

## Syd Sotoodeh

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**From:** CEQAReview <ceqareview@dtsc.ca.gov>  
**Sent:** Thursday, April 3, 2025 6:37 AM  
**To:** Syd Sotoodeh  
**Cc:** Office of Planning and Research - State Clearinghouse; Kereazis, Dave@DTSC; Wiley, Scott@DTSC  
**Subject:** DTSC Comments - Green Valley Road Rezone and Two-Lot Minor Subdivision (County File CDRZ23-03271 and CDMS23-00005)  
**Attachments:** DTSC Comments - Green Valley Road Rezone and Two-Lot Minor Subdivision (County File CDRZ23-03271 and CDMS23-00005).pdf

Good Morning Syd,

The Department of Toxic Substances Control (DTSC) received and reviewed the MND for [Green Valley Road Rezone and Two-Lot Minor Subdivision \(County File CDRZ23-03271 and CDMS23-00005\)](#). Attached are DTSC's comments for consideration.

Thank you,



CEQA Unit  
HWMP-Permitting  
Department of Toxic Substances Control  
California Environmental Protection  
Agency  
[CEQAReview@dtsc.ca.gov](mailto:CEQAReview@dtsc.ca.gov)



**Yana Garcia**  
Secretary for  
Environmental Protection



**Department of Toxic Substances Control**

Katherine M. Butler, MPH, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200  
[dtsc.ca.gov](http://dtsc.ca.gov)



**Gavin Newsom**  
Governor

**SENT VIA ELECTRONIC MAIL**

April 3, 2025

Syd Sotoodeh  
Senior Planner  
Contra Costa County Dept. of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
[syd.sotoodeh@dcd.cccounty.us](mailto:syd.sotoodeh@dcd.cccounty.us)

RE: MITIGATED NEGATIVE DECLARATION FOR THE GREEN VALLEY ROAD  
REZONE AND TWO-LOT MINOR SUBDIVISION (COUNTY FILE CDRZ23-03271 AND  
CDMS23-00005) DATED MARCH 27, 2025, STATE CLEARINGHOUSE NUMBER  
[2025031276](https://clearinghouse.ca.gov/2025031276)

Dear Syd Sotoodeh,

The Department of Toxic Substances Control (DTSC) reviewed the Mitigated Negative Declaration (MND) for Green Valley Road Rezone and Two-Lot Minor Subdivision (County File CDRZ23-03271 and CDMS23-00005) (Project). The applicant is requesting approval of a vesting tentative map to subdivide the subject 2-acre property into two parcels. The Project proposes one approximately 16- to 30-foot private access and utility easement and to remove and replace the existing driveway onto Green Valley Road. New development for proposed Parcel B includes demolishing a barn and constructing a new 3,496-square-foot, two-story, single-family residence. No changes to the existing residence or driveway on Parcel A are proposed. The applicant also requests a rezone of the property from A-2, General Agricultural District to R-40, Single-Family Residential district. DTSC recommends and requests consideration of the following comments:

1. When agricultural crops and/or land uses are proposed or rezoned for residential use, a number of contaminants of concern (COCs) can be present. The Lead Agency shall identify the amounts of Pesticides and Organochlorine Pesticides (OCPs) historically used on the property. If present, OCPs requiring further analysis are dichloro-diphenyl-trichloroethane, toxaphene, and dieldrin. Additionally, any level of arsenic present would require further analysis and sampling and must meet [HHRA NOTE NUMBER 3, DTSC-SLs](#) approved local area baselines or thresholds. If they do not, remedial action must take place to mitigate them below those thresholds. Additional COCs may be found in mixing/loading/storage areas, drainage ditches, farmhouses, or any other outbuildings and should be sampled and analyzed. If smudge pots had been routinely utilized, additional sampling for Polycyclic Aromatic Hydrocarbons and/or Total Petroleum Hydrocarbons may be required.
2. DTSC recommends that all imported soil and fill material should be tested to assess any contaminants of concern meet screening levels as outlined in [DTSC's Preliminary Endangerment Assessment Guidance Manual](#). Additionally, DTSC advises referencing the [DTSC Information Advisory Clean Imported Fill Material Fact Sheet](#) if importing fill is necessary. To minimize the possibility of introducing contaminated soil and fill material there should be documentation of the origins of the soil or fill material and, if applicable, sampling be conducted to ensure that the imported soil and fill material are suitable for the intended land use. The soil sampling should include analysis based on the source of the fill and knowledge of prior land use. Additional information can be found by visiting [DTSC's Human and Ecological Risk Office \(HERO\) webpage](#).

DTSC would like to thank you for the opportunity to comment on the MND for the Project. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like clarification on DTSC's comments, please respond to this letter or via our [CEQA Review email](#) for additional guidance.

Syd Sotoodeh  
April 3, 2025  
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Sincerely,

*Tamara Purvis*

Tamara Purvis  
Associate Environmental Planner  
HWMP - Permitting Division – CEQA Unit  
Department of Toxic Substances Control  
[Tamara.Purvis@dtsc.ca.gov](mailto:Tamara.Purvis@dtsc.ca.gov)

cc: (via email)

Governor's Office of Land Use and Climate Innovation  
State Clearinghouse  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

Dave Kereazis  
Associate Environmental Planner  
HWMP-Permitting Division – CEQA Unit  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Scott Wiley  
Associate Governmental Program Analyst  
HWMP - Permitting Division – CEQA Unit  
Department of Toxic Substances Control  
[Scott.Wiley@dtsc.ca.gov](mailto:Scott.Wiley@dtsc.ca.gov)

**From:** [Navarro, Karina](#)  
**To:** [Syd Sotoodeh](#)  
**Cc:** [Rehnstrom, David](#); [Navarro, Karina](#)  
**Subject:** RE: Notice of Intent to Adopt a Proposed Mitigated Negative Declaration for the Green Valley Road Rezone and Two-Lot Minor Subdivision, Contra Costa County  
**Date:** Tuesday, April 15, 2025 9:48:42 AM  
**Attachments:** [wdpd25\\_054\\_Green\\_Valley\\_Road\\_Rezone\\_and\\_Two-Lot\\_Minor\\_Sudivision.pdf](#)

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*This message has been approved by the Manager of Water Distribution Planning - David J. Rehnstrom*

Dear Mr. Sotoodeh:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Mitigated Negative Declaration for the Green Valley Road Rezone and Two-Lot Minor Subdivision located in unincorporated Contra Costa County. Please see attached document for EBMUD's comments.

If you have any questions concerning this response, please contact Sandra Mulhauser, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-7032.

Sincerely,  
David J. Rehnstrom  
Manager of Water Distribution Planning

April 14, 2025

Syd Sotoodeh  
Department of Conservation and Development  
Contra Costa County  
30 Muir Road  
Martinez, California 94553

Re: Notice of Intent to Adopt a Proposed Mitigated Negative Declaration for the Green Valley Road Rezone and Two-Lot Minor Subdivision, Contra Costa County (County File CDRZ23-03271 and CDMS23-00005)

Dear Mr. Sotoodeh:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Mitigated Negative Declaration for the Green Valley Road Rezone and Two-Lot Minor Subdivision located in unincorporated Contra Costa County (County). EBMUD has the following comments.

## **WATER SERVICE**

EBMUD's Diablo Pressure Zone, with a service elevation range between 450 and 650 feet, will serve the proposed development. Once the property is subdivided, separate meters for each lot will be required. Parcels A and B have frontage on and will receive water service from the water main located in Green Valley Road. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water services require substantial lead time, which should be provided for in the project sponsor's development schedule.

## **WATER CONSERVATION**

The proposed development presents an opportunity to incorporate water conservation measures. EBMUD requests that the County include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

Syd Sotoodeh, Senior Planner  
April 14, 2025  
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If you have any questions concerning this response, please contact Sandra Mulhauser, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-7032.

Sincerely,



David J. Rehnstrom  
Manager of Water Distribution Planning

DJR:WTJ:djr

wdpd25\_054\_ Green Valley Road Rezone and Two-Lot Minor Subdivision.doc

cc: Benoit McVeigh  
dk Engineering  
1931 San Miguel Drive  
Walnut Creek, CA 94596

**From:** [David Bowie](#)  
**To:** [Syd Sotoodeh](#)  
**Cc:** [Fred Wilson](#); [Tim Scott](#)  
**Subject:** Notice of Public Review and Adoption of a MND  
**Date:** Wednesday, April 23, 2025 4:16:42 PM  
**Attachments:** [20250423040743756.pdf](#)

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Please find attached a comment letter regarding property on Green Valley in Alamo. Please acknowledge receipt.  
Thank you. Dave Bowie

David J. Bowie, Esq.  
Bowie & Schaffer, Attorneys at Law  
2255 Contra Costa Blvd, Ste 305  
Pleasant Hill, CA 94523

Office (925) 939-5300  
Fax (925) 609-9670

-----Original Message-----

From: bowieschafferlaw@gmail.com <bowieschafferlaw@gmail.com>  
Sent: Wednesday, April 23, 2025 4:08 AM  
To: David Bowie <dave@bowieschafferlaw.com>  
Subject: Message from "RNP002673F76458"

This E-mail was sent from "RNP002673F76458" (MP 3055).

Scan Date: 04.23.2025 04:07:43 (-0700)  
Queries to: bowieschafferlaw@gmail.com

**BOWIE & SCHAFFER**  
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[Eric@bowieschafferlaw.com](mailto:Eric@bowieschafferlaw.com)

April 22, 2025

Via Email: [syd.sotoodeh@dcd.cccounty.us](mailto:syd.sotoodeh@dcd.cccounty.us)

Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attn: Syd Sotoodeh

Re: CDMS23-00005/CDRZ23-03271; 1921 Green Valley Road Alamo, CA APN: 194-070-015 and 1940070-018

Dear Mr. Sotoodeh:

I represent the Kimberwicke Court neighborhood of Alamo. Kimberwicke Court is directly across Green Valley Road from the property parcel identified above, which is the subject of both a proposed rezoning and proposed minor subdivision, as well as tree removal permits and the applications for a variety of variances. The neighborhood unanimously opposes the rezoning and proposed development as currently under consideration by the County.

On March 26, 2025, your office issued a Notice of Public Review and Intent to Adopt a Proposed Mitigated Negative Declaration with respect to the proposed project. The Notice included an Initial Study which purported to evaluate the potential environmental impacts of the project. The period for accepting public comments on the adequacy of the environmental document will lapse at the close of business Thursday, April 24, 2025. This letter is a comment on the referenced environmental document and has been submitted on behalf of the Kimberwicke Court neighbors in close proximity to the intended project.

The proposed subdivision, variances, suitability of the property for development and density, and numerous other matters are all academic issues – dependent on the ultimate decision regarding whether or not the subject property should be rezoned. The applicant and the Initial Study have treated this fundamental issue as something of little or no consequence. Nothing could be farther from the truth.

The approval of development projects is primarily a quasi-adjudicative matter. Existing regulations and requirements are applied to the particular project, resulting in a decision that must be supported by factual findings consistently applied under the law. Sometimes, however, real estate project decisions are not adjudicative at all; they are legislative determinations. Zoning decisions are the best examples of the legislative process. Zoning decisions and policies are a result of the political process by which communities define themselves. As long as those decisions are not arbitrary, the expression of community values expressed in that fashion are largely immune from challenge.

The subject property has been zoned A-2 since it was created by subdivision in or about 1966. That zoning designation is consistent with the General Plan. The particular property is extraordinarily steep (at an average slope of greater than 53%) and entirely unsuitable for flat land development and density. There are other zoning districts of R-20 and R-40 within the general area; however, the particular property is but one of a number of adjoining parcels in this very steep terrain that share a common A-2 designation.

Long after the particular property resulted in a lawful lot following its original subdivision, the County adopted a Slope Density Overlay District. That District requires less density as the average slope of terrain to be subdivided increases. That District applied to this property would never permit the subdivision proposed in this instance. The Overlay District does not apply to this property. However, the current A-2 zoning designation performs virtually the same function as would have been the case had the property been designated as subject to the Overlay District. In other words, the lot size dimensions of the A-2 District are consistent with the basic principle that the size of lots should increase (and density decrease) as the steepness of terrain increases.

As a matter of general law, a change in zoning should respond to changes which render an existing zoning obsolete. There are no changed conditions involved in this particular application. There is simply a request to change the zoning district so that a subdivision might be permitted. There are no physical changes nor are there any zoning changes proposed for the other properties within that same designation in its geographic proximity.

The MND describes the subject property as an approximately 2 acre irregularly shaped lot located within an A-2 zoning district with two separate assessor's parcel numbers. The proposal is to rezone to R-40 and then subdivide the existing single parcel into two separate lots: one of .95 gross acres and the other of 1.05 gross acres. The parcels would each require variances to R-40 zoning requirements as well as an exception. The R-40 zoning district requires a minimum lot size of 40,000 square feet with substantial side yard and front yard setbacks. The minimum lot size requirement excludes rights of way from its calculation. The MND indicates plans for a right of way access ranging from 16 to 30 feet in width – and certainly at least 200 feet (or more) in length. A simple calculation based on the approximate lot sizes stated would describe the gross lots as approximately 41,382 and 45,738 square feet, respectively. The area of rights of way cannot be calculated from information available to me. However, it would appear most likely that neither resulting lot from an approved subdivision would meet minimum area requirements for the R-40 zoning district; furthermore, neither lot would meet other requirements of the District such as set back requirements.

The MND speaks to the question as to whether the project would cause a significant environmental impact due to conflict with any land use plan, policy or regulation. The MND disregards potential conflicts with land use policies by its characterization of the density as falling within an acceptable range and broadly approximating the "net" area calculations in cavalier fashion. There is no distinction drawn between environmental policies and the arbitrary and unjustified proposal to simply advocate for R-40 zoning while ignoring the fact that minimum standards are not met and variances would be required. Under those circumstances, one of the less dense zoning designations – such as R-65 – would be more consistent with the same cited policies and would avoid the creation of substandard lots requiring variances due to physical constraints. Land use policies make clear that the environmental purposes which gave rise to the slope density overlay district would permit only .2 du/acre on this property – resulting in an absolute prohibition against any subdivision of the property. (Slope density tops out at 40% average slope; the instant property is described as having an average slope of 53%.)

In addition to an arbitrary adoption of R-40 as a proper zoning density designation for this property, the MND failed to consider the cumulative impacts of development within the area. As noted, there are many properties similarly situated to that under consideration which are currently designated A-2. The rezoning of this property to R-40 would likely either result in being determined to have been an improper "spot zoning" or act as a catalyst for future rezoning applications and future subdivision once such re-zoning might be accomplished. The MNC is wholly inadequate as having failed to consider the environmental impacts related to its cavalier proposed rezoning of the Property to R-40.

Viewed analytically, the County has been asked to rezone property for no reason other than a single property owner has requested it. Many other property owners in the area oppose that request. The same environmental policies involved in County land use within the geographic area are better furthered by a less dense zoning than proposed and reviewed in the MND. There is no discussion as to why the more dense zoning category has been proposed over less dense categories that are also found in the area and which by definition further environmental goals. There is no justification for a proposed re-zoning that will result in a substandard lot(s) requiring variances related to development.

Please consider and respond to these comments.

Very truly yours,

  
David J. Bowie