>20 per night) in southern California (Vaughan 1953), Arizona (Mumford 1963), and New Mexico (Findley and Jones 1964), suggesting migratory movements through these areas. Although such concentrations may represent migratory "waves" moving toward their summer quarters, the origins of these migrants are unclear. A paucity of records of females from Mexico during winter and spring does not support the contention that all these spring migrants are coming from Mexico. It seems more likely that some *L. cinereus*, particularly females, observed in southwestern United States during spring are migrants moving east from wintering grounds in California. Given available data, this is the most parsimonious explanation for the lack of records of females from Pacific coastal regions during spring and summer (Dalquest 1943). Whereas records show that male *L. cinereus* disperses north from California during spring, there are no records of females from regions north of California between March and July. Furthermore, there are fewer records of females from California in summer ($n = 7$) than during any other season. This apparent lack of female *L. cinereus* in California and the Pacific Northwest during summer remains a mystery. Although males apparently move to higher elevations during summer (Dalquest 1943; Vaughan and Krutzsch 1954), there is little evidence that females give birth and raise young in California (E. D. Pierson, pers. comm.).

In summer, *L. cinereus* is found in many parts of the United States and in the southern half of Canada, although it is relatively uncommon during this time east of the Mississippi River and south of the Ohio River (Findley and Jones 1964; Zinn and Baker 1979; Fig. 1). Reasons for this lack of records from the southeastern United States from the months of June through September remain unclear. Distribution of the sexes during summer is relatively segregated; males occur primarily in mountainous regions of western North America, whereas females occupy more eastern areas (Findley and Jones 1964; Fig. 1). However, adults of both sexes occur during summer in the Black Hills and surrounding areas of the Great Plains (Bogan and Cryan 2000; Czaplewski et al. 1979; Jones et al. 1973; Sparks and Choate 2000; Turner 1974). Parturition in *L. cinereus* generally ranges from mid May to early July (Shump and Shump 1982b), and scattered records of males in more eastern areas during summer may represent young-of-year (Findley and Jones 1964). However, presence of adult males in eastern parts of the range during summer is likely.

Distribution of records indicates coastward movement during late summer, although movement toward the Pacific Coast

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is more pronounced than movement toward the Atlantic Coast. Records of females along the northern Pacific Coast during August suggest their arrival from points east and north. Both sexes of *L. cinereus* occur on the Farallon Islands off the coast of California during autumn (Tenaza 1966), and copulatory activity has been observed there (P. Pyle, pers. comm.). It remains to be determined where female *L. cinereus* migrating down the Pacific Coast in autumn spend spring and summer. Given the potential for the Rocky Mountains to serve as a barrier to dispersal, some female *L. cinereus* may return to California by circumnavigating the Rocky Mountains to the north. Such a migration pattern would help to explain the lack of distinct autumn migratory waves in areas of southwestern United States that experience spring migrants in larger numbers (Findley and Jones 1964).

The museum records do not point to major movement by *L. cinereus* between North and South America. Lack of records from Central America, despite the relatively frequent detection of *L. blossevillii* in the region (Fig. 2), does not support the idea that migrants move through that area. Furthermore, there is little compelling evidence that migratory groups move into and out of the southeastern United States from the Caribbean. Although evidence exists of migratory movement through Florida during spring, records are limited and few females were involved (Zinn and Baker 1979). The level of genetic divergence (3.5%) found between *L. c. cinereus* from North America and *L. c. villosissimus* from South America (Morales and Bickham 1995) suggests limited exchange between continents and warrants further research concerning the specific status of these groups (Bradley and Baker 2001).

Lasiurus borealis.—Eastern red bats occur throughout much of eastern North America, generally east of the Continental Divide from southern Canada south to northeastern Mexico (Baker et al. 1988; Hall 1981; Ramírez-Pulido and Castro-Campillo 1994). During winter, *L. borealis* occurs throughout the southeastern United States and northeastern Mexico, but concentrations are highest in coastal Atlantic and Gulf of Mexico regions (Fig. 2). As pointed out by previous authors (Davis and Lidicker 1956; LaVal and LaVal 1979; Padgett and Rose 1991), males tend to be more common in northern areas during winter, whereas concentrations of females generally occur in more southern areas (Fig. 2).

During spring and summer, the range of *L. borealis* expands into the Great Lakes and the Great Plains regions (Baker 1978; Whitaker and Hamilton 1998), followed by further expansion to the north and west during summer (Fig. 2). Unlike *L. cinereus*, there are no clear differences in the distribution of male and female *L. borealis* at the continental scale during spring and summer. Skewed sex ratios observed in local studies during the warmer months (Czaplewski et al. 1979; Ford et al. 2002; Jones et al. 1967; Kunz 1971) probably are the result of differential distribution at smaller scales.

After apparent expansion onto the northern Great Plains by some *L. borealis* during August, movements during autumn are oriented toward the east and south (Fig. 2). Relatively high densities of *L. borealis* after June along the Atlantic Coast, north of New York City, may indicate shoreline migration during autumn. The high proportion of male records during late autumn in northern regions previously occupied by both sexes again suggests that some males may not migrate as far south as females during autumn. Although *L. borealis* disperses as far west as the Great Plains, the majority of records occur within more mesic (>90 cm of rain per year—Baldwin 1968) eastern areas. Arid regions of the western United States may limit dispersal of *L. borealis* from the east and possibly serve as a reproductive barrier between eastern and western species of red bats.

Lasiurus blossevillii.—Western red bats regularly occur in California, Arizona, New

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Mexico, and throughout western and central Mexico to South America (Baker et al. 1988; Hall 1981; Ramírez-Pulido and Castro-Campillo 1994). Much of our understanding of *L. blossevillii* comes from studies in California, where it apparently resides year-round (Constantine 1959). Both sexes are together at lower elevations in California during winter (Grinnell 1918; Orr 1950) but segregate during spring and summer; females remain in lowland areas, whereas males apparently move to higher elevations (Grinnell 1918; Shump and Shump 1982a). *L. blossevillii* also winters in central Mexico (Fig. 2), but the lack of records from areas between California and Mexico makes it difficult to determine whether these wintering groups represent a continuous winter range or disjunct populations.

Female *L. blossevillii* gives birth and raises young in California and parts of southwestern New Mexico (Constantine 1959; Findley et al. 1975). Accumulation of records in southeastern Arizona and southwestern New Mexico during spring indicates movement into the region from elsewhere, most likely southern areas (Fig. 2). It appears as though Californian populations do not disperse out of the state during the year, and they may be resident there year-round, as suggested by Constantine (1959). Given the distribution of available records during summer, it is difficult to determine whether Californian breeding populations are continuous with populations to the south and east.

Morales and Bickham (1995) recommended that populations of *L. blossevillii* in North and Central America should be assigned to the subspecies *L. b. frantzii*. Based on this assignment, it would be expected that interchange occurs between California and other areas of southwestern United States and west-central Mexico. However, analysis by Morales and Bickham (1995) did not include specimens from California or anywhere else in the United States, and given the apparently limited movement of populations out of California, judgment concerning subspecific status of bats in California should be reserved until further study. Unlike any other species of *Lasiurus* studied, there are numerous (n = 39) records of *L. blossevillii* from countries in Central America. Although the close proximity of *L. b. frantzii* to South America makes movement onto that continent from the north seem likely, genetic studies provide evidence to the contrary. A relatively high level of genetic divergence (5.4%) between *L. b. frantzii* from North and Central America and *L. b. blossevillii* from South America provides evidence that these may be separate species (Bradley and Baker 2001; Morales and Bickham 1995). Additional genetic comparisons among populations of *L. blossevillii* throughout its range, including California, may help clarify migratory movements by establishing levels of genetic exchange between populations.

Lasionycteris noctivagans.—Silver-haired bats range from southeastern Alaska and much of Canada south to central California, northern Mexico, and east through Georgia (Hall 1981; Yates et al. 1976). *L. noctivagans* winters in the Pacific Northwest, in scattered areas of the southwestern United States, and at middle latitudes of the eastern United States, approximately south of Michigan and east of the Mississippi River (Izor 1979; Nagorsen et al. 1993; Szewczak et al. 1998; Tyler and Payne 1982; Fig. 3). There are occasional reports of *L. noctivagans* hibernating in caves, mines, and trees (Beer 1956; Cowan 1933; Gosling 1977; Nagorsen et al. 1993). Appearance of both sexes in southwestern United States in early spring indicates either arousal of previously dormant bats that winter in these regions or arrival of bats from other wintering grounds. However, captures from southern New Mexico reveal that both sexes are resident in that area during winter (W. Gannon, pers. comm.). With the progression of spring, it appears that populations of *L. noctivagans* from eastern parts of the range disperse east and north from wintering areas, whereas movement in

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western parts of the range is northward. Records generally support earlier observations that, at least in eastern populations, males stay behind on some parts of the wintering range as females move north from southern wintering grounds (Whitaker and Hamilton 1998). As with *L. cinereus*, there are strikingly few records of *L. noctivagans* from the southeastern United States during spring and summer. Females begin moving south into areas occupied by males during late summer and early autumn, when the distributions of the sexes tend to overlap. As autumn progresses, the ranges of both sexes generally shift south. Appearance of records along northern parts of the Atlantic Coast during autumn shows that some *L. noctivagans* may migrate along coastlines.

One region consistently noted for relatively even sex ratios of *L. noctivagans* year-round is British Columbia, suggesting that migration does not occur in that area (Cowan 1933; Nagorsen et al. 1993; Schowalter et al. 1978). Given the distribution of records of *L. noctivagans* (Fig. 3), the possibility exists that populations of *L. noctivagans* in the Pacific Northwest and along the Pacific Coast are somewhat isolated from populations in more eastern regions. Circumstantial evidence in support of limited interchange between western and eastern populations includes disjunct distributions of bedbug species (*Cimex*—Kunz 1982; Usinger 1966) and the presence of an endemic flea (*Eptescopsylla vancouverensis*) on *L. noctivagans* in British Columbia (Jackson 1961). Further research into the relationships between western and eastern groups of *L. noctivagans* may facilitate interpretation of seasonal movements.

Overview.—Both *L. noctivagans* and *L. cinereus* exhibited differing distributions of the sexes on a continental scale during summer, but distributions of male and female *L. blossevillii* and *L. borealis* in summer apparently differ at smaller scales (Ford et al. 2002; Grinnell 1918). Reasons for different distributions of the sexes in bats are unclear but may involve limiting competition for resources (Yalden and Morris 1975), differing energy or thermoregulatory needs (Barclay 1991; Thomas 1988), and perhaps additional reproductive and social factors hypothesized to cause sexual segregation in other mammals (Main et al. 1996). Regardless of disparate distributions during summer, both sexes of *L. cinereus* and *L. noctivagans* apparently come together during late summer and early autumn, when copulation in these species may commence. Copulatory activity in *L. cinereus* and *L. noctivagans* likely occurs during autumn and winter (Druecker 1972; Kunz 1982; P. Pyle, pers. comm.; Shump and Shump 1982b), and delayed fertilization may forestall pregnancy until spring (Bouchard et al. 2001; Racey and Entwistle 2000). This relative independence and differential distribution of bat sexes during spring and summer is a unique and understudied phenomenon, with both ecological and management implications.

Among the species studied, it appears that distributions of females change more than those of males, supporting earlier claims that female bats sometimes move farther between winter and summer areas than males (Baker 1978; Constantine 1967; Strelkov 1969). Female bats may need to move farther than males in their search for adequate conditions to give birth and raise young. Reproductive females likely have greater energy and nutritional needs than other bats, as well as more restrictive physiological requirements (Barclay 1989, 1991; Grinevitch et al. 1995; Kunz 1974; Racey and Entwistle 2000; Thomas 1988). In addition, thermal environments in which young bats are raised influence their growth rate and potentially their likelihood of survival (Kunz and Hood 2000). Thus, stringent habitat requirements may force reproductive females to pass up nearer habitats that may be suitable to other bats. Absence of female *L. cinereus* and *L. noctivagans* from mountainous regions of western North America during summer might reflect their inability to raise young under the climatic

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conditions and relatively low productivity experienced in these regions. Likewise, it remains to be determined whether abiotic (e.g., climate) or biotic (e.g., competition) forces are influencing the apparent absence of *L. cinereus* and *L. noctivagans* from southeastern United States during the warmer months. Further research into the physiology and energetic needs of these species may help to explain such seasonal distribution patterns.

Records mapped for each species in this study showed some degree of range expansion during late summer and early autumn (August and September). This expansion may be partially the result of breeding activity or population increase after the birth of young, or it may also be associated with exploratory migration, which has been noted in other bats and vertebrate groups (Baker 1978). With the exception of *L. blossevillii*, occurrence records also show that tree bats occur along northern coastlines more during autumn than during spring, which may be associated with coastal navigation. Strelkov (1969) noted bats migrating along coastlines in eastern Europe. The combined effects of coastal and exploratory migration, as well as increase in population size, may account for the fact that the majority of encounters with apparently migratory tree bats occurred during autumn.

In the absence of other methods, mapping museum records is a viable means of formulating hypotheses of seasonal distribution and movement in bats. Because such records are associated with cataloged specimens, materials are available for hypothesis testing using other research techniques, such as stable-isotope analysis (Hobson 1999) and genetic analysis (McCracken et al. 1994). In addition, further research into energetics (e.g., flight costs, foraging, thermoregulation), behavior (e.g., inter- and intraspecific interactions), and habitat use (e.g., roosting needs) of tree bats may help to increase our understanding of their seasonal movements.

Museum data are biased, but they provide a framework on which to refine our understanding of migration in bats. It was beyond the scope of this project to incorporate occurrence records from published and unpublished sources not associated with museum specimens, but future efforts of this kind would undoubtedly benefit by incorporating such data. The importance of consolidating such widely scattered occurrence records and observations was best summarized by one of North America's early naturalists, E. T. Seton (1909:1176) who wrote, "Thus [bats] are being traced on their route and marked down in their seasonal homes. Before long the fragmentary observations of many naturalists put together will spell the truth and show us that the Bats are as migratory as the birds, and though long despised, may be also as interesting and beautiful."

Resumen

Aunque existe información bien establecida sobre los patrones migratorios de murciélagos norteamericanos de los géneros *Lasiurus* y *Lasionycteris*, los detalles con respecto a los movimientos estacionales en estas especie son poco conocidos. El objetivo de este estudio es determinar los movimientos estacionales de especies en estos dos generos trazando sus registros de ocurrencia mensual en base a los datos existentes en museos de historia natural. Los cambios mensuales en la distribución de estos registros son una manera indirecta de evaluar los movimientos estacionales de los miembros de estos dos géneros. Durante el invierno, la mayoría de los registros de *Lasiurus cinereus* se concentran en California y México. Durante el verano, la mayoría *L. cinereus* machos se encuentran en el Oeste mientras la mayoría de las hembras ocurren en el Este. *Lasiurus borealis* ocurre en el sureste de Estados Unidos durante invierno, de donde luego se mueve a regiones más septentrionales durante el verano. Contrario a otras regions donde *Lasiurus blossevillii* habita, las colecciones en California sugieren que esta especie es un residente per-

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manente del estado. *Lasionycteris noctivagans* muestra también un movimiento de escala continental, aunque en esta especie se pueden diferenciar dos grupos (occidental y oriental). Las distribuciones de cada especie sugieren que no existen movimientos de largo aliento entre Norte y Sud America. Los especimenes de museo son útiles para representar los patrones de movimiento estacional en murciélagos.

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Submitted 1 April 2002. Accepted 31 July 2002.

Associate Editor was Thomas J. O'Shea.

APPENDIX I

Following is a list of museums and museum personnel that contributed data on tree bats from their collections. Unless otherwise noted, museum acronyms follow those listed in Hafner et al. (1997). ACUNHC, T. E. Lee, Jr.; AMNH, T. Pacheco; ANSP, N. Gilmore; APM, R. D. Strickland; ASNHC, R. Dowler; BMNHC, B. Williams; BSNS, A. R. Clark; CACA, D. Kayser; CCVC, A. B. McPherson; CCW, D. Crowe; CLNP, M. Merryman-B.; CM-MVUP, V. Tejera-N.; CMN, M. Gosselin, D. Balkwill; CM-UMSNH, A. Núñez-G.; CSUF, C. Kronberg, J. Hogue; CSULB, D. Huckaby; CUMZ, J. Tyler; CUSC, S. Miller; CUVC, C. Dardia; DEVA, B. Davenport; DIX, A. Barnhum; DMNH, H. Coovert; DMNH1, L. Skibinski; EBRG, J. Sanchez-H.; ENCB, T. Alvarez-S., N. Gonzalez-R., N. Sanchez-C.; FLC, J. Ortega; FMNH, W. Stanley, L. Heaney; GBNM, W. Howell; GRSM, D. DeFoe; HCMZ, K. Winnett-M.; HCNHSC, R. Glotzhober; HMNZ, T. Sordahl; HSU, T. Lawlor, P. Holahan; IBUNAM, F. Cervantes, J. Vargas-

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Q.; IEEUACH, M. Gallardo, F. Mondaca-L.; INHS, L. Page; IOWA, G. Schrimper, C. Optiz; JMM, J. Iverson; KU, T. Holmes, R. Timm; LSUMZ, M. Hafner; MBUCV, R. Perez-H.; MCZ, M. Rutzmoser; MECN, I. Castro; MHP, J. Choate; MN Biol. Surv., G. Nordquist; MLP, D. Verzi; MLZ, J. Hafner; MMNH, A. Brunet; MMNS, S. Peyton; MMP, D. Romero; MSU, L. Abraczinskas, B. Lundrigan; MSUMC, T. Derting; MU, P. Daniel; MUSM, E. Vivar, V. Pacheco; MVZ, J. Patton; MWSU, F. Stangl, Jr.; NBM, D. McAlpine; NCSM, M. K. Clark, L. Gatens; NDUS, W. Bleier; NEMSU, S. Burt; NMMNH, D. Hafner, J. McConachie; NSMC, G. Baumgardner; NZCS, P. Ouboter, S. Sahdew; OMNH, J. Braun; OSU, S. Hoofer, A. Echelle; OSUFW, D. Markle, B. Coblentz; PGMNH, P. M. Finnegan; PM, E. Webb, J. Hall; PMA, W. Weimann; PMNH, L. Thomas; PMS, J. Winchell; PSU, R. Forbes, A. Cramer; PWRC, M. Perry; QCAZ, L. Coloma, P. Jarrin-V.; RBCM, D. Nagorsen; ROM, S. Woodward; RPPMC, S. Dobbyn, R. Hart; SBMNH, P. Collins; SDAKS, S. Pederson; SDNHM, P. Unitt; SDSU, M. Van Patten; SETON, S. Zimmer; SIUCM, G. Feldhamer; SJUBC, P. Chu; SM, D. Lintz; SMM, F. Jannett, Jr.; SRSU, J. Mueller; SUVM, G. Paulson; TCWC, R. Honeycutt, D. Schlitter; TMM, E. Lundelius, P. Owen, L. Ernest; TTU, R. Monk, R. J. Baker; UA, Y. Petryszyn, M. Bucci; UAFMZ, N. Glover-M.; UAM, D. McDonald; UAMZ, W. Roberts; UBC, C. Adkins; UCLA, F. Hertel; UCM, R. Humphrey; UDEL, N. Nazdrowicz; UGAMNH, E. Reitz, E. McGee; UGDZ, G. Nacekivell; UID, A. D. Johnson; UIMNH, J. Hoffmann, C. Mayer; UMA, K. Doyle; UMMZ, P. Myers, S. Hinshaw; UMNH, E. Rickart; UMZM, D. Dyer; UND, R. Seabloom; UNH, M. Pellissier-S.; UNK, J. Springer; UNM, C. Ramotnik, W. Gannon; UNO, K. Geluso; UNSM, P. Freeman, T. Labedz; UOMNH, P. Endzweig; USI, J. Bandoli; USNM, R. Fisher, C. Ludwig; UTA, J. A. Campbell, L. Ammerman; UTEP, A. Harris; UWBM, G. Kenagy, A. Schwandt-A.; UWSP, C. Long; VCU, J. Pagels, M. Hackett; WCW, C. Drabek; WSC, D. Lovejoy; WSU, S. Zeveloff, C. Harris-F.; WVMS, M. E. Hight; WWF, S. Glasscock; YNP, B. Beroza.

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FRIENDS OF SAN LORENZO CREEK

Date: August 26, 2019

To: Albert Lopez, Planning Director
Rodrigo Orduna, Assistant Planning Director
Elizabeth McElligott, Assistant Planning Director
Shelia Cunha, Senior Planner
Paul McCreary, HARD General Manager
CVMAC Members

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com

Bruce W. King

Subject: Friends of San Lorenzo Creek Comments Regarding Route 238 Properties Agenda Item at the August 26, 2019 CVMAC Meeting

Summary:

- Community Needs a Public Vision and Plan
  Our Castro Valley and Hayward communities need an overall vision and plan for development of housing, commercial, parks, and trails that is publicly visible for the Route 238 lands between the areas of Grove Way and A Street. Discussions and planning that is only compartmentalized to specific projects or parcel groups does not present a vision for what this entire area can or should become. The County, City, and HARD need to coordinate and include the community. The Planning Department Staff Report developed for this meeting is a good initial start by the County at documenting for the community the status, needs, and potential plans for these 238 properties.

- Ruby Meadow Riparian Woodland and Wildlife Corridor
  We want affordable housing built on our Route 238 lands, but Eden Housing's proposed housing plan is too big for the site and destroys the site's Oak-Riparian Woodland and Wildlife Corridor that is beyond the minimum creek setback. This site is unique in that it is the largest remaining natural site along this reach of San Lorenzo Creek that has been public hands for more than 50 years.
  See Attachment A for details.

- Housing Plan Driven at The Expense of Habitat and Park Space
  The Alameda County Community Development Agency (CDA), which includes the Alameda County Housing Authority and the Planning Department… along with Eden Housing… have driven the plan to develop housing in Ruby Meadow at the expense of the meadow's value as Oak-Riparian Woodland, Wildlife Corridor, and park space.
  See Attachment B for details.

ATTACHMENT A

Ruby Meadow Riparian Woodland and Wildlife Corridor

Ruby Meadow is a unique site in the riparian and wildlife corridors of San Lorenzo, Chabot, and Castro Valley Creeks. This Meadow is the largest remaining natural site along this reach of San Lorenzo Creek (our largest creek) that has been public hands for more than 50 years. Ruby Meadow has substantial Oak-Riparian Woodland and wildlife that extends well beyond the minimum creek setback. So, what requirements protect this habitat?

The need and requirements to protect the Ruby site's habitat and riparian areas are extensively covered in the Biological Resources section of the Castro Valley General Plan, the Watercourse Protection Ordinance, the Specific Plan for Areas of Environmental Significance, and CEQA. These environmental requirements overlay, and limit when applicable, residential development that may be specified by the site's zoning designations.

The community and FSLC have been asking since March 2019 for the initial, draft, or other environmental assessment of Eden Housing's project … an assessment that covers and does not white-wash these habitat protections. The Planning Department has not provided requested documents.

We know that there are extensive Biological Resources and Sensitive Habitat beyond the minimum creek setback. This habitat is described as Oak-Riparian Woodland and Wildlife Corridor in the Castro Valley General Plan and would be removed within the development area of the proposed housing project. For example:

- The project plans and field surveys indicate that there are about 97 trees within the proposed development area (*See data presented in Attachment A.1).* Of these 97 trees:
  - Ninety percent (87 trees or 90%) would be demolished by development
  - About half (45 trees or 46%) are native, and 37 of these trees are planned for removal. These trees are mostly Coast Live Oak and some California Bay and Coast Redwood.
  - About a third (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees.
- In addition, the project plan shows tight, in-fill landscaping with mostly non-native trees in the developed areas, but this is not habitat restoration. *See Landscape in Attachment A.2.*
- We also know that a herd of nine or more deer, and other animals, consistently inhabit the site.

Friends of San Lorenzo Creek has documented these concerns and more in comment letters to the Planning Department dated March 26 and July 8, 2019 and other emails.

The plan is too big for the site. The project covers over and destroys Ruby Meadow's Oak-Riparian Woodland and Wildlife Corridor that extends beyond the minimum creek setback. We want affordable and low-income housing on Parcels 8 or 9 and more.

ATTACHMENT A.1
Eden Housing Proposed Ruby Street Project
Oak-Riparian Woodland Damage
Friends of San Lorenzo Creek (August 19, 2019)

Extensive Biological Resources and Sensitive Habitat, described as Oak-Riparian Woodland and Wildlife Corridor in the Castro Valley General Plan, would be removed within the development area of the project.

Table 1 – Trees to Demolished and Remain, Native & Non-Native

Trees (> 4-inch dia.) to be demolished and remain based on our field survey and the June 2019 project plans.

Trees	June 2019 Plan	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
Native [1]	Demolish	30	2	5	37
	Remain	4	3	1	8
Non-Native [2]	Demolish	21	24	5	50
	Remain	1	0	1	2
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Native Trees include Coast Live Oak, California Bay (Laurel), and Coast Redwood.
[2] Non-native trees include mostly Cherry, Black Walnut, and Ash.

Table 2 – Trees to Demolished and Remain, Based on Trunk Diameter

Tree Diameter (inches)	June 2019 Plan of Action	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
4 to <12"	Demolish	14	14		28
	Remain			1	1
≥12 to <24"	Demolish	23	7	4	34
	Remain	1	2		3
≥24 to <32"	Demolish	7	4	2	13
	Remain	1			1
≥32"	Demolish	7	1	4	12
	Remain	3	1	1	5
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Diameter at Breast Height (4.5 feet)

Some Conclusions:

- Oak-Riparian Woodland and Wildlife Corridor would be removed within the development area of the project.
- There are about 97 trees within the proposed development area. Of these 97 trees:
  - Ninety percent (87 trees or 90%) would be demolished by development
  - About half (45 trees or 46%) are native, and 37 of these trees are planned for removal. These trees are mostly Coast Live Oak and some California Bay and Coast Redwood.
  - About a third (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees.
- Areas proposed for parking lots and storm water management have the highest concentration of trees.
- The Crescent Street area (parking lot and stormwater mgt) has 2 to 5 times more trees than the other areas, and the greatest concentration of native and largest trees (≥24 inches). This area also steps down in elevation towards San Lorenzo Creek, possibly due past creek cutting-erosion.
- Past (130 years) and current human activity in the proposed development areas, including recent Caltrans mitigation project work, have removed undergrowth and prevented growth of native trees & ground cover.

ATTACHMENT A.2
Eden Housing Ruby Plans, June 2019
Landscape Plan L1.1b Option B Full Trail



ATTACHMENT B

Housing Plan Driven at The Expense of Habitat and Park Space

We want affordable housing built on our Route 238 lands, but Eden Housing's proposed housing plan is too big for the site and destroys the site's Oak-Riparian Woodland and Wildlife Corridor that extends beyond the minimum creek setback.

Let's review the extended effort the County has pursued to push this housing project forward since the 238 Bypass was dropped by Caltrans.

The Alameda County Community Development Agency (CDA), which includes the Alameda County Housing Authority and the Planning Department… along with Eden Housing… have driven the plan to develop housing in Ruby Meadow at the expense of the meadow's value as Oak-Riparian Woodland, Wildlife Corridor, and park space. Here's how…

The 238 Bypass project was officially dropped by Caltrans in 2010. In preparation, the City and County completed a Land Use Study between ~2007 and 2009. This study recommended that Ruby Meadow be zoned both Parks/Recreation/OpenSpace and Medium Density Residential / Multi-family. Then the Housing Authority and Eden Housing developed objectives and a plan to develop affordable housing on Ruby Meadow with the general assumption that nearly all the land outside of the creek area was developable. By 2011, The Housing Authority and Eden Housing had developed exclusive agreements with Caltrans to buy the land and develop affordable housing. The Community Development Agency and Planning Department assisted with promoting this housing plan by:

- Promoting multi-family, residential zoning on the entire Ruby Meadow and incorporation of this land use into the 2012 Castro Valley General Plan;
- Not considering the uniqueness of and need to protect Ruby Meadow's Oak-Riparian Woodland/Wildlife Corridor as detailed in the Biological Resources section of the same Castro Valley General Plan;
- Not assessing with HARD the lack of park space in this area and Ruby Meadow's value to the community as open space and park; and lastly
- Excluding HARD from the opportunity to consider the entirety of Ruby Meadow as park space.

Even in 2019, The Housing Authority refused to consider HARD's proposal to acquire Ruby Meadow for park space, possibly through a land swap between HARD and Eden Housing.

The housing plan is too big for the site and removes native tree canopy. We want affordable housing on Parcels 8 or 9 and more.

See Attachments Attachment B.1, B.2, and B.3 for additional background information:

- Attachment B.1 - Ruby Meadow Zoning, Land Use, and Purchase History
- Attachment B.2 - Hayward Route 238 Land Use Study: Recommended General Plan
- Attachment B.3 - 2012 CV General Plan Figures for Land Use, Zoning, and Biological Resources

Attachment B.1
Ruby Meadow Zoning, Land Use, and Purchase History
Background Information

Caltrans acquired Route 238 properties in 1960's. It appears that land use changed to public/institutional, but zoning did not generally change.

In 2010 Caltrans officially ended their effort to develop the bypass project.

A few of the [Route 238] parcels were rezoned to a higher residential density in 2005 to implement the 2003 Housing Element (Note: according to the 8/26/2019 CVMAC staff report). Was Ruby Meadow rezoned?

In 2007-2008, the County participated in the preparation of the City of Hayward's Route 238 Bypass Corridor Land Use Study. During this process, County staff sought input from the CVMAC regarding appropriate land uses for the unincorporated corridor parcels at public meetings, including a field trip to the properties. (Note: according to the 8/26/2019 CVMAC staff report). The recommended zoning for Ruby Meadow in this Land Use Study is shown in the attached figures that were excerpted from the report and is shown as:

- CV Parks Recreation Open Space (CV PR/OS) for all the creek and extended top-of-bank parcels and the all the parcels closer to Crescent Avenue.
- CV Medium Density Residential Multi-family (MDR-MF) for parcels closer to Ruby Street.

In 2011, the Alameda County Housing Authority accepted Caltran's offer to sell Ruby parcels to ACHA. The offer specified that the Ruby parcels must be used for a public use; the anticipated zoning was "Medium Density Residential (8.7-17.4 du/ac) and Parks and Recreation per the Hayward Land Use Study date June 24, 2008; and the highest and best use was Medium Density Residential. ACHA stated that their intention was to re-convey the parcels to Eden Housing for Senior and Family Living and a Meals on Wheels facility.

2012 Castro Valley General Plan
Adopted by the BOS with CVMAC and Planning Commission review
Ruby Meadow designations:

- Fig 4-1 Existing Land Use: Public/Institutional
- Fig 4-2 CV General Plan Land Use: Residential Low Density Multi-family (RLM) 13-22 du/ac
- Fig 4-3 Existing Zoning: RS (Suburban Residential): 8-29 dwelling units per acre. (Note: according to the 8/26/2019 CVMAC staff report, existing zoning predates Caltrans purchase of properties)
- Fig 4-4 Substantive Zoning Changes: no change shown for all 238 parcels except the parcel proposed for expansion of Carlos Bee Park into Hayward development plan "Parcel 8."
- Fig 7-1 Special Status Species and Sensitive Habitat: Pallid and Western Mastiff Bat potential and substantial Oak-Riparian Woodland/Wildlife Corridor
- Fig 7-2 Biological Resources Overlay Zone: majority of site is High Priority Biological Resources

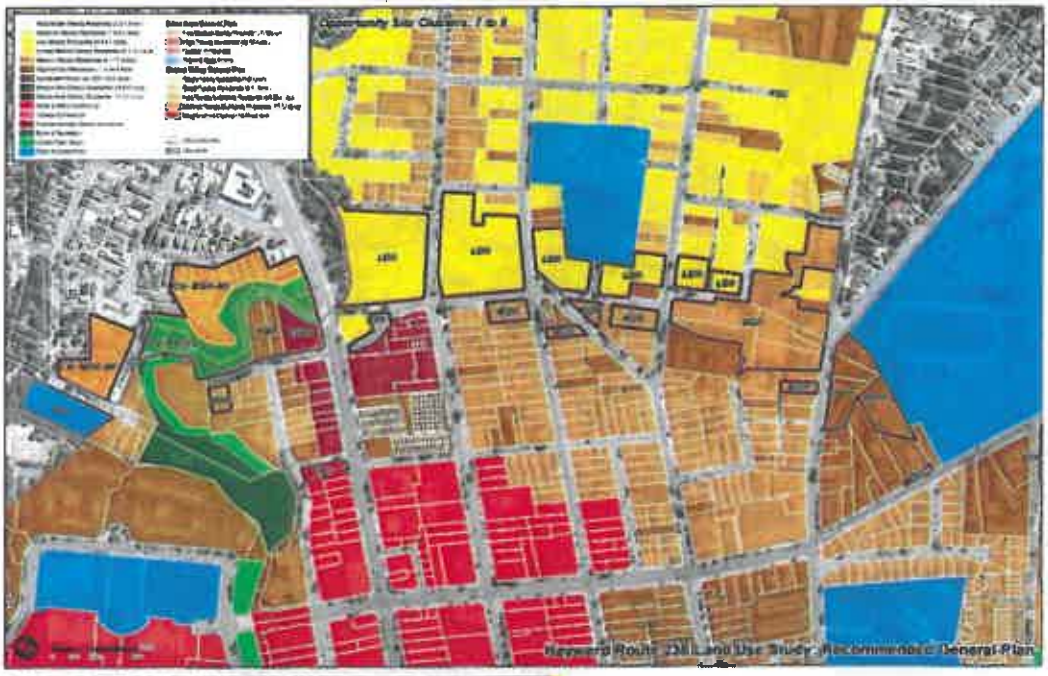
In 2018, ACHA purchased the Ruby parcels from Caltrans for the purpose of reconveying the parcels to Eden Housing. The conditions specified:

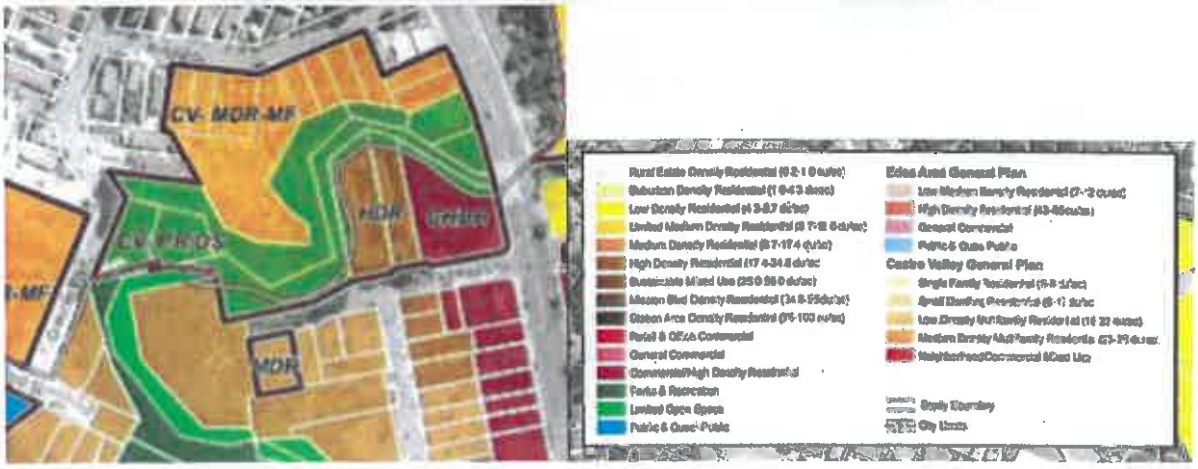
- Eden shall use commercially reasonably efforts to develop and operate the site as affordable housing
- No Guaranty of Project Success. The Parties hereby agree and acknowledge that real estate development is a speculative endeavor which is subject to multiple variables and factors outside the control of the developer. Nothing in this Agreement shall be deemed a representation or warranty by Eden that the Project shall ultimately developed by Eden notwithstanding Eden's good faith efforts to do so.

Attachment B.2
Hayward Route 238 Land Use Study: Recommended General Plan
Opportunity Site Clusters 7 to 8
Hayward City Council June 30, 2009

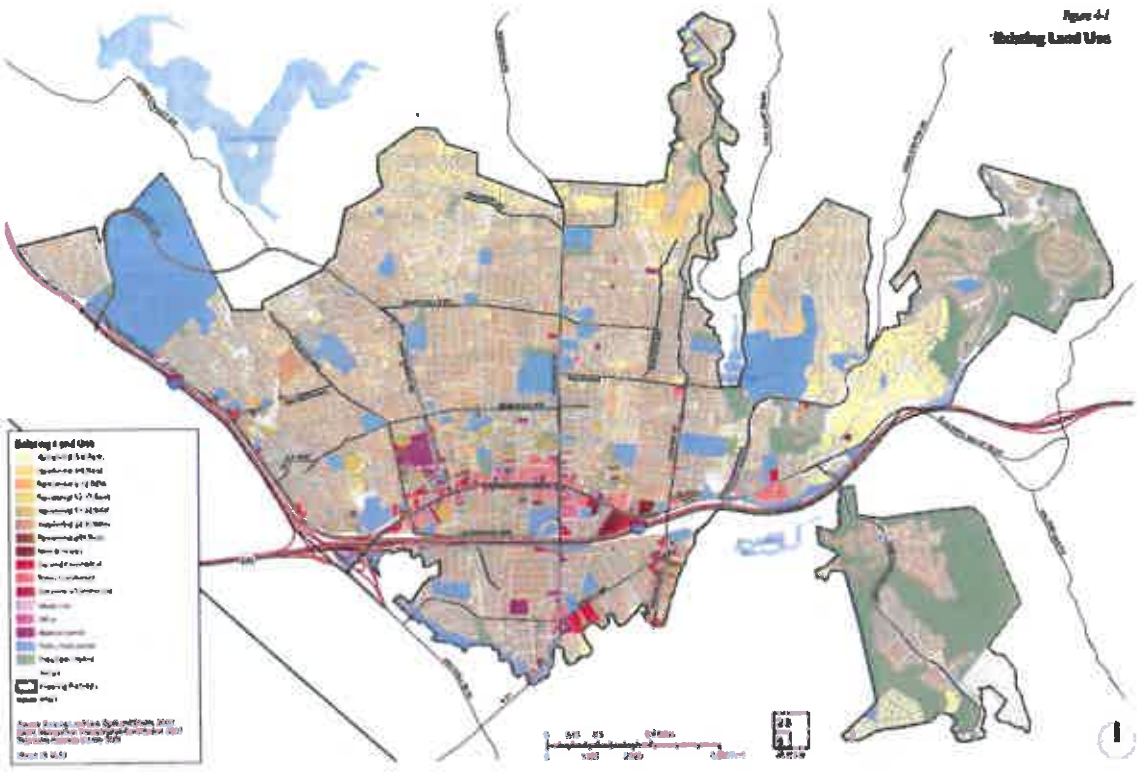
City of Hayward Development Services Director report to the City Council:

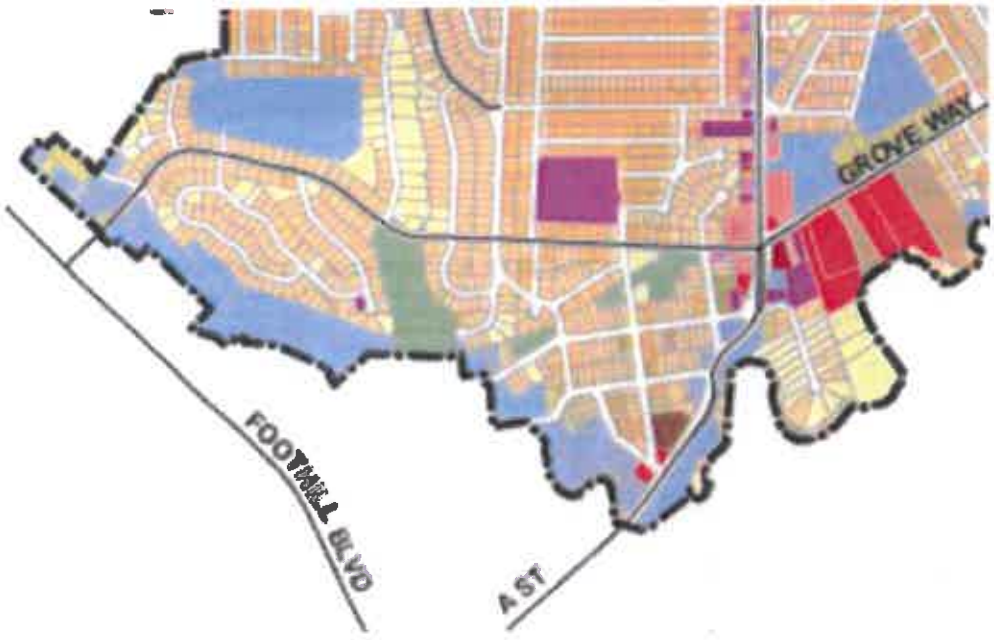
Other areas along Crescent and Ruby Streets are proposed for "Residential Medium Density Multi-Family" (23-29 units per acre), per the County's draft Castro Valley General Plan and consistent with the designation for the surrounding properties. Staff recommends an "Open Space -Parks" designation per the draft Castro Valley General Plan for the areas surrounding San Lorenzo Creek. This has been expanded from the current designation to incorporate riparian vegetation and the entire tree canopy, as well as allow for a multi-use trail requested by HARD. This is also consistent with the Upper B Street Neighborhood Plan that discusses working with HARD to provide park and recreational facilities that are accessible to neighborhood residents.



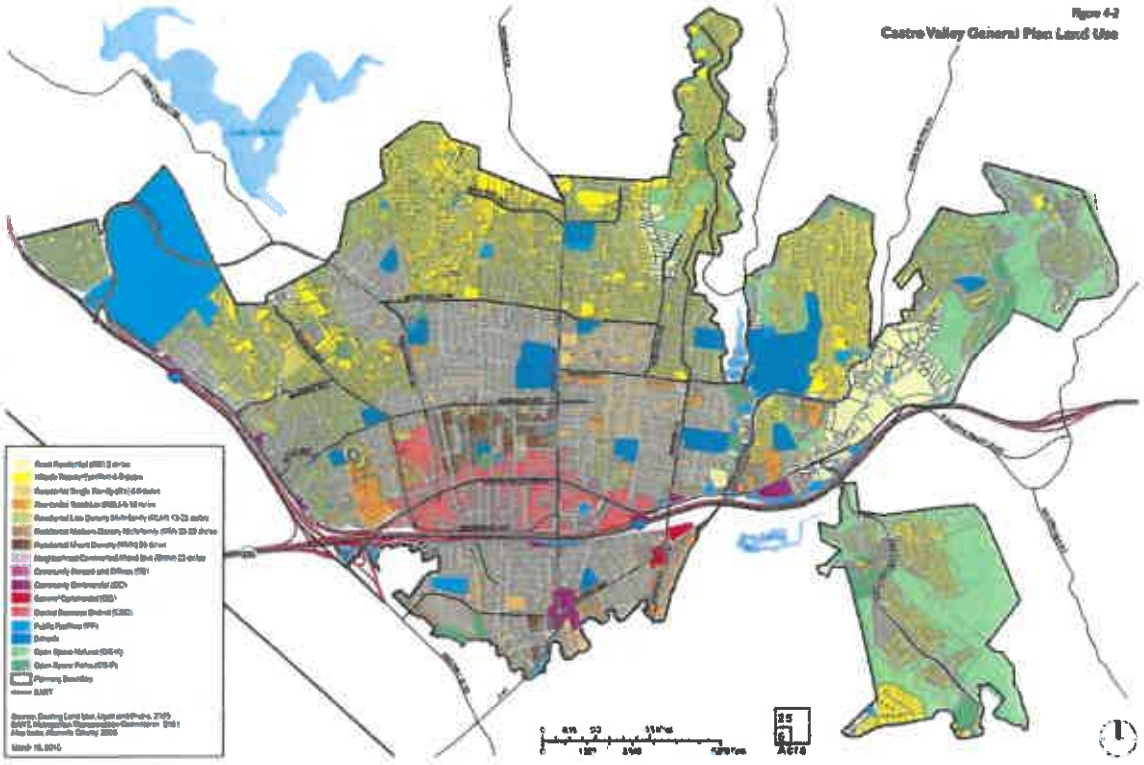


Attachment B.3
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2)



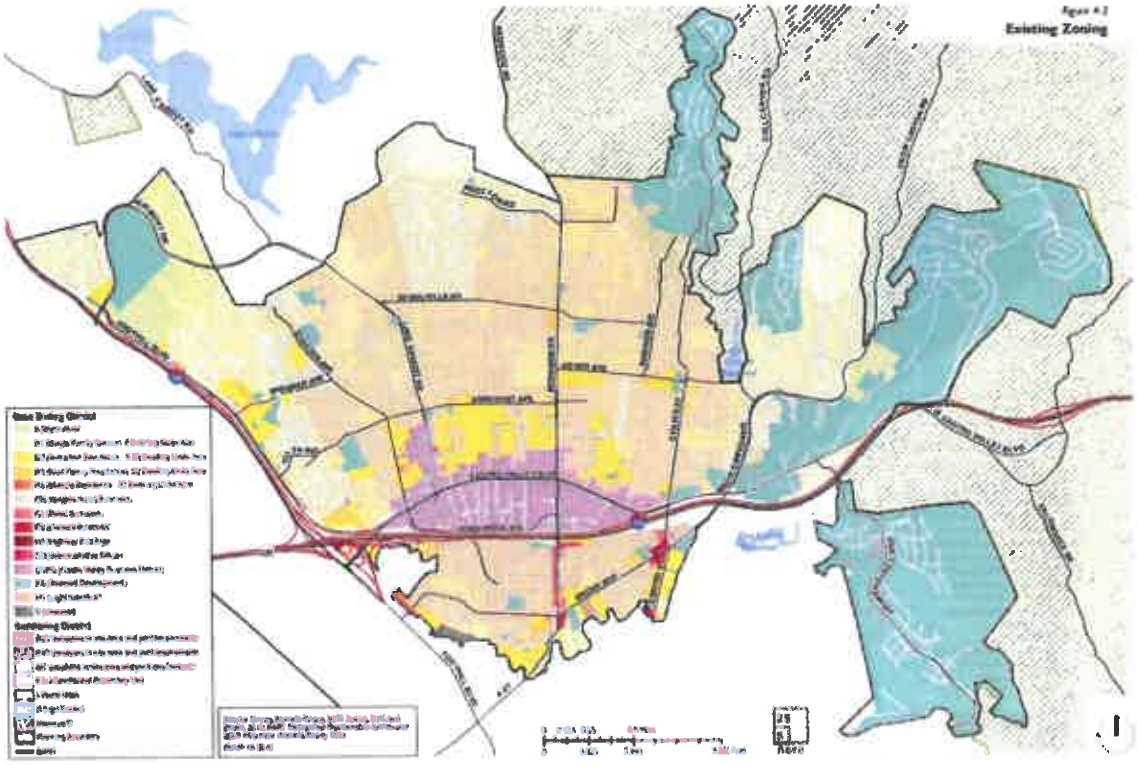


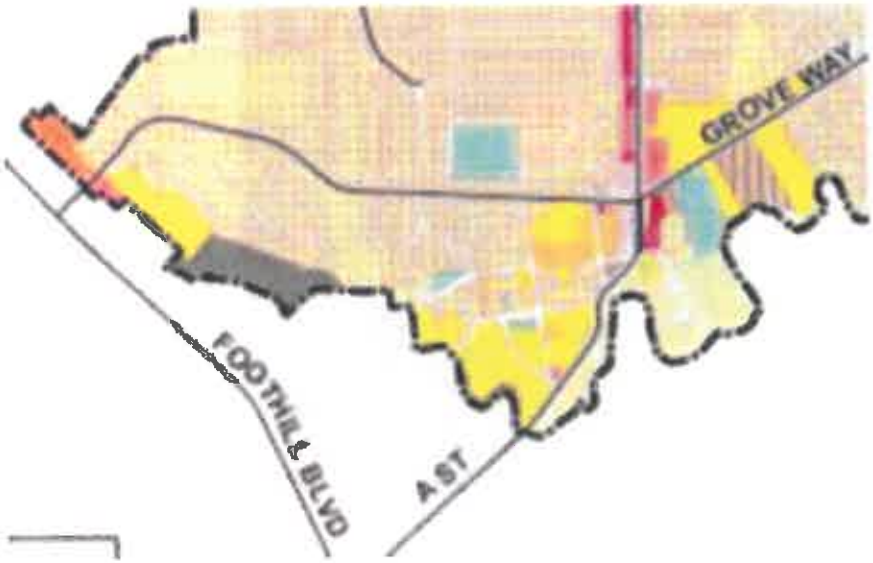
Attachment B.3 (continued)
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2)



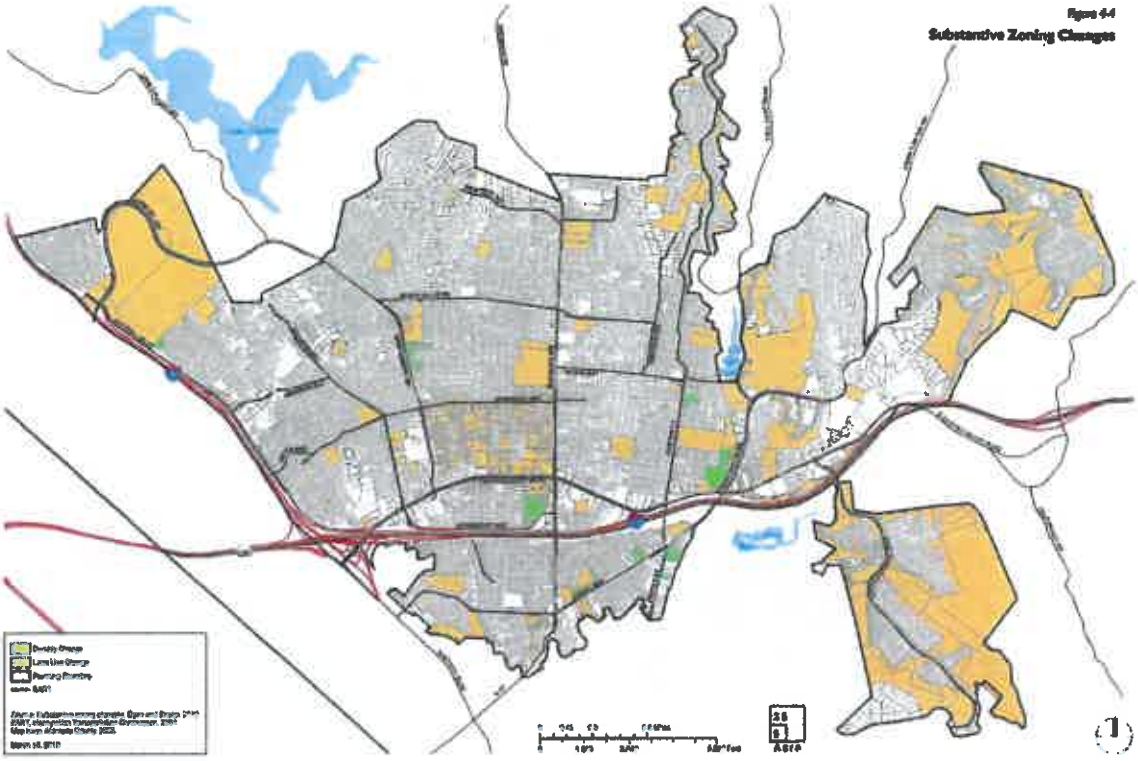


Attachment B.3 (continued)
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2)



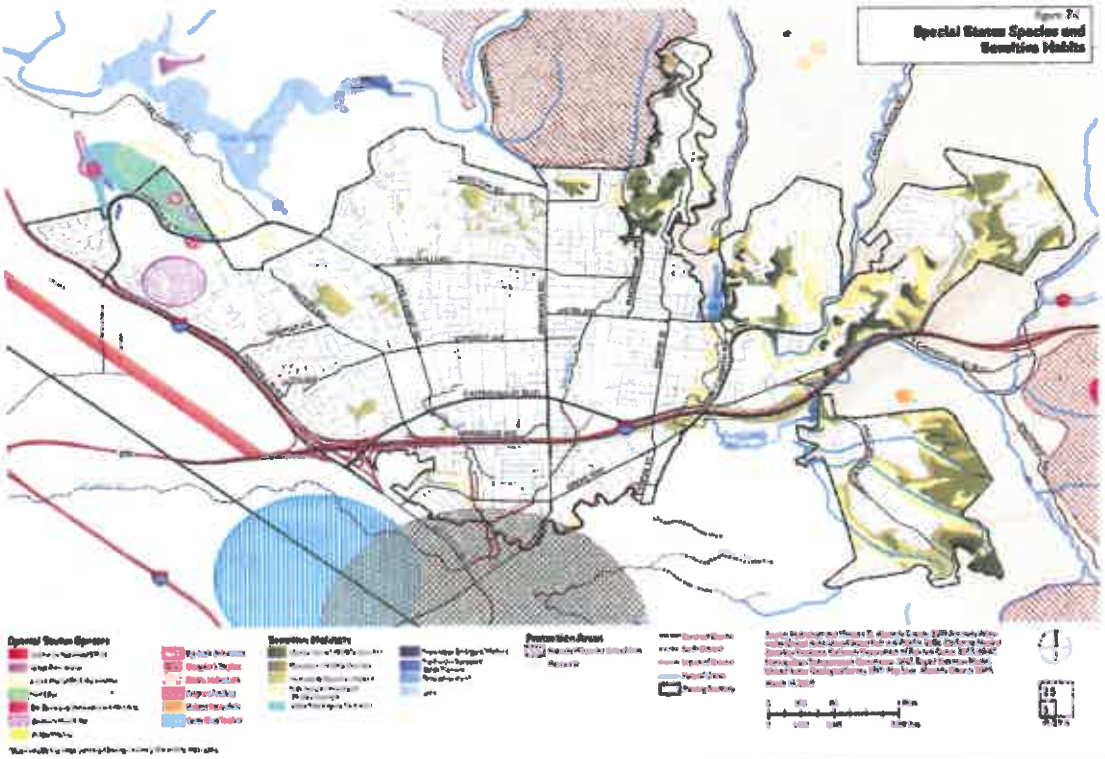


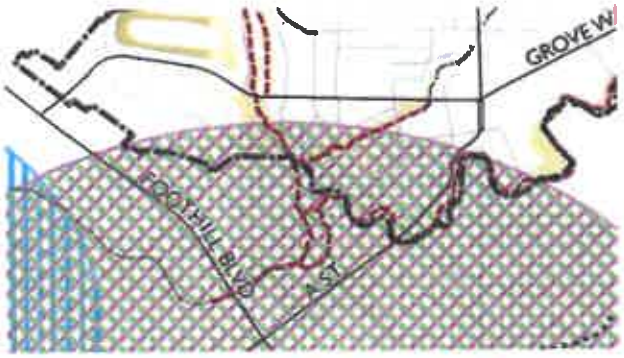
Attachment B.3 (continued)
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2).

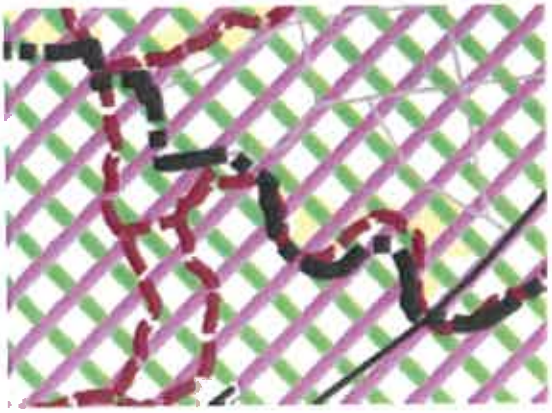




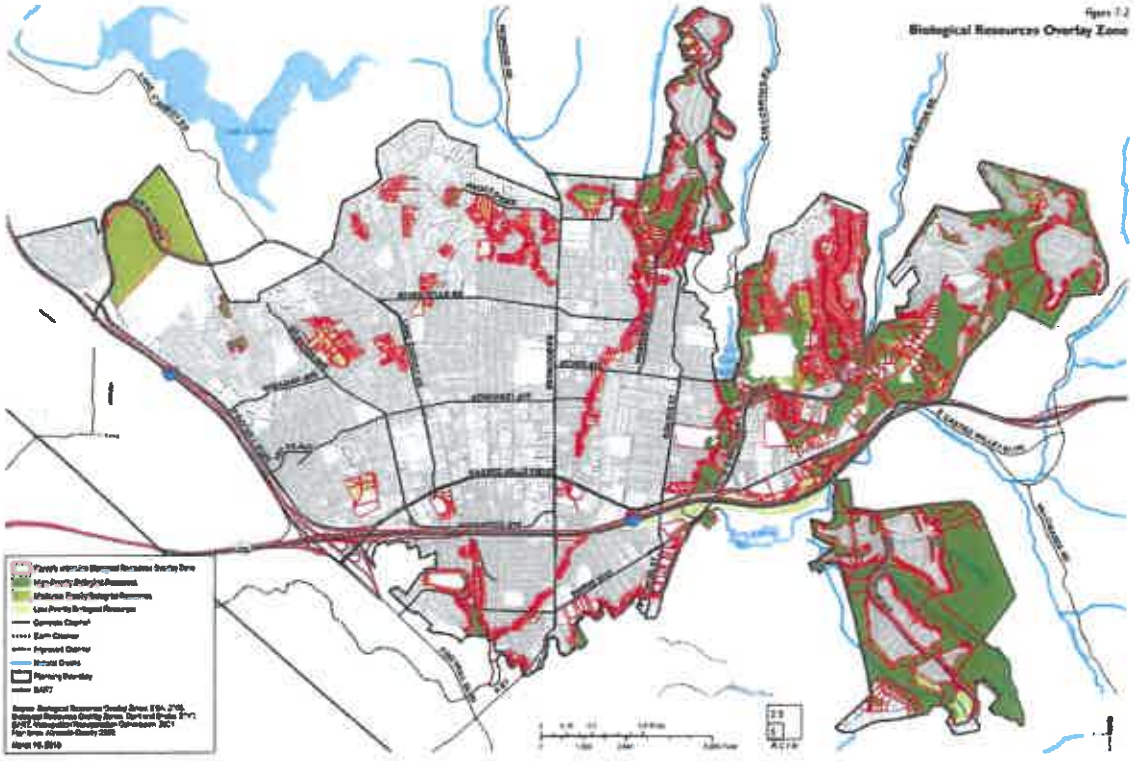
Attachment B.3 (continued)
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2)







Attachment B.3 (continued)
2012 Castro Valley General Plan
Land Use, Zoning, and Biological Resources (Figures 4-1 to 4-4 and 7-1 to 7-2)





Members of the Castro Valley
Municipal Advisory Commission
c/o Planning Department
Ms. Nisha Chauhan
Winton Ave,
Hayward, California

Re: Proposed Analysis and Determination of Community Plan Exemption from Environmental Review For Ruby Meadows Project.

Dear Mr. Chair and Members of The Castro Valley Municipal Advisory Commission:

This is to request that you recommend that an Environmental Impact Report (EIR) be prepared for the above proposed project located along the San Lorenzo Creek riparian corridor which is designated a high priority biological resource, and not an infill area by the Castro Valley General Plan. Neither is the project location in a transit priority area or a priority development area. Based on our review, this project is not consistent with the zoning and requirements of the Castro Valley General Plan and thereby requires a complete environmental analysis satisfying the California Environmental Quality Act (CEQA).

As Staff's analysis concedes, pages 21-22, in its 152 pages Checklist for a Plan Exemption, the proposed project is inconsistent with the current zoning and "would use a waiver to exceed the maximum height" of the multi-story building. Additionally, "[t]he project would also use *several waivers* and incentives to modify other minor standards such as setbacks and ***open space requirements.***" Having to resort to a waiver by definition means that the project is inconsistent, since if it was consistent, no waiver would be required. The fact that Staff has to dedicate 152 pages to attempt to justify an exemption from environmental review likewise establishes there are serious inconsistencies since if there were not, Staff would not need 152 pages.

Additionally, the EIR prepared eight years ago for the Castro Valley General Plan in 2012 is stale, failing to analyze and apply important traffic impacts utilizing the vehicle miles travelled criteria to determine greenhouse gases, another important question to address given the large number of parking spaces this project proposes nearby the Creek. Further, since 2012, California has experienced unprecedented detrimental impacts due to climate change, resulting in residents losing their homes and insurance. Climate change has particularly impacted our riparian corridors by flooding, which if not properly protected, may become subject to embankment deterioration and collapse. Given these circumstances, together with the County Ordinance allowing development up to twenty feet from the Creek's embankment, a controversial set back many have identified as far from sufficient, preparation of an EIR is essential for the protection of both the environment and public. Given the project location's designation falls within the General Plan's designation for a biological resource overlay that requires "special review," combined with the possible presence of special status plant and animal species, and State and Federal requirements to protect these sensitive riparian corridors, an environmental review is essential.

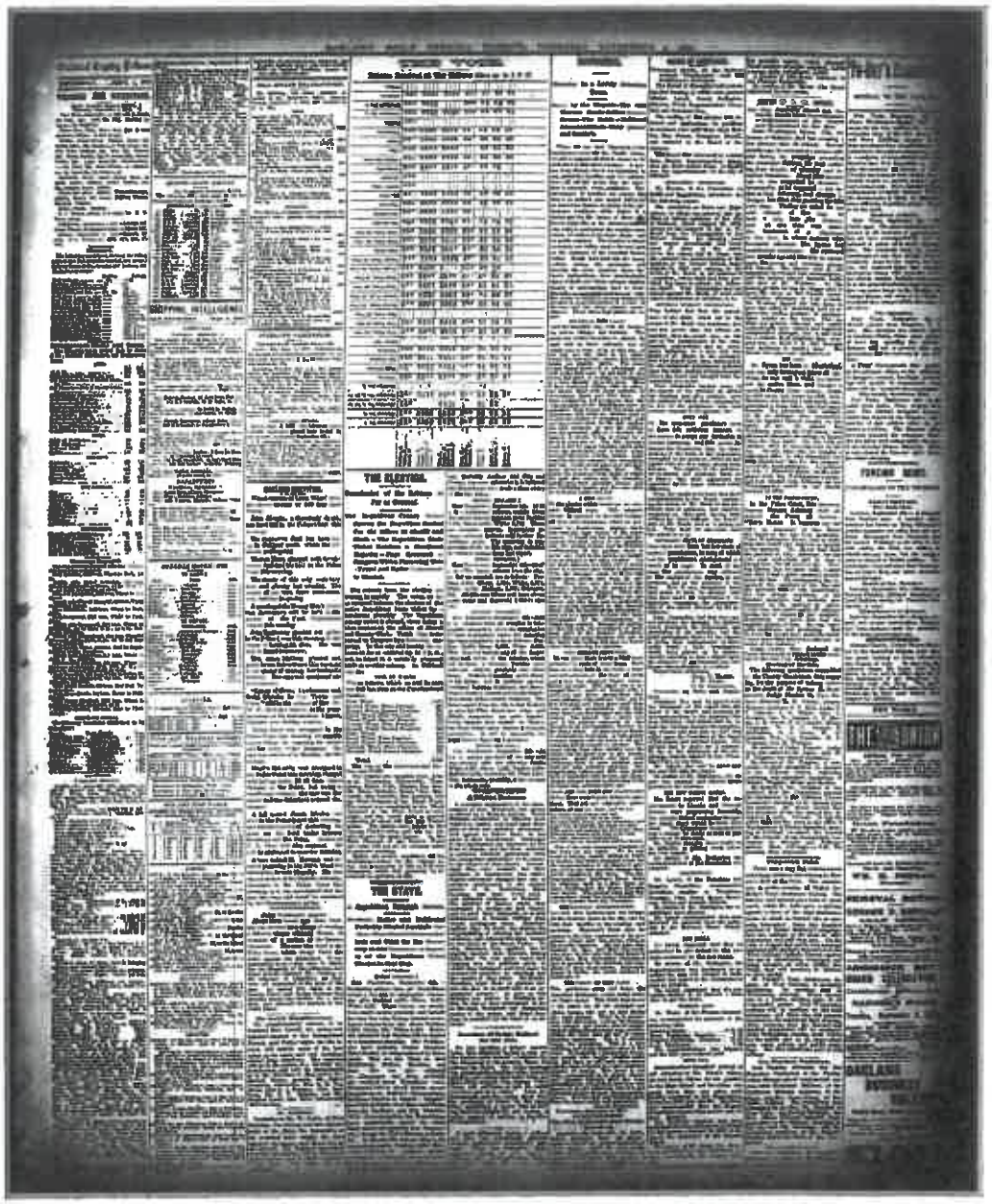
To date unfortunately no environmental analysis satisfying CEQA has been prepared which would identify impacts, potential necessary mitigations, and the best environmental options.

Given the unique and important location of this land abutting the San Lorenzo Creek and rapid advancement of the detrimental impacts of climate change, together with the fact that this proposed project is inconsistent with the zoning and conditions of the Castro Valley General Plan which relies on a stale and outdated EIR, this is to urge you to recommend that a thorough environmental review be prepared to allow you and the public to make an educated and knowledgeable judgment.

TERRY PRESTON
CASTRO VALLEY, CA 94552
510-582-4179

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Castro Valley Form Aug 20-26-1987

Ancient Campsite Found in Freeway's Path

by Deborah Crowe

A archeological team commissioned by Caltrans has unearthed a rare Native American campsite near the Hayward Little Theater that is estimated to be more than 5,000 years old.

The team also found some relatively younger sites – between 500 to 600 years old — where the San Lorenzo, Castro Valley and Little Castro Valley creeks come together.

"It doesn't look like a major village that was used all year long," said Glenn Gmoser, an archeologist and associate environmental planner for Caltrans. "It may have been a seasonal village or one used intermittently."

The archeologist concentrated their work in areas near where Caltrans wants to drive massive concrete footings into the ground to support the controversial Foothill Freeway as it passes over the theater parking lot and adjacent Japanese Botanical Gardens.

The archeological survey along the Castro Valley-Hayward border is part of the environmental review Caltrans must complete before the project can proceed.

While Gmoser considers the site "significant" from an archeologist's point of view, the discoveries by themselves are unlikely to stop or slow down construction of the bypass.

Project planners, however, will have to propose some mitigation measures to be reviewed by the State Office of Historical Preservation.

"It's possible to protect these sites if we know where they are." he said. Piles of grocery sacks and plastic bags in his cubicle are filled with hearth stones, broken mortars, seeds, husks and other remnants of ancient meals for he and others to study.



Photo - DEBORAH CROWE

Caltrans archeologist Glenn Gmoser holds a Native American cutting tool that has been dated at 5,000 years old.

"It may have been a seasonal village or one used intermittently."
— Glenn Gmoser

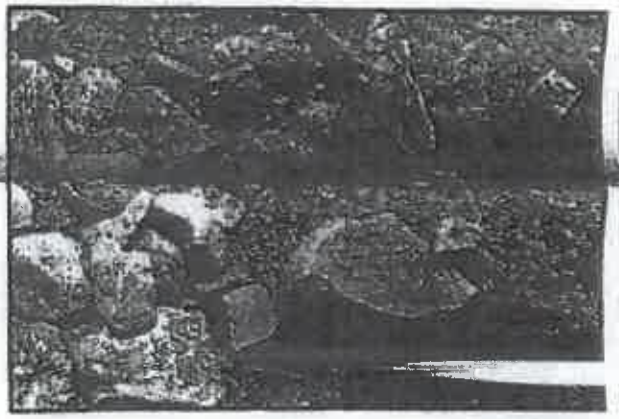


Photo - GLENN GMOSER

This pile of rocks is actually the remains of a Native American kitchen that's about 500 to 600 years old. The site has since been covered up to protect it.

The team confined their excavations to vacant lots and hillsides leading to the creeks. One cooking hearth was found under the garage of a recently demolished house.

Gmoser doesn't plan to do any further excavations in the area for the time being.

"We didn't want to be digging up peoples' back yards if we didn't have to since whether they will build the freeway is still an open proposition," Gmoser said.

Most of the finds appear to be 500 to 600 years old, including some cooking hearths with piles of stones nearby that apparently were heated and piled on top of food to cook it. Some seeds and husks found in the hearths are being analyzed to gain better insight on what people ate at that time. A laboratory was able to date each object through a variety of methods, such as carbon dating and comparison of the soil above and below where the item was found.

Among the oldest of the finds are a small sandstone mortar and a chopping tool made of a type of basalt.

Gmoser said he suspected the cooking utensils were special because they looked similar to 5,000-year-old artifacts he had unearthed around Scott's Valley about a year ago as Caltrans was pre-

Cont. on pg. 4: Ancient

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by Robert T
Kevin Oates

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"It was really commendable for the board of supervisors to vote on this unanimously," Chen admitted. "It is an attempt (by the county) to make sure public policy is rational and addresses the top priority in health."

With the passage of the ordinance, the county is in compliance with new state laws which ban smoking in bowling alleys, pool halls, restaurants and will prohibit smoking in bars after January 1998. Some of the other provisions of the new law include:

- Requiring smokers to maintain a reasonable distance of 15-feet from all entryways, windows, and air intake systems to prevent second-hand smoke from affecting non-smokers.
- Mandating that 75 percents of all hotel rooms must be smoke free.
- Banning all cigarette vending machines.
- Completing a ban on distribution and provision of free tobacco samples and coupons.
- Prohibiting smoking in common areas of apartments, condominiums and senior citizen homes.

Ancient Campsite Discovered in Path of Planned Foothill Freeway

Cont. from pg. 1

paring to earthquake retrofit a freeway interchange.

To get some perspective on how long ago these sites were in use, Gmoser points out that 9,000 to 10,000 years ago the San Francisco Bay was still a river valley created by post-Ice Age flooding.

The tribes who used the intersection of the creeks as a regular campsite likely were ancestors of the Ohlone Indians.

"What's interesting to me is the way the use of this site appears to have been the same despite the span of time between the sites," Gmoser said.

Ironically, the area around the Little Theater was not considered to be historically interesting when Caltrans had first conducted a surface survey of it about 10 years ago.

But Rita Hall, who lives near the theater and is an opponent of the bypass project, recalled the stories her husband told of his father finding two Indian grave sites in the 1930s when he was building a garage under his house.

She called Caltrans and told Gmoser that archeologists from California State University at Berkeley eventually took the remains away for study and the family heard nothing more about them. Gmoser says while he's found records of Hayward area discoveries dating from that period, he's been unable to pinpoint which might be from this neighborhood.

Gmoser says it's possible that the artifacts could be made available for public exhibition once his studies are





Gotta Home?

These pets are immediately available for adoption at the Fairmont Animal Shelter. Kit, left, is a 3-month-old female retriever with a shining personality. Kayla, right, is a loving 1-year-old female labrador mix. The Fairmont Animal Shelter is located at 2700 Fairmont Drive in San Leandro and is open daily from 11:30 a.m. to 5:30 p.m. Call the shelter at 667-7707.

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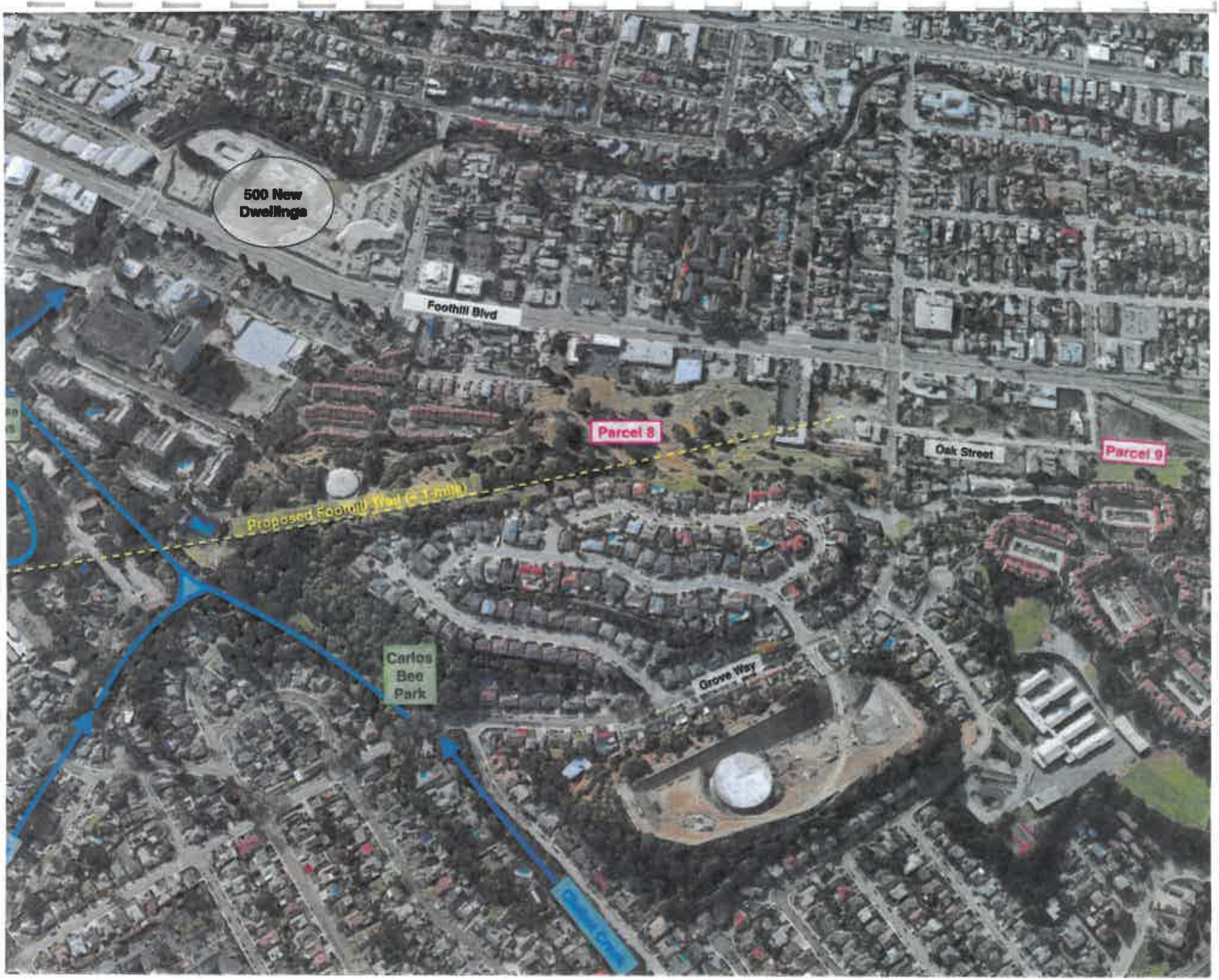
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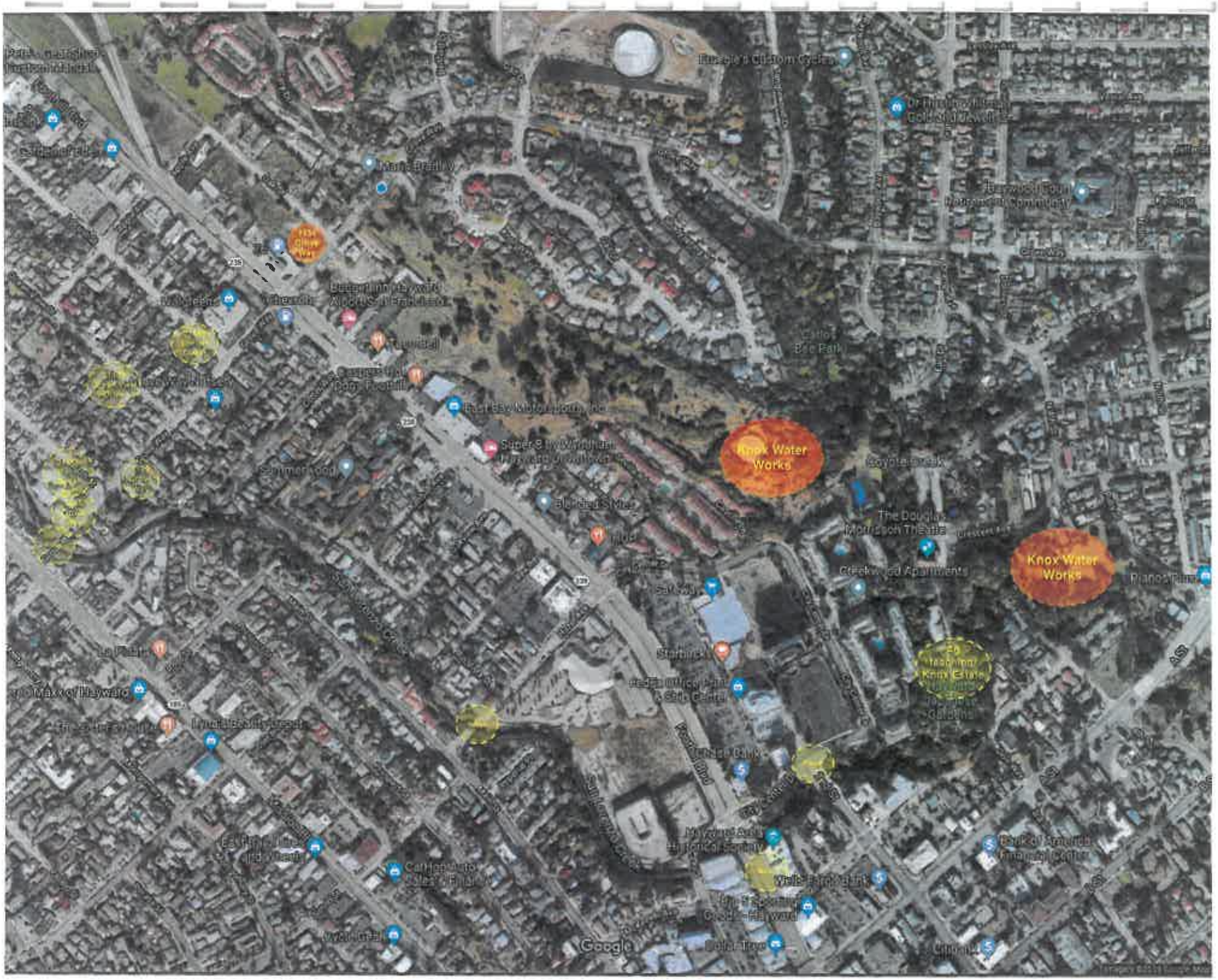
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Errors and Misstatements

1) 11/25/19 Staff report mentions a letter from HARD. This letter does not endorse the project but rather accepts a 0.3 acre parcel. The agenda description for the Board to discuss signing the letter erroneously described the project. Item 5.5, Hayward Area Recreation and Park District October 7, 2019 Board of Directors Meeting Agenda: *three-story* multi-family residential project, when the structure is actually a *four-story*, 51-foot tall apartment building.

2) Distances of Ruby Meadow to transit in the CEQA document: Ruby Meadow *is not* in a Transit Priority Area (TPA), as specified by the Associates of Bay Area Governments and Metropolitan Transportation Commission (ABAG/MTC). In addition, the distance tenants will have to travel to reach transportation is erroneously minimized by the CEQA document, regardless which driveway is used to calculate the distance. The below table calculates the distances from <u>both</u> proposed driveways, one on Crescent Avenue and one on Ruby Street.

			driving	walking
	1473 Crescent (main driveway)	CEQA	Actual	
580 On-ramp		0.65 mi	**0.8 mi**	**0.8 mi**
CV BART		0.7 mi	**1.3 mi**	**1.0 mi**
Hwd BART		0.9 mi	**1.3 mi**	**1.2 mi**
Bus 28 Stop		0.11 mi	n/a	**0.5 mi** (11 minutes)

			driving	walking
	22490 Ruby (other driveway)	CEQA	Actual	
580 On-ramp		0.65 mi	**0.8 mi**	**0.8 mi**
CV BART		0.7 mi	**1.3 mi**	**1.0 mi**
Hwd BART		0.9 mi	**1.1 mi**	**1.1 mi**
Bus 28 Stop		0.11 mi	n/a	**0.3 mi** (7 minutes)

3) CEQA exemption document states 42/58 trees are planned to be removed, but we counted 97 trees with 87 killed for development (90%).

4) CEQA page 41: mis-cites Action 7-1.2; should be 7-1.1

5) Fig 1-3 Existing Area View upper left is misidentified. These are the two-story apartments directly adjacent to the project. The 52-ft tall four-story building will be

visible directly behind these apartments. The project building is to the south of these existing apartments, and will therefore block existing tenants' sunlight and prevent existing tenant vegetable gardens. Figure 1-4, upper left, has the same existing apartments from the project site. The building and parking lots will fill the viewed area.

6) Fig 1-3 Existing Area View lower right is misidentified. This is the Douglas Morrison Theater. The building visible in the background is the Hayward Senior Center. The Japanese Gardens are beyond that building.

7) CEQA page 1, "two small parcels" is inaccurate because the parcels 73 is 0.76 acres, which is the third largest parcel. Parcel 72 is the eighth largest of twenty parcels at 0.23 acres.

Marlina Rose Selva, PhD

There is currently a global mental health epidemic due to the destruction of our natural landscapes. Dr. Kuo of the University of Illinois spoke to global business leaders and heads of state earlier this year at the 50th World Economic Forum and expressed these concerns. According to Dr. Kuo, "We're seeing indicators of poor psychosocial health globally, especially in cities. Surprisingly, there are also strong indications that 'nature deficit disorder' is contributing to this social and psychological breakdown as humans move into cities and urban areas become more devoid of vegetation." In the 2019 Science Advances article, Kuo and her co-author found that exposure to nature can reduce risk factors and symptoms of mental illness. In multiple studies, she and colleagues have shown that exposure to nature leads to milder ADHD symptoms, lower Medicare spending, and less violent crime, as well as better standardized achievement scores in school children.

A large body of research, including findings from Stanford University, has established a relationship between increasing urbanization and increased rates of mental illness, with the explanation being further removal from nature (Bratman et al., 2015; Bratman et al., 2019). Urbanized areas with trees do not provide anywhere near the mental health benefits (e.g., decreased depression, anxiety, stress, and ADHD symptoms) compared to natural settings (e.g., grassland area scattered with Oak trees and shrubs) according to the research. University of Illinois recently published findings that urban and rural counties across the nation with the lowest socioeconomic status appeared to benefit the most with better health outcomes (as evidenced by lower Medicare costs) from increases in forests and shrubs. (Beckman, 2019). Research also shows that connections to nature are critical to children's social, emotional, and cognitive development (Kellert, 2005; Children and Nature Network, 2009;Kahn & Kellert, 2002; National Environmental Education Foundation, 2008).

The peer-reviewed article titled, *Identifying riparian climate corridors to inform climate adaptation planning*, from US National Library of Medicine National Institutes of Health (https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6235256/) states, "Riparian habitats have been frequently identified as priority areas for conservation under climate change because they span climatic gradients and have cool, moist microclimates relative to surrounding areas."Recent studies indicate that hot days correlate with poor air quality days, and air pollution is contributing to more annual deaths and cases of respiratory illness and asthma (Jacobson, 2008). Everyone deserves access to nature and its physical and mental health benefits.

From: King Family [mailto:sixkings@comcast.net]
Sent: Tuesday, March 28, 2006 11:57 PM
To: lou@castrovalleygeneralplan.org
Subject: CV Gen Plan 3/29 Meeting & NOP of EIR

Hello Lou Andrade

I am Bruce King, a resident in Castro Valley. I was planning on attending the Castro Valley General Plan meeting tomorrow evening (3/29/06), but I may have other family commitments that will prevent me from being at the meeting. It's possible I will be able to attend, but it's also likely I won't be in attendance

I have attended most all of the CV General and Strategic planning meetings, and I'm honored to be part of the process. I am writing this email to express and register general comments on "...the environmental issues that should be covered in the General Plan EIR." I am requesting that the General Plan EIR adequately cover impacts on and mitigations for the San Lorenzo Creek Watershed as a whole (including Castro Valley and downstream of Castro Valley) and specific creeks flowing through Castro Valley (e.g., San Lorenzo Creek, Castro Valley Creek, Chabot Creek, Cull Creek, and Crow Creek). Examples of issues that should be covered include:
1) Run-off, creek volumes, flood potentials, and flood control
2) Run-off from development, maintenance of absorptive area, erosion control, and landscaping
3) Prohibition or limits on development, repair, and rebuilding of structures and other man-made features (e.g. parking lots) within setback zones of all creek sections (i.e., open and culverted sections) so as to protect existing natural creek resources and allow for future restorations
4) Prohibit the construction of new culverts, new armored walls, and other "hardscape" (like concrete) in creek channels
5) Incentives for property owners to restore creeks and riparian buffer zones
6) Identification of realistic and feasible daylighting opportunities and protection of those opportunities on public and institutional properties, while encouraging voluntary daylighting on private properties through grant funding and other incentives
7) Maintenance and improvement of existing riparian and aquatic habitats, including fish habitat, fish migration, and obstacles to fish migration
8) Sources of run-off pollution and water quality.
9) Public access to creek areas
9) Ordinances, management plans, public participation, and means to accomplish the above over time

In addition, the EIR should cover:
1) Protection of biological resources within the proposed biological resources overlay zone
2) Addition of native vegetation and trees within development and open spaces as mitigation for some lost habitat and to reduce water consumption and runoff
3) Light pollution
4) Bicycle and public transportation routes and facilities

Thank you for this opportunity to provide some initial comments on the environmental issues that should be covered in the General Plan EIR.

Sincerely,
Bruce King
3127 Terry Court
Castro Valley, CA 94546 510-886-0997

D29 51

Knox, William

BIOGRAPH OF WILLIAM KNOX, ONE OF HAYWARD'S PIONEERS
Compiled by Ruby Knox Hart for the Hayward Historical Society

In the summer of 1849, a young man of twenty-six years set out from Bennington, Ohio, for the El Dorado of the West,-California. Not,however, following the lure of gold. Loving the land, it was instead California's limitless spaces and fine soil that he sought;- and to establish a home.

Three routes were possible: to go by land, over the plains; by water, land and water, across the Isthmus of Panama; or by water,around Cape Horn.

It was the Panama Route that William Knox chose. This meant traveling by river boat down the Ohio and Mississippi Rivers; then South across the Gulf of Mexico to Chargres, where a navigable river afforded transportation part-way. From Chargres it was a distance of about seventy-five miles to the Pacific Coast; first up the Chargres River through dense jungle to Gorgona; thence by donkey across mountains to Panama City; there to wait for a ship to San Francisco.

The ships in those days were often ill-fitted to carry passengers, and the captains strangers to the navigation problems of the Pacific ; but it was'49, and California the goal!

Here at Panama he found hundreds of other men also waiting. No women. Crowded and unsanitary conditions were causing much sickness and death. How long the wait might be no one knew; perhaps weeks, or months.

He counted himself lucky to get passage on a ship almost immediately. Navigation from Panama to San Francisco was particularly hazardous for sailing vessels, and it was not uncommon, on account of prevailing winds and ocean currents, for a ship to be blown so far off course that she would land in the Sandwich Islands (Hawaii) before getting a favorable wind to take her to San Francisco. This might mean a voyage of several months.

Unfortunately, when the ship carrying the "Forty-Niners" was not far out, the Captain, having lost his way, committed suicide. Someone succeeded in getting her turned around; and by great good luck they managed to get back to their starting-point.

In Panama City again, wandering about the town,not knowing when another ship would sail,William saw a sign in a restaurant window,"Cook Wanted".

He didn't know a thing about cooking. On the farm, back in Ohio, that was women's work. But not for naught was his surname"Knox"! He went in and applied, with the happy result that when the same ship, with a braver Captain, shortly sailed again, he was on board as ship's cook,experienced. And that is the way he got up to San Francisco.

But due to the delays, the ship carrying the would-be Forty-Niners failed to dock in San Francisco Harbor until January 2nd, 1850.

Pursuing his idea of settling here as a farmer, he searched diligently around San Francisco for a place with water. Offered the island known as "Goat Island" (the present Yerba Buena),- but, finding no water there,- he turned it down in favor of real country.

On the East side of San Francisco Bay the creeks were many, and brimming Somehow he got hold of a piece of land in the San Jose District,- as Alameda County was then known,- and planted potatoes. He made money enough that year to give him a start, for the influx of fortune-seekers made prices high, and produce in great demand.

BIOGRAPHY OF WILLIAM KNOX, ONE OF HAYWARD'S PIONEERS (continued)

His younger brother Lewis came to California two years later, in 1852, settling in San Leandro ,which at that time was also in the District of San Jose. For although California became a state on September 9th, 1850, it was not until March 25th,1853, that the bill creating Alameda County was approved. The population at this time had increased from a few hundreds in 1850, to about three thousand.

In 1857 the two brothers went back to visit their relatives in Ohio, where they had been born.

There, on June 23rd,1857, William Knox and Rhoda Greenleaf were married. On that occasion the pastor who married them was inspired to inscribe in the family Bible an apparently original, and very Victorian poem:

"Friend William in the golden clime
Had sought his better part
But failed in Gold his Good to find
Like Noah's dove, comes back to bind
A Greenleaf to his heart"

(Signed) Rev. Bedell, Pastor
Circleville Baptist Church
Circleville, Ohio

On the same day, in a quiet home ceremony, with his brother John Knox and Merick Allen as witnesses, William's brother Lewis married Mary Allen, who, surviving her husband by many years, lived in San Leandro until her death in 1925. The next generation knew well the story of how their wedding trip down the Ohio and Mississippi Rivers, across the Gulf of Mexico and the Isthmus of Panama covered the same route that William had taken nine years before. But by this time there was a railroad to take them through the jungle and over the mountains to Panama City. As in William's journey, many others were awaiting a ship there. When the large steamer on which they obtained passage arrived at Panama, the water was too shallow for it to dock. Able seamen waded ashore and carried the brides, Mary Knox among them, to the ship in their arms.

But William had other plans for returning home to California. He and Rhoda set out in a covered wagon, bringing the first large flock of sheep- one thousand of them - with, also, the first sheep dog, across the plains to the West.

Temporarily, after their arrival the two couples stayed at the Haywards Hotel. And Mary Allen Knox lived long enough to tell her many grandchildren how the two brides would sit on the broad piazza of the Haywards Hotel enjoying the long summer afternoons; and how, then, it was a field day for the Indians and cowboys, to whom, as they rode slowly past, the fashionable 1857 hoop-skirts worn by the Knox women presented a never-failing attraction and enigma.

BIOGRAPHY OF WILLIAM KNOX, ONE OF HAYWARD'S PIONEERS (continued)

Alameda County was growing. According to Assessors' Books of 1859 Eden Township possessed the largest amount of wealth (mainly agricultural) in the County, this section being at this time the chief cattle market of the state.

In 1861 William Knox purchased from Guillermo Castro and his wife, Maria Louisa Peralta de Castro about a hundred fifty acres of land on what was then the outskirts of town. Here he planted orchards, raised live stock and farmed the good land with considerable success.

The site of William and Rhoda's first house on this land was close to the present bridge across San Lorenzo Creek in back of the High School on a section still known as the "Knox Tract". They had seven sons, though only three survived their parents.

A larger farmhouse was later built on the very site of the Agriculture Laboratory of Hayward Union High School. Part of this old dwelling was retained in the remodelling, and is still in use.

In 1865 William bought from Jesus Maria Estudillo a large acreage in San Leandro. As the years went by, he added to his holdings, mainly in San Lorenzo, San Leandro and Haywards, until in 1876, - the year in which Hayward was incorporated as a town, - with over a thousand acres, he was listed as being among the largest land-holders in Alameda County, by that time one of the most important centers of early California's farming area.

When William and his brother Lewis went a second time to Ohio to bring back another flock of sheep to add to their livestock, the two wives, with the Knox children, remained.

It was at Haywards, in 1882 and 1883, respectively, that the two pioneers, William and Rhoda, to whom for the twenty-five years of their married life Alameda County had been home, passed away.

Both are buried in the old San Lorenzo Cemetery.

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*Deed, with map, recorded in Volume K, page 626, ALAMEDA COUNTY DEEDS. (basement of Court House, Oakland)

Family records, and "History of Alameda County" by Frank Merritt main sources of information.

Ruby Corinne Knox Hart

March 30, 1962

Knox, William

Piedmont July 23, '61

Dear Captain Bradford,

Here are the photos of my grandparents which I promised you for the Hayward Historical Society.

I had intended to include with them the story of the pioneer Knox family, and have been working on it. Have been gathering data, and finding that one thing leads to another. - And now I can see it will be at least a couple of months before I can hope to get it all in, compiled as far as possible, and in order. So I decided to send these along, and you will hear from me again later.

We did enjoy so much our visit with you and seeing your lovely home, photos and library.

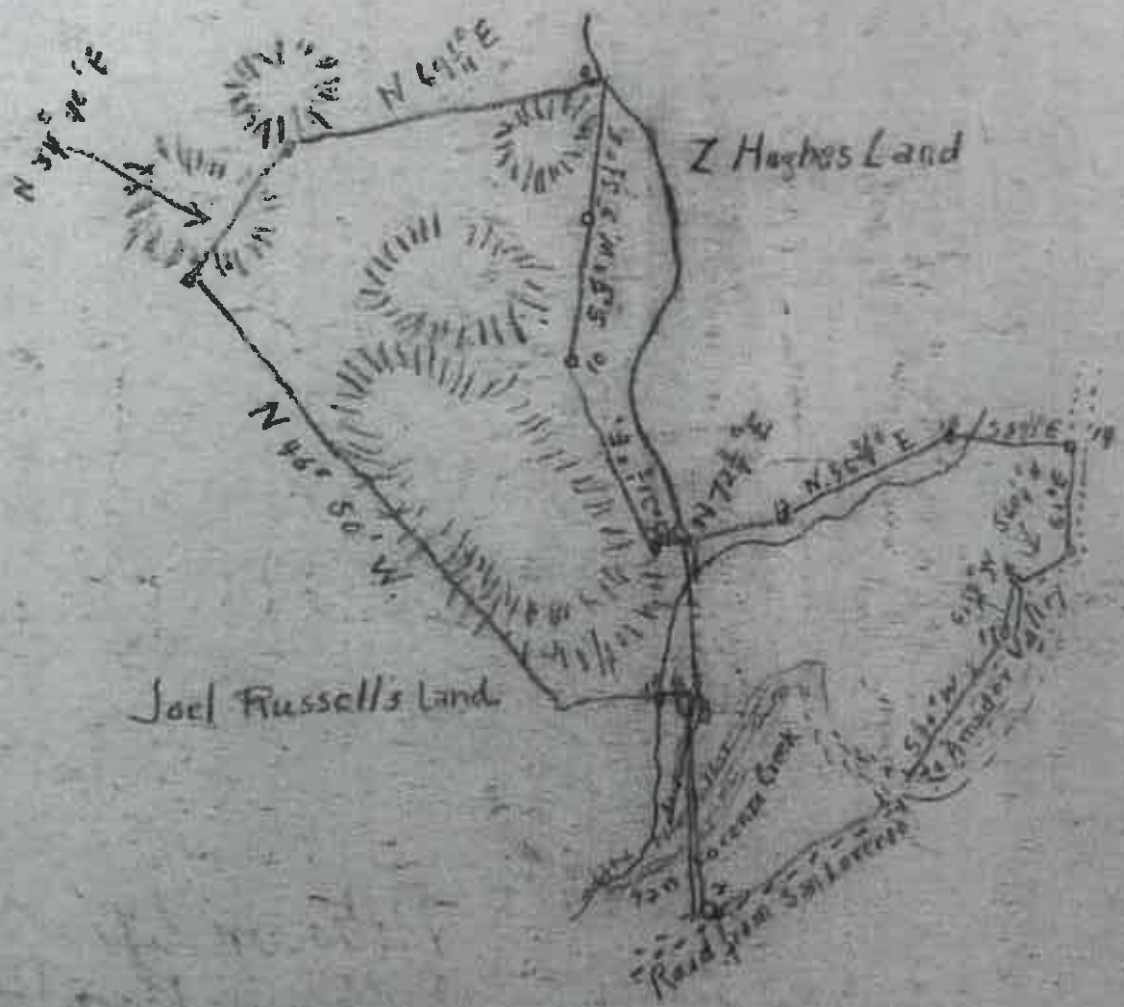
Sincerely, Ruby Knox Hart

OBID 15031

Copied from Alameda County Deeds Vol K. Page 626 / Deeded May 10 1858

Guillermo Castro & wife, Maria Louisa Peralta de Castro to William Knox of Alameda County

William Mattox Land





Price $6856.35

Scale 20 Chains to one Inch

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A small-scale response of urban bat activity to tree cover

Lauren Moretto[1] · Lenore Fahrig[1] · Adam C. Smith[2] · Charles M. Francis[2]

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Abstract
Bats in urban areas depend on trees, and bat activity increases with tree cover. To effectively manage bat habitat in cities, it is important to know the distance to which tree cover most strongly influences bats (i.e., the 'scale of effect'). The aim of this study was to estimate the scale of effect of tree cover on bats in Toronto, Canada. To achieve this, we measured bat activity at 52 sampling sites across the city. We then examined the relationships between bat activity and percent tree cover measured within each of 19 scales, 0.025 to 3.5 km in radius, surrounding each sampling site. We found that the scale of effect of percent tree cover on total bat and individual species activity ranged from 0.025 to 0.25 km among species. Our results suggest that adding or removing urban trees influences bats up to 0.25 km away. Urban tree management decisions should consider the impacts to bats beyond the site of management and within the surrounding landscape of a 250 m-radius scale.

Keywords Bats · Chiroptera · Cities · Tree canopy · Habitat management · Urbanization

Introduction

Areas of primarily natural or semi-natural land cover, even very small ones, provide habitat for wildlife in urban areas, containing resources for feeding, nesting, and refuge from human disturbance (Dixon 2012; Pardee and Philpott 2014; Ferenec et al. 2014; Smith et al. 2014). Although large parks, including ravine systems or woodlots, contain the greatest biodiversity in urban environments (Blair and Launer 1997; Cornelis and Hermy 2004; Avila-Flores and Fenton 2005; Beninde et al. 2015), natural habitat need not be a large, contiguous area to be important. In an urban area, a collection of many small areas of natural habitat can be just as valuable to wildlife as a single large area of the same total size (Fahrig 2017). For example, Smith et al. (2014) found that bird diversity responded as strongly to small residential green spaces (e.g., backyards) as to larger non-residential green spaces, on a per-area basis. In other words, the summed effect of a large number of small green spaces was equivalent to the effect of a large green space of the same total area.

Since areas of natural habitat in urban environments are often small, many species access habitat over a large area to obtain sufficient resources. For example, white-striped free-tailed bat (*Tadarida australis*) in Brisbane, Australia commute nightly between day roosts in tree hollows to feeding areas above floodplains and communal night roosts (Rhodes and Catterall 2008). Big brown bat (*Eptesicus fuscus*) in urban Georgia rely on parcels of forest and various buildings or trees to provide areas for foraging and roosting, respectively (Menzel et al. 2001). The network of nesting sites and foraging grounds between which birds and mammals commute in urban areas often changes seasonally due to changing resource needs or availability. This increases the total area of habitat upon which they rely throughout the year (Law and Dickman 1998). For instance, Menzel et al. (2001) observed that female big brown bat in Georgia foraged in pine forests close to building roosts during parturition, but foraged in hardwood forests with higher prey densities but farther from roosts during lactation to satisfy increased energetic demands. Furthermore, the use of multiple areas of natural habitat by urban species means that adding or removing habitat in an urban landscape may influence species some distance away. For instance, Clark et al. (2007) found that the total amount of green space and number of flowering plants within the surrounding 1 km in urban environments positively affected

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butterfly species richness. Similarly, Melles et al. (2003) found that urban green space influenced ground- and shrub-nesting bird species occurrence up to 1 km away.

Tree cover comprises a large proportion of the natural habitat in urban environments and is important to urban species, providing food, shelter, and other resources (Dixon 2012; Pardee and Philpott 2014; Ferenec et al. 2014; Smith et al. 2014). Furthermore, knowing the distance to which tree cover influences urban species is informative for management. For example, Pardee and Philpott (2014) found that the total amount of tree cover in the surrounding 500 m and 2 km of backyard gardens positively influenced the abundance of cavity- and ground-nesting bee species, respectively. Similarly, Ferenec et al. (2014) found that species richness of birds at sampling sites was positively related to the proportion of tree cover within 500 m of those sites.

Many urban bats rely on trees to satisfy their requirements for roosts and foraging (van Zyll de Jong 1985). These trees are found throughout cities, in parks, along streets, and on private property such as in front and back yards. Bats move between trees in cities because they often forage some distance away from their roosts (Duchamp et al. 2004; Duchamp and Swihart 2008; Dixon 2012). The resource requirements of bats also change seasonally, so they may rely on different trees throughout the year (Law and Dickman 1998). While a tree in the yard of a residential property may provide an adequate summer roost, a tree in a parcel of forest with less ambient disturbance may be preferred for hibernation. Even bats that roost in buildings commute to trees to forage around their canopies, and may also rely on them to provide an alternate roosting space (Evelyn et al. 2004).

To maintain bat populations in urban areas, it is important to know the spatial extent over which tree cover in the surrounding landscape influences bat activity at a site, that is, the 'scale of effect' (Jackson and Fahrig 2012). When possible, estimating species-specific scales of effect of tree cover can also provide valuable information for management, considering differences between species in life histories and home range sizes (van Zyll de Jong 1985). However, the scale of effect of tree cover on temperate urban bats is not well known. Landscape-scale studies on urban bats often select only a single landscape scale for study, leading to uncertainty that the selected scale is in fact the scale of effect (e.g., Duchamp and Swihart 2008; Threlfall et al. 2012). Some previous studies suggest scales of effect between 0.1 and 3 km for urban bats, but they only compared a small number of scales (i.e., three or fewer; e.g., Dixon 2012; Bazelman 2016; Gallo et al. 2018). Although one European study (Lintott 2015) measured habitat features within seven landscape scales, the scale of effect was not estimated. To date, Fabianek et al. (2011) and Ethier and Fahrig (2011) provide the most precise estimates of the scale of effect for bats in North America, by measuring the relationship between bat activity and land cover within five or more scales. In Montréal, Fabianek et al. (2011) found a 0.1 km scale of effect of forest and non-woody plant cover on urban bats, which was also the smallest landscape scale that they examined. In agricultural eastern Ontario, Ethier and Fahrig (2011) found scales of effect of forest amount on bats of 1 – 5 km, depending on the species. The goal of this study was to estimate the scale of effect of tree cover on bat activity in Toronto, Canada's largest city, to quantify the spatial scale at which bat habitat management may be most effective.

Methods

We estimated the scale of effect of tree cover on total bat activity and on the activity of individual species using bat recorders at 52 sampling sites across Toronto. We measured the percent tree cover within 19 landscape scales with radii from 0.025 – 3.5 km that were centred on each sampling site. We then modelled the relationship between bat activity and percent tree cover at each spatial extent. We estimated the scale of effect as the radius with both a strong modelled relationship between bat activity and percent tree cover and a strong model goodness-of-fit measure.

Tree cover as bat habitat

We defined bat habitat as the area covered by tree canopies of $2m^2$ or larger. Trees of this size are used as habitat by all seven bat species previously documented in Toronto. Some species roost among the foliage [eastern red bat (*Lasiurus borealis*), hoary bat (*Lasiurus cinereus*), and tri-colored bat (*Perimyotis subflavus*)], while others roost in cavities or under loose bark [big brown bat (*Eptesicus fuscus*), little brown myotis (*Myotis lucifigus*), northern myotis (*Myotis septentrionalis*), and silver-haired bat (*Lasionycteris noctivagans*) (van Zyll de Jong 1985)]. All species also forage for insects either among trees or above the tree canopy (van Zyll de Jong 1985). Measuring tree cover of trees with a canopy of at least $2m^2$ excluded isolated saplings that we postulated would be too small to provide roosting space for bats (van Zyll de Jong 1985; Kalcounis-Rüppell et al. 2005).

Buildings can be considered habitat for bat species that also roost in artificial structures [big brown bat, little brown myotis, northern myotis, and silver-haired bat (van Zyll de Jong 1985; Whitaker et al. 2006; Geluso and Mink 2009)]. However, our objective was to estimate the scale of effect of tree cover on bats. Therefore, we controlled for percent building cover in site selection (below). Depending on model fit, we also added an additional statistical control for percent building cover to the models of species that roost in buildings.

Sampling site selection and measurement of percent tree cover

The overall objective of site selection was to simultaneously maximize the total number of sampling sites and the range of percent tree cover in the surrounding landscapes across sampling sites, at each of the 19 scales. To achieve this, we first mapped percent tree cover in Toronto using the city's Forest and Land Cover raster dataset (City of Toronto 2009) at a 2 m resolution. We then examined the range in percent tree cover across the city by conducting a moving window analysis in ArcGIS 10.3.1 (ESRI 2015), which calculated percent tree cover around each pixel in the raster dataset for a given window size. For this step, we used a circular window with a radius of 3.5 km, the largest landscape scale we considered. To maximize the range of percent tree cover across sites, we first identified pixels (potential sampling sites) having the highest and lowest percent tree cover in the surrounding 3.5 km-radius landscapes. We considered only pixels in residential backyards with similar local characteristics (i.e., unpaved, with some trees, and without large, artificial structures, including swimming pools). We then verified that these potential sampling sites also maximized the range of percent tree cover at smaller scales. To achieve this, we performed moving window analyses at 1 km and 2 km-radius landscape scales.

The next step in sampling site selection was to add potential sites with intermediate percent tree cover. These were selected such that the number of sites in total was maximized, within the constraint that all selected sites were at least 1.8 km apart to limit spatial autocorrelation in the bat responses. Although other species in our study area are known to travel longer distances while foraging, 1.8 km is the mean commuting distance of big brown bat, which is the most common species in our study area (Brigham 1991). Following this, we adjusted site locations at a fine scale in ArcGIS to ensure that all sites were at least 200 m from major arterial roads and highways. This was to minimize the negative influences of major roads, heavy traffic, and traffic noise on bat activity immediately surrounding the sampling sites (Bennett and Zurcher 2013; Kitzes and Merenlender 2014).

Lastly, we eliminated some sampling sites and fine-tuned the position of the remaining sampling sites in ArcGIS to limit the range in percent building cover in the surrounding landscapes across sampling sites, thus controlling for building roost availability. This resulted in the elimination of thousands of potential sites, since site selection was originally based on the percent tree cover surrounding pixels and there were thousands of pixels in the raster dataset. Older buildings with larger footprints are commonly used by bats for roosting (Soper and Fenton 2007; Neubaum et al. 2007). Our goal was to limit the range in availability of these buildings, but there was no available dataset for building age across the City of Toronto. However, Li and Wilkins (2014) documented a positive relationship between overall building density and bat activity. Therefore, we used percent building cover as a proxy of building roost availability, mapped with the Toronto Building Outlines shapefile (City of Toronto 2014a). We measured percent building cover by converting the building outline polygons into 2 m resolution raster datasets and conducting a moving window analysis with a 3.5 km-radius, circular window to examine the range in percent building cover across the city. We adjusted the sampling site locations such that the surrounding landscapes had a narrow range in building cover, from 14 to 19% of the total landscape, at the 3.5 km-radius scale. This range in percent building cover prevented site placement in the downtown urban core, where building density is very high, and in non-urban areas, such as an agricultural area in the east end of the city.

The site selection process resulted in a final set of 52 sampling sites (Fig. 1), dispersed across the City of Toronto with a wide range in percent tree cover (15–49%) and a narrow range in percent building cover (14–19%) in the surrounding 3.5 km-radius landscapes. We visited each site to verify the similarity among sites in local characteristics and to obtain the approval of homeowners to set up sampling equipment.

After confirming the sampling site locations, we measured percent tree cover in 19 circular landscape scales in ArcGIS, centered around each site (i.e., 0.025, 0.05, 0.1, 0.2, 0.25, 0.5, 0.75, 1, 1.25, 1.5, 1.75, 2, 2.25, 2.5, 2.75, 3, 3.25, and 3.5 km; Fig. 2a, b) using the Forest and Land Cover raster dataset (City of Toronto 2009). To measure percent tree cover around each site at each landscape scale, we divided the measured number of tree cover pixels in a circular landscape surrounding each site by the maximum possible number of pixels within that landscape scale, and multiplied this value by 100. We also verified that the range of percent tree cover across sites was similar among the 19 scales by using a boxplot to visually compare the ranges among scales (Fig. 1S).

Bat surveys

We surveyed bat activity at each of the 52 sampling sites by recording bat calls using Wildlife Acoustic SM2+ recorders with SMX-U1 microphones. Calls were recorded between May 30 and August 8, 2017, the period of summer residency for Ontario bat species (van Zyll de Jong 1985). At each site, we positioned one recorder two meters above the ground with its microphone angled 45° downwards to protect the microphones from potential rain. We recorded bat calls continuously from sunset to sunrise over two, non-consecutive nights per site.

To ensure that the date of sampling did not confound the effects of tree cover, we sampled bat activity at four sampling sites per night that varied in percent tree cover in the surrounding landscapes. The combination of four sites sampled each night contained one site with low percent tree cover, one site with high percent tree cover, and two sites with intermediate

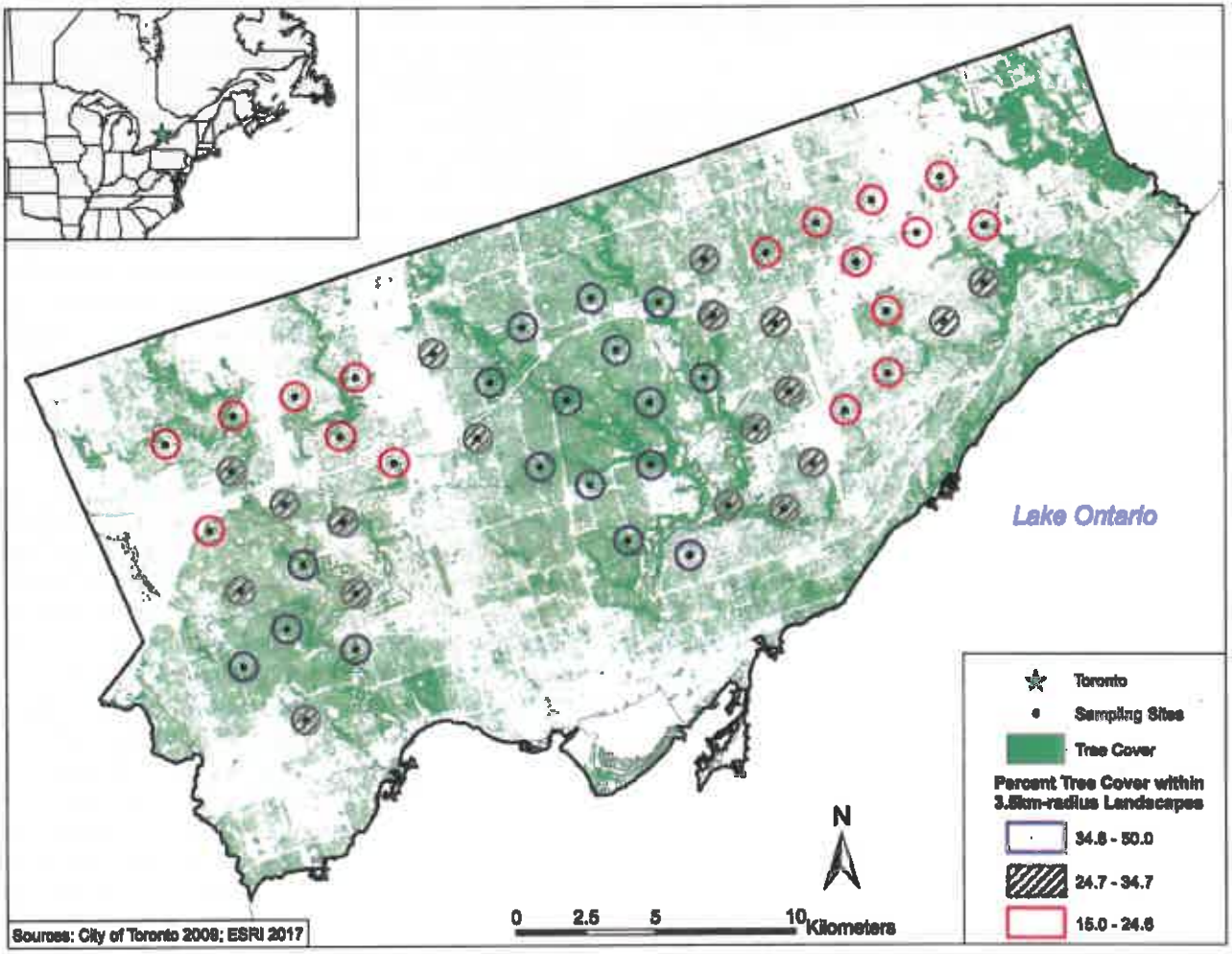


Fig. 1 Locations of 52 bat sampling sites in Toronto, Canada. Sampling sites are indicated as black points. Circles around each site are not to scale, but represent percent tree cover in the surrounding, circular landscape with a 3.5 km radius. Note that percent tree cover was analyzed as a continuous variable in models

percent tree cover at both the 1 km and 3.5 km-radius landscape scales (Fig. 2c–e). After all sites were sampled once, we began a second round of sampling on June 21, 2017. We ensured that each night's combination of sites visited in the second round was different from that of the first round.

Potential confounding variables

The main objective of the study was to identify the scale of effect of tree cover on bat activity in an urban environment. However, bat activity around a recorder is likely to be influenced by variables other than tree cover, which might obscure the relationship between bat activity and surrounding tree cover. We controlled for this by collecting data only during good weather (i.e., no rain, average wind speed below 20 km/h, average wind gusts below 25 km/h, and average nightly temperature above 9 °C), and by ensuring minimal human disturbance during data collection (i.e., avoiding sampling overnight on Fridays, Saturdays, and holidays). At each site, we also deployed one Onset HOBO Pendant Temperature and Light Data Logger and one Digi-Sense Data Logging Light Meter to measure temperature (°C) and light intensity (lux) at 10 min increments during the recording period.

Although we had tried to minimize variation in the surrounding building cover among sampling sites during site selection, there was a greater range in percent building cover at smaller landscape scales than at larger landscape scales (Fig. 1S). Percent building cover was also negatively correlated ($r = 0$ to -0.65) with percent tree cover (Fig. 2S). Because both building cover and tree cover may be habitat for many bat species, and they were negatively correlated in our sample, we included percent building cover to avoid biasing our estimate of the effect of tree cover (i.e., suppressor effects, see Smith et al. 2009).

Quantifying bat activity and identifying bat species

Bat activity was indexed as the number of bat passes per sampling site. A bat pass is a grouping of echolocation pulses

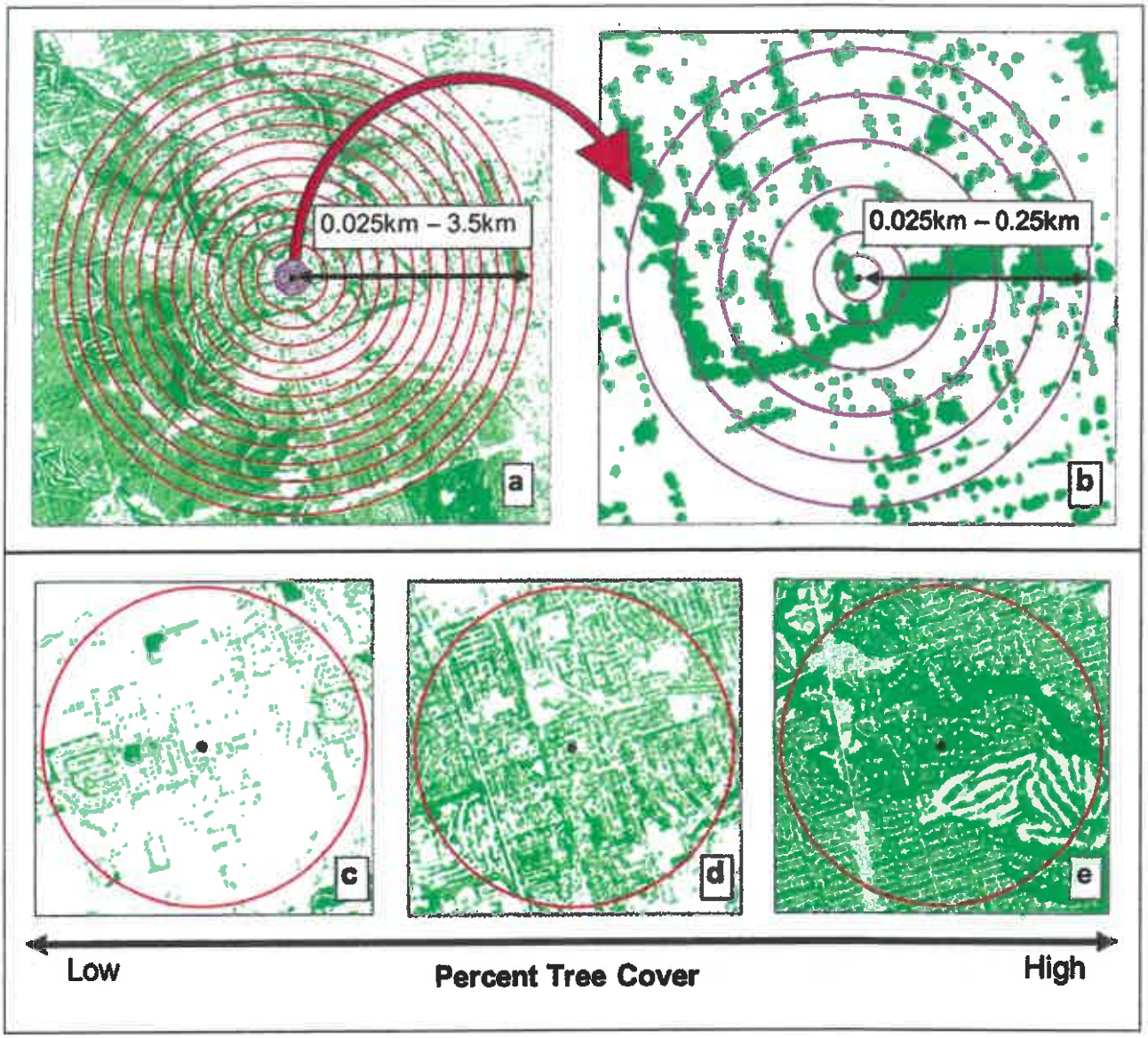


Fig. 2 (a) An example sampling site surrounded by the 19 circular landscapes in which percent tree cover was measured. Landscapes ranged between 0.025 km and 3.5 km in radius. (b) A closeup of the smallest landscape scales in (a) measuring between 0.025 km and 0.25 km in radius. Examples of landscapes with (c) low, (d) medium, and (e) high percent tree cover within 1 km of the sampling site, and less than 20% of tree cover in parks

separated by at least one second of silence from the next pulse (Coleman and Barclay 2012; Griffin et al. 1960; see supplementary material Fig. 3S for more information).

Bats can be identified to species using the acoustic characteristics of the echolocation pulses. To identify each pass to species, we compared the results of two identification software programs to account for discrepancies in their identification algorithms (Lemen et al. 2015), and reviewed each pass manually to confirm the identity. These were the Bats of North America 3.1.0 classifier package in Kaleidoscope Pro 3.1.1. (Wildlife Acoustics 2015) and a quadratic discriminate function analysis model (QDFA) created by Ethier and Fahrig (2011), which used reference calls from the Fenton Laboratory (Hooton and Adams, unpublished data, University of Western Ontario). We included only the seven species of bats that have been documented in Toronto as possible outcomes for each program [i.e., big brown bat (*Eptesicus fuscus*), eastern red bat (*Lasiurus borealis*), hoary bat (*Lasiurus cinereus*), silver-haired bat (*Lasionycteris noctivagans*), little brown myotis (*Myotis lucifugus*), northern myotis (*Myotis septentrionalis*), and tri-colored bat (*Perimyotis subflavus*)].

We analysed bat activity for all bats combined, as tree cover is used by all of the species in our study, and the aim of our study was to provide information about the scale at which tree cover might be managed for bats. The activity of all species

combined is also a relevant measure for bat conservation, as it may be an index of arthropod suppression by bats, an important ecosystem service that they provide (Kunz et al. 2011). In addition, by using total bat activity we were able to include unidentified passes in the analysis. We also analysed the activity of two individual species (big brown bat and eastern red bat), and a species group containing passes of hoary bat and silver-haired bat. We were conservative in our identification of bat passes to species, and did not identify a pass unless we were confident in its identity. We combined hoary bat and silver-haired bat because we had difficulty discriminating their passes in our recordings, as they were often not confidently identified by the identification software programs (A. Adams, personal communication). We note that they have often been grouped in previous studies due to similar features of their low frequency calls (Humbolt State University Bat Lab 2011; Baerwald and Barclay 2011; Nagorsen et al. 2014), and both species commonly use trees as roosts (van Zyll de Jong 1985). Due to the low numbers of calls identified to little brown myotis, northern myotis, and tri-colored bat, these species were only included in the analyses of total bat activity.

Statistical analysis

We used generalized linear mixed models (GLMM) to estimate the relationship between each of the four bat activity response variables (total bat activity and activity of each of the species and species group) and percent tree cover measured within each of the 19 spatial scales. Therefore, for each bat response variable there were 19 models, one for each landscape scale. Since bat activity was surveyed twice at each sampling site, models contained a random effect of site, to account for repeated sampling within sites. Each model also contained the potential confounding effects of standardized mean nightly temperature (°C) and Julian date. The light-intensity loggers did not register any variance in light intensity (lux) among sites and nights, so lux was not included in any models. We included percent building cover at the 1 km-radius landscape scale in the GLMM as a statistical control based on both model fit and the roosting behaviour of each species. Firstly, we controlled for percent building cover at the 1 km-radius scale because the AIC values of the 19 models with building cover included at this scale were lower overall than those with percent building cover included at other scales (e.g., 0.5 km or 1.5 km). Then, for each bat activity response variable, we compared AIC values of the 19 models with and without the control for percent building cover at the 1 km scale. AIC values were lower in models without percent building cover for eastern red bat, a species that does not roost in buildings, so percent building cover was not included in further analyses for this species. We modeled bat activity with a negative binomial error and a log link function, based on the distributions of the response variables in histograms and residual plots.

Then, we estimated the scale of effect of percent tree cover for each response variable by evaluating both the model fit (AIC values) and the strength of the relationship between a bat activity response variable and percent tree cover (regression coefficients) of each model. AIC values were examined first and indicated the scales at which the data best fit the model. All scales with a ΔAIC of 2 or less were identified as important scales (Burnham and Anderson 2004), but the scale with the largest regression coefficient was deemed the scale of effect. We examined the regression coefficient to verify that the selected model also showed a strong relationship between a bat activity response variable and percent tree cover. We used Moran's *I* tests to determine whether the residuals of the models were spatially autocorrelated. All analyses were conducted in R version 3.4.1. (R Core Team 2017), using the MASS, glmmADMB (Bolker et al. 2012), ape (Paradis et al. 2017), psych (Revelle 2017), ggplot2 (Wickham and Chang 2016), dplyr (Wickham et al. 2017), and corrplot (Wei et al. 2017) packages.

Finally, we evaluated the importance of park trees to total bat activity at the scale of effect of percent tree cover. To achieve this, we used Toronto's Zoning By-law layer (City of Toronto 2014b) to measure the percent tree cover within parks around each sampling site at the scale of effect in ArcGIS, and correlated this to total bat activity.

Results

We recorded 7593 bat passes. Forty-nine percent of these were identified as big brown bat (*Eptesicus fuscus*), 6% as eastern red bat (*Lasiurus borealis*), 21% as hoary bat (*Lasiurus cinereus*)/ silver-haired bat (*Lasionycteris noctivagans*), and 1% as little brown myotis (*Myotis lucifugus*)/ northern myotis (*Myotis septentrionalis*)/ tri-colored bat (*Perimyotis subflavus*). Twenty-three percent of passes (i.e., 1741 passes) could not be identified to species or species group. The average number of bat passes per sampling site was 73 (range 7–296), with an average of 8.1 passes per hour (range 0.8–31.6). Including Myotis species and tri-colored bat, on average, there were 3 species and/or species groups per site (range 1–4).

Total bat activity most strongly related to percent tree cover within the 0.2 km-radius landscape scale, though tree cover was also important at the 0.15 and 0.25 km-radius scales (Fig. 3a, Table 1, 1S). Total bat activity increased by 44% for each 10% increase in tree cover, with the predicted total number of passes ranging from 22 to 287. Including site-level random effects and percent building cover at the 1 km scale in the models strengthened the relationship between total bat activity and percent tree cover at this scale of effect (i.e., 0.2 km) when compared to this relationship without these variables included (Fig. 4). The scale of effect of percent tree cover differed among species/ species groups. Big brown bat and hoary

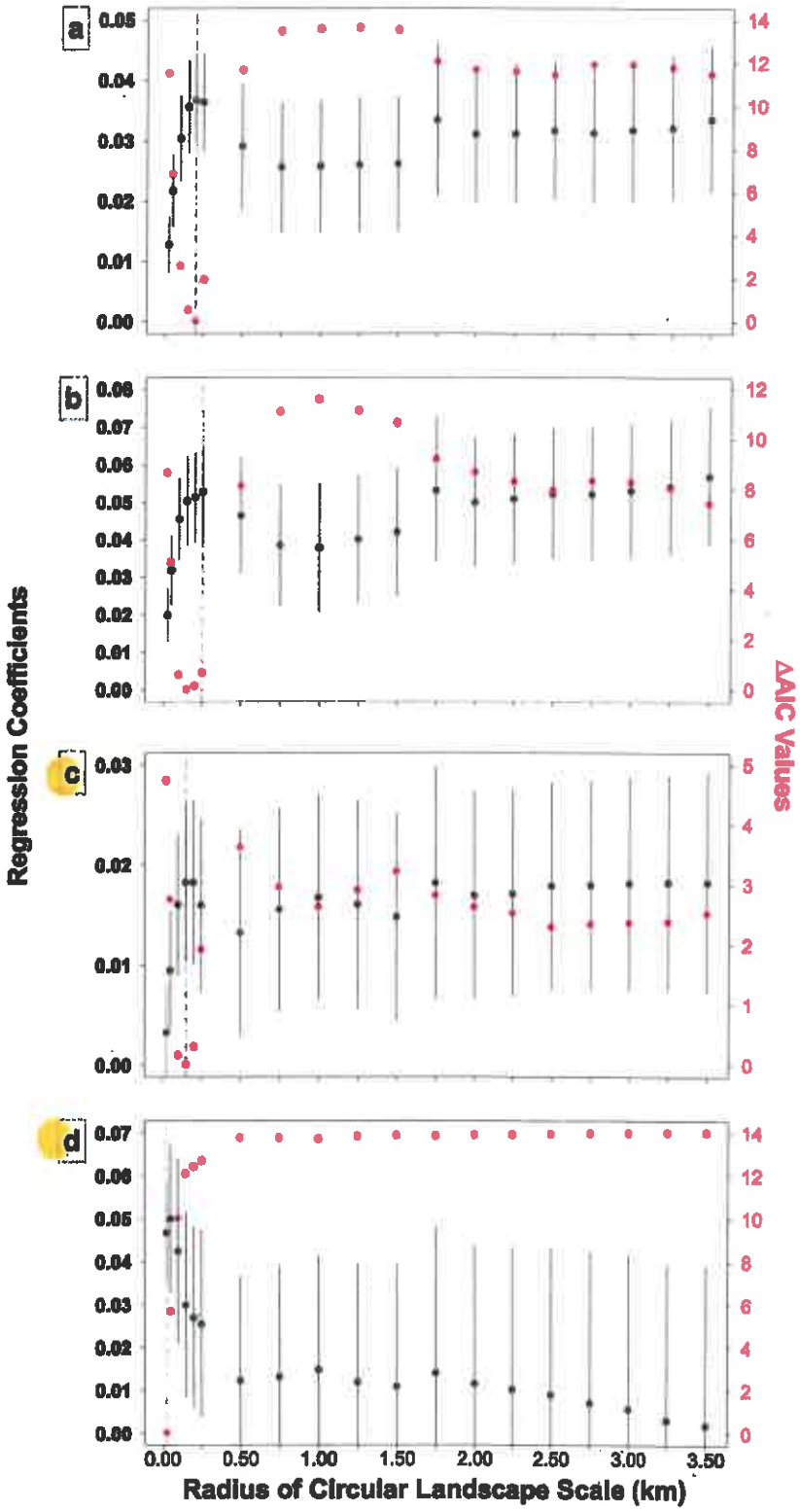


Fig. 3 Regression coefficients (black dots) ± SE (vertical lines) and ΔAIC values (red dots) from generalized linear mixed models of the relationship between the percent tree cover in landscapes and (a) total bat, (b) big brown bat, (c) hoary bat/ silver-haired bat, and (d) eastern red bat activity. Bat activity was measured at 52 sampling sites distributed across Toronto, Canada. Percent tree cover was measured within each of 19 circular landscape scales with radii between 0.025 km and 3.5 km surrounding the sampling sites. The scale of effect (vertical dashed line) was selected based on the model AIC value and regression coefficient of percent tree cover

bat/ silver-haired bat showed strongest relationships at 0.25 km and 0.15 km, respectively (Fig. 3b, c), although tree cover was generally important between 0.1 and 0.25 km-radius landscapes for these species. Eastern red bat had a smaller scale of effect at 0.025 km (Fig. 3d), the only landscape scale at which tree cover was important to this species. There was also a positive effect of percent building cover within a 1 km-radius landscape on total bat activity, big brown bat, and hoary

Table 1 AIC, ΔAIC, relative likelihood, and AIC weights from the five best-fitting generalized linear mixed models (GLMM) examining the relationship between percent tree cover measured within a landscape scale, specified below, and (a) total bat activity and (b – d) species-specific activity. For each bat activity response variable, models are ranked by ΔAIC, and all values are bolded for important models (i.e., GLMM with a ΔAIC of 2 or less). A * indicates the scale with the top model, designated the scale of effect. The ΔAIC, relative likelihoods, and AIC weights reflect the best-fitting model with respect to inclusion of the building cover control (i.e., with percent building cover at 1 km included as a statistical control for total bat activity, big brown bat, and hoary bat/ silver-haired bat, and without percent building cover included for eastern red bat). Furthermore, AIC values are shown for GLMM without a statistical control for percent building cover, and with a statistical control for percent building cover included separately in models at the 0.5 km, 1 km, or 1.5 km-radius landscape scales

Bat activity response variable	Landscape scale (km)	ΔAIC	Relative likelihood	AIC weight	AIC			
					No building control	0.5 km building	1 km building control	1.5 km building control
(a) total bat activity	**0.2***	**0**	**1.000**	**0.403**	**1081.324**	**1075.964**	**1064.656**	**1070.504**
	0.15	**0.542**	**0.763**	**0.307**	**1080.198**	**1075.312**	**1065.198**	**1069.844**
	0.25	**1.938**	**0.379**	**0.153**	**1082.018**	**1077.028**	**1066.594**	**1072.106**
	0.1	2.576	0.276	0.111	1078.478	1075.604	1067.232	1068.978
	0.05	6.860	0.032	0.013	1077.898	1077.196	1071.516	1071.632
(b) big brown bat	**0.15**	**0**	**1.000**	**0.273**	**906.332**	**903.318**	**894.554**	**899.948**
	0.2	**0.132**	**0.936**	**0.255**	**907.682**	**904.442**	**894.686**	**900.956**
	0.1	**0.574**	**0.751**	**0.205**	**904.296**	**902.740**	**895.128**	**898.280**
	0.25*	**0.652**	**0.722**	**0.197**	**908.042**	**904.706**	**895.206**	**901.612**
	0.05	5.050	0.080	0.022	904.042	904.430	899.604	900.786
(c) hoary bat/ silver-haired bat	**0.15***	**0**	**1.000**	**0.144**	**741.356**	**737.834**	**734.710**	**736.080**
	0.1	**0.150**	**0.928**	**0.134**	**740.828**	**737.850**	**734.860**	**735.486**
	0.2	**0.286**	**0.867**	**0.125**	**741.686**	**738.438**	**734.996**	**736.602**
	0.25	**1.912**	**0.384**	**0.055**	**741.972**	**740.066**	**736.622**	**737.844**
	0.05	2.748	0.253	0.036	741.170	739.952	737.458	737.412
(d) eastern red bat	**0.025***	**0**	**1.000**	**0.921**	**383.172**	**384.746**	**385.102**	**384.716**
	0.05	5.642	0.060	0.055	388.814	389.278	390.420	389.926
	0.1	9.982	0.007	0.006	393.154	393.666	394.556	394.132
	0.15	12.044	0.002	0.002	395.216	395.932	396.772	396.558
	0.2	12.364	0.002	0.002	395.536	396.210	397.064	396.890

bat/ silver-haired bat at the scale of effect of percent tree cover for these bat activity responses (Table 1S). There was no significant spatial autocorrelation of the residuals for total bat activity, or for any species or the species group.

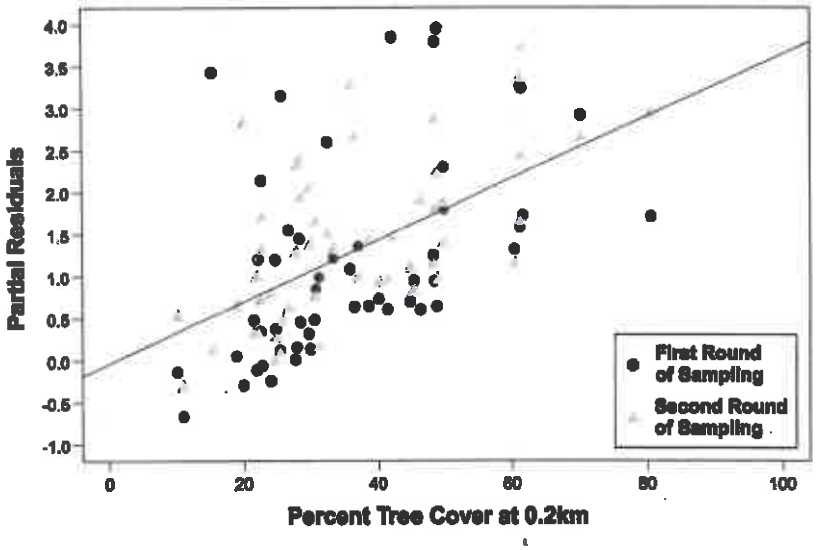


Fig. 4 Percent tree cover at the scale of effect for total bat activity, 0.2 km in relation to partial residuals from the 0.2 km generalized linear mixed model of the relationship between percent tree cover measured around each of the 52 sampling sites and total bat activity. Shapes of points indicate the round of bat sampling, and the dark, solid line is a fitted line

At the scale of effect of percent tree cover on total bat activity (0.2 km), we found that greater than 70% of tree cover was located outside of parks for 48 of 52 sampling sites, and there was no tree cover in parks around 17 of those sites. In addition, there was only a weak correlation between total bat activity and the percent tree cover within parks at the 0.2 km scale ($r = 0.02$).

Discussion

We found that percent tree cover most strongly influenced the activity of urban bats over a small landscape scale. Percent tree cover within 0.2 km from our sampling sites (i.e., the scale of effect) had the strongest influence on total bat activity, though tree cover was also important between 0.15 and 0.25 km. Previously documented scales of effect for temperate bats ranged from 0.1 – 5 km (Ethier and Fahrig 2011; Fabianek et al. 2011; Dixon 2012; Bazelman 2016; Gallo et al. 2018), although 0.1 km was the smallest scale measured in two of those studies (Fabianek et al. 2011; Dixon 2012).

It is possible that the small scale response of urban bats to tree cover reflects the general influence of urban environments on bat activity and life histories. Since urban infrastructure, such as major roads, heavy traffic, and artificial lighting, can disrupt the movement of bats (Russell et al. 2009; Bennett and Zurcher 2013; Moretto and Francis 2017), this could confine bat foraging activity, and reduce the scale over which tree cover influences bat activity. It is also possible that the tendency of insects to aggregate in urban environments (e.g., around trees or lights) drives localized bat foraging activity. Insectivorous bats frequently forage around insect aggregations (Müller et al. 2012), and most bats in Toronto forage within 40 m of tree canopies (Janzen and Fenton 2013). Street trees and trees on private property in cities are often spaced for aesthetics, providing ample area for insects to aggregate and bats to forage. Tree cover farther away may not be as important to bats if tree cover in the vicinity is sufficient to provide insects. Future research should evaluate how insect distributions influence the small-scale response of bats to tree cover in urban areas.

Individual species also showed small-scale responses to percent tree cover, mostly ranging between 0.1 and 0.25 km. Eastern red bat showed an even smaller-scale response to percent tree cover, with a scale of effect at 0.025 km. We speculate that the differences in scale of response to tree cover among species may relate to different uses of habitat features in urban environments. Both big brown bat and silver-haired bat roost in artificial structures (van Zyll de Jong 1985; Whitaker et al. Whitaker et al. 2006; Geluso and Mink 2009), and we found a strong, positive influence of percent building cover within 1 km of our sampling sites for these species (Table 1). These were also the species with the largest-scale responses to percent tree cover. It is possible that this larger-scale influence of tree cover reflects their use of the landscape over a larger extent, perhaps commuting between roosts in buildings and trees for foraging or alternative roosts. Eastern red bat do not roost in buildings, so it is possible their smaller scale of effect reflects a shorter commute between tree roosts and foraging grounds. Hoary bat are also tree-roosting obligates and silver-haired bat commonly roost in trees (van Zyll de Jong 1985), which may have contributed to the slightly smaller scale of effect for hoary bat/ silver-haired bat (0.15 km) in comparison to big brown bat (0.25 km). The strong influence of building cover on the activity of building-roosting species also suggests that buildings may be critical habitat features to bats in urban environments.

Although not the primary goal of this study, our results also suggest that the total urban tree cover, not just that in parks, influences bats within 0.2 km. All sampling sites in this study were in residential backyards, surrounded mostly by trees outside of parks at the 0.2 km scale (i.e., > 70% of tree cover was outside of parks for 48 of 52 sites). We found a weak correlation ($r = 0.02$) between total bat activity and the percent tree cover within parks at this scale. This suggests that non-park trees (i.e., street trees and trees on private property) are the main drivers of the overall positive relationship between tree cover and bat activity.

Although there are no North American studies that directly compare the importance of trees within parks and outside of parks to bats, our results are supported by other studies that have noted the importance of all local tree and vegetation cover in residential neighbourhoods to invertebrates, amphibians, birds, and other wildlife (Fernandez-Juricic 2000; Sperling and Lortie 2010; Lerman and Warren 2011; Scheffers and Paszkowski 2013; Pardee and Philpott 2014; Belaire et al. 2014; Smith et al. 2014). Conversely, one study in Vitória, Brazil that compared the influence of parks to other treed space on urban bat diversity found a much stronger effect of parks than wooded streets (Opera et al. 2009). This difference might be because most of the captured bats (92%) in their study were not insectivores, while all of the bat species in our study are insectivores. Resources for insectivorous bats are often more abundant throughout urban environments than are resources for other bats (Bredt and Uieda 1996; Silva et al. 1996). It is possible that resources for non-insectivorous bats were concentrated in urban parks in Vitória.

This study provides information useful for the management of bat habitat in cities. Firstly, the small scale responses of bats to tree cover suggests that land management decisions should consider the impacts of the addition or removal of tree cover not just at the site of addition or removal, but within approximately the surrounding two residential city blocks. To supplement our understanding of the small-scale responses of bats to tree cover, future research should examine the influence of prey distributions on bat activity in urban areas. Furthermore, while our study was not designed to evaluate the influence of

building cover on bats, our finding of a strong, positive effect of building cover for two species (i.e., big brown bat and silver-haired bat) suggests that building roosts may be a limiting factor for these species. Artificial roosts could be explored for enhancing urban habitat for these species. Previous studies (e.g., Soper and Fenton 2007; Neubaum et al. 2007) have identified ideal characteristics of artificial roosts, but additional research is needed to evaluate their optimal placement and effectiveness in urban areas. Lastly, our results suggest that all urban trees, including privately-owned trees and street trees, and not just trees in parks, are important for bats. Private and public trees are often managed separately, and management of urban trees often occurs on a tree-by-tree basis (Carreiro et al. 2008). As the landscapes in our study primarily included privately-owned trees in residential neighbourhoods, this emphasizes the potential for small groups of property owners (e.g., the houses on a single residential street) to increase local bat activity. Management for bats in cities could therefore include education of property owners about the value of bats themselves and of their trees for bats, and could even include a requirement for permission to remove trees on their property, as is the case in some jurisdictions (e.g., City of Toronto by-law No. 248–2013; City of Ottawa by-law No. 2009–200).

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November 24, 2019

Members of the Castro Valley
Municipal Advisory Commission
c/o Planning Department
Ms. Nisha Chauhan
Winton Ave
Hayward, California

Re: Response to Bioassessment for the Ruby/Crescent project in Castro Valley

After reading the LSA biological assessment for the Ruby project our first question was ***"Given the extraordinary number of animals that are utilizing the Ruby site for food, water, birthing and raising their young, I wonder why there is no mention of what will happen to them when subjected to the proposed human disturbance of a trail, a parking lot, paved access road and significant human activity from high density housing?"*** These animals most likely will not be able to tolerate this kind of disturbance and will attempt to leave. Looking at an aerial map of San Lorenzo Creek in this area you can see that this is one of the very few upland areas for wildlife to meet all their life requirements. Most of the upland corridor area has been destroyed by poorly planned development. Where will these animals go?

As with many of these bioassessments, they did not meet the objective of the study which is to identify potentially significant biological resource constraints to development of the project site, especially those related to special-status species and sensitive habitat.

LSA states that they conducted a "reconnaissance level survey" of the project site. This level is defined as "a preliminary survey, usually executed rapidly and at relatively low cost, prior to mapping in detail and with greater precision" (McGraw-Hill Dictionary of Scientific & Technical Terms, 6E, Copyright © 2003 by The McGraw-Hill Companies, Inc.).

LSA conducted this cursory study of what was on the site during the short period of time they were on site. We detected special status species, they did not. Clearly their study was inadequate to meet the requirements of CEQA.

RIPARIAN

According to the California Riparian Habitat Conservation Program (CRHCP) riparian habitat provides important food, nesting habitat, cover, and migration paths.

Current science describes riparian corridors as ecosystems. According to this (CRHCP) report, riparian corridors (i.e., rivers, streams and adjacent lands) are particularly valuable habitats for wildlife. This includes many of what are ordinarily thought of as "upland" species as well as wetland species. For example, many upland animals need access to rivers and streams for hunting and drinking, particularly in the winter when other water sources may be frozen over. The junction between rivers, streams and adjacent riparian land is especially high in ecological diversity and biological productivity because gravity is constantly moving energy and matter along with the current and because so many animals spend their lives both in water and on land. The high value of riparian areas as wildlife habitat is also due to the abundance of water combined with the convergence of many species along the edges and ecological transition zones between aquatic/wetland, aquatic/upland, wetland/upland and river channel/backwaters habitats.

Oak Woodland

LSA states in their report that "the scattered oak trees...do not constitute a native oak woodland."

California AB242 enacted in 2001defines oak woodland as "an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 per cent canopy cover".

AB242 also known as the **Oak Woodlands Conservation Act** "encourages local land use planning that is consistent with the preservation of oak woodlands..."

We can be sure that the Ruby meadow site, like much of the Castro Valley area was historically oak woodland because this is the native plant community for our area. The oak trees at Ruby are large diameter and probably very old. Eden Housing plans to remove these trees and remove any chance of restoring this area to the native state.

Yet, LSA states that ***"It may not be considered significant under CEQA"***. This is a problem with the oversimplification of terms used in the LSA report. We know that oak woodlands

provide habitat for over 300 wildlife species yet without looking at the cumulative impact of what these small projects inflict upon this resource, oak woodlands will be severely reduced.

NON-COMPLIANCE WITH CASTRO VALLEY GENERAL PLAN

According to our **Castro Valley General Plan** :

> **"As shown in Figure 7-1, oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area.**
>
> **Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation. Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. *In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.***
> **All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks and wetlands with the potential to be considered jurisdictional by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or by the California Department of**

Wildlife habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks." *CASTRO VALLEY GENERAL PLAN*

A broad range of mammals, birds, reptiles and amphibians rely on riparian buffers for habitat. Riparian buffers are core habitat for many semi-aquatic and terrestrial ecotone species, such as salamanders, frogs, turtles, minks, beavers and otters, and these species require a buffer that is both long and wide. Long stretches of riparian buffer also serve as wildlife travel corridors. Many birds, such as herons, fishers, eagles, and ospreys, as well as some mammals, rely on **forested buffers** for both habitat and resting places. These birds hunt for fish in the water and nest in adjacent forests (Bongard, 2009)

The width needed for a riparian buffer to be effective depends on a number of factors, but, in general, **the wider the buffer, the greater the benefits delivered**.

For buffers to provide adequate habitat for forest dependent songbirds, they must be wide. Several studies have shown that bird species richness increases in buffers that are at least 100 meters wide and that the presence of forest dependent songbirds decreases dramatically when buffers are less than 50 meters (Bongard, 2009). For more information on the importance of protecting species richness, see the guide *Biodiversity*.

INACCURATE SPECIES INFORMATION

Bats (and other species) were not included on the LSA list as occurring at the site, yet our experts located three separate species foraging on the site. We also observed several bird species that were not included in the LSA report.

All of California bat species face a relatively new and very serious disease that threatens the populations. White-nose Syndrome has reached California. This disease resulted in the dramatic decrease of the bat population in the United States and Canada, reportedly killing millions as of 2018. In March 2016, it was confirmed in a little brown bat in Washington state. In 2019, evidence of the fungus was detected in California for the first time, although no affected bats were found. No obvious treatment or means of preventing transmission is known, and some species have declined >90% within five years of the disease reaching a site.

These are the kind of details that should be included in a biological assessment when decision makers are trying to determine the degree of protection they will enforce in at risk species. Bats are at risk.

The following bat species are known to utilize Ruby meadow and surrounding habitat:

Yuma myotis

May be affected by closure of abandoned mines without adequate surveys, some forest management practices, and disturbance of maternity roosts in caves and buildings. Since this species frequently occurs in anthropogenic structures, it is vulnerable to destructuve pest control activities. Some riparian-management practices may be detrimental. No information known on use and acceptance of bat gates, impacts of grazing and riparian habitat management, winter range, and winter roost requirements. Information is needed on geographic variation in roosting and foraging requirements.

Western Red Bat

This is a Special Status Species in California. It was not reported in the LSA report.

L. blossevillii is typically solitary, roosting primarily in the foliage of trees or shrubs. Day roosts are commonly in edge habitats adjacent to streams or open fields, **in orchards,** and sometimes in urban areas. There may be an association with intact riparian habitat (particularly willows, cottonwoods, and sycamores). Although some may forage all night, most typically have an initial foraging period corresponding to the early period of nocturnal insect activity, and a minor secondary activity period corresponding to insects that become active several hours before sunrise. Threats

Loss of riparian zones, and creation of water storage reservoirs has reduced both roosting and foraging habitat of red bats. The intensive use of pesticides in fruit orchards may constitute a threat to roosting bats and may significantly reduce the amount of insect prey available. Controlled burns may be another significant mortality factor for red bats that roosting in leaf litter during cool temperatures. The following areas need more investigation to accurately determine the status of and conserve the red bat in the western U.S.: habitat requirements (esp. roost sites and foraging habitat), altitudinal distribution, migration patterns, effects of controlled burns, and effects of pesticide use in orchards

Mexican free tailed bat

This species' proclivity towards roosting in large numbers in relatively few roosts makes it especially vulnerable to human disturbance and habitat destruction. Documented declines at some roosts are cause for concern. It is considered a Species of Special Concern due to declining populations and limited distribution in Utah.

Besides the human disturbance and habitat destruction, or alteration of suitable caves, mines, bridges, and old buildings noted above, there are problems with pesticide poisoning and deliberate eradication attempts. Although most major maternity roosts in the United States are now protected, much remains to be done with winter roosts in Mexico. More documentation of the role of T. b. mexicana in agriculture, and the use of artificial roosts to attract them, is needed. Its ecology, distribution, and seasonal patterns are not well understood in some parts of its range, particularly California, Nevada, southern Oregon, and Utah).

CLIMATE CHANGE IMPACTS

"A lead agency's analysis must reasonably reflect evolving scientific knowledge and state regulatory schemes." (See CEQA Guidelines, § 15064.4, subd. (b).)

We now have a better idea some of the challenges wildlife will face with climate change. There was no discussion or consideration of the impacts of climate change on species. CEQA requires that past, present and foreseeable future impacts must be considered. In this LSA bio report hey were not.

For example : Audubon scientists took advantage of 140 million observations, recorded by birders and scientists, to describe where 604 North American bird species live today–an area known as their "range." They then used the latest climate models to project how each species range will shift as climate change and other human impacts advance across the continent. The results are clear: Birds will be forced to relocate to find favorable homes. **And they may not survive.** (Survival by degrees: 389 Bird Species on the Brink). Foreseeable Climate impacts on all species must be considered in this assessment.

INEFFECTIVE MITIGATIONS

LSA proposes several "mitigations" such as moving bats or their roosts, "training" construction crews on how to identify species (that are sometimes difficult for trained biologists to identify), installing exclusion fences, etc. Many of these species are sensitive to any human disturbance. If the construction activity and removal of vegetation doesn't result in the animals abandoning the site, the human disturbances from the apartments

and parking area and the human disturbance from the proposed trail will likely push them out. These proposed mitigations are outdated, ineffective and overly simplistic.

LSA refers to the sensitive habitat as "riparian woodland corridor" which should be referred to more accurately as "riparian oak woodland corridor". A similar project in Castro Valley raised this same issue of definition of these vegetation zones. As a result, the term **"biological resource zone"** was created to accurately portray a mixed oak/riparian woodland vegetation system located along Cull Creek that was biologically sensitive and to be protected. That term is included in the Castro Valley General Plan as areas that now must be preserved and protected. This proposed project certainly will not.

In Summary:

We believe that the Ruby/Crescent Eden Housing project does not qualify for a community exemption because although this project supposedly provides more low cost housing, it also destroys one of the last remaining habitat that fulfills the life needs of many species including, nesting/birthing, open areas to raise young, and sufficient supply of food, along with connecting this site to others along the San Lorenzo Creek.

We believe that the August 2019 Biological Assessment by LSA is inadequate, incorrect and does not fulfill CEQA requirements or the need of providing valid information to the public and the decision makers. We ask that Alameda County Planning Dept. require a full CEQA EIR analysis of this proposed project and a sufficiently detailed study of the biological resources at Ruby meadow. We also ask the County to honor **the intent of AB242** and start protecting the remaining oaks in our urban areas before it's too late.

Sincerely,

Terry Preston, Ohlone Audubon Society

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

PURCHASE AND SALE AGREEMENT - DIRECT SALE

RW 16-5 (NEW 10/2016)

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of 04/26/2018 *by* and between the State of California, Department of Transportation ("Caltrans") and Alameda County Housing Authority, a public body, corporate and politic ("Purchaser").

Recitals

A. Caltrans owns the real property commonly known as. : DD-032618-01-01 (the "Property") and more particularly described as set forth in Exhibit A attached hereto.

B. Purchaser is Alameda County Housing Authority, a public body, corporate and politic

C. The parties wish to provide terms and conditions for Purchaser's purchase of the Property from Caltrans.

NOW THEREFORE, the parties agree as follows:

Section 1. Purchase and Sale

Caltrans shall sell the Property to Purchaser and Purchaser shall purchase the Property from Caltrans on the terms and conditions stated in this Agreement.

Section 2. Purchase Price

The purchase price for the Property shall be Four Million Twenty-Five Thousand and No/100ths Dollars ($4,025,000.00). The Purchase Price shall be paid by Purchaser as set forth below:

(a) Bidder and Purchase Deposit (hereafter "Purchase Deposit"): Receipt is hereby acknowledged of the Bidder and Purchase Deposit of Two Hundred and One Thousand, Two Hundred and Fifty No/100ths Dollars ($ 201,250.00) in the form of a (☐ cashier's check / ☐ certified check / ☐ money order) made payable to the "California Department of Transportation," which without any interest, will be applied to the Purchase Price.

(b) Liquidated Damages: THE PARTIES AGREE THAT THE TOTAL DEPOSIT AMOUNT (BOTH BIDDER DEPOSIT AND PURCHASE DEPOSIT) ARE A REASONABLE SUM FOR LIQUIDATED DAMAGES SHOULD THIS TRANSACTION FAIL TO CLOSE DUE TO A MATERIAL BREACH OF THIS AGREEMENT BY PURCHASER, IN THAT, WHEN CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES. BY PLACING THEIR INITIALS AT THE PLACES PROVIDED, EACH PARTY AGREES THAT THE FOREGOING CONSTITUTES LIQUIDATED DAMAGES AND NOT A FORFEITURE OR PENALTY.

Purchaser W ; Caltrans *[initials of Purchaser and Caltrans]*

(c) Balance of Purchase Price. Purchaser shall remit sufficient funds to cover the balance of the Purchase Price $ 3,823,750.00 (Purchase price minus any amounts already paid) no later than one hundred-eighty (180) calendar days from written notice the California Transportation Commission ("CTC") approved the Director's Deed covering this sale at the meeting on June 27, 2018.

Section 3. Closing and California Transportation Commission Approval

Purchaser understands and agrees that this sale is subject to the approval by the CTC. In the event the CTC fails to approve the sale, all monies paid by the Purchaser will be refunded without interest. Caltrans makes no representations or warranty concerning the CTC's approval of this sale.

Section 4. Close of Escrow

Caltrans will maintain an internal escrow at no charge to Purchaser. Purchaser may open an external escrow at Purchaser's expense but selection of the escrow company is subject to Caltrans' approval, which Caltrans may withhold for any reason within its discretion. Should Purchaser elect to open an escrow, Purchaser agrees to pay any and all fees associated with the escrow, and any and all recording fees, documentary transfer taxes or any other real estate transaction fees involved in the transaction.

Section 5. Closing Costs and Prorations

Purchaser shall pay all recording fees and the premium, if any, for the title insurance policy referred to herein. Prorations of real property taxes and assessments, rents, interest, and other expenses of the Property shall be prorated as of the date of recordation of the deed.

Section 6. Title

The Property is believed to be free of any liens, court judgments, loans, Deeds of Trust, and delinquent or unpaid property taxes. The sale of the Property is subject to all matters of public record and any easements, or reservations not of record or that which is reserved by Caltrans. Caltrans does not assume any liability for any possible encumbrances on the Property.

Purchaser understands and agrees that the right, title, and interest in the Property to be conveyed shall not exceed that vested in the State of California, Department of Transportation, and that Caltrans will furnish no policy of title insurance. If a policy of title insurance is desired, Purchaser may obtain one at Purchaser's sole expense. The property is being conveyed subject to any special assessments, restrictions, reservations or easements of record and subject to any reservations contained in the Director's Deed. Purchaser may examine any information Caltrans has relative to these matters. Purchaser has been given the opportunity to request and inspect all documents, if any, within Caltrans possession regarding the condition of the property.

Section 7. Condition of Property

Purchaser waives any further right to inspect the Property and conduct tests thereon. The Property is sold "AS IS" in its present physical condition as of the date of this Agreement. Purchaser acknowledges and agrees that they are acquiring the property in its present state and condition as of the date of this Agreement, with all defects, both patent and latent, and with all faults of the property whether known or unknown, presently existing or that may hereafter arise, including, without limitation, all existing conditions, if any, of lead paint, mold or other environmental health hazards. Purchaser acknowledges and agrees that Caltrans has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express, implied, oral or written, past, present or future, of, as to, concerning or with respect to the condition of the property.

Caltrans makes no representation regarding the potential for development, subdivision, zoning, or re-zoning of the Property. Purchaser shall be responsible for compliance with any and all local codes and ordinances for permitted land uses of any kind.

Section 8. No Assignment

Purchaser shall not assign all or any part of the Purchaser's interest in this Agreement without first having obtained the written consent of Caltrans. Any total or partial assignment shall not relieve Purchaser of Purchaser's obligation to this Agreement.

Section 9. Disclaimers

The Property and the fixtures and personal property contained therein, if any, are not new, and have been subject to normal wear and tear. Purchaser understands that Caltrans makes no express or implied warranty with respect to the condition of any of the Property, fixtures or personal property. Caltrans makes no oral or written representation regarding the age of improvements, the size and square footage of the parcel or building, or the location of property lines. Apparent boundary line indicators such as driveways, fences, hedges, walls, or other barriers may not represent the true boundary lines which may only be determined by a surveyor. If any of these issues are important to Purchaser's decision to purchase, then Purchaser should investigate the Property independently. Purchaser acknowledges that it has not relied upon any representations by Caltrans with respect to the condition of the Property, the status of permits, zoning, or code compliance. Purchaser is to satisfy itself concerning these issues.

Section 10. Indemnification

Purchaser shall defend, indemnify, and hold Caltrans and Caltrans' elected and appointed officers, agents, and employees free and harmless from and against any and all liabilities, damages, claims, costs, and expenses (including and without limitation to attorney's fees, legal expenses and costs, and consultant's fees, and investigation and remediation costs) arising in whole or in part from the existence of Hazardous Substances or Hazardous Substance Conditions. The indemnity is intended to address that liability for which Caltrans may be responsible solely out of its mere ownership of said Property. This provision shall survive transfer of the title to said Property and any rescission of said transfer.

When used in this Agreement, "Hazardous Substance" shall mean any substance whose nature and/or quantity of existence, use, manufacture, disposal of effect, render it subject to federal, state, or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare, including the Comprehensive Environmental Response Compensation and Liability Act or Resource Conservation and Recovery Act as now in effect.

When used in this Agreement, "Hazardous Substance Condition" shall mean the existence on or under Property of a hazardous substance that requires remediation and/or removal and/or to be otherwise mitigated pursuant to applicable law.

Section 11. Destruction of Improvements

If the Improvements of the Property are destroyed, materially damaged, or found to be materially defective as a result of such damage prior to Close of Escrow or approval by the CTC, Purchaser may terminate the transaction by written notice delivered to Caltrans, and all Deposits shall be returned to Purchaser.

Section 12. Commissions

Each party represents and warrants to the other party that no broker or finder or other real estate agent is entitled to any commission, finder's fee or other compensation resulting from any action on its part. Purchaser and Caltrans each agree to indemnify the other and defend and hold harmless the other party from and against any loss, cost, or expense, including attorney's fees, incurred by such party, and against any claims, causes of action or the like brought by any broker, finder or similar agent for a commission or fee on account of this Agreement. This section does not prohibit a Purchaser from obtaining a broker at their own expense.

Section 13. Effective Headings

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

Section 14. Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties.

Section 15. Counterparts

This Agreement may be executed simultaneously in one (1) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one (1) and the same instrument.

Section 16. Binding on Successors and Assigns

This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective legal representatives, successors, and assigns.

Section 17. Attorney's Fees

If any legal action, arbitration or other proceeding is brought involving a dispute between the parties or arising out of the execution of this Agreement or sale of the Property, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees incurred in such action or proceeding, in addition to any other relief to which such party may be entitled.

Section 18. Agreement to Perform Necessary Acts

Each party agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions in this Agreement.

Section 19. No Third-Party Beneficiaries

This Agreement is for the sole benefit of the parties hereto. There are no third-party beneficiaries, intended or otherwise.

Section 20. Notices

All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the person to whom notice is to be given or, on the second (2nd) day after mailing if mailed to the party to whom notice is to be given, by First Class Mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To Caltrans at: 111 Grand Avenue MS #11, Oakland, CA 94612-3771

To Purchaser at: 22941 Atherton Street, Hayward, CA 94541, Attn: Executive Director

Any party may change its address for purposes of this paragraph by giving the other party written notice of the new address to the other party contained herein.

Section 21. Governing Law

This Agreement has been negotiated and entered into in the State of California and shall be governed by, construed and enforced in accordance with the laws of the State of California and according to its fair meaning, and not in favor of or against any party.

Section 22. Severability

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all the other provisions of this Agreement be construed to remain fully valid, enforceable and binding on the parties.

Section 23. Survival of Representations and Warranties

All covenants, representations, warranties, and other agreements under this Agreement shall survive the Close of Escrow.

Section 24. Time is of the Essence

Time is of the essence and performance of this Agreement in respect to all provisions of this Agreement that specify a time for performance, and failure to comply with this provision shall be a material breach of this Agreement.

Section 25. Saturdays, Sundays, and Holidays

If any date by which an election or a notice must be given falls on a Saturday, Sunday or holiday, then the date by which an election or notice must be given is extended to 5:00 p.m. on the next business day following such Saturday, Sunday or holiday.

Section 26. Waiver

No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach of a provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
PURCHASE AND SALE AGREEMENT - DIRECT SALE
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Section 27. Vesting

Title shall be vested as follows:
Housing Authority of the County of Alameda, a public body, corporate and politic

☐ as Husband and Wife

☐ A Single Man/Woman

☐ A Married Man/Woman as his/her sole and separate property

☐ as Joint Tenants

☐ as Tenants in Common

☐ Other (specify) _____

Section 28. Additional Terms & Conditions

Additional Terms & Conditions ☐ are / ☒ are not attached.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Recommended for Approval by:

By: KeAyna Kennedy Date: 5/9/18
KEAYNA KENNEDY
Associate Right of Way Agent

Approved:

By: Grant J. Semple Date: 5/9/18
GRANT J. SEMPLE
Branch Chief, Excess Land Branch, Right of Way Agent

PURCHASER:

By: Chris for Date: 5/2/18
CHRISTINE GOUIG
Executive Director, Alameda County Housing Authority

[Attach exhibits with Legal Description]

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Number
DD-032618-01-01

EXHIBIT "A"

Those Parcels, in the City of Hayward and the unincorporated areas of the County of Alameda, in the County of Alameda, State of California as described in those Grant Deeds 32618, 32619, 32620, 32621, 32622, 32657, 32660, 32662, 32663, 32666, 32667, 32668, and 42982, described as follows:

That parcel, as described in said Grant Deed Number 32618, recorded May 29, 1969, in Reel 2412, Image 456, Document Number 69-60563, Official Records of Alameda County, described therein:

"Lot 13, Block M, Map of the Knox Tract, properties of Milo and William Knox, adjacent to the Town of Hayward, filed June 18, 1892, Map Book 17, page 87, Alameda County Records."

That parcel, as described in said Grant Deed Number 32619, recorded January 15, 1969, in Reel 2327, Image 475, Document Number 4919, Official Records of Alameda County, described therein:

"Lot 10 in Block "M", of the Knox Tract, according to the map thereof filed June 18, 1892 in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in said Grant Deed Number 32620, recorded February 13, 1969, in Reel 2345, Image 54, Document Number 69-16340, Official Records of Alameda County, described therein:

"Lot 9 in Block "M", as said lot and block are shown on the "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Haywards, Alameda Co. California", filed June 18, 1892, in Book 17 of Maps, at Page 87, in the office of the County Recorder of Alameda County."

Parcels 1 and 2, as described in said Grant Deed Number 32621, recorded October 5, 1965, in Reel 1612, Image 356, Document Number AX137482, Official Records of Alameda County, described therein:

"PARCEL 1:

BEGINNING at a point in the bed of San Lorenzo Creek, from which point bears south 1° 3' west, 180.7 feet and south 28° 57' east, 53.4 feet, an angle formed by the intersection of the northwestern line of "A" Street and the northwestern line of the County Road running from Hayward to Castro Valley; and thence along the bed of said creek north 18°57' west 120 feet; thence northeasterly in a direct line 50 feet to the southwestern corner of Lot 7 in Block "M", as said lot and block are shown on the "Map of the Knox Tract etc., adjacent to the Town of Haywards, Alameda Co., California", filed June 18th 1892, in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County; thence south 37°42' east, 39.44 feet to a stake; thence south 20°40' east, 91.6 feet to a stake; thence south 9°39' east, 18.02 feet to the northwestern corner of Lot 1 of the said Knox Tract; thence southwesterly in a direct line leaving the bank of the creek 50 feet to the point of beginning.

BEING a portion of land which adjoins Lots 2, 6 and 7 of the "Knox Tract", on the west.

PARCEL 2:

Lots 6 and 7, in Block "M", as said lots and block are shown on the "Map of the Knox Tract Properties of Milo and Wm. Knox adjacent to the town of Haywards, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, Page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in said Grant Deed Number 32622, recorded February 27, 1969, in Reel 2354, Image 873, Document Number 69-22241, Official Records of Alameda County, described therein:

"PORTION of Lot 1 in Block "M", as said lot and block are shown on the "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County.

ALSO PORTION of the parcel of land described in the gift deed from Mary R. Hanson, a widow, to Enid A. Rosenberg, dated October 18, 1921, recorded October 27, 1921 in Book 83 of Official Records of Alameda County, page 384, said portions being described as follows:

BEGINNING at the intersection of the northwestern line of the County Road from Hayward to Castro Valley, as said road is shown on said map, with the western line of said Lot 1; running thence along the northwestern line of said County Road, south 36°09' west 80 feet to the northwestern line of "A" Street, as said street is shown on said map; thence north 28°57' west 53.4 feet; thence north 1°03' east 119.46 feet; thence south 54°07' east 117.13 feet to the northwestern line of said County Road; and thence along the last said line, south 36°09' west 40.23 feet to the point of beginning."

Parcels 1, 2, 3, 4, and 5, as described in said Grant Deed Number 32657, recorded June 30, 1969, in Reel 2431, Image 358, Document Number 69-72977, Official Records of Alameda County, described therein:

"PARCEL 1:

Portion of Lot 20, in Block "M", and a portion of an unnumbered lot, as shown on the "Map of the Knox Tract, properties of Milo and Wm. Knox adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, at page 87, in the office of the County Recorder of Alameda County, described as follows:

Beginning at a point on the southwestern line of said Lot 20, distant thereon south 50° 05' east 121.38 feet from the most western corner of said Lot 20; and running thence north 72° 44' 15" east 104.84 feet; thence south 18° 58' 30" east 98.69 feet; thence south 48° 06' 30" west 122.35 feet to the southwestern line of said "Knox Tract"; thence along the last named line north 26° 57' west 126.02 feet to an angle point therein at the most eastern corner of the parcel of land awarded to Hayward Union High School District of Alameda County in the Decree Quieting Title Case No. 164714, dated August 14, 1945, recorded August 27, 1945 in book 4772 of Official Records of Alameda County, page 33; thence along the northeastern line of the last named parcel north 42° 39' 30" West 35 feet, more or less, to a line drawn south 72°44' 15" west from the point of beginning; and thence north 72° 44' 15" east 35 feet, more or less, to the point of beginning.

PARCEL 2:

Portion of Lot 20, in Block "M", and a portion of an unnumbered lot, as shown on the "Map of the Knox Tract, properties of Milo and Wm. Knox adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, at page 87, in the office of the County Recorder of Alameda County, described as follows:

Beginning at the intersection of the southern line of Crescent Avenue, as shown on said map, with the southwestern line of said Lot 20; and running thence along said southwestern line of said Lot 20 south 50° 05' east 121.38 feet; thence north 72° 44' 15" east, 104.84 feet; thence north 20° 30' 40" west 78.63 feet to an angle point in said southern line of Crescent Avenue; and thence along the last named line south 80° 48' west 167.65 feet to the point of beginning.

EXCEPTING therefrom a parcel of land more particularly described as follows:

Beginning at a stake which marks the most western corner of the above-mentioned Lot 20, in Block "M" and running thence south 56° 45' east distant 31.32 feet to a stake; thence south 66° 26' east distant 22.53 feet to a stake; thence south 16° 31' east distant 18.10 feet to a stake on the southwestern line of said Lot 20, in Block "M", thence along said line north 50° 05' west, distant 67.75 feet to the point of beginning.

PARCEL 3:

Beginning at the intersection of the northwestern line of "A" Street with the northwestern line of County Road leading from Hayward to Castro Valley, said point being the most eastern corner of Plot "C", as said plot is shown on the map of "San Lorenzo Terrace, Hayward, Alameda Co., Cal.," filed October 31, 1911 in the office of the County Recorder of Alameda County; running thence south 48° west along said line of "A" Street, 25.4 feet to the western boundary line of said Plot "C", thence north 26° 45' west along the western boundary line of said Plot "C", 57 feet; thence north 0° 1' west 201.78 feet; thence north 15°26' west 67.09 feet; thence north 69° 45' west 107.34 feet; thence south 48° west 270.00 feet; thence north 61° west 95.19 feet; thence north 42° west 200 feet; thence north 48° east, 115 feet to the western boundary line of the Knox Tract, as said boundary line is shown on the "Map of the

Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", file June 18, 1892 in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County; thence north 26° 57' west along the last named line 60 feet to the northeastern boundary line of Plot "C" above referred to; thence south 44° 22' east along said northeastern boundary line of Plot "C", 95 feet, more or less, to an angle point therein; thence south 5° 18' west 122 feet; thence south 54° 42' east, 156 feet; thence north 44° 58' east 225 feet; thence south 74° 42' east, 125 feet to the northwestern boundary line of that certain piece or parcel of land conveyed by Edwin S. Warren and wife, to J.G. Hauschildt, by deed dated July 18, 1921 and recorded December 23, 1921 in Book 116 of Official Records of Alameda County, page 273; thence southwesterly along the last named line to the most western corner of said land conveyed to J.G. Hauschildt; thence south 18°57' east 120 feet; thence south 1° 03' west 180.7 feet; thence south 28°57' east 53.4 feet to the point of beginning.

Being a portion of Plot "C", as said plot is shown on the Map of "San Lorenzo Terrace, and a portion of the Knox Tract above referred to.

PARCEL 4:

Lot 20 in Block "M", as said lot and block are shown on the "Map of the Knox Tract, properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892 in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County.

Excepting from Parcel 4, a parcel of land more particularly described as follows:

Beginning at a stake which marks the most western corner of the above-mentioned Lot 20 in Block "M"; and running thence south 56° 45' east distant 31.32 feet to a stake; thence south 66° 26' east distant 22.53 feet to a stake; thence south 16° 31' east distant 18.10 feet to a stake on the southwestern line of said Lot 20 in Block "M"; thence along said line north 50° 03' west, distant 67.75 feet to the point of beginning.

Also excepting from said Parcel 4 those portions thereof which lie within the lines of Parcels 1 and 2 above described.

PARCEL 5:

Beginning at the point of intersection of the northwestern line of "A" Street with the northwestern line of County Road leading from Hayward to Castro Valley; running thence north 28° 57' west 53.4 feet; thence north 1°3' east 180.7 feet; thence north 18°57' west 120 feet to a point in the bed of San Lorenzo Creek and the actual point of beginning of the parcel of land herein described; thence along the bed of said creek, north 79° 57' west 100 feet; thence south 63° 03' west, 115 feet; thence south 43° 03' west, 133.4 feet; thence north 56° 57' west 133 feet; thence north 11° 57' west, 138 feet; thence north 26° 57' west 130 feet; thence northwesterly in a direct line and leaving the bed of said creek, a distance of 146 feet to a point on the southern line of Crescent Avenue, midway between the extreme eastern corner of Lot 21 and the extreme western corner of Lot 20 in Block "M", as said avenue, lots and block are shown on the map herein referred to; thence north 80° 48' east along said line of Crescent Avenue, 20 feet to the most western corner of said Lot 20; thence south 50° 05' east along the southwestern boundary line of said Lot 20, 289.18 feet; thence following the southern boundary line of Lot 10, in said Block "M" south 8° 21' east 82 feet; thence south 28° 23' east, 111.82 feet; thence north 52° 29' east 46.45 feet; thence north 4° 23' east 51.13 feet; thence north 22° 13' east 76 feet; thence north 87° 40' east 150.22 feet to the most western corner of Lot 9 in said block "M"; thence along the southwestern boundary line of said Lot 9 and along the southwestern boundary line of lot 8 in said Block "M", south 53° 46'east, 100 feet; thence southwesterly in a direct line, 50 feet, more or less, to the point of beginning.

Being portion of the Knox Tract, as said tract is shown on the "Map of the Knox Tract, properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County.

Excepting from said Parcel 5, those portions thereof, which lie within the boundary lines of Parcels 1, 2, and 3 above described."

That parcel, as described in said Grant Deed Number 32660, recorded February 19, 1969, in Reel 2348, Image 951, Document Number 69-18793, Official Records of Alameda County, described therein:

"Lots 11 and 12, in Block "M", as said lot and block are shown on the "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Haywards, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in said Grant Deed Number 32662, recorded July 8, 1969, in Reel 2436, Image 16, Document Number 69-76075, Official Records of Alameda County, described therein:

"Lot 14, Block M, Map of the Knox Tract, properties of Milo and William Knox adjacent to the Town of Hayward, filed June 18, 1892, Map Book 17, page 87, Alameda County Records."

That parcel, as described in said Grant Deed Number 32663, recorded January 30, 1969, in Reel 2336, Image 793, Document Number 11031, Official Records of Alameda County, described therein:

"Lot No. 8 in Block Lettered M, as said lot and block are shown on the "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892 in Book 17 of Maps Page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in that Grant Deed Number 32666, recorded March 17, 1970, in Reel 2582, Image 728, Document Number 70-27303, Official Records of Alameda County, described therein:

"Lot 3 in Block "M", as said lot and block are shown on that certain map entitled, "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California", filed June 18, 1892, in Book 17 of Maps, at page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in that Grant Deed Number 32667, recorded March 3, 1970, in Reel 2575, Image 55, Document Number 70-22003, Official Records of Alameda County, described therein:

"Lot 2 Block "M", as said lot and block are shown on that certain map entitled, "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Haywards, Alameda Co., California," filed June 18, 1892, in Book 17 of Maps, at Page 87, in the office of the County Recorder of Alameda County."

That parcel, as described in that Grant Deed Number 32668, recorded May 15, 1969, in Reel 2402, Image 680, Document Number 69-54115, Official Records of Alameda County, described therein:

"Portion of Lot 1 in Block "M", as said lot and block are shown on the "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Hayward, Alameda Co., California"; filed June 18, 1892, in Book 17 of Maps, page 87, in the office of the County Recorder of Alameda County.

Also portion of the parcel of land described in the gift deed from Mary R. Hanson, a widow to Enid A. Rosenberg, dated October 18, 1921, recorded October 27, 1921, in Book 83 of Official Records of Alameda County, page 384, said portions being described as follows:

Beginning at the intersection of the northwestern line of the County Road leading from Hayward to Castro Valley, commonly known as "A" Street, with the intersection thereof with the eastern corner of said Lot 1 Block "M", as said lot and block are shown on said map; thence south 36°09' west 86 feet; thence north 54° 07' west 117.13 feet to a point in the bed of San Lorenzo Creek; thence along the bed of said creek north 1° 03' east 61.24 feet; thence leaving the bed of said creek northeasterly 50 feet, more or less to the northwest corner of said Lot 1; thence north 54° 07' east 125.37 feet to the point of beginning."

That parcel, as described in that Grant Deed Number 42982, recorded May 20, 1971, in Reel 2854, Image 474, Document Number 71-60208, Official Records of Alameda County, described therein:

"A portion of Lot Numbered 20, in Block Lettered "M" as said lot and block are shown on that certain Map entitled, "Map of the Knox Tract, Properties of Milo and Wm. Knox, adjacent to the Town of Haywards, Alameda Co., California" – filed June 18, 1892, in Book 17 of Maps, at Page 87, in the office of the County Recorder of Alameda County, described as follows:

Beginning at a stake which marks the most western corner of the above mentioned Lot Numbered 20, in Block Lettered "M", and running thence South 56°45' East distant 31.32 feet to a stake; thence South 66°26' East distant 22.53 feet to a stake; thence South 16°31' East distant 18.10 feet to a stake on the southwestern line of said Lot Numbered 20, in Block Lettered "M"; thence along said line North 50°03' West, distant 67.75 feet to the point of beginning."

Containing 6.24 acres, more or less.

RESERVING THEREFROM, an EASEMENT for Conservation Purposes under, over, through, and across the following described land; together with the right to construct, operate, and maintain such facilities as necessary to effect the purpose of the easement. Described as follows:

Those Portions of the above described Parcels, lying southwesterly of the following described Line:

Commencing at the angle point in southerly right of way of Crescent Avenue, as shown in Lot 20, Block M, of "Map of the Knox Tract", recorded June 18, 1892, in Book 17 of Maps at Page 87, filed in the Office of the County Recorder of Alameda County; thence along said right of way South 82°22'15" West 94.27 feet to the BEGINNING of said Line; thence South 04°20'28" East 50.45 feet; thence South 43°20'30" East 72.54 feet; thence South 05°59'06" East 20.33 feet; thence South 24°22'04" East 82.51 feet; thence South 03°53'14" East 115.01 feet; thence South 29°40'37" East 76.56 feet; thence North 42°59'28" East 164.93 feet to the beginning of a 185.00 foot radius curve concave

southerly; thence northeasterly, easterly and southeasterly along the arc of said curve through a central angle of 103°24'36" and an arc length of 333.90 feet; thence South 33°35'56" East 100.35 feet; thence South 06°46'58" West 118.46 feet; thence South 52°25'36" East 80.02 feet to the northwesterly right of way of "A" Street, formerly "County Road to Castro Valley" as shown on said Map being the TERMINUS of said Line.

Excluding from said described EASEMENT for Conservation Purposes, those portions lying within those areas to Alameda County for Public Highway Purposes, as described in that Resolution Number 90592, recorded June 11, 1959, in Book 9056, at Page 383, Document Number AQ 69489, Official Records of Alameda County, and that Resolution Number 93574, recorded June 8, 1960, in Reel 101, Image 660, Document Number AR66065, Official Records of Alameda County, and that portion lying southerly and southeasterly of a 1204.85 foot radius curve as described in that Resolution Number 93420, recorded May 20, 1960, in Reel 091, Image 916, Document Number AR 59629, Official Records of Alameda County.

Containing 2.84 acres, more or less.

The bearings and distances used in the above description are on the California Coordinate System of 1927, Zone 3. Multiply the above distances by 1.0000787 to obtain ground distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature Andrew Lachowicz

Licensed Land Surveyor

Date 1-5-2017

Licensed Land Surveyor
Andrew Lachowicz
L 8037
exp
3-31-2017
State of California

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

AMENDMENT #2 TO PURCHASE AND SALE AGREEMENT

04	ALA	238	13.8
Dist	Co	Rte	P.M.

DD-032618-01-01
Parcel No.

This Amendment to Purchase and Sale Agreement is made by and between the State of California, Department of Transportation ("Caltrans") and Alameda County Housing Authority, a public body, corporate and politic ("Purchaser").

Whereas a certain Agreement between the parties dated April 26, 2018, and a certain Amendment dated November 19, 2018, expires February 26, 2019, the parties want to extend and continue said Agreement; it is mutually beneficial and agreed that said Agreement is extended for an additional term of two (2) months commencing upon the expiration of the original term and shall now expire on April 26, 2019.

This extension shall apply to all other terms and conditions as stated in the original Agreement.

This extension Agreement shall be binding upon and inure to the benefit of the parties, their successors, and personal representatives.

RECOMMENDED FOR APPROVAL:

2-25-19
CHRISTINE GOUIG Date
Executive Director
Alameda County Housing Authority

Renata Frey
RENATA FREY
Right of Way Agent

2/25/19
GRANT SEMPLE Date
Branch Chief, Excess Land Branch

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

AMENDMENT TO PURCHASE AND SALE AGREEMENT

04	ALA	238	13.8
Dist	Co	Rte	P.M.

DD-032618-01-01
Parcel No.

This Amendment to Purchase and Sale Agreement is made by and between the State of California, Department of Transportation ("Caltrans") and Alameda County Housing Authority, a public body, corporate and politic ("Purchaser").

Whereas a certain Agreement between the parties dated April 26, 2018, expires on December 26, 2018, and the parties want to extend and continue said Agreement; it is mutually beneficial and agreed that said Agreement is extended for an additional term of two (2) months commencing upon the expiration of the original term and shall now expire on February 26, 2019.

This extension shall apply to all other terms and conditions as stated in the original Agreement.

This extension Agreement shall be binding upon and inure to the benefit of the parties, their successors, and personal representatives.

RECOMMENDED FOR APPROVAL:

eluid for
11/8/18
CHRISTINE GOUIG
Executive Director
Alameda County Housing Authority

KeAyna Kennedy 11/8/18
KEAYNA KENNEDY
Associate Right of Way Agent

11/19/18
GRANT SEMPLE
Branch Chief, Excess Land Branch

ALAMEDA COUNTY PARKS, RECREATION AND HISTORICAL COMMISSION

224 West Winton Ave., Room 111 · Hayward, California 94544-1215 · phone 510.670.5400 · www.acgov.org/cda

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February 10, 2020

Castro Valley Municipal Advisory Council
224 West Winton Avenue, #111
Hayward, CA 94544

Subject: Alameda County Parks, Recreation and Historical Commission Comments on the September 2019 CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Councilmembers:

The Parks Recreation and Historical Commission (Commission) is charged with advising the Board of Supervisors regarding the oversight and preservation of parks, recreation, and historic resources in unincorporated Alameda County.

The Commission has witnessed multiple public testimonies objecting to the proposed Ruby Street Apartments Project (Project) because of the potential cumulative and negative impacts on the biological, historic and cultural resources at Ruby Meadow and San Lorenzo Creek.

After reviewing public testimony, letters in opposition, planning and environmental documents, the Commission believes the Environmental Checklist for Community Plan Exemption, September, 2019 (CEQA Analysis) does not adequately analyze or address the potential project-specific environmental effects of implementing the proposed Project. Furthermore, the CEQA Community Plan Exemption (Exemption) focuses on "requirements for development" such as policy and zoning decisions made in the Castro Valley General Plan, March 2012 (CVGP), and may dismiss potentially negative and cumulative impacts, including policies and requirements required to protect the habitat.

The Commission agrees low income housing is a priority need in Alameda County and that the development helps meet County low income housing goals; however, alternative housing options exist on currently available Route 238 and urban parcels that do not threaten valuable and scarce environmental and historic resources in the unincorporated County.

This letter summarizes why the proposed development deserves further examination. A detailed biological analysis is referenced in the Friends of San Lorenzo Creek's (FSLC) November 24, 2019 letter to the Planning Department.

Biological Resources:

Ruby Meadow is a unique riparian and wildlife corridor of San Lorenzo, Castro Valley and San Lorenzo Creeks. The meadow is the largest remaining natural site along this portion of San Lorenzo Creek. The larger portion of the site is identified in figure 7-2 of the CVGP as "a high priority area within the biological resources overlay zone." (CEQA Analysis, Page 44) and therefore merits protection.

A General Plan is a broad planning guideline to a city's or county's future development goals and provides policy statements to achieve those development goals. The CVGP offers broad

administrative policies for habitat protection but cannot predict significant effects of a future site-specific plan. The 2007 Environmental Impact Report (EIR) certified for the General Plan is outdated and does not reflect current baseline conditions for Ruby Meadow wildlife and habitat that are likely to have changed over thirteen years.

The Exemption states projects consistent with the development density stablished by existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, **"except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site." (State CEQA Guidelines, Section 15183)**

The Ruby Street CEQA Exemption document references the findings in the 2007 EIR as the basis for applying this exemption; however, the EIR specifically identifies that its analysis does not examine the effects of potential site-specific projects that may be undertaken to implement this program in the future.

In fact, this EIR assumes that specific development projects will require independent and more detailed environmental assessment to meet CEQA requirements. "Because many of the proposed policies are intended to be general, with details to be specified during implementation, many of the EIR impacts can only be described in general or qualitative terms." (EIR Section 1.3)

The Commission believes that reliance upon the environmental effects of policy and land-use decisions do not constitute an adequate analysis of the Project-specific impacts that could result with implementation of this Project.

Special Status and Protected Animal Species:

The shelf life for California Department of Fish and Wildlife surveys are 3-5 years. Moreover, if a protected species or suitable habitat for a protected species exists at the site, or in range of that species or habitat, the lead agency pursuant to the California Endangered Species Act (CESA) must request concurrence from CDFW that the project would not result in take of state-listed or federally-listed (if applicable) species.

Western Red Bat. The CEQA consultant did not do bat monitoring. However, the Western Red Bat and two other bat species were recently discovered at Ruby Meadow by a bat expert from CSU Monterey Bay who did sonic bat monitoring at the site. The expert also noted Ruby Meadow provides the kind of habitat that supports the bats' roosting and foraging. (Bethany Schulze Letter, November 25, 2019, attached)

Western Red Bats are a California species of Special Concern which would trigger action and protection under the CESA. **The project proposes to reduce the width of the San Lorenzo Creek oak riparian and wildlife corridor to 105-120 feet which is significantly less than the 164 feet that would support the roosting and foraging habitat for these bats.** (FSLC letter, pages 14 & 15)

California red –legged frog, steelhead, western pond turtle, white tailed kite, tri colored blackbird, loggerhead shrike, western mastiff bat and pallid bat all have potential to occur on or in the vicinity of the site.

The CEQA Analysis regarding each of the above species is very general and vague. The CEQA Analysis contends any of the above species could and may occur in San Lorenzo Creek and Ruby Meadow and that the site may provide suitable habitat.

For example, The CEQA Analysis states "The Central California Coast Distinct Population Segment of steelhead is known to occur in San Lorenzo Creek. The site is passage habitat and may support potential rearing habitat for juvenile steelhead" … The report then qualifies that high water temperatures "could limit suitability of rearing habit for juvenile steelhead. (CEQA Analysis, pg 46)

Native and Heritage Trees
Ninety percent of trees on the site (87 trees) would be demolished by development. Forty five percent of these trees are native, and 37 of the native trees are planned for removal. Many have diameters two feet or larger and would be considered heritage trees. The consultants showed limited tree data on the plans and did not summarize the data so it could be assessed.
(FSLC letter, pages,15-18)

Creek Setback
The plans show non-compliant "development", grading, fencing, and or retaining walls covering over 60% of the minimum creek setback and conservation/mitigation areas. These developments must be removed from the setback. (FSLC letter, page 3)

Open Space and Trails
The site is the combined route for the San Lorenzo Creek Trail and the Hayward Foothill Trail. Although the trail is a public amenity, it is a "development" whose route is along and into the minimum creek setback boundary and will cause loss of oak riparian woodland and wildlife corridor.

Cultural and Historical Resources (Native American Artifacts)
The San Lorenzo Creek was an early documented resource that provided a favorable environment with riparian and inland resources as well as bay waters within close proximity. The Ruby Meadow area was within the territory of the Chochenyo tribe of the greater known Ohlone. Historic accounts reveal that they maintained temporary camps along the San Lorenzo Creek with seasonal migration along the creek to the entrance of the Dublin Canyon area. Documented sites along San Lorenzo Creek consist of Habitation sites, Workshop and Milling sites with bedrock mortars, Quarries and Burial sites. Within 30 feet of Ruby Meadow, exists CA-ALA-566, a limited use campsite in East Bay Settlement Patterns (Blake & Kimsey SCA Proceedings, 2017) which was first identified by Caltrans archaeologists in 1997. In 2015, work was conducted in preparation of the sale of the parcels. Radiocarbon dating defined components consisting of 11 dates of cultural material recovered from the site. The site was occupied in two primary periods: Early period, approximately 2100 – 600 B.C., and a Late period of 750 – 1520 A.D. This late period consists of a seasonally used campsite with earthen ovens and dietary refuse.

Per the Castro Valley General Plan 2012, Cultural Resources Policies, Policy 5.2-1, Preserve Designated Historic Sites, "Protect and preserve Federal and State-designated historic sites, structures, and properties that are deemed eligible for designation to the maximum extant feasible…". As well as, Cultural resources Actions, Action 5.6-2, Historic and Cultural Resource Regulations, "Adopt regulations to protect and preserve historic and local cultural resources in the Castro Valley Planning Area…Historic Resources that qualify for Federal or State designation". CA-ALA-566 is cited by the Alameda County Community Development Agency as "a National Register of Historic Places-eligible precontact archaeological site" in immediate proximity of Ruby Meadow. (AB52 letter 10/29/2018).

Although the AB52 Consultation Letter which provided 30 days for response was not replied to, the six letters that were mailed did not include the Muwekma Ohlone, which is formed by all the known surviving Native American lineages inclusion.

Historical Sites

Public testimony also references the Haywards Steam Laundry, formerly located on the site. The laundry opened in 1892 and was considered the first "white laundry" in the area. The laundry was in business for over 50 years. Newspaper clippings provided in public testimony by Sandy Frost indicate the laundry was an important business and community resource. Although the buildings no longer exist, we believe it is appropriate to locate a plaque at the site to acknowledge its significant history.

The Anza Trail and Anza Camp 98 have been located approximately 0.6 miles southwest and 0.85 miles southeast of the project site. The diary of Pedro Font, who traveled with the Anza Party, indicates he visited many Indian sites in the vicinity of Ruby Meadow. The CEQA Analysis summarizes that although there are few instances of similar expedition deposits surviving to this day, they…."would likely qualify as historical or unique Archaeological resources under PRHC Sections 21084.1 or 21083.2". (CEQA Analysis, page 60)

Conclusion

The Commission contends the Ruby Street Apartments Project Environmental Checklist for Community Plan Exemption relies solely on references to the environmental analyses and findings of adopting policy and land-use decisions pursuant to the 2007 CVGP EIR. The EIR is outdated and does not adequately reflect the environmental impacts that could result upon implementation of this Project. The CEQA analysis does not consider or thoroughly examine how the site specific project could cumulatively and negatively impact valuable biological, historical and cultural resources at Ruby Meadow and San Lorenzo Creek.

The PRHC Commissioners are not environmental or legal experts. However, our reading of the information presented is that there are sufficient and valid public concerns that should be addressed prior to, not during, the implementation of this project. We therefore request that the County conduct a thorough assessment (Environmental Impact Report) to provide a current objective analysis that addresses public concerns regarding the preservation of sensitive resources in and around the Ruby Meadow Project Site.

Sincerely,

Piper McKnight, Chair
Alameda County Parks, Recreation and Historic Commission

Attachment: Letter from Bethany Schulze, November 25, 2019

Cc: Nisha Chauhan, Senior Planner, Alameda County Planning Department
Ellen Morris, Eden Housing Project Manager

Date: November 25, 2019

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bethany Schulze
Field Assistant, bat monitoring – University of California, Santa Cruz
Conservation Analyst (bat projects) – Center for Natural Lands Management
Graduate Student, Environmental Science - California State University, Monterey Bay
bschulze@csumb.edu

Subject: Comments on the September 2019 CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter includes comments on the September 2019 CEQA Analysis of Eden Housing's proposed Ruby Street Project covered under Site Development Review PLN2019-00024 dated June 17, 2019. The CEQA Analysis is covered in the document titled, "Ruby Street Apartment's Project – Environmental Checklist of Community Plan Exemption, September 2019."

The 2019 CEQA Analysis of Eden Housing's proposed Ruby Street Project fails to include impacts to a California Species of Special Concern – the western red bat. It is common for biological assessments done by consulting firms to exclude acoustic monitoring from their protocols due to lack of resources or experience. The section on bats in the biological assessment only included potential roosts for pallid bats and Townsend's big-eared bats which have very different roosting ecology from western red bats. Western red bats are foliage roosting species that roost in trees by hanging from the twigs and leaves (Pierson et al. 2011), therefore any mature trees could be suitable roosting habitat.

I performed acoustic monitoring of bats at the Ruby Street parcel using an Echometer Touch Bat Detector on August 25, 2019. I manually vetted the bat echolocation calls that were recorded and found that western red bats were detected during the four-hour recording session. August is typically the beginning of the fall migration period for western red bats. Western red bats breed in inland areas of California such as the Central Valley during the summer and migrate to southern and coastal areas during the fall. Riparian corridors such as the one at the Ruby Street parcel provide essential roosting foraging habitat for western red bats and are among the most threatened types of habitats on the planet (Dudgeon 2010).

I do not recommend approval of the Ruby Street Apartment Project because it will have serious impacts to the roosting and foraging habitat of western red bats.

References

Dudgeon D. 2011. Prospects for sustaining freshwater biodiversity in the 21st century: linking ecosystem structure and function. Current Opinion in Environmental Sustainability 2(5):422-430. DOI: 10.1016/j.cosust.2010.09.001

Pierson ED, Rainey WE, Wyatt D. 2011. Roosting and Foraging Habitat for the Western Red Bat (*Lasiurus Blossevillii*) in the Sacramento River Valley of California. Report for U.S. Fish and Wildlife Service, Red Bluff, CA.

FRIENDS OF SAN LORENZO CREEK

Date: November 24, 2019

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com

Bruce W. King

Cc: Hank Ackerman, ACPWA Flood Control
Andy Cho, ACPWA Grading Division
Albert Lopez, Planning Director
Paul McCreary, HARD General Manager
Nate Miley, Alameda County Supervisor, District 4
Ellen Morris, Eden Housing Project Manager
Rodrigo Orduna, Assistant Planning Director
John Rogers, ACPWA Permits
Arthur Valderrama, ACPWA Land Development
CVMAC Members

Subject: Friends of San Lorenzo Creek Comments on the September 2019 CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter provides comments on the behalf of Friends of San Lorenzo Creek (FSLC) on the September 2019 CEQA Analysis of Eden Housing's proposed Ruby Street Project covered under Site Development Review PLN2019-00024 dated June 17, 2019. The CEQA Analysis is covered in the document titled, "Ruby Street Apartment's Project – Environmental Checklist of Community Plan Exemption, September 2019."

This project includes: a) a four-story apartment building containing 72 dwelling units (at 24.5 units per acre) and ~109 open parking spaces all on 2.95 acres; and b) a trail corridor design on 2.95 acres. All of the above is subject to a pending boundary adjustment to merge 21 parcels and create 3 new parcels (noted as Parcel A, B, and C in the plans).

This proposed project is in a riparian and wildlife corridor of San Lorenzo Creek. FSLC comments focus on ensuring the creek, banks, required creek setbacks, oak riparian woodland, and wildlife corridor of the creek are protected and maintained in a healthy condition.

FSLC does not recommend approval of this project.

OVERVIEW

Friends of San Lorenzo Creek does not recommend approval of this proposed project. The plan is too big for the site. The project covers over and destroys Ruby Meadow's woodland and wildlife corridor that extends beyond the minimum creek setback. The County in its CEQA Analysis whitewashes this habitat in the proposed development area, ignores policies and requirements that protect the habitat, and does not assess cumulative impacts. We want local affordable housing on other currently available sites.

- Ruby Meadow is a unique site in the riparian and wildlife corridors of San Lorenzo, Chabot, and Castro Valley Creeks. This Meadow is the largest remaining natural site along this reach of San Lorenzo Creek (our largest creek) that has been in public hands for more than 50 years. This site should be used as park, open space, and for preservation.
- Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo Creek, Chabot Creek, and Castro Valley Creek. These continuous, natural-creek corridors extend from the hills in the east, down Crow Creek and San Lorenzo Creek, through this proposed project site, to Foothill Boulevard, to Route 238 Parcel 8, up Chabot Creek to Strobridge Avenue, and up Castro Valley Creek to Grove Way.
- We want affordable housing, but we want it built in our community on other currently available Route 238 and urban parcels. Eden Housing's proposed plan is designed to maximize affordable housing, is too big for the site, and destroys the site's extensive mature trees, oak riparian woodland, and wildlife corridor that extends beyond the minimum creek setback and up and down the creek systems.
- A plan for affordable housing on the site, acquisition of Caltrans public land, and zoning coordination started eight or more years ago without much local community input and without first considering the habitat, area's park deficiencies, and park agency acquisition. The plan and zoning have been advanced by Eden Housing, Alameda County Community Development Agency (Housing, Redevelopment, & Planning), Housing Authority, and Caltrans.



OVERVIEW
(continued)

- The plan proposes maximum density with bonuses, but the General Plan states that development (i.e., on future Parcel A) should be reduced by 50% in intensity to protect the biological resources (e.g., mature trees and woodland).
- The plans show non-compliant "development" (i.e., grading, fencing, and/or retaining walls) covering ~60% of the minimum creek setback and conservation/mitigation areas. These developments must be removed from the setback.
- The County's CEQA Analysis tries to whitewash biological resource protections for the broader creek corridor and trees by: a) narrowly defining the "riparian habitat, riparian corridor," and habitat types; and b) not using the broader terms, principles, and policies used in the General Plan, such as "oak riparian woodland, wildlife corridor, and sensitive habitat areas."
- Monitoring for bats identified three species that were not identified in the CEQA Analysis. Western red bat was one of the newly identified species. This species is an uncommon bat and California Species of Special Concern.
- The size of this project needs to be greatly reduced (e.g., by 50%) to preserve the major stands and large numbers of mature native and non-native trees and the width of the San Lorenzo Creek riparian corridor. This habitat closely matches the species and configuration of trees that western red bats are known to differentially select as their prime roosting and foraging habitat. This action not only protects and provides habitat for common native plant and animal species, but also special-status species such as western red bats. This species is a tree bat that roosts high in the foliage of mature trees.
- An Environmental Impact Report (EIR) is required for this project to assesses cumulative impacts on the riparian and wildlife corridors and inconsistencies with the General Plan. CEQA requires an EIR and cumulative impact analysis when the cumulative impacts of past, present, and future actions result in significant damage to the San Lorenzo Creek ecosystem. When the County continues to allow all projects to develop up to the minimum creek setback and remove significant habitat that is present outside the minimum setback, protective General Plan Biological Resources policies and goals have little value.





SPECIFIC COMMENTS

Comments in this section are generally presented and identified in the order in which the topics are presented in the CEQA Analysis document.

CEQA Analysis, II. Purpose and Summary of This Document,
B. Community Plan Exemption

Comment II.B.1 – EIR Required for Cumulative Impacts and Regulatory Inconsistencies

This proposed project requires an Environmental Impact Report (EIR) as directed by CEQA because: a) a cumulative impact analysis is required; and b) the project is not consistent and compliant with many of the regulatory guidelines for Alameda County (e.g., General Plan, Water Course Protection Ordinance, Specific Plan for Areas of Environmental Significance). A CEQA Community Plan Exemption analysis is not sufficient and compliant.

The Ohlone Audubon Society (Terry Preston) provided comments to the Planning Department (Nisha Chauhan) on this project on July 8, 2019. These comments discuss the CEQA requirement for a cumulative impact analysis and consistency with regulatory guidelines as it relates to this project. Please refer these Ohlone Audubon Society comments and respond to each significant comment in the letter.

Here's a few introductory points regarding cumulative impact analysis from the Ohlone Audubon Society letter:

- "CEQA requires a cumulative impact analysis (CEQA Guidelines Section 15130) when the cumulative impacts of past, present and future actions result in significant damage to the San Lorenzo Creek ecosystem. An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3)."
- "There is substantial evidence that this project, in addition to all past and potential future projects along the banks of San Lorenzo Creek will have significant negative cumulative impacts on the health of San Lorenzo Creek, it's wildlife and other biological resources and ultimately San Francisco Bay. In addition, a 20-foot setback is simply not enough to support the needs of the wildlife that may use it. There is a creek bank and channel for movement along the wildlife corridor, but the project would leave little left to fill the need of a place to nest, raise young, hunt and forage. The stream course and setback are not enough."

Project inconsistency with Alameda County regulatory guidelines also indicates an EIR is required. Inconsistency is covered in the Ohlone Audubon Society letter, in the next comment below, and in many subsequent comments herein.

CEQA Analysis, II. Purpose and Summary of This Document,
C. Project Consistency with General Plan and Zoning

- Comment II.C – Project Not Consistent with the General Plan

The Ruby Street proposed housing project is not consistent with many policies identified in the General Plan EIR and requirements in other development standards. These inconsistencies indicate an EIR is required. Comments in this and other sections explain this comment further.

- Comment II.C.1 – No "Environmentally Superior" Alternative, BROZ, or Reduced Density

Existing EIR text. According to the General Plan EIR (Section 4, Alternatives): "CEQA also requires identification of an "environmentally superior" alternative. In this case, the proposed General Plan meets this requirement. The basis for this determination is that the proposed Plan will: Provide greater protection of biological resources due to the proposed biological resources overlay zone and reduced density in creek corridors…"

General Plan EIR, Section 2.3 General Plan Land Use Classifications

Table 2.3-2: Public and Open Space Land Use Classifications

Land Use Category	Description	Corresponding Existing Zoning	Proposed Zoning
Biological Resources Overlay	The biological resources overlay zone delineates high, moderate, and low priority areas for habitat preservation in order to ensure maximum protection of biological resources.	NA	See Figure 7-2

Source: Kahn/Mortimer/Associates and Dyett & Bhatia: 2010

Comment. The implementation of the General Plan and this proposed project does not comply the CEQA requirement to identify an "environmentally superior" alternative. The General Plan and this project does not comply because: a) The County has not implemented Biological Resources Overlay Zone (BROZ) policies and design guidelines; b) This project's CEQA Analysis has not identified and assessed the BROZ areas that extend over much the project site in accordance with the habitat terms and principles used in the General Plan and EIR; and c) The project does not reduce density in the creek corridor to protect habitat. For all these reasons, the project is also not consistent with the General Plan.

In fact, the project proposes development (e.g., grading) inside the minimum creek setback, development of most of future Parcel A, destruction of 87 (or 90%) of the trees in the oak riparian woodland and wildlife corridor that are outside the minimum creek setback, and significant housing density bonuses. This project requires an EIR to identify "environmentally superior" alternatives that include: a) development that reduces density in the creek corridor to ensure habitat protection, and b) no development or development at a different site.

Additional Information.

- Inconsistencies in assessment using habitat terms and principles are discussed in greater detail in Comments III.C.4 ~ C.b.2 and III.C.4 ~ C.b.3.
- Attachment B shows the site's designated BROZ, Sensitive Habitat, and Oak Riparian Woodland/Wildlife Corridor areas.
- Attachment E provides site tree data.

- Comment II.C.2 – Woodland and Wildlife Corridor Removal

General Plan Policies and Goals.
Section 2.5 of the General Plan EIR is titled Key Policies of the Proposed General Plan. Listed below are some policies and goals EIR Section 2.5 that are related to this Ruby project and its biological resources.

- Land Use and Community Development, Residential Development (page 2-30)
  The key policies proposed to achieve these goals are:
  - Lot subdivisions and building footprints shall be designed to preserve natural vegetation, biological resources, and stands of large trees to the maximum extent feasible.
- Biological Resources (page 2-36)
  This chapter addresses the protection and enhancement of Castro Valley's significant biological resources, which are concentrated in creek corridors, canyons, and hillside open space areas set aside as part of planned developments. The specific goals are to:
  - Protect and enhance native wildlife through conservation and restoration of a continuous network of connected natural habitat.
  - Preserve creek channels and riparian habitat to protect and enhance wildlife corridors, flood protection, and the quality of surface water and groundwater.
  - Maintain, preserve, and enhance trees and vegetation to provide habitat and protect the natural environment.

Comment.
The proposed project is not consistent with the General Plan because the project did not assess and apply the above General Plan policies and goals to the project areas that are beyond the minimum creek setback where development is planned and extensive oak riparian woodland and wildlife corridor is proposed for removal. In fact, these General Plan policies and goals have little value if the County continues allow all projects to develop up the minimum creek setback and remove significant tree habitat that is outside the minimum setback.

For example, this project is not "…designed to preserve natural vegetation, biological resources, and stands of large trees to the maximum extent feasible…" as stated in General Plan policy. In fact, the project proposes within the development area to demolish an extensive number of trees (87 total trees or 90%), native trees (45 trees or 45%), and other woodland that is closely associated with the oak riparian woodland and wildlife corridor. About a third of these trees (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees. See tree survey data in Attachment E and aerial views of the oak riparian woodland in Attachment B. The project needs to be down sized and redesigned to preserve natural vegetation and

biological resources, especially the stands of very large native (e.g., oak and bay) and non-native trees. These also provide habitat for wildlife. For example, the western red bat is present and requires these wide swaths of very large, mature trees for roosting and foraging.

These are significant impacts. For the reasons stated above, the project is not consistent with the General Plan and findings of the General Plan EIR.

CEQA Analysis, II. Purpose and Summary of This Document,
C. Project Consistency with General Plan and Zoning

- Comment II.C.4 - Significant Impact of Development In Setback & Conservation Areas

Existing Text. Section II.C on page 22 of the CEQA document states: "Lastly, properties in Alameda County are required to conform with Alameda County General Ordinance Code 13.12.320, which establishes a 20-foot minimum setback requirement for developments near creeks. The project would comply with this requirement. A thorough investigation and biological assessment was conducted in the creek/riparian zone to determine if any site-specific impacts would be created, using General Plan policies specific to areas with high priority biological resources. No significant impacts were identified. For the above reasons, the project is consistent with the General Plan and the findings of the General Plan EIR."

Comment. CEQA Analysis Section II.C incorrectly states that the project complies with Alameda County General Ordinance Code 13.12.320 (Watercourse Protection Ordinance, WPO) and there are no significant impacts.

- The project does not comply with the WPO because the project plans show substantial grading of soils (up to 4 feet deep) over ~60% of the minimum 20-foot setback area and associated conservation easement area. In addition, trail plans show a 3.5-foot-high fence along the trail that is 2.5 feet inside the minimum creek setback line. See this development in Attachment C. Such development inside the setback (i.e., grading, fence, and/or retaining wall) is generally not permitted under the WPO and does not satisfy the purposes of the WPO. In addition, the conservation easement is a required and protected riparian mitigation area with required native plant monitoring and maintenance.
- Grading, fences, and/or retaining walls in these areas are generally not be permitted, and any such developments would require mitigations.
- This aspect of the project is a significant impact and the project is therefore not consistent with the General Plan and the EIR findings. This significant impact needs to be documented in the Biological Resources Significance Criteria table (Section III.C on page 40) by marking both criteria C.b and C.e as "new or substantial increase" along with a thorough analysis in the Biological Resources Section.

Additional Explanation. The grading plans show the daylight limit extends over ~60% of the 20-foot setback area and associated conservation easement area. Some grading cross sections also show the change in grading elevation to be 4-feet. In addition, trail plans show a 3.5-foot-high fence along the trail that is 2.5 feet inside the minimum creek setback line. See excerpts of the grading and landscape plans in Attachment C. Such grading, fences, and/or retaining walls inside

the setback are defined as "development" under the WPO, are generally not permitted under the WPO, and does not satisfy the purposes of the WPO. See Attachment D for relevant definitions and requirements of the WPO. Note that: a) "Development" means any act of filling, depositing, excavating or removing any natural material; and b) One of the purposes of the WPO that must be satisfied is prevention of activities that would "…destroy riparian areas or inhibit their restoration."

CEQA Analysis, III. CEQA Checklist, A. Aesthetics, 2. Project Analysis
Significance Criterion A.a, Scenic Vistas

- Comment III.A.2 ~ A.a.1 – Creek Viewing from The Trail
  This section states that "…The [multi-use] trail would provide new views of the creek for recreational users." Such viewing is unlikely (based on site experience) that trail users will be able to see the creek from the trail since the trail is setback, the creek is deep, and there is a 3.5-foot fence along the trail. Any developer of this site will need to work with the conservation easement holder (Flood Control) to determine how and where the trail users can closer to the top-of-bank to see down into the creek.

CEQA Analysis, III. CEQA Checklist, A. Aesthetics, 2. Project Analysis
Significance Criterion A.c, Visual Character and Quality

- Comment III.A.2 ~ A.c.1 – Description of Existing Trees and Visual Impact
  The description of trees and woodlands (or lack thereof) for this site and the surrounding area sounds like someone wrote this that did not want to describe: a) all the tree cover on the site and in the surrounding creek corridors, and b) the visual impact that this development will have when the existing trees are removed and replaced by buildings, parking lots and a trail that in some cases is four feet above the minimum creek setback elevation. Take a look at the tree and habitat descriptions in Comment III.C.4 ~ C.b.2.4, tree data and pictures in Attachment E, and aerial views of trees in Attachment B… then write a real description of how most of the site's mature trees/woodland would be replaced by development and landscaped trees. Oh, come on, you can do better if you try even a little.

- Comment III.A.2 ~ A.c.2 – It's not Coyote Creek
  This section mentions "Coyote Creek." There is no "Coyote Creek," except when you look on Google Maps. Look at the aerial view on the third page of Attachment B for the names of the creeks. Castro Valley Creek and Chabot Creek converge to form Chabot Creek near the HARD Senior Center, and then Chabot Creek flows into San Lorenzo Creek.

- Comment III.A.2 ~ A.c.2 – Dark Sky Lighting
  The visual and wildlife impacts of night-time lights shining towards riparian areas and trees needs to be discussed. This site currently has no lights on the site. The project should use International Dark Sky Association guidelines and certified outdoor fixtures.

CEQA Analysis, III. CEQA Checklist, C. Biological Resources, 3. Regulatory Framework

- Comment III.C.3 – Add Local Polices to the Regulatory Framework

Add the following local polices to the Regulatory Framework in the Biological Resources section of the project's CEQA Analysis: Watercourse Protection Ordinance, Specific Plan for Areas of Environmental Significance, Alameda County Resources Conservation Element, and ROSA. These policies are included in the CV General Plan EIR.

Watercourse Protection Ordinance
The Watercourse Protection Ordinance (WPO) contains requirements for development and activities in and adjacent to creeks in unincorporated Alameda County. The WPO generally does not allow "development" and "structures" within the required setback area and any riparian area. A required setback for an open course channel with steep earthen banks would typically be determined by first calculating a 2:1 slope from the toe of all sections of the creek and then adding a 20-foot minimum additional setback distance. Then the locations of current and damaged riparian areas must also be determined and include in the setback area. The location of riparian areas must be included in the setback since "…the purpose of setbacks is… preventing activities that would… destroy riparian areas or inhibit their restoration."

Specific Plan for Areas of Environmental Significance (1977)
This is a countywide specific plan that creates a Site Development Review process for designated areas of environmental significance. These areas are located throughout the county in riparian areas, where a watercourse forms the environmental focal point, and along the scenic route corridors identified in the County's Scenic Routes Element. The specific plan provides development guidelines but does not regulate permitted land uses. The County's proposed Resources, Open Space, and Agriculture (ROSA) elements, described below, are intended to replace this plan.

Alameda County Resources Conservation Element (1994)
The existing Alameda County Resources Conservation Element (1994) requires the County to locate uses or development that would seriously impact or jeopardize biological resources away from areas with significant biological resource value. The RCE requires the County to prioritize the preservation of lands that should be left substantially undeveloped including riparian habitats, habitat of rare or endangered species, and wetlands supporting concentrations of waterfowl. The RCE also requires the County to encourage the protection and restoration of sensitive and rare habitat types, including native grasslands, riparian woodlands, and oak woodlands, and to designate Sensitive Habitat Areas (SHAs) as a way to protect unique resources from development. The RCE also proposed that all SHAs were to be reclassified to Resource Management district.

Alameda County General Plan - Resources, Open Space, & Agriculture (ROSA) elements
The County is updating its Resource Conservation, Open Space, and Agriculture (ROSA) elements. The Castro Valley General Plan must be consistent with the countwide ROSA

elements, which will also incorporate the policies for lands outside the Planning Area that voters adopted in 2000 with the approval of Measure D. The updated ROSA will replace the existing resource, open space, and agriculture elements as well as the 1966 Scenic Route Element, the 1973 Open Space Element, and the 1977 Specific Plan for Areas of Environmental Significance.

The existing Alameda County Resources Conservation Element (1994) requires the County to locate uses or development that would seriously impact or jeopardize biological resources away from areas with significant biological resource value. The RCE requires the County to prioritize the preservation of lands that should be left substantially undeveloped including riparian habitats, habitat of rare or endangered species, and wetlands supporting concentrations of waterfowl. The RCE also requires the County to encourage the protection and restoration of sensitive and rare habitat types, including native grasslands, riparian woodlands, and oak woodlands, and to designate Sensitive Habitat Areas (SHAs) as a way to protect unique resources from development. The RCE also proposed that all SHAs were to be reclassified to Resource Management district.

When adopted, the ROSA elements would substantially contribute to the preservation and protection of biological resources throughout the County's unincorporated area. The proposed Castro Valley General Plan incorporates a number of the policies from the ROSA Resource Conservation and Open Space elements that would, in the meantime, only be applicable to this Planning Area. These policies deal with issues such as stream protection, stormwater drainage, standards for creekside development, protection of biological resources, habitat protection and restoration, tree protection, open space preservation, and open space dedication requirements.

CEQA Analysis, III. CEQA Checklist, C. Biological Resources, 4. Project Analysis

- Comment III.C.4 – General Plan and EIR Goals, Policies, and Actions
Unlike other sections, no Biological Resources goals, policies, and actions from the General Plan and EIR are included in the Project Analyses for each criterion. Review and incorporate the relevant General Plan Biological Resources goals, policies, and actions (see Attachment G).

CEQA Analysis, III. CEQA Checklist, C. Biological Resources, 4. Project Analysis Significance Criterion C.a, Special Status Plant and Animal Species

- Comment III.C.4 ~ C.a.1 – Scope of Caltrans Plant Restoration

Existing Text. The Special Status Plant Species section on page 45 states: "The riparian corridor has been restored with common, native riparian trees, shrubs, forbs, and grasses as part of the Hayward Riparian Mitigation State Route 84 Pigeon Pass Realignment Project, but due to prior disturbance, special-status plants are unlikely to occur."

Revise Text. These sentences should be revised to state: "Some areas of creek bank and some areas within 20 feet of the top of bank were restored with common, trees, shrubs, forbs, and grasses as part of the Hayward Riparian Mitigation State Route 84 Pigeon Pass Realignment Project. New trees were limited to red willows planted on some lower creek banks. But due to prior disturbance, special-status plants are unlikely to occur."

Reason for Change. The Caltrans mitigation project Natural Environmental Study stated that the project would enhance and restore 1.83 acres of riparian woodland to satisfy a portion of the mitigation required for the Pigeon Pass Realignment Project. The Caltrans project did not define or claim to "restore the riparian corridor." In fact, the Caltrans project did not plant significant native plants in major sections of creek bank and top-of-bank areas that were disturbed during the project. See Attachment G for excerpts from the Caltrans project.

- Comment III.C.4 ~ C.a.2 – Special Status Plants in Caltrans Biological Study Area

Existing Text. The Special Status Plant Species section on page 45 states, "Additionally, the NES prepared for the Hayward Riparian Mitigation State Route 84 Pigeon Pass Realignment Project, which evaluated the potential for special-status plants to occur within the project site's riparian corridor, states that no special-status plants are expected to occur within the riparian corridor due to the lack of suitable habitat."

Revise Text. These sentences should be revised to state: "Additionally, the NES prepared for the Hayward Riparian Mitigation State Route 84 Pigeon Pass Realignment Project, which evaluated the potential for special-status plants to occur within the project's biological study area (BSA), stated that no special-status plants were expected to occur within the BSA due to the lack of suitable habitat."

Reason for Change. The Caltrans NES states: "No special-status plants are expected to occur within the BSA. Habitat conditions within the BSA are not suitable for special plant species identified in the literature review." The Caltrans NES did not use or define the term "riparian corridor."

- Comment III.C.4 ~ C.a.3 – Special Status Bats

Monitoring for bats at the Ruby site was led and analyzed by a bat expert from California State University Monterey Bay, Bethany Schulze. Monitoring was conducted in August, October, and November 2019. Results of this monitoring and conclusions are provided in Attachment F. This monitoring identified the presence of the following species of bats:

- Yuma myotis, a very common and not currently threatened bat
- Mexican free-tail bat, a very common and not currently threatened bat
- Western red bat, an uncommon bat and California Species of Special Concern

Add this monitoring information to the CEQA Analysis and add western red bats to the list of special-status animal species.

The CEQA Analysis also noted that the following special-status animal species are known to occur in the vicinity of the site and for which suitable habitat is present: Townsend's western big-eared bat (*Corynorhinus townsendii townsendii*), western mastiff bat (*Eumops perotis californicus*), and pallid bat (*Antrozous pallidus*).

- Comment III.C.4 ~ C.a.4 – Add General Plan Policies and Actions Related to Special Status Bats

Add the following General Plan policies and actions to the CEQA Analysis. These polices and actions are applicable to this project and are listed under General Plan EIR Impact 3.5-5 as required to reduce risk to special status bat species or their habitat to less than significant.

EIR Impact 3.5-5 Proposed General Plan Policies & Programs that Reduce the Impact
The Draft General Plan proposes establishment of a Biological Resources Overlay Zone to protect areas with substantive biological resources, such as creeks, hillsides, and riparian areas, by requiring special review of proposed development in the zone. Figure 3.5-1 of this EIR identifies the biological resource priority levels in the Planning Area. The highest priority resources would be waterways, drainages, oak riparian woodland, permanent open space areas, and coastal scrub areas near creeks or large open space areas. Special review would be required for projects in high priority areas as well as for development on sites larger than two acres in moderate- and low-priority zones. Special review may involve environmental review, site plan and development review, and the application of board policy or ordinance requirements. Other policies and programs that would reduce the Plan's impact on special status bat species or their habitat include the Policies 7.1-1, 7.1-2, 7.1-3, 7.1-11, 7.2-4, 7.3-1, 7.3-2, 7.3-3, 7.3-4 and Actions 7.1-2, 7.1-3, 7.3-1.

Policy 7.1-1 Protect the County's major wildlife corridors that run through Castro Valley: (1) the corridor along the east Bay Hills in the forest and chaparral between major interstate highways; and (2) along streams, especially those with riparian vegetation. (Reference – Draft ROSA Policy RC-41, Protection of Wildlife Corridors)

Policy 7.1-2 Preserve a continuous band of open space consisting of a variety of plant communities and wildlife habitats to provide comprehensive rather than piecemeal habitat conservation for all of Alameda County. (Reference – Draft ROSA Policy OS-3; Contiguous Habitat Conservation)

Policy 7.1-3 Incorporate design features that minimize the impacts of development on biological resources in any development planned on or adjacent to high and moderate priority areas designated on the Figure 3.5-2, Biological Resources Overlay Zone (Reference – Draft ROSA Policy RC-24, Minimization of Biological Impacts)

Policy 7.1-11 Require that open space provided as part of a development project be designed to achieve multiple open objectives, including but not limited to: recreation, scenic values, habitat protection, and public safety. (Reference - Draft ROSA Policy OS-11, Open Space Provided by Development)

Policy 7.2-4 Require new development to set aside sufficient right-of-way and setback areas to accommodate multi-use objectives for storm drainage, flood control features, recreation, habitat protection, and other appropriate uses. (Reference – Draft ROSA Program 6 – Require Setbacks)

Policy 7.3-1 Continue to implement the Alameda County Tree Ordinance to protect trees in the public right-of-way.

Policy 7.3-2 Ensure that new development contributes to the maintenance and enhancement of the community's natural environment by preserving existing native trees whenever feasible, replacing trees on-site, and adding trees and other vegetation in the public right-of-way.

Policy 7.3-3 Promote the use of native tree and plant species in public and private landscaped areas.

Action 7.1-2 Establish a Biological Resources Overlay Zone delineating high, moderate, and low priority areas for habitat preservation, to ensure maximum protection of biological resources.

- Require discretionary review for all development applications on properties within the high priority biological resources overlay zone, and for large sites over two acres in size with moderate or low priority biological resources. Discretionary review could include one or more of the following: environmental assessment per the California environmental quality act; site plan and development review; and/or the application of Board policy or other ordinance requirements.
- Establish in the ordinance that on lands with biological resources, new development is not necessarily entitled to be built to the maximum density allowed by the underlying zoning. An environmental assessment may be required, prepared by a qualified biologist, which shall be the basis for establishing development constraints specific to the property in question. Development intensity may be required to be reduced up to 50 percent of the intensity allowed by the underlying zoning, depending on the extent and value of the biological resources on the site.
- Establish thresholds of review for different types of projects. For example, a comprehensive environmental assessment should be required for new subdivisions, whereas minor improvements such as fences or decks may be exempt from special review if they meet specific standards.

Action 7.1-3 Develop design guidelines for development projects about how to minimize the impacts of development on biological resources. Apply these guidelines through the Planning Department's project review process. Include information about ways in which special-status plant and wildlife populations on private properties can be protected over time. Specify that watercourses and areas dominated by native trees and shrubs be left undisturbed by development to the maximum extent feasible.

- Comment III.C.4 ~ C.a.5 – Significant Inconsistencies and Impacts Related to Special Status Bats

This project is not consistent with the special status bat species polices and actions listed above and will have significant impacts on bat species such as the special-status western red bats that are present. As such, the CEQA Analysis impact rating for biological resources significance criteria C.a for special status species (page 40) should be changed to "new or substantial increase."

This project plan is not consistent with Policies 7.1-1, 7.1-2, 7.1-3, 7.3-2 & Actions 7.1-2 and 7.1-3. The proposed project does not:

- Protect the necessary width and continuity of San Lorenzo Creek's major riparian and wildlife corridor (Policies 7.1-1 and 7.1-2)
- Minimize the impacts of development on biological resources for development that is planned on and adjacent to the site's designated high priority biological resource areas (Policy 7.1-3). See this site's high priority biological resource areas in Attachment B.
- Contribute to the maintenance and enhancement of the community's natural environment by preserving existing native trees on the project site (Policy 7.3-2). See the site's data on the mature native and non-native trees in Attachment E.
- Use the site's identified and extensive high priority Biological Resources Overlay Zones for habitat preservation to ensure maximum protection of biological resources (Action 7.1-2), as shown in Attachment B.
- Reduce the development density by up to 50 percent based on the high priority biological resources that are present (Action 7.1-2)

In addition, the County has not implemented Action 7.1-3 that includes:

- Development of design guidelines for projects about how to minimize the impacts of development on biological resources.
- Application of these guidelines through the Planning Department's project review process. Inclusion of information about ways in which special-status plant and wildlife populations on private properties can be protected over time.
- Specification that watercourses and areas dominated by native trees and shrubs be left undisturbed by development to the maximum extent feasible.

- Comment III.C.4 ~ C.a.6 – Reduce Development and Preserve Trees to Protect Special Status Bats

The size of this project needs to be greatly reduced (e.g., by 50%) to preserve the major stands and large numbers of mature native and non-native trees and the width of the San Lorenzo Creek riparian corridor. This action not only protects and provides habitat for common native plant and animal species, but also special-status species such as western red bats. Western red bats are a tree bat that roosts high in the foliage of mature trees. See Attachment F for research excerpts regarding WRB prime habitat.

The project proposes to remove major stands and large numbers of mature native and non-native trees in the San Lorenzo Creek riparian corridor/zone that closely match the species and configuration of trees that western red bats are known to differentially select as their prime roosting and foraging habitat.

- The research on western red bats reports that western red bats are most prevalent in well-developed riparian zones that are AT LEAST 164 feet wide and support larger, mature trees such as Fremont cottonwood, western sycamore, and/or valley oak within the Central Valley and elsewhere along major rivers and tributaries. These bats have also been observed using other non-native trees in these areas such as eucalyptus and fruit/orchard trees in these riparian zones. In addition, loss and degradation of these zones is the primary threat to western red bats.
- Tree species, maturity, and configuration on the Ruby site closely matches the reported prime WRB roosting and foraging habitat. The Ruby site has the following similarities with prime

WRB habitat:

- Mature Fremont cottonwood, western sycamore, and coast live oak on the creek banks; and
- Mature coast live oak and non-native trees (e.g., fruit and eucalyptus) in the area proposed for development.
- A well-developed riparian tree zone that is up to roughly 210 feet wide.

- This project proposes to reduce the width of the San Lorenzo Creek oak riparian woodland and wildlife corridor to 105-120 feet, which is significantly less than the larger widths (i.e., 164 feet OR LARGER) that western red bats are known to differentially select as their prime roosting and foraging habitat.

CEQA Analysis, III. CEQA Checklist, C. Biological Resources, 4. Project Analysis Significance Criterion C.b, Riparian or Other Sensitive Natural Communities

- Comment III.C.4 ~ C.b.1 – Zoning, Density, and Biological Resources

The Riparian or Other Sensitive Natural Communities section on pages 48-49 states: "As appropriate for a project located in a high priority area of the biological resources overlay zone, the project would comply with Action 7.1-1 of the General Plan, which states that "on lands with biological resources, new development is not necessarily entitled to achieve the maximum density allowed by the underlying zoning. Development intensity may be required to be reduced up to 50 percent of the intensity allowed by the underlying zoning…" Only 2.95 acres of the 6.3-acre site would be developed and the building is proposed on the portion of the site farthest from San Lorenzo Creek, as close to the public right-of-way as allowed by the County development standards and setback requirements."

- Comment III.C.4 ~ C.b.1.1 – Use only Parcel A to Show Density Compliance
When applying Action 7.1-1 of the General Plan, only the parcel on which the housing project would be built (future Parcel A which is 2.95 acres) can be considered. The other two noted parcels that makeup the 6.3-acre total cannot be considered because: a) The 2.987 acres of future Parcel C already have a pre-existing creek-setback and Caltrans-mitigation requirement to be a permanent conservation easement and therefore can never be developed, and b) The 0.341 acres of future Parcel B could only be included if a deed restriction is placed on Parcel B that prohibits future development. In addition, some existing parcels in future Parcel C are zoned as Open-Space Natural.

- Comment III.C.4 ~ C.b.1.2 – Reduce Housing Density Due to Biological Resources
The County needs to prohibit development on sections of future Parcel A that are covered by "Oak Riparian Woodland" which also forms the "Wildlife Corridor" (i.e., about half of Parcel A) as defined in the General Plan, and then reduce the allowable number of units and associated parking accordingly (from 72 units to ~36 units, and from 109 parking spots to ~55 spots). Development prohibition would apply to about half of future Parcel A based on:
  - Figures 7-1 and 7-2 of the General Plan that designate about half of Parcel A as "High Priority Biological Resources" and "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor" (see Attachment B).
  - Arial photographs of the site that also show about half of Parcel A is covered by trees which form the "Oak Riparian Woodland and Wildlife Corridor" identified in the General

Plan (see Attachment B); and

- The tree-specific survey conducted by local citizens (see Attachment E)
- Habitat requirements of wildlife species (e.g., western red bats that require wide riparian areas and mature woodlands for roosting and foraging).

Then the last sentence of the above paragraph should be deleted and changed to read: "The project's building and parking areas were placed in areas outside the oak riparian woodland."

- Comment III.C.4 ~ C.b.2 – Woodland Habitat Distinctions

Woodland habit and wildlife corridor distinctions used in the CEQA Analysis document (Section III.C.b on pages 49-54) may be biased in favor of the long-desired housing development and are not consistent with: a) protecting the site's extensive native woodland and the ecological continuity of riparian and wildlife corridor; and b) the terms and principles used in the General Plan and EIR (that lead directly to required policies and actions). Comments listed below provide further explanation.

- Comment III.C.4 ~ C.b.2.1 – Don't Fit the CEQA Analysis to the Desired Housing Development: Eden Housing starting created plans for housing units and parking spaces at least 8 years ago, prior to this project's biological assessment and this CEQA Analysis. These pre-assessment plans showed development within the minimum-allowed, creek-setback area and across most of the site outside the minimum creek setback. In this current situation, development of the CEQA Analysis (by Urban Planning Partners) would have a stronger bias towards fitting the CEQA Analysis (e.g., the biological resources analysis) to the desired housing density and needed development areas. This bias can easily be compounded by the fact that Eden Housing selected the CEQA Analysis consultant and is paying the costs of the analysis. In addition, the CEQA Analysis consultant is responding to the Planning Department of the Alameda County Community Development Agency (CDA) when developing the CEQA Analysis. CDA also includes the Housing and Community Development Agency and the former Redevelopment Agency, which have been working with Eden Housing, Caltrans, and the Housing Authority since at least 2010 on Ruby-site presale agreements and defining how much housing can be built on the site. So, there are appearances of potential conflicts of interest or sources of bias that could affect the CEQA Analysis.

- Comment III.C.4 ~ C.b.2.2 – Use General Plan & EIR Habitat and Corridor Definitions
  The General Plan and EIR (Section 3.5) define vegetation types, wildlife corridors, and sensitive habitat areas as listed below. These definitions and principles need to be applied in the CEQA Analysis, especially to prevent destruction of the site's native and non-native trees that constitute the "oak riparian woodland" and "wildlife corridor" of this unique section of San Lorenzo Creek.
  - Physical Setting and native vegetation types: "The western and central portions of the General Plan Area are largely developed. Native habitats include primarily oak/riparian woodland occurring along creeks." Throughout the General Plan area, "…native vegetation types include oak riparian woodland and coastal scrub."
  - Wildlife Corridors: "Oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife corridors. Non-native dominant habitats also may serve as

movement corridors when continuous with habitats supporting native vegetation; and

- Sensitive Habitat Areas: "All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include streams and wetlands..."

- Comment III.C.4 ~ C.b.2.3 - Habitat Distinctions Analysis Used to Match Housing Development
  Woodland habitat distinctions used in the CEQA document have the appearance of being crafted to: a) match the long-planned housing objectives and needed development area; b) only protect woodland habitat that cannot be developed because it is already fully protected by the Caltrans conservation easement and the minimum-ever-allowed creek setback; and c) not protect the mature and extensive native woodland and wildlife corridor that would be destroyed by the proposed development. The habitat terms, definitions, and distinctions used in the CEQA document to describe "Riparian or Other Sensitive Natural Communities" are summarized below and are not consistent with the terms and principles used in the General Plan and EIR. For example, policy principals in the EIR include protecting native woodland and wildlife areas that are necessary for a well-functioning corridor and comprehensive (rather than piecemeal) habitat preservation.

  - Comment III.C.4 ~ C.b.2.3.1 - Riparian Habitat and Corridor
    The CEQA document mostly defines and limits "riparian habitat" and "riparian corridor" using the criteria the California Department of Fish and Wildlife (CDFW) uses to define their jurisdiction. These criteria include the creek, creek bank, and tree canopy over the creek including adjacent upland trees that have continuous canopy with riparian trees. This definition: a) establishes where CDFW has jurisdiction and the area that has highest importance for the aquatic ecosystem; b) identifies an area nearly identical to the minimum-every-allow creek setback; and c) is not comparable to the broader ecological principles incorporated into the vegetation, corridor, and habitat definitions used in the General Plan and EIR. The CEQA document needs to use the broader General Plan and EIR definitions to identify and protect the woodlands that are within the proposed development area.

  - Comment III.C.4 ~ C.b.2.3.2 - Coast Live Oak Woodland
    The CEQA document assesses the areas with oak and other trees that are proposed for habitat destruction by the development. The assessment uses the Manual of California Vegetation criteria and concludes that the trees do not constitute a Coast Live Oak Woodland because the site does not have "...greater than 50% relative cover of coast live oak canopy cover..." This assessment and conclusion are flawed and lacking in the following ways:
    - The CEQA document did not report actual tree data or divide the proposed development area into sections to evaluate the composition and density of tree habitat. Local citizens did a tree-specific survey and summarized the site's tree data into three site sections. This data is presented in Attachment E.
    - The CEQA document did not evaluate the site's oak trees in comparison to the second criteria that defines a Coast Live Oak Woodland Alliance in the CNPS Manual of California Vegetation. The Manual states that less than 33 percent oak tree canopy cover is needed when California bay trees are also present. By this definition, the area

that is nearest Crescent Street, where parking lot and storm water management development is proposed, meets the characteristics of a Coast Live Oak Woodland Alliance because this area contains California bay trees and the highest density of coast live oak trees on the site. This area is about one third of the proposed development area.

- Comment III.C.4 ~ C.b.2.4 – Expand the Site's Habitat and Source of Disturbance Description
The Other Sensitive Natural Communities section of the CEQA document states (pp. 53-54) that: a) Grassland occupies the majority of the project site and does not support any sensitive habitat under CEQA, b) The grassland is highly disturbed by prior use and the understory of the trees has been colonized by non-native plants and does not provide suitable habitat for special status plants.

This section needs to greatly expand this description and note that:

- Trees in Development Area. About a third to half of the proposed development area that is outside of the minimum creek setback is covered by tree canopy. This habitat is described in the General Plan and overlay zone as sensitive habitat, oak riparian woodland, and wildlife corridor. The woodland and proposed impacts should be described as follows:
  - Tree Data. The project plans and field surveys indicate that there are about 97 trees within the proposed development area (See data presented in Attachment E). Of these 97 trees:
    - Ninety percent (87 trees or 90%) would be demolished by development
    - About half (45 trees or 46%) are native, and 37 of these trees are planned for removal. These trees are mostly coast live oak and some California bay and coast redwood.
    - About a third (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees.
  - Tree Species. The proposed development area includes native and non-native trees. Native trees within the proposed development area include coast live oak (30), California bay (6), coast redwood (7), black walnut (4), and box elder (1). Non-native fruit and nut trees include cherry (14), lemon (1), and persian walnut (1). Other non-native trees include privet (9), Brazilian pepper (6), ash (5), elm (4), eucalyptus (2), blackwood acacia (2), chestnut (2), maple (1), deodar cedar (1), and yucca (1).
- Caltrans Clearing of Vegetation. The 2016 Caltrans mitigation project: a) removed extensive undergrowth (described as invasives) and debris in the creek setback area and in some large areas outside the setback; b) did not replant any native trees in these areas and native bushes only in some areas; c) did not plant plants along the top of bank in order to maintain visibility into the riparian corridor and discourage encampments; and d) established drive-access-ways in some areas along the top-of-bank for equipment and vehicles needed for mitigation, planting, and maintenance. See excerpts of the Caltrans plans for vegetation removal and planting in Attachment G. So, some of the lack of undergrowth and trees in some areas within and outside the creek setback is partially due to the 2016 mitigation project. See Attachment B for aerial views of the site that show the presence of much undergrowth especially under and between trees closer to the creek before the Caltrans mitigation project.

- Comment III.C.4 ~ C.b.2.5 – Substantial Creek Setback Development (e.g., Grading)

Existing Text. "These trail locations overlap with the riparian canopy by only a couple of feet at most and the trail is not likely to impact these riparian trees since their canopy slightly extends over the trail. Slight grading of the ground surface might occur during the construction of the trail and parking lot, but since the grading would be shallow and only a few inches deep, the root zones below the tree canopies are not likely to be significantly impacted. As noted in *Chapter I, Project Description*, the County shall require the project sponsor to minimize grading to the greatest extent possible—especially within the creek setback or where the trail overlaps with the canopy of riparian trees—through measures such as installation of retaining walls, but at a distance to not impact rooting systems."

Comment. It is not correct and misleading to say the following: "…Slight grading of the ground surface might occur during the construction of the trail and parking lot, but since the grading would be shallow and only a few inches deep…" In fact, project grading plans show no retaining walls and substantial grading of soils (up to 4 feet deep) over ~60% of the minimum 20-foot setback area and associated conservation easement area. In addition, trail plans show a 3.5-foot-high fence along the trail that is 2.5 feet inside the minimum creek setback line. Such development (i.e., grading, fence, and/or retaining wall) is generally not permitted under the Watercourse Protection Ordinance, is a significant impact, and should not be allowed. See comment II.C.1 for additional details.

CEQA Analysis, III. CEQA Checklist, C. Biological Resources, 4. Project Analysis Significance Criterion C.c, Federally Protected Wetlands

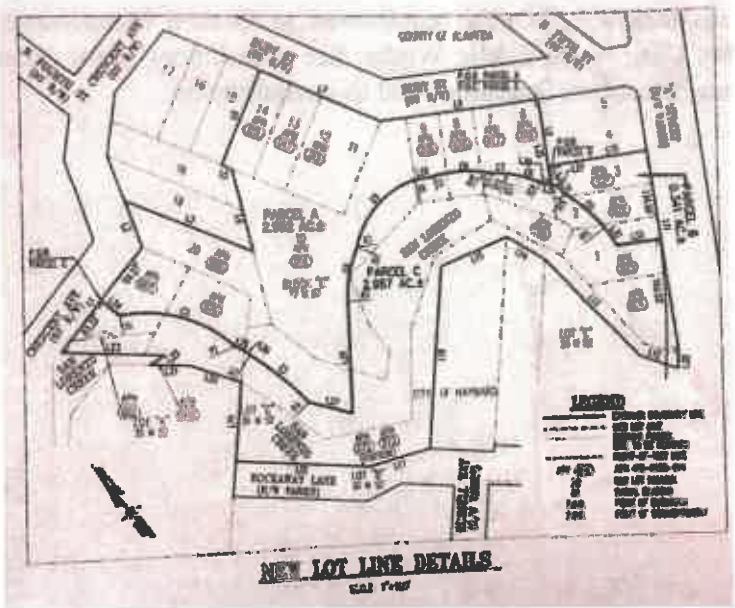
- Comment III.C.4 ~ C.c.1 – Include Requirement for Watercourse Permit for the Stormwater Outfall
Installation of a new naturalized storm water outfall and associated riprap in the bank of San Lorenzo Creek needs to also include the requirement to obtain a Watercourse Permit approved by the Alameda County Director of Public Works. See Attachment D for excerpts of the Alameda County Watercourse Protection Ordinance and this requirement.

ATTACHMENT A

Project Plan Excerpts



Excerpt of the landscape site plan L1.1



Excerpt of new lot line details showing Parcel A, Parcel B, and Parcel C

ATTACHMENT B

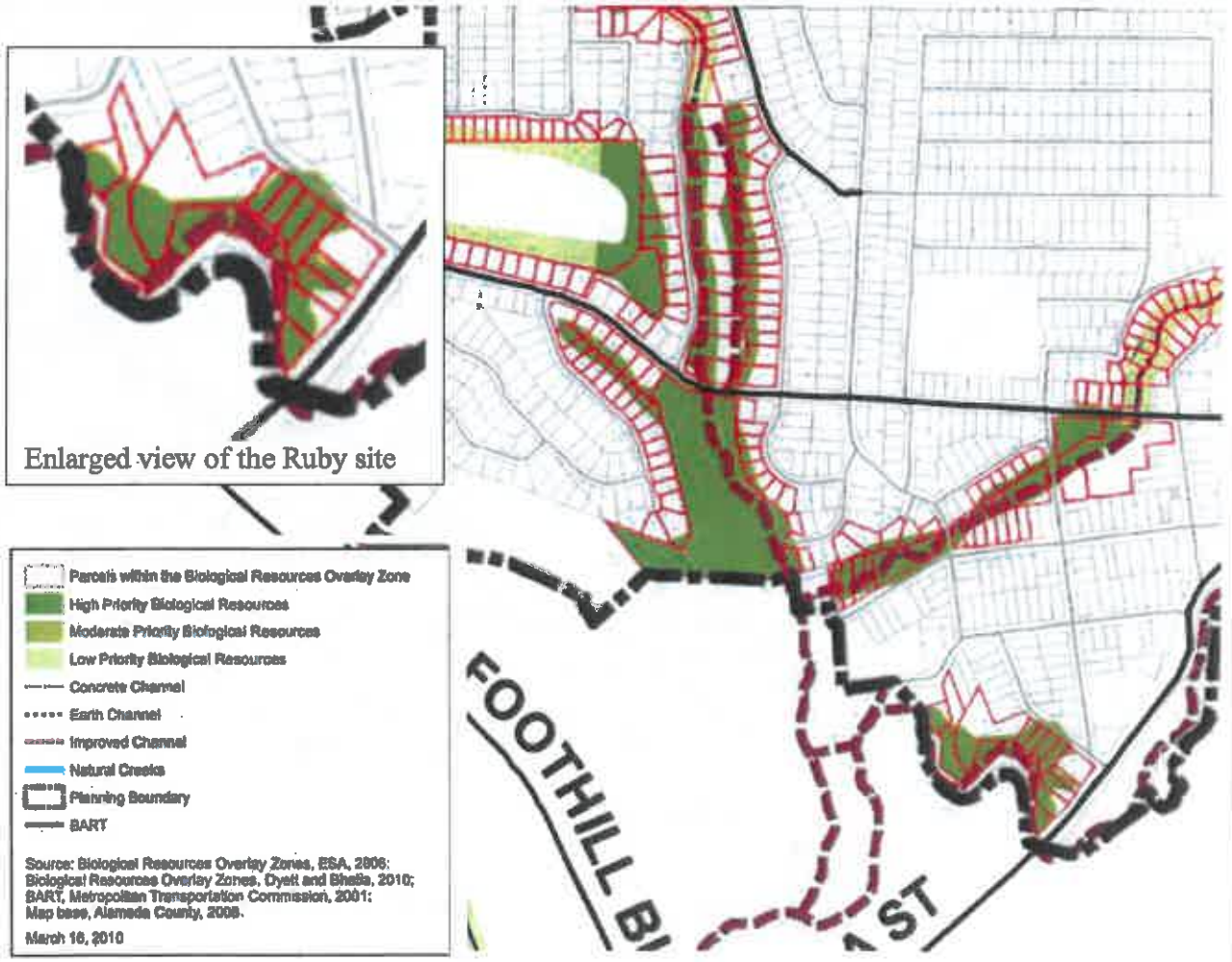
Castro Valley General Plan Biological Resourses and Habitat Overlays and Satellite Views of the Site and Vegetation from 2002 to 2019

The Castro Valley General Plan designates much of the Ruby Street proposed project area as

- "High Priority Biological Resources;" and
- "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."

These biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the areas shown in the Castro Valley General Plan.

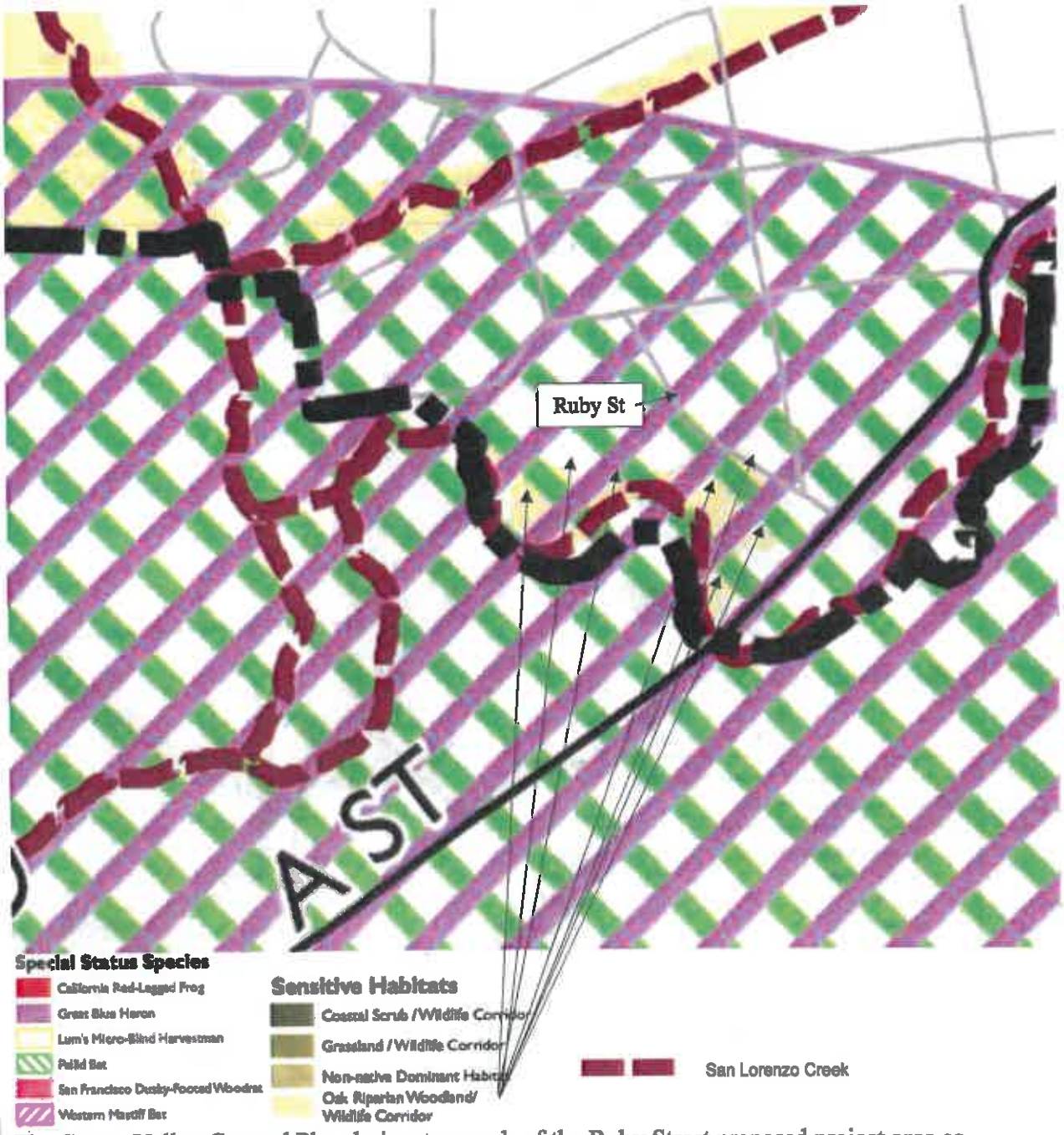
High Priority Biological Resource Areas



The Castro Valley General Plan designates much of the Ruby Street proposed project area as "High Priority Biological Resources." *Reference: Castro Valley General Plan, Chapter 7, Figure 7-2*

ATTACHMENT B (Continued)

Sensitive Habitat and Oak Riparian Woodland/Wildlife Corridor Areas

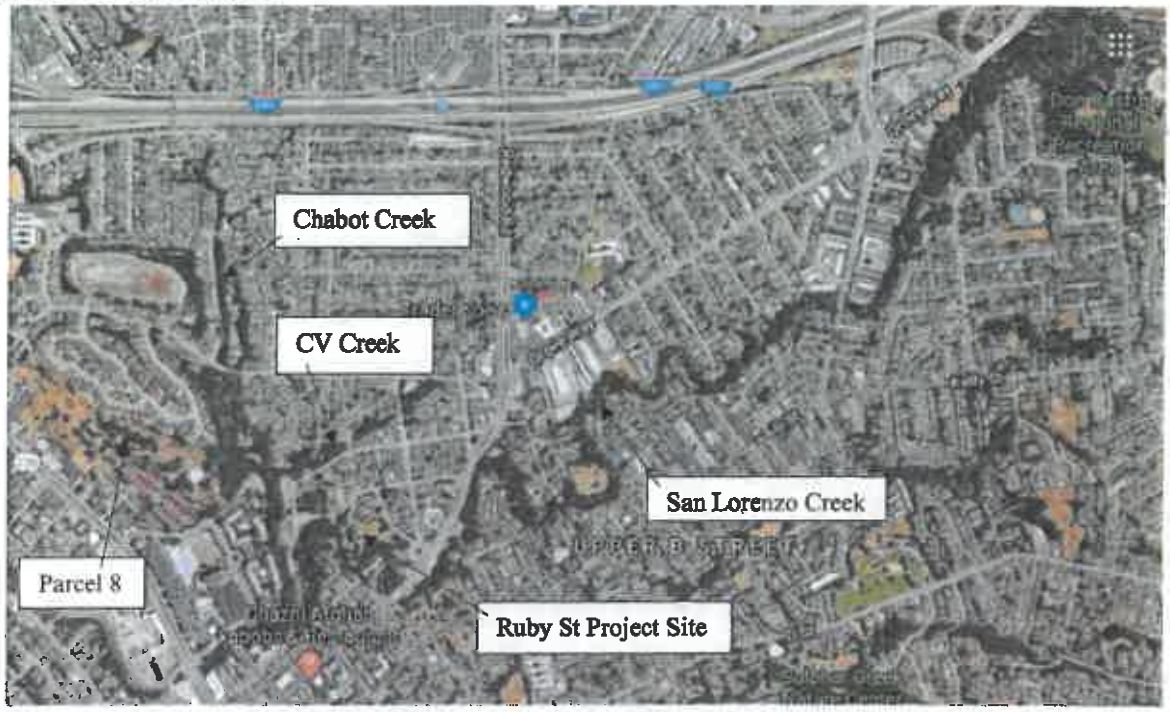


The Castro Valley General Plan designates much of the Ruby Street proposed project area as "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."

Reference: Castro Valley General Plan, Chapter 7, Figure 7-1

ATTACHMENT B (Continued)

Wildlife Corridors



Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo Creek, Chabot Creek, and Castro Valley Creek.



ATTACHMENT B (Continued)

Ruby St Satellite View 2019



Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.



ATTACHMENT B (Continued)



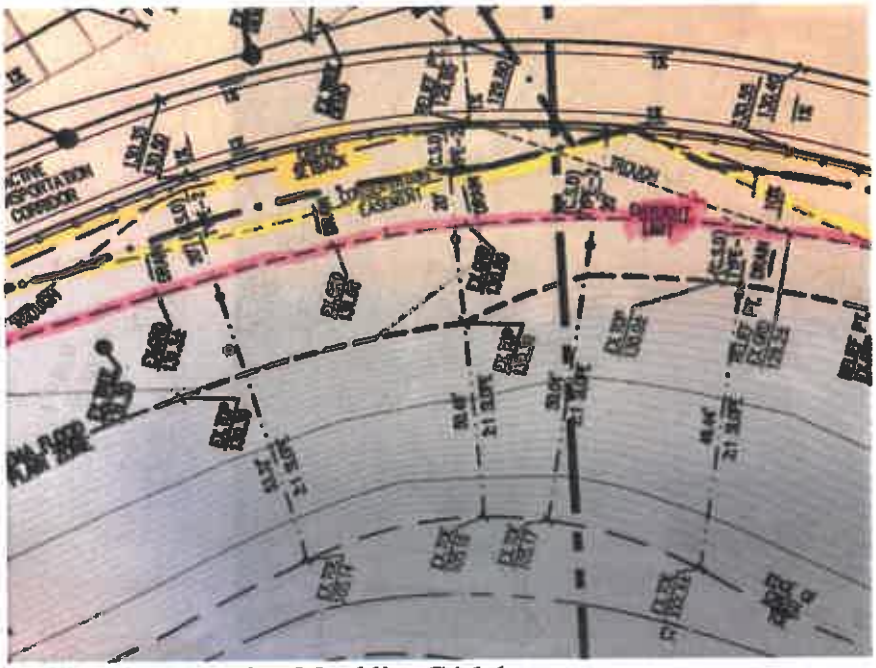
Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.



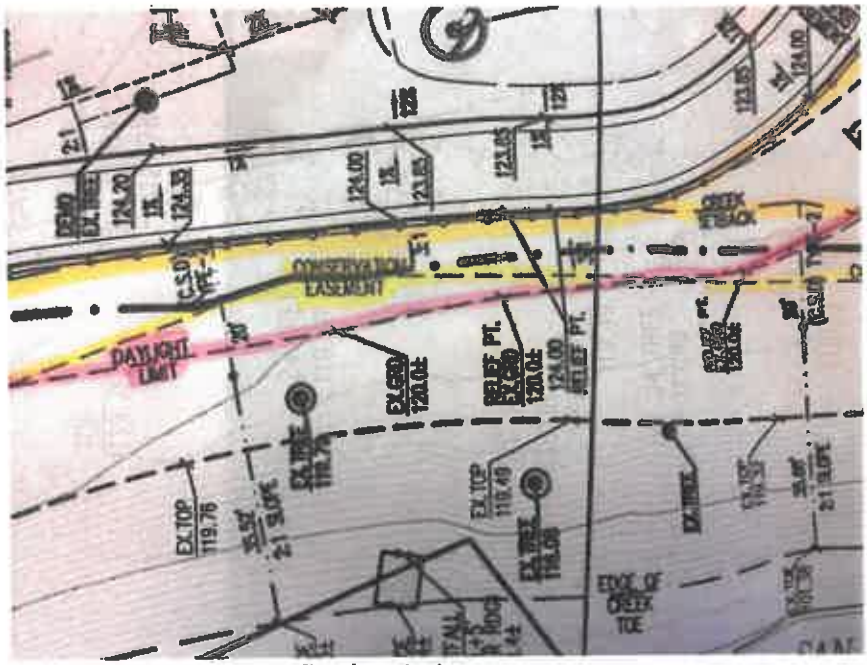
ATTACHMENT C

Development Covering and In the Creek Setback and Conservation Easement

(i.e., Grading to the Daylight Limit, Trail Fences, and/or Retaining Walls)

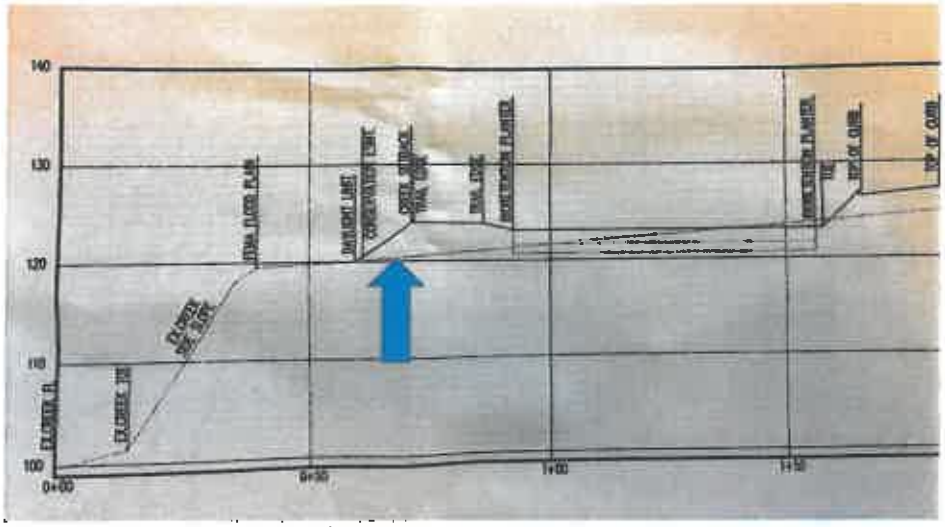


Grading Plan C4.1.2 at Matchline C4.1.1
Plan excerpt shows substantial, unpermitted grading into the setback and conservation easement

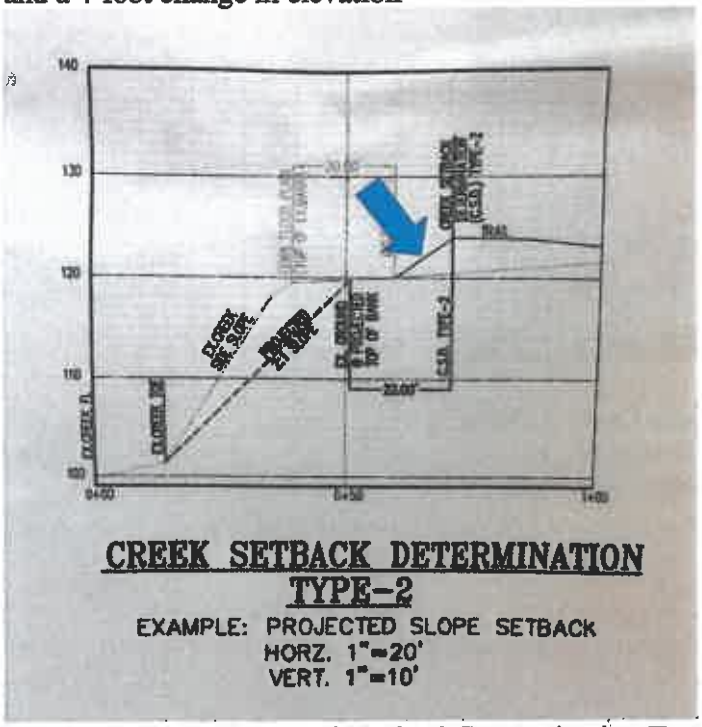


Grading Plan C4.1.1 at Section A-A
Plan excerpt shows substantial, unpermitted grading into the setback and conservation easement

ATTACHMENT C
(Continued)
Development Covering and In the Creek Setback and Conservation Easement
(i.e., Grading to the Daylight Limit, Trail Fences, and/or Retaining Walls)

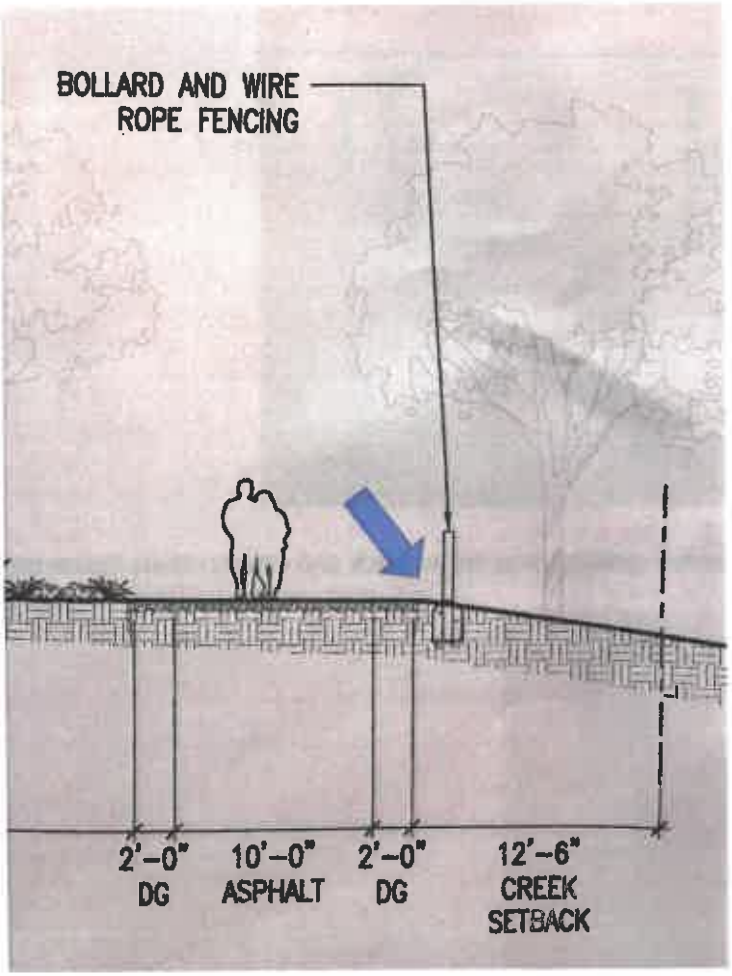


Grading Plan C4.1.3, Section A-A
Plan excerpt shows substantial, unpermitted grading into the setback and conservation easement and a 4-foot change in elevation



Grading Plan C4.1.3, Creek Setback Determination Type-2 (minimum setback of 2:1 +20 feet)
Plan excerpt shows substantial, unpermitted grading into the setback and conservation easement and a 4-foot change in elevation

ATTACHMENT C
(Continued)
Development Covering and In the Creek Setback and Conservation Easement
(i.e., Grading to the Daylight Limit, Trail Fences, and/or Retaining Walls)



Landscape Plan L2.1 Option B - Trail Fence Cross Section
Note that the trail fence is 3.5-feet tall and is shown as
inside the creek setback, which is unpermitted development

ATTACHMENT D
Excerpts of the Watercourse Protection Ordinance Setback and Development Requirements

Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction
This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)
Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD Water Course Permit]

See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at: https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.12WAPR
- Set Back Criteria diagrams are at: http://friendsofsanlorenzocreek.org/ord13-12-320.htm

ATTACHMENT E

Eden Housing Proposed Ruby Street Project Oak-Riparian Woodland Damage
Friends of San Lorenzo Creek (August 19, 2019)

Extensive Biological Resources and Sensitive Habitat, described as Oak Riparian Woodland and Wildlife Corridor in the Castro Valley General Plan, will be removed by the proposed housing project.

Table 1 – Trees to Demolished and Remain, Native & Non-Native

Trees (> 4-inch diameter) to be demolished and remain based on our actual field survey and the June 2019 project plans.

Trees	June 2019 Plan	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
Native [1]	Demolish	30	2	5	37
	Remain	4	3	1	8
Non-Native [2]	Demolish	21	24	5	50
	Remain	1	0	1	2
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Native Trees include Coast Live Oak, California Bay (Laurel), and Coast Redwood.
[2] Non-native trees include mostly Cherry, Black Walnut, and Ash.

Table 2 – Trees to Demolished and Remain, Based on Trunk Diameter

Tree Diameter (Inches)	June 2019 Plan of Action	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
4 to <12"	Demolish	14	14		28
	Remain			1	1
≥12 to <24"	Demolish	23	7	4	34
	Remain	1	2		3
≥24 to <32"	Demolish	7	4	2	13
	Remain	1			1
≥32"	Demolish	7	1	4	12
	Remain	3	1	1	5
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Diameter at Breast Height (4.5 feet)

Some conclusions:

- Oak Riparian Woodland and Wildlife Corridor would be removed within the development area of the project.
- There are about 97 trees within the proposed development area. Of these 97 trees:
  - Ninety percent (87 trees or 90%) would be demolished by development
  - About half (45 trees or 46%) are native, and 37 of these trees are planned for removal. These trees are mostly Coast Live Oak and some California Bay and Coast Redwood.
  - About a third (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees.
- Areas proposed for parking lots and storm water management have the highest concentration of trees.
- The Crescent Street area (parking lot and stormwater mgt) has 2 to 5 times more trees than the other areas, and the greatest concentration of native and largest trees (≥24 inches). This area also steps down in elevation towards San Lorenzo Creek, possibly due past creek cutting-erosion.
- Past (130 years) and current human activity in the proposed development areas, including recent Caltrans mitigation project work, have removed undergrowth and prevented growth of native trees & ground cover.

Ruby Site Tree Survey Data
August 19, 2018

General Area	Species	Trunk Diameter at Breast Height (inches)	Trunk Circumference (feet-inches)	Canopy Diameter (feet-inches)	
Crescent Street, Parking Lot, & Storm Water Mgt Areas					
	Cherry	72"	18'10"		
	California redwood	42"	11'	22'	
	California redwood	40"	10'6"	22'	
	Cedar	29"	7'6"	37'	
	Cedar	19"	5'	21'	
	California redwood	41"	10'9"	39'	
	Cherry	12"	3'3"	11'6"	
	California redwood	22"	5'8"	24'	
	Coast live oak	17"	4'4"	17'	
	Coast live oak	27"	7'8"	47'	
	Coast live oak	17"	4'4"	31'6"	
	Coast live oak	8"	2'1"	22'6"	
	California bay	8"	2'1"	17'	
	California redwood	25"	6'8"	21'	
	California bay	19"	5'	15'	
	California redwood	17"	4'6"	12'	
	Coast live oak	20"	5'3"	36'	
	Cherry	6"	1'6"	14'	
	California bay	4"	1'	15'	
	Cherry	15"	4'	34'	
	Cherry	11"	3'	19'	
	Cherry	17"	4'6"	12'	
	Cherry	12"	3'	14'	
	Cherry	9"	2'6"	10'	
	Lemon	17"	4'5"	13'	
	Cherry	8"	2'1"	16'	
	Coast live oak	10"	2'7"	11'	
	Coast live oak	7"	1'10"	8'	
	Cherry	5"	1'4"	12'	
	California redwood	36"	9'1"	18'	
	Box elder	13"	3'5"	18'	
	Ash	24"	6'3"	25'	
	Black walnut	33"	8'8"	18'	
	Privet	16"	4'2"	17'	
	Cherry	6"	1'6"	10'	
	Ash	8"	2'1"	11'	
	Ash	13"	3'5"	20'	
	Ash	12"	3'	14'	
	Coast live oak	9"	2'6"	11'	
	Coast live oak	4"	1'	8'	
	Coast live oak	33"	8'8"	21'	
	Ash	12"	3'	20'	

	Coast live oak	30"	7'10"	23'	
	Coast live oak	24"	6'3"	22'	
	Coast live oak	14"	3'8"	28'	
	Coast live oak	36"	9'1"	26'	
	California bay	55"	14'5"	24'	
	Coast live oak	20"	5'3"	15'	
	Coast live oak	24"	6'3"	22'	
	Coast live oak	16"	4'2"	17'	
	Coast live oak	24"	6'3"	21'	
	Coast live oak	21"	5'6"	19'	
	Coast live oak	19"	5'	25'	
	Black walnut	14"	3'8"	18'	
	Black walnut	12"	3'	9'	
	California bay	8"	2'1"	7'	
Ruby Street & Parking Lot Areas					
	Coast live oak	24" *	6'3"		
	Coast live oak	12"	3'		
	Cherry	8"	2'1"		
	Privet	16"	4'2"		
	Privet	21"	5'6"		
	Yucca	12"	3'		
	Privet	6"	1'6"		
	Elm	15"	3'11"		
	Privet	15"	3'11"		
	Elm	9"	2'6"		
	Coast live oak	17"	4'6"		
	Privet	4"	1'		
	Elm	11"	2'11"		
	Pepper	6"	1'6"		
	Elm	21"	5'6"		
	Privet	21"	5'6"		
	Privet	10"	2'7"		
	Pepper	7"	1'10"		
	Eucalyptus	31"	8'		
	Eucalyptus	12'6"	12'6"		
	Coast live oak	71"	9'9"		
	Acacia	9"	2'6"		
	Acacia	34"	9'		
	Coast live oak	23"	6'		
	Walnut	27"	7'1"		
	Pepper	11"	2'11"		
	Pepper	7"	1'10"		
	Pepper	4"	1'		
	Maple	10"	2'7"		
	California bay	7"	1'10"		
	Pepper	10"	2'7"		
Housing Building Area					
	Persian walnut	28"	7'4"		
	Coast live oak	20"	5'3"		
	Cherry	23"	6'		
	Privet	7"	1'10"		

	Coast live oak	27"	7'1"		
	Chestnut	12"	3'		
	Coast live oak	36"	9'1"		
	Coast live oak	13"	3'5"		
	Cherry	53"	13'2"		
	Chestnut	60"	15'8"		
	Coast live oak	58"	15'2"		
	Coast live oak	33"	8'8"		

ATTACHMENT E
(Continued)

Oak Riparian Woodland: Mature and heritage coast live oak and California bay trees







ATTACHMENT E
(Continued)

Oak Riparian Woodland: Mature coast live oak, California bay, coast redwood, and other trees









ATTACHMENT E
(Continued)

Wildlife Corridor: Daily black-tailed deer, turkeys, and turkey vultures










ATTACHMENT E
(Continued)

San Lorenzo Creek and its banks







San Lorenzo Creek and its banks



ATTACHMENT F
Western Red Bat Habitat Research Excerpts

Pierson, E.D., W.E. Rainey and C. Corben. 2006. Distribution and status of Western red bats (Lasiurus blossevillii) in California. Calif. Dept. Fish and Game, Habitat Conservation Planning Branch, Species Conservation and Recovery Program Report 2006-04, Sacramento, CA 45 pp.

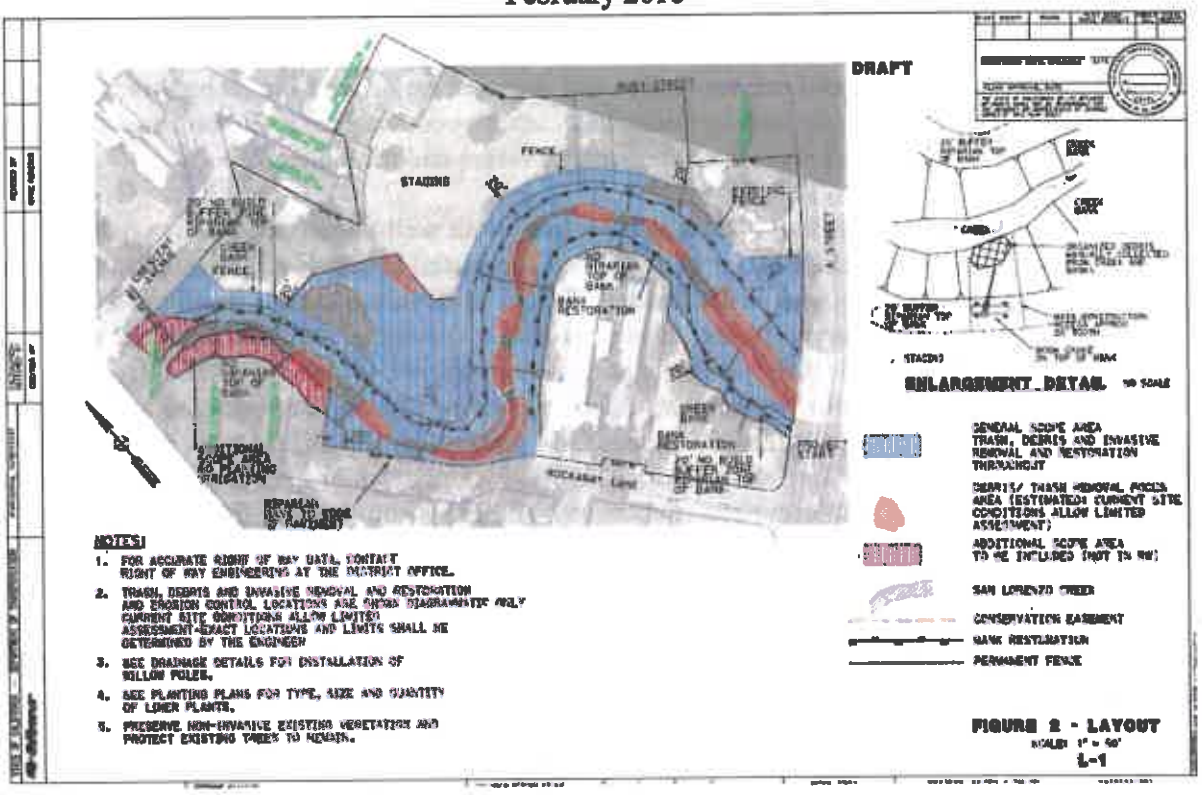
"The primary threat to western red bat is loss and degradation of well-developed riparian zones that support larger, mature trees such as Fremont's cottonwood, western sycamore, and valley oak within the Central Valley and elsewhere along major rivers and tributaries."

The western red bat, as a tree bat, is closely associated with well-developed riparian habitats that provide suitable roosting sites. Pierson et al. (2006) conducted acoustic and selected mist netting surveys at potential roosting sites in the Central Valley. Most of the sample locations were along the Sacramento and San Joaquin rivers, as well as tributaries and some other selected sites with suitable habitat. At each site they assigned the riparian habitat to one of three categories: (A) Fremont cottonwood (*Populus fremontii)*/western sycamore (*Platanus racemosa*) and/or valley oak (Quercus lobata) in zones at least 50 meters (164 feet) wide; (B) mature trees but only two or three trees wide; and (C) one tree and secondary growth/young trees in sparsely vegetated riparian strips. They also had a fourth non-riparian category: (D) grass/shrubs more than 100 meters (328 feet) to nearest trees. Western red bats were detected wherever there was suitable riparian habitat, but most of the detections were in the "A" category. Pierson et al. (2006) also observed foraging along gravel bars within rivers, but only where the gravel bars were at least 50 meters (164 feet) wide and several hundred meters long. Notably, western red bat densities peaked in July and August and then declined in the fall, presumably when bats were moving to winter sites.

Although Pierson et al. (2006) determined that western red bats differentially select wide, well-developed riparian habitats with mature trees (i.e., A-category habitats) over more narrow zones and young trees for breeding roosts (i.e., B- and C-category habitats), the species frequently has been observed using non-native trees for roosting. Western red bats have been observed in orchard trees, including fig (Ficus carica), apricot (Prunus armeniaca), peach (Prunus persica), pear (Pyrus communis), almond (Prunus amygdalus), walnut (Juglans regia), and orange trees (Citrus sinensis) (Benson 1945, as cited in Pierson et al. 2006; Constantine 1959; Grinnell 1918, as cited in Pierson et al. 2006; Pierson et al. 2006). They have also been observed to use other non-native trees, including African hemp (Sparmannia Africana), eucalyptus (Eucalyptus spp.), Chinaberry (Melia azedarach), mulberry (Morus rubra), and tamarisk (Tamarix spp.)(Constantine 1959; Dalquest, as cited in Pierson et al. 2006; Grinnell 1918, as cited in Pierson et al. 2006; Orr 1950; Pierson et al. 2006). The use of orchards and potential exposure to pesticides is discussed in Threats and Environmental Stressors.

There is little information about roost site characteristics favored by the western red bat (e.g., microclimates, cover density, tree aspect) because most of the ecological studies have been carried out in the east within the range of the eastern red bat. Pierson et al. (2006) hypothesize that western red bats roost in the canopy of the largest trees, based on data for eastern red bats, but note that western red bat habitat associations are very different from the more common eastern red bat.

ATTACHMENT G
Excerpts of Caltrans' Mitigation and Monitoring Plan
Hayward Riparian Mitigation
State Route 84 Pigeon Pass Realignment Project, Caltrans District 4
February 2016



3.2 Proposed Mitigation / Enhancement Plans

Invasive Species Control / Native Plantings

The proposed Project will provide enhancement and restoration to San Lorenzo Creek and associated riparian woodland within Project area. Enhancement of the ecological function and value of the creek's riparian corridor will be accomplished through the control and removal of invasive vegetation, bank restoration, planting of native plant species, and trash/debris removal. Figure 2 identifies the predominant locations for invasive species treatment within the Project area. Invasive species control will primarily focus on Boston ivy. Ivy treatment will be implemented based upon the severity of the infestation and will generally follow the following approaches:

- Ivy with multiple stems growing at the base of existing trees will be cut and removed up to six feet from the ground level. Significant native trees that provide slope stabilization and habitat will have selective removal of clinging ivy stems to remove weight and to allow more light into the riparian understory. The remaining ivy stumps will be treated with injectable herbicide. Any ivy remaining on trunks will be left to die, as removal may cause harm to the cambium layer of desirable riparian trees.
- The top growth of existing ivy on the slopes and creek banks will be cleared and the remaining ivy root and stem mass will be treated with herbicide. This treatment will only be utilized on ivy located above the Ordinary High Water Mark (OHWM) of San Lorenzo Creek.

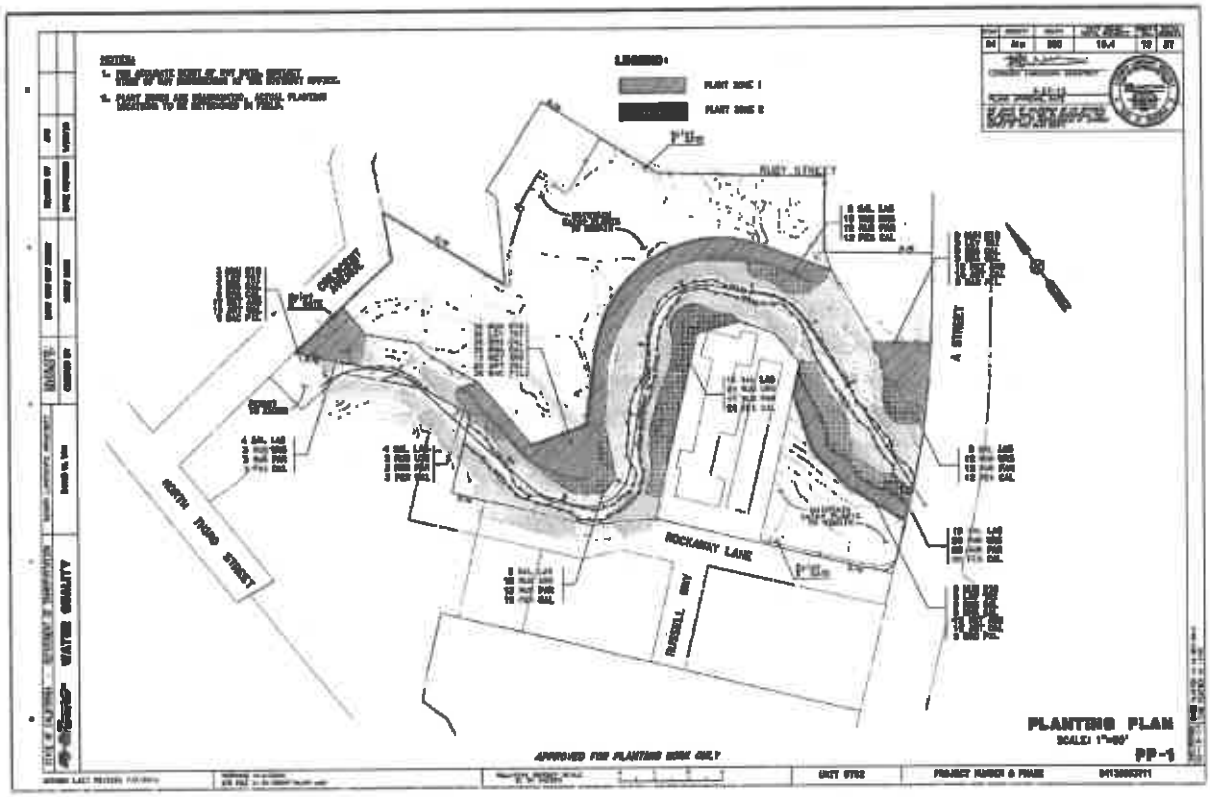
Invasive blackberry species, pampas grass, and giant reed also can be found along and above the creek's banks throughout the Project area. These species will be mowed and may be subsequently treated with herbicides. When treating all species, wherever possible, injectable herbicides will be used to reduce the spread of herbicide to non-targeted areas. Any removal of below-ground roots will be dependent on their location; roots will not be removed where the potential for erosion into the creek is high. All debris from invasive species will be removed and disposed of properly.

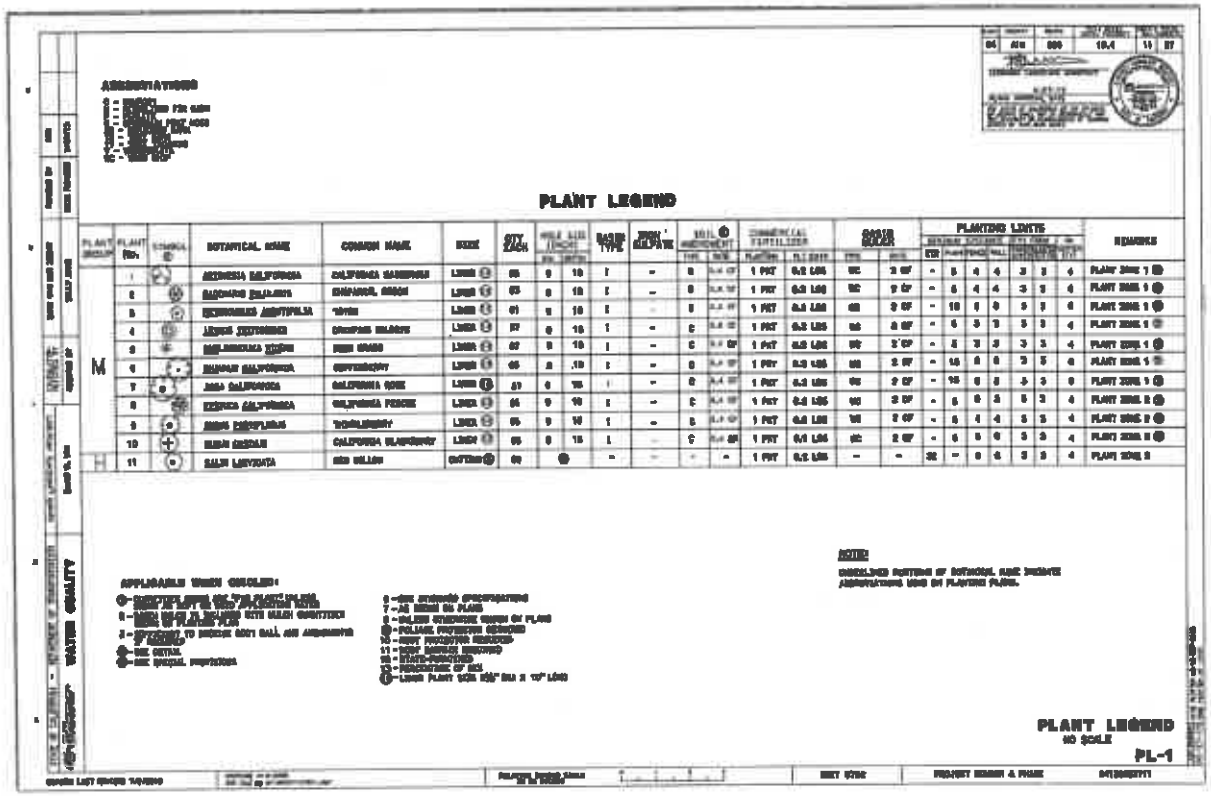
After invasive species are removed, restoration will occur within the riparian area along the banks and an additional 20-foot-wide no-build buffer zone at the top of bank. Disturbed ground and cleared areas will be planted using a combination of beardless wild rye (*Leymus triticoides*) plugs and other native grasses appropriate to the site. Low stature (no greater than two to three feet) native shrubs like thimbleberry (*Rubus parviflorus*) will also be planted. At the top of the bank, no further plantings will occur in order to maintain visibility into the riparian corridor and discourage encampments. The banks will be in-fill planted with an understory of native low growing shrubs. Erosion control along banks will consist of a three inch layer of coarse compost containing a mixture of native seed appropriate to the site. Application of compost will occur above the ordinary high water mark (OHWM). Truck watering or temporary irrigation directed from the top of bank down will be provided for a two-year period.

Native shrub and willow poles will be planted along the banks above OHWM for further erosion control function and low vegetation structure. Willow pole plantings will be established on the lower bank to reduce any small, localized areas of erosion. Planting will not occur within the creek's main channel, but may be planted within the lower portions of the slope, so some of these lower bank plantings may be periodically inundated during high water events.

Trash & Other Debris Removal
Working from upstream to downstream, all invasive vegetation, debris and trash will be removed, using skilled hand labor and light mechanical equipment. Twelve discrete areas have been identified for targeted debris and trash removal (see Figure 2). No excavation of the main creek channel will occur. Coarse woody debris that provides structure and cover for stream species, and concrete rip-rap in the main channel, which mimics natural boulders and promotes riffle and pool habitats, will not be removed. In addition, existing concrete that provides creek bed or bank stability will remain in place, although exposed rebar in this concrete may be cut.

The majority of trash and debris removal will occur using crews operating on foot. If required, a small excavator will work on level ground along the creek bank but will not operate in water. The excavator will be brought in by crane to suitable work locations adjacent to the creek, placed on construction timber mats, and be used to gather, assemble and organize debris and trash (see Figure 2 Enlargement Detail). Appropriate BMPs and avoidance and minimization measures will be followed when operating the small excavator. Organized trash and debris will collectively be hoisted up by winch, loaded on trucks, and disposed of properly. The main pieces of equipment anticipated include a 20-ton crane truck operating from the top of the bank, a small excavator (i.e., CAT 307) with steel track, and a Skid Steer (i.e., CAT 257 or 297) with grapple and winch.


RUBY STREET
A STREET
NORTH MAIN STREET
ROCKAWAY LANE
RUSSELL WAY
PLANTING PLAN
SCALE: 1"=60'
PP-1


PLANT LEGEND
PLANTING LIMITS
REMARKS
PLANT LEGEND
NO SCALE
PL-1

ATTACHMENT H

Castro Valley General Plan Excerpts from Chapter 7 Biological Resources & Chapter 8 Trails

MARCH 2012
Castro Valley General Plan

https://www.acgov.org/cda/planning/generalplans/documents/CastroValleyGeneralPlan_2012_FINAL.pdf

Included in this document:

CHAPTER 7 BIOLOGICAL RESOURCES
7.1 WILDLIFE AND SENSITIVE HABITATS
- Wildlife Habitat and Corridors
- Special Status Species
- Biological Resources Overlay Zone

7.2 CREEKS AND STREAMS
7.3 VEGETATION

CHAPTER 8 COMMUNITY FACILITIES, PARKS, AND SCHOOLS
8.3 TRAILS

Chapter 7
Biological Resources

7.1 WILDLIFE AND SENSITIVE HABITATS

Castro Valley has significant biological resources, primarily concentrated in creek corridors, canyons, and hillside open space areas. Many of the eastern hillside areas have been set aside as permanent open space as part of Planned Unit Developments, but other areas do not have similar protection. Castro Valley is also immediately adjacent to regional parks and County Measure D open space conservation areas. Open space areas within Castro Valley function as wildlife corridors for species to cross between larger habitat areas. This element addresses the protection of Castro Valley's biological resources, including animal species, plant species, and wildlife habitat. Its main provision is the creation of a Biological Resources Overlay Zone, which will establish special development and review requirements on properties with significant biological resources.

Alameda County is updating its Resource Conservation, Open Space, and Agriculture (ROSA) elements. The Castro Valley General Plan and the County ROSA must be consistent with one another. The updated ROSA will replace existing documents, including the 1966 Scenic Route Element, the 1973 Open Space Element, and the 1977 Specific Plan for Areas of Environmental Significance. The ROSA elements will also address plans and policies for Measure D lands

Wildlife Habitat and Corridors

The western and central portions of the Castro Valley General Plan Area are largely developed. There are

small pockets of areas that provide wildlife habitat woven through these areas of residential lots, primarily along creeks. The primary native wildlife habitat is oak/ riparian woodland that occurs along creeks. Other undeveloped areas in western and central Castro Valley are dominated by non-native plant species. The eastern portions of the General Plan Area support primarily native habitats. Large, undeveloped portions of this area, typically on steep hillsides or in canyons, have been set aside as open space as part of planned unit developments. Ornamental landscaping with large trees, shrubs and other vegetation may provide potential nesting habitat for raptors known to nest in urbanized areas and other special-status bird species.

As shown in Figure 7-1, oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area. Crow Creek and San Lorenzo Creek are deeply incised creeks with well-developed riparian areas. These two creeks serve as a primary migration route through the eastern half of the planning area for both aquatic and terrestrial species.

For this element, non-native dominant habitat is defined as areas supporting ruderal vegetation (non-native plant species favoring disturbed sites), ornamental or naturalized non-native trees (such as Monterey pine and eucalyptus), and shrubs (such as cotoneaster). Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation. Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.

All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks and wetlands with the potential to be considered jurisdictional by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or by the California Department of Wildlife habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks.

Fish and Game under California Fish and Game Code Sections 1600- 1607. In addition, Alameda County has a Tree Ordinance (Chapter 12.11 of the County General Code), which provides protection for any tree in a public right-of-way that is at least ten feet in height and has a trunk that is at least two inches in diameter.

Special Status Species

Table 7.1-1 lists the special-status species with associated vegetation type found within the Castro Valley planning area. The only special status animal species that have been observed in the Castro Valley planning area are yellow warbler and steelhead trout. Yellow warbler (Dendroica petechia) is a State species of special concern. Steelhead (Onchorhynchus mykiss) are a federally-listed Threatened Species, and a CDFG Species of Special Concern and have been observed in San Lorenzo Creek, Castro Valley Creek, and Crow Creek in the last ten years. The planning area also includes portions of the Critical Habitat for Alameda whipsnake (USFWS, 2006).

The planning area potentially supports the following special status animal species, based on the fact that the type of habitat that supports these species exists in Castro Valley: Steelhead, California tiger salamander, California red-legged frog, Alameda whipsnake, Western pond turtle, California horned lizard, Yellow warbler, Burrowing owl, Sharp-shinned hawk, white-tailed kite, Bats (Myotis spp., Pacific western big-eared bat, and greater western mastiff bat), Lum's micro-blind harvestman, great blue heron,

Cooper's hawk, and red-tailed hawk. In addition, the following special-status plant species have the potential to occur in the planning area: Santa Cruz tarplant, alkali milk vetch, big-scale balsamroot, fragrant fritillary, Diablo helianthella, and Robust monardella.



Biological Resources Overlay Zone

Figure 7-2, Biological Resources Overlay Zone (BROZ), illustrates the biological resource priority levels throughout Castro Valley. The purpose of the Overlay Zone is to protect areas with important biological resources, such as creeks, hillsides, and riparian areas, by requiring special review of proposed development projects. The review process would be required on all sites with high priority biological resources and on large sites (over two acres) with moderate or low priority biological resources.

Special review may involve environmental review, site plan and development review, and/or the application of County policy or ordinance requirements during review of development permit applications. The special review process will: evaluate the actual value of the habitat on the property; establish site planning parameters to preserve the most critical and/or most sensitive habitat areas; and establish conditions of approval to protect special status species during construction and occupancy. The special review requirements should be proportionate to the scale of the development project and the amount of valuable habitat on the property. On larger properties with high priority biological resources, the special review should require a biological assessment by a qualified biologist. For small home additions, application of standard conditions during building permit review would be more appropriate.

Development is allowed on parcels within the BROZ; however, the review process shall determine the level of development allowed and the design features necessary to protect biological resources. In order to ensure the protection of resources, property owners may not necessarily entitled to the maximum amount

of development allowed under the zoning on BROZ parcels.

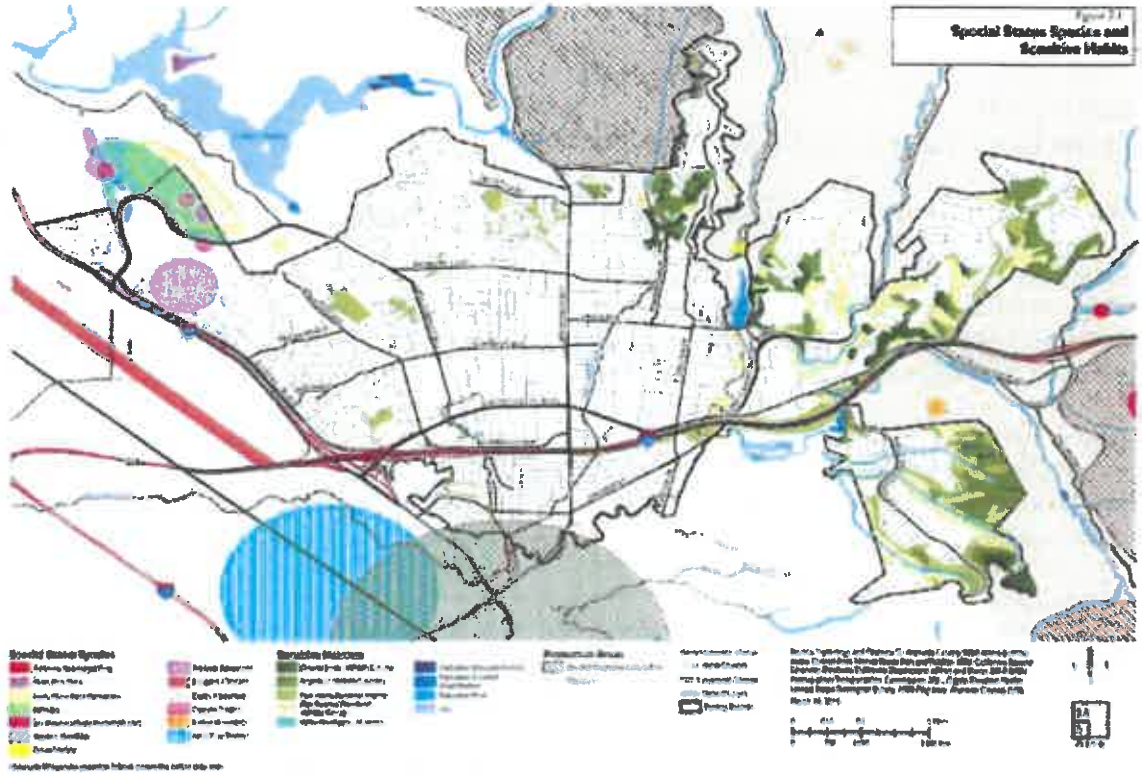
Priority levels shown on the map are based on a habitat area's biological sensitivity and its role as habitat for threatened species. For example, oak/riparian woodland is considered the most biologically sensitive habitat, while coastal scrub and grassland are considered common plant communities. However, these communities may have higher preservation value when they provide potential habitat for threatened species or suitable habitats for supporting special status plants. In addition, grassland habitats have the potential to contain wetland habitats and/or small drainages that are a high priority for preservation. Isolated patches of non-native dominant habitat surrounded by development are considered a low priority for preservation.

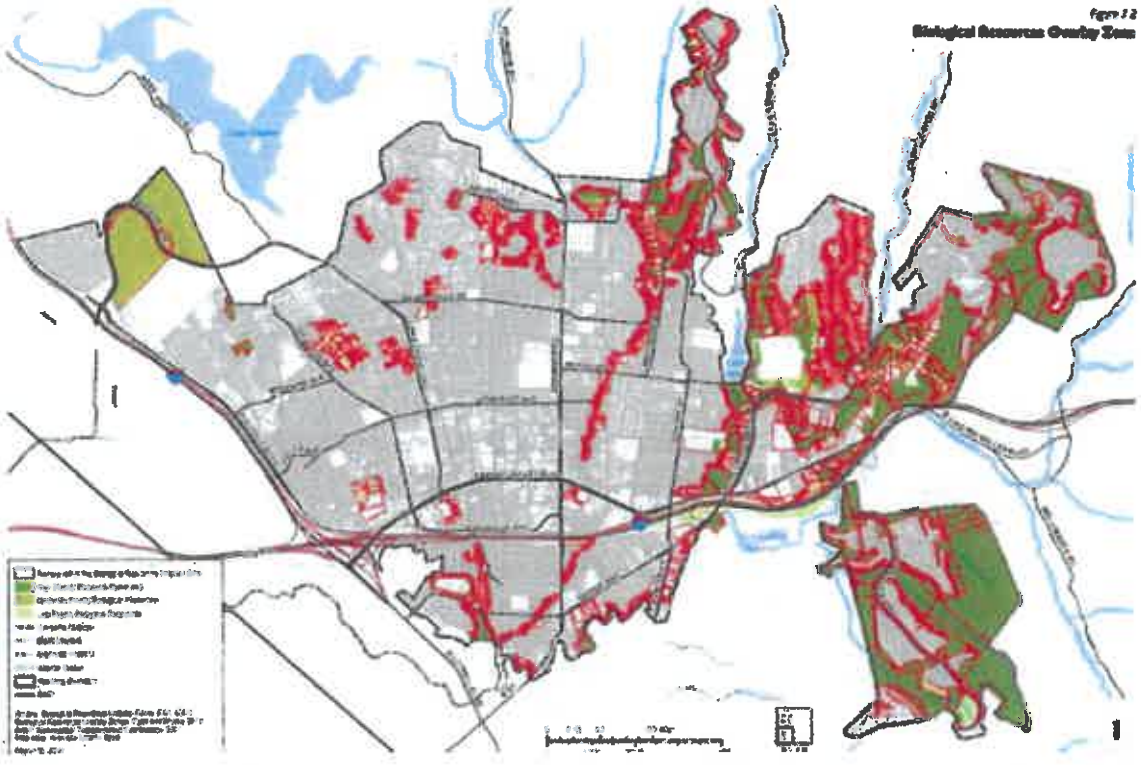
Future field surveys may identify features within grassland and nonnative dominant habitats that would increase the preservation value of certain areas within these habitat types (i.e. wetlands and other aquatic features). The priority scheme for habitats within Castro Valley is as follows:

High Priority
- Drainages
- Oak Riparian Woodland
- General Plan designated natural open space areas
- Coastal scrub on both sides of the Castro Valley Creek Improved Channel reach
- Coastal scrub just east of Cull Canyon Drive
- Coastal scrub between Jensen Road and Castro Valley Blvd/ Villareal Drive

Moderate Priority
- Other Coastal Scrub areas
- Grasslands

Low Priority
- Non-native Dominant Habitat


Special Status Species and Sensitive Habitats


Biological Resources Overlay Zone

WILDLIFE AND SENSITIVE HABITAT GOAL

Goal 7.1-1 **
Protect Castro Valley's native wildlife through conservation and restoration of natural habitat.

WILDLIFE AND SENSITIVE HABITAT POLICIES

Policy 7.1-1 **
Major Wildlife Corridors Protection. Protect the major wildlife corridors that run through or are adjacent to Castro Valley: (1) the corridor along the East Bay Hills in the forest and chaparral between major interstate highways; and (2) along creeks.

Policy 7.1-2 **
Comprehensive Habitat Preservation. Preserve a continuous band of open space consisting of a variety of plant communities and wildlife habitat to provide comprehensive rather than piecemeal habitat conservation.

Policy 7.1-3 **
Open Space Preservation. Preserve the undeveloped areas designated as open space within planned unit developments as permanent open space.

Policy 7.1-4 **
Open Space Objectives. Require that open space provided as part of a development project be designed to achieve multiple objectives, including but not limited to: recreation, scenic values, habitat protection, and public safety.

Policy 7.1-5 ***
Riparian Habitat. New development shall not disturb any riparian habitat.

Policy 7.1-6 Watershed Plan Coordination. Encourage the formation of a San Lorenzo Watershed Commission charged with ensuring coordination between multiple agencies and overseeing preparation of a comprehensive watershed plan

WILDLIFE AND SENSITIVE HABITAT ACTIONS

Biological Resources

Action 7.1-1 *
Biological Resources Overlay Zone. Explore the possibility of a biological resources overlay zone delineating high, moderate, and low priority areas for habitat preservation, to ensure maximum protection of biological resources.

• Require discretionary review for all development applications on properties within the high priority biological resources overlay zone, and for large sites over two acres in size with moderate or low priority biological resources. Discretionary review could include one or more of the following: environmental assessment per the California Environmental Quality Act; site plan and development review; and/ or the application of Board policy or other ordinance requirements.

• Establish in the ordinance that on lands with biological resources, new development is not necessarily

entitled to achieve the maximum density allowed by the underlying zoning. An environmental assessment may be required, prepared by a qualified biologist, which shall be the basis for establishing development constraints specific to the property in question. Development intensity may be required to be reduced up to 50 percent of the intensity allowed by the underlying zoning, depending on the extent and value of the biological resources on the site.

• Establish thresholds of review for different types of projects, and different types of waterways. For example, a comprehensive environmental assessment should be required for new subdivisions, whereas minor improvements such as fences or decks may be exempt from special review if they meet specific standards.

Action 7.1-2
Biological Resources Maps and Inventories. Maintain maps and inventories of biological resources to use when conducting site plan and development review. Update these resources regularly to include new information from site surveys that are conducted in the planning area.

Action 7.1-3 *
Design Guidelines for Biological Resource Zones. Establish guidelines to ensure that development planned on or adjacent to high and moderate priority areas designated on the Figure 7-2, Biological Resources Overlay Zone will be designed to minimize impacts on sensitive resources and habitat areas.

• Apply these guidelines through the Planning Department's project review process.

• Include information about ways in which special-status plant and wildlife populations on private properties can be protected over time.

• Specify that watercourses and areas dominated by native trees and shrubs be left undisturbed by development to the maximum extent feasible.

Sensitive Habitat

Action 7.1-4 **
Open Space Preservation Mechanisms. Evaluate mechanisms to preserve open space and wildlife habitat to determine the most feasible options, such as zoning, fee title purchase, conservation easement purchase, or conservation easement dedication through density transfer, or density bonuses.

Action 7.1-5
Habitat Restoration Funding. Evaluate the feasibility of property tax credits and other possible funding sources for habitat restoration on larger size private lands as an incentive to foster the implementation of habitat restoration actions by private landowners.

Action 7.1-6 ***
Riparian Woodlands and Wetlands Mitigation. Discourage loss of riparian woodlands and seasonal and perennial wetlands, including ponds, by requiring replacement mitigation at a ratio to be determined by the value of the habitat to be lost. To facilitate replacement mitigation, the County shall support the creation of wetland or other habitat mitigation banks.

Action 7.1-7 *
Preservation and Protection of Riparian Vegetation. Consider adopting an ordinance to preserve and protect riparian vegetation, with exceptions for clearing hazards, clearing blocked channels, and other

activities necessary for public safety.

Policy 7.1-8
Historical Woodlands and Grasslands. Encourage the East Bay Regional Park District to restore historical woodlands and grasslands to provide natural habitat and reduce fire danger.

Wildlife Corridors

Action 7.1-9 *
Connect Open Space to Large Habitat Areas. In the review of new subdivisions and other new development, require the preservation of adequately wide strips of undisturbed land to connect larger tracts of natural habitat or areas with biological resources.

Action 7.1-10 **
Conservation Easements. Encourage local land trusts and other easement holders to prioritize and acquire easements that serve to protect wildlife corridors.

Action 7.1-11
Public Infrastructure. Actively encourage agencies responsible for public infrastructure to site and design roadways and utilities in such a way as to minimize impacts to wildlife corridors, creeks, and regional trails. Where appropriate, grade-separated crossings and/or other features should be used to maintain the viability of the affected corridor.

Action 7.1-12
Wildlife Movement Corridors. Protect the wildlife movement corridors of special status species where they cross under I-580.

7.2 CREEKS AND STREAMS

Creeks play a critical role in wildlife habitat protection, water quality protection (by filtering pollutants), surface water drainage, and flood prevention. There are several perennial and seasonal creeks within the Castro Valley planning area (see Figure 7-1). The main ones include Crow Creek, Cull Creek, San Lorenzo Creek, Castro Valley Creek, and Chabot Creek. Several unnamed tributaries convey flows to these creeks; however, this map shows only few of them. Various creek segments are natural, managed in concrete-lined or earthen channels, or contained in a closed conduit (culvert). As mentioned in Section 7.1, the well-developed riparian areas along Crow Creek and San Lorenzo Creek are important wildlife habitats and corridors.

These drainage patterns within Castro Valley are shaped by the region's topography, which consists of steeper areas located along the foothills of the Diablo Range that gradually flatten out onto an alluvial plain. Water drains from higher elevation areas in the adjacent undeveloped land outside the urbanized area, through Castro Valley, and then down through Hayward and San Lorenzo before it reaches San Francisco Bay. Sections of San Lorenzo Creek, Chabot Creek and Castro Valley Creek have been altered over the years with channels and culverts to convey higher flows.

The County has a Watercourse Protection Ordinance (Chapter 13.12 of the County General Code) that applies across the unincorporated area of Alameda County. Its purpose is to safeguard and preserve watercourses, protect lives and property, prevent damage due to flooding, protect drainage facilities, control erosion and sedimentation, and enhance the recreational and beneficial uses of watercourses. In order to better protect creeks and riparian corridors and enhance their benefits for wildlife and Castro

Valley's quality of life, specific actions should include revisions to the ordinance.

CREEKS AND STREAMS GOAL

GOAL 7.2-1 ***
Preserve and restore creek channels, and riparian habitat to protect and enhance wildlife and aquatic-life corridors, flood protection, and the quality of surface water and groundwater.

CREEKS AND STREAMS POLICIES

Policy 7.2-1 ***
Creek and Flood Channels. Protect all creeks and engineered channels that traverse the urbanized area of Castro Valley.

Policy 7.2-2 ***
Creek Setbacks. Establish adequate creek set backs to maintain and where appropriate enhance important stream functions.

Policy 7.2-3 ***
Creek Uses. Manage creeks for multiple uses including: scenic quality, recreation, water quality, soil conservation, groundwater recharge, and wildlife habitats.

Policy 7.2-4 ***
Natural/Nonstructural Creek Drainage Systems. Use and reclaim or fully restore natural or nonengineered creek drainage systems to the maximum extent feasible and look for opportunities to convert structural stormwater drain

CREEKS AND STREAMS ACTIONS

Action 7.2-1
Alameda County's Watercourse Protection Ordinance. Revise the County's Watercourse Protection Ordinance to ensure maximum protection of creeks and adjacent riparian habitat by requiring new development to provide sufficient setbacks and rights-of-way to meet the County's objectives for storm drainage, flood control, habitat protection, recreation, and other appropriate uses. Include the following provisions:

• Do not allow grading or structures within a creek bed, unless they are required to prevent flooding and erosion that pose an imminent hazard to public health and safety, or to prevent serious property damage;

• Require the preservation and/or restoration of natural drainage and habitat to the maximum extent feasible, without causing further acceleration of water flow or erosion further downstream;

• Increase the setback for habitable structures to ensure adequate distance between structures and an open creek channel.

• Require construction methods that minimize flooding and erosion;

• Consider limiting the amount of impervious surface within 100 feet of the top of the creek bed channel to limit erosion and acceleration of water flow into the creek channel;

• Establish basic standards for development in or near creekside areas, in order to clarify and expedite the permitting process;

• Require preparation of a creek protection plan for new construction or significant expansion on creekside properties. The creek protection plan shall: be prepared by qualified professionals; establish areas most suitable for construction; and identify construction procedures that will minimize impacts n creek channels and riparian vegetation.

Action 7.2-2
Review Procedures and Meetings. Establish review procedures and convene regular meetings to coordinate relevant departments, divisions, and public agencies to manage creek management and preservation goals.

Action 7.2-3
Comprehensive Creek Corridor Open Space Plan. Work with public agencies, nonprofit organizations, and other interested parties to develop a Comprehensive Creek Corridor Open Space Plan. The Plan shall identify: key acquisitions along creek corridors; restoration potential along creek corridors; and alternative management practices along creek corridors.

Action 7.2-4
San Lorenzo Creek Action Plan. Implement the San Lorenzo Creek Action Plan, prepared as part of the County Public Works Stormwater Quality Management Plan, as well as other restoration and trail projects in the San Lorenzo Creek watershed, to the extent that funds are available.

Action 7.2-5
Creek Protection and Restoration. Work with nongovernmental organizations such as the Friends of San Lorenzo Creek, the Urban Creeks Council on creek protection and restoration efforts in order to support community involvement and resource enhancement.

7.3 VEGETATION

In addition to providing habitat and movement corridors for a variety of wildlife species, Castro Valley's native and non-native vegetation contributes to the character of the area and provides other environmental benefits. The term "urban forest" is sometimes used to describe all of the vegetation, both public and private, in a community. In Castro Valley, the urban forest comprises vegetation in the planning area's neighborhood, community, and regional parks; street trees; community gardens; and even ornamental landscaping and backyard vegetable gardens on private property.

This variety of vegetation helps to manage stormwater by preventing erosion and plays a crucial function in water quality protection by filtering pollutants. Trees beautify neighborhoods, increase property values, reduce noise and air pollution, and create privacy. Trees also provide shade for recreational enjoyment, buildings, and paved areas. Work with non governmental organizations on stream protection and creek restoration, such as with Chabot Creek. Site planning with trees in appropriate locations can reduce the need for air conditioning and associated energy consumption. Although most of the orchards and farms that once abounded in Castro Valley have been replaced by development, an increasing number of residents are cultivating home gardens that provide food as well as environmental benefits.

The County's Tree Ordinance protects larger trees in public right-of-ways but no similar protection exists for trees on private property. Although the Castro Valley Central Business District Specific Plan includes landscaping requirements and guidelines, there are no comparable provisions applicable to development

in other parts of the planning area.

VEGETATION GOAL

GOAL 7.3-1
Maintain, preserve, and enhance trees and vegetation to provide environmental and aesthetic benefits.

VEGETATION POLICIES

Policy 7.3-1
Alameda County Tree Ordinance. Continue to implement and enforce the Alameda County Tree Ordinance to protect trees in the public right-of-way.

Policy 7.3-2 **
Native Environment. Maintain and enhance the existing environment by preserving existing native trees and plants whenever feasible, replacing trees on-site, and adding trees and other vegetation in the public right-of-way.

Policy 7.3-3
Gardening. Support local gardening by facilitating community gardens and creating markets for local goods.

VEGETATION ACTIONS

Action 7.3-1
Enforcement of Alameda County Tree Ordinance. Ensure that there is sufficient funding to enforce the Alameda County Tree Ordinance. Require permits for planning, pruning, or removing trees in the public right-of-way.

Action 7.3-2 *
Heritage Trees. Consider amending the Tree Ordinance to preserve and protect heritage trees including native oaks and other significant native trees on private property.

Action 7.3-3
Native Trees and Plants. Adopt guidelines to promote the use of native trees and plants when landscaping on any County property. Consider adopting guidelines to mitigate the impact of private development on land with significant habitat value.

Action 7.3-4
Community Gardens. Identify potential community garden sites and sup-port the establishment of such gardens.

Action 7.3-5
Planter Strips. Consider amending the County zoning ordinance to prohibit paving of planter strips.

Chapter 8
Community Facilities, Parks and Schools

This section not included in this excerpt of the CV General Plan.

8.1 COMMUNITY FACILITIES

This section not included in this excerpt of the CV General Plan.

8.2 PARKS AND RECREATION

This section not included in this excerpt of the CV General Plan.

8.3 TRAILS

Castro Valley residents have easy access to East Bay Regional Park District trails but, in contrast to more recently developed communities, there are relatively few trails and pathways connecting neighborhoods to one another or to the extensive resources that surround the community. Because most of the planning area was built up before communities recognized the value of making provision for non-automated transportation, the challenge is to identify and take advantage of opportunities to develop off-road pedestrian, biking, and equestrian trails as the community is built-out and redeveloped within its relatively limited existing boundaries.

TRAILS GOAL

GOAL 8.3-1 ***
Provide a comprehensive system of hiking, equestrian and bicycle trails to connect major park and recreation areas within and adjacent to the Castro Valley Planning Area, to connect neighborhoods, and to provide an alternative means of access between neighborhoods and the downtown.

TRAILS POLICIES

Policy 8.3-1 ***
Integration of Trails in New Development. Incorporate trails, greenways, and linear recreation facilities as integral components of new development.

Policy 8.3-2
Enhancement of Public Awareness about Trails. Increase public awareness of trails and pathways.

Policy 8.3-3 ***
Location of Trails within Flood Control and Riparian Corridors. When feasible, locate trials within the boundaries of flood control and riparian corridors. Site creekside trails to minimize disruption to riparian areas. Incorporate trails, greenways, and linear recreation facilities as integral concepts of new development.

TRAILS ACTIONS

Action 8.3-1
Amendment of Subdivision Requirements for Trail Linkages. Amend the County subdivision ordinance to require projects abutting existing parklands to provide linkages to the trail system.

Action 8.3-2
Downtown Pedestrian and Bicycle Path. Study the feasibility of developing a pedestrian and bicycle path linking the new Castro Valley Library to surrounding commercial and residential areas along Castro

Valley Creek.

Action 8.3-3 ***
Multiple Uses for Land Adjacent to Natural Watercourses. Identify opportunities for acquiring land along Castro Valley's natural watercourses to meet multiple objectives of flood protection, recreation, improved water quality, and increased non-motorized connectivity between residential, commercial, and civic areas.

Action 8.3-4 ***
Multi-Use Trail System. Coordinate with HARD, the Cities of Hayward and San Leandro, and the East Bay Regional Park District to provide trailheads and linkages to a multi-use trail system.

Action 8.3-5
Funding for Signage and Maps of Trail System. Seek public and private funding to install attractive signage and produce maps illustrating trails and pathways.

Action 8.3-6 ***
Route 238 Corridor Trail. Coordinate with HARD and other park agencies to incorporate a multi-use trail into the plans for development on land in the former Route 238 Corridor.

2-10-2020

Dear Supervisor Miley,

We are writing to you on behalf of the MEV! Parks and Open Space Committee and a multitude of people in the community who would like to save Ruby Meadow from being developed (PLN2019-00024). **We are hoping that you will seriously review our arguments against developing Ruby Meadow, as outlined in the attachment, and reconsider your position. We request a meeting with you at your earliest convenience and ask that you ultimately mediate preservation of Ruby Meadow as a park and alternative sites for housing.**

We encourage the construction of low income housing in our community, and we generally are not opposed to development. But we are vehemently opposed to building on this particular site because we need to

1. Provide critical park/open space resources that we need in our built-out communities, because once this space is lost, it is gone forever.
2. Protect and responsibly use one of the last significant riparian and wildlife corridors in our urban area

Based on our research, it appears that you and the County Development Agency have been supporters of building on Ruby Meadow for many years. [1]

We are well aware of the housing crisis that every county in the Bay Area is facing. However, there seem to be several other alternatives for Eden Housing nearby with befitting location and low cultural, historical, biological and community impact. The expansive parcel 8, and transportation-adjacent parcel 9, and Oak Street come to mind. It seems counterintuitive to take this pristine woodland meadow, which currently houses rich wildlife habitat in the heart of the city, and decimate it.

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[11] In the San Leandro Community Development Block Grant updates, dated 1st Quarter 2010, it states among other things: *"Last month also met with County Supervisor Nate Miley to request his assistance in moving the project (Ruby & A St development) forward. Supervisor Miley is a long- time supporter of the project*
In the San Leandro Community Development Block Grant updates, dated 1st Quarter 2010, it states among other things: *"Last month also met with County Supervisor Nate Miley to request his assistance in moving the project (Ruby & A St development) forward. Supervisor Miley is a long-time supporter of the project and he will participate in our next meetings with County staff."* In the 2nd Quarter of 2010 updates it states: *"Also attended a follow up meeting with County Supervisor Nate Miley to keep him apprised of our progress. Supervisor Miley is a long-time supporter of the project and we expect he will participate in some of our subsequent meetings with county staff."*

Eden Housing and the County Development Agency seem unresponsive to community objections and unreasonably unwavering in their pursuit of the Ruby Meadow plot for their development, for which the community had no opportunity for input prior to the plans. HARD attempted to negotiate with Eden Housing regarding a land swap or another parcel for their build, with no resolve. In light of the information presented in this letter; we are requesting that you bring together the relevant parties including Eden Housing, City of Hayward, HARD, and the County Development Agency to mediate an alternative site for Eden Housing.

Since this is such an urgent issue to the community, we want to thank you in advance for your consideration and attention to this matter and look forward to hearing from you.

Sincerely,

Dr. Ann E. Maris, Chair, MEVI Parks and Open Space Committee

Renee Sutton, Vice Chair, MEVI Parks and Open Space Committee

ATTACHMENT

- **Area Park Deficits** – The HARD Parks Master Plan, shows accessible park resources are truly lacking in urbanized Castro Valley, in particular Southern Castro Valley and Downtown Hayward, which surround Ruby Meadow. Carlos Bee Park is the only park in the entire south-of-580 area. According to neighbors, that park is not wholly ideal due to its long, isolated entryway which encourages transients to linger at its end, where all the park resources are located. Even if Carlos Bee Park was an "ideal" park, it is the only park in this area. Current plans for growth in Downtown Hayward show massive growth in housing, without added park space. Leaving Ruby Meadow as park/open space would help to satisfy HARD and the recommendations of the Quimby Act park standards.
- **Incompatible Aesthetics** - The CEQA states that the Eden Housing building and parking lots would not result in any significant impacts related to aesthetics and no mitigation is necessary. While in of itself, the proposed building may very well be an attractive building, a four-story building does not fit in with the current homes in the area. The building and resulting parking lots are far too large for the site, and destroy the aesthetics of the meadow and stands of mature riparian trees.
- **Destruction of Riparian Corridor** - There are extensive biological resources and sensitive habitat located beyond the proposed minimum creek setback. The need and requirements to protect the Ruby site's riparian and wildlife corridor areas are extensively covered in the Biological Resources section of the Castro Valley General Plan, the Watercourse Protection Ordinance, the Climate Action Plan and the Specific Plan for Areas of Environmental Significance (SPAES), which all need to be adhered to.
    - SPAES Policy 8 states "The long-term preservation of natural and semi natural riparian area and wildlife habitat shall be a guiding criterion in public decisions. Site Development Review implementation would not occur until the riparian corridor study was completed for any watercourse." The CEQA exemption does not rise to the level of riparian corridor study.
    - The Castro Valley EIR recognizes the value of preserving creek areas because they serve as movement corridors for wildlife. The county and the developer suggest that wildlife does not need Ruby Meadow, and the neighborhood will not be impacted if wildlife is constrained to the immediate creek setback. Research has shown that wildlife can persist in urban habitat if it has corridors connected by critical patches of open space. The CEQA analysis does not discuss the impacts on existing wildlife by creating a large development directly adjacent to sensitive habitat.

- This site is unique in that it is the largest remaining natural site along this reach of San Lorenzo Creek. Eighty-seven trees, or 90% of the trees that currently exist outside the minimum setback will be cut down for the development, primarily for its parking lots. About 45 trees (46% of all the site's trees) are native California species and 37 of these are tagged for removal. About 31 trees (32% of all the site's trees) have diameters 2 feet or larger; 25 of these heritage trees are planned for removal.
- Wildlife depends on Ruby Meadow. A herd of nine or more non-migratory deer currently live in the meadow as do wild turkeys. Less visible wildlife are also present. For example, western red bats, a California species of special concern, have been identified at this site. Riparian corridors of sufficient width with mature trees of the species and configuration found in Ruby Meadow, provide the essential tree-roosting and foraging habitat for western red bats.
- Hayward's 2009 Land Use Study recommended open space for parcels that the project proposes to be a parking lot. When going from a riparian woodland habitat to a paved set of parking lots and a three to four story building, removing 90% of the existing trees is a severe impact, which is not acknowledged in the CEQA exemption.

- **Inappropriate Dense Housing Location –**
  - ABAG MTC guidelines recommends dense housing should be built near transit centers, in order to align development with climate goals. This project site is equidistant between Castro Valley and Hayward Bart, and is not within a half mile of either. In addition, dense development should be built where infrastructure already exists. There are no sidewalks or safe ADA pathways on Ruby Street or on the way to the nearest bus stop.
- **Lack of Historic & Cultural Resource Recognition** - Cumulatively there is a rich history that exists in this area. The Ruby Meadow site could be used as an educational resource for students, as well as the population at large.
  - **Ohlone** – In the 1930's while digging for a garage, two remains of Native Americans were discovered. In the 1997 ALA-566 dig, a rare Native American campsite was discovered that is estimated to be more than 5,000 years old. This campsite is considered "significant" in archeological terms. There have been three dig sites within one mile of the project site, one of which is "one of the oldest archeological sites excavated in the Bay Area, dating from at least the lower Archaic (4630/5530 BC) determined potentially eligible for inclusion in the National Register of Historic Places.
  - **Water Works** – The Knox Water Works was established on the Ruby site, by Ruby Knox's father, William Knox, Jr. This was the first piped water delivery system in Hayward, increasing residential development in the area. Not only was

the Water Works created, but the town was provided with regular hydrants for fire protection. There is still physical evidence of the Water Works on the Ruby site.

- **Knox Property** – The Knox family owned a great deal of property in Eden Township, including the Ruby Meadow parcels. They were a pioneer family of Alameda County and instrumental in the development of commercial agriculture here. William Knox Jr. was the first sub-developer of the Knox Tract. He helped establish techniques for transcontinental shipment of fruit by refrigerated train car, influencing the future of agricultural commerce in late 1880.
- **Hayward Steam Laundry** – There was a thriving laundry business in the same location on Ruby St. for over 50 years. Their site was used as a landmark for local folks, they employed "a large force of skilled helpers," and they were committed to the community at large.

Eden Housing Proposed Ruby Street Project
Oak-Riparian Woodland Damage
Friends of San Lorenzo Creek (August 19, 2019)

Extensive Biological Resources and Sensitive Habitat, described as Oak-Riparian Woodland and Wildlife Corridor in the Castro Valley General Plan, will be removed by the proposed housing project.

Table 1 – Trees to Demolished and Remain, Native & Non-Native

Trees (> 4-inch diameter) to be demolished and remain based on our actual field survey and the June 2019 project plans.

Trees	June 2019 Plan	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
Native [1]	Demolish	30	2	5	37
	Remain	4	3	1	8
Non-Native [2]	Demolish	21	24	5	50
	Remain	1	0	1	2
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Native Trees include Coast Live Oak, California Bay (Laurel), and Coast Redwood.
[2] Non-native trees include mostly Cherry, Black Walnut, and Ash.

Table 2 – Trees to Demolished and Remain, Based on Trunk Diameter

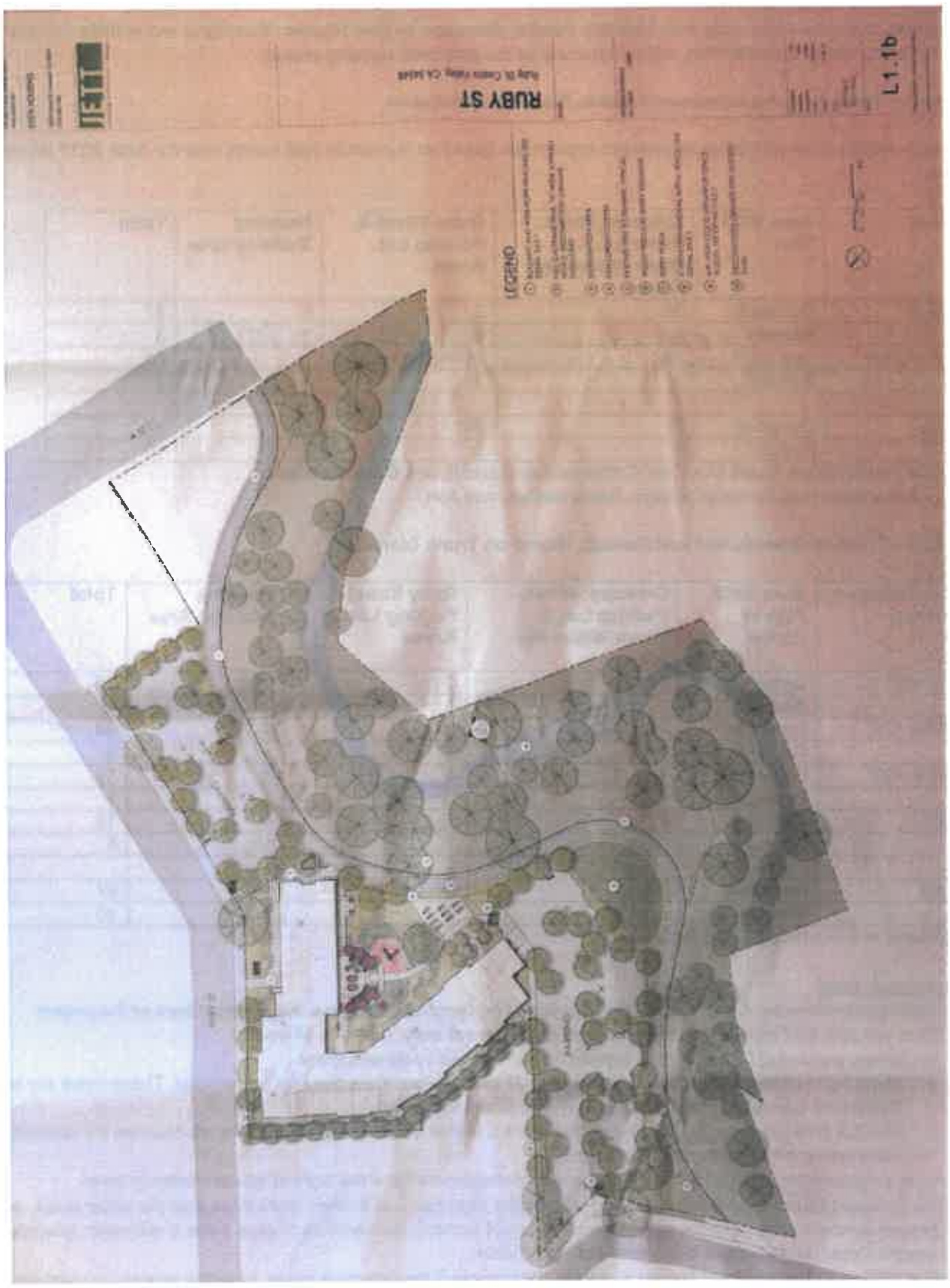
Tree Diameter (Inches)	June 2019 Plan of Action	Crescent Street, Parking Lot, & Storm Water Mgt Areas	Ruby Street & Parking Lot Areas	Housing Building Area	Total
4 to <12"	Demolish	14	14		28
	Remain			1	1
≥12 to <24"	Demolish	23	7	4	34
	Remain	1	2		3
≥24 to <32"	Demolish	7	4	2	13
	Remain	1			1
≥32"	Demolish	7	1	4	12
	Remain	3	1	1	5
Total	Demolish	51	26	10	87
	Remain	5	3	2	10

[1] Diameter at Breast Height (4.5 feet)

Some conclusions:

- Oak-Riparian Woodland and Wildlife Corridor would be removed within the development area of the project.
- There are about 97 trees within the proposed development area. Of these 97 trees:
  - Ninety percent (87 trees or 90%) would be demolished by development
  - About half (45 trees or 46%) are native, and 37 of these trees are planned for removal. These trees are mostly Coast Live Oak and some California Bay and Coast Redwood.
  - About a third (31 trees or 32%) have diameters 2 feet or larger, 25 of these trees are planned for removal, and many would be considered heritage trees.
- Areas proposed for parking lots and storm water management have the highest concentration of trees.
- The Crescent Street area (parking lot and stormwater mgt) has 2 to 5 times more trees than the other areas, and the greatest concentration of native and largest trees (≥24 inches). This area also steps down in elevation towards San Lorenzo Creek, possibly due past creek cutting-erosion.
- Past (130 years) and current human activity in the proposed development areas, including recent Caltrans mitigation project work, have removed undergrowth and prevented growth of native trees & ground cover.

Eden Housing Ruby Plans, June 2019
Landscape Plan L1.1b Option B Full Trail



















































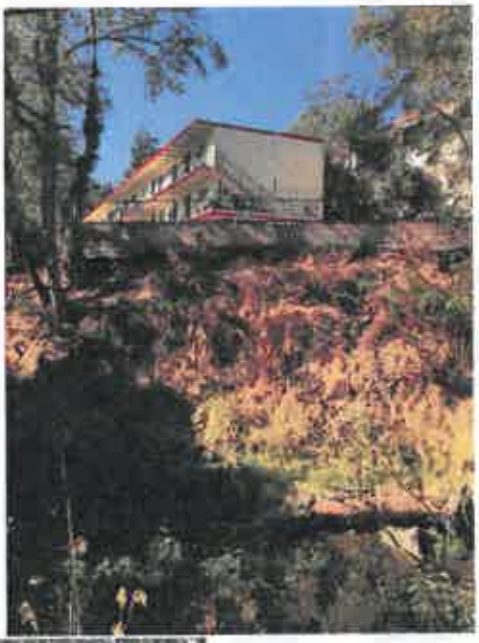














Ann E. Maris, PhD
Organizer Grove Way Neighborhood Association
1490 Grove Way
Castro Valley, CA 94546

April 9, 2019

Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Attn: Nisha Chauhan nisha.chauhan@acgov.org, Andrew Young Andrew.young@acgov.org

Re: Eden Housing, Inc. Development Application PLN2019-00024

Dear County Planner Chauhan,

I am writing to voice my concerns about the Eden Housing, Inc. proposal to build a new development on Ruby Street, Castro Valley. My family has lived on Grove Way since 1972 and we have seen a lot of changes. I am disappointed that the public has received little-to-no notice of this proposed development, including the lot line changes already carried out with this development in mind. If it weren't for neighbors communicating among ourselves, we wouldn't even know about this development. Although only a few neighbors directly border the CalTrans properties on Ruby Street, the lives of many people would be negatively impacted by the drastic change of the area proposed by this development. The public needs to receive better notification of what is planned for the area in order to provide the County with accurate public input. The public also needs to be given more time between the announcement and the time allotted to provide comments. Ten days is too short of a window.

Eden Housing has not communicated well with neighbors. They held a January 2019 meeting in which the audience was not permitted to ask questions until protests erupted and one question was permitted. After the Eden Housing presentation, various representatives were available at the rear of the room to answer questions. I met with their biologist who told me that the deer and wildlife "will go elsewhere" and that the deer can live in the creek. When I protested that deer don't live in the creek, rather they live in the meadow, he replied that he

saw them in the creek when he did his site visit. The Eden Housing project has made no provisions for resident wildlife or their continued existence. In fact, their biologist did the opposite, dismissing the value of their presence. The neighborhood's peaceful enjoyment of wildlife in Ruby Meadow forms a large part of the character and benefits of the neighborhood; therefore, the wildlife's continued presence must be considered and even encouraged. Specifically, the Castro Valley General Plan shows that these Ruby Street parcels are in a highly sensitive biological area that needs special consideration. Details were outlined to your department in a March 26, 2019 letter from Bruce King, Friends of San Lorenzo Creek. I agree with his expert analysis and concerns.

Overall, the proposed Eden Housing development is in stark contrast with the Castro Valley General Plan, the Watercourse Protection Ordinance, and other standards. The 2012 CV General Plan (pages 2-4) describes the "clear vision" for Castro Valley that emerged though "community input and planning analysis." Six **key objectives** are described. The first involves revitalizing the central business district. The Eden Housing proposal needs to be considered in light of the other five key objectives: 1) "Preserve the area's defining natural characteristics, embodied in the hills, canyons, creeks, and rural corridors, and views to those natural areas;" 2) "Improve access for children to schools, parks and recreation facilities, and provide safer streets for walking and bicycling, in order to create a good environment for raising a family;" 3) "Provide facilities for activities and entertainment venues for all age groups... Ensure safe residential streets where traffic speed and noise do not dominate residential streets, and where residents, especially children, can walk or bike to schools, neighbors, stores, and other destinations;" 4) "Preserve the small town "rural" character of Castro Valley, with low scale buildings, views to the natural areas...;" 5) "Reduce impacts of regional traffic and freeway traffic, so that local streets contribute rather than detract from the quality of life in the community."

The creek-side trail in the Eden Housing proposal is not dependent on new development and should be built by H.A.R.D. and Friends of San Lorenzo Creek. It makes sense to extend Carlos Bee Park to include Ruby Meadow. This trail and park area would fulfill key General Plan objectives by 1) preserving the area's natural characteristics and views to those areas, 2)

providing safe access for bikes and pedestrians, 3) contributing to activities and entertainment for all age groups, 4) preserve rural Castro Valley character and views to natural areas, and 5) allowing Ruby Street to contribute rather than detract from the quality of life in the community. Ruby Street neighbors already complain about drivers cutting through from A Street, speeding, traffic back-ups, and difficulty getting out of the driveway during commute hours. Almost 80 more residences on this tiny semi-rural street would be tragic.

The Eden Housing proposal would degrade living conditions in the neighborhood in terms of increased population density, blocked skyline, increased ambient noise, trash, automobile and pedestrian traffic, and the removal of wildlife. Over and over again, both newcomers and long-term residents here describe how the best part of our neighborhood is the wildlife and peaceful views of nature. The Ruby Street parcels are the last undeveloped green spot in the neighborhood and contribute greatly to the quality of life here.

The Castro Valley General Plan also discusses residential development rates (pages 3-16). The 15-year annual average between 1990-2005 is 135 units built per year; however, those data include several "very large subdivisions." For example, between years 2004-2005, the average was only 32 units per year. The Eden Housing proposal alone adds 225% more than this. This proposed development is large and will have significant impact on the neighborhood. Furthermore, the General Plan anticipated that there were "no large sites remaining that can be subdivided." The Eden Housing lot line changes and proposal combines approximately twenty separate parcels together in order to build more homes than the original lot sizes and zoning would have allowed. In addition, this large development is proposed in an area of highly sensitive biological habitat.

The Eden Housing proposal includes pervious pavement, which requires periodic vacuuming. This loud noise in already sensitive habitat would further terrify any resident wildlife, disrupting their nesting, feeding, and natural activities.

The proposed building is a bad idea because it is in highly sensitive Oak Riparian Woodland, and the trail also would wind through this sensitive area. The trail's location is a huge question with regard to pedestrian, bicycle, and other transport modalities which disturb resident wildlife. The trail is almost indescribably valuable to residents for both travel and recreation, but it cannot be built directly next to the creek or within the protected setback area. Therefore, when we consider proper placement of the trail, the developable land shown by Eden Housing's plan is reduced, making this building project excessive and inappropriate for the area. The creek cuts deeply into the earth, bordered by tall cliffs. Vegetative and artificial barricades must be planned for public safety and to preserve the current and potential wildlife habitat. Trail construction should be done where and how it is the least disruptive and dangerous, and the most economically feasible, not in the leftover unstable land below high-rise rental housing.

Chapter 5 of the CV General Plan is about Community Character and Design: "Castro Valley has a unique character that has evolved based on its natural setting and its history. Residents of Castro Valley feel strongly about preserving the character of Castro Valley, and enhancing the aspects of it that they enjoy. This element contains policies and actions to preserve and enhance the community character and design of Castro Valley. The main features that define the desired character of Castro Valley are its "natural setting" and "neighborhood character." **"The natural amenities that contribute [to] Castro Valley's quality of life include: hillsides, canyons, creeks, trees, and the views of these natural resources."** Physical features reflect the agricultural and small-town character of Castro Valley before it became a suburban bedroom community. These include **"undeveloped hillsides and canyons, neighborhoods with streets without curbs and sidewalks, and mature trees in front yards and along streets."** The development of Ruby Meadow would destroy natural amenities of Castro Valley as described in Chapter 5. Ruby Street is a neighborhood without curbs and sidewalks, and with mature trees in front yards and along the street. Neighbors like it this way, as noted in the Castro Valley General Plan, and want it to stay this way. *We want the aspects of Castro Valley that we enjoy enhanced, not removed.*

The August 2011 EPA report, *The Green Solution Project*, describes San Lorenzo Creek: (Section 10.2, pages 10-12) "While all the creeks in the planning area have some issues with erosion, siltation, and urban or agriculture runoff, **only San Lorenzo Creek is listed as impaired.** The pollutant diazinon has been identified in this creek, which indicates agricultural pesticides have entered it through runoff and sewer lines. Even though there are no major discharges to Castro Valley Creek, copper has been found in it." Castro Valley Creek joins San Lorenzo Creek just beyond Eden Housing's proposed development, and continues to the San Francisco Bay. Diazinon is a pesticide, outlawed for residential use in 2004 but still permitted for agriculture. It is considered to be of relatively high toxicity for vertebrates (17-mg per kg body weight kills 50% of mice tested). Not only Eden Housing's proposed development, but any development next to creeks has been shown time and time again to result in increased pollutants in the water and increased temperatures, damaging both habitat and wildlife.

Public Works' commented on this proposal in August 2018 about unstable soil and dangerous conditions. The building's base must be constructed at least one foot above the flood plain, but yet the flood plain map is inaccurate. How tall will this building be? The proposed four-story building already exceeds local building height by double. It also doesn't make sense to park a huge building onto the small unstable lot and then force massive amounts of engineering to design it safely when Eden Housing could simply build at an alternate location.

For example, the Eden Housing project could be built on another CalTrans lot, which the City of Hayward calls "Parcel 9." Hayward presented the idea of building a hotel there at their March 14, 2019 public meeting. Neighbors don't want another hotel here in the area because the two currently on Foothill Blvd, a few hundred feet from Hayward's proposed hotel, bring unnecessary crime and blight to the neighborhood. The two existent hotels have the lowest yelp ratings of all the businesses here on Foothill Blvd between Grove and City Center Drive. Consumers don't like them and residents don't like them. The neighborhood does not need another low budget hotel. Instead, we would feel more positive about having additional rental housing in Parcel 9, such as the project proposed by Eden Housing. Also, please

consider creating housing in nearby buildings that have been vacant for decades. For example, the former Hayward City Hall could accommodate many more dwellings than Ruby Meadow and building there would not damage open space land that could be restored. Several other developments in the area have already been approved, so also developing in Ruby Meadow would further burden an area already full of new developments.

In summary, I ask that the Eden Housing proposal be denied as presented and that Eden Housing considers building in locations outside of Ruby Meadow. I ask that Alameda County coordinates better with the City of Hayward, the neighbors, and relevant agencies, to consider the entire area around Grove Way (Ruby Meadow + Parcel 8 + Parcel 9) when building on CalTrans land that has been off the tax books for fifty years. I agree with the analysis from Friends of San Lorenzo Creek and with the community letter circulated by the Fishman/Wah family. Please help our neighborhood improve and recover from the damages inflicted by CalTrans.

Sincerely,

Ann E. Maris, PhD
Grove Way Neighbor and
Organizer Grove Way Neighborhood Association

Marlina Rose Selva
A Friend of San Lorenzo Creek
Neighbor in the Community
Upper B Street Area in Hayward, CA
dr.selva3@gmail.com

April 8, 2019

Alameda County Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544
Attention: Andrew Young, Planner

Cc: Ellen Morris, Eden Housing Project Manager
Nisha Chauhan, Planner

Re: Comments on the Site Development Review of Eden Housing's Proposed Ruby Street Project

Dear Mr. Young,

I am a friend of San Lorenzo Creek and am writing this letter to provide comments on the proposed Ruby Street Project. I live in the community and close to the creek. I observe the wildlife and habitat that are a part of the active ecosystem in the area.

I do not recommend approval of this Site Development Review (SDR) and plan, because a) the project site is located in an Oak Riparian Woodland/Wildlife Corridor, b) an environmental assessment has not been provided that shows what biological resources need to be protected, particularly beyond the minimum creek setback (e.g., Oak Riparian Woodland/Wildlife Corridor), c) the creek setback was incorrectly determined, which will result in the destruction of an ecosystem, and d) there is a significant deficit in the amount of open space in the neighborhood in comparison to standards based on the Quimby Act (California Government Code section 66477).

There are special status-species, common species, and native wildlife habitat in this area. I see deer, egrets, hawks, wild turkeys, and other wildlife. This corridor is crucial in maintaining interconnectedness between wildlife populations and providing suitable habitat during periods of migration. Even just a few oak trees can help prevent the isolation of populations and facilitate the movement and dispersal of some bird species, for example. Deer receive protection and food as they travel along the riparian corridor.

The Castro Valley General Plan reflects this importance. For example, Section 7.1 of the CV Plan outlines that "oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area," as shown in Figure 7-1. Furthermore, oak riparian woodland and

naturalized native trees are considered by the CV General Plan to be sensitive habitat areas suitable for special-status species; these provide potential nesting habitat for bird species. Creeks are also considered by the CV General Plan to be sensitive habitat areas. The CV General Plan designates much of the Ruby Street proposed project area as "Sensitive Habitat," "Oak Riparian Woodland/Wildlife Corridor," and "High Priority Biological Resource." According to the CV General Plan, oak/riparian woodland is considered the most biologically sensitive habitat. The CV General Plan defines and outlines protections for these habitats, resources, and corridors.

Moreover, Alameda County's Watercourse Protection Ordinance (WPO) protects the 20-foot, minimum setback of the creek plus riparian areas and their ability to be restored. The proposed Ruby Street project plans display a minimum creek setback that was determined incorrectly. The plans should actually show a minimum creek setback boundary line that is located further away to ensure creek and habitat protection.

Alameda County's Flood Control and Conservation District includes a section on their website dedicated to floodplain mapping in the San Lorenzo Creek Watershed. The District attributes extensive development in Castro Valley over the years as the cause for greater runoff to flow into the creeks. Despite efforts to remove some of the properties, it continues to be a challenge to find cost-effective solutions to provide greater flood protection to properties within the watershed.

Urban conservation and creek restoration is much needed more than ever. The local and federal government make pledges to help in the fight against climate change. This does not simply mean reducing greenhouse gas emissions to safer levels. Nature can help cities and areas like those in the Ruby Street area solve some of the biggest challenges such as access to clean air, clean water, and a stable climate. In cities across the globe, organizations are working together to restore and protect the watersheds. There is recent discussion on the Hayward Regional Shoreline and rising sea levels. The San Lorenzo Creek Watershed is a system of creeks that pours out into the eastern shore of the San Francisco Bay. We cannot have a healthy Bay without healthy creeks. Trees and vegetation located in riparian areas not only provide critical wildlife habitat, but also aid in flood control, regulation of temperature, and prevention of erosion.

It is of concern that a biologist has not written an environmental assessment for this proposed project. The timeline given to the public is also of concern. The Neighborhood Courtesy Notice dated March 19, 2019 states that the public can view the documents at the Planning Department and submit comments by April 9. It also states that the environmental Initial Study will be available on April 12, and comments on this document may be considered when the CVMAC recommends an action to the Planning Director. This fast timeline leaves only 10 days to review the environmental Initial Study before the CVMAC meeting on April 22. It therefore also renders the public unable to submit comments on this biological-environmental assessment by April 9 for consideration in the staff report.

Eden Housing describes in its mission statement on the website an aim to "build and maintain high quality, well-managed, service-enhanced affordable housing communities that meet the

diverse needs of lower income families, seniors, and persons with disabilities." It goes without saying that this is a respectable mission. Eden Housing also describes a vision "for everyone to have access to safe, decent, affordable housing" and a belief that "housing is a basic human necessity that is essential to everyday life and future success." Access to clean air and clean water are also a public right. Human health and natural environmental ecosystems deserve protection. Irreversibly destroying wildlife habitat for this proposed project shows a placement of profit before both public health and nature.

A large body of research, including findings from Stanford University, has established a relationship between increasing urbanization and increased rates of mental illness, with the explanation being further removal from nature. Urbanized areas with trees do not provide anywhere near the mental health benefits (e.g., decreased depression, anxiety, stress, and ADHD symptoms) compared to natural settings (e.g., grassland area scattered with Oak trees and shrubs). University of Illinois recently published findings that urban and rural counties across the nation with the lowest socioeconomic status appeared to benefit the most with better health outcomes (as evidenced by lower Medicare costs) from increases in forests and shrubs. Research also shows that connections to nature are critical to children's social, emotional, and cognitive development. Elders, children, and families need nature to thrive and there is a disparity in the accessibility to parks, trails, and open space in economically repressed communities compared to more affluent areas.

The Ruby Street Project proposed by Eden Housing is not appropriate in this riparian area of the San Lorenzo Creek Watershed as it paves natural land in order to urbanize. Whole habitats will be eliminated in addition to the depletion of permanent resources. In order to build this project, a natural environment must be destroyed. The housing and human activity that come along with the conversion of land into an urban system produces many destructive and irreversible effects on the natural environment such as air pollution, sediment and soil erosion, increased flooding magnitude, loss of habitat, and climate change. No amount of mitigation can correct the negative impact of the proposed project's land usage.

I understand that it can be difficult to balance environmental protections with economic growth. It is no question that there is a lack of affordable housing in the local area, despite the appearance of various housing units for lease (including apartments on Grove Way). Members of the community should not pay the consequence for the problems caused by CalTrans or anyone else. It has been proven that profit has been placed over the needs of the people and the natural environment, as evidenced by a significant deficit in the amount of open space in the neighborhood (in reference to Quimby Act standards), neglect of previously livable homes in areas that have now been parceled out and sold privately, and a proposed hotel in an area more suitable for the Ruby Street Project proposed by Eden Housing.

Sincerely,

Marlina R. Selva

Marlina R. Selva, Psy.D.
A Friend of San Lorenzo Creek

To: **Andrew Young, Planner**
Nisha Chauhan, Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From:

Anita Wah
Alan M. Fishman
Joia S. Fishman
1719 Grove Way, Castro Valley
anitawah@sbcglobal.net

Subject: Site Development Review of Eden Housing's Proposed Ruby Street Project

We are writing in support of the comments on this site development submitted to you by Bruce King of the Friends of San Lorenzo Creek on March 26, 2019. We agree with all parts of this detailed analysis. **We agree with Mr. King's recommendation that the project not be approved.** In particular, we would like you to pay attention to the following points in your further review of this site.

- The need for a correct determination of the creek setback.
- An environmental assessment of this site in terms of the need for protection of biological resources and wildlife corridors
- Resolution of questions about the multi-use trail
- Conflicts between the current site plans and the content of the Castro Valley General Plan of 2012 (Chapters 7 and 8), including the designation of this site as "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor"

We also wish to make two additional comments and recommendations based on our experience as 22-year residents of 1719 Grove Way.

FIRST, <u>regional</u> housing planning is urgently needed, with cooperation between local jurisdictions. We, and all of the many neighbors with whom we have discussed these issues, agree that more housing needs to be built, including low-income housing. We also agree that our neighborhood is ideally located for additional housing. However, there are several sites within a few blocks of Ruby Meadow that are more suitable for this development because they do not have the disadvantages outlined by Mr. King in his comments. These include the large former City Hall site behind Safeway and numerous other derelict and abandoned building between the Safeway center and downtown Hayward. Most of these are in the City of Hayward rather than in unincorporated Alameda County. We believe that

planning for housing needs to done on a regional basis, involving cooperation between Alameda County and the City of Hayward, so that the most suitable site can be found for locating this urgently needed housing. We suggest consideration of the old City Hall site, which also has a large amount of parking space and easier access to shopping and transportation. CalTrans Parcel 9 is another possibility.

SECOND, any development needs to consider how the requirements of the Quimby Act will be met. State and regional requirements specify three to five acres of parkland per 1000 residents, and our area falls far short of this guideline. Our neighborhood includes land owned or controlled by five different jurisdictions: East Bay Municipal Water District, the Hayward Unified School District, Alameda County, the City of Hayward, and Hayward Area Recreation District. None of these can act alone to ensure that we have adequate parkland and open space. Again, regional planning is essential. Ruby Meadow, site of the proposed development, is one of the few local parcels still suitable for parks and open space. It should be preserved for this purpose, and building should occur on one of the numerous nearby sites that have already been cleared and cannot be repurposed for wildlife or recreation.

On March 14, 2019, the City of Hayward held an informational meeting about development plans for CalTrans Parcels 8 and 9 at Douglas Morrison Theater. Even though this meeting was held directly across the creek from Ruby Meadow, the Ruby Street project was not even mentioned. This event was emblematic of the lack of coordination and cooperation in housing development and planning between the City of Hayward and Alameda County. On that occasion, we wrote a letter to the City of Hayward addressing the need for regional planning to meet the dual needs of adequate affordable housing and sufficient urban green space. To date, forty-four residents have expressed written support for this letter. We all agree that our support for any future development is contingent on receiving plans that result from the cooperation between the various jurisdictions. We have forwarded to you in a separate document this letter and the names of the supporters.

FRIENDS OF SAN LORENZO CREEK

Date: July 8, 2019

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com

Bruce W. King

Cc: Hank Ackerman, ACPWA Flood Control
Andy Cho, ACPWA Grading Division
Albert Lopez, Planning Director
Paul McCreary, HARD General Manager
Nate Miley, Alameda County Supervisor, District 4
Ellen Morris, Eden Housing Project Manager
Rodrigo Orduna, Assistant Planning Director
John Rogers, ACPWA Permits
Arthur Valderrama, ACPWA Land Development

Subject: Friends of San Lorenzo Creek Comments on
Site Development Review of Eden Housing's Proposed Ruby Street Project
Provided in the Project Referral dated June 17, 2019

Dear Planning Department,

This letter provides comments on the behalf of Friends of San Lorenzo Creek (FSLC) on Eden Housing's proposed Ruby Street Project (Site Development Review PLN2019-00024) as included in the June 17, 2019, Project Referral.

This project includes: a) a four-story apartment building containing 72 dwelling units (at 24.5 units per acre) and ~109 open parking spaces all on 2.95 acres; and b) a trail corridor design on 2.95 acres. All of the above is subject to a pending boundary adjustment to merge 21 parcels and create 3 new parcels (noted as Parcel A, B, and C in the plans).

This proposed project is in a riparian and wildlife corridor of San Lorenzo Creek. FSLC comments focus on ensuring the creek, banks, required creek setbacks, oak riparian woodland, and wildlife corridor of the creek are protected and maintained in a healthy condition.

FSLC does not recommend approval of this project.

GENERAL COMMENT – PROJECT APPROVAL NOT RECOMMENDED

Friends of San Lorenzo Creek does not recommend approval of this proposed SDR and plan for the general reasons listed below and as detailed further in this letter.

- Previous comments provided by the community and FSLC have mostly not been addressed.
- This project is designed to maximize affordable housing and provide a section of the San Lorenzo Creek Trail. But the project covers over with development the biological resources of Ruby Meadow and some of the creek setback and conservation areas.
- The creek setback has not been correctly determined. The current plans propose non-compliant "development" (i.e., grading) in the minimum creek setback and conservation easement areas. Removal of grading from the minimum creek setback, and required assessment of the riparian areas, will result in a larger creek setback and significantly less land that can be developed.
- An Environmental Impact Report (EIR) is needed. An environmental assessment has not been conducted that shows the biological and other resources that need protection, especially resources beyond the minimum creek setback such as Oak Riparian Woodland and Wildlife Corridor.
- Important questions regarding the multi-use trail and Parcels A, B, and C still need some public clarity, resolution, and planning.

SPECIFIC COMMENTS

1.0 Address and respond to previous FSLC and community comments

The county and this project need to address and respond to comments provided by FSLC and the community. The community provided comments on this proposed project, the trail, all the associated parcels, and the future of the site in response to the March 11 Project Referral and/or March 19 Neighborhood Courtesy Notice. The majority of FSLC and the community's comments have not been addressed. March 26 comments from FSLC are numbered and provided in Attachment 2 of this letter.

2.0 Assess the biological and other resources, complete an Environmental Impact Report (EIR), and do not damage the Riparian Woodland and Wildlife Corridor

The June updated plans continue to indicate that the size of proposed project is too big for the site and will result development that removes and/or covers: a) the riparian woodland and wildlife habitat of Ruby Meadow; and b) large portions of the riparian habitat along the top-of-bank in the creek setback and conservation easement areas. In fact, the Castro Valley General Plan identifies much of this site as having High Priority Biological Resources, Sensitive Habitat, Oak Riparian Woodland, and Wildlife Corridor. The General Plan also specifies special review and biological assessment to determine the level of development allowed, design features to protect biological resources, and possible reduction in maximum amount of development allowed under the zoning for the site. In addition, the County's Watercourse Protection Ordinance (WPO) and Specific Plan for Areas of Environmental Significance (SPAES) also require assessment and protection of the riparian areas. Lastly, the assessment also needs to evaluate the biological importance of this site given the history of extensive loss of riparian-wildlife corridor up and down stream of this site. This project has

not provided an assessment and EIR. This proposed project will significantly damage the riparian woodland and wildlife corridor and should not be built.

Examples of other specific topics the EIR needs to cover include:

2.1 The 20 or more coast live oak trees on Parcel A in Ruby Meadow, including the many heritage oaks with circumferences of eight feet or more and up to 12 feet.

2.1 Cultural and archeological resources, such as:

- The known prehistory and Native American archeological site CA-ALA-566 in this vicinity; and
- The presence of the Juan Bautista de Anza expedition camp #98 on San Lorenzo Creek on March 31, 1776 and the current designated Juan Bautista de Anza National Trail

3.0 Move housing to a site without sensitive habitat

This project is designed to maximize affordable housing and provide a section of the San Lorenzo Creek Trail but does not protect the biological resources of Ruby Meadow or the creek top-of-banks. The community has been advocating for: a) the site to be open space and park with substantially less development; and b) location of the low-income housing to a site that does not have such extensive habitat (e.g., another Route 238 site). The park district has discussed this site's park potential with the County.

4.0 Correctly determine the creek setback and remove all development from the setback

4.1 First, identify the WPO creek setback, which includes all riparian areas, riparian areas that can be restored, and the minimum creek setback (creek toe + 2:1 slope + 20 feet). The March and current proposed plans have only identified the minimum creek setback.

4.2 Second, remove all proposed development from the creek setback, including the proposed grading of soils over ~60% of the 20-foot setback area and associated conservation easement area.

Additional Explanation:

The grading plans show the daylight limit extended over ~60% of the 20-foot setback area and associated conservation easement area. See excerpts of the grading plans in Attachment 1. Such grading is defined as "development" under the WPO, is generally not permitted under the WPO, and does not satisfy the purposes of the WPO. Go to Attachment C in the attached March 27 FSLC comments and see the relevant definitions and requirements of the WPO. Note that: a) "Development" means any act of filling, depositing, excavating or removing any natural material; and b) One of the purposes of the WPO that must be satisfied is prevention of activities that would "…destroy riparian areas or inhibit their restoration."

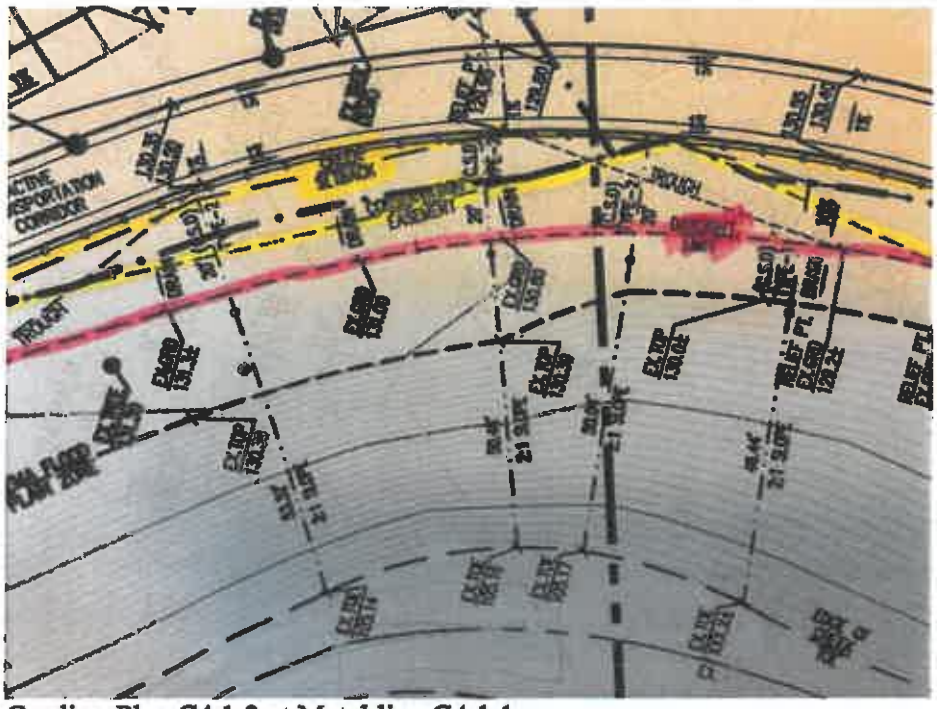
5.0 Develop a vision and plan for the Route 238 properties

The County should develop a vision and plan for the Route 238 properties between the Grove Way area and A Street that includes private and public developments along with parks, open space, conservation easements, and multi-use trails. An integrated vision and plan should be developed between the County, City of Hayward, HARD, developers, current property owners, and the community. The community should not be presented with proposed plans for a specific location without a common understanding of the larger plan and connections for the Ruby area and the Route 238 properties.

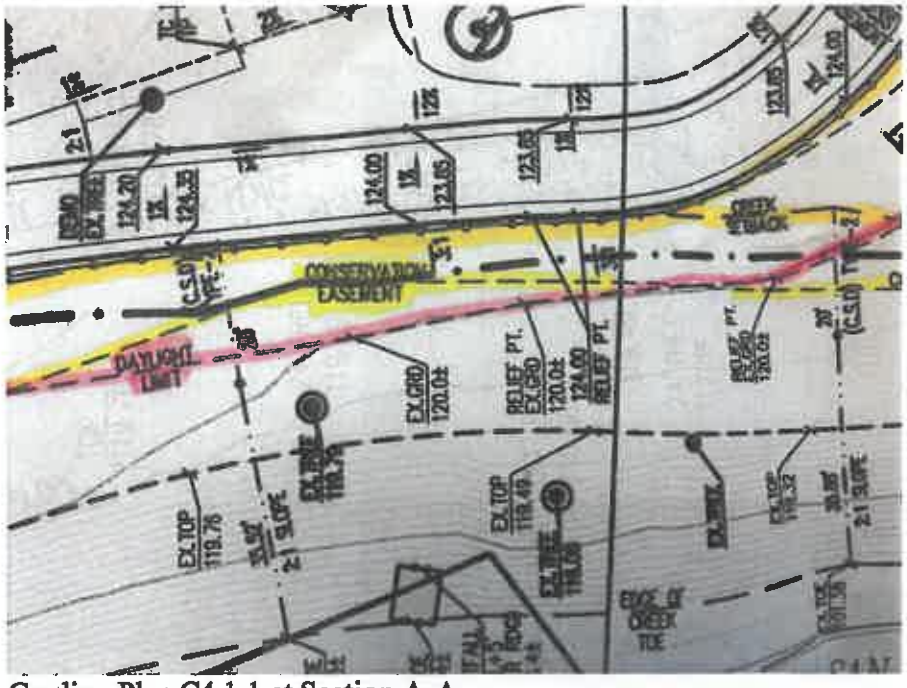
SPAES DOCUMENT ENCLOSURE

The County's Specific Plan for Areas of Environmental Significance (SPAES) was attached to the email that transmitted these FSLC comments.

ATTACHMENT 1
Daylight Limits Showing Development (i.e., Grading) Covering the Creek Setback and Conservation Easement

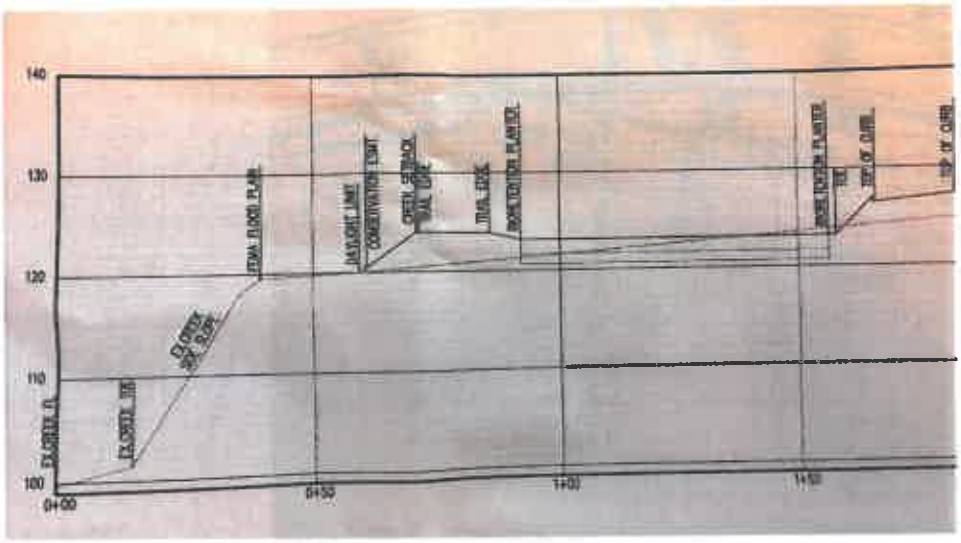


Grading Plan C4.1.2 at Matchline C4.1.1

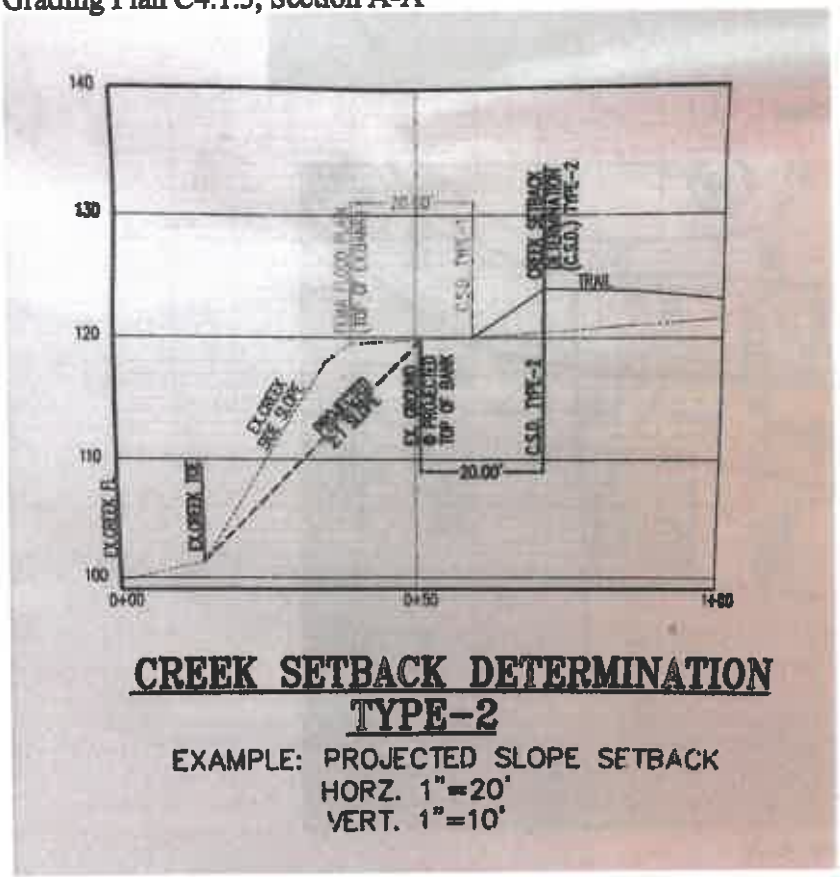


Grading Plan C4.1.1 at Section A-A

ATTACHMENT 1
(Continued)
Daylight Limits Showing Development (i.e., Grading) Covering the Creek Setback and Conservation Easement



Grading Plan C4.1.3, Section A-A



Grading Plan C4.1.3, Creek Setback Determination Type-2 (minimum setback of 2:1 +20 feet)

ATTACHMENT 2
FRIENDS OF SAN LORENZO CREEK

Date: March 26, 2019

To: Andrew Young, Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com

Bruce W. King

Cc: Ellen Morris, Eden Housing Project Manager

Subject: Friends of San Lorenzo Creek Comments on the
Site Development Review of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter provides comments on the behalf of Friends of San Lorenzo Creek (FSLC) on the Review of Site Development Review (SDR) PLN2019-00024 of Eden Housing's proposed Ruby Street Project consisting of: a) a four-story apartment building containing 72 dwelling units (at 24.5 units per acre) and 109 open parking spaces all on 2.95 acres; and b) a trail corridor design on 2.99 acres. All of the above is subject to a pending boundary adjustment to merge 20 parcels and create 3 new parcels (noted as Parcel A, B, and C in the plans).

This proposed project is in a wildlife corridor of San Lorenzo Creek. FSLC comments focus on ensuring the creek, banks, required creek setbacks, oak riparian woodland, and wildlife corridor of the creek are protected from development and maintained in a healthy condition.

GENERAL COMMENT – PROJECT APPROVAL NOT RECOMMENDED

Friends of San Lorenzo Creek does not recommend approval of this proposed SDR and plan for the general reasons listed below and as detailed further in this letter.

- The creek setback was not correctly determined. Proper calculation and assessment will result in less developable land.
- An environmental assessment has not been provided that shows what biological resources need to be protected, especially resources beyond the minimum creek setback such as Oak Riparian Woodland/Wildlife Corridor. This will likely result in less developable land.
- Important questions regarding the multi-use trail and Parcels A, B, and C need some public clarity, resolution, and planning.

SPECIFIC COMMENTS

1.0 EXTEND REVIEW AND COMMENT TIMELINE

Comment. On March 24, FSLC objected via email to the document-release and review timelines being given to the community, listed reviewers on the Project Referral, and the CVMAC. These groups have not yet been given an assessment of the biological resources, along with the extent and value of the Oak Riparian Woodland/Wildlife Corridor, on which to base their fundamental evaluations of the extent of land/habitat to be covered/impacted by this development.

Additional Information. Project Referral reviewers must submit comments by April 2 and the community by April 9. After that, the environmental Initial Study (IS) will only be available by April 12, and "comments may be considered when the Council [CVMAC] recommends an action to the Planning Director" on April 22 (per the Neighborhood Courtesy Notice). So that gives everyone (including agencies and the community) only ten days to get the IS, review and submit comments on the IS, revise their previous comments on the plans as needed, and give compiled comments to the CVMAC with sufficient time for the CVMAC to review the comments before their April 22 meeting.

2.0 RE-DETERMINE THE CREEK SETBACK

2.1 Creek Setback is Too Small, Correctly Determine the 2:1+20ft Setback

Comment. The minimum creek setback as defined in the Watercourse Protection Ordinance (WPO) needs to be correctly determined and shown on the plans. In addition, proposed "development" as defined in the WPO needs to be removed from the creek setback area consisting of the minimum setback plus any additional riparian area. See Attachment C for excerpts of the WPO.

Explanation. The minimum creek setback was incorrectly determined as shown in the proposed Ruby Street project plans (see Attachment B). The actual location of the minimum creek setback boundary line is further away from the creek than is shown on the plans. In some cases, the actual minimum setback may be an additional ten feet or more from the setback line shown on the plans.

Further Explanation. The WPO requires that the slope of the creek bank used to calculate the minimum setback be 2:1 (horizontal to vertical) or flatter. The "bank" consists of the sides of the channel between which the flow is confined. The 2:1 slope calculation starts at the bottom of the bank (i.e., bank "toe"). At this site, the slope line ends at the point where the slope line exists the ground beyond the top-of-bank. Plan C-0.3 (Lot Line Adjustment) in this proposed plan set show the 2:1 slope calculation starting at the creek midline, rather than the required bank toe. Since the creek midline is often ten feet or more from the bank toe at this site, the minimum creek setback boundary line is misrepresented in the proposed plans by the same amount. Using the incorrect slope calculation starting point: a) is technically incorrect and has no basis in bank stability; b) results in significant loss of minimally-calculated, riparian area and corridor; and c) could lead to loss of any "developments" placed within the setback due to

bank erosion and failure. This reach of San Lorenzo Creek has many steep, unstable banks due to lack of upstream sediment transfer, ongoing creek down-cutting, and past human activity that pushed soil and debris (e.g., broken concrete) over the creek banks.

2.2 Add Additional Riparian Areas to the Minimum Creek Setback

Comment. After recalculating and determining the location of the minimum creek setback (as described in Comment 2.1, above), add additional riparian areas found by completing the environmental assessments covered in Comments 3.1, 3.2, and 3.3.

Note: The WPO specifies a minimum 2:1 +20-foot creek setback, plus inclusion of any additional existing or repairable riparian areas (as stated in the WPO purposes).



Some steep and unstable banks of San Lorenzo Creek

3.0 ENVIRONMENTAL ASSESSMENT AND PLAN MODIFICATION

3.1 Provide an Environmental Assessment and Modify the Project Plan to Protect Resources

Comment. Provide an environmental assessment of the location, value, and required protections of the riparian areas, biological resources, and the wildlife corridor using required procedures and standards, including: a) CEQA environmental review; b) Purpose and requirements in the WPO to protect riparian areas and their ability to be restored; and c) Castro Valley General Plan goals, policies, and actions. Areas outside the minimum WPO creek setback deserve special attention, since the minimum creek setback (when calculated properly) already protects biological resources within the minimum setback. Remove proposed development from habitat areas and mitigate for any impacts.

Background. The Castro Valley General Plan designates much of the Ruby Street proposed project area as: a) "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor" in Figure 7-1; and b) "High Priority Biological Resource" in Figure 7-2. Attachment B has blow-ups of these Figures that show these habitats and resources at this site.

Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo Creek, Chabot Creek, and Castro Valley Creek. These continuous, natural-creek corridors extend from the hills in the east, down Crow Creek and San Lorenzo Creek, through this proposed project site, to Foothill Boulevard, to Route 238 Parcel 8, up Chabot Creek to Strobridge Avenue, and up Castro Valley Creek to Grove Way. This proposed project site is largest open site between Carlos Bee Park and a site upstream at the end of Charlene Way, and therefore has greater significance for supporting wildlife in the corridor. Attachment B has satellite views of: a) these wildlife corridors following the natural creeks throughout this area; and b) the presence of native, riparian, and oak woodland habitat across the proposed project site.

Here are excerpts from Section 7.1 of the CV General Plan that help define and outline protections for these habitats, resources, and corridors.

- Castro Valley has significant biological resources, primarily concentrated in creek corridors.
- Oak/riparian woodland is considered the most biologically sensitive habitat
- Oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area, as shown in Figure 7-1.
- Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation.
- Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.
- All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks.
- Habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks.

3.2 Assess Sensitive Habitat & Remove Proposed Development from These Areas

Comment. Assess and show locations of "sensitive habitat" across the site, especially in areas outside the creek setback where development is currently being proposed. The CV General Plan states that "sensitive habitat" includes: a) creeks; and b) all areas supporting native vegetation or providing suitable habitat for special-status species, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Revise plans and remove "development" from areas covered with "sensitive habitat" and provide mitigations for more-isolated or minor "sensitive habitat" that will be impacted.

Additional Information. Attachment B provides satellite views of the presence of native, riparian, and oak woodland habitat across the proposed project site. Some of these areas would be covered by the proposed development, most notably by parking lots. In addition, Plans C-

4.1.1 and C-4.1.2 show 30 or more trees to be removed. Plans L1.1 and L2.1 show new trees to be planted (21 native oaks and 70 non-native trees).

3.3 Assess the Wildlife Corridor and Modify Plans to Support Wildlife

Comment. An environmental assessment needs to include this site's role in this area's continuous, creek, wildlife corridor system and an assessment of the area and habitat needed on this site to support common native and special status wildlife in and moving through the corridor. Modify the project plans as needed to support wildlife on this site in the context of the corridor.



Wildlife in the corridor. A herd of deer inhabit Ruby Meadow, the proposed project site. Another herd of deer inhabit Route 238 Parcel 8. Egrets and hawks are also often seen immediately upstream of this project site. The egret pictured here was at Grove Way and Orange Avenue, about 0.3 miles from the project site. Fish also inhabit San Lorenzo, Chabot, and Castro Valley Creeks.

3.4 Mitigate for Trees to Be Removed

First, address Comment 3.2 regarding protecting native trees and oak woodland sensitive habitat. Then, any native trees that will be removed, should be replaced at a high replacement-to-removal ratio. Note: Plans C-4.1.1 and C-4.1.2 show 30 or more trees to be removed. Plans L1.1 and L2.1 show new trees to be planted (21 native oaks and 70 non-native trees).

4.0 RESOLVE QUESTIONS REGARDING THE PARCELS AND TRAIL

4.1 Make Parcel Owners, Operators, and Functions More Transparent

Comment. Who is currently and/or in the future buying, owning, and operating/maintaining Parcels A, B, and C? What are the proposed functions of Parcels A, B, and C?

Additional Information. Twenty (20) parcels are being merged (reportedly awaiting final recording by the County) and three (3) new parcels are being created. This is Caltrans land being sold to or managed by a non-profit using at least some public funding and to unspecified public agencies (e.g., ACPWA?, ACFCWCD?, HARD?). The reviewers and the public should

generally and strategically know how funds are proposed for spending, who is making improvements, who is proposed to manage/operate each new parcel, and what is the proposed function(s) of each parcel. Proposed projects and parcel line changes should not be approved without knowing basic information. The table below is a simplified example of information that should be available:

	Parcel A	Parcel B	Parcel C
Parcel Buyer & Price			
Parcel Owner			
Parcel Operator			
Parcel Function			

Additional Notes: The plans appear to show most of the multi-use trail being located in Parcel A and B. In addition, Caltrans is currently required to complete their mitigation project which is mostly on Parcel C. This mitigation project is on a permanent, creek conservation easement established by Caltrans. Lastly, ACPWA or ACFCWD was considering accepting responsibility and an endowment for this conservation easement.

4.2 Multi-Use Trail Questions That Need Resolution

Comment. Listed below are examples of questions that need to be addressed regarding this segment of the multi-use trail.

Additional Information. The plans indicate the multi-use trail proposed route is on Parcel A and B. In addition, the legends in Plans L1.1 and L1.2 state the trail is an "Optional Trail" and "Future Trail," respectively. Also, the plans provide no additional trail information. Lastly, HARD has reportedly discussed operation of this trail.

Trail Questions:

4.2.1 If the trail is on Parcel A, will Eden Housing own the trail or the land under the trail?
4.2.2 Who will own the land under the trail and the trail itself?
4.2.3 Who will pay for the trail?
4.2.4 Who will operate and maintain the trail?
4.2.5 Who will build the trail, and should the trail (or portions thereof such as grading or underground utilities) be constructed during construction on Parcel A?
4.2.6 What trail planning and development is needed by the County as the trail leaves this project site on A Street to the south and Crescent Avenue to the north?
4.2.7 What is the nearer-term and longer-term pedestrian and traffic plan for the trail and its connection to A Street? The answer should affect the trail route on Parcel B.

4.3 Parcel "C" Questions That Need Resolution

4.3.1 How will visibility and access to San Lorenzo Creek be enabled and restricted? Short and long-term plans are needed before public access to Parcels A, B, and C is enabled. Many creek banks are too steep and unstable to allow people to walk down the banks. Native and/or restored vegetation could be damaged by human activity. The creek is dangerous when higher water is present, and the creek bed contains a lot of slippery broken concrete blocks.

4.3.2 Shouldn't the multi-use trail be located on Parcel C rather than Parcel A? Shouldn't Public Works and/or HARD have ownership and responsibility for the trail rather than the owner of Parcel A?

4.3.3 Who will ultimately be responsible for acceptance of the conservation easement from Caltrans?

4.3.4 How will liabilities be handled related to structures in the City of Hayward that are near and over-hanging the creek top-of-bank?

4.3.5 What is the location of the Caltrans cyclone fence located near the top-of-bank, and will this fence be used or removed?

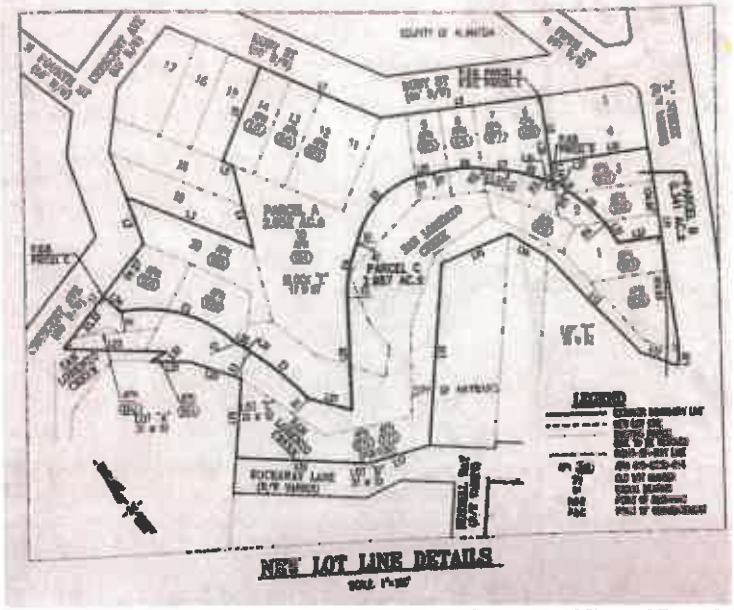
4.3.6 Who will be responsible for a native landscape and irrigation plan (e.g., for areas not previously restored by Caltrans)?

ATTACHMENT A

Project Plan Excerpts



Excerpt of the landscape site plan L1.1



Excerpt of new lot line details showing Parcel A, Parcel B, and Parcel C

ATTACHMENT A (Continued)

Incorrect Determination of the Minimum Creek Setback



Excerpt of Plan C-0.3 (Lot Line Adjustment) which shows the incorrect determination of the minimum creek setback boundary by starting the 2:1 slope calculation at the creek midline rather than correctly starting at the bank toe.

ATTACHMENT B

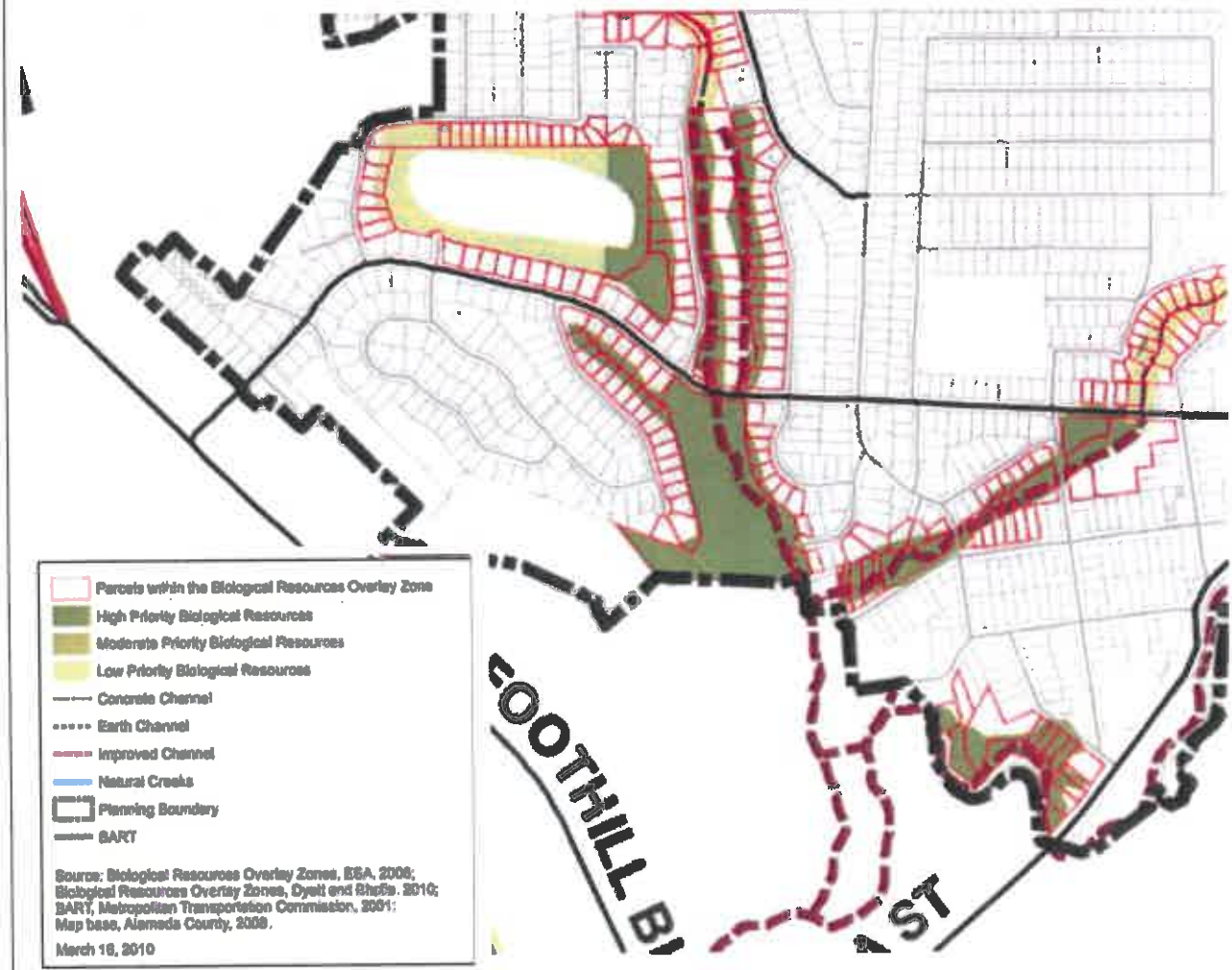
Castro Valley General Plan Biological Recourses and Habitat Overlays and Satellite Views of the Site and Vegetation from 2002 to 2019

The Castro Valley General Plan designates much of the Ruby Street proposed project area as

- "High Priority Biological Resources;" and
- "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."

These biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the areas shown in the Castro Valley General Plan.

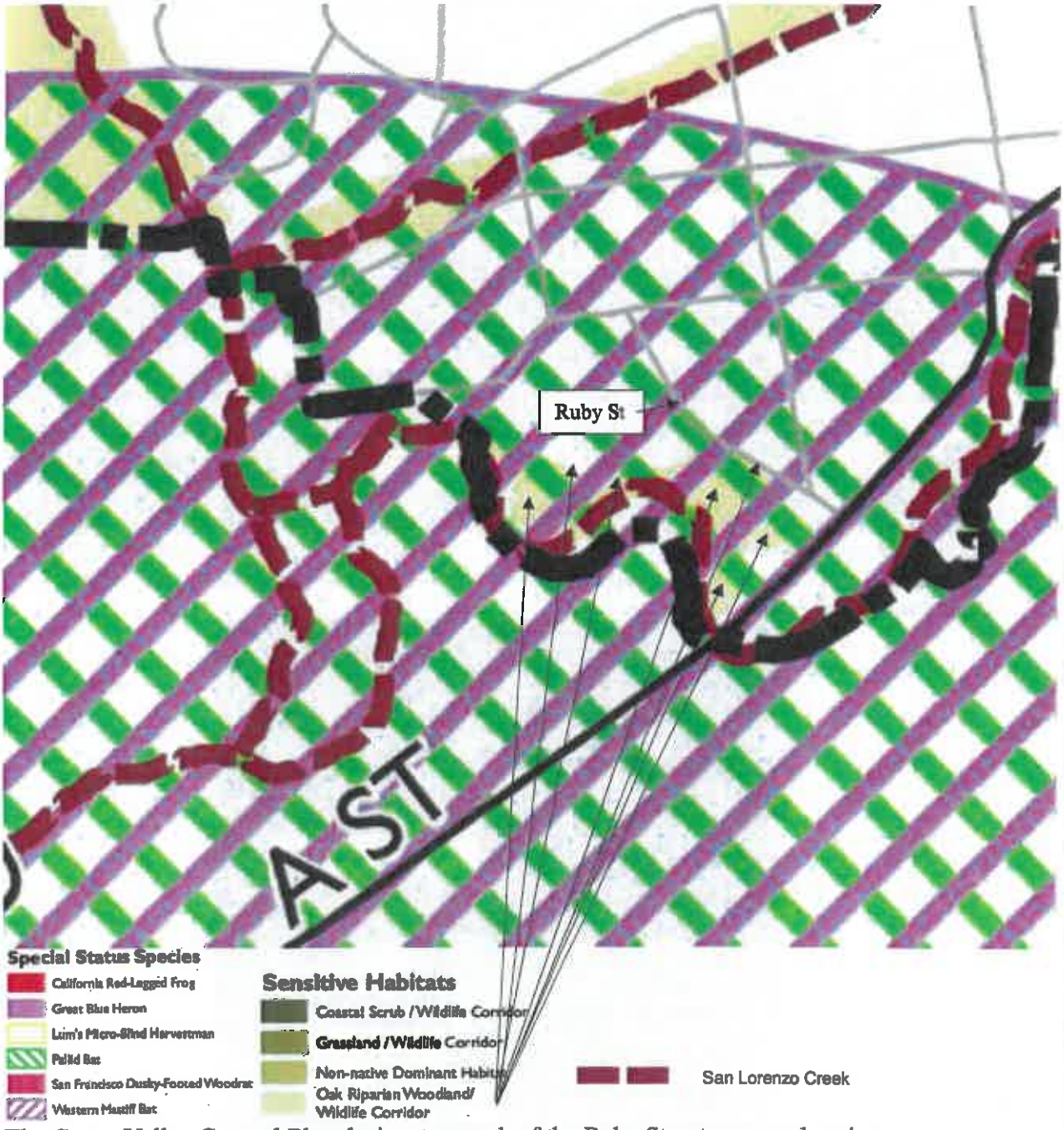
High Priority Biological Resource Areas



The Castro Valley General Plan designates much of the Ruby Street proposed project area as "High Priority Biological Resources." *Reference: Castro Valley General Plan, Chapter 7, Figure 7-2*

ATTACHMENT B (Continued)

Sensitive Habitat and Oak Riparian Woodland/Wildlife Corridor Areas



The Castro Valley General Plan designates much of the Ruby Street proposed project area as "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."
Reference: Castro Valley General Plan, Chapter 7, Figure 7-1

ATTACHMENT B (Continued)

Wildlife Corridors



Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo Creek, Chabot Creek, and Castro Valley Creek.



ATTACHMENT B (Continued)

Ruby St Satellite View 2019



Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.



ATTACHMENT B (Continued)



Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.

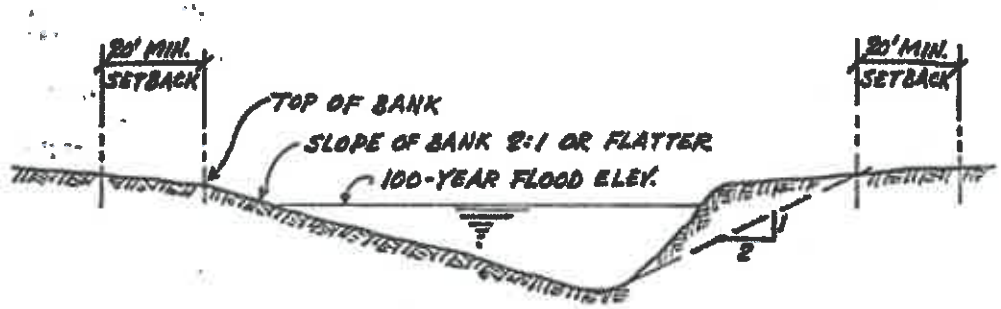


ATTACHMENT C
Excerpts of the Watercourse Protection Ordinance
Setback and Development Requirements

Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction
This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)
Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD Water Course Permit]

See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at: https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.12WAPR
- Set Back Criteria diagrams are at: http://friendsofsanlorenzocreek.org/ord13-12-320.htm

ATTACHMENT D

Castro Valley General Plan Excerpts from Chapter 7 Biological Resources & Chapter 8 Trails

MARCH 2012
Castro Valley General Plan

https://www.acgov.org/cda/planning/generalplans/documents/CastroValleyGeneralPlan_2012_FINAL.pdf

Included in this document:

CHAPTER 7 BIOLOGICAL RESOURCES
7.1 WILDLIFE AND SENSITIVE HABITATS
- Wildlife Habitat and Corridors
- Special Status Species
- Biological Resources Overlay Zone

7.2 CREEKS AND STREAMS
7.3 VEGETATION

CHAPTER 8 COMMUNITY FACILITIES, PARKS, AND SCHOOLS
8.3 TRAILS

Chapter 7
Biological Resources

7.1 WILDLIFE AND SENSITIVE HABITATS

Castro Valley has significant biological resources, primarily concentrated in creek corridors, canyons, and hillside open space areas. Many of the eastern hillside areas have been set aside as permanent open space as part of Planned Unit Developments, but other areas do not have similar protection. Castro Valley is also immediately adjacent to regional parks and County Measure D open space conservation areas. Open space areas within Castro Valley function as wildlife corridors for species to cross between larger habitat areas. This element addresses the protection of Castro Valley's biological resources, including animal species, plant species, and wildlife habitat. Its main provision is the creation of a Biological Resources Overlay Zone, which will establish special development and review requirements on properties with significant biological resources.

Alameda County is updating its Resource Conservation, Open Space, and Agriculture (ROSA) elements. The Castro Valley General Plan and the County ROSA must be consistent with one another. The updated ROSA will replace existing documents, including the 1966 Scenic Route Element, the 1973 Open Space Element, and the 1977 Specific Plan for Areas of Environmental Significance. The ROSA elements will also address plans and policies for Measure D lands

Wildlife Habitat and Corridors

The western and central portions of the Castro Valley General Plan Area are largely developed. There are small pockets of areas that provide wildlife habitat woven through these areas of residential lots, primarily

along creeks. The primary native wildlife habitat is oak/ riparian woodland that occurs along creeks. Other undeveloped areas in western and central Castro Valley are dominated by non-native plant species. The eastern portions of the General Plan Area support primarily native habitats. Large, undeveloped portions of this area, typically on steep hillsides or in canyons, have been set aside as open space as part of planned unit developments. Ornamental landscaping with large trees, shrubs and other vegetation may provide potential nesting habitat for raptors known to nest in urbanized areas and other special-status bird species.

As shown in Figure 7-1, oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area. Crow Creek and San Lorenzo Creek are deeply incised creeks with well-developed riparian areas. These two creeks serve as a primary migration route through the eastern half of the planning area for both aquatic and terrestrial species.

For this element, non-native dominant habitat is defined as areas supporting ruderal vegetation (non-native plant species favoring disturbed sites), ornamental or naturalized non-native trees (such as Monterey pine and eucalyptus), and shrubs (such as cotoneaster). Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation. Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.

All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks and wetlands with the potential to be considered jurisdictional by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or by the California Department of Wildlife habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks.

Fish and Game under California Fish and Game Code Sections 1600- 1607. In addition, Alameda County has a Tree Ordinance (Chapter 12.11 of the County General Code), which provides protection for any tree in a public right-of-way that is at least ten feet in height and has a trunk that is at least two inches in diameter.

Special Status Species

Table 7.1-1 lists the special-status species with associated vegetation type found within the Castro Valley planning area. The only special status animal species that have been observed in the Castro Valley planning area are yellow warbler and steelhead trout. Yellow warbler (Dendroica petechia) is a State species of special concern. Steelhead (Onchorhynchus mykiss) are a federally-listed Threatened Species, and a CDFG Species of Special Concern and have been observed in San Lorenzo Creek, Castro Valley Creek, and Crow Creek in the last ten years. The planning area also includes portions of the Critical Habitat for Alameda whipsnake (USFWS, 2006).

The planning area potentially supports the following special status animal species, based on the fact that the type of habitat that supports these species exists in Castro Valley: Steelhead, California tiger salamander, California red-legged frog, Alameda whipsnake, Western pond turtle, California horned lizard, Yellow warbler, Burrowing owl, Sharp-shinned hawk, white-tailed kite, Bats (Myotis spp., Pacific western big-eared bat, and greater western mastiff bat), Lum's micro-blind harvestman, great blue heron, Cooper's hawk, and red-tailed hawk. In addition, the following special-status plant species have the potential to occur in the planning area: Santa Cruz tarplant, alkali milk vetch, big-scale balsamroot,

fragrant fritillary, Diablo helianthella, and Robust monardella.



Biological Resources Overlay Zone

Figure 7-2, Biological Resources Overlay Zone (BROZ), illustrates the biological resource priority levels throughout Castro Valley. The purpose of the Overlay Zone is to protect areas with important biological resources, such as creeks, hillsides, and riparian areas, by requiring special review of proposed development projects. The review process would be required on all sites with high priority biological resources and on large sites (over two acres) with moderate or low priority biological resources.

Special review may involve environmental review, site plan and development review, and/or the application of County policy or ordinance requirements during review of development permit applications. The special review process will: evaluate the actual value of the habitat on the property; establish site planning parameters to preserve the most critical and/or most sensitive habitat areas; and establish conditions of approval to protect special status species during construction and occupancy. The special review requirements should be proportionate to the scale of the development project and the amount of valuable habitat on the property. On larger properties with high priority biological resources, the special review should require a biological assessment by a qualified biologist. For small home additions, application of standard conditions during building permit review would be more appropriate.

Development is allowed on parcels within the BROZ; however, the review process shall determine the level of development allowed and the design features necessary to protect biological resources. In order to ensure the protection of resources, property owners may not necessarily entitled to the maximum amount of development allowed under the zoning on BROZ parcels.

Priority levels shown on the map are based on a habitat area's biological sensitivity and its role as habitat

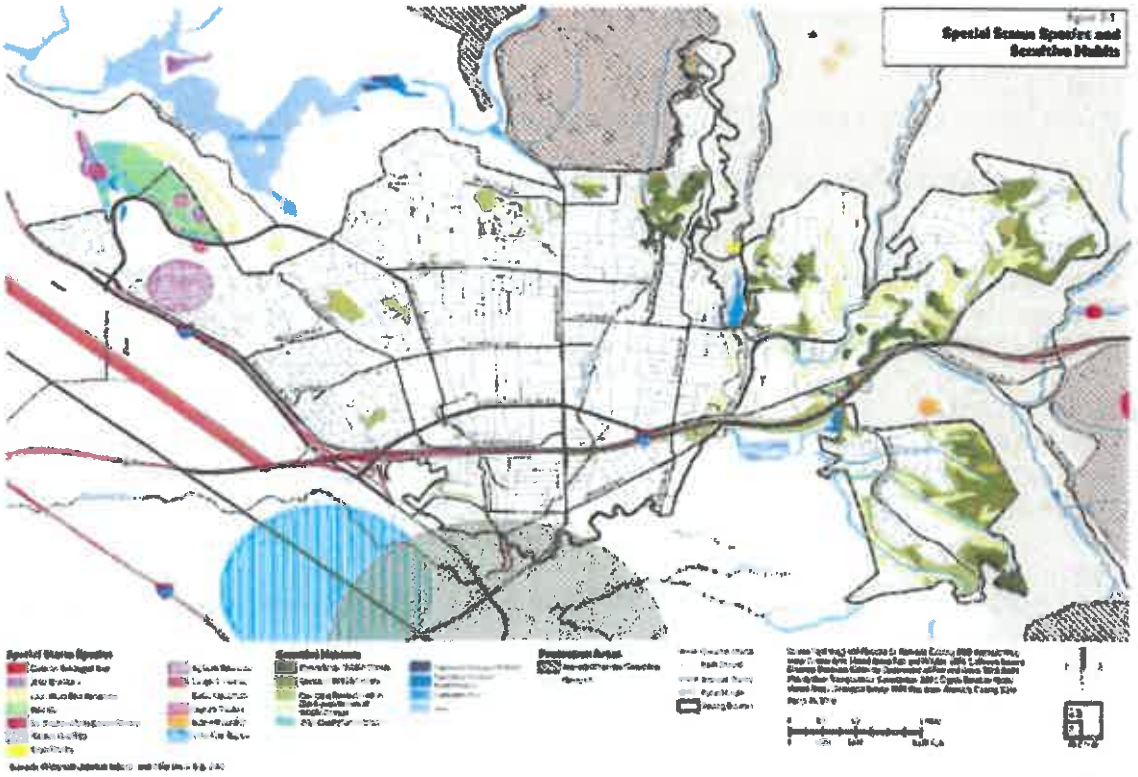
for threatened species. For example, oak/riparian woodland is considered the most biologically sensitive habitat, while coastal scrub and grassland are considered common plant communities. However, these communities may have higher preservation value when they provide potential habitat for threatened species or suitable habitats for supporting special status plants. In addition, grassland habitats have the potential to contain wetland habitats and/or small drainages that are a high priority for preservation. Isolated patches of non-native dominant habitat surrounded by development are considered a low priority for preservation.

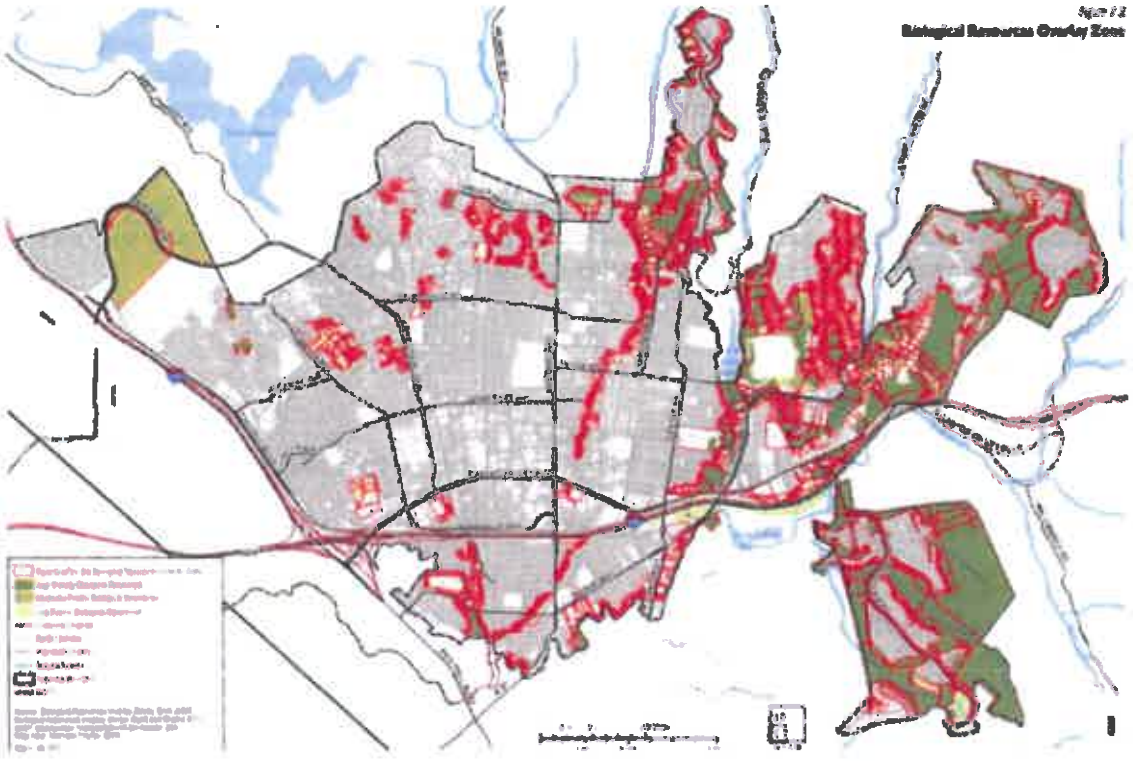
Future field surveys may identify features within grassland and nonnative dominant habitats that would increase the preservation value of certain areas within these habitat types (i.e. wetlands and other aquatic features). The priority scheme for habitats within Castro Valley is as follows:

High Priority
- Drainages
- Oak Riparian Woodland
- General Plan designated natural open space areas
- Coastal scrub on both sides of the Castro Valley Creek Improved Channel reach
- Coastal scrub just east of Cull Canyon Drive
- Coastal scrub between Jensen Road and Castro Valley Blvd/ Villareal Drive

Moderate Priority
- Other Coastal Scrub areas
- Grasslands

Low Priority
- Non-native Dominant Habitat





WILDLIFE AND SENSITIVE HABITAT GOAL

Goal 7.1-1 **
Protect Castro Valley's native wildlife through conservation and restoration of natural habitat.

WILDLIFE AND SENSITIVE HABITAT POLICIES

Policy 7.1-1 **
Major Wildlife Corridors Protection. Protect the major wildlife corridors that run through or are adjacent to Castro Valley: (1) the corridor along the East Bay Hills in the forest and chaparral between major interstate highways; and (2) along creeks.

Policy 7.1-2 **
Comprehensive Habitat Preservation. Preserve a continuous band of open space consisting of a variety of plant communities and wildlife habitat to provide comprehensive rather than piecemeal habitat conservation.

Policy 7.1-3 **
Open Space Preservation. Preserve the undeveloped areas designated as open space within planned unit developments as permanent open space.

Policy 7.1-4 **
Open Space Objectives. Require that open space provided as part of a development project be designed to achieve multiple objectives, including but not limited to: recreation, scenic values, habitat protection, and

public safety.

Policy 7.1-5 ***
Riparian Habitat. New development shall not disturb any riparian habitat.

Policy 7.1-6 Watershed Plan Coordination. Encourage the formation of a San Lorenzo Watershed Commission charged with ensuring coordination between multiple agencies and overseeing preparation of a comprehensive watershed plan

WILDLIFE AND SENSITIVE HABITAT ACTIONS

Biological Resources

Action 7.1-1 *
Biological Resources Overlay Zone. Explore the possibility of a biological resources overlay zone delineating high, moderate, and low priority areas for habitat preservation, to ensure maximum protection of biological resources.

• Require discretionary review for all development applications on properties within the high priority biological resources overlay zone, and for large sites over two acres in size with moderate or low priority biological resources. Discretionary review could include one or more of the following: environmental assessment per the California Environmental Quality Act; site plan and development review; and/ or the application of Board policy or other ordinance requirements.

• Establish in the ordinance that on lands with biological resources, new development is not necessarily entitled to achieve the maximum density allowed by the underlying zoning. An environmental assessment may be required, prepared by a qualified biologist, which shall be the basis for establishing development constraints specific to the property in question. Development intensity may be required to be reduced up to 50 percent of the intensity allowed by the underlying zoning, depending on the extent and value of the biological resources on the site.

• Establish thresholds of review for different types of projects, and different types of waterways. For example, a comprehensive environmental assessment should be required for new subdivisions, whereas minor improvements such as fences or decks may be exempt from special review if they meet specific standards.

Action 7.1-2
Biological Resources Maps and Inventories. Maintain maps and inventories of biological resources to use when conducting site plan and development review. Update these resources regularly to include new information from site surveys that are conducted in the planning area.

Action 7.1-3 *
Design Guidelines for Biological Resource Zones. Establish guidelines to ensure that development planned on or adjacent to high and moderate priority areas designated on the Figure 7-2, Biological Resources Overlay Zone will be designed to minimize impacts on sensitive resources and habitat areas.

• Apply these guidelines through the Planning Department's project review process.

• Include information about ways in which special-status plant and wildlife populations on private properties can be protected over time.

• Specify that watercourses and areas dominated by native trees and shrubs be left undisturbed by development to the maximum extent feasible.

Sensitive Habitat

Action 7.1-4 **
Open Space Preservation Mechanisms. Evaluate mechanisms to preserve open space and wildlife habitat to determine the most feasible options, such as zoning, fee title purchase, conservation easement purchase, or conservation easement dedication through density transfer, or density bonuses.

Action 7.1-5
Habitat Restoration Funding. Evaluate the feasibility of property tax credits and other possible funding sources for habitat restoration on larger size private lands as an incentive to foster the implementation of habitat restoration actions by private landowners.

Action 7.1-6 ***
Riparian Woodlands and Wetlands Mitigation. Discourage loss of riparian woodlands and seasonal and perennial wetlands, including ponds, by requiring replacement mitigation at a ratio to be determined by the value of the habitat to be lost. To facilitate replacement mitigation, the County shall support the creation of wetland or other habitat mitigation banks.

Action 7.1-7 *
Preservation and Protection of Riparian Vegetation. Consider adopting an ordinance to preserve and protect riparian vegetation, with exceptions for clearing hazards, clearing blocked channels, and other activities necessary for public safety.

Policy 7.1-8
Historical Woodlands and Grasslands. Encourage the East Bay Regional Park District to restore historical woodlands and grasslands to provide natural habitat and reduce fire danger.

Wildlife Corridors

Action 7.1-9 *
Connect Open Space to Large Habitat Areas. In the review of new subdivisions and other new development, require the preservation of adequately wide strips of undisturbed land to connect larger tracts of natural habitat or areas with biological resources.

Action 7.1-10 **
Conservation Easements. Encourage local land trusts and other easement holders to prioritize and acquire easements that serve to protect wildlife corridors.

Action 7.1-11
Public Infrastructure. Actively encourage agencies responsible for public infrastructure to site and design roadways and utilities in such a way as to minimize impacts to wildlife corridors, creeks, and regional trails. Where appropriate, grade-separated crossings and/or other features should be used to maintain the viability of the affected corridor.

Action 7.1-12
Wildlife Movement Corridors. Protect the wildlife movement corridors of special status species where they cross under I-580.

7.2 CREEKS AND STREAMS

Creeks play a critical role in wildlife habitat protection, water quality protection (by filtering pollutants), surface water drainage, and flood prevention. There are several perennial and seasonal creeks within the Castro Valley planning area (see Figure 7-1). The main ones include Crow Creek, Cull Creek, San Lorenzo Creek, Castro Valley Creek, and Chabot Creek. Several unnamed tributaries convey flows to these creeks; however, this map shows only few of them. Various creek segments are natural, managed in concrete-lined or earthen channels, or contained in a closed conduit (culvert). As mentioned in Section 7.1, the well-developed riparian areas along Crow Creek and San Lorenzo Creek are important wildlife habitats and corridors.

These drainage patterns within Castro Valley are shaped by the region's topography, which consists of steeper areas located along the foothills of the Diablo Range that gradually flatten out onto an alluvial plain. Water drains from higher elevation areas in the adjacent undeveloped land outside the urbanized area, through Castro Valley, and then down through Hayward and San Lorenzo before it reaches San Francisco Bay. Sections of San Lorenzo Creek, Chabot Creek and Castro Valley Creek have been altered over the years with channels and culverts to convey higher flows.

The County has a Watercourse Protection Ordinance (Chapter 13.12 of the County General Code) that applies across the unincorporated area of Alameda County. Its purpose is to safeguard and preserve watercourses, protect lives and property, prevent damage due to flooding, protect drainage facilities, control erosion and sedimentation, and enhance the recreational and beneficial uses of watercourses. In order to better protect creeks and riparian corridors and enhance their benefits for wildlife and Castro Valley's quality of life, specific actions should include revisions to the ordinance.

CREEKS AND STREAMS GOAL

GOAL 7.2-1 ***
Preserve and restore creek channels, and riparian habitat to protect and enhance wildlife and aquatic-life corridors, flood protection, and the quality of surface water and groundwater.

CREEKS AND STREAMS POLICIES

Policy 7.2-1 ***
Creek and Flood Channels. Protect all creeks and engineered channels that traverse the urbanized area of Castro Valley.

Policy 7.2-2 ***
Creek Setbacks. Establish adequate creek set backs to maintain and where appropriate enhance important stream functions.

Policy 7.2-3 ***
Creek Uses. Manage creeks for multiple uses including: scenic quality, recreation, water quality, soil conservation, groundwater recharge, and wildlife habitats.

Policy 7.2-4 ***
Natural/Nonstructural Creek Drainage Systems. Use and reclaim or fully restore natural or nonengineered creek drainage systems to the maximum extent feasible and look for opportunities to convert structural stormwater drain

CREEKS AND STREAMS ACTIONS

Action 7.2-1
Alameda County's Watercourse Protection Ordinance. Revise the County's Watercourse Protection Ordinance to ensure maximum protection of creeks and adjacent riparian habitat by requiring new development to provide sufficient setbacks and rights-of-way to meet the County's objectives for storm drainage, flood control, habitat protection, recreation, and other appropriate uses. Include the following provisions:

• Do not allow grading or structures within a creek bed, unless they are required to prevent flooding and erosion that pose an imminent hazard to public health and safety, or to prevent serious property damage;

• Require the preservation and/or restoration of natural drainage and habitat to the maximum extent feasible, without causing further acceleration of water flow or erosion further downstream;

• Increase the setback for habitable structures to ensure adequate distance between structures and an open creek channel.

• Require construction methods that minimize flooding and erosion;

• Consider limiting the amount of impervious surface within 100 feet of the top of the creek bed channel to limit erosion and acceleration of water flow into the creek channel;

• Establish basic standards for development in or near creekside areas, in order to clarify and expedite the permitting process;

• Require preparation of a creek protection plan for new construction or significant expansion on creekside properties. The creek protection plan shall: be prepared by qualified professionals; establish areas most suitable for construction; and identify construction procedures that will minimize impacts n creek channels and riparian vegetation.

Action 7.2-2
Review Procedures and Meetings. Establish review procedures and convene regular meetings to coordinate relevant departments, divisions, and public agencies to manage creek management and preservation goals.

Action 7.2-3
Comprehensive Creek Corridor Open Space Plan. Work with public agencies, nonprofit organizations, and other interested parties to develop a Comprehensive Creek Corridor Open Space Plan. The Plan shall identify: key acquisitions along creek corridors; restoration potential along creek corridors; and alternative management practices along creek corridors.

Action 7.2-4
San Lorenzo Creek Action Plan. Implement the San Lorenzo Creek Action Plan, prepared as part of the County Public Works Stormwater Quality Management Plan, as well as other restoration and trail projects in the San Lorenzo Creek watershed, to the extent that funds are available.

Action 7.2-5
Creek Protection and Restoration. Work with nongovernmental organizations such as the Friends of San Lorenzo Creek, the Urban Creeks Council on creek protection and restoration efforts in order to support community involvement and resource enhancement.

7.3 VEGETATION

In addition to providing habitat and movement corridors for a variety of wildlife species, Castro Valley's native and non-native vegetation contributes to the character of the area and provides other environmental benefits. The term "urban forest" is sometimes used to describe all of the vegetation, both public and private, in a community. In Castro Valley, the urban forest comprises vegetation in the planning area's neighborhood, community, and regional parks; street trees; community gardens; and even ornamental landscaping and backyard vegetable gardens on private property.

This variety of vegetation helps to manage stormwater by preventing erosion and plays a crucial function in water quality protection by filtering pollutants. Trees beautify neighborhoods, increase property values, reduce noise and air pollution, and create privacy. Trees also provide shade for recreational enjoyment, buildings, and paved areas. Work with non governmental organizations on stream protection and creek restoration, such as with Chabot Creek. Site planning with trees in appropriate locations can reduce the need for air conditioning and associated energy consumption. Although most of the orchards and farms that once abounded in Castro Valley have been replaced by development, an increasing number of residents are cultivating home gardens that provide food as well as environmental benefits.

The County's Tree Ordinance protects larger trees in public right-of-ways but no similar protection exists for trees on private property. Although the Castro Valley Central Business District Specific Plan includes landscaping requirements and guidelines, there are no comparable provisions applicable to development in other parts of the planning area.

VEGETATION GOAL

GOAL 7.3-1
Maintain, preserve, and enhance trees and vegetation to provide environmental and aesthetic benefits.

VEGETATION POLICIES

Policy 7.3-1
Alameda County Tree Ordinance. Continue to implement and enforce the Alameda County Tree Ordinance to protect trees in the public right-of-way.

Policy 7.3-2 **
Native Environment. Maintain and enhance the existing environment by preserving existing native trees and plants whenever feasible, replacing trees on-site, and adding trees and other vegetation in the public right-of-way.

Policy 7.3-3
Gardening. Support local gardening by facilitating community gardens and creating markets for local goods.

VEGETATION ACTIONS

Action 7.3-1
Enforcement of Alameda County Tree Ordinance. Ensure that there is sufficient funding to enforce the Alameda County Tree Ordinance. Require permits for planning, pruning, or removing trees in the public right-of-way.

Action 7.3-2 *

Heritage Trees. Consider amending the Tree Ordinance to preserve and protect heritage trees including native oaks and other significant native trees on private property.

Action 7.3-3
Native Trees and Plants. Adopt guidelines to promote the use of native trees and plants when landscaping on any County property. Consider adopting guidelines to mitigate the impact of private development on land with significant habitat value.

Action 7.3-4
Community Gardens. Identify potential community garden sites and sup-port the establishment of such gardens.

Action 7.3-5
Planter Strips. Consider amending the County zoning ordinance to prohibit paving of planter strips.

Chapter 8
Community Facilities, Parks and Schools

This section not included in this excerpt of the CV General Plan.

8.1 COMMUNITY FACILITIES

This section not included in this excerpt of the CV General Plan.

8.2 PARKS AND RECREATION

This section not included in this excerpt of the CV General Plan.

8.3 TRAILS

Castro Valley residents have easy access to East Bay Regional Park District trails but, in contrast to more recently developed communities, there are relatively few trails and pathways connecting neighborhoods to one another or to the extensive resources that surround the community. Because most of the planning area was built up before communities recognized the value of making provision for non-automated transportation, the challenge is to identify and take advantage of opportunities to develop off-road pedestrian, biking, and equestrian trails as the community is built-out and redeveloped within its relatively limited existing boundaries.

TRAILS GOAL

GOAL 8.3-1 ***
Provide a comprehensive system of hiking, equestrian and bicycle trails to connect major park and recreation areas within and adjacent to the Castro Valley Planning Area, to connect neighborhoods, and to provide an alternative means of access between neighborhoods and the downtown.

TRAILS POLICIES

Policy 8.3-1 ***
Integration of Trails in New Development. Incorporate trails, greenways, and linear recreation facilities as integral components of new development.

Policy 8.3-2
Enhancement of Public Awareness about Trails. Increase public awareness of trails and pathways.

Policy 8.3-3 ***
Location of Trails within Flood Control and Riparian Corridors. When feasible, locate trials within the boundaries of flood control and riparian corridors. Site creekside trails to minimize disruption to riparian areas. Incorporate trails, greenways, and linear recreation facilities as integral concepts of new development.

TRAILS ACTIONS

Action 8.3-1
Amendment of Subdivision Requirements for Trail Linkages. Amend the County subdivision ordinance to require projects abutting existing parklands to provide linkages to the trail system.

Action 8.3-2
Downtown Pedestrian and Bicycle Path. Study the feasibility of developing a pedestrian and bicycle path linking the new Castro Valley Library to surrounding commercial and residential areas along Castro Valley Creek.

Action 8.3-3 ***
Multiple Uses for Land Adjacent to Natural Watercourses. Identify opportunities for acquiring land along Castro Valley's natural watercourses to meet multiple objectives of flood protection, recreation, improved water quality, and increased non-motorized connectivity between residential, commercial, and civic areas.

Action 8.3-4 ***
Multi-Use Trail System. Coordinate with HARD, the Cities of Hayward and San Leandro, and the East Bay Regional Park District to provide trailheads and linkages to a multi-use trail system.

Action 8.3-5
Funding for Signage and Maps of Trail System. Seek public and private funding to install attractive signage and produce maps illustrating trails and pathways.

Action 8.3-6 ***
Route 238 Corridor Trail. Coordinate with HARD and other park agencies to incorporate a multi-use trail into the plans for development on land in the former Route 238 Corridor.

FRIENDS OF SAN LORENZO CREEK

Date: March 26, 2019

To: Andrew Young, Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com

Bruce W. King

Cc: Ellen Morris, Eden Housing Project Manager

Subject: Friends of San Lorenzo Creek Comments on the
Site Development Review of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter provides comments on the behalf of Friends of San Lorenzo Creek (FSLC) on the Review of Site Development Review (SDR) PLN2019-00024 of Eden Housing's proposed Ruby Street Project consisting of: a) a four-story apartment building containing 72 dwelling units (at 24.5 units per acre) and 109 open parking spaces all on 2.95 acres; and b) a trail corridor design on 2.99 acres. All of the above is subject to a pending boundary adjustment to merge 20 parcels and create 3 new parcels (noted as Parcel A, B, and C in the plans).

This proposed project is in a wildlife corridor of San Lorenzo Creek. FSLC comments focus on ensuring the creek, banks, required creek setbacks, oak riparian woodland, and wildlife corridor of the creek are protected from development and maintained in a healthy condition.

GENERAL COMMENT – PROJECT APPROVAL NOT RECOMMENDED

Friends of San Lorenzo Creek does not recommend approval of this proposed SDR and plan for the general reasons listed below and as detailed further in this letter.

- The creek setback was not correctly determined. Proper calculation and assessment will result in less developable land.
- An environmental assessment has not been provided that shows what biological resources need to be protected, especially resources beyond the minimum creek setback such as Oak Riparian Woodland/Wildlife Corridor. This will likely result in less developable land.
- Important questions regarding the multi-use trail and Parcels A, B, and C need some public clarity, resolution, and planning.

SPECIFIC COMMENTS

1.0 EXTEND REVIEW AND COMMENT TIMELINE

Comment. On March 24, FSLC objected via email to the document-release and review timelines being given to the community, listed reviewers on the Project Referral, and the CVMAC. These groups have not yet been given an assessment of the biological resources, along with the extent and value of the Oak Riparian Woodland/Wildlife Corridor, on which to base their fundamental evaluations of the extent of land/habitat to be covered/impacted by this development.

Additional Information. Project Referral reviewers must submit comments by April 2 and the community by April 9. After that, the environmental Initial Study (IS) will only be available by April 12, and "comments may be considered when the Council [CVMAC] recommends an action to the Planning Director" on April 22 (per the Neighborhood Courtesy Notice). So that gives everyone (including agencies and the community) only ten days to get the IS, review and submit comments on the IS, revise their previous comments on the plans as needed, and give compiled comments to the CVMAC with sufficient time for the CVMAC to review the comments before their April 22 meeting.

2.0 RE-DETERMINE THE CREEK SETBACK

2.1 Creek Setback is Too Small. Correctly Determine the 2:1+20ft Setback

Comment. The minimum creek setback as defined in the Watercourse Protection Ordinance (WPO) needs to be correctly determined and shown on the plans. In addition, proposed "development" as defined in the WPO needs to be removed from the creek setback area consisting of the minimum setback plus any additional riparian area. See Attachment C for excerpts of the WPO.

Explanation. The minimum creek setback was incorrectly determined as shown in the proposed Ruby Street project plans (see Attachment B). The actual location of the minimum creek setback boundary line is further away from the creek than is shown on the plans. In some cases, the actual minimum setback may be an additional ten feet or more from the setback line shown on the plans.

Further Explanation. The WPO requires that the slope of the creek bank used to calculate the minimum setback be 2:1 (horizontal to vertical) or flatter. The "bank" consists of the sides of the channel between which the flow is confined. The 2:1 slope calculation starts at the bottom of the bank (i.e., bank "toe"). At this site, the slope line ends at the point where the slope line exists the ground beyond the top-of-bank. Plan C-0.3 (Lot Line Adjustment) in this proposed plan set show the 2:1 slope calculation starting at the creek midline, rather than the required bank toe. Since the creek midline is often ten feet or more from the bank toe at this site, the minimum creek setback boundary line is misrepresented in the proposed plans by the same amount. Using the incorrect slope calculation starting point: a) is technically incorrect and has no basis in bank stability; b) results in significant loss of minimally-calculated, riparian area and corridor; and c) could lead to loss of any "developments" placed within the setback due to bank erosion and failure. This reach of San Lorenzo Creek has many steep, unstable banks due

to lack of upstream sediment transfer, ongoing creek down-cutting, and past human activity that pushed soil and debris (e.g., broken concrete) over the creek banks.

2.2 Add Additional Riparian Areas to the Minimum Creek Setback

Comment. After recalculating and determining the location of the minimum creek setback (as described in Comment 2.1, above), add additional riparian areas found by completing the environmental assessments covered in Comments 3.1, 3.2, and 3.3.

Note: The WPO specifies a minimum 2:1 +20-foot creek setback, plus inclusion of any additional existing or repairable riparian areas (as stated in the WPO purposes).



Some steep and unstable banks of San Lorenzo Creek

3.0 ENVIRONMENTAL ASSESSMENT AND PLAN MODIFICATION

3.1 Provide an Environmental Assessment and Modify the Project Plan to Protect Resources

Comment. Provide an environmental assessment of the location, value, and required protections of the riparian areas, biological resources, and the wildlife corridor using required procedures and standards, including: a) CEQA environmental review; b) Purpose and requirements in the WPO to protect riparian areas and their ability to be restored; and c) Castro Valley General Plan goals, policies, and actions. Areas outside the minimum WPO creek setback deserve special attention, since the minimum creek setback (when calculated properly) already protects biological resources within the minimum setback. Remove proposed development from habitat areas and mitigate for any impacts.

Background. The Castro Valley General Plan designates much of the Ruby Street proposed project area as: a) "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor" in Figure 7-1; and b) "High Priority Biological Resource" in Figure 7-2. Attachment B has blow-ups of these Figures that show these habitats and resources at this site.

Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo

Creek, Chabot Creek, and Castro Valley Creek. These continuous, natural-creek corridors extend from the hills in the east, down Crow Creek and San Lorenzo Creek, through this proposed project site, to Foothill Boulevard, to Route 238 Parcel 8, up Chabot Creek to Strobridge Avenue, and up Castro Valley Creek to Grove Way. This proposed project site is largest open site between Carlos Bee Park and a site upstream at the end of Charlene Way, and therefore has greater significance for supporting wildlife in the corridor. Attachment B has satellite views of: a) these wildlife corridors following the natural creeks throughout this area; and b) the presence of native, riparian, and oak woodland habitat across the proposed project site.

Here are excerpts from Section 7.1 of the CV General Plan that help define and outline protections for these habitats, resources, and corridors.

- Castro Valley has significant biological resources, primarily concentrated in creek corridors.
- Oak/riparian woodland is considered the most biologically sensitive habitat
- Oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area, as shown in Figure 7-1.
- Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation.
- Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.
- All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks.
- Habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks.

3.2 Assess Sensitive Habitat & Remove Proposed Development from These Areas

Comment. Assess and show locations of "sensitive habitat" across the site, especially in areas outside the creek setback where development is currently being proposed. The CV General Plan states that "sensitive habitat" includes: a) creeks; and b) all areas supporting native vegetation or providing suitable habitat for special-status species, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Revise plans and remove "development" from areas covered with "sensitive habitat" and provide mitigations for more-isolated or minor "sensitive habitat" that will be impacted.

Additional Information. Attachment B provides satellite views of the presence of native, riparian, and oak woodland habitat across the proposed project site. Some of these areas would be covered by the proposed development, most notably by parking lots. In addition, Plans C-4.1.1 and C-4.1.2 show 30 or more trees to be removed. Plans L1.1 and L2.1 show new trees to be planted (21 native oaks and 70 non-native trees).

3.3 Assess the Wildlife Corridor and Modify Plans to Support Wildlife

Comment. An environmental assessment needs to include this site's role in this area's continuous, creek, wildlife corridor system and an assessment of the area and habitat needed on this site to support common native and special status wildlife in and moving through the corridor. Modify the project plans as needed to support wildlife on this site in the context of the corridor.



Wildlife in the corridor. A herd of deer inhabit Ruby Meadow, the proposed project site. Another herd of deer inhabit Route 238 Parcel 8. Egrets and hawks are also often seen immediately upstream of this project site and A Street. The egret pictured here was at Grove Way and Orange Avenue, about 0.3 miles from the project site. Fish also inhabit San Lorenzo, Chabot, and Castro Valley Creeks.

3.4 Mitigate for Trees to Be Removed

First, address Comment 3.2 regarding protecting native trees and oak woodland sensitive habitat. Then, any native trees that will be removed, should be replaced at a high replacement-to-removal ratio. Note: Plans C-4.1.1 and C-4.1.2 show 30 or more trees to be removed. Plans L1.1 and L2.1 show new trees to be planted (21 native oaks and 70 non-native trees).

4.0 RESOLVE QUESTIONS REGARDING THE PARCELS AND TRAIL

4.1 Make Parcel Owners, Operators, and Functions More Transparent

Comment. Who is currently and/or in the future buying, owning, and operating/maintaining Parcels A, B, and C? What are the proposed functions of Parcels A, B, and C?

Additional Information. Twenty (20) parcels are being merged (reportedly awaiting final recording by the County) and three (3) new parcels are being created. This is Caltrans land being sold to or managed by a non-profit using at least some public funding and to unspecified public agencies (e.g., ACPWA?, ACFCWCD?, HARD?). The reviewers and the public should generally and strategically know how funds are proposed for spending, who is making improvements, who is proposed to manage/operate each new parcel, and what is the proposed function(s) of each parcel. Proposed projects and parcel line changes should not be approved

without knowing basic information. The table below is a simplified example of information that should be available:

	Parcel A	Parcel B	Parcel C
Parcel Buyer & Price			
Parcel Owner			
Parcel Operator			
Parcel Function			

Additional Notes: The plans appear to show most of the multi-use trail being located in Parcel A and B. In addition, Caltrans is currently required to complete their mitigation project which is mostly on Parcel C. This mitigation project is on a permanent, creek conservation easement established by Caltrans. Lastly, ACPWA or ACFCWD was considering accepting responsibility and an endowment for this conservation easement.

4.2 Multi-Use Trail Questions That Need Resolution

Comment. Listed below are examples of questions that need to be addressed regarding this segment of the multi-use trail.

Additional Information. The plans indicate the multi-use trail proposed route is on Parcel A and B. In addition, the legends in Plans L1.1 and L1.2 state the trail is an "Optional Trail" and "Future Trail," respectively. Also, the plans provide no additional trail information. Lastly, HARD has reportedly discussed operation of this trail.

Trail Questions:

4.2.1 If the trail is on Parcel A, will Eden Housing own the trail or the land under the trail?
4.2.2 Who will own the land under the trail and the trail itself?
4.2.3 Who will pay for the trail?
4.2.4 Who will operate and maintain the trail?
4.2.5 Who will build the trail, and should the trail (or portions thereof such as grading or underground utilities) be constructed during construction on Parcel A?
4.2.6 What trail planning and development is needed by the County as the trail leaves this project site on A Street to the south and Crescent Avenue to the north?
4.2.7 What is the nearer-term and longer-term pedestrian and traffic plan for the trail and its connection to A Street? The answer should affect the trail route on Parcel B.

4.3 Parcel "C" Questions That Need Resolution

4.3.1 How will visibility and access to San Lorenzo Creek be enabled and restricted? Short and long-term plans are needed before public access to Parcels A, B, and C is enabled. Many creek banks are too steep and unstable to allow people to walk down the banks. Native and/or restored vegetation could be damaged by human activity. The creek is dangerous

when higher water is present, and the creek bed contains a lot of slippery broken concrete blocks.

4.3.2 Shouldn't the multi-use trail be located on Parcel C rather than Parcel A? Shouldn't Public Works and/or HARD have ownership and responsibility for the trail rather than the owner of Parcel A?

4.3.3 Who will ultimately be responsible for acceptance of the conservation easement from Caltrans?

4.3.4 How will liabilities be handled related to structures in the City of Hayward that are near and over-hanging the creek top-of-bank?

4.3.5 What is the location of the Caltrans cyclone fence located near the top-of-bank, and will this fence be used or removed?

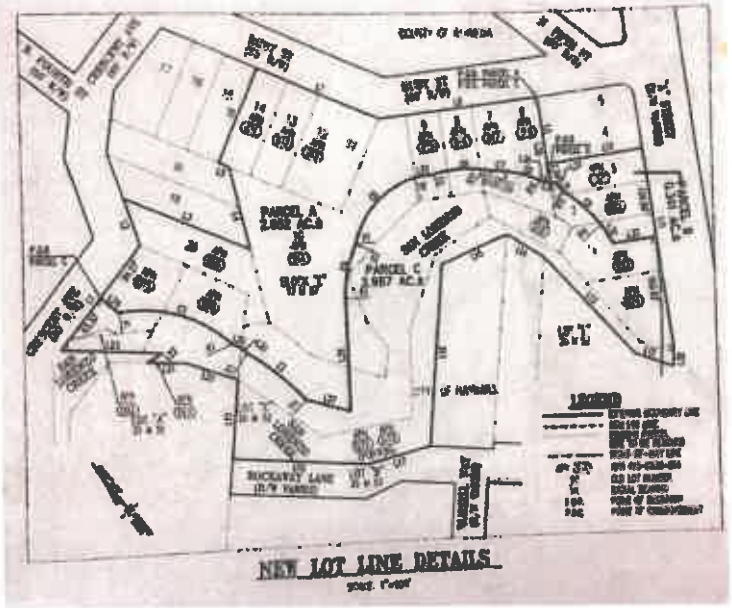
4.3.6 Who will be responsible for a native landscape and irrigation plan (e.g., for areas not previously restored by Caltrans)?

ATTACHMENT A

Project Plan Excerpts



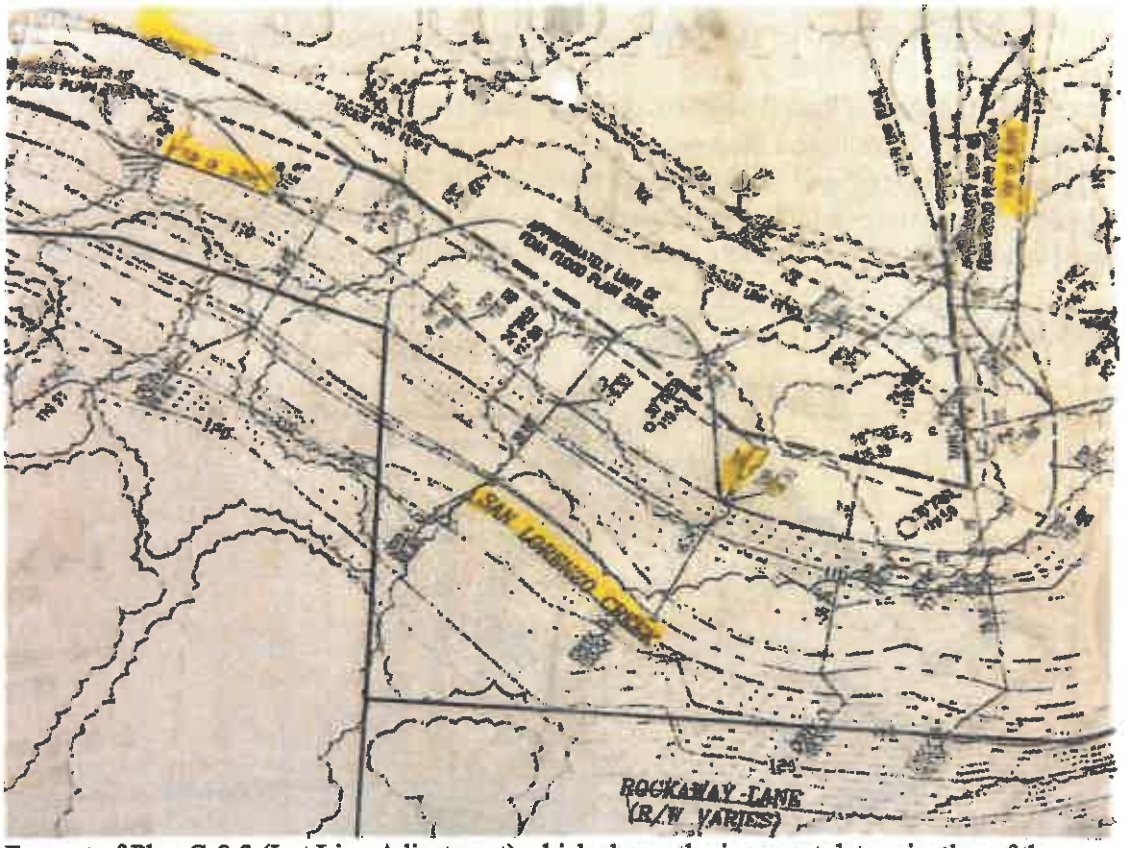
Excerpt of the landscape site plan L1.1



Excerpt of new lot line details showing Parcel A, Parcel B, and Parcel C

ATTACHMENT A (Continued)

Incorrect Determination of the Minimum Creek Setback



Excerpt of Plan C-0.3 (Lot Line Adjustment) which shows the incorrect determination of the minimum creek setback boundary by starting the 2:1 slope calculation at the creek midline rather than correctly starting at the bank toe.

ATTACHMENT B

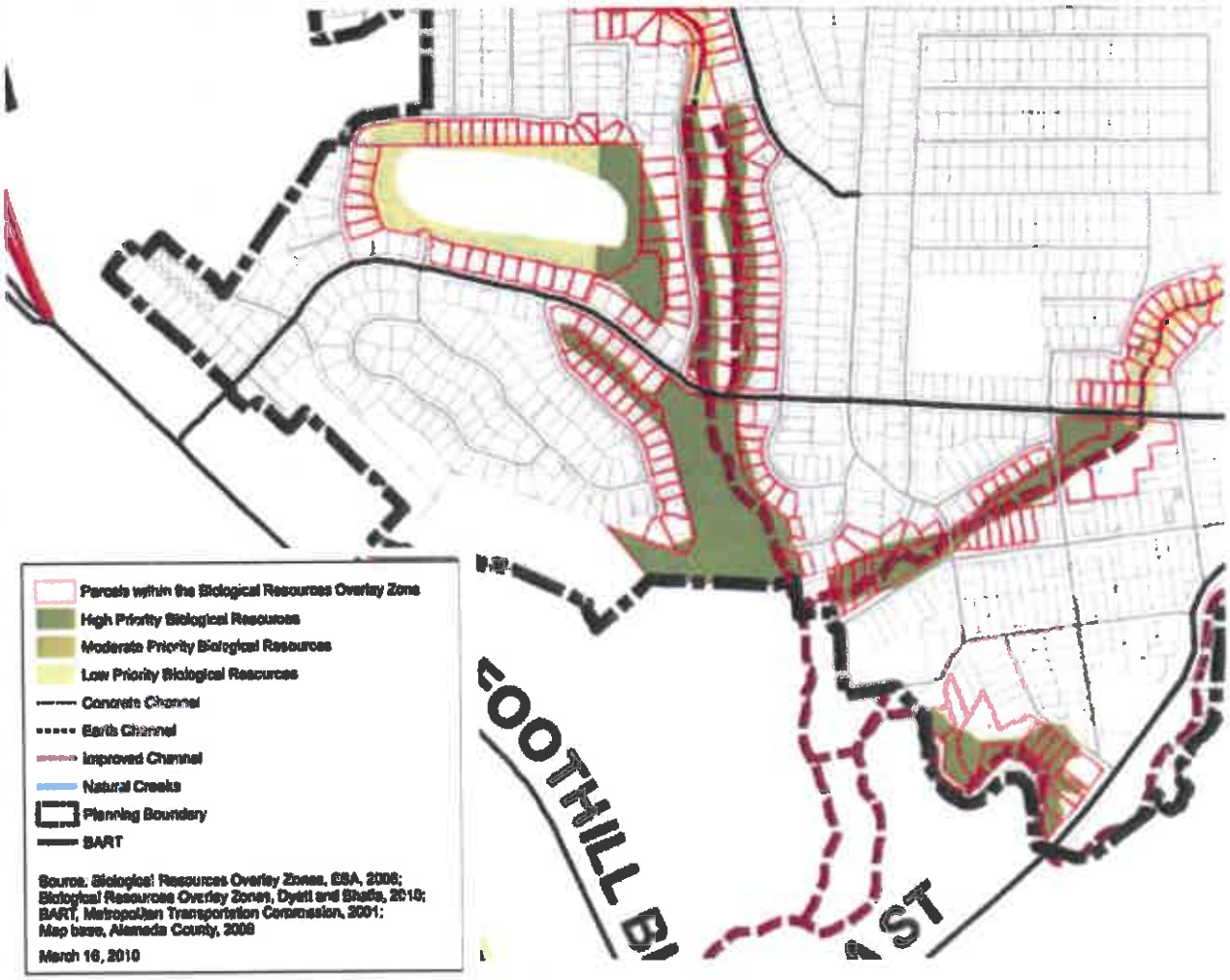
Castro Valley General Plan Biological Recourses and Habitat Overlays and Satellite Views of the Site and Vegetation from 2002 to 2019

The Castro Valley General Plan designates much of the Ruby Street proposed project area as

- "High Priority Biological Resources;" and
- "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."

These biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the areas shown in the Castro Valley General Plan.

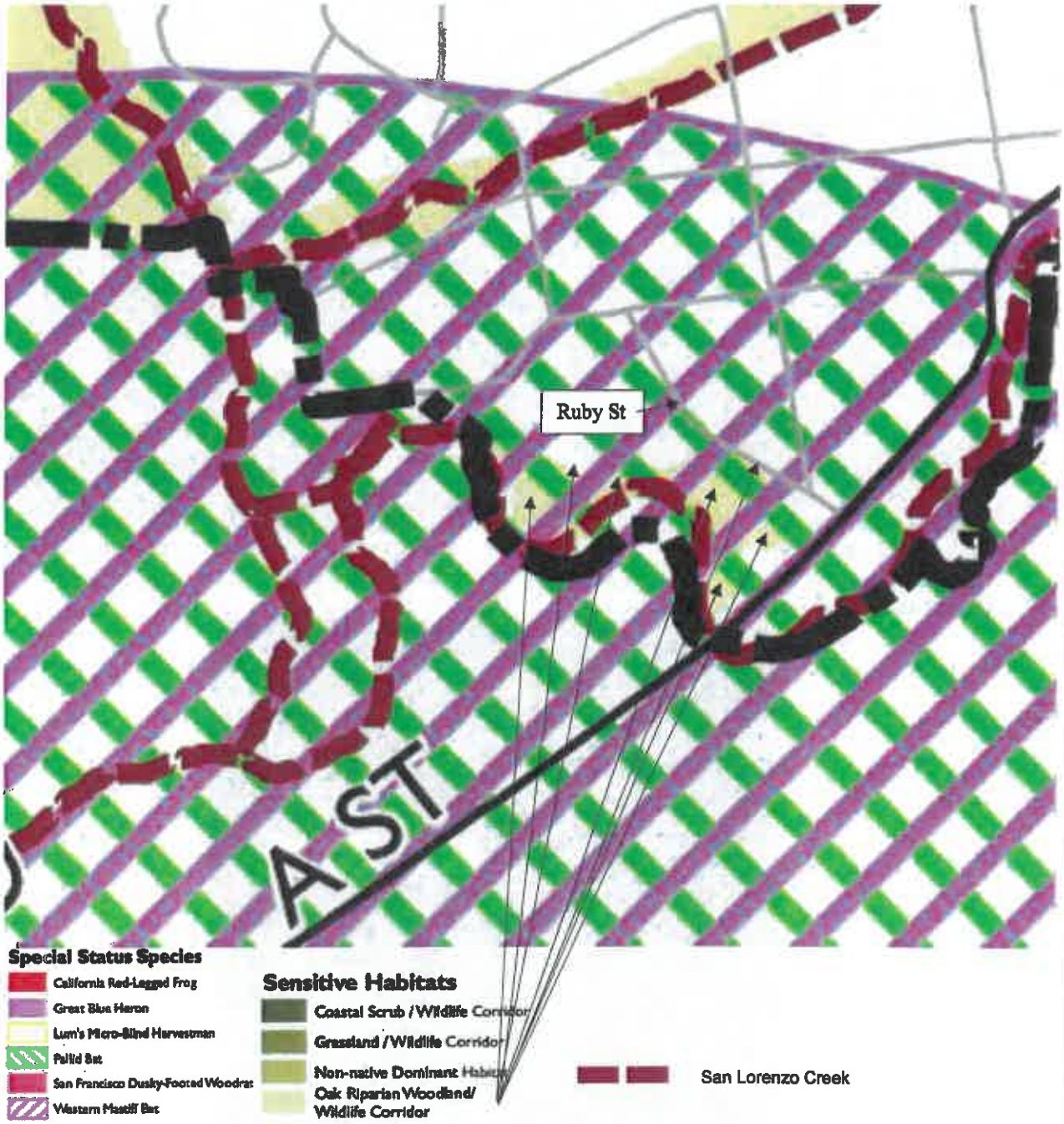
High Priority Biological Resource Areas



The Castro Valley General Plan designates much of the Ruby Street proposed project area as "High Priority Biological Resources." *Reference: Castro Valley General Plan, Chapter 7, Figure 7-2*

ATTACHMENT B (Continued)

Sensitive Habitat and Oak Riparian Woodland/Wildlife Corridor Areas



The Castro Valley General Plan designates much of the Ruby Street proposed project area as "Sensitive Habitat" and "Oak Riparian Woodland/Wildlife Corridor."
Reference: Castro Valley General Plan, Chapter 7, Figure 7-1

ATTACHMENT B (Continued)

Wildlife Corridors



Continuous aquatic and terrestrial natural wildlife corridors follow the natural creeks throughout this area and cross this proposed project site. The creeks include San Lorenzo Creek, Chabot Creek, and Castro Valley Creek.



ATTACHMENT B (Continued)

Ruby St Satellite View 2019



Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.



ATTACHMENT B (Continued)



Biological resources and the corresponding Oak Riparian Woodland are visible in the satellite views of the site and correlate with the bio and habitat areas shown in the CV General Plan overlays.

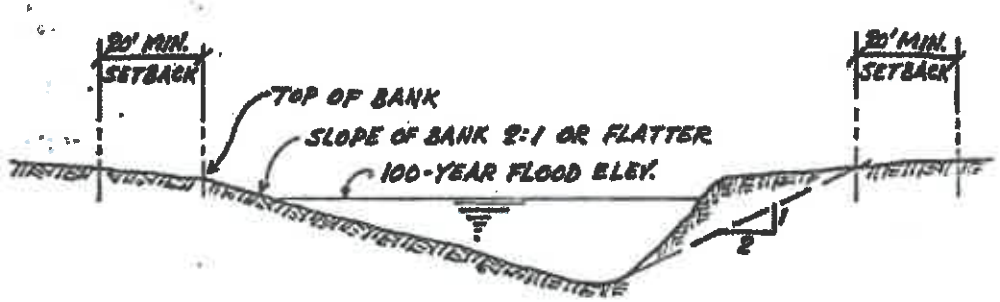


ATTACHMENT C
Excerpts of the Watercourse Protection Ordinance
Setback and Development Requirements

Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction
This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)
Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD Water Course Permit]

See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at: https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.12WAPR
- Set Back Criteria diagrams are at: http://friendsofsanlorenzocreek.org/ord13-12-320.htm

ATTACHMENT D

Castro Valley General Plan Excerpts from Chapter 7 Biological Resources & Chapter 8 Trails

MARCH 2012
Castro Valley General Plan

https://www.acgov.org/cda/planning/generalplans/documents/CastroValleyGeneralPlan_2012_FINAL.pdf

Included in this document:

CHAPTER 7 BIOLOGICAL RESOURCES
7.1 WILDLIFE AND SENSITIVE HABITATS
- Wildlife Habitat and Corridors
- Special Status Species
- Biological Resources Overlay Zone

7.2 CREEKS AND STREAMS
7.3 VEGETATION

CHAPTER 8 COMMUNITY FACILITIES, PARKS, AND SCHOOLS
8.3 TRAILS

Chapter 7
Biological Resources

7.1 WILDLIFE AND SENSITIVE HABITATS

Castro Valley has significant biological resources, primarily concentrated in creek corridors, canyons, and hillside open space areas. Many of the eastern hillside areas have been set aside as permanent open space as part of Planned Unit Developments, but other areas do not have similar protection. Castro Valley is also immediately adjacent to regional parks and County Measure D open space conservation areas. Open space areas within Castro Valley function as wildlife corridors for species to cross between larger habitat areas. This element addresses the protection of Castro Valley's biological resources, including animal species, plant species, and wildlife habitat. Its main provision is the creation of a Biological Resources Overlay Zone, which will establish special development and review requirements on properties with significant biological resources.

Alameda County is updating its Resource Conservation, Open Space, and Agriculture (ROSA) elements. The Castro Valley General Plan and the County ROSA must be consistent with one another. The updated ROSA will replace existing documents, including the 1966 Scenic Route Element, the 1973 Open Space Element, and the 1977 Specific Plan for Areas of Environmental Significance. The ROSA elements will also address plans and policies for Measure D lands

Wildlife Habitat and Corridors

The western and central portions of the Castro Valley General Plan Area are largely developed. There are small pockets of areas that provide wildlife habitat woven through these areas of residential lots, primarily

along creeks. The primary native wildlife habitat is oak/ riparian woodland that occurs along creeks. Other undeveloped areas in western and central Castro Valley are dominated by non-native plant species. The eastern portions of the General Plan Area support primarily native habitats. Large, undeveloped portions of this area, typically on steep hillsides or in canyons, have been set aside as open space as part of planned unit developments. Ornamental landscaping with large trees, shrubs and other vegetation may provide potential nesting habitat for raptors known to nest in urbanized areas and other special-status bird species.

As shown in Figure 7-1, oak riparian woodland, coastal scrub, and grassland vegetation serve as the primary wildlife movement corridors for common and special-status wildlife species within the Castro Valley planning area. Crow Creek and San Lorenzo Creek are deeply incised creeks with well-developed riparian areas. These two creeks serve as a primary migration route through the eastern half of the planning area for both aquatic and terrestrial species.

For this element, non-native dominant habitat is defined as areas supporting ruderal vegetation (non-native plant species favoring disturbed sites), ornamental or naturalized non-native trees (such as Monterey pine and eucalyptus), and shrubs (such as cotoneaster). Non-native dominant habitats also may serve as movement corridors when continuous with habitats supporting native vegetation. Wildlife corridors allow animals to have an adequate range of habitat area to search for food, flee from predators, and find protected areas for newborns. In an urbanized area, continuous wildlife corridors, such as creeks, are particularly important.

All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks and wetlands with the potential to be considered jurisdictional by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or by the California Department of Wildlife habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks.

Fish and Game under California Fish and Game Code Sections 1600- 1607. In addition, Alameda County has a Tree Ordinance (Chapter 12.11 of the County General Code), which provides protection for any tree in a public right-of-way that is at least ten feet in height and has a trunk that is at least two inches in diameter.

Special Status Species

Table 7.1-1 lists the special-status species with associated vegetation type found within the Castro Valley planning area. The only special status animal species that have been observed in the Castro Valley planning area are yellow warbler and steelhead trout. Yellow warbler (Dendroica petechia) is a State species of special concern. Steelhead (Onchorhynchus mykiss) are a federally-listed Threatened Species, and a CDFG Species of Special Concern and have been observed in San Lorenzo Creek, Castro Valley Creek, and Crow Creek in the last ten years. The planning area also includes portions of the Critical Habitat for Alameda whipsnake (USFWS, 2006).

The planning area potentially supports the following special status animal species, based on the fact that the type of habitat that supports these species exists in Castro Valley: Steelhead, California tiger salamander, California red-legged frog, Alameda whipsnake, Western pond turtle, California horned lizard, Yellow warbler, Burrowing owl, Sharp-shinned hawk, white-tailed kite, Bats (Myotis spp., Pacific western big-eared bat, and greater western mastiff bat), Lum's micro-blind harvestman, great blue heron, Cooper's hawk, and red-tailed hawk. In addition, the following special-status plant species have the potential to occur in the planning area: Santa Cruz tarplant, alkali milk vetch, big-scale balsamroot,

fragrant fritillary, Diablo helianthella, and Robust monardella.



Biological Resources Overlay Zone

Figure 7-2, Biological Resources Overlay Zone (BROZ), illustrates the biological resource priority levels throughout Castro Valley. The purpose of the Overlay Zone is to protect areas with important biological resources, such as creeks, hillsides, and riparian areas, by requiring special review of proposed development projects. The review process would be required on all sites with high priority biological resources and on large sites (over two acres) with moderate or low priority biological resources.

Special review may involve environmental review, site plan and development review, and/or the application of County policy or ordinance requirements during review of development permit applications. The special review process will: evaluate the actual value of the habitat on the property; establish site planning parameters to preserve the most critical and/or most sensitive habitat areas; and establish conditions of approval to protect special status species during construction and occupancy. The special review requirements should be proportionate to the scale of the development project and the amount of valuable habitat on the property. On larger properties with high priority biological resources, the special review should require a biological assessment by a qualified biologist. For small home additions, application of standard conditions during building permit review would be more appropriate.

Development is allowed on parcels within the BROZ; however, the review process shall determine the level of development allowed and the design features necessary to protect biological resources. In order to ensure the protection of resources, property owners may not necessarily entitled to the maximum amount of development allowed under the zoning on BROZ parcels.

Priority levels shown on the map are based on a habitat area's biological sensitivity and its role as habitat

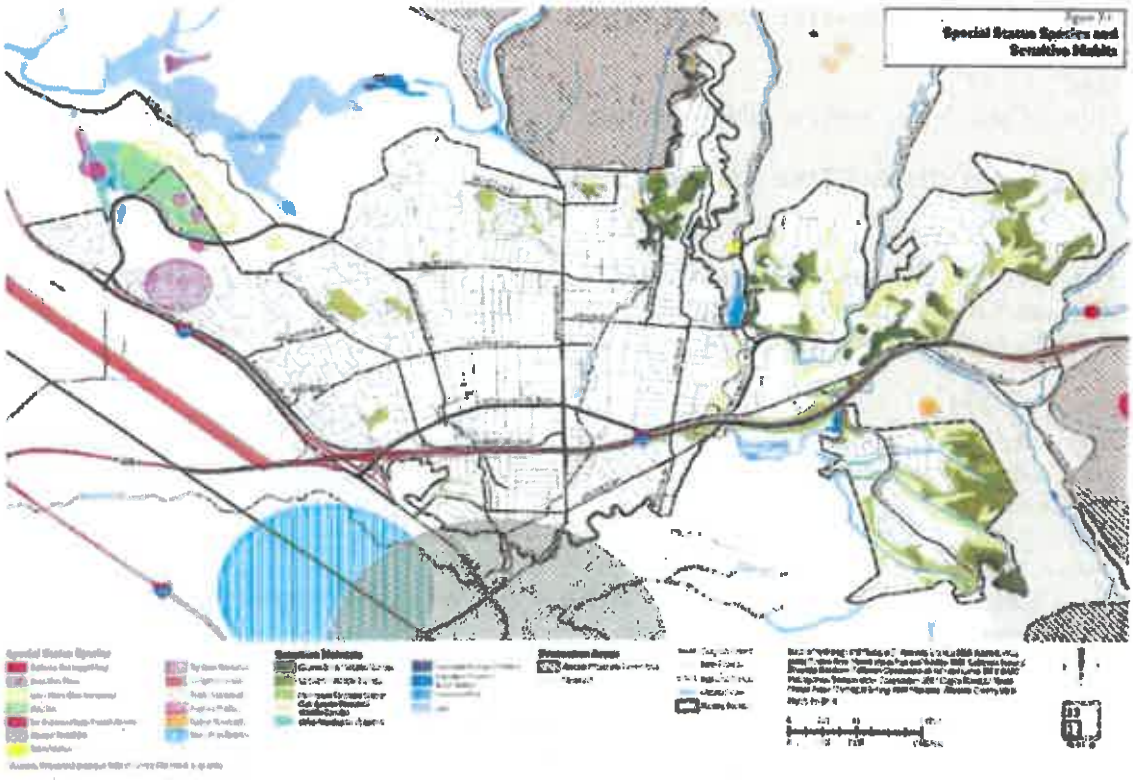
for threatened species. For example, oak/riparian woodland is considered the most biologically sensitive habitat, while coastal scrub and grassland are considered common plant communities. However, these communities may have higher preservation value when they provide potential habitat for threatened species or suitable habitats for supporting special status plants. In addition, grassland habitats have the potential to contain wetland habitats and/or small drainages that are a high priority for preservation. Isolated patches of non-native dominant habitat surrounded by development are considered a low priority for preservation.

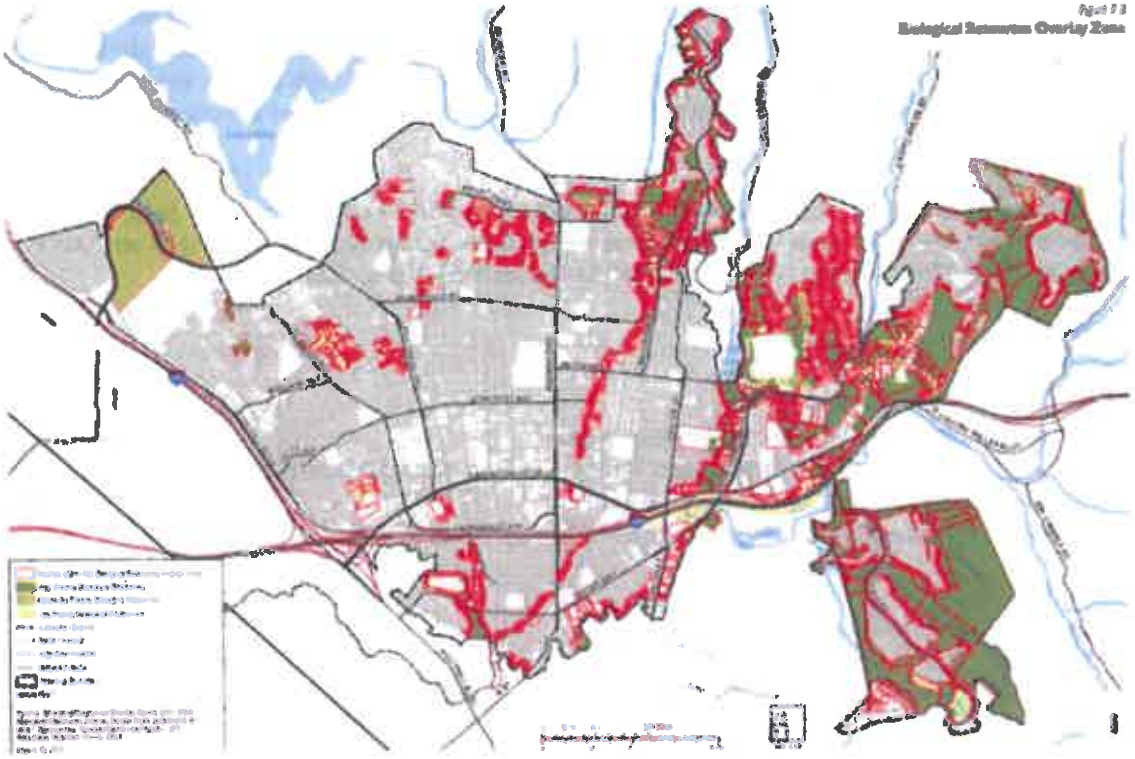
Future field surveys may identify features within grassland and nonnative dominant habitats that would increase the preservation value of certain areas within these habitat types (i.e. wetlands and other aquatic features). The priority scheme for habitats within Castro Valley is as follows:

High Priority
- Drainages
- Oak Riparian Woodland
- General Plan designated natural open space areas
- Coastal scrub on both sides of the Castro Valley Creek Improved Channel reach
- Coastal scrub just east of Cull Canyon Drive
- Coastal scrub between Jensen Road and Castro Valley Blvd/ Villareal Drive

Moderate Priority
- Other Coastal Scrub areas
- Grasslands

Low Priority
- Non-native Dominant Habitat





WILDLIFE AND SENSITIVE HABITAT GOAL

Goal 7.1-1 **
Protect Castro Valley's native wildlife through conservation and restoration of natural habitat.

WILDLIFE AND SENSITIVE HABITAT POLICIES

Policy 7.1-1 **
Major Wildlife Corridors Protection. Protect the major wildlife corridors that run through or are adjacent to Castro Valley: (1) the corridor along the East Bay Hills in the forest and chaparral between major interstate highways; and (2) along creeks.

Policy 7.1-2 **
Comprehensive Habitat Preservation. Preserve a continuous band of open space consisting of a variety of plant communities and wildlife habitat to provide comprehensive rather than piecemeal habitat conservation.

Policy 7.1-3 **
Open Space Preservation. Preserve the undeveloped areas designated as open space within planned unit developments as permanent open space.

Policy 7.1-4 **
Open Space Objectives. Require that open space provided as part of a development project be designed to achieve multiple objectives, including but not limited to: recreation, scenic values, habitat protection, and

public safety.

Policy 7.1-5 ***
Riparian Habitat. New development shall not disturb any riparian habitat.

Policy 7.1-6 Watershed Plan Coordination. Encourage the formation of a San Lorenzo Watershed Commission charged with ensuring coordination between multiple agencies and overseeing preparation of a comprehensive watershed plan

WILDLIFE AND SENSITIVE HABITAT ACTIONS

Biological Resources

Action 7.1-1 *
Biological Resources Overlay Zone. Explore the possibility of a biological resources overlay zone delineating high, moderate, and low priority areas for habitat preservation, to ensure maximum protection of biological resources.

• Require discretionary review for all development applications on properties within the high priority biological resources overlay zone, and for large sites over two acres in size with moderate or low priority biological resources. Discretionary review could include one or more of the following: environmental assessment per the California Environmental Quality Act; site plan and development review; and/ or the application of Board policy or other ordinance requirements.

• Establish in the ordinance that on lands with biological resources, new development is not necessarily entitled to achieve the maximum density allowed by the underlying zoning. An environmental assessment may be required, prepared by a qualified biologist, which shall be the basis for establishing development constraints specific to the property in question. Development intensity may be required to be reduced up to 50 percent of the intensity allowed by the underlying zoning, depending on the extent and value of the biological resources on the site.

• Establish thresholds of review for different types of projects, and different types of waterways. For example, a comprehensive environmental assessment should be required for new subdivisions, whereas minor improvements such as fences or decks may be exempt from special review if they meet specific standards.

Action 7.1-2
Biological Resources Maps and Inventories. Maintain maps and inventories of biological resources to use when conducting site plan and development review. Update these resources regularly to include new information from site surveys that are conducted in the planning area.

Action 7.1-3 *
Design Guidelines for Biological Resource Zones. Establish guidelines to ensure that development planned on or adjacent to high and moderate priority areas designated on the Figure 7-2, Biological Resources Overlay Zone will be designed to minimize impacts on sensitive resources and habitat areas.

• Apply these guidelines through the Planning Department's project review process.

• Include information about ways in which special-status plant and wildlife populations on private properties can be protected over time.

• Specify that watercourses and areas dominated by native trees and shrubs be left undisturbed by development to the maximum extent feasible.

Sensitive Habitat

Action 7.1-4 **
Open Space Preservation Mechanisms. Evaluate mechanisms to preserve open space and wildlife habitat to determine the most feasible options, such as zoning, fee title purchase, conservation easement purchase, or conservation easement dedication through density transfer, or density bonuses.

Action 7.1-5
Habitat Restoration Funding. Evaluate the feasibility of property tax credits and other possible funding sources for habitat restoration on larger size private lands as an incentive to foster the implementation of habitat restoration actions by private landowners.

Action 7.1-6 ***
Riparian Woodlands and Wetlands Mitigation. Discourage loss of riparian woodlands and seasonal and perennial wetlands, including ponds, by requiring replacement mitigation at a ratio to be determined by the value of the habitat to be lost. To facilitate replacement mitigation, the County shall support the creation of wetland or other habitat mitigation banks.

Action 7.1-7 *
Preservation and Protection of Riparian Vegetation. Consider adopting an ordinance to preserve and protect riparian vegetation, with exceptions for clearing hazards, clearing blocked channels, and other activities necessary for public safety.

Policy 7.1-8
Historical Woodlands and Grasslands. Encourage the East Bay Regional Park District to restore historical woodlands and grasslands to provide natural habitat and reduce fire danger.

Wildlife Corridors

Action 7.1-9 *
Connect Open Space to Large Habitat Areas. In the review of new subdivisions and other new development, require the preservation of adequately wide strips of undisturbed land to connect larger tracts of natural habitat or areas with biological resources.

Action 7.1-10 **
Conservation Easements. Encourage local land trusts and other easement holders to prioritize and acquire easements that serve to protect wildlife corridors.

Action 7.1-11
Public Infrastructure. Actively encourage agencies responsible for public infrastructure to site and design roadways and utilities in such a way as to minimize impacts to wildlife corridors, creeks, and regional trails. Where appropriate, grade-separated crossings and/or other features should be used to maintain the viability of the affected corridor.

Action 7.1-12
Wildlife Movement Corridors. Protect the wildlife movement corridors of special status species where they cross under I-580.

7.2 CREEKS AND STREAMS

Creeks play a critical role in wildlife habitat protection, water quality protection (by filtering pollutants), surface water drainage, and flood prevention. There are several perennial and seasonal creeks within the Castro Valley planning area (see Figure 7-1): The main ones include Crow Creek, Cull Creek, San Lorenzo Creek, Castro Valley Creek, and Chabot Creek. Several unnamed tributaries convey flows to these creeks; however, this map shows only few of them. Various creek segments are natural, managed in concrete-lined or earthen channels, or contained in a closed conduit (culvert). As mentioned in Section 7.1, the well-developed riparian areas along Crow Creek and San Lorenzo Creek are important wildlife habitats and corridors.

These drainage patterns within Castro Valley are shaped by the region's topography, which consists of steeper areas located along the foothills of the Diablo Range that gradually flatten out onto an alluvial plain. Water drains from higher elevation areas in the adjacent undeveloped land outside the urbanized area, through Castro Valley, and then down through Hayward and San Lorenzo before it reaches San Francisco Bay. Sections of San Lorenzo Creek, Chabot Creek and Castro Valley Creek have been altered over the years with channels and culverts to convey higher flows.

The County has a Watercourse Protection Ordinance (Chapter 13.12 of the County General Code) that applies across the unincorporated area of Alameda County. Its purpose is to safeguard and preserve watercourses, protect lives and property, prevent damage due to flooding, protect drainage facilities, control erosion and sedimentation, and enhance the recreational and beneficial uses of watercourses. In order to better protect creeks and riparian corridors and enhance their benefits for wildlife and Castro Valley's quality of life, specific actions should include revisions to the ordinance.

CREEKS AND STREAMS GOAL

GOAL 7.2-1 ***
Preserve and restore creek channels, and riparian habitat to protect and enhance wildlife and aquatic-life corridors, flood protection, and the quality of surface water and groundwater.

CREEKS AND STREAMS POLICIES

Policy 7.2-1 ***
Creek and Flood Channels. Protect all creeks and engineered channels that traverse the urbanized area of Castro Valley.

Policy 7.2-2 ***
Creek Setbacks. Establish adequate creek set backs to maintain and where appropriate enhance important stream functions.

Policy 7.2-3 ***
Creek Uses. Manage creeks for multiple uses including: scenic quality, recreation, water quality, soil conservation, groundwater recharge, and wildlife habitats.

Policy 7.2-4 ***
Natural/Nonstructural Creek Drainage Systems. Use and reclaim or fully restore natural or nonengineered creek drainage systems to the maximum extent feasible and look for opportunities to convert structural stormwater drain

CREEKS AND STREAMS ACTIONS

Action 7.2-1
Alameda County's Watercourse Protection Ordinance. Revise the County's Watercourse Protection Ordinance to ensure maximum protection of creeks and adjacent riparian habitat by requiring new development to provide sufficient setbacks and rights-of-way to meet the County's objectives for storm drainage, flood control, habitat protection, recreation, and other appropriate uses. Include the following provisions:

• Do not allow grading or structures within a creek bed, unless they are required to prevent flooding and erosion that pose an imminent hazard to public health and safety, or to prevent serious property damage;

• Require the preservation and/or restoration of natural drainage and habitat to the maximum extent feasible, without causing further acceleration of water flow or erosion further downstream;

• Increase the setback for habitable structures to ensure adequate distance between structures and an open creek channel.

• Require construction methods that minimize flooding and erosion;

• Consider limiting the amount of impervious surface within 100 feet of the top of the creek bed channel to limit erosion and acceleration of water flow into the creek channel;

• Establish basic standards for development in or near creekside areas, in order to clarify and expedite the permitting process;

• Require preparation of a creek protection plan for new construction or significant expansion on creekside properties. The creek protection plan shall: be prepared by qualified professionals; establish areas most suitable for construction; and identify construction procedures that will minimize impacts n creek channels and riparian vegetation.

Action 7.2-2
Review Procedures and Meetings. Establish review procedures and convene regular meetings to coordinate relevant departments, divisions, and public agencies to manage creek management and preservation goals.

Action 7.2-3
Comprehensive Creek Corridor Open Space Plan. Work with public agencies, nonprofit organizations, and other interested parties to develop a Comprehensive Creek Corridor Open Space Plan. The Plan shall identify: key acquisitions along creek corridors; restoration potential along creek corridors; and alternative management practices along creek corridors.

Action 7.2-4
San Lorenzo Creek Action Plan. Implement the San Lorenzo Creek Action Plan, prepared as part of the County Public Works Stormwater Quality Management Plan, as well as other restoration and trail projects in the San Lorenzo Creek watershed, to the extent that funds are available.

Action 7.2-5
Creek Protection and Restoration. Work with nongovernmental organizations such as the Friends of San Lorenzo Creek, the Urban Creeks Council on creek protection and restoration efforts in order to support community involvement and resource enhancement.

7.3 VEGETATION

In addition to providing habitat and movement corridors for a variety of wildlife species, Castro Valley's native and non-native vegetation contributes to the character of the area and provides other environmental benefits. The term "urban forest" is sometimes used to describe all of the vegetation, both public and private, in a community. In Castro Valley, the urban forest comprises vegetation in the planning area's neighborhood, community, and regional parks; street trees; community gardens; and even ornamental landscaping and backyard vegetable gardens on private property.

This variety of vegetation helps to manage stormwater by preventing erosion and plays a crucial function in water quality protection by filtering pollutants. Trees beautify neighborhoods, increase property values, reduce noise and air pollution, and create privacy. Trees also provide shade for recreational enjoyment, buildings, and paved areas. Work with non governmental organizations on stream protection and creek restoration, such as with Chabot Creek. Site planning with trees in appropriate locations can reduce the need for air conditioning and associated energy consumption. Although most of the orchards and farms that once abounded in Castro Valley have been replaced by development, an increasing number of residents are cultivating home gardens that provide food as well as environmental benefits.

The County's Tree Ordinance protects larger trees in public right-of-ways but no similar protection exists for trees on private property. Although the Castro Valley Central Business District Specific Plan includes landscaping requirements and guidelines, there are no comparable provisions applicable to development in other parts of the planning area.

VEGETATION GOAL

GOAL 7.3-1
Maintain, preserve, and enhance trees and vegetation to provide environmental and aesthetic benefits.

VEGETATION POLICIES

Policy 7.3-1
Alameda County Tree Ordinance. Continue to implement and enforce the Alameda County Tree Ordinance to protect trees in the public right-of-way.

Policy 7.3-2 **
Native Environment. Maintain and enhance the existing environment by preserving existing native trees and plants whenever feasible, replacing trees on-site, and adding trees and other vegetation in the public right-of-way.

Policy 7.3-3
Gardening. Support local gardening by facilitating community gardens and creating markets for local goods.

VEGETATION ACTIONS

Action 7.3-1
Enforcement of Alameda County Tree Ordinance. Ensure that there is sufficient funding to enforce the Alameda County Tree Ordinance. Require permits for planning, pruning, or removing trees in the public right-of-way.

Action 7.3-2 *

Heritage Trees. Consider amending the Tree Ordinance to preserve and protect heritage trees including native oaks and other significant native trees on private property.

Action 7.3-3
Native Trees and Plants. Adopt guidelines to promote the use of native trees and plants when landscaping on any County property. Consider adopting guidelines to mitigate the impact of private development on land with significant habitat value.

Action 7.3-4
Community Gardens. Identify potential community garden sites and sup-port the establishment of such gardens.

Action 7.3-5
Planter Strips. Consider amending the County zoning ordinance to prohibit paving of planter strips.

Chapter 8
Community Facilities, Parks and Schools

This section not included in this excerpt of the CV General Plan.

8.1 COMMUNITY FACILITIES

This section not included in this excerpt of the CV General Plan.

8.2 PARKS AND RECREATION

This section not included in this excerpt of the CV General Plan.

8.3 TRAILS

Castro Valley residents have easy access to East Bay Regional Park District trails but, in contrast to more recently developed communities, there are relatively few trails and pathways connecting neighborhoods to one another or to the extensive resources that surround the community. Because most of the planning area was built up before communities recognized the value of making provision for non-automated transportation, the challenge is to identify and take advantage of opportunities to develop off-road pedestrian, biking, and equestrian trails as the community is built-out and redeveloped within its relatively limited existing boundaries.

TRAILS GOAL

GOAL 8.3-1 ***
Provide a comprehensive system of hiking, equestrian and bicycle trails to connect major park and recreation areas within and adjacent to the Castro Valley Planning Area, to connect neighborhoods, and to provide an alternative means of access between neighborhoods and the downtown.

TRAILS POLICIES

Policy 8.3-1 ***
Integration of Trails in New Development. Incorporate trails, greenways, and linear recreation facilities as integral components of new development.

Policy 8.3-2
Enhancement of Public Awareness about Trails. Increase public awareness of trails and pathways.

Policy 8.3-3 ***
Location of Trails within Flood Control and Riparian Corridors. When feasible, locate trials within the boundaries of flood control and riparian corridors. Site creekside trails to minimize disruption to riparian areas. Incorporate trails, greenways, and linear recreation facilities as integral concepts of new development.

TRAILS ACTIONS

Action 8.3-1
Amendment of Subdivision Requirements for Trail Linkages. Amend the County subdivision ordinance to require projects abutting existing parklands to provide linkages to the trail system.

Action 8.3-2
Downtown Pedestrian and Bicycle Path. Study the feasibility of developing a pedestrian and bicycle path linking the new Castro Valley Library to surrounding commercial and residential areas along Castro Valley Creek.

Action 8.3-3 ***
Multiple Uses for Land Adjacent to Natural Watercourses. Identify opportunities for acquiring land along Castro Valley's natural watercourses to meet multiple objectives of flood protection, recreation, improved water quality, and increased non-motorized connectivity between residential, commercial, and civic areas.

Action 8.3-4 ***
Multi-Use Trail System. Coordinate with HARD, the Cities of Hayward and San Leandro, and the East Bay Regional Park District to provide trailheads and linkages to a multi-use trail system.

Action 8.3-5
Funding for Signage and Maps of Trail System. Seek public and private funding to install attractive signage and produce maps illustrating trails and pathways.

Action 8.3-6 ***
Route 238 Corridor Trail. Coordinate with HARD and other park agencies to incorporate a multi-use trail into the plans for development on land in the former Route 238 Corridor.

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

STAFF REPORT

TO: **CASTRO VALLEY MUNICICPAL ADVISORY COUNCIL**
HEARING DATE: **August 13, 2018**

GENERAL INFORMATION

APPLICATION TYPE & NUMBER:	Zoning Verification Letter, PLN2018-00167
OWNER/ APPLICANT:	Eden Housing
PROPOSAL:	Preliminary Review for construction of an 78 unit affordable rental housing project.
ADDRESS AND SIZE OF PARCEL:	Ruby Street, northwest corner with A Street, unincorporated Castro Valley area of Alameda County. The site is comprised of 16 designated Assessor's Parcel Numbers: 415-230-2, 3, 5, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23 & 70. The subject site is approximately 6.24 acres in area.
ZONING:	R-S-D-20 (Suburban Residential, 2,000 square foot MBSA) District.
GENERAL PLAN DESIGNATION:	This site is within the Castro Valley General Plan adopted by Alameda County Board of Supervisors on March 27, 2012. The Plan designates the site as Residential Low Density Multifamily (allowing a density of between 18 and 22 dwelling units per acre).
ENVIRONMENTAL REVIEW:	An Initial Study would be required. Staff would use this document in determining the appropriate measures needed to fulfill CEQA requirements.

RECOMMENDATION

Staff recommends that the Castro Valley Municipal Advisory Council provide comments and direction for Planning Staff and the Applicant.

SITE AND CONTEXT DESCRIPTION

Physical Features: The subject site is currently owned by the State of California and under contract by Eden Housing which plans on purchasing the property. The irregularly shaped site is bounded by San Lorenzo Creek on the west side, A Street on the south, Ruby Street on the east side and Crescent Avenue on the north. The site is comprised of 16 Assessor's parcels and is approximately 6.24 acres in size. There are 5 parcels at the southwest corner of Crescent Avenue and Ruby Street that are not a part of the proposed project and 1 parcel at the southeast corner of A Street and Ruby Street that is also not a part of the proposal. A large portion of the site is vacant with some residential structures on the property. The site is flat with mature trees and vegetation scattered throughout.

Adjacent Area: The area has a mixture of single family residential development (primarily to the north and east), multifamily development (to the west and along A Street) and commercial structures (along A Street).

PROJECT DESCRIPTION

The project proposal is to allow construction of a new 78 unit affordable rental housing project on a 6.24 acre site. The proposal is for rental affordable housing at 20 – 60 percent of the area median income. The proposal is for the construction of two 3 story buildings with a total area of approximately 9,000 square feet. The buildings would contain 8 studio units, 29 one bedroom units, 21 two bedroom units and 20 three bedroom units. Approximately 122 parking spaces would be provided or 1.56 parking spaces per unit. The applicant is proposing to construct a park on the A Street frontage along with a parking lot. A 10 foot wide pedestrian path would also be constructed along the creek with the riparian corridor preserved.

STAFF ANALYSIS

Conformance with the General Plan

This site is within the Castro Valley General Plan adopted by Alameda County Board of Supervisors on March 27, 2012. The Plan designates the site as Residential Low Density Multifamily (allowing a density of between 18 and 22 dwelling units per acre). Based the site area of 6.24 acres, the General Plan would allow between 112 and 137 units. The Residential Low Density Multifamily designation is intended for townhouses, and low density multifamily residential uses such as garden apartments and condominiums.

Conformance with the Zoning Ordinance

The site is zoned to the R-S-D-20 (Suburban Residential, 2,000 square foot MBSA) District. Under the maximum zoning density allowed, a maximum of 135 units could be constructed on the site. The R-S-D-20 District requires a 20 foot front yard, 10 foot side yards and a 20 rear yard.

Pre-Application Meeting

A Pre-Application meeting was held with the applicant on June 29, 2018 to discuss potential issues with the project. The proposal discussed was for an 84 unit affordable rental housing project. Below are comments that were discussed.

Comments from the Public Works Agency:

1. A soils investigation will be required since there is potential for soil destabilization at the creek bank.

2. The creek setback will depend on the results of a biological assessment report, the location of the riparian corridor canopy drip line, and the results of the geological / geotechnical investigation and soils report (which will need to be peer reviewed).
3. Usually, the setback from a watercourse is based on a 2:1 slope at the toe of the creek, plus 20' from the point of daylight.
4. The proposed creek-side trail will need to be engineered if it is located within a soils hazard area.
5. Pervious paving should be used for the trail for stormwater treatment purposes.
6. Drainage is to be treated and slowed down and the outfall to the creek is to be naturalized. There will be a need for clearance from the Regional Water Quality Control Board, the State Department of Fish and Wildlife, and the Army Corps of Engineers for the drainage outfall into the creek.
7. The FEMA map of the flood plain is not accurate.
8. The Public Works Agency recognizes that the site is designated as a hazard area; at least partially on the property. The applicant will need to define the base flood elevation and either: A) get the building out of the flood plain by definition; or B) construct the building to Section 1612 flood resistant design requirement. All critical building features (such as elevators pits) are to be located one foot above the base flood. In order to establish the base flood, a hydrological analysis is required.

Comments from the Fire Department:

1. The building needs sprinklers and a fire alarm system.
2. The minimum fire flow needs to be calculated based on updated / more detailed building information.
3. The project will need to install new fire hydrants.
4. The fire hose running distance is 200 feet maximum to the furthest portion of the building. Currently, the design results in missing fire hose coverage.
5. The building will be over 30 feet tall, so the fire access road will need to be 26 feet wide for one face of the building, with a distance from the building to the ladder truck of between 15 feet and 30 feet.
6. The fire access road will need to support 75,000 lbs, with a maximum truck backup distance of 150 feet.
7. An emergency egress plan will be required.
8. Knox boxes will be required to be installed at any locked gates and/or doors.

Comments from the Building Inspection Department:

1. The project is located in a liquefaction zone. A geological / geotechnical investigation and soils report will be required.
2. Solar panel installation will be required.
3. This appears to be Type 5-A construction. The project may require a building fire wall separation.
4. Americans with Disabilities Act will need to be followed for the residential units, per Chapter 11-A and 11-B.
5. The project will be subject to flood plain design requirements.
6. The project is subject to the Green Building Ordinance, and must fulfill Build-it-Green or LEED design requirements.
7. Electric vehicle rough-in will be required.
8. Please be aware of the upcoming 2019 California Building Code cycle, which will take effect on January 1, 2020.
9. Covered trash/recycling/composing areas are required, and they are required to be plumbed into water and sewer.
10. An ADA accessible path of travel is required from the nearest bus stop.
11. The entire perimeter of the development will need to have new curb, gutter, and sidewalks, to be ADA compliant.

Comments from the Planning Department:

1. Because the multiple existing parcels will need to be merged to construct the proposed development, a Tentative Tract Map Subdivision application will need to be submitted in addition to the necessary Site Development Review application for the proposed physical development of the project.
2. The proposed park should be coordinated with the Hayward Area Recreation and Park District.
3. All parking lots are to begin at least 20 feet beyond the street-fronting property lines.
4. Please provide a stormwater protection plan as part of the discretionary review application (SDR and Tentative Tract Map). The Stormwater treatment facilities need to be located outside of the flood plain, accessible for inspection, and in front of the building (so that inspectors do not need to cross gates) if possible.
5. Please be sure to review the Residential Design Standards and Guidelines for regulations and policies for multi-family residential development. It would be beneficial to soften views of the proposed building from all street frontages if the building were located at least 20 feet from those street-fronting property lines.
6. The design of the building should be of high-quality materials with warm tones (wood, warm stones, highlighted paneling and trim, pitched roofs) that are not industrial corporate commercial (cold, metal, glass, flat roofs, etc.)
7. The project will need to follow the California Water Efficient Landscape Ordinance.
8. The project has a potential to impact existing species of concern on the property. A biological resource assessment will be required to determine the potential and extent of impact and potential mitigation measures, if any, to be conducted to reduce those impacts. The biological resource assessment should include a list of state and federal special status species (plants and animals, nesting raptors) that have permanent habitat or migratory habitat on or near the parcel. It should include findings from on-site reconnaissance, and known databases and maps. It should also include a discussion of potential impact from the project on these species and habitats, as well as potential mitigation measures.
9. An Initial Study (per the requirements of the California Environmental Quality Act (CEQA)) to determine potential effects to the environment from the proposed development will need to be conducted to determine appropriate mitigation and monitoring measures for this project.
10. An Initial Study will be required to be written, to describe for public review any necessary mitigation and monitoring measures to reduce potential impacts from the project to less than significant levels.
11. Please have a qualified environmental consultant generate the Administrative Draft of the Initial Study to the Planning Department staff along with the Site Development Review and Tentative Tract Map Subdivision applications.
12. As background information for the Initial Study, please have the environmental consultant include:
a) a biological impact assessment report to determine the potential habitat existing on the property, whether the proposed development will affect that habitat, and if so, what the mitigation will be to avoid or reduce those impacts
b) a traffic study
c) a visual impact study
13. Please fill in the Stormwater Requirements Pre-Screening Checklist form.
14. Please fill in the "Site Development Review" and "Subdivision" application supplements, which list the number of sets of drawings to submit (copies of the drawings for SDR purposes, plus copies of the drawings for Subdivision purposes).
15. Please update project description as necessary based on the pre-application meeting discussion and submit with the application.

Prepared By: Phil Sawrey-Kubicek, Assistant Planning Director

Alameda County Fire Department
Fire Prevention Bureau
Plan Review Comments

399 Elmhurst Street, Room 120 , Hayward, California 94544 (510) 670-5933 Fax (510) 887-5836

6/26/2018

Alameda County
Community Development Agency
Planning Department
224 West Winton Ave., Room 111
Hayward, California 94544

To	CDA Planning	PLN #	Pre-Application
Address	Ruby Street		
Job Description	Proposed 84 unit affordable housing project.		
Reviewed By	Cesar Avila, Deputy Fire Marshal	Review 1	

APPLICATION NOT COMPLETE FOR FIRE REQUIREMENTS
WITH CUSTOMER FOR RESPONSE

Fire Staff does not recommend that discretionary approval be given until the following issues are addressed and Fire Conditions are issued.

Re-submittal Required. A re-submittal is required for this project. Submit the revised plan along with a copy of any necessary reference materials, cut-sheets, listing sheets and calculations. Include a written itemized response to each comment and where in the re-submittal the specific change or information requested can be found.

Errors & Omissions. The purpose of code enforcement is to provide a means to help ensure projects are built to the codes, regulations and standards applicable to the project. Two methods are used towards this goal. First, is the review of the plans, second, are field inspections associated with the work. Between these two methods, it is hoped that all code deficiencies are discovered and corrected.

It is important to note that approval of the plan does not constitute permission to deviate from any code requirement and shall not be construed to be a permit for, or an approval of, any violation of the applicable statute, regulation, code or standard. Approval of a plan or permit presuming to give authority to violate or cancel the provision of any applicable statute, regulation, code or standard shall not be valid.

Alternate Means. Any alternate means or equivalences shall be submitted in writing explaining the code provision that will be deviated from, the justification for such deviation, and an explanation on how this deviation meets the intent of the code and the equivalent level of safety intended by the code. This letter and supporting documents must be reviewed and approved for the deviation to be considered acceptable.

Items to be addressed with required re-submittal

1. **The proposed Multi Residential Building will require residential fire sprinklers (NFPA 13R).**

2. **The buildings will require a fire alarm system.**

3. **Minimum required fire flow could not be calculated due to lack of building information. Provide buildings construction type and size.**

4. The proposed project will require new fire hydrants. Show location of new fire hydrants.

5. Fire Department Access Road shall be a minimum of 20 feet wide. Buildings exceeding 30 feet in height require 26 feet wide aerial apparatus roads.

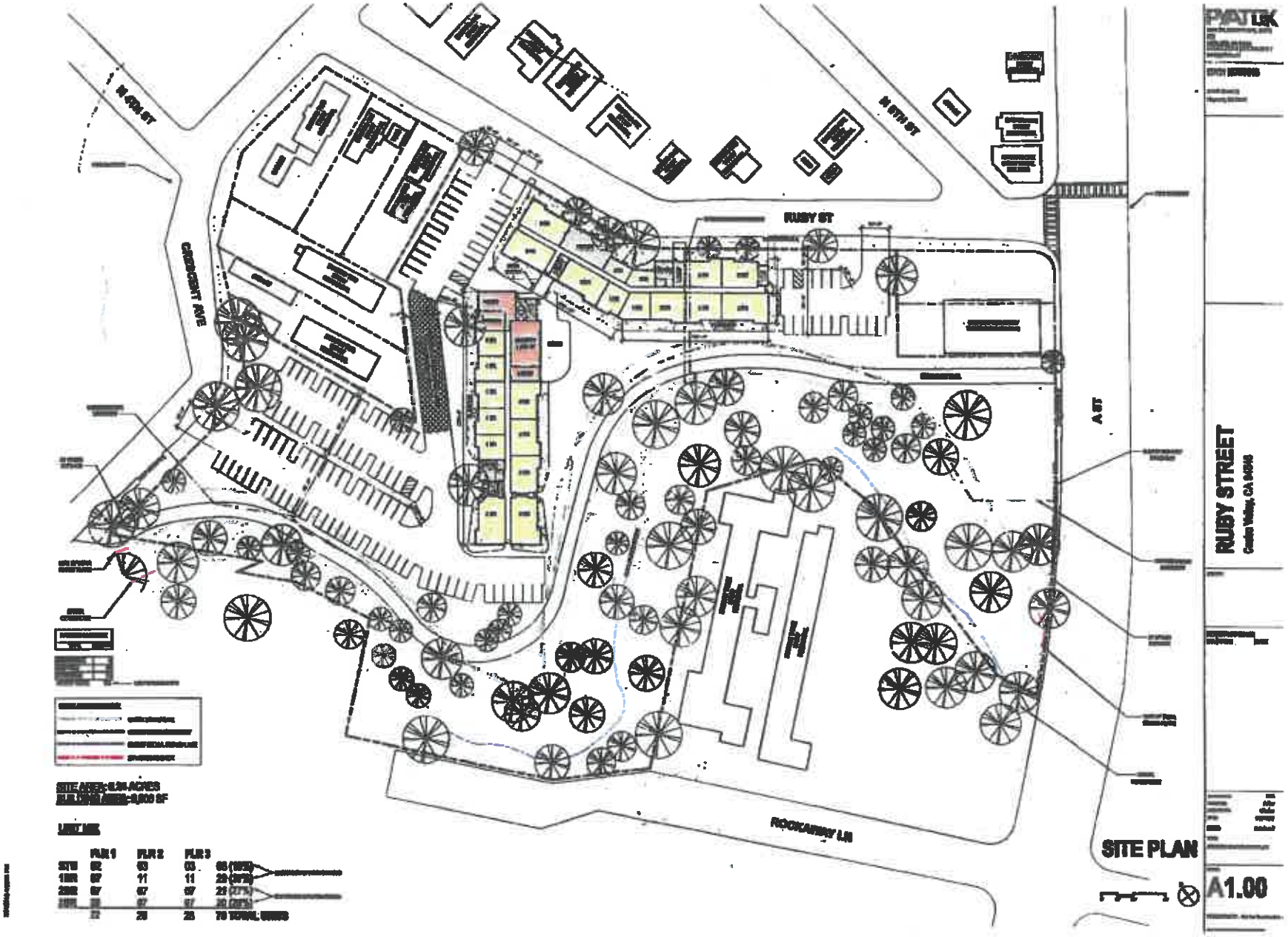
6. Fire Department Access Road shall be capable of supporting 75000 pounds and be constructed of all-weather material.

7. Fire Department access roads shall comply with California Fire Code Appendix-D Turnaround design.

8. Show location of any proposed road access gates. Road access gates shall have an emergency access key box.

9. Emergency access key boxes (Knox box) will be required.

10. Provide emergency egress plan.



PLN 2018-00167

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 12-19-2017 BY 60322 UCBAW/STP

238 Freeway rescission by CTC

10/18-19/2017 CTC Tab#40 groups 2-9 to hayward Ref. 2.4d(2) Stephen Maller, Jennifer Lowden

January 29, 2018 CVMAC 238 Properties on Agenda (have minutes)

April 11, 2018 HACA approved sale
No notification, no one knew

Jun 27, 2018 CA Transportation Commission approve sale
DD-032618-01-01
No notification, no one knew, not discussed or mentioned at CVMAC

August 13 2018 CVMAC PLN2018-00167
No notification, no attendance, one community speaker concerned about creek setback
--staff report does not mention the CVGP BROZ

May 9, 2019 Study Session Zoning Implementation (no minutes)

May 13, 2019 CVMAC Zoning Implementation (have minutes)

June10, 2019 Zoning Implementation (have minutes)

August 26, 2019 (no minutes)
Zoning Implementation on former Caltrans properties in CV
Many attendees, many concerns, particularly Ruby Meadow

Date: November 25, 2019

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bethany Schulze
Field Assistant, bat monitoring – University of California, Santa Cruz
Conservation Analyst (bat projects) – Center for Natural Lands Management
Graduate Student, Environmental Science - California State University, Monterey Bay
bschulze@csumb.edu

Subject: Comments on the September 2019 CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter includes comments on the September 2019 CEQA Analysis of Eden Housing's proposed Ruby Street Project covered under Site Development Review PLN2019-00024 dated June 17, 2019. The CEQA Analysis is covered in the document titled, "Ruby Street Apartment's Project – Environmental Checklist of Community Plan Exemption, September 2019."

The 2019 CEQA Analysis of Eden Housing's proposed Ruby Street Project fails to include impacts to a California Species of Special Concern – the western red bat. It is common for biological assessments done by consulting firms to exclude acoustic monitoring from their protocols due to lack of resources or experience. The section on bats in the biological assessment only included potential roosts for pallid bats and Townsend's big-eared bats which have very different roosting ecology from western red bats. Western red bats are foliage roosting species that roost in trees by hanging from the twigs and leaves (Pierson et al. 2011), therefore any mature trees could be suitable roosting habitat.

I performed acoustic monitoring of bats at the Ruby Street parcel using an Echometer Touch Bat Detector on August 25, 2019. I manually vetted the bat echolocation calls that were recorded and found that western red bats were detected during the four-hour recording session. August is typically the beginning of the fall migration period for western red bats. Western red bats breed in inland areas of California such as the Central Valley during the summer and migrate to southern and coastal areas during the fall. Riparian corridors such as the one at the Ruby Street parcel provide essential roosting foraging habitat for western red bats and are among the most threatened types of habitats on the planet (Dudgeon 2010).

I do not recommend approval of the Ruby Street Apartment Project because it will have serious impacts to the roosting and foraging habitat of western red bats.

References

Dudgeon D. 2011. Prospects for sustaining freshwater biodiversity in the 21st century: linking ecosystem structure and function. Current Opinion in Environmental Sustainability 2(5):422-430. DOI: 10.1016/j.cosust.2010.09.001

Pierson ED, Rainey WE, Wyatt D. 2011. Roosting and Foraging Habitat for the Western Red Bat (*Lasiurus Blossevillii*) in the Sacramento River Valley of California. Report for U.S. Fish and Wildlife Service, Red Bluff, CA.

Date: June 8, 2020

To: Nisha Chauhan, Senior Planner
Alameda County Planning Department
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

From: Bethany Schulze
Conservation Analyst (bat projects) – Center for Natural Lands Management
Grounds Keeper/Bat Monitor/Analyst – University of California, Santa Cruz
M.S. Graduate Student, Environmental Science - California State University, Monterey Bay
bschulze@csumb.edu

Subject: Comments on the Master Response for the CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter includes comments on the May 8, 2020 Master Response to the public's comments on the CEQA Analysis of Eden Housing's proposed Ruby Street Project covered under Site Development Review PLN2019-00024 dated June 17, 2019. The CEQA Analysis is covered in the document titled, "Ruby Street Apartment's Project – Environmental Checklist of Community Plan Exemption, September 2019."

The Master Response 1: Potential Impact on Biological Resources, Section 3, states several unsupported claims for western red bats, a California Species of Special Concern and high conservation priority species for the Western Bat Working Group.

Claim 1:

"Trees outside the riparian corridor, however, are not considered riparian trees because they are upland trees, not adjacent to the creek. Given that the proposed project would not remove any trees in the riparian corridor, it would not reduce the width of the riparian corridor. While the bats may occasionally roost in the upland trees outside the riparian corridor, it is not expected that these trees' removal would substantially alter bat use of the project vicinity because the riparian corridor would remain protected."

Response:

The trees outside of the riparian corridor include large mature oaks that could be providing important roosting habitat. Pierson et al. (2011) documented red bats roosting in valley oaks. Krauel (2009) detected red bats at larger parks in San Francisco that had greater areas of forest edge habitat. Furthermore, the upland trees and meadow provide a buffer area of natural habitat to the site. Red bats could also be foraging over the meadow and around these heritage oak trees. Polyakov et al. (2019) found western red bat activity to be 3.46 times greater around large oak trees than the surrounding areas. They also found that the larger the oak tree, the higher the bat activity.

Claim 2:

"Western red bats are not federally listed and critical habitat has not been designated for the species. Therefore, no impact to critical habitat would occur. The incremental loss of foraging habitat at the

project site and the loss of potentially suitable roosting habitat for the western red bat is not considered a significant impact under CEQA."

Response:

According to CDFW under "How are SSCs addressed under the California Environmental Quality Act?": "In assigning 'impact significance' to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features (CDFW 2020).

In this case regional effects and impacts to habitat features are the most applicable because Ruby Meadow is one of the very few larger habitat patches adjacent to a riparian corridor left in the area. Krauel and LeBuhn (2016) determined that smaller parks with less natural habitat in San Francisco had significantly less bat activity and lower species abundance. They also concluded that proximity to water increased the adjacent habitat value for bat foraging. These findings provide support that the loss of Ruby Meadow would in fact be a significant loss of habitat features for roosting and foraging.

Claim 3:

"The human disturbances from the project and trail would not likely impact roosting bats or cause them to roost elsewhere. The portion of San Lorenzo Creek within the project site is situated within an urban area surrounded by development and is already exposed to anthropogenic impacts due to the existing houses and development along the creek. Wildlife that currently inhabit the creek and associated riparian corridor are likely habituated to human development and will continue to use the creek and riparian corridor after development of the project."

Again, the findings in Krauel (2009), provide support that roosting or foraging red bats might relocate elsewhere if habitat patches are reduced in size or fragmented more. It has been well documented that much of the reduction of species richness in urban areas is caused by the loss of vegetation (McKinney 2002). Furthermore, even though Pierson et al. (2006) detected red bats in smaller riparian corridors than the one adjacent to Ruby Meadow, it is important to note that none of their study sites were surrounded by an urban matrix.

Although western red bats do migrate seasonally, local evidence suggests that they can by found in the San Francisco Bay Area year round. Krauel (2009) detected them during the winter in San Francisco while Mudd (2007) detected them during the summer as well at Jasper Ridge Ecological Preserve.

Due to the high value of Ruby Meadow as roosting and foraging habitat for bats I do not recommend approval of the Ruby Street Apartment Project.

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Polyakov AY, Weller TJ, Tietje WD. 2019. Remnant trees increase bat activity and facilitate the use of vineyards by edge-space bats. Agric Ecosyst Environ. 281:56–63. doi:10.1016/j.agee.2019.05.008.

Date: June 8, 2020

To: Nisha Chauhan, Senior Planner
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From: Bethany Schulze
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Subject: Comments on the Master Response for the CEQA Analysis of Eden Housing's Proposed Ruby Street Project

Dear Planning Department,

This letter includes comments on the May 8, 2020 Master Response to the public's comments on the CEQA Analysis of Eden Housing's proposed Ruby Street Project covered under Site Development Review PLN2019-00024 dated June 17, 2019. The CEQA Analysis is covered in the document titled, "Ruby Street Apartment's Project – Environmental Checklist of Community Plan Exemption, September 2019."

The Master Response 1: Potential Impact on Biological Resources, Section 3, provides several unsupported claims for western red bats, a California Species of Special Concern and high conservation priority species for the Western Bat Working Group.

Claim 1:

"Trees outside the riparian corridor, however, are not considered riparian trees because they are upland trees, not adjacent to the creek. Given that the proposed project would not remove any trees in the riparian corridor, it would not reduce the width of the riparian corridor. While the bats may occasionally roost in the upland trees outside the riparian corridor, it is not expected that these trees' removal would substantially alter bat use of the project vicinity because the riparian corridor would remain protected."

Response:

The trees outside of the riparian corridor include large mature oaks that could be providing important roosting habitat. Pierson et al. (2011) documented red bats roosting in valley oaks. Krauel (2009) detected red bats at larger parks in San Francisco that had greater areas of forest edge habitat. Furthermore, the upland trees and meadow provide a buffer area of natural habitat to the site. Red bats could also be foraging over the meadow and around these heritage oak trees. Polyakov et al. (2019) found western red bat activity to be 3.46 times greater around large oak trees than the surrounding areas. They also found that the larger the oak tree, the higher the bat activity.

Claim 2:

"Western red bats are not federally listed and critical habitat has not been designated for the species. Therefore, no impact to critical habitat would occur. The incremental loss of foraging habitat at the

project site and the loss of potentially suitable roosting habitat for the western red bat is not considered a significant impact under CEQA."

Response:

According to CDFW under "How are SSCs addressed under the California Environmental Quality Act?": "In assigning 'impact significance' to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon's range affected by a project, regional effects, and impacts to habitat features (CDFW 2020).

In this case regional effects and impacts to habitat features are the most applicable because Ruby Meadow is one of the very few larger habitat patches adjacent to a riparian corridor left in the area. Krauel and LeBuhn (2016) determined that smaller parks with less natural habitat in San Francisco had significantly less bat activity and lower species abundance. They also concluded that proximity to water increased the adjacent habitat value for bat foraging. These findings provide support that the loss of Ruby Meadow would in fact be a significant loss of habitat features for roosting and foraging.

Claim 3:

"The human disturbances from the project and trail would not likely impact roosting bats or cause them to roost elsewhere. The portion of San Lorenzo Creek within the project site is situated within an urban area surrounded by development and is already exposed to anthropogenic impacts due to the existing houses and development along the creek. Wildlife that currently inhabit the creek and associated riparian corridor are likely habituated to human development and will continue to use the creek and riparian corridor after development of the project."

Again, the findings in Krauel (2009), provide support that roosting or foraging red bats might relocate elsewhere if habitat patches are reduced in size or fragmented more. It has been well documented that much of the reduction of species richness in urban areas is caused by the loss of vegetation (McKinney 2002). Furthermore, even though Pierson et al. (2006) detected red bats in smaller riparian corridors than the one adjacent to Ruby Meadow, it is important to note that none of their study sites were surrounded by an urban matrix.

Although western red bats do migrate seasonally, local evidence suggests that they can by found in the San Francisco Bay Area year-round. Krauel (2009) detected them during the winter in San Francisco while Mudd (2007) detected them during the summer as well at Jasper Ridge Ecological Preserve near Palo Alto.

Due to the high value of Ruby Meadow as roosting and foraging habitat for bats I do not recommend approval of the Ruby Street Apartment Project.

References

[CDFW] California Department of Fish and Wildlife. 2020. Species of Special Concern. Accessed June 8, 2020. Webpage available from: https://wildlife.ca.gov/Conservation/SSC#394871319-how-are-sscs-addressed-under-the-california-environmental-quality-act

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Attorneys for Plaintiffs and the proposed Plaintiff Class

Additional counsel listed on the following pages

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

ROBERT SWANSON, DEBORAH FREDERICK, TRACY ASTURIAS, MARIANNE OLGUIN, JOHN ELLEFSEN, BEVERLY MARIS, KATHERINE MATTHEW, PALLADIN LEMKE, MARY WOODS, AND THE CALTRANS TENANTS ORGANIZATION on Behalf of Themselves and All Others Similarly Situated,

Plaintiffs,

vs.

THE CALIFORNIA DEPARTMENT OF TRANSPORTATION; and THE CITY OF HAYWARD,

Defendants.

Case No. RG 09476468

JOINT STIPULATION OF CLASS SETTLEMENT AND CLASS SETTLEMENT AGREEMENT AND RELEASE

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Subject to its terms and conditions and the approval of the Court, this Settlement is made and entered into by and between plaintiffs Robert Swanson, Deborah Frederick, Tracy Asturias, Marianne Olguin, John Ellefsen, Beverly Maris, Katherine Matthew, Palladin Lemke, Mary Woods, and the CalTrans Tenants Organization, ("Plaintiffs"), individually and on behalf of the putative class, and defendants California Department of Transportation ("Department") and the City of Hayward ("City"), collectively "Defendants." Plaintiffs, the Department, and the City are collectively referred to in this Settlement as the "Parties."

I. DEFINITIONS

In addition to terms defined elsewhere in the Settlement, the following terms, as used in this Settlement, have the meanings indicated below:

A. "Action" means the subject civil action herein, titled Robert Swanson, Deborah Frederick, Tracy Asturias, Marianne Olguin, John Ellefsen, Beverly Maris, Katherine Matthew, Palladin Lemke, Mary Woods, and the CalTrans Tenants Organization et al. v. California Department of Transportation and the City of Hayward., Civil No. RG 09476468 (Alameda County Super. Ct.).

B. "Affordable Housing Cost" means the percentage of gross income a household spends on housing costs for a given income level as defined in California Health and Safety Code §50052.5. Ownership housing costs include the monthly mortgage principal and interest, property taxes, homeowner's insurance, a reasonable allowance for utilities, and homeowner/condominium association fees (where applicable).

C. "Appraiser" means the appraiser(s) hired to appraise Eligible Corridor SFRs for purposes of the Opportunity to Purchase Home Program ("OPHP") as set forth in Section III.G of this Settlement Agreement. The Appraiser shall, at a minimum: (1) be designated an SRA by the Appraisal Institute; (2) be licensed by the State of California; (3) possess a Certified Residential License issued by the State of California, Office of Real Estate Appraisers; (4) be in good standing; and (5) have knowledge of the Hayward/Alameda County single family residential housing market.

D. "Class" means all persons residing in Corridor Units on the date the Preliminary Approval Order is entered into by the Court, and who do not timely submit a valid request not to participate in the Settlement.

E. "Class Counsel" means The Public Interest Law Project and Altshuler Berzon LLP.

F. "Class Member" is a member of the Class.

G. "Class Notice" means the notice of (1) Proposed Class Settlement and (2) Final Settlement Approval Hearing to be sent to all potential Class Members immediately following the Preliminary Approval Order. The Class Notice will inform potential Class Members of the methods and deadlines for objecting to the Settlement and electing not to participate in the Settlement.

H. "Corridor" means the right of way acquired by the Department for the purpose of constructing a freeway or expressway bypass to traversable State Route 238 in the City of Hayward and the Unincorporated Area of Alameda County. The Corridor properties (and as included in the Route 238 Bypass Land Use Study Area) stretch in a generally north-south direction from the I-238/I-580 interchange in the northern portion of Hayward to Industrial Parkway in the southern portion of Hayward. The Corridor parcels are located primarily east of Foothill Boulevard and Mission Boulevard, with some parcels located west of Mission Boulevard, just south of Tennyson Road. The Corridor includes some properties, which are not identifiable by an Alameda County Assessor's Parcel Number (APN), as they are designated State of California highway right-of-way. In addition to these right-of-way parcels, there are a total of 210 APN parcels that are contained in the Corridor and clearly identified in attached Exhibit A, which is a set of eight (8) maps and a list of parcel numbers and addresses corresponding to the numbers on the map.

I. "Corridor Property" means Department-owned real property physically located within the Corridor, including Corridor Units. The Corridor Property is located within the City of Hayward and the Unincorporated Area of Alameda County.

J. "Corridor SFR" means any single family residence and the land there under located in the Corridor and owned by the Department. A list of Corridor SFRs and their addresses is attached as Exhibit B.

K. "Corridor Tenant" means a tenant household occupying a Corridor Unit pursuant to a valid written rental agreement with the Department.

L. "Corridor Unit" means Department-owned residential rental premises located on the Corridor Property and includes both Corridor SFRs and multi-family residential units.

M. "Court" means the Alameda County Superior Court.

N. "CTC" means the California Transportation Commission.

O. "Eligible Alternative SFR" means an SFR that is identified by the City and the Department as available for sale pursuant to Section III.G, and that may be purchased under the OPHP. Eligible Alternative SFRs shall be located in the City, but outside of the Corridor.

P. "Eligible Corridor SFR" means a Corridor SFR that may be purchased under the OPHP.

Q. "Eligible SFR" means either an Eligible Alternative SFR or an Eligible Corridor SFR.

R. "Eligible SFR Tenant Household" means an Eligible Tenant Household residing in a Corridor SFR, comprised of a tenant or group of tenants in Good Standing, who have continuously resided in a Corridor SFR, as their primary place of residence, pursuant to a valid, written rental agreement with the Department for a minimum of two (2) consecutive years preceding the date of the Preliminary Approval Order and who are Class Members.

S. "Eligible Tenant Household" means each household comprised of a tenant or group of tenants in Good Standing, who are and have been residing in the Corridor as their primary place of residence, pursuant to a valid written rental agreement with the Department as of the date of the Preliminary Approval Order and who are Class Members. For purposes of this Agreement, there can only be one Eligible Tenant Household per Eligible Corridor Unit, either SFR or multi-family unit, eligible for benefits or payments under this Agreement.

T. "Excess Properties" means Corridor Properties declared to be excess by the Department and thereafter made available for sale.

U. "Fair Market Value" or "FMV," as defined in California Code of Civil Procedure §1263.320, means the "highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

V. "Final Approval Order" means the Court's order granting final approval of the Settlement, which will constitute a "judgment" within the meaning of the California Code of Civil Procedure.

W. "HCD" means the California State Department of Housing and Community Development or any subsequent State entity with responsibility for publishing income guidelines for housing programs in California.

X. "Home Inspector" means a Certified Home Inspector who is a member in good standing of either the American Society of Construction Inspectors or the National Association of Certified Home Inspectors, and who is experienced in and familiar with the Hayward area single family residential market.

Y. "Land Use Study" means the *238 Bypass Land Use Study* of the 238 Corridor properties conducted by the City and funded by a Community-Based Planning Grant from the Department, which analyzes various land use scenarios and transportation linkages for the Corridor properties; the results of which were adopted by the Hayward City Council on June 30, 2009.

Z. "*La Raza Unida*" means *La Raza Unida of Southern Alameda County, et al v. Samuel K. Skinner etc. et al*, Civ. No. C-71-1166 TEH (N.D. Cal.).

AA. "Low Income Household" means a household with an Adjusted Income that does not exceed the qualifying limits for lower income households as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, for Alameda County, as published by HCD.

BB. "Lump Sum Stipend" means the payment to an Eligible Tenant Household, pursuant to Section III.D.

CC. "Median Income" means the median gross yearly income for households in Alameda County, adjusted for Actual Household Size, as published by HCD.

DD. "Moderate Income" means a household with an Adjusted Income that does not exceed One Hundred Twenty Percent (120%) of Median Income, for Alameda County, as published by HCD.

EE. "Opportunity to Purchase Home Program" or "OPHP" means the program described in Section III.G of this Agreement, pursuant to which Eligible SFR Tenant Households will be provided assistance to purchase an Eligible SFR.

FF. "Preliminary Approval Order" means the Court's order granting preliminary approval of the Settlement.

GG. "Program Administrator," means a qualified individual or entity hired by or contracted with the City, who meets the qualifications and experience agreed upon by the City, the Department, and Class Counsel.

HH. "Qualified," for purposes of the OPHP, means that the Eligible Corridor SFR Tenant meets the income, financial, and other requirements of the housing programs and other funding sources to which the OPHP has access.

II. "Settlement", "Settlement Agreement", "Stipulation", "Joint Stipulation", or "Agreement" means this Settlement Agreement presented to the Court for preliminary approval.

JJ. "Single-Family Residence" or "SFR" means a detached real property improvement used or intended to be used as a single-family residence

KK. "Tenant in good standing" or "Good Standing" means a tenant holding a valid written rental agreement with the Department for a Corridor Unit, current in all rental payments to the Department.

II. RECITALS

A. The present litigation concerns the intended sale of Corridor Properties. The Department acquired the Corridor Properties in anticipation of a proposed freeway or expressway project to bypass traversable State Route 238 to be constructed in the Corridor. The freeway or expressway project will not now be constructed and some or all of the Corridor Properties will be declared to be excess. Some or all of the Corridor Units have been rented to tenants.

B. The Department, in coordination with other local entities, plans to sell the Excess Property, the proceeds of which will be used to fund certain local highway improvement projects pursuant to Government Code §§14528.5, *et seq.*

C. In 2007, Counsel for Plaintiffs asserted certain Corridor Tenant legal entitlements to relocation assistance and replacement housing pursuant to California Government Code §§14528.5, *et seq.*, and rights as to the option to purchase Corridor SFRs at an affordable price, and other entitlements pursuant to California Government Code §§54235, *et seq.*

D. Defendants dispute the existence, nature, scope, and extent of any such legal rights and entitlements.

E. In an effort to resolve the differences between the Parties, the Department, the City, and Class Counsel have conducted extensive, arms'-length, good-faith negotiations and have exchanged substantial information regarding such topics as (1) the composition of the Corridor Tenants, (2) the 238 Corridor Land Use Study and its likely effect on the future of the Corridor Property, (3) current and planned Affordable Housing in the City that could potentially serve as replacement housing for Corridor Tenants, and (4) Department policies and procedures regarding rental and sale of the Excess Properties. Associated Right of Way Services, Inc. conducted a detailed survey of the then Corridor Tenants in order to determine relevant characteristics regarding the composition of the potential Class Members, including the number of tenants in each Corridor Unit, the income level of Corridor Tenants, factors relating to relocation assistance (such as where tenants might relocate to, if necessary), and other matters relevant to resolving Plaintiffs' claims. The City, the Department, and Class Counsel have had discussions with housing experts, who have met and exchanged information regarding terms and procedures for certain Corridor SFR Tenant Households to purchase Eligible SFRs.

F. After months of good-faith negotiations, the Parties reached a tentative settlement in September 2009, the intent and effect of which is to resolve any and all disputes and claims that now or may in the future exist between them regarding alleged Corridor Tenants' rights, entitlements, benefits, assistance, and environmental impacts that may arise as a result of the Department's sale of the Corridor Properties.

G. On September 28, 2009, Plaintiffs commenced the Action on behalf of themselves and all other individuals similarly situated with respect to the claims they assert.

H. On September 28, 2009, Class Counsel, the City, and the Department held a meeting with the then Corridor Tenants to discuss the terms of the tentative settlement and to solicit input from affected individuals. The Department, the City, and Class Counsel considered the tenants' comments in finalizing the Settlement.

I. Class Counsel have conducted a thorough investigation into the facts of the Action. Based on the above-described exchange of information and their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement is fair,

reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay and defenses asserted by Defendants.

J. It is the mutual desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims raised in or related to the Action. In order to achieve a full and complete release of the Defendants, the Class, including Plaintiffs and each Class Member, and the Caltrans Tenants Organization acknowledges that this Settlement is intended to include and resolve all Corridor Tenant Household claims that were brought or could have been brought in the Complaint concerning the sale of Corridor Properties.

K. This Settlement represents a compromise of highly disputed claims and is entered into by the Department and the City as a basis to resolve long-standing issues within the Corridor and the City of Hayward, and to free up the Corridor Properties for final disposition. Nothing in this Settlement is intended or will be construed as an admission by Defendants that Plaintiffs' claims in the Action have merit or that they have any liability to Plaintiffs or the Class on those claims, or as an admission by Plaintiffs that Defendants' defenses in the Action have merit.

III. SUBSTANTIVE SETTLEMENT TERMS

A. Tenant Survey

1. As soon as practicable following the date of the Final Approval Order, the City, with support from the Department and Class Counsel, will hire a consultant to conduct a survey of each Corridor Tenant to determine such tenant households' total income and to obtain such information necessary to establish the amount of Lump Sum Stipend payable to each Eligible Tenant Household. Such survey will include methods to verify information provided by each Corridor Tenant and to assess preliminary interest and eligibility to participate in the Opportunity to Purchase Home Program. Such survey shall also establish time periods in which each Corridor Tenant must respond to requests for information from persons or entities performing the Survey. Corridor Tenants must participate in the survey and submit in a timely manner all documentation required by the survey in order to be eligible to receive the Lump Sum Stipend and to participate in the OPHP. The Department must provide Corridor Tenants with (a) adequate notice of the survey; (b) reasonable

timelines for the completion and/or submittal of documents required by the survey; and (c) adequate opportunities to submit completed documentation to the appropriate entities.

B. Communication with Corridor Tenants

1. As soon as practicable following the date of the Final Approval Order and signature by the Governor on the related legislation, the City, the Department, and Class Counsel will conduct community meetings, with notice to all Corridor Tenants, to provide Corridor Tenants with information and to answer questions related to the terms and conditions of this Settlement Agreement and the contents of the related legislation.

2. The City, the Department, and Class Counsel will use translation services or other services as necessary to ensure that non-English speaking and hearing-impaired Corridor Tenants are able to participate at some or all of these meetings.

3. Official representatives for the City, the Department, and Class Counsel will be identified at the meetings to accept and respond to Corridor Tenant inquiries related to the terms and conditions of this Settlement Agreement and the contents of the related legislation.

C. Maximum City Cash Contribution to Programs under This Agreement

1. The City agrees to contribute a maximum of $6,000,000, including simple interest, to fund the Lump Sum Stipend and Opportunity to Purchase Home programs,

2. In the event that the program expenditures defined herein for the City do not reach the $6,000,000 cap, the City agrees to put the remainder (up to the $6,000,000 cap) into the City's First Time Homebuyers Program or similar program designed to increase affordable homeownership in the City.

D. Lump Sum Stipends

1. Subject to the terms and conditions set forth in this Agreement, the City shall pay to each Eligible Tenant Household a Lump Sum Stipend. The Lump Sum Stipend shall be calculated in accordance with the procedures set forth in Exhibit C. As indicated in Exhibit C, the Lump Sum Stipend is comprised of a moving stipend and a rent differential stipend. The City shall pay the Lump Sum Stipend to Eligible Tenant Households residing in

the Corridor but outside of the City and in the Unincorporated County in consideration for services that have and will be provided to the City by the County.

2. There shall be only one Lump Sum Stipend per Corridor Unit. Each Lump Sum Stipend shall be paid in a single payment to the Eligible Tenant Household occupying the Corridor Unit, payable collectively to the signatories to the Department's written rental agreement, unless all the signatories to the rental agreement in a given Eligible Tenant Household agree and request separate checks, dividing the payment among the household members, and provide joint written instructions to the City authorizing separate checks. In the event City is provided with said joint written instructions, the City shall divide the payment of the Lump Sum Stipend pursuant to said written instructions.

3. Eligible Tenant Households above the Moderate Income levels as defined in the Lump Sum Stipend calculations shall receive a Lump Sum Stipend equal to one-half (50%) of that of a similar Moderate-Income Tenant Household.

4. Eligible Tenant Households receiving the Lump Sum Stipend shall not be required to vacate the Corridor Units in which they reside, unless and until the Department, the City, or a subsequent owner of such Corridor Unit requires them to vacate such Corridor Unit. If after the payment of the Lump Sum Stipend, an Eligible Tenant Household vacates the Corridor Unit in which they reside, the Department, the City, and the County shall have no further obligations to the Corridor Tenant or their members for relocation, moving, or other similar actions defined anywhere in this Agreement.

5. The City shall have no obligation to provide the Lump Sum Stipend to any Eligible Tenant Household unless and until such Eligible Tenant Household provides a signed acknowledgement and receipt to the City or its authorized representative in the form attached hereto as Exhibit D.

6. Eligible Tenant Households, who are eligible for and wish to take advantage of the OPHP, described below, will not directly receive payment of the Lump Sum Stipend, and must apply their entire Lump Sum Stipend toward the purchase price or renovation of the residence at issue, as further described in Section III.G.1.d.

7. Subject to the provisions above, the Lump Sum Stipends to all Eligible Households shall be paid in a lump sum as soon as is practicable following satisfaction of the conditions for duty to perform contained in Section VII or as the Parties shall otherwise agree

in writing. An Eligible Tenant Household may request in writing and the City may agree to pay the Lump Sum Stipend in installments pursuant to a schedule agreed to by the City and the Eligible Tenant Household.

8. The Department shall provide advisory assistance to any Corridor Tenant wanting to move to another location, and who requests such assistance. Advisory assistance will include identification of comparable units. Corridor Tenants will be notified by the Program Administrator prior to payment of Lump Sum Stipends that such assistance is available.

E. Low-Income Housing

1. The Parties anticipate that the number of total new units projected to be constructed in the Corridor inside and outside the City of Hayward range from 850 to 4,450, with 1,800 to 2,000 being most likely. The Parties contemplate that the construction period for development of housing within the Corridor will be 2010 through 2024.

2. The City agrees to develop or cause or permit the development of two hundred thirty seven (237) affordable housing units within the Corridor. Such affordable units will be available and affordable to Low Income Households. Such units may be located in one or more dedicated, distinct complexes or integrated into part of any mixed income or mixed use project. The City may develop or cause the development of such affordable housing units via the implementation of its Inclusionary Housing Ordinance ("IHO"), and/or by financing housing developments with housing funds as may be available to the City.

3. The agreed upon 237 low-income units described in Section III.E.2 above will be reduced by the following:

a. The number of units available and Affordable to Low Income Households located in any of the following developments, constructed in response to the Consent Decree in *La Raza Unida*, provided that such units were subject to an affordability restriction in effect on December 31, 2008; and provided further that such restriction is extended at least 15 years beyond its current expiration date in effect on December 31, 2008:

i.) Clarendon Hills (Montierra Condos) - 700 Alquire Parkway

ii.) Cypress Glen - 25100 Cypress Avenue

iii.) Foothill Gardens (Barrington Hills) - 655 Tennyson Road

iv.) Huntwood Terrace - 29200 Huntwood Avenue

v.) Landmark Villa -21000 Mission Boulevard

vi.) Mayten Maynor - 24000 Second Street

vii.) Timbers - 2500 Santa Clara Street

viii.) Waterford - 25800 Industrial Boulevard

b. The number of SFRs purchased by Low Income Eligible Corridor Tenant Households as part of the OPHP.

c. 10% of the total number of units available and Affordable to Low Income Households from a project built in the Corridor outside of the City limits by the County between 2009 and 2024 at or near APN # 415-0210-050-01 located near the intersection of North Third Street and Crescent Street in Unincorporated Alameda County; or the number of such units actually occupied by Corridor Residents residing in the Corridor prior to December 1, 2009, whichever is greater.

d. The City shall make full good faith efforts in securing an agreement that provides priority for Corridor Tenants who meet applicable income and eligibility requirements to occupy the Low Income Housing units to be provided in the South Hayward BART TOD project. Conditional on obtaining said agreement providing priority for those Corridor Tenants as described above, (i) 20% of the South Hayward BART TOD low income units or the number of said units occupied by Corridor Tenants, whichever is greater, shall count as low-income housing units in fulfilling the low-income housing requirement set forth in Section III.B.2 of this Settlement Agreement; and, (ii) the City shall undertake reasonable efforts to ensure that Corridor tenants are notified about the availability of such low-income units and to assist them in securing such units in a timely manner.

4. Units will be required and constructed as projects are approved and constructed, with the goal that 237 "low income" Units will have been constructed by 2023, although the City will make every reasonable effort to reach the 237-Unit goal as quickly as possible. In any event, once the total number of housing units developed on the Corridor Property that is located within the City reaches 1,000 units, at least 114 units available and affordable to Low-Income Households will be developed. Once the total number of housing

units developed on the Corridor Property that is located within the City reaches 2,000 units, at least 237 low-income Units will be developed.

5. After the goal of 237 low-income units is reached, the City agrees either to continue the application of the current IHO requirements to the Corridor through 2023, or to otherwise ensure development of a similar proportionate number of low-income units in the Corridor as if the IHO were being applied.

F. Notification to Corridor Tenants of Property Sale

1. The Department shall notify the City and all Corridor Tenants in writing no more than 180 days or less than 60 days prior to the intended date of sale of the unit or units they occupy, regardless of the sale process to be utilized.

2. The Department shall notify the City and all Eligible SFR Tenant Households in writing no less than 60 days of the intended date of sale by auction of the Corridor SFR they occupy.

G. Opportunity to Purchase Home Program ("OPHP")

The City and the Department shall implement an Opportunity to Purchase Home Program for Eligible SFR Tenant Households in the manner set forth below.

1. OPHP Benefits for Eligible SFR Tenant Households

a. The City shall provide each Eligible SFR Tenant Household that resides in the City with the opportunity to participate in the OPHP. The same opportunity will be provided by Alameda County to Eligible SFR Tenant Households, which reside in Unincorporated Alameda County per a separate agreement between the City and the County. The City represents that such an Agreement exists with the County, and that a signed and duly executed copy will be given to all parties prior to the filing of the motion for final approval of the Settlement Agreement.

b. Any Eligible SFR Tenant Household that initially desires to participate in the OPHP shall declare its intent to participate by providing written notice in the form agreed upon by the Parties to the City prior to accepting payment of any part of the Lump Sum Stipend.

c. If an Eligible SFR Tenant Household who initially did not participate in the OPHP and received their Lump Sum Stipend chooses to participate in the OPHP at any other time within the two-year program, they must complete the same form defined in III.G.1.b above, and deposit with the City the full amount of their Lump Sum Stipend payment plus 2% interest from the time of payment until the deposit is made.

d. All Qualified Eligible SFR Tenant Households participating in the OPHP must apply 100% of their Lump Sum Stipend to the purchase of an Eligible SFR as part of the down payment. Application of the Lump Sum Stipend toward the rehabilitation of the property in order to meet requirements for conventional or FHA financing is also allowed provided that:

i) The Eligible SFR Tenant Household has entered into a binding purchase contract for the Eligible SFR, which permits the rehabilitation to be performed; and

ii) The Eligible SFR Tenant Household has obtained a pre-approval letter from a lender for a first mortgage, which is a sufficient amount (when considered with other mortgage assistance made available to the Eligible SFR tenant Household by the OPHP or another program) to pay for the purchase of the Eligible SFR; and

iii) The Eligible SFR Tenant Household continues to meet the down payment obligation for the purchase of the Eligible SFR.

e. The Lump Sum Payment for which the Eligible SFR Tenant Household is qualified will be placed in an interest-bearing OPHP Trust Account held by the City, and paid out as part of the purchase package as described below. If the Eligible SFR Tenant Household decides at any point prior to the close of escrow not to participate in the OPHP that Eligible SFR Tenant Household's Lump Sum Payment shall be paid to the household consistent with terms of this Agreement, with accrued interest equal to the rate earned by the City's Pooled Cash Investments for the same period, and as otherwise provided for in Section III.D above, and less the following:

i) Any Lump Sum Stipend funds that have been paid or that are owed for rehabilitation or other OPHP-related costs.

ii) Any Lump Sum Stipend funds used for a deposit that may have been paid to the owner of the Eligible Alternative SFR, with the Eligible SFR Tenant Household's consent, in connection with the purchase contract for the Eligible Alternative SFR; and

iii) Any Lump Sum Stipend funds that were otherwise dispersed or otherwise owed to a third party on behalf of the respective Eligible SFR Tenant Household and with that household's consent in connection with the purchase contract for the Eligible Alternative SFR.

f. The maximum amount of mortgage assistance that any Eligible SFR Tenant Household may receive under the OPHP, including the Lump Sum Stipend, shall not exceed 30% of the purchase price of the Eligible SFR or Seventy-Five Thousand Dollars ($75,000), whichever is less.

g. In the event a particular Qualified Eligible SFR Tenant did not have any previous opportunity to purchase an Eligible SFR, and there are insufficient funds available to enable the Qualified Eligible SFR Tenant Household to purchase an Eligible SFR under the OPHP consistent with the terms of this Settlement Agreement, the Corridor SFR in which that Eligible SFR Tenant Household resides may not be sold so long as the Eligible SFR Tenant Household seeks to purchase an Eligible SFR and remains Qualified to purchase under the OPHP; and as long as the City has not expended the maximum amount of Six Million Dollars ($6,000,000). *See* Section III.C., *supra*.

h. Under the OPHP, only one Eligible SFR or one Eligible Alternative SFR may be purchased per Eligible SFR Tenant Household, regardless of the number of individuals or families occupying that household's Corridor SFR; and the Eligible SFR purchased will be at least comparable in size to the Corridor SFR occupied by the Eligible SFR Tenant Household participating in the OPHP, unless the Eligible SFR Tenant Household chooses a smaller home, or unless the Eligible SFR

Tenant Household does not qualify for that size home per the guidelines and restrictions of the available funding source(s).

i. Eligible SFR Tenant Households shall be entitled to at least one additional opportunity to purchase an Eligible SFR or an Alternative Eligible SFR through the OPHP if the first opportunity does not result in a purchase. Provided that the City has not expended the maximum $6,000,000 as described herein, the City shall provide a reasonable number of additional opportunities to purchase for Eligible SFR Tenant Households which, through no fault of their own, did not successfully complete a purchase in prior OPHP opportunities. For other Eligible SFR Tenant Households, the City may, in its discretion, provide further opportunities to purchase.

j. All persons from an Eligible SFR Tenant Household who will hold title to an Eligible SFR or an Eligible Alternative SFR upon purchase shall complete a required, City-approved home purchase/home ownership counseling program before completion of the purchase process and assuming title.

k. The City shall apply for and make all reasonable efforts to secure any and all State and Federal home purchase program money of which the City is aware and eligible in order to fund the OPHP within the Corridor. Upon CTC approval or authorization by statute, the Department will support the OPHP by making all Eligible Corridor SFRs available for purchase on a first-right-of-refusal basis to each Eligible SFR Tenant Household and at FMV pursuant to the process defined herein.

l. The OPHP will be funded by the City's First Time Home Buyer Funds, State and Federal affordable housing funds, and other housing funds as may flow to the City and County either by application and/or allocation. The program funding sources identified thus far that are to be applied for and, if received, appropriately incorporated into the OPHP are:

i) City's First Time Home Buyer Funds (FTHB) up to a maximum of Forty Thousand Dollars ($40,000) per Eligible SFR Tenant Household

ii) Workforce Initiative Subsidy for Homeowners (WISH) funds obtained from the San Francisco Federal Home Loan Bank

iii) Building Equity and Growth in Neighborhoods (BEGIN) funds (if and when available) obtained from HCD

iv) CalHome Funds (if and when available) obtained from HCD

v) High Cost Area Home Purchase Assistance Program (HiCAP) and California Homebuyers' Downpayment Assistance Program (CHDAP) funds (if and when available) obtained from the California Housing Finance Agency (CalHFA)

vi) Mortgage Credit Certificates (MCC) (where applicable and as available) obtained by Alameda County through the standard Federal and State allocation processes

vii) Applicable Community Development Block Grant (CDBG), Community Development Block Grant – Recovery (CDBG-R), or other American Recovery and Reinvestment Act (ARRA) funds obtained from the administering State and Federal agencies and that may be available to the City or/County.

The City agrees that, with respect to the funding sources identified above or other funding sources that may be used to support the OPHP, preference will be given, whenever possible, to devoting those funds to the OPHP generally (such as by purchasing foreclosed home to be designated Eligible Alternative SFRs) or to assisting qualified Eligible SFR Tenant Households in purchasing through the OPHP. The Parties also understand and agree that the funding sources listed in i through vii above will only be available to Eligible SFR Tenant Households who meet the program regulations, guidelines, or other criteria of such funding source.

m. The guidelines used to operate this program will in general be consistent with the City's First Time Homebuyers Program (FTHB) and as may need to be modified to comply with the program requirements of each unique funding source. The City's FTHB Program guidelines are attached as Exhibit E.

n. In connection with the OPHP, and pursuant to approval by the CTC or as authorized by statute, the City and the Department will provide each Eligible SFR Tenant Household residing in an Eligible Corridor SFR with the opportunity to purchase the Eligible Corridor SFR in which that household resides for

FMV according to the manner described herein. In the event the Eligible SFR Tenant Household residing in an Eligible Corridor SFR does not exercise its opportunity, upon approval by the CTC or as authorized by statute, the Department will offer the Eligible Corridor SFR for sale at FMV to the other Eligible SFR Tenant Households in accordance with (i) the manner and process described herein for the purchase of Eligible Corridor SFRs, and (ii) the prioritization set forth in Section III.G.1.o.

o. In the event of competition for the same property, limited funding, or similar programmatic or housing inventory constraints, the Program Administrator shall apply the following priority order when assisting Eligible SFR Tenant Households to purchase Eligible SFRs:

i) Any current occupant who was an original owner within the Corridor, and from whom the Department originally bought the property;

ii) Low-Income Households, who have occupied a Department-owned Corridor SFR for 20 years or more prior to the date of the Preliminary Approval Order;

iii) Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 20 years or more prior to the date of the Preliminary Approval Order;

iv) Above Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 20 years or more prior to the date of the Preliminary Approval Order;

v) Low-Income Households, who have occupied a Department-owned Corridor SFR for 15 years or more prior to the date of the Preliminary Approval Order;

vi) Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 15 years or more prior to the date of the Preliminary Approval Order;

vii) Above Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 15 years or more prior to the date of the Preliminary Approval Order;

viii) Low-Income Households, who have occupied a Department-owned Corridor SFR for 10 years or more prior to the date of the Preliminary Approval Order;

ix) Eligible SFR Tenant Households residing in Corridor SFRs not eligible for purchase under the OPHP (see Section III.G.3).

x) Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 10 years or more prior to the date of the Preliminary Approval Order;

xi) Above Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 10 years or more prior to the date of the Preliminary Approval Order;

xii) Low-Income Households, who have occupied a Department-owned Corridor SFR for 5 years or more prior to the date of the Preliminary Approval Order;

xiii) Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 5 years or more prior to the date of the Preliminary Approval Order;

xiv) Low-Income Households, who have occupied a Department-owned Corridor SFR for 2 years or more prior to the date of the Preliminary Approval Order;

xv) Moderate-Income Households, who have occupied a Department-owned Corridor SFR for 2 years or more prior to the date of the Preliminary Approval Order.

p. The City agrees to fund its FTHB program at its current level of Five Hundred Thousand Dollars ($500,000) each year for two years following the date of the Preliminary Approval Order.

q. In addition to the funding sources identified above, the City shall also support the OPHP financially, whether through the FTHB or otherwise, to ensure that Eligible SFR Tenant Households have an opportunity to purchase consistent with the terms of this Settlement Agreement. However, the City's total

combined expenditures toward the Lump Sum Stipends and the OPHP shall not exceed Six Million Dollars ($6,000,000), plus accrued interest, with interest accruing at the City's Pooled Cash Investment Rate for the same period. The $6,000,000 cap or maximum amount referred to herein means the $6,000,000 plus the amount of simple interest accrued. If the City's expenditures reach the $6,000,000 maximum, and if program funding remains available to the City similar to what is defined in Section III.G.1.l, the City will continue to administer the OPHP for the duration of the two-year period defined herein in Section III.G.7.c, or for less time if otherwise agreed to in writing by the Department, City, and Class Counsel; and the City will continue to seek and secure where possible program funding sources such as those identified in Section III.G.1.l.

2. **Notification of Eligible Corridor SFRs**

a. The City and the Department will provide to Class Counsel a final list identifying all Eligible and Ineligible Corridor SFRs as soon as practicable, but no later than the date of the Final Approval Order, and excluding those Corridor SFR's on the Unclassified List provided to Corridor Tenants on September 28, 2009. Unless otherwise agreed to by the Parties in writing, the number of Eligible Corridor SFR's inclusive of both Unincorporated Alameda County and the City of Hayward will not be less than 100.

b. No later than the date of the Final Approval Order, the Department shall notify in writing any Corridor Tenant residing in an ineligible Corridor SFR that the Corridor SFR is deemed ineligible for purchase under the OPHP.. That notice shall set forth the basis for the Department's determination of the Corridor SFR's ineligibility. Nothing contained in this Agreement shall limit the Department's authority to sell Corridor SFRs that are not deemed Eligible Corridor SFRs for purposes of the OPHP.

c. Within one (1) year following issuance of the Preliminary Approval Order, the City and the Department shall undertake and complete a process for determining the eligibility of those Unclassified Corridor SFRs on the above

referenced (Section III.G.2.a) September 28, 2009 list provided to Corridor tenants, and for finalizing the list of Eligible Corridor SFRs. This process shall involve public review and discussion prior to any final decision by the City Council, and shall define for public participants the criteria used to classify each Unclassified Corridor SFR and/or to change the status of any currently Eligible Corridor SFR. The Department's determination shall be based primarily on maximizing value to the LATIP through the disposition of Excess Properties.

3. **Alternatives to Eligible Corridor SFRs**

a. The City shall provide those Qualified Eligible SFR Tenant Households not residing in an Eligible Corridor SFR an opportunity to purchase either (1) another Eligible Corridor SFR not purchased by the Eligible Corridor Tenant Household residing therein; or (2) an Eligible Alternative SFR in the City of Hayward or in the Unincorporated Area of Alameda County immediately adjacent to the City of Hayward. Although there is no guarantee, every effort will be made to provide the Qualified Eligible SFR Tenant Household, with a purchase opportunity consistent with their desired location. The City will begin immediately upon the execution of this Agreement to identify Eligible Alternate Properties for this program.

b. Eligible SFR Tenant Households residing in Corridor SFRs that have been deemed ineligible for purchase shall retain their opportunity to purchase the Corridor SFR in which they reside consistent with the terms and duration of the OPHP, should the Department subsequently decide that the previously ineligible SFR is now Eligible. If such a determination is made by the Department after the end of the OPHP, the Eligible SFR Tenant Household may purchase the SFR in which they reside, subject to approval by the Department consistent with the existing Departmental policies and practices.

4. **CTC Approval Process**

a. It is the intent of the Department and the City to provide:

i. An opportunity to purchase an Eligible Corridor SFR to Eligible SFR Tenant Households residing in the Corridor SFR for a

period of two (2) years or more as of the date of the Preliminary Approval Order;

ii. To Eligible SFR Tenant Households an opportunity to purchase elsewhere in the Corridor an Eligible Corridor SFR when the Corridor SFR resided in is (a) not an Eligible Corridor SFR; (b) in such condition that financing cannot be obtained; or (c) where the Eligible SFR Tenant Household is not Qualified for the Corridor SFR resided in, but may be Qualified with respect to another Corridor SFR; or (d) where the Eligible SFR Tenant Household has determined that the Eligible Corridor SFR in which they reside is too large.

iii. That the purchase price of Eligible Corridor SFRs sold pursuant to the OPHP be determined in accordance with the process defined herein.

However, CTC approval is required in order for each of these elements to be provided in the OPHP. In addition, Streets & Highway Code 118(b), requires CTC approval of each sale of an Eligible Corridor SFR.

b. In the event legislation that clarifies and authorizes CTC to proceed as indicated above is not enacted, the Department shall at the earliest opportunity request CTC approval of these categories of opportunity to purchase and shall use its best efforts to assist the CTC in passing a resolution or resolutions that accomplish each of the above items. The City and Class Counsel also agree to use their best efforts to support CTC approval and passage of such resolutions.

5. Determination of Purchase Price

a. The purchase price at which the Eligible Corridor SFRs will be offered to the Eligible SFR Tenant Household shall be "As Is" FMV as determined by either (1) the Appraiser, who shall be hired by the City with the participation of the Department and Class Counsel, or (2) the review appraisal process described in Section III.G.5.n, below. The Appraiser's or review appraiser's determination of the FMV of each Eligible SFR shall be final and not subject to judicial or other review by

the Department, the City, Class Counsel, or the Plaintiffs except as otherwise provided herein.

b. The Eligible Corridor SFRs to be appraised will initially be determined by the responses to the survey, but additional SFRs may be added to the list in the event additional Eligible SFR Tenant Households elect to participate at a later date as provided herein, or the need to appraise additional Corridor properties arises. The date of valuation shall be the date the appraisal is completed.

c. A standard form appraisal report, comparable in content to the Uniform Residential Appraisal Report (Fannie Mae Form 1004) and including addendums as appropriate, shall be generated for each appraised Eligible Corridor SFR. The Department, the City, and Class Counsel shall approve the appraisal form or forms to be used by the Appraiser.

d. The Appraiser shall at a minimum include data from comparable sales in the appraisal/valuation process, and shall at a minimum, consult the Multiple Listing Service data for the immediate area.

e. The Appraiser shall not represent either the Buyer or the Seller.

f. The determination of FMV shall be based on best professional appraisal practices including the Appraiser's own on-site visit to the subject property and the surrounding neighborhood.

g. When available, City or County permit files will be reviewed for both the subject property and the comparable properties.

h. The Appraiser shall inspect the subject property according to best professional appraisal practices. The Appraiser shall also inspect the comparable properties according to best professional appraisal practices to the extent the Appraiser has access to such comparable properties.

i. The Appraiser shall discuss the subject property with the current tenant and comparable sales properties with the buyers and sellers and the brokers/agents for the buyers and sellers to the extent the current tenant, buyer, seller, or brokers/agents are willing to engage in that discussion. The Appraiser shall state in general terms in the Appraisal Report the information obtained from these discussions

and whether the information was considered, and whether or not the Appraiser made adjustments as a result of the information provided.

j. The Department shall provide the Appraiser and the Eligible SFR Household with copies of any and all maintenance records for the preceding five (5) years for the applicable Eligible Corridor SFR. The Appraiser shall, as deemed necessary and appropriate by the Appraiser, review the Department's maintenance records for each applicable Eligible Corridor SFRs.

k. The Appraiser shall identify for the subject property and the comparables used, and the Appraiser shall take into account per best professional appraisal practices, the proximity of the properties to a known fault line such that future permitted or allowed rebuilding or replacement of the same or similar use structure on the property may be negatively affected.

l. Should an unusual or unforeseen condition of the subject SFR affecting FMV be identified by the Appraiser that in his or her opinion requires additional investigation, the Appraiser may hire a qualified consultant to conduct the necessary investigation and prepare a verbal or written report to assist the Appraiser in determining FMV; provided, however, that in no event will additional costs of more than $250 per Eligible Corridor SFR be allowed without the prior approval by the Department, the City, and Class Counsel.

m. The Appraiser shall submit the final appraisal to the Department, the City, Class Counsel, and the Eligible SFR Tenant Household seeking to buy the property.

n. After submission of the appraisal report, the Eligible SFR Tenant Household seeking to purchase the appraised subject property shall be notified of an opportunity to submit to the Department additional objective information potentially impacting the property's FMV. The Department may, at its sole discretion, provide such information to either the Appraiser or to a Department review appraiser to determine whether an adjustment to the initial appraisal's determination of FMV is warranted. If the Appraiser or review appraiser determines that, in response to such information, a reduction of the initial appraisal's determination of FMV is warranted, the revised FMV shall be the purchase price.

o. Prior to the Appraiser's submittal of each of the first five (5) appraisals, a pre-submittal meeting shall be held. The pre-submittal meeting may be waived by mutual agreement of the Department, the City, and Class Counsel after the first three (3) appraisals. Aside from the Appraiser, participants in the pre-submittal meetings shall be limited to those who are signatories to this Settlement Agreement, unless unanimously agreed to by the City, the Department, and Class Counsel. The matters discussed and the draft appraisals shall be kept confidential and shall not be disclosed to non-participants in the meeting. The purpose of the pre-submittal meetings is solely to review the appraisal process and to determine whether and how the Appraiser has complied with the instructions provided herein. Upon conclusion of the pre-submittal meeting, the Appraiser shall finalize the appraisal report and submit it to the Department, the City, Class Counsel, and the Eligible SFR Tenant Household seeking to buy the Eligible Corridor SFR. Unless modified as provided for in Section III.G.5.n above, the submitted appraised value shall be the purchase price.

p. Prior to final approval of the Settlement Agreement, the Department, the City, and Class Counsel shall select the Appraiser or Appraisers, approve the appraisal forms, and meet with the Appraisers to discuss the appraisal instructions, the appraisal process, and the timing of the appraisals.

q. The Purchase Price for Eligible Alternative SFRs will be determined by the normal home acquisition process of negotiation between a seller and a buyer related to the listing price of the property:

i) The Program Administrator will make certain that potential buyers have the necessary support and information to conduct and/or participate in the appropriate negotiations.

ii) If the property is in any stage of foreclosure, there may be other factors outside the process that determine or help determine the sales price. For example, a bank may set the sales price.

6. Home Inspections

The City shall conduct or cause to be conducted a home inspection of any Eligible SFR that is to be purchased under the OPHP, unless a home inspection of the subject property

has been completed within one (1) year prior to the implementation of OPHP. Any home inspection required by this provision shall take place after any appraisal of the subject property required under this Agreement. An Eligible SFR Tenant Household seeking to purchase the subject property shall be provided a copy of the home inspection report within a reasonable period prior to completion of the purchase process.

7. Other Programmatic Details of the OPHP

a. The sales price of an Eligible Corridor Property or Eligible Alternative Property will not be determined until such time as (1) an Eligible SFR Tenant Household has declared an interest in buying the Property, and (2) the adults from the Eligible SFR Tenant Household who will hold title to the property have initially been determined to be Qualified (i.e., has been pre-qualified through the process described in this Section.)

b. In order to implement the OPHP, the City will hire, contract with, or otherwise engage a Program Administrator, who meets the professional skills, abilities, and requirements agreed to by the City, the Department, and Class Counsel, to administer this OPHP. The Department or Class Counsel may participate and provide input into the interview and/or pre-screening process for the City's selection of the Program Administrator. The City shall be responsible for ensuring that the Program Administrator fulfills its responsibilities under this Agreement. The Program Administrator will be responsible for:

i) Maintaining a current list of Eligible SFR Tenant Households and those SFR Tenant Households that are not eligible.

ii) Maintaining a current list of Eligible Corridor SFRs and identifying and maintaining a current list of Eligible Alternative SFRs.

iii) Conducting or causing to be conducted a sufficient number of homebuyer seminars as needed to clearly communicate to each Eligible SFR Tenant Household the criteria for home purchase under the OPHP and to determine or causing to be determined

which Eligible SFR Tenant Households have an interest in participating in this OPHP:

iv) Pre-qualifying to the extent possible those Eligible SFR Tenant Households expressing an interest in participating in this OPHP (i.e., conduct a pre-qualifying assessment with members of this group). The Program Administrator will provide access to credit counseling for those Eligible SFR Tenant Households who may not be assessed as Qualified for any of the home purchase programs in the pre-qualifying process. The Program Administrator will use its best efforts to qualify each Eligible SFR Tenant Household by coordinating and utilizing all appropriate and available resources, financial packages, and services in support of the household. Those Eligible SFR Tenant Households completing credit counseling will be reassessed for program qualification.

v) Making a final determination of qualification of interested Eligible SFR Tenant Households. Assisting those Qualified Eligible SFR Tenant Households in obtaining mortgage packages available under the OPHP and in applying for first mortgage loans from an institutional lender.

vi) Assisting those Qualified Eligible SFR Tenant Households interested in purchasing Eligible Alternative Properties in obtaining mortgage packages available under the OPHP, negotiating with institutional owners, and applying for first mortgage loans from an institutional lender.

vii) Providing or causing to provide homeownership and purchase counseling to all interested Eligible SFR Tenant Households prior to their application for mortgage assistance under the OPHP and after an Eligible Tenant Household purchases an Eligible SFR.

c. The OPHP will begin promptly after the Program Administrator is retained by the City pursuant to Section III.G.7.b. The Program Administrator shall conclude the OPHP within twenty-four (24) months from the date the Program Administrator was initially hired, contracted, or otherwise engaged. "Conclusion" will be determined by completion of all steps in Section III.G.1.a-q listed above, escrow closings for all Qualified Eligible SFR Tenant Households, and resolution of any outstanding disputes with Eligible SFR Tenant Households. This date may be extended by written agreement of the City, the Department, and Class Counsel.

d. If an Eligible SFR Tenant Household decides not to participate in the OPHP and accepts their full Lump Sum Stipend payment, they will not be allowed to reconsider unless:

i) The Eligible SFR Tenant Household communicates to the Program Administrator in writing its decision to participate in the OPHP no later than six (6) months after the OPHP begins;

ii) They place into the established OPHP Trust account, the full amount of their Lump Sum Stipend payment plus interest at the rate of 2%;

iii) They meet all other requirements as defined herein for participation in the OPHP; and

iv) Sufficient funds are available through the OPHP to assist the re-entering Eligible Corridor Tenant Household in the purchase of an Eligible SFR.

e. Those Eligible SFR Tenant Households re-entering the program as described above shall not be guaranteed any particular Eligible SFR, including any that they occupy or did occupy; and they will receive program services after those initially entering the OPHP or as determined by the Program Administrator.

f. An Eligible SFR Tenant Household that has completed the qualification process, but has decided not to purchase an available Eligible Corridor SFR at the price determined pursuant to the process set forth in Section III.G.5 shall nevertheless be entitled to purchase another Eligible SFR or Alternative Eligible SFR,

including being able to bid on an Eligible Corridor SFR should an auction be held by the Department. In purchasing pursuant to any such auction, the Eligible SFR Tenant Household shall be entitled to utilize all programs for which it was deemed Qualified during the qualification process described above.

g. If an Eligible SFR Tenant Household chose not to participate in the OPHP because the Corridor SFR that they occupy or did occupy was declared Ineligible, and if that Corridor SFR is subsequently declared Eligible and the Eligible SFR Tenant Household now wants to purchase that Corridor Unit during the OPHP tenure, they may do so subject to the same conditions described in Section III.G.7.a-g above.

8. Administrative Costs

All administrative costs required to carry out the OPHP will be funded through the proceeds from the sale of the Excess Properties. Such administrative costs shall include but not be limited to: (1) the tenant survey, (2) community meetings including translation and other services associated with such meetings, (3) property appraisals including review appraisals, (4) the costs of the Program Administrator including their office support, (5), the cost of the Hearing Officer and their office support, and (6) the cost of agreed-upon home inspections. The money funding the Lump Sum Stipend and the mortgage assistance provided under the OPHP contemplated by this Agreement will not be funded by the proceeds from the sale of the Corridor properties.

IV. DISPUTE RESOLUTION PROCEDURE FOR CLASS MEMBER DISPUTES

Any administrative determination under this Agreement regarding payments, benefits, or eligibility to participate shall be communicated to the affected Class member in writing. The communication will set forth the reasons upon which the determinations are based. Except as expressly provided in this Settlement, any dispute of a Class Member arising from any such administrative determination, excluding the Appraiser's determinations of FMV pursuant to the OPHP, shall be resolved through the dispute resolution process described hereinafter:

A. The City will hire or contract with a Hearing Officer, who shall be a qualified individual or entity that meets the qualifications and experience agreed upon by the City, the Department, and Class Counsel, and who has no direct involvement in the administrative determination of the Lump Sum Stipend or the OPHP. The Department and Class Counsel may participate and provide input in the interview process and/or pre-screening process for the City's selection of the Hearing Officer.

B. Any Class Member who disputes an administrative determination of the City, the Department, or the Program Administrator (or any agent or representative of the City, the Department, or the Program Administrator) related to this Agreement, shall provide written notice of dispute (the "Notice of Dispute") within 30 days after the date of the administrative determination. The Notice of Dispute shall be submitted to the Program Administrator. The Notice shall contain a concise summary of the dispute, accompanied by supporting documentary evidence, and shall state whether an informal hearing to resolve the dispute is requested.

C. All such disputes for which a Notice of Dispute is provided shall be reviewed by the Hearing Officer, who shall resolve the dispute after an informal hearing, if an informal hearing is requested. The hearing shall be convened within fifteen (15) days following the date of receipt of the Notice of Dispute by the Hearing Officer. Parties may bring counsel or another representative to the hearing at their own expense, but the City and the Department shall not be represented by counsel unless the Class Member is also represented by counsel.

D. The hearing will be informal, but will afford the participants an opportunity to review the relevant documentary evidence, ask questions of one another, and present oral argument.

E. In the event an informal hearing is not requested, the Hearing Officer shall, upon receipt of the Notice of Dispute, notify all participants that additional written materials may be submitted within ten (10) days, after which the record shall be closed and a decision of the Hearing Officer shall be made solely thereon.

F. Within twenty (20) days following the close of the informal hearing or the close of the administrative record if there was no informal hearing, the Hearing Officer shall issue a written decision that includes the reason(s) for the decision. The decision shall be

mailed to the participants and Class Counsel. Any such decision shall be final, binding, and non-reviewable by any agency or court.

G. A copy of this dispute resolution provision shall be attached to administrative determinations made under this Settlement regarding payments, benefits, or eligibility to participate.

H. Any deadline set forth in the dispute resolution procedure described in this Section may be extended by the Hearing Officer for good cause; except that no deadline may be extended for more than thirty (30) days.

V. TERMINATION OF APPRAISER, PROGRAM ADMINISTRATOR, OR HEARING OFFICER

The City, the Department, and Class Counsel may, by unanimous written agreement, require the termination of the services of the Appraiser, Program Administrator, or Hearing Officer. As soon as practicable, the City will hire or contract for, with the same participation by the Department and Class Counsel as defined or discussed in Sections III.G.5.a, III.G.7.b, and IV.A respectively, a replacement for any individual or entity terminated pursuant to this provision. The Department, the City, and Class Counsel, by unanimous agreement, may require the reexamination or correction of determinations made by the terminated individual or entity by the replacement individual or entity.

VI. DUTY TO MAINTAIN AND RE-RENT CORRIDOR UNITS

Pending the sale of the Excess Properties, the Department shall maintain all habitable Corridor units in a state of good repair, employ good property management practices to keep units occupied, re-rent unoccupied units, and, to the greatest extent practical, minimize adverse effects on surrounding properties.

VII. DUTY TO PERFORM

Each and every substantive settlement term of this Joint Stipulation and Settlement Agreement, commencing at Section III herein, including but not limited to those whereby the Department and/or the City provides lump sum stipends, low income housing, an OPHP or provides funds or hires individuals or businesses to accomplish these terms, as well as the

Release of Claims set forth in Section XIV, is conditioned on the ability of the Department to proceed with the sale of the Excess Properties at FMV without legal delay or obstacle.

Should the Department be prevented from selling the Excess Properties at any time, in any manner, and for any reason, including but not limited to existing, new, or amended legislation, court order, judgment, or injunction rendered on any legal theory or basis, failure of dismissal of the *La Raza Unida* action and its associated Consent Decree, or any other action, the City's and Department's duty to perform the substantive settlement terms commencing at Section III herein shall immediately cease, and (a) excepting only monies paid to individuals or businesses for services previously rendered, any lump sum stipends or other payments not then in the possession of Class Members, such as those contained in an OPHP account, shall be immediately returned to the City and Department; (b) any unexpended funds shall be retained by, or returned to, the City and Department; and (c) any employment connected with the performance of the substantive terms of this settlement agreement shall be immediately terminated.

Should the Department be prevented from selling the Excess Properties at any time and for any reason, the Release of Claims set forth in Section XIV, and any receipt and acknowledge of that release signed by any Class Members and/or the Caltrans Tenants Organization , shall be null and void except as to those persons who have received Lump Sum Stipends and, if applicable, (a) had an opportunity to purchase an SFR pursuant to the OPHP, or (b) who have been placed in new housing according to the terms of this Agreement.

Performance of the substantive settlement terms noted above, as well as the Release of Claims set forth in Section XIV, are also conditioned on the issuance of a Final Approval Order approving this Joint Stipulation and Settlement Agreement and on the enactment of legislation that will allow the Department or its Agent to proceed with the sale of the Excess Properties without any legal obligations beyond those set forth in this Settlement Agreement, including but not limited to, obligations as to relocation assistance, replacement housing benefits, home purchase obligations or assistance, or responsibilities relating to compliance with environmental laws or regulations.

The City, the Department, and Class Counsel may, upon their unanimous and signed, written agreement, modify or waive the terms of this Section.

VIII. DUTY TO SEEK PROMPT COURT APPROVAL

A. Promptly upon execution of this Settlement, the Plaintiffs will move the Court for entry of the Preliminary Approval Order, including the following terms:

1. Conditionally certifying the Class pursuant to Code of Civil Procedure §382;

2. Preliminarily approving the Settlement;

3. Scheduling a Final Approval Hearing on whether the Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members;

4. Approving as to form and content the Class Notice and setting deadlines for electing not to participate in the Settlement and serving and filing objections to the Settlement;

5. Directing the mailing of the Class Notice to the potential Class Members.

B. Any disagreement among Parties concerning the final forms of the Class Notice or other documents necessary to implement the Settlement will be referred to the Court for resolution.

IX. CERTIFICATION OF A CLASS ACTION

A. The Department, City, and Class Counsel will submit to the Court a proposed Preliminary Approval Order that will certify the following class as an opt-out class under Code of Civil Procedure §382:

> All persons residing in Department-owned, residential properties within the Route 238 Corridor on the date the Preliminary Approval Order is entered by the Court, and who do not timely submit a valid request not to participate in the Settlement.

B. The proposed Preliminary Approval Order will make the following factual findings:

1. The Class is ascertainable.

2. The Class Members are so numerous as to make it impracticable to join all Class Members as named plaintiffs in this Action.

3. There are common questions of law and fact including, but not limited to, the following:

a. Whether the Class Members are entitled to relocation assistance from Defendants pursuant to California Government Code §§14528.5, *et seq* upon the sale of Corridor Properties by the Department;

b. Whether the Department's sale of the Corridor Property obligates Defendants to develop replacement housing pursuant to California Government Code §§14528.5, *et seq*.;

c. Whether Class Members are entitled to an opportunity to purchase their rented premises at an affordable price, pursuant to California Government Code §§54235, *et seq* when the Department sells the Excess Properties;

d. Whether the Department's sale of the Excess Properties and displacement, if any; of Corridor Tenants requires environmental review pursuant to the California Public Resources Code.

4. Plaintiffs' claims are typical of the claims of the Class Members.

5. Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Class.

6. Questions of law and fact common to the Class Members predominate over any questions affecting any individual member in the Class.

X. NOTICE TO THE CLASS OF THE SETTLEMENT

A. Class Notice to Class Members

Subject to further order of the court herein, notice to Class Members shall be provided as follows:

1. Within five (5) business days after the Court enters its Preliminary Approval Order, the Department shall mail via first class mail, return receipt requested, the Class Notice to each Corridor Tenant at their Corridor Unit, as reflected in the Department's records.

2. Fifteen (15) days after mailing the Class Notice, the Department shall hand-deliver the Class Notice to the Corridor Unit of each Corridor Tenant from which the

Department has not yet received a receipt indicating that the mailed Class Notice was received.

3. Simultaneously with the mailed notice and the delivered notice, the Department will publish in the "Daily Review" or similar daily publication as may then exist, a similar Class Notice.

B. Objection to Settlement

1. The potential Class Members will have thirty (30) days after the date on which the Department mails the Class Notice to object to the Settlement by serving on Class Counsel and Counsel for the Defendants, and filing with the Court, by the thirty (30) day deadline, a written objection to the Settlement.

2. A potential Class Member who does not file and serve a written objection in the manner and by the deadline specified above will be deemed to have waived any objection and will be foreclosed from making any objections to the Settlement (whether by appeal or otherwise).

C. Election Not to Participate in Settlement

1. The potential Class Members will have thirty (30) days after the date on which the Department mails the Class Notice to submit to Class Counsel a written request not to participate in the Settlement.

2. The proposed Preliminary Approval Order will provide, and the Class Notice will instruct potential Class Members, that to be valid, a written request not to participate in the Settlement must include the potential Class Member's name and signature and recite the following language:

> "I understand that, by this request to be excluded from the Settlement in this case, I am foregoing all monetary and other benefits from this Settlement and will receive nothing from this Settlement. I understand that I may bring a separate legal action, but I understand that I might receive nothing or less than what I would have received if I had not elected to be excluded from the Settlement."

3. A written request not to participate in the Settlement will be deemed timely submitted to Class Counsel if it is (i) mailed to Class Counsel by first-class mail and postmarked by not later than the deadline for submission stated above; or (ii) it is delivered to Class Counsel by the deadline for submission stated above, whether by mail, facsimile transmission, professional delivery, or personal delivery.

4. Unless otherwise ordered by the Court upon a showing of good cause by a Class Member, a potential Class Member who does not properly and timely submit a request not to participate in the Settlement in the manner and by the deadline specified above will automatically become a Class Member and be bound by all terms and conditions of the Settlement, including its release of claims, if the Settlement is approved by the Court, and be bound by the Final Approval Order, regardless of whether he or she has objected to the Settlement.

5. A potential Class Member who properly and timely submits a request not to participate in the Settlement will not be bound by the Settlement, and will remain free to contest any claim brought by the Plaintiffs that would have been barred by the Settlement, and nothing in this Settlement will constitute or be construed as a waiver of any defense Defendants have or could assert against such a claim.

6. No named Plaintiff may elect not to participate in the Settlement.

XI. FINAL APPROVAL OF THE SETTLEMENT

A. Not later than five (5) Court days prior to the date on which the Court sets the Final Approval Hearing, Plaintiffs will move the Court for final approval of the Settlement and update the Court on any objections or requests for exclusion.

B. If the motion for final approval is granted, the Plaintiffs will submit the proposed Final Approval Order for entry by the Court.

XII. WAIVER OF RIGHT TO APPEAL

Provided that the Final Approval Order is consistent with the terms and conditions of this Settlement, Plaintiffs, Class Members, Class Counsel, the Department, and the City hereby waive any and all rights to appeal from the Final Approval Order, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set

aside judgment, a motion for new trial, and any extraordinary writ, and the Final Approval Order therefore will become final and not appealable at the time it is entered. The waiver does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings.

XIII. CONTINUING JURISDICTION

Consistent with California Rule of Court 3.769(h), the Parties agree that the Court shall retain jurisdiction to enforce the terms of this Settlement.

XIV. RELEASE OF CLAIMS

A. **Release of Claims**: For and in consideration of the Department's and the City's obligations herein, as of the date the Final Approval Order is entered by the Court, each and every Class Member and the Caltrans Tenants Organization hereby releases the Defendants and each of their agents, officers, and employees from any claims, demands, actions, transactions, interactions, or causes of action related to the future sale and disposition of the Excess Properties (collectively "Claims"), in existence as of the date of the Preliminary Approval Order, that were brought, or could have been brought in this action ("Released Claims"). The Released Claims include only Claims that are susceptible to Class resolution, whether they were or could have been asserted by the Class as a whole or by individual Class Members. The Released Claims include but are not limited to any Claims for relocation assistance and replacement housing benefits pursuant to California Government Code §§14528.5, et seq., 25 C.C.R. §6034(b)(3) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4622-4655, Claims for home purchase obligations or assistance pursuant to California Government Code §§54235, et seq., and Claims for compliance with environmental requirements pursuant to the National Environmental Policy Act of 1969, 49 U,S.C. §4332(2)(c) and the California Environmental Quality Act, Public Resources Code §§21000, et seq., that might otherwise arise out of the sale and disposition of the Excess Properties.

B. **Waiver of California Civil Code §1542**: With respect to the subject matter of their respective Released Claims, Class Members and the Caltrans Tenants Organization

expressly waive and relinquish the provisions, rights, and benefits of §1542 of the California Civil Code and any analogous law, statute, or rule. §1542 states:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

XV. DISMISSAL OF *LA RAZA UNIDA*

Upon entry of the Final Approval Order, the parties agree to jointly move for or otherwise seek full dismissal of *La Raza Unida* action, including the Consent Decree entered in that action in 1989. Lack of full dismissal of *La Raza Unida*, the associated Consent Decree, and any other elements of that action will be considered a legal delay or obstacle to the sale of the Excess Properties under Section VII (Duty to Perform.).

XVI. MUTUAL COOPERATION

The Parties will fully cooperate with each other and use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary or ordered by the Court, or otherwise, to accomplish the terms of this Settlement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to obtain preliminary and final approval of this Settlement and to implement its terms.

If any person, whether or not a Potential Class Member including the Caltrans Tenants Organization, brings any action or proceeding against the City or the Department in any court or administrative tribunal seeking relief inconsistent with the provisions of this Settlement, Plaintiffs and Class Counsel agree to fully cooperate with the City and the Department in defending such action or proceeding. This cooperation shall include, without limitation, (1) seeking leave to intervene in such action or proceeding as a defendant; (2) seeking leave to participate in such action or proceeding as an amicus curiae on behalf of the defendants; and (3) providing evidence in defense of the defendant(s).

XVII. NOTICES

Unless otherwise specifically provided by this Settlement, all notices, demands or other communications given under this Settlement, or in connection with the implementation of this Settlement, will be in writing and be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return-receipt requested, addressed as follows:

To Class Counsel:

Stephen E. Ronfeldt
The Public Interest Law Project
449 15th Street, Suite 301
Oakland, CA 94612

Stephen P. Berzon
Jonathan Weissglass
Peder J. V. Thoreen
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108

To the City:

E. Frances David
Assistant City Manager
City Hall
777 B Street
Hayward, CA 94541-5007

Michael Lawson
City Attorney
City Hall
777 B Street
Hayward, CA 94541-5007

To the Department:

R.A. Macpherson
Deputy District Director
Right of Way
111 Grand Ave
Oakland, CA 94612

David Gossage, Deputy Chief Counsel
Lucille Baca, Assistant Chief Counsel
California Department of Transportation
P.O. Box 7444
San Francisco, CA 94120-7444

XVIII. CONSTRUCTION

This Settlement is the result of lengthy, arms-length negotiations. This Settlement will not be construed in favor of or against any Party by reason of the extent to which any Party or their or its counsel participated in the drafting of this Settlement.

XIX. CAPTIONS AND INTERPRETATIONS

Paragraph and section titles, headings, or captions contained in this Settlement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its provisions. Each term of this Settlement is contractual and not merely a recital, except for those denominated as Recitals in Section II.

XX. MODIFICATION

Except as otherwise provided herein, this Settlement may not be changed, altered, or modified, except as ordered by the Court or by a signed, written agreement by the City, the Department, and Class Counsel, which is approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a signed, written agreement by the City, the Department, and Class Counsel.

XXI. APPLICABLE LAW

All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.

XXII. INTEGRATION CLAUSE

This Settlement, its exhibits, any agreements referenced herein, related legislation, and any agreement between the Parties related to attorneys' fees that they may subsequently enter into constitute the entire Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or a Party's counsel, are merged into this Settlement. No rights under this Settlement may be waived except in writing.

XXIII. BINDING ON ASSIGNS

This Settlement will be binding upon and will inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

XXIV. COUNTERPARTS

This Settlement may be executed in counterparts, and when the Department, the City, named Plaintiffs, and Class Counsel have respectively and individually signed and delivered at least one such counterpart, each counterpart will be deemed an original, and, when taken together with other signed counterparts, will constitute one Settlement, which will be binding upon and effective as to all Parties, subject to court approval.

XXV. CLASS MEMBERS AND CALTRANS TENANTS ORGANIZATION BOUND BY SETTLEMENT

Because the Class Members are so numerous, it is impossible or impractical to have each Class Member execute this Settlement. The Class Notice will inform all Class Members of the binding nature of the this Settlement and the Class Members' Released Claims, and it will have the same force and effect as if this Settlement were executed by each Class Member.

Class Counsel will send a similar notice to the Caltrans Tenants Organization, who shall be similarly bound by the terms of this Settlement Agreement.

XXVI. PARTIES' AUTHORITY TO SIGN

The signatories to this Settlement hereby represent that they are fully authorized to enter into this Settlement on behalf of themselves or their respective principals.

XXVII. NON-INTERFERENCE

Class Members agree not to initiate or participate in any administrative or legal action (other than this pending action or consistent with the other provisions of this Stipulation, *La Raza Unida*) that would, under any constitutional, statutory, or common law theories or causes of action, adversely impact, prevent, or delay the sale or disposition of the Excess Properties.

EXECUTION BY PARTIES AND COUNSEL

The Plaintiffs, their counsel, and Defendants, as represented by their counsel and principles, hereby execute this document to evidence their acceptance of and agreement to the Settlement.

PLAINTIFFS' COUNSEL

Dated: December 11, 2009

STEPHEN E. RONFELDT
THE PUBLIC INTEREST LAW PROJECT

By: _____
Stephen E. Ronfeldt

Dated: December 11, 2009

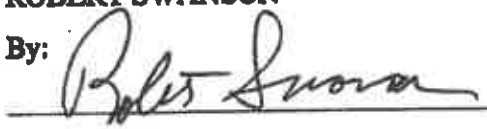
STEPHEN P. BERZON
JONATHAN WEISSGLASS
PEDER J.V. THOREEN
ALTSHULER BERZON LLP

By: _____
Peder J. V. Thoreen

PLAINTIFFS

Dated: December 17, 2009

ROBERT SWANSON

By: 

Robert Swanson

Dated: December ___, 2009

DEBORAH FREDERICK

By:

Deborah Frederick

Dated: December ___, 2009

TRACY ASTURIAS

By:

Tracy Asturias

Dated: December ___, 2009

MARIANNE OLGUIN

By:

Marianne Olguin

Dated: December ___, 2009

JOHN ELLEFSEN

By:

John Ellefsen

Dated: December ___, 2009

BEVERLY MARIS

By:

Beverly Maris

PLAINTIFFS

Dated: December ___, 2009

ROBERT SWANSON

By: _____

Robert Swanson

Dated: December 14, 2009

DEBORAH FREDERICK

By: Deborah Frederick

Deborah Frederick

Dated: December ___, 2009

TRACY ASTURIAS

By: _____

Tracy Asturias

Dated: December ___, 2009

MARIANNE OLGUIN

By: _____

Marianne Olguin

Dated: December ___, 2009

JOHN ELLEFSEN

By: _____

John Ellefsen

Dated: December ___, 2009

BEVERLY MARIS

By: _____

Beverly Maris

PLAINTIFFS

Dated: December ___, 2009

ROBERT SWANSON

By: _____

Robert Swanson

Dated: December ___, 2009

DEBORAH FREDERICK

By: _____

Deborah Frederick

Dated: December 15, 2009

TRACY ASTURIAS

By: Tracy Dawn Asturias

Tracy Asturias

Dated: December ___, 2009

MARIANNE OLGUIN

By: _____

Marianne Olguin

Dated: December ___, 2009

JOHN ELLEFSEN

By: _____

John Ellefsen

Dated: December ___, 2009

BEVERLY MARIS

By: _____

Beverly Maris

PLAINTIFFS

Dated: December ___, 2009

ROBERT SWANSON

By: _____

Robert Swanson

Dated: December ___, 2009

DEBORAH FREDERICK

By: _____

Deborah Frederick

Dated: December ___, 2009

TRACY ASTURIAS

By: _____

Tracy Asturias

Dated: December 13, 2009

MARIANNE OLGUIN

By: Marianne Olguin

Marianne Olguin

Dated: December ___, 2009

JOHN ELLEFSEN

By: _____

John Ellefsen

Dated: December ___, 2009

BEVERLY MARIS

By: _____

Beverly Maris

PLAINTIFFS

Dated: December ___, 2009

ROBERT SWANSON

By: _____

Robert Swanson

Dated: December ___, 2009

DEBORAH FREDERICK

By: _____

Deborah Frederick

Dated: December ___, 2009

TRACY ASTURIAS

By: _____

Tracy Asturias

Dated: December ___, 2009

MARIANNE OLGUIN

By: _____

Marianne Olguin

Dated: December 17, 2009

JOHN ELLEFSEN

By: John Ellefsen

John Ellefsen

Dated: December ___, 2009

BEVERLY MARIS

By: _____

Beverly Maris

PLAINTIFFS

Dated: December ___, 2009

ROBERT SWANSON

By: _____

Robert Swanson

Dated: December ___, 2009

DEBORAH FREDERICK

By: _____

Deborah Frederick

Dated: December ___, 2009

TRACY ASTURIAS

By: _____

Tracy Asturias

Dated: December ___, 2009

MARIANNE OLGUIN

By: _____

Marianne Olguin

Dated: December ___, 2009

JOHN ELLEFSEN

By: _____

John Ellefsen

Dated: December 17, 2009

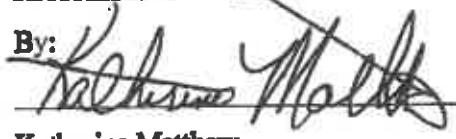
BEVERLY MARIS

By: Beverly Maris

Beverly Maris

Dated: December 15, 2009

KATHERINE MATTHEW

By: 

Katherine Matthew

Dated: December ___, 2009

PALLADIN LEMKE

By:

Palladin Lemke

Dated: December ___, 2009

MARY WOODS

By:

Mary Woods

Dated: December ___, 2009

CALTRANS TENANTS ORGANIZATION

By:

Robert Swanson, President

Dated: December ___, 2009

KATHERINE MATTHEW

By: _____

Katherine Matthew

Dated: December 17, 2009

PALLADIN LEMKE

By: Palladin Lemke

Palladin Lemke

Dated: December ___, 2009

MARY WOODS

By: _____

Mary Woods

Dated: December ___, 2009

CALTRANS TENANTS ORGANIZATION

By: _____

Robert Swanson, President

Dated: December ___, 2009

KATHERINE MATTHEW

By: _____

Katherine Matthew

Dated: December ___, 2009

PALLADIN LEMKE

By: _____

Palladin Lemke

Dated: December 13, 2009

MARY WOODS

By: Mary Woods

Mary Woods

Dated: December ___, 2009

CALTRANS TENANTS ORGANIZATION

By: _____

Robert Swanson, President

Dated: December ___, 2009

KATHERINE MATTHEW

By: _____

Katherine Matthew

Dated: December ___, 2009

PALLADIN LEMKE

By: _____

Palladin Lemke

Dated: December ___, 2009

MARY WOODS

By: _____

Mary Woods

Dated: December 17, 2009

CALTRANS TENANTS ORGANIZATION

By: Robert Swanson

Robert Swanson, President

DEFENDANTS' COUNSEL

Dated: December 11, 2009

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By:

David Gossage
Deputy Chief Counsel

Dated: December 11, 2009

CITY OF HAYWARD

By:

Michael Lawson
City Attorney

DEFENDANTS

Dated: December 11, 2009

STATE DEPARTMENT OF TRANSPORTATION

By:

Bijan Sartipi
Director, District 4
Principal for Defendant- Department of Transportation

Dated: December 11, 2009

CITY of HAYWARD

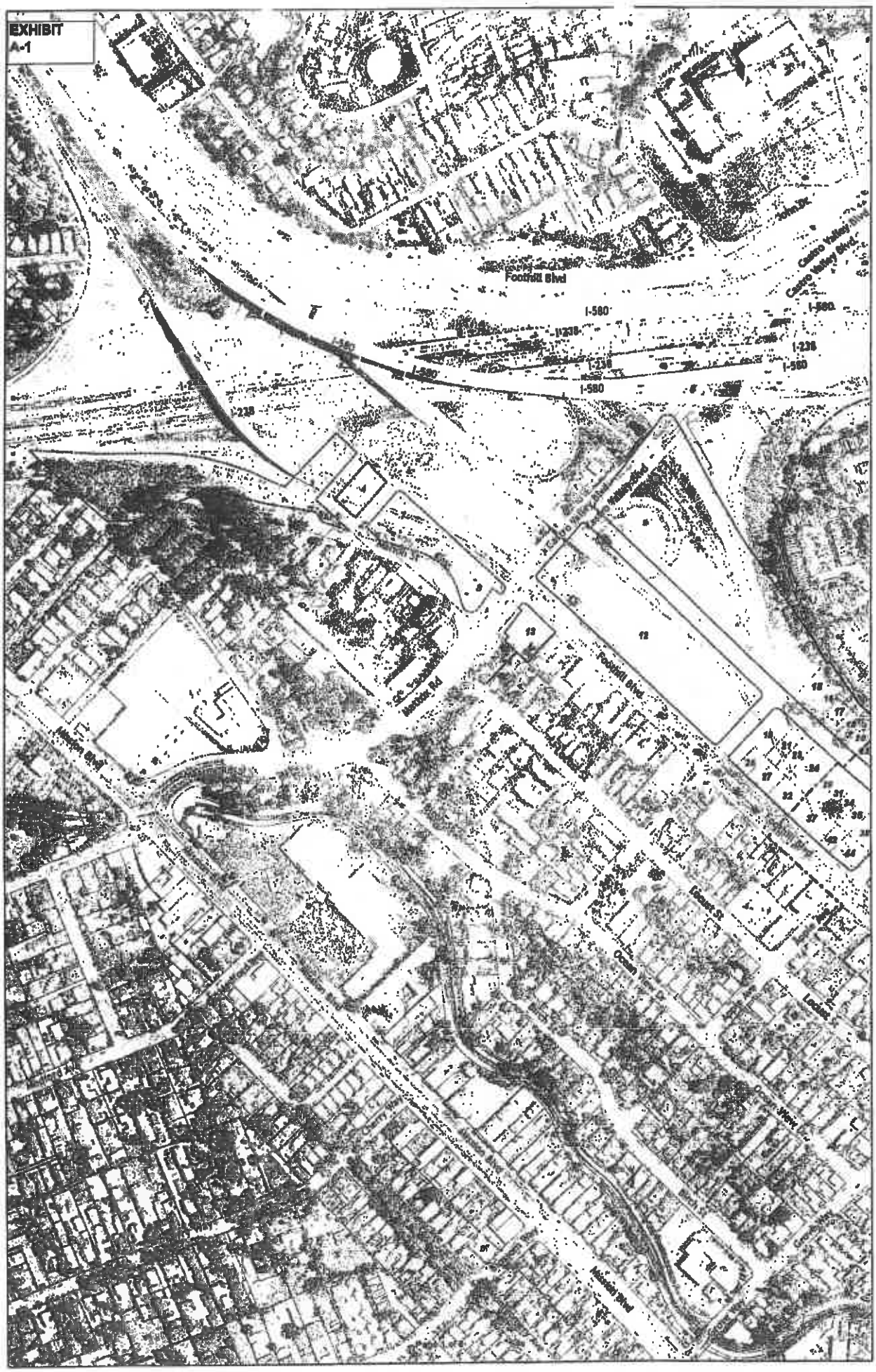
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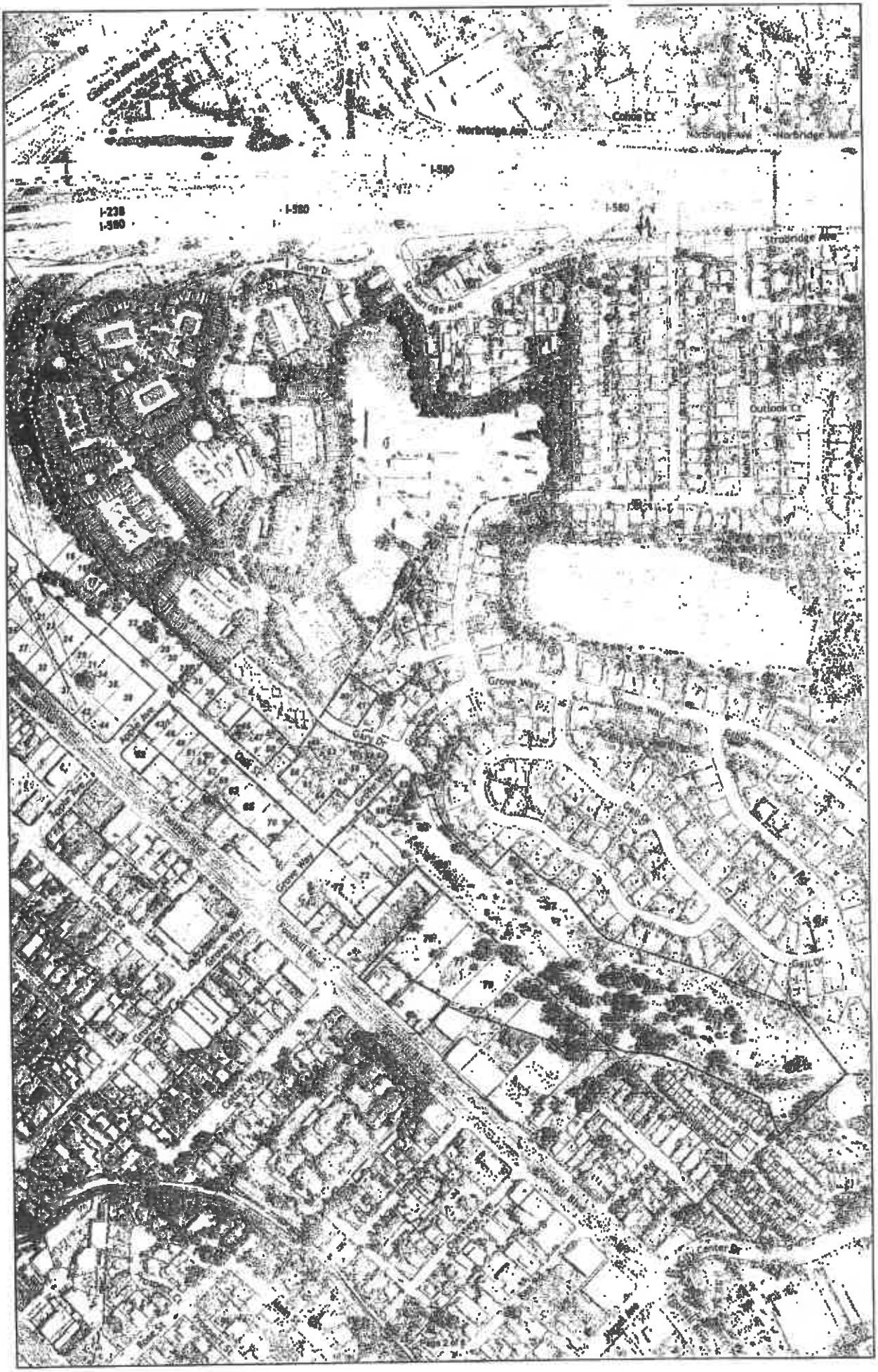
Gregory T. Jones
City Manager
Principal for Defendant- City of Hayward

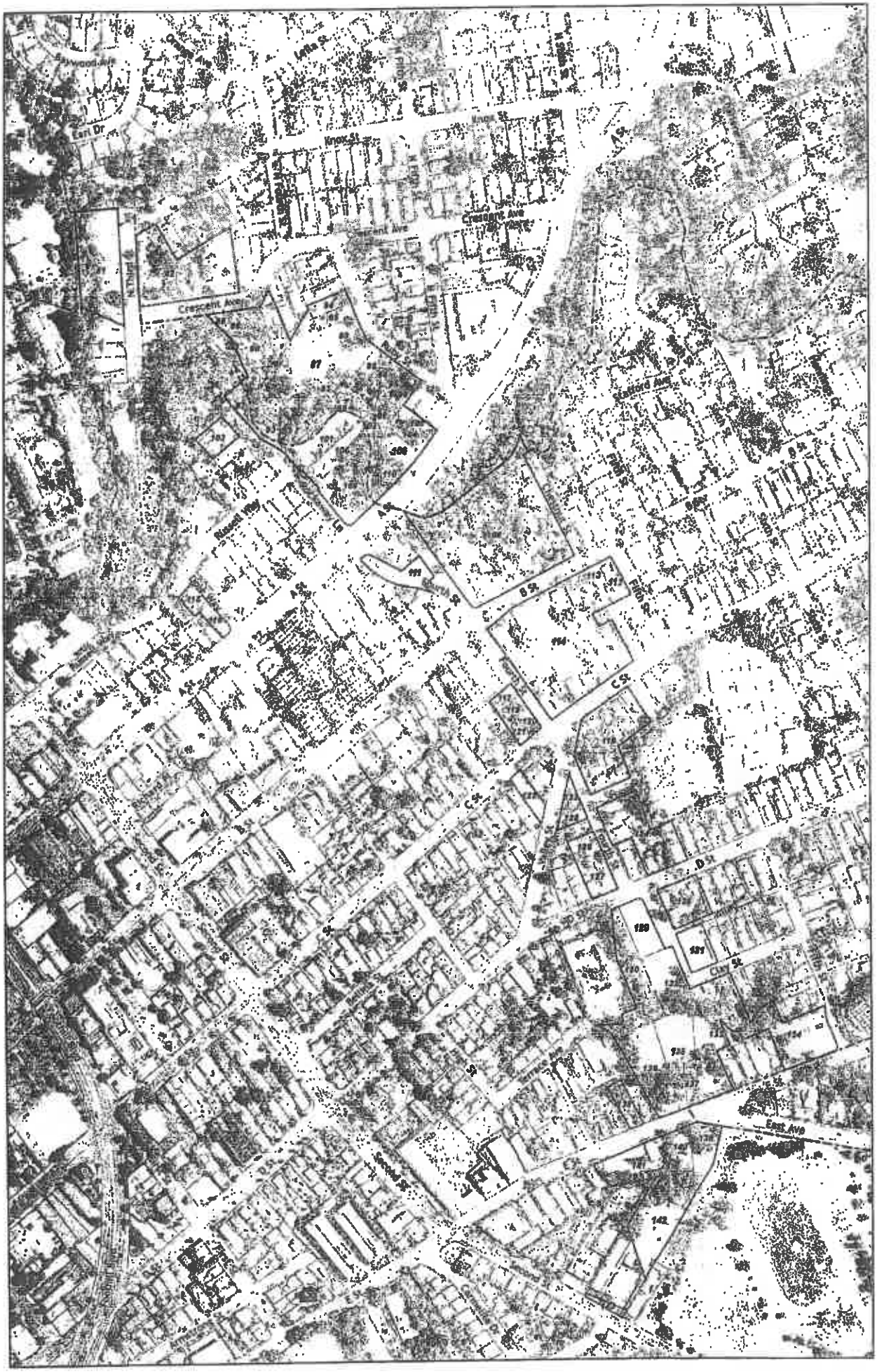
List of Exhibits

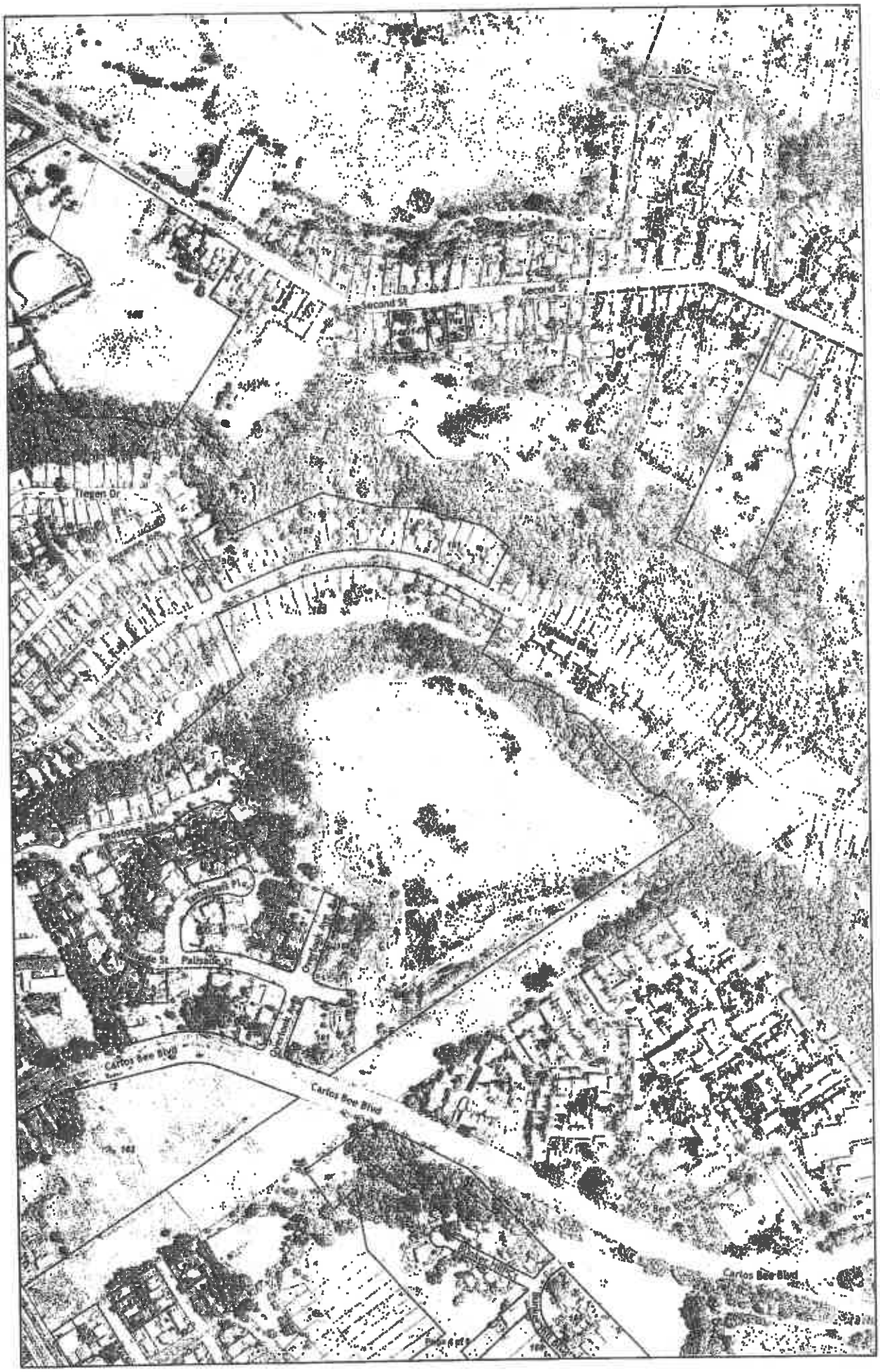
Exhibit A-1	Corridor Map
Exhibit A-2	List of Corridor Parcel Addresses and APNs
Exhibit B	List of Corridor Single-Family Residences
Exhibit C	Lump Sum Stipend Calculation Procedures
Exhibit D	Eligible Tenant Stipend Acknowledgement and Receipt Form
Exhibit E	City of Hayward's First Time Home Buyer Program Brochure

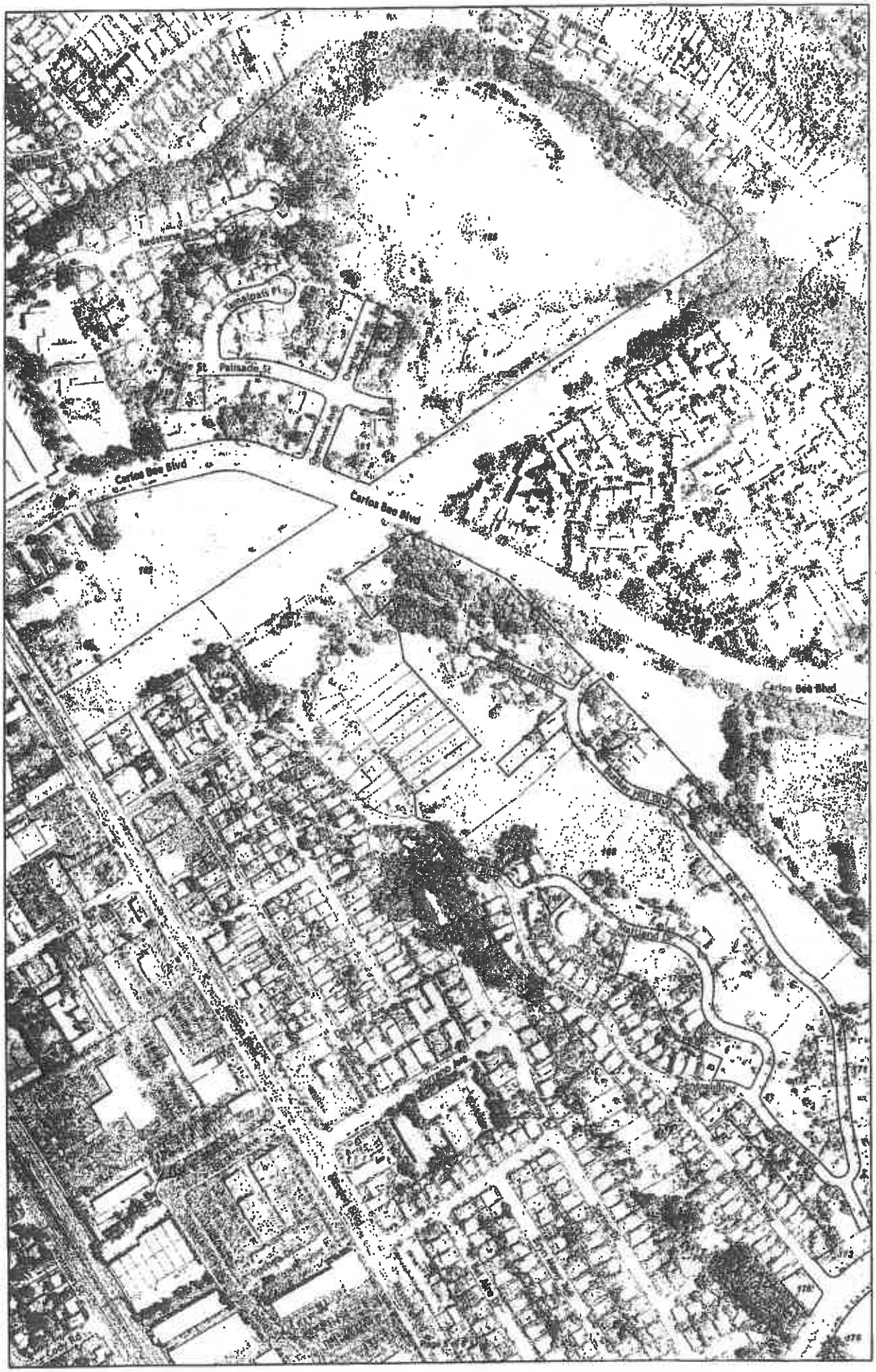
EXHIBIT A-1


EXHIBIT
A-1
Foothill Blvd
I-580
I-238
Castro Valley Blvd
Redwood Rd
Seven Hills Rd
Mission Blvd
Grove Way
Lucas
Meekland Ave


Norbridge Ave
Colusa Ct
I-580
I-238
I-580
Stratbridge Ave
Outlook Ct
Grove Way
Oak St
Center St


Knox St
Crescent Ave
Crescent Ave
Crescent Ave
Elwood Ave
Earl Dr
Stanford Ave
Russell Rd
Fifth St
Fifth St
Fifth St


Second St
Second St
Second St
Tiegen Dr
Carlos Bee Blvd
Carlos Bee Blvd
Carlos Bee Blvd


Carlos Bee Blvd
Carlos Bee Blvd
Carlos Bee Blvd
Palisade Dr
Palisade Pl
Redstone
Redstone Ct
Redstone Ln
Redstone Pl
Redstone Trl
Redstone Way
Redwood Ave
Redwood Ct
Redwood Dr
Redwood Pl
Redwood Rd
Redwood Ter
Redwood Trl
Redwood Way
Redwood Wy
Redwood Cir
Redwood Ln
Redwood Loop
Redwood Pkwy
Redwood Rdg
Redwood Sq
Redwood Vw
Redwood Vis
Redwood Xing
Redwood Xrd
Redwood Yd
Redwood Zn
Redwood Zone
Redwood Zoo
Redwood Zoo Rd
Redwood Zoo Trl
Redwood Zoo Way
Redwood Zoo Wy
Redwood Zoo Cir
Redwood Zoo Ln
Redwood Zoo Loop
Redwood Zoo Pkwy
Redwood Zoo Rdg
Redwood Zoo Sq
Redwood Zoo Vw
Redwood Zoo Vis
Redwood Zoo Xing
Redwood Zoo Xrd
Redwood Zoo Yd
Redwood Zoo Zn
Redwood Zoo Zone
Redwood Zoo Zoo
Redwood Zoo Zoo Rd
Redwood Zoo Zoo Trl
Redwood Zoo Zoo Way
Redwood Zoo Zoo Wy
Redwood Zoo Zoo Cir
Redwood Zoo Zoo Ln
Redwood Zoo Zoo Loop
Redwood Zoo Zoo Pkwy
Redwood Zoo Zoo Rdg
Redwood Zoo Zoo Sq
Redwood Zoo Zoo Vw
Redwood Zoo Zoo Vis
Redwood Zoo Zoo Xing
Redwood Zoo Zoo Xrd
Redwood Zoo Zoo Yd
Redwood Zoo Zoo Zn
Redwood Zoo Zoo Zone


Carlos Bee Blvd
Carlos Bee Blvd
Harder Rd


Kellogg Ave
Kellogg Ave
Kellogg Ave

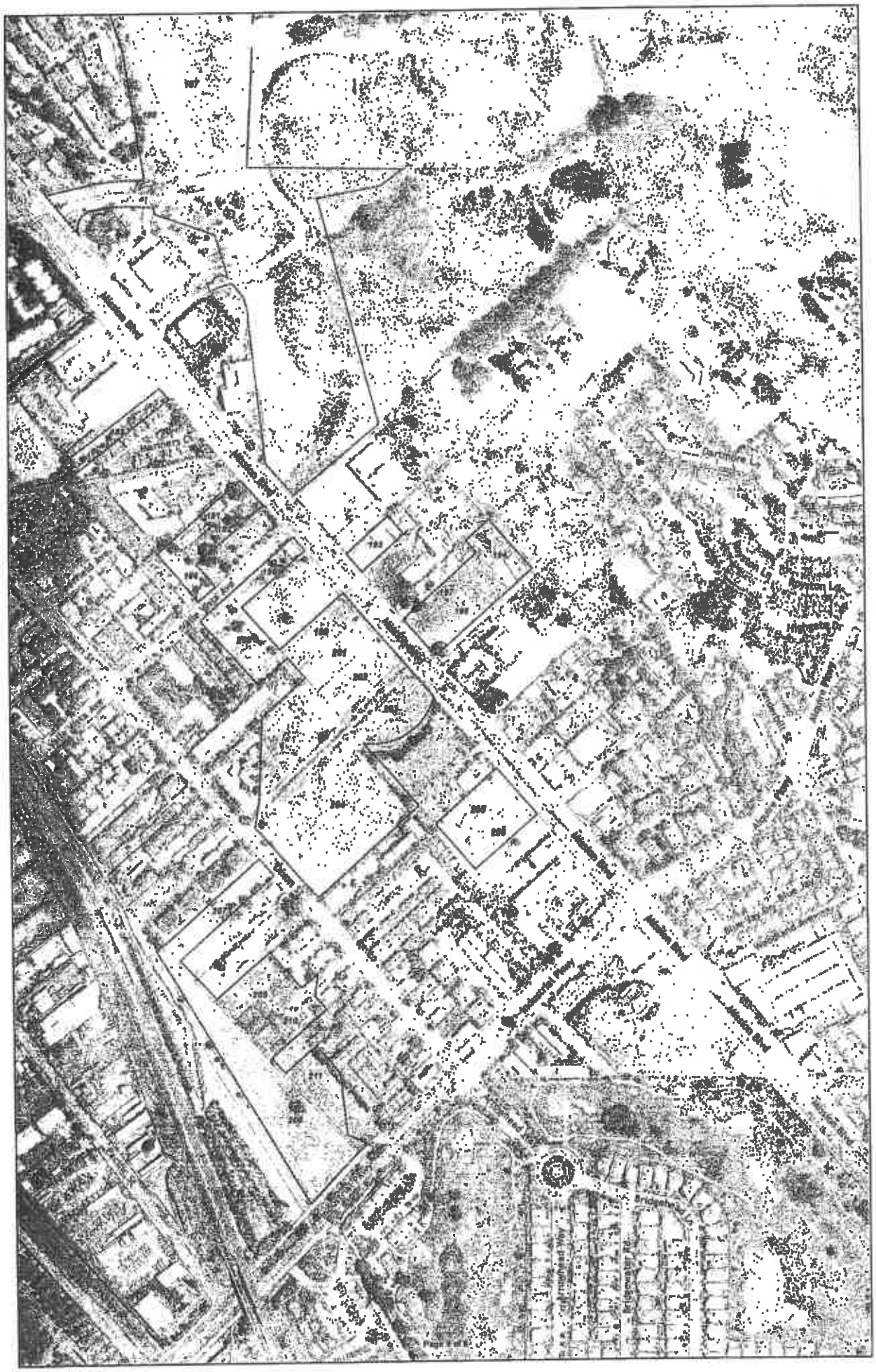

Hillsborough Blvd
Hillsborough Blvd
Hillsborough Blvd

EXHIBIT A-2

EXHIBIT A-2: LIST OF 238 CORRIDOR PROPERTIES

Map ID	APN #	Address	Size
1	415-0010-033-05	20820 OAK ST	298,788.86
2	414-0016-001-01		127,932.50
3	414-0046-059-01		35,313.75
4	414-0046-060-00		17,484.43
5	414-0046-023-04		3,128.67
6	414-0046-024-04		756.31
7	414-0046-061-04		52,991.81
8	414-0046-007-05		13,268.00
9	414-0011-015-02		5,924.21
10	414-0011-014-00		5,866.63
11	414-0011-013-00		5,837.73
12	415-0010-018-01	20810 FOOTHILL BLVD	232,437.95
13	414-0051-030-03	20857 FOOTHILL BLVD	20,069.87
14	414-0051-028-05		227.53
15	415-0160-001-00	21112 OAK ST	10,493.01
16	415-0160-002-00	21120 OAK ST	9,708.00
17	415-0160-003-00	21128 OAK ST	8,934.97
18	415-0160-004-00	21134 OAK ST	8,249.53
19	415-0170-001-00	1441 ASH ST	19,353.75
20	415-0160-005-00	21144 OAK ST	7,998.00
21	415-0170-002-00	21121 OAK ST	8,138.01
22	415-0160-006-00	OAK ST	15,074.49
23	415-0170-003-00	21127 OAK ST	7,951.99
24	415-0170-004-00	OAK ST	16,106.99
25	415-0170-015-00	21120 FOOTHILL BLVD	4,796.50
26	415-0160-007-00	21258 OAK ST	9,869.01
27	415-0170-014-00	21138 FOOTHILL BLVD	9,593.48
28	415-0160-008-00	21266 OAK ST	4,754.51
29	415-0170-005-00	21229 OAK ST	8,111.51
30	415-0160-009-00	21272 OAK ST	4,917.99
31	415-0170-006-00	21241 OAK ST	8,059.51
32	415-0170-013-00	21160 FOOTHILL BLVD	9,593.99
33	415-0160-010-00	21296 OAK ST	10,087.49
34	415-0170-007-00	21249 OAK ST	8,022.00
35	415-0170-008-00	21257 OAK ST	8,251.00
36	415-0160-011-00	21320 OAK ST	7,726.00
37	415-0170-012-00	21216 FOOTHILL BLVD	14,462.48
38	415-0170-009-00	21275 OAK ST	16,596.00
39	415-0160-012-00	21338 OAK ST	7,243.50
40	415-0150-018-00	21458 GARY DR	9,999.00
41	415-0150-017-00	21472 GARY DR	9,871.51
42	415-0170-011-00	FOOTHILL BLVD	4,882.52

Map ID	APN #	Address	Size
43	415-0170-017-00	21303 OAK ST	7,354.51
44	415-0170-010-00	21284 FOOTHILL BLVD	9,493.39
45	415-0160-014-00	21406 OAK ST	7,295.02
46	415-0170-018-00	21331 OAK ST	7,605.01
47	415-0160-015-00	21420 OAK ST	7,456.48
48	415-0170-019-00	21339 OAK ST	7,533.01
49	415-0160-026-00	21457 GARY DR	8,795.00
50	415-0160-016-00	21408 OAK ST	7,616.01
51	415-0170-020-00	21377 OAK ST	7,533.01
52	415-0170-016-00	21320 FOOTHILL BLVD	10,191.75
53	415-0160-025-00	21473 GARY DR	10,209.00
54	415-0170-021-00	21385 OAK ST	7,426.00
55	415-0160-024-00	1490 GROVE WAY	8,551.06
56	415-0160-023-00	1482 GROVE WAY	8,237.01
57	415-0170-022-00	21407 OAK ST	7,531.50
58	415-0160-018-00	21454 OAK ST	7,403.52
59	415-0170-023-00	21425 OAK ST	7,033.98
60	415-0160-022-00	1474 GROVE WAY	8,403.98
61	415-0160-019-00	21462 OAK ST	7,536.98
62	415-0180-070-00	1491 GROVE WAY	7,119.66
63	415-0170-024-00	21431 OAK ST	6,936.01
64	415-0160-020-00	21484 OAK ST	7,334.99
65	415-0170-025-00	21447 OAK ST	14,561.00
66	415-0180-071-00	1483 GROVE WAY	6,359.51
67	415-0180-068-01	GROVE WAY	73,087.91
68	415-0180-072-00	1475 GROVE WAY	6,439.96
69	415-0180-069-01	GROVE WAY	131,903.58
70	415-0170-029-02	OAK ST	14,193.50
71	415-0180-073-00	1459 GROVE WAY	36,440.00
72	415-0180-074-00	GROVE WAY	16,254.00
73	415-0180-075-00	1435 GROVE WAY	35,226.03
74	415-0180-076-00	21502 FOOTHILL BLVD	16,286.99
75	415-0180-080-00	FOOTHILL BLVD	8,623.02
76	415-0180-081-01	FOOTHILL BLVD	41,894.59
77	415-0180-082-01	21660 FOOTHILL BLVD	40,686.95
78	415-0190-064-00	GARY DR	354,939.03
79	415-0180-083-01	FOOTHILL BLVD	27,210.99
80	415-0180-084-01	FOOTHILL BLVD	19,176.01
81	415-0210-053-02	22223 N 3RD ST	57,106.49
82	415-0210-050-01	1452 CRESCENT AVE	73,096.93
83	415-0230-005-00	1481 CRESCENT AVE	52,751.51
84	415-0230-011-00	22447 RUBY ST	7,470.99
85	415-0230-012-00	22459 RUBY ST	6,694.03
86	415-0230-003-00	CRESCENT AVE	13,892.52
87	415-0230-014-00	RUBY ST	52,300.52

Map ID	APN #	Address	Size
88	415-0230-002-00	CRESCENT AVE	298.00
89	415-0230-013-00	RUBY ST	13,794.15
90	415-0230-070-00	1473 CRESCENT AVE	12,927.96
91	415-0230-069-00		297.50
92	415-0230-015-00	RUBY ST	6,439.00
93	415-0230-073-00	ROCKAWAY LN	33,085.43
94	415-0230-016-00	22513 RUBY ST	6,344.51
95	415-0230-017-00	RUBY ST	7,040.47
96	415-0230-019-00	RUBY ST	8,378.49
97	415-0230-072-00	ROCKAWAY LN	10,154.02
98	415-0230-018-00	RUBY ST	5,239.99
99	415-0230-074-00	22400 ROCKAWAY LN	5,936.05
100	415-0230-021-00	1432 A ST	6,933.49
101	415-0230-075-00	22400 ROCKAWAY LN	21,615.97
102	415-0230-076-00	22412 ROCKAWAY LN	1,809.02
103	415-0230-030-00	22315 ROCKAWAY LN	11,346.01
104	415-0230-022-00	1424 A ST	7,595.50
105	415-0230-077-00	22412 ROCKAWAY LN	15,922.98
106	415-0230-023-00	1418 A ST	11,294.01
107	415-0230-079-00	22422 ROCKAWAY LN	4,551.02
108	427-0036-033-01	B ST	168,273.06
109	415-0230-078-00	22422 ROCKAWAY LN	33,957.05
110	415-0230-024-00	1404 A ST	7,021.49
111	427-0031-014-04	4TH ST	16,154.17
112	427-0036-042-00	1485 B ST	7,373.62
113	427-0036-041-00	1471 B ST	7,781.61
114	427-0036-055-01	B ST	144,768.03
115	415-0240-011-00	1299 RUSSELL WAY	5,690.02
116	415-0240-012-00	1296 A ST	6,210.00
117	427-0031-042-00	22635 4TH ST	5,056.44
118	427-0041-046-00	1421 C ST	55,674.71
119	427-0031-043-00	22645 4TH ST	5,034.71
120	427-0031-044-00	22655 4TH ST	4,423.56
121	427-0031-045-00	1392 C ST	4,340.38
122	427-0026-009-00	1375 C ST	8,690.61
123	427-0026-019-00	22737 4TH ST	4,718.35
124	427-0041-047-00	1418 D ST	44,325.03
125	427-0026-020-00	22747 4TH ST	5,291.09
126	427-0026-022-00	22761 4TH ST	7,258.64
127	427-0026-023-00	1384 D ST	14,371.04
128	427-0046-036-00	1415 CLAY ST	22,257.69
129	427-0026-039-00	D ST	18,045.00
130	427-0026-038-01	D ST	35,664.82
131	427-0046-037-00	CLAY ST	14,896.67
132	427-0026-040-00	1409 CLAY ST	26,208.99

Map ID	APN #	Address	Size
133	427-0046-038-00	1392 E ST	56,585.09
134	427-0046-029-00	E ST	42,473.71
135	427-0026-042-00	E ST	29,629.23
136	427-0026-043-00	1350 E ST	37,028.29
137	427-0026-041-00	1368 E ST	6,932.82
138	427-0026-045-00	1332 E ST	9,114.42
139	426-0200-001-00	1365 E ST	17,099.99
140	426-0200-002-00	1349 E ST	15,855.66
141	426-0200-003-00	1335 E ST	30,356.07
142	426-0200-014-01	2ND ST	43,146.35
143	426-0200-014-02	23998 2ND ST	3,205.89
144	445-0040-011-03	1279 WALPERT ST	63,703.97
145	445-0050-001-07	2ND ST	448,212.75
146	445-0060-005-00	24537 2ND ST	8,660.62
147	445-0060-003-00	24529 2ND ST	9,963.86
148	445-0060-002-00	24517 2ND ST	9,797.34
149	445-0070-078-00	2ND ST	186,935.33
150	445-0120-022-01	1243 HIGHLAND BLVD	135,887.84
151	445-0060-041-01	1347 HIGHLAND BLVD	61,083.08
152	445-0130-095-00	1221 HIGHLAND BLVD	6,206.77
153	445-0120-035-01	1236 HIGHLAND BLVD	151,932.68
154	445-0060-047-01	1402 HIGHLAND BLVD	79,818.58
155	445-0180-001-00	OVERLOOK AVE	1,281,505.24
156	445-0160-038-01	1055 REDSTONE PL	163,577.63
157	445-0170-017-01	1127 TAMALPAIS PL	160,202.61
158	445-0170-020-01	1175 OVERLOOK AVE	36,794.00
159	445-0170-023-00	1087 PALISADE ST	12,055.53
160	445-0170-034-01	25036 CARLOS BEE BLVD	113,651.51
161	445-0170-038-03	1151 OVERLOOK AVE	50,905.96
162	445-0200-012-01	25000 MISSION BLVD	424,752.42
163	445-0270-054-02	25373 BUNKER HILL CT	415,394.95
164	445-0210-032-02	25108 DEL MAR AVE	24,551.22
165	445-0210-025-01	25106 BELMONT AVE	27,521.08
166	445-0260-109-01	25472 BUNKER HILL BLVD	201,604.77
167	445-0210-001-01	25124 MISSION BLVD	29,616.39
168	445-0260-084-01	25564 MAITLAND DR	433,505.36
169	445-0260-002-00	MAITLAND DR	6,023.41
170	445-0260-018-01	25673 MAITLAND DR	97,169.76
171	445-0250-059-01	25832 BUNKER HILL BLVD	157,018.33
172	445-0250-041-01	25777 BUNKER HILL BLVD	122,971.47
173	445-0250-060-00	HARDER RD	246,696.38
174	445-0250-024-01	1105 CENTRAL BLVD	63,271.38
175	078C-0800-002-02	HARDER RD	3,424,316.57
176	445-0240-054-00	HARDER RD	13,137.40
177		*Number Not Used*	

Map ID	APN #	Address	Size
178	078C-0648-001-01	CALHOUN ST	64,965.78
179	078C-0641-001-00	CALHOUN ST	6,292.34
180	078C-0642-001-07	982 BROADWAY ST	5,318.11
181	078C-0642-001-10	962 BROADWAY ST	6,942.14
182	078C-0642-001-11	940 BROADWAY ST	6,735.93
183	078C-0641-010-01	E 17TH ST	52,165.41
184	078C-0640-007-04	DOUGLAS ST	28,781.87
185	078C-0635-013-01	DOUGLAS ST	36,211.41
186	078C-0626-001-07	29290 MISSION BLVD	632,387.79
187	078C-0626-003-09	MISSION BLVD	421,080.58
188	078C-0626-003-16	MISSION BLVD	65,560.01
189	078C-0441-001-23	MISSION BLVD	22,704.35
190	078C-0441-001-24	MISSION BLVD	3,402.57
191	078C-0447-003-01	29115 MISSION BLVD	18,993.46
192	078C-0447-003-02	29131 MISSION BLVD	19,410.96
193	078C-0455-001-07	29290 MISSION BLVD	17,168.59
194	078C-0455-005-02	29380 MISSION BLVD	25,452.60
195	078C-0438-006-00	29213 MISSION BLVD	19,099.57
196	078C-0447-006-02	380 VALLE VISTA AVE	17,950.70
197	078C-0455-003-00	29350 MISSION BLVD	20,410.54
198	078C-0455-004-00	29362 MISSION BLVD	40,773.68
199	078C-0438-008-00	MISSION BLVD	29,489.48
200	078C-0438-005-00	381 VALLE VISTA AVE	43,374.23
201	078C-0438-009-00	29335 MISSION BLVD	30,102.69
202	078C-0438-010-00	29339 MISSION BLVD	37,114.08
203	078C-0438-011-01	MISSION BLVD	54,967.94
204	078C-0438-019-01	DIXON ST	255,008.71
205	078C-0438-013-06	29497 MISSION BLVD	36,449.43
206	078C-0438-014-00	29547 MISSION BLVD	27,125.59
207	078C-0435-002-01	DIXON ST	35,378.20
208	083-0460-006-03	INDUSTRIAL PKWY	146,960.22
209	078C-0435-006-00	29599 DIXON ST	42,994.17
210	078C-0436-001-07	29629 DIXON ST	31,311.14
211	078C-0436-010-03	INDUSTRIAL PKWY	33,239.20

EXHIBIT B

Exhibit B - Corridor Single-Family Residences

1	40	43040	21458 Gary Drive
2	41	43039	21472 Gary Drive
3	49	40772	21457 Gary Drive
4	53	40773	21473 Gary Drive
5	55	43082	1490 Grove Way
6	56	40774	1482 Grove Way
7	60	40771	1474 Grove Way
8	61	40768	21462 Oak Street
9	62	39382	1491 Grove Way
10	64	40770	21484 Oak Street
11	66	32641	1483 Grove way
12	68	32642	1475 Grove Way
13	82	32615	22250 N. Third Street
14	82	32617	22220 N. Third Steet
15	82	32612	1444 Crescent Ave
16	82	32613	1446 Crescent Ave
17	82	32613	1448 Crescent Ave
18	82	32656	1533 Knox
19	83	32657	1481 Crescent Ave
20	84	32662	22447 Ruby Street
21	85	32618	22459 Ruby Street
22	90	32657	1473 Crescent Ave
23	94	32663	22513 Ruby Street
24	104	32667	1424 A Street
25	108	32736	1430 B Street
26	108	32737	22532 Fourth Street
27	108	32738	1442 B Street
28	108	32739	1436 B Street
29	108	32740	1422 B Street
30	108	32741	1410 B Street
31	108	32743	22589 Chestnut
32	108	32745	22597 Chestnut
33	108	32746	1456 B Street
34	108	39390	22581 Chestnut
35	108	39391	22573 Chestnut
36	108	39392	22565 Chestnut
37	114	32708	22646 Fourth Street
38	114	32747	1454 C Street
39	114	32748	1445 B Street
40	114	32749	1436 C Street

41	114	32754	1444 C Street
42	114	32757	22642 Fourth Street
43	114	32758	1416 C Street
44	114	32759	1410 C Street
45	114	32760	1402 C Street
46	114	39394	1465 B Street
47	115	42495	1299 Russell
48	116	42496	22441 Dole Way
49	116	42496	1296 A Street
50	118	32762	1441 C Street
51	118	32763	1431 C Street
52	118	32764	1421 C Street
53	118	32765	22716 Fourth Street
54	121	39386	1392 C Street
55	124	32770	22750 Fourth Street
56	124	32771	22758 Fourth Street
57	124	32772	22766 Fourth Street
58	124	32775	1416 D Street
59	124	32774	1422 D Street
60	124	32773	1434 D Street
61	126	32780	22761 Fourth Street
62	126	32780	22763 Fourth Street
63	126	32780	22765 Fourth Street
64	127	32781	1384 D Street
65	127	32781	1388 D Street
66	128	32784	1413 D Street
67	128	32783	1421 D Street
68	128	32782	1431 D Street
69	128	32784	1415 Clay Street
70	133	38912	1425 Clay Street
71	133	38913	1419 Clay Street
72	139	32694	1365 E Street
73	140	32693	1349 E Street
74	141	32692	1335 E Street
75	145	32700	24237 Second Street
76	145	32701	24249 Second Street
77	145	32702	24261 Second Street
78	145	32703	24275 Second Street
79	146	39349	24537 Second Street
80	147	44586	24529 Second Street
81	148	44585	24517 Second Street
82	150	32704	1299 Highland Avenue
83	150	36256	1243 Highland Avenue
84	150	36257	1251 Highland Avenue

85	150	36258	1259 Highland Avenue
86	150	36259	1270 Tiegen
87	150	36262	1267 Highland Avenue
88	150	36263	1273 Highland Avenue
89	150	36264	1281 Highland Avenue
90	150	36265	1291 Highland Avenue
91	150	36267	1307 Highland Avenue
92	150	36268	1315 Highland Avenue
93	150	36269	1321 Highland Avenue
94	150	36270	1327 Highland Avenue
95	150	36271	1333 Highland Avenue
96	150	36272	1337 Highland Avenue
97	150	36273	1341 Highland Avenue
98	151	36275	1353 Highland Avenue
99	151	36276	1361 Highland Avenue
100	151	36278	1373 Highland Avenue
101	151	36279	1379 Highland Avenue
102	151	36280	1387 Highland Avenue
103	152	36488	1221 Highland Avenue
104	153	32587	1284 Highland Avenue
105	153	32597	1274 Highland Avenue
106	153	33544	1260 Highland Avenue
107	153	36244	1338 Highland Avenue
108	153	36246	1324 Highland Avenue
109	153	36247	1316 Highland Avenue
110	153	36248	1308 Highland Avenue
111	153	36249	1302 Highland Avenue
112	153	36250	1292 Highland Avenue
113	153	36251	1268 Highland Avenue
114	153	36252	1252 Highland Avenue
115	153	36253	1244 Highlnad Avenue
116	153	36486	1236 Highland Avenue
117	156	36223	1055 Redstone
118	156	36224	1069 Redstone
119	156	36225	1071 Redstone
120	156	36226	1079 Redstone
121	156	36227	1087 Redstone
122	156	36228	1086 Redstone
123	156	36229	1078 Redstone
124	156	36230	1070 Redstone
125	157	33891	1138 Palisade
126	157	33892	1174 Overlook
127	157	33893	1198 Overlook
128	157	33896	1108 Palisade

129	157	33899	1127 Tamalpais
130	157	33900	1135 Tamalpais
131	157	36219	1150 Tamalpais
132	157	36220	1142 Tamalpais
133	157	36221	1134 Tamalpais
134	157	36222	1126 Tamalpais
135	158	33546	1187 Overlook
136	158	33889	1175 Overlook
137	158	33890	1199 Overlook
138	159	39285	1087 Palisade
139	160	33882	25096 Carlos Bee Blvd.
140	160	33883	1138 Overlook
141	160	33884	1139 Palisade
142	160	33897	1115 Palisade
143	160	33898	1105 Palisade
144	161	33888	1155 Palisade
145	163	32707	25314 Bunkerhill
146	163	32722	25346 Bunkerhill
147	163	38926	25338 Bunkerhill
148	163	38930	25362 Bunkerhill
149	163	38932	25386 Bunkerhill
150	163	38933	25311 Bunkerhill
151	163	38936	25361 Bunkerhill
152	163	38939	25373 Bunkerhill
153	164	33855	25108 Delmar
154	164	33857	25141 Delmar
155	164	42057	25124 Delmar
156	165	33852	25106 Belmont
157	165	33853	25111 Delmar
158	165	33854	25105 Delmar
159	165	36484	25112 Belmont
160	165	36485	25121 Delmar
161	165	39380	25118 Belmont
162	165	39381	25131 Delmar
163	166	32720	25410 Bunkerhill
164	166	39020	25426 Bunkerhill
165	166	39021	25450 Bunkerhill
166	166	39022	25464 Bunkerhill
167	166	39023	25472 Bunkerhill
168	166	39028	25550 Bunkerhill
169	166	39031	25568 Bunkerhill
170	167	33846	25123 Belmont
171	167	33850	25115 Belmont
172	168	32709	25564 Maitland

173	168	32710	25584 Maitland
174	168	32712	25672 Maitland
175	168	32716	25600 Maitland
176	168	38963	1054 Central
177	168	38965	1058 Central
178	168	38966	25552 Maitland
179	168	38968	25560 Maitland
180	168	38972	25568 Maitland
181	168	38977	25588 Maitland
182	168	38991	25720 Maitland
183	168	39008	25591 Bunkerhill
184	168	39009	25655 Bunkerhill
185	168	39011	25669 Bunkerhill
186	168	39013	25689 Bunkerhill
187	170	32719	25721 Maitland
188	170	38978	25673 Maitland
189	170	38979	25685 Maitland
190	170	38979	25697 Maitland
191	171	39046	25832 Bunkerhill
192	171	39047	25840 Bunkerhill
193	171	39060	25931 Central
194	172	32721	25825 Bunkerhill
195	172	39018	25777 Bunkerhill
196	172	39063	25853 Bunkerhill
197	172	39064	25879 Bunkerhill
198	174	38986	1105 Central
199	174	39045	1119 Central
200	174	39066	1133 Central
201	174	39067	1147 Central
202	174	39068	1161 Central
203	174	39070	1183 Central
204	174	39071	1191 Central
205	174	39072	25916 Central
206	180	42472	982 Broadway
207	181	42473	962 Broadway
208	184	39080	984 Douglas
209	184	39081	961 Broadway
210	184	39082	981 Broadway
211	185	39100	931 Douglas
212	192	39112	29131 Mission Blvd.

EXHIBIT C

Lump Sum Stipend Calculation Table

EXHIBIT C

	Apartments						Single-Family Residences/Duplexes					
UNIT TYPE>	1-BdRm	2-BdRm	3-BdRm	4-BdRm	5-BdRm	6-BdRm	1-BdRm	2-BdRm	3-BdRm	4-BdRm	5-BdRm	6-BdRm
Moving Stipend *	$1,425	$1,650	$1,900	$2,150	$2,375	$2,600	$1,650	$1,900	$2,150	$2,375	$2,600	$2,825
	"Moving Stipend" provided as shown for described unit.											
Rent Differential **	$210	$339	$480	$628	$717	$1,014	$210	$339	$480	$628	$717	$1,014
Total Extremely Low	$13,230	$21,357	$30,240	$39,564	$45,171	$63,882	$13,230	$21,357	$30,240	$39,564	$45,171	$63,882
Total Very Low	$11,025	$17,798	$25,200	$32,970	$37,643	$53,235	$11,025	$17,798	$25,200	$32,970	$37,643	$53,235
Total Low Income	$8,820	$14,238	$20,160	$26,376	$30,114	$42,588	$8,820	$14,238	$20,160	$26,376	$30,114	$42,588
Total Moderate Income	$2,520	$4,068	$5,760	$7,536	$8,604	$12,168	$2,520	$4,068	$5,760	$7,536	$8,604	$12,168
	"Rent Differential" provided times 42 months for all low income households, and times 12 months for all moderate income households; with a 1.25% multiplier for "Very Low" and a 1.50% multiplier for "Extremely Low".											
Total Lump Sum Payment***												
Total Extremely Low	$14,655	$23,007	$32,140	$41,714	$47,546	$66,482	$14,880	$23,257	$32,390	$41,939	$47,771	$66,707
Total Very Low	$12,450	$19,448	$27,100	$35,120	$40,018	$55,835	$12,675	$19,698	$27,350	$35,345	$40,243	$56,060
Total Low Income	$10,245	$15,888	$22,060	$28,526	$32,489	$45,188	$10,470	$16,138	$22,310	$28,751	$32,714	$45,413
Total Moderate Income	$3,945	$5,718	$7,660	$9,686	$10,979	$14,768	$4,170	$5,968	$7,910	$9,911	$11,204	$14,993

Footnotes:

* *"Moving Stipend" amounts are per-room payments based on Caltrans' "Fixed Moving Schedule". The base assumption for a 1-bedroom unit is 4 rooms plus a 'bonus' room for apartments (= 5 total rooms); and 4 rooms plus 2 'bonus' rooms for Single Family Residences (SFR) and/or Duplexes (= 6 total rooms). One room is added to this base for each additional bedroom. For example, a 2-bedroom apartment would be 6 total rooms; and a 2-bedroom SFR would be 7 total rooms.*

** *"Rent Differential" is the difference between the average rent for the size of the unit (based on number of bedrooms) and fair market rents for FY 2008 for Alameda County as calculated and published by the Federal Department of Housing and Urban Development (HUD). Household income limits for "Extremely low", "Very Low", "Low" and "Moderate" are for Alameda County established by the Federal Department of Housing and Urban Development (HUD) as of August 2008.Total Rent Differential for low, very low, and extremely low income households is calculated by multiplying the base differential by 42 months consistent with Caltrans' current Relocation Assistance Plan (RAP) procedures times the respective multipliers as indicated above. Total Rent Differential for moderate income households is calculated by multiplying the base differential by 12 months. This later is offered as a good-faith contribution by the Public Partners to assist moderate income families in these tough economic times.*

*** *Total is derived by adding "Moving Stipend" and "Rent Differential" together for each Income Level per Unit Size.*

12/3/2009

EXHIBIT D

EXHIBIT D:

Acknowledgement and Receipt

I hereby acknowledge that I am a Class Member and that I have read and understand the Release of Claims and Waiver of California Civil Code §1542 provisions contained in the Joint Stipulation of Class Settlement and Class Settlement Agreement and Release ("Settlement Agreement"), approved by the Court in its Final Approval Order ("Approval Order") dated _____. Section XVI of the Court-approved Settlement Agreement is attached hereto as reference.

I further hereby acknowledge receipt of Check/Warrant Number _____ payable by the City of Hayward to me in the amount of $_____ in full and final payment of the Lump Sum Stipend payable to me and members of my Eligible Tenant Household pursuant to the Settlement Agreement and Approval Order.

RECIPIENT/TENANT

_____ _____

Name (*Please Print*) Street Address (*Please Print*)

_____ _____

Signature Date

WITNESS/ADDRESS VERIFICATION

_____ _____

Name (*Please Print*) Title (*Please Print*)

_____ _____

Signature Date

EXHIBIT D:

The following is contained in Section XIV of the Joint Stipulation of Class Settlement and Class Settlement Agreement and Release as approved by the Court and signed by all parties:

XIV RELEASE OF CLAIMS

A. **Release of Claims:** For and in consideration of the Department's and the City's obligations herein, as of the date the Final Approval Order is entered by the Court, each and every Class Member and the Caltrans Tenants Organization hereby releases the Defendants and each of their agents, officers, and employees from any claims, demands, actions, transactions, interactions, or causes of action related to the future sale and disposition of the Excess Properties (collectively "Claims"), in existence as of the date of the Preliminary Approval Order, that were brought, or could have been brought in this action ("Released Claims"). The Released Claims include only Claims that are susceptible to Class resolution, whether they were or could have been asserted by the Class as a whole or by individual Class Members. The Released Claims include but are not limited to any Claims for relocation assistance and replacement housing benefits pursuant to California Government Code §§14528.5, et seq., 25 C.C.R. § 6034(b)(3) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§4622-4655, Claims for home purchase obligations or assistance pursuant to California Government Code §§54235, et seq., and Claims for compliance with environmental requirements pursuant to the National Environmental Policy Act of 1969, 49 U,S.C. § 4332(2)(c) and the California Environmental Quality Act, Public Resources Code §§ 21000, et seq., that might otherwise arise out of the sale and disposition of the Excess Properties.

B. **Waiver of California Civil Code Section 1542:** With respect to the subject matter of their respective Released Claims, Class Members and the Caltrans Tenants Organization expressly waive and relinquish the provisions, rights, and benefits of Section 1542 of the California Civil Code and any analogous law, statute, or rule. Section 1542 states:

> ***"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."***

EXHIBIT E

How do I get started?

1. Attend a Workshop - A list of approved First-Time Homebuyer Workshops may be downloaded from the City of Hayward website (www.hayward-ca.gov). You may also obtain the list by calling the City's Redevelopment/ Housing Division at (510) 583-4244.

2. Become Pre-Approved for a First Mortgage - Contact an approved account executive to be pre-approved for a home loan and to check your eligibility for the FHP.

3. Find a Home - Locate a house or townhome within the incorporated areas of Hayward.

4. Sign a Contract - Enter into a written contract with the seller to purchase the property.

5. Finalize your Mortgage - See your lender to finalize your mortgage and FHP loan. The lender will submit an application to the City for approval. The City will verify your eligibility and that of the home to be purchased and approve the FHP loan.

6. Sign the Loan Papers - Following application approval, you will sign the FHP loan documents and the first mortgage loan documents before the close of escrow.

7. Enjoy Your New Home! - The City will deposit the down payment and/or closing assistance funds in the escrow account for your mortgage. When escrow closes, you are now able to move into your new home!

First-Time Homebuyer Assistance Program Approved Account Executives

The following account executives are approved to participate in the First-Time Homebuyer Assistance Program (FHP). Please contact one of these approved account executives to become pre-approved. These participating lenders will also determine your initial eligibility for the FHP. If you are unsure about whether your lender is approved for the FHP, please call (888) 572-1222 ext. 110.

Bank of America

Wells Fargo Home Mortgage

Countrywide Home Loans

First Home, Inc.
(415) 561-5600 x 107

Neighborhood Housing Services Silicon Valley
1156 North Fourth Street
San Jose, CA 95112
(408) 279-2600

All of the above lenders are approved to offer California Housing Finance Agency (CalHFA) loans which include several down payment assistance program loans for qualified buyers. For more details, visit the CalHFA website at: www.calhfa.ca.gov

Equal Housing Opportunity

EXHIBIT E

CITY OF HAYWARD

Redevelopment/Housing Division

First-Time Homebuyer Assistance Program



Updated August, 2009

What is the First-Time Homebuyer Assistance Program?

The City of Hayward is committed to increasing the number of residents who own their homes.

The City recognizes that there are many families who want to own a home and can qualify for a mortgage and afford the monthly payments, but are unable to save enough for a down payment. The First-Time Homebuyer Program (FHP) helps eligible families purchase a home in the City of Hayward.

The FHP is designed to work with a number of different mortgage programs. The FHP provides down payment and closing cost assistance.

Am I eligible for the program?

The FHP is designed to help first-time homebuyers who, without City assistance, would not be able to own a home.

- To qualify, you must NOT have owned a home, condominium or townhome within the last three (3) years.
- You must not earn more than 80% or 120% of the area median income (AMI) adjusted by household size as listed in the following table:

FHP INCOME LIMITS

Family Size	Low Income Limit (80% of AMI)	Moderate Income Limit (120% of AMI)
1	$46,350	$75,000
2	$53,000	$85,700
3	$59,600	$96,450
4	$66,250	$107,150
5	$71,550	$115,700
6	$76,850	$124,300

What are the terms of the FHP loan?

The City will provide a loan of up to $40,000 to qualified low-income homebuyers and up to $30,000 to moderate-income homebuyers (see FHP INCOME LIMITS on the previous column). The funds may be used for:

- Down Payment Assistance; and/or
- Closing Cost Assistance

The FHP assistance is a 30-year loan. Full amortization starts on year six with a 3.5% interest rate. No principal and interest accrue during the first five years. The loan is secured by a second deed of trust.

You must have a down payment of at least 3% of the purchase price, plus funds for recurring closing costs. If a CalHFA or FHA loan is used in conjunction with the City's assistance, you must pay at least 1% of the purchase price plus recurring closing costs from your own funds.

Starting on year 6, loan payments are due to the City on the first of each month and must be made by an electronic transfer of funds from your checking/savings account to the City. Borrowers authorize this transaction and agree to maintain sufficient funds in their account for these payments.

What kind of home can I purchase?

- You may purchase any new or existing home, single-family detached, or town home (no manufactured housing units, duplexes or mobile homes).
- The home must be located within the municipal boundaries of the City of Hayward (i.e., homes within the unincorporated areas do not qualify for assistance).

The City cannot provide assistance to purchase properties with health and safety deficiencies or structural problems.

Do I need to qualify for a mortgage?

Yes. In order to receive assistance, you must qualify for a home mortgage. Any of the participating lenders listed on the back of this brochure can determine if you qualify for a first mortgage and for the City's First-Time Homebuyer Assistance Program. You MUST use a lender listed in this brochure to participate in this program.

A suggested debt-to-income ratio should not exceed 45% of gross income for housing costs, housing debt and other debt. All loan applicants are required to attend a homebuyer workshop (see more below) and have a minimum credit score of 620.

Can my family really afford to own a home?

To find out if homeownership is right for you, call for a listing of Homebuyer Workshops. The Workshops take you through the entire home buying process step-by-step. Topics include: deciding whether homeownership is right for you, shopping for the home that meets your needs, obtaining a home mortgage, closing the sale, and maintaining your new home. By attending a Workshop you will know more about the home buying process and will be able to negotiate the purchase and financing of a home that is right for YOU. You will understand the terms of your mortgage and be confident that you can afford homeownership.

You may download a list of approved Homebuyer Workshops from the City of Hayward website (www.hayward-ca.gov). You may also obtain the list by calling the City's Redevelopment/Housing Division at (510) 583-4244.

For general program inquiries, please send an email to: info@myhomegateway.com or call (888) 572-1222 ext. 110

A $200 processing fee is charged for each loan

Sherman Lewis <sherman@csuhayward.us> **11/21/2019 2:18 PM**

Eden Housing's Ruby Street Project

To marc.crawford@acgov.org • chuck.moore@acgov.org • sheila.cunha@acgov.org • ted.riche@acgov.org • shannon.killebrew@acgov.org • ken.carbone2@acgov.org • dolly.adams@acgov.org

To: Castro Valley Municipal Advisory Committee

I support affordable housing and I support open space. Since we cannot have both in the same place at the same time, we have to compromise.

Eden Housing is doing good things for some open space, but is also destroying irreplaceable unique sloping old woodlands below Crescent with a parking lot. It is preempting what should be public open space on the meadow with a private park. It is building a parking lot on Ruby that degrades the streetscape to benefit cars. It wants to build far too massive a building for the character of the neighborhood. It is smearing those who want a better balance with false accusation of being against affordable housing and being NIMBYs.

Ruby historically has had a few houses, now demolished, allowing an assembly nine lots wide, based on old lot numbers, not APN numbers, and excluding the meadow on the back of old lot 10. The replating proposed by Eden is a scam to avoid the application of existing county policy protecting biological resources. Those resources have not been adequately surveyed, as reported to you by others.

Alameda County's CEQA review of Eden Housing's Ruby Street project was not good enough. This proposed project development will have serious adverse impacts on the community.

There are many places to provide affordable housing, documented by the county itself.

There is no other place that can provide these woodlands and a meadow.

Eden should reduce the size of the project to front on Ruby with parking off Ruby and include the meadow and Crescent woodland with the creek and trail, of which they are ecologically an integral part.

Eden should respect the desires of the neighborhood and the needs of the environment; Eden should respect the needs that everyone, including low income people, have for open space, not destroy it.

--
Sherman Lewis
Professor Emeritus, Cal State Hayward
President, Hayward Area Planning Association
510-538-3692, sherman@csuhayward.us

---------- Forwarded message ---------
From: **Sherman Lewis** <sherman@csuhayward.us>
Date: Thu, Nov 14, 2019 at 12:11 PM
Subject: Ruby Meadow
To: <nisha.chauhan@acgov.org>

The intent of CEQA is to evaluate impacts of projects. This project has impacts. Eden has excuses.

The Eden proposal overbuilds the site by replacing a beautiful little woods with a parking lot on Crescent. While we seek compromise, it is fundamentally flawed to build affordable housing remote from transit, which then gets too much parking, which destroys what we must preserve for the neighborhood and the community. .

Creek protections involve strict rules but also judgements about their habitat, which in this case includes the woods on the north end of the property as they gently slope south and west to the creek.

Good planning requires a balance of housing and open space. The logical place for housing is where it was--on Ruby Street--which is also a bad place to put another parking lot.

There is more area in parking than housing. The parking can go head-in off Ruby for all the parking needed, and the meadow can be on the west side behind the units.

Ironically, Eden proposes a private park on half of the meadow. More of the meadow should be part of the protected creek and walkway area to give it the quality it deserves and to respect the indigenous and pioneer history of the site.

Eden should cut the size of the project to fit the neighborhood and to respect the need that all people, including low income people, have for green space. There are other sites for affordables; this wooded creek and meadow area is unique and irreplaceable.

--
Sherman Lewis
Professor Emeritus, Cal State Hayward
President, Hayward Area Planning Association
510-538-3692, sherman@csuhayward.us

Specific Plan For Areas of Environmental Significance





Alameda County, California

May, 1977

THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

THE FOLLOWING RESOLUTION WAS ADOPTED: NUMBER 169590

ADOPT "SPECIFIC PLAN FOR AREAS OF ENVIRONMENTAL SIGNIFICANCE"

WHEREAS, the Board of Supervisors of Alameda County has adoted a General Plan for the County, including Open Space, Conservation and Scenic Highway Elements thereof; and

WHEREAS, said adopted General Plan and Elements contain recommended regulations and policies for various special areas of Alameda County; and

WHEREAS, Section 65400 of the State of California Government Code requires local planning agencies to investigate and make recommendations to the legislative body upon reasonable and practical means for putting into effect the General Plan and parts thereof; and

WHEREAS, the Planning Commission has considered a Specific Plan for Areas of Environmental Significance to implement portions of the General Plan and its Elements; and

WHEREAS, said Commission did hold public hearings on the Specific Plan; and

WHEREAS, notice of said public hearings was given as required by law; and

WHEREAS, the Specific Plan was reviewed in accordance with the provisions of the California Environmental Quality Act and an Environmental Impact Report was prepared with respect thereto; and

WHEREAS, said Environmental Impact Report indicates no significant adverse environmental impacts would result from the project; and

WHEREAS, said Planning Commission found that adoption of the Specific Plan framework would serve to implement the General Plan and its Elements in a manner satisfactorily in compliance with State law and recommended adoption of the Specific Plan to this Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby adopts said "Specific Plan for Areas of Environental Significance," including its two initial components pertaining to riparian areas and scenic routes, and policies and procedures contained therein.

November 4, 1976

I Purpose

Pursuant to California Government Code, Section 65450, this Specific Plan is to implement environmental and natural resource policies of the Alameda County General Plan and its elements by designation and management of areas of environmental significance. The Specific Plan serves to add precision to General Plan policies, and to specify regulatory standards which apply to private and public actions alike.

II General Objectives

The overriding objective of this Specific Plan is the management of County lands of environmental significance in a manner consistent with the policies of the General Plan and its Elements to:

1. Preserve distinctive, natural features of the county;
2. Preserve areas of scenic beauty and cultural significance;
3. Minimize pollution of the environment of all kinds, including air pollution and water pollution;
4. Ensure that natural resources remain in abundant supply for future generations;
5. Minimize risk to life and property;
6. Understand and work within environmental limitations;
7. Maintain wildlife in the County through sustaining their habitats;
8. Consider those areas of environmental significance as high priority in any County-wide acquisition, lease, regulatory, or enforcement programs;
9. Generally guide the decision-making process toward harmony with, rather than dominance of, the natural environment.

III Implementation Procedures

A. Zoning

The process of Site Development Review (SDR) is to be the major implementation method of this Specific Plan. Performance standards for designated Areas of Environmental Significance will follow from the policies of this Specific Plan. Minor projects determined to be consistent with the policies of the particular Area of Environmental Significance may be approved as to zoning and would not need to undergo SDR. Projects subject to other review, such as Subdivision Regulations, Variances, Conditional Use Permits, or EIRs, would also not undergo SDR.

SDR involves input (through referral of project plans) from appropriate agencies, coordinated by the Planning Department. For projects in riparian corridors, mandatory referrals would include the Alameda County Flood Control and Water Conservation District, the Health Department, and other concerned agencies with appropriate expertise.

B. Subdivision Regulations

The policies of the Specific Plan will apply to proposed subdivisions and will be implemented through the Subdivision Ordinance, rather than Site Development Review.

C. Building Permits

Specifications for structures in Areas of Environmental Significance will be guided by the Specific Plan policies.

D. Public Project Review

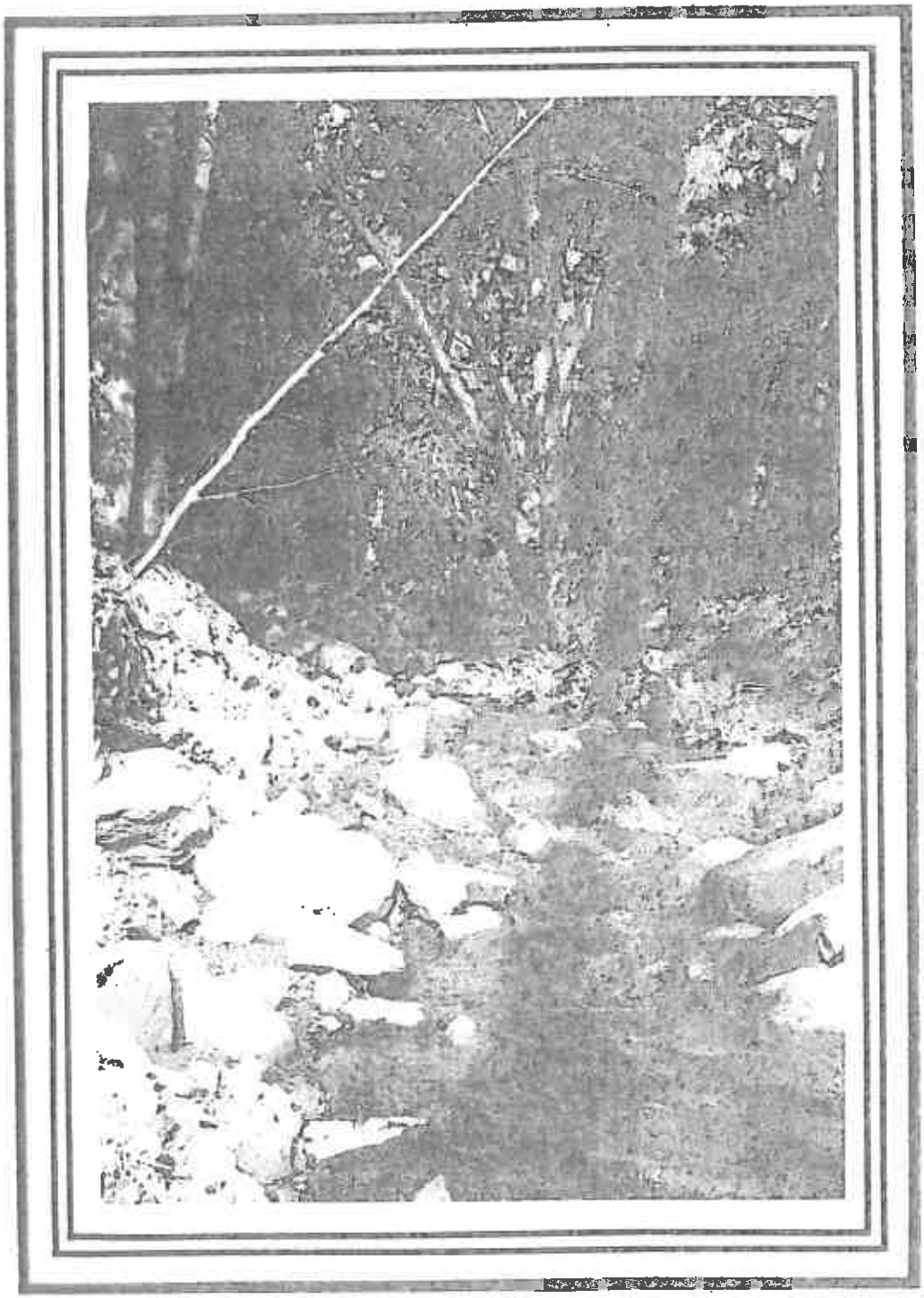
As mandated by State law, the Planning Commission will consider applicable Specific Plans for Areas of Environmental Significance in referrals of public projects to determine consistency with the General Plan.

E. Environmental Impact Reports

Significant projects in Areas of Environmental Significance will require Environmental Impact Reports because of their significant location. The EIR will analyze the impacts of the proposal based upon the management objectives and policies for the appropriate Area of Environmental Significance.

F. Easements, Development Rights, Acquisition, Purchase, and Other Means May Also be Used to Implement the Specific Plan

The adoption of this Specific Plan and the necessary ordinance changes described above shall constitute the County Open Space Zoning Ordinance, as required by California law for implementation of the Open Space Element of the General Plan. The Areas of Environmental Significance shall be mapped according to explicit criteria and shall become a part of the official Zoning Map. The Zoning Map may show special regulatory notations.



Riparian Areas

IV Areas Of Environmental Significance

A. Riparian Areas

1. Environmental Significance; Need for Management

The natural watercourses of Alameda County are valuable but endangered resources. The riparian vegetation associated with them encompass a wide variety of plants which provide living conditions for a great number of wildlife species, including fish, waterfowl, songbirds, and small game.

The shade provided by trees along watercourses helps maintain cooler water temperatures and thus retard algae blooms and enhance fish habitat. Dense tree gowth protects stream banks from erosion. Lush strips of trees and ground cover help purify the air and provide an aesthetically pleasing variation to the eye, and in so doing preserve the scenic character of unincorporated Alameda County.

Natural riparian areas are of great ecological importance by providing valuable topsoil, groundwater recharge, sandy beaches, and wildlife habitats. Such areas are particularly valuable in the semiarid climate characterizing much of unincorporated Alameda County.

Riparian areas are beneficial for agricultural and ranching operations by providing water for irrigation and livestock and trees to shade livestock during summer heat. They also help to recharge groundwater, the primary source of water for most farms.

State-wide surveys establish that riparian habitat has suffered greatly under expanding development. Thousands of acres have been inundated by reservoirs and stripped for channels, ditches, housing tracts, and highways. The California Fish and Wildlife Plan predicts an additional fifteen percent loss of this resource by 1980.

The steady loss of riparian environments in Alameda County is found to be a problem needing wide management and regulation to check. Once lost, such areas cannot be recovered, thus the need for this Specific Plan to ensure the protection of these Areas of Environmental Significance and their preservation for the benefit and enjoyment of future generations.

2. Designation of Riparian Areas

The riparian areas of the County will be studied jointly by the staff of Alameda County Planning Department and the Alameda Flood Control and Water Conservation District and the location and limits of Riparian Areas of Environmental Significance delineated subject to adoption by the County Planning Commission and County Board of Supervisors. Selection will be based on the following criteria:

(1) The riparian area is designated as Primary Open Space on the Open Space Element of the Alameda County General Plan.

(2) Large portions of the riparian area are still in their natural state.

(3) The existence and areal extent of riparian vegetation and woodland is evident.

(4) The watercourse, though not entirely natural, is of such value because of its scarcity (such as in an urbanized area) as to make its management desirable.

(5) The riparian area is important for groundwater recharge.

(6) The riparian area is scenic.

(7) An expressed desire by local residents to protect an natural watercourse.

(8) The riparian area is important to fish and wildlife.

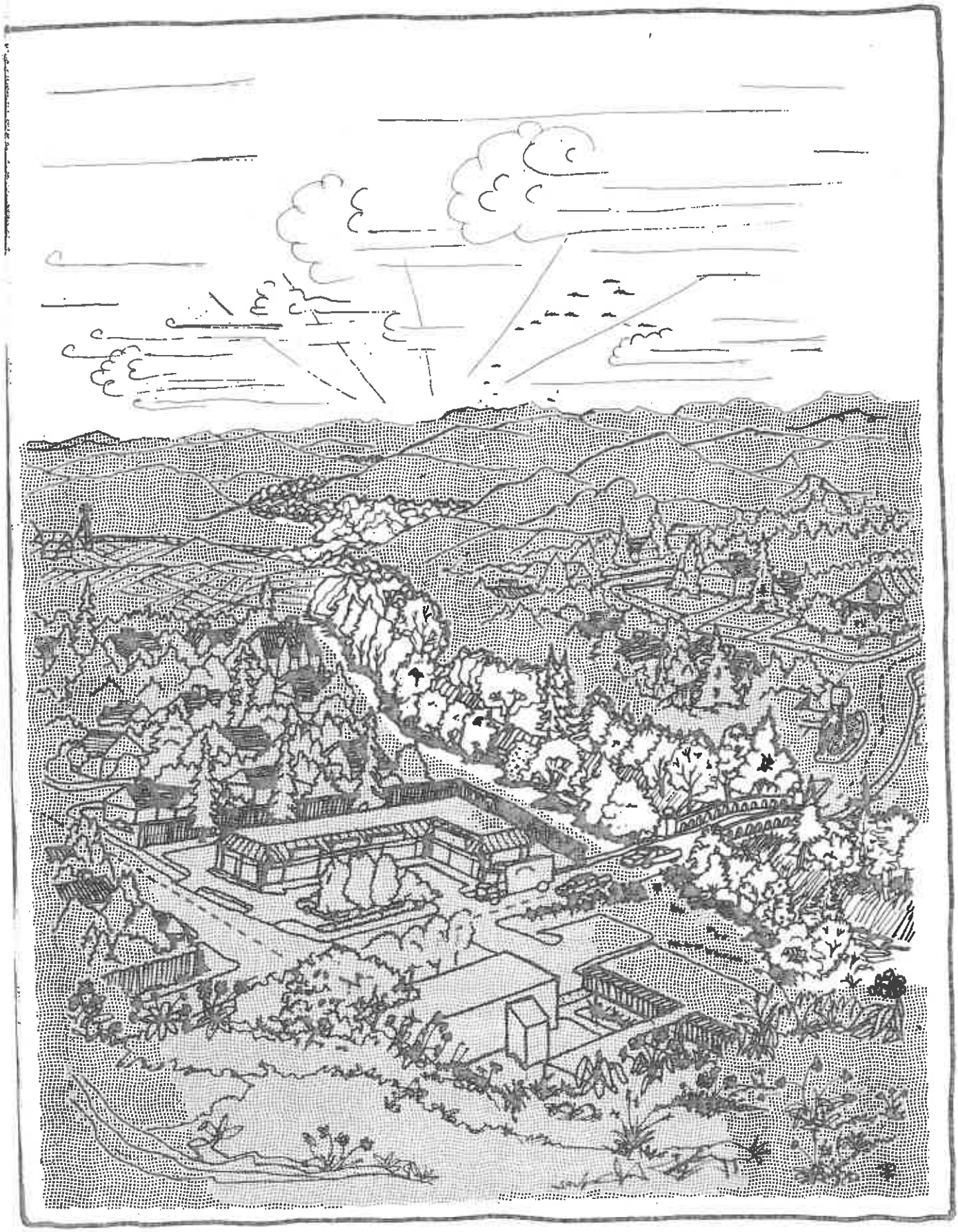
(9) The riparian area is important to public health, safety, or welfare.

(10) The riparian area is subject to periodic inundation.

(11) The riparian area has significant recreation potential.

(12) The riparian area is important for agricultural and ranching operations.

(13) No corridor studies will be performed in areas zoned Agricultural without prior approval of the Board of Supervisors.



Riparian Corridor

For purposes of the Specific Plan, a Riparian Area is defined as any area for which a watercourse, intermittent or perennial; pond; lake; marsh; or any other wetland; or the vegetation or wildlife dependent on or associated with any of the above, forms the environmental focal point. The limits of a Riparian Area of Environmental Significance will normally be considered the demarcation line between the vegetation zones of wetland and upland; but for administrative convenience, riparian corridors will be established adjacent to watercourses and other bodies of water extending a sufficient distance from it such that all riparian vegetation is included. Policies and administrative procedures will apply to all development totally or partially within these corridors.

3. Management Objectives

(1) The protection, conservation, and promotion of the water resources of Alameda County.

(2) The preservation of fish and wildlife habitats.

(3) The protection of natural riparian environments.

(4) The protection of life and property.

(5) The protection of watercourses from pollution and sedimentation by unsuitable development in riparian corridors.

(6) The recognition of the limitations and potentialities inherent in the riparian environment and its management.

(7) The preservation of the scenic character which natural watercourses provide the County.

4. Policies

(1) Private property rights are to be respected in all cases.

(2) Where possible, development inimical to riparian area management objectives is to be discouraged in those areas.

(3) Development in riparian Areas of Environmental Significance is to be reviewed to assure the minimum possible impact on the riparian environment and to conform to any regulatory notations on the official Zoning Map.

(4) If the environmental limitations warrant, most development may be prohibited in certain areas.

(5) In the case of development permitted in riparian Areas of Environmental Significance, design and construction standards will be formulated if needed for watercourse protection. Setbacks from the watercourse may be required.

(6) Development by the various agencies of Alameda County shall be consistent, when possible, with the management objectives for riparian areas.

(7) Changes in the hydraulic characteristics of watercourses which may result in alteration of the watercourse so as to conflict with riparian area management objectives should not occur unless a clear public advantage outweighing such conflict can be demonstrated. The burden of proof shall be on those proposing the changes. Hydraulic characteristics are the features of a watercourse which determine its water conveyance capacity, including (but not limited to) size and configuration of cross section of watercourse; alignment of watercourse; gradient of watercourse; texture of materials along the watercourse; size, configuration, and other characteristics of structures within the watercourse.

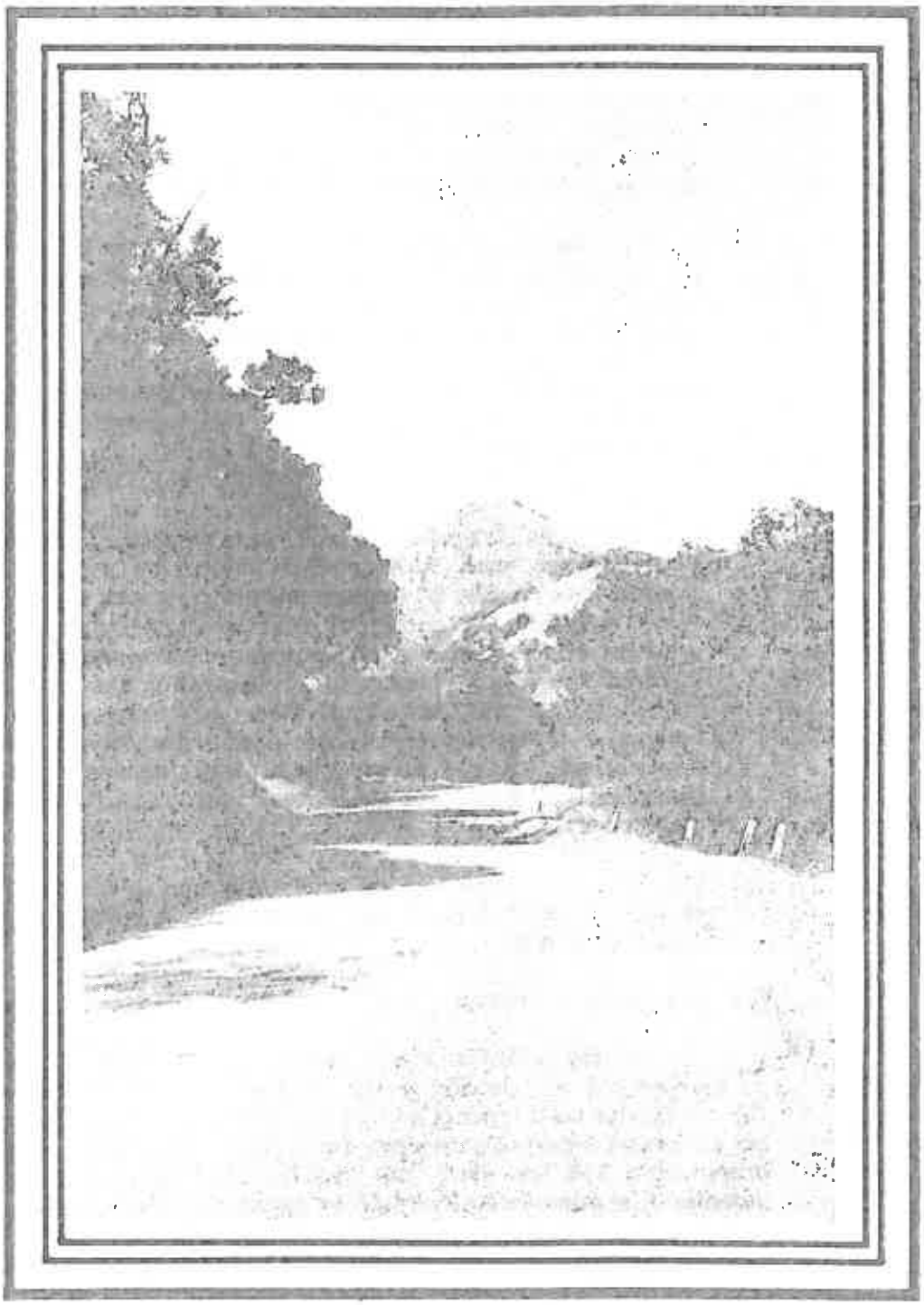
(8) The long-term preservation of natural and seminatural riparian areas and their wildlife habitat shall be a guiding criterion in public decisions.

5. Corridor Study Priorities

Priority for the order in which watercourse corridor studies are to be carried out will depend on the degree of threat of destruction of the particular watercourse and its riparian area. Higher priority will be accorded riparian corridors for which this threat is the most pronounced and for which the riparian area is richest in terms of woodland development, diversity of fauna and flora, and uniqueness in its context. Lowest priority would be assigned riparian areas in isolated areas of the County with little urbanization pressure.

Corridors for watercourses in areas covered by quarry permits will not be studied until completion of the Reclamation Plan now being prepared for sand and gravel extraction operations in the Livermore-Amador Valley.

Adoption of the Specific Plan would commence application of the Policies contained in Section 4 in existing regulatory procedures. Site Development Review implementation would not occur until the riparian corridor study was completed for any specific watercourse.



Scenic Routes

B. Scenic Routes

1. Environmental Significance; Need for Management

Views from scenic routes in Alameda County afford esthetically pleasing experiences to the traveler by automobile or bicycle. The use of these routes to reach recreational and cultural pursuits can in itself be a stimulating and recreational experience.

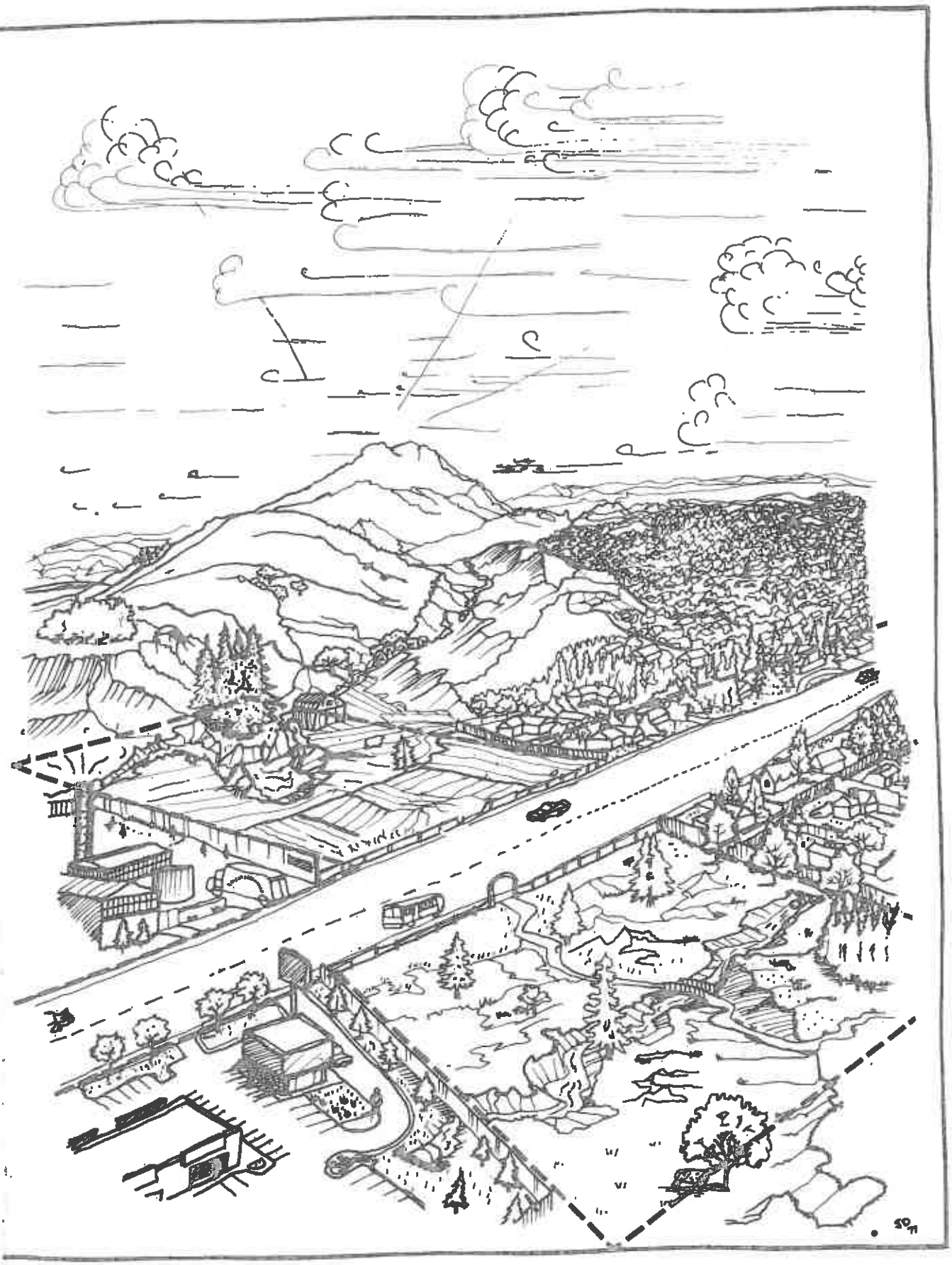
The existence, enhancement, and maintenance of scenic routes can help to promote tourism in Alameda County, provide for use of leisure time, and lighten the burden of necessary daily trips. Landmarks and views visible from scenic routes can aid in orientation and give County residents a sense of place and pride in the scenic resources of the County.

Preservation of the scenic quality of these routes can assist in stabilizing or increasing property values and the economy of the County through preserving and adding to its attractions.

Proper management of scenic routes can promote multiple recreational uses, including bicycle paths, trails, picnicking, and observation points where appropriate throughout the County.

Problems occur when buildings are placed at such proximity or angle to the route as to block scenery. Problems are also created when certain land uses which are inimical to aesthetic appreciation, such as junkyards, drive-ins, or overhead transmission towers, become visible from a scenic route. Finally, large signs can obscure views and detract from scenery.

Lesser problems which can occur include lack of identification of scenic routes on the routes themselves and lack of programs or publicity to encourage private enhancement of the scenic quality of lands adjacent to scenic routes. The presence of these problems generates the need for this portion of the Specific Plan to ensure the proper management of scenic route corridors.



Scenic Route Corridor

2. Location and Criteria for Selection

The Scenic Route Element of the Alameda County General Plan, adopted in 1966, establishes the roads designated as scenic routes throughout the County. The regulatory program established in this portion of the Specific Plan for Areas of Environmental Significance applies only to those routes in the unincorporated portions of the County, and comprises forty-three roads or portions of roads in the County Road System. Incorporated communities in the County have independent Scenic Route Elements and implementation programs which are coordinated with the County Element.

The establishment of regulatory corridors of scenic routes will be undertaken for each individual route in the order specified in Section 5. Priority has been assigned on the basis of traffic volumes through areas of highest scenic quality and existence or potentiality of adjacent land uses which undercut the objectives of the scenic route program. The Scenic Route Element defines scenic corridors as either "areas that extend beyond the scenic route right-of-way that are of sufficient scenic quality to be acquired by State or local jurisdictions, or areas to which development controls should be applied for purposes of preserving and enhancing relatively nearby views or maintaining unobstructed views along the scenic route and providing a pleasant route of travel."

The Element further states that "width of scenic corridors will vary from the depth of lots adjacent to the right-of-way in highly urban areas to a distance of one thousand feet in rural areas having a high scenic quality." The corridors established will be irregular in width, expecially in more urban areas, shrinking to the road boundary where no scenic qualities adjoin, and expanding as necessary where views from the route are outstanding.

The delineation of corridors would be done with the help of property owners near scenic routes, Alameda County Road Division, knowledgeable persons from local colleges, and other interested parties, coordinated by the Planning Department. Final boundaries will be subject to Planning Commission and Board of Supervisors action following public hearings.

3. Management Objectives

(1) The implementation of the Scenic Route Element of the Alameda County General Plan.

(2) The conservation, enhancement, and protection of scenic views observable from scenic routes.

(3) The provision, where possible and appropriate, of multiple recreational uses, trails, roadside rests, picnicking, and observation points on present or future publicly owned lands adjacent to scenic routes, and the encouragement of such uses on private lands adjacent to scenic routes.

(4) The provision of a means of coordinating scenic route trails with other trail systems in the County.

(5) The provision for bicycle use as a major type of recreation and viable transportation in the County.

(6) The encouragement of private initiative in enhancing scenic routes.

4. Policies

(1) Where possible, proposed development of a character inimical to scenic route management objectives is to be modified in scenic route corridors.

(2) Development in Scenic Route Areas of Environmental Significance is to be reviewed to assure the minimum possible impact on views and landscape quality visible from scenic routes.

(3) The objectives of this Scenic Route section of the Specific Plan for Areas of Environmental Significance shall be important criteria in public decisions relating to both public and private projects.

(4) On-route identification of scenic routes should be encouraged. Adoption of a symbol representing Alameda County Scenic Routes should be studied.

(5) Special controls on signs should be exercised in scenic route corridors.

(6) Supplemental zoning regulations, primarily site design review, should be used to preserve vistas in scenic route corridors.

(7) Certain uses inherently inimical to aesthetic appreciation of scenery may be prohibited in scenic route corridors if screening is not feasible.

(8) Landscaping is to be encouraged in scenic route corridors to provide added visual interest, to frame scenic views, and to screen unsightly views.

(9) Height limitations upon buildings which would block views from scenic routes should be set.

5. Corridor Study Priorities--Scenic Routes in Unincorporated Alameda County

		Length in Miles			Length in Miles
1.	Redwood Road	11.0	23.	Tesla Road	11.0
2.	Interstate 680*	11.0	24.	Mines Road	19.0
3.	Interstate 580*	20.0	25.	Flynn Road	3.0
4.	Route 92 (Jackson)	1.0	26.	Greenville Road	3.5
5.	Niles Canyon Road	7.0	27.	Cross Road	2.0
6.	Foothill Road (San Ramon Road)	11.0	28.	Del Valle Road	3.0
7.	Route 238	2.0	29.	Arroyo Road	2.0
8.	Crow Canyon Road	8.0	30.	Mission Boulevard	1.0
9.	Palomares Road	11.0	31.	Byron Bethany Road	1.5
10.	Vineyard Avenue	4.0	32.	Morgan Territory Road	1.5
11.	Fairview Avenue	0.5	33.	Highland Road	4.5
12.	Cull Canyon Road	7.0	34.	Dougherty Road	2.0
13.	Altamont Pass	9.0	35.	Tassajara Road	3.0
14.	Kilkare Road	4.0	36.	Doolan Road	3.0
15.	Norris Canyon Road	2.5	37.	Vargas Road	0.5
16.	Mountain House Road	5.0	38.	Mill Creek Road	0.5
17.	Fairmont Drive (Plaza)	0.5	39.	Nimitz Freeway	0.5
18.	Grant Line Road	1.0	40.	Skyline Boulevard	2.0
19.	Patterson Pass Road	10.0	41.	Lake Chabot Road	1.5
20.	Vasco Road	3.0	42.	Calaveras Road	8.0
21.	N. Livermore Road	4.5	43.	Geary Road	7.0
22.	Vasco Road	5.0			

*Preliminary corridor studies have been prepared by CalTrans.

From: **GWNA Admin** ann@grovewayneighborhood.org
Subject: Summary for 6/8/2020 CVMAC Ruby Meadow
Date: June 8, 2020 at 5:15 PM
To: Chauhan, Nisha, CDA nisha.chauhan@acgov.org, Dolly.Adams@acgov.org, ted.riche@acgov.org, sheila.cunha@acgov.org, chuck.moore@acgov.org, Ken.Carbone2@acgov.org, Shannon.Killebrew@acgov.org
Bcc: Admin Gwna ann@grovewayneighborhood.org

Dear Planner Chauhan and Council Members,

Attached here please find a table summarizing the Ruby Meadow parcels. You can easily see that 1) many of the twenty parcels are not in the Housing Element, 2) many of those that are in housing element have undesignated zoning and are in creek buffer zone, 3) the largest parcels of Eden's new "A" that is being developed are in the Castro Valley General Plan Biological Resources Overlay Zone, 4) not only are these parcels developed, but they are DENSELY covered, with most paved at 100%, 5) sites that are in the housing element are NOT being developed although they formerly had homes and are on the A Street face, 6) If Eden only developed on sites that ARE in the housing element, MOST are in the Biological resources overlay zone (BROZ) of the Castro Valley General Plan.

This table helps me to provide easy reference to the many sites. Eden Housing's lawyer has obscured the differences between these sites when writing to the County, and I believe Eden Housing and the Alameda County Housing Authority chose to combine the twenty lots in order to avoid protections that exist for Ruby Meadow. Planning's zoning 2018 zoning verification letter to Eden Housing only included 16 of the lots (4.75 acres) and did not mention the BROZ.

Similarly, the CEQA has multiple errors, including miscalculations about proximity to transportation, misstatements about the buildings relationship to the adjacent apartments, and mis-statements about these twenty parcels being in the Housing Element when they are not. The CVMAC should not recommend this project's approval to the planning commission.

Please support the majority of Castro Valley neighbors who are strongly against building in Ruby Meadow.

Thank you, Ann E. Marls, PhD
1490 Grove Way
Castro Valley CA 94546

Organizer Grove Way Neighborhood Association
Director, Friends of San Lorenzo Creek
Director, Eden Community Land Trust
Chair, My Eden Voice Parks and Open Space Committee



New Eden Housing Parcels	Parcel # 415-2330-	Street Address	Acreage	2020-2030 Land Use Study Recommended Zoning	2012 CVGP			Eden Housing Proposed % Lot Coverage	2015 Alameda County Housing Element			# Housing units	
					Existing Land Use (Fig 3-1)	Existing Zoning (Fig 3-2)	Biological Resources Overlay Zone (Fig 7-2)		Current Key Area or Specific Plan Designation	Wetland Water Creek Buffer	General Plan Existing Designation	In ROW Block	Not in ROW
A	3	CRESCENT AVE	0.22	Open Space	Public	RS-B-20	N	100%	N/A not in housing element		Res. Low Density Multi-family		
	5	1403 CRESCENT AVE	1.25	Open Space	Public	RS-B-20	Yes		N/A not in housing element		Res. Low Density Multi-family	0	
	11	20447 RUBY ST	0.17	MDH	Public	RS-B-20	N		Unspecified in current General Plan	N	Res. Low Density Multi-family		1
	12	20438 RUBY ST	0.15	MDH	Public	RS-B-20	N		Unspecified in current General Plan	Yes	Res. Low Density Multi-family		1
	13	RUBY ST	0.32	MDH	Public	RS-B-20	N		Unspecified in current General Plan	Yes	Res. Low Density Multi-family		1
	14	RUBY ST	1.20	MDH	Public	RS-B-20	Yes	75%	Schools and Low Density Residential	Yes	Res. Low Density Multi-family	28	
	15	RUBY ST	0.15	MDH	Public	RS-B-20	Yes	100%	Schools and Low Density Residential	Yes	Res. Low Density Multi-family	2	
	16	20513 RUBY ST	0.15	MDH	Public	RS-B-20	Yes	100%	Unspecified in current General Plan	Yes	Res. Low Density Multi-family	2	
	17	RUBY ST	0.16	MDH	Public	RS-B-20	Yes	100%	Unspecified in current General Plan	Yes	Res. Low Density Multi-family	2	
	19	RUBY ST	0.19	MDH	Public	RS-B-20	Yes	100%	Unspecified in current General Plan	Yes	Res. Low Density Multi-family	3	
	20	1403 CRESCENT AVE	0.20	Open Space	Public	RS-B-20	Yes	100%	N/A not in housing element		SUM	0	
B	21	1432 A ST	0.16	MDH	Public	RS-B-20	Y		Unspecified in current General Plan	Yes	Res. Low Density Multi-family		1
	22	1434 A ST	0.17	MDH	Public	RS-B-20	Y		Unspecified in current General Plan	Yes	Res. Low Density Multi-family		1
C	23	1438 A ST	0.26	Open Space	Public	RS-B-20	Y		N/A not in housing element		Res. Low Density Multi-family		
	24	1404 A ST	0.16	Open Space	Public	RS-B-20	Y		N/A not in housing element		Res. Low Density Multi-family		
	69	CRESCENT AVE	0.01	Open Space	Public		Y		N/A not in housing element		Parks & Rec		
	72	1DOUGLAS WAY LN	0.23	Open Space	Public		Y		N/A not in housing element		Open Space		
	73	1DOUGLAS WAY LN	0.35	Open Space	Public		Y		N/A not in housing element		Open Space		
	2	CRESCENT AVE	0.01	Open Space	Public	RS-B-20	N		N/A not in housing element		Res. Low Density Multi-family		
	18	RUBY ST	0.13	Open Space	Public	RS-B-20	Y		N/A not in housing element		Res. Low Density Multi-family		
											SUM	29	16



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Size does matter: Passive sampling in urban parks of a regional bat assemblage

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Abstract
We studied the occurrence of bats in urban parks in the city of Madrid (Spain), and the resulting patterns were compared with bat occurrence in the surrounding region. In this way, we addressed if the presence of individual species in the study parks was positively related to their regional occurrence and the way some geographical and environmental traits affected bat richness and composition in urban parks. We analysed urban parks varying in area, structure and distance to the edge of the town. During two years, bats occurring in parks were sampled using ultrasound detectors. A similar sampling method was carried out for four years in the countryside around the city to detect the regional pool of species. The results show that the occurrence of individual species in urban parks was a reduced sample of the regional pool of species and that there was a positive relationship between the occurrence of species in urban parks and the surrounding countryside. This pattern suggests that the more distributed bats at a regional scale were the most frequent ones in parks within the urban matrix. Park area was the main determinant of bat richness. In addition, bat richness distribution reported a nested pattern of species loss as park area decreased. This suggests that bat occurrence in the study parks can be interpreted as the results of a passive sampling of individual species occurring at the regional scale, and that park size was the main determinant of the species occurrence. We conclude that more proactive approaches to bat conservation could be carried out in order to improve the presence of some rare species in urban parks.

Keywords Area effect · Chiroptera · Habitat fragmentation · Habitat selection · Nested species distribution · Species richness

Introduction

Urbanization is spreading rapidly at a global scale, a trend that affects biodiversity conservation in many areas. Thus, understanding the effect of urbanization on biodiversity and the way it can be managed is a basic challenge in conservation biology (McKinney 2002). In this context, urban parks are key areas to conserve biodiversity since they are patches of semi-natural habitats where many species thrive within the urban matrix (Baker and Harris 2007). In this respect, and despite bats (Order Chiroptera) being one of the most diverse and distributed mammal orders (Altringham 2011), little attention has been dedicated to explore the way these animals are distributed in urban parks (Gilbert 1989; Jung and Threlfall 2018). The most studied issues have been related to the comparison between rural and urban bat assemblages (Kurta and Teramino 1992; Johnson et al. 2008), the factors influencing bat distribution (Krauel and LeBuhn 2016; Moretto and Francis 2017) or the potential benefits of urbanization for these species (Ancillotto et al. 2015). However, little work has been devoted

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to assess the main drivers of the structure of bat assemblages occurring in urban parks.

It is commonly agreed that species richness in urban parks is shaped by constraints affecting organisms in fragmented landscapes. These are related to fragmented areas (Avila-Flores and Fenton 2005; Baker and Harris 2007; Garden et al. 2010), distance to the regional pool of species (Krauel and LeBuhn 2016, Jung and Threlfall 2018) or habitat suitability (Schimpp et al. 2018). However, it can be speculated that the relative contribution of these criteria will vary according to the idiosyncratic traits of the species. Bats, for instance, move daily within large home ranges (Nicholls and Racey 2006) so that their occurrence in urban parks will not be regulated by the classical dynamic of colonization vs. extinction typical of terrestrial animal populations distributed within unsuitable habitats (Patterson and Atmar 1986). Alternatively, it can be suggested that bats, wherever the location of their roosting sites, will be able to fly freely among different parks within the urban matrix searching for food. These patterns are congruent with a passive sampling effect, which predicts that the occurrence of individual species in habitat fragments will be a positive function of fragment size and species abundance (Preston 1962; Connor and McCoy 1979; Mcguinness 1984). In this context, it can be hypothesized that the occurrence of bats in urban parks will be positively related to the effect of park size (larger parks will sample more species) and the abundance of individual bat species flying over the study region (e.g. abundant species will occur in more parks than rare ones).

In this paper we look at the use of urban parks by bats in the city of Madrid (Spain; Fig. 1) to address the following issues:

a) First, we test if the occurrence of individual species in the study parks is positively related to their regional occurrence, with the more frequent species occurring in more parks that the rare ones. We assume here that abundance occurrence relationships are commonly positive (Gaston et al. 2000) so that the regional occurrence of the species will be a suitable surrogate of their regional abundance. In addition, we also explore if some species are over or under represented in urban parks in relation to the outlying areas and if these trends can be explained according to their particular biological requirements (e.g. roosting sites; Jung and Threlfall 2018).

b) Second, we explore the factors shaping the species richness of bat assemblages occurring in urban parks. We test the effect on bat richness of some geographical (park area and distance to the edge of the urban matrix) and environmental traits within the parks (e.g. tree cover and floristic diversity, water; Avila-Flores and Fenton 2005). We assume that the largest parks and those parks located near the edge of the town from where many bats may fly within the city will show the highest species richness. These patterns will also be shaped by the positive effect on bat occurrence of tree cover and water availability.

c) Finally, we study if the distribution of bat assemblages shows a nested pattern in urban parks (e.g. Fernandez-Juricic and Jokimäki 2001). This means that bats occurring in parks with low species richness are a subset of those bat assemblages that are progressively richer in species, a pattern that strongly suggests the idiosyncratic reaction of individual species to the features affecting the arrangement of species assemblages (Patterson and Atmar 1986). We also explore if the rank of parks within the nestedness gradient is related to the geographical and environmental variables considered in this study (Ulrich et al. 2009).

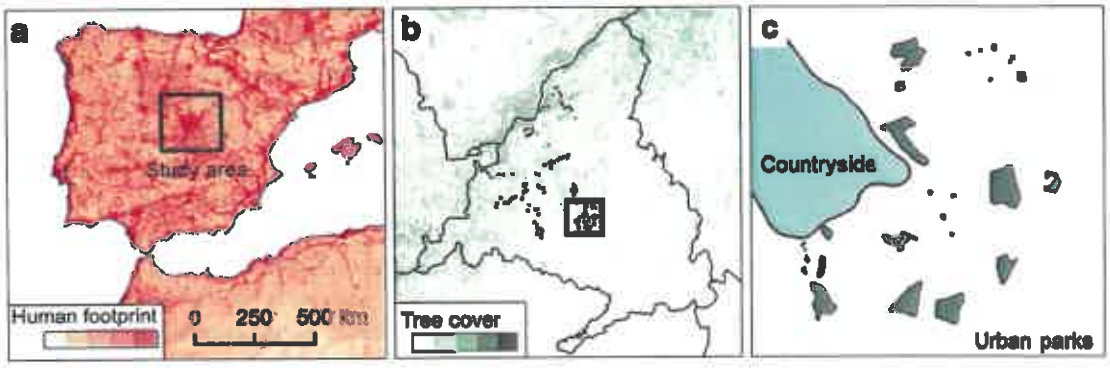


Fig. 1 a. Representation of the study area in the centre of the Iberian Peninsula. Human footprint is shown to represent urbanised areas and highlight the fragmented and altered habitat, and the intensity of the impact of urbanization in the study area. b. Schematic representation of sampling points (shown in black): those in the square represent urban parks; those outside the square represent the sampling points in the countryside. Tree cover is shown to depict the declining abundance of tree-covered areas in the study areas. c. Distribution of the study area within the urban matrix of Madrid. (Q-GIS 2.18.11 and Power Point 2013 were used to create the figure)

Methods

Study area

Madrid and the surrounding urban zones conform a built-up area inhabited by approximately 5 million people. This urban area is located in the piedmont of the Guadarrama mountains, which generates an environment gradient where around 20 bat species occur (De Paz et al. 2015). In this context, we explored bat distribution in parks within the urban matrix of the city of Madrid, a large patch (40km^2 approximately) of buildings and streets within which a small number of parks are scattered. To study bat distribution, we selected 27 parks (Fig. 1) varying in area (0.22-118 ha), distance to the closer edge of the city (0.24–5.6 km) and vegetation structure (Appendix 1). We also considered the presence/absence of water bodies suitable for bat foraging. The area (AREA) and distance to the edge of the city (DISTANCE) was measured using the tool Measure (polygon and line) in Google Earth and vegetation structure was recorded visually in a 25 m radius around the sampling points. These variables included grass, shrub and tree cover (percent of the area covered by <0.5 m, 0.5- 2 m, > 2 m vegetation layers), number of shrub and tree species, mean tree height and mean trunk thickness (at 1.5 m). With these data, we conducted a principal components analysis in which we retained two component: PC1 (eigenvalue: 2.40, explained variance 30.04%) that we interpreted as a gradient of shrub cover and floristic diversity (FLORISTIC DIVERSITY, factor loadings of grass cover: −0.67, vegetation <0.5 m: −0.56, vegetation 0.5-2 m: 0.70, vegetation >2 m height: −0.17, tree eighth: 0.14, trunk thickness: −0.09, number of shrub species: 0.75 and number of tree species: 0.73) and PC2 (eigenvalue: 2.17, explained variance 27.09%) that we interpreted as a gradient of tree cover (WOOD; factor loadings of grass cover: 0.43, vegetation <0.5 m: −0.03, vegetation 0.5-2 m height: −0.50, vegetation >2 m height: 0.32, tree eighth: 0.92, trunk thickness: 0.86, number of shrub species: −0.19 and number of tree species: 0.08). The factor scores of sampling sites were used to control the effect of vegetation on species richness (Appendix 1).

Bat sampling

We carried out monthly surveys from July to October during 2015 and 2017. Sampling was carried out within the same weather and sound recording conditions (Hayes 2000) throughout the three hours after sunset to prevent a systematic effect of bat activity (typically they are more active at sunset; Gehrt and Chelsvig 2003, Avila-Flores and Fenton 2005). The order of sampling between sampling points was interleaved between months. Bats were recorded by an Echo Meter 3 (Wildlife Acoustics) bat detector during 10 min for every sampling point (Di Salvo et al. 2010; Arias-Aguilar et al. 2015). The sampling points were selected randomly within the polygons of the park areas in QGIS 2.18.11 (http://www.qgis.org). The number of sampling points per park ranged from 1 to 8 according to park area, considering the biggest park as the one with 8 due to the difficulties to carry out more sampling stations within the three hours after the sunset (Appendix 1). Species richness (RICHNESS) was assessed by the cumulative number of species detected per park along the study months. Occurrence" (Russo and Jones 2003, Jung et al. 2012). The occurrence (OCCURRENCE) was considered as the number of sampling points in which every bat species appeared from the total of sampling points (Russo and Jones 2003, Jung et al. 2012). To obtain the regional structure of bat assemblages around the city, we used the results of 213 randomly selected sampling points carried out in a regional study of bat assemblages around the city of Madrid (Tena et al. unpublished). Bats were recorded in a region of 300km^2 approximately extended to the piedmont of the Guadarrama mountains from July to October between 2014 and 2017. The sampling points were carried out in the most representative habitats of the region. These habitats are dominated by Holm oak (*Quercus ilex*), Ash (*Fraxinus excelsior*), Pyrenean oak (*Quercus pyrenaica*) and Scot pine (*Pinus sylvestris*) interspersed with scrublands and open spaces. The sampling points where selected randomly in QGIS 2.18.11, 0.24–5.6 km far from villages and small towns. These sites were also surveyed in the same conditions as urban parks, during 10 min over the three hours following sunset. Three different bat detectors (Echo Meter 3, Echo Meter Touch Pro 1, Song Meter 2; Wildlife Acoustics) were used to detect bats after a pilot study within urban parks in Madrid reported very similar results (Perea and Tena in prep).

Call analysis

All sequences were recorded as full-spectrum in WAV format. We filtered noise from bat calls using sound analysis software Kaleidoscope (Wildlife Acoustics, Inc.). The filter settings specified a signal of interest between 8 and 120 kHz and 2 to 500 ms and with a 2-minimum number of calls per sequence. We batch split each sequence to a maximum duration of 5 s to standardize bat activity for later comparison. Both results were then filtered again by SonoBat Batch Scrubber 5.1 and positive files derived from the two software packages were measured (Méndez-Nogués et al. 2016). We then analysed the WAV files by using BatSound 4 Software. The recordings were analysed using a sampling frequency of 44.1 kHz, with 16 bits/sample and a 512 pt. FFT with a Hamming window for analysis. At least, two echolocation calls were analysed at random from each sequence. The following parameters were measured manually (Rydell et al. 2017) from each call to identify species (Russo and Jones 2002; Barataud 2012): call structure, start frequency, end frequency, frequency of maximum energy, duration and inter-pulse interval. Some recordings were ignored when the quality of the calls was not clear to avoid misidentifications.

Due to the overlap of the values of the acoustic variables of the species of some genera (*Myotis* and *Plecotus*), it has been decided to group the sequences by pairs or groups of species (Vaughan et al. 1997; Russo and Jones 2002). Thus, the species of medium and small size of the genus *Myotis* have been recorded as *Myotis* sp., large *Myotis* such as *M. myotis/blythii* and those of *Plecotus* genera have been recorded as *Plecotus* sp.

Nestedness

Nestedness analysis explores if the loss of species within the presence/absence matrix of study fragments depicts an ordered sequence and provides some metrics to quantify the strength and features of this pattern (Patterson and Atmar 1986). We assessed nestedness among the 27 study parks by using matrix Temperature (T; Ulrich et al. 2009) and Nestedness Overlap and Decreasing Fill (NODF; Rodríguez-Gironés and Santamaría 2006; Almeida-Neto et al. 2008). T decreases with nestedness and it is the most commonly used metric for nestedness (Ulrich et al. 2009) and NODF index increases with nestedness (Almeida-Neto et al. 2007). The significance of these indexes was estimated by comparison with the results simulated by one hundred randomizations in the original presence/absence matrix. NODF analyses can be used to rank (K) the urban parks and to explore the effect of variables affecting) on the nested structure of bat richness (Seoane et al. 2013). Estimates of nestedness were done with the package 'Vegan' (Oksanen et al. 2011) in R (R Core Team 2017, version 3.4.1).

Statistical analyses

We tested by simple regressions whether the occurrence of individual species in urban parks was related to their regional occurrence (covariate) and roosting preferences (fissure dwelling bats vs. the rest of bats). Moreover, we used a Wilcoxon Matched Pairs Test to assess whether the occurrence of species in urban parks was higher or lower than in the countryside. In addition, we used general lineal models (GLM) to explore the effect of AREA, DISTANCE, FLORISTIC DIVERSITY and WOOD on the number of bat species (RICHNESS; Poisson distribution and log as function link) and on the nested rank (K; Gaussian distribution and identity link), both in 2015 and 2017. We excluded the presence of water bodies (most of them constrained to the largest parks) after a variance inflation factor (VIF) analysis detected that this explanatory variable was above the recommend threshold of 3 (Zuur et al. 2010). We also used Generalized Linear Mixed-Effects Models (GLMM) with the same variables and YEAR as a random factor to study the conjoint effects of the explanatory variables on RICHNESS and K during the two study years (2015–2017). We conducted a Multi-Model Inference approach to select the best models (we used all top-ranked models summing to 0.95 AICc and that were better than the null model; Anderson and Burnham 2002). In all cases, models were adjusted to normality and heteroscedasticity of the resulting residuals. GLMM analyses and Multi-Model Inference analyses were conducted with 'lm4' (Bates et al. 2014) and 'MuMin' (Bartoń 2018) R packages, respectively. Analyses were performed in R (R Core Team 2017, version 3.4.1).

Results

Bat assemblage composition

We recorded 11,429 bat echolocation calls in urban parks of Madrid that, after processing, reported seven bat species (*Pipistrellus pipistrellus*, *P. pygmaeus*, *P. kuhlii*, *Tadarida teniotis*, *Eptesicus serotinus*, *Nyctalus leisleri*, and *Hypsugo savii*) and some individuals of Genus *Myotis* (other than *M. myotis/blythii*) that we have considered in this paper as one additional species (*Myotis* sp., Table 1). However, several cave and tree-dwelling bats recorded in the region did not occur in urban parks (e.g. *Rhinolophus ferrumequinum*, *R. hipposideros*, *Plecotus* sp., *Barbastella barbastellus*, *N. lasiopterus* and *M. myotis/M. blythii*). The occurrence of individual species in urban parks was positively related to their occurrence in the region around the city (Simple regression; 2015: $R^2 = 0.86$; $P < 0.005$, $N = 14$; 2017: $R^2 = 0.93$; $P < 0.005$, $N = 14$; Fig. 2) but was not affected by the selection of roosting sites (2015: $P = 0.48$; 2017: $P = 0.18$; Fig. 2). This supports the view that the most common species in the countryside were the commonest in urban parks and that the scarce ones were absent from this urban habitat. Finally, the individual species occupying urban parks reported lower occurrence than in similar sample units of the countryside (Wilcoxon Matched Pairs Test for two dependent variables; 2015: $Z = 2.20$, $P = 0.03$, $N = 8$; 2017: $Z = 2.10$, $P = 0.04$, $N = 8$). This supports an underuse of urban parks by bats if compared to the countryside.

Factors affecting species richness and nestedness

According to our Multi-Model Inference approach, AREA was positively correlated to the variation of RICHNESS within the range of the study parks (Table 1). DISTANCE suggested a minor negative effect (the number of species decreases as distance from the parks to the edge of the city increases) and FLORISTIC DIVERSITY and WOOD were the less explanatory variables. These results suggest that bat richness is strongly related to landscape configuration and not to the internal habitat structure of the urban parks.

Species distribution among the urban parks of Madrid presented a significant nested pattern, with the rarest species (e.g.

Table 1 Bat occurrence at urban parks and across the countryside outside the city. The scores show the percentage of sampling sites (n) in which each individual species has been detected. Asterisks refer to multi-specific sets in which individual species differ in roosting sites

Species	Roosting	Parks-2015 (n = 27)	Parks-2017 (n = 27)	Regional (n = 213)
Pipistrellus pipistrellus	Fissure	1	0.96	1
Pipistrellus pygmaeus	Fissure	0.74	0.85	0.82
Pipistrellus kuhlii	Fissure	0.59	0.70	0.81
Hypsugo savii	Fissure	0.04	0.22	0.39
Tadarida teniotis	Fissure	0.15	0.15	0.28
Eptesicus serotinus	Fissure	0.15	0.11	0.10
Myotis sp.*	Fissure/Tree/Cave	0	0.07	0.18
Nyctalus leisleri	Tree	0.04	0.04	0.23
Plecotus sp.*	Tree/Cave	0	0	0.30
Myotis myotis/blythii	Cave	0	0	0.16
Barbastella barbastellus	Tree	0	0	0.08
Rhinolophus ferrumequinum	Cave	0	0	0.22
Rhinolophus hipposideros	Cave	0	0	0.06
Nyctalus lasiopterus	Tree	0	0	0.02

N. leisleri) located in the largest park and the most common one (e.g. *P. pipistrellus*) distributed along the whole study gradient. According to nestedness analyses, the bat distribution in parks in 2015 had a significantly ordered loss of species, (T = 8.26, P = 0.001 and NODF = 76.91, (P = 0.001). In 2017 the distribution had a similar pattern (T = 9.15, P = 0.001, and NODF = 65.86 P_{r1} = 0.001. Finally, the two-year distribution matrix also reported a significant nested pattern (T = 7.12, P = 0.001, and NODF = 71.12, P_{r1} = 0.001). The nestedness rank (K) of parks was negatively related to AREA in all the models (Table 2). DISTANCE was also positively related to nestedness in some models while FLORISTIC DIVERSITY and WOOD did not correlate with the reported patterns (Table 2).

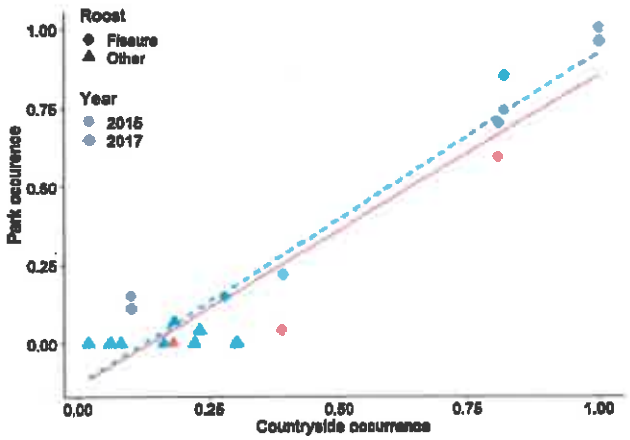


Fig. 2 Relationships between the occurrence of individual species in parks and in the countryside. Trend lines represent the trends in the two study years. The roosting preferences are also shown with different symbols. (R Studio version 3.4.1 was used to create the figure)

Discussion

Bat assemblage composition

It is commonly agreed that bat species are supported by the roosting and foraging opportunities provided by the urban environment (Ancillotto et al. 2015; Russo and Ancillotto 2015; Uhrin et al. 2017). This means that the presence of bats within the urban matrix will be related to some particular ecological requirements of species that will filter their occurrence in urban parks.

According to the reported patterns, it seems that the roosting preferences are correlated with the availability and resources of roost for bats in urban habitats since most bats detected in parks are fissure-dwelling species and neither tree or cave-dwelling bats were detected in the city (except *N. leisleri* or possibly *Myotis* sp. group; Table 1; Jung and Threlfall 2018). This could be related to the lack of suitable caves or abandoned structures, or to the scarcity of suitable crevices in urban trees. However, roosting preferences are also a main determinant of bat occurrence at regional scale since the most distributed bats are fissure-dwelling species (Table 1). In this context, our analyses have been unable to detect a significant effect of roosting preferences on the distribution of bat species in urban parks after controlling for the effect of their regional occurrence. This means that the regional occurrence of bat species is the only significant correlation of bat presence in urban parks, with the most distributed species being the best represented species in this urban habitat. In addition to this effect, our results show that most of the species in the parks of Madrid show lower occupancies in this habitat than in farmlands and woodlands of the countryside around the city (Table 1; see De Paz et al.

Table 2 Results of the Multi-Model Inference approach models (top-ranked models summing to 0.95 AICc and better than the null model) to explain which variables determinate the richness and nestedness of bat species in urban parks. All variables have been standardized so that magnitudes of results can be directly comparable. The relative importance of variables is reported by Wi (where n refers to the number of averaged models)

	Richness				Nestedness			
	Estimate (β)	Adjusted SE	*p* value	Wi	Estimate (β)	Adjusted SE	p value	Wi
Average GLM model (2015)	(*n* = 6)				(*n* = 3)			
Intercept	0.87	0.14	< 0.001		0.50	0.03	< 0.001	
Wood	−0.02	0.08	0.79	0.21	0.02	0.04	0.51	0.43
Floristic diversity	0.01	0.06	0.89	0.17	0.00	0.02	0.79	0.15
Distance	−0.15	0.16	0.36	0.61	**0.15**	**0.03**	**< 0.001**	**1.00**
Area	**0.34**	**0.11**	**0.001**	**1.00**	**−0.21**	**0.04**	**< 0.001**	**1.00**
Average GLM model (2017)	(*n* = 7)				(*n* = 5)			
Intercept	1.09	0.12	< 0.001		0.50	0.04	< 0.001	
Wood	−0.00	0.06	0.96	0.20	0.00	0.02	0.98	0.12
Floristic diversity	0.02	0.06	0.80	0.24	0.00	0.02	0.88	0.18
Distance	−0.02	0.07	0.80	0.23	0.01	0.03	0.68	0.28
Area	**0.28**	**0.10**	**0.005**	**1.00**	**−0.19**	**0.05**	**<0.001**	**1.00**
Average GLMM model (2015–2017)	(n = 6)				(n = 2)			
Intercept	0.99	0.09	< 0.001		0.50	0.07	< 0.001	
Floristic diversity	−0.01	0.05	0.82	0.20	–	–	–	–
Wood	0.01	0.05	0.78	0.22	–	–	–	–
Distance	−0.08	0.10	0.40	0.56	**0.09**	**0.04**	**0.02**	**0.91**
Area	**0.31**	**0.07**	**< 0.001**	**1.00**	**−0.19**	**0.03**	**< 0.001**	**1.00**

In boldface the models with significance.

2015 for further information on bat fauna in central Spain). Thus, it can be concluded that a limited set of regional abundant species occur in the urban parks of Madrid and that, when they do, are less frequent than in the countryside surrounding the city (Kurta and Teramino 1992; Avila-Flores and Fenton 2005; Krauel and LeBuhn 2016).

Factors affecting species richness and nestedness

Our results support that the park area was the main determinant of bat species richness. Park area within the urban matrix has already been reported as a main driver of species richness in different taxa, including bat assemblages (Gaisler et al. 1998; Everette et al. 2001; Gehrt and Chelsvig 2003; Avila-Flores and Fenton 2005; Krauel and LeBuhn 2016). This main role of the park area agrees with the early described positive relationships between the number of species and the surveyed area (Preston 1962), an association that has been often referred to as the closest thing to a rule in ecology (Lomolino 1996). These patterns are not similar to the effect of distance to the countryside, wood cover and floristic diversity of the urban parks of Madrid reported a minor effect on bat richness. Despite this, well-vegetated areas have been proven to be the main foraging habitat for insectivorous bats within urban landscapes (Everette et al. 2001; Avila-Flores and Fenton 2005; Parkins and Clark 2015).

In addition, bat richness distribution depicts a nested pattern in which the more abundant species occur in the full range of park sizes while the scarcer ones tend to be increasingly restricted to the largest parks. For instance, the rarest species (*N. leisleri.*) has only been detected in the largest park while the most common ones (*P. pipistrellus* and *P. pygmaeus*) were present in almost the full range of park area. As a result, species assemblages in smaller areas tended to be subsets of the pool of species occurring in larger habitat fragments (Patterson and Atmar 1986).

These patterns are congruent with the passive sampling hypothesis (Connor and McCoy 1979). In this context, processes operating on larger spatial scales (e.g. regional abundance of bats) are likely to be important determinants of species richness within these particular habitat fragments (Gallo et al. 2017). They will decide, for instance, the regional species pool from which local communities can be assembled and will set the individual species distribution and species richness in fragmented habitats (Collins and Glenn 1991; Caley and Schluter 1997).

We agree, however, that there are other subtle factors that can affect the distribution of bats in urban parks which need further research. This is the case of park age, water availability

(McCain 2007; in this study highly correlated with large parks), anthropogenic noise, road traffic, light pollution and diversity of prey (Moretto and Francis 2017). For bat surveying, sampling with other methodologies should also be considered to register the complete richness of bat assemblages (Flaquer et al. 2007).

Conclusions

Results in this paper show that park area was the main driver of an ordered occupation of parks by bat species. The study has failed to detect any additional effect of vegetation structure and distribution on bat assemblages but strongly suggests that the urban parks of Madrid are passive receptors of the regional pool of bat species. More explicitly, large parks are just able to sample some individuals of the most abundant bat species at a regional scale. From a conservation perspective, these results suggest that the urban parks of Madrid are not particularly attractive for the regional pool of bat species. To reverse this situation, a proactive approach to bat conservation by improving the attractiveness of these habitats would be required. This may include an increase of park size and roosting sites, diversification of the forest, protection or connection of parks with the existing natural habitat (Moretto and Francis 2017). However, there is still a need for studies of bats in urban parks to improve their conservation and management at a regional scale.

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Zoning and Land Use in the Caltrans 238 Properties
August 26, 2019 CVMAC

Background

Phase 1 of the Castro Valley General Plan (CVGP) Zoning Implementation includes rezoning some of the former Caltrans 238 parcels (Phase 2 involves the Castro Valley Business District). The majority of the zoning implementation serves to align Castro Valley zoning designations with Alameda County zoning designations. Since the zoning implementation must officially modify the CVGP, other changes are being included in the action, such as changing zoning in some of the former Caltrans 238 properties and correcting CVGP "mistakes." Even when zoning is retained, and not changed, the Caltrans 238 zoning is being restored from fifty+ years ago and may not currently be appropriate. The definition of a "mistake" is not clearly stated. In addition, some zoning has already been changed outside the zoning implementation process. The public, namely residents in the Grove Way area, raised concerns that development of the 238 lands was proceeding without having a comprehensive, balanced zoning plan and without public input.

The proposed 238 freeway bypass was officially cancelled in 2010 and the tenant class action settlement defined how the land would be "disposed of." Sales of the properties started in 2011-2012. Proceeds from the sales funded the LATIP fund (Local Area Transportation Improvement Project). The LATIP fund paid for building the Hayward Loop and for some unincorporated County freeway improvements. Because the 238 properties were not yet sold, proceeds paid back the LATIP fund as properties sold. (Prof. Sherman Lewis, Rise and Fall of Hayward's 238 Bypass, draft 2019)

The City of Hayward chose some of the 238 parcels to be included in their 2016 Purchase and Sale Agreement with Caltrans; Parcels 8 (above Foothill Blvd) and 9 (Oak Street) are part of Hayward's sale agreement. Portions of both Parcels 8 and 9 are in unincorporated County jurisdiction (Castro Valley and Eden Area General Plans).

Also under unincorporated County jurisdiction is Ruby Meadow, which was not purchased by Hayward; instead the Housing Authority of the County of Alameda (HACA) purchased and reconveyed Ruby

Meadow to Eden Housing for a low-income apartment building. It is unclear if it was first, or ever, offered to Hayward Area Recreation District (HARD).

Another former Caltrans 238 parcel is at the corner of Foothill Boulevard and Mattox Road. You may recall it as the Christmas tree or pumpkin lot. This parcel is privately owned and under the jurisdiction of unincorporated County. Its zoning and use will probably be considered by the newly forming EMAC (Eden Municipal Advisory Council), not the CVMAC. Other properties along Foothill Boulevard are also being rezoned. The EMAC is expected to be seated by January 2021.

A poll is currently being conducted among residents, with preliminary results presented as a separate attachment. Residents in the Grove Way area have a strong desire to preserve as much Parcel 8 and Ruby Meadow open space and habitat as possible, while recognizing that the housing crisis must be addressed as well as the climate crisis. The Caltrans land has been poorly managed and progressively damaged, contributing to crime, blight, safety, and fire issues. Neighbors want to enjoy the positive benefits of having open space, while also having better property management and habitat restoration. Neighbors want some of the land to go toward housing, preferably affordably-priced owned units so that the new residents have a stake in maintaining the neighborhood. Traffic is the number one concern of residents. New development must be placed so that natural resources are not destroyed and so that traffic problems are increased the least. The trail system must be included so that residents have better access. Zoning is the foundation of land use and we residents ask that County Planners take local needs into account when designating zoning in the former Caltrans 238 lands.

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Historically, the San Lorenzo Creek was important for Native Americans and for early European settlement because it was a reliable, year-round, fresh water source known throughout the SF Bay area. The earliest map of the creek is found in records of Juan Bautista de Anza describing his 1776 expedition to establish a settlement in San Francisco. In the area, they encountered six Ohlone villages. The creek was the heart of Ohlone life. Many current buildings here are built on top of burial sites and artifacts. In the vicinity of Ruby Meadow, site CA-ALA-566 was discovered by Caltrans workers.

Archeologists uncovered the oldest known seasonal Ohlone campsite, used from circa 2100 BC to 1520 AD. Burnt plant remnants were identified as our familiar local oak acorns, buckeye nuts, hazelnuts, and bay. Many types of seeds were also identified and carbon-dated. Drought conditions at the time apparently disfavored the shellfish diet often common to the Ohlone and increased the reliance on small seeds for sustenance.

Europeans settled the area for ranching and agriculture. However, it wouldn't be until the late 1880's that the Knox Water Works managed to build the first piped water supply to Hayward and the first City fire hydrants, which encouraged more development. Remnants of the well and pumping system are still seen in Ruby Meadow by the bronze plates screwed into the ground. William Knox's estate was across the creek at the present location of the Japanese gardens. Portions of his estate were incorporated into the old Hayward High School Agriculture Laboratories. The old Hayward High School was one of the first in Northern California, originally founded in 1892 as Union High School #3. In 1911, it was expanded from 10- to 30-acres, and the memorable Hayward High School structure with Greek-style architecture was built. The school was torn down in 1967 which coincides with the beginnings of the 238 freeway bypass planning.

The Knox brothers inherited the land around Ruby Meadow from their father William Knox, who had been granted the land by Guillermo Castro (a grandson of the original settlers brought by de Anza). The Knox Orchard grew cherries and currants. William Knox dug a well next to San Lorenzo Creek that supplied a constant water source. In his race toward supplying the first piped water to Hayward, William Knox obtained a United States patent for a boulder-moving machine that may have placed the huge rectangular boulders seen lining the banks of San Lorenzo Creek at Ruby Meadow. The estate of William's brother, Lewis Knox, was located closer to A Street. Financial difficulties led the brothers to subdivide the Knox Tract in 1892 and put the lots up for sale. This was one of the earliest tract maps in Alameda County so it predated the numbering system.

Actual land use at Eden Housing's Ruby Meadow proposed development site has historically been open space and single-family homes. Caltrans razed the single-family homes in preparation for development. The creek and some of the riparian habitat are a restoration project providing required mitigation for damage caused at another freeway site. The latest 238 freeway plans, before its 2010 cancellation, envisioned the entire Ruby Meadow area for mitigation purposes due to damage expected from the 238 freeway (Figure 1).

The 2012 Castro Valley General Plan (CVGP) was completed in 2010. The earlier Castro Valley General Plan did not include zoning maps. Because the 238 freeway project was officially rescinded in June of 2010, the CVGP still indicates many of the 238 properties in blue, meaning public (Figures 2). However, Hayward and Caltrans commissioned the 2008 Route 238 Bypass Land Use Study, which does contain detailed zoning maps, in order to consider future uses of the parcels (Figures 3 and 7). Figure 3 shows that half of the Ruby Meadow lots at the proposed Eden Housing development site were zoned for parks/open space (green). Three alternatives were presented emphasizing more housing, more commercial, or more community (open space). Public comments received during the hearings for the land use study clearly showed residents desired more open space and to preserve the natural habitat. Therefore, a modified development alternative was recommended by Hayward Staff that added slightly more housing to the community alternative. In 2009, a Hayward resolution adopted the Land Use Study and staff's alternative recommendation.

Figure 4 shows "existing zoning" in Ruby Meadow is all medium density in the 2012 Castro Valley General Plan, contrasting the 2008 Land Use Study in which half was zoned for parks/open space. The twenty lots in Ruby Meadow were combined into three parcels (A, B, and C), changing the lot lines to accommodate the Eden Housing development (Figure 5). The line separating Parcels A and C cuts through the area formerly zoned parks/open space, now allowing a parking lot entrance on Crescent Avenue. Figure 6, taken from the 2012 CVGP, shows that Ruby Meadow is considered a high priority biological resource and that any development requires special examination.



Figure 1) Mitigation areas for the canceled 238 freeway project were Ruby Meadow north of A Street. **Upper portions of Parcel 8 were also planned** for open space **adjoining Carlos Bee Park.**

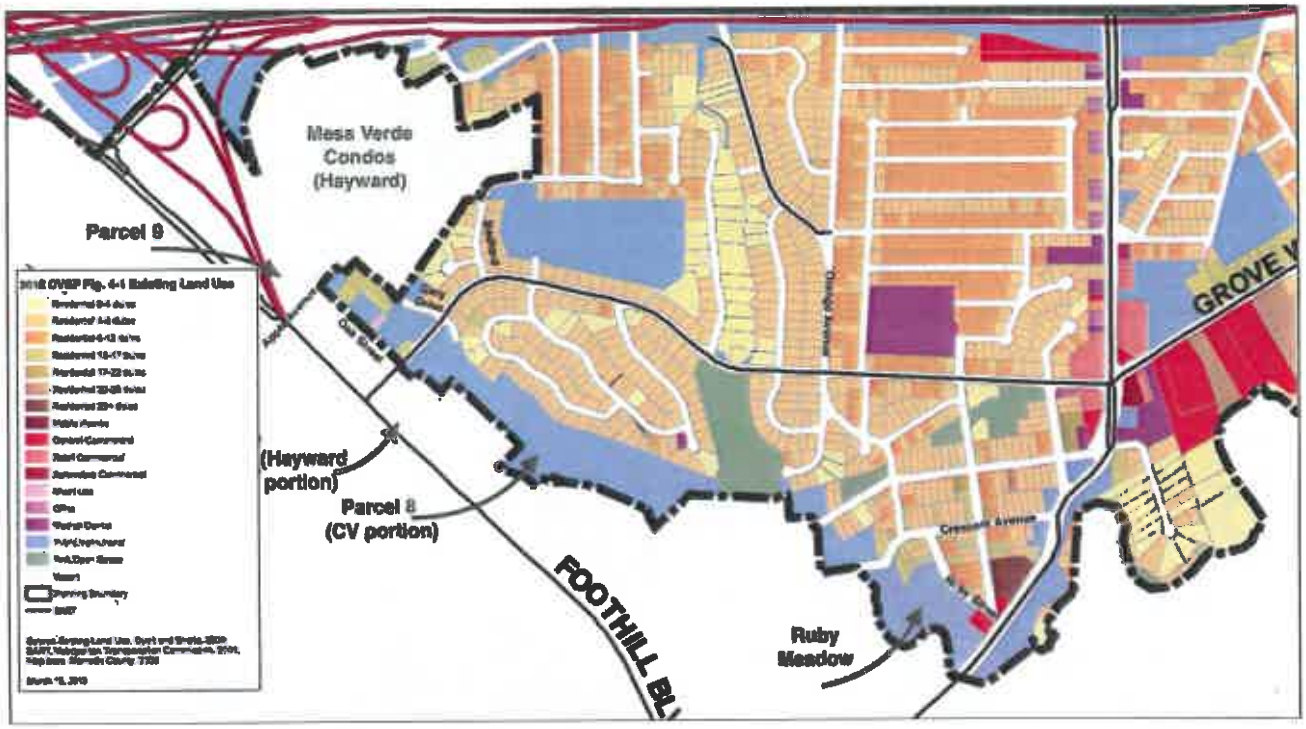


Figure 2) Existing land use at the time of Castro Valley's 2012 General Plan (completed 2010) shows Ruby Meadow was public property.

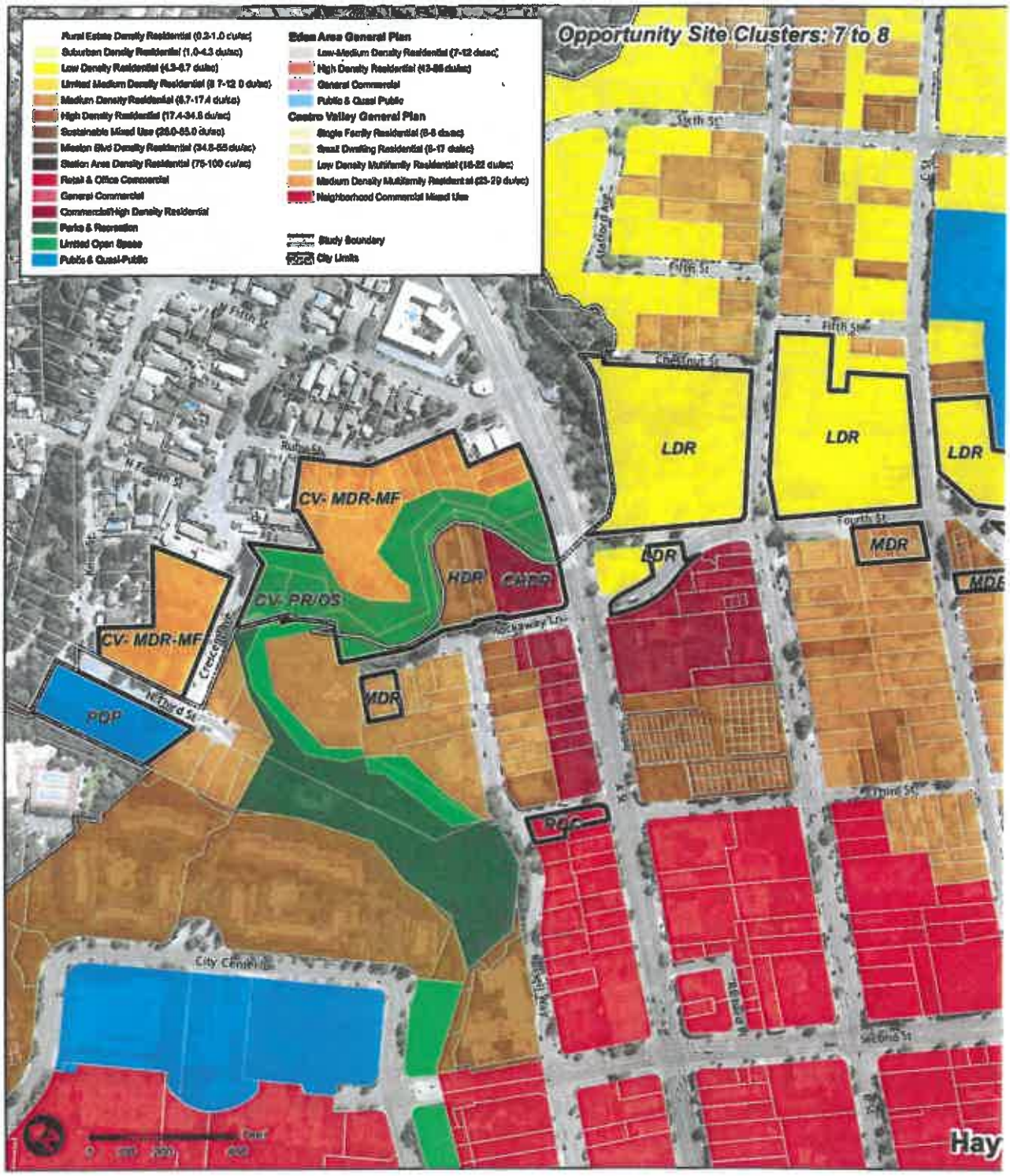


Figure 3) Zoning at the time of Hayward's 2008 Land Use Study shows about 10 Ruby Meadow lots are medium density (CV-MDR-MF) and about 10 Ruby Meadow lots are zoned Parks/Open Space (CV-PR/OS).

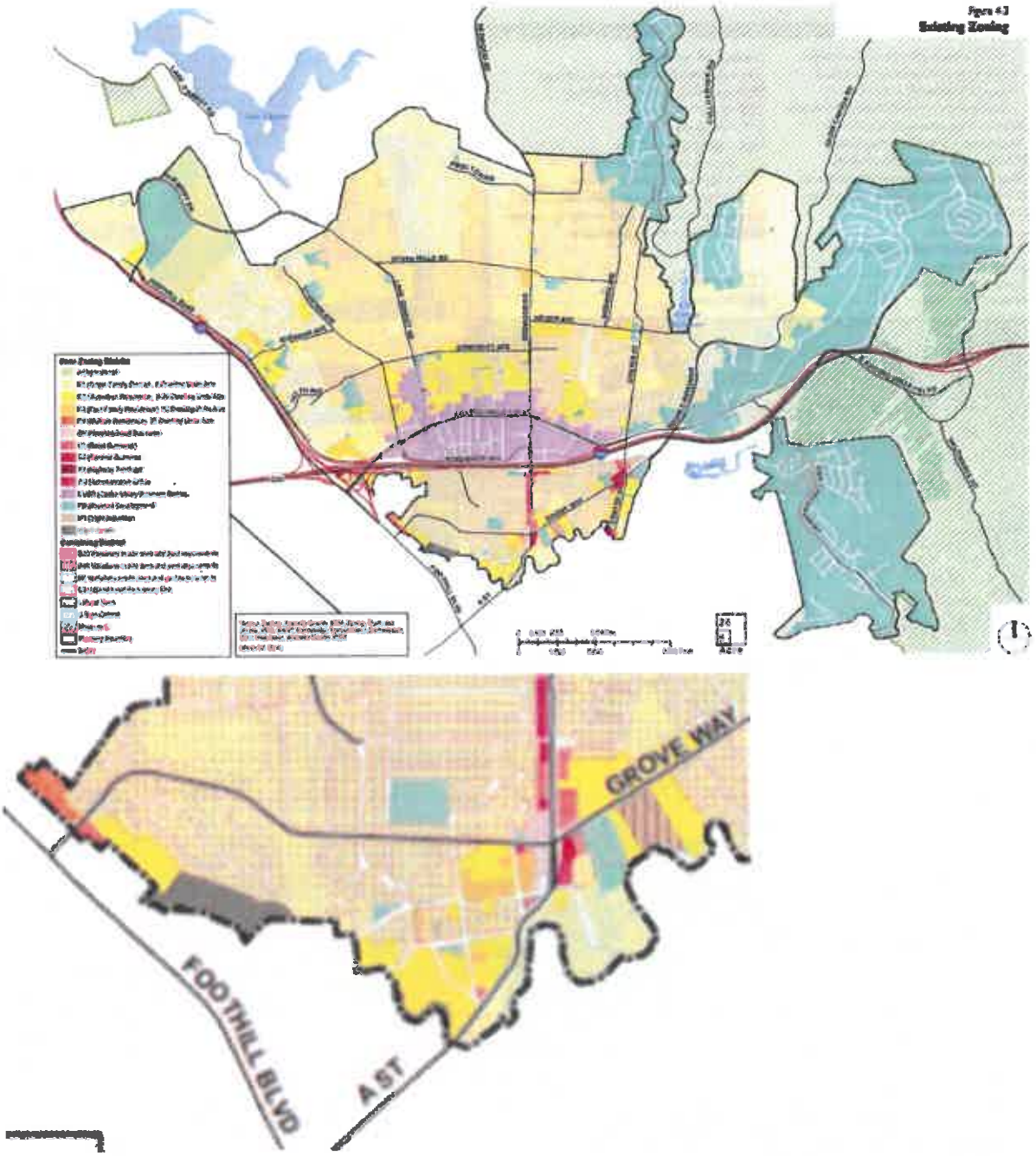


Figure 4) Zoning at the time of Castro Valley's 2012 General Plan (completed 2010) shows <u>all</u> of Ruby Meadow is zoned medium density (RS, Suburban Residence 8-29 units/acre).

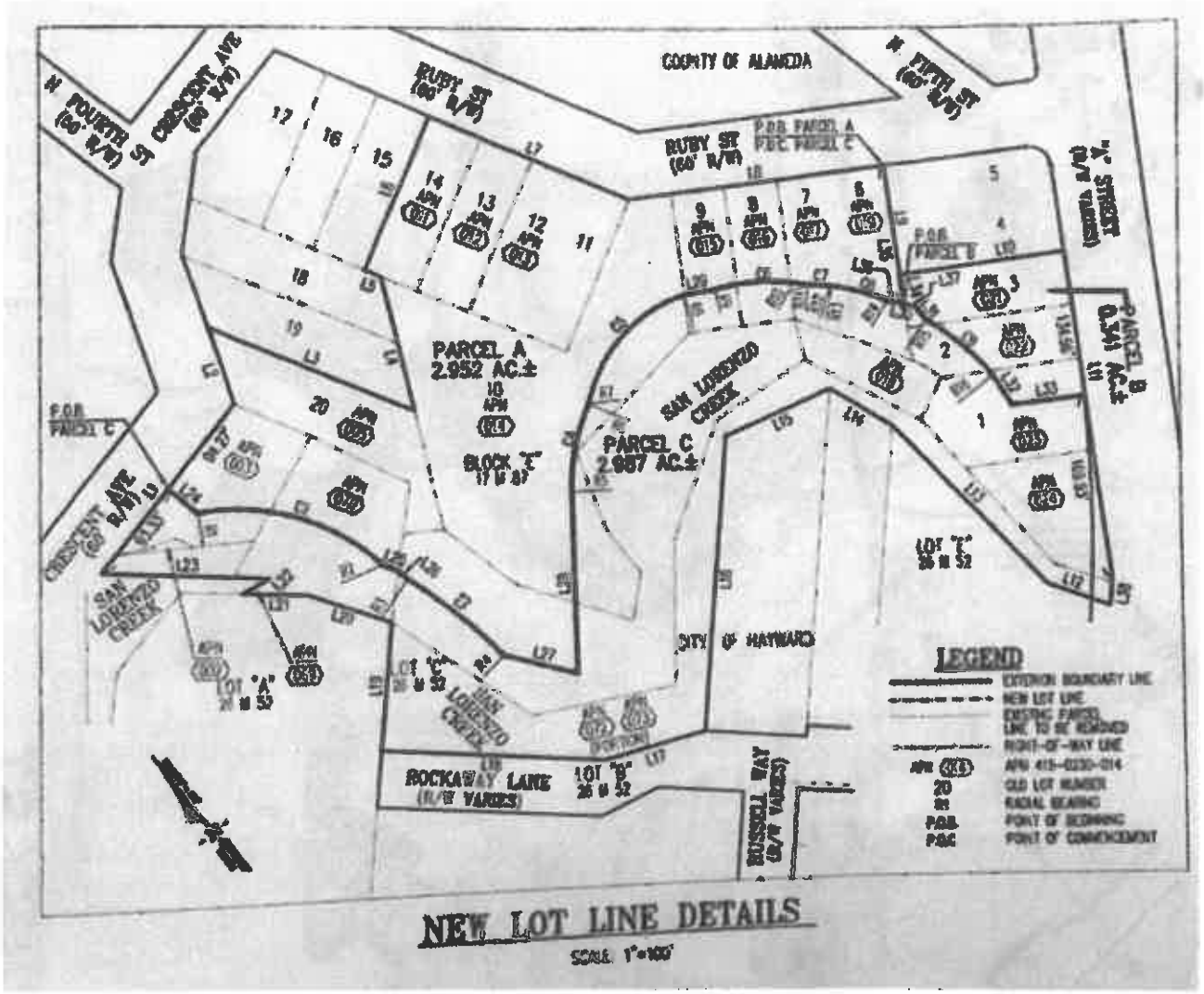


Figure 5) Eden Housing's proposed apartment plans implemented lot line changes, in addition to re-zoning. The new lot lines change 20 parcels into 3 parcels—Parcel A, closest to Ruby Street, is where development is proposed. The lots along Crescent Ave, previously zoned Parks/Open Space, are now in the proposed development area. This is the where remnants of the former Knox Water Works are currently located.

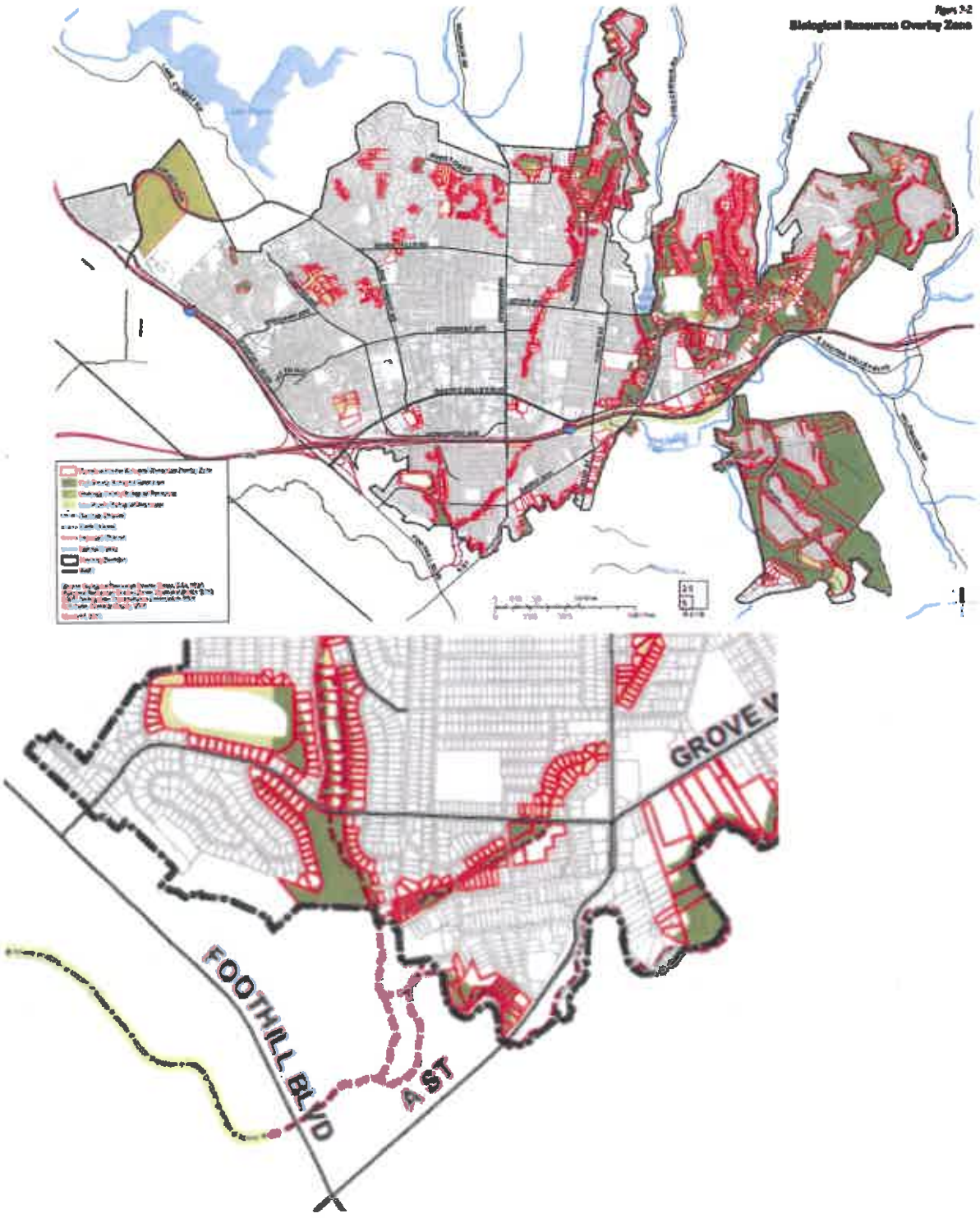


Figure 6) Castro Valley's 2012 General Plan (completed 2010) includes Ruby Meadow in the Biological Resources Overlay Zone which required special consideration before ANY development is approved

(red outlines). In addition, most of Ruby meadow is designated a high priority natural resource (dark green).

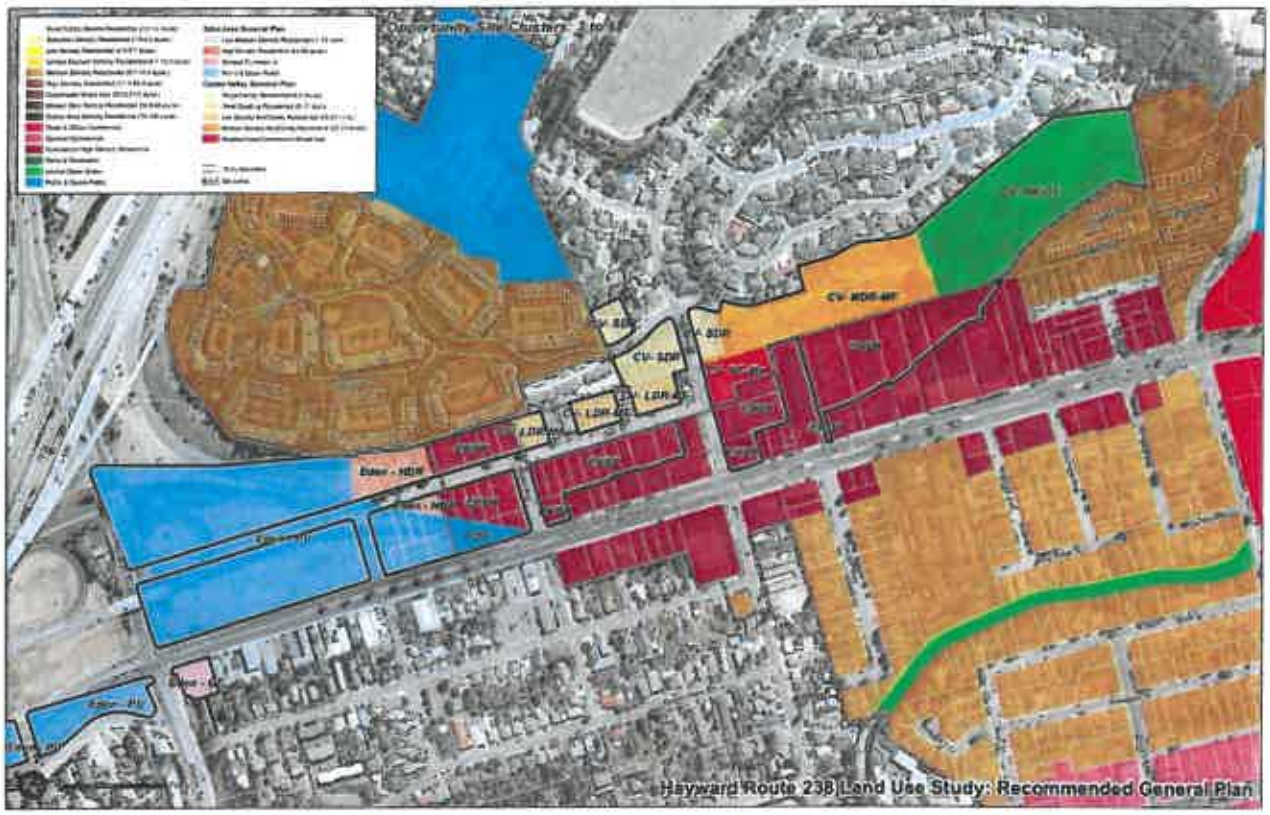


Figure 7) Zoning in northernmost section of cancelled 238 freeway path at the time of Hayward's 2008 Land Use Study is in three different planning jurisdictions (County-CV, County-Eden, and Hayward-North Hayward). Site of proposed 7-11 is shown in pink (Neighborhood Commercial); Parcel 9 is zoned for residential and commercial at the site of the proposed hotel (Eden-HDR, Hayward-CHDR, CV-LDR-MF). Parcel 8 is zoned open space (green) until the rear of 21679 Knoll Way. Medium density starts at the rear of 21673 Knoll Way. Commercial/High density residential is all the Parcel 8 property behind (south) of the Bridge Court homes and all the Parcel 8 property west of the Bridge Court homes. Eight of the ten single-family homes near Grove Way (CV-SDR) are proposed to be up-zoned in the CVGP zoning implementation.