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From: Lisa Shikany <
Sent: Monday, February 19, 2024 2:32 PM
To: Ruben Hernandez <Ruben.Hernandez@dcd.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>
Cc: Patrick King <
Subject: Grayson Road 10-Lot Subdivision - Ecological Evaluation

Joe and Deputy Director Hernandez,

Attached is an ecological evaluation for the Grayson Road 10-lot Subdivision (hereinafter "project") prepared by Chad Roberts, PH.D, Conservation Ecologist. Dr. Roberts is a recognized expert in conservation ecology, wetland science, and CEQA, and has served as an expert trial witness in these subject areas. I worked with Dr. Roberts during my professional career as a land use and environmental planner, and I asked him to review the project's biological assessment.

The focus of his letter is the review of the scientific basis for the judgements made in the County's environmental assessment of the project's biological effects. His memo documents the fact that the biological assessments prepared for this project fail to identify mitigation measures that avoid, reduce, or offset the significant impacts to riparian and valley oak woodland, and the 97 code-protected trees to be removed. The conclusion is that if the County wishes to approve the project as currently proposed, and EIR is required.

The upcoming Board of Supervisors project hearing is de novo, and this information must be considered.

Respectfully submitted,

Lisa Shikany

CHAD ROBERTS, PH.D.
SENIOR ECOLOGIST (ESA) (*EMERITUS*)
SENIOR PROFESSIONAL WETLAND SCIENTIST (SWS) (*EMERITUS*)

19 February 2024

Ms. Lisa Shikany
115 Harlan Way
Fortuna, CA 95540

Subject: Ecological Evaluations, Grayson Road 10-Lot Subdivision, #CDSD20-09531

Dear Ms. Shikany,

Pursuant to your request, I reviewed certain documents related to the proposed Grayson Road 10-Lot Subdivision in Contra Cost County, California (hereafter the "project"). My review was focused on addressing two basic questions regarding the project's assessment by Contra Costa County: (1) Does the information in the county's public record for the project adequately characterize the project's ecological resources at the project site? (2) Does the information in the county's public record address the project's potential and/or likely effects on, and consequences for, those resources in the publicly available environmental review documentation? My review is principally focused on whether the documents and the county's evaluation process for the project accords with current scientific understanding about the values, conditions, functions, and services related to and provided by the natural environment as addressed in the reviewed project documents.

In conducting this review, I considered the following project-related documents.

(1) The Contra Costa County Department of Conservation and Development's "NOTICE OF PUBLIC REVIEW AND INTENT TO ADOPT A PROPOSED MITIGATED NEGATIVE DECLARATION (Revised)" (hereafter "IS/MND"), including the California Environmental Quality Act (hereafter "CEQA") Environmental Checklist form and discussion, dated 24 March 2023.

(2) IS/MND Appendix B, "BIOLOGICAL RESOURCES SUPPORTING INFORMATION", incorporating two interrelated assessments: (a) A "BOLOGICAL RESOURCES ANALYSIS REPORT" prepared by Olberding Environmental, Inc. (hereafter "Olberding"), prepared in February 2022, and (b) A "BIOLOGICAL RESOURCE ANALYSIS ADDENDUM" prepared by Johnson Marigot Consulting LLC (hereafter "JMC"), prepared in December 2022.

(3) A letter (dated 27 May 2022) from Erin Chappell, and an email (dated 27 March 2023) from Andrew Chambers, California Department of Fish & Wildlife (hereafter "CDFW) to Joseph Lawlor.

(4) A 20 December 2023 letter to Joseph Lawlor from Janet Cobb of the California Oaks Foundation (hereafter "COF").

(5) An email (dated 08 January 2024) to Joseph Lawlor from Katie Hart, San Francisco Bay Regional Water Quality Control Board (hereafter "RWQCB" or "RB2").

It should be noted that my review of items (1) and (2) was limited to biological and ecological concerns; the reviews included (secondarily) hydrology, water quality, and flood risk, as these topics are related to onsite ecological considerations.

This letter summarizes my considered judgements regarding the above questions. The letter also incorporates additional explanations and/or literature citations to document and explain my conclusions (see Appendix). Per your request, I have also attached a short statement of qualifications for conducting such evaluations.

I. Summary of Findings

- The project site has been addressed in two Biological Resource Analyses assessments, which portray existing biological conditions in the project site at the times they were surveyed. The assessments address relevant regulatory constraints, although it's unclear that the preparers independently evaluated the potential compliance of the project with some requirements as part of the assessments. The two assessment reports constitute the primary basis for the assessment of biological effects pursuant to the California Environmental Quality Act.
- In my judgement, the assessments failed to incorporate a deeper assessment of dynamic ecological processes and dynamics that operate on the project site and in the vicinity, which would have allowed the assessments and the county's subsequent analyses to consider the larger and longer-term impacts of the project and its compliance with the county's General Plan.
- The assessments address potential effects on "special-status" plant and wildlife species under federal and state regulatory programs that affect them using commonly accepted protocols and mitigation standard (although additional protocol surveys are required for several sensitive plant species). The assessments provide commonly accepted mitigation recommendations to sustain findings that these effects can be mitigated to "less-than-significant" levels. I recommend that Contra Costa County defer approving the proposed project until all future surveys are completed.
- The assessments identify significant environmental impacts to onsite protected and/or special-status habitat types "riparian forest" and "valley oak woodland", as well as a substantial adverse effect on code-protected trees on the project site.
- The assessments fail to identify mitigation measures that avoid, reduce, or offset these significant impacts, in that the measures specify onsite planting of impacted tree species and numbers within the remaining onsite riparian habitat of Grayson Creek, a net loss of 1.18 acres of oak woodland and 0.21 acre of riparian habitat, a proposal that may itself result in further impacts to the Grayson Creek riparian habitat.
- The failure to identify functionally viable mitigation measures for the impacts does not support the identified responses provided in Initial Study Environmental Checklist questions 4b and 4d. The failure also contravenes the responses provided by the county's staff report regarding Contra Costa County General Plan policies 8-6, 8-7, 8-12, 8-78, and 8-86.

II. Project Site Characterizations/Biological Assessments

Based on the information provided in the Olberding and JMC assessment reports, I was able to form a relatively clear understanding of conditions on the proposed project site in 2022 (presumed to essentially represent "current conditions"). The site is not unlike much of central California that experienced prior low-intensity residential development in the mid-20th Century, as it includes both remnant "natural" conditions combined with the effects of development, such as land cover and hydrological alterations and exotic plant species. That is, the project site does not demonstrate entirely natural or 'pristine' conditions. However, even in its altered condition the site provides conservationally important ecological values within the landscape in which it occurs.

Oak Woodlands

A substantial portion of the site (1.2 acres) is identified in the JMC assessment as a "Valley Oak Woodland" with an environmentally sensitive community type designated with a rarity ranking of "S3".[1] An additional 0.6 acre is identified as "Mixed Woodland", including both native and non-native plant species and artifacts of prior development. Those characterizations appear reasonable (note that I have not been on the site, and might differ somewhat in characterization and/or areas, but the general characterizations are reasonable, based on the information provided).

The oak-dominated woodlands on the site provide valuable wildlife habitat, although habitat values are not well-characterized in the assessments. Oaks are widely identified among the most important habitat elements for wildlife in California; for example, the California Partners in Flight Oak Woodlands Plan (CalPIF 2002) includes the following summary:

> "Oak woodlands have the richest wildlife species abundance of any habitat in California, with over 330 species of birds, mammals, reptiles, and amphibians depending on them at some stage in their life cycle. Wilson and others (*omitted*) suggest that California oak woodlands rank among the top three habitat types in North America for bird richness. Oak woodlands are able to sustain such abundant wildlife primarily because they produce acorns, a high quality and frequently copious food supply. Oaks also provide important shelter in the form of cavities for nesting."

The current California State Wildlife Action Plan (hereafter "SWAP", CDFW 2015) identifies an amalgamated management approach for complying with state and federal wildlife and environmental protection laws and regulations. The SWAP (Appendix D, tables D-9 and D-10) identifies the "California Foothill and Valley Forests and Woodlands" habitat type[2] as having the highest priority for protection, restoration, and management within the *Bay Delta and Central Coast Province* in California (which includes the project site), a ranking that's even higher than provided for "American Southwest Riparian Forest and Woodland", the characteristic habitat type identified for riparian areas in the Province (and on the project site).

Neither the Olberding nor the JMC assessment adequately characterizes the woodlands on the project site in an ecological sense, primarily because the assessments don't consider characteristics of the oak species on the site. Valley oak (*Quercus lobata*) and coast live oak (*Q. agrifolia*) have both been identified as developing deep taproots that allow established adult trees to tap into groundwater under a site. (e.g., Mahall et al. 2009, Davis et al. 2019). Ecological studies in recent years have identified this ability to utilize groundwater as an important adaptation that favors these and other oak species in the changing climate already affecting California landscapes (McLaughlin et al. 2017). Valley oak, in particular, is known for its adaptations allowing the species to utilize groundwater, with root systems that can extend deeper into the substrate than the highest twigs of the adult tree (Griggs 2009). As described further below, the oaks on the Grayson Road project site are most likely tapped into groundwater under the site that is hydrologically linked to flows in Grayson Creek.

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[1] See https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities for additional information. The JMC assessment correctly identifies this woodland by vegetation code as 71.040.06 in the Natural Communities list. The comment letter provided by the COF correctly identifies the kinds of considerations that this designation requires in CEQA processes.

[2] The habitat types used in SWAP assessments are those identified in the California Wildlife Habitat Relationships (CWHR) program; see https://wildlife.ca.gov/Data/CWHR for additional information.

Riparian Areas

The Olberding and JMC assessment reports both correctly identified extensive riparian vegetation alliances along the project's site's southern margin, associated with Grayson Creek (the JMC assessment explicitly states the area to be 1.01 acres of riparian habitat, which I presume reflects the map in the JMC assessment's Figure 3). While I find the Olberding assessment to be significantly incompatible with current scientific understanding of riparian ecosystems, the JMC assessment in § 2.1 is largely consistent with currently adopted riparian dynamics. However, the JMC assessment in the IS/MND still fails to fully portray the relationships among the elements of the riparian ecosystem on the project site (it should be noted that I have not seen the August 2022 JMC Riparian Delineation Report, which is not provided as part of the IS/MND).

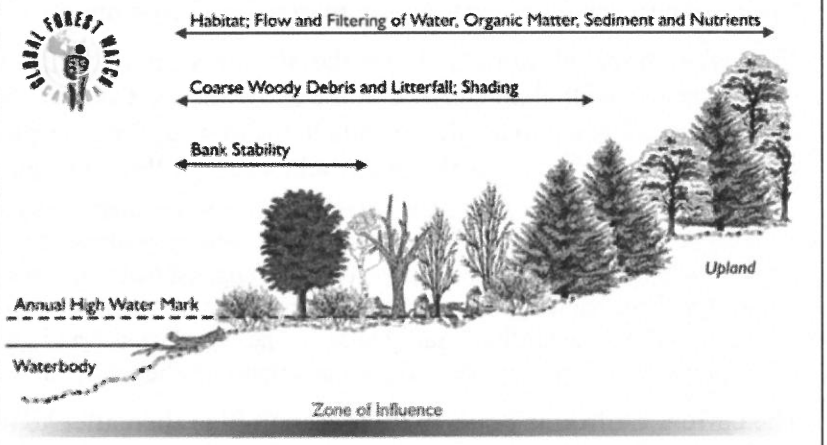

Figure 1. The "riparian area" for a given aquatic feature is functionally a "zone of influence" in which different riparian functions are provided, which extend variably into both the aquatic environment and the upland environment on floodplain, terraces, or slopes, depending on the function. Source: Global Forest Watch Canada, based on National Research Council (2002).

The JMC assessment report identified a riparian area on the project site that incorporated both the aquatic area of the stream channel and the adjacent upland, and summarized the occurrence of the riparian area primarily based on vegetation characteristics, identified in Figure 3 of the JMC assessment. In my opinion, the portrayal of the Grayson Creek "riparian area" in the JMC Figure 3 is generally consistent with current scientific understanding of riparian area dynamics.

Riparian habitats are generally considered to be among the most important habitats for many wildlife species, including fish and aquatic invertebrates. For example, the following summary is provided in the Riparian Habitat Joint Venture Bird Conservation Plan (RHJV 2004):

> "More than 225 species of birds, mammals, reptiles, and amphibians depend on California's riparian habitats. Riparian ecosystems harbor the most diverse bird communities in the arid and semiarid portions of the western United States. Riparian vegetation is critical to the quality of in-stream habitat and aids significantly in maintaining aquatic life by providing shade, food, and nutrients that form the basis of the food chain. Riparian vegetation also supplies in-stream habitat when downed trees and willow mats scour pools and form logjams important for fish, amphibians, and aquatic insects. The National Research Council (2002) concluded that riparian areas perform a disproportionate number of biological and physical functions on a unit area basis and that the restoration of riparian function along America's waterbodies should be a national goal."

The term "riparian" is often restricted in application to a vegetation type (usually broadleaved deciduous species of trees and shrubs, or sometimes certain graminoids, as portrayed in the JMC assessment), but the term applies functionally to any dynamically interactive system involving both the aquatic environment and the terrestrial environment [National Research Council (hereafter "NRC") 2002]. Current ecohydrological understanding of "riparian ecosystems" incorporates the following definition:

> "Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines." – NRC (2002)

All aquatic waterbodies (including but not limited to streams and rivers) have interactive riparian systems where they overlap with adjacent terrestrial areas. Current scientific understanding of riparian systems demonstrates a wide range of ecosystem functions (and related ecosystem services for human societies) that result from a "zone of influence" that extends into both the aquatic area and the adjacent terrestrial area (Figure 1).

Riparian zones are, however, fundamentally affected by site "ecohydrology", the interrelationships of the "zone of influence" in Figure 1. These interactions constitute a central element in the ecohydrological relationships of "Critical Zone" (CZ) science (e.g., Dawson et al. 2020). The relationships are built on long-established geohydrological understanding (see, e.g., Winter et al. 1998, NRC 2002) that surface water in streams and other aquatic features is functionally continuous with (and readily interchanged with) water below the ground's surface (Figure 2). In CZ science, individual plant species (vegetation that constitutes the upper part of the CZ) typically express one or more of various adaptational characteristics in their root system architecture and functions, and Critical Zone ecological dynamics can be shaped to significant degrees by the below-surface hydrology (Figure 3).

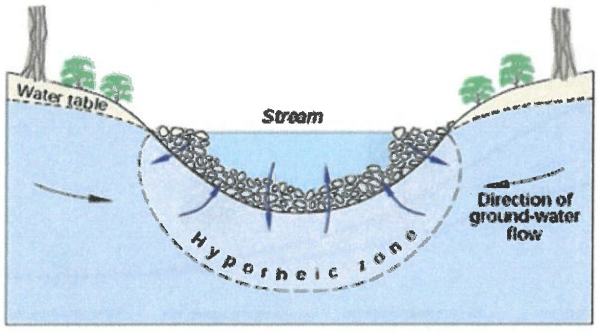

Figure 2. Ecohydrologically, streambeds and banks are a mixing zone where groundwater from the surrounding landscapes interacts with surface water from the adjacent landscapes. Modified from Fig. 15b of Winter et al. (1998).

In the driest part (Zone 1) of Figure 3, vegetation roots typically do not reach either the saturated groundwater zone of the subsurface or the capillary fringe above it, and vegetation must adapt to potential moisture deficits during dry periods. In Zone 2, plants with deep root systems (and/or certain mycorrhizal associates) can reach saturated/capillary rise substrate conditions during wet, but not dry, periods. Recent study results (e.g., Hahm et al. 2019, 2022; McCormack et al. 2021; McLaughlin et al. 2020) have shown that many native woody California plant species (including virtually all native oak species) develop both a dense surface root system to capture winter precipitation as well as deeply penetrating "taproots" that enable perennial use of deeper groundwater during the drier Mediterranean-type climate of summer (Zones 2 and 3).

Zone 3 and Zone 4 in Figure 3 include species that perennially utilize groundwater, and Zone 4 includes plant species that typically tolerate some degree of oxidatively reduced biogeochemistry; these zones functionally encompass the structurally complex "riparian" habitats on floodplain margins and lower hillslopes (NRC 2002). It's noteworthy that valley oaks are known to be both relatively dependent on abundant groundwater and more tolerant than other California oaks of the effects of prolonged inundation during flooding, and the species often occurs as a floodplain-

adapted riparian specialist within its family (Griggs 2009). In my opinion, the valley oaks in the woodland on the project site are functionally tapped into an abundant subsurface water source derived from the perennially flowing Grayson Creek, and are functioning as part of the Grayson Creek riparian area. Such floodplain riparian habitats often include plant species evolved to tolerate long-term oxidatively reduced biogeochemistry (Zone 5), typically identified as wetlands.

As Figure 1 indicates, riparian zones affect the dynamics of several ecological processes in both the terrestrial and aquatic environments. These processes are the essential sources of *ecological functions* carried out by these riparian systems. The ecological functions provided by these riparian systems are the fundamental sources of numerous *ecological services* provided by riparian areas, such as flood-flow reduction, water quality enhancement, allochthonous organic matter input for downstream aquatic ecosystems, and riparian habitat in terrestrial areas. Riparian resources may be ecologically significant in fairly narrow zones of influence (e.g., in steep upper watersheds with minimal floodplains) or in quite wide zones of interaction (e.g., low-gradient downstream river sections with wide floodplains). The relevant extent of a "riparian zone" is dependent on details of the riparian functions on which a given discussion is focused. On the Grayson Creek project site, the functional riparian zone seems likely to extend beyond the boundary mapped in Figure 3 of the JMC assessment.

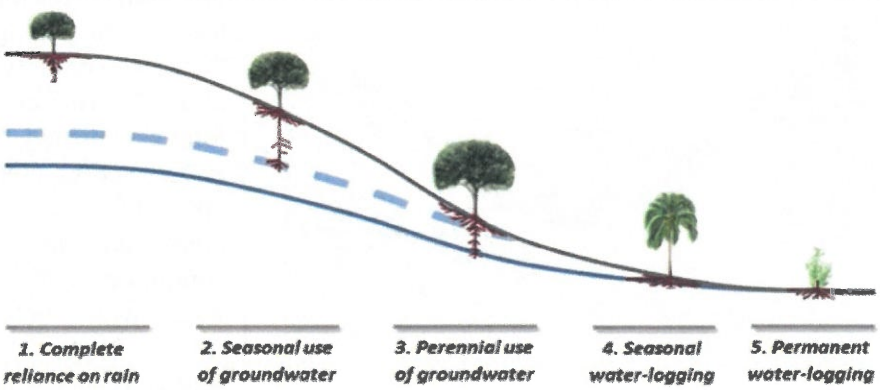

Figure 3. Schematic water table/rooting depth relations along a water table depth gradient. Groundwater surface indicated by solid blue line; seasonally increased groundwater surface indicated by dashed blue line. (Adapted from Figure 4 in Fan 2015.)

Conserving wildlife and plant species requires maintaining viable populations of each species, and maintaining viable populations requires sufficient suitable habitat. Even where total habitat area might be sufficient to sustain a population, appropriate habitat can be unavailable to a species because it's blocked by unsuitable habitat; that is, the effective habitat area could be substantially lessened by *habitat fragmentation*, a process through which continuous habitat is sequentially reduced in total area and the parts isolated from one another. The significance of fragmentation has led to the identification of habitat *connectivity* as a primary element in maintaining population viability (Keeley et al. 2018, 2022). Connectivity must also exist between currently appropriate habitat and where suitable habitat is expected to exist in the future, because habitat alterations resulting from climate change can also act as fragmenting agents. The concept of *corridors* or *landscape linkages* that combine multiple habitat patches into a *conservation network* has been an element in conservation science since the 1970s. Streams and their riparian areas are intrinsically already the most 'connected' habitat elements in most landscapes (Beier 2012; Fremier et al 2015).

The JMC assessment for the project site identifies a presumptive conclusion (in Section 3.4), with which I concur, that the Grayson Creek riparian area functions as a corridor that reduces habitat fragmentation, and that it functions "for dispersal and migration of wildlife, allowing for genetic

exchange, population growth, and access to larger stretches of suitable habitats". In my opinion, the entire project site acts as the Grayson Creek riparian corridor, and is functionally important for most mobile wildlife species in the region, not just for the sensitive reptiles and amphibia identified in the JMC assessment, but also for the majority of wildlife species that move through the region.

Other Biological Concerns

The Olberding and JMC assessments address several additional concerns that arise under CEQA's requirements to address biological issues.

With respect to possible effects on special-status plant and wildlife species, I conclude that the preparers addressed the relevant environmental setting and survey protocol requirements sufficiently and have no further comments.

With respect to adopted Habitat Conservation Plans and/or Natural Community Conservation Plans, I generally concur with the assessments' conclusion that the proposed project is unlikely to affect the adopted East Contra Costa County HCP/NCCP, and have no further comments.

Both assessments identify potential concerns with respect to possible effects of the project on aquatic resources in Grayson Creek pursuant to the Clean Water Act. At this point in time, I'm uncertain that the conclusions in the assessments that the project may require approvals from the US Army Corps of Engineers (hereafter "ACOE") reflect current regulatory requirements, owing to the US Supreme Court opinion in *Sackett v. USEPA*, although the included statements are otherwise applicable. However, I believe that the description of the regulatory jurisdiction of the State Water Resources Control Board (hereafter "SWRCB") and the Regional Boards (including RB2) omits the recent changes adopted by the SWRCB in 2020 as part of the "Wetland Riparian Area Protection Policy".[3] I suspect that RB2 may now have additional regulatory requirements in in place that are similar to the ACOE program requirements, in addition to or instead of any ACOE program.

The JMC assessment identifies (in Section 5) a number of policies from the Contra Costa General Plan that may or do apply to the county's review of the proposed project (including elements from the Olberding assessment). In my opinion, policies 8-8, 8-9, and 8-10 do not apply to the proposed project, as it is not in a designated "significant resource area", as noted in the JMC assessment. In my opinion, policy 8-13 also does not apply to this project, as I do not consider the project site to be a "major open space area", although if the county considers the Briones Regional Park and cemeteries to the west to be "near" the site, the policy could be considered to apply. Other General Plan policies considered in the two assessments are addressed further in the following sections.

III. Significant Environmental Effects on Ecological Resources, Functions, and Services Resulting from the Proposed Project

The Contra Costa County IS/MND relies upon the Olberding and JMC biological resource assessments as the factual documentation supporting its findings and conclusions. In some respects (i.e., Section 4 in the JMC assessment, with respect to potential effects on and appropriate mitigation for impacts to special-status plant and wildlife species) I believe that the county is justified in relying on the findings in those assessments. In other respects, both assessments rely on unsupported and non-credible statements by the consultants about significant environmental consequences of the proposed project and the possible success of mitigation measure

[3] See https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html for further information.

recommendations. In this section I address significant issues of fact and science that I have found in the assessments. I do not specifically address the IS/MND, although the unsupported statements in the assessments fail to support the stated conclusions reached by the county's staff in the IS/MND. The conclusions in two of the Environmental Checklist questions in the IS/MND (4b and 4d) are specifically not scientifically justified by the collective content of the assessments. In addition, several IS/MND findings with respect to compliance with county General Plan policies are not supported by evidence in the assessments.

It should be noted that the documentation of proposed project elements in the IS/MND is often vague, such that there's uncertainty about what the county has identified as required elements in the mitigation measures (as is also noted in the comment emailed to the county by RB2). For example, the Tentative map elements provided by the applicant are unclear regarding the location of the Grayson Creek stream channel, as well as how both the creekside setback required by Division 914 of Title 9 of the county's ordinances and/or the 50-foot setback required by general plan policy 8-89 were identified.[4] Since those requirements define the limits of grading allowed on the site, they also affect the mitigation measures with respect to significant ecological resources. I cannot independently verify the statements in the assessments regarding areas of sensitive habitats affected, and base the following comments on statements in the JMC assessment, which updates and modifies the comments in the Olberding assessment.

Section 3 in the JMC assessment (specifically § 3.6) addresses potential effects to "Special-Status Habitats", including oak woodlands in the "uplands" and riparian habitat along Grayson Creek. The text in this section explicitly states that the project will result in the loss of 0.21 acre of riparian habitat (as identified in the JMC delineation) and 1.18 acres of oak woodland. Absent successful mitigation, these are environmentally significant effects pursuant to both state regulations and the county's General Plan policies protecting sensitive habitats. The county's IS/MND apparently relies exclusively on comments in the balance of this assessment section in finding that these adverse effects will be mitigated to 'less-than-significant'. The statements made in the assessment regarding the likelihood of mitigation success are neither credible scientifically nor realistically believable in practical effect.

The site development plans clearly indicate that virtually all of the site north of the grading limit will be altered by grading and construction. The biological assessments indicate that essentially all of the onsite 1.2 acres of oak woodland and 0.21 acre of the riparian area onsite are included in that conversion, which means that the 'planting' proposed as mitigation must occur primarily within the remaining 0.8 acre of the Grayson Creek riparian corridor. The photos provided as part of the Olberding assessment show that the majority of the riparian corridor throughout the site is already vegetated with mature trees, mostly with a closed overhead canopy and a dense understory of vines and low-growing shrubs. While it is certainly possible that the applicant could plant as many 5-gallon or 15-gallon trees as desired within the existing corridor, several well-understood ecological principles indicate that such an action is more likely to be an additional adverse effect on the existing riparian corridor than a measure that offsets the loss of habitat values elsewhere on the project site.

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[4] The JMC assessment states explicitly that "The proposed Project has been designed to incorporate a creek setback that includes above-ground permanent elements such as roads/driveways and structures to be constructed a minimum of 50 feet from the centerline of Grayson Creek (as mapped by Debolt Civil Engineering)." (page 12), indicating that the JMC assessment accepted the setback/grading limit as a "given", rather than as an element to be determined in the assessment.

Without getting too deep into the proverbial "weeds" of ecological science, I can perhaps best illustrate this dynamic with an example from forestry (Figure 4), where these principles represent a primary management concern for landowners. The example portrayed in the figure is an oversimplified "successional sequence" that results following a major disturbance (e.g., clearcut logging or a major fire). Assuming standard silvicultural approaches, the disturbed site would be planted with small trees of desired species, after which the site would be managed in ways to optimize the growth of wood fiber. Standard practices include "overplanting" young trees (more than the managers anticipate that the site will support), because vagaries of landscape conditions and climate variability assure than many of the planted trees will not survive. In addition, the managers expect to conduct one or more "thinning treatments" that will reduce the density of growing but still small trees, because the dense young stands exhibit increasing competition among the growing plants for light, soil moisture, and nutrients. An unthinned stand will simply suffer increased mortality of many of the planted stems, while at the same time reducing the growth of the remaining healthy trees because of competition.

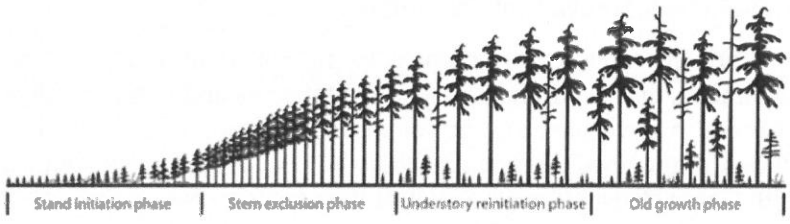

Figure 4. A classical stand development process taught in forest ecology programs at major universities incorporates four developmental stages. The second stage reflects the self-thinning that occurs in growing forests owing to competition among trees for light, moisture, and soil nutrients. This diagram is widely understood to reflect the most common dynamic in regenerating ecosystems following major disturbances. The same dynamic process occurs in tree-dominated alliances that include legacy elements such as old or large trees. Source: Oliver & Larson (1996).

The same dynamic affects natural forest stands on public lands following disturbances like fire, but because the landscapes are not "managed" in the same way, stands of small trees are not thinned, and competition results in the natural death of many of the overly dense young trees. If the stand has remnant large trees, competition for soil moisture and nutrients also stresses them, and the natural dynamic may include a loss of the desired larger trees in the landscape. This dynamic is well-understood among silviculturists and forest ecologists as one of the primary factors contributing to increased wildfires in federal landscapes in the western US, because past management did not include either thinning or the use of managed fire to reduce the loadings of dead wood (fuel), and climate change and drought-induced moisture stress increase the likelihood that ignition sources and unusual weather conditions will result in conflagrations. For additional perspectives on what this means for landscape management in the current era of altered climate dynamics, see Christensen (2014), Young et al. (2017), Zhang et al. (2019), and North et al. (2022).

The underlying message in this example is that the capability of a plot of land to support vegetation is fundamentally limited by intrinsic ecological interactions among the plants and by characteristics of the landscape. What that means for this project is that *planting* replacements for the 97 removed code-protected trees (or multiples of 3X or 10X that number) in the remaining area of the Grayson Creek riparian corridor will not/cannot assure that those removed trees will be replaced, because it's highly unlikely that most of the planted trees will survive; alternatively, the increased competition among the numerous planted trees and the remnant adult trees in the riparian corridor will result in the loss of the older, established trees. More to the point, from a functional

perspective, the *area* of forested oak woodland and riparian forest habitat on the project site will be reduced by construction, and this lost habitat area *cannot* be restored or mitigated by additional planting in the fixed area of the existing riparian corridor. The lost habitat area also means that the ecological *functions* and *services* that the area currently provides will be lost, and will not be replaced by the proposed planting program. The inclusion of these concerns as required elements in relevant county General Plan policies reinforces conclusions that these are significant environmental impacts under CEQA.

In short, the numerous references to mitigation measures in the Olberding and JMC assessment documents that claim that the lost habitat areas and values resulting from the proposed project will be offset by overplanting the remaining Grayson Creek riparian corridor are false. The ancillary claims in the JMC assessment that the proposed project, with the stated "mitigation", complies with Contra Costa County General Plan policies 8-6, 8-7, 8-12, 8-78, and 8-86 are also false. The current assessments provide only empty claims, and no substantial evidence, to support assertions that the clearly identified substantial losses of onsite ecological values, functions, and services will be avoided, reduced, or offset by the proposed planting scheme.

It appears to me that the county has been caught up in an "alternative reality" charade. However, no amount of repeating an unsupported false narrative can make it true.

With respect to the content of the IS/MND, your own experiences as a city and county planner should make it clear that the proposed project will result in several unmitigated and significant environmental impacts. While it's not one of the subjects you asked me to address, I would have concluded that this fact means that the proposed project cannot be approved with an MND; an EIR (perhaps a focused EIR) will be required if the county desires to approve the project. In addition, if the county wishes to approve the proposed project, appropriate findings are required per CEQA Guidelines § 19091, and a Statement of Overriding Considerations will be needed per Guidelines § 19093.

Best,

Chad Roberts

Chad Roberts
Conservation Ecologist

Attached: Short SOC

Appendix

References

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Attachment 1

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST *EMERITUS* (ESA)
PROFESSIONAL WETLAND SCIENTIST *EMERITUS* (SWS)

CONSERVATION ECOLOGIST

OBJECTIVES: Apply ecological knowledge in developing and implementing policy and law; conduct research and educational outreach; identify and minimize consequences of plans and management actions; and advocate for resilience in ecological systems, particularly for public landscapes subject to climate change, fire, and other stressors.

EDUCATION AND PROFESSIONAL CERTIFICATION

- B.A. *cum laude*, Zoology, 1969; *Humboldt State College*.
- Ph.D., Ecology, 1976; *University of California, Davis*.
- *Senior Ecologist* (from 1982; *emeritus* in 2021), Board of Professional Certification, Ecological Society of America.
- *Professional Wetland Scientist* (from 1995; *Senior PWS* in April 2020, *emeritus* in 2021), Professional Certification Program, Society of Wetland Scientists.

PROFESSIONAL AFFILIATIONS

Lifetime memberships in: Ecological Society of America, Society of Wetland Scientists, American Ornithological Society, Pacific Seabird Group, California Native Plant Society.

INDEPENDENT CONSERVATION ECOLOGIST (2015 to Present)

Since retiring, I've focused on selected scientific and conservation issues related to managing public landscapes. As a senior wetland scientist, I advise wetland and riparian practitioners, agency staff, and decision-makers about relationships among wetland and riparian science and public policy. As a senior ecologist, I focus on collaborative climate adaptation planning in California and the Pacific Northwest, identifying strategies to address climate change on western ecosystems. I engage in field studies and discussions with interested persons and agencies about interactions of climate change, fire and fuels management, and landscape-level conservation options within California's northern inner Coast Range and Klamath Mountains ecoregions. Currently I'm focused on the amendment process for the Northwest Forest Plan for northwestern California national forests and BLM field offices.

Representative documents and presentations:

- Greco, SE, Huber PR, Roberts RD. 2023. ***Informing reforestation strategy for the Mendocino National Forest: Integrating climate change into management planning of the North Shore Restoration Project (NSRP)***. Report prepared for the Clear Lake Environmental Research Center (CLERC), Lakeport, CA.
- Roberts RC. 2022. ***California's oaks: evolved for resilience in a changing climate***. Presentation, *8th California Oak Symposium*, San Luis Obispo, CA.
- Roberts RC. 2019. ***Responding to Climate Change Effects in the North Shore Restoration Project Region***. Report prepared for Upper Lake Ranger District, Mendocino National Forest, as a FireScape Mendocino representative on the 40,000-acre project's ID Team.
- Member, Yolo Habitat Conservancy's Advisory Committee (2005 to 2018), ***Habitat Conservation Plan/Natural Community Conservation Plan*** (HCP/NCCP). Advisory Committee representative (2017 to 2020), Steering Committee, ***Yolo County Regional Conservation Investment Strategy/Local Conservation Plan*** (RCIS/LCP).

- Greco SE, Harrison SP, Moyle PB, Roberts RC. 2019. ***Central Valley Regional Report, Fourth California Climate Change Assessment***. Report section prepared for the California Natural Resources Agency, Energy Commission, and Office of Planning and Research.
- Roberts RC. 2017. ***Review memorandum: Ecological Elements in the Climate Change Framework for the Draft Science Synthesis, Northwest Forest Plan Update***. Memorandum to the Ecological Society of America Peer Review Team and the USDA Forest Service emphasizing the failure of the draft Science Synthesis to address adequately the dynamics and consequences of climate change for northwestern federal landscapes. January 2017.
- Roberts RC, Pearce S, Lowe S, Collins JN. 2017. ***Assessing riparian area condition and enhancement potential in the Santa Rosa Plain***. Presentation, *Riparian Summit: Confluence to Influence*, Davis, CA.
- Greco SE, Roberts RC. 2016. ***Connectivity underpins climate change adaptation strategies in northwestern California landscapes***. Presentation, 43rd Natural Areas Conference, Davis, CA.

ACADEMIC & SCIENTIFIC ENGAGEMENT (1975 to Present)

For more than 45 years I've been engaged in applied ecological research, developing technical reports, and instructing courses covering environmental laws (principally CEQA, NEPA, the Coastal Act, and the Clean Water Act), wetland identification and management, land use planning, and watershed resources. I've participated in ecological studies addressing wetlands and riparian resources, forests, and oak woodlands throughout California, developed assessment methodologies for wetlands and riparian resources, and presented results in reports and conferences.

Representative examples:

- ***Advisory Committee, California Wetland Monitoring Workgroup*** in the SB 1070-established *California Water Quality Monitoring Council*. Focus: wetland monitoring, assessment, classification, and mapping; the workgroup is also responsible for the development, application, and quality assurance of the California Rapid Assessment Method (CRAM). July 2008 to January 2021.
- ***Symposium Organizing Committee***: *Living with Fire in California's Coast Ranges: Promoting Fire-Resilient Communities and Landscapes in an Era of Global Change*. Rohnert Park, CA, May 2018. California Fire Science Consortium; University of California, Davis; USDA Forest Service, Pacific Southwest Region. December 2017 to May 2018.
- Solek CW, Sutula MA, Stein ED, *et al.* 2012. ***Determining the health of California's coastal salt marshes using rapid assessment***. *Wetland Science and Practice* 29:8-28.
- Roberts RC, Huffman RT, Collins JN, Livsey BC, Harvey CN. 2011. ***Wetland Identification and Delineation.*** Technical Memorandum No. 4, Technical Analysis Team, *Aquatic Science Center, San Francisco Estuary Institute*; for the California State Water Resources Control Board's *Wetland and Riparian Area Protection Policy* development project.
- Sutula MA, Collins JN, Wiskind A, *et al.* 2008. ***Status of perennial estuarine wetlands in the State of California – Final Report to the Surface Water Ambient Monitoring Program, State Water Resources Control Board***. Tech. Rep. 571, Southern California Coastal Water Research Project, Costa Mesa, CA. (Team lead for northern California.)
- ***President, Western Chapter,*** *Society of Wetland Scientists*, January 2001 to June 2007.
- ***Instructor,*** *Resource Planning, Humboldt State University*, Arcata, CA. Courses: (a) landscape planning in natural resources management; (b) environmental documentation practices. January 1997 to May 1998.

- Roberts RC. 1989. ***Maintaining avian wildlife habitat values in oak woodlands.*** Poster, symposium *California's Oak Woodlands: Attitudes and Responsibilities*; California Department of Forestry, Sacramento.
- Roberts RC. 1987. ***Preserving oak woodland bird species richness: suggested guidelines from geographical ecology.*** Pages 190-197 in: TR Plumb, NH Pilsbury (Tech. Coord.). *Proceedings of the symposium on multiple-use management of California's hardwood resources*, Gen. Tech. Rep. PSW-100; Pacific Southwest For. & Range Exp. Stn., Berkeley.
- Roberts RC. 1985. ***Habitat suitability index models for wetland bird guilds.*** Poster, Pacific Seabird Group/Colonial Waterbird Group meeting, San Francisco.
- Ray D, Woodroof W, Roberts RC. 1984. ***Management of riparian vegetation in the North Coast region of California's coastal zone.*** Pages 660-672 in: RE Warner and K Hendrix (ed.); *California Riparian Systems*; Univ. California Press.

CONSULTING SERVICES (1980 to 2014)

Principal, Environmental Planning Firm (1999 to 2014). As a consulting senior scientist working from Davis, California, I provided professional services addressing relevant science, environmental and regulatory requirements, and the application of federal, state, and local laws and policies for a variety of private and public clients throughout California. I provided expert-level services in environmental documentation pursuant to the California Environmental Quality Act (CEQA) and other environmental laws for public agency and private clients. A primary focus during this period included developing and implementing wetland and riparian policy approaches in California.

Director of Environmental Services, Regional Engineering Firm (1980 to 1999). For a mid-sized regional consultant in Eureka, California, I prepared or directed preparation of environmental documents pursuant to CEQA and NEPA, the Clean Water Act, the Coastal Act, and other federal and state laws; directed agency liaison for all approvals; conducted application processes for numerous public and private projects; developed planning frameworks to advance the implementation of state and local land use law and policy; and provided expert witness services in cases focused on substantive and procedural compliance with environmental laws and regulations.

Representative projects and services:

- ***Training, California Rapid Assessment Method (CRAM) for Wetlands.*** Instructed agency staff and consultant personnel in three- or five-day training courses covering riverine, estuarine, depressional, slope, and/or vernal pool wetlands, conducted in Sacramento, Santa Rosa, Willits, Richmond, and Eureka. Coordinated through the *Aquatic Resources Center/San Francisco Estuary Institute*, Richmond, CA. March 2011 through May 2013.
- ***Expert Witness Services, Dwayne B. Smith et al. v. California Department of Fish and Game et al.*** Research, field studies, deposition, and trial testimony; provided for the *California Department of Justice* (representing multiple state defendants), August 2010 to January 2011.
- ***Environmental Impact Report (EIR), Lake Earl Management Plan.*** Programmatic environmental document (Draft and Final EIRs, findings, and related liaison services) for the agency-developed management plan for the 5,600-acre Lake Earl Wildlife Area in coastal Del Norte County. Prepared for the *California Department of Fish & Game*. Completed June 2003. (Note: for EIR projects, services typically included public representation, responding to substantive public and agency comments in a Final EIR, preparing findings, and preparing approval documents for agency adoption.)
- ***Environmental Impact Report (EIR), Mad River Water Pipeline Rehabilitation Project.*** Natural environment assessment and EIR services for effects of 26,000 linear feet of new 24"

pipeline in diked former tidelands (jurisdictional wetlands) east of Humboldt Bay between the cities of Arcata and Eureka, three miles of new pipeline in uplands, and two miles of pipeline lining in uplands. Prepared for *City of Eureka* departments of Community Development and Engineering (documentation also utilized to support approvals for the project by the *California Coastal Commission* and the *US Army Corps of Engineers*). Completed December 2001.

- ***Report on hydrology and aquatic/floodplain ecology in the Mill Creek watershed.*** Hydrological assessments of pre-development and projected General Plan build-out conditions in the McKinleyville terrace, including wetland boundary identifications, wetland and riparian natural community descriptions, and recommendations for maintaining these features; for the *California Department of Fish & Game*. Completed March 1995.
- ***Biological Conditions in the Eel River Delta: a Status Report of Conditions in the Early 1990s***. Identified aquatic areas in the 32,000-acre Delta using the National Wetland Inventory classification; described wetlands and other habitats, ecological relationships, and functions, Prepared for the *Eel River/Humboldt County Resource Conservation District*, the *Natural Resources Conservation Service*, and the *California State Coastal Conservancy*. April 1992.

CONSERVATION LEADERSHIP (1980 to Present)

For more than 40 years I've worked on conservation projects in northern California, collaborating with local, state, and federal agency staff, regional conservation groups, and individuals to achieve stewardship and management objectives for wetlands, riparian areas, and terrestrial ecosystems.

Representative examples:

- ***Landscape Conservation Collaborative*** *(LCC), Sacramento River Valley*, on behalf of the *Riparian Habitat Joint Venture*. Focus: riparian ecosystems and species; climate-change effects, adaptation options, and resilience; and landscape-scale ecological processes. September 2015 to August 2018. (Note: The LCC was terminated after the Trump administration defunded the USFWS's entire LCC program.)
- ***Protecting water quality and supply and restoring resilient forests in the Berryessa Snow Mountain National Monument.*** Memorandum for Obama Administration review presenting science underpinning a proposed POTUS designation for the Berryessa Snow Mountain National Monument (designated July 2015). Prepared at the request of *Tuleyome*, the proponent of the designation. May 2015.
- ***Tolowa Dunes State Park dune forests and ponds – a unique ecological system; findings and recommendations***. Memorandum prepared on behalf of the *Friends of Del Norte* for the *California Coastal Commission* and the *Department of Parks and Recreation*. March 2010.
- ***Sierra Nevada Wildlife Expert Assessment Workshop***: Effects of alternative management directions and alternative fire-management regimes on cavity-nesting wildlife. Workshop, Forest Service Region 5 California Spotted Owl (CSO) EIS Team, Sacramento, CA. July 1994.
- ***California Native Plant Society (CNPS) Task Force*** to: (1) evaluate the status of hardwoods (particularly oaks) in California, and (2) recommend statewide policies. The task force report was adopted by the CNPS as its "Oak Action Kit." Sacramento, CA. 1988 and 1989.
- ***Developing an "old-forest" conservation strategy for federal lands in the Pacific Northwest***, Represented the Redwood Region Audubon Society and other NW California conservation interests in a Pacific Northwest regional conference convened by The Wilderness Society, the Sierra Club, and the National Audubon Society; Portland, OR. October 1988.

D-1

Save Lafayette Trees
711 Los Palos Dr.
Lafayette, CA 94549

February 25, 2024

John M. Gioia, Candace Anderson, Diane Burgis,
Ken Carlson, Federal D. Glover,
Contra Costa County Board of Supervisors
651 Pine Street, Room 107
Martinez, CA 94553

Dear Chair Glover, Vice-Chair Anderson, and Supervisors Gioia, Burgis, and Carlson,

Save Lafayette Trees incorporated in 2017 as a 501(c)(3) non-profit with the mission to help preserve our natural habitat and improve gas pipeline safety. We've successfully saved hundreds of Lafayette trees, mostly heritage oaks, from discretionary removal and have assisted nearby communities throughout California in preservation efforts. We've reviewed the materials related to the matter of Grayson Road 10-Lot subdivision, and we strongly encourage the Contra Costa Board of Supervisors to deny this project due to the irreversible damage to a sensitive woodland habitat and insufficient mitigation as presented in the most recent documents.

California oak woodlands provide essential habitat for over 300 vertebrates and 5000 invertebrates, including at least 120 species of mammals, 147 species of birds, and approximately 60 species of amphibians and reptiles. Over a million acres of oak woodland has been cut in California since 1950, and the California Oak Foundation projects that 750,000 more acres are threatened over the next 30 years due to agriculture and overdevelopment, such as represented by this Grayson Road subdivision. Contra Costa residents enjoy and value our local trees, especially heritage valley oaks, live, and blue oaks.

The 3-acre proposal would destroy an incredible 97 code-protected trees and replace pristine habitat with an out-of-place development more suited for a transit-rich urban environment downtown. Virtually all of the onsite oak woodland (1.8 acres) and mixed woodland (0.65 acres), and 20% of the riparian woodland (0.2 acres of the 1.01 acres) will be destroyed by this residential over-development.

The proposed mitigation fails to address the extent of woodland habitat loss. Replanting of 158 trees within the remaining 0.8 acres of riparian woodland would represent a massive

over-planting in a small area and would damage existing tree root systems and eventually lead to poor woodland health. Over-planting trees in a small area adjacent to residences may also present an increased wildfire risk during future droughts due to stressed, underwatered vegetation. The proposal for replanting only 4 valley oaks is insufficient. Given their incredible value to the community and longevity, existing valley oaks should be retained through smarter architectural consideration and smaller development footprint.

It is my opinion that this development represents a dangerous and devastating precedent in our community. I ask that you please reject the 10-lot subdivision as it currently stands to help enforce sensible environmental considerations as we achieve our housing goals which should focus high-density housing close to city centers. We should require all future applications to have sufficient EIR analysis along with robust mitigations to retain our cherished county oak woodlands when building into the pristine habitats that line our neighborhoods.

Sincerely,
Michael Dawson
Co-Founder

Save Lafayette Trees
711 Los Palos Dr.
Lafayette, CA 94549
www.savelafayettetrees.org

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From: Karin Gregory
Sent: Saturday, February 24, 2024 8:45 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Subject: Development on walnut bob.

I have lived on View lane since 1991 and am very upset about this development. View lane is a private rd and there's a lot of water over the rd after any rain.

Get Outlook for iOS

D1

From: Pat <pat.king@ >
Sent: Saturday, February 24, 2024 7:28 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Lisa Chow <Lisa.Chow@bos.cccounty.us>
Subject: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

Clerk of the Board,

I am sending the attached letters-to-the-editor for distribution to each member of the Board of Supervisors. These appeared in local papers last week. This email is in regard to the Grayson Road 10-Lot Subdivision CDSD20-09531, Agenda File #24-0618 for Board of Supervisors 2-27-24 meeting. I would appreciate a reply to confirm your receipt of this email transmittal.

Thank you very much,

Patrick King

Patrick King

Contra Costa Times
February 21, 2024

Letters to the editor

Contra Costa board should protect creek

The California Density Bonus Law has been disastrous. Developers only need to claim that a single "moderate" income home in a large development qualifies them for an exemption from local laws designed to protect the environment, public safety and community character.

Few local politicians have had the willpower to stand up to the developers who want to trod over the protections in our local communities. But the Oceanside City Council did the right thing in a landmark January decision for the future of California communities.

In Contra Costa, we have a similar proposal along Grayson Creek near Briones Park. This sensitive riparian habitat is home to 100 bird species, mammals like red fox, coyote, bats, and recently salmon.

On Feb. 27, the county's Board of Supervisors can vote this project down once and for all. We encourage them to do the brave thing.

— Patrick King, Pleasant Hill

Bay Area voters should support Haley

I encourage all Bay Area voters to vote for Nikki Haley in the California primary on March 5.

Nikki is unlike other politicians in that she is genuine and relatable. She takes unscripted questions at her town halls and stays to talk to people personally. She is also a smart, tough and resilient leader who will always have America's best interests at heart. She is a former governor of South Carolina who took down the Confederate flag, and she went toe to toe with dictators and international thugs as America's top diplomat at the United Nations.

Remember, to vote for Nikki, you must be a registered Republican. You can check your party registration online at voterstatus.sos.ca.gov. There is still time to switch your registration. It is time for a new generation of leaders. Elect Nikki Haley on March 5.

— Benjamin Longlet, Danville

Cabaldon would make good state senator

What do we want for our cities and towns? Christopher Cabaldon, with a combination of intelligence and experience, has clear priorities putting the needs of the community first. While mayor of West Sacramento he instituted innovative programs that turned that city around. He has worked on the state and federal levels.

Cabaldon would hit the ground running. He would make community-based recommendations understanding legislation and administrative processes, an extensive background in education and running a city with the associated myriad of problems.

The choice is ours to make.

— Belinda Seidemann, Vallejo

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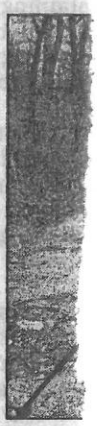


U.S. should provide more humanitarian aid

Re: "Military campaign tearing families apart" (Page A3, Feb. 5).

Thank you for the profiles humanizing the innocent Palestinians suffering the consequences of Israel's indiscriminate bombing in Gaza.

The reporters cite over 26,000 dead (now more than 29,000); 19,000 children left with no parents or adults to look after them, including Melisya whose relatives were killed; and over 90% of the population driven from their homes. WCNSF, meaning Wounded Child No Surviving Family, is a new acronym now used, all too frequently, to describe one of the unique horrors inflicted by Israel on the children in Gaza

Yet the United States plans to send another $15 billion to Israel for even more weapons but only $200 million to Gaza in humanitarian aid. That's $7,000 per Gazan for Israel to bomb them and $100 per Gazan for Gazans to survive some more of, and then recover from, the bombing. It would be funny if it weren't so cruel.

— Elizabeth Fisher
Pleasant Hill

SF Chronicle February 24, 2024

Cities must push back on Density Bonus Law

"A Home for Every Californian" sounds like a great idea but sometimes ideas have unintended consequences. Everyone is concerned about the high cost of homes in California but the Density Bonus Law that allows developers to bypass regulations is not the answer.

Community after community throughout California is pushing back against developers who come into their area, using the Density Bonus Law to build "affordable homes" but which, in fact, are large homes being sold for $1.2 million and up. These homes will do little to help alleviate the problem of affordable housing.

The Bonus Density Law is being abused by developers who often do not live in the area in which they are building and care nothing for the community. It is time for Californians to push back against this law and elect officials who will fight to protect our communities and find real solutions to the housing problem.

— Kirsten West
Pleasant Hill

Library closure shows need to enforce laws

Re: "Library will reopen on Tuesday with armed security" (Page B1, Feb. 19).

The closure of Antioch's library is a perfect example of what happens when we don't enforce the law and punish criminals.

We continue to elect liberal politicians who are more concerned with their ineffective social programs than they are with protecting their law-abiding constituents. They have absolutely ruined the city of Antioch just like what happened in Oakland.

Please enforce the law and punish the criminals. The victims here are the general public. Our way of life is being destroyed.

— Gordon Monroe
Concord

Letters to the editor: Letters of up to 150 words should be submitted online at www.eastbaytimes.com/letters-to-the-editor.

Commentaries: Submissions should be 600 words and include a tagline and daytime contact information. Email submissions to ebcommentary@bayareanewsgroup.com.

Main: 925-935-2525
Delivery issues: 925-276-9254 or online at MYACCOUNT.EASTBAYTIMES.COM

From: Clerk of the Board
Sent: Monday, February 26, 2024 8:53 AM
To: Supervisor John_Gioia; Supervisor Candace Andersen; Supervisor_Burgis; Supervisor Carlson; Supervisor Federal Glover
Cc: Monica Nino; Julie Enea; Joyce Ring-Reaves; June McHuen
Subject: FW: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting
Attachments: oceansite-project-denial.pdf

Follow Up Flag: Follow up
Flag Status: Completed

The email below and the attachment above were received in the Clerk of the Board's office.

Stacey M. Boyd
Deputy Clerk
Clerk of the Board
1025 Escobar St., 1st Floor
Martinez, CA 94553
(925)655-2002 (Desk)
(925)655-2000 (Office)

-----Original Message-----
From: Pat <pat.king@gmail.com>
Sent: Saturday, February 24, 2024 7:31 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Lisa Chow <Lisa.Chow@bos.cccounty.us>
Subject: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

Clerk of the Board,

I am sending the attached newspaper article from the San Diego Union-Tribune for distribution to each member of the Board of Supervisors. This article documents how the City of Oceanside faced a similar development proposal and voted it down in January. This email is in regard to the Grayson Road 10-Lot Subdivision CDSD20-09531, Agenda File #24-0618 for Board of Supervisors 2-27-24 meeting. I would appreciate a reply to confirm your receipt of this email transmittal.

Thank you very much,

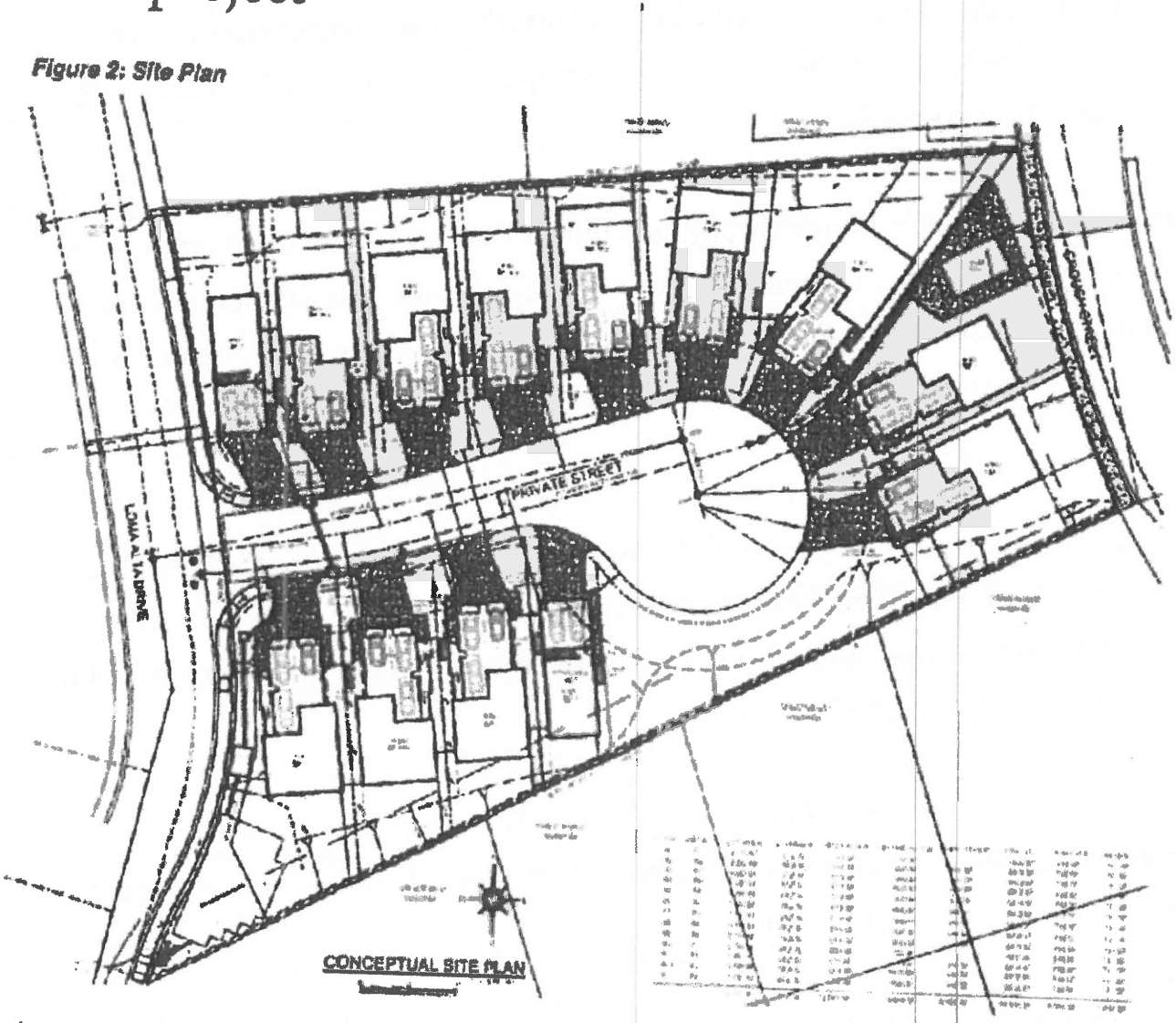
Patrick King

Patrick King

The San Diego Union-Tribune

OCEANSIDE

Oceanside council nixes approval of high-density home project



The layout of the proposed Loma Alta Terraces development. (Courtesy city of Oceanside)

Officials side with residents who say Loma Alta Estates project is too dense and would be unsafe in old neighborhood

BY PHIL DIEHL

JAN. 11, 2024 5:45 PM PT

The Oceanside City Council upheld an appeal by residents to overturn the Planning Commission's approval of a high-density subdivision in the city's older Loma Alta neighborhood Wednesday.

The City Council, in a 5-0 vote, agreed with residents that there were serious safety concerns about squeezing 13 single-family homes up to three stories tall separated by as little as 8 feet on a two-acre parcel.

Under California's density bonus law, by including a single home reserved for a very low income family, the proposed Loma Alta Terraces project could place 13 homes on a vacant lot the city zoned for a maximum of 9 homes. The Planning Commission voted 4-2 on Oct. 9 to approve the project, with commissioners Louise Balma and Jay Malik opposed.

In this case, the density bonus law would allow the developer to reduce the lot widths from the city's minimum of 70 feet to as little as 29 feet and the minimum lot size from 10,000 square feet to 2,752 square feet. Front yard setbacks would drop from 25 feet to 18 feet, side yards from 7.5 feet to 4 feet.

The vacant site is off Loma Alta Drive between Mesa Drive and Canyon Drive. The neighborhood is about midway between Oceanside Boulevard and Mission Avenue, east of Interstate 5 and west of El Camino Real.

Residents said the development is out of character with their neighborhood, would violate their privacy, and would compound traffic, parking and stormwater run-off problems.

"They are shoehorning 13 houses into our neighborhood, and that doesn't fit," said one 25-year resident.

Patrick King

Fire danger is another important concern, said the lead appellant, Link Ladutko.

With homes as little as 8 feet apart and only one access road into the development, it would be difficult for firefighters to respond and for residents to evacuate during an emergency, he said.

"This project presents an unreasonable risk to the health and safety of the public, and especially the people who will live there," said Ladutko.

The developer, Scott Darnell, said the project would provide much-needed housing and meets all state requirements.

The homes would have automatic sprinkler systems and a fire hydrant would be added nearby, Darnell said. The neighborhood is outside the nearest wildfire hazard zone, which is along the San Luis Rey riverbed.

City staffers had recommended denial of the appeal, saying no significant issues had been raised.

City Council and Planning Commission members have previously supported most of the density bonus projects brought before them. They often say they don't like the proposals, but that state law mandates approval.

"This is an example of where that density bonus is taken to a much higher degree than some of the others that we see," said Councilmember Eric Joyce, adding that he shared the concerns raised in the appeal.

Councilmember Ryan Keim said the 11 waivers requested for things such as lot size, setbacks and height restrictions were excessive.

"It's disappointing," Keim said. "Just because you can do it, doesn't mean it's the right thing to do in that neighborhood."

Councilmember Peter Weiss said his reason for denying the project was the private street that would provide its only access. Plans call for the street to have a 16 percent incline, which exceeds the city's maximum of 12 percent.

"A road that steep ... exceeds the safety standard," Weiss said.

Another concern raised by the council was that the only unit designed as affordable housing might be rented and not sold.

Conditions approved by the Planning Commission state that the affordable home will be sold, City Attorney John Mullen said. However, an attorney for the developer said the developer has an option to rent it.

"We can't even get a commitment for the one affordable housing opportunity ... to give the opportunity for homebuying for someone who doesn't have a million dollars," said Mayor Esther Sanchez.

The confusion over whether the affordable home would be sold or rented is "adding insult to injury," Sanchez said.

"All of these waivers cost something," Sanchez said. "They transfer these costs to the city, (and) the city someday is going to have to deal with all of these impacts."

A resolution supporting the City Council's decision to deny the project will be presented for approval at an upcoming meeting.

Phil Diehl

Clerk of the Board,

I am sending the attached letter from Friends of Grayson Creek for distribution to each member of the Board of Supervisors. The letter is in regard to the Grayson Road 10-Lot Subdivision CDSD20-09531, Agenda File #24-0618 for Board of Supervisors 2-27-24 meeting. I would appreciate a reply to confirm your receipt of this email transmittal.

Thank you very much,

Patrick King

Patrick King (3)

February 24, 2024
Contra Costa County Board of Supervisors
Clerk of the Board
1025 Escobar Street
Martinez, CA 94553
Delivery via email: clerkoftheboard@cob.cccounty.us
Cc: Lisa.Chow@bos.cccounty.us

RE: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

I am the president of Friends of Grayson Creek, an organization dedicated to preserving Grayson Creek, including the upper Grayson Creek watershed area. Previously I served as Treasurer for The Mount Diablo Audubon Society and on the Board of Directors for 10 years.

The above referenced project proposal along Grayson Creek threatens the habitat of many bird species, mammal species, amphibians, and trees that call this area home. I urge you to deny this project.

This stretch of creek is the most important greenbelt and wildlife corridor in all of Pleasant Hill, and one of the most important wildlife corridors in the County. It is the only contiguous waterway that connects the west side of Briones Regional Park with the Sacramento River, via lower Grayson Creek and the Contra Costa Canal. The creek runs year around.

Over the last two years, salmon swam up lower Grayson Creek for the first time in decades. Salmon spawned in Briones Park 100 years ago. The only way they will do so again is to pass right by this proposed development project on their way up to the Park. This reality makes setbacks, housing density, and forest canopy vital. At the time that the California Department of Fish & Wildlife made their comments on this project, they were unaware of salmon in the creek.

Because of Grayson Creek and the associated riparian corridor with significant tree canopy, over 100 bird species have been documented here including some species like Winter Wren that are found nowhere else in the county. Multiple raptor species are abundant, as are owls. Many species breed here, and many migrant warblers use the area in springtime to rest and recover from migrant flights.

There is a wood duck restoration project going on in this very stretch of Grayson Creek, both adjacent and across from the project site. This effort was planned and sponsored by the Mount Diablo Audubon Society and local Scout Troop 405 in conjunction with the California Wildlife Federation, where data is reported annually. The site was selected as

the best possible habitat in Pleasant Hill for the return of wood ducks, who have not nested in the city for 50 years.

Mammal species found here include red fox, coyote, bats, deer, and an occasional mountain lion from Briones Park. Black rats (ie "roof" rats) are already invading the creek area where this project is proposed. Roof rats threaten the eggs of ground-nesting birds here including California Quail and Wild Turkey, and they carry disease. These proposed homes will be a welcoming mat for more rats to seek shelter, as they are already doing in neighboring homes.

The project site includes 1.18 acres of valley oak woodland, 1.01 acres of riparian woodland, and 0.65 acres of mixed oak woodland. Almost all of these woodlands would be destroyed by the project, including at least 97 code-protected trees. These woodland areas are vital to the health of the creek, the species which thrive there, and the habitat surrounding it. The project's significant biological resource impacts, which are mostly unmitigated, would result in catastrophic habitat destruction which the wildlife corridor cannot recover from.

I urge you to deny this project.

Patrick King
President, Friends of Grayson Creek
https://friendsofgraysoncreek.org

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From:	Lisa Shikany <l
Sent:	Friday, February 23, 2024 10:03 AM
To:	Clerk of the Board
Cc:	Patrick King
Subject:	Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting
Attachments:	BOS letter.pages.pdf; Attacment A Summary of Community Concerns.pdf; Attachment B RCR letter to L Shikany re Grayson Creek Project Assessments + Attachment - 19 Feb 2024.pdf; Attachment C 1025 rev. 2 Final Appeal Letter.pdf; Attachment D CaliforniaWildlifeFoundationLetterGrayson12_2023.pdf; Attachment D CDFW 05272022.pdf; Attachment D Waterboard comments.pdf

Clerk of the Board,

I am sending the attached letter with attachments on behalf of the Mohawk/Iroquois Neighborhood for distribution to each member of the Board of Supervisors. The letter is in regard to the Grayson Road 10-Lot Subdivision CDSD20-09531, Agenda File #24-0618 for Board of Supervisors 2-27-24 meeting. I would appreciate a reply to confirm your receipt of this email transmittal.

Thank you very much,

Lisa Shikany

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

May 27, 2022

Mr. Joseph W. Lawlor Jr., Project Planner
Contra Costa County Community Development Division
30 Muir Road
Martinez, CA 94553
Joseph.Lawlor@dcd.cccounty.us

Subject: Grayson Road 10-Lot Subdivision Project, Initial Study/Mitigated Negative Declaration, County File CDSD20-09531, SCH No. 2022050245, Contra Costa County

Dear Mr. Lawlor:

The California Department of Fish and Wildlife (CDFW) received Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from Contra Costa County (County) for the Grayson Road 10-Lot Subdivision Project (Project) pursuant the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the IS/MND to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Applicant: Calibr Ventures c/o Andy Byde, 1908 Cambridge Place, Walnut Creek, California 94598

Objective: The applicant is requesting approval of a vesting tentative map for a subdivision which proposes to subdivide the 3.05-acre Project site into 10 lots ranging in size from 7,347 to 22,460 square feet (ft^2). On each new lot, a 4- to 5-bedroom single-family residence ranging in size from approximately 2,900 to 3,500 ft^2, is expected to be

constructed. Two existing, vacant, residences would be demolished to accommodate the Project.

Associated access, drainage, and utility facilities would be constructed throughout the site. For access, a 28-foot-wide roadway and 4.5-foot-wide sidewalk would connect the lots to Grayson Road. Stormwater flows would be directed to a 2,021 ft^2 detention basin located at the northeast corner of the property. Treated stormwater will be discharged from the basin into a Contra Costa County maintained stormwater drainage system that currently exists under Grayson Road. No direct stormwater discharge will be placed into Grayson Creek without previously being cleaned and metered through a compliant flowthrough treatment planter.

A riparian setback between the Project's grading limits and Grayson Creek would be included as part of the Project. With implementation of the geotechnical engineering study recommendations, the Project could include more than 1,000 yd^3 of grading. To accommodate improvements, a tree permit would be included for the removal of 83 code-protected trees.

An exception to Title 9 of the County Code would be required to allow for the alternative roadway improvements along Grayson Road (where curb, 5-foot-wide sidewalk, necessary longitudinal and transverse drainage are required). Finally, the Project is seeking a concession to allow the installation of the complete frontage improvements be omitted in lieu of a reconstructed asphalt-concrete curb along the edge of pavement of Grayson Road along the Project frontage as well as bicycle lane striping.

Location: The proposed Project is located at 1024 and 1026 Grayson Road, Walnut Creek, California 94598, within Contra Costa County. The Project is planned to occur on Accessor's Parcel Numbers 166-030-001 and 166-030-002. The approximate center coordinate for the Project is 37.947520, -122.095145.

Timeframe: No estimate on the Project's commencement or completion has been provided.

ENVIRONMENTAL SETTING.

The Project footprint comprises of an existing semi-developed 3.05-acre lot consisting of: intact mixed woodlands comprising of coast live and valley oaks, buckeye, other native or non-native trees, and their associated understory; the perennial mainstem of Grayson Creek and its associated riparian woodland corridor; non-native and native annual and perennial grasses, forbs, and shrubs; and two existing residential buildings.

The Project site has had historic disturbance occur in relation to residential occupation and maintenance. Landscaping includes ornamental planting and fruit trees. The as-is site conditions provide potential foraging, roosting, and nesting habitat for local birds

including, but not limited to, raptors and passerines, in addition to providing foraging and roosting habitat for bats. Existing vegetation assemblages and soils provide potential habitat for common native and special-status plants including Mt. Diablo fairy lantern (*Calochortus pulchellus*). On-site perennial freshwater stream resources provide potential dispersal and breeding habitat for reptiles including western pond turtle (*Emys marmorata*), amphibians including California reg-legged frog (*Rana draytonii*), and other common and/or special-status wildlife. The Project site is immediately surrounded by low density residential development which also contains mature oak woodlands. The Project site holds a habitat corridor to a larger section of oak woodland immediately to the southwest. Within 3 quarters of a mile to the west are public and privately owned areas comprising of designated open space, oak woodlands including Sensitive Natural Communities of Valley Oak Woodland and Coast Live Oak Woodland and Forest, and annual grasslands. These open space areas hold potential habitat and records of special-status species within reasonable dispersal distances including, but not limited to, Alameda whipsnake (*Masticophis lateralis euryxanthus*), California red-legged frog, Mt. Diablo fairy lantern, and bent flowered fiddleneck (*Amsinckia lunaris*).

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish, wildlife, and plant resources, including the habitats on which they depend.

Special-Status Plants

The IS/MND notes that 16 special-status plant species have been documented in the vicinity of the Project site. Four of which [bent-flowered fiddleneck, Diablo helianthella (*Helianthella castanea*), Mt. Diablo fairy lantern, and oval-leaved viburnum (*Viburnum ellipticum*)] have the potential to occur at the Project site and hold known records within a reasonable dispersal distance for propagules (California Native Plant Society (CNPS)-East Bay Chapter, 2018). The Biological Resources Analysis Report (BRAR) and IS/MND, states that only one (1) site visit was conducted for a floristic survey on April 6, 2021, resulting in no observations of special-status plants at the Project site.

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities," which can be found online at https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants (Protocol). This Protocol includes the identification of reference populations and adjacent potential habitat areas to assist in the accuracy and timing of Project site floristic surveys. For example, utilizing adjacent populations of oval-leaved viburnum (East Bay Regional Park District, 2017), a CNPS 2B.3 rare plant with the potential to

occur at the Project site that blooms May through June, to best time surveying for this rare plant on the Project site. A qualified botanist should have an applicable educational background in botany and, at the minimum, have two field seasons experience identifying and observing each special-status plant with the potential to occur at the Project site including, but not limited to, the species referenced in this letter. In the absence of protocol-level surveys being performed, additional surveys may be necessary. Annual weather variations may require the necessity for additional floristic surveys to be performed. The results of surveys following the Protocol should be summarized into Botanical Survey Reports, as found on Page 9 of the Protocol, and be disclosed to the public through the appropriate CEQA disclosure procedures in a revised and recirculated IS/MND.

If State listed plants, special-status plants, State rare plants found on the CNPS California Rare Plant Ranking system, or plants found on the CNPS East Bay Chapter's Database of Rare and Unusual Plants are identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. In the absence of botanical surveys being performed in accordance with the Protocol, presence of said species should be assumed and mitigated for accordingly. Impacts for CESA-listed plant species should be fully avoided or addressed through application for, and issuance of, an Incidental Take Permit (ITP). Impacts to special-status plant species not listed under CESA should be mitigated for either by individual or acreage, depending on the species. CDFW recommends all future mitigation measures be summarized and disclosed to the public through the appropriate CEQA disclosure procedures in a revised and recirculated IS/MND.

Tree Removal Sensitive Natural Communities

The IS/MND, supported by the included Revised Arborist Report dated May 6, 2020, and authored by Traverso Tree Service, indicates that 83 trees, 6.5 inches or greater in diameter at breast height (DBH), from an on-site upland woodland will be removed as a result of the Project. Of the trees slated for removal, 32 are coast live oaks (*Quercus agrifolia*), 20 valley oaks (*Quercus lobata*), and the remaining 31 being an assemblage of native, native yet not local, and non-native trees. Many of these trees are described as multi trunk and/or hold features displaying growth habit associated with individuals aged over 50 years. An analysis of oak natural communities was not provided, and the Revised Arborist Report did not include an assessment of canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek. The IS/MND fails to note that this collection of oaks may be identified as Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, based on these initial findings; both of which are Sensitive Natural Communities ranked as State Rank 3 and 4 respectively according to CDFW's Natural Communities List (available at: https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities). The IS/MND indicates within

Mitigation Measure Biology-8 (MM B-8) that a 3:1 (mitigation: loss) ratio will be sought to mitigate for the loss of native trees caused by Project activities. However, MM B-8 does not include a replanting regime associated with the monitoring component. The proposed ratio and lack of success criteria and monitoring period are inadequate for mitigating the Project-related impacts to Sensitive Natural Communities to a level of less than significant.

CDFW recommends that the IS/MND evaluate impacts to native tree species with a DBH of greater than 3 inches in the Project area that would be removed as part of the Project activities. Due to the cumulative impacts and increasing rarity of Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest in proximity to the Project area (i.e., remaining percentage of the communities within the County compared against their historic range within) and the State, the slow-growth habit and pattern of both of these natural communities, CDFW recommends mitigating for the loss of Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, at a 10:1 (mitigation: loss) ratio for both trees removed by quantity, and understory removed by area. This 10:1 ratio should include container plantings, replanting salvage vegetation, and hydroseeding with Valley Oak Woodland, and/or Coast Live Oak Woodland and Forest, focal species on-site at the point of disturbance in addition to a CDFW approved off-site mitigation component. Trees should be replaced at a level that will offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their long-term growth habits, and that serves to replicate or enhance the state of which was disturbed. As an alternative to container planting, the Project proponent may elect to protect, enhance, and preserve an area of mature oak woodland of equal or greater habitat value under a conservation easement in accordance with the mitigation ratio described above. The Project proponent should prepare a Mitigation and Monitoring Plan (MMP) outlining success criteria and benchmarks aligned to meet the 10:1 (mitigation: loss) ratio goal at the end of 10 years after initial mitigation efforts begin. CDFW recommends recirculating an updated IS/MND after performing a detailed analysis of such impacts to trees, Sensitive Natural Communities, and including appropriate mitigation measures to reduce the impacts of the Project to a level of less-than-significant.

Nesting Birds

The IS/MND indicates in Mitigation Measure Biology-1 that nesting bird surveys would be limited to the large trees of the adjacent riparian area from February 15 to August 31. This measure fails to avoid ground nesting birds and those that nest in shrubs. CDFW recommends the following mitigation measure be incorporated into a revised and recirculated IS/MND: a qualified biologist will survey for non-raptors within and beyond the Project area for a radius of 250 feet, and for raptors within and beyond the Project area for a radius of 1,000 feet; nesting surveys will occur from February 15 through

September 15 and within 5 days prior to the expected commencement of Project activities; surveys will be repeated in areas where Project activities lapse for a period of 7 days or more; any active nests will have an appropriately sized protective buffer determined and established by a qualified biologist where no Project personnel or equipment shall be allowed to enter; that any active nest be continuously monitored by a qualified biologist; and that active nest buffers will increase if any change in bird behavior is detected as determined by a qualified biologist.

Roosting Special-Status Bats

CDFW recommends the following language replace Mitigation Measure Biology-4 to mitigate for the permanent impacts to special-status bats and their habitats to a level of less-than-significant:

1. Special-Status Bats (Bats). For all Project activities planned in or adjacent to potential bat roosting habitat, such as structures and/or involving woody vegetation modification or removal of any and all trees, a qualified biologist shall conduct daytime and evening acoustic surveys in addition to extensive visual surveys of potential habitat for special-status bats at least 7 days prior to initiation of Project activities. If bats are found on-site, a qualified biologist shall identify the species, estimated quantity present, roost type, and roost status, but shall avoid disturbing bats during surveys. A qualified biologist shall also create a Bat Mitigation and Monitoring Plan if special-status bat species are detected prior to the start of Project activities. The Bat Mitigation and Monitoring Plan shall include: (1) an assessment of all Project impacts to special-status bats, including noise disturbance during construction; (2) effective avoidance and minimization measures to protect special-status bats; (3) and compensatory mitigation for permanent impacts to special-status bats or their nesting/roosting habitat. If structures, trees, or other refugia equivalents are slated for limbing, removal, or modification, the Bat Mitigation and Monitoring Plan shall include the following measures:

    1.1. To ensure that special-status bats have left potential roosting refugia, work shall occur over the course of two days. On the first day, smaller limbs or items from the identified trees or structures shall be brushed back or modified in the late afternoon. This disturbance should cause any potential roosting bats to seek other roosts during their nighttime foraging. The remainder of the refugia item can then be further limbed or removed as needed on the second day as late in the afternoon as feasible. If bats are found injured, or if bat mortality occurs during the course of tree work, a qualified biologist shall record the species impacted, and the number of individuals documented.

    1.2. Tree limbing, modification, removal, or work on structural refugia shall not be performed under any of the following conditions: during any precipitation events,

when ambient temperatures are below 4.5 degrees Celsius, when windspeeds exceed 11 miles per hour, and/or any other condition which may lead to bats seeking refuge.

1.3. If special-status bats are found utilizing a tree, structure, or equivalent for roosting, the Bat Mitigation and Monitoring Plan shall include permanent artificial roosting habitat installation that shall be adjacent to, and sufficient for, the species observed and associated ecology thereof. Effective buffer zones for the installation and monitoring of the artificial roosts shall be determined and established by a qualified biologist. Artificial roosts shall follow the 2018 *Acceptable Management Practices for Bat Species Inhabiting Transportation Infrastructure* (found at: https://www.fs.fed.us/r6/sfpnw/issssp/documents2020/cpt-ma-bats-transportion-structures-management-2018-04.pdf).

REGULATORY REQUIREMENTS

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. Based on the Vesting Tentative Map for the Project, dated January 28, 2022, and authored by DeBolt Civil Engineering, an LSA Notification under Fish and Game Code section 1600 et. seq. would be a requirement of the Project as designed.

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 (CNDDB). The CNNDB field survey form, online field survey form, and contact information for CNDDB staff can be found at the following link: https://wildlife.ca.gov/data/CNDDB/submitting-data.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and 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 in order 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).

CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, the feasible mitigation measures described above should be incorporated as enforceable conditions into the final CEQA document for the Project. CDFW appreciates the opportunity to comment on the IS/MND 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 (707) 266-2878 or Andrew.Chambers@wildlife.ca.gov; or Michelle Battaglia, Senior Environmental Scientist (Supervisory), at (707) 339-6052 or Michelle.Battaglia@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

cc: State Clearinghouse

REFERENCES

East Bay Regional Park District (2017). Diablo Helianthella [ds45]. Mt. Diablo fairy lantern [ds45]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). Retrieved April 26, 2022, from https://wildlife.ca.gov/Data/BIOS.

CNPS East Bay (2018). Bent-flowered fiddleneck [ds45]. Oval-leaved viburnum [ds45]. Calif. Dept. of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). Retrieved May 2, 2022, from https://wildlife.ca.gov/Data/BIOS.

Grayson Road 10-Lot Subdivision
Summary of Community Concerns

These Community Concerns are described in the following pages:

1. Significant impacts to valley oak woodland, riparian woodland, and 97 code-protected trees are not adequately analyzed nor mitigated below a threshold of significance.

2. Impacts to Grayson Creek are not fully analyzed and remain potentially significant.

3. Impacts to wildlife due to habitat loss and development within the riparian corridor remain significant.

4. The project violates the Contra Costa County General Plan Conservation Element - Vegetation and Wildlife and General Water Resource Policies.

5. The loss of at least 97 code-protected trees is contrary to the County's Tree Protection and Preservation ordinance and constitutes a significant unmitigated impact and an impact to the public health, safety and welfare.

6. Lack of enforcement to obtain CDFW and RWQCB permits results in unmitigated significant impacts to biological resources, and therefore also results in an adverse impact to the public health and safety.

7. The significant biological resource impacts of the project result in adverse public health and safety impacts.

8. Greenhouse gas emissions from the loss of habitat and 97 code-protected trees is not mentioned, let alone analyzed, is a potentially significant impact, and constitutes a threat to the public health and safety.

9. The lack of safe pedestrian access for subdivision residents on Grayson Road, and the adequacy of the new access road location based on posted rather than actual speeds, poses a threat to the public health and safety for both pedestrians and vehicular traffic.

10. The project results in potentially significant environmental impacts as well as adverse public health and safety impacts related to fire safety and emergency access.

11. The lack of analysis of potential flooding due to increasing storm intensity and location of the detention basin in a FEMA Zone A Special Flood Area, and the risk to future homes due to erosion by placing an overly dense development adjacent to Grayson Creek, creates a public health and safety risk.

12. The project is inconsistent with its surroundings, resulting in significant aesthetic, land use and community character impacts.Grayson Road 10-Lot Subdivision.

Summary of Community Concerns

We are asking the Board of Supervisors to deny the currently proposed project on the basis of an inadequate CEQA review and on the basis of adverse health and safety impacts. If the County wishes to approve the Grayson Road 10-Lot Subdivision as currently proposed (hereinafter "project"), an environmental impact report (EIR) must be prepared due to the project's unmitigated significant impacts and County General Plan violations, proper findings for each project impact must be made, and overriding considerations must be adopted if one or more impacts remain significant.

CEQA Considerations

13. CEQA Guidelines 15064(f)(1): "If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68)."

14. Housing Accountability Act 65589.5 (e): "Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code)."

15. **This project will result in significant environmental impacts.** The County's mitigated negative declaration (MND) lacks adequate environmental impact analysis and mitigation based on sound science, general plan policies, trustee agency requirements and recommendations. Processing a Housing Accountability Act (HAA) or Density Bonus Law (DBL) project does not obviate the need to comply with the California Environmental Quality Act (CEQA), which requires the disclosure of the project's significant impacts. The County can then decide whether or not to accept those impacts and approve the project with proper findings, which can only be done with an EIR when there are significant project impacts. Instead, the County has not revealed the true impacts of the project and is preventing decision makers from being fully informed of the consequences of the project. It is not impossible to deny a density bonus project, yet the project MND seems to presume the project must be approved.

Significant impacts to valley oak woodland, riparian woodland, and 97 code-protected trees are not adequately analyzed nor mitigated below a threshold of significance.

1. The IS/MND prepared for the project violates the CEQA due to the existence of unmitigated environmental impacts associated with the loss of onsite sensitive habitat and code-protected trees; this requires an EIR if the County wishes to approve the project. We have continually pointed out the fact of this unmitigated impact, only to have the County respond to our concerns by citing the same inadequate information contained in the IS/MND. A recently submitted letter from Chad Roberts, Ph.D, Conservation Ecologist and a recognized expert in conservation ecology, wetland science, and CEQA, documents the unmitigated significant impacts to the existing oak and riparian habitats as described below, and should leave no further doubt that an EIR is required.

    1.1. Currently existing onsite habitat: 1.18 acres of valley oak woodland, 1.01 acres of riparian woodland, and 0.65 acres of mixed oak woodland. Virtually all the oak and mixed woodland will be destroyed, along with 0.2 acres of riparian woodland, leaving of 0.8 acres of riparian woodland. 97 code-protected trees will be destroyed. Destroyed habitat will be replaced with residences and related development.

    1.2. The biological assessments submitted at the direction of the applicant fail to identify mitigation measures that avoid, reduce, or offset the significant impacts to oak and riparian woodland, in that the measures specify onsite compensatory planting, yet the only area for planting that will not be developed is within the remaining onsite riparian habitat of Grayson Creek. The mitigation measures result in an unmitigated net loss of 1.1 acres (virtually all) of the oak woodland and 0.21 acre of riparian habitat, and may result in further impacts to the Grayson Creek riparian woodland habitat.

        1.2.1. Mitigation for code-protected trees in the oak woodland and impacted portion of the riparian woodland proposes planting 158 trees within the remaining 0.8 acre area of remaining riparian woodland habitat, as shown on a planting plan provided to us AFTER project approval. NO mitigation is proposed for the 39 code-protected trees in the mixed woodland.

        1.2.2. While 158 trees could potentially be planted in 0.8 acres, it is physically impossible to re-establish 1.18 acres of oak woodland plus 0.2 acres of riparian woodland (total 1.38 acres of habitat) within an 0.8-acre area. Further, it is highly unlikely that most of the planted trees will survive; alternatively, the increased competition among the numerous planted trees and the remnant adult trees in the riparian woodland will likely result in the loss of some of the older, established trees. In addition, the lost habitat area also means that the ecological functions and services that the oak woodland and riparian woodland habitats currently provide will be lost, and will not be replaced by the proposed planting program.

1.2.3. Mitigation Measure Biology 2 provides no performance standards (location of planting, timing for planting, survival milestones, monitoring requirements, planting methodology, bonding requirements, etc.) sufficient to demonstrate that the loss of oak and riparian woodland and 97 code-protected trees will be mitigated below a threshold of significance.

1.2.4. The IS/MND makes no mention of CEQA section 21083.4 regarding the protection and mitigation of impacts to oak woodland, and the project does not comply with this section as pointed out in the comment letter from the California Wildlife Foundation.

Impacts to Grayson Creek are not fully analyzed and remain potentially significant.

1. The permanent loss of almost two acres of woodland habitat that comprises the Grayson Creek riparian corridor endangers the riparian woodland within and along Grayson Creek, placing Grayson Creek's wetland and riparian functions at significant risk. For this and other reasons, these potential impacts to Grayson Creek remain significant.

2. The creek structure setback of 30 feet starts at a point calculated based on a formula that places the calculated "top of bank" below the actual break in slope that is normally considered the top of bank, allowing placement of structures too close to the true top of bank. The creek structure setback and true top of bank are not labeled on any of the plan views of the subdivision, so it is impossible to see the true relationship between the creek channel top of bank, centerline, the creek structure setback, and proposed structures and property lines. Guessing at the creek structure setback line on the plan view on VMT 7, it appears the line is closer than 30 feet to the boundaries for some of the lots such as lots 6, 7 and 9.

3. The IS/MND contains no analysis regarding how the creek structure setback was calculated, how it interacts with the actual top of bank, nor the adequacy of the setback to protect Grayson Creek and the fish and wildlife it supports. The setback was supposedly based on a mathematical calculation, with no further consideration of additional setbacks based on site conditions.

Impacts to wildlife due to habitat loss and development within the riparian corridor remain significant.

1. The project site provides habitat that is home to over 100 bird species, and mammals such as red fox, coyote, bats, deer, and an occasional mountain lion. Salmon swam up Grayson Creek in the last two years in an attempt to reach their historic breeding grounds in Briones Park.

2. Dr. Roberts' ecological evaluation letter includes his opinion that the entire project site acts as the Grayson Creek riparian corridor, and is functionally important for most mobile wildlife

species in the region, not just for the sensitive reptiles and amphibia identified in the biological assessment provided by the applicant, but also for the majority of wildlife species that move through the region.

3. The IS/MND project description states that no development or infrastructure will be placed within the riparian corridor, a statement based on the biological assessment submitted by the applicant.

4. Dr. Roberts' determination of the location of the riparian corridor to include not just the riparian woodland, but the adjacent woodland habitat throughout the site, means that the areas of oak and mixed woodland are also within the riparian corridor, causing the majority of the riparian corridor to be removed without adequate mitigation.

5. Further, the complete removal of all but 0.8 of an acre of the 1.01 acre of riparian woodland will result in substantial interference with the Grayson Creek migratory corridor, requiring additional focused analysis by qualified biologists.

6. The IS/MND fails to analyze the impact of noise and light on wildlife within the remaining riparian woodland. Noise and light from the large 2-story homes located closer than 30 feet to the actual top of bank (defined by the break in slope) of Grayson Creek will impact the riparian woodland. Mitigation requires lights to be directed downward and lighting to be contained within the project site. However, the riparian woodland is part of the project site. Further, light coming from the rear windows of two-story homes cannot be directed downward, and the security lights homeowners often install are never directed downward, a situation the County will not be monitoring.

7. Considering the abundance of wildlife, both in term of numbers and species, that utilize the project site in a variety of ways, the destruction of wildlife habitat in and development of the riparian corridor, and the location of homes close to Grayson Creek without adequate mitigation, remains a significant impact under the California Environmental Quality Act.

The project violates the Contra Costa County General Plan Conservation Element - Vegetation and Wildlife and General Water Resource Policies.

1. The IS/MND finds that the project, as mitigated, would not conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance. Tree ordinance conflicts are discussed.

2. The IS/MND finds that compliance with County General Plan policies 8-6, 8-7, 8-12, 8-78 and 8-86 relies on mitigation measures that do not mitigate biological resource impacts below a threshold of significance.

    2.1. Policy 8-7: Important wildlife habitats which would be disturbed by major development shall be preserved, and corridors for wildlife migration between undeveloped lands shall be retained.

2.2. Policy 8-12: Natural woodlands shall be preserved to the maximum extent possible in the course of land development.

2.3. Policy 8-78: Where feasible, existing natural waterways shall be protected and preserved in their natural state, and channels which already are modified shall be restored. A natural waterway is defined as a waterway which can support its own environment of vegetation, fowl, fish and reptiles, and which appears natural.

2.4. Policy 8-79: Creeks and streams determined to be important and irreplaceable natural resources shall be retained in their natural state whenever possible to maintain water quality, wildlife diversity, aesthetic values, and recreation opportunities.

2.5. Policy 8-80: Wherever possible, remaining natural watercourses and their riparian zones shall be restored to improve their function as habitats.

2.6. Policy 8-86: Existing native riparian habitat shall be preserved and enhanced by new development unless public safety concerns require removal of habitat for flood control or other public purposes.

2.7. Policy 8-92: Revegetation of a watercourse shall employ native vegetation, providing the type of vegetation is compatible with the watercourse's maintenance program and does not adversely alter channel capacity.

3. The following policy was not cited in the IS/MND. The project also conflicts with this policy due to lack of adequate mitigation for the loss of onsite woodlands. Policy 8-13: The critical ecological and scenic characteristics of rangelands, woodlands, and wildlands shall be recognized and protected.

The loss of at least 97 code-protected trees is contrary to the County's Tree Protection and Preservation ordinance and constitutes a significant unmitigated impact and a threat to the public health, safety and welfare.

1. The removal of 97 code-protected trees and 1.93 acres of habitat they comprise without adequate mitigation (including 39 trees with no mitigation even proposed) in order to construct an unnecessarily dense development, constitutes a threat to the public health and safety and is contrary to the purpose of the County's Tree Protection and Preservation ordinance.

2. The ordinance provides for the protection of trees on private property by controlling tree removal while allowing for reasonable property development. The ordinance specifically finds that preservation of certain protected trees is necessary on private property "in the interest of the public health, safety and welfare", among numerous other reasons. The

proposed development (at twice the density allowed considering zoning and environmental constraints) will result in a number of significant environmental impacts, is not "reasonable property development" and therefore does not justify the unmitigated loss of 97 code-protected trees.

3. The IS/MND finding that the project, as mitigated, would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, is unsupported and incorrect.

Lack of enforcement to obtain CDFW and RWQCB permits results in unmitigated significant impacts to biological resources, and therefore also results in an adverse impact to the public health and safety.

1. The Project will require a Lake and Streambed Alteration Agreement (LSSA) from the California Department of Fish and Wildlife (CDFW). Mitigation to reduce biological resource impacts relies on the applicant obtaining an LSSA to help reduce significant impacts to wildlife, and to Grayson Creek and its associated habitat, yet the need to obtain the LSSA is not included as a condition of approval; it is only listed as advisory. Further, the conditions of the LSSA are unknown at this point, and therefore cannot be relied upon by the County to minimize impacts that the County has identified in the County's CEQA assessment.

2. The requirement for a SWPPP is included as Mitigation Measure Biology 6, which according to the MMRP, will be verified during initial review of construction plan sets and throughout project. Given recent changes in federal and state regulations pertaining to water quality, it's uncertain that a SWPPP is the only approval needed from the Regional Water Board, and as above, any requirements established by the Water Board may not be relied upon by the County to minimize impacts that the County has identified in the County's CEQA assessment. However, this may not preclude the applicant from moving forward with removing trees and conducting pre-construction grading and fill as has occurred previously.

3. Both of these authorizations must be obtained prior to any site work occurring, including but not limited to tree removal or ground disturbing work occurring on the project site. The County must be responsible for documenting that the authorizations are consistent with the project description and mitigation measures for the proposed project. This is why It is imperative that the County and responsible agencies coordinate during the environmental review process.

The significant biological resource impacts of the project result in adverse public health and safety impacts.

1. The unmitigated significant biological resource impacts of the project is a health and safety impact due to their contribution to a healthy environment and community.

Humans depend on nature and ecosystem services to provide the conditions for a decent, healthy, and secure life. Without a healthy ecosystem, a healthy community cannot exist. When ecosystems begin to fall apart, human health begins to suffer.

Greenhouse gas emissions from the loss of habitat and 97 code-protected trees is not mentioned, let alone analyzed, is a potentially significant impact, and constitutes a threat to the public health and safety.

1. The IS/MND lacks environmental analysis of impacts from greenhouse gas emissions resulting from the removal of 1.93 acres of oak, riparian, and mixed woodlands and 97 code-protected trees, as well as from the likely death of some mature trees in the remaining 0.8 acres of riparian woodland due to the project's proposed replacement planting in that area.

2. Removal of these trees and habitat from the project site will contribute to greenhouse gas emissions and climate change, posing a potentially significant environment impact and a threat to the public health and safety.

The lack of safe pedestrian access for subdivision residents on Grayson Road, and the adequacy of the new access road location based on posted rather than actual speeds, poses a threat to the public health and safety for both pedestrians and vehicular traffic.

1. The applicant has requested a waiver of standard frontage improvements through the subdivision frontage on Grayson Road as a density bonus law concession based on cost, including a waiver of installing a sidewalk.

2. To somehow address the health and safety risks of the waiver as documented in the Planning Commission staff report, the Zoning Administrator required the applicant to construct a 150-ft. section of infill sidewalk on the opposite side of Grayson (the north side) from the project, while not pedestrian addressing access to the sidewalk.

3. The subdivision is providing no infrastructure for safe pedestrian access along Grayson Road for the families that will occupy the ten 2,900 to 3,500 square foot two-story homes comprised of 46 bedrooms, and 6 anticipated future ADUs.

4. Claims of subdivision pedestrian access to nearby commercial centers were used to justify that the project would have less than significant energy impacts.

5. Contributing factors to this health and safety threat resulting from the subdivision include the excessive traffic speed on Grayson Road as acknowledged by the Zoning Administrator, the Planning Commission, and the applicant; the location of the new access road on the downhill side of a curve that obstructs visibility, just below the crest of a hill, and between two existing intersections on the north side of Grayson while basing the intersection separation and sight distance determination on a speed of 35 mph which is

unrealistic on Grayson; and the granting of the applicant's request to reduce the speed used to determine sight distance requirements from 45 mph (likely the minimum speed of Grayson traffic) to 35 mph (the posted speed limit.)

6. There has been no analysis of the pedestrian or vehicular safety risks of relying on the sidewalk on the north or opposite side of Grayson from the subdivision to somehow provide safe pedestrian access to and from the subdivision, or any analysis to determine the safety of the access road location, particularly an analysis recognizing the actual speed of travel on Grayson.

7. City of Pleasant Hill has provided no written comments on the project. Our recent meeting with the Pleasant Hill traffic and planning staff revealed they were not well informed about the project, and would be looking into safety issues.

8. Contrary to the claim in the applicant's appeal letter, the health and safety concerns for this project are related to pedestrians generated by the proposed homes with no safe access to a pedestrian walkway on Grayson, and by the access road location. While the excess vehicle speed on Grayson is an existing condition, the public health and safety impact to a potentially significant number of additional pedestrians and drivers associated with the subdivision, and drivers who travel up and down Grayson, would not exist without the project.

The project results in potentially significant environmental impacts as well as health and safety risks related to fire safety and emergency access.

1. The fire risk for this subdivision is high due to:
    1. A significant amount of vegetation including trees, shrubs, and grassland in and around the project area.
    2. Overhead power lines in the area surrounding the subdivision
    3. Large two-story homes virtually on top of each other given the proposal for reduced lot width, lot size and side yard setbacks, as well as homes adjacent to and in the proximity of wooded areas and grasslands.

2. The IS/MND concludes that fire risk will be reduced due to vegetation removal, yet the MND asserts that all lost habitat and trees will be replanted. These statements are contradictory.

3. The project proposes a narrow private access road with parking on one side and a fire lane (no parking) on the other. Proposed homes are close together, and therefore the length of the street will provide little on-street parking. Parking in driveways blocks cars in the garage, so some residents may park cars on the street. Many people use their garages for storage, which again would force residents' cars onto the street. No parking is allowed on Grayson.

4. Where will guests or residents park when the parking lane fills up? They will use the fire lane, narrowing the street to one lane, thereby interfering with firefighter access to the subdivision during a fire while residents are attempting to leave.

5. Finally, this section ignores the increased fire risk to all of the County brought about by climate change, and the risk that continues to increase with hotter temperatures, ongoing drought, and increasing population density.

The lack of analysis of potential flooding due to increasing storm intensity and location of the detention basin in a FEMA Zone A Special Flood Area, and the risk to future homes due to erosion by placing an overly dense development adjacent to Grayson Creek, creates a health and safety risk.

1. The project creates an estimated 50,825 sq. feet of impervious surface. Flood dynamics in California are increasingly severe because of the effects of climate change, a circumstance the initial study does not discuss. The detention basin that will supposedly attenuate the 41.2% increased runoff rate is located in a FEMA special flood hazard zone, identified under pre-climate-altered storm intensities. Facilities designed for 100-year storms are flooding today. Rain storms are becoming more intense.

2. Yet this project is placing an intensified development along a creek with the potential for future flooding under storm intensities that don't accommodate climate-altered hydrology. The creek structure setback of 30 feet from the so called top of bank is closer than 30 feet to the true top of bank which is the break in slope of the creek channel, increasing the risk of erosion impacts on the new homes and infrastructure. It's unclear that the proposed detention basin will be adequate to prevent flooding on the project site or downstream in the Grayson Creek basin during an extreme storm event.

3. Residents along Grayson Creek have seen the creek as much as half full with rapid flows during storms, and have watched the channel widen and deepen. Erosion of the Grayson Creek channel and banks has occurred over the years, an effect which is not addressed in the IS/MND. Creek erosion will continue, especially with increased flows from excessive rainfall due to climate change. Very likely the project site improvements, including the structures, will get closer to the creek over the years as the creek continues to erode, especially because of increased flows resulting from excessive rainfall due to climate change. This effect apparently was not considered in the IS/MND. Creek setbacks and bank stability were among the concerns expressed by the SF Bay Regional Water Quality Control Board.

4. Without further analysis of future increases in storm intensity, potential flooding and bank erosion poses a public health and safety risk to the future homeowners in the project, potentially to neighboring Grayson Road properties, and potentially to Grayson Road.

The project is inconsistent with its surroundings, resulting in significant aesthetic, land use and community character impacts.

1. The size, scale and density of the Project is inconsistent with the County neighborhoods surrounding the project on the south side of Grayson Road. The project is an urban development being dropped into a peaceful, beautiful suburban/rural hybrid neighborhood with large lots and room between neighbors, rolling hills, open space, privacy, natural habitat and lots of wildlife. The proposed development is completely contrary to these qualities. The extraordinary extent of the development standards waivers being granted to the applicant is a clear indication of these incompatibilities, as no other development in the surrounding area of the project utilizes these reduced standards.

2. The IS/MND concludes that the aesthetic, community character and land use (density, etc.) impacts associated of this development, including the removal of 97 mature trees and the

3. installation of an almost solid wall of large two-story boxy homes, will be mitigated by a landscaping plan that the IS/MND states will "enhance the aesthetic character to maintain adequate screening and privacy." This is a false claim that cannot be substantiated, as there is no mitigation included for the project that requires a landscaping plan with adequate performance standards sufficient to support this claim. This means determining adequate mitigation for screening and privacy is being deferred to some future plan, contrary to CEQA requirements. Further, we were informed that the County does not typically condition subdivision landscaping to be preserved in perpetuity since it would be infeasible to enforce. Therefore, the conclusion that proposed landscaping will serve as a long-term means to enhance aesthetics and maintain privacy is false.

4. The IS/MND conclusion that the proposed homes are consistent with the area based on urban development in Pleasant Hill across Grayson in a different zoning district, is like saying that an apartment building can be placed in a single family neighborhood and be found consistent with that neighborhood if there are apartments across the street in a multifamily zone. This project is functionally a de facto rezone given the numerous development standard waivers, and is inconsistent with the neighborhood surrounding it. Grayson Road is a distinct dividing line in the area of this project between the county and city, between zoning districts, and between development types.

5. The aesthetics and community character impacts will be further adversely impacted as a result of the proposed mitigation planting along Grayson Creek which, as provided in Dr. Roberts' letter, will likely kill some of the existing mature trees, removing the screening those trees currently provide.

6. The IS/MND has misrepresented and downplayed this impact issue in an attempt to find neighborhood/community character consistency and as a consequence, forms erroneous consistency conclusions that leave the project's aesthetic, community character and land use impacts significant.

February 22, 2024

Contra Costa County
Board of Supervisors
Clerk of the Board
1025 Escobar Street
Martinez, CA 94553
Delivery via email: clerkoftheboard@cob.cccounty.us

RE: Grayson Road 10-Lot Subdivision, County File #CDSD20-09531

Dear Supervisors:

The Mohawk/Iroquois Neighborhood (hereinafter 'Neighborhood') is writing to request your denial of the Grayson Road 10-Lot Subdivision (hereinafter "project") as currently proposed. The project was initially approved by the Zoning Administrator on October 16, 2023 after a public hearing that was continued from October 2, 2023. The Neighborhood filed an appeal of the Zoning Administrator's approval on October 26, 2023.

The Planning Commission heard and upheld the appeal on a 5-2 vote on January 10, 2024. Commissioner Allen's motion to uphold the appeal identified the California Environmental Quality Act (CEQA) as her primary reason for upholding our appeal and denying the project. We presume this was in reference to the mitigated negative declaration (MND) inadequacies the Neighborhood identified during our presentation and public comment. County Counsel stated his assumption that she meant the MND was not supported and would not be adopted, which is was not. She then stated concerns about adverse public health and safety impacts, most specifically pedestrian safety and frontage improvements, as another reason for project denial. Finally, she noted the lack of sufficient information, including missing agency letters as an example.

The applicant, Calibr Ventures c/o Andy Byde, appealed the Planning Commission's decision. The project is once again to be considered for approval de novo by the Contra Costa County Board of Supervisors (hereinafter "Board"), and the Neighborhood is once again asking that the project as currently proposed be denied due to an inadequate CEQA review and on the basis of adverse health and safety impacts. If the County wishes to approve the project as currently proposed, an EIR must be prepared due to the project's unmitigated significant impacts and County General Plan violations, proper findings for each project impact must be made, and overriding considerations must be adopted if one or more impacts remain significant.

The project clearly requires an EIR due the unmitigated significant environmental impacts we have documented in our MND comments, in public hearing written and oral comments, in our letter appealing the Zoning Administrator project approval, as documented by the 2-19-24 Ecological Evaluation of the project prepared by Chad Roberts, PH.D, Conservation Ecologist, as provided in Attachment A to this letter. While we believe you should deny the project and

hope that you do, we urge you to require an EIR for the project should you wish to consider approval.

A brief summary of the project issues we have raised throughout this process that support our request for denial of the Project, and support of the need for an EIR if the County chooses to move forward with this project as proposed, is included as Attachment A, Grayson Road 10-Lot Subdivision Summary of Community Concerns. Additional information and detail regarding these issues is contained in the remaining attachments to this letter, as well as in the public record.

Just today we saw for the first time a letter submitted to the County Planning Commission by the applicant in early January before our appeal was heard, accusing the Neighborhood of using CEQA to thwart the project because we did not want any development of the site. This is most certainly not the case and the applicant should know this, since we state very clearly at the end of our October 25, 2023 appeal letter that we are not opposed to development of the project site in a reasonable manner that respects the environment, the neighborhood, and the community. We are not using CEQA as a weapon. We have presented legal and legitimate environmental concerns that will hopefully lead the applicant and the County to a more reasonable development proposal.

This is a situation of attempting shoehorn an overly dense project onto a site rich with sensitive woodland habitat, wildlife and a creek, biological resources worth protecting. Housing law was not intended to destroy these resources in the name of creating housing. This is not to say that reasonable development of this property wouldn't also require the removal of some trees and habitat, such as for the 5-lot subdivision approved for this site in 2009 that was reduced from the original 6 lots to mitigate impacts to habitat and Grayson Creek, and to reduce the number of trees to be removed from 52 to 33. There are more appropriate locations for this dense project that is replacing almost two acres of habitat and 97 code-protected trees with homes located too close to Grayson Creek that look like they belong in downtown Pleasant Hill. The Neighborhood would not be fighting this project if it was designed to accommodate the onsite biological resources rather than destroying them, and designed to meld with the neighborhood rather than looking like it belongs somewhere else.

We value our neighborhood, our community, and the natural and built environment we are lucky to have and that contribute so richly to making this area of the County a wonderful place to live. We do not believe it is worth destroying or damaging the biological resources contained on the project site for the sake of one moderate income home and an inappropriately dense development. We believe there are better solutions for providing housing and developing this property. We hope you agree and vote to deny this project.

Respectfully Submitted,

The Mohawk/Iroquois Neighborhood

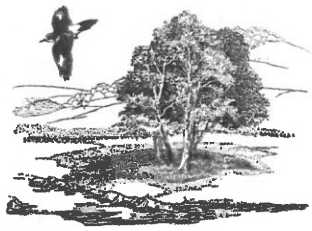
Attachment A: Grayson Road 10-Lot Subdivision Summary of Community Concerns

Attachment B: A letter addressing *Ecological Evaluations, Grayson Road 10-Lot Subdivision, #CDSD20-09531,* prepared by Chad Roberts, PH.D., Conservation Ecologist. Dr. Roberts is a recognized expert in conservation ecology, wetland science, and CEQA, and has served as an expert trial witness in these subject areas.

Attachment C: Our letter dated 10-25-23 appealing the 10-16-23 Zoning Administrator's project approval, detailing the many CEQA and public health and safety concerns we have been continually voicing throughout the County's processing of this project.

Attachment D: Letters or emails from the California Department of Fish and Wildlife, California Wildlife Foundation, and SF Bay Regional Water Quality Control Board.

CHAD ROBERTS, PH.D.
SENIOR ECOLOGIST (ESA) (*EMERITUS*)
SENIOR PROFESSIONAL WETLAND SCIENTIST (SWS) (*EMERITUS*)



19 February 2024

Ms. Lisa Shikany
115 Harlan Way
Fortuna, CA 95540

Subject: Ecological Evaluations, Grayson Road 10-Lot Subdivision, #CDSD20-09531

Dear Ms. Shikany,

Pursuant to your request, I reviewed certain documents related to the proposed Grayson Road 10-Lot Subdivision in Contra Cost County, California (hereafter the "project"). My review was focused on addressing two basic questions regarding the project's assessment by Contra Costa County: (1) Does the information in the county's public record for the project adequately characterize the project's ecological resources at the project site? (2) Does the information in the county's public record address the project's potential and/or likely effects on, and consequences for, those resources in the publicly available environmental review documentation? My review is principally focused on whether the documents and the county's evaluation process for the project accords with current scientific understanding about the values, conditions, functions, and services related to and provided by the natural environment as addressed in the reviewed project documents.

In conducting this review, I considered the following project-related documents.

(1) The Contra Costa County Department of Conservation and Development's "NOTICE OF PUBLIC REVIEW AND INTENT TO ADOPT A PROPOSED MITIGATED NEGATIVE DECLARATION (Revised)" (hereafter "IS/MND"), including the California Environmental Quality Act (hereafter "CEQA") Environmental Checklist form and discussion, dated 24 March 2023.

(2) IS/MND Appendix B, "BIOLOGICAL RESOURCES SUPPORTING INFORMATION", incorporating two interrelated assessments: (a) A "BOLOGICAL RESOURCES ANALYSIS REPORT" prepared by Olberding Environmental, Inc. (hereafter "Olberding"), prepared in February 2022, and (b) A "BIOLOGICAL RESOURCE ANALYSIS ADDENDUM" prepared by Johnson Marigot Consulting LLC (hereafter "JMC"), prepared in December 2022.

(3) A letter (dated 27 May 2022) from Erin Chappell, and an email (dated 27 March 2023) from Andrew Chambers, California Department of Fish & Wildlife (hereafter "CDFW) to Joseph Lawlor.

(4) A 20 December 2023 letter to Joseph Lawlor from Janet Cobb of the California Oaks Foundation (hereafter "COF").

(5) An email (dated 08 January 2024) to Joseph Lawlor from Katie Hart, San Francisco Bay Regional Water Quality Control Board (hereafter "RWQCB" or "RB2").

It should be noted that my review of items (1) and (2) was limited to biological and ecological concerns; the reviews included (secondarily) hydrology, water quality, and flood risk, as these topics are related to onsite ecological considerations.

This letter summarizes my considered judgements regarding the above questions. The letter also incorporates additional explanations and/or literature citations to document and explain my conclusions (see Appendix). Per your request, I have also attached a short statement of qualifications for conducting such evaluations.

I. Summary of Findings

- The project site has been addressed in two Biological Resource Analyses assessments, which portray existing biological conditions in the project site at the times they were surveyed. The assessments address relevant regulatory constraints, although it's unclear that the preparers independently evaluated the potential compliance of the project with some requirements as part of the assessments. The two assessment reports constitute the primary basis for the assessment of biological effects pursuant to the California Environmental Quality Act.
- In my judgement, the assessments failed to incorporate a deeper assessment of dynamic ecological processes and dynamics that operate on the project site and in the vicinity, which would have allowed the assessments and the county's subsequent analyses to consider the larger and longer-term impacts of the project and its compliance with the county's General Plan.
- The assessments address potential effects on "special-status" plant and wildlife species under federal and state regulatory programs that affect them using commonly accepted protocols and mitigation standard (although additional protocol surveys are required for several sensitive plant species). The assessments provide commonly accepted mitigation recommendations to sustain findings that these effects can be mitigated to "less-than-significant" levels. I recommend that Contra Costa County defer approving the proposed project until all future surveys are completed.
- The assessments identify significant environmental impacts to onsite protected and/or special-status habitat types "riparian forest" and "valley oak woodland", as well as a substantial adverse effect on code-protected trees on the project site.
- The assessments fail to identify mitigation measures that avoid, reduce, or offset these significant impacts, in that the measures specify onsite planting of impacted tree species and numbers within the remaining onsite riparian habitat of Grayson Creek, a net loss of 1.18 acres of oak woodland and 0.21 acre of riparian habitat, a proposal that may itself result in further impacts to the Grayson Creek riparian habitat.
- The failure to identify functionally viable mitigation measures for the impacts does not support the identified responses provided in Initial Study Environmental Checklist questions 4b and 4d. The failure also contravenes the responses provided by the county's staff report regarding Contra Costa County General Plan policies 8-6, 8-7, 8-12, 8-78, and 8-86.

II. Project Site Characterizations/Biological Assessments

Based on the information provided in the Olberding and JMC assessment reports, I was able to form a relatively clear understanding of conditions on the proposed project site in 2022 (presumed to essentially represent "current conditions"). The site is not unlike much of central California that experienced prior low-intensity residential development in the mid-20th Century, as it includes both remnant "natural" conditions combined with the effects of development, such as land cover and hydrological alterations and exotic plant species. That is, the project site does not demonstrate entirely natural or 'pristine' conditions. However, even in its altered condition the site provides conservationally important ecological values within the landscape in which it occurs.

Oak Woodlands

A substantial portion of the site (1.2 acres) is identified in the JMC assessment as a "Valley Oak Woodland" with an environmentally sensitive community type designated with a rarity ranking of "S3".[1] An additional 0.6 acre is identified as "Mixed Woodland", including both native and non-native plant species and artifacts of prior development. Those characterizations appear reasonable (note that I have not been on the site, and might differ somewhat in characterization and/or areas, but the general characterizations are reasonable, based on the information provided).

The oak-dominated woodlands on the site provide valuable wildlife habitat, although habitat values are not well-characterized in the assessments. Oaks are widely identified among the most important habitat elements for wildlife in California; for example, the California Partners in Flight Oak Woodlands Plan (CalPIF 2002) includes the following summary:

> "Oak woodlands have the richest wildlife species abundance of any habitat in California, with over 330 species of birds, mammals, reptiles, and amphibians depending on them at some stage in their life cycle. Wilson and others (*omitted*) suggest that California oak woodlands rank among the top three habitat types in North America for bird richness. Oak woodlands are able to sustain such abundant wildlife primarily because they produce acorns, a high quality and frequently copious food supply. Oaks also provide important shelter in the form of cavities for nesting."

The current California State Wildlife Action Plan (hereafter "SWAP", CDFW 2015) identifies an amalgamated management approach for complying with state and federal wildlife and environmental protection laws and regulations. The SWAP (Appendix D, tables D-9 and D-10) identifies the "California Foothill and Valley Forests and Woodlands" habitat type[2] as having the highest priority for protection, restoration, and management within the *Bay Delta and Central Coast Province* in California (which includes the project site), a ranking that's even higher than provided for "American Southwest Riparian Forest and Woodland", the characteristic habitat type identified for riparian areas in the Province (and on the project site).

Neither the Olberding nor the JMC assessment adequately characterizes the woodlands on the project site in an ecological sense, primarily because the assessments don't consider characteristics of the oak species on the site. Valley oak (*Quercus lobata*) and coast live oak (*Q. agrifolia*) have both been identified as developing deep taproots that allow established adult trees to tap into groundwater under a site. (e.g., Mahall et al. 2009, Davis et al. 2019). Ecological studies in recent years have identified this ability to utilize groundwater as an important adaptation that favors these and other oak species in the changing climate already affecting California landscapes (McLaughlin et al. 2017). Valley oak, in particular, is known for its adaptations allowing the species to utilize groundwater, with root systems that can extend deeper into the substrate than the highest twigs of the adult tree (Griggs 2009). As described further below, the oaks on the Grayson Road project site are most likely tapped into groundwater under the site that is hydrologically linked to flows in Grayson Creek.

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[1] See https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities for additional information. The JMC assessment correctly identifies this woodland by vegetation code as 71.040.06 in the Natural Communities list. The comment letter provided by the COF correctly identifies the kinds of considerations that this designation requires in CEQA processes.

[2] The habitat types used in SWAP assessments are those identified in the California Wildlife Habitat Relationships (CWHR) program; see https://wildlife.ca.gov/Data/CWHR for additional information.

Riparian Areas

The Olberding and JMC assessment reports both correctly identified extensive riparian vegetation alliances along the project's site's southern margin, associated with Grayson Creek (the JMC assessment explicitly states the area to be 1.01 acres of riparian habitat, which I presume reflects the map in the JMC assessment's Figure 3). While I find the Olberding assessment to be significantly incompatible with current scientific understanding of riparian ecosystems, the JMC assessment in § 2.1 is largely consistent with currently adopted riparian dynamics. However, the JMC assessment in the IS/MND still fails to fully portray the relationships among the elements of the riparian ecosystem on the project site (it should be noted that I have not seen the August 2022 JMC Riparian Delineation Report, which is not provided as part of the IS/MND).

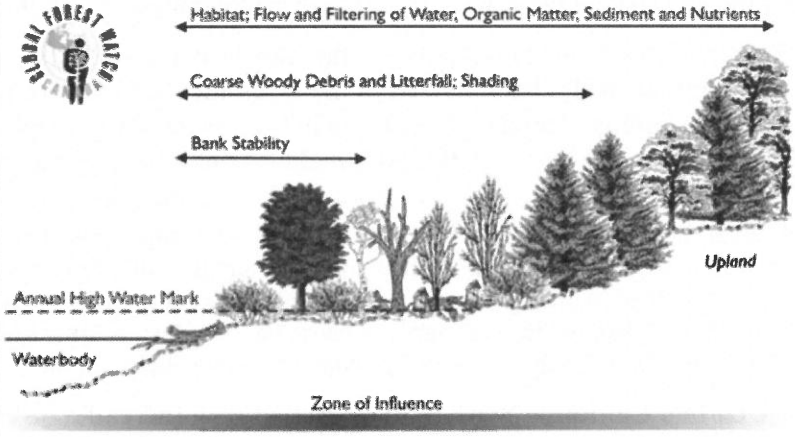

Figure 1. The "riparian area" for a given aquatic feature is functionally a "zone of influence" in which different riparian functions are provided, which extend variably into both the aquatic environment and the upland environment on floodplain, terraces, or slopes, depending on the function. Source: Global Forest Watch Canada, based on National Research Council (2002).

The JMC assessment report identified a riparian area on the project site that incorporated both the aquatic area of the stream channel and the adjacent upland, and summarized the occurrence of the riparian area primarily based on vegetation characteristics, identified in Figure 3 of the JMC assessment. In my opinion, the portrayal of the Grayson Creek "riparian area" in the JMC Figure 3 is generally consistent with current scientific understanding of riparian area dynamics.

Riparian habitats are generally considered to be among the most important habitats for many wildlife species, including fish and aquatic invertebrates. For example, the following summary is provided in the Riparian Habitat Joint Venture Bird Conservation Plan (RHJV 2004):

> "More than 225 species of birds, mammals, reptiles, and amphibians depend on California's riparian habitats. Riparian ecosystems harbor the most diverse bird communities in the arid and semiarid portions of the western United States. Riparian vegetation is critical to the quality of in-stream habitat and aids significantly in maintaining aquatic life by providing shade, food, and nutrients that form the basis of the food chain. Riparian vegetation also supplies in-stream habitat when downed trees and willow mats scour pools and form logjams important for fish, amphibians, and aquatic insects. The National Research Council (2002) concluded that riparian areas perform a disproportionate number of biological and physical functions on a unit area basis and that the restoration of riparian function along America's waterbodies should be a national goal."

The term "riparian" is often restricted in application to a vegetation type (usually broadleaved deciduous species of trees and shrubs, or sometimes certain graminoids, as portrayed in the JMC assessment), but the term applies functionally to any dynamically interactive system involving both the aquatic environment and the terrestrial environment [National Research Council (hereafter "NRC") 2002]. Current ecohydrological understanding of "riparian ecosystems" incorporates the following definition:

> "Riparian areas are transitional between terrestrial and aquatic ecosystems and are distinguished by gradients in biophysical conditions, ecological processes, and biota. They are areas through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. They include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., a zone of influence). Riparian areas are adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines." – NRC (2002)

All aquatic waterbodies (including but not limited to streams and rivers) have interactive riparian systems where they overlap with adjacent terrestrial areas. Current scientific understanding of riparian systems demonstrates a wide range of ecosystem functions (and related ecosystem services for human societies) that result from a "zone of influence" that extends into both the aquatic area and the adjacent terrestrial area (Figure 1).

Riparian zones are, however, fundamentally affected by site "ecohydrology", the interrelationships of the "zone of influence" in Figure 1. These interactions constitute a central element in the ecohydrological relationships of "Critical Zone" (CZ) science (e.g., Dawson et al. 2020). The relationships are built on long-established geohydrological understanding (see, e.g., Winter et al. 1998, NRC 2002) that surface water in streams and other aquatic features is functionally continuous with (and readily interchanged with) water below the ground's surface (Figure 2). In CZ science, individual plant species (vegetation that constitutes the upper part of the CZ) typically express one or more of various adaptational characteristics in their root system architecture and functions, and Critical Zone ecological dynamics can be shaped to significant degrees by the below-surface hydrology (Figure 3).

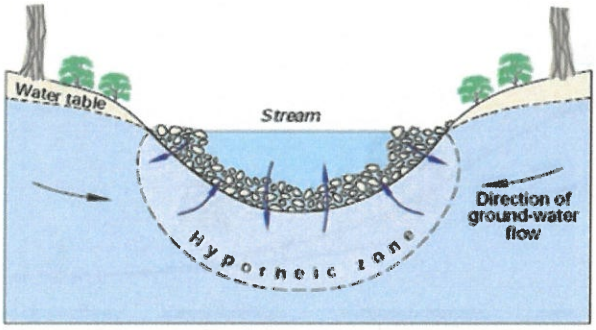

Figure 2. Ecohydrologically, streambeds and banks are a mixing zone where groundwater from the surrounding landscapes interacts with surface water from the adjacent landscapes. Modified from Fig. 15b of Winter et al. (1998).

In the driest part (Zone 1) of Figure 3, vegetation roots typically do not reach either the saturated groundwater zone of the subsurface or the capillary fringe above it, and vegetation must adapt to potential moisture deficits during dry periods. In Zone 2, plants with deep root systems (and/or certain mycorrhizal associates) can reach saturated/capillary rise substrate conditions during wet, but not dry, periods. Recent study results (e.g., Hahm et al. 2019, 2022; McCormack et al. 2021; McLaughlin et al. 2020) have shown that many native woody California plant species (including virtually all native oak species) develop both a dense surface root system to capture winter precipitation as well as deeply penetrating "taproots" that enable perennial use of deeper groundwater during the drier Mediterranean-type climate of summer (Zones 2 and 3).

Zone 3 and Zone 4 in Figure 3 include species that perennially utilize groundwater, and Zone 4 includes plant species that typically tolerate some degree of oxidatively reduced biogeochemistry; these zones functionally encompass the structurally complex "riparian" habitats on floodplain margins and lower hillslopes (NRC 2002). It's noteworthy that valley oaks are known to be both relatively dependent on abundant groundwater and more tolerant than other California oaks of the effects of prolonged inundation during flooding, and the species often occurs as a floodplain-

adapted riparian specialist within its family (Griggs 2009). In my opinion, the valley oaks in the woodland on the project site are functionally tapped into an abundant subsurface water source derived from the perennially flowing Grayson Creek, and are functioning as part of the Grayson Creek riparian area. Such floodplain riparian habitats often include plant species evolved to tolerate long-term oxidatively reduced biogeochemistry (Zone 5), typically identified as wetlands.

As Figure 1 indicates, riparian zones affect the dynamics of several ecological processes in both the terrestrial and aquatic environments. These processes are the essential sources of *ecological functions* carried out by these riparian systems. The ecological functions provided by these riparian systems are the fundamental sources of numerous *ecological services* provided by riparian areas, such as flood-flow reduction, water quality enhancement, allochthonous organic matter input for downstream aquatic ecosystems, and riparian habitat in terrestrial areas. Riparian resources may be ecologically significant in fairly narrow zones of influence (e.g., in steep upper watersheds with minimal floodplains) or in quite wide zones of interaction (e.g., low-gradient downstream river sections with wide floodplains). The relevant extent of a "riparian zone" is dependent on details of the riparian functions on which a given discussion is focused. On the Grayson Creek project site, the functional riparian zone seems likely to extend beyond the boundary mapped in Figure 3 of the JMC assessment.

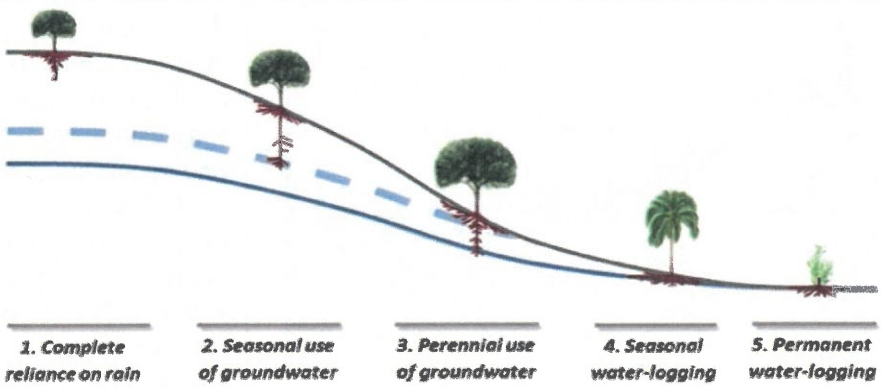

Figure 3. Schematic water table/rooting depth relations along a water table depth gradient. Groundwater surface indicated by solid blue line; seasonally increased groundwater surface indicated by dashed blue line. (Adapted from Figure 4 in Fan 2015.)

Conserving wildlife and plant species requires maintaining viable populations of each species, and maintaining viable populations requires sufficient suitable habitat. Even where total habitat area might be sufficient to sustain a population, appropriate habitat can be unavailable to a species because it's blocked by unsuitable habitat; that is, the effective habitat area could be substantially lessened by *habitat fragmentation*, a process through which continuous habitat is sequentially reduced in total area and the parts isolated from one another. The significance of fragmentation has led to the identification of habitat *connectivity* as a primary element in maintaining population viability (Keeley et al. 2018, 2022). Connectivity must also exist between currently appropriate habitat and where suitable habitat is expected to exist in the future, because habitat alterations resulting from climate change can also act as fragmenting agents. The concept of *corridors* or *landscape linkages* that combine multiple habitat patches into a *conservation network* has been an element in conservation science since the 1970s. Streams and their riparian areas are intrinsically already the most 'connected' habitat elements in most landscapes (Beier 2012; Fremier et al 2015).

The JMC assessment for the project site identifies a presumptive conclusion (in Section 3.4), with which I concur, that the Grayson Creek riparian area functions as a corridor that reduces habitat fragmentation, and that it functions "for dispersal and migration of wildlife, allowing for genetic

exchange, population growth, and access to larger stretches of suitable habitats". In my opinion, the entire project site acts as the Grayson Creek riparian corridor, and is functionally important for most mobile wildlife species in the region, not just for the sensitive reptiles and amphibia identified in the JMC assessment, but also for the majority of wildlife species that move through the region.

Other Biological Concerns

The Olberding and JMC assessments address several additional concerns that arise under CEQA's requirements to address biological issues.

With respect to possible effects on special-status plant and wildlife species, I conclude that the preparers addressed the relevant environmental setting and survey protocol requirements sufficiently and have no further comments.

With respect to adopted Habitat Conservation Plans and/or Natural Community Conservation Plans, I generally concur with the assessments' conclusion that the proposed project is unlikely to affect the adopted East Contra Costa County HCP/NCCP, and have no further comments.

Both assessments identify potential concerns with respect to possible effects of the project on aquatic resources in Grayson Creek pursuant to the Clean Water Act. At this point in time, I'm uncertain that the conclusions in the assessments that the project may require approvals from the US Army Corps of Engineers (hereafter "ACOE") reflect current regulatory requirements, owing to the US Supreme Court opinion in *Sackett v. USEPA*, although the included statements are otherwise applicable. However, I believe that the description of the regulatory jurisdiction of the State Water Resources Control Board (hereafter "SWRCB") and the Regional Boards (including RB2) omits the recent changes adopted by the SWRCB in 2020 as part of the "Wetland Riparian Area Protection Policy".[3] I suspect that RB2 may now have additional regulatory requirements in in place that are similar to the ACOE program requirements, in addition to or instead of any ACOE program.

The JMC assessment identifies (in Section 5) a number of policies from the Contra Costa General Plan that may or do apply to the county's review of the proposed project (including elements from the Olberding assessment). In my opinion, policies 8-8, 8-9, and 8-10 do not apply to the proposed project, as it is not in a designated "significant resource area", as noted in the JMC assessment. In my opinion, policy 8-13 also does not apply to this project, as I do not consider the project site to be a "major open space area", although if the county considers the Briones Regional Park and cemeteries to the west to be "near" the site, the policy could be considered to apply. Other General Plan policies considered in the two assessments are addressed further in the following sections.

III. Significant Environmental Effects on Ecological Resources, Functions, and Services Resulting from the Proposed Project

The Contra Costa County IS/MND relies upon the Olberding and JMC biological resource assessments as the factual documentation supporting its findings and conclusions. In some respects (i.e., Section 4 in the JMC assessment, with respect to potential effects on and appropriate mitigation for impacts to special-status plant and wildlife species) I believe that the county is justified in relying on the findings in those assessments. In other respects, both assessments rely on unsupported and non-credible statements by the consultants about significant environmental consequences of the proposed project and the possible success of mitigation measure

[3] See https://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.html for further information.

recommendations. In this section I address significant issues of fact and science that I have found in the assessments. I do not specifically address the IS/MND, although the unsupported statements in the assessments fail to support the stated conclusions reached by the county's staff in the IS/MND. The conclusions in two of the Environmental Checklist questions in the IS/MND (4b and 4d) are specifically not scientifically justified by the collective content of the assessments. In addition, several IS/MND findings with respect to compliance with county General Plan policies are not supported by evidence in the assessments.

It should be noted that the documentation of proposed project elements in the IS/MND is often vague, such that there's uncertainty about what the county has identified as required elements in the mitigation measures (as is also noted in the comment emailed to the county by RB2). For example, the Tentative map elements provided by the applicant are unclear regarding the location of the Grayson Creek stream channel, as well as how both the creekside setback required by Division 914 of Title 9 of the county's ordinances and/or the 50-foot setback required by general plan policy 8-89 were identified.[4] Since those requirements define the limits of grading allowed on the site, they also affect the mitigation measures with respect to significant ecological resources. I cannot independently verify the statements in the assessments regarding areas of sensitive habitats affected, and base the following comments on statements in the JMC assessment, which updates and modifies the comments in the Olberding assessment.

Section 3 in the JMC assessment (specifically § 3.6) addresses potential effects to "Special-Status Habitats", including oak woodlands in the "uplands" and riparian habitat along Grayson Creek. The text in this section explicitly states that the project will result in the loss of 0.21 acre of riparian habitat (as identified in the JMC delineation) and 1.18 acres of oak woodland. Absent successful mitigation, these are environmentally significant effects pursuant to both state regulations and the county's General Plan policies protecting sensitive habitats. The county's IS/MND apparently relies exclusively on comments in the balance of this assessment section in finding that these adverse effects will be mitigated to 'less-than-significant'. The statements made in the assessment regarding the likelihood of mitigation success are neither credible scientifically nor realistically believable in practical effect.

The site development plans clearly indicate that virtually all of the site north of the grading limit will be altered by grading and construction. The biological assessments indicate that essentially all of the onsite 1.2 acres of oak woodland and 0.21 acre of the riparian area onsite are included in that conversion, which means that the 'planting' proposed as mitigation must occur primarily within the remaining 0.8 acre of the Grayson Creek riparian corridor. The photos provided as part of the Olberding assessment show that the majority of the riparian corridor throughout the site is already vegetated with mature trees, mostly with a closed overhead canopy and a dense understory of vines and low-growing shrubs. While it is certainly possible that the applicant could plant as many 5-gallon or 15-gallon trees as desired within the existing corridor, several well-understood ecological principles indicate that such an action is more likely to be an additional adverse effect on the existing riparian corridor than a measure that offsets the loss of habitat values elsewhere on the project site.

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[4] The JMC assessment states explicitly that "The proposed Project has been designed to incorporate a creek setback that includes above-ground permanent elements such as roads/driveways and structures to be constructed a minimum of 50 feet from the centerline of Grayson Creek (as mapped by Debolt Civil Engineering)." (page 12), indicating that the JMC assessment accepted the setback/grading limit as a "given", rather than as an element to be determined in the assessment.

Without getting too deep into the proverbial "weeds" of ecological science, I can perhaps best illustrate this dynamic with an example from forestry (Figure 4), where these principles represent a primary management concern for landowners. The example portrayed in the figure is an oversimplified "successional sequence" that results following a major disturbance (e.g., clearcut logging or a major fire). Assuming standard silvicultural approaches, the disturbed site would be planted with small trees of desired species, after which the site would be managed in ways to optimize the growth of wood fiber. Standard practices include "overplanting" young trees (more than the managers anticipate that the site will support), because vagaries of landscape conditions and climate variability assure than many of the planted trees will not survive. In addition, the managers expect to conduct one or more "thinning treatments" that will reduce the density of growing but still small trees, because the dense young stands exhibit increasing competition among the growing plants for light, soil moisture, and nutrients. An unthinned stand will simply suffer increased mortality of many of the planted stems, while at the same time reducing the growth of the remaining healthy trees because of competition.

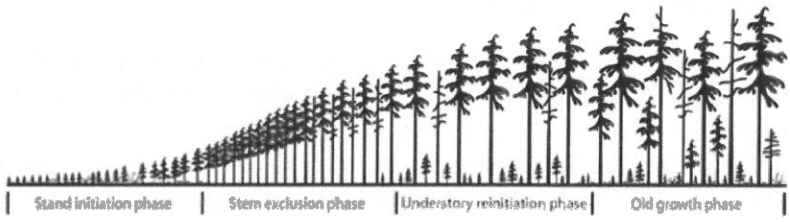

Figure 4. A classical stand development process taught in forest ecology programs at major universities incorporates four developmental stages. The second stage reflects the self-thinning that occurs in growing forests owing to competition among trees for light, moisture, and soil nutrients. This diagram is widely understood to reflect the most common dynamic in regenerating ecosystems following major disturbances. The same dynamic process occurs in tree-dominated alliances that include legacy elements such as old or large trees. Source: Oliver & Larson (1996).

The same dynamic affects natural forest stands on public lands following disturbances like fire, but because the landscapes are not "managed" in the same way, stands of small trees are not thinned, and competition results in the natural death of many of the overly dense young trees. If the stand has remnant large trees, competition for soil moisture and nutrients also stresses them, and the natural dynamic may include a loss of the desired larger trees in the landscape. This dynamic is well-understood among silviculturists and forest ecologists as one of the primary factors contributing to increased wildfires in federal landscapes in the western US, because past management did not include either thinning or the use of managed fire to reduce the loadings of dead wood (fuel), and climate change and drought-induced moisture stress increase the likelihood that ignition sources and unusual weather conditions will result in conflagrations. For additional perspectives on what this means for landscape management in the current era of altered climate dynamics, see Christensen (2014), Young et al. (2017), Zhang et al. (2019), and North et al. (2022).

The underlying message in this example is that the capability of a plot of land to support vegetation is fundamentally limited by intrinsic ecological interactions among the plants and by characteristics of the landscape. What that means for this project is that *planting* replacements for the 97 removed code-protected trees (or multiples of 3X or 10X that number) in the remaining area of the Grayson Creek riparian corridor will not/cannot assure that those removed trees will be replaced, because it's highly unlikely that most of the planted trees will survive; alternatively, the increased competition among the numerous planted trees and the remnant adult trees in the riparian corridor will result in the loss of the older, established trees. More to the point, from a functional

perspective, the *area* of forested oak woodland and riparian forest habitat on the project site will be reduced by construction, and this lost habitat area *cannot* be restored or mitigated by additional planting in the fixed area of the existing riparian corridor. The lost habitat area also means that the ecological *functions* and *services* that the area currently provides will be lost, and will not be replaced by the proposed planting program. The inclusion of these concerns as required elements in relevant county General Plan policies reinforces conclusions that these are significant environmental impacts under CEQA.

In short, the numerous references to mitigation measures in the Olberding and JMC assessment documents that claim that the lost habitat areas and values resulting from the proposed project will be offset by overplanting the remaining Grayson Creek riparian corridor are false. The ancillary claims in the JMC assessment that the proposed project, with the stated "mitigation", complies with Contra Costa County General Plan policies 8-6, 8-7, 8-12, 8-78, and 8-86 are also false. The current assessments provide only empty claims, and no substantial evidence, to support assertions that the clearly identified substantial losses of onsite ecological values, functions, and services will be avoided, reduced, or offset by the proposed planting scheme.

It appears to me that the county has been caught up in an "alternative reality" charade. However, no amount of repeating an unsupported false narrative can make it true.

With respect to the content of the IS/MND, your own experiences as a city and county planner should make it clear that the proposed project will result in several unmitigated and significant environmental impacts. While it's not one of the subjects you asked me to address, I would have concluded that this fact means that the proposed project cannot be approved with an MND; an EIR (perhaps a focused EIR) will be required if the county desires to approve the project. In addition, if the county wishes to approve the proposed project, appropriate findings are required per CEQA Guidelines § 19091, and a Statement of Overriding Considerations will be needed per Guidelines § 19093.

Best,

Chad Roberts

Chad Roberts
Conservation Ecologist

Attached: Short SOC

Appendix

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Attachment 1

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST *EMERITUS* (ESA)
PROFESSIONAL WETLAND SCIENTIST *EMERITUS* (SWS)

CONSERVATION ECOLOGIST

OBJECTIVES: Apply ecological knowledge in developing and implementing policy and law; conduct research and educational outreach; identify and minimize consequences of plans and management actions; and advocate for resilience in ecological systems, particularly for public landscapes subject to climate change, fire, and other stressors.

EDUCATION AND PROFESSIONAL CERTIFICATION

- B.A. *cum laude*, Zoology, 1969; *Humboldt State College*.
- Ph.D., Ecology, 1976; *University of California, Davis*.
- *Senior Ecologist* (from 1982; *emeritus* in 2021), Board of Professional Certification, Ecological Society of America.
- *Professional Wetland Scientist* (from 1995; *Senior PWS* in April 2020, *emeritus* in 2021), Professional Certification Program, Society of Wetland Scientists.

PROFESSIONAL AFFILIATIONS

Lifetime memberships in: Ecological Society of America, Society of Wetland Scientists, American Ornithological Society, Pacific Seabird Group, California Native Plant Society.

INDEPENDENT CONSERVATION ECOLOGIST (2015 to Present)

Since retiring, I've focused on selected scientific and conservation issues related to managing public landscapes. As a senior wetland scientist, I advise wetland and riparian practitioners, agency staff, and decision-makers about relationships among wetland and riparian science and public policy. As a senior ecologist, I focus on collaborative climate adaptation planning in California and the Pacific Northwest, identifying strategies to address climate change on western ecosystems. I engage in field studies and discussions with interested persons and agencies about interactions of climate change, fire and fuels management, and landscape-level conservation options within California's northern inner Coast Range and Klamath Mountains ecoregions. Currently I'm focused on the amendment process for the Northwest Forest Plan for northwestern California national forests and BLM field offices.

Representative documents and presentations:

- Greco, SE, Huber PR, Roberts RD. 2023. ***Informing reforestation strategy for the Mendocino National Forest: Integrating climate change into management planning of the North Shore Restoration Project (NSRP)***. Report prepared for the Clear Lake Environmental Research Center (CLERC), Lakeport, CA.
- Roberts RC. 2022. ***California's oaks: evolved for resilience in a changing climate.*** Presentation, *8th California Oak Symposium*, San Luis Obispo, CA.
- Roberts RC. 2019. ***Responding to Climate Change Effects in the North Shore Restoration Project Region***. Report prepared for Upper Lake Ranger District, Mendocino National Forest, as a FireScape Mendocino representative on the 40,000-acre project's ID Team.
- Member, Yolo Habitat Conservancy's Advisory Committee (2005 to 2018), ***Habitat Conservation Plan/Natural Community Conservation Plan*** (HCP/NCCP). Advisory Committee representative (2017 to 2020), Steering Committee, ***Yolo County Regional Conservation Investment Strategy/Local Conservation Plan*** (RCIS/LCP).

- Greco SE, Harrison SP, Moyle PB, Roberts RC. 2019. ***Central Valley Regional Report, Fourth California Climate Change Assessment***. Report section prepared for the California Natural Resources Agency, Energy Commission, and Office of Planning and Research.
- Roberts RC. 2017. ***Review memorandum: Ecological Elements in the Climate Change Framework for the Draft Science Synthesis, Northwest Forest Plan Update***. Memorandum to the Ecological Society of America Peer Review Team and the USDA Forest Service emphasizing the failure of the draft Science Synthesis to address adequately the dynamics and consequences of climate change for northwestern federal landscapes. January 2017.
- Roberts RC, Pearce S, Lowe S, Collins JN. 2017. ***Assessing riparian area condition and enhancement potential in the Santa Rosa Plain***. Presentation, *Riparian Summit: Confluence to Influence*, Davis, CA.
- Greco SE, Roberts RC. 2016. ***Connectivity underpins climate change adaptation strategies in northwestern California landscapes***. Presentation, 43rd Natural Areas Conference, Davis, CA.

ACADEMIC & SCIENTIFIC ENGAGEMENT (1975 to Present)

For more than 45 years I've been engaged in applied ecological research, developing technical reports, and instructing courses covering environmental laws (principally CEQA, NEPA, the Coastal Act, and the Clean Water Act), wetland identification and management, land use planning, and watershed resources. I've participated in ecological studies addressing wetlands and riparian resources, forests, and oak woodlands throughout California, developed assessment methodologies for wetlands and riparian resources, and presented results in reports and conferences.

Representative examples:

- ***Advisory Committee, California Wetland Monitoring Workgroup*** in the SB 1070-established *California Water Quality Monitoring Council*. Focus: wetland monitoring, assessment, classification, and mapping; the workgroup is also responsible for the development, application, and quality assurance of the California Rapid Assessment Method (CRAM). July 2008 to January 2021.
- ***Symposium Organizing Committee***: *Living with Fire in California's Coast Ranges: Promoting Fire-Resilient Communities and Landscapes in an Era of Global Change*. Rohnert Park, CA, May 2018. California Fire Science Consortium; University of California, Davis; USDA Forest Service, Pacific Southwest Region. December 2017 to May 2018.
- Solek CW, Sutula MA, Stein ED, *et al.* 2012. ***Determining the health of California's coastal salt marshes using rapid assessment***. *Wetland Science and Practice* 29:8-28.
- Roberts RC, Huffman RT, Collins JN, Livsey BC, Harvey CN. 2011. ***Wetland Identification and Delineation.*** Technical Memorandum No. 4, Technical Analysis Team, *Aquatic Science Center, San Francisco Estuary Institute*; for the California State Water Resources Control Board's *Wetland and Riparian Area Protection Policy* development project.
- Sutula MA, Collins JN, Wiskind A, *et al.* 2008. ***Status of perennial estuarine wetlands in the State of California – Final Report to the Surface Water Ambient Monitoring Program, State Water Resources Control Board***. Tech. Rep. 571, Southern California Coastal Water Research Project, Costa Mesa, CA. (Team lead for northern California.)
- ***President, Western Chapter,*** *Society of Wetland Scientists*, January 2001 to June 2007.
- ***Instructor,*** *Resource Planning, Humboldt State University*, Arcata, CA. Courses: (a) landscape planning in natural resources management; (b) environmental documentation practices. January 1997 to May 1998.

- Roberts RC. 1989. ***Maintaining avian wildlife habitat values in oak woodlands.*** Poster, symposium *California's Oak Woodlands: Attitudes and Responsibilities*; California Department of Forestry, Sacramento.
- Roberts RC. 1987. ***Preserving oak woodland bird species richness: suggested guidelines from geographical ecology.*** Pages 190-197 in: TR Plumb, NH Pilsbury (Tech. Coord.). *Proceedings of the symposium on multiple-use management of California's hardwood resources*, Gen. Tech. Rep. PSW-100; Pacific Southwest For. & Range Exp. Stn., Berkeley.
- Roberts RC. 1985. ***Habitat suitability index models for wetland bird guilds.*** Poster, Pacific Seabird Group/Colonial Waterbird Group meeting, San Francisco.
- Ray D, Woodroof W, Roberts RC. 1984. ***Management of riparian vegetation in the North Coast region of California's coastal zone.*** Pages 660-672 in: RE Warner and K Hendrix (ed.); *California Riparian Systems*; Univ. California Press.

CONSULTING SERVICES (1980 to 2014)

Principal, Environmental Planning Firm (1999 to 2014). As a consulting senior scientist working from Davis, California, I provided professional services addressing relevant science, environmental and regulatory requirements, and the application of federal, state, and local laws and policies for a variety of private and public clients throughout California. I provided expert-level services in environmental documentation pursuant to the California Environmental Quality Act (CEQA) and other environmental laws for public agency and private clients. A primary focus during this period included developing and implementing wetland and riparian policy approaches in California.

Director of Environmental Services, Regional Engineering Firm (1980 to 1999). For a mid-sized regional consultant in Eureka, California, I prepared or directed preparation of environmental documents pursuant to CEQA and NEPA, the Clean Water Act, the Coastal Act, and other federal and state laws; directed agency liaison for all approvals; conducted application processes for numerous public and private projects; developed planning frameworks to advance the implementation of state and local land use law and policy; and provided expert witness services in cases focused on substantive and procedural compliance with environmental laws and regulations.

Representative projects and services:

- ***Training, California Rapid Assessment Method (CRAM) for Wetlands.*** Instructed agency staff and consultant personnel in three- or five-day training courses covering riverine, estuarine, depressional, slope, and/or vernal pool wetlands, conducted in Sacramento, Santa Rosa, Willits, Richmond, and Eureka. Coordinated through the *Aquatic Resources Center/San Francisco Estuary Institute*, Richmond, CA. March 2011 through May 2013.
- ***Expert Witness Services, Dwayne B. Smith et al. v. California Department of Fish and Game et al.*** Research, field studies, deposition, and trial testimony; provided for the *California Department of Justice* (representing multiple state defendants), August 2010 to January 2011.
- ***Environmental Impact Report (EIR), Lake Earl Management Plan.*** Programmatic environmental document (Draft and Final EIRs, findings, and related liaison services) for the agency-developed management plan for the 5,600-acre Lake Earl Wildlife Area in coastal Del Norte County. Prepared for the *California Department of Fish & Game*. Completed June 2003. (Note: for EIR projects, services typically included public representation, responding to substantive public and agency comments in a Final EIR, preparing findings, and preparing approval documents for agency adoption.)
- ***Environmental Impact Report (EIR), Mad River Water Pipeline Rehabilitation Project.*** Natural environment assessment and EIR services for effects of 26,000 linear feet of new 24"

pipeline in diked former tidelands (jurisdictional wetlands) east of Humboldt Bay between the cities of Arcata and Eureka, three miles of new pipeline in uplands, and two miles of pipeline lining in uplands. Prepared for *City of Eureka* departments of Community Development and Engineering (documentation also utilized to support approvals for the project by the *California Coastal Commission* and the *US Army Corps of Engineers*). Completed December 2001.

- ***Report on hydrology and aquatic/floodplain ecology in the Mill Creek watershed.*** Hydrological assessments of pre-development and projected General Plan build-out conditions in the McKinleyville terrace, including wetland boundary identifications, wetland and riparian natural community descriptions, and recommendations for maintaining these features; for the *California Department of Fish & Game*. Completed March 1995.
- ***Biological Conditions in the Eel River Delta: a Status Report of Conditions in the Early 1990s***. Identified aquatic areas in the 32,000-acre Delta using the National Wetland Inventory classification; described wetlands and other habitats, ecological relationships, and functions, Prepared for the *Eel River/Humboldt County Resource Conservation District*, the *Natural Resources Conservation Service*, and the *California State Coastal Conservancy*. April 1992.

CONSERVATION LEADERSHIP (1980 to Present)

For more than 40 years I've worked on conservation projects in northern California, collaborating with local, state, and federal agency staff, regional conservation groups, and individuals to achieve stewardship and management objectives for wetlands, riparian areas, and terrestrial ecosystems.

Representative examples:

- ***Landscape Conservation Collaborative*** *(LCC), Sacramento River Valley*, on behalf of the *Riparian Habitat Joint Venture*. Focus: riparian ecosystems and species; climate-change effects, adaptation options, and resilience; and landscape-scale ecological processes. September 2015 to August 2018. (Note: The LCC was terminated after the Trump administration defunded the USFWS's entire LCC program.)
- ***Protecting water quality and supply and restoring resilient forests in the Berryessa Snow Mountain National Monument.*** Memorandum for Obama Administration review presenting science underpinning a proposed POTUS designation for the Berryessa Snow Mountain National Monument (designated July 2015). Prepared at the request of *Tuleyome*, the proponent of the designation. May 2015.
- ***Tolowa Dunes State Park dune forests and ponds – a unique ecological system; findings and recommendations***. Memorandum prepared on behalf of the *Friends of Del Norte* for the *California Coastal Commission* and the *Department of Parks and Recreation*. March 2010.
- ***Sierra Nevada Wildlife Expert Assessment Workshop***: Effects of alternative management directions and alternative fire-management regimes on cavity-nesting wildlife. Workshop, Forest Service Region 5 California Spotted Owl (CSO) EIS Team, Sacramento, CA. July 1994.
- ***California Native Plant Society (CNPS) Task Force*** to: (1) evaluate the status of hardwoods (particularly oaks) in California, and (2) recommend statewide policies. The task force report was adopted by the CNPS as its "Oak Action Kit." Sacramento, CA. 1988 and 1989.
- ***Developing an "old-forest" conservation strategy for federal lands in the Pacific Northwest***, Represented the Redwood Region Audubon Society and other NW California conservation interests in a Pacific Northwest regional conference convened by The Wilderness Society, the Sierra Club, and the National Audubon Society; Portland, OR. October 1988.

California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

December 20, 2023

Joseph W. Lawlor Jr, AICP
Contra Cost County Department of Conservation and Development
30 Muir Road
Martinez, CA, 94553

Transmitted via e-mail: joseph.lawlor@dcd.cccounty.us

Re: Grayson Road 10-Lot Subdivision, 1024 and 1026 Grayson Road, Pleasant Hill, CA 94523, County File #CDSD20-0953, SCH No. 2022050245

Dear Mr. Lawlor:

The California Oaks program of the California Wildlife Foundation works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. California Wildlife Foundation/California Oaks (CWF/CO) reviewed the October 25, 2023, letter regarding the appeal of the Zoning Administrator's decision to approve the Grayson Road 10-Lot Subdivision submitted by the Mohawk/Iroquois Neighborhood; the October 6, 2023, letter sent by Lisa Shikany; the October 2, 2023, Staff Report with attachments; and May 27, 2022, letter sent by California Department of Fish and Wildlife (CDFW). This letter contains comments regarding deficiencies of the environmental analysis and proposed mitigation for oak impacts of this ill-conceived project.

The conclusion that the proposed mitigation would result in a less than significant impact to trees does not meet the requirements of the California Environmental Quality Act (CEQA) and the mitigation plan is not in compliance with Public Resources Code Section 21083.4. The October 2, 2023, staff report addresses comments made in CDFW's May 2022 letter: "As detailed in the BRA Addendum, the proposed project's potential impacts to trees and Valley Oak Woodland have been adequately analyzed, adequate mitigation has been identified, and the proposed project would result in a less than significant impact to trees." CWF/CO disagrees with the conclusion that the analysis and mitigation is adequate. While the BRA Addendum identifies 1.18 acres of the site as Valley Oak Woodland (S3), the mitigation of this Sensitive Natural Community is insufficient.

The analysis is deficient in that it does not assess canopy cover and absolute percentages in upland areas or covering the channel of Grayson Creek. Further, the Sensitive Natural Communities page of the CDFW website notes: "Natural Communities with ranks of S1-S3 are considered Sensitive Natural Communities to be addressed in the environmental review processes of CEQA and its equivalents." CEQA Guidelines Section 15065(a) mandates

completion of an Environmental Impact Report if a project would threaten to eliminate a plant community. The BRA Addendum does not include the rigorous analysis of an EIR. Instead, it simply identifies approximately 1.18 acres of Valley Oak Woodland that the proposed project would remove, provides a revised mitigation measure that is acknowledged as less protective than what CDFW recommends, and argues that the proposed mitigation aligns with the county's Tree Protection and Preservation Ordinance.

Contra Costa County's tree protections do not override state protections for sensitive natural communities. The beginning of CDFW's letter clearly states that they serve as "… a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources." Should the Grayson Road Subdivision project proceed, the analysis of and mitigation for the impacts to the Valley Oak Woodland must adhere to the analysis and mitigation requirements of CEQA. The proposed 3:1 replacement formula is inadequate. As noted in CDFW's letter:

> Trees should be replaced at a level that will offset: 1) the lost biomass and canopy of the removed trees, and 2) the substantial temporal loss of growth habitat structure and diversity. Trees planted need to be spaced in a manner that promotes their long-term growth habits, and that serves to replicate or enhance the state of which was disturbed.

The mitigation plan also lacks sufficient performance standards. Further, the suitability of the replanting scheme does not meet the requirements of CEQA to reach the less-than-significant threshold and will result in a net loss of oak woodland.

Lastly, Public Resources Code Section 21083.4 limits oak tree planting to half of the mitigation for oak impacts and requires mitigation trees planted to be maintained during a seven-year establishment period. Thus, the current plan's exclusive reliance on tree planting is out-of-compliance with this requirement. Further, it must include either the code's seven-year establishment period or the 10-year period recommended in CDFW's letter.

Greenhouse gas (GHG) impacts of proposed tree removals must be analyzed and mitigated. The project's environmental analysis has no discussion of the GHG emissions of the proposed tree removals. Instead, it simply includes a table (page 139 of the October 2, 2023, staff report) that summarizes operational GHG emissions. California law requires the analysis and mitigation of greenhouse gas emissions associated with proposed oak woodland or forest conversions. CEQA's sole GHG focus is "the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." Net present value of GHG emissions forms the foundation of the state's greenhouse reduction objectives, as well as the California Forest Protocol preservation standards. Every ton of carbon dioxide (CO_2) released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is covered by CEQA.

Root protection zones of native oak trees should be undisturbed. The root protection area, which is half again as large as the area from the trunk to the dripline of an oak, is critical to oak tree health. The analysis speaks about root zones but does not specify how the root zone is calculated. *Care of California's Native Oaks* provides additional information.

Thank you for your consideration of our comments.

Sincerely,

Janet Cobb
Executive Officer, California Wildlife Foundation
jcobb@californiawildlifefoundation.org

Angela Moskow
California Oaks Program Director
amoskow@californiaoaks.org

cc: Supervisor Candace Andersen, District 2, supervisorandersen@bos.cccounty.us

Michelle Battaglia, Senior Environmental Scientist, CDFW, Michelle.Battaglia@wildlife.ca.gov

Supervisor Diane Burgis, District 3, supervisor_burgis@bos.cccounty.us

Supervisor Ken Carlson, District 4, SupervisorCarlson@bos.cccounty.us

Andrew Chambers, Environmental Scientist, CDFW, Andrew.Chambers@wildlife.ca.gov

Contra Costa County Zoning Administrator, planninghearing@dcd.cccounty.us

James Cameron Crowder, Deputy Attorney General, james.crowder@doj.ca.gov

Supervisor John Gioia, District 1, John_Gioia@bos.cccounty.us

Supervisor Federal D. Glover, District 5, district5@bos.cccounty.us

Lisa Shikany, lshikany@gmail.com

Brendan Wilce, Conservation Program Coordinator, California Native Plant Society, bwilce@cnps.org

Tiffany Yap, DEnv/PhD, Center for Biological Diversity, tyap@biologicaldiversity.org

From: Hart, Kathryn@Waterboards
To: Joseph Lawlor
Subject: Grayson Road Subdivision - Setback to Development from the Creek
Date: Monday, January 8, 2024 5:04:00 PM

Joseph,

Provided below are comments on the proposed *Grayson Road 10-Lot Subdivision* (Project) (County File No. CDSD20-09531), as described in the March 24, 2023 *Revised Initial Study* for the Project. This is in follow up to brief comments noted via email on October 15, 2023. This Project, which is proposed for location at 1024 and 1026 Grayson Road in Pleasant Hill, would divide the 3.05-acre site into 10 lots ranging in size from 7,347 to 22,460 square feet (SF). Each residence would range in size from 2,900 to 3,500 SF and two existing vacant residences would be demolished to accommodate the Project.

Creek Setback Requires Further Study and Verification: The roughly L-shaped site is comprised of two parcels: a northern parcel that fronts on Grayson Road, and a southern parcel that is bound by Grayson Creek to the south and east. All but one of the 10 lots would be situated along the creek that runs along the southern side of the site. A *Creek Structure Set Back Exhibit, 1024 & 1026 Grayson Road, SD20-9531* (Debolt Engineering, January 28, 2022) is included in the ISMND, and shows Sections A-A through G-G that extend from the downstream to the upstream end of the property. These drawings show section depictions of the creek structure setback shown on the plan view as a dashed line running along the southern and eastern borders of Lots 2-10.

1. The creek flow line and the toe of the creek bank along the site should be identified on the drawing to make it clear to the reviewer where these features are located.
2. The creek setback concept suggested in the section drawings may be an acceptable approach, but *only* if the drawings reflect the actual topographic conditions of the creek bank. A clear depiction of the creek's flow line, the toe of the bank, and the top of the creek bank shown in plan view would make it easier to review this aspect of the project. We suggest that the creek bank profile at a number of locations along the reach be verified to confirm that an adequate set back from the toe of the bank to structures has been provided. Given the various lines and limited scale for the above noted drawing, it is challenging to fully understand the setback location along the entire creek length. This is particularly true on meander bends and at the downstream end of the Project. At the downstream end of the Project the dashed setback line is either very close to what appears to be the creek's flow line, or, if it is set further back, the stormwater management basin appears to be situated within the setback area.
3. It would be helpful to include the creek's high flow elevations in the drawings for reference.

Creek Setback Consistency: It is difficult to determine from the above noted drawing whether adequate creek setback is provided along the entire length of the Project. Please ensure that the creek setback is applied for each lot.

Stream bank setbacks are critically important. Although the future conditions of this particular stream reach are difficult to predict without further study, it may be subject to a typical stream evolution model that results in stream widening over time. It would be wise to have an experienced

fluvial geomorphologist assess bank stability at the site as part of verification for planned creek setbacks. If the banks of the Creek do experience significant failure in the future, stabilization of the bank will require permits from the U.S. Army Corps of Engineers (Corps), the California Department of Fish & Wildlife (CDFW), and the Water Board. In order to preserve aquatic habitat values in the creek the Water Board will only permit biotechnical bank stabilization measures at the site. Hardening the banks to protect structures, including fences, that have been built too close to a creek bank, is not an option in the future so careful attention to this detail is necessary. This is particularly relevant as we may experience more episodic heavy rain and high creek flows similar to what occurred during the 2022-23 rainy season, which resulted in downed trees and creek bank erosion. We note that a portion of the property lies within a Special Flood Hazard Area (100 year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Maps. It is not clear how high creek flows under such conditions would impact the creek bank stability (saturated soils, bank slumping), which is another reason we emphasize appropriate setbacks to development, including stormwater treatment facilities.

Tree Mitigation Plan: Based on views of a tree mitigation plan, there appears to be an intent to plant numerous trees along the riparian corridor. We question the viability of incorporating so many trees into the relatively dense riparian area that exists along the creek. This plan should be peer reviewed to determine whether there is space available for the trees to grow into maturity over the long term, and whether those proposed for location along the creek are appropriate for near-bank conditions, including long-term sustainability for both the trees and the stream bank conditions. If the tree mitigation plan is intended to address the loss of the oak woodland on the project site, it will need to be reviewed by CDFW for acceptability.

Grayson Road Runoff: The overall Project must address treatment and hydromodification controls for stormwater runoff in accordance with Provision C.3 of the NPDES Stormwater Municipal Regional Permit (MRP), Order No. R2-2022-0018 (NPDES Permit No. CAS612008). Currently, stormwater runoff from some portion of Grayson Road flows onto the site near the northern boundary via a small pipe outfall. The currently vegetated pervious area of the site that appears to transform into a subtle swale-type feature at this location will be modified as a result of Project development. Therefore, the beneficial aspects of the pervious area for this runoff, which include infiltration of small storm event runoff that can contribute to stream hydromodification, will be lost. The Project should consider how this runoff will be managed in a way that will not result in increased potentially erosive flows to the creek, i.e., Project plans should address how these flows will either be incorporated into the treatment and drainage system for the site, or redirected appropriately in a manner that does not contribute to stream erosion and hydromodification.

Bioretention Design: To optimize retention of channel-forming flows in the bioretention facility the underdrain shown in on *VTM-3, Hydrology and Storm Water Control Plan, 1024 & 1026 Grayson Road, Subdivision SD20-9531, Detail 1* (DeBolt Engineering, January 28, 2022) should be located at the top of the class 2 drain layer.

Please let me know if you have questions.

Regards,

Katie Hart | *Water Resource Control Engineer, PE, she/her*
SF Bay Regional Water Quality Control Board
1515 Clay St., Suite 1400 | Oakland, CA 94612
(510) 622-2356

Note - There is an error in the tree numbers provided in this memo. 97 code-protected trees will be removed, not 158. The number of replacement trees proposed to be planted is 158. We apologize for the error.

October 25, 2023

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

RE: Grayson Road 10-Lot Subdivision, County File #CDSD20-09531

Dear Department of Conservation and Development:

The Mohawk/Iroquois Neighborhood (hereinafter "Neighborhood"), as represented by the signatories at the end of this letter, is filing an appeal of the Zoning Administrator's decision to approve the Grayson Road 10-Lot Subdivision, County File #CDSD20-09531 (hereinafter "Project"). This appeal is based on the issues provided in this letter and supported by the previously submitted written and oral public comments on the Project, including the MND. The requisite $250 fee is included with this filing. A more detailed analysis of many of these issues can be found in written comments submitted to the County throughout the processing of this Project, as well as in oral comments and testimony provided at public hearings, all provided by the letter signatories as well as others in the Neighborhood, and all of which are in the County's possession and are incorporated by reference as part of this filing.

In general, this Project as approved will have significant unmitigated impacts to the environment pursuant to the California Environmental Quality Act (CEQA), and to the public health and safety. The mitigated negative declaration (MND) adopted by the County violates CEQA due to inadequate impact analysis and inadequate mitigation which results in unmitigated environmental impacts, a circumstance that cannot occur with an MND and which results in an illegal project approval. Further, CEQA violations constitute a violation of state law, making this project ineligible for the requested concession and waivers that are primarily responsible for the signifiant impacts of this project. We are requesting this project, as currently proposed, be denied.

BIOLOGICAL IMPACTS

Impacts to oak woodland and riparian woodland are are not fully analyzed, inadequately mitigated, and remain significant. Mitigation for impacts to sensitive plants is similarly inadequate.

The MND does not fully analyze nor mitigate impacts to the onsite oak and riparian woodlands as described in the MND comment letter from the California Department of Fish and Wildlife (CDFW) and in Neighborhood comments. Mitigation Measure Biology 2 lacks performance standards (location of planting, timing for planting, survival milestones, monitoring requirements, planting methodology, bonding requirements, etc.) sufficient to demonstrate that the loss of

almost 2 acres of oak and mixed woodland and some additional trees in the riparian woodland will be mitigated below a threshold of significance, an issue also raised by CDFW. All of CDFW's recommendations for additional oak woodland impact analysis were not implemented, and recommended mitigation for the loss of oak woodland habitat was completely dismissed by the County.

Without adequate performance standards, the determination of adequate mitigation for oak and riparian woodland and other destroyed trees (158 in total, 97 of which are code protected) has been deferred to a future unknown planting plan, which is illegal pursuant to CEQA. The inadequacy of this mitigation measure is demonstrated by the applicant's proposal to inappropriately reestablish 1.8 acres of destroyed oak and mixed woodland within the existing 1-acre riparian woodland, and by planting isolated trees throughout the site, because project density and waivers leave no other undeveloped area available for planting. Not only has the impact of installing mitigation in the riparian woodland not been been analyzed, this proposal represents an unmitigated net loss of oak woodland. Almost two acres of oak woodland cannot be reestablished in a one-acre existing riparian woodland or by scattered trees. Furthermore, this measure requires the trees that will be destroyed in the riparian woodland to be replaced onsite and in-kind "to the greatest extent practicable," meaning if it is not practicable, no mitigation will occur, further contributing to the fact that destruction of oak and riparian woodland is an unmitigated impact. This mitigation measure as written represents inadequate deferred mitigation, is illegal pursuant to CEQA, and leaves the loss of oak and riparian woodland a signifiant environmental impact. Further, the density and waivers granted to this project foreclose any ability to mitigate these impacts, supporting a denial of the density bonus and waivers.

A resident of the Neighborhood adjacent to Grayson Creek had to do work near several code protected trees. To mitigate any potential harm, the County required that he post a bond and replant any lost trees with a minimum 24 gallon tree. This is in contrast to the maximum required 15 gallon trees, which can be reduced to 5 gallons as determined by an arborist. While it may be advisable to plant smaller trees in areas where the roots of other trees could be disturbed, this does not explain why the applicant can plant 15 gallon trees rather than being required to plant larger trees as the Neighborhood resident was required to do.

The same situation exists for sensitive plants and Mitigation Measure Biology 1 as provided in Neighborhood MND comments. This measure does not provide any hint of how sensitive plants are to be reestablished once seed or root stock is harvested, and considering that every square foot of the Project site outside the riparian woodland will be disturbed, as will portions of the riparian woodland, and virtually everything outside the creek setback and riparian woodland will be developed, there is no clear way to minimize or avoid impacts to rare plants as called for in the mitigation measure, and no location to replant them. The MND states no rare plants were found at the time the fieldwork was conducted. If sensitive plants were not evident at the time of the fieldwork but had the potential to exist on the site, the site clearing and filling that occurred while the project was under consideration, a circumstance that should have been revealed in the MND, would have had an impact on these plants and could impact future

preconstruction surveys. Site alteration during project consideration should not have occurred, and should be revealed in the MND. Impacts to sensitive plants remain unmitigated and significant without adequate analysis and mitigation.

Another key aspect of minimizing impacts pursuant to CEQA is avoidance. The MND makes no mention of avoidance as a first approach for minimizing impacts, which could be achieved with a lesser density. Neighborhood MND comments discuss how General Plan policies 8-6 and 8-12 require preservation of the habitats and wildlife impacted by the project. This Project makes absolutely no attempt to preserve any oak woodland habitat and in fact, some of the habitat was removed after project application, but hopefully not before the initial fieldwork for biological assessment was conducted; the timing must be confirmed. It's likely the habitat was removed before the biological assessment was updated in 2022, a circumstance not revealed in the biological assessment, MND or staff report, and should have been.

In addition, the County can allow protected tree removal if "reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot." Reasonable development is not synonymous with maximum development. This issue is discussed in the Neighborhood MND comments. The extraordinary number of code protected trees being destroyed violates the above cited General Plan policies, a circumstance that could be avoided with a reasonable Project density. This project should be redesigned with impact avoidance being a primary consideration. A lesser density would result in environmental impact avoidance. At the current density, impacts cannot be avoided or adequately mitigated, requiring the denial of this project pursuant to state housing law and pursuant to CEQA when utilizing an MND.

Wildlife and sensitive plant impacts are not adequately analyzed or mitigated, and remain significant.

Impacts to wildlife have been an ongoing concern for the Neighborhood. The applicant installed orange construction fencing along the upper portion of the riparian corridor, we believe in the fall of 2020, after which significant brush/understory removal and unpermitted fill occurred, as well as the removal of a tree that left debris in Grayson Creek that the Neighborhood removed. Since the site clearing (i.e. habitat removal) and the installation of the construction fencing, the quantity and type of wildlife observed in the Neighborhood has diminished. The work conducted thus far by the applicant, we assume without wildlife or botanical surveys, has already negatively impacted wildlife and potentially sensitive plant species, and the impacts will be heightened once the Project is built. The destruction of habitat with, at this point, no remediation is unacceptable. The loss of wildlife habitat diminishes quality of life certainly for the animals that rely on it, but for the community residents as well. The MND does not fully analyze these impacts and further, relies on the inadequate non-CEQA compliant Mitigation Measure Biology 2 to mitigate impacts to wildlife. As adopted, the mitigation measure does not mitigate the loss of 2 acres of wildlife habitat and therefore does not mitigate wildlife impacts longterm after Project development. Also, if the mitigation measure is ultimately implemented, it will have additional wildlife and creek impacts that are unanalyzed in the MND.

The MND erroneously assumes all wildlife movement occurs within the riparian corridor. However, Neighborhood observation of wildlife impacts caused by the construction fencing installed by the applicant across an existing wildlife trail, blocking this trail used by wildlife for Grayson Creek and Project site ingress/egress, would point to this not being the case. The Neighborhood, particularly those residents living along the creek who observe wildlife movement in and along the creek and on the Project site, were never contacted as part of the biological assessment for this project, and should have been. As the Neighborhood has observed, the installation of the orange fencing has prevented the natural and historic movement of wildlife through the Project site and along Grayson Creek, a circumstance that will be exacerbated by the Project. Project impacts to wildlife remain significant.

As mentioned above, construction fencing is believed to have been installed in 2020. This fencing looks to be located within the riparian woodland, and may have required authorization from CDFW; no record of any CDFW authorization exists. Site clearing, fill import and grading on the Project site appears to have occurred in 2021, during the permitting and CEQA review process for the subdivision and without permits to our knowledge. This work would appear to have occurred after the initial fieldwork was done for the biological assessment, but before the biological assessment was updated. This timeline must be confirmed, as it could significantly impact the biological impact assessment based on the timing. The baseline circumstances were certainly changed, at least when the biological assessment was updated. This circumstance must be addressed in the MND to clarify what site work was completed and when, and particularly when it was completed relative to the preparation of the initial as well as the updated biological assessment. Also, the MND must identify what, if any, impacts occurred as a result of the site work during the Project review period, and any required mitigation for those impacts.

<u>Impacts to Grayson Creek are not fully analyzed, the creek setback is not clearly part of the project and is too small, a finding of a less than significant impact is not adequately supported, and impacts to Grayson Creek remain significant.</u>

The health of the creek is of utmost concern to the Neighborhood, and is regionally critical. Inadequate set-backs from the creek are a significant issue. While the policy analysis in the MND states there will be a 50-ft. setback as shown on the plans, that setback is not clear on the plans made available to the public and there is no mention of a 50-ft. setback in the project description as claimed in the County's response to a Neighborhood comment in the initial staff report. Further, there was no analysis in the MND that demonstrates how a 50-ft. setback will sufficiently protect the creek. Comments were made by the County that the lots on the south side of the creek were much closer to the creek, and this was used as justification for a 50-ft. setback as being sufficient. This comparison is not adequate analysis of the sufficiency of the proposed setback. Two wrongs do not make a right and further, the fact that there may be lots that are close to the creek on the south side makes it even more important to have larger creek setbacks on the north side, preferably at least 100 feet from the centerline of the creek. Also, the houses on the south side of Grayson Creek were constructed decades ago. Longtime residents of the Neighborhood who live adjacent to the creek have observed creek erosion and

flooding that over the years have resulted in the widening of the channel, reducing setbacks of the existing homes from the creek.

The Creek Structure Setback should have been increased where significant riparian vegetation exists beyond the setback approved for the Project. The reason provided for not increasing the setback along this clearly important stretch of creek is because of the Density Bonus being granted for this project. In other words, the Density Bonus is directly responsible for signifiant impacts to Grayson Creek that will result from the lack of an adequate setback from the creek for the future homes, which due to their density will have light, noise, and activity disturbance to the creek far beyond the impacts associated with other less dense development along the creek. Sacrificing Grayson Creek for the dubious "public benefit" of one moderate income home is unacceptable. Development setbacks from the creek should be increased to at least 100 feet.

There was significant information regarding biological resources submitted by the Neighborhood (Mr. Patrick King, May 31, 2022) during the MND comment period as well as during the public hearing, that would support providing a setback larger than 50 feet from Grayson Creek. These comments revealed that salmon entered Grayson Creek in 2022, with hope they will return to their natural spawning ground in Briones. Grayson Creek provides the only viable route to Briones, and salmon will someday pass along the subject section of Grayson Creek. This section of Grayson Creek is a key, essential habitat area because it creates the only continuous water path that links eastern Briones to the Contra Costa Canal and out to the Sacramento River Delta. There is a wood duck restoration project on this creek as the creek habitat is perfect for the return of wood ducks to Pleasant Hill. There are wood duck boxes directly across the creek and directly adjacent to the Project site. None of this information was incorporated into the MND as it should have been, nor even acknowledged as having been received by the County. The information submitted to the County includes an extensive list of nesting and migrant bird species that utilize the Project area, noting that almost 100 bird species have been documented along Grayson Creek since 2018 https://ebird.org/hotspot/L9110333?yr=all&m=. The impact analysis for Grayson Creek must consider this information, which should result in the need for a larger creek setback to ensure protection of Grayson Creek.

The mitigation to restrict lighting to "within the project site" does not mitigate impacts from lighting entering the riparian corridor and creek. Grayson Creek is part of the project site, and it can be successfully argued that lighting the riparian corridor would therefore be allowed. Requests to clarify this mitigation measure were dismissed by the County. Therefore, lighting impacts to wildlife and the riparian corridor remain unmitigated below a threshold of significance unless lighting is restricted to only the developed portions of the Project and specifically restricted from entering the riparian woodland and creek.

The claim is made in the staff report that no direct impacts (fill or modification) to Grayson Creek will occur. Herein lies an example of the issue with the inadequate and illegal Mitigation Measure Biology 2, which does not provide any details about how or where replanting of removed trees proposed as mitigation will occur. In fact, the applicant is proposing to

inappropriately plant the majority of mitigation trees along the creek in the existing riparian woodland, a direct impact that is not analyzed in the MND. The mitigation planting plan not only does not reestablish 2 acres of oak and mixed woodland, but it constitutes unidentified unmitigated impacts to Grayson Creek and the riparian woodland it supports, as well as fill and modification to the creek. Thus, impacts to Grayson Creek remain unanalyzed, unmitigated, and significant.

Neighborhood comments questioned the impact of the Project on the amount of stormwater entering Grayson Creek due to a change in drainage patterns. While the staff report responded with information about volume, no response was provided regarding the impact to the creek from what will likely be redirected and therefore reduced stormwater flows into the creek. Strong winter flows in creeks help keep sediment from building up. The impact of lessened stormwater flows in Grayson Creek was not addressed in the MND as a potentially significant impact.

The Regional Water Quality Control Board requested the opportunity to comment on the Project, a request that was received by the County on the day of the continued public hearing. The Board would likely have had input regarding water quality and Grayson Creek Project impacts. The Zoning Administrator chose to proceed with project approval without input from the Board after asking the applicant for his thoughts. The applicant agreed with the Zoning Administrator, and opined that he did not need permission from the Board for his project, which is not true. The Project is subject to the Board's Construction Stormwater Program. The applicant will need to seek Board approval for his required Stormwater Pollution Prevention Plan required as mitigation, as well as any work the applicant will be undertaking in Grayson Creek. The County should seek the necessary input from the Board as part of this appeal.

<u>Environmental and CEQA impacts associated with unpermitted fill import and brush removal.</u>

The Neighborhood has been commenting regarding the tree cutting near the creek that occurred, we believe without a permit. Sawdust was deposited and left in the creek, necessitating the neighbors to clean up the mess to restore the creek. We have come to find out that fill was imported into the property in 2021 without a permit, for which a code enforcement case was started in August of 2021; the outcome of the enforcement action is unknown. This occurred after the applicant submitted an application to the County for the subdivision in January of 2020. In addition, it appears that "brush" and likely smaller trees were cleared throughout the property, leaving several very large piles of chips up to 6 feet tall. This raises the question of exactly how large was the brush, what exactly was removed, and whether this work needed a permit for more than just the fill, including permits from CDFW and the RWQCB, as well as from the County.

In addition, this raises the question of CEQA baseline. The applicant had already submitted a subdivision application when the "brush" and tree removal occurred and when the fill was imported, without permits and presumably without proper wildlife and plant surveys. The initial biological report fieldwork conducted in early 2021 according to the report, presumably before

the site work was conducted; this should be confirmed by the County. The report was updated in 2022, well after all this unpermitted site work was completed, thereby altering the biological baseline after submittal of the project application and biological assessment. This was not a homeowner removing a little brush in the process of maintaining his property. This work occurred during a subdivision permitting process and constitutes unauthorized site work. Neither the initial study/MND, biological report or staff report makes any mention of the unauthorized work, enforcement case, or the altered CEQA baseline, which is unacceptable. This circumstance needs to be addressed. A forensic biological assessment needs to be conducted to determine what habitat was removed from the property. Mitigation for this removal, and appropriate citations, fines or other appropriate remediation for any illegal work, must be completed prior to approval of this project, or at least prior to commencement of any site work.

Lack of enforcement to obtain CDFW and RWQCB permits results in unmitigated significant impacts to wildlife and Grayson Creek.

Based on information provided by the applicant at the public hearing, it would appear he is unaware of the permits or authorizations that will be required in order to carry out this project. For example, he did not believe he needed any authorization from the Regional Water Quality Control Board, yet the Project requires a permit pursuant to the Board's Construction Stormwater Program, including the requirement to prepare and submit a Storm Water Pollution and Prevention Plan (SWPPP). This requirement is actually a condition of approval. The Project will also require a Lake and Streambed Alteration Agreement (LSSA) from the California Department of Fish and Wildlife (CDFW). In fact, biological impact mitigation relies on the applicant obtaining an LSSA to help reduce significant impacts to wildlife, and to Grayson Creek and its associated habitat, yet obtaining the LSSA it is not included as a condition of approval.

The conditions of approval do nothing to ensure either of these authorizations will be obtained prior to any work beginning. While mitigation for biological impacts relies on obtaining an LSSA, the need for the applicant to actually obtain this agreement is listed only as an advisory note rather than a requirement. Relying on a permit to mitigate impacts, and then not requiring the applicant to obtain the permit, does not constitute adequate mitigation. There is nothing in any of the mitigation measures or conditions of approval that requires obtaining an LSSA. The requirement for a SWPPP is included as Mitigation Measure Biology 6, which according to the MMRP, will be verified during initial review of construction plan sets and throughout project. However, this may not preclude the applicant from moving forward with removing trees and conducting pre-construction grading and fill as he apparently did previously.

It is vital that both of these authorizations be obtained prior to any site work occurring, including but not limited to tree removal or ground disturbing work occurring on the Project site. Mitigation as adopted by the County relies on these authorizations, so the County must be responsible for documenting that the authorizations are received, are on file with the County, and in fact adequately mitigate the impacts they were cited as mitigating in the MND. Therefore, in order to ensure impacts to biological resources and water quality are reduced below a

threshold of significance, a condition of approval or mitigation measure must be added requiring the applicant to obtain these authorizations and provide copies to the County prior to any site work being done on the Project site, including but not limited to tree or any other vegetation removal and any work that disturbs the ground.

LAND USE, AESTHETICS, COMMUNITY CHARACTER

The Project is inconsistent with its surroundings, resulting in significant aesthetic, land use and community character impacts.

The size, scale and density of the Project is inconsistent with the County neighborhoods surrounding the project on the south side of Grayson Road. Aesthetic and land use impacts, and the inconsistency of this project with its surrounding community character, cannot be found to be mitigated below a threshold of significance. The extraordinary extent of the development standards waivers being granted to the applicant is a clear indication of these incompatibilities, as no other development in the surrounding area of the project utilizes these reduced standards.

Those of us who live in the neighborhood, many of us for decades, chose to live here because it is a peaceful, beautiful suburban/rural hybrid neighborhood that is also close to downtown, with large lots and room between neighbors, rolling hills, open space, privacy, natural habitat and lots of wildlife. The proposed development is completely contrary to these qualities. The development size and density is inappropriate for the surrounding community, with too many homes on too small of lots, and with the majority of the mature natural habitat on the Project site destroyed and wildlife displaced. Fewer homes would be in keeping with the "flavor" of the surrounding community.

Aesthetic, land use and community character impacts remain unmitigated and significant due to the density bonus and waivers granted for this Project. The Neighborhood has submitted numerous comments providing factual information that demonstrates this project is completely inconsistent with its surroundings when considering usable lot size, development scale, development density, and aesthetics. Any reasonable person can look at this area of Contra Costa County to see this project will look nothing like anything else surrounding it in the County; rather, it will stand out in a very negative way. The project is too dense and the homes are too large and too close together. The small lots in the area of Pleasant Hill across the street or near Taylor Blvd. cannot be used to determine consistency, as they are in urban Pleasant Hill, and were created as a PUD with significant open space. The Project site is located in a relatively rural, low density area of the County, not high density urban Pleasant Hill.

The County claims that the aesthetic, community character and land use (density, etc.) impacts associated of this development, including the removal of 158 mature trees that have taken decades to mature (97 of which are code protected) and the installation of an almost solid wall of giant two-story boxy homes, will be mitigated by a landscaping plan that will supposedly "enhance the aesthetic character to maintain adequate screening and privacy." This is a false

claim that cannot be substantiated. There is no mitigation included for the Project that requires a landscaping plan with adequate performance standards sufficient to support this claim. This means determining adequate mitigation for screening and privacy is being deferred to some future plan, contrary to CEQA requirements. Further, trees to be planted as mitigation for the complete destruction of almost two acres of oak woodland will take decades to grow to a point that they would provide the screening and privacy (and habitat) provided by the mature trees currently existing on the site, if the trees to be planted even survive, keeping in mind there is no place to plant these trees that constitutes restoration of the oak woodland. The County has misrepresented and downplayed this impact issue in an attempt to find neighborhood/ community character consistency and as a consequence, formed erroneous consistency conclusions that leaves aesthetic, community character and land use impacts significant.

The Neighborhood has continually commented about the excessive density of the Project resulting from the use of the density bonus allowance and inappropriate waivers granted that are supposedly allowed by state housing law, all of which result in unmitigated significant impacts as discussed throughout this letter and previous Neighborhood comments. A reduction in density to what should be no more than four lots would contribute significantly toward mitigating the significant impacts of this project that are discussed in this letter and have been commented on throughout the Project permitting process. This lesser density would allow avoidance of impacts to existing habitat and the wildlife it supports, and would result in a development in keeping with the aesthetics, character, and land use of the surrounding community.

To summarize our understanding of the housing law situation for the Project, the applicant is using the inclusion of a single moderate income home (one of the two smallest homes, and located on the smallest lot in the worst location in the subdivision) as a tool to allow him to claim a density bonus and increase the reasonable density that would otherwise be allowed on this property by 150%; and to allow him to claim financial infeasibility of the project without the requested waivers and concession that together with the increased density are primarily responsible for the signifiant environmental impacts of this project, and that will result in financial benefits to the applicant in the neighborhood of what is likely hundreds of thousands of dollars while shifting his waived financial development responsibilities and environmental costs of project impacts to the community and taxpayers, all without being required to provide any evidence of his financial feasibility claims. While the County has explained state housing law as justification for their decisions regarding the Project, the resulting extraordinary benefits to the applicant and the extraordinary environmental, financial, health and safety, and community impacts and costs have not been adequately acknowledged and characterized. The community is entitled to this information, and the County should provide a discussion that explains it.

State housing law defines "density bonus" as a density increase over the otherwise maximum allowable gross residential density. A reasonable interpretation of maximum allowable gross residential density would be the maximum density allowed under all County development regulations, that is, density based on acreage that can actually be developed with residential uses. However, the state apparently calculates maximum allowable gross residential density using gross acreage, regardless of whether or not the acreage can be developed. For this

project, this means the Grayson Creek setback for which development rights will be conveyed to the County, and the access road, are included in the Project density calculations.

This property should have been divided into no more than 4 lots considering net acreage to accommodate the creek setback area and access road, leaving a substantial protective creek buffer and likely the majority of the existing oak woodland. Instead, the applicant is utilizing state housing laws by providing a single moderate income home as a tool to increase the density allowed on this property by 150%, from 4 lots that would have been consistent with the neighboring area, to 10 lots consistent with development in urban downtown Pleasant Hill. Calculations to support this are provided in Neighborhood 2023 MND comments. The excessive density of this project is primarily responsible for the unmitigated environmental, community, and public health and safety impacts of this Project. The density must be reduced to avoid unmitigated impacts to Grayson Creek, the valuable oak woodland and riparian habitat on the Project site, and the community character of this part of the County. Without the excessive density, the waivers that add to the impacts would not be needed. Due to the density of the Project and the resulting impacts, it should be denied.

<u>The granting of numerous waivers to the County's development regulations significantly contributes to the unmitigated significant impacts of this project, and in some cases is not required to physically develop the Project.</u>

The staff report contains the following: *Density Bonus Law (Gov. Code § 65915(e)(1)) states "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section."* (emphasis added). The staff report further notes that the applicant has requested waivers of development standards for lot size and setbacks, and has stated that application of these development standards would physically preclude the construction of the project at its proposed density, as well as the proposed moderate-income unit.

The moderate income home is not responsible for creating the need for waivers of lot size or setbacks. Even at nine lots, a reduction in lot size would be required, evidence of the excessive density proposed by this Project. Thus, the tenth lot awarded to the Project as a Density Bonus, is not responsible for the need for a reduced lot size. Further, the need for reduced setbacks for the future homes is unjustified pursuant to state housing law. The lots can clearly be physically developed with reasonably sized homes, homes consistent in size with the surrounding neighborhood that would not require setback waivers. The applicant stated that the County's development standards would physically preclude construction of the project, which is clearly not the case. The applicant is choosing to construct giant homes, a choice that should be refused by the County by denying unnecessary setback waivers. If there is some other reason these large homes are being proposed and waivers are being granted to accommodate them, this should clearly be explained to the public in the MND and staff report. For example, if the applicant is justifying the size of these homes and the need for waivers because of an unsubstantiated claim of the financial feasibility of the project, the public should be informed of

this claim. Regardless, the waivers should be denied as they are not physically required. Applying standard setbacks would help somewhat in reducing the impacts of this giant wall of two-story boxy homes that will be built almost on top of each other, although aesthetic, community character and biological impacts will never be reduced below a threshold of significance at the proposed density of the Project.

The inclusion of Accessory Dwelling Units (ADUs) in the Project is unclear.

Project plans indicate 6 lots will contain homes with ADUs. Despite the County and the applicant insisting that no ADUs are included in the Project, the project plans that were approved (the plans included in the staff report) included ADUs. We asked to have language added to the Project description that excluded ADUs in the Project, or to have the plans revised to eliminate the ADUs, but we are not aware that either occurred. Therefore, we presume that ADUs are included in the project without any analysis of these ADUs in the MND. The inclusion of these 6 ADUs in a project that is already far too dense increases the environmental and health and safety impacts of the project with more traffic, more lighting, more noise, and simply more activity. Given the lenient stance of the state when it comes to adding ADUs, the Project could increase even further the number of ADUs that could be added in the future.

As this appeal has argued, this project as proposed should not be approved. If the County continues to recommend approval, that approval should include a restriction that disallows any ADUs on these ten lots, considering the already excessive size, scale and density of the Project and the sensitivity of Grayson Creek and remaining associated habitat.

Noncompliance with state law and unmitigated impacts to the environment and public health and safety.

Following is an excerpt from the staff report:

The Density Bonus Law puts the burden of rejecting any proposed incentives or concessions on the County and requires the County to grant the concession or incentive requested by the applicant unless the County makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions;

(B) The concession or incentive would have a specific, adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households;

(C) The concession or incentive would be contrary to state or federal law.

It is clear that the applicant's and County's interpretation of housing law is resulting in a Project with significant unmitigated impacts to public health and safety and to the environment, including biological and public trust resource impacts; and aesthetic, community character land use, and traffic impacts, all due to the Project's excessively high density and numerous concessions and waivers. The project as proposed violates CEQA, a state law, due to mitigation not compliant with CEQA as well due to unmitigated significant environmental Project impacts, a circumstance which is not allowed for an MND. The project also has unmitigated public health and safety impacts. Signifiant Project impacts are directly associated with the density bonus, concession and waivers which create a Project with a size, scale and density that does not allow for adequate mitigation, such as reestablishment of lost oak woodland and a creek setback that would sufficiently protect Grayson Creek from residential activity associated with the excessively large homes that are proposed. This project should therefore be denied, and redesigned at a lower density.

NOISE

Noise is inappropriately noted as less than significant, and conflicts in conditions of approval could result in significant noise impacts.

Construction noise has the potential to disturb surrounding neighbors for a significant period of time, given the number and size of the proposed homes together with the construction of streets and utilities and the destruction of trees and understory that attenuate noise. Mitigation Measure Noise 1 is proposed to reduce construction noise, yet the initial study shows temporary or permanent noise as less than significant without mitigation. This is conflicting, and needs to be corrected, although noise impacts may require additional mitigation due to insufficient MND analysis.

The MND inappropriately found per Noise 1 that it was acceptable to disturb the Neighborhood with construction noise from 7:00 AM until 7:00 PM weekdays, and from 8:00 AM until 7:00 PM on Saturdays. The County adopted these hours of operation in the Mitigation, Monitoring and Reporting Program (MMRP) as Mitigation Measure Noise 1. Mitigation measures adopted in an MMRP are conditions of approval for a project. The County also adopted a more restrictive condition of approval that requires that, unless approved otherwise via prior authorization from the Zoning Administrator for special circumstances, construction activities are limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and on specific holidays. Both these sets of requirements are conditions of approval, yet are clearly inconsistent. This creates confusion, potential vulnerability on the part of the County to challenges regarding which condition applies, and could ultimately impact the Neighborhood whose residents will suffer from all the noise resulting from the Project if Mitigation Measure Noise 1 is enforced in lieu of the more restrictive County condition of approval. The MMRP must be modified to be consistent with the County's more restrictive condition of approval, or the MND must find that noise has not been mitigated below a threshold of significance since the MMRP hours of

operation are clearly unacceptable for a currently quiet neighborhood and do not mitigate construction noise impacts below a threshold of significance.

The Project site is zoned for residential use, and although there are two existing homes, the homes have not been occupied for years. Therefore, the baseline for residential noise being generated by this property is zero. A subdivision creating a reasonable number of homes (i.e. 4 homes) would generate residential noise that would presumably be at a level that would be expected and acceptable, as this number of homes would mean noise consistent with noise generated by surrounding homes that exist at a similar density, size and scale, and noise that would be attenuated by the retention of significantly more mature trees and other vegetation.

The street noise from Grayson Road has audibly increased into our Neighborhood since the pre-construction site clearing occurred. Our neighborhood's peace and enjoyment have already been negatively impacted by this vegetation removal. This increase in noise will be significantly exacerbated by removal of 158 mature trees, and the addition of ten very large homes within a concentrated area that constitute more than twice the number of homes then could reasonably be constructed on the property absent the applicant's and County's reliance on state housing regulations to justify the unacceptable density of this Project. The analysis of the noise that will impact our neighborhood and surrounding neighborhoods did not address or analyze any of these circumstances. The analysis needs to be amended, and potentially additional mitigation added, in order to find that noise impacts are mitigated below a threshold of significance.

TRANSPORATION

The Project substantially increases traffic hazards due to noncompliance with County standards and poses an unmitigated significant impact to the public health and safety.

The applicant is using the inclusion of one moderate income home as a tool to avoid his obligation to construct Grayson Road frontage improvements. This includes two key issues as proposed by the applicant - the elimination of a sidewalk, and the construction of an asphalt curb rather than the normally required concrete curb.

Elimination of a sidewalk in light of the number and size of homes the applicant is proposing that will likely house a significant number of children, coupled with the excessive speed of the cars traveling up and down Grayson as witnessed and acknowledged by the Zoning Administrator, creates an unmitigated traffic hazard to pedestrians as well as drivers, and an unmitigated impact to pubic health and safety as the Neighborhood has argued in written and oral comments. To address this impact, the Zoning Administrator at the October 16, 2023 public hearing, added a condition of approval to the Project that requires the applicant to construct a 150-ft. infill section of sidewalk on the north side of Grayson, requiring a minor amount of effort and expense on the part of the applicant as compared to what he should actually be required to construct, or at the very least bond for so the County can construct any

necessary improvements in the future. When asked if the applicant was agreeable to constructing this infill section of sidewalk, he answered that he was not.

The addition of this short section of sidewalk across Grayson raises questions as to whether this is adequate mitigation for the impacts generated by the Project. Normally, MNDs cannot be circulated unless the applicant has agreed to proposed mitigation. In this case, the requirement was added at a public hearing and the applicant said he would not agree to it. Further, the public had no opportunity to provide input or ask questions about the proposed mitigation since it was added after the public hearing was closed. The applicant must agree to the construction of this section of sidewalk in order to utilize an MND to mitigate the public safety transportation hazard created by the applicant's proposal of no sidewalk.

However, even if the applicant agrees to the mitigation, constructing a sidewalk across Grayson from the Project does not fully mitigate the significant traffic and public health and safety impact because there is no safe way to access the sidewalk. Considering the speed of the traffic on Grayson, crossing Grayson can be challenging and unsafe, particularly at certain times of the day such as peak traffic times. Therefore, the applicant must be required to provide amenities that will create a safe way for the residents of the Project to cross Grayson to the north side in order to utilize the sidewalk. This could include a crosswalk with flashing lights that are activated when someone wants to cross, or a stop sign near the new access road intersection. A stop sign would also serve to stop traffic near the curve in Grayson that limits traffic visibility from Mohawk, and will also slow down traffic on Grayson, all of which would help mitigate the already challenging task of turning out of Mohawk onto Grayson that will be made more difficult by the additional traffic that will result from this Project. Without a safe way to cross Grayson, traffic and public health and safety impacts remain significant.

Asphalt concrete curb on Grayson is not sufficient.

The applicant is proposing to install an asphalt concrete curb along the Project's Grayson frontage in lieu of the normally required concrete curb, gutter and sidewalk. The existing curb and gutter on the south side of Grayson from Taylor Blvd. to Release Valley Road are concrete except at this one property. Therefore, the Project should be conditioned to require a concrete curb and gutter along the entire Grayson frontage. An asphalt curb will not last, and as it deteriorates, will result in drainage issues. With the number and size of the proposed homes coupled with the limited parking on the access road, parking will undoubtedly occur on Grayson, further contributing to the deterioration of an asphalt curb due to cars running over it. The applicant should be required to construct a concrete curb and gutter to be consistent with other curb and gutter on the south side of Grayson, and to minimize drainage impacts that would result from the deterioration of an asphalt curb.

Granting of an exception to private road standards constitutes yet another waiver of County standards, and results in diminished accessibility and loss of landscaping area in the right of way.

Confusion remains regarding the private road access for this Project. The MND and staff report identify the road as being 28 feet wide, with conflicting sidewalk widths of 4.5 and 5 feet identified in the staff report and Project information, and a 42-ft. right of way. The Project condition of approval included in the staff report stated that *per the Vesting Tentative Map, Applicant shall construct an on-site roadway system to current County private road standards with a minimum pavement width of 28 feet, with 4.5-foot sidewalk (measured from the face of curb) within a minimum 42-foot access easement.* However, as part of the Project approval, the Zoning Administrator, after the close of the public hearing, agreed to the applicant's request to narrow the right of way to 33 feet. When asked after the meeting what exactly was involved with this change, the County has yet to provide us with a clear answer.

We were last told that as a result of the change made at the hearing, the road width had been increased to 30 feet, the sidewalk was decreased to 3 feet, and the right of way was reduced to 33 feet, but we were referred to Public Works for clarification, which after sending two emails requesting clarification, we have yet to receive. With a right of way reduced to 33 feet, there would be no room for landscaping within the right of way as proposed by the Project description. The Project description states the Project would be accessible, yet is now proposing a 3-ft. sidewalk along the access road where a 4-ft. sidewalk would be required for accessibility. Further, this change represents yet another waiver of standard County requirements that was not advertised to the public, and was made after the close of the public hearing which foreclosed any ability of the public to understand the change, question it, or object to it. This is unacceptable, and requires the County to clearly address this change and allow public input prior to approval of the project.

We hope you have come to understand how much the Neighborhood values our homes, our neighborhood, and our beautiful and peaceful environs that include wildlife, sensitive habitats, and Grayson Creek, all of which contribute to the health of our local and regional environment and community. Is it really worth destroying these assets for the sake of one moderate income home? We do not believe it is. We also hope you understand we are not opposed to development of the Project site in a reasonable manner that respects the environment, the neighborhood, and the community. We are asking the County to have the same respect when considering approval of this damaging Project, and deny the Project.

We encourage you to contact us if you have any questions. Please keep us informed regarding the progress and status of this appeal. Thank you for your consideration of this appeal.

Sincerely,

The Mohawk/Iroquois Neighborhood

February 25, 2024

Contra Costa County Board of Supervisors
Clerk of the Board
1025 Escobar Street
Martinez, CA 94553
Delivery via email: clerkoftheboard@cob.cccounty.us
Cc: Lisa.Chow@bos.cccounty.us

RE: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

To Whom It May Concern:

I am a concerned citizen and resident of Pleasant Hill, California. In addition, I am the former Scoutmaster of Troop 405 in Pleasant Hill with an Eagle Scout Project associated with the Grayson Creek watershed.

The above referenced project proposal to build a 10-Lot Subdivision along Grayson Creek threatens the habitat of many animal species and trees. I urge you to deny this project. Surely there are more suitable areas within the confines of Pleasant Hill to construct ten (10) large single-family homes that won't disrupt what little greenspace still exists in the area.

As you will no doubt hear from others, this stretch of creek is an important wildlife habitat area in Pleasant Hill, and one of the most important wildlife areas in Contra Costa County.

My association with the area was as one of the adult advisers for an Eagle Scout Project. The Eagle Scout Project was part of an effort to restore Wood Ducks in Grayson Creek, an effort that remains ongoing today. This restoration project is both adjacent to and across from the proposed project site. The site was selected as the best possible habitat in Pleasant Hill for the return of Wood Ducks, which have not nested in the city for 50 years. While the Eagle Scout that carried out this project is now an adult, he is still involved with the data collection as a college student. The construction of 10 single-family homes in this area would essentially destroy this effort at habitat restoration.

As a Pleasant Hill homeowner, I can attest to the fact that the most prevalent wild animal in areas already developed are the sewer rats (Norway rats) and the roof rats (or Black rats). These animals are pests and not part of the endemic ecology of the area. All the building of houses along Grayson Creek will do is destroy the habitat for native and endemic species and provide an opening for more rats.

It is my understanding that the proposed project will result in the destruction of nearly 100 trees. Trees that are the nesting areas for many species of birds (including raptors and owls that help to control the suburban rat population) and some mammals (squirrels, raccoons, bats,

etc.). Not to put too fine of a point on it, but the loss of raptors and owls (predators that help to control the rodent populations) through habitat loss will allow the rodent population to flourish. The trees also serve to shade Grayson Creek and provide cooling islands within the suburban habitat. The removal of the trees and resulting understory will also eliminate habitat for other mammals such as deer and fox.

The last thing the City of Pleasant Hill and surroundings need are fewer trees and more concrete. I strongly urge you to reject this project.

Sincerely,

Dr. Michael McDowell, PhD
11 Dublin Court
Pleasant Hill, CA
734-730-5328

June McHuen

From: Clerk of the Board
Sent: Monday, February 26, 2024 3:57 PM
To: June McHuen; Jami Morritt
Subject: FW: Contra Costa County (HAU 681) Technical Assistance
Attachments: ContraCostaCo-HAU-681-TA-02262024-.pdf

I don't know exactly to whom this should be forwarded to.

Stacey M. Boyd
Deputy Clerk
Clerk of the Board
1025 Escobar St., 1st Floor
Martinez, CA 94553
(925)655-2002 (Desk)
(925)655-2000 (Office)

From: Regehr, Bentley@HCD <Bentley.Regehr@hcd.ca.gov>
Sent: Monday, February 26, 2024 3:39 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>
Cc: Heaton, Brian@HCD <Brian.Heaton@hcd.ca.gov>; West, Shannan@HCD <Shannan.West@hcd.ca.gov>
Subject: Contra Costa County (HAU 681) Technical Assistance

Good afternoon,

Please find the attached technical assistance letter for tomorrow's Board of Supervisors meeting regarding the appeal of the Planning Commission decision for the Grayson Road housing proposal.

If you have any questions regarding the content of this letter or would like additional technical assistance, please feel free to reach out.

Thank you,

Bentley Regehr
Senior Housing Policy Analyst
Housing Accountability Unit
Bentley.Regehr@HCD.ca.gov

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

February 26, 2024

Contra Costa County Board of Supervisors
John M. Gioia, Candace Andersen, Diane Burgis, Ken Carlson, Federal D. Glover
Via: clerkoftheboard@cob.cccounty.us
1025 Escobar Street
Martinez, CA 94553

Dear Supervisors John M. Gioia, Candace Andersen, Diane Burgis, Ken Carlson, Federal D. Glover:

RE: 1024 and 1026 Grayson Road, Contra Costa County – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding the proposed ten-lot single-family residential subdivision at 1024 and 1026 Grayson Road in Pleasant Hill (Project). HCD understands the Contra Costa County (County) Board of Supervisors (Board) will be considering an appeal related to the Project on February 27, 2024. HCD provides this letter of technical assistance to assist the Board in making a decision that is consistent with State Density Bonus Law (SDBL) (Gov. Code, § 65915, et. seq.[1]), specifically a local government's statutory obligations related to findings of denial for projects utilizing a concession under SDBL.

Background

HAU staff met with the Project applicant on January 23, 2024, and with County staff on February 13, 2024. Based on these meetings and County staff reports, HCD understands the following. The Project site has a General Plan Land Use Designation of Single-Family Residential Low and is zoned R-15 Single-Family Residential. The applicable base density of the site is nine units. The applicant is pursuing a density bonus unit under Government Code section 65915, subdivision (f)(4), by deed restricting one unit (12 percent) to moderate-income households, bringing the overall unit count to ten. The moderate-income unit also qualified the Project for one concession under Government Code section 65915, subdivision (d)(2), which proposed to eliminate the requirement for frontage improvements on Grayson Road, including the installation of a sidewalk.

[1] HCD has authority to enforce SDBL pursuant to Government Code section 65585, subdivision (j)(3).

The Project was approved by the County Zoning Administrator on October 16, 2023. As part of the approval, a condition was added that the developer shall improve the opposite frontage along Grayson Road directly across from the lot in order to maintain continuity within the existing sidewalk network. The concession request not to build the portion of the frontage directly adjacent to the Project site was approved by the County Zoning Administrator. The decision was then appealed to the Planning Commission, where on January 10, 2024, the appeal was upheld, thereby denying the entire Project. The appeal was upheld based on concerns that the concession created a specific adverse impact to health and safety (i.e., pedestrian safety) by omitting the installation of complete frontage improvements along the Project's side of Grayson Road. The Project applicant then appealed the Planning Commission's decision to the Board, with a hearing date scheduled for February 27, 2024. Regardless of the County's ultimate finding on the requested sidewalk concession, denial of the entire Project appears inappropriate at this juncture.

State Density Bonus Law (SDBL)

A project that meets the eligibility requirements of the SDBL is entitled to a density bonus, incentives/concessions, and development standard waivers[2]. The County must grant (i.e., "shall approve") the specific incentives/concessions requested by the applicant unless the City makes written findings, based on substantial evidence, that the incentive/concession would (1) not result in a cost reduction, (2) have a specific adverse impact on health or safety, or (3) be contrary to state or federal law[3]. The County bears the burden of proof for the denial of a requested concession[4]. To make the finding that the concession creates a specific adverse impact on health and safety, it must be shown that there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households[5].

To deny the concession for frontage improvements, the Board must make a written finding that the concession creates a clear and specific adverse impact on health and safety that cannot be feasibly mitigated. If the finding is made, the County could still provide a reasonable path to development of the Project by approving the Project and requiring the sidewalk as a condition of approval.

Conclusion

HCD finds the Planning Commission's decision to deny the Project without the option for modification concerning and would be similarly unsupportive of any outright denial by the Board. The Board should consider any actions that could be taken to mitigate adverse impacts on health and safety and, if these are not feasible, consider making sidewalk construction a condition of Project approval.

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[2] Gov. Code, § 65915, subd. (b).
[3] Gov. Code, § 65915, subd. (d).
[4] Gov. Code, § 65915, subd. (d)(4).
[5] Gov. Code, § 65915, subd. (d)(1)(B).

The State of California is in a housing crisis, and the provision of housing is a priority of the highest order. The Board should remain mindful of the County's obligations under the SDBL as it considers the appeal. HCD would also like to remind the County that HCD has enforcement authority over the SDBL, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law. (Gov. Code, § 65585, subd. (j).) If you have any questions regarding the content of this letter or would like additional technical assistance, please contact Bentley Regehr at bentley.regehr@hcd.ca.gov.

Sincerely,

Shannan West
Housing Accountability Unit Chief

cc: Joseph Lawlor, Senior Planner

June McHuen

From: Jami Morritt
Sent: Monday, February 26, 2024 4:25 PM
To: June McHuen; Stacey Boyd
Subject: FW: public comment re 1024-1026 Grayson Rd for 27Feb2024 BOS meeting
Attachments: Contra Costa County - HAA Letter - 1024-1026 Grayson Rd.pdf

For the minutes and BGO please.

Jami

From: James Lloyd <james@calhdf.org>
Sent: Monday, February 26, 2024 2:54 PM
To: Candace Andersen <Candace.Andersen@bos.cccounty.us>; Supervisor_Burgis <Supervisor_Burgis@bos.cccounty.us>; John Gioia <John.Gioia@bos.cccounty.us>; Supervisor Carlson <supervisorcarlson@bos.cccounty.us>; Supervisor Federal Glover <DistrictFive@bos.cccounty.us>
Cc: lerkoftheboard@cob.cccounty.us; Jami Morritt <Jami.Morritt@cob.cccounty.us>; Jjoseph.lawlor@dcd.cccounty.us; Colleen Awad <Colleen.Awad@bos.cccounty.us>; Dominique Vogelpohl <Dominique.Vogelpohl@dcd.cccounty.us>; Cameron Collins <Cameron.Collins@bos.cccounty.us>; Lisa Chow <Lisa.Chow@bos.cccounty.us>; Alicia Nuchols <Alicia.Nuchols@bos.cccounty.us>; Jen Quallick <Jen.Quallick@bos.cccounty.us>; David Fraser <David.Fraser@bos.cccounty.us>; Gayle Israel <Gayle.Israel@bos.cccounty.us>; John Kopchik <John.Kopchik@dcd.cccounty.us>; Sonia Bustamante <Sonia.Bustamante@bos.cccounty.us>
Subject: public comment re 1024-1026 Grayson Rd for 27Feb2024 BOS meeting

Dear Contra Costa County Board of Supervisors,

Please see attached CalHDF's public comment regarding agenda item 7.D.1, 1024-1026 Grayson Road, for the Board of Supervisors meeting occurring on 27 February 2024.

Sincerely,

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org

Feb 26, 2024

Contra Costa County
Board of Supervisors
1025 Escobar Street
Martinez, CA 94553

Re: Proposed Subdivision Development at 1024-1026 Grayson Road, File No. CDSD20-09531

By email: Candace Andersen, Candace.Andersen@bos.cccounty.us, Diane Burgis supervisor_burgis@bos.cccounty.us, John Gioia John.Gioia@bos.cccounty.us, Ken Carlson SupervisorCarlson@bos.cccounty.us, Federal Glover district5@bos.cccounty.us

Cc: clerkoftheboard@cob.cccounty.us, Jami Morritt, Jami.Morritt@cob.cccounty.us, Sonia Bustamante sonia.bustamante@bos.cccounty.us, Gayle Israel Gayle.Israel@bos.cccounty.us, Jen Quallick jen.quallick@bos.cccounty.us, Alichia Nuchols Alicia.Nuchols@bos.cccounty.us, Lisa Chow Lisa.Chow@bos.cccounty.us, David Fraser david.fraser@bos.cccounty.us, Cameron Collins cameron.collins@bos.cccounty.us, Colleen Awad colleen.awad@bos.cccounty.us, Joseph Lawlor joseph.lawlor@dcd.cccounty.us, Dominique Vogelpohl dominique.vogelpohl@dcd.cccounty.us, John Kopchik john.kopchik@dcd.cccounty.us

Dear Contra Costa County Board of Supervisors,

The California Housing Defense Fund ("CalHDF") submits this letter to inform the Contra Costa County Board of Supervisors that they have an obligation to abide by all relevant state housing laws when evaluating the proposed 10-unit residential subdivision at 1024-1026 Grayson Road ("the project").

The Housing Accountability Act (Gov. Code, § 65589.5, the "HAA") requires approval of zoning and general plan compliant projects unless findings can be made regarding specific, objective, written health and safety hazards. The project falls within the HAA's ambit, as it complies with the local zoning code (R-15) and the City's SL, Single-Family Low Density General Plan designation, outlined in the staff report. Waivers and concessions of development standards pursuant to the DBL, discussed below, do not render the project noncompliant with local development standards for HAA purposes. (*Id.* at subd. (j)(3).)Thus, the Board of Supervisors must approve the subdivision development for the project unless it

makes written health and safety findings, as described above – which it cannot do, since the preponderance of the evidence in the record does not support such a finding, notwithstanding the recent action of the Planning Commission to deny the project.

CalHDF also writes to emphasize that the Density Bonus Law (Gov. Code, § 65915; the "DBL") offers the proposed development certain protections. The Board of Supervisors must respect these protections. In addition to granting the increase in residential units allowed by the DBL (one additional unit in this case), the Board of Supervisors must not deny the proposed waivers and concessions with respect to minimum lot size, minimum lot width, minimum lot depth, setback requirements, and frontage improvements unless it makes written findings as required by Gov. Code, § 65915, subd. (e)(1) that the concession or waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. According to the County's own staff report, such waivers are necessary for the project to achieve the proposed density including the proposed moderate-income unit.

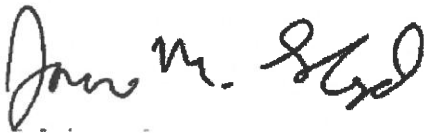
Finally, SB 330 mandates that the project only be subject only to the ordinances, policies, and standards adopted and in effect at the time of Preliminary Application submittal.

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will bring increased tax revenue and new customers to local businesses; and by providing new housing it will reduce displacement of existing residents. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Board of Supervisors to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

June McHuen

From: Jami Morritt
Sent: Monday, February 26, 2024 5:18 PM
To: June McHuen; Stacey Boyd
Subject: FW: public comment re 3180 Walnut Blvd for 27Feb2024 BOS meeting
Attachments: Contra Costa County - HAA Letter - 3180 Walnut Boulevard(1).pdf

For BGO & the minutes.

Jami

From: James Lloyd <james@calhdf.org>
Sent: Monday, February 26, 2024 4:53 PM
To: Candace Andersen <Candace.Andersen@bos.cccounty.us>; Supervisor_Burgis <Supervisor_Burgis@bos.cccounty.us>; John Gioia <John.Gioia@bos.cccounty.us>; Supervisor Carlson <supervisorcarlson@bos.cccounty.us>; Supervisor Federal Glover <DistrictFive@bos.cccounty.us>
Cc: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>; Jami Morritt <Jami.Morritt@cob.cccounty.us>; Sonia Bustamante <Sonia.Bustamante@bos.cccounty.us>; Gayle Israel <Gayle.Israel@bos.cccounty.us>; Jen Quallick <Jen.Quallick@bos.cccounty.us>; Alicia Nuchols <Alicia.Nuchols@bos.cccounty.us>; Lisa Chow <Lisa.Chow@bos.cccounty.us>; David Fraser <David.Fraser@bos.cccounty.us>; Cameron Collins <Cameron.Collins@bos.cccounty.us>; Colleen Awad <Colleen.Awad@bos.cccounty.us>; Joseph Lawlor <Joseph.Lawlor@dcd.cccounty.us>; John Kopchik <John.Kopchik@dcd.cccounty.us>; Dominique Vogelpohl <Dominique.Vogelpohl@dcd.cccounty.us>
Subject: public comment re 3180 Walnut Blvd for 27Feb2024 BOS meeting

Dear Contra Costa County Board of Supervisors,

Please see attached CalHDF's public comment regarding agenda item 7.D.2, 3180 Walnut Boulevard, File No. CDSD21-09581, for the 27 February 2024 Board of Supervisors meeting.

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org

CAL HDF

Feb 26, 2024

Contra Costa County
Board of Supervisors
1025 Escobar Street
Martinez, CA 94553

Re: Proposed Subdivision Development at 3180 Walnut Boulevard, CDSD21-09581

By email: Candace Andersen, Candace.Andersen@bos.cccounty.us; Diane Burgis, supervisor_burgis@bos.cccounty.us; John Gioia, John.Gioia@bos.cccounty.us; Ken Carlson, SupervisorCarlson@bos.cccounty.us; Federal Glover, district5@bos.cccounty.us

Cc: clerkoftheboard@cob.cccounty.us; Jami Morritt, Jami.Morritt@cob.cccounty.us; Sonia Bustamante, sonia.bustamante@bos.cccounty.us; Gayle Israel, Gayle.Israel@bos.cccounty.us; Jen Quallick, jen.quallick@bos.cccounty.us; Alichia Nuchols, Alicia.Nuchols@bos.cccounty.us; Lisa Chow, Lisa.Chow@bos.cccounty.us; David Fraser, david.fraser@bos.cccounty.us; Cameron Collins, cameron.collins@bos.cccounty.us; Colleen Awad, colleen.awad@bos.cccounty.us, Joseph Lawlor, joseph.lawlor@dcd.cccounty.us; Dominique Vogelpohl, dominique.vogelpohl@dcd.cccounty.us; John Kopchik, john.kopchik@dcd.cccounty.us

Dear Contra Costa County Board of Supervisors,

The California Housing Defense Fund ("CalHDF") submits this letter to inform the Contra Costa County Board of Supervisors that they have an obligation to abide by all relevant state housing laws when evaluating the proposed 10-unit residential subdivision at 3180 Walnut Boulevard ("the project").

The Housing Accountability Act (Gov. Code, § 65589.5, the "HAA") requires approval of zoning and general plan compliant projects unless findings can be made regarding specific, objective, written health and safety hazards. The project falls within the HAA's ambit, as it complies with the local zoning code (R-20) and the County's SL, Single-Family Residential Low Density (SL) General Plan designation, outlined in the staff report. Waivers and concessions of development standards pursuant to the DBL, discussed below, do not render the project noncompliant with local development standards for HAA purposes. (*Id.* at subd. (j)(3).) Thus, the Board of Supervisors must approve the subdivision development for the project unless it makes written health and safety findings, as described above – which it

cannot do, since the preponderance of the evidence in the record does not support such a finding.

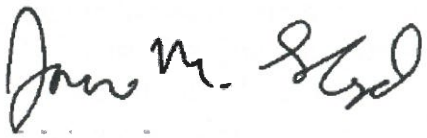
CalHDF also writes to emphasize that the Density Bonus Law (Gov. Code, § 65915; the "DBL") offers the proposed development certain protections. The Board of Supervisors must respect these protections. In addition to granting the increase in residential units allowed by the DBL (one additional unit in this case), the Board of Supervisors must not deny the proposed waivers and concessions with respect to minimum lot size, minimum lot width, setback requirements, and use of gross area for the density calculation unless it makes written findings as required by Gov. Code, § 65915, subd. (e)(1) that the concession or waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The County, moreover, bears the burden of proof on any such findings. (*Id.* at subd. (d)(4).)

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will bring increased tax revenue and new customers to local businesses; and by providing new housing it will reduce displacement of existing residents. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Board of Supervisors to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Integral Consulting Inc.
433 Visitacion Avenue
Brisbane, CA 94005

telephone: 925-895-4302
www.integral-corp.com

MEMORANDUM

To:	Andy Byde, Calibr Ventures
From:	Sadie McGarvey, Integral Consulting Inc.
Date:	February 26, 2024
Subject:	Grayson Road 10-Lot Subdivision Project – Response to Ecological Evaluations, Grayson Road 10-Lot Subdivision, #CDSD20-09531

The below discussion of project impacts to natural resources has been prepared in response to the February 19, 2024 ecological evaluation letter prepared for Ms. Lisa Shikany by Chad Roberts, Ph.D. (*Ecological Evaluations, Grayson Road 10-Lot Subdivision, #CDSD20-09531*; herein referred to as the February 2024 Shikany Letter). Nearly all components of the February 2024 Shikany Letter have been addressed multiple times in the previously submitted Response to Comments letters and memos (Response to Comments letter provided to Joseph Lawlor of Contra Costa County on July 31, 2023, the January 3, 2024 Response to Comments, and the January 10, 2024 Response to Comments Memo regarding the Regional Water Quality Control Board Letter). However, Dr. Roberts makes multiple new erroneous assertions regarding onsite resources and impacts to those resources, and these are addressed specifically below.

The Project site is located on an urban infill 3.05-acre property surrounded by existing residential development. Due to the small size and infill nature of the Project site, which additionally experiences regular and significant disturbance including biannually discing, mowing multiple times throughout the growing season, and tree trimming throughout the year (as necessary), the onsite upland woodland communities (i.e., valley oak and mixed woodland) do not exhibit the functions and values expected of an interconnected forest resource system, as represented in the February 2024 Shikany Letter. As noted above, nearly all onsite areas above/beyond the Grayson Creek top of bank (TOB) are regularly disturbed for fire suppression, precluding the existence of significant understory vegetation development. Valley oak woodland and mixed oak woodland plant communities are not rare plant communities in this region, with Contra Costa County alone supporting a roughly 81,000 acres of oak woodland[1]. As a disturbed infill site surrounded by existing residential development, the onsite

[1] UC Oaks. 2022. Oak Woodland Policies of 41 California Counties. University of California Agricultural and Natural Resources Cooperative Extension. Accessed on February 21, 2024 at https://oaks.cnr.berkeley.edu/description-of-county-oak-conservation-policies/

upland woodland communities are plainly not part of a larger interconnected system of oak woodlands.

A review of historic aerial photography demonstrates that conversion of onsite vegetation from orchard to fallow field (1950s/1960s), and the later ecological succession into the Valley oak, mixed, and riparian woodland that are currently dominating the site. This conversion coincided with the residential development of the surrounding lands. It is clear that at no point in recent history have the upland woodland communities on the Project site been part of a system of contiguous undisturbed upland communities or oak woodlands that provide the enhanced ecological values and services at the landscape level as falsely asserted in the February 2024 Shikany Letter; rather, the onsite upland woodland communities function as marginal stands of oaks and various non-native trees, isolated within a matrix of residential development. The assessment presented within the February 2024 Shikany Letter that the entire Project site provides a functionally important role for most mobile wildlife species in the region is inaccurate and does not reflect the historic or regional context of the Project site or actual longstanding site conditions. Regardless, Project design includes the avoidance of approximately 30 percent of the onsite trees, all other trees will be replaced. Implementation of the project design (including woodland avoidance measures) and Mitigation Measure Biology 2 minimize impacts to onsite trees and woodlands through avoidance, to the greatest degree possible, and replacement, which reduces the magnitude of permanent tree/Valley oak and mixed woodland habitat removal.

In contrast to the onsite upland woodland communities that are not part of a larger interconnected system of oak woodlands, the onsite riparian woodland is part of a contiguous riparian corridor along Grayson Creek, both up and downstream from the Project site. While 0.21 acre of riparian habitat will be impacted by the Project, those impacts will be 1) along the northern border of the onsite riparian habitat, with no impacts below the TOB of Grayson Creek; 2) authorized by CDFW through the Lake and Streambed Alteration Agreement (LSAA) application process; and 3) mitigated in a manner determined to be suitable to both the County (through CEQA and County Tree Ordinance compliance) and CDFW (through the LSAA process), including the replacement planting of riparian woodland tree species. The proposed project was designed to accommodate a 50-foot creek setback to avoid impacts to the adjacent Grayson Creek and surrounding habitat to the greatest extent feasible, including the avoidance of trees within the riparian corridor. Implementation of the project design (including riparian avoidance measures) and Mitigation Measure Biology 2, minimize impacts to onsite riparian trees and woodland through avoidance and replacement, which reduces the magnitude of permanent tree/riparian habitat removal. Onsite replacement planting has been determined to be feasible by the licensed landscape architecture firm RW Stover & Associates, Inc, who are familiar and experienced with California native oak woodland and riparian trees and their growth requirements and conditions, and who created the Tree Mitigation Plan.

The February 2024 Shikany Letter includes an erroneous conclusion that the biological assessments prepared by Olberding Environmental, Inc and Johnson Marigot Consulting (now

Integral Consulting, Inc) identified potential concerns regarding potential Project impacts to onsite or site adjacent aquatic resources regulated pursuant to the Clean Water Act (CWA) – both assessments concluded that the Project *would not* result in impacts to water of the U.S./State (WOTUS) regulated by USACE pursuant to Section 404 of the Clean Water Act (CWA) and by the RWQCB pursuant to the Section 401 of the CWA and the Porter Cologne Water Quality Control Act. Dr. Roberts discusses the changing regulatory landscape regarding impacts to WOTUS in light of the 2023 *Sackett v. USEPA* wetlands case, which held that the Clean Water Act extends only to wetlands that have a continuous surface connection with "waters" of the United States — i.e., with a relatively permanent body of water connected to traditional interstate navigable waters, 33 U.S.C. § 1362(7). The Sackett case addresses the jurisdiction of USACE to regulate seasonal wetlands and ephemeral linear features (neither of which occurs on the Project site), and as Grayson Creek is perennial "Other Water", USACE/RWQCB jurisdiction over the creek has not changed as a result of the Sackett ruling. To that point, the limits of CWA jurisdiction include the Ordinary High Water Mark of flowing features, and permitting requirements are triggered by proposed placement of fill materials below the plane of the Ordinary High Water Mark; the project does not propose placement of any fill materials within the CWA jurisdiction, and CWA permits are not required.

Dr. Roberts' conclusion is that the proposed project will result in "unmitigated and significant" impacts and therefore the CEQA analysis should include an Environmental Impact Report. Dr. Roberts has based this determination on his conclusion that the proposed mitigation measures do not mitigate the proposed impacts to a less than significant level. While we appreciate his opinion and his background in forest ecology, the majority of his letter is focused on describing vegetation associations, and defining riparian functions and forest growth patterns, but it does not focus on the Project site itself. He indicates that he has not visited the site, and has derived his understanding of the site from the reports prepared by Olberding Environmental, Inc and Johnson Marigot Consulting, but then somehow concludes that those reports do not accurately describe the project's impacts. The site actually consists of an infill lot that has been consistently manipulated for decades and is highly disturbed. The onsite understory has been consistently removed for fuel management, and the functions and services associated with the onsite upland vegetation has been historically suppressed. While any proposed development of this site can be expected to result in some biological impact, just as the historic land practices that constitute the actual, accurate baseline for this issue have, the proposed development project includes setbacks to protect the riparian corridor and Grayson Creek, as well as a replanting plan intended to minimize, avoid, and mitigate for impacts to the greatest degree possible. The inclusion of these measures clearly reduces the impact of this project to a less than significant level. The standard for use of an Initial Study / Mitigated Negative Declaration is that project impacts must be reduced to less than significant, including mitigation (as is the case here); it does not require project impacts to be mitigated to "none." In addition, mitigation goals are calibrated on existing (current) functions and values—the CEQA baseline—they do not contemplate the historic condition (which in this case has never been an undisturbed or interconnected upland woodland community), nor the loss of ecological function due to historical land practices. Given the proposed avoidance, minimization, and mitigation measures, the determination by the County that the project

impacts are "less than significant" is accurate, and the Initial Study/Mitigated Negative Declaration that was completed pursuant to CEQA is appropriate and consistent with all that CEQA requires.

D.1

From: Clerk of the Board
Sent: Monday, February 26, 2024 3:36 PM
To: Supervisor John_Gioia; Supervisor Candace Andersen; Supervisor_Burgis; Supervisor Carlson; Supervisor Federal Glover
Cc: Monica Nino; Julie Enea; Joyce Ring-Reaves; June McHuen
Subject: FW: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting
Attachments: Grayson Creek Letter_02252024-2.docx

The email below and the attachment above were received in the Clerk of the Board's office.

Stacey M. Boyd
Deputy Clerk
Clerk of the Board
1025 Escobar St., 1st Floor
Martinez, CA 94553
(925)655-2002 (Desk)
(925)655-2000 (Office)

-----Original Message-----
From: Pat <
Sent: Monday, February 26, 2024 1:31 PM
To: Clerk of the Board <ClerkOfTheBoard@cob.cccounty.us>
Cc: Lisa Chow <Lisa.Chow@bos.cccounty.us>
Subject: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

Clerk of the Board,

I am sending the attached letter from Mr. Michael McDowell, former Scoutmaster of Scout Troop 405 in Pleasant Hill. Mr. McDowell knows Supervisor Carlson through the Troop and Church of the Resurrection which sponsors this Scout Troop.

This email is in regard to the Grayson Road 10-Lot Subdivision CDSD20-09531, Agenda File #24-0618 for Board of Supervisors 2-27-24 meeting. I would appreciate a reply to confirm your receipt of this email transmittal.

Thank you very much,

Patrick King

February 25, 2024

Contra Costa County Board of Supervisors
Clerk of the Board
1025 Escobar Street
Martinez, CA 94553
Delivery via email: clerkoftheboard@cob.cccounty.us
Cc: Lisa.Chow@bos.cccounty.us

RE: Grayson Road 10-Lot Subdivision CDSD20-09531, File #24-0618 for BOS 2-27-24 Meeting

To Whom It May Concern:

I am a concerned citizen and resident of Pleasant Hill, California. In addition, I am the former Scoutmaster of Troop 405 in Pleasant Hill with an Eagle Scout Project associated with the Grayson Creek watershed.

The above referenced project proposal to build a 10-Lot Subdivision along Grayson Creek threatens the habitat of many animal species and trees. I urge you to deny this project. Surely there are more suitable areas within the confines of Pleasant Hill to construct ten (10) large single-family homes that won't disrupt what little greenspace still exists in the area.

As you will no doubt hear from others, this stretch of creek is an important wildlife habitat area in Pleasant Hill, and one of the most important wildlife areas in Contra Costa County.

My association with the area was as one of the adult advisers for an Eagle Scout Project. The Eagle Scout Project was part of an effort to restore Wood Ducks in Grayson Creek, an effort that remains ongoing today. This restoration project is both adjacent to and across from the proposed project site. The site was selected as the best possible habitat in Pleasant Hill for the return of Wood Ducks, which have not nested in the city for 50 years. While the Eagle Scout that carried out this project is now an adult, he is still involved with the data collection as a college student. The construction of 10 single-family homes in this area would essentially destroy this effort at habitat restoration.

As a Pleasant Hill homeowner, I can attest to the fact that the most prevalent wild animal in areas already developed are the sewer rats (Norway rats) and the roof rats (or Black rats). These animals are pests and not part of the endemic ecology of the area. All the building of houses along Grayson Creek will do is destroy the habitat for native and endemic species and provide an opening for more rats.

It is my understanding that the proposed project will result in the destruction of nearly 100 trees. Trees that are the nesting areas for many species of birds (including raptors and owls that help to control the suburban rat population) and some mammals (squirrels, raccoons, bats,

etc.). Not to put too fine of a point on it, but the loss of raptors and owls (predators that help to control the rodent populations) through habitat loss will allow the rodent population to flourish. The trees also serve to shade Grayson Creek and provide cooling islands within the suburban habitat. The removal of the trees and resulting understory will also eliminate habitat for other mammals such as deer and fox.

The last thing the City of Pleasant Hill and surroundings need are fewer trees and more concrete. I strongly urge you to reject this project.

Sincerely,

Dr. Michael McDowell, PhD
11 Dublin Court
Pleasant Hill, CA
734-730-5328