CONCURRENT MEETING
CITY COUNCIL/COMMUNITY REDEVELOPMENT AGENCY (CRA)/ RANCHO CORDOVA FINANCING CORPORATION (RCFC)

New City Hall Community Room 100/101
2729 Prospect Park Drive, Rancho Cordova
&
*****The Ritz Carlton Kapalua**
One Ritz-Carlton Drive, Kapalua, Hawaii

Tuesday, January 17, 2006
5:00 P.M. – Closed Session
5:30 P.M. – Regular Meeting

AGENDA

CLOSED SESSION

Council will Adjourn to Closed Session for the Following Purpose:

1. Conference with Legal Counsel – Anticipated Litigation Significant Exposure to Litigation Government Code Section 54956.9 (b) (one case).

REGULAR MEETING

Call to Order

Roll Call: Council Members Budge, Cooley, Skoglund, ***Sander & McGarvey

Metro Cable TV Telecast Announcement

Pledge of Allegiance

Invocation

2. Reverend Becky Goodwin, United Methodist Church, will give the invocation.

*Time listed on the agenda is approximate and for convenience only
***NOTE: Vice Mayor Sander will be joining the meeting via conference call from Hawaii

Presentation

3. New Staff Introductions:
   Alexandra Miller, Management Assistant
   Esther Pinola, Senior Accounting Technician
   Jay Hadley, Information Technology Manager
   Joe Cuffe, Senior Building Permit Technician
   Ken Mace, Building Inspector II
   Michael Rodriguez, Contract Animal Services Manager
   Sharon Racine, Animal Services Officer

ORAL COMMUNICATIONS

4. **Public Comment**

   Citizens wishing to address the Council for any matter on the Consent Calendar or not on the agenda may do so at this time by completing and submitting a (blue) Speaker Card to the City Clerk. **For items on the agenda, speakers will be called up to the podium by the Mayor at the point on the agenda when the item will be heard.** Speakers are encouraged to keep comments to three minutes or less and to state name and community of residence.

   Citizens wishing to address the Council at the teleconference site will be allowed to speak now.

   Note, under the provisions of the California Government Code, the City Council is prohibited from discussing or taking immediate action on any unagendized item unless it can be demonstrated to be of an emergency nature or the need to take immediate action arose after the posting of the agenda.

CONSENT CALENDAR ITEMS – ROLL CALL VOTE

5. **Subject:** Minutes of City Council Special Meeting of December 15, 2005
   Recommendation: Adopt Minutes.

6. **Subject:** Second Reading of Ordinance No. 29-2005 Amending Title 1 of the Rancho Cordova Zoning Code Regarding Illegal Uses
   Recommendation: Waive second reading and adopt Ordinance No. 29-2005. **(Roll Call Vote)**
   Result of Recommended Action: Ordinance No. 29-2005 will clarify that activities which are illegal under Federal and State law may be enforced as violations of the City's Municipal Code.
   Staff Report: Steve Meyers, City Attorney

7. **Subject:** Second Reading of Ordinance No. 30-2005 Approving the Development Agreement for RC-04-096, the Sunridge Park Phase II Project
   Recommendation: Waive second reading and adopt Ordinance No. 30-2005. **(Roll Call Vote)**
   Result of Recommended Action: Ordinance No. 30-2005 authorizes the city to enter into an agreement that will vest the developer's right to build 181 units in exchange for

paying the city: $1,500.00 per unit for existing parks, $450.00 per unit for supplemental police services, and other consideration.
Staff Report: Bill Campbell, Planning & Adam Lindgren, City Attorney

8. **Subject:** Resolution Declaring the Results of Mail Ballot Election for Rancho Cordova Transit-Related Services Special Tax Area Zone 3 (Capital Village Subdivision) and Second Reading of Ordinance No. 31-2005 Establishing a Special Tax for Transit-Related Services for the Capital Village Subdivision Subject to Voter Confirmation
Recommendation: Adopt Resolution No. 02-2006 and waive second reading and adopt Ordinance No. 31-2005. **(Roll Call Vote)**
Result of Recommended Action: The recommended actions authorize the collection of a special tax in Capital Village to provide funding for transit-related services. The amount of the tax per parcel on an annual basis ranges from $48 to $80 per residential dwelling unit, $2,051 per retail and service commercial acre, and $1,763 per commercial mixed use acre.
Staff Report: Cyrus Abhar, Public Works

9. **Subject:** Resolution to Memorialize the Employee Contribution to the California Public Employees Retirement System (Calpers)
Recommendation: Adopt Resolution No. 04-2006.
Result of Recommended Action: This is a housekeeping item to comply with Calpers requirements to memorialize the contribution of 2.5% of salary to the retirement system by city employees.
Staff Report: Lillian Hare, City Clerk/Human Resources

10. **Subject:** Award Contract to Responsive Bidder Beebe Corporation in the amount of $401,464.00 for Site Work, Including Disabled Access Upgrades, Required Exiting Path of Travel Routes, Outdoor Seating Area Fencing, and Flag Pole Installations, at the New City Hall.
Recommendation: Award contract to Beebe Corporation.
Result of Recommended Action: Award of this contract will allow the above-described site work at the new city hall building to be completed.
Staff Report: Winfred DeLeon, Building

CONSENT PUBLIC HEARING ITEMS

11. **Subject:** Ordinance Amending Ordinance No. 18-2003 Changing the Functions of "Zoning Administrator" to "Planning Director" for Certain Administrative Approvals. The Planning Director Would be Able to Approve Minor Projects With or Without the Hearings, as Provided in the Zoning Code **(Continued from November 21, 2005, December 5, 2005, and December 19, 2005)**
Recommendation: Continue to February 6, 2006 meeting **(Roll Call Vote)**
Result of Recommended Action: No action is requested at this time.
Staff Report: Paul Junker, Planning

PUBLIC HEARING ITEMS

12. **Subject:** Mining Policy Fee Ordinance **(Continued from November 7, 2005 & December 5, 2005)**
Recommendation: Table this item to future date. **(Roll Call Vote)**

Result of Recommended Action: No action is requested at this time.
Staff Report: Bill Thomas, Finance

13. **Subject:** An Urgency Ordinance of the City of Rancho Cordova Extending a Moratorium on the Establishment of New Sexually Oriented Businesses and the Expansion of Existing Sexually Oriented Businesses Pending the Review and Amendment of Zoning Regulations Applicable to Sexually Oriented Businesses, to Become Effective Immediately
Recommendation: Adopt Urgency Ordinance No. 02-2006. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this ordinance will prohibit, for one year, the issuance of permits and other approvals relating to the opening of new sexually oriented businesses or the expansion of existing sexually oriented businesses located within Rancho Cordova pending the City's review and amendment of zoning regulations applicable to such businesses.
Staff Report: Steve Meyers, City Attorney

14. **Subject:** An Ordinance Amending Ordinance No. 24-2004 Chapter 16.83 to Title 16 of the RC Code Relating to Development Impact Fees to Finance the Cost of Public Facilities within the Sunrise Douglas Community Plan.
Recommendation: Continue to February 6, 2006. **(Roll Call Vote)**
Result of Recommended Action: This item will be continued to February 6, 2006. The fee approval will no longer be an amendment of Chapter 16.83, Title 16 of the Rancho Cordova Municipal Code, rather it will be an approval of a citywide fee by resolution.
Staff Report: Bill Thomas, Finance

*5:45 p.m. 15. **Subject:** Adoption of the Revised General Plan Land Use Map Book
Recommendation: Adopt Resolution No. 03-2006, establishing revised interim policies and diagrams that will guide land use within the City until the adoption of a General Plan. Adopt the Revised General Plan Land Use Map Book as part of the City's Interim General Plan and direct staff to complete the preparation of a Draft General Plan/Draft Environmental Impact Report. **(Roll Call Vote)**
Result of Recommended Action: Adoption of the Revised General Plan Land Use Map Book will allow City staff to continue using these interim policies, which reflect the Council's vision for future land uses in the City, as well as enable the completion of the Draft General Plan/Draft Environmental Impact Report consistent with the maps.
Staff Report: Paul Junker, Planning

*** 7:30 P.M. - BREAK**

REGULAR CALENDAR ITEMS

16. **Subject:** Urgency Ordinance Adopting Rancho Cordova Municipal Code Chapter 16.130, Swainson's Hawk Impact Mitigation that Would Immediately Establish Guidelines for Mitigating the Impacts of Urban Development on Swainson's Hawk.
Recommendation: Adopt Urgency Ordinance No. 03-2006. **(Roll Call Vote)**
Result of Recommended Action: Urgency Ordinance No. 03-2006 will establish regulations that allow developers to mitigate impacts to Swainson's Hawk through payment of a fee. The fee will be used to purchase suitable habitat for the endangered Swainson's Hawk.
Staff Report: Paul Junker, Planning

17. **Subject:** Ordinance Adopting Rancho Cordova Municipal Code Chapter 16.130, Swainson's Hawk Impact Mitigation that Would Initiate the Adoption of a Non-Urgency Ordinance to Establish Guidelines for Mitigating the Impacts of Urban Development on Swainson's Hawk.
Recommendation: If Urgency Ordinance 03-2006 is not adopted, waive first reading and introduce Ordinance No. 04-2006. **(Roll Call Vote)**
Result of Recommended Action: Ordinance No. 04-2006 is identical to Urgency Ordinance 03-2006. It is recommended for adoption as an option if it is determined that an Urgency Ordinance is not the desired course of action by the Council.
Staff Report: Paul Junker, Planning

18. **Subject:** Appointment of (2) At-Large Planning Commissioners (terms expired December 2005)
Recommendation: Appoint two Planning Commissioners to fill the two expiring term seats **(Roll Call Vote)**
Result of Recommended Action: Two appointments will be made to fill expiring terms of the two at-large Planning Commissioner seats for new terms to expire December 2007.
Staff Report: Lillian Hare, City Clerk and Paul Junker, Planning for questions

CORRESPONDENCE

COUNCIL REPORTS

COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

CITY MANAGER'S REPORT

19. City Clerk/Human Resources

ADJOURNMENT

*Time listed on the agenda is approximate and for convenience only
***NOTE: Vice Mayor Sander will be joining the meeting via conference call from Hawaii

UPCOMING MEETINGS	
Tuesday, January 24, 2006	***5:30 p.m. – Work Session – Housing Program***
Tuesday, January 31, 2006	***5:30 p.m. – Work Session - Ethics, Brown Act, Political Reform Act and Public Records Act Training***
Monday, February 6, 2006	***5:30 p.m. – Regular Meeting***
Tuesday, February 21, 2006	***5:30 p.m. – Regular Meeting*** **[**On Tuesday due to Presidents' Day Holiday]**
Tuesday, February 28, 2006	***5:30 p.m. – Work Session - General Plan ProForma***

CERTIFICATION OF POSTING OF AGENDA

I, Carolyn Butler, Deputy City Clerk for the City of Rancho Cordova, declare that the foregoing agenda for the January 17, 2006 Regular Meeting of the Rancho Cordova City Council/CRA/RCFC was posted and available for review on January 11, 2006 at City Hall of the City of Rancho Cordova, 2729 Prospect Park Drive, Rancho Cordova, California, 95670. The agenda is also available on the city web site at www.cityofranchocordova.org.

Signed this 11th day of January 2006 at Rancho Cordova, California.

Carolyn Butler

Carolyn Butler, Deputy City Clerk

JOINT STUDY SESSION - CITY COUNCIL & FOLSOM-CORDOVA UNIFIED SCHOOL DISTRICT MEETING

Mills Station
2900 Mather Field Road
Rancho Cordova, CA 95670

Thursday, December 15, 2005
8:30 A.M. – 10:00 A.M.

MINUTES

STUDY SESSION

Call to Order

Mayor Cooley called the meeting to order at 8:40 a.m.

Present: Council Members Sander, Skoglund & Mayor Cooley
Board Members Myers, McCormick, Short, & President Shaw
City Staff: Gaebler, Thomas, Olea-Moger, Snyder, Solerno
District Staff: Godwin, Bettencourt, Radovich, DeArcos, Washburn

Absent: Council Members Budge and McGarvey

Oral Communications

1. Public Comment

None

Study Session Item

2. **Subject:** Growth Issues & Financing
Recommendation: Discussion only

OUTCOME: Deputy Superintendent Deborah Bettencourt reviewed the Educational Specifications for the District's planned Mather High School/Morrison Creek Middle School Complex in Rancho Cordova and reported on the results of District's Bond Issue Survey conducted in November 2004. The District requested commitment from the City, within the next 60 days, on its interest toward the joint use public library planned at the Complex.

AGENDA ITEM # 5

CLOSED SESSION

The City Council adjourned to Closed Session for the following purpose at 10:15 a.m.

3. Conference with Legal Counsel – Anticipated Litigation Significant Exposure to Litigation Government Code Section 54956.9 (b) (one case).

Staff present in closed session were City Attorneys Steve Meyers & Libby Silver, City Manager Ted Gaebler, and Chief Financial Officer Bill Thomas.

REPORT FROM CLOSED SESSION

City Attorney Steve Meyers announced there was no reportable action from Closed Session.

ADJOURNMENT

The meeting adjourned at 10:45 a.m.

_____
Anna Olea-Moger, Assistant City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 29-2005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA AMENDING TITLE 1 OF THE RANCHO CORDOVA ZONING CODE REGARDING ILLEGAL USES

RECITALS

WHEREAS, the City Council finds that the addition of a specific zoning provision prohibiting illegal uses will make it easier for the City to address the permissibility of such uses in situations where there may be a conflict between local, state or federal law; and

WHEREAS, the City Council finds that the addition of a specific zoning provision prohibiting illegal uses will provide the City with a clear regulatory basis for pursuing civil action in addition to criminal prosecution of illegal uses; and

WHEREAS, this Ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3),

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title I of the Rancho Cordova Zoning Code regarding illegal uses is hereby amended by adding Section 101-14, "Illegal Uses" to read as follows:

"**101-14 Illegal Uses.**

No use that is illegal under local, state or federal law shall be allowed in any zone within the City."

SECTION 2: Effective Date and Publication

Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Grapevine Independent, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

* * * * *

AGENDA ITEM # 6

PASSED AND ADOPTED this 17th day of January, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 30-2005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA APPROVING THE DEVELOPMENT AGREEMENT FOR RC-04-096, THE SUNRIDGE PARK PHASE II PROJECT

The City Council of the City of Rancho Cordova does ordain as follows:

Section 1: Recitals

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864, et seq., of the Government Code (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

B. The proposed Sunridge Park Phase II Project (RC-04-096) is located south of Douglas Road and east of Jaeger Road, which is within the Sunridge Specific Plan ("Specific Plan") and which is designated as Low Density Residential by the General Plan and the Community Plan.

C. River West Development has filed an application requesting approval of a Development Agreement for the Sunridge Park Phase II Project.

D. A Development Agreement between the City of Rancho Cordova and River West Development ("Development Agreement") has been presented to the City Council, a copy of which is attached hereto as Attachment 1.

E. On October 27, 2005, the Planning Commission, as the planning agency for purposes of development agreement review, held a properly noticed public hearing pursuant to Government Code Section 65867 and recommended that the City Council approve the Development Agreement.

F. On November 21, 2005, the City Council, as the legislative body for purposes of development agreement approval, held a properly noticed public hearing pursuant to Government Code Section 65867 and considered all comments received in writing and all testimony received at the public hearing.

G. In 2002, Sacramento County ("County"), certified as adequate and complete the Final EIR (the "EIR") for Sunridge Specific Plan and Zoning Ordinance for the Sunridge Park Project property. The City also approved a Mitigated Negative Declaration for the Tentative Subdivision Map for the Sunridge Park Phase II project on August 25, 2005. Mitigation measures were required in the EIR and Mitigated Negative Declaration and are incorporated into the Sunridge Park Phase II Project and into the terms and conditions of the Development Agreement.

H. Pursuant to the California Environmental Quality Act, the City has performed an Initial Study and issued a Mitigated Negative Declaration for the Sunridge Park Phase II Tentative Subdivision Map, which concluded that: (a) the Sunridge Park Phase II Project will not have a significant impact on the environment due to the mitigation measures adopted by the City and for the following reasons: i) it will not have the potential to degrade the quality of the environment or negatively

impact fish or wildlife species, including plants, or damage archaeologically significant resources; ii) it will not result in considerable cumulative impacts on the environment; iii) it will not result in environmental effects that directly or indirectly cause substantial adverse effects on human beings; and iv) the environmental impacts of the project have been reduced to a less than significant level; and (b) that the preparation of an environmental impact report pursuant to the Environmental Quality Act is not required.

Section 2: Findings and Determinations

Therefore, on the basis of (a) the foregoing Recitals, which are incorporated herein, (b) the City of Rancho Cordova's General Plan, (c) the Sunridge Specific Plan, the County's EIR, the City's Mitigated Negative Declaration and on the basis of the specific conclusions set forth below, the City Council finds and determines that:

A. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified and contained in the City's General Plan, and in the Sunridge Specific Plan in that (a) the land use designation for the Sunridge Park Phase II project site is Low Density Residential and the proposed project is to create 151 single family lots consistent with that land use, (b) the project is consistent with the fiscal policies of the General Plan and the Sunridge Specific Plan with respect to provision of infrastructure and public services, and (c) the Development Agreement includes provisions relating to financing, construction and maintenance of public facilities, park development fees and similar provisions set forth in the Sunridge Specific Plan.

B. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use area in which the real property is located in that the project approvals include the Rezoning of the Property as adopted by the City on January 20, 2004 by City Ordinance 01-2004.

C. The Development Agreement is in conformity with public convenience, general welfare and good land use policies in that the Sunridge Park Phase II Project will implement land use guidelines set forth in the Sunridge Specific Plan and the General Plan, which have planned for residential uses at this location.

D. The Development Agreement will not be detrimental to the health, safety and general welfare in that the project will proceed in accordance with all the programs and policies of the Sunridge Specific Plan. The impacts of the development on existing land uses, public services and the environment have been evaluated and mitigated through the CEQA compliance process.

E. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values in that the project will be consistent with the General Plan and with the Sunridge Specific Plan.

F. The Development Agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5 in that it includes all the substantive elements and has been processed consistent with all the procedural requirements of Government Code Sections 65864 through 65869.5.

Section 3: Approval

The City Council hereby approves the Development Agreement (Attachment 1) and authorizes the City Manager to sign it after the effective date of the amendment in Section 4, below.

Section 4: Amendment of the Zoning Code

Title I, Chapter 1, Article 4, of the Rancho Cordova Zoning Code, "Comprehensive Zoning Plans," is hereby amended by adding the following section:

"101-813. Development Agreement for Sunridge Park Phase II"

Pursuant to Government Code section 57376, the City Council hereby declares its intention that Title I, Chapter 1, Article 4, of the Rancho Cordova Zoning Code, as amended, shall supersede Title I, Chapter 1, Article 4 of the Sacramento County Zoning Code.

Section 5: Recordation

Within ten (10) days after the Development Agreement is executed by the City Manager, the City Clerk shall submit the Agreement to the County Recorder for recordation.

Section 6: Effective Date and Publication of Ordinance Summary

This Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk of the City of Rancho Cordova shall cause a summary of the Ordinance to be posted in accordance with Section 36933 of the Government Code of the State of California.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova this 17th day of January 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

DEVELOPMENT AGREEMENT
RELATIVE TO SUNRIDGE PARK—PHASE II

This Development Agreement is entered into as of this _____ day of February, 2006, by and between the CITY OF RANCHO CORDOVA, a municipal corporation ("City"), Sunridge Park, LLC, a limited liability company ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. Authorization. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

2. Property. Landowner holds a legal or equitable interest in certain real property located in the City of Rancho Cordova, County of Sacramento, more particularly described in Exhibit A-1 attached hereto (the "Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. Project. Landowner has obtained various approvals from the City (described in more detail in Recital 6 below), including approval for a tentative subdivision map for a mixed use project known as Sunridge Park (the "Project") to be located on the Property.

4. Public Hearing. On August 25, 2005, the Planning Commission of the City of Rancho Cordova, serving as the City's planning agency for purposes of development agreement review pursuant to Government Code Section 65867, considered this Agreement and recommended approval of this Agreement to the City Council.

5. Environmental Review. On _____, the City Council certified as adequate and complete the Subsequent Mitigated Negative Declaration ("SMND") for the Project. Mitigation measures were required in the SMND and are incorporated into the Project and into the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

6. Project Approvals. The following land use approvals (together the "Project Approvals") have been granted for the Property, which entitlements are the subject of this Agreement.

6.1. The Rancho Cordova General Plan, as adopted by the City on July 1, 2003 by City Resolution No. 04-2003, as amended on March 21, 2005, by City Resolution No. 35-2005-2005 (the "General Plan");

6.2. The Sunridge Specific Plan adopted by County, as adopted by the City on July 1, 2003, by City Resolution No. 06-2003 (the "Specific Plan");

6.3. The SMND. The Subsequent Mitigation Measures in both the Environmental Impact Report ("EIR") and the SMND are incorporated into the Project and into the terms and conditions of this Agreement.

6.4. The Rezoning of the Property, approved by the City on January 20, 2004, by City Ordinance No. 1-2004;

6.5. The Tentative Subdivision Map for the Project (attached hereto as Exhibit D approved by the City on _____, by City Resolution No. _____;

6.6. This Development Agreement, as adopted on January 30, 2005 by City Ordinance No. _____ (the "Adopting Ordinance").

7. Need for Services and Facilities. Development of the Property will result in a need for municipal services and facilities, some of which services and facilities will be provided by the City to such development subject to the performance of Landowner's obligations hereunder. With respect to water, pursuant to Government Code Section 65867.5, any tentative map approved for the Property will comply with the provisions of Government Code 66473.7.

8. Contribution to Costs of Facilities and Services. Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services as required herein to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that, but for Landowner's contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide certain facilities and services for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to develop the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as development occurs.

9. Development Agreement Ordinance. City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Ordinance of the City of Rancho Cordova, as set forth in the City Municipal Code.

10. Consistency with General Plan. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City finds and declares that this Agreement is consistent with the General Plan.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. **Incorporation of Recitals**. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

2. **Description of Property**. The property, which is the subject of this Development Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. **Interest of Landowner**. The Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by the Agreement.

4. **Relationship of City and Landowner**. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that the Landowner is not an agent of City. The City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Landowner joint venturers or partners.

5. **Effective Date and Term**.

5.1. Effective Date. The effective date of this Agreement ("Effective Date") is _____2006, which is the effective date of City Ordinance No._____, adopting this Agreement.

5.2. Term. Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of ten (10) years, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement.

5.3. Automatic Termination Upon Completion and Sale of Residential Lot. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Project Approvals for residential use, upon completion of construction and issuance by the City of a final occupancy permit for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements, which are required to serve the lot, as determined by City, have been accepted by City. Termination of this Agreement for any such residential lot as provided for in this Section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such lot at the time of termination.

6. **Use of Property**.

6.1. Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals, provided that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the

density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement.

6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the following land uses and approximate acreages for the Property:

> Single-Family, Low Density Residential 151 units on 78.5 acres all as set forth in Exhibit B-1. Such uses shall be developed in accordance with the Project Approvals, as such Project Approvals provide on the Effective Date of this Agreement.

6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations. Subject to applicable law relating to the vesting provisions of development agreements, Landowner and City intend that, except as otherwise provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives that directly or indirectly limit the rate, timing, sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses as set forth in the Project Approvals. Landowner shall, to the extent allowed by the laws pertaining to development agreements, be subject to any growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied, City-wide or area-wide basis, and directly concerns a public "health or safety" issue, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by that public health or safety issue.

6.4. Additional Conditions.

6.4.1. New Park Development Obligation. The Project shall be subject to Resolution No. 28-2005, which establishes revised standards for Park and Open Space in the City. The Project shall also be subject to the development impact fees imposed by the City pursuant to Resolution 122-2005, which established the City's intent to modify its park improvement impact fee.

6.4.2. Timing of Dedications and Improvements of Parks. Prior to recordation of any final map for the Property, Landowner shall fulfill the obligations described in Section 6.4.1. Landowner agrees to commence construction of the improvements described in Section 6.4.1 prior to the issuance of the first building permit for the Project and to complete construction of all the improvements described in Section 6.4.1 prior to issuance of the 50th building permit. Landowner shall pay to the City any in-lieu fee required under Section 6.4.1 no later than prior to issuance of the final map for each residential parcel for the Property. Landowner will be deemed to have satisfied in full its new park development obligation, after fulfilling the requirements described in Sections 6.4.1 and 6.4.2, and entering into a park development agreement with the Cordova Parks and Recreation District. The park development agreement shall address, but not be limited to the location and size of parcels to be located within the property, specific facilities to be constructed by Landowner, fees to be paid by Landowner, and credits and reimbursements that shall be issued by the District to the Landowner.

6.4.3. In-fill Park and Open Space Renovation and Acquisition Fee. The Landowner agrees that it shall pay the City the total sum of one thousand and five hundred dollars ($1500.00) for each residential parcel shown on the final maps for the Property. Beginning on January 1, 2006, the fee shall be adjusted annually on each January 1 based upon the percentage change in the United States Department of Labor Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area between April and April of each year. This fee shall be paid to the City no later than prior to issuance of the building permit for each residential parcel for the Property. It shall be used by the City, at its sole discretion to acquire, renovate, repair, improve or maintain parks or open space in that portion of the City outlined in Exhibit F. This payment is made voluntarily by the Landowner. It is in addition to all other existing park fees, and construction and dedication obligations, including without limitation any fees paid pursuant to California Government Code Section 66477 (the "Quimby Act"). Landowner agrees that it shall not claim any credit or right to reimbursement of any other existing park fees, and construction and dedication obligations, including Quimby Act fees, as a result of paying the existing park renovation fees required under this Section.

6.4.4. Police Tax. Landowner agrees to vote in favor of and to cooperate in the creation of a special tax zone area within the Rancho Cordova Special Police Tax Area. The boundaries of the special tax zone area shall be contiguous with the boundaries of the Property. The Landowner shall vote in favor of and cooperate in the levy of a special tax for police services on each residential parcel or residential parcel equivalent on the Property. The City is in the process of preparing a General Plan Fiscal Analysis which will include a review of the current shortfall of revenue for police services, and a new proposed amount of the special police tax. The special tax shall be in the amount of the lesser of (1) $450 annually, per single-family residential parcel or residential parcel equivalent, and $0.25 for each square foot of gross parcel area of non-residential use (excluding recreational and agricultural uses), or (2) the amount calculated in the General Plan Fiscal Analysis. Multi-family residential units on a single parcel shall be assessed on a proportionately equivalent basis (e.g., a two-unit attached housing structure, such as a duplex, would be deemed to consist of two residential parcels for purposes of the police tax). The amount of the special tax shall be adjusted annually based upon the percentage change in the United States Department of Labor Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-San Jose area between April and April of each year. If the Consumer Price Index is discontinued, or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised. The special tax shall be payable annually following issuance of a building permit for each subject parcel. The Landowner shall pay all the costs of conducting the election and all costs related to the implementation of this Section for the Project.

6.4.5. Road Maintenance Conditions. Landowner shall provide a funding mechanism for maintenance services for all new public improvements associated with the project including but not limited to streets, bridges/culverts, traffic signals, traffic signs, striping and legends, ITS operations, and street lights. This may be accomplished through annexation to the City Road Maintenance Assessment District. All costs associated with the annexation shall be borne by the Landowner.

7. Applicable Rules, Regulations, Fees and Official Policies.

7.1. Rules Regarding Permitted Uses. The City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.1, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges.

7.2. Rules Regarding Design and Construction. Unless otherwise expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted.

7.3. Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations.

7.4. Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

8. Subsequently Enacted Fees, Dedications, Assessments and Taxes.

8.1. Processing Fees and Charges. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

8.2. Development Impact Fees, Exactions and Dedications. Except as otherwise provided herein including Sections 6.3 and 6.4, any and all development impact fees, dedications of land, connection or mitigation fees, and exactions required by the City to be paid by Landowner to support the construction of any public facilities and improvements or the provision of public services in relation to development of the Property (together "Exactions") shall be the Exactions authorized as of the Effective Date; provided, however, Landowner shall pay any Exactions authorized by the City after the Effective Date so long as said Exactions otherwise comply with applicable law, and are either (i) required on a City-wide basis, or (ii) apply uniformly to all properties within the City that are zoned consistent with the Project Approvals, or (iii) apply uniformly to all properties that are similarly situated, whether by geographic location or other distinguishing circumstances. Wherever this Agreement obligates Landowner to design, construct or install any improvements, the cost thereof may be provided

by Landowner or by a Community Facilities District (CFD) or other such financing mechanism acceptable to the City, subject to and in accordance with the provisions thereof.

9. Community Facilities District.

9.1. Community Facilities District Formation - Financing. City acknowledges that Landowner may cause to be formed a Community Facilities District ("CFD") pursuant to the provisions of Section 53311 et seq. of the Government Code for the purpose of financing the acquisition or construction of a portion of the Improvements described in Section 8.2.

9.2. Issuance of Bonds. City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section. As of the Effective Date, one series of such bonds has been issued. At least one additional series of bonds is expected to be issued.

9.3. Payment Prior to Issuance of Bonds. Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the Improvements, or any portion thereof, prior to the issuance of bonds.

9.4. Private Financing. Nothing in this Agreement shall be construed to limit Landowners option to install the Improvements through the use of private financing.

9.5. Acquisition and Payment. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition of completed Improvements or completed portions thereof, and monthly payment of appropriate amounts for such Improvements to the person or entity constructing Improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions.

10. Service District for Maintenance.

10.1. Formation, Consent, Waiver and Special Benefit. Landowner must cooperate in formation or annexation to, one or more financing mechanism or assessment district for maintenance purposes, as chosen by the City (herein the "Services District"), and consents herewith to the levy of such special taxes as are necessary to fund the maintenance obligations described below. No residential building permit, excluding permits for model homes, shall be issued until the formation of, and inclusion of the Property in, the Services District. For purposes of Article XIIID of the California Constitution, Landowner acknowledges hereby that all the services described herein to be provided by the Services District will provide a "special benefit" to the Property, as defined by said Article, and that the foregoing support and consent shall apply as to any claim that any portion of the services supported by the special tax does not provide special benefit to the Property. The Services District shall:

i. Provide the City assured funding for the ongoing maintenance and operation of public facilities and all Improvements required herein or in the Project Approvals, whether such facilities and Improvements are located within or outside of the boundaries of the Project, including: public roads, public alleys and associated frontage improvements such as curb, gutter and sidewalks, intersection signals, and street signs; road special features (e.g. speed bumps, textured or painted surfaces, modified crosswalks, etc.); project monument signs; all public landscaping, including street frontage landscaping and road medians; streetlights within the Property and upon the Property frontages and statuary, fountains or ornamental structures.

ii. Cause to be established appropriate funding mechanisms, to the satisfaction of the Park District, to fund the ongoing maintenance of park facilities and improvements within the Project, and any other park improvements pursuant to the Project Approvals.

iii. Cause to be established appropriate funding mechanisms, as determined appropriate by the City, in consultation with the Sacramento County Department of Water Resources, to fund the ongoing maintenance of drainage facilities within the Project consistent with the Project Approvals.

iv. Cause to be established appropriate funding mechanisms, as determined appropriate by the City, to maintain all public open space areas within the Property, other than improved park sites, including without limitation, maintaining bike trails and conducting weed abatement and providing fire prevention to the satisfaction of the Sacramento Metropolitan Fire District within such open space areas. Such fire prevention efforts may include flail mowing from adjacent private property lines into such open space areas and other such vegetation management efforts as deemed necessary by the Fire District.

v. Conduct, manage and finance any environmental mitigation monitoring required by the Project Approvals.

Landowner acknowledges that the total annual cost of the maintenance obligations in this Section 10.1 is not known as of the Effective Date, and will be determined in the future. The assessments listed herein shall be adjusted annually on each January 1, beginning on January 1, 2006, based upon the Consumer Price Index, consistent with Sections 6.4.3 and 6.4.4 of this Agreement.

10.2. Public Parcel Exclusion. Landowner expressly agrees that Parcels conveyed or to be conveyed to the City or Park District shall be excluded from any assessment to be imposed by the Services District.

11. Amendment or Cancellation.

11.1. Modification Because of Conflict with State or Federal Laws. In the event that state or federal laws or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation. Any such amendment or suspension of the Agreement shall be approved by the City Council in accordance with the Municipal Code and this Agreement.

11.2. Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law and the Municipal Code.

11.3. Insubstantial Amendments. Notwithstanding the provisions of the preceding Section 10.2, any amendments to this Agreement which do not relate to (a) the term of the Agreement as provided in Section 5.2; (b) the permitted uses of the Property as provided in Sections 6.2 and 7.1; (c) provisions for "significant" reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (f) the maximum height or size of proposed buildings; or (g) monetary contributions by Landowner as provided in this Agreement shall not, except to the extent

otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the parties may execute an amendment hereto. City's City Manager shall determine whether a reservation or dedication is "significant".

11.4. Amendment of Project Approvals. Any amendment of Project Approvals relating to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) the density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Landowner; (f) the location and maintenance of on-site and off-site improvements, or (g) any other issue or subject not identified as an "insubstantial amendment" in Section 11.3 of this Agreement, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement, which are implicated by the amendment of the Project Approval. Any other amendment of the Project Approval(s) shall not require amendment of this Agreement unless the amendment of the Project Approval(s) relates specifically to some provision of this Agreement.

11.5. Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

12. Term of Project Approvals. Pursuant to California Government Code Section 66452.6(a), the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement.

13. Annual Review.

13.1. Review Date. The annual review date for this Agreement shall be approximately 12 months from the date the Agreement is entered into.

13.2. Initiation of Review. The City's Planning Director shall initiate the annual review by giving to Landowner written notice that the City intends to undertake such review. Within 30 days of City's notice, Landowner shall provide evidence to the Planning Director to demonstrate good faith compliance with the Development Agreement. The burden of proof, by substantial evidence of compliance, is upon the Landowner. The City's failure to timely initiate the annual review is not deemed to be a waiver of the right to do so at a later date; accordingly, Landowner is not deemed to be in compliance with the Agreement by virtue of such failure to timely initiate review.

13.3. Staff Reports. City shall deposit in the mail to Landowner a copy of all staff reports, and related exhibits, concerning contract performance at least three (3) days prior to any annual review.

13.4. Costs. Costs reasonably incurred by the City in connection with the annual review shall be paid by Landowner in accordance with the City's schedule of fees and billing rates in effect at the time of review.

13.5. Non-compliance with Agreement; Hearing. If the Planning Director determines, on the basis of substantial evidence, that Landowner has not complied in good faith with the terms and conditions of the Agreement during the period under review, the City Council, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law and Municipal Code Section 110-

05. As part of that final determination, the City Council may impose conditions that it considers necessary and appropriate to protect the interest of the City.

13.6. Appeal of Determination. The decision of the City Council as to Landowner's compliance shall be final, and any court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Council shall be commenced within thirty (30) days, as set forth in the Municipal Code (Section 115-39).

14. Default. Subject to any applicable extension of time, failure by any party to perform any term or provision of this Agreement required to be performed by such party shall constitute an event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party," and the party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 14.1.1, and the Party in Default fails to cure such Event of Default within the applicable cure period.

14.1. Procedure Regarding Defaults.

14.1.1. Notice. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

14.1.2. Cure. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

14.1.3. Failure to Assert. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

14.1.4. Notice of Default. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot, practicably be cured within such 30 day period, the cure shall be deemed to have occurred within such 30 day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such 30 day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

14.1.5. Legal Proceedings. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material

default, terminate this Agreement. Upon the occurrence of an Event of Default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the City's regulations governing development agreements, expressly including the remedy of specific performance of this Agreement.

14.1.6. Effect of Termination. If this Agreement is terminated following any Event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

15. Estoppel Certificate. Either Party may, at any time, and from time to time, request written notice from the other Party requesting such Party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (c) to the knowledge of the certifying Party the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the Parties. City Manager of City shall be authorized to execute any certificate requested by Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

16. Mortgagee Protection; Certain Rights of Cure.

16.1. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

16.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 16.1 above, no Mortgagee shall have any obligation or duty under this Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of improvements, or to guarantee such construction of improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by the Project Approvals or by this Agreement.

16.3. Notice of Default to Mortgagee and Extension of Right to Cure. If City receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by City that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or

remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the City's notice. City, through its City Manager, may extend the cure period provided in Section 13.1 for not more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

17. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

18. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

19. Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement. Should any legal action be brought by either party for breach of this Agreement or to enforce any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees; court costs and such other costs as may be fixed by the Court.

20. Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement or the Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action, and Landowner shall reimburse City on an equal basis for all reasonable court costs and attorneys' fees expended by City in defense of any such action or other proceeding.

21. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as Exhibit E and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of the City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

22. Agreement Runs with the Land. Except as otherwise provided for in Section 15 of this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property, (a) is for the benefit of such properties and is a burden upon such properties, (b) runs with such properties,

and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

23. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

24. Indemnification. Landowner agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project, provided that Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of City, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or another public entity (except as provided in an improvement agreement or maintenance bond).

25. Insurance.

25.1. Public Liability and Property Damage Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than one million dollars ($1,000,000) and a deductible of not more than ten thousand dollars ($10,000.00) per claim. The policy so maintained by Landowner shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

25.2. Workers' Compensation Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify the City for any damage resulting from Landowner's failure to maintain any such insurance.

25.3. Evidence of Insurance. Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish City satisfactory evidence of the insurance required in Sections 25.1 and 25.2 and evidence that the carrier is required to give the City at least fifteen days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Landowner performing work on the Project.

26. Excuse for Nonperformance. Landowner and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control

of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

27. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Landowner and, the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

28. Notices. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

Planning Director
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Notice required to be given to the Landowner shall be addressed as follows:

Sunridge Park, LLC
c/o River West Investments
7700 College Town Drive, Suite 215
Sacramento, CA. 95826

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

29. Form of Agreement; Recordation; Exhibits. Except when this Agreement is automatically terminated due to the expiration of the Term of the Agreement or the provisions of Section 5.3 (Automatic Termination Upon Completion and Sale of Residential Lot), the City shall cause this Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the county Recorder within ten (10) days of the effective date thereof. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of nineteen (19) pages and five (5) exhibits, which constitute the entire understanding and agreement of the parties.

30. Further Assurances. The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement.

31. City Cooperation. The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event state or federal laws or regulations enacted after the Effective Date, or action of any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended, or suspended as may be necessary to comply with such state and federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agrement or approved plans.

IN WITNESS WHEREOF, the City of Rancho Cordova, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attested to by its City Clerk under the authority of Ordinance No. _____, adopted by the Council of the City on the _____, and Landowner has caused this Agreement to be executed.

"CITY"

CITY OF RANCHO CORDOVA,
a municipal corporation

By: _____

Name: _____

Its: _____

"LANDOWNER"

SUNRIDGE PARK, LLC
a limited liability company

By:

Name: _____

Its: _____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
Adam U. Lindgren
Assistant City Attorney

EXHIBIT LIST

Exhibit A-1—	Legal Description of the Property
Exhibit A-2—	Diagram of the Property
Exhibit B-1—	Land use Map for the Property
Exhibit B-2—	Land Use Table
Exhibit C—	CFD Improvements
Exhibit D—	Sunridge Park Tentative Subdivision Map
Exhibit E—	Form of Assignment
Exhibit F—	Outline of Property for Park Purposes

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

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City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF RANCHO CORDOVA

AND

SUNRIDGE PARK, LLC, AS LANDOWNERS

RELATIVE TO SUNRIDGE PARK—PHASE II

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EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of Sacramento, City of Rancho Cordova, and is described as follows:

EXHIBIT 'A-1'

DESCRIPTION OF PROPERTY
SUNRIDGE PARK PHASE II DEVELOPMENT AGREEMENT

All that certain real property situate in Fractional Section 9 and Section 16, all in Township 8 North, Range 7 East, Mount Diablo Meridian, City of Rancho Cordova, County of Sacramento, State of California, and being further described as being all of the Remainder as shown on that certain Large Lot Final Map entitled "Sunridge Park" filed for record in Book 326 of Maps, at Page 5, Sacramento County Records and being more particularly described as follows:

Beginning at a three-quarter inch (¾") iron pipe with no plug or tag marking the Northerly terminus of the East line of said Section 9 on the South line of Rancho Rio de los Americanos; thence along said East line ofSect ion 9, South 00°53'22" East a distance of4 9.18 feet; thence from said **POINT OF BEGINNING,** along said East line of Section 9, South 00°53'22" East a distance of 1691.58 feet to a found three-quarter inch (¾") iron pipe with no plug or tag marking the Southeast corner of said Section 9; thence along the East line of Section 16, South 00°56'08" Easta distance of 950.86 feet to the Southeast corner of the Remainder as shown on said Large Lot Final Map; thence along said South line of the Remainder, South 89°34'45" West a distance of 2941.21 feet; thence leaving said South line of said Large LotM ap, along the Westerly line of said Remainder for the following fourteen (14) arcs, courses and distances:

1. North 00°24'56" West a distance of 660.00 feet;
2. South 89°35'04" West a distance of 327.71 feet;
3. North 00°24'56" West a distance of 4.00 feet to a point of curvature;
4. from a radial line which bears South 00°24'56" East, 31.42 feet along the arc of a non-tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
5. South 89°35'04" West a distance of 58.00 feet to a point of curvature;
6. from a radial line which bears North 89°35'04" East, 31.42 feet along the arc of a non-tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
7. South 00°24'56" East a distance of 4.00 feet;
8. South 89°35'04" West a distance of 434.29 feet;
9. North 00°24'56" West a distance of 4.00 feet to a point of curvature;
10. from a radial line which bears South 00°24'56" East, 31.42 feet along the arc of a non-tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
11. South 89°35'04" West a distance of 40.00 feet to a point of curvature;
12. from a radial line which bears North 89°35'04" East, 31.42 feet along the arc of a non-tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
13. South 00°24'56" East a distance of 4.00 and;
14. South 89°35'04" West a distance of 88.67 feet to the West line of said Remainder being the West line of the East 1322.52 feet of the West 2645.04 feet of said Section 16;

Thence along said West line oft he East 1322.52 feet oft he West 2645.04 Feet ofSect ion 16, North 00°44'04" West a distance of 279.51 feet; thence along the West line of the East 1322.52 feet of the West2 645.04 feet of said Section 9, North 00°44'24" West a distance of 1689.65 feet to the southerly right-of-way line of Douglas Road as shown and so designated on said Large Lot

Final Map; thence along said southerly right-of-way line of Douglas Road for the following sixteen (16) arcs, courses and distances:

1. North 89°18'33" East a distance of 0.71 feet;
2. North 89°23'21" East a distance of 600.28 feet;
3. South 00°36'39" East a distance of 6.00 feet to a point of curvature;
4. from a radial line which bears North 00°36'39" West, 39.36 feet along the arc of a non-tangent 25.00 foot radius curve to the right through a central angle of 90°11'43;
5. North 89°35'04" East a distance of 6.00 feet;
6. South 00°24'56" East a distance of 6.00 feet;
7. North 89°35'04" East a distance of 62.00 feet;
8. North 00°24'56" West a distance of 6.42 feet;
9. North 89°35'04" East a distance of 6.00 feet to a point of curvature;
10. from a radial line which bears South 89°35'04" West, 42.92 feet along the arc of a non-tangent 25.00 foot radius curve to the right through a central angle of 98°21'30";
11. South 82°03'26" East a distance of 51.92 feet;
12. North 89°23'21" East a distance of 97.00 feet;
13. South 00°36'39" East a distance of 7.00 feet;
14. North 89°23'21" East a distance of 28.00 feet;
15. North 00°36'39" West a distance of 7.00 feet; and
16. North 86°54'47" East a distance of 88.10 feet;

thence leaving said southerly right-of-way line of Douglas Road, along the northerly line of the Remainder as shown on said Large Lot Final Map for the following one hundred and two (102) arcs, courses, and distances:

1. South 00°24'56" East a distance of 128.19 feet;
2. South 89°35'04" West a distance of 125.00 feet;
3. South 00°24'56" East a distance of 145.00 feet;
4. South 89°35'04" West a distance of 391.82 feet;
5. South 00°24'56" East a distance of 105.00 feet;
6. South 89°35'04" West a distance of 180.00 feet;
7. South 00°24'56" East a distance of 145.00 feet;
8. South 89°35'04" West a distance of 142.50 feet;
9. South 00°24'56" East a distance of 95.00 feet to a point of curvature;
10. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the left through a central angle of 90°00'00";
11. South 00°24'56" East a distance of 62.00 feet;
12. North 89°35'04" East a distance of 436.32 feet to a point of curvature;
13. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
14. South 00°24'56" East a distance of 347.00 feet;
15. North 89°35'04" East a distance of 433.00 feet;
16. North 00°24'56" West a distance of 110.00 feet;
17. North 89°35'04" East a distance of 90.00 feet to a point of curvature;
18. 7.93 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 22°43'10";

19. North 22°18'14" East a distance of 55.01 feet;
20. North 09°55'09" East a distance of 102.47 feet;
21. North 89°35'04" East a distance of 45.15 feet;
22. North 00°24'56" West a distance of 115.00 feet;
23. North 89°35'04" East a distance of 180.00 feet;
24. South 00°24'56" East a distance of 115.00 feet;
25. South 89°35'04" West a distance of 102.50 feet;
26. South 00°24'56" East a distance of 370.00 feet;
27. South 89°35'04" West a distance of 90.00 feet to a point of curvature;
28. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
29. South 89°35'04" West a distance of 40.00 feet to a point of curvature;
30. from a radial line which bears North 89°35'04" East,3 1.42 feet along the arc of a non-tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
31. South 89°35'04" West a distance of 441.00 feet to a point of curvature;
32. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
33. South 89°35'04" West a distance of 62.00 feet;
34. South 00°24'56" East a distance of 247.13 feet to a point of curvature;
35. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
36. South 89°35'04" West a distance of 544.50 feet;
37. South 00°24'56" East a distance of 173.00 feet;
38. North 89°35'04" East a distance of 9.51 feet;
39. South 30°42'15" East a distance of 117.92 feet to a point of curvature;
40. from a radial line which bears North 30°42'15" West, 77.38 feet along the arc of a non-tangent 50.00 foot radius curve to the left through a central angle of 88°39'59" to a point of reverse curvature;
41. 15.16 feet along the arc of a tangent 30.00 foot radius curve to the right through a central angle of 28°57'18";
42. South 00°24'56" East a distance of 66.27 feet;
43. North 89°35'04" East a distance of 1005.79 feet;
44. South 00°24'56" East a distance of 140.00 feet;
45. North 89°35'04" East a distance of 84.21 feet;
46. South 00°24'56" East a distance of 29.00 feet to a point of curvature;
47. from a radial line which bears North 00°24'56" West, 31.42 feet along the arc of a non-tangent 20.00 foot radius curve to the left through a central angle of 90°00'00";
48. South 00°24'56" East a distance of 85.90 feet;
49. North 89°35'04" East a distance of 172.50 feet;
50. South 00°24'56" East a distance of 105.00 feet;
51. South 89°35'04" West a distance of 110.00 feet;
52. South 00°24'56" East a distance of 290.00 feet;
53. North 89°35'04" East a distance of 930.19 feet to a point of curvature;

54. 156.77 feet along the arc of a tangent 226.00 foot radius curve to the left through a central angle of 39°44'37";
55. South 40°09'33" East a distance of 109.31 feet;
56. North 40°38'57" East a distance of 1443.81 feet;
57. North 49°21'03" West a distance of 105.00 feet;
58. North 40°38'57" East a distance of 135.00 feet;
59. South 49°21'03" East a distance of 105.00 feet;
60. North 40°38'57" East a distance of 113.00 feet;
61. North 49°21'03" West a distance of 146.74 feet to a point of curvature;
62. 60.43 feet along the arc of a tangent 471.00 foot radius curve to the right through a central angle of 07°21'05";
63. North 41°59'59" West a distance of 122.76 feet to a point of curvature;
64. 34.67 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 99°18'44" to a point of compound curvature;
65. 36.49 feet along the arc of a tangent 480.00 foot radius curve to the right through a central angle of 04°21'19" to a point of reverse curvature;
66. 190.76 feet along the arc of a tangent 520.00 foot radius curve to the left through a central angle of 21°01'08";
67. North 40°38'57" East a distance of 63.19 feet;
68. North 49°21'03" West a distance of 162.00 feet;
69. North 40°38'57" East a distance of 34.58 feet;
70. North 49°21'03" West a distance of 121.98 feet to a point of curvature;
71. from a radial line which bears North 51°37'56" West, 1.19 feet along the arc of a non-tangent 30.00 foot radius curve to the right through a central angle of 02°16'52";
72. North 40°38'57" East a distance of 146.08 feet;
73. North 49°21'03" West a distance of 165.00 feet;
74. North 40°38'57" East a distance of 4.77 feet;
75. North 28°19'51" West a distance of 122.74 feet to a point of curvature;
76. from a radial line which bears South 28°19'51" East, 74.49 feet along the arc of a non-tangent 40.00 foot radius curve to the left through a central angle of 106°41'43" to a point of reverse curvature;
77. 23.26 feet along the arc of a tangent 30.00 foot radius curve to the right through a central angle of 44°24'55";
78. North 00°36'39" West a distance of 11.01 feet to a point of curvature;
79. 31.42 feet along the arc of a tangent 20.00 foot radius curve to the right through a central angle of 90°00'00";
80. North 00°36'39" West a distance of 40.00 feet;
81. South 89°23'21" West a distance of 92.64 feet;
82. North 00°36'39" West a distance of 147.00 feet to the southerly right-of-way line of Douglas Road as shown on said Map;
83. along said southerly right-of-way line of Douglas Road, North 89°23'21" East a distance of 280.00 feet;
84. leaving said southerly right-of-way line of Douglas Road, South 00°36'39" East a distance of 147.00 feet;

85. South 89°23'21" West a distance of 57.36 feet;
86. South 00°36'39" East a distance of 117.50 feet;
87. South 05°53'33" West a distance of 45.19 feet;
88. South 49°21'03" East a distance of 124.71 feet to a point of curvature;
89. from a radial line which bears South 51°56'49" East, 12.69 feet along the arc of a non-tangent 280.00 foot radius curve to the right through a central angle of 02°35'46";
90. South 40°38'57" West a distance of 64.59 feet;
91. South 49°21'03" East a distance of 162.00 feet;
92. South 40°38'57" West a distance of 34.58 feet;
93. South 49°21'03" East a distance of 162.00 feet ;
94. North 40°38'57" East a distance of 220.25 feet to a point of curvature;
95. 162.75 feet along the arc of a tangent 226.00 foot radius curve to the left through a central angle of 41°15'35";
96. North 00°36'39" West a distance of 199.98 feet;
97. North 05°07'42" East a distance of 50.00 feet;
98. North 00°36'39" West a distance of 92.25 feet;
99. North 44°23'21" East a distance of 2.83 feet to a point of curvature;
100. from a radial line which bears South 89°23'21" West, 39.27 feet along the arc of a non-tangent 25.00 foot radius curve to the right through a central angle of 90°00'00";
101. North 00°36'39" West a distance of 6.00 feet; and
102. North 89°23'21" East a distance of 90.24 feet to the Point of Beginning.

Containing 78.280 acres of land, more or less.

See Exhibit "A-1" to accompany description, attached hereto and made a part hereof.

The **Basis of Bearings** for this description is the California State Plane Coordinate System, Zone 2, Nad 83, Epoch Date 1997.30, as measured between NGS Station "G 1414," 1st order, and NGS station "Sheldon," 1st order. Said bearing is North 72°44'09" East. Distances shown are ground based.

This description is for a **development agreement only** and not intended toc ircumvent the Subdivision Map Act and shall not be used for sale, lease or finance. Any conveyance must comply with the Subdivision Map Act and local ordinances.

Craig E. Spiess P.L.S. 7944
Expires: December 31, 2005

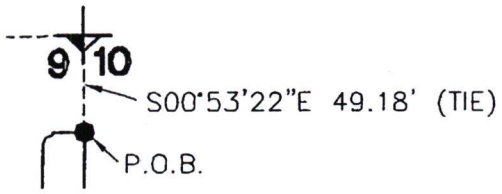
Date: _____

PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

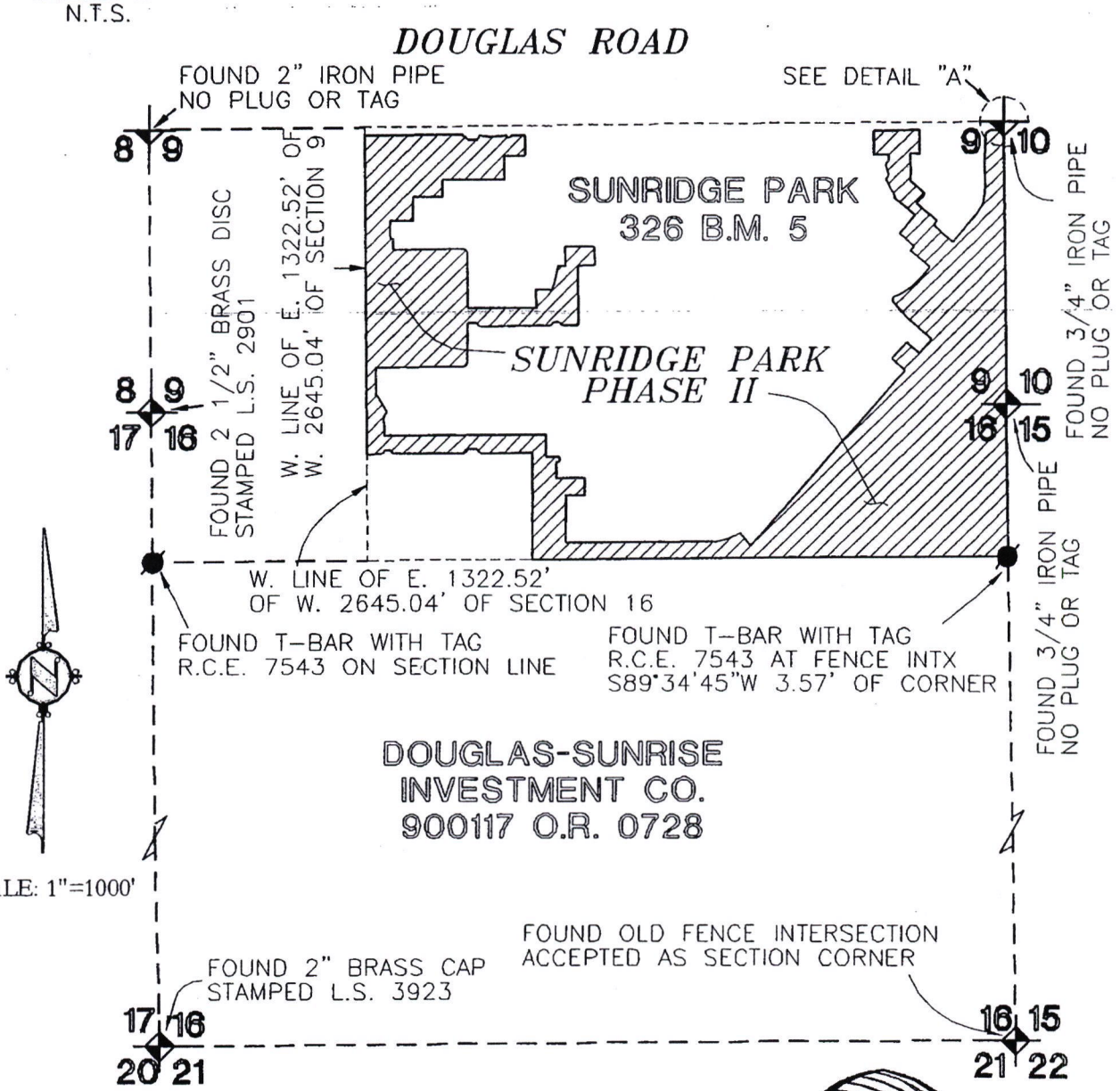
PLAT TO ACCOMPANY
DESCRIPTION

SUNRIDGE PARK PHASE II
DEVELOPMENT AGREEMENT
PORTION OF SECTION 9 & 16
T. 8 N. R. 7 E., M.D.M.

CITY OF RANCHO CORDOVA
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA



DETAIL "A"
N.T.S.



SEE DESCRIPTION FOR
COURSE INFORMATION

WOOD RODGERS
ENGINEERING • MAPPING • PLANNING • SURVEYING
3301 C St., Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

EXHIBIT A-2

DIAGRAM OF THE PROPERTY

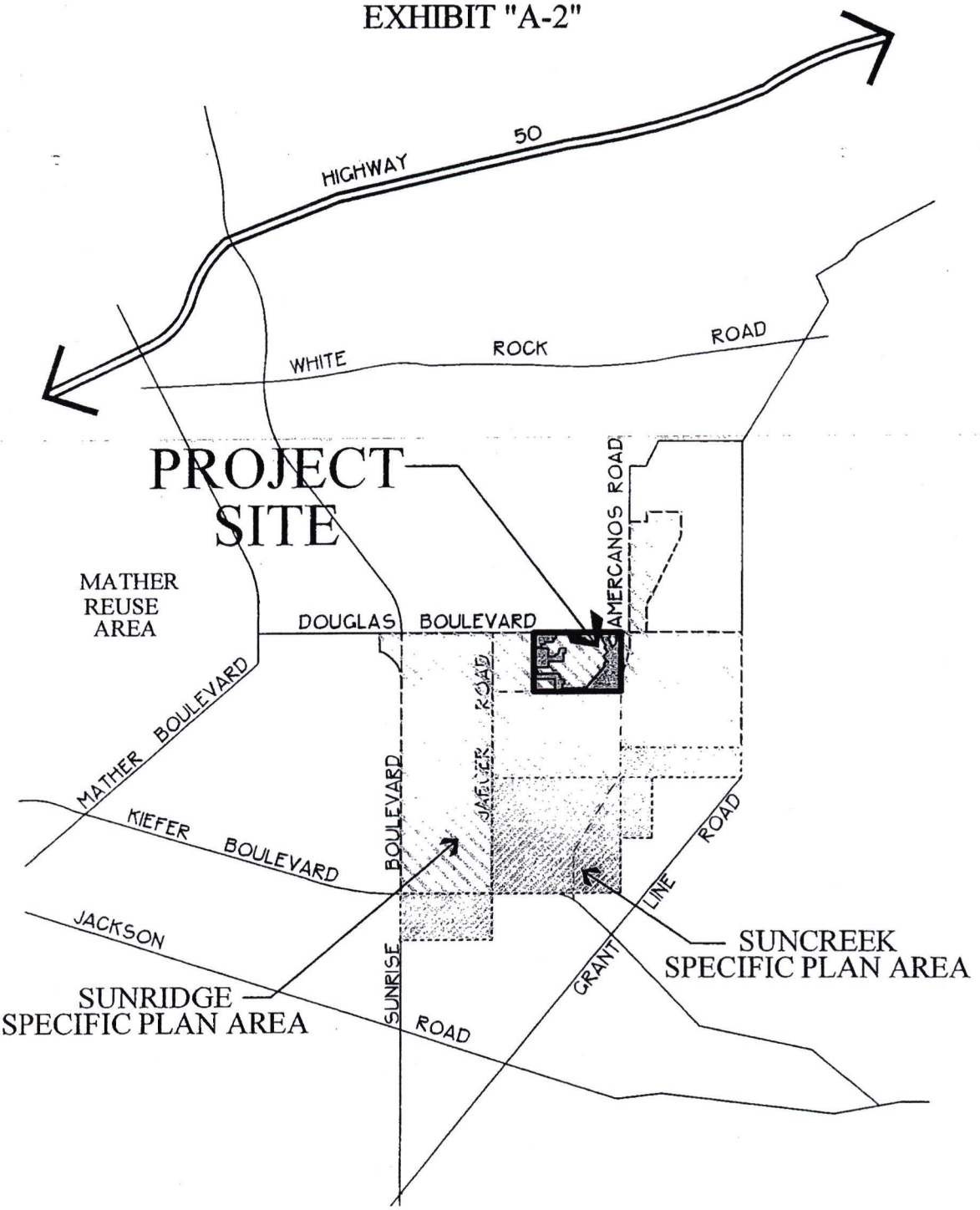
LOCATION MAP

SUNRIDGE PARK - PHASE II

CITY OF RANCHO CORDOVA, CALIFORNIA

JULY 21, 2005

EXHIBIT "A-2"



NORTH
N.T.S.

WOOD RODGERS
ENGINEERING • PLANNING • MAPPING • SURVEYING
3301 C STREET, BLDG. 100-B, SACRAMENTO, CA 95816
PHONE: (916) 341-7760 FAX: (916) 341-7767

EXHIBIT B-1

LAND USE MAP FOR THE PROPERTY

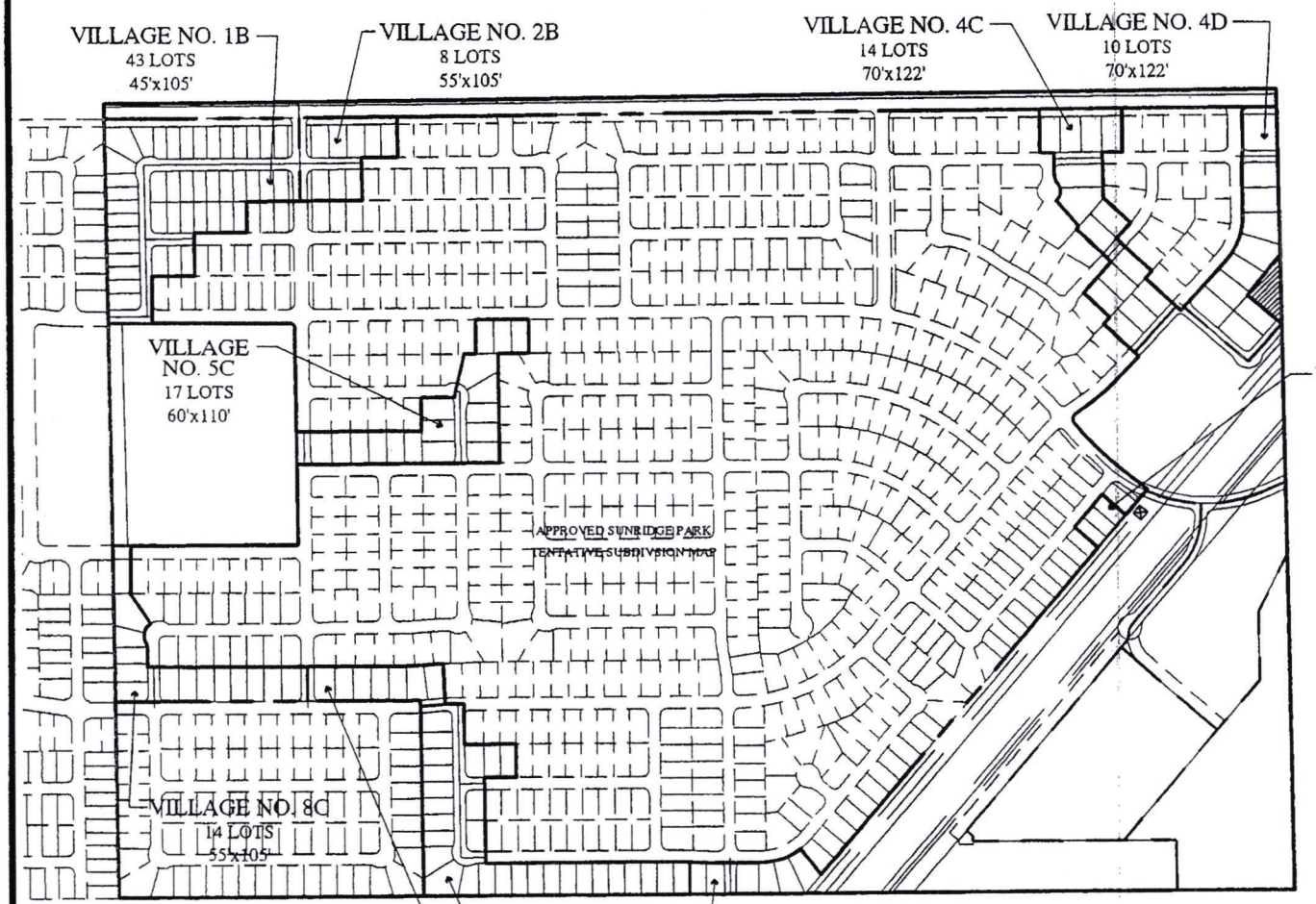
LAND USE MAP

SUNRIDGE PARK - PHASE II

EXHIBIT "B-1"

CITY OF RANCHO CORDOVA, CALIFORNIA

JULY 21, 2005



LAND USE SUMMARY TABLE

VILLAGE NO.	GENERAL PLAN/ SPECIFIC PLAN/ ZONING DESIG.	TOTAL LOTS (TYPICAL LOT SIZE)	ACRES GROSS
4C & 4D	LDR/RD-4/RD-4	24 LOTS (70'x122')	6.3
5C, 5D	LDR/RD-5/RD-5	24 LOTS (60'x110')	4.6
2B,8C, 9B & 10B	LDR/RD-5/RD-5	57 LOTS (55'x105')	10.2
1B & 11B	LDR/RD-7/RD-7	46 LOTS (45'x105')	7.2
TOTAL		151 LOTS	28.3

NOTE: GROSS ACREAGES INCLUDE ALL STREETS AND LANDSCAPE/DRAINAGE CORRIDORS.

NORTH
N.T.S.

WOOD RODGERS
ENGINEERING • PLANNING • MAPPING • SURVEYING
3301 C STREET, BLDG. 100-B, SACRAMENTO, CA 95816
PHONE: (916) 341-7760 FAX: (916) 341-7767

EXHIBIT B-2

LAND USE TABLE

LAND USE SUMMARY

SUNRIDGE PARK - PHASE II

CITY OF RANCHO CORDOVA, CALIFORNIA

JULY 21, 2005

EXHIBIT "B-2"

LAND USE SUMMARY

LOT NO./VILLAGE NO.	GENERAL PLAN/SPECIFIC PLAN/ ZONING DESIGNATION	USE	ACRES (N)	ACRES (G)	UNITS
VILLAGE 4C	LDR/RD-4/RD-4	S-F RESIDENTIAL (70'x122' TYP.)	3.2	3.4	14
VILLAGE 4D	LDR/RD-5/RD-5	S-F RESIDENTIAL (70'x122' TYP.)	2.8	2.9	10
VILLAGES 5C + 5D	LDR/RD-5/RD-5	S-F RESIDENTIAL (60'x110' TYP.)	4.6	4.6	24
VILLAGES 2B, 8C, 9B + 10B	LDR/RD-5/RD-5	S-F RESIDENTIAL (55'x105' TYP.)	10.1	10.2	57
VILLAGES 1B + 11B	LDR/RD-7/RD-7	S-F RESIDENTIAL (45'x105' TYP.)	6.8	7.2	46
SUBTOTAL			**27.5**	**28.3**	**151**
LOT A	LDR/SCHOOL/RD-5	ELEMENTARY SCHOOL	10.0	10.0	-
LOTS B + C	LDR/PARK/O	PARKS	7.3	8.2	-
LOT D	COMM + OFFICE/CMU/LC	COMMERCIAL/MIXED USE	5.3	5.7	-
SUBTOTAL			**22.6**	**23.9**	**-**
LOT E	COMM + OFFICE/CMU/LC	WETLAND PRESERVE	6.4	6.4	-
LOT F	COMM + OFFICE/CMU/LC	SMUD SUB-STATION	6.5	6.5	-
LOT G	COMM + OFFICE/CMU/LC	DETENTION/WATER QUALITY BASIN	13.4	13.7	-
LOTS H-O	-	LANDSCAPE CORRIDOR	0.89	-	-
SUBTOTAL			**27.19**	**26.6**	**-**
TOTAL			**-**	**78.8**	**151**

GROSS ACREAGE INCLUDES ALL MINOR STREETS + LANDSCAPE CORRIDOR LOTS.

NET ACREAGES INCLUDE MINOR STREETS ONLY.

WOOD RODGERS
ENGINEERING • PLANNING • MAPPING • SURVEYING
3301 C STREET, BLDG. 100-B, SACRAMENTO, CA 95816
PHONE: (916) 341-7760 FAX: (916) 341-7767

EXHIBIT C

CFD IMPROVEMENTS

EXHIBIT C

CFD IMPROVEMENTS

Roadway, Joint Trench Utilities, Local Drainage, Landscaping and Soundwalls

1. Douglas Road: Jaeger Road to Americanos Road
2. Douglas Road at Jaeger Road
3. Chrysanthy Boulevard: Anatolia I boundary to Jaeger Road
4. Chrysanthy Boulevard at Jaeger Road
5. Jaeger Road: Douglas Road to Chrysanthy Boulevard
6. Douglas Road at Americanos Road
7. Americanos Road: Douglas Road to West Boundary
8. Douglas Road at Zinfandel Drive
9. Sunrise Boulevard: Kiefer Boulevard to SR 16
10. Sunrise Boulevard at Kiefer Boulevard
11. Sunrise Boulevard at SR 16
12. Sunrise Boulevard at Grant Line Road
13. Grant Line Road at SR 16
14. Grant Line Road at White Rock Road
15. SR 16 at Bradshaw Road
16. SR 16 at Eagle's Nest Road
17. SR 16 at Excelsior
18. SR 16: Sunrise Boulevard to Grant Line Road
19. Alta Sunrise Reliever: Douglas Road to US 50
20. Zinfandel Drive Extension
21. Sunridge Park Collector Roads

Utility Improvements

22. Any and all major Water facilities necessary to provide water service to Sunridge Park
23. Any and all major Sewer facilities necessary to provide sewer service to Sunridge Park
24. Any and all major Drainage facilities necessary to provide drainage for Sunridge Park

Park Improvements

25. Any and all park improvements within Sunridge Park

Other

26. Sunridge Specific Plan Water Fees for Sunridge Park
27. Sunridge Specific Plan Sewer Fees for Sunridge Park
28. Sunridge Specific Plan Road Fees for Sunridge Park
29. Sunridge Specific Plan Park Development Fees for Sunridge Park

30. Consultant fees, application fees, processing fees, and document production costs associated with the CFD preparation and processing of Public Facilities Reports, Engineering Studies, Financing Plans, Environmental Permitting, and Environmental Studies, as well as other costs associated with the District Formation and Bond Sale process.

31. Any other facilities permitted under the Mello-Roos Community Facilities Act of 1982, including the facilities described in Section 53313.5 of the California Government Code, as amended from time to time, provided that such facilities satisfy at least one of the following criteria: 1) augment, improve or expand existing District facilities that are primarily for the benefit of the District; or 2) repair or rehabilitate existing District facilities.

EXHIBIT D

SUNRIDGEPARK TENTATIVE SUBDIVISION MAP

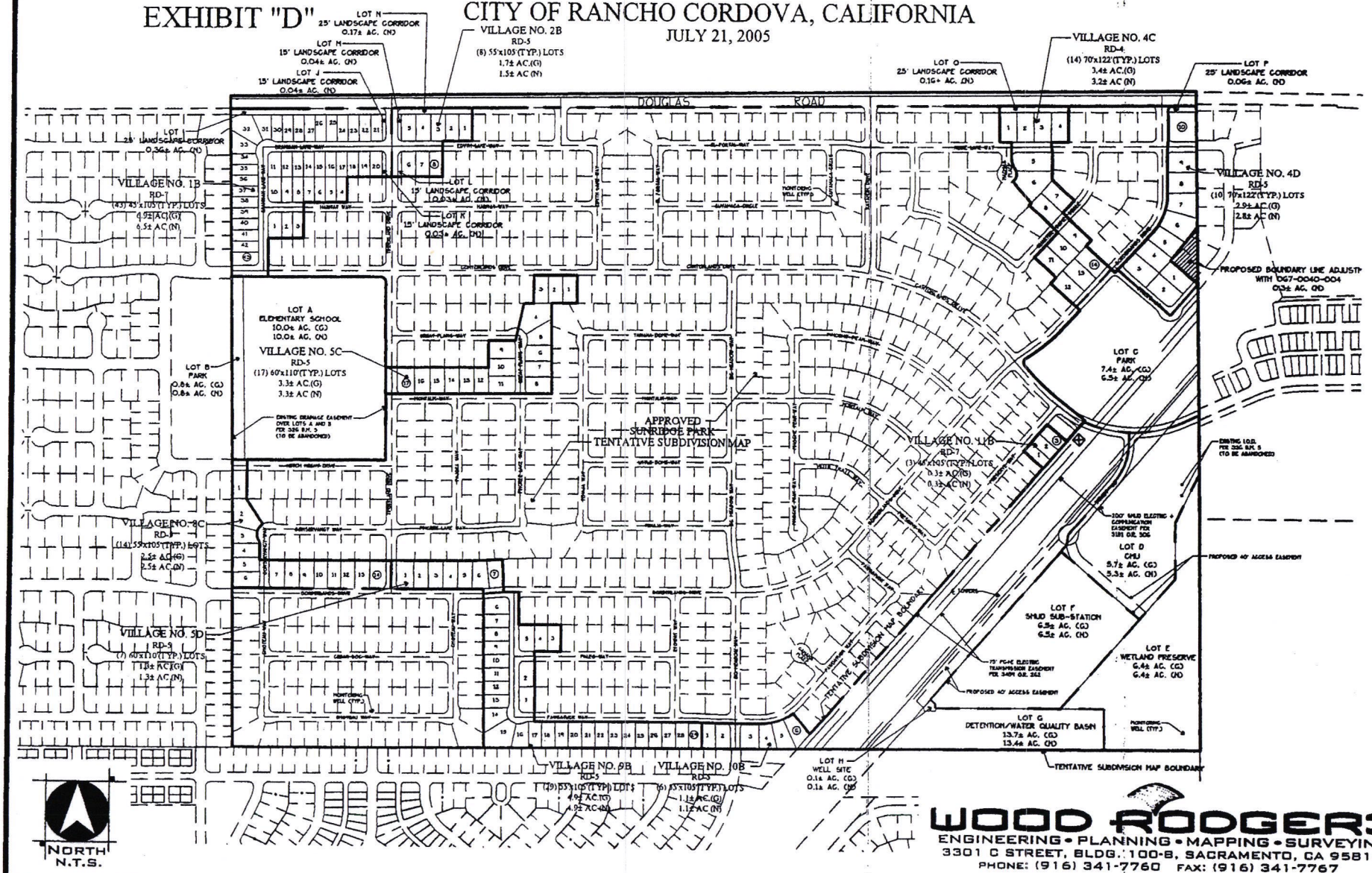
LARGE LOT/SMALL LOT TENTATIVE SUBDIVISION MAP

SUNRIDGE PARK - PHASE II

EXHIBIT "D"

CITY OF RANCHO CORDOVA, CALIFORNIA

JULY 21, 2005



WOOD RODGERS

ENGINEERING • PLANNING • MAPPING • SURVEYING

3301 C STREET, BLDG. 100-B, SACRAMENTO, CA 95816

PHONE: (916) 341-7760 FAX: (916) 341-7767

EXHIBIT E

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

ASSIGNMENT AND ASSUMPTION AGREEMENT RELATIVE TO SUNRIDGE PARK—PHASE II

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this _____ day of _____, 200_ ____, by and between _____, a _____ _____ (hereinafter "Developer"), and _____, a _____ _____ (hereinafter "Assignee").

RECITALS

1. On _____, 200_, the City of Rancho Cordova and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Rancho Cordova and Relative to the Development known as Sunridge Park—Phase II (hereinafter the "Development Agreement"). Pursuant to the Development Agreement, Developer agreed to develop certain property more particularly described in the Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of Sacramento County on _____, 200_, as Instrument No. 200_-_____.

2. Developer intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel _____, and more particularly identified and described in Exhibits A-1 and A-2, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

3. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement and conveyance of the Assigned Parcel to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 28 of the Development Agreement for the Developer with respect to the Assigned Parcel shall be:

_____
_____
_____
Attn: _____

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

DEVELOPER:	ASSIGNEE:
_____	_____,
a _____	a _____
By: _____	By: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____

EXHIBIT F

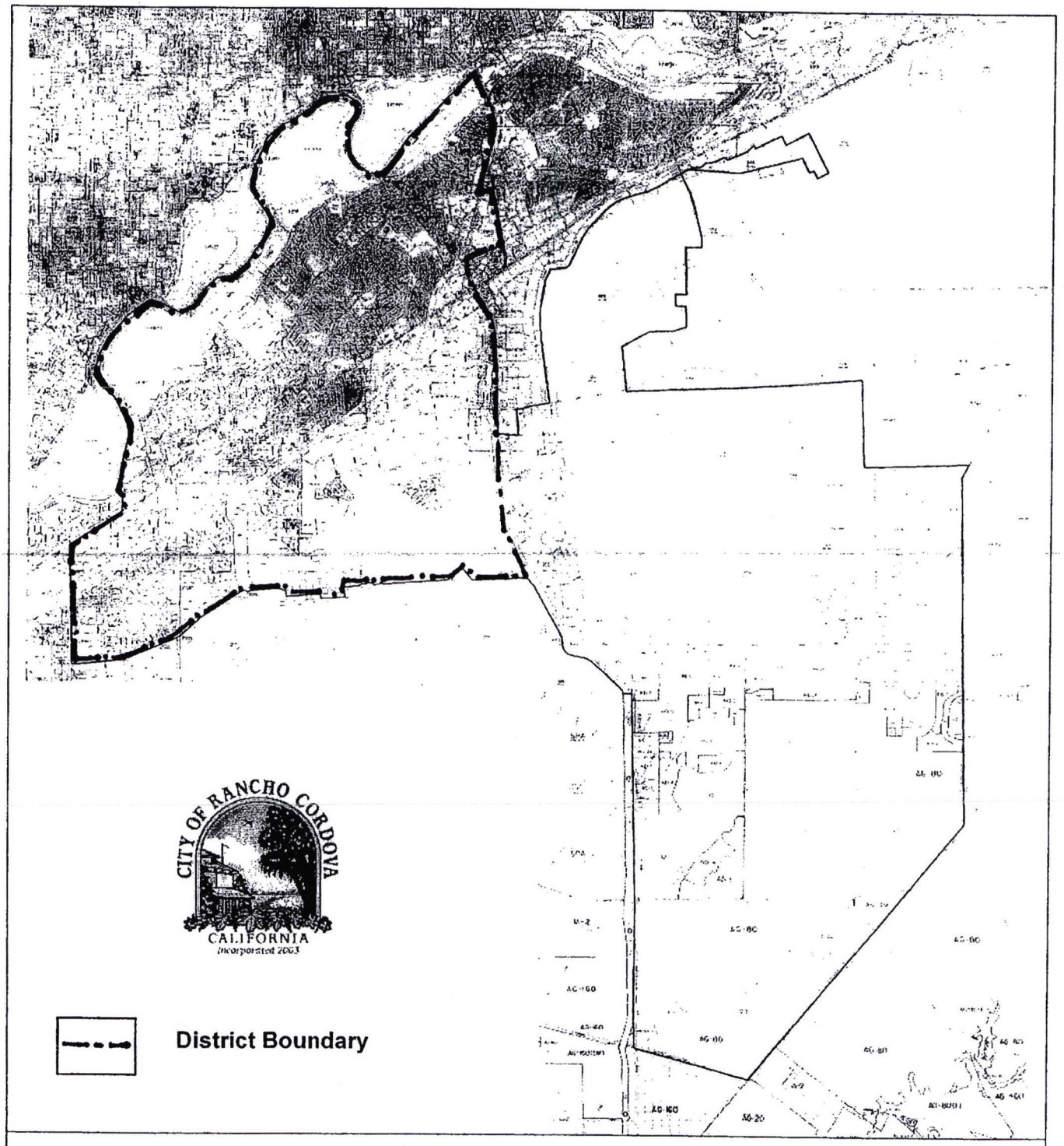


Exhibit F - Infill Park Renovation and Acquisition District

MEMORANDUM

DATE: January 17, 2006

TO: Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **RESOLUTION DECLARING THE RESULTS OF MAIL BALLOT ELECTION FOR RANCHO CORDOVA TRANSIT-RELATED SERVICES SPECIAL TAX AREA ZONE 3 (CAPITAL VILLAGE SUBDIVISION) AND 2ND READING OF ORDINANCE NO. 31-2005 ESTABLISHING A SPECIAL TAX FOR TRANSIT-RELATED SERVICES FOR THE CAPITAL VILLAGE SUBDIVISION**

RECOMMENDATION

Staff recommends the Council adopt **Resolution No. 02-2006** declaring the result of the transit-related services tax election concerning Transit-Related Services Special Tax Area Zone 3 and adopt **Ordinance No. 31-2005**.

RESULT OF RECOMMENDED ACTION

The result of the recommended actions authorize the collection of a special tax in Capital Village to provide funding for transit-related services. The amount of the tax per parcel on an annual basis range from $48 to $80 per residential dwelling unit, $2,051 per retail and service commercial acre, and $1,763 per commercial mixed use acre.

BACKGROUND

On November 7, 2005, the City Council approved Resolution No. 141-2005, which created the Rancho Cordova Transit-Related Services Special Tax Area and announced the City's intention to impose a transit-related services tax on new development within the City. Pursuant to that resolution, a property owner must approve a special tax on the parcel(s) within a subdivision as a condition of approval by the City. The City Council then adopts a resolution establishing a zone encompassing the subdivision, and an ordinance creating the special tax. Finally, in order to go into effect, the ordinance must be approved by two-thirds of the affected property owners voting in a mail-ballot election to be held by the

AGENDA ITEM # 8

City. If the tax in Zone 3 was approved by at least two-thirds of the property owners voting, the tax will go into effect immediately upon voter approval.

Election

In accordance with this above-described process, the City recently adopted Resolution No. 147-2005 on December 19, 2005, which created Tax Zone 3, and introduced Ordinance No. 31-2005, on December 19, 2005, which established the special tax for transit-related services subject to landowner-voter confirmation. Ballots were mailed out to Capital Village property owners following the City Council's December 19, 2005 action.

The election was conducted on January 3, 2006. The ballots were tabulated by the City Clerk and the Council should now announce the result of the elections:

"Special Tax Area Zone3: 2 "yes" vote; 0 "no" vote

Accordingly, the Council should now announce the result of the election and waive the 2nd reading of the Ordinance. Because the transit-related services tax was approved by at least two-thirds of the property owners voting, this tax will go into effect immediately so that taxes will be first collected for the tax year beginning July 1, 2006.

Attachment(s):
Resolution No. 02-2006
Ordinance No. 31-2005

CITY OF RANCHO CORDOVA

RESOLUTION NO. 02-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DECLARING THE RESULTS OF THE ELECTION FOR RANCHO CORDOVA TRANSIT-RELATED SERVICES SPECIAL TAX AREA ZONE 3

WHEREAS, the City Council adopted Resolution No. 141-2005 creating the Rancho Cordova Transit-Related Services Special Tax Area and indicating its intent to impose the tax on new development in the City; and

WHEREAS, on December 19, 2005, the City adopted Resolution No. 147-2005, creating Zone 3 within the Transit-Related Services Special Tax Area, and recognizing the need for increased transit-related services in Zone 3 and the difficulty of funding current or increased levels of such services with available revenues. Pursuant to Resolution No. 147-2005, the City directed the City Clerk to conduct a transit-related services tax election, to be conducted by mail ballot, pursuant to Elections Code section 4000; and

WHEREAS, the property owners within Zone 3 waived the timing requirements of Elections Code section 4000 in order to conduct the election on a date earlier provided under the Elections Code; and

WHEREAS, on December 19, 2005, the City introduced Ordinance No. 31-2005, which established a special tax for transit-related services in Zone 3, which is contiguous with the boundaries of the Capital Village subdivision, subject to landowner-voter confirmation; and

WHEREAS, Ordinance No. 31-2005 takes effect immediately upon confirmation by two-thirds of the voters voting within the relevant zone, so that taxes will be first collected for the tax year beginning July 1, 2006; and

WHEREAS, ballots were sent to the two landowners within Zone 3 (Beazer Homes Holdings Corp. and Hearthstone Multi-Asset Entity B, L.P.), which asked them a single question in the form of: "Shall Ordinance No. 31-2005 of the City Council of the City of Rancho Cordova be approved so as to authorize a special tax on property located in Zone 3 of the Rancho Cordova Transit-Related Services Special Tax Area to maintain the present level of transit-related services and provide additional funding for increased transit-related services?"; and

WHEREAS, the owners of the real property subject to the Transit-Related Services Special Tax Area Zone 3 have voted on the issue of whether to approve Ordinance No. 31-2005 and the City now wishes to declare the results of this transit-related services tax election for Zone 3

NOW, THEREFORE, the City Council of the City of Rancho Cordova hereby declares as follows:

1. The foregoing recitals are all true and correct.

2. The City Clerk has tabulated the transit-related services special tax ballots and the following are the responses to the question on the ballot asking whether the landowner approves of Ordinance No. 31-2005 authorizing a special tax in the portion of Transit-Related Services Special Tax Zone 3 that encompasses the landowner's property, in order to maintain the present level of transit-related services and provide additional funding for increased transit-related services:

Special Tax Area Zone 3: 2 "yes"; 0 "no".

3. In accordance with Ordinance 31-2005, the transit-related services special tax for Zone 3 shall take effect immediately, so that taxes will first be collected hereunder for the tax year beginning July 1, 2006.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on this 17th day of January, 2006, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 31-2005

AN ORDINANCE OF THE CITY OF RANCHO CORDOVA ESTABLISHING A SPECIAL TAX FOR TRANSIT-RELATED SERVICES FOR THE CAPITAL VILLAGE SUBDIVISION SUBJECT TO VOTER CONFIRMATION

THE VOTERS OF ZONE 3 OF THE RANCHO CORDOVA TRANSIT-RELATED SERVICES SPECIAL TAX AREA DO ORDAIN AS FOLLOWS:

Section 1. Purpose, Intent and Authority.

It is of critical importance to the City Council of the City of Rancho Cordova that residents of the City receive high quality transit-related services. In carefully reviewing the City's budget and revenue projections, it has become clear to City staff that the City budget does not contain adequate funding to ensure the continued delivery of adequate high quality transit-related services unless additional revenues are obtained.

It is the purpose and intent of this Ordinance to generate additional funds to pay for transit-related services by authorizing the levy of a tax on improved parcels of real property on the secured property tax roll of Sacramento County that are within Zone 3 of the Rancho Cordova Transit-Related Services Special Tax Area (the "Zone"). The voters of Zone 3 recognize the importance of adequate transit-related services to the entire Rancho Cordova community and approve this tax to ensure that those services will be maintained and improved citywide.

This tax is a special tax within the meaning of Section 4 of the Article XIIIA of the California Constitution. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is levied on a parcel and use of property basis. Insofar as not inconsistent with this Ordinance or with legislation authorizing special taxes and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Article XIII of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of this tax (Section 4 of this Ordinance), as authorized by law. This tax is not an ad valorem property tax; it is an excise tax on the use of property. Because the revenue from the tax may be used only to fund transit-related services, it is also a special tax.

The revenues raised by this tax are to be used solely for the purpose of providing transit-related services as are deemed necessary by the City Council for the benefit of the residents of Zone 3.

At the time that the Council submitted this Ordinance to the voters of Zone 3, there were 0 registered voters residing there and 2 property owners. Because the Transit-Related Services Special Tax will be imposed on property in Zone 3 and paid by the owners of the property, the Council finds that restricting the vote on the Transit-related Services Special Tax to property owners in Zone 3 is appropriate and consistent with the principles and requirements of California Constitution article XIIIC (Proposition 218).

Section 2. Definitions.

The following definitions shall apply throughout this Ordinance.

A. "Constant first year dollars" shall mean an actual dollar amount which, in years subsequent to the first fiscal year the tax is levied, shall have the same purchasing price as the base amount in first fiscal year dollars as measured by the Consumer Price Index. The base amount shall be the amount of tax per parcel as specified in Section 3(A) herein. The adjustments from actual to constant dollars shall be made by use of the Consumer Price Index, as specified in Section 3(B) herein.

B. "Consumer Price Index" means the Consumer Price Index for all Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose Area as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised.

C. "Fiscal year" means the period of July 1 through the following June 30.

D. "Parcel" means the land and any improvements thereon, designated by an assessor's parcel map and parcel number and carried on the secured property tax roll of Sacramento County. For the purposes of this Ordinance, parcel does not include any land or improvements outside the boundaries of Zone 3 nor any land or improvements owned by any governmental entity.

E. "Rancho Cordova Transit-Related Services Special Tax Area" means all the properties within the jurisdictional limits of the City of Rancho Cordova.

F. "Rancho Cordova Transit-Related Services Special Tax Area Zone 3" (the "Zone") means that portion of the incorporated area of the City of Rancho Cordova located within the boundaries described in **Exhibit A** hereto and as shown on the map **Exhibit B** hereto.

G. "Transit-Related Services" means providing, operating, maintaining and subsidizing transit services and all supporting facilities, infrastructure, programs and incentives that benefit the residents of the Rancho Cordova Transit-Related Services Special Tax Area, and shall be calculated and set according to the methodology

described in Engineer's Report County Service Area No. 10 and Benefit Zone No. 2 County of Sacramento, September 7, 2004, which established the methodology for the original service charge for Benefit Zone No. 2.

H. "Voter" means a person who owns real property within Zone 3, as shown on the last equalized assessment role prepared by the Sacramento County Assessor's Office, at the time that the City Council submits an ordinance authorizing the imposition of a transit-related services tax to the voters of Zone 3.

Section 3. Amount and Level of Taxes.

The tax per year on each parcel in the Zone shall not exceed the amount applicable to the parcel, as specified below.

A. For First Fiscal Year:

The tax per year for the first fiscal year (July 1, 2006 through June 30, 2007) shall be the amount of Tax Per Parcel for a Property Use Code Category as set forth on **Exhibit C** hereto. The use code assigned to each parcel shall be reviewed and updated periodically. Rates in **Exhibit C** shall be calculated and set according to the methodology described in Engineer's Report County Service Area No. 10 and Benefit Zone No. 2 County of Sacramento, September 7, 2004, which established the methodology for the original service charge for Benefit Zone No. 2.

B. For Subsequent Fiscal Year:

In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to the first fiscal year, the tax per year shall be adjusted as set forth below to reflect any increase in the Consumer Price Index beyond the first fiscal year the tax is levied.

In June or July of each year, City Council shall determine the amount of taxes to be levied upon the parcels in Zone 3 for the then current fiscal year, as set forth below.

For each Property Use Category on **Exhibit C**, the tax per year on each parcel for each fiscal year subsequent to the first fiscal year shall be an amount determined as follows:

Tax Per Parcel For then Current Fiscal Year	=	Tax Per Parcel For Immediately Preceding Fiscal Year	X	Consumer Price Index from April of immediately Preceding Fiscal Year to April of then Current Fiscal Year **OR** 6 percent, whichever is less

Provided, however, that in no event shall the tax per parcel for any fiscal year be less than the amount established for the first fiscal year.

C. Nature of Tax Levy.

The taxes levied on each parcel pursuant to this Article shall be a charge upon the parcel and shall be due and collectible as set forth in Section 4, below.

Section 4. Collection and Administration.

A. Taxes as Liens Against the Property.

The amount of taxes for each parcel each year shall constitute a lien on such property, in accordance with Revenue and Taxation Code Section 2187, and shall have the same effect as an ad valorem real property tax lien until fully paid.

B. Collection.

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and are to be collected in the same manner in which Sacramento County collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with this Ordinance, the times and procedures regarding exceptions, due dates, installment payments, corrections, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes (as established by Sacramento County) shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax:

1. The secured roll tax bills shall be the only notices required for this tax, and

2. The homeowners and veterans exemptions shall not be applicable because such exemptions are determined by dollar amount of value.

C. Costs of Administration by County.

The reasonable costs incurred by the County officers collecting and administering this tax shall be deducted from the collected taxes.

D. Use of Tax Revenue.

The revenue collected from the tax imposed by this ordinance shall be placed into a separate account and may be used only to fund transit-related services, including the costs of administering and collecting the tax and enforcing the provisions of this ordinance. Revenue from the tax may be used for transit-related services citywide.

E. Refunds.

1. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the City pursuant to this ordinance, it may be refunded as provided in this Section.

2. No refund may be made except upon a written claim verified by the person who paid the tax or by his or her guardian or conservator or the executor or administrator of his or her will or estate and stating the grounds upon which the claim is made. All claims filed pursuant to this subsection must be presented within one year after payment of the amount for which the claimant is seeking a refund.

3. No order of a refund may be made until a written claim therefor has been presented in accordance with this subsection. No suit for money, damages or a refund may be brought against the City until a written claim therefor has been presented to the City and has been acted upon or has been deemed rejected by the City, in accordance with this subsection. Only the person who filed the claim may bring such a suit, and if another person should do so, judgment shall not be rendered for the plaintiff.

F. Initiatives to Affect Tax.

Consistent with the California Constitution (art. XIIIC, § 3) the tax imposed by this ordinance may be affected by initiative. The procedures for qualification of such an initiative and the election on a qualified initiative shall be consistent with the California Constitution (art. 2, sec. 8), the California Elections Code (Chapter 3 of Division 9), and the Municipal Code. The minimum number of signatures necessary to qualify an initiative to affect the tax approved by this ordinance shall be equal to 5 percent

of the votes in the City for all candidates for Governor at the last gubernatorial election. The election on a qualified initiative to affect the tax shall be a regular citywide election. An initiative affecting the tax shall be approved only if at least two-thirds of the votes cast on the measure are in favor of its approval.

Section 5. Severability Clause.

If any article, section, subsection, sentence, phrase of clause of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The voters of Zone 3 hereby declare that they would have adopted the remainder of this Ordinance, including each article, section, subsection, sentenced phrase or clause, irrespective of the invalidity of any other article, section, subsection, sentence, phrase or clause.

Section 6. Effective Date and Posting.

This Ordinance shall take effect immediately upon its approval by two-thirds of the voters voting within the Zone in an election to be held on January 3, 2006 so that taxes shall first be collected hereunder for the tax year beginning July 1, 2006.

APPROVED by the following vote of the Voters of Zone 3 of the Rancho Cordova Transit-Related Services Special Tax Area on January 3, 2006.

ADOPTED by Declaration of the vote by the City Council of the City of Rancho Cordova on January 17, 2006:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

EXHIBIT A

Description of Property

The land referred to herein is situated in the State of California, County of Sacramento, City of Rancho Cordova, and is described as follows:

Parcels 47 through 58 and 70 through 74 inclusive as shown on that certain Parcel Map entitled "Capital Center II" filed April 10, 1986, in Book 93 of Parcel Maps, Page 7, Sacramento County Records.

APN's: 072-0680-010 through 072-0680-021
072-0680-034 through 072-0680-038

EXHIBIT C

Amount of Tax per Parcel by Land Use Category

A. Residential Dwelling Units

The amount of Tax per Parcel for Residential Land Use Categories shall be $80 per low density residential dwelling unit or low density residential dwelling unit equivalent, $64 per medium density residential dwelling unit or medium density residential dwelling unit equivalent, $48 per high density residential dwelling unit or high density residential dwelling unit equivalent, (Multi-family residential units on a single parcel shall be assessed on a proportionately equivalent basis (e.g., a two-unit attached housing structure, such as a duplex, would be deemed to consist of two residential parcels for purposes of the Transit-Related Services Special Tax).

B. Non-Residential

The amount of Tax per Parcel for Non-Residential Land Use Categories (except Recreational and Agricultural) shall be $2,051 per retail and service commercial acre, and $1,763 per commercial mixed use acre.

C. Inflator Formula

The tax is subject to an annual inflator formula based on the Consumer Price Index for all Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose Area, or six percent, whichever is less.

MEMORANDUM

DATE: January 17, 2006

TO: Mayor and Council Members

FROM: Lillian Hare, City Clerk/Human Resources Director

SUBJECT: **RESOLUTION TO MEMORIALIZE THE EMPLOYEE CONTRIBUTION TO THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)**

RECOMMENDATION

Adopt Resolution No. 04-2006.

RESULT OF RECOMMENDED ACTION

This is a housekeeping item done to comply with a Calpers requirement to memorialize the 2.5% contribution of salary to the retirement system by City employees.

BACKGROUND

Calpers has requested a resolution to memorialize the 2.5% of the employer paid member contribution (EPMC) that employees are now making to the retirement system. This action does not result in any change to the City's retirement plan with Calpers.

Attachment(s): Resolution No. 04-2006

AGENDA ITEM # 9

CITY OF RANCHO CORDOVA

RESOLUTION NO. 04-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA REGARDING EMPLOYER PAID MEMBER CONTRIBUTIONS

WHEREAS, the governing body of the City of Rancho Cordova has the authority to implement Government Code Section 20691; and

WHEREAS, the governing body of the City of Rancho Cordova has a written labor policy which specifically provides for the normal member contributions to be paid by the employer; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Rancho Cordova of a Resolution to commence said Employer Paid Member Contributions (EPMC); and

WHEREAS, the governing body of the City of Rancho Cordova has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of the Miscellaneous Class.
- This benefit shall consist of paying 5.5% of the normal member contributions as EPMC; the employees to pay 2.5%.
- The effective date of this Resolution shall be January 17, 2006.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the City of Rancho Cordova elects to pay EPMC, as set forth above.

PASSED AND ADOPTED THIS 17th day of January, 2006, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

MEMORANDUM

DATE: January 17, 2006

TO: Mayor and Council Members

FROM: Winfred DeLeon, Principal Engineer/Architect

SUBJECT: **AGREEMENT BETWEEN THE BEEBE CORPORATION AND THE CITY OF RANCHO CORDOVA FOR THE NEW CITY HALL PROJECT, SITE WORK TRADE**

RECOMMENDATION

It is recommended that the subject contract be awarded to the lowest responsive bidder, **The Beebe Corporation** in the amount of $401,464. Contract Agreement between the City of Rancho Cordova and The Beebe Corporation is provided in **Attachment B**.

RESULT OF RECOMMENDED ACTION

Award of this contract will allow disabled access upgrades, required exiting path of travel routes, outdoor seating area/fencing and flag poles to be installed at the new city hall building.

BACKGROUND

The work to be done on this contract consists, in general, of furnishing all labor, materials, tools and equipment necessary to furnish and install complete the disabled access upgrades, required exiting path of travel routes, outdoor seating area/fencing and flag poles.

The original bids were solicited with the Sacramento Bee beginning October 4, 2005. These bids were to be publicly opened on October 19, 2005 at approximately 2:10 pm at 3121 Gold Canal Drive, Rancho Cordova 95670, however zero (0) bids were submitted.

BID INFORMATION

Although four (4) sub-contractors were invited to bid, zero (0) bids were submitted for this scope of work. Therefore, the City made numerous phone calls to various site work contractors in order to solicit additional bid proposals. This effort produced seven (7) additional bid proposals from various sub-contractors. These proposals were evaluated and combined to provide us with two (2) proposals for the site work. The original budget estimate was $250,000. The lowest combined responsive bid was $401,464. The lowest responsive bid is 60% above the budget estimate. With the current bidding climate, the industry has been experiencing anywhere from a 20 to 50% upsurge above their cost estimates. The Bid Summary Sheet is provided in **Attachment A.**

Attachment

Attachment A: Bid Summary Sheet
Attachment B: Agreement between The Beebe Corporation and the City of Rancho Cordova

AGENDA ITEM # 10

ATTACHMENT A

Site Work proposals

Delta Construction	Site preparation minus flag poles and fencing	223,511
	Add SWPPP + Barricades/traffic control	8,960
Clark-Cadman, Inc.	Provide and Install ornamental iron fence	9,328
Pole Tech.	Provide and Install three (3) flag poles	14,388
Foothill Construction	Provide and install all concrete	140,921
	Bonds (1.5%)	5,957
Total - Delta		**$403,065**

The Beebe Corporation	Site preparation work	255,000
Foothill Construction	Provide and install all concrete	140,921
	Bonds (1.4%)	5,543
Total - Beebe		**$401,464**

CONSTRUCTION SERVICES AGREEMENT BETWEEN
THE CITY OF RANCHO CORDOVA AND
The Beebe Corporation

THIS AGREEMENT made and entered into this day of December 27, 2005, between the City of Rancho Cordova ("City") and The Beebe Corporation ("Contractor") as of December 27, 2005.

WITNESSETH:

WHEREAS, the City heretofore caused plans and specifications for the work hereinafter mentioned to be prepared, and therefore did approve and adopt said plans and specifications; and

WHEREAS, the City did cause to be published for the time and in the manner required by law, a Notice inviting sealed bids for the performance of said work; and

WHEREAS, the Contractor, in response to such Notice, submitted to the City within the time specified in said Notice, and in the manner provided for therein, a sealed bid for the performance of the work specified in said plans and specifications, which said bid and proposal, and other bids and proposals submitted in response to said Notice, the City publicly opened and canvassed in the manner provided by law; and

WHEREAS, the Contractor was the lowest responsible bidder for the performance of said work, and the City as a result of the canvass of said bids, did determine and declare Contractor to be the lowest responsible bidder for said work and award to a contract therefore.

NOW THEREFORE, in consideration of the promises herein, it is mutually agreed between the parties hereto as follows:

Section 1. CONTRACT DOCUMENTS. The following documents are by this reference incorporated in and made a part of this Agreement: The County of Sacramento, Standard Construction Specifications dated March 2004("Standard Specifications"); the Special Provisions; the contract drawings, all addenda; the Notice to Contractors; the Proposal; all required bonds; and all supplemental Agreements covering alterations, amendments, or extensions to the contract. The documents which describe the work to be performed are sometimes collectively referred to herein as the Contract Documents.

Section 2. SCOPE OF WORK. The Contractor will furnish all labor, materials, services, transportation, appliances, and mechanical workmanship required for Contract as provided for and set forth in said Contract Documents, or in either of them, which said plans and specifications are hereby referred and by such reference incorporated herein and made a part of this Agreement. All of the said work done under this Agreement shall be under the supervision of and performed to the satisfaction of the Construction Manager and the City, both of whom shall have the right to reject any and all materials and supplies furnished by the Contractor that do not comply with said plans and specifications, together with the right to require the Contractor to replace any and all work furnished by the Contractor which shall not either in workmanship or material be in strict accordance with said plans and specifications.

Section 3. COMPLETION. Said work shall be completed and ready for acceptance by the date specified in the project schedule, attached hereto as Exhibit "A," and incorporated by references into this Agreement.

Section 4. PAYMENT. Attached hereto as Exhibit "B" and by reference made a part hereof, is the bid and proposal of Contractor. Said bid and proposal will contain, as required by the terms of the Contract Documents , the full and complete schedule of the different items with the lump sums or unit prices as so specified. The City agrees in consideration of the work to be performed herein and subject to the terms and conditions thereof, to pay Contractor all sums of money which may become due to Contractor in accordance with the terms of the aforesaid bid and proposal, and this Agreement, to wit: Four Hundred One Thousand, Four Hundred Sixty-Four Dollars and 00/100 ($401,464.00). Said sum shall be paid in accordance with Section 8 of the Standard Specifications and the Special Provisions. With respect to that portion of the above sum as is based upon the estimated quantities specified for the general scope of the work to be performed herein, actual payment will be based upon the quantities as measured upon completion. No payment made under this Agreement shall be construed to be an acceptance of defective work or improper materials. Payments requests by Contractor shall be submitted to DPR Construction Inc. for review and approval per DPR's Billing package attached hereto as Exhibit "C" The City will not pay any request for payment until DPR has informed the City that the request for payment is acceptable.

Section 5. PREVAILING WAGES. Pursuant to the provisions of Articles 1 and 2 of Chapter 1, Part 7, Division II, of the Labor Code of the State of California, not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work contemplated under this Agreement shall be paid to all workers, laborers and mechanics employed n the execution of said work by Contractor, or

by any subcontractor doing or contracting to do any part of said work. The appropriate determination of the Director of the California Department of Industrial Relations is filed with, and available for inspection at 3121 Gold Canal Drive, Rancho Cordova, CA., the office of the Clerk of the City. Contractor shall post, at each job site, a copy of such prevailing rate of per diem wages as determined by the Director for the California Department of Industrial Relations.

Section 6. INSURANCE. The Contractor shall carry and maintain during the life of this Agreement, such public liability, property damage and contractual liability, auto, worker's compensation and builders' risk insurance as required by the Standard Specifications.

Section 7. WORKERS' COMPENSATION CERTIFICATION. By execution of this Agreement, the Contractor certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Section 8. PERFORMANCE AND PAYMENT BONDS. The Contractor shall, before beginning said work, file two bonds with the City, each made payable to the City. These bonds shall be issued by a surety company authorized to do business in the State of California, and shall be maintained during the entire life of the Agreement at the expense of the Contractor. One bond shall be in the amount of one hundred percent (100%) of the Agreement and shall guarantee the faithful performance of the Agreement. The second bond shall be the payment bond required by California Civil Code Division 3, Part 4, Title 15, Chapter 7, and shall be in the amount of one hundred percent (100%) of the Agreement. Any alterations made in the specifications which are a part of this Agreement or in any provision of this Agreement shall not operate to release any surety from liability on any bond required hereunder and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of California Civil Code Sections 2819 and 2845.

Section 9. INDEMNIFICATION. The Contractor shall defend, indemnify the City and save harmless the City as set forth in Section 6-2 of the Standard Specifications.

Section 10. MISCELLANEOUS PROVISIONS. This Agreement shall bind and inure to the heirs, devisees, assignees, and successors in interest of Contractor and to the successors in interest of in the same manner as if such parties had been expressly named herein. All times stated herein or in the contract documents are of the essence hereof. As used in this instrument the singular includes the plural, and the masculine includes the feminine and the neuter.

Section 11. NOTICE OF THIRD PARTY CLAIMS. Pursuant to Public Contracts Code section 9201, the City shall provide the Contractor with notice of claims relating to this Agreement filed by third parties no later than ten (10) business days from the date of receipt of the claim. The Contractor shall be responsible for reimbursing the City for its reasonable costs in providing the notification.

IN WITNESS WHEREOF, the City Council and Contractor have caused this Agreement to be executed as of the day and year first above written.

CITY OF RANCHO CORDOVA

Ted A. Gaebler, City Manager

Attest:

Lillian Hare, City Clerk

Approved as to Form:

Adam Lindgren, City Attorney

The Beebe Corporation

Signature

Loren Beebe Pres.
Printed Name, Title

DPR Construction, Inc.

2480 Natomas Park Dr., Ste. 100

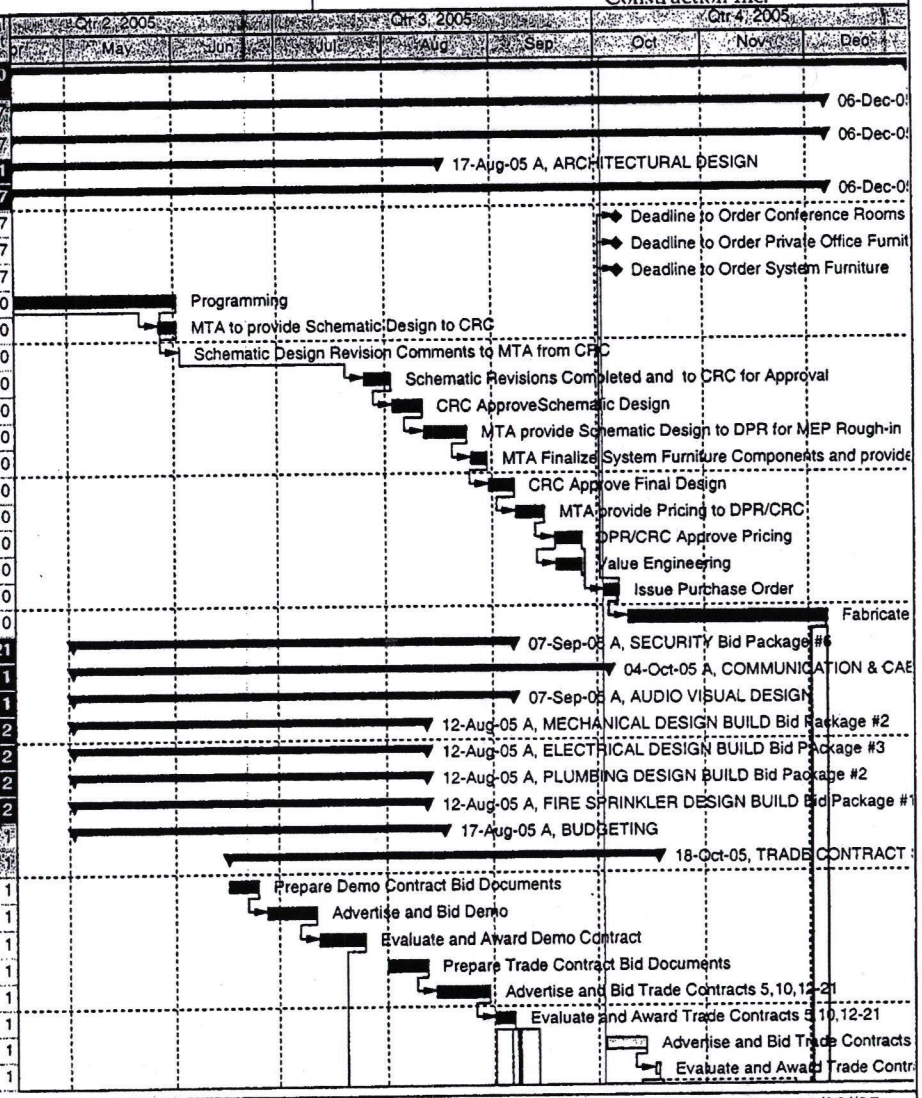
Sacramento, CA 95833

City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	Orig Dur	Start	Finish	Total Float
Rancho Cordova City Hall		180	15-Apr-05 A	30-Dec-05	0
PRECONSTRUCTION		169	15-Apr-05 A	06-Dec-05	17
DESIGN		169	15-Apr-05 A	06-Dec-05	17
ARCHITECTURAL DESIGN		74	15-Apr-05 A	17-Aug-05 A	1
MODULAR FURNITURE		163	15-Apr-05 A	06-Dec-05	17
P20(	Deadline to Order Conference Rooms and Ancilla...	0		07-Oct-05	57
P20'	Deadline to Order Private Office Furniture	0		07-Oct-05	57
P20;	Deadline to Order System Furniture	0		07-Oct-05	57
P20(	Programming	33	15-Apr-05 A	01-Jun-05 A	0
P20-	MTA to provide Schematic Design to CRC	3	27-May-05 A	01-Jun-05 A	0
P20!	Schematic Design Revision Comments to MTA fr...	1	02-Jun-05 A	02-Jun-05 A	0
P20(	Schematic Revisions Completed and to CRC for ...	6	26-Jul-05 A	02-Aug-05 A	0
P20;	CRC ApproveSchematic Design	7	03-Aug-05 A	11-Aug-05 A	0
P20(	MTA provide Schematic Design to DPR for MEP ...	2	12-Aug-05 A	25-Aug-05 A	0
P20(	MTA Finalize System Furniture Components and ...	5	26-Aug-05 A	31-Aug-05 A	0
P21(	CRC Approve Final Design	5	31-Aug-05 A	07-Sep-05 A	0
P21'	MTA provide Pricing to DPR/CRC	6	08-Sep-05 A	16-Sep-05 A	0
P21;	DPR/CRC Approve Pricing	5	19-Sep-05 A	26-Sep-05 A	0
P21;	Value Engineering	5	19-Sep-05 A	26-Sep-05 A	0
P21;	Issue Purchase Order	5	03-Oct-05	07-Oct-05	0
P21;	Fabricate and Deliver Furniture	40	10-Oct-05	06-Dec-05	0
SECURITY Bid Package #6		93	02-May-05 A	07-Sep-05 A	21
COMMUNICATION & CABLING Bid Packages #7		105	02-May-05 A	04-Oct-05 A	1
AUDIO VISUAL DESIGN		88	02-May-05 A	07-Sep-05 A	1
MECHANICAL DESIGN BUILD Bid Package #2		73	02-May-05 A	12-Aug-05 A	2
ELECTRICAL DESIGN BUILD Bid PAckage #3		73	02-May-05 A	12-Aug-05 A	2
PLUMBING DESIGN BUILD Bid Package #2		73	02-May-05 A	12-Aug-05 A	2
FIRE SPRINKLER DESIGN BUILD Bid Package #1		73	02-May-05 A	12-Aug-05 A	2
BUDGETING		76	02-May-05 A	17-Aug-05 A	1
TRADE CONTRACT SELECTION		97	16-Jun-05 A	18-Oct-05	2
P8000	Prepare Demo Contract Bid Documents	7	16-Jun-05 A	24-Jun-05 A	1
P8010	Advertise and Bid Demo	10	27-Jun-05 A	11-Jul-05 A	1
P8020	Evaluate and Award Demo Contract	10	12-Jul-05 A	25-Jul-05 A	1
P8030	Prepare Trade Contract Bid Documents	10	01-Aug-05 A	12-Aug-05 A	1
P8040	Advertise and Bid Trade Contracts 5,10,12-21	13	15-Aug-05 A	31-Aug-05 A	1
P8050	Evaluate and Award Trade Contracts 5,10,12-21	2	01-Sep-05 A	07-Sep-05 A	1
P8060	Advertise and Bid Trade Contracts 8,9, 11, 22-26	10	03-Oct-05 A	14-Oct-05	1
P8070	Evaluate and Award Trade Contracts 8,9, 11, 22-26	2	17-Oct-05	18-Oct-05	1



Remaining Level of Effort

Actual Level of Effort

Critical Remaining Level of Effort

Actual Work

Date:10/06//05

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Exhibit "A"

DPR Construction, Inc.

2480 Natomas Park Dr., Ste. 100

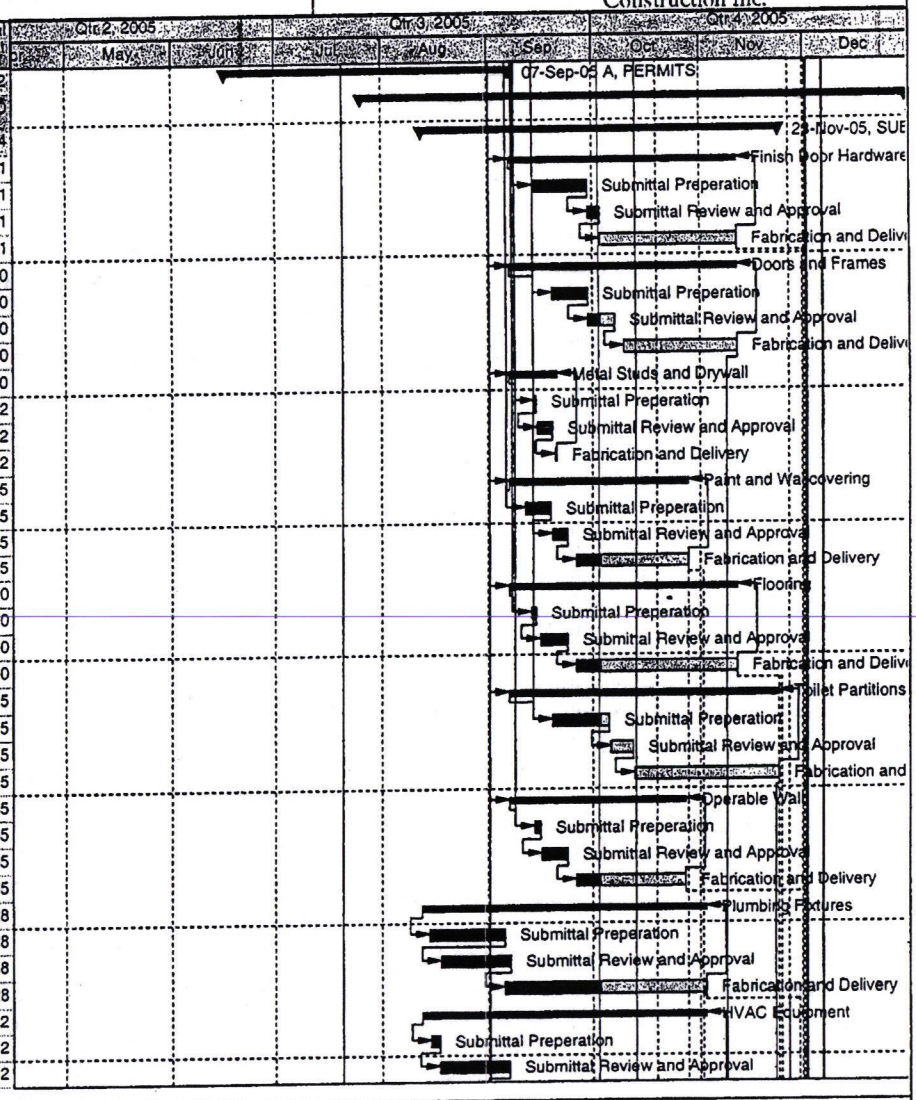
Sacramento, CA 95833

City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	Original	Start	Finish	Total Float
	PERMITS	60	16-Jun-05 A	07-Sep-05 A	72
	CONSTRUCTION	77	26-Jul-05 A	30-Dec-05	10
	SUBMITTAL/PROCUREMENT	72	12-Aug-05 A	23-Nov-05	24
C0100	Finish Door Hardware	40	07-Sep-05 A	11-Nov-05	21
C0111	Submittal Preperation	5	14-Sep-05 A	29-Sep-05 A	21
C0112	Submittal Review and Approval	5	30-Sep-05 A	03-Oct-05	21
C0113	Fabrication and Delivery	30	03-Oct-05	11-Nov-05	21
C0120	Doors and Frames	35	07-Sep-05 A	11-Nov-05	10
C0121	Submittal Preperation	5	19-Sep-05 A	29-Sep-05 A	10
C0122	Submittal Review and Approval	5	30-Sep-05 A	07-Oct-05	10
C0123	Fabrication and Delivery	25	10-Oct-05	11-Nov-05	10
C0130	Metal Studs and Drywall	3	07-Sep-05 A	20-Sep-05 A	0
C0131	Submittal Preperation	1	14-Sep-05 A	14-Sep-05 A	62
C0132	Submittal Review and Approval	1	15-Sep-05 A	19-Sep-05 A	62
C0133	Fabrication and Delivery	1	20-Sep-05 A	20-Sep-05 A	62
C0140	Paint and Wallcovering	35	07-Sep-05 A	28-Oct-05	5
C0141	Submittal Preperation	10	12-Sep-05 A	19-Sep-05 A	5
C0142	Submittal Review and Approval	5	19-Sep-05 A	23-Sep-05 A	5
C0143	Fabrication and Delivery	20	26-Sep-05 A	28-Oct-05	5
C0150	Flooring	45	07-Sep-05 A	11-Nov-05	10
C0151	Submittal Preperation	10	13-Sep-05 A	15-Sep-05 A	10
C0152	Submittal Review and Approval	5	16-Sep-05 A	23-Sep-05 A	10
C0153	Fabrication and Delivery	30	26-Sep-05 A	11-Nov-05	10
C0160	Toilet Partitions and Accessories	40	07-Sep-05 A	23-Nov-05	15
C0161	Submittal Preperation	5	19-Sep-05 A	05-Oct-05	15
C0162	Submittal Review and Approval	5	06-Oct-05	12-Oct-05	15
C0163	Fabrication and Delivery	30	13-Oct-05	23-Nov-05	15
C0170	Operable Wall	30	07-Sep-05 A	27-Oct-05	35
C0171	Submittal Preperation	5	14-Sep-05 A	16-Sep-05 A	35
C0172	Submittal Review and Approval	5	16-Sep-05 A	23-Sep-05 A	35
C0173	Fabrication and Delivery	20	26-Sep-05 A	27-Oct-05	35
C0180	Plumbing Fixtures	45	12-Aug-05 A	02-Nov-05	28
C0181	Submittal Preperation	10	15-Aug-05 A	06-Sep-05 A	28
C0182	Submittal Review and Approval	5	18-Aug-05 A	07-Sep-05 A	28
C0183	Fabrication and Delivery	30	06-Sep-05 A	02-Nov-05	28
C0190	HVAC Equipment	50	12-Aug-05 A	02-Nov-05	2
C0191	Submittal Preperation	5	15-Aug-05 A	18-Aug-05 A	2
C0192	Submittal Review and Approval	5	18-Aug-05 A	07-Sep-05 A	2



Remaining Level of Effort

Actual Level of Effort

Critical Remaining Level of Effort

Actual Work

Date:10/06//05

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DPR Construction, Inc.

2480 Natomas Park Dr., Ste. 100

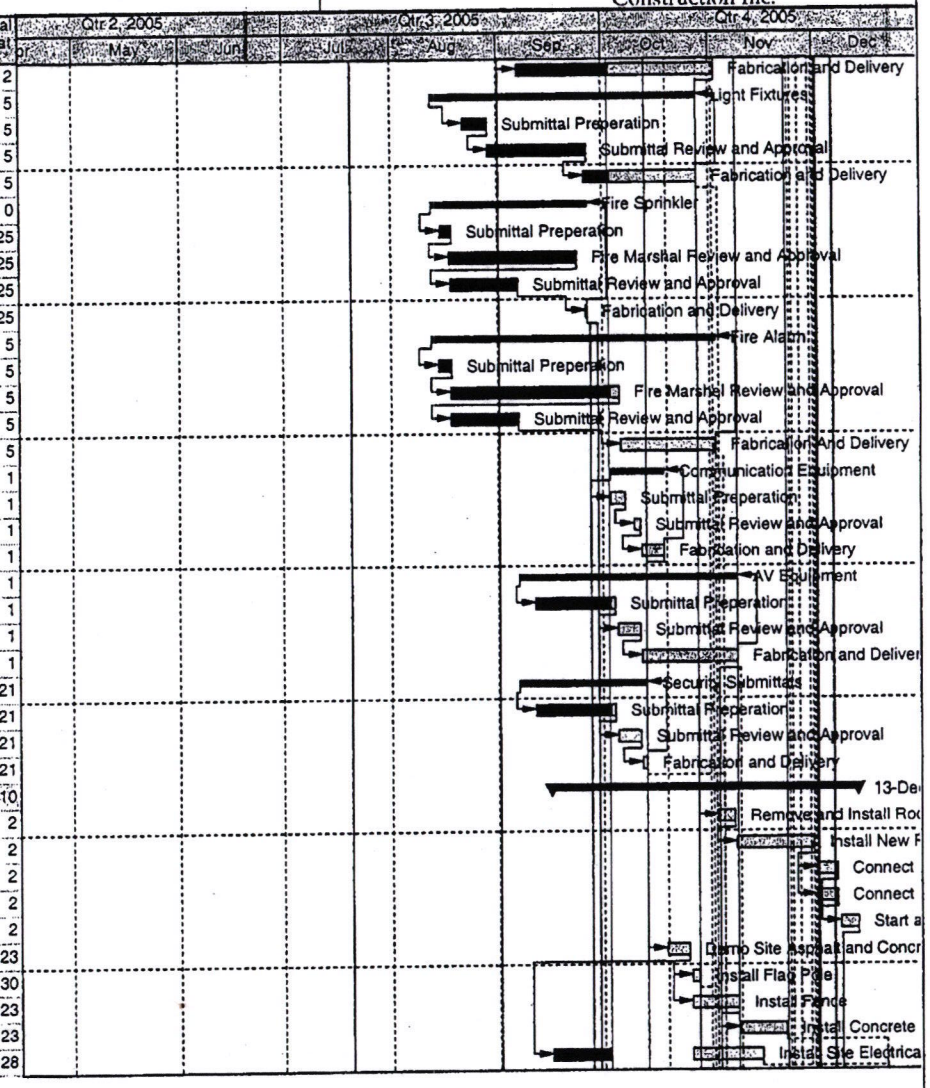
Sacramento, CA 95833

City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	Original	Start	Finish	Total Float
C0193	Fabrication and Delivery	30	07-Sep-05 A	02-Nov-05	2
C0200	Light Fixtures	35	12-Aug-05 A	28-Oct-05	5
C0201	Submittal Preperation	3	22-Aug-05 A	29-Aug-05 A	5
C0202	Submittal Review and Approval	2	29-Aug-05 A	26-Sep-05 A	5
C0203	Fabrication and Delivery	20	26-Sep-05 A	28-Oct-05	5
C0220	Fire Sprinkler	30	12-Aug-05 A	26-Sep-05 A	0
C0221	Submittal Preperation	4	15-Aug-05 A	18-Aug-05 A	25
C0222	Fire Marshal Review and Approval	10	18-Aug-05 A	23-Sep-05 A	25
C0223	Submittal Review and Approval	5	18-Aug-05 A	07-Sep-05 A	25
C0224	Fabrication and Delivery	5	26-Sep-05 A	26-Sep-05 A	25
C0230	Fire Alarm	45	12-Aug-05 A	02-Nov-05	5
C0231	Submittal Preperation	10	15-Aug-05 A	18-Aug-05 A	5
C0232	Fire Marshel Review and Approval	10	18-Aug-05 A	05-Oct-05	5
C0233	Submittal Review and Approval	5	18-Aug-05 A	07-Sep-05 A	5
C0234	Fabrication And Delivery	20	06-Oct-05	02-Nov-05	5
C0240	Communication Equipment	12	03-Oct-05	18-Oct-05	1
C0241	Submittal Preperation	5	03-Oct-05	07-Oct-05	1
C0242	Submittal Review and Approval	2	10-Oct-05	11-Oct-05	1
C0243	Fabrication and Delivery	5	12-Oct-05	18-Oct-05	1
C0250	AV Equipment	40	07-Sep-05 A	08-Nov-05	1
C0251	Submittal Preperation	10	12-Sep-05 A	04-Oct-05	1
C0252	Submittal Review and Approval	5	05-Oct-05	11-Oct-05	1
C0253	Fabrication and Delivery	20	12-Oct-05	08-Nov-05	1
C0260	Security Submittals	40	07-Sep-05 A	13-Oct-05	21
C0261	Submittal Preperation	10	12-Sep-05 A	04-Oct-05	21
C0262	Submittal Review and Approval	5	05-Oct-05 A	11-Oct-05	21
C0263	Fabrication and Delivery	2	12-Oct-05	13-Oct-05	21
EXTERIOR		46	16-Sep-05 A	13-Dec-05	10
C3000	Remove and Install Roof Top HVAC Units	3	03-Nov-05	07-Nov-05	2
C3005	Install New Roof and Flashing	15	08-Nov-05	30-Nov-05	2
C3010	Connect Electrical to Units	5	01-Dec-05	07-Dec-05	2
C3020	Connect Plumbing/Hydronics to Units	5	01-Dec-05	07-Dec-05	2
C3030	Start and Test Units	4	08-Dec-05	13-Dec-05	2
C3040	Demo Site Asphalt and Concrete	5	19-Oct-05	25-Oct-05	23
C3050	Install Flag Pole	3	26-Oct-05	28-Oct-05	30
C3060	Install Fence	10	26-Oct-05	08-Nov-05	23
C3070	Install Concrete Sidewalks and Ramps	10	09-Nov-05	22-Nov-05	23
C3080	Install Site Electrical	15	16-Sep-05 A	15-Nov-05	28



Remaining Level of Effort
Actual Level of Effort
Critical Remaining Level of Effort
Actual Work

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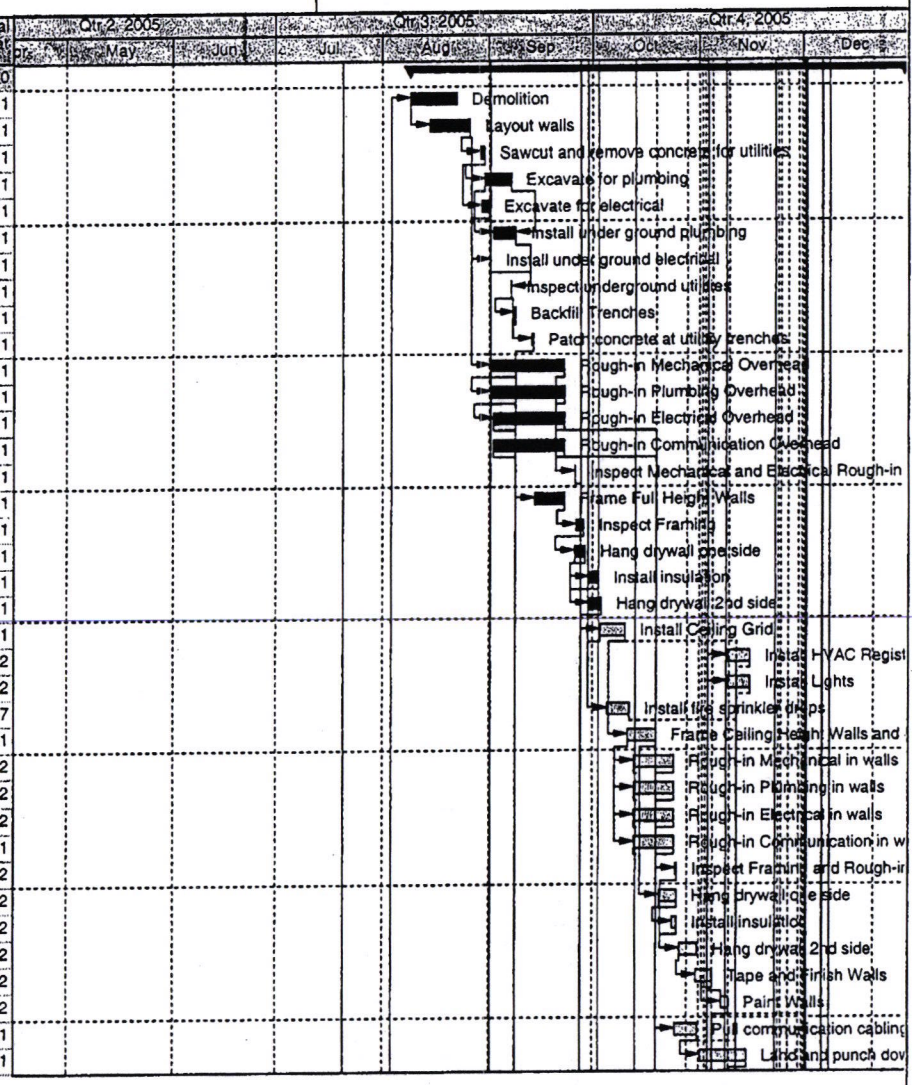
Sacramento, CA 95833

City of Rancho Cordova

City Hall Tenant Improvement

Activity ID	Activity Name	Original Dur	Start	Finish	Total Float
FIRST FLOOR		100	09-Aug-05 A	30-Dec-05	0
C1000	Demolition	10	09-Aug-05 A	22-Aug-05 A	1
C1010	Layout walls	5	15-Aug-05 A	26-Aug-05 A	1
C1011	Sawcut and remove concrete for utilities	2	29-Aug-05 A	30-Aug-05 A	1
C1012	Excavate for plumbing	4	31-Aug-05 A	07-Sep-05 A	1
C1013	Excavate for electrical	3	30-Aug-05 A	01-Sep-05 A	1
C1014	Install under ground plumbing	4	02-Sep-05 A	08-Sep-05 A	1
C1015	Install under ground electrical	1	01-Sep-05 A	01-Sep-05 A	1
C1016	Inspect underground utilities	1	07-Sep-05 A	07-Sep-05 A	1
C1017	Backfill Trenches	1	08-Sep-05 A	09-Sep-05 A	1
C1018	Patch concrete at utilitiy trenches	2	13-Sep-05 A	14-Sep-05 A	1
C1020	Rough-in Mechanical Overhead	8	01-Sep-05 A	23-Sep-05 A	1
C1030	Rough-in Plumbing Overhead	8	01-Sep-05 A	23-Sep-05 A	1
C1040	Rough-in Electrical Overhead	8	02-Sep-05 A	23-Sep-05 A	1
C1060	Rough-in Communication Overhead	8	02-Sep-05 A	23-Sep-05 A	1
C1065	Inspect Mechanical and Electrical Rough-in	1	26-Sep-05 A	26-Sep-05 A	1
C1070	Frame Full Height Walls	6	14-Sep-05 A	23-Sep-05 A	1
C1115	Inspect Framing	3	26-Sep-05 A	28-Sep-05 A	1
C1120	Hang drywall one side	2	26-Sep-05 A	29-Sep-05 A	1
C1130	Install insulation	1	30-Sep-05 A	03-Oct-05 A	1
C1140	Hang drywall 2nd side	2	30-Sep-05 A	03-Oct-05 A	1
C1170	Install Ceiling Grid	6	05-Oct-05 A	10-Oct-05	1
C1180	Install HVAC Registers	5	09-Nov-05	15-Nov-05	2
C1190	Install Lights	5	09-Nov-05	15-Nov-05	2
C1200	Install fire sprinkler drops	5	05-Oct-05 A	11-Oct-05	27
C1280	Frame Ceiling Height Walls and Soffits	7	11-Oct-05	19-Oct-05	1
C1310	Rough-in Mechanical in walls	8	13-Oct-05	24-Oct-05	2
C1320	Rough-in Plumbing in walls	8	13-Oct-05	24-Oct-05	2
C1330	Rough-in Electrical in walls	8	13-Oct-05	24-Oct-05	2
C1340	Rough-in Communication in walls	8	13-Oct-05	24-Oct-05	1
C1345	Inspect Framing and Rough-in	1	25-Oct-05	25-Oct-05	2
C1350	Hang drywall one side	4	20-Oct-05	25-Oct-05	2
C1360	Install insulation	2	24-Oct-05	25-Oct-05	2
C1370	Hang drywall 2nd side	4	26-Oct-05	31-Oct-05	2
C1380	Tape and Finish Walls	5	31-Oct-05	04-Nov-05	2
C1400	Paint Walls	3	07-Nov-05	09-Nov-05	2
C1410	Pull communication cabling	5	25-Oct-05	31-Oct-05	1
C1415	Land and punch down cabling	10	01-Nov-05	14-Nov-05	1



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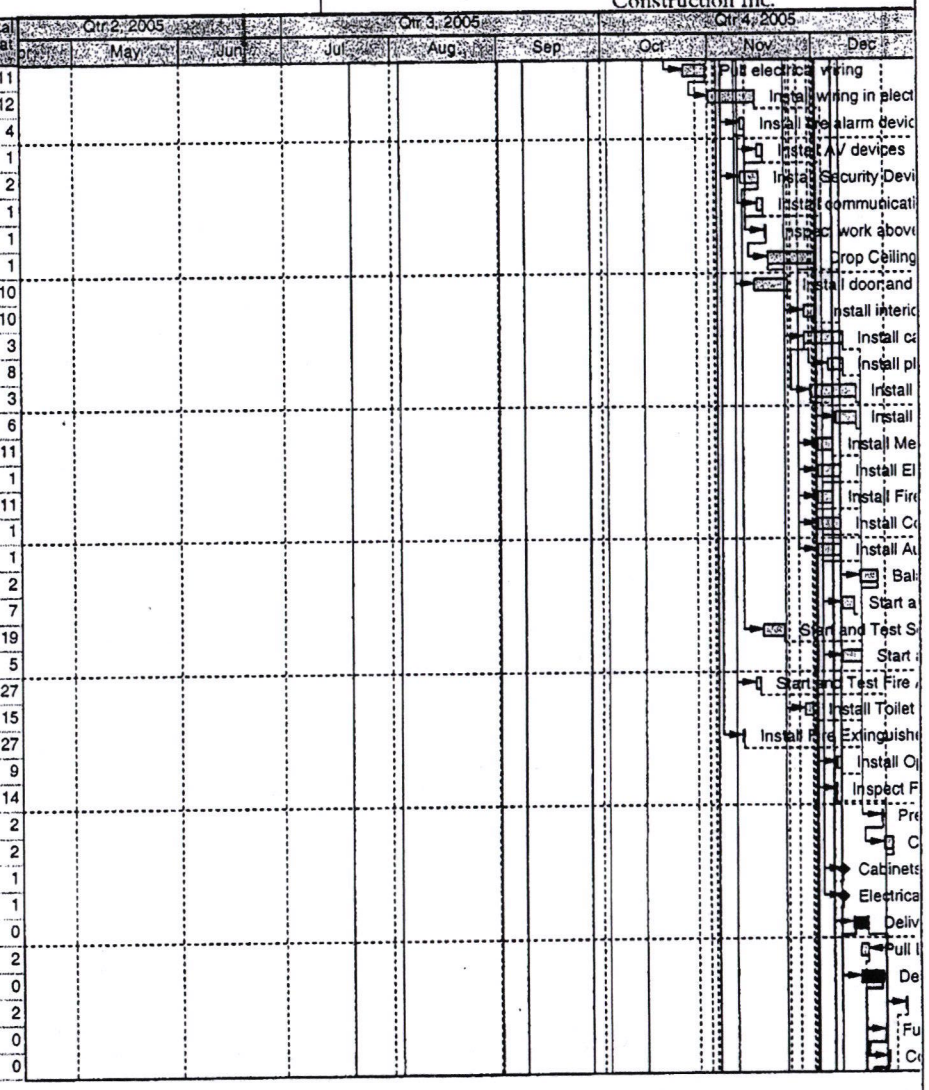
City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	Original Duration	Start	Finish	Total Float
C1420	Pull electrical wiring	5	25-Oct-05	31-Oct-05	11
C1425	Install wiring in electrical panels	10	01-Nov-05	14-Nov-05	12
C1430	Install fire alarm devices	2	10-Nov-05	11-Nov-05	4
C1440	Install AV devices	2	15-Nov-05	16-Nov-05	1
C1445	Install Security Devices	4	10-Nov-05	15-Nov-05	2
C1450	Install communication devices	2	15-Nov-05	16-Nov-05	1
C1460	Inspect work above ceiling	1	17-Nov-05	17-Nov-05	1
C1470	Drop Ceiling Tile	8	18-Nov-05	01-Dec-05	1
C1480	Install door and window frames	8	14-Nov-05	23-Nov-05	10
C1485	Install interior window glazing	4	28-Nov-05	01-Dec-05	10
C1490	Install casework	10	28-Nov-05	09-Dec-05	3
C1495	Install plumbing fixtures	5	05-Dec-05	09-Dec-05	8
C1500	Install flooring	10	30-Nov-05	13-Dec-05	3
C1505	Install Doors and Hardware	5	07-Dec-05	13-Dec-05	6
C1510	Install Mechanical Trim	3	02-Dec-05	06-Dec-05	11
C1520	Install Electrical Trim	5	02-Dec-05	08-Dec-05	1
C1530	Install Fire Sprinkler trim	3	02-Dec-05	06-Dec-05	11
C1540	Install Communication Trim	5	02-Dec-05	08-Dec-05	1
C1550	Install Audio Visual System	5	02-Dec-05	08-Dec-05	1
C1560	Balance HVAC 1st Floor	4	14-Dec-05	19-Dec-05	2
C1570	Start and Test Communication System	2	09-Dec-05	12-Dec-05	7
C1575	Start and Test Security System	5	16-Nov-05	22-Nov-05	19
C1580	Start and Test Audio Visual System	4	09-Dec-05	14-Dec-05	5
C1585	Start and Test Fire Alarm System	2	14-Nov-05	15-Nov-05	27
C1590	Install Toilet Accessories	3	28-Nov-05	30-Nov-05	15
C1600	Install Fire Extinguishers	1	10-Nov-05	10-Nov-05	27
C1610	Install Operable Wall	2	07-Dec-05	08-Dec-05	9
C1615	Inspect Fire Alarm System	1	07-Dec-05	07-Dec-05	14
C1620	Pre-inspection before Furniture	1	20-Dec-05	20-Dec-05	2
C1625	Correct Inspection Items	3	21-Dec-05	23-Dec-05	2
C1630	Cabinets have Low Voltage wire Pulled and coile...	0	09-Dec-05		1
C1640	Electrical Whips for System Furniture Installed	0	09-Dec-05		1
C1650	Deliver/Install System Furniture	5	12-Dec-05	16-Dec-05	0
C1660	Pull Low Voltage @ Furniture and Terminate	3	14-Dec-05	16-Dec-05	2
C1662	Delivery and install of private offices and ancillary...	5	14-Dec-05	20-Dec-05	0
C1665	Issue Certificate of Occupancy	1	27-Dec-05	27-Dec-05	2
C1670	Furniture Punch Walk Through	1	21-Dec-05	21-Dec-05	0
C1675	Correct Furniture Punch Items	1	22-Dec-05	22-Dec-05	0



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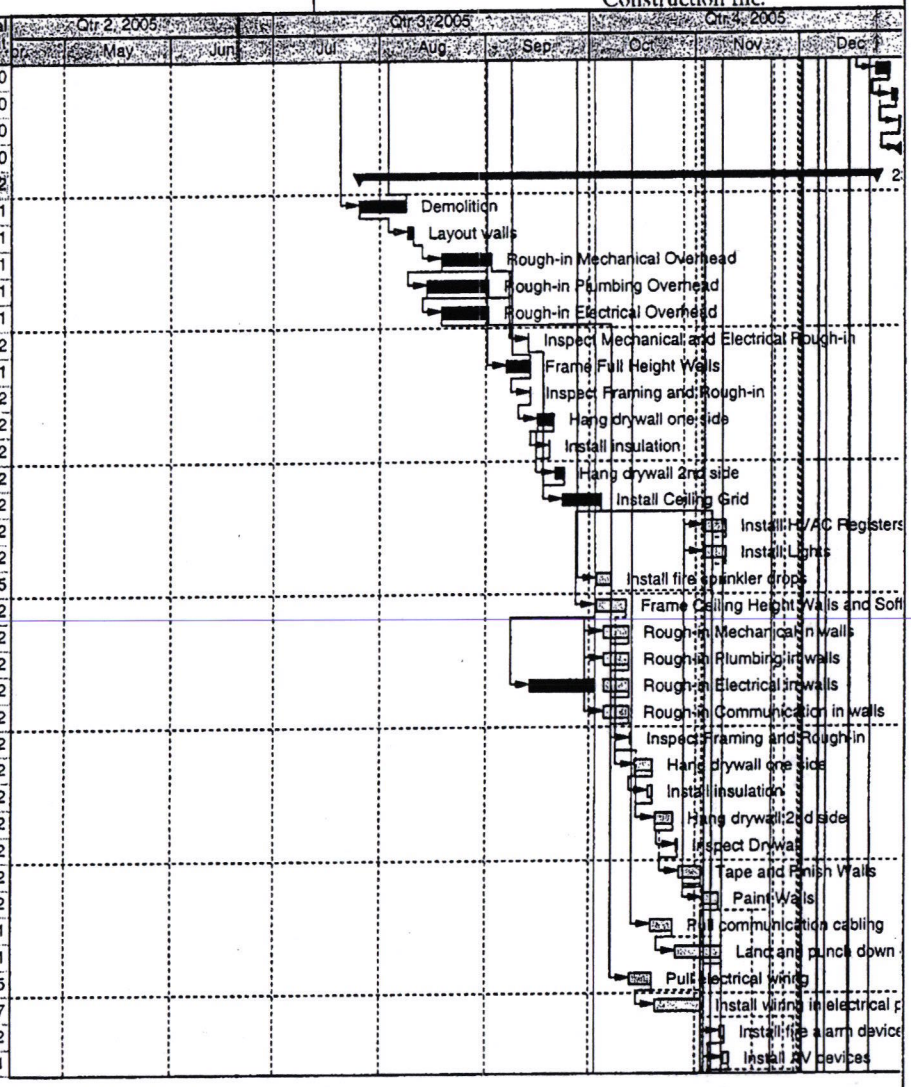
City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	iginal	Start	Finish	Total Float
C1690	Staff moves Personal Items and Computers	2	23-Dec-05	27-Dec-05	0
C1700	Computers and Phones connected/tested	2	28-Dec-05	29-Dec-05	0
C1710	Employees Report to New Facility	1	30-Dec-05	30-Dec-05*	0
C1720	Project Complete	0		30-Dec-05	0
SECOND FLOOR		106	26-Jul-05 A	23-Dec-05	2
C2000	Demolition	10	26-Jul-05 A	08-Aug-05 A	1
C2010	Layout walls	5	09-Aug-05 A	11-Aug-05 A	1
C2020	Rough-in Mechanical Overhead	5	19-Aug-05 A	02-Sep-05 A	1
C2030	Rough-in Plumbing Overhead	5	15-Aug-05 A	02-Sep-05 A	1
C2040	Rough-in Electrical Overhead	5	19-Aug-05 A	02-Sep-05 A	1
C2070	Inspect Mechanical and Electrical Rough-in	1	13-Sep-05 A	13-Sep-05 A	2
C2080	Frame Full Height Walls	3	07-Sep-05 A	14-Sep-05 A	1
C2130	Inspect Framing and Rough-in	1	14-Sep-05 A	14-Sep-05 A	2
C2140	Hang drywall one side	2	16-Sep-05 A	20-Sep-05 A	2
C2150	Install insulation	1	19-Sep-05 A	19-Sep-05 A	2
C2160	Hang drywall 2nd side	2	21-Sep-05 A	23-Sep-05 A	2
C2200	Install Ceiling Grid	3	23-Sep-05 A	04-Oct-05 A	2
C2210	Install HVAC Registers	5	03-Nov-05	09-Nov-05	2
C2220	Install Lights	5	03-Nov-05	09-Nov-05	2
C2230	Install fire sprinkler drops	5	03-Oct-05 A	07-Oct-05	25
C2240	Frame Ceiling Height Walls and Soffits	7	03-Oct-05 A	11-Oct-05	2
C2250	Rough-in Mechanical in walls	6	05-Oct-05	12-Oct-05	2
C2260	Rough-in Plumbing in walls	6	05-Oct-05	12-Oct-05	2
C2270	Rough-in Electrical in walls	6	14-Sep-05 A	12-Oct-05	2
C2280	Rough-in Communication in walls	6	05-Oct-05	12-Oct-05	2
C2290	Inspect Framing and Rough-in	1	13-Oct-05	13-Oct-05	2
C2300	Hang drywall one side	4	14-Oct-05	19-Oct-05	2
C2310	Install insulation	2	18-Oct-05	19-Oct-05	2
C2320	Hang drywall 2nd side	4	20-Oct-05	25-Oct-05	2
C2330	Inspect Drywall	1	26-Oct-05	26-Oct-05	2
C2340	Tape and Finish Walls	5	27-Oct-05	02-Nov-05	2
C2350	Paint Walls	3	03-Nov-05	07-Nov-05	2
C2360	Pull communication cabling	5	19-Oct-05	25-Oct-05	1
C2370	Land and punch down cabling	10	26-Oct-05	08-Nov-05	1
C2380	Pull electrical wiring	5	13-Oct-05	19-Oct-05	15
C2390	Install wiring in electrical panels	10	20-Oct-05	02-Nov-05	17
C2400	Install fire alarm devices	2	08-Nov-05	09-Nov-05	2
C2410	Install AV devices	2	09-Nov-05	10-Nov-05	1



Remaining Level of Effort

Actual Level of Effort

Critical Remaining Level of Effort

Actual Work

Date:10/06//05

© Primavera Systems, Inc.

DPR Construction, Inc.

2480 Natomas Park Dr., Ste. 100

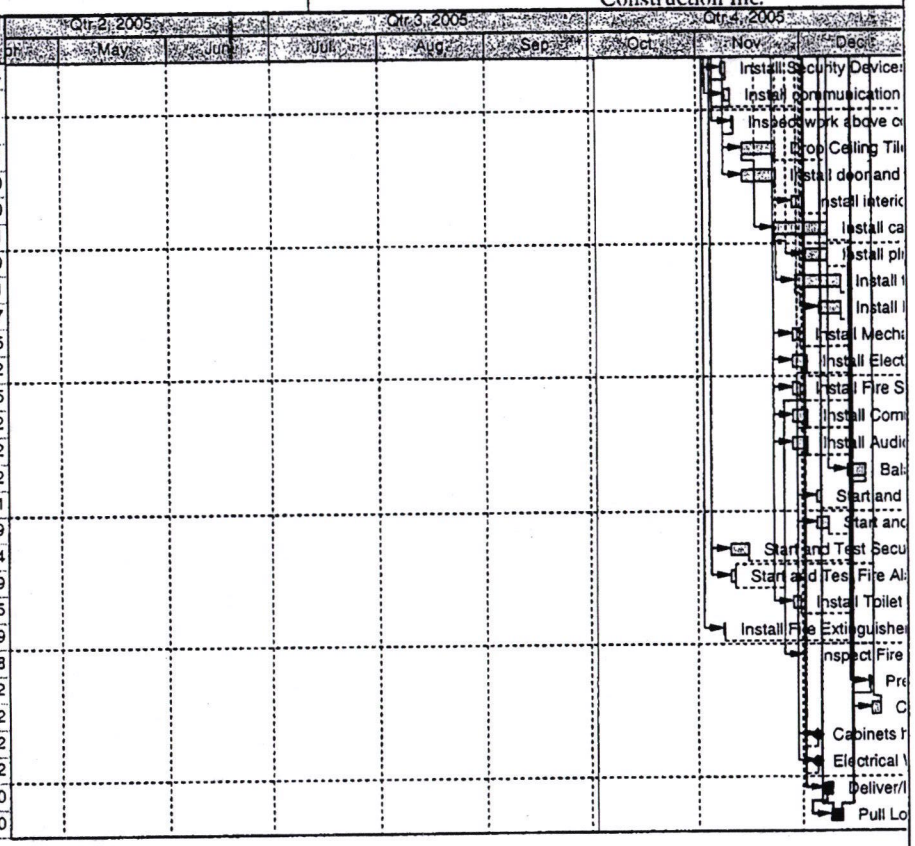
Sacramento, CA 95833

City of Rancho Cordova

City Hall Tenant Improvement

DPR Construction Inc.

Activity ID	Activity Name	Original Duration	Start	Finish	Total Float
C2415	Install Security Devices	2	08-Nov-05	09-Nov-05	24
C2420	Install communication devices	2	09-Nov-05	10-Nov-05	1
C2430	Inspect work above ceiling	1	11-Nov-05	11-Nov-05	1
C2440	Drop Ceiling Tile	8	14-Nov-05	23-Nov-05	1
C2450	Install door and window frames	8	14-Nov-05	23-Nov-05	10
C2460	Install interior window glazing	4	28-Nov-05	01-Dec-05	10
C2470	Install casework	10	23-Nov-05	08-Dec-05	1
C2480	Install plumbing fixtures	5	02-Dec-05	08-Dec-05	9
C2490	Install flooring	10	29-Nov-05	12-Dec-05	1
C2500	Install Doors and Hardware	5	06-Dec-05	12-Dec-05	7
C2510	Install Mechanical Trim	3	28-Nov-05	30-Nov-05	15
C2520	Install Electrical Trim	5	28-Nov-05	02-Dec-05	2
C2530	Install Fire Sprinkler trim	3	28-Nov-05	30-Nov-05	15
C2540	Install Communication Trim	5	28-Nov-05	02-Dec-05	2
C2550	Install Audio Visual System	5	28-Nov-05	02-Dec-05	2
C2560	Balance HVAC 1st Floor	4	14-Dec-05	19-Dec-05	2
C2570	Start and Test Communication System	2	05-Dec-05	06-Dec-05	11
C2580	Start and Test Audio Visual System	4	05-Dec-05	08-Dec-05	9
C2585	Start and Test Security System	4	10-Nov-05	15-Nov-05	24
C2590	Start and Test Fire Alarm System	2	10-Nov-05	11-Nov-05	29
C2600	Install Toilet Accessories	3	28-Nov-05	30-Nov-05	15
C2610	Install Fire Extinguishers	1	08-Nov-05	08-Nov-05	29
C2630	Inspect Fire Alarm System	1	01-Dec-05	01-Dec-05	18
C2640	Pre-inspection before Furniture	1	20-Dec-05	20-Dec-05	2
C2650	Correct Inspection Items	3	21-Dec-05	23-Dec-05	2
C2660	Cabinets have Low Voltage wire Pulled and coile...	0	05-Dec-05		2
C2670	Electrical Whips for System Furniture Installed	0	05-Dec-05		2
C2680	Deliver/Install System Furniture	3	07-Dec-05	09-Dec-05	0
C2690	Pull Low Voltage @ Furniture and Terminate	2	09-Dec-05	12-Dec-05	0



Remaining Level of Effort

Actual Level of Effort

Critical Remaining Level of Effort

Actual Work

Date:10/06//05

© Primavera Systems, Inc.

Exhibit "B"

DPR Construction, Inc.
2480 Natomas Park Drive, Ste. 100
Sacramento, CA 95833
Tel. (916) 568-3434
Fax. (916) 568-3442

October 7, 2005

BID PROPOSAL

City of Rancho Cordova
BID RELEASE 6
Bid Package 8 - Sitework

TO: **City of Rancho Cordova**
3121 Gold Canal Drive
Rancho Cordova, CA 95670

FROM: THE BEEBE CORPORATION
(Name of Bidder)
12161 FOLSOM BLVD
(Address)
RANCHO CORDOVA, CA. 95742
(City, State, Zip Code)
916 985-6156
(Telephone/Telecopier)
LOREN@BEEBECORP.COM.
(E-Mail Address of Bidder's Representative(s))
LOREN BEEBE.
(Name(s) of Bidder's Authorized Representative(s))

2.1 **Bid Proposal** (SEE EXCEPTION)

1.1 **Bid Proposal Amount.** The undersigned Bidder proposes and agrees to perform the Contract including, ~~without limitation~~, providing and furnishing any and all of the labor, materials, tools, equipment and services necessary to complete in a workmanlike manner all of the Work and other obligation required by the contract documents for the sum of TWO HUNDRED FIFTY FIVE THOUSAND Dollars ($255,000.00). The Bidder confirms that it has checked all of the above figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid Proposal.

1.2 **Acknowledgement of Construction Schedule**
_____ (initial)

1.3 **Acknowledgement of Bid Addenda/Amendments.** The Bidder confirms that this Bid Proposal incorporates and is inclusive of, all items or other matters contained in Bid Addenda issued by or on behalf of the District. Bidders that do not acknowledge all Bid Addenda's by

listing by number and initialing in the space provided below will be considered non-responsive and their bid shall be rejected.

_____ (Initial) **Addenda Nos.** _____ received, acknowledged and incorporated into this Bid Proposal

_____ (Initial) **Amendment Nos.** _____ received, acknowledged and incorporated into this Bid Proposal

1.4 **Alternate Bid Items.** The Bidder's price proposal(s) for Alternate Bid Items of the above-identified Bid Package is/are set forth in the form of Alternate Bid Item Proposal included herewith. Price proposal(s) for Alternate Bid Item(s) will not form the basis for the District's award of the Contract for the above-identified Bid Package unless an Alternate Bid Item is incorporated into the scope of Work of the Contract awarded for the Bid Package.

1.4.1 **Alternate 1.** Prior to striping/re-striping seal all cracks in asphalt and apply Caltrans Type II Slurry Seal over the entire Parking Lot. Re-stripe Parking Lot.

Dollars ($ 32,401 00)

1.4.2 **Alternate 2.** Remove failed asphalt, AB and bad subgrade per details on sheet 2 (Assume 14,000 SF of failed asphalt for purpose of bid only); Tack Coat; 6" wedge grind at gutter lips; 1 ½" Type A Asphalt Concrete Overlay. Re-stripe parking lot.

Dollars ($ 96,996.00)

1.5 **Unit Price Bid Items.** The Bidder's price proposal(s) for Unit Price Bid Items of the above-identified Bid Package is/are set forth in the form of Unit Price Bid Item Proposal included herewith. Price proposal(s) for Unit Price Bid Item(s) will not form the basis for the Owner's award of the Contract for the above-identified Bid Package unless a Unit Price Bid Item is incorporated into the scope of Work of the Contract awarded for the Bid Package. The requested unit prices are all inclusive of fully burdened labor, supervision, material, equipment, insurance, overhead and profit as applicable.

1.5.1 **Unit Price 1** – Provide a fully burdened labor rate per man hour for a journeyman. (This unit price will be used in tracking labor costs associated with the allowances and change orders).

Dollars ($ 76.00)

1.5.2 **Unit Price 2** – Linear foot price for all work and materials associated with removal of existing curb and gutter.

Dollars ($ 4.00)

1.5.3 **Unit Price 3** – Square foot price for all work and materials associated with removal of existing concrete flatwork.

Dollars ($ 4.00)

1.5.4 **Unit Price 4** – Linear foot price for new curb and appurtenant items per section 27 and detail 4-25 type 5 of Sacramento County Specifications.

Dollars ($ NO-BID)

1.5.5 **Unit Price 5** – Price per square foot for new 4- inch thick flatwork per section 27 of Sacramento County Specifications.

Dollars ($ NO-BID)

1.5.6 **Unit Price 6** – Price per square foot for dig-out and replacement of failed asphalt concrete per Sacramento County Specifications and as noted on drawing 2 of 8.

Dollars ($ 6.50)

1.6 **Documents Accompanying Bid Proposal.** Each Bid Proposal shall be accompanied by: (a) the required Bid Security; (b) Subcontractors List; (c) Non-Collusion Affidavit, (d) Statement of Bidder's Qualifications. All information or responses of a Bidder in its Bid Proposal and other documents accompanying the Bid Proposal shall be complete, accurate and true; incomplete, inaccurate or untrue responses or information provided therein by a Bidder shall be grounds for the Owner to reject such Bidder's Bid Proposal for non-responsiveness.

1.7 **Award of Contract.** If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to DPR Construction, Inc. the Contract in the form attached hereto within five (5) days after notification of award of the Contract. Concurrently with delivery of the executed Agreement, the Bidder awarded the Contract shall deliver: (a) Certificates of Insurance evidencing all insurance coverage's required under the Contract Documents; (b) the Performance Bond; (c) the Labor and Material Payment Bond; (d) the Certificate of Workers' Compensation Insurance; (e) the Drug-Free Workplace Certificate; (f) Verification of a valid Contractors License for the work the Contractor is planning to perform. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the rescission of the award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the Owner may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest Bid Proposal, or to reject all Bid Proposals.

1.8 **Contractor's License.** The undersigned Bidder is currently and duly licensed in accordance with the California Contractors License Law, California Business & Professions Code §§7000 et seq., under the following classification(s) ____ bearing License Number(s) 802582 with expiration date(s) of _____. The Bidder certifies that: (a) it is duly licensed, in the necessary class (as), for performing the Work of the Contract Documents; (b) that such license shall be in full force and effect throughout the duration of the performance of the Work under the Contract Documents; and (c) that all Subcontractors providing or performing any portion of the Work shall be so properly licensed to perform or provide such portion of the Work.

1.9 **Acknowledgment and Confirmation.** The undersigned Bidder acknowledges its receipt, review and understanding of the Drawings, the Specifications and other Contract Documents

pertaining to the proposed Work. The undersigned Bidder certifies that the Contract Documents are, in its opinion, adequate, feasible and complete for providing, performing and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned Bidder certifies that it has, or has available, all necessary equipment, personnel, materials, facilities and technical and financial ability to complete the Work for the amount bid herein within the Contract Time and in accordance with the Contract Documents.

By: _____
(Signature)
LORAN BABE
(Typed or Printed Name)
Title: PRESIDENT

(Corporate Seal)

EXCLUSIONS:

1) All concrete supply, Form, pour, REINFORCE, Dowels. - NO CONCRETE IN ITS ENTIRETY.

2) ADD 1.4% FOR BOND COST.

DRUG-FREE WORKPLACE CERTIFICATION

I, LOPEZ BEEBE (Print Name), am the PRESIDENT (Title) of THE BEEBE CORPORATION (Contractor Name), I declare, state and certify to all of the following:

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.

2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following:

   A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;

   B. Establishing a drug-free awareness program to inform employees about all of the following:

      i. The dangers of drug abuse in the workplace;

      ii. Contractor's policy of maintaining a drug-free workplace;

      iii. The availability of drug counseling, rehabilitation and employee-assistance programs; and

      iv. The penalties that may be imposed upon employees for drug abuse violations;

   C. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.

   D. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.

3. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.

4. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at Rancho Cordova, CA 95742 (City and State) this 31 day of October, 2005.

(Signature)

LOREN BEEBE
(Handwritten or Typed Name)

Exhibit "C"

DPR CONSTRUCTION, INC.
SUBCONTRACTOR BILLING PACKAGE

DPR Construction, Inc. is committed to insuring timely payment of all amounts due our subcontractors. It is our intent to pay our subcontractors in a timely fashion to satify our obligation to the Owner in providing them with a "lien-free" project. The following procedures must be followed to facilitate processing and payment of the monthly progress and final billings.

Subcontractor Progress Billing:

1. **Billing packages must be delivered to DPR Construction, Inc. no later than the 25th day of each month** in order for the amount to be included in our billing to the Owner by the 1st day of each month. Billing packages must be mailed to:

   DPR Construction, Inc.
   2480 Natomas Park Drive, Suite 100
   Sacramento, CA 95833
   Attn.: Accounting

2. A complete "Billing Package" consists of the following items:

   a. A completed DPR Construction, Inc. "Subcontractor Payment Application - Progress Billing" (form attached) which includes a "Conditional Waiver and Release Upon Progress Payment" lien release form.

   b. An executed DPR Construction, Inc. "Affidavit of Subcontractors" (form attached).

   c. Executed DPR Construction, Inc. "Unconditional Waiver and Release Upon Progress Payment" lien release forms, as needed (second - tier suppliers and subcontractors) (form attached).

NOTE: ALL FORMS ARE AVAILABLE ON DISK AND ARE IN MICROSOFT EXCEL FORMAT

Subcontractor Final Billing:

1. The final billing package must be mailed or delivered to the aforementioned address.

2. A complete "Final/Retention Billing Package" consists of the following items:

   a. A completed DPR Construction, Inc. "Subcontractor Payment Application - Retention Billing" (form attached) which includes a "Conditional Waiver and Release Upon Final Payment" lien release form.

   b. An executed DPR Construction, Inc. "Affidavit of Subcontractors" (form attached).

   c. Executed DPR Construction, Inc. "Unconditional Waiver and Release Upon Final Payment" (second-tier suppliers) (form attached).

Subcontractor Final Payment:

Upon reciept of your final payment, execute and return by mail a completed DPR Construction, Inc. "Unconditional Waiver and Release Upon Final Payment" form to the above referenced address.

DPR Construction Inc.

SUBCONTRACTOR PAYMENT APPLICATION
PROGRESS BILLING

FROM: _____

_____

_____

PHONE: _____

TO: DPR Construction, Inc.
2480 Natomas Park Drive, Suite 100
Sacramento, CA 95833
Ph 916-568-3434 Fx 916-568-3442

Date: _____
Application Number: _____
Invoice Number: _____
Project Name: _____
Dpr Job Number: _____
Sub Job Number: _____

Vendor Number:
(DPR Use Only)

Type of Work: _____

This payment request covers the time period from _____ to _____

Contract Summary:

1. Original Subcontract Amount $ _____
2. Approved Subcontract Changes (Attach DPR Change Order) $ _____
3. Total Revised Subcontract Amount (Line 1 + Line 2) $ _____

Payment Application Summary:

4. Value of Work Completed To Date: _____ % $ _____
5. Value of Stored Materials: $ _____ -
6. Total Completed and Stored to Date (Line 4 + Line 5): $ _____
7. Less Prior Completed and Stored to Date (Line 6 from previous application): <$ _____ >
8. Total Gross Earned This Month (Line 6 - Line 7): $ _____
9. Less Retention Of _____ % <$ _____ >
10. **Amount of This Payment Application (Line 8 - Line 9):** $ _____

Total value of unapproved extras or claims for which subcontract changes have NOT been issued. (Attach Detail): $ _____

Comments:

_____

_____

_____

CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Upon receipt by the undersigned of a check from DPR Construction, Inc., in the sum of $_____ payable to_____ and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of _____ located at _____. to the following extent. This release covers a progress payment for labor, services, equipment or material furnished to DPR Construction, Inc. through _____ only and does not cover any retentions retained before or after the release date; extras furnished after the release date. Right based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment or material covered by this release if that furnished labor, services, equipment or material was not compensated by the progress payment. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.

_____
SIGNATURE DATE

_____
NAME & TITLE

DPR Accounting Use Only	
PM's APPROVAL	
PWOK	
INS	
CK RLS DTE	

Note: This document has important legal consequences; legal consultation with an attorney is encouraged with respect to its use or modification.

DPR Construction Inc.

DPR CONSTRUCTION, INC.
CONTRACTOR'S LICENSE NO. 103296-B1

AFFIDAVIT OF SUBCONTRACTOR

State of _____

County of _____

I am _____ in the position of _____
NAME TITLE

for _____ a _____
COMPANY NAME PARTNERSHIP, CORPORATION, INDIVIDUAL

hereinafter referred to as "Subcontractor", and am authorized to execute this affidavit on behalf of Subcontractor, know the contents hereof, and certify that the same is true of my own knowledge; and:

1. That Subcontractor is a subcontractor to DPR CONSTRUCTION, INC. hereinafter referred to as "Contractor", the general contractor on _____
DPR PROJECT NUMBER

_____
NAME AND ADDRESS OF PROJECT

2. That as an inducement to Contractor to advance monies to Subcontractor, and with the knowledge that Contractor will rely upon the representations made herein, the undersigned certifies that (a) except as specifically set forth on Subcontractor Payment Application, this application makes claim for payment for all work performed on the Project during the period for which payment is sought, there is no claim which is being omitted and applicant waives any right to make any claim for any additional compensation relating to the period unless an exception is noted at this time, and (b) the following listed firms and individuals are the only parties FROM WHOM SUB-CONTRACTOR HAS PURCHASED MATERIALS, RENTED EQUIPMENT, OR SUBCONTRACTED PORTIONS OF SUBCONTRACTOR'S WORK ON SAID PROJECT (OR HAS COMMITMENTS OR INTENDS TO PURCHASE, RENT, OR SUBCONTRACT) IN AN AMOUNT OF $5,000.00 OR MORE from the commencement of said project to the date of project completion:

NAME OF SUPPLIER / SUB-SUBCONTRACTOR ADDRESS WORK / MATERIAL CONTRACTED FOR	ADJUSTED TOTAL AMOUNT INCLUDING CHANGE ORDERS	LAST MONTHS LIEN WAIVERS		SUPPLIER / SUB-SUB NOT USED LAST MO.	FINAL WAIVERS ALREADY SENT
		ATTACHED	FORTH-COMING		
SUBCONTRACTOR'S PORTION OF DIRECT LABOR, MATERIAL, EQUIPMENT					
TOTAL ADJUSTED SUBCONTRACT AMOUNT					

I certify (or declare) under penalty of perjury that the aforegoing is true and correct.

Executed on _____ at _____
DATE CITY AND STATE

_____
SIGNATURE

DPR Construction Inc.

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Job Number: _____

The undersigned has been paid and received a progress payment in the sum of $ _____ for labor, services, equipment or material furnished to _____ on the job _____ located at _____ and does hereby release any mechanic's lien, stop notice, or bond right that the undersigned has on the above referenced job to the following extent. This release covers a progress payment for labor, services, equipment or material furnished to _____ through _____ only and does not cover any retention retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment or material covered by this release if that furnished labor, services, equipment or material was not compensated by the progress payment.

_____
Date

_____
(Company Name)

By: _____
(Signature)

_____
(Name and Title)

DPR Construction Inc.

UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

Job Number: _____

The undersigned has been paid and received a progress payment in the sum of $ _____ for labor, services, equipment or material furnished to _____ on the job _____ located at _____ and does hereby release any mechanic's lien, stop notice, or bond right that the undersigned has on the above referenced job to the following extent. This release covers a progress payment for labor, services, equipment or material furnished to _____ through _____ only and does not cover any retention retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment or material covered by this release if that furnished labor, services, equipment or material was not compensated by the progress payment.

_____
Date

_____
(Company Name)

By: _____
(Signature)

_____
(Name and Title)

DPR Construction Inc.

SUBCONTRACTOR PAYMENT APPLICATION
RETENTION BILLING

FROM: _____

_____

_____

PHONE: _____

TO: DPR Construction, Inc.
2480 Natomas Park Drive Suite 100
Sacramento, CA 95833
Ph 916-568-3434 Fx 916-568-3442

Date: _____
Application Number: _____
Invoice Number: _____
Project Name: _____
DPR Job Number: _____
Sub Job Number: _____

Vendor Number: (DPR Use Only)

Type of Work: _____

This payment request covers the time period from _____ to _____

Contract Summary:

1. Original Subcontract Amount $ _____
2. Approved Subcontract Changes (Attach DPR Change Order) $ _____
3. Total Revised Subcontract Amount (Line 1 + Line 2) $ _____

Payment Application Summary:

4. Value of Work Completed To Date: _____ % $ _____
5. Value of Stored Materials: $ _____
6. Total Completed and Stored to Date (Line 4 + Line 5): $ _____
7. Less Prior Completed and Stored to Date (Line 6 from previous application): <$ _____ >
8. Total Gross Earned This Month (Line 6 - Line 7): $ _____
9. Retention held on this project now due _____ % $ _____

Total value of unapproved extras or claims for which subcontract changes have NOT been issued. (Attach Detail): $ _____

Comments:

_____

_____

_____

CONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

Upon receipt by the undersigned of a check from DPR Construction, Inc., in the sum of $_____ payable to _____ and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of _____ located at _____. This release covers the final payment to the undersigned for all labor, services, equipment or material furnished on the job, except for disputed claims for additional work in the amount of $ 0.00. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.

_____
SIGNATURE DATE

_____
NAME & TITLE

DPR Accounting Use Only	
PM's APPROVAL	
PWOK	
INS	
CK RLS DTE	

Note: This document has important legal consequences; legal consultation with an attorney is encouraged with respect to its use or modification.

DPR
Construction Inc.

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

Job Number: _____

The undersigned has been paid in full for all labor, services, equipment or material furnished to _____ on the job of _____ located at _____ and does hereby waive and release any mechanic's lien, stop notice, or any right against a labor and material bond on the job, except for disputed claims for extra work in the amount of $ 0.00 .

_____
Date

_____
(Company Name)

By: _____
(Signature)

_____
(Name and Title)

THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.

NOTE: This document has important legal consequences; legal consultation with an attorney is encouraged with respect to its use or modification.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 12/28/05

PRODUCER 916-974-7800

John O. Bronson Co.

3636 American River Dr #200
Sacramento CA 95864

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

The Beebe Corp.
12161-A Folsom Blvd.
Rancho Cordova CA 95742

COMPANIES AFFORDING COVERAGE

COMPANY A: Landmark American Insurance

COMPANY B: Golden Eagle Ins Co

COMPANY C:

COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR OWNER'S & CONTRACTOR'S PROT	LHA128279	6/20/05	6/20/06	GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PERSONAL & ADV INJURY EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person)	$ 2000000 $ 2000000 $ 1000000 $ 1000000 $ 50000 $ 5000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS	BA8029533	4/27/05	4/27/06	COMBINED SINGLE LIMIT BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE	$ 1000000 $ $ $
	GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EACH ACCIDENT AGGREGATE	$ $ $
	EXCESS LIABILITY [ ] UMBRELLA FORM [ ] OTHER THAN UMBRELLA FORM				EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: [ ] INCL [ ] EXCL				[ ] WC STATUTORY LIMITS [ ] OTHER EL EACH ACCIDENT EL DISEASE - POLICY LIMIT EL DISEASE - EA EMPLOYEE	$ $ $ $
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

RE: CITY OF RANCHO CORDOVA CITY HALL. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED WITH PRIMARY WORDING AND WAIVER OF SUBROGATION PER FORMS RSG15001 0903 AND CG2503 1185 ATTACHED
10 DAYS NOTICE FOR NONPAYMENT OF PREMIUM

CERTIFICATE HOLDER

CITY OF RANCHO CORDOVA
2729 PROSPECT PARK DR.
RANCHO CORDOVA, CA 95670

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE: Paul F Bystrowski

© ACORD CORPORATION 1988

NAMED INSURED: The Beebe Corp.
POLICY NUMBER: LHA128279

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT - AGGREGATE LIMITS OF INSURANCE (PER PROJECT)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (Section III) applies separately to each of your "projects" away from premises owned by or rented to you.

LANDMARK AMERICAN INSURANCE COMPANY

This Endorsement Changes The Policy. Please Read It Carefully.

ADDITIONAL INSURED
BLANKET - PRIMARY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

Name of Person or Organization:

Any person or organization to whom or to which you are obligated by virtue of a written contract or by the issuance or existence of a permit, to provide insurance such as is afforded by this policy.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

SECTION II - WHO IS AN INSURED is amended to include as an insured the person or organization shown in the SCHEDULE, but only with respect to liability arising out of "your work" for that insured by or for you.

If you are required by a written contract to provide primary insurance, this policy shall be primary as respects your negligence and **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance** does not apply, but only with respect to coverage provided by this policy.

This endorsement effective 06/20/2005
forms part of Policy Number LHA128279
issued to THE BEEBE CORP.
by Landmark American Insurance Company

Endorsement No.: 01

Includes copyrighted material of Insurance Services Office, Inc. 1984
with its permission

NK

POLICYHOLDER COPY

STATE COMPENSATION INSURANCE FUND

P.O. BOX 420807, SAN FRANCISCO,CA 94142-0807

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 12-28-2005

GROUP:
POLICY NUMBER: 1687407-2005
CERTIFICATE ID: 52
CERTIFICATE EXPIRES: 04-01-2006
04-01-2005/04-01-2006

CITY OF RANCHO CORDOVA NK
2729 PROPECT PARK DRIVE
RANCHO CORDOVA CA 95670

This is to certify that we have issued a valid Workers' Compensation Insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 30 days advance written notice to the employer.

We will also give you 30 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

AUTHORIZED REPRESENTATIVE PRESIDENT

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: $1,000,000 PER OCCURRENCE.

ENDORSEMENT #1600 - LOREN BEEBE P - EXCLUDED.

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 04-01-2004 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

EMPLOYER

THE BEEBE CORP NK
12161A FOLSOM BLVD
RANCHO CORDOVA CA 95742

(REV.2-05)

[RK0,CN]
PRINTED : 12-28-2005

PAYMENT BOND - PUBLIC WORK
SECTIONS 3247 - 3252, CIVIL CODE
(CALIFORNIA)

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183

Bond No. 104598806
PREMIUM: INCLUDED IN
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the **CITY OF RANCHO CORDOVA** has awarded to **THE BEEBE CORPORATION 12161 FOLSOM BLVD. RANCHO CORDOVA, CA 95742,** as Contractor, a contract for the work described as follows:

RANCHO CORDOVA CITY HALL PROJECT
BID PACKAGE NUMBER 8

AND WHEREAS, Said Contractor is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, material men, and other persons as provided by law.

NOW, THEREFORE, We the undersigned Contractor and Surety are held and firmly bound unto the **CITY OF RANCHO CORDOVA** in the amount required by law, the sum of **FOUR HUNDRED ONE THOUSAND FOUR HUNDRED SIXTY-FOUR AND NO/100-** DOLLARS **($401,464.00)** for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That if said Contractors shall fail to pay (1) Any of the persons named in Civil Code Section 3181, (2) amounts due under the Unemployment Insurance Code for work or labor performed in connection with said contract by any such claimant, or (3) any amounts required to be deducted, withheld and paid over to the Employment Development Department from wages of the employees of Contractor and his sub-contractors with respect to such work and labor, pursuant to Section 13020 of the Unemployment Insurance Code, then the Surety or Sureties herein will pay for the same in an aggregate amount not exceeding the sum specified in this bond, and also in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court, otherwise the above obligation shall be void.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 3181 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

This bond is executed and filed to comply with the provisions of the act of Legislature of the State of California as designated in Civil Code, Sections 3247 - 3252 inclusive, and all amendments thereto.

IN WITNESS WHEREOF, We have hereunto set our hands and seals on this **29TH** day of **December, 2005.**

The Beebe Corporation

By _____

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By _____
Joseph H. Weber, Attorney-In-Fact

S-2061-B (07-97)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of **CALIFORNIA**

County of **SACRAMENTO**

On December 29 , 2005 before me, **Patricia Ross, Notary Public**----------

personally appeared **Joseph H. Weber, Attorney-In-Fact**----------

personally known to me -OR- **X**

proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that be his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

BMP1 PATRICIA ROSS COMM. #1553515 Notary Public-California SACRAMENTO COUNTY My Comm. Exp. Feb. 18, 2009 BMP1

WITNESS my hand and official seal.

Patricia Ross

Signature of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

☐ INDIVIDUAL
☐ CORPORATE OFFICER

☐ PARTNER(S) ☐ LIMITED
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
OTHER:

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY
Hartford, Connecticut 06183-9062

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **Carol Dunn, Paul F. Bystrowski, Randall L. Jorgensen, Joseph H. Weber, Mary E A McLaughlin, John E. Murphy, David K. Murphy, J. Wolohan, of Sacramento, California**, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

ST PAUL TRAVELERS

IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of an insurer's statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at $100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.

PERFORMANCE BOND

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183

Bond No. **104598806**
PREMIUM: **$5,620.00**

KNOW ALL MEN BY THESE PRESENTS:

That **THE BEEBE CORPORATION 12161 FOLSOM BLVD. RANCHO CORDOVA, CA 95742**
(Here insert full name and address or legal title of Contractor)
as Principal, hereinafter called Contractor, and, **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, 10680 WHITE ROCK ROAD, RANCHO CORDOVA, CA 95670** of Hartford, Connecticut, a corporation duly organized under the laws of the State of Connecticut, as Surety, hereinafter called Surety, are held firmly bound unto the

CITY OF RANCHO CORDOVA
3121 GOLD CANAL DRIVE
RANCHO CORDOVA, CALIFORNIA 95670

(Here insert full name and address or legal title of Owner)
as Obligee, hereafter called Owner, in the amount of **FOUR HUNDRED ONE THOUSAND FOUR HUNDRED SIXTY-FOUR AND NO/100**---Dollars **($401,464.00)**, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
WHEREAS, Contractor has by written agreement dated, _____, 20___ entered into a contract with Owner for

RANCHO CORDOVA CITY HALL PROJECT, BID PACKAGE NUMBER 8

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this **29TH** day of **December, 2005.**

(Witness)

The Beebe Corporation (Principal) (Seal)

By: _____ (Title)

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

(Witness)

By: _____
Joseph H. Weber, Attorney-In-Fact

Printed in cooperation with the American Institute of Architects (AIA) by Travelers Casualty and Surety Company of America. The language in this document conforms exactly to the language used in AIA Document A311, February 1970 edition.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of **CALIFORNIA**

County of **SACRAMENTO**

On December 29 **, 2005** before me, **Patricia Ross, Notary Public**----------

personally appeared **Joseph H. Weber, Attorney-In-Fact**----------

personally known to me -OR- **X**

proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that be his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

BMP1 PATRICIA ROSS COMM. #1553515 Notary Public-California SACRAMENTO COUNTY My Comm. Exp. Feb. 18, 2009 BMP1

WITNESS my hand and official seal.

Patricia Ross

Signature of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

☐ PARTNER(S) ☐ LIMITED
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
OTHER:

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY
Hartford, Connecticut 06183-9062

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and **FARMINGTON CASUALTY COMPANY**, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **Carol Dunn, Paul F. Bystrowski, Randall L. Jorgensen, Joseph H. Weber, Mary E A McLaughlin, John E. Murphy, David K. Murphy, J. Wolohan**, of **Sacramento, California**, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

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ST PAUL TRAVELERS

IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of an insurer's statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at $100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.

MEMORANDUM

DATE: **January 17, 2006**

TO: **The Mayor and City Council**

FROM: **Paul Junker, Planning Director**

SUBJECT: **Zoning Text Amendment - Planning Director Revisions**

Staff requires more time to make final revisions to duties and assignments of the Planning Director within the proposed zoning code revisions. Staff would like to meet with the Councilmember Budge and Chairman Smith, prior to the matter being presented to the City Council, to make sure it accurately reflects the appropriate changes as discussed. This item has been continued to the February 6, 2006 Regular Council Meeting.

Staff Report

Date: January 17, 2006

To: Honorable City Council

From: Steven R. Meyers, City Attorney
Joseph Chapman, City Attorney's Office

Subject: Urgency Ordinance Extending a Temporary Moratorium on the Establishment of New Sexually Oriented Businesses and the Expansion of Existing Sexually Oriented Businesses Pending the Review and Amendment of Zoning Regulations Applicable to Sexually Oriented Businesses

RECOMMENDATION

1. Open hearing
2. Receive testimony
3. Close hearing
4. Adopt Urgency Ordinance No. 02-2006.

RESULT OF RECOMMENDED ACTION

Adoption of this ordinance will prohibit, for one year, the issuance of permits and other approvals relating to the opening of new sexually oriented businesses or the expansion of existing sexually oriented businesses located within Rancho Cordova pending the City's review and amendment of zoning regulations applicable to such businesses.

BACKGROUND

On February 22, 2005, the City Council adopted Ordinance No. 05-2005 (Attachment 2) imposing a 45-day moratorium on the establishment and expansion of sexually oriented businesses in the City. The adoption of the moratorium came about as a similar moratorium was set to expire on March 6, 2005. Prior to the expiration of the previous moratorium, an ordinance proposing to amend the City's Municipal and Zoning Codes relating to sexually oriented businesses was introduced at the Planning Commission. Following the ordinance's introduction on December 22, 2004, both the Commission and City staff were approached by representatives of the sexually oriented businesses located in and around Rancho Cordova. These individuals asked to have more input on the proposed ordinance and indicated that they were compiling additional studies and other information for the City to consider.

AGENDA ITEM # 13

The purpose of the moratorium adopted by the Council on February 22, 2005, was to give the City additional time to consider new input from local businesses as well as to give the City additional time to consider impacts on the proposed legislation that may occur as a result of the City's ongoing General Plan adoption process.

On March 21, 2005, the City Council adopted Ordinance No. 08-2005 (Attachment 3) extending the moratorium for 10 months and 15 days in order to provide the City with additional time to carry out the above mentioned activities.

City Activities

Since the City's adoption of the moratorium extension on March 21, 2005, City staff has met with and discussed the proposed legislation with representatives from the local sexually oriented businesses. Staff continues to analyze the input received and expects to present the results of its analysis to the Commission and the Council at a future date. Staff expects that additional meetings with local businesses are likely to be necessary before staff's analysis of the issues is completed.

Although expected to be completed in 2005, the process of creating and establishing a General Plan for the City is still ongoing. Adoption of the new General Plan is now expected to take place in the second or third quarter of 2006. City staff will continue to monitor this process to determine if new General Plan provisions may impact how the City chooses to zone for and regulate sexually oriented businesses.

Extension of Moratorium

The 10-month and 15-day moratorium extension expires on February 05, 2006. Since the City's General Plan adoption process and discussions with local sexually oriented businesses are still ongoing and the threats to the public health, safety and welfare identified by the Council in Ordinances No. 05-2005 and 08-2005 still exist, staff recommends that the Council extend the moratorium. Per Government Code Section 65858, the Council may, following a public hearing, extend the moratorium for a period of 1 year. In order to allow the City sufficient time to complete the above stated activities, staff recommends that the moratorium be extended for the full year.

This report constitutes the written report required by Government Code Section 65858(d).

REQUESTED MOTION

"I move that the City Council adopt an urgency ordinance extending the moratorium on the establishment of new sexually oriented businesses and the expansion of existing sexually oriented businesses pending the review and amendment of zoning regulations applicable to sexually oriented businesses."

ATTACHMENTS

1. Ordinance No. 02-2006
2. Ordinance No. 05-2005
3. Ordinance No. 08-2005

CITY OF RANCHO CORDOVA

ORDINANCE NO. 02-2006

AN URGENCY ORDINANCE OF THE CITY OF RANCHO CORDOVA EXTENDING A MORATORIUM ON THE ESTABLISHMENT OF NEW SEXUALLY ORIENTED BUSINESSES AND THE EXPANSION OF EXISTING SEXUALLY ORIENTED BUSINESSES PENDING THE REVIEW AND AMENDMENT OF ZONING REGULATIONS APPLICABLE TO SEXUALLY ORIENTED BUSINESSES, TO BECOME EFFECTIVE IMMEDIATELY

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Findings

A. On February 22, 2005, the City Council of the City of Rancho Cordova adopted Ordinance No. 05-2005 as an urgency ordinance imposing a 45-day moratorium on the establishment of new sexually oriented businesses and the expansion of existing sexually oriented businesses.

B. On March 21, 2005, the City Council adopted Ordinance No. 08-2005 as an urgency ordinance extending the 45-day moratorium on the establishment of new sexually oriented businesses and the expansion of existing sexually oriented businesses for an additional period of 10-months and 15 days.

C. Ordinance No. 08-2005 will, unless extended, expire by its own terms on February 5, 2006.

D. Government Code Section 65858 authorizes the extension of an urgency ordinance, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable period of time.

E. The City continues to consider and study the issue of sexually oriented businesses in relation to the City's proposed adoption of new zoning and licensing regulations pertaining to such businesses as well as in relation to the City's ongoing process to create and adopt a General Plan. City staff has and will continue to meet with local sexually oriented businesses to discuss proposed regulations and consider information provided by the local businesses.

F. The City Council has received and considered a report prepared by staff describing the measures that have been taken to date to alleviate the condition which led to the adoption of Ordinances 05-2005 08-2005.

G. The City Council has conducted a properly noticed public hearing pursuant to Government Code Section 65090, and has duly considered all written and verbal testimony presented during the hearing.

H. The City Council finds that the current and immediate threat to the public health safety and welfare, as described in the findings adopted pursuant to Ordinances No. 05-2005 and 08-2005 still exist, and that a temporary moratorium on the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing sexually oriented businesses should continue to remain in effect pending completion of the City's review.

I. The City Council also finds that, based upon the above findings, the continued temporary modification to Zoning Code Section 325-51 to temporarily prohibit the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing sexually oriented businesses prior to the completion of the City's review is necessary for the immediate preservation of the public health, safety and welfare.

Section 2. Temporary Modification of Zoning Code Section 325-51 and Imposition of Moratorium

A. Rancho Cordova Zoning Code Section 325-51(A) is hereby amended to read as follows:

"325-51. Conditions

A. The zoning conditions set forth in subsection (B) for sexually oriented businesses were drafted and adopted by the County of Sacramento and were adopted by reference by the City of Rancho Cordova. The City, however, has determined that confusion exists over the application of numerical standards in this section and that the existence of such confusion could cause the City to approve sexually oriented businesses not intended by this section. Therefore, notwithstanding the zoning conditions set forth in subsection (B), for a period of one (1) year beginning January 17, 2006, no new sexually oriented businesses shall be permitted within the City, nor shall any permits or other entitlements be granted for the expansion of any existing sexually oriented business. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City."

B. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 36937, Rancho Cordova Zoning Code Section 325-51 is being temporarily modified to prohibit the approval or issuance of any use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, for the operation of a new sexually oriented business or the expansion of an existing sexually oriented business for a period of one year. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City.

C. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 65858, from and after the date of this ordinance, no use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the operation of a new sexually oriented business or the expansion of an existing sexually oriented business for a period of one year. This moratorium shall not apply to the renewal of a business license for an existing sexually oriented business in the City.

D. This ordinance is an interim ordinance adopted as an urgency measure pursuant to the authority granted the City of Rancho Cordova under Government Code Sections 36937 and 65858 and is for the immediate preservation of the public safety, health and welfare. The facts constituting the urgency are: The findings of the County of Sacramento, set forth in Zoning Code Section 325-50, and the cases, studies and authorities involving other municipalities around the country clearly establish that the existence of sexually oriented businesses in a community results in the creation of harmful secondary effects, such as increased crime and decreasing property values, which are a threat to the public safety, health and welfare. Confusion exists over the interpretation and application of numerical standards in the Rancho Cordova Zoning Code related to the location, operation and concentration of sexually oriented businesses within the City. The existence of such confusion could cause the City to approve the establishment of sexually oriented businesses not intended by Zoning Code Sections 325-50 and 325-51, which in turn would result in an increase in the harmful secondary effects identified above. The zoning standards in question were drafted by the County of Sacramento and adopted by reference by the City following its incorporation. The City's transition from unincorporated area of the County of Sacramento to incorporated city dictate that the City review its zoning provisions regulating sexually oriented businesses in order to ensure that such regulations meet the needs of the City by minimizing the harmful secondary effects associated with sexually oriented business, while at the same time ensuring that such regulations do not unreasonably limit alternative avenues of communication, and are based upon narrow, objective and definite land use standards. The failure to properly apply zoning regulations affecting sexually oriented businesses might also result in an illegal infringement upon constitutionally protected rights associated with sexually oriented activities. On December 22, 2004, an ordinance proposing the amendment of zoning and regulatory provisions applicable to sexually oriented businesses was introduced before the Rancho Cordova Planning Commission. Following the introduction of the

ordinance, local sexually oriented businesses approached the City and requested that the City consider additional information and studies concerning the negative secondary effects of sexually oriented businesses. The City is also in the process of creating and adopting a new General Plan that may impact how sexually oriented businesses are zoned and regulated. In light of these facts, and as a result of the harmful secondary effects associated with sexually oriented business and the current and immediate threat such secondary effects pose to the public health, safety and welfare, it is necessary to, in accordance with Government Code Sections 36937 and 65858, temporarily modify Zoning Code Section 325-51 and establish a one year moratorium on the establishment of new sexually oriented businesses or the expansion of existing sexually oriented businesses in the City pending the completion of the City's General Plan adoption process and its consideration of proposed zoning and licensing regulations pertaining to sexually oriented businesses. The additional one year extension is necessary to allow the City sufficient time to complete its adoption of the General Plan and its review and consideration of the proposed regulations.

Section 3. Compliance with California Environmental Quality Act

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated Zoning Code review.

Section 4. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council and shall be in effect for one (1) year from the date of adoption unless extended by the City Council as provided for in the Government Code.

ADOPTED, THIS 17th day of January, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

_____
Robert J. McGarvey, Mayor

ATTEST:

_____
Lillian E. Hare, City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 05-2005

AN URGENCY ORDINANCE OF THE CITY OF RANCHO CORDOVA AMENDING RANCHO CORDOVA ZONING CODE SECTION 325-51, AND MAKING FINDINGS AND ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF NEW SEXUALLY ORIENTED BUSINESSES AND THE EXPANSION OF EXISTING SEXUALLY ORIENTED BUSINESSES PENDING THE REVIEW AND AMENDMENT OF ZONING REGULATIONS APPLICABLE TO SEXUALLY ORIENTED BUSINESSES, TO BECOME EFFECTIVE IMMEDIATELY

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Findings

A. On December 15, 2003, the City Council of the City of Rancho Cordova adopted Ordinance No. 29-2003 as an urgency ordinance imposing a 45-day moratorium on the establishment of new sexually oriented businesses and the expansion of existing sexually oriented businesses. The Council subsequently extended the moratorium on January 20, 2004, and again on July 6, 2004. The moratorium will expire on March 6, 2005.

B. The Council's adoption of the moratorium was based upon the following facts:

i. The findings of the County of Sacramento, set forth in Zoning Code Section 325-50, and the cases, studies and authorities involving other municipalities around the country clearly establishing that the existence of sexually oriented businesses in a community results in the creation of harmful secondary effects, such as increased crime and decreasing property values, which are a threat to the public safety, health and welfare;

ii. The existence of confusion as to the interpretation and application of numerical standards in the Rancho Cordova Zoning Code related to the location, operation and concentration of sexually oriented businesses within the City;

iii. The fact that, absent the adoption of a moratorium, the existence of such confusion could cause the City to approve the establishment of sexually oriented businesses not intended by Zoning Code Sections 325-50 and 325-51,

which in turn would result in an increase in the harmful secondary effects identified above;

iv. The failure to properly apply zoning regulations affecting sexually oriented businesses might result in an illegal infringement upon constitutionally protected rights associated with sexually oriented activities; and

v. The zoning standards in question were drafted by the County of Sacramento and adopted by reference by the City following its incorporation. The City's recent transition from unincorporated area of the County of Sacramento to incorporated city dictated that the City review its zoning provisions regulating sexually oriented businesses in order to ensure that such regulations meet the needs of the City by minimizing the harmful secondary effects associated with sexually oriented business, while at the same time ensuring that such regulations do not unreasonably limit alternative avenues of communication, and are based upon narrow, objective and definite land use standards.

C. During the time period the moratorium has been in place, the City's staff has conducted a review of the City's laws regulating sexually oriented business and on December 22, 2004, an ordinance proposing to amend both the Rancho Cordova Zoning Code and Rancho Cordova Municipal Code was introduced before the Rancho Cordova Planning Commission. The Planning Commission held public hearings on the ordinance on December 22, 2004, and January 25, 2005, and is continuing to review the ordinance.

D. Since the introduction of the proposed ordinance on December 22, 2004, individuals representing sexually oriented businesses located in the City and in the City's sphere of influence have approached members of the City's staff and the Planning Commission to request an opportunity to submit additional information, including new studies on the effects of sexually oriented business, for the City's consideration. Interaction between the City's staff and local businesses on this matter is ongoing and the City's review of the new materials will not conclude before the current moratorium ends.

E. Since the adoption of the current moratorium, the City has also begun the process of creating and adopting a new General Plan. In accordance with state guidelines, the City expects to adopt a new General Plan by the end of 2005. The City Council finds that the General Plan adoption process, which will, among other things, result in zoning changes throughout the City, may create additional factors for the City to consider as it reviews how best to regulate the location, operation and concentration of sexually oriented businesses within the City.

F. The City Council declares that the additional information to be submitted by local businesses concerning the effects of sexually oriented businesses and the

General Plan adoption process are important new factors to consider in determining how best to regulate the location, operation and concentration of sexually oriented businesses within the City.

G. The City Council finds that until the City has had sufficient opportunity to review and consider the new information supplied by local businesses and the effect of the General Plan update on local zoning, questions about the adequacy of the City's sexually oriented business standards to protect the public health, safety and welfare will remain, as will confusion about how to interpret and apply the numerical standards in the Rancho Cordova Zoning Code related to the location, operation and concentration of sexually oriented businesses within the City;

H. Absent the adoption of this urgency ordinance, the existence of such confusion could cause the City to approve the establishment of sexually oriented businesses not intended by Zoning Code Sections 325-50 and 325-51, which in turn would result in an increase in the harmful secondary effects the City Council has previously found are associated with sexually oriented businesses.

I. Government Code Section 65858 authorizes the adoption of an urgency ordinance to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable period of time.

J. During the course of the current moratorium, City staff has undertaken a study to review the City's Zoning Code regulations pertaining to the regulation of sexually oriented businesses, to identify appropriate locations within the City where sexually oriented businesses should be permitted, and to amend or develop, as necessary, regulations applicable to such businesses. The City Council finds that it is necessary for City staff to continue its review of this matter, taking into consideration studies and other materials submitted by local sexually oriented businesses and the potential impacts of the General Plan adoption process.

K. The City Council finds that the current and immediate threat to the public health, safety and welfare, as discussed above and described in the findings adopted pursuant to Ordinance No. 29-2003, and readopted pursuant to Ordinances No. 4-2004 and 36-2004 still exist, and that a new temporary moratorium on the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing sexually oriented businesses is necessary pending completion of the City's review.

L. The City Council also finds that, based upon the above findings, the continued temporary modification to Zoning Code Section 325-51 to temporarily prohibit the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing

sexually oriented businesses prior to the completion of the City's review is necessary for the immediate preservation of the public health, safety and welfare.

Section 2. Temporary Modification of Zoning Code Section 325-51 and Imposition of Moratorium

A. Rancho Cordova Zoning Code Section 325-51 is hereby amended to read as following.

"325-51. Conditions

A. The zoning conditions set forth in subsection (B) for sexually oriented businesses were drafted and adopted by the County of Sacramento and were adopted by reference by the City of Rancho Cordova. The City, however, has determined that confusion exists over the application of numerical standards in this section and that the existence of such confusion could cause the City to approve sexually oriented businesses not intended by this section. Therefore, notwithstanding the zoning conditions set forth in subsection (B), for a period of 45 days beginning February 22, 2005, no new sexually oriented businesses shall be permitted within the City, nor shall any permits or other entitlements be granted for the expansion of any existing sexually oriented business. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City.

B. Sexually oriented businesses are permitted subject to compliance with all of the following conditions:

(a) Such use is more than one thousand (1,000) feet from any property zoned for a land use zone listed in Section 201.01, or regulated by Title V of this Code.

(b) Such use is situated more than one thousand (1,000) feet from any other sexually oriented business.

(c) Such use is located more than one thousand (1,000) feet from any of the following uses:

(1) Single family, duplex or multi-family residences;

(2) Clinic, child-family guidance;

(3) Library;

(4) Public park;

(5) Church;

(6) Citizens improvement club-community center;

(7) Public or private K-12 school;

(8) Indoor or outdoor recreation facilities that are primarily designed to serve persons under the age of 18.

(d) The one thousand (1,000) foot separation shall be measured as a radius from the primary entrance of the sexually oriented business to the property lines of the property so zoned or used.

(e) No more than three (3) such uses shall be permitted within the boundary of a planning area for a community planning advisory council established by the Board of Supervisors pursuant to Chapter 2.36 of the Sacramento County Code.

(f) Such use is situated in either a M-1 or M-2 land use zone."

B. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 36937, Rancho Cordova Zoning Code Section 325-51 is being temporarily modified to prohibit the approval or issuance of any use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, for the operation of a new sexually oriented business or the expansion of an existing sexually oriented business for a period of 45 days. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City.

C. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 65858, from and after the date of this ordinance, no use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the operation of a new sexually oriented business or the expansion of an existing sexually oriented business for a period of 45 days. This moratorium shall not apply to the renewal of a business license for an existing sexually oriented business in the City.

D. This ordinance is an interim ordinance adopted as an urgency measure pursuant to the authority granted the City of Rancho Cordova under Government Code Sections 36937 and 65858 and is for the immediate preservation of the public safety, health and welfare. The facts constituting the urgency are: The findings of the County of Sacramento, set forth in Zoning Code Section 325-50, and the cases, studies and authorities involving other municipalities around the country clearly establish that the existence of sexually oriented businesses in a community results in the creation of harmful secondary effects, such as increased crime and decreasing property values, which are a threat to the public safety, health and welfare. Confusion exists over the

interpretation and application of numerical standards in the Rancho Cordova Zoning Code related to the location, operation and concentration of sexually oriented businesses within the City. The existence of such confusion could cause the City to approve the establishment of sexually oriented businesses not intended by Zoning Code Sections 325-50 and 325-51, which in turn would result in an increase in the harmful secondary effects identified above. The zoning standards in question were drafted by the County of Sacramento and adopted by reference by the City following its incorporation. The City's transition from unincorporated area of the County of Sacramento to incorporated city dictate that the City review its zoning provisions regulating sexually oriented businesses in order to ensure that such regulations meet the needs of the City by minimizing the harmful secondary effects associated with sexually oriented business, while at the same time ensuring that such regulations do not unreasonably limit alternative avenues of communication, and are based upon narrow, objective and definite land use standards. The failure to properly apply zoning regulations affecting sexually oriented businesses might also result in an illegal infringement upon constitutionally protected rights associated with sexually oriented activities. Since 2003, a moratorium on the establishment and expansion of sexually oriented businesses has been in place while the City considers the review of its zoning and regulatory provisions. The current moratorium will end on March 6, 2005. On December 22, 2004, an ordinance proposing the amendment of zoning and regulatory provisions applicable to sexually oriented businesses was introduced before the Rancho Cordova Planning Commission. Following the introduction of the ordinance, local sexually oriented businesses approached the City and requested that the City consider additional information and studies concerning the negative secondary effects of sexually oriented businesses. The City is also in the process of creating and adopting a new General Plan that may impact how sexually oriented businesses are zoned and regulated. The timeframe for consideration of these new factors by the City will extend beyond the expiration of the current moratorium. In light of these facts, and as a result of the harmful secondary effects associated with sexually oriented business and the current and immediate threat such secondary effects pose to the public health, safety and welfare, it is necessary to, in accordance with Government Code Sections 36937 and 65858, temporarily modify Zoning Code Section 325-51 and establish a new 45-day moratorium on the establishment of new sexually oriented businesses or the expansion of existing sexually oriented businesses in the City pending the completion of the City's review of its zoning provisions regulating sexually oriented businesses.

Section 3. Compliance with California Environmental Quality Act

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly; it

prevents changes in the environment pending the completion of the contemplated Zoning Code review.

Section 4. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council and shall be in effect for forty-five days from the date of adoption unless extended by the City Council as provided for in the Government Code.

ADOPTED, THIS 22nd day of February 22, 2005, by the following vote:

AYES: McGarvey, Sander, Skoglund, Cooley

NOES: None

ABSENT: Budge

ABSTENTIONS: None

Ken Cooley, Mayor

ATTEST:

Lillian E. Hare, City Clerk

CITY OF RANCHO CORDOVA

ORDINANCE NO. 08-2005

AN URGENCY ORDINANCE OF THE CITY OF RANCHO CORDOVA EXTENDING A MORATORIUM ON THE ESTABLISHMENT OF NEW SEXUALLY ORIENTED BUSINESSES AND THE EXPANSION OF EXISTING SEXUALLY ORIENTED BUSINESSES PENDING THE REVIEW AND AMENDMENT OF ZONING REGULATIONS APPLICABLE TO SEXUALLY ORIENTED BUSINESSES, TO BECOME EFFECTIVE IMMEDIATELY

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Findings

A. On February 22, 2005, the City Council of the City of Rancho Cordova adopted Ordinance No. 05-2005 as an urgency ordinance imposing a 45-day moratorium on the establishment of new sexually oriented businesses and the expansion of existing sexually oriented businesses.

B. Ordinance No. 05-2005 will, unless extended, expire by its own terms on April 8, 2005.

C. Government Code Section 65858 authorizes the extension of an urgency ordinance, after a noticed public hearing, to prohibit uses of land which may conflict with a contemplated general plan, specific plan or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable period of time.

D. The City continues to consider and study the issue of sexually oriented businesses in relation to the City's proposed adoption of new zoning and licensing regulations pertaining to such businesses as well as in relation to the City's ongoing process to create and adopt a General Plan. City staff has and continues to meet with local sexually oriented businesses to discuss proposed regulations and consider additional information provided by the local businesses.

E. The City Council has received and considered a report prepared by staff describing the measures that have been taken to date to alleviate the condition which led to the adoption of Ordinance 05-2005.

F. The City Council has conducted a properly noticed public hearing pursuant to Government Code Section 65090, and has duly considered all written and verbal testimony presented during the hearing.

G. The City Council finds that the current and immediate threat to the public health safety and welfare, as described in the findings adopted pursuant to Ordinance No. 05-2005 still exist, and that a temporary moratorium on the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing sexually oriented businesses should continue to remain in effect pending completion of the City's review.

H. The City Council also finds that, based upon the above findings, the continued temporary modification to Zoning Code Section 325-51 to temporarily prohibit the issuance of permits, business licenses or other applicable entitlements providing for the establishment of new sexually oriented businesses or for the expansion of existing sexually oriented businesses prior to the completion of the City's review is necessary for the immediate preservation of the public health, safety and welfare.

Section 2. Temporary Modification of Zoning Code Section 325-51 and Imposition of Moratorium

A. Rancho Cordova Zoning Code Section 325-51(A) is hereby amended to read as follows:

"325-51. Conditions

A. The zoning conditions set forth in subsection (B) for sexually oriented businesses were drafted and adopted by the County of Sacramento and were adopted by reference by the City of Rancho Cordova. The City, however, has determined that confusion exists over the application of numerical standards in this section and that the existence of such confusion could cause the City to approve sexually oriented businesses not intended by this section. Therefore, notwithstanding the zoning conditions set forth in subsection (B), for a period of ten (10) months and fifteen (15) days beginning March 21, 2005, no new sexually oriented businesses shall be permitted within the City, nor shall any permits or other entitlements be granted for the expansion of any existing sexually oriented business. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City."

B. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 36937, Rancho Cordova Zoning Code Section 325-51 is being temporarily modified to prohibit the approval or issuance of any use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, for the operation of a new sexually

oriented business or the expansion of an existing sexually oriented business for a period of ten months and fifteen days. This temporary modification shall not prohibit the renewal of a business license for an existing sexually oriented business in the City.

C. In accordance with the authority granted the City of Rancho Cordova under Government Code Section 65858, from and after the date of this ordinance, no use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the operation of a new sexually oriented business or the expansion of an existing sexually oriented business for a period of ten months and fifteen days. This moratorium shall not apply to the renewal of a business license for an existing sexually oriented business in the City.

D. This ordinance is an interim ordinance adopted as an urgency measure pursuant to the authority granted the City of Rancho Cordova under Government Code Sections 36937 and 65858 and is for the immediate preservation of the public safety, health and welfare. The facts constituting the urgency are: The findings of the County of Sacramento, set forth in Zoning Code Section 325-50, and the cases, studies and authorities involving other municipalities around the country clearly establish that the existence of sexually oriented businesses in a community results in the creation of harmful secondary effects, such as increased crime and decreasing property values, which are a threat to the public safety, health and welfare. Confusion exists over the interpretation and application of numerical standards in the Rancho Cordova Zoning Code related to the location, operation and concentration of sexually oriented businesses within the City. The existence of such confusion could cause the City to approve the establishment of sexually oriented businesses not intended by Zoning Code Sections 325-50 and 325-51, which in turn would result in an increase in the harmful secondary effects identified above. The zoning standards in question were drafted by the County of Sacramento and adopted by reference by the City following its incorporation. The City's transition from unincorporated area of the County of Sacramento to incorporated city dictate that the City review its zoning provisions regulating sexually oriented businesses in order to ensure that such regulations meet the needs of the City by minimizing the harmful secondary effects associated with sexually oriented business, while at the same time ensuring that such regulations do not unreasonably limit alternative avenues of communication, and are based upon narrow, objective and definite land use standards. The failure to properly apply zoning regulations affecting sexually oriented businesses might also result in an illegal infringement upon constitutionally protected rights associated with sexually oriented activities. On December 22, 2004, an ordinance proposing the amendment of zoning and regulatory provisions applicable to sexually oriented businesses was introduced before the Rancho Cordova Planning Commission. Following the introduction of the ordinance, local sexually oriented businesses approached the City and requested that the City consider additional information and studies concerning the negative secondary effects of sexually oriented businesses. The City is also in the process of creating and adopting a new General Plan that may impact how sexually oriented businesses are

zoned and regulated. In light of these facts, and as a result of the harmful secondary effects associated with sexually oriented business and the current and immediate threat such secondary effects pose to the public health, safety and welfare, it is necessary to, in accordance with Government Code Sections 36937 and 65858, temporarily modify Zoning Code Section 325-51 and establish a ten (10) month and fifteen (15) day moratorium on the establishment of new sexually oriented businesses or the expansion of existing sexually oriented businesses in the City pending the completion of the City's General Plan adoption process and its consideration of proposed zoning and licensing regulations pertaining to sexually oriented businesses. The additional ten month and fifteen day extension is necessary to allow the City sufficient time to complete its adoption of the General Plan and its review and consideration of the proposed regulations.

Section 3. Compliance with California Environmental Quality Act

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated Zoning Code review.

Section 4. Severability

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council and shall be in effect for ten (10) months and fifteen (15) days from the date of adoption unless extended by the City Council as provided for in the Government Code.

ADOPTED, THIS 21st day of March, 2005, by the following vote:

AYES: Budge, Sander, Skoglund, McGarvey, Cooley

NOES: None

ABSENT: None

ABSTENTIONS: None

/Ken Cooley
Ken Cooley, Mayor

ATTEST:

Lillian E. Hare
Lillian E. Hare, City Clerk

Memorandum

Date: January 17, 2006

To: Mayor and City Council

From: Paul Junker, Planning Director
Pam Johns, General Plan Project Manager

Subject: Adoption of Revised General Plan Land Use Map Book (Final Draft Land Use Map)

RECOMMENDATION

Staff recommends that the City Council adopt the revised General Plan Land Use Map Book as the official Interim General Plan for the City while a Draft General Plan/Draft Environmental Impact Report is being prepared. Specifically, staff recommends that the City Council take the following action:

- Adopt Resolution No. 03-2006, establishing revised interim policies and diagrams that will guide land use within the City until the adoption of a General Plan. (Attachment 1)

- Adopt the Revised General Plan Land Use Map Book as part of the City's Interim General Plan and direct staff to complete the preparation of a Draft General Plan/Draft Environmental Impact Report (EIR). (Exhibit A)

- Direct staff to continue using the Draft Land Use Map Book when evaluating all development proposals and applications.

Adoption of the revised General Plan Land Use Map Book will allow City staff to continue using these interim policies, which reflect the Council's vision for future land uses in the City, as well as enable the completion of the Draft General Plan/Draft Environmental Impact Report (EIR). Consistent with State Law (Government Code Section 65360), a newly incorporated city is required to adopt findings prior to approval of projects within the Interim General Plan period. Findings adopted by City Council on May 16 and July 18, 2005 have been restated in Resolution 03-2006 for adoption of the Revised Draft Land Use Map Book.

Draft EIR in early March.

AGENDA ITEM # 15

BACKGROUND

In May 2005, City Council adopted the Draft Land Use Map Book and Draft Circulation Plan as the City's Interim General Plan. At the same time, Council directed staff to "test" or "truth" the adopted General Plan Land Use Map by analyzing the land use mix, balance, and proposed densities and intensities of future development.

Over the last several months, City staff, the General Plan Team, and other consultant specialists have been conducting analysis, completing studies, and testing assumptions made for the development of the adopted Draft Land Use Map. Several results pointed to the need for a variety of revisions to the Draft Land Use Map. Specific findings and recommended amendments to the Draft Land Use Map were presented to the City Council on December 19, 2005 and January 3, 2006. At those meetings, staff received direction from the City Council to proceed with preparation of necessary revisions for adoption.

The Revised Draft Land Use Map Book (Exhibit A) has been prepared for consideration and adoption by the City Council. Adoption of the Final Draft Land Use Map is critical in order to complete the environmental analysis and to maintain the current project schedule.

ANALYSIS

This section of the report highlights relevant land use map information and direction from the City Council meeting on January 3, 2006.

PLACE3S Land Use Model

Using PLACE3S software, staff worked with SACOG staff, City Staff, and economic consultants to translate draft land use categories and desired development patterns into the model. The City's land use model establishes approximately 40 place types reflecting our new General Plan land use categories, including blended place types for the majority of the Planning Areas located in undeveloped Greenfield areas. At the January 3, 2006 Council meeting, staff presented a comparison table of County General Plan land uses, land uses assumed for SACOG Blueprint Scenario C, and the City's land uses as reflected in the Adopted Draft Land Use Map (Dated May 2005).

Office Demand Analysis

Bay Area Economics completed an analysis of office demand for the General Plan Planning Area. Analysts looked at existing conditions, talked to brokers about historic market niches, competition, local strengths and weaknesses, and regional trends to form assumptions regarding regional absorption of office development for Rancho Cordova. Projections assume that Rancho Cordova will (at a minimum) maintain its existing share of the regional office market somewhere between 16 and 25 percent (depending on tracking source).

Projected total office demand at build out is nearly 29.7 million square feet. Staff recommends planning for approximately 15 percent additional office capacity for a total of approximately 34.1 million square feet. The land use assumptions and amount of land planned for office development in the Adopted Draft Land Use Map is estimated at just over 53.6 million square feet.

Individual Council members expressed concerns with assumptions regarding government and medical jobs, the omission of interest in college space, and the general classification of office space in the City. Questions were also raised about the definition of absorption and the location of new office space. Staff is working with the consultants on these issues and will present responses and any updated materials at the meeting.

Retail Demand Analysis

Bay Area Economics worked with Leland Consulting to complete a retail demand analysis for the General Plan Planning Area. The study looked at existing retail in and around Rancho Cordova to understand current market conditions, then analyzed spending potential of current and future residents to calculate retail demand in a variety of retail categories. Consistent with development assumptions used for the Capital Improvement Plan and Pro Forma, the analysis calculated retail demand incrementally through build out of the General Plan in or around year 2050.

Projected total retail demand at build out is nearly 9.2 million square feet. Staff recommends planning for approximately 15 percent additional retail capacity for a total of approximately 10.5 million square feet. However, staff also identified that the retail analysis did not include demand for small local neighborhood retail, "super-regional" retail opportunities (e.g., IKEA), or auto sales. The land use assumptions and amount of land planned for retail development in the Adopted Draft Land Use Map is estimated at just over 22.1million square feet.

Again, individual Council members expressed concerns with accuracy of existing retail listings and retail competition from surrounding jurisdictions, as well as the assumption that Rancho Cordova would not capture existing leakage. Staff is working with the consultants on these issues and will present responses and any updated materials at the meeting.

Retail Strategy (Leland Consulting)

Given the projected retail demand of approximately 9.2 million square feet, Leland Consulting developed a retail strategy focused on the location and distribution of retail centers. The location analysis takes into consideration retail trends, tested siting criteria, existing conditions, and stakeholder interviews. For distribution by retail type, retail development is separated into two general retail categories (grocery anchored centers and general merchandise centers. These categories are exclusive of specialty (high-

end) retail and auto sales. To address concerns regarding the inconsistency in retail nomenclature, staff developed the table below showing parallel definitions.

GP Land Use Category	Retail Market Demand	Retail Strategy
Commercial Mixed Use	Neighborhood/Local Convenience and Community Centers	Grocery Anchored and General Merchandise Centers
Village Center	Neighborhood/Local Convenience Centers	Grocery Anchored Center
Local Town Center	Community Centers	General Merchandise Center
Regional Town Center	Regional and/or Specialty Centers	
Transit-Oriented Town Center	Community, Regional, and Specialty Centers	

Attachment 2 shows recommended locations for existing and proposed grocery anchored and general merchandise sites. The distribution and location of retail opportunities are generally consistent with assumptions made for the Adopted Draft Land Use Map. However, the Adopted Draft Land Use Map assumed a few additional grocery anchored centers (Village Centers) in the southern and eastern portions of the City and more general merchandise sites in terms of regional retail and transit-oriented opportunity sites primarily along Folsom Boulevard.

Staff utilized the distribution map in creating the conceptual land use plans for the City's 16 Planning Areas. With regard to the translation of this retail strategy, there are several factors that are important to note:

1. Planning Area conceptual land use plans reflect the General Plan retail nomenclature (e.g., Village Center, Local and Regional Town Center)

2. Retail locations shown on the Planning Area conceptual land use plans reflect staff understanding of local constraints and opportunities and property owner input and/or land planning work.

3. Planning Area conceptual land use plans include some additional capacity sites that reflect approved, pending, or probable retail opportunities.

4. Language has been added to the revised Land Use Map Book for Planning Areas to explain that retail siting is conceptual only and that actual retail location(s) will be determined in conjunction with subsequent master planning of each Greenfield Planning Area.

Revisions to Land Use Assumptions

Assumptions for the land use model were tested in conjunction with the work done for the Capital Improvement Plan (CIP) and General Plan Pro Forma. As discussed at the January 3, 2006 City Council meeting, staff is recommending revisions to the employment ratios and development assumptions for office mixed use, commercial mixed use, and town center designations. Modifications to the employment ratios are consistent with industry standards and those ratios used by the Pro Forma Team. Revisions to the development assumptions for the office and commercial mixed-use categories reflect an average development, rather than a maximum development potential. Average development assumptions reflect the smart growth principles adopted by the City Council.

Downtown District

At the December 19th City Council meeting, staff presented the results of the Downtown Visioning Process. Specifically, staff presented information regarding the Downtown Tour, results of the survey and intercept interviews, and summaries of the 12 case studies conducted on vibrant downtowns with comparable demographics. While staff heard consensus on the vision and role of the Downtown, staff did not hear clear consensus on the scale and location of the Downtown.

City Council discussed individual preferences for a range of alternatives and ultimately supported a compromise between a very focused Downtown in the Olson Drive area and an expanded Downtown area along both sides of Highway 50. The revised Downtown are boundaries are shown in Attachment 3, along with the boundaries of the new "Convention" area. Staff is recommending that the Downtown District be converted to a Downtown Planning Area with a conceptual land use plan, corresponding text, and reference to the preparation of a subsequent Downtown Specific Plan or other similar planning tool to address the circulation, redevelopment, look and feel of the City's future Downtown. Staff is also recommending that the concepts for the Convention area be captured in a new Convention Overlay land use designation. Specific recommendations are listed in the Revised Draft Land Use Map Book (Exhibit A).

Conceptual Plans for Planning Areas

The Adopted Draft Land Use Map Book establishes 15 individual Planning Areas. With in inclusion of a new Downtown Planning Area, there are now 16 Planning Areas throughout the City's General Plan boundaries. Staff introduced the conceptual land use plans for these areas at the January 3, 2006 City Council study session. Based on input from the City Council and members of the public, modifications to a few of the Planning Areas have been made and incorporated into the Revised Draft Land Use Map Book. Modifications are summarized as follows:

1. General Land Use Map Book Updates. Updated the assumptions for dwelling units, population, and employment population for each of the 16 Planning Areas. Added new conceptual land use plans and corresponding discussions for each of the Planning Areas (except Folsom Boulevard as the Folsom Boulevard Specific Plan will establish the land use pattern). Added a discussion of retail distribution in the Greenfield Planning Areas and the intent for flexibility as subsequent land use planning applications are filed.

2. New Downtown Planning Area. The conceptual land use plan drafted for this area includes commercial mixed use, office mixed use and residential mixed use north of Highway 50 with a transit-oriented retail development shown at the intersection of Folsom Boulevard and Olsen Drive. Land uses south of Highway 50 include a combination of office mixed use and commercial mixed use with a Local Town Center designation on the Capital Village commercial site.

3. Sunrise South Planning Area. Modifications to the land use plan include conversion of the office mixed use land in the northeast portion of the Planning Area to light industrial.

4. East Planning Area. Modifications to the conceptual land use plan include flexibility in location of the Local Town Center along Grant Line Road, additional natural resources reflecting property owner input, and additional office mixed use land in the northern portion of the site.

5. Grant Line North Planning Area. Modifications to the conceptual land use plan include relocation of the Village Commercial site on Sunrise Blvd, the addition of a Village Commercial site along Grant Line Road, and minor modifications to the natural resource areas. These changes reflect input from the property owner.

6. Grant Line South Planning Area. Modifications to the conceptual land use plan include the addition of more lower density residential neighborhoods (estate and rural) along the southern and eastern portions of the site and the inclusion of additional natural resource areas.

7. Jackson Planning Area. Modifications to the conceptual land use plan include the elimination of the Village Center shown at Excelsior and Jackson Highway, conversion of the residential areas to office mixed use, light industrial, and natural resources in the Mather CLUP, and additional natural resource areas to reflect the conservation plan.

Summary of Modifications

The net result of the above listed revisions are summarized in the table below for the Adopted Draft Land Use Map (May Land Use Map) and the proposed revisions to the land use map (January Land Use Map).

Comparison Factor	May Land Use Map	January Land Use Map
Population	339,298	323,120
Total Dwelling Units	139,047	131,310
Units Per Acre	4.15	3.86
Total Employees (Jobs)	289,330	190,611
Jobs/Household	2.08	1.45
Commercial Square Footage	22,118,335	12,107,161
Commercial Jobs	44,465	24,214
Office Square Footage	53,680,046	35,721,855
Office Jobs	195,057	129,898
Industrial Square Footage	33,534,704	20,743,692
Industrial Jobs	38,795	22,199
Land Use Type	**May Land Use Map Acreage (% of Total)**	**January Land Use Map Acreage (% of Total)**
General Agriculture	0 (0%)	0 (0%)
Rural Agriculture	0 (0%)	0 (0%)
Public/Quasi-Public	4,806 (8.3%)	4,967 (8.5%)
Parks and Open Space	4,232 (7.3%)	4,252 (7.3%)
Natural Resources	4,641 (8.0%)	4,637 (8.0%)
Rural Residential	2,165 (3.7%)	2,071 (3.6%)
Estate Residential	8,768 (15.1%)	8,692 (14.9%)
Low Density Residential	16,946 (29.1%)	17,543(30.2%)
Medium Density Residential	4,557 (7.8%)	4,106 (7.1%)
High Density Residential	898 (1.5%)	938 (1.6%)
Residential Mixed Use	113 (0.2%)	122 (0.2%)
Commercial Mixed Use	842 (1.4%)	829 (1.4%)
Village Center	583 (1.0%)	475(0.8%)
Local Town Center	112 (0.2%)	141 (0.2%)
Regional Town Center	286 (0.5%)	286 (0.5%)
Transit Oriented Town Center	269 (0.5%)	231 (0.4%)
Office Mixed Use	3,328 (5.7%)	2,854(4.9%)
Light Industrial	3,488 (6.0%)	3,824 (6.6%)
Heavy Industrial	1,868 (3.2%)	1,949 (3.4%)
Surface Mining	258 (0.4%)	259 (0.4%)
TOTAL	**58,160 (100%)**	**58,160 (100%)**

USING INTERIM LAND USE AND CIRCULATION DIAGRAMS AND POLICIES TO MAKE CONSISTENCY FINDINGS UNDER STATE LAW

State law supports the use of interim policies and General Plan proposals when making decisions and processing development and other projects. Section 65360 of the Government Code provides as follows:

> ***65360.*** *The legislative body of a newly incorporated city or newly formed county shall adopt a general plan within 30 months following incorporation or formation. During that 30-month period of time, the city or county is not subject to the requirement that a general plan be adopted or the requirements of state law that its decisions be consistent with the general plan, if all of the following requirements are met:*
>
> *(a) The city or county is proceeding in a timely fashion with the preparation of the general plan.*
>
> *(b) The planning agency finds, in approving projects and taking other actions, including the issuance of building permits, pursuant to this title, each of the following:*
>
> > *(1) There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or which will be studied within a reasonable time.*
> >
> > *(2) There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.*
> >
> > *(3) The proposed use or action complies with all other applicable requirements of state law and local ordinances.*

In summary, this section of the Government Code allows the adopted interim policies and diagrams (Vision Book, Land Use Map Book, and Circulation Plan) to be used when determining whether there is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal that is, or will be, studied by the City. This has the benefit of providing direction to applicants and staff on the processing of both major and minor projects before the formal adoption of the General Plan later this year. Adopted findings are listed in Resolution 03-2006 (Attachment 1).

ENVIRONMENTAL ANALYSIS

The interim adoption of the Land Use Map Book and Circulation Plan diagrams and policies is exempt from the California Environmental Quality Act, as described in the attached Resolution No. 03-2006, paragraphs 4(a) through 4(e). A Final General Plan and Land Use Map will be adopted after the EIR is certified by the City Council.

NEXT STEPS

With the approval of the revised Draft Land Use Map Book (including Final Draft Land Use Map) interim policies, staff will complete the preparation of the General Plan and General Plan Environmental Impact Report in keeping with the extended schedule.

Attachments:

1. Resolution No. 03-2006 including (Exhibit A) Revised Draft Land Use Map Book
2. Retail Strategy by Leland Consulting
3. Downtown Planning Area and Convention Overlay Area Boundaries

CITY OF RANCHO CORDOVA

RESOLUTION NO. 03 - 2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADOPTING A REVISED DRAFT LAND USE MAP BOOK TO SERVE AS INTERIM DIAGRAMS AND POLICIES TO GUIDE LAND USE WITHIN THE CITY UNTIL THE ADOPTION OF A GENERAL PLAN

WHEREAS, the City of Rancho Cordova ("City") was incorporated on July 1, 2003;

WHEREAS, the City is now proceeding in a timely fashion to prepare a Draft General Plan/Draft Environmental Impact Report consistent with state planning and zoning law and the California Environmental Quality Act;

WHEREAS, the City desires to revise the adopted Draft Land Use Map Book to provide interim guidance to the City as it evaluates development applications pursuant to Government Code Section 65360, and prepares Citywide land use programs;

WHEREAS, the City continues to evaluate development applications pursuant to Government Code Section 65360 and required findings adopted by Resolution 89-2005;

WHEREAS, the Revised Draft Land Use Map Book has been prepared to implement and advance those conceptual statements and policies set forth in the City's Vision Book, Draft Land Use Map Book, and Circulation Plan, which was the result of extensive input from the public and community leaders;

WHEREAS, it is the intent of the City to include the Revised Draft Land Use Map Book in the City's Draft General Plan/Draft Environmental Impact Report for further study and review;

WHEREAS, notice of the proposed adoption of the Revised Draft Land Use Map Book diagram and policies was provided in accordance with Government Code Section 65090(a); and

WHEREAS, the City desires to make the Revised Draft Land Use Map Book diagram and policies applicable to all development, including proposed subdivisions with tentative map applications that have not yet been deemed complete, in accordance with Government Code Section 66474.2(b);

NOW, THEREFORE, the City Council of the City of Rancho Cordova does hereby resolve as follows:

1. To adopt the Revised Draft Land Use Map Book attached as Exhibit A, and described in the staff report from the Planning Director dated January 17th, as the official interim land use diagram and policies of the City of Rancho Cordova;

2. To use the Revised Draft Land Use Map Book diagram and policies in a manner that is consistent with Government Code Section 65360 for only so long as is required to complete and adopt a General Plan and certify a Final Environmental Impact Report, or until such time as the City Council adopts a subsequent enactment that amends or alters such diagrams or policies, whichever comes first;

3. To find that the interim adoption of the Revised Draft Land Use Map Book diagram and policies is exempt from the California Environmental Quality Act because:

    a. The adoption of such interim diagrams and policies is supported by Government Code Section 65360(b) because they enable the City to make the required findings that there is a reasonable probability that a proposed land use or action will be consistent with the General Plan proposal being considered or studied, or a General Plan proposal "which will be studied within a reasonable time;"

    b. The interim diagram and policies only will be employed by the City on a short-term basis while the environmental effects of such policies are comprehensively studied and evaluated as part of the Draft General Plan/Draft Environmental Impact Report;

    c. The interim diagram and policies are expected to help minimize adverse impacts on the environment while the City prepares its General Plan by requiring development proposed in the City to be consistent with a comprehensive and integrated set of land use and circulation policies either in effect, or which the City expects eventually will be part of such General Plan;

    d. All land use proposals and actions that the City evaluates relative to the interim land use and circulation diagrams and policies will undergo program or project-level site specific environmental review under the California Environmental Quality Act, so that the physical implementation of the interim policies and diagrams will comply in all respects with the California Environmental Quality Act;

e. In light of all of the foregoing circumstances, the adoption of the interim land use diagrams and policies does not create the potential for causing a significant effect on the environment as described in CEQA Guidelines Section 15061(b)(3).

5. To make the Revised Draft Land Use Map Book applicable to all development, including subdivisions with tentative map applications that have not yet been deemed complete, because the City has initiated proceedings by way of this resolution in accordance with Government Code Section 66474.2(b) and published notice in the manner prescribed by Government Code Section 65090(a);

6. To make all portions of this resolution severable from one another. Should any individual component or any portion of this Resolution be found invalid and unenforceable by a court of competent jurisdiction, it is the City Council's intent and desire that the remaining portions of the Resolution continue in full force and effect.

PASSED AND ADOPTED this _____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
ROBERT J. MCGARVEY, MAYOR OF THE
CITY OF RANCHO CORDOVA

ATTEST:

_____
LILLIAN HARE
CITY CLERK



GENERAL PLAN

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Revised Draft Land Use Map Book

Adopted as Interim General Plan May 16, 2005
Amended January 17, 2006

Introduction

The Draft Land Use Map reflects an approach that combines specific land use designations in some areas of the City and more general descriptions of land uses in areas planned for future growth—the "Planning Areas" shown on the Draft Land Use Map. The Planning Area concept requires more detailed planning after adoption of the General Plan, such as the adoption of Specific Plans (as has already occurred in the Sunrise Douglas area).

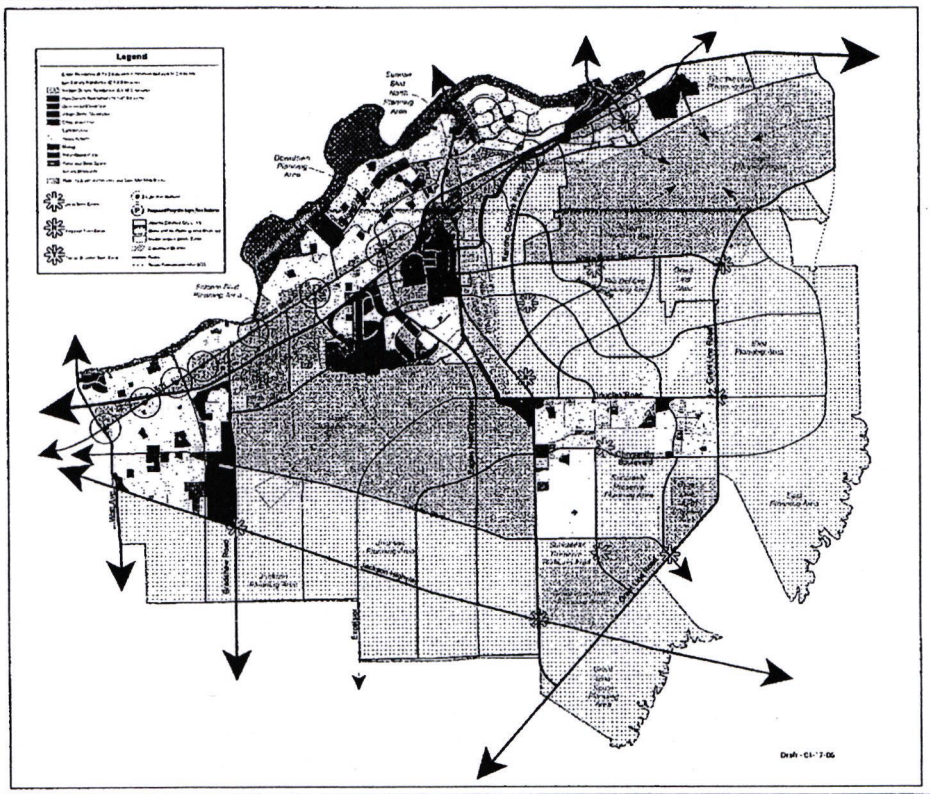
Neighborhoods, Villages, and Districts are the building blocks for future development and redevelopment within the City. This system of walkable, livable, and sustainable development throughout the community is reflected on the Draft Land Use Map and incorporated into the Land Use Designations, Planning Area Descriptions, and City Building Blocks sections of this document.

A variety of new land use designations are established with the Draft Land Use Map to reflect the more mixed and—in many cases—more intense land uses envisioned for the city. These "mixed use" categories provide the opportunity for combining of residential, commercial, and office uses on a single site (depending on the designation). In some cases, the mixing may be "horizontal" (for example, residential uses next to commercial uses); in others, the mixing may be "vertical" (residential uses over commercial of office in multi-story buildings). It is anticipated that compact mixed-use development will be the standard pattern of development.

The Map designates a "Downtown ~~District~~Planning Area," which serves to establish a "target area" for the location of ~~future civic facilities. The Downtown District includes a portion of the existing office park area south of Hwy 50 as well as a portion of Folsom Boulevard. It is anticipated that this area would accommodate~~ a wide range of retail and service commercial, restaurant, entertainment, and significant employment uses to compliment the City's new civic core. Future development in the Downtown ~~District~~ Planning Area should take advantage of visibility from Highway 50 to create an enhanced image and identity for the City of Rancho Cordova.

The Draft Land Use Map also designates the general location of several "Town Centers" of varying size and intensity. The locations are conceptual, but illustrate the City's intent to provide for a variety of shopping, working, and living opportunities throughout the city, and to take advantage of the opportunities provided the Hwy 50, light rail, and other major access to build regionally-oriented commercial centers.

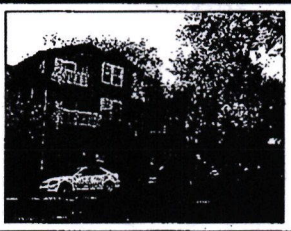
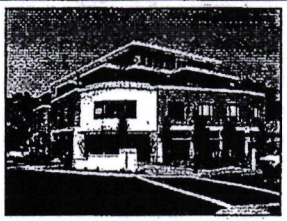
The Land Use Map



Revised Draft General Plan Land Use Map
January 17, 2005

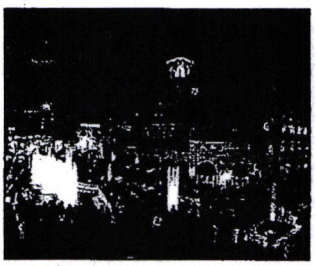
Land Use Designations

These land use designations describe the intended types of uses for each of the land use types illustrated on the General Plan Land Use Map.

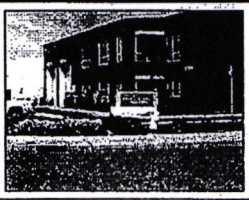
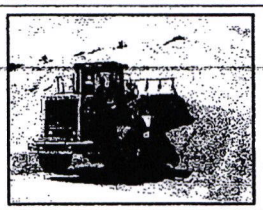
Non-Residential and Mixed Land Uses		
Designation	Typical Illustration	Notes
Residential Mixed Use		Predominately residential development at medium to high densities, which may include ground floor retail office and/or service uses that are vertically integrated[1]. *Note: To be fully implemented, this land use designation will require the adoption of new zoning designation(s).*
Commercial Mixed Use		Predominately retail and service commercial development on the ground floor that may include office use. Residential uses are permitted when specified conditions are met. These uses may be vertically or horizontally integrated[2]. *Note: To be fully implemented, this land use designation will require the adoption of new zoning designation(s).*
Office Mixed Use		Predominately office development that may include retail and service, as well as residential uses. These uses may be vertically or horizontally integrated. *Note: To be fully implemented, this land use designation will require the adoption of new zoning designation(s).*
Village Center ~~Mixed Use~~		Generally characterized by vertically or horizontally integrated retail, office, and professional uses that serve daily shopping needs of nearby residents, such as: • Supermarkets • Drug stores • Restaurants • Services May also include medium-high density residential development. Village Centers are sized to match the market demand of approximately 10,000 to 15,000 persons. *Note: To be fully implemented, this land use designation will require the adoption zoning amendments.*

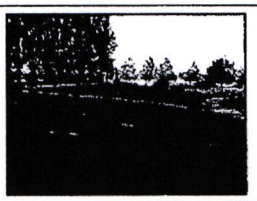
[1] "Vertically integrated" -- Uses mixed in a multi-story building, such as residential apartments above ground-floor retail or office, or offices above retail. *See: "Horizontally integrated"*

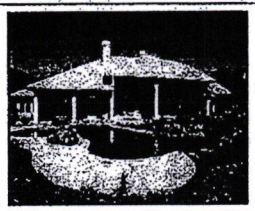
[2] "Horizontally integrated" – Uses mixed on a site or in a development where different uses are adjacent to each other and not vertically integrated.

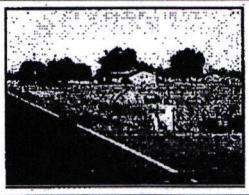
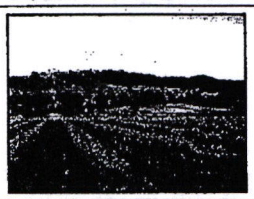
Non-Residential and Mixed Land Uses		
Designation	Typical Illustration	Notes
Local Town Center ~~Mixed Use~~		Generally characterized by a mix of retail, office, and professional uses that serve regular and special shopping needs not met by the uses in a Village Center. Typical uses include: • Larger retail stores • Restaurants • Lodging • Entertainment • Indoor and outdoor recreational facilities • Business and professional offices Town Centers are vibrant destination places with daytime and nighttime activities. Residential densities are medium to high. Town Centers are sized to meet the needs of approximately 35,000 to 45,000 persons, and may meet regional office or retail needs in addition to local needs. Uses may be vertically or horizontally integrated. *Note: To be fully implemented, this land use designation will require the adoption of zoning amendments.*
Transit-Oriented Town Center ~~Mixed Use~~		Generally characterized by vertically and horizontally integrated office, retail, and residential uses developed in a multi-story configuration. These integrated developments are built in and around light rail and other transit stations, providing new housing opportunities and practical alternatives to vehicle mobility. Includes residential development at densities of up to 80 units per acre. *Note: To be fully implemented, this land use designation will require the adoption of zoning amendments.*
Regional Town Center		Generally characterized by a mix of vertically or horizontally integrated retail, office, and residential uses that serve a larger region (within 30 to 60 minutes' driving time, or approximately 100,000+ population). Typical uses will include: • Large retail stores (100,000 SF and larger) anchoring retail centers of up to 900,000 SF • Entertainment • Restaurants • Lodging • Indoor and outdoor recreational facilities • Business and professional offices Regional Town Centers are vibrant destinations places for the entire region. May include residential development at densities of up to 80 units per acre *Note: To be fully implemented, this land use designation will require the adoption of zoning amendments.*

Non-Residential and Mixed Land Uses		
Designation	Typical Illustration	Notes
~~Downtown District~~		~~Designates the area in which civic uses such as City Hall, post office, courthouse, and main police and fire stations would be located. Other land uses in the Downtown District would be established by the underlying land use designation, which includes a Transit Oriented and a Local Town Center, along with a variety of mixed use commercial, office, and residential designations. The intent is to create a vibrant central business core for the community anchored by civic uses.~~ ~~*NOTE: This would be an overlay zone independent of the other land use designations.*~~

Industrial Land Uses		
Designation	Typical Illustration	Notes
Light Industry		Generally characterized by industrial or manufacturing activities that occur entirely within an enclosed building.
Heavy Industry		Generally characterized by industrial or manufacturing activities that may occur inside or outside of an enclosed building. Surface mining and related activities are permitted within this land use designation.
Mining		Surface mining and related activities

Public, Quasi-Public, and Open Space Land Uses *Note: These categories will typically be applied to lands after acquisition by the City or another agency has occurred, or after the acceptance of roadways by the City or Caltrans, and are intended to reflect existing land uses, rather than planned facilities.*		
Designation	Typical Illustration	Notes
Public/Quasi-Public		Includes a variety of public and other land uses, including: Lands owned by the City of Rancho Cordova and other public agencies • Schools, colleges, and universities • Churches, synagogues, temples, and other places of worship • Hospitals • Cemeteries
Parks and Open Space		Includes public parks and other public facilities owned by the Cordova Recreation and Park District or other public agencies and lands which have been reserved for open space uses such as lakes, trails, golf courses, and similar uses. Included in this category are commercial recreation facilities principally oriented to outdoor uses.
Natural Resources		Lands set aside as natural habitat.

Residential Land Uses		
Designations	Typical Illustration	Notes
Rural Residential (0.1 - 0.5 du/ac = minimum 2-acre to 10-acre lots)		Designates areas near the edge of the City in a more natural setting where larger ranchette-style homes on two- to ten-acre lots are predominant. May include limited farming and agriculture use.
Estate Residential (0.51 – 2.0 cu/ac = minimum half-acre to 2 acre lots)		Generally characterized by larger "executive" homes on generous lots ranging in size from one-half acre to two acres in size. Appropriate for urban to rural transition areas, significant natural areas, and integrated into neighborhoods with a variety of housing types.
Low Density Residential (2.1 - 6.6 du/ac)		Predominantly single family detached homes in traditional neighborhoods. Representative densities are consistent with the majority of the older housing stock in Rancho Cordova.
Medium Density Residential (6.1 - 18.0 du/ac)		Generally characterized by small lot single family detached or single family attached (i.e. condominium/townhome-type) development. The wide variety of site development patterns and architectural styles that represent this density range is often referred to as "Village Residential".
High Density Residential (18.1+ - 40.0 du/ac)		Predominantly apartments, condominiums, or clustered single family, generally in multi-story configurations. Parking is typically provided in traditional surface lots; parking structures may be used at higher densities.

Agriculture		
Designation/ Minimum Parcel Size (Acres)	Typical Illustration	Notes
Rural Agriculture 10 – 100 acre minimum parcel size		Rural areas where some agricultural uses may occur, but where residential homes on lots of 10 – 100 acres are the predominant land use.
General Agriculture 100+ minimum parcel size		Areas set aside for commercial agricultural production. Minimum parcel size is 100 acres to ensure economic viability for farming operations.

Other Designations	
Designation	Notes
Planning Areas	See the text of the Land Use Element for a general description of planned land uses in the Planning Area. Planning Areas are subject to the preparation of more detailed comprehensive plans.
Convention Overlay	The Convention Overlay zone is an area around the intersection of Sunrise Boulevard and Folsom Boulevard as described on the Draft Land Use Map. Uses located within the area of the overlay are intended to foster and support a convention center, including hotels, restaurants, and meeting spaces.

Planning Area Descriptions

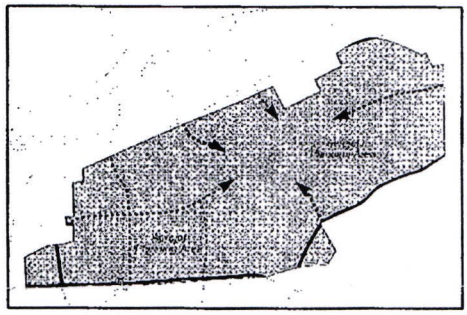
There are ~~15~~ sixteen individual Planning Areas as part of the General Plan Land Use Map. Land uses within these Planning Areas are described in general~~, but not specifically mapped with land use designations at this time~~and mapped with conceptual land use plans. ~~Additional analysis will be conducted in these areas prior to consideration of a Final General Plan Land Use Map and useful information in the form of more detailed descriptions will be incorporated into each of the Planning Areas as appropriate. Additionally, conceptual land use maps may be prepared for those Planning Areas with known conditions, such as existing urban areas (e.g., Folsom Boulevard Planning Area) or Planning Areas with formal development applications (e.g., Rio Del Oro Planning Area). However, it~~It is anticipated that more detailed planning (e.g., Specific Plans) will be required for most of the Planning Areas after adoption of the General Plan. For three of the Planning Areas located in developed areas of the City (Countryside/Lincoln Village, Sunrise North, and Sunrise South), the land use plans are not conceptual in nature. Rather the land use plans represent the actual general plan land use designations for individual parcels. For these three Planning Areas, no additional land use planning process is required. The ~~fifteen~~ sixteen Planning Areas in the City ~~include:~~ are listed below.

- Aerojet 10
- Countryside/Lincoln Village 12
- Downtown 14
- East 16
- Folsom Boulevard 19
- Glenborough 20
- Grant Line North 22
- Grant Line South 25
- Grant Line West 28
- Jackson 31
- Mather 34
- Rio del Oro 37
- Suncreek/Preserve 40
- Sunrise Boulevard North 43
- Sunrise Boulevard South 45
- Westborough 48

Conceptual land use plans for undeveloped (Greenfield) areas of the City are intended to reflect the creation of new livable neighborhoods in keeping with the City's Building Block Concept and the Council direction to transition down in density and intensity of development toward the edge of the General Plan Planning Area. The conceptual land use plans show general location of natural resource areas, areas constrained by the Mather CLUP, opportunity sites for additional employment areas, and desirable locations for retail development. The scale, boundaries, and exact location of above listed uses are conceptual only. Final land uses and locations shall be determined in conjunction with subsequent planning applications for master land use plans.

Aerojet Planning Area

Size: ±5453 acres
Dwelling Units: ± ~~3,920~~1,500 (Assumed outside of the timeframe of this General Plan)
Residential Population Estimate: ± ~~10,700~~4,000
Employment Population Estimate: ± ~~3,500~~2,860 ~~(includes approximately 3000 existing jobs for Aerojet/GenCorp and others)~~



This Area is OUTSIDE the existing City Limits.

Conceptual Land Uses:

The Aerojet Planning Area is the site of the Aerojet/GenCorp operations. The historic and ongoing uses of the site necessitate the requirement for soil remediation and other toxic cleanup activities that will not be completed during the lifetime of this Plan. Portions of the area are ideal for continued industrial, research and development, and mining operations in the near term. Intense development (i.e. offices, research and development activities, light industrial uses) will probably be located near the center of the Planning area along an extension of Hazel Avenue.

~~If the Aerojet operations ever require less land area, then some portions of the Planning Area that border onto other~~ Planning Areas where medium to high intensity development is proposed (i.e. Easton, Westborough, and Rio del Oro) may be developed in a manner similar to those areas, but at decreased densities. The conceptual land use plan for the Aerojet Planning area shows the majority of the area designated for light and heavy industrial uses. Limited area in the southwest portion of the site is shown as residential neighborhood along White Rock Road.

Conceptual Circulation and Transit:

An extension of Hazel Avenue will be the primary circulation feature of the Aerojet Planning Area. Neighborhood and Village developments along the periphery of the Area would best be served, from a circulation standpoint, by those areas.

Environmental Conditions:

The Aerojet Planning Area has been used for rocket testing and operations since the 1950's. The majority of the Aerojet Planning Area is constrained by the Aerojet General Corp. Superfund site. The Superfund site encompasses groundwater contamination and potential soil contamination associated with past operations at Aerojet. Cleanup of the area under Superfund would be required before development can occur.

The Aerojet Planning Area contains mine tailings, vernal pools, Buffalo Creek and Rebel Hill Ditch, and the Mather Airport safety zones. Impacts to vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to streams/creeks may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game.

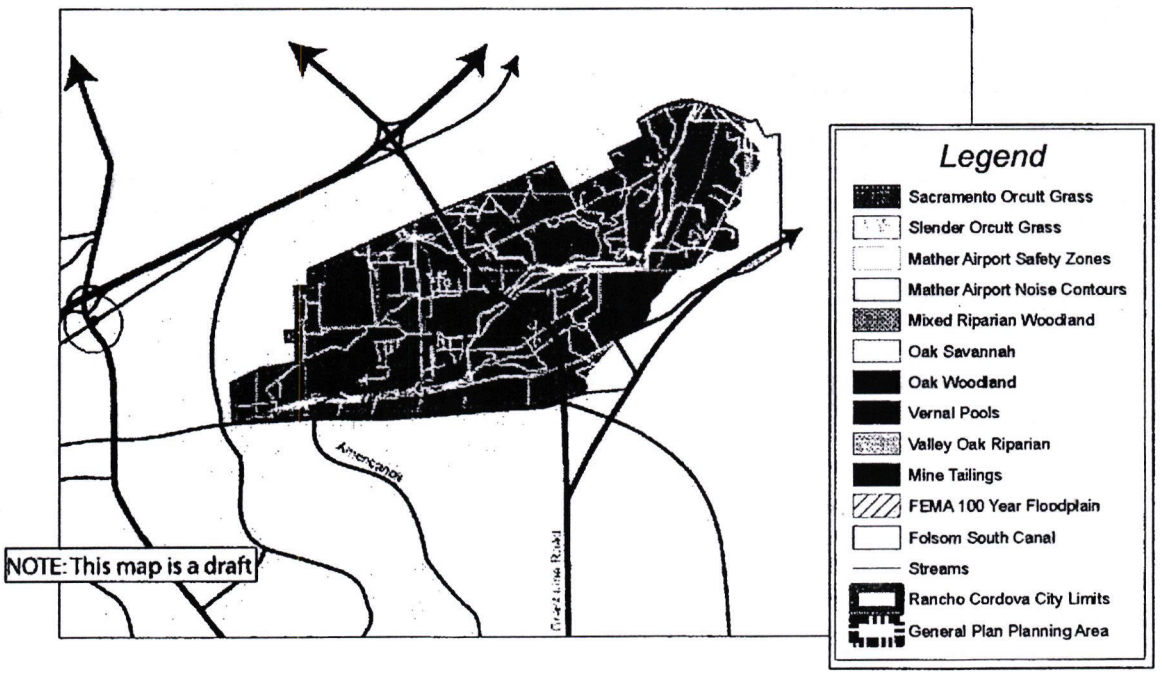
Timing:

Because of the ongoing uses of the site, it is foreseeable that intense development will not occur within the Planning Area for more than 40 years – outside the timeframe of this Plan. Development along the edges of the Area is more likely, in conjunction with neighboring development. The Hazel Avenue extension may be completed in the next 15 years.

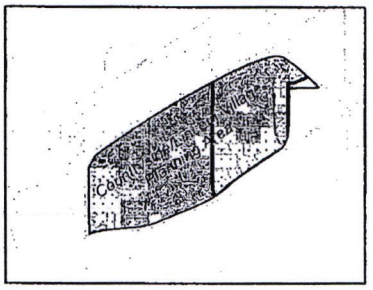
Conceptual Land Plan



Environmental and Physical Constraints



Countryside/Lincoln Village Planning Area



Size: ± 700 acres
Dwelling Units: ± ~~4,740~~3,558
Residential Population Estimate: ± ~~12,940~~8,694
Employment Population Estimate: ± ~~8,000~~5,715

This Area is INSIDE the existing City Limits.

~~Conceptual~~ **Land Use** Patterns:

Unlike other Planning Areas in the City, this Planning Area is almost entirely developed and includes primarily residential development. Existing residential development contains a high concentration of low and moderate income households with limited east-west connectivity. This Planning Area establishes the priority for reinvestment, enhancement, and improved connectivity of this existing community. Within the residential neighborhoods, the goal is to improve the property values and maintenance, while encouraging home ownership for a full range of income levels. The community supports the integration of new public and quasi-public uses into the park site on Routier. Along Old Placerville Road and Rockingham Drives, target land uses include a variety of office and commercial mixed use developments.

The Land Use Plan for Countryside-Lincoln Village shows a Village Center development on the northeast corner of Bradshaw and Old Placerville Road. Further north along Bradshaw Road, there are several commercial mixed use sites intended for smaller, neighborhood serving commercial, office, and residential uses. A new Residential Mixed Use designation is shown along Routier surrounding the new school site. At the intersection of Routier and Old Placerville Road, the new office mixed use designation will allow for existing and new offices to be developed with commercial and/or residential uses integrated horizontally or vertically. Finally, the commercial mixed use designation along Mather Field Road and Rockingham Drive is intended to expand development opportunities for existing low density commercial and office sites.

Conceptual Circulation and Transit:

Major roadways serving this Planning Area include Bradshaw Road, Old Placerville Road, Routier Drive, Rockingham Drive, and Mather Field Road. Efforts should be made to improve existing east-west connections along Old Placerville Road, potentially connecting International to Old Placerville. Study the potential to establish a pedestrian/bicycle connection on the existing rail crossing over Highway 50 between Mather Field and Routier Roads.

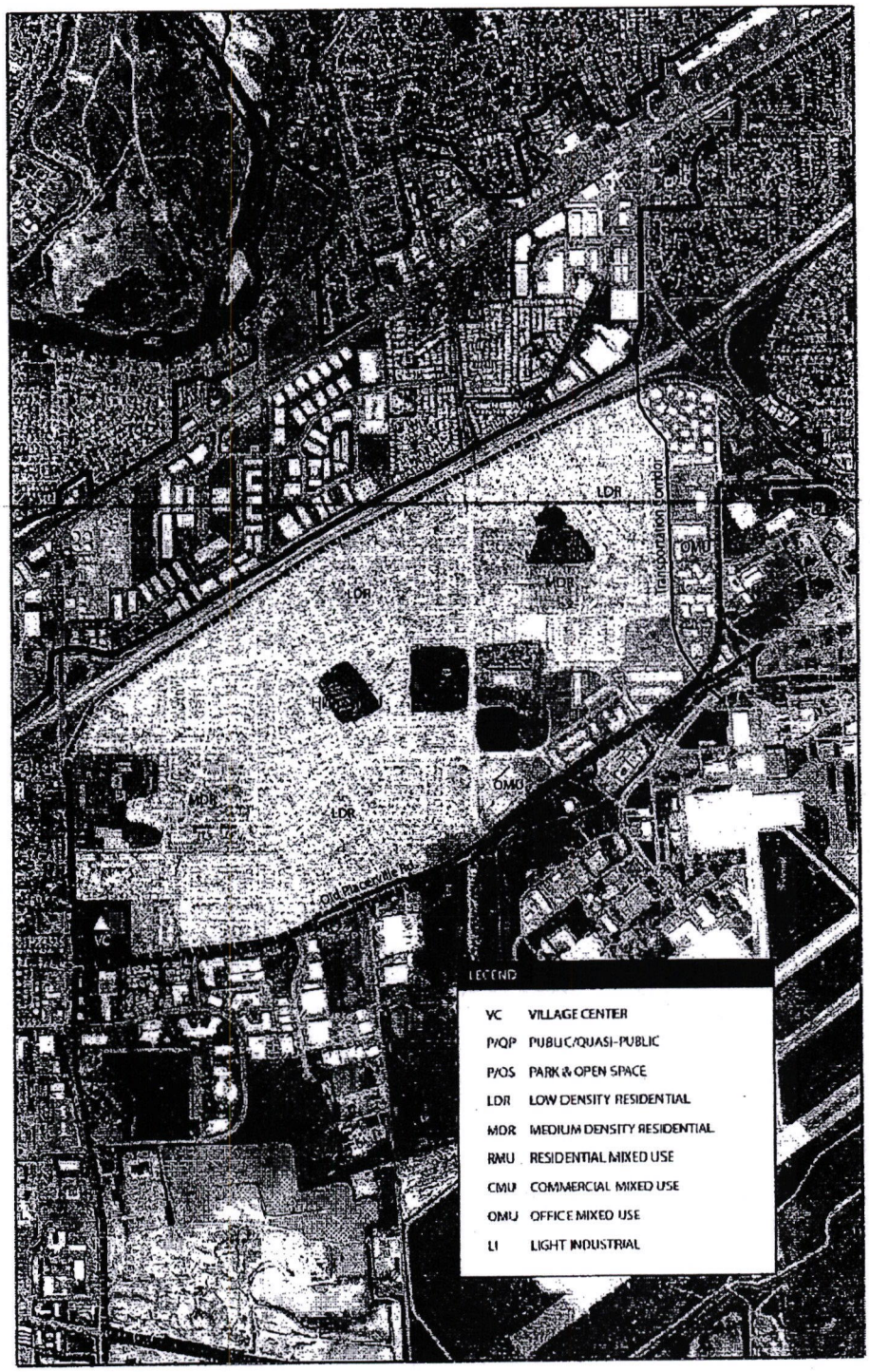
Environmental Conditions:

The Countryside/Lincoln Village Planning Area does not contain any development constraints associated with environmental conditions. This planning area is already urbanized.

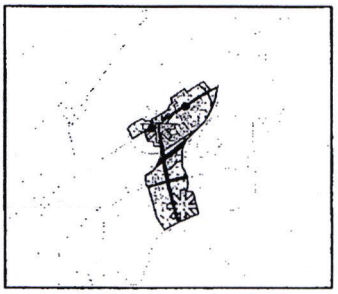
Timing:

The Planning Area has already been urbanized and will require revitalization efforts by both the City and landowners to implement the desired change. This process may take somewhere between five and fifteen years to accomplish and will require significant investment by various service providers.

Land Plan


LDR
Transportation Corridor
OMU
MDR
LDR
OMU
MDR
LDR
Old Placerville Rd
VC
LEGEND
VC VILLAGE CENTER
P/QP PUBLIC/QUASI-PUBLIC
P/OS PARK & OPEN SPACE
LDR LOW DENSITY RESIDENTIAL
MDR MEDIUM DENSITY RESIDENTIAL
RMU RESIDENTIAL MIXED USE
CMU COMMERCIAL MIXED USE
OMU OFFICE MIXED USE
LI LIGHT INDUSTRIAL

Downtown Planning Area



Size: ±363 acres
Dwelling Units: ± 2,990
Residential Population Estimate: ± 6,480
Employment Population Estimate: ± 16,000

This Area is WITHIN the existing City Limits.

Conceptual Land Uses:

The Downtown is the center of Rancho Cordova. The area provides a significant connection between existing residential and commercial areas in the northern portion of the City with existing employment areas and future residents to the south. Its proximity to Highway 50 and Light Rail make it a prime location in the region for locating uses and tenants that benefit from that level of visual exposure. It is the City's intent that the Downtown become a vibrant place to live, work, play, and shop. It is a walkable area with wide urban sidewalks that connect to plazas and other gathering areas that are part of individual projects. The vision is for a pedestrian-friendly gathering place for both daytime and nighttime activities (e.g., farmers markets, concerts, and sporting events). The tallest buildings in the City will be located in the Downtown.

It is anticipated that a Downtown Specific Plan or other similar planning tool will be prepared for this area to address specific land uses, catalyst projects, design features, and redevelopment strategies for the Downtown. A significant challenge will be to connect the two areas currently bifurcated by Highway 50 physically, functionally, and emotionally. Improved circulation and development patterns in the Olson Drive area will be a priority.

The conceptual land use plan for the Downtown shows a range of commercial, office and mixed-use areas north of the freeway with a transit-oriented center located at or near the intersection of Folsom Boulevard and Zinfandel Drive. On the south side of the freeway, the plan shows office and commercial mixed-use designations along Zinfandel Drive with the Local Town Center designation on the commercial portion of the Capital Village project. The Local Town Center will be developed in keeping with the approved "Main Street" concept.

Conceptual Circulation and Transit:

The backbones of the Downtown are Folsom Boulevard (east-west connection) and Zinfandel Drive (north-south connection). The area is bisected by the Highway 50 corridor. The existing circulation and traffic patterns will be improved to potentially reduce traffic congestion and lessen the impacts of new developments by restructuring intersections and creating other necessary traffic calming improvements. Light rail runs parallel to Folsom Boulevard along the northern edge of the area and, along with bus service, connect the Downtown to the rest of the City and the region. A bicycle and pedestrian promenade will be developed across Highway 50, between Zinfandel Drive and the crossing of Folsom Boulevard that will connect the northern and southern portions of the Downtown.

Environmental Conditions:

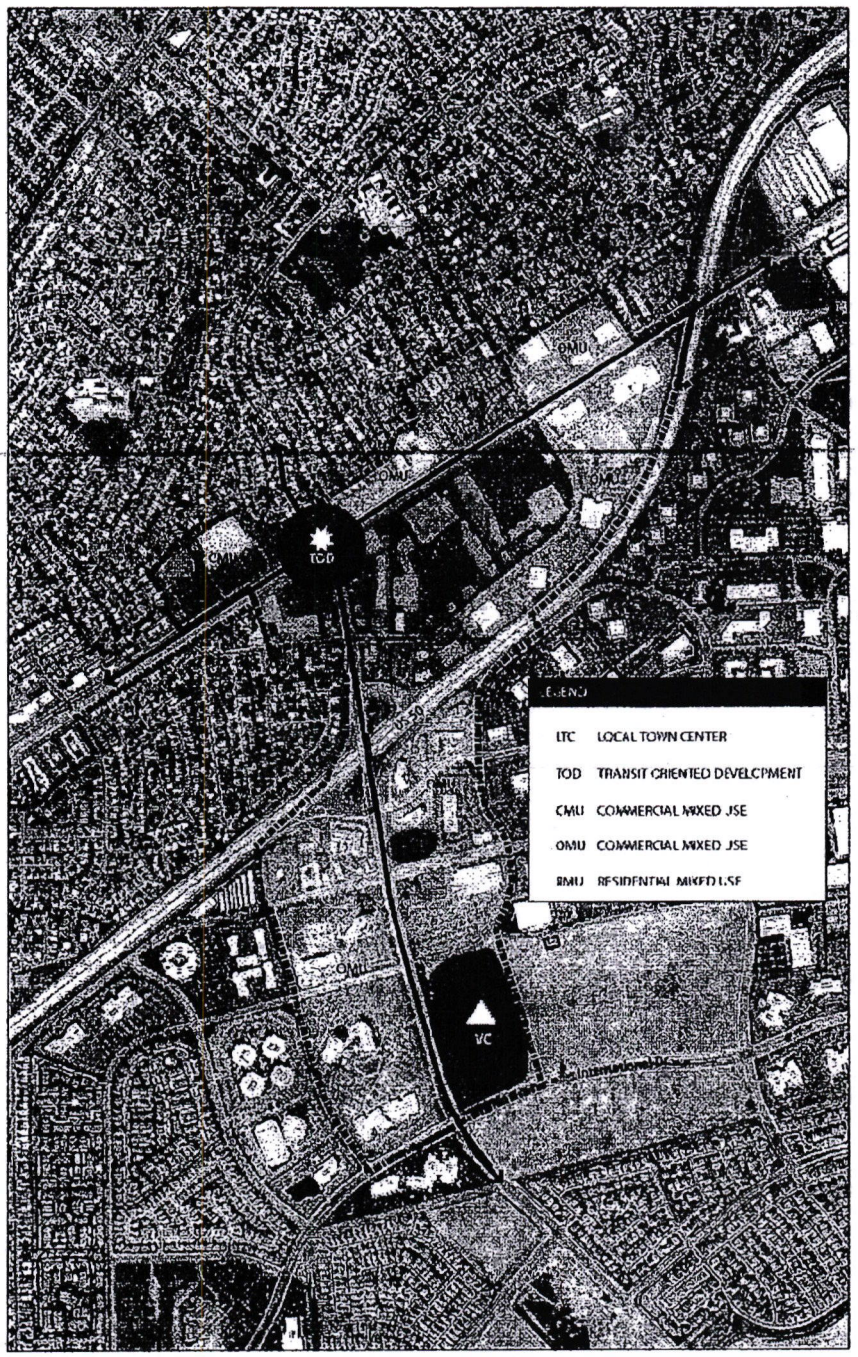
The Downtown Planning Area does not contain any development constraints associated with environmental conditions. This planning area is already urbanized.

Timing:

As Dowtown has already been urbanized, revitalization efforts will need to be undertaken by both the City and landowners to remake the area into a vibrant "City Center". This process may take somewhere between ten and

twenty years to accomplish and will require significant investment by various service providers and the demolition, redevelopment, and enhancement of some of the existing developments.

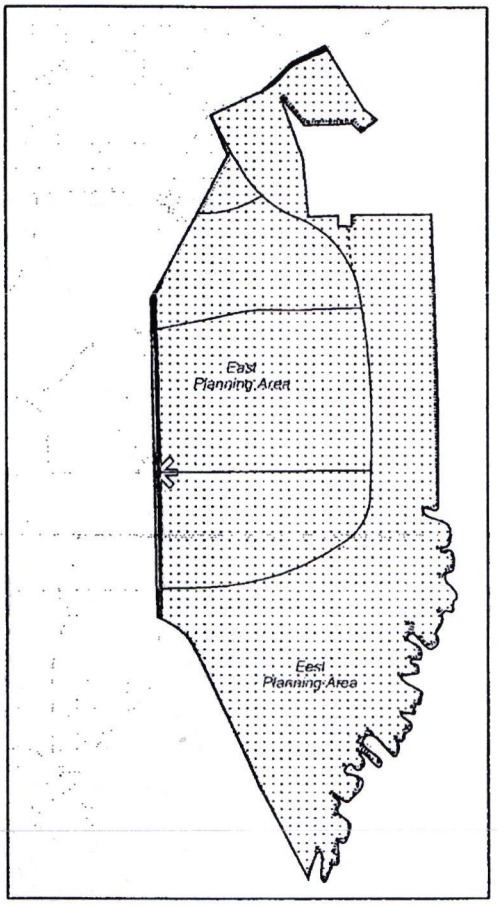
Conceptual Land Plan



East Planning Area

Size: ±7404 acres
Dwelling Units: ± ~~9,410~~10,390
Residential Population Estimate: ± ~~25,690~~27,780
Employment Population Estimate: ± ~~8,600~~5,600

This Area is OUTSIDE the existing City Limits.



Conceptual Land Uses:

Since the East Planning Area borders on the County's Urban Services Boundary and the adopted 100 year flood plain, and contains many vernal pools and critical habitat for various threatened and endangered species, the East Planning Area will have a very dynamic mix of residential densities. Residential development near Grant Line Road and the proposed loop road should develop at densities similar to Grant Line West and Suncreek/Preserve (8 dwelling units per acre), but will reduce in density as it approaches the eastern boundaries of the General Plan Planning Area (probably averaging four units per acre and as low as one unit per two acres). This land use transition from urban to rural uses will help to define the City's "edge."

~~Residents in the Planning Area will probably be served by five or six Village Centers and likely one Local Town Center~~The conceptual land plan shows approximately 9 neighborhoods served by at least one Village Center and one Local Town Center. ~~The service area of the Town Center will include Grant Line West and North Douglas 1 and 2.~~ It is also anticipated that the East Planning Area ~~In addition to the~~will include additional employment opportunities ~~associated with the Village Centers and Local Town Center, target uses for the project include office mixed use and light industrial along portions of Grant Line Road and near the Town Center~~. Given the number of significant natural resources in this area of the City, the Planning Area should include a regional attraction that can integrate or take advantage of proximity to these natural resources (e.g., zoo, nature preserve with information/training center, natural resource museum, active/passive recreational center).

Conceptual Circulation and Transit:

Grant Line Road and Douglas Road are the primary access ways into the East Planning Area. An additional connection is proposed as a loop road from the White Rock Road/Grant Line Road intersection on the north to the Chrysanthy Boulevard/Grant Line Road interchange on the south.

A trail and open space system will be included in the development of the East Planning Area and will connect to the surrounding development.

Grant Line Road may serve as a potential alignment for a future Bus Rapid Transit or Light Rail line. Other public transportation services will be included as ridership demand warrants.

Environmental Conditions:

The East Planning Area contains vernal pools, Sacramento orcutt grass, cottonwood woodland habitat, recreation associated with the Prairie City OHV Park, streams/creeks, including tributaries to Laguna Creek and Deer Creek, and mine tailings. Impacts to vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to Sacramento orcutt grass would require consultation with the U.S. Fish and Wildlife Service. The cottonwood woodland habitat provides habitat for raptors, migratory songbirds and other species. Impacts to streams/creeks may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game.

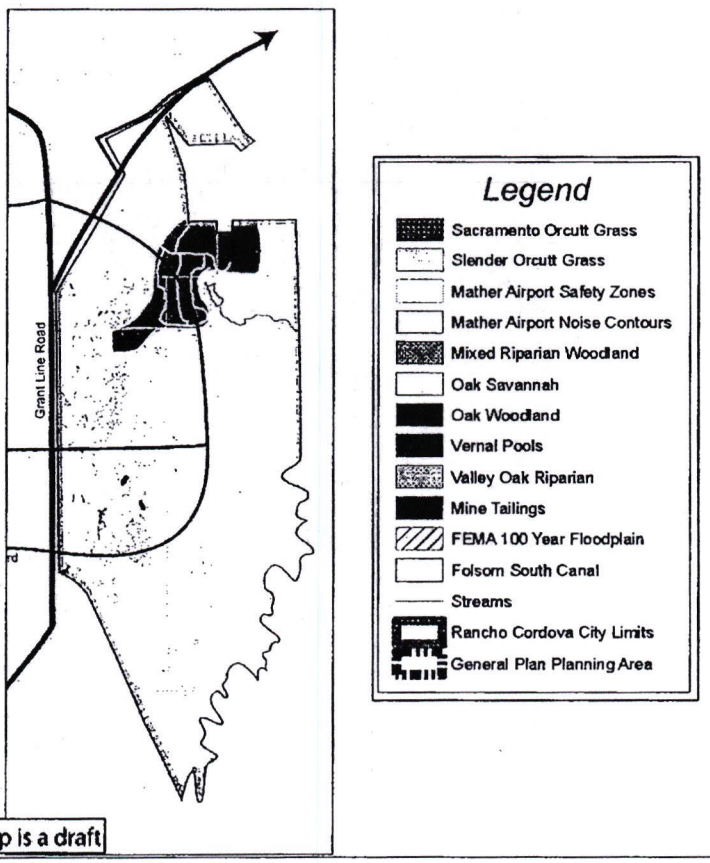
The majority of the Glenborough Planning Area is part of the Aerojet land holdings that were used as buffer lands. However, two small areas near the western edge of the Planning Area may have been used for operations and are subject to the requirements of the Aerojet General Corp. Superfund site. The Superfund site encompasses groundwater contamination and potential soil contamination associated with past operations at Aerojet. Cleanup of the area under Superfund would be required before development can occur. The remaining acreage is cleared for development subject to CEQA review.

NOTE: The Environmental and Physical Constraints map is known to contain some errors with regard to the locations of vernal pools within the East Planning Area. This map will be updated as more current mapping is received from the Sacramento County Habitat Conservation Plan and as Corps-verified wetland delineations are provided to the City.

Timing:

The East Planning Area will probably be developed outside the time horizon of this Plan. However, development within this Planning Area may occur within the General Plan time horizon if necessary conditions are met (e.g., infrastructure is provided, annexation is approved).

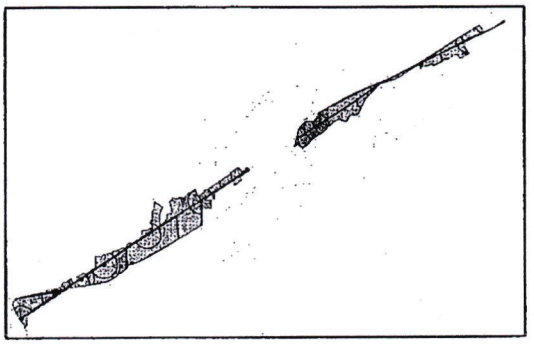
Environmental and Physical Constraints



Conceptual Land Plan



Folsom Boulevard Planning Area



Size: ± ~~1,539~~ acres
Dwelling Units: ± ~~7,460~~ 10,480
Residential Population Estimate: ± ~~20,370~~ 22,940
Employment Population Estimate: ± ~~44,100~~ 26,700

This Area is PARTLY WITHIN the existing City Limits.

Conceptual Land Uses:

The Folsom Boulevard Planning Area will serve as the high-intensity development center of the City. Target land uses for this area include a series of Transit-Oriented and Regional Town Centers strategically located at light rail stations and freeway interchanges. These designations, along with other commercial nodes along Folsom Boulevard will be serve as catalysts for redevelopment of this corridor. Residential and Office Mixed Use designations will provide additional housing opportunities and developments that support transit ridership. The tallest buildings with residential densities near 80 units per acre will be developed here in a mixed-use setting (overall average density assumed is 20 units per acre). Development will take advantage of the proximity and availability of Light Rail to and from the Area. Much of the land within the Planning Area is visible from Highway 50, creating significant opportunity for identifiable project design that contributes to the enhanced character of the City. Utilities in this area should be placed underground and projects shall be designed to enrich the pedestrian environment along the cohesive streetscape corridor.

Partially included in the Folsom Boulevard Planning Area is the Downtown ~~District. This District~~The Downtown is where the City intends to locate its major civic facilities (city hall, police station, performing arts center, etc.). These uses may be located in an area generally designated for office or office mixed uses, where they would benefit from the location of other, complementary land uses such as retail, restaurants, and entertainment. The Folsom Boulevard Specific Plan will create the land use plan for this vibrant corridor, along with development and design provisions, redevelopment strategies, improvement standards and corresponding cost estimates, and an action plan for change.

Conceptual Circulation and Transit:

Folsom Boulevard is the primary thoroughfare through the site, however several other roadways, including Zinfandel Drive and Sunrise Boulevard connect the Area to the Highway 50 corridor. Light Rail and the other public transit services that exist in the Area should be expanded to accommodate the greater number of people who will live there, as they should become viable alternatives to driving.

Environmental Conditions:

The Folsom Boulevard Planning Area does not contain any development constraints associated with environmental conditions. This planning area is already urbanized.

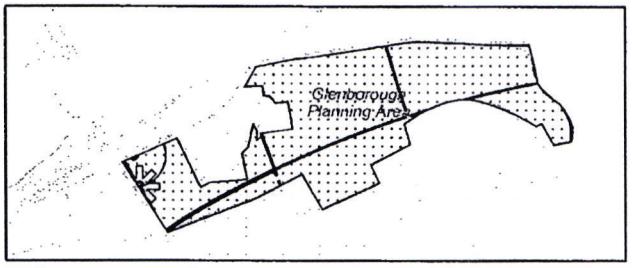
Timing:

As Folsom Boulevard has already been urbanized, revitalization efforts will need to be undertaken by both the City and landowners to remake the corridor into the vibrant mixed-use center that it is envisioned as. This process may take somewhere between ten and twenty years to accomplish and will require significant investment by various service providers.

Glenborough Planning Area

Size: ±1,366 acres
Dwelling Units: ± ~~4,000~~4,430
Residential Population Estimate: ± ~~10,920~~10,344
Employment Population Estimate: ±~~14,600~~9,747

This Area is OUTSIDE the existing City Limits.



Conceptual Land Uses:

While currently under development review by the County, the Glenborough Planning Area will likely contain a mix of residential, commercial, office, and related uses in a Neighborhood-Village-District setting. Included in the proposal is a Regional Town Center at the Southern side of the Hazel-Folsom Boulevard-Highway 50 interchange. This Town Center will probably be about 100 acres in size. It will also be oriented to take advantage of the connection with Light Rail. The conceptual land plan reflects the current application with Sacramento County.

The site will also feature over 450 acres of parks and open spaces that will connect the developed areas together and with the natural features.

Conceptual Circulation and Transit:

The development of the Glenborough Planning Area will make use of its access to Highway 50 and Light Rail. Additional connectivity will be provided via the Hazel Avenue extension and various local roadway connections to Folsom Boulevard.

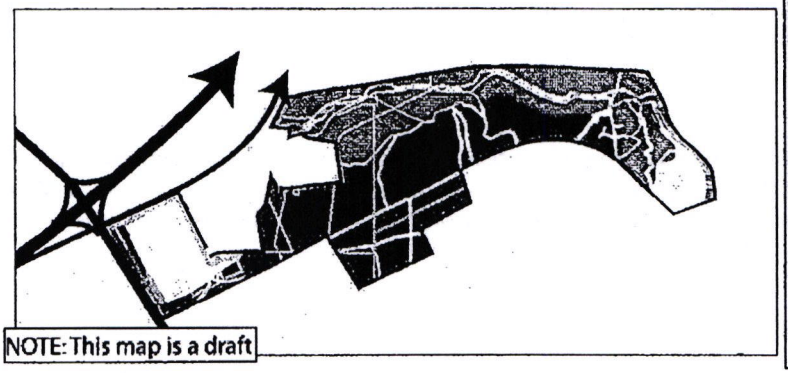
Environmental Conditions:

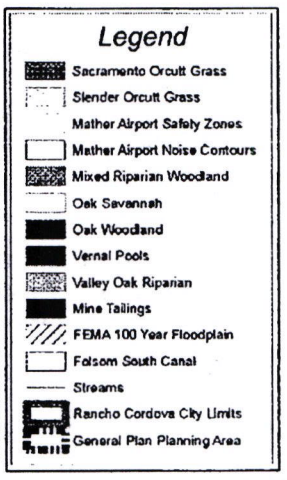
The Glenborough Planning Area contains mine tailings and mixed riparian woodland along Alder Creek. Impacts to Alder Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. The mixed riparian woodland serves as habitat and a dispersal corridor for numerous bird, mammal, amphibian and reptile species. Impacts to this habitat should be minimized.

Timing:

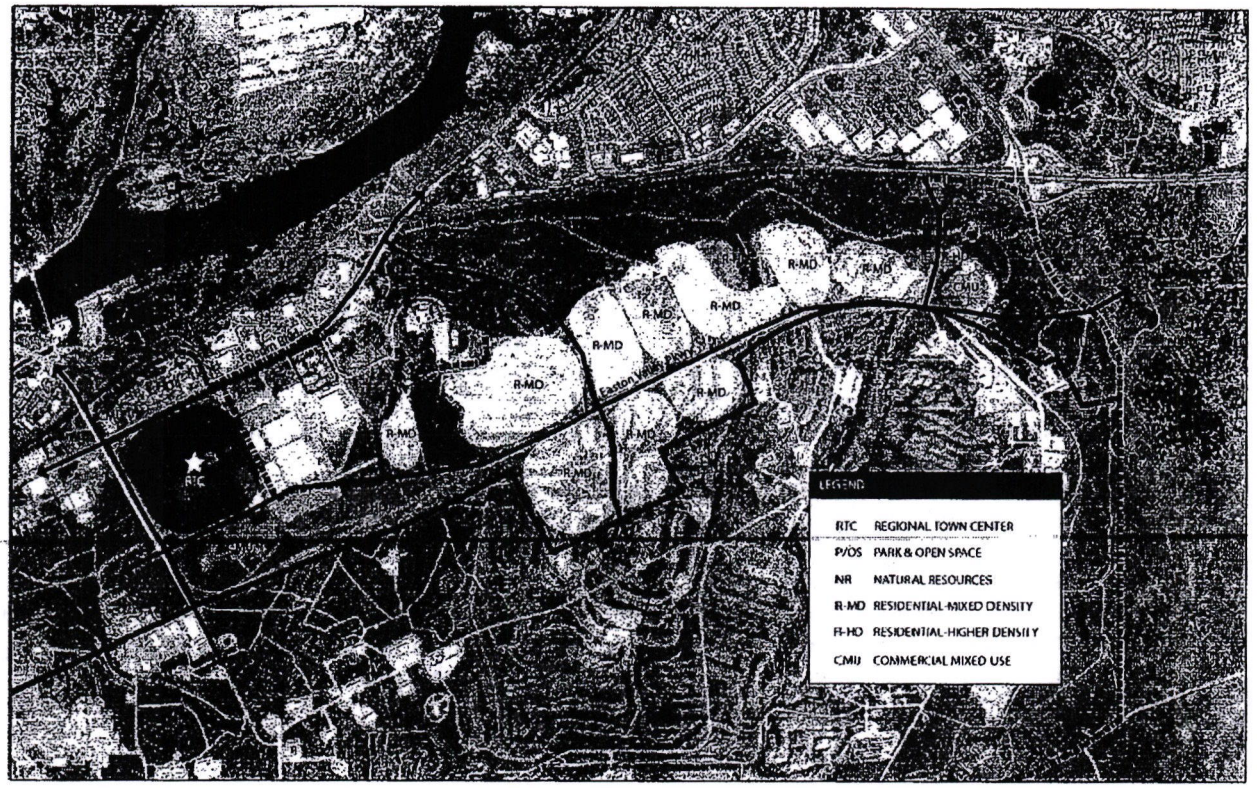
The proposed plan for the Glenborough Area is currently going through the development approval process. It is anticipated that the Area will be built out within the next ten years.

Environmental and Physical Constraints

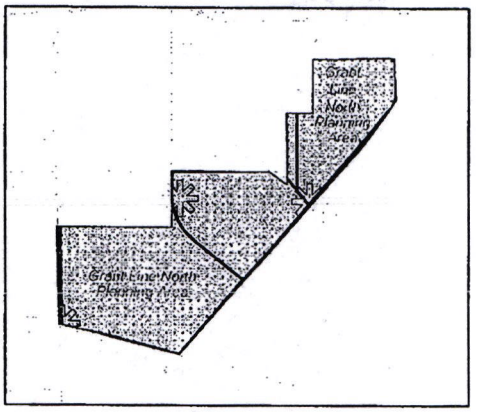




Conceptual Land Plan



Grant Line North Planning Area



Size: ±1847 acres
Dwelling Units: ± ~~6,080~~6,900
Residential Population Estimate: ± ~~16,600~~16,600
Employment Population Estimate: ± ~~4,250~~3,634

This Area is WITHIN the existing City Limits.

Conceptual Land Uses:

The Grant Line North Planning Area is a Greenfield site that would be developed in accordance with the City's "Building Blocks" concept of neighborhoods, villages, and districts. Planned land uses would include a mix of low, medium, and high-density residential units with an average density of approximately 8 units per acre, as well as mixed use areas consisting of commercial/residential units.

As shown in the conceptual land plan, ~~One Village Town Center, one Town Center, and between~~the area may include five or six~~and seven~~ neighborhoods with a mix of densities, one Village Center internal to the project, and the opportunity for additional Village Centers/Local Town Centers along Sunrise and Grant Line Roads. ~~centers could be developed throughout the planning area~~. Employment opportunities would be provided in the Village Centers and office mixed-use areas. While the County-owned property in the northern portion of the site may not be developed within the horizon of the General Plan, assumptions for that area include residential neighborhood development in keeping with the City's building blocks concept. The anticipation is that this area would integrate seamlessly with other residential areas west of Grant Line Road.

Conceptual Circulation and Transit:

Grant Line North is served by Grant Line Road on the south and east, Sunrise Boulevard on the west, and by ~~Jaeger~~ Rancho Cordova Parkway and Americanos Roads, and Kiefer Boulevard.

The Planning Area will include various recreational trails and facilities. Public transit service will be provided and will connect with the existing transit system, particularly the Light Rail line to the north. A Bus Rapid Transit or Light Rail extension line could serve the area via Grant Line Road and/or Sunrise Boulevard.

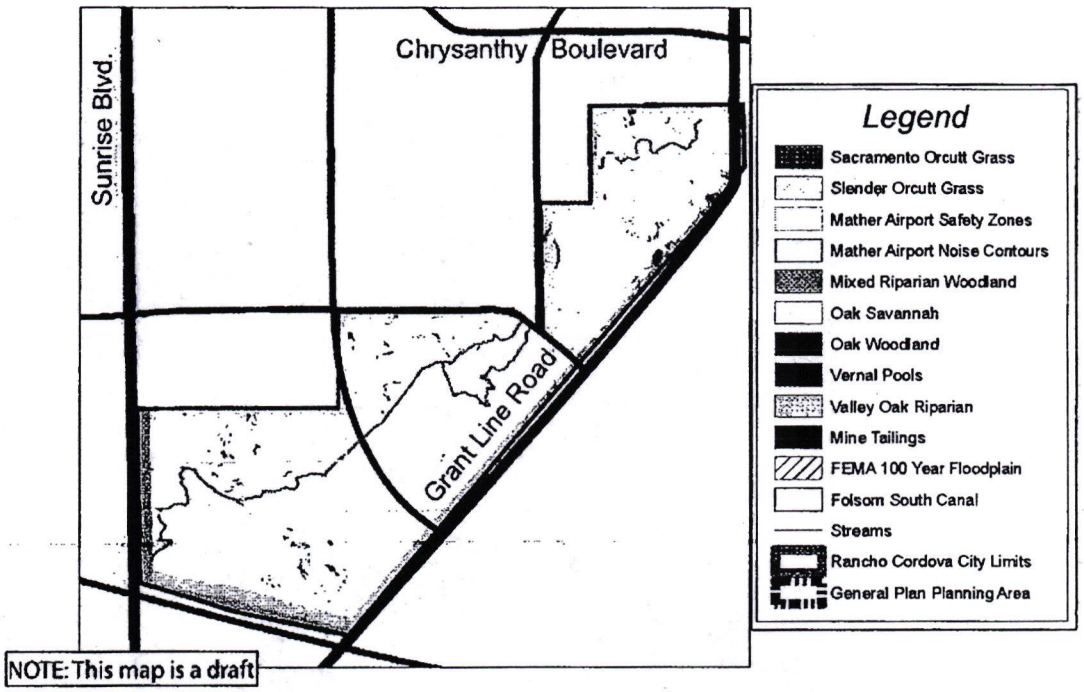
Environmental Conditions:

The Grant Line North Planning Area contains vernal pools, Sacramento Orcutt grass, Laguna Creek, and Blodgett Reservoir. Impacts to the vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to Sacramento Orcutt grass would require consultation with the U.S. Fish and Wildlife Service, as this is a federal endangered species. Impacts to Laguna Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. Impacts to creeks/streams may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game.

Timing:

The Grant Line North Planning Area will likely be developed within the time horizon of this Plan.

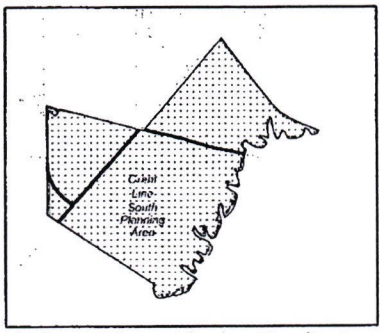
Environmental and Physical Constraints



Conceptual Land Plan



Grant Line South Planning Area



Size: ±2549 acres
Dwelling Units: ± ~~2,7803~~,670
Residential Population Estimate: ± ~~7,5909~~,820
Employment Population Estimate: ± ~~15,3803~~,240

This Area is OUTSIDE the existing City Limits.

Conceptual Land Uses:

The Grant Line South Planning Area, which consists primarily of open space and abuts areas to the south that are planned to be retained for agricultural uses, is currently located outside the City limits of Rancho Cordova. Located along the perimeter of the City's General Plan Planning Area Boundary, land uses in this Grant Line South Planning Area will serve to transition from urban to rural uses at the City's "edge."

As shown in the conceptual land plan, this area includes~~Up to two~~one Village Centers shown at the intersection of Grant Line Road and Jackson Highway consisting of commercial, commercial mixed use, and mixed use residential/multi family units ~~could be located in the planning area~~. Land uses may consist of small to medium grocery stores, drug stores, dry cleaners, coffee shops, and small restaurants. Mixed uses may feature retail/service at street level with residential uses above, and residential areas may consist of apartments or town homes. Further, eight and ten neighborhoods ~~centers~~ could be developed throughout the planning area, featuring such land uses as public or quasi-public buildings, elementary or middle schools, and potentially smaller neighborhood commercial uses ~~such as markets, coffee shops, and small restaurants.~~ Residential densities, especially along the outlying, southern portions of the Area would be limited in scale and density (approximately 4 units per acre on average). Most of the activity centers would be near the major roadway intersections.

~~Within the triangular-shaped property bound by Sunrise on the west, Jackson Highway to the north, and Grant Line Road to the southeast, target land uses include low-rise office, office-mixed use, and commercial-mixed use. The goal is to have a vibrant employment center (with integrated residential units) that is accessible in proximity to several residential neighborhoods and outlying communities (e.g., Rancho Murieta , Amador County communities).~~

Conceptual Circulation and Transit:

As noted above, the convergence of three major roadways (Sunrise Blvd., Grant Line Road, and Jackson Highway) make the planning area an excellent regional location to consider for office and retail uses. The uses could be clustered along Grant Line Road and Jackson Highway, which would allow the innermost areas of the planning area to maintain an open space designation.

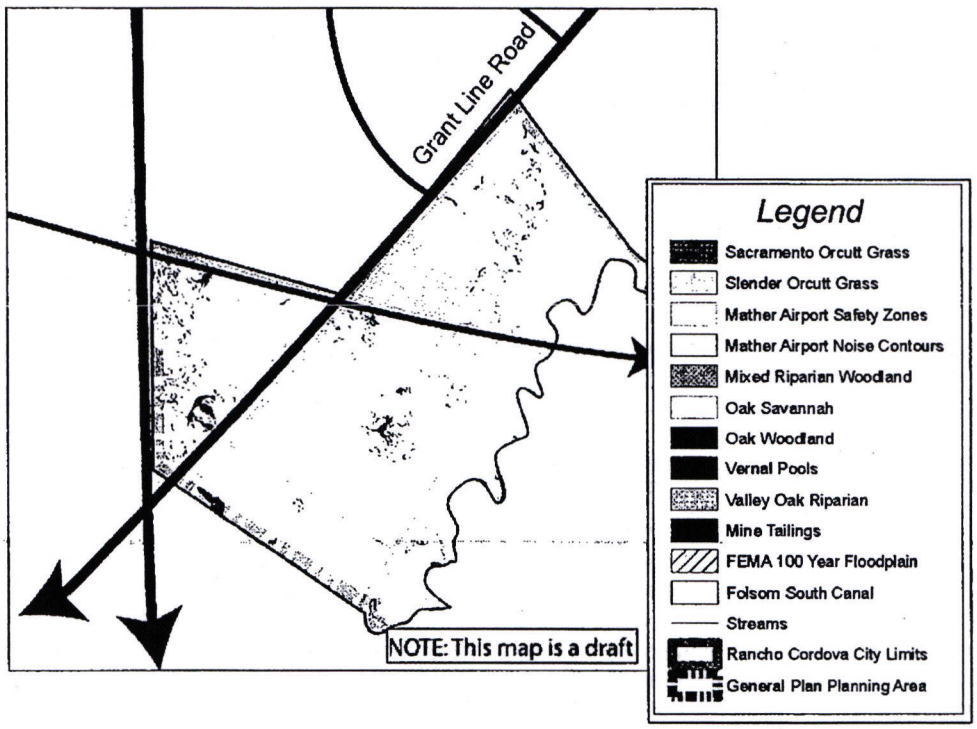
Environmental Conditions:

The Grant Line South Planning Area contains vernal pools. Impacts to vernal pools would require a permit from the U.S. Army Corps of Engineers.

Timing:

The Grant Line South Planning Area will probably not begin developing for 30 years, based upon its location and proximity to the rest of the urban areas of the City. This places it outside the timeframe of this Plan. However, development within this Planning Area may occur within the General Plan time horizon if necessary conditions are met (e.g., infrastructure is provided, annexation is approved).

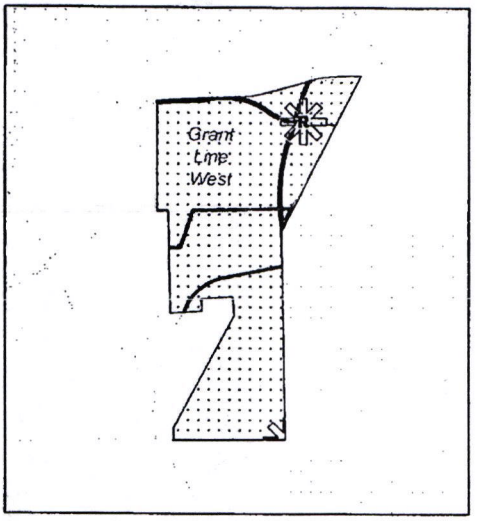
Environmental and Physical Constraints



Conceptual Land Plan



Grant Line West Planning Area



Size: ±1306 acres
Dwelling Units: ± ~~4,100~~3,390
Residential Population Estimate: ± ~~11,190~~9,043
Employment Population Estimate: ± ~~1,100~~1,750

This Area is PARTLY WITHIN the existing City Limits.

Conceptual Land Uses:

Based on the City's "Building Blocks" concept, target uses in the Grant Line West Planning Area will contain a mix of medium and high-density residential units with an average density of approximately 8 units per acre. ~~Residential areas would be developed to accommodate pedestrian use.~~ As shown in the conceptual land plan, ~~many as~~ five or six neighborhoods could be developed with up to two on-site Village Centers in the northern and southern portions of the Planning Area. The project would also be served by a Local Town Center north of the Planning Area and may include a small amount of business and professional office near the Village Centers.

Conceptual Circulation and Transit:

Development within the Grant Line West Planning Area is primarily served by Douglas Road, Grant Line Road, and White Rock Road. All three roadways will need to be expanded and upgraded to accommodate the potential increase in users. Local roadways will serve the individual neighborhoods, connecting them to the larger City and region.

A series of trails and bikeways is envisioned for the Planning Area, providing alternative modes of transportation and recreational opportunities for the residents. Public transit would round off the travel options. Potentials include Bus Rapid Transit (BRT) lines along all three major roadways around the Planning Area or even a Light Rail (LRT) line along Grant Line Road.

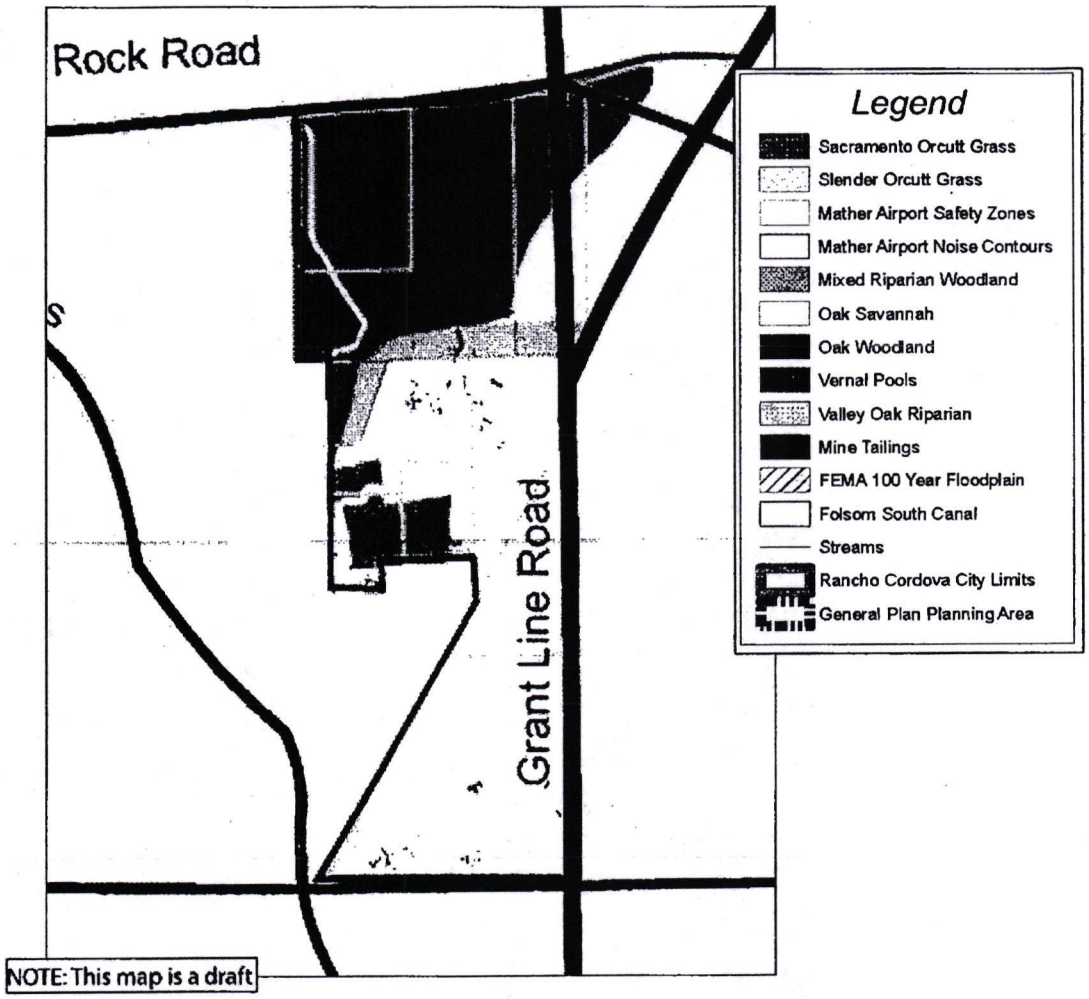
Environmental Conditions:

The Grant Line West Planning Area contains mine tailings, Morrison Creek and vernal pools. Impacts to the vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to Morrison Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game.

Timing:

The Grant Line West Planning Area will likely be developed within the timeframe of this Plan.

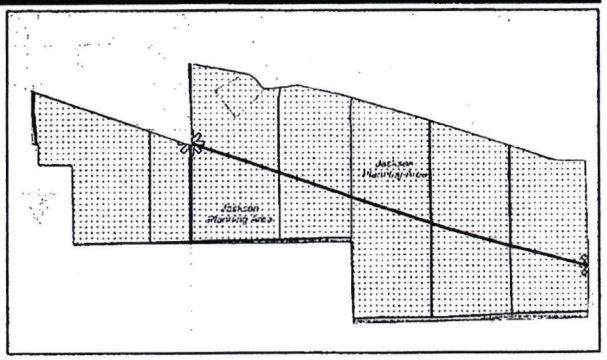
Environmental and Physical Constraints



Conceptual Land Plan



Jackson Planning Area



Size: ±8730 acres
Dwelling Units: ± ~~6,530~~9,254
Residential Population Estimate: ± ~~17,830~~23,709
Employment Population Estimate: ± ~~29,420~~8,126

This Area is OUTSIDE the existing City Limits.

Conceptual Land Uses:

Because the Jackson Planning Area is located along the perimeter of the City's General Plan Planning Area Boundary, land uses in this area will serve to transition from urban to rural uses at the City's "edge". Because of the required safety zones and the various flight patters into and around Mather Field, in conjunction with the industrial development west of the site, large portions of the central and western Jackson Area will remain undeveloped or in a office mixed use, public/quasi-public, light industrial, or heavy industrial designation with some supporting commercial. Central portions of the Planning Area contain floodplains, creeks, and vernal pools.

As shown in the conceptual land plan, d~~D~~evelopable portions of this area are~~is~~ expected to be developed with a wide range of residential, commercial, office, and light industrial uses. The southern and eastern portions of the Jackson Planning Area will most likely develop as a series of residential neighborhoods with an average density of 4 dwelling units per acre. Village Centers serving the Area may ~~primarily~~ be located along the Jackson Highway at Bradshaw Road~~, Kiefer Boulevard~~ and just west of Sunrise Boulevard~~, and Jackson Highway~~. There is a possibility that a Local Town Center may be warranted ~~somewhere along Jackson Highway~~at the Jackson Highway and Bradshaw location, depending upon the final size of the buildout.

Conceptual Circulation and Transit:

Development within the Jackson Planning Area will necessitate the expansion of all five major roads serving the area (Bradshaw Road, Kiefer Boulevard, Eagles Nest/Zinfandel, Excelsior/Douglas Road, and Jackson Highway). Their potential size will be in keeping with the rural character of the area, yet will need to support the demand placed on them.

As with the Mather Planning Area, the Jackson Planning Area will include various recreational trails and facilities. Public transit service may be provided as demand can support.

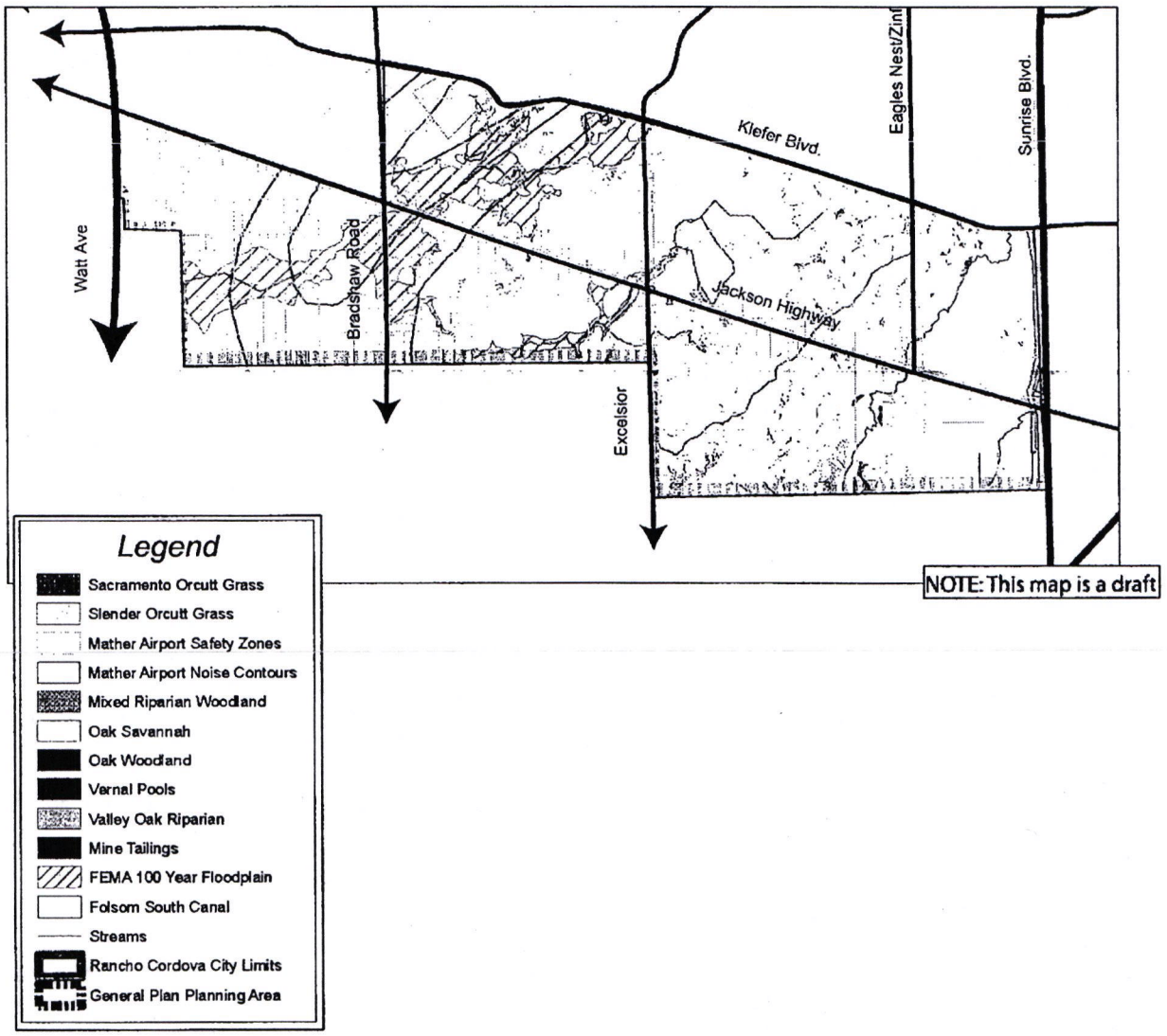
Environmental Conditions:

The Jackson Planning Area contains vernal pools and several streams/creeks, including Frye Creek, Laguna Creek, Morrison Creek, and Elder Creek. This planning area also falls within the 100-year floodplain and within the Mather Airport safety zones and noise contours. Impacts to vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to streams/creeks may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. The 100-year floodplain, the Mather Airport safety zones and noise contours would restrict the type of land uses that could be constructed within portions of this planning area. The Planning Area includes an existing rendering plant that has incorporated upgrades to address odor issues associated with operations. As urban development continues to expand south, consideration should be given to the potential for additional mitigation and/or relocation of this facility.

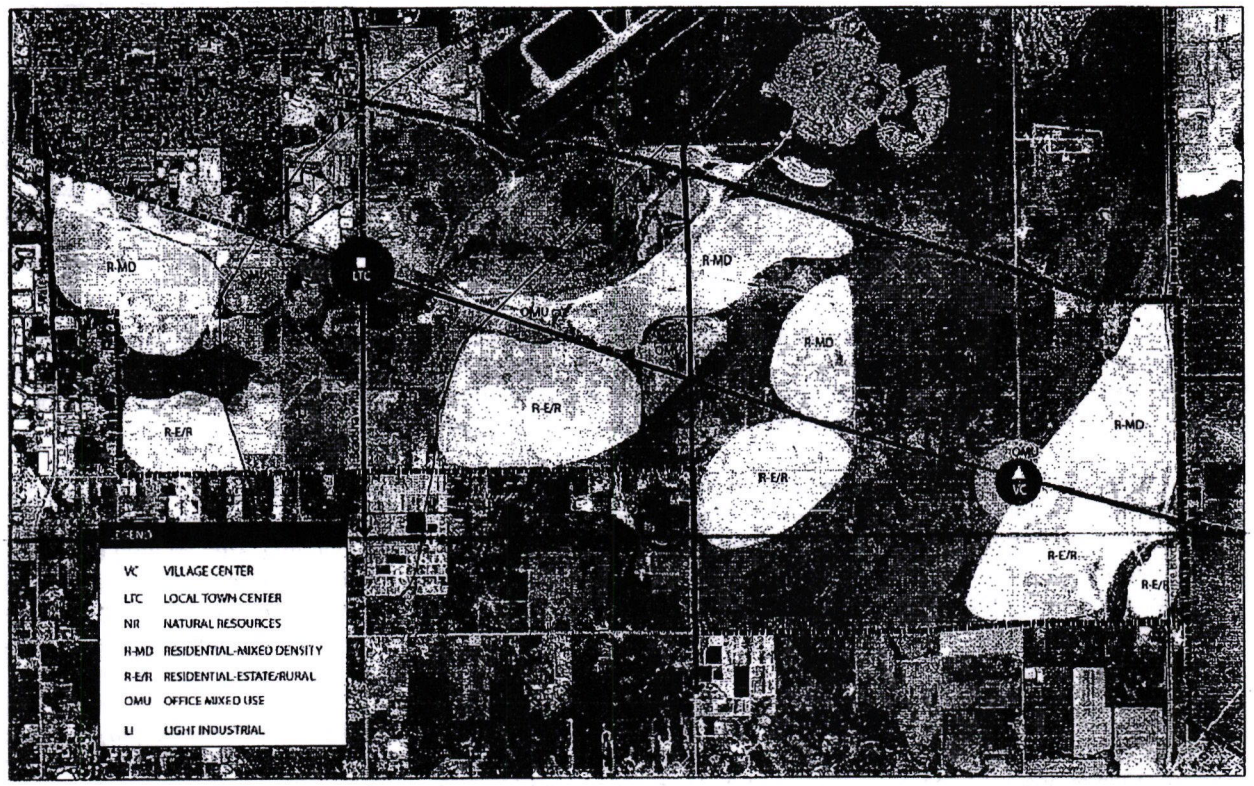
Timing:

Because of its location and proximity to other existing uses (Mather Field, surface mining operations, etc.) the Jackson Planning Area will probably not develop within the timeframe of this General Plan.

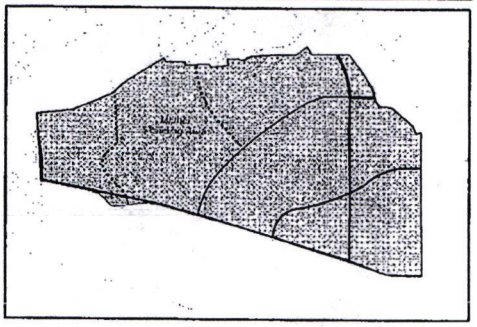
Environmental and Physical Constraints



Conceptual Land Plan



Mather Planning Area



Size: ±6353 acres
Dwelling Units: ± ~~2,050~~1,980 (includes approximately 1,200 existing units at Independence at Mather)
Residential Population Estimate: ± ~~5,600~~5,180
Employment Population Estimate: ± ~~10,720~~15,841

This Area is OUTSIDE the existing City Limits.

Conceptual Land Uses:

Because of the required safety zones and the various flight patters into and around Mather Field, in conjunction with the environmentally sensitive habitat and regional park site, large portions of the Mather Planning Area will need to remain undeveloped. Areas that have the highest potential for development are those near the intersection of Jackson Highway and Sunrise Boulevard and those north of Kiefer Boulevard along Bradshaw Road.

In the southeast corner of the site, 450 acres are planned for a college (Legionaries of Christ) development with a capacity of approximately 7,000 students. This project would support development of limited on-site residential, office, and commercial uses north of Kiefer Boulevard. Other target uses in the Planning Area include office and light industrial uses west of Mather Field. Existing residential development includes Independence at Mather and all new residential development is assumed for proximity to and association with the college development in the southeast and southern portion of the Planning Area. Potential development areas and land use patterns are shown on the conceptual land use plan.

Mather Field itself is a vital component of the regional transportation system. It will continue to play a key role in bringing goods into Rancho Cordova and the surrounding communities, as well as exporting local services around the world. Operations are likely to expand and their presence could help create a synergy between many industrial and aeronautical services and the activities at the airport.

Conceptual Circulation and Transit:

To accommodate development within and surrounding the Mather Planning Area, it is envisioned that several roadways leading into and around the area will need to be expanded or extended in some fashion. These include Kiefer Boulevard, Eagles Nest/Zinfandel Drive, and Excelsior/Douglas Road.

While many of the vernal pools and marshlands within the Planning Area may remain off-limits to people, the site's proximity to urban development around the Area encourage the development of new recreational trails and facilities.

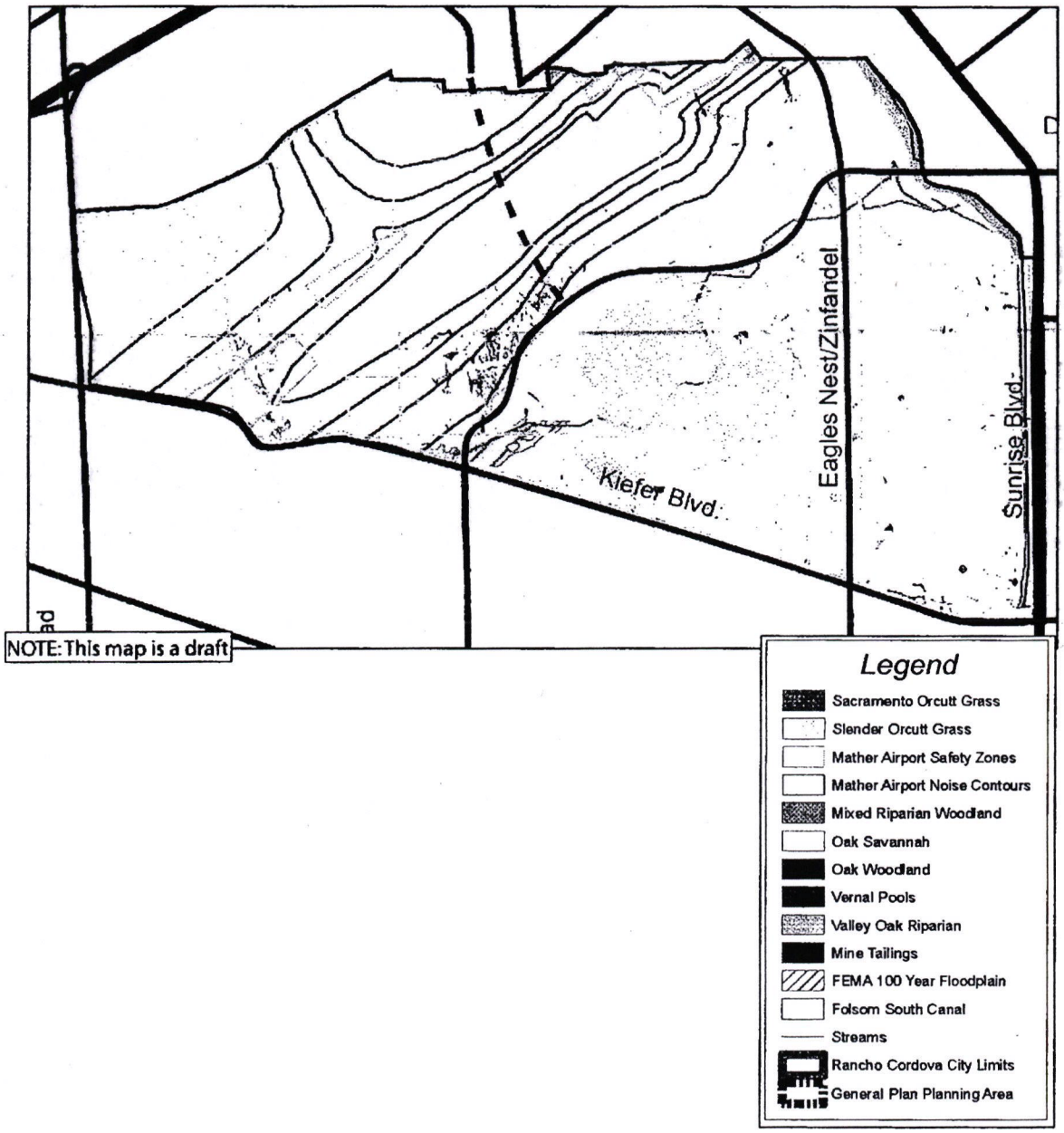
Environmental Conditions:

The Mather Planning Area contains vernal pools, Morrison Creeks, the Mather Airport safety zones, and the Mather Airport noise contour. Impacts to vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to Morrison Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. The airport safety zones and noise contours restrict the types of uses that can be located within portions of this planning area.

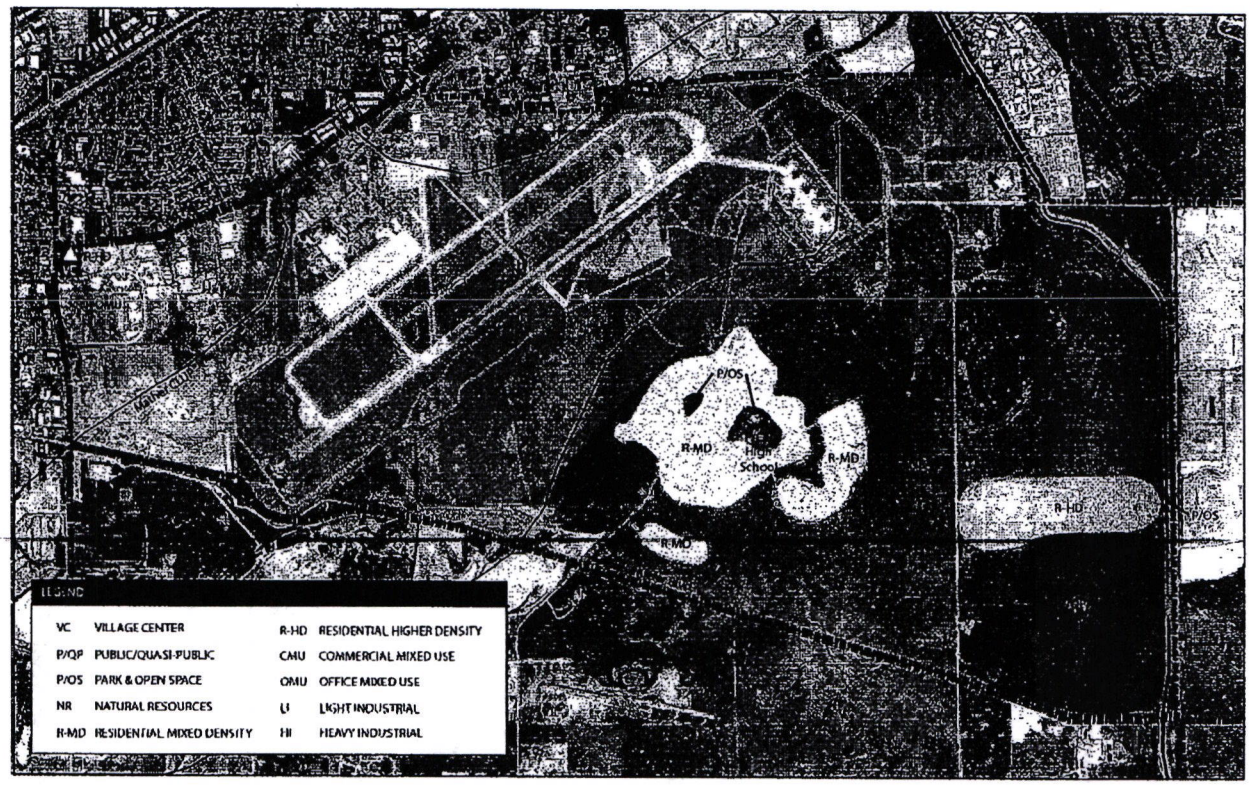
Timing:

Development along the north side of the Planning Area will probably occur at various stages over the next twenty years as operations at Mather Field expand. The south side will probably remain undeveloped for the timeframe of this Plan.

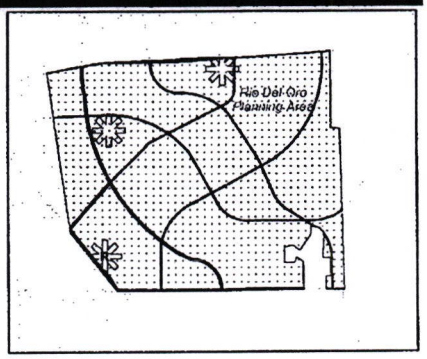
Environmental and Physical Constraints



Conceptual Land Plan



Rio del Oro Planning Area



Size: ±3765 acres
Dwelling Units: ± ~~11,660~~11,370
Residential Population Estimate: ± ~~31,830~~27,990
Employment Population Estimate: ± ~~14,230~~12,070

This Area is WITHIN the existing City Limits.

Conceptual Land Uses:

This undeveloped area is the subject of ~~a~~ pending development application with a land plan based on the City's "building blocks" concept. The Rio del Oro Planning Area would contain a mix of low, medium, and high-density residential units in a series of 8 or 10 neighborhoods with an average density of approximately 6 - 8 units per acre. Residential areas would be developed as an interconnected series of walkable neighborhoods served by Neighborhood Centers and Village Centers, as well as neighborhood and community parks.

The conceptual land use plan reflects the City's building blocks concept as well as the pending development application. The Area may be served by as many as three Village Centers, which provide for the daily ~~commercial~~ shopping needs of the residents. ~~A Regional Town Center containing commercial, commercial mixed use, and shopping facilities would also be located in the planning area along Sunrise Avenue.~~ In addition to the Village Centers, the proposed project would support a Local Town Center and Regional Town Center. Additional retail opportunities may be appropriately sited in this Planning Area.

Additional land uses in the planning area may include office and light industrial uses public/quasi-public uses, and open spaces. Light industrial uses would be mainly located within the Mather Safety Zone, while office may be clustered closer to residential areas to promote alternative modes of transportation.

Conceptual Circulation and Transit:

The Planning Area is bounded on the north by White Rock Road and on the south by Douglas Road. Two main arterials generally meandering from north to south would bisect the planning area and serve as collectors for traffic in and out of the neighborhood areas. One arterial (~~Sunrise reliever~~Rancho Cordova Parkway) would be routed towards the general area of the Town Center to further promote its use, while the other collector (Americanos Drive) would serve to connect residential areas to White Rock Road and Douglas Road.

Environmental Conditions:

The Rio Del Oro Planning Area is located on a former rocket testing facility. The site is subject to the requirements of a Consent Order with the California Department of Toxic Substances Control (DTSC). Approximately 1,114 acres of the Rio del Oro Planning Area were removed from the Order in 1997, which includes the western edge of the Planning Area. Approximately 2,800 acres are still under the Consent Order. Currently the areas of concern and the groundwater are undergoing various levels of review and/or remedial action. Cleanup of the remaining 2,800 acres would be required before development can occur in the areas under the Order. The 1,114 acres are cleared for development subject to CEQA review.

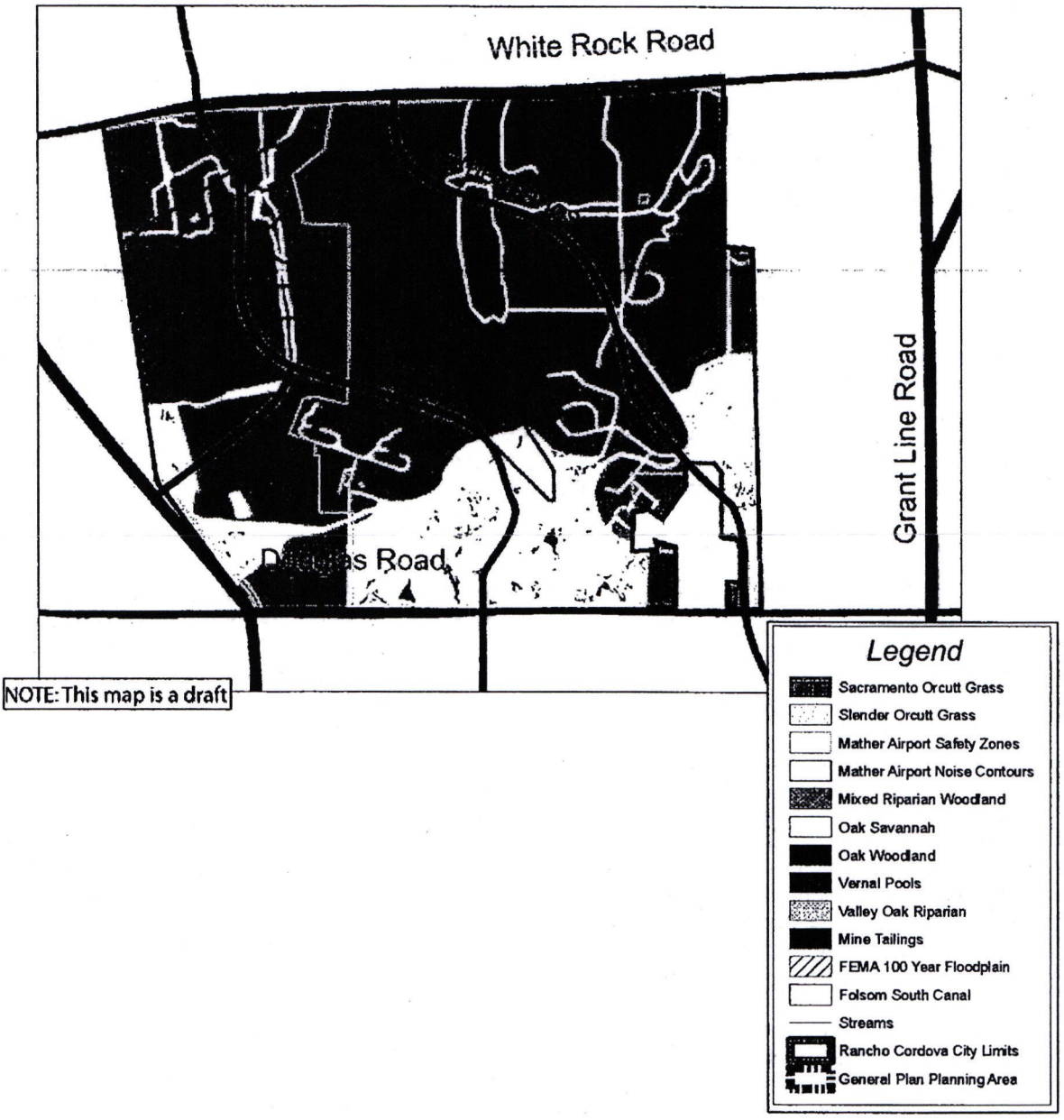
The Rio del Oro Planning Area contains mine tailings, vernal pools, Morrison Creek and the Mather Airport safety zones. Impacts to the vernal pools would require permits from the U.S. Army Corps of Engineers. Impacts to Morrison Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. The planning area also contains valley elderberry shrubs, which host the protected

valley elderberry longhorn beetle. Removal of the shrubs requires consultation with the U.S. Fish and Wildlife Service. The Mather Airport safety zones would restrict the type of land uses that could be located within portions of the planning area.

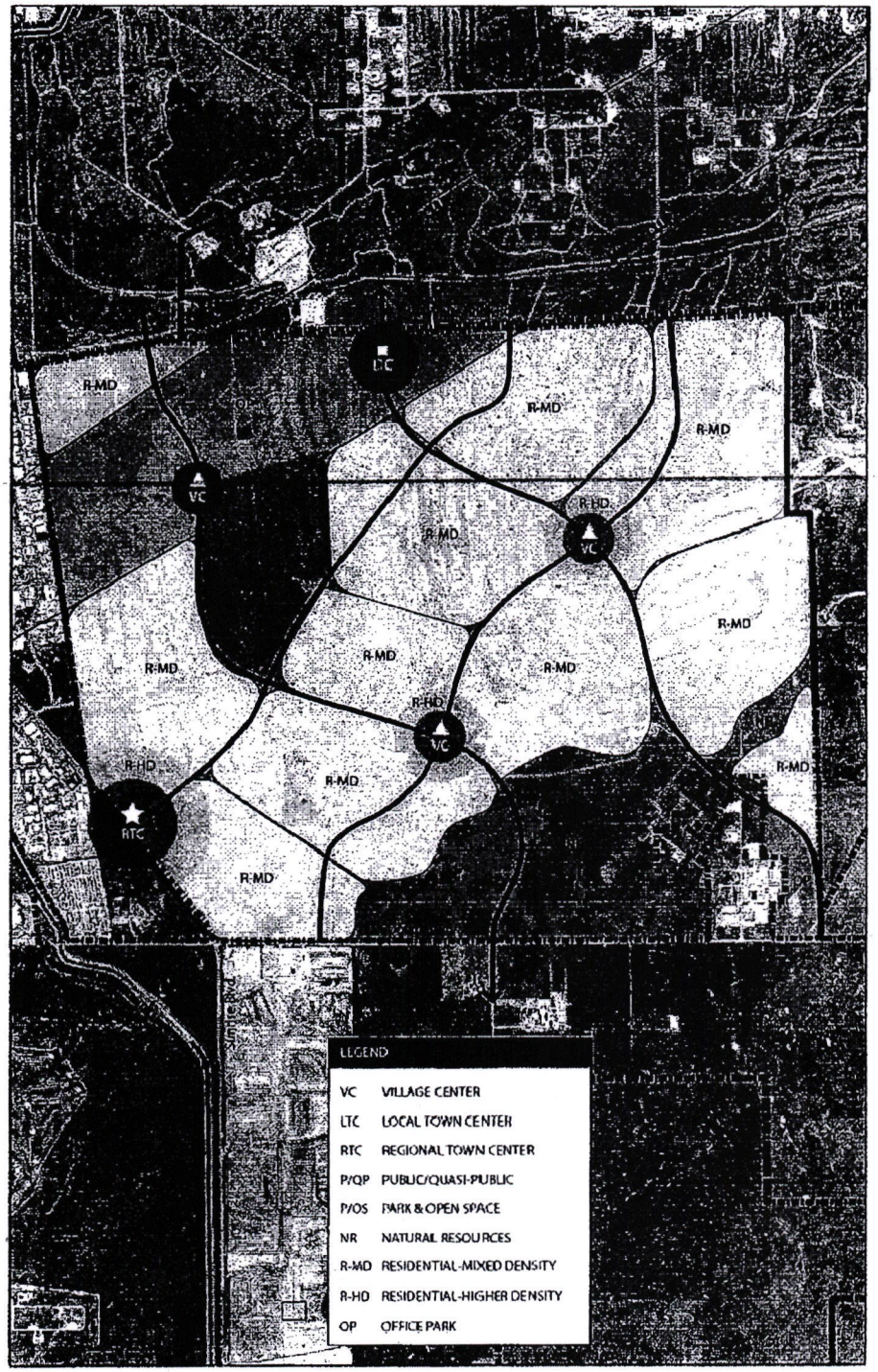
Timing:

The Rio del Oro Planning Area will likely be developed within the time horizon of this Plan.

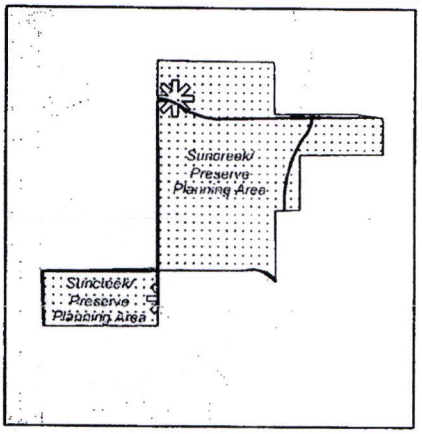
Environmental and Physical Constraints



Conceptual Land Plan



Suncreek/Preserve Planning Area



Size: ±1762 acres
Dwelling Units: ± ~~9,830~~9,260
Residential Population Estimate: ± ~~26,840~~21,240
Employment Population Estimate: ± ~~3,170~~1,330

This Area is WITHIN the existing City Limits.

Conceptual Land Uses:

The Suncreek/Preserve Planning Area is within the approved Sunrise Douglas Community Plan area. Based on previous approvals and current development requests (as well as the City's building blocks concept), land uses in the Suncreek/Preserve Planning Area could result in the development of approximately 12 smaller residential neighborhoods and at least 3 commercial activity nodes. ~~1,200 acres of single-family and multi-family residential areas, accompanied by 450 acres of supporting commercial, office and mixed uses, 175 acres designated for community and neighborhood parks, and 150 acres for elementary, middle, and high school sites. A Local Town Center and two Village Centers would service the Planning Area. Between six and eight neighborhood centers could be developed throughout.~~ This potential land use pattern is shown on the conceptual land plan.

Conceptual Circulation and Transit:

Chrysanthy Boulevard runs along the northern edge of the Planning Area. Americanos and ~~Jaeger Road~~Rancho Cordova Parkways run north-south through the Area. Additional connections include Sunrise Boulevard on the west, Kiefer Road on the South, and Grant Line Road on the East.

The Planning Area will include various recreational trails and facilities. Public transit service will be provided and will connect with the existing transit system, particularly the Light Rail line to the north. A Bus Rapid Transit or trolley/fixed rail line could serve the area via Grant Line Road and/or Sunrise Boulevard.

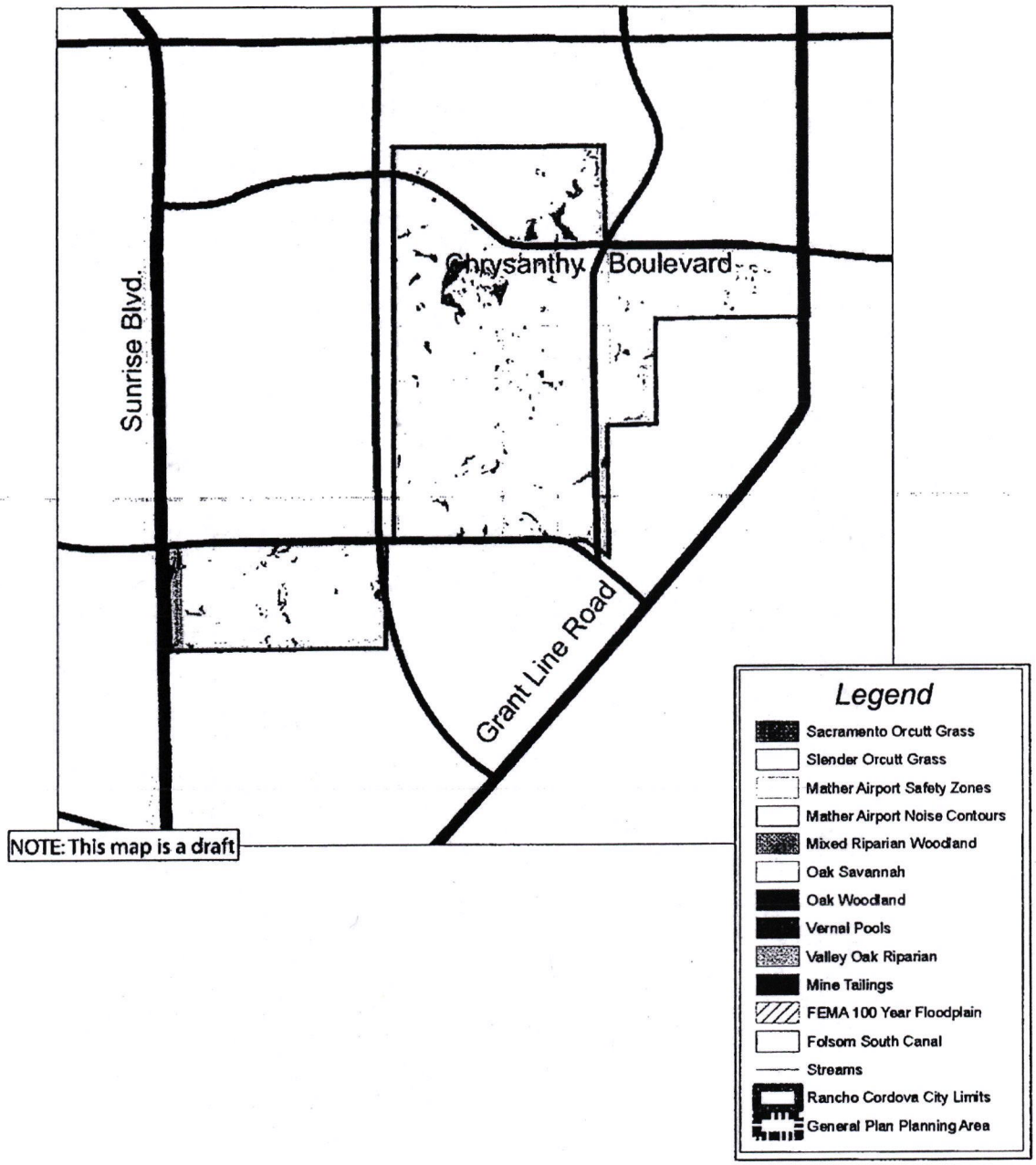
Environmental Conditions:

The Suncreek/Preserve Planning Area contains vernal pools and Laguna Creek. Impacts to the vernal pools would require a permit from the U.S. Army Corps of Engineers. Impacts to Laguna Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game.

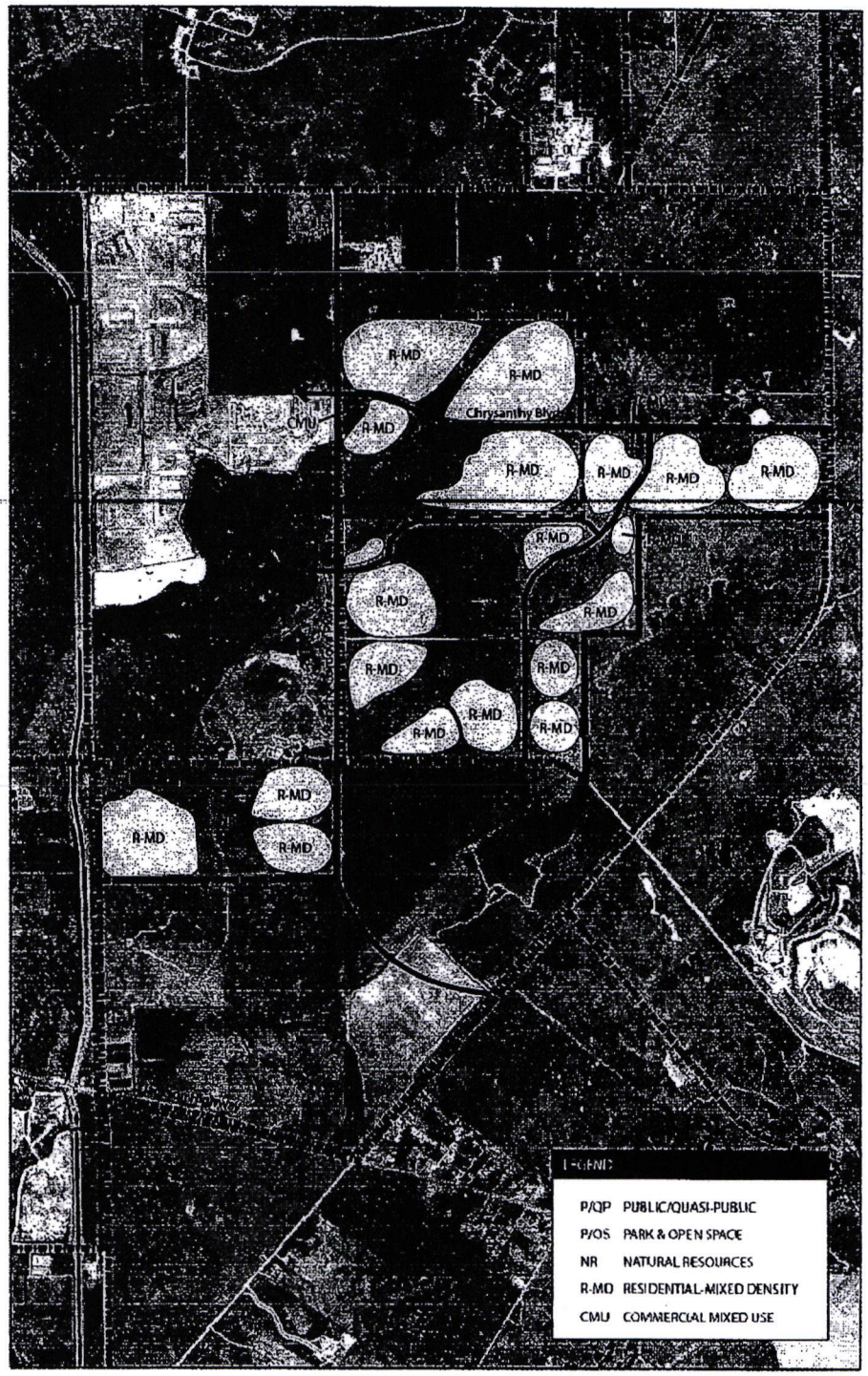
Timing:

The Suncreek/Preserve Planning Area will likely be developed in the next 10 to 15 years.

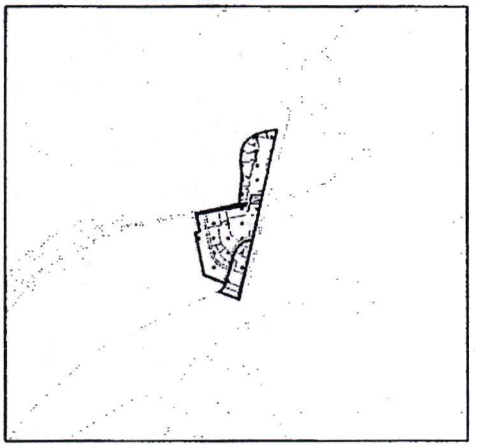
Environmental and Physical Constraints



Conceptual Land Plan



Sunrise Boulevard North Planning Area



Size: ±88 acres
Dwelling Units: ± ~~280~~630
Residential Population Estimate: ± ~~760~~1,370
Employment Population Estimate: ± ~~2,640~~1,560

This Area is WITHIN the existing City Limits.

~~Conceptual~~ Land Uses:

The Sunrise Boulevard North Planning Area is the smallest of all the City's planning areas, encompassing the area directly west of Sunrise Boulevard and north of Highway 50. While currently an older retail area with many existing offices, this area should be redesigned with more intensive mixed-use (retail, office, and residential) activities, including a Village Center serving adjacent neighborhoods to the west. Given the commercial concentration in this area, it is estimated that new residential development in the planning area will occur at an average of 14 units per acre.

The land use plan for Sunrise Boulevard North shows a Village Center development on the northwest corner of Coloma and Sunrise. Further south along Sunrise, there is a large commercial mixed use site intended for general merchandise and neighborhood serving uses. Consistent with existing development patterns, the commercial sites are surrounded by office mixed use and medium density residential. It is expected that revitalization of this area will occur as the City grows.

Conceptual Circulation and Transit:

Sunrise Boulevard is one of the primary accesses to the Area. Increasing travel demands on this roadway will necessitate some form of reengineering or redesign. At some level, a streetscape enhancement plan for improved pedestrian circulation and cohesive aesthetics should be devised for the Area.

Bus transit serves the area and will continue to be a major transportation component. Alternative public transit such as trolley or other lighter fixed rail may be developed along this corridor in the future.

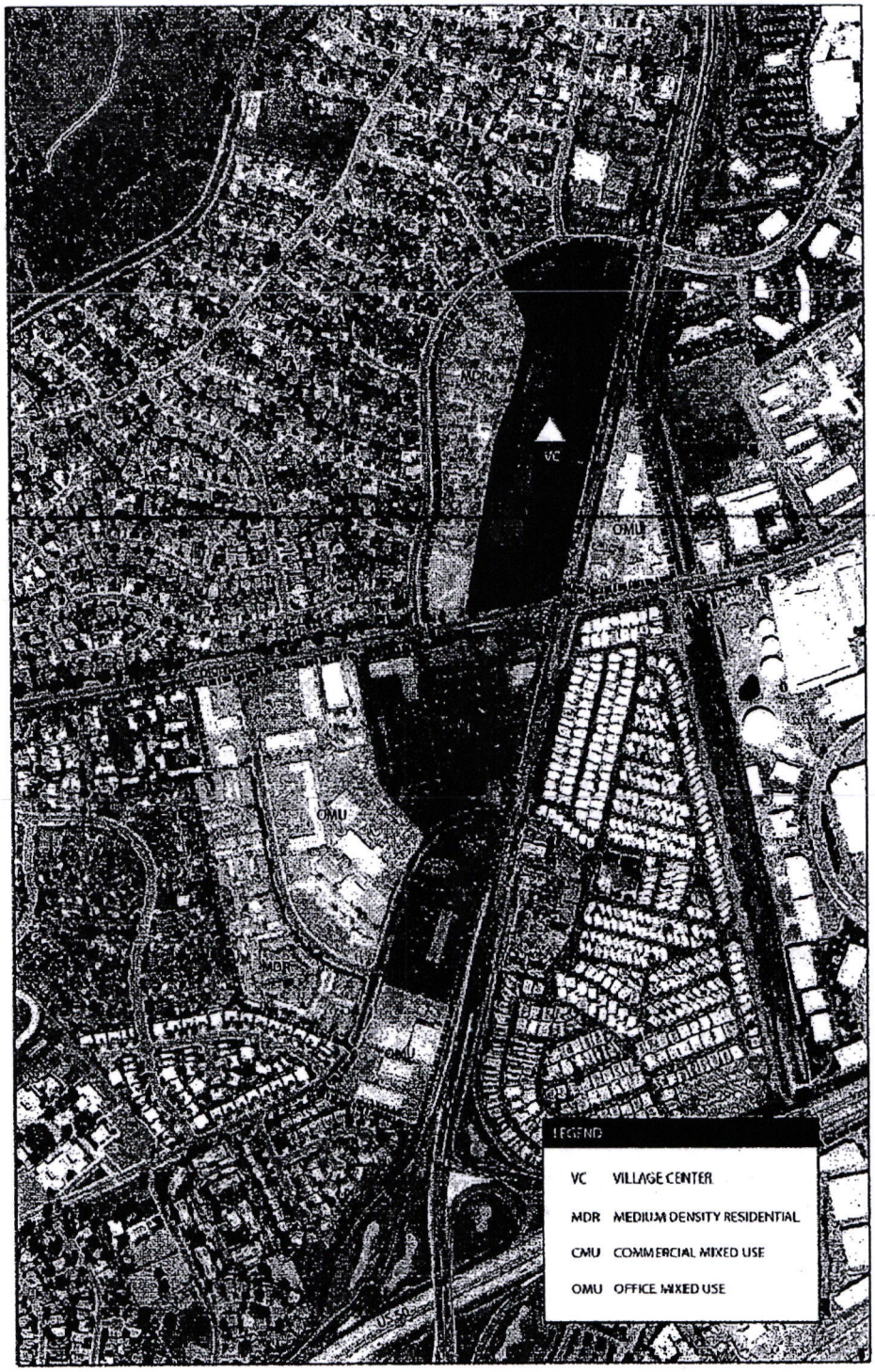
Environmental Conditions:

The Sunrise Boulevard North Planning Area does not contain any development constraints associated with the environmental conditions. This planning area is already urbanized.

Timing:

The Planning area has already been urbanized and will require revitalization efforts by both the City and landowners to remake the corridor into the vibrant mixed-use center that it could become. This process may take somewhere between ten and twenty years to accomplish and will require significant investment by various service providers.

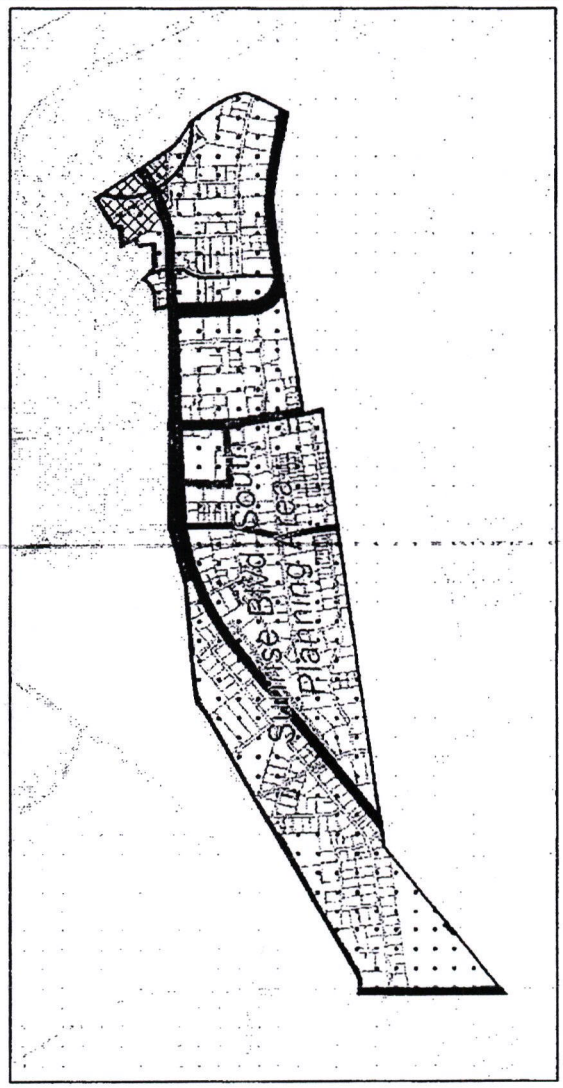
Land Plan


VC
OMU
OMU
MDR
CMU
LEGEND
VC VILLAGE CENTER
MDR MEDIUM DENSITY RESIDENTIAL
CMU COMMERCIAL MIXED USE
OMU OFFICE MIXED USE

Sunrise Boulevard South Planning Area

Size: ±916 acres
Dwelling Units: ± ~~1,3600~~
Residential Population Estimate: ± ~~3,7100~~
Employment Population Estimate: ±~~40,440~~14,440

This Area is WITHIN the existing City Limits.



~~Conceptual~~ Land Uses:

The Sunrise Boulevard South Planning Area includes the many commercial and industrial uses south of Highway 50 along the Sunrise corridor, stretching as far south as Douglas Road. The existing uses include cluster of auto dismantling and recycling west of Sunrise at the south end of the planning Area along with home improvement and building industry uses east of Sunrise. This area will serve as a gateway to the new residential communities in the southeast portion of the City. Target uses for this area include industrial, office mixed use, and commercial mixed use. Limited industrial uses will continue to be a viable and appropriate use in some portions of the Planning Area. Office mixed use is primarily business and professional office development that may include commercial and/or residential use. Similarly, commercial mixed use is primarily retail and service commercial development that may include office and/or residential use. Residential uses in this Planning Area may not be located within the Mather Safety Zone and may be restricted in other areas based on noise and land use compatibility. Subsequent land use planning will identify areas for continued industrial use along with areas more appropriate for conversion. Restrictions on industrial designations will not be applied until such time as more detailed land use designations are applied to this area. The City will develop programs/policies to support the natural evolution of this area to ensure the continued economic vitality of this area. Non-conforming provisions for existing uses in this area will allow for the continuation of industrial uses and conditional expansion of industrial uses where mitigation measures ensure compatibility with the evolving nature of this area.

The land use plan for this area includes heavy industrial land west of Sunrise and a combination of light industrial, office mixed use, and commercial mixed use east of Sunrise extending north toward Folsom Boulevard and Highway 50. The City encourages continued clustering of similar uses including the building materials and home improvement industries in the northeast portion of the Planning Area. Additionally, the City supports the concept of a trade center or trade mart for these businesses to showcase their wares.

Conceptual Circulation and Transit:

Sunrise Boulevard is the primary access to the Area. Increasing travel demands on this roadway will necessitate some form of reengineering or redesign. A streetscape enhancement plan should be devised for the Area.

Any new development should be pedestrian oriented in nature and provide amenities of the walking and cycling public. Public transit, especially the close proximity to Light Rail, should be considered as part of the revitalization of the Area. Trolley or other light fixed rail may be developed along this major north-south connector through the community. Folsom South Canal could be enhanced as a bicycle transportation facility with several nodes of activity.

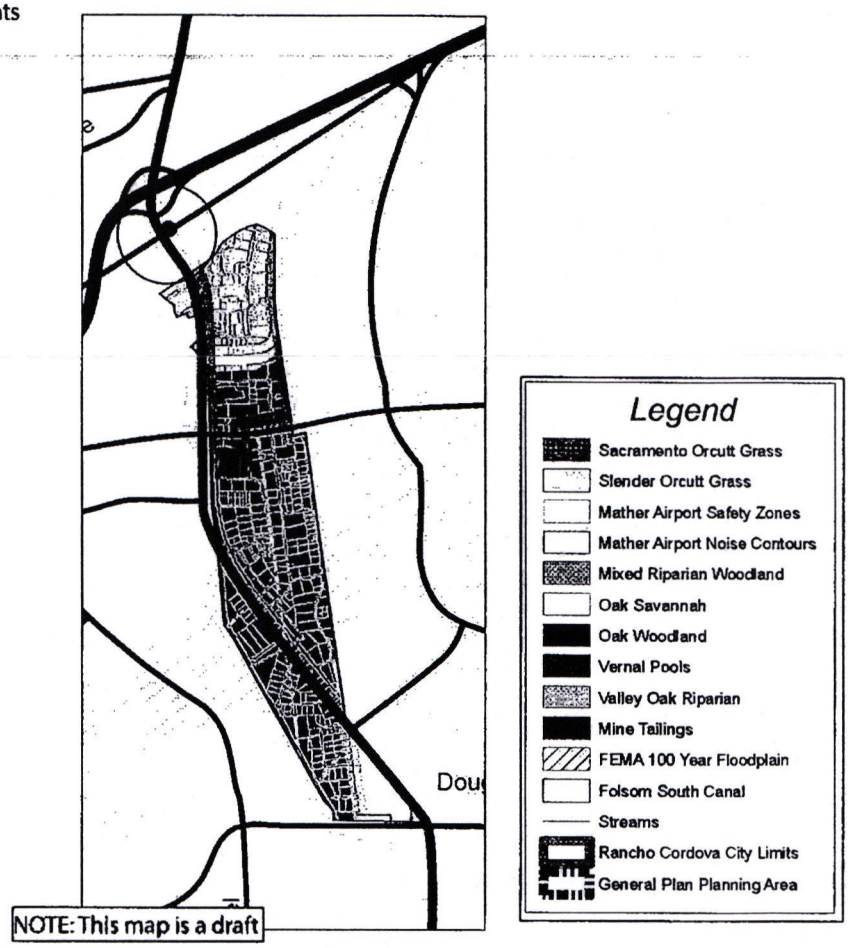
Environmental Conditions:

The Sunrise Boulevard South Planning Area contains a mix of developed and undeveloped land. The southern half of the planning area contains mine tailings and the northern half of the planning area is currently urbanized. This planning area also contains the Mather Airport safety zones, which would limit the types of development that would be permitted in this planning area. The Folsom South Canal forms the western boundary of this planning area.

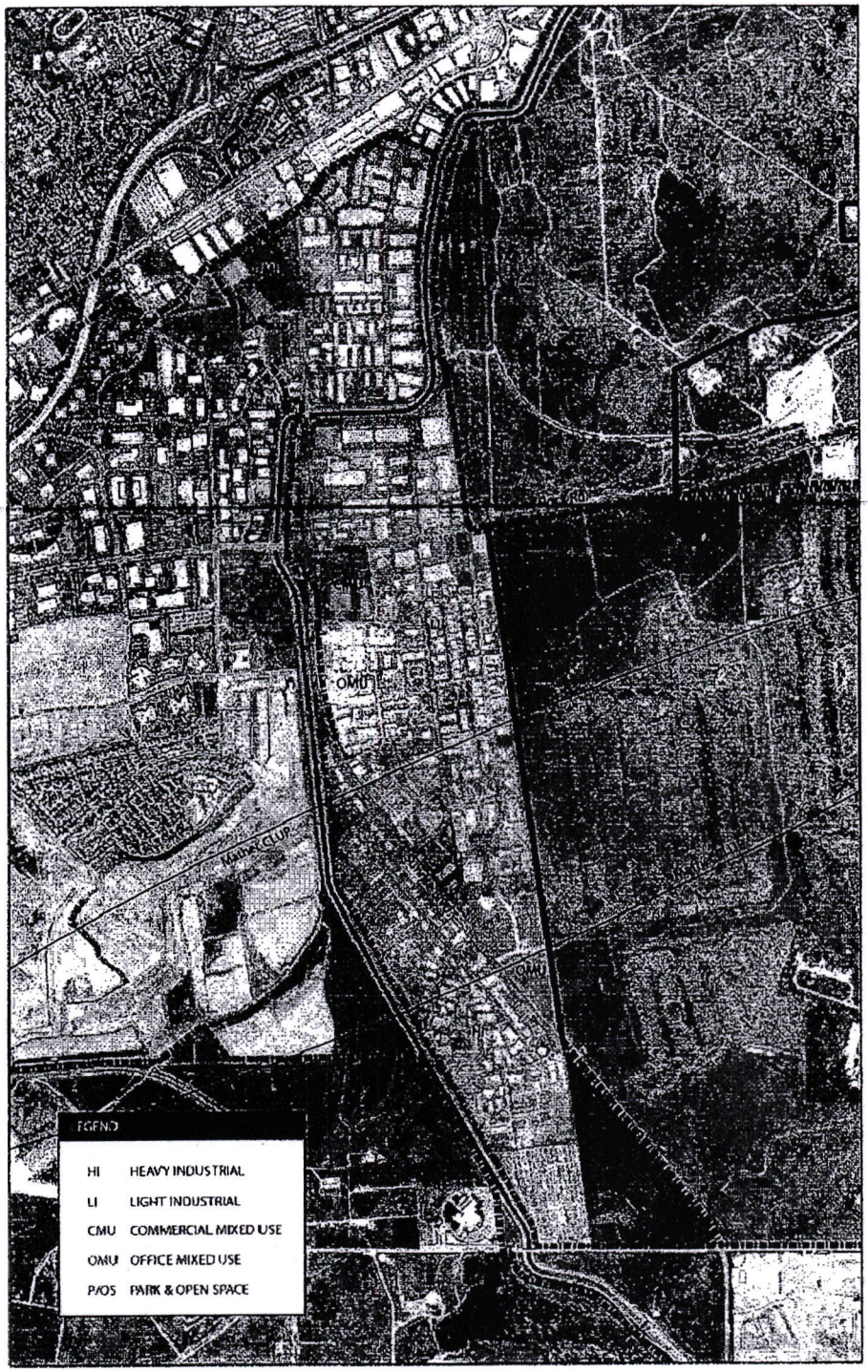
Timing:

The Planning area has already been urbanized and will require revitalization efforts by both the City and landowners to remake the corridor into the vibrant mixed-use center that it could become. This process may take somewhere between ten and twenty years to accomplish and will require significant investment by various service providers.

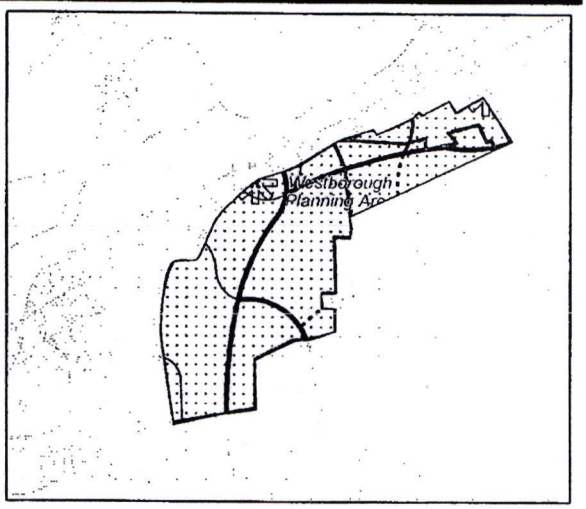
Environmental and Physical Constraints



Land Plan


OMU
Mather Club
LEGEND
HI HEAVY INDUSTRIAL
LI LIGHT INDUSTRIAL
CMU COMMERCIAL MIXED USE
OMU OFFICE MIXED USE
P/OS PARK & OPEN SPACE

Westborough Planning Area



Size: ±1518 acres
Dwelling Units: ± ~~5,600~~6,100
Residential Population Estimate: ± ~~15,288~~15,780
Employment Population Estimate: ± ~~6,780~~5,650

This Area is PARTLY WITHIN the existing City Limits.

Conceptual Land Uses:

The Westborough Planning Area features primarily residential development focused around a Regional Town Center at the new ~~Jaeger Road~~Rancho Cordova Parkway/Highway 50 interchange. The Regional Town Center will likely feature significant retail shopping with other restaurant, service, office, and residential uses at a density of 15 to 25 units per acre. Entertainment venues and/or sports-oriented uses may be a key component of the Town Center.

Consistent with the pending application and City's building blocks concept, this Planning Area will likely include one or ~~two~~Two Village Center ~~will~~ to serve the daily commercial needs of the future residents of Westborough. The Planning Area will probably be made up of five to six neighborhoods with a wide range of residential densities and corresponding housing types. Because of the area's proximity to Highway 50 and Light Rail the average residential density for the project will be approximately 7 units per acre. See conceptual land use plan.

In addition to the employment opportunities associated with the Regional Town Center and Village Centers, the project will include Office Mixed Use property in the northern portion of the site along Folsom Boulevard with access to transit and the new Highway 50 interchange.

Development within the Planning Area will take into consideration and build upon the opportunities presented by the location and route of the Folsom South Canal. Potential features include bicycle/pedestrian/running trails and commercial paseos.

Conceptual Circulation and Transit:

The primary circulation pathways into and around Westborough will be Folsom Boulevard, Highway 50, and ~~the new Sunrise Reliever~~ Rancho Cordova Parkway. Light Rail and other future public transit services will play a vital role in moving people at all hours of the day and will provide a solid alternative to driving.

On and off-street bicycle routes will weave in and around the Planning Area and serve to interconnect all of the uses together. They will provide a secondary connection to the City via the Folsom South Canal and other on-street bikeways.

Environmental Conditions:

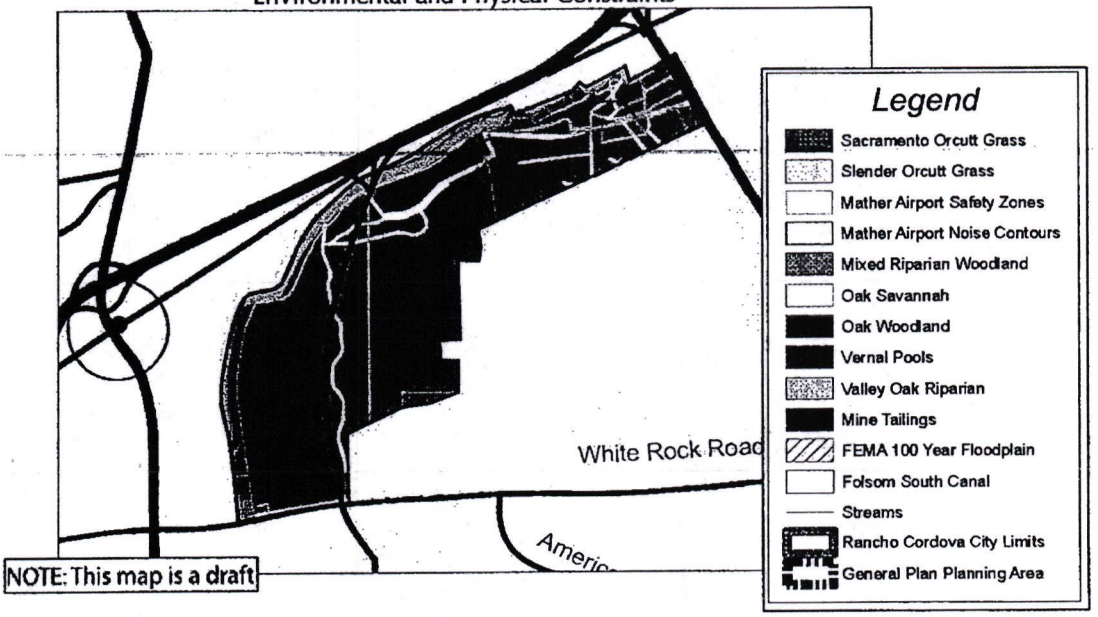
The Westborough Planning Area contains mine tailings and Buffalo Creek. Additionally, a portion of the Folsom South Canal runs along the northwestern and western edge of this planning area. Impacts to Buffalo Creek may require a permit from the U.S. Army Corps of Engineers and/or a Streambed Alteration Agreement from the Department of Fish and Game. The Folsom South Canal would act as a barrier to development along the western edge of the planning area.

The majority of the Westborough Planning Area is part of the Aerojet land holdings that were used as buffer lands. However, two areas near the eastern edge of the Planning Area may have been used for operations and are subject to the requirements of the Aerojet General Corp. Superfund site. The Superfund site encompasses groundwater contamination and potential soil contamination associated with past operations at Aerojet. Cleanup of the area under Superfund would be required before development can occur. The remaining acreage is cleared for development subject to CEQA review.

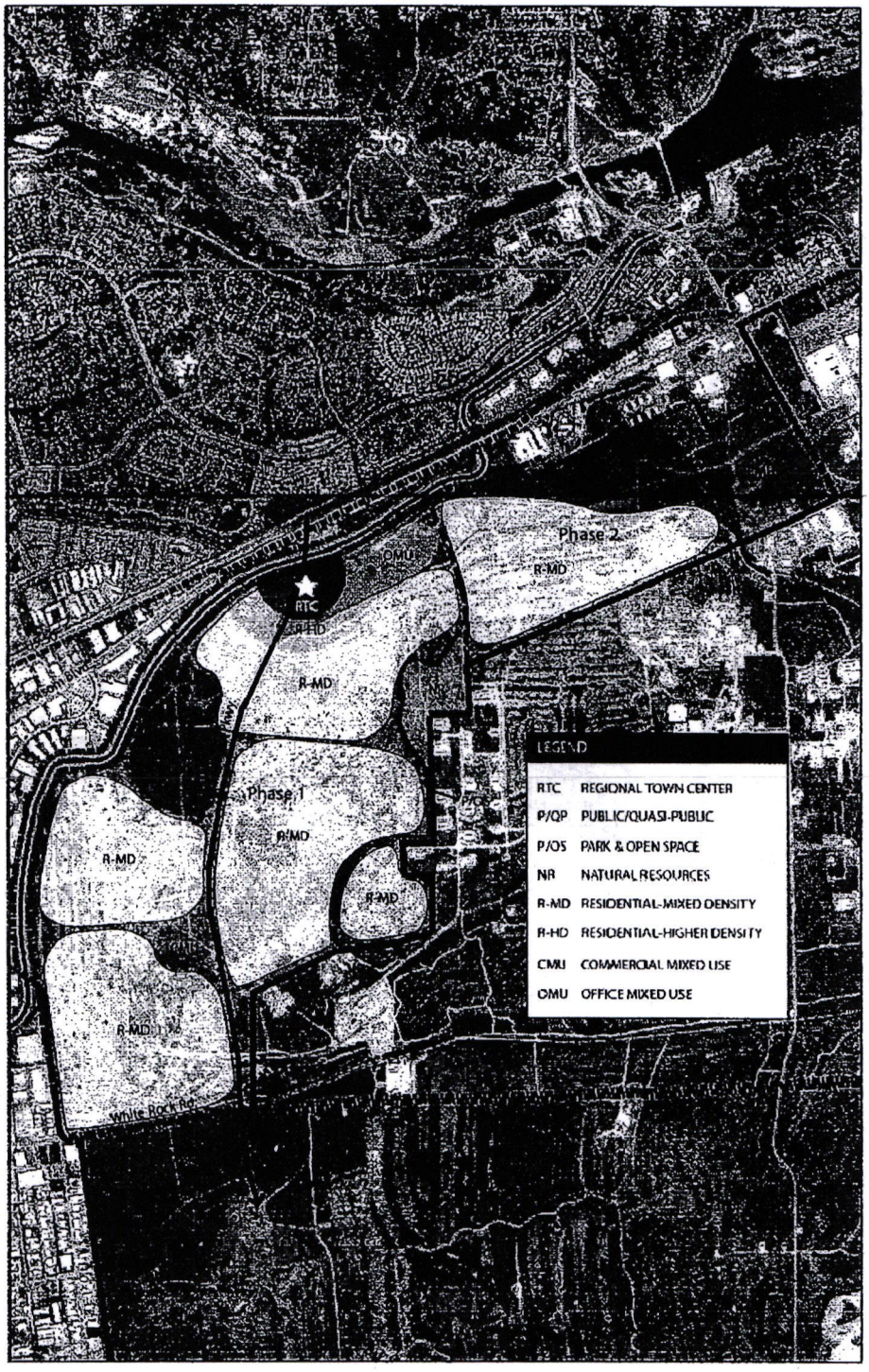
Timing:

The Westborough area will likely be developed in the next five to ten years. Its proximity to existing development and it potential for easy integration into the existing urban framework make it an ideal candidate for City expansion.

Environmental and Physical Constraints



Conceptual Land Plan



Building Blocks of the City

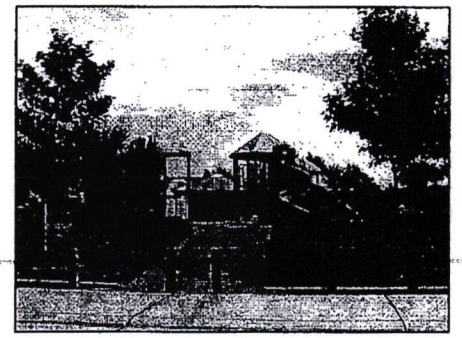
Neighborhoods and Neighborhood Centers

A *Neighborhood* is a compact, walkable residential area, approximately ⅓ mile in radius, as this is the distance an average person would comfortably be able to cover in less than 20 minutes. *Neighborhoods* are developed at average densities of 6 to 8 dwelling units per acre. At the core is the *Neighborhood Center*, a small-scale, neighborhood serving activity center.

Neighborhood Centers are gathering places. Typical examples include schools (elementary and middle/junior high schools), libraries, community centers, parks that feature activity elements (i.e. playground and tennis court(s) and basketball court(s)), or neighborhood-serving commercial uses (small market, coffee shop, small restaurant, etc.; total square footage is less than 10,000 sqft).

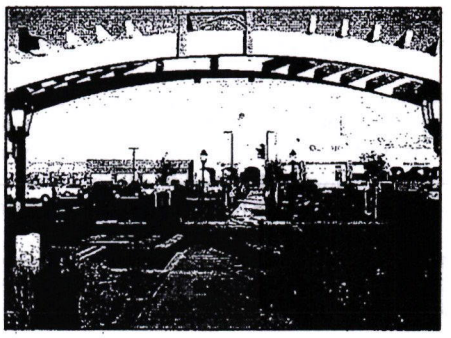
Size: 1-15 acres
Area Served: ~200 acres
Population Range Served: ~4,000 people
Typical Range of Building Height, on-site: 1-2 stories
Average Residential Density surrounding: 6-8 du/ac

Example Neighborhood Center: Tuscany Park, Rancho Cordova



Villages and Village Center

A *Village* is collection of three to four *Neighborhoods*. *Villages* feature a mix of residential dwelling types, including single-family detached and attached homes, as well as multi-family housing near the *Village Center*.



Village Centers serve the daily shopping needs of their service areas and are spaced approximately 1 ½ to 2 miles apart for adequate distribution around the City. Multiple tenants in a pedestrian friendly commercial development make up the character of the Center, featuring small to medium size grocery stores, drug stores, and restaurants. Village Centers may also include other service, offices, and/or residential uses in conjunction with the primary retail commercial use. Single tenant retail size is developed at a maximum of 50,000 square feet so that retail concentrates its services on it own *Village*.



Residential uses may be developed above the retail and/or office tenants/spaces typically at a density of 6 to 12 dwelling units per acre. Village Centers are often developed with higher density residential sites immediately adjacent (8-18 du/ac).

Size: ~5 to 15 acres
Area Served: ~750 acres
Population Range Served: ~10,000 - 15,000 people
Typical Range of Building Height, on-site: 1-3 stories
Target On-Site Residential Density (if applicable): 6-12 du/ac
Target Residential Density adjacent: 8-18 du/ac

Example Village Center: Waterman Center, Elk Grove
Approximately 5-acre center including a supermarket and smaller shops.

Districts and Town Centers

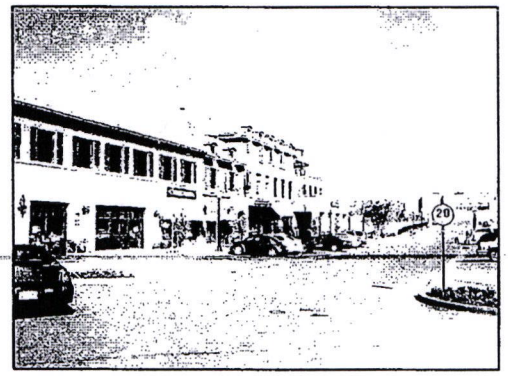
Three or four *Villages* create a *District*. Each *District* in the City has a population of approximately 45,000 persons and is served by a vibrant *Town Center*. Three distinct types of Town Centers are proposed for Rancho Cordova:

- Local Town Center
- TOD Town Center
- Regional Town Center

All three are pedestrian friendly "places" where people go to gather, shop, and be entertained. They can be centers of culture or recreation. It is anticipated that they may in some way develop a nightlife. All include employment opportunities.

Local Town Center

Local Town Centers are the most fundamental form of a *Town Center*. They are a collection of parcels, streets, and public areas that provide most of the retail needs of an area. *Local Town Centers* service a district of three to four *Villages* and are designed not to compete with the *Village Centers* for retail customers. The majority of buildings have their main entrance opening onto a street or square. Pedestrian circulation within the *Center* is paramount. Visitors park their cars in shared surface lots or parking structures.



Local Town Centers typically include a vertical integration of retail and service uses, along with office and/or residential uses. Commercial uses include general retail (basic clothing stores, book/music stores, dry cleaners, etc.) and restaurant uses, which typically comprise at least 50 percent of the total square footage. Large-scale tenants with more than 50,000 square feet of floor area should be limited in a *Local Town Center*.

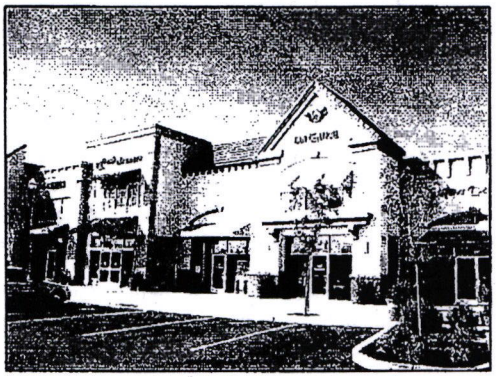


Apartments, townhouses, and lofts are developed at or above 20 dwelling units per acre in the center and decreasing in density as the distance from the center increases. The goal is a smooth transition from high-density multifamily residential to low-density (6 du/ac) single family. Residential units can be found above most of the commercial activities.

Office uses may also be in the *Local Town Center*, but are usually 2,000 to 10,000 square feet in size, each. Offices might account for 20 percent of all development.

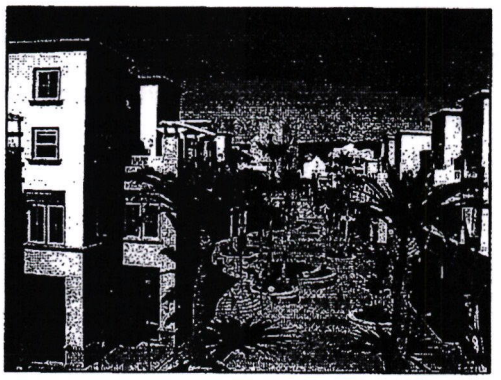
Size: ~15 - 30 acres
Area Served: ~2,500 acres
Population Range Served: ~ 35,000 to 45,000 people
Average Range of Building Height, on-site: 2-4 stories
Target On-Site Residential Density: 8-18 du/ac

Example Local Town Center: El Dorado Town Center



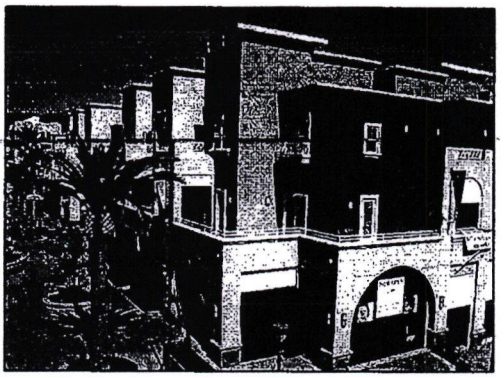
Transit-Oriented (TOD) Town Center

Transit-Oriented (TOD) Town Centers are located along existing or potential Light Rail or BRT alignments at stations for those services. They consolidate the retail needs of the service area into one center (similar to *Local Town Centers*) and provide increased residential densities on site but are also designed to accommodate the light rail user. Like *Local Town Centers, TOD Town Centers* do not compete with the *Village Centers* for retail customers.



TOD Town Centers are multi-story, mixed-use developments that provide new housing opportunities and practical alternatives to vehicle mobility. The highest residential densities in the City are usually located here, near 40 du/ac. Office uses may also be located at these sites, attracting people to the center from other areas of the City and region. Parking is provided in structures and there may be reductions in the amount of required parking.

Size: ~15-30 acres
Area Served: (depends upon location)
Population Range Served: ~20,000-30,000 people (depending on location)
Typical Range of Building Height, on-site: 3-6 stories
Typical Commercial FAR, on-site: 1-1.5
Target On-Site Residential Density: 40 du/ac



Example TOD Town Center: Fruitvale
Located along a BART line, the site features retail and residential uses in a vertical setting. Building scale is oriented to the pedestrian user.

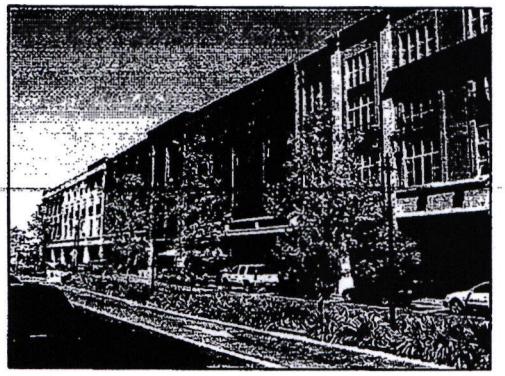
Regional Town Center

Regional Town Centers are the major retail centers of the City as well as destination places in the region. They feature large-scale development that can only be supported by large populations. These are the ideal locations for major retail tenants, hotels, conference centers, arts/cultural centers, or sports facilities.

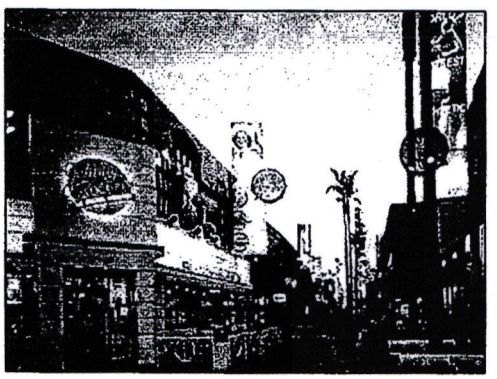
Size: ~30-80 acres
Area Served: Citywide
Population Range Served: Citywide
Typical Range of Building Height, on-site: 2-4 stories
Target On-Site Residential Density: 20 du/ac



Example Regional Town Center: Santana Row
Mixed-use shopping/residential development;



Example Regional Town Center: The Block at Orange
80 acre retail center in Orange, California; it is designed to look and feel more like a city street than a shopping center; features a rich mix of entertainment and shopping venues, including Dave and Buster's, Vans Skate Park, Game Works, and OFF 5TH – Saks Fifth Avenue Outlet.



~~Downtown District~~

~~The *Downtown District* is the core of the City. Civic uses such as the City Hall, a post office, courthouse, police and fire stations, and parks would be located here. Retail commercial, service, office activities, and residential units are also located here. Other land uses in the Downtown District would be established by the underlying land use designation, which includes a Transit Oriented Town Center, Local Town Center, and a variety of commercial, office, and residential mixed use designations. The intent is to create a vibrant central core for the community anchored by civic uses. The *Downtown District* contains many opportunities for employment and business/retail activities. It is based on a pedestrian grid/main street design that makes it very walkable and user friendly. It is a "place" – you know where you are.~~

~~Size: ~ 1000 acres~~
~~Area Served: Citywide~~
~~Population Range Served: Citywide~~
~~Range of Building Height, on site: 2-4 stories~~

RANCHO CORDOVA RETAIL STRATEGY

Project Memorandum

TO: Paul Junker, Planning Director
Pam Jones, General Plan Project Manager
Bill Thomas, Finance Director

FROM: Rod Stevens, Leland Consulting Group

DATE: 27 December 2005

SUBJECT: General Plan Pro Forma: Recommendations for Retail Center Locations and Sizes
Project Number: 4603

Introduction

As part of the preparation of its "General Plan Pro Forma," the City of Rancho Cordova has asked Leland Consulting Group ("LCG"), urban strategists, to advise the City on the amount of retail space needed to serve growth, the best location for this retail space, and the probable timing of this development. LCG has worked closely with Matt Kowta of Bay Area Economics ("BAE") in translating demographic projections of population and spending growth into forecasts for retail development. This memo summarizes our recommendations of where and how much retail development to plan for.

Amount and Location of Retail Centers

The following map and table shows our recommended center locations and sizes. For grocery-anchored centers, existing grocery-anchored centers are light blue and proposed locations dark blue. Existing locations for general merchandise are orange and proposed locations red. The amounts shown in the table are for prototypical centers, with some adjustment for location. A more detailed level of planning will be required for actual site-specific planning.

Trends in Retail Development

While the map of only two types of retail centers may seem simplistic, we have assumed that almost all of the spending categories except auto sales and very specialized, high end retail, would be captured in these types of centers. In fact, the traditional distinction between different types of centers is blurring. Twenty years ago there were clear differences between neighborhood, community, regional, and specialty shopping centers, with each defined by a given size, anchor, mix of in-line tenants, and trade area. Grocery stores at that time were typically 20,000 to 30,000 square feet in size, located next to a separate and independent drug store chain, and generally had a trade area of 5,000 to

10,000 people. Today the "local" grocery store is 50,000 to 70,000 square feet and may include a take-out food counter, a pharmacy, video rental, banking, flowers, and even coffee, and draws from a base of 10,000 to 15,000 people or more.

Although store and center formats have changed, the same basic rules of location still apply. The grocery-anchored center still needs good access and visibility, it should be central to a large number of homes, parking should be plentiful, and ideally it should be on the "going home" side of the street. The ultimate test of a good center is whether a workingwoman finds it convenient, pleasant and safe to use on a cold, dark weeknight.

The distinction between general merchandise centers is also changing. Even though developers continue to talk about building "regional malls," more often than not these malls are agglomerations of big boxes and strip centers built around what may be a more urban "main street" mall with upscale shops at the center. Many retailers are rejecting the high costs associated with these larger malls, and are instead building a larger number of smaller stores, seeking to get as close to their customers as possible so that they increase the frequency of visitation and build a stronger sense of customer loyalty.

Even the distinction between grocery-anchored and general merchandise centers is becoming blurred. Both Target and Wal-Mart are building an increasing number of "super stores" that include grocery sections designed to attract shoppers on a weekly or bi-weekly basis. This format is very similar to that of Fred Meyer, a strong Northwest chain that will likely open in the Sacramento area in the next five years. Fred Meyer advertises "What's on your list today?" in trying to get shoppers to make one and only one stop.

Siting Criteria

Even though the site plan for a center can be based on New Urbanist principles, a given center still needs to be visible from a major street and be centrally located, visible and easy to park in.

For grocery-anchored centers, this analysis assumes a typical trade area population of 13,000, with most sales coming from within a two-mile radius or within a five- to eight-minute drive. The preferred location for grocery-anchored centers is at the corners of major arterials and on major commute routes, rather than inside neighborhoods. Centers that are developed later will have to compete with older centers that have already staked out the most central and prominent locations, such as the corner of Sunrise and Douglas. If the centers developed later lack the visibility of their competitors, they may not be able to attract good grocery anchors, even if they are some distance from their nearest competitors. Chains such as Whole Foods and Wild Oats, which draw from longer distances, have a particular need for good visibility and access.

For general merchandise centers, the analysis assumes a trade area population of 50,000 people or more, a radius of five to ten miles, and driving times of ten to 15 minutes. Most of these centers will likely be anchored by one, two or three big-box chain stores. The following list shows the typical categories and store chains that will anchor these centers:

▪ Home Improvement	Lowes, Home Depot
▪ Discount Department Store	Target, Wal-Mart
▪ Books	Borders, Barnes and Noble
▪ Digital	Good Guys, Circuit City, CompUSA
▪ Outdoor	Big 5, REI
▪ Crafts	Joanne Fabrics, Michael's
▪ Clothing	T.J. Maxx, Men's Wearhouse, Old Navy
▪ Warehouse	Costco, Sam's Club
▪ Pet	Petsmart
▪ Home Furnishings	Bed, Bath & Beyond; Linens and Things

Specific Center Locations

Many of these locations are obvious choices. Some deserve special comment and explanation:

- Olson Road/ Zinfandel. The map shows this as both a general merchandise and a grocery-anchored center. Adding a major grocery to this center will both increase the selection of stores along Folsom Boulevard and contribute to any civic Place Making planned there. If residents shop there weekly, they will be more likely to "chain" their trips with visits to the library, community center, restaurants, or nights out at a theater or movie house.

- Rivergate Center, Opposite Gold River. This center lacks a grocery anchor now, but it is a logical choice for a Trader Joe's, Whole Foods, Wild Oats, or other specialty grocer that needs access to a larger area.

- Westborough. There is a substantial amount of higher density planned near this prime retail site in the Westborough project.

- Sunrise and Folsom. This location will require assembly to achieve both its civic and commercial potential, but it will draw from both existing neighborhoods and new development in Rio Del Oro and the Sunrise Douglas area. This center needs to be planned and programmed so that it does not compete directly with the Olson Road/Zinfandel area, since this corner will likely have a superior location over the long term.

- Capital Village. This center has an exciting design, but it lacks the central location and large residential base that are normally prerequisites for success in specialty retailing. Therefore, this center should be grocery-anchored, although this could become a hybrid center over the long term.

- Bradshaw, North of Hwy 50. If the current proposal is approved, this center will offer movie theaters, a collection of sit-down restaurants and a wide variety of chain stores. Regardless of how site-specific traffic issues are resolved, we recommend this be a general merchandise center, since it will serve much of the city's existing population north of Folsom and south off Bradshaw and near Mather Field. We recommend planning for a grocery-anchored center between the Century Theater site and Folsom Boulevard, particularly because there is potential for creating transit-oriented development.

Other Types of Centers

Neighborhood Convenience Centers

Although the maps do not show these, approximately 15 to 20 "neighborhood convenience centers" of 10,000 to 15,000 square feet each should be located throughout the city. "Neighborhood convenience center" is not a standard real estate term, but is coined to imply that these will be small, unanchored retail centers, located next to or in neighborhoods, offering goods, services and meals close to home without a long drive through heavy traffic.

Even though these centers can be located on local streets, they should not be isolated in the middle of a residential neighborhood. Ideally, they will be located on a corner leading to a major commute route. Besides stores and restaurants and medical or service businesses, they might also include offices and multifamily housing. With good zoning, they can take the form of storefront and loft-like buildings whose uses evolve as the neighborhood builds out or the profile of local residents changes. These centers can be excellent locations to incubate small and start-up businesses.

Auto Sales

The City should give strong consideration to creating an auto mall at the eastern end of Folsom Boulevard, near Hazel and the existing Folsom Auto Mall. While not visually attractive, auto sales would be an important source of sales taxes at a time when the City is still building the roads and infrastructure necessary for other retail centers to open.

Determining the feasibility of this center will require additional research. Other cities such as Elk Grove are already attracting dealerships. The area does appear to need more import and upscale brands.

Projected Development

The accompanying table shows the amount of retail net rentable area, site area and number of shopping centers needed through 2025. These figures are based on projections of residential development made by the City Planning Department and on BAE spending projections.

We have made the following assumptions in these projections:

1. The City will annex land as it develops.
2. That there is little or no re-capture of spending "leakage" associated with spending by existing residents.
3. The necessary roads and other infrastructure will be in place to serve both the retail and the residential growth.

RECOMMENDED CENTER LOCATIONS AND SIZES

	Building Area	Acreage
Grocery-Anchored Centers		
Existing		
Bradshaw & International (Bradville)	94,000	11
Bradshaw & International (Food Source)	80,000	9
College Green	255,000	29
Folsom & Coloma (Raley's)	190,000	22
Folsom & Zinfandel (Olson Rd.)	60,000	7
Folsom & Zinfandel (Safeway)	90,000	10
Kiefer (Rosemont)	240,000	28
Sunrise & Gold River (Bel Aire)	180,000	21
Sunrise north of Hwy 50 (Rivergate)	105,000	12
Folsom Boulevard (scattered)	400,000	46
Total	1,694,000	194
New Centers		
Chrysanthy at Jeager (The Preserve)	115,000	13
Douglas & Americanos	115,000	13
Douglas & Sunrise	115,000	13
Douglas & White Rock East extension	115,000	13
Hazel & Easton Valley	115,000	13
International & Americanos	115,000	13
International & Zinfandel (Capital Village)	115,000	13
Jackson Hwy @ Eagle's Nest	115,000	13
Jaeger between Douglas and White Rock	115,000	13
Kiefer & Jaeger	115,000	13
Sunrise & Douglas, SWC	115,000	13
White Rock & Hazel	115,000	13
White Rock & Jaeger	115,000	13
White Rock east of Americanos	115,000	13
Total	1,495,000	172
Total Grocery-Anchored, Existing & New	3,189,000	366
General Merchandise Centers		
Existing		
Costco	135,000	15
Folsom & Coloma (Wal-Mart)	130,000	15
Folsom & Zinfandel	700,000	80
Home Depot	130,000	15
Scattered, in warehouse buildings	500,000	57
Total	1,595,000	183

RECOMMENDED CENTER LOCATIONS AND SIZES

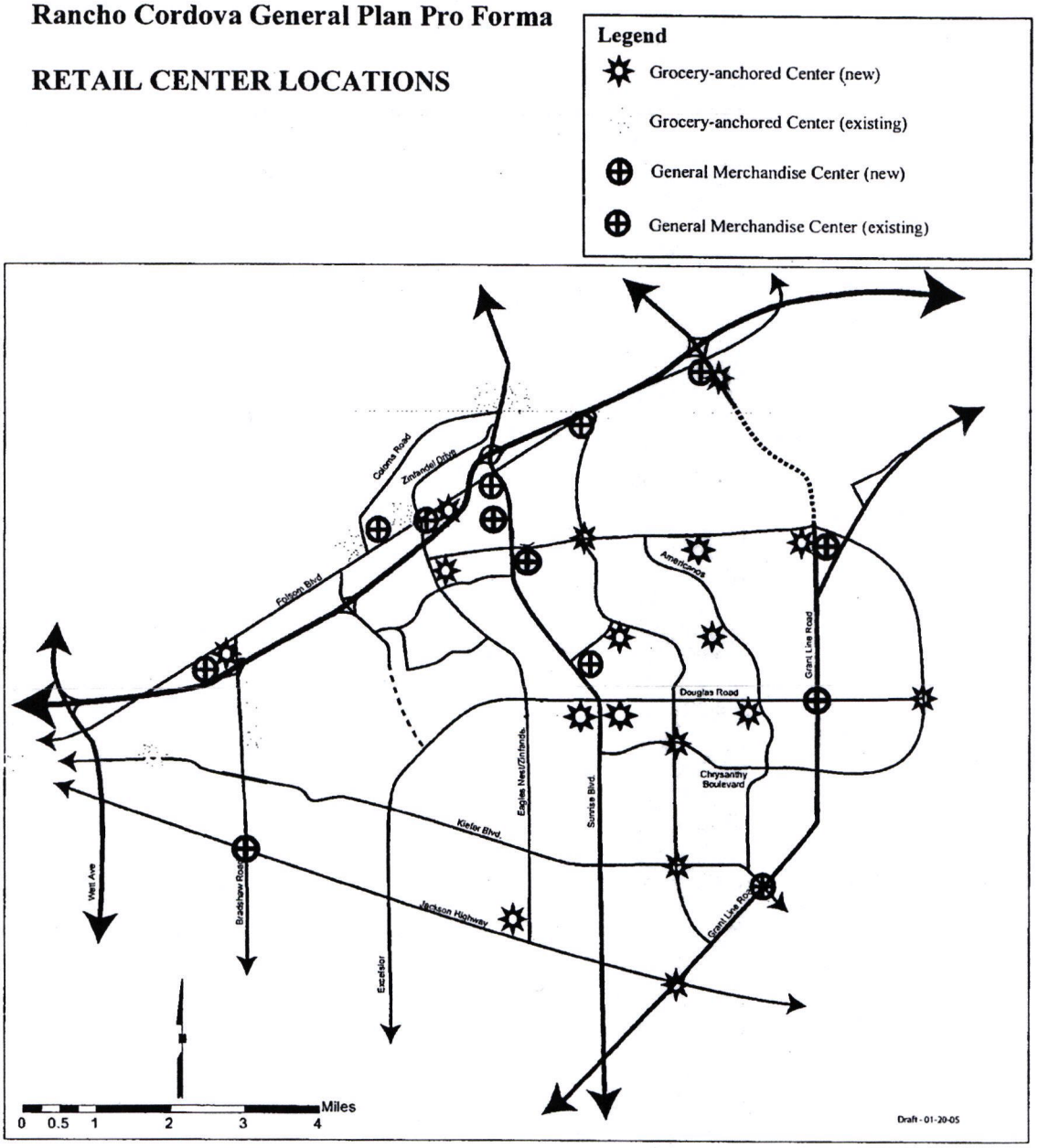
	Building Area	Acreage
General Merchandise Centers		
New		
Bradshaw & Hwy 50	400,000	46
Douglas & Grantline	400,000	46
Folsom & Hazel	600,000	69
Folsom & Jaeger	600,000	69
Folsom & Sunrise	500,000	57
Grantline & Jackson	400,000	46
Kiefer & Bradshaw	250,000	29
Kiefer & Grant Line	250,000	29
New @ Olson Rd.	150,000	17
Sunrise north of Douglas	450,000	52
White Rock & Hazel	400,000	46
Total	4,400,000	505
Total General Merchandise, Existing and New	5,995,000	688
Neighborhood Convenience Centers	300,000	34
Total	**9,484,000**	**1,089**

Retail Development Through 2025[1]	2006	2007	2008	2009	2010	2015	2020	2025
Net Rentable Area (square feet)								
Grocery-anchored centers	64,431	105,933	163,628	248,646	353,799	418,207	492,104	510,279
General merchandise centers	128,278	210,901	325,765	491,044	704,375	832,603	979,724	1,015,907
Total	192,707	316,834	489,393	737,690	1,058,174	1,250,810	1,471,828	1,526,185
Acreage[2]								
Grocery-anchored centers	7.4	12.2	18.8	28.3	40.6	48.0	56.5	58.6
General merchandise centers	14.7	24.2	37.4	56.4	80.9	95.6	112.5	116.6
Total	22.1	36.4	56.2	84.7	121.6	143.6	168.9	175.2
Number of Typical Centers[3]								
Grocery-anchored centers	.6	.9	1.4	2.2	3.1	3.6	4.3	4.4
General merchandise centers	.3	.6	.7	1.1	1.6	1.9	2.2	2.3

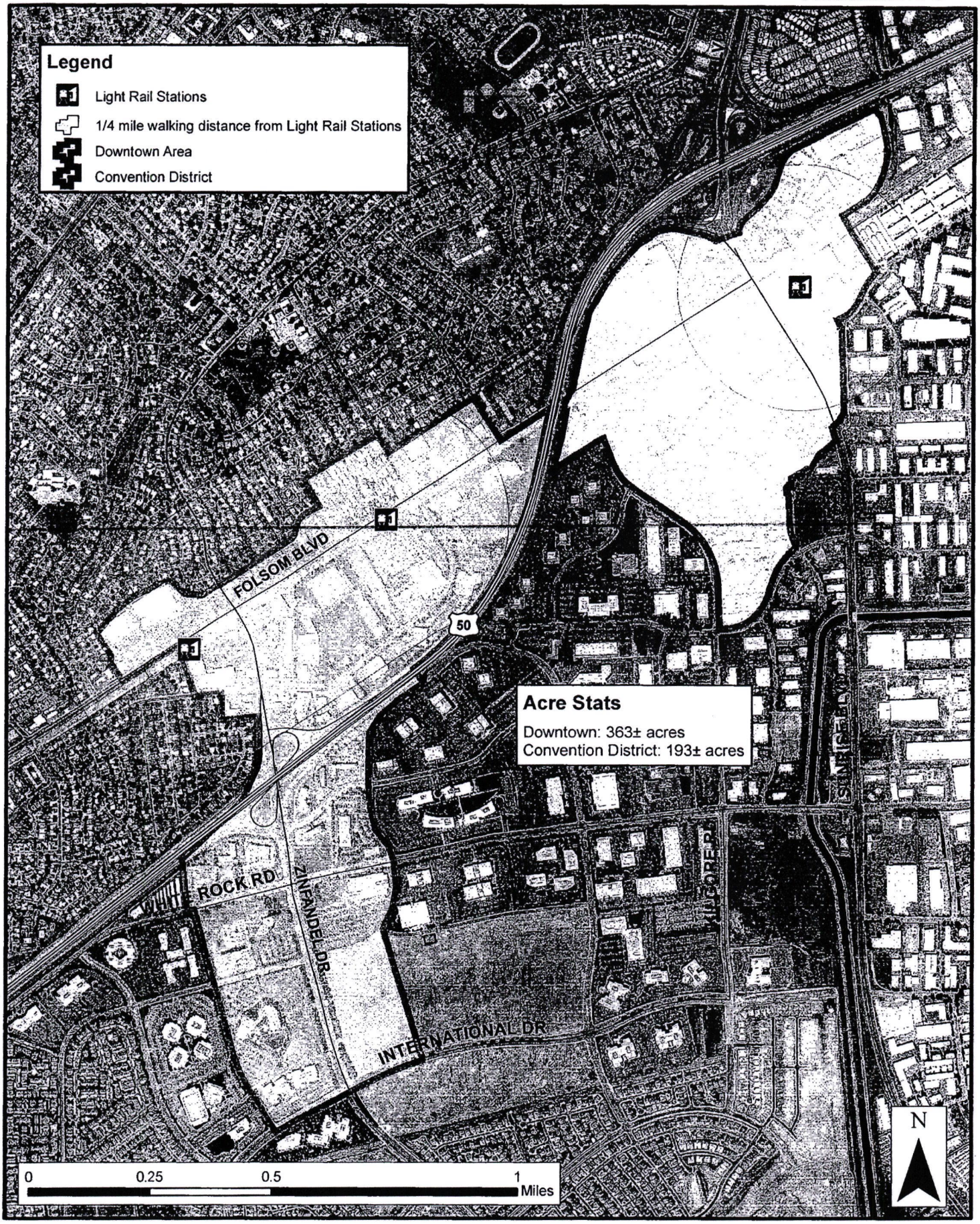
[1] Source: Projections from Bay Area Economics, based on City of Cordova Planning Department residential development projections.
[2] Assumes .20 floor area ratio.
[3] Assumes 115,000 square feet for grocery-anchored centers and 450,000 square feet for general merchandise centers.

Rancho Cordova General Plan Pro Forma

RETAIL CENTER LOCATIONS



Attachment 3



City of Rancho Cordova
Planning Department

Council Revised Downtown Alternative
January 6, 2006

Some preserves are larger @ 500 acres - some preserves like 80 acres for Swainson's hawk - a fee is a relief valve for some smaller projects.

MEMORANDUM

DATE: **January 17, 2006**

TO: **City Council Members**

FROM: **Planning Department**

SUBJECT: **Urgency Ordinance Adopting RCMC Chapter 16.130, "Swainson's Hawk Impact Mitigation."**

Nothing Changed!

STAFF RECOMMENDATION

Adopt Urgency Ordinance No. 03-2006.

BACKGROUND

Under the California Environmental Quality Act (CEQA), the City must consider the impacts to Swainson's hawk, a state-listed threatened species. The Swainson's hawk is also protected by the Treaty Act (MBTA), due to its migratory nature. The City must address the impacts of new construction through the development review process.

The City currently has not set standards for Swainson's hawk mitigation. Therefore, developers seeking to begin new construction projects that affect Swainson's hawk must consult with the California Department of Fish and Game to determine appropriate mitigation.

ANALYSIS

The Swainson's hawk is a raptor classified as a threatened species under the California Endangered Species Act (CESA). According to the California Department of Fish and Game (CDFG), "the primary cause of the decline in Swainson's hawk's population size is believed to be habitat destruction." Continued expansion of urban uses into open lands without mitigation reduces foraging habitat needed by these birds. The California Environmental Quality Act (CEQA) requires that all feasible mitigation be taken to reduce significant impacts to the environment, which includes impacts to habitat of species listed under CESA. Per CDFG, "about 95 percent of the Swainson's hawk territories in the Central Valley are on privately held lands. Thus, cooperation from the landowners will be necessary to achieve population stability."

Following incorporation, the City adopted the numerous fees adopted by the County of Sacramento, including the Swainson's Hawk Impact Mitigation Fees Ordinance. This ordinance was intended to provide developers with a simple option for mitigating for the loss of Swainson's hawk foraging habitat, as required by CEQA. All fees adopted by reference were required to be renewed after one year (July 2004) or else expire. The Swainson's Hawk Impact Mitigation Fees Ordinance was not renewed in July 2004, so

AGENDA ITEM # 16

the City currently has no ordinance regarding mitigation of impacts to Swainson's hawk.

Although neither CEQA nor CESA require that an ordinance be in effect to mitigate impacts to Swainson's hawk foraging habitat, it is staff's opinion that it is in the best interest of the City to have an such an ordinance. By adopting an ordinance that lays a framework for when and how Swainson's hawk foraging habitat should be mitigated, we decrease time spent determining feasible mitigation and negotiating with outside resource agencies on each new development project. The ordinance also enables the City to determine standard mitigation that will keep in line with the vision for the City and allow development to move forward while decreasing impacts to the species.

The attached ordinance is intended to be an interim ordinance and will, by its terms, expire on December 31, 2006. Staff is currently in discussion with both local development interests and environmental groups on long term strategies for Swainson's hawk impact mitigation in Rancho Cordova. It is staff's expectation that a new mitigation process/ordinance will be introduced and adopted in 2006.

Finally, if this ordinance is adopted, staff anticipates submitting for Council approval on January 17, 2006, a resolution establishing Swainson's hawk mitigation fees.

The City received comment letters from Dan Gifford on Behalf of Department of Fish and Game (DFG), James Pachl on Behalf of Sierra Club and Friends of Swainson's Hawk (FOSH), Remy, Thomas Moose and Manley, LLP on behalf of the North State Building Industry Association (BIA), and Judith Lamare on Behalf of Sierra Club and FOSH. These comment letters are attached. Staff is currently in the process of drafting responses to these comments. All responses will be provided to the City Council prior to the January 17, 2006 meeting, and these responses will be addressed at the Council meeting.

MOTION

"I move that the Rancho Cordova City Council adopt Urgency Ordinance No. 03-2006 establishing Rancho Cordova Municipal Code Chapter 16.130, "Swainson's Hawk Impact Mitigation."

ATTACHMENT

1. Ordinance No. 03-2006.
2. Comment Letters

(1) interim program
(2) revisit findings
(3) look at science
(4) no urgency
(5) something specific for RCC

ORDINANCE NO. 03-2006

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADOPTING RANCHO CORDOVA MUNICIPAL CODE CHAPTER 16.130, "SWAINSON'S HAWK IMPACT MITIGATION"

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose. same

The purpose of this ordinance is to establish policies and procedures for mitigating adverse impacts to Swainson's hawk foraging habitat due to development within the City of Rancho Cordova ("City").

Section 2. Findings same

(a) The most effective means of mitigation for the loss of suitable Swainson's hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat.

(b) It is not always practical or feasible for project applicants to directly preserve habitat. In this case it may be more appropriate to allow the applicant to pay a fee to the City, or a conservation group, to find and purchase land on their behalf. This alternative would still constitute direct preservation.

(c) The volume of past, existing, and anticipated development proposals in the City that will potentially require mitigation for the loss of Swainson's hawk foraging habitat indicate an immediate need to assure adequate preservation of suitable Swainson's hawk foraging habitat.

(d) It is necessary for and in the interests of the public health, safety, and welfare that this Ordinance be effective immediately upon its adoption in order to provide adequate mitigation for the loss of Swainson's hawk foraging habitat.

Section 3. Title 16, Chapter 16.130, "Swainson's Hawk Impact Mitigation," is hereby adopted to read as follows: same

16.130.010 PURPOSE AND INTENT. The City of Rancho Cordova City Council finds that the continued expansion of urban uses into previously undeveloped lands within the City that are identified through the California Environmental Quality Act ("CEQA") process to provide suitable foraging habitat for the Swainson's hawk, a listed threatened species under the California Endangered Species Act, will, absent mitigation, result in a significant reduction of such foraging habitat. The reduction in foraging habitat can occur through requests for zoning changes of agriculturally zoned lands to land use designations that enable land to be reduced to parcel sizes too small to support Swainson's hawk foraging habitat or through requests for land use entitlements for non-agricultural uses that are incompatible with the maintenance of Swainson's hawk foraging habitat. For any such requests, which are within ten

5 miles only

miles of a Swainson's hawk nest, the City Council desires to establish an additional means of mitigating for loss of Swainson's hawk foraging habitat.

The City has identified, in consultation with DFG, that suitable foraging habitat for Swainson's hawk exists in established land conservation programs in Sacramento County and also in agricultural and open lands currently not part of a conservation program. The City finds that the most effective means of mitigation for the loss of suitable Swainson's hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat on an acre-per-acre ratio. The City also finds that it may be infeasible for some project applicants to acquire easements and that these applicants should have the option to mitigate adverse impacts to Swainson's hawk foraging habitat through the payment of an impact mitigation fee. An impact mitigation fee, as established pursuant to this Chapter, will provide funds to acquire available land with suitable Swainson's hawk foraging habitat values. Such acquisition will create mitigation for the loss of this habitat through real property acquisition in fee or through conservation easements to facilitate the expansion of land conservation programs which include the preservation and management of Swainson's hawk foraging habitat.

same

The City Council recognizes that mitigation for foraging habitat for the Swainson's hawk is only feasible when replacement habitat is provided within the known foraging area for the hawk. In order to provide adequate mitigation for the loss of Swainson's hawk foraging habitat under CEQA through the provisions of this Chapter, the City Council deems it necessary to expand the scope of this mitigation fee program to parcels located within the geographical foraging area of the Swainson's hawk that are owned and/or managed by a conservation organization where the location of mitigation parcels and the conservation organization are acceptable to DFG.

same

The City Council finds that the direct preservation of suitable Swainson's hawk foraging habitat or the payment of an impact mitigation fee by project proponents for the actual acquisition of such habitat will meet the requirements of mitigation under CEQA, by reducing the level of impact to Swainson's hawk foraging habitat to a less than significant level for those parcels falling within the scope of this Chapter as set forth herein. The City Council intends that the requirement of direct preservation of suitable Swainson's hawk foraging habitat or the requirement of an impact mitigation fee, in an amount established by the City Council, shall be included as mitigation options. Said mitigation shall arise when the environmental review process for a request falling within the scope of this Chapter concludes that there would be a significant impact or a significant cumulative impact on the Swainson's hawk foraging habitat for which mitigation, pursuant to all applicable provisions of the Public Resources Code section 21000 et seq. and the Cal. Code of Regulations, Title 24, section 15000 et seq., is required. The City Council also recognizes its continued authority to determine based on specific economic, social, legal, technical or other considerations that mitigation for Swainson's Hawk foraging habitat is infeasible or that evidence has been presented to the City Council, based upon which the Council eliminates the need for such mitigation.

same

Where are they?

The City Council specifically recognizes that projects on land the boundaries of which are within one mile of a Swainson's hawk nest, represents an impact which would be more appropriately mitigated on a case by case basis. Therefore, the provisions of this Chapter shall not be applicable as mitigation for impacts resulting from the approval of changes in land use designations or for the grant of land use entitlements on parcel(s) which are within one mile of a Swainson's hawk nest.

same

16.130.020 DEFINITIONS.

(a) "CEQA" means the California Environmental Quality Act.
(b) "DFG" means the California Department of Fish and Game.
(c) "PROJECT" shall have the same meaning as that term is used in Public Resources Code section 21065. A "project" shall be considered to consist of the total combined gross acreage of a parcel or parcels included in a proposal subject to CEQA review.

16.130.030 APPLICABILITY.

(a) This Chapter shall apply to any project that i) is located in excess of one mile of a Swainson's hawk nest, and ii) has been determined through the CEQA process to result in a potential significant impact or potential significant cumulative impact on Swainson's hawk foraging habitat

(b) This Chapter shall apply to any project located within one mile of a Swainson's hawk nest, if through the CEQA process it is determined that the mitigation measures of this Chapter will reduce adverse impacts to a less than significant level.

(c) This Chapter shall apply to any project approved prior to the effective date of this Chapter which was conditioned to require mitigation for impacts to Swainson's hawk foraging habitat and which mitigation has not been completed through the payment of a fee or other mechanism included in such mitigation measure.

16.130.040 CONDITIONS.

(a) On and after the effective date of this Chapter, for any project falling within the provisions of Section 16.130.030 of this Chapter, the following mitigation measure shall be included as an option to reduce the impact to Swainson's hawk foraging habitat of that particular project to a less than significant level:

"The project applicant shall implement one of the following options in order to mitigate for the loss of Swainson's hawk foraging habitat as a result of the proposed project:

(i) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall preserve an appropriate amount of suitable foraging habitat. The amount of land required to be preserved shall be determined by the City of Rancho Cordova in consultation with DFG. The determination shall be made based on the quality of the land proposed for conversion and the quality of the land proposed for preservation. This land shall be protected through a fee title or conservation easement acceptable to the City of Rancho Cordova in consultation with DFG. Conservation easements shall name DFG (or another agency acceptable to the City) as a third-party beneficiary to the easement with full right of enforcement. Conservation easements shall be accompanied by a monitoring and maintenance plan approved by the City. In the alternative, applicants may pay an easement monitoring and maintenance fee in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time; or

(ii) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall submit payment of Swainson's Hawk Impact Mitigation Fee to the City of Rancho Cordova in the amount set forth by Resolution of the City Council and as may be amended from time to time and to the extent that Chapter 16.130 remains in effect. The fee set forth by City Council Resolution shall represent the amount required to purchase and maintain one acre of prime Swainson's hawk foraging habitat. If habitat proposed for conversion is considered by the City in consultation with DFG to be prime habitat, the full fee shall be paid per acre of habitat impacted. If it is determined by the City in consultation with DFG that the land proposed for conversion is of lower quality than prime habitat, the city shall determine a reduced percentage of the fee for each acre of habitat to be converted. Any reduction in the Swainson's Hawk Mitigation Fee shall be determined by the City in consultation with DFG, and shall be determined based on the quality of the habitat proposed for conversion; or

(iii) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall, to the satisfaction of the DFG, prepare and implement a Swainson's hawk mitigation plan that will include preservation of Swainson's hawk foraging habitat."

(b) The requirement of direct land preservation or payment of an impact mitigation fee established pursuant to this Chapter is also applicable to those projects that were approved prior to the effective date of this Chapter and which are conditioned to require mitigation for impacts to Swainson's hawk foraging habitat to include the option to participate in a future Swainson's Hawk Mitigation Policy/Program adopted by the City Council, provided the property owner/developer of any such project has not yet completed an alternative mitigation measure for impacts to Swainson's hawk foraging habitat and provided that the parcel(s) included in such a previously granted request fall within the scope of this Chapter as set forth in Section 16.130.030.

16.130.050 IMPACT MITIGATION FEE. The impact mitigation fee shall be in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time.

16.130.060 IMPACT MITIGATION CREDIT. Mitigation credit may be given for vernal pool or other preserves which contain suitable Swainson's hawk foraging habitat, including preserves that are established pursuant to a previously County approved Mitigation Monitoring and Reporting Program for the subject parcel(s). Prior determination by the City, in consultation with DFG, of the viability of the preserve for Swainson's hawk foraging habitat is required. Preserves deemed viable by the City shall receive credit on a 1:1 ratio. In the event that the credit received does not satisfy the acreage required for the mitigation obligation, additional mitigation shall be required through any of the other mitigation measure options identified in the applicable environmental report to the extent necessary to reduce the impacts on the Swainson's hawk foraging habitat to a less than significant level. If preserve land for vernal pools or other habitat is also used as a preserve for Swainson's hawk, all easements must be recorded at the same time. Credit will not be given for Swainson's hawk foraging habitat if the preserve was previously set aside for another type of habitat and mitigation for Swainson's hawk is proposed at a later date, and vice versa.

Further, credit for Swainson's hawk mitigation that exceeds the obligation of a specific project may not be banked, sold, or otherwise transferred to another project.

why not.

16.130.070 AUTHORITY OF CITY COUNCIL TO OVERRIDE MITIGATION MEASURES. Nothing herein shall be construed to preclude the City Council's consideration or approval of other means of mitigating significant impacts or significant cumulative impacts on Swainson's hawk foraging habitat or to limit the City Council's authority to override mitigation measures for reasons permitted by CEQA.

Section 4. CEQA

This action qualifies as a Section 15308, Class 8 Exemption; Actions by Regulatory Agencies for the protection of the environment.

Section 5. No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council, and shall expire on December 31, 2006.

ADOPTED, THIS ___ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Comments from Dan Gifford, DFG.txt

-----Original Message-----
From: Dan Gifford [mailto:dgifford@dfg.ca.gov]
Sent: Tuesday, December 06, 2005 11:30 AM
To: Paul Junker
Subject: Re: Rancho Cordova Swainson's Hawk Ordinance

Paul,

Thanks for the opportunity to review the Ord.
Ive attached our comments. Ifyou have any questions please call 209-369-8851.

>>> "Paul Junker" <pjunker@cityofranchocordova.org> 12/1/2005 11:50 AM
>>> >>>
All,

Attached please find the City or Rancho Cordova's draft Swainson's Hawk Ordinance. As we have discussed, this is an interim solution that will be replaced by a more comprehensive ordinance within one year (likely sooner). Please review with your interested parties and provide comments back to me by end of day Wednesday, December 7, 2005. We intend to take this urgency ordinance to the City Council for review and adoption on December 19, 2005.

Thanks for your time and your comments.

Paul

Paul Junker, Planning Director
City of Rancho Cordova
(916) 942-0277

Comments on Rancho Cordova's Ordinance. 23-2005:

1. Page 2, 1st paragraph;
The documents states that: " The California Department of Fish and Game (DFG) has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat." The draft Ordinance doesn't cite the source of the quotation.

DFG's , Staff Report regarding Mitigating for Impacts to Swainson's Hawk (*Buteo swainsoni*) in the Central Valley of California, (1994) , states that:

> " Since small disjunct parcels of habitat seldom provide foraging habitat needed to sustain the reproductive effort of a Swainson's hawk pair, Staff does not recommend requiring mitigation pursuant to CEQA nor a Management Authorization by the Department for infill (within an already urbanized area) projects in areas which have less than five acres of foraging habitat and are surrounded by existing urban development ....",

Other than the information contained in it's 1994 Swainson's hawk guidelines, DFG has not made a "determination" regarding the minimum size of an individual parcel and it's value as foraging habitat.

Therefore, we recommend that statement noted above either be removed, or revised so that it is consistent with DFG's 1994 guidelines.

2. Page 3, 2nd paragraph;
DFG has worked with Sacramento County, and the City of Elk Grove on similar Swainson's hawk mitigation programs. One of the goals of these programs is to streamline (speed-up) and simplify the mitigation process. Requiring case-by-case review of projects within 1 mile of an active nest may defeat efforts to speed-up the mitigation process. Due to staff limitations, DFG prefers to work with CEQA leads in a programmatic approach where possible.

Rather than institute a process of case-by-case review, DFG prefers to develop a close working relation with Rancho Cordova in the administration of its mitigation program by identifying mitigation methods that would cover most, if not all, projects in advance, instead of deferring to a case-by-case process.

We recommend that reference to case-by-case review be removed from the draft Ordinance.

Page 5 , 16. 130.060 Impact Mitigation Credit;
This section describes the City of Rancho Cordova intent to allow so-called, "multi-species mitigation". It states that if vernal pool or other mitigation lands contain "suitable Swainson's hawk foraging habitat" they may be given "credit" as Swainson's hawk mitigation.

Our experience in the Rancho Cordova indicates that vernal pool preserves are often retained on-site, and that these preserves are usually not connected to the large landscape required by foraging Swainson's hawks. We are concerned that many vernal pool mitigation preserves are too small, and/or situated within an urban setting, and will not provide viable Swainson's hawk foraging habitat. While the section defers approval of proposed multi-species preserves to DFG ("Prior determination by DFG of the viability of the preserve for Swainson's hawk foraging habitat is required...") It's not reasonable to anticipate that DFG would approve of Swainson's hawk mitigation within existing or future urban development.

While DFG is not opposed to multi-species mitigation we feel that the opportunities in Rancho Cordova do not warrant it's inclusion in the draft Ordinace. We recommend that this section be removed.

-----Original Message-----
From: James P. Pachl [mailto:jpachl@sbcglobal.net]
Sent: Friday, December 09, 2005 1:23 PM
To: Paul Junker
Cc: Judith Lamare; Dan Gifford
Subject: proposed "interim" SWH ordinance

Paul,

Confirming our conversation of December 8, 2005, wherein you advised me that only 25 acres was likely to be approved for development and thus be subject to SWH mitigation conditions, between now and December 31, 2006. You said that The Preserve at Sunridge will probably be delayed past then because of issues with the Corps of Engineers.

I realize that the interim ordinance expires December 31, 2006, and that you will propose a more comprehensive permanent SWH mitigation program before then. However, our experience has been that interim measures tend to be renewed, especially if the developers want the "interim" measure to continue. My clients have no choice but to assume that this may occur, and that there is the potential for much more than 25 acres to use the proposed interim ordinance.

The Elk Grove and Sacto County ordinances require land dedication for development in excess of 40 acres, and payment of a fee for projects of less than 40 acres. If, as you suggest, there will only be one 25-acre project approved under this "interim" ordinance, then why not adopt an Elk Grove ordinance as "interim' at this time, including an option for payment of a fee in lieu of dedication for projects of less than 40 acres. That would
(1) solve the problem of the 25-acre project and (2) establish an ordinance that would be effective for larger projects if such were to occur under the Interim Ordinance, or if the interim ordinance were extended.

I also noticed that proposed SWH mitigation measure of Preserve at Sunridge DEIR includes the option of participating in future SWH mitigation ordinance, which encompasses the proposed Interim Ordinance. I will submit a supplemental comment letter addressing that option.

SERIOUS PROBLEM, POTENTIAL FOR ABUSE: nothing prevents landowner from paying fee under proposed "interim" ordinance long before project approval or issuance of grading permit. There might be a rush to do this before adoption of more demanding permanent ordinance. As you may recall, a number of North Natomas landowners and developers having no approved project paid then-current low NBHCP mitigation fees immediately before approval of a pending mitigation fee increase in August 1999.

Should require that landowner be subject to mitigation ordinance that exists at time of issuance of grading permit, to avoid that problem; including a catch-up fee provision.

I am troubled by the suggestion that the Elk Grove mitigation fee (for parcels of less than 40 acres) may be too high. I am aware of one transaction in which Elk Grove acquired a SWH conservation easement on 150
(?) acres for $15,000 per acre, (exclusive of O and M costs) using fees collected under former Elk Grove SWH fee ordinance.
What is the basis for the assertion that Elk Grove fee may be too high?

Proposed ordinance, §16.130.040(a)(ii) lacks a fee component to provide an endowment for monitoring and administration. Why?

The Elk Grove and Sacramento County ordinances include such a component, based on the PAR developed by the Center for Natural Lands Management.

The implementing provisions of the ordinance §§16.130.040, et seq) do not require that mitigation land be in Sacramento County. Developer attorneys will notice that and cause problems.

§16.130.040(a)(i) allows the project applicant, or someone selected by applicant, to control and monitor the mitigation land, which is absolutely no assurance that the monitoring will be adequate or that the conservation elements of the easement will be enforced. "Landowner-friendly" easement monitoring has been abused elsewhere. Monitoring should be done by a qualified non-profit conservation trust approved by DFG. Should not include Habitat Management Foundation or Golden State Land Conservancy.

§16.130.040(a)(i) authorizes use of an agency other than DFG as a third party beneficiary to easement. What is an "agency"?? Could the City name itself, or an entity created by the City, as the "agency" to be third party beneficiary? There have been serious problems with enforcement of conservation easements in other communities, and my clients are concerned about this happening locally.

Why not name DFG as a third-party beneficiary in all instances with right of enforcement??

There are numerous requirements for consultation with DFG, but no requirement for DFG approval of the location of mitigation land, amount of land to be preserved, mitigation and monitoring plan, SWH foraging value of land to be developed, which determines the amount of the fee.

"Consultation with DFG" means that City is free to disregard DFG's recommendation, which is unacceptable to my clients. The result is that City is empowered to make case-by-case determinations on adequacy of mitigation measures for future projects with no standard on which to base such determinations, and with no evidence that City has expertise to make such biological determinations. This is essentially "mitigation shall be whatever City decides", which not satisfy CEQA requirements for mitigation measures, and would not support CEQA findings that impacts of a project have been mitigated to less than significant, or mitigated at all.

DFG approval is mandatory only for the option of §16.130.040(a)(iii), developer make a deal with DFG; and for SWH credit on vernal pool mitigation land, §16.130.060.

As to the fee option, the record shows that programs to mitigate for impacts on SWH by payment of a fee have uniformly failed. Examples are Yolo, former Sacramento County, former Elk Grove, San Joaquin HCP.
Experience has shown that attempts to correlate a fee paid today with the cost of land or conservation easements acquired tomorrow have uniformly failed. CEQA Findings that payment of a fee will mitigate impacts on SWH to less than significant, or mitigate at all, would not be supported by substantial evidence.

Please also understand that 1 to 1 mitigation is not close to real mitigation - it means that for 2 acres of existing habitat, one is developed, and the other is preserves, leaving net SWH habitat of one acre where there used to be 2. Reducing this further, as is proposed by the ordinance, is disproportionate.

I will submit a formal comment letter to City Council next week.

I would appreciate a copy of the staff report and any revisions to the proposed SWH mitigation ordinance. I think it is in best interest of Rancho that the SWH mitigation ordinance require land dedication and DFG approvals of key elements so as to preclude that issue as basis for possible CEQA litigation. THANK YOU FOR THE OPPORTUNITY TO COMMENT.

Jim

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December 30, 2005

Paul Junker
Director of Planning
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

RE: Rancho Cordova Proposed Ordinance "Swainson's Hawk Impact Mitigation", City Council meeting, January 17, 2005.

Dear Mr. Junker,

Sierra Club and Friends of the Swainson's Hawk ("FOSH") asked me to review the proposed Urgency Ordinance and identical "regular" Ordinance Chapter 16.130.010, "Swainson's Hawk Impact Mitigation," scheduled for the Rancho Cordova City Council's consideration on January 17, 2005.

Proposed Ordinance §16.130.010 states that either direct preservation of suitable Swainson's Hawk ("SWH") foraging habitat or payment of an impact mitigation fee for acquisition of such habitat will meet the requirements of mitigation under CEQA, by reducing the level of impact to SWH foraging habitat "to a less than significant level." CEQA Findings that impacts of a specific project are mitigated to less than significant must be supported by substantial evidence.

Review of the proposed Ordinance and other relevant information shows no substantial evidence that would support CEQA findings that compliance with the proposed Ordinance would mitigate impacts to SWH foraging to less than significant. For that reason, projects relying on the proposed ordinance, particularly the fee option, as mitigation for SWH impacts, may invite legal challenge. It should be noted that projects in Rancho Cordova may also be exposed to possible legal challenge as to vernal pool, wetland, and possibly traffic issues. Therefore it would be in the best interest of Rancho Cordova to adopt a revised SWH mitigation ordinance that ensures full mitigation for impacts to SWH, thereby removing SWH mitigation as a potential litigation issue.

The proposed Ordinance expires on December 31, 2006. Rancho Cordova ("City") intends to adopt a more comprehensive but as-yet undefined long-term SWH mitigation ordinance/strategy during 2006. While not doubting City's sincerity, nonetheless the City

Council has authority to extend an "interim" ordinance indefinitely. The experience of other jurisdictions has shown that interim ordinances have a habit of being repeatedly extended, particularly if developers are more comfortable with the interim ordinance. Examples include the former Sacramento County SWH mitigation ordinance and the Yolo County SWH mitigation MOU's, which were intended as "temporary" pending adoption of Habitat Conservation Plans that do not yet exist and may never be adopted. Consequently, the adequacy of this Ordinance must be evaluated as though it may be extended indefinitely.

1. There Is No Evidence That Payment Of A Mitigation Fee Will Mitigate Impacts To SWH Habitat

Ordinance §16.130.040(a)(ii) would give the applicant the option of mitigating for loss of SWH foraging habitat by payment of a per-acre mitigation fee, in amount to be determined by subsequent Council resolution, which "shall represent the amount required to purchase one acre of prime SWH foraging habitat." Quite bluntly, any project approval which relies on payment of a fee under §16.130.040(a)(ii) as mitigation for impacts upon SWH foraging would be very vulnerable to successful CEQA litigation, as explained below.

a. The Mitigation Fee Fails to Include Funding for Monitoring, Management, or Administration of the Mitigation Land or Enforcement of Conservation Easements.

The Ordinance intends that mitigation will be by fee title or by conservation easement. Monitoring and enforcement of the land or easement will be needed to ensure that the land is suitably managed for SWH foraging habitat and that incompatible uses excluded, and for management and administration. The City of Elk Grove's financial analysis (in City staff's possession) for its adoption of Elk Grove's SWH mitigation ordinance in 2004 shows that a reasonable fee to cover such costs (not including cost of land or conservation easement) was approximately $2,300 per acre. It is clear that to simply "purchase" land or a conservation easement is not enough, and does not ensure that the land or conservation easement will be managed in a manner consistent with SWH foraging.

By failing to include a requirement for funding of monitoring, management, administration or enforcement of conservation easements, developers may argue that the Ordinance deprives the Council of the authority to impose such a fee upon developers, except by amending this Ordinance.

b. The Ordinance Fails to Provide Any Program, Mechanism, or Standards For Use of the Fee to Mitigate for Impacts to SWH

What happens to the fees once collected? Where, or in what areas may the mitigation land be acquired? Can mitigation land be acquired out of County or in a distant location? Whose approvals are necessary to acquire parcels for mitigation land or conservation easements? Who will acquire the mitigation land? Who will manage it or, if a conservation easement, monitor and enforce compliance with the conservation easement? There is no mitigation monitoring program, or funding for such a program, to assure that the SWH mitigation preserves or easements will function for the benefit of SWH in perpetuity.

Collecting a fee does not mitigate for anything, yet proposed §16.130.040(a)(ii) does no more than collect fees. The vague statements of good intention in §16.130.010 do not constitute a program, mechanism, or standard for the application of fees to acquire SWH foraging habitat.

c. It is Impossible To Determine Whether a SWH Mitigation Fee Paid Today Will be Sufficient to Acquire a Like Area of SWH Foraging Habitat

There is no way that Council can determine that a certain per-acre mitigation fee paid today will be adequate to acquire a like area of land at an unknown location at an unspecified later date. So-called "economic analyses" can give today's and yesterday's comparables, but cannot credibly predict the future price of unknown parcels.

Once the fee has been paid, the developer has met its habitat mitigation obligation and may complete construction even if the fee proves to be inadequate to buy a like amount of mitigation land. There is no assurance that the fees paid today by a developer will be sufficient to acquire the required habitat mitigation parcels in the future. That is so because the mitigation parcels to be acquired are not known at the time the fee is paid. Therefore, the price of the land cannot be known.

If land and management costs prove higher than fees paid, City can increase the mitigation fees for future developers. However, fee increases will apply only to land developed after the need for a greater fee becomes apparent and is implemented. Unless actual costs prove to be equal to costs projected in setting of the fee (which is rare), the Ordinance's funding mechanism depends on continual infusion of new developable land to provide funding for mitigation necessitated by previous development. The Ponzi scheme collapses when development is built out, or slows.

d. <u>All Fee-Based SWH Mitigation Programs in the Region Have Failed</u>

All other fee-based SWH mitigation programs in the region have failed miserably, including Rancho Cordova's former fee program, primarily because the mitigation fees proved far below the escalating cost of land and conservation easements. Rancho Cordova collected $606,262 under its former SWH mitigation ordinance to mitigate for 214 acres of development, which is $2,833 per acre - a fraction of today's cost of land or conservation easements - and has acquired nothing. Meanwhile, the cost of land and conservation easements continues to rise.

The City of Elk Grove and County of Sacramento also had fee-based SWH mitigation, which were considerably less vague than Rancho's proposed fee-based program. Both accumulated fees and failed to acquire <u>any</u> mitigation land. Both ordinances were subsequently modified to require developers of projects of 40 acres or more to provide suitable land or conservation easements, approved by DFG and the Conservation Operator, prior to issuance of grading permits. Developers of projects less than 40 acres have the option of paying a mitigation fee, currently calculated at approximately $18,000 per acre. The City of Sacramento and Sutter County require that landowners provide mitigation land for development in Natomas Basin, plus a sizable management and endowment fee, prior to issuance of grading permits.

The fee-based HCP of the San Joaquin County JPA (mitigating for all cities and County) has an enormous mitigation deficit, and has been threatened with revocation of Federal and State Incidental Take Permits by the U.S. Fish and Wildlife Service.

The fee-based "interim" SWH mitigation program of the Yolo County Habitat JPA has collected fees for nearly 2,700 acres of urban development, and has acquired nothing.

The San Diego County NCCP/HCP is a large-scale fee-based mitigation program which accumulated a huge mitigation deficit due to inadequate funding and escalating land prices, and was saved only by a State bond bail-out several years ago.

e. Approval Of Development Which Purports To Mitigate For Impacts On SWH By Paying A Mitigation Fee, Without Substantial (or Any) Evidence That Mitigation Will Actually Occur, Violates CEQA

A fee-based mitigation program is sufficient only if there is evidence that mitigation will actually occur. "[A} commitment to pay fees without any evidence that mitigation will actually occur is inadequate." See *Save our Peninsula Committee v. Monterey County* (2001) 87 Cal. App. 4th 99, 140, citing *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.

Under CEQA, a mitigation measure which is speculative is correctly deemed infeasible. Mitigation measures must be enforceable and feasible to implement. (Public Resources Code §21081.6(b), CEQA Guideline §15126.4(a)(2).) There must be reasonable certainty that adopted mitigation measures will be implemented. Adoption of a mitigation measure which is speculative or infeasible due to insufficient or speculative funding is a clear-cut violation of CEQA. CEQA requires that "*feasible mitigation measures will actually be implemented as a condition of development.*" (*Federation of Hillside and Canyon Associations v City of Los Angeles*, (2000) 83 Cal. App. 4th 1252, 1260, 1261). *Federation* addressed a situation wherein adopted traffic mitigation measures were infeasible due to lack of evidence that funding would be sufficient to implement those adopted mitigation measures. Same, see *Napa Citizens for Honest Government v Napa County* (2001) 91 Cal. App. 4th 342, 364; *Endangered Habitats League v County of Orange* (2005) 131 Ca. App. 4th 777, 785. The facts of *Federation, Napa,* and *Endangered Habitats* are similar to Rancho Cordova's proposed §16.130.040(a)(ii) (mitigation by fee payment), except that Rancho's ordinance does not even establish a mechanism or program for application of the fee to acquisition, management, and monitoring of mitigation land or enforcement of conditions of conservation easements.

f. Potential Abuse: Early Payment of Mitigation Fee Under "Interim" Ordinance To Avoid City's "Permanent" SWH Mitigation Ordinance to be adopted in 2006, or Fee Increases

The proposed Ordinance does not prevents landowners from paying fee under proposed "interim" ordinance long before project approval or issuance of a grading permit. This Ordinance invites a rush to do this before City's adoption of a more demanding permanent ordinance. As you may recall, a number of North Natomas landowners and developers having no approved project paid then-current low NBHCP mitigation fees immediately before approval of a pending mitigation fee increase in August 1999.

We respectfully suggest that the "interim" Ordinance include provision for a "catch-up" fee at time of issuance of grading permits if, at that time, the then-current fee is greater than the fee paid earlier, (which was Sacramento's solution); and that the applicant comply with all conditions of any revised SWH Mitigation Ordinance in effect at time of issuance of the grading permit.

2. There Is No Substantial Evidence That A Mitigation Ratio of Less Than One acre Preserved for Each Acre Developed Will Mitigate Impacts to SWH To Less Than Significant

Proposed Ordinance §16.130.040(a)(ii) ("mitigation" by fee payment) provides that the a mitigation fee sufficient to provide one acre of mitigation habitat for each acre developed shall be collected **only** if the habitat proposed for conversion is "considered by the City, in consultation with DFG," to be prime habitat. If not, then the applicant may pay a reduced fee.

Proposed Ordinance §16.130.040(a)(i) (applicant provides mitigation land) doesn't specify any mitigation ratio, leaving that determination to the City, in consultation with DFG.

By contrast, the SWH mitigation ordinances of City of Elk Grove, Sacramento County, Yolo County JPA, and the San Joaquin County HCP require one acre of SWH foraging habitat for every acre lost, regardless of the "habitat value", or distance from SWH nests, of the land developed.

The Natomas Basin HCP requires only a 0.5 to 1 mitigation ratio. However, mitigation land is held in fee title by the Natomas Basin Conservancy, and actively managed to maximize benefits to SWH. It is optimistically assumed that such active management for SWH benefits will result in higher habitat value than simply retaining private agriculture by a conservation easement. The Natomas Basin HCP's Conservation Program also relies on the assumption that new development in the Basin since 1997 will not exceed 17,500 acres for 50 years, and that the remaining agricultural area of the Basin (approx. 29,000 acres) will remain in agriculture for 50 years, which will continue to provide habitat.

It should be understood that a 1 to 1 mitigation ratio results in a 50% reduction of habitat. If there are two acres of habitat, and one is developed with a 1 to 1 mitigation ratio requirement, the net effect is that there remains one acre of habitat preserved where there were formerly two acres. There is no evidence that the Ordinance contemplates converting non-habitat land to habitat; nor does the Ordinance contemplate managing the mitigation habitat land to double its habitat value (which is the only way that a 1 to 1 mitigation ratio could fully mitigate.) For that reason, even a 1 to 1 mitigation ratio does not fully mitigate, although permanent preservation of existing SWH foraging habitat is better than no assurance of permanent preservation. A ratio of less than 1 to 1 is clearly inadequate.

The amount of mitigation must be considered in the context of the cumulative impacts of the combined effects of Rancho Cordova's development and other development in the region which, cumulatively, are eliminating huge areas of SWH nesting and foraging habitat. There is massive development approved, or pending and very likely to be approved, by Rancho Cordova, Elk Grove, Sacramento County, Sacramento County's Villages of Elverta Specific Plan (DEIR

underway), City of Sacramento (Meadowview area), City of Sacramento and Sutter County in North Natomas, West Sacramento's 3000-acre Southport Framework, other Yolo County cities, Galt, Yuba County's Plumas Lakes, Folsom south of Highway 50, west Placer County, San Joaquin County, Vacaville, Dixon, and Fairfield. In addition. much SWH habitat is being eliminated by conversion from row crops to vineyards in southern Sacramento and San Joaquin Counties. The great majority of the Central Valley population of SWH (only 800 pairs) nest in Sacramento, Yolo, San Joaquin, and Solano Counties. Therefore reducing Rancho Cordova's SWH mitigation because some of Rancho's land may be less than "prime" habitat makes no sense and would not meet the obligation to consider cumulative impacts in assessing the amount of mitigation needed to reduce impacts to less than significant.

3. The Ordinance Provides No Method Which Reasonably Assures That The Location and Amount Of Mitigation Land Required, And Management Of Mitigation Land, Will Mitigate For Impacts Of Development Upon SWH.

The Ordinance fails to provide any criteria for acceptable location of mitigation land. Mitigation measures must benefit the population of SWH which are impacted by urban development. For that reason, mitigation for loss of SWH foraging should be as close as feasible to the site of the impact, or to the nesting area of the SWH which are using the foraging habitat which is converted to development. Land for mitigation must have suitable characteristics for SWH foraging, and should not be fragmented or surrounded by urban development

Both Elk Grove and Sacramento County have developed, or are developing, maps, subject to DFG approval, of areas that are suitable for acquiring SWH foraging habitat to mitigate for urban development. The land, location of the land, the conservation operator, and the terms of the conservation easement must be approved by Elk Grove or Sacramento County, and DFG. All land acquired to mitigate for impacts of development in Natomas Basin must be in Natomas Basin, and approved by representatives of DFG and FWS on the NBHCP Technical Advisory Committee.

By contrast, the proposed Rancho Cordova Ordinance gives the City complete discretion to determine mitigation ratio, location, and terms of conservation easement, even though there is no evidence that City has the biological expertise necessary to make such determinations. Under the proposed ordinance, mitigation land can be designated in a distant location or another County that will be of no benefit to local SWH populations impacted by City's development.

Ordinance §16.130.040(a)(i) (applicant provides mitigation land) fails to state any acceptable location or criteria for location of mitigation land, nor does it state that City has discretion to determine whether the location of the mitigation land is acceptable. This deficiency invites developers to assert that City does not have discretion to refuse a developer's offer of proposed mitigation land in another County or distant from Rancho Cordova.

The proposed Ordinance requires City to consult with DFG, but City remains free to disregard DFG's advice. There is no requirement for DFG approval of the location of mitigation land, amount of land to be preserved, mitigation and monitoring plan, SWH foraging value of land to be developed (which determines the amount of the fee), or the provisions of conservation easements (which would exclude uses incompatible with SWH foraging.) The result is that City is empowered to make case-by-case determinations on adequacy of mitigation measures for

future projects with no standard on which to base such determinations, and with no evidence that City has expertise to make such biological determinations. This is essentially "mitigation shall be whatever City decides", which not satisfy CEQA requirements for mitigation measures, and would not support CEQA findings that impacts of a project have been mitigated to less than significant, or mitigated at all.

DFG approval is mandatory only for the option of §16.130.040(a)(iii), developer make a deal with DFG; and for SWH credit on vernal pool mitigation land, §16.130.060.

Proposed Ordinance §16.130.040(a)(i) allows the project applicant, or someone selected by applicant, to control and monitor the mitigation land, which provides no assurance that the monitoring will be adequate or that the conservation elements of the easement will be enforced. "Landowner-friendly" easement monitoring has been abused elsewhere. Monitoring should be done by a qualified non-profit conservation trust approved by DFG.

Proposed Ordinance §16.130.040(a)(i) authorizes designation of an agency other than DFG as a third party beneficiary to a conservation easement. What is an "agency"?? Could the City name itself, or an entity created by the City, as the "agency" to be third party beneficiary? There have been serious problems with non-enforcement of conservation easements in other communities, and my clients are concerned about this happening locally.

Rancho Cordova's Ordinance would be much more credible if DFG's approval were required for determination of the suitability and location of the proposed mitigation land, conservation operator charged with monitoring the conservation easement, and the provisions and restrictions of conservation easements; and if DFG were named as a third-party beneficiary for enforcement for all conservation easements. DFG has expertise which City lacks, and it is charged with protection of wildlife.

In all likelihood, City's rejection of DFG's advice during project-specific consultation would be construed as strong evidence of the inadequacy of the mitigation approved by City, and would invite litigation.

4. SWH Impact Mitigation Credit for Vernal Pool Mitigation

Much of Rancho Cordova's vernal pool preserve land is within areas of urban development. Vernal pool preserves located in southeast Sacramento County are too distant from SWH nests to be useful for SWH. DFG advises that land surrounded by urban development on three sides will not be used by SWH as foraging habitat. The SWH is a bird of the open plains (including cultivated farmland), and avoids areas of fragmented habitat. This includes open fields surrounded by development on three sides. See DFG's e-mailed comment for December 19, 2005 City Council. While there are a few SWH nesting in urban areas, most SWH avoid urban areas.

5. Reliance Upon The Proposed Ordinance Violates the California Endangered Species Act , §2081(b) Due To Failure To Mitigate For Impacts to SWH In Accordance With Fish and Game Code §2081

The California Endangered Species Act, Fish & Game Code §§ 2080 and 2081, states that no party can "take" a threatened or endangered species without issuance, by CDFG, of an Incidental Take Permit which meets the criteria of §2081. Section 2081 requires that all impacts upon SWH of the project which causes the taking to be "fully mitigated" and that the applicant "ensure adequate funding." "Taking" includes destruction of SWH foraging habitat, because loss of foraging habitat can cause deaths of nesting SWH chicks due to starvation. Repeated reproductive failure due to nest starvation guarantees the decline and eventual demise of any bird population.

The proposed Rancho Cordova SWH mitigation ordinance is a successor to the former Sacramento County SWH mitigation ordinance. Reliance on CEQA for Sacramento County's SWH mitigation was intended as a short-term stopgap measure for mitigation for projects approved prior to adoption of a Sacramento County HCP, which was never adopted. County's "interim" ordinance was extended, and then Rancho Cordova and Elk Grove, which were covered by the County's "interim" ordinance, incorporated as cities. The Sacramento County HCP is long overdue, but this does not excuse non-compliance with §2081. For the reasons stated above, the proposed Ordinance fails to meet §2081's requirement to "fully mitigate" and "ensure adequate funding."

A good CEQA mitigation program could accomplish the mitigation required by CESA only if impacts are fully mitigated. There is no evidence that this will occur under the proposed Ordinance.

Thank you for considering these comments. My clients will submit additional comments.

Very Truly Yours,

James P. Pachl

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December 19, 2005

VIA FACSIMILE & REGULAR MAIL
(916) 853-1691

Honorable Mayor Cooley and City Council Members
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Re: Urgency Ordinance No. 23-2005 – Swainson's Hawk Impact Mitigation

Dear Honorable Mayor and City Council Members:

We have reviewed the City of Rancho Cordova's (the "City's") proposed Urgency Ordinance Number 23-2005 (Swainson's Hawk Impact Mitigation) (the "Ordinance") and offer the following comments and concerns on behalf of the North State Building Industry Association ("BIA") and its members.

The BIA and its members recognize that the proposed interim Ordinance is a short term measure which attempts to address impacts and mitigation relating to the Swainson's hawk from urban development within the City until a final ordinance can be prepared and adopted. The BIA is nevertheless concerned with the lack of input from the development community in preparing the interim Ordinance, the potential precedent setting nature of the Ordinance and with how the City may attempt to implement the interim Ordinance.

The BIA and its members therefore request that the Council decline to adopt the proposed ordinance this evening, direct staff to work with the development community to address its concerns and bring a revised Ordinance back to the Council in early 2006. The BIA has the following specific concerns:

I. The Ordinance Could Result in the City Over Mitigating or Imposing Mitigation Measures Without a Constitutional Nexus.

The broad language of the Ordinance could result in the City over mitigating or requiring mitigation without a proper nexus between the mitigation measure being imposed on a particular project for the loss of Swainson's hawk habitat, and the actual effects of that project (or lack thereof), on such habitat within the City. The United States Supreme Court has determined that there must be an "essential nexus" between land being proposed for development and the mitigation measures proposed to be imposed. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 837.) In other words, a "rough proportionality" must exist between the extent of the impacts caused by a project and the extent to which exactions are imposed by the government to mitigate such impacts. (*Dolan v. City of Tigard* (1994) 512 U.S. 374, 391.) Thus, cities "must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." (*Ibid.*)

Much of the remaining developable open space land within the City contains poor or unsuitable foraging habitat for the Swainson's hawk. (See City Council Staff Report (September 19, 2005), p. 3 ("Due to the lower quality of the habitat in [the City] as compared to the County and Elk Grove, we propose to modify the per acre fee" to reflect these habitat differences).) To avoid delay and complications with implementing the interim Ordinance as proposed, the Council should direct staff specifically to:

(i) revise the language of the Ordinance to exempt projects that do not propose to develop lands suitable for Swainson's hawk foraging habitat;

(ii) provide for "like kind" or "like habitat" mitigation (e.g., mitigation of habitat that is of comparable quality to that being proposed for development);

(iii) exempt projects that mitigate for the loss of agricultural land, if that land also provides suitable Swainson's hawk foraging habitat; and

(iv) exempt or credit projects that preserve vernal pool grassland habitat also suitable for hawk habitat.

There is no legal basis or logical reason why project applicants should be required to mitigate separately for the loss of vernal pool grassland habitat, agricultural land and Swainson's hawk foraging habitat if the lands being mitigated for serves more than one purpose (e.g., as agricultural habitat or vernal pool grassland habitat which also serves as

Swainson's hawk habitat). The open ended nature of the Ordinance as proposed opens the door to this possibility.

The heavy reliance within the Ordinance on input and approval from the Department of Fish and Game is also problematic. Rather than grapple with whether the City will require project applicants to mitigate for the loss of Swainson's hawk habitat if the land to be developed contains poor or no foraging habitat, or specify how much mitigation land would be required under such circumstances, the Ordinance punts on the issue by stating "[t]he amount of land required to be preserved shall be determined by the City . . . in consultation with DFG." (Ordinance, p. 4.) Not only is this approach disconcerting from a time efficiency standpoint, City staff could find themselves in a position where they feel duty bound to impose mitigation where it might otherwise be unwarranted (e.g., when a particular project will result in development of open space land but that land is unsuitable for Swainson's hawk foraging habitat).

The Ordinance also ducks the issue of whether the City would require mitigation for projects simply because they are located within one mile of a Swainson's hawk nest. The Ordinance states "the impact would be more appropriately mitigated on a case by case basis." (Ordinance, p. 3.) Again, this open ended language could result in undue delay in the processing of projects that happen to be within one mile of a nest but nevertheless lack suitable hawk habitat. The provision could also result in over mitigation by the City if a project applicant were required to mitigate for Swainson's hawk habitat simply because the site was within one mile of a nest, regardless of the particular habitat value of the site.

Our suggested changes, including the changes proposed to the Ordinance in the enclosed document, would provide City staff with better guidance and the ability to better establish the required nexus between a particular project's impacts and the mitigation measure(s) being required. The development community, however, would welcome the opportunity to work with City staff to refine the Ordinance further.

II. The Ordinance is Overly Broad

As noted above, the Ordinance could be challenged for being unconstitutionally vague. (See, e.g., *Britt v. City of Pomona* (1990) 223 Cal.App.3d 265, 268 (terms of ordinance too vague to be understood and applied by persons of common intelligence and therefore violated due process).) Rather than leave the specifics of the ordinance to the City and Department of Fish and Game's future unfettered discretion, the resources of the City, project applicants and the Department would be better served if the City took more time now to articulate the precise conditions and standards that will be required by the City in implementing the Ordinance.

III. Proposed Changes

In light of the foreseeable pitfalls associated with implementation of the Ordinance as proposed, we suggest the City Council direct staff to make the attached changes. We suggest these changes because:

- The Ordinance does not specify to which type(s) of development it will apply. We therefore propose specific guidelines under the "Applicability" section.

- The Ordinance suggests that individual project applicants and the City will have to work with Department of Fish and Game to determine adequate mitigation, resulting in an inefficient and unnecessary use, on a project level basis, of City, DFG and project applicant resources.

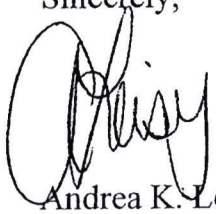
- The Ordinance declines to suggest a method for calculating how in-lieu fees will be calculated or for how much land a project applicant could be required to mitigate. Instead, it postpones this analysis after consulting with DFG.

- The Ordinance fails to specify where the acquisition of agricultural lands or conservation easements could take place (e.g., within the City limits or the greater Sacramento region) and how much the interim in-lieu mitigation fee will be to start. The overall lack of specificity will likely frustrate the permitting process and result in substantially higher fees than needed, thus rendering some projects infeasible.

* * *

For all of the reasons stated above, we urge the City Council to request that staff modify the language in the interim Ordinance prior to approval. If you have any questions or would like to schedule a meeting to discuss our client's concerns please let me know. Thank you for the opportunity to review and offer these comments.

Sincerely,



Andrea K. Leisy

Encl.

cc: Dennis M. Rogers, Senior Vice President
Ted A Gaebler, City Manager
Paul Junker, Planning Director

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ORDINANCE NO. 23-2005

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADOPTING RANCHO CORDOVA MUNICIPAL CODE CHAPTER 16.130, "SWAINSON'S HAWK IMPACT MITIGATION"

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose.

The purpose of this ordinance is to establish policies and procedures for mitigating adverse impacts to Swainson's hawk foraging habitat due to development within the City of Rancho Cordova ("City").

Section 2. Findings

a. The most effective means of mitigation for the loss of suitable Swainson's Hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat.

b. It is not always practical or feasible for project applicants to directly preserve habitat. In this case it may be more appropriate to allow the applicant to pay a fee to the City, or a conservation group, to find and purchase land on their behalf. This alternative would still constitute direct preservation.

c. The volume of past, existing, and anticipated development proposals in the City that will potentially require mitigation for the loss of Swainson's Hawk foraging habitat indicate an immediate need to assure adequate preservation of suitable Swainson's Hawk foraging habitat.

d. It is necessary for and in the interests of the public health, safety, and welfare that this Ordinance be effective immediately upon its adoption in order to provide adequate mitigation for the loss of Swainson's Hawk foraging habitat.

Section 3. Title 16, Chapter 16.130, "Swainson's Hawk Impact Mitigation," is hereby adopted to read as follows:

16.130.010 PURPOSE AND INTENT. The City of Rancho Cordova City Council finds that the continued expansion of urban uses into previously undeveloped lands within the City that are identified through the California Environmental Quality Act ("CEQA") process to provide suitable foraging habitat for the Swainson's Hawk, a listed threatened species under the California Endangered Species Act, will, absent mitigation, result in a significant reduction of such foraging habitat. The reduction in

foraging habitat can occur through requests for zoning changes of agriculturally zoned lands to land use designations that enable land to be reduced to parcel sizes too small to support Swainson's Hawk foraging habitat or through requests for land use entitlements for non-agricultural uses that are incompatible with the maintenance of Swainson's Hawk foraging habitat. The California Department of Fish and Game ("DFG") has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat. For any such requests, which are within ten miles of a Swainson's Hawk nest, the City Council desires to establish an additional means of mitigating for loss of Swainson's Hawk foraging habitat.

The City has identified, in consultation with DFG, that suitable foraging habitat for Swainson's Hawk exists in established land conservation programs in Sacramento County and also in agricultural and open lands currently not part of a conservation program. The City finds that the most effective means of mitigation for the loss of suitable Swainson's Hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat on an acre-per-acre ratio. The City also finds that it may be infeasible for some project applicants to acquire easements and that these applicants should have the option to mitigate adverse impacts to Swainson's Hawk foraging habitat through the payment of an impact mitigation fee. An impact mitigation fee, as established pursuant to this Chapter, will provide funds to acquire available land with suitable Swainson's Hawk foraging habitat values. Such acquisition will create mitigation for the loss of this habitat through real property acquisition in fee or through conservation easements to facilitate the expansion of land conservation programs which include the preservation and management of Swainson's Hawk foraging habitat.

The City Council recognizes that mitigation for foraging habitat for the Swainson's hawk is only feasible when replacement habitat is provided within the known foraging area for the hawk. In order to provide adequate mitigation for the loss of Swainson's Hawk foraging habitat under CEQA through the provisions of this Chapter, the City Council deems it necessary to expand the scope of this mitigation fee program to parcels located within the geographical foraging area of the Swainson's Hawk that are owned and/or managed by a conservation organization.

Deleted: where the location of mitigation parcels and the conservation organization are acceptable to DFG

The City Council finds that the direct preservation of suitable Swainson's Hawk foraging habitat or the payment of an in-lieu impact mitigation fee by project proponents for the actual acquisition of such habitat will fulfill the duty to mitigate under CEQA, by avoiding or substantially reducing otherwise significant impacts to Swainson's Hawk foraging habitat lands. The City Council intends that the requirement of direct preservation of suitable Swainson's Hawk foraging habitat or the requirement of an in-lieu impact mitigation fee, in an amount established by the City Council, shall be included as mitigation options. Said mitigation shall arise when the environmental review process for a request falling within the scope of this Chapter concludes that there would be a significant impact or a significant cumulative impact on the Swainson's Hawk foraging habitat for which mitigation, pursuant to all applicable provisions of the Public Resources Code section 21000 et seq. and the Cal. Code of Regulations, Title 24, section 15000 et seq., is required. The City Council also recognizes its continued authority to determine based on specific economic, social, legal, technical or other considerations that mitigation for Swainson's Hawk foraging habitat is infeasible or that other evidence presented to the City Council illustrates that mitigation is unnecessary.

16.130.020 DEFINITIONS.

(a). "CEQA" means the California Environmental Quality Act.
(b). "DFG" means the California Department of Fish and Game.
(c). "IN-LIEU FEE" means a fee a project applicant can pay to obtain "like habitat" for mitigation.
(d). "LIKE HABITAT" means habitat of comparable quality to that being developed.
(e). "PROJECT" shall have the same meaning as that term is used in Public Resources Code section 21065. A "project" shall be considered to consist of the total combined gross acreage of a parcel or parcels included in a proposal subject to CEQA review.

16.130.030 APPLICABILITY.

(a) This Chapter shall apply to any project that has been determined through the CEQA process to result in a significant adverse impact or significant adverse cumulative impact on Swainson's Hawk foraging habitat, prior to mitigation.

(b) This Chapter shall apply to any request:

(1) For a change in land use designation from an Agricultural Designation to an Urban Designation, or
(2) To any request to subdivide five acres or more of contiguous land zoned AR-1 or AR-2, or
(3) To any request for a land use entitlement for a non-agricultural use of land of five acres or more zoned with an Agricultural Designation, or
(4) To any request for a land use entitlement for a non-agricultural use of land five acres or more in size zoned AR-I or AR-2, or
(5) To any public improvement project proposed by any department or agency of Sacramento County on land with an Agricultural Designation, or
(6) To any request to subdivide five (5) acres or more of contiguous land zoned as an Urban Designation to less than five (5) acres.

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(c) This Chapter shall apply to any request falling within subsection (b) for which all of the following criteria have been satisfied:

(1) The entire underlying parcel(s) for the request are located within the defined scope of this Chapter,

(2) The underlying parcel(s) for the request are identified through the CEQA process, to provide suitable Swainson's Hawk foraging habitat, and

(3) The request will result in a significant impact or significant cumulative impact on Swainson's Hawk foraging habitat for which mitigation measures have been identified as necessary to avoid or substantially reduce the impact.

(d) This Chapter shall apply to any project approved prior to the effective date of this Chapter which was conditioned to require mitigation for impacts to Swainson's Hawk foraging habitat and which mitigation has not been completed through the payment of a fee or other mechanism included in such mitigation measure.

(e) If a project applicant acquires a perpetual conservation easement(s) or donates land in fee title to a nonprofit organization approved by the City to mitigate for the loss of agricultural land or vernal pool grassland, no additional mitigation measures shall be required if that land also provides suitable foraging habitat for the Swainson's hawk.

(f) If a project applicant preserves vernal pool grassland habitat and such preservation also results in preserving Swainson's hawk foraging habitat, the applicant shall receive credit toward any additional mitigation required for the hawk.

16.130.040 CONDITIONS.

(a) On and after the effective date of this Chapter, for any project falling within the provisions of Section 16.130.030 of this Chapter, the following mitigation measure shall be included as an option to reduce the impact to Swainson's Hawk foraging habitat;

"The project applicant shall implement one of the following options in order to mitigate for the loss of Swainson's Hawk foraging habitat as a result of the proposed project:

(1) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall preserve an appropriate amount of suitable foraging habitat. The determination shall be made based on the quality of the land proposed to be developed. This land shall be protected through a fee title or conservation easement acceptable to the City of Rancho Cordova in consultation with DFG. Perpetual conservation easements shall be recorded with a conservation entity or organization formed pursuant to section 501(c)(3) of the internal revenue code or to another entity deemed acceptable by the City. Conservation easements shall be accompanied by a monitoring and maintenance plan approved by the City, if necessary. Alternatively, applicants may pay to the City a mitigation operations and maintenance fee to cover the costs of administering, monitoring and enforcing the easement or managing the property in fee title in an amount determined by the receiving entity, not to exceed $3,500 per acre. The actual amount will be calculated by the receiving entity by the use of the Property Analysis Record (PAR) software program or other generally accepted, attribute based, site specific method for calculating in perpetuity endowments for preserves; OR

(2) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs

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first, the project applicant shall submit payment of Swainson's Hawk Impact Mitigation Fee to the City of Rancho Cordova in the amount set forth by Resolution of the City Council and as may be amended from time to time and to the extent that Chapter 16.130 remains in effect. If habitat proposed for urbanization is considered by the City to be prime habitat, the full fee shall be paid per acre of habitat impacted. If it is determined that the land proposed for conversion is of lower quality than prime habitat, the applicant may pay a reduced percentage of the fee for each acre of habitat to be converted. Any reduction in the Swainson's Hawk Mitigation Fee shall be determined based on the quality of the habitat proposed for conversion; OR

(b) The requirement of direct land preservation or payment of an impact mitigation fee established pursuant to this Chapter is also applicable to those projects that were approved prior to the effective date of this Chapter and which are conditioned to require mitigation for impacts to Swainson's Hawk foraging habitat to include the option to participate in a future Swainson's Hawk mitigation policy/program adopted by the City Council, provided the property owner/developer of any such project has not yet completed an alternative mitigation measure for impacts to Swainson's Hawk foraging habitat and provided that the parcel(s) included in such a previously granted request fall within the scope of this Chapter as set forth in Section 16.130.030.

16.130.050 IMPACT MITIGATION FEE. The impact mitigation fee shall be in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time.

16.130.060 IMPACT MITIGATION CREDIT. Full or partial mitigation credit (for fee or direct preservation) may be given for agricultural habitat land, vernal pool grassland or other preserves acquired or preserved by a project applicant in perpetuity through conservation easements and which contain suitable Swainson's Hawk foraging habitat. Preserves may include those established, if any, pursuant to a previously approved Mitigation Monitoring and Reporting Program for the subject parcel(s). Prior determination by DFG of the viability of the preserve for Swainson's Hawk foraging habitat is required. Preserves deemed viable by DFG shall receive credit on a 1:1 ratio. In the event that the credit received does not satisfy the acreage required for the mitigation obligation, additional mitigation shall be required through any of the other mitigation measure options identified in the applicable environmental report to the extent necessary to avoid or substantially reduce the impacts on the Swainson's Hawk foraging habitat to a less than significant level. If preserve land for vernal pool grassland or other agricultural habitat land is also used as a preserve for Swainson's Hawk, all easements must be recorded at the same time, unless otherwise approved by the Planning Director.

16.130.110 AUTHORITY OF CITY COUNCIL TO OVERRIDE MITIGATION MEASURES. Nothing herein shall be construed to preclude the City Council's consideration or approval of other means of mitigating significant impacts or significant cumulative impacts on Swainson's Hawk foraging habitat or to limit the City Council's authority to find certain mitigation measures infeasible for reasons permitted by CEQA.

Section 4. CEQA

This action qualifies as a Section 15308, Class 8 Exemption; Actions by Regulatory Agencies for the protection of the environment.

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Section 5. No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council, and shall expire on December 31, 2006.

ADOPTED, THIS ___ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

-----Original Message-----
From: Judith Lamare [mailto:judelam@sbcglobal.net]
Sent: Friday, January 06, 2006 3:17 PM
To: Paul Junker
Cc: Jim Pachl; Vicki Lee 916-447-3670
Subject: Re: Rancho Cordova Swainson's Hawk Mitigation Program

Dear Paul:

Thank you very much for your concern and work on mitigating impacts of development in Rancho on Swainson's Hawks.

Speaking for both Friends of the Swainson's Hawk and for Sierra Club, regarding Rancho Cordova's Swainson's Hawk mitigation program ordinance update, we suggest the following:

Development Should Be Required to Provide Suitable Mitigation Land, Approved by City of Rancho Cordova, DFG, and the Conservation Operator, Prior to Issuance of Grading Permits

As stated above, fee-based SWH mitigation programs of the County of Sacramento and City of Elk Grove faced similar failure due to rapidly-escalating land prices. However, Sacramento County and Elk Grove solved their problem by amending their SWH Mitigation Ordinances to require that developers provide one acre of land for each acre developed, plus a land or conservation easement management and monitoring fee, prior to any site disturbance, such as clearing or grubbing, or issuance of grading permits, whichever occurs first. Land acquired for SWH mitigation under the Elk Grove and Sacramento County SWH mitigation programs must be approved in advance by DFG, and City of Elk Grove or County, and accepted by the Conservation Operator (presently The Nature Conservancy). DFG and Elk Grove and County are developing maps of areas suitable for SWH mitigation which are reasonably close to populations of SWH affected by development.
Projects of less than 40 acres are allowed to pay a mitigation fee of approximately $18,000 per acre.

FOSH and Sierra Club urge Rancho Cordova to reject the proposed fee option, and instead require that the developer acquire one acre of land, by easement or fee title, suitable for SWH foraging habitat for each acre developed, and transfer title of the easement or land to a suitable Conservation Operator, along with a fee payment in an amount sufficient to endow the operation, management, and monitoring of the land in perpetuity. The location of the land, terms of the conservation easement, and the Conservation Operator should be approved by City of Rancho Cordova, Department of Fish and Game, and the Conservation operator. Mitigation land, or a conservation easement thereon, equal in size to the area to be developed should be transferred to the Conservation Operator prior to grubbing or site disturbance (whichever occurs first.)

The mitigation land should be located as close as possible to the area impacted by development so that the local population of SWH impacted by loss of habitat due to development will receive the benefit of the preservation of nearby SWH foraging habitat. The residents of Rancho Cordova would also receive the benefit of permanent open space preservation near Rancho Cordova.

To mitigate for Rancho Cordova development, SWH mitigation land would generally be within 5 miles of Rancho Cordova, in Sacramento County, generally south of Hwy 50 to the Consumnes corridor, to the extent determined suitable by DFG and City. More precise maps can be developed by Rancho and DFG.

Please keep me informed about the staff direction and any council agenda items and staff reports to council.

Thank you, Jude

Jude Lamare, President
Friends of Swainson's Hawk
817 -14th St., 100
Sacramento, Ca. 95814
916-447-4956
916-447-8689 fax
www.swainsonshawk.org
president@swainsonshawk.org

or judelam@sbcglobal.net

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MEMORANDUM

DATE: **January 17, 2006**

TO: **City Council Members**

FROM: **Planning Department**

SUBJECT: **Ordinance Adopting RCMC Chapter 16.130, "Swainson's Hawk Impact Mitigation."**

STAFF RECOMMENDATION

Adopt Non-Urgency Ordinance No. 04-2006.

BACKGROUND AND ANALYSIS

The attached ordinance is a non-urgency version identical to the urgency ordinance adopting Municipal Code Chapter 16.130, "Swainson's Hawk Impact Mitigation." For additional background and analysis on this item, please refer to the staff report for the urgency ordinance.

Like the urgency ordinance, the attached ordinance is intended to be an interim ordinance and will, by its terms, expire on December 31, 2006. Staff is currently in discussion with both local development interests and environmental groups on ways of improving Swainson's Hawk Impact Mitigation in Rancho Cordova. It is staff's expectation that a new mitigation process/ordinance will be introduced in 2006.

The City received comment letters from Dan Gifford on Behalf of Department of Fish and Game (DFG), James Pachl on Behalf of Sierra Club and Friends of Swainson's Hawk (FOSH), Remy, Thomas Moose and Manley, LLP on behalf of the North State Building Industry Association (BIA), and Judith Lamare on Behalf of Sierra Club and FOSH. These comment letters are attached. Staff is currently in the process of drafting responses to these comments. All responses will be provided to the City Council prior to the January 17, 2006 meeting, and these responses will be addressed at the Council meeting.

MOTION

"I move that the Rancho Cordova City Council waive the first reading, introduce the ordinance establishing Rancho Cordova Municipal Code Chapter 16.130, "Swainson's Hawk Impact Mitigation," and continue it to the January 17, 2006, City Council meeting for adoption."

ATTACHMENT

1. Ordinance No. 04-2006 adopting Rancho Cordova Municipal Code Chapter 16.130, "Swainson's Hawk Impact Mitigation."
2. Comment Letters

ORDINANCE NO. 04-2006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADOPTING RANCHO CORDOVA MUNICIPAL CODE CHAPTER 16.130, "SWAINSON'S HAWK IMPACT MITIGATION"

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose

The purpose of this ordinance is to establish policies and procedures for mitigating adverse impacts to Swainson's hawk foraging habitat due to development within the City of Rancho Cordova ("City").

Section 2. Findings

a. The most effective means of mitigation for the loss of suitable Swainson's hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat.

b. It is not always practical or feasible for project applicants to directly preserve habitat. In this case it may be more appropriate to allow the applicant to pay a fee to the City, or a conservation group, to find and purchase land on their behalf. This alternative would still constitute direct preservation.

c. The volume of past, existing, and anticipated development proposals in the City that will potentially require mitigation for the loss of Swainson's hawk foraging habitat indicate an immediate need to assure adequate preservation of suitable Swainson's hawk foraging habitat.

Section 3. Title 16, Chapter 16.130, "Swainson's Hawk Impact Mitigation," is hereby adopted to read as follows:

16.130.010 PURPOSE AND INTENT. The City of Rancho Cordova City Council finds that the continued expansion of urban uses into previously undeveloped lands within the City that are identified through the California Environmental Quality Act ("CEQA") process to provide suitable foraging habitat for the Swainson's hawk, a listed threatened species under the California Endangered Species Act, will, absent mitigation, result in a significant reduction of such foraging habitat. The reduction in foraging habitat can occur through requests for zoning changes of agriculturally zoned lands to land use designations that enable land to be reduced to parcel sizes too small to support Swainson's hawk foraging habitat or through requests for land use entitlements for non-agricultural uses that are incompatible with the maintenance of Swainson's hawk foraging habitat. The California Department of Fish and Game ("DFG") has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat. For any such requests, which are within ten miles of a Swainson's hawk nest, the City Council desires to establish an additional means of mitigating for loss of Swainson's hawk foraging habitat.

The City has identified, in consultation with DFG, that suitable foraging habitat for Swainson's hawk exists in established land conservation programs in Sacramento County and also in agricultural and open lands currently not part of a conservation program. The City finds that the most effective means of mitigation for the loss of suitable Swainson's hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat on an acre-per-acre ratio. The City also finds that it may be infeasible for some project applicants to acquire easements and that these applicants should have the option to mitigate adverse impacts to Swainson's hawk foraging habitat through the payment of an impact mitigation fee. An impact mitigation fee, as established pursuant to this Chapter, will provide funds to acquire available land with suitable Swainson's hawk foraging habitat values. Such acquisition will create mitigation for the loss of this habitat through real property acquisition in fee or through conservation easements to facilitate the expansion of land conservation programs which include the preservation and management of Swainson's hawk foraging habitat.

The City Council recognizes that mitigation for foraging habitat for the Swainson's hawk is only feasible when replacement habitat is provided within the known foraging area for the hawk. In order to provide adequate mitigation for the loss of Swainson's hawk foraging habitat under CEQA through the provisions of this Chapter, the City Council deems it necessary to expand the scope of this mitigation fee program to parcels located within the geographical foraging area of the Swainson's hawk that are owned and/or managed by a conservation organization where the location of mitigation parcels and the conservation organization are acceptable to DFG.

The City Council finds that the direct preservation of suitable Swainson's hawk foraging habitat or the payment of an impact mitigation fee by project proponents for the actual acquisition of such habitat will meet the requirements of mitigation under CEQA, by reducing the level of impact to Swainson's hawk foraging habitat to a less than significant level for those parcels falling within the scope of this Chapter as set forth herein. The City Council intends that the requirement of direct preservation of suitable Swainson's hawk foraging habitat or the requirement of an impact mitigation fee, in an amount established by the City Council, shall be included as mitigation options. Said mitigation shall arise when the environmental review process for a request falling within the scope of this Chapter concludes that there would be a significant impact or a significant cumulative impact on the Swainson's hawk foraging habitat for which mitigation, pursuant to all applicable provisions of the Public Resources Code section 21000 et seq. and the Cal. Code of Regulations, Title 24, section 15000 et seq., is required. The City Council also recognizes its continued authority to determine based on specific economic, social, legal, technical or other considerations that mitigation for Swainson's hawk foraging habitat is infeasible or that evidence has been presented to the City Council, based upon which the Council eliminates the need for such mitigation.

The City Council specifically recognizes that projects on land the boundaries of which are within one mile of a Swainson's hawk nest, represents an impact which would be more appropriately mitigated on a case by case basis. Therefore, the provisions of this Chapter shall not be applicable as mitigation for impacts resulting from the approval of changes in land use designations or for the grant of land use entitlements on parcel(s) which are within one mile of a Swainson's hawk nest.

16.130.020 DEFINITIONS.

(a) "CEQA" means the California Environmental Quality Act.
(b) "DFG" means the California Department of Fish and Game.
(c) "PROJECT" shall have the same meaning as that term is used in Public Resources Code section 21065. A "project" shall be considered to consist of the total combined gross acreage of a parcel or parcels included in a proposal subject to CEQA review.

16.130.030 APPLICABILITY.

(a) This Chapter shall apply to any project that i) is located in excess of one mile of a Swainson's hawk nest, and ii) has been determined through the CEQA process to result in a potential significant impact or potential significant cumulative impact on Swainson's hawk foraging habitat

(b) This Chapter shall apply to any project located within one mile of a Swainson's hawk nest, if through the CEQA process it is determined that the mitigation measures of this Chapter will reduce adverse impacts to a less than significant level.

(c) This Chapter shall apply to any project approved prior to the effective date of this Chapter which was conditioned to require mitigation for impacts to Swainson's hawk foraging habitat and which mitigation has not been completed through the payment of a fee or other mechanism included in such mitigation measure.

16.130.040 CONDITIONS.

(a) On and after the effective date of this Chapter, for any project falling within the provisions of Section 16.130.030 of this Chapter, the following mitigation measure shall be included as an option to reduce the impact to Swainson's hawk foraging habitat of that particular project to a less than significant level:

"The project applicant shall implement one of the following options in order to mitigate for the loss of Swainson's hawk foraging habitat as a result of the proposed project:

(i) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall preserve an appropriate amount of suitable foraging habitat. The amount of land required to be preserved shall be determined by the City of Rancho Cordova in consultation with DFG. The determination shall be made based on the quality of the land proposed for conversion and the quality of the land proposed for preservation. This land shall be protected through a fee title or conservation easement acceptable to the City of Rancho Cordova in consultation with DFG. Conservation easements shall name DFG (or another agency acceptable to the City) as a third-party beneficiary to the easement with full right of enforcement. Conservation easements shall be accompanied by a monitoring and maintenance plan approved by the City. In the alternative, applicants may pay an easement monitoring and maintenance fee in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time; or

(ii) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs

first, the project applicant shall submit payment of Swainson's Hawk Impact Mitigation Fee to the City of Rancho Cordova in the amount set forth by Resolution of the City Council and as may be amended from time to time and to the extent that Chapter 16.130 remains in effect. The fee set forth by City Council Resolution shall represent the amount required to purchase one acre of prime Swainson's hawk foraging habitat. If habitat proposed for conversion is considered by the City in consultation with DFG to be prime habitat, the full fee shall be paid per acre of habitat impacted. If it is determined by the City in consultation with DFG that the land proposed for conversion is of lower quality than prime habitat, the applicant may pay a reduced percentage of the fee for each acre of habitat to be converted. Any reduction in the Swainson's Hawk Mitigation Fee shall be determined by the City in consultation with DFG, and shall be determined based on the quality of the habitat proposed for conversion; or

(iii) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall, to the satisfaction of the DFG, prepare and implement a Swainson's hawk mitigation plan that will include preservation of Swainson's hawk foraging habitat."

(b) The requirement of direct land preservation or payment of an impact mitigation fee established pursuant to this Chapter is also applicable to those projects that were approved prior to the effective date of this Chapter and which are conditioned to require mitigation for impacts to Swainson's hawk foraging habitat to include the option to participate in a future Swainson's Hawk Mitigation Policy/Program adopted by the City Council, provided the property owner/developer of any such project has not yet completed an alternative mitigation measure for impacts to Swainson's hawk foraging habitat and provided that the parcel(s) included in such a previously granted request fall within the scope of this Chapter as set forth in Section 16.130.030.

16.130.050 IMPACT MITIGATION FEE. The impact mitigation fee shall be in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time.

16.130.060 IMPACT MITIGATION CREDIT. Mitigation credit (for fee or direct preservation) may be given for vernal pool or other preserves which contain suitable Swainson's hawk foraging habitat, including preserves that are established pursuant to a previously County approved Mitigation Monitoring and Reporting Program for the subject parcel(s). Prior determination by DFG of the viability of the preserve for Swainson's hawk foraging habitat is required. Preserves deemed viable by DFG shall receive credit on a 1:1 ratio. In the event that the credit received does not satisfy the acreage required for the mitigation obligation, additional mitigation shall be required through any of the other mitigation measure options identified in the applicable environmental report to the extent necessary to reduce the impacts on the Swainson's hawk foraging habitat to a less than significant level. If preserve land for vernal pools or other habitat is also used as a preserve for Swainson's hawk, all easements must be recorded at the same time. Credit will not be given for Swainson's hawk foraging habitat if the preserve was previously set aside for another type of habitat and mitigation for Swainson's hawk is proposed at a later date, and vice versa.

16.130.070 AUTHORITY OF CITY COUNCIL TO OVERRIDE MITIGATION MEASURES. Nothing herein shall be construed to preclude the City Council's consideration or approval of other means of mitigating significant impacts or significant cumulative impacts on Swainson's hawk foraging habitat or to limit the City Council's authority to override mitigation measures for reasons permitted by CEQA.

Section 4. CEQA

This action qualifies as a Section 15308, Class 8 Exemption; Actions by Regulatory Agencies for the protection of the environment.

Section 5. No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7. Effective Date and Publication

Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Grapevine Independent, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption, and shall expire on December 31, 2006.

ADOPTED, THIS ___ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

Comments from Dan Gifford, DFG.txt

-----Original Message-----
From: Dan Gifford [mailto:dgifford@dfg.ca.gov]
Sent: Tuesday, December 06, 2005 11:30 AM
To: Paul Junker
Subject: Re: Rancho Cordova Swainson's Hawk Ordinance

Paul,

Thanks for the opportunity to review the Ord.
Ive attached our comments. Ifyou have any questions please call 209-369-8851.

>>> "Paul Junker" <pjunker@cityofranchocordova.org> 12/1/2005 11:50 AM
>>> >>>
All,

Attached please find the City or Rancho Cordova's draft Swainson's Hawk Ordinance. As we have discussed, this is an interim solution that will be replaced by a more comprehensive ordinance within one year (likely sooner). Please review with your interested parties and provide comments back to me by end of day Wednesday, December 7, 2005. We intend to take this urgency ordinance to the City Council for review and adoption on December 19, 2005.

Thanks for your time and your comments.

Paul

Paul Junker, Planning Director
City of Rancho Cordova
(916) 942-0277

Comments on Rancho Cordova's Ordinance. 23-2005:

1. Page 2, 1st paragraph;
The documents states that: " The California Department of Fish and Game (DFG) has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat." The draft Ordinance doesn't cite the source of the quotation.

DFG's , Staff Report regarding Mitigating for Impacts to Swainson's Hawk (*Buteo swainsoni*) in the Central Valley of California, (1994) , states that:

> " Since small disjunct parcels of habitat seldom provide foraging habitat needed to sustain the reproductive effort of a Swainson's hawk pair, Staff does not recommend requiring mitigation pursuant to CEQA nor a Management Authorization by the Department for infill (within an already urbanized area) projects in areas which have less than five acres of foraging habitat and are surrounded by existing urban development ....",

Other than the information contained in it's 1994 Swainson's hawk guidelines, DFG has not made a "determination" regarding the minimum size of an individual parcel and it's value as foraging habitat.

Therefore, we recommend that statement noted above either be removed, or revised so that it is consistent with DFG's 1994 guidelines.

2. Page 3, 2nd paragraph;
DFG has worked with Sacramento County, and the City of Elk Grove on similar Swainson's hawk mitigation programs. One of the goals of these programs is to streamline (speed-up) and simplify the mitigation process. Requiring case-by-case review of projects within 1 mile of an active nest may defeat efforts to speed-up the mitigation process. Due to staff limitations, DFG prefers to work with CEQA leads in a programmatic approach where possible.

Rather than institute a process of case-by-case review, DFG prefers to develop a close working relation with Rancho Cordova in the administration of its mitigation program by identifying mitigation methods that would cover most, if not all, projects in advance, instead of deferring to a case-by-case process.

We recommend that reference to case-by-case review be removed from the draft Ordinance.

Page 5 , 16. 130.060 Impact Mitigation Credit;
This section describes the City of Rancho Cordova intent to allow so-called, "multi-species mitigation". It states that if vernal pool or other mitigation lands contain "suitable Swainson's hawk foraging habitat" they may be given "credit" as Swainson's hawk mitigation.

Our experience in the Rancho Cordova indicates that vernal pool preserves are often retained on-site, and that these preserves are usually not connected to the large landscape required by foraging Swainson's hawks. We are concerned that many vernal pool mitigation preserves are too small, and/or situated within an urban setting, and will not provide viable Swainson's hawk foraging habitat. While the section defers approval of proposed multi-species preserves to DFG ("Prior determination by DFG of the viability of the preserve for Swainson's hawk foraging habitat is required...") It's not reasonable to anticipate that DFG would approve of Swainson's hawk mitigation within existing or future urban development.

While DFG is not opposed to multi-species mitigation we feel that the opportunities in Rancho Cordova do not warrant it's inclusion in the draft Ordinace. We recommend that this section be removed.

-----Original Message-----
From: James P. Pachl [mailto:jpachl@sbcglobal.net]
Sent: Friday, December 09, 2005 1:23 PM
To: Paul Junker
Cc: Judith Lamare; Dan Gifford
Subject: proposed "interim" SWH ordinance

Paul,

Confirming our conversation of December 8, 2005, wherein you advised me that only 25 acres was likely to be approved for development and thus be subject to SWH mitigation conditions, between now and December 31, 2006. You said that The Preserve at Sunridge will probably be delayed past then because of issues with the Corps of Engineers.

I realize that the interim ordinance expires December 31, 2006, and that you will propose a more comprehensive permanent SWH mitigation program before then. However, our experience has been that interim measures tend to be renewed, especially if the developers want the "interim" measure to continue. My clients have no choice but to assume that this may occur, and that there is the potential for much more than 25 acres to use the proposed interim ordinance.

The Elk Grove and Sacto County ordinances require land dedication for development in excess of 40 acres, and payment of a fee for projects of less than 40 acres. If, as you suggest, there will only be one 25-acre project approved under this "interim" ordinance, then why not adopt an Elk Grove ordinance as "interim' at this time, including an option for payment of a fee in lieu of dedication for projects of less than 40 acres. That would
(1) solve the problem of the 25-acre project and (2) establish an ordinance that would be effective for larger projects if such were to occur under the Interim Ordinance, or if the interim ordinance were extended.

I also noticed that proposed SWH mitigation measure of Preserve at Sunridge DEIR includes the option of participating in future SWH mitigation ordinance, which encompasses the proposed Interim Ordinance. I will submit a supplemental comment letter addressing that option.

SERIOUS PROBLEM, POTENTIAL FOR ABUSE: nothing prevents landowner from paying fee under proposed "interim" ordinance long before project approval or issuance of grading permit. There might be a rush to do this before adoption of more demanding permanent ordinance. As you may recall, a number of North Natomas landowners and developers having no approved project paid then-current low NBHCP mitigation fees immediately before approval of a pending mitigation fee increase in August 1999.

Should require that landowner be subject to mitigation ordinance that exists at time of issuance of grading permit, to avoid that problem; including a catch-up fee provision.

I am troubled by the suggestion that the Elk Grove mitigation fee (for parcels of less than 40 acres) may be too high. I am aware of one transaction in which Elk Grove acquired a SWH conservation easement on 150
(?) acres for $15,000 per acre, (exclusive of O and M costs) using fees collected under former Elk Grove SWH fee ordinance.
What is the basis for the assertion that Elk Grove fee may be too high?

Proposed ordinance, §16.130.040(a)(ii) lacks a fee component to provide an endowment for monitoring and administration. Why?

The Elk Grove and Sacramento County ordinances include such a component, based on the PAR developed by the Center for Natural Lands Management.

The implementing provisions of the ordinance §§16.130.040, et seq) do not require that mitigation land be in Sacramento County. Developer attorneys will notice that and cause problems.

§16.130.040(a)(i) allows the project applicant, or someone selected by applicant, to control and monitor the mitigation land, which is absolutely no assurance that the monitoring will be adequate or that the conservation elements of the easement will be enforced. "Landowner-friendly" easement monitoring has been abused elsewhere. Monitoring should be done by a qualified non-profit conservation trust approved by DFG. Should not include Habitat Management Foundation or Golden State Land Conservancy.

§16.130.040(a)(i) authorizes use of an agency other than DFG as a third party beneficiary to easement. What is an "agency"?? Could the City name itself, or an entity created by the City, as the "agency" to be third party beneficiary? There have been serious problems with enforcement of conservation easements in other communities, and my clients are concerned about this happening locally.

Why not name DFG as a third-party beneficiary in all instances with right of enforcement??

There are numerous requirements for consultation with DFG, but no requirement for DFG approval of the location of mitigation land, amount of land to be preserved, mitigation and monitoring plan, SWH foraging value of land to be developed, which determines the amount of the fee.

"Consultation with DFG" means that City is free to disregard DFG's recommendation, which is unacceptable to my clients. The result is that City is empowered to make case-by-case determinations on adequacy of mitigation measures for future projects with no standard on which to base such determinations, and with no evidence that City has expertise to make such biological determinations. This is essentially "mitigation shall be whatever City decides", which not satisfy CEQA requirements for mitigation measures, and would not support CEQA findings that impacts of a project have been mitigated to less than significant, or mitigated at all.

DFG approval is mandatory only for the option of §16.130.040(a)(iii), developer make a deal with DFG; and for SWH credit on vernal pool mitigation land, §16.130.060.

As to the fee option, the record shows that programs to mitigate for impacts on SWH by payment of a fee have uniformly failed. Examples are Yolo, former Sacramento County, former Elk Grove, San Joaquin HCP.
Experience has shown that attempts to correlate a fee paid today with the cost of land or conservation easements acquired tomorrow have uniformly failed. CEQA Findings that payment of a fee will mitigate impacts on SWH to less than significant, or mitigate at all, would not be supported by substantial evidence.

Please also understand that 1 to 1 mitigation is not close to real mitigation - it means that for 2 acres of existing habitat, one is developed, and the other is preserves, leaving net SWH habitat of one acre where there used to be 2. Reducing this further, as is proposed by the ordinance, is disproportionate.

I will submit a formal comment letter to City Council next week.

I would appreciate a copy of the staff report and any revisions to the proposed SWH mitigation ordinance. I think it is in best interest of Rancho that the SWH mitigation ordinance require land dedication and DFG approvals of key elements so as to preclude that issue as basis for possible CEQA litigation. THANK YOU FOR THE OPPORTUNITY TO COMMENT.

Jim

James P. Pachl
Attorney at Law
817 - 14th Street, Suite 100
Sacramento, California, 95814
Tel: (916) 446-3978
Fax: (916) 447-8689 jpachl@sbcglobal.net

December 30, 2005

Paul Junker
Director of Planning
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

RE: Rancho Cordova Proposed Ordinance "Swainson's Hawk Impact Mitigation", City Council meeting, January 17, 2005.

Dear Mr. Junker,

Sierra Club and Friends of the Swainson's Hawk ("FOSH") asked me to review the proposed Urgency Ordinance and identical "regular" Ordinance Chapter 16.130.010, "Swainson's Hawk Impact Mitigation," scheduled for the Rancho Cordova City Council's consideration on January 17, 2005.

Proposed Ordinance §16.130.010 states that either direct preservation of suitable Swainson's Hawk ("SWH") foraging habitat or payment of an impact mitigation fee for acquisition of such habitat will meet the requirements of mitigation under CEQA, by reducing the level of impact to SWH foraging habitat "to a less than significant level." CEQA Findings that impacts of a specific project are mitigated to less than significant must be supported by substantial evidence.

Review of the proposed Ordinance and other relevant information shows no substantial evidence that would support CEQA findings that compliance with the proposed Ordinance would mitigate impacts to SWH foraging to less than significant. For that reason, projects relying on the proposed ordinance, particularly the fee option, as mitigation for SWH impacts, may invite legal challenge. It should be noted that projects in Rancho Cordova may also be exposed to possible legal challenge as to vernal pool, wetland, and possibly traffic issues. Therefore it would be in the best interest of Rancho Cordova to adopt a revised SWH mitigation ordinance that ensures full mitigation for impacts to SWH, thereby removing SWH mitigation as a potential litigation issue.

The proposed Ordinance expires on December 31, 2006. Rancho Cordova ("City") intends to adopt a more comprehensive but as-yet undefined long-term SWH mitigation ordinance/strategy during 2006. While not doubting City's sincerity, nonetheless the City

Council has authority to extend an "interim" ordinance indefinitely. The experience of other jurisdictions has shown that interim ordinances have a habit of being repeatedly extended, particularly if developers are more comfortable with the interim ordinance. Examples include the former Sacramento County SWH mitigation ordinance and the Yolo County SWH mitigation MOU's, which were intended as "temporary" pending adoption of Habitat Conservation Plans that do not yet exist and may never be adopted. Consequently, the adequacy of this Ordinance must be evaluated as though it may be extended indefinitely.

1. There Is No Evidence That Payment Of A Mitigation Fee Will Mitigate Impacts To SWH Habitat

Ordinance §16.130.040(a)(ii) would give the applicant the option of mitigating for loss of SWH foraging habitat by payment of a per-acre mitigation fee, in amount to be determined by subsequent Council resolution, which "shall represent the amount required to purchase one acre of prime SWH foraging habitat." Quite bluntly, any project approval which relies on payment of a fee under §16.130.040(a)(ii) as mitigation for impacts upon SWH foraging would be very vulnerable to successful CEQA litigation, as explained below.

a. The Mitigation Fee Fails to Include Funding for Monitoring, Management, or Administration of the Mitigation Land or Enforcement of Conservation Easements.

The Ordinance intends that mitigation will be by fee title or by conservation easement. Monitoring and enforcement of the land or easement will be needed to ensure that the land is suitably managed for SWH foraging habitat and that incompatible uses excluded, and for management and administration. The City of Elk Grove's financial analysis (in City staff's possession) for its adoption of Elk Grove's SWH mitigation ordinance in 2004 shows that a reasonable fee to cover such costs (not including cost of land or conservation easement) was approximately $2,300 per acre. It is clear that to simply "purchase" land or a conservation easement is not enough, and does not ensure that the land or conservation easement will be managed in a manner consistent with SWH foraging.

By failing to include a requirement for funding of monitoring, management, administration or enforcement of conservation easements, developers may argue that the Ordinance deprives the Council of the authority to impose such a fee upon developers, except by amending this Ordinance.

b. The Ordinance Fails to Provide Any Program, Mechanism, or Standards For Use of the Fee to Mitigate for Impacts to SWH

What happens to the fees once collected? Where, or in what areas may the mitigation land be acquired? Can mitigation land be acquired out of County or in a distant location? Whose approvals are necessary to acquire parcels for mitigation land or conservation easements? Who will acquire the mitigation land? Who will manage it or, if a conservation easement, monitor and enforce compliance with the conservation easement? There is no mitigation monitoring program, or funding for such a program, to assure that the SWH mitigation preserves or easements will function for the benefit of SWH in perpetuity.

Collecting a fee does not mitigate for anything, yet proposed §16.130.040(a)(ii) does no more than collect fees. The vague statements of good intention in §16.130.010 do not constitute a program, mechanism, or standard for the application of fees to acquire SWH foraging habitat.

c. It is Impossible To Determine Whether a SWH Mitigation Fee Paid Today Will be Sufficient to Acquire a Like Area of SWH Foraging Habitat

There is no way that Council can determine that a certain per-acre mitigation fee paid today will be adequate to acquire a like area of land at an unknown location at an unspecified later date. So-called "economic analyses" can give today's and yesterday's comparables, but cannot credibly predict the future price of unknown parcels.

Once the fee has been paid, the developer has met its habitat mitigation obligation and may complete construction even if the fee proves to be inadequate to buy a like amount of mitigation land. There is no assurance that the fees paid today by a developer will be sufficient to acquire the required habitat mitigation parcels in the future. That is so because the mitigation parcels to be acquired are not known at the time the fee is paid. Therefore, the price of the land cannot be known.

If land and management costs prove higher than fees paid, City can increase the mitigation fees for future developers. However, fee increases will apply only to land developed after the need for a greater fee becomes apparent and is implemented. Unless actual costs prove to be equal to costs projected in setting of the fee (which is rare), the Ordinance's funding mechanism depends on continual infusion of new developable land to provide funding for mitigation necessitated by previous development. The Ponzi scheme collapses when development is built out, or slows.

d. <u>All Fee-Based SWH Mitigation Programs in the Region Have Failed</u>

All other fee-based SWH mitigation programs in the region have failed miserably, including Rancho Cordova's former fee program, primarily because the mitigation fees proved far below the escalating cost of land and conservation easements. Rancho Cordova collected $606,262 under its former SWH mitigation ordinance to mitigate for 214 acres of development, which is $2,833 per acre - a fraction of today's cost of land or conservation easements - and has acquired nothing. Meanwhile, the cost of land and conservation easements continues to rise.

The City of Elk Grove and County of Sacramento also had fee-based SWH mitigation, which were considerably less vague than Rancho's proposed fee-based program. Both accumulated fees and failed to acquire <u>any</u> mitigation land. Both ordinances were subsequently modified to require developers of projects of 40 acres or more to provide suitable land or conservation easements, approved by DFG and the Conservation Operator, prior to issuance of grading permits. Developers of projects less than 40 acres have the option of paying a mitigation fee, currently calculated at approximately $18,000 per acre. The City of Sacramento and Sutter County require that landowners provide mitigation land for development in Natomas Basin, plus a sizable management and endowment fee, prior to issuance of grading permits.

The fee-based HCP of the San Joaquin County JPA (mitigating for all cities and County) has an enormous mitigation deficit, and has been threatened with revocation of Federal and State Incidental Take Permits by the U.S. Fish and Wildlife Service.

The fee-based "interim" SWH mitigation program of the Yolo County Habitat JPA has collected fees for nearly 2,700 acres of urban development, and has acquired nothing.

The San Diego County NCCP/HCP is a large-scale fee-based mitigation program which accumulated a huge mitigation deficit due to inadequate funding and escalating land prices, and was saved only by a State bond bail-out several years ago.

e. Approval Of Development Which Purports To Mitigate For Impacts On SWH By Paying A Mitigation Fee, Without Substantial (or Any) Evidence That Mitigation Will Actually Occur, Violates CEQA

A fee-based mitigation program is sufficient only if there is evidence that mitigation will actually occur. "[A} commitment to pay fees without any evidence that mitigation will actually occur is inadequate." See *Save our Peninsula Committee v. Monterey County* (2001) 87 Cal. App. 4th 99, 140, citing *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.

Under CEQA, a mitigation measure which is speculative is correctly deemed infeasible. Mitigation measures must be enforceable and feasible to implement. (Public Resources Code §21081.6(b), CEQA Guideline §15126.4(a)(2).) There must be reasonable certainty that adopted mitigation measures will be implemented. Adoption of a mitigation measure which is speculative or infeasible due to insufficient or speculative funding is a clear-cut violation of CEQA. CEQA requires that "*feasible mitigation measures will actually be implemented as a condition of development.*" (*Federation of Hillside and Canyon Associations v City of Los Angeles*, (2000) 83 Cal. App. 4th 1252, 1260, 1261). *Federation* addressed a situation wherein adopted traffic mitigation measures were infeasible due to lack of evidence that funding would be sufficient to implement those adopted mitigation measures. Same, see *Napa Citizens for Honest Government v Napa County* (2001) 91 Cal. App. 4th 342, 364; *Endangered Habitats League v County of Orange* (2005) 131 Ca. App. 4th 777, 785. The facts of *Federation, Napa,* and *Endangered Habitats* are similar to Rancho Cordova's proposed §16.130.040(a)(ii) (mitigation by fee payment), except that Rancho's ordinance does not even establish a mechanism or program for application of the fee to acquisition, management, and monitoring of mitigation land or enforcement of conditions of conservation easements.

f. Potential Abuse: Early Payment of Mitigation Fee Under "Interim" Ordinance To Avoid City's "Permanent" SWH Mitigation Ordinance to be adopted in 2006, or Fee Increases

The proposed Ordinance does not prevents landowners from paying fee under proposed "interim" ordinance long before project approval or issuance of a grading permit. This Ordinance invites a rush to do this before City's adoption of a more demanding permanent ordinance. As you may recall, a number of North Natomas landowners and developers having no approved project paid then-current low NBHCP mitigation fees immediately before approval of a pending mitigation fee increase in August 1999.

We respectfully suggest that the "interim" Ordinance include provision for a "catch-up" fee at time of issuance of grading permits if, at that time, the then-current fee is greater than the fee paid earlier, (which was Sacramento's solution); and that the applicant comply with all conditions of any revised SWH Mitigation Ordinance in effect at time of issuance of the grading permit.

2. There Is No Substantial Evidence That A Mitigation Ratio of Less Than One acre Preserved for Each Acre Developed Will Mitigate Impacts to SWH To Less Than Significant

Proposed Ordinance §16.130.040(a)(ii) ("mitigation" by fee payment) provides that the a mitigation fee sufficient to provide one acre of mitigation habitat for each acre developed shall be collected **only** if the habitat proposed for conversion is "considered by the City, in consultation with DFG," to be prime habitat. If not, then the applicant may pay a reduced fee.

Proposed Ordinance §16.130.040(a)(i) (applicant provides mitigation land) doesn't specify any mitigation ratio, leaving that determination to the City, in consultation with DFG.

By contrast, the SWH mitigation ordinances of City of Elk Grove, Sacramento County, Yolo County JPA, and the San Joaquin County HCP require one acre of SWH foraging habitat for every acre lost, regardless of the "habitat value", or distance from SWH nests, of the land developed.

The Natomas Basin HCP requires only a 0.5 to 1 mitigation ratio. However, mitigation land is held in fee title by the Natomas Basin Conservancy, and actively managed to maximize benefits to SWH. It is optimistically assumed that such active management for SWH benefits will result in higher habitat value than simply retaining private agriculture by a conservation easement. The Natomas Basin HCP's Conservation Program also relies on the assumption that new development in the Basin since 1997 will not exceed 17,500 acres for 50 years, and that the remaining agricultural area of the Basin (approx. 29,000 acres) will remain in agriculture for 50 years, which will continue to provide habitat.

It should be understood that a 1 to 1 mitigation ratio results in a 50% reduction of habitat. If there are two acres of habitat, and one is developed with a 1 to 1 mitigation ratio requirement, the net effect is that there remains one acre of habitat preserved where there were formerly two acres. There is no evidence that the Ordinance contemplates converting non-habitat land to habitat; nor does the Ordinance contemplate managing the mitigation habitat land to double its habitat value (which is the only way that a 1 to 1 mitigation ratio could fully mitigate.) For that reason, even a 1 to 1 mitigation ratio does not fully mitigate, although permanent preservation of existing SWH foraging habitat is better than no assurance of permanent preservation. A ratio of less than 1 to 1 is clearly inadequate.

The amount of mitigation must be considered in the context of the cumulative impacts of the combined effects of Rancho Cordova's development and other development in the region which, cumulatively, are eliminating huge areas of SWH nesting and foraging habitat. There is massive development approved, or pending and very likely to be approved, by Rancho Cordova, Elk Grove, Sacramento County, Sacramento County's Villages of Elverta Specific Plan (DEIR

underway), City of Sacramento (Meadowview area), City of Sacramento and Sutter County in North Natomas, West Sacramento's 3000-acre Southport Framework, other Yolo County cities, Galt, Yuba County's Plumas Lakes, Folsom south of Highway 50, west Placer County, San Joaquin County, Vacaville, Dixon, and Fairfield. In addition. much SWH habitat is being eliminated by conversion from row crops to vineyards in southern Sacramento and San Joaquin Counties. The great majority of the Central Valley population of SWH (only 800 pairs) nest in Sacramento, Yolo, San Joaquin, and Solano Counties. Therefore reducing Rancho Cordova's SWH mitigation because some of Rancho's land may be less than "prime" habitat makes no sense and would not meet the obligation to consider cumulative impacts in assessing the amount of mitigation needed to reduce impacts to less than significant.

3. The Ordinance Provides No Method Which Reasonably Assures That The Location and Amount Of Mitigation Land Required, And Management Of Mitigation Land, Will Mitigate For Impacts Of Development Upon SWH.

The Ordinance fails to provide any criteria for acceptable location of mitigation land. Mitigation measures must benefit the population of SWH which are impacted by urban development. For that reason, mitigation for loss of SWH foraging should be as close as feasible to the site of the impact, or to the nesting area of the SWH which are using the foraging habitat which is converted to development. Land for mitigation must have suitable characteristics for SWH foraging, and should not be fragmented or surrounded by urban development

Both Elk Grove and Sacramento County have developed, or are developing, maps, subject to DFG approval, of areas that are suitable for acquiring SWH foraging habitat to mitigate for urban development. The land, location of the land, the conservation operator, and the terms of the conservation easement must be approved by Elk Grove or Sacramento County, and DFG. All land acquired to mitigate for impacts of development in Natomas Basin must be in Natomas Basin, and approved by representatives of DFG and FWS on the NBHCP Technical Advisory Committee.

By contrast, the proposed Rancho Cordova Ordinance gives the City complete discretion to determine mitigation ratio, location, and terms of conservation easement, even though there is no evidence that City has the biological expertise necessary to make such determinations. Under the proposed ordinance, mitigation land can be designated in a distant location or another County that will be of no benefit to local SWH populations impacted by City's development.

Ordinance §16.130.040(a)(i) (applicant provides mitigation land) fails to state any acceptable location or criteria for location of mitigation land, nor does it state that City has discretion to determine whether the location of the mitigation land is acceptable. This deficiency invites developers to assert that City does not have discretion to refuse a developer's offer of proposed mitigation land in another County or distant from Rancho Cordova.

The proposed Ordinance requires City to consult with DFG, but City remains free to disregard DFG's advice. There is no requirement for DFG approval of the location of mitigation land, amount of land to be preserved, mitigation and monitoring plan, SWH foraging value of land to be developed (which determines the amount of the fee), or the provisions of conservation easements (which would exclude uses incompatible with SWH foraging.) The result is that City is empowered to make case-by-case determinations on adequacy of mitigation measures for

future projects with no standard on which to base such determinations, and with no evidence that City has expertise to make such biological determinations. This is essentially "mitigation shall be whatever City decides", which not satisfy CEQA requirements for mitigation measures, and would not support CEQA findings that impacts of a project have been mitigated to less than significant, or mitigated at all.

DFG approval is mandatory only for the option of §16.130.040(a)(iii), developer make a deal with DFG; and for SWH credit on vernal pool mitigation land, §16.130.060.

Proposed Ordinance §16.130.040(a)(i) allows the project applicant, or someone selected by applicant, to control and monitor the mitigation land, which provides no assurance that the monitoring will be adequate or that the conservation elements of the easement will be enforced. "Landowner-friendly" easement monitoring has been abused elsewhere. Monitoring should be done by a qualified non-profit conservation trust approved by DFG.

Proposed Ordinance §16.130.040(a)(i) authorizes designation of an agency other than DFG as a third party beneficiary to a conservation easement. What is an "agency"?? Could the City name itself, or an entity created by the City, as the "agency" to be third party beneficiary? There have been serious problems with non-enforcement of conservation easements in other communities, and my clients are concerned about this happening locally.

Rancho Cordova's Ordinance would be much more credible if DFG's approval were required for determination of the suitability and location of the proposed mitigation land, conservation operator charged with monitoring the conservation easement, and the provisions and restrictions of conservation easements; and if DFG were named as a third-party beneficiary for enforcement for all conservation easements. DFG has expertise which City lacks, and it is charged with protection of wildlife.

In all likelihood, City's rejection of DFG's advice during project-specific consultation would be construed as strong evidence of the inadequacy of the mitigation approved by City, and would invite litigation.

4. SWH Impact Mitigation Credit for Vernal Pool Mitigation

Much of Rancho Cordova's vernal pool preserve land is within areas of urban development. Vernal pool preserves located in southeast Sacramento County are too distant from SWH nests to be useful for SWH. DFG advises that land surrounded by urban development on three sides will not be used by SWH as foraging habitat. The SWH is a bird of the open plains (including cultivated farmland), and avoids areas of fragmented habitat. This includes open fields surrounded by development on three sides. See DFG's e-mailed comment for December 19, 2005 City Council. While there are a few SWH nesting in urban areas, most SWH avoid urban areas.

5. Reliance Upon The Proposed Ordinance Violates the California Endangered Species Act , §2081(b) Due To Failure To Mitigate For Impacts to SWH In Accordance With Fish and Game Code §2081

The California Endangered Species Act, Fish & Game Code §§ 2080 and 2081, states that no party can "take" a threatened or endangered species without issuance, by CDFG, of an Incidental Take Permit which meets the criteria of §2081. Section 2081 requires that all impacts upon SWH of the project which causes the taking to be "fully mitigated" and that the applicant "ensure adequate funding." "Taking" includes destruction of SWH foraging habitat, because loss of foraging habitat can cause deaths of nesting SWH chicks due to starvation. Repeated reproductive failure due to nest starvation guarantees the decline and eventual demise of any bird population.

The proposed Rancho Cordova SWH mitigation ordinance is a successor to the former Sacramento County SWH mitigation ordinance. Reliance on CEQA for Sacramento County's SWH mitigation was intended as a short-term stopgap measure for mitigation for projects approved prior to adoption of a Sacramento County HCP, which was never adopted. County's "interim" ordinance was extended, and then Rancho Cordova and Elk Grove, which were covered by the County's "interim" ordinance, incorporated as cities. The Sacramento County HCP is long overdue, but this does not excuse non-compliance with §2081. For the reasons stated above, the proposed Ordinance fails to meet §2081's requirement to "fully mitigate" and "ensure adequate funding."

A good CEQA mitigation program could accomplish the mitigation required by CESA only if impacts are fully mitigated. There is no evidence that this will occur under the proposed Ordinance.

Thank you for considering these comments. My clients will submit additional comments.

Very Truly Yours,

James P. Pachl

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December 19, 2005

VIA FACSIMILE & REGULAR MAIL
(916) 853-1691

Honorable Mayor Cooley and City Council Members
City of Rancho Cordova
3121 Gold Canal Drive
Rancho Cordova, CA 95670

Re: Urgency Ordinance No. 23-2005 – Swainson's Hawk Impact Mitigation

Dear Honorable Mayor and City Council Members:

We have reviewed the City of Rancho Cordova's (the "City's") proposed Urgency Ordinance Number 23-2005 (Swainson's Hawk Impact Mitigation) (the "Ordinance") and offer the following comments and concerns on behalf of the North State Building Industry Association ("BIA") and its members.

The BIA and its members recognize that the proposed interim Ordinance is a short term measure which attempts to address impacts and mitigation relating to the Swainson's hawk from urban development within the City until a final ordinance can be prepared and adopted. The BIA is nevertheless concerned with the lack of input from the development community in preparing the interim Ordinance, the potential precedent setting nature of the Ordinance and with how the City may attempt to implement the interim Ordinance.

The BIA and its members therefore request that the Council decline to adopt the proposed ordinance this evening, direct staff to work with the development community to address its concerns and bring a revised Ordinance back to the Council in early 2006. The BIA has the following specific concerns:

I. The Ordinance Could Result in the City Over Mitigating or Imposing Mitigation Measures Without a Constitutional Nexus.

The broad language of the Ordinance could result in the City over mitigating or requiring mitigation without a proper nexus between the mitigation measure being imposed on a particular project for the loss of Swainson's hawk habitat, and the actual effects of that project (or lack thereof), on such habitat within the City. The United States Supreme Court has determined that there must be an "essential nexus" between land being proposed for development and the mitigation measures proposed to be imposed. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 837.) In other words, a "rough proportionality" must exist between the extent of the impacts caused by a project and the extent to which exactions are imposed by the government to mitigate such impacts. (*Dolan v. City of Tigard* (1994) 512 U.S. 374, 391.) Thus, cities "must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." (*Ibid.*)

Much of the remaining developable open space land within the City contains poor or unsuitable foraging habitat for the Swainson's hawk. (See City Council Staff Report (September 19, 2005), p. 3 ("Due to the lower quality of the habitat in [the City] as compared to the County and Elk Grove, we propose to modify the per acre fee" to reflect these habitat differences).) To avoid delay and complications with implementing the interim Ordinance as proposed, the Council should direct staff specifically to:

(i) revise the language of the Ordinance to exempt projects that do not propose to develop lands suitable for Swainson's hawk foraging habitat;

(ii) provide for "like kind" or "like habitat" mitigation (e.g., mitigation of habitat that is of comparable quality to that being proposed for development);

(iii) exempt projects that mitigate for the loss of agricultural land, if that land also provides suitable Swainson's hawk foraging habitat; and

(iv) exempt or credit projects that preserve vernal pool grassland habitat also suitable for hawk habitat.

There is no legal basis or logical reason why project applicants should be required to mitigate separately for the loss of vernal pool grassland habitat, agricultural land and Swainson's hawk foraging habitat if the lands being mitigated for serves more than one purpose (e.g., as agricultural habitat or vernal pool grassland habitat which also serves as

Swainson's hawk habitat). The open ended nature of the Ordinance as proposed opens the door to this possibility.

The heavy reliance within the Ordinance on input and approval from the Department of Fish and Game is also problematic. Rather than grapple with whether the City will require project applicants to mitigate for the loss of Swainson's hawk habitat if the land to be developed contains poor or no foraging habitat, or specify how much mitigation land would be required under such circumstances, the Ordinance punts on the issue by stating "[t]he amount of land required to be preserved shall be determined by the City . . . in consultation with DFG." (Ordinance, p. 4.) Not only is this approach disconcerting from a time efficiency standpoint, City staff could find themselves in a position where they feel duty bound to impose mitigation where it might otherwise be unwarranted (e.g., when a particular project will result in development of open space land but that land is unsuitable for Swainson's hawk foraging habitat).

The Ordinance also ducks the issue of whether the City would require mitigation for projects simply because they are located within one mile of a Swainson's hawk nest. The Ordinance states "the impact would be more appropriately mitigated on a case by case basis." (Ordinance, p. 3.) Again, this open ended language could result in undue delay in the processing of projects that happen to be within one mile of a nest but nevertheless lack suitable hawk habitat. The provision could also result in over mitigation by the City if a project applicant were required to mitigate for Swainson's hawk habitat simply because the site was within one mile of a nest, regardless of the particular habitat value of the site.

Our suggested changes, including the changes proposed to the Ordinance in the enclosed document, would provide City staff with better guidance and the ability to better establish the required nexus between a particular project's impacts and the mitigation measure(s) being required. The development community, however, would welcome the opportunity to work with City staff to refine the Ordinance further.

II. The Ordinance is Overly Broad

As noted above, the Ordinance could be challenged for being unconstitutionally vague. (See, e.g., *Britt v. City of Pomona* (1990) 223 Cal.App.3d 265, 268 (terms of ordinance too vague to be understood and applied by persons of common intelligence and therefore violated due process).) Rather than leave the specifics of the ordinance to the City and Department of Fish and Game's future unfettered discretion, the resources of the City, project applicants and the Department would be better served if the City took more time now to articulate the precise conditions and standards that will be required by the City in implementing the Ordinance.

III. Proposed Changes

In light of the foreseeable pitfalls associated with implementation of the Ordinance as proposed, we suggest the City Council direct staff to make the attached changes. We suggest these changes because:

- The Ordinance does not specify to which type(s) of development it will apply. We therefore propose specific guidelines under the "Applicability" section.

- The Ordinance suggests that individual project applicants and the City will have to work with Department of Fish and Game to determine adequate mitigation, resulting in an inefficient and unnecessary use, on a project level basis, of City, DFG and project applicant resources.

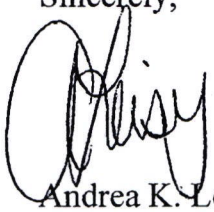
- The Ordinance declines to suggest a method for calculating how in-lieu fees will be calculated or for how much land a project applicant could be required to mitigate. Instead, it postpones this analysis after consulting with DFG.

- The Ordinance fails to specify where the acquisition of agricultural lands or conservation easements could take place (e.g., within the City limits or the greater Sacramento region) and how much the interim in-lieu mitigation fee will be to start. The overall lack of specificity will likely frustrate the permitting process and result in substantially higher fees than needed, thus rendering some projects infeasible.

* * *

For all of the reasons stated above, we urge the City Council to request that staff modify the language in the interim Ordinance prior to approval. If you have any questions or would like to schedule a meeting to discuss our client's concerns please let me know. Thank you for the opportunity to review and offer these comments.

Sincerely,



Andrea K. Leisy

Encl.

cc: Dennis M. Rogers, Senior Vice President
Ted A Gaebler, City Manager
Paul Junker, Planning Director

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ORDINANCE NO. 23-2005

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ADOPTING RANCHO CORDOVA MUNICIPAL CODE CHAPTER 16.130, "SWAINSON'S HAWK IMPACT MITIGATION"

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose.

The purpose of this ordinance is to establish policies and procedures for mitigating adverse impacts to Swainson's hawk foraging habitat due to development within the City of Rancho Cordova ("City").

Section 2. Findings

a. The most effective means of mitigation for the loss of suitable Swainson's Hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat.

b. It is not always practical or feasible for project applicants to directly preserve habitat. In this case it may be more appropriate to allow the applicant to pay a fee to the City, or a conservation group, to find and purchase land on their behalf. This alternative would still constitute direct preservation.

c. The volume of past, existing, and anticipated development proposals in the City that will potentially require mitigation for the loss of Swainson's Hawk foraging habitat indicate an immediate need to assure adequate preservation of suitable Swainson's Hawk foraging habitat.

d. It is necessary for and in the interests of the public health, safety, and welfare that this Ordinance be effective immediately upon its adoption in order to provide adequate mitigation for the loss of Swainson's Hawk foraging habitat.

Section 3. Title 16, Chapter 16.130, "Swainson's Hawk Impact Mitigation," is hereby adopted to read as follows:

16.130.010 PURPOSE AND INTENT. The City of Rancho Cordova City Council finds that the continued expansion of urban uses into previously undeveloped lands within the City that are identified through the California Environmental Quality Act ("CEQA") process to provide suitable foraging habitat for the Swainson's Hawk, a listed threatened species under the California Endangered Species Act, will, absent mitigation, result in a significant reduction of such foraging habitat. The reduction in

foraging habitat can occur through requests for zoning changes of agriculturally zoned lands to land use designations that enable land to be reduced to parcel sizes too small to support Swainson's Hawk foraging habitat or through requests for land use entitlements for non-agricultural uses that are incompatible with the maintenance of Swainson's Hawk foraging habitat. The California Department of Fish and Game ("DFG") has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat. For any such requests, which are within ten miles of a Swainson's Hawk nest, the City Council desires to establish an additional means of mitigating for loss of Swainson's Hawk foraging habitat.

The City has identified, in consultation with DFG, that suitable foraging habitat for Swainson's Hawk exists in established land conservation programs in Sacramento County and also in agricultural and open lands currently not part of a conservation program. The City finds that the most effective means of mitigation for the loss of suitable Swainson's Hawk foraging habitat is the direct preservation, in perpetuity, of equally suitable foraging habitat on an acre-per-acre ratio. The City also finds that it may be infeasible for some project applicants to acquire easements and that these applicants should have the option to mitigate adverse impacts to Swainson's Hawk foraging habitat through the payment of an impact mitigation fee. An impact mitigation fee, as established pursuant to this Chapter, will provide funds to acquire available land with suitable Swainson's Hawk foraging habitat values. Such acquisition will create mitigation for the loss of this habitat through real property acquisition in fee or through conservation easements to facilitate the expansion of land conservation programs which include the preservation and management of Swainson's Hawk foraging habitat.

The City Council recognizes that mitigation for foraging habitat for the Swainson's hawk is only feasible when replacement habitat is provided within the known foraging area for the hawk. In order to provide adequate mitigation for the loss of Swainson's Hawk foraging habitat under CEQA through the provisions of this Chapter, the City Council deems it necessary to expand the scope of this mitigation fee program to parcels located within the geographical foraging area of the Swainson's Hawk that are owned and/or managed by a conservation organization.

Deleted: where the location of mitigation parcels and the conservation organization are acceptable to DFG

The City Council finds that the direct preservation of suitable Swainson's Hawk foraging habitat or the payment of an in-lieu impact mitigation fee by project proponents for the actual acquisition of such habitat will fulfill the duty to mitigate under CEQA, by avoiding or substantially reducing otherwise significant impacts to Swainson's Hawk foraging habitat lands. The City Council intends that the requirement of direct preservation of suitable Swainson's Hawk foraging habitat or the requirement of an in-lieu impact mitigation fee, in an amount established by the City Council, shall be included as mitigation options. Said mitigation shall arise when the environmental review process for a request falling within the scope of this Chapter concludes that there would be a significant impact or a significant cumulative impact on the Swainson's Hawk foraging habitat for which mitigation, pursuant to all applicable provisions of the Public Resources Code section 21000 et seq. and the Cal. Code of Regulations, Title 24, section 15000 et seq., is required. The City Council also recognizes its continued authority to determine based on specific economic, social, legal, technical or other considerations that mitigation for Swainson's Hawk foraging habitat is infeasible or that other evidence presented to the City Council illustrates that mitigation is unnecessary.

16.130.020 DEFINITIONS.

(a). "CEQA" means the California Environmental Quality Act.
(b). "DFG" means the California Department of Fish and Game.
(c). "IN-LIEU FEE" means a fee a project applicant can pay to obtain "like habitat" for mitigation.
(d). "LIKE HABITAT" means habitat of comparable quality to that being developed.
(e). "PROJECT" shall have the same meaning as that term is used in Public Resources Code section 21065. A "project" shall be considered to consist of the total combined gross acreage of a parcel or parcels included in a proposal subject to CEQA review.

16.130.030 APPLICABILITY.

(a) This Chapter shall apply to any project that has been determined through the CEQA process to result in a significant adverse impact or significant adverse cumulative impact on Swainson's Hawk foraging habitat, prior to mitigation.

(b) This Chapter shall apply to any request:

(1) For a change in land use designation from an Agricultural Designation to an Urban Designation, or
(2) To any request to subdivide five acres or more of contiguous land zoned AR-1 or AR-2, or
(3) To any request for a land use entitlement for a non-agricultural use of land of five acres or more zoned with an Agricultural Designation, or
(4) To any request for a land use entitlement for a non-agricultural use of land five acres or more in size zoned AR-I or AR-2, or
(5) To any public improvement project proposed by any department or agency of Sacramento County on land with an Agricultural Designation, or
(6) To any request to subdivide five (5) acres or more of contiguous land zoned as an Urban Designation to less than five (5) acres.

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(c) This Chapter shall apply to any request falling within subsection (b) for which all of the following criteria have been satisfied:

(1) The entire underlying parcel(s) for the request are located within the defined scope of this Chapter,

(2) The underlying parcel(s) for the request are identified through the CEQA process, to provide suitable Swainson's Hawk foraging habitat, and

(3) The request will result in a significant impact or significant cumulative impact on Swainson's Hawk foraging habitat for which mitigation measures have been identified as necessary to avoid or substantially reduce the impact.

(d) This Chapter shall apply to any project approved prior to the effective date of this Chapter which was conditioned to require mitigation for impacts to Swainson's Hawk foraging habitat and which mitigation has not been completed through the payment of a fee or other mechanism included in such mitigation measure.

(e) If a project applicant acquires a perpetual conservation easement(s) or donates land in fee title to a nonprofit organization approved by the City to mitigate for the loss of agricultural land or vernal pool grassland, no additional mitigation measures shall be required if that land also provides suitable foraging habitat for the Swainson's hawk.

(f) If a project applicant preserves vernal pool grassland habitat and such preservation also results in preserving Swainson's hawk foraging habitat, the applicant shall receive credit toward any additional mitigation required for the hawk.

16.130.040 CONDITIONS.

(a) On and after the effective date of this Chapter, for any project falling within the provisions of Section 16.130.030 of this Chapter, the following mitigation measure shall be included as an option to reduce the impact to Swainson's Hawk foraging habitat;

"The project applicant shall implement one of the following options in order to mitigate for the loss of Swainson's Hawk foraging habitat as a result of the proposed project:

(1) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first, the project applicant shall preserve an appropriate amount of suitable foraging habitat. The determination shall be made based on the quality of the land proposed to be developed. This land shall be protected through a fee title or conservation easement acceptable to the City of Rancho Cordova in consultation with DFG. Perpetual conservation easements shall be recorded with a conservation entity or organization formed pursuant to section 501(c)(3) of the internal revenue code or to another entity deemed acceptable by the City. Conservation easements shall be accompanied by a monitoring and maintenance plan approved by the City, if necessary. Alternatively, applicants may pay to the City a mitigation operations and maintenance fee to cover the costs of administering, monitoring and enforcing the easement or managing the property in fee title in an amount determined by the receiving entity, not to exceed $3,500 per acre. The actual amount will be calculated by the receiving entity by the use of the Property Analysis Record (PAR) software program or other generally accepted, attribute based, site specific method for calculating in perpetuity endowments for preserves; OR

(2) Prior to any site disturbance, such as clearing or grubbing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs

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first, the project applicant shall submit payment of Swainson's Hawk Impact Mitigation Fee to the City of Rancho Cordova in the amount set forth by Resolution of the City Council and as may be amended from time to time and to the extent that Chapter 16.130 remains in effect. If habitat proposed for urbanization is considered by the City to be prime habitat, the full fee shall be paid per acre of habitat impacted. If it is determined that the land proposed for conversion is of lower quality than prime habitat, the applicant may pay a reduced percentage of the fee for each acre of habitat to be converted. Any reduction in the Swainson's Hawk Mitigation Fee shall be determined based on the quality of the habitat proposed for conversion; OR

(b) The requirement of direct land preservation or payment of an impact mitigation fee established pursuant to this Chapter is also applicable to those projects that were approved prior to the effective date of this Chapter and which are conditioned to require mitigation for impacts to Swainson's Hawk foraging habitat to include the option to participate in a future Swainson's Hawk mitigation policy/program adopted by the City Council, provided the property owner/developer of any such project has not yet completed an alternative mitigation measure for impacts to Swainson's Hawk foraging habitat and provided that the parcel(s) included in such a previously granted request fall within the scope of this Chapter as set forth in Section 16.130.030.

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16.130.050 IMPACT MITIGATION FEE. The impact mitigation fee shall be in an amount established by resolution of the Rancho Cordova City Council as such may be amended from time to time.

16.130.060 IMPACT MITIGATION CREDIT. Full or partial mitigation credit (for fee or direct preservation) may be given for agricultural habitat land, vernal pool grassland or other preserves acquired or preserved by a project applicant in perpetuity through conservation easements and which contain suitable Swainson's Hawk foraging habitat. Preserves may include those established, if any, pursuant to a previously approved Mitigation Monitoring and Reporting Program for the subject parcel(s). Prior determination by DFG of the viability of the preserve for Swainson's Hawk foraging habitat is required. Preserves deemed viable by DFG shall receive credit on a 1:1 ratio. In the event that the credit received does not satisfy the acreage required for the mitigation obligation, additional mitigation shall be required through any of the other mitigation measure options identified in the applicable environmental report to the extent necessary to avoid or substantially reduce the impacts on the Swainson's Hawk foraging habitat to a less than significant level. If preserve land for vernal pool grassland or other agricultural habitat land is also used as a preserve for Swainson's Hawk, all easements must be recorded at the same time, unless otherwise approved by the Planning Director.

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Deleted: Credit will not be given for Swainson's hawk foraging habitat if the preserve was previously set aside for another type of habitat and mitigation for Swainson's hawk is proposed at a later date, and vice versa.

16.130.110 AUTHORITY OF CITY COUNCIL TO OVERRIDE MITIGATION MEASURES. Nothing herein shall be construed to preclude the City Council's consideration or approval of other means of mitigating significant impacts or significant cumulative impacts on Swainson's Hawk foraging habitat or to limit the City Council's authority to find certain mitigation measures infeasible for reasons permitted by CEQA.

Section 4. CEQA

This action qualifies as a Section 15308, Class 8 Exemption; Actions by Regulatory Agencies for the protection of the environment.

Section 5. No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7. Effective Date

This ordinance shall become effective immediately upon adoption if adopted by at least four-fifths vote of the City Council, and shall expire on December 31, 2006.

ADOPTED, THIS ___ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
MAYOR

ATTEST:

_____
CITY CLERK

-----Original Message-----
From: Judith Lamare [mailto:judelam@sbcglobal.net]
Sent: Friday, January 06, 2006 3:17 PM
To: Paul Junker
Cc: Jim Pachl; Vicki Lee 916-447-3670
Subject: Re: Rancho Cordova Swainson's Hawk Mitigation Program

Dear Paul:

Thank you very much for your concern and work on mitigating impacts of development in Rancho on Swainson's Hawks.

Speaking for both Friends of the Swainson's Hawk and for Sierra Club, regarding Rancho Cordova's Swainson's Hawk mitigation program ordinance update, we suggest the following:

Development Should Be Required to Provide Suitable Mitigation Land, Approved by City of Rancho Cordova, DFG, and the Conservation Operator, Prior to Issuance of Grading Permits

As stated above, fee-based SWH mitigation programs of the County of Sacramento and City of Elk Grove faced similar failure due to rapidly-escalating land prices. However, Sacramento County and Elk Grove solved their problem by amending their SWH Mitigation Ordinances to require that developers provide one acre of land for each acre developed, plus a land or conservation easement management and monitoring fee, prior to any site disturbance, such as clearing or grubbing, or issuance of grading permits, whichever occurs first. Land acquired for SWH mitigation under the Elk Grove and Sacramento County SWH mitigation programs must be approved in advance by DFG, and City of Elk Grove or County, and accepted by the Conservation Operator (presently The Nature Conservancy). DFG and Elk Grove and County are developing maps of areas suitable for SWH mitigation which are reasonably close to populations of SWH affected by development.
Projects of less than 40 acres are allowed to pay a mitigation fee of approximately $18,000 per acre.

FOSH and Sierra Club urge Rancho Cordova to reject the proposed fee option, and instead require that the developer acquire one acre of land, by easement or fee title, suitable for SWH foraging habitat for each acre developed, and transfer title of the easement or land to a suitable Conservation Operator, along with a fee payment in an amount sufficient to endow the operation, management, and monitoring of the land in perpetuity. The location of the land, terms of the conservation easement, and the Conservation Operator should be approved by City of Rancho Cordova, Department of Fish and Game, and the Conservation operator. Mitigation land, or a conservation easement thereon, equal in size to the area to be developed should be transferred to the Conservation Operator prior to grubbing or site disturbance (whichever occurs first.)

The mitigation land should be located as close as possible to the area impacted by development so that the local population of SWH impacted by loss of habitat due to development will receive the benefit of the preservation of nearby SWH foraging habitat. The residents of Rancho Cordova would also receive the benefit of permanent open space preservation near Rancho Cordova.

To mitigate for Rancho Cordova development, SWH mitigation land would generally be within 5 miles of Rancho Cordova, in Sacramento County, generally south of Hwy 50 to the Consumnes corridor, to the extent determined suitable by DFG and City. More precise maps can be developed by Rancho and DFG.

Please keep me informed about the staff direction and any council agenda items and staff reports to council.

Thank you, Jude

Jude Lamare, President
Friends of Swainson's Hawk
817 -14th St., 100
Sacramento, Ca. 95814
916-447-4956
916-447-8689 fax
www.swainsonshawk.org
president@swainsonshawk.org

or judelam@sbcglobal.net

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Memorandum

Date: January 17, 2006

To: Mayor and City Council

From: Paul Junker, Planning Director
Rochelle Amrhein, MMRP Coordinator
Hilary Anderson, Environmental Coordinator

Subject: Response to Comments on the Proposed Interim Swainson's Hawk Ordinance (Supplement to the City Council Staff Reports for Items 16 &17 on the January 17, 2006 Agenda)

The City of Rancho Cordova received written comments from the Department of Fish and Game, Friends of Swainson's Hawk/Sierra Club, and the North State Building Industry Association on the proposed Interim Swainson's Hawk Ordinance. The following represents a summary of the comments received on the Interim Ordinance and staff's responses to those comments.

Dan Gifford on Behalf of Department of Fish and Game (DFG)
(Comments submitted via email on December 6, 2005)

Summary of Comment 1: Text stating, "The California Department of Fish and Game (DFG) has determined that parcels of land of five (5) acres or more in size are recognized to be the minimum acreage required for viable foraging habitat." should be modified or deleted from the Ordinance.

Response to Comment 1: Staff deleted text in the Interim Ordinance to reflect DFG's comments.

All other comments from DFG were discussed and subsequently withdrawn prior to the December 19, 2005 council meeting.

James Pachl on Behalf of Sierra Club and Friends of Swainson's Hawk (FOSH):
(Comments submitted via email on December 9, 2005)

Summary of Comment 1: The interim Ordinance may become permanent and does not provide an acceptable long-term solution to Swainson's hawk mitigation. The Elk Grove Ordinance should be adopted instead.

Response to Comment 1: An "expiration date" has been built into the Ordinance to ensure that it is temporary and does not go beyond December 31, 2006. Staff feels that there are aspects of the Elk Grove Ordinance that would not work for Rancho Cordova – particularly the type and value of Swainson's Hawk foraging habitat is different in Elk Grove than Rancho Cordova. If Rancho Cordova adopted Elk Grove's Ordinance

(which was designed to be a long-term Ordinance), we would encourage putting off a more permanent solution that works for Rancho Cordova. We have already met with DFG, Sacramento County, Elk Grove and Jim Estep (consulting Swainson's hawk expert), and are in the process of developing a long-term Ordinance that is specifically tailored to meet the needs of Rancho Cordova. DFG has concurred that RC's habitat is not high quality habitat like Elk Grove's and parts of Sacramento County.

Summary of Comment 2: There are problems with the mitigation included in the Preserve at Sunridge DEIR.

Response to Comment 2: These comments will be addressed in the "Response to Comments" section of the Preserve at Sunridge Final EIR.

Summary of Comment 3: Nothing prevents landowners from paying the fee long before there is an approved project or grading permit. This is a problem and should be changed.

Response to Comment 3: This statement is incorrect. Landowners cannot pay fees before project approval because there is no CEQA document, no mitigation requirements, and therefore no nexus to allow mitigation of impacts to Swainson's Hawk. The proposed Interim Ordinance states, in section 16.130.010 paragraph 4, that the Ordinance will only come into effect upon a determination made during the environmental review process that impacts to foraging habitat will occur as a result of the proposed project. Mitigation must occur prior to grading activities in order to minimize temporal loss of habitat. The most effective means of ensuring that this occurs is by placing holds on grading permits, not allowing issuance until mitigation is complete. All mitigation implementation is monitored by the Planning Department, and the Planning Department ensures that mitigation timing is appropriate (e.g., does not occur "too early" or "too late").

Summary of Comment 4: "What is the basis for the assertion that Elk Grove fee may be too high?"

Response to Comment 4: Although multiple organizations (including the BIA) have asserted that the Elk Grove fee is too high, nowhere is this mentioned in the Ordinance. We are having Jim Estep review the City's proposed mitigation fees to make sure that the fee Rancho Cordova ultimately collects is appropriate for the land market.

Summary of Comment 5: "Proposed Ordinance 16.130.040(a)(ii) lacks a fee component to provide an endowment for monitoring and administration. Why?"

Response to Comment 5: Monitoring and administration fees are intended to be included in the mitigation fee, however we recognize that this may not be clear in the text of the Ordinance. Language has therefore been added to the Ordinance to address this concern. Please refer to Section 16.130.010 paragraphs 2 and 4, and Section 16.130.040(a)(ii) for changes to the Interim Ordinance.

Summary of Comment 6: "The implementing provisions of the Ordinance 16.130.040, et. seq. do not require that mitigation land be in Sacramento County. Developer attorneys will notice and cause problems."

Response to Comment 6: The Ordinance has been modified to address this oversight. Please refer to Section 16.130.010 paragraphs 2 and 3, and Section 16.130.040(a)(ii) for changes to the Interim Ordinance.

Summary of Comment 7: The Ordinance allows applicant/landowner-approved entities to control/monitor mitigation lands. This is a problem and should be changed.

Response to Comment 7: By requiring all easements to be approved by the City in consultation with DFG, it was intended that the City would ensure that only entities suitable and qualified to monitor and maintain Swainson's hawk foraging habitat would be granted mitigation land/conservation easements. The City does not, however, feel that it is appropriate to name specific organizations in the Ordinance because, by doing so, legitimate conservation groups with the capacity to monitor mitigation habitat may be inadvertently excluded. Language has been added to Section 16.130.040(a)(i) of the Interim Ordinance to clarify this position.

Summary of Comment 8: The Ordinance authorizes naming of agencies other than DFG as third-party beneficiaries. DFG should always be third-party beneficiary.

Response to Comment 8: This language was added in the event that DFG no longer wishes to be named as third-party beneficiary. If that occurs, this language ensures that a system of checks and balances for mitigation land remains in effect by allowing the City to find another suitable and appropriate entity to take over the third-party beneficiary role. Language has been added to Section 16.130.040(a)(i) of the Interim Ordinance to clarify this position.

Summary of Comment 9: The Ordinance only requires consultation with DFG, not approval by DFG. This should be changed.

Response to Comment 9: DFG has indicated on multiple occasions that they prefer to be consulted by the City and do not wish to have approval authority. Additionally, DFG was given the opportunity to comment on the Interim Ordinance and had no objections to the language requiring only consultation with DFG.

Summary of Comment 10: A fee option is not adequate mitigation for Swainson's hawk habitat loss.

Response to Comment 10: Elk Grove and Sacramento County have shown that fee programs do work. They have successfully used fees to protect land for Swainson's hawk foraging habitat. Sacramento County has been successful in preserving 830 acres of easements using fees from the Ordinance. Sacramento County has purchased three easements using mitigation fees, including the 323-acre Allen property ($335,300), the 510-acre Larkin property ($465,000) and the 197-acre Van Styen property ($420,000). Elk Grove is in the process of acquiring an easement of approximately 200 acres with mitigation fees. They have also been successful with acquiring mitigation land by converting a vineyard to Swainson's hawk foraging habitat through roadway funds and developer fees through individual agreements. Additionally, CEQA Guidelines and case law DO support the collection of fees if a program is in place to collect the fees and use the money for the stated purpose of mitigating the impact. Two such cases are Gentry

v. City of Murrieta –(mitigation allowing fees for local habitat conservation plan) and Sacramento Old City Association v. City Council of Sacramento –(mitigation allowing fees for parking improvements associated with Transportation Management Plan).

Summary of Comment 11: One-to-one mitigation is not "close to real mitigation" and further reduction "is disproportionate".

Response to Comment 11: The potential foraging habitat in Rancho Cordova is nowhere near the quality of foraging habitat in Elk Grove and certain areas of the County. This has been confirmed by both DFG and Jim Estep. Thus, staff feels that it is inappropriate to require landowners in Rancho Cordova to mitigate at the same ratio as landowners in Elk Grove for destruction of lower quality habitat. We have discussed this specific issue with both DFG and Jim Estep and have determined that, if land in Rancho Cordova is destroyed and is replaced (or intended to be replaced) with higher quality habitat, at a 1:1 ratio or lower ratio is appropriate due to an overall increase in habitat quality, and therefore an increase in the carrying capacity of foraging hawks.

In addition, 1:1 mitigation does not necessarily translate to a 50% reduction in habitat. If land that is preserved as mitigation had previous development rights, or the right to plant vineyards, for example, preservation of this land as foraging habitat would result in a net gain of land for the hawk. Because such land would have been able to be developed at any time without further mitigation, it could be considered non-habitat. By protecting such land in a matter than is appropriate foraging habitat, in perpetuity, the habitat would be created where none previously existed.

James Pachl on Behalf of Sierra Club and Friends of Swainson's Hawk (FOSH): (Additional comments submitted in a written letter dated December 30, 2005)

Summary of Comment 1: There is no evidence that the proposed Ordinance would mitigate impacts to Swainson's hawk to a less than significant level.

Response to Comment 1: Section 16.130.030 of the Interim Ordinance was written to ensure that the Ordinance would only apply to projects that have "been determined through the CEQA process to result in a potentially significant impact or potentially significant cumulative impact on Swainson's hawk foraging habitat". Because all projects that fall under the scope of the Ordinance must be reviewed through the CEQA process, mitigation for such projects must result in the reduction of impacts to a less than significant level whenever feasible. This Ordinance provides a mitigation option only, and in no way constrains the City to using only this as mitigation. If it is determined through the CEQA process that mitigation through the Ordinance will not reduce impacts to a less than significant level, and there are other feasible and reasonable options available that will reduce impacts to a less than significant level, these other options must be explored. Additionally, Section 16.130.070 of the Interim Ordinance allows City Council to approve individualized mitigation on a project-by-project basis as allowed under CEQA. This ensures that each project has the most appropriate mitigation for its impacts. Further, staff feels that the mitigation options provided in the Interim Ordinance would lessen impacts on Swainson's hawk to less than significant. DFG supports the City's proposed Interim Ordinance as an effective way to mitigate for the loss of Swainson's hawk foraging habitat. This is documented in the responses to Jim Pachl's email above.

Summary of Comment 2: The interim Ordinance may become permanent and does not provide an acceptable long-term solution to Swainson's hawk mitigation.

Response to Comment 2: This comment is nearly identical to Comment 1 of the email submitted by Jim Pachl on December 9, 2005. Refer to Comment 1, above, for summary and response.

Summary of Comment 3: There is no evidence that mitigation fees will mitigate impacts to Swainson's hawk habitat. The ordinance fails to provide a program, mechanism or standards for use of the mitigation fees.

Response to Comment 3: This comment is nearly identical to Comment 10 of the email submitted by Jim Pachl on December 9, 2005. Refer to Comment 10, above, for summary and response.

Summary of Comment 4: The mitigation fee fails to include funding for monitoring, management and administration.

Response to Comment 4: This comment is nearly identical to Comment 5 of the email submitted by Jim Pachl on December 9, 2005. Refer to Comment 5, above, for summary and response.

Summary of Comment 5: The Ordinance fails to provide any program, mechanism, or standards for use of the fee to mitigate for impacts to Swainson's hawk.

Response to Comment 5: Conditions and standards will be clarified in the Resolution establishing specific fees and how they may be used. This Interim Ordinance sets up a nexus for the resolution to be adopted and, therefore, must be adopted prior to any hearing for the Resolution. Some conditions and standards cannot be set at this time due to a lack of specific knowledge regarding the City's remaining resources. At this time, it will be up to the CEQA process to establish specific conditions and standards as resources are evaluated on a project-by-project basis. The City is seeking to evaluate all land in the City in order to provide more specific conditions and standards with help from DFG, Jim Estep, the City of Elk Grove, and Sacramento County. However, this analysis will take time.

Fees will be calculated and established in the Resolution, which cannot be adopted until the Interim Ordinance is adopted. It is more appropriate to establish fees through a Resolution, as that this method allows for the fees to be amended from time to time as the economy and land values change. It is not appropriate to specify how and where fees will be used in the City's Swainson's Hawk Ordinance until fees are established; therefore, the Resolution will add specifics as to where mitigation lands can be located, etc.

Summary of Comment 6: It is impossible to determine whether a Swainson's hawk mitigation fee paid today will be sufficient to acquire a like area of Swainson's hawk foraging habitat.

Response to Comment 6: See Response to Comment 3 in the previous set of comments for an explanation regarding assurances that fees will not be paid "too early". Additionally, the fee will be adopted by resolution in order to minimize "inadequate" fees. By adopting the fee through a resolution, rather than an ordinance, the fees may be modified from time to time, in an expedient manner, as economy and land values change. As stated in Response to Comment 5, above, the resolution will also establish a more specific program for using the monies collect to mitigate. This program will include stipulations to ensure that mitigation lands are acquired in an expedient manner.

Summary of Comment 7: All fee-based Swainson's hawk mitigation programs in the region have failed.

Response to Comment 7: Both Elk Grove and Sacramento County have preserved and created Swainson's hawk foraging habitat. See Response to Comment 10 from the email submitted by Jim Pachl on December 9, 2005. Additionally, the City of Rancho Cordova is currently working with the Sacramento Valley Conservancy to mitigate for the 214 acres of mitigation required through the collection of $606,262 in fees. This mitigation will be in the form of preserved lands within Sacramento County.

Summary of Comment 8: Approval of development which purports to mitigate for impacts on Swainson's hawk by paying a mitigation fee, without substantial evidence that mitigation will actually occur, violates CEQA.

Response to Comment 8: See Response to Comment 10 from the email submitted by Jim Pachl on December 9, 2005. See also Response to Comments 1 and 5, above.

Summary of Comment 9: Potential abuse through early payment of mitigation fee.

Response to Comment 9: This comment is nearly identical to Comment 3 of the email submitted by Jim Pachl on December 9, 2005. Refer to Comment 3, above, for summary and response.

Summary of Comment 10: One-to-one mitigation is not "close to real mitigation" and further reduction "is disproportionate".

Response to Comment 10: This comment is nearly identical to Comment 11 of the email submitted by Jim Pachl on December 9, 2005. Refer to Comment 11, above, for summary and response.

Summary of Comment 11: The Ordinance provides no method which reasonably assures that the location and amount of mitigation land required, and management of mitigation land, will mitigate for impacts of development upon Swainson's hawk.

Response to Comment 11: See Response to Comments 5 through 9 from the email submitted by Jim Pachl on December 9, 2005.

Summary of Comment 12: Swainson's hawk mitigation on vernal pool mitigation lands and certain other mitigation lands is inappropriate.

Response to Comment 12: DFG's e-mailed comment for the December 19, 2005 City Council meeting regarding overlapping habitat mitigation with vernal pools was subsequently withdrawn. By requiring City approval, in consultation with DFG, of grants/easements for mitigation, the City will ensure that unsuitable habitat is not used for mitigation purposes. However, because existing habitat within Rancho Cordova consists mostly of vernal pool grasslands, and it is best for local populations of hawk to protect mitigation lands as close to impacted lands as possible, it would be appropriate to mitigate with nearby vernal pool grassland (comparable habitat). Furthermore, the City would not allow mitigation of foraging habitat in an area that is deemed unsuitable by DFG. This includes areas that are greatly fragmented and/or urbanized.

Summary of Comment 13: Reliance upon the proposed Ordinance violates the California Endangered Species Act Section 2081(b).

Response to Comment 13: This is an incorrect statement. The California Endangered Species Act (CESA) does not cover foraging habitat. Section 2081(b) requires mitigation when an incidental take permit is required for a species. Because impacts to foraging habitat do not constitute "take" under CESA (only nesting and designated critical habitat are regulated under CESA), Section 2081(b) is not applicable in this case. Neither the Fish and Game Code nor CESA cover such indirect impacts. The California Environmental Quality Act requires jurisdictions to evaluate whether projects would "have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service" (Appendix G, IV.a.). Swainson's hawk foraging habitat falls within this category of protected habitat. Rancho Cordova evaluates the loss of Swainson's hawk foraging habitat and indirect impacts to Swainson's hawks in our CEQA documents. As shown in Response to Comment 10 in the previous comments, and Response to Comment 1, above, the City's proposed Interim Ordinance is supported by CEQA and case law.

Remy, Thomas Moose and Manley, LLP on behalf of the North State Building Industry Association (BIA): (Comments submitted in a letter at the December 19, 2005 City Council meeting.

Summary of Comment 1: There was a lack of input from the development community in preparing the Interim Ordinance.

Response to Comment 1: Meetings were held with BIA representatives prior to the December council meeting. At this time the BIA was made aware of the intent of the proposed Interim Ordinance. The BIA had no comments prior to the December meeting.

Summary of Comment 2: The broad language of the Ordinance could result in the City over mitigating or requiring mitigation without a proper nexus.

Response to Comment 2: The Ordinance is proposed as a mitigation option only and does not obligate any applicant or project to adhere to its measures. Other mitigation options are given in Section 16.130.040, which would allow any project applicant to mitigate directly through DFG or purchase land and/or conservation easements rather than pay the fee. Additionally, Section 16.130.070 allows City Council to approve

individualized mitigation on a project-by-project basis. Under CEQA, any mitigation adopted must be reasonable, feasible, and appropriate for the given impacts. CEQA also requires that mitigation measures be proportional to the project's impacts. CEQA Guidelines Section 15041 (Authority to Mitigate) states, "(a) A lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (Nollan v. California Coastal Commission (1987) 483 U.S. 825, Dolan v. City of Tigard, (1994) 512 U.S. 374, Ehrlich v. City of Culver City, (1996) 12 Cal. 4th 854.)." Because all projects with potential impacts must go through the CEQA process, and all projects must go through CEQA in order for the Ordinance to apply, the City cannot impose unreasonable or infeasible mitigation for any project, through the Ordinance or otherwise. At the time of CEQA review for any given project, each applicant will also have the opportunity to propose mitigation for consideration by the City.

Summary of Comment 3: Much of the remaining developable open space land within the City contains poor or unsuitable foraging habitat. Revise the language of the Ordinance to exempt projects that do not propose to develop lands suitable for Swainson's hawk foraging habitat.

Response to Comment 3: Although habitat in the City may be lower quality than habitat in the City of Elk Grove and some areas of Sacramento County, it is not necessarily "poor" or "unsuitable". Both DFG and Jim Estep have indicated that most of the undeveloped lands in Rancho Cordova are of intermediate quality in terms of Swainson's hawk foraging habitat. The City is currently working with Jim Estep to have the remaining lands within the City studied to determine their quality for Swainson's hawk foraging.

Section 16.130.030 has already been written to ensure that the Ordinance will only apply to projects that have "been determined through the CEQA process to result in a potentially significant impact or potentially significant cumulative impact on Swainson's hawk foraging habitat". If it has been determined through the CEQA process that a project does not contain suitable foraging habitat, any impacts would be less than significant, and the Ordinance would not apply (no mitigation would be required). Under CEQA, mitigation cannot be imposed on a project if there are no impacts. Therefore, the CEQA process already ensures that projects that do not propose to develop suitable lands for Swainson's hawk foraging habitat would be exempt from mitigation under the Interim Ordinance. It would be inappropriate to add language to the Interim Ordinance giving certain projects in specific areas of the City a "free pass" without having evaluated the actual impacts of the project under CEQA.

Summary of Comment 4: Provide for "like kind" or "like habitat" mitigation.

Response to Comment 4: By requiring "like kind" mitigation, the Ordinance would unduly limit the mitigation options available. This language would require that all mitigation habitat be of the same type and quality as that being destroyed, which would preclude mitigation on lands that contain better quality habitat. This would reduce the area that could be used for mitigation, potentially adding an unnecessary burden on the City and/or project applicants to provide enough mitigation lands to mitigate all impacts to a less than significant level in a greatly reduced area. The City, in consultation with

DFG and Jim Estep, has already determined that mitigation may occur at a reduced ratio if preserved habitat is of a higher quality than impacted habitat. If "like kind" mitigation were required, all mitigation (including payment of the fee) would have to occur at a minimum ratio of 1:1.

Summary of Comment 5: Exempt projects that mitigate for the loss of agricultural land, if that land also provides suitable Swainson's hawk foraging habitat. Exempt or credit projects that preserve vernal pool grassland habitat also suitable for hawk habitat.

Response to Comment 5: Land set aside for mitigation of anything other than impacts to Swainson's hawk foraging habitat, though it may at first provide suitable foraging habitat, does not ensure that this land will remain suitable for Swainson's hawk foraging. Because other mitigation lands, such as agricultural and vernal pool grassland, have a different set of requirements than mitigation lands for Swainson's hawk, these lands may not mitigate for the loss of hawk habitat in perpetuity. For example, agricultural land preserves may allow the planting of orchards, which are of a much lower quality for Swainson's hawk foraging than other types of agricultural land. The Ordinance does allow projects to mitigate for Swainson's hawk habitat on the same land that other mitigation will occur, but easements must be recorded on the land to ensure that it will remain suitable for the hawk in perpetuity. However, DFG would, in some cases as appropriate, allow a preserve site to serve as mitigation land for vernal pool grassland and Swainson's hawk foraging habitat if it was mitigating for the same project and requested/acquired at the same time. DFG would not allow the "stacking" of mitigation on a preserve site to occur over time or for more than one project. Rancho Cordova supports DFG's position in this matter.

Summary of Comment 6: Input and approval from DFG is problematic.

Response to Comment 6: At DFG's request, the Ordinance does not require DFG's approval. Rather, it requires consultation with DFG. It would be inappropriate to require no input from DFG as that they are the agency responsible for protection of Swainson's hawk under the Endangered Species Act.

Summary of Comment 7: The Ordinance is not specific enough in regards to projects within one mile of a nest.

Response to Comment 7: Currently, there are no known nests within one mile of the City; therefore, this provision would not apply. If a nest is found within a mile of a project, Section 16.130.030 of the Interim Ordinance allows a determination to be made through the CEQA process as to how to mitigate for impacts, just as any other project. If it is determined through the CEQA process that the land will not impact suitable foraging habitat, regardless of how far the nest may be, the project will not be required to mitigate for impacts to foraging habitat. Because Swainson's hawks typically nest in areas that are closer to food sources (in other words, in areas that have better quality habitat than other surrounding areas), and because impacts to land within one mile of a nest may cause impacts to the hawks beyond that of simple foraging habitat destruction, projects in these areas must be evaluated on a case-by-case basis.

Summary of Comment 8: The Ordinance could be unconstitutionally vague, and the City should articulate precise conditions and standards now.

Response to Comment 8: As stated in Response to Comment 2, this Ordinance establishes an option for mitigation only. If project applicants do not agree with mitigation options provided by this Ordinance, they may propose other mitigation. Also see Response to Comment 5 from the second set of comments from James Pachl.

Summary of Comment 9: The Ordinance does not specify to which type(s) of development it will apply.

Response to Comment 9: In Section 16.130.030, the Ordinance specifies that it only applies to projects that have "been determined through the CEQA process to result in a potentially significant impact or potentially significant cumulative impact on Swainson's hawk foraging habitat". Because any project that causes potentially significant impacts to habitat must mitigate for those impacts, regardless of the type of development, it is appropriate that the Ordinance allow mitigation options for all types of development.

Summary of Comment 10: Individual project applicants and the City will have to work with DFG to determine adequate mitigation, resulting in an inefficient and unnecessary use, on a project basis, of City, DFG and project applicant resources.

Response to Comment 10: See Response to Comment 6. If the City did not consult with DFG we would be required to have an in-house Swainson's hawk expert on hand to advice staff on how to impose Swainson's hawk mitigation on projects. This could increase project fees and project processing time far beyond those if the City were to simply consult with DFG. The City of Rancho Cordova as well as the City of Elk Grove and Sacramento County have historically consulted with DFG on all projects with State protected species and resources and have not experienced a problem with inefficient and/or unnecessary use of resources.

Summary of Comment 11: The Ordinance declines to suggest a method for calculating how in-lieu fees will be calculated or for how much land a project applicant could be required to mitigate. Lack of specificity in where mitigation lands could be located and how much the fee will be.

Response to Comment 11: See Response to Comment 8, above, and Response to Comment 5 from the second set of comments from James Pachl.

Judith Lamare on Behalf of Sierra Club and Friends of Swainson's Hawk (FOSH):
(Comments submitted via email on January 6, 2006)

The comments in this email reflect the comments submitted by James Pachl in his email dated December 9, 2005 and his letter dated December 30, 2005, both of which have been addressed above.

Subj: **Swainson's Hawk Mitigation Program**
Date: 1/14/2006 12:13:32 P.M. Pacific Standard Time
From: PJacobs375
To: rmcgarvey@cityofranchocordova.org
CC: judelam@sbcglobal.net, VickiLee10@comcast.net, pjacobs@alum.calberkeley.org, PJacobs375, kjacobs_sms@yahoo.com, BlackJacqBTL

January 14, 2006

Dear Mayor Robert McGarvey and the Rancho Cordova City Council:

On Tuesday evening, January 17, 2006 you will consider the "Swainson's Hawk Mitigation Ordinance" . I hereby respectfully request, as a long term resident of Rancho Cordova and advocate for the presentation of its natural environment especially along the American River Parkway and adjacent regions, that this ordinance:

1. Requires California Fish and Game to approve location and configuration of lands for mitigation and the forms for conservation easements.

2. Requires suitable lands be dedicated prior to grading permit issuance for all but the smallest projects, since fee based programs in Rancho and other jurisdictions have failed to mitigate.

3. Ensure that all impacts to Swainson's Hawks are fully mitigated in the development process and that project EIRs fully and fairly assess these impacts, including a one-to-one mitigation ratio.

Thank you for your consideration.

Paul E. Jacobs and Family
2435 El Burlon Circle
Rancho Cordova, CA 95670
pjacobs@alum.calberkeley.org

Subject: "Interim" Swainson's Hawk Mitigation Ordinance
From: "Phillips, Kevin J" <kevin.j.phillips@intel.com>
Date: Fri, 13 Jan 2006 12:53:00 -0800
To: <rmcgarvey@cityofranchocordova.org>, <ken.cooley@cityofranchocordova.org>, <lbudge@cityofranchocordova.org>, <dskoglund@cityofranchocordova.org>, <dsander@cityofranchocordova.org>, <tgaebler@cityofranchocordova.org>
CC: "Phillips, Kevin J" <kevin.j.phillips@intel.com>

Dear Mayor McGarvey and council members,

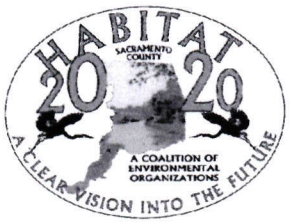
My name is Kevin Phillips.

I'm an Engineer at Intel here Folsom; I'm also a member of the California Air National Guard for the past twenty three years.

My love for God, country, and family are very strong. Part of my love for country comes from people like you who have similar interest with the "Grow of our Nation". That grow is a delicate balance of urban sprawl while maintaining conservation requirements. Not an easy task for any decision making body.

As a decision making body you are soon facing the Swainson's Hawk Mitigation Ordinance. It is of my opinion that the proposed "Interim" solution is inadequate. Fee programs have a consistent and proven record of failure, I strongly urge the council to reconsider in favor of a program that require land to be dedicated before the developers can receive their grading permits.

Best regards,
Kevin



www.Habitat2020.org

January 11, 2006

Dear Mayor McGarvey and City Council Members:

Habitat 2020 is a committee of environmental organizations collaborating on common issues in and affecting Sacramento County. The mission of Habitat 2020 is to protect the lands and waters where our wildlife and native plants live in Sacramento County. The member organizations are Sacramento Audubon, Save the American River Association, Urban Creeks Council, California Native Plant Society- Sacramento Valley Chapter, ECOS, Sierra Club- Mother Lode Chapter, and Friends of Swainson's Hawk.

Rancho Cordova is developing areas that have been wildlife habitat. This letter addresses your policy for mitigating for impacts on the Swainson's Hawk. We support the Friends of the Swainson's Hawk and Sierra Club in asking you to adopt a legally and ecologically sound mitigation program.

In particular, we urge you to:
• require land dedications prior to grading permit for projects of 40 acres or more, reserving the fee option only for smaller projects of less than 40 acres;
• require approval of California Fish and Game for land location and quality for mitigation lands to ensure biological soundness of preserve lands;
• mitigate at least 1:1 for loss of Swainson's Hawk foraging habitat.

Please recognize that a history of mitigation shortfalls, and the build up of fees that have not been used as intended to acquire mitigation land, have led to an ongoing deficit in habitat loss. To preserve the population of Swainson's Hawks that presently nests in Sacramento County, every jurisdiction will have to fully mitigate for all impacts on this species.

Thank you for taking a careful look at the staff proposed new ordinance. We believe it can be stronger and should be stronger to be consistent with other jurisdictions in the County.

Sincerely yours,

Christina Lewis, Habitat 2020 Chair
4900 Kenneth Ave, Carmichael, CA 95608

California Native Plant Society
Glen Holstein

Friends of Swainson's Hawk
Jude Lamare, James Pachl

Sierra Club
Vicki Lee, Kathy Reis

Audubon
Mary Bisharat, Roy Greenaway, Keith Wagner

Graham Brownstein
Environmental Council of Sacramento
Graham Brownstein, Linda Whitney

Save the American River Association
Elke Guenter, Betsy Weiland

Urban Creeks Council
Alta Tura, Dorothy Harvey

Subject: Swainson's Hawk mitigation: Making it work for the Hawks
From: "christine mcmahon" <estuary41@hotmail.com>
Date: Fri, 06 Jan 2006 04:19:43 +0000
To: lbudge@cityofranchocordova.org

Dear Mayor Ken Cooley,

I am very concerned for the future of the wonderful Swainson's Hawks which inhabit our lovely community of Rancho Cordova. For this reason I would like to suggest that you follow the advise of the Sierra Club and do the following:

Getting California Fish and Game approval on location and configuration of lands for mitigation and provisions of conservation easements which will ensure biological soundness.

A guarantee that mitigation will get implemented by the City, requiring that suitable habitat lands be dedicated prior to grading permit issuance for all but the smallest projects. It has been found that fee bases programs in Rancho and other jurisdictions have failed to mitigate.

A commitment to ensure that all impacts to Swainson's Hawks are fully mitigated in the development process and that project EIRs fully and fairly assess these impacts.

Let's save these Hawks for your children and mine to enjoy in the future of Rancho Cordova.

Respectfully yours,

Christine McMahon
10832 Ambassador Dr
Rancho Cordova CA 95670

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Subject: Mitigation Measures
From: "Glory Wicklund" <glorywicklund@comcast.net>
Date: Sat, 14 Jan 2006 12:58:05 -0800
To: <rmmcgarvey@cityofranchocordova.org>, <ken.cooley@cityofranchocordova.org>, <lbudge@cityofranchocordova.org>, <dskoglund@cityofranchocordova.org>, <dsander@cityofranchocordova.org>, <tgaebler@cityofranchocordova.org>

I have lived in RC for 34 years and enjoy the quality of life that includes parks, open space, and wildlife. I am fortunate to live on the Riverside where hawks and raptors can been in neighborhoods (as well as opossums and raccoons!)

In keeping with the special qualities of suburban life that is unique to Rancho, I ask you to enforce mitigation land for the Swaison Hawk, in coordination with Fish and Game, BEFORE developers break ground.

History shows that mitigation money is NOT the answer. The money gets paid, it sits, no land is made available, the wildlife suffers and the reason to enjoy one's home and area is diminished. You hold the reins of enforcement and the answer is "no mitigation = no building permit".

Let's not race for development fees and property taxes and turn out with density of housing like Elk Grove/Laguna, with little open space, and at the expense of the special qualities of Rancho Cordova.

Thanks for your consideration.

Glory Wicklund
10341 Daniel Way
RC 362-4820

COMPREHENSIVE ZONING PLAN

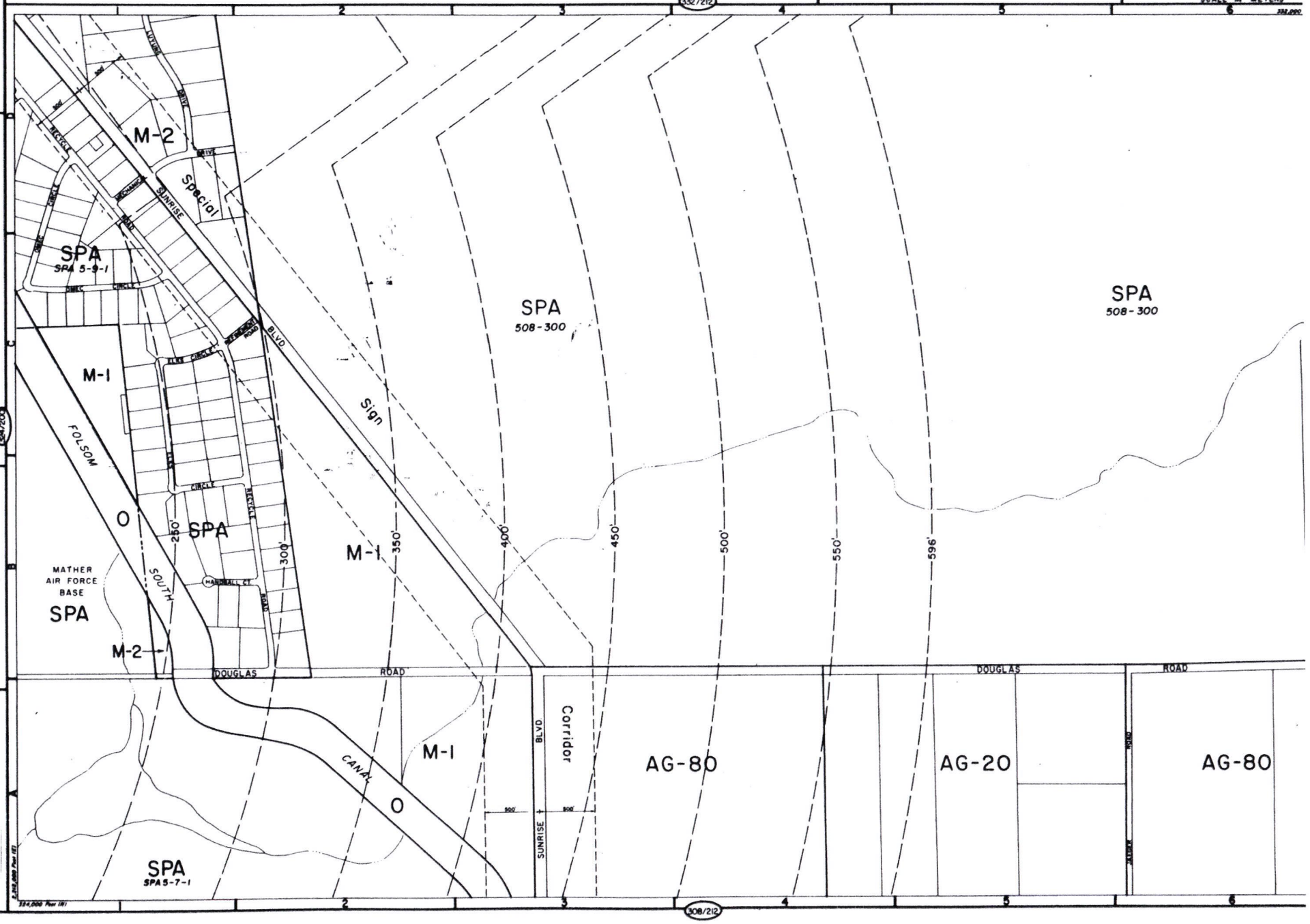
SACRAMENTO COUNTY, CALIFORNIA

OFFICIAL APPROVAL CERTIFICATE
COUNTY PLANNING COMMISSION
APPROVED 11 MAY 1987
ILA MIRANDA, SECRETARY — JERRY SCHROEDER, CHAIRPERSON
SACRAMENTO COUNTY BOARD OF SUPERVISORS
ADOPTED BY ORDINANCE NO. SZC-87-60, 1 JULY 1987
BEVERLY WILLIAMS, CLERK OF THE BOARD — JIM STRENG, VICE CHAIRPERSON

324/212

SCALE IN FEET
SCALE IN METERS

ZONING VERIFIED
Aug. 7, 1986



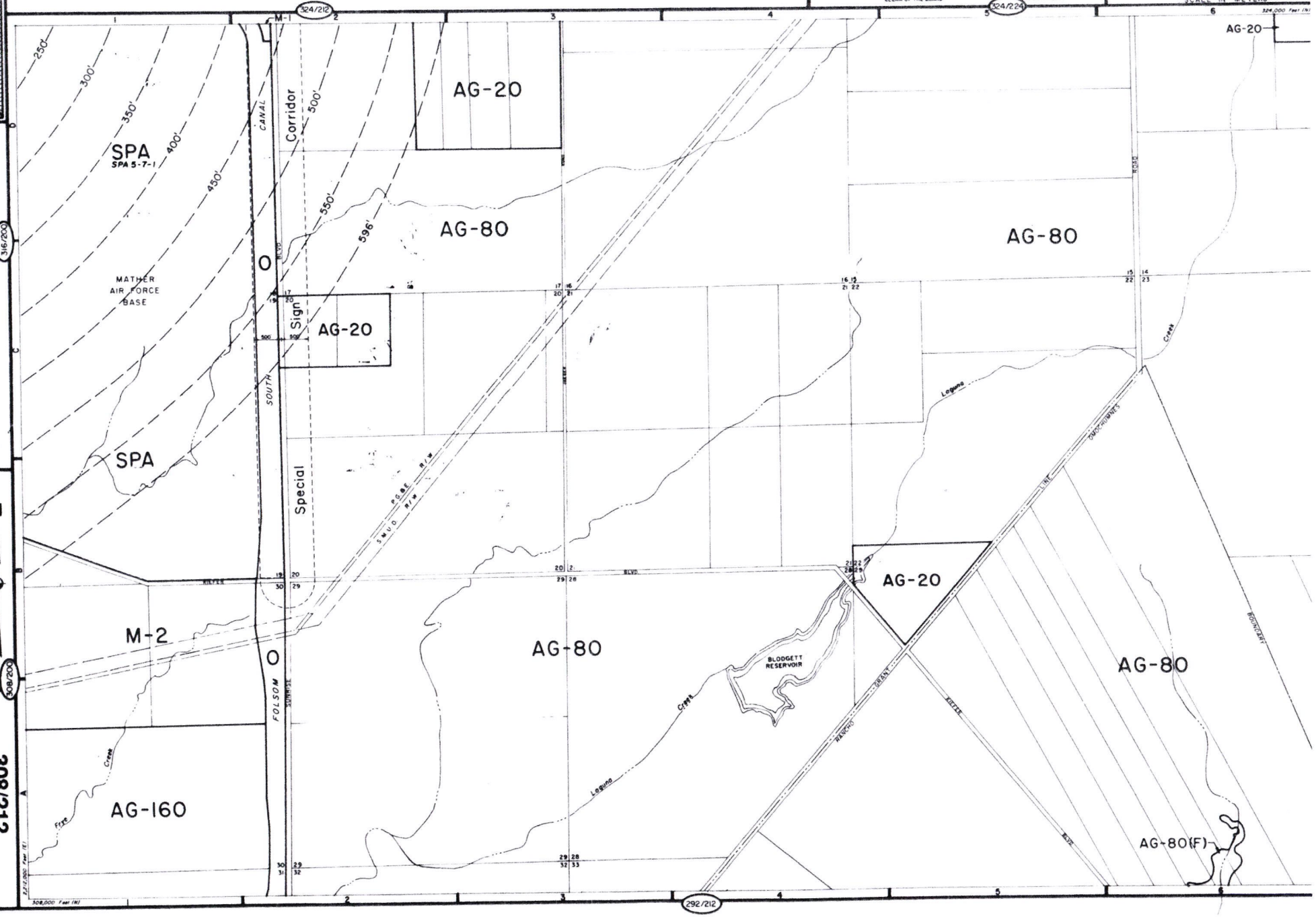
324/212

COMPREHENSIVE ZONING PLAN
SACRAMENTO COUNTY, CALIFORNIA

OFFICIAL APPROVAL CERTIFICATE
COUNTY PLANNING COMMISSION
APPROVED 11 MAY 1987
/S/ ILA MIRANDA, SECRETARY — /S/ JERRY SCHROEDER, CHAIRPERSON
SACRAMENTO COUNTY BOARD OF SUPERVISORS
ADOPTED BY ORDINANCE NO. SZC-87-60, 1 JULY 1987
/S/ BEVERLY WILLIAMS, CLERK OF THE BOARD — /S/ JIM STRENG, VICE CHAIRPERSON

308/212

SCALE IN FEET
SCALE IN METERS



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January 17, 2006

Mayor Robert McGarvey and City Council Members
City of Rancho Cordova
2729 Prospect Park Boulevard
Rancho Cordova, CA 95670

cc: Paul Junker, Director of Planning

RE: Proposed Ordinance "Swainson's Hawk Impact Mitigation", City Council, January 17, 2006, 7:30 p.m.

Dear Mayor McGarvey, Council Members, and Mr. Junker,

I submitted a letter on behalf of Sierra Club and Friends of the Swainson's Hawk regarding the proposed Interim Swainson's Hawk ("SWH") mitigation ordinance. I received staff's response on Friday afternoon, but was unable to review and respond until today. A major concern has been the failure of the former fee-based SWH mitigation ordinances of County of Sacramento, City of Elk Grove, and other jurisdictions.

Staff's Response to Comments, pp. 3 and 4, Responses to Comments 5, 6, 7, and 8, describe changes in the draft Ordinance, to respond to comments. However, these changes do not appear in the draft Ordinance available with the Council's electronic agenda, nor in staff's e-mail of Friday afternoon.

Staff's Response, page 3, Response to Comment 10, asserts that Sacramento County and Elk Grove have shown that fee programs do work, and cite some examples. A more complete history shows otherwise.

Response to Comment 10, p. 3, cites three Sacramento County SWH conservation easement acquisitions: Allen property, Larkin property, Van Steyne property. All three agreements were completed before 2001, although one may have closed escrow in 2001. Two were paid with County SWH mitigation fees. Nature Conservancy advanced funds for the Van Steyne easement, and was reimbursed by County in 2005. The prices, pro-rated per acre, were as follows: Allen conservation easement, $1,038 per acre ($335,300

divided by 323 acres); Larkin conservation easement, $912 per acre ($465,999 divided by 510 acres); Van Steyn conservation easement $2,132 per acre ($420,000 divided by 197 acres). Those pre-2001 prices were a tiny fraction of today's prices of $12,000 - $15,000 per acre or more.

Further mitigation acquisitions for Sacramento County became impossible because prices escalated much faster than the developer SWH mitigation fee. For the same reason, Elk Grove's mitigation fee program accumulated nearly $2,000,000 in mitigation fees and acquired nothing. In 2004, the Nature Conservancy, which was conservation operator for both programs, and California Department of Fish and Game determined that these programs were not working. See attached letter of The Nature Conservancy, April 29, 2004, and California Department of Fish and Game, May 18, 2004. Thereafter, both jurisdictions adopted programs requiring developers of projects of 40 acres or greater to dedicate SWH mitigation land before issuance of grading permits. Projects of under 40 acres also had the option of paying mitigation fees of approximately $18,000 per acre for acquisition and endowment for perpetual monitoring, O and M, etc.

Staff Response to Comment 10, p. 3, states that Elk Grove is in the process of acquiring a 200-acre SWH conservation easement. As of two months ago, the proposed price was approximately $15,000 per acre, paid mostly with SWH fees accumulated at $2,900 - $4,900 per acre under the former fee program. This amounts to approximately 0.25 to 1 mitigation ratio. The vineyard deal cited by staff is a one-time unique deal in which the developer paid a mitigation fee which by agreement was specifically designated for acquisition of this vineyard parcel.

Some examples of prices in recent Elk Grove developer acquisitions of SWH mitigation land include: $15,000 per acre (easement on 160 acres), $20,500 (easement on the vineyard), $15,000 (30 acres), $14,500 (easement on 160 acres), $12,000 (200 acres, fee and easement).

Staff's Response, pp. 3, 4, correctly states that fee-based mitigation can comply with CEQA, but only if there is substantial evidence that feasible mitigation measures will actually be implemented as a result of payment of the mitigation fee. See Public Resources Code §21081.6(b), CEQA Guideline §15126.4(a)(2), *Federation of Hillside and Canyon Associations v City of Los Angeles*, (2000) 83 Cal. App. 4th 1252, 1260, 1261; *Napa Citizens for Honest Government v Napa County* (2001) 91 Cal. App. 4th 342, 364; *Endangered Habitats League v County of Orange* (2005) 131 Ca. App. 4th 777, 785.

Given the upward pressure on land prices, and the uniform failure of other fee-based SWH mitigation programs, there is no reason to expect a fee-based Rancho Cordova mitigation program to keep pace with the cost of acquisitions.

Thank you for the opportunity to comment.

Very Truly Yours,



James P. Pachl

The Nature Conservancy
SAVING THE LAST GREAT PLACES ON EARTH

Cosumnes River Preserve &
Delta Project
13501 Franklin Boulevard
Galt, California 95632

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info@cosumnes.org
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Worldwide Office
Arlington, Virginia

April 29, 2004

Larry Eng
Department of Fish and Game
Region 2
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Dear Larry:

As you know, by agreement with Sacramento County and the City of Elk Grove, the Department has permitted these local governments to allow developers to mitigate for impacts to Swainson's hawk habitat through either payment of a fee or otherwise mitigating to the satisfaction of the Department. Overwhelmingly, developers opt to pay fees rather than to implement substitute mitigation. The County fee program was developed originally in partnership with The Nature Conservancy (TNC), with the expectation that opportunities for fee or easement protection of lands outside of the Urban Services Boundary would arise and support habitat protection that would complement or expand the existing Cosumnes River Preserve. Elk Grove's program, while not explicitly involving TNC, was patterned on the County program. Both programs rest on the increasingly shaky assumption that a comprehensive Habitat Conservation Plan will be completed and approved soon, supplanting the interim fee program, and suffer from the absence of the kind of clear understanding of needs, roles, and responsibilities that it was hoped that the HCP would bring to habitat conservation activities in the south County.

As you are also aware, TNC has been working actively to secure easements within the high value Swainson's hawk nesting and foraging zone south of the Urban Services Boundary, proximate to the high value habitats that are being lost in urbanizing Elk Grove. Despite our best efforts, we have achieved only limited success. Our expectations for the near future are not positive because rapidly escalating property values have outpaced our ability to compete for available land. Currently, high value Swainson hawk properties outside of the Urban Services Boundary are selling at 3 to 4 times the Elk Grove fee level and 4 to 6 times the County fee level, even with the recent increases in fees by both jurisdictions.

We continue to be interested in acquiring easements that protect habitat values for the Sandhill crane and Swainson's hawk when transactions can be completed at prices that are at or below appraised, fair market value, if funds are available. As such properties become available, we will work with the County and the City of Elk Grove and the

Department to assess interest and suitability. Over time. we are hopeful. but not confident. that mitigation funds accrued up to this date by both jurisdictions can be applied as originally intended.

Because of this uncertainty as to whether collected mitigation funds can be effectively used, and the likelihood that funds collected from this point forward at current fee levels cannot be effectively used, we strongly recommend that the Department recognize that the fee programs as they exist do not mitigate for Swainson's hawk impacts, suspend the current agreements (except, perhaps. as they may be revised to cover only small properties below a specified acreage). and so inform the local jurisdictions.

Please contact me if you have any questions.

Sincerely,

Mike Eaton
Project Director

Cc: Dan Gifford
Rob Sherry
Peter Brundage

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
Sacramento Valley-Central Sierra Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
(916) 358-2900

May 18, 2004

Mr. Mike Eaton, Project Director
Cosumnes River Preserve & Delta Project
13501 Franklin Boulevard
Galt, CA 95632

Dear Mr. Eaton:

Thank you for your concern regarding mitigating for the loss of Swainson's hawk foraging habitat in the City of Elk Grove. The Nature Conservancy is an essential partner in finding ways to mitigate the impact of growth and development in our Region. The points you raise in your letter are valid. The moneys collected to off-set the loss of Swainson's hawk foraging habitat must be sufficient to do the job. Collecting fees always carries an inherent risk that the fee amount won't be sufficient, and for this reason, the Department of Fish and Game is in favor of protecting acres, first.

There are, however, outstanding issues that we feel must be addressed. Loss of Swainson's hawk foraging habitat is occurring throughout the City of Elk Grove. This cumulative loss must be addressed under CEQA. The fee ordinance programs enabled us to get out of a traditional project-by-project mode of CEQA review, and into a process where we could consolidate the mitigation fees and protect larger parcels. If what you say is true, and it is no longer realistic to pursue this approach, then we need to think through our options before suspending the fee programs.

You raise important issues that need to be resolved. We are very much interested in meeting with you to see if together we can find some solutions. Please contact Mr. Dan Gifford of my staff, who will assist in this matter. He can be reached at (209) 369-8851.

Sincerely,

Banky E. Curtis
Regional Manager

cc: Mr. Dan Gifford
Sacramento Valley-Central Sierra Region
Rancho Cordova, CA 95670