

Crescentia Brown

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Sent: Monday, December 6, 2021 3:24 PM
To: Gary Kupp
Subject: Bayview Estates Final EIR SCH# 2008032074

To whom it may concern,

This is to inform you that a Final EIR for the Bayview Estates Residential Project with responses to comments on the Draft EIR received during the period between May 13, 2021 and July 12, 2021 has been prepared. The Final EIR and the County's responses to the comments can be viewed at this link:

<https://www.contracosta.ca.gov/4731/Bayview-Residential-Project>

A hearing to consider certification of the project EIR and a decision on the project is anticipated to be held on January 12, 2022 before the Contra Costa County Planning Commission. Once the hearing is scheduled, an official notice with the date, time, and remote participation instructions for the hearing will be provided.



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BAYVIEW ESTATES RESIDENTIAL PROJECT

Response to Comments / Final Environmental Impact Report

Contra Costa County File Nos. CDSD04-08809, CDGP04-00013, CDRZ04-03148,
CDDP04-03080

State Clearing House No. 2008032074

Prepared for
Contra Costa County
Department of Conservation and Development

November 2021



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CHAPTER 1

Introduction

Contra Costa County (“County”), as Lead Agency, has prepared this Final Environmental Impact Report (EIR), State Clearinghouse (SCH) # 2008032074, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines to present the environmental analysis of the proposed Bayview Estate Residential Project (“Project”) to the public for review and for agency decision-makers to use in their consideration of the Project (see Section 1.3 below).¹ This chapter summarizes the CEQA process for the proposed Project, explains the CEQA context for this Final EIR and new information provided herein, and describes the organization of this document.

1.1 CEQA Process

Contra Costa County has complied with all noticing and public review requirements of CEQA. This compliance included notification of all responsible and trustee agencies and interested groups, organizations, and individuals that the Draft EIR was available for review. The following list of actions took place during the preparation, distribution, and review of the Draft EIR:

1.1.1 Notice of Preparation and Scoping

On June 7, 2017, the County issued a Notice of Preparation (NOP) to governmental agencies and organizations and persons interested in the Project. The NOP invited all responsible agencies, interested agencies and individuals to submit comments which address environmental concerns resulting from implementation of the Project. The County held a public scoping session on July 17, 2017, during which public input regarding environmental issues to be addressed was also received.

1.1.2 Public Review and Comment on the Draft EIR

Upon completion of the Draft EIR, the County filed a Notice of Completion (NOC) with the Governor’s Office of Planning and Research (OPR) to begin a public review period per the requirements of Public Resources Code Section 21161. The Draft EIR was posted on the

¹ The *California Environmental Quality Act* can be found in the California Public Resources Code, Section 21000 et seq. The State CEQA Guidelines, formally known as the *Guidelines for California Environmental Quality Act*, can be found in the California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15000 et seq.

County’s website for the Project: <http://www.co.contra-costa.ca.us/4731/Bayview-Residential-Project>.

The Draft EIR was made available for public review and comment for a period of 45 calendar days, from May 13, 2021 to June 28, 2021, as identified on the NOA. The County further extended the public review period an additional 14 calendar days to July 12, 2021.

Due to COVID-19 shelter-in-place order and restrictions, the Draft EIR was made available for viewing only at the following County website: <https://www.contracosta.ca.gov/4841/Public-Input> and did not allow for access to hard copies at the County and public libraries. Written comments were also received by mail and/or submitted electronically to gary.kupp@dcd.cccounty.us.

By the end of the extended comment period, the County received oral or written comments from a total of 21 commenters (including commenters who commented multiple times and the Project sponsor and/or its representative). A list of the commenters is provided in Chapter 2, *Roster of Commenters*, of this Final EIR.

1.2 Response to Comments / Final EIR

The County has prepared written responses to comments received during the public review and comment period for the Draft EIR. These comments and the “Response to Comments”, including “Consolidated Responses” that respond collectively to comments received from many commenters, are provided in Chapter 3 of this Final EIR.

Where comments have triggered changes to text or exhibits in the Draft EIR, these changes appear as part of the specific response in Chapter 3 and are consolidated in Chapter 4, *County-Initiated Updates and Errata to the Draft EIR*. These changes do not alter the conclusions of the Draft EIR, as discussed in Chapter 4. Further, the Project sponsor has not proposed any substantial changes to the proposed Project described and analyzed in the Draft EIR.

Responses to comments received on the Draft EIR focus on comments that pertain to the adequacy of the analysis in the Draft EIR or to other aspects pertinent to the potential effects of the Project on the environment pursuant to CEQA. Comments that address topics beyond the purview of the EIR or CEQA are noted as such for the public record.

The Draft EIR, together with the comments, responses to comments, and other information included in this Response to Comments document constitutes the Final EIR, consistent with State CEQA Guidelines Section 15132 (*Contents of Final Environmental Impact Report*). Due to the large volume of text contained in the Draft EIR and its appendices, this Response to Comments/ Final EIR does not contain the full text of the Draft EIR, which remains available as a separate document and is included here by reference.

1.3 Purpose and Intended Use of the Final EIR

Contra Costa County, as Lead Agency, will make the decision whether to certify the Final EIR in accordance with State CEQA Guidelines Section 15090 (*Certification of the Final EIR*). Before the County may approve the proposed Project, it must independently review and consider the information contained in the Final EIR. Certifying that the Final EIR adequately discloses the environmental effects of the Project, that the Final EIR has been completed in conformance with CEQA, and that the decision-making body of the Lead Agency independently reviewed and considered the information contained in the Final EIR.

Certification of the Final EIR would indicate the County's determination that the Final EIR adequately evaluated the environmental impacts that could be associated with the proposed Project. The Final EIR would be used by the County to modify, approve, or deny approval of the proposed Project based on the analysis in the document and in accordance with the findings required by CEQA Guidelines Section 15091 (*Findings*) and 15093 (*Statement of Overriding Considerations*). Pursuant to State CEQA Guidelines Section 15126 (*Consideration and Discussion of Environmental Impacts*), the County would then use this Final EIR as the primary environmental document to evaluate all subsequent planning and permitting actions associated with the Project, including adoption of a Mitigation Monitoring and Reporting Program (MMRP), General Plan land use map amendments, Rezoning, Vesting Tentative Map, and other approvals generally listed in Chapter 3, *Project Description*, of the Draft EIR.

1.4 Organization of this Final EIR

Following this **Chapter 1, Introduction**, this Response to Comments / Final EIR is organized as described below:

- **Chapter 2, Roster of Commenters** – This chapter presents a roster showing each public agency, organization, or individual that provided comments on the Draft EIR generally during the public review and comment period for the Draft EIR.
- **Chapter 3, Responses to Comments** – This chapter first presents Consolidated Responses to address topics that apply to numerous comments received on the Draft EIR. This chapter then presents copies of the written comments received. Specific responses to the individual coded comments in each correspondence are provided following each commenting letter/email.
- **Chapter 4, County-Initiated Updates and Errata to the Draft EIR** – This chapter presents edits to update, refine, or clarify text in the Draft EIR.
- **Appendix** – The appendix contains the draft MMRP.

1.5 Mitigation Monitoring and Reporting Program

Public Resources Code section 21081.6 and State CEQA Guidelines Section 15097 (*Mitigation Monitoring or Reporting*) require public agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of specified

environmental findings related to an EIR (also mitigated negative declarations). Accordingly, as Lead Agency, the County has prepared an MMRP for the proposed Project; the MMRP is included in the Appendix to this this document.

CHAPTER 2

Roster of Commenters

2.1 Commenters and Comment Designations

The County received 21 comment letters during the comment period on the Draft EIR for the proposed Project. The table below indicates the numerical designation for each comment letter, the author of the comment letter, and the date of the comment letter was received by the County. Letters are grouped by agencies, organizations, and individuals, but are otherwise presented in the order in which they were received.

Each response to comment received has a two-digit numeric designation. The first number indicates the sequence of the comment received within its category, and the second letter reflects the sequence of the response. For example, Comment and Response “4-3” is the third response within Letter 4 from the Contra Costa Water District, as shown below.

**TABLE 2-1
COMMENTERS ON THE DRAFT EIR**

Letter #	Entity	Author(s) of Comment Letter/e-mail	Date Received
State Agencies			
1	Bulldog Gas and Power, LLC	Nicholas J. Farros, President	May 20, 2021
2	California Department of Fish and Wildlife (CDFW)	Gregg Erickson, Regional Manager	June 28, 2021
3	California Department of Transportation (DOT)	Mary Leong, District Branch Chief (District 4)	June 24, 2021
Regional/County Agencies			
4	Contra Costa Water District (CCWD)	Christine Schneider, Senior Planner	July 26, 2017
5	Contra Costa Water District—2 (CCWD—2)	Christine Schneider, Senior Planner	July 9, 2021
6	Mt. View Sanitary District (MVSD)	Chris Elliot, District Engineer	June 7, 2021
7	Contra Costa County Fire Protection District (CCCFPD)	Todd Schiess, Field Inspector I	May 19, 2021
8	Contra County Local Agency Formation Commission (LAFCO)	Lou Ann Texeira, Executive Officer	June 22, 2021
Organizations			
9	Vine Hill VHPA	Carolyn and Burt Kallander, on behalf of the VHPA	July 12, 2021
10	Greenfire Law PC on behalf of Vine Hill VHPA	Jessica L. Bloom, PC	July 19, 2021

**TABLE 2-1
COMMENTERS ON THE DRAFT EIR**

Letter #	Entity	Author(s) of Comment Letter/e-mail	Date Received
Project Applicant			
11	Hanson Bridgett	Christina L. Berglund, Senior Counsel	June 28, 2021
12	Hanson Bridgett—2	Sean R. Marciniak, Partner	July 12, 2021
13	Discovery Builders	Doug Chen, RCE	July 12, 2021
Individuals			
14		Janet Floyd	June 23, 2021
15		Vicky & Terry Kirwald; Jim Carrillo	June 28, 2021
16		Bernando	July 6, 2021
17		CLKallandar	July 12, 2021
18		CLKallandar-2	July 12, 2021
19		BurtKallandar-3	July 12, 2021
20		CLKallandar-4	July 19, 2021
21		Alma Johnson	undated

2.2 Comments Received After Close of the Comment Period

As indicated in the preceding rosters, the County received certain comments after the close of the extended public comment period, July 12, 2021. The County, as Lead Agency, “need not consider certain comments filed after the close of the public comment period, if any, for the draft environmental impact report” unless those comments pertain to any of the following matters occurring after the close of the public comment period: (a) new issues raised by the lead agency, (b) new information released by the public agency, (c) project changes, (d) proposed conditions for approval, mitigation measures, or proposed findings or a proposed reporting and monitoring program, or (e) new information that was not reasonably known and could not have been reasonably known during the public comment period (Public Resources Code Section 21168.6.7(f)(6)).

The County elected to respond to comments received through July 19, 2021, after the close of the designated comment period, therefore including any that meet any of the conditions summarized listed above.

CHAPTER 3

Responses to Comments Received on the Draft EIR

3.1 Introduction

This chapter includes copies of the written comments received electronically via **gary.kupp@dcd.cccounty.us** by email, or by mail during the public review and comment period on the Draft Environmental Impact Report (DEIR or Draft EIR). This chapter also presents consolidated responses that address recurring comments or topics raised throughout individual comment letters received.

3.2 Master Responses

Because several of the comment letters received had similar concerns on the Draft EIR, a set of consolidated responses were developed to address common concerns and avoid repetition within this chapter. References back to these consolidated responses are made throughout the individual responses presented in this chapter:

- Master Response #1: Project Description
- Master Response #2: Non-CEQA Topics
- Master Response #3: Alternatives

Master Response #1: Project Description

Several comments raised related to design-level detail about the Project's technical characteristics. This level of detail is not required for environmental review under CEQA. An EIR is not required to contain a design-level description of a project; a conceptual description of project components is sufficient as long as the description contains sufficient detail to enable decision makers and the public to understand the environmental impacts of the proposed project. (*Citizens for Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1055.)

Master Response #2: Non-CEQA Topics and Project Merits

CEQA does not require lead agencies to respond to comments that do not raise significant environmental issues on the content of the EIR or the impacts of the Project on the environment. (See CEQA Guidelines Section 15088.) Where a comment does not identify any specific

deficiencies related to the analysis presented in the Draft EIR, no further response is warranted. Most of the non-CEQA themes raised tend to express opinions and/or statements that are rarely accompanied with supporting evidence. Overall, as stated previously, none of these opinions pertaining to Project merits or lack thereof address adequacy of the analysis in the Draft EIR or raise environmental effects under CEQA.

This Consolidated Response is included to provide consideration of these comments by decision makers as part of the Project approval process. Moreover, because the comments were submitted during the public review period on the Draft EIR, they nonetheless constitute part of the public record that will be available to decision makers as part of this Response to Comments/Final EIR when they consider whether to approve or disapprove the Project.

Master Response #3: Alternatives

Several comments relate to alternatives, both Project alternatives and alternative ingress/egress to the Project site. The purpose of an EIR's discussion of alternatives is to identify ways to reduce or avoid significant environmental effects. (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 403.) The alternatives discussed in an EIR should be ones that offer substantial environmental advantages over the proposed project. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 566.) A lead agency may eliminate from consideration potential alternatives that are incapable of reducing the project's environmental impacts. (*Citizens for East Shore Parks v. State Lands Comm.* (2011) 202 Cal.App.4th 549, 543.) Alternative ingress/egress would not reduce the Project's significant environmental effects, which (with the exception of VMT) are all reduced to less than significant with mitigation. As such, alternative ingress/egress need not be explored.

3.3 Individual Comments and Responses

Individual comments and responses are presented starting on the following page and in the order shown in Table 2-1, *Commenters on the Draft EIR*, in Chapter 2, *Roster of Commenters*. As described therein, each response to a comment has a two-digit numeric designation. The first number indicates the sequence of the comment received within its category, and the second letter reflects the sequence of the response. Responses focus on comments that pertain to the adequacy of the analysis in the EIR or to other aspects pertinent to the potential effects of the Project on the environment pursuant to CEQA. As addressed in Consolidated Response 2, *Non-CEQA Issues*, comments that address topics beyond the purview of the EIR or CEQA are noted as such for the public record.

Email

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Sent: Thursday, May 20, 2021 2:21 PM
To: Crescentia Brown
Subject: FW: State Clearinghouse #2008032074

Categories: 206033 Mandela Grand

From: Bulldog Gas & Power, LLC <bulldogpower@aol.com>
Sent: Thursday, May 20, 2021 2:05 PM
To: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Subject: State Clearinghouse #2008032074

Mr. Kupp,

I am the President of Bulldog Gas & Power, LLC and received your *Notice of Availability of a Draft Environmental Impact Report, State Clearinghouse #2008032074* document today. Acme Fill Corporation/Bulldog Gas & Power, LLC have a pipeline that runs through the subject property that is **not** identified on any of your documents. Because that gas line runs directly through APN 380-030-046 it will have to be relocated or the developer will have to modify their plan to account for the location of our pipeline..

1-1

Please contact either Chris Charrette or myself at (925) 228-7099 for more details.

Sincerely,
Nick

Bulldog Gas & Power, LLC
Nicholas J. Farros, P.E.
President
P.O. Box 2362
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Sent from AOL Desktop

Responses to Letter 1: Bulldog Gas and Power, LLC

1-1 The 10-foot easement where the Bulldog Gas & Power pipeline is located is shown on the proposed vesting tentative map (Figure 3-2, DEIR, p. 3-3). The Draft EIR analyzes the impact of five pipelines in the vicinity of Central Avenue, including a natural gas transmission pipeline (DEIR, pp. 4.7-5 to 4.7-6). Impact HAZ-3 analyzes impacts due to accidental upset of crude oil pipelines (DEIR, pp. 4.7-15 to 4.7-17). The Draft EIR relies on a geotechnical evaluation (the Milstone report) that preliminarily concludes that proposed grading would not damage the pipelines. The Milstone report identifies one natural gas pipeline. Final design level engineering analysis based on supplemental subsurface investigations would be necessary to verify the geotechnical conditions relative to pipeline locations to verify pipeline safety. The conclusions and recommendations of the Milstone report are reflected in Mitigation Measure HAZ-2, which requires, among other things, accurate location of pipelines prior to commencement of any grading activities. Abiding by the analyses and conclusions of the Milstone 2020 report will reduce the risk of damage to pipelines. The Project could also incorporate geotechnical measures (e.g., use of lightweight fill, protection barriers, etc.) to further reduce risk of damage to the pipelines. A design-level geotechnical report that would include the engineering analysis for pipeline safety would be required for the proposed Project by Mitigation Measure GEO-2.

The Project applicant will coordinate with Bulldog Gas & Power to identify the precise location of the referenced pipeline.



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 28, 2021

Mr. Gary Kupp
 Contra Costa County
 Department of Conservation and Development
 30 Muir Road
 Martinez, California 94553
Gary.Kupp@dcd.cccounty.us

Subject: Bayview Estates Residential Project, County File Nos. CDS04-08809, CDGP04-00013, CDRZ04-03148, CDDP04-03080, Draft Environmental Impact Report, SCH No. 2008032074, Contra Costa County

Dear Mr. Kupp:

California Department of Fish and Wildlife (CDFW) personnel reviewed the draft Environmental Impact Report (EIR) for the Bayview Estates Residential Project (Project). CDFW is submitting comments on the draft EIR to inform Contra Costa County, as Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, wildlife, and plant resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish, wildlife, and plant trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Discovery Builders, Inc. 4021 Port Chicago Highway, Concord, CA 94520.

Objective: The applicant seeks to develop a 144-unit residential subdivision on 48.2 acres of vacant open land in the Vine Hill/Pacheco Boulevard area of unincorporated Contra Costa County. The Project consists of the following elements:

- Removal of up to 30 mature Valley Oak Woodland trees and associated understory.

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- On-site grading of approximately 900,000 cubic yards of earth material for residential subdivision development, including substantial grading of the lower hill area and limited grading of the upper hill area in order to balance overall cut and fill earthwork volumes.
- Extension of new utility lines to and throughout the Project site, and the repair and upgrade of existing off-site utility lines.
- Improvement of two existing off-site roadways, Central Avenue and Palms Drive, to accommodate for two lanes of moving vehicular traffic .
- Development of up to 144 detached single-family homes and associated new internal roadways on approximately 31.8 acres of the Project site.
- Development of an approximately 4.5-acre private neighborhood park in proximity to “Parcel B” and “Parcel F”.
- Approximately 46.4 acres of open space, marshes, and undeveloped land, including: the preservation of approximately 20.1 acres of the upper hill area shown as “Parcel A”; the preservation of approximately 19.8 acres of the lower site areas (containing wetlands, coastal salt marsh, freshwater marsh, open water, and alkali meadow) shown as “Parcel B”; and the development of a new 2-acre stormwater treatment basin, in accordance with the County’s C.3 Guidebook, and shown as “Parcel F”.

The Project proposes amendments to the existing Contra Costa County General Plan (General Plan). Specifically, the Project seeks to amend the existing General Plan land use map to change the existing Heavy Industrial (HI) land use designation on the Project site to the Single Family Residential-High Density (SH), and Open Space (OS) land use designations. The Project would also amend the existing General Plan to modify existing land use policy language regarding the Vine Hill/Pacheco Boulevard area. For zoning, the Project seeks to reclassify the existing Heavy Industrial (H-I) zoning designation on the Project site to the Planned Unit District (P-1) designation.

The Project involves a grading plan that would alter the existing topography in specific areas of the Project site and would clear approximately 1,500 cubic yards of vegetation, almost all of which would be reused on-site. The total on-site balance of cut and fill grading would involve approximately 900,000 cubic yards being moved. The proposed Project would use existing and available water and wastewater treatment and off-site transmission/conveyance capacity. Some existing utility lines would require repair and/or upgrade to serve the proposed development.

Location: The Project is located at the southern terminus of Palms Drive in an unincorporated area of Martinez, California 94553, within Contra Costa County. The Project will occur on Assessor’s Parcel Number 380-030-046. The approximate Project center coordinate is Latitude 38.012056, Longitude -122.082444.

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Timeframe: The Project is anticipated to be developed in up to three phases, generally from west to east across the site, with an anticipated grading start date in 2021 and last house completion date in 2024.

ENVIRONMENTAL SETTING

The Project site is located at an undeveloped and semi-disturbed parcel adjacent to the Contra Costa Canal and a tributary to Pacheco Creek. Historically there was a singular residence on the property that was then demolished some time prior to 2002. The site consists of Valley Oak Woodland, Creeping Wildrye Grassland, Alkali Meadow, Emergent Freshwater Marsh, Northern Coastal Salt Marsh, Seasonal Wetlands, Non-native Annual Grasslands, and ruderal disturbed areas with bare soil. There is also a freshwater pond on the Project site.

Except for the northeast boundary, the Project site is immediately surrounded by urban development and highway infrastructure. Northeast of the Project site is an area of open space with historic disturbance prior to 1993, that now contains emergent scrub vegetation. The immediate neighboring suburban properties contain native and ornamental trees and vegetation that provide potential nesting habitat for birds. Additionally, within two miles of the Project are extant and designated open space areas including portions of the Waterbird Regional Preserve and intact Coastal Brackish Marsh. These adjacent private and public open space areas hold potential habitat and current records of special-status species, including but not limited to burrowing owls (*Athene cunicularia*), California black rail (*Laterallus jamaicensis cortuniculus*), California Ridgeway’s rail (*Rallus obsoletus obsoletus*), and salt-marsh harvest mouse (*Reithrodontomys raviventris*).

2-1

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project’s significant, or potentially significant, cumulative, direct, and indirect impacts on fish, wildlife, and plant (biological) resources.

2-2

Environmental Setting and Related Impact Shortcomings

Burrowing Owls

The draft EIR does not identify potentially significant impacts to burrowing owls, yet the Project site holds potential habitat and adjacent positive occurrence records on the California Natural Diversity Database (CDFW, 2021) within approximately two miles, a reasonable dispersal distance for the species. This positive occurrence record also has a contiguous habitat corridor leading to the Project site. Lastly, the draft EIR notes that potential burrowing owl habitats (grassland habitats with surrogate fossorial mammal occupation) are present at the Project site on pages 4.3-2, 4.3-4, and 4.3-6.

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The CEQA document for the Project should include measures to avoid or minimize loss of burrowing owl foraging habitat, and mitigation for loss of habitat that cannot be fully avoided. Please note that the permanent loss of habitat is considered significant in and of itself in western Contra Costa County and should be mitigated regardless of the current level of disturbance or reconnaissance survey results. To offset this significant permanent impact, the Project proponent should be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 2:1 mitigation ratio (mitigation: loss) as a condition of the Project's approval. If active burrows or winter roosts are found on-site and take cannot be avoided, the mitigation ratio should be increased to a minimum of 3:1 (mitigation: loss) and the conserved lands should be currently occupied by the species during all season(s) of the owls' life history stages that the site may support.

The draft EIR should also include adequate survey techniques to effectively identify nesting or non-nesting (wintering) burrowing owls in and near the Project site in accordance with California Department of Fish and Wildlife's *Staff Report on Burrowing Owl Mitigation* (CDFW 2012 Staff Report) (see: <https://wildlife.ca.gov/Conservation/SurveyProtocols#377281284-birds>). As burrowing owls on or adjacent to the Project site may be missed under the proposed survey methodology, the Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, or injury or mortality of adults. Burrowing owls are a California Species of Special Concern due to population decline and breeding range retraction. Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure. Therefore, off-site habitat compensation shall be included in the eviction plan. Based on the above and the design provided and explained in the draft EIR, the Project may potentially significantly impact burrowing owls. To reduce significant impacts to a less-than-significant level, CDFW recommends the following mitigation measure:

Mitigation Measure BIO-3c: Burrowing Owl Habitat Assessment, Surveys, and Avoidance, and Habitat Compensation

"Prior to Project activities, a habitat assessment shall be performed following Appendix C: *Habitat Assessment and Reporting Details* in the CDFW 2012 Staff Report. The habitat assessment shall extend at least 500 meters from the Project area or more where direct or indirect effects could potentially extend off-site, and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or Project activities will trigger subsequent surveys, as determined by a qualified biologist, including but not limited

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 cont.

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to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report’s survey methodology. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report.

Off-site habitat compensation shall be required for loss of foraging, overwintering, and breeding habitats as well as any known nest burrows used within the last three years that would be removed. Habitat compensation acreages shall be developed in consultation with CDFW, as the amount depends on site specific conditions. Compensatory habitats shall be conserved before Project construction through recordation of a conservation easement, preparation and implementation of a long-term management plan in consultation with CDFW, and the funding of an endowment to oversee protection and retainment of conservation values to the species in perpetuity.”

↑
2-3
cont.

Impact Analysis: Life of the Project Related to Salt-Marsh Harvest Mouse, California Black and California Ridgeway’s Rails

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as: potential for “take” of special-status species; loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features; permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, increases in traffic or human presence; and obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document also should identify reasonably foreseeable future projects in the Project’s vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project’s contribution to such impact (CEQA Guidelines, §15355). Although a project’s impacts may be mitigated to a level of less-than-significant individually, its contributions to a cumulative impact may be considerable. Contribution to a significant cumulative impact (e.g., increased encroachment on available habitat for a listed species) should be considered cumulatively considerable in the absence of compensatory mitigation requirements from a Lead Agency to minimize or avoid the impact.

↓
2-4

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines (§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370) direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment. This includes a discussion of take avoidance

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and minimization measures for special-status species, which are recommended to be developed in early consultation with the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service, and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

The draft EIR lacks an adequate analysis related to impacts associated with the life of the Project, including increased pressures related to the introduction of additional domestic pets in the environment. The Project site is located adjacent to potential habitat for salt-marsh harvest mouse, and the California black and California Ridgeway's rails; all of which are State Endangered Fully Protected Species under CESA. While the draft EIR currently includes an analysis and assessment on how to protect these species during the construction phase of the Project, impacts are not analyzed or discussed after construction and the reasonably foreseeable impacts associated with occupation of the new housing development. Domestic pets, with emphasis on domestic cats (feral and otherwise) are noted by both CDFW and USFWS as top predators to these species. CDFW recommends recirculating the draft EIR after performing a detailed analysis of such impacts to these species, and others with the potential to occur that could be affected, over the life of the Project. Therein, mitigation measures should be included that specifically address post-construction impacts and fully ensure to protect against take of listed species with the potential to occur in the vicinity of the Project area to a level of less-than-significant.



2-4
cont.

Valley Oak Woodland Tree Removal

The draft EIR indicates that up to 30 trees, 6.5 inches or greater in diameter at breast height (DBH), from an on-site oak woodland will be removed as a result of the Project. These trees provide potential nesting, sheltering, and roosting habitats for birds, bats, and mammals. Moreover, the draft EIR also notes that this collection of oak trees is identified as Valley Oak Woodland, a Sensitive Natural Community according to CDFW's Natural Communities List available on CDFW's webpage at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>. The draft EIR indicates on pages 2-16 and 2-17 within BIO-5b that a 1:1 (mitigation: loss) ratio will be sought to mitigate for the loss of Valley Oak Woodland caused by Project activities. This 1:1 (mitigation: loss) ratio includes a replanting regime paired with a five-year monitoring component. CDFW finds this ratio and monitoring period inadequate for mitigating the loss of mature oak woodlands a level of less-than-significant.



2-5

CDFW recommends that the draft EIR evaluate native tree species in the Valley Oak Woodland greater than two inches DBH that would also be removed as part of Project activities. Sufficient trees should be planted to offset for: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of older growth habitat structure and diversity. Due to the cumulative impacts and now extreme rarity of

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undisturbed Valley Oak Woodland left in the proximity to the Project area, their slow growth and role in providing habitat for a biologically diverse community of species, and the uniqueness of the topography of the portion of the Project slated to be cut for fill use, CDFW recommends mitigating for the loss of Valley Oak Woodland at a 5:1 (mitigation: loss) ratio for both trees removed by quantity, and understory removed by area. This 5:1 ratio should include replanting and hydroseeding with Valley Oak Woodland species onsite at the point of disturbance in addition to an off-site restoration site that historically supported oak woodlands in western Contra Costa County as a mitigation component. The Project proponent should prepare a Mitigation and Monitoring Plan (MMP) outlining success criteria and benchmarks aligned to meet the 5:1 (mitigation: loss) ratio goal at the end of 10 years after initial mitigation efforts begin.

↑
2-5
cont.

Creeping Wildrye Grassland Removal

The draft EIR notes on page 4.3-5, and elsewhere, portions of the Project will remove up to 3.5 acres of noted Creeping Wildrye Grassland, a Sensitive Natural Community according to CDFW’s Natural Communities List available on CDFW’s webpage at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>. This grassland type provides potential nesting habitat for waterfowl and shorebirds in addition to providing foraging resources for adjacent birds, bats, and mammals. The draft EIR indicates on pages 2-15 and 2-16 within BIO-5a that a 0.75:1 (mitigation: loss) ratio of successful replanting of onsite-salvaged bunched rhizomes will be sought to mitigate for the loss of Creeping Wildrye Grassland caused by Project activities. This 0.75:1 (mitigation: loss) ratio includes a salvage relocation regime paired with a 5-year success of transplant monitoring component. CDFW finds this salvage ratio and monitoring period inadequate for mitigating the Project impacts to a level of less-than-significant.

↑
2-6

CDFW recommends mitigating for the loss of Creeping Wildrye Grassland at a 3:1 (mitigation: loss) ratio by acreage area. This 3:1 (mitigation: loss) ratio should include the replanting of salvaged bunched rhizomes onsite, seed collection and dispersal on-site in areas of disturbance, and a CDFW approved off-site mitigation component if the Project proponent is unable to meet this acreage ratio on-site. Sufficient propagules should be planted to meet this ratio based on the total area removed. Replanted and mitigation areas should be paired with a five-year monitoring period to ensure successful establishment, and to ensure invasive species on and adjacent to the Project area do not jeopardize the goals of this mitigation ratio. The Project proponent should prepare an MMP outlining success criteria and benchmarks aligned to meet the 3:1 (mitigation: loss) ratio goal at the end of five years after initial mitigation efforts begin.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link:
<https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

2-7

FILING FEES

The Project, as proposed, would have an impact on fish, wildlife, plants, and the habitats on which they depend. Therefore, an assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

2-8

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Andrew Chambers, Environmental Scientist, at Andrew.Chambers@wildlife.ca.gov, or Melissa Farinha, Environmental Program Manager, at Melissa.Farinha@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse (SCH No. 2008032074)

LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed June 11, 2021.

Responses to Letter 2: California Department of Fish and Wildlife (CDFW)

2-1 The Project site is immediately surrounded by urban development and highway infrastructure, with the exception of the northeastern corner of the site.

As the Draft EIR notes, none of the identified species were observed on the Project site; the closest documented observation of any of the species is at least a mile away from the site. Furthermore, none of the species were determined to have a high likelihood of occurrence on the Project site:

- The potential occurrence of the salt-marsh harvest mouse on the actual Project site is low, but the species is discussed in the EIR due to a reported occurrence one mile northwest of the Project site in 2008. The only habitats the species could potentially occupy on the Project site are the pickleweed and marsh habitats. (DEIR, 4.3-19)
- The potential for occurrence of Ridgway's rail is low, but is discussed since it was a focal species of a nearby creek restoration project. The closest documented occurrences of the species are along the south border of Suisun Bay and the mouth of Pacheco Creek, both of which are over 2 miles from the Project site. Limited suitable habitat is present within the emergent freshwater marsh and northern coastal salt marsh of the Project site, but Ridgway's rail is not expected to nest in saltmarsh of that size. (DEIR, 4.3-19)
- Limited suitable habitat for the California black rail exists on the Project site and is confined to the emergent freshwater marsh and northern coastal salt marsh and freshwater marsh of the Project site. However, no California black rails were observed on site, and the nearest documented occurrence of the species is one mile north of the Project site in 2016. (DEIR, 4.3-18)

The burrowing owl is designated as “a species of special concern” in California. It is not a federally protected species, and is not a species designated as threatened or endangered under the California Endangered Species Act. Two occurrences documented within 5 miles of the Project site are 1.5 miles southeast at the Buchanan Airfield and 5 miles northeast at Military Ocean Terminal Concord. The Draft EIR and the biological assessments it relies upon, demonstrate that there is a very low likelihood of any burrowing owls on the Project site, and that the biological surveys conducted to date have not detected the presence of any species on the site.

EIR preparers may “rely upon the credible opinions of experts concerning environmental impacts.” (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1467.) A lead agency is not required to follow the recommendations of wildlife agencies. The biological reports upon which the Draft EIR relies constitute substantial evidence supporting the determination that

these species are unlikely to occur. (*North Coast Rivers Alliance v. Marin Mun. Water Dist.* (2013) 216 Cal.App.4th 614, 643; *Assn. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.)

2-2

The County is the Lead Agency for the Project, and is therefore the agency “responsible for considering the effects, both individual and collective, of all activities involved in [the Project].” *Sierra Club v. California Coastal Com.* (2005) 35 Cal.4th 839, 860. While other agencies, including trustee agencies such as CDFW, may comment and consult on the contents of the County’s EIR, the contents of the EIR are within the County’s discretion. *See, e.g., City of Redding v Shasta County LAFCO* (1989) 209 Cal.App.3d 1169. The ultimate authority to and power to impose and enforce mitigations for this Project lies with the County, and not with other public agencies, whose police powers may be limited by their statutory grants of authority. *See Sierra Club v. California Coastal Com.* (2005) 35 Cal.4th 839, 860; *see also California Bldg. Indus. Ass’n v Governing Bd.* (1988) 206 Cal.App.3d 212.

As stated in Response 2-2, EIR preparers may “rely upon the credible opinions of experts concerning environmental impacts.” (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1467.) A lead agency is not required to follow the recommendations of wildlife agencies. The biological reports upon which the Draft EIR relies constitute substantial evidence supporting the determination that these species are unlikely to occur. (*North Coast Rivers Alliance v. Marin Mun. Water Dist.* (2013) 216 Cal.App.4th 614, 643; *Assn. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.)

2-3

The comment is correct that the Draft EIR found no potentially significant impacts to burrowing owl, which are considered unlikely to occur on the Project site. The Draft EIR (Appendix D, Special-Status Species Considered) recognized the occurrence of burrowing owl in the regional project area, for which there are no occurrences adjacent to the Project site. The California Department of Fish and Wildlife (CDFW) has provided guidance regarding the detection of burrowing owls, and potential mitigation, in its 2012 *Staff Report on Burrowing Owl Mitigation* (CDFW2012 Staff Report), which CDFW cited in its comment letter. The CDFW 2012 Staff Report outlines a recommended procedure for addressing potential impacts to burrowing owls based the “most relevant and current knowledge and expertise,” and incorporating “the best scientific information available pertaining to the species.”

The CDFW 2012 Staff Report recommends a three-step process to evaluate project impacts: first, a habitat assessment to determine the likelihood that a site might support burrowing owls; second, if occupied habitat is likely, the undertaking of burrowing owl surveys to determine whether burrowing owls do in fact occupy a project site and the extent and details of the occupation; and third, if surveys confirm occupied burrowing owl habitat in the project area, an

assessment of the project's potential impacts to burrowing owls and their habitat (CDFW 2012 Staff Report, pp. 5-8). Mitigation measures are only recommended as a part of the third step of this process, i.e., only in situations where surveys have confirmed occupied burrowing owl habitat in the project area (CDFW 2012 Staff Report, p. 6).

Appendix D to the Draft EIR, which outlines all special-status species considered in evaluation of the Project site, concludes that the potential for burrowing owl occurrence in the Project area is “low (unlikely to nest)”.

Marginally suitable habitat is present in the study area. Flat areas of annual grasslands within the Project site have been disked and no ground squirrel burrows were observed in this area. As stated in Response 2-1, two occurrences documented within 5 miles of the Project site are 1.5 miles southeast at the Buchanan Airfield and 5 miles northeast at Military Ocean Terminal Concord. (Draft EIR Appendix D, p. D-14). A Biological Assessment prepared by Moore Biological Consultants, dated March 17, 2021, similarly concluded that burrowing owls were “unlikely” to occur at the Project site, noting, “while there are a few ground squirrel burrows in the site, none of the burrows contained evidence of past or present burrowing owl occupancy; no burrowing owls were observed in the site. The nearest occurrence of nesting burrowing owls in the CNDDDB (2021) search area is approximately 2 miles southeast of the site.” As of September 3, 2021, no other burrowing owl occurrences had been reported within 5 miles of the Project site (CDFW, 2021).

The evidence underlying the Draft EIR’s Project impact analysis on burrowing owls is adequate. The review was conducted in compliance with the CDFW 2012 Staff Report. Under the process outlined in the Staff Report, the County has appropriately determined that: (1) there was no presence of occupied burrowing owl habitat in the project area; (2) no significant impact to burrowing owls will occur; and (3) therefore, no mitigation measures are warranted.

The Project applicant and the County have engaged in thorough surveys, meeting the recommendations in the CDFW2012 Staff Report. Both the County’s consultant (ESA) and the Applicant’s (Moore Biological Consultants) engaged in the second step of the Department’s recommended process: field surveys. ESA conducted wildlife surveys of the Project site on June 15, 2017, and Moore Biological Consultants conducted surveys of the Project site on November 19, 2020, December 1, 2020, April 13, 2021, May 6, 2021, June 11, 2021, and July 9, 2021. The CDFW 2012 Staff Report recommends at least three or more survey visits during daylight hours, each with each visit occurring at least three weeks apart during the peak of the breeding season, commonly accepted in California as between April 15 and July 15. The Moore Biological Consultants surveys exceed this recommendation, encompassing both breeding and non-breeding seasons, and abiding by the recommended three-week spacing period. Field surveys

conducted on the site specifically searched for burrowing owls, as well as any ground squirrel burrows that could be used by burrowing owls. As the Biological Assessment prepared by Moore Biological Consultants (2021) notes, no burrowing owls have been observed at the site, nor was any evidence of past or present burrowing owl occupancy. Nor has the County's or the Applicant's consultants noted the presence of burrowing owls on the Project site. Hence, surveys have established no evidence of burrowing owl use of the Project site. In addition, Draft EIR Impact BIO-3 considered the potential for direct impacts to nesting special-status and migratory birds on the site. Nesting bird protection measures provided in Mitigation Measure BIO-3a provide preconstruction surveys that will consider the potential presence of raptors such as burrowing owl on and adjacent to the site prior to project staging, construction, and vegetation removal. The survey requirement for raptors extends 500 feet from the Project site; hence, the Project would not result in potential impacts to burrowing owl on or adjacent to the site.

As discussed above, under the process outlined in the CDFW 2012 Staff Report, the County has appropriately determined that: (1) there is an exceedingly low likelihood that burrowing owl and its habitat occur on the Project site; (2) no significant impact to burrowing owls will occur; and (3) therefore, no mitigation measures are warranted to avoid direct impacts to the species or its habitat.

Further, the biological reports prepared by the County's and the Applicant's experts constitute substantial evidence that no impacts will occur to burrowing owl (*Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App.4th 1437, 1467*); even though other conclusions might also be reached (Cal. Code Regs., tit. 14 Section 15384, subd. (a)). Further, CEQA does not require mitigation measures for impacts which are less than significant (*San Franciscans for Reasonable Growth v. City and County of San Francisco (1989) 209 Cal.App.3d 1502, 1517 [258 Cal.Rptr. 267]*).

- 2-4 The *Introduction to the Environmental Analysis* in Section 4-0 of the Draft EIR explains that the analysis of the proposed Project throughout the Draft EIR addresses all parts of the Project action: construction, operations, and secondary impacts from mitigation measures, pursuant to CEQA *Guidelines* Section 15126.2[a] (Draft EIR p. 4-1). In certain instances, an impact statement or mitigation measure may specify a particular Project activity or phase during which the impact would occur. Also, all mitigation measures would be included as part of the design, construction, and operations of the proposed Project, with specific timing depending on the individual measure and identified in each measure where necessary, pursuant to CEQA *Guidelines* Section 15126.4) (Draft EIR p. 4-3). Cumulative impacts are addressed at the end of each analysis section in Chapter 4 of the Draft EIR, considering relevant cumulative settings and reasonably foreseeable future development, pursuant to CEQA *Guideline* Section 15130

(Draft EIR p. 4-5). Overall, the analysis in the Draft EIR thoroughly considers potential impacts that could occur with all Project activities.

Regarding potential impacts on certain species during operation of the Project, as the Draft EIR indicates, none of the identified species were observed on the Project site based on focused surveys conducted for this analysis; the closest documented observation of any of the species is at least a mile away from the site. Furthermore, none of the species were determined to have a high likelihood of occurrence on the Project site:

- The potential occurrence of the salt-marsh harvest mouse on the Project site is considered remote, but the species is discussed in the Draft EIR due to a reported occurrence one mile northwest of the Project site in 2008. The only habitats the species could potentially occupy on the Project site are the pickleweed and marsh habitats, which outside of the development footprint. (DEIR, p. 4.3-19)
- The potential for occurrence of Ridgway's rail is low, but is discussed since it was a focal species of the Lower Walnut Creek restoration project. The closest documented occurrences of the species are along the south border of Suisun Bay and the mouth of Pacheco Creek, both of which are over 2 miles from the Project site. Marginal habitat is present within the emergent freshwater marsh and northern coastal salt marsh of the Project site, but Ridgway's rail is not expected to nest in saltmarsh of that size. (DEIR, p. 4.3-19)
- The California black rail has limited suitable habitat on the Project site, confined to the emergent freshwater marsh and northern coastal salt marsh and freshwater marsh of the Project site (see Draft EIR Figure 4.3-1). These habitats occur outside of the development footprint in areas that would remain as open space. However, no California black rails were observed on site, and the nearest documented occurrence of the species is one mile north of the Project site in 2016. (DEIR, p. 4.3-18)

Nevertheless, Mitigation Measures BIO-4a and BIO-3b will ensure potential impacts to these species will be less than significant. For reasons discussed below, even if the identified species were observed on the Project site, domestic pet predation would not be considered a significant impact. Importantly, the Project site is an infill location. Accordingly, the proposed residential portions of the site will not be the first residential developments in the proximity of the habitat identified above. The Project site is bordered by residential developments immediately to the north and the south, with the residential development to the south separated from the emergent freshwater marshland on the southern edge of the site by only a small amount of open space

The Project site is already populated by numerous species known to prey on the salt-marsh harvest mouse, the Ridgway's rail, and the California black rail. DEIR

Appendix D-1 notes the presence of Cooper’s hawks on the Project site, which are a predator of the salt-marsh mouse. Other known predators of the salt-marsh harvest mouse, including Red-tailed hawks and White-tailed kites are also noted to have moderate potential for occurrence. (Appendix D-1). Striped Skunks, also predators of the mice, are widespread in the area and likely to occur at the Project site. (Updated Biological Assessment, p. 10). Tracks from raccoons, which are known to prey on the California black rail, were observed at the Project site. (Updated Biological Assessment, p. 10). American kestrels and American crows, both of which prey on the Ridgway’s rail, were documented at the Project site. (Updated Biological Assessment, Table D-2)

Given the unlikely occurrence of salt marsh harvest mouse, Ridgway’s rail, and California black rail on the Project site; the isolated location of suitable habitat on the Project site; the infill nature of the Project site and its location in the context of existing residential development; and the existence of numerous predators on-site, it is unlikely that operation of the Project will have any significant impact on these three species. Regarding cat predation in particular, Contra Costa Animal Services (CCAS) currently works to reduce and stabilize free-roaming cat populations in neighborhoods through its Community Cat Program. The program encourages practices for resident to reduce the likelihood of domestic cat predation and/or establishment of feral cat colonies that could affect wildlife. Despite that none of the aforementioned above species were observed or determined to have a high likelihood of occurrence on the Project site, the County’s program would help reduce impacts if one or more species were present.

Overall, the suggestion that domestic pet predation will cause a significant impact to these species does not constitute substantial evidence about the Project’s environmental impact. The discussion above supports the Draft EIR finding, and recirculation of the Draft EIR is not warranted.

- 2-5 The Project site includes a valley oak woodland on the north-facing slope of the hill within the Project site. The Draft EIR indicates that grading activities may result in removal of up to 30 trees of 6.5 inches or greater in diameter at breast height (DEIR, p. 4.3-48). Protection for trees as small as 2 inches in diameter at breast (as suggested in CDFW’s comments) would be much smaller than considered significant under County standards. As the Draft EIR notes, oak woodland is designated as a “sensitive natural community” by CDFW, and certain trees in woodland areas, including valley oak, coastal live oak, and California bay trees are protected under the Contra Costa Tree Protection and Preservation Ordinance (Contra Costa County Code Chapter 816-6).

To address the potential impact on the valley oak woodland, the Draft EIR included Mitigation Measure BIO-5b, which requires any area of oak woodland that is disturbed by the Project to be mitigated at a ratio of 1:1

(restored/enhanced/preserved area: impacted area) through planting of valley oak trees on the hill within the Project site in areas to be preserved as open space or through payment of an in-lieu fee (DEIR, p. 4.3-49). The Draft EIR also confirms that the County would condition Project approval for replacement of protected trees removed under the Project and protection of trees to be retained under the Project at a 2:1 replacement ratio (DEIR, p. 4.3-56).

This mitigation ratio is designed to be compliant with the Contra Costa County Tree Protection and Preservation Ordinance, which allows the County to impose “conditions [which] may include a requirement to replace any or all trees on a comparable ratio of either size or quantity.” (Contra Costa County Code Chapter 816-6.8012). Further, Public Resources Code section 21083.4 specifically authorizes counties to “determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment” and, for mitigation, “plant an appropriate number of trees.”

The Draft EIR correctly assesses the magnitude of the impact on valley oak woodland while accounting for the environmental context in which this woodland sits (i.e., poor quality ruderal grassland). While the valley oak woodland is a sensitive natural community, the impact from the proposed Project should be noted in context. At most, the Project site includes 1.7 to 1.88 acres of valley oak woodland (DEIR, p. 4.3-6), which is less than 0.25% of the 691 acres of valley woodland habitat in Contra Costa County. The Project, at most, will disturb only the easterly portion of this area (DEIR, pg. 4.3-48).

Draft EIR Mitigation Measure BIO-5b properly ensures that any protected tree which is impacted by the grading of the hill slope will be replaced at a comparable ratio and here, given the magnitude of the impact, the County, as supported by a team of expert biologists, have properly concluded that the appropriate mitigation ratio for loss of woodland habitat is 1:1, and that protected trees must be mitigated at a 2:1 ratio (a mitigation unacknowledged in the CDFW letter). Use of the significantly higher 5:1 mitigation ratio suggested in the comment would be disproportionate to the potential impacts of the Project, and would be potentially non-compliant with the local ordinance the County enacted specifically to address Project impacts of this type and state law. The Department's recommended higher ratio is unsupported by any analysis and was therefore not adopted for the Project.

2-6

The comment acknowledges the Draft EIR statement that an undisclosed amount of creeping wildrye grassland would be removed by the Project – up to 3.5 acres; based on habitat mapping in Figure 4.3-1 (DEIR, p. 4.3-1) and site grading plans (Figure 3-2, DEIR, p. 3-3), the refined estimate is closer to 1.5 acres. The comment states that mitigation should include a variety of salvage methods (e.g., replanting of salvaged rhizomes onsite, seed collection and dispersal onsite) and

a CDFW approved off-site mitigation component if the Project proponent is unable to meet this acreage ratio on-site.

Moore Biological Consulting reports that, after recent surveys, creeping wildrye grasslands occur in two areas of the Project site, interspersed with other plants and grasses. Creeping wildrye grassland is considered a sensitive plant community by the CDFW. It is important to note, too, that the grassland areas are highly disturbed, having been subjected to "frequent and often severe vegetation and soil disturbances such as disked or fallow fields ..." (DEIR 4.3-04). Moore Biological Consultant also noted this fact in its Biological Assessment; in addition, the consultant notes the grassland areas are scarred by tracks of trespassing off-road vehicles. As such, while creeping wildrye grassland is found on the hillside, it is of poor quality, having been interspersed with ruderal grasses and subject to a host of disturbances.

The Draft EIR includes Mitigation Measure BIO-5a to address potential impacts to the creeping wildrye natural community. This measure, requires that a Monitoring Plan detail methods and location for relocating or reintroducing the grasses – to include replanting of salvaged plant materials, as suggested in the comment.

The comment states that the proposed 0.75:1 replacement ratio (mitigation:loss) identified in Mitigation Measure BIO-5a should be increased to 3:1. In stating the 0.75:1 ratio, the measure also identifies that the ratio may be modified as otherwise specified by CDFW. The County has considered CDFW's recommendation to increase mitigation for this sensitive natural community and deems a slight increase as appropriate to avoid its reduction on the Project site. Therefore, the creeping wildrye grassland mitigation ratio in Mitigation Measure BIO-5a has been increased to 1:1 to reflect this change. A 3:1 replacement ratio is considered excessive, and beyond what the site could reasonably support.

After consideration of the comment, Mitigation Measure BIO-5a (items 4 and 5) are revised as follows (also see Chapter 4):

4. The Project applicant shall contract a qualified restoration ecologist to prepare a Monitoring Plan for relocated / transplanted creeping wildrye grasses within the Project site. The plan shall detail methods and location for relocating or reintroducing the grasses, success criteria, monitoring methods and maintenance for successful establishment, reporting protocols, and contingency measures to be implemented if the initial mitigation fails. The plan shall be developed in coordination with the appropriate agencies prior to the start of local construction activities, with the objective of providing equal or better habitat and populations than the impacted area(s). The recommended success criteria for relocated plants shall be ~~0.75:1 ratio~~ 1:1 ratio [number of plants established: number of plants impacted] after two years, unless otherwise specified by CDFW.

5. The plan shall be submitted to the County and CDFW prior to the start of local construction activities within the boundaries of the creeping wildrye grassland.

2-7 The County will comply with reporting obligations that are required under CEQA.

2-8 All required fees associated with the Project will be paid

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

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June 24 2021



STATE CLEARINGHOUSE

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June 24, 2021

SCH #: 2008032074

GTS #: 04-CC-2017-00478

GTS ID: 6883

Co/Rt/Pm: CC/680/22.2

Gary Kupp, Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Re: Bayview Estates Residential Project + Draft Environmental Impact Report (DEIR)

Dear Gary Kupp:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Bayview Estates Residential Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the May 2021 DEIR.

Project Understanding

The project is in the Vine Hill area of unincorporated Contra Costa County, California east of the I-680/Arthur Road interchange. The undeveloped project site is zoned for Heavy Industrial under the existing Contra Costa County General Plan. The project proposes to amend the General Plan to reflect a Single Family Residential (High Density) land use on the project site. The site would be developed with 144 single-family dwelling units and a private park.

3-1

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide.

3-2

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Gary Kupp, Senior Planner
 June 24, 2021
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Caltrans' acknowledges that the project Vehicle Miles Travelled (VMT) analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research's (OPR) Technical Advisory. Per the DEIR and TRF-3, this project is found to have Significant and Unavoidable Impacts. Subsequently, transportation demand measures have been identified to mitigate the impacts when possible. Please consider further measures to mitigate the project's impact to VMT:

3-3

- Project design to encourage mode shift like walking, bicycling and transit access;
- Participation/Formation in/of a Transportation Management Association (TMA) in partnership with other developments in the area;
- Aggressive trip reduction targets with Lead Agency monitoring and enforcement;
- VMT Banking and/or Exchange program (please reach out to Contra Costa County Transportation Authority for more information); and/or
- Addition/ Increase in number of affordable housing units in the project.

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 3-8

Lead Agency

As the Lead Agency, the Contra Costa County Department of Conservation and Development is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

3-9

Construction-Related Impacts

Potential impacts to the State Right-of-Way (ROW) from project-related temporary access points should be analyzed. Mitigation for significant impacts due to construction and noise should be identified. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

3-10
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 3-12

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the STN.

3-13

Equitable Access

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These

3-14
 3-15

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

Gary Kupp, Senior Planner
June 24, 2021
Page 3

access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Laurel Sears at laurel.sears@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Mark Leong". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

MARK LEONG
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Responses to Letter 3: California Department of Transportation (DOT)

- 3-1 The commenter accurately states the facts related to the Project. See Master Response #2.
- 3-2 The commenter states facts related to Caltrans' agency focus and availability of Caltrans information. See Master Response #2.
- 3-3 The Draft EIR's finding of significant and unavoidable traffic impact prevents the County from approving the Project only if there are "*feasible* mitigation measures which would *substantially lessen* the significant environmental effects" of the Project (Pub. Resources Code Section 21002; *see also* CEQA Guidelines § 15126.4). An EIR may properly decline to consider a proposed mitigation measure if substantial evidence supports the agency's determination that the proposed mitigation measure would not reduce a significant impact, or that the proposed mitigation measure is infeasible (*Center for Biological Diversity v. Cal. Dept. of Conservation* (2019) 36 Cal. App. 5th 210, 241). "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. (CEQA Guidelines Section 15364).

The Draft EIR identifies all feasible mitigation measures to lessen Impact TRF-3, and the County will prepare and adopt a statement of overriding considerations if it determines that, after balancing the specific economic, legal, social, technological, and other benefits of the Project, that the significant and unavoidable adverse impact related to Project vehicle miles travelled (VMT) is acceptable due to the direct public benefits provided by the Project in accordance with Public Resources Code section 21081 and CEQA Guidelines section 15093.

- 3-4 The Project is designed to encourage increased pedestrian, biking trips, and transit access. All in-tract streets, including Central Avenue, will have sidewalks on both sides to provide pedestrian circulation (DEIR, p. 3-9). The on-site park is a private park and will have no vehicular parking, but would include bicycle racks, to encourage walking and biking to the park (DEIR, p. 3-9).

The Draft EIR includes further mitigation measures to include design features in the Project and surrounding areas to encourage mode shift like walking and bicycling.

Under Mitigation Measure TRF-3, the Project applicant must develop a Transportation and Parking Demand Management (TDM) Plan. The TDM Plan may include:

- Pedestrian improvements, on-site or off-site, to connect to existing and planned pedestrian facilities, nearby transit stops, services, schools, shops, etc.
- Bicycle network improvements, on-site or off-site, to connect to existing and planned bicycle facilities, nearby transit stops, services, schools, shops, etc.
- Enhancements to bus service during peak commute times.

Furthermore, under Mitigation Measure TRF-6, the Project applicant will:

- Construct continuous sidewalks on at least one side of Palms Drive and Central Avenue to connect the Project site to the existing pedestrian facilities on Arthur Road to improve pedestrian transportation conditions.
- Even surface pavement, appropriate signage, delineation, and other features on Palms drive and Central Avenue to improve bicycle transportation conditions.
- Sidewalks for all streets within the Project site including facilities on both sides of each street and curb ramps at each intersection (DEIR, p. 4.13-15).

These improvements will ensure that the street(s) used by the Project's pedestrians and bicyclists are in good condition, provide space to accommodate walking and biking, and provide appropriate signing, marking, and other features to facilitate the safe movement of pedestrians and bicyclists (DEIR, p. 4.13-15).

The design-based measures suggested by Caltrans relating to the design of the Project, the mix of uses, or location and design of transit stops are not feasible or will have no effect.

Since Mitigation Measure TRF-3 already contemplates pedestrian improvements and bicycle network improvements to connect residents to existing and planned on-site and off-site pedestrian facilities and transit facilities, no further Project site design mitigations to encourage walking and bicycling to reduce the Project's significant VMT impacts are necessary. Better internal on-site circulation pathways would not reduce off-site vehicle trips that contribute to VMT. Any alteration in the mix of uses on the Project site to reduce residential uses would fail to satisfy the basic Project objectives of "Maximiz[ing] the development of new residential projects in the County to help fulfill regional and local (Contra Costa County) planning goals for the development of housing" and "Introduc[ing] new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek, near existing or planned urban development, and in areas near regional transportation." (DEIR, p. 3-4). Furthermore, the environmental effects of a reduced residential Project

alternative or a non-residential Project alternative are already discussed the Draft EIR's analysis of Alternatives 2 and 3 (DEIR, pp. 5-3 and 5-6).

The County lacks the jurisdiction to use Project design to further increase transit access by including more or more proximate transit stops, as the location and design of proximate transit options is controlled by third party transit agencies and organizations, *e.g.*, Central Contra Costa Transit Authority, Bay Area Rapid Transit, and Amtrak.

Altering access to these transit options is infeasible, as it is not technically possible for the County or the Project applicant to successfully alter the location of the nearest public transit access points (see CEQA Guidelines, Section 15364). Furthermore, the County has no obligation to consider mitigation that is outside its jurisdiction, thus rendering such measures unenforceable (see *Tracy First v. City of Tracy* (2009) 177 Cal. App. 4th 912, 938). Therefore, the County is not legally mandated to consider any further mitigation measures related to transit access (*Center for Biological Diversity v. Cal. Dept. of Conservation* (2019) 36 Cal. App. 5th 210, 241).

- 3-5 Contra Costa County currently has no such centralized organization, nor any ordinance, policy, or guideline mandating other private developments in the area to participate. Without a County-run centralized organization to implement such a program, or a County-wide mandate that other developments must also participate in such a program, the County cannot require the Project applicant to form or participate in such a program. Furthermore, without an existing program administered by the County, it is not viable to require the Project to participate in a Transportation Management Association. Potentially infeasible mitigation measures, including those that require implementation resources that are not readily available do not need to be considered in an EIR (see *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal. App. 5th 413, 433).

When transportation impacts result from the cumulative travel impact of several developments, mitigation measures may be based on a contribution to or participation in an agency-administered program if the mitigation measure is “based on a reasonable plan of actual mitigation that the relevant agency commits itself to implementing” (*Anderson First Coal. v. City of Anderson* (2005) 130 Cal. App. 4th 1173, 1187). Here, no such plan exists, and the County has not *committed* to implementing the relevant program. County decisionmakers nevertheless will consider the information in the comment and this response prior to taking action on the Project.

- 3-6 The Project includes an aggressive trip reduction target. Mitigation Measure TRF-3 requires the Project applicant to develop a TDM program for review and approval by the County that is designed to achieve a target of 20 percent

reduction, or the reduction required to reduce the VMT per resident from the 20.6 under unmitigated Project conditions down to 16.5, the threshold and target of 15 percent below the Contra Costa County average for residential uses (DEIR, p. 4.13-12).

Though Mitigation Measure TRF-3 sets an aggressive trip reduction goal of 20 percent, the Draft EIR then discusses the VMT reduction data in the California Air Pollution Control Officers Association (CAPCOA) guidance document entitled “Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reduction from Greenhouse Gas Mitigation Measures,”¹ as required by Contra Costa County Transportation Analysis Guidelines.

The CAPCOA Guidance Document calculates that that the maximum reduction using all possible identified VMT reduction strategies for a suburban residential development is capped at 10%, and explains that this occurs because “when more and more measures are implemented to mitigate a particular source of emissions, the benefit of each additional measure diminishes” (CAPCOA Guidance Document, p. 56). It is assumed that the Project will be “suburban” under CAPCOA guidance because CAPCOA’s definition of suburban best describes the Project and the surrounding area: “A project characterized by dispersed, low-density, single-use, automobile dependent land use patterns, usually outside of the central city,” including a typical building height of one to two stories, and a typical cul-de-sac based system of internal streets (CAPCOA Guidance Document, p. 60). The other potential CAPCOA development categories: urban (a project located within the central city), compact infill (a project located on an existing site within the central city or inner-ring suburb with high-frequency transit service), and suburban center (a project typically involving a cluster of multi-use development) are not accurate descriptions of the Project (CAPCOA Guidance Document, pp. 59-60).

Essentially, the CAPCOA guidance document states that TDM studies demonstrate that the *maximum* amount of VMT reduction associated with implementation of TDM strategies available to the Project is 10 percent, short of the aggressive reduction *target* of 20 percent (DEIR, p. 4.13-12). Therefore, the Draft EIR conservatively concludes that Mitigation Measure TRF-3 will likely cause a VMT reduction of only 10 percent and concludes that the Project’s VMT impacts are significant and unavoidable.

Given the CAPCOA guidance stating that VMT can only be reduced by a maximum of 10 percent, the suggested inclusion of further “aggressive trip reduction targets” will have no effect on the Project’s significant VMT impact. The TDM Plan already included as Mitigation Measure TRF-3 is *expected* to

¹ <http://www.capcoa.org/wp-content/uploads/downloads/2010/09/CAPCOA-Quantification-Report-9-14-Final.pdf>

achieve the 10 percent maximum reduction that has been demonstrated as the absolute maximum possible reduction, per CAPCOA. If somehow the Project's TDM plan is able to exceed this studied level of maximum reduction, then it will achieve the 20 percent *targeted* reduction under Mitigation Measure TRF-3, which would thereby fully mitigate the VMT impact to a level of insignificance.

Any alteration of the mitigation measure to increase the level of targeted reduction will have no practical effect on the Project's ability to mitigate the significant VMT impact. Since the commenter's suggested mitigation measure would not reduce a significant impact, it need not be considered in the Draft EIR (*Ctr. for Biological Diversity v. California Dep't of Conservation, etc.* (2019) 36 Cal. App. 5th 210, 241).

- 3-7 The Contra Costa Transportation Authority (CCTA) does not currently operate a VMT Banking or Exchange program and is not expected to operate such a program in the near future. Therefore, this suggested mitigation measure is not viable, as it relies on a program and resources that do not currently exist. See Response 3-5; as discussed there, unrealistic mitigation measures, including those that require implementation resources that are not readily available do not need to be discussed in an EIR (*see Cleveland Nat'l Forest Found. v. San Diego Assn. of Governments* (2017) 17 Cal. App. 5th 413, 433).

When transportation impacts will result from the cumulative travel impact of several developments, mitigation measures may be based on a contribution to or participation in an agency-administered program if the mitigation measure is "based on a reasonable plan of actual mitigation that the relevant agency commits itself to implementing" (*Anderson First Coal. v. City of Anderson* (2005) 130 Cal. App. 4th 1173, 1187). Here, no such plan exists, and the County has not *committed* to implementing the relevant program. Therefore, the suggested mitigation measure is not practical.

- 3-8 Increasing the number of affordable housing units in the Project would not decrease the Project's significant VMT impact. The CAPCOA Guidance Document (as described in Response 3-6) discusses the effect of additional Below Market Rate (BMR) housing on VMT reduction for a suburban residential development (CAPCOA Guidance Document, p. 176). Even with the inclusion of BMR housing, the maximum amount of VMT reduction associated with implementation of TDM strategies available to the Project is 10 percent. (CAPCOA Guidance Document, p. 55). This reduction level is already achieved with Mitigation Measure TRF-3 (DEIR 4.13-12). Since the commenter's suggested mitigation measure would not further reduce a significant impact, it need not be considered in the Draft EIR, and it would be legally infeasible to adopt this measure under constitutional nexus jurisprudence (*Ctr. for Biological Diversity v. California Dep't of Conservation, etc.* (2019) 36 Cal. App. 5th 210, 241).

3-9 The Draft EIR does not identify any significant impacts or needed improvements to the I-680 or its interchanges at Pacheco Boulevard or Arthur Road, *i.e.*, the State Transportation Network. No fair share mitigation measures are proposed.

3-10 Project impacts resulting from construction-related access are analyzed in Impact TRF-1 (DEIR, pp. 4.13-9 to 4.13-10). The Project is anticipated to be developed in up to three phases, generally from west to east across the site, with an anticipated grading start date in 2021 and last house completion date in 2024. It is anticipated that temporary construction vehicle access to the Project site during construction would occur along Pacheco Boulevard, Arthur Road, Central Avenue and Palms Drive (DEIR, p. 3-16). Project construction may include improvements to Central Avenue and Palms Drive (DEIR, p. 4.13-13). Both are local roads with one travel lane in each direction. (Appendix E, p. 18). Palms Drive currently has poor pavement conditions and is not a through street. (Appendix E, p. 18). The portion of Central Avenue not maintained by the County and in need of construction improvement as it extends to Project site is an unpaved private road used to access a small number of residential dwellings and the CCCSD Maltby Pump station (Appendix E, p. 18). To the extent either street will be closed for construction, neither would displace a large amount of traffic onto other roadways. Mitigation Measure TRF-1 requires the Project applicant to prepare a *Construction Management and Traffic Control Plan* for the County's approval prior to construction to further study and mitigate construction-related traffic impacts (DEIR, p. 4-13-9).

To the extent the commenter is concerned with operational impacts of access points to the Project site, vehicular access to the Project site is proposed on Central Avenue and Palms Drive. With Mitigation Measure TRF-4, the Project's traffic impact on vehicles using both access points will be Less than Significant (DEIR, p. 4.13-13).

The Draft EIR Transportation Section (Section 4.13) addresses all topics required by CEQA guidelines. However, for informational purposes, Appendix E includes a non-CEQA assessment and recommendations for intersection operations for the proposed Project, including proximate intersections with the I-680 and its interchanges.

The Draft EIR discusses several potentially significant impacts from construction and noise, and identifies mitigation measures to address these impacts. Potential impacts of construction and identified mitigation measures are discussed in Draft Sections 4.1, *Aesthetics*, 4.2, *Air Quality*, 4.3, *Biological Resources*, 4.4, *Cultural Resources and Tribal Cultural Resources*, 4.5, *Geology and Soils*, 4.6, *Greenhouse Gas Emissions and Energy*, 4.7, *Hazards and Hazardous Materials*, 4.8, *Hydrology and Water Quality*, 4.10, *Noise*, and 4.13, *Transportation*.

3-11 See Response 3-12.

- 3-12 If during the construction process, Project construction work requires movement of oversized or excessive load vehicles on state roadways, the Project applicant will follow the requisite procedures necessary to receive all relevant permits, including a transportation permit issued by Caltrans.
- 3-13 Per Mitigation Measure TRF-1, the Project applicant will prepare a *Construction Management and Traffic Control Plan* for the County's approval prior to construction (DEIR, p. 4.13-9). To the extent that there are anticipated construction traffic impacts to the State Transportation Network which require the development of a Transportation Management Plan, the Project applicant will coordinate with Caltrans as needed.
- 3-14 It is not anticipated that any Caltrans facilities will be impacted by the Project. There are no needed improvements or construction plans regarding the I-680 or its interchanges at Pacheco Boulevard or Arthur Road. To the extent any Caltrans facility is impacted by the Project, those facilities will meet American Disabilities Act (ADA) Standards after Project completion.
- 3-15 Per Mitigation Measure TRF-1, the Project applicant will prepare a *Construction Management and Traffic Control Plan* for the County's approval prior to construction to further study construction-related traffic impacts (DEIR, p. 4.13-9). Part of the Plan will include the identification of roadways to be used for the movement of construction vehicles to minimize impacts on motor vehicle, bicycle and pedestrian traffic, circulation and safety, and specifically to minimize impacts to the greatest extent possible on streets in the Project area.



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July 26, 2017

Via Electronic Mail
John.oborne@dcd.ccounty.us
Hard Copy to Follow

Mr. John Osborne
 Contra Costa County
 Community Development Department
 Planning Division
 651 Pine Street, 4th Floor-North Wing
 Martinez, CA 94553-0095

Subject: Bayview Residential Project Notice of Preparation (NOP) for Draft Environmental Impact Report (DEIR)

Dear Mr. Osborne:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide input during the scoping process for the Bayview Residential Project Draft EIR. Vine Hill Investment Inc. is requesting approval of a 144-single-family residential lot subdivision on a 78-acre site. Approvals needed include a General Plan Amendment, Rezoning, Major Subdivision and Preliminary and Final Development Plan and Tree Removal (APN 380-030-046).

This site was the subject of a previous EIR for a 163-unit development. A DEIR was prepared in 2010 for that project. During the environmental review process, in conformance with the California Environmental Quality Act (CEQA), the project was revised to retain the existing top elevation of Vine Hill and alleviate potential water pressure issues of the originally proposed project by lowering the maximum residential pad elevation, thereby lowering the number of proposed residential lots from 163 to 144 lots.

This letter contains all of our comments on that 2010 DEIR, which were sent to Ryan Hernandez of your office on January 25, 2010. That letter is attached. A summary of the general comments contained in that 2010 letter is as follows, updated for this NOP response:

1. The project must meet all of the requirements of CCWD’s Code of Regulations in order to receive water service. Meeting water service requirements will ensure adequate water pressure to meet fire flow requirements and to ensure that the homes are located at an elevation that can receive standard water pressure.

4-1

Mr. John Osborne
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 July 27, 2017
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- 2. We recommend that the project applicant consult with CCWD Engineering as soon as possible. CCWD will need to review detailed engineering plans for other utilities before agreeing on the location of water pipelines or service to the area. 4-2
- 3. CCWD is in receipt of the “CCWD Waterline Exhibit” prepared by Isakson & Associates, Inc. (5/24/16). The eastern point of connection as shown on the CCWD Waterline Exhibit shows a new pipeline crossing the CCWD Shortcut Pipeline easement on property owned by Conco. 4-3
- 4. The Waterline Exhibit does not show elevations, so it is possible that portions of the property are at an elevation that may not receive standard water pressure. Additional infrastructure may be necessary and portions of the project may not be able to receive water service. Further review by CCWD is recommended. 4-4
- 5. Existing water infrastructure will need to be evaluated and any modifications will need to be designed and constructed at the Developer/ Owner’s expense. 4-5
- 6. A separate meter for landscape irrigation may be required. 4-6
- 7. Relocation and/or abandonment of CCWD facilities may be required which will require a quitclaim of the existing easements. Easements for proposed facilities may also be required. 4-7
- 8. The water main in the street or right of way shall be located opposite the proposed meter locations, with sufficient capacity and pressure as determined by CCWD. The Project/Property may require a main extension or addition of other infrastructure. 4-8
- 9. Project/Property shares a boundary with another Water District. Portions of this project may be under the jurisdiction of another water purveyor and Contra Costa Water District may not be able to serve water to all areas of the project. 4-9
- 10. The State Water Resources Control Board (SWRCB) mandates certain separation requirements for water mains that are parallel to and/or crossing sewer and storm drains. Grading and/or utility plans should be developed to comply with all separation criteria as mandated in SWRCB Section 64572. 4-10
- 11. Water service will likely require backflow prevention devices, which could reduce water pressure. Proper planning is necessary to ensure backflow prevention devices are located appropriately. 4-10
- 12. Relocation of public facilities must be performed by District forces. 4-10

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13. The California Residential Code requires installation of an approved automatic fire sprinkler system in all new residential structures that are submitted to the Building Department after December 31, 2010. Appropriate backflow prevention is required for all services where sprinkler systems are installed.

4-11

14. CCWD is aware of several petroleum lines that are in the vicinity of Central Avenue (in particular the Chevron Pipeline Company's KLM to Valero interconnection 12 inch crude oil pipeline) and the environmental document should address this constraint. The project's water mains must be spaced a minimum of 10-feet horizontal and 1-foot vertical from any and all existing petroleum lines.

4-12

15. The project's sanitary and storm sewer lines need to also meet these 10-foot horizontal and 1-foot vertical spacing requirements from existing pipelines, pursuant to California Code of Regulations Section 64572.

4-13

16. The project will need to update the fire flow capacity to the site. Fire flows available at the existing fire hydrant at Palm and Central Avenue do not meet CCWD's or Contra Costa County Fire Prevention District's (CCCFPD) criteria for fire service and cannot provide service to this development.

4-14

CCWD appreciates the opportunity to provide its comments on the Bayview Estates Residential Project Draft EIR. The District will review the project EIR for conformance with comments on the previous EIR, the District's Code of Regulations and design standards once more detail is available. For more information on the District's review process, please contact Cindy Sweeney in the CCWD Engineering Department at (925) 688-8014. I may also be contacted at (925) 688-8118.

Sincerely,

Christine Schneider, MS, RLA
Senior Planner

CS/ck



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January 25, 2010

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Via Electronic Mail
Ryan.hernandez@dcd.cccounty.us
Hard Copy to Follow

**Subject: Bayview Residential Project Environmental Impact Report (EIR)
December 2009, State Clearinghouse Number 2008032074**

Dear Mr. Hernandez:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide input on the December 2009 Bayview Residential Project Draft EIR. The summary project description on Page 2-1 indicates that the project will include development of 163 single-family homes on 42 acres as well as open space of 11.6 and 15 acres on a single parcel (APN 380-030-046). This correspondence follows-up on CCWD's May 13, 2008 letter to your attention (attached) as well as correspondence provided to ESA the environmental consultant that prepared the EIR as well as numerous letters and discussions with the Project Applicant, Discovery Builders (attached). Unfortunately, the Bayview Residential Draft EIR did not fully consider the water service requirements and CCWD's regulations that are necessary to provide water to the proposed project and is incomplete without addressing all necessary project components.

The project must meet all of the requirements of CCWD's Code of Regulations in order to receive water service. Significant infrastructure must be constructed in order to provide water service to the project as currently no water service is available from existing facilities. A key water service requirement that must be met by the Project Applicant is to ensure adequate water pressure to meet fire flow requirements and to ensure that the homes are located at an elevation that can receive standard water pressure. The Draft EIR is insufficient to support inclusion of the necessary infrastructure required to serve this project, and insufficient information is available to determine whether the planned homes can receive service even once a pipeline to serve the development is installed.

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In 2009 the Project Applicant suspended discussions with CCWD regarding terms of agreement for required infrastructure that would be necessary to provide water service to the Bayview Residential Project. CCWD has contacted the applicant several times to discuss this project since release of the Draft EIR and has received notice that the applicant has no intention of discussing an agreement with CCWD or the details of providing water service to this development at this time.

The EIR must clearly set forth all of the requirements and impacts associated with providing water service to this site. The EIR does not provide adequate information to fully consider the impacts of providing water service to this project site and should not be approved until all of this information is clearly described within a public document.

The EIR deficiencies can be summarized as follows:

1. The EIR project description assumes that 163 single-family units (Page 2-1 and 3-1) can be provided water service but does not include an analysis of the necessary water infrastructure required to provide this service.
2. The EIR project description (Chapter 3, Pages 3-1 to 3-8) does not clearly include any description of the new water main extension. APN 380-030-046 has no existing water infrastructure that can support service to a proposed 163 unit subdivision.
3. The EIR project description (Chapter 3, Pages 3-1 to 3-8) does not include any indication of the property outside of APN 380-030-046 that would be impacted by a new water main extension that must be constructed to provide water service to APN 380-030-046.
4. The EIR project description (Chapter 3, Page 3-4 and 3-5) does not clearly provide necessary information regarding the elevation of the homes within the proposed subdivision. This information is critical so that all homes receive adequate water pressures to meet fire flow requirements and CCWD's Code of Regulations.
5. Water service to this proposed subdivision is constrained by water pressures requirements even with a new water main extension. The Contra Costa County Fire Protection District requires automatic sprinkler systems (see in particular Mitigation Measure K.1 on Page 4.K-16) and this has further implications in terms of limiting the elevation where homes may be located.

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Page 3

6. Mitigation Measure K.1 will limit building pads even with a new pipeline to a 92 foot elevation or lower. Units located above 92 feet in elevation cannot be provided water service.
7. To provide water service above 92 feet will require additional water infrastructure be constructed from CCWD facilities that are located south and west of this development beyond Pacheco Boulevard and Highway 680. None of this infrastructure is considered within the Bayview Draft EIR.
8. The water main extension(s) will likely have significant environmental impacts and those impacts need to be fully addressed within the environmental document for this project.

Specific comments on the Draft EIR follow with Draft EIR page and section numbers referenced:

- The Draft EIR needs to include a full description of the proposed water pipeline(s) and any other required water facilities and each environmental area should fully address impacts and mitigation measures for the required water pipeline(s).
- The Public Utilities (Section K) within the draft EIR does not adequately address water pipeline infrastructure requirements that have been carefully presented to Contra Costa County, ESA and Discovery Builders. See in particular the attached correspondence.
- Insufficient detail is provided to understand the full extent of grading, elevations and layout of proposed homes. The EIR should include sufficient detailed maps to determine placement of fill and elevation of homes (p. 3-4 Project Characteristics and Figure 3-2). Section E. Geology and Soils (Pages 4.E-1 to 4.E-26) does not include even preliminary home elevation levels at the project site.
- The 163 unit Project requires at a minimum a 12-inch water main extension to serve this development (assuming all units are located at an elevation that meets water service requirements). The main extension is not fully described within the Draft EIR and is outside of APN 380-030-046. The new pipeline alignment requires new development on property not owned by project owner and outside APN 380-030-046. The EIR should show the new pipeline alignment, including evaluating various alternative alignments to identify the least environmentally damaging alignment. The Draft EIR should show the location of all facilities that will be outside the development property and notify other land owners whose property may be affected by the project so that they can properly review and comment on this project. The Project Description should illustrate all properties (and property owners) along any proposed pipeline alignment from the Bayview

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development to the connection with CCWD's existing system (p. 3-6 **Infrastructure and Section 5. Alternatives**).

- The entire project, including the new pipeline, should be addressed in the EIR. The required 12 inch pipeline may be constructed through sensitive wetlands. There is a need for detailed information about how the developer plans to build across Pacheco Creek, tie into CCWD's existing 12 inch water line located on a CCWD easement on property owned by Conco and construct within wetlands, (p. 3-4 **Project Characteristics and Section 4.C Biological Resources**). Mitigation Measure C-2 is not adequate. Additional permits may be necessary to support construction of the new pipeline. This would include California Department of Fish and Game permits, Regional Water Quality Control Board Permit and possibly others. To obtain a United States Army Corps Permit for impacts to jurisdictional wetlands will require consultation with the United States Fish and Wildlife Service and the State Historic Preservation Office for compliance with Section 106 of the National Historical Preservation Act. In addition, compensatory mitigation for impacts from constructing the pipeline across wetlands may be required and those should be clearly indicated with the Draft EIR.
- CCWD Zone 1 service elevations – CCWD can only serve properties within its Zone 1 elevations without additional water distribution facilities such as pump stations and treated water reservoirs. CCWD will not allow a hydro-pneumatic system to serve homes in this area. If reduced pressure backflow prevention devices (RPBPDs) are required (required if homes have sprinklers), homes only up to 92-foot elevation or lower can receive standard service pressure of 40 psi minimum. The backflow prevention devices are needed consistent with CCWD and State of California regulations for homes equipped with sprinkler systems to protect water quality and public health (Title 5 CCWD Regulations).
- Fire flows available at the existing fire hydrant at Palm and Central Avenue do not meet CCWD's or Contra Costa County Fire Prevention District's (CCCFPD) criteria for fire service and cannot provide service to this development.
- The Draft EIR must identify the location of existing petroleum lines in the area and their potential impact to project and other utilities, including the required 12 inch main extension and other proposed water lines. CCWD is aware of several petroleum lines that are in the vicinity of Central Avenue (in particular the Chevron Pipeline Company's KLM to Valero interconnection 12 inch crude oil pipeline) and the environmental document should address this constraint. It is possible that the extensive cut and fill proposed on the site will require relocation of existing petroleum lines on this site. The Draft EIR must identify the new location of the petroleum pipelines if they are to be relocated. CCWD will need to review detailed engineering plans for other utilities before agreeing on the location of water pipelines or service to the area (**Chapter 3 Project Location and Setting and Project Components/Characteristics**). Other utility lines within the project area should be detailed within Section H. Land Use and

Mr. Ryan Hernandez
 Contra Costa County
 January 25, 2010
 Page 5

Planning and the compatibility of the proposed water line(s) and any conflicts with existing utility lines should be explained and conditioned within Section H. Further it is likely that there could be hazardous soils in the area of the new water line given existing petroleum lines in the area and this will need to be discussed Section F. Hazards and Hazardous Materials.

- The Draft EIR must show details for grading, fill, all utility locations, depths, and compaction requirements for proposed new water facilities (**p. 3-4 Project Characteristics and Figure 3-2**). This would be appropriately addressed within the project description and Section E Geology and Soils Section H Land Use and Planning and Section K Public Services and Utilities.
- The western project boundary appears to come close to the Contra Costa Canal which is owned by the U.S. Bureau of Reclamation (Reclamation) and maintained by CCWD. CCWD would like the opportunity to review engineered site plans to ensure that storm water runoff from any area of the proposed development does not enter the Contra Costa Canal. During construction there should be no access to Reclamation property. If access to Reclamation property is necessary for the project, permission must first be obtained from CCWD. National Environmental Policy Act (NEPA) review will be required if there are any impacts to Reclamation property (**p. 3-4 Project Characteristics and Figure 3-2**).
- Mitigation Condition K-7a is not acceptable. In 2009 the Project Applicant withdrew from discussions to enter an agreement with CCWD to support the funding and construction of the water infrastructure that will be necessary to provide service to the site. CCWD recommends that Contra Costa County require that the certified final EIR include a full description of the number of homes that can be constructed given an acceptable grading plan and the specific elevation of the proposed homes. Based on the requirement of the Contra Costa County Fire Protection District to include residential sprinkler systems homes may only be constructed to an elevation of 92 feet or lower if a new adequate water main extension is constructed. Impacts of the new water line must be fully considered within the Final EIR so that any necessary permits and or mitigation for the new water line are fully explained. Alternatively, CCWD would consider the following condition as a requirement of the Bayview Residential Draft EIR:

New Condition K-7a

Before any environmental document associated with the Bayview Residential Project is certified by Contra Costa County the Project Applicant must enter into an agreement with CCWD to fund the design, environmental review, permitting, land acquisition, environmental mitigation and installation of any necessary water main extension(s), offsite pipeline improvements, and other facilities required to serve the project. The CCWD requirements will be based on fire flow requirements as indicated by the Contra Costa County Fire Protection District and those requirements will include residential automatic fire sprinkler systems as well as

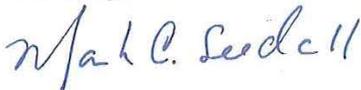
Mr. Ryan Hernandez
 Contra Costa County
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 Page 6

CCWD regulations. Use of residential automatic sprinkler systems, which is a requirement of the Contra Costa County Fire Protection District, will result in the maximum elevation for residential unit floor slab not greater than 92 feet, which could be further reduced dependent upon types of water devises and facilities installed. The environmental document approved by Contra Costa County will fully evaluate the impacts of the water main extension that will be needed to service residential units located at 92 feet in elevation or lower. The environmental document will provide sufficient information on the land area that is needed for the new water line as well as all of the environmental impacts of the new water line and will fully describe all of the necessary permits and mitigation that is required for the new water line.

- **Alternatives** - Given the importance of the water service to the proposed site the Alternatives Assessment (1-4) should include consideration of the water infrastructure required for each alternative. The highest residential elevation for each alternative should be provided and this can then determine the amount of water infrastructure that is required to provide the required water service. For example the 50 percent density alternative may be the only residential project than can be serviced by a single water main extension assuming that the units are located at or below elevation 92 feet.

CCWD appreciates the opportunity to provide its comments on the Bayview Estates Residential Project Draft EIR. It is recommended that the project applicant consult with CCWD Engineering as soon as possible so that more details can be made available to Contra Costa County regarding the impacts from this project. Please contact Chris Hentz in the CCWD Engineering Department for these services at (925) 688-8311. I may also be contacted at (925) 688-8119.

Sincerely,



Mark A. Seedall
 Principal Planner

MAS/rlr

Attachments:

- May 13, 2008 Bayview Estates Project Review Letter to Ryan Hernandez
- June 27, 2008 Bayview Estates Residential Development by Discovery Builders to Ryan Cox

Responses to Letter 4: Contra Costa Water District (CCWD)

- 4-1 The Project will comply with applicable Contra Costa Water District's ("CCWD") regulations. The Project will provide new and upgraded water conveyance infrastructure, including a new 12-inch water transmission main in off-site locations. As part of this configuration, the Project would extend CCWD's existing 12-inch transmission main, which currently terminates within the Conco property just northwest of the Burlington Northern Santa Fe (BNSF) railroad, through the Project site and, ultimately, connect this infrastructure to CCWD's existing 6-inch water mains in Central Avenue and Palms Drive. This infrastructure and these connections will benefit adjacent neighborhoods in the Vine Hill area and address previous water pressure concerns identified by CCWD. (DEIR, pp. 3-14, and 4.14-12 to 4.14-13)
- Modeling completed by CCWD Engineering shows 945 gallons per minute (gpm) at the existing terminus of Central Avenue at the north end of the Project site and 718 gpm at the existing terminus of Palms Drive [SOURCE?]. As a result, the Project will correct existing life-safety deficiency by providing fireflows of 2554 gpm at Central Avenue and 1781 gpm at Palms Drive, meeting or exceeding minimum fireflow requirements. See Master Responses #1 and #2.
- 4-2 The Project applicant has consulted with CCWD Engineering to address flood and fire flow requirements in the Vine Hill Area. See Master Response #2.
- 4-3 The referenced exhibit is outdated. Please see the proposed vesting tentative map (Figure 3-2, DEIR, p. 3-3) and the route for the proposed extension of the existing water transmission main Figure 3-3, DEIR, p. 3-8. CCWD's water modeling results are based on the route shown in Figure 3-3 and confirmed the correction of the existing fire flow deficiency in the Vine Hill neighborhood.
- Also, the pad elevations are shown on the vesting tentative map. A previous iteration of the Project included 163 lots. The current Project has 144 lots because the Project applicant eliminated the upper elevation lots (referred to in the 2010 CCWD letter in which CCWD indicated that it cannot provide service to pads above elevation 92. The vesting tentative map was therefore updated from 163 lots to 144 lots to eliminate lots above elevation 92. See Master Response #2.
- 4-4 The Project includes extension of CCWD's existing 12-inch transmission main currently terminating within the Conco property located northwest of the BNSF railroad. The in-tract water distribution network will also connect to CCWD's existing 6-inch water mains in Central Avenue and Palms Drive (DEIR, p. 3-14). These connections would enhance fire flow in the currently deficient area adjacent to the Project to the northwest. (*Id.*)

Impact UTIL-2 analyzes the construction impacts of the water main extension (DEIR, pp. 4.14-12 to 4.14-14). All potential construction-related environmental effects addressed for the proposed Project encompass the effects specifically associated with installation of the new water pipeline (DEIR, p. 4.14-13).

Regarding the separate meter for landscape irrigation, the Project will comply with all applicable CCWD regulations. See Master Responses #1 and #2.

- 4-5 The Project will comply with all applicable CCWD regulations. See Master Response #2.
- 4-6 The Project includes extension of CCWD's existing 12-inch transmission main which currently terminates within the Conco property just northwest of the BNSF railroad. This main extension would be constructed under the proposed gravel access road through Parcel B Open Space (the access road would be outside of the delineated wetlands), connecting to "C" Drive, then branching off to the in-tract water distribution network to serve the Project. Modeling completed by CCWD Engineering confirms that this extension will provide the required fire flow for the Project and also corrects the existing fire flow deficiencies in the Vine Hill area. See Master Responses #1 and #2.
- 4-7 The Project site is within the CCWD service area (DEIR, p. 4.14-1).
- 4-8 The Project will comply with applicable SWRCB requirements. Waterline separation requirements will be reflected in the grading and utility plans. See Master Responses #1 and #2.
- 4-9 The Project will comply with all applicable CCWD requirements, including backflow prevention devices as necessary. The Project will provide new and upgraded water conveyance infrastructure, including a new 12-inch water transmission main in off-site locations. As part of this configuration, the Project would extend CCWD's existing 12-inch transmission main, which currently terminates within the Conco property just northwest of the BNSF railroad, through the Project site and, ultimately, connect this infrastructure to CCWD's existing 6-inch water mains in Central Avenue and Palms Drive. This infrastructure and these connections will benefit adjacent neighborhoods in the Vine Hill area and address previous water pressure concerns identified by CCWD (DEIR, pp. 3-14, 4.14-12 to 4.14-13). See Master Responses #1 and #2.
- 4-10 Project improvements do not include relocation of any public facilities. See Master Response #2.
- 4-11 The Project will comply with all applicable regulations. Mitigation Measure PUB-1 provides that the Project applicant will equip all dwelling units with residential automatic fire sprinkler systems, complying with the 2016 edition of

NFPA 13D, or otherwise most current edition, subject to the review and approval of the CCCFPD. See Master Responses #1 and #2.

- 4-12 Spacing of the water mains is a code-compliance matter to be addressed during design (after entitlement approval). Applicant will follow CCWD procedures, submit a design application, and provide relevant survey and engineering data (including those for the existing petroleum pipelines, and the proposed storm drains, sewer mains, and dry utilities). CCWD Engineering will then design the main extension and in-tract distribution network in accordance with its rules and regulations. See Master Responses #1 and #2.
- 4-13 See Response 4-12.
- 4-14 See Responses 4-6 and 4-9.



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July 9, 2021

Sent Via Hard Copy & Email

Gary Kupp, Senior Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Subject: Comments on the Bayview Residential Project Environmental Impact Report (EIR),
State Clearinghouse #2008032074

Dear Mr. Kupp:

The Contra Costa Water District (District) appreciates the opportunity to provide comments during the Public Review process for the Bayview Residential Project Draft EIR. This project is a 144-single-family residential lot subdivision on a 78-acre site (APN 380-030-046).

This site was the subject of a previous EIR for a 163-unit development. A DEIR was prepared in 2010 for that project. During the environmental review process, in conformance with the California Environmental Quality Act (CEQA), the project was revised to retain the existing top elevation of Vine Hill and alleviate potential water pressure issues of the originally proposed project by lowering the maximum residential pad elevation, thereby lowering the number of proposed residential lots from 163 to 144 lots.

The District commented on this project most recently in 2017, that letter is attached at the end of this comment letter. The District also commented on this project in 2010, and the comments in that previous letter were been added to the letter sent to the County in 2017.

Gary Kupp, Senior Planner
Contra Costa County
Page 2
July 9, 2021

We are specifically concerned about the issues in items 3, 4, 14, 15, and 16 of this letter. I have listed these here for your reference:

- 3. CCWD is in receipt of the "CCWD Waterline Exhibit" prepared by Isakson & Associates, Inc. (5/24/16). The eastern point of connection as shown on the CCWD Waterline Exhibit shows a new pipeline crossing the CCWD Shortcut Pipeline easement on property owned by Conco.
- 4. The Waterline Exhibit does not show elevations, so it is possible that portions of the property are at an elevation that may not receive standard water pressure. Additional infrastructure may be necessary and portions of the project may not be able to receive water service. Further review by CCWD is recommended.

- 14. CCWD is aware of several petroleum lines that are in the vicinity of Central Avenue (in particular the Chevron Pipeline Company's KLM to Valero interconnection 12 inch crude oil pipeline) and the environmental document should address this constraint. The project's water mains must be spaced a minimum of 10-feet horizontal and 1-foot vertical from any and all existing petroleum lines.
- 15. The project's sanitary and storm sewer lines need to also meet these 10-foot horizontal and 1-foot vertical spacing requirements from existing pipelines, pursuant to California Code of Regulations Section 64572.
- 16. The project will need to update the fire flow capacity to the site. Fire flows available at the existing fire hydrant at Palm and Central A venue do not meet CCWD's or Contra Costa County Fire Prevention District's (CCCFPD) criteria for fire service and cannot provide service to this development.

5-1

5-2

5-3

5-4

Should you have any questions, please contact me at cschneider@ccwater.com or at 510-406-1889 (direct).

Christine Schneider, MS, ASLA
Senior Planner

cc: Mark Seedall, CCWD Principal Planner
Mark Quady, Planning Manager

Gary Kupp

From: Christine Schneider <cschneider@ccwater.com>
Sent: Monday, May 24, 2021 3:17 PM
To: Gary Kupp
Cc: Mark Seedall; Dino Angelosante; Ron Zaragoza
Subject: Bayview Residential Project--CCWD comment letter from 2017 is attached.
Attachments: CCWD Comments on Bayview Residential NOP-CCC 7-27-17.pdf

Hi Gary—Attached is CCWD's comment letter from the 2017 Notice of Preparation (NOP), for your reference. We are specifically concerned about the issues in items 3, 4, 14, 15, and 16 of this letter. We will also be reviewing the EIR for specific issues, and will get comments as applicable by the close of the public comment period, which is June 28, 2021.

Thank you, Christine

Christine Schneider, MS, RLA

Senior Planner

P 925-688-8118

C 510-406-1889

W cschneider@ccwater.com



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July 26, 2017

Via Electronic Mail
John.oborne@dcd.cccounty.us
Hard Copy to Follow

Mr. John Osborne
 Contra Costa County
 Community Development Department
 Planning Division
 651 Pine Street, 4th Floor-North Wing
 Martinez, CA 94553-0095

Subject: Bayview Residential Project Notice of Preparation (NOP) for Draft Environmental Impact Report (DEIR)

Dear Mr. Osborne:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide input during the scoping process for the Bayview Residential Project Draft EIR. Vine Hill Investment Inc. is requesting approval of a 144-single-family residential lot subdivision on a 78-acre site. Approvals needed include a General Plan Amendment, Rezoning, Major Subdivision and Preliminary and Final Development Plan and Tree Removal (APN 380-030-046).

This site was the subject of a previous EIR for a 163-unit development. A DEIR was prepared in 2010 for that project. During the environmental review process, in conformance with the California Environmental Quality Act (CEQA), the project was revised to retain the existing top elevation of Vine Hill and alleviate potential water pressure issues of the originally proposed project by lowering the maximum residential pad elevation, thereby lowering the number of proposed residential lots from 163 to 144 lots.

This letter contains all of our comments on that 2010 DEIR, which were sent to Ryan Hernandez of your office on January 25, 2010. That letter is attached. A summary of the general comments contained in that 2010 letter is as follows, updated for this NOP response:

1. The project must meet all of the requirements of CCWD's Code of Regulations in order to receive water service. Meeting water service requirements will ensure adequate water pressure to meet fire flow requirements and to ensure that the homes are located at an elevation that can receive standard water pressure.

Mr. John Osborne
Contra Costa County
July 27, 2017
Page 2

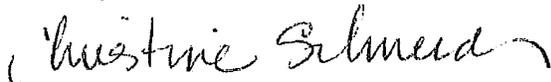
2. We recommend that the project applicant consult with CCWD Engineering as soon as possible. CCWD will need to review detailed engineering plans for other utilities before agreeing on the location of water pipelines or service to the area.
3. CCWD is in receipt of the "CCWD Waterline Exhibit" prepared by Isakson & Associates, Inc. (5/24/16). The eastern point of connection as shown on the CCWD Waterline Exhibit shows a new pipeline crossing the CCWD Shortcut Pipeline easement on property owned by Conco.
4. The Waterline Exhibit does not show elevations, so it is possible that portions of the property are at an elevation that may not receive standard water pressure. Additional infrastructure may be necessary and portions of the project may not be able to receive water service. Further review by CCWD is recommended.
5. Existing water infrastructure will need to be evaluated and any modifications will need to be designed and constructed at the Developer/ Owner's expense.
6. A separate meter for landscape irrigation may be required.
7. Relocation and/or abandonment of CCWD facilities may be required which will require a quitclaim of the existing easements. Easements for proposed facilities may also be required.
8. The water main in the street or right of way shall be located opposite the proposed meter locations, with sufficient capacity and pressure as determined by CCWD. The Project/Property may require a main extension or addition of other infrastructure.
9. Project/Property shares a boundary with another Water District. Portions of this project may be under the jurisdiction of another water purveyor and Contra Costa Water District may not be able to serve water to all areas of the project.
10. The State Water Resources Control Board (SWRCB) mandates certain separation requirements for water mains that are parallel to and/or crossing sewer and storm drains. Grading and/or utility plans should be developed to comply with all separation criteria as mandated in SWRCB Section 64572.
11. Water service will likely require backflow prevention devices, which could reduce water pressure. Proper planning is necessary to ensure backflow prevention devices are located appropriately.
12. Relocation of public facilities must be performed by District forces.

Mr. John Osborne
Contra Costa County
July 27, 2017
Page 3

13. The California Residential Code requires installation of an approved automatic fire sprinkler system in all new residential structures that are submitted to the Building Department after December 31, 2010. Appropriate backflow prevention is required for all services where sprinkler systems are installed.
14. CCWD is aware of several petroleum lines that are in the vicinity of Central Avenue (in particular the Chevron Pipeline Company's KLM to Valero interconnection 12 inch crude oil pipeline) and the environmental document should address this constraint. The project's water mains must be spaced a minimum of 10-foot horizontal and 1-foot vertical from any and all existing petroleum lines.
15. The project's sanitary and storm sewer lines need to also meet these 10-foot horizontal and 1-foot vertical spacing requirements from existing pipelines, pursuant to California Code of Regulations Section 64572.
16. The project will need to update the fire flow capacity to the site. Fire flows available at the existing fire hydrant at Palm and Central Avenue do not meet CCWD's or Contra Costa County Fire Prevention District's (CCCFPD) criteria for fire service and cannot provide service to this development.

CCWD appreciates the opportunity to provide its comments on the Bayview Estates Residential Project Draft EIR. The District will review the project EIR for conformance with comments on the previous EIR, the District's Code of Regulations and design standards once more detail is available. For more information on the District's review process, please contact Cindy Sweeney in the CCWD Engineering Department at (925) 688-8014. I may also be contacted at (925) 688-8118.

Sincerely,



Christine Schneider, MS, RLA
Senior Planner

CS/ck



**CONTRA COSTA
WATER DISTRICT**

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January 25, 2010

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Mr. Ryan Hernandez
Contra Costa County
Community Development Department
Planning Division
651 Pine Street, 4th Floor-North Wing
Martinez, CA 94553-0095

Via Electronic Mail
Ryan.hernandez@dcd.cccounty.us
Hard Copy to Follow

**Subject: Bayview Residential Project Environmental Impact Report (EIR)
December 2009, State Clearinghouse Number 2008032074**

Dear Mr. Hernandez:

The Contra Costa Water District (CCWD) appreciates the opportunity to provide input on the December 2009 Bayview Residential Project Draft EIR. The summary project description on Page 2-1 indicates that the project will include development of 163 single-family homes on 42 acres as well as open space of 11.6 and 15 acres on a single parcel (APN 380-030-046). This correspondence follows-up on CCWD's May 13, 2008 letter to your attention (attached) as well as correspondence provided to ESA the environmental consultant that prepared the EIR, as well as numerous letters and discussions with the Project Applicant, Discovery Builders (attached). Unfortunately, the Bayview Residential Draft EIR did not fully consider the water service requirements and CCWD's regulations that are necessary to provide water to the proposed project and is incomplete without addressing all necessary project components.

The project must meet all of the requirements of CCWD's Code of Regulations in order to receive water service. Significant infrastructure must be constructed in order to provide water service to the project as currently no water service is available from existing facilities. A key water service requirement that must be met by the Project Applicant is to ensure adequate water pressure to meet fire flow requirements and to ensure that the homes are located at an elevation that can receive standard water pressure. The Draft EIR is insufficient to support inclusion of the necessary infrastructure required to serve this project, and insufficient information is available to determine whether the planned homes can receive service even once a pipeline to serve the development is installed.

Mr. Ryan Hernandez
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January 25, 2010
Page 2

In 2009 the Project Applicant suspended discussions with CCWD regarding terms of agreement for required infrastructure that would be necessary to provide water service to the Bayview Residential Project. CCWD has contacted the applicant several times to discuss this project since release of the Draft EIR and has received notice that the applicant has no intention of discussing an agreement with CCWD or the details of providing water service to this development at this time.

The EIR must clearly set forth all of the requirements and impacts associated with providing water service to this site. The EIR does not provide adequate information to fully consider the impacts of providing water service to this project site and should not be approved until all of this information is clearly described within a public document.

The EIR deficiencies can be summarized as follows:

1. The EIR project description assumes that 163 single-family units (Page 2-1 and 3-1) can be provided water service but does not include an analysis of the necessary water infrastructure required to provide this service.
2. The EIR project description (Chapter 3, Pages 3-1 to 3-8) does not clearly include any description of the new water main extension. APN 380-030-046 has no existing water infrastructure that can support service to a proposed 163 unit subdivision.
3. The EIR project description (Chapter 3, Pages 3-1 to 3-8) does not include any indication of the property outside of APN 380-030-046 that would be impacted by a new water main extension that must be constructed to provide water service to APN 380-030-046.
4. The EIR project description (Chapter 3, Page 3-4 and 3-5) does not clearly provide necessary information regarding the elevation of the homes within the proposed subdivision. This information is critical so that all homes receive adequate water pressures to meet fire flow requirements and CCWD's Code of Regulations.
5. Water service to this proposed subdivision is constrained by water pressures requirements even with a new water main extension. The Contra Costa County Fire Protection District requires automatic sprinkler systems (see in particular Mitigation Measure K.1 on Page 4.K-16) and this has further implications in terms of limiting the elevation where homes may be located.

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Page 3

6. Mitigation Measure K.1 will limit building pads even with a new pipeline to a 92 foot elevation or lower. Units located above 92 feet in elevation cannot be provided water service.
7. To provide water service above 92 feet will require additional water infrastructure be constructed from CCWD facilities that are located south and west of this development beyond Pacheco Boulevard and Highway 680. None of this infrastructure is considered within the Bayview Draft EIR.
8. The water main extension(s) will likely have significant environmental impacts and those impacts need to be fully addressed within the environmental document for this project.

Specific comments on the Draft EIR follow with Draft EIR page and section numbers referenced:

- The Draft EIR needs to include a full description of the proposed water pipeline(s) and any other required water facilities and each environmental area should fully address impacts and mitigation measures for the required water pipeline(s).
- The Public Utilities (Section K) within the draft EIR does not adequately address water pipeline infrastructure requirements that have been carefully presented to Contra Costa County, ESA and Discovery Builders. See in particular the attached correspondence.
- Insufficient detail is provided to understand the full extent of grading, elevations and layout of proposed homes. The EIR should include sufficient detailed maps to determine placement of fill and elevation of homes (p. 3-4 Project Characteristics and Figure 3-2). Section E. Geology and Soils (Pages 4.E-1 to 4.E-26) does not include even preliminary home elevation levels at the project site.
- The 163 unit Project requires at a minimum a 12-inch water main extension to serve this development (assuming all units are located at an elevation that meets water service requirements). The main extension is not fully described within the Draft EIR and is outside of APN 380-030-046. The new pipeline alignment requires new development on property not owned by project owner and outside APN 380-030-046. The EIR should show the new pipeline alignment, including evaluating various alternative alignments to identify the least environmentally damaging alignment. The Draft EIR should show the location of all facilities that will be outside the development property and notify other land owners whose property may be affected by the project so that they can properly review and comment on this project. The Project Description should illustrate all properties (and property owners) along any proposed pipeline alignment from the Bayview

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development to the connection with CCWD's existing system (p. 3-6 Infrastructure and Section 5. Alternatives).

- The entire project, including the new pipeline, should be addressed in the EIR. The required 12 inch pipeline may be constructed through sensitive wetlands. There is a need for detailed information about how the developer plans to build across Pacheco Creek, tie into CCWD's existing 12 inch water line located on a CCWD easement on property owned by Conco and construct within wetlands, (p. 3-4 Project Characteristics and Section 4.C Biological Resources). Mitigation Measure C-2 is not adequate. Additional permits may be necessary to support construction of the new pipeline. This would include California Department of Fish and Game permits, Regional Water Quality Control Board Permit and possibly others. To obtain a United States Army Corps Permit for impacts to jurisdictional wetlands will require consultation with the United States Fish and Wildlife Service and the State Historic Preservation Office for compliance with Section 106 of the National Historical Preservation Act. In addition, compensatory mitigation for impacts from constructing the pipeline across wetlands may be required and those should be clearly indicated with the Draft EIR.
- CCWD Zone 1 service elevations – CCWD can only serve properties within its Zone 1 elevations without additional water distribution facilities such as pump stations and treated water reservoirs. CCWD will not allow a hydro-pneumatic system to serve homes in this area. If reduced pressure backflow prevention devices (RPBPDs) are required (required if homes have sprinklers), homes only up to 92-foot elevation or lower can receive standard service pressure of 40 psi minimum. The backflow prevention devices are needed consistent with CCWD and State of California regulations for homes equipped with sprinkler systems to protect water quality and public health (Title 5 CCWD Regulations).
- Fire flows available at the existing fire hydrant at Palm and Central Avenue do not meet CCWD's or Contra Costa County Fire Prevention District's (CCCFPD) criteria for fire service and cannot provide service to this development.
- The Draft EIR must identify the location of existing petroleum lines in the area and their potential impact to project and other utilities, including the required 12 inch main extension and other proposed water lines. CCWD is aware of several petroleum lines that are in the vicinity of Central Avenue (in particular the Chevron Pipeline Company's KLM to Valero interconnection 12 inch crude oil pipeline) and the environmental document should address this constraint. It is possible that the extensive cut and fill proposed on the site will require relocation of existing petroleum lines on this site. The Draft EIR must identify the new location of the petroleum pipelines if they are to be relocated. CCWD will need to review detailed engineering plans for other utilities before agreeing on the location of water pipelines or service to the area (Chapter 3 Project Location and Setting and Project Components/Characteristics). Other utility lines within the project area should be detailed within Section H. Land Use and

Mr. Ryan Hernandez
 Contra Costa County
 January 25, 2010
 Page 5

Planning and the compatibility of the proposed water line(s) and any conflicts with existing utility lines should be explained and conditioned within Section H. Further it is likely that there could be hazardous soils in the area of the new water line given existing petroleum lines in the area and this will need to be discussed Section F. Hazards and Hazardous Materials.

- The Draft EIR must show details for grading, fill, all utility locations, depths, and compaction requirements for proposed new water facilities (p. 3-4 Project Characteristics and Figure 3-2). This would be appropriately addressed within the project description and Section E Geology and Soils Section H Land Use and Planning and Section K Public Services and Utilities.
- The western project boundary appears to come close to the Contra Costa Canal which is owned by the U.S. Bureau of Reclamation (Reclamation) and maintained by CCWD. CCWD would like the opportunity to review engineered site plans to ensure that storm water runoff from any area of the proposed development does not enter the Contra Costa Canal. During construction there should be no access to Reclamation property. If access to Reclamation property is necessary for the project, permission must first be obtained from CCWD. National Environmental Policy Act (NEPA) review will be required if there are any impacts to Reclamation property (p. 3-4 Project Characteristics and Figure 3-2).
- Mitigation Condition K-7a is not acceptable. In 2009 the Project Applicant withdrew from discussions to enter an agreement with CCWD to support the funding and construction of the water infrastructure that will be necessary to provide service to the site. CCWD recommends that Contra Costa County require that the certified final EIR include a full description of the number of homes that can be constructed given an acceptable grading plan and the specific elevation of the proposed homes. Based on the requirement of the Contra Costa County Fire Protection District to include residential sprinkler systems homes may only be constructed to an elevation of 92 feet or lower if a new adequate water main extension is constructed. Impacts of the new water line must be fully considered within the Final EIR so that any necessary permits and or mitigation for the new water line are fully explained. Alternatively, CCWD would consider the following condition as a requirement of the Bayview Residential Draft EIR:

New Condition K-7a

Before any environmental document associated with the Bayview Residential Project is certified by Contra Costa County the Project Applicant must enter into an agreement with CCWD to fund the design, environmental review, permitting, land acquisition, environmental mitigation and installation of any necessary water main extension(s), offsite pipeline improvements, and other facilities required to serve the project. The CCWD requirements will be based on fire flow requirements as indicated by the Contra Costa County Fire Protection District and those requirements will include residential automatic fire sprinkler systems as well as

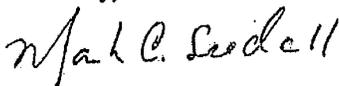
Mr. Ryan Hernandez
 Contra Costa County
 January 25, 2010
 Page 6

CCWD regulations. Use of residential automatic sprinkler systems, which is a requirement of the Contra Costa County Fire Protection District, will result in the maximum elevation for residential unit floor slab not greater than 92 feet, which could be further reduced dependent upon types of water devises and facilities installed. The environmental document approved by Contra Costa County will fully evaluate the impacts of the water main extension that will be needed to service residential units located at 92 feet in elevation or lower. The environmental document will provide sufficient information on the land area that is needed for the new water line as well as all of the environmental impacts of the new water line and will fully describe all of the necessary permits and mitigation that is required for the new water line.

- **Alternatives** - Given the importance of the water service to the proposed site the Alternatives Assessment (1-4) should include consideration of the water infrastructure required for each alternative. The highest residential elevation for each alternative should be provided and this can then determine the amount of water infrastructure that is required to provide the required water service. For example the 50 percent density alternative may be the only residential project than can be serviced by a single water main extension assuming that the units are located at or below elevation 92 feet.

CCWD appreciates the opportunity to provide its comments on the Bayview Estates Residential Project Draft EIR. It is recommended that the project applicant consult with CCWD Engineering as soon as possible so that more details can be made available to Contra Costa County regarding the impacts from this project. Please contact Chris Hentz in the CCWD Engineering Department for these services at (925) 688-8311. I may also be contacted at (925) 688-8119.

Sincerely,



Mark A. Seedall
 Principal Planner

MAS/rir

Attachments:

- May 13, 2008 Bayview Estates Project Review Letter to Ryan Hernandez
- June 27, 2008 Bayview Estates Residential Development by Discovery Builders to Ryan Cox

Responses to Letter 5: Contra Costa Water District—2 (CCWD—2)

5-1 See Response 4-3.

5-2 See Response 4-12.

5-3 See Response 4-13.

5-4 See Response 4-14.



MT. VIEW SANITARY DISTRICT
3800 ARTHUR ROAD
P.O. BOX 2757
MARTINEZ, CA 94553
TEL 925.228.5635
FAX 925.228.7585
WWW.MVSD.ORG

June 7, 2021

Gary Kupp, Senior Planner
Community Development Division
Contra Costa County, Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Subject: Review of Draft Environmental Impact Report for the Bayview Estates Residential Project

Dear Gary,

Mt. View Sanitary District (District) has reviewed the Draft Environmental Impact Report dated May 2021 for the Bayview Estates development (Subdivision No. 8809). The following comments supplement the District’s previous correspondences regarding this development, which date back to 2004.

1. Page 4.14-4, third paragraph from bottom: Impact UTIL-9 cannot be found in Chapter 4.14.
2. Page 4.14-4, last paragraph: The District population is now 21,000.
3. Page 4.14-15, third paragraph from bottom: The 66,300 gallons per day figure needs to be checked. The District believes that, if calculating strictly the new demands per Central San standard specification requirements, this is actually closer to 130,000 gallons per day. The percentage increase calculation then needs to be revisited as well.
4. Page 4.14-15, third paragraph from bottom: The rated capacity of the wastewater treatment plant is 2.4 mgd. The 3.2 mgd figure on the website is incorrect.
5. Page 4.14-15, second paragraph from bottom: This paragraph (transcribed below) cannot be confirmed by the District. The District may require the developer to perform, or may itself conduct, further study of pipeline capacity from manhole A03013 (downstream manhole of the developer’s preliminary capacity study) to the treatment plant, as well as at the treatment plant itself. The District reserves the right to specify additional requirements associated with capacity later in the development process.

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“Therefore, given the District has sufficient existing capacity to serve the Project’s anticipated wastewater demands, the Project would not result in the construction of new or expanded wastewater treatment facilities. No changes to the wastewater treatment plan [sic] would be required to treat the increased flows



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from the Project. Consequently, no impacts related to the wastewater treatment requirements of the RWQCB would be expected.”

- 6. Page 4.14-16, second paragraph: Figure 3-5 is referenced as showing existing sewer lines in Palms Drive and Arthur road; however, this figure is actually a “Waterline Exhibit,” and there appears to be no equivalent wastewater exhibit in Chapter 3.
- 7. Page 4.14-16, third paragraph: Further information shall be provided to the District regarding how the seven total pipes to be up-sized will be replaced.
- 8. Page 4.14-18, third paragraph: The statement transcribed below cannot be confirmed by the District. It is not clear what “Master Plan Update” refers to, or where this statement came from. The comments above regarding further study of capacity and potential additional requirements also apply here.

“For wastewater, the MVSD Master Plan Update indicates that its existing infrastructure is sufficient to support the Project and other infill development through the year 2040.”

- 9. Page 4.14-18, fourth paragraph: “As discussed for Impact UTIL-5 regarding increased demands for wastewater utility service...” Is this referring to Impact UTIL-4?
- 10. Page 4.14-15, fourth paragraph from bottom, and 4.14-20 (references): Please provide an electronic copy of the December 7, 2010, “will-serve” letter for the District’s records.

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Thank you for providing the District with the opportunity to have continued input to this development process. Please feel free to contact me at (925) 228-5635 or chrise@mvsd.org should you have any questions or need additional information.

Sincerely,

Mt. View Sanitary District

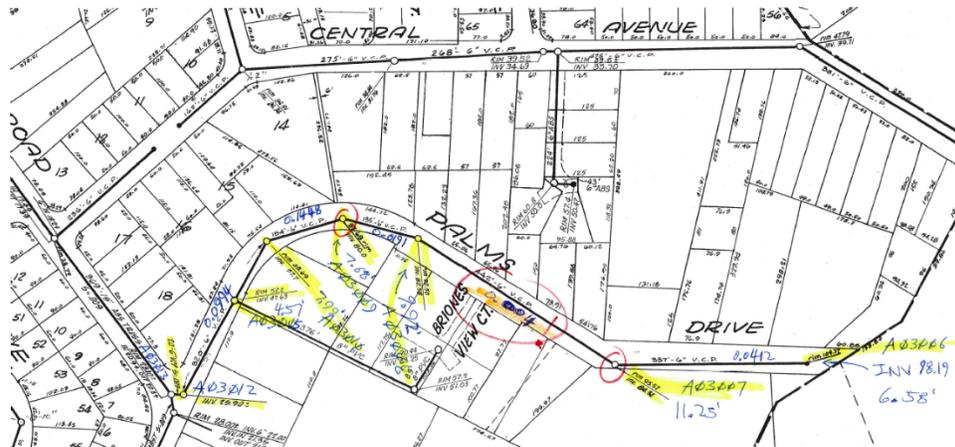
Chris Elliott, P.E.
District Engineer

Responses to Letter 6: Mt. View Sanitary District (MVSD)

- 6-1 Impacts to wastewater utility service are discussed in Impact UTIL-4 (not UTIL-9) (DEIR, pp. 4.14-15 to 4.14-16). This is a typographical error that does not affect the conclusions in the Draft EIR. See Master Response #2.
- 6-2 The comment is noted. It does not affect the conclusions in the Draft EIR. Regardless, environmental conditions must be described as they exist when the notice of preparation (NOP) is published. (CEQA Section 15125(a).) The NOP for the Project was posted on June 7, 2017. Regardless, the sewer flow calculations are based on the number of units, not on District population. See Master Response #2.
- 6-3 The Draft EIR references a Sewer Capacity Study prepared by Aliquot (June 1, 2020). For the purpose of analyzing sewer main capacity, Aliquot used a peaking factor of 4 and calculated estimated wastewater to be 138,316 gpd (for the Project plus 25 dwelling units unrelated to the Project). Aliquot concluded the proposed sewer main would have sufficient capacity. MSVD concurred with this conclusion. MVSD issued a “Will Serve” letter confirming capacity at its wastewater treatment plant to serve the Project.
- 6-4 The MVSD website indicates that its wastewater treatment plant has a design capacity of 3.2 million gallons per day (mgd) (<https://www.mvsvd.org/service-area>; DEIR, p. 4.14-15). Even if the 3.2 mgd figure on the website is incorrect, this does not change the conclusion in the Draft EIR that the wastewater treatment plant has capacity to serve the Project.
- 6-5 MVSD provided a will-serve letter on December 7, 2010 indicating that the Board approved the subdivision and annexation of the territory within the District. Substantial evidence therefore supports the conclusion that the District has sufficient existing capacity to serve the Project’s anticipated wastewater demands. (See CEQA Guidelines, Section 15384(b) [substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts].)
- The Sanitary Sewer Flow Monitoring & Hydraulic Modeling (January 2013) prepared by Carollo (January 2013) provides a capacity analysis showing that the existing wastewater collection system has sufficient capacity to convey build-out design flows of 2.0 mgd, with the exception of two locations, Almond Street and Fig Tree Lane (neither of which affect the proposed Project site) (Carollo, pp. ES-6 to ES-8). The Carollo report in addition to the Will Serve letter are substantial evidence supporting the conclusion that no impacts to wastewater treatment plant would be expected
- Additionally, the sewer capacity analysis has been prepared by Aliquot, dated June 1, 2020, that is in the administrative record of proceedings and supports the

Draft EIR (see Section 4.14, *Utilities and Service Systems*, of the DEIR), and which covers manhole A03013. The analysis concludes that new sewer infrastructure that is part of the Project description and evaluated in the Draft EIR can accommodate all sewage flows, as supported by calculations and analysis performed by licensed engineers. Downstream of manhole A03013, there are 15” and 24” pipes that carry wastewater to the treatment plant, which are adequate. It is therefore reasonable to assume that even MVSD's 2.4 mgd capacity, would be sufficient to accommodate Project-related water flows.

6-6 The sewer mains are shown on the vesting tentative map (Figure 3-2, DEIR, p. 3-2). Sufficient information about the sewer line locations is included in the Draft EIR in narrative form on Draft EIR pages 3-6, 3-14, and in discussion of Impact UTIL-4 starting on page 4.14-15. For purposes of clarification, the precise alignment of these sewer lines is depicted in Figure 3-1 below, which is an attachment to the June 1, 2020 Aliquot sewer capacity analysis, which is cited extensively in the Draft EIR and in the administrative record of proceedings:



6-7 This design-level information will be provided during preparation of the construction documents. See Master Responses #1 and #2.

6-8 The text on page 4.14-18 of the Draft EIR is corrected as follows, and the cited Carollo capacity analysis is included as a reference in the EIR (also see Response to Comment 6-5 and Chapter 4):

For wastewater, the ~~MVSD Master Plan Update~~ MVSD Master Plan Update Sanitary Sewer Flow Monitoring & Hydraulic Modeling (January 2013) prepared by Carollo (January 2013) indicates that its existing infrastructure is sufficient to support the Project and other infill development through the year 2040.

6-9 Correction noted. Impacts to wastewater utility service are discussed in Impact UTIL-4 (not UTIL-5) (DEIR, pp. 4.14-15 to 4.14-16).

6-10 The Project applicant provided MVSD with the Will Serve letter on June 23, 2021 via email. See Master Response #2.

Contra Costa County



Fire Protection District

May 19, 2021

Mr. Kupp
Department of Conservation and Development
30 Muir Rd.
Martinez, CA 94553

Subject: Bayview Subdivision No. 8809
0 Central Ave. Martinez
Project # CDSD04-8809
CCCFPD Project No.: P-2021-03154

Dear Mr. Kupp:

We have reviewed the development plan to establish a 155-unit residential subdivision at the subject location. The following is required for Fire District approval in accordance with the 2019 California Fire Code (CFC), the 2019 California Building Code (CBC), the 2019 California Residential Code (CRC), and Local and County Ordinances and adopted standards:

- 1. The Contra Costa County Fire Protection District has development impact fees established in the unincorporated County. Projects within the development impact areas will need to pay the fees prior to Building Permit issuance.
- 2. Provisions shall be made to maintain the open space in a manner that complies with CCCFPD Ordinance 2019-37, to reduce the risk of fire.
- 3. Access shall comply with Fire District requirements.

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Lots 105 and 115 are flag lots and if the driveway is required as emergency access, shall be a minimum 16' wide and meet the other requirements listed below.

Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed fire apparatus loading of 37 tons. Access roadways shall not exceed 20% grade. Grades exceeding 16% shall be constructed of grooved concrete per the attached Fire District standard. (503) CFC

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- 4. Access roadways of **less than 28-feet** unobstructed width shall have signs posted or curbs painted red with the words **NO PARKING – FIRE LANE** clearly marked. (22500.1) CVC, (503.3) CFC

Access roadways of **28 feet or greater, but less than 36-feet** unobstructed width shall have **NO PARKING – FIRE LANE** signs posted, allowing for parking on one side only or curbs painted red with the words **NO PARKING – FIRE LANE** clearly marked. (22500.1) CVC, (503.3) CFC

7-4

- 13. Flammable or combustible liquid storage tanks shall **not** be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
 - 14. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC
 - 15. Where existing access to open land or space, or to fire trail systems maintained for public or private use is obstructed by new development of any kind, the developer shall provide an alternate means of access into the area that is sufficient to allow access for fire personnel and apparatus. These access roadways shall be a minimum of 16 feet in width to accommodate Fire District equipment.
 - 16. Development on any parcel in this subdivision shall be subject to review and approval by the Fire District to ensure compliance with minimum requirements related to fire and life safety. Submit three (3) sets of plans to the Fire District prior to obtaining a building permit. (501.3) CFC
 - 17. The owner or the owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall be made available for review by the fire code official upon request. (Ch.33) CFC
- The fire prevention program superintendent shall develop and maintain an approved prefire plan in cooperation with the fire chief. The fire chief and fire code official shall be notified of changes affecting the utilization of information contained in such prefire plans. (Ch.33) CFC

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Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.

If you have any questions regarding this matter, please contact this office at (925) 941-3300.

Sincerely,



Todd Schiess
Fire Inspector I

cc: Department of Conservation and Development
30 Muir Rd.
Martinez, CA 94553

File: 0 CENTRAL AVE-BAYVIEW SUB 8809-PLN-P-2021-03154

- 5. Turnaround shall comply with Fire District requirements. *See CCCFPD Ordinance 2019-37 for approved design.* 7-10

- 6. Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward and shall be located a minimum of 30 feet from the street. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. Contact the Fire District for information on ordering the key-operated switch. (D103.5) CFC. 7-11

- 7. The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1000 GPM. Required flow must be delivered from not more than 1 hydrant flowing for a duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (507.1), (B105) CFC 7-12

- 8. The developer shall provide hydrants of the East Bay type in compliance with Chapter 5 and Appendix B and C of the California Fire Code. 7-13
The proposed hydrant location near lot 5 is not acceptable to the Fire District. Locate the hydrant between lot 3 and 4. (C103.1) CFC

- 9. A land development permit is required for access and water supply review and approval prior to submitting building construction plans. 7-14
 The developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating:
 - All existing or proposed hydrant locations,
 - Fire apparatus access,
 - Elevations of building,
 - Size of building and type of construction,
 - Striping and signage plan to include "NO PARKING-FIRE LANE" markings**This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review.** (501.3) CFC

- 10. **Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site.** (501.4) CFC 7-15
Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 37 tons.

- 11. The homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2016 edition of NFPA 13D or Section R313.3 of the 2019 California Residential Code. Submit a minimum of two (2) sets of plans to this office for review and approval prior to installation. (903.2) CFC, (R313.3) CRC, Contra Costa County Ordinance 2019-37. 7-16

- 12. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC 7-17

Department of Conservation and Development

30 Muir Road
Martinez, CA 94553

Phone:1-855-323-2626

May 10, 2021

Contra Costa County



John Kopchik
Director

Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director

Maureen Toms
Deputy Director

Amalia Cunningham
Assistant Deputy Director

Kelli Zenn
Business Operations Manager

RECEIVED
MAY 11 2021
CONTRA COSTA FIRE DISTRICT

NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT

State Clearinghouse #2008032074

County File Nos. CDS04-08809, CDGP04-00013, CDRZ04-03148, CDDP04-03080

Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970" as amended to date, this is to advise you that the Community Development Division of the Department of Conservation and Development of Contra Costa County has prepared an Environmental Impact Report for the following project:

PROJECT TITLE: Bayview Residential Project

APPLICANT: Discovery Builders
Attn: Doug Chen, Ph. (925) 250-2658
4021 Port Chicago Highway
Concord, CA 94520

LOCATION: The proposed Project site is a vacant parcel located along the northern I-680 corridor in Contra Costa County. It is within the unincorporated Vine Hill/Pacheco Boulevard community. The Vine Hill/Pacheco Boulevard area is located in North Central Contra Costa County, east of the City of Martinez and northwest of the City of Concord. (Assessor Parcel No.: 380-030-046) (Zoning: Heavy Industrial District (H-I))

Central Ave, MARTINEZ
per GIS

PROJECT DESCRIPTION:

The Project sponsor proposes to develop a phased 144-unit residential subdivision on approximately 78.2-acres of vacant land in the Vine Hill/Pacheco Boulevard area of unincorporated Contra Costa County. The proposed Project includes the following major components on and adjacent to the Project site:

1. A Vesting Tentative Map (VTM) for development of up to 144 detached single-family homes and associated new internal roadways on approximately 31.8 acres of the Project site;
2. Approximately 46.4 acres of open space, marshes and undeveloped land, including:
 - The preservation of approximately 20.1 acres of the upper hill area shown as "Parcel A" on the VTM;

P-2021-03154 PLN

- The preservation of approximately 19.8 acres of the lower site areas (containing wetlands, coastal salt marsh, freshwater marsh, open water, and alkali meadow) shown as “Parcel B” on the VTM;
 - The development of a new 2.0-acre stormwater treatment basin, in accordance with the County’s C.3 Guidebook, and shown as “Parcel F” on the VTM;
3. Development of an approximately 4.5-acre private neighborhood park in proximity to “Parcel B” and “Parcel F”;
 4. Onsite grading of approximately 900,000 cubic yards of earth material for residential subdivision development, including substantial grading of the lower hill area and limited grading of the upper hill area in order to balance overall project cut and fill earthwork volumes;
 5. Extension of new utility lines to and throughout the Project site, and the repair and upgrade of existing off-site utility lines;
 6. Improvement of two existing off-site roadways, Central Avenue and Palms Drive, to better accommodate two lanes of moving vehicular traffic to/from the Project site; and
 7. A tree permit to remove up to 30 code-protected trees.
 8. The project will also include exceptions to Title 9 relating to roadway and detention basin standards.

To support the proposed land use and density, the Project proposes to amend the existing *Contra Costa County General Plan* (“General Plan”) land use map to change the existing Heavy Industrial (HI) land use designation to the Single Family Residential-High Density (SH [5.0-7.2 units/acre]) and Open Space (OS) land use designations. Also, the Project proposes to rezone the existing Heavy Industrial (H-I) zoning designation on the Project site to the Planned Unit District (P-1) designation.

The applicant is also requesting exceptions to Division 98 (Streets) and Division 914 (Drainage) of Title 9 of the County Ordinance Code.

SITE AND AREA DESCRIPTION:

The Project site is a single 78.2-acre parcel and is bounded by the Contra Costa Canal and Burlington Northern Santa Fe Railroad (BNSF) Railway tracks to the southwest and south, residential development to the northwest, a self-storage facility to the west, Pacheco Creek to the east, and Central Avenue to the northeast. The Project site is currently undeveloped and consists of relatively flat wetland and marsh areas in the east, rising sharply to the summit of the prominent hill in the western part of the site. Elevations on the site range from 4 to 283 feet above mean sea level (msl). The property supports permanent and seasonal wetlands and an extensive band of freshwater marsh in the eastern and southern part of the site. A valley oak woodland grove of 34 native oak trees covers a small area mid-slope on the north-facing side of the hill. The immediate vicinity of the Project site is characterized by a variety of land uses. The area is developed with roads, trails and residential communities, as well as industrial uses including gas pipelines, a landfill and wastewater treatment facilities, and includes areas of open space. The area directly west of the freeway supports a mix of residential, commercial and light industrial uses. Further west, the uses are primarily residential development, including the County’s unincorporated Mountain View neighborhood and suburban areas of the City of Martinez. Parcels to the northwest of the site and east of the freeway are characterized by single-family homes within land use designation “SH” (5.0-7.2 units/acre). Further northwest is the Waterbird Regional Preserve, which is an approximately 198-acre wetland and associated upland area managed jointly by the East Bay Regional Park District (EBRPD), the Mountain View Sanitary District (MVSD), the Contra Costa County Mosquito and Vector Control District and the California Department of Fish and Wildlife (CDFW). Lands to the northeast, east and south are mostly undeveloped properties zoned

for heavy industrial purposes. Undeveloped lands and recreational vehicle storage occupy areas immediately south of the railroad tracks. The Maltby sanitary sewer pumping station, operated by the Central Contra Costa Sanitary District (CCCSD), is directly adjacent to the Project site to the east. The Conco construction and trucking yard is also located east of the site and Pacheco Creek. The majority of the land to the north and northeast of the Project site is property of the Acme Landfill. While the landfill is currently mostly inactive, a fully operational refuse transfer station is located approximately 0.3 miles north of the Project site. In addition, heavily industrialized land areas supporting Shell Martinez Refinery and the Tesoro Refinery are located approximately one-mile northwest and east respectively. Underground pipelines carrying crude oil and refined petroleum products (gasoline, diesel fuel and jet fuel) run under Central Avenue and the Project site along a wetland area on the northeastern boundary of the site.

ENVIRONMENTAL EFFECTS OF THE PROJECT:

Pursuant to Article 9 of the California Environmental Quality Act (CEQA), the Draft EIR describes the proposed Project; identifies, analyzes, and evaluates the environmental impacts which may result from the proposed Project; and identifies measures to mitigate adverse environmental impacts. The mitigations identified in this document and designed for the proposed Project ensure that the Project will not cause a significant impact on the environment. The Draft EIR for the proposed Project identified significant and unavoidable impact to transportation (vehicle miles travelled/VMT), in addition to potentially significant impacts in the environmental topics of aesthetics, air quality, biological resources, cultural & tribal cultural resources, geology & soils, GHG emissions, hazards & hazardous, hydrology/water quality, hazardous materials, noise, public services, transportation, and utilities/service systems. Environmental analysis determined that measures were available to mitigate potential adverse impacts to less-than-significant levels. As a result, a Draft EIR has been prepared pursuant to Public Resources Code Section 21080(d) of the California Environmental Quality Act (CEQA) Guidelines.

WHERE TO REVIEW THE DRAFT EIR:

Due to the COVID-19 shelter-in-place order, the mitigated negative declaration can be viewed online at the following link: <https://www.contracosta.ca.gov/4841/Public-Input>. Any sources of information referenced in the Initial Study and MND can be provided upon request by contacting the project planner.

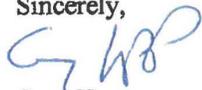
PUBLIC COMMENT PERIOD:

Prior to adoption of the Draft EIR, the County will be accepting comments on the adequacy of the document during a 45-day public comment period; the Draft EIR may be certified at a future date in a public hearing following the public comment period. The period for accepting comments on the adequacy of the environmental document will begin on **Thursday, May 13, 2021** and extends to **Monday, June 28, 2021, until 5:00 P.M.** Any comments should be in writing and submitted to the following address:

**Gary Kupp, Senior Planner
Community Development Division
Contra Costa County, Department of Conservation and Development
30 Muir Road, Martinez, CA 94553**

OR emailed to gary.kupp@dcd.cccounty.us

Sincerely,



Gary Kupp
Senior Planner
(925) 674-7799
gary.kupp@dcd.cccounty.us

cc: County Clerk's Office (2 copies)
Adjacent Occupants and Property Owners
Notification List

attach: Vicinity Map & Vesting Tentative Map

Responses to Letter 7: Contra Costa County Fire Protection District (CCCFPD)

- 7-1 As stated on Draft EIR page 4.12-9, "[i]n accordance with Contra Costa County Ordinance 87-98, the Project sponsor would also pay a Fire Facilities Impact Fee" to finance fire protection facilities required by the goals and policies of the General Plan and necessitated by the needs of new construction and development for adequate fire protection facilities and services (see *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 [assessment of a fee is an appropriate mitigation when it is linked to a specific mitigation program]) See Master Response #2.
- 7-2 The Project will comply with applicable CCFPD standards. See Master Responses #1 and #2.
- 7-3 The Project will comply with applicable CCFPD standards. The driveways for Lots 105 and 115 will be a minimum of 16 feet wide and meet the requirements identified. The existing Central Avenue and Palms Drive both dead end just before the Project site and do not provide for emergency vehicle turnarounds required by the Fire Code. The Project will provide a secondary emergency vehicle access through the south side of the Project site, connecting to the proposed in-tract streets, which ultimately connect to the existing Central Avenue and Palms Drive. As a result, the Project will correct an existing life-safety deficiency by providing much improved emergency vehicle access and circulation through a secondary emergency vehicle access and code-compliant emergency vehicle turnarounds. See Master Response #1.
- 7-4 The Project will comply with applicable Vehicle Code and Fire Code standards. See Master Responses #1 and #2.
- 7-5 The Project applicant will obtain all necessary permits. Impact HAZ-1 analyzes use of hazardous materials during construction and operation. Implementation of Mitigation Measure HAZ-1 and compliance with federal, state, and local regulations, would reduce the potential impact to less than significant. As discussed in Impact HAZ-2, implementation of the Project would not cause an adverse effect on the environment with respect to the use, storage, or disposal or general household hazardous substances from proposed building uses and therefore the impact would be considered less than significant. See Master Responses #1 and #2.
- 7-6 The Project will comply with applicable Fire Code standards. See Master Responses #1 and #2.
- 7-7 The Project will comply with applicable Fire District standards. Access roadways will be a minimum of 16 feet wide. See Master Responses #1 and #2.

- 7-8 The Project applicant will obtain the necessary subsequent entitlements and comply with all submittal requirements. See Master Response #2.
- 7-9 The Project will comply with applicable Fire Code standards. See Master Response #2.
- 7-10 The Project will comply with applicable Fire District standards. See Master Responses #1 and #2.
- 7-11 The Project will comply with applicable Fire Code standards. See Master Responses #1 and #2.
- 7-12 The Project applicant will fund water main extensions to provide adequate fire flow to the Project. Based on fire flow requirements set by CCFPD, the Project applicant would be required to fund pipeline and fire hydrant installation (DEIR, p. 4.14-12). Modeling completed by CCWD Engineering shows 945 gpm at the existing terminus of Central Avenue at the north end of the Project site) and 718 gpm at the existing terminus of Palms Drive. As a result, the Project will correct existing life-safety deficiency by providing fireflows of 2554 gpm at Central Avenue and 1781 gpm at Palms Drive, meeting or exceeding minimum fireflow requirements. See Master Responses #1 and #2.
- 7-13 The Project will comply with applicable Fire Code standards. The fire hydrant will be relocated between Lots 3 and 4. The Project applicant will fund water main extensions to provide adequate fire flow to the Project. Based on fire flow requirements set by CCFPD, the Project applicant would be required to fund pipeline and fire hydrant installation (DEIR, p. 4.14-12). See Master Responses #1 and #2.
- 7-14 The Project applicant will obtain the necessary subsequent entitlements and comply with all submittal requirements. See Master Responses #1 and #2.
- 7-15 The Project will comply with applicable Fire Code standards. The Project applicant will fund water main extensions to provide adequate fire flow to the Project. Based on fire flow requirements set by CCFPD, the Project applicant would be required to fund pipeline and fire hydrant installation (DEIR, p. 4.14-12). See Master Response #1.
- 7-16 Mitigation Measure PUB-1 provides that the Project applicant will equip all dwelling units with residential automatic fire sprinkler systems, complying with the 2016 edition of NFPA 13D, or otherwise most current edition, subject to the review and approval of the CCCFPD. See Master Response #2
- 7-17 Project improvements do not include any new or modified traffic signals. See Master Response #2.



CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
40 Muir Road, 1st Floor • Martinez, CA 94553
e-mail: LouAnn.Teixeira@lafco.cccounty.us
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Lou Ann Teixeira
Executive Officer

MEMBERS

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June 22, 2021

Gary Kupp, Senior Planner
Department of Conservation & Development
30 Muir Road
Martinez, California 94553

SUBJECT: Draft Environmental Impact Report – Bayview Residential Project

Dear Mr. Kupp:

Thank you for sending the Contra Costa Local Agency Formation Commission (LAFCO) the Draft Environmental Impact Report (DEIR) for the *Bayview Residential Project*.

Consistent with our prior comments in 2008, 2009 and 2018, we offer the following general and specific comments below.

General Comments

As a Responsible Agency pursuant to the CEQA, LAFCO may need to rely on the County’s environmental documents in consideration of any future boundary changes [e.g., annexation] relating to this project.

LAFCO is an independent, regulatory agency with discretion to approve, wholly, partially or conditionally, or disapprove, changes of organization or reorganizations. In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), LAFCO is required to consider various factors when evaluating a proposal, including, but not limited to the proposal’s potential impacts on agricultural land and open space, provision of municipal services and infrastructure to the project site, timely and available supply of water, fair share of regional housing, etc.

The factors relating to boundary and SOI changes are contained in Government Code sections 56668 and 56425, respectively. Including an assessment of these factors in the County’s environmental document will facilitate LAFCO’s review and the LAFCO process. Deficiencies in the environmental document as required by LAFCO may result in the need for additional CEQA compliance work.

8-1
↓

If LAFCO will be asked to rely on the County’s environmental document for a future boundary change, the document should specifically 1) reference the LAFCO action(s) in the project Description (i.e., annexation), 2) list LAFCO as Other Public Agencies Whose Approval is Required, and 3) most importantly, the LAFCO action(s) and relevant factors should be adequately evaluated in the environmental document. For example, if the project will require annexation to a wastewater district, this action and the relevant analysis should be specifically addressed in the environmental document.

↑
8-1
cont.

Specific Comments

1. Public Services (Fire Protection and Police) – As noted in the DEIR, the project site is located within the service boundary of the Contra Costa County Fire Protection District (CCCFPD), thus no boundary change approval from LAFCO is required for fire and emergency medical services (EMS).

In conjunction with any boundary change proposal, LAFCO law requires a Plan for Providing Service. This “Plan” must include an analysis of the demand and capacity for public services (i.e., fire, police, wastewater, water, etc.) to serve the proposed 144 housing units, as well as an indication of the various service providers’ ability to serve to the project area and an assessment of impacts to the various service providers.

8-2

Regarding fire and EMS, the DEIR indicates that the CCCFPD first-response station, Station #9, is located approximately three miles south of the project site, which is outside the 1.5-mile response radius of an existing or planned fire station; thus, it appears that this service level will not meet the National Fire Protection Association (NFPA) response time guideline of 6 minutes, 90 seconds percent of the time.

8-3

In 2016, Contra Costa LAFCO completed its 2nd round Municipal Service Review (MSR) covering Fire and Emergency Medical Services. The MSR report noted that fire service providers continue to face challenges, including the following:

- Many fire service providers are unable to meet “best practices” for response times and staffing.
- In 2009, when LAFCO completed its 1st round MSR, and still today, fire agencies are unable to meet national and state guidelines for fire response times 90% of the time.
- Nearly half of the fire stations in the County are over 40 years old and a significant number are in poor condition, needing repair or replacement.
- Continued population growth, job creation, and changes in health care services affect the volume and location of service calls, creating the need for new facilities and staff resources in order to sustain services. While recovery in real estate and development has benefits, it also has costs in terms of increases in service demands.

8-4
↓

Regarding financing, the MSR also notes the following:

- Fire service providers rely primarily on property tax to fund services
- Fire districts face limited sources of revenue, including inability to charge for most services, low property tax shares as many agencies evolved from volunteer agencies, high insurance

costs due to the risky nature of the profession, and significant pension liabilities from past underfunding

- The lack of requirements for special taxes from new development increases the burden on fire agencies to obtain a two-thirds special tax voter approval once an area is populated

Fire districts continue to face service and fiscal challenges.

↑
8-4
cont.

Regarding **police services**, the DEIR notes that the project site is served by the Contra Costa County Sheriff's Office ("SO") and the California Highway Patrol. The DEIR notes that the addition of 144 new residential dwelling units will result in approximately 356 new residents or approximately 0.04 percent of the SO's countywide service population. The DEIR indicates that *the Project will increase the demand for police services but would not result in the need for new facilities.*

↑
8-5

The 2011 LAFCO Police Services MSR noted that the SO faced staffing and fiscal challenges, with reductions in sworn staff, and a static budget. At that time, the SO maintained 1.14 sworn staff per 1,000 population which was slightly below the countywide average of 1.18. The DEIR notes that in 2018, the SO had a ratio of 1.02 sworn staff personnel per 1,000 residents which is less than reported in 2011. The LAFCO MSR also noted that the SO's response times averaged 8:39 minutes, compared to the average of the cities which was 5:19 minutes. The DEIR does not indicate current SO response times.

The project will increase the on-site population and the number of on-site buildings which will increase the demand for fire protection, emergency medical, and police services within the Vine Hill/Pacheco Boulevard Area.

LAFCO has concerns with impacts this project will have on public safety services and the lack of mitigation measures in the DEIR to address the service and fiscal impacts this project will have on fire, EMS and police services. LAFCO recommends that the County add mitigation measures to address the impacts to fire, EMS and police services.

↑
8-6

2. **Water Supply** – The project site is within the Contra Costa Water District's (CCWD) service boundary.

The County's DEIR relies on CCWD's 2015 Urban Water Management Plan (UWMP). In April 2021, CCWD released its Draft 2020 UWMP which contains updated information along with a Drought Risk Assessment and Water Shortage Contingency Plan in accordance with AB 1668 (AB 1668) and SB 606. **The County should update the DEIR to reflect the most current water supply and drought assessment information.**

↑
8-7

3. **Wastewater Services** – The project will require approval by Contra Costa LAFCO to annex the subject area to the Mt. View Sanitary District (MVSD) for the provision of wastewater services as noted in the DEIR.

↑
8-8
↓

The DEIR incorrectly states the following:

- “MVSD is contiguous on all sides with CCCSD” – this is incorrect – the two districts are not contiguous.
- “The Project site currently falls within two sanitary districts – CCCSD and MVSD” – this is incorrect. The project site is within MVSD’s SOI but not within MVSD’s service boundary. The project site is not within CCCSD’s SOI or service boundary.

↑
8-8
cont.

Please correct this information in the Final EIR.

The annexation application to LAFCO must include a Plan for Service including details regarding wastewater demand, capacity and infrastructure, most of which are discussed in the DEIR.

8-9

In addition to the above comments, we offer the following correction: **Contra Costa County LAFCO.**

8-10

Thank you for the opportunity to comment on the DEIR. Please contact the LAFCO office if you have questions. We look forward to receiving copies of future environmental notices and documents relating to this project.

Sincerely,


Lou Ann Texeira
Executive Officer

Responses to Letter 8: Contra County Local Agency Formation Commission (LAFCO)

8-1 The Project Description (Chapter 3) of the Draft EIR names and describes actions by the Local Agency Formation Commission (LAFCO) on Table 3-2, *Required Approvals and Permits for the Proposed Project* (DEIR, p. 3-19). LAFCO's actions for the project are specifically discussed with respect to wastewater treatment in Section 4.14, *Utilities and Service Systems*:

The Project site does not currently fall within the jurisdiction of the proposed wastewater treatment provider, MVSD. Although the entirety of the Project site falls within the sphere of influence (SOI) of the MVSD, the Project sponsor and MVSD propose annexation of the entire Project site into the MVSD (MVSD, 2017).² ... The Contra Costa ~~County~~ LAFCO would therefore be required to approve or deny any proposed annexation of the Project site into a sanitary district. (DEIR, p. 4.14-4)

The LAFCO process and wastewater generation and collection system capacity relative to the proposed Project is discussed in Impact UTIL-49 (DEIR p. 4.14-15). (See relative text corrections to the Draft EIR in Chapter 4 of this document.)

No other aspect of the Project requires LAFCO approval. The Draft EIR addresses the Project's demands and adequate existing utility provisions regarding other public services, including police and fire and emergency services (see Section 4.12, *Public Services and Recreation*), water supply and other utilities (including wastewater) (see Section 4.14, *Utilities and Service Systems*), regional housing (see Section 4.11, *Population and Housing*), as well as impacts to agricultural land and open space (see Section 4.9, *Land Use, Plans and Policies*). No significant impacts pursuant to CEQA significance criteria are identified.

Also see Responses 8-2 through 8-8.

8-2 The proposed Project's potential environmental effects to public services and utility service providers, pursuant to CEQA significance criteria, are addressed in Section 4.12, *Public Services and Recreation*, and Section 4.14, *Utilities and Service Systems*, respectively. No significant impacts are identified.

8-3 The Draft EIR adequately analyzes impacts to fire and emergency medical services. Installation of automatic fire sprinkler systems may be used to satisfy General Plan Fire Protection Policy 7-62, which states that the County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first due station (DEIR, p. 4.12-9). Mitigation Measure PUB-1 requires the Project applicant to equip all dwelling units with residential automatic fire

² A sphere of influence is a plan for the probable physical boundaries and service area of a local agency.

sprinkler systems, complying with the 2016 edition of the National Fire Protection Association Standard 13D, or otherwise most current edition, subject to the review and approval of the Contra Costa County Fire Protection District. With mitigation, the Project's impact on fire protection services is less than significant. Recent case law confirms that replacing open space with urban development that meets modern fire code regulations improves fire safety. (*See Clews Land & Livestock* (2017) 19 Cal.App.5th 161, 193; accord *Maacama Watershed Alliance, et al v. County of Sonoma, et al.* (2019) 40 Cal.App.5th 1007, review denied and ordered not to be officially published (Jan. 2, 2020).) Additionally, increased demand for emergency services is not an environmental impact requiring mitigation (*City of Hayward v. Bd. of Trustees of Cal. State Univ.* (2015) 242 Cal.App.4th 833).

8-4 In accordance with Contra Costa County Ordinance 87-98, the Project applicant will pay a Fire Facilities Impact Fee to finance fire protection facilities required by the goals and policies of the General Plan and necessitated by the needs of new construction and development for adequate fire protection facilities and services. (*See Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 [assessment of a fee is an appropriate mitigation when it is linked to a specific mitigation program].)

8-5 The Project would result in a less than a 0.5% increase of the Sheriff's Office countywide service population (DEIR, p. 4.12-9). There would therefore be no need for provision of new or physically altered police facilities. The Draft EIR acknowledges that the Project may result in additional fiscal impacts associated with increased needs for staffing, but social and economic impacts are not considered a "significant effect on the environment" under CEQA. (*See CEQA Guidelines Section 15382* [an economic or social change shall not be considered a significant effect on the environment].)

8-6 The comment states that there is a "lack of mitigation measures" to address service and fiscal impacts. Mitigation Measure PUB-1 requires the Project applicant to equip all dwelling units with residential automatic fire sprinkler systems, complying with the 2016 edition of the National Fire Protection Association Standard 13D, or otherwise most current edition, subject to the review and approval of the Contra Costa County Fire Protection District. Installation of automatic fire sprinkler systems may be used to satisfy General Plan Fire Protection Policy 7-62, which states that the County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first due station (DEIR, p. 4.12-9).

Moreover, in accordance with Contra Costa County Ordinance 87-98, the Project applicant will pay a Fire Facilities Impact Fee to finance fire protection facilities required by the goals and policies of the General Plan and necessitated by the needs of new construction and development for adequate fire protection facilities

and services. (See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 [assessment of a fee is an appropriate mitigation when it is linked to a specific mitigation program].)

8-7 The comment is noted. Environmental conditions must be described as they exist when the NOP is published (CEQA Guidelines, Section 15125(a)). The NOP for the Project was posted on June 7, 2017. We note the water supply analysis relies on CCWD information that contemplates multi-year droughts (i.e., the most recently adopted version of CCWD’s Urban Water Management Plan), and the existence of a present drought, which is foreseen and planned for in the pertinent data discussed in Section 4.14, *Utilities and Service Systems*, of the Draft EIR, is not cause for any new analysis regardless of CEQA baseline issues. The Draft EIR complies with CEQA.

8-8 In response to the comment, the following correction is made to the bottom of page 4.14-4 of the Draft EIR:

The MVSD service area comprises approximately 4.7 square miles, ~~and is contiguous on all sides with the Central Contra Costa Sanitary District (CCCSD), with which it collaborates~~ with the Central Contra Costa Sanitary District (CCCSD) to provide services to the central portion of the County.

Also in response to the comment, the following correction is made under Impact UTIL-4 on page 4.14-15 of the Draft EIR:

~~The Project site is located currently falls within two sanitary sewer districts: The CCCSD and the MVSD. MVSD has reviewed the preliminary subdivision and approved of the proposed subdivision as well as the request to annex the Project site to be wholly within the MVSD SOI, but not the MVSD service boundary, and it therefore subject to the approval by the LAFCO. MVSD issued a “Will Serve” letter confirming its plan to provide wastewater utility service to the Project site (Leptin, 2010). Although the Project site is not within currently sits within the CCCSD SOI or service boundary jurisdiction, CCCSD considered the proposed residential use to conflict with its current operations nearby and elected not to annex the property or provide wastewater utility service to the site (Batts, 2004; Kelly, 2008). Annexation to CCCSD is therefore not a component of the Project.~~

Also see Master Response #2.

8-9 See Response 8-1. As the comment states, the Draft EIR adequately addresses the setting and CEQA impact analysis regarding wastewater demand, capacity and infrastructure in Section 4.14, *Utilities and Service Systems*. The Draft EIR analysis is adequate.

8-10 In response to the comment, the following correction is made on page 4.12-4, of Draft EIR:

Contra Costa ~~County~~ LAFCO

Also in response to the comment, the following correction is made on pages 4.12-14, and 4.14-20 of Draft EIR:

Contra Costa ~~County~~ Local Agency Formation Commission (LAFCO)

Date: July 12, 2021

By Electronic Mail

Memorandum

To: Gary Kupp, Senior Planner, Contra Costa County Department of Conservation and Development

From: Carolyn and Burt Kallander, 576 Palms Drive, Martinez, CA 94553

On Behalf of: Vine Hill Preservation Association

SUBJECT: Comments for Bayview Residential Project Draft Impact Environmental Report (DEIR)

A. Palms Drive—Off-Site Private Road—Public Works—Existing Access to Project Site

Background

The project DEIR does not consistently acknowledge that (off-site) “Palms Drive” is a privately owned and maintained road, with each lot owning easements to the middle of the street. Because of the various narrow widths, it will never meet current public road standards.

9-1

According to grant deeds, there is supposed to be a 50-foot easement between each home, but building codes were not enforced to this standard when home construction occurred.

9-2

For most of the road, there is a single lane of pavement down the middle of the street. Most residents do not have access to parking on their property, so they park on both sides of the unpaved “shoulders”.

9-3

Sometimes we have to courteously negotiate passage (like many streets in Berkeley), or watch out for small children bicycling in the middle of the street.

Palms Drive Project is the name of our paving association, started in 2012. Palms Drive Project has had four neighborly fundraisers which added pavement to most of the street. The same developer for Bayview, also owns the approved but undeveloped Palms 10 was approached for donating, expressed interest in contributing, but has never followed through.

9-4

1. PRIVATE PALMS DRIVE does not support a 50’ R/W: We measured widths that ranged between 22.5 to 25 feet, observing potential obstructions like telephone poles, a fire hydrant, retaining walls, fences, steep driveways, and raised manholes.

a. 528 Palms Dr is particularly at risk because this home does not meet set-back standards. This property begins at the narrowest section of the road, which includes the hazardous blind turn (mentioned in SAFETY ISSUE 1, below). How can this be mitigated?

b. What considerations is the developer offering to homeowners who 1) may lose property, 2) access to their driveways, 3) No place to park their cars due to “No Parking on Street”

9-5

2. Has a traffic consultant been hired to review and prepare a plan regarding the feasibility of (Off-Site) Palms Drive’s “improvements” which may or may not require sidewalks and shoulders?

9-6

- a. Because of existing obstructions like telephone poles, fire hydrant, retaining walls, fences, steep driveways, raised manholes, and location of 528 Palms Drive—it does not appear that the road can be developed so that it does not result in additional, meandering turns to accommodate the two-lane traffic. 9-6 cont.
- 3. **SAFETY ISSUE 1:** What impact does the hazardous blind turn (which is uphill with ingress) coinciding with the narrowest portion of Palms Drive (located between properties 515/535 and 516/528) of the road have on plans for driver, bicycle, and/or pedestrian safety? 9-7
 - a. 515 and 535 Palms Drive: Injury accident and property damage when driver crashed through property owner’s fences.
- 4. **SAFETY ISSUE 2:** We frequently have cars speeding up our street and causing property damage (some are trying to escape the law). People unfamiliar with our street do not realize there is **no outlet** beyond the I-680 on and off ramps. Adding 144 homes will exacerbate this issue as speeders can now “hide or disappear” within the Bayview development. How can we address this issue? 9-8
- A Few more examples** (these will have police reports on file)
 - a. 584 Palms Drive: Property damage when speeding car crashed through fence, continued down the hill into the Bayview property, where the car was then abandoned.
 - b. 500 Palms Drive: Driver collided with parked cars traveling up Palms Drive and then abandoned his damaged vehicle at 500 Palms Drive. The deputy sheriff shared that the owner seemed unconcerned about retrieving it, and speculated that he was celebrating “420” (a cannabis-oriented celebration that take place annually on April 20)
- 5. **SAFETY ISSUE 3:** How many accidents and/or deaths are needed to conclude Private Palms Drive was not an appropriate choice for ingress/egress to 144 more homes? 9-9
- 6. **SAFETY ISSUE 4:** Residents know to keep their speed down to 15 miles an hour or less—how will we continue to safeguard the health and wellbeing of (off-site) Palms Drive children/residents as Bayview travels through our neighborhood? 9-10
- 7. **SAFETY ISSUE 5:** Sidewalks and bike lanes—is it acceptable for children to have these within the Bayview project, but not available for the length of our private road? 9-11
- 8. We expect to retain the four speed bumps on our private road.
- 9. What is the standard of pavement proposed, and how will this be monitored so that substandard materials are not used?
- 10. How long is the road guaranteed to last before it needs to be repaved at (off-site) Palms Drive’s homeowner expense? 9-12
- 11. How often does Contra Costa County repair and maintain public roads? If the road pavement is substandard and wears out quicker than normal, will the developer be held liable?
- 12. Since our road will remain a private road, will Bayview contribute to its continued maintenance costs (extra traffic is estimated to be 1,300 + cars per day)?
- 13. Before the roads are paved, will the severely aging infrastructure of Palms Drive for *storm drainage, water delivery, and sewage* be updated / replaced? 9-13
 - a. Who will monitor and ensure the quality of work?
- 14. It appears that the width of Palms Drive will be quite wider when entering Bayview. Is this acceptable? 9-14
- 15. Are Bayview’s interior roads intended to become public or remain private? 9-15

- 16. If both remain private, how will maintenance and repairs be accomplished? If only (off-site) Palms Drive remains private, what can be done to mediate the additional road degradation caused by Bayview?
- 17. Given the scope of mitigations, have all other possibilities for alternative ingress/egress access points been explored?

9-16

9-17

B. Utilities and Water Supply Infrastructure for Palms Drive

The DEIR Waterline Exhibit Figure 3-5 (provided by Isakson and Associates / 2020) tie-in connection to CCWD is incorrect. Please see corrected copy of Figure 3-5, below.



9-18

SOURCE: Isakson & Associates, 2020

- Existing CCWD 12" Waterline to CONCO
- - - Proposed 12" S'LY Waterline Extension from CONCO through Bayview
- · · Proposed In-Tract Waterlines to Connect to Existing

Bayview Estates Residential Project 208078
Figure 3-5
Waterline Exhibit

*Adjusted Key: **Red dot** indicates location of three CCWD water meters on Private Palms Drive.
Yellow dot indicates location of fire hydrant at 559 Palms Drive.

- 1. The EIR needs to address the water supply infrastructure for 564, 568, 576 and 584 Palms Drive because these four addresses on Private Palms Drive exceed the proposed elevation level of CCWD Zone 1 service elevation.

9-19

- The mismarked Tie-in connection includes [off-site] Palms Drive and Bayview “A” Court. All of these exceed the elevation 92 sea level restriction for utilizing a Level 1 water main/CCWD.



2. Per CCWD: “Water Service will likely require backflow prevention devices”—has this been included?
3. Will there be appropriate fire flow capacity for the fire hydrant located at 559 Palms Drive?
4. How and when will the severely aging infrastructure of Private Palms Drive be analyzed for updates / replacement as concerning *storm drainage, water delivery, and sewage*?
 - a. Please define what is included in the scope of updates?
 - b. How / when will this information be communicated with the planning department and (off-site) Palms Drive residents?
5. During construction--how long will residents be without utilities and/or road access to our homes?
 - a. Where will we live and how will we be compensated for these (anticipated) losses?

C. Protected Valley Oak Woodland and other project trees

1. Why cut down 30 (out of 34) protected Valley Oaks Trees that have survived vandalism and numerous droughts and replace them with new trees that will need extra water to become established for five years?
2. What is the cost-- in terms of extra water-- to establish these new trees? How will this water be provided?
3. Will higher water costs per unit be waived during a drought cycle, or will the homeowner end up bearing this cost?
4. What will happen to these newly planted oak trees and our water table during a drought cycle? Has the specter of a lengthy drought and Climate Change been factored in for their survival?
5. Will new homeowners be educated on how to care for their trees?
6. If the new Valley Oaks trees and other trees die before becoming established, will they be replaced? At whose expense? How much water will be needed to start the process over?

↑

9-19
cont.

9-20

9-21

9-22

9-23

9-24

9-25

9-26

9-27

9-28

9-29

- 7. Shouldn't all of the protected Valley Oak Woodland and other trees be conserved so that bats and other nesting birds retain their habitats

9-30

D. Public View Corridors—Grading, Removal of Protected Valley Oaks trees

Visual Character and Visual Quality / Scenic Vista

Impact AES-3: The Project could alter the existing visual character of the Project site, but would not substantially degrade the existing visual quality of the site and its surroundings. (Criteria a and c) (Less than Significant, no Mitigation Required)

Attached are more scenic pictures from additional viewpoints showing that the scenic standing of Vine Hill is more significant than shown in the DEIR. More pictures showing the beauty of Vine Hill were submitted via thumb drive by Burt Kallander.

9-31

Intermittent views can be observed during a long stretch of Highway 4.

We would like these views from Palms Drive, Clyde, Grayson Creek (Arnold Industrial Parkway), Arthur Rd, and Highway 4 to be added to the DEIR for Bayview Residential Project.

- 1. Please use apply computer simulation to show before/after Protected Valley Oaks and placement of homes
- 2. More pictures showing the beauty of Vine Hill were submitted via thumb drive by Burt Kallander.



Veiwpoint1_Grayson Creek



Veiwpoint2_560 Palms Drive



Veiwpoint3_576 Palms Drive



Veiwpoint4_584 Palms Drive_Panoramic



Veiwpoint5_Clyde



Viewpoint6_Highway 4_Near Buchanan Airport



Viewpoint7_I680 North on-ramp from Marina Vista



Viewpoint8_Across from McNabney Marsh



Viewpoint9_Arthur Road

E. Special Status Animals Observed

We have been delighted to live amongst a rich and abundant wildlife habitat.

1. *Shouldn't all of the protected Valley Oak Woodland and other trees be conserved so that bats and other nesting birds are able to retain their habitats?*

9-32

We have observed these "Special Status Animals" found on the on the DEIR list:

- | | |
|---|--|
| <ul style="list-style-type: none"> • White-tailed Kite • red-tailed hawk • great horned owl • American kestrel • Anna's hummingbird • Bewick's wren | <ul style="list-style-type: none"> • American crow • California towhee • northern mockingbird • Bats--around Vine Hill, species unknown • Beavers around the wetlands |
|---|--|

9-33

More of Burt Kallander's bird watching list (may apply above)

Other Hawks: Red-Shouldered Hawk, Osprey, Cooper's, Merlin, Marsh, & Sharp-Shinned.

- | | |
|---|--|
| <ul style="list-style-type: none"> • Owls: Barn, & Long-Eared • Woodpeckers: Acorn, Nuttall's • Sapsuckers of various kinds • Red Shafted Flicker • Barn and other Swallows, • Phoebe: Black and Says • Cormorants • Egrets: Snowy and American • Great Blue Heron • Warblers: Audubon's and others | <ul style="list-style-type: none"> • Great-tailed grackle • Sparrows: White Crown and Golden Crown • Ruby Crown Kinglet • Cedar Waxwings • Scrub Jays • Crows and Ravens • Wild Turkeys • Hooded Oriole |
|---|--|

F. Safety for Children

Outlined and submitted separately in **7.12.21 CLKallander Comments**

1. Hazards of *living* close to a railroad-where curious children may decide to play



9-34

Memorial on Howe Road.

Responses to Letter 9: Vine Hill VHPA

9-1 For purposes of CEQA and the EIR, it is only necessary to identify the development footprint of the roads, so that County decisionmakers and the public can understand what habitats, soils, and other environmental resources are impacted by the roads' construction (CEQA Guidelines Section 15124). Existing easements held by private property owners are not germane for purposes of environmental review. See Master Response #2.

Disputes between parties about easements is outside the scope of the County's environmental review. In *Moylan v. Dykes* (1986) 181 Cal.App.3d 561, 573, the court held that third parties have no standing to involve themselves with terms of an easement between two other parties. In short, if there are any private disputes between the Developer and private property owners, the County has no obligation or authority to intervene.

9-2 See Response 9-1. The Project will comply with all modern building and fire codes, and compliance with applicable regulations is detailed in Chapter 4 of the Draft EIR.

9-3 Safety impacts of the Project are identified and analyzed in Chapter 4.13, *Transportation*, of the Draft EIR. See Master Response #2.

9-4 See Master Response #2.

9-5 Impact TRF-6 and associated Mitigation Measure TRF-6 address pedestrian and bicycle activity (DEIR, pp. 4.13-14 to 4.13-15). The current maintenance state of Palms Drive and Central Avenue is poor; Palms Drive has poor pavement conditions as well as a narrow travel-way that may restrict concurrent two-way vehicle movements, and Central Avenue at the Project frontage is not paved and these conditions pose hazards to bicycle riders. Mitigation Measure TRF-6 requires off-site improvements at Palms Drive and Central Avenue to ensure that streets used by pedestrians and bicyclists are in good condition, provide space to accommodate walking and biking, and provide appropriate signing, marking, and other features to facilitate the safe movement of pedestrians and bicyclists.

Regarding the width of the right of way, the Project applicant has a 50-foot-wide right of access per recorded deeds. See Response 9-4 to the commenters first comment. Also see Master Response #2.

9-6 A traffic consultant was retained by the County to evaluate the Project's off-site improvements and mitigations, which include a continuous sidewalk on one side of Palms Drive, two lanes of travel, and other improvements consistent with County regulations. Please see Chapter 3 (*Project Description*) and Section 4.13, *Transportation*, of the Draft EIR. Installation of a sidewalk is a common roadway improvement, and the Project applicant has recorded access rights establishing it

may improve Palms Drive as proposed. Meanwhile, the 50-foot-wide right of way provides enough space and flexibility to construct two lanes of traffic, shoulders, and a sidewalk in a safe manner without dangerous curves. The width of such improvements should not exceed 34 feet in width (see DEIR, p. 4.13-13).

Substantial evidence in the form of the expert opinions of Project applicant's engineers and the County's Public Works staff support the feasibility and effectiveness of mitigation measures requiring off-site roadway improvements. (See *Sacramento Old City Assn. V. City Council* (1991) 229 Cal.App.3d 1011, 1027 [agency is entitled to deference with respect to effectiveness of mitigation].) Also see Master Response #1.

- 9-7 As part of the Project, Palms Drive would be improved to better accommodate two lanes of moving vehicle traffic, as detailed in Chapter 3 (*Project Description*) and Section 4.13, *Transportation*, of the Draft EIR, utilizing a 50-foot-wide right of way owned by the Project applicant. Note that Palms Drive would be a secondary access route to the Project. Also note that Impact TRF-6 describes impacts related to pedestrian and bicycle activity. Mitigation Measure TRF-6 requires the Project applicant to improve pedestrian and bicycle transportation conditions through construction of continuous sidewalks, appropriate signage, and even pavement to ensure the safe movement of pedestrians and bicyclists.

Notwithstanding the above, CEQA does not require mitigation of, to the extent they exist, any existing off-site hazards that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project (CEQA Guidelines Section 15126.2(a)).

- 9-8 See Response 9-7. CEQA does not require mitigation of existing safety issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project (CEQA Guidelines Section 15126.2(a)).

Property damage and crime, while important social issues, they are not germane to CEQA. CEQA does not require consideration of economic and social effects. (See CEQA Guidelines Section 15604(e)). Insofar as police services implicated environmental issues, they are addressed in Chapter 4.12, *Public Services and Recreation*, of the Draft EIR. The comment does not identify any specific deficiencies related to the analysis presented within the Draft EIR, so no further response is warranted.

9-9 According to the California Highway Patrol's I-SWITRS database, which records all traffic accidents on local roadways, including accidents involving injuries and deaths, there have been no collisions between vehicles, pedestrians, or bicyclists involving injuries or deaths on Palms Drive or Central Avenue in recent years. The prospect of future traffic accidents is speculative. Also see Response 9-10, which details the traffic improvements associated with the Project that would ensure the Project does not have any significant impacts, and in fact would improve the safety of roads above existing conditions. CEQA does not require mitigation of existing safety issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project. (CEQA Guidelines Section 15126.2(a).)

9-10 The Project's traffic safety impacts are analyzed and mitigated in Chapter 4.13, *Transportation*, of the Draft EIR. Meanwhile, the Project will improve safety by widening off-site roads to County standards and implementing the following measures:

- Continuous sidewalks on at least one side of Palms Drive and Central Avenue to connect the Project site to the existing pedestrian facilities on Arthur Road to improve pedestrian transportation conditions.
- Even surface pavement, appropriate signage, delineation, and other features on Palms Drive and Central Avenue to improve bicycle transportation conditions.
- Sidewalks for all streets within the Project site including facilities on both sides of each street and curb ramps at each street intersection.

Implementing the County requirements and design standards would ensure that the street(s) used by the Project's pedestrians and bicyclists are in good condition, provide space to accommodate walking and biking, and provide appropriate signing, marking, and other features to facilitate the safe movement of pedestrians and bicyclists. Accordingly, the Draft EIR determined impacts were less than significant. Also see Master Response #2.

9-11 CEQA does not require mitigation of existing safety issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project. (CEQA Guidelines Section 15126.2(a).)

Notwithstanding the above, Impact TRF-6 and associated Mitigation Measure TRF-6 address pedestrian and bicycle activity (DEIR, pp. 4.13-14 to 4.13-15). The current maintenance state of Palms Drive and Central Avenue is poor; Palms Drive has poor pavement conditions as well as a narrow travel-way that may

restrict concurrent two-way vehicle movements, and Central Avenue at the Project frontage is not paved and these conditions pose hazards to bicycle riders. Mitigation Measure TRF-6 requires off-site improvements at Palms Drive and Central Avenue to ensure that streets used by pedestrians and bicyclists are in good condition, provide space to accommodate walking and biking, and provide appropriate signing, marking, and other features to facilitate the safe movement of pedestrians and bicyclists.

- 9-12 The Project developer will construct all roadway improvements to County standards. See Master Response #2.
- 9-13 All Project improvements must be inspected and approved by the County. Notwithstanding the above, CEQA does not require mitigation of existing infrastructure issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project (CEQA Guidelines Section 15126.2(a)). Also see Master Response #2.
- 9-14 With respect to off-site segments of Palms Drive, the roadway will be improved per the County's approval of the Palms 10 subdivision, which proposed a minimum pavement width of 28 feet. This roadway is intended to remain a private drive, and Public Works confirmed the acceptability of this roadway alignment, including its width, in its Memorandum dated August 10, 2017. The Project applicant has legal rights to a 50-foot-wide ROW along Palms Drive. This right of way is evident in recorded documents. If private parties dispute the Project applicant's access rights in recorded documents, their recourse is against the applicant, pursuant to case law. (*See Moylan v. Dykes* (1986) 181 Cal.App.3d 561, 573 [third parties such as cities have no standing to involve themselves with terms of an easement dispute between two other parties].)
- Impact TRF-4a analyzes impacts to vehicle drivers using Palms Drive and Central Avenue. Mitigation Measure TRF-4 requires the Project developer to provide even surface pavement, appropriate signage, delineation and other features to improve vehicle transportation conditions and eliminate obstacles or hazards. Neither the Draft EIR nor the administrative record include any evidence that a wider street would be unacceptable from a vehicle safety perspective. Also, see Master Response #2.
- 9-15 The Project's in-tract roads would be constructed to public street standards as determined by the County. The Project roads are currently proposed as private streets; public dedication is possible if all fee and easement owners agree but would not create any different physical effects on the environment. See Master Response #2.
- 9-16 With respect to off-site segments of Palms Drive, the roadway will be improved per the County's approval of the Palms 10 subdivision, which proposed a

minimum pavement width of 28 feet. This roadway is intended to remain a private drive, and Public Works confirmed the acceptability of this roadway alignment, including its width, in its Memorandum dated August 10, 2017. Impacts to area roadways due to truck traffic during Project construction are analyzed in Impact TRF-2. Mitigation Measure TRF-4, meanwhile, provides that in accordance with County requirements and design standards, the applicant will provide even surface pavement, appropriate signage, delineation, and other features on Palms Drive (and Central Avenue if it becomes a public street) to improve vehicle transportation conditions and eliminate obstacles (or hazards). With mitigation, impacts to roadways would be less than significant. See Master Response #2.

9-17 Alternative ingress/egress would not reduce the Project's significant environmental effects, which (with the exception of VMT) are all reduced to less than significant with mitigation. As such, alternative ingress/egress need not be explored. See Master Response #3.

9-18 The tie-in point for the Project is correctly shown on Figure 3-5, *Waterline Exhibit*, in Chapter 3, *Project Description*, of the Draft EIR. Construction of the watermain along the frontage which roughly extends from the yellow dot to the Project boundary will be constructed as part of the Palms 10 development.

9-19 CEQA does not require mitigation of existing issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project (CEQA Guidelines Section 15126.2(a))

The pad elevations are shown on the vesting tentative map (Figure 3-2 in DEIR Chapter 3, *Project Description*). A previous iteration of the project included 163 lots. The current Project has 144 lots because the upper elevation lots (referred to in the 2010 CCWD letter) have been eliminated. None of the homes constructed as part of the Project will be at elevations of more than 92 feet.

Notwithstanding the above, CEQA does not require an assessment of environmental impacts of a project on particular persons (*Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1019.) Where the identified impact affects only a particular group of people there is no significant effect. (*Ibid.*; *Assn. for Protection of Environmental Values in Ukiah v. City of Ukiah* (1991) 2 Cal.App.4th 720, 734 [construction of single-family home impacting only a few neighbors is not considered a significant effect].) To the extent CEQA requires an evaluation of water supply and utilities, those issues are addressed in Draft EIR Chapter 4.12, *Public Services and Recreation*. Also see Master Response #2.

9-20 The Project will comply with all applicable CCWD requirements. See Master Responses #1 and #2.

- 9-21 The typical required fire flow for a neighborhood of this size is 1500 gpm at 20 psi (from 2 fire hydrants); see Response 4-1. Modeling completed by CCWD Engineering shows 945 gpm at the current terminus of Central Ave (at the north end of the Project site) and 718 gpm at the current terminus of Palms Dr. The Project will extend the existing CCWD 12" water transmission main (on the south side the Project site), through the Project site, and connect to existing CCWD distribution mains in Central Ave. and Palms Dr., as shown in Figure 3-5, *Waterline Exhibit*, in Chapter 3, *Project Description*, and described in the Draft EIR. As a result, this Project will correct this deficiency by providing fire flows of 2554 gpm at Central Ave and 1781 gpm at Palms Dr., meeting or exceeding minimum fire flow requirements. Also see Master Response #2.
- 9-22 All off-site roadway improvements are identified and analyzed in Chapter 4.13, *Transportation*, of the Draft EIR. CEQA does not require mitigation of existing issues that are not a direct or indirect effect of the Project. An EIR's analysis of significant environmental impacts must identify and describe the significant direct and indirect environmental impacts that will result from the project (CEQA Guidelines Section 15126.2(a)). Also see Master Response #2.
- 9-23 The Project is anticipated to be developed in up to three phases, generally from west to east across the site, with an anticipated grading start date in 2021 and last house completion date in 2024. The impact of construction-related traffic would be temporary and intermittent. Mitigation Measure TRF-1 requires preparation of a Construction Management and Traffic Control Plan, which will include a set of comprehensive traffic control measures, including notification procedures for adjacent property owners, to minimize the impact of construction traffic.
- CEQA does not require an assessment of environmental impacts of a project on particular persons (*Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1019). Where the identified impact affects only a particular group of people there is no significant effect (*Ibid.*; *Assn. for Protection of Environmental Values in Ukiah v. City of Ukiah* (1991) 2 Cal.App.4th 720, 734 [construction of single-family home impacting only a few neighbors is not considered a significant effect].) Also see Master Response #2.
- 9-24 The County's Tree Protection Ordinance expressly allows for removal of protected trees, subject to the ordinance's requirements. All impacts on trees and prescribed mitigations are identified in Chapter 4.3, *Biological Resources*, of the Draft EIR.
- 9-25 The commenter expresses concern about water needed to sustain the replacement trees for those protected valley oak trees that would be removed under the project as necessary to support site grading. The cost, supply and management of water associated with the replacement trees is beyond the scope of the Draft EIR. The County's Tree Protection Ordinance expressly allows for removal of protected

trees, subject to the ordinance's requirements. The EIR is not required to engage in speculation in order to analyze the cost of water for establishment of new trees (CEQA Guidelines Section 15145). Mitigation trees, which will include valley oak, are drought tolerant and all irrigation and other landscaping water usage shall comply with the Model Water Efficient Landscape Ordinance (MWELo) while establishing this vegetation. Thereafter, the valley oak trees would be self-sustaining. The temporary water demand associated with establishing new trees would be nominal.

The comment inquires whether replacement trees that die before the 5-year performance evaluation period will be replaced. As described in Mitigation Measure BIO-5b, a Habitat Mitigation and Monitoring Plan will specify restoration/enhancement/creation methods and performance criteria that mitigation plantings must achieve within the 5-year monitoring period to be considered successful in meeting the mitigation obligation for impacts to valley oak woodland (DEIR, page 4.3-49). If plantings fail to achieve performance thresholds established in the plan or die before the end of the prescribed monitoring period, replacement plantings would be required to fulfill the mitigation commitment. Alternatively, Mitigation Measure BIO-5b allows for payment of an in-lieu fee to be used for mitigation that would support the protection or enhancement of oak woodland in the region.

The commenter also expresses concern about loss of habitat for bats and nesting birds associated with removal of the valley oak trees. Implementation of Mitigation Measure BIO-5b, which requires planting replacement trees or funding protection and enhancement of oak woodland in the region, ensures that there would be no permanent loss of oak woodland habitat that could support bats, their roosts, and nesting birds with removal of these valley oak trees from the site.

- 9-26 See Master Response #2.
- 9-27 See Response 9-25. Mitigation Measure BIO-5b requires preparation of a Habitat Mitigation and Monitoring Plan, which includes a monitoring/maintenance program to evaluate the overall health and vigor of mitigation plantings over a period of five years to ensure the site is successful, according to the established performance criteria.
- 9-28 Trees planted as part of Mitigation Measure BIO-5 will be maintained by the homeowners' association (HOA). These mitigations are binding. Mitigation Measure BIO-5b requires preparation of a Habitat Mitigation and Monitoring Plan (HMMP) for oak woodland habitat to be restored as part of the Project. The HMMP must include restoration performance criteria for the restored area that establish success thresholds over a period of five years and proposed monitoring/maintenance program to evaluate the restoration performance criteria

under which progress of restored areas is tracked to ensure survival of the mitigation plantings. The program shall document overall health and vigor of mitigation plantings throughout the monitoring period and provide recommendations for adaptive management as needed to ensure the site is successful, according to the established performance criteria.

9-29 See Response 9-28.

9-30 See Response 9-25.

9-31 The Draft EIR adequately analyzes the impacts of the Project on scenic vistas and the visual character of *public* views of the site and its surroundings. With development of the Project, visible change of the Project site from selected public viewpoints is limited. The Project as a whole, including the proposed changes to the existing topography, would not degrade the existing visual quality of the site or surrounding area, nor would it adversely affect a scenic view or valuable community resource. The Draft EIR adequately analyzes the impacts of the Project on scenic vistas and the visual character of public views of the site and its surroundings. With development of the Project, visible change of the Project site from selected public viewpoints is limited. The Project as a whole, including the proposed changes to the existing topography, would not degrade the existing visual quality of the site or surrounding area, nor would it adversely affect a scenic view or valuable community resource.

9-32 See Response 9-25. The commenter expresses concern about loss of habitat for bats and nesting birds associated with removal of the valley oak trees and provides a list of special-status and common bird species observed, without describing whether they were observed on the project site or in the general vicinity. The comment also notes bats and beavers have been observed. The Draft EIR Section 4.3.2, *Environmental Setting, Vegetation Communities and Wildlife Habitats*, describes animal species expected or observed within the vegetation communities and wildlife habitats of the project site, which include many of the species identified by the commenter (DEIR, page 4.3-2 through 4.3-7). Appendix D lists all special-status species with potential to occur on the project site, including those listed by the commenter, and evaluates the likelihood for occurrence. See Comment Response 9-11 for a discussion of how project impacts to oak woodland habitat for nesting birds and bats would be compensated for through implementation of Mitigation Measure BIO-5b.

9-33 As documented in the Draft EIR and administrative record, ESA and Moore Biological Consultants conducted wildlife surveys of the Project site on June 15, 2017. Moore Biological Consultants conducted surveys of the Project site on November 19, 2020, December 1, 2020, April 13, 2021, May 6, 2021, June 11, 2021, and July 9, 2021. Further, and as also documented in the Draft EIR, ESA and Wood Biological Consulting conducted surveys of the site in 2007 and 2008.

Substantial evidence supports the presence of special-status species and likelihood of occurrence on the Project site as identified in Appendix D. The commenter does not reference a source for a study or biological survey conducted by a qualified biological professional to support the list of wildlife presented in the comment. The conclusions in the Draft EIR are provided by professional biologists and are supported by the evidence in the record.

- 9-34 While safety of residents is an important social issue, it is not germane to CEQA. CEQA does not require consideration of economic and social effects or impacts on future project users (see CEQA Guidelines Section 15604(e)). See Master Response #2.



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July 12, 2021

By Electronic Mail

Mr. Gary Kupp
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**RE: Vine Hill Preservation Association’s Public Comment on the Draft
Environmental Impact Report for the Bayview Estates Residential Project**

Dear Mr. Kupp:

This law firm represents the Vine Hill Preservation Association (VHPA), a resident-led, community-based organization dedicated to preserving Vine Hill and the critical wetlands located at the foot of the hill in the Vine Hill/Pacheco area of central Contra Costa County, California at 850 Central Avenue. VHPA and its members will submit separate public comments on the Draft Environmental Impact Report (Draft EIR) for Discovery Builder, Inc.’s proposal to develop Vine Hill into a 144 single-family residential subdivision that includes a General Plan Amendment, Rezoning, Major Subdivision and Preliminary & Final Plan Development, and Tree Removal (the Project). This public comment joins those comments and incorporates them by reference.

I write separately on behalf of VHPA to focus on the California Environmental Quality Act’s (CEQA) legal requirements, including whether the Board of Supervisors of Contra Costa County (Board) should approve a project with unavoidable significant environmental impacts when environmentally superior project alternatives that meet project objectives are feasible.

- 1. The agency should consider a conservation alternative or evaluate the feasibility of using existing conservation funding to preserve the project site due to its environmentally sensitive features.**

The project site is made up of native and non-native grasslands, a pond and creek, an alkaline wetland, and countless special status species and native species who call this beautiful,

10-1

unique habitat home. With such a pristine, sensitive ecosystem under threat of development, the County must consider conservation as an alternative to habitat destruction. Indeed, under CEQA among the factors relevant to a feasibility analysis are “other plans or regulatory limitations, [and] jurisdictional boundaries (projects with a regionally significant impact should consider the regional context).” (Cal. Code Regs, tit. 14, § 15126.6, subd. (f)(1).) The Draft EIR fails to consider the feasible project alternative of conserving all or part of Vine Hill in perpetuity as open space to mitigate prior environmental harms. VHPA calls on the County to investigate the availability and feasibility of using conservation funds derived from prior environmental settlement agreements to purchase the Vine Hill site to preserve it for future generations.

10-2

Alternatively, VHPA formally requests that the County investigate and evaluate the feasibility of using conservation funds to preserve the project site as a reasonably foreseeable consequence of selecting the No Project Alternative. As written, the Draft EIR summarily dismisses the No Project Alternative by assuming it would be developed eventually, even though the site is not currently zoned for development and without undertaking any analysis whatsoever of other options available to the County with respect to the project site.

10-3

2. The proposed Project and its environmentally superior alternatives.

The vacant 78-acre project site is in the unincorporated community of Vine Hill in Central Contra Costa County. The western half of the property contains Vine Hill with a maximum elevation of 283 feet, while the eastern half includes flat land and wetlands. (Draft EIR, § 1.2.) Discovery Builders proposes to develop 144 single family homes and associated internal roadways and infrastructure on approximately 31.8 acres of the site, with the remaining 46.5 acres a combination of hilltop open space, a private neighborhood park, and wetland/marsh areas and a stormwater treatment basin. (Id.)

10-4

To comply with CEQA’s requirement to evaluate the feasibility of alternatives to the proposed Project, the Draft EIR evaluated three “environmentally superior” alternatives: Alternative 1, The No Project Alternative; Alternative 2, The Reduced Density Alternative; and Alternative 3: The Light Industrial Alternative. (See generally Draft EIR, Chap. 5.) In selecting alternatives, the agency considered the extent to which the alternative would accomplish most of the basic goals and objectives of the Project, whether the alternative would reduce or avoid the significant unavoidable impacts identified with the proposed Project, and the feasibility of the alternative, taking into account site suitability, economic viability, and availability of infrastructure. (Id. at § 5.1.)

10-4

Alternative 1, The No Project Alternative, does not meet Project goals, but Alternative 2, The Reduced Density Alternative, includes site preparation and phased construction of 72 single-family homes with significantly less grading, thus meeting most of the Project’s goals and objective to develop the project site for residential use. (Draft EIR, § 5.4, p. 5-11.) Alternative 2, therefore, causes less or reduced environmental impacts in several areas, including to the significant unavoidable impact caused by the Project caused by Vehicle Miles Traveled (project Impacts TRF-3 and cumulative Impact C-TRF-8), air quality (impact AIR-1), greenhouse gas emissions (Impact GHG-1), visual quality (Impact AES-1), slope stability and landslide hazards (Impact GEO-1), public fire and emergency medical service demands (Impact PUB-1), and land use compatibility (Impact LUP-2), all while meeting project goals. (Draft EIR, § 5.3, p. 5-3—5-

10-5

5.) Indeed, unlike the proposed Project, Alternative 2 “would be fundamentally consistent with the intent of the General Plan policies that encourage preservation of the natural topography of existing hillsides and ridgelines and associated visual assets and policies that discourage extensive grading.” (Id. at § 5.4, p. 5.5.)

↑
10-5
cont.

Alternative 3, The Light Industrial Alternative, reduces or lessens significant avoidable impacts altogether, including significant unavoidable VMT impacts, but Alternative 3 “would not meet the fundamental Project objectives.” (Draft EIR, § 5.4, p. 5-11.)

10-6

To assist the Board, I am including Table 5-1 below, as it summarizes the significant environmental impacts posed by each project alternative. (See also Draft EIR, § 5.4, p. 5-10.)

**TABLE 5-1
SUMMARY OF REDUCED OR AVOIDED IMPACTS COMPARED TO THE PROJECT**

NOTE: Significance levels shown in the table reflect levels of significance after mitigation and indicate maximum impact during buildout and operation, unless otherwise specified.				
<i>BOLD/SHADED designations indicate change from Project impact.</i>	Project	Alt 1 No Project	Alt 2 Reduced Grading / 50 percent Development	Alt 3 Reduced Grading / Self Storage (LI)
Impact GHG-1: The Project would generate GHG emissions that could have a significant impact on the environment.	LSM	N	LS	LSM [‡]
Impact GHG-2: The Project would not conflict with an applicable plan, policy or regulation of an appropriate regulatory agency adopted for the purpose of reducing GHG emissions.	LSM	N	LS	LSM [‡]
Impact NOI-2: Occupants of the proposed Project buildings could be exposed to high noise levels.	LS	N	LS	N
Impact NOI-3: Project operations could cause a long-term increase in ambient noise levels in the Project site vicinity.	LSM	N	LSM [‡]	N
Impact POP-1: The Project would not directly or indirectly induce substantial population growth.	LS	N	LS [‡]	N
Impact PUB-1: The Project would increase the demand for fire protection and emergency medical services, but would not result in the need for new or physically altered facilities, the construction of which would cause significant environmental impacts.	LSM	N	LSM [‡]	LS
Impact PUB-3: The Project would increase the demand for public school services, but would not result in the need for the provision of new or physically altered facilities.	LS	N	LS [‡]	N
Impact PUB-4: The Project would increase the demand for child care services, but would not result in the need for the provision of new or physically altered facilities.	LS	N	LS [‡]	N
Impact C-TRF-8: The Project with a General Plan amendment would increase the Countywide VMT, resulting in a significant impact for the Project	SU	N	SU	LS
Legend				
LS	Less than significant or negligible impact; no mitigation required			
LSM	Less than significant adverse impact, after mitigation			
SU	Significant and unavoidable adverse impact, after mitigation			
N	No impact			
‡	Impact is more severe or less severe than project impact, after mitigation			

10-7

3. Absent a finding of infeasibility, CEQA requires that the County approve the environmentally superior Alternative 2, the Reduced Density Alternative.

The Draft EIR admits that the proposed Project will result in significant environmental impacts that cannot be avoided or substantially lessened with mitigation. As a result, the agency cannot approve the proposed Project unless it finds environmentally superior alternatives “infeasible.” (Pub. Res. Code, §§ 21091(a)(3), 21081(a)(1)-(3); 14 Cal. Code Regs, § 15091(a)(3); see also *Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 CA4th 603, 620.) This requirement originates in Public Resources Code, section 21002, which states:

[I]t is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the projects. . . . The Legislature further finds and declares that in the event specific economic, social, or other considerations make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

10-8

In other words, absent a finding of infeasibility, the agency’s selection of the proposed Project is indefensible under CEQA.

CEQA defines “feasible” as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (Pub. Res. Code, § 210-61.1; 14 Cal. Code Regs, § 15364.) A project is infeasible if it is inconsistent with agency goals or policies or fails to meet project objectives. (See *City of Del Mar v. City of San Diego* (1982) 133 CA3d 401 (alternatives did not align with City’s growth management program so were infeasible); see also *Los Angeles Conservancy v. City of W. Hollywood* (2017) 18 CA5th 1031, 1042 (alternative was inconsistent with project objections that were based on city policies for development of site). According to the Draft EIR, Alternative 2 would meet the “fundamental Project objective” of developing the project site for residential use. (Draft EIR, § 5.4, p. 5-11.)

10-9

To be sure, the Draft EIR identified Alternative 2, The Reduced Density Alternative, as the only environmentally superior alternative that would meet project goals while reducing or avoided significant and unavoidable impacts of the proposed Project. (Draft EIR, § 5.3, p. 5-6.) Specifically, Alternative 2 “would avoid the potentially significant GHG emissions impacts (Impacts GHG-1 and GHG-2) identified with the Project” because Alternative 2 would generate 778 MT Cote/year compared to 1,556 MT Co2e/yr of the Project. (Id. at p. 5-6.) In addition, Alternative 2 would reduce significant and unavoidable VMT impacts identified with the Project, though they would still occur at a reduced rate.¹ And critically, Alternative 2 does not require the

10-10

¹ Draft EIR, Table 4.13-3, appears to *understate* the actual net VMT increase over foreseeable alternative uses of the site because it assumes a “conservative” FAR at the low end of the 0.1 to 0.4 range allowed for the HI zone but does not address the practical reality that industrial development is a declining land use in the County (see, e.g., General Plan, p. 3-10) and General Plan Policy 3-105 requires much of the steep site to remain open space and Policy 3-106 mandates that the site serve as a buffer for nearby residential neighborhoods.

removal of any protected Live Oak Trees, as opposed to the thirty out of thirty-five trees that would be eliminated with the proposed Project.

When lead agencies have attempted to approve projects over environmentally superior alternatives that meet project objectives, courts have invalidated the EIR. For example, in *Resource Defense Fund v. LAFCO*, the court held vacated an EIR because the lead agency selected the proposed project even though it was presented with an environmentally superior alternative that met project objectives. (*Resource Defense Fund v. LAFCO* (1987) 191 CA3d 886; see also *Preservation Action Council v. City of San Jose* (2006) 141 CA4th 1336; *San Bernardino Valley Audobon Soc’y v. County of San Bernardino* (1984) 155 CA3d 738; *Atherton v. Board of Supervisors* (1983) 146 CA3d 346.) In *Citizens for Quality Growth v. City of Mt. Shasta*, the court overturned an agency’s approval of a proposed project because the EIR failed to consider the feasibility of environmentally superior alternatives when adopting such an alternative would have provided the only means by which to reduce or avoid a project’s significant effects on wetlands. (*Citizens for Quality Growth v. City of Mt. Shasta* (1988) CA3d 433.)

10-10
cont.

From an environmental policy perspective, it is impossible to justify a project that would significantly weaken the County’s (and State’s) ability to meet climate action goals or that would result in the destruction of habitat when an environmentally superior alternative is available. That is why CEQA prohibits the County from adopting the proposed Project when the environmentally superior Alternative 2 would result in lessened or avoided significant environmental impacts and still meet project objectives. VHPA urges the County to select Alternative 2 or 3.

10-11

4. A statement of overriding considerations is inappropriate when a feasible environmentally superior alternative is available.

An environmental impact report is an informational document whose purpose is to inform the public and decision makers of the environmental consequences of agency decisions before they are made. Beyond this informational purpose, an environmental impact report can lead to affirmative legal obligations for agencies: they are required to mitigate or avoid the significant effects on the environment identified in the report whenever it is feasible to do so if they approve projects that have significant effects. (Pub. Res. Code, § 21002.1(b).) Agencies are permitted to approve projects with significant environmental impacts, even if there are no feasible mitigation measures, if they find that overriding considerations justify the approval. Those considerations must be set forth in a statement of overriding considerations and supported by substantial evidence. (Pub. Res. Code, § 21081; Cal. Code Regs, § 15093.) A statement of overriding considerations is a written statement specifying that because of the project’s overriding benefits, the agency is approving the project despite its environmental harm. The statement must set forth the reasons for the approval based on the final EIR or information in the record. (14 Cal. Code Regs, § 15093(b); see also 14 Cal. Cod Regs, § 15043.)

10-12

The Draft EIR does not include a statement of overriding considerations justifying the selection of the proposed Project, which alone renders an agency decision approving the Project vulnerable to appeal. (*Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150

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Cal.App.4th 683, 722 (invalidating a statement of overriding considerations because it was not made available to the public for review and comment).)

In addition to this informational defect, a statement of overriding considerations is inappropriate when the approval of the proposed Project is indefensible due to the availability of an environmentally superior alternative that would avoid or lessen the significant and unavoidable impacts resulting from the Project as proposed. Indeed, “CEQA does not authorize an agency to proceed with a project that will have significant, unmitigated effects on the environment, based simply on a weighing of those effects against the project's benefits, unless the measures necessary to mitigate those effects are truly infeasible.” (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368-369.) Such a rule, “even were it not wholly inconsistent with the relevant statute (Pub. Res. Code, § 21081(b)), would tend to displace the fundamental obligation of ‘[e]ach public agency [to] mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so’ (id., § 21002.1(b)).” (Id.)

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5. The Draft EIR conflicts with previous findings regarding future residents’ long-term exposure to toxic air contaminants.

The proposed Project includes 144 new residences within .5 miles of Interstate 680. (Draft EIR, § 4.2.2, p. 4.2-8.) Despite the known risks associated the toxic air pollution exposure to residents who live next to freeways, the Draft EIR does not analyze significant environmental impacts to air quality and human health risks caused by long-term exposure to Toxic Air Contaminants (TACs) that emanate from the highway. (See generally Draft EIR, Chap. 4.2.) I am including three exhibits related to TAC pollution caused by mobile sources on freeways for evaluation. (See Exhibits 2, 3, and 4.) Regarding TACs, the Draft EIR identifies construction period impacts only and completely ignores any other impacts. This omission directly conflicts with the 2009 Draft EIR, which identified Impact B.4 as follows:

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The Project will result in exposure of persons to substantial levels of Toxic Air Contaminants (“TACs”) such that the probability of contracting cancer for the Maximally Exposed Individual exceeds 10 in one million. (Significant)

(See 2009 Draft EIR, Date Dec. 2009, Chap. 4.)

The 2009 Draft EIR required mitigation for this serious risk to environmental health by mandating the installation of advanced indoor air ventilation systems in each new home, which did nothing to ensure the ventilation systems are maintained and repaired or replaced long-term. But the 2021 Draft EIR does not even consider TAC exposure to be a significant environmental risk. The agency must explain this discrepancy, as it is arbitrary and capricious to rely on 2021 findings when they directly conflict with 2009 findings.

6. The proposed Project is unnecessarily dangerous.

The Draft EIR must identify and analyze potentially significant impacts, including direct and indirect impacts, and must “analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected.” (Cal.

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Code Regs., tit. 14, § 15126.2, subd. (a).) Specifically, the EIR “should evaluate any potentially significant direct, indirect, or cumulative environmental impacts of locating development in areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas), including both short-term and long-term conditions, as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazard areas.” (Id.)

CEQA requires an environmental impact report to include an analysis of a project’s potential impacts on wildfire risk. (Pub. Resources Code, § 21083.01.) The Natural Resources Agency promulgated new CEQA Guidelines in 2018 and defined wildfire-related impacts to include: (1) whether a project would expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires and (2) whether it would, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from wildfire or the uncontrolled spread of wildfire. (Cal. Code Regs., tit. 14, App. G, subds. IX(g), XX.)

The Natural Resources Agency “drafted the questions in the new wildfire section to focus on the effects of new projects in creating or exacerbating wildfire risks,” and identified development in the wildland-urban interface, particularly lower-density arrangements, as high-risk development:

“[H]ousing arrangement and location strongly influence fire risk, particularly through housing density and spacing, location along the perimeter of development, slope, and fire history. Although high-density structure-structure loss can occur, structures in areas with low- to intermediate- housing density were most likely to burn, potentially due to intermingling with wildland vegetation or difficulty of firefighter access. Fire frequency also tends to be highest at low to intermediate housing density, at least in regions where humans are the primary cause of ignitions.”

(California Natural Resources Agency, Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines (Nov. 2018), at p. 87, https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/2018_CEQA_Final_Statement_of%20Reasons_111218.pdf.)

The proposed Project would allow 144 new families to live at the end of a road providing a single point of ingress and egress to the subdivision, putting those new families and existing residents at significant safety risk during natural disasters, such as earthquakes, wildfire, and human-caused grass fires.² Further, the Draft EIR violates CEQA by failing to adequately analyze the direct, indirect, and cumulative impacts of the Project on wildfire risk. The Draft EIR also fails to adequately analyze and disclose the Project’s potential to increase the risk of wildfire ignition and spread due to its specific land use characteristics and location. It also fails to adequately analyze evacuation in the event of wildfires in the future.

Like wildfire risk, the Draft EIR acknowledges that the Project “could directly or indirectly cause substantial adverse effects involving slope instability hazards, including

² For example, see *Martinez fireball started by teens playing with tennis balls they set on fire*, KTVU.com, May 21, 2021 (available at <https://www.ktvu.com/news/martinez-fireball-started-by-teens-playing-with-tennis-balls-they-set-on-fire>.)



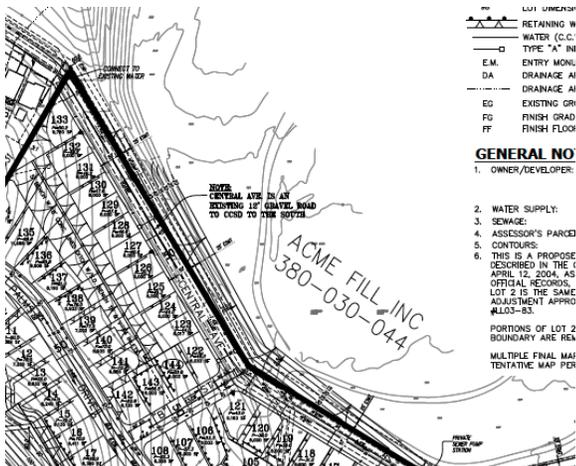
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landslides, debris flows, and rockfalls caused by seismic or non-seismic mechanisms.” (See Impact GEO-1.) Such substantial public safety risk is unwarranted, when a feasible alternative involving far less grading (thereby eliminating the public health risk) is available to the County.

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7. The Draft EIR fails to analyze potentially significant environmental impacts to groundwater and methane migration caused by disturbing soil within the buffer zone for the adjacent Acme Fill Landfill.



The Acme Fill Landfill is located along the northeast border of the Project site, just across Central Avenue. According to Cal Recycle, the Landfill is an active Class III facility occupying a total area of 383 acres, including the 87-acre East Parcel and 22-acre South Parcel used for Class III waste disposal. The Landfill has a leachate collection and recovery system; landfill gas extraction system and flare; and groundwater and landfill gas monitoring wells. Accordingly, the Draft EIR should have analyzed potentially significant environmental impacts to single family residential structures caused by their proximity to the landfill as well as land and soil

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disturbance that will inevitably occur during project construction. Indeed, expected and potentially significant environmental impacts include but are not limited to landfill leachate contamination and explosion risk due to methane gas migration. I am attaching as Exhibit 1 Chapter 3, “Landfill Gas Safety & Health Issues” of the Agency for Toxic Substances and Disease Registry’s Landfill Gas Primer for review and consideration. The entire Landfill Gas Primer is located online at <https://www.atsdr.cdc.gov/HAC/landfill/html/intro.html>. If any health risks or environmental impacts are foreseeable, then the Draft EIR must analyze them and require mitigation measures to ensure the safety of present and future residents living inside these structures. At a minimum, the developer should require methane gas mitigation in each residential structure to prevent explosion risk.

8. The Draft EIR fails to consider illegal agriculture uses in the area that likely artificially alter the environmental setting.

In analyzing the impacts of a project, CEQA requires a comparison of project conditions to baseline conditions. (Cal. Code Regs, tit. 14, § 15125, subd. (a).) CEQA normally requires use of existing conditions as the baseline, which means the conditions “as they exist at the time the notice of preparation [NOP] is published.” (Ibid; see also *POET, LLC v. State Air Resources Bd.* (2017) 12 Cal.App.5th 52, 102.) If it is necessary, a lead agency may define baseline conditions by referencing historic conditions, but the agency must support its decision to rely on historic data with substantial evidence. (Id.) Ultimately, though, the baseline chosen “must be the existing physical conditions in the affected area, that is, the real conditions on the ground[.]” (*CBE v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 321.)

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The Draft EIR discusses the environmental setting in the context of each analyzed resource, rather than as an overall baseline setting. Nevertheless, upon a careful review of the Draft EIR, the County fails to analyze the impact on baseline conditions caused by the illegal use of the site for cattle grazing. As this Board may know, the County recently served Discovery Builders, Inc. with an eviction notice because it failed to discontinue use of the project site to graze more than twenty-six livestock animals. On information and belief, the eviction must happen on or before August 31st. There can be no doubt that the developer’s allowing the project site to be used to graze cattle during the preparation of this Draft EIR illegally and artificially altered the baseline of conditions at the project site. The County must give the illegally grazed grasses time to recover, so it can accurately measure project impacts to the site against an accurate baseline.

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9. The proposed Project’s water utility connection plan is infeasible.

According to the Draft EIR, the Project site is within the Contra Costa Water District (CCWD) service area. (See Draft EIR, § 4.14.2.) To connect the new subdivision to CCWD, the Project would require new and upgraded water conveyance infrastructure on and offsite (Impact UTIL-2). (Id. at 4.14-12.) The Draft EIR indicates that this connection will be made in a location that does not exist. VHPA member Carolyn Kallander’s public comment details this defect because Ms. Kallander lives at 576 Palms Drive and knows that the proposed connection is not located in front of her house. The true tie-in location most likely exceeds the elevation level for CCWD to safely connect the water infrastructure and avoid safety concerns with backflow. The Draft EIR needs to accurately characterize and mitigate for foreseeable impacts to water infrastructure.

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10. The proposed Project ignores the observed presence of several special status species at the project site.

The Draft EIR relies on field reconnaissance surveys to conclude that several threatened and endangered species have the potential to live in the wetland area and on Vine Hill but are “absent.” (See Draft EIR, App. D.) In characterizing these species as “potentially” present or “absent,” the Draft EIR ignores evidence of the observed presence of several specially protected species, such as the protected bats that roost in the Oak Trees slated for complete removal if the proposed Project is built, beavers, and several falcon varieties. Members of VHPA will submit documentation of their observations with their public comment. The County must justify its reliance on decades-old field studies to support its “environmental setting” for biological resources when it has been presented with public comments regarding observed conditions that conflict with those single-day studies.

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11. The Draft EIR impermissibly defers mitigation related to the destruction of delineated wetlands to a future study and separate agency action.

Under CEQA “[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” (Cal. Code Regs, tit. 14, § 15126.4, subd. (a)(2).) A mitigation measure is feasible if it is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (*Calif. Native Plant Society v. City of Rancho*

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Cordova (2009) 172 Cal.App.4th 603, 622 (quoting Pub. Res. Code § 21061.1.) Generally, an agency does not need to identify the exact location of offsite mitigation property. (*Calif. Native Plant Society*, at 621–622.) However, “deferring environmental assessment to a future date” and waiting to adopt mitigation measures until the measures have been recommended by a future determination, conflict with CEQA’s process for adopting a mitigation plan. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307.) Environmental problems should be considered at a point in the planning process “where genuine flexibility remains.” (*Mount Sutro Defense Committee v. Regents of University of California*, (1978) 77 Cal.App.3d 20, 34.) A study conducted after approval of a project will inevitably have a diminished influence on decision-making. (*Id.* at 35; *No Oil, Inc. v. City of Los Angeles*, supra (1974) 13 Cal.3d 68, 81.) The agency can commit itself to eventually devising measures only if it sets out specific performance criteria at the time of project approval. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029.)

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The Draft EIR identifies a significant impact to the environment due to the destruction of jurisdictional wetlands, but it defers mitigation to a future study and requires another agency to select a mitigation measure based on the future study. In so doing, the Draft EIR gives the developer the right to defer its permitting obligations related to the destruction of jurisdictional wetlands to an unknown, future date, including whether and to what extent mitigation will be required as a result of wetland destruction necessary to complete the Project as proposed. (See Impact BIO-6, MM Bio-6.) This deferral of mitigation is not allowed under CEQA.

12. The Draft EIR impermissibly defers mitigation related to additional vehicle miles travelled to a future study and separate agency action.

The Draft EIR similarly abdicates responsibility to evaluate and mitigate significant impacts of new vehicle-miles travelled by deferring mitigation to an unspecified “Transportation and Parking Demand Management (TDM) Plan” that “shall identify trip reduction strategies as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies[,]” which must be submitted to “the County Department of Conservation and Development for review and approval” prior to issuance of building permits. (Draft EIR, p. 4.13-12.) The Draft EIR makes no effort to quantify or impose enforceable mitigations and instead merely offers a laundry list of strategies that the TDM Plan “may include[.]” (*Id.*; Mitigation Measure TRF 3.) For the reasons noted above regarding wetlands destruction mitigation, this approach is inconsistent with the core principle that CEQA analysis be conducted prior to commitment to a course of action. (See, *Sundstrom*, 202 Cal.App.3d at 307.)

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13. The proposed Project conflicts with the General Plan.

Subdivision (d) of Section 15125 of the CEQA Guidelines requires that the proposed activity be consistent with the County's General Plan. The applicant seeks amendments to the General Plan because the Project is facially inconsistent with it. Specifically, the applicant requests that site be re-zoned from Heavy Industrial to Single Family Residential-High Density, and Open Space and amend Land Use Element Policy 3-105, specifically applicable to the site, as follows: “The scenic assets and unstable slopes of the Vine Hill Ridge will, in some measure, be preserved while still allowing safe, feasible development of the property. Grading of these scenic assets shall be permitted to allow for development granted that the remainder parcels are

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to be protected for open space/agricultural use.” (Draft EIR, p. 4.9-14.) Yet, the Draft EIR offers no justification for removal of the finding in the existing General Plan that the slopes are “unstable.” (See discussion of geological hazards in sections 2 and 5 above.)

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Despite these amendments, the Project location will further remain fundamentally in conflict with the requirements of the Vine Hill/Pacheco Boulevard Area. Policy 3-106 demands that “[t]he residential neighborhood east of I-680 shall be buffered from the industrial/land fill-related uses.” The Draft EIR acknowledges that “the Project would introduce residential uses in close proximity to industrial and landfill-related uses” yet contends that the Project is consistent with the General Plan because “it would not expand existing industrial uses and therefore would not disrupt any existing buffer protecting the existing residential neighborhood from these uses.” (Id., p. 4.9-15.)

Perhaps the statement in the Draft EIR is grammatically correct because “the [unspecified] residential neighborhood” identified in the General Plan referred to residences existing in the Vine Hill/Pacheco Boulevard Area at the time of enactment of the General Plan, which could not include the Project. However, this narrow, hyper-literal reading that protects preexisting residential areas but subjects the Project to precisely the harms that the General Plan seeks to avoid is logically unsound. At the time of enactment of the General Plan, it was unanticipated that the Heavy Industry-zoned parcels could become a residential neighborhood; residential uses require a conditional use permit and are discouraged. (County Code, § 84.62.404; General Plan, p. 3-25 (“These uses are typically not compatible with residential uses in close proximity.”).) The subject parcel itself served, and according to the Draft EIR will continue to serve, as the buffer required by Policy 3-106. With the requested re-zoning to R-6, homes are now proposed to be constructed directly across the street from the Acme Landfill and a few hundred feet from both the Conco Construction and Trucking Yard and the “fully operational Contra Costa Transfer and Recovery Station.” (Draft EIR, pp. 4.9-1; 4.9-2; 3-15.) This is inconsistent with the premise that the General Plan is not a static document but a forward-looking “long-term general plan for the physical development of the county.” (Gov’t Code, § 65300.) There is no basis to believe that families in the Project have residential needs different from existing communities in the Vine Hill/Pacheco Boulevard Area and magically will not suffer from the ill effects of unbuffered proximity to industrial and land fill operations. The Project location is plainly inconsistent with Policy 3-106 and the General Plan. (Cf., General Plan Goal 3-A (“all residential, commercial, industrial, recreational and agricultural activities may take place in safety, harmony, and to mutual advantage.”).)

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Furthermore, in light of the numerous hazards and severe environmental impacts identified in previous sections, the Project is inconsistent with General Plan Land Use Element Policies 3-8 (“encourage[ing]” “[i]nfilling of already developed areas”), 3-28 (prohibiting new residential development where it will impose “severe unmitigated adverse impacts upon the environment[.]”) and 3-29 (restricting residential development to “stable and secure lands” or in a manner that adequately mitigates such risks) as well Conservation Element Goal 8-D (“protect ecologically significant lands, wetlands, plant and wildlife habitats”), Policy 8-12 (preserve natural woodlands), Policy 8-27 (“protect[.]” “seasonal wetlands in grassland areas”), Policy 8-74 (“[p]reserve watersheds and groundwater recharge areas” from pollution percolation), Policy 8-75 (“Preserve and enhance the quality of surface and groundwater resources.”) and does not

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further Housing Element Policy 3.2 (“Encourage and provide incentives for the production of housing in close proximity to public transportation and services.”).

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14. The proposed vesting tentative map violates Government Code, section 66474.

The Board cannot approve the Project’s vesting tentative map under the Subdivision Map Act unless it can make all the required findings required by Government Code, section 66474. (*Spring Valley Lake Assoc. v. City of Victorville* (2016) 248 Cal.App.4th 91, 106.) As explained in the previous sections, “the proposed map is not consistent with applicable general and specific plan[]” for the Vine Hill/Pacheco Boulevard Area (Gov. Code, § 66474, subdiv. (a)), “the site is not physically suitable for the proposed density of development” due to site hazards, extreme slope, impermissible wetland infill and incompatible adjacent land uses (id., subdiv. (d)), “the design of the subdivision or type of improvements is likely to cause serious public health problems” on account of wildfire risks” (id., subdiv. (f)), and is “likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat” (id., subdiv. (e)). Consequently, due to the deficiencies in the proposal, the Board must not approve the Project’s proposed tentative vesting map.

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15. Conclusion

The Vine Hill Preservation Association encourages the County to select Alternative 3, The Light Industrial Alternative, because it is the environmentally superior alternative and the only alternative that complies with the General Plan goal to protect residents from potential environmental harm caused by the adjacent landfill. If Alternative 3 is rejected, then the County must adopt Alternative 2, The Reduced Density Alternative, because the Draft EIR admits Alternative 2 meets project goals and is environmentally superior. Critically, Alternative 2 would result in reduced or avoided operational and cumulative long-term impacts to the environment to less than significant levels with mitigation and would allow the site to continue to act as a buffer from the landfill.

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Present and future citizens of the Vine Hill area deserve the County’s utmost protection from environmental harm.

Sincerely,



Jessica L. Blome
Greenfire Law, PC

Responses to Letter 10: Greenfire Law PC on behalf of Vine Hill VHPA

10-1 Draft EIR Section 4.3, *Biological Resources*, includes a discussion of the existing biological resources on the Project site, including vegetation communities and wildlife habitats, and all special status species with a moderate potential to occur on the Project site. Appendix D to the Draft EIR includes a table of all special status species considered in Project review, as well as an analysis of the potential for the species to occur on the Project site.

10-2 The Project site is an infill location adjacent to a highway, and its ecosystems have been adequately and accurately characterized in the Draft EIR. Substantial evidence demonstrates the Project will have no significant and unavoidable impacts to biological resources, and a Draft EIR must only consider alternatives to lessen the significant and unavoidable impacts of the project. The purpose of an EIR's discussion of alternatives is to identify ways to reduce or avoid significant environmental effects (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 403). The alternatives discussed in an EIR should be ones that offer substantial environmental advantages over the proposed project (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 566).

Furthermore, the County, as Lead Agency of the EIR, is not obligated to analyze every conceivable alternative. Rather, a lead agency need only include in its Draft EIR “alternatives to the project that ‘would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant environmental effects of the project.’” (*Los Angeles Conservancy v. City of W. Hollywood* (2017) 18 Cal. App. 5th 1031, 1041; see also CEQA Guidelines §§ 15124(b), 15126.6(f).)

Section 3.3 in Chapter 3, *Project Description*, of the Draft EIR describes the objectives of the Project. The commenter’s suggested alternative of conserving all or part of Vine Hill in perpetuity as open space would fail to achieve two of the three objectives: failing to maximize the development of new residential projects in the County, and failing to introduce new residential uses in areas near employment centers. The suggested mitigation measure, – *i.e.*, conserving open space – does not directly address any significant impacts of the Project.

The commenter’s proposed alternative (1) purports to address an impact that the Draft EIR has already found to be less than significant, and (2) fails to achieve at least two of the three Project objectives. Either of these deficiencies alone is sufficient justification to find the suggested alternative infeasible, and as a matter of law must be eliminated from consideration.

10-3 The No Project Alternative explicitly assumes that “the 78.3-acre property would remain in its existing condition: mostly open and undeveloped land,” and notes that such an alternative would “eliminate all Project-related impacts.” (DEIR, p. 5-3). This is the exact situation that the commenter contemplates under their proposed conservation fund scenario. The County dismisses the No Project Alternative because “[t]he No Project Alternative would not meet the Project’s basic objective to development new residential use in the County.” (DEIR, p. 5-3). Moreover, the provision of housing serves a critical need, as documented in numerous state laws and the County’s General Plan, and the Project also accords with public policies designed to incentivize housing production.

The County makes no assumption of further development in analyzing the No Project Alternative and expressly says the Project site would remain undeveloped, as quoted in foregoing paragraph. The County does note that under a No Project Alternative, the site would maintain its current land use designation of Heavy Industry” and current zoning classification of “Heavy Industrial,” but the No Project Alternative does not assume any further development of the site (DEIR, p. 5-3).

10-4 The comment accurately summarizes the proposed Project and the alternatives selected for consideration in the Draft EIR. The comment is noted.

10-5 The commenter states there is a difference between impacts under Alternative 2 and the Project. While Alternative 2 would have a lessened pre-mitigation impacts on air quality, visual quality, public fire and emergency medical service demands, these impacts would still be potentially significant impacts before mitigation and would require the same mitigation measures as the proposed Project in order to mitigate these impacts to less than significant.

Alternative 2 would have less than significant greenhouse gas (GHG) emissions impacts, but as the Draft EIR notes, the proposed Project will also have less than significant GHG emissions after Mitigation Measure GHG-1. In other words, GHG impacts are not “substantially lessened” by Alternative 2. CEQA requires only that significant environmental effects be mitigated or avoided to the extent feasible, but does not dictate that it be accomplished by a project alternative versus mitigation. Accordingly, CEQA does not require the County to choose Alternative 2 because unmitigated GHG impacts are less than significant if, like here, imposition of feasible mitigation measures also reduce the Project’s GHG impacts to less than significant (see *Laurel Hills Homeowners Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521 [“if feasible mitigation measures substantially lessen or avoid generally the significant adverse environmental effects of a project, the project may be approved without resort to an evaluation of the feasibility of various project alternatives contained in the EIR”]).

With respect to land use, the Draft EIR notes that Alternative 2 would “require the County to approve a zoning reclassification and amend the General Plan land use designation” and “like the proposed Project, assuming the County approves the General Plan amendment, a consistency finding for the proposal could be achieved and Alternative 2 would maintain the same less-than-significant impact as the Project.” (DEIR, p. 5-5). With respect to consistency with the General Plan, the Draft EIR notes that Alternative 2 would “still be less than significant with no mitigation required, like the proposed Project.” (DEIR, p. 5-5). The land use impacts of Alternative 2 are virtually identical to the land use impacts of the proposed Project.

While overall VMT would be reduced, Alternative 2 would fail to eliminate the Project’s significant and unavoidable VMT impacts (Project impact TRF-3 and cumulative impact C-TRF-8) (DEIR, p. 5-4).

Alternative 2 would require nearly all the same mitigation measures as the proposed Project, would result in less than significant impacts for all potential impacts except for VMT, just as the proposed Project does, and would still result in significant and unavoidable impacts (Impacts TRF-3 and C-TRF-8), as the proposed Project does. This alternative therefore does not substantially lessen any environmental impacts. Moreover, the Reduced Density Alternative, as the commenter notes, would result in the construction of only 72 homes. Pertinent Project objectives here concern the maximization of new residential projects to fulfill regional and local planning goals for the development of housing, and to do so near employment centers in the Cities of Martinez, Concord, and Walnut Creek (DEIR, p. 3-4). Failure to meet these objectives also signifies a failure to meet important public policies, including without limitation Goals 6 of the County’s General Plan Housing Element: “Provide adequate sites through appropriate land use and zoning designations to accommodate the County’s share of regional housing needs” (see also Housing Element Goal 3 and Policy 3.2). In fact, the Bayview Estates project and its 144 units are specifically listed in the Housing Element, and its completion is assumed in the County’s calculation of meeting its Regional Housing Needs Allocation (General Plan Housing Element [incorporated herein by this reference], Tables 6-35 and 6-36). The provision of housing serves a critical need and addresses a key public policy. A conflict between an alternative and the policies or planning goals of an agency is a proper consideration for finding an alternative to be infeasible (see *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957).

For the foregoing separate and independent reasons, the Reduced Density Alternative is infeasible.

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Alternative 3 would involve development of light industrial uses rather than residential and open space uses. It would develop relatively low intensity uses

consistent with those in the vicinity of the Project site, such as self-storage, recreational vehicle storage (DEIR, p. 5-6).

The commenter states that all significant unavoidable impacts are reduced under Alternative 3. This is not the case. As the Draft EIR notes, “Alternative 3 would have the same significant and unavoidable Project VMT impact (Impact TRF-3).” (DEIR, p. 5-7).

Alternative 3 fails to meet any of the Project objectives. It does not include housing, failing to maximize residential development to help fulfill County planning goals and to introduce residential uses near employment centers in Martinez, Concord, and Walnut Creek (DEIR, p. 3-4). Furthermore, Alternative 3 would fail to meet the Project objective of “Exemplify[ing] sustainable site planning concepts through compact and efficient organization of built space in a manner to preserve existing sensitive habitat areas, and to preserve and improve access to existing open space areas.” (DEIR, p. 3-4). The Project accomplishes this objective by including a General Plan amendment to designate broad swaths of sensitive habitat as Open Space (OS), thereby providing for their preservation going forward (DEIR, p. 2-2). Alternative 3 involves maintenance of the site’s existing General Plan designation (part of the reason Alternative 3 has less than significant land use impacts). However, maintenance of current General Plan designation does not allow for a designation of any portion of the site as Open Space (OS), thereby precluding the possibility of portions of the site with sensitive habitat being preserved as Open Space in perpetuity.

See also the foregoing response concerning the Reduced Density Alternative, incorporated herein by this reference. The same concerns – failure to meet project objectives, failure to align with important public policy considerations – are each separate and independent reasons why the Light Industrial Alternative is infeasible under CEQA.

- 10-7 The commenter accurately presents Table 5-1 from the Draft EIR.
- 10-8 The Draft EIR concludes that the Project will have only two significant and unavoidable impact related to VMT: Impact TRF-3 and Impact C-TRF-8 (DEIR, p. 6-1). All other impacts would be reduced to less than significant with implementation of the recommended mitigation measures (DEIR, p. 6-1). All the Project alternatives, with the exception of the No Project Alternative, would result in at least one of these significant and unavoidable impacts.
- 10-9 The Draft EIR does characterize the “fundamental Project objective” as “developing residential uses at the site.” (DEIR, p. 5-11). The Draft EIR states that Alternative 2 would meet the fundamental objective of developing residential use at the Project site only “to an extent.” (DEIR, p. 5-11).

Alternative 2 would not meet most of the Project objectives. Alternative 2 would involve a reduction of “approximately 50 percent [of houses] to yield a total of 72 new single-family units on the project site.” (DEIR, p. 5-3). Alternative 2 conflicts with the Project objective to maximize development of new residential development to help the County fulfill regional and local housing goals (DEIR, p. 3-4). Moreover, it would represent a 50 percent reduction in residential uses from the Project reducing availability of housing near employment centers in Martinez, Concord, and Walnut Creek. While Alternative 2 would provide housing to some extent, it would fall short of meeting the applicant’s Project objectives and is not consistent with the assumptions in the County’s General Plan Housing Element. Also see Response 10-3, above, incorporated herein by this reference. As such, Alternative 2 is infeasible.

10-10 The Draft EIR does not identify Alternative 2 as the environmentally superior alternative. The Draft EIR identifies Alternative 3 as the environmentally superior alternative because it “avoids a significant and unavoidable impact of the proposed Project that no other analyzed alternative avoids.” The commenter also states there is a difference between impacts under Alternative 2 and the Project. Also see Response 10-5 above.

10-11 CEQA requires that if a Project includes at least one significant and unavoidable impact, then approval of that Project requires a finding that economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the environmental impact report (Pub. Res. Code § 21081). A conflict between an alternative and the policies or planning goals of an agency is a proper consideration for finding an alternative to be infeasible (*City of Del Mar v City of San Diego* (1982) 133 Cal.App.3d 401; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957). An agency can also determine that an alternative is infeasible if it cannot meet most Project objectives (*Los Angeles Conservancy v. City of W. Hollywood* (2017) 18 Cal. App. 5th 1031, 1041). An agency’s finding of infeasibility for this purpose is “entitled to great deference” and “presumed correct.” (*Id.*)

Substantial evidence supports that Alternative 3 is infeasible because it fails to meet any of the Project objectives, as explained in Response 10-6, above. Alternative 2 would require nearly all the same mitigation measures as the proposed Project, would result in less than significant impacts for all potential impacts except for VMT, just as the proposed Project does, and would still result in significant and unavoidable impacts (Impacts TRF-3 and C-TRF-8), as the proposed Project does. This alternative therefore does not confer any significant environmental advantages. Moreover, Alternative 2 would not meet most of the Project objectives. See Responses 10-5 and 10-9, above.

Furthermore, selection of Alternatives 2 or 3, and the associated 50 percent reduction in housing or elimination of housing respectively, would conflict with County goals and policies. See Response 10-5.

An alternative that reduces the number of houses conflicts with County goals and policies to increase housing opportunities for all income levels. Furthermore, the proposed Project proposes new housing on an infill site where studied environmental effects are not substantial, except for exceeding the County's established VMT threshold. Reduction in the scale of the Project, or elimination of housing entirely, risks displacing home development to alternative sites where more severe environmental impacts may occur. A conflict between an alternative and the policies or planning goals of an agency is a proper consideration for finding an alternative to be infeasible (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957).

- 10-12 If the County decides to approve the Project, it will adopt a statement of overriding considerations supported by substantial evidence in the record.
- 10-13 The Draft EIR does not need to include a statement of overriding considerations, as no approval of the proposed Project has occurred at the time of publication of the Draft EIR.

The commenter does not properly characterize the Court's holding in *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal. App. 4th 683, 718. The *Woodward* Court noted that a statement of overriding considerations should make a "good faith effort to inform the public," and that in order to do so, it should not include "conclusions [that] are based on misrepresentations of the contents of the EIR or mislead[s] the reader about the relative magnitude of the impacts and benefits the agency has considered." The Court does not find that a statement of overriding consideration must be made available to the public for review and comment, and there in fact is no requirement that a statement of overriding considerations be made available to the public for review or comment prior to being adopted.

To the extent the County approves the proposed Project, and a statement of overriding considerations is necessary, the statement will make a good faith effort to inform the public and will be supported by substantial evidence in the record.

- 10-14 The Draft EIR identifies Alternative 3 as the environmentally superior alternative, because it "avoids a significant and unavoidable impact of the proposed Project that no other analyzed alternative avoids." (DEIR, p. 5-11). However, it also notes that Alternative 3 would not meet Project Objectives.

The Draft EIR determines that Alternative 2 would require nearly all the same mitigation measures as the proposed Project, would result in less than significant impacts for all potential impacts except for VMT, just as the proposed Project does, and would still result in significant and unavoidable impacts (Impacts TRF-3 and C-TRF-8), as the proposed Project does (DEIR, p. 5-6). Alternative 2 would involve a reduction of “approximately 50 percent [of houses] to yield a total of 72 new single-family units on the project site.” (DEIR, p. 5-3). A reduction in potential housing is in direct conflict with the Project’s first listed objective to “Maximize the development of new residential projects in the County to help fulfill regional and local (Contra Costa County) planning goals for the development of housing.” (DEIR, p. 3-4). Furthermore, it would fail to fully accomplish the objective of “[i]ntroduc[ing] new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek, near existing or planned urban development, and in areas near regional transportation,” as it would represent a 50 percent reduction of infill residential uses from the proposed Project.

The No Project alternative would “eliminate all Project-related impacts.” (DEIR, p. 5-3). However, the No Project alternative “would not meet the Project’s basic objective to development new residential use in the County.” (DEIR, p. 5-3).

CEQA requires that if a Project includes at least one significant and unavoidable impact, then approval of that Project requires a finding that economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the environmental impact report (Cal. Pub. Res. Code § 21081). A conflict between an alternative and the policies or planning goals of an agency is a proper consideration for finding an alternative to be infeasible. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957). An agency can also determine that an alternative is infeasible if it cannot meet Project objectives (*Los Angeles Conservancy v. City of W. Hollywood* (2017) 18 Cal.App.5th 1031, 1041). An agency’s finding of infeasibility for this purpose is “entitled to great deference” and “presumed correct.” (*Id.*)

If the County were to approve the Project, substantial evidence supports that Alternatives 2 and 3 are infeasible. See foregoing Response 10-5, incorporated herein by this reference.

- 10-15 Construction and operation of the Interstate 680 is not a part of proposed Project. Commenter is suggesting that the Draft EIR must engage in an analysis of the impact of existing environmental hazards on future users of the Project. The Supreme Court has specifically held that this type of analysis is not generally required under CEQA. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.)

The Draft EIR correctly and comprehensively evaluates impacts on off-site receptors consistent with CEQA, as disclosed in Draft EIR Chapter 4.2, *Air Quality*. The Project homes will be energy efficient meeting current Title 24 energy calculations. This means the new homes will be more "air tight" making exposure to ambient pollutants less likely. All homes will have central forced-air which can be fitted with electrostatic/carbon HEPA filters to filter out pollutants.

- 10-16 The proposed Project is an infill project located in an area that Cal Fire has designated as a Non-Very High Fire Hazard Severity Zone. Project impacts related to fire, emergency medical, and police services are analyzed in Section 4.12, *Public Services and Recreation*, of the Draft EIR. Central Avenue and Palms Drive both dead end just before the Project site and do not provide for emergency vehicle turnarounds as required by the Fire Code. The Project will provide the required emergency vehicle turnarounds, as well as secondary emergency vehicle access through the south side of the Project site. The proposed in-tract streets will also connect Central Avenue and Palms Drive at two locations. As a result, the Project will correct an existing life-safety deficiency. Additionally, Project homes will be equipped with sprinklers and the subdivision will comply with all modern California Fire Code requirements. Recent case law confirms that replacing open space with urban development that meets modern fire code regulations improves fire safety. (*See Clews Land & Livestock* (2017)19 Cal.App.5th 161, 193; *accord Maacama Watershed Alliance, et al v. County of Sonoma, et al.* (2019) 40 Cal.App.5th 1007, review denied and ordered not to be officially published (Jan. 2, 2020).) Overall, impacts of the Project with respect to fire safety will be less than significant, and the Project will confer fire safety benefits.

The Draft EIR discusses seismicity and earthquake risk in detail in section 4.5, *Geology and Soils*, of the Draft EIR. The Draft EIR concludes that with the inclusion of Mitigation Measures GEO-2 and GEO-3, seismicity and earthquake related Project impacts will be less than significant.

- 10-17 The Draft EIR includes Mitigation Measure GEO-1, which reduces Impact GEO-1 to less than significant (DEIR 4.5-24; 4.5-35). There are no significant and unavoidable Project impacts resulting from grading, and any "public safety risk" is mitigated by Mitigation Measure GEO-1.

In response to the comment about the need for adoption of a Project alternative, the feasibility of such alternatives is addressed in Responses to Comments 4-9, incorporated herein by the reference. The Project, it should be noted, does not have any significant and unavoidable impacts related to fire safety or geotechnical considerations, and therefore it is unnecessary to consider project alternatives as suggested for that reason alone. To the extent the Project has significant and unavoidable VMT impacts, conserving a portion of the Project site, which is located near a major highway and employment centers, would

effectively displace needed residential uses from an infill location to a potentially less suitable location. The County has discretion to reject alternatives upon a finding that economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the environmental impact report. (Pub. Res. Code Section 21081.) A conflict between an alternative and the policies or planning goals of an agency is a proper consideration for finding an alternative to be infeasible. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957.). An agency can also determine that an alternative is infeasible if it cannot meet Project objectives. (*Los Angeles Conservancy v. City of W. Hollywood* (2017) 18 Cal.App.5th 1031, 1041.) An agency's finding of infeasibility for this purpose is "entitled to great deference" and "presumed correct." (*Id.*) Commenter's opinion that an alternative is "feasible" does not alter County's obligation.

10-18 The Commenter's concerns regarding the safety of future residents due to alleged explosion risks are not supported by evidence and, moreover, are beyond the scope of CEQA, as CEQA does not generally require analysis of how existing hazards or conditions might impact project users or residents. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.) For informational purposes, the substance of the comment is addressed here.

The Acme Fill landfill is no longer actively accepting refuse as a final depository; however, a refuse transfer station operates within the landfill site, and is located approximately 0.3 miles north of the Project site. (DEIR 4.7-4). The landfill site is inspected monthly by Contra Costa County, and the inspection reports are made public on the CalRecycle state website. Per the California Department of Toxic Substances, the landfill stopped accepting RCRA (Resource Conservation and Recovery Act) hazardous waste in 1984, California hazardous wastes in 1987, and California designated waste in 1989, and is mandated to undergo environmental monitoring, including monitoring wells, as part of facility closure. (See DTSC Acme Fill Corporation Post Closure Facility Permit Fact Sheet, available at <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/01/2014-8-6-Acme-Landfill-Fact-Sheet-Statement-of-Basis.pdf>).

Concerns about leachate are not considerable. The landfill is lined to prevent leachate and methane gas leakage. Moreover, environmental review of a more proximate project, the 2019 Lower Walnut Creek Restoration Project, concluded that "leachate is not migrating from the landfill cells to beyond the monitoring wells," and that "in general, there are no pollutants of concern at levels that exceed thresholds in the surrounding groundwater." (Lower Walnut Creek Restoration Project MND at 2-98).

With respect to landfill gas, the County's consultants, as well as the applicant's consultants, have conducted numerous site investigations underlying the Draft EIR and there have been no indications of any exposure to landfill gases. Acme is a permitted landfill required to conduct environmental monitoring for compliance purposes. As part of its Major Facility Review (MFR) permit, Acme is required to submit compliance data to BAAQMD every sixth months. No leaks in excess of the MFR permit were reported during the April 1 to September 30, 2017 reporting period, which is the latest report that is readily available for public review. Landfill gas wells and horizontal collectors are leak-tested quarterly, and no leaks have been detected during this quarterly testing, and there is no evidence from the commenter or from other sources that Acme has ever fallen out of compliance with any applicable standards. (See https://www.baaqmd.gov/~media/files/engineering/title-v-permits/a1464/a1464_acme_fill_corporation_102717_b-pdf.pdf?la=en.) The available online compliance report coincides with the 2017 Notice of Preparation and therefore reflects the existing environmental conditions from which Project impacts are analyzed. Moreover, it reflects that Acme's operations, including its gas to landfill activities, are strictly regulated by BAAQMD. Compliance with state laws, regulations, and permit conditions is sufficient to determine that impacts would be reduced to less than significant. (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884.)

The Project homes include under-slab vapor/moisture barriers to prevent vapor intrusion through the foundation slab. Additionally, the methane gas is extracted through the landfill gas collection and conveyed via pipe to CCCSD for energy use. It is not stored near the Project site.

The comment does not provide substantial evidence to the contrary. Even if impacts on project users were subject to CEQA review, the inclusion of a Landfill Gas Primer with no specific information regarding the Acme landfill does not constitute evidence of significant impacts from the Project on any population, and therefore is not considered substantial evidence of this Project's specific impacts. (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 171.)

- 10-19 There has never been an eviction notice related to the Project site. Under CEQA, "environmental impacts should be examined in light of the environment as it exists when a project is approved." (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453.) In cases where alleged illegal activity has occurred, the preparation of the EIR is not the forum to determine the nature or consequences of prior conduct, and the environmental baseline should accurately reflect existing environmental conditions. (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428; *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270; *Fairview Neighbors v. County of Ventura* (1999) 70 Cal.App.4th 238.) Here, the Draft EIR accurately utilizes a baseline of grasses as they exist on the

Project site. The commenter's suggested approach would be improper under CEQA precedent, and the CEQA process is not the appropriate forum for allegations of unpermitted grazing.

- 10-20 The tie-in point for the Project is correctly shown on Figure 3-5, *Waterline Exhibit*, in Chapter 3, *Project Description*, of the Draft EIR. Construction of the water main along the frontage which roughly extends from the yellow dot to the Project boundary will be constructed as part of the Palms 10 development. (See Response 9-21.) The Project will provide new and upgraded water conveyance infrastructure, including a new 12-inch water transmission main in off-site locations. As part of this configuration, the Project would extend CCWD's existing 12-inch transmission main, which currently terminates within the Conco property just northwest of the Burlington Northern Santa Fe railroad, through the Project site and, ultimately, connect this infrastructure to CCWD's existing 6-inch water mains in Central Avenue and Palms Drive. This infrastructure and these connections will benefit adjacent neighborhoods in the Vine Hill area and address previous water pressure concerns identified by CCWD. (DEIR, pp. 3-14, 4.14-12 to 4.14-13.)

CCWD has confirmed that the proposed off-site improvements are acceptable. It should be noted that the Project is in the environmental-review stage of the planning process, and design-level detail about the Project's technical characteristics, is not a requirement for environmental review. An EIR is not required to contain a design-level description of the project; a conceptual description of project components is sufficient as long as the description contains sufficient detail to enable decisionmakers and the public to understand the environmental impacts of the proposed project. Such design-level information can be considered as a basis for the ultimate approval or denial of a project at a public hearing before the deciding body. (*Citizens for Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1055.) Project design features can be assumed to function as intended. (See *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20.)

- 10-21 The comment states that several protected species may occur on site that were considered "absent" in the Draft EIR analysis, which it characterizes as bats that roost in oak trees on the site, beavers, and several falcon varieties. The Draft EIR acknowledges the potential presence of several special-status bat species on the project site, including Townsend's big-eared bat, western red bat, and hoary bat, and the common Mexican free-tailed bat (DEIR, p. 4.3-19) and potential impacts to these species (DEIR, p. 4.3-45). Appropriate mitigation is provided in Mitigation Measure BIO-2a to avoid and minimize potential impacts to these species. Potential impacts to raptors were also identified, although no specific information is provided in the comment as to whether or not falcons nest on the site. Potential impacts to nesting birds, including raptors such as falcons, are fully disclosed in Impact BIO-3. Any such impacts would be mitigated to less than

significant levels through the implementation of Mitigation Measure BIO-3a, Nesting Bird Measures, which limit the removal of vegetation to periods outside of the bird nesting season, conducting pre-construction nesting bird surveys to identify active nests, and establish no work buffer zones around active nests identified on or near the project sites. There are no special-status beavers in Contra Costa County; and project activities would not occur within aquatic habitat on the site that may support the North American beaver (*Castor canadensis*), if present. Hence, no impacts are expected to this common species.

10-22

The comment reminds the County that under CEQA, mitigation measures must be fully enforceable and that deferred mitigation is not allowed. It states that the significant impact to wetlands has been deferred to a future study (presumably the wetland delineation required under Mitigation Measure BIO-6a, item #1) and that doing so constitutes deferral of mitigation. In contrast, the distribution of wetlands on the Project site is well known and is based on a delineation verified by the U.S. Army Corps of Engineers and by the Lead Agency's and the applicant's biological consultants. The analysis finds that of the 13.22 acres of aquatic resources on the Project site, all but 0.12 acres will be avoided by the Project (as disclosed in Impact BIO-6). These impacts are associated with fill of an 0.02-acre seep and the fill of less than 0.1 acre to accommodate a storm drain outfall. The potential impact to wetlands on the site has been fully disclosed in the Draft EIR, and the forthcoming jurisdictional determination required by Mitigation Measure BIO-6a, item #1 is a permitting formality to be met prior to any impacts to federal or state wetlands or waters. As such, the forthcoming wetland study does not meet the definition of mitigation deferral under CEQA. The comment does not comment on the adequacy of mitigation for the proposed impact, but the Draft EIR additionally provides a mitigation program to address the impacts to site wetlands, as required by CEQA and federal and state regulations.

The DEIR identifies 4 distinct mitigation measure to mitigate potential Project impacts on wetlands: Mitigation Measures BIO-6a, Mitigation Measure BIO-6b, Mitigation Measure BIO-2a and Mitigation Measure BIO-2b. (DEIR 4.3-51; 4.3-54.)

Additionally, Mitigation Measures BIO-6a and BIO-6b also require the applicant to submit plans or permits to pertinent regulatory agencies, including USACE, CDFW, and RWQCB, and to provide any compensatory mitigation required by those regulatory agencies. (DEIR 4.3-52; 4.3-53). Mitigation requiring compliance with environmental regulations, including obtaining necessary federal and state permits is a common and reasonable mitigating measure, and not an impermissible deferral of mitigation. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-7.). In the specific case of Wetlands impacts, courts have approved deferring the formulation of the details of a mitigation measure where another regulatory agency will issue a permit for the

project and is expected to impose mitigation requirements independent of the CEQA process. (Id. at 237). All mitigation in the DEIR complies with CEQA.

10-23

Mitigation Measure TRF-3 requires development of a TDM program to be reviewed and approved by the County prior to issuance of any building permit. It specifically mandates a quantified performance standard to reduce VMT per resident from 20.6 to 16.5 consistent with a 20 percent reduction in the near-term and includes a menu of options for potential trip reduction strategies. Furthermore, the Draft EIR cites to the CAPCOA guidance document entitled “Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reduction from Greenhouse Gas Mitigation Measures,” which includes further examples of potential reduction strategies, as well as quantification of expected percentage trip reduction for each measure. (DEIR, p. 4.13-12; CAPCOA Guidance Document, p. 55).

Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. (*Defend the Bay v. City of Irvine* (2004) 119 Cal. App. 4th 1261, 1275.) For instance, even if a County has not committed to implementation of any particular measure for a required TDM program, the TDM program is considered viable so long as it enumerates specific measures to be evaluated for potential inclusion, and incorporates quantitative criteria, and it sets specific deadlines for completion. (See *City of Hayward v. Trustees of California State Univ.* (2015) 242 Cal. App. 4th 833, 855.) Here, Mitigation Measure TRF-3 includes a clearly specified quantitative standard, includes potential measures to be considered and analyzed for inclusion, and mandates that the TDM program be designed prior to issuance of building permits. Where, as here, future permits required to carry a project forward are contingent on devising means to satisfy a quantified standard, the County may rely on that commitment as evidence that significant impacts will in fact be mitigated. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal. App. 3d 1011, 1028–29.)

The conclusion that mitigation cannot feasibly reduce impacts to a level of insignificance is supported by the Draft EIR and CAPCOA resources, which indicate TDM measures are capable of reducing VMTs by the values noted. The CAPCOA guidance (referenced above) states that TDM studies demonstrate that the maximum amount of VMT reduction associated with implementation of TDM strategies available to the Project is 10 percent, short of the 20 percent significance threshold. (DEIR, p. 4.13-12.) As such, the Draft EIR conservatively concludes that Mitigation Measure TRF-3 will result in a VMT reduction of only 10 percent and concludes that the Project's VMT impact is significant and unavoidable. If somehow the Project's TDM plan is able to exceed this studied level of maximum reduction, then it will achieve the 20 percent targeted reduction under Mitigation Measure TRF-3, which would thereby fully mitigate

the VMT impact to a level of insignificance. Nevertheless, substantial evidence supports that 10 percent is the maximum reduction feasible and with Mitigation Measure TRF-3, Impact TRF-3 is mitigated to the maximum extent feasible, as required by CEQA. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 524 [CEQA does not require that mitigation measures reduce a significant impact to a level of insignificance if it is not feasible to do so].)

10-24 Section 15125 states that “The EIR shall discuss any inconsistencies between the proposed project and applicable General Plans, specific plans and regional plans” (CEQA Guidelines Section 15125). There is no requirement in CEQA that “the proposed activity be consistent with the County’s General Plan”.

The project is consistent with Policy 3-105, which does not prohibit all development on local hillsides. In fact, the Project does preserve a significant portion of the on-site hillside slopes, while still allowing safe and feasible development.

Section 4.9, *Land Use, Plans and Policies*, of the Draft EIR assesses any Project inconsistency with the General Plan, and the analysis under Impact LUP-2 specifically concludes that “the Project would not conflict with applicable County land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, and the Project would have a less-than-significant effect” (DEIR, p. 4.9-17). As the Project includes the proposed amendment to Policy 3-105, the analysis assumes that the proposed amendment will be approved by the County (DEIR, p. 4.9-17). To the extent the commenter contends that the Draft EIR has failed to analyze the potential impacts of the Project involving slope stability, slope stability is discussed at length in section 4.5-22, and with the inclusion of Mitigation Measure GEO-1, the Draft EIR determines that the impact will be less than significant. (DEIR, p. 4.5-25.)

To the extent the commenter contends that the County should not approve the amendment to the General Plan on grounds not related to the CEQA analysis in the DEIR, the comment is noted. The Project is in the environmental-review stage of the planning process and the comment is not pertinent to CEQA, but it can be considered as a basis for the ultimate approval or denial of a project at a public hearing before the deciding body.

10-25 The Draft EIR adequately analyzes the Project’s consistency with Policy 3-106 and determines that the Project is not inconsistent with the Policy, which states that “The residential neighborhood east of I-680 shall be buffered from the industrial/land fill-related uses.” Policy 3-106 contemplates the existing residential neighborhood, not the Project. The Project is bringing additional residential use, not industrial/land fill uses, closer to the existing residential neighborhood. Any light industrial uses to the west of the Project site are buffered by the I-680. The County’s determination that a project is consistent

with its General Plan is entitled to a “strong presumption of regularity.” (*Sequoyah Hills, supra*, 23 Cal.App.4th at p. 717.) A local agency “has broad discretion to construe its policies in light of the plan’s purposes.” (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1509-1511.)

As the Draft EIR notes, the Acme Landfill is largely inactive, and thus no landfill uses would be occurring on the northern or northeastern border of the Project. The only active use on the Acme Landfill site is the Contra Costa Transfer and Recovery Station, which is actually 0.3 miles to the North of the Project Site. As shown in Figure 3-2 below, the Transfer and Recovery station is located much closer to existing residences than the Project Site, so the Project will not alter any existing minimum buffer distance between residential uses and the Transfer and Recovery Station.



Figure 3-2, Contra Costa Transfer and Recovery Station

The Conco Construction and Trucking Yard shown in Figure 3-3 below is not proximate to the Project’s residential uses and the closest residential structure (more than 700 feet away) will be buffered by not only the open space and parkland on the Project site, but also Pacheco Creek and a County Flood Control District drainage system as shown below.

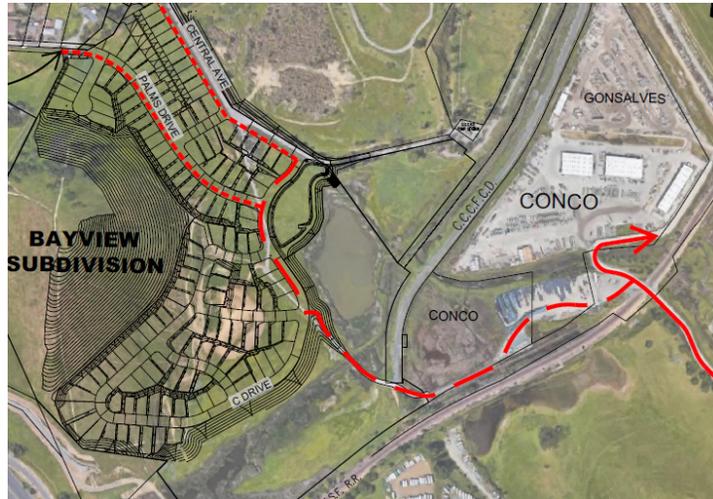


Figure 3-3, Conco Construction and Trucking Yard, County Flood Control District Drainage and Project Site

Comments regarding impacts to future residents is beyond the scope of CEQA, which does not generally require analysis of how existing hazards or conditions might impact project users or residents. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.)

10-26

The commenter does not identify any hazards or significant environmental impacts that are not identified, discussed, and mitigated to a less than significant level in the Draft EIR (with the exception of VMT impacts, which the Draft EIR identifies, discusses, and concludes are a Significant and Unavoidable impact). The Draft EIR discusses the Project's impacts to biological resources, hydrology, transportation, and population and housing. Specifically, the Project is consistent with the identified policies for the reasons herein:

- Land Use Element Policy 3-8 (encouraging infilling of already developed areas) – the Project site is an infill location adjacent to a highway. (DEIR, p. 4.11-12.)
- Land Use Element Policy 3-28 (new residential development shall be accommodated only in areas where it will avoid creating severe unmitigated adverse impacts upon the environment) – First, all significant Project impacts (even VMT) have been mitigated to the extent feasible as required by CEQA. (Pub. Resources Code Section 21002.1; *City of San Diego v. Bd. of Trustees of Cal. State Univ.* (2015) 61 Cal.4th 945.) Second, the County does not interpret Policy 3-28 to prohibit residential development where a significant and unavoidable impact exists — see, e.g., County's approval of Tassajara Parks [<https://www.contracosta.ca.gov/4552/Tassajara-Parks>] and Pantages Bay [<https://www.contracosta.ca.gov/DocumentCenter/View/7767/Pantages-Bay-DEIR?bid> Id.] Based on these prior approvals, a significant and unavoidable traffic impact is not what the County considers a "severe

unmitigated adverse impact" in practice; rather, the County interprets a severe impact to include an immediate and unmitigated threat to public safety of persons or the survival of a species or other biological resource, none of which is evident with respect to the Project. (See *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1509-1511 [local agency has broad discretion to construe its policies].) That VMT remains significant and unavoidable does not make the Project inconsistent with the General Plan. The consistency doctrine does not require a project to completely satisfy every policy stated in a general plan. (*Sequoyah Hills, supra*, 23 Cal.App.4th at p. 719.) This is because general plans reflect a range of competing interests and the agency must be allowed to weigh and balance the plan's policies when applying them. (*Save Our Peninsula Committee, supra*, 87 Cal.App.4th at p. 142.)

- Land Use Element Policy 3-29 (restricting residential development to "stable and secure lands" or in a manner that adequately mitigates such risk) – the Draft EIR adequately analyzes potential environmental effects related to geology, soils, and seismic hazards. (DEIR, Chapter 4.5, *Land Use, Plans and Policies*.) Potential impacts due to slope stability, seismic ground shaking, differential and earthquake induced settlement, soil loss and erosion and expansive soils are all less than significant with mitigation.
- Conservation Element Goal 8-D (protect ecologically significant lands, wetlands, plant and wildlife habitat) – The Project's potentially significant environmental effects on wetlands, plants, and wildlife habitat are all less than significant with mitigation, which requires avoidance and minimization of impacts to special-status plant and animal species, enhancement and creation of valley oak woodland, and restoration of creeping wildrye grassland. (DEIR, Chapter 4.3, *Biological Resources*.)
- Conservation Element Policy 8-12 (preserve natural woodlands) – The Draft EIR conservatively analyzes that the Project may result in removal of up to 30 trees. The precise number of trees to be removed will be identified in the final grading plan for the Project. Implementation of Mitigation Measure BIO-5b would reduce Project-related impacts to valley oak woodland to a less-than-significant level by requiring areas of oak woodland disturbed to be mitigated at a ratio of 1:1. (DEIR, pp. 4.3-48 to 4.3-39.) Project impacts to individual protected trees would be mitigated at a ratio of 2:1. (DEIR, p. 4.3-56.)
- Conservation Element Policy 8-27 (seasonal wetlands in grassland areas shall be identified and protected) – Within the Project site there is a single seasonal wetland (approximately 0.02 acres). (DEIR, p. 4.3-9 [Table 4.3-1.]) While site development includes several components in proximity to jurisdictional wetlands and/or waters, the Project has been designed to avoid or minimize construction or other work that would result in the temporary or permanent fill of these features. For example, the bioretention area for the

Project has been designed to avoid seasonal wetland vegetation. (DEIR, p. 4.3-52.) Implementation of Mitigation Measure BIO-6a would reduce impacts to wetlands to a less-than-significant level.

- Conservation Element Policy 8-74 (preserve watersheds and groundwater recharge areas by avoiding placement of potential pollution sources in areas with high percolation rates) and Policy 8-75 (preserve and enhance surface and groundwater quality) – Project impacts on groundwater supplies and stormwater quality are less than significant with the implementation of mitigation. (DEIR, pp. 4.8-11 to 4.8-15.)
- Housing Element Policy 3.2 (encourage and provide incentives for housing in close proximity to public transportation and services) – The Project provides much needed housing near employment centers in Martinez, Concord, and Walnut Creek. Mitigation Measure TRF-3 contemplates improvements to connect residents to existing planned off-site pedestrian facilities and transit facilities. The County lacks jurisdiction to use Project design to further increase transit access by including additional or more proximate transit stops, as the location and design of transit options is controlled by third party agencies, e.g., Central Contra Costa Transit Authority, Bay Area Rapid Transit, and Amtrak. Altering access to these transit options is infeasible, as it is not technically possible for the County or Applicant to successfully alter the location of the nearest public transit access points. (See CEQA Guidelines Section 15364). Furthermore, the County has no obligation to consider mitigation that is outside its jurisdiction, thus rendering such measures unenforceable. (See *Tracy First v. City of Tracy* (2009) 177 Cal. App. 4th 912, 938.)

Moreover, Section 4.9, *Land Use, Plans and Policies*, of Draft EIR assesses any Project inconsistency with the General Plan, and the analysis under Impact LUP-2 specifically concludes that “the Project would not conflict with applicable County land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, and the Project would have a less-than-significant effect.” (DEIR 4.9-17). The County’s determination that a project is consistent with its own general plan is entitled to a “strong presumption of regularity.” (*Sequoiah Hills, supra*, 23 Cal.App.4th at p. 717.) A local agency “has broad discretion to construe its policies in light of the plan’s purposes.” (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1509-1511.)

10-27

Under the Subdivision Map Act, a finding that a particular project is consistent with the general plan requires only that the proposed project be "*compatible* with the objectives, policies, general land uses, and programs specified" in the applicable plan. (Gov. Code Section 66473.5, emphasis added). This means that a project must be "in agreement or harmony with the terms of the applicable plan, not in rigid conformity with every detail" of it. (*San Franciscans Upholding the*

Downtown Plan v. City & County of San Francisco (2002) 102 Cal.App.4th 656, 678.) A local agency “has broad discretion to construe its policies in light of the plan’s purposes.” (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1509-1511.) An agency's findings that a project is consistent with the general plan "can be reversed only if it is based on evidence from which no reasonable person could have reached the same conclusion." (*A Local & Regional Monitor v. City of Los Angeles* (1993) 16 Cal.App.4th 630, 648.

Substantial evidence in the administrative record supports that the necessary findings can be made. See Response 10-22 regarding wetlands, Response 10-23 regarding land use compatibility, Response 10-24 regarding extreme slopes, Response 10-16 regarding wildfire, Response 10-15 regarding air quality, Response 10-24 on slope hazards. All air quality impacts identified in the Draft EIR are less than significant or less than significant with mitigation (DEIR pp. 4.2-17 to 4.2-28). The Draft EIR also identifies less than significant with mitigation impacts to health risks of toxic air contaminants (DEIR pp. 4.2-23 to 4.2-25).

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June 28, 2021

VIA ELECTRONIC MAIL ONLY

Gary Kupp
Senior Planner
Community Development Division
Contra Costa County, Department of
Conservation and Development
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Martinez CA 94553
E-Mail: gary.kupp@dcd.cccounty.us

Re: **Bayview Residential Project Draft Environmental Impact Report
County File Nos. CDSD04-08809, CDGP04-00013, CDRZ04-03148, CDDP04-03080**

Dear Mr. Kupp:

We submit this letter and related attachments on behalf of our clients, Discovery Builders, Inc. in connection to the Draft Environmental Impact Report for the Bayview Residential Project prepared by Contra Costa County. The comments herein serve to clarify the analysis of potential impacts to biological resources identified in the DEIR.

A. Baseline for Biological Resources

The DEIR identifies the Biological Assessment (BA) dated March 17, 2021 and prepared by Moore Biological Consultants as one of the reference documents for the Biological Resources chapter. That document is included as Attachment A to this letter. The BA states that the grasslands in the relatively flatter areas where the subdivision will be developed are highly disturbed by prior development and periodic discing and appropriately characterized it as ruderal grassland. (DEIR, p. 4.3-2.) In contrast, the DEIR largely describes the site based on surveys conducted in 2007, more than a decade prior to the issuance of the Notice of Preparation for the Project in 2017. (See CEQA Guidelines, § 15125(a) [environmental conditions must be described as they exist when the notice of preparation is published].) Discing for weed abatement purposes has occurred routinely since 2007 and as a result the grasslands have changed over that time period. For example, DEIR Figure 4.3-1 (which is based on a 2007 survey) depicts only 5.9 acres of ruderal grassland on the site, with the majority being annual grassland. That was not the case in 2017. The DEIR even acknowledges that the ruderal grassland on the site “has expanded” due to discing. (DEIR, p. 4.3-4.) Use of a 2007 baseline overstates the Project’s impacts on vegetation and wildlife habitat.

B. Creeping Wildrye Grassland

The description of creeping wildrye grassland in the DEIR is inconsistent with what is shown on Figure 4.3.1. (DEIR, p. 4.3-5.) The DEIR describes dense “stands” (*i.e.*, patches) on the west



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Gary Kupp, Senior Planner
Contra Costa County
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Page 2

side of the hill near the highway and below the saddle of a southeast facing hill near the north end of the property. Figure 4.3-1, which is described as being based on mapping from 2007, depicts over 20 patches of creeping wildrye grassland, in areas different than those described in the text. Figure 4.3-1 should be revised to reflect the 2021 BA.

↑
11-2
cont.

C. Suisun Marsh Aster

The DEIR’s treatment of Suisun marsh aster is confusing and internally inconsistent. The DEIR identifies Suisun marsh aster as one of nine special-status plant species having at least a moderate potential to occur on the site and states that it is “described below.” (DEIR, p. 4.3-13.) There is, however, no description of the species on the following pages. Moreover, Appendix D indicates that Suisun marsh aster has a low potential to occur on the site. Nevertheless, the DEIR concludes the Project would have a potentially significant impact on Suisun marsh aster and identifies mitigation measures to reduce those impacts to less than significant. (DEIR, pp. 4.3-33 to 4.3-35.) The EIR should be revised to clarify the Project’s potential impacts to Suisun marsh aster, if any. To the extent the Project’s impact on this species is not significant, no mitigation is required.

11-3

D. Wetland Delineation

The DEIR describes a wetlands delineation conducted in 2007-2008 and verified by the U.S. Army Corps of Engineers (USACE) in 2009. (DEIR, p. 4.3-10.) The DEIR states “the results of this delineation were confirmed by an ESA biologist on June 15, 2017 and by Moore (2020) and found to be generally comparable to current conditions.” This statement should be clarified as the Moore wetland delineation map differs from the 2007-2008 map and Moore (2021) states that “the wetland boundaries changed in some parts of the site.” (See Attachment A, p. 11.)

The DEIR also conflates the results of the 2007-2008 wetland delineation and the 2020 wetland delineation completed by Moore. For example, Figure 4.3-2 is described as the map from the 2007-2008 delineation. (DEIR, p. 4.3-10.) Figure 4.3-2 is the delineation figure prepared by Moore, which depicts different wetland boundaries than those of the previous delineation. Further, Table 4.3-1 is described as the “delineation results by resource type and identifies the jurisdictional authority of federal and state regulatory agencies over each feature as documented in the 2009 USACE verification letter.” (DEIR, p. 4.3-10.) This statement should be corrected to reflect that Table 4.3-1 identifies the wetland acreages on Moore’s figure, which are different from those of the 2007-2008 wetland delineation for which the verification has expired.

11-4

Finally, Table 4.3-1 classifies an isolated seep on the side of a hill delineated by Moore as a “seasonal wetland,” falling under the jurisdiction of the California Department of Fish and Wildlife (CDFW) and USACE. The seep is not a lake or a stream and should therefore not be identified as under CDFW jurisdiction.

Gary Kupp, Senior Planner
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Page 3

E. California Red-Legged Frog

Moore (2021), a reference document to the DEIR, confirms the Project site does not contain suitable aquatic habitat for California red-legged frog. (Attachment A, p. 22 [Table 1].) The DEIR discloses that there are no records of California red-legged frog in CDFW’s California Natural Diversity Database (CNDDDB) within five miles of the site. Nevertheless, the DEIR identifies the species has having a “moderate potential” for occurrence. (DEIR, p. 4.3-16.) The same consultant that prepared the DEIR, previously identified the “study area” for the Lower Walnut as being unsuitable for California red-legged frog. (See ESA 2019 Habitat Assessment for the Lower Walnut Creek Restoration Project). This is notable because the Lower Walnut Creek Restoration Project study area overlaps the Project site and encompasses Pacheco Creek and the adjacent uplands. The treatment of California red-legged frog in the Lower Walnut Creek Restoration Project Initial Study (*i.e.*, none) provides an appropriate standard for this Project, as the Restoration Project has been through recent permitting and is under construction. There is substantial evidence that California red-legged frog is not present on the Project site and therefore there would be no significant impact to the species. The mitigation measures in the DEIR are not warranted and should be removed.

11-5

* * *

We appreciate the opportunity to comment on the DEIR and for your consideration of the matters set forth in this letter. We look forward to continuing to work with the County on this Project.

Very truly yours,

Christina L. Berglund
Senior Counsel

CLB:msf

Attachment

cc: Doug Chen (dchen@discoverybuilders.com)
Louis Parsons (lparsons@discoverybuilders.com)

MOORE BIOLOGICAL CONSULTANTS

March 17, 2021

Mr. Doug Chen
Discovery Builders, Inc.
4061 Port Chicago Highway
Concord, CA 94520

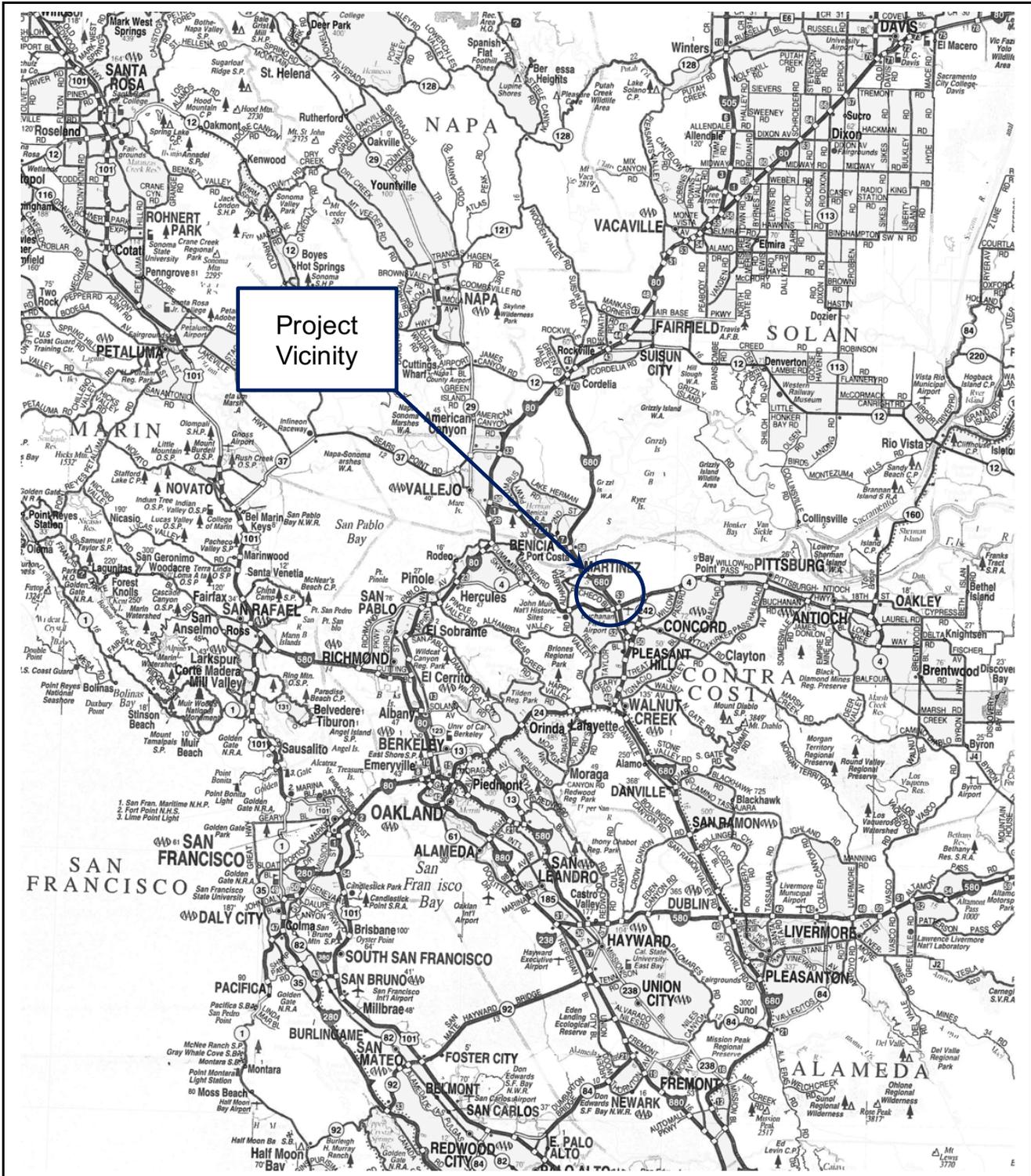
Subject: "BAYVIEW ESTATES", CONTRA COSTA COUNTY, CALIFORNIA:
UPDATED BIOLOGICAL ASSESSMENT

Dear Doug:

Thank you for asking Moore Biological Consultants to prepare an updated biological assessment for this 78+/- acre site near Martinez, in Contra Costa County, California (Figures 1 and 2). The purpose of this assessment is to update the previous studies conducted at the site listed under "References", describe existing biological resources in the site, identify potentially significant impacts to biological resources from the proposed project, and provide recommendations for how to reduce those impacts to a less-than-significant level. The work involved reviewing databases, aerial photographs, and documents, and conducting field surveys to document vegetation communities, Waters of the U.S. and/or wetlands, and potentially suitable habitat for special-status species.

Project Overview

The proposed project is a 144-lot residential subdivision on approximately 30 acres with a park, water quality treatment basin, and approximately 40 acres of open space (see project drawings in Attachment A). Access to the site will be



Source: California State Automobile Association

Moore Biological Consultants

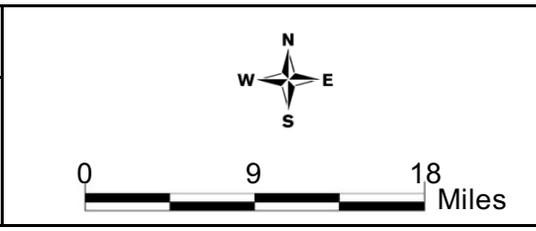
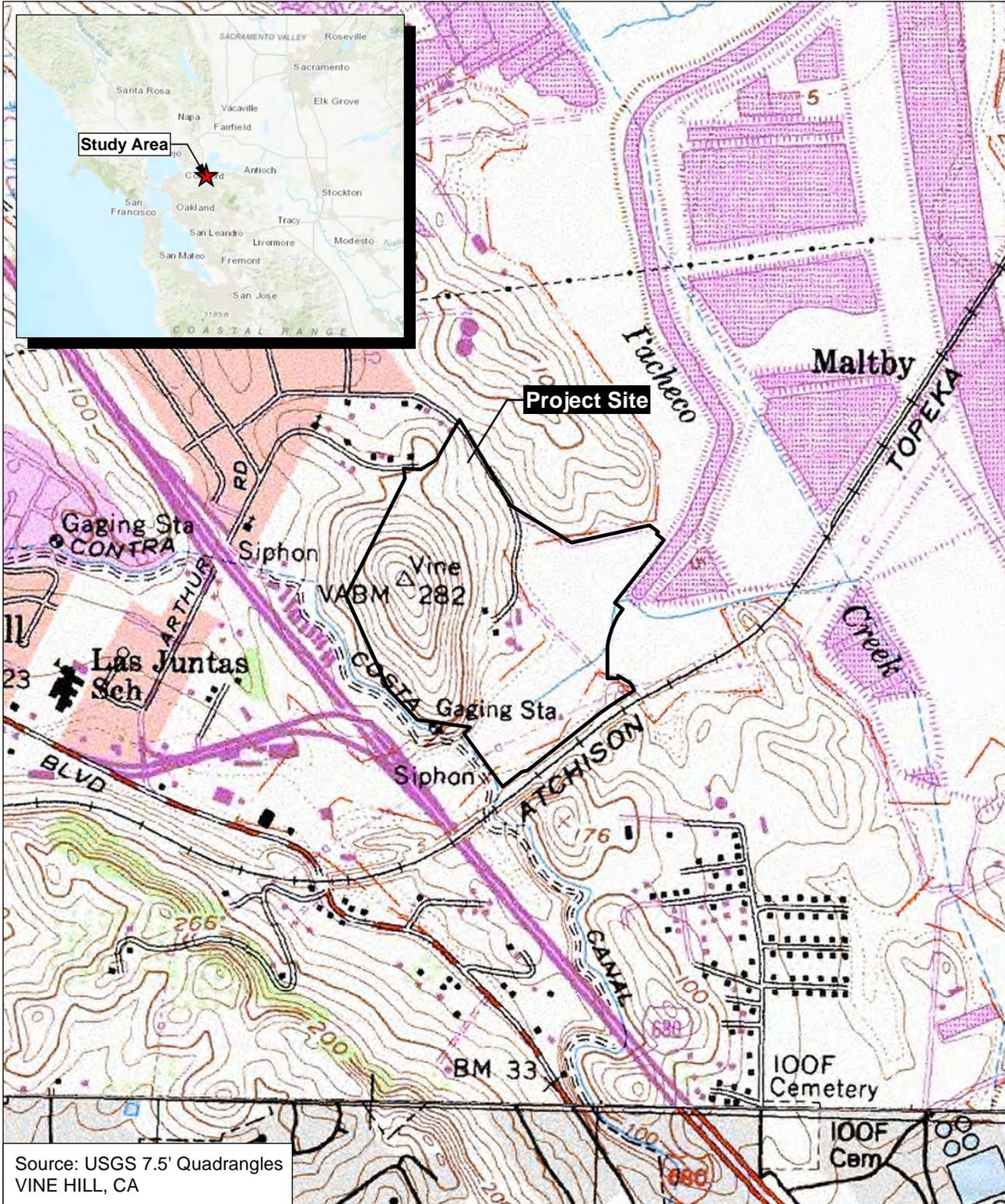


FIGURE 1

PROJECT VICINITY

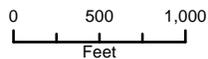


Source: USGS 7.5' Quadrangles
VINE HILL, CA

Figure 2

Moore Biological
Consultants

Map Date: 12/07/2020



USGS

Bayview

Contra Costa County, CA

from Central Avenue and Palms Drive. Water and sewer will tie into the existing Contra Costa Water District and Mt. View Sanitary District system. Storm water will be treated on-site and then released into Pacheco Creek, which is the natural receiving body for storm water.

Methods

California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB, 2020) was searched prior to the field surveys; an updated search was conducted in January 2021. The CNDDDB search included the USGS 7.5-minute Vine Hill and Walnut Creek topographic quadrangles, which encompass approximately 120 square miles surrounding the project site. The United States Fish and Wildlife Service (USFWS) IPaC Trust Report of Federally Threatened and Endangered species that may occur in or be affected by projects in the project vicinity was also reviewed (Attachment B). This information was used to identify wildlife and plant species that have been previously documented in the project vicinity or have the potential to occur based on suitable habitat and geographical distribution. Additionally, the CNDDDB depicts locations of sensitive habitats. The USFWS on-line maps of designated critical habitat were also downloaded.

Field surveys were conducted on November 19 and December 1, 2020. The surveys consisted of driving and walking throughout the site making observations of habitat conditions and noting surrounding land uses, vegetation types, and plant and wildlife species. Observations were also made regarding site topography, drainage patterns, and levels of disturbance.

An updated preliminary delineation of potentially jurisdictional Waters of the U.S. and wetlands was also undertaken. Potentially jurisdictional areas were delineated in accordance with the U.S. Army Corps of Engineers (ACOE) Wetland Delineation Manual (ACOE, 1987) and Arid West Region Regional Supplement (ACOE, 2008). The boundaries of potentially jurisdictional Waters of

the U.S. and wetlands were mapped using a Trimble GeoXH Global Positioning System (GPS) unit. Dominant plant species and habitat types were identified within the mapped areas.

The surveys included a search for special-status species and/or potentially suitable habitat for special-status species (e.g., salt marshes, areas with unusual soils, vernal pools, caves). Trees in and near the site were assessed for potential use by nesting raptors and the site was also searched for burrowing owls (*Athene cunicularia*) or ground squirrel burrows that could be used by burrowing owls.

Under contract to Moore Biological, Salix Consulting, Inc. conducted a Botanical Assessment for special-status plants in the project site. Botanist Jeff Glazner conducted the botanical survey on November 19, 2020.

Results

GENERAL SETTING: The project site is located in the Vine Hill community, which is just outside Martinez, in Contra Costa County, California (Figure 1). The site is in an unnumbered section within Township 2 North, Range 2 West of the USGS 7.5-minute Vine Hill topographic quadrangle (Figure 2). The east part of the site is relatively level, sloping generally to the east. There is a large notable hill in the west part of the site; the site ranges in elevations from approximately 0 to 280 feet above mean sea level.

The site consists of open grassland, a notable hill with a small patch of valley oak woodland, a constructed pond encircled by wetlands, and an expansive marsh area in the south part of the site (Figure 3 and photographs in Attachment C). Based on review of historical maps and aerial photographs, portions of the site that appear to have been utilized for mining operations, possibly related to the construction of nearby roads, bridges, and/or levees.

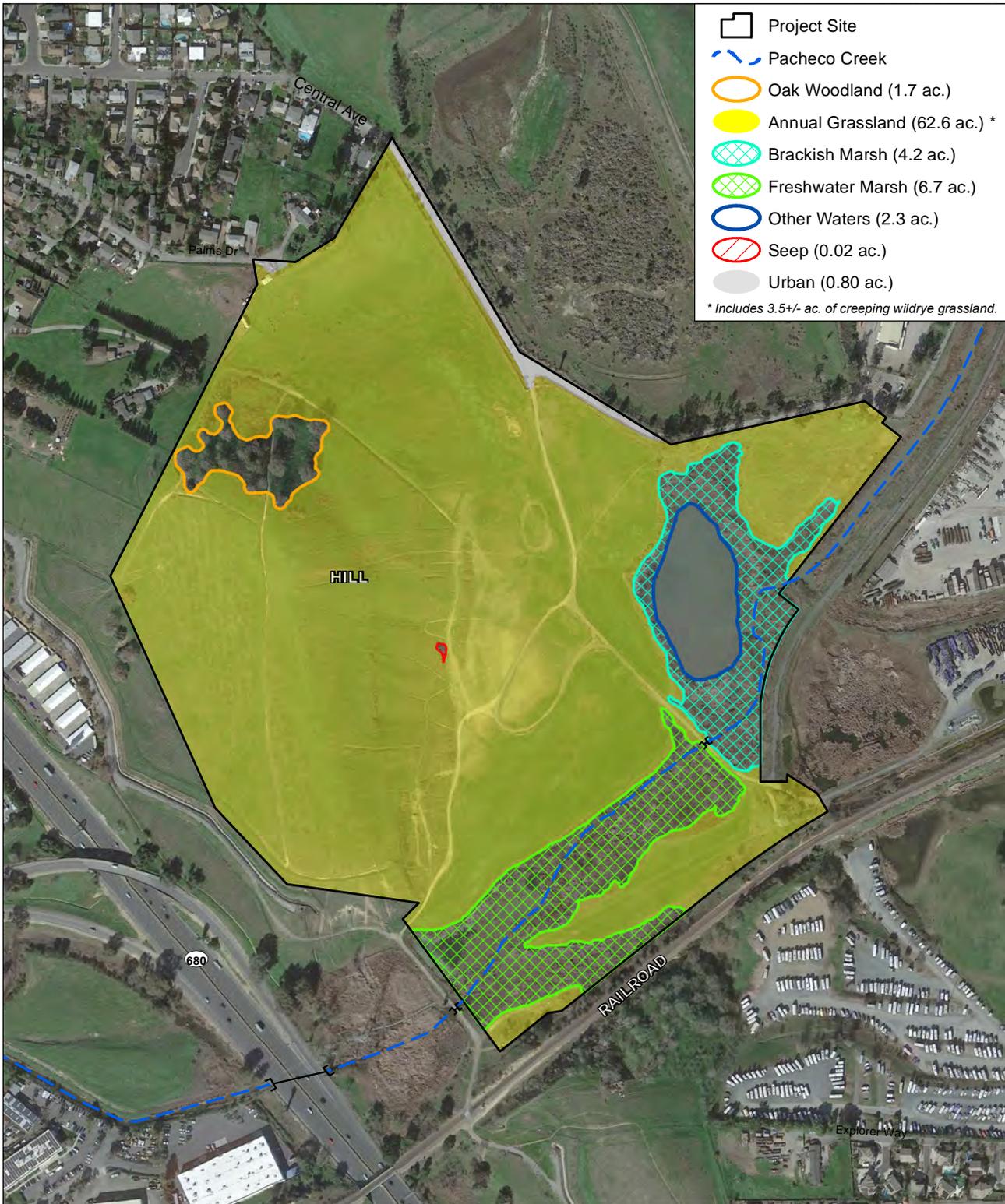


Figure 3

Moore Biological
Consultants

Map Date: 03/04/2021
Aerial Source: Google Earth (02/2020)

Vegetation Communities

Bayview

Contra Costa County, CA

VEGETATION: Historical agriculture, apparent historical mining, development, off-road vehicle use, periodic mowing and/or disking of the site, and other human activities have modified natural habitats in the project site. The upland grasslands in the site are moderately disturbed and weedy. In contrast, vegetation in the pond and marsh areas in the site are relatively more natural and undisturbed.

Annual Grassland: California annual grassland best describes the upland grassland vegetation in the site, encompassing approximately 62.6 acres (Figure 3). The grasslands in the relatively flatter areas where the subdivision will be developed are highly disturbed by prior development and periodic disking, and are best described as ruderal grassland. The grasslands on the hill and in the northeast part of the site are much less disturbed. Despite levels of disturbance, all of the grasslands in the site support predominantly non-native species. Wild oats (*Avena* sp.), hare barley (*Hordeum murinum* subsp. *leporinum*), soft chess (*Bromus hordeaceus*), and Italian ryegrass (*Festuca perennis*) are dominant grass species. There are also a few areas in the grasslands on the hill in the west part of the site where creeping wildrye (*Elymus triticoides* subsp. *triticoides*) is one of the co-dominant grass species. Other grassland species such as black mustard (*Brassica nigra*), bristly ox-tongue (*Helminthotheca echioides*), prickly lettuce (*Lactuca serriola*), yellow starthistle (*Centaurea solstitialis*), Italian thistle (*Carduus pycnocephalus*), broad-leaf filaree (*Erodium botrys*), rose clover (*Trifolium hirtum*), bindweed (*Convolvulus arvensis*), and common vetch (*Vicia sativa*) are intermixed with the grasses. A list of plant species observed in the site is included in Attachment D.

Valley Oak Woodland: There is a notable patch of what is best described as “valley oak woodland” on the north side of the top of the hill in the west part of the site, encompassing approximately 1.7 acres (Figure 3). Valley oak (*Quercus lobata*) is the dominant oak in the cluster intermixed with a few coast live oaks (*Quercus agrifolia*), and olives (*Olea europaea*), and a few coyote bushes (*Baccharis pilularis*). There are also some expansive areas of western poison oak (*Toxicodendron diversilobum*) in the oak woodland area. The understory of

the oak woodland is comprised of a subset of species found in the annual grasslands in the site.

Wetlands: The various aquatic features in the site have differing and unique vegetative communities. A small side-hill seep near the base of the large hill supports hydrophytes such as cattails (*Typha sp.*), tall flatsedge (*Cyperus eragrostis*), arroyo willow (*Salix lasiolepis*), as well as Selloa pampas grass (*Cortaderia selloana*).

The extensive marsh open water and marsh complexes in the east and south parts of the site are dominated by emergent wetland species. The vegetation in the marsh ranges from typical freshwater marsh species along Pacheco Creek in the southwest corner of the site to relatively more brackish marsh species in the tidally influenced wetlands in the east part of the site. There are expansive patches of cattails, common tule (*Schoenoplectus acutus var. occidentalis*), and California bulrush (*Schoenoplectus californicus*) in the relatively deeper parts of the marshes. Dense bands of common reed (*Phragmites australis*) are found in somewhat shallower areas intermixed with the cattails, tule and bulrush and extending beyond the edges of the wetlands in some areas.

Common hydrophytes associated with relatively flat areas along the edges of the marshes include annual beard grass (*Polypogon monspeliensis*), tall flatsedge, curly dock (*Rumex crispus*), fiddle dock (*Rumex pulcher*), and rushes (*Juncus balticus*, *J. bufonius*, and *J. effusus*). There are also narrow fringes of Pacific swampfire (i.e., “pickleweed”, *Salicornia pacifica*), cordgrass (*Spartina foliosa*), alkali heath (*Frankenia salina*), and alkali weed (*Cressa truxillensis*) along some of the marsh edges. This assemblage of low growing plants in alkaline soils on the margins of the marshes comprises species typical of alkali meadows.

Trees associated with the marshes in the site include arroyo willow, red willow (*Salix laevigata*), Goodding’s black willow (*Salix gooddingii*), and Fremont cottonwood (*Populus fremontii subsp. fremontii*). A few patches of Himalalayan

blackberry (*Rubus armeniacus*) and elkleaf blackberry (*Rubus ulmifolius* var. *anoplothysus*) occur along the edges of the marshes.

Other Trees and Shrubs: There are a few valley oaks in the southeast tip of the site and a notable row of eucalyptus (*Eucalyptus* sp.) along the north edge of the site, adjacent to Central Avenue. Other tree species in the grassland vegetation include northern California black walnut (*Juglans hindsii*), toyon (*Heteromeles arbutifolia*), almond (*Prunus dulcis*), and tree of heaven (*Ailanthus altissima*). No blue elderberry shrubs (*Sambucus nigra* ssp. *caerulea*) were observed in the grasslands or elsewhere in the site.

WILDLIFE: A variety of bird species were observed in the site during the recent field surveys. Common loon (*Gavia immer*), great egret (*Casmerodius albus*), Canada goose (*Branta canadensis*), mallard (*Anas platyrhynchos*), turkey vulture (*Cathartes aura*), red-tailed hawk (*Buteo jamaicensis*), American kestrel (*Falco sparverius*), northern flicker (*Colaptes auratus*), northern mockingbird (*Mimus polyglottos*), western kingbird (*Tyrannus verticalis*), mourning dove (*Zenaida macroura*), Brewer's blackbird (*Euphagus cyanocephalus*), and red-winged blackbird (*Agelaius phoeniceus*) are a few of the more common birds observed at the site. A list of wildlife species observed in the site is included in Attachment D.

There are several potential nest trees in and near the site that are suitable for nesting raptors and other protected migratory birds. Given the presence of some relatively large trees and raptor foraging habitat (i.e., open fields) in and near the site, it is possible one or more pairs of raptors nest in trees in the site each year. It is likely that several species of songbirds such as red-winged blackbird (*Agelaius phoeniceus*), white-crowned sparrow (*Zonotrichia leucophrys*) nest within trees, shrubs, blackberry brambles, and emergent wetland vegetation habitats in the site. A variety of other protected migratory birds (mostly songbirds) likely nest in the grasslands during most years. Other species such as geese, ducks, and possibly killdeer (*Charadrius vociferous*) may also nest on the ground in parts of the site.

Several common mammals have potential to occur in the site. California ground squirrel (*Otospermophilus beecheyi*), and black-tailed hare (*Lepus californicus*) were the only mammals observed in the site. Tracks from California mule deer (*Odocoileus hemionus californicus*) and raccoon (*Procyon lotor*) were also observed. Other common mammals such as coyote (*Canis latrans*), muskrat (*Ondatra zibethicus*), striped skunk (*Mephitis mephitis*), Desert cottontail (*Sylvilagus audubonii*), and Virginia opossum (*Didelphis virginiana*) that are widespread in the area likely occur in the project site. A number of species of small rodents including mice (*Mus musculus*, *Reithrodontomys megalotis*, and *Peromyscus maniculatus*) and voles (*Microtus californicus*) also likely occur.

Based on habitat types present, a variety of amphibians and reptiles may use habitats in the site. Western pond turtle (*Emys marmorata*) was the only reptile observed within the project site; no amphibians were observed. Common amphibian and reptile species such as western fence lizard (*Sceloporus occidentalis*), Pacific chorus frog (*Pseudacris regilla*), coast horned lizard (*Phrynosoma coronatum*), western skink (*Eumeces skiltonianus*), western toad (*Bufo boreas*), common king snake (*Lampropeltis getulus*), common garter snake (*Thamnophis sirtalis*), gopher snake (*Pituophis melanoleucus*), and bullfrog (*Rana catesbeiana*) may also occur in the site.

WATERS OF THE U.S. AND WETLANDS: Waters of the U.S., including wetlands, are broadly defined under 33 Code of Federal Regulations (CFR) 328 to include navigable waterways, their tributaries, and adjacent wetlands. State and federal agencies regulate these habitats and Section 404 of the Clean Water Act requires that a permit be secured prior to the discharge of dredged or fill materials into any waters of the U.S., including wetlands. Some jurisdictional waters of the U.S. also fall under the jurisdiction of CDFW and/or the California Regional Water Quality Control Board (RWQCB).

“Waters of the U.S.”, as defined in 33 CFR 328.4, encompasses Territorial Seas, Tidal Waters, and Non-Tidal Waters; Non-Tidal Waters includes interstate and

intrastate rivers and streams, as well as their tributaries. The limit of federal jurisdiction of Non-Tidal Waters of the U.S. extends to the “ordinary high water mark”. The ordinary high water mark is established by physical characteristics such as a natural water line impressed on the bank, presence of shelves, destruction of terrestrial vegetation, or the presence of litter and debris.

Jurisdictional wetlands are vegetated areas that meet specific vegetation, soil, and hydrologic criteria defined by the *ACOE Wetlands Delineation Manual* and Regional Supplement (ACOE, 1987; 2008). Jurisdictional wetlands are usually adjacent to or hydrologically associated with Waters of the U.S.

Isolated wetlands are outside federal jurisdiction, but may be regulated by RWQCB under the State Wetlands Program.

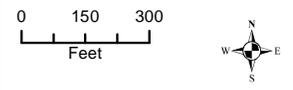
Jurisdictional wetlands and Waters of the U.S. include, but are not limited to, perennial and intermittent creeks and drainages, lakes, seeps, and springs; emergent marshes; riparian wetlands; and seasonal wetlands. Wetlands and Waters of the U.S. provide critical habitat components, such as nest sites and a reliable source of water, for a wide variety of wildlife species.

A wetland delineation of the site was conducted in 2007 (Douglas Herring & Associates, 2007a) and verified by ACOE in 2009. The wetland boundaries changed in some parts of the site from those mapped in 2007 and an updated wetland delineation map and report will be completed in Spring 2021 and submitted to ACOE for verification. Under current conditions, there are approximately 13.2 acres of potentially jurisdictional Waters of the U.S. or wetlands in the project site (Figure 4 and photographs in Attachment C).

Potentially jurisdictional Waters of the U.S. and wetlands include Pacheco Creek and expansive marshes adjacent to the creek, a constructed pond associated with another expansive marsh, and a side-hill seep. Within the site, there are approximately 4.2 acres of brackish marsh and a 2.3+/-acre constructed pond associated with the tidally influenced portion of Pacheco Creek, 6.7 acres of freshwater marsh associated with Pacheco Creek, and a 0.02-acre side-hill seep



Figure 4



Potential Waters of the U.S. and Wetlands

Moore Biological
Consultants

Map Date: 03/04/2021
Aerial Source: Google Earth (02/2020)

Bayview

Contra Costa County, CA

(Figure 4). Due to hydrologic isolation, the seep is believed to be outside AOCE jurisdiction. No other potentially jurisdictional Waters of the U.S. or wetlands were observed in the site. The remainder of the site consists of upland grassland habitats, most of which are moderately to highly disturbed.

The most notable wetland features in the site are the expansive marshes in the east and south parts of the project site. There is a 2.5+/- acre open-water pond located within the eastern marsh feature. A review of historical maps and aerial photographs reveal the pond was historically excavated within a large marsh several decades ago, presumably concurrent with mining operations and/or development in and near the project site. The pond was notably larger in the 1980s, but much of the pond was filled and reclaimed in uplands in 2002. The pond is depicted in the National Wetland Inventory (NWI) as a "Freshwater Pond" (Attachment E).

This constructed pond receives water from Pacheco Creek, which flows along the south edge of the site and is bounded by marsh vegetation. The pond in the eastern marsh is also tidally influenced by lower Pacheco Creek, which is immediately adjacent to the site and is channelized and bounded by levees. This downstream section of Pacheco Creek is hydrologically connected to the pond via an undersized culvert crossing. As tides rise and fall, the culvert meters creek flows backing up from Pacheco Creek in and out of the pond.

As described above, there is extensive band of emergent wetland vegetation surrounding the pond as well as within a well-developed marshland extending out from the pond. Common species associated with the marsh environments in the site include cattails, common tule, several species of rushes, tall flatsedge, and small amounts of pickleweed and alkali heath. There are cottonwood and willow seedlings and saplings surrounding the constructed pond, as well as scattered within the marsh along the south edge of the site.

There is also an expansive freshwater marsh associated with the reach of Pacheco Creek that flows through the south part of the site, which contains a similar composition of dominant emergent wetland vegetation and marsh species as the marsh further east. This southern marsh is considered a separate feature from the brackish marsh that is to the east of the road that crosses through the site. The tributary tidal influence of Pacheco Creek appears to stop at the road that crosses through the site, likely both due to elevation and possibly also an undersized culvert in the road. Tides do not appear to influence much, if any, of this southern marsh as the marsh is slightly higher in elevation, sloping down to the east, and interrupted by the road. This southern marsh is depicted on the NWI map as an “Estuarine and Marine Wetland”.

The small (i.e., less than 0.02+/- acre) side-hill seep is situated in the approximate center of the site and is at the base of the large hill in the west part of the site (see photographs in Attachment C). This seep trickled water during the field survey, resulting in localized saturation, and supporting wetland vegetation. The seep is spatially and hydrologically isolated from Pacheco Creek. Vegetation in the seep includes common hydrophytes such as cattails, tall flatsedge, and a few small willow seedlings and saplings, as well as annual beard grass.

The seep is located within the limits of grading and will be impacted by project construction. A storm drain outfall will be constructed along the bank of Pacheco Creek, immediately east of the easternmost tip of the site. There will be complete avoidance of the remaining aquatic habitats in the site.

SPECIAL-STATUS SPECIES: Special-status species are plants and animals that are legally protected under the state and/or federal Endangered Species Act or other regulations. The Federal Endangered Species Act (FESA) of 1973 declares that all federal departments and agencies shall utilize their authority to conserve endangered and threatened plant and animal species. The California Endangered Species Act (CESA) of 1984 parallels the policies of FESA and pertains to native California species.

Special-status species also include other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat. The presence of species with legal protection under the Endangered Species Act often represents a constraint to development, particularly when the species are wide-ranging or highly sensitive to habitat disturbance and where proposed development would result in a take of these species.

Special-status plants are those, which are designated rare, threatened, or endangered and candidate species for listing by the USFWS. Special-status plants also include species considered rare or endangered under the conditions of Section 15380 of the California Environmental Quality Act Guidelines, such as those plant species identified on Lists 1A, 1B and 2 in the Inventory of Rare and Endangered Vascular Plants of California (CNPS, 2021). Finally, special-status plants may include other species that are considered sensitive or of special concern due to limited distribution or lack of adequate information to permit listing or rejection for state or federal status, such as those included on CNPS List 3.

The likelihood of occurrence of listed, candidate, and other special-status species in the site is generally low. Table 1 provides a summary of the listing status and habitat requirements of special-status species that have been documented in the greater project vicinity or for which there is potentially suitable habitat in the greater project vicinity. This table also includes an assessment of the likelihood of occurrence of each of these species in the site. The evaluation of the potential for occurrence of each species is based on the distribution of regional occurrences (if any), habitat suitability, and field observations.

SPECIAL-STATUS PLANTS: Special-status plants generally occur in relatively undisturbed areas in vegetation communities such as vernal pools, marshes and swamps, chenopod scrub, seasonal wetlands, riparian scrub, and areas with unusual soils. Special-status plants identified in the CNDDDB (2021) search (i.e.,

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
PLANTS						
Big tarplant	<i>Blepharizonia plumosa</i>	None	None	1B	Valley and foothill dry grassland; elevations 100-1,650 feet; blooms July-October.	Unlikely: a majority of the grasslands in the site are regularly disturbed and provide only marginal habitat. The nearest occurrence of big tarplant in the CNDDDB (2021) search area is approximately 5.5 miles northwest of the site.
Mt. Diablo fairy-lantern	<i>Calochortus pulchellus</i>	None	None	1B	Chaparral, cismontane woodland, riparian woodland, valley and foothill grassland; elevations 100-2,750 feet; blooms April-June.	None: this species occurs on wooded and shaded northern aspect slopes, which are not present in the project site. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 3.5 miles southwest of the site.
Congdon's tarplant	<i>Centromadia parryi ssp. congdonii</i>	None	None	1B	Valley and foothill grassland; within alkaline soils; elevations 0 – 750 feet; blooms May-October.	Moderate: this species occurs on terraces, swales, floodplains, grasslands, and often on disturbed sites. It is documented in the CNDDDB (2021) search area within the project site. The record of Congdon's tarplant in the site is from 2005 and was found within annual grassland adjacent to the pond in the east part of the site.
Bolander's water hemlock	<i>Cicuta maculata var. bolanderi</i>	None	None	2	Fresh or brackish water marshes; elevations 0-650 feet; blooms July-September.	Low: this species occurs in wetlands near and influenced by the coast and there is marginal yet potentially suitable marsh habitat in the site. However, the only occurrence of this species in the CNDDDB (2021) search area is an historical population (1900) mapped non-specifically approximately 3 miles west of the site.
Soft salty bird's-beak	<i>Cordylanthus mollis ssp. mollis</i>	E	Rare	1B	Coastal salt marshes; elevations 0-10 feet; blooms July-November.	Low: there is potentially suitable marsh habitat on the site to support this species. The nearest occurrence of soft salty bird's-beak in the CNDDDB (2021) search area is approximately 3 miles northwest of the site.

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
San Joaquin spearscale	<i>Extriplex joaquiniana</i>	None	None	1B	Chenopod scrub, alkali meadow, valley and foothill grassland; within alkaline soils; elevations 0 – 2,700 feet; blooms April-October.	Unlikely: San Joaquin spearscale occurs in alkaline soils, which are limited to a few small areas adjacent to the wetlands in the lowland areas of the site. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 2.5 miles northeast of the site.
Fragrant fritillary	<i>Fritillaria liliacea</i>	None	None	1B	Coastal scrub, valley and foothill grassland and coastal prairie; often on serpentine soils; elevations 0-1,350 feet; blooms February-April.	Unlikely: this species occurs in heavy soils on open hills near the coast. There is marginal habitat in project site, particularly due to periodic weed abatement and lack of suitable soils. The nearest occurrence of fragrant fritillary in the CNDDDB (2021) search area is approximately 11 miles northwest of the site.
Diablo helianthella	<i>Helianthella castanea</i>	None	None	1B	Broad-leaved upland forest, chaparral, cismontane woodland, coastal scrub, riparian woodland, valley and foothill grassland; elevations 200-4,300 feet; blooms March-June.	Unlikely: this species typically occurs above 600 feet in elevation and the highly disturbed condition of the on-site grasslands also limits the potential for occurrence of this species. The nearest occurrence of Diablo helianthella in the CNDDDB (2021) search area is approximately 3 miles southwest of the site.
Carquinez goldenbush	<i>Isocoma arguta</i>	None	None	1B	Valley and foothill grassland, in alkaline soils; elevations 3 – 64 feet; blooms August-December.	Unlikely: this shrub occurs in non-wetland, alkaline soils near sea level which are minimal in the project site. The nearest occurrence of this species in the CNDDDB (2021) search area is a large nonspecific area approximately 6 miles northwest of the site.
Contra Costa goldfields	<i>Lasthenia conjugens</i>	E	None	1B	Valley and foothill grassland within vernal pools and swales; elevations 0 – 1,500 feet; blooms March-June.	Unlikely: this species occurs in vernal pools and similar habitats. The nearest occurrence of Contra Costa goldfields in the CNDDDB (2021) search area is approximately 4 miles southeast of the site. The site is not in designated critical habitat for this species (USFWS 2005a).

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Delta tule pea	<i>Lathyrus jepsonii</i> <i>var. jepsonii</i>	None	None	1B	Marshes and swamps; elevations >20 feet; blooms May – September.	Low: this species occurs in coastal and estuarine marshes and there is potentially suitable marsh habitat on the site to support this species. The nearest occurrence of delta tule pea in the CNDDDB (2021) search area is approximately 1-mile northwest of the site.
Mason's lilaepsis	<i>Lilaeopsis masonii</i>	None	R	1B	Marshes, swamps and riparian scrub; elevations 0 – 33 feet; blooms April – November.	Low: Mason's lilaepsis occurs in intertidal marshes along streambanks and potentially suitable habitat is present along Pacheco Creek, downstream (i.e. west of the road across the creek). The nearest occurrence of Mason's lilaepsis in the CNDDDB (2021) search area is approximately 2.5 miles northwest of the site.
Delta mudwort	<i>Limosella australis</i>	None	None	2	Marshes and swamps; elevations 0 – 10 feet; blooms May – August.	Unlikely: delta mudwort occurs in muddy or sandy intertidal flats in brackish water. Marginal habitat for this species occurs along wetlands in bottomlands of site. The nearest occurrence of Delta mudwort in the CNDDDB (2021) search area is approximately 6.5 miles northeast of the site.
Antioch dunes evening primrose	<i>Oenothera deltoides</i> ssp. <i>howellii</i>	E	E	1B	Interior dunes in the Delta region; elevations 0 – 98 feet; blooms March – September.	None: the project site does not contain sandy dunes. The nearest occurrence of Antioch dunes evening primrose in the CNDDDB (2021) search area is approximately 7 miles southeast of the site.
Long-styled sand-spurrey	<i>Spergularia macrotheca</i> var. <i>longistyla</i>	None	None	1B	Marshes and swamps, meadows and seeps; elevations 0 – 800 feet; blooms February – May.	Unlikely: long-styled sand-spurrey occurs in alkaline marshes and there is potentially suitable marsh habitat on the site to support this species. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 3 miles northwest of the site.

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Slender-leaved pondweed	<i>Stuckenia filiformis ssp. alpinus</i>	None	None	2	Marshes and swamps; elevations 98 – 7,054 feet; blooms May – July.	Unlikely: the site is well below the known elevation range of this species (CNPS, 2021). The nearest occurrence of slender-leaved pondweed in the CNDDB (2021) search area is approximately 10 miles southeast of the site.
Suisun marsh aster	<i>Symphotrichum lentum</i>	None	None	1B	Marshes and swamps; elevations 0 – 10 feet; blooms May – November.	Low: this species occurs in coastal marshes in the region. The nearest occurrence of Suisun marsh aster in the CNDDB (2021) search area is approximately 1.5 miles north of the site.
Saline clover	<i>Trifolium hydrophilum</i>	None	None	1B	Marshes and swamps, mesic areas in valley and foothill grassland, vernal pools; elevations 0 – 960 feet; blooms April-June.	Unlikely: this species occurs in salt marshes and open areas in alkaline soils and marginal habitat is present in the project site. The nearest occurrence of saline clover in the CNDDB (2021) search area is approximately 4 miles northwest of the site.
Oval-leaved viburnum	<i>Viburnum ellipticum</i>	None	None	2	Chaparral, cismontane woodland, and lower montane coniferous forest; elevations 705 – 4,593 feet; blooms May – June.	None: oval-leaved viburnum occurs on north facing slopes above 600 feet in elevation; the site is well below the known elevation range of this species (CNPS, 2021). The nearest occurrence of this species in the CNDDB (2021) search area is approximately 5 miles southwest of the site.
WILDLIFE						
Birds						
California Ridgway's rail	<i>Rallus obsoletus obsoletus</i>	E	E	N/A	Salt water and brackish marshes traversed by tidal sloughs in the San Francisco Bay; associated with pickleweed.	Unlikely: the site provides low quality marsh habitat for California Ridgway's rail; this species is generally found in expansive tidal areas with more pickleweed. Ridgway's rail has not been documented 2019 and 2020 surveys conducted in the Lower Walnut Creek Restoration Project study area, which abuts the project site (ESA Associates, 2019a, 2020). The nearest occurrence of California Ridgway's rail in the CNDDB (2021) search area is approximately 2 miles north of the site.

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
California least tern	<i>Sturnula antillarum browni</i>	E	E	N/A	Estuaries and bays; nests on exposed tidal flats or beaches	Unlikely: the project site does not provide suitable habitat to support California least tern. There are no occurrences of this species in the CNDDDB (2021) search area.
California black rail	<i>Laterallus jamaicensis coturniculus</i>	None	T	N/A	Mainly inhabits salt marshes bordering larger bays	Low: the site provides low quality marsh habitat for California black rail; this species is more common in coastal, open water habitats. The nearest occurrence of California black rail in the CNDDDB (2021) search area is approximately 1.5 miles north of the site.
Tricolored blackbird	<i>Agelaius tricolor</i>	None	T	N/A	Open water and protected nesting substrate, usually cattails and riparian scrub.	Possible: the quarry pond and the well-developed marsh areas in the site provide suitable nesting habitat for tricolored blackbird; the grasslands in the site may be suitable for foraging. The nearest occurrence of tricolored blackbird in the CNDDDB (2021) search area is approximately 1.5 miles northwest of the site.
Burrowing owl	<i>Athene cunicularia</i>	None	SC	N/A	Open, dry annual or perennial grasslands, deserts and scrublands characterized by low-growing vegetation.	Unlikely: while there are a few ground squirrel burrows in the site, none of the burrows contained evidence of past or present burrowing owl occupancy; no burrowing owls were observed in the site. The nearest occurrence of nesting burrowing owls in the CNDDDB (2021) search area is approximately 2 miles southeast of the site.
Saltmarsh common yellowthroat	<i>Geothlypis trichas sinuosa</i>	None	SC	N/A	Fresh and saltwater marshes. Requires thick, continuous cover down to water surface for foraging.	Unlikely: the site provides low quality habitat for this species and saltmarsh common yellowthroat is more common in coastal areas with dense vegetation. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 2 miles north of the site.

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Yellow rail	<i>Coturnicops noveboracensis</i>	None	SC	N/A	Fresh water marshlands, summer residence in eastern Sierra Nevada in Mono County.	Unlikely: the site provides low quality habitat for this species. The nearest occurrence of western yellow rail in the CNDDDB (2021) search area is approximately 10.5 miles northeast of the site.
Suisun song sparrow	<i>Melospiza melodia maxillaris</i>	None	SC	N/A	Resident of brackish water marshes surrounding Suisun Bay. Inhabits cattails, tules, and tangles bordering sloughs.	Unlikely: the site provides potentially suitable nesting and foraging habitat for this species. The nearest occurrence of Suisun song sparrow in the CNDDDB (2021) search area is approximately 1 mile north of the site.
Mammals						
Salt-marsh harvest mouse	<i>Reithrodontomys raviventris</i>	E	E	N/A	Saline emergent wetlands dominated by pickleweed.	Low: while there are some limited areas of pickleweed along the edges of the marshes, saltmarsh harvest mouse generally occurs in areas with more expansive pickleweed marshes. The nearest occurrences of salt-marsh harvest mouse in the CNDDDB (2021) search area is approximately 1 mile north of the site.
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	None	SC	N/A	Desert scrub, mixed conifer forest, and pinyon-juniper or pine forest; primarily roosts in caves, mines and buildings.	Unlikely: this species may also fly over or forage in the site but would not be expected to roost in the site. The nearest occurrence of Townsend's big-eared bat in the CNDDDB (2021) search area is approximately 7 miles south of the site.
Pallid bat	<i>Antrozous pallidus</i>	None	SC	N/A	Open and dry habitats with rocky areas for roosting.	Unlikely: pallid bat may fly over or forage in the site, but there are no areas suitable for roosting in the site. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 5.5 miles southeast of the site.
Big free-tailed bat	<i>Nyctinomops macrotis</i>	None	SC	N/A	Low-lying arid areas in southern California; high cliffs and rocky areas for roosting.	Unlikely: there are no notable rocky areas in the site. The only occurrence of big free-tailed bat in the CNDDDB (2021) search area is an historical record (1979) mapped in downtown Martinez approximately 2.5 miles west of the site.

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Reptiles & Amphibians						
Giant garter snake	<i>Thamnophis gigas</i>	T	T	N/A	Freshwater marsh and low gradient streams; may use drainage canals and irrigation ditches, primarily for dispersal or migration.	Unlikely: the site does not provide suitable habitat for giant garter snake and is also well outside the species' range. There are no occurrences of giant garter snake in the CNDDDB (2021) search area.
California red-legged frog	<i>Rana draytonii</i>	T	SC	N/A	Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation.	Unlikely: the site does not provide suitable habitat for California red-legged frog. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 5 miles southwest of the site. The site is not within designated critical habitat of this species (USFWS, 2006a).
Foothill yellow-legged frog	<i>Rana boylei</i>	None	E	N/A	Perennial water bodies (i.e., streams and ponds) with abundant riparian vegetation; not found on Central Valley floor.	Unlikely: there is no suitable aquatic habitat for foothill yellow-legged frog in the project site. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 8 miles southwest of the project site.
California tiger salamander	<i>Ambystoma californiense</i>	T	T	N/A	Seasonal water bodies without fish (i.e., vernal pools and stock ponds) and grassland/ woodland habitats with summer refugia (i.e., burrows).	Unlikely: there is no suitable breeding habitat in or near the site for California tiger salamander. The nearest occurrence of this species in the CNDDDB (2021) search area is an historical record approximately 2 miles southeast of the site that is described in the CNDDDB as extirpated. The site is not within designated critical habitat for California tiger salamander (USFWS, 2005b).
Alameda whipsnake	<i>Masticophis lateralis euryxanthus</i>	T	T	N/A	Scrub, chaparral, grassland, and woodland habitat mosaics. South-facing slopes and ravines.	Unlikely: the site does not provide suitable habitat for Alameda whipsnake. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 3 miles southwest of the site. The site is just within designated critical habitat for Alameda whipsnake (USFWS, 2006b).

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Western pond turtle	<i>Emys marmorata</i>	None	SC	N/A	Ponds, marshes, streams, and ditches with emergent aquatic vegetation and basking areas.	Present: the quarry pond in the site provides suitable habitat for western pond turtle and one was observed basking along the edge of the pond. The nearest occurrence of western pond turtle in the CNDDDB (2021) search area is a turtle seen in the quarry pond.
Northern California legless lizard	<i>Anniella pulchra</i>	None	SC	N/A	Sandy or loose loamy soils under sparse vegetation; usually found in areas with abundant leaf litter.	Unlikely: the site provides patches of low quality, yet potentially suitable habitat for northern California legless lizard. The nearest occurrence of northern California legless lizard in the CNDDDB (2021) search area is approximately 8.5 miles southwest of the site.
Fish						
Delta smelt	<i>Hypomesus transpacificus</i>	T	T	N/A	Shallow lower delta waterways with submersed aquatic plants and other suitable refugia.	Unlikely: the site does not provide suitable habitat for delta smelt. There are no occurrences of delta smelt recorded in the CNDDDB (2021) within the search area. The site is not within designated critical habitat for delta smelt (USFWS, 1994).
Sacramento splittail	<i>Pogonichthys macrolepidotus</i>	None	SC	N/A	Lakes and rivers of the central valley.	None: the site does not provide suitable habitat for this species. The closest occurrence of Sacramento splittail in the CNDDDB (2021) search area is approximately 5 miles northwest of the site.
Longfin smelt	<i>Spirinchus thaleichthys</i>	None	SC	N/A	Brackish estuarine habitats.	None: the site does not provide suitable habitat for this species. The closest occurrence of longfin smelt in the CNDDDB (2021) search area is approximately 2.5 miles northwest of the site.
Invertebrates						
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	T	None	N/A	Vernal pools.	Unlikely: there are no vernal pools in the site. There are no occurrences of vernal pool fairy shrimp in the CNDDDB (2021) search area. The site is not within designated critical habitat for vernal pool fairy shrimp (USFWS 2005a).

TABLE 1

SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY-OCCURRING IN THE PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Callippe silverspot butterfly	<i>Speyeria callippe callippe</i>	E	None	N/A	Northern coastal scrub of the San Francisco Peninsula. Host plant is <i>Viola pedunculata</i> .	Unlikely: the site does not provide suitable habitat for Callippe silverspot butterfly. There are no occurrences of this species in the CNDDDB (2021) search area.
San Bruno elfin butterfly	<i>Callophrys mossii bayensis</i>	E	None	N/A	Rocky outcrops and cliffs in coastal scrub habitats.	Unlikely: the site does not provide suitable habitat for San Bruno elfin butterfly. There are no occurrences of this species in the CNDDDB (2021) search area.
Delta green ground beetle	<i>Elaphrus viridis</i>	T	None	N/A	Margins of vernal pools in grasslands.	Unlikely: there are no vernal pools in the site. There are no occurrences of delta green ground beetle recorded in the CNDDDB (2021) in the search area. The site is not within designated critical habitat for this species (USFWS 1980a).
Western bumble bee	<i>Bombus occidentalis</i>	None	CE	N/A	Meadows and grasslands with abundant floral resources, usually high elevation	Unlikely: the site does not provide suitable habitat for western bumble bee. The nearest occurrences of this species in the CNDDDB (2021) search area are approximately 1.5 miles northeast of the site.
California freshwater shrimp	<i>Syncaris pacifica</i>	E	None	N/A	Low-elevation perennial streams in the northern Bay Area.	None: there is no suitable habitat in the site for this species. There are no occurrences of California freshwater shrimp recorded in the CNDDDB (2021) in the search area.
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	T	None	N/A	Elderberry shrubs in the Central Valley and surrounding foothills	Unlikely: there are no blue elderberry shrubs in the site. There are no occurrences of valley elderberry longhorn beetle in the CNDDDB (2021) in the search area. The site is not within designated critical habitat for of this species (USFWS 1980b).

¹ T= Threatened; E = Endangered.

² T = Threatened; E = Endangered; C = Candidate for listing; SC=State of California Species of Special Concern

³ CNPS List 1B includes species that are rare, threatened, or endangered in California and elsewhere; List 2 includes plants that are rare, threatened or endangered in California but are more common elsewhere.

within the Vine Hill or Walnut Creek quadrangles) include big tarplant (*Blepharizonia plumosa*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), Bolander's water hemlock (*Cicuta maculata* var. *bolanderi*), soft salty bird's-beak (*Cordylanthus mollis* ssp. *mollis*), San Joaquin spearscale (*Extriplex joaquiniana*), fragrant fritillary (*Fritillaria liliacea*), Diablo helianthella (*Helianthella castanea*), Carquinez goldenbush (*Isocoma arguta*), Contra Costa goldfields (*Lasthenia conjugens*), delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), Mason's lilaepsis (*Lilaeopsis masonii*), delta mudwort (*Limosella australis*), Antioch dunes evening primrose (*Oenothera deltoides* ssp. *howellii*), long-styled sand-spurrey (*Spergularia macrotheca* var. *longistyla*), slender-leaved pondweed (*Stuckenia filiformis* ssp. *alpinus*), Suisun marsh aster (*Symphotrichum lentus*), saline clover (*Trifolium hydrophilum*), and oval-leaved viburnum (*Viburnum ellipticum*) (Table 1 and Attachment B). The USFWS IPaC Trust Report contains a few of these same species.

Fifteen (15) of the special-status plants in Table 1 were identified as having some potential to occur in the site (see Botanical Assessment in Attachment F). Due to lack of habitat, Mt. Diablo fairy lantern, Contra Costa goldfields, Antioch dunes evening primrose, and oval-leaved viburnum have no potential to occur in the site. Nine other special-status plants including big tarplant, San Joaquin spearscale, fragrant fritillary, Diablo helianthella, Carquinez goldenbush, delta mudwort, long-styled sand-spurrey, slender-leaved pondweed, and saline clover have little potential to occur due to limited potentially suitable habitat in the site.

The project site provides potentially suitable habitat for five special-status plants that may occur in association with tidally influenced marshes including soft bird's-beak, Bolander's water hemlock, delta tule pea, Mason's lilaepsis, and Suisun marsh aster. The side-hill seep does not provide suitable habitat for this suite of delta species. None of these special-status wetland plants were located during prior botanical surveys of the site conducted in support of the project (Douglas Herring & Associates, 2007a; ESA Associates, 2008). As these prior surveys are

outdated, follow-up surveys would need to be undertaken to confirm the presence or absence of special-status plants.

The project site also provides potentially suitable habitat for Congdon's tarplant, which may occur in the uplands. Congdon's tarplant was located in the site in 2005 (CNDDDB, 2021), as well as in many locations in the greater project vicinity. The 2005 record of Congdon's tarplant in the site is mapped in the annual grasslands along the west side of the constructed pond, within the proposed limits of grading. This species was not found during subsequent botanical surveys of the site conducted in support of the project (Douglas Herring & Associates, 2007a; ESA Associates, 2008) and it is possible Congdon's tarplant is no longer present in the site. Follow-up surveys would need to be undertaken to confirm the presence or absence of Congdon's tarplant in the site.

SPECIAL-STATUS WILDLIFE: There is potential for special-status wildlife species to utilize habitats in the site. Special-status wildlife species recorded in project area in the CNDDDB (2021) query include burrowing owl, tricolored blackbird (*Agelaius tricolor*), California black rail (*Laterallus jamaicensis coturniculus*), saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), yellow rail (*Coturnicops noveboracensis*), Suisun song sparrow (*Melospiza melodia maxillaris*), salt-marsh harvest mouse (*Reithrodontomys raviventris*), Townsend's big-eared bat (*Corynorhinus townsendii*), pallid bat (*Antrozous pallidus*), big free-tailed bat (*Nyctinomops macrotis*), California red-legged frog (*Rana aurora draytonii*), foothill yellow-legged frog (*Rana boylei*), California tiger salamander (*Ambystoma californiense*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), western pond turtle (*Emys marmorata*), northern California legless lizard (*Anniella pulchra*), Sacramento splittail (*Pogonichthys macrolepidotus*), longfin smelt (*Spirinchus thaleichthys*), and western bumble bee (*Bombus occidentalis*).

California's Ridgeway's rail (*Rallus obsoletus obsoletus*), California least tern (*Sturnula antillarum browni*), giant garter snake (*Thamnophis gigas*), delta smelt (*Hypomesus transpacificus*), vernal pool fairy shrimp (*Branchinecta lynchi*),

Callippe silverspot butterfly (*Speyeria callippe callippe*), San Bruno elfin butterfly (*Callophrys mossii bayensis*), delta green ground beetle (*Elaphrus viridis*), California freshwater shrimp (*Syncaris pacifica*), and valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) are not recorded in the CNDDDB within the search area, but are on the USFWS IPaC Trust Report (Attachment B).

The channelized section of Pacheco Creek immediately adjacent to the east part of the site (i.e., east of the road that crosses through the site) is within the “Pacheco Reach” of Contra Costa County Flood Control and Water Conservation District’s (CCCFCWCD)’s Lower Walnut Creek Restoration Project study area. Environmental documents associated with Lower Walnut Creek Restoration Project (ESA Associates, 2019b; ESA Associates, 2019c; H.T. Harvey & Associates, 2018) provide a body of information on potentially occurring special-status wildlife species along this section of the creek adjacent to the Bayview Estates site.

While the project site may have provided habitat for special-status wildlife species at some time in the past, historical agriculture, apparent historical mining, development, off-road vehicle use, periodic mowing and/or disking of the site, and other human activities have modified natural habitats in the project site. Wildlife species identified in the CNDDDB search and/or USFWS IPaC Trust Report with potential to occur in the project site and to be impacted by the proposed project are discussed below.

The upland grasslands where residential development will occur has been disturbed by past mining operations, off-road vehicle used, and periodic disking and/or mowing, and does not provide highly suitable habitat for special-status wildlife. No special-status wildlife species were observed within the disturbed grasslands in the portions of the site subject to development. In contrast, the constructed pond and marsh habitats in the east and southern parts of the site are relatively natural and contain suitable habitat for a few of the species identified (CNDDDB, 2021 and IPaC Trust Report). Western pond turtle was the

only special-status wildlife species observed within the site during the 2020 surveys. The constructed pond and southern marsh will not be disturbed during project development.

BURROWING OWL: The Migratory Bird Treaty Act (MBTA) and Fish and Game Code of California protect burrowing owls year-round, as well as their nests during the nesting season (February 1 through August 31). Burrowing owls are a year-long resident in a variety of grasslands as well as scrub lands that have a low density of trees and shrubs with low growing vegetation; burrowing owls that nest in the Central Valley may winter elsewhere.

The primary habitat requirement of the burrowing owl is small mammal burrows for nesting. The owl usually nests in abandoned ground squirrel burrows, although they have been known to dig their own burrows in softer soils. In urban areas, burrowing owls often utilize artificial burrows including pipes, culverts, and piles of concrete pieces. This semi-colonial owl breeds from March through August, and is most active while hunting during dawn and dusk. The closest occurrence of burrowing owls in the CNDDDB (2021) search area is approximately 2 miles southeast of the site.

No burrowing owls were observed in the project site and the disked portions of the site provide poor quality habitat for this species. A few clusters of ground squirrel burrows were observed in the north part of the site; there are also some widely scattered individual burrows elsewhere in the site. None of the burrows had any evidence of burrowing owl occupancy, past or present. However, the site is well within the species range and burrowing owls may fly over the site on an occasional basis, and could potentially nest in the site.

SUISUN SONG SPARROW: The Suisun song sparrow occurs in brackish water marshes, primarily those surrounding Suisun Bay where pickleweed is dominant. This species inhabits cattails, tules, and tangles bordering sloughs, and dense vegetation is required for nesting sites, song perches, and cover for refuge from

predators. Preferred Suisun song sparrow nesting habitats are dense stands of cattails, tules, as well as in pickleweed and other lower-growing emergent wetland vegetation. Suisun song sparrows forage primarily on the ground or in shallow water, feeding on insects and plants.

The nearest occurrence of Suisun song sparrow in the CNDDDB (2021) search area is within a mile north of the site. Several different species of sparrows were observed flying around and foraging within the marsh environments and constructed pond in the east part of the site. While Suisun song sparrow may occur in the site on occasion, this species is unlikely to nest on the site as the site is located a few miles south of the tidal marshes in Suisun Bay that provide high quality nesting for this species.

TRICOLORED BLACKBIRD: The tricolored blackbird is a State of California Threatened species and is also protected by the federal Migratory Bird Treaty Act. Tricolors are colonial nesters requiring very dense stands of emergent wetland vegetation and/or dense thickets of wild rose or blackberries adjacent to open water for nesting. This species is endemic to California. The nearest occurrence of tricolored blackbird in the CNDDDB (2021) search area is approximately 1.5 miles northwest of the site.

The expansive patches of tules and/or cattails bordering the constructed pond and marshes in the site provide potentially suitable nesting habitat for tricolored blackbird. Tricolored blackbirds may also nest in willows or in the patches of blackberries or wild rose around the constructed pond. The upland grasslands and seasonal wetlands in the site provide suitable foraging habitat for this species. Due to the presence of suitable habitat for this species, it is possible tricolored blackbird occurs on site.

OTHER SPECIAL-STATUS BIRDS ASSOCIATED WITH MARSHES: California Ridgeway's rail (formerly known as "California clapper rail") is a federally listed endangered and state endangered species and California black rail is a state

threatened species. Saltmarsh common yellowthroat and yellow rail are not listed as threatened or endangered, but are California Species of Concern. Saltmarsh common yellowthroat, California Ridgeway's rail, and California black rail are known to occur in the expansive tidal wetlands located further north of the site, in Suisun Bay.

The nearest occurrences of saltmarsh common yellowthroat, California Ridgeway's rail, and California black rail in the CNDDDB (2021) search area are approximately 2, 2, and 1.5 miles north of the site, respectively. While these birds are generally associated with well-developed marshes immediately surrounding Suisun Bay, one or more of these species could potentially nest in marshes in the site. There is also one occurrence of yellow rail in the CNDDDB (2021) search area, located approximately 10.5 miles northeast of the project site.

The Study area of Contra Costa County Flood Control and Water Conservation District's (CCCFCWCD)'s Lower Walnut Creek Restoration Project abuts the Bayview Estates project site. Ridgeway's rail has not been documented 2019 and 2020 surveys conducted in the Lower Walnut Creek Restoration Project Study area (ESA Associates, 2019a, 2020). Protocol-level surveys are being undertaken in 2021 (CCCFCWCD, 2021). In light of these negative survey results, and due to the lack of suitable habitat in the site, it is highly unlikely California Ridgeway's rail occurs on the site.

Due to the presence of potentially suitable habitat, it is possible saltmarsh common yellowthroat, California black rail, and yellow rail occur on site. The upland grasslands within the limits of grading do not provide suitable nesting habitat for any of these marsh birds.

SALT MARSH HARVEST MOUSE: Salt-marsh harvest mouse is a federally listed endangered and state endangered species that is endemic to the saline emergent wetlands of San Francisco, San Pablo, and Suisun bays. The primary

habitat for the salt marsh harvest mouse is salt marsh dominated by pickleweed with lesser amounts of cordgrass (*Spartina foliosa*) along the edge in tidal areas. Salt marsh harvest mouse also occurs in brackish marshes dominated by bulrushes and cattails and interspersed with patches of lower growing vegetation including pickleweed and salt grass. Upland habitats adjacent to marshes and other wetland communities with little or no pickleweed also provide suitable habitat for this species and may be used for temporary escape cover or during high tide or during flood events.

The salt-marsh harvest mouse is mostly nocturnal, feeding on leaves, seeds, and stems, and in winter, fresh grass is the preferred food source. The rest of the year, saltgrass and pickleweed are preferred food sources. They may drink saltwater for long periods of time and generally produce a single litter per year from May to November.

The CNDDDB (2021) documents several occurrences of salt-marsh harvest mouse in the surrounding region, with almost of the records in more tidal areas in and near Suisun Bay. The nearest occurrence of salt-marsh harvest mouse in the CNDDDB (2021) is approximately 1 mile north of the site. The marsh along the south edge of the site provides low-quality, yet potentially suitable habitat for salt-marsh harvest mouse. The upland grasslands in the portion of the site that will be developed do not provide suitable habitat for this species.

WESTERN POND TURTLE: The western pond turtle is a state species of concern, but is not a listed species at the state or federal level. Western pond turtles are associated with permanent or nearly permanent bodies of water with adequate basking sites such as logs, rocks or open mud banks. The nearest documented occurrence of this species in the CNDDDB (2021) search area is within the constructed pond or slough in the east part of the site. The CNDDDB describes this area as “Pacheco Slough”.

The constructed pond within the site provides suitable habitat for western pond turtle and one was observed basking along the edge of the pond during the November 2020 survey. Nearby Pacheco Creek and open water areas within the marshes on the site may also be used by this species. Western pond turtles may nest in grasslands in the site but notable sandy areas providing high quality western pond turtle nesting habitat were not observed in the site.

OTHER SPECIAL-STATUS WILDLIFE SPECIES: Other special-status birds and a few special-status bats may fly over the area on occasion, but would not be expected to use on-site habitats on more than an occasional or transitory basis. The site does not provide suitable aquatic habitat for California red-legged frog, giant garter snake, or California tiger salamander.

The site does not provide suitable aquatic habitat to support special-status fish including delta smelt, longfin smelt, or Sacramento splittail. The site does not provide coastal scrub habitat for Callippe silverspot butterfly or San Bruno elfin butterfly. There are no vernal pools or seasonal wetlands in the site for vernal pool branchiopods (i.e., fairy and tadpole shrimp) or delta green ground beetle. There are no blue elderberry shrubs in the site, precluding the potential occurrence of valley elderberry longhorn beetle.

CRITICAL HABITAT: The site is not in designated critical habitat of California red-legged frog (USFWS, 2006a), Alameda whipsnake (USFWS, 2006b), federally listed vernal pool shrimp or plants (USFWS, 2005a), California tiger salamander (USFWS, 2005b), soft bird's beak (USFWS, 2007), Suisun thistle (USFWS, 2007), valley elderberry longhorn beetle (USFWS, 1980a), valley elderberry longhorn beetle (USFWS, 1980a), delta smelt (USFWS, 1994), Central Valley steelhead (NOAA, 2005), or any other federally listed species (Attachment G).

Discussion, Conclusions, and Recommendations

- The area where the subdivision will be constructed primarily consists of upland grasslands that are biologically unremarkable. Development of the proposed project will result in the conversion of upland grassland to residential uses.
- The project footprint is situated outside the relatively more sensitive and higher quality habitat areas in the site such as the valley oak woodland, the constructed pond, and the expansive tidal and freshwater marshes. However, portions of the valley oak woodland will likely be impacted by grading; some areas of creeping wildrye grassland may also be impacted by project development or grading.
- There are approximately 13.2 acres of potentially jurisdictional Waters of the U.S. or wetlands in the project site including a constructed pond associated with an expansive marsh, and a hillside seep. The pond and marshes have been previously verified by ACOE as jurisdictional Waters of the U.S. Due to hydrologic isolation, the seep is believed to be outside ACOE jurisdiction. An updated wetland delineation map and report will need to be submitted to ACOE for verification to ascertain the jurisdictional status of potentially jurisdictional Waters of the U.S. or wetlands in the site.
- Development of the proposed project will result in the fill of approximately 0.02 acres of an isolated wetland (i.e., side-hill seep) near the base of the large hill on the site and a storm drain outfall along the bank of Pacheco Creek, immediately east of the easternmost tip of the site. The footprint of disturbance of the storm drain outfall is expected to be less than 0.1 acres, and would be covered under a routine ACOE Nationwide Permit.

- Depending on the jurisdictional status of the potentially jurisdictional Waters of the U.S. or wetlands, permits may be needed from one or more agencies including ACOE, CDFW, and RWQCB prior to the placement of any fill material (e.g., fill dirt, rock) or other work within potentially jurisdictional areas.
- Due to a lack of suitable habitat, it is unlikely that special-status plants occur in the grasslands in the site where the subdivision will be constructed. It is also unlikely special-status plants occur in the immediate footprint of the storm drain outfall. Follow-up surveys would need to be undertaken to confirm the presence or absence of special-status plants in these portions of the site.
- The perennial marsh and seasonal marsh habitats in the site provide marginal, yet potentially suitable habitat for salt marsh harvest mouse. The seasonal wetlands and upland grasslands adjacent to the marsh habitats may also be used by this species on occasion. Implementing avoidance and minimization measures for salt marsh harvest mouse during construction similar to those being implemented for the Lower Walnut Creek Restoration Project would minimize the potential impacts to potential habitat and the potential for take of salt marsh harvest mouse.
- The constructed pond within the site provides highly suitable habitat for western pond turtle and nearby Pacheco Creek and open water areas within the marshes on the site may also be used by this species. Conducting pre-construction surveys for western pond turtle prior to the commencement of work in or near aquatic habitats, relocation of individuals to avoidance of any active nests, and installation of temporary exclusion fencing along the edges of aquatic habitats would minimize the potential impacts to potential habitat and the potential for take of western pond turtle.

- With the exception of burrowing owl, no special-status bird species are expected to nest in the grasslands in the site where the subdivision will be constructed. Pre-construction surveys for burrowing owls within 250 feet of the site are recommended if construction commences between February 1 and August 31. If occupied burrows are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should follow CDFW's guidelines (CDFG, 2012).
- Due to the presence of potentially suitable habitat, it is possible saltmarsh common yellowthroat, California black rail, and yellow rail occur in nearby Pacheco Creek, the constructed pond, and the marshes in the site. Tricolored blackbird, Suisun song sparrow, and other special-status birds may also occur in portions of the site. California Ridgeway's rail Implementing avoidance and minimization measures for California black rail and California Ridgeway's rail during construction similar to those being implemented for the Lower Walnut Creek Restoration Project would minimize the potential impacts to potential habitat and the potential for take of these listed bird species.
- The project site provides suitable nesting habitat for numerous birds protected by the Migratory Bird Treaty Act and Fish and Game Code of California. Implementing avoidance and minimization measures for "nesting birds, except rails" during construction similar to those being implemented for the Lower Walnut Creek Restoration Project would minimize the potential impacts to potential habitat and the potential for take of other special-status bird species and birds protected by the MBTA and Fish and Game Code of California.
- The site is not within designated critical habitat for any federally listed species.

We hope this information is useful. Please call me at (209) 745-1159 with any questions.

Sincerely,



Diane S. Moore, M.S.
Principal Biologist

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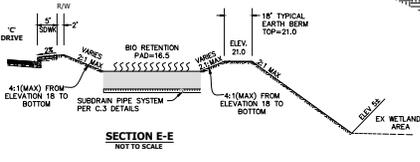
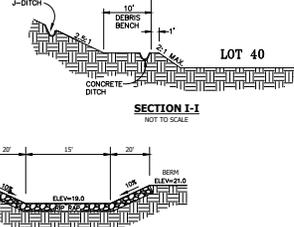
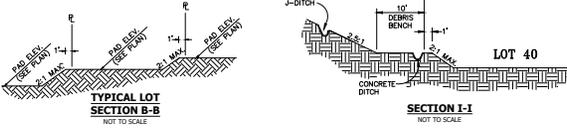
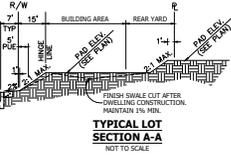
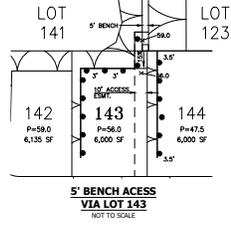
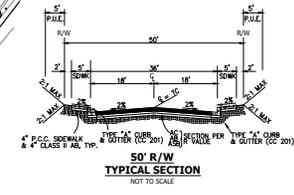
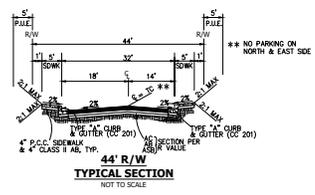
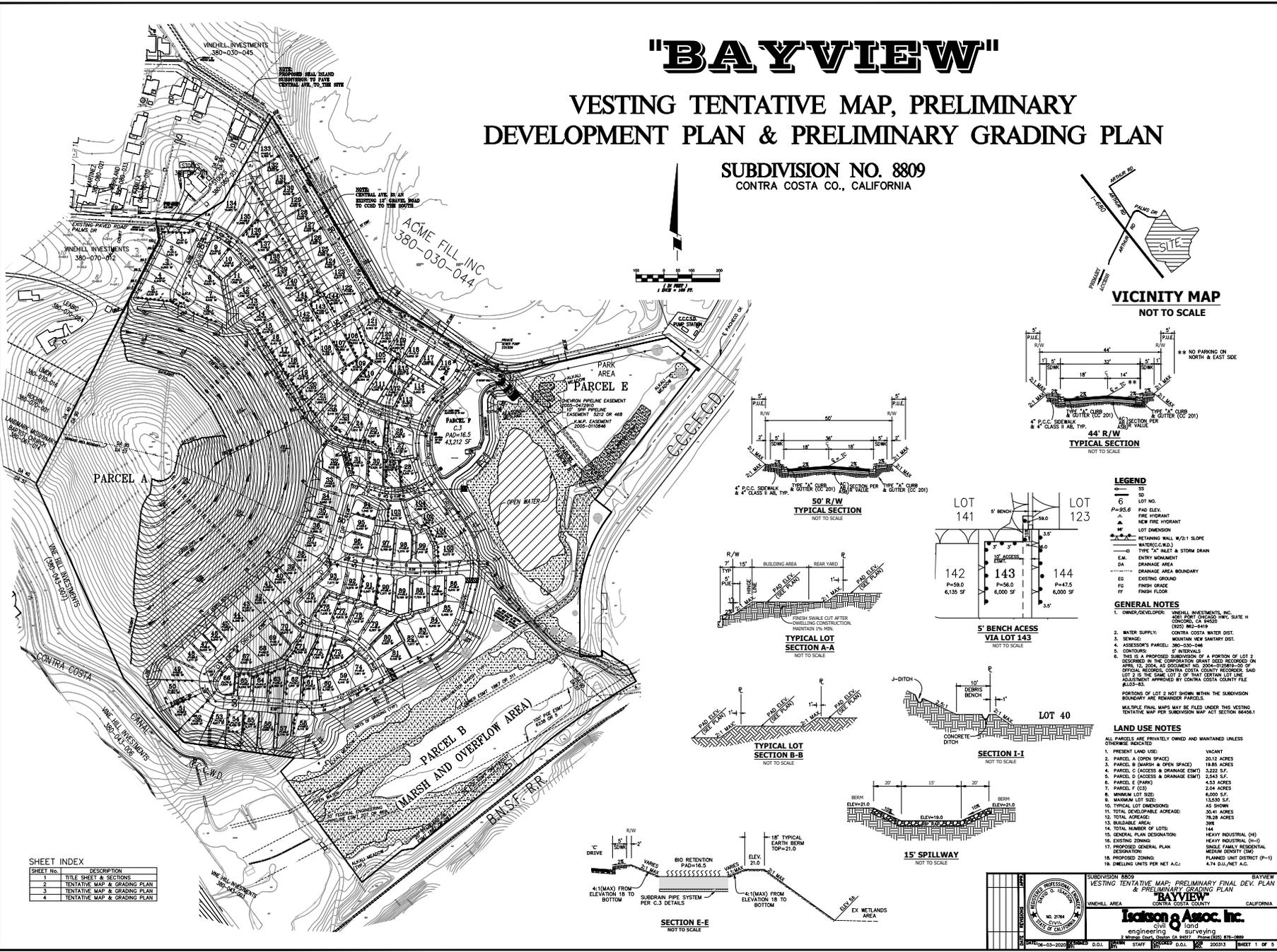
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Attachment A
Tentative Map, Preliminary Development Plan,
& Preliminary Grading Plan

"BAYVIEW"

VESTING TENTATIVE MAP, PRELIMINARY DEVELOPMENT PLAN & PRELIMINARY GRADING PLAN

SUBDIVISION NO. 8809
CONTRA COSTA CO., CALIFORNIA



- LEGEND**
- SO SO
 - LOT NO.
 - FRD SLEV.
 - FIRE HYDRANT
 - NEW FIRE HYDRANT
 - WF LOT DIMENSION
 - RETAINING WALL W/2:1 SLOPE
 - WATER (COLLECTED)
 - TYPE "A" ALET & STORM DRAIN
 - E.M. ENTRY MONUMENT
 - DA DRAINAGE AREA
 - DRAINAGE AREA BOUNDARY
 - EO EXISTING SHADOW
 - FG FRESH GRADE
 - FF FRESH FLOOR

- GENERAL NOTES**
- OWNER/DEVELOPER: VINEHILL INVESTMENTS, INC. 380-030-045
 - WATER SUPPLY: CONTRA COSTA WATER DIST. (R25) 862-6419
 - SEWAGE: MOUNTAIN VIEW SANITARY DIST. (R25) 862-6419
 - ASSESSOR'S PARCEL: 380-030-046
 - CONTIGUOUS: 2' INTERVALS
 - THIS IS A PROPOSED SUBDIVISION OF A PORTION OF LOT 2 DESCRIBED IN THE CORPORATION GRANT RECORDED ON APRIL 12, 2004, AS DOCUMENT NO. 2004-0208-09 OF OFFICIAL RECORDS, CONTRA COSTA COUNTY RECORDER, SAID LOT 2 IS THE SAME LOT 2 OF TRACT CONTRA COSTA LIME ADJUSTMENT APPROVED BY CONTRA COSTA COUNTY FILE #103-83.
 - PORTIONS OF LOT 2 NOT SHOWN WITHIN THE SUBDIVISION BOUNDARY ARE REMAINDER PARCELS.
 - MULTIPLE FINAL MAPS MAY BE FILED UNDER THE VESTING TENTATIVE MAP PER SUBDIVISION MAP ACT SECTION 66040.

- LAND USE NOTES**
- ALL PARCELS ARE PRIVATELY OWNED AND MAINTAINED UNLESS OTHERWISE INDICATED.
- | | |
|--|---|
| 1. PRESENT LAND USE: | VACANT |
| 2. PARCEL A (OPEN SPACE): | 20.12 ACRES |
| 3. PARCEL B (MARCH & OPEN SPACE): | 19.85 ACRES |
| 4. PARCEL C (ACCESS & DRAINAGE EMT): | 3.22 SF |
| 5. PARCEL D (ACCESS & DRAINAGE EMT): | 2,843 SF |
| 6. PARCEL E (PARK): | 4.53 ACRES |
| 7. PARCEL F (CO): | 2.04 ACRES |
| 8. MINIMUM LOT SIZE: | 6,000 S.F. |
| 9. MAXIMUM LOT SIZE: | 13,539 S.F. |
| 10. TYPICAL LOT DIMENSIONS: | AS SHOWN |
| 11. TOTAL DEVELOPABLE ACRES: | 30.41 ACRES |
| 12. TOTAL ACRES: | 78.28 ACRES |
| 13. BUILDABLE AREA: | 309 |
| 14. TOTAL NUMBER OF LOTS: | 144 |
| 15. GENERAL PLAN DESIGNATION: | HEAVY INDUSTRIAL (H) |
| 16. EXISTING ZONING: | HEAVY INDUSTRIAL (H-1) |
| 17. PROPOSED GENERAL PLAN DESIGNATION: | SINGLE FAMILY RESIDENTIAL MEDIUM DENSITY (SM) |
| 18. PROPOSED ZONING: | PLANNED UNIT DISTRICT (P-1) |
| 19. DWELLING UNITS PER NET A.C.: | 4.74 DU/NET A.C. |

SHEET INDEX

SHEET No.	DESCRIPTION
1	TITLE SHEET & SECTIONS
2	TENTATIVE MAP & GRADING PLAN
3	TENTATIVE MAP & GRADING PLAN
4	TENTATIVE MAP & GRADING PLAN

SUBDIVISION 8809
VESTING TENTATIVE MAP, PRELIMINARY FINAL DEV. PLAN & PRELIMINARY GRADING PLAN
BAYVIEW
VINEMILL AREA
CONTRA COSTA COUNTY, CALIFORNIA

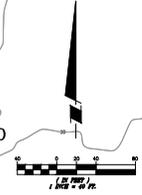
Isoton & Assoc. Inc.
CIVIL ENGINEERING & SURVEYING
1800 Central Expressway, Suite 200, Fremont, CA 94538
(510) 461-1000

DATE: 03-20-2009
DRAWN: J.S.
CHECKED: D.O.I.
SCALE: AS SHOWN
SHEET 1 OF 5

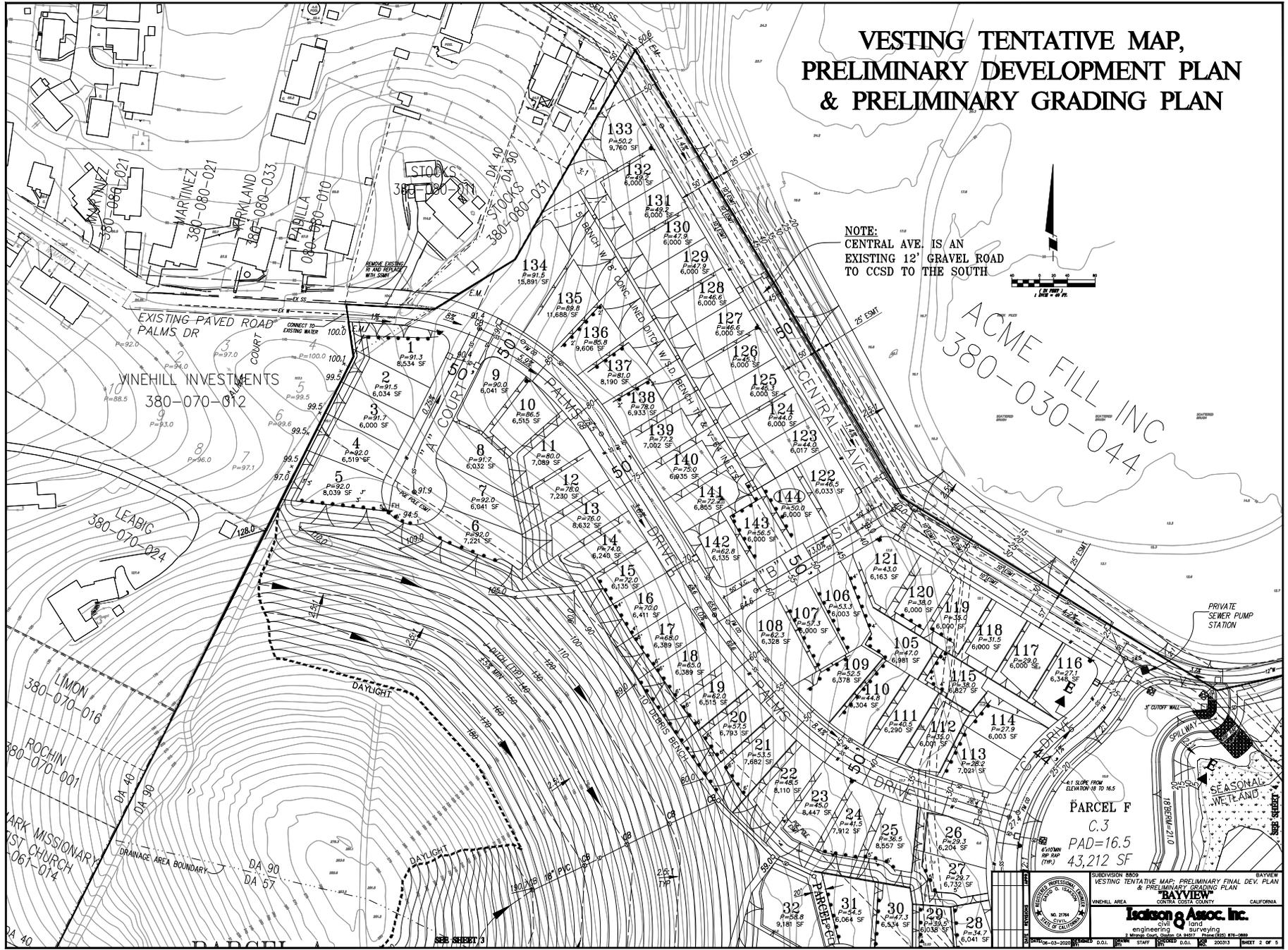
BAYVIEW - C.C. COUNTY - TENTATIVE MAP - SUB 8809 - 06/03/2009

VESTING TENTATIVE MAP, PRELIMINARY DEVELOPMENT PLAN & PRELIMINARY GRADING PLAN

NOTE:
CENTRAL AVE. IS AN
EXISTING 12' GRAVEL ROAD
TO CCSD TO THE SOUTH



ACME FILL INC
380-030-044



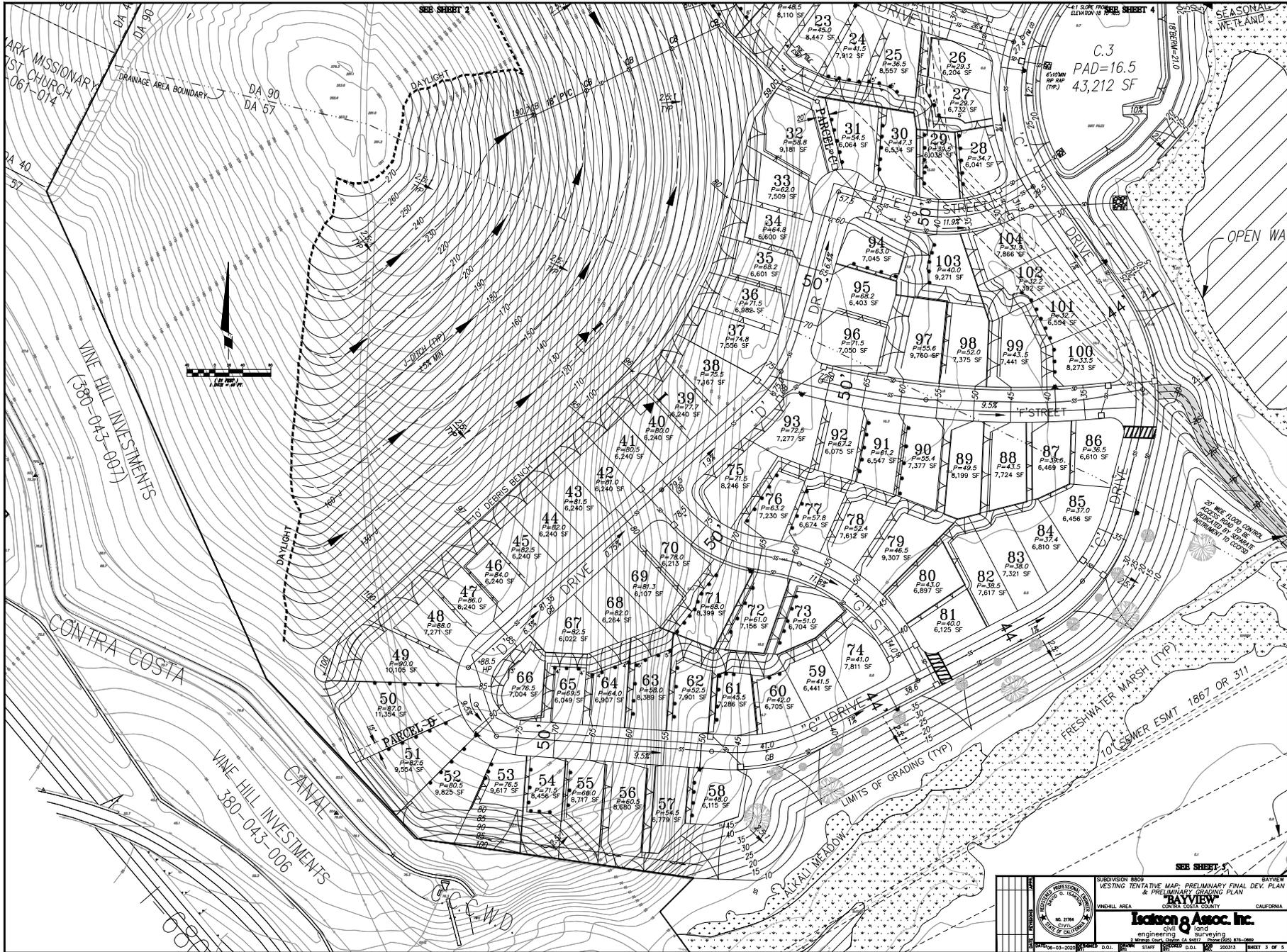
PRIVATE SEWER PUMP STATION

PARCEL F
C.3
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43,212 SF

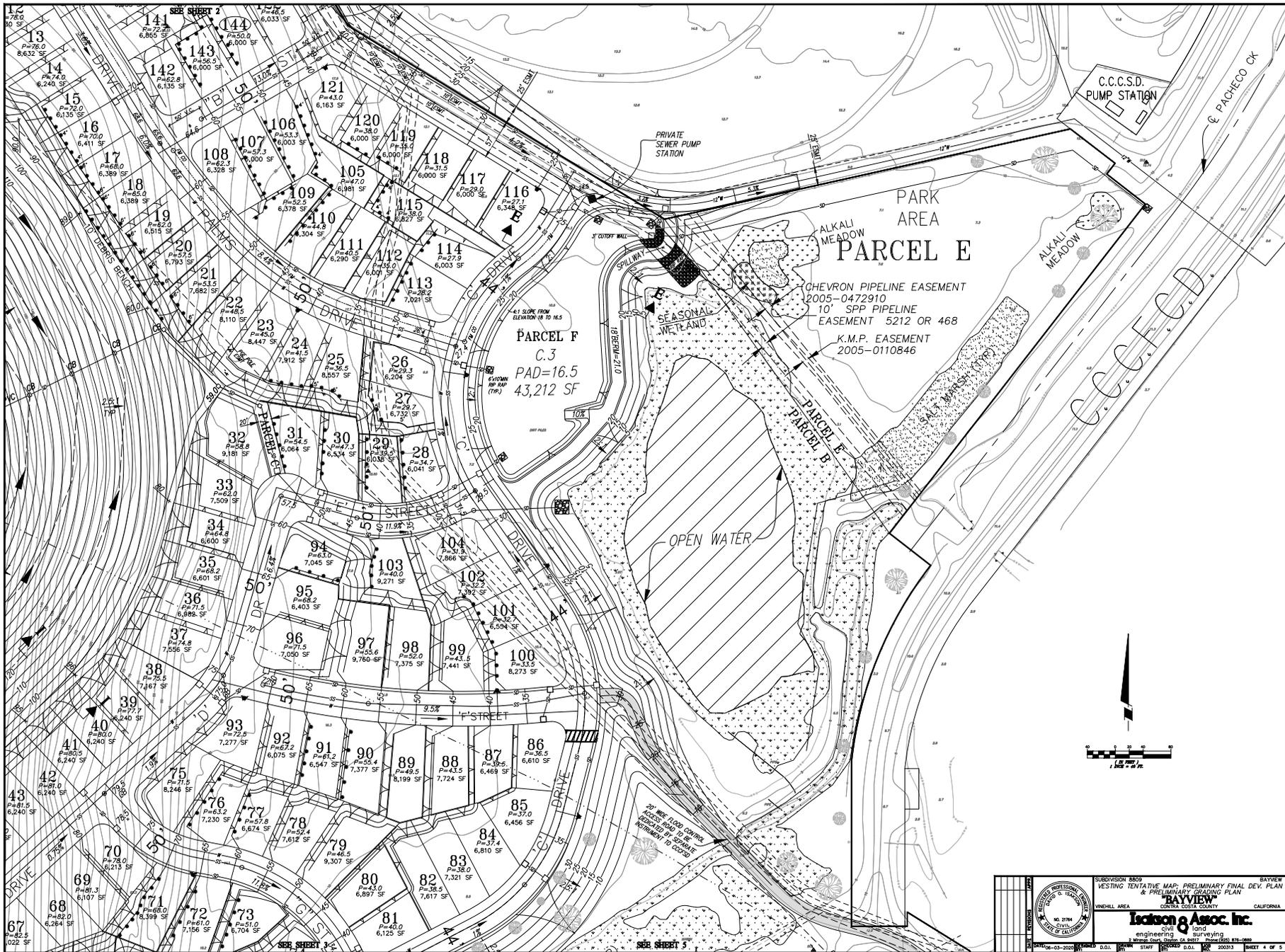
SUBDIVISION 8809
 VESTING TENTATIVE MAP- PRELIMINARY FINAL DEV. PLAN
 & PRELIMINARY GRADING PLAN
BAYVIEW
 CIVIL ENGINEERING
 10000 W. 10TH AVE., SUITE 200, DENVER, CO 80233
 CALIFORNIA

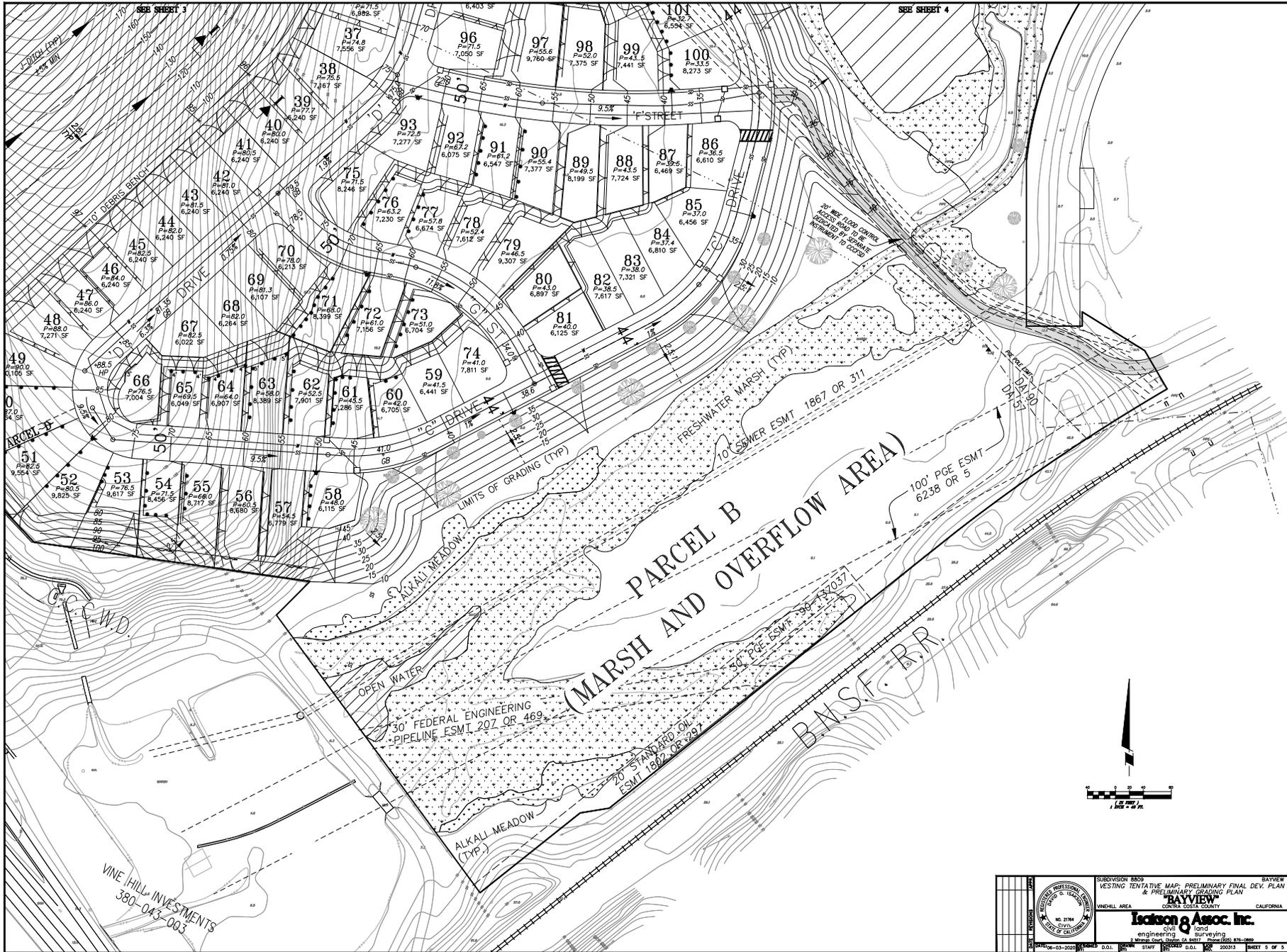
Isleton & Assoc. Inc.
 CIVIL ENGINEERING & SURVEYING
 10000 W. 10TH AVE., SUITE 200, DENVER, CO 80233

DATE: 03-2009
 DRAWN: D.O.I.
 CHECKED: D.O.I.
 200903
 SHEET 2 OF 5



SUBDIVISION 8209 BAYVIEW
VESTING TENTATIVE MAP- PRELIMINARY FINAL DEV. PLAN
& PRELIMINARY GRADING PLAN
BAYVIEW
CONTRA COSTA COUNTY, CALIFORNIA
Isleton & Assoc. Inc.
engineering & surveying
12000 Old County Road, Suite 200, Pittsburg, CA 95960
Tel: (916) 435-2000 Fax: (916) 435-2003
www.isleton.com
DATE: 03-2009 DRAWN: D.O.I. CHECKED: D.O.I. 2009.03 SHEET 3 OF 5
NOT SIGNED SET ON FILE AT THE COUNTY





VINE HILL INVESTMENTS
380-043-003

	SUBDIVISION 8809 VESTING TENTATIVE MAP- PRELIMINARY FINAL DEV. PLAN & PRELIMINARY GRADING PLAN BAYVIEW <small>GENERAL INVESTMENT COMPANY CALIFORNIA</small>
	Isakson & Assoc. Inc. engineering & surveying 2300 West 10th Street, Suite 200 San Diego, CA 92107 Phone: (619) 575-2888
DATE: 06-03-2009 DRAWN: D.O.I. CHECKED: D.O.I. 200313	SHEET 5 OF 5 <small>NOT SIGNED SET ON FILE AT THE COUNTY</small>

Attachment B

CNDDDB Summary Report and Exhibits
& USFWS IPaC Trust Resource Report



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Query Criteria: Quad< IS > (Vine Hill (3812211)< OR > Walnut Creek (3712281))

Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Agelaius tricolor</i> tricolored blackbird	ABPBXB0020	None	Threatened	G2G3	S1S2	SSC
<i>Ambystoma californiense</i> California tiger salamander	AAAAA01180	Threatened	Threatened	G2G3	S2S3	WL
<i>Anniella pulchra</i> Northern California legless lizard	ARACC01020	None	None	G3	S3	SSC
<i>Anomobryum julaceum</i> slender silver moss	NBMUS80010	None	None	G5?	S2	4.2
<i>Antrozous pallidus</i> pallid bat	AMACC10010	None	None	G5	S3	SSC
<i>Athene cunicularia</i> burrowing owl	ABNSB10010	None	None	G4	S3	SSC
<i>Blepharizonia plumosa</i> big tarplant	PDAST1C011	None	None	G1G2	S1S2	1B.1
<i>Bombus caliginosus</i> obscure bumble bee	IIHYM24380	None	None	G4?	S1S2	
<i>Bombus occidentalis</i> western bumble bee	IIHYM24250	None	Candidate Endangered	G2G3	S1	
<i>Calochortus pulchellus</i> Mt. Diablo fairy-lantern	PMLIL0D160	None	None	G2	S2	1B.2
<i>Centromadia parryi ssp. congdonii</i> Congdon's tarplant	PDAST4R0P1	None	None	G3T1T2	S1S2	1B.1
<i>Chloropyron molle ssp. molle</i> soft salty bird's-beak	PDSCR0J0D2	Endangered	Rare	G2T1	S1	1B.2
<i>Cicuta maculata var. bolanderi</i> Bolander's water-hemlock	PDAP10M051	None	None	G5T4T5	S2?	2B.1
<i>Coastal Brackish Marsh</i> Coastal Brackish Marsh	CTT52200CA	None	None	G2	S2.1	
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	AMACC08010	None	None	G3G4	S2	SSC
<i>Coturnicops noveboracensis</i> yellow rail	ABNME01010	None	None	G4	S1S2	SSC
<i>Emys marmorata</i> western pond turtle	ARAAD02030	None	None	G3G4	S3	SSC
<i>Extriplex joaquinana</i> San Joaquin spearscale	PDCHE041F3	None	None	G2	S2	1B.2
<i>Fritillaria liliacea</i> fragrant fritillary	PMLIL0V0C0	None	None	G2	S2	1B.2
<i>Geothlypis trichas sinuosa</i> saltmarsh common yellowthroat	ABPBX1201A	None	None	G5T3	S3	SSC



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Helianthella castanea</i> Diablo helianthella	PDAST4M020	None	None	G2	S2	1B.2
<i>Helminthoglypta nickliniana bridgesi</i> Bridges' coast range shoulderband	IMGASC2362	None	None	G3T1	S1S2	
<i>Isocoma arguta</i> Carquinez goldenbush	PDAST57050	None	None	G1	S1	1B.1
<i>Lasiurus cinereus</i> hoary bat	AMACC05030	None	None	G5	S4	
<i>Lasthenia conjugens</i> Contra Costa goldfields	PDAST5L040	Endangered	None	G1	S1	1B.1
<i>Laterallus jamaicensis coturniculus</i> California black rail	ABNME03041	None	Threatened	G3G4T1	S1	FP
<i>Lathyrus jepsonii</i> var. <i>jepsonii</i> Delta tule pea	PDFAB250D2	None	None	G5T2	S2	1B.2
<i>Lilaeopsis masonii</i> Mason's lilaeopsis	PDAP119030	None	Rare	G2	S2	1B.1
<i>Limosella australis</i> Delta mudwort	PDSCR10030	None	None	G4G5	S2	2B.1
<i>Linderiella occidentalis</i> California linderiella	ICBRA06010	None	None	G2G3	S2S3	
<i>Masticophis lateralis euryxanthus</i> Alameda whipsnake	ARADB21031	Threatened	Threatened	G4T2	S2	
<i>Melospiza melodia maxillaris</i> Suisun song sparrow	ABPBXA301K	None	None	G5T3	S3	SSC
<i>Nyctinomops macrotis</i> big free-tailed bat	AMACD04020	None	None	G5	S3	SSC
<i>Oenothera deltoides</i> ssp. <i>howellii</i> Antioch Dunes evening-primrose	PDONA0C0B4	Endangered	Endangered	G5T1	S1	1B.1
<i>Pogonichthys macrolepidotus</i> Sacramento splittail	AFCJB34020	None	None	GNR	S3	SSC
<i>Rallus obsoletus obsoletus</i> California Ridgway's rail	ABNME05011	Endangered	Endangered	G5T1	S1	FP
<i>Rana boylei</i> foothill yellow-legged frog	AAABH01050	None	Endangered	G3	S3	SSC
<i>Rana draytonii</i> California red-legged frog	AAABH01022	Threatened	None	G2G3	S2S3	SSC
<i>Reithrodontomys raviventris</i> salt-marsh harvest mouse	AMAFF02040	Endangered	Endangered	G1G2	S1S2	FP
<i>Spergularia macrotheca</i> var. <i>longistyla</i> long-styled sand-spurrey	PDCAR0W062	None	None	G5T2	S2	1B.2
<i>Spirinchus thaleichthys</i> longfin smelt	AFCHB03010	Candidate	Threatened	G5	S1	

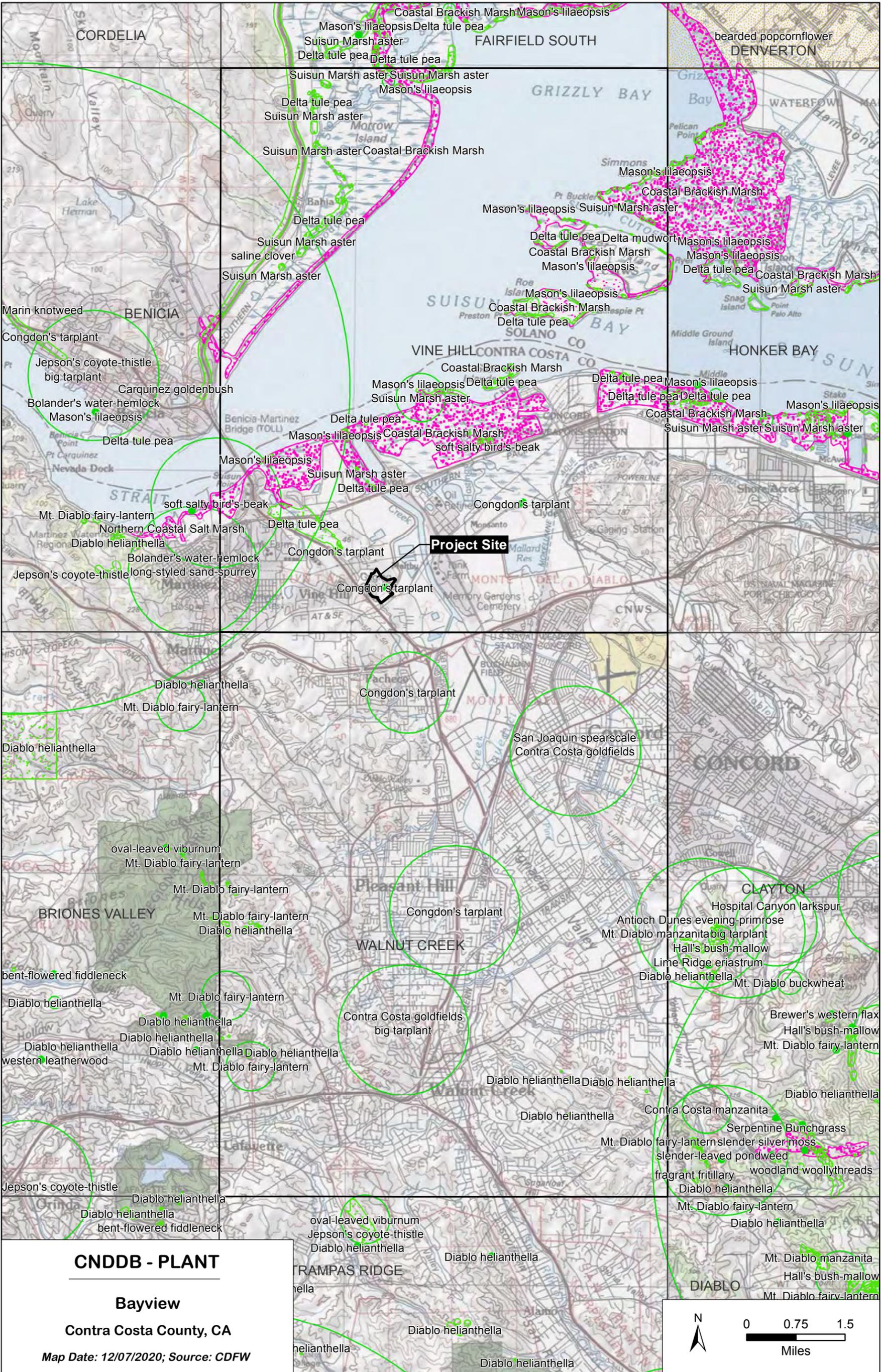


Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Stuckenia filiformis ssp. alpina</i> slender-leaved pondweed	PMPOT03091	None	None	G5T5	S2S3	2B.2
<i>Symphotrichum lentum</i> Suisun Marsh aster	PDASTE8470	None	None	G2	S2	1B.2
<i>Trifolium hydrophilum</i> saline clover	PDFAB400R5	None	None	G2	S2	1B.2
<i>Viburnum ellipticum</i> oval-leaved viburnum	PDCPR07080	None	None	G4G5	S3?	2B.3

Record Count: 45



IPaC**U.S. Fish & Wildlife Service**

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Contra Costa County, California



Local office

Sacramento Fish And Wildlife Office

☎ (916) 414-6600

📠 (916) 414-6713

Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME

STATUS

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IPaC: Explore Location

Salt Marsh Harvest Mouse *Reithrodontomys raviventris* Endangered
 No critical habitat has been designated for this species.
<https://ecos.fws.gov/ecp/species/613>

Birds

NAME	STATUS
California Clapper Rail <i>Rallus longirostris obsoletus</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4240	Endangered
California Least Tern <i>Sterna antillarum browni</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8104	Endangered

Reptiles

NAME	STATUS
Alameda Whipsnake (=striped Racer) <i>Masticophis lateralis euryxanthus</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/5524	Threatened
Giant Garter Snake <i>Thamnophis gigas</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4482	Threatened

Amphibians

NAME	STATUS
California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2891	Threatened
California Tiger Salamander <i>Ambystoma californiense</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2076	Threatened

Fishes

NAME	STATUS
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Delta Smelt *Hypomesus transpacificus* Threatened
 There is **final** critical habitat for this species. Your location is outside the critical habitat.
<https://ecos.fws.gov/ecp/species/321>

Insects

NAME	STATUS
Callippe Silverspot Butterfly <i>Speyeria callippe callippe</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. https://ecos.fws.gov/ecp/species/3779	Endangered
Delta Green Ground Beetle <i>Elaphrus viridis</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2319	Threatened
San Bruno Elfin Butterfly <i>Callophrys mossii bayensis</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. https://ecos.fws.gov/ecp/species/3394	Endangered
Valley Elderberry Longhorn Beetle <i>Desmocerus californicus dimorphus</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/7850	Threatened

Crustaceans

NAME	STATUS
California Freshwater Shrimp <i>Syncaris pacifica</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/7903	Endangered
Vernal Pool Fairy Shrimp <i>Branchinecta lynchi</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/498	Threatened

Flowering Plants

NAME	STATUS
------	--------

Antioch Dunes Evening-primrose *Oenothera deltoides* ssp. *howellii* Endangered

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/5970>

Contra Costa Goldfields *Lasthenia conjugens* Endangered

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/7058>

Soft Bird's-beak *Cordylanthus mollis* ssp. *mollis* Endangered

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/8541>

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

Allen's Hummingbird *Selasphorus sasin*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9637>

Breeds Feb 1 to Jul 15

Black Rail *Laterallus jamaicensis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/7717>

Breeds Mar 1 to Sep 15

Black Turnstone *Arenaria melanocephala*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds elsewhere

Clark's Grebe *Aechmophorus clarkii*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds Jan 1 to Dec 31

11/24/2020

IPaC: Explore Location

<p>Common Yellowthroat <i>Geothlypis trichas sinuosa</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/2084</p>	Breeds May 20 to Jul 31
<p>Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680</p>	Breeds Jan 1 to Aug 31
<p>Lawrence's Goldfinch <i>Carduelis lawrencei</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9464</p>	Breeds Mar 20 to Sep 20
<p>Lewis's Woodpecker <i>Melanerpes lewis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9408</p>	Breeds Apr 20 to Sep 30
<p>Long-billed Curlew <i>Numenius americanus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/5511</p>	Breeds elsewhere
<p>Marbled Godwit <i>Limosa fedoa</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9481</p>	Breeds elsewhere
<p>Nuttall's Woodpecker <i>Picoides nuttallii</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9410</p>	Breeds Apr 1 to Jul 20
<p>Oak Titmouse <i>Baeolophus inornatus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9656</p>	Breeds Mar 15 to Jul 15
<p>Rufous Hummingbird <i>selasphorus rufus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/8002</p>	Breeds elsewhere

<p>Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480</p>	Breeds elsewhere
<p>Song Sparrow <i>Melospiza melodia</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds Feb 20 to Sep 5
<p>Spotted Towhee <i>Pipilo maculatus clementae</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/4243</p>	Breeds Apr 15 to Jul 20
<p>Tricolored Blackbird <i>Agelaius tricolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3910</p>	Breeds Mar 15 to Aug 10
<p>Whimbrel <i>Numenius phaeopus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9483</p>	Breeds elsewhere
<p>Willet <i>Tringa semipalmata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Wrentit <i>Chamaea fasciata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Mar 15 to Aug 10

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

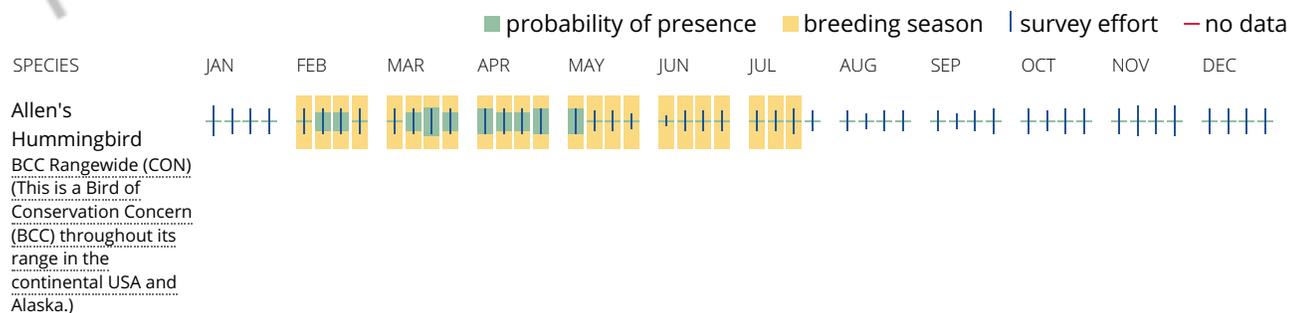
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



11/24/2020

IPaC: Explore Location

Black Rail
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Black Turnstone
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Clark's Grebe
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Common Yellowthroat
 BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)

Golden Eagle
 Non-BCC Vulnerable
 (This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.)

Lawrence's Goldfinch
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Lewis's Woodpecker
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

11/24/2020

IPaC: Explore Location

Long-billed Curlew
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Marbled Godwit
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Nuttall's Woodpecker
 BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)

Oak Titmouse
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

SPECIES JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

Rufous Hummingbird
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Short-billed Dowitcher
 BCC Rangewide (CON)
 (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

Song Sparrow
 BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)

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Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#), and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects,

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and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

Wetlands in the National Wetlands Inventory

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Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

ESTUARINE AND MARINE DEEPWATER

[E1UBL](#)

ESTUARINE AND MARINE WETLAND

[E2EM1N](#)

[E2USMh](#)

[E2EM1Nh](#)

[E2USNh](#)

[E2SBNh](#)

[E2USN](#)

[E2USM](#)

[E2SBNx](#)

FRESHWATER EMERGENT WETLAND

[PEM1Ch](#)

[PEM1/SS1Ch](#)

FRESHWATER POND

[PUBKx](#)

[PU SCx](#)

[PUBHx](#)

[PUBHh](#)

RIVERINE

[R3UBH](#)

[R4SBAx](#)

[R4SBA](#)

[R3UBHx](#)

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

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The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

Attachment C

Photographs



Diked grassland in the central part of the site, looking southwest; 12/01/20. Historical maps and aerial photographs depict a cluster of buildings in this part of the site.



Diked grassland in the north part of the site, looking west; 12/01/20.



Weedy grassland on the top of the notable hill in the west part of the site, looking north; 11/19/20.



Existing road through the site, looking northwest from just west of the quarry pond; 11/19/20.

MOORE BIOLOGICAL



Existing road through the site, looking northwest from near the southeast corner of the site; 12/01/20. Tidal influence in Pacheco Creek appears to end at this road.



Row of eucalyptus trees along the north edge of the site adjacent to Central Avenue, looking west; 11/19/20.

MOORE BIOLOGICAL



Freshwater marsh in Pacheco Creek in the southwest part of the site, looking southeast; 11/19/20.



Quarry pond in the east part of the site, looking east from the top of the hill; 11/19/20.

MOORE BIOLOGICAL



Wetlands surrounding the quarry pond, looking west toward the hill; 11/19/20. Note the small patch of oak woodland vegetation on the north side of the hill.



Pacheco Creek along the east edge of the site, looking west; 11/19/20. Water flows from Pacheco Creek in to the quarry pond during high tides.



Isolated wetland near the base of the hill, looking west; 11/19/20.

Attachment D

Plants and Wildlife Lists

Table D-1
Plants Observed at Bayview Estates

Angiosperms - Dicots

Aizoaceae - Fig-Marigold Family

**Carpobrotus edulis* Fig-marigold

Anacardiaceae - Cashew or Sumac Family

Toxicodendron diversilobum Western poison-oak

Apiaceae (Umbelliferae) - Carrot Family

**Conium maculatum* Poison hemlock

**Foeniculum vulgare* Sweet fennel

Apocynaceae - Dogbane/Milkweed Family

Asclepias fascicularis Narrow-leaf milkweed

Asteraceae (Compositae) - Sunflower Family

Baccharis pilularis Coyote brush

**Carduus pycnocephalus* Italian thistle

**Centaurea calcitrapa* Purple starthistle

**Centaurea solstitialis* Yellow starthistle

**Cotula coronopifolia* Common brass-buttons

**Cynara cardunculus* Artichoke thistle

**Ditrichia graveolens* Stinkwort

Euthamia occidentalis Western goldenrod

Grindelia camporum Great Valley gumplant

**Helminthotheca echioides* Bristly ox-tongue

Heterotheca grandiflora Telegraph weed

Holocarpha heermannii Heermann tarweed

**Lactuca serriola* Prickly lettuce

**Silybum marianum* Milk thistle

**Sonchus asper subsp. asper* Prickly sow-thistle

Symphyotrichum subulatum var. parviflorum Slender aster

**Tragopogon porrifolius* Common salsify

Xanthium strumarium Cocklebur

Boraginaceae - Borage Family

Amsinckia menziesii Rancher's fireweed

Brassicaceae (Cruciferae) - Mustard Family

**Brassica nigra* Black mustard

**Hirschfeldia incana* Short-podded mustard

**Lepidium latifolium* Broadleaf pepperweed

Table D-1
Plants Observed at Bayview Estates (continued)

<i>*Raphanus sativus</i>	Wild radish
<i>*Sinapis arvensis</i>	Wild mustard
Caryophyllaceae - Pink Family	
<i>*Spergularia rubra</i>	Ruby sand-spurrey
Chenopodiaceae - Goosefoot Family	
<i>*Atriplex prostrata</i>	Fat-hen
<i>Salicornia pacifica</i>	Pacific swampfire
Convolvulaceae - Morning-Glory Family	
<i>*Convolvulus arvensis</i>	Bindweed
<i>Cressa truxillensis</i>	Alkali weed
Euphorbiaceae - Spurge Family	
<i>Croton setiger</i>	Turkey mullein
Fabaceae (Leguminosae) - Legume Family	
<i>*Acacia melanoxyton</i>	Blackwood acacia
<i>Acmispon wrangelianus</i>	Chilean trefoil
<i>*Lotus corniculatus</i>	Bird's-foot trefoil
<i>*Medicago polymorpha</i>	California burclover
<i>*Melilotus albus</i>	White sweetcover
<i>*Trifolium hirtum</i>	Rose clover
<i>*Vicia sativa</i>	Common vetch
Fagaceae - Oak Family	
<i>Quercus agrifolia</i>	Coast live oak
<i>Quercus lobata</i>	Valley oak
Frankeniaceae - Frankenia Family	
<i>Frankenia salina</i>	Alakali heath
Geraniaceae - Geranium Family	
<i>*Erodium botrys</i>	Broad-leaf filaree
<i>*Erodium cicutarium</i>	Red-stem filaree
Juglandaceae - Walnut Family	
<i>Juglans hindsii</i>	Northern California black walnut
Lythraceae - Loosestrife Family	
<i>*Lythrum hyssopifolia</i>	Hyssop loosestrife
Malvaceae - Mallow Family	
<i>*Malva sylvestris</i>	Hight mallow
<i>Malvella leprosa</i>	Alkali mallow

Table D-1
Plants Observed at Bayview Estates (continued)

Myrtaceae - Myrtle Family	
<i>*Eucalyptus sp.</i>	Eucalyptus
Oleaceae - Olive Family	
<i>*Olea europaea</i>	Olive
Onagraceae - Evening Primrose Family	
<i>Epilobium brachycarpum</i>	Summer cottonweed
<i>Epilobium ciliatum</i>	Hairy willow-herb
Orobanchaceae - Broomrape Family	
<i>Castilleja exserta subsp. exserta</i>	Purple owl's-clover
Papaveraceae - Poppy Family	
<i>Eschscholzia californica</i>	California poppy
Plantaginaceae - Plantain Family	
<i>*Plantago lanceolata</i>	English plantain
<i>*Plantago major</i>	Common plantain
<i>Veronica peregrina subsp. xalapensis</i>	Purslane speedwell
Polygonaceae - Buckwheat Family	
<i>Eriogonum nudum var. auriculatum</i>	Ear-shaped wild buckwheat
<i>*Polygonum aviculare</i>	Common knotweed
<i>*Rumex acetosella</i>	Sheep sorrel
<i>*Rumex crispus</i>	Curly dock
<i>*Rumex pulcher</i>	Fiddle dock
Rosaceae - Rose Family	
<i>Heteromeles arbutifolia</i>	Toyon
<i>*Prunus dulcis</i>	Almond tree
<i>*Pyracantha angustifolia</i>	Firethorn
<i>Rosa gymnocarpa</i>	Wood rose
<i>*Rubus armeniacus</i>	Himalayan blackberry
<i>*Rubus ulmifolius var. anoplothyrus</i>	Elmleaf blackberry
Rubiaceae - Madder Family	
<i>Galium aparine</i>	Goose grass
Salicaceae - Willow Family	
<i>Populus fremontii subsp. fremontii</i>	Fremont cottonwood
<i>Salix gooddingii</i>	Goodding's black willow
<i>Salix laevigata</i>	Red willow
<i>Salix lasiolepis</i>	Arroyo willow

Table D-1
Plants Observed at Bayview Estates (continued)

Simaroubaceae - Quassia Family	
<i>*Ailanthus altissima</i>	Tree of heaven
Vitaceae - Grape Family	
<i>*Parthenocissus quinquefolia</i>	Virginia creeper
Angiosperms -Monocots	
<hr/>	
Agavaceae - Agave	
Family	
<i>Chlorogalum pomeridianum var. pomeridianum</i>	Soap plant
Cyperaceae - Sedge Family	
<i>Bolboschoenus robustus</i>	Seacoast bulrush
<i>Cyperus eragrostis</i>	Tall flatsedge
<i>Schoenoplectus acutus var. occidentalis</i>	Common tule
<i>Schoenoplectus californicus</i>	California bulrush
Juncaceae - Rush Family	
<i>Juncus balticus</i>	Baltic rush
<i>Juncus bufonius</i>	Toad rush
<i>*Juncus effusus</i>	Soft rush
Poaceae (Gramineae) - Grass Family	
<i>*Aira caryophyllea</i>	Silver European hairgrass
<i>*Avena fatua</i>	Wild oat
<i>*Bromus diandrus</i>	Ripgut grass
<i>*Bromus hordeaceus</i>	Soft chess
<i>*Cortaderia selloana</i>	Selloa pampas grass
<i>*Crypsis schoenoides</i>	Swamp pricklegrass
<i>*Cynodon dactylon</i>	Bermudagrass
<i>Distichlis spicata</i>	Saltgrass
<i>Elymus triticoides subsp. triticoides</i>	Creeping wildrye
<i>*Festuca arundinacea</i>	Tall fescue
<i>*Festuca bromoides</i>	Brome fescue
<i>*Festuca myuros</i>	Rattail sixweeks grass
<i>*Festuca perennis</i>	Italian ryegrass
<i>*Hordeum marinum subsp. gussoneanum</i>	Mediterranean barley
<i>*Hordeum murinum subsp. leporinum</i>	Hare barley
<i>*Phalaris paradoxa</i>	Paradox canary-grass

Table D-1
Plants Observed at Bayview Estates (continued)

<i>Phragmites australis</i>	Common reed
* <i>Polypogon monspeliensis</i>	Annual beard grass
Themidaceae - Brodiaea Family	
<i>Triteleia laxa</i>	Ithuriel's spear
Typhaceae - Cattail Family	
<i>Typha angustifolia</i>	Narrow-leaved cattail
<i>Typha latifolia</i>	Broad-leaved cattail

* indicates a non-native species

TABLE D-2
WILDLIFE SPECIES DOCUMENTED IN THE SITE

Birds

Common loon	<i>Gavia immer</i>
Pied-billed grebe	<i>Podilymbus podiceps</i>
Double-crested cormorant	<i>Phalacrocorax auritis</i>
Great blue heron	<i>Ardea herodias</i>
Great egret	<i>Casmerodius albus</i>
Snowy egret	<i>Egretta thula</i>
Black-crowned night-heron	<i>Nycticorax nycticorax</i>
Canada goose	<i>Branta canadensis</i>
Mallard	<i>Anas platyrhynchos</i>
Redhead	<i>Aythya americana</i>
Common goldeneye	<i>Bucephala clangula</i>
Hooded merganser	<i>Lophodytes cucullatus</i>
Turkey vulture	<i>Cathartes aura</i>
Sharp-shinned hawk	<i>Accipiter striatus</i>
Cooper's hawk	<i>Accipiter cooperii</i>
Red-tailed hawk	<i>Buteo jamaicensis</i>
American kestrel	<i>Falco sparverius</i>
American coot	<i>Fulica americana</i>
Killdeer	<i>Charadrius vociferous</i>
Greater yellowlegs	<i>Tringa melanoleuca</i>
Rock dove	<i>Columba livia</i>
Mourning dove	<i>Zenaida macroura</i>
Anna's hummingbird	<i>Calypte anna</i>
Belted kingfisher	<i>Ceryle alcyon</i>
Acorn woodpecker	<i>Melanerpes formicivorus</i>
Northern flicker	<i>Colaptes auratus</i>

TABLE 2 (Continued)
WIDLIFE SPECIES DOCUMENTED IN THE SITE

Black phoebe	<i>Sayornis nigricans</i>
Western kingbird	<i>Tyrannus verticalis</i>
California scrub jay	<i>Aphelocoma californica</i>
American crow	<i>Corvus brachyrhynchos</i>
Winter wren	<i>Troglodytes hiemalis</i>
Northern mockingbird	<i>Mimus polyglottos</i>
Yellow-rumped warbler	<i>Setophaga coronata</i>
Song sparrow	<i>Melospiza melodia</i>
Golden-crowned sparrow	<i>Zonotrichia atricapilla</i>
White-crowned sparrow	<i>Zonotrichia leucophrys</i>
Red-winged blackbird	<i>Agelaius phoeniceus</i>
Western meadowlark	<i>Sturnella neglecta</i>
Brewer's blackbird	<i>Euphagus cyanocephalus</i>
House finch	<i>Carpodacus mexicanus</i>

Mammals

California ground squirrel	<i>Spermophilus beecheyi</i>
Raccoon	<i>Procyon lotor</i>
Black-tailed hare	<i>Lepus californicus</i>
California mule deer	<i>Odocoileus hemionus californicus</i>

Reptiles and Amphibians

Western pond turtle	<i>Emys marmorata</i>
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Attachment E

National Wetland Inventory Map

Bayview



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

December 28, 2020

Wetlands

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------|
|  | Estuarine and Marine Deepwater |  | Freshwater Emergent Wetland |  | Lake |
|  | Estuarine and Marine Wetland |  | Freshwater Forested/Shrub Wetland |  | Other |
| | |  | Freshwater Pond |  | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Attachment F
Botanical Assessment



January 7, 2021

Diane Moore
 Moore Biological Consultants
 10330 Twin Cities Road, Ste. 30
 Galt, CA 95632

Subject: Botanical Assessment for the 78-acre Bayview project, Contra Costa County, CA

Dear Ms. Moore:

This letter addresses the botanical setting at the proposed 78-acre Bayview project site located near Martinez in Contra Costa County (Figure 1). Our work involved a review of databases and reports prepared by others, as well as a reconnaissance level field survey on December 1, 2020.

The property includes a notable hill, a former quarry pond that is tidally influenced by Pacheco Creek, and a freshwater marsh that is not tidally influenced.

There is a steep hill in the western portion of the site with a high elevation of 283 feet. The lowest elevation is near sea level and occurs in the southeast area of the site near Pacheco Creek. Pacheco Creek is tidal and creek flows back up into the quarry pond during high tides. Tidal influence appears to end at the gravel road that crosses the wetland south of the quarry pond. Water in the freshwater marsh along the southern portion of the property flows in from the west, under Interstate 680. Habitats on the property include annual grassland, non-tidal freshwater marsh, tidal brackish marsh, brackish open water, and oak woodland (Figure 2). A list of species observed in the site during the December 1, 2020 survey is provided in Attachment B.

A botanical study was conducted by Wood Biological Consulting on May 1 and September 28, 2007 and a supplemental survey was conducted by ESA on March 25, 2008. The surveys covered the entire site. The report identifies suitable habitat for 35 special-status species. "focused floristic surveys" were conducted, but none of the targeted special-status plants were found.

We queried the California Department of Fish and Wildlife California Natural Diversity Data Base (CNDDDB) and the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) database for reported occurrences of special-status plant species in the 2-quadrangle region surrounding the study area (Attachment C). These searches generated a list of nineteen regionally-occurring species and were used to determine which species have some potential to occur within or near the study area.

Of the 19 plants on the list, we determined that four have no potential to occur due to the lack of any suitable habitat. Species with no potential to occur include:

<i>Calochortus pulchellus</i>	Mt. Diablo fairy-lantern
<i>Lasthenia conjugens</i>	Contra Costa goldfields
<i>Oenothera deltooides ssp. howellii</i>	Antioch Dunes evening-primrose
<i>Viburnum ellipticum</i>	oval-leaved viburnum

It was determined that nine species have some potential but are unlikely to occur due to very limited suitable habitat. Five of these species grow in upland grasslands and four are associated with wetlands. Species with minimal potential to occur include:

Upland Grassland Species:

<i>Blepharizonia plumosa</i>	big tarplant
<i>Extriplex joaquinana</i>	San Joaquin spearscale
<i>Fritillaria liliacea</i>	fragrant fritillary
<i>Helianthella castanea</i>	Diablo helianthella
<i>Isocoma arguta</i>	Carquinez goldenbush

Wetland Species:

<i>Limosella australis</i>	Delta mudwort
<i>Spergularia macrotheca var. longistyla</i>	long-styled sand-spurrey
<i>Stuckenia filiformis ssp. alpina</i>	slender-leaved pondweed
<i>Trifolium hydrophilum</i>	saline clover

Finally, the study area provides potentially suitable habitat for six species, five that may occur in association with the wetland habitats in the site and one that may occur in the uplands. The upland species, Congdon's tarplant, was identified from the site in 2005, as well as in many locations outside of the study area but within the surrounding area (Figure 3). Species with more than minimal potential to occur include:

Wetland Species:

<i>Chloropyron molle ssp. molle</i>	soft bird's-beak
<i>Cicuta maculata var. bolanderi</i>	Bolander's water-hemlock
<i>Lathyrus jepsonii var. jepsonii</i>	Delta tule pea
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis
<i>Symphotrichum lentum</i>	Suisun Marsh aster

Upland Grassland Species:

<i>Centromadia parryi ssp. congdonii</i>	Congdon's tarplant
--	--------------------

Botanical surveys done in 2007 and 2008 by others did not locate Congdon's tarplant or any other special status plant species. However, there is potentially suitable habitat for at least 15 special status species in the site. Further, Congdon's tarplant was previously identified from the property. Therefore, we recommend that an updated botanical survey be conducted for the

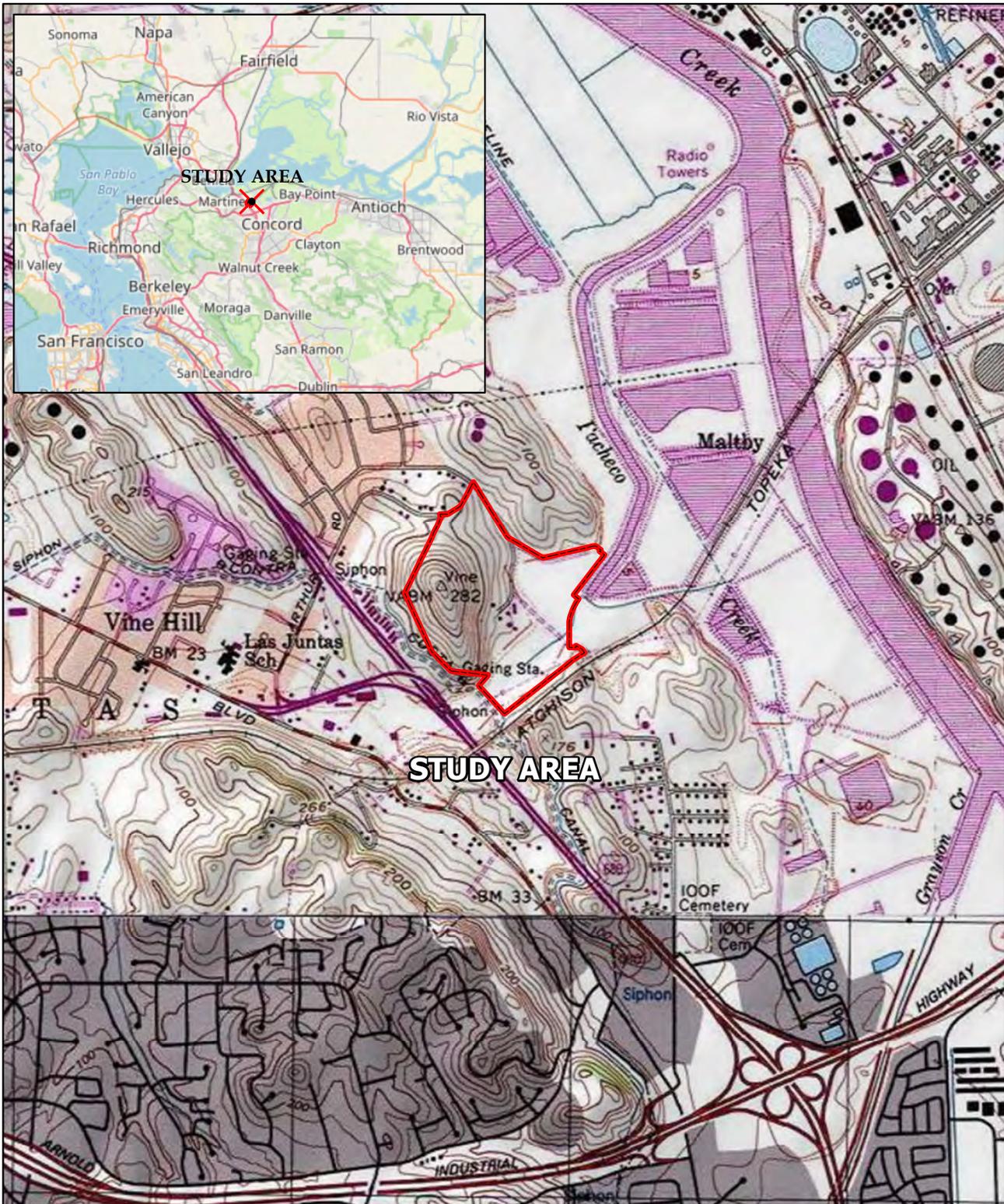
portions of the site that may be impacted by the proposed project. Surveys would occur on two to three occasions between March and August.

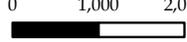
Sincerely,

A handwritten signature in cursive script that reads "Jeff Glazner".

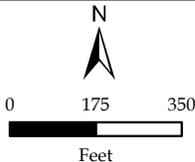
Jeff Glazner
Principal

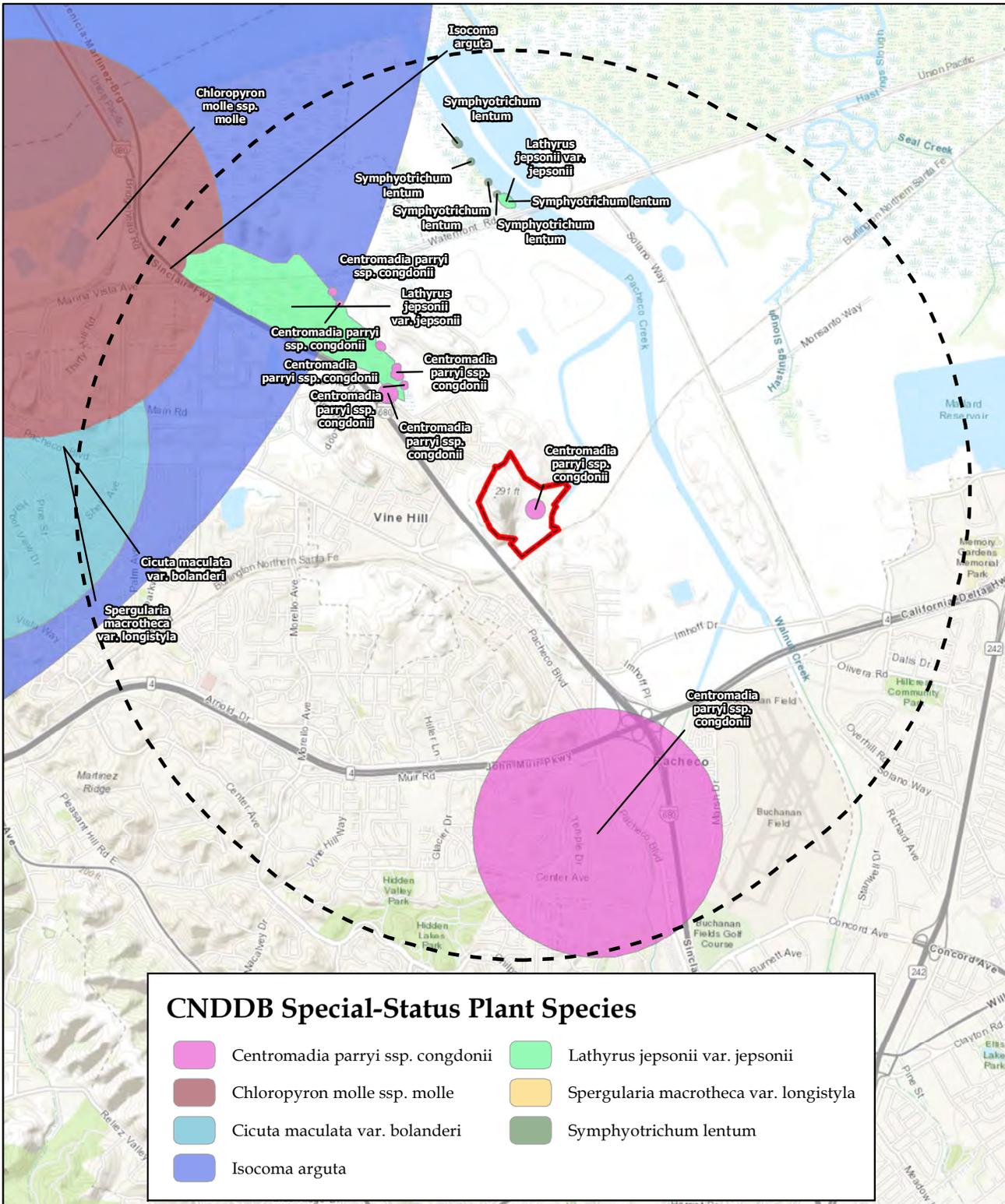
Attachement A
Figures



	<p>N</p>  <p>0 1,000 2,000</p>  <p>Feet</p>	<p>Source Maps: USGS Topographic Map Vine Hill Quad 1:24,000</p>	<p>Figure 1 SITE AND VICINITY MAP <i>Bayview</i> Contra Costa County, CA</p>
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		 Study Area (±77 acres)	Figure 2 AERIAL MAP <i>Bayview</i> Contra Costa County, CA
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CNDDDB Special-Status Plant Species

 <i>Centromadia parryi</i> ssp. <i>congdonii</i>	 <i>Lathyrus jepsonii</i> var. <i>jepsonii</i>
 <i>Chloropyron molle</i> ssp. <i>molle</i>	 <i>Spargularia macrotheca</i> var. <i>longistyla</i>
 <i>Cicuta maculata</i> var. <i>bolanderi</i>	 <i>Symphyotrichum lentum</i>
 <i>Isocoma arguta</i>	

	<p>N</p> <p>0 2,000 4,000 Feet</p>	<p>2-Mile Radius</p>	<p>Figure 3</p> <p>CNDDDB OCCURRENCES MAP</p> <p><i>Bayview</i></p> <p>Contra Costa County, CA</p>
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Attachement B
Plant Species Observed in Study Area

 Bayview - Plants Observed - November, 2020

 Angiosperms - Dicots

Aizoaceae - Fig-Marigold Family

**Carpobrotus edulis* Fig-marigold

Anacardiaceae - Cashew or Sumac Family

Toxicodendron diversilobum Western poison-oak

Apiaceae (Umbelliferae) - Carrot Family

**Conium maculatum* Poison hemlock

**Foeniculum vulgare* Sweet fennel

Apocynaceae - Dogbane/Milkweed Family

Asclepias fascicularis Narrow-leaf milkweed

Asteraceae (Compositae) - Sunflower Family

Baccharis pilularis Coyote brush

**Carduus pycnocephalus* Italian thistle

**Centaurea calcitrapa* Purple starthistle

**Centaurea solstitialis* Yellow starthistle

**Cotula coronopifolia* Common brass-buttons

**Cynara cardunculus* Artichoke thistle

**Dittrichia graveolens* Stinkwort

Euthamia occidentalis Western goldenrod

Grindelia camporum Great Valley gumplant

**Helminthotheca echioides* Bristly ox-tongue

Heterotheca grandiflora Telegraph weed

Holocarpha heermannii Heermann tarweed

**Lactuca serriola* Prickly lettuce

**Silybum marianum* Milk thistle

**Sonchus asper* subsp. *asper* Prickly sow-thistle

Symphotrichum subulatum var. *parviflorum* Slender aster

**Tragopogon porrifolius* Common salsify

Xanthium strumarium Cocklebur

Boraginaceae - Borage Family

Amsinckia menziesii Rancher's fireweed

Brassicaceae (Cruciferae) - Mustard Family

**Brassica nigra* Black mustard

**Hirschfeldia incana* Short-podded mustard

**Lepidium latifolium* Broadleaf pepperweed

**Raphanus sativus* Wild radish

**Sinapis arvensis* Wild mustard

Caryophyllaceae - Pink Family

**Spergularia rubra* Ruby sand-spurrey

Chenopodiaceae - Goosefoot Family

**Atriplex prostrata* Fat-hen

 * Indicates a non-native species

<i>Salicornia pacifica</i>	Pacific swampfire
Convolvulaceae - Morning-Glory Family	
* <i>Convolvulus arvensis</i>	Bindweed
<i>Cressa truxillensis</i>	Alkali weed
Euphorbiaceae - Spurge Family	
<i>Croton setiger</i>	Turkey mullein
Fabaceae (Leguminosae) - Legume Family	
* <i>Acacia melanoxydon</i>	Blackwood acacia
<i>Acmispon wrangelianus</i>	Chilean trefoil
* <i>Lotus corniculatus</i>	Bird's-foot trefoil
* <i>Medicago polymorpha</i>	California burclover
* <i>Melilotus albus</i>	White sweetcover
* <i>Trifolium hirtum</i>	Rose clover
* <i>Vicia sativa</i>	Common vetch
Fagaceae - Oak Family	
<i>Quercus agrifolia</i>	Coast live oak
<i>Quercus lobata</i>	Valley oak
Frankeniaceae - Frankenia Family	
<i>Frankenia salina</i>	Alakali heath
Geraniaceae - Geranium Family	
* <i>Erodium botrys</i>	Broad-leaf filaree
* <i>Erodium cicutarium</i>	Red-stem filaree
Juglandaceae - Walnut Family	
<i>Juglans hindsii</i>	Northern California black walnut
Lythraceae - Loosestrife Family	
* <i>Lythrum hyssopifolia</i>	Hyssop loosestrife
Malvaceae - Mallow Family	
* <i>Malva sylvestris</i>	Hight mallow
<i>Malvella leprosa</i>	Alkali mallow
Myrtaceae - Myrtle Family	
* <i>Eucalyptus sp.</i>	Eucalyptus
Oleaceae - Olive Family	
* <i>Olea europaea</i>	Olive
Onagraceae - Evening Primrose Family	
<i>Epilobium brachycarpum</i>	Summer cottonweed
<i>Epilobium ciliatum</i>	Hairy willow-herb
Orobanchaceae - Broomrape Family	
<i>Castilleja exserta subsp. exserta</i>	Purple owl's-clover
Papaveraceae - Poppy Family	
<i>Eschscholzia californica</i>	California poppy
Plantaginaceae - Plantain Family	
* <i>Plantago lanceolata</i>	English plantain
* <i>Plantago major</i>	Common plantain
<i>Veronica peregrina subsp. xalapensis</i>	Purslane speedwell
Polygonaceae - Buckwheat Family	
<i>Eriogonum nudum var. auriculatum</i>	Ear-shaped wild buckwheat

* Indicates a non-native species

* <i>Polygonum aviculare</i>	Common knotweed
* <i>Rumex acetosella</i>	Sheep sorrel
* <i>Rumex crispus</i>	Curly dock
* <i>Rumex pulcher</i>	Fiddle dock

Rosaceae - Rose Family

<i>Heteromeles arbutifolia</i>	Toyon
* <i>Prunus dulcis</i>	Almond tree
* <i>Pyracantha angustifolia</i>	Firethorn
<i>Rosa gymnocarpa</i>	Wood rose
* <i>Rubus armeniacus</i>	Himalayan blackberry
* <i>Rubus ulmifolius</i> var. <i>anoplothyrus</i>	Elmleaf blackberry

Rubiaceae - Madder Family

<i>Galium aparine</i>	Goose grass
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Salicaceae - Willow Family

<i>Populus fremontii</i> subsp. <i>fremontii</i>	Fremont cottonwood
<i>Salix gooddingii</i>	Goodding's black willow
<i>Salix laevigata</i>	Red willow
<i>Salix lasiolepis</i>	Arroyo willow

Simaroubaceae - Quassia Family

* <i>Ailanthus altissima</i>	Tree of heaven
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Vitaceae - Grape Family

* <i>Parthenocissus quinquefolia</i>	Virginia creeper
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Angiosperms -Monocots**Agavaceae - Agave Family**

<i>Chlorogalum pomeridianum</i> var. <i>pomeridianum</i>	Soap plant
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Cyperaceae - Sedge Family

<i>Bolboschoenus robustus</i>	Seacoast bulrush
<i>Cyperus eragrostis</i>	Tall flatsedge
<i>Schoenoplectus acutus</i> var. <i>occidentalis</i>	Common tule
<i>Schoenoplectus californicus</i>	California bulrush

Juncaceae - Rush Family

<i>Juncus balticus</i>	Baltic rush
<i>Juncus bufonius</i>	Toad rush
* <i>Juncus effusus</i>	Soft rush

Poaceae (Gramineae) - Grass Family

* <i>Aira caryophylla</i>	Silver European hairgrass
* <i>Avena fatua</i>	Wild oat
* <i>Bromus diandrus</i>	Ripgut grass
* <i>Bromus hordeaceus</i>	Soft chess
* <i>Cortaderia selloana</i>	Selloa pampas grass
* <i>Crypsis schoenoides</i>	Swamp pricklegrass
* <i>Cynodon dactylon</i>	Bermudagrass
<i>Distichlis spicata</i>	Saltgrass
<i>Elymus triticoides</i> subsp. <i>triticoides</i>	Creeping wildrye
* <i>Festuca arundinacea</i>	Tall fescue
* <i>Festuca bromoides</i>	Brome fescue
* <i>Festuca myuros</i>	Rattail sixweeks grass

* Indicates a non-native species

Page 3 of 4

**Festuca perennis*

**Hordeum marinum* subsp. *gussoneanum*

**Hordeum murinum* subsp. *leporinum*

**Phalaris paradoxa*

Phragmites australis

**Polypogon monspeliensis*

Themidaceae - Brodiaea Family

Triteleia laxa

Typhaceae - Cattail Family

Typha angustifolia

Typha latifolia

Italian ryegrass

Mediterranean barley

Hare barley

Paradox canary-grass

Common reed

Annual beard grass

Ithuriel's spear

Narrow-leaved cattail

Broad-leaved cattail

* Indicates a non-native species

Attachement C
Potentially-Occurring Special-Status Plants in the Bayview Study Area



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Query Criteria: Quad IS (Vine Hill (3812211) OR Walnut Creek (3712281))
 AND Taxonomic Group IS (Ferns OR Gymnosperms OR Monocots OR Dicots OR Lichens OR Bryophytes)

Bayview - Vine Hill & Walnut Creek only



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Anomobryum julaceum</i> slender silver moss	NBMUS80010	None	None	G5?	S2	4.2
<i>Blepharizonia plumosa</i> big tarplant	PDAST1C011	None	None	G1G2	S1S2	1B.1
<i>Calochortus pulchellus</i> Mt. Diablo fairy-lantern	PMLIL0D160	None	None	G2	S2	1B.2
<i>Centromadia parryi ssp. congdonii</i> Congdon's tarplant	PDAST4R0P1	None	None	G3T1T2	S1S2	1B.1
<i>Chloropyron molle ssp. molle</i> soft salty bird's-beak	PDSCR0J0D2	Endangered	Rare	G2T1	S1	1B.2
<i>Cicuta maculata var. bolanderi</i> Bolander's water-hemlock	PDAP10M051	None	None	G5T4T5	S2?	2B.1
<i>Extriplex joaquinana</i> San Joaquin spearscale	PDCHE041F3	None	None	G2	S2	1B.2
<i>Fritillaria liliacea</i> fragrant fritillary	PMLIL0V0C0	None	None	G2	S2	1B.2
<i>Helianthella castanea</i> Diablo helianthella	PDAST4M020	None	None	G2	S2	1B.2
<i>Isocoma arguta</i> Carquinez goldenbush	PDAST57050	None	None	G1	S1	1B.1
<i>Lasthenia conjugens</i> Contra Costa goldfields	PDAST5L040	Endangered	None	G1	S1	1B.1
<i>Lathyrus jepsonii var. jepsonii</i> Delta tule pea	PDFAB250D2	None	None	G5T2	S2	1B.2
<i>Lilaeopsis masonii</i> Mason's lilaeopsis	PDAP119030	None	Rare	G2	S2	1B.1
<i>Limosella australis</i> Delta mudwort	PDSCR10030	None	None	G4G5	S2	2B.1
<i>Oenothera deltoides ssp. howellii</i> Antioch Dunes evening-primrose	PDONA0C0B4	Endangered	Endangered	G5T1	S1	1B.1
<i>Spergularia macrotheca var. longistyla</i> long-styled sand-spurrey	PDCAR0W062	None	None	G5T2	S2	1B.2
<i>Stuckenia filiformis ssp. alpina</i> slender-leaved pondweed	PMPOT03091	None	None	G5T5	S2S3	2B.2
<i>Symphotrichum lentum</i> Suisun Marsh aster	PDASTE8470	None	None	G2	S2	1B.2
<i>Trifolium hydrophilum</i> saline clover	PDFAB400R5	None	None	G2	S2	1B.2
<i>Viburnum ellipticum</i> oval-leaved viburnum	PDCPR07080	None	None	G4G5	S3?	2B.3

Record Count: 20

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Contra Costa County, California



Local office

Sacramento Fish And Wildlife Office

☎ (916) 414-6600

📠 (916) 414-6713

Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME

STATUS

12/21/2020

IPaC: Explore Location

Salt Marsh Harvest Mouse *Reithrodontomys raviventris* Endangered
 No critical habitat has been designated for this species.
<https://ecos.fws.gov/ecp/species/613>

Birds

NAME	STATUS
California Clapper Rail <i>Rallus longirostris obsoletus</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4240	Endangered
California Least Tern <i>Sterna antillarum browni</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8104	Endangered

Reptiles

NAME	STATUS
Alameda Whipsnake (=striped Racer) <i>Masticophis lateralis euryxanthus</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/5524	Threatened
Giant Garter Snake <i>Thamnophis gigas</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/4482	Threatened

Amphibians

NAME	STATUS
California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2891	Threatened
California Tiger Salamander <i>Ambystoma californiense</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/2076	Threatened

Fishes

NAME	STATUS
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Delta Smelt *Hypomesus transpacificus*

Threatened

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/321>

Insects

NAME

STATUS

Callippe Silverspot Butterfly *Speyeria callippe callippe*

Endangered

There is **proposed** critical habitat for this species. The location of the critical habitat is not available.

<https://ecos.fws.gov/ecp/species/3779>

Delta Green Ground Beetle *Elaphrus viridis*

Threatened

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/2319>

San Bruno Elfin Butterfly *Callophrys mossii bayensis*

Endangered

There is **proposed** critical habitat for this species. The location of the critical habitat is not available.

<https://ecos.fws.gov/ecp/species/3394>

Valley Elderberry Longhorn Beetle *Desmocerus californicus dimorphus*

Threatened

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/7850>

Crustaceans

NAME

STATUS

California Freshwater Shrimp *Syncaris pacifica*

Endangered

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/7903>

Vernal Pool Fairy Shrimp *Branchinecta lynchi*

Threatened

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/498>

Flowering Plants

NAME

STATUS

Soft Bird's-beak *Cordylanthus mollis* ssp. *mollis*

Endangered

There is **final** critical habitat for this species. Your location is outside the critical habitat.

<https://ecos.fws.gov/ecp/species/8541>

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

12/21/2020

IPaC: Explore Location

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

Allen's Hummingbird *Selasphorus sasin*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9637>

Breeds Feb 1 to Jul 15

Clark's Grebe *Aechmophorus clarkii*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds Jan 1 to Dec 31

Common Yellowthroat *Geothlypis trichas sinuosa*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

<https://ecos.fws.gov/ecp/species/2084>

Breeds May 20 to Jul 31

Golden Eagle *Aquila chrysaetos*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1680>

Breeds Jan 1 to Aug 31

Lawrence's Goldfinch *Carduelis lawrencei*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9464>

Breeds Mar 20 to Sep 20

Lewis's Woodpecker *Melanerpes lewis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9408>

Breeds Apr 20 to Sep 30

<p>Nuttall's Woodpecker <i>Picoides nuttallii</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9410</p>	Breeds Apr 1 to Jul 20
<p>Oak Titmouse <i>Baeolophus inornatus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9656</p>	Breeds Mar 15 to Jul 15
<p>Rufous Hummingbird <i>selasphorus rufus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/8002</p>	Breeds elsewhere
<p>Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480</p>	Breeds elsewhere
<p>Song Sparrow <i>Melospiza melodia</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds Feb 20 to Sep 5
<p>Spotted Towhee <i>Pipilo maculatus clementae</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/4243</p>	Breeds Apr 15 to Jul 20
<p>Willet <i>Tringa semipalmata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Wrentit <i>Chamaea fasciata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Mar 15 to Aug 10

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

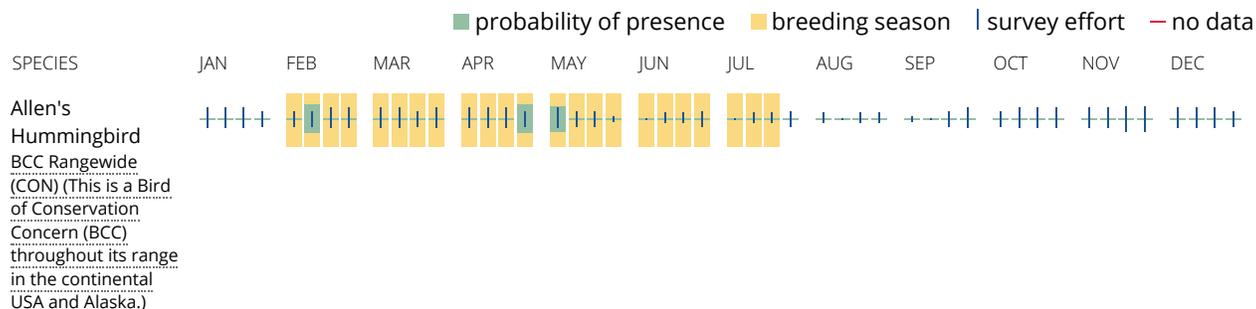
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (-)

A week is marked as having no data if there were no survey events for that week.

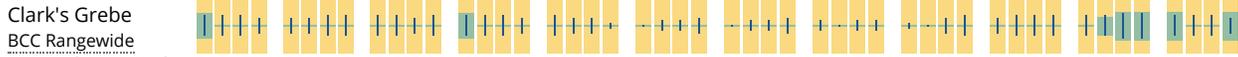
Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

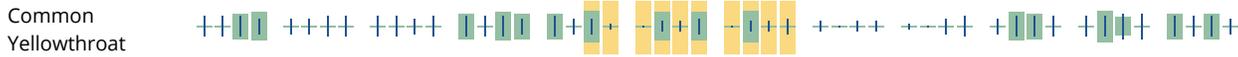


12/21/2020

IPaC: Explore Location



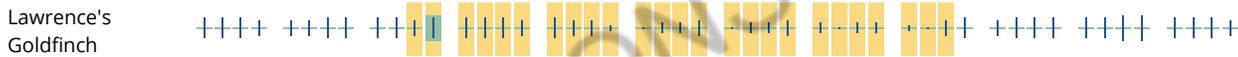
Clark's Grebe
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



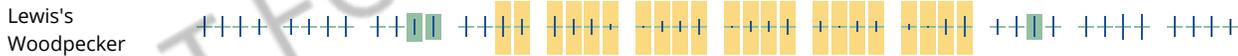
Common
 Yellowthroat
 BCC - BCR (This is a
 Bird of Conservation
 Concern (BCC) only in
 particular Bird
 Conservation Regions
 (BCRs) in the
 continental USA)



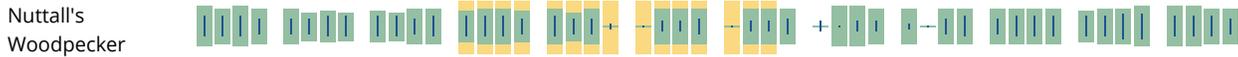
Golden Eagle
 Non-BCC Vulnerable
 (This is not a Bird of
 Conservation
 Concern (BCC) in this
 area, but warrants
 attention because of
 the Eagle Act or for
 potential
 susceptibilities in
 offshore areas from
 certain types of
 development or
 activities.)



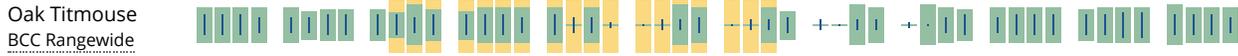
Lawrence's
 Goldfinch
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



Lewis's
 Woodpecker
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)



Nuttall's
 Woodpecker
 BCC - BCR (This is a
 Bird of Conservation
 Concern (BCC) only in
 particular Bird
 Conservation Regions
 (BCRs) in the
 continental USA)

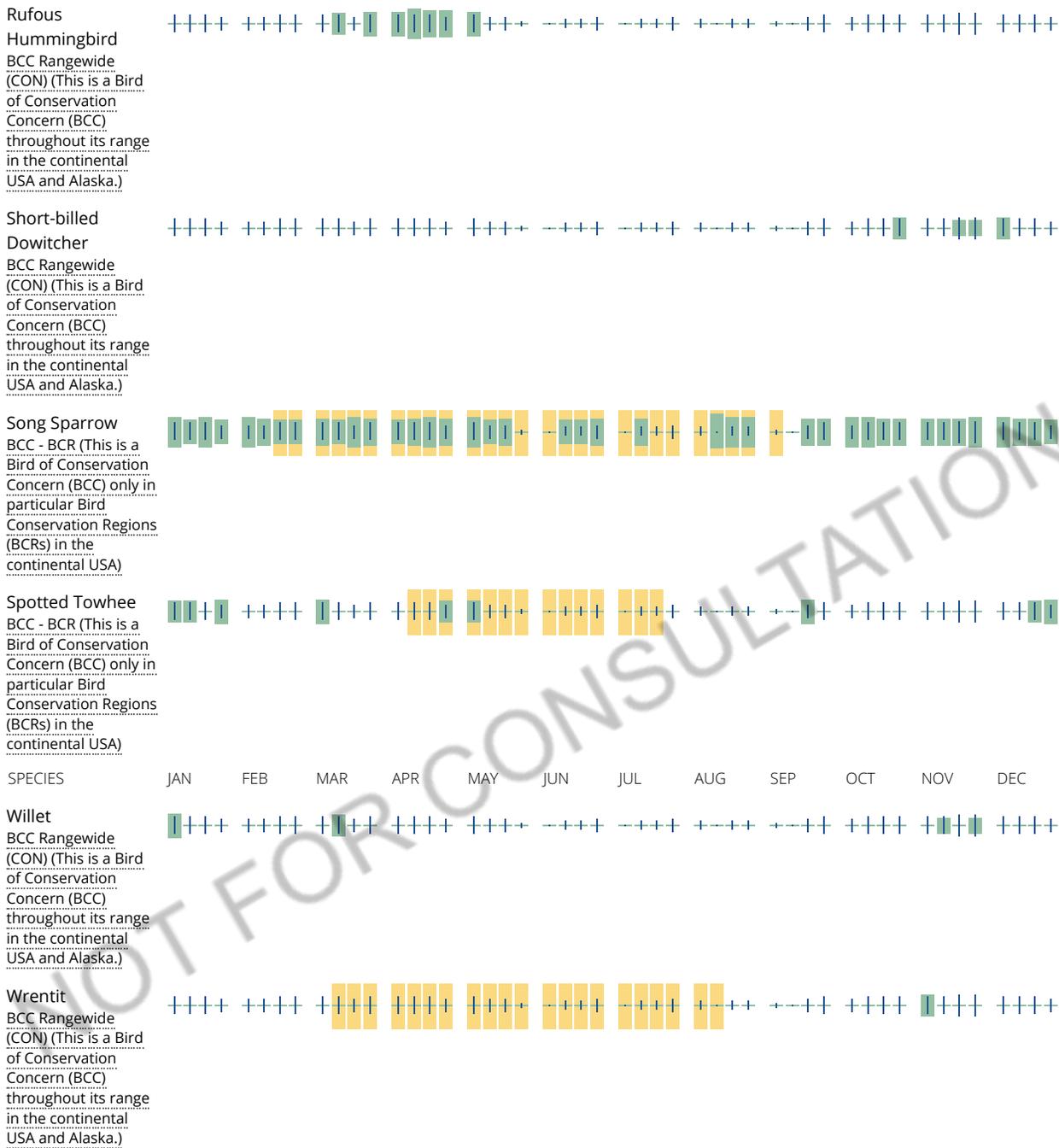


Oak Titmouse
 BCC Rangewide
 (CON) (This is a Bird
 of Conservation
 Concern (BCC)
 throughout its range
 in the continental
 USA and Alaska.)

NOT FOR CONSULTATION

12/21/2020

IPaC: Explore Location



Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review.

Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

Wildlife refuges and fish hatcheries

REFUGE AND FISH HATCHERY INFORMATION IS NOT AVAILABLE AT THIS TIME

Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

ESTUARINE AND MARINE WETLAND

[E2EM1Nh](#)

[E2SBNh](#)

[E2USNh](#)

[E2EM1N](#)

[E2SBNx](#)

FRESHWATER POND

[PUBHh](#)

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

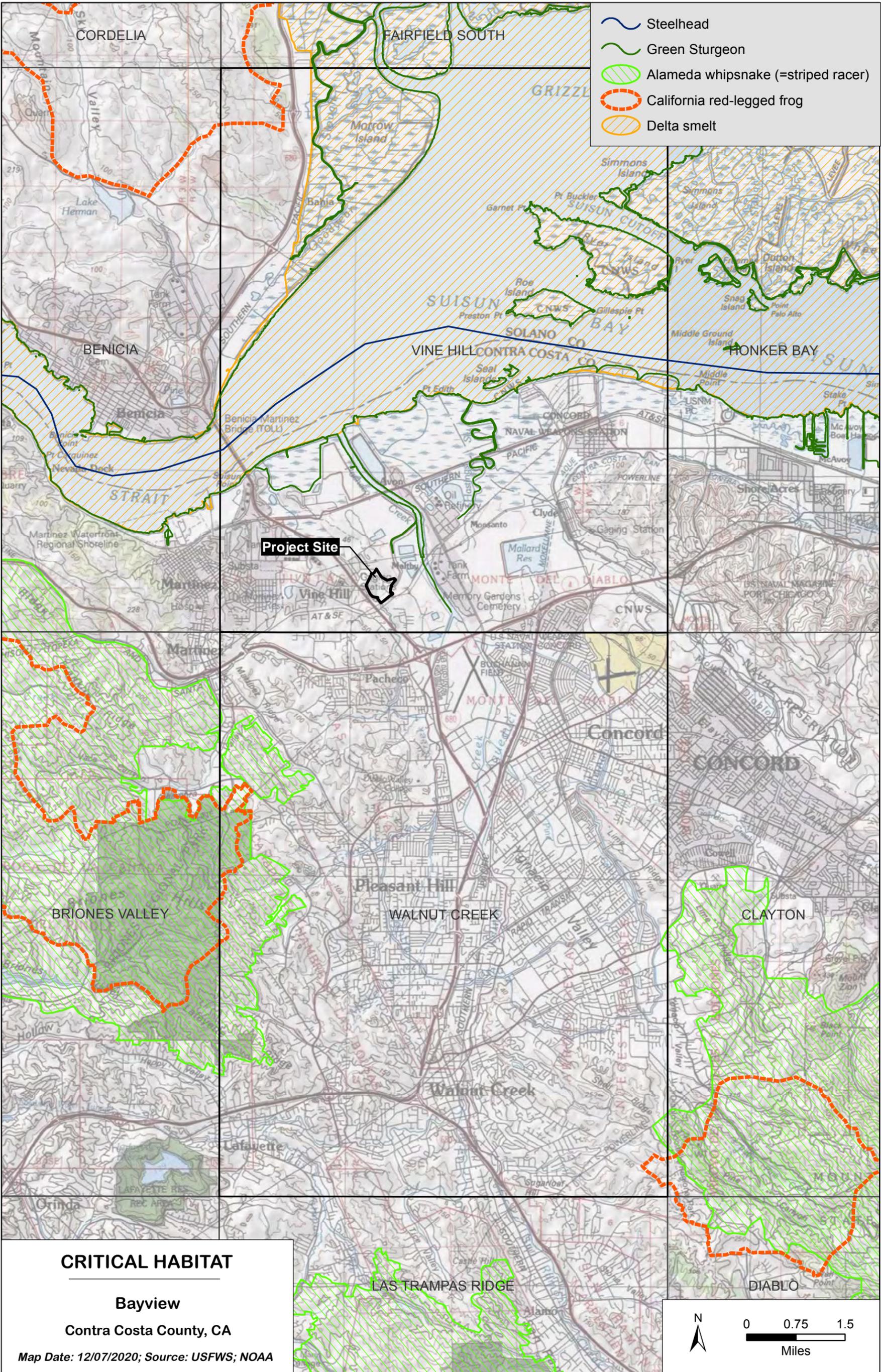
Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

Attachment G
Designated Critical Habitat



Responses to Letter 11: Hanson Bridgett

- 11-1 The comment references documents used in preparation of the Draft EIR Biological Resources section included the March 17, 2021 biological report prepared by Moore Biological Consultants. It is noted that a complete draft of the Biological Resource section was under review in February 2021, prior to the County’s knowledge of or receipt of the applicant’s independently-prepared biological report. Upon receipt of the Moore report, all efforts were made to peer review and integrate relevant findings of the report, particularly where findings differed substantively from prior findings or reports. However, extensive revision to the Draft EIR biological resources section based on the Moore findings was not warranted. The comment takes issue with the characterization of annual grasslands on the site, suggesting generically that more “ruderal” grasslands should be acknowledged on the site based on the Moore findings. The Moore (2021) biological report (pg. 7) finds that annual grassland encompasses 62.6 acres of the site and casually states that, “grasslands in the relatively flatter areas where the subdivision will be developed are highly disturbed by prior development and periodic disking, and are best described as ruderal grassland.” The Moore report does not map or otherwise attempt to quantify the amount of ruderal grassland on the site. Furthermore, supporting GIS files were not provided to the County depicting the distribution of ruderal annual grasslands on the site. Therefore, the comment and associated biological report lack substantive evidence that the distribution of ruderal grasslands on the site differ substantially from the distribution shown in Draft EIR Figure 4.3-1 (pg. 4.3-3). Regardless of the potential difference, potential impacts to non-native annual grasslands and ruderal non-native annual grassland habitats are equivalent from a CEQA perspective, both being less than significant. Had the Moore (2021) report quantified the relative amount of these habitat types, and had the associated GIS data been provided to the County in a timely manner, then it may have been appropriate to update the baseline with the revised findings; however, such data was not provided in support of the analysis and consequently, the baseline was not updated.
- 11-2 The County does not find a discrepancy between the Draft EIR figure and the text description; both of which were reviewed for accuracy by the applicant’s team prior to publication of the Draft EIR. The Moore report agrees with the Draft EIR finding that the site supports 3.5 acres of creeping wildrye habitat, presumably relying upon the data presented in the Draft EIR for this finding. However, because the Moore biological report does not map this sensitive natural community, no update can be performed to Draft EIR. Hence, no revisions are warranted to Draft EIR Figure 4.3-1, which is based on the best available scientific data concerning the distribution of creeping wildrye on the Project site.
- 11-3 In response, the Suisun Marsh aster was added to the list of potential plant species, based on the following statement from the Moore biological report: “The

project site provides potentially suitable habitat for five special-status plants that may occur in association with tidally influenced marshes including soft bird's beak, Bolander's water hemlock, delta tule pea, Mason's lilaopsis, and Suisun marsh aster." (Moore, 2021, pg. 25). On the basis of this finding, the Draft EIR was updated prior to publication to include potential impacts to Suisun Marsh aster, and associated mitigation if the species is detected on-site.

11-4 Regarding the approach in the Draft EIR to describing jurisdictional wetland and waters on the Project site: First, while the Draft EIR description of jurisdictional wetlands generally agrees with the Wood Biological Consulting (2007) wetland delineation, ESA biologist's 2017 review of the site, and Moore (2021); the comment suggests the Draft EIR should include the Moore (2021) report statement that "wetland boundaries changed in some parts of the site." The Moore report goes on to state that the supporting analysis is incomplete: "the wetland boundaries changed in some parts of the site from those mapped in 2007 and *an updated wetland delineation map and report will be completed in Spring 2021 and submitted to ACOE for verification*" (emphasis added). An updated wetland delineation map and associated report was not provided to the County in support of the Draft EIR. Moreover, Figure 4 of the Moore report describes a comparable amount of wetlands on the site (13.20 acres) to that described in the Draft EIR (13.22 acres). The County expects that any subsequent wetland delineation on the property will show slightly different wetland boundaries than those delineated in 2007; however, given the minor discrepancy in wetland area between the 2007 delineation and the habitat map provided in Moore (2021), the Draft EIR was not modified to reflect the 0.02-acre discrepancy. It is anticipated that federal and state resource agencies will rely upon the forthcoming verified jurisdictional determination to assess potential impacts and associated mitigation to aquatic features. In addition, the applicant did not provide GIS data associated with the Moore biological report, therefore, an update to the figure was not possible. For the above reasons, Figure 4.3-1 as presented in the Draft EIR is considered to provide an adequate disclosure of potential impacts to jurisdictional features.

The comment further states that the wetland acreage totals provided in the Draft EIR should be updated to mirror the wetland acreage shown in Moore's Figure 3. The County notes that the Draft EIR was updated to include the Moore (2021) wetland areas (see Table 4.3-1). However, because associated GIS data was not provided to the County, the 0.02-acre discrepancy, an increase in the jurisdictional area, was not reflected in Figure 4.3-1. As stated above, this minor discrepancy does not reflect an inadequacy in the Draft EIR analysis and no change is made to the figure.

The comment finally states that the Draft EIR Table 4.3-1 should not classify the isolated seep as having CDFW jurisdictional authority because it is neither a lake nor a streambed. The comment is correct that this feature is not subject to regulation under Fish and Game Code Section 1600 (Lake and Streambed

Alteration Program). But as a freshwater seep and waters of the state, the feature is likely subject to CDFW protection as a sensitive natural community. For this reason, Table 4.3-1 as presented in the Draft EIR is considered correct.

- 11-5 The comment states that because the nearby Lower Walnut Creek Restoration Project EIR and the Moore (2021) biological study cite no evidence of California red-legged frog (CRLF), this species should be removed from further consideration in the impact analysis. Aquatic portions of the Lower Walnut Creek project are located with the intertidal zone where daily tidal inundation occurs with brackish water; and there are no freshwater sources other than rainfall. For this reason, that project site is not conducive to occupancy by the CRLF. In contrast, the Project site supports an expansive 13.22 acres of freshwater and brackish marsh. Such habitats can provide potential habitat for CRLF, even if there are no species records located nearby. The Moore (2021) report uses distance as the discriminating factor in discounting the potential presence of this species on the Project site; incorrectly concluding that the site does not provide suitable habitat. The Draft EIR identifies the correct approach to determine whether or not the Project site provides potential habitat for CRLF based on the U.S. Fish and Wildlife Service (USFWS) habitat assessment methodology in their 2005 survey protocol. If the USFWS concurs that the site does not provide habitat for the CRLF, then no further action would be required as mitigation.

SEAN R. MARCINIAK
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E-MAIL smarciniak@hansonbridgett.com



July 12, 2021

Gary Kupp
Contra Costa County
Department of Conservation and
Development
30 Muir Road
Martinez, California 94553
Gary.Kupp@dcd.cccounty.us

Re: Bayview Estates Residential Project, County File Nos. CDSD04-08809,
CDGP04-00013, CDRZ04-03148, CDDP04-03080, Draft Environmental
Impact Report, SCH No. 2008032074, Contra Costa County

Dear Mr. Kupp:

As you know, Hanson Bridgett LLP represents Discovery Builders, applicant for the Bayview Estate Residential Project (the "Project").

Discovery Builders hereby submits comments on the Project's Draft Environmental Impact Report ("EIR") in support of the EIR's determinations as they relate to impacts on biological resources at the Project site, and to reaffirm that Contra Costa County, as lead agency, is best situated to make determinations regarding biological impacts.

We submit this letter primarily in response to a comment letter provided by the California Department of Fish and Wildlife on or about June 28, 2021. Our client very much appreciates input from the Department, and looks forward to working with Department staff during the resources permitting stage, but respectfully disagrees with some of the conclusions in the Department's June 28, 2021 letter.

Under separate cover, we intend to respond to public comments that address other environmental issues later this week.

Burrowing Owls

The Department expressed some concern that the Project might significantly impact the burrowing owl. We respectfully disagree, and believe the EIR's analysis and conclusions, which were prepared by the County's expert consultant ESA, are correct insofar as they determine the Project is unlikely to impact this species. This conclusion was reviewed by the applicant's own expert biologist, Moore Biological Consultants, which concurred with ESA's determinations. Moreover, the Department's significance conclusions and suggested mitigation measures are inconsistent with the Department's own regulatory guidance, as detailed below.

12-1
↓

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The EIR, and the biological assessments it relies upon, demonstrate that there is a very low likelihood of any burrowing owls on the Project site, and that the numerous biological surveys conducted to date have not detected the presence of any species on the site. Per California Department of Fish and Wildlife guidance, since the Project is not located on *occupied* burrowing owl habitat, the Project has no potentially significant impact on burrowing owls, and there exists no need for mitigation.

As a threshold issue, the burrowing owl is designated as a “a species of special concern” in California. It is not a federally protected species, and is not a species designated as threatened or endangered under the California Endangered Species Act.

The California Department of Fish and Wildlife has provided guidance regarding the detection of burrowing owls, and potential mitigation, in its 2012 Staff Report on Burrowing Owl Mitigation (“Staff Report”), which the Department cited in its June 28, 2021 letter. The Staff Report outlines a recommended procedure for addressing potential impacts to burrowing owls based the Department’s “most relevant and current knowledge and expertise,” and incorporating “the best scientific information available pertaining to the species.” (Staff Report, p.1).

The Staff Report recommends a three-step process to evaluate project impacts: first, a habitat assessment to determine the likelihood that a site might support burrowing owls; second, if occupied habitat is likely, the undertaking of burrowing owl surveys to determine whether burrowing owls do in fact occupy a project site and the extent and details of the occupation; and third, if surveys confirm occupied burrowing owl habitat in the project area, an assessment of the project’s potential impacts to burrowing owls and their habitat. (Staff Report, p.5-8). Mitigation measures are only recommended as a part of the third step of this process — i.e., only in situations where surveys have *confirmed* occupied burrowing owl habitat in the project area. (Staff Report, p.6).

Appendix D to the EIR, which outlines all special-status species considered in evaluation of the Project site, concludes that the potential for burrowing owl occurrence in the Project area is “low (unlikely to nest)”:

Marginally suitable habitat is present in the study area. Flat areas of annual grasslands within the Project site have been disked and no ground squirrel burrows were observed in this area. Two occurrences documented within 5 miles of the Project site are 1.5 miles southeast at the Buchanan Airfield and 5 miles northeast at Military Ocean Terminal Concord. (Appendix D, D-14).

This assessment accurately reflects that large portions of the Project site are regularly and intensively disked. A Biological Assessment prepared by Moore Biological Consultants on March 17, 2021 similarly concluded that burrowing owls were “unlikely” to occur at the Project site, noting:

while there are a few ground squirrel burrows in the site, *none of the burrows contained evidence of past or present burrowing owl occupancy*; no burrowing owls were observed in the site. The nearest occurrence of nesting burrowing owls in the CNDDDB (2021) search area is approximately 2 miles southeast of the site.

(Updated Biological Assessment, p. 20 [emph. added]).



12-1
cont.

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Out of an abundance of caution, both ESA and Moore Biological Consultants engaged in the second step of the Department’s recommended process: the field surveys. ESA conducted wildlife surveys of the Project site on June 15, 2017. Moore Biological Consultants conducted surveys of the Project site on November 19, 2020, December 1, 2020, April 13, 2021, May 6, 2021, June 11, 2021, and July 9, 2021¹. The Staff Report recommends at least three or more survey visits during daylight hours, each with each visit occurring at least three weeks apart during the peak of the breeding season, commonly accepted in California as between April 15 and July 15. The Moore Biological Consultants surveys exceed this recommendation, encompassing both breeding and non-breeding seasons, and abiding by the recommended three-week spacing period. Field surveys conducted on the site specifically searched for burrowing owls, as well as any ground squirrel burrows that could be used by burrowing owls. (Updated Biological Assessment, p. 5). As the Biological Assessment prepared by Moore Biological Consultants notes, no burrowing owls were ever observed at the site, nor was any evidence of past or present burrowing owl occupancy. (Updated Biological Assessment, p. 20). Nor has ESA or any other biologist noted the presence of a single burrowing owl on the Project site.



12-1
cont.

The evidence underlying the EIR’s Project impact analysis on burrowing owls is adequate, according to Moore Biological Consultants; separately and independently, it was conducted in compliance with the California Department of Fish and Wildlife Staff Report on the subject. Under the process outlined in the Staff Report, the County has appropriately determined that: (1) there was no presence of occupied burrowing owl habitat in the project area; (2) no significant impact to burrowing owls will occur; and (3) therefore, no mitigation measures are warranted.

Operational Impacts on Protected Species

The Department contended that the EIR fails to analyze impacts associated with the operation of the Project, specifically the potential impacts of additional domestic pets that might occupy the Project, on special status species such as the salt-marsh harvest mouse, and the California black and California Ridgeway’s rails.

However, as the EIR notes, none of the identified special-status species were observed on the Project site; the closest documented observation of any of the species is at least a mile away from the site. Furthermore, none of the species were determined have a high likelihood of occurrence on the Project site:

- The potential occurrence of the salt-marsh harvest mouse on the actual Project site is low, but the species is discussed in the EIR out of an abundance of caution due to a reported occurrence one mile northwest of the Project site in 2008. The only habitats the species could potentially occupy on the Project site are the pickleweed and marsh habitats. (EIR, 4.3-19).
- The potential for occurrence of Ridgeway’s rail is low, but is discussed as it was a focal species of a nearby creek restoration project. The closest documented occurrences of

12-2

¹ This list of surveys does not include visits by Wood Biological Consulting in 2007 and ESA in 2008. Not in the course of 14 years has any biologist documents the presence of a single burrowing owl on the Project site.

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Page 4

the species are along the south border of Suisun Bay and the mouth of Pacheco Creek, both of which are over 2 miles from the Project site. Limited suitable habitat is present within the emergent freshwater marsh and northern coastal salt marsh of the Project site, but Ridgway’s rail is not expected to nest in saltmarsh of that size. (EIR, 4.3-19).

- The California black rail has limited suitable habitat on the Project site, confined to the emergent freshwater marsh and northern coastal salt marsh and freshwater marsh of the Project site. However, no California black rails were observed on site, and the nearest documented occurrence of the species is one mile north of the Project site in 2016. (4.3-18).

Even in the unlikely event that any of the above species do occur on the site, their occurrence would be limited to the emergent freshwater marsh and northern coastal salt marsh habitats identified in Figure 4.3-1 of the EIR. These habitats occur in areas of the Project site slated to remain as open space.

Importantly, the Project site is an infill location. Accordingly, the proposed residential portions of the site will not be the first residential developments in the proximity of the habitat identified above. The Project site is bordered by residential developments immediately to the north and the south, with the residential development to the south separated from the emergent freshwater marshland on the southern edge of the site by only a small amount of open space. To the extent that domestic pet predation of wild species in the identified habitat is a risk, such predation is likely already occurring from other proximate residential developments..

Lastly, the Project site is already populated by numerous species known to prey on the salt-marsh harvest mouse, the Ridgway’s rail, and the California black rail. EIR Appendix D-1 notes the presence of Cooper’s hawks on the Project site, which are a predator of the salt-marsh mouse. Other known predators of the salt-marsh harvest mouse, including Red-tailed hawks and White-tailed kites are also noted to have moderate potential for occurrence. (Appendix D-1). Striped Skunks, also predators of the mice, are widespread in the area and likely to occur at the Project site. (Updated Biological Assessment, p. 10). Tracks from raccoons, which are known to prey on the California black rail, were observed at the Project site. (Updated Biological Assessment, p. 10). American kestrels and American crows, both of which prey on the Ridgway’s rail, were documented at the Project site. (Updated Biological Assessment, Table D-2)

Given the low potential for occurrence of these species on the Project site; the remote location of suitable habitat on the Project site; the infill nature of the Project site and its location in the context of existing residential development; and the existence of numerous predators on-site, it is unlikely that operation of the Project will have any significant impact on the salt-marsh harvest mouse, the Ridgway’s rail, and the California black rail. Furthermore, the suggestion that residents will have domesticated pets that will significantly increase predation of these species, given the context discussed above, is highly speculative. The County is under no obligation to consider environmental impacts that are “wholly speculative.” *Aptos Council v. Cty. of Santa Cruz* (2017) 10 Cal.App.5th 266, 296.

Valley Oak Woodlands



12-2
cont.

12-3

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The Project site includes a valley oak woodland on the north-facing slope of the hill within the Project site. The EIR indicates that grading activities *may* result in removal of up to 30 trees of 6.5 inches or greater in diameter at breast height.² (EIR, 4.3-48). Protection for trees as small as 2 inches in diameter at breast (as suggested in CDFW’s comments) would be much smaller than the usual standard.³ As the EIR notes, oak woodland is designated a “sensitive natural community” by CDFW, and certain trees in woodland areas, including valley oak, coastal live oak, and California bay trees are protected under the Contra Costa Tree Protection and Preservation Ordinance (Contra Costa County Code Chapter 816-6).

To address this potential impact on the valley oak woodland, the EIR included Mitigation Measure BIO-5b, which requires any area of oak woodland that is disturbed by the Project to be mitigated at a ratio of 1:1 (restored/enhanced/preserved area: impacted area) through planting of valley oak trees on the hill within the Project site in areas to be preserved as open space or through payment of an in-lieu fee. (EIR, 4.3-49.) The EIR also confirms that the County would condition Project approval for replacement of protected trees removed under the Project and protection of trees to be retained under the Project at a 2:1 replacement ratio. (EIR, 4.3-56).

This mitigation ratio is designed to be compliant with the Contra Costa County Tree Protection and Preservation Ordinance, which allows the County to impose “conditions [which] may include a requirement to replace any or all trees *on a comparable ratio of either size or quantity.*” (Contra Costa County Code Chapter 816-6.8012). Further, Public Resources Code section 21083.4 specifically authorizes counties to “determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment” and, for mitigation, “plant an appropriate number of trees.”

The EIR correctly assesses the magnitude of the impact on valley oak woodland while accounting for the environmental context in which this woodland sits (i.e., poor quality ruderal grassland). While the valley oak woodland is a sensitive natural community, the impact from the proposed Project should be noted in context. At most, the Project site includes 1.7 to 1.88 acres of valley oak woodland (4.3-6), which is less than 0.25% of the 691 acres of valley woodland habitat in Contra Costa County.⁴ The Project, at most, will disturb only the easterly portion of this area. (EIR, 4.3-48).

The EIR’s Mitigation Measure BIO-5b properly ensures that any protected tree which is impacted by the grading of the hill slope will be replaced at a comparable ratio and here, given the magnitude of the impact, the County, as supported by a team of expert biologists, have properly concluded that the appropriate mitigation ratio for loss of woodland habitat is 1:1, and that protected trees must be mitigated at a 2:1 ratio (a mitigation unacknowledged in the



12-3
 cont.

² As noted in the EIR, this size standard is used because valley oak, coast live oak, and California bay trees within the woodland with a trunk circumference of 20 inches or larger (6.5 inches in diameter or larger) when measured at 4.5 feet above the ground qualify as “protected trees” under the Contra Costa County Tree Protection and Preservation Ordinance (Contra Costa County Code Chapter 816-6.6004).

³ For instance, Public Resources Code section 21083.4 defines “Oak” as “native tree species in the genus *Quercus*, [...] that is 5 inches or more in diameter at breast height.”

⁴ See “Oaks 2040: The Status and Future of Oaks in California,” Tom Gama and Jeffrey Firman, California Oak Foundation (2006), (available at <https://californiaoaks.org/wp-content/uploads/2016/04/Oaks2040-Final.pdf>).

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Page 6

Department's letter). Use of a significantly higher mitigation ratio would be disproportionate to the potential impacts of the Project, and would be potentially non-compliant with the local ordinance the County enacted specifically to address Project impacts of this type and state law, and the Department's recommended higher ratio is unsupported by any analysis.⁵

The County is the lead agency for the Project, and is therefore the agency "responsible for considering the effects, both individual and collective, of all activities involved in [the Project]." *Sierra Club v. California Coastal Com.* (2005) 35 Cal.4th 839, 860. While other agencies, including trustee agencies such as CDFW, may comment and consult on the contents of the County's EIR, the contents of the EIR are within the County's discretion. See, e.g., *City of Redding v Shasta County LAFCO* (1989) 209 Cal.App.3d 1169. The ultimate authority to and power to impose and enforce mitigations for this Project lies with the County, and not with other public agencies, whose police powers may be limited by their statutory grants of authority. See *Sierra Club v. California Coastal Com.* (2005) 35 Cal.4th 839, 860; see also *California Bldg. Indus. Ass'n v Governing Bd.* (1988) 206 Cal.App.3d 212.

12-3
cont.

Creeping Wildrye Grasslands

Moore Biological Consulting reports that, after recent surveys, creeping wildrye grasslands occur in two areas of the Project site, interspersed with other plants and grasses. Creeping wildrye grassland is considered a sensitive plant community by the CDFW. It is important to note, too, that the grassland areas are highly disturbed, having been subjected to "frequent and often severe vegetation and soil disturbances such as disked or fallow fields ..." (EIR 4.304). Moore Biological Consultant also noted this fact in its Biological Assessment; in addition, the consultant notes the grassland areas are scarred by tracks of trespassing off-road vehicles. As such, while creeping wildrye grassland is found on the hillside, it is of poor quality, having been interspersed with ruderal grasses and subject to a host of disturbances..

12-4

The EIR includes Mitigation Measure BIO-5a to address this potential impact, requiring mapping of affected population and reintroduction of grasses into open space portion of the Project site. The recommended success criteria for relocated plants is a 0.75:1 ratio [number of plants established: number of plants impacted] after two years. This mitigation measure was developed by the County, based on the evidence and surveys it conducted. The County has determined that this mitigation measure is sufficient to mitigate any potential impacts to the creeping Wildrye Grassland. Use of a significantly higher mitigation ratio would have no

⁵ For instance, the Department indicates the loss of biomass of removed trees supports a higher mitigation, though (1) how a 5:1 mitigation is determined is unexplained; and (2) planted replacement trees are always small in size, so there is no instantaneous replacement of canopy cover and biomass. Insofar as the Department indicates the on-site valley oak woodland is undisturbed and unique, no biologist that has visited the site has made such a determination. Moore Biological Consultants reviewed the site on multiple occasions and disagrees that the woodland on site is of high quality. High-quality habitat generally contains much larger trees, lush mid- canopies of hanging wild grape vines, and blackberries, elderberries, and similar vegetation on the woodland floor. These types of oak woodlands offer food and water for species, and are used as wildlife movement corridors. The patch of oaks on the Project site hillside contains dry grassland below the trees and some poison oak. These oaks potentially might be used by a couple of nesting raptors and likely numerous songbirds, but likely not amphibians and other species that depend on a reliable source of water.

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proportion to the potential impacts of the Project. The County is the lead agency for the Project, and is therefore the agency “responsible for considering the effects, both individual and collective, of all activities involved in [the Project].” *Sierra Club, supra*, 35 Cal.4th at 860. While other agencies, including trustee agencies such as CDFW, may comment and consult on the contents of the County’s EIR, the contents of the EIR are within the County’s discretion. *See, e.g., City of Redding, supra*, 209 Cal.App.3d 1169. The ultimate authority to and power to impose and enforce mitigations for this Project lies with the County, and not with other public agencies, whose police powers may be limited by their statutory grants of authority. *See Sierra Club*, 35 Cal. 4th at 860; *see also California Bldg. Indus. Ass’n*, 206 Cal.App.3d 212.

↑
12-4
cont.

Very truly yours,



Sean R. Marciniak
Partner

SRM

Responses to Letter 12: Hanson Bridgett-2

- 12-1 The comment responds to CDFW comments related to burrowing owl and does not represent an inadequacy in the Draft EIR analysis. See Responses 2-1, 2-2 and 2-3.
- 12-2 The comment responds to CDFW comment 2-4 related to potential impacts to salt marsh harvest mouse, Ridgway's rail, and California black rail, and does not represent an inadequacy in the Draft EIR analysis. See Response 2-4.
- 12-3 The comment responds to CDFW comment 2-5 related to oak woodlands and does not represent an inadequacy in the Draft EIR analysis. See Response 2-5.
- 12-4 The comment responds to CDFW comment 2-6 related to the loss of creeping ryegrass and does not represent an inadequacy in the Draft EIR analysis. See Response 2-6.



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BY E-MAIL ONLY

July 12, 2021

Gary Kupp, Senior Planner
Contra Costa County, Dept of Conservation & Development
30 Muir Rd
Martinez, CA 94553
Gary.Kupp@dcd.cccounty.us

Subject: Bayview Estates Residential Project
DEIR, SCH No. 2008032074

Dear Gary:

I represent Discovery Builders Inc (DBI), Applicant for the subject project. Thank you for providing me with the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Bayview Residential Project (Project). Please see below for my comments on Vehicle Miles Travelled (VMT) impact and mitigation discussion in the DEIR.

DEIR Chapter 4.13 discusses the Project VMT, and relies mostly on the Transportation Impact Analysis (TIA) by Fehr & Peers (County’s transportation consultant for the Project). Within Contra Costa County, agencies are to use the Contra Costa Transportation Authority’s (CCTA) Travel Model to analyze VMT.

All impacts have been found to be “Less than Significant” except for:

- The significances after mitigation for Impact TRF-3 (Project Impact) is “Significant and Unavoidable.
- The significance after mitigation for Impact C-TRF-8 (Cumulative Impact) is also “Significant and Unavoidable”.

I respectfully disagree with the two “Significant and Unavoidable” findings above and believe, after correction for errors discussed below, those findings should result in “Less than Significant with Mitigation” or “Less than Significant”.

Base Year Plus Project Analysis:

13-1

The F&P TIA reported the Project VMT to be 8164. Robert Sarmiento (County Transportation Planning Section) confirmed this figure (see Sarmiento 4/19/21 attached). The model input files from F&P used a population of 15 for Base Year without Project, and a population of 476 for Base Year with Project (see F&P model input files attached). This means that for purpose of VMT analysis only, F&P used a population of 461 for the Project. 8164 divided by 461 equals to 17.7 VMT per capita per workday, and not the 20.6 figure in the TIA.

Per CCTA, the Regional Average VMT is 19.4 and the threshold for 15% below Region Average is 16.5 (expressed in VMT per capita per workday). This means that the Project VMT would have to be 16.5 or lower to have a "Less than Significant" impact.

Robert Sarmiento correctly pointed out in his 4/19/21 email that even a VMT of 17.7 would exceed the "Less than Significant" threshold of 16.5. While this is true, the major difference is that the TIA's 20.6 figure cannot be reduced through mitigation to 16.5 (because as currently recognized, greater than 10% reduction in VMT is not reasonably feasible), thus resulting in "Significant and Unavoidable" impact; however, the 17.7 figured can be reduced to 16.5 through mitigation, thus resulting in "Less than Significant Impact with Mitigation".

Cumulative Analysis:

For the cumulative analysis, the TIA compared the buildout of the Project site at its current General Plan designation of Heavy Industry to the buildout of the Project site at its proposed General Plan designation of Single-Family High Density (144 dwelling units).

The TIA concluded that total VMT at Residential buildout would be higher than total VMT at Heavy Industry, thus resulting in "Significant and Unavoidable" impact. The TIA used 512 employees, based on certain Floor Area Ratio assumption, under the Heavy Industry Scenario.

I believe the above 512 number is inconsistent with the General Plan. For Heavy Industry, the General Plan indicates the Average Employees per Gross Acre to be 45 (see attached). It should be noted that "Average" and "Gross Acre" are terms used. This means that Floor Area Ratio is irrelevant. The Project site is 78.3 acres so total employees under the Heavy Industrial scenario should be 3524 and not the 512 used in the TIA.

Using the correct total employee number will result in "Less than Significant" cumulative impact (see attached technical memorandums by TJKM).

I appreciate the opportunity to comment on the DEIR. Please contact me if you have any questions.

Respectfully,

Doug Chen, RCE
925.250.2658
dchen@discoverybuilders.com



13-1
cont.

13-2

ATTACHMENT 1

Robert Sarmiento (County Transportation Planning) E-mail 4/19/2021

Doug Chen

From: Robert Sarmiento <Robert.Sarmiento@dcd.cccounty.us>
Sent: Monday, April 19, 2021 4:20 PM
To: Sean Marciniak
Cc: Gary Kupp; Lashun Cross; Doug Chen; Christina L. Berglund; Louis Parsons; Crescentia Brown
Subject: RE: Bayview Estates

Good afternoon, Sean,

The project planner (Gary Kupp) for the Bayview Estates Project has asked me to respond to the vehicle miles traveled (VMT) component of your March 26, 2021 e-mail to Lashun. My enumerated responses to the VMT component of your e-mail can be seen below. After considering your comments and further discussing the matter, County staff still accepts the findings in the VMT analysis that was conducted by Fehr & Peers and plans to move forward with the current traffic study with no additional changes.

Feel free to contact me if you have any questions, or we could discuss this matter further at our meeting tomorrow at 3:30PM.

Response to Comments on VMT

1. In the seventh bullet point under the "Vehicle Miles Traveled" section, staff has confirmed that the 8,164 VMT figure refers to the VMT generated by the project, not all vehicles on the roadway. Overall, all of the project VMT per resident figures (17.7, 18.3, 20.6) cited in the second bullet point exceed the Countywide VMT per resident threshold of 16.5 VMT^[1], resulting in a significant VMT impact.

The 17.7 and 18.3 project VMT per resident figures that are cited by the applicant are not recommended for use in the VMT analysis as they would be lower than the average VMT per resident for TAZ 20029^[2]- 20.6. The only access to/from the project site goes through TAZ 20029. The use of 20.6 VMT per resident from TAZ 20029 as an estimate for the project's VMT per resident is acceptable because TAZ 20029:

- a. is adjacent to the TAZ where the project would be located (in TAZ 20030), and
 - b. contains a statistically significant number of residential units that would provide an accurate average VMT per resident figure, in contrast to TAZ 20030, which only contains a minimum number of residential units.^[3]
2. In the eighth bullet point, the 18.7 VMT figure for TAZ 20029 that is proposed by the applicant as the baseline per resident VMT is sourced from 2020 CCTA Travel Demand Model data and would not be an appropriate figure to use in the VMT analysis for the following reasons:
 - a. It would not be consistent with the protocol for setting a baseline year at the time the NOP for the project was released (2017).
 - b. The 2018 travel demand model data was the most current data available at the time the analysis was performed.
 - c. The COVID-19 pandemic had impacted travel in 2020, resulting in irregular travel data.

20.6 VMT per resident, sourced from 2018 CCTA Travel Demand Model data, would be an appropriate figure to use as a baseline VMT estimate for the project. Staff has confirmed that the CCTA Travel Demand Model was not modified to obtain this number.

3. In regards to the ninth bullet point that discusses the VMT analysis in Cumulative Conditions, it is unclear how the 512 employees identified in this bullet point was derived. In the Cumulative Conditions analysis, an FAR of 0.1 was

applied in calculating the number of employees at General Plan full buildout because the existing land use designation—Heavy Industrial—allows for an FAR coverage of 0.1, and 0.1 FAR represents a conservative calculation. The 3,524 employees figure that was cited in this bullet point (maximum 45 employees/acre * 78.3 acres for the existing site) does not account for FAR allowances for the Heavy Industrial land use.

^[1] Section 4.A.3 (“VMT Thresholds”) of the County’s Transportation Analysis Guidelines (TAG) [\[link\]](#) states that 15% below the Countywide average VMT per resident must be used as a threshold for residential projects. The following link identifies 16.5 VMT per resident as 15% below the Countywide average VMT per resident in 2018: [link](#).

^[2] TAZ 20029 Average VMT Per Resident in 2018: [link](#).

^[3] Section 4.A.3 (“VMT Forecasting”) of the TAG [\[link\]](#) states that “Utilizing existing average trip length data of similar Traffic Analysis Zones (“TAZ”) that contain similar mixes of land uses,” is acceptable in obtaining the average trip length information and estimated VMT for a proposed project.

Robert Sarmiento

Contra Costa County
Department of Conservation and Development
Transportation Planning Section
(925) 655-2918 (**New Phone Number**)
Robert.Sarmiento@dcd.cccounty.us

What should Contra Costa County be and look like in 20 years?
Check out EnvisionContraCosta2040.org and let us know!



From: Sean Marciniak <SMarciniak@hansonbridgett.com>

Sent: Friday, March 26, 2021 5:54 PM

To: Lashun Cross <Lashun.Cross@dcd.cccounty.us>

Cc: Gary Kupp <Gary.Kupp@dcd.cccounty.us>; Doug Chen <dchen@discoverybuilders.com>; Christina L. Berglund <CBerglund@hansonbridgett.com>; Louis Parsons <lparsons@discoverybuilders.com>

Subject: Bayview Estates - exciting news

Dear Lashun,

Well, regarding the Bayview Estates project, I think we’re there! In this email, I’ve included the final pieces of the puzzle, including (1) the GHG analysis; (2) the Biological Resources analysis; and (3) some final suggestions regarding traffic, all of which I’ve summarized below. Each of the reference attachments are available [here](#), and please let me know if you have any trouble downloading them. Please also let me know if you’d like to touch base on any of these items, or merely to celebrate and outline next steps.

Without further ado:

- **Greenhouse Gas Analysis:** Ramboll reviewed ESA’s revised chapter and agreed the changes were reasonable. It appears that ESA took a slightly different approach, including a different performance standard (also supportable), and so to avoid confusion in the record, suggested changes were made to the GHG chapter (attached) that eliminated references to the Ramboll report but brought still-relevant portions of the Ramboll analysis into the chapter. Overall, suggested changes are very minor. I’ve attached ESA’s February 22 memo simply for historical context.
- **Biological Resources Analysis.** We apologies for the delay; our biologist Diane Moore had a family emergency which delayed us a bit. But she went through the chapter and performed a meticulous update to reflect

information she gathered after making recent visits to the site, and her proposed revisions are attached. I think County staff and ESA will find her changes and proposed mitigations are more protective of the environment, but please do let us know if you have any questions. We've also attached Diane's proposed amendments to Appendix C (Table of Special Status Species) and her Biological Assessment to support the proposed changes to the DEIR chapter.

- **Vehicle Miles Traveled.** Doug Chen worked with TJKM to determine whether there were any supportable amendments that could be made to the VMT analysis. If impacts are significant and unavoidable, so be it (and it's not lost on me this topic has surfaced some disagreements), but it did appear there were supportable changes in assumptions that could be made. In working with applicants, it is our policy to adopt conservative approaches in order to maximize the accuracy and defensibility of any document, but here it did appear there were some inputs were overly conservative and merited changes (and led to an unnecessary "significant and unavoidable impact"). We thought County staff might be interested, as it could assist in the County's evaluation of other projects and, potentially, allow for more streamlined processing on a macro level (allowing for negative declarations or even exemptions in some situations, as opposed to full-blown EIRs due solely to VMT conclusions. I have attached two documents from TJKM that outline various considerations but, to the extent helpful, I've bullet-pointed some contextual history and significant findings below:
 - The TIA concluded that the Project would produce 20.6 VMT/capita/weekday and therefore have a significant-and- unavoidable impact under the "base year plus project" scenario. The TIA also concluded that under the "cumulative/ buildout" scenario, the Project would produce a higher County-wide total VMT than under the existing General Plan land use of Heavy Industry, and therefore would result in a significant-and-unavoidable impact.
 - The CCTA Travel Model and the County Transportation Analysis Guidelines (6/23/20) have been adopted by the County Board for VMT analysis. Under the Guidelines, there are two approved VMT analytical methods.
 - One approved method is using VMT data from existing and similar TAZs. Staff exercised its discretion and did not accept this analytical method.
 - The other approved method under the adopted Guidelines is to insert the Project into the CCTA Model.
 - DBI retained TJKM to conduct an independent VMT analysis using the latter method (and the one undertaken by F&P), and the TJKM analysis found that the Project would have a less-than-significant impact under both scenarios. DBI then tasked TJKM to conduct a peer review of the F&P VMT analysis in order determine the reasons for the differing conclusions. The following is a very brief summary of TJKM's findings:
 - For the "base year plus project" scenario, F&P used a much higher population number of 461 residents, a figure that was inconsistent with other portions of the DEIR, and which resulted in a higher VMT. TJKM used 356 residents which is consistent with the DEIR.
 - The method F&P used to calculate 8,164 VMT for the Project captures all vehicles on the roadways and not just vehicles from the Project. Assuming this 8,164 VMT number is correct, it appears this figure should have been divided by the population number of 461 used by F&P to arrive at 17.7 VMT/capita/weekday, not 20.6. Incidentally, 17.7 is close to TJKM's 18.3 number, and would result in "less-than-significant" impact.
 - F&P modified the standard CCTA Model to a point that CCTA's base year VMT estimate (which is w/o Project) for the relevant TAZs could not be replicated to validate model integrity. For example, the base year VMT for TAZ 20029 should be 18.7 (per CCTA), yet F&P's modified model yielded 20.6. While an agency has discretion to select a CEQA methodology, it does not appear CCTA protocols allow for deviation from the model; that is, the CCTA Model has been adopted by the County and is the standard to be used. While a consultant can insert a project into this standard model, it appears that making adjustments to a base year model which alter CCTA outputs wasn't necessary here or contemplated by CCTA protocols.
 - For the "cumulative" scenario, F&P compared buildout of the Project (i.e., replacing Heavy Industry with Residential) with the buildout of the General Plan land use of Heavy Industry. However, F&P used 0.1 FAR to generate an extremely low employee number of 512

instead of following the General Plan directive, which is an average of 45 employees per gross acre (no need to apply FAR). Following the General Plan would have yielded 3524 employees, which would have resulted in a much higher employee-based VMT. Conducting the cumulative scenario VMT analysis using the corrected employee number would have resulted in a "less-than-significant" impact, which was the conclusion in the TJKM VMT Analysis.

- We respectfully request that County staff and F&P take one last look at the analysis in consideration of the above.

I don't think the GHG or Biological Resources changes will raise any issues, but I can certainly appreciate if County staff has questions. Regarding VMT, perhaps you and I should first talk and determine to what extent it might make sense to broaden the conversation. Does all that sound reasonable?

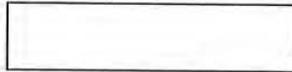
Please let me know your thoughts. Thank you,

Sean

Sean Marciniak

Partner

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^[1] Section 4.A.3 (“VMT Thresholds”) of the County’s Transportation Analysis Guidelines (TAG) [\[link\]](#) states that 15% below the Countywide average VMT per resident must be used as a threshold for residential projects. The following link identifies 16.5 VMT per resident as 15% below the Countywide average VMT per resident in 2018: [link](#).

^[2] TAZ 20029 Average VMT Per Resident in 2018: [link](#).

^[3] Section 4.A.3 (“VMT Forecasting”) of the TAG [\[link\]](#) states that “Utilizing existing average trip length data of similar Traffic Analysis Zones (“TAZ”) that contain similar mixes of land uses,” is acceptable in obtaining the average trip length information and estimated VMT for a proposed project.

ATTACHMENT 2

Fehr & Peers, Model Input Files, Base Year w/o Project and Plus Project

Fehr & Peers, Model File, Base Year w/o Project

Source: F/P Excel File "VMT DATA from CCTA Implementation_FinalMarch11", Worksheet 2018_Home-Based

	A	B	C	D	E	F	G	H	I	J	K	N
1	3120	3120				Bay Area-->	2,731,886	7,732,041	4,146,449	11,878,490	10,571,893,364	13.7
2	CCTA_TAZ	TCID	ABAGName	JURName	County	CountyName	TotHH	TotPop	TotEMP	ServPop	TOT_VMT	VMT Per Resident
404	20027	402	Martinez	Vine Hill CDP	5	CCC	0	0	51	51	0	0.0
405	20028	403	Martinez	Vine Hill CDP	5	CCC	0	0	599	599	0	0.0
406	20029	404	Martinez	Vine Hill CDP	5	CCC	401	1236	637	1873	2,546,492	20.6
407	20030	405	Martinez	Vine Hill CDP	5	CCC	4	15	0	15	16,572	11.0
408	20031	406	Martinez	CCC Unincorporated	5	CCC	13	37	689	726	57,629	15.6
409	20032	407	Martinez	Vine Hill CDP	5	CCC	0	0	623	623	0	0.0
410	20033	408	Martinez	Martinez city	5	CCC	396	1212	456	1668	1,905,727	15.7
411	20034	409	Martinez	Vine Hill CDP	5	CCC	434	1330	1083	2413	2,123,686	16.0
412	20035	410	Martinez	Martinez city	5	CCC	998	2587	1504	4091	4,745,818	18.3
413	20036	411	Martinez	Vine Hill CDP	5	CCC	432	1146	91	1237	2,104,037	18.4
414	20037	412	Martinez	Martinez city	5	CCC	1837	4774	670	5444	8,600,175	18.0
415	20038	413	Martinez	Vine Hill CDP	5	CCC	52	180	703	883	246,418	13.7
416	20039	414	Martinez	Vine Hill CDP	5	CCC	169	446	191	637	832,425	18.7

Fehr & Peers, Model file, Base Year Plus Project

Base Year Plus Project, Extracted from Fehr Peers, CCTA_MasterLandUse_P2017.bin file

ID	CCTA_TAZ	TCID	MTC1454	ABAGNAME	JURNAME	SUBAREA	TOTHH_10	TOTPOP_10	EMPRES_10	SFDU_10	MFDU_10	TOTEMP_10
833	20029	404	1095	Martinez	Vine Hill CDP	CENTRAL	409	1234	548	404	4	531
829	20030	405	1095	Martinez	Vine Hill CDP	CENTRAL	144	476	193	144	0	0



Population

ATTACHMENT 3

Contra Costa General Plan, Page 3-25

General Plan 1/18/2005

3. Land Use Element

operations, demonstrate compatibility with adjacent commercial and residential uses. In addition, smaller commercial establishments which serve on-site employees such as business services and local-serving retail uses are allowed. Adherence to landscaping, buffering and design standards provides the means for achieving a high level of amenity for employees and neighboring uses. The following standards apply:

- (1) Maximum site coverage: 40 percent
- (2) Maximum building height: 60 feet
- (3) Maximum floor area ratio: 1.5
- (4) Average employees per gross acre: 100 employees

i. **Light Industry (LI)**

This designation allows light industrial activities such as processing, packaging, machinery repair, fabricating, distribution, warehousing and storage, research and development, and similar uses which emit only limited amounts of smoke, noise, light, or pollutants. Commercial/distribution-scale solar energy generating facilities are allowed after issuance of a land use permit. The following standards apply:

- (1) Maximum site coverage: 50 percent
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j. **Heavy Industry (HI)**

This designation allows activities requiring large areas of land with convenient truck, ship, and/or rail access. These uses are typically not compatible with residential uses in close proximity and the operations conducted may be characterized by noise or other conditions requiring spatial separation. Uses may include metalworking, chemical or petroleum product processing and refining, heavy equipment operation and similar activities. Light industrial land uses will be allowed within lands designated Heavy Industrial and they can be developed according to light industrial definition and standards found in that designation. The following standards apply:

- (1) Maximum site coverage: 30 percent
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MIXED USES

This General Plan utilizes a mixed-use land use designation, the purpose of which is to provide for integration in a single project of both residential and commercial/office uses. In the mixed-use designation housing is specifically permitted, but not required. All Mixed-Use areas are indicated on the Land Use Element Map with an "M" designation. For unincorporated mixed-use areas, the "M" is followed by a

ATTACHMENT 4

CCTA's Travel Model Base Year VMTs (for Project Area)

Doug Chen

From: Matt Kelly <mkelly@ccta.net>
Sent: Friday, November 13, 2020 3:04 PM
To: Doug Chen
Subject: RE: CCTA travel demand model

Hi Doug,

Good talking to you as well.

Below are the VMT rates for the two TAZs in your project area. Also below are the VMT rates for the unincorporated areas around the County.

Thanks,
 Matt

	Residential	Commercial
TAZ 20029	18.7	19.7
TAZ 20030	11.0	0.0 (no employment in model for this zone)

Name	2018 Home-Based VMT/Capita (Residential Land Uses)			2018 Workplace-Based VMT/Capita (Commercial Land Uses)		
	Average Daily		15% below	Average Daily		15% below
	VMT per Resident	Regional Average*	Regional Average*	VMT per Worker	Regional Average**	Regional Average**
Unincorporated Central County	16.5	19.4	16.5	15.2	15.8	13.4
Unincorporated East County	32.6	19.4	16.5	17.6	15.8	13.4
Unincorporated TriValley	26.8	19.4	16.5	24.3	15.8	13.4
Unincorporated West County	16.0	19.4	16.5	17.4	15.8	13.4

*For residential, the region is defined as Contra Costa County

**For commercial, the region is defined as the 9-County Bay Area

Source: Contra Costa Countywide Model

Matt Kelly
 Senior Transportation Planner
 Contra Costa Transportation Authority
 2999 Oak Road, Suite 100
 Walnut Creek, CA 94597
[37° 92' 80.02" N, 122° 5' 75.99" W](#)
 (925) 256-4730 (ph)
 (925) 256-4701 (fax)
mkelly@ccta.net



send me large files at:

Doug Chen

From: Matt Kelly <mkelly@ccta.net>
Sent: Monday, March 29, 2021 3:31 PM
To: Doug Chen
Subject: RE: CCTA Travel Model

Hi Doug,

Here you go.

Matt

CCTA_TAZ	2020 VMT per Resident
20029	18.7
20030	14.8
20033	13.3
20034	13.6
20036	16.9
20037	16.5
20038	12.9

From: Doug Chen <dchen@discoverybuilders.com>
Sent: Monday, March 29, 2021 10:03 AM
To: Matt Kelly <mkelly@ccta.net>
Cc: Doug Chen <dchen@discoverybuilders.com>
Subject: RE: CCTA Travel Model

Matt: The update to 2020 has been done a lot faster than I thought! Which consultant did the update?

The VMT analysis for the project (just outside of Martinez) that I was working on is already complete, using the CCTA Model based on 2018 data. I am curious as to how the completed study would compare to the Model updated to 2020. Can you provide me with the residential VMTs for TAZs 20029, 20030, 20033, 20034, 20036, 20037, and 20038, so that I can compare them against the VMTs based on 2018?

Thanks,

Doug

Doug Chen, RCE, LS
Discovery Builders
4021 Port Chicago Hwy
Concord CA 94520
925.250.2658, dchen@discoverybuilders.com

ATTACHMENT 5

TJKM VMT Analysis Memo 2/18/2021

TJKM VMT Peer Review Memo 3/26/2021



TECHNICAL MEMORANDUM

Date: February 18, 2021

To: Doug Chen, Discovery Builders *Project No.:* 051-045 Martinez Bayview
VMT Analysis

From: Arthur Chen, TJKM *Jurisdiction:* Contra Costa County

Subject: **Martinez Bayview VMT Analysis Memo**

TJKM conducted a VMT (Vehicle Miles Traveled) analysis for the proposed Bayview Estates residential project. The project is located north of the City of Martinez and consists of 144 single family housing units on a 78-acre site in the unincorporated Vine Hill / Pacheco Boulevard Area. The existing General Plan Land Use is Heavy Industrial (HI). The Project proposes to change the existing land use from HI to Single-Family High Density (SH).

For VMT forecasting, Contra Costa County Transportation Analysis Guidelines (6/23/2020, page 14) recommends that the estimated VMT for a proposed project be obtained by either:

- Utilizing existing average trip length data of similar TAZ that contains similar mixes of land uses (in the case of the proposed single-land use Bayview Project, CCTA Model output data are already available for TAZs 20029 and 20030, which the Project occupies).
- Inserting the proposed project into the CCTA Model. Using the CCTA Model to determine both trip generation and trip lengths allows consistent analysis methodology (basically insert the Bayview Project into the CCTA Model and let the Model determine trips).

For the proposed Bayview Project, the second of the above approaches is used.

CCTA guidance (CCTA Technical Memorandum, 7/1/2020) on VMT analysis for residential projects require a base year condition model run along with baseline plus project model run to extract VMT data for the TAZ that the project is located in. The project is located across two TAZs in the CCTA model; TAZ #20029 and TAZ #20030. The base year of the CCTA model is 2018 (Note - The current CCTA model is based on 2018 data, which is the closet dataset in terms of time to the Project Notice of Preparation of June 2017).

TAZ #20029 contains 46 single family housing units (of the Project total of 144 units) while TAZ #20030 contains 98 single family housing units (of the Project total of 144 units). A factor of 2.47 residents per dwelling unit was used based on the ABAG Plan Bay Area average for the City of Martinez/SOI (see DEIR Chapter 4.11, Population and Housing). Table 1 denotes the land use changes made for the CCTA model for the base year plus project run.



Table 1: Land Use Changes for Base Year

TAZ	Households	Population	Employed Residents	Single Family Dwelling Units
20029	+46	+114	+57	+46
20030	+98	+242	+121	+98
Total	144	356	178	144

A base year plus project model run was conducted with the land use changes added. The results are summarized in table 2.

Table 2: Home Based VMT Per Capita Comparison

TAZ	Base Year Average Daily VMT per Resident (per CCTA)	Regional Average (per CCTA)	15% Below Regional Average (per CCTA)	Base Year Plus Project Average Daily VMT per Resident (per Model run)
20029	18.7	19.4	16.5	18.5
20030	11.0	19.4	16.5	17.2
Average	18.1	19.4	16.5	18.3

The project will have a negligible effect on the Home-Based VMT per capita in TAZ #20029 (from 18.7 to 18.5 per Table 2), but will significantly increase the Home-Based VMT per capita in TAZ #20030 (from 11.0 to 17.2 per Table 2). This is because TAZ 20029 already has a few hundred households and adding another 46 households from Bayview will not significantly alter the VMT per Resident. However, TAZ 20030 has only a few households (which tend not to capture longer trips), and adding another 98 households from Bayview will capture longer trips (as determined by the Model algorithm) and therefore significantly increase the VMT per Resident (in this case, from 11.0 to 17.2 per Table 2). An average (weighted average) of the two VMT per capita values show a Home-Based VMT per capita of **18.3 (an increase of 0.2 over the 18.1 number w/o Project)**, which is below the Regional Average of 19.4 but over the regional threshold of 16.5, thus requiring VMT mitigation measures. These values are generated by adding the project on top of existing land use for each TAZ (i.e., inserting the Project into the CCTA Model with the changes noted in Table 1).

Assuming that a 10% VMT reduction is feasible through the implementation of a Transportation Demand Management (TDM) Program, the Project VMT of 18.3 can then be reduced to the Regional Threshold of 16.5, resulting in less than significant impact with mitigation for the base year plus Project.

As a quick check, the resulting VMT of 18.3 for Base Year Plus Project was compared against and determined to be consistent with the VMTs for the adjacent TAZs (20033, 20034, 20036, 20037, 20038, and 20039).

A Cumulative Analysis was done for this project for the forecast year 2040. The Cumulative Analysis has two parts; the first is a comparison between the Project remaining vacant land vs the Project being Residential. This first part is being done strictly for comparison as explained later. A cumulative plus



project model run was conducted with the Residential land use changes added in the 2040 land use. Land use change for the forecast year is summarized in Table 3.

Table 3: Land Use Changes for Forecast Year

TAZ	Households	Population	Employed Residents	Single Family Dwelling Units
20029	+46	+116	+58	+46
20030	+98	+247	+123	+98
Total	144	363	181	144

The VMT results from the forecast year runs are summarized in Table 4.

Table 4: Home Based VMT Per Capita Comparison

TAZ	Forecast Year Average Daily VMT per Resident	Regional Average	Forecast Year Plus Project Average Daily VMT per Resident
20029	18.7	18.0	18.4
20030	11.0	18.0	15.8
Average	14.9	18.0	17.1

The project will slightly decrease the Home-Based VMT per capita in TAZ #20029 and increase the Home-Based VMT per capita in TAZ #20030. An average of the two VMT per capita values show a Home Based VMT per capita of **17.1**, which is under the regional average of 18.0 residential VMT for the forecast year (cumulative conditions). The regional average is the 2040 forecast residential VMT per capita for the entire Contra Costa County. Note that the 15% reduction of Regional Average VMT does not apply to the 2040 forecast.

A broader study area of Martinez City plus Vine Hill CDP was drawn on the forecast year network and VMT data was extracted from the daily loaded links multiplied by distance. This is being done per the CCTA Technical Memorandum 7/1/2020, Page 6, which indicates “A geographic area over which the project’s effect on total VMT will be evaluated. The study area should be defined such that it captures the reasonably foreseeable VMT changes associated with the project, but not so large that the effects of the project get swamped by broader economic and land use changes...” Basically, an area broader than the Project should be analyzed to capture the effects of the Project on surrounding neighborhoods, but that area should not be so broad that the VMT effects of the Project itself end up being buried by other land use changes in the CCTA Model.

Table 5 shows the growth in VMT between the no project (vacant land) and project (residential) conditions for the forecast year in the study area.



Table 5: VMT Growth in the Study Area for Bayview Project

Scenario	Total Daily VMT	Daily VMT per Capita
2040 Forecast No Project (i.e., vacant land)	761,552	17.61
2040 Forecast with Project (SH land use)	772,020	17.70
Project Net VMT Growth	10,468	0.09

There is a growth of 10,468 daily VMT in the study area which is partially attributed to the project, which when normalized to population results in a VMT per capita growth of 0.09. Taken as a whole number, the growth in VMT in the study area for the forecast year is found to be insignificant. In addition, for the forecast year, daily VMT per capita within the study area is lower than the regional average in both the no project and with project scenarios.

A second Cumulative Analysis was done for this project, comparing General Plan buildout (forecast conditions with Project buildout at its current General Plan HI land use) and Proposed Project buildout (forecast conditions with Project buildout at the proposed SH land use). As opposed to the first Cumulative Analysis using vacant land, this second Cumulative Analysis does an apple-to-apple comparison between General Plan buildout and the proposed Project buildout. Per the County General Plan, the Project site is currently 78.3 gross acres of HI land use. For HI, General Plan uses an average of 45 employees per gross acre, which results in 3,524 total employees. To be conservative, the Project Applicant directed TJKM to apply a reduction factor of 4 to 3,524. Thus, a total of 881 employees will be added in the manufacturing land use in the model (MFGEMP). Table 6 shows the land use additions in the project TAZs for the general plan buildout scenario.

Table 6: Land Use Changes for Forecast Year (General Plan Buildout vs Bayview Buildout)

General Plan Buildout (HI Land Use)			Bayview Buildout (SH Land Use)	
TAZ	MFGEMP	Total Employees	Households	Population
20029	+441	+441	+46	+116
20030	+440	+441	+98	+247
Total	881	881	144	363

A model run was done with the General Plan Buildout conditions and the VMT results are summarized below in Table 7 and 8 for the study area of Martinez and Vine Hill CDP.

Table 7: Residential and Employment VMT Totals for Forecast Scenarios

Scenario	Total Residential VMT	Total Employment VMT
2040 Forecast No Project (vacant)	761,552	987,003
2040 Forecast with Project (SH Land Use)	772,020	985,636
2040 Forecast General Plan (HI Land Use)	760,503	1,005,877

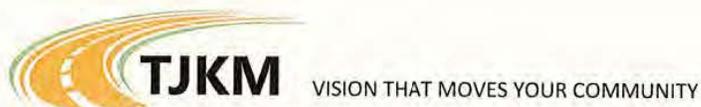


Table 8: Residential and Employment VMT Differences for Forecast Scenarios

Scenario	Residential VMT Growth	Employment VMT Growth
2040 Forecast No Project	0 (Baseline)	0 (Baseline)
2040 Forecast with Project (SH Land Use)	+10,468	-1,367
2040 Forecast General Plan (HI Land Use)	-1,049	+18,874

When comparing the growth in VMT between the Project scenario (SH Land Use) and the General Plan scenario (HI Land Use), the General Plan scenario results in higher employment VMT growth of 18,874 compared to 10,468 in residential VMT growth.

This project is again found to be not significant in the cumulative scenario threshold for VMT.



TECHNICAL MEMORANDUM

Date: March 26, 2021

To: Doug Chen, Discovery Builders *Project No.:* 051-045 Martinez Bayview
VMT Analysis

From: Arthur Chen, TJKM *Jurisdiction:* Contra Costa County

Subject: **Martinez Bayview Peer Review Memo**

TJKM has been retained by Discovery Builders Inc (DBI), Applicant for the proposed residential project known as Bayview Estates, to conduct certain transportation studies for the Project. The Project consists of 144 single-family detached homes in Area 10 (i.e., Vine Hill/Pacheco Blvd Area) of Contra Costa County's unincorporated communities as shown in the General Plan (refer to the Project's DEIR Chapter 3 for more detailed project description).

TJKM first conducted an independent Project VMT analysis ("Martinez Bayview VMT Analysis Memo", TJKM, 2/28/2021). TJKM understood at the time that the County's CEQA consultants had also conducted a VMT analysis ["Transportation Impact Analysis Report (TIA) for Bayview Estates", Fehr and Peers (F/P), 11/20/2020]. However, Applicant did not provide this TIA to TJKM in order to avoid any bias in TJKM's VMT analysis.

Subsequent to TJKM completing its VMT analysis for the Project, Applicant provided F/P's TIA to TJKM. TJKM conducted a peer review of the base and cumulative VMT analysis for the Bayview Estates project done by F/P. Applicant also provided F/P's model files (F/P email dated 1/11/2021).

A brief overview on VMT analysis in the County: The Contra Costa Transportation Authority (CCTA) is the agency tasked with developing and maintaining a Travel Model (CCTA Model) for the County. CCTA releases upon request the CCTA Model to outside parties for purpose of conducting transportation impact analysis, but it maintains the official Model. CCTA has also published various technical memos on the use of the Model. The CCTA Model and the Contra Costa County Transportation Analysis Guidelines (6/23/2020) have been adopted by the County, and are to be used for transportation analysis such as VMT.

F/P determined the Project residential impact to be 20.6 VMT/capita/weekday (which resulted in a significant-and-unavoidable impact) compared to TJKM's 18.3 (which resulted in a less-than-significant impact with mitigation). This Peer Review Memo consists of 2 parts: the base year VMT analysis and the cumulative year VMT analysis.

Base Year VMT Analysis

The Project spans across two Traffic Analysis Zones, TAZ 20029 and TAZ 20030, in the CCTA Model (see Attachment, page 1 and 2). The existing TAZ 20029 has 401 households and TAZ 20030 has 4, per CCTA



Model. Per CCTA, for residential, the base year VMT is 18.7/capita/weekday for TAZ 20029 and 11.0 for TAZ 20030. The Regional Average VMT is 19.4, resulting in a significance threshold of 16.5 (15% below average). This Project would add 46 households in TAZ 20029 and 98 to TAZ 20030.

According to F/P email 1/11/2021, for the base year plus project, F/P adjusted the CCTA Model by zeroing out TAZ #20030 and moving the existing 4 households into TAZ #20029; and adding the entire Project in TAZ 20030 (see Attachment, page 7). F/P’s stated purpose for making such adjustments was that the 4 households in TAZ 20030 would not be representative of the Project (see Attachment, pages 5 and 6). TJKM extracted the input data used by F/P and compared it to the original base year land use provided by the CCTA. Tables 1 and 2 show the different land use inputs used.

Table 1 – CCTA Base Year Land Use¹

TAZ	Sum of TOTHH_18	Sum of TOTPOP_18	Sum of EMPRES_18	Sum of SFDU_18	Sum of MFDU_18
20029	401	1,236	595	348	53
20030	4	15	7	4	0
Grand Total	405	1,251	602	352	53

Table 2 – F/P Base Year Plus Project Land Use²

TAZ	Sum of TOTHH_18	Sum of TOTPOP_18	Sum of EMPRES_18	Sum of SFDU_18	Sum of MFDU_18
20029	401	1,236	595	348	53
20030	144	476	193	144	0
Grand Total	545	1,712	788	492	53

The F/P base year plus project land use data does not match what was stated in F/P email 1/11/2021. TAZ #20029 actually kept its household and population totals constant while TAZ #20030 saw an increase from its original 4 households to 144 households and from 15 residents to 476 residents. The plus project input shows an increase of 140 households and 461 residents. However, this does not match the project description of **144** households. This discrepancy in 4 households may not be significant compared to a major discrepancy in F/P’s population assumption. F/P’s assumption of 461 residents to 140 households results in a ratio of 3.29. This value is much higher than the ratio of 2.47 in the Project DEIR (which is the ratio for the City of Martinez and SOI, and per DEIR Chapter 4.11 Population, this Project would result in 144 new single-family units and 356 residents). A higher population coded in the model will result in higher vehicle miles traveled for the TAZ, especially if there are more residents per household.

As indicated above, F/P stated that the 4 households in TAZ 20030, a zone with a base year VMT of 11.0 per CCTA, would not be representative of the Project and therefore justified its reason for moving the 4 households to TAZ 20029. TJKM finds this exercise to be unnecessary. While it’s true that 4 households in

¹ CCTA Model, 04/26/2019, CCTA_MasterLandUse_P2017.bin file

² CCTA Model, 01/13/2021, Bayview 2018 Plus Project folder from F/P, CCTA_MasterLandUse_P2017.bin file



a TAZ would result in a distortedly low VMT (because in the CCTA Model, longer vehicle trips would not be captured with a very low household count), adding the Project would correct this distortion as demonstrated in TJKM's VMT analysis, which resulted in a VMT of 17.2 for TAZ 20030 by adding 98 households from the Project.

Another major discrepancy is that F/P's adjustments to the CCTA Model resulted in a significant error in the base year VMT for TAZ 20029 (and perhaps other TAZs as well). As stated earlier, per CCTA, the base year VMT for TAZ 20029 is 18.7. TJKM's base year validation model run also resulted in 18.7 for TAZ 20029. However, F/P's base year adjustments resulted in 20.6 for TAZ 20029 (see Attachment, page 8). Even without inserting the Project into the Model, TAZ 20029 saw an increase from 18.7 to 20.6. This should not have been the case. The CCTA Model for base year should not be altered, as it is the "Standard" used to produce the various metrics (e.g., average VMTs for the Region, subregions, cities, etc.) Each analyst should be able to use the CCTA Model to replicate these metrics, as a first step in his/her model validation before even inserting a project.

TJKM analyzed the F/P model run outputs and found that the 8,164 VMT per weekday from the Project was generated using the AM / PM peak period volumes multiplied by distance and a daily to peak factor of 1.75. This approach is problematic because using network assignments to calculate VMT differences means taking into account all vehicles traveling on the roadways, not just Project generated vehicles. In addition, there is a possibility that centroid connectors within the model TAZs were included in the Project generated VMT, which results in a higher VMT number than anticipated.

Working backwards from F/P's Project VMT, if one takes the 8,164 daily VMT generated by the Project divided by the Project's population of 461 used by F/P in Table 2, then the per capita VMT should be **17.7**, rather than 20.6 reported in the F/P TIA. The 17.7 number is relatively close to TJKM's 18.3 number, while the 20.6 number is inconsistent with VMT per capita values of adjacent TAZs, none of which is above 18.7 (see Attachment, pages 2 and 8).

On review of the base year VMT analysis from F/P, TJKM needs more clarification on how F/P determined the 20.6 VMT per capita value in their report. In addition, the input files contain several errors, such as number of households not matching the project description along with a much higher resident to household ratio than ABAG's data. The project is also coded in the wrong TAZ.

Cumulative Year VMT Analysis

F/P reports a growth in total VMT for the cumulative year when comparing the residential project to the General Plan heavy industry land use designation. However, F/P used an increase of 512 employees in their General Plan model run. TJKM finds this value on the very low side; given that the General Plan calls for 78.3 acres of heavy industry use, and an average of 45 employees per gross acre (see Attachment, page 3), which should result in 3,524 total employees. F/P significantly underestimated the employees, which resulted in a deflated employee-based VMT.

In addition, F/P compared total countywide VMT between 2 completely difference scenarios; the General Plan scenario shows an increase in **employees**, whereas the Project scenario shows an increase in **households and population**. Residential and Employment VMT cannot be compared directly on the



regional level; TJKM recommends comparing the growth in VMT numbers between a base 2040 forecast year run without the Project and heavy industry land use. In that case, the heavy industry land use will forecast higher VMT growth when compared to the growth using the residential land use, thus the Project should have less-than-significant VMT impacts for the cumulative scenario.

In summary, if corrections are made to resolve the discrepancies (mainly residential population, modifications to the CCTA Model for base year, total and per capita VMT calculations, and employee population) discussed above, F/P's VMT analysis should result in less-than-significant impact for the Project, which was the conclusion in TJKM's VMT analysis.

**ATTACHMENT
TO PEER REVIEW MEMO**

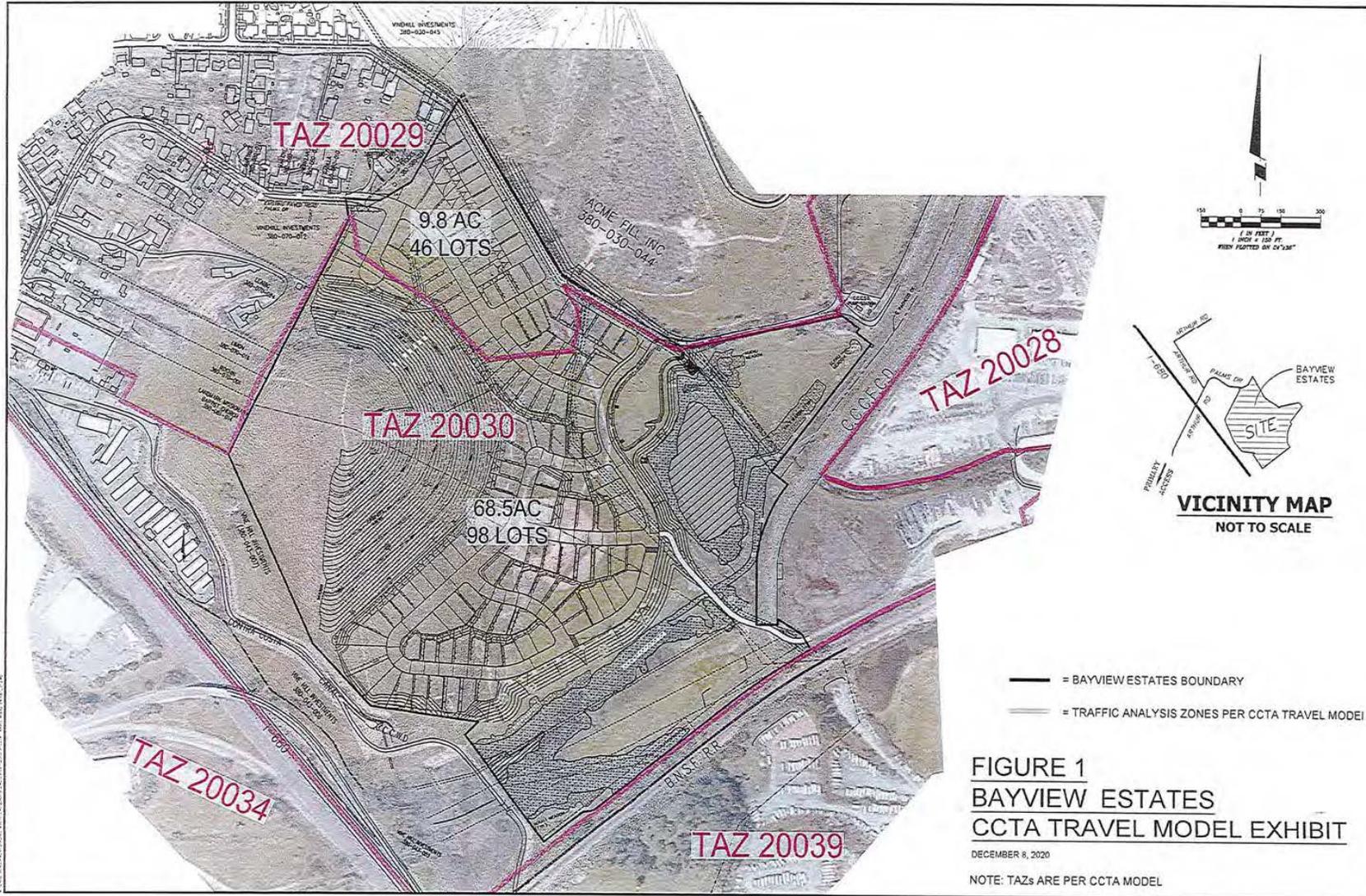
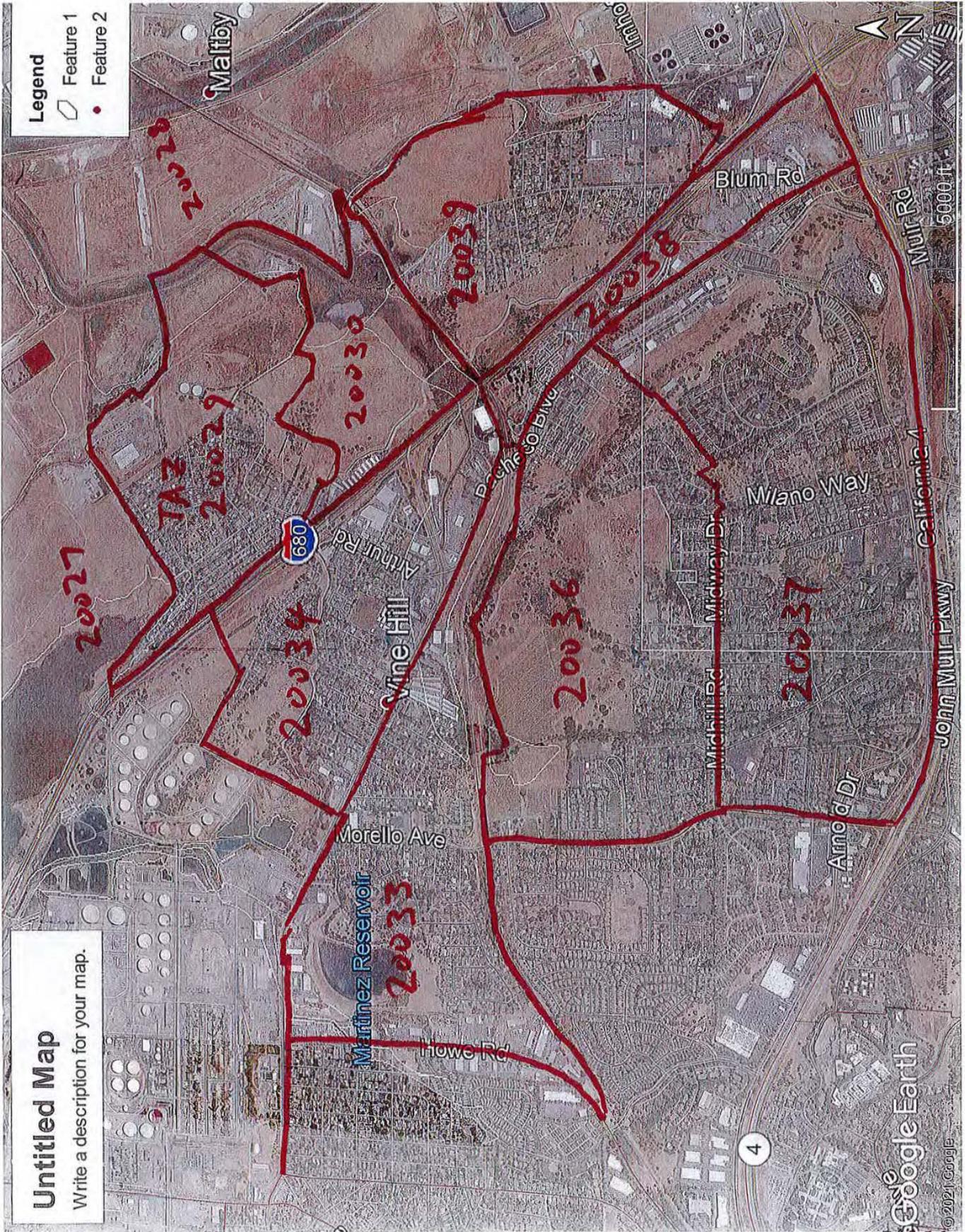


FIGURE 1
BAYVIEW ESTATES
CCTA TRAVEL MODEL EXHIBIT
 DECEMBER 8, 2020
 NOTE: TAZs ARE PER CCTA MODEL



Contra Costa County
General Plan

January 18, 2005

3. Land Use Element

operations, demonstrate compatibility with adjacent commercial and residential uses. In addition, smaller commercial establishments which serve on-site employees such as business services and local-serving retail uses are allowed. Adherence to landscaping, buffering and design standards provides the means for achieving a high level of amenity for employees and neighboring uses. The following standards apply:

- (1) Maximum site coverage: 40 percent
- (2) Maximum building height: 60 feet
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- (4) Average employees per gross acre: 100 employees

i. Light Industry (LI)

This designation allows light industrial activities such as processing, packaging, machinery repair, fabricating, distribution, warehousing and storage, research and development, and similar uses which emit only limited amounts of smoke, noise, light, or pollutants. Commercial/distribution-scale solar energy generating facilities are allowed after issuance of a land use permit. The following standards apply:

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- (4) Average employees per gross acre: 60 employees

j. Heavy Industry (HI)

This designation allows activities requiring large areas of land with convenient truck, ship, and/or rail access. These uses are typically not compatible with residential uses in close proximity and the operations conducted may be characterized by noise or other conditions requiring spatial separation. Uses may include metalworking, chemical or petroleum product processing and refining, heavy equipment operation and similar activities. Light industrial land uses will be allowed within lands designated Heavy Industrial and they can be developed according to light industrial definition and standards found in that designation. The following standards apply:

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- (3) Average employees per gross acre: 45 employees

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Doug Chen

Subject: RE: Bayview Estates (VMT)

From: Crescentia Brown <CBrown@esassoc.com>
Sent: Tuesday, February 23, 2021 4:17 PM
To: Lashun Cross <Lashun.Cross@dcd.cccounty.us>; Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Subject: FW: Bayview Estates (VMT)

Gary/Lashun: Below in bolded text are Fehr & Peers’ responses to the applicant’s questions on VMT.

Crescentia Brown
Project Director
ESA | Environmental Planning
Celebrating 50 Years of Work that Matters!

OAKLAND OFFICE
180 Grand Avenue - Suite 1050
Oakland, CA 94612

Working From Home at 415.722.0966 (cell)

From: Ian Barnes <I.Barnes@fehrandpeers.com>
Sent: Tuesday, February 23, 2021 12:46 PM
To: Crescentia Brown <CBrown@esassoc.com>; Emily Chen <E.Chen@fehrandpeers.com>
Subject: RE: Bayview Estates

No worries, Crescentia. Here’s our responses.

- 1) With respect to the cumulative countywide VMT, Table 7 (p. 40 of the Traffic Impact Analysis) lists the “Cumulative with General Plan Designation (Heavy Industrial) Total VMT” as 29,432,734. What was the employee assumption used in reaching that conclusion, i.e., what was the employee population assumption used for the site under the scenario where it would remain heavy industrial? - **Based on the “minimum heavy industrial scenario” (FAR 0.1) assumed at the County’s direction, that works out to be about 341 employees (based on an assumption of 1 employee per 1,000 square feet of heavy industrial, which is a typical rule-of-thumb used in the profession). Note that the Cumulative VMT values are Countywide VMT, so the 29.4 million VMT number is not for the project site itself.**

- 2) In the data received, there is a spreadsheet entitled “VMT Data from CCTA Implementation Final March 11.” In that spreadsheet, there is a tab entitled “2018-Home-Based.” Do the VMT results in that tab include the proposed Bayview project or not? **The VMT results in this file do not include the proposed Bayview project as they reflect a pure baseline condition. Per previous discussions, please note that the TAZ 20030 value of 11.0 has flaws associated with it, and that the Bayview project VMT per resident value shouldn’t be lower than the baseline TAZ 20029 value due to transportation network considerations.**

Ian Barnes, P.E.
FEHR & PEERS
T 925.357.3388

Doug Chen

Subject: RE: Bayview, Tech Memo on VMT

From: Emily Chen <E.Chen@fehrandpeers.com>
Sent: Monday, January 11, 2021 12:17 PM
To: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Cc: Lashun Cross <Lashun.Cross@dcd.cccounty.us>; Crescentia Brown <CBrown@esassoc.com>; D.Votsch <D.Votsch@fehrandpeers.com>; Ian Barnes <I.Barnes@fehrandpeers.com>
Subject: RE: Bayview, Tech Memo on VMT

Hi Gary,

Please use this link to access the requested files: [Bayview Model Files](#). Anyone with this link can view and download the files.

Files included:

- Model input and output files
- Model Adjustments.txt
- Model and software version.txt
- VMT DATA from CCTA Implementation_FinalMarch11.xlsx
 - Used TAZ 20029 for the baseline average home-based VMT per resident value because there were 4 households in the Project TAZ 20030 and not representative of the Project description
- VMTSpeedBin_Baseline.xlsx
 - baseline no project and baseline with project VMT by speed bin data
 - baseline Project total daily VMT calculation
 - shared with air and noise
- VMTSpeedBin_Countywide Boundary_2040.xlsx
 - cumulative no project (General Plan industrial use) and cumulative with residential project (no industrial) VMT by speed bin data
 - cumulative VMT calculation

Let me know if you have any questions.

Thank you,

Emily Chen
Transportation Planner
925.478.5437



Model version (latest model version from Kittelson and CCTA at time of Project analysis start)

- TEP_NoBuild
- Year 2018 for baseline
- Year 2040 for cumulative

Software version

- TransCAD Version 5.0 r4 Build 2110

Model Adjustments:

2018 Plus Project

- zeroed out TAZ 20030 by moving the existing 4 households into TAZ 20029
- added Project in to TAZ 20030
- changed TAZ 20030 centroid connector to come off of Arthur Road

2040 No Project

- changed TAZ 20030 centroid connector to come off of Arthur Road
- added in General Plan Buildout industrial use in TAZ 20030

2040 Plus Project

- removed General Plan Buildout industrial use from TAZ 20030
- added Project in TAZ 20030

Source: F/P Excel File "VMT DATA from CCTA Implementation_FinalMarch11", Worksheet 2018_Home-Based

	A	B	C	D	E	F	G	H	I	J	K	N
1	3120	3120				Bay Area-->	2,731,886	7,732,041	4,146,449	11,878,490	10,571,893,364	13.7
2	CCTA_TAZ	TCID	ABAGName	JURName	County	CountyName	TotHH	TotPop	TotEMP	ServPop	TOT_VMT	VMT Per Resident
404	20027	402	Martinez	Vine Hill CDP	5	CCC	0	0	51	51	0	0.0
405	20028	403	Martinez	Vine Hill CDP	5	CCC	0	0	599	599	0	0.0
406	20029	404	Martinez	Vine Hill CDP	5	CCC	401	1236	637	1873	2,546,492	20.6
407	20030	405	Martinez	Vine Hill CDP	5	CCC	4	15	0	15	16,572	11.0
408	20031	406	Martinez	CCC Unincorporated	5	CCC	13	37	689	726	57,629	15.6
409	20032	407	Martinez	Vine Hill CDP	5	CCC	0	0	623	623	0	0.0
410	20033	408	Martinez	Martinez city	5	CCC	396	1212	456	1668	1,905,727	15.7
411	20034	409	Martinez	Vine Hill CDP	5	CCC	434	1330	1083	2413	2,123,686	16.0
412	20035	410	Martinez	Martinez city	5	CCC	998	2587	1504	4091	4,745,818	18.3
413	20036	411	Martinez	Vine Hill CDP	5	CCC	432	1146	91	1237	2,104,037	18.4
414	20037	412	Martinez	Martinez city	5	CCC	1837	4774	670	5444	8,600,175	18.0
415	20038	413	Martinez	Vine Hill CDP	5	CCC	52	180	703	883	246,418	13.7
416	20039	414	Martinez	Vine Hill CDP	5	CCC	169	446	191	637	832,425	18.7

Source: F/P Excel File "VMTSpeedBin_Baseline"

	0 to 5	5 to 10	10 to 15	15 to 20	20 to 25	25 to 30	30 to 35	35 to 40	40 to 45	45 to 50	50 to 55	55 to 60	60 to 65	65+	Total
Baseline AM Peak Period	4.18	18.90	29.93	208.96	121.53	386.87	399.43	284.85	70.09	76.57	106.79	148.33	302.56	8.35	2,167
Baseline PM Peak Period	1.31	13.25	23.00	217.28	151.80	482.74	509.97	237.42	117.19	140.55	175.74	167.35	253.88	6.17	2,498
Baseline Daily	10	56	93	746	478	1,522	1,591	914	328	380	494	552	974	25	8,164

page 9

Responses to Letter 13: Discovery Builders

- 13-1 Table 4.13-2 on page 4.13-11 of the Draft EIR describes in detail the methodology that resulting in how the 20.6 Total Home-Based VMT per Resident for the Project Traffic Analysis Zone (TAZ) and why the TAZ approach is appropriate for the Project site. The commenter suggests that further division of this ratio is warranted to calculate VMT per Resident, which is not accurate. County Transportation staff concurred with this selected approach. The analysis in the Draft EIR is adequate. No further analysis is warranted.
- 13-2 The number of employees on site is largely irrelevant to the calculation because the cumulative calculation is based on absolute VMT and not VMT per employee. As noted above, consistent methodologies should be used across the model to assess VMT, so any assumptions about population density with the land use needs to be consistent with what is already in the CCTA model (which our calculation assumed). The data for the cumulative scenario were calculated by taking the 2040 run and running two scenarios. For "no project" that analysis used the 0.1 FAR heavy industrial uses on-site, and for "plus project" the analysis used the residential project. The approach then compared the absolute VMT between model runs; because a positive delta was identified, the Project results in a significant cumulative impact.

Email

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Sent: Thursday, June 24, 2021 8:22 AM
To: Crescentia Brown
Subject: FW: Bayview Residential project

Categories: 206033 Mandela Grand

Another comment.
 Thanks,
 Gary

From: GALE FLOYD <galefloyd102@comcast.net>
Sent: Wednesday, June 23, 2021 5:39 PM
To: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Subject: Bayview Residential project

Gary,

I am not sure what the county is thinking by letting Discovery Homes also known as Seno Homes the worst home builder you could have these guys have been in so much trouble and now you are wanting to let them in our neighborhood which is really why I am emailing you.

As I am sure you are aware of the fire we had in our Neighborhood last night as said by the fire department that it is hard to fight fire in our neighborhood due to there is only one way in and way out and now you want Discovery to add another 144 homes that would be a complete death trap for all of us here we would have enough trouble getting out now if there should be a wildfire.

14-1

Does the county really want to make us our death warrant because that is what will happen we have enough trouble out here with the dirt bikes and fireworks that we can never seem to get handled and now by adding 144 homes we do not have enough sheriff's now or fire department to handle more homes.

Our roads in our neighborhood are all in bad shape from the county letting these big tree trucks come up and down Arthur rd. When we bought this house we bought it because it was on a private road and it was so quiet out here well that has been long gone since the dirt bike have taken over and we could never get any help.

14-2
 14-3

I would like to know how the county plans on traffic for 144 homes and exits there will be at least 2 vehicles per home we have enough trouble now getting out of here it would be a complete disaster.

14-4

Thank you for some what caring I know the county is all about money but you are putting so many people lives in jeopardy by letting them build out here.

Janet Floyd
 Vine Hill Resident

Responses to Letter 14: Janet Floyd

- 14-1 This is an existing deficiency that will be corrected by the Project. Project impacts related to fire, emergency medical, and police services are analyzed in Section 4.12, *Public Services and Recreation*, of the Draft EIR. Central Avenue and Palms Drive both dead end just before the Project site and do not provide for emergency vehicle turnarounds as required by the Fire Code. The Project will provide the required emergency vehicle turnarounds, as well as secondary emergency vehicle access through the south side of the Project site. The proposed in-tract streets will also connect Central Avenue and Palms Drive at two locations. As a result, this Project will correct this deficiency. Please note, too, that Project homes will be equipped with sprinklers and the subdivision will comply with all modern California Fire Code requirements. Recent case law confirms that replacing open space with urban development that meets modern fire code regulations improves fire safety. (*See Clews Land & Livestock* (2017)19 Cal.App.5th 161, 193; accord *Maacama Watershed Alliance, et al v. County of Sonoma, et al.* (2019) 40 Cal.App.5th 1007, review denied and ordered not to be officially published (Jan. 2, 2020).) Impacts of the Project with respect to fire safety will be less than significant, and the Project will confer fire safety benefits.
- 14-2 Impacts on roads related to Project activities, such as construction, are addressed on pages 4.13-9 and 4.13-20 of the DEIR. See Master Response #2.
- 14-3 The Draft EIR adequately analyzes operational noise impacts associated with the Project. (DEIR, pp. 4.10-19 to 4.10-21.) Populating the area and placing control of open space under an HOA, would serve to protect, in a better manner, against trespassing dirt bikes on the existing Project site. Moreover, Project development would eliminate areas where dirt bike tracks have been found. With regard to fireworks, like trespassing recreational vehicles, use of fireworks is unlawful and there is a legal presumption that members of the residential subdivision would not unlawfully use any fireworks. Analysis of noise impacts due to dirt bikes and fireworks by Project residents requires speculation and thus is not required under CEQA. (See CEQA Guidelines Section 15144; and 15064 [a change which is speculative or unlikely to occur is not reasonably foreseeable].)
- 14-4 Project-related traffic impacts are analyzed in Draft EIR Section 4.13, *Transportation*. The commenter is correct that the addition of new homes will result in increased vehicle trips. See Master Response #2.

Email

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Sent: Monday, June 28, 2021 3:22 PM
To: Crescentia Brown
Subject: FW: Proposed Bayview Residential Project

Categories: 206033 Mandela Grand

Another comment. See below.

Thanks,
Gary

From: TERRY KIRWALD <vkirwald@sbcglobal.net>
Sent: Monday, June 28, 2021 2:18 PM
To: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Cc: jimcarrillo202@yahoo.com; Vicky Kirwald <vkirwald@sbcglobal.net>; kirwaldt@yahoo.com
Subject: Re: Proposed Bayview Residential Project

Per your letter dated May 10, 2021 giving notice from your department of the proposed 144-unit project, we would like to advise of our concerns and how this would negatively affect our home and neighborhood. Our homes are located at 564 & 558 Palms Drive. Per the maps and information provided our road would be used to access the homes proposed. Our entire neighborhood has only 1 road, Arthur Road that feeds it for access in and out of Vine Hill. Adding 144 homes would be very detrimental and you only have to remember the recent issues with fire and also any issues with the refinery that required lockdown and or evacuation to be concerned.

15-1

Palms Drive as you know is a private road. The neighborhood is very unique and our home, 564 Palms Drive, was built by our Grandfather. My cousin and his family live next door in the home built by my Aunt & Uncle. Jim Carrillo, lives in the next home that was built by a Contractor that also built 3 other homes on our road. We all know our neighbors and maintain our road amongst ourselves without a formal road maintenance agreement. Having the traffic of a subdivision with at least 2 cars per home trying to navigate thru on only 1 road for ingress and egress will very much impact everyone. School start and end times will be difficult as will commute times. Avoidance of having access thru Palms Drive must be considered if possible.

15-2

Another issue of concern on our road is drainage. There are areas that have major issues during heavy rains. This thank goodness hasn't been a concern so much in recent years but is very much a concern for all that live here. The drainage flow and erosion is and has impacted many of us. What will the impact be for construction and infrastructure?

15-3

We would also like to express my concern for the 30 code-protected trees proposed for removal. Please do not remove them and we are hoping that they can be protected and preserved.

15-4

We thank you Mr Kupp for your time and consideration of our concerns regarding this proposed project. Having access through or via Palms Drive would be very detrimental to our way of life here and would very much negatively and unnecessarily affect our homes and neighborhood.

Vicky & Terry Kirwald
564 Palms Drive
Martinez, CA 94553

vkirwald@sbcglobal.net

Jim Carrillo
558 Palms Drive
Martinez, CA 94553

jimcarrillo202@yahoo.com

Responses to Letter 15: Vicky & Terry Kirwald; Jim Carrillo

15-1 The Draft EIR adequately analyzes Project impacts related to fire, emergency medical, and police services are analyzed. (DEIR, Section 4.12, *Public Service and Recreation*.) Central Avenue and Palms Drive both dead end just before the Project site and do not provide for emergency vehicle turnarounds as required by the Fire Code. The Project will provide a required emergency vehicle turnarounds, as well as secondary emergency vehicle access through the south side of the Project site. The proposed in-tract streets will also connect Central Avenue and Palms Drive at two locations. As a result, this Project will correct this deficiency.

Mitigation Measure PUB-1 requires the Project applicant to equip homes with residential automatic fire sprinkler systems. Installation of such systems satisfies General Plan Fire Protection Policy 7-62, which states that the County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first-due station. Additionally, the Developer will pay a Fire Facilities Impact Fee to finance fire protection facilities required by the goals and policies of the general plan and necessitated by the needs of new construction and development for adequate fire protection facilities and services. (See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 [assessment of a fee is an appropriate mitigation when it is linked to a specific mitigation program].) Please note, too, that Project homes will be equipped with sprinklers and the subdivision will comply with all modern California Fire Code requirements. Recent case law confirms that replacing open space with urban development that meets modern fire code regulations improves fire safety. (See *Clews Land & Livestock, supra*, 19 Cal.App.5th at p. 193; accord *Maacama Watershed Alliance, et al v. County of Sonoma, et al.* (2019) 40 Cal.App.5th 1007, review denied and ordered not to be officially published (Jan. 2, 2020).) Overall, impacts of the Project with respect to fire safety will be less than significant, and the Project will confer fire safety benefits.

15-2 Project ingress and egress would be provided by Central Avenue and Palms Drive. (DEIR, p. 3-13.) Both streets would be improved to better accommodate two lanes of moving traffic and paved as part of the Project. (*Id.*) The proposed in-tract streets will also connect Central Avenue and Palms Drive at two locations, and all safety impacts are less-than-significant. See Master Response #2.

15-3 The Draft EIR adequately analyzes the Project's drainage- and erosion-related impacts from both an operations and construction standpoint. The Project's stormwater drainage infrastructure is oversized and can accommodate larger storms than C.3 regulations require.

The Project will also include site design/landscape and treatment measures to limit impervious areas, a bioretention pond, self-treating areas adjacent to

Pacheco Creek, as well as stormwater treatment, source control, and operational BMPs. (DEIR, pp. 4.8-16 to 4.8-19.) Although the Project would alter the topography and drainage pattern at the Project site, regulatory compliance and completion and implementation of the required plans and measures would ensure that the change would not result in increased erosion, siltation and flooding on- or off-site or exceed the capacities of existing or planned storm drainage systems.

- 15-4 The commenter expresses a desire to preserve on-site protected trees. County Code Chapter 816-6, Tree Protection and Preservation outlines a variety of measures for the protection of trees in the County. The County's Tree Protection Ordinance permits removal of protected trees. Mitigation Measure BIO-5b requires the Project applicant to restore oak woodland at a 1:1 ratio. (DEIR, p. 4.3-49 to 4.3-50.) Implementation of Mitigation Measure BIO-5b would reduce Project-related impacts to oak woodland to less than significant.

Email

From: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Sent: Monday, July 12, 2021 7:50 PM
To: Crescentia Brown
Subject: Fw: Bayview residential public comment

Comment below.

From: Lashun Cross <Lashun.Cross@dcd.cccounty.us>
Sent: Tuesday, July 6, 2021 3:07 PM
To: Gary Kupp <Gary.Kupp@dcd.cccounty.us>
Subject: FW: Bayview residential public comment

Comment Received Below.

Lashun Cross, Principal Planner
Department of Conservation and Development
30 Muir Road, Martinez, CA 94553
Direct: 925-655-2864
Main Line: 925-655-2705

****PLEASE NOTE, THE DEPARTMENT HAS NEW PHONE NUMBERS.**

Web www.contracosta.ca.gov



From: MEGAN BENANDO <mrsbenando@yahoo.com>
Sent: Tuesday, July 6, 2021 3:05 PM
To: Lashun Cross <Lashun.Cross@dcd.cccounty.us>
Subject: Bayview residential public comment

I would like to make a commitment on the Bayview residential development in vine hill martinez
We the residents were not notified that this was still a possibility for our community

16-1

There is only one way in and out of vine hill on Arthur road. We have had incidents happen that have closed the road
and we were stuck. There was a police incident on the on ramp to 680 that kept us from being able to leave and recently
we had a fire that was a huge problem for everyone to get out safely. Adding 144 more houses with out an alternative
way to leave will cause so much more congestion and panic. Please consider this

16-2

I tried to send a message to Gery he is out of town. The email said to call a number and they told me to email you.
Thanks
Megan Benando

[Sent from Yahoo Mail on Android](#)

Responses to Letter 16: Megan Benando

16-1 The NOP for the Project was posted on the County's website on June 7, 2017. The Notice of Availability was posted on May 13, 2021. The comment period for the Draft EIR was extended to Monday July 12, 2021.
(<https://www.contracosta.ca.gov/4731/Bayview-Residential-Project>)

16-2 The Draft EIR adequately analyzes Project impacts related to fire, emergency medical, and police services are analyzed. (DEIR, Section 4.12, *Public Services and Recreation*.) The Project would increase on-site population and the number of on-site buildings which would increase the demand for fire protection services and emergency response services within the Vine Hill/Pacheco Boulevard area. The Project site would be served by Station #9, located 3 miles south of the Project site. Response time from Station #9 to the Project site is approximately 6 minutes. Mitigation Measure PUB-1 requires the Project applicant to equip homes with residential automatic fire sprinkler systems. Installation of such systems satisfies General Plan Fire Protection Policy 7-62, which states that the County shall strive to reach a maximum running time of 3 minutes and/or 1.5 miles from the first-due station. Additionally, the Developer will pay a Fire Facilities Impact Fee to finance fire protection facilities required by the goals and policies of the general plan and necessitated by the needs of new construction and development for adequate fire protection facilities and services. (See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 [assessment of a fee is an appropriate mitigation when it is linked to a specific mitigation program].)

Additionally, increased demand for emergency services is not an environmental impact requiring mitigation. (*City of Hayward v. Bd. of Trustees of Cal. State Univ.* (2015) 242 Cal.App.4th 833.) Also, Project homes will be equipped with sprinklers and the subdivision will comply with all modern California Fire Code requirements. Recent case law confirms that replacing open space with urban development that meets modern fire code regulations improves fire safety. (See *Clews Land & Livestock* (2017) 19 Cal.App.5th 161, 193; accord *Maacama Watershed Alliance, et al v. County of Sonoma, et al.* (2019) 40 Cal.App.5th 1007, review denied and ordered not to be officially published (Jan. 2, 2020).) Overall, impacts of the Project with respect to fire safety will be less than significant, and the Project will confer fire safety benefits.

Memorandum

Date: July 12, 2021

To: Gary Kupp, Senior Planner, Contra Costa County Department of Conservation and Development

From: Carolyn and Burt Kallander, 576 Palms Drive, Martinez, CA 94553

Discovery Builder's / Developer Reputation and Accountability

This developer has a long history of land use abuse, not fully complying with CEQA. We are fearful that the developer is ready/willing/able to harm all of the items that the EIR is trying to protect.

- Examples include desecrating Indian burial sites, cutting down oak trees in the middle of the night, improper grading that leave homeowners with sinking foundations, draining a pond that was a viable habitat for red legged frogs, removing owl boxes with inhabitants.

17-1

Project Objective States:

3. Introduce new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek, near existing or planned urban development, and in areas near regional transportation.
 1. Per Zillow: **Walk Score® 7 (Car-Dependent)**, for off-site 576 Palms. Above objective does not appear to be met. Where is the easy access to regional transportation?

17-2

I- From 8/10/2017 Public Works Memo:

If the developer is able to obtain the land rights and improve the existing off-site segments of Palms Drive and Central Avenue, and should the developer propose to have

2. Has the developer obtained land rights?

17-3

II- From 8/10/2017 Public Works Memo:

Roadway Improvements (Off-Site)

2. Palms Drive is a private roadway that does not meet current public road standards for road acceptance. It has narrower pavement widths, deteriorated pavement, limited frontage improvements including pedestrian access, inadequate drainage, and varying right of way widths. Palms Drive will need to be improved, and thus as a recommended condition of approval, the applicant will improve Palms Drive, from Arthur Road through to the northwestern boundary of the project, with a minimum pavement width of 28 feet (consisting of four-foot wide paved shoulders and 12-foot wide travel lanes) and two feet of shoulder (or curb, as required). The centerline alignment of Palms Drive will need to be modified to provide improved curve radii where angle points currently exist. The County will not accept the roadway for public maintenance; Palms Drive is to remain a private road. The DEIR should address Palms Drive, the improvements and potential rights of way necessary to improve it.
 3. Where and when has this been addressed?
 4. How are Public Works requirements going to be met when (Off-Site) Palms Drive does consistently allow for a minimum pavement width of 28 feet?

17-4
17-5

III- From 8/10/2017 Public Works Memo:

Landscaping, Park Area

15. All landscaping improvements (street lights, common landscape areas, park, bioretention area, retaining walls on-site, perimeter fence, etc.) will be privately maintained in perpetuity as previously stated.

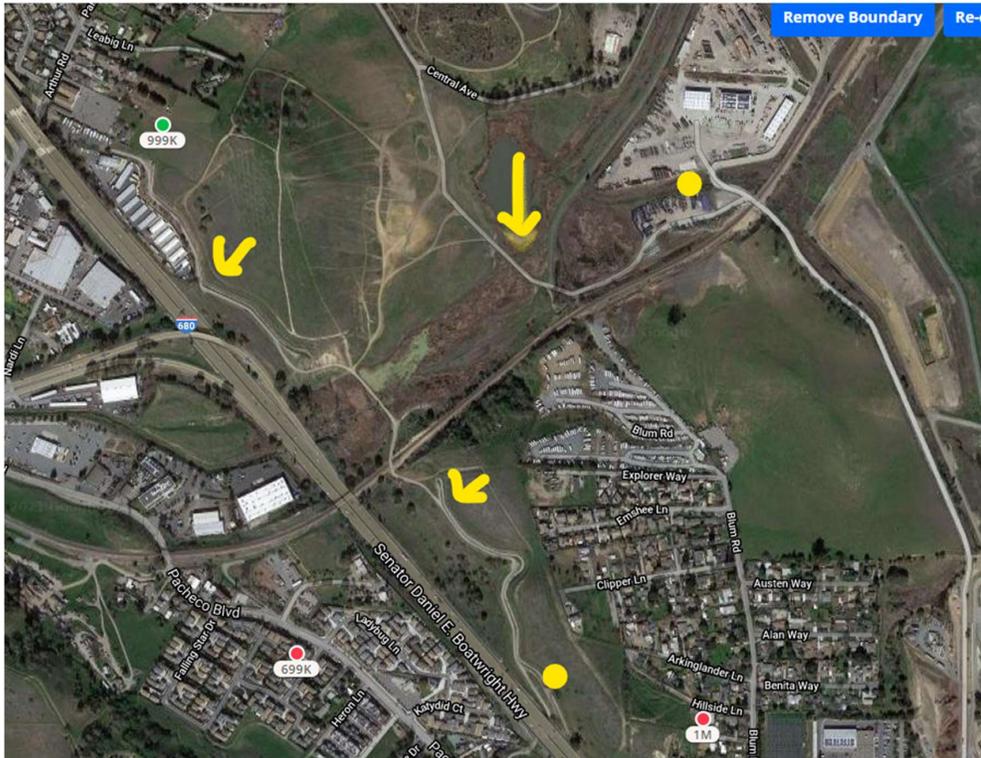
17-6

- 5. (Off-Site) Palms Drive and Central Avenue should not be held financially responsible for these maintenance costs. Please address this.

IV- Exploring other (Off-Site) Ingress / Egress Alternatives

- 1. Has East Bay Regional Park District (EBRPD) requested a trail easement to build the canal trail?
- 2. Would the developer consider building the East Bay Regional Park District (EBRPD) canal trail?
- 3. Discovery Builders/Project developer owns a number of the surrounding parcels, including Seal Island (a project currently on hold). Shouldn't these be considered?
 - a. Are any of these frontage roads? Or frequently used dirt roads developable?
- 4. Suggestion: For Dirt Bikers: Change locks regularly. Is there a camera to monitor? Install a camera and other monitors with access codes for entry
- 5. **Point of access and** "significant but unavoidable" VRF issues
- 6. Require road plans showing which homes will lose frontage property and how they will be compensated
- 7. Hire a street planner—to show how feasible road improvements are, and who will lose frontage.
- 8. *Why have other ingress/egress not been explored? Seeno owns other frontage parcels.*
 - a. *Funds set aside for road repairs*
- 9. "Will never be acceptable as a public road"
- 10. For Palms Drive: Plans are underway to add signage "No Outlet" "Private Access" and post speed limits
 - a. Because we are a private road, this will be accomplished at homeowner expense.
- 11. TRF-6 requires sidewalks
- 12. TRF-7b addresses issues with emergency vehicle access
- 13. Suggestion: For Dirt Bikers: Change locks regularly. Is there a camera to monitor? Install a camera and other monitors with access codes for entry.
- 14. **Why aren't any other egress and ingress access points being considered/explored?**
- 15. Why not improve Conco for (Off-Site) ingress/egress?
 - a. Instead of using the Central Avenue as an access point, Seeno Equipment Vehicles and Tractors have entered via Conco (or another nearby entry point) for their annual discing around the wetlands and fire breaks.
 - b. Dirt bikers also seem to have easy access to Vine Hill from this access point.

17-7



17-7
cont.

Off-Site-Palms Drive Parcel for 576 Palms Drive Deed of Trust was recorded in 1953

1. **Comment:** Doesn't it make more sense to organically develop this street so that families can move in and enjoy living in a safe and restful environment, away from the stresses of a hectic lifestyle?

21 new Single-Family Residences: Palms Drive is currently a growing community as some homeowners, or developers have subdivided *thereby contributing 21 new Single-Family Residences.*

This is sustainable for the neighborhood and our privately owned street.

- Four Homes on Briones View Court (4 homes)
- One home was added at 509 or 511 Palms Drive
- An In-Law unit is being built at 515 Palms Drive
- Palms 10 development will add two homes on Palms Drive and eight homes on (Palms Ct)
- Three homes to be added behind 568 Palms Drive (Pony Ct)
- One Home to be added at 584 Palms Drive

Neighborhood Pride: Our Palms Drive neighborhood has been steadily improving for twelve plus years.

- Arthur Road used to be known as “the dump road”. Quality of life has increased as the streets became cleaner, and heavy trucks are no longer making daily trips.

17-8

- **Unusually Low Turn-over:** Many families have lived here for decades, and quite a few remain after inheriting, while others have moved back after growing up here because it is such a peaceful street to live on.
 - #508 Palms Drive evicted gang members and sold the home to a family that had lived at # 532 and wanted to move back again as owners.
 - #505 and 515 Palms Drive were “project homes” with years of deferred maintenance needing extensive remodeling. Drive by and observe the pride in ownership that includes beautiful landscaping.
 - #535 was sold at auction because the owner had abandoned it. The house was not structurally habitable. Squatters with drug addictions terrorized the neighbors. 535 Palms Drive is now a custom home built from the foundation up.
 - #540 evicted drug dealers, and extensively remodeled before re-renting.
 - #539 homeowner Michael C (deceased) organized the paving association “**Palms Drive Project**” in 2012 and spearheaded four drives to pave a center lane.
 - We now no longer have to negotiate our way around potholes, and we save on expensive wear and tear to our vehicles.
1. **Comment:** Isn’t this the sort of living environment of we should be protecting and promoting?
 2. **Comment:** Palms Drive is maintained without any financial assistance from Public Works/ Contra Costa County. Considering we have not been a burden on the government—Shouldn’t this fiscal responsibility be rewarded?

↑

17-8
cont.

B.—Water Supply & Infrastructure

1. Water Delivery while infrastructure is in progress
2. Who determines whether our utilities are in need of repair or a full upgrade?

17-9

C—Scenic Views—more Viewpoints are available

17-10

D— Superiority of Alternative 3 is supportable
 —Includes Protection of Valley Oak Woodlands
 — Helps protect irreplaceable Wetlands

1. While the development of a “Light Industrial” project may not meet a developer’s primary objective (we understand they are, after all, a company that builds houses!), The re-zoning from Heavy Industrial to Light Industrial would
 - creates jobs
 - helps conserve the wetlands
 - avoids the non-mitigatable “significant but unavoidable” traffic issue,
 - and preserve the unique and irreplaceable Vine Hill.
 - Save the 30 protected Valley Oak Woodlands from destruction.
 - Save water: Less used during construction, less consumed by households and landscaping.
 -
2. **Observation:** Vine Hill and surrounding property—this land is currently becoming degraded by dirt bikers and ATVs, and over-grazed by cattle. How about a park instead with hiking/walking trails?

17-11

17-12

- 3. Can access to EBRPD trails and/or Canal Trails be added to this property? I 17-13
- 4. How about considering additional conservation and restoration of wetlands? I 17-14
- 5. California is in danger of losing trees more trees to Climate Change and Drought—Why is the destruction of a thriving woodland and other even being considered? I 17-15

E—(Off-Site) Palms Drive Safety, Crime, Noise

Increased crime, clean air, added pollution, noise, and quality of life—all will be significantly and negatively impacted by additional traffic and the addition of 144 homes I 17-16

- 1. Were the existing homes (560, 564, 576 and 584 Palms Drive) which are across the street from the project site (Bayview “A” Cul-de-Sac) considered/included in the DEIR studies of: I 17-17
 - a. Light and glare |
 - b. Noise—Per Palms 10 EIR: a substantial increase of ambient noise was anticipated should more homes be added to the neighborhood. 17-18
 - c. Forced air circulation as a noise reduces but increases energy costs. |
- 2. The (Off-Site) Palms Drive with cul-de-sac status **helps keep down crime rates.** |
 - a. Adding extra feeder streets invites criminals to enter into the development and evade arrest within the major and minor streets. 17-19
 - b. Speeding vehicles are a safety risk to children and other property. |
- 3. If another ingress/egress could be developed, perhaps Palms Drive could be utilized for walkers and bikers by installing a fence between the two properties. 17-20

F—Special Status Animals

- 4. Has yearly rototilling (specifically around the wetlands) destroyed any of the fragile ecosystem (Frogs, plants, animals) | 17-21

G—Health Risks TAC

Basin Microclimate: includes Refinery, proximity to active railroad, and Highway 680 | 17-22

- 1. Tesoro / M... incidents—issue of hazardous emissions I 17-23
- 2. Air Quality—will homeowners be notified how toxic the air is? I 17-24
- 3. What is the ground quality? Has Maltby polluted it? I 17-25

From 2009 DEIR requiring MERV-13 Filters to Mitigate TACs

1. Why this discrepancy?
2. Where were measuring monitors for Toxic Air Testing placed?
 - a. They should be placed in base / sea level of property where Vine Hill does not block/buffer property from Interstate 680.
 - b. If the Air Quality is found to be toxic and above acceptable levels—How will homeowners be notified about the risks?

Installation of MERV-13 filters in residential units represents a feasible option that is recommended by a number of entities. The City and County of San Francisco requires MERV-13 filters be installed in residential buildings located in air quality hot spots as defined by San Francisco’s Health Code Article 38.³³ In addition, the American Society of Heating, Refrigerating, and Air Conditioning Engineers, recommends, in their green building guide, that a minimum of MERV-13 rated air filtration be required in building locations where the air quality is designated to be in non-attainment with the National Ambient Air Quality Standards for PM_{2.5}.³⁴ The United States Green Building Council requires that new construction be equipped with a MERV-13 or higher rated air filter in new construction for buildings and homes to receive air filtration green building credit points.³⁵

17-26

H—Family Safety, especially for children

1. Presence of Gas fuel lines
2. Narrow (Off-Site) Palms Drive Road will not provide adequate protection for school children playing outside.
3. “Improvement” of (Off-Site) Palms Drive does not allow children to ride their bikes on the street (like they are doing now),
4. BNSF Railroad & Memorial on Howe
5. Has the issue of Increased crime been discussed?
6. Possible Toxic Air Quality
7. Safety, emergency response times, quality of access roads, difference of roads widths within project

17-27

J. Superiority of Alternative 3

1. Safety
2. Creates Jobs
3. Less traffic
4. Preserves Scenic Vistas
5. Conserves wetlands and special habitats
6. Helps keep clean air
7. Traffic is reduced significantly

17-28

I—Miscellaneous

1. Hi density SFR works is preferred by the developer (with lot sizes as low as 6,000 square feet). Surrounding area is zoned R6. Instead of hi-density, isn’t the area better served by minimum lot sizes of 7,260 square feet?

17-29

2. Instead of building large/expensive homes that many cannot afford, why not build smaller homes?
3. Where will the construction runoff water end up? How will the wetlands and other water sources be protected from contamination?
4. How much water will be needed to keep the dust down during construction? Is this acceptable during droughts?
5. DEIR to address: Extra water use during construction (drought years coming?)
6. Once Bayview is completed, what are expectations / timeline for Palms 10 development? Considering the development of Palms 10 may commence as soon as Bayview in completed, how will residents on Palms Drive be impacted?
7. Confirmed: Palms 10 is approved and entitled to commence.
8. *Is this DEIR based on CCC General Plan 2005-2020 or 2020-2040?*
9. *Is there a conflict of interest for construction to begin for the Palms Ten residential project before the Bayview EIR is approved?*



17-29
cont.

Responses to Letter 17: Carolyn and Burt Kallander

- 17-1 The County may assume that the Project will be developed as conditioned and in compliance with the law. Suggesting that the developer may not comply with mitigation is not a significant environmental effect requiring analysis under CEQA. (See *Friends of Riverside's Hills v. City of Riverside* (2018) 26 Cal.App.5th 1137, 1153.)
- 17-2 The Project will locate new residences near employment centers in the cities of Martinez, Concord, and Walnut Creek. Proximate regional transportation includes the North Concord/Martinez BART station (5.5 miles from the Project site) and the Concord BART station (6.2 miles from the Project Site). The Vine Hill area is connected to the Concord BART station via County Connection Route 19 and to the North Concord BART station via personal vehicle. (DEIR p. 4.13-5).
- A fixed route bus service is located beyond the typical transit access trip walking distance (about one half mile) away. (DEIR p. 4.13-14). This bus service is operated by County Connection, also known as the Central Contra Costa Transit Authority, a third party Joint Powers Agency.
- 17-3 The Project applicant has the necessary land rights to improve the off-site segments of Palms Drive and Central Avenue. For purposes of CEQA, it is only necessary to identify the development footprint of the roads so that County decisionmakers and the public can understand what habitats, soils, and other environmental resources are impacted by construction of the roadway improvements. (CEQA Guidelines Section 15124.) Finalizing all legal paperwork is not required under CEQA. See Master Response #2.
- 17-4 The Project Description in Chapter 3 of the Draft EIR includes improvement of two existing off-site roadways, Central Avenue and Palms Drive, to better accommodate two lanes of moving vehicular traffic to/from the Project site. (DEIR, p. 2-2.) As a Project component, the impacts of improvements to Palms Drive to each resource area are included in Chapter 4. (See CEQA Guidelines Section 15378 ["project" means the "whole of the action"; *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396 [EIR must analyze the whole of the action].) See Master Response #2.
- 17-5 With respect to off-site segments of Palms Drive, the roadway will be improved per the County's approval of the Palms 10 subdivision, which proposed a minimum pavement width of 28 feet. County Public Works confirmed the acceptability of this roadway alignment, including its width, in its Memorandum dated August 10, 2017. The applicant has legal rights to a 50-foot-wide right of way along Palms Drive. This right of way is evident in recorded documents. If private parties dispute the applicant's access rights in recorded documents, their recourse is against the applicant. (See *Moylan v. Dykes* (1986) 181 Cal.App.3d

- 561, 573 [third parties such as cities have no standing to involve themselves with terms of an easement dispute between two other parties].) See Master Responses #1 and #2.
- 17-6 The park area shown on the tentative map is a private park that will be owned and maintained by the HOA. See Master Response #2
- 17-7-1 EBRPD has not provided any comments on the DEIR, nor have they requested a trail easement for construction of a canal trail. See Master Response #2.
- 17-7-2 Project applicant does not intend to construct a canal trail as part of the Project. While the Project applicant may at some point confer with the East Bay Regional Parks District (EBRPD) for consideration of a trail, at this point, a future canal trail is not reasonably foreseeable and therefore does not need to be considered in the EIR. See Master Response #2.
- 17-7-3 The comment seems to suggest that ingress/egress be provided through surrounding parcels owned by Developer. Alternative ingress/egress would not reduce the Project's significant environmental effects, which (with the exception of VMT) are all reduced to less than significant with mitigation. As such, alternative ingress/egress need not be explored. See Master Response #3.
- 17-7-4 Potential impacts due to the use of dirt bikes are not reasonably foreseeable and are not required to be analyzed in the EIR. (CEQA Guidelines Sections 15144 and 15064.) Furthermore, the Project would reduce if not eliminate trespassing dirt bikers. See Master Response #2.
- 17-7-5 It is unclear what is meant by "VRF issues." There are no significant and unavoidable impacts concerning access. See Master Response #2.
- 17-7-6 See Response 17-7-5 above, which is incorporated by reference. The Project applicant has a 50-foot-wide right of way over Palms Drive. The environmental impacts of this roadway access have been fully analyzed in Chapter 4 of the Draft EIR. See Master Response #2.
- 17-7-7 The comment is noted; it does not address an inadequacy in the Draft EIR analysis. County's Public Works staff is qualified to evaluate the proposed vesting tentative map, as well as the effectiveness of the mitigation measures that require off-site roadway improvements. (See *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027 [agency is entitled to deference with respect to effectiveness of mitigation].)
- 17-7-8 Alternative ingress/egress would not reduce the Project's significant environmental effects, which (with the exception of VMT) are all reduced to less than significant with mitigation. As such, alternative ingress/egress need not be explored. See Master Response #3.

- 17-7-9 The intent of the comment is unclear. Palms Drive will be constructed with two lanes and shoulders not to exceed a width of 34-feet. (See DEIR, p. 4.13-13.) See Master Response #2.
- 17-7-10 The comment is noted. See Master Response #2.
- 17-7-11 The commenter is correct. Mitigation Measure TRF-6 requires continuous sidewalks on at least on side of Palms Drive and Central Avenue to connect the Project site to the existing pedestrian facilities on Arthur Road to improve pedestrian transportation conditions. (DEIR, p. 4.13-15.) See Master Response #2.
- 17-7-12 The commenter is correct. The Impact TRF-7b analyzes the Project’s impact on emergency access and concludes the impact is less than significant with mitigation. Mitigation Measure TRF-7a requires the Project applicant to provide even surface pavement, appropriate signage, delineation and other features on Palms Drive and Central Avenue to accommodate emergency vehicles. See Master Response #2.
- 17-7-13 See Response 17-7-4.
- 17-7-14 See Response 17-7-8.
- 17-7-15 Access to the Conco property will be improved to allow for emergency vehicle access. Also see Response 17-7-8.
- 17-8 Disputes between parties about easements is outside the scope of the County's environmental review. In *Moylan v. Dykes* (1986) 181 Cal.App.3d 561, 573, the court held that third parties have no standing to involve themselves with terms of an easement between two other parties. In short, if there are any private disputes between the Developer and private property owners, the County has no obligation or authority to intervene. See Master Response #2.
- Moreover, economic or social changes in the existing neighborhood are not impacts within the scope of a CEQA analysis. (See CEQA Guidelines Section 15382 [an economic or social change shall not be considered a significant effect on the environment].)
- Regarding the question about the “sort of living environmental that should be protected and promoted,” economic or social changes in the existing neighborhood are not impacts within the scope of a CEQA analysis. (See CEQA Guidelines Section 15382 [an economic or social change shall not be considered a significant effect on the environment].) See Master Response #2.
- Lastly, regarding the maintenance of Palms Drive, also see Master Response #2.

- 17-9 The Project will provide new and upgraded water conveyance infrastructure, including a new 12-inch water transmission main in off-site locations. As part of this configuration, the Project would extend Contra Costa Water District's ("CCWD") existing 12-inch transmission main, which currently terminates within the Conco property just northwest of the Burlington Northern Santa Fe railroad, through the Project site and, ultimately, connect this infrastructure to CCWD's existing 6-inch water mains in Central Avenue and Palms Drive. This infrastructure and these connections will benefit adjacent neighborhoods in the Vine Hill area and address previous water pressure concerns identified by CCWD. (DEIR, pp. 3-14, 4.14-12 to 4.14-13.) The utilities at issue, the utility providers, and an analysis of the Project's impacts on utility services are addressed in Chapter 4.14, *Utilities and Service Systems*, of the DEIR.
- 17-10 The commenter provided a number of photos showing scenic views. Chapter 4.1, *Aesthetics*, adequately analyzes the Project on scenic vistas and the visual character of public views of the site and its surroundings (DEIR, pp. 4.1-8 [scenic vistas], 4.1-9 to 4.1-16 [visual character]). With development of the Project, visible change of the Project site from selected public viewpoints is limited and the scope of the aesthetic analysis, including its visual simulations, includes four selected vantage points offering short-range and long-range views of the Project site. Each of these vantage points is analyzed individually (DEIR, p. 4.1-11). Views from private yards and other private locations are not properly within the scope of CEQA and, regardless, the proposed vantage points offered by the commenter are not materially different from the vantage points included in the Draft EIR's visual simulations.
- The scope of the Draft EIR reasonably apprises the public of the Project's visual impacts from public places and nothing further is required under CEQA. Visual character and quality are highly subjective in nature. The Draft EIR's analysis recognizes that the value of a scenic vista or scenic resource is subjective and dependent on individual preferences; therefore, the analysis focuses on scenic resources of public importance identified in County planning documents and other agency inputs, including EBRPD.
- CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed Project (*Assn. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396).
- As found in the Draft EIR, the Project as a whole, including the proposed changes to the existing topography, would not degrade the existing visual quality of the site or surrounding area, nor would it adversely affect a scenic view or valuable community resource. Nor would the Project substantially alter the visual character of the site, particularly as viewed from vantage points accessible by the

public, including the nearby Waterbird Regional Preserve, local public streets, and points along westbound I-680.

17-11 An EIR's statement of project objectives, which should include a description of the project's underlying purpose, is the touchstone for selection of alternatives for evaluation. (See CEQA Guidelines Section 15124(b); *Bay Area Citizens v. Assn. of Bay Area Gov.* (2016) 248 Cal.App.4th 966, 1013.) An alternative must be able to attain most of the basic objectives of the project. (CEQA Guidelines Section 15126.6(b).)

While Alternative 3 may avoid a cumulative VMT impact, the other impact determinations would remain the same as identified for the proposed Project. Moreover, Alternative 3 would not meet the Project's basic objectives to maximize the development of new residential projects to help the County fulfill its regional housing needs and introduce new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek.

17-12 The conversion of unused, blighted industrial land into much needed housing will reduce use of the land by dirt bikers, ATVs, and for cattle grazing. Development of the Project site into a park with hiking/walking trails is incompatible with the Project's fundamental purpose to provide housing. (See *In re Bay-Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1157, 1164 [EIR need not present alternatives that are incompatible with the project's fundamental purpose].)

17-13 The nearest EBRPD facility is located 0.5 miles away and it is not feasible to provide a connection to this park due to intervening property interests. Regarding connections to canal trails, the nearest trail, as detailed in Chapter 4.12, *Public Services and Recreation*, of the Draft EIR, is the Iron Horse Trail. The EBRPD has proposed hiker, biker, and horse trails that would extend the Iron Horse Trail from its current terminus in Concord along Pacheco Slough, but this is a separate and independent project. There are property interests between the Project site and this proposed trail alignment making a connection legally infeasible. Please note, the Project proposed by the applicant here does include a number of pedestrian connections and, as detailed on page 4.12-11 of the Draft EIR, the Project includes development of an approximately 4.5-acre neighborhood park adjacent to existing freshwater pond and marsh areas on the site. As such, there are no recreational facility impacts. See Master Response #2.

17-14 Any impacts to wetlands will be fully mitigated. Mitigation Measure BIO-6a specifies avoidance and protection measures around wetlands and waters of the U.S. and/or state within the Project site that will be fully avoided. Mitigation Measure BIO-6b requires compensation for impacts to wetlands and waters to reduce impacts associated with direct loss to a less-than-significant level. At a minimum, or as determined by the U.S. Army Corps of Engineers (USACE) (as

specified in Chapter 4 of this document), compensation acreage for impacted wetlands and waters would meet a 1:1 ratio to achieve no net loss of aquatic resources. (DEIR, pp. 4.3-52 to 4.3-55.)

The law requires that a land use exaction be "roughly proportional" in nature and extent to the impact of the proposed development. (*Dolan v. City of Tigard* (1994) 512 U.S. 374; *Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166.) CEQA requires mitigation measures to be roughly proportional to the impacts of the project. (CEQA Guidelines Section 15126.4(a)(B).) The County is therefore unable to mandate additional conservation and restoration of wetlands beyond Mitigation Measure BIO-6, which fully mitigates the impacts of the Project.

- 17-15 The County's Tree Protection Ordinance expressly allows for removal of protected trees, subject to the ordinance's requirements. The Draft EIR fully analyzes impacts of trees in Chapter 4.3, *Biological Resources*. Please also see Responses in Letter 2 (CDFW) which further addresses the oak woodland on the Project site, its quality, and proposed mitigations.
- 17-16 With the exception of quality of life (which are social impacts not within the purview of CEQA), the Project's air, noise, public services (including police services), and traffic impacts are adequately addressed in Chapter 4 of the Draft EIR.
- 17-17 See Response 17-16.
- 17-18 The Draft EIR analyzes light, glare, and noise impacts to off-site receptors, including the homes referenced by commenter. With respect to increased energy costs due to use of forced air as a noise reduction measure, such impacts are "too speculative for evaluation" under CEQA. (CEQA Guidelines Section 15145.) The cost of energy, too, is not an environmental impact. Notwithstanding, the Project's impacts with respect to energy are evaluated in Chapter 4.6, *Greenhouse Gas Emissions and Energy*.
- 17-19 While crime and safety of residents are important social issues, they are not germane to CEQA. CEQA does not require consideration of economic and social effects. (See CEQA Guidelines Section 15604(e).) Police services are addressed in Chapter 4.12, *Public Services and Recreation*, of the DEIR.
- 17-20 See Master Response #2.
- 17-21 Routine maintenance of private property, e.g., discing, is not considered a "project" under CEQA and therefore impacts to biological resources (to the extent there are any) do not require analysis. Rather, the environmental setting for biological resources is the environmental conditions that exist when the NOP was published in June 2017. (CEQA Guidelines Section 15125(a).) On June 15,

2017, ESA staff conducted reconnaissance botanical and wildlife surveys of the Project site to characterize existing conditions, assess habitat quality, and assess the availability of habitat for special-status species and potential presence of sensitive natural communities. (DEIR, p. 4.3-01.) The Project site has been regularly maintained in compliance with all applicable laws. See Master Response #2.

17-22 The comment is not a complete sentence and it is unclear to what specific impact the comment references. See Master Response #2.

17-23 The comment is not a complete sentence and it is unclear to what specific impact the comment references. Impact AIR-3 analyzes impacts of toxic air contaminants, including health impacts on existing residences. (DEIR, pp. 4.2-22 to 4.2-25.) With mitigation this impact would be less than significant. See Master Response #2.

17-24 Impact AIR-3 analyzes impacts of toxic air contaminants, including health impacts on existing residences. (DEIR, pp. 4.2-22 to 4.2-25.) Construction of the Project was found to affect health risks but, with mitigation that requires low-emission engines and other controls, the Draft EIR determined this impact would be less than significant.

17-25 Impact HYD-2 discloses the Project's impacts on groundwater. (DEIR, p. 4.8-15.) A site assessment, known as a "Phase I" investigation, and its results are detailed in Chapter 4.7, *Hazards and Hazardous Materials*, of the Draft EIR. The Phase I investigation concluded that there does not appear to be any evidence of hazardous materials use on the Project site including underground storage tanks, above ground storage tanks, hazardous building materials (asbestos, lead based paint, mercury, etc.), or polychlorinated biphenyls ("PCBs"), as noted on pages 4.7-4 and 4.7-5.

17-26 The commenter provides an excerpt of what it indicates is a 2009 Draft EIR requiring MERV-13 filters to mitigate TACs. However, the comment does not explain what project the 2009 DEIR analyzes. The comment is noted.

To the extent the comment is suggesting that the proposed Project should require MERV-13 filters in residential units for TACs, Impact AIR-3 is mitigated to a less than significant level and no further mitigation would be required.

Regarding the location of toxic air testing monitors, construction and operational emissions of criteria air pollutants, including toxic air contaminants, were estimated using CalEEMod. All impacts concerning air pollution are detailed in Chapter 4.2, *Air Quality*, of the Draft EIR. As noted above, the Draft EIR determined all health risk impacts would be less than significant.

- 17-27 Impacts related to existing gas pipelines, air quality, traffic safety, and public services were adequately analyzed in the Draft EIR. See Draft EIR Chapters 4.2, *Air Quality*; 4.7, *Hazards and Hazardous Materials*; 4.12, *Public Services and Recreation*; and 4.13, *Transportation*.
- 17-28 An EIR's statement of project objectives, which should include a description of the project's underlying purpose, is relied upon for selection of alternatives for evaluation. (See CEQA Guidelines Section 15124(b); *Bay Area Citizens v. Assn. of Bay Area Gov.* (2016) 248 Cal.App.4th 966, 1013.) An alternative must be able to attain most of the basic objectives of the project. (CEQA Guidelines Section 15126.6(b).)
- While Alternative 3 may avoid a cumulative VMT impact, the other impact determinations would remain the same as identified for the proposed Project. Moreover, Alternative 3 would not meet the Project's basic objectives to maximize the development of new residential projects to help the County fulfill its regional housing needs and introduce new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek. See Master Response #2.
- 17-29-1 It is not supported that this area would be better served by minimum lot sizes of 7,260 square feet. County decision makers have broad authority to make land use policy decisions subject to judicial deference. A key Project objective is to provide housing inventory to help meet demand for homes. The housing shortage is a statewide crisis and the County's General Plan Housing Element acknowledges this problem and inclusion of higher density housing is a demonstrated need throughout California.
- 17-29-2 See Master Response #2.
- 17-29-3 Impact HYD-1 analyzes the Project impact on stormwater quality. (DEIR, pp. 4.8-11 to 4.8-14.) The Project's stormwater drainage infrastructure is oversized, and can accommodate larger storms than C.3 regulations require, discussed below. Water will be collected from hillsides, lots, and roads by various infrastructure, directed to on-site basins, and then conveyed to Pacheco Creek. As discussed below, the Project will also site design/landscape and treatment measures to limit impervious areas, the bioretention pond, self-treating areas adjacent to Pacheco Creek, as well as stormwater treatment, source control, and operational BMPs. (DEIR, pp. 4.8-16 to 4.8-19.)
- Stormwater from the residential development and roadways would be collected and discharged via the storm drain system into the bioretention treatment facility, not directly into the existing perennial pond or wetlands onsite. Following treatment, the water from the bioretention facility would be conveyed through a dedicated outflow structure and downstream pipe into the improved section of Pacheco Creek (DEIR, pp. 4.8-17-4.8-18). As described on Draft EIR page 4.8-

17 and depicted on Figure 4.8-1, *Proposed Stormwater Control Map*, only clean run-off from open space and park areas would be directed directly into the self-treating wetlands and perennial pond onsite. These conveyance systems for the clean stormwater runoff are not connected to the residential stormwater drains to ensure there is no contamination from the residential development entering the existing water bodies of the site untreated. The Project would be required to adhere to both the NPDES General Construction Permit (during construction) and the NPDES MS4 C.3 requirements for drainage control (during operation) to ensure water quality standards of stormwater runoff are maintained (DEIR, p. 4.8-22).

With the design and implementation of these separate stormwater conveyance and treatment methods, and through adherence to existing regulatory requirements for stormwater drainage control, animals that utilize the perennial pond and wetlands onsite would not be impacted by contaminated runoff associated with the residential development.

17-29-4 Water use for dust suppression is temporary. The amount of water to be applied will have a negligible impact on CCWD's water supply and availability. On an average annual basis, the demand for construction water for dust suppression would not exceed the operational demand of 59 AFY.

17-29-5 See Response 17-29-4 above.

17-29-6 The Draft EIR adequately analyzes the cumulative impacts of the Project and specifically considers impacts of Palms 10 in that analysis.

17-29-7 The commenter correctly states that Palms 10 is approved. Palms 10 was approved in 2012. See Master Response #2.

17-29-8 At the time the Draft EIR was being prepared, the County was in the process of updating its General Plan. As General Plan 2020-2040 is under development and not yet adopted, the analysis in the Draft EIR is based on General Plan 2005-2020 consistent with CEQA's mandate that the environmental conditions are described as they exist at the time of the NOP in June 2017. The Draft EIR acknowledges that the County is currently updating its general plan. See Master Response #2.

17-29-9 While Palms 10 and Bayview both involve the same Project applicant, they are separate projects and are not being considered concurrently. See Master Response #2.

July 12, 2021

By Electronic Mail

Mr. Gary Kupp
Senior Planner
Contra Costa County Department of Conservation and Development
Community Development Division
30 Muir Road
Martinez, CA. 94553
gary.kupp@dcd.ccounty.us

- **Subject: Public Comment on the Draft Environmental Impact Report for parcel owners of 576 and 584 Palms Drive**

Dear Mr. Kupp:

Background: We (Burt and Carolyn Kallander) purchased 576 Palms Drive (4/17/2009), and 584 Palms Drive (1/6/2010) because of its location and for the scenic vistas of undeveloped land, Mount Diablo, the beautiful wetlands, railroad, and Vine Hill.

In 2009, the seller advertised via Zillow (it is still there): *What the seller loves about this home **The views***

- I. **Vine Hill:** *We have the best uninterrupted views of Vine Hill and the Valley Oak Woodlands*
 - a. *—How do we retain this?*

EBRPD wrote: "...The East Bay Regional Parks District (EBRPD) identified views of Vine Hill Ridge from Waterbird Regional Preserve as an important resource, and Vine Hill Ridge as a unique resource to the area (EBRPD, 2010)."
(DEIR page 4.1-14, Viewpoint 3: Waterbird Regional Preserve)

18-1



Vine Hill



II.576 & 584 Palms Drive (off-site)-Current Scenic Views, Six Viewpoint picture submitted.

Concern #1: *With Bayview's housing development bordering our properties how can our front and side yard views be preserved with the proposed project of 144 homes?*



Viewpoint1_ 576 Palms Drive (backyard/Sunroom) Balloons show proposed height of 35 feet, and **what could be left of our view** if not properly addressed.

Comment: The above image was submitted at the 2017 NOP. Please address this in the DEIR.

III. We just became aware of the fact that the property line for the Bay View Residential Project is directly across the street from our parcels of 576 and 584 Palms Drive. Our shared street easement Palms Drive is considered (off-site)





- a. Bayview "A" Court impacts 576 and 584 Palms Drive's **scenic views of Vine Hill** from the front (including, but not limited to lots 1-10)
- b. Depending on height and placement of homes, it appears that Lots 134, 135 etc. will impact 576 and 584 Palms Drive and side views (backyard and front yard) as well



Viewpoint2_584 Palms Dr Wetlands, Railroad, Buchanan Airfield, RV Park, City of Concord, and Mt Diablo
(Not in picture: Vine Hill, which is located to the right)

Observed Land use abuses: Over-grazed by cows and goats, trespassing dirt bikers and other vehicles, annual fine-discing around wetlands.



18-3
cont.



Viewpoint3_584 Palms Dr (front yard) Panoramic including Vine Hill, Valley Oak Woodland, and Wetlands
Land use abuse: Note that cows have severely overgrazed the lower portions of Vine Hill.



Viewpoint4_576 Palms Drive (Street Level) Vine Hill and Valley Oak Woodland



18-3
cont.



Viewpoint5_ 576 Palms Drive (Front Yard) with 584 Palms Dr in the foreground
Panoramic including Mt Diablo, Vine Hill with Valley Oak Woodlands, and Wetlands

↑
18-3
cont.
↓



18-3
cont.

Viewpoint5_Palms Drive_Upper corner of Bayview Residential Project which is across from 576 Palms Drive (Private) before cow pastures were extended to include more Bayview property acreage. Vine Hill is in the background. See arial view below, with RED DOT indicating placement of this street view, which is across from 576 Palms Drive (Private). Source: Zillow -captured 7/10/21

Leasing from Discovery Homes / Cow owner brought in chips to keep the mud from sliding into the street. The wood chips became a problem because a new issue, so this practice was stopped per our request. The leaser purchased a small tractor to clean up the sliding mud during the rainy season.

Concern #2: As noted by Greenfire Law, PC—the baseline conditions regarding the land for this project has been compromised by the addition of these animals. Please address in the DEIR?



18-4

The **Red Dot** indicates location of street view (as shown above). This arial view shows how the approved Palms Ten residential cul-de-sac of 3.25 Acres (Land use: over-grazing for cows, ponies, and goats).

↑ 18-4
| cont.
|
| 18-5

Observations: Spring grass is over-grazed and a vehicle trail has compacted the ground.
Ramshackle construction is built on Bayview property across from 576 Palms Drive (Private)
Source: Zillow- captured 7/10/21, but photo was taken March or April pre-2020 (?)

Thank you,
Carolyn and Burt Kallander
576 & 584 Palms Dr.



Double rainbow over 576 Palms Drive



Sunrise over Mount Diablo

Responses to Letter 18: Carolyn and Burt Kallander-2

- 18-1 CEQA does not require analysis or mitigation of the environmental impacts of a project on particular persons. (*Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1019.) Where the identified impact affects only a particular group of people there is no significant effect. (*Ibid.*; *Assn. for Protection of Environmental Values in Ukiah v. City of Ukiah* (1991) 2 Cal.App.4th 720, 734 [construction of single-family home impacting only a few neighbors is not a significant effect].) See Master Response #2.
- 18-2 See Response 18-1.
- 18-3 See Response 18-1.
- 18-4 See Response 10-19.
- 18-5 The conversion of unused, blighted industrial land into housing will reduce use of the land by dirt bikers, ATVs, cattle grazing, and “ramshackle construction”. See Master Response #2.
- 18-6 See Response 18-5.

July 12th, 2021

Gary Kupp, Senior Planner
Community Development Division
Contra Costa County, Department of Conservation and Development
30 Muir Road, Martinez, CA 94553

Dear Mr. Kupp,

I am submitting this hand delivered letter along with a thumb drive with pictures illustrating my main issues with the DEIR for Discovery Builder’s Bayview Estates. If the thumb drive is somehow inconvenient, I can have the pictures printed out. Standing on the fire road, mid-way up Vine Hill, there a great view North of the Tosco/Marathon Refinery, almost exactly like the one from my house which are included on the thumb drive. We live next door to the proposed project site.

19-1

On May 8, 2019, I was at a well-attended, County-organized Community Meeting for Pacheco, Vine Hill and Mountain View as part of the Envision Contra Costa 2040 series of meetings to help in updating the Contra Costa General Plan. The first three things mentioned on the County blog as constructive input coming out of that meeting (<https://envisioncontracosta2040.org/2019/05/10/pacheco-vine-hill-and-mountain-view-community-meeting/>) was that we would like to see in our future plans the things we value here now, including:

19-2

1. Support and enhance the friendly, neighborly feeling here.
2. To respect the independent, self-sufficient nature of the unincorporated area that distinguishes it from the surrounding cities.
3. And to preserve and improve parks, open spaces, and connections to nature, such as along Grayson Creek.

Palms Dr is like a village, and the funky pavement of our quiet cul-de-sac is what connects us all. We who live here have an appreciation for all those things mentioned at the Envision Contra Costa 2040 meeting. We keep an eye out for things out of place, criminal activity, and we talk to each other. It is a neighborhood that celebrates individuality over the cookie-cutter HOA mindset.

19-3

There isn’t a neighbor anywhere here who wants a developer to hijack our quiet cul-de-sac, smooth it out, paint a line down the middle and run a thousand cars, day and night, up and down with loud music blaring at odd hours, while not letting us park on it. We live here because it is a quiet cul de sac with a Country feel. There’s acknowledgement of this problem the Developer wants to create, nor any mitigation suggested in the DEIR.

19-4

The Civil Engineering planning for what they intend to do with our road with regard to each neighbor's house is non-existent. Some of our driveways barely align with the roadway as it is and it is likely to be made worse, not better, without a lot of individual attention going to each existing residence. The developer has not convinced anyone here that he has our best interests at heart.

19-5

We have a Road Association, called Palms Dr Project. We've done 4 paving projects since 2012 (with some residents contributing thousands while Discovery was invited and declined). Our residents feel free to fix any new potholes when they occur, and they do. Palms Dr is far more drive-able since we moved here in 2009. Yet our road does not attract skate-boarders the way a smooth road would, and that is seen as a plus. It is a private road and it looks like one.

19-6

On the thumb drive is a folder labelled *VineHill*, and the pictures in that folder show something of the visual, geographical significance of Vine Hill which stands as a Monument above the marshlands, a landmark for air traffic out of Buchanan Airport, visible from Lime Ridge Open Space in Walnut Creek, from Clyde, from Benicia, etc. Visible from other parklands roundabout. Vine Hill has a beautiful grade with mature oaks on the Northeast facing side. Now with the number of permits asked for in the DEIR there will only be four protected Valley Oak trees left standing. These oaks identify Vine Hill like a thumb print. What's going to be left when they're done grading? The hill may look like a half-eaten scoop of ice cream.

19-7

The Skyline of Vine Hill is deemed unimportant by the DEIR. This needs to be addressed and corrected. Nor is planting a new baby oak tree sufficient mitigation for taking out one over 100 years old. You just lost a 100 years you can't get back and then letting the squirrels plant some new ones. That's like no mitigation at all. You either take out a tree or you don't. Planting one does not mitigate the loss.

19-8

The photographs supplied by Discovery Builders of the hill itself in the DEIR are so completely boring as if to intentionally downplay its true significance, while putting a circle around about 5 oak trees and pretending that's all they are going to take out. This strikes me as completely deceptive. *Completely Deceptive.* Why ask for 30 permits unless you're going to take them all out? And then who is going to stop the project developers from removing the top of the hill? Nobody. They'll pay a fine and we've lost an important landmark.

19-9

At the very least they should request the right number of permits, and specify which trees exactly they wish to cut down and remove.

Heavy Industrial needs to stay some distance away from residential. Wildlife thrives near Rail Roads and Refineries, Cement Plants, Sanitation Plants, etc. The blending of the natural landscape with the Heavy Industrial can be surprisingly beautiful.

19-10

The other folder, *HvyIndustrial in Nature* has some pictures that bear this out.

The dangerous mix is to have housing too close to Heavy Industry. There is no practical way to physically restrain people, adults or children, from illegally crossing or playing on the Rail Road tracks.

Instead, people have to watch out for trains. But for a family with children, it could help immensely if the train is not right out in front of your house, eh? So, selecting the location for new home construction is the place where something can be done to help with RR safety. The only mitigation for this danger not to build here.

19-11

Heavy Industry is not the only issue. The land cattycorner across the BNSF tracks at the end of Blum Rd, with a use permit for cattle, is set aside as undeveloped for the convenience of any plane that needs to crash land while heading for Buchanan Field. Suppose they need to crash-land sooner? Or after take-off having missed that previous open field? Our property on Palms Dr had airplane wreckage on it at one time according to the previous owner. Things happen. I was at Sun Valley Mall when a plane crashed onto the roof there on a foggy night. The point here is that just in case the pilot can still see where he is coming down, you don't want to fill in all the blanks in the landscape. Therefore, open land is good to have under this flight path so often used by small planes and helicopters.

19-12

So, these are more reasons for a buffer of Parkland or some Light Industrial to the existing neighborhood, rather than high-density housing. Safety issues regarding trains and planes need to be addressed.

Sincerely, 
Burt A. Kallander
576 Palms Drive
Martinez, CA 94553

PS Air quality issues are not delt with the same way as in the last DEIR, and I would consider air quality measurements from previous years to be more relevant going forward, since so many people were sheltering in place during 2020-21, which means far fewer motorists on the 680 freeway, and exhaust from that Freeway was a key issue for air quality in the last DEIR.

19-13

Also, have traps been used to determine the presence of the Salt Marsh Mouse?

19-14



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Pacheco, Vine Hill, and Mountain View Community Meeting

Pacheco, Vine Hill, and Mountain View Community Meeting

May 8th, 6:30 pm-8:30 pm

Thank you to everyone who attended our meeting to talk about the future of Pacheco, Vine Hill, and Mountain View as part of Envision Contra Costa 2040! We received thoughtful and constructive input from 16 residents. People in these communities are proud of their history, value good schools and housing that is still affordable, and appreciate the roaming wildlife. Our groups shared ideas about what they would like to see in future plans for these communities, including the following comments:

- Support and enhance the friendly, neighborly feeling here.
- Respect the independent, self-sufficient nature of the unincorporated area that distinguishes it from the surrounding cities.
- Preserve and improve parks, open spaces, and connections to nature, such as along Grayson Creek.
- Improve public safety and beautify the community.
- Improve sidewalks and expand connections to the Contra Costa Canal Trail.
- Increase public transit options.
- Address stormwater drainage issues.

Responses to Letter 19: Burt Kallander-3

- 19-1 The commenter states facts regarding views from commenter's property. Because the comment does not raise a substantive issue on the content of the EIR or the impacts of the Project on the environment, no further response is warranted.
- 19-2 The commenter states facts regarding a meeting held as part of the County's General Plan update. Because the comment does not raise a substantive issue on the content of the EIR or the impacts of the Project on the environment, no further response is warranted.
- 19-3 The commenter expresses an opinion regarding the Palms Drive neighborhood. The existing conditions of Palms Drive are discussed in Impact TRF-4a, which concludes that poor pavement conditions and narrow travel-way widths on Palms Drive represent obstacles (or hazards) for vehicle traffic. (DEIR, p. 4.13-13.)
- The Project will improve Palms Drive in accordance with County requirements and design standards to improve vehicle transportation and to accommodate emergency vehicles. conditions and eliminate obstacles (or hazards) for pedestrians and bicyclists. (DEIR, pp. 4.13-13 [Mitigation Measure TRF-4a], 4.13-16 [Mitigation Measure TRF-6], 4.13-16 [Mitigation Measure TRF-7a].) These are public benefits.
- 19-4 The Project will improve Palms Drive in accordance with County requirements and design standards to improve vehicle transportation and to accommodate emergency vehicles. conditions and eliminate obstacles (or hazards) for pedestrians and bicyclists. (DEIR, pp. 4.13-13 [Mitigation Measure TRF-4a], 4.13-16 [Mitigation Measure TRF-6], 4.13-16 [Mitigation Measure TRF-7a].) These are public benefits.
- While the Project is estimated to generate 1,360 daily vehicle trips (DEIR, pp. 4.13-6 to 4.13-7) not all those trips will use Palms Drive because access to the Project would also be provided from Central Avenue.
- The Project's operational traffic noise is analyzed in Impact NOI-2. The impact is found to be less than significant and no mitigation is required. (DEIR, pp. 4.10-19 to 4.10-20.)
- 19-5 With respect to off-site segments of Palms Drive, the roadway will be improved pursuant to the County's approval of the Palms 10 subdivision, which proposed a minimum pavement width of 28 feet. This roadway is intended to remain a private street, and Public Works confirmed the acceptability of this roadway alignment, including its width, in its Memorandum dated August 10, 2017. The applicant has a 50-foot-wide right of way over Palms Drive.
- 19-6 See Response 19-4.

19-7 The Draft EIR adequately analyzes the impacts of the Project on scenic vistas and the visual character of *public* views of the site and its surroundings. (DEIR, pp. 4.1-8 [scenic vistas], 4.1-9 to 4.1-16 [visual character]. With development of the Project, visible change of the Project site from selected public viewpoints is limited. The Project as a whole, including the proposed changes to the existing topography, would not degrade the existing visual quality of the site or surrounding area, nor would it adversely affect a scenic view or valuable community resource. Visual character and quality are highly subjective in nature. The Draft EIR's analysis recognizes that the value of a scenic vista or scenic resource is subjective and dependent on individual preferences; therefore, the analysis focuses on scenic resources of public importance identified in County planning documents and other agency inputs, namely the EBRPD. The Project would not substantially alter the visual character of the site, particularly as viewed from vantage points accessible by the public, including the nearby Waterbird Regional Preserve and points along westbound I-680. The Project is not visible from the Vine Hill neighborhood. (DEIR, p. 4.1-11.)

The County's Tree Protection Ordinance expressly allows for removal of protected trees, subject to the ordinance's requirements. The County would condition Project approval for replacement of protected trees removed under the Project and protection of trees to be retained under the Project at a 2:1 replacement ratio.

19-8 The County would condition Project approval for replacement of protected trees removed under the Project and protection of trees to be retained under the Project at a 2:1 replacement ratio in accordance with the County's Tree Protection and Preservation Ordinance. (DEIR, p. 4.3-56.) Mitigation Measure BIO-5b requires enhancement and creation of valley oak woodland at a ratio of 1:1, and further requires a monitoring period of 5 years to ensure the site is successfully restored. (DEIR, p. 4.3-49.) This mitigation, and particularly the 2:1 tree replacement ratio, contemplates the concept that older tree removals require enhanced mitigation.

19-9 The Draft EIR includes photos showing the visual character of the Project site from selected viewpoints that were representative of public views, as determined by the County's professional environmental consultant. (DEIR Figures 4.1-2, 4.1-3, 4.1-4, 4.1-5.) The red circles on these photographs are to indicate the area where the view will be changed. It does not equate to the number of trees that may be removed as part of the Project. The Draft EIR states that the Project "may [not will] require removal of approximately 30 trees." (DEIR, p. 4.3-48.) The Draft EIR conservatively analyzes that the Project may result in removal of up to 30 trees.

The Project will provide a total of 88 oak trees in open space. The Project will plant 54 valley oak trees on the hill and 34 coast live oaks are planned in the buffer in the wetland. The Project will create/restore 3.75 acres of valley oak

woodland. The specific trees to be removed will be identified in the final grading plan for the Project.

- 19-10 The County's General Plan establishes the mix of land uses envisioned by the County and the goals and policies adopted to achieve that mix. As discussed in Impact LUP-2, the Project would not conflict with adopted applicable land use plans and policies and the Project is not inconsistent with the General Plan. (DEIR, pp. 4.9-14 to 4.9-17.) Also see Responses 10-23 and 10-24.

While safety of residents is an important social issue, it does not implicate or trigger CEQA review. CEQA does not require consideration of economic and social effects or impacts on future project users. (See CEQA Guidelines Section 15604(e).)

- 19-11 While safety of future Project residents is an important social issue, it does not implicate or trigger CEQA review. (See CEQA Guidelines Section 15604(e).) CEQA does not generally require analysis of how existing hazards or conditions might impact project users or residents. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.)

- 19-12 The Project site is located approximately 1.3 miles northwest of the Buchanan Field Airport. It is within the Buchanan Field Airport Influence Area, but not within a safety zone. The Project will be subject to review by the Contra Costa County Airport Land Use Commission for determination of consistency with the Airport Land Use Compatibility Plan. (DEIR, p. 4.7-6.) As the Project is not located within an airport safety zone, it would not result in a safety hazard for people residing in the area and impacts would be less than significant. (DEIR, p. 4.7-17.)

An EIR need only analyze a project's reasonably foreseeable effects and consequences. "CEQA does not require an agency to assume an unlikely worst case scenario." (*High Sierra Rural Alliance v. County of Plumas* (2018) 29 Cal.App.5th 102, 126.) Given its location outside the airport safety zone, the Project's impact relating to the contingency of an airplane crash landing is speculative and not reasonably foreseeable. (CEQA Guidelines Section 15145.)

Memorandum

Date: July 12, 2021. Updated with Clarifications July 19, 2021

To: Gary Kupp, Senior Planner, Contra Costa County Department of Conservation and Development

From: Carolyn and Burt Kallander, 576 Palms Drive, Martinez, CA 94553

Discovery Builder's / Developer Reputation and Accountability

This developer has a long history of land use abuses, and not fully complying with CEQA. We are fearful that the developer is ready/willing/able to harm all of the items that the EIR is trying to protect.

Examples include

- 1. Desecrating Indian burial sites
 - o [Seeno companies sued by Yolo County DA for bulldozing Native American remains \(eastbaytimes.com\)](http://eastbaytimes.com)
- 2. Cutting down 100+ year old oak trees in the middle of the night before projects have been presented for development.
- 3. Improper grading that leaves homeowners with sinking foundations. Historically: Class action suits have been filed and won.
- 4. Draining a pond that was a viable habitat for red legged frogs
 - o [Concord-based Seenos hit with another environmental violation – East Bay Times](http://eastbaytimes.com)
- 5. Removing owl boxes with inhabitants
- 6. Developer is willing to be litigious in order to over-ride approved park plans
 - o <https://www.eastbaytimes.com/2020/08/24/seeno-discovery-builders-sue-east-bay-park-district-over-new-park-plans/>
- 7. Developer has allowed livestock to over-graze on current project Bayview property, thus compromising the baseline of the project property.

20-1

I- Project Objective States:

- 3. Introduce new residential uses in areas near employment centers in the Cities of Martinez, Concord, and Walnut Creek, near existing or planned urban development, and in areas near regional transportation.

Per Zillow: **Walk Score® 7 (Car-Dependent)**, for 576 Palms Drive 94553 (Parcel / Property that is directly across from proposed project)

- 1. How is the above objective met? Where is the easy access to regional transportation?

20-2

II- From 8/10/2017 Public Works Memo:

If the developer is able to obtain the land rights and improve the existing off-site segments of Palms Drive and Central Avenue, and should the developer propose to have

- 1. Has the developer obtained land rights?

20-3

III- From 8/10/2017 Public Works Memo:

Roadway Improvements (Off-Site)

2. Palms Drive is a private roadway that does not meet current public road standards for road acceptance. It has narrower pavement widths, deteriorated pavement, limited frontage improvements including pedestrian access, inadequate drainage, and varying right of way widths. Palms Drive will need to be improved, and thus as a recommended condition of approval, the applicant will improve Palms Drive, from Arthur Road through to the northwestern boundary of the project, with a minimum pavement width of 28 feet (consisting of four-foot wide paved shoulders and 12-foot wide travel lanes) and two feet of shoulder (or curb, as required). The centerline alignment of Palms Drive will need to be modified to provide improved curve radii where angle points currently exist. The County will not accept the roadway for public maintenance; Palms Drive is to remain a private road. The DEIR should address Palms Drive, the improvements and potential rights of way necessary to improve it.

20-4

1. Where and when has this been addressed?
2. How are Public Works requirements going to be met when (Off-Site) Palms Drive does consistently allow for a minimum pavement width of 28 feet?

20-5

IV- From 8/10/2017 Public Works Memo:

Landscaping, Park Area

15. All landscaping improvements (street lights, common landscape areas, park, bioretention area, retaining walls on-site, perimeter fence, etc.) will be privately maintained in perpetuity as previously stated.

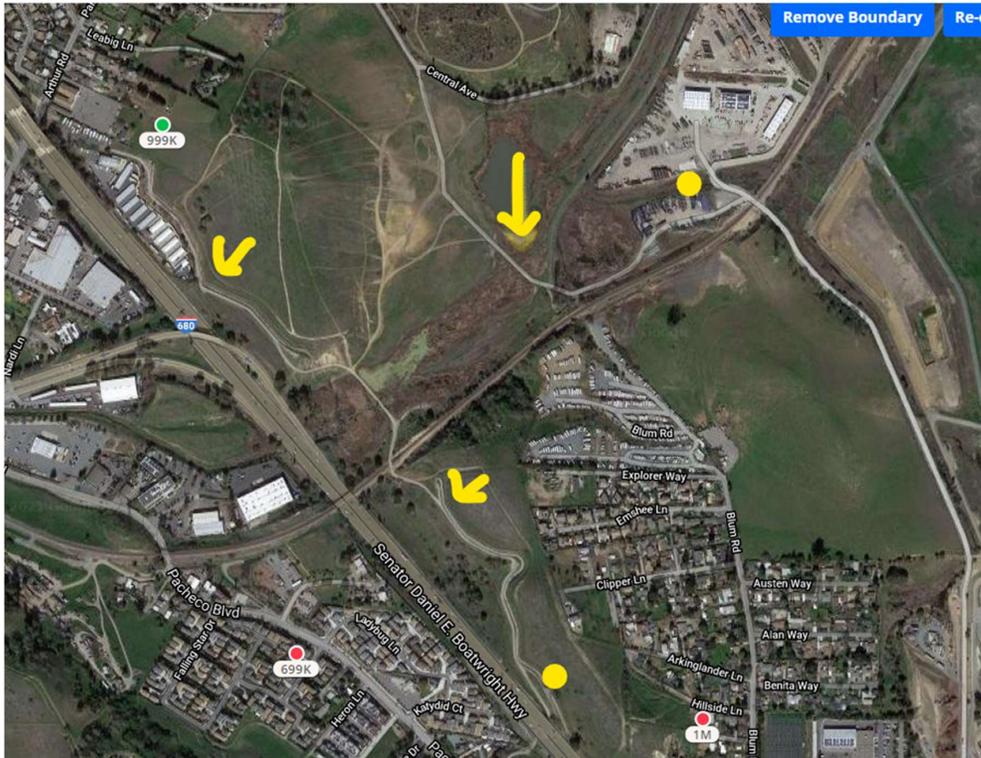
20-6

1. How/Why should (Off-Site) Palms Drive and (Off-Site) Central Avenue be held financially responsible for these future maintenance costs?

V- Exploring other (Off-Site) Ingress / Egress Alternatives

1. Discovery Builders/Project developer owns a number of the surrounding parcels, including Seal Island (a project currently on hold). Shouldn't these be considered?
 - o Are any of these frontage roads? Or are frequently used dirt roads developable?
 - o Can funds be set aside for future road repairs?
2. Why not improve Conco for (Off-Site) ingress/egress?
 - o Recent activity on the project site was reported and investigated by the County on 7/14/21. Two service vehicles, a number of trucks, and a backhoe accessed the property via Conco and not Central Avenue.
 - o Equipment for annual discing around the wetlands and creation of fire breaks have also been observed accessing the project property this way.
 - o Dirt bikers also seem to have easy access to Vine Hill from this access point. Pictures showing the unlocked gate can be provided.

20-7



20-8

VI- Comments regarding (off-site) Palms Drive, a privately owned and maintained street.

1. Draft EIR should require road plans showing which homes will lose frontage property and how they will be compensated?
2. TRF-6 requires sidewalks
3. TRF-7b addresses issues with emergency vehicle access

VII- (Off-Site) Palms and the Need for More Affordable Homes

Background:

21 new Single-Family Residences: Palms Drive is currently a growing community as some homeowners, or developers have subdivided *thereby contributing 21 new Single-Family Residences.*

This is sustainable for the neighborhood and our privately owned street.

- Four Homes on Briones View Court (4 homes)
- One home was added at 509 or 511 Palms Drive
- An In-Law unit is being built at 515 Palms Drive
- Palms 10 development will add two homes on Palms Drive and eight homes on (Palms Ct)
- Three homes to be added behind 568 Palms Drive (Pony Ct)
- One Home to be added at 584 Palms Drive

For (off-site) Palms Drive: Plans are underway to add signage “No Outlet” “Private Access” and post speed limits

20-9

1. Doesn't it make more sense to organically develop this street so that families can move in and enjoy living in a safe and restful environment, away from the stresses of a hectic lifestyle?
 - o Because we are a private road, this will be accomplished at homeowner expense.
2. Instead of building large/expensive homes that many cannot afford, why not build smaller homes?

↑
20-9
cont.

VIII. Neighborhood Pride: The (Off-Site) Palms Drive neighborhood has been steadily improving for twelve plus years.

Background

- Arthur Road used to be known as “the dump road”. Quality of life has increased as the streets became cleaner, and heavy trucks are no longer making daily trips.
 - **Unusually Low Turn-over:** Many families have lived here for decades, and quite a few remain after inheriting, while others have moved back after growing up here because it is such a peaceful street to live on.
 - #508 Palms Drive evicted gang members and sold the home to a family that had lived at # 532 and wanted to move back again as owners.
 - #505 and 515 Palms Drive were “project homes” with years of deferred maintenance needing extensive remodeling. Drive by and observe the pride in ownership that includes beautiful landscaping.
 - #535 was sold at auction because the owner had abandoned it. The house was not structurally habitable. Squatters with drug addictions terrorized the neighbors. 535 Palms Drive is now a custom home built from the foundation up.
 - #540 evicted drug dealers, and extensively remodeled before re-renting.
1. #539 homeowner Michael C (deceased) organized the paving association “**Palms Drive Project**” in 2012 and spearheaded four drives to pave a center lane.
 2. For Palms Drive: Plans are underway to add signage “No Outlet” “Private Access” and post speed limits
 - o We now no longer have to negotiate our way around potholes, and we save on expensive wear and tear to our vehicles.
 3. Isn't this the sort of living environment of we should be protecting and promoting?
 4. (Off-site) Palms Drive is maintained without any financial assistance from Public Works/ Contra Costa County. Considering we have not been a burden on the government—Shouldn't this fiscal responsibility be rewarded?

↑
20-10

IX. Water Supply & Infrastructure

1. Please address how Water Delivery will be provided to (off-site) Palms Drive while infrastructure updating/repair is in progress?
2. Who determines whether our utilities are in need of repair or a full upgrade?

↑
20-11

X. Scenic Views

1. More Viewpoints are available and have been submitted by Burt Kallander on a thumb-drive.
2. Eight Viewpoints were submitted by Carolyn Kallander with a request to show the impact of grading, tree removal, and homes

↑
20-12

XI. Superiority of Alternative 3 is supportable (Due to time constraints, some of this is repeated, below XIX)

1. Includes protection of Valley Oak Woodlands and possibly more unprotected trees?
2. Helps conserve/ protect irreplaceable and endangered Wetlands.
3. Can access to EBRPD trails and/or Canal Trails be added to this property?
4. While the development of a “Light Industrial” project may not meet a developer’s primary objective (we understand they are, after all, a company that builds houses!), The re-zoning from

Heavy Industrial to Light Industrial would

- o Create jobs
- o helps conserve the wetlands
- o avoids the non-mitigatable “significant but unavoidable” traffic issue,
- o and preserve the unique and irreplaceable Vine Hill.
- o Save the 30 protected Valley Oak Woodlands from destruction.
- o Save water: Less used during construction, less consumed by households and landscaping.

20-13

5. **Observation:** Vine Hill and surrounding property—this land is currently becoming degraded by dirt bikers and ATVs, and over-grazed by cattle. How about a park instead with hiking/walking trails?

20-14

6. How about considering additional conservation and restoration of wetlands?
7. California is in danger of losing trees more trees to Climate Change and Drought—Why is the destruction of a thriving woodland and other even being considered?

20-15

XII.)

8. Includes protection of Valley Oak Woodlands and possibly more unprotected trees?
9. Helps conserve/ protect irreplaceable and endangered Wetlands.
10. Can access to EBRPD trails and/or Canal Trails be added to this property?
11. While the development of a “Light Industrial” project may not meet a developer’s primary objective (we understand they are, after all, a company that builds houses!), The re-zoning from

Heavy Industrial to Light Industrial would

- o Create jobs
- o helps conserve the wetlands
- o avoids the non-mitigatable “significant but unavoidable” traffic issue,
- o and preserve the unique and irreplaceable Vine Hill.
- o Save the 30 protected Valley Oak Woodlands from destruction.
- o Save water: Less used during construction, less consumed by households and landscaping.

20-16

20-17

12. **Observation:** Vine Hill and surrounding property—this land is currently becoming degraded by dirt bikers and ATVs, and over-grazed by cattle. How about a park instead with hiking/walking trails?

20-18

13. How about considering additional conservation and restoration of wetlands?
14. California is in danger of losing trees more trees to Climate Change and Drought—Why is the destruction of a thriving woodland and other even being considered?

XIII. (Off-Site) Palms Drive Safety, Crime, Noise

Increased crime, clean air, added pollution, noise, and quality of life—all will be significantly and negatively impacted by additional traffic and the addition of 144 homes and /or 72 homes

20-19

1. Were the existing homes (560, 564, 576 and 584 Palms Drive) which are across the street from the project site (Bayview “A” Cul-de-Sac) considered/included in the DEIR studies of:
 - o Light and glare
 - o Noise—Per Palms 10 EIR: a substantial increase of ambient noise was anticipated should more homes be added to the neighborhood.
 - o Forced air circulation as a noise reduces but increases energy costs.
2. The (Off-Site) Palms Drive with cul-de-sac status **helps keep down crime rates.**
 - o Adding extra feeder streets invites criminals to enter into the development and evade arrest within the major and minor streets.
 - o Speeding vehicles are a safety risk to children and other property.
3. If another ingress/egress could be developed, perhaps Palms Drive could be utilized for walkers and bikers by installing a fence between the two properties (An example of this can be found in Walnut Creek)

20-20

20-21

20-22

XIV. Special Status Animals

1. Has yearly rototilling (specifically around the wetlands) destroyed any of the fragile ecosystem (Frogs, plants, animals)?

20-23

XV. Health Risks TAC

Basin Microclimate: includes Refinery, proximity to active railroad, and Interstate 680

1. Tesoro incidents—issue of hazardous emissions reported
2. If applicable: Air Quality—will homeowners be notified how toxic the air is?
3. What is the ground quality? Is the ground contaminated?

20-24

From 2009 DEIR requiring MERV-13 Filters to Mitigate TACs

1. Why this discrepancy?
2. Where were measuring monitors for Toxic Air Testing placed?
 - a. They should be placed in base / sea level of property where Vine Hill does not block/buffer property from Interstate 680.
 - b. If the Air Quality is found to be toxic and above acceptable levels—How will homeowners be notified about the risks?

20-25

Installation of MERV-13 filters in residential units represents a feasible option that is recommended by a number of entities. The City and County of San Francisco requires MERV-13 filters be installed in residential buildings located in air quality hot spots as defined by San Francisco’s Health Code Article 38.³³ In addition, the American Society of Heating, Refrigerating, and Air Conditioning Engineers, recommends, in their green building guide, that a minimum of MERV-13 rated air filtration be required in building locations where the air quality is designated to be in non-attainment with the National Ambient Air Quality Standards for PM_{2.5}.³⁴ The United States Green Building Council requires that new construction be equipped with a MERV-13 or higher rated air filter in new construction for buildings and homes to receive air filtration green building credit points.³⁵

XVI. Family Safety, especially for children

20-26

1. Concern: Presence of Gas and Jet fuel lines adjacent to project property
2. Narrow (Off-Site) Palms Drive Road will not provide adequate protection for school children playing outside.
3. "Improvement" of (Off-Site) Palms Drive does not allow children to ride their bikes on the street (like they are doing now),
4. BNSF Railroad & Memorial on Howe
5. Has the issue of Increased crime been discussed?
6. Possible Toxic Air Quality
7. Safety, emergency response times, quality of access roads, difference of roads widths within project

↑
20-26
cont.

XVII. Palms Ten / Palms 10—Another Discovery Homes Project

1. Once Bayview is completed, what are expectations / timeline for **Palms Ten** (or Palms 10) development?
2. Considering the development of **Palms Ten** (or Palms 10) may commence as soon as Bayview in completed, how will residents on Palms Drive be impacted?
 - o Confirmed: **Palms Ten** is approved and entitled to commence.
3. Is there a conflict of interest for construction to begin for the **Palms Ten** residential project before the Bayview EIR is approved?

20-27

XVIII. Miscellaneous Comments and Concerns

1. Hi density SFR works is preferred by the developer (with lot sizes as low as 6,000 square feet). Surrounding area is zoned R6. Instead of hi-density, isn't this Project better served by minimum lot sizes of 7,260 square feet?
2. Where will the construction runoff water end up?
3. How will the wetlands and other water sources be protected from contamination?
4. How much water will be needed to keep the dust down during construction? Is this acceptable during droughts?
5. Please address the feasibility of extra water use during construction (Governor Newsom is asking for a 15% voluntary water reduction because of anticipated drought)
6. Is this DEIR based on CCC General Plan 2005-2020 or 2020-2040?
7. Has East Bay Regional Park District (EBRPD) requested a trail easement to build the canal trail?
8. Would the developer consider building the East Bay Regional Park District (EBRPD) canal trail?
9. For Dirt Bikers regularly accessing property via Conco and damaging Vine Hill: Change locks regularly. Is there a camera to monitor? Install a camera and other monitors with access codes for entry?

20-28

XIX. Superiority of Alternative 3

1. Safety & and future costs for Emergency Response services are no longer an issue
2. Jobs are created
3. Traffic is reduced significantly (local air quality is not diminished)
4. Vine Hill Scenic Vistas are preserved
5. Special habitats of protected species, established trees and wetlands are conserved

20-29

Responses to Letter 20: Carolyn and Burt Kallander-4

- 20-1 See Response 17-1, which responds to duplicate comment from this commenter.
- 20-2 See Response 17-2, which responds to duplicate comment from this commenter.
- 20-3 See Response 17-3, which responds to duplicate comment from this commenter.
- 20-4 See Response 17-4, which responds to duplicate comment from this commenter.
- 20-5 See Response 17-5, which responds to duplicate comment from this commenter.
- 20-6 See Response 17-6, which responds to duplicate comment from this commenter.
- 20-7 See Response 17-7-3 regarding other parcels for consideration and Response 17-7-15 regarding off-site ingress/egress; each responds to duplicate comments from this commenter.
- 20-8 See Response 17-7-6 regarding frontage loses, Response 17-7-11 regarding requirements for sidewalks, and Response 17-7-12 emergency vehicle access; each responds to duplicate comments from this commenter.
- 20-9 See Response 17-8 regarding economic or social changes in the existing neighborhood. Also see Master Response #2 to address comments regarding size/affordability of homes to be built and Palms Drive signage.
- 20-10 See Response 17-8, which responds to duplicate comment from this commenter and refers to Master Response #2.
- 20-11 See Response 17-9, which responds to duplicate comment from this commenter.
- 20-12 See Response 17-10, which responds to duplicate comment from this commenter.
- 20-13 See Response 17-11, which responds to duplicate comment from this commenter.
- 20-14 See Response 17-12, which responds to duplicate comment from this commenter.
- 20-15 See Response 17-14 regarding wetlands, and Responses 17-15 and 17-11 regarding woodlands; each responds to duplicate comments from this commenter.
- 20-16 See Response 17-13, which responds to duplicate comment from this commenter.
- 20-17 See Response 17-11, which responds to duplicate comment from this commenter.
- 20-18 See Response 17-12 regarding a park/trails use, Response 7-14 regarding wetlands, and 7-15 regarding woodlands; each responds to duplicate comments from this commenter.

- 20-19 See Response 17-16, which references Master Response #2, and Response 17-17 regarding potential traffic; each responds to duplicate comments from this commenter.
- 20-20 See Response 17-18, which responds to duplicate comment from this commenter.
- 20-21 See Response 17-19, which responds to duplicate comment from this commenter.
- 20-22 See Response 17-20, which responds to duplicate comment from this commenter.
- 20-23 See Response 17-21, which responds to duplicate comment from this commenter.
- 20-24 See Response 17-23 regarding Tesoro, Response 17-24 regarding toxic air notifications, and Response 17-25 regarding ground quality; each responds to duplicate comments from this commenter.
- 20-25 See Response 17-26, which responds to duplicate comment from this commenter.
- 20-26 See Response 17-27, which responds to duplicate comment from this commenter.
- 20-27 See Response 17-29, which responds to duplicate comment from this commenter.
- 20-28-1 See Response 17-29-1, which responds to duplicate comment from this commenter.
- 20-28-2 See Response 17-29-3, which responds to duplicate comment from this commenter.
- 20-28-3 See Response 17-29-3, which responds to duplicate comment from this commenter.
- 20-28-4 See Response 17-29-4, which responds to duplicate comment from this commenter.
- 20-28-5 See Response 17-29-5, which responds to duplicate comment from this commenter.
- 20-28-6 See Response 17-29-8, which responds to duplicate comment from this commenter.
- 20-28-7 See Response 17-29-7, which responds to duplicate comment from this commenter.
- 20-28-8 See Response 17-29-7, which responds to duplicate comment from this commenter.

- 20-28-9 See Response 17-7-4, which responds to duplicate comment from this commenter.
- 20-28-4 See Response 17-29-4, which responds to duplicate comment from this commenter.
- 20-29 See Response 17-28, which responds to duplicate comment from this commenter.

Vine Hill Preservation Association

Alma Johnson, Member

Mr. Gary Kupp
Zoning and Land Use Planner
Contra Costa Department of
Conservation and Development

Dear Mr. Gary Kupp:

My name is Alma Johnson. I live at 528 Palms Drive in Martinez. I am a member of the Vine Hill Preservation Association.

This letter is by way of an appeal to you and other officials concerned with the Contra Costa land and use issues.

I have lived on Palms Drive for forty years. During these years, gratefully, I have watched a drug and gang neighborhood change into a safe and peaceful place with beautiful homes built and young families coming here to be close to the country atmosphere. I have also enjoyed all the wild animals coming from the nearby wetland to visit my garden.

21-1

Now, for all the above reasons and for the reasons listed below, I am appealing to you to take a closer look at the Draft EIR for Discovery's proposed 144 houses on ancient hillsides and wetlands.

- 1. I am very opposed to the destruction of the wild wetland environment east of Palms Drive:
 - a) 144 homes with house and garden chemicals draining down into the wetland will pollute it and harm the wildlife dependent on it: red-legged frogs, tiger salamanders, fish, hawks, owls, herons, egrets, skunks, raccoons, kit foxes, salt marsh mice, etc.
 - b) The two proposed "parks" will encourage the unhoused to reside in the area, bringing serious health hazards and danger to any children playing there.
 - c) The fumes from any heavy industry will drift up into the houses built on the hillsides above, bringing health hazards (and potential lawsuits?).

21-2
21-3
21-4
21-5

2. I am very opposed to having Palms Drive connected to any other county street. (See signed letter on file at the county offices.)

21-6

Thanking you in advance for any consideration you may be able to give to all of us living on Palms Drive and Briones View Court:

Sincerely,



Alma Johnson
P.O. Box 6131
Concord, CA 94524

Responses to Letter 21: Alma Johnson

- 21-1 The commenter describes overall concerns with the existing conditions of the neighborhood. The comment does not raise concerns with the adequacy of the Draft EIR. See Master Response #2.
- 21-2 The Project will not destroy wetlands. Any impacts to wetlands will be fully mitigated. Mitigation Measure BIO-6a specifies avoidance and protection measures around wetlands and waters of the U.S. and/or state within the Project site that will be fully avoided. Mitigation Measure BIO-6b requires compensation for impacts to wetlands and waters to reduce impacts associated with direct loss to a less-than-significant level. At a minimum, or as determined by the USACE (as specified in Chapter 4 of this document), compensation acreage for impacted wetlands and waters would meet a 1:1 ratio to achieve no net loss of aquatic resources. (DEIR, pp. 4.3-52 to 4.3-55.)
- 21-3 See Response 17-29-3. Regarding potential impacts of runoff to special-status and common animals, Mitigation Measures BIO-2c and BIO-4a fully mitigate any potential impacts to CRLF and salt marsh harvest mouse, respectively. See Responses 11-5 and 2-4, respectively.
- 21-4 Only one 4.5-acre private neighborhood park will be constructed as part of the Project. The park would be maintained by the HOA.
- While safety of residents is an important social issue, it is not germane to CEQA. CEQA does not require consideration of economic and social effects or impacts on future project users. (See CEQA Guidelines Section 15604(e).) See Master Response #2
- CEQA does not generally require analysis of how existing hazards or conditions might impact project users or residents. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.)
- 21-5 CEQA does not generally require the analysis of how existing hazards or conditions might impact project users or residents. (*California Building Industry Assn. v. Bay Area Quality Management Dist.* (2015) 62 Cal.4th 369, 392.)
- The Project will amend the General Plan to change the land use designation from Heavy Industry to Single-Family Residential – High Density, thereby reducing the potential of fumes from heavy industry would affect surrounding neighborhoods. See Response 10- 5 which is incorporated by reference herein.
- 21-6 The Project site is accessed from both Palms Drive and Central Avenue (portions of which are a public roadway).

The Project will provide a secondary emergency vehicle access through the south side of the Project site, connecting to the proposed in-tract streets, which ultimately connect to the existing Central Avenue and Palms Drive. As a result, the Project will correct an existing deficiency by providing improved emergency vehicle access and circulation through a secondary emergency vehicle access and code-compliant emergency vehicle turnarounds.

CHAPTER 4

County-Initiated Updates and Errata to the Draft EIR

4.0 Introduction

This chapter describes changes made to the Draft EIR in response to County staff-initiated updates or comments received on the Draft EIR. The changes shown in this chapter update, refine, or clarify Project information and mitigation measures presented in the Draft EIR. The edits are made either in response to a comment received on the Draft EIR, initiated by County staff.

4.1 Text Changes to the Draft EIR

New text is indicated in double underline and text to be deleted is reflected by a ~~double strike through~~. Text changes are presented in the page order in which they appear in the Draft EIR. As indicated in Chapter 1, *Introduction*, the entirety of the EIR consists of the Draft EIR, together with this Response to Comments / Final EIR document, including all appendices. Therefore, the Draft EIR changes presented in this chapter are incorporated in and supersede corresponding original text in the Draft EIR.

4.2 Implication of Changes to the Draft EIR

Pursuant to CEQA Guidelines Section 15088.5(a), recirculation of a Draft EIR is required only if:

- “1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- 2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- 3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it; or
- 4) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”

None of the changes to the Draft EIR identified in this document meet any of the above conditions. Therefore, recirculation of any part of the Draft EIR is not required. The information presented in the Draft EIR and this document support this determination by the County.

Changes to Section 4.3: Biological Resources

The following text is added to the Mitigation Measure BIO-1a (shown in part, below), starting on page 4.3-33 of the Draft EIR:

Mitigation Measure BIO-1a: Avoidance and Minimization for Impacts to Special-Status Plants. A qualified botanist with a minimum of four years of academic training and professional experience in botanical sciences and a minimum of two years of experience conducting rare plant surveys shall conduct appropriately timed surveys (i.e., floristic preconstruction surveys) for special-status plant species with a moderate or high potential to occur in the Project site (i.e., Bolander's water hemlock, soft bird's-beak, Mason's lilaeopsis, Congdon's tarplant, small spikerush, fragrant fritillary, delta tule pea, delta mudwort, and Suisun Marsh aster) in all suitable habitat that would be potentially disturbed by the Project.

The following text is revised in Mitigation Measure BIO-2b (shown in part, below), starting on page 4.3-36 of the Draft EIR:

Mitigation Measure BIO-2b: General Conservation Measures during Construction. The County shall ensure that the following general measures are implemented by the contractor during construction to prevent and minimize impacts on special-status species and sensitive biological resources:

- 1) Ground disturbance and construction footprints will be minimized to the greatest degree feasible.
- 2) Project-related ~~V~~ehicles shall observe a 15 mile-per-hour speed limit within the Project site.
- 3) ...

The following text is revised in Mitigation Measure BIO-2c (shown in part, below) to avoid repetition, starting on page 4.3-37 of the Draft EIR:

Mitigation Measure BIO-2c: Avoidance, Minimization, and Protection Measures for Sensitive Amphibians and Reptiles. The following conservation measures shall be implemented to minimize or eliminate potential adverse impacts on California red-legged frog (CRLF) and western pond turtle (WPT) during Project construction:

- 1) Consistent with the USFWS *California Red-legged Frog Survey Protocol*, a habitat assessment shall be prepared and submitted to the USFWS to support their determination of the species' potential to occur on site. If the USFWS agrees that the habitat assessment establishes species absence, or if subsequent protocol-level surveys requested by the USFWS following their review of the habitat assessment establish species absence, then no further action shall be needed to protect this species. In the absence of USFWS

coordination, CRLF shall be presumed present within suitable aquatic habitat on the site and protective measures described below shall be followed.

- 2) A qualified biologist shall survey the work sites within 5 calendar days prior to the onset of construction for CRLF and WPT to determine presence (and life stage) of these species on the Project site.

Additionally, a qualified biologist shall conduct a pre-construction survey of Project aquatic habitat for CRLF and WPT immediately prior to the start of construction activities, beginning with installation of exclusion fencing (see 3, below). The surveys will consist of walking the Project work limits adjacent to areas where natural habitat is present to ascertain presence of these species (e.g., grasslands adjacent to suitable aquatic habitat within the Project site).

- 3) ~~Unless explicitly authorized by the USFWS (e.g., through issuance of a Biological Opinion, CRLF shall not be relocated if encountered within the Project site. Rather CRLF shall be allowed to disperse of their own volition while all work is halted within 50 feet of individuals.~~ Prior to conducting preconstruction surveys, the qualified biologist shall prepare a relocation plan that describes the appropriate survey and handling methods for WPT and identifies nearby relocation sites where individuals would be relocated if found during the preconstruction surveys. The relocation plan shall be submitted to CDFW for review prior to the start of construction activities. The animal shall be relocated to equivalent or better WPT habitat relative to where it was found.
- 4) ...

The following text is revised in Mitigation Measure BIO-5a, starting on page 4.3-48 of the Draft EIR:

Mitigation Measure BIO-5a: Salvage and Reintroduction of Creeping Wildrye Grassland. The following measures shall be implemented prior to construction to avoid or minimize impacts to creeping wildrye grassland within the Project site.

1. A qualified botanist shall identify the boundaries of creeping wildrye grassland within the Project site during the flowering season (between June and July) and prior to site grading. Boundaries of this sensitive natural community shall be mapped and flagged for avoidance, if feasible.
2. Where avoidance of this community is infeasible, the perennial grasses shall be harvested at the appropriate time and under the direction of the qualified botanist from locations where grading and/or ground disturbance will occur within the Project site.
3. Harvested grasses shall be stored for reintroduction into suitable habitat within upland portions of the Project site that will be preserved as open space.
4. The Project applicant shall contract a qualified restoration ecologist to prepare a Monitoring Plan for relocated / transplanted creeping wildrye

grasses within the Project site. The plan shall detail methods and location for relocating or reintroducing the grasses, success criteria, monitoring methods and maintenance for successful establishment, reporting protocols, and contingency measures to be implemented if the initial mitigation fails. The plan shall be developed in coordination with the appropriate agencies prior to the start of local construction activities, with the objective of providing equal or better habitat and populations than the impacted area(s). The recommended success criteria for relocated plants shall be ~~0.75:1 ratio~~ 1:1 ratio [number of plants established: number of plants impacted] after two years, unless otherwise specified by CDFW.

5. The plan shall be submitted to the County and CDFW prior to the start of local construction activities within the boundaries of the creeping wildrye grassland.
6. Monitoring reports shall include photo-documentation, planting specifications, a site layout map, descriptions of materials used, and justification for any deviations from the monitoring plan.

The following text is clarified in Mitigation Measure BIO-6a, starting on page 4.3-52 of the Draft EIR:

Mitigation Measure BIO-6a: Protection of Jurisdictional Wetlands and Other Waters. For Project development within or adjacent to state and federal jurisdictional wetlands and waters, protection measures shall be applied to protect these features. These measures shall include the following:

1. An updated wetland delineation shall be submitted to USACE for verification to establish the boundaries and current jurisdictional status of the aquatic features in the site. The verified wetland delineation shall be used to quantify the Project impacts to aquatic resources for permitting purposes.
2. To the maximum extent feasible, Project construction activities within or adjacent to wetlands or waters shall be conducted during the dry season (between June 15 and October 15) and the disturbance footprint shall be minimized in these areas.
3. Stabilize disturbed, exposed slopes immediately upon completion of construction activities (e.g., following cut and fill activities and installation of bioretention pond infrastructure) to prevent any soil or other materials from entering aquatic habitat. Plastic monofilament of any kind (including those labeled as biodegradable, photodegradable, or UV-degradable) shall not be used. Only natural burlap, coir, coconut or jute wrapped fiber rolls and mats shall be used.
4. A protective barrier (fence) shall be erected around any wetlands or waters designated for complete avoidance in Project construction plans and regulatory permits to isolate it from construction or other ground-disturbing activities.
5. A fencing material meeting the requirements of both water quality protection and wildlife exclusion may be used. Fences must be properly installed with final approval by a County representative, including adequate supports or

wire backing for use if windy conditions are anticipated, and with the lower edge keyed in to the soil to ensure a proper barrier. Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities;

6. No equipment mobilization, grading, clearing, or storage of vehicles, equipment or machinery, or similar activity shall occur until a County representative has inspected and approved the wetland protection fence;
7. The Project proponent shall ensure that the temporary fence is continuously maintained until all construction or other ground-disturbing activities are completed; and
8. Drip pans and/or liners shall be stationed beneath all equipment staged nearby jurisdictional features overnight to minimize spill of deleterious materials into jurisdictional waters. Equipment maintenance and refueling in support of project implementation shall be performed in designated upland staging areas and work areas, and spill kits shall be available on-site. Maintenance activity and fueling must occur at least 100 feet from jurisdictional wetlands and other waters or farther as specified in the Project permits and authorizations.

The following text is clarified in Mitigation Measure BIO-6b, starting on page 4.3-53 of the Draft EIR:

Mitigation Measure BIO-6b: Permits and Compensation for Impacts to Wetlands and Waters.

To offset unavoidable permanent impacts to approximately 0.02 acres of the side-hill seep and the fill of less than 0.1 acres for construction of the storm drain outfall along the bank of Pacheco Creek, the Project applicant shall secure the appropriate permits and provide compensatory mitigation as determined by the regulatory agencies with jurisdiction over the impacted aquatic resources during the permitting process. To establish the jurisdictional status of the various aquatic features in the site, the updated wetland delineation will be submitted to USACE for verification. The necessary permits will depend on the jurisdictional status of the features. While the outfall in Pacheco Creek is expected to require permits from USACE (Nationwide 7), CDFW (1602 Streambed Alteration Agreement), and RWQCB (401 Certification), the permitting scenario of the side-hill seep is less predictable. It is possible USACE will verify this feature as outside Clean Water Act jurisdiction due to spatial and hydrological isolation from other Waters of the U.S. If the seep is verified as non-jurisdictional, the Regional Water Quality Control Board Water would be expected to issue a Notice of Applicability to authorize its fill pursuant to Water Quality Order No. 2004-0004-DWQ.

At a minimum, or as determined by the USACE, compensation acreage for impacted wetlands and waters would meet a 1:1 ratio (created/restored/enhanced: impacted) to achieve no net loss of aquatic resources. Compensation may ~~include~~ be accomplished through the purchase of credits at an agency-approved mitigation bank or in-lieu fee program. Alternatively, compensation may be accomplished through on-site or off-site creation, restoration, or enhancement of jurisdictional resources, ~~as determined~~

subject to approval by the permitting agencies. On-site or off-site creation/restoration/enhancement plans must be prepared by a qualified biologist prior to construction, include a planting plan and planting methods, monitoring and reporting requirements, performance criteria (e.g., species diversity and vegetative cover thresholds), and maintenance requirements, and is subject to review and modification by resource agency permits. Implementation of creation/restoration/enhancement activities by the Project applicant (or permittee) shall occur prior to Project impacts, whenever possible, to avoid temporal loss. On- or off-site creation/restoration/enhancement sites shall be monitored by the applicant for at least five years to ensure their success, or as otherwise required by resource agencies.

Changes to Section 4.6: Greenhouse Gas Emissions and Energy

The following text is clarified in Mitigation Measure GHG-1, starting on page 4.6-33 of the Draft EIR:

Mitigation Measure GHG-1: GHG Emissions Reduction Plan. *Prior to the County's approval of the first ~~construction or grading-related~~ building permit for the Project, the Project applicant shall submit to the County a "GHG Emissions Reduction Plan" ("Plan") for implementation over the useful life of the Project (generally estimated to be at least 30 years) in accordance with the requirements of this mitigation measure. The Plan shall document the GHG reduction measures that will be combined and implemented to achieve the required emissions reduction of at least 182 MT CO₂e /year, and a quantification of the emissions reductions achieved with the combination of measures identified in the Plan.*

Changes to Section 4.12: Public Services and Recreation

In response to comment 8-10, the following correction is made on page 4.12-4 of Draft EIR:

Contra Costa ~~County~~ LAFCO

Also in response to comment 8-10, the following correction is made on pages 4.12-14, and 4.14-20 of Draft EIR:

Contra Costa ~~County~~ Local Agency Formation Commission (LAFCO)

Changes to Section 4.14: Utilities and Service Systems

In response to comment 8-8, the following text is revised, starting on page 4.14-4 of the Draft EIR:

The MVSD service area comprises approximately 4.7 square miles, ~~and is contiguous on all sides with the Central Contra Costa Sanitary District (CCCCSD), with which it~~

collaborates with the Central Contra Costa Sanitary District (CCCSD) to provide services to the central portion of the County.

In response to comment 8-8, the following correction is made under Impact UTIL-4 on page 4.14-15 of the Draft EIR:

~~The Project site is located currently falls within two sanitary sewer districts: The CCCSD and the MVSD. MVSD has reviewed the preliminary subdivision and approved of the proposed subdivision as well as the request to annex the Project site to be wholly within the MVSD SOI, but not the MVSD service boundary, and it therefore~~ subject to the approval by the LAFCO. MVSD issued a “Will Serve” letter confirming its plan to provide wastewater utility service to the Project site (Leptein, 2010). Although the Project site ~~is not within currently sits~~ within the CCCSD SOI or service boundary jurisdiction, CCCSD considered the proposed residential use to conflict with its current operations nearby and elected not to annex the property or provide wastewater utility service to the site (Batts, 2004; Kelly, 2008). Annexation to CCCSD is therefore not a component of the Project.

The text on page 4.14-18 of the Draft EIR is corrected as follows in response to comment 6-8:

For wastewater, the ~~MVSD Master Plan Update~~ Sanitary Sewer Flow Monitoring & Hydraulic Modeling, prepared by Carollo (January 2013) indicates that its existing infrastructure is sufficient to support the Project and other infill development through the year 2040.

The *Sanitary Sewer Flow Monitoring & Hydraulic Modeling* (Carollo, January 2013) is added to the references in Section 4.14, *Utilities and Service Systems*, of the Draft EIR, as shown below.

The references for Section 4.14, *Utilities and Service Systems*, starting on page 4.14-20 of the Draft EIR, are modified as shown below. Deletions are references superseded with publication of the Draft EIR:

Batt, Charles W. General Manager, Central Contra Costa Sanitary District, letter communication, October 25, 2004.

Aliquot, 2020. *Bayview Proposed Sewer Capacity Analysis* report, Adam Xu, P.E. and Robert Wong, P.E., dated June 1, 2020.

~~California Department of Education, 2017. DataQuest: Enrollment and Staffing Data Files. Available at: <https://dq.edc.ca.gov/dataquest/>, accessed November 3, 2017.~~

California Department of Resources Recycling and Recovery (CalRecycle), 2017. Jurisdiction Diversion/Disposal Rate Summary (2018), Contra Costa-Unincorporated. Available at: <https://www2.calrecycle.ca.gov/LGCentral/DiversionProgram/JurisdictionDiversionPost2006>, accessed October 2020.

California Department of Resources Recycling and Recovery (CalRecycle), 2020. Residential Waste Stream by Material Type. Available at: [http https://www2.calrecycle.ca.gov/WasteCharacterization/ResidentialStreams](http://www2.calrecycle.ca.gov/WasteCharacterization/ResidentialStreams), accessed October 2020.

California Department of Resources Recycling and Recovery (CalRecycle), 2020b. Commercial Waste Stream by Business Groups. Available at: <http://www2.calrecycle.ca.gov/WasteCharacterization/BusinessGroupStreams>, accessed October 2020.

~~Carollo, 2013. *Sanitary Sewer Flow Monitoring & Hydraulic Modeling*, January 2013.~~

~~City of Concord, 2017. Parks, official website. Available at: <http://www.cityofconcord.org/page.asp?pid=3025>, accessed November 14, 2017.~~

~~City of Martinez, 2017. Parks, official website. Available at: <http://www.cityofmartinez.org/depts/recreation/parks/>, accessed November 14, 2017.~~

~~City of Walnut Creek, Open Space, official website. Available at: <http://www.walnutcreek.org/departments/public-works/open-space-facility-formatted-list>, accessed November 14, 2017.~~

~~Contra Costa County, 2005. *Contra Costa County General Plan (2005–2020)*, January 2005.~~

Contra Costa County, 2015. *Notice of Preparation and Public Scoping Meeting for the Supplemental Environmental Impact Report to Amend Land Use Permit 2020-89 for Keller Canyon Landfill*, County File #LP08-2026, State Clearinghouse No. 1989040415, October 15, 2015.

~~Contra Costa County, 2017a. Fire Protection Districts, official website. Available at: <http://www.co.contra-costa.ca.us/1550/Fire-Protection-Districts>, accessed November 14, 2017.~~

~~Contra Costa County, 2017b. Parks and Recreation, official website. Available at: <http://www.co.contra-costa.ca.us/446/Parks-and-Recreation>, accessed November 14, 2017.~~

~~Contra Costa County Fire Protection District (CCFPD), 2017. Operations Division, official website. Available at: <http://www.cccfpd.org/emergency-operation.php>, accessed November 14, 2017.~~

Contra Costa County Local Agency Formation Commission (LAFCO), 2014. *Combined Municipal Service Review and Sphere of Influence Study (2nd Round)*, approved May 14, 2014.

~~Contra Costa County Sheriff's Office, 2017a. Office of the Sheriff Overview, official website. Available at: <http://cocosheriff.org/about/overview.htm>, accessed November 10, 2017.~~

~~Contra Costa County Sheriff's Office, 2017b. Muir Station, official website. Available at: http://www.cocosheriff.org/bureaus/field_operations/patrol/muir.htm, accessed November 10, 2017.~~

Contra Costa Water District (CCWD), 2016. *2015 Urban Water Management Plan*, adopted June 2016.

~~East Bay Regional Park District (EBRPD), 2013. *Master Plan 1993*, adopted July 16, 1993.~~

~~East Bay Regional Park District (EBRPD), 2017. Parks/Trails, official website. Available at: <http://www.cbparks.org/parks>, accessed November 14, 2017.~~

Business Manager, Allied Waste, personal communication, April 29, 2008.

Kelly, James M., General Manager, Central Costa County Sanitary District, letter communication, April 17, 2008.

Leptin, Randy, District Engineer, Mt. View Sanitary District, Will-Serve Letter, December 7, 2010.

~~Martinez Unified School District (MUSD), 2017. Schools, official website. Available at: <https://martinez-ca.schoolloop.com/schools>, accessed November 14, 2017.~~

Mt. View Sanitary District (MVSD), 2020. MVSD official website. Available at: <https://mvsd.org/about-the-district/> and <https://mvsd.org/about-the-district/district-map/>, accessed October 2020.

~~National Park Service, 2017. John Muir National Historic Site, Things to Do, official website. Available at: <https://www.nps.gov/jomu/planyourvisit/things2do.htm>, accessed November 14, 2017.~~

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Appendix A

Mitigation Monitoring and Reporting Program



Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
4.1 Aesthetics				
<p>Mitigation Measure AES-1: The Project shall incorporate into all construction contracts and ensure implementation of the following measures:</p> <ol style="list-style-type: none"> To the extent feasible, during all site preparation and exterior construction activities, a screened security fence shall be placed and maintained around the perimeter of the Project site abutting residential areas. Visual screening along Central Avenue and bordering the perimeter of the property abutting residential areas shall be placed and maintained and removed upon completion of construction work. The County shall determine the appropriate height, material and final placement of such fencing, as appropriate and effective given the relative change in elevation and viewpoints to the site. Construction staging areas shall be located in the interior of the Project site, away from the property boundary and remain clear of all trash, weeds and debris etc. Construction staging areas may include other areas of the Project site when necessary, but shall be located away from adjacent properties and I-680 to minimize visibility from public view to the extent feasible. 	<p>Preparation of construction contracts.</p>	<p>Prior to issuance of grading and/or building permits. Ongoing throughout construction.</p>	<p>DCD</p>	<p>Review and approval of construction contracts. Review of plans for screened security fence, Central Avenue visual screen, and construction staging areas.</p>
4.2 Air Quality				
<p>Mitigation Measure AIR-1: Best Management Practices for Controlling Particulate Emissions. The Project applicant shall implement the following BAAQMD Best Management Practices for particulate control. These measures will reduce particulate emissions primarily during soil movement, grading and demolition activities but also during vehicle and equipment movement on unpaved areas.</p> <ol style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 mph. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, § 2485 of California 	<p>Implementation of BMPs.</p>	<p>Ongoing throughout construction.</p>	<p>DCD</p>	<p>Verify implementation and compliance with BMPs.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in accordance with manufacturer’s specifications prior to operation.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.</p>				
<p>Mitigation Measure AIR-2: Enhanced Exhaust Emissions Reduction Measures. The applicant shall implement the following measures during construction to further reduce construction-related exhaust emissions:</p> <p>All off-road equipment greater than 25 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements:</p> <ol style="list-style-type: none"> 1. Where access to alternative sources of power are available, portable diesel engines shall be prohibited; and 2. All off-road equipment shall have: <ol style="list-style-type: none"> a. Engines that meet or exceed either USEPA or CARB Tier 3 off-road emission standards, and b. Engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such are available. 	<p>Implementation of Enhanced Measures.</p>	<p>Ongoing throughout construction.</p>	<p>DCD</p>	<p>Review and verify implementation and compliance with enhanced measures.</p>
<p>4.3 Biological Resources</p>				
<p>Mitigation Measure BIO-1a: Avoidance and Minimization for Impacts to Special-Status Plants. A qualified botanist with a minimum of four years of academic training and professional experience in botanical sciences and a minimum of two years of experience conducting rare plant surveys shall conduct appropriately timed surveys (i.e., floristic preconstruction surveys) for special-status plant species with a moderate or high potential to occur in the Project site (i.e., Bolander’s water hemlock, soft bird’s-beak, Mason’s lilaeopsis, Congdon’s tarplant, small spikerush, fragrant fritillary, delta tule pea, delta mudwort, and Suisun Marsh aster) in all suitable habitat that would be potentially disturbed by the Project</p>	<p>Conduct floristic pre-construction surveys.</p>	<p>Within 3 years prior to initiating ground disturbance at the site.</p>	<p>DCD</p>	<p>Review and approve survey findings.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<ol style="list-style-type: none"> 1. If no special-status plants are found during focused surveys, the botanist shall document the findings of found species in a letter to CDFW and the County, and no further mitigation will be required. 2. If special-status plants are found during focused surveys, the following measures shall be implemented: <ol style="list-style-type: none"> a. Information regarding the special-status plant populations shall be reported to the CNDDB, mapped, and documented in a technical memorandum provided to the County. b. If federally or state listed species are identified during floristic preconstruction surveys, the Project proponent shall mark these plants for avoidance and comply with applicable laws (i.e., the federal and State Endangered Species Acts) including through coordination or consultation with regulatory agencies (i.e., USFWS and/or CDFW), as appropriate, and as described in items d and e, below. c. If other special-status plant populations (i.e., California Rare Plant Ranked or locally significant plants) are identified during floristic preconstruction surveys and can be avoided during project implementation, they shall be clearly marked in the field by a qualified botanist and avoided during construction activities. If a Rank 3 or Rank 4 plant species is detected during the survey, the survey report shall analyze species rarity consistent with CEQA Guidelines (Section 15380) to determine if species protection is warranted. If the plants do not warrant protection, then no further action is needed for these species. d. If special-status plant populations are identified and cannot be avoided, the Project proponent shall coordinate or consult with the County and regulatory agencies, as appropriate, on relocation of special-status plants. To the extent feasible, special-status plants that would be impacted by the Project shall be relocated within local suitable habitat. This can be done either through salvage and transplanting or by collection and propagation of seeds or other vegetative material. Any plant relocation or reintroduction through seeds or other vegetative material would be done under the supervision of a qualified botanist or restoration ecologist. e. If rare plants can be avoided, prior to vegetation removal, ground clearing or ground disturbance, all on-site construction personnel shall be instructed as to the species' presence and the importance of avoiding impacts to rare plant species and their habitat through the Worker Environmental Awareness Program training (see Mitigation Measure BIO-2a, below). 	<p>Submittal of survey findings letter or reports; coordination or consultation with regulatory agencies.</p>	<p>Upon completion of focused surveys.</p>	<p>DCD and CDFW, CNDDB, USFWS, as applicable.</p>	<p>Review and approve letter or reports.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>f. The Project proponent shall prepare a Rare Plant Relocation/Reintroduction and Monitoring Plan for relocated or reintroduced special-status plants which shall detail relocation or reintroduction methods or appropriate replacement ratios (e.g., at least 1:1 based on number of relocated plants or the area occupied by rare plants, as appropriate for the species) and methods for implementation (e.g., planting methods, need for supplemental irrigation, or weed control), success criteria (e.g., greater than 70% survival or ground coverage following 5 years), monitoring and reporting protocols, and contingency measures that shall be implemented if the initial mitigation fails (e.g., replanting to achieve success criteria). The plan shall be developed in coordination with the appropriate agencies prior to the start of local construction activities with the objective of providing equal or better habitat and populations than the impacted area(s). The County shall approve the plan.</p> <p>g. If special-status plants are relocated from the Project or reintroduction of plants or seed is implemented, the Project proponent shall maintain and monitor the relocation sites and/or restored areas for 5 years following the completion of construction and restoration activities. The Project proponent shall submit monitoring reports to the County at the completion of restoration and for 5 years following restoration implementation. Monitoring reports shall include photo-documentation, planting specifications, a site layout map, descriptions of materials used, and justification for any deviations from the mitigation plan.</p>	<p>Prepare Rare Plant Relocation/Reintroduction and Monitoring Plan</p> <p>Maintenance, monitoring and monitoring reports.</p>	<p>Upon completion of focused surveys.</p> <p>At the completion of restoration and for 5 years following restoration implementation.</p>	<p>Same as above.</p> <p>Same as above.</p>	<p>Same as above.</p> <p>Same as above.</p>
<p>Mitigation Measure BIO-2a: Worker Environmental Awareness Program Training. A Project-specific Worker Environmental Awareness Program (WEAP) training shall be developed and implemented by a qualified biologist for the Project and attended by all construction personnel prior to beginning work onsite. Typical credentials for a qualified biologist include a minimum of four years of academic training and professional experience in biological sciences and related resource management activities, and a minimum of two years of experience conducting surveys for each species that may be present within the Project area. The training could consist of a recorded presentation that could be reused for new personnel. The WEAP training shall generally address but not be limited to the following:</p> <ol style="list-style-type: none"> 1. Applicable State and federal laws, environmental regulations, project permit conditions, and penalties for non-compliance; 2. Special-status plant and animal species with potential to occur at or in the vicinity of the Project site, their habitat, the importance of these species and their habitat, the general measures that are being implemented to conserve these species as they relate to the Project, and the boundaries 	<p>Prepare/Implement WEAP Training.</p>	<p>Prior to beginning any work onsite.</p>	<p>DCD</p>	<p>Confirm completion of training.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>within which the project construction shall occur, avoidance measures, and a protocol for encountering such species including a communication chain;</p> <ol style="list-style-type: none"> 3. Pre-construction surveys associated with each phase of work; 4. Known sensitive resource areas in the Project vicinity that are to be avoided and/or protected as well as approved Project work areas; and 5. Best management practices (BMPs) and their location on the Project site for erosion control and/or species exclusion. 				
<p>Mitigation Measure BIO-2b: General Conservation Measures during Construction. The County shall ensure that the following general measures are implemented by the contractor during construction to prevent and minimize impacts on special-status species and sensitive biological resources:</p> <ol style="list-style-type: none"> 1. Ground disturbance and construction footprints will be minimized to the greatest degree feasible. 2. Project-related Vehicles shall observe a 15 mile-per-hour speed limit within the Project site. 3. The contractor shall provide closed garbage containers for the disposal of all food-related trash items. All garbage shall be collected daily from the Project site and placed in a closed container from which garbage shall be removed weekly. Construction personnel shall not feed or otherwise attract fish or wildlife to the Project site. 4. As necessary, erosion control measures shall be implemented to prevent any soil or other materials from entering any nearby aquatic habitat. Erosion control measures shall be installed at work site boundaries adjacent to aquatic habitat to prevent soil from eroding or falling into the area. 5. Erosion control measures shall be implemented as described in the Project SWPPP. Sediment control measures shall be furnished, constructed, maintained, and later removed. Plastic monofilament of any kind (including those labeled as biodegradable, photodegradable, or UV-degradable) shall not be used. Only natural burlap, coir, or jute wrapped fiber rolls that are certified weed-free shall be used. 6. All fueling and maintenance of vehicles and equipment and the location of Project staging areas shall occur at least 100 feet from any aquatic habitat and associated freshwater and saltmarsh vegetation. Spill kits containing cleanup materials shall be available on-site. 7. No equipment used in support of Project implementation (e.g. excavator) shall enter or cross waters in the Project area while water is flowing. 8. Project personnel shall be required to report immediately any harm, injury, or mortality of a listed species (federal or state) during construction, including entrapment, to the construction foreman, qualified biologist, or 	<p>Implementation of Conservation Measures.</p>	<p>Ongoing throughout construction.</p>	<p>DCD</p>	<p>Implementation of construction measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>County staff. The County or their consultant shall provide verbal notification to the USFWS Endangered Species Office in Sacramento, California, and/or to the local CDFW warden or biologist (as applicable) within 1 working day of the incident. The County or their consultant shall follow up with written notification to the appropriate agencies within 5 working days of the incident. All special-status species observations shall be recorded on California Natural Diversity Data Base (CNDDDB) field sheets/IPaC and sent to the CDFW/USFWS and by County staff or their consultant.</p>				
<p>Mitigation Measure BIO-2c: Avoidance, Minimization, and Protection Measures for Sensitive Amphibians and Reptiles. The following conservation measures shall be implemented to minimize or eliminate potential adverse impacts on California red-legged frog (CRLF) and western pond turtle (WPT) during Project construction:</p> <ol style="list-style-type: none"> 1. Consistent with the USFWS <i>California Red-legged Frog Survey Protocol</i>, a habitat assessment shall be prepared and submitted to the USFWS to support their determination of the species' potential to occur on site. If the USFWS agrees that the habitat assessment establishes species absence, or if subsequent protocol-level surveys requested by the USFWS following their review of the habitat assessment establish species absence, then no further action shall be needed to protect this species. In the absence of USFWS coordination, CRLF shall be presumed present within suitable aquatic habitat on the site and protective measures described below shall be followed. 2. A qualified biologist shall survey the work sites within 5 calendar days prior to the onset of construction for CRLF and WPT to determine presence (and life stage) of these species on the Project site. Additionally, a qualified biologist shall conduct a pre-construction survey of Project aquatic habitat for CRLF and WPT immediately prior to the start of construction activities, beginning with installation of exclusion fencing (see 3, below). The surveys will consist of walking the Project work limits adjacent to areas where natural habitat is present to ascertain presence of these species (e.g., grasslands adjacent to suitable aquatic habitat within the Project site). 3. Prior to conducting preconstruction surveys, the qualified biologist shall prepare a relocation plan that describes the appropriate survey and handling methods for WPT and identifies nearby relocation sites where individuals would be relocated if found during the preconstruction surveys. The relocation plan shall be submitted to CDFW for review prior to the start of construction activities. The animal shall be relocated to equivalent or better WPT habitat relative to where it was found. 4. A qualified biologist shall monitor installation of exclusion fencing (see 4, 	<p>Implement conservation measures: Prior to any construction activity.</p>	<p>Upon submittal of habitat assessment.</p>	<p>DCD, USFWS and CDFW, as applicable.</p>	<p>Review and approve/confirm surveys/habitat assessment and implementation and compliance with all measures (e.g., relocation, fencing).</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>below) to identify, capture, and relocate WPT if found, and halt or observe work in the vicinity of CRLF if encountered onsite. The qualified biologist shall have the authority to stop construction activities proximate to these species and develop alternative work practices, in consultation with construction personnel and resource agencies (as appropriate), if construction activities are likely to affect special-status species or other sensitive biological resources.</p> <p>Unless explicitly authorized by the USFWS (e.g., through issuance of a Biological Opinion, CRLF shall not be relocated if encountered within the Project site. Rather CRLF shall be allowed to disperse of their own volition while all work is halted within 50 feet of individuals. If a CRLF is not dispersing on its own volition, the qualified biologist shall monitor the frog while exclusion fence installation or other work continues, as long as they can ensure the safety of the frog. The qualified biologist shall immediately inform the construction manager that work should be halted or modified (in the case of a buffer or non-dispersing individual), if necessary, to avert avoidable take of listed species. Should egg masses, metamorphs, or tadpoles of CRLF be identified within Project site aquatic habitat during these initial surveys or at any time during Project construction, the USFWS shall be contacted prior to continuation of work near the discovery.</p> <p>If WPT and/or CRLF are not observed during pre-construction surveys or installation of the exclusion fence, continued biological monitoring during construction is not necessary. If either of these species are observed onsite at any time, the Project Applicant shall coordinate with USFWS and /or CDFW as necessary to determine the appropriate measures to avoid species' take.</p> <p>5. The Project Applicant or its contractors shall install temporary exclusion fencing around key project boundaries (i.e., at the work limit of aquatic habitat and associated marsh vegetation to be preserved under the Project) and around all staging and laydown areas to exclude CRLF and WPT from Project construction activities.</p> <ul style="list-style-type: none"> • Fencing shall be installed immediately prior to the start of construction activities under the supervision of a qualified biologist. • The Project Applicant or their contractor shall ensure that the temporary exclusion fencing is continuously maintained until all Project construction activities are completed. Daily fence inspections shall be conducted by the qualified biologist during the first week of construction. Thereafter, the qualified biologist may train the contractor to conduct regular inspections and coordinate findings with the qualified biologist. Similarly, vehicles or equipment parked overnight at the Project staging areas or work areas shall be inspected for harboring species each morning by the qualified 				

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>biologist (or the trained contractor) before they are moved.</p> <ul style="list-style-type: none"> The wildlife exclusion fencing shall be a minimum height of 3 feet above ground surface, with an additional 4 to 6 inches of fence material buried such that animals cannot burrow under the fence. The exclusion fence shall not cross the marsh associated with Pacheco Creek along the south edge of the site or bisect marsh vegetation to allow wildlife movement to continue through these areas when work is not occurring. <p>6. All onsite excavations of a depth of 8 inches or greater shall be either backfilled at the end of each workday, covered with heavy metal plates, or escape ramps shall be installed at a 3:1 grade to allow wildlife that fall in a means to escape.</p>				
<p>Mitigation Measure BIO-3a: Nesting Bird Protection Measures.</p> <ol style="list-style-type: none"> Project staging, project construction, vegetation removal (e.g., clearing and grubbing), vegetation management activities requiring heavy equipment, or tree trimming shall be performed outside of the bird nesting season (February 1st through August 31st) to avoid impacts to nesting birds; if these activities must be performed during the nesting bird season, a qualified biologist shall be retained to conduct a pre-construction survey in the project construction and staging areas for nesting birds and verify the presence or absence of nesting birds no more than 5 calendar days prior to construction activities or after any construction breaks of 5 calendar days or more. Surveys shall be performed for the project construction and staging areas and suitable habitat within 250 feet of the project construction and staging areas in order to locate any active passerine (perching bird) nests and within 500 feet of the project construction and staging areas to locate any active raptor (birds of prey) nest. If nesting birds and raptors do not occur within 250 and 500 feet of the Project area, respectively, then no further action is required if construction begins within 5 calendar days. If active nests are located during the pre-construction bird nesting surveys, no- disturbance buffer zones shall be established around nests, with a buffer size established by the qualified biologist. Typically, these buffer distances are between 50 feet and 250 feet for passerines and between 300 feet and 500 feet for raptors. These distances may be adjusted depending on the level of surrounding ambient activity and if an obstruction, such as a building or structure, is within line-of-sight between the nest and construction. Reduced buffers may be allowed if a full-time qualified biologist is present to monitor the nest and has authority to halt construction if bird behavior indicates continued activities could lead to nest failure. Buffered zones shall be avoided during construction-related activities until young have fledged or the nest is otherwise abandoned. 	<p>Pre-construction surveys.</p>	<p>Prior to staging, vegetation removal/management, and construction activity during bird nesting season.</p>	<p>DCD</p>	<p>Implementation of all measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Mitigation Measure BIO-3b: Avoid and Minimize Impacts to California Black Rail and Ridgway's Rail.</p> <p>To minimize or avoid the loss of individual California black rail and Ridgway's rail, construction activities, including vegetation management activities requiring heavy equipment, adjacent to tidal marsh areas (within 500 feet [150 meters] or a distance determined in coordination with USFWS or CDFW, shall be avoided during the breeding season from February 1 through August 31.</p> <ul style="list-style-type: none"> If areas within or adjacent to rail habitat cannot be avoided during the breeding season (February 1 through August 31), protocol-level surveys shall be conducted to determine rail nesting locations. The surveys will focus on potential habitat that could be disturbed by construction activities during the breeding season to ensure that rails are not breeding in these locations. <p>Survey methods for rails will follow the Site-Specific Protocol for Monitoring Marsh Birds, which was developed for use by USFWS and partners to improve bay-wide monitoring accuracy by standardizing surveys and increasing the ability to share data (Wood et al. 2017). Surveys are conducted during the approximate period of peak detectability, January 15 to March 25 and are structured to efficiently sample an area in three rounds of surveys by broadcasting calls of target species during specific periods of each survey round. Call broadcasting increases the probability of detection compared to passive surveys when no call broadcasting is employed. This protocol has since been adopted by Invasive Spartina Project (ISP) and Point Blue Conservation Science to survey Ridgway's rails at sites throughout San Francisco Bay Estuary. The survey protocol for Ridgway's rail is summarized below.</p> <ul style="list-style-type: none"> Previously used survey locations (points) should be used when available to maintain consistency with past survey results. New survey points should be at least 200 meters apart along transects in or adjacent to areas representative of potentially suitable marsh habitat. Points should be located to minimize disturbances to marsh vegetation. Up to 8 points can be located on a transect. At each transect, three surveys (rounds) are to be conducted, with the first round of surveys initiated between January 15 and February 6, the second round performed February 7 to February 28, and the third round March 1 to March 25. Surveys should be spaced at least one week apart and the period between March 25 to April 15 can be used to complete surveys delayed by logistical or weather issues. A Federal Endangered Species Act Section 10(a)(1)(A) permit is required to conduct active surveys. Each point on a transect will be surveyed for 10 minutes each round. 	<p>Pre-construction surveys.</p>	<p>Prior to construction activity during specified period of peak detectability of rail breeding season.</p>	<p>DCD and USFWS or CDFW</p>	<p>Confirm protocol-level surveys conducted and implementation of any established vegetation measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>A recording of calls available from USFWS is broadcast at each point. The recording consists of 5 minutes of silence, followed by a 30-second recording of Ridgway's rail vocalizations, followed by 30 seconds of silence, followed by a 30-second recording of California black rail, followed by 3.5 minutes of silence.</p> <ul style="list-style-type: none"> • If no breeding Ridgway's rails or black rails are detected during surveys, or if their breeding territories can be avoided by 500 feet (150 meters), then Project activities may proceed at that location. • If protocol surveys determine that breeding Ridgway's rails or black rails are present in the Project area, the following measures would apply to project activities conducted during their breeding season (February 1-August 31): <ul style="list-style-type: none"> – A USFWS- and CDFW-approved biologist with experience recognizing Ridgway's rail and black rail vocalizations will be on site during construction activities occurring within 500 feet (150 meters) of suitable rail breeding habitat. – If a Ridgway's rail or black rail vocalizes or flushes within 10 meters, it is possible that a nest or young are nearby. If an alarmed bird or nest is detected, work will be stopped, and workers will leave the immediate area carefully and quickly. An alternate route will be selected that avoids this area, and the location of the sighting will be recorded to inform future activities in the area. – All crews working within 500 feet of aquatic habitats during rail breeding season will be trained and supervised by a USFWS- and CDFW-approved rail biologist. – If any activities will be conducted during the rail breeding season in Ridgway's rail- or black rail-occupied marshes, biologists will have maps or GPS locations of the most current occurrences on the site and will proceed cautiously and minimize time spent in areas where rails were detected. • For vegetation management activities in suitable habitat for Ridgway's rail or black rail, the following measures will be implemented: <ul style="list-style-type: none"> – Any herbicides to be used will be EPA-certified for use in/adjacent to aquatic environments. – Vegetation management activities will be limited to areas outside of tidal marsh and non-tidal pickleweed marsh habitats. 				

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>a. If removal of- or disturbance to trees identified as potential bat roosting habitat or active roosts during the periods when bats are active is not feasible, a qualified biologist will conduct pre-construction surveys within 5 calendar days prior to disturbance to further evaluate bat activity within the potential habitat or roost site.</p> <p>b. If active bat roosts are not identified in potential habitat during pre-construction surveys, no further action is required prior to removal of- or disturbance to trees within the pre-construction survey area.</p> <p>c. If active bat roosts or evidence of roosting is identified during pre-construction surveys, the qualified biologist shall determine, if possible, the type of roost and species.</p> <p>i) If special-status bat species or maternity or hibernation roosts are detected during these surveys, appropriate species- and roost-specific avoidance and protection measures shall be developed by the qualified biologist. Such measures may include postponing the removal of or disturbance to trees, or establishing exclusionary work buffers while the roost is active. A minimum 100-foot no disturbance buffer shall be established around special-status species, maternity, or hibernation roosts until the qualified biologist determines they are no longer active. The size of the no-disturbance buffer may be adjusted by the qualified biologist, in coordination with CDFW, depending on the species present, roost type, existing screening around the roost site (such as dense vegetation), as well as the type of construction activity that would occur around the roost site, and if construction would not alter the behavior of the adult or young in a way that would cause injury or death to those individuals. Active maternity roosts shall not be disturbed without advance CDFW approval until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.</p> <p>ii) If a common species, non-maternity or hibernation roost (e.g., bachelor daytime roost) is identified, disturbance to- or removal of trees or structures may occur under the supervision of a qualified biologist as described under 3).</p>				
<p>2. The qualified biologist shall be present during tree disturbance or removal if active non-maternity or hibernation bat roosts or potential roosting habitat are present. Trees with active non-maternity or hibernation roosts of common species or potential habitat shall be disturbed or removed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50°F to ensure bats are active and can abandon any potential roosts as disturbance from the</p>	<p>On-site Monitoring.</p>	<p>During tree disturbance or removal, if active non-maternity or hibernation bat roosts or potential roosting habitat are present.</p>	<p>Same as above</p>	<p>Same as above</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>mitigation fails. The plan shall be developed in coordination with the appropriate agencies prior to the start of local construction activities, with the objective of providing equal or better habitat and populations than the impacted area(s). The recommended success criteria for relocated plants shall be 1:1 ratio [number of plants established: number of plants impacted] after two years, unless otherwise specified by CDFW.</p> <p>5. The plan shall be submitted to the County and CDFW prior to the start of local construction activities within the boundaries of the creeping wildrye grassland.</p> <p>6. Monitoring reports shall include photo-documentation, planting specifications, a site layout map, descriptions of materials used, and justification for any deviations from the monitoring plan.</p>	<p>Submit plan</p> <p>Implementation/ Monitoring of plan.</p>	<p>Upon receipt of plan, prior to start of local construction activities.</p> <p>Ongoing throughout construction; after two years of plant relocation.</p>		
<p>Mitigation Measure BIO-5b: Enhancement and Creation of Valley Oak Woodland. The Project applicant shall mitigate for temporary disturbance of oak woodland in support of the Project through restoration or preservation / enhancement / creation of oak woodland at a ratio of 1:1 (restored/enhanced/preserved area: impacted area) through one of the following options:</p> <p>1. Planting replacement trees within the Project site on areas of the hill that will be preserved as open space following development.</p> <p>The Project sponsor shall contract with a qualified restoration ecologist to prepare a Habitat Mitigation and Monitoring Plan (HMMP) for oak woodland habitat to be restored as part of the Project. The HMMP would be subject to approval by Contra Costa County. The HMMP shall include a detailed description of restoration/enhancement/preservation actions proposed such as a planting plan, a weed control plan to prevent the spread of invasive and non-native species within restored areas, and erosion control measures to be installed around the restored area following mitigation planting to avoid or minimize sediment runoff throughout the Project site; restoration performance criteria for the restored area that establish success thresholds over a period of 5 years; and proposed monitoring/maintenance program to evaluate the restoration performance criteria, under which progress of restored areas are tracked to ensure survival of the mitigation plantings. The program shall document overall health and vigor of mitigation plantings throughout the monitoring period and provide recommendations for adaptive management as needed to ensure the site is successful, according to the established performance criteria. An annual report documenting the results and providing recommendations for improvements throughout the year shall be provided to the County.</p>	<p>Prepare/Submit HMMP: Prior to construction activity.</p> <p>Implementation/ Reporting: Annually, over a period of 5 years during and after construction.</p>	<p>Upon receipt of HMMP.</p> <p>Throughout implementation period.</p>	<p>DCD</p>	<p>Review and approve plan. Verify option and implementation of plan.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>In designing the Tree Replacement Plan, the arborist shall review the final project grading plans to ensure that adequate tree preservation methods, guidelines, and conditions are in place. The project arborist shall host pre-demolition meetings with the general contractor and demolition contractor to determine clearance pruning, stump removal techniques, fencing placement and, timing to establish a Tree Protection Zone (TPZ). The arborist shall conduct post-demolition meetings to review and confirm tree protection fencing for grading and construction. All vehicles, equipment, and storage of job site materials and debris, shall be kept outside of the TPZ. The arborist shall incorporate standard protocols set forth in the American National Standards Institute (ANSI) <i>A300 Construction Management Standard, Part 5</i> and the International Society of Arboriculture's <i>Best Management Practices: Managing Trees During Construction</i>.</p>	<p>Pre/post-Demolition meetings.</p>	<p>Prior to and following any demolition activities.</p>		
<p>2. Paying an in-lieu fee to a natural resource agency or a non-profit organization that would use the fees to protect or enhance oak woodland habitat of the region.</p> <p>If an in-lieu fee is used for mitigation, the amount of the in-lieu fee shall be determined either by calculating the value of the land with oak woodland habitat proposed for removal, or by some other calculation. An alternate calculation shall reflect differences in the quality of habitat proposed for removal, and may consider the cost of comparable habitat (fee title or easement) in nearby areas. The amount of the in-lieu fee and entity receiving the funds shall be subject to review and approval by Contra Costa County.</p>	<p>Fee Payment.</p>	<p>Prior to any activities on the site.</p>		
<p>Mitigation Measure BIO-6a: Protection of Jurisdictional Wetlands and Other Waters. For Project development within or adjacent to state and federal jurisdictional wetlands and waters, protection measures shall be applied to protect these features. These measures shall include the following:</p> <ol style="list-style-type: none"> 1. An updated wetland delineation shall be submitted to USACE for verification to establish the boundaries and current jurisdictional status of the aquatic features in the site. The verified wetland delineation shall be used to quantify the Project impacts to aquatic resources for permitting purposes. 2. To the maximum extent feasible, Project construction activities within or adjacent to wetlands or waters shall be conducted during the dry season (between June 15 and October 15) and the disturbance footprint shall be minimized in these areas. 3. Stabilize disturbed, exposed slopes immediately upon completion of construction activities (e.g., following cut and fill activities and installation of bioretention pond infrastructure) to prevent any soil or other materials from entering aquatic habitat. Plastic monofilament of any kind (including 	<p>Implementation of Protection Measures.</p> <p>Preparation/Submittal of Updated Wetland Delineation.</p>	<p>Prior to and throughout all site disturbance and construction activities.</p> <p>Prior to and throughout all site disturbance and construction activities.</p>	<p>DCD and USACE</p>	<p>Review and verify delineation and implementation of protection measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>those labeled as biodegradable, photodegradable, or UV-degradable) shall not be used. Only natural burlap, coir, coconut or jute wrapped fiber rolls and mats shall be used.</p> <p>4. A protective barrier (fence) shall be erected around any wetlands or waters designated for complete avoidance in Project construction plans and regulatory permits to isolate it from construction or other ground-disturbing activities.</p> <p>5. A fencing material meeting the requirements of both water quality protection and wildlife exclusion may be used. Fences must be properly installed with final approval by a County representative, including adequate supports or wire backing for use if windy conditions are anticipated, and with the lower edge keyed in to the soil to ensure a proper barrier. Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities;</p> <p>6. No equipment mobilization, grading, clearing, or storage of vehicles, equipment or machinery, or similar activity shall occur until a County representative has inspected and approved the wetland protection fence;</p> <p>7. The Project proponent shall ensure that the temporary fence is continuously maintained until all construction or other ground-disturbing activities are completed; and</p> <p>8. Drip pans and/or liners shall be stationed beneath all equipment staged nearby jurisdictional features overnight to minimize spill of deleterious materials into jurisdictional waters. Equipment maintenance and refueling in support of project implementation shall be performed in designated upland staging areas and work areas, and spill kits shall be available on-site. Maintenance activity and fueling must occur at least 100 feet from jurisdictional wetlands and other waters or farther as specified in the Project permits and authorizations.</p>				
<p>Mitigation Measure BIO-6b: Permits and Compensation for Impacts to Wetlands and Waters.</p> <p>To offset unavoidable permanent impacts to approximately 0.02 acres of the side-hill seep and the fill of less than 0.1 acres for construction of the storm drain outfall along the bank of Pacheco Creek, the Project applicant shall secure the appropriate permits and provide compensatory mitigation as determined by the regulatory agencies with jurisdiction over the impacted aquatic resources during the permitting process. To establish the jurisdictional status of the various aquatic features in the site, the updated wetland delineation will be submitted to USACE for verification. The necessary permits will depend on the jurisdictional status of the features. While the outfall in Pacheco Creek is expected to require permits from USACE (Nationwide 7), CDFW (1602 Streambed Alteration Agreement), and RWQCB (401 Certification), the</p>	<p>Permitting and Compensatory Mitigation.</p>	<p>Prior to and throughout site disturbance and construction activities.</p>	<p>DCD; USACE and other jurisdictional status it verifies</p>	<p>Review and verify issuance of permits and implementation of required compensation.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>permitting scenario of the side-hill seep is less predictable. It is possible USACE will verify this feature as outside Clean Water Act jurisdiction due to spatial and hydrological isolation from other Waters of the U.S. If the seep is verified as non-jurisdictional, the Regional Water Quality Control Board Water would be expected to issue a Notice of Applicability to authorize its fill pursuant to Water Quality Order No. 2004-0004-DWQ.</p> <p>At a minimum, or as determined by the USACE, compensation acreage for impacted wetlands and waters would meet a 1:1 ratio (created/restored/enhanced: impacted) to achieve no net loss of aquatic resources. Compensation may be accomplished through the purchase of credits at an agency-approved mitigation bank or in-lieu fee program. Alternatively, compensation may be accomplished through on-site or off-site creation, restoration, or enhancement of jurisdictional resources, subject to the approval of the permitting agencies. On-site or off-site creation/restoration/enhancement plans must be prepared by a qualified biologist prior to construction, include a planting plan and planting methods, monitoring and reporting requirements, performance criteria (e.g., species diversity and vegetative cover thresholds), and maintenance requirements, and is subject to review and modification by resource agency permits. Implementation of creation/restoration/enhancement activities by the Project applicant (or permittee) shall occur prior to Project impacts, whenever possible, to avoid temporal loss. On- or off-site creation/restoration/enhancement sites shall be monitored by the applicant for at least five years to ensure their success, or as otherwise required by resource agencies.</p>	<p>Monitoring of compensation acreage for at least five years.</p>	<p>Annually, for at least five years after implementation of compensation acreage.</p>		
4.4 Cultural Resources and Tribal Cultural Resources				
<p>Mitigation Measure CUL-1a: If prehistoric or historic-period archaeological resources are encountered during Project implementation, including ground disturbance associated with project construction, all construction activities within 100 feet shall halt, and a qualified archaeologist, defined as an archaeologist meeting the U.S. Secretary of the Interior's Professional Qualification Standards for Archeology, shall inspect the find within 24 hours of discovery and notify the County of their initial assessment. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.</p> <p>If the County determines, based on recommendations from a qualified archaeologist and a Native American representative (if the resource is Native American-related), that the resource may qualify as a historical resource or</p>	<p>Upon find of prehistoric or historic-period archaeological resources</p>	<p>Prior to any ground disturbance and throughout construction</p>	<p>DCD; Native American representative, if required</p>	<p>Confirm suspension of work upon find; Make resource determination; Approve avoidance or other applicable measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>unique archaeological resource (as defined in CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in PRC Section 21080.3), the resource shall be avoided if feasible. If avoidance is not feasible, the County shall consult with appropriate Native American tribes (if the resource is Native American-related), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2, and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource, determined by a qualified professional or California Native American tribe, as is appropriate (according to PRC Section 21084.3). All significant cultural materials recovered shall, at the discretion of the consulting professional, be subject to scientific analysis, professional museum curation, and documentation according to current professional standards.</p> <p>In considering any suggested mitigation proposed by the consulting professional to mitigate impacts to cultural resources, the County shall determine whether avoidance is feasible in light of factors such as the nature of the find, project design, costs, and other considerations.</p> <p>If avoidance is infeasible, other appropriate measures, such as data recovery, shall be instituted. The resource shall be treated with the appropriate dignity, taking into account the resource's historical or cultural value, meaning, and traditional use, as determined by a qualified professional or California Native American tribe, as is appropriate. Work may proceed on other parts of the project site while mitigation for cultural resources is carried out. All significant cultural materials recovered shall, at the discretion of the consulting professional, be subject to scientific analysis, professional museum curation, and documentation according to current professional standards. At the County's discretion, all work performed by the consulting professional shall be paid for by the proponent and at the County's discretion, the professional may work under contract with the County.</p>				
<p>Mitigation Measure CUL-1b: In the event of discovery or recognition of any human remains during construction activities, the following steps shall be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the location where human remains are found or within 100 feet until: <ol style="list-style-type: none"> A. The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and B. If the coroner determines the remains to be Native American: <ol style="list-style-type: none"> (1) The coroner shall contact the Native American Heritage 	<p>Upon find of prehistoric or historic-period archaeological resources</p>	<p>Prior to any ground disturbance and throughout construction</p>	<p>DCD; Native American representative, if required</p>	<p>Confirm suspension of work upon find; Make resource determination; Approve avoidance or other applicable measures.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Commission within 24 hours;</p> <p>(2) The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American;</p> <p>(3) The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; or</p> <p>2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:</p> <p>A. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission;</p> <p>(1) The identified descendant fails to make a recommendation; or</p> <p>(2) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.</p>				

4.5 Geology and Soils

<p>Mitigation Measure GEO-1: Grading Plans. The Project applicant shall include in the Project’s preliminary grading plan the recommendations made in Engeo’s <i>Geotechnical Exploration Bay View Subdivision</i> report dated August 15, 2003, the <i>Geotechnical Review of Rough Grading Plan and Supplemental Recommendations</i> dated June 27, 2006, and supplemental <i>Plan Review and Response to Peer Review Comments Memo</i> dated June 19, 2019, and <i>Response to CCCFCD Comments Regarding Geotechnical Feasibility Bayview</i> dated May 29, 2020, except as superseded by specific geotechnical recommendations related to engineering or the physical aspects of Project construction in the <i>Geologic Peer Reviews</i> dated August 9, 2006, April 14, 2006 and June 30, 2020 by Darwin Myers Associates (DMA) on behalf of the County, to the extent that all recommendations apply to the proposed grading plan. These recommendations include oversight of grading operations which shall be conducted by a California Certified Engineering Geologist or Registered Professional Geotechnical Engineer.</p>	<p>Submittal of preliminary grading plan.</p>	<p>At least 60 days prior to issuance of grading permits.</p>	<p>DCD; County Peer Reviewing Engineering Geologist or Geotechnical Engineer</p>	<p>Review of design –level geotechnical report and grading monitoring plan.</p>
<p>The final grading plans shall be in accordance with the <i>Contra Costa County Grading Ordinance (Title 7 Division 716)</i> and reviewed and approved by the</p>	<p>Submittal of final grading plan.</p>	<p>At least 60 days prior to issuance of grading</p>		

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Contra Costa Department of Conservation and Development prior to the commencement of Project construction. If any slopes or areas of concern are observed to be unstable during grading, the California certified engineering geologist or registered professional geotechnical engineer shall oversee the removal of the suspected material and reconstruction of the slope as a buttress fill slope with engineered slope stabilization features such as geogrid reinforcement.</p> <p>Final inspection of excavated slopes and graded slopes shall be completed by a California certified engineering geologist or registered professional geotechnical engineer with knowledge of the Project conditions. The slope stability considerations for the site shall be submitted to and approved of by the Contra Costa Department of Conservation and Development prior to the commencement of Project construction.</p>	<p>Submittal and final inspection of excavated slopes and graded slopes.</p>	<p>permits.</p> <p>Following rough grading and prior to issuance of the first residential permit.</p>		<p>Review of final excavation and grading.</p>
<p>Mitigation Measure GEO-2: Design-level Geotechnical Investigation. The Project applicant shall prepare and submit to the County a site-specific, design level geotechnical investigation for the Project. The investigation shall analyze expected ground motions at the site from known active faults in accordance with the 2019 California Building Code ("Title 24"), which requires that all designs accommodate ground accelerations expected from known active faults. The investigation shall review improvement and grading plans and update geotechnical design recommendations for proposed walls, foundations, foundation slabs and surrounding related improvements (e.g., utilities, roadways, parking lots and sidewalks) including maintaining pipeline safety for existing pipelines. The report shall be subject to technical review and approval by a California certified engineering geologist or registered professional geotechnical engineer.</p> <p>All recommendations by the engineering geologist and/or geotechnical engineer shall be incorporated into the final design. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the Project design phase, shall be incorporated in the Project, all foundations and other project structures must comply with the performance standards set forth in the California Building Code. The final seismic considerations for the site shall be submitted to and approved of by the Contra Costa Department of Conservation and Development prior to the commencement of Project construction.</p>	<p>Prepare and submit to the County a site-specific, design level geotechnical investigation – seismic.</p> <p>Incorporate recommendation into final design – seismic.</p>	<p>At least 60 days prior to issuance of grading permits.</p> <p>Ongoing: Throughout grading and construction activities.</p>	<p>DCD; County Peer Reviewing Engineering Geologist or Geotechnical Engineer</p>	<p>Review of design-level geotechnical report.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Mitigation Measure GEO-3: Fill Placement. The Project applicant shall incorporate the geotechnical recommendations pertaining to proposed fill placement and site preparation including the fill transition zone areas for the grading plan for the Project, as specified in Engeo’s <i>Geotechnical Exploration Bay View Subdivision</i> report dated August 15, 2003, and the <i>Geotechnical Review of Rough Grading Plan and Supplemental Recommendations</i> dated June 27, 2006, and supplemental <i>Plan Review and Response to Peer Review Comments Memo</i> dated June 19, 2019 and <i>Response to CCCFCD Comments Regarding Geotechnical Feasibility</i> dated May 29, 2020, except as superseded by specific geotechnical recommendations related to engineering or the physical aspects of Project construction in the <i>Geologic Peer Reviews</i> dated August 9, 2006, April 14, 2006, and June 30, 2020 by Darwin Myers Associates (DMA) on behalf of the County. In addition, the Project applicant shall adhere to County grading and construction policies to reduce the potential for geologic hazards, including settlement and differential settlement. All construction activities and design criteria shall comply with applicable codes and requirements of the 2019 California Building Code (“Title 24”). The final grading plan reflecting the applicant recommendation for the site pertaining to fill placement shall be submitted to and approved by the Contra Costa Department of Conservation and Development prior to the commencement of Project construction.</p>	<p>Fill placement and transition zone areas in grading plan.</p>	<p>At least 60 days prior to issuance of grading permits.</p>	<p>DCD; County Peer Reviewing Engineering Geologist or Geotechnical Engineer</p>	<p>Review of design-level geotechnical report.</p>
<p>Mitigation Measure GEO-4: Terraced Slopes/Drainage. The Project applicant shall ensure routine inspections and maintenance of terraced slopes conducted by qualified professionals. Maintenance measures shall include maintaining vegetative cover of exposed slopes upland of the proposed development after construction, for the operational life of the Project, consistent with the provisions of the Project’s SWPPP, as identified in Section 4.7, <i>Hydrology and Water Quality</i>, in this EIR. Drainage conveyances on the cut terraces shall be maintained to ensure a minimum of 85 percent of total conveyance capacity, as specified in the Stormwater Management Facilities Operation and Maintenance Agreement. Any evidence of gulley or rill erosional effects shall be remedied immediately by the Project applicant through additional hydroseeding or other industry standard measures and best practices for erosion control.</p>	<p>Routine inspections and maintenance of terraced slopes.</p>	<p>Ongoing until the mitigation conditions are met.</p>	<p>DCD; Stormwater Management Facilities Operation and Maintenance Agreement.</p>	<p>Review and approval of revegetation plan. Review and approve conveyance capacity, as specified in the Stormwater Management Facilities Operation and Maintenance Agreement</p>
<p>Mitigation Measure GEO-5: Paleontological Resources Treatment. If paleontological resources are encountered, all construction activities within 100 feet shall halt and the County shall be notified. A qualified paleontologist, defined as a paleontologist meeting the Society for Vertebrate Paleontology’s Professional Standards shall inspect the findings within 24 hours of discovery.</p>	<p>If paleontological resources are encountered during construction.</p>	<p>Within 24 hours of discovery.</p>	<p>DCD; Peer reviewing qualified paleontologist.</p>	<p>Receive notification of discovery.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>If it is determined that the Project could damage a paleontological resource or a unique geologic feature (as defined pursuant to the CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the CEQA <i>Guidelines</i>, with a preference for preservation in place. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.</p> <p>If avoidance is not feasible, a qualified paleontologist shall prepare and implement a detailed treatment plan in consultation with the County. Treatment of unique paleontological resources shall follow the applicable requirements of PRC Section 21083.2. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the Project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.</p>	<p>Implement mitigation for avoidance.</p> <p>Implement a detailed treatment plan. Distribute plan results.</p>	<p>Upon qualified paleontologist's determination of potential damage.</p> <p>Upon qualified paleontologist's determination of potential damage and avoidance infeasibility.</p>	<p>DCD; Peer reviewing qualified paleontologist.</p> <p>DCD; Peer reviewing qualified paleontologist.</p>	<p>Review and approve detailed treatment plan, per PRC Section 21083.2 of the CEQA Guidelines.</p> <p>Confirm implementation of detailed treatment plan, per PRC Section 21083.2 of the CEQA Guidelines. Confirm timely reporting of plan results</p>
<p>4.6 Greenhouse Gas Emissions and Energy</p>				
<p>Mitigation Measure GHG-1: GHG Emissions Reduction Plan.</p> <p><i>Prior to the County's approval of the first building permit for the Project, the Project applicant shall submit to the County a "GHG Emissions Reduction Plan" ("Plan") for implementation over the useful life of the Project (generally estimated to be at least 30 years) in accordance with the requirements of this mitigation measure. The Plan shall document the GHG reduction measures that will be combined and implemented to achieve the required emissions reduction of at least 182 MT CO₂e /year, and a quantification of the emissions reductions achieved with the combination of measures identified in the Plan.</i></p> <p>A. On-Site Reduction Measures. The Project applicant shall implement any combination of the following GHG emissions reduction measures to, cumulatively, achieve the required emissions reduction of at least approximately 182 MT CO₂e /year to achieve the GHG efficiency target of 3.86 MTCO₂e/SP, as discussed in the <i>Approach to Analysis</i>.</p> <p>1. <u>Meet the Project's electricity demand with rooftop solar PV and/or through purchase of 100% zero-carbon electricity.</u> The Project will purchase 100% zero-carbon electricity (e.g., through MCE's "Deep Green" or "Local Sol" plans, or through PG&E's "Solar Choice" plan).</p>	<p>Submittal of GHG Reduction Plan specifying GHG emissions reduction measures.</p>	<p>During the County's review of plans for first grading-related and/or building permit for each development phase.</p>	<p>DCD</p>	<p>Review and approve plan and report.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>2. <u>Electrification</u>. The Project applicant shall demonstrate on Project plans submitted to the County for review and approval that each of the 144 homes include electric heating and cooling or all loads, and will either use additional on-site solar or purchase 100 percent zero-carbon electricity (e.g., through MCE’s “Deep Green” or “Local Sol” plans or PG&E’s “Solar Choice” plan). Alternatively, default grid-supplied electricity would be incorporated into the Project.</p> <p>3. <u>Hearth Reduction</u>. The Project applicant shall demonstrate on Project plans submitted to the County for review and approval that hearths will not be installed in any of the Project homes.</p> <p>4. <u>EV Chargers and Promotion</u>.</p> <p>a. The Project applicant shall demonstrate on Project plans submitted to the County for review and approval the proposed installation of residential electrical vehicle (EV) chargers in at least 100 of the 144 homes. This mitigation involves measures beyond the required installation of charging capability (i.e., wiring) required by CALGreen Building Code.</p> <p>b. The Project applicant shall submit to the County promotional materials that specifically promote EV use through messaging (e.g., flyers, fact sheets), vehicle subsidies, and/or test-drive events specific for residents of Project homes. The Project applicant shall also submit to the County documents that quantify the number or rate of EV ownership and for all Project homes for the prior year.</p> <p>The target for this measure is that at least 50 percent of residents with EV chargers (corresponding to 35 percent of project households) own an EV and use the EV for 80 percent of household driving by 2035, however, this target may vary depending on the level of implementation and resulting emissions reduction achieved by other measures in this mitigation measure.</p> <p>5. <u>Additional Energy Measures</u>.</p> <p>a. <i>High-Efficiency Appliances. Throughout occupancy of the Project</i>, and if appliances are offered by homebuilders, the Project applicant shall offer homebuyers Energy Star-rated high-efficiency appliances (or other equivalent technology) that have efficiency levels at or above measures required by CALGreen, for installation in Project homes.</p>				<p>Verify implementation of measures and emissions reduction.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
B. Implementation, Monitoring and Enforcement.				
1. <u>Implementation.</u>				
<p>The Project applicant shall implement the approved GHG Reduction Plan (Plan) throughout operation of the Project.</p> <p><i>On-site Measures:</i> For physical GHG reduction measures to be incorporated into the design of the Project (Mitigation Measures GHG-1, A.2, A.3, A.4a, and A5), the measures shall be included on the drawings and submitted to the County Planning Director or his/her designee for review and confirmation prior to issuance of the first grading-related and/or building permit for horizontal construction of each of the up to three development phases proposed.</p> <p>The County Planning Director or his/her designee shall confirm completion of the implementation of these measures as part of the final inspection and prior to issuance of the final certificate of occupancy (CO) for each development phase of the Project. For operational GHG reduction measures (Mitigation Measures GHG-1, A.1 and A.4b), the measures shall be implemented on an indefinite and ongoing basis, as described in Section C.2, <i>Reporting and Monitoring</i>, of this mitigation measure.</p>	Implementation of GHG emissions reduction measures.	Prior to the County's approval of the first construction or grading-related permit for the Project for each development phase.		Verify implementation of measures and emissions reduction.
2. <u>Reporting and Monitoring.</u>				
<p><i>Reporting:</i> The Project applicant shall submit a GHG Reduction Report (Report) to the County Planning Director or his/her designee within one year after the County issues the final CO for each development phase of the Project. The Report shall summarize the Project's implementation of GHG reduction measures, over past, current, and anticipated Project phases, if applicable; describe compliance with the conditions of the Plan; show calculations of the emissions reduction achieved toward the minimum reduction required (182 MT CO₂e /year); and include a brief summary of any revisions to the Plan since any previous Report was submitted.</p>	Submittal of GHG Reduction Report: Within one year after issuance of final CO for each development phase.	With the County's final inspection and prior to issuance of the final CO for each development phase.		Verify ongoing implementation of measures and emissions reduction.
<p><i>Monitoring:</i> The County or its designee shall review the Report to verify that the Plan is being implemented in full and monitored in accordance with the terms of this mitigation measure. The Plan shall be considered fully attained when the County or its designee makes the determination, based on substantial evidence, that the proposed Project has achieved the required emissions reduction of at least approximately 182 MT CO₂e /year and is unlikely to exceed the applicable significance threshold at any time in the future, after implementation of this mitigation.</p> <p><i>Enforcement:</i> Notwithstanding the foregoing, the County retains its discretion to enforce all mechanisms under the Municipal Code and other laws to enforce non-compliance with the requirements of this mitigation measure.</p>	Submittal of Monitoring Report.	Ongoing after completion of each development phase, to be modified at County's discretion.		

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>The County retains the right to request a Corrective Action Plan if the Report is not submitted, or if the GHG Reduction Measures in the Plan are not being fully implemented and/or maintained, and also retains the right to enforce provisions of that Corrective Action Plan if specified actions are not taken or are not successful at addressing the violation within the specified period of time.</p> <p>The County shall have the discretion to reasonably modify the timing of reporting, with reasonable notice and opportunity to comment by the Applicant, to coincide with other related monitoring and reporting required for the Project.</p>				
<p>4.7 Hazards and Hazardous Materials</p>				
<p>Mitigation Measure HAZ-1: The use of construction best management practices shall be implemented as part of construction to minimize the potential negative effects of accidental release of hazardous materials to groundwater and soils. These shall include the following:</p> <ol style="list-style-type: none"> 1. Follow manufacturer’s recommendations on use, storage and disposal of chemical products used in construction; 2. Avoid overtopping construction equipment fuel gas tanks; 3. During routine maintenance of construction equipment, properly contain and remove grease and oils; and 4. Properly dispose of discarded containers of fuels and other chemicals. 	<p>Start of construction activities.</p>	<p>Prior to issuance of grading and/or building permits.</p> <p>Monitoring: Ongoing throughout construction.</p>	<p>DCD</p>	<p>Review and approval of construction contracts.</p>
<p>Mitigation Measure HAZ-2: The Project shall ensure the following fill and excavation parameters are met to reduce the risk of damage to pipelines:</p> <ol style="list-style-type: none"> 1. Before the commencement of any grading activities, the tops of the five pipelines shall be accurately located on site, and confirmed to be a minimum of 6 feet below the existing ground surface. If it is determined that the any pipeline top is less than six feet below the surface, and will be at risk of impact during proposed grading excavation, one of the following additional safety measures shall be undertaken: deepening the pipeline, providing mechanical protection such as steel or concrete barriers, or elevating the proposed final road elevation. 2. Maximum fill heights over the Santa Fe Pacific Partners L.P. (“SFPP”); Kinder Morgan Energy Partners, L.P. (“KMP”); and Crimson-Chevron KLM (“KLM”) and Chevron pipelines shall exert a calculated stress of more than what the pipelines can safely tolerate, as determined by a professional engineer in accord with applicable industry standards and safety regulations based on observed pipe material and other factors 	<p>Preparation of final plan for grading and excavation.</p>	<p>Prior to issuance of grading and/or building permits.</p> <p>Monitoring: Ongoing throughout construction.</p>	<p>DCD; and peer reviewing professional engineer</p>	<p>Review and verify implementation and adherence of all parameters.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>3. Prior to final design and construction, a refined analysis of field determined bay mud thickness and bay mud consolidation properties shall be conducted. Though not anticipated, if bay mud is found to exert a calculated stress of more than what the pipeline can safely tolerate, as determined by a professional engineer in accord with applicable industry standards and safety regulations based on observed pipe material and other factors, then one or both of the following additional safety measures shall be undertaken: reduce proposed fill thickness or use lightweight fill such as cellular concrete or Geofoam encasement (or its equivalent).</p> <p>4. The as-built burial depths of the pipelines and the final proposed subgrade elevations shall result in all pipelines having a minimum burial depth in accord with prevailing regulatory code or pipe owner requirement, whichever is more stringent. If any pipeline does not have a cover in accordance with regulatory minimums, one of the following additional safety measures shall be undertaken: deepening the pipeline, providing mechanical protection such as steel or concrete barriers, or elevating the proposed final road elevation.</p>	<p>Refined field analysis.</p> <p>Confirmation of final as-built pipeline burial depths.</p>	<p>Prior to final design and construction.</p> <p>Final grading inspection.</p>	<p>DCD; and peer reviewing professional engineer</p> <p>DCD; and peer reviewing professional engineer</p>	<p>Review and approval of refined analysis.</p> <p>Confirm adequate as-building burial depths.</p>
<p>4.10 Noise</p>				
<p>Mitigation Measure NOI-1: The applicant shall create and implement a development-specific noise reduction plan to reduce noise at sensitive receptors along Central Avenue to below 75 dBA Lmax, which shall be enforced via contract specifications. Contractors may elect any combination of legal, non-polluting methods to maintain or reduce construction-related noise to threshold levels or lower, as long as those methods do not result in other significant environmental impacts or create a substantial public nuisance. Examples of measures that can effectively reduce noise impacts include locating equipment in shielded and/or less noise-sensitive areas, selection of equipment that emits low noise levels, and/or installation of noise barriers such as enclosures to block the line of sight between the noise source and the nearest receptors. Other feasible controls could include, but shall not be limited to, fan silencers, enclosures, and mechanical equipment screen walls.</p> <p>In addition, the applicant shall require contractors to limit construction activities in the northernmost 500 feet of the project site to daytime hours between 7:30 am and 5:30 pm Monday through Friday. The plan for attenuating construction-related noises shall be implemented prior to the initiation of any work that triggers the need for such a plan.</p>	<p>Create and implement a development-specific noise reduction plan.</p> <p>Preparation of construction contracts.</p> <p>Start of construction activity.</p>	<p>Prior to issuance of grading and/or building permits.</p> <p>Monitoring: Ongoing throughout construction.</p> <p>Monitoring: Ongoing throughout construction</p>	<p>DCD</p> <p>DCD</p>	<p>Review and approval of development-specific noise reduction plan.</p> <p>Review and approval of construction contracts.</p> <p>Respond to reported construction activities outside of allowed hours/days.</p> <p>Review and approve noise attenuation plan, as needed.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
4.12 Public Services and Utilities				
<p>Mitigation Measure PUB-1: The project sponsor shall equip all dwelling units with residential automatic fire sprinkler systems complying with the 2002 edition of the National Fire Protection Association Standard 13D, subject to the review and approval of the Contra Costa County Fire Protection District.</p>	<p>Submittal of residential building plans.</p>	<p>Prior to filing of the parcel map. Prior to issuance of the first residential permit.</p>	<p>DCD and Contra Costa County Fire Protection District</p>	<p>Review and approval of plans for automatic fire sprinkler system. Review and approval of the automatic fire sprinkler system.</p>
4.13 Transportation				
<p>Mitigation Measure TRF-1: The Project applicant and construction contractor(s) shall develop and submit a Construction Management and Traffic Control Plan for the review and approval of the County's Public Works Department. The Construction Management and Traffic Control Plan shall be submitted to the Public Works Department a minimum of 60 days prior to the initiation of construction activities:</p> <ul style="list-style-type: none"> • A set of comprehensive traffic control measures, including scheduling of major truck trips to avoid peak traffic hours, types of vehicles and maximum speed limits for each type of vehicle, expected daily truck trips, staging areas, emergency routes and access, detour signs if required, lane closure procedures, flag person requirements, signs, cones for drivers, a street sweeping plan and designated construction access routes. • Identification of roadways to be used for the movement of construction vehicles to minimize impacts on motor vehicle, bicycle and pedestrian traffic, circulation and safety, and specifically to minimize impacts to the greatest extent possible on streets in the Project area. • Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur. 	<p>Development and submittal of Construction Management and Traffic Control Plan.</p>	<p>Prior to issuance of grading and/or building permits. Sixty (60) days prior to commencement of construction activities.</p>	<p>DCD and Contra Costa County Department of Public Works</p>	<p>Review and approval of Construction Management and Traffic Control Plan.</p>
<p>Mitigation Measure TRF-2: Prior to commencement of Project construction activities, which would include any construction-related deliveries to the site, the Project applicant shall document to the satisfaction of the Contra Costa County Public Works Department, the road conditions of the construction route that would be used by Project construction-related vehicles.</p>	<p>Document pre-construction road conditions.</p>	<p>Prior to issuance of grading and/or building permits.</p>	<p>DCD and Contra Costa County Department of Public Works</p>	<p>Review and approval of documented road conditions on construction routes.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>The Project applicant shall also document the construction route road conditions after Project construction has been completed. The Project applicant shall repair roads that are damaged by construction related activities to County standards and to a structural condition equal to that which existed prior to construction activity. As a security to ensure that damaged roads are adequately repaired, the Project applicant shall make an initial monetary deposit, in an amount to be determined by the Department of Public Works, to an account to be used for roadway rehabilitation or reconstruction.</p> <p>If the County must ultimately undertake the road repairs, and repair costs exceed the initial payment, then the Project applicant shall pay the additional amount necessary to fully repair the roads to pre-construction conditions.</p>	<p>Document construction route road conditions.</p> <p>County undertaking the road repairs.</p>	<p>Prior to commencement of construction activities, with final inspection.</p> <p>Prior to refunding the initial monetary deposit.</p>	<p>DCD and Contra Costa County Department of Public Works</p> <p>DCD and Contra Costa County Department of Public Works</p>	<p>Review and approval of post-project construction road conditions on construction route.</p> <p>Confirm any reimbursement amount to County.</p>
<p>Mitigation Measure TRF-3: Transportation and Parking Demand Management (TDM) Plan. Prior to issuance of building permits, the Project applicant shall develop a TDM program for the proposed Project, including any anticipated phasing, and shall submit the TDM Program to the County Department of Conservation and Development for review and approval. The TDM Program shall identify trip reduction strategies as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. The TDM Program shall be designed to achieve the trip reduction, as required to reduce the VMT per resident from 20.6 to 16.5 consistent with a 20 percent reduction in the near-term.</p> <p>Trip reduction strategies may include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 1. Pedestrian improvements, on-site or off-site, to connect to existing and planned pedestrian facilities, nearby transit stops, services, schools, shops, etc. 2. Bicycle network improvements, on-site or off-site, to connect to existing and planned bicycle facilities, nearby transit stops, services, schools, shops, etc. 3. Enhancements to bus service during peak commute times 4. Compliance with a future County VMT/TDM ordinance 5. Participation in a future County VMT fee program 	<p>Develop/Submit TDM program.</p>	<p>Prior to issuance of initial building permit.</p>	<p>DCD and Contra Costa County Department of Public Works</p>	<p>Review/Approve TDM program; Verify implementation of program.</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
<p>Mitigation Measure TRF-4: In accordance with County requirements and design standards provide even surface pavement, appropriate signage, delineation, and other features on Palms Drive (and Central Avenue if it becomes a public street) to improve vehicle transportation conditions and eliminate obstacles (or hazards).</p>	<p>Implement pavement, signage and other street improvements on Palms Drive and Central Avenue.</p>	<p>Prior to and after implementation of street improvements on Palms Drive and Central Avenue.</p>	<p>DCD and Contra Costa County Department of Public Works</p>	<p>Review/approve proposed street improvements; Verify implementation of surface pavement, signage and other features.</p>
<p>Mitigation Measure TRF-6: In accordance with County requirements and design standards, the project applicant shall provide:</p> <ul style="list-style-type: none"> • Continuous sidewalks on at least one side of Palms Drive and Central Avenue to connect the project site to the existing pedestrian facilities on Arthur Road to improve pedestrian transportation conditions. • Even surface pavement, appropriate signage, delineation, and other features on Palms Drive and Central Avenue to improve bicycle transportation conditions. • Sidewalks for all streets within the project site including facilities on both sides of each street and curb ramps at each street intersection. 	<p>Submittal of Project site plan / VTM</p>	<p>Prior to issuance of the first residential permit.</p>	<p>DCD, Contra Costa County Department of Public Works</p>	<p>Review and approval of improvement measures.</p>
<p>Mitigation Measure TRF-7a: In accordance with County requirements and design standards, the project applicant shall provide even surface pavement, appropriate signage, delineation, and other features on Palms Drive and Central Avenue to accommodate emergency vehicles.</p>	<p>Submittal of Project site plan / VTM.</p>	<p>Prior to issuance of the first residential permit.</p>	<p>DCD, Contra Costa County Department of Public Works</p>	<p>Review and approval of improvement measures.</p>
<p>4.14 Utilities and Service Systems</p>				
<p>Mitigation Measure UTIL-2: The Project sponsor shall implement the following mitigation measures for construction-related effects from installation and expansion of the proposed new waterline:</p> <ol style="list-style-type: none"> a. Mitigation Measure AIR-1 (Best Management Practices for Controlling Particulate Emissions) b. Mitigation Measure BIO-2a (Worker Environmental Awareness Program Training) (see Impact BIO-2) c. Mitigation Measure BIO-2b (General Conservation Measures during Construction) (see Impact BIO-2) d. Mitigation Measure BIO-6a (Protection of Jurisdictional Wetlands and Other Waters)) (see Impact BIO-6) e. Mitigation Measure CUL-1a (Prehistoric or Historic-Period Archaeological Resources) (see Impact CUL-1) f. Mitigation Measure CUL-1b (Human Remains) (see Impact CUL-1) 	<p>Installation / Expansion of New Waterline.</p>	<p>Prior to and throughout construction.</p>	<p>DCD, Contra Costa County Department of Public Works (also see specific mitigations in applicable sections in the MMRP)</p>	<p>Review and approval of all measures (also see specific mitigations in applicable sections in the MMRP).</p>

Mitigation Measure	Implementing Action	Timing of Verification	Responsible Department or Agency	Compliance Verification
g. Mitigation Measure GEO-2 (Design-level Geotechnical Compliance) (see Impact GEO-3) h. Mitigation Measure GEO-3 (Fill Placement) i. Mitigation Measure GEO-4 (Terraced Slopes/Drainage) j. Mitigation Measure GEO-5 (Paleontological Resources Treatment) k. Mitigation Measure HAZ-1 (Release of Hazardous Materials) (see Impact HAZ-1) l. Mitigation Measure HAZ-2 (Pipeline Damage Risk) (see Impact HAZ-2) m. Mitigation Measure NOI-1 (Construction Noise) (see Impact NOI-1) n. Mitigation Measure TRF-1 (Construction Traffic) (see Impact TRF-1) o. Mitigation Measure TRF-2 (Public Roadway Damage or Wear) (see Impact HAZ-2)				

NOTES:

Department of Conservation & Development (DCD); U.S. Fish & Wildlife Service (USFWS); California Department of Fish & Wildlife (CDFW)