CONCURRENT MEETING
CITY COUNCIL/CRA/RCFC

Monday, April 21, 2008

5:00 p.m. – Closed Session
5:30 p.m. – Regular Meeting

AGENDA

CITY OF RANCHO CORDOVA
CALIFORNIA
Incorporated 2003

Linda Budge, Mayor

Dan Skoglund, Vice Mayor

Ken Cooley, Council Member

Robert J. McGarvey, Council Member

David Sander, Council Member

MAKING YOUR POINT – MAKING IT COUNT

Government decision-making takes time—time for public input, time for analysis, and time for weighing both sides of the issue before making an informed decision.

People sometimes complain that the process takes too long, delay progress, costs extra money and is frustrating for discussion participants. Others say that the process doesn't give people enough time to comment and that decisions are made too quickly without enough consideration for all sides of the issue.

The foundation for democracy in America is our constitutional right to tell our elected leaders what we think about issues that affect us. This right is enjoyed by all citizens, regardless of education, background, or experience. Rancho Cordova leaders welcome you to public meetings and encourage you to participate in discussions that affect you.



The way you present your message at the podium can help or hurt your ability to persuade your audience. It can either facilitate or obstruct the public participation process. Whether you are an experienced public speaker or speaking at the podium for the first time, it may be helpful to remember these public meeting tips:

- Identify your main points. Writing them down will help you organize your thoughts and remember them when you're at the podium.
- Check your facts. Accuracy improves your credibility and helps you make a positive impression.
- Handouts summarizing your position may be distributed to policy makers and staff before or after your presentation. Busy leaders appreciate clear, concise information (one or two pages) that helps them identify your key points and remember your presentation.
- Don't be nervous. If you are, don't apologize for it. Public Officials see many citizens who are nervous when speaking in front of an audience. It may help to take a deep breath and exhale slowly just before you approach the podium.
- As you begin to speak, state your name and address clearly for the record. If you represent a group or organization, please state that information as well.
- Make your position known at the beginning, then present supporting information. You will sound organized, which helps people to understand your position.
- Keep your presentation short and simple. Attention spans are brief and people will remember a short presentation better than they will one that rambles and includes too much information.
- Don't repeat yourself. It uses valuable time and people tune out when they hear the same thing over and over. If a previous speaker has already made the point you planned to make, simply refer to that speaker and emphasize your support for that position.
- Be cautious about using humor which is very subjective. While some may laugh, others may be offended.
- Persuade, don't badger your audience. Compelling presentations can be very persuasive to both policy makers and public meeting audiences; however, insulting or degrading language can make you appear belligerent, reducing your credibility as well as the power of your message.
- Close your comments with an action statement such as, "Adopt this resolution" or "I urge you to vote 'no' on this ordinance."

Rancho Cordova City leaders appreciate your interest in issues that affect the community. We hope these tips will help you prepare and present your remarks so they will be clear, concise, accurate and credible. If you follow these guidelines, your audience is likely to listen, pay attention, and maybe even agree with you!

Rancho Cordova City government is not the City Council, City staff or Rancho Cordova citizens – it's all of us working together to understand each others' opinions so we can make the best decisions for our community.

THANK YOU FOR PARTICIPATING!

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

City Hall
2729 Prospect Park Drive, Rancho Cordova

Monday, April 21, 2008

5:00 P.M. – Closed Session
Community Board Room

5:30 P.M. – Regular Meeting
David B. Roberts Council Chambers

AGENDA

A. CLOSED SESSION

Council may adjourn to Closed Session to discuss the following item(s):

Conference with Legal Counsel – Anticipated Litigation Government Code 54956.9 (b) (one potential case).

B. ADJOURNMENT

1. REGULAR MEETING – CALL TO ORDER / ROLL CALL

Council Members Sander, Cooley, McGarvey, Skoglund, and Mayor Budge

2. OPEN SESSION – REPORT FROM CLOSED SESSION

The City Attorney will report on action taken in Closed Session.

3. METRO CABLE TV TELEVISION ANNOUNCEMENT

The Mayor will announce the meetings video recording and playback schedules.

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4. PLEDGE OF ALLEGIANCE

The Mayor will call on Girl Scout Troop Numbers 54 and 879 to perform a Color Guard Ceremony and lead the Pledge of Allegiance.

5. INVOCATION

Chaplain Dianna Kent, Rancho Cordova Law Enforcement, First Responders, will give the invocation.

6. PRESENTATIONS

6.1 Presentation of Proclamation to Sacramento Chapter of IAAP Chapter Members Marta Boerger and Lisa Canfield for Administrative Professionals Week, April 20th through 26th, 2008.

6.2 Presentation by Sean Davis of OfficeTeam Administrative Staffing to Stacy Leitner in recognition of her being a finalist for the Administrative Excellence Award.

6.3 Presentation by Bryan Godbe and Alice Chan of Godbe Research on Public Opinion Survey Results.

7. 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.

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.

8. COUNCIL REPORTS

9. CONSENT CALENDAR ITEMS – ROLL CALL VOTE

9.1 **Subject:** Meeting Minutes:
a) Special and Regular Meeting Minutes of January 22, 2008;
b) Regular Meeting Minutes of March 17, 2008; and
c) Special Meeting Minutes of March 25, 2008.
Recommendation: Adopt Minutes.

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9.2 **Subject:** Ordinance Establishing a Special Tax for Transit-Related Services for the Mather Office Complex, Building A.
Recommendation: Continue second reading of Ordinance No. 7-2008 to May 5th. **(Roll Call Vote)**
Result of Recommended Action: This item is being continued to allow staff time to reconsider the proposed maximum tax rates imposed by the ordinance.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 11

9.3 **Subject:** Ordinance Establishing a Special Tax for Transit-Related Services for the Department of Environmental Management Office Building.
Recommendation: Waive second reading and adopt Ordinance No. 8-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this ordinance will assist the City to meet the costs of providing transit-related services by establishing a special tax for transit-related services for the Department of Environmental Management Office Building.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 11

9.4 **Subject:** Resolution Authorizing the City Manager to Award Construction Contract to Granite Construction Company for 2007/2008 Paving Rehabilitation Project Phase 1 – Coloma Road from Folsom Boulevard to McGregor Drive and Mather Field Road from Highway 50 to Peter McCuen Drive, in the amount of $2,073,370.
Recommendation: Adopt Resolution No. 34-2008.
Result of Recommended Action: Adoption of this resolution will authorize the City Manager to award the 2007/2008 Paving Rehabilitation Project Phase 1 to the lowest responsive bidder, Granite Construction Company and accept bid alternate 1 in the amount of $71,151.50 and base bid of $2,002,218.50 for a total bid amount of $2,073.370, to construct a landscape median on Coloma Road between Melaga Way and Dolecetto Drive.
The project includes construction of pedestrian and ADA improvements and an asphalt overlay on Coloma Road from Folsom Boulevard to McGregor Drive as well as pedestrian and ADA improvements, a slurry seal and base repairs to Mather Field Road from Highway 50 to Peter McCuen Drive. A landscape median along Coloma Road from Malaga Way to Dolecetto Drive will be part of this phase of construction. Construction will begin Spring 2008 upon City Council approval and will be completed in the Fall of 2008.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 1, 2, 4, 5, 6, and 8

9.5 **Subject:** Resolution Establishing a Travel and Reimbursement Policy for City Officials.
Recommendation: Adopt Resolution No. 9-2008.
Result of Recommended Action: Adoption of this resolution will establish a travel and reimbursement policy for the City Council, the Planning Commission, and any other boards or commissions that may be appointed by the City Council. The policy will establish guidelines and rules for the types of expenses that officials may be reimbursed for while representing or engaging in City business.

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Staff Report: Ted Gaebler, City Manager's Office and Adam Lindgren, City Attorney's Office
Advances Goals: 1 and 11

9.6 **Subject:** Resolution Authorizing City Manager to Execute a Letter of Authorization to Pacific Municipal Consultants for Environmental Services in the Amount of $119,459 for the Zinfandel Drive Extension Project.
Recommendation: Adopt Resolution No. 27-2008.
Result of Recommended Action: The recommended action will allow the City Manager to execute a Letter of Authorization to Pacific Municipal Consultants to complete the environmental document that will be developed for the Zinfandel Drive Extension and Douglas Road Improvements Project.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 8

9.7 **Subject:** Resolution Designating Mayoral Appointment of Debbie Cannon, a Rancho Cordova Representative to the Sacramento County Sheriff's Outreach Community Advisory Board (SOCAB).
Recommendation: Adopt Resolution No. 33-2008.
Result of Recommended Action: The City of Rancho Cordova will have a representative on the SOCAB whose purpose, as outlined in the Board of Supervisors' Ordinance, is..."to provide collaboration and communication in the establishment and implementation of programs that identify and seek to eradicate conflict, concerns and issues regarding the (Sheriff's) Department and the community it serves."
Staff Report: Stacy Leitner, City Clerk's Department
Advances Goals: 1, 4, 6, and 13

9.8 **Subject:** Resolution of the City Council Acting as the Governing Body of all its Community Facilities Districts Ordering Judicial Foreclosure of Delinquent Special Taxes Pursuant to the Mello-Roos Community Facilities Act (the Act) of 1982, Ordering the Tax Collector be Credited with those Taxes and Authorizing Retention of Special Counsel.
Recommendation: Adopt Resolution No. 39-2008 granting approval, pursuant to Government Code Section 53356.2: (1) record notices of intent to remove the delinquent special taxes from the tax rolls; and (2) request that the applicable County officials remove current and future delinquent special taxes from the tax rolls.
Result of Recommended Action: This meeting will consider, pursuant to Section 53356.1(b) of the Act, for the CFDs, who covenanted for the benefit of owners of the debt (bondholders), action to collect delinquent special tax levies, which have not been paid when due, by removing the delinquent special taxes from the secured tax roll. This action will commence collection by special counsel to collect the delinquent special taxes, by action brought in the appropriate Superior Court to foreclose the liens.
Staff Report: Donna Silva, Finance Department
Advances Goal: 11

9.9 **Subject:** Resolution Authorizing the City Manager to Execute Three New Non-Exclusive Commercial Solid Waste and Recyclables Collection Franchise Agreements with All Waste Systems, Inc., Aces Waste Services, Inc. and Green Waste Recovery, Inc. (dba

$99 Debris Box).
Recommendation: Adopt Resolution No. 40-2008.
Result of Recommended Action: Adoption of this resolution will allow the City Manager to execute three new non-exclusive commercial solid waste and recyclables collection franchise agreements.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 1, 4, 8 and 9

9.10 **Subject:** Resolution Authorizing Execution of Contract with Beazer Homes Holdings Corp. for Payment for Construction of Intersection Improvements at Zinfandel Drive and International Drive.
Recommendation: Adopt Resolution No. 43-2008.
Result of Recommended Action: Adoption of this resolution will authorize the City Manager to execute a contract with Beazer Homes Holdings Corp. for reimbursement of costs incurred for construction of intersection improvements at Zinfandel Drive and International Drive.
Staff Report: Cyrus Abhar, Public Work Department
Advances Goals: 1, 2, 4 and 8

10. CONSENT PUBLIC HEARING ITEMS

10.1 **Subject:** Capital Center Lot 36, Project No. RC-08-336, Design Review, Located at 10799 International Drive, N/E corner of International Drive and Capital Center Drive.
Recommendation: Adopt Resolution No. 41-2008.
Result of Recommended Action: The approval will complete the second phase of this development in the Capital Center project area. The building has been designed to accommodate multiple smaller users, however, is suitable for single occupancy. It will provide another high quality office building along the International Drive corridor and compliment the other developments in the Capital Center area.
Staff Report: Bill Campbell, Planning Department
Advances Goals: 1 and 9

11. PUBLIC HEARING ITEMS

11.1 **Subject:** Ordinance Approving Quimby Parkland Dedication Household Population Factors. **(Continued from December 17, 2007, February 4, 2008 and March 3, 2008)**
Recommendation: Staff recommends this item be tabled to allow further discussions between City staff, Cordova Recreation and Park District (CRPD), and the development community.
Result of Recommended Action: Tabling this item will allow CRPD and the development community to provide additional input on the updating of the City's Household Population Factors. Input from CRPD and the development community might result in revisions to staff's proposal on this item.
Staff Report: William Campbell, Planning Department
Advances Goals: 1, 4 and 8

11.2 **Subject:** Resolution Certifying the Mitigated Negative Declaration and Adopting the Mitigation Monitoring and Reporting Program and Authorizing Public Works to Initiate

Right-of-Way Acquisition and Complete Engineering Design and Advertise to Solicit Construction Bids for the International Drive Extension Project
Recommendation: Adopt Resolution No. 18-2008.
Result of Recommended Action: The recommended action will certify the Mitigated Negative Declaration and adopt the Mitigation Monitoring and Reporting Program which will allow City of Rancho Cordova Planning Department to complete its obligations of environmental analysis and disclosure required under the California Environmental Quality Act for extending International Drive from Kilgore Road to Sunrise Blvd. The recommended action will also allow Public Works to initiate right-of-way acquisition and complete engineering design and advertise to solicit construction bids for the International Drive Extension Project.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 4

11.3 **Subject:** Amendment to General Plan Natural Resources Element.
Recommendation: Adopt Resolution No. 42-2008
Result of Recommended Action: The project would amend the language associated with General Plan Natural Resource Element policies NR.1.10, NR.1.11, NR.2.2 and NR.3.2, and action items NR.1.1.1, NR.1.1.3 and NR.1.7.1 in order to clarify the City's intent for these policy provisions. No other amendments to the General Plan are proposed as part of this action.
Staff Report: Paul Junker, Planning Department
Advances Goals: 2, 8 and 11

12. REGULAR CALENDAR ITEMS

12.1 **Subject:** Ordinance Amending the Folsom Boulevard Specific Plan and the Zoning Code Relating to Cardrooms.
Recommendation: Waive second reading and adopt Ordinance No. 9-2008. **(Roll Call Vote)**
Result of Recommended Action: This ordinance will amend the Folsom Boulevard Specific Plan and the Zoning Code in order to change the appropriate zoning designations and parking standards for cardrooms and will have a city-wide effect on the location of cardrooms.
Staff Report: Joe Chapman, City Attorney's Office
Advances Goals: 1, 5, 6 and 9

12.2 **Subject:** Ordinance Amending Municipal Code Chapter 4.22, "Cardrooms".
Recommendation: Waive second reading and adopt Ordinance No. 10-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this ordinance will modify existing requirements for the licensing and operation of cardrooms. Under the new requirements, the City Manager will be responsible for reviewing cardroom applications and issuing cardroom licenses. In addition to existing criminal background investigation requirements, the City Manager will also review an applicant's operational and business plans prior to issuing a license. An applicant will also be required to file and maintain approved security plans with the Police Department. In terms of operation, the ordinance will allow for an increase in the number of tables from 7 to 9, and will eliminate betting

limits.
Staff Report: Joe Chapman, City Attorney's Office
Advances Goals: 1, 6 and 9

12.3 **Subject:** Presentation of the Folsom Boulevard Specific Plan
Recommendation: Receive the updated Draft Folsom Boulevard Specific Plan and briefly discuss the process for reviewing and taking action on adoption of the Specific Plan.
Result of Recommended Action: This presentation will identify key features and benefits of the Specific Plan and will identify recent updates to the Specific Plan. This presentation will enable the City Council to prepare for formal hearings on the adoption of the Folsom Boulevard Specific Plan.
Staff Report: Paul Junker, Planning Department
Advances Goals: 1, 5, 6, 7, 8, 9, and 13

13. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

14. CITY MANAGER'S REPORT

15. ADJOURNMENT

ADDITIONAL INFORMATION

The agenda items are accessible on the City's website at www.cityofranchocordova.org on Thursdays prior to the Regular City Council Meeting.

CITYWIDE GOALS - (Adopted March 20, 2006)	
1.	Foster a Positive Image of Rancho Cordova
13.	Continue To Provide Regional Leadership
2.	Improve Transportation & Connectivity
12.	Establish Logical (City) Boundaries
3.	Champion Employee Development & High Performance Work Environment
11.	Practice Sound Fiscal Management
4.	Ensure the Availability of the Best Public Services in the Region
10.	Foster Responsible Citizenship
5.	Establish a Vibrant Downtown
9.	Drive Diverse Economic Opportunities
6.	Ensure a Safe Community
8.	Sustain a Livable Community
7.	Improve the Quality of Housing In Rancho Cordova

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UPCOMING MEETINGS	
Tuesday, April 29, 2008	***5:30 p.m. Work Session TBD***
Monday, May 5, 2008	***5:30 p.m. Regular Meeting***
Wednesday, May 7, 2008	***8:00 a.m. to 1:00 p.m. Rancho Cordova Community Bus Tour – Testing the Draft Zoning Code***
Tuesday, May 13, 2008	***5:30 p.m. Work Session on Zoning Code Discussion, Design Concepts for the Promenade Overcrossing of Hwy 50, and Draft Housing Element (tentative)***
Monday, May 19, 2008	***12:00 p.m. Budget Study Session 5:30 p.m. Regular Meeting***
Monday, June 2, 2008	***12:00 p.m. to 5:00 p.m. Budget Session - TENTATIVE 5:30 p.m. Regular Meeting***
Monday, June 16, 2008	***5:30 p.m. Regular Meeting***
Monday, June 30, 2008	***5:30 p.m. Work Session on Roll Out of the Emergency Operations Plan - TENTATIVE***

If you have any technical questions related to the agenda items, please contact the appropriate department as follows:

DEPARTMENTAL GENERAL TELEPHONE NUMBERS	
Building Department	(916) 851-8760
Finance Department	(916) 851-8730
Planning Department	(916) 851-8750
Public Works Department	(916) 851-8710
Redevelopment & Economic Development Department	(916) 851-8780

The Rancho Cordova City Council/CRA/RCFC will be videotaped in its entirety and will be cablecast without interruption on Metro Cable 14, the Government Affairs Channel on the Comcast, SureWest and Strategic Technologies Cable Systems. Closed Captioning will be available on the playback cablecast. Tune to Metro Cable Channel 14, for playback times. A VHS copy is also available for check out from any library branch. The City does not control scheduling of this telecast and persons interested in watching the televised meeting should confirm this schedule with Metro Cable TV, Channel 14.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation, including auxiliary aids or services, to participate in this meeting, please contact the City Clerk's Office at (916) 851-8720 at least 48 hours prior to the meeting.

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CERTIFICATION OF POSTING OF AGENDA

I, Stacy Leitner, Interim City Clerk for the City of Rancho Cordova, declare that the foregoing agenda for the April 21, 2008 Regular Meeting of the Rancho Cordova City Council/CRA/RCFC was posted and available for review on April 17, 2008 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 17th day of April 2008 at Rancho Cordova, California.

Stacy Leitner

Stacy Leitner, Interim City Clerk

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

City Hall
2729 Prospect Park Drive, Rancho Cordova

Tuesday, January 22, 2008

4:00 P.M. – Study Session
Special Joint Meeting
City Council and Planning Commission
American River Community Room - North

5:30 P.M. – Regular Meeting
David B. Roberts Council Chambers

MINUTES

A. STUDY SESSION - CALL TO ORDER / ROLL CALL

Mayor Budge called the Special Joint Meeting to order in the American River North Room at 4:20 p.m.

Present:	Council Members Cooley, Sander, Skoglund, and Mayor Budge Planning Commissioners Burke, Cummings, Moe, Savorn, Smith, Vance & Chair Konarski
Absent:	Council Member McGarvey
Staff Present:	Gaebler, Chinn, Leitner, Lehr, Wilson, Johns, Burke, Junker, Haven, Eckert

B. PUBLIC COMMENT

None.

C. STUDY SESSION ITEM

C.1. **Subject:** Discussion of Draft Zoning Code Chapters Regarding Site Planning and Development Standards, Special Use Regulations, and Special Housing Standards and Development Incentives.
Recommendation: Review and Discuss a portion of the Draft Zoning Code.
Result of Recommended Action: Council and Planning Commission comments on the Draft Zoning Code chapters will allow staff to finalize Article 6 – Site Planning and Development Standards, Article 7 – Special Use Regulations, and Article 8 – Special Housing Standards and Development Incentives currently under development by planning department staff. Comments and direction will be solicited, but no formal action is required or anticipated.
Staff Report: Jeff Beiswenger, Planning Department

AGENDA ITEM 9.1

D. ADJOURNMENT OF STUDY SESSION

Mayor Budge adjourned the special joint meeting in honor of Rancho Cordova Firefighter Calvin Webster at 5:37 pm.

1. REGULAR MEETING – CALL TO ORDER / ROLL CALL

Mayor Budge called the Regular Meeting to order in the David B. Roberts Council Chambers at 5:47 p.m.

Present:	Council Members Sander, Cooley, McGarvey (arrived at 6:49 pm), Skoglund, and Mayor Budge
Absent:	None
Staff Present:	Gaebler, Chinn, Lehr, Lindgren, Abhar, Donaldson, Cuppy, Wilson, Nobriga, Snyder, Pearl, Haven

2. METRO CABLE TV TELECAST ANNOUNCEMENT

The Mayor announced video recording and playback schedules.

3. PLEDGE OF ALLEGIANCE

Art Smith led the Pledge.

4. INVOCATION

Chaplain Gary Fox, Rancho Cordova Law Enforcement, Emergency Responders gave the invocation.

5. PRESENTATIONS

5.1. Introduction of New City Employees:

- Stephanie Nobriga, Administrarive Secretary by Mindy Cuppy, Administrative Support Supervisor; and
- Jeanie Donaldson, Customer Service Specialist by Mindy Cuppy, Administrative Support Supervisor; and
- Sheri Wilson, Deputy City Clerk/Records Coordinator by Brenda Lehr, Interim Assistant City Clerk; and
- Nancy Pearl, Public Relations and Communications Manager by Ted Gaebler, City Manager.

5.2. Presentation by Bruce Forman regarding the City Sponsorship of the 2007 Salmon Festival was not given at this meeting.

5.3. Claudia Goss, Communications Media Officer, Sacramento Area Sewer District, formerly known as County Sanitation District 1 (CSD-1) presented their branding efforts.

6. PUBLIC COMMENT

The following individuals addressed the Council:

- Max Miller presented a plaque to Council in recognition of support and contribution to the Cordova High School Athletic Department
- Jill Stockinger's introduction as the new Library Branch Supervisor

- Al Wilson, Jerry Cotton, Mike Brannon, Johnny Brannon, Diamond Francis on the OK Program, bidding farewell to Don Northcross and their efforts to help better the image of Rancho Cordova

7. COUNCIL REPORTS

Council reported on events since the last meeting.

8. CONSENT CALENDAR ITEMS – ROLL CALL VOTE

ACTION: Motion by Skoglund second by Sander and carried by a 4:0 vote (McGarvey absent), the Consent Calendar Items were approved.

8.1. **Subject:** Minutes of City Council Meetings:
1. Regular Meeting of December 3, 2007
2. Adjourned Regular Meeting of December 3, 2007 (Tuesday, December 4, 2007)
3. Regular Meeting of December 17, 2007
4. Special Meeting of December 19, 2007

Recommendation: Adopt Minutes.

8.2. **Subject:** Ordinance Amending Ordinance No. 22-2005 Relating to the Regulation of Commercial Solid Waste Collection Franchises.
Recommendation: Waive second reading and adopt Ordinance No. 41-2007. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this ordinance will authorize the City Manager to execute a two year extensions to the Non-exclusive Commercial Solid Waste and Recycling Collection Franchises, executed by the City in December of 2005 and amended in December of 2006.
Staff Report: Cyrus Abhar, Public Works Department

8.3. **Subject:** Resolution Creating Special Tax Area Zone 7 and Ordinance Establishing a Special Tax for Transit-Related Services for the BloodSource Laboratory Building.
Recommendation: Adopt Resolution No. 1-2008 and waive first reading and introduce Ordinance No. 2-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of the resolution and ordinance will assist the City to meet the costs of providing transit-related services by creating a special tax area zone and establishing a special tax for transit-related services for the BloodSource Laboratory Project.
Staff Report: Cyrus Abhar, Public Works Department

8.4. **Subject:** Approval of Measure A Transportation Expenditure Plans.
Recommendation: That Council:
1. Approve the FY2007/2008 Interest Allocation to the FY2007/2008 Expenditure Plan allocating Measure A revenues to City programs and maintenance, and direct staff to submit the plan to the Sacramento Transportation Authority (STA).
2. Approve the FY2008/2009 Expenditure Plan allocation Measure A revenues to City transportation projects, programs and maintenance, and direct staff to submit the plan to the STA.

Result of Recommended Action: Approval of the Measure A Transportation Expenditure Plans will allocate funding to City Projects and Programs, and allow the City to expend Measure A Sales Tax revenues. Upon approval, the recommended Expenditure Plans will be submitted to STA for revenue and final approval by the STA Board.
Staff Report: Cyrus Abhar, Public Works Department

8.5. **Subject:** Resolution Adopting a Real Estate Acquisition Program.
Recommendation: Adopt Resolution No. 06-2008.
Result of Recommended Action: Adoption of this resolution will establish a Real Estate Acquisition Program and provide policy guidance to enable City staff with contracted real estate consultants to move forward on projects where real estate acquisition is needed. The program is designated to implement best practices for governmental real estate activity, and has been approved as to legal aspects by the City Attorney.
The program represents a professional and cost-effective approach to handling real estate appraisals, acquisitions, and relocation assistance. It relies primarily on real estate professionals who are experts in governmental real estate, but would also include legal consultation wherever necessary, especially in the early stages as detailed processes are decided and documented, and standard forms and agreements are developed.
Staff Report: Cyrus Abhar, Public Works Department

8.6. **Subject:** Resolution Authorizing City Manager to Execute Engineering Design Contract with Jacobs Carter Burgess for the Sunrise Boulevard Improvements (Kiefer Boulevard to Jackson Road Project) in the Amount of $674,621.38.
Recommendation: Adopt Resolution No. 5-2008.
Result of Recommended Action: Upon adoption of this resolution the City Manager will execute the contract with Jacobs Carter Burgess and the project team will move forward with design of the Sunrise Boulevard Improvements Project.
Staff Report: Cyrus Abhar, Public Works Department

8.7. **Subject:** Resolution Authorizing the City Manager to Execute a Memorandum of Agreement between the City of Rancho Cordova and the Army Corps of Engineers in the Amount of $187,000.00.
Recommendation: Adopt Resolution No. 7-2008.
Result of Recommended Action: Approval of this resolution will authorize the City Manager to renew the City's MOA for U.S. Army Corps of Engineers WRDA staff assistance and will allow the Corps to expedite review of permit applications for projects within the City limits.
Staff Report: Paul Junker, Planning Department

8.8. **Subject:** Resolution Authorizing the City Manager to Execute a Contract with InterWest Consulting for GIS Services in the Amount of $65,000.00.
Recommendation: Adopt Resolution No. 8-2008.
Result of Recommended Action: Adoption of this resolution will authorize the City Manager to execute Contract No. 195-2007 between the City of Rancho Cordova and InterWest Consulting in the amount of $65,000 to provide internal GIS services to staff and others related to the City of Rancho Cordova. This will give staff a greater source of information to better service the community.
Staff Report: Jay Hadley, Information Technology Department

8.9. **Subject:** Council Member Appointments to Regional Boards and Commissions for 2008.
Recommendation: That Council Member appointments for 2008 be approved for the listed Boards and Commissions, reflected in the attachment to the staff report.
Result of Recommended Action: Action on this item will confirm the 2008 Rancho Cordova City Council Member appointees and alternates to various boards and commissions within the region to which Rancho Cordova provides leadership representation.
Staff Report: Stacy Leitner, City Clerk's Department

8.10. **Subject:** 2008 City Council Meeting Schedule.
Recommendation: That Council approve its meeting schedule for 2008.
Result of Recommended Action: Action on this item will confirm the 2008 meeting schedule for Rancho Cordova City Council Members.
Staff Report: Brenda Lehr, City Clerk's Department

9. CONSENT PUBLIC HEARING ITEM – ROLL CALL VOTE

Mayor Budge opened the Consent Public Hearing Comment period. There were no speakers. Mayor Budge closed the Consent Public Hearing Comment period.

ACTION: Motion by Cooley second by Skoglund and carried by a 4:0 vote (McGarvey absent), the Consent Public Hearing Items were approved.

9.1. **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: Adopt Urgency Ordinance No. 4-2008. **(Roll Call and 4/5ths Vote Required)**
Result of Recommended Action: Adoption of this ordinance will extend, for a period of two years, an existing moratorium on the establishment of new, and the expansion of existing, sexually oriented businesses in the City pending the City's update of the Zoning Code and the consideration of new zoning regulations applicable to sexually oriented businesses in the City.
Staff Report: Joe Chapman, City Attorney's Office

9.2. **Subject:** North Douglas II, Project No. RC-05-185, Rezone, Tentative Subdivision Map, Special Development Permit, and Development Agreement, Located within the North Grantline Planning Area of the Adopted General Plan, and Bordered by the North Douglas Subdivision to the South, West of Grant Line Road and South of Aerojet. **(Continued from December 3rd)**
Recommendation: Council continue item to February 19th, at the request of the applicant.
Result of Recommended Action: This action will allow the applicant additional time to prepare their project presentation.
Staff Report: William Campbell, Planning Department

9.3. **Subject:** Aerotec Court, Project No. RC-07-315, Design Review, Located at 11515 Luyung Drive and 3501 Aerotec Court.
Recommendation: Adopt Resolution No. 9-2008.
Result of Recommended Action: Approval of this Design Review will allow construction of two 3,487 sq. ft. light industrial buildings, each with adjacent yards and trash enclosures, and with shared parking and access.
Staff Report: Katja Irvin, Planning Department

10. PUBLIC HEARING ITEMS

None

11. REGULAR CALENDAR ITEMS

11.1. **Subject:** Urgency Ordinance Amending Title 9 of the City Municipal Code, "Public Peace, Morals and Safety," by Adding Chapter 9.91, "Social Host Ordinance."
Recommendation: Adopt Urgency Ordinance No. 1-2008. **(Roll Call and 4/5ths Vote)**
Result of Recommended Action: Adoption of this ordinance will establish regulations pertaining to social hosts in order to prevent minors from consuming alcohol at social gatherings. The ordinance will deter social hosts from allowing the consumption of alcohol by minors by imposing a penalty on hosts which allow such consumption.
Staff Report: Adam Lindgren, City Attorney's Office and Reuben Meeks, Rancho Cordova Police Department

City Attorney Lindgren indicated that staff would update the Council in six months with a report on 1) the usefulness of the ordinance as a law enforcement tool; and 2) any related state regulation resulting from the next legislative cycle.

ACTION: Motion by Cooley second by Skoglund and carried by a 5:0 vote, Council adopted Urgency Ordinance No. 1-2008, with a conforming amendment as proposed by Council Member Cooley clarifying the definition of "Social Host" as any person permitting, allowing or hosting.

11.2. **Subject:** Resolution Establishing a Travel and Reimbursement Policy for City Officials.
Recommendation: Adopt Resolution 9-2008.
Result of Recommended Action: Adoption of this resolution will establish a travel and reimbursement policy for the City Council and the Planning Commission. The policy will establish guidelines and rules for the types of expenses that officials can be reimbursed while engaging in City business.
Staff Report: Ted Gaebler, City Manager's Office and Adam Lindgren, City Attorney's Office

ACTION: Item tabled.

11.3. **Subject:** Rancho Cordova Chamber of Commerce Regarding Fiscal Circumstances for which the City may Provide Interim Solutions.
Recommendation: Consider request and direct appropriate action.
Result of Recommended Action: Council demonstrates its leadership by considering a request from a key membership organization that supports and promotes the economic vitality of Rancho Cordova.
Staff Report: Joe Chinn, City Manager's Office

Council Member Sander recused himself to avoid the appearance of a conflict of interest as he is a current Rancho Cordova Chamber of Commerce Board Member. He left the meeting.

Beth Walters began a presentation on behalf of the Chamber of Commerce.

AT THIS POINT in the meeting a recess was declared. The time was 7:12 p.m. The meeting reconvened at 7:22 p.m. All Council Members except Council Member Sander were present.

City Attorney Lindgren requested that the Council adjourn to Closed Session as a threat of litigation exists relative to the item under consideration.

ACTION: Motion by Cooley second by McGarvey carried by 4:0 vote, Council Member Sander absent for the vote, to adjourn to Closed Session for a Conference with Legal Counsel – Anticipated Litigation Government Code 54956.9 (b) (one case); the need for immediate action having come to the attention of the City after the posting of the agenda:

CLOSED SESSION - ADDED ITEM

Conference with Legal Counsel – Anticipated Litigation Government Code 54956.9 (b) (one potential case)

The time was 7:23 p.m. Present in Closed Session were all Council Members except Council Member Sander; Adam Lindgren, City Attorney; and Ted Gaebler, City Manager. The Council adjourned from Closed Session at 7:34 pm.

The meeting reconvened into Open Session at 7:35 pm. All Council Members except Council Member Sander were present.

REPORT FROM CLOSED SESSION

City Attorney Lindgren stated that there was no reportable action from the Closed Session.

REGULAR CALENDAR CONTINUED

AT THIS POINT in the meeting, the Council resumed consideration of item 11.3.

11.3. **Subject:** Rancho Cordova Chamber of Commerce Regarding Fiscal Circumstances for which the City may Provide Interim Solutions.
Recommendation: Consider request and direct appropriate action.
Result of Recommended Action: Council demonstrates its leadership by considering a request from a key membership organization that supports and promotes the economic vitality of Rancho Cordova.
Staff Report: Joe Chinn, City Manager's Office

Beth Walter continued her presentation.

There were no public speakers for this item.

ACTION: Motion by McGarvey, second by Budge, to approve the request by the Rancho Cordova Chamber of Commerce presented in the report entitled "Reorganization Plan & City Assistance Request."

ACTION: Amendment to the motion by Skoglund, second by Budge, that a $1.00 a year charge be made for each of the three years remaining on the term of the lease contract between the Chamber and the City; staff was directed to review and work on the specific language for the contract documents; the items listed under Number 5 of the "Reorganization Plan & City Assistance Request" were to be restructured to reflect the City's position as lender.

VOTE ON AMENDMENT AND MOTION: Carried 4-0, Council Member Sander absent for the vote.

CONSENSUS: Council consensus that staff approach the Bank of Sacramento with the Chamber of Commerce to discuss the possibility of restructuring the $90,000 outstanding loan between the Bank and the Chamber.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

Mayor Budge requested that the City Clerk update and distribute the Council 2X2 list as follows:

Sacramento County – Budge/Skoglund
Cordova Recreation & Park District - Sander/Skoglund
Folsom Cordova Unified School District – Budge/McGarvey
Metro Fire – Budge/McGarvey
SMUD – Budge/Skoglund
Elk Grove Unified School District – Cooley/Sander

13. CITY MANAGER'S REPORT

City Manager Ted Gaebler had no report.

14. CLOSED SESSION

The Council adjourned to Closed Session to discuss the following item:

Conference with Legal Counsel – Anticipated Litigation Government Code 54956.9 (b) (one potential case).

The time was 9:28 p.m. Present in Closed Session were all Council Members; Adam Lindgren, City Attorney; and Ted Gaebler, City Manager. The Council adjourned from Closed Session at 9:45 p.m.

15. OPEN SESSION – REPORT FROM CLOSED SESSION

The meeting reconvened into Open Session at 9:45 p.m. All Council Members were present.
The City Attorney stated that there was no reportable action taken in Closed Session.

16. ADJOURNMENT

Mayor Budge adjourned the meeting at 9:45 p.m. in memory of Calvin J. Webster, former Rancho Cordova Firefighter, and announced a memorial service for Mr. Webster on Saturday, January 26 at 1:00 p.m., in the American River Room at City Hall.

_____
Stacy Leitner, Interim City Clerk

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

City Hall
2729 Prospect Park Drive, Rancho Cordova

Monday, March 17, 2008

5:30 P.M. – Regular Meeting
David B. Roberts Council Chambers

DRAFT MINUTES

1. REGULAR MEETING – CALL TO ORDER / ROLL CALL

Mayor Budge called the regular meeting to order in the David B. Roberts Council Chambers at 5:37 p.m.

Present:	Council Members Cooley, McGarvey, Sander, Skoglund, and Mayor Budge
Staff Present:	Gaebler, Lindgren, Leitner, Lehr, Oliver, Beiswenger, S. Snyder, Pearl, Chapman, D. Snyder, Harriman, Scott, Sparkman, Meeks, Flory, Bontrager, Junker, Irvin, Haven, and Silva

2. METRO CABLE TV TELEVISION ANNOUNCEMENT

The Mayor announced the meetings video recording and playback schedules.

3. PLEDGE OF ALLEGIANCE

The Mayor called on VFW's Vice Commander Billy Hovey to lead the Pledge.

4. INVOCATION

Chaplain Mary Hills, Rancho Cordova Law Enforcement, Emergency Responders gave the invocation.

5. PRESENTATIONS

5.1 Council Member McGarvey presented a Proclamation to Commander Floyd Clark and Vice Commander Billie Hovey for VFW's 20th Anniversary.

5.2 Folsom Cordova Community Partnership Executive Director Paul Shane, Community Collaboration Manager Nicole Jarred, and Youth Advisory Committee Executives Danielle Nunn and Rheana Airoco gave a presentation on Rancho Cordova Youth Advisory Council.

5.3 Folsom Cordova Unified School District Superintendent Pat Godwin gave a report on District Budget Challenges.

5.4 Council, staff and the public recognized Council Member Cooley's Birthday.

6. PUBLIC COMMENT

The following individuals addressed the Council:

- Joy Moon on the health and well being of the Council, staff and citizens of Rancho Cordova.
- Alan Withers on Kid's Day on April 26 from 11:00 a.m. to 3:00 p.m. at Hagen Park.

7. COUNCIL REPORTS

Council reported on events since the last meeting.

8. CONSENT CALENDAR ITEMS – ROLL CALL VOTE

ACTION: Motion by Skoglund second by Cooley and carried by a 5:0 roll call vote, the Consent Calendar was approved with amendments to Item 8.1.

8.1 **Subject:** Regular Meeting Minutes of March 3, 2008.
Recommendation: Adopt Minutes.

8.2 **Subject:** Resolution Declaring The Results of Mail Ballot Election for Rancho Cordova Transit-Related Services Special Tax Area Zone 7 (BloodSource Laboratory Building).
Recommendation: Adopt Resolution No. 15-2008.
Result of Recommended Action: Adoption of this resolution will declare the result of the transit-related services tax election concerning Transit-Related Services Special Tax Area Zone 7, which will assist the City in meeting the costs of providing City transit-related services by establishing a special tax for transit services for the BloodSource Laboratory Building.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 11

8.3 **Subject:** A Resolution Creating Special Tax Area Zone 10 and an Ordinance Establishing a Special Tax for Transit-Related Services for the Mather Office Complex, Building A.
Recommendation: Adopt Resolution No. 20-2008 and waive the first reading and introduce Ordinance No. 7-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this resolution and ordinance will assist the City to meet the costs of providing transit-related services by creating a special tax

area zone and establishing a special tax for transit-related services for the Mather Office Complex, Building A.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 11

8.4 **Subject:** A Resolution Creating Special Tax Area Zone 9 and an Ordinance Establishing a Special Tax for Transit-Related Services for the Department of Environmental Management Office Building.
Recommendation: Adopt Resolution No. 21-2008 and waive the first reading and introduce Ordinance No. 8-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this resolution and ordinance will assist the City to meet the costs of providing transit-related services by creating a special tax area zone and establishing a special tax for transit-related services for the Department of Environmental Management Office Building.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 11

8.5 **Subject:** Resolution Awarding Construction Contract to the Lowest Responsive Bidder, Tim Paxin's Pacific Excavation, Inc. for International Drive and Data Drive Traffic Signal and Striping Improvements in the Amount of $357,723.00.
Recommendation: Adopt Resolution No. 23-2008.
Result of Recommended Action: Tim Paxin's Pacific Excavation, Inc. will install a new traffic signal at the intersection of International Drive and Data Drive. Construction will begin Spring 2008 upon City Council approval and will be completed Fall of 2008.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 2 and 6

8.6 **Subject:** Resolution Authorizing Execution of Contract with Sunridge Anatolia LLC for Application of Contingency Funds for Infrastructure Improvements Associated with Anatolia I and III Major Roads Improvement in the amount of $143,776.00.
Recommendation: Adopt Resolution No. 22-2008.
Result of Recommended Action: Adoption of this resolution will authorize the City Manager to execute a contract with Sunridge Anatolia LLC for reimbursement of costs incurred through specific change orders for construction associated with the improvements plans for Anatolia I and Anatolia III.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 1, 2, 4 and 8

8.7 **Subject:** Approval of Revised Map of Revised Maps of Capital Village Phase I (365 B.M. 7) Lots 55-60, 130-131, 205-222 and Capital Village Phase II (365 B.M. 9) Lots 354-359, 384-395, 400-405 and 417-458 – Subdivision No. RC-04-123.1B.
Recommendation: Approve "Revised Map of Revised Maps of Capital Village Phase I (365 B.M. 7) Lots 55-60, 130-131, 205-222 And Capital Village Phase II (365 B.M. 9) Lots 354-359, 384-395, 400-405 And 417-458", consisting of 102 proposed lots, located between International Drive and Disc Drive east of Bridgeway Drive
Result of Recommended Action: Approval of this recommended action will result in the Council approving the recording of the "Revised Map of Revised Maps of Capital Village Phase I (365 B.M. 7) Lots 55-60, 130-131, 205-222 and Capital Village Phase II (365 B.M. 9) Lots 354-359, 384-395, 400-405 And 417-458".
Staff Report: Cyrus Abhar, Public Works Department
Advances Goal: 4

8.8 **Subject:** Calling the November 4, 2008 General Municipal Election for Three Council Seats and requesting the Sacramento County Board of Supervisors to consolidate the General Municipal Election with the Statewide Election.
Recommendation: Adopt Resolution No. 31-2008
Result of Recommended Action: Adoption of the resolution allows for the consolidation of our general municipal election with the statewide election to be held on November 4, 2008 and to obtain election services from the Sacramento County Voter Registration and Elections Department. At the general municipal election, three members of the City Council will be elected for full, four-year terms. The Council Member seats currently filled by Ken Cooley, Robert McGarvey, and David Sander expire in November 2008.
Staff Report: Stacy Leitner, City Clerk's Department
Advances Goals: 4 and 10

8.9 **Subject:** Resolution Authorizing the City Manager to Execute a 3rd Amendment to Consulting Services Agreement MMC Communications in the Amount of $150,000 and the Term of the Contract through June 30, 2008.
Recommendation: Adopt Resolution No. 28-2008.
Result of Recommended Action: Execution of this agreement will increase the contract amount from $99,000 (as of second amendment November 13, 2007) to $249,000 from its inception on January 26, 2007 in order to continue to support media relations, training, and proactive publicity for various departments' projects in the City.
Staff Report: Nancy Pearl, City Manager's Office
Advances Goals: 1, 3 and 13

8.10 **Subject:** Resolution Authorizing Execution of Contract with Beazer Homes Holdings Corp. for Credit/Reimbursement Agreement for Privately Constructed Public Facilities in the Amount of $2,249,707.00.
Recommendation: Adopt Resolution No. 29-2008.
Result of Recommended Action: Adoption of this resolution will authorize the City Manager to execute a contract with Beazer Homes Holdings Corp. for reimbursement of costs incurred for construction of intersection improvements at International Drive/Prospect Park Drive, Zinfandel Drive/Data Drive, and Zinfandel Drive/International Drive.
Staff Report: Cyrus Abhar, Public Works Department
Advances Goals: 1, 2, 4 and 8

8.11 **Subject:** Resolution Authorizing the City Manager to Execute an Amendment to the Regional Human Rights/Fair Housing Commission Joint Exercise of Powers Agreement.
Recommendation: Adopt Resolution No. 32-2008.
Result of Recommended Action: Adoption of this Resolution will authorize the City Manager to execute an amendment to the Regional Human Rights/Fair Housing Commission Joint Exercise of Powers Agreement. The amendment will change the current number of Advisory Board members for the Commission and add sections regarding the approval of the Commission's budget and admission of new parties.
Staff Report: Curt Haven, Economic Development Department
Advances Goals: 1, 7, 8, 10, and 13
Growing Strong Neighborhoods

8.12 **Subject:** Resolution Approving of the Grandee Apartments Relocation Plan.
Recommendation: Adopt Agency Resolution No. CRA 3-2008.
Result of Recommended Action: Adoption of this resolution will provide a comprehensive strategy for the relocation of the current tenants of the Grandee Apartments. The plan includes analysis of the current tenant mix, relocation benefits, estimated cost of the relocations and the projected relocation timetable.
Staff Report: Micah Runner, Economic Development Department
Advances Goals: 1, 6, 7, 8 and 9

9. CONSENT PUBLIC HEARING ITEMS

9.1 **Subject:** Resolution Approving the Issuance of California Municipal Finance Authority Revenue Bonds to Assist Sacramento Medical Foundation (dba BloodSource) to Finance a New Headquarters Facility in the City of Rancho Cordova
Recommendation: Adopt Resolution No. 24-2008.
Result of Recommended Action: This Public Hearing will consider the issuance of tax-exempt bonds by the California Municipal Finance Authority (CMFA) for Sacramento Medical Foundation (dba BloodSource) to finance a portion of the cost of acquiring an office building and associated land, and constructing and designing certain facility improvements and other related capital costs for use as a new headquarters for the operations of BloodSource. The bond financing does not create direct fiscal impacts on the City, nor represent an obligation of the City to pay off or guarantee the bonds. CMFA is a joint powers authority created in 2004 to promote community development through the financing of economic development.
Staff Report: Donna Silva, Finance Department
Advances Goals: 4, 9 and 11

Mayor Budge opened the Consent Public Hearing Comment period. There were no speakers. Mayor Budge closed the Consent Public Hearing Comment period.

ACTION: Motion by Skoglund second by McGarvey and carried by a 4:0 vote (Sander abstaining), the Consent Public Hearing item was approved.

10. PUBLIC HEARING ITEMS

10.1 **Subject:** Community Development Block Grant (CDBG) Program, Draft Action Plan.
Recommendation: Council approve staff recommendations for funding CDBG activities for the fiscal year 2008-2009.
Result of Recommended Action: Recommendation will result in the draft action plan being released for public comment.
Staff Report: Diane Snyder, Economic Development Department
Advances Goals: 4, 7, 8 and 10
Growing Strong Neighborhoods

Mayor Budge opened the Public Hearing comment period. The following individuals addressed the Council:

- Ken Bennett from Sacramento Self-Help Housing on City support of low-income housing counseling.
- Debra Morrow from Department of Human Services on City support of Meals on Wheels Program.
- Pete Arney and Lee Frechette from Live Steamers Museum on Council's consideration of grant request.

Mayor Budge closed the Public Hearing comment period.

ACTION: Motion by Cooley second by Skoglund and carried by a 5:0 vote, Council received staff recommendations for funding CDBG activities for the fiscal year 2008-2009.

Mayor Budge reordered the agenda to bring Item 11 before the next Public Hearing Item.

11. BREAK

Council broke for refreshments in the lobby in honor of Council Member Cooley's birthday. The full Council reconvened.

10. PUBLIC HEARING ITEMS CONTINUED

10.2 **Subject:** Council Call-up of Planning Commission Decision on Capital Village Reflections/Brownstones Design Review Amendment, Project No. RC-07-318, Located East of Zinfandel Drive and South of Data Drive/Disk Drive, Extending South Past International Drive.
Recommendation: Adopt Resolution No. 30-2008.
Result of Recommended Action: Approval of project will allow the applicant to obtain building permits to construct the Reflections design in the Capital Village, Brownstone District.
Staff Report: Jeffrey Beiswenger, Planning Department
Advances Goals: 1, 5, 7 and 8

Mayor Budge opened the Public Hearing comment period. There were no speakers. Mayor Budge closed the Public Hearing comment period.

ACTION: Motion by Sander second by McGarvey and carried by a 5:0 vote, Council adopted Resolution No. 30-2008 with the following change:

- Add a hard surface in the trash bin locations to allow for a moving garbage can.

10.3 **Subject:** Ross Center Pad #2, Design Review, Project No. RC-07-322, Located at 2800 Zinfandel Drive. **(Continued from February 4th and March 3rd)**
Recommendation: Adopt Resolution No. 12-2008.
Result of Recommended Action: Approval of this Design Review will allow the Ross Center Pad #2 building to be remodeled along with landscaping and access improvements to bring the site into compliance with City standards.
Staff Report: Katja Irvin, Planning Department
Advances Goals: 1, 5 and 6

Mayor Budge opened the Public Hearing comment period. There were no speakers. Mayor Budge closed the Public Hearing comment period.

ACTION: Motion by McGarvey second by Cooley and carried by a 5:0 vote, Council adopted Resolution No. 12-2008 with the following change:

- Change condition of approval to relocate bike rack off pedestrian trail.

Mayor Budge reordered the agenda to bring Item 12.1 before the next Public Hearing Item.

12. REGULAR CALENDAR ITEMS

12.1 **Subject:** Resolution Authorizing Mayor or Mayor's Delegate to Enter into Memorandum of Understanding for Sister City Relationship with Turrialba, Costa Rica.
Recommendation: Adopt Resolution No. 25-2008.
Result of Recommended Action: The City of Rancho Cordova will successfully complete a two year project aimed at establishing our first Sister City relationship to foster people-to-people diplomacy and cultural exchanges.
Staff Report: Stephanie Snyder, City Manager's Office
Advances Goals: 1, 8, 9, and 10

Did we really jump from Reg. calendar to Public Hearing back to Reg. calendar?

ACTION: Motion by McGarvey second by Cooley and carried by a 5:0 vote, Council adopted Resolution No. 25-2008 authorizing the Mayor or the delegate to enter into a MOU substantially similar to the draft presented. It is anticipated, the signing of the MOU will be in both English and Spanish.

10. PUBLIC HEARING ITEMS CONTINUED

10.4 **Subject:** Ordinance Amending the Folsom Boulevard Specific Plan and the Zoning Code Relating to Cardrooms.
Recommendation: Waive first reading and introduce Ordinance No. 9-2008. **(Roll Call Vote)**
Result of Recommended Action: This ordinance will amend the Folsom Boulevard Specific Plan and the Zoning Code in order to change the appropriate zoning designations and parking standards for cardrooms and will have a city-wide effect on the location of cardrooms.
Staff Report: Joe Chapman, City Attorney's Office
Advances Goals: 1, 5, 6 and 9

Mayor Budge opened the Public Hearing comment period. There were no speakers. Mayor Budge closed the Public Hearing comment period.

ACTION: Motion by Cooley second by McGarvey and carried by a 5:0 roll call vote, Council waived first reading and introduced Ordinance No. 9-2008 with the following modifications relating to parking in Sections 5 and 10:

SECTION 5: Chapter 5, "Land Plan," Table 3, "Vehicle and Bicycle Parking Standards for Mixed Use Zoning Districts," of the Folsom Boulevard Specific Plan is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use Type	Vehicular	Bicycle
Cardrooms	Not to exceed 1 space per seat[4]	0.4/1000 sf

Notes:
4. Required vehicular parking may be reduced from this standard pursuant to the issuance of a conditional use permit.

SECTION 10 : Title II, "Land Use Zones", Chapter 40.....":

Land Use Type	Vehicular	Bicycle
Cardrooms	Not to exceed 1 space per seat[4]	0.4/1000 sf

Notes:

4. Required vehicular parking may be reduced from this standard pursuant to the issuance of a conditional use permit.

12. REGULAR CALENDAR ITEMS

12.2 **Subject:** Ordinance Amending Municipal Code Chapter 4.22, "Cardrooms"; Consideration of Cardroom Revenue Tax.
Recommendation: Waive first reading and introduce Ordinance No. 10-2008. **(Roll Call Vote)**
Result of Recommended Action: Adoption of this ordinance will modify existing requirements for the licensing and operation of cardrooms. Under the new requirements, the City Manager will be responsible for reviewing cardroom applications and issuing cardroom licenses. In addition to existing criminal background investigation requirements, the City Manager will also review an applicant's operational and business plans prior to issuing a license. An applicant will also be required to file and maintain approved security plans with the Police Department. In terms of operation, the ordinance will allow for an increase in the number of tables from 7 to 9, and will eliminate betting limits.
Staff Report: Joe Chapman, City Attorney's Office
Advances Goals: 1, 6 and 9

ACTION: Motion by McGarvey second by Skoglund and carried by a 4:1 (Cooley dissenting) roll call vote, Council waived first reading and introduced Ordinance No. 10-2008 with the following changes:

Mayor Budge requested a strike through of the second sentence of Section 4.22.115 relating to the ability to increase the table limit to 15 if state law were to allow, as shown below:

4.22.115 Equipment – Separation.

A. No cardroom shall maintain or operate more than nine card tables at any one time. ~~However, should judicial or legislative action alter the restrictions on limitations in the Gambling Control Act, Business and Professions Code § 19800 et seq., to allow for an increase in the current number of tables without voter approval, the maximum number of tables shall be increased up to the amount such judicial or legislative action allows, not to exceed a maximum of 15 tables~~. Tables used during tournaments or free special events shall count toward this maximum table limit. Chairs shall be provided for all card players. No more than twelve players shall be permitted to play at any time at any one table. Authorized games shall not utilize dominoes, tiles, dice, spinning wheels, electronic player-controlled machines or any other device other than the standard decks of playing cards traditionally used for playing such games, poker chips, and the optional dealer shoes, except, to the extent such equipment is allowed by applicable state law and/or state regulations, such equipment shall also be allowed in the City.

Staff proposed the following adjustments during the presentation:

1. Amend Section 4.22.025(B)(1) to add "limited liability corporation" to the list of entities;

2. Amend Section 4.22.025 to add a new subsection (C) to read as follows:

The City Manager shall have authority to allow an applicant, upon the applicant's request, to submit the information required in subsections (B)(4), (5), and (6) at any time during the application review period if the City Manager determines that doing so is in the best interest of the City. The City Manager shall have discretion to set deadlines as necessary to receive such information.

3. Amend Section 4.22.125 to strike second sentence relating to operator adjustment of wagering limits.

13. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS

None

14. CITY MANAGER'S REPORT

City Manager Ted Gaebler reported on a follow-up of the Capital Airshow event, and Housing Element Update Workshop on March 26th from 3 to 5 pm at City Hall.

15. ADJOURNMENT

Mayor Budge adjourned the meeting at 11:56 p.m.

_____

Stacy Leitner, Interim City Clerk

SPECIAL JOINT MEETING
CITY COUNCIL & PLANNING COMMISSION

City Hall
American River Community Room - North
2729 Prospect Park Drive, Rancho Cordova

Tuesday, March, 25, 2008

5:30 p.m. - Work Session

DRAFT MINUTES

1. WORK SESSION – CALL TO ORDER / ROLL CALL

Mayor Budge called the Special Joint Meeting to order in the American River North Room at 5:45 p.m.

Present:	Council Members Cooley, McGarvey, Sander, Skoglund, and Mayor Budge Planning Commissioners Burke, Cummings, Konarski, Johnson, Vance, Savorn, & Chair Moe
Staff Present:	Gaebler, Lehr, Lindgren, Junker, Thomas, Roderiques, Beiswenger, Abhar, Flory, L. Burke, and Irvin

2. WORK SESSION ITEMS

2.1 **Subject:** Community Enhancements for Caltrans Highway 50 Bus/Carpool Project.
Recommendation: That Council Members and Planning Commissioners:

a) Provide direction for programming approximately $7.8 million in landscaping, architectural and aesthetic roadside improvements that will be implemented as part of the Caltrans Highway 50 Bus/Carpool project; and
b) Authorize the Department of Public Works to finalize the programming of Community Enhancement Funds with the California Department of Transportation.

Result of Recommended Action: The California Department of Transportation will proceed with design plans for the project with the goal of implementing the community enhancement recommendations as part of the project. CalTrans will be able to meet the tight project development time-line that initiates construction in 2010 with completion in 2012.
Staff Report: Cyrus Abhar, Public Works Department

ACTION: Discussion item only; no action taken.

2.2 **Subject:** Discussion of Special Topics Related to the Draft Zoning Code.
Recommendation: That Council Members and Planning Commissioners:

a) Review and discuss special topics related to the Draft Zoning Code; such as, additional entitlements to consider:
   1. Executive housing strategies;
   2. Design review options for large single family homes in established neighborhoods;
   3. Options for rezoning property; and
   4. Form-based provisions.

b) Provide comments and direction to staff on key policy questions to facilitate the completion of a public Draft Zoning Code document.

Result of Recommended Action: Council and Planning Commission comments will allow staff to finalize the public version of the Draft Zoning Code. Council and Planning Commission comments and direction will be solicited, but no formal action is requested or anticipated.
Staff Report: Jeffrey Beiswenger, Planning Department

ACTION: Discussion item only; no action taken.

3. PUBLIC COMMENT

None

4. ADJOURNMENT

Mayor Budge adjourned the meeting at 9:46.

_____
Brenda Lehr, Interim Assistant City Clerk

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **CONTINUANCE OF SECOND READING OF ORDINANCE ESTABLISHING A SPECIAL TAX FOR TRANSIT-RELATED SERVICES FOR THE MATHER OFFICE COMPLEX BUILDINGS**

RECOMMENDATION

Continue second reading of Ordinance No. 7-2008 to May 5th.

RESULT OF RECOMMENDED ACTION

The item is being continued to May 5th to allow staff time to reconsider the proposed maximum tax rates imposed by the ordinance.

BACKGROUND

On March 17, 2008, the Council adopted Resolution No. 20-2008 creating Special Tax Area Zone 10 for the Mather Office Complex and introduced Ordinance No. 7-2008 establishing a special tax for transit-related service subject to voter approval within the Mather Office Complex Buildings.

Since that time, staff has undertaken an effort to reconsider the applicable maximum tax rates that would be applicable for this project and has determined that the maximum rates proposed under Ordinance No. 7-2008 may not be appropriate for this project. The second reading of the Ordinance is being continued to May 5, 2008 to allow staff time to reconsider the maximum tax rates and to evaluate the administrative actions necessary, if any, to apply a different rate.

CITY OF RANCHO CORDOVA

ORDINANCE NO. 8-2008

AN ORDINANCE OF THE CITY OF RANCHO CORDOVA ESTABLISHING A SPECIAL TAX FOR TRANSIT-RELATED SERVICES FOR THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT OFFICE BUILDING SUBJECT TO VOTER CONFIRMATION

THE CITY COUNCIL OF THE CITY OF THE RANCHO CORDOVA DOES 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 and employees working in 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 9 of the Rancho Cordova Transit-Related Services Special Tax Area (the "Zone").

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 and/or employees of Zone 9.

At the time that the Council adopted this Ordinance, there were zero (0) registered voters residing in Zone 9 and one (1) property owner. Because the Transit-Related Services Special Tax will be imposed on property in Zone 9 and paid by the owner of the property, the Council finds that restricting the vote on the Transit-related Services Special Tax to property owners in Zone 9 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 9 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 9" (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 9, as shown on the last equalized assessment role prepared by the Sacramento County Assessor's Office, at the time that the City Council adopts an ordinance authorizing the imposition of a transit-related services tax to the voters of Zone 9.

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, 2007 through June 30, 2008) shall be the amount of Tax per Parcel for a Land 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 9 for the then current fiscal year, as set forth below.

For each Land 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 9 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 June 2, 2008 so that taxes shall first be collected hereunder for the tax year beginning July 1, 2008.

ADOPTED, THIS 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

MEMORANDUM

DATE: April 21 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **RESOLUTION AWARDING CONTRACT TO GRANITE CONSTRUCTION COMPANY FOR CONSTRUCTION OF THE 2007/2008 PAVING REHABILITATION PROJECT PHASE 1 - COLOMA RD. FROM FOLSOM BLVD. TO MCGREGOR DR. AND MATHER FIELD RD. FROM HIGHWAY 50 TO PETER MCCUEN DR.**

RECOMMENDATION

1. Adopt Resolution No. 34-2008.

2. Accept Bid Alternate 1, an increase of $71,151.50 to the base bid of $2,002,218.50 to construct a landscape median on Coloma Road between Malaga Way and Dolecetto Drive.

RESULT OF RECOMMENDED ACTION

Adoption of **Resolution No. 34-2008** (**Attachment 2**) will authorize the City Manager to award the 2007/2008 Paving Rehabilitation Project Phase 1 to the lowest responsive bidder, Granite Construction Company in the amount of $2,073,370.00.

The project includes construction of pedestrian and ADA improvements and an asphalt overlay on Coloma Road from Folsom Boulevard to McGregor Drive as well as pedestrian and ADA improvements, a slurry seal and base repairs to Mather Field Road from Highway 50 to Peter McCuen Drive. A landscape median along Coloma Road from Malaga Way to Dolecetto Drive will be part of this phase of construction. Construction will begin Spring 2008 upon City Council approval and will be completed in the Fall of 2008.

BACKGROUND

Public Works has identified rehabilitation of Coloma Road as a priority project. Due to funding constraints the pavement overlay of Coloma Road has been divided into two phases.

Phase 1 of the project, the subject of this report, will consist of the improvements outlined above as well as the relocation of the bus stop located on the east side of Coloma Road near Chardonay Drive. The bus stop is currently located on the shoulder of the road just north of Chardonay Drive causing residents waiting for a bus to stand on the edge of the roadway. This project will relocate the bus stop to the south side of intersection. A concrete slab will be constructed at the bus stop for a future shelter that will be provided by Regional Transit. A sidewalk will also be constructed along the frontage road from the bus stop to the signal.

Phase 2 of the project will consist of improvements on Coloma Road from McGregor Drive to Sunrise Boulevard as well as McGregor Drive from Coloma Road to Ambassador Drive. The estimated construction completion date for Phase 2 is Summer of 2009.

Bids for Phase 1 were solicited to Sacramento County, and Placer County Builders Exchange beginning February 15, 2008. The project was also advertised in The Grapevine Independent on February 15 and 22, 2008. The bids were publicly opened on March 13, 2008 at City Hall.

Five (5) contractors bid on the project. The Engineer's estimate was $2,737,304. The lowest base bid was $2,002,218.50, the average bid was $2,191,334.89, and the highest bid was $2,435,873.20. The landscaping on Coloma Road increases the total contract amount to $2,073,907. The lowest bid is 27% lower than the Engineer's estimate. The **Bid Summary Sheet** is provided in **Attachment 1**.

PROJECT FUNDING

The City has received $840,719 from a federal grant from Regional Surface Transportation Program. $949,875 will come from Proposition 1B, Local Streets and Roads Funding. The remaining will be funded through the Storm Water Utility Tax Fund, Gas Tax, and the City's General Fund.

ATTACHMENTS

1. Bid Summary Sheet.
2. Resolution No 34-2008 including Exhibit A – Construction Services Agreement between the City of Rancho Cordova and Granite Construction Company.

2007/2008 Paving Rehabilitation Project Phase 1
Rancho Cordova City Hall
2729 Prospect Park Drive, Rancho Cordova, CA 95670
March 13, 2008 at 3:00 PM

Letter Designation	Contractor	Base Bid Amount	Alternative 1	Addendum 1	Addendum 2	Addendum 3	Proposal Signed	Contractor's License	Designation of Subs	Equal Employment	Contract Code	Non-Collusion	Suspension Certificate	Nonlobbying Cert	Bidders Bond	DBE Information	Compliance with Support
A	The Beebe Corporation	$2,169,045.92	$96,258.42				X	X	X	X	X	X	X	X	X	X	X
B	Central Valley Engineering & Asphalt, Inc.	$2,129,278.41	$107,479.01				X	X	X	X	X	X	X	X	X	X	X
C	Teichert Construction	$2,221,258.40	$91,757.00				X	X	X	X	X	X	X	X	X	X	X
D	Martin Brothers Construction Inc.	$2,435,873.20	$109,890.00				X	X	X	X	X	X	X	X	X	X	X
E	Granite Construction Company	$2,002,218.50	$71,151.50	X	X	X	X	X	X	X	X	X	X	X	X	X	X
F																	
G																	
H																	
I																	
J																	
K																	
L																	
M																	
N																	
O																	

Attendees:
Brenda Lehr, Interim Assistant City Clerk
Brit Snipes, Public Works
Travis Evans, Engineering Technician

Brenda Lehr, Interim City Clerk

Date 3/13/08

ATTACHMENT 1

ATTACHMENT 2

CITY OF RANCHO CORDOVA

RESOLUTION NO. 34-2008

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH GRANITE CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF THE 2007/2008 PAVING REHABILITATION PROJECT PHASE 1

WHEREAS, bids were solicited to the Sacramento County, and Placer County Builders Exchanges beginning February 15, 2008. The project was also advertised in The Grapevine Independent on February 15 and 22, 2008;

WHEREAS, the bids were publicly opened on March 13, 2008 at 2729 Prospect Park Dr., Rancho Cordova 95670;

WHEREAS, the City recommends award of the City's 2007/2008 Paving Rehabilitation Project to the lowest responsive bidder, Granite Construction Company in the amount of $2,002,218.50;

WHEREAS, the City recommends award of the Bid Alternate to provide a Landscape Median on Coloma Road between Malaga Way and Dolecetto Drive for the amount of $71,151.50;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF RANCHO CORDOVA that the City Council authorizes the City Manager to execute a contract (**Exhibit A**) with Granite Construction Company in a form approved by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 21st day of April 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

CONSTRUCTION SERVICES AGREEMENT BETWEEN THE CITY OF RANCHO CORDOVA AND GRANITE CONSTRUCTION COMPANY

THIS AGREEMENT made and entered between the City of Rancho Cordova ("City") and Granite Construction Company ("Contractor") as of March 14, 2008.

W I T N E S S E T H:

WHEREAS, the City Council for 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 Council for 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 Council for 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 Council of public 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 said City Council for 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 January 2008; 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 Plans and Specifications.

Section 2. **SCOPE OF WORK.** That the Contractor will furnish all labor, materials, services, transportation, appliances, and mechanical workmanship required for Contract No. 45-2008, as provided for and set forth in said plans and specifications, 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 Public Works Director of the City of Rancho Cordova who shall have the right to reject any and all materials and supplies furnished by the Contractor which 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 180 calendar days from the notice to proceed.

Section 4. **PAYMENT**. Attached hereto as Exhibit "A" 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 said specifications, 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: ($2,073,370.00). Said sum shall be paid in accordance with Section 8 of the Standard Specifications. 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.

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 2729 Prospect Park Drive, Rancho Cordova, CA 95670, 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 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 (including their officers, agents, members, employees, affiliates, and representatives) as set forth in Section 6-2 of the Standard Specifications.

Section 10. **MISCELLANEOUS PROVISIONS**.

10.2 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 states 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. This Agreement may create a possessory interest subject to property taxation, and Contractor may be subject to the payment of property taxes levied on such interest.

10.1. **IRS Form W-9.** Contractor shall complete and submit Internal Revenue Service Form W-9 to the City before execution of this Agreement. The City's Finance Director shall have authority to waive this requirement.

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

_____

Date

Attest:

_____

Stacy Leitner, Interim City Clerk

_____

Date

Approved as to Form:

_____

Adam U. Lindgren, City Attorney

_____

Date

GRANITE CONSTRUCTION COMPANY:

_____

_____

Date

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Ted Gaebler, City Manager
Adam Lindgren, City Attorney

SUBJECT: **RESOLUTION ESTABLISHING A TRAVEL AND REIMBURSEMENT POLICY FOR CITY OFFICIALS**

RECOMMENDATION

Adopt Resolution No. 9-2008.

RESULT OF RECOMMENDED ACTION

Adoption of this resolution will establish a travel and reimbursement policy for the City Council, the Planning Commission, and any other boards or commissions that may be appointed by the City Council. The policy will establish guidelines and rules for the types of expenses that officials may be reimbursed for while representing or engaging in City business.

BACKGROUND

Elected officials perform a myriad of duties for the community they serve. They do so willingly and receive a mere token monthly stipend. Presumably, they perform their duties out of a strong desire to contribute to the betterment of their community. Their duties frequently result in expenses incurred both within and outside of the City of Rancho Cordova. Given their limited compensation, officials are entitled to convenient and comfortable travel accommodations and full reimbursement as allowed by existing law and in conformance with General Accepted Accounting Principles.

In 2005, the state Legislature adopted Assembly Bill 1234 (AB 1234), which went into effect on January 1, 2006. In summary, AB1234 requires local agencies to adopt a reimbursement policy if the local agency reimburses the expenses of elected and appointed officials.

In addition and in accordance with Government Code Section 53232.5(b), which was established pursuant to AB1234, the policy is required to specify the types of occurrences that qualify a city official to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses.

In an effort to ensure that elected officials are fully reimbursed for expenses incurred in the performance of their duties, the City Manager, Assistant City Manager, Finance

Director, Risk Manager and City Attorney have worked together to prepare the attached reimbursement and travel policy for the City Council's consideration. This policy satisfies the requirements of AB1234 and other applicable provisions of state law.

Among other things the attached policy:

- Applies to members of the City Council, Planning Commission and other boards or commissions that may be appointed by the City Council;
- Establishes that officials are required to provide public reports on meetings the officials attend at the expense of the City;
- Establishes the types of occurrences that will qualify for reimbursement;
- Establishes procedures for the arrangement of transportation and hotel reservations;
- Establishes reimbursement guidelines for meals and incidental expenses;
- Identifies some expenses that due to existing legal and other limitations will not be eligible for reimbursement; such as political contributions; and,
- Establishes that officials will need to submit expense report forms in accordance with the requirements of AB1234 and other applicable state law(s).

Subsequently, the City Manager will establish an administrative level travel and reimbursement policy that will be applicable for City employees.

REQUESTED MOTION

"I move that the City Council adopt Resolution No. 9-2008 establishing a travel and reimbursement policy for city officials."

ATTACHMENT

Resolution No. 9-2008 included Exhibit A (Travel and Reimbursement Policy)

CITY OF RANCHO CORDOVA

RESOLUTION NO. 9-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ESTABLISHING A TRAVEL AND REIMBURSEMENT POLICY FOR CITY OFFICIALS

WHEREAS, members of the City's legislative bodies perform official duties that require travel; and

WHEREAS, members of legislative bodies incur expenses related to the performance of official duties, which may take place both within and outside of the City of Rancho Cordova; and,

WHEREAS, the California Government Code permits the City to reimburse members of the City Council and other city officials for expenses incurred in the performance of official duties; and,

WHEREAS, the official duties that involve travel include training, conferences, meetings with legislators and regulators, and meetings with staff and officials of surrounding jurisdictions, and at times other communities regarding matters of mutual importance; and,

WHEREAS, the performance of such official duties facilitates the efficient and satisfactory completion of city business and promotes a good relationship between the City and surrounding communities, the state government and the federal government; and,

WHEREAS, the residents of Rancho Cordova stand to benefit by such training and presence at said official duties; and,

WHEREAS, Assembly Bill 1234 requires the City Council to adopt a policy regarding the reimbursement for expenses incurred by members of legislative bodies in the performance of official duties; and

WHEREAS, the policy adopted pursuant to this Resolution is intended to satisfy the pertinent requirements of AB 1234 relating to the reimbursement of expenses of members of legislative bodies.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Rancho Cordova that:

1. The reimbursement policy set forth in **Exhibit A** is adopted and established as the Travel and Reimbursement Policy for officials of the City of Rancho Cordova.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

EXHIBIT A

Travel and Expense Reimbursement Policy for Rancho Cordova City Officials

1. ***Purpose.*** The people of Rancho Cordova voted to incorporate the City because of their shared vision of a better, safer and improved community with outstanding services, facilities and programs. The City Council is committed to reinventing the infrastructure and government resources it inherited from the County. To achieve this vision, the members of the Council have dedicated themselves to spending tens, even hundreds, of hours of their time each year to educate themselves on opportunities to improve the city. Their commitment to bring the city the best and most innovative ideas often requires City Council members to travel outside of the Sacramento Region.

   This travel and reimbursement policy reflects the City's strong support for these efforts and activities; they are an important investment in this city's future. The ideas and information that the Council members produce as a result of these reimbursable activities provide direct and tangible benefits of the citizens of Rancho Cordova.

   The purpose of this policy is to ensure that Council members are appropriately reimbursed for reasonable expenses incurred in the performance of official duties, and that those expenses/reimbursements:

   - comply with the California Government Code;
   - follow good internal control practices; and,
   - fairly reimburse elected officials.

2. ***Policy.*** Recognizing that members of a legislative body are encouraged to pursue education, information and opportunities for the city, officials are, from time-to-time, required or requested to attend meetings, functions, seminars, training sessions, conferences and tours on behalf of the City, and for which the residents of Rancho Cordova will benefit by the City's presence or additional training. As such, the City may reimburse for actual and necessary expenses as provided in this Policy.

3. ***Definitions.*** The following definitions shall apply to this policy:

   a. "Legislative body" means the City Council, the Planning Commission, and any other commission, board or committee appointed by the City Council.

   b. "Official" means a member of a Legislative body.

4. ***Types of Occurrences that Qualify for Reimbursement.*** Members of a Legislative body may be reimbursed for actual and necessary expenses incurred while traveling on City-related business and in the performance of official duties such as, and including: attending meetings and functions, seminars, training sessions, conferences, tours and such other activities that provides benefit to the city of Rancho Cordova and its residents; and, such other activity that provides a benefit to the City with the City Manager's concurrence.

5. ***Government Rates.*** Airlines, hotels, and rental car companies often make special rates available to state, federal, and local governments. These rates are presumed to be the most economical and reasonable rates for the purposes of this Policy. Members of legislative bodies and officials shall avail themselves of such rates when they are available.

6. ***Transportation.*** When contemplating travel arrangements members of a legislative body shall make every reasonable effort to choose the least expensive mode of travel when available. Members of the legislative body should also consider cost-saving strategies such as group travel packages whenever it is reasonably possible given the scheduling needs of the official.

    a. ***Air Travel/Car Rental.*** When possible, and convenient to the official, members of a legislative body should arrange for air travel and car rental to be paid for by the City in advance. The designated individual(s) in the City responsible for making travel arrangements shall book the most reasonable mode of transportation available that is consistent with the official's scheduling needs.

    If advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, members of a legislative body may be reimbursed for the expenses incurred consistent with and in accordance with City policy.

    b. ***Personal Vehicle Travel.*** Members of a legislative body may be reimbursed for expenses incurred in traveling by personal vehicle on official City business at the then current mileage allowance provisions of the Internal Revenue Service. Members of a legislative body shall complete and file a Mileage Reimbursement Request Form with the City, which will also satisfy the documentation requirements provided in Section 15 of this Policy.

7. ***Meals.*** Recognizing that City officials are, from time-to-time, required or requested to attend meetings, functions, seminars, training sessions, conferences and tours on behalf of the City, the City may reimburse for actual and necessary meal expenses as provided in this Policy.

    a. ***Meals in Conjunction with Travel.*** Members of a legislative body may be reimbursed for meal expenses incurred while traveling on official City business. Said expenses shall be reasonable, not excessive and reflect the nature of the meeting. Generally, original receipts shall be required for reimbursement.

    b. For travel, a member of a legislative body may be reimbursed for meals in a total amount that does not exceed $89 per day, which includes tax and gratuity. The following amounts may be used as a guideline for determining what is considered a reasonable amount for meal expenses:

Breakfast	$16
Lunch	$20
Dinner	$44
Incidentals/snacks	$ 9
Total	$89

The City Manager and his/her designee shall update the reimbursable amount for meal expenses from time to time.

c. ***Reimbursement for Other Meals.*** Where authorized by Section 4 of this Policy, members of a legislative body may be reimbursed for their meals associated with the performance of official duties at rates not to exceed the amounts set forth in section 7.b. Meals for spouses, family members and other third parties shall not be reimbursed.

8. ***Lodging.*** The City will pay for or reimburse for lodging expenses when travel on official city business reasonably requires an overnight stay.

   a. When possible, members of a legislative body should arrange for lodging expenses to be paid by the City. The designated individual(s) in the City responsible for making travel arrangements shall book lodging at the most reasonable rates for lodging that is in a location that is reasonable and convenient in relation to the officials scheduling and official business needs. For lodging in connection with a conference or organized educational activity said accommodation shall take place at the location hosting the conference or educational activity.

   b. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, a member of the legislative body may be reimbursed for lodging expenses.

9. ***Incidental Expense Reimbursement.*** Members of a legislative body may be reimbursed for actual and necessary incidental expenses incurred in connection with a conference, organized educational activity, or other performance of official duties. Incidental expenses include reasonable gratuities for hotel and airline employees, parking fees, cab fares, public transportation costs, tolls, telephone calls, faxes and other communications relating to the performance of official duties, telephone calls of a personal nature, and other such incidental expenses.

   Reimbursement for expenses incurred in placing telephone calls and other communications of a personal nature shall be limited to $10 per day for travel within California, and $20 per day for travel outside of California. The City Manager or his or her designee may periodically adjust the amount available for reimbursement of personal communications.

10. ***Conference Registration Fee Reimbursement.*** When possible, members of a legislative body should arrange for conference and organized educational activity registration fees to be paid in advance of the conference by the City. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances, members of a legislative body may be reimbursed for the expense of a conference or organized educational activity registration fee.

11. ***Expenses to Accommodate Disabilities.*** This policy shall not be construed to limit the City's ability to reimburse members of a legislative body for necessary expenses in excess of that which is otherwise permitted under this policy where such additional expenses are necessary to accommodate for a disability.

12. ***Other Expenses.*** The following expenses require prior approval by the City Council:

    a. International travel, except to Rancho Cordova Sister Cities, Canada, and Mexico.
    b. Expenses which exceed the annual limits, if any, established for each office holder; and
    c. Expenses expected to exceed $7,000 per trip.

    All other expenses incurred in the performance of official duties that are not described in this Reimbursement Policy shall not be reimbursed unless approved by the City Manager.

13. ***Prohibited Expense Reimbursements.*** Examples of personal expenses the City will not reimburse include, but are not limited to:

    a. Political contributions or events;
    b. Charitable contributions or events (this prohibition does not apply to charitable contribution funding approved in the City Budget);
    c. Non-mileage personal automobile expenses, including repairs, traffic citations, or gasoline and personal losses incurred while on City business;
    d. Reimbursement for spouse or family for any expenses; and,
    e. The personal portion of any trip (e.g. haircuts; souvenir expenses; hotel, and food expenses incurred during optional, extra days spent at a conference or meeting location).

    Also, except as provided in Section 14, unless otherwise approved in advance by the City Manager, officials or members of a legislative body shall not be issued cash advances.

14. ***Cash advance.*** From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such requests for an advance should be submitted to the City Manager at least five (5) working days prior to the need for the advance. Any unused advance must be returned to the City Treasury within five (5) business days of the official's return, along with an expense report and original receipts documenting how the advance was used in compliance with this expense policy. Cash advances should only be used when absolutely necessary.

15. ***Documentation Requirements.*** The City Manager shall provide members of a legislative body with expense report forms to be filed by the member for reimbursement for actual and necessary expenses incurred in performance of official duties. The expense report form shall be used to document that the expenses for which reimbursements are sought are proper under this Policy.

    Members of a legislative body must file expense report forms within 90 days of incurring the expense. For auditing purposes, said expense report forms shall be accompanied by receipts documenting each expense, except that description regarding the nature of the expense provided in the expense report shall suffice for incidental expenses for which receipts are not customarily given.

    All documents related to reimbursable expenditures shall be considered public records subject to disclosure under the California Public Records Act.

16. ***Brief Report to Legislative Body.*** Members of the legislative bodies shall provide brief reports on meetings attended at the expense of the City at the next regular meeting of the legislative body following the event for which reimbursement is sought. If more than one member of a legislative body attends the event, a report from one of the members that mentions the other's presence is sufficient.

17. ***Effect of Violation.*** A violation of this Reimbursement Policy may result in the following penalties, including, but not limited to: 1) loss of reimbursement privileges; 2) restitution to the City; 3) civil penalties for the misuse of public resources pursuant to Section 424 of the California Penal Code; and 4) prosecution for misuse of public resources pursuant to Section 424 of the California Penal Code.

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE LETTER OF AUTHORIZATION TO PACIFIC MUNICIPAL CONSULTANTS FOR ENVIRONMENTAL SERVICES IN THE AMOUNT OF $119,459 FOR THE ZINFANDEL DRIVE EXTENSION PROJECT.**

RECOMMENDATION

Adopt Resolution No. 27-2008.

RESULT OF RECOMMENDED ACTION

The recommended action will allow the City Manger to execute a Letter of Authorization with Pacific Municipal Consultants to complete the environmental document that will be developed for the Zinfandel Drive Extension and Douglas Road Improvement Project.

BACKGROUND

The Zinfandel Drive Extension Project was originally part of a larger project initiated by the County of Sacramento. The project was defined to extend Zinfandel Drive south from its terminus to connect with Douglas Blvd. Although this is within the County's jurisdiction, this connection is identified in the City's Circulation Element of the General Plan as a major north south connection. At the City's request, the County initiated the preliminary environmental study for this connection. The County expanded the scope of the study to include several other roadways. The City desired to expedite the project and requested to take the lead for the design, construction and environmental clearance of the project.

Zinfandel Drive and Douglas Blvd. are identified in the General Plan as six lane roadways. Because of funding issues as well as a need for immediate connectivity, Public Works staff will explore options for phasing the construction of the project. Technical evaluations will be conducted based on meeting transportation needs for the next five years, providing bike and pedestrian connectivity, minimization of temporary improvements and rework, constructability, public safety and cost. Staff will evaluate several alternative options and recommend a phasing sequence which will be presented to the Council for approval to proceed with the engineering design at a later time.

The Letter of Authorization, Exhibit A of Resolution No. 27-2008, in the amount of $119,459 will allow Pacific Municipal Consultants to complete the environmental document necessary for the entire project. The environmental document will be structured to include construction phasing options that will be defined when the technical evaluations are completed.

PROJECT FUNDING

The funding for the environmental processing contract will be from the City's Transportation Impact Fees. Construction funding has not yet been fully identified.

ATTACHMENT

Resolution No. 27-2008 including Exhibit A – Letter of Authorization

CITY OF RANCHO CORDOVA

RESOLUTION NO. 27-2008

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF AUTHORIZATION WITH PACIFIC MUNICIPAL CONSULTANTS (PMC) FOR THE ENVIORNMENTAL SERVICES RELATED TO THE ZINFANDEL EXTENSION PROJECT

WHEREAS, The City of Rancho Cordova wishes to contract with Pacific Municipal Consultants (PMC), Inc. for Environmental services related to the Zinfandel Drive Extension Project, beginning on March 17, 2006; and

WHEREAS, those services will exceed the maximum amount that the City Manager has authorization to approve; and

WHEREAS, the Council of the City of Rancho Cordova, in the 2007-2008 Adopted Budget has budgeted sufficient funds to cover the cost of this contract.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA that the Council authorizes the City Manager to execute a letter of authorization (**Exhibit A**) with Pacific Municipal Consultant.

PASSED AND ADOPTED by the City Council of on the 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

PMC®

EXHIBIT A

February 4, 2008

Mr. Ted A. Gaebler
The City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Re: Authorization for Zinfandel Extension and Douglas Widening Project

Dear Mr. Gaebler:

Per the attached email and Section 2.8 of the Professional Consulting Services Agreement between the City of Rancho Cordova and PMC in conjunction with the South Mather Roads project, please accept this letter as PMC's formal written request for authorization and approval to perform the initial services outlined in the attached Scope of Services document dated October 26, 2007. The cost for this work is $119,459.

Please sign the attached Contract Authorization Form indicating your concurrence and return one copy to our Sacramento office. Do not hesitate to contact either myself or Melissa Logue if you have any questions regarding this matter. Thank you for the opportunity to continue providing services to the City of Rancho Cordova.

Sincerely,

Philip O. Carter
President

Contract Tracking Data:
Contract #: 12-2003
Authorization #:_____

CONTRACT AUTHORIZATION FORM

CONTRACT INFORMATION

1. Contract #: 12-2003

2. Parties to Contract: City of Rancho Cordova and Pacific Municipal Consultants (PMC)

AUTHORIZATION REQUESTED

1. Consultant requests authorization pursuant to:

Section #: 2.8 Section Heading: Authorization to Perform Services

2. Does authorization request pertain to a particular sub-project of the contract? ☐ No ☒ Yes

If yes, Project Name: Zinfandel Extension and Douglas Widening Project

Date of Council Meeting Approval of sub-project: N/A Resolution #: N/A

OR check box if sub-project was approved by:

☐ **City Manager; or**
☒ **Department Head: Cyrus Abhar** **Project Manager: Kathy Garcia**

3. Nature of Request (attach description or letter of explanation and other information as necessary to explain request). *Authorizations to perform new sub-projects or services must fall within scope of work authorized under contract identified above.*

Authorization Approval

_____
Ted A. Gaebler, City Manager

Date of Approval: _____

SUBMIT ORIGINAL OF THIS FORM TO CITY CLERK'S OFFICE TOGETHER WITH ANY ATTACHMENTS FOR THE CONTRACT FILE

City of Rancho Cordova Scope of Services
Zinfandel Extension and Douglas Widening Project

October 26, 2007

PROJECT DESCRIPTION/UNDERSTANDING

The City of Rancho Cordova wishes to construct the extension of Zinfandel Road from its existing terminus just south of North Mather Drive to approximately 900 feet south of Douglas Road to conform to Eagle's Nest Road. Additionally, as part of the same project, the City would widen Douglas Road from two lanes to four lanes between the new intersection of Zinfandel Road/Douglas Boulevard and Sunrise Boulevard. The widening of this segment of Douglas Road would include widening the existing bridge over the Folsom South Canal in the eastern portion of the project area.

The right-of-way required to accommodate the project is under the jurisdiction of the City of Rancho Cordova, the County of Sacramento, the federal Bureau of Reclamation, and the United States Air Force. Coordination with Sacramento County, the Bureau of Reclamation, and the Air Force will be required to allow the construction of the project in areas within their jurisdictions.

Because the project includes work in areas under the jurisdiction of the federal Bureau of Reclamation and the U.S. Air Force, and the City wishes to receive federal funding through FHWA to construct the project, the project would be subject to the requirements of both the National Environmental Policy Act (NEPA) as well as the California Environmental Quality Act (CEQA). The City of Rancho Cordova would be the CEQA Lead Agency, Sacramento County would be a CEQA Responsible Agency, Caltrans (through assignment by FHWA) would be the NEPA Lead Agency, and Bureau of Reclamation would be a federal Responsible Agency. It is not fully known at this time what role the U.S. Air Force would fill as a NEPA agency, but it is assumed that they would participate as a federal Cooperating Agency under NEPA. The Rancho Cordova Planning Department (Planning staff) will complete all the necessary environmental analysis, which would include coordination with producers of the Technical Reports, CEQA analysis, coordination with Sacramento County to support their approval of the CEQA documentation, coordination with the Bureau of Reclamation to support their Finding of No Significant Impact (FONSI) under NEPA, , coordination with the Air Force to support their Finding of No Significant Impact (FONSI) under NEPA, coordination with Caltrans to support their finding of a Categorical Exemption (CE) under NEPA, and development of the Mitigation Monitoring and Reporting Program (MMRP).

Issues

The road extension would involve environmental issues to be analyzed in the environmental document, which has been identified as an Initial Study leading to a Mitigated Negative Declaration (IS/MND) to meet the requirements of CEQA, an Environmental Assessment (EA) leading to a Finding of No Significant Impact (FONSI) to meet the Bureau of Reclamation's and Air Force's requirements under NEPA, and a Categorical Exclusion (CE) to meet Caltrans' requirements under NEPA.

Based on the project information provided thus far, as well as the planning staff's knowledge of the project and project area, and planning staff's coordination with Bureau of Reclamation, Caltrans, and Sacramento County, planning staff has identified the following technical studies that would be completed to support the IS/MND, EA, and CE.:

- Natural Environment Study (NES)

Meetings – The Planning Department's Environmental Project Manager would attend the Project Development Team (PDT) meetings throughout the development process. During the preliminary phase of the project, it is expected there will be PDT meetings or focused Design Team meetings at least once each month. After the preliminary engineering is complete, it would be expected to have PDT meetings monthly. The Environmental Project Manager will also attend any Public Workshops or Meetings required, and will attend all Planning Commission and City Council meetings for the proposed project. The Environmental Project Manager would attend meetings and site visits throughout all stages of the project development process.

DETAILED WORK PLAN

The following is a detailed project scope broken down by task to complete services for the environmental process. The project would be subject to both CEQA and NEPA. The scope assumes that the appropriate environmental document is an Initial Study/Mitigated Negative Declaration (IS/MND), pursuant to CEQA, a Categorical Exclusion (CE) pursuant to NEPA for Caltrans, and an Environmental Assessment (EA) pursuant to NEPA for the Bureau of Reclamation and Air Force. The project schedule provides for preparation of technical studies, preparation of a draft and final IS/MND, preparation of an EA, completion of Section 7 Consultation, compiling and providing relevant information to Caltrans for their use in issuing a Categorical Exclusion under NEPA, compiling and providing relevant information to Sacramento County for the use in issuing a Notice of Determination under CEQA, and meeting attendance.

Upon completion of the record searches and surveys, if sensitive resources are identified within the project limits that would require more intense environmental documentation (i.e., additional technical studies, preparation of an EIR, preparation of an EIS, etc.), the planning staff will notify the Public Works Project Manger immediately and the project will need to be re-scoped.

Task 1.0 Project Initiation

The planning staff will obtain and review existing information for the project site and will work with the Public Works Department to prepare a detailed project description, including the location of boundaries and timing of construction. Planning staff will also participate in Design Team meetings to provide input on design alternatives that would minimize impacts to environmental resources.

Planning staff will prepare the Preliminary Environment Study (PES) form, and submit it to Caltrans for their review and approval. Planning staff will also coordinate and attend a field visit with Caltrans staff, to assist them in assessing the scope of technical studies that would be required to support their issuance of a CE.

Task 2.0 Technical Studies

Technical studies form the basis on which the potential environmental impacts are determined and help to identify any project constraint and required mitigation measures. The following is a detailed scope of the tasks that will be completed as part of the technical analysis.

2.1 Natural Environment Study

City of Rancho Cordova biologists will conduct the following activities as part of the Natural Environment Study Report (NES) evaluation:

(2) A sacred lands search conducted by the Native American Heritage Commission and consultation with appropriate Native American groups/individuals and other interested parties (e.g., local historical societies);

(3) Pedestrian surface survey of the Project APE; and

(4) Completion of a report in the appropriate format (e.g., Caltrans HPSR and ASR format) that documents the results of cultural resources investigations.

If necessary, the HPSR/ASR reports will be revised per Caltrans comments, and the document will be re-submitted to Caltrans for their approval. Up to one (1) round of comments and revisions from Caltrans would be anticipated prior to final approval of the HPSR/ASR reports.

Deliverables: *One (1) electronic copy and (1) hard copy of Caltrans-approved cultural resources reports (HPSR and ASR).*

2.3 Hazardous Materials Study

Kleinfelder will complete a Phase I Initial Site Assessment (ISA) of the subject property. Work for this project will be completed in accordance with the California State Department of Transportation (Caltrans) *"Preparation Guidelines for Initial Site Assessment (ISA) Checklist for Hazardous Waste"*. Preparation of a Phase I ISA includes the following tasks:

Task 1.0 Regulatory Agency Records Review

1.1 Standard Environmental Record Sources: Federal and State

Kleinfelder will review published lists of state and federal regulatory agency investigations and/or enforcement actions for the site and property within the following minimum search distances of the site.

- United States Environmental Protection Agency (U.S. EPA) National Priority List (NPL), RCRA Corrective Action (CORRACTS) Treatment, Storage and Disposal (TSD) facilities, and the Cal-EPA Department of Toxic Substances Control (DTSC) Cal-Sites List including the Bond Expenditure Plan (BEP) and Annual Workplan for the site and properties within one mile of the site.
- U.S. EPA CERCLIS List, the RCRA non-CORRACTS TSD List, the Cal-EPA Office of Environmental Information Hazardous Waste and Substances Sites List (formerly the CORTESE List) Regional Water Quality Control Board Tank Tracking System, and California Integrated Waste Management Board SWIS list within one-half mile of the site.
- The RCRA generators' list and the local or state list of registered underground storage tanks for the site and adjacent properties. The Emergency Response Notification System (ERNS) for the subject site only.

1.2 Additional Environmental Sources: State and Local

Review of reasonably ascertainable state and local regulatory agency records for information pertaining to environmental permits, site investigations, and documented enforcement actions for the subject site and adjacent facilities only. State and local agencies contacted may include the following as appropriate:

- The City will supply a plan that indicates landmarks showing the Site boundaries, if they are not readily apparent from field conditions.
- Only information received prior to issuance of the report can be included in the evaluation. Kleinfelder does not guarantee the accuracy of information supplied by its sources, but reserves the right to rely on this information in formulating a professional opinion on the potential for subsurface contamination at the Site.
- The review of regulatory agency files is limited to the site and adjacent facilities. If regulatory agency file reviews for additional sites are recommended, the client will be contacted for authorization of additional fees of $100 per file.
- The site visit and local agency file review can be conducted in one day. If additional time is necessary, additional fees may be incurred. At a minimum, a walking tour will be conducted of the perimeter of the property and of inside areas where hazardous materials/wastes are/were likely to be stored or used.
- Sampling and analysis are not included in the scope of services. If aerially deposited lead (ADL) or other hazardous material sampling is required by Caltrans, we can provide a cost estimate to conduct the sampling.
- The scope of work does not include surveys for asbestos building materials or lead based paint. These services can be provided at additional cost.
- The report of findings will not include work plans or cost estimates for any recommendations made as a result of our research. Work plans or cost estimates can be provided on a time and expense basis.

Deliverables: One (1) electronic copy and one (1) hard copy of the Caltrans-approved Phase I ISA hazardous materials report.

2.4 Air Quality Impact Analysis

Planning staff of the City of Rancho Cordova is familiar with the air quality issues in the project area and in the region. Staff will complete an Air Quality Impacts Study using Caltrans guidelines, and the *Road Construction Emissions Model*, Version 5.1, from the Sacramento Metropolitan Air Quality Management District. The Model estimates a project's emissions by project phase, as well as a project's total emissions over the construction period. The Model also estimates emissions for vehicle exhaust, as well as estimates fugitive dust emission based on the maximum area of land disturbed daily by the project. Estimates of land to be disturbed by the project will come from the Consulting Engineer.

If necessary, the Air Quality Impact Analysis will be revised per Caltrans comments, and the document will be re-submitted to Caltrans for their approval. Up to one (1) round of comments and revisions each from Caltrans would be anticipated prior to final approval of the Air Quality Impact Analysis.

Deliverables: One (1) electronic copy and one (1) hard copy of the Caltrans-approved Air Quality Impact Analysis.

Task 4.0 Draft IS/MND

After the Admin Draft IS/MND is reviewed by the Public Works Department and Sacramento County, the Planning Department will prepare the Draft MND for the 30-day public review period. Planning Staff will circulate the Draft IS/MND and post the Notice of Intent and the Notice of Completion.

Deliverables: NOI: One (1) hard copy of the Notice of Intent posted with the Sacramento County Clerk-Recorder. One (1) electronic of the NOI with receipt stamp from the Sacramento County Clerk-Recorder will be provided to Public Works for their records.

NOC: One (1) hard copy of the Notice of Completion posted with the State Clearinghouse. One (1) electronic of the NOC with receipt stamp from the State Clearinghouse will be provided to Public Works for their records.

Draft IS/MND: Seventeen (17) electronic copies on compact disc (CD) and 26 hard copies of the Draft IS/MND (one [1] electronic copy and five [5] hard copies for the City of Rancho Cordova, one [1] electronic copy and five [5] hard copies for Sacramento County Department of Environmental Assessment, one [1] hard copy for the Sacramento County Clerk-Recorder, and 15 electronic and 15 hard copies for the State Clearinghouse).

Task 5.0 Final IS/MND

At the conclusion of the 30-day review period, the Planning Department will review the comment letters received on the Draft IS/MND and coordinate with Public Works Staff to discuss the responses. Assuming a maximum of 10 comment letters from individuals and agencies, the Planning Department will then prepare draft responses to comments.

Additionally, the Planning Department will draft a Mitigation Monitoring and Reporting Program to be included in the Final IS/MND.

Upon completion, an electronic copy of the Administrative Final IS/MND, including the MMRP, will be submitted to the Public Works Department and Sacramento County Department of Environmental Review and Assessment for review. Based on the comments received from City and County staff, final revisions to the document will be made and the Planning Staff will produce the Final IS/MND. After the Certification of the IS/MND, the Planning Department will file the Notice of Determination (NOD) with the State Clearinghouse and the Sacramento County Clerk-Recorder, and pay appropriate fees.

Deliverables: Twelve (12) hard copies and four (4) electronic copies of the Final IS/MND (five [5] hard copies and one [1] electronic copy for the City of Rancho Cordova, five [5] hard copies and one [1] electronic copy for Sacramento County Department of Environmental Review and Assessment, one [1] hard copy and one electronic copy for the State Clearinghouse, and one hard copy and one [1] electronic copy for the Sacramento County Clerk-Recorder).

Task 6.0 CEQA Findings and Mitigation Monitoring and Reporting Program

Concurrently with the preparation of the Final IS/MND, the Planning Staff will prepare the CEQA Findings of Fact for certification of the Final IS/MND by City of Rancho Cordova City Council. Additionally, Planning Staff will coordinate with Sacramento County Department of Environmental

Planning Staff will review all resource agency permits (i.e., 404 and 401 permits) prepared by ESA Associates prior to their submittal to the resource agencies. Additionally, Planning Staff will oversee any additional information provided by ESA Associates to the resource agencies, and direct any negotiations with resource agencies on permit requirements that may be necessary.

Task 12.0 Meetings

The Planning staff would attend all PDT meetings up to construction. Planning staff would attend up to two public meetings during the environmental process.

City of Rancho Cordova
Zinfandel Extension and Douglas Widening Project Cost Estimate
January 7, 2008

Task #	Task Description	Project Manager $105	Associate Planner $89	Assistant Planner $79	Senior Biologist $105	Associate Biologist $95	Cultural Resources $100	Phase I ISA Study	Graphics $65	Admin. $55	GIS $100	Outside Direct Costs	Totals	
I.	**Project Initiation**													
	Project Description	40.0	0.0	40.0	0.0	0.0	6.0	0.0	4.0	0.0	0.0		90.0	
	APE Map, and PES	$4,200	$0	$3,160	$0	$0	$600	$0	$260	$0	$0	$200	$8,420	
	Subtotal	40.0	0.0	40.0	0.0	0.0	6.0	0.0	4.0	0.0	0.0		90.0	
	Task I	$4,200	$0	$3,160	$0	$0	$600	$0	$260	$0	$0	$200	$8,420	$8,220
II.	**Preparation of Technical Studies**													
	Preparation of	12.0	0.0	0.0	14.0	40.0	0.0	0.0	1.0	4.0	15.0		86.0	
	Natural Environment Study	$1,260	$0	$0	$1,470	$3,800	$0	$0	$65	$220	$1,500	$250	$8,565	
	Preparation of	12.0	0.0	0.0	0.0	0.0	42.0	0.0	0.0	2.0	0.0		56.0	
	Cultural Resources Docs	$1,260	$0	$0	$0	$0	$4,200	$0	$0	$110	$0	$250	$5,820	
	Preparation of	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		12.0	
	Phase I ISA	$1,260	$0	$0	$0	$0	$0	$6,800	$0	$0	$0	$50	$8,110	
	Preparation of	20.0	40.0	40.0	0.0	0.0	0.0	0.0	4.0	4.0	1.0		109.0	
	Air Quality Memo	$2,100	$3,560	$3,160	$0	$0	$0		$260	$220	$100	$250	$9,650	
	Subtotal	56.0	40.0	40.0	14.0	40.0	42.0	0.0	5.0	10.0	16.0		263.0	
	Task II	$5,880	$3,560	$3,160	$1,470	$3,800	$4,200	$6,800	$325	$550	$1,600	$800	$32,145	$24,545
III.	**Preparation of Adminstrative Draft IS/MND-EA**													
	Preparation of	40.0	40.0	160.0	0.0	0.0	0.0	0.0	12.0	16.0	2.0		270.0	
	Admin. Draft IS/MND	$4,200	$3,560	$12,640	$0	$0	$0	$0	$780	$880	$200	$200	$22,460	
	Preparation of	4.0	0.0	20.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		24.0	
	Minimal EA	$420	$0	$1,580	$0	$0	$0	$0	$0	$0	$0	$200	$2,200	
	Subtotal	44.0	40.0	180.0	0.0	0.0	0.0	0.0	12.0	16.0	2.0		294.0	
	Task IV	$4,620	$3,560	$14,220	$0	$0	$0	$0	$780	$880	$200	$400	$24,660	$24,260
IV.	**Preparation of Draft IS/MND-EA**													
	Preparation of	24.0	20.0	40.0	0.0	0.0	0.0	0.0	2.0	16.0	1.0		103.0	
	Draft MND/EA	$2,520	$1,780	$3,160	$0	$0	$0	$0	$130	$880	$100	$2,000	$10,570	
	Subtotal	24.0	20.0	40.0	0.0	0.0	0.0	0.0	2.0	16.0	1.0		103.0	
	Task V	$2,520	$1,780	$3,160	$0	$0	$0	$0	$130	$880	$100	$2,000	$10,570	$8,570
V.	**Final IS/MND-EA**													
	Preparation of	32.0	20.0	80.0	0.0	0.0	0.0	0.0	2.0	16.0	0.0		150.0	
	Final MND/EA	$3,360	$1,780	$6,320	$0	$0	$0	$0	$130	$880	$0	$750	$13,220	
	Subtotal	32.0	20.0	80.0	0.0	0.0	0.0	0.0	2.0	16.0	0.0		150.0	
	Task VI	$3,360	$1,780	$6,320	$0	$0	$0	$0	$130	$880	$0	$750	$13,220	$12,470
VI.	**Preparation of CEQA Findings and MMRP**													
	Preparation of	2.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		14.0	
	Findings and MMRP	$210	$1,068	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1,278	
	Subtotal	2.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		14.0	
	Task VII	$210	$1,068	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1,278	$1,278
VII.	**Biological Assessment and Biological Opinion**													
	Preparation of	32.0	0.0	0.0	12.0	30.0	0.0	0.0	0.0	4.0	8.0		86.0	
	Biological Assessment	$3,360	$0	$0	$1,260	$2,850	$0	$0	$0	$220	$800	$50	$8,540	
	Subtotal	32.0	0	0.0	12.0	30.0	0.0	0.0	0.0	4.0	8.0		86.0	
	Task XI	$3,360	$0	$0	$1,260	$2,850	$0	$0	$0	$220	$800	$50	$8,540	$8,490
VIII.	**Coordination w/ Bureau of Reclamation and U.S. Air Force for NEPA FONSI**													
	Coordination for Issuance	40.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		40.0	
	of FONSI	$4,200	$0	$0	$0	$0	$0	$0	$0	$0	$0	$100	$4,300	
	Subtotal	40.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		40.0	
	Task VIII	$4,200	$0	$0	$0	$0	$0	$0	$0	$0	$0	$100	$4,300	$4,200
IX.	**Coordination with Caltrans for NEPA CE**													
	Coordination for Issuance	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		12.0	
	of CE	$1,260	$0	$0	$0	$0	$0	$0	$0	$0	$0	$25	$1,285	
	Subtotal	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		12.0	
	Task IX	$1,260	$0	$0	$0	$0	$0	$0	$0	$0	$0	$25	$1,285	$1,260
X.	**Coodination w/ Sac County**													
	Coordination with	40.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		40.0	
	Responsible Agency	$4,200	$0	$0	$0	$0	$0	$0	$0	$0	$0	$25	$4,225	
	Subtotal	40.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		40.0	
	Task X	$4,200	$0	$0	$0	$0	$0	$0	$0	$0	$0	$25	$4,225	$4,200
XI.	**Resource Agency Permits Oversight**													
	Oversee Acquisition of	20.0	0.0	0.0	20.0	10.0	0.0	0.0	0.0	4.0	2.0		56.0	
	Resource Agency Permits	$2,100	$0	$0	$2,100	$950	$0	$0	$0	$220	$200	$25	$5,595	
	Subtotal	20.0	0.0	0.0	20.0	10.0	0.0	0.0	0.0	4.0	2.0		56.0	
	Task X	$2,100	$0	$0	$2,100	$950	$0	$0	$0	$220	$200	$25	$5,595	$5,570
XVI.	**Meetings**													
		30.0	10.0	4.0	8.0	0.0	0.0	0.0	0.0	0.0	0.0		52.0	
		$3,150	$890	$316	$840	$0	$0	$0	$0	$0	$0	$25	$5,221	
	Subtotal	30.0	10.0	4.0	8.0	0.0	0.0	0.0	0.0	0.0	0.0		52.0	
	Task XVI	$3,150	$890	$316	$840	$0	$0	$0	$0	$0	$0	$25	$5,221	$5,196
	Project Totals													
	Project Hours	372.0	142.0	384.0	54.0	80.0	48.0	0.0	25.0	66.0	29.0		1,200	
	Project Cost	$39,060	$12,638	$30,336	$5,670	$7,600	$4,800	$6,800	$1,625	$3,630	$2,900	$4,400	$119,459	$108,259

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Stacy Leitner, Interim City Clerk

SUBJECT: **SHERIFF'S OUTREACH COMMUNITY ADVISORY BOARD APPT.**

RECOMMENDATION

Adopt Resolution No. 33-2008 designating a Rancho Cordova representative to fill a two-year Board Member term on the Sacramento County Sheriff's Outreach Community Advisory Board (SOCAB).

RESULT OF RECOMMENDED ACTION

The City of Rancho Cordova will have a representative on the SOCAB whose purpose, as outlined in the Board of Supervisors' Ordinance, is..."to provide collaboration and communication in the establishment and implementation of programs that identify and seek to eradicate conflict, concerns and issues regarding the (Sheriff's) Department and the community it serves."

BACKGROUND

At the September 4, 2007 council meeting, Council Members directed staff to continue the SOCAB designation of appointment to October 1 in order to allow time for solicitation of applicants. No applications were received so this item did not return to Council at the October 1 meeting.

A story was published in the Grapevine, by Shelly Blanchard, and the City Clerk's Department placed an ad in the Grapevine, which ran for several weeks. This advertisement generated six applications; however, none were selected.

Upon recommendation by Chief of Police Reuben Meeks, Debbie Cannon was selected by the Mayor to be the City of Rancho Cordova's citizen representative to SOCAB.

ATTACHMENT

Resolution No. 33-2008 Approving Mayoral Appointment to the Sacramento County Sheriff's Outreach Community Advisory Board, including **Exhibit A** (Ordinance No. SCC No. 1360 Adding Chapter 2.25 to Title 2 of the Sacramento County Code Relating to Sheriff's Outreach Community Advisory Board)

CITY OF RANCHO CORDOVA

RESOLUTION NO. 33-2008

RESOLUTION OF THE CITY COUNCIL APPROVING MAYORAL APPOINTMENT TO THE SACRAMENTO COUNTY SHERIFF'S OUTREACH COMMUNITY ADVISORY BOARD

WHEREAS, the Sacramento County Board of Supervisors adopted an Ordinance (SCC No. 1360) on July 24, 2007 Adding Chapter 2.25 to Title 2 of the Sacramento County Code Relating to Sheriff's Outreach Community Advisory Board (SOCAB); and

WHEREAS, the purpose of the SOCAB is to provide collaboration and communication in the establishment and implementation of programs that identify and seek to eradicate conflict, concerns and issues regarding the Sacramento County Sheriff's Department and the community it serves; and

WHEREAS, the composition of the Advisory Board shall include representatives of the Cities within the County of Sacramento and the City Members shall be appointed by, and serve at the pleasure of, the Mayor of each City with the approval of the City Council to a two-year term on the Advisory Board, as outlined in **Exhibit A (Sacramento County Ordinance SCC No. 1360)**; and

WHEREAS, Rancho Cordova is a municipal entity within the jurisdictional boundaries of Sacramento County;

BE IT RESOLVED, that Mayor Linda Budge hereby appoints Debbie Cannon as Rancho Cordova's representative to the Sacramento County Sheriff's Outreach Community Advisory Board effective this date;

BE IT FUTHER RESOLVED BY THE CITY COUNCIL OF RANCHO CORDOVA that the City Council approves the Mayoral appointment and directs the City Clerk to provide a certified copy of this Resolution to the Sacramento County Sheriff.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

Exhibit A

SCC NO. 1360

AN ORDINANCE ADDING CHAPTER 2.25 TO TITLE 2 OF THE SACRAMENTO COUNTY CODE RELATING TO SHERIFF'S OUTREACH COMMUNITY ADVISORY BOARD

The Board of Supervisors of the County of Sacramento, State of California, ordains as follows:

SECTION 1. Chapter 2.25, Sections 2.25.010 through 2.25.100, is hereby added to Title 2 of the Sacramento County Code to read as follows:

2.25 Sheriff's Outreach Community Advisory Board.

2.25.010 Definitions.

As used in this Chapter, the following definitions shall apply:

a. "County" shall mean the County of Sacramento;

b. "Board" shall mean the Board of Supervisors of County;

c. "City" shall mean any incorporated city within the County;

d. "Council" shall mean the City Council of City;

e. "Mayor" shall mean the Mayor of City;

f. "Advisory Board" shall mean the Sheriff's Outreach Community Advisory Board;

g. "Member" shall mean a person appointed as a member of the Advisory Board;

h. "Department" shall mean the Sacramento County Sheriff's.

2.25.020 Advisory Board Established.

The Sheriff Outreach Community Advisory Board is hereby established.

2.25.030 Purpose.

The purpose of the Advisory Board is to provide collaboration and communication in the establishment and implementation of programs that identify and seek to eradicate conflict, concerns and issues regarding the Department and the community it serves.

2.25.040 Members.

a. Members of the Advisory Board shall be representatives of the County of Sacramento and the Cities within the County of Sacramento that elect, by resolution or ordinance, to participate on the Advisory Board.

b. The Advisory Board shall consist of not more than twenty (20) Members, who shall be appointed as follows: 1. Five (5) Members to be appointed by, and serve at the pleasure of, the Board; 2. For each Member City, one Member shall be appointed for the first 100,000 of the City's population and an additional member for each additional 100,000 in population, not to exceed five (5) Members per City. The City Members shall be appointed by, and serve at the pleasure of, the Mayor of each City, with the approval of the Council; 3. Five (5) at-large Members shall be appointed by the Sheriff of the County.

4. Ex officio Members may be appointed by majority vote of the Members.

c. Each Member shall be a resident of the appointing jurisdiction. At-large members shall be residents of the County. There are no residency requirements for ex officio Members.

2.25.050 Members-Term of Office

a. Each Member shall serve for a term of two years, unless additional terms are authorized by the appointing authority.

b. No Member shall serve more than two consecutive two-year terms, except a Member appointed to complete an unexpired term, or whose initial term is less than two years, may serve up to two consecutive two-year terms in addition to such initial term.

c. The position of any Member who fails to attend, in succession, three or more regular meetings of that Advisory Board shall automatically become vacant and a replacement shall be appointed in accordance with Section 2.25.040.

d. Members serve at the pleasure of their appointing authority.

e. Ex officio members serve at the pleasure of the Advisory Board and are not subject to term limits.

f. Members shall serve without compensation.

2.25.060 Meetings.

The Advisory Board shall establish an annual schedule of meetings, generally on a monthly basis. Meetings shall be open to the public and shall be

held in compliance with Government Code sections 54950 *et seq.*

2.25.070 Quorum.

A quorum for transaction of business shall be one-third of the appointed Members. Action may be taken based on a majority vote of those Members present and voting, provided that no action may be taken if less than a quorum is present. In the event of a tie vote, the Chair of the Advisory Board shall have an additional vote.

2.25.80
Organization.

The Advisory Board shall elect a Chair and Vice Chair for a one-year term beginning on July 1 of each year. Other officers and committees may be created by action of the Advisory Board.

2.25.090 Powers and Duties.

The powers and duties of the Advisory Board shall be as follows:

a. Provide an annual review to the Board of Supervisors and the Sheriff concerning complaints and testimony received from the community related to Sheriff operations, policies and standard operating procedures;

b. Act in an advisory capacity to the Board of Supervisors and the Sheriff in promoting, aiding and encouraging community input on sheriff operations, policies and standing operating procedures;

c. Act in an advisory capacity to the Board of Supervisors and the Sheriff in the development and operation of the Department's law enforcement activities;

d. Solicit and accept testimony from the community regarding complaints pertaining to operations, policies and standard operating procedures of the Department.

e. Represent the Advisory Board at community events;

f. Participate in the development of media activity promoting the Advisory Board;

g. Participate on speakers' bureaus on issues relevant to the Advisory Board; and

h. Such other activities that are consistent with the purpose of the Advisory Board.

2.25.100 Withdrawal.

Any City may withdraw from the Advisory Board upon service of written notice, in the form of a City resolution or ordinance. Notice shall be provided to both the Board of Supervisors and the Sheriff.

SECTION 2. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on July 17, 2007 and on July 17, 2007 further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor Dickinson, seconded by Supervisor Yee, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 24th day of July 2007, by the following vote:

AYES: Supervisors, Dickinson, MacGlashan, Peters, Yee, Nottoli
NOES: Supervisors, None
ABSENT: Supervisors, None
ABSTAIN: Supervisors, None

Don Nottoli
Chair of the Board of Supervisors
of Sacramento County, California

In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on JUL 24 2007

By Gwynne Dewlenig
Deputy Clerk, Board of Supervisors

(SEAL)

ATTEST: Cindy H. Turner
Clerk, Board of Supervisors

FILED
JUL 24 2007
BOARD OF SUPERVISORS
By Cindy H. Turner
CLERK OF THE BOARD

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Donna Silva, Finance Director

SUBJECT: **APPROVE RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS (CFD's) ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, ORDERING THAT THE TAX COLLECTOR BE CREDITED WITH THOSE TAXES AND AUTHORIZING RETENTION OF SPECIAL COUNSEL**

RECOMMENDATION

Approve Resolution 39-2008 to authorize the City to record notices of intent to remove delinquent special taxes from the tax rolls, as the first step in the collection of delinquent taxes.

RESULT OF RECOMMENDED ACTION

If Council adopts the resolution, the City will record notices of intent to remove the delinquent special taxes from the tax rolls and request that the County officials remove current and future delinquent special taxes from the tax rolls. The City currently intends to remove those special taxes which are delinquent for both of the two installments of taxes for the 2007/2008 tax year. The City can then proceed with collection activities.

BACKGROUND

The City's Mello-Roos CFD's are committed to the owners of the debt (bondholders), to timely collect delinquent special tax levies. The commitment is spelled out in the Fiscal Agent Agreements of each CFD. This commitment, known as a covenant, provides additional assurance to the bondholders that the City, as bond issuer, has a program in place to closely monitor and effect collection of delinquent special taxes. Special taxes that are delinquent on both installments need to be removed from the tax rolls in order for the special counsel to begin taking action to work with the property owners to collect the taxes and if necessary, foreclose the liens.

Each CFD records a Notice of Special Tax Lien on the parcels within the CFD. The Fiscal Agent Agreement, Section 5.15 directs the City to annually review and determine the amount delinquent. If the total delinquency rate exceeds 5%, or if any single parcel is delinquent by more than $5,000 of the amount of special taxes levied in the fiscal

year, the City is required to send delinquency reminder letters, followed by removal of the delinquent special taxes from the secured tax roll for processing by Attorneys to collect and pursue foreclosure to enforce the lien if necessary. Removal of the special taxes from the secured tax roll is necessary because the County will not accept partial payment of property taxes (for example, payment of the CFD assessment portion only, would be rejected).

The delinquency rate in the City's two bond infrastructure CFD's, as reported after the first installment (December 10, 2007) was:

Sunridge Anatolia CFD - 13.56%, for a total of $258,546.32.
Sunridge Park CFD - 1.09% for a total of $6,467.68.

The delinquency rate in the Sunridge Anatolia CFD therefore falls within the threshold to take action to collect, and if necessary commence foreclosure proceedings.

The City Attorney's office (Meyers Nave) recommended the City retain Sherman and Feller, a Law Corporation, as special counsel to commence collection, using the judicial foreclosure process, for delinquent Mello-Roos Community Facilities District (CFD) special taxes. Sherman & Feller have over 20 years of experience in providing this specialty service. In most cases, they are able to obtain payments of the special tax delinquencies by working directly with the property owners.

Establishing a delinquency monitoring program, and separating the special taxes from the tax roll helps provide a workable and financially feasible method of paying delinquent taxes. Proactively performing this annual due diligence as the issuer of our CFD bonds also helps preserve the City's reputation in the municipal bond markets.

ATTACHMENT

Resolution No. 39-2008.

RESOLUTION NO. 39-2008

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA ACTING AS THE GOVERNING BODY OF ALL OF ITS COMMUNITY FACILITIES DISTRICTS ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, ORDERING THAT THE TAX COLLECTOR BE CREDITED WITH THOSE TAXES AND AUTHORIZING RETENTION OF SPECIAL COUNSEL

WHEREAS, the City of Rancho Cordova, a California municipal corporation, has conducted proceedings resulting in the formation of Community Facilities Districts ("CFDs") and the issuance and sale of bonds or debt pursuant to the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code Section 53311, et seq.; the "Act"); and

WHEREAS, pursuant to the Act, the City has duly recorded Notices of Special Tax Lien and has duly and regularly levied CFD special taxes, which special taxes and interest and penalties thereon constitute a lien against the parcel of the land against which it was levied until the same are paid, which liens secure in whole or part debt issued pursuant to the Act; and

WHEREAS, certain installments of the special taxes have not been paid when due, and certain special taxes may not be paid when due in the future; and

WHEREAS, pursuant to Section 53356.1(a) of the Act, the CFDs are authorized to order the special taxes collected by an action brought in the Superior Court to foreclose their liens; and

WHEREAS, pursuant to Section 53356.1(b) of the Act, the CFDs covenanted for the benefit of owners of the debt to file such foreclosure actions on behalf of the debt holders and are authorized to order the County Auditor to credit the delinquent special taxes upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto; and,

WHEREAS, the City wishes to retain experienced, qualified counsel to prosecute such judicial foreclosure actions,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Rancho Cordova acting as the Legislative Body of all of the City of Rancho Cordova CFDs that:

1. The Council finds that the Act authorizes the removal of delinquent special taxes from the County secured tax roll and the commencement of judicial foreclosure proceedings to collect such delinquent special taxes, and hereby orders such removal and foreclosures.

2. The Finance Director is authorized and directed on at least an annual basis, to: (i) review the delinquent special taxes on the County secured tax roll, (ii) request that the County Auditor remove from the secured tax roll those delinquent special required by covenant with debt holders or for which the Finance Director deems removal prudent, (iii) take any actions to collect those amounts he/she determines to be likely to result in their prompt collection, (iv) transmit the delinquent special taxes to Attorneys to collect and pursue foreclosure proceedings thereon. The Finance Director may delegate this power to

departmental personnel as he/she deems appropriate. This authorization shall remain in effect unless and until it is rescinded by Resolution of this Council.

3. The City is authorized to retain Sherman & Feller, a Law Corporation, as special counsel on the terms set forth in the agreement approved by the City Manager to collect all amounts due on account of delinquent special taxes on behalf of the CFDs.

4. The Council finds that the Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosures authorized by the City and hereby authorizes Attorneys to require payment on its behalf of all costs and all attorneys fees incurred as to each delinquent parcel as a condition of such redemption as provided in the agreement.

5. City personnel in conjunction with special counsel and other CFD and City consultants are authorized and directed if and as applicable, pursuant to Government Code Section 53356.2: 1) to record notices of intent to remove the delinquent special taxes from the tax rolls, and 2) to request that the applicable County officials remove current and future delinquent special taxes from the tax rolls.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova acting as the Legislative Body of all of the City of Rancho Cordova Community Facilities Districts at a regular meeting held on April 21, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Stacey Leitner, Interim City Clerk

Linda Budge, Chair of the City Council acting as the Legislative Body of all of the City of Rancho Cordova Community Facilities Districts

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director
Steve Harriman, Integrated Waste Manager

SUBJECT: **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THREE NON-EXCLUSIVE COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE AGREEMENTS**

RECOMMENDATION

Adopt Resolution No. 40-2008.

RESULT OF RECOMMENDED ACTION

Adoption of Resolution No. 40-2008 will allow the City Manager to execute three new non-exclusive commercial solid waste and recyclables collection franchise agreements.

BACKGROUND

In September 2003, the City Council adopted Resolution No. 55-2003 and Ordinance No. 15-2003, which established the framework for the City Council to regulate commercial solid waste haulers and provided continuation rights for SWA franchisees to operate within the City through December 2005.

In November 2005, the City Council adopted Ordinance No. 22-2005 and Resolution No. 22-2005, which authorized the City Manager to execute new non-exclusive commercial solid waste franchises specific to the City of Rancho Cordova.

In December 2007, the City Council adopted Ordinance No. 41-2007 and Resolution No. 147-2007, which authorized the City Manager to execute two-year extensions to the existing commercial franchises through December 2009.

In January and February 2008, three additional companies submitted applications to the Public Works Department for a commercial franchise, including the following:

- Aces Waste Disposal Services — Contract No. 54-2008
- All Waste Systems — Contract No. 55-2008
- Green Waste Recovery (dba $99 Debris Box) — Contract No. 56-2008

Public Works Department staff reviewed the applications submitted to the City and found them to be in compliance with the ordinance requirements. In addition, these companies were recently awarded non-exclusive franchises by the Sacramento Regional Solid Waste Authority (SWA).

FISCAL IMPACT

Section 6 of the Commercial Solid Waste and Recyclables Collection Franchise Agreement requires franchisees to pay an eight percent (8%) franchise fee on gross revenues received for commercial solid waste collection services provided within the City. The eight percent (8%) franchise fee generates revenue in the range of $30,000 per month, or $360,000 per year, paid by the franchisees to the City. The new commercial franchises will contribute to this revenue stream.

ATTACHMENT

Resolution No. 40-2008.

CITY OF RANCHO CORDOVA

RESOLUTION NO. 40-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA AUTHORIZING THE CITY MANAGER TO EXECUTE THREE NON-EXCLUSIVE COMMERCIAL SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE AGREEMENTS

WHEREAS, the City Council of the City of Rancho Cordova acknowledges the need to provide state-of-the-art facilities, equipment and programs to local commercial businesses for the safe and legal collection, transportation and recycling of solid wastes, and

WHEREAS, in September 2003 the City Council of the City of Rancho Cordova adopted Resolution No. 55-2003 and Ordinance No. 15-2003, which established the framework for the City Council to regulate commercial solid waste haulers and provided continuation rights for SWA franchisees to operate within the City through December 2005; and

WHEREAS, in November 2005 the City Council adopted Ordinance No. 22-2005 and Resolution No. 22-2005, which authorized the City Manager to execute new non-exclusive commercial solid waste franchises; and

WHEREAS, in December 2007 the City Council adopted Ordinance No. 41-2007 and Resolution No. 147-2007, which authorized the City Manager to two-year extensions to the existing commercial franchises; and

WHEREAS, three solid waste hauling companies have submitted applications to the City in order to receive a non-exclusive franchise to collect commercial solid waste and recyclables within the City limits, including All Waste Systems, Inc., Aces Waste Services, Inc., and Green Waste Recovery, Inc.; and

WHEREAS, Public Works staff have reviewed the three applications and find them to be in compliance with the ordinance requirements.

NOW, THEREFORE, THE CITY COUNCIL OF RANCHO CORDOVA does hereby resolve that the City Manager is authorized to execute three (3) new non-exclusive commercial solid waste and recyclables collection franchise agreements in a form approved by the City Attorney.

PASSED AND ADOPTED by the City Council of on the 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Linda Budge, Mayor

ATTEST:

_____

Stacy Leitner, Interim City Clerk

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **RESOLUTION AUTHORIZING EXECUTION OF CONTRACT WITH BEAZER HOMES HOLDINGS CORP. FOR PAYMENT FOR CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT ZINFANDEL DRIVE AND INTERNATIONAL DRIVE**

RECOMMENDATION

Adopt Resolution No. 43-2008.

RESULT OF RECOMMENDED ACTION

Adoption of this resolution will authorize the City Manager to execute a contract with Beazer Homes Holdings Corp. for credit/reimbursement of costs associated with the construction of intersection improvements at Zinfandel Drive/International Drive.

BACKGROUND

The approvals and agreements for the Capital Village project required the developer to construct significant offsite improvements associated with the project. The agreement provided for reimbursement for a portion of those improvements from transportation impact fees collected from within the project. These improvements include signal modifications and intersection improvements at location identified above and a portion of the funding for that intersection is included in the Sunrise Douglas Community Plan Development Impact Fees.

The purpose of this credit/reimbursement agreement, as authorized to be executed by Resolution No. 43-2008, is to establish the payment terms of the credit and reimbursement to the developer for the eligible improvements.

FISCAL IMPACT

The total amount of the contract for reimbursement is the amount of $232,985, payable as 50% credits with the remaining 50% reimbursement payable upon acceptance of the facility, and will be funded by roadway development impact fees collected from within the Beazer's projects in the Sunridge Specific Plan Area.

ATTACHMENT

Resolution No. 43-2008 including Exhibit A – Contract No. 56-2008

CITY OF RANCHO CORDOVA

RESOLUTION NO. 43-2008

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE EXECUTION OF A CREDIT/REIMBURSEMENT AGREEMENT WITH BEAZER HOMES HOLDINGS CORP. FOR CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT ZINFANDEL DRIVE AND INTERNATIONAL DRIVE ASSOCIATED WITH THE CAPITAL VILLAGE PROJECT

WHEREAS, Developer is developing Capital Village (the "Project"), including backbone infrastructure that will serve the Project; and

WHEREAS, the Developer is required, as a condition of development of the Project through the approvals and agreements for the Capital Village Project, to construct certain facilities and improvements which are included within or associated with the improvement plans titled Off Site Improvement Plans for Capital Village, dated February 20, 2007 (the "Facilities"); and

WHEREAS, the City wishes to enter into a credit/reimbursement agreement to provide for allowable credits and reimbursements to the Developer for the Facilities with funds in the Sunrise Douglas Community Plan Development Impact Fee Program Roadway Fund; and

WHEREAS, such contract for payment will exceed the maximum amount that the City Manager has the authorization to approve.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF RANCHO CORDOVA that the Council authorizes the City Manager to execute a contract with Beazer Homes Holdings Corp., attached as **Exhibit A**, in a form approved by the City Attorney.

PASSED AND ADOPTED by the City Council of on the 21ST day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

EXHIBIT A
CONTRACT NO. 56-2008

CITY OF RANCHO CORDOVA
SUNRISE DOUGLAS COMMUNITY PLAN
DEVELOPMENT IMPACT FEE PROGRAM
REIMBURSEMENT AGREEMENT

WITH BEAZER HOMES HOLDINGS CORP. FOR CONSTRUCTION OF INTERSECTION IMPROVEMENTS AT ZINFANDEL DRIVE AND INTERNATIONAL DRIVE ASSOCIATED WITH THE CAPITAL VILLAGE PROJECT

This Reimbursement Agreement (the "Agreement") is entered into by and between the City of Rancho Cordova (hereinafter "City") and **Beazer Homes Holdings Corp.**, A Delaware Corporation, and/or its successors in interest, (hereinafter "Developer") as of the ____ day of _____ 2008.

RECITALS

WHEREAS, Developer is developing Capital Village (the "Project"), including backbone infrastructure that will serve the Project; and

WHEREAS, Developer is required, as a condition of development of the Project through the approvals and agreements for the Capital Village Project, to construct or cause to be constructed the facilities and improvements shown on **Figure 1** and described in **Exhibit A** hereto, which are included within or associated with the improvement plans titled Off Site Improvement Plans for Capital Village, dated February 20, 2007, (the "Facilities"); and

WHEREAS, on June 21, 2004, the City Council of Rancho Cordova adopted Ordinance No. 24-2004 which approved the Sunrise Douglas Community Plan Development Impact Fee Program (the "SDCP Fee Program"); implemented impact fees to pay for a variety of public facilities (the "SDCP Fees"), including the Facilities; and set forth policies associated with fee credits and reimbursements within the Sunrise Douglas Community Plan ("SDCP") area; and

WHEREAS, City has required Developer to design and construct the Facilities; and

WHEREAS, City and Developer desire to enter into an agreement to provide for allowable credits and reimbursements by the City to Developer for the Facilities; and

WHEREAS, City and Developer have agreed to allow apportionment of credits over the real property identified in **Exhibit B** hereto;

NOW, THEREFORE, in consideration of the mutual promises contained herein, City and Developer agree as follows:

Section 1. Construction of Facilities

Developer shall complete construction of the Facilities in accordance with the plans and specifications approved by City staff, the change orders for additional costs associated with the Facilities, and in accordance with City improvement standards and this Agreement. Developer understands and acknowledges that the terms and conditions contained in any contract that Developer has or may execute with any contractors or material suppliers regarding the construction of the Facilities have no force or effect upon this Agreement.

Section 2. Allowable Credit/Reimbursement

The City shall credit/reimburse the Developer for all amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a public facility or infrastructure including without limitation, the costs of land, construction and inspection, engineering, administration, and consulting fees (hereinafter the "Costs") associated with construction of the Facilities, up to an amount not to exceed **$232,985** (hereinafter the "Approved Contingency Costs").

In order to secure final commitment for reimbursement, Developer shall provide the following items to the City in order for the City to determine the actual construction costs for the Facilities that qualify for reimbursement:

(1) Copies of the original contract with the contractor and any change orders that have been agreed to by the Developer, contractor, and the City. The portion of each change order associated with the Facilities must be itemized separately;

(2) Copies of all invoices, with unconditional lien releases, submitted by the contractor;

(3) Copies of all checks issued by the Developer with related invoices indicated; and

(4) A summary tabulation of all contractor invoices and Developer payments.

Section 3. Limitation on Fee Credits

Nothwitstanding Section 2 above, for any particular type of facility (i.e., sewer, water, roadways), the amount of fee credits granted to a Developer for that type of facility pursuant to this Agreement shall not exceed the amount of fees due from the Developer for that facility type within the area designated for such fee credits as identified in **Exhibit B** hereto. If the amount of credit/reimbursement from Section 2 for a particular type of facility type exceeds the fee obligation for the Developer for that facility type, the remaining balance shall be paid as a reimbursement to Developer pursuant to the procedures set forth in Section 4 below, unless Developer requests that a greater portion of the credits/reimbursements be designated as credits to be assigned to lots outside the area designated in **Exhibit B**, subject to the approval of the City Engineer or City Finance Director, in his or her sole discretion.

In addition to the foregoing, no fee credits shall be applied to the Administrative Fee or the Fee Program Update that are part of, and are defined within, the SDCP Fee Program. Both fees shall be due and payable at such time as the Developer, or its successors or assigns, are issued building permits for perperty identified in **Exhibit B** hereto.

Section 4. Reimbursements

Pursuant to the terms of this agreement, reimbursement for the facilities in the amount authorized under Section 2 shall be paid upon the completion and acceptance of the facilities covered by this agreement. Notwithstanding the foregoing, the obligation arising from the agreement is not a debt of the City, nor a legal or equitable pledge, charge, lien, or encumbrance, upon any of its property, or upon any of its income, receipts, or revenues, and is payable only from the Development Fees deposited in the Sunrise Douglas Community Plan Roadway Fee.

Section 5. Distribution of Fee Credits/Reimbursements

Upon execution of this Agreement, the Developer shall receive fee credits and/or commitment for reimbursement equal to fifty percent (50%) of the Programmed Costs for the Facilities. After the Facilities have been accepted by the City pursuant to the requirements set forth in this Agreement, the remaining amount of fee credits and/or commitment for reimbursement shall be granted to Developer.

Notwithstanding the foregoing, if the Developer, through credits taken exhausts the original allocation of fifty percent (50%) of the Programmed Costs prior to the City accepting the Facilities, Developer as well as its successors and assignees shall be required to utilize other SDCP Fee credits and/or pay the SDCP Fee on the remaining building permits issued within the area identified in **Exhibit B**.

Section 6. Application of Fee Credit

Fee credits provided pursuant to this Agreement shall be applied to the property identified in **Exhibit B** in any manner requested by the Developer. Based on the type of Facilities covered by this Agreement, such fee credits shall only apply to the Roadway Fees within the SDCP Fee Program.

Section 7. Transfer of Fee Credits/Reimbursements

Fee credits/reimbursements granted to Developer pursuant to this Agreement may be transferred to other owners, builders, or developers. To effect such a transfer, Developer shall submit a completed form to the City in substantially the same format as set forth in **Exhibit C** that will (i) reference this Agreement; (ii) identify the Developer and assignee if credits are being assigned to a builder or other party; (iii) identify the number of lots against which the credits will be applied; (iv) identify the fee credit balance before and after the transfer; and (v) include a map or other method that is acceptable to the City that identifies the lots or parcels against which the fee credits will

be applied. The form must be signed by the Developer and the City, and an executed copy of the form shall be kept on file at the City.

Section 8. Inspection

City shall, at all times, upon reasonable advance notice, have access to the construction site during construction of the Facilities and Developer shall furnish City with all reasonable information necessary for ascertaining full knowledge of the Facilities with respect to the progress, workmanship, and character of materials and equipment used and employed in the work.

Whenever the contractors retained by Developer vary the normal period during which work or any portion of it is carried out on each day, Developer shall give timely notice to the City so that the City's representative may, if he or she wishes, be present to observe the work in progress. If Developer fails to give such timely notice, any work done in the absence of the City representative will be subject to rejection. Developer shall give timely notice to the City in advance of backfilling or otherwise covering any part of the work so that the City's representative may, if he or she wishes, observe the work before it is concealed.

Observation of the work by the City shall not relieve Developer of any of its obligations to complete construction in accordance with the plans and specifications approved by the City Engineer.

Section 9. 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 in the execution of said work by Developer's 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 the office of, the City Clerk.

Developer shall require its contractor to post, at each jobsite, a copy of such prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations.

Section 10. Insurance

Developer shall require its contractor to carry and maintain during the life of this Agreement, such public liability, property damage and contractual liability, auto, Workers' Compensation and Builders' Risk Insurance as required by the improvement plan specifications for the Facilities. The contractor shall name the City as an additional insured.

Section 11. Acceptance and Conveyance of Facilities

Once Developer has completed construction of the Facilities and the Facilities are accepted and deemed satisfactory by the City, the Facilities automatically become the property of the City. Developer shall take any and all actions necessary to convey and vest full, complete and clear title in said Facilities to the City.

Section 12. Liens, Claims, and Encumbrances

Developer shall provide a written guarantee and assurance to the City that there are no liens, claims, or encumbrances on the Facilities prior to payment of reimbursements or granting of final fee credits by the City, together with unconditional final releases from all contractors and material suppliers, and with copies of invoices and corresponding Developer checks issued for all items for which credit/reimbursement is required under this Agreement. Notwithstanding any other provision or term of this Agreement, the City shall have no obligation to apply credits/reimbursements after final acceptances for the Facilities until Developer has cleared any and all liens, claims and encumbrances from said facility, and provided the required guarantee documentation, guarantee, and assurance in writing, to the satisfaction of the City.

Section 13. Delivery of As-Built Plans and Specifications

Prior to acceptance of the Facilities by City, Developer shall deliver to City copies of all as-built plans, specifications, operating manuals, service manuals, warranties and other documents relating to the design, construction, and operation of the Facilities described in this Agreement.

Section 14. Indemnification

The Developer, by execution of this Agreement, specifically agrees to assume the defense of, indemnify and hold harmless City and its elected representatives, officers, employees, agents and consultants (the **"Indemnitees"**), from and against all liabilities, actions, damages, claims, losses, or expenses of every type and description, including attorneys' and consultants' fees and expenses, (collectively, **"Liabilities"**), to which they may be subjected or put, by reason of or resulting from the design, construction, or installation of the Facilities, except to the extent the Liabilities arise from the sole negligence, active negligence, or willful misconduct of City and/or the Indemnitees. This indemnification shall extend to Liabilities occurring after this Agreement is terminated as well as while it is in force. Notwithstanding the foregoing, following the acceptance of the improvements by City, or if there is an applicable warranty, following the end of any applicable warranty period, the Developer shall not be obligated to indemnify the Indemnitees for Liabilities to the extent that such Liabilities arise from Indemnitees' active or passive negligence.

Section 15. Third Party Liability

City does not assume any liability, duty or obligation to Developer's contractors, subcontractors or agents by execution or performance of this Agreement and no

contractors, subcontractors, agents or any parties are third party beneficiaries of this Agreement.

Section 16. Warranty

Developer hereby warrants the Facilities as to materials, design and workmanship and should any failure of the Facilities or any parts thereof occur within a period of one (1) year after final acceptance by City, Developer shall promptly cause the needed repairs to be made without any expense or cost to the City. Final acceptance shall be deemed to have occurred under this Agreement when the Facilities have been accepted by the City and may be placed into service. City shall provide written notification to Developer of final acceptance by the City.

City is hereby authorized to make repairs if Developer fails to make, or undertake with due diligence, the aforesaid repairs within twenty (20) days after it is given written notice of such failure. In case of emergency, where in the opinion of the City Engineer delay may cause serious hazard to the public, the necessary repairs may be made by the City without prior notice to Developer. In all cases of failure within the warranty period where the City has taken action in accordance with this paragraph, Developer shall reimburse City for any and all costs or expenses, direct or indirect, incurred by the City.

Section 17. Binding on Successors and Assigns

Each and every provision of this Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto, in the same manner as if such parties had been expressly named herein.

Section 18. Attorney's Fees

If any suit, action or proceeding in law or equity is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable costs and attorneys' fees.

Section 19. Authority to Enter Into Agreement

Developer and City certify that they are legally empowered to enter into this Agreement.

Section 20. Notices

Any notices, requests, demands or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally (FedEx and similar services, each of which is hereinafter called an "Express Courier," shall be considered to be personal service) or by telephone facsimile or other electronic transmission (provided that the sender of a telephone facsimile or other electronic transmission has received confirmation of successful transmission by the sending fax machine), and upon receipt, if mailed to the party to whom notice is to be given, by first-class mail, registered or certified, postage prepaid, return receipt requested, and properly addressed as follows:

If to City: City of Rancho Cordova
Attn: City Engineer
2729 Prospect Park Drive
Rancho Cordova, CA 95670
Telephone: (916) 851-8710
Facsimile: (916) 851-8787

If to Developer: Beazer Homes Holdings Corp.
Attn: Jim Stich
3721 Douglas Boulevard, Suite 100
Roseville, CA 95661
Telephone: (916) 746-8316

Either party may change its mailing address at any time by giving written notice of such changes to the other party in the manner provided herein.

Section 21. Notice of Contractors

Developer shall provide a copy of this Agreement to any contractors, subcontractors, or other parties performing work on the Facilities, prior to commencement of construction by said party.

Section 22. Term

The term of this Agreement shall start on the day and year duly executed by all parties and shall remain in effect until all the terms and conditions contained in this Agreement have been satisfied.

Section 23. Severability

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 24. Conflicts

This agreement is intended to implement and be consistent with the requirements of Ordinance No. 24-2004. The Ordinance provides that by entering into a reimbursement agreement, a property owner is not relieved of the obligation to pay the Development Fees in the manner and amount specified in the Ordinance. Therefore, in the event of any conflicts between Ordinance 24-2004 and this Agreement, the requirments of the Ordinance shall prevail and control.

Section 25. Exhibits

The Exhibits attached hereto are hereby incorporated herein by this reference.

Section 26. Entire Agreement

This Agreement constitutes the entire understanding of the parties regarding the subject matter hereof. The Agreement may be amended only by writing executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above-written.

CITY OF RANCHO CORDOVA,
a municipal corporation

By:_____
Ted Gaebler
City Manager

Dated:_____

Beazer Homes Holdings Corp.
a Delaware Corporation

By: _____
James Stich, VP Land Development
Northern California Division

Dated: _____

ATTEST:

_____
Anna Olea-Moger, City Clerk

Dated: _____

APPROVED AS TO FORM:

_____
Adam U. Lindgren, City Attorney

Dated: _____

Beazer - CAPITAL VILLAGE

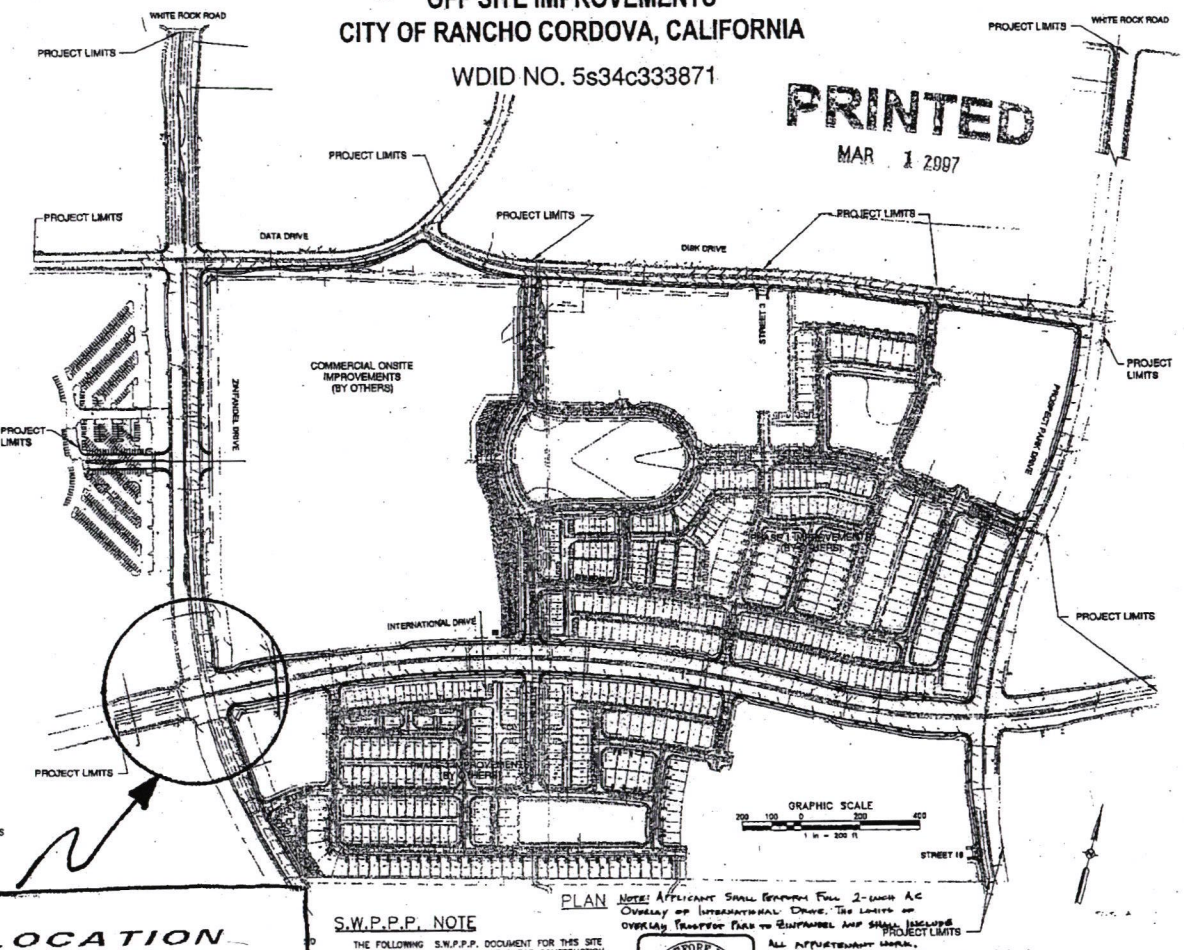
OFF SITE IMPROVEMENTS

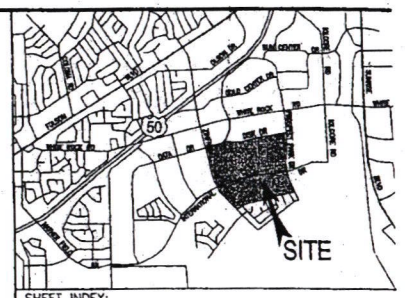
CITY OF RANCHO CORDOVA, CALIFORNIA

WDID NO. 5s34c333871

PRINTED

MAR 1 2007





LEGEND

DESCRIPTION	EXISTING	PROPOSED
LOT LINES		
EASEMENT		
PROPERTY LINE		
CENTERLINE		
CURB & GUTTER		
DITCH		
STORM DRAIN	XX"SD	XX"SD
SANITARY SEWER	XX"SS	XX"SS
WATER	XX"W	XX"W
GAS LINE	XX"G	XX"G
FIRE LINE	XX"F	XX"F
SDMH		
AREA DRAIN		
DROP INLET		
DIRECTION OF SURFACE FLOW		
SSMH		
SSCO		
FIRE HYDRANT		
WATER VALVE		
WATER METER		
MONUMENT		
UTILITY POLE		
UTILITY POLE WITH LIGHT		
STREET LIGHT		
POST TOP STREET LIGHT		
FENCE	X	X
INDEX CONTOUR	25	25
INTERMEDIATE CONTOUR		
HEDGE		
JUNCTION/PULL BOX		
SIGN		
GRADE BREAK LINE		GB
FINISH GRADE ELEVATION	+115.00	115.00
TREE & DRIPLINE		
REMOVE TREE		
CONCRETE SIDEWALK		
AC PAVEMENT		
CONCRETE/PAVEMENT REMOVAL		
DECORATIVE STREET LIGHT		
FLUSHING BRANCH/ CLEANOUT		

NOTE:
ALL PLANS ASSOCIATED WITH THIS PROJECT ARE SUBJECT TO THE CONDITIONS OF THE MITIGATION MONITORING AND REPORTING PROGRAM FOR PROJECT RC-040123. FOR ANY QUESTIONS REGARDING COMPLIANCE WITH THE MMRP DOCUMENT, CONTACT MMRP STAFF IMMEDIATELY AT 916.851.8750

PROJECT LOCATION

2. IT SHALL BE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT ALL PROVISIONS OF THE SOILS REPORT FOR THE SITE BE OBSERVED AND COMPLIED WITH DURING ALL PHASES OF THE SITE PREPARATION, GRADING OPERATIONS, FOUNDATION, TANK HOLE EXCAVATION, SLAB, AND PAVING CONSTRUCTION.

3. ANY PROVISIONS OF THE SOILS REPORT WHICH CONFLICT WITH INFORMATION SHOWN ELSEWHERE ON THESE DRAWINGS, OR WHICH REQUIRE FURTHER CLARIFICATION, SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER FOR DETERMINATION.

PROJECT CONSTRUCTION HOURS

SHALL BE LIMITED TO THE FOLLOWING:
7:00 A.M. TO 7:00 P.M. (MONDAY-FRIDAY)
8:00 A.M. TO 5:00 P.M. (SATURDAY)

OCCUR UNTIL AFTER THE PARTY CHIEF FOR THE FIRM PERFORMING THE CONSTRUCTION STAKING HAS NOTIFIED THE ENGINEER OF RECORD, IN WRITING, THAT HE HAS PERFORMED A TOPOGRAPHIC CHECK OF THE SITE AND THAT THE ELEVATION FOR THE REFERENCED BENCH MARK MATCHES THE SITE TOPOGRAPHY. IF IT IS DETERMINED THAT THE SITE TOPOGRAPHY IDENTIFIED ON THE PLANS DOES NOT MATCH THE IDENTIFIED BENCH MARK FOR THE SITE, THEN THE ENGINEER, CONTRACTOR AND CONSTRUCTION STAKER SHALL MEET, AND DETERMINE HOW TO RESOLVE THE DISCREPANCY. UNDER NO CIRCUMSTANCES SHALL THE SITE BE STAKED UNTIL THE ENGINEER OF RECORD ISSUES A LETTER TO THE CONTRACTOR, CONSTRUCTION STAKER AND TO THE OWNER THAT THE SITE TOPO AND BENCH MARK MATCH.

S.W.P.P.P. NOTE

THE FOLLOWING S.W.P.P.P. DOCUMENT FOR THIS SITE SHALL BE CONSIDERED PART OF THESE CONSTRUCTION DOCUMENTS:

PREPARED BY: ECORP CONSULTING, INC.
PROJECT NO. 2005-137
DATE: JULY 26, 2005
REVISED:

BENCH MARK

2990-4 COUNTY B.M. 22-51 EL=88.97
RAMSET & 3/4" METAL DISK, STAMPED "Co.B.M. 22-51
DESCRIPTION: LOCATED IN TOP OF ROLL CURB ABOUT 0.1, CENTER OF CURB RETURN SOUTHWEST CORNER AT SOUTH WHITEROCK ROAD & ROCKINGHAM DRIVE, APPROXIMATE 0.30 MILES EASTERLY OF MATHER FIELD ROAD, LEVELS RUN FROM U.S.C.&G.S. B-128 & S-744. (JANUARY 6 1975)

*INFORMATION PROVIDED BY MORROW SURVEYING, INC

PAVEMENT:
AC- 3,227 TONS
AB- 10,824 TONS

CALL BEFORE YOU DIG
UNDERGROUND SERVICE ALERT
CA:800-642-2444

UTILITY	COMPANY	CONTACT	PHONE
GAS	P.G.& E.	TERRY CLARK	(916) 386-5167
ELECTRICITY	S.M.U.D.	DALE JOHNSON	(916) 732-5789
TELEPHONE	SBC	ASTRID WILLARD	(916) 453-6136
WATER	GOLDEN STATE WATER	SCOTT FORD	(916) 853-3628
SEWER	SAC. CO. WATER QUALITY	MARSHALL CASTON	(916) 876-6013
DRAINAGE	COUNTY OF SACRAMENTO	BILL FORREST	(916) 874-6851
FIRE	SAC. METRO FIRE DEPT	ALAN SIGL	(916) 942-3300
CABLE T.V.	COMCAST	ANDREW KOTZ	(916) 648-8350
U.S.A.			(800) 227-2600

PLAN NOTE: APPLICANT SHALL PERFORM FULL 2-INCH AC OVERLAY OF INTERNATIONAL DRIVE. THE LIMITS OF OVERLAY FROM FOR TO ZINFANDEL AND SHALL INCLUDE ALL APPURTENANT WORK. PER EMAIL FROM JAMES CHEN DATED 7-6-06.

SHEET INDEX:

C1 TITLE SHEET
C2 GENERAL NOTES
C3 TYPICAL SECTIONS
C4 DETAILS
C5 DEMOLITION PLAN INTERNATIONAL DRIVE, STA 67+00 TO 100+00
C6 DEMOLITION PLAN PROSPECT PARK DRIVE, STA 9+50 TO 33+00
C7 DEMOLITION PLAN DISK DRIVE, STA 8+70.38 TO 28+78.10
C8 DEMOLITION PLAN ZINFANDEL DRIVE, STA 48+00 TO 78+48.77
C9 DEMOLITION PLAN DATA DRIVE, STA 57+00 TO 72+00
C10 PLAN AND PROFILE INTERNATIONAL DRIVE, STA 70+00 TO STA 83+00
C11 PLAN AND PROFILE INTERNATIONAL DRIVE, STA 83+00 TO STA 94+00
C12 PLAN AND PROFILE INTERNATIONAL DRIVE, STA 94+00 TO 97+00
C13 PLAN AND PROFILE PROSPECT PARK DRIVE, STA 9+50 TO 21+00
C14 PLAN AND PROFILE PROSPECT PARK DRIVE, STA 21+00 TO 33+00
C15 PLAN AND PROFILE ZINFANDEL DRIVE, STA 48+00 TO 55+00
C16 PLAN AND PROFILE ZINFANDEL DRIVE, STA 55+00 TO 68+00
C17 PLAN AND PROFILE ZINFANDEL DRIVE, STA 68+00 TO 78+48.77
C18 PLAN AND PROFILE DATA DRIVE, STA 57+00 TO 67+00
C19 PLAN AND PROFILE DATA DRIVE, STA 67+00 TO 72+00
C20 PLAN AND PROFILE DISK DRIVE, STA 8+70.38 TO 18+00
C21 PLAN AND PROFILE DISK DRIVE, STA 18+00 TO 28+78.10
C22 STREET 13, ROAD B, NORTH WATER QUALITY BASIN OUTLET PLANS AND PROFILES
C23 STREET 22, VILLAGE CAPITAL DRIVE PLANS AND PROFILES
C24 STREET 18, ROAD A PLANS AND PROFILES
C25 STREET 6, SOUTH W.Q. BASIN OUTLET PLANS AND PROFILES
C26 STREET 17, ROAD B, STREET 3 PLANS AND PROFILES
C27 ROAD B/INTERNATIONAL DRIVE INTERSECTION IMPROVEMENT PLAN AND PROFILE
C28 STREET 3/INTERNATIONAL DRIVE INTERSECTION IMPROVEMENT PLAN AND PROFILE
C29 EROSION CONTROL PLAN
C30 EROSION CONTROL PLAN AND DETAILS
C31 SIGNING AND STRIPING PLAN, PROSPECT PARK DRIVE
C32 SIGNING AND STRIPING PLAN, INTERNATIONAL DRIVE
C33 SIGNING AND STRIPING PLAN, ZINFANDEL DRIVE
C34 SIGNING AND STRIPING PLAN, DATA DRIVE
C35 SIGNING AND STRIPING PLAN, DISK DRIVE
C36 TRAFFIC SIGNAL AND ELECTRICAL GENERAL NOTES
C37 TRAFFIC SIGNAL DESIGN, ZINFANDEL DRIVE AND DATA DRIVE
C38 TRAFFIC SIGNAL DESIGN, ZINFANDEL DRIVE AND DATA DRIVE
C39 TRAFFIC SIGNAL DESIGN, ZINFANDEL DRIVE AND VILLAGE CAPITAL DRIVE
C40 TRAFFIC SIGNAL DESIGN, ZINFANDEL DRIVE AND VILLAGE CAPITAL DRIVE
C41 TRAFFIC SIGNAL MODIFICATION, ZINFANDEL DRIVE AND INTERNATIONAL DRIVE
C42 TRAFFIC SIGNAL MODIFICATION, ZINFANDEL DRIVE AND INTERNATIONAL DRIVE
C43 TRAFFIC SIGNAL DESIGN, INTERNATIONAL DRIVE AND ROAD B
C44 TRAFFIC SIGNAL DESIGN, INTERNATIONAL DRIVE AND ROAD B
C45 TRAFFIC SIGNAL DESIGN, INTERNATIONAL DRIVE AND PROSPECT PARK DRIVE
C46 TRAFFIC SIGNAL DESIGN, INTERNATIONAL DRIVE AND PROSPECT PARK DRIVE
C47 TRAFFIC SIGNAL DESIGN, DATA DRIVE AND DISK DRIVE
C48 TRAFFIC SIGNAL DESIGN, DATA DRIVE AND DISK DRIVE
C49 TRAFFIC SIGNAL MODIFICATION, ZINFANDEL DRIVE AND WHITE ROCK ROAD
C50 TRAFFIC SIGNAL MODIFICATION, DSM PILE SIGNAL FOOTING
C51 KEYSTONE RETAINING WALL DETAILS

DEVELOPER:
BEAZER HOMES
ATTN: STAN BAKKEDO
3721 DOUGLAS BLVD., STE. 100
ROSEVILLE, CA 95661
1-916-733-3868

ENGINEER:
WOOD RODGERS, INC.
ATTN: CARL GIBSON
3301 C STREET, BUILDING 100-B
SACRAMENTO, CA 95816
1-916-341-7760

APPROVED BY:
SAC. COUNTY SANITATION DISTRICT 1 DATE

APPROVED BY:
CITY OF RANCHO CORDOVA ENGINEER

APPROVED BY:
SAC. COUNTY WATER RECOURCES DATE 11-6-06

APPROVED BY:
GOLDEN STATE SAC. COUNTY WATER

APPROVED BY:
SACRAMENTO METRO FIRE DATE 10-06

SACRAMENTO COUNTY
MUNICIPAL SERVICES AGENCY

PARCEL NO.: 072-068-0010 TO 0021 & 072-068-0034 TO

CALIFORNIA COORDINATES: N220.6 E336.0

APPROVED:

ORDER No. 909580 DRAINAGE FEE:

CHECKED BY:

DRAWING

REVISIONS

BEAZER HOMES

OFF SITE IMPROVEMENT PLANS FOR

FIGURE 1

EXHIBIT A

PROGRAM COSTS FOR ROADWAY IMPROVEMENT PROJECT ASSOCIATED WITH THE OFF SITE IMPROVEMENT PLANS FOR CAPITAL VILLAGE

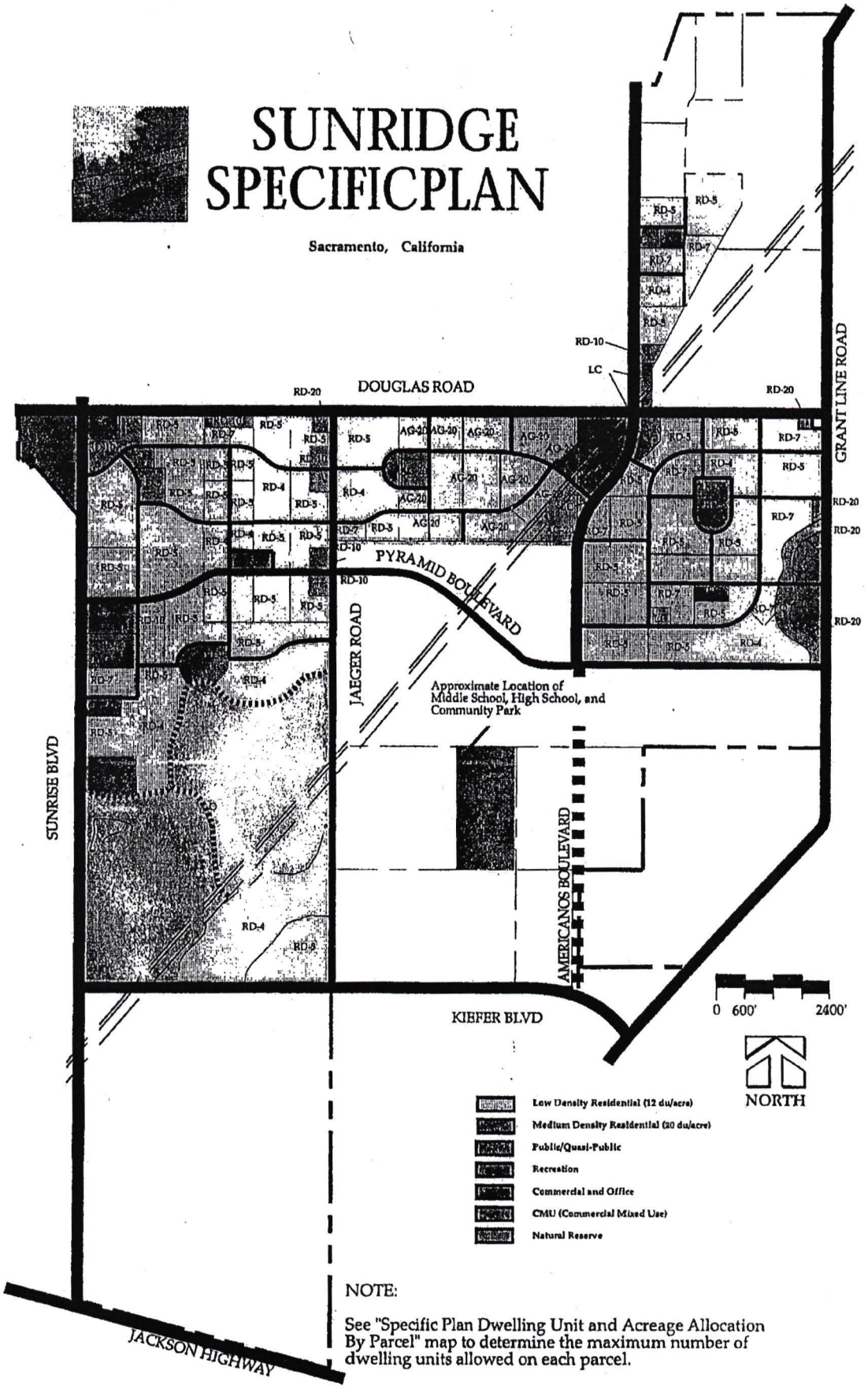
Project CIP No. [1]	Roadway Project	Project Description	Programmed Funding	Credit Request (50%) [2]	Reimbursement Request (50%) [3]
73	Zinfandel Drive at International Drive	Intersection Signalization - 4-way signalization	$232,985	$116,492.50	$116,492.50
		TOTAL	$232,985	$116,493	$116,493

[1] Project numbers and programmed costs are from the SDCP Roadway Fee Program
[2] Credits applicable at building permit upon execution of the Credit/Reimbursement Agreement.
[3] Remaining Reimbursement payable from SDCP Roadway Fund upon acceptance of facility.

EXHIBIT B

SUNRIDGE SPECIFICPLAN

Sacramento, California



NOTE:

See "Specific Plan Dwelling Unit and Acreage Allocation By Parcel" map to determine the maximum number of dwelling units allowed on each parcel.

For Official Use Only:

Case #_____ Lot #_____
Fund: _____ Credit Amount/Lot $ _____

EXHIBIT C
SUNRISE DOUGLAS COMMUNITY PLAN
ASSIGNMENT AND TRANSFER OF ROADWAY DEVELOPMENT IMPACT FEE CREDIT CERTIFICATE

The undersigned Developer as the holder of certain Roadway development impact fee credits related to the reimbursement agreement referenced herein, hereby assigns, transfers and conveys to the undersigned Assignee a credit amount for certain property as indicated below:

Developer's Legal Name: **BEAZER HOMES HOLDINGS CORP.**

Reference Credit/Reimbursement Agreement: **"Credit/Reimbursement Agreement with Beazer Homes Holdings Corp. for Construction of Intersection Improvements at Zinfandel Drive at International Drive Associated with the Capital Village Project, Contract No. 56-2008"**

Reference Contract No. 56-2008 Transfer No. _____

Assignee's Legal Name: _____

Assignee's Name of Subdivision or Development Project: _____

Number of lots assigned credits (Attach a list of lots and copy of final map): __ **lots**

Final Map Name: _____

Final Map Lot #: _____

Agreement Amount Balance before Transfer: _____

Total dollar amount of fee credit transfer: _____

Available Reimbursement Agreement Balance after transfer: _____

==========

For Public Works Department Use Only:

Lot #_____	Case #_____	Lot #_____	Case #_____
Lot #_____	Case #_____	Lot #_____	Case #_____
Lot #_____	Case #_____	Lot #_____	Case #_____
Lot #_____	Case #_____	Lot #_____	Case #_____
Lot #_____	Case #_____	Lot #_____	Case #_____

==========

DEVELOPER
By: _____
Name:
Title:
Date:
Phone:
E-mail:

CITY Concurrence
By: _____
Name: _____
Title: _____
Date: _____

HOME BUILDER
Phone: _____
E-mail: _____

Please Submit THE ORIGINAL ONLY to the City of Rancho Cordova, Department of Public Works

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: William Campbell, Principal Planner

SUBJECT: CAPITAL CENTER - LOT 36 DESIGN REVIEW

APPLICANT:	**ARCHITECT:**
The Evergreen Company 1755 Creekside Oaks Dr., #290 Sacramento, CA 95833	PWC Architects 10690 White Rock Rd., #300 Rancho Cordova, CA 95670

PROJECT:	Capital Center-Lot 36 (Second Phase)
FILE:	RC-08-336
LOCATION:	10799 International Drive, N/E corner of International Drive and Capital Center Drive
APN:	072-0690-095
PLANNER:	William Campbell, Principal Planner

RECOMMENDATION

The Planning Commission recommends the City Council determine the project is Categorically Exempt (Section 15332-Infill) per the California Environmental Quality Act and approve the project, subject to the findings within Resolution No. 41-2008, along with the attached design package (Exhibit A), and Conditions of Approval (Exhibit B).

RESULT OF RECOMMENDED ACTION

The approval will complete the second phase of this development in the Capital Center project area. The building has been designed to accommodate multiple smaller users, however is suitable for single occupancy. It will provide another high quality office building along the International Drive corridor and complement the other developments in the Capital Center area.

BACKGROUND

Applicant is requesting Design Review approval for a second phase building consisting of a 56,700 g.s.f. 2-story, on Lot 36 of Capital Center. Existing right of way improvements have been built, support on-site parking and lighting are existing that will be slightly modified. Scope of construction will generally be limited to the existing pad, new utility connects will be required for the new building. The existing parking and internal landscaping will be utilized, with some slight modifications.

The County of Sacramento had previously approved the project for Lots 36 and 37 in 2001, however, Lot 36 was not constructed at that time, and the site improvements for Lot 37 (Computer Associates) at 10811 International Drive were constructed. The new building will be located on the existing pad and use the existing parking and site amenities, with some minor modification. Although the buildings are not identical, they share similar scale, common design elements, materials, colors and landscaping. The new building will complement the existing buildings in the surrounding area of Capital Center development.

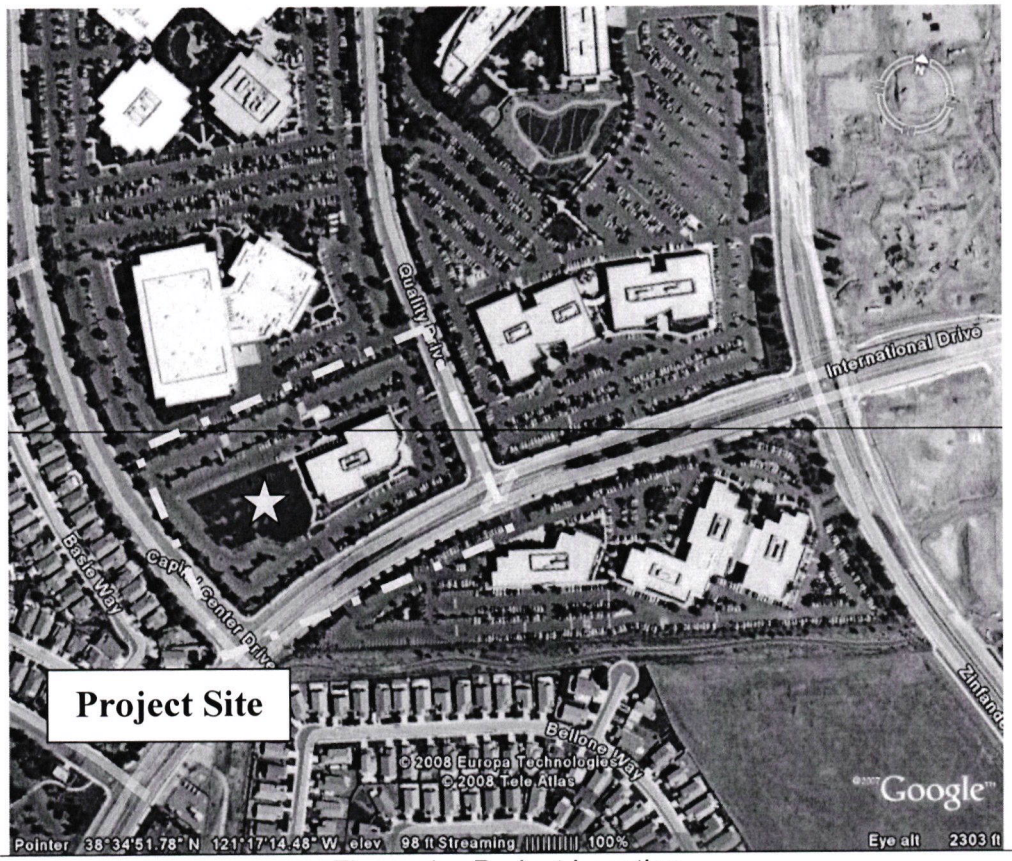
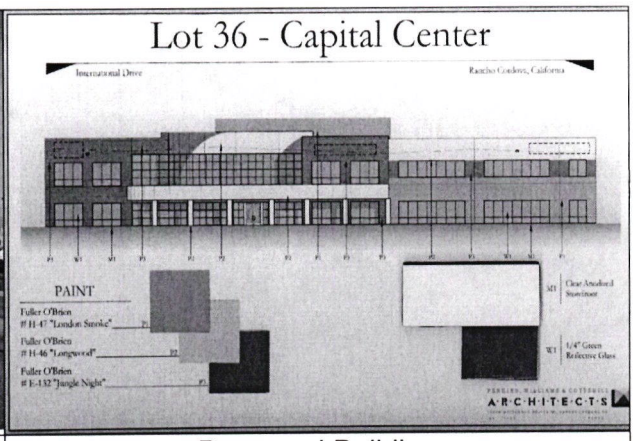


Figure 1 – Project Location

Building Design



Existing Building
International and Quality Dr



Proposed Building
International and Capital Center Dr

CONCLUSION

The new building is architecturally compatible with the style of other office buildings in the area and will complement the Capital Center Development. The proposed project is consistent with the design guidelines of the City of Rancho Cordova and compatible with other buildings in the area known as Capital Center. Neighboring buildings are generally all two stories, the variation in parapet heights and strong entry features make this proposed building a quality addition for the City.

ENVIRONMENTAL ANALYSIS

The proposed project has been determined to be Categorically Exempt under the provisions of the California Environmental Quality Act. Section 15332 addresses infill projects that meet the intent of the general plan, located within the city limits and are less than 5 acres, the site has no value as habitat, and the project would not have significant effects on the environment and can be served by existing utilities in the area. This project is consistent with all the above findings and therefore qualifies as an exempt project.

FINANCIAL IMPLICATIONS TO CITY

There are no significant cost implications to the City for this development.

RECOMMENDED MOTION

Move the City Council determine the project is Categorically Exempt (15332) and adopt Resolution No. 41-2008 approving Design Review for the new building on Lot 36, project no. RC-08-336, subject to the Design Review Package (Exhibit A), and Conditions of Approval (Exhibit B).

ATTACHMENTS

1. Resolution No. 41-2008 including the Design Review Package (Exhibit A) and Conditions of Approval (Exhibit B)
2. 500' Radius Map and Mailing List

ATTACHMENT 1

CITY OF RANCHO CORDOVA

RESOLUTION NO. 41-2008

A RESOLUTION OF THE CITY COUNCIL APPROVING DESIGN REVIEW FOR CAPITAL CENTER LOT 36 PROJECT # RC-08-336

WHEREAS, PWC Architects filed an application with the City of Rancho Cordova for Design Review for a new building consisting of a 56,700 g.s.f. 2-story, on Lot 36 of Capital Center, (hereinafter referred to as Project) at Assessor's Parcel Number 072-0690-095; and

WHEREAS, the Planning Commission on the 27th of March, 2008 reviewed and recommended approval to the City Council; and

WHEREAS, the City Council is the appropriate authority to hear and take action on this project; and

WHEREAS, the project is Categorically Exempt under Section 15332-Infill Development, of the California Environmental Quality Act Guidelines; and

WHEREAS, the City Council of the City of Rancho Cordova 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.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF RANCHO CORDOVA AS FOLLOWS:

1. That the project site was adequately analyzed according to the California Environmental Quality Act Guidelines.

   Finding
   The proposed project is Categorically Exempt under Section 15332, Infill Development, of the California Environmental Quality Act Guidelines. "Class 32 addresses infill projects that meet the intent of the general plan, located within the city limits and is less than 5 acres, the site has no value as habitat, and the project would not have significant effects on the environment and can be served by existing utilities in the area."

   Evidence
   The proposed project has been determined to be Categorically Exempt under the provisions of the California Environmental Quality Act. This project is consistent with all the above findings and therefore qualifies as an exempt project.

2. Approve the Design Review, subject to the Design Package (see Exhibit A) and the Conditions of Approval (see Exhibit B); supported by the following:

   a) ***Finding*** - *The proposed project is consistent with the objectives of the General Plan, complies with applicable Zoning regulations and Special Planning Area provisions, and is consistent with the applicable "Guiding Principles" and "Design Concepts" in section 110-84.* **Evidence**-The applicable "Guiding Principles" and "Design Concepts" in section 110-84 are further defined by the City of Rancho Cordova Design Guidelines and are satisfied by this project as described by the facts and findings discussed below.

b) ***Finding*** - *The proposed architecture, site design, and landscaping are suitable for the purposes of the building and the site and will enhance the character of the neighborhood and community.* **Evidence**-The exterior walls will be of concrete tilt-up construction, with generous fenestration for views and natural daylighting. Although the new and existing buildings are not identical, they share similar scale and mass, common design elements and materials, color and site landscaping features. The new building is the second phase of the whole project, and will utilize the existing pad and will orient to the corner of International and Capital Center Drive. The existing building faces the other corner of International and Quality Drive, creating an attractive office complex on the three street frontages. The existing landscape will be maintained along the parking lot and additional landscape and informal gathering areas will be will be provided around the perimeter of the new building.

c) ***Finding*** - *The architecture, including the character, scale and quality of the design, relationship with the site and other buildings, building materials, screening of exterior appurtenances, exterior lighting and signing and similar elements establishes a clear design concept and is compatible with the character of existing or anticipated buildings on adjoining and nearby properties.* **Evidence**-Design elements are similar to those used in other buildings in the Capital Center area, these similarities include building construction technique, and the use of glass and metal features. The office buildings are modern in architectural style and have incorporated energy saving features within the design, i.e. energy efficient roof material, mechanical equipment and high performance window glazing.

d) ***Finding*** - *The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation.* **Evidence**-The project includes new pedestrian connections to the public sidewalk and to the light rail station. In addition, enhanced paving will be used to differentiate the special arcade areas and the bicycle parking area. The new arcade elements and awnings will enhance the existing 6' roof overhang, providing additional weather protection for the pathway around the building. Windows are clear glass and provide plenty of light transmission, allowing views into and out of the building on all four sides, and thus creating a feeling of safety and enhancing the pedestrian experience of the site.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 21st day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

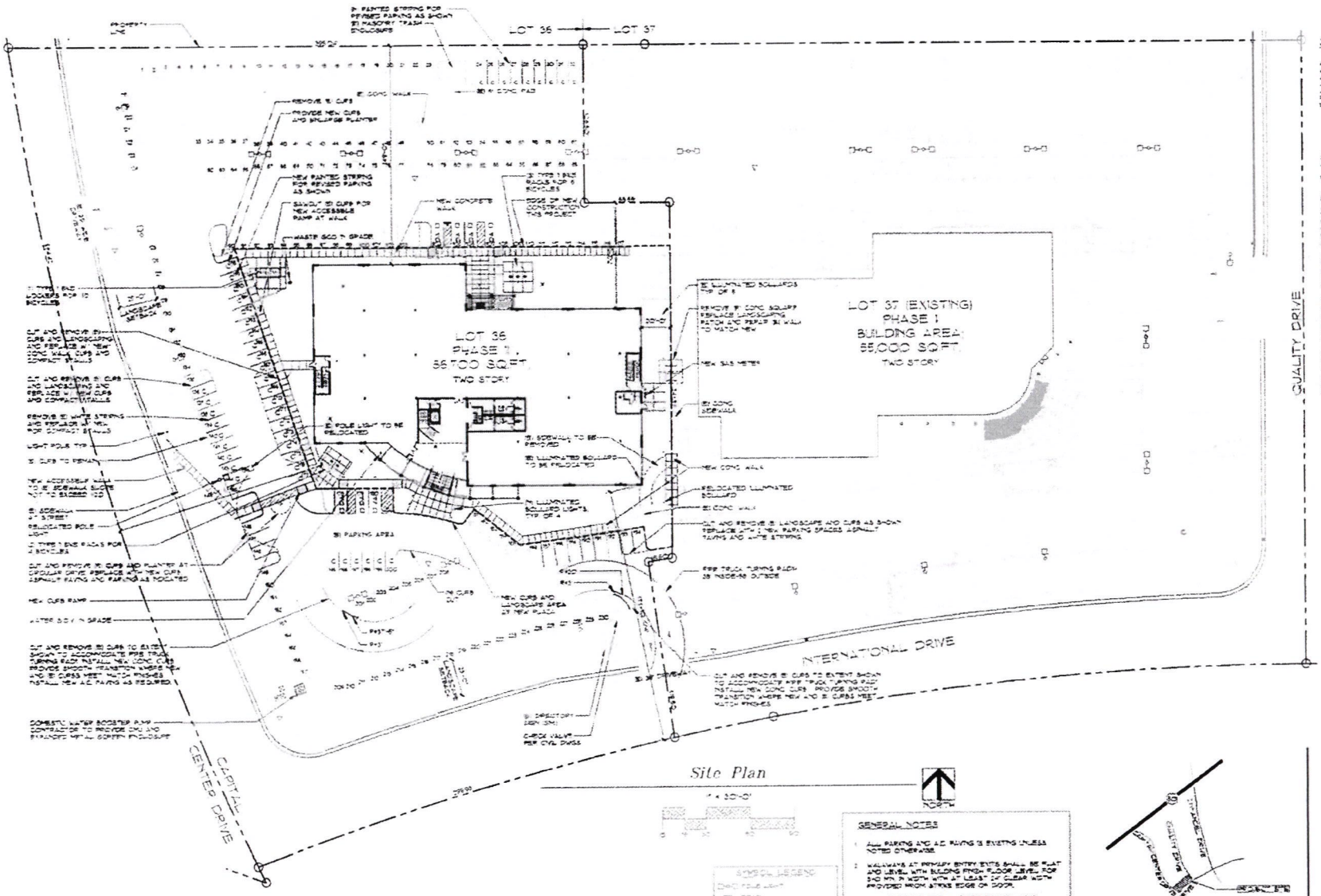
_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk


Capital Center Lot 36
10799 International Drive
Rancho Cordova, California

EXHIBIT A



Site Plan

1" = 30'-0"

NORTH

GENERAL NOTES

1. ALL PARKING AND A.C. PAVING IS EXISTING UNLESS NOTED OTHERWISE.
2. WALKWAYS AT PRIVATE ENTRY EXITS SHALL BE FLAT AND LEVEL WITH BUILDING FINISH FLOOR LEVEL FOR 5'-0" MIN. IN WIDTH WITH AT LEAST 24" CLEAR WIDTH PROVIDED FROM STRIKE EDGE OF DOOR.
3. ALL CONCRETE SIDEWALKS TO PROVIDE LIGHT BROOM FINISH PERPENDICULAR TO DIRECTION OF TRAVEL EXCEPT WHERE SHOWN TO BE EXPOSED AGGREGATE.
4. ALL CURB FACING DIMENSIONS TO BE 6"-0" OUTSIDE OF CURB UNLESS OTHERWISE NOTED.
5. STORM DRAIN INLETS SHOWN FOR QUANTITY ONLY.
6. 6" Ø EVERGREEN TREES EACH WITH 4"x4" STAKING AND 4"x10" GAUGES WILL BE REMOVED FROM BUILDING AND LOCATION.

SYMBOL LEGEND

DRAIN
FIRE HYDRANT
FIRE BACKFLOW
FIRE EQUIPMENT
(E) TYPE 7 BIKE RACKS
HANDICAP ACCESSIBLE
COMPACT PARKING STALL
BOLLARDS

Vicinity Map

NO SCALE

NORTH

SHEET INDEX

A1	SITE PLAN
A2	FIRST FLOOR PLAN
A3	SECOND FLOOR PLAN
A4	ROOF PLAN
A5	ELEVATIONS
A6	PHOTOMETRIC PLAN
L1	PRELIMINARY LANDSCAPE PLAN

PROJECT INFORMATION

CITY	SACRAMENTO, CALIFORNIA
JURISDICTION	SACRAMENTO COUNTY PLANNING & BUILDING DEPARTMENT
FIRE DEPARTMENT	SACRAMENTO COUNTY RANCHO CORDOVA 636-915
LOT 36	
ASSESSOR'S PARCEL NO.	072-0660-036
TOTAL PARCEL NET SITE (SEE 36)	3.46 ACRES / 150,282 SQ.FT.
PROPOSED GROSS BUILDING AREA	56,700 SQ.FT.
PROPOSED USABLE BUILDING AREA	49,924 SQ.FT.
FLOOR AREA RATIO (FAR)	0.376
STREET ADDRESS	10798 INTERNATIONAL DR. CENTER DRIVE
ZONING	MP ZONING
PROPOSED BUILDING USE	5 WAREHOUSE
STORIES	TWO
TYPE OF CONSTRUCTION	TYPE 5A (NON-RATED) CENTRALLY MONITORED
FIRE PROTECTION	FULLY SPRINKLED ALSO WET SYSTEM HYDRANTS
SITE PROTECTION	NO
BUILDING CODES	NO
PARKING REQUIRED (AS 1/1000)	291 SPACES
(E) PARKING PROVIDED	313 SPACES
ADD'L PARKING PROJECT	13 SPACES
TOTAL PARKING PROVIDED	13 SPACES
NEW TYPE 1 BICYCLE LOCKERS REQ. @ 1/25 PER CARS	10 LOCKERS
LOCKERS PROVIDED	10 LOCKERS
NEW TYPE 7 BICYCLE RACKS REQ. @ 1/33 PER CARS	6 RACKS
RACKS PROVIDED	10 RACKS

PROJECT TEAM

OWNER / APPLICANT
THE EVERGREEN COMPANY
1756 GRIZZLY OAKS DRIVE, SUITE 290
SACRAMENTO, CALIFORNIA 95833
(916) 923-9000

ARCHITECT
PERKINS, WILLIAMS & COTTERILL ARCHITECTS
10660 WHITE ROCK ROAD, SUITE 300
RANCHO CORDOVA, CALIFORNIA 95670
(916) 851-1400

LANDSCAPE ARCHITECT
GARTH PLUMMER
4700 DOUGLAS BOULEVARD, # 308-301
GRANITE BAY, CALIFORNIA 95746
(916) 797-3578

ELECTRICAL ENGINEER
NORRIS ENGINEERING
4995 GOLDEN ROCKHILL PARKWAY #6
EL DORADO HILLS, CALIFORNIA 95762
(916) 933-3456

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S
10660 WHITE ROCK RD., STE 300 RANCHO CORDOVA, CA. 95670
916. 851. 1400 FAX 916. 851. 1456
perkinswilliamsarchitects.com

Site Plan

Project: LOT 36

Job No. 27050 Date: 1-10-07

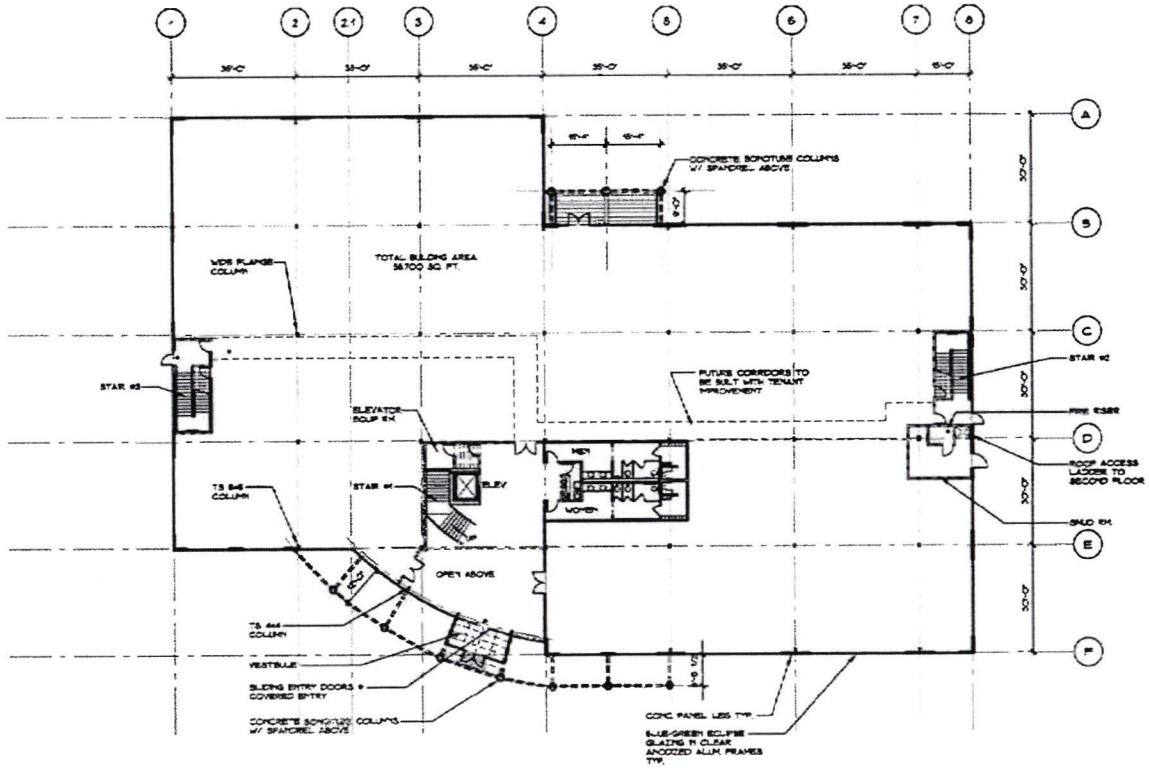
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EXHIBIT A

A1

Lot 36 – Capital Center

Rancho Cordova, California



First Floor Plan

1/16" = 1'-0"

NORTH

Lot 36 – Capital Center

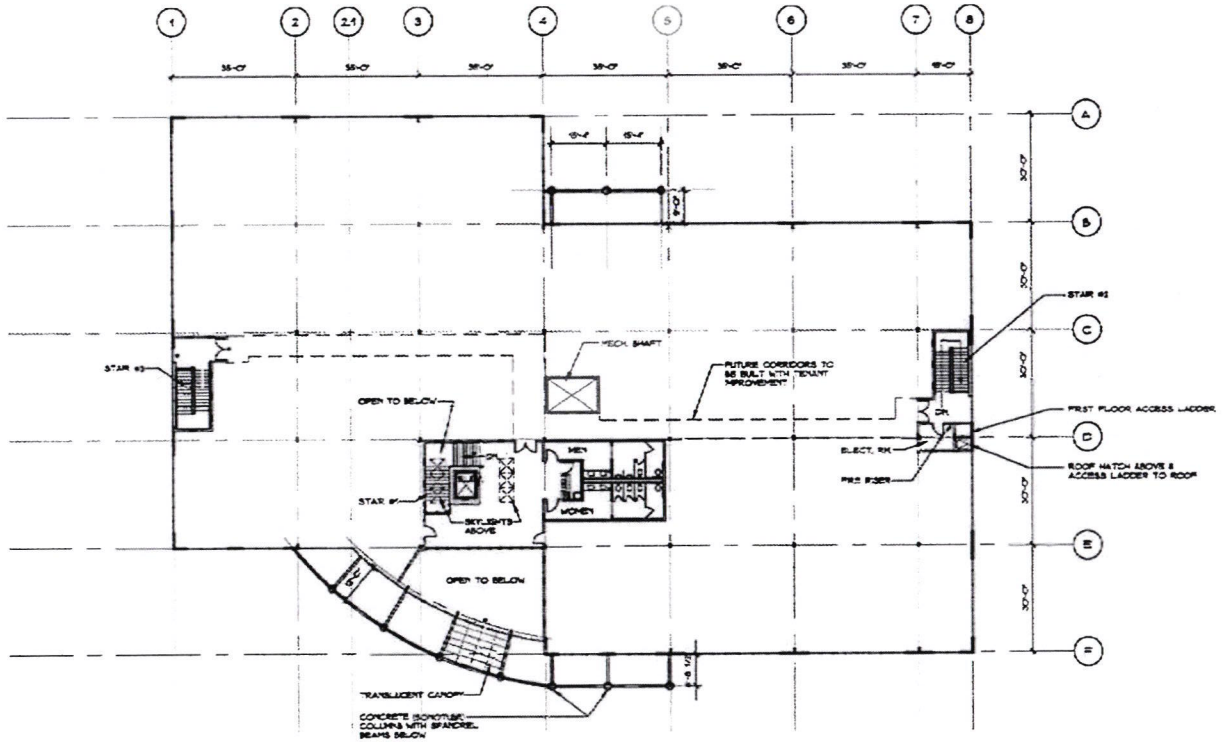
Rancho Cordova, California

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S

First Floor Plan

Project:	LOT 36		
Job No.	2705C	*Date:*	1-10-07
Scale:	1/16" = 1'-0"		

A2 EXHIBIT A



Second Floor Plan

1/16" = 1'-0"

NORTH

Lot 36 – Capital Center

Rancho Cordova, California

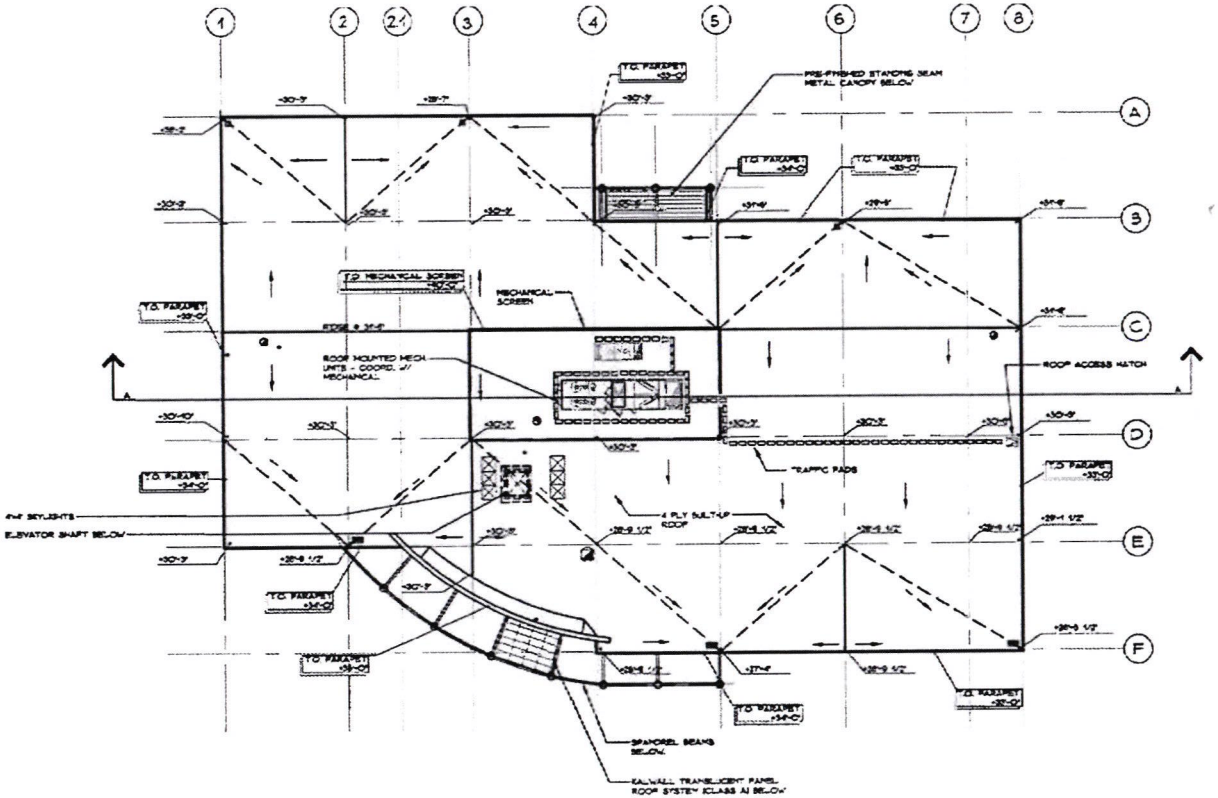
PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S

Second Floor Plan

Project:	LOT 36		
Job No.	27050	*Date:*	1-10-07
Scale:	1/16" = 1'-0"		

A3

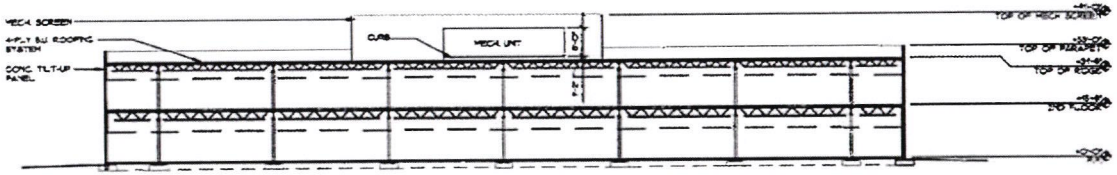
EXHIBIT A



Roof Plan

1/16" = 1'-0"

NORTH



Building Section A–A

1/16" = 1'-0"

NOTE
ROOF SLOPE IS 1/2 PER FOOT.

LEGEND

(X)	STRUCTURAL GRID LINES FOR REFERENCE
+29'-9"	HEIGHT OF STRUCTURAL FRAMING FOR ROOF LEDGERS AND BEAM LINES TO CREATE POSITIVE SLOPE.
	4'x4' SKYLIGHT
	TRAFFIC PADS
C	ROOF DRAIN

MECHANICAL UNIT IDENTIFICATION

RAC-1	AIR CONDITIONING UNIT
RF-1	GAS FURNACE UNIT

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S
10690 WHITE ROCK RD. RANCHO CORDOVA, CA. 95670
916.851.1900 FAX 916.851.8498

Roof Plan

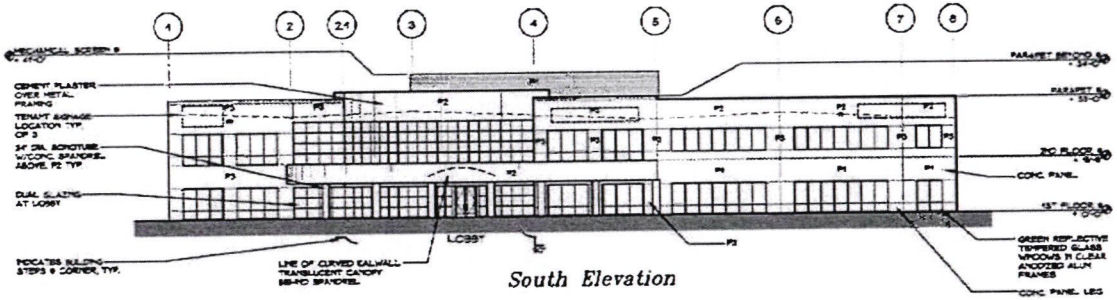
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Job No.	27050	Date:	1-10-05
Scale:	1/16" = 1'-0"		

EXHIBIT A

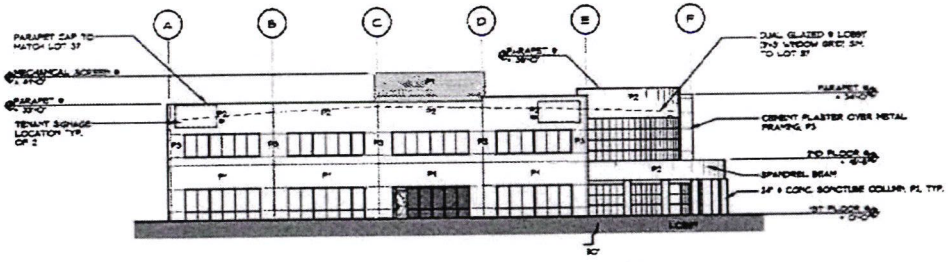
A4

Lot 36 – Capital Center

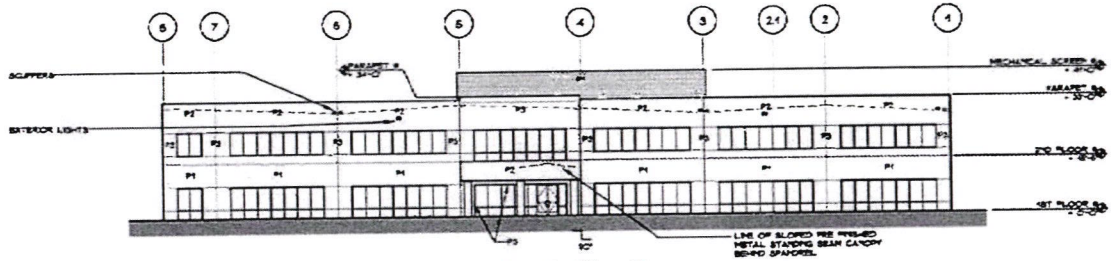
Rancho Cordova, California



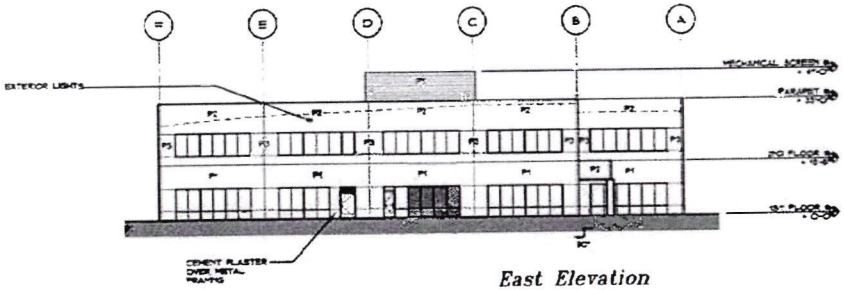
South Elevation



West Elevation



North Elevation



East Elevation

COLOR SCHEDULE

P1	PAINT COLOR #1 DARK GRAY	CONCRETE WALLS & MECHANICAL ENCLOSURE DULUX CW624-01 "LONDON SMOKE"
P2	PAINT COLOR #2 LIGHT GRAY	CONCRETE PANELS, BUTTRESS & SPANDRELS DULUX CW624-04 "LONGWOOD"
P3	PAINT COLOR #3 BLUE-GREEN	ACCENT AT CONCRETE PANELS DULUX CW624-03 "JUNGLE MIST"

Lot 36 – Capital Center

Rancho Cordova, California

PERKINS, WILLIAMS & COTTERILL

A·R·C·H·I·T·E·C·T·S

Elevations

Project:	LOT 36		
Job No.	17050	*Date:*	1-0
Scale:	1/16" = 1'-0"		

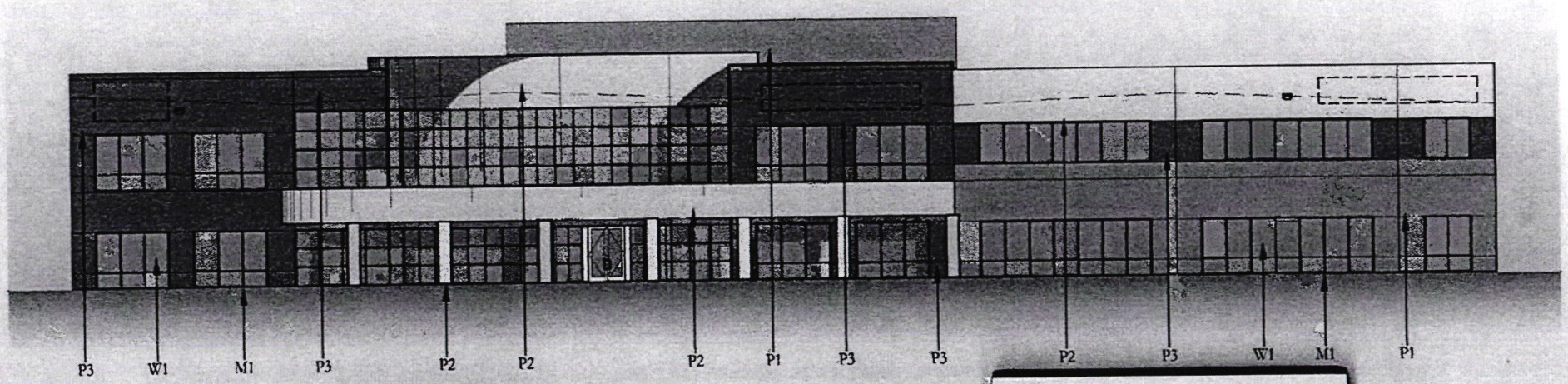
EXHIBIT A

A5

Lot 36 - Capital Center

International Drive

Rancho Cordova, California

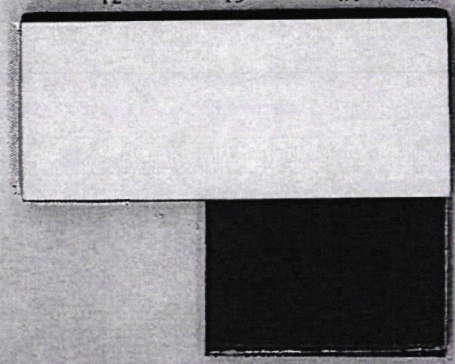


PAINT

Fuller O'Brien
H-47 "London Smoke" P1

Fuller O'Brien
H-46 "Longwood" P2

Fuller O'Brien
E-132 "Jungle Night" P3

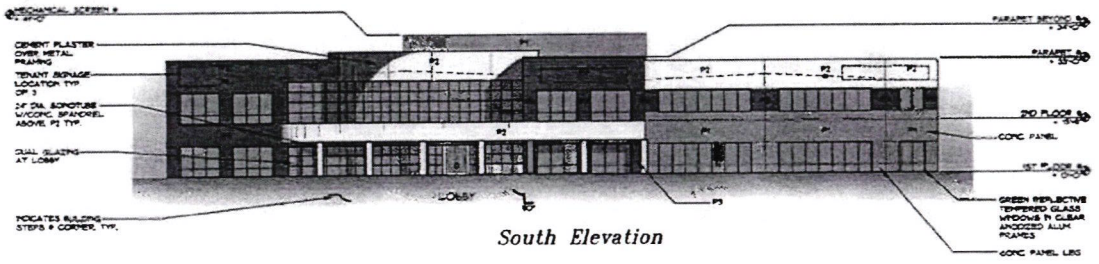


M1 | Clear Anodized Storefront

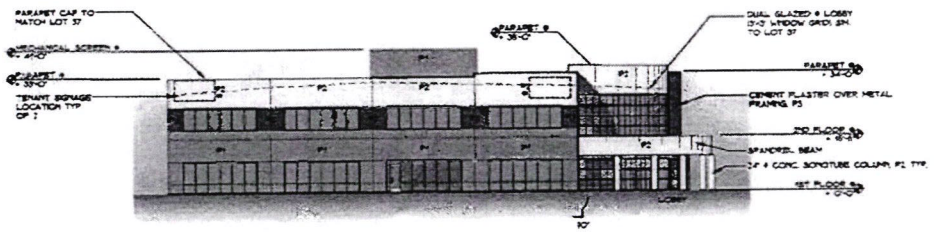
W1 | 1/4" Green Reflective Glass

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S
10690 WHITEROCK RD., STE. 200, RANCHO CORDOVA, CA.

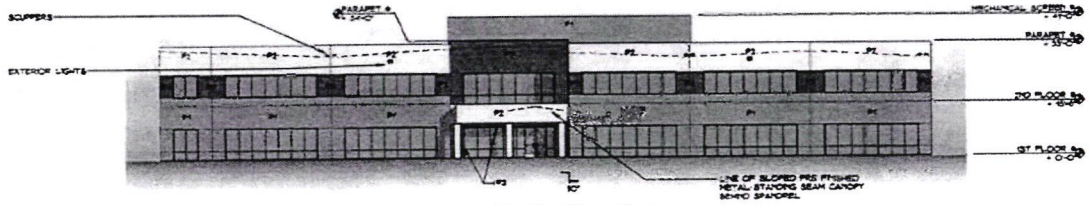
EXHIBIT A



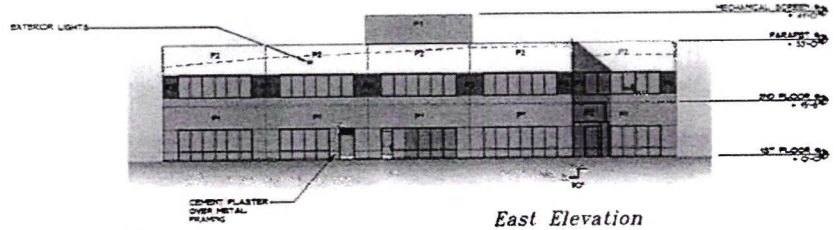
South Elevation



West Elevation



North Elevation



East Elevation

COLOR SCHEDULE		
P1	PAINT COLOR #1 (DARK GRAY)	CONCRETE WALLS & MECHANICAL ENCLOSURE FULLER O'BRIEN #44-47 "LONDON SMOKE"
P2	PAINT COLOR #2 (LIGHT GRAY)	CONCRETE PANELS, BUTTRESS & SPANDRELS FULLER O'BRIEN #44-46 "LONGWOOD"
P3	PAINT COLOR #3 BLUE-GREEN	ACCENT AT CONCRETE PANELS FULLER O'BRIEN #E-132 "JUNGLE NIGHT"

Lot 36 – Capital Center

Rancho Cordova, California

PERKINS, WILLIAMS & COTTERILL
A·R·C·H·I·T·E·C·T·S
10998 WHITE ROCK RD., STE 201 RANCHO CORDOVA, CA 95670
916-851-1460 FAX 916-851-1461

Elevations

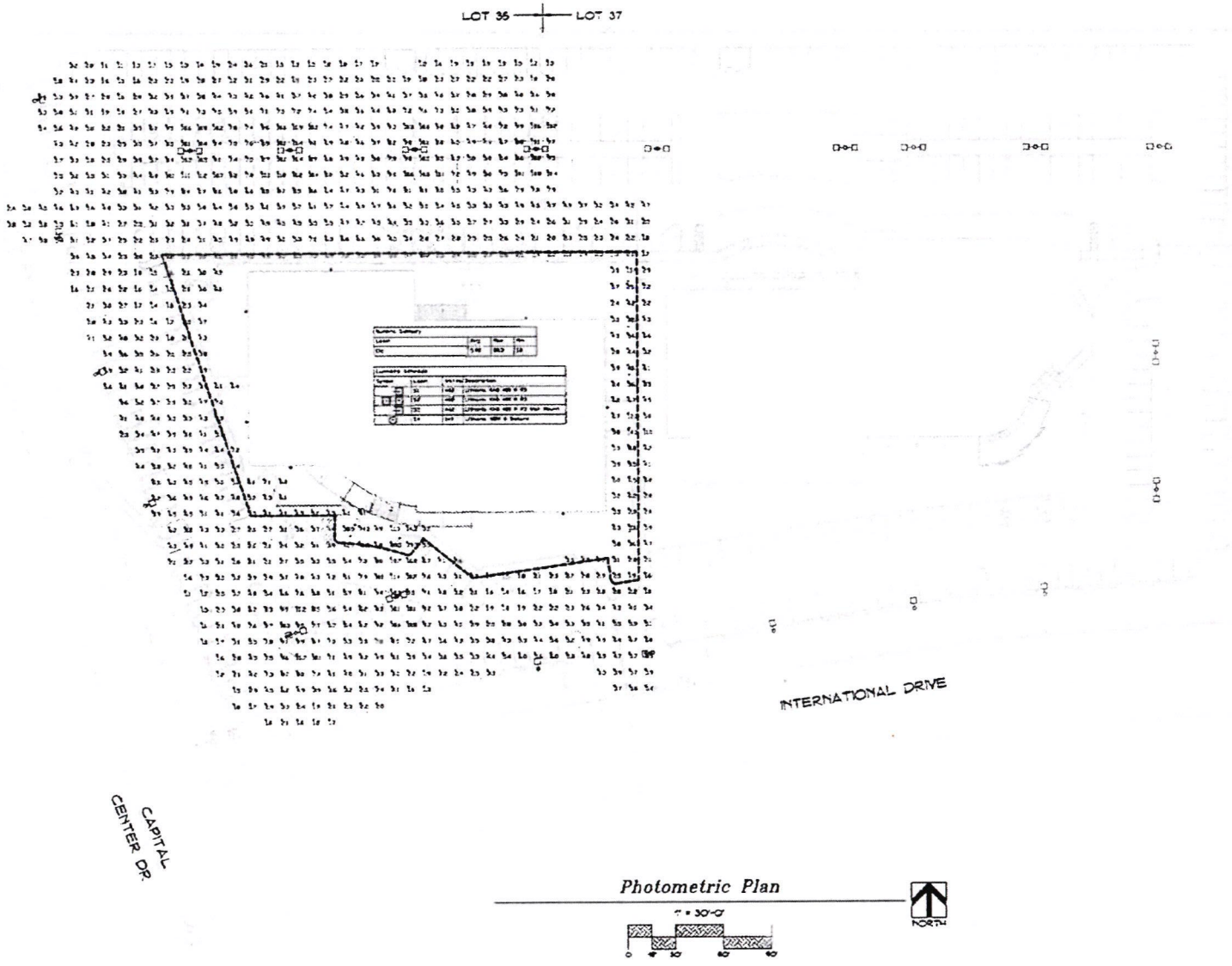
Project: LOT 36

Job No. 27050 *Date:* 1-10-07

Scale: 1/16" = 1'-0"

EXHIBIT A

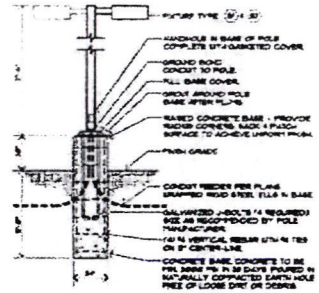
A5



Photometric Plan

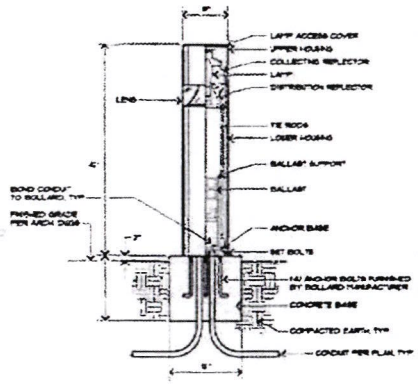
1" = 30'-0"

0 15 30 60 90



Existing Pole Light

NO SCALE



Existing Illuminated Bollard

NO SCALE

Norberg Engineering Co., Inc.
P.O. Box 5090
El Dorado Hills, CA 95762
(916) 933-3456

Photometric Plan

Project:	LOT 36		
Job No.	17050	*Date:*	1-10-07
Scale:	1" = 30'-0"		

EXHIBIT A

PT1

Lot 36 – Capital Center

Rancho Cordova, California

SECTION 1--CONDITIONS OF APPROVAL		Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
1.	These conditions are for the Design Review approval for the new 56,700 sf - two-story office building and it shall be built in substantial conformance with the design package (Exhibit A).	On-Going	Planning	
2.	The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Planning	
3.	Applicant shall be responsible for all damage to City streets associated with construction of the project. Applicant shall repair any damage attributable to the project upon notification from the City.	On-going	Public Works	
4.	Applicant shall not carry a balance with the City for the processing of the project. If a balance occurs, it will be the developer's responsibility to pay the balance due, in order to avoid delays in the processing of building permits, recordation of maps and/or final inspections for occupancy.	On-Going	Finance Department	
Prior to Approval of Grading & Improvement Plans				
5.	Applicant shall photo-document the condition of adjacent streets and sidewalks to the satisfaction of the Public Works Department. Applicant shall be responsible for all damage to City streets associated with construction of the project.	Prior to approval of improvement plans	Public Works	
6.	Number, size, and location of driveway are subject to approval by the Public Works Department.	Prior to approval of improvement plans	Public Works	

EXHIBIT B

SECTION 1--CONDITIONS OF APPROVAL		Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
Prior to Building Permits				
7.	Transportation Impact Fees shall be updated, or other provisions for collection of fair share contributions shall be established, to incorporate any offsite mitigation measures within the City of Rancho Cordova that are identified for the project that are not part of the current Transportation Impact Fee program and Transportation Impact Fees shall be paid.	Prior to Building Permits	Public Works	
8.	Property Owner/Applicant shall provide a funding mechanism for maintenance of any publicly maintained frontage and median landscaping associated with the project by annexation to the City Landscape Maintenance Community Facilities District. All costs associated with the annexation shall be borne by the Property Owner/Applicant.	Prior to Building Permits	Public Works	
9.	Property Owner/Applicant 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 Property Owner/Applicant.	Prior to Building Permits or entering into an MOU, to the satisfaction of the City, for the provision of funding; whichever come first.	Public Works	
10.	Applicant shall submit improvement plans to the satisfaction of the Public Works Department. Improvement plans shall include, but shall not be limited to, on-site civil improvements, necessary driveways, utility laterals, easements, etc. Improvement plans shall clearly delineate all transitions to existing improvements. All improvements to be designed and constructed to satisfaction of the Public Works Department.	Prior to Building Permits	Public Works	

EXHIBIT B

SECTION 1--CONDITIONS OF APPROVAL		Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
11.	Property Owner/Applicant shall participate in the provision of funding to provide transit-related services by voting to approve a special tax. The tax shall be the annual amount (with appropriate annual inflation adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to the issuance of building permits. The property owner shall be responsible for paying all costs associated with holding the election. The tax shall be due at the time specified in the ordinance imposing the tax. In addition, the Owner of the property shall hold a deed assessment in the form of Conditions, Covenants & Restrictions against the property, or other form as shall be approved by the City, which assessment will take effect in the event the special tax described in this Condition of Approval is reduced or repealed.	Prior to Building Permits or entering into an MOU, to the satisfaction of the City, for the provision of funding; whichever come first.	Public Works	
12.	The exterior building elevations and final landscape and irrigation plans, along with the calculations demonstrating conformance with City Water Use and Conservation provisions, shall be reviewed and approved by the Planning Director.	Prior to Building Permits	Planning	
13.	Reciprocal access and roadway maintenance agreements shall be provided for the interior roadways of the proposed complex. The roadway maintenance and reciprocal access agreements shall be recorded with the Public Recorders Office having jurisdiction and shall provide for the following: A. Provisions for the necessary repair and maintenance of the roadway surface. B. Removal of vegetation overgrowing the roadway and infringing on the roadway clear vertical height of thirteen feet six inches (13'6") and/or width of twenty feet (20'). C. Provisions for the maintenance, repair, and/or replacement of NO PARKING-FIRE LANE signage or striping. D. Provisions for the necessary repair and maintenance of vehicle and pedestrian access gates and opening systems.	Prior to Building Permits	Metro Fire	

EXHIBIT B

SECTION 1--CONDITIONS OF APPROVAL		Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
	E. Unrestricted use of and access to the roadways covered by the agreements. F. Provisions for the control of vehicle parking in prohibited areas and a mechanism for the removal of vehicles illegally parked. G. Traffic calming measures, speed bumps, humps, etc. shall not be installed in fire apparatus access roadways.			
14.	In order to obtain sewer service, construction of CSD-1 sewer infrastructure and easements may be required. All sewer easements shall be dedicated to CSD-1 in a form approved by the District. All CSD-1 sewer easements shall be at least 20 feet in width and ensure continuous access for installation and maintenance.	Prior to Building Permits	CSD-1	
Prior to Issuance of Occupancy Permit				
15.	An inspection of the finished building, colors, re-painted utility vaults, site amenities, final landscape installation and parking lot improvements shall be reviewed and approved by the Planning Director.	Prior to Issuance of Occupancy Permits	Planning	
16.	Designer shall certify that installed landscaping conforms to City water conserving landscape requirements by preparing a letter to the Planning Department.	Prior to Issuance of Occupancy Permits	Planning	
17.	As-Built reproducible grading and improvement plans, as well as a compact disc containing said plans in AutoCAD and portable document format shall be submitted and approved by the Public Works Department.	Prior to Issuance of Occupancy Permits	Public Works	

EXHIBIT B

SECTION 1--CONDITIONS OF APPROVAL		Timing/ Implementation	Enforcement/ Monitoring	Verification (Date and Signature)
18.	Connection to the District's sewer system shall be to the satisfaction of CSD-1. Sacramento County Improvement Standards apply to sewer construction. Each parcel and building with a sewage source shall have a separate connection to the CSD-1 sewer system.	Prior to Issuance of Occupancy Permits	CSD-1	
19.	Approved numbers or addresses shall be placed on all new or existing buildings in such a position as to be easily read from the street or road fronting the property. The minimum size of the numbers shall not be less than six (6) inches and shall be mounted immediately adjacent to a light source and shall also contrast with their background. Where multiple occupancies are serviced by vehicular access to the rear of the building via any driveway, alleyway, or parking lot the numbers or addresses shall be displayed on the rear of the building.	Prior to Issuance of Occupancy Permits	Metro Fire	

SECTION 2 -- ADVISORY REQUIREMENTS AND COMMENTS

Rancho Cordova Police Department

1) Site Specific Concerns/Conditions
   a) All entrances to the parking area shall be posted with appropriate signs per 22658(a) CVC, to assist in removing vehicles at the property owner's/manager's request.

2) Lighting
   a) All site lighting shall be controlled by photocell and shall be left on during hours of darkness or diminished lighting.

   b) A lighting level of 1.0 footcandles, minimum maintained at ground level shall be on at all times during non-operating night/early morning hours.

3) Building Security
   a) The jamb on all aluminum frame swinging doors shall be so constructed or protected to withstand 1600 lbs. of pressure in both a vertical distance of three (3) inches and a horizontal distance of (1) inch each side of the strike, so as to prevent violation of the strike.

EXHIBIT B

b) Glass doors shall be secured with a deadbolt lock with minimum throw of one (1) inch. The outside ring should be free-moving and case hardened.

c) Employee/pedestrian and utility room doors shall be of solid core wood or hollow sheet metal with a minimum thickness of 1-3/4 inches and shall be secured by a deadbolt lock with minimum throw of one (1) inch.

d) Outside hinges on all exterior doors shall be provided with non-removable pins when pin-type hinges are used or shall be provided with hinge studs, to prevent removal of the door.

e) Doors with glass panels and doors with glass panels adjacent to the door frame shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.

f) Doors with panic bars will have vertical rod panic hardware with top and bottom latch bolts. No secondary locks should be installed on panic-equipped doors, and no exterior surface-mounted hardware should be used. A 2" wide and 6" long astragal shall be installed on the door exterior to protect the latch. No surface-mounted exterior hardware need be used on panic-equipped doors.

g) Windows that are capable of being opened shall be secured on the inside with a locking device capable of withstanding a force of three hundred (300) lbs. applied in any direction.

h) All hatchway openings on the roof of any building shall be secured as follows:
   - If the hatchway is of wooden material, it shall be covered on the outside with at least 16 gauge sheet steel or its equivalent attached with screws.
   - The hatchway shall be secured from the inside with a slide bar or slide bolts. The Fire Marshall must approve the use of crossbar or padlock.
   - Outside hinges on all hatchway openings shall be provided with non removable pins when using pin-type hinges.

i) All air duct or air vent openings exceeding 8" x 12" on the roof or exterior walls of any building shall be secured by covering the same with either of the following:
   - Iron bars of at least ½" round or one by one-fourth inch flat steel material, spaced no more than five inches apart and securely fastened, or
   - A steel grill of at least 1/8" material or two inch mesh and securely fastened; and if the barrier is on the outside, it shall be secured with galvanized rounded head flush bolts of at least 3/8" diameter on the outside.

j) The address number of every commercial structure shall be illuminated during the hours of darkness so that it shall be easily visible from the street. The numerals in these numbers shall be no less than six inches in height and of a color contrasting with the background.

CSD-1

1) Off-site sewer lines may be required as determined by the nearest District approved point of connection. An on-site collection system will be required for all pipes carrying waste from two or more buildings or sewage sources and shall consist of 8-inch (min.) pipes in public easements.

2) CSD-1 will provide maintenance only in public right-of-ways and in minimum 20-foot wide easements dedicated to CSD-1 for the purpose of continuous access and maintenance.

3) CSD-1 requires their sewers to be located a minimum of 10 feet (measured horizontally from edge of pipe to edge of pipe) from all potable water lines. Separation of sewer line from other parallel utilities, such as storm drain and other 'dry' utilities (electrical, telephone, cable, etc.) shall be a minimum of 7 feet (measured horizontally from the center of pipe to the center of pipe). Any deviation from the above separation due to depth and roadway width must be approved by the District on a case by case basis.

4) Private drives and parking aisles over sewer easements shall have structural sections that meet County of Sacramento Improvement Standards. This will prevent pavement damage by CSD-1 maintenance and repair operations.

5) Any use of CSD-1 sewer easements, which is not compatible or interferes with the construction, reconstruction, operation, maintenance, or repair of the District's sanitary sewers shall not be allowed. Each proposed use shall be reviewed and approved in writing by the District Engineer, prior to the use of the easement by the grantor. This includes landscaping.

6) Developing this property may require the payment of sewer impact fees. Applicant should contact the Fee Quote Desk at (916) 876-6100 for sewer impact fee information.

7) The subject property owners and subsequent unit buyers shall be responsible for repair and or replacement of all non-asphaltic and/or enhanced surface treatments of streets and drives within these easements damaged by District maintenance repair operations. This requirement shall be set forth in easement grant documents and be a covenant running with the land, be responsibility of successors in interest in future land transfers and divisions and by language approved by the District. Surface enhancements include but are not limited to non-asphaltic paving, landscaping, lighting, curbing and all non-driveable street appurtenances.

8) Sewer service shall continue to be provided by CSD-1 infrastructure to the existing sewer service laterals. Required modifications, if any, shall be to the satisfaction of CSD-1. Sacramento County Improvement Standards apply to any on and off-site sewer construction.

9) Each parcel with a sewage source shall have a separate connection to the CSD-1 public sewer system. If there is more than one building in any single parcel and the parcel is not proposed for split, then each building on that parcel shall have a separate connection to a private on-site sewer line or CSD-1 public sewer line.

10) Sewer easements may be required. All sewer easements shall be dedicated to CSD-1, in a form approved by the District Engineer. All CSD-1 sewer easements shall be at least 20 feet in width and ensure continuous access for installation and maintenance. CSD-1 will provide maintenance only in public right-of-ways and in easements dedicated to CSD-1.

Sacramento Metro Fire

1) All new commercial buildings will require the following submittal plans:
   a) Civil
   b) Underground Appurtenance Installation
   c) Architectural
   d) Fire Sprinkler, if required
   e) Fire Alarm, if required
   f) Gate, if applicable

2) Approved fire hydrants capable of providing the required fire flow for the protection of any and all structures shall be located along the route of the fire apparatus access roadway. The required fire hydrants shall be installed and operational prior to any construction or on-site storage of combustible materials. Fire hydrant installations for the protection of commercial projects shall comply with the following:

   a) Maximum 300-foot spacing on center.

   b) One fire hydrant shall be located within 150 ft. from the end of the access roadway. The required access roadway shall extend to within 150 feet of all portions of the structure.

   c) A hydrant installed at the end of an access roadway as a "blow off" for the water district does not meet the fire department fire hydrant requirements.

   d) Existing "wharf" type fire hydrants do not satisfy hydrant requirements for new construction.

3) Plans shall be submitted to the fire prevention bureau showing hydrant locations for review and approval prior to construction. ***Fire hydrant details and fire department notes shall be shown on the site plans or improvement drawings.***

4) Provide access roadways with all weather driving surfaces of not less than 20-feet of unobstructed width, 13-feet, 6-inches of vertical clearance, and turning radii of 25 feet inside and 50 feet outside dimension. The access roadways shall be capable of supporting the imposed loading of fire apparatus and shall extend to within 150 feet of all portions of the exterior walls of the first story of any proposed building. ***The use of turf-block or grass-crete or similar alternate road surfaces is not approved for installation in fire apparatus access roadways.***

5) When the apparatus access roadway length exceeds 150 feet from the public way, an approved fire apparatus roadway conforming to SMFD Standard 444.302 shall be provided. The turn-around shall be located within 100 feet of the end of the access roadway.

6) Vehicle parking is prohibited on any street less than 30 feet in width. Vehicle parking is permitted on both sides of streets 40 feet or more in width. Roadway width shall be measured between the gutter-line or edge of pavement on opposite sides of the road. Identification of fire apparatus access roadways shall be provided conforming to SMFD Standard 444.302.

7) The maximum allowable grade change of the approach to an exit from a hill or elevated road will not exceed eight (8) percent for a distance of ten (10) feet. Reference: UFC 902.2.2

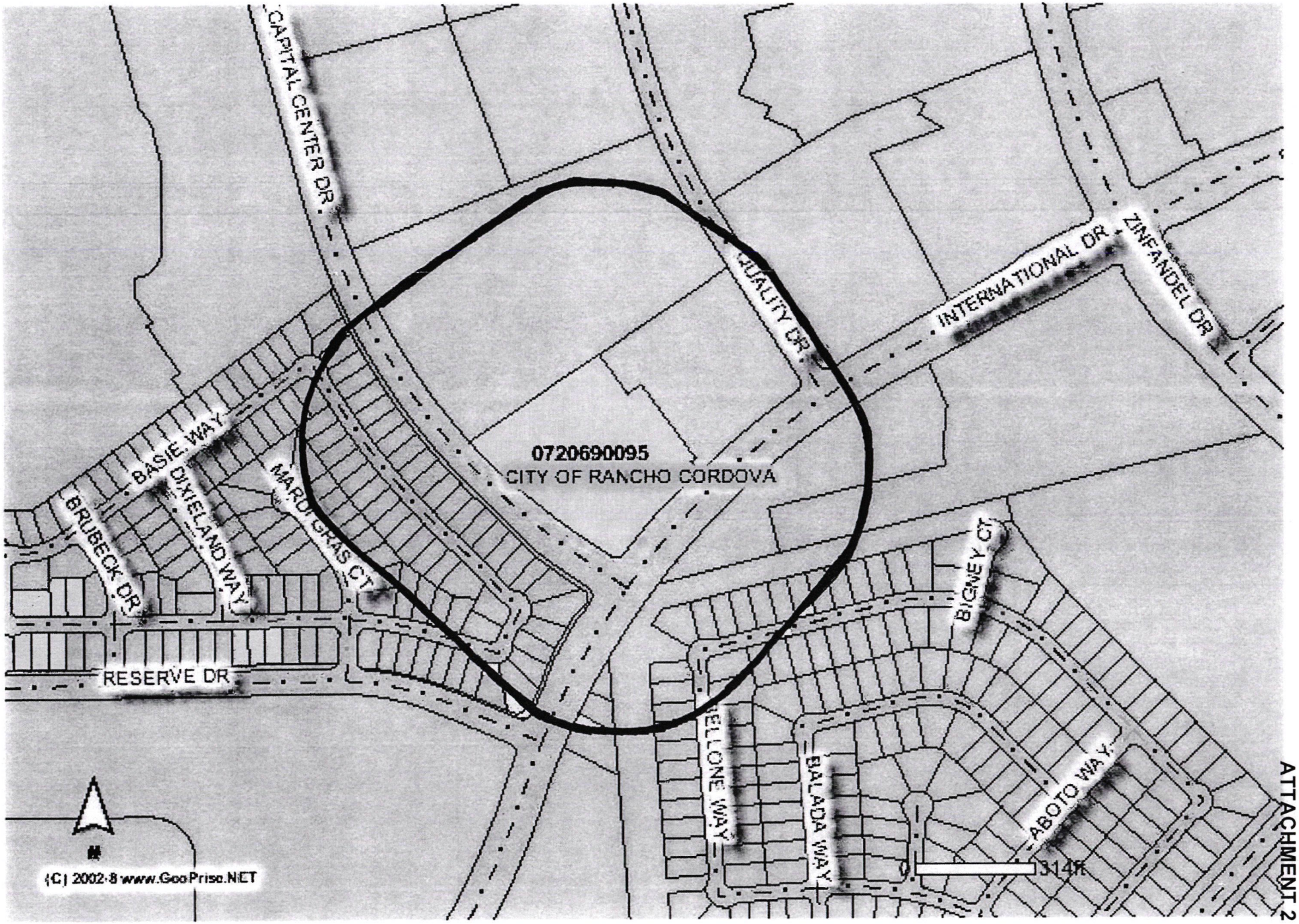
8) Buildings in excess of 3,599 square feet (2,999 in S-3 occupancies) shall be provided with a fire sprinkler system.

9) Buildings provided with a fire sprinkler system shall provide at a minimum, monitoring of the flow and supervision of control valves of such system.

10) Buildings in excess of 5,000 sq. ft. shall provide certification of 800 MHz compliance.

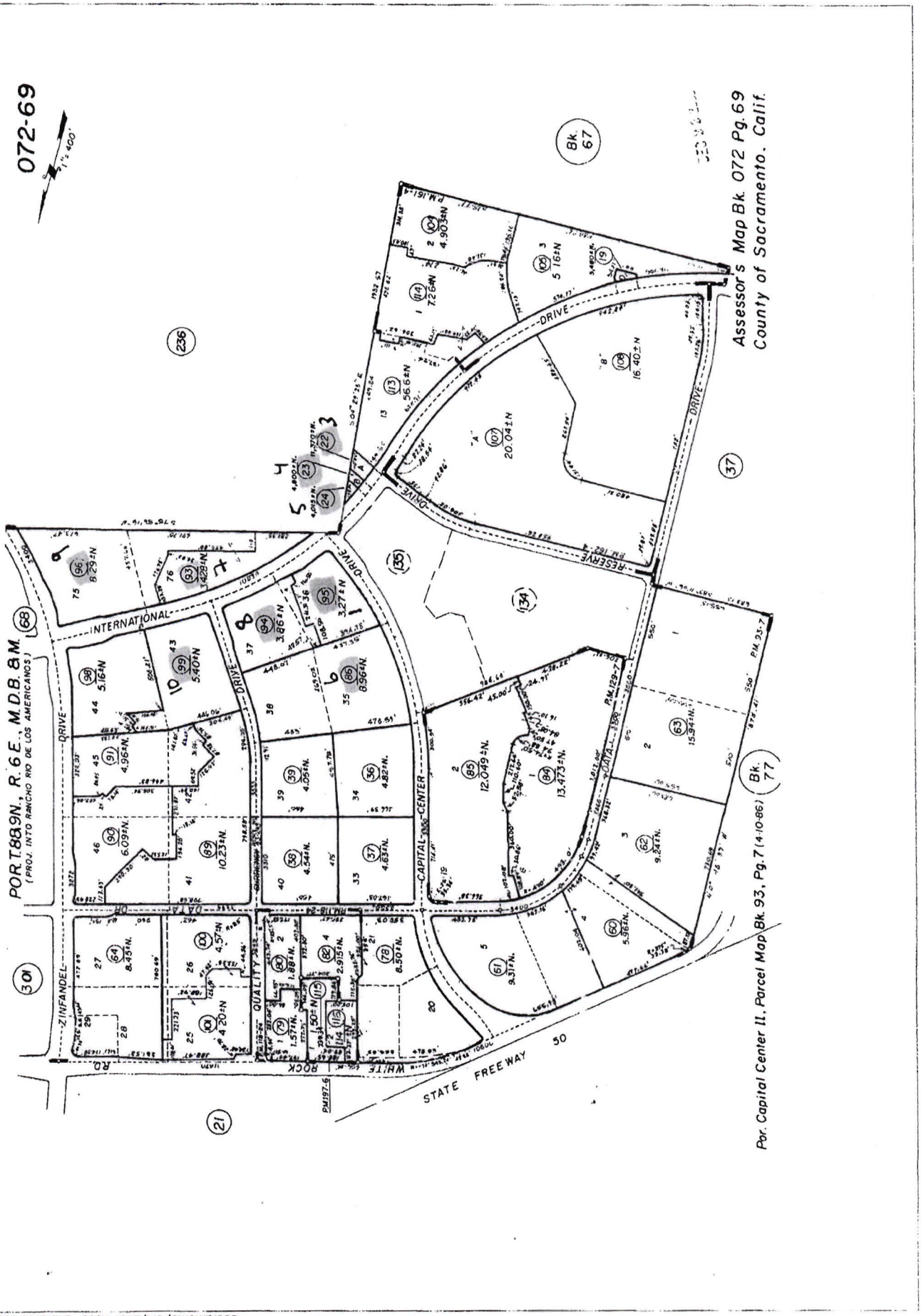
11) The installation of security gates is regulated by the Sacramento County Fire Code, emergency access gates and barrier requirements. All proposed access gate installations shall comply with this regulation. Gates and fencing shall not be installed without plan review and approval by the Fire District.

12) The installation of approved traffic control equipment may be required on all signal lights installed or modified as part of this project to allow emergency fire apparatus to activate the traffic signal.

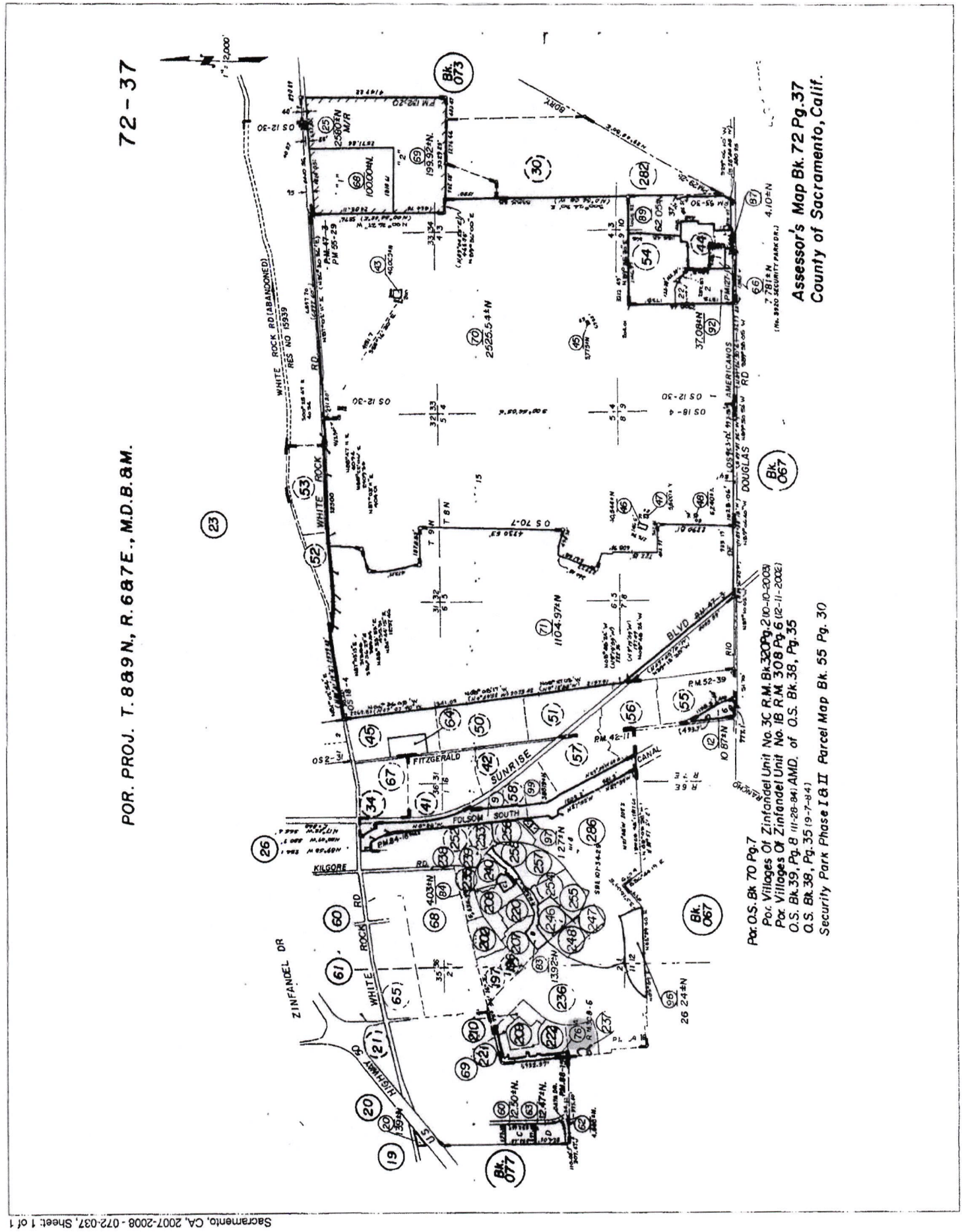


ATTACHMENT 2

ATTACHMENT 2



Sacramento, CA, 2007-2008 - 072-0690-095-0000, Sheet: 1 of 1

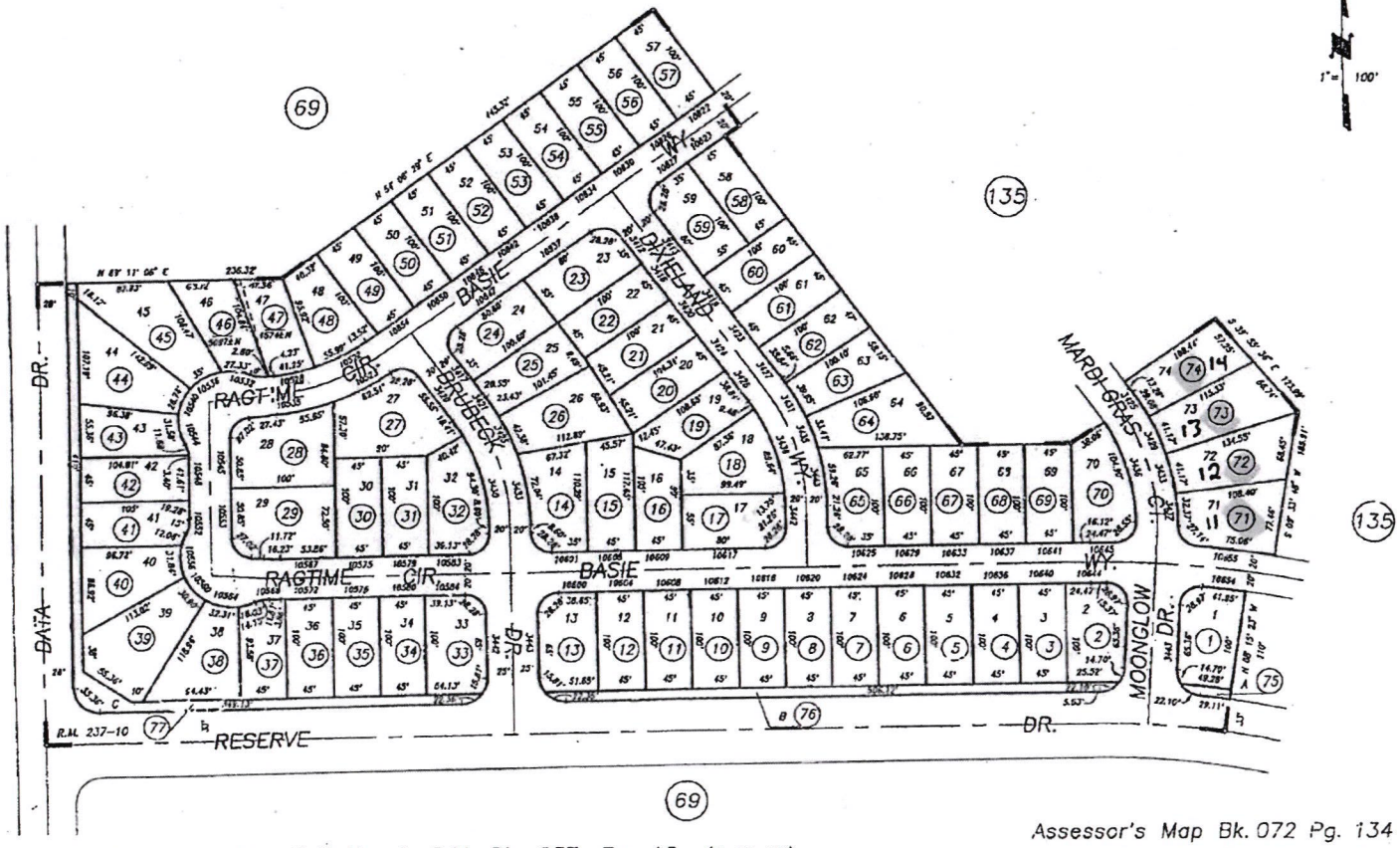

72 - 37
POR. PROJ. T. 8 & 9 N., R. 6 & 7 E., M.D.B.&M.
Assessor's Map Bk. 72 Pg. 37
County of Sacramento, Calif.
Por. O.S. Bk 70 Pg.7
Por. Villages Of Zinfandel Unit No. 3C R.M. Bk. 320 Pg. 2 (10-10-2003)
Por. Villages Of Zinfandel Unit No. 1B R.M. 308 Pg. 6 (12-11-2002)
O.S. Bk. 39, Pg. 8 (11-28-84) AMD. of O.S. Bk. 38, Pg. 35
O.S. Bk. 38, Pg. 35 (9-7-84)
Security Park Phase I & II Parcel Map Bk. 55 Pg. 30
WHITE ROCK RD (ABANDONED) RES NO 15939
ROCK RD
WHITE
ZINFANDEL DR
FOLSOM SOUTH
SUNRISE BLVD
FITZGERALD
KILGORE RD
AMERICANOS BLVD
DOUGLAS RD
CANAL
HIGHWAY 50
Bk. 073
Bk. 067
Bk. 077

Sacramento, CA, 2007-2008 - 072-134, Sheet: 1 of 1

POR. T. 7 & 8N., R. 6E., M.D.B. &M.

(PROJ. INTO RANCHO RIO DE LOS AMERICANOS)

072-134



California Jazz Unit No. 1, R.M. Bk. 237, Pg. 10 (6-19-95)

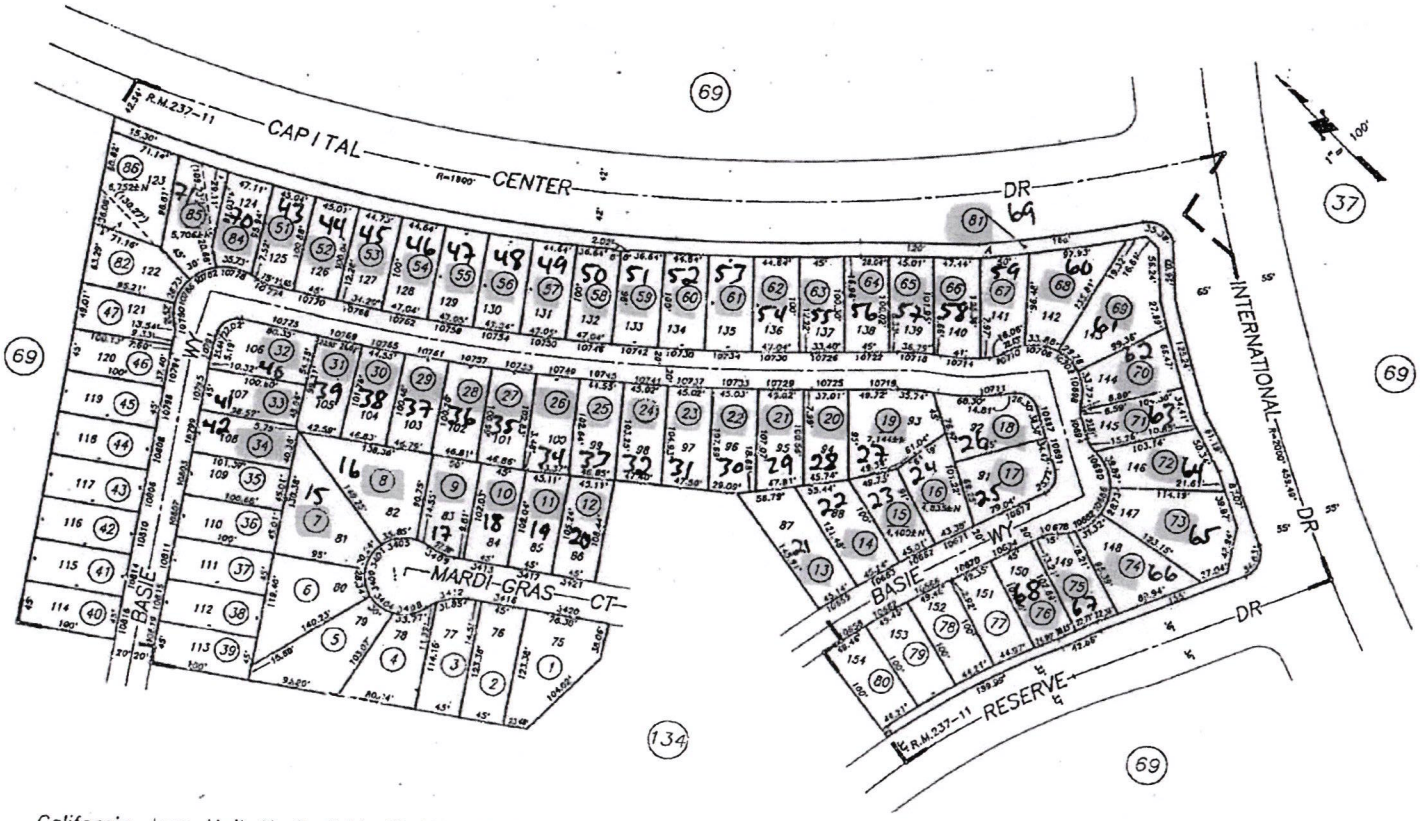
Assessor's Map Bk. 072 Pg. 134
County of Sacramento, Calif.

ATTACHMENT 2

Sacramento, CA, 2007-2008 - 072-135, Sheet: 1 of 1

POR. T.8&9N., R.6E., M.D.B.&M.
(PROJ. INTO RANCHO RIO DE LOS AMERICANOS)

072–135

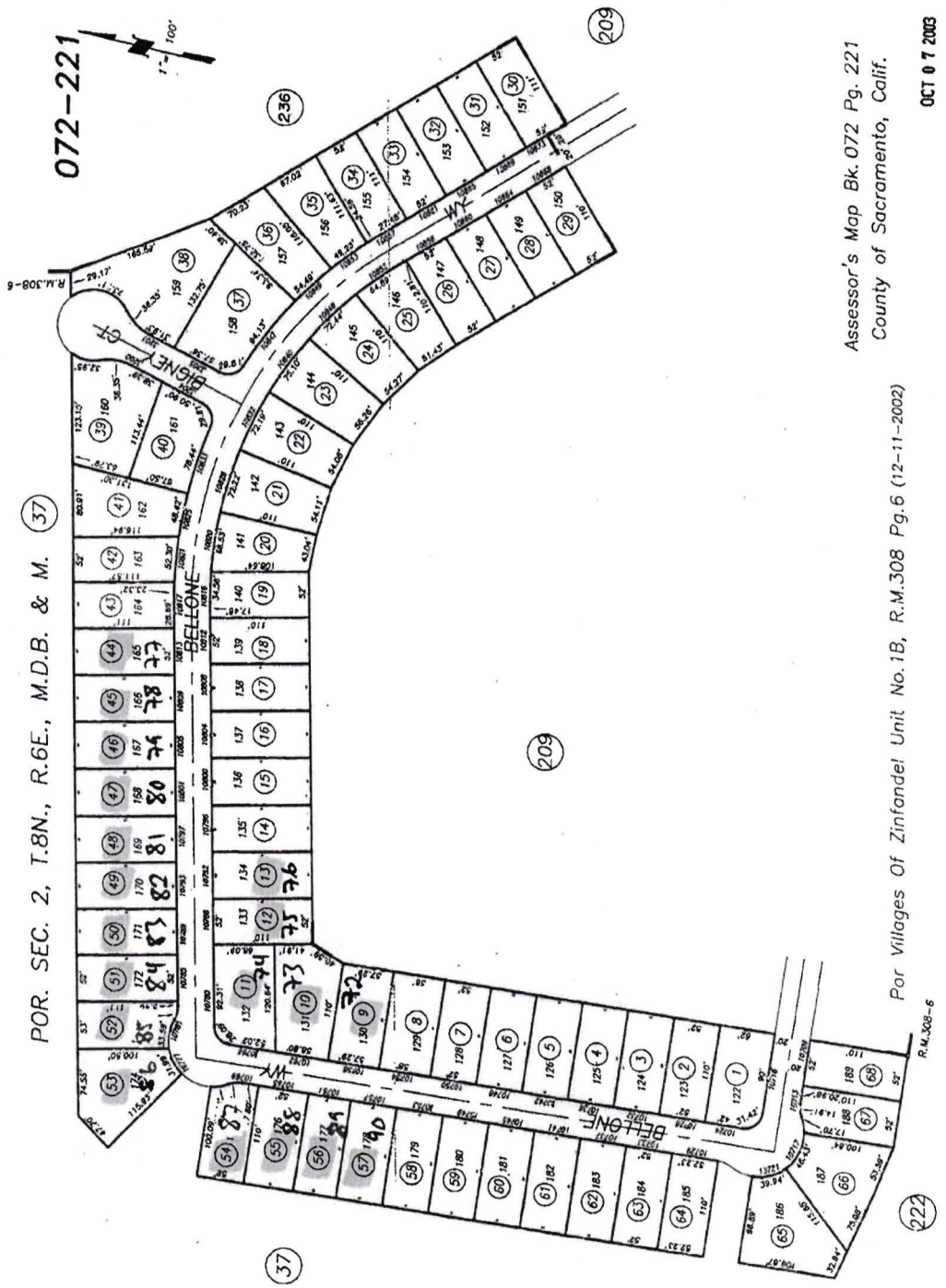


California Jazz Unit No.2, R.M. Bk.237, Pg.11 (6–19–95)

Assessor's Map Bk. 072 Pg. 135
County of Sacramento, Calif.

ATTACHMENT 2

ATTACHMENT 2



1. 072-0690-095-0000
Evergreen & Zinfandel 37
1755 Creekside Oaks Dr Ste 290
Sacramento Ca 95833

2. 072-0370-076-0000
Cordova Rec & Park District
2197 Chase Dr
Rancho Cordova Ca 95670

3. 072-0690-022-0000
Sac Municipal Utility District
Po Box 15830
Sacramento Ca 95852

4. 072-0690-023-0000
Zinfandel Holdings Inc
2500 Venture Oaks Way Ste 175
Sacramento Ca 95833

5. 072-0690-024-0000
Zinfandel Holdings Inc
2500 Venture Oaks Way Ste 175
Sacramento Ca 95833

6. 072-0690-086-0000
Franklin Resources Inc
1 Franklin Pkwy 960
San Mateo Ca 94403

7. 072-0690-093-0000
Kimberly R. Kelley
1764 The Alameda
San Jose Ca 95126

8. 072-0690-094-0000
Patricia G. R. Brunetti
Po Box 5699
San Jose Ca 95150

9. 072-0690-096-0000
A. Rubino Salvatore
Po Box 5699
San Jose Ca 95150

10. 072-0690-099-0000
Altair Holding Company
3333 Quality Dr
Rancho Cordova Ca 95670

11. 072-1340-071-0000
Erwin & Daisy Santander
3437 Mardi Gras Ct
Rancho Cordova Ca 95670

12. 072-1340-072-0000
Jane S. Balay
3433 Mardi Gras Ct
Rancho Cordova Ca 95670

13. 072-1340-073-0000
Leo & Catherine Sumpo
11886 Autumn Sunset Way
Rancho Cordova Ca 95742

14. 072-1340-074-0000
Joseph & Kimberly Lee Soto
3425 Mardi Gras Ct
Rancho Cordova Ca 95670

15. 072-1350-007-0000
Patricia Hughes-Kreis
3401 Mardi Gras Ct
Rancho Cordova Ca 95670

16. 072-1350-008-0000
Jeffrey & Kimberly Frazier
220 Starling Way
Hercules Ca 94547

17. 072-1350-009-0000
William & Cecilia Gonzales
3409 Mardi Gras Ct
Rancho Cordova Ca 95670

18. 072-1350-010-0000
Consuelo M. Marpuri
3413 Mardi Gras Ct
Rancho Cordova Ca 95670

19. 072-1350-011-0000
Kelly Williams
3417 Mardi Gras Ct
Rancho Cordova Ca 95670

20. 072-1350-012-0000
Patrice Whisenant Bowen
3421 Mardi Gras Ct
Rancho Cordova Ca 95670

21. 072-1350-013-0000
Scott & Gayle Faulds
10659 Basie Way
Rancho Cordova Ca 95670

22. 072-1350-014-0000
Deborah Spike Joyner
10663 Basie Way
Rancho Cordova Ca 95670

23. 072-1350-015-0000
Dung & Vivian Nguyen
10667 Basie Way
Rancho Cordova Ca 95670

24. 072-1350-016-0000
Justine Linh Lam
10671 Basie Way
Rancho Cordova Ca 95670

25. 072-1350-017-0000
Antonio & Aurora Banaban
10691 Basie Way
Gold River Ca 95670

26. 072-1350-018-0000
Ricardo Martinez
10697 Basie Way
Rancho Cordova Ca 95670

27. 072-1350-019-0000
Mukhtiar Singh
10719 Basie Way
Rancho Cordova Ca 95670

28. 072-1350-020-0000
Anthony & Stephanie Ingalls
10725 Basie Way
Rancho Cordova Ca 95670

29. 072-1350-021-0000
Fidel Leung
10729 Basie Way
Rancho Cordova Ca 95670

30. 072-1350-022-0000
Rosemary Auguston
10733 Basie Way
Rancho Cordova Ca 95670

31. 072-1350-023-0000
Yeshod & Vimal Naidu
10737 Basie Way
Rancho Cordova Ca 95670

32. 072-1350-024-0000
Fnu Subarmani
10741 Basie Way
Gold River Ca 95670

33. 072-1350-025-0000
Lolita Renee Stokes
10745 Basie Way
Rancho Cordova Ca 95670

34. 072-1350-026-0000
Teresa Tillman
10749 Basie Way
Rancho Cordova Ca 95670

35. 072-1350-027-0000
Elias Mounsef
10753 Basie Way
Rancho Cordova Ca 95670

36. 072-1350-028-0000
Christine & James Wash
10757 Basie Way
Rancho Cordova Ca 95670

37. 072-1350-029-0000
Carlito & Susan Yambao
3715a Spruce St
Dover De 19901

38. 072-1350-030-0000
Thoai B. Phan
10765 Basie Way
Rancho Cordova Ca 95670

39. 072-1350-031-0000
Maria L. Pulanco
10769 Basie Way
Rancho Cordova Ca 95670

40. 072-1350-032-0000
Maria T. C. Mercado
10791 Basie Way
Rancho Cordova Ca 95670

41. 072-1350-033-0000
Strom Judy Sourikoff
214 Loyola Dr
Millbrae Ca 94030

42. 072-1350-034-0000
Eric Tran
10799 Basie Way
Rancho Cordova Ca 95670

43. 072-1350-051-0000
Florante & Cristina Lumanug
10774 Basie Way
Rancho Cordova Ca 95670

44. 072-1350-052-0000
Jason & Va Mica
10770 Basie Way
Rancho Cordova Ca 95670

45. 072-1350-053-0000
Gayane Sargsyan
10766 Basie Way
Rancho Cordova Ca 95670

46. 072-1350-054-0000
Victoria & Alan Sr Antiporda
10762 Basie Way
Rancho Cordova Ca 95670

47. 072-1350-055-0000
Karen Schaub
10758 Basie Way
Rancho Cordova Ca 95670

48. 072-1350-056-0000
Monica Cho
10754 Basie Way
Rancho Cordova Ca 95670

49. 072-1350-057-0000
Gloria Colon
10750 Basie Way
Rancho Cordova Ca 95670

50. 072-1350-058-0000
Redentor & Leonila Sahagun
10746 Basie Way
Rancho Cordova Ca 95670

51. 072-1350-059-0000
Marlon & Teodora Sohl
10742 Basie Way
Rancho Cordova Ca 95670

52. 072-1350-060-0000
Amber & Michael Montoya
10738 Basie Way
Rancho Cordova Ca 95670

53. 072-1350-061-0000
Michael Winfield
10734 Basie Way
Rancho Cordova Ca 95670

54. 072-1350-062-0000
Katrina Raney
10730 Basie Way
Rancho Cordova Ca 95670

55. 072-1350-063-0000
W. Swank
10726 Basie Way
Rancho Cordova Ca 95670

56. 072-1350-064-0000
Tereatha Henderson
10722 Basie Way
Rancho Cordova Ca 95670

57. 072-1350-065-0000
Ge Vang
11744 Village Pond Way
Rancho Cordova Ca 95742

58. 072-1350-066-0000
Tamara Chernaya
10714 Basie Way
Rancho Cordova Ca 95670

59. 072-1350-067-0000
Parvinder Singh Kanwal
10710 Basie Way
Rancho Cordova Ca 95670

60. 072-1350-068-0000
David M. Gin
10706 Basie Way
Rancho Cordova Ca 95670

61. 072-1350-069-0000
Gabriela & Carlos Herrera Cruz
10702 Basie Way
Rancho Cordova Ca 95670

62. 072-1350-070-0000
Anna Say
10698 Basie Way
Rancho Cordova Ca 95670

63. 072-1350-071-0000
Valerie A. Santiago
10694 Basie Way
Rancho Cordova Ca 95670

64. 072-1350-072-0000
Jorge L. Rodriguez
10690 Basie Way
Rancho Cordova Ca 95670

65. 072-1350-073-0000
Xeng Thor
10686 Basie Way
Rancho Cordova Ca 95670

66. 072-1350-074-0000
Charles H. Erwin
11166 Tusket River Dr
Rancho Cordova Ca 95670

67. 072-1350-075-0000
Cory & Brandy Anderson
10678 Basie Way
Rancho Cordova Ca 95670

68. 072-1350-076-0000
Francis & Latchmi Anil
10674 Basie Way
Rancho Cordova Ca 95670

69. 072-1350-081-0000
County Of Sacramento
Reserve Dr
Rancho Cordova Ca 95670

70. 072-1350-084-0000
Pablo F. Fung
10778 Basie Way
Rancho Cordova Ca 95670

71. 072-1350-085-0000
Andrey Bardosh
10782 Basie Way
Rancho Cordova Ca 95670

72. 072-2210-009-0000
Cynthia A. Lundt
10758 Bellone Way
Rancho Cordova Ca 95670

73. 072-2210-010-0000
David M. & Sara Ann Upp
10762 Bellone Way
Rancho Cordova Ca 95670

74. 072-2210-011-0000
Donald & Jeanie Schwartz
10766 Bellone Way
Rancho Cordova Ca 95670

75. 072-2210-012-0000
Najeeb A. Shaikh
10788 Bellone Way
Rancho Cordova Ca 95670

76. 072-2210-013-0000
Aravindaan Natarajan
10792 Bellone Way
Rancho Cordova Ca 95670

77. 072-2210-044-0000
Simonetta Y. Kosir
10813 Bellone Way
Rancho Cordova Ca 95670

78. 072-2210-045-0000
Fernando & Heidy Camorongan
10809 Bellone Way
Rancho Cordova Ca 95670

79. 072-2210-046-0000
Saida & Keda Wang
10805 Bellone Way
Rancho Cordova Ca 95670

80. 072-2210-047-0000
Aurora Loan Services Llc
601 5th Ave
Scottsbluff Ne 69361

81. 072-2210-048-0000
Rhonda G. Chambers
10797 Bellone Way
Rancho Cordova Ca 95670

82. 072-2210-049-0000
Cynthia A. De Bord Bord
10793 Bellone Way
Rancho Cordova Ca 95670

83. 072-2210-050-0000
Albertus Rahardja
10789 Bellone Way
Rancho Cordova Ca 95670

84. 072-2210-051-0000
Richard Burton
10785 Bellone Way
Rancho Cordova Ca 95670

85. 072-2210-052-0000
Henry Laredo
10781 Bellone Way
Rancho Cordova Ca 95670

86. 072-2210-053-0000
Boss Family Trust
9365 Zambra Way
Sacramento Ca 95826

87. 072-2210-054-0000
Le K. Nguyen
10769 Bellone Way
Rancho Cordova Ca 95670

88. 072-2210-055-0000
Buster & Glenda Salanoa
10765 Bellone Way
Rancho Cordova Ca 95670

89. 072-2210-056-0000
Tai H Le Trust
12351 W Roma Ave
Avondale Az 85392

90. 072-2210-057-0000
Elliott Dutro
10757 Bellone Way
Rancho Cordova Ca 95670

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Paul Junker, Planning Director

SUBJECT: **QUIMBY PARKLAND DEDICATION HOUSEHOLD POPULATION FACTORS**

RECOMMENDATION

Staff recommends this item be tabled to allow further discussions between City staff, CRPD and the development community.

RESULT OF RECOMMENDED ACTION

Tabling this item will allow CRPD and the development community to provide additional input on the updating of the City's Household Population Factors. Input from CRPD and the development community might result in revisions to staff's proposal on this item.

AGENDA ITEM 11.1

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Cyrus Abhar, Public Works Director

SUBJECT: **RESOLUTION CERTIFYING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM AND AUTHORIZING PUBLIC WORKS TO INITIATE RIGHT-OF-WAY ACQUISITION, COMPLETE ENGINEERING DESIGN, AND ADVERTISE TO SOLICIT CONSTRUCTION BIDS FOR THE INTERNATIONAL DRIVE EXTENSION PROJECT**

RECOMMENDATION

Adopt Resolution No. 18-2008.

RESULT OF RECOMMENDED ACTION

The recommended action will certify the Mitigated Negative Declaration and adopt the Mitigation Monitoring and Reporting Program which will allow City of Rancho Cordova Planning Department to complete its obligations of environmental analysis and disclosure required under the California Environmental Quality Act for extending International Drive from Kilgore Road to Sunrise Blvd. The recommended action will also allow Public Works to initiate right-of-way acquisition, complete engineering design, and advertise to solicit construction bids for the International Drive Extension Project.

BACKGROUND

The City's General Plan includes a Circulation Element identifying planned transportation resources within the City, including major roadways, bikeways and trails, and transit opportunities such as light rail and buses. The extension of International Drive is identified in the General Plan Circulation Element as a new east-west arterial between Kilgore Road and Sunrise Boulevard. The project is also identified in the 5 Year Capital Improvement Plan.

The International Drive Extension Project will extend International Drive to Sunrise Blvd. from its current terminus at Kilgore Road. The extended International Drive will be a six-lane roadway and will include a bridge over Folsom South Canal. Two signalized intersections, at the intersections of Kilgore Road and International Drive and at Sunrise Blvd. and International Drive are included. The project will relieve pressure on US-50, White Rock Road, and the northern portion of Sunrise Blvd. in the city limits, all of which currently serve traffic moving through the central portions of the City. The project will also accommodate increased traffic resulting from proposed and approved development projects

in the City of Rancho Cordova by providing an additional key east-west route between office, industrial and residential land uses in the central part of the City. Additionally, the extended International Drive will provide motorists with an additional through connection to Sunrise Blvd. from US-50, bypassing the heavily used Sunrise Blvd. at US-50 interchange and the White Rock Road at Sunrise Blvd. intersection.

The project is currently in the final stages of design. Design features included are aesthetic treatments such as landscape median and decorative lighting.

Other design features are bicycle lanes on the bridge and along the roadway that will provide access directly to and from Sunrise Blvd. to the Folsom South Canal bicycle trail. The project would allow for a safer bicycle/pedestrian path under the International Drive Bridge. The standard underpass can be dark and intimidating for bicyclists and pedestrians so the bridge over the canal will include an opening through the bridge to the tunnel to allow for natural light and open sight lines to encourage bicycle and pedestrian use.

The sound wall along the residential properties on the south side of International Drive will be raised to accommodate for added noise from the roadway and to provide privacy. Additionally, rubberized asphalt pavement will be used along the roadway to minimize traffic noise.

Staff conducted a public outreach meeting in December 2007 and another public meeting will be held before construction begins to inform residents of construction details and scheduling.

RIGHT-OF-WAY

The right-of-way acquisition necessary for project construction affects nine parcels along the north side of International Drive and the north side of Monier Circle. After the certification of the environmental documents, staff will proceed with the notification to the property owners and the appraisal of the properties followed by the property acquisitions.

Temporary construction easements will be required for the residential properties along the south side of International Drive for the purpose of construction of the sound wall.

ENVIRONMENTAL ANALYSIS

The potential environmental impacts of the International Drive Extension from Kilgore Road to Sunrise Blvd. were addressed in the Initial Study/Mitigated Negative Declaration prepared for the project. This project is within the anticipated framework of the City's General Plan Circulation Element. Staff has reviewed all areas of environmental concern, as required by the California Environmental Quality Act, regarding the subject property and has determined that all potentially significant environmental impacts can be mitigated to less than significant levels with implementation of the Mitigation Monitoring and Reporting Program; therefore, the project will not have a significant effect on the environmental.

Because the project crosses the Folsom South Canal owned by the Federal Bureau of Reclamation, the environmental documentation prepared for the project included an Environmental Assessment as required by the National Environmental Policy Act. Preparation of the Environmental Assessment was necessary to allow the Bureau of Reclamation to grant an easement to accommodate the project on land owned by them.

The Environmental Assessment, although prepared and made publicly available concurrently with the Mitigated Negative Declaration prepared by the City as required under the California Environmental Quality Act, is a legally distinct and separate document from the Mitigation Negative Declaration. The adequacy and completeness of the Environmental Assessment will be considered only by the Bureau of Reclamation under a separate action as required by the National Environmental Policy Act.

The City received eight (8) comments within the 30-day public review period and has duly considered all written and verbal comments provided during the public review period.

The Draft Mitigated Negative Declaration and the Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the International Drive Extension from Kilgore to Sunrise Project are available for view at the City of Rancho Cordova City Clerk's office.

PROJECT SCHEDULE

The design of the project is scheduled for completion in Fall of 2008. The project is tentatively schedule for advertising for construction bids late 2008 and to begin construction in the 2009 construction season. The project will take approximately one year to construct.

PROJECT FUNDING

The total estimated cost for construction is $17 Million. The City has received $2.5 Million from a federal grant from Regional Surface Transportation Program and another $888,000 grant from Federal Congestion Mitigation Air Quality. $3.0 M will come from Measure A bonds and the remaining will be funded through the City's Transportation Impact Fees.

ATTACHMENT

Resolution Number 18-2008

CITY OF RANCHO CORDOVA

RESOLUTION NO.18-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA CERTIFYING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM AND AUTHORIZING PUBLIC WORKS TO INITIATE RIGHT-OF-WAY ACQUISITION AND COMPLETE ENGINEERING DESIGN AND ADVERTISE TO SOLICIT CONSTRUCTION BIDS FOR THE INTERNATIONAL DRIVE EXTENSION PROJECT

WHEREAS, the City of Rancho Cordova (hereinafter referred to as City) has an adopted General Plan Circulation Element that identified several roadway projects that would improve traffic circulation and accessibility throughout the City; and

WHEREAS, the City has an approved Five Year Capital Improvement Plan that represents the Fiscal Year 07/08 Capital Improvement Budget and a four-year budget plan for Fiscal Years 08/09 through 11/12;

WHEREAS, the International Drive Extension from Kilgore to Sunrise project is identified in both the General Plan Circulation Element and the Five Year Capital Improvement Plan; and

WHEREAS, sources of funding have been identified to construct the International Drive Extension from Kilgore to Sunrise project; and

WHEREAS, the City determined that the International Drive Extension from Kilgore to Sunrise project was subject to the California Environmental Quality Act and prepared an Initial Study evaluating the potential environmental effects of the project; and

WHEREAS, the City identified potentially significant adverse environmental effect in the areas of aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation and traffic, and utilities and service systems ; and

WHEREAS, the City has agreed to implement proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and

WHEREAS, a Mitigation Monitoring and Reporting Program has been prepared in accordance with the City of Rancho Cordova regulations and is designed to ensure compliance with identified mitigation measures during project implementation; and

WHEREAS, the City determined that the mitigation proposed in the Mitigation Monitoring and Reporting Program would reduce the impacts to a less than significant levels and a Mitigated Negative Declaration should be prepared; and

WHEREAS, on February 1, 2008, the City distributed the Notice of Intent to Adopt the Mitigated Negative Declaration to owners and tenants of adjacent properties within 500 feet of the project area and appropriate agencies, posted the Notice of Intent at the Sacramento County Clerk's Office, distributed the Notice of Intent through the State Clearinghouse, posted the Notice of Intent at the City offices and on the City's website, and published the

Notice of Intent in the Rancho Cordova Grapevine and Sacramento Bee newspapers, pursuant to CEQA Guidelines 15072; and

WHEREAS, a 30-day review and comment period was opened on February 1, 2008 and closed on March 3, 2008, and the Mitigated Negative Declaration was made available to the public during this review period; and

WHEREAS, the City received eight (8) comments within the 30-day public review period and has duly considered all written and verbal comments provided during the public review period; and

WHEREAS, the City Council is the appropriate authority to hear and take action on this project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA HEREBY RESOLVES AS FOLLOWS:

1. Adopt the Mitigated Negative Declaration.

    a) *The City finds that the Mitigated Negative Declaration prepared for the project is in compliance with the requirements of the California Environmental Quality Act.* **Evidence:** Staff prepared the Draft Mitigated Negative Declaration in compliance with the guidelines of the California Environmental Quality Act, provided adequate public notice of the City's intent to adopt the Mitigated Negative Declaration as required under California Environmental Quality Act Guidelines Section 15072, provided an adequate 30-day Public Comment period as required under California Environmental Quality Act Guidelines Section 15073, and dually considered all written and verbal comments received during the Public Comment period as required under California Environmental Quality Act Guidelines Section 15074, as evidenced by the preparation of the Final Mitigated Negative Declaration .

    b) *There is no substantial evidence, in light of the whole record, that the proposed project will have a significant adverse impact, individually or cumulatively, on the environment.* **Evidence:** The impacts of the project were addressed in the MND. Staff reviewed topics of environmental concern regarding the subject project and determined that all potentially significant environmental impacts can be mitigated to below levels of significance with implementation of the Mitigation Monitoring and Reporting Program. Additionally, the City considered comments received on the MND during the 30-day Public Comment period, as evidenced by the preparation of the Final MND for the project.

2. Adopt the Mitigation Monitoring and Reporting Program.

    a) *The City Council hereby finds that the proposed mitigation measures described in the Mitigation Monitoring and Reporting Programs are feasible, and therefore will become binding upon the City and it construction contractors.* **Evidence:** Proposed mitigation measures were prepared in coordination and consultation with environmental resource technical experts, Public Works staff, project design engineers, and regulatory agencies to identify feasible measures that effectively mitigate the project's potential environmental impacts.

3. Approve the Project.

Having independently reviewed, analyzed, and adopted the Mitigated Negative Declaration and adopted mitigation measures set forth in the Mitigation Monitoring and Reporting Program, the City council hereby approves the International Drive Extension between Kilgore and Sunrise project and authorizes Public Works to initiate Right-of-Way acquisition and complete engineering design and advertise to solicit construction bids.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the 21st day of April, 2008.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Joseph Chapman, Deputy City Attorney

SUBJECT: **ORDINANCE AMENDING THE FOLSOM BOULEVARD SPECIFIC PLAN AND THE ZONING CODE RELATING TO CARDROOMS (SECOND READING)**

RECOMMENDATION

Waive the second reading and adopt Ordinance No. 9-2008.

RESULT OF RECOMMENDED ACTION

This ordinance will amend the Folsom Boulevard Specific Plan and the Zoning Code in order to change the appropriate zoning designations and parking standards for cardrooms and will have a city-wide effect on the location of cardrooms.

BACKGROUND

On March 17, 2008, the Council introduced the attached ordinance amending the Folsom Boulevard Specific Plan and the Zoning Code with respect to the operation of cardrooms.

Specifically, the ordinance will allow cardrooms to be located in any Commercial Mixed Use (CMU) zoning district in the City subject to approval of a conditional use permit (CUP). CMU zoning is located primarily along Folsom Boulevard. Maps showing the location of CMU zoning in the City and in the proposed annexation area are attached.

In addition to location, the ordinance also addresses parking requirements. The vehicle parking requirement for cardrooms is one space per seat. This is the current standard inherited from the County of Sacramento. Pursuant to the Council's direction, however, Sections 5 and 10 of the ordinance were amended on March 17 to clarify that the parking standard is a not to exceed amount and can be reduced as part of the CUP approval process.

The Council is now being asked to waive the second reading and adopt the ordinance. The ordinance will go into effect thirty days after adoption. If the Council wishes to further modify the ordinance, the Council will have two options: 1) adopt the current ordinance and direct staff to prepare a follow-up amendment; or 2) modify the current ordinance and renew the first reading of the ordinance, with the second reading to follow

at the next City Council meeting. Depending on the nature and substance of any modifications, further Planning Commission review may be required.

FINANCIAL IMPLICATIONS TO CITY

There are no significant cost implications to the City for this project.

REQUESTED MOTION

"I move that the City Council waive the second reading and adopt Ordinance 09-2008 amending the Folsom Boulevard Specific Plan and the Zoning Code in order to establish Commercial Mixed Use and the Convention Overlay District as the appropriate zone locations for cardrooms and establishing new parking standards for cardrooms."

ATTACHMENTS

1. Ordinance 9-2008
2. City Zoning Map
3. Annexation Zoning Map

ATTACHMENT 1

CITY OF RANCHO CORDOVA

ORDINANCE NO. 09-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA AMENDING THE FOLSOM BOULEVARD SPECIFIC PLAN AND THE RANCHO CORDOVA ZONING CODE RELATING TO THE LOCATION AND REGULATION OF CARDROOMS

RECITALS

WHEREAS, on June 26, 2006, the City of Rancho Cordova ("City") adopted its first General Plan pursuant to Resolution 117-2006; and

WHEREAS, the purpose of zoning ordinances is to carry out the policies of the City's General Plan by classifying and regulating the uses of land and structures within the City, consistent with the General Plan; and

WHEREAS, on November 6, 2006, the City adopted the Folsom Boulevard Specific Plan; and

WHEREAS, pursuant to Government Code section 65454 adopted specific plans must be consistent with the adopted general plan; and

WHEREAS, pursuant to Government Code section 65860(a), the City's zoning ordinances must be consistent with the adopted general plan; and

WHEREAS, the City has placed a moratorium on the establishment of new cardrooms and the expansion of existing cardrooms. The moratorium will expire on March 18, 2008; and

WHEREAS, since the moratorium was established the City has been undertaking a comprehensive update of its Zoning Code; and

WHEREAS, the moratorium was adopted in order to allow the City an opportunity to evaluate whether cardrooms should be changed in light of the fact that: the City's current cardroom standards were inherited from the County of Sacramento upon incorporation; the City adopted its first General Plan in June 2006, which established goals and policies directed at reshaping the layout and development of the City; and the City was preparing a comprehensive update of its Zoning Code, which could in turn effect the desired location of cardrooms in the City; and

WHEREAS, on February 28, 2008, the Rancho Cordova Planning Commission held a duly noticed public hearing regarding this ordinance and recommended adoption of the ordinance by the Rancho Cordova City Council ("City Council") subject to certain considerations regarding parking and the requirements of conditional use permits; and

WHEREAS, on March 17, 2008, the City Council held a duly noticed public hearing, considered a report from City staff and received public testimony regarding this ordinance and the zoning of cardrooms;

DECISION

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

SECTION 1. Findings. The City Council makes the following findings with respect to the adoption of this ordinance:

A. The foregoing recitals are true and correct and incorporated by reference as a part of these findings; and

B. Amendment of the City's zoning regulations regarding cardrooms is necessary in order to address the goals and policies of the City following the City's adoption of its General Plan and the Folsom Boulevard Specific Plan in 2006; and

C. The ordinance is consistent with the City's General Plan. This ordinance addresses the following General Plan policies:

1. ***Land Use Policy 2.3*** – Encourage the clustering of similar uses into areas or districts that have common needs and that are compatible with one another, in order to maximize their efficiency and identity for Rancho Cordova. Locating cardrooms in high commercial areas such as those found in the Folsom Boulevard Specific Plan area and the Downtown Planning Area provides the use with a better opportunity to be successfully integrated with other commercial uses that complement or can be complemented by a cardroom, such as restaurants and nightclubs.

2. ***Land Use Policy 6.3*** – Create a vibrant Downtown that is a destination place for residents, workers, and visitors, anchored by retail, civic, office, and residential uses and connects old and new parts of the City together; and ***Economic Development Policy 3.1*** – Create an economically diverse and financially successful Downtown and civic center where government offices, businesses, retail, services, entertainment, residential uses, and public spaces are clustered. It is the City's intent that the Downtown area become a vibrant place to live, work, play and shop. The vision is for a pedestrian-friendly gathering place for both daytime and nighttime activities. As a source of entertainment and recreation, cardrooms are a use that can help the City achieve its goal of transforming the Downtown into a vibrant, and economically diverse area that is a destination place for the public to play and gather together.

3. ***Land Use Policy 6.4*** – Revitalize Folsom Boulevard consistent with Folsom Boulevard Planning Area. Revitalization of the Folsom Boulevard corridor is of prime importance to the City. The General Plan designates the Folsom Boulevard Specific

Plan as the planning document for establishing the land use plan for the Folsom Boulevard corridor. One of the primary ideas for revitalizing Folsom Boulevard is the creation of pulse points where concentrations of a complementary mix of commercial uses and activities can be located. Several types of mixed-use zoning, including Commercial Mixes Use (CMU), have been created and are the means by which the City intends to establish the complementary mix of uses associated with pulse point development. The purpose of the CMU zoning district is to designate property for vibrant commercial and mixed use development. While predominantly a commercial district, CMU zoning is designed to provide for the integration of retail and service commercial uses with office and/or residential uses. CMU zoning is the logical choice for placement of a commercial/entertainment use such as a cardroom where the use can be successfully integrated with other commercial uses that complement or can be complemented by a cardroom, such as restaurants and nightclubs. The Folsom Boulevard Planning Area also partially encompasses the Downtown Planning Area discussed above.

4. ***Economic Development Policy 4.1*** – Establish a convention center within the Convention Overlay along Folsom Boulevard and Sunrise Boulevard that includes and supports hotels, restaurants, meeting spaces, shopping and entertainment venues in Rancho Cordova. The Convention Overlay District has been established by the City as a planning tool for implementing the goals of the Convention Overlay. The purpose of the Convention Overlay District (CO) is to establish an area in the City specifically for the development of a convention center with related and supporting uses. The CO is intended to be a special place in the City that is entertaining, vibrant, and inviting to tourists, visitors and residents. As a source of entertainment and recreation, cardrooms are a use that can help the City to achieve its goal of transforming the CO into an area that is entertaining and vibrant.

D. The ordinance is consistent with the Folsom Boulevard Specific Plan. Revitalization of the Folsom Boulevard corridor is of prime importance to the City. The Folsom Boulevard Specific Plan is the primary planning document for establishing the land use plan for the Folsom Boulevard corridor. The use of high commercial activity pulse points and mixed-use zoning is one approach implemented by the Specific Plan to achieve revitalization of Folsom Boulevard. CMU zoning is an important component of the mixed-use zoning approach adopted by the City as part of the Folsom Boulevard Specific Plan. CMU zoning is designed to provide for the integration of retail and service commercial uses with office and/or residential uses. CMU zoning is the logical choice for placement of a commercial/entertainment use such as a cardroom where the use can be successfully integrated with other commercial uses that complement or can be complemented by a cardroom, such as restaurants and nightclubs.

E. This ordinance is exempt from California Environmental Quality Act in accordance with CEQA Guideline 15060(c)(2). The ordinance proposes a change in zoning designation and parking standards for cardrooms that are consistent with existing City standards. The ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

SECTION 2: Appendix A, "Use Classification Listing," subheading, "Retail, Service and Office Uses," of the Folsom Boulevard Specific Plan is amended to add the following use:

"**Cardrooms.** Gambling establishments regulated pursuant to Rancho Cordova Municipal Code Chapter 4.22, "Cardrooms."

SECTION 3: Chapter 5, "Land Plan," Table 1, "Allowed Uses in the Convention District Overlay," of the Folsom Boulevard Specific Plan is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use – Use Classification	Convention Overlay District
Cardrooms	CUP[1]

Notes:

1. Cardrooms shall be located only within underlying CMU zoning.

SECTION 4: Chapter 5, "Land Plan," Table 2, "Allowed Uses for Mixed Use Zoning Districts," of the Folsom Boulevard Specific Plan is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use – Classification	MDR	RMU	CMU	OPMU	OIMU
Cardrooms	N	N	CUP	N	N

SECTION 5: Chapter 5, "Land Plan," Table 3, "Vehicle and Bicycle Parking Standards for Mixed Use Zoning Districts," of the Folsom Boulevard Specific Plan is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use Type	Vehicular	Bicycle
Cardrooms	Not to exceed 1 space per seat[4]	0.4/1000 sf

Notes:

4. Required vehicular parking may be reduced from this standard pursuant to the issuance of a conditional use permit.

SECTION 6: Title II, "Land Use Zones," Chapter 25, "Commercial Land Use Zones," Table II, Subsection H.5, "Card Room" of the Rancho Cordova Zoning Code is deleted.

SECTION 7: Title II, "Land Use Zones," Chapter 40, "Mixed Use Zoning Districts," Article 2, "Use Classifications," Section 240.02.1, subheading, "Retail, Service and Office Uses," of the Rancho Cordova Zoning Code is amended to add the following use:

"**Cardrooms.** Gambling establishments regulated pursuant to Municipal Code Chapter 4.22, "Cardrooms."

SECTION 8: Title II, "Land Use Zones," Chapter 40, "Mixed Use Zoning Districts," Article 10, "Convention Overlay District," Table V, "Allowed Uses in the Convention District Overlay," of the Rancho Cordova Zoning Code is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use – Use Classification	Convention Overlay District
Cardrooms	CUP[1]

Notes:

1. Cardrooms shall be located only within underlying CMU zoning.

SECTION 9: Title II, "Land Use Zones," Chapter 40, "Mixed Use Zoning Districts," Article 11, "Special Requirements for Mixed Use Districts," Table VI, "Allowed Uses for Mixed Use Zoning Districts," of the Rancho Cordova Zoning Code is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use – Classification	MDR	RMU	CMU	OPMU	OIMU	LIBP
Cardrooms	N	N	CUP	N	N	N

SECTION 10: Title II, "Land Use Zones," Chapter 40, "Mixed Use Zoning Districts," Article 11, "Special Requirements for Mixed Use Districts," Table VII, "Vehicle and Bicycle Parking Standards for Mixed Use Zoning Districts," of the Rancho Cordova Zoning Code is amended to add the following under the subheading, "Retail, Service, and Office Listings":

Land Use Type	Vehicular	Bicycle
Cardrooms	Not to exceed 1 space per seat[4]	0.4/1000 sf

Notes:

4. Required vehicular parking may be reduced from this standard pursuant to the issuance of a conditional use permit.

SECTION 11. 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 12. 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.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova this 21st day of April 2008, by the following vote:

AYES:

NOES:

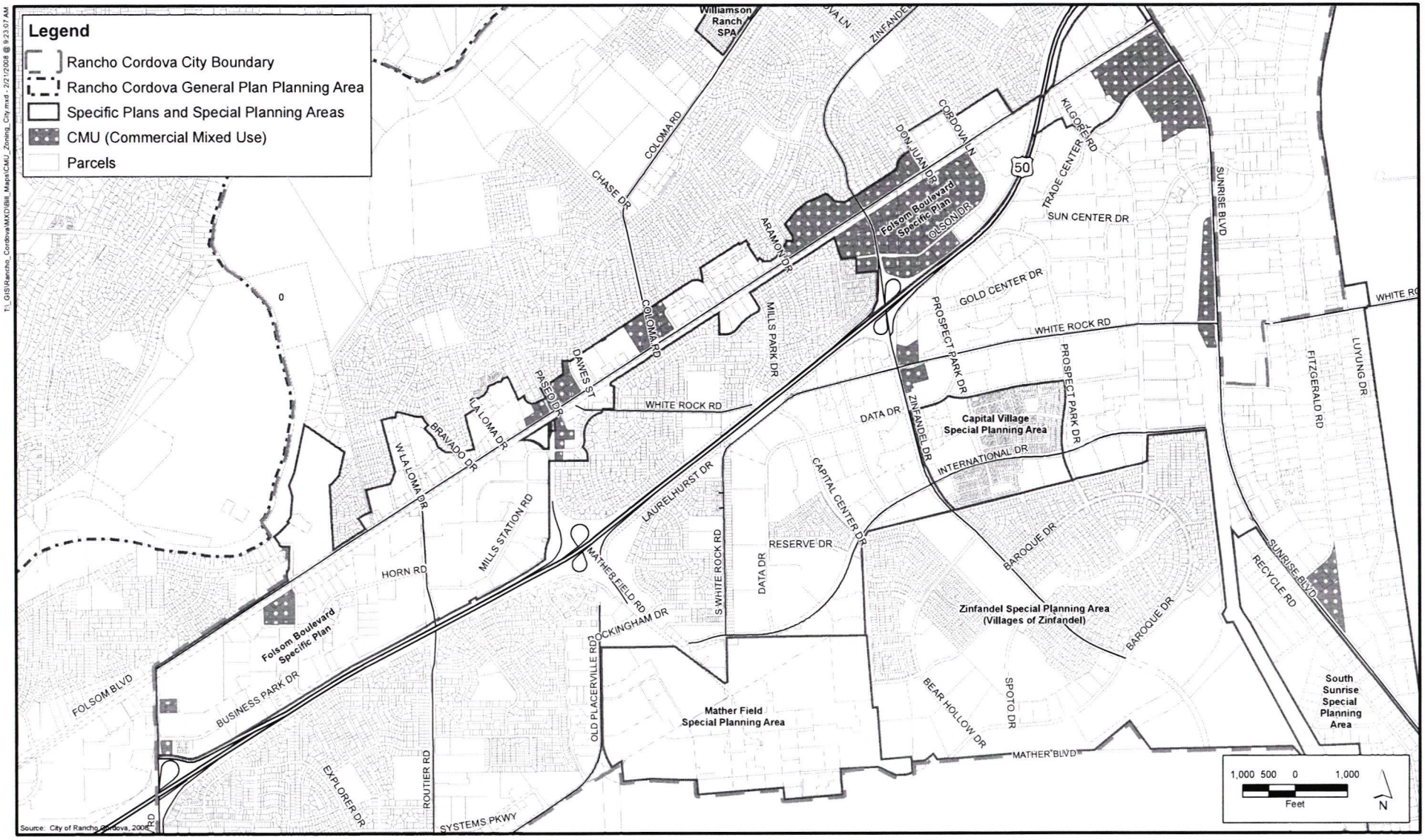
ABSENT:

ABSTENTIONS:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

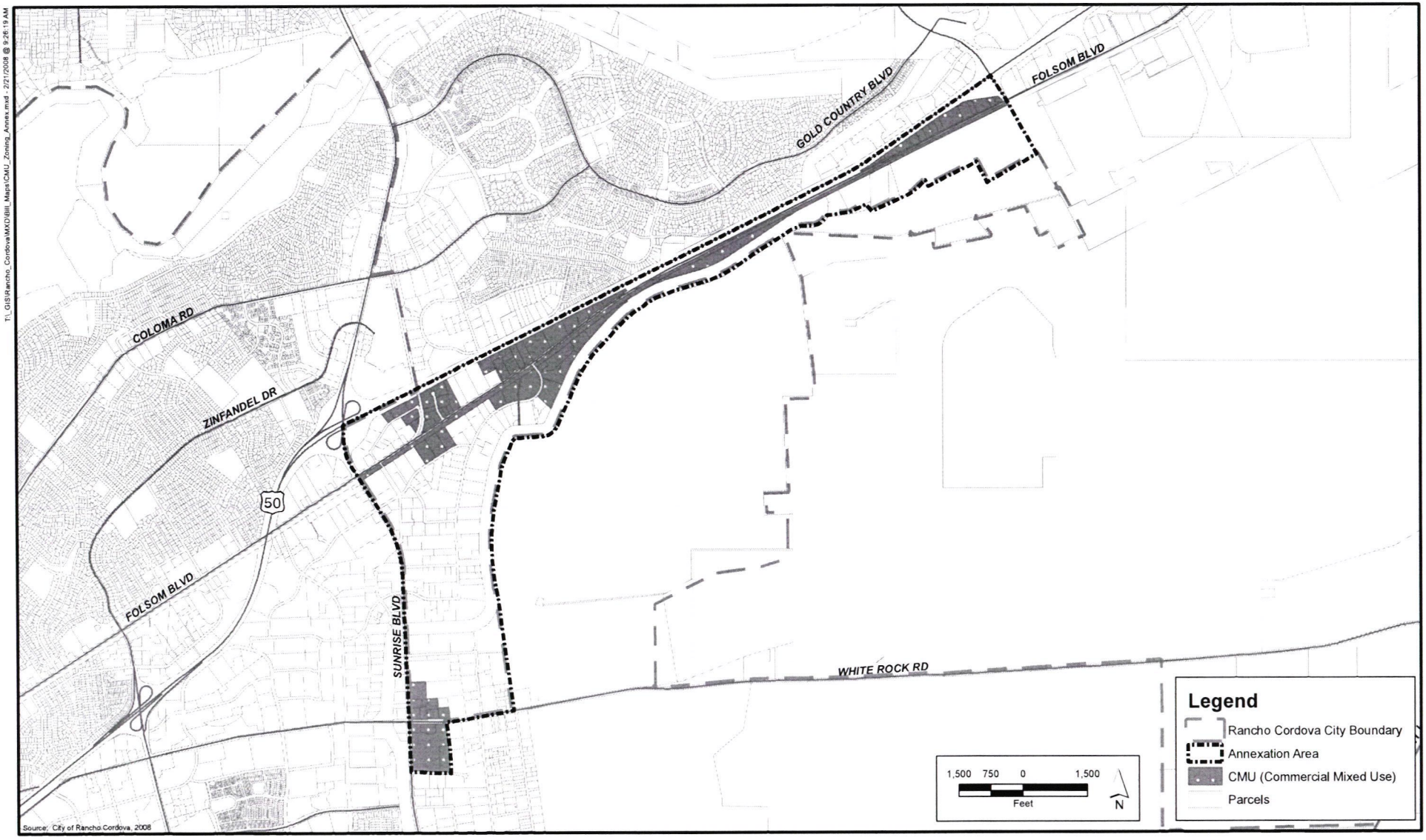


City of Rancho Cordova
Planning Department

Sheet 1

Attachment 2

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City of Rancho Cordova
Planning Department

Sheet 2

Attachment 3

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Joseph Chapman, Deputy City Attorney

SUBJECT: **ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 4.22, "CARDROOMS" (SECOND READING)**

RECOMMENDATION

Waive the second reading and adopt Ordinance No. 10-2008.

RESULT OF RECOMMENDED ACTION

Adoption of this ordinance will modify existing requirements for the licensing and operation of cardrooms. Under the new requirements, the City Manager will be responsible for reviewing cardroom applications and issuing cardroom licenses. In addition to existing criminal background investigation requirements, the City Manager will also review an applicant's operational and business plans prior to issuing a license. An applicant will also be required to file and maintain approved security plans with the Police Department. In terms of operation, the ordinance will allow for an increase in the number of tables from 7 to 9, and will eliminate betting limits.

BACKGROUND

On March 17, 2008, the Council introduced the attached ordinance amending Municipal Code Chapter 4.22, "Cardrooms." Chapter 4.22 regulates cardrooms through the issuance of a special business license.

Among other things, the new ordinance:

- Establishes new application requirements such as preparation of development plans that must be submitted before issuance of a cardroom license can occur;
- Designates the City Manager as the official to issue cardroom licenses;
- Establishes that cardrooms must now prepare security plans subject to police department approval;
- Increases the number of gaming tables allowed inside a cardroom from seven to nine in accordance with state law; and
- Eliminates existing wagering limits applicable to cardrooms.

Pursuant to the Council's discussion and direction, the following changes were made at the March 17 meeting and read into the ordinance as part of the first reading:

- Section 4.22.025(B)(1) was amended to include limited liability corporations as part of the identified list of potential applicants;
- Section 4.22.025 was also amended to add a new subsection (C) granting the City Manager discretion to establish later deadlines for submission of certain application materials such as development plans;
- Section 4.22.115 was amended to eliminate a proposal to automatically allow approval of up to 15 gaming tables per cardroom if state law should change in the future;
- Section 4.22.125 was amended to eliminate a proposed sentence addressing the ability of a cardroom owner to set wagering limits at his or her discretion.

The Council is now being asked to waive the second reading and adopt the ordinance. The ordinance will go into effect thirty days after adoption. If the Council wishes to further modify the ordinance, the Council will have two options: 1) adopt the current ordinance and direct staff to prepare a follow-up amendment; or 2) modify the current ordinance and renew the first reading of the ordinance, with the second reading to follow at the next City Council meeting.

REQUESTED MOTION

"I move that the City Council waive the second reading and adopt Ordinance 10-2008 amending Municipal Code Chapter 4.22, "Cardrooms" with respect to the licensing and operation of cardrooms."

ATTACHMENT

Ordinance No. 10-2008

CITY OF RANCHO CORDOVA

ORDINANCE NO. 10-2008

AN ORDINANCE OF THE CITY OF RANCHO CORDOVA AMENDING CHAPTER 4.22, "CARDROOMS," OF THE RANCHO CORDOVA MUNICIPAL CODE

RECITALS

WHEREAS, upon incorporation, two cardrooms were located and operating within the boundaries of the City of Rancho Cordova; and

WHEREAS, in November 2006 the City Council of Rancho Cordova established a moratorium on the expansion of existing, or the opening of new, cardrooms within the City and directed City staff to research and review possible additional regulations concerning the issuance of cardroom licenses and the operation of cardrooms; and

WHEREAS, on March 17, 2008, the Council considered a proposal from the City staff to amend the City's licensing regulations relating to cardrooms;

DECISION

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

SECTION 1: Title 4, Chapter 4.22, "Cardrooms," is hereby amended to read as follows:

"**Cardrooms**

4.22.000 Definitions.
4.22.005 License Required;
4.22.010 Statement of Purpose.
4.22.015 Qualifications – Use.
4.22.020 Number of Licenses Limited.
4.22.025 Application for Cardroom License.
4.22.030 Issuance or Denial of Cardroom License
4.22.035 Renewal of Cardroom License
4.22.040 Appeal of City Manager Decision
4.22.045 Revocation of Cardroom License
4.22.050 Employee Permits.
4.22.055 Application for Employee Permits.
4.22.060 Issuance or Denial of Employee Permit.
4.22.065 Revocation of Employee Permits.
4.22.070 Bond.
4.22.075 Responsibility of Licensee.

4.22.080 Records and Audit.
4.22.085 Temporary Suspension.
4.22.090 Temporary Suspension – Notice of Suspension and Appeal.
4.22.095 Operating as a Cardroom Manager or Dealer or Dealer after Temporary Suspension.
4.22.100 Table Operation Fee.
4.22.105 Hours of Operation.
4.22.110 Games Permitted
4.22.115 Equipment – Separation.
4.22.120 Minors Prohibited.
4.22.125 Bets Limited – Notice.
4.22.130 Notice of Table Rent.
4.22.135 Credit Prohibited.
4.22.140 Display of Licenses and Permits.
4.22.145 Protection of Patrons.
4.22.150 Exclusion or Ejection from a Cardroom.
4.22.155 Conflicts.
4.22.160 Severability.
4.22.165 Sunset Provision.

4.22.000 Definitions.

A. Cardroom. As used in this Chapter the term "Cardroom" means any place where gaming is conducted and to which the public is invited to participate.

B. City Manager. As used in this Chapter the term "City Manager" means the City Manager or his or her designee.

C. Gaming or Gambling.

(1) As used in this Chapter the term "Gaming" or "Gambling" means any game of chance played with cards, dice, or any device for currency, money, check, credit, or other thing of value which is not prohibited and made unlawful by Penal Code Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part I of the Penal Code or by this Chapter.

(2) "Gaming" or "Gambling" for purposes of this Chapter does not mean the following:

(a) The game of bingo conducted pursuant to and as otherwise regulated by the City of Rancho Cordova Municipal Code.

(b) Any lottery game conducted and regulated by the California State Lottery.

(c) Parimutuel wagering on horse races regulated by the California Horse Racing Board.

(d) Games played with cards in private homes or residences in which no person makes money for operating the game, residences in which no person makes money for operating the game except as a player.

4.22.005 License Required.

No person shall operate or conduct a cardroom in the City unless under and by authority of a valid, unexpired and unrevoked Special Business License authorizing a Cardroom issued pursuant to this Chapter.

4.22.010 Statement of Purpose.

The regulatory provisions of this Chapter are necessary to ensure that Cardrooms are operated reasonably for the protection of public health, safety, and welfare, to provide legitimate Cardrooms where citizens of this City can safely enjoy the entertainment provided by reputable Cardrooms, and to conform to State mandated requirements set by the Gambling Control Act found in the Business and Professions Code commencing with Section 19800, et seq.

4.22.015 Qualifications – Use.

A. If the applicant for a Special Business License to operate a Cardroom is a sole proprietor, the proprietor shall have met the requirements set by the State Department of Justice pursuant to the Gambling Control Act (commencing with Business and Professions Code Section 19800, et seq.) prior to filing the application for the license. If the applicant is a partnership, corporation, or other business entity owned by more than one individual, the business entity shall have met the requirements set by the State Department of Justice pursuant to the Gambling Control Act (commencing with Business and Professions Code Section 19800. et seq.) prior to filing an application for a license.

B. The Special Business License issued pursuant to this Chapter shall be placed in use at the designated location no later than ninety (90) days following the issuance thereof and the Special Business License shall remain in use thereafter for the term of the license. Failure to place such license in use at the designated location within the ninety (90) day period provided herein or to maintain the license in use during the term of the license, shall be grounds for revocation of the license by the City Manager. For purposes of this Section "in use" shall mean that at the location designated in the license the business of a Cardroom shall be in operation and that games as provided for in this Chapter shall be conducted therein.

C. For purposes of revocation under this Section, temporary closure of the Cardroom for necessary remodeling, rebuilding, repair improvements or other necessary

and reasonable activity required to operate or improve the operation of the Cardroom when such activities are undertaken by the Licensee in a good faith effort to complete the activity within a reasonable period of time, shall not be grounds for revocation.

D. The Licensee shall cooperate with the City Manager by providing the City Manager the necessary information and documentation upon demand by the City Manager in order for the City Manager to determine whether the Licensee comes under the provisions of this Section requiring revocation of the license. Failure of the Licensee to cooperate with the City Manager pursuant to the provision of this Section shall be grounds for the revocation of the Special Business License to operate the Cardroom.

4.22.020 Number of Licenses Limited.

A. Only two (2) Special Business Licenses to operate Cardrooms shall be issued by the City of Rancho Cordova.

B. In the event there are more applications for Special Business Licenses to operate Cardrooms than the limitation in subdivision (A) of this Section allows, the qualified applicant or applicants to whom a license is issued shall be selected by the City Manager in the order the applications were filed with the City Clerk. Once all available number of licenses are issued, no applications will be accepted or considered until such time as an additional license becomes available. When the additional license becomes available, applications will then be taken and will be considered as provided herein upon the timely filing of a new application therefore. For purposes of this subdivision of this Section, the unrevoked, valid and unexpired license of a Cardroom Licensee who has filed a timely application for renewal of the license is not considered an additional license available for issuance until the license renewal application has been denied and the appeal thereof, if any, has become final.

C. Notwithstanding the provisions of Chapter 4.10, a Licensee shall operate no more than one Cardroom in the City and shall hold no more than one Special Business License issued pursuant to this Chapter to operate that Cardroom; and no more than one Cardroom shall be located within a single structure or at a single location.

4.22.025 Application for Cardroom License.

A. An application for a Special Business License for a cardroom, as required by this Chapter, shall be completed by the applicant and filed with the Office of the Finance Director. The Finance Director shall receive any fee required for the application, assure that the application is complete, and shall forward one copy of the application to the City Manager and one copy to the Chief of Police for processing, investigation, review and action.

In addition to any required fees, the applicant shall submit a deposit of ten thousand dollars ($10,000) at the time of filing an application with the Finance Director. The

deposit shall be used to pay the City's costs for processing, investigating, reviewing and acting on an application that are in excess of any fee amount received.

Notwithstanding payment of any required fees and the deposit, if the City Manager determines that the cost to the City for processing, investigating, reviewing and acting on an application has exceeded the fee and deposit amount received, the applicant shall be required to pay the City such excess costs. The City Manager may condition approval of an application upon the City's receipt of any outstanding excess costs from the applicant.

B. In addition to other information as may be required by said application form for a Special Business License, the applicant(s) shall complete and provide the following information in as great detail as is available or as the City may require:

(1) The status of the applicant as being an individual, a sole proprietorship, a partnership, a joint venture, an association, a corporation or a limited liability corporation;

(2) The name, age and business address of each person who has an interest in the proposed cardroom as described in Section 4.10.040(c)(1) through (c)(8);

(3) Name of proposed cardroom;

(4) A description of the premises to be used in relation to cardroom activity including but not limited to card playing area, restaurants and any other proposed or existing business or facility on the premises;

(5) Detailed plans of the parking facilities including lighting and a security plan. The security plan shall conform with the requirements of Section 4.22.140 and shall be a confidential document and not open to public inspection;

(6) A development concept including floor plans, site plan, schematics, design and landscaping;

(7) A statement of the applicant's experience in the operation and management of card rooms and/or other lawful gambling and/or other related activities;

(8) A statement describing whether the applicants have any financial or other interest in a business organization, whether within or outside California, which is engaged in any form of gambling or gaming;

(9) A statement that such premises will conform to all the laws of the state and the City for occupancies of the nature proposed;

(10) Evidence of compliance with any prerequisites for compliance with the California Gambling Control Act including, but not limited to valid registrations,

licenses, permits, and approvals from the California Bureau of Gambling Control or Gambling Control Commission, whichever is applicable.

C. The City Manager shall have authority to allow an applicant, upon the applicant's request, to submit the information required in subsections (B)(4), (5), and (6) at any time during the application review period if the City Manager determines that doing so is in the best interest of the City. The City Manager shall have discretion to set deadlines as necessary to receive such information.

4.22.030 Issuance or Denial of Cardroom License.

A. The investigation of the cardroom application shall be completed as soon as practicable after a complete application is received and in any event not more than 180 days after receipt of a complete application. An application shall be considered only after a full background investigation and report has been made by the Chief of Police and such members of the City staff as are designated by the City Manager.

B. The application shall be considered on the basis of the following, without being limited thereto:

(1) The effect of the granting of such license insofar as the same would affect business, employment and economics in the City;

(2) The financial stability of the applicants, including the personal history, business experience, general reputation, character and any other matters deemed by the City Manager to be necessary or important; and

(3) Any other relevant data, facts or considerations.

C. The Chief of Police shall conduct a background investigation in accordance with the provisions of Section 4.10.035 and shall issue a report to the City Manager setting forth findings and recommendations regarding approval, conditional approval or denial of the application consistent with the provisions of Sections 4.10.040 and 4.10.045.

D. Upon completion of the investigation, the City Manager may grant, conditionally grant, or deny the application. In determining whether to grant a Cardroom License, the City Manager shall be guided by the policy that licenses shall be issued only to those persons who will operate such licensed cardrooms so as to best protect the public health, safety, morals, good order and welfare of the City of Rancho Cordova. Reasons for denying an application or conditionally granting a Cardroom License may include, but shall not be limited to, the following:

(1) The Chief of Police has concluded that the applicant will not conduct the cardroom in a law abiding manner or in a manner which does not subject

patrons of the cardroom to risk of harm or criminal, deceitful or otherwise unethical practices in accordance with Section 4.10.040;

(2) Failure of the applicant to have valid registrations, licenses, permits, and/or approvals from the California Bureau of Gambling Control or Gambling Control Commission, whichever is applicable, to operate a cardroom within Rancho Cordova;

(3) The proposed cardroom will be in violation of federal, state or local law or regulation;

(4) Identification by any law enforcement agency, legislative body or crime commission as a member of, or an associate of, organized criminal elements;

(5) Knowingly making any false statement in the application or as to any other information presented as part of the application process;

(6) Prior unsuitable operation as a card or gaming licensee in another jurisdiction without regard to whether disciplinary action was taken at that time or whether the acts were sufficient to justify revocation of a license;

(7) The applicant does not have the financial capability or business experience to operate a cardroom in a manner which would adequately protect the patrons of the cardroom and the citizens of the community;

(8) The Chief of Police has determined that the security plan is inadequate;

(9) The proposed location of the cardroom is in an area not properly zoned for cardrooms;

(10) The California Bureau of Gambling Control has objected to the issuance of the Special Business License for cardroom operation;

(11) The applicant is less than twenty-one years of age.

E. If the City Manager conditionally grants an application, the City Manager shall do so in accordance with the procedures set forth in Section 4.10.045.

4.22.035 Renewal of Cardroom License

A. Not later than forty-five (45) days prior to expiration of the term of a Cardroom License, the Finance Director shall transmit to the licensee by mail an application for renewal. The application for renewal shall be in such form and include such information as is prescribed and required by the City Manager.

The application for renewal shall be filed with the Finance Director not later than the date of expiration of the term of the immediately preceding License. The Finance Director shall receive any fee required for the application, assure that the application is complete, and shall forward one copy of the application to the City Manager and one copy to the Chief of Police for processing, investigation, review and action.

The City Manager shall perform such investigation and examination of the applicant, as he or she deems appropriate, and shall receive a report from the Chief of Police regarding renewal of the License. The City Manager shall extend the term of the immediately preceding License during the period of any investigation or examination required in order to determine whether the License should be issued or conditionally issued.

B. The City Manager shall act upon the application for renewal not later than thirty (30) days after the date a valid application is filed. The renewed License shall be issued or conditionally issued unless:

(1) The City Manager finds in writing that one or more of the conditions identified in subdivisions (a), (b), (c) or (d) of Section 4.10.040 pertain;

(2) The City Manager finds in writing that the Licensee has violated any term, condition, requirement, or prohibition imposed by this Chapter, Chapter 4.02 or any other applicable law;

(3) The City Manager finds in writing that one or more conditions applicable to the preceding License have been violated; or

(4) The City Manager finds that the Licensee has failed to submit or maintain an approved security plan.

C. In addition to any other condition deemed necessary and appropriate, the City Manager may condition approval of a renewal application upon the City's receipt of payment from the applicant for any outstanding excess costs incurred by the City in processing, investigating, reviewing and acting on the renewal application.

4.22.040 Appeal of City Manager Decision

A. The applicant or holder of a Cardroom License may file an appeal from the following:

(1) The denial of an initial application for or an application for renewal of a Cardroom License;

(2) The imposition of conditions at the time of issuance of an initial or

renewed Cardroom License or during the term thereof;

(3) The termination of a Cardroom License as a result of a change in ownership, pursuant to the provisions of Section 4.10.070; or

(4) The suspension or revocation of a Cardroom License pursuant to this Chapter.

B. Any such appeal shall be in writing, shall state the specific reasons therefore and grounds asserted for relief, and shall be filed with the City Clerk not later than fifteen (15) days after the decision or notice of decision, if applicable, whichever is later. If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action which complaint is made shall be deemed to be waived.

C. Upon receipt by the City Clerk of the notice of appeal, a hearing shall be scheduled promptly before the Council but no later than sixty (60) calendar days following the date of filing of the notice of appeal. The City Council shall be authorized to deny the introduction of evidence and decide the matter after oral argument presented during the hearing, or to admit supplementary evidence with respect to challenges or particular findings, or reject the findings and conclusions and conduct a de novo hearing. The determination by the City Council granting or denying the appeal shall be final, and shall be accompanied by findings of fact and conclusions. Pursuant to granting an appeal, the City Council shall be authorized to order the issuance of a license upon such terms and conditions as in the discretion of the City Council are deemed to be necessary and appropriate.

4.22.045 Revocation of Cardroom License

The City Manager shall have authority to revoke a Cardroom License in accordance with the procedures set forth in Sections 4.10.135 and 4.10.145.

4.22.050 Employee Permits.

A. No person shall work in a Cardroom as a manager, employee or independent agent and no person who holds a Special Business License authorizing operation of a Cardroom shall employ any person as a cardroom manager, employee or independent agent unless such person possesses a valid Employee Permit.

B. Notwithstanding the provisions of Chapter 4.10, an Employee Permit as a cardroom manager, employee, or independent agent shall authorize the permittee to operate as a cardroom manager, employee or independent agent in any Cardroom possessing an unrevoked, unexpired and valid Special Business License issued pursuant to this Chapter authorizing the operation of such Cardroom within the City limits. Notwithstanding the provisions of Chapter 4.10, the Employee Permit shall not include the name and address of the Cardroom for which the Employee Permit is issued as the Employee Permit authorizes the permittee to operate within any Cardroom as

indicated above.

C. Upon demand by the Chief of Police, the Cardroom shall provide the Chief of Police with the full name and the residence address of persons operating as cardroom managers, employees or independent agents in the Cardroom.

4.22.055 Application for Employee Permits.

In addition to the matters prescribed by Chapter 4.10, an application for an Employee Permit to serve as a cardroom manager, employee or independent agent shall contain a list of each criminal conviction of the applicant, pleas of guilty, or pleas of nolo contendere. The list shall, for each such conviction or pleas, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted.

4.22.060 Issuance or Denial of Employee Permit.

A. Upon receipt of an application for an Employee Permit to serve as a cardroom manager, employee or independent agent, the Chief of Police shall conduct such investigation as he or she deems necessary.

B. The Chief of Police shall deny an Employee Permit if the Chief of Police finds that the Applicant:

(1) Is less than twenty-one (21) years of age;

(2) Was convicted of any crime punishable as a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in this state;

(3) Was convicted of any misdemeanor involving dishonesty or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Sections 1203.4, 1203.4a or 1203.45 of the Penal Code;

(4) Was associated with criminal profiteering activity or organized crime, as defined by Penal Code Section 186.2;

(5) Exhibited contumacious defiance of any legislative investigatory body, or other official investigative body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling, official corruption relating to gambling activities, or criminal profiteering activity or organized crime, as defined by Penal Code Section 186.2;

(6) Fails to provide information, documentation, and assurances required by this article or requested by the chief of police, fails to reveal any fact material to qualification, or supplies information that is untrue or misleading as to a

material fact pertaining to the qualification criteria; and/or

(7) Fails to clearly establish eligibility and qualification in accordance with this article.

C. The Chief of Police may deny an Employee Permit if the Chief of Police finds that the applicant:

(1) Was convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4, and the Chief of Police concludes that by reason of the crime or act the applicant would perform his or her duties as a cardroom manager, employee or independent agent in an unlawful manner or in a manner which subjects patrons of the Cardroom to risk of harm or criminal deceitful or otherwise unethical practices; or

(2) Violated or is in noncompliance with any of the provisions and requirements of this Chapter or other applicable law or administrative rule or regulation.

D. Notwithstanding Subsection (C)(1) of this Section an application shall not be denied solely on the basis that the applicant was convicted of a misdemeanor if the applicant has met all applicable requirements of' the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 4852.05.

E. The Department of Justice, Bureau of Gambling Control, may object to the issuance of any Employee Permit issued pursuant to this Chapter.

F. The Chief of Police shall have the authority and discretion, but shall be under no obligation, to issue a temporary employee permit for a period not to exceed 30 days pending determination as to whether a prospective employee is eligible for an employee permit

4.22.065 Revocation of Employee Permits.

A. An Employee Permit may be revoked or suspended pursuant to Chapter 4.10 upon any of the following grounds:

(1) Violation of any of the duties requirements or prohibitions set forth in any administrative regulations issued pursuant to this Chapter, Chapter 4.02 or Chapter 4.10;

(2) Misrepresentation of a material fact contained in the application for the permit;

(3) The Chief of Police has acquired information supporting a finding

prescribed by Section 4.22.060(C)(1) in relation to the holder of the permit; or

(4) The holder of the permit has violated any term condition or requirement or prohibition established by this Chapter which is applicable to the holder of the permit.

B. An Employee Permit shall be revoked pursuant to Chapter 4.10 upon a finding that the holder thereof would be disqualified from holding an Employee Permit for the reasons specified in Section 4.22.060(B)(1) or (B)(5).

C. An Employee Permit may be temporarily suspended pending expiration of the time for appeal or exhaustion of an appeal pursuant to Chapter 4.10, as applicable.

4.22.070 Bond.

Before issuing a Special Business License under the provisions of this Chapter, the City Council shall require the applicant, as a condition to the issuance of the Special Business License, to post with the city a cash bond in the sum of One Thousand Dollars ($1,000) or a surety bond in the same amount furnished by a corporate surety authorized to do business in the state payable to the City. The bond shall guarantee that the Licensee shall redeem all chips for cash, and the bond shall be kept in full force and effect by the Licensee throughout the term of the License.

4.22.075 Responsibility of Licensee.

The holder of a Special Business License issued pursuant to this Chapter and Chapter 4.10 shall be financially and otherwise responsible for the operation of the Cardroom and for the conduct of any manager or other employee connected with the operation of the Cardroom. All employees of the Cardroom shall be identified by a name tag measuring no smaller than one inch by three inches and the tag shall be worn in plain view on the upper body of the employee.

4.22.080 Records and Audit.

A. The Licensee shall keep full and accurate records of the income and expenses received and disbursed in connection with the operation, conduct, promotion, suspension, and any other phase of the Cardroom enterprise and card games which are authorized by this Chapter. The records shall be of such types and maintained in such manner as prescribed by the City Manager. Upon demand, the City Manager or any other authorized representative of the City shall have the right to examine and audit such records at any reasonable time and the license holder shall fully cooperate by making such records available.

B. The records described in subdivision (A) of this Section shall be subject to disclosure only pursuant to any suspension, revocation, or other proceedings conducted under this Chapter, Chapter 4.02 or Chapter 4.10; any civil or criminal investigation

conducted by the Chief of Police, the District Attorney, the Grand Jury or the City Attorney. For all other purposes, the records shall be kept confidential by the City Manager, as custodian of those records.

4.22.085 Temporary Suspension.

A. The City Manager shall have the authority to temporarily suspend a Cardroom License and to order the Licensee to immediately cease and desist any further operation of the Cardroom pending expiration of the time for appeal or exhaustion of an appeal pursuant to Chapter 4.22.040 if the City Manager finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the License and one of the following occurs:

(1) The Licensee is operating the Cardroom in a manner which is a serious and immediate threat to the health or safety of the public;

(2) The Licensee is in violation of any of the provisions of this Chapter, Chapters 4.02, 4.06, and/or 4.10, administrative regulations adopted pursuant to those Chapters, the Penal Code of the State of California, or any applicable law, rule or regulation: or

(3) The City Manager makes a finding pursuant to Section 4.10.040(c) that by reason of the crime or act the patrons of the Cardroom and the public are subject to the immediate risk of harm or criminal, deceitful or otherwise unethical practices.

4.22.090 Temporary Suspension – Notice of Suspension and Appeal.

A. The temporary suspension shall be effective twenty-four (24) hours following delivery of a temporary suspension notice to the licensee as provided in Section 4.10.145. If the licensee is unavailable or unable to be served, notice may be delivered to the person in charge of the Cardroom and mailed to the licensee at the Cardroom premises, and shall take effect twenty (24) hours after the notice is delivered and placed in the mail.

B. The appeal by the holder of the Cardroom License of the suspension of its license pursuant to Section 4.10.135, whose license has been temporarily suspended, shall be as provided in Section 4.22.040.

4.22.095 Operating as a Cardroom Manager or Dealer or Dealer after Temporary Suspension.

It shall be unlawful for the holder of a Cardroom License to operate a Cardroom after temporary suspension of the Cardroom License, and it shall be unlawful for the holder of a Cardroom Employee Permit to operate as a Cardroom manager or dealer in a

Cardroom after temporary suspension of the permit and such violation shall be punishable as a misdemeanor.

4.22.100 Table Operation Fee.

A. In addition to any application or renewal license fees imposed by the City pursuant to Chapters 4.06 or 4.10 upon the business of a Cardroom, such Cardroom shall be charged a quarterly table operation fee for each card table operated by the Licensee or to be operated by the applicant. The amount of this quarterly fee shall be as prescribed by the City Manager and shall be based upon the cost to the City of enforcement and administration of this Chapter, as provided in Section 4.02.060.

Exempted from this quarterly fee are additional tables used for promotional or tournament play; provided, however, that the total number of regular tables plus promotional or tournament tables in use shall not exceed the maximum number of allowable tables as provided for by this Chapter or the Licensee's Special Business License, whichever is less. Such promotional or tournament play and the use of such additional tables for such promotions and tournaments shall not exceed four days in any calendar month. The City Manager and the Chief of Police shall be notified seven days in advance of the promotional or tournament events and shall be notified of the duration and dates of such events.

B. The quarterly table operation fee shall be paid quarterly by the applicant or Licensee to the Director of Finance. The first quarterly fee shall be due at the filing of the initial application for a Special Business License to conduct a Cardroom. Thereafter, the quarterly due dates for payment of the quarterly table operation fee shall be on January 10 for the quarter ending December 31, April 10 for the quarter ending March 31, July 10 for the quarter ending June 30, and October 10 for the quarter ending September 30; except that if any of these days falls on a Sunday or a City holiday, the quarterly due date for payment shall be the day after such Sunday or City holiday. The quarterly table operation fee shall be delinquent if not received or postmarked on or before the quarterly due date for payment as such quarterly due date is defined above.

Prior to the beginning of each quarter the Licensee shall notify the City Manager as to the number of tables to be operated for that new quarter and shall pay to the Director of Finance the table operation fee accordingly. In the event that the Licensee reduces the number of tables in operation during a quarter the City shall not rebate any of the previously paid table operation fees for that quarter.

In the event that the Licensee desires to increase the number of tables in operation during a quarter, the Licensee shall pay to the Director of Finance the appropriate table operation fee for that entire quarter regardless of when the additional tables(s) are added.

C. On the denial by the City Manager of an application or a renewal of a

Special Business License to conduct a Cardroom the quarterly table operation fee paid by the applicant or Licensee at the time of filing the initial application or the renewal shall be rebated to the applicant or Licensee by the Director of Finance until the appeal period on the denial has elapsed or, if an appeal is filed, until a final decision upholding the denial has been made and the appeal has become final in the administrative or judicial process, whichever is applicable.

If the applicant's or Licensee's appeal of the denial is granted, the applicant or Licensee shall owe and pay the appropriate table operation fee to the Director of Finance prior to the issuance of the Special Business License.

4.22.105 Hours of Operation.

A. Except as otherwise provided hereinafter in subdivision (B) of this Section, the Licensee may operate a Cardroom twenty-four (24) hours a day and seven (7) days a week.

B. Applicants for a Cardroom license to operate a Cardroom after the effective date of this ordinance may be required to secure a use permit as approved by the appropriate authority in accordance with the requirements of the Zoning Code of the City. Operation of the Cardroom shall thereafter be in accordance with the hours set by the use permit.

4.22.110 Games Permitted.

A. Cardrooms licensed to conduct gaming in the City of Rancho Cordova shall be permitted to conduct all lawful card games allowed under applicable state law and/or state regulations.

B. Written rules for each card game offered by a Cardroom shall be provided to any patron upon request. The Licensee shall file with the Chief of Police a written copy of the rules to each card game played in the Cardroom within thirty (30) days of the effective date of this ordinance. The Chief of Police is authorized to require modifications to the rules of such games to ensure compliance with the law.

C. The Licensee shall neither conduct games which are not on file with the Chief of Police nor change the rules of existing games that are on file with the Chief of Police. Should the Licensee desire to either conduct new games or change the rules to existing games, Licensee shall file with the Chief of Police a written copy of the rules for the proposed new games and/or the proposed new rules of an existing game within ninety (90) days. The Chief of Police shall review proposed new card games and/or proposed new rules of an existing game within ninety (90) days. The Chief of Police shall approve the proposed new card and/or proposed new rules to an existing game provided such new game or rules conform to state law.

D. If the game is patented, the Licensee shall obtain written permission from

the patent-owner prior to offering the game to patrons and prior to acquiring the approval of the Chief of Police to conduct the game.

E. Except as provided in subdivision (A) of this Section, all other gaming (including, but not limited to gaming played with dice or any device for money) not otherwise prohibited by California law is prohibited. Nothing contained in this Chapter shall be construed to permit the licensing of any gambling declared illegal in the State of California.

4.22.115 Equipment – Separation.

A. No cardroom shall maintain or operate more than nine card tables at any one time. Tables used during tournaments or free special events shall count toward this maximum table limit. Chairs shall be provided for all card players. No more than twelve players shall be permitted to play at any time at any one table. Authorized games shall not utilize dominoes, tiles, dice, spinning wheels, electronic player-controlled machines or any other device other than the standard decks of playing cards traditionally used for playing such games, poker chips, and the optional dealer shoes, except, to the extent such equipment is allowed by applicable state law and/or state regulations, such equipment shall also be allowed in the City.

B. Each licensed Cardroom shall be maintained separate and apart from any other room or business operated in the building, but may be connected by a door.

4.22.120 Minors Prohibited.

No person under the age of twenty-one (21) years shall be permitted to frequent a Cardroom or to engage in any card game conducted therein.

4.22.125 Bets Limited – Notice.

There are no mandatory limits on the amount wagered in any permitted game. No player shall be able to bet with cash money, markers or anything other than poker chips. The wagering limits for each table shall be clearly displayed at that table so that those who are playing at that table may be aware of the wagering limit. Notice of all the provisions and restrictions provided in this section shall be posted in a conspicuous place in the Cardroom.

4.22.130 Notice of Table Rent.

The Licensee shall post in a conspicuous place in the Cardroom notice of the amount of table rent to be charged for each table and notice of the total number of tables permitted to be in operation during the particular quarter.

4.22.135 Credit Prohibited.

No Cardroom shall extend credit to any patron in order for the patron to participate in a card game.

4.22.140 Display of Licenses and Permits.

A copy of the Special Business License applicable to the Cardroom premises and the Employee Permit of any person employed as a manager or dealer shall be posted and. exhibited while in force in some conspicuous place on the Cardroom premises.

4.22.145 Protection of Patrons.

A. The Licensee shall be responsible for maintaining security on both the premises of the Cardroom and the parking lot used by the Cardroom for its patrons and employees. Each Licensee shall maintain and implement a plan for security and safety of patrons and employees of the Licensee in and around the gaming establishment. The plan shall set forth provisions necessary to ensure the safety and security of patrons and employees, including measures taken or instituted on the cardroom site to avoid follow home robbers. Upon renewing a Special Business License as set forth in Municipal Code Section 4.22.035, the Licensee shall submit with the renewal application the security plan for reapproval and shall include a statement of any proposed changes to the security plan and a detailed summary of all known incidents involving or affecting patron or employee security and safety in and around the establishment for the preceding year. Failure to submit or maintain an approved security plan shall be grounds for the denial or revocation of a Cardroom License.

B. The contents of a security plan shall also provide a complete description and layout of all security measures, both physical and operational, for the handling of money, including but not limited to provisions, if applicable, for the following:

1) Purchase of chips and protection against counterfeit chips;

(2) Check-cashing or ATM card-cashing procedure;

(3) Procedures for bringing money to or removing money from the premises; and/or

(4) Procedures for determining and depositing daily gross receipts.

All information provided regarding security measures, internal controls, or provisions relating to the handling of cash, chips, and cards shall be deemed confidential and shall not be available for public inspection unless required by law.

C. If, at any time, the Chief of Police determines that security measures beyond those contained in an approved security plan are necessary to protect the health and safety of the public, the Chief of Police is authorized to require such additional security measures as are deemed necessary. Such additional security measures may

include, but shall not be limited to, placement of or an increase in uniformed security personnel on both the premises and the parking lot used by the Cardroom for its patrons and employees, and the installation of security cameras. Such determinations by the Chief of Police shall be based on the:

(1) Propensity for peace disturbances or criminal activity in the geographic area in which the Cardroom is located;

(2) Criminal activity or peace disturbances on Cardroom premises or the parking lot used by the Cardroom for its patrons and employees;

(3) Particular time of day; and/or

(4) Any other factors which affect the health and safety of the public and Cardroom patrons

The Chief of Police shall notify the Licensee in writing of the necessary security plan changes and shall provide the Licensee with a reasonable period of time to implement the changes. Upon receiving the written notice of security plan changes, the Licensee shall conform to those requirements within the time provided and shall maintain those requirements in full force and effect until such time as the Chief of Police deems they are no longer necessary.

D. Between the hours of 2:00 a.m. and 6:00 a.m., the Licensee shall not knowingly permit the consumption of alcoholic beverages on the premises or in the parking lot which the Cardroom uses for its patrons.

E. The Licensee shall not knowingly permit any obviously intoxicated person to participate in any card game.

F. The Licensee shall not knowingly permit any illegal activity to occur on the premises or in the parking lot used by the Cardroom for its patrons or employees. Illegal activity includes, but is not limited to, narcotics violations, book marking, illegal gambling loan sharking, receiving stolen property, or prostitution.

G. The Licensee shall permit the Chief of Police, Health Department, Fire Department or any other authorized public official to inspect the premises at any time during the hours of operation.

4.22.150 Exclusion or Ejection from a Cardroom.

Pursuant to and for the reasons set forth in Business and Professions Code Section 19845, the Licensee may exclude or eject individuals from the Licensee's Cardroom. Any individual who is excluded or ejected from any Cardroom and who refuses to leave the premises is subject to arrest for trespassing.

4.22.155 Conflicts.

A. If any section, subdivision, clause, phrase or portion of this Chapter conflicts with any section, subdivision, clause, phrase or portion of an express provision of the city's zoning ordinance or conditions of a use permit of the zoning ordinance or other administrative approvals issued under the zoning ordinance, the city's zoning ordinance, conditions of the use permit under the zoning ordinance, or the administrative approvals issued under the zoning ordinance shall prevail.

B. If any section, subdivision, clause, phrase or portion of this Chapter conflicts with any section, subdivision, clause, phrase or portion of the Gambling Control Act (Business and Professions Code commencing with Section 19800, et seq.) as required by the State of California, then the Gambling Control Act shall prevail.

4.22.160 Severability.

If any section, subdivision, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

4.22.165 Sunset Provision.

Sections 4.22.005, 4.22.105, 4.22.110, 4.22.115, 4.22.125, and 4.22.145 shall remain in effect only until December 31, 2011. As of that date, these sections are repealed unless a later enacted ordinance, that is enacted on or before December 31, 2011, deletes or extends that date. Upon repeal of such sections pursuant to this section, all Cardrooms within the City of Rancho Cordova shall be prohibited."

SECTION 2: 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 3: 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.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova this 21st day of April 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

_____
Linda Budge, Mayor

ATTEST:

_____
Stacy Leitner, Interim City Clerk

MEMORANDUM

DATE: April 21, 2008

TO: Honorable Mayor and Council Members

FROM: Paul Junker, Planning Director

SUBJECT: **PRESENTATION ON THE FOLSOM BOULEVARD SPECIFIC PLAN**

RECOMMENDATION

Receive the updated Draft Folsom Boulevard Specific Plan and briefly discuss the process for reviewing and taking action on adoption of the Specific Plan

RESULT OF RECOMMENDED ACTION

This presentation will identify key features and benefits of the Specific Plan and will identify recent updates to the Specific Plan. This presentation will enable the City Council to prepare for formal hearings on the adoption of the Folsom Boulevard Specific Plan.

BACKGROUND

Staff will provide copies of the latest draft Folsom Boulevard Specific Plan at the Council meeting. Following a brief presentation, staff will respond to questions and will accept direction on how staff can best assist the Council with the formal review of the Specific Plan. Staff will also propose dates for public hearings and formal review of the Draft Folsom Boulevard Specific Plan.

AGENDA ITEM 12.3

2007

NOTE: PROPOSED REGULAR CITY COUNCIL MEETING DATES ARE SCHEDULED ON THE 1ST AND 3RD MONDAY'S OF EACH MONTH, UNLESS WHEN FALLING ON A HOLIDAY, THE MEETING WILL BE SCHEDULED ON THE FOLLOWING TUESDAY (THESE DATES ARE SHADED GREY AND ARE SUBJECT TO CHANGE). REFER TO HOLIDAY SCHEDULES BELOW.

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2007 HOLIDAY SCHEDULE – CITY HALL CLOSED (SHOWN ITALICIZED)

NEW YEAR'S DAY (MON, JAN 1)
MARTIN LUTHER KING JR. DAY (MON, JAN 15)
PRESIDENT'S DAY (MON, FEB 19)
MEMORIAL DAY (MON, MAY 28)
INDEPENDENCE DAY (WED, JUL 4)
LABOR DAY (MON, SEP 3)
VETERAN'S DAY (MON, NOV 12)
THANKSGIVING DAY (THUR, NOV 22)
DAY AFTER THANKSGIVING (FRI, NOV 23)
CHRISTMAS EVE (MON, DEC 24)
CHRISTMAS DAY (TUE, DEC 25)

2008

JANUARY

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2008 HOLIDAY SCHEDULE – CITY HALL CLOSED (SHOWN ITALICIZED)

NEW YEAR'S DAY (TUES, JAN 1)
MARTIN LUTHER KING JR. DAY (MON, JAN 21)
PRESIDENT'S DAY (MON, FEB 18)
MEMORIAL DAY (MON, MAY 26)
INDEPENDENCE DAY (FRI, JUL 4)
LABOR DAY (MON, SEP 1)
VETERAN'S DAY (TUES, NOV 11)
THANKSGIVING DAY (THUR, NOV 27)
DAY AFTER THANKSGIVING (FRI, NOV 28)
CHRISTMAS EVE (WED, DEC 24)
CHRISTMAS DAY (THURS, DEC 25)

2009

JANUARY

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MARCH

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OCTOBER

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NOVEMBER

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DECEMBER

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2009 PROPOSED HOLIDAY SCHEDULE – CITY HALL CLOSED (SHOWN ITALICIZED)

NEW YEAR'S DAY (THURS, JAN 1)
MARTIN LUTHER KING JR. DAY (MON, JAN 19)
PRESIDENT'S DAY (MON, FEB 16)
MEMORIAL DAY (MON, MAY 25)
INDEPENDENCE DAY (FRI, JUL 3 [OBSERVED?])
LABOR DAY (MON, SEP 7)
VETERAN'S DAY (WED, NOV 11)
THANKSGIVING DAY (THUR, NOV 26)
DAY AFTER THANKSGIVING (FRI, NOV 27)
CHRISTMAS EVE (THURS, DEC 24)
CHRISTMAS DAY (FRI, DEC 25)

Supplemental Report
Agenda Item 11.3

James P. Pachl
Attorney at Law
717 K Street, Suite 529
Sacramento, California, 95814
Tel: (916) 446-3978
Fax: (916) 244-0507 jpachl@sbcglobal.net

April 21, 2008

Mayor Linda Budge and Councilmembers
City of Rancho Cordova
2729 Prospect Park Boulevard
Rancho Cordova, CA 95670

Comments of Friends of the Swainson's Hawk regarding proposed Amendments to Natural Resources Element of General Plan, Swainson's Hawk Mitigation Measure 4.10.1g, and CEQA Addendum.

Dear Mayor Budge and Councilmembers

These comments are on behalf of my client Friends of the Swainson's Hawk ("FOSH"). Like others who are appearing at Council tonight, we only very recently learned of the proposed amendments. There has been a serious failure of notice to citizen organizations, other agencies, and members of the public whom City staff know have an interest in the protection of the biological resources of the Rancho Cordova area.

We urge the Council to reject the proposed General Plan ("GP") Amendment and Addendum. As to the proposed amendment to Swainson's Hawk Mitigation Measure 4.10.1g proposed in the CEQA Addendum, page 3.0-16, we ask council to adopt the proposed language "such that mitigation lands shall be provided no later than prior to ground disturbance," and reject the rest of the proposed Amendment to MM 4.10.1g.

Friends of the Swainson's Hawk previously offered to work cooperatively with City staff and the California Department of Fish and Game in the development of an ordinance for mitigation of the impacts of new development on Swainson's Hawk. Staff assured FOSH that it would involve FOSH in the discussion, but obviously did not. Friends of the Swainson's Hawk urges the Council to direct City staff to collaborate and work with DFG, FOSH, biologists expert on SWH, and other interested parties to develop a suitable ordinance for mitigating for impacts of development on SWH.

We also incorporate herein by reference the letter and oral comments of Keith Wagner, attorney, on behalf of Habitat 2020 (of which Friends of Swainson's Hawk is a member) CNPS and ECOS, the comments of today's *Sacramento Bee* editorial titled "*Is this*

green building? Rancho Cordova's recent progress in peril," and all other comments submitted as to the proposed Amendments and CEQA Addendum.

We are amazed that City staff is advising Council that a CEQA Addendum constitutes compliance with CEQA for Amendments proposed here. The Amendments to the General Plan, and to the adopted Mitigation Measure for Swainson's Hawk, MM 4.10.1g, substantially reduce protections and mitigation measures for impacts to natural resources affected by new development, therefore causing the impacts of new development to be significantly more severe than would be the case if the GP policies and Swainson's Hawk Mitigation Measure were left unchanged. CEQA requires that the effect of the proposed amendments be analyzed and disclosed in detail to the decision-makers and to the public prior to Council consideration and action. CEQA procedural compliance would be accomplished by preparation and circulation of a Subsequent or Supplemental EIR for public review and comment prior to action by the Council.

A Subsequent or Supplemental EIR would not delay new development. Due to the crash of the housing market, foreclosure crisis, and the restricted availability of credit financing for new development in this region, there will be very little new development in Rancho Cordova during the next two years which is not already permitted.

The Council should also consider that the City's taxpayers will pay the cost of defending any litigation that may be brought challenging the Council's actions if the Council adopts the proposed Amendments and Addendum. Cost of defense of previous land use litigation was paid by the developers, but as far as I know, no developer is obligated to defend the City if it adopts the proposed Amendments and Addendum and litigation is filed challenging that approval. Preparation and circulation of a Supplemental or Subsequent EIR would be less costly in both time and money, and would certainly lead to a better result.

The Proposed amendment to MM4.10.1g, mitigation for impacts to Swainson's Hawks ("SWH"), fails to mitigate for impacts to Swainson's Hawks to the extent feasible. The Council should adopt the following proposed language in MM4.10.1g *"such that mitigation lands be provided no later than prior to ground disturbance"* and reject the rest of the amendment. Council should direct Staff to work with DFG and other interested parties to develop a suitable Swainson's Hawk mitigation ordinance.

The City retained Jim Estep, biologist, to perform a study of Swainson's Hawk activities within the City of Rancho Cordova and its General Plan Study area. That study has been completed and reportedly shows a number of SWH nests within the City's Study Area. However, the City has not released that Swainson's Hawk study to the public, and it is not mentioned or referenced in the Staff Report or Addendum. For that reason alone, the Council should postpone consideration of this matter and order staff to

release the SWH study to the public for review and consideration prior to the next hearing on the proposed Amendments.

We commend City Planning Staff for the proposed requirement of amended MM 4.10.1g that "mitigation lands shall be provided no later than ground disturbance." However, much more is required to assure an adequate mitigation program.

In all other respects, proposed revised MM 4.10.1g violates CEQA's requirement that impacts be mitigated to the extent feasible. Instead, MM4.10.1 limits any future SWH mitigation ordinance to a vague formula for determining and compensating for the "habitat value lost". Such a vague formula should not be enshrined by a Mitigation Measure, especially where the Addendum provides no rationale for it. Moreover, as written the revised MM would preclude City's consideration of any proposed SWH mitigation ordinance that would also consider and mitigate for cumulative effects upon SWH of Rancho's development considered in combination with the effects of the very substantial ongoing loss of SWH habitat elsewhere in the region; consider the biological need for mitigation land to be as close a possible to the habitat lost due to Rancho's development; take into consideration the fact that Rancho's development would further reduce the already limited amount of suitable SWH nesting and foraging habitat remaining in south and east Sacramento County (which has been greatly reduced by development and vineyard conversion); consider the fact that areas of existing SWH habitat elsewhere may already be "at capacity" for raptors (hawks and other raptors are highly territorial and will drive away intruding hawks); and other relevant factors.

There is nothing in the Addendum or documents referenced in the Addendum that shows the biological rationale for the "habitat value lost" formula or why these other factors were excluded from consideration. CEQA environmental review by a Subsequent or Supplemental EIR and a public process are required for the proposed amendment to MM 4.10.1g.

Thank you for the opportunity to comment.

Respectfully submitted,

James P. Pachl

Supplemental Report
Agenda Item 11.3

CHARITY KENYON
BILL YEATES

kenyon | yeates LLP

KEITH WAGNER
JASON FLANDERS

3400 COTTAGE WAY, SUITE K, SACRAMENTO, CALIFORNIA 95825
916.609.5000 FAX 916.609.5001
WWW.KENYONYEATES.COM

April 21, 2008

Via Hand Delivery

Hon. Linda Budge and City Councilmembers
City of Rancho Cordova
3121 Gold Canal Dr.
Rancho Cordova, CA 95670

Re: **OPPOSE**: Proposed Amendments to General Plan Natural Resources Element (Rancho Cordova City Council Meeting Agenda Item 11.3 (April 21, 2008)).

Dear Mayor Budge and Members of the Rancho Cordova City Council:

This letter comes on behalf of Habitat 2020 and its members including the California Native Plant Society ("CNPS"), and the Environmental Council of Sacramento ("ECOS"), in objection to the above-identified, proposed General Plan amendments, and the significant impacts that they threaten to natural resources throughout the City.

INTRODUCTION

Habitat 2020 is a coalition of conservation organizations whose membership includes, but is not limited to, CNPS, ECOS, Sacramento Audubon Society, Sierra Club Mother Lode Chapter, Friends of the Swainson's Hawk, Save the American River Association, and the Sacramento Urban Creeks Council. Habitat 2020 was formed in 1997, and its mission is to protect and preserve the lands and waters where Sacramento County's wildlife and native plants live, including existing habitats and agricultural lands within and around the City of Rancho Cordova. Habitat 2020 also serves as the ECOS' habitat committee.

ECOS is a coalition of environmental and civic organizations with a combined membership of more than 12,000 citizens throughout the Sacramento region. ECOS supports coordinated land use and transportation planning that discourages urban sprawl and that encourages preservation and enhancement of Sacramento County's remaining habitats and open spaces.

Habitat 2020 and ECOS and their members (including most significantly for purposes of this letter CNPS) oppose the proposed general plan amendments because 1) the amendments are not supported by substantial evidence, and violate CEQA's procedural and substantive requirements; 2) the City's assertion that it must change these policies as a result of Judge Marlette's decision in *CNPS v. City of Rancho Cordova* is inconsistent with the City's in-court position that the Preserve Project is consistent with the City's existing natural resources policies; and 3) the proposed amendments would allow the City to approve future projects that the City knows *do not* and *cannot* meet state and federal permitting requirements, further exacerbating the setbacks that the City has encountered in the courts and with administrative agencies regarding projects such as the Sunrise Douglas Community Plan and the Preserve at Sunridge project.

DISCUSSION

I. THE CITY'S PROPOSED GENERAL PLAN AMENDMENTS CANNOT BE APPROVED BASED ON A CEQA ADDENDUM.

The staff memorandum proposes the adoption of the proposed General Plan amendments based on a CEQA "addendum."[1] A CEQA addendum, however, is procedurally appropriate under CEQA only if 1) the action being proposed is a part of a project for which an EIR has previously been certified, and 2) there is no substantial evidence in the agency's record of proceedings that the action being proposed will result in new or more significant impacts on the environments.[2] In this case, the proposed revisions to the City's General Plan Natural Resources Element should not be approved based on a CEQA addendum for the separate and independent reasons that: 1) the proposed changes constitute a new CEQA project; and 2) substantial evidence indicates that the proposed changes, if adopted, would result in significant, adverse impacts to natural resources that would not otherwise occur if the current policies were retained.

A. THE PROPOSED AMENDMENTS CONSTITUTE A NEW CEQA PROJECT.

First, the use of a CEQA addendum to support the adoption of the proposed general plan amendments violates CEQA's procedures, because the City's proposal does not meet the circumstances under which "subsequent" or "supplemental" environmental review are authorized. In *Save Our Neighborhood v. Lishman*, the Court of Appeal explained CEQA's general rule that:

> The purpose behind the requirement of a subsequent or supplemental EIR or negative declaration is to explore environmental impacts not considered in the original environmental document. ([citation omitted]).) " '[Section] 21166 comes into play precisely because in-depth review has already occurred, the time for challenging the sufficiency of the original EIR has long since expired (§ 21167, subd. (c)), and the question is whether circumstances have changed enough to justify repeating a substantial portion of the process.' " [citation omitted.] The event of a change in a project is not an occasion to revisit environmental concerns laid to rest in the original analysis. Only changed circumstances, and any additional environmental impacts they cause, are at issue.[3]

In *Lishman*, the Court went on to explain, however, that a CEQA addendum may not be used to support the approval of a "project" where the totality of the circumstances indicate that the proposals or activities in question are not really a change to a prior project, but rather a new project altogether:

> a threshold question is whether we are dealing with a change to a particular project *or a new project altogether*. Public Resources Code section 21166 and Guidelines section 15162 apply to the former but not the latter. Despite the City's

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[1] Pub. Resources Code, § 21166; CEQA Guidelines, § 15164.
[2] CEQA Guidelines, § 15164.
[3] *Save Our Neighborhood v. Lishman* (2006) 140 Cal.App.4th 1288, 1296.

> self-serving statements in the Addendum that the Gateway Project is a modification of the North Point Project, the totality of the circumstances proves otherwise. The Gateway Project is no more a modified version of the North Point Project than the North Point Project was a modified version of any of the several projects that preceded it for the property. Public Resources Code section 21166 and Guidelines section 15162 are therefore not applicable to this case, and the City violated CEQA in relying on an addendum rather than independent environmental review.[4]

Similar considerations require the City to prepare "independent environmental review" for its proposed General Plan amendments. The totality of the circumstances that are present in this case are as follows:

- The City's current General Plan does not currently contain the proposed changes, and the City's General Plan EIR did not disclose, analyze or mitigate the impacts of adopting these newly proposed policies. The Final EIR for the City's General Plan concluded that the adoption of the very language that is now proposed to be removed from the City's General Plan would help to mitigate impacts to sensitive resources that might otherwise result from implementation of the General Plan without such policies.[5]

- The current General Plan policies requiring cooperation and coordination with state and federal agencies with jurisdiction over sensitive natural resources provides strong protections for creeks, vernal pools and other significant and irreplaceable habitats within the City. The proposed changes would significantly and substantively weaken the existing General Plan's natural resources policies by only requiring compliance with state and federal laws and requirements where "feasible."

- The proposed changes would violate the requirements of the mandatory CEQA Mitigation Monitoring and Reporting Plan that the City adopted in approving its General Plan, to the extent that the natural resources protection policies at issue have been expressly incorporated into that Plan.

The City's decision to prepare an addendum, rather than independent environmental review, constitutes a significant violation of CEQA's procedures and public disclosure and informed decisionmaking purposes. By preparing an addendum for the proposed amendments, the City has unlawfully truncated CEQA's public notice, disclosure and review requirements for this new

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[4] *Lishman* , *supra*, 140 Cal.App.4th at p. 1301.

[5] City of Rancho Cordova, Natural Resources General Plan Amendment, Addendum to the Final EIR, at p. 3.0-15 (stating, "[i]n addition to implementation of the draft General Plan policies, *the FEIR identifies a series of mitigation measures to lessen the level of impacts* that could occur through execution of the GP . . . ," and then going on to incorporate into the General Plan the language that the City now proposes to remove.).

project.[6] In order to ensure that CEQA's pubic disclosure and informed decisionmaking mandates are properly followed, The City should decline to take any action on the proposed general plan amendments until independent environmental review has been prepared, circulated for public review, and approved or certified, as required by CEQA's mandatory procedures.[7]

In support of the above assertions that the "totality of the circumstances" indicates that the proposed General Plan amendments are a new project for which the City must conduct independent environmental review, Habitat 2020 and ECOS further direct the City's attention to 1) its certified record of proceedings;[8] 2) CNPS' opening brief;[9] and, 3) the trial court's ruling in *CNPS v. City of Rancho Cordova*.[10] During the City's several-year review and consideration of the Preserve project and its adverse environmental impacts, CNPS and every state and federal agency with jurisdiction over wetland and related biological resources affected by the project notified the City, repeatedly, 1) that approval of the project would substantially impair the protection and recovery of special status species across the Sunrise Douglas Community Plan area, and 2) that the Project, as proposed, could not be permitted under applicable wetland protection, species protection, and other environmental protection laws. By design, if the Preserve project were to be re-considered under the proposed General Plan amendments, then the City, under its new Planning and Zoning Law authorities, would be able to lawfully approve the Preserve project, *despite* the acknowledged fact that impacts will be so severe as to violate state and federal resource law and permitting requirements. The totality of the circumstances indicate that the proposed amendments are a new CEQA project whose most basic (and legally misguided) purpose is absolving the City and its developers of their obligations to comply with CEQA, the National Environmental Policy Act ("NEPA"), the State and Federal Endangered Species Acts, the Clean Water Act, or other resource preservation and protection laws.

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[6] Pub. Resources Code, §§ 21002, 21080, 21091. On this point, the transcript of the Planning Commission's March 13, 2008 meeting demonstrates that the Planning Commission wanted to know whether any comment by "interested parties" had been received, to which the Planning Director responded that no comments had been received. In fact, Ms. Carol Witham with CNPS only informed this office of the proposed General Plan amendments near the end of March 2008, and that she had only recently learned of the proposal through a chance call from a local reporter asking CNPS' opinion on the matter *after* the Planning Commission had already made its March 13, 2008 recommendation. Such circumstances would have likely been avoided, and the Planning Commission would have heard loud objections from CNPS and other members of Habitat 2020 and ECOS, if a proper CEQA public review and comment period had been established to allow the public and interested agencies to consider and respond to the proposed amendments' significant adverse effects on natural resources throughout the City's entire planning area.

[7] *Lishman, supra*, 140 Cal.App.4th at p. 1301

[8] The City's record of proceedings for the Preserve project is on file with the City. In support of this letter, Habitat 2020 and ECOS have attached an electronic copy of the City's record of proceedings on 3 CD-ROMs in PDF (Adobe Acrobat) format to this letter at Exhibit 1.

[9] A copy of CNPS' Opening Brief in *CNPS v. City of Rancho Cordova* is attached at Exhibit 2.

[10] A copy of Judge Marlette's opinion in *CNPS v. City of Rancho Cordova* is attached at Exhibit 3.

As the City is aware from the pleadings, papers and orders on file in several ongoing and contentions lawsuits including 1) its ongoing defense in the *CNPS* case, in which the City has appealed an adverse decision and writ of mandate that was issued by the Sacramento County Superior Court, and 2) its failing track record in two other ongoing cases, including a preliminary injunction issued by the federal district courts, and an adverse California Supreme Court decision, substantial evidence documents that a significant portions of the City's eastern planning area (the Sunrise Douglas Community Plan area) and the surrounding environs contain a suite of listed and special status plant and animal species and unique habitats whose continued existence and biological viability are inextricably linked to proper planning by the City that considers and incorporates the requirements of state and federal resource protection laws and regulations.

B. THE USE OF AN ADDENDUM IS INAPPROPRIATE, BECAUSE SUBSTANTIAL EVIDENCE, IN THE FORM OF THE PRESERVE AT SUNRIDGE PROJECT RECORD AND LITIGATION, INDICATES THE PROPOSED GENERAL PLAN AMENDMENTS WILL HAVE SIGNIFICANT, ADVERSE IMPACTS ON NATURAL RESOURCES.

Second, even if the City could properly conclude that this is the "same" CEQA project (which it is not), and, therefore, that CEQA's provisions at Public Resources Code section 21166 regarding "subsequent" or "supplemental" environmental review were to apply to the proposed amendments, the City still cannot approve the project based on a CEQA addendum because the evidence in the City's record (which now includes the City's record of proceedings for the Preserve project, and CNPS opening brief and Judge Marlette's opinion in *CNPS v. City of Rancho Cordova*) is sufficient to trigger CEQA's requirement that a "subsequent" or "supplemental" EIR must be prepared.

In *CNPS v. City of Rancho Cordova*, Judge Marlette examined the City of Rancho Cordova's record of proceedings for the Preserve at Sunridge project, and concluded that the City's CEQA findings that the Preserve project would not have significant adverse impacts on the environment were not supported the evidence in the City's certified record of proceedings. Judge Marlette further held that the Preserve project could not be approved under the Planning and Zoning Law in any event, because no rational person could have concluded that the Preserve project is consistent with the City's current General Plan natural resources policies.

The proposed amendments, if adopted, would significantly lower the threshold for the Preserve project's consistency with the City's General Plan, by allowing the City to lawfully approve and implement the Preserve project based on a CEQA statement of overriding considerations justified by self-serving assertions that meeting the minimal biological standards mandated by state and federal laws and regulations is not "feasible" for economic or other reasons. Indeed the primary impetus cited by the City's planning director for the proposed changes is his opinion that the City's approval of the Preserve project (and its related, significant adverse impacts) would have been left undisturbed by the trial court with the proposed amendments in place. Again, the record before the City and the courts regarding the Preserve at Sunridge project, itself, constitutes substantial evidence that adopting the proposed general plan amendments will result in significant, adverse environmental effects that would not otherwise be permissible under the existing General Plan's requirements.

C. THE CITY'S ADDENDUM FAILS TO PROPERLY ANALYZE OR DISCLOSE THE PROPOSED GENERAL PLAN AMENDMENTS' IMPACTS WITH REGARD TO KNOWN AND FORESEEABLE FUTURE DEVELOPMENT PROJECTS.

In addition, the City's Addendum also acknowledges that there are at least two new significant development projects that have been proposed since the adoption of the current General Plan policies.[11] As with the Preserve at Sunridge project, these projects would also be prohibited under the current General Plan policies, absent mitigation proposals and plans that meet the permitting requirements of state and federal agency with jurisdiction over vernal pools, wetlands, creeks and other sensitive natural resources that may be adversely affected by those projects. However, if the General Plan is amended as proposed, then (as with the Preserve Project), these development projects could also be approved by the City, despite their inconsistency with the expectations of these regulatory agencies and their permitting requirements.

The City's addendum contains a repeated, boilerplate assertion that the applications for these new projects do not constitute "changed circumstances" requiring further environmental review because the general areas where these projects are proposed to be implemented (which are only briefly referenced in the addendum) "were anticipated for urban development under the General Plan and the General Plan Final EIR."[12] The City's categorical assertion that the applications for these projects does not indicate the need for CEQA review for the proposed general plan amendment is wrong as a matter of law because 1) the City has failed to physically describe these projects or how they may affect existing resources in their respective project areas, and, thus, substantial evidence does not exist to support the City's conclusion that adoption of the proposed general plan amendments will not result in adverse environmental effects, or substantially increase the significance of previously identified impacts, *vis-à-vis* the City's future consideration, approval and implementation of these projects, and 2) CEQA does not allow agencies to conclude that a proposed general plan amendment's impacts are less than significant, based on a bare assertion that the existing General Plan and EIR generally designate a particular project area for future development.[13]

As explained by the Court of Appeal in *Environmental Planning and Information Council v. County of El Dorado*, "[CEQA] evinces no interest in the effects of proposed general plan amendments on an existing general plan, but instead has clearly expressed concern with the effects of projects on the actual environment upon which the proposal will operate."[14] The City's "analysis" in its addendum of these foreseeable projects' potential to result in, or to have

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[11] City of Rancho Cordova, Natural Resources General Plan Amendment, Addendum to the Final EIR, at p. 3.0-15.

[12] City of Rancho Cordova, Natural Resources General Plan Amendment, Addendum to the Final EIR, at pp. 3.0-21, 3.0-23, 3.026 to 3.0-27, 3.0-29 to 3.0-30, 3.0-34, 3.0-37, 3.0-40, and 3.0-46.

[13] Pub. Resources Code, § 21080, subds. (d) and (e); *Environmental Planning and Information Council v County of El Dorado* (1982) 131 Cal.App.3d 350, 355 ("*EPIC*") ("CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan; it concerns itself with the impacts of the project on the environment, defined as the existing physical conditions in the affected area.")

[14] *EPIC*, *supra*, 131 Cal.App.3d at p. 355

significantly increased, adverse environmental effects is informationally inadequate, and must, at the very least, be revised to actually describe these projects and their potential impacts as currently proposed, and how adoption of the proposed general plan amendments may result in new or increased impacts by way of approval and implementation of these projects.

D. THE CITY'S PROPOSED GENERAL PLAN AMENDMENT WOULD VIOLATE CEQA, BECAUSE THE CITY HAS NOT PRODUCED SUBSTANTIAL EVIDENCE DEMONSTRATING THAT ITS CURRENT NATURAL RESOURCE PROTECTION POLICIES ARE INFEASIBLE OF IMPLEMENTATION.

As noted above, the General Plan natural resources policies that the City is proposing to amend were adopted as mandatory mitigation measures in the City's CEQA Mitigation Monitoring and Reporting Plan for its current General Plan.[15] Once a CEQA mitigation measure is found feasible by a CEQA lead agency and is incorporated as part of an agency's approval of a project, that measure constitutes an "enforceable covenant under [CEQA]," that must be honored and enforced.[16] Mitigation measures, once found feasible and adopted by a lead agency, may not be subsequently abandoned unless the lead agency produces substantial evidence that objectively demonstrates that the measures in question are infeasible of successful implementation.[17] As explained by the Court of Appeal in *Napa Citizens for Honest Government v. County of Napa*:

> when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body's finding, the land-use plan, as modified by the deletion or deletions, is invalid and cannot be enforced.[18]

On May 15, 2006, Habitat 2020 commented on, what was at that time, the vacuous and unenforceable natural resources policies proposed in the City's Draft General Plan and EIR.[19] In response to those comments, the City 1) amended its Draft General Plan to include the General

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[15] See discussion at Part I.A, supra, titled "The Proposed Amendments Constitute a New CEQA Project."

[16] *Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 449.

[17] *Napa Citizens for Honest Government v Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 357-360.

[18] *Napa Citizens*, *supra*, 155 Cal.App.4th at p. 359.

[19] A copy of Habitat 2020's comments on the City's Draft General Plan and EIR is attached at Exhibit 4, and is hereby incorporated by reference along with the City's responses and amendments to its Draft General Plan in response to those comments, which are reflected in Volumes 52 and 53 of the City's certified record of proceedings for the Preserve at Sunridge project, which, as noted above, have been submitted in electronic format at Exhibit 1.

Plan natural resource policies that the City is now proposing to amend, 2) found the adoption and implementation of the revised natural resources policies was feasible of implementation and would help to further reduce (although not completely avoid or mitigate) impacts to natural resources within the City's general planning area, and 3) adopted the revised natural resources policies and incorporated them as substantive mitigation requirements with respect to the approval and implementation of future projects under the City's new General Plan.

The staff report and its attachments regarding the proposed General Plan natural resource policy amendments are inadequate, because they do not present substantial evidence that is adequate to support the City's proposed abandonment of the CEQA natural resource mitigation measures that the City adopted in the form of the General Plan natural resource policies that it now proposes to amend.[20] The only "evidence" of infeasibility presented is staff's conclusory assertion that one incredibly poorly planned development proposal in the City (the Preserve at Sunridge project) was found to violate CEQA and the City's General Plan. The fact that one proposed project was invalidated by the Sacramento County Superior Court due to the project's violations of CEQA and the State Planning and Zoning Law is hardly "substantial evidence" that the City's current General Plan Policies are in intractable conflict or otherwise infeasible of implementation. Even the City itself, on April 17, 2008, filed its Appellant's Opening Brief in *CNPS v. City of Rancho Cordova* case, in which the City – to this day – maintains the in-court position that its approval of the Preserve project is not inconsistent with its current General Plan policies, and should be allowed to proceed as approved.[21]

The City's cannot lawfully adopt the proposed General Plan amendments, because nothing in the staff report "state[s] a legitimate reason for deleting an earlier adopted mitigation measure, [or] support[s] that statement of reason with substantial evidence."[22] Indeed the evidence that *is* before the City, in the form of its in-court position in its appeal of Judge Marlette's decision in *CNPS v. City of Rancho Cordova*, indicates that the Preserve project and future projects that may have similar impacts on sensitive species and habitats in the City's planning area *are* consistent with, and capable of being implemented under, the City's current General Plan natural resource protection policies.

(continued on next page.)

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[20] *Napa Citizens, supra*, 91 Cal.App.4th at pp. 357-360; *Protect the Historic Amador Waterways v Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109-1112.

[21] A copy of the City's ongoing in-court assertions defending the validity of its approval of the Preserve project based on the City's existing General Plan natural resources policies in the City's recently filed Opening Brief on Appeal in *CNPS v. City of Rancho Cordova* is attached at Exhibit 5.

[22] *Napa Citizens, supra*, 155 Cal.App.4th at p. 359.

II. STAFF'S ASSERTION THAT THE CITY'S CURRENT GENERAL PLAN NATURAL RESOURCE POLICIES MUST BE CHANGED TO RECTIFY THE RESULT IN *CNPS V. CITY OF RANCHO CORDOVA* IS INCONSISTENT WITH THE CITY'S IN-COURT POSITION THAT THE PRESERVE PROJECT IS CONSISTENT WITH, AND WILL NOT FRUSTRATE THE IMPLEMENTATION OF, THE CITY'S EXISTING GENERAL PLAN POLICIES.

The City also should not adopt the proposed General Plan natural resource policy amendments because doing so would effectively constitute an admission that the City's position in its pending appeal in *CNPS v. City of Rancho Cordova* is not justified, and should, therefore, be dismissed.

As already noted above, staff's assertion that these General Plan's policies should be amended is founded on the Sacramento County Superior Court's ruling against the City in *CNPS v. City of Rancho Cordova*, which held that the Preserve at Sunridge project, as approved in 2006, is inconsistent with the City's current General Plan natural resource policies. Adoption of the proposed amendments to correct the situation constitutes an affirmation that Judge Marlette's ruling was correct, and a concession of the City's legal theory on appeal that the City's findings that the Preserve project is consistent with the City's current natural resources policies.

The City would also be wrong, to the extent that it may think that adopting the proposed amendments somehow enhances the City's position in its pending appeal. The standards of judicial review in the pending appeal in *CNPS v. City of Rancho Cordova* do not allow the courts to exercise their independent judgment to decide whether proposed development projects are consistent with a land use agency's General Plan policies.[23] Accordingly, any attempt by this City to offer the proposed General Plan amendments to the courts in mid-litigation would be procedurally inappropriate because the City's 2006 findings in support of the Preserve project do not mention or address the project's consistency with the newly proposed natural resource policy amendments. Moreover, if the proposed new policies *are* somehow viewed as relevant to the City's 2006 approval of the Preserve Project, then the courts would be obligated to issue a writ of mandate compelling the City to set its prior approval of the Preserve at Sunridge project aside so that the City may 1) incorporate these new policies into its record of proceedings for the project, and 2) exercise its independent judgment to make findings regarding the project's consistency with the newly proposed amendments (which the Courts are not authorized to do).

Beyond the standard of review, the Courts are also generally precluded from accepting any evidence of the adoption of the proposed General Plan natural resources amendments, or any assertion that such newly adopted policies are relevant to determining the validity of the City's 2006 approval of the Preserve at Sunridge project as a matter of law because 1) the new general plan policies did not exist at the time of the approval of the Preserve project, and 2) are not found anywhere in the City's certified record of proceedings for the Preserve project.[24]

In sum, if the City's position is that the Preserve project is consistent with its current General Plan natural resource policies, then it should consistently stick to that position both in and out of court, and seek a ruling by the Court of Appeal overturning Judge Marlette's Planning and

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[23] *Napa Citizens, supra*, 155 Cal.App.4th at p. 357.

[24] *Western States Petroleum Assn. v Superior Court* (1995) 9 Cal.App.4th 559, 574, fn. 4.

Zoning Law ruling. On the other hand, if the City makes findings that its General Plan's natural resources policies must be amended because of the conflict identified by Judge Marlette in *CNPS v. City of Rancho Cordova*, then those findings would constitute a *de facto* concession that Judge Marlette "got it right" and that the City's approval of the Preserve project in 2006 was not consistent with the General Plan natural resource policies in force and effect at the time.

III. THE CITY SHOULD NOT ADOPT GENERAL PLAN POLICIES THAT CALL FOR THE APPROVAL OF PROJECTS THAT DO NOT MEET STATE AND FEDERAL STANDARDS AND PERMITTING REQUIREMENTS.

Finally, the City's proposed General Plan natural resource policy amendments should not be adopted because doing so will only fuel further conflict and controversy over the City's future development. The City's failure, to date, to adequately account for biological resources and state and federal permitting requirements in approving and defending past development approvals, especially in and around the Sunrise Douglas Planning Area, has become a legal drama of near epic proportions. The federal courts have placed a preliminary injunction on a substantial amount of development in the Sunrise Douglas Community Plan area due to the lack of compliance with the National Environmental Policy Act and permitting requirements under the Clean Water Act. The California Supreme Court has declared that the approval of the Sunrise Douglas Community Plan and Sunridge Specific Plan Areas was in violation of CEQA, for failure to adequately analyze or mitigate impacts associated with long term water supply or impacts to fish in the Cosumnes River. And, of course, Judge Marlette has most recently set aside the City's approval of the Preserve at Sunridge project, due to the project's hopeless inconsistency with minimum state and federal regulatory and permitting requirements.

The proposed General Plan natural resource policy amendments will only exacerbate the litigation gridlock the City now faces, by codifying the City's misguided intent to approve projects that it *knows* are inconsistent with state and federal natural resource protection laws and regulations, upon a finding that complying with such requirements is, supposedly, "infeasible." But most of the laws in question (especially laws prohibiting acts that threaten to drive federal and state listed species to extinction) do not make exceptions for "infeasibility."

If the City's goals in pursuing this matter is to extricate its planning processes and approvals from the courts, and to instead go about the orderly development of a city of 300,000+ residents, the City should be insisting that developers and other project applicants present project proposals that *comply* and are *consistent* with the state and federal laws and regulatory requirements that govern their projects (as the City's current General Plan natural resources policies do). The amendments proposed by staff take the City in the exact opposite and wrong direction, because they will only magnify and replicate the existing conflicts and controversy that have plagued the City's development approvals to date.

The City should not amend its General Plan to encourage developers and project applicants to propose environmentally irresponsible projects that can never implemented based, because they are fundamentally inconsistent with applicable, mandatory state and federal laws and regulatory requirements. The City proposal to authorize itself to finds that compliance with state and federal environmental protection laws and agency requirements is "infeasible," will result in

future development project approved based on such findings being tied up in the courts (as has been the demonstrated case for the Sunrise Douglas Community Plan and the Preserve Project), or simply incapable of ever actually being carried out, as the City, State and Federal Agencies, Developers and the Environmental Community fight over whether the project is legal.

CONCLUSION

For the foregoing reasons, Habitat 2020 and ECOS and their members, including CNPS, object to the City's proposed amendments to its General Plan natural resources element, and request that the City instead leave its current, substantially more protective and sensible General Plan natural resources policies in place.

Sincerely,

Keith G. Wagner

Keith Wagner

EXHIBIT 1

The original comment letter delivered to the City of Rancho Cordova in this matter contains an envelope with three (3) CD-ROMs that contain the City's Certified Record of Proceedings in *CNPS v. City of Rancho Cordova* in PDF (Adobe Acrobat).

To request additional copies of the CDs submitted to the City of Rancho Cordova with this letter, please contact:

Kenyon Yeates LLP
3400 Cottage Way, Suite K
Sacramento, CA 95825
Telephone: (916) 609-5000

EXHIBIT 2

J. WILLIAM YEATES, SBN 084343
KEITH G. WAGNER, SBN 210042
JASON R. FLANDERS, SBN 238007
LAW OFFICE OF J. WILLIAM YEATES
3400 Cottage Way, Ste. K
Sacramento, CA 95825
Phone: (916) 609-5000
Fax: (916) 609-5001

Attorneys for Petitioner and Plaintiff:
CALIFORNIA NATIVE PLANT SOCIETY

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LEGAL PROCESS #12

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

CALIFORNIA NATIVE PLANT SOCIETY, Petitioner and Plaintiff v. CITY OF RANCHO CORDOVA, et al., Respondents and Defendants	CASE NO. 06 CS 01311 PETITIONER'S OPENING BRIEF Date: Friday, May 25, 2007 Time: 9:00 a.m.. Judge Patrick Marlette Department 19
JAEGER ROAD 530, LLC., Real Party in Interest and Defendants	

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I. INTRODUCTION

Petitioner CALIFORNIA NATIVE PLANT SOCIETY ("CNPS") challenges Respondent CITY OF RANCHO CORDOVA's ("City" or "Respondent") certification of an environmental impact report ("EIR") for, and approval of, the "Preserve at Sunridge" project ("Preserve" or "Project") for violations of the California Environmental Quality Act ("CEQA") and the state Planning and Zoning Law.

The City's approval of the Preserve violates CEQA, because the City's finding that the Project's impacts to state- and federally-listed species and their vernal pool and wetland habitats are "less-than-significant" is not supported by the evidence in the City's record of proceedings. Respondent also failed to describe 1) where proposed off-site mitigation for impacts to these sensitive biological resources might occur, or 2) what additional significant impacts implementing off-site mitigation measures might have on the existing environment. The City's approval of the Preserve must also be set aside on Planning and Zoning Law grounds, because the evidence in the City's record indicates that the Preserve is inconsistent with, or will otherwise impermissibly frustrate, City General Plan policies that require the City to ensure that development project approvals will not jeopardize the regional viability of protected vernal pool and wetland species. The Preserve EIR must also be set aside on the separate and independent ground that it relies upon and incorporates by reference substantial portions of a prior EIR prepared for the larger Sunrise Douglas Community Plan ("SDCP") that were recently invalidated by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova.*[1]

II. STATEMENT OF FACTS

A. SACRAMENTO COUNTY'S "YELLOWSTONE": THE LAGUNA FORMATION AND THE STATE AND FEDERALLY PROTECTED WETLAND AND VERNAL POOL SPECIES THAT IT SUPPORTS.

The SDCP area, presently within the eastern portion of the city limits of the City of Rancho Cordova, has long been described by CNPS as the "Yellowstone" of vernal pool landscapes in Sacramento County.[2] Geospatial analysis confirms that this region is unique, both in terms of the density and diversity of the vernal pools present, and in terms of state- and federally-listed species presence and abundance.[3] The U.S. Fish and Wildlife Service ("USFWS") describes the critical biological importance of the SDCP's Laguna formation wetland and vernal pool habitats for a host of special-status plants and animals as follows:

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[1] *Vineyard Area Citizens v. City of Rancho Cordova* (Feb. 1, 2007 S132972) 40 Cal.4th 412.

[2] *Id.*

[3] 7 AR 2480.

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

> The SDCP[area] includes the highest density of high quality vernal pool wetlands that occur on Laguna formation soils left in the state. Laguna formation wetlands are important due to the high density of federally listed species that occur on them including the vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), and two endemic plants, slender Orcutt grass (*Orcuttia tenuis*), and Sacramento Orcutt grass (*Orcuttia viscida*). Over 33% of all known occurrences of the tadpole shrimp occur in the south county area and we estimate that up to 20% of all known occurrences would be impacted by development in the SDCP[area]. Slender orcutt grass occurs on only 3 known sites in the county, all in the SDCP[area], and the nearest known occurrence is over 100 miles away. Sacramento Orcutt grass is found only in Sacramento County and 5 of 8 known sites (70%) occur in the SDCP[area]. Cumulatively, the projects proposed would result in the loss of over 70% of the vernal pool wetlands in the SD[C]P[area].[4]

The singular nature of this area's hydrogeomorphology and the unparalleled density and diversity of its special-status species has also led the United States Environmental Protection Agency ("USEPA") to declare the SDCP area an "aquatic resource of national importance."[5]

B. SACRAMENTO COUNTY'S APPROVAL OF URBANIZATION WITHIN THE SDCP AREA.

On July 17, 2002, the Sacramento County Board of Supervisors ("County") passed resolutions and ordinances certifying an EIR, and amending Sacramento County's general plan and zoning ordinances, to approve future urban development in the SDCP area.[6] The SDCP –

> propose[s] to develop more than 6,000 rural acres in the eastern part of the County (now within the jurisdiction of the recently incorporated City of Rancho Cordova . . .,into a "master planned community" known as Sunrise Douglas (after Sunrise Boulevard and Douglas Road, two major roads forming part of its borders). Fully built, the project would include more than 22,000 residential units, housing as many as 60,000 people, together with schools and parks, as well as office and commercial uses occupying about 480 acres of land.[7]

In approving the overall SDCP, the County also approved the "near-term development of a 2,632+/- acre portion of the community known as the SunRidge Specific Plan ('SRSP') area."[8] The County, in approving the SDCP and the SRSP, understood that developing the remainder of the SDCP area had the potential to significantly, adversely affect vernal pool and wetland habitats upon which a variety of state

---

[4] 3 AR 655.

[5] 7 AR 2452.

[6] 34 AR 12456, 12530; *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 422.

[7] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at pp. 421-422.

[8] 34 AR 12447, 12533.

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
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and federally listed plants and animals depend.[9] In express recognition of the area's unique Laguna formation habitats, and the critical importance of ensuring that developing the remainder of the SDCP will not impair the regional viability of special-status plant and animal species – including vernal pool fairy shrimp, vernal pool tadpole shrimp, slender orcutt grass, and Sacramento orcutt grass – the County, in approving the SDCP and SRSP, adopted several, mitigation measures to reduce the impacts of future development projects on these species and their habitats, including the following:

> **BR-2**: In conjunction with the filing and processing of applications for future development entitlements (such as tentative subdivision maps or development plans) within any future Specific Plan areas, such project proponents shall submit a wetland delineation for the proposed development area, and a detailed plan which describes the specific methods to be implemented to avoid and/or mitigate any project impacts upon wetlands such that no net loss in wetland habitat acreage and values is achieved. This detailed Wetland/Avoidance Mitigation Plan shall be prepared in consultation with the US Army Corps of Engineers [("USACE")], the USFWS, the CDFG, and the [USEPA] . . . .[10]
>
> **BR-4**: Prior to approval of any future development projects (such as tentative subdivision maps, development plans, improvement plans] within a Future Specific Plan area, the applicants shall obtain all necessary US Army Corps of Engineers permits pursuant to Section 404 of the Clean Water Act, and all necessary California Endangered Species Act permits and Streambed Alteration Agreements from the CDFG, pursuant to the Fish and Game Code.[11]

Following the County's certification of the SDCP EIR and approval of the SDCP, the County's actions were challenged by a group of local citizens for, *inter alia*, violations of CEQA.[12]

C. THE FEDERAL GOVERNMENT'S "CONCEPTUAL-LEVEL STRATEGY" FOR PROTECTING LISTED SPECIES AND THEIR ASSOCIATED HABITATS IN THE SDCP AREA

Following the County's approval of the SDCP and SRSP, USFWS, USEPA, USACE, and CDFG met with the City and landowners in the SDCP area to develop a plan to ensure that development in the SDCP, beyond the SRSP area, would not jeopardize the continued, regional viability of the federally listed species in the SDCP area. As described in one, October 2004 USFWS letter to the City:

[9] 4 AR 1120.

[10] 4 AR 1121. "CDFG" stands for California Department of Fish and Game, a trustee agency under CEQA. CEQA Guidelines, § 15386, subd. (a). "The CEQA Guidelines, promulgated by the state's Resources Agency, are authorized by Public Resources Code section 21083. In interpreting CEQA, we accord the Guidelines great weight except where they are clearly unauthorized or erroneous." *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 428, fn. 5. The CEQA Guidelines are codified at Cal. Code Regs., tit. 14, ch. 3, § 15000 *et seq*.

[11] 4 AR 1122.

[12] *Vineyard Area Citizens*, *supra*, 40 Cal.4th. at p. 421.

Over the past 18 months the Service has met with [USACE], [USEPA], [CDFG], and representatives of the City of Rancho Cordova, and the landowners and developers involved in the [SDCP] Area (SDCPA). . . . Our discussions focused on conservation strategies for endangered species and wetlands within the SDCPA and permitting by the three Federal agencies . . .

* * *

The result of these meetings and discussions is the agreement by the three Federal agencies . . . to implement strategies for conserving these resources and provide a framework for development proposals. In addition, our strategy would provide some conceptual guidelines for permitting. The following is taken from the document we developed "A Conceptual-Level Strategy for Avoiding, Minimizing, & Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area" . . .; this document and the accompanying planning map developed by the three agencies is provided to you for use in your planning process:

> "In March through May 2004, representatives of the [USFWS], [USEPA], and [USACE] (Agencies) met to formulate a conceptual-level strategy for avoiding, minimizing, and preserving aquatic resource habitat in the [SDCP] Area (SDCPA). The intended result of this effort was to achieve reasonable protection and conservation of federally threatened and endangered species under the Endangered Species Act, while taking a regional approach to avoidance and minimization of impacts to waters of the US, including wetlands, in accordance with Section (b)(1) guidelines under the Clean Water Act. The strategy also endeavors to ensure a viable South Sacramento County Habitat Conservation Plan (HCP) can be developed, given that a large proportion of vernal pool habitat under consideration by the HCP is within the SDCPA.
>
> The conceptual-level strategy is represented by preserve areas shown on the map titled Sunrise-Douglas Community Plan Area Conceptual-Level Strategy for Aquatic Resource Protection dated March 2004 . . . . To meet the goals of ESA and the Clean Water Act the Agencies arrived at the boundaries of the "Preserve Areas" based on best professional judgment and a limited amount of information regarding regional and site-specific biology and hydrogeomorphology (such as wetland delineations, species accounts, and environmental impact reports), while recognizing that development is planned in the area. Of particular focus is preservation of vernal pool complexes and corridors for Morrison Creek and Laguna Creek. The mapped boundaries are the smallest that would be acceptable to the Agencies and are predicated on ten principles and standards that would be followed by developers and planners as each element of the overall development proceeds.
>
> The conceptual level strategy should be used by developers and planners to design and plan projects in the SDCPA. The Agencies will use the strategy to aid in the review of proposed development and evaluate the probable individual and cumulative effects on aquatic resources and sensitive species.

> The Agencies anticipate that permit decisions and biological opinions will be completed on a case-by-case basis, using site-specific project and aquatic resource habitat information. Each proposed project would be evaluated on its own merits within the larger context of the SDCPA. Depending on the particular hydrology, habitat features, and development plans for a particular parcel, the conceptual preserve boundaries may need to be adjusted to minimize direct and indirect impacts to aquatic resources. Appropriate compensatory mitigation will be developed following demonstrated avoidance and minimization of project impacts."[13]

The "Conceptual-Level Strategy," is, in the best, professional judgment of the federal and state agencies who have jurisdiction over federally listed species and their obligate habitats in the SDCP area, the *smallest* amount of on-site habitat preservation required within the SDCPA area (after the SRSP is developed) to allow state and federal permits to issue for future development proposals in the SDCP area, or to make administrative findings that impacts to special status species and their obligate vernal pool/wetland habitats in the SDCP area have been mitigated to "less than significant" levels.[14]

D. THE CITY'S APPROVAL OF THE PRESERVE PROJECT, AND CNPS' FILING OF THIS LITIGATION.

In September of 2004, three months after USFWS, USEPA, USACE and CDFG finalized their "Conceptual-Level Strategy," the City published its first Notice of Preparation ("NOP") of an EIR for the Preserve, which, at that time, was called "Sunridge Village."[15] The Preserve is a 530-acre area of land, located directly in the center of the SDCP area.[16]

As finally approved by the City, the Preserve will develop

> 2,393 single-family residential units in various residential densities on 292.3 acres, 288 units of high density residential (RD-30) (multifamily) on 11.2 acres, and approximately fifteen commercial building pads ranging from approximately 2,400 square feet to approximately 55,000 square feet, totaling approximately 147,000 to 165,000 square feet. The [Preserve] will also feature the construction of an internal circulation system and elementary school, various planned park and open space areas, including an approximately 92.4-acre open space/wetland, and will result in the realignment of the existing headwater tributary to Morrison Creek . . . .[17]

The Preserve, as proposed, drew consistent and continuing criticism from CNPS, and from USFWS, USEPA, USACE and CDFG. CNPS and the agencies criticized the Preserve for, *inter alia*,

[13] 3 AR 655-656 (Oct. 2004 letter from USFWS to City); 61 AR 21326 (text from Conceptual-Level Strategy quoted in Oct. 2004 USFWS letter).

[14] 61 AR 21326-21328.

[15] 2 AR 374a; CEQA Guidelines, § 15375 (defining "notice of preparation").

[16] 3 AR 532.

[17] 1 AR 1.

failing to meet the *minimum* protections that the state and federal agencies had determined, in their professional judgment, are necessary 1) to issue state and federal permits for this project, or 2) to support administrative findings that impacts to the area's unique vernal pool and wetland habitats, and the special status species that depended on them, had been mitigated to less-than-significant levels.[18]

As explained by USFWS in an October 2004 letter:[19]

> [T]he project design for the Sunridge Village is not consistent with our conceptual-level strategy document and the map.[20] The proposal would result in significant impacts to, and loss of vernal pool tadpole shrimp, vernal pool fairy shrimp, Sacramento and Slender Orcutt grass, and habitats they depend on (grasslands, wetlands and vernal pools). In addition, the proposal would result in the realignment of Morrison Creek or much of its length in the project site. This action will result in significant changes and impacts to the overall hydrology of the area which will, in turn, adversely impact endangered species habitat. We strongly recommend the Sunridge village project, and all future projects, in the SDCPA be designed consistent with the [Conceptual-Level Strategy].

As explained by the USEPA, in a November 2005 communication:

> The federal agencies have stressed that the preserve sites shown on the map associated with the June 2004 Conceptual[-Level] Strategy are minimally protective of the functions necessary for the preservation of the Flora and fauna currently found in the project area. The mere surrounding of these remaining areas in the preserves with urban or suburban development will greatly stress these organisms and alter their natural environment. Further reducing these preserves in size, truncating them, or making them more linear than shown in the agencies conceptual preserve map will put more stress on the natural ecosystem by increasing the edge-to-area ratio and by placing the core of the preserves in closer contact [to] stressors caused by human activities.
>
> The proposed project will result in the direct loss of 14.54 acres of vernal pools, vernal swales and intermittent drainages. Vernal pool landscapes and the associated creeks within South Sacramento County play an important role in sheltering flora and fauna, maintaining water quality, [and] providing opportunities for recreation and education. Given this, and in light of the adverse impacts anticipated from the proposed project and

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[18] See, 3 AR 580-581 (CNPS, Feb. 24, 2005); 3 AR 582, 7 AR 2421 (USFWS, Feb. 22, 2005):3 AR 583-584 (CDFG, Feb. 28, 2005); 3 AR 5870588 (USEPA Feb. 28, 2005); 2 AR 406-425, 2 AR 467-468, 3 AR 589-593, 644-648 (USEPA, Oct. 5, 2004); 3 AR 594-608 (USEPA, Nov. 15, 2001); 3 AR 615 (USFWS, Feb. 22, 2005); 3 AR 616-617 (USACE, Feb. 22, 2005); 3 AR 618-619, 624-625 (USEPA, Feb. 18, 2005); 2 AR 464-466, 3 AR 639-641 (CDFG, Nov. 12, 2004); 2 AR 428-429, 2 AR 476-477, 3 AR 649-650, 652-653 (USACE, Oct. 8, 2004); 2 AR 430-451, 3 AR 654-675 (USFWS, Oct. 11, 2004); 7 AR 2419-2420 (USFWS, Oct. 27, 2005); 7 AR 2422-2427 (USFWS, Oct. 14, 2004); 7 AR 2444-2445 (USEPA, Dec. 5 2005); 7 AR 2446-2459 (USEPA, Nov. 18, 2005); 7 AR 2480-2484 (CNPS, Dec. 1, 2005).

[19] See discussion at Part II.C, *supra*, at p. 3, titled "the Federal Government's "Conceptual-Level Strategy" For Protecting Listed Species and Their Associated Habitats In the SDCP Area."

[20] 3 AR 655-656. The Project's name was later changed to "The Preserve at Sunridge." 3 AR 532.

those envisioned by the aforementioned Specific Plans and Community Plan, we have made the determination that the resources at risk constitute aquatic resource of national importance.[21]

USEPA's November 2005 communication concludes:

> The proposed compensatory mitigation plan for unavoidable impacts to aquatic resources is not adequate for four reasons: (1) The applicant has not demonstrated that the potential adverse impacts are unavoidable; (2) the applicant has not demonstrated how the proposed compensatory mitigation replaces acreage and function that would be lost to the proposed project; and (3) the proposed compensatory mitigation relies heavily on off-site preservation; and (4) overall, the proposed compensatory mitigation appears inconsistent with the requirements of Regulatory Guidance Letter on mitigation (RGL 02-2) issued jointly by the Corps and EPA on 24 December 2002.[22]

As further stated by the USEPA in its December 2005 DEIR comment letter:

> the DEIR for "The Preserve at Sunridge" indicates the applicant proposes to develop the vast majority of the 530-acre site in a manner inconsistent with the [Conceptual-Level] Strategy and preserve map, leaving small pockets of "community park" lands and a 92.4-acre "wetland preserve." This proposed development scenario continues to represent a similar level of environmental damage as compared to the proposal originally submitted by A&P Investments, which EPA strenuously opposed when that owner submitted the project proposal in 1998.[23]

The following diagram, derived from maps in the record, graphically depicts the Preserve project (inner red box) in relation to 1) the SDCP (outer yellow boundary); 2) the SRSP (red, hashed area along northern and western boundaries of the SDCP); and 3) the federal and state agencies' "Conceptual-Level Strategy" (green outlined areas, diagonally traversing SDCP area from the northeast to the southwest):[24]

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[21] 7 AR 2452.

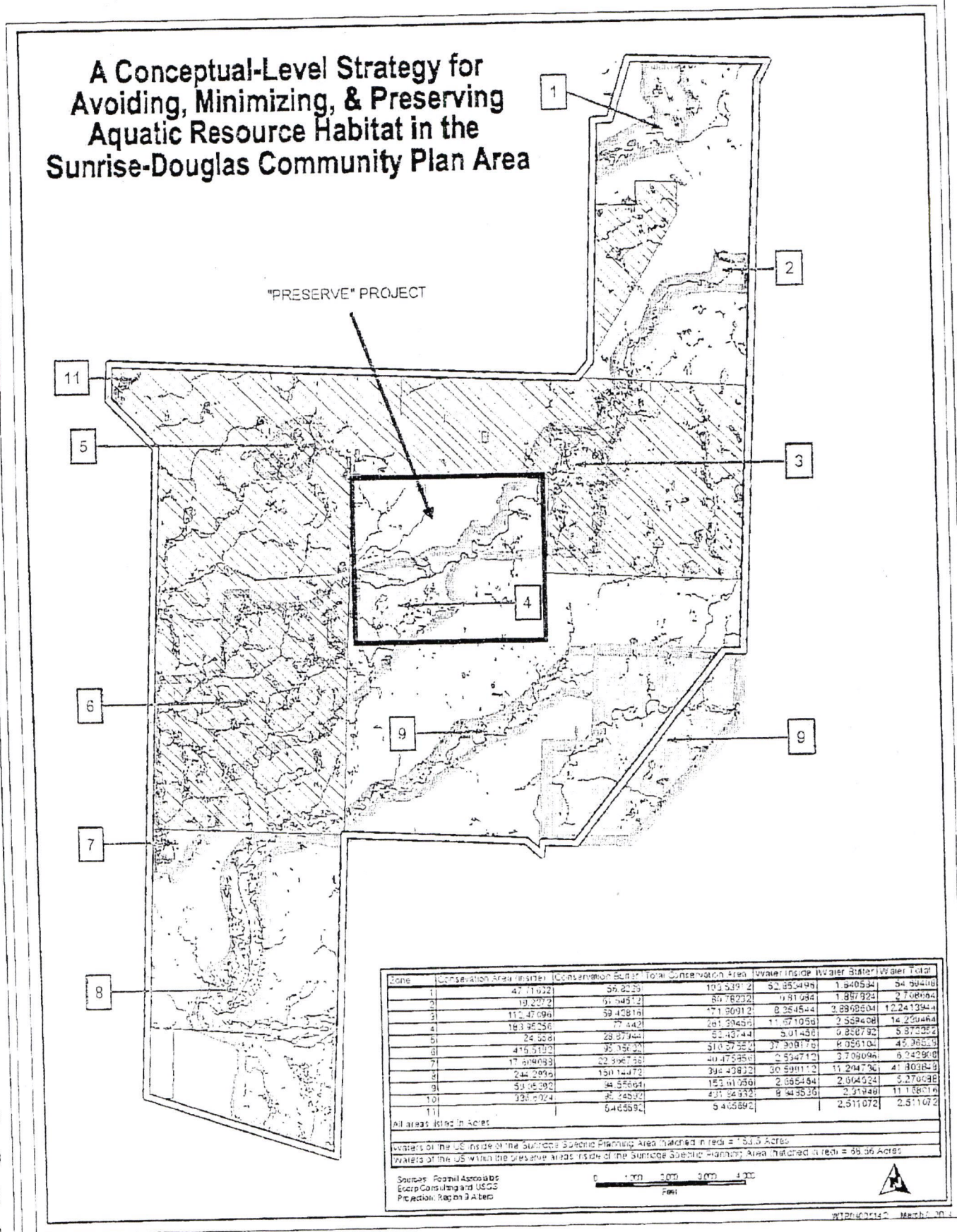
[22] 7 AR 2458.

[23] 7 AR 2445.

[24] See, e.g., 3 AR 800 (map of SDCP area, depicting location of "Preserve at Sunridge" project); 3 AR 593, 2 AR 436, 61 AR 21328 (federal agencies' "Conceptual-Level Strategy" map).

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

A Conceptual-Level Strategy for Avoiding, Minimizing, & Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area



Zone	Conservation Area (Inside)	Conservation Buffer	Total Conservation Area	Water Inside	Water Buffer	Water Total
1	47.71622	56.8239	193.5391	52.853496	1.640534	54.494030
2	19.23072	91.945512	84.78232	0.81094	1.857924	2.708864
3	112.47096	59.438136	171.90912	8.354544	3.894864	12.249408
4	183.95256	77.443	261.39456	11.671056	2.558408	14.229464
5	24.9864	28.857444	53.43744	5.01456	0.858792	5.873352
6	415.5192	95.056320	510.57552	37.908576	8.056104	45.964680
7	17.694083	22.3967388	40.475856	2.594712	3.708096	6.242808
8	244.2936	150.14472	394.43832	30.599112	11.244792	41.803848
9	53.05392	84.55664	153.91056	2.666484	2.604024	5.270508
10	336.6024	85.245912	421.84932	8.943536	2.31948	11.163016
11		5.465592	5.465592		2.511072	2.511072

All areas listed in Acres

Waters of the US inside of the Sunrise Specific Planning Area Thatched in Red = 153.3 Acres

Waters of the US within the preserve areas inside of the Sunrise Specific Planning Area Thatched in Red = 66.96 Acres

Sources: Foothill Associates
Ecorp Consulting and USGS
Projection: Region 9 Albers

0 1,000 2,000 4,000
Feet

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3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

On July 17, 2006, over CNPS' and the agencies' objections, the City adopted two resolutions 1) certifying the Preserve EIR, and adopting findings, a statement of overriding considerations, and a mitigation monitoring plan for the Preserve project; and, 2) allegedly amending SDCP mitigation measures BR-2 and BR-4.[25] On August 7, 2006, the City approved the Preserve, by adopting 1) a resolution approving large and small lot subdivision maps for the Preserve Project planning area; and 2) two ordinances, (a) rezoning the Preserve project area, and (b) approving a development agreement with Real Party in Interest, Jaeger Road 530, LLC.[26] The following day, the City issued a notice of determination, commencing CEQA's short, 30-day statute of limitations for any person to challenge the City's approvals.[27] These resolutions, ordinances and notice of determination are collectively referred to, hereinafter, as the City's "approval" of the Preserve project, and, collectively, are the range of actions that CNPS is requesting this court to set aside in this litigation. CNPS then filed this challenge to the City's approval of the Preserve.

In sum, the SDCP area hosts "the highest density of high quality vernal pool wetlands that occur on Laguna formation soils left in the state."[28] These Laguna formation vernal pool wetlands, in turn, serve as critically important, obligate habitat for substantial numbers of four identified, listed species including vernal pool fairy shrimp, vernal pool tadpole shrimp (20% of all known occurrences in the state), slender Orcutt grass (100% of all known occurrences in Sacramento County, with next, nearest population over 100 miles away), and Sacramento Orcutt grass (70% of all known occurrences).[29]

Because of the extraordinary biological diversity and sensitivity of these unique Laguna formation vernal pool wetlands, the state and federal agencies with jurisdiction over these resources all agree that, in order to mitigate the biological impacts of the Preserve project to "less than significant" levels, the following two things must minimally happen: 1) preserve the existing, meandering alignment of Morrison creek within the Preserve, and 2) preserve slightly over 200 acres of wetland and vernal

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[25] 1 AR 1 (Resolution No. 105-2006); 1 AR 124 (Resolution No. 106-2006); 1 AR 128 (Resolution No. 106-2006).

[26] 1 AR 128 (Resolution No. 108-2006); 2 AR 210 (Ordinance No. 40-2006); 2 AR 344 (Ordinance No. 41-2006).

[27] 2 AR 397 (Notice of Determination).

[28] 3 AR 655.

[29] 3 AR 655.

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

pool habitat within the Preserve.[30] The City's approval of the Preserve, as proposed, ignores the two essential things that the state "trustee" agency and the federal agencies with jurisdiction over these resources have consistently and unanimously informed the City and Real Party are minimally necessary to mitigate impacts to these unique and irreplaceable natural resources. The City's approval allows Real Party to realign and straighten Morrison Creek, and to conserves only 92 acres of wetlands and vernal pool habitat within the Preserve.[31]

III. POINTS AND AUTHORITIES

A. VIOLATIONS OF CEQA ASSOCIATED WITH IMPACTS TO LISTED SPECIES AND THEIR OBLIGATE LAGUNA FORMATION WETLAND AND VERNAL POOL HABITATS.

1. Standard of Review

The standard of review for Petitioner's CEQA claims is as stated by the Supreme Court:

> In reviewing an agency's compliance with CEQA in the course of its legislative or quasi-legislative actions, the courts' inquiry "shall extend only to whether there was a prejudicial abuse of discretion." (Pub. Resources Code, § 21168.5.)[32] Such an abuse is established "if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence." [citations and footnote omitted.] . . . ¶ We therefore resolve the substantive CEQA issues . . . by independently determining whether the administrative record demonstrates any legal error by the [City] and whether it contains substantial evidence to support the [City's] factual determinations.[33]

As the high court recently explained in *Vineyard Area Citizens*, a claim that an agency failed to "provide certain information mandated by CEQA and to include that information in its environmental analysis" alleges a violation of CEQA's procedures, and therefore is independently reviewed by the courts to determine whether the record demonstrates legal error:

> In evaluating an EIR for CEQA compliance...a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts. For example, where an agency failed to require an applicant to provide certain information mandated by CEQA and to include

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[30] 3 AR 660. The Preserve project area constitutes nearly (but not quite) all of what is identified as Zone 4 in the "Conceptual-Level Strategy" map, which states that a total of 261.39 acres of land must be preserved in this area. Only the southwestern-most tip of Zone 4 extends beyond the southern boundary of the Preserve project area. Notably, Zone 4 is critical not only for its own habitat values, but also for its *connectivity* to Zones 3 and 6 in the "Conceptual-Level Strategy."

[31] 1 AR 1. See discussion at note 17, *supra*.

[32] All further unspecified statutory references are to the Public Resources Code.

[33] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at pp. 426-427.

> that information in its environmental analysis, we held the agency "failed to proceed in the manner prescribed by CEQA."[34]

Judicial review of an agency's contention that an EIR need not "evaluate the impacts of the project's foreseeable future uses because there ha[s] not yet been a formal decision on those uses," is also "a matter of law" that is reviewed without deference to the agency's decision to defer consideration of such impacts.[35] Similarly, CEQA's procedures require that if an EIR proposes mitigation measures that may have significant impacts on the environment, then the publicly circulated Draft EIR must disclose and analyze those effects.[36] Finally, CEQA's procedures also require that if a new, adverse environmental effect is revealed during the CEQA review process, or if new mitigation measures are added to the Draft EIR to mitigate the project's impacts to less than significant levels after notice of the Draft EIR's availability is given, but before the EIR is certified, then a revised Draft EIR including this new information must be recirculated for review by the public and interested agencies.[37]

2. Violations of CEQA Associated With the City's Failure to Describe Where Proposed Off-Site Vernal Pool and Wetland Mitigation May Occur, Or The Potential Impacts Associated With Such Off-Site Mitigation Efforts.

The City's certification of the EIR and approval of the Preserve must be set aside because the City has failed to describe in its EIR where off-site vernal pool and wetland creation may occur, or how such activities may affect these undescribed off-site environments. The City compounded this error by adding a new mitigation measure to its Draft EIR after the close of the public comment period, in an attempt to address this undisclosed impact, and then certifying its EIR without recirculating it for further review and comment by the public, or by the agencies with jurisdiction over the affected resources.

> CNPS explained the problem in its December 2005 comment on the Draft EIR:
>
> [T]he DEIR states that this project will destroy 5% of the local Laguna Formation vernal pools.
>
> The proposed mitigation and monitoring plan will also have environmental impacts but these are not addressed in the DEIR. Additionally, committing to the preparation of a document does not constitute mitigation. In order for the public to be fully informed of the environmental consequences (both positive and negative) of this proposed project, the DEIR should identify the proposed mitigation site and discuss the environmental impacts associated with the proposed mitigation and monitoring plan.

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[34] *Vineyard Area Citizens, supra*, 40 Cal. 4th at p. 435, quoting *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.

[35] *Vineyard Area Citizens, supra*, 40 Cal. 4th at p. 435.

[36] CEQA Guidelines, § 15126.4, subd. (a)(1)(D).

[37] Pub. Resources Code, § 21092.1; CEQA Guidelines, § 15088.5, subds. (a) and (a)(1).

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> CNPS believes that creation of artificial vernal pools within an existing intact vernal pool grassland ecosystem is actually a negative environmental impact upon that natural system. Additionally, we are concerned that creation or restoration of mitigation vernal pools could have significant negative impacts upon the ecosystem as a whole. Translocation of propagules (seeds and cysts) for the purposes of mitigation can impact the genetic integrity of species and populations in the vicinity of the mitigation site. Should compensatory mitigation be performed on the Laguna Formation in the southeastern portion of the county, it could have significant impacts on the rare Myer's Navarretia (*Navarretia myersii* ssp. *myersii*) which occurs in that area
>
> Without adequate disclosure of the mitigation and monitoring plan including its potential environmental impacts, we do not believe that implementation of MM4.9.1b will reduce impacts to listed vernal pool crustaceans to less than significant.[38]

In response to this comment, the City's Final EIR discloses a new, potentially significant impact that was not previously identified or discussed in the Draft EIR: implementing proposed off-site mitigation for vernal pool and wetland resources at one or more undisclosed locations is likely to have adverse environmental effects on a variety of environmental resources, including traffic, air quality, noise and biological resources.[39] The Final EIR asserts that mitigation measures generally specified in the Draft EIR "are also applicable to the vernal pool and wetland creation site," but neither the Draft nor the Final EIR describe the existing environment where this unidentified "creation site" is located, nor do they explain how the Draft EIR's previously described mitigation measures will be sufficient to actually mitigate site-specific impacts at the undisclosed location.[40] The Final EIR then goes a step further, and adds a new mitigation measure to the Draft EIR to mitigate these vaguely described impacts at an undescribed location to "less than significant" levels.[41]

a. Failure to Establish an Accurate, Stable and Finite Project Description.

CEQA's procedures require that an EIR's "project description" include "[t]he precise location and boundaries of the proposed project shall be shown on a detailed map."[42] The CEQA Guidelines further require, that "[a]ll phases of a project must be considered when evaluating its impact on the

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[38] 7 AR 2482-2483. Mitigation measure 4.9.1b, on its own terms, states that identification of "[t]arget areas for creation, restoration and preservation" will not occur until after project approval. 4 AR 1130.

[39] 7 AR 2489 (stating that "the creation of the off-site vernal pools and wetlands may result in water quality, traffic/circulation. noise, air quality. noise, and biological impacts" on environmental resources at some unspecified location).

[40] 4 AR 1131; 7 AR 2491.

[41] 7 AR 2492-2495 (adding new mitigation measure 4.9.2c to the Draft EIR).

[42] CEQA Guidelines, § 15124, subd. (a).

environment [including] . . . acquisition, development and operation."[43] A Draft EIR must not only discuss a project's direct impacts on the environment, but also must discuss significant effects that would be caused by implementing proposed mitigation measures.[44]

In *County of Inyo v. City of Los Angeles*, the Court of Appeal summed up these principles as follows:

> A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal [*i.e.*, the 'no project' alternative] and weigh other alternatives in the balance. An *accurate*, *stable* and *finite* project description is the *sine qua non* of an informative and legally sufficient EIR.[45]

In this case, the City's original off-site mitigation measure 4.9.1b, which mandates the creation of off-site wetland and vernal pools at an undisclosed location, violates CEQA's procedures by failing to include any description of *where* off-site mitigation efforts might occur, leaving critically important information about the "whole" of the Preserve project out of the EIR and, thus, unavailable for public review and comment.[46]

b. Failure to Describe the Environment.

The Public Resources Code defines the CEQA "environment" to be "the physical conditions [that] exist within the area [that] will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, [and] objects of historic or aesthetic significance."[47] The CEQA Guidelines further clarify that the description of the CEQA environment includes the "area in which significant effect would occur either directly *or indirectly* as a result of the project."[48]

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[43] CEQA Guidelines, § 15126.

[44] CEQA Guidelines, § 15126.4, subd. (a)(1)(D).

[45] *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.

[46] *County of Inyo*, *supra*, 71 Cal.App.3d at pp. 192-193. *Cf.*, *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 441, citing *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392 ("*Laurel Heights I*") ("An EIR that neglects to explain the likely sources of water and analyze their impacts, but leaves long-term water supply considerations to later stages of the project, does not serve the purpose of sounding an 'environmental alarm bell' before the project has taken on overwhelming bureaucratic and financial momentum." [internal citation and quotation marks omitted])

[47] Pub. Resources Code, § 21060.5

[48] CEQA Guidelines, § 15360.

As noted above, impacts associated with mitigation measures for a proposed project must be disclosed and analyzed in the project EIR.[49] For example, in *California Farm Bureau v. California Wildlife Conservation Board*, the Court of Appeal recently ruled that a proposal to alter existing land contours to "create" wetlands constitutes a CEQA-triggering event.[50]

In this case, the Final EIR disclosed, after the close of public comment on the Draft EIR, that proposed off-site creation of vernal pools and wetland may have previously undisclosed significant adverse effects on a wide range of environmental resources. The FEIR and the ruling in *California Farm Bureau* confirm the legal point – the proposal to create wetlands and vernal pools will, necessarily, require altering land contours at some undisclosed location, in order to carry out the proposed mitigation.[51] Accordingly, this physical change to the environment must be described and analyzed in a publicly circulated, revised Draft EIR, so that the interested public and agencies with jurisdiction over the affected resources will have an opportunity to comment on the environmental consequences of this change.[52] The City's failure to describe where such activities will, or are likely to, occur violates CEQA's procedures, by failing to describe the environment that may be affected by implementation of this mandatory mitigation measure.[53]

c. Piecemealing of Environmental Review.

After admitting for the first time in its Final EIR that the project may have significant, adverse effects on a variety of resources, including biological resources, at the unidentified off-site mitigation location, the Final EIR then adds a new mitigation measure 4.9.2c to the Draft EIR that will allegedly mitigate such impacts to "less than significant" levels.[54] The new mitigation measure requires:

> The applicant shall submit a Wetland Avoidance/Mitigation Plan to mitigate for impacts to vernal wool and seasonal wetland habitat, which describes the specific methods to be implemented to avoid and/or mitigate any off-site project related impacts. This detailed Wetland Avoidance/Mitigation Plan shall be prepared in accordance with the U.S. Army

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[49] CEQA Guidelines, § 15126.4, subd. (a)(1)(D).

[50] *California Farm Bureau v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 190-192.

[51] *California Farm Bureau, supra*, 143 Cal.App.4th at pp. 190-192.

[52] Pub. Resources Code, § 21092.1; CEQA Guidelines, §§ 15088.5, subd. (a), 15126.4, subd. (a)(1)(D); *California Farm Bureau, supra*, 143 Cal.App.4th at pp. 190-192.

[53] 7 AR 2489; CEQA Guidelines, § 15360; *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 441; *California Farm Bureau, supra*, 143 Cal.App.4th at pp. 190-192.

[54] 7 AR 2492-2493.

Corps of Engineers [USACE], and the US. Fish and Wildlife Service IUSFWS] regulations, and the City of Rancho Cordova Grading and Erosion Control Ordinance. A copy of the 404 permit and the biological opinion shall be provided to the City and the Avoidance/Mitigation Plan shall ensure the following to the satisfaction of the City:

The location of the proposed vernal pool and seasonal wetland habitat site and a detailed map of showing the acreage, distribution, and type of wetlands to be created to ensure no net loss in wetland. habitat acreage, values and functions. The compensation wetlands shall be designed to, at a minimum: meet or exceed the hydrophytic conditions and operating functions of the existing wetlands proposed for impact.

Include a monitoring plan to assess whether the compensation wetlands are functioning as intended. Specific performance standards for hydrologic, floral. and faunal parameters shall be proposed to determine success of the created wetlands. The monitoring plan shall specify the corrective measures/modifications to be implemented in the event that monitoring indicates that the performance standards are not being met.

Include a maintenance plan for the wetland preservation/mitigation areas describing measures to be implemented to assure that they are maintained as wetland habitat in perpetuity.

* * *

The applicant shall specify measures for reuse or disposal of excavated material is suitable for use at project site, the plan should minimize the elapsed time between excavation and reuse and provide adequate stockpile coverage and protection from wind and water erosion during the entire storage period. If excavated material is unsuitable for reuse at the project site, the plan shall include specific information regarding the eventual reuse or disposal site, transportation method(s), disposal reuse management, and schedule.

The Avoidance/Mitigation Plan shall include a spill prevention and response plan to the satisfaction of the City.

* * *

Incorporate the use of non-toxic soil stabilizers according to manufacture's specifications to all inactive construction areas. Use non-toxic binders to exposed areas after cut and fill operations and hydroseed areas. The vernal pool and seasonal wetland habitat site shall be watered as directed by the City of Rancho Cordova Department Public Work, and the SMAQMD with the frequency shall be based on the type operation, soil and wind exposure.

To reduce air emissions, idling time for all construction vehicles shall be limited to a maximum of 10 minutes. Additionally, the City may reduce or curtail construction during high ambient pollutant concentrations, including but not limited to ceasing construction during peak-hour vehicular traffic on adjacent or nearby roadways. Additionally. all land clearing, grading, earth moving or excavation activities shall be suspended when winds exceed 20 mph.[55]

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[55] 7 AR 2492-2495.

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

This new mitigation measure unlawfully segments, or "piecemeals," environmental review for the "whole" of the Preserve project. The CEQA Guidelines explain that "[t]he lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect."[56] In *Santiago County Water Dist. v. County of Orange* the Court of Appeal held that an EIR for a proposed mining project improperly piecemealed environmental review, and, therefore, was fundamentally inadequate as informational document, where the EIR failed to include "a description of the facilities that will have to be constructed to deliver water to the mining operation, or facts from which to evaluate the pros and cons of supplying the amount of water that the mine will need."[57]

In this case, the City's new mitigation measure 1) fails to specify the location or locations for off-site wetland and vernal pool creation, 2) defers the development or adoption of plans for creating or restoring off-site wetlands and vernal pools, 3) defers the establishment of a mitigation monitoring and reporting plan, 4) defers the establishment of the protocols that may be used to dispose of excavated material, 5) defers the development of a spill prevention and response plan, and 6) fails to describe what sort of plan or procedures the Department Public Work might follow in deciding when to "water" created vernal pools and wetlands, until *after* project approval.[58] As in *Santiago*, the City has piecemealed the project, because it has failed to "provide sufficient facts from which to evaluate the pros and cons" of implementing the unspecified amount of off-site wetland and vernal pool mitigation that will be required at the undisclosed location as part of the "whole" of the project.

d. Deferral of Mitigation Until After Project Approval.

The City has also unlawfully deferred the development and adoption of mitigation measures until after project approval. In *Gentry v. City of Murrieta* the Court of Appeal explained that CEQA's normal requirement that mitigation be adopted *prior* to project approval may be met if an agency prepares a

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[56] CEQA Guidelines, § 15003, subd. (h), citing *Citizens Assoc. For Sensible Development v. County of Inyo* (1985) 172 Cal.App.3d 151.

[57] *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829. Moreover, *even if* the off-site mitigation efforts proposed in this new mitigation measure could be deemed a "separate" CEQA project, the City has violated CEQA's procedures by failing to discuss in its EIR the cumulative effects of implementing these off-site wetland and vernal pool creation activities in conjunction with carrying out the Preserve. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 733 ("even assuming sewer expansion was severable from the development project, the FEIR did not comply with CEQA," because such expansion would have to be considered in EIR as a *cumulative* impact of proposed project.)

[58] 7 AR 02492-02495.

Draft EIR that 1) analyzes the "whole" of the project, 2) identifies and discloses with particularity the project's potentially significant impacts, 3) establish measurable performance standards that will clearly reduce all of the identified impacts to less-than-significant levels, and 4) describes a range of and particularized mitigation measures that, when taken in combination, are able to meet the specified performance standards.[59]

The Preserve EIR violates the exception to the general rule described in *Gentry*. In this case the City 1) has not described in its EIR the existing environment where proposed vernal pool/wetland creation may occur; 2) has not analyzed or disclosed with particularity the admitted traffic, air quality, noise or biological impacts of carrying out this mitigation measure at such undisclosed sites; 3) has not articulated any measurable performance standards by which it can be determined that such undescribed mitigation measures will mitigate the impacts of off-site wetland or vernal pool creation activities to "less-than-significant" levels"; and 4) has not described any specific or particularized mitigation measures that would clearly meet such non-existent performance standards.[60]

The *Gentry* court further explained that 1) a promise to implement future recommendations that CDFG might make, after project approval, was not sufficient to find that a proposed development project's project on biological resources had been mitigated to less-than-significant levels; and 2) that the addition of mitigation measures to address such impacts after the close of the public comment period required recirculation of the agency's environmental document for further public comment and review before it, or the project, could lawfully be approved.[61] The City's Final EIR violates both aspects of *Gentry* by 1) proposing to "mitigate" impacts to off-site vernal pools and wetlands by complying with

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[59] *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395, comparing and contrasting *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011 with *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.

[60] As noted above, the one mitigation measure that was belatedly added to the Draft EIR by the City *after* the close of the public comment period, and then adopted by the City without public review or comment, mitigation measure 4.9.2c, still does not disclose where such mitigation might occur, defers the consideration of actual impacts associated with off-site wetland and vernal pool mitigation, or the development of mitigation and monitoring plans to deal with such impacts, until after project approval. See discussion at notes 55-58, *supra*.

[61] *Gentry*, *supra*, 36 Cal.App.4th at p.1397 (promise to comply with future recommendations that might be made by agency with jurisdiction over affected resources *after* project approval not sufficient to declare impacts "less-than-significant"), 1411-1412 (where evidence before lead agency indicates project may have significant, adverse effects on biological resources, agency may not adopt new mitigation measures to reduce such impacts to "less-than-significant" levels without recirculating environmental document for public review and comment on the newly added mitigation measures).

future recommendations that the City might make after project approval; and 2) adding new mitigation measure 4.9.2c to the Draft EIR to purportedly deal with such impacts, but then certifying its EIR and approving the project without recirculating its revised Draft EIR for public review and comment.[62]

e. Failure to Recirculate Draft EIR.

CEQA's procedures require that a Draft EIR must be recirculated for public review, if "significant new information" is added to the EIR after public notice of the Draft EIR's availability is given, but before the EIR is certified by the lead agency.[63] The CEQA Guidelines further require that a Draft EIR for a project must be "recirculated" for review and comment, if the "EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect"[64] More specifically, the Draft EIR must be recirculated if "a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented."[65]

In this case, *both* events have occurred: before certification of its EIR, but after the public comment period on the Draft EIR closed, the City 1) identified a range of adverse environmental effects that may occur at the unspecified off-site wetland and vernal pool mitigation site that were not discussed in the Draft EIR; and then 2) added a new mitigation measure 4.9.2c to the Draft EIR to allegedly mitigate or avoid such previously undisclosed, significant, adverse environmental effects.

In *Dry Creek Citizens Coalition v. County of Tulare*, Tulare County found itself obligated to revise and recirculate a Draft EIR for a proposed gravel mining project, because the original Draft EIR that it had circulated for public review failed to meaningfully describe and analyze, or to mitigate the impacts of, a set of proposed off-site water diversion structures that formed an integral part of the "whole" project.[66] In this case, the City's admission for the first time in its Final EIR that off-site vernal pool and wetland mitigation at undescribed locations may result in significant adverse effects, and the Final EIR's addition of a mitigation measures to the Draft EIR to address such impacts after the close of the public comment period on the Draft EIR requires the same result. The City revised the project, and

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[62] 7 AR 02492-02495. *Gentry*, *supra*, 36 Cal.App.4th at p. 1397.

[63] Pub. Resources Code, § 21092.1.

[64] CEQA Guidelines, §15088.5, subd. (a); *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 447.

[65] CEQA Guidelines, §15088.5, subd. (a)(1).

[66] *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 25 ("Inclusion of the water diversion structures in the project necessitated a revision of the Draft EIR.").

therefore was required to recirculate its Draft EIR, because the Draft EIR it initially circulated did not describe or analyze the off-site vernal pool and wetland mitigation activities that form an integral part of the "whole" of the Preserve.[67]

In addition, a lead agency must request comments on Draft EIRs from, *inter alia*, state and federal agencies which "exercise authority over resources which may be affected by the project";[68] In this case, the addition of mitigation measure 4.9.2c, calling for the establishment of an off-site Wetland Avoidance/Mitigation Plan, implicates resources that are under USFWS, USACE, USEPA, and CDFG's jurisdiction. Yet, this new mitigation measure for off-site wetland and vernal pool resources was not circulated to these agencies for review or comment before the City certified its EIR and approved the Preserve. The City thus further violated CEQA's procedures by adding a substantive mitigation measure for the Preserve's off-site impacts, without circulating this new mitigation measure for review and comment by the state and federal agencies that exercise authority over the wetland and vernal-pool resources that may be impacted by such off-site mitigation efforts.[69]

The City prejudicially abused its discretion in numerous ways: 1) acknowledging in its Final EIR a range of previously undisclosed impacts to off-site resources that were not described or analyzed in its Draft EIR; 2) adding a new mitigation measure to its Draft EIR, after the close of the public comment period, to allegedly reduce these previously unidentified impacts to "less-than-significant" levels; and then, 3) failing to recirculate this significant new information in a revised Draft EIR, before certifying the EIR and approving the project. The City's failure to describe in its publicly circulated environmental document *where* off-site mitigation might occur, *how* such activities might affect the environment, or *what* steps could or would be taken to reduce such effects, rendered the Draft EIR "so fundamentally and basically inadequate . . . that meaningful public review and comment were precluded" on these issues.[70]

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[67] Pub. Resources Code, § 21092.1.

[68] CEQA Guidelines, § 15086, subd. (a)(3).

[69] CEQA Guidelines, § 15003, subd. (h) (lead agency must consider whole of action when determining whether it may have significant, adverse effects), 15126.4, subd. (a)(1)(D) (mitigation measure that may have significant adverse effects must be discussed in publicly circulated Draft EIR); *California Farm Bureau, supra*, 49 Cal.Rptr.3d at pp. 183-184; *Citizens Assoc. For Sensible Development, supra*, 172 Cal.App.3d 151; *Santiago, supra,* 118 Cal.App.3d at p. 829.

[70] CEQA Guidelines, § 15088.5, subd. (a)(4); *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1131 ("*Laurel Heights II*"). *Cf., Vineyard Area Citizens,*

(footnote continued on next page)

3. The City's Findings that Impacts To Listed Species and Their Habitats Will Be Mitigated To "Less-Than-Significant" Levels Through Implementation of the EIR's Proposed Mitigation Measures Is Not Supported by The Evidence in the Record.

Prior to approving the Preserve, the City adopted mandatory findings required by CEQA, claiming that direct and indirect impacts to on-site, and off-site, wetland and vernal pool habitats, and the sensitive species that depend on them habitats, have been reduced to "less than significant" levels.[71] The City's findings that the Preserve's significant impacts to these biological resources have been reduced to "less than significant" levels are based on the City's adoption of mitigation measure 4.9.1b, which assigns the City with the duty to ensure that Real Party implements the Project "in such a manner that there will be no net loss of habitat (acreage and function) for these species in the Laguna formation";[72] and mitigation measures 4.9.2a, 4.9.2b, and 4.9.2c, which call upon Real Party to ensure no net-loss of habitat (acreage and function); to preserve two "wetted" acres for each acre of indirectly affected habitat; to follow a stormwater pollution prevention plan; and to submit, in the future, a wetland avoidance/mitigation plan.[73]

A lead agency's CEQA findings that a project's impacts have been mitigated to less than significant levels through the adoption of mitigation measures proposed in its EIR must be supported by substantial evidence in the agency's record.[74] Substantial evidence includes facts, reasonable inferences based on facts, and expert opinion supported by facts.[75] Substantial evidence is not speculation or opinion that is not supported by fact.[76] In *Topanga Association for a Scenic Community v. County of Los Angeles*, the California Supreme Court held that an agency's administrative findings must trace the

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(footnote continued from previous page)
supra, 40 Cal.4th 441, citing *Laurel Heights I, supra*, 47 Cal.3d at p. 392. See also discussion at note 46, *supra*.

[71] Pub. Resources Code, § 21081, subd. (a)(1); 1 AR 32-035 (finding that *direct* impacts "to individuals of endangered, threatened, and rare animal species including impacts to . . . Vernal Pool Fairy Shrimp, and Vernal Pool Tadpole Shrimp" have been reduced to "less-than-significant" levels); 1 AR 35-39 (finding that *indirect* impacts to "the habitat and individuals of endangered, threatened, and rare animal species," both on-site and off-site have been reduced to "less-than-significant" levels).

[72] 1 AR 34.

[73] 1 AR 34-39.

[74] CEQA Guidelines, § 15091, subd. (b).

[75] Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15384, subd. (a).

[76] Pub. Resources Code, § 21080, subd. (e)(2); CEQA Guidelines, § 15384, subd. (b).

analytic route from "evidence" to "action."[77] Although *Topanga*, itself, was not a CEQA case, the courts have since confirmed that *Topanga's* requirements apply equally to an agency's mandatory CEQA findings.[78]

The City's findings that its has mitigated the Preserve's on-site, and off-site, impacts to listed species and their obligate Laguna formation wetland and vernal pool habitats to "less than significant" levels are not supported by the evidence in the record. The state and federal agencies with the requisite expertise, and jurisdiction by law, over these resources (USFWS, USACE, USEPA and CDFG) reviewed and commented (several times) on the mitigation measures proposed in the EIR and adopted in the City's findings (except mitigation measure 4.9.2c, which the City unlawfully withheld from the agencies' review).[79] These agencies unanimously informed the City that, in their professional judgment, and based on their expertise and the facts before them, adoption of the EIR's proposed mitigation measures, would "result in significant impacts to, and loss of" listed species and the habitats upon which they depend.[80] In its CEQA findings the City cites no evidence to support its unsupported opinion that incorporation of the proposed mitigation measures that USFWS, USACE, USEPA and CDFG *rejected* are sufficient to mitigate the Preserve's impacts to "less than significant" levels. Thus, the City prejudicially abused its discretion, because its opinion is both unsupported by any facts and fails to explain where in the record any facts exist to support the claim that adoption of mitigation measures 4.9.1b, 4.9.2a, 4.9.2b, and 4.9.2c reduces the Preserve's significant on-site and off-site adverse impacts

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[77] *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

[78] *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 496.

[79] The City proposed mitigation measure 4.9.2c after the close of the public comment period on the Draft EIR, and then adopted it without consulting with the USFWS, USACE, USEPA or CDFG in violation of CEQA. Pub. Resources Code, § 21092.1; CEQA Guidelines, §§ 15088.5, subd. (a), 15086, subd. (a)(3). See discussion at Parts III.A.2.c through III.A.2.e, *supra*.

[80] 7 AR 02424. 3 AR 582, 7 AR 2421 (USFWS, Feb. 22, 2005):3 AR 583-584 (CDFG, Feb. 28, 2005); 3 AR 5870588 (USEPA Feb. 28, 2005); 2 AR 406-425, 2 AR 467-468, 3 AR 589-593, 644-648 (USEPA, Oct. 5, 2004); 3 AR 594-608 (USEPA, Nov. 15, 2001); 3 AR 615 (USFWS, Feb. 22, 2005); 3 AR 616-617 (USACE, Feb. 22, 2005); 3 AR 618-619, 624-625 (USEPA, Feb. 18, 2005); 2 AR 464-466, 3 AR 639-641 (CDFG, Nov. 12, 2004); 2 AR 428-429, 2 AR 476-477, 3 AR 649-650, 652-653 (USACE, Oct. 8, 2004); 2 AR 430-451, 3 AR 654-675 (USFWS, Oct. 11, 2004); 7 AR 2419-2420 (USFWS, Oct. 27, 2005); 7 AR 2422-2427 (USFWS, Oct. 14, 2004); 7 AR 2444-2445 (USEPA, Dec. 5 2005); 7 AR 2446-2459 (USEPA, Nov. 18, 2005). See discussion at notes 18-22, *supra*.

to listed species and their obligate Laguna formation vernal pool wetland habitats to "less than significant" levels.[81]

4. The City Failed to Comply With Mandatory CEQA Mitigation Measures Adopted By the County in 2002 That Apply To All "Future" Projects In the SDCP Area.

The City, in approving the Preserve, acknowledged that approval of this project requires compliance with SDCP mitigation measures BR-2 and BR-4.

> [T]he Project site is subject to the SDCP, adopted by the Sacramento County Board of Supervisors in July 2002. As part of the County's environmental review of the SDCP, several mitigation measures were adopted as part of the SDCP, including mitigation measures BR-2 and BR-4. . . . As part of Project approval, the Applicant requested amendments to BR-2 and BR-4, which would have the effect of changing the timing and consultation requirements for applicant's submission of a wetland delineation for a proposed development area (BR-2), and the timing for obtaining necessary permits from [USACE], California Endangered Species Act permits, and Streambed Alteration Agreements from [CDFG] (BR-4).[82]

a. The City Violated SDCP Biological Resource Mitigation Measures BR-2 and BR-4 When It Approved the Preserve Project.

The City's approval of the project violates mitigation measures BR-2 and BR-4 of the SDCP.[83] These mitigation measures respectively require that *prior to* approval of tentative maps for development in the SDCP area, the project applicant must 1) submit a plan for fully mitigating impacts on wetlands "prepared in consultation with the [USACE], the USFWS, the CDFG, and the [USEPA]", and 2) "obtain all necessary [USACE] permits pursuant to Section 404 of the Clean Water Act, and all necessary California Endangered Species Act permits and Streambed Alteration Agreements from the CDFG, pursuant to the Fish and Game Code."[84] Real Party did not submit the required wetland mitigation plan or obtain the required permits before the City approved the Preserve.

b. The City Exceeded Its Legal Authority in Amending the 2002 SDCP's Mandatory Mitigation Measures When Approving the Preserve in 2006.

In order to allow Real Party to evade the mandatory requirements of SDCP mitigation measures BR-2 and BR-4, the City, in approving the Preserve, adopted a resolution allegedly amending these

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[81] Pub. Resources Code, § 21080, subd. (e); CEQA Guidelines, § 15091, subd. (b); *Topanga*, *supra*, 11 Cal.3d at p. 515; *Mira Mar*, *supra*, 119 Cal.App.4th at p. 496.

[82] 1 AR

[83] See discussion at notes 10-11, *supra* (relevant text of mitigation measures BR-2 and BR-4).

[84] 4 AR 1121-1122.

previously adopted mitigation measures, so that the required wetland mitigation plan and agency permits would not be required until Real Party seeks grading permits for the Project.[85]

Under CEQA, proposed mitigation measures may be adopted only if the lead agency finds that the evidence in its record demonstrates that 1) the measures are necessary to reduce the project's identified, significant adverse environmental effects, and 2) the measures are feasible of implementation.[86] Adopted mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures."[87] A mitigation monitoring and reporting program (MMRP) must also be adopted, when the project is approved, "to *ensure* compliance during project implementation."[88] The MMRP's fundamental purpose is "to *ensure* that the mitigation measures and project revisions in the EIR . . . *are implemented* . . . ."[89]

In this case, the County made mandatory CEQA findings in 2002 declaring that SDCP mitigation measures BR-2 and BR-4, as written, were 1) feasible, and 2) necessary to mitigate the biological impacts of future development (beyond the SRSP) in the SDCP area. The County then incorporated these mandatory mitigation measures into the MMRP for the SDCP area.[90] Under CEQA, the *maximum* time to challenge the County's findings that BR-2 and BR-4 were feasible as adopted and incorporated into the SDCP was 180 days, or no later than January 14, 2003.[91] Since no such challenge was brought, mitigation measures BR-2 and BR-4 must be presumed valid as incorporated into the SDCP MMRP in 2002.[92] Accordingly, the City violated CEQA by approving the Preserve project without requiring Real Party to comply with mitigation measures BR-2 or BR-4.[93]

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[85] 1 AR 124-127.

[86] Pub. Resources Code, § 21081, subd. (a).

[87] Pub. Resources Code, § 21081.6, subd. (b).

[88] Pub. Resources Code, § 21081.6.

[89] CEQA Guidelines, § 15087, subd. (a).

[90] 34 AR 12646-12647.

[91] Pub. Resources Code, § 21167 (maximum time to challenge CEQA project, on any grounds, is 180 days).

[92] Pub. Resources Code, § 21167.2.

[93] Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15087, subd. (a).

c. The Unique Facts In *Napa Citizens* That Allowed the County of Napa to "Abandon" Previously Adopted CEQA Mitigation Measures Are Not Present In This Case.

The City is likely to assert that the Court of Appeal's decision in *Napa Citizens for Honest Government v. County of Napa* grants public agencies the authority to abandon previously adopted mitigation measures.[94] However, the ruling in *Napa Citizens* is narrowly limited to situations where the evidence in the record demonstrates that previously adopted mitigation measures are objectively incapable of ever being implemented.

In *Napa Citizens*, the County of Napa adopted a specific plan for development of an airport business park in 1986. In adopting that plan, the City adopted mandatory CEQA mitigation measures for a variety of traffic impacts, including a mitigation measure calling for the collection of fees to carry out the necessary traffic improvements. The County made formal findings that these mitigation measures could feasibly be implemented, and would reduce the significant, adverse traffic impacts identified in the EIR for the 1986 specific plan.[95]

Later, in 1994, the County undertook a subsequent "update" of its 1986 specific plan. In approving the 1994 update, the County *deleted* the mandatory traffic mitigation measures it had adopted in 1986. A group of local citizens then challenged the County's approval of the 1994 specific plan alleging, *inter alia*, that the County's action of abandoning the mandatory traffic mitigation measures that it had adopted in 1986 violated CEQA.

The Court of Appeal upheld the County's decision to abandon the mandatory 1986 traffic mitigation measures. However, in doing so, the Court explained that the courts' analysis must begin from the *presumption* that agencies *will* carry out their duty to implement CEQA mitigation measures as adopted, and that the ability to abandon such mandatory duties requires the agency to 1) affirmatively state a *legitimate* reason for abandoning the previously adopted measure; and 2) adopt administrative findings linking objective evidence in the agency's record to an affirmative showing that the previously adopted CEQA mitigation measure is *incapable* of implementation: "In other words, the measure cannot be deleted *without a showing that it is infeasible*."[96]

In *Napa Citizens*, the Court, in reviewing Napa County's abandonment of its 1986 CEQA mitigation measures when approving its 1994 specific plan update, found the combination of the

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[94] *Napa Citizens for Honest Govt. v. Napa County Bd. Of Supervisors* (2001) 91 Cal.App.4th 342.

[95] *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 353.

[96] *Id.* at p. 359.

following unique facts sufficient to meet the above test: 1) the County had only been able to collect $2 million in fees under its 1986 mitigation measures, while the expected costs to implement the needed traffic improvements was over $70 million;[97] 2) development within the specific plan area would cause only a small percentage of the projected traffic congestion, and, therefore, the County could not insist that developers within the Project area should shoulder the bulk of the expense for the needed highway improvements as a means of alleviating anticipated, cumulative congestion;[98] 3) CalTrans' money was committed to other projects, and there was no reason to assume that supplemental funding would be available;[99] and 4) there was no consensus among the various agencies responsible for traffic and road improvements in the County on how to deal with expected traffic congestion.[100]

Based on the foregoing showing of objective facts in the record, the *Napa Citizens* Court held that Napa County had overcome the presumption that its previously adopted traffic mitigation measures were feasible, and upheld the County's decision to abandon its mandatory duty under CEQA to implement the mitigation measures it previously adopted in 1986: "We find that the record supports the [County's] conclusion that the 1986 mitigation measures could not be accomplished in a successful manner within a reasonable period of time, and thus were infeasible."[101]

In *this* case, none of the foregoing factors exist: nothing in the EIR or in the City's resolution allegedly amending mitigation measures BR-2 or BR-4 claims, or cites objective evidence in the City's record demonstrating, that these mitigation measures are "infeasible" of implementation as they were originally drafted, adopted, and incorporated into the SDCP in 2002.[102] Other than changing *timing* (so that the required wetland mitigation plan and state and federal permits will be required only at the time of grading, instead of at the time of entitling development rights for the project) the EIR and the City's resolution appear to presume that compliance with the substance of BR-2 and BR-4 remains feasible.

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[97] *Id.* at p. 364.

[98] *Id.*

[99] *Id.*

[100] *Id.* at p. 365.

[101] *Id.*

[102] 1 AR 42-43 (CEQA findings containing no statement, nor citing any evidence, indicating that BR-2 or BR-4 are infeasible as they were drafted and adopted at the time the SDCP was approved); 1 AR 124-127 (no finding of infeasibility in resolution purporting to amend SDCP Mitigation Measures BR-2 and BR-4); 4 AR 01138-01141 (no evidence presented or assertion made in Preserve EIR that implementation of BR-2 or BR-4, as originally drafted and adopted is infeasible).

Given the very different facts of *Napa Citizens* and this case, 1) the City had no right to amend SDCP mitigation measures BR-2 or BR-4 four years after they were found by the County to be feasible and imposed as mandatory conditions on all future development approvals in the SDCP area, and 2) the City's findings and the evidence in its record for the Preserve project *do not* justify the City's failure to comply with mitigation measured BR-2 or BR-4 as they were drafted, found feasible of implementation, and formally adopted by the County of Sacramento in 2002.[103]

B. VIOLATIONS OF THE STATE PLANNING AND ZONING LAW RELATING TO THE CITY'S FAILURE TO ENSURE THE REGIONAL VIABILITY OF SPECIAL STATUS SPECIES IN THE SDCP AREA.

1. Standard of Review

Judicial review of the City's adoption of the ordinances and resolutions approving the Preserve is governed by section 1085 of the Code of Civil Procedure (traditional mandamus).[104] Under rules of traditional mandamus, a reviewing court may not simply "substitute its judgment for that of the agency, and if reasonable minds may disagree as to the wisdom of the agency's action, [the agency's] determination must be upheld."[105]

> [A] governing body's conclusion that a particular project is consistent with the relevant general plan carries a strong presumption of regularity that can be overcome only by a showing of abuse of discretion. "An abuse of discretion is established only if the [governing body] has not proceeded in a manner required by law, its decision is not supported by findings, or the findings are not supported by substantial evidence." (citation omitted)[106]

Where a reviewing court finds that the challenged agency action is arbitrary or capricious, or unlawful, then such action must be set aside.[107]

2. Overview of Planning Law's Consistency Doctrine

The "consistency doctrine" is the "linchpin of California's land use and development laws; it is the principle which infuse[s] the concept of planned growth with the force of law."[108] The consistency

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[103] Put another way, *even if* the City's action, when approving the Preserve, of adopting a resolution calling for a wetland delineation to be submitted, and permits from USACE and CDFG to be obtained, by the applicant at the time grading permits are issued, that new resolution's requirements would simply be in addition to the SDCP MMRP's pre-existing mandatory requirement of submitting a wetland delineation, and obtaining permits from USACE and CDFG before tentative maps are approved.

[104] Code Civ. Proc., § 1085; Govt. Code, § 65751.

[105] *Klajic v. Castaic Lake Water Agency* (2001) 90 Cal.App.4th 987, 995.

[106] *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 357.

[107] *Klajic*, *supra*, 90 Cal.App.4th at p. 995.

doctrine requires that any decision affecting land use and development must be consistent with the overlying general plan.[109] Any attempt to approve a project that is inconsistent with the overlying general plan is a legislative nullity, or void *ab initio*.[110]

While local agencies are ordinarily granted liberal discretion to apply their general plans to specific projects, agencies have no discretion to approve projects that violate general plan policies phrased as specific, mandatory requirements, and the courts do not defer to decisions that violate such mandatory policies.[111] For example, in *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* ("*FUTURE*"), the court invalidated the approval of a residential subdivision, where the project would violate a mandatory general plan policy disallowing low-density residential development in specified areas.[112] *FUTURE* expressly rejected the County's argument that violation of only one general plan policy could not invalidate its approval of the project, precisely because the policy was stated in mandatory language.[113]

The consistency doctrine, however, also requires more than that a project must merely comply with "mandatory" goals and policies stated in a land use agencies general plan: *any* project approval – such as the City's approval of the Preserve project, in this case – violates the State Planning and Zoning Law to the extent that the agency's record of proceedings demonstrates that implementation of the project would "frustrate the General Plan's goals and policies":

> [T]he consistency doctrine requires more than that [subsequent project approvals] recite goals and policies that are consistent with those set forth in the County's General Plan. . . .[C]ases such as *FUTURE v. Board of Supervisors*, do not require an outright conflict between provisions before they can be found to be inconsistent. The proper question is whether development of the Project Area under the [subsequent project approval] is compatible with and will not frustrate the General Plan's goals and policies. If the [subsequent project approval] will frustrate the General Plan's goals and policies, it is

(footnote continued from previous page)

[108] *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336 ("*FUTURE*"), citing *Corona-Norco Unified School Dist. v. City of Corona* (1993) 17 Cal.App.4th 985, 994.

[109] *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772.

[110] *Lesher Communications Inc v City of Walnut Creek* (1990) 52 Cal.3d 531, 540-541; *Midway Orchards v. County of Butte* (1990) 220 Cal.App.3d 765, 783.

[111] *FUTURE*, *supra*, 62 Cal.App.4th at p. 1340.

[112] *Id.* at pp. 1341-42.

[113] *Id.* at pp. 1341-42.

inconsistent with the . . . General Plan unless it also includes definite affirmative commitments to mitigate the adverse effect or effects.[114]

3. The Preserve Project Is Inconsistent With, and Frustrates the Implementation of, the City's General Plan Policy Requiring The City to Ensure That Project Approvals Will Not Impact the Regional Viability Of Special-Status Species.

In this case, the City's approval of the Preserve must be set aside, because it is inconsistent with, and will frustrate the implementation of, it's General Plan directive that, prior to project approval, the City must 1) coordinate with USFWS in devising strategies to mitigate impacts to special-status species, and) ensure that its approval will not impact the regional viability of such species.

The City's General Plan states the following Policy and Action measure:

> **Policy NR.1.7** - Prior to project approval the City shall require a biological resources evaluation for private and public development projects in areas identified to contain or possibly contain listed plant and/or wildlife species based upon the City's biological resource mapping provided in the General Plan EIR or other technical materials.
>
> **Action NR.1.7.1**- For those areas in which special status species are found or likely to occur or where the presence of species can be reasonably inferred, the City *shall* require mitigation of impacts to those species that *ensure* that the project does not contribute to the decline of the affected species populations in the region to the extent that their decline would impact the viability of the regional population. Mitigation *shall* be designed by the City *in coordination with* the US. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), and shall emphasize a multi-species approach to the maximum extent feasible. This may include development or participation in a habitat conservation plan.[115]

The Preserve area contains habitats upon which special-status species depend.[116] All of the state and federal agencies with jurisdiction over special status species and their habitats, including USFWS, repeatedly notified the City that preserving the existing, meandering alignment of Morrison Creek, and conserving slightly over 200 acres of on-site vernal pool/wetland habitat within the Preserve area is the *minimum* level of protection required to assure the regional viability of special-status species.[117] USFWS expressly rejected the mitigations proposed in the Preserve EIR and adopted by the City,

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[114] *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 379 ("The County also points out, correctly, that the cases that have struck down a specific plan for inconsistency with a general plan, have concerned more than a failure to implement the general plan's goals and policies.")

[115] 55 AR 19328 (emphasis added).

[116] 3 AR 655. See discussion at note 13, *supra*.

[117] 3 AR 656. ("*The mapped boundaries are the smallest that would be acceptable to the Agencies* and are predicated on ten principles and standards that would be followed by developers and planners as each element of the overall development proceeds." [emphasis added]) See discussion at note 13, *supra*.

because these measures *fail* to provide the minimum level on-site habitat preservation and conservation required to ensure the continued, regional viability of federally listed species:

> Based on our review of the proposal as submitted by the project proponent, the project design for the [Preserve] is not consistent with our conceptual-level strategy document and the map. The proposal would result in significant impacts to, and loss of vernal pool tadpole shrimp, vernal pool fairy shrimp, Sacramento and Slender Orcutt grass, and habitats they depend on (grasslands, wetlands and vernal pools). In addition, the proposal would result in the realignment of Morrison Creek or much of its length in the project site. This action will result in significant changes and impacts to the overall hydrology of the area which will, in turn, adversely impact endangered species habitat. We strongly recommend the Sunridge village project, and all future projects, in the SDCPA be designed consistent with the strategy discussed here.[118]

The inconsistency between 1) the City's approval of the Preserve over USFWS' express objections, and 2) General Plan Policy NR 1.7 and General Plan Action NR 1.7.1, was summed up by one member of the public at the City Council's July 17, 2006 hearing as follows:

> [General Plan, Natural Resources Element] Page 13: Action Natural Resources 1.7.1 [states], "For those areas where special status species are found or are likely to occur, the City *shall* require mitigation of impact to those species that *ensures* that the project does not contribute to the decline of the affected special population in the region to the extent the decline would impact the viability of the regional population. Mitigation *shall* be designed by the City . . . *in coordination with* the United States Fish and Wildlife Service." You're not coordinating with them. You're approving the project.[119]

The City's approval of the Preserve project constitutes an abuse of discretion, and must be set aside as void *ab initio*, because the City's approval directly conflict's with, and frustrates the implementation of, this general plan directive.[120]

First, the General Plan states that mitigation for projects that may impact special status species or their habitats "shall" be designed by the City "in coordination with" USFWS. The City did not coordinate with USFWS. USFWS objected repeatedly to the biological resource mitigation measures proposed in the EIR and adopted by the City in approving the Preserve.[121]

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[118] 3 AR 656. USFWS' sentiment was echoed by the other agencies and CNPS. See *e.g.*, 3 AR 580-581 (CNPS); 3 AR 582, 615 (USFWS); 3 AR 583-584 (CDFG); 3 AR 587-608, 618-619, 624-625 (numerous letters and supporting documents from USEPA); 3 AR 616-617 (US Army Corps of Engineers). See discussion at note 13, *supra*.

[119] 12 AR 3903 (emphasis added).

[120] *Lesher*, *supra*, 52 Cal.3d at pp. 540-541; *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 379; *FUTURE*, *supra*, 62 Cal.App.4th at 1336; *Corona-Norco*, *supra*, 17 Cal.App.4th at p. 994; *Midway Orchards*, *supra*, 220 Cal.App.3d at p. 783.

[121] See discussion at notes 117-118, *supra*.

Second, the General Plan states that the City "shall" require mitigation of impacts to special status species to ensure that approval of projects will not "impact the viability of . . . regional population[s]" of special status species. But USFWS, USEPA, USACE and CDFG unanimously informed the City that the mitigation measures proposed in the EIR and adopted by the City *are not* adequate to support such a finding.[122]

Finally, any claim the City may make that *future* compliance with the City's amendments to mitigation measures BR-2 and BR-4 will ensure "coordination" with USFWS, and regional viability, "later," also violates the general plan. The general plan states that the mandated "coordination" with USFWS and the obligation to ensure regional viability of special status species attaches "*prior to* project approval" – not *after* project approval, but before grading permits are issued.[123]

4. The City's Approval of the Preserve Project Is Inconsistent With, and Frustrates the Implementation of, Other General Plan Policies Designed to Protect Habitat Connectivity In the Overall SDCP Area, and the Regional Viability of Special-Status Species.

In addition to the direct violation of the City's general plan policy and action mandating that the City coordinate with the USFWS on mitigating impacts to special-status species *before* approving projects, the City's approval of the Preserve project is also inconsistent with, or frustrates the implementation of, at least one other general plan policy and two, related general plan actions:[124]

General Plan Policy NR.1.1 states that the City shall "[p]rotect rare, threatened, and endangered species and their habitats in accordance with State and federal law."[125] In order to implement this policy, General Plan Action NR.1.1.2 states that the City will "[r]eview projects through the entitlement process and CEQA analysis, to ensure that they comply with this policy if the site contains unique habitat, creeks, and/or wooded corridors."[126] The record documents that the Preserve area contains

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[122] See discussion at Part III.A.3, at p. 20. supra, titled "The City's Findings that Impacts To Listed Species and Their Habitats Will Be Mitigated To "Less-Than-Significant" Levels Through Implementation of the EIR's Proposed Mitigation Measures Is Not Supported by The Evidence in the Record."

[123] 3 AR 655-656. See discussion at Part III.A.3, at p.20, *supra*, titled "The City's Findings that Impacts To Listed Species and Their Habitats Will Be Mitigated To "Less-Than-Significant" Levels Through Implementation of the EIR's Proposed Mitigation Measures Is Not Supported by The Evidence in the Record."

[124] 12 AR 03901-3903.

[125] 55 AR 19326.

[126] 55 AR 19326.

unique habitat and creeks, that serve as habitat for listed species.[127] Yet, the City has approved this project over the federal agencies express notification that the Preserve project, as approved, *does not* provide adequate protection for "rare, threatened and endangered species and their habitats in accordance with State and federal law" as required by the City's General Plan.[128]

Similarly, General Plan Action NR 1.1.3 states

> As part of the consideration of development applications for individual Planning Areas containing habitats that support special-status plant and animal species that are planned to be preserved, the City shall require that these preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserved habitat to support the special-status species identified. The determination of the design and size of the "interconnections" shall be made by the City, as recommended by a qualified professional, and will include consultation with the California Department of Fish and Game and U. S. Fish and Wildlife Service.[129]

The City's approval of the Preserve frustrates the implementation of this policy because the federal agencies have set forth, with specificity, the minimum habitat connectivity required *within* and *across* the SDCP area required to "maintain the viability of the preserved habitat to support the special-status species identified."[130] The City's approval of the Preserve project, as proposed, frustrates the implementation of this general plan directive, because implementation of this project will *destroy* the central hub of connectivity for the wetland and vernal pool habitats in the SDCP area.[131]

C. VIOLATION OF CEQA RELATED TO THE CITY OF RANCHO CORDOVA'S INCORPORATION OF THE SDCP EIR INTO THE PRESERVE PROJECT AND EIR.

As noted at the beginning of this brief, before approving the SDCP and SRSP in 2002, the County of Sacramento circulated a Draft EIR that drew critical fire from the public and commenting agencies regarding, *inter alia*, "issues of water supply and the impact of groundwater withdrawals on Cosumnes River fish migration."[132] Following the County's approval of the SDCP, litigation was filed in the Sacramento County Superior Court challenging the SDCP for, *inter alia*, violations of CEQA.[133]

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[127] 3 AR 655-656.

[128] 3 AR 656.

[129] 55 AR 19326.

[130] 3 AR 656. *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 379.

[131] See discussion at notes 18-23, and diagram at note 24, *supra*.

[132] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at 422. The Supreme Court's decision catalogues a long list of comments regarding impacts of groundwater withdrawals on the Cosumnes River from the United States Fish and Wildlife Service, the National Marine Fisheries Service, the Nature Conservancy, which manages the Cosumnes River Preserve (an area of 30,000 acres in which several state and federal

(footnote continued on next page)

1. The SDCP EIR's Analysis and Conclusions Regarding Long-Term Water Supply and Impacts to the Cosumnes River Violate CEQA's Procedures and Substantive Requirements.

On February 1, 2007, in *Vineyard Area Citizens v. City of Rancho Cordova*, the California Supreme Court invalidated the Environmental Impact Report ("EIR") for the Sunrise Douglas Community Plan ("SDCP") for failure to adequately consider 1) impacts associated with providing long-term water supplies, or 2) impacts on salmonid migration in the Cosumnes River.[134]

The Supreme Court held that the SDCP EIR's long-term water supply "analysis" is defective, as a matter of law, because it fails to meet the CEQA's procedural and substantive requirements:

> Factual inconsistencies and lack of clarity in the FEIR leave the reader – and the decision makers – without substantial evidence for concluding that sufficient water is, in fact, likely to be available for the Sunrise Douglas project at full build out. Most fundamentally, the project FEIR and the Water Forum Proposal final EIR provide no consistent and coherent description of the future demand for new water due to growth in Zone 40 or of the amount of new surface water that is potentially available to serve that growth.[135]

The Supreme Court held in *Vineyard Area Citizens* that the SDCP EIR's long-term water supply analysis was substantively defective, because its disclosure of the actual, or likely, sources of long-term water for the SDCP area was insufficient for the public to meaningfully understand how much water would be available, from which sources, and what the impacts would be of securing long-term water from the inadequately disclosed future source or sources.[136]

The Supreme Court also held that the SDCP EIR's analysis of impacts on salmonid migration in the Cosumnes River was informationally defective, requiring the SDCP EIR to be recirculated for public review and comment on this point before it may be recertified:

> in response to comments raising the issue of an impact on salmon migration in the Cosumnes River, the FEIR states, in effect, that loss of flow to that river is likely to be

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agencies hold land interests), and Graham Fogg, a professor of hydrogeology at the University of California, Davis, who explained that while some reaches of the Cosumnes River are hydrologically disconnected from the aquifer in the region, modeling and field observations show a potential for connection "upstream of Dillard Road and downstream of Highway 99." *Id.* at p. 425.

[133] See discussion at note 12, *supra*.

[134] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 449-450.

[135] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 439.

[136] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 439-444, citing, *inter alia*, *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 722-723 ("*SCOPE*").

small and therefore insignificant *except that* the river might remain drier longer in the year – including when the salmon would be migrating – and over a longer reach – including where the salmon would be migrating. We do not consider this response substantial evidence that the loss of stream flows would have no substantial effect on salmon migration. Especially given the sensitivity and listed status of the resident salmon species, the County's failure to address loss of Cosumnes River stream flows in the Draft EIR " 'deprived the public . . . of meaningful participation' " (*Laurel Heights II*, *supra*, 6 Cal.4th at p. 1131) in the CEQA discussion. (See CEQA Guidelines, Cal. Code Regs., tit. 14, § 15065, subd. (a)(1) [potential substantial impact on endangered, rare or threatened species is per se significant].)[137]

2. The Preserve EIR Incorporates By Reference the SDCP EIR's Defective Analysis and Conclusions Regarding Long-Term Water Supply and Impacts to the Cosumnes River.

The Preserve EIR incorporates the SDCP EIR into its analysis and conclusions:

> The SDCP[] EIR included a global evaluation of the project site but did not address the specific environmental impacts of the project as proposed. [¶] . . . This EIR, though technically not "tiering" from the [SDCP] EIR prepared for the Sunrise Douglas Community Plan . . . will nevertheless rely substantially on the [SDCP] EIR for information on a variety of topics. . . . [T]his Project EIR contains references to, and summaries of, the wealth of information in the [SDCP] EIR that despite changes in the cumulative circumstances surrounding the project since July 2002 remains pertinent to the Preserve at Sunridge Project.
>
> Under the State CEQA Guidelines, a lead agency's ability to rely on information from prior EIRs and other planning documents is by no means limited to situations in which the formal tiering process may also be used. State CEQA Guidelines Section 15150 sets forth the rules governing "incorporation by reference" . . . ¶By relying on the available mechanism of incorporation by reference, the City, in preparing this Project EIR, has been able to make maximum feasible and appropriate use of the [SDCP] EIR while at the same time addressing changed cumulative circumstances and site-specific concerns not addressed specifically in the [SDCP] EIR. . . . [T]he City, through incorporation by reference, is using the [SDCP] EIR in a manner similar to what would be accomplished through tiering: relying largely on existing information about broad, area wide or regional issues and impacts, while updating that information where necessary and focusing on site specific issues not addressed previously.[138]

The two key portions of the SDCP EIR that the Preserve EIR incorporates by reference are the SDCP EIR's discussion and analysis of 1) long-term water supply impacts, and 2) impacts to the Cosumnes River.[139] With regard to impacts to the Cosumnes River, the Preserve EIR states:

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[137] *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 449.

[138] 3 AR 710-711. The SDCP EIR is incorporated, in its entirety, into the City's certified record of proceedings for the Preserve project at volumes 29 through 33 of the administrative record.

[139] See, e.g., 3 AR 710; 4 AR 1045-1047 (extensive incorporation of SDCP EIR's analysis and conclusions into Preserve EIR regarding groundwater impacts and impacts on Cosumnes River); 4 AR

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> In the Comment and Responses for the SDCP/SRSP DEIR (November 2001) as well as identified in the CEQA Findings of Fact and Statement of Overriding Considerations for the SDCP/SRSP, Sacramento County, through the Sacramento County Department of Environmental Review (DERA) and the Board of Supervisors, concluded: Given the current condition of the groundwater aquifer underlying southern Sacramento County, the available data suggests groundwater extraction at the North Vineyard Well Field (NVWF) will not significantly impact flows in either Deer Creek or the Cosumnes River.[140]

With regard to long-term water supply, the Preserve EIR's reliance on the SDCP EIR is unequivocal:

> the environmental effects of obtaining groundwater from the North Vineyard Well Field *were fully addressed in the SDCP/SRSP EIR . . . . Therefore, the project's water supply impacts are considered less than cumulatively considerable.*[141]

By incorporating the SDCP EIR's analysis of long-term water supply and impacts to the Cosumnes River into the Preserve EIR, the City, by definition, incorporated each and every public comment in objection to the SDCP EIR's defective analysis on these points.[142] Moreover, the USEPA, in commenting on the Preserve, specifically objected the project's reliance on "conjunctive use," and the City's proposal to use groundwater from the North Vineyard well field, to meet long-term water supply:

> The FEIR's water supply plan proposes sole reliance on groundwater to meet the demands generated in the short-term by anticipated build-out within the Specific Plan area, with reliance in "conjunctive use" to meet the demands that grow over the long-term. Initially, it appears that groundwater will be drawn from a well field the North

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1065-1070 (Preserve EIR stating that "methodology" used in preparing hydrology analysis for Preserve Project was to examine other EIRs, including SDCP EIR, and then reciting several pages of analysis of impacts and mitigation measures from the SDCP EIR); 4 AR 1076 (stating that "[s]ince the [Preserve] project is now expected to receive groundwater from the North Vineyard Well Field, the project is subject to the . . . adopted mitigation measures associated with the original approval of the Sunrise Douglas Community Plan"); 4 AR 1085 (incorporating SDCP EIR's cumulative water supply impact analysis and mitigation measures).

[140] 4 AR 1045.

[141] 4 AR 1089 (emphasis added).

[142] Pub. Resources Code, § 21177, subd. (b); CEQA Guidelines, § 15132 (final EIR consists of the Draft EIR, comments received on the Draft EIR, and the responses of the lead agency to such comments). The record proceedings for the Preserve incorporates the objections raised by the Vineyard Area Citizens, TNC and others regarding the adequacy of the SDCP EIR's analysis of long-term water supply and impacts on the Cosumnes River. See, e.g., 31 AR 11015-11028 (Comments and objections raised by TNC regarding hydrology and impacts on Cosumnes River); 31 AR 11029-11036 (Comments and objections raised by Graham Fogg, Professor of Hydrogeology, UC Davis, regarding hydrology and impacts on Cosumnes River); 31 AR 11109 (comments and objections raised by Vineyard Area Citizens for Responsible Growth, Inc., regarding long term water supply impacts on North Vineyard Well Field. See *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 425. (citing same sources). See discussion at note 132, *supra*.

Vineyard area, and the proposed project would draw groundwater from the Elk Grove area aquifer – an aquifer where overdraft already appears to be serious problem. We expect that further draw-down of this aquifer will have severe, adverse impacts on the aquatic resources of the Cosumnes River watershed and, therefore, the Bay/Delta ecosystem.[143]

3. The City's Certification of the Preserve EIR Must be Set Aside Because it "Incorporates by Reference" the SDCP EIR's Defective Analysis Of Long-Term Water Supply Impacts and Impacts on the Cosumnes River.

In two recently decided, companion cases – *Friends of the Santa Clara River v. Castaic Lake Water Agency* and *Planning and Conservation League v. Department of Water Resources* – the Court of Appeal decided that if one EIR fails to meet CEQA's substantive or procedural requirements, and then a later EIR relies on such invalid portions of the first EIR, then the later EIR is *also* necessarily insufficient to meet CEQA's substantive or procedural requirements on those issues, and must be decertified.[144] In this case, the California Supreme Court's February 1, 2007 decision that the SDCP EIR violated CEQA with regard to 1) long-term water supply analysis, and 2) analysis of impacts on biological resources in the Cosumnes river, requires the Preserve EIR to be invalidated on the same grounds, because the Preserve EIR directly incorporates and substantively relies on the SDCP EIR's defective analysis and conclusions on these points.

In *Friends of the Santa Clara River*, in 1995, the California State Department of Water Resources (DWR) and water contractors of the State Water Project (SWP) entered an agreement, known as the Monterey Agreement, changing allocations of entitlements to SWP water as between agricultural and urban contractors.[145] The approval of the Monterey Agreement was based on an EIR prepared by the Central Coast Water Authority, which purportedly analyzed the statewide environmental effects of implementing the Monterey Agreement.[146]

Following certification of the Monterey Agreement EIR and approval of that statewide project, the Belridge Water Storage District, a member of the Kern County Water Agency ("KCWA"), prepared a separate EIR on the environmental effects in Kern County of selling up to 130,000 acre feet of SWP entitlements associated with the Monterey Agreement to unidentified purchasers (the Belridge EIR).[147]

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[143] 2 AR 423, 449; 3 AR 606, 667.

[144] *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2002) 95 Cal.App.4th 1373; *Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892.

[145] *Friends of the Santa Clara River, supra*, 95 Cal.App.4th at p. 1375.

[146] *Id.*

[147] *Friends of the Santa Clara River, supra*, 95 Cal.App.4th at p. 1375.

Subsequently, the Castaic Lake Water Agency ("CLWA") then purchased from the Kern County Water Agency (KCWA) entitlement to 41,000 acre feet per year of SWP water.[148] CLWA approved this transfer after certifying a third EIR (the CLWA EIR), that tiered from the analysis and conclusions in the Monterey Agreement EIR, and that incorporated by reference the Belridge EIR.[149]

Friends of the Santa Clara River ("Friends") then sued CLWA, claiming that the CLWA EIR did not comply with CEQA on a variety of grounds. The trial court denied the Friends of the Santa Clara River's petition, and the Friends appealed.

While the Friends' appeal of their challenge to the CLWA EIR was pending, the Court of Appeal in a separate, ongoing lawsuit, *Planning & Conservation League v. Department of Water Resources* ("*PCL*"), found the Monterey Agreement EIR inadequate to meet CEQA's requirements, and ordered it decertified.[150] In light of this fact, the Court, in *Friends of the Santa Clara River*, summarily concluded that the decision in *PCL* compelled the conclusion that the CLWA EIR must *also* be decertified.[151] *Friends of the Santa Clara River* also explained that the need to set aside the CLWA EIR would have been *even more* apparent, had that document incorporated the Monterey Agreement EIR by reference, rather than simply "tiering" from it:

> Respondent contends that although its EIR tiered on the Monterey Agreement EIR, it did not expressly or specifically incorporate any substantive analysis from specific portions of the Monterey Agreement EIR. But respondent's reliance on the Monterey Agreement EIR is implicit in the concept of tiering, even without express reference to portions of the prior EIR's analysis. The express statement that respondent's EIR tiers on the prior EIR may be treated as an admission that respondent relied upon and needed to rely upon the Monterey Agreement EIR. (Guideline 15152(g).)
>
> . . . [R]espondent's EIR repeatedly referenced this project's part of the overall scheme envisioned by the Monterey Agreement. It stated this EIR was a project EIR tiered on the Monterey Agreement EIR, and that the project may be viewed as one of the projects "evaluated on a programmatic basis in the Monterey Agreement EIR."[152]

The Preserve EIR must be set aside for the same reasons given in *Friends of the Santa Clara River*. As explained above, in this case, the City of Rancho Cordova did not merely "tier" from the SDCP EIR, it *directly* and *substantively* relied upon the portions of the SDCP EIR addressing 1) long-

[148] *Id.*

[149] *Id.*

[150] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at pp. 1375-1376, citing *PCL*, *supra*, 83 Cal.App.4th 892.

[151] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at p. 1376.

[152] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at p. 1384.

term water supply and 2) impacts to the Cosumnes River by incorporating them directly into the Preserve EIR, and then making findings that the Preserve's impacts regarding these resources had been mitigated to less than significant levels by virtue of the SDCP EIR's analysis and conclusions.[153] As explained in *Friends of the Santa Clara River*:

> The purpose of an EIR is to inform the public and the decision makers of the environmental effects of a project. . . . [R]espondent's EIR assumed the public and decision makers would want to know (1) that this project implements the Monterey Agreement, the environmental effects of which were analyzed in the Monterey Agreement EIR and found to be negligible, and (2) that the environmental effects in Kern County were studied in the Belridge EIR and found to be insignificant because of the increased reliability of water deliveries to agricultural contractors under the Monterey Agreement. The *PCL* decision undermined those premises by decertifying the Monterey Agreement EIR.[154]

And so it is in this case. The City's EIR for the Preserve assumed the public and decision makers would want to know that this project implements the SDCP area plan, and that the environmental effects of the Preserve with regard to 1) long-term water supply, and 2) impacts to the Cosumnes River were analyzed in the SDCP EIR. The *Vineyard Area Citizens* decision undermines those premises, by invalidating the SDCP EIR's analysis on these points.[155] Where the Preserve EIR does not simply "tier" from, but actually incorporates into its own body the SDCP EIR's defective analysis and conclusions of "less than significant" impacts regarding these resources, the result must be the same.[156]

IV. CONCLUSION

For the foregoing reasons, CNPS requests that the Court order the issuance of a peremptory writ of mandate commanding the City to set aside its approvals in furtherance of the Preserve project for violations of CEQA and the Planning and Zoning Law, and that the Court permanently enjoin the City or Real Party from carrying out any activities in furtherance of the Project based on those approvals.[157]

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[153] 3 AR 710; 4 AR 1045-1047; 4 AR 1065-1070; 4 AR 1076; 4 AR 1085. See discussion at Part III.C.2, at p. 33, *supra*, titled, "The Preserve EIR Incorporates By Reference the SDCP EIR's Defective Analysis and Conclusions Regarding Long-Term Water Supply and Impacts to the Cosumnes River."

[154] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at p. 1385.

[155] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at p. 1385.

[156] *Friends of the Santa Clara River*, *supra*, 95 Cal.App.4th at pp. 1375-1376.

[157] As explained above, the "approvals" referenced include1 AR 1 (Resolution No. 105-2006); 1 AR 124 (Resolution No. 106-2006); 1 AR 128 (Resolution No. 106-2006); 1 AR 128 (Resolution No. 108-2006); 2 AR 210 (Ordinance No. 40-2006); 2 AR 344 (Ordinance No. 41-2006); and 2 AR 397 (Notice of Determination). See discussion at notes 25-27, *supra*.

DATE: 3/5, 2007

Respectfully Submitted,

LAW OFFICE OF J. WILLIAM YEATES

Keith G. Wagner

Keith G. Wagner, Attorney for Petitioner and Plaintiff, California Native Plant Society

PROOF OF SERVICE

CASE: *CNPS v. City of Rancho Cordova* (Sacramento County Superior Court Case No. 06 CS 01311)

I am a citizen of the United States, employed in the County of Sacramento. My business address is 3400 Cottage Way, Suite K, Sacramento, CA 95825. I am over the age of 18 years and not a party to the above-entitled action.

On March 5, 2007, I served the foregoing document on the parties in this action, located on the attached service list, by service as designated below:

(A) By First Class Mail:	In the ordinary course of business, I caused each such envelope to be placed in the custody of the United States Postal Service at 3400 Cottage Way, Suite K, California, with first-class postage thereon fully prepaid in a sealed envelope.
(B) By Personal Service:	I personally delivered each such envelope to the office of the address on the date last written below.
(C) By Overnight Mail:	I caused each such envelope to be placed in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for.
(D) By Facsimile (prior to 10:00 a.m.):	I caused such document to be served via facsimile electronic equipment transmission (fax) on the parties in this action by transmitting a true copy to the following fax numbers listed under each addressee below.
(E) By Courier:	I caused each such envelope to be delivered to an authorized courier or driver, in an envelope or package addressed to the addressee below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 5, 2007, at Sacramento, California.

Kimberly Smith

Kimberly Smith

LAW OFFICE OF J. WILLIAM YEATES
3400 COTTAGE WAY, SUITE K
SACRAMENTO, CA 95827

SERVICE LIST

TYPE OF SERVICE	ADDRESSEE
(A)	James G. Moose Remy, Thomas, Moose, & Manley 455 Capitol Mall, Suite 210 Sacramento, CA 95814 Phone: (916) 443-2745 **Attorneys for Real Parties In Interest:** Jaeger Road 530, LLC
(A)	Steven R. Meyers Julia Bond Amrit Kulkarni Meyers, Nave, Riback, Silver, & Wilson 555 12th Street, Suite 1500 Oakland, CA 94607 Phone: (510) 808-2000 **Attorneys for Respondent:** City of Rancho Cordova

EXHIBIT 3

CALIFORNIA NATIVE PLANT SOCIETY v. CITY OF RANCHO CORDOVA, et al., Case No. 06 CS 01311:

The following shall constitute the Court's tentative ruling on the petition for writ of mandate, set for hearing in Department 19 on Friday, May 25, 2007. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

At the request of the parties, the Court has reserved two hours for oral argument on this matter, with one hour allocated to each side. The Court only provides reporting services for the first hour of the hearing; counsel therefore should make arrangements to pay for reporting services for any time exceeding one hour. Counsel are also directed to meet and confer prior to the hearing to determine whether the full two hours will be needed, and, if not, inform the Clerk of the Court how much time will be needed.

I. General Introduction

In this proceeding, petitioner California Native Plant Society challenges respondent City of Rancho Cordova's certification of an environmental impact report for, and its approval of, the so-called "Preserve at Sunridge" project (referred to in this ruling as "the Preserve"). The Preserve project involves the development, for residential and commercial uses, of portions of a 530-acre area of land located in the City of Rancho Cordova. The developer of the project is Real Party in Interest Jaeger Road 530 LLC. The Preserve area is part of a much larger tract destined for eventual development under a previously-approved planning document known as the "Sunrise Douglas Community Plan" (referred to in this ruling as "SDCP").

Petitioner's goal is to have respondent's approval of the Preserve declared legally invalid. It seeks to do so through issuance of a writ of mandate under Code of Civil Procedure sections 1085 and/or 1094.5, based upon a variety of theories involving alleged violations of the California Environmental Quality Act ("CEQA") and the State Planning and Zoning Law. Many of petitioner's theories relate to the project's effects on wetlands and vernal pools in the proposed development area (and on the animal species that live in such habitat), and what it alleges to be inadequate or improper efforts to mitigate such effects. Petitioner also alleges that the water supply analysis done for the project is invalid because of its reliance on the water supply analysis done in connection with the SDCP, which recently was declared to be invalid in certain respects by the California Supreme Court in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412.

II. Preliminary Issue Regarding Amendment of the Petition

Petitioner has filed a motion for leave to amend the operative pleading by filing a Second Amended Petition and Complaint. Hearing on the motion is set at the same time as the hearing on the merits of the petition.

The proposed new pleading would do the following:

1. Remove allegations identifying six Real Parties in Interest that have been dismissed from the action by stipulation.

2. Plead several new legal theories under CEQA based upon the contention in the original pleading that the environmental review of the project failed to describe the location or potential environmental impacts of proposed off-site wetland and vernal pool mitigation activities. Petitioner refers to this as "amending the petition to conform to proof".

3. Add a new claim under CEQA that the approval of the project was invalid because it was based upon elements of the earlier environmental review of the Sunrise Douglas Community Plan which recently were declared invalid by the California Supreme Court in *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal. 4th 412. The Supreme Court issued its decision while this action was pending.

Respondent and Real Party in Interest do not oppose the proposed amendment relating to the identification of parties, but do oppose the proposed amendments in all other respects.

One basis of their opposition is purely procedural, and is based on the contention that the motion for leave to amend is defective as a matter of form because the supporting declaration of Keith G. Wagner does not contain the information required by Rule of Court 3.1324(b). While it is true that Mr. Wagner's declaration itself does not contain the required information, the accompanying Notice of Motion and Points and Authorities do set forth all of the information the rule requires. The Court therefore will not deny petitioner's motion on that basis.

The other basis of their opposition is substantive, and rests upon the contention that the proposed amendments to state new claims under CEQA should not be permitted because petitioner cannot prevail on them as a matter of law, having failed to exhaust administrative remedies with regard to such claims by raising them before the City prior to final approval of the project. Respondent further argues that permitting such claims to be asserted now would cause it substantial prejudice by requiring it to respond to claims that should have been raised at the administrative level.

Even though leave to assert the new claims had not been granted at the time it was filed, petitioner's opening brief on the merits discussed the new claims in detail. Both respondent and real party responded in their opposition briefs, thoroughly addressing the jurisdictional issue of exhaustion of administrative remedies, and also addressing the merits of the new claims in detail. Neither party has suggested that it would need more time to address the matter on the merits if the proposed amendment were to be permitted. The Court therefore finds no prejudice in terms of unfair surprise. Moreover, since the issue of exhaustion of administrative remedies is jurisdictional, has been thoroughly briefed in connection with the merits of this matter, and, if established, would preclude petitioner from prevailing on any of the new claims to which it applies even if the amended petition were to be filed, there does not appear to be any real prejudice in any other respect. The Court therefore grants petitioner's motion for leave to file the Second Amended Petition and Complaint and will address the issues raised therein, as well as the issue of exhaustion of administrative remedies as related thereto, in its ruling on the merits of the petition.

III. Summary of Petitioner's CEQA Claims

The Second Amended Petition and Complaint sets forth the following claims alleging violations of CEQA (Public Resources Code sections 21000, et seq.):

1. First Cause of Action: The environmental impact report for the Preserve analyzed long-term water supply impacts, and the impact of the project's water supply plans on the

Cosumnes River, by incorporating the analysis of those issues contained in the environmental impact report that was prepared in connection with the approval of the SDCP. The California Supreme Court has ruled that those elements of the SDCP violated CEQA and are therefore invalid. Therefore, to the extent that the environmental analysis of the Preserve project relies on those elements, it also is legally invalid.

2. Second Cause of Action: Respondent violated CEQA by improperly amending, and therefore failing to comply with, certain mitigation measures relating to impacts on wetland and vernal pool areas (identified as mitigation measures "BR-2" and "BR-4") that had been enacted in connection with the approval of the SDCP, specifically by changing the timing of approval of development entitlements in relation to environmental review by responsible federal agencies with jurisdiction over aspects of the project.

3. Third Cause of Action: Respondent's finding that the project's impacts on biological resources (specifically, wetlands and vernal pools) have been mitigated to "less than significant" levels is not supported by substantial evidence.

4. Fourth Cause of Action: Reading the pleading in connection with the arguments contained in petitioner's opening brief, it becomes apparent that this cause of action in essence consists of a factual allegation that is used as the basis for several legal theories. The factual allegation is that the impacts of the Preserve project on wetlands and vernal pools have been mitigated through an as-yet unspecified plan that will involve off-site activities such as construction, at an undetermined site, of artificial vernal pools to replace those lost to development on the project site, and that implementing that plan will have its own significant environmental effects. The primary legal theory based upon this allegation is that such mitigation is improper deferred mitigation under CEQA, or, in essence, no real mitigation at all. Petitioner asserts several other legal theories based on this allegation, including: the EIR does not properly describe the project; the EIR does not properly describe the "environment" that will be affected by the project; the EIR improperly segments, or "piecemeals" the project for the purposes of analysis; and the EIR should have been recirculated for public comment because new impacts stemming from off-site mitigation activities and a new mitigation measure to address them were added in response to public comments on the draft EIR, just before final approval.

IV. Exhaustion of Administrative Remedies as Applied to CEQA Claims

Respondent and Real Party argue that many of petitioner's CEQA claims are barred as a matter of law based on the failure to exhaust administrative remedies as to those claims. (They do not raise exhaustion as a potential bar to petitioner's claims arising under the Planning and Zoning Law.)

CEQA contains an explicit "exhaustion" requirement. Public Resources Code section 21177(a) states: "No action or proceeding may be brought [to enforce CEQA] pursuant to Section 21167 unless the alleged grounds for non-compliance [with CEQA] were presented to the public agency orally or in writing by any person during the public comment period...or prior to the close of the public hearing on the project before the issuance of the notice of determination."

Under this provision, one party may challenge an approved project under CEQA not only on the basis of any issue it raised itself, but also on the basis of any issue that was raised in a timely fashion by any other party. (See, *Gilroy Citizens for Responsible Planning v. City of Gilroy* (2006) 140 Cal. App. 4th 911, 920.) But alleged violations of CEQA that are not raised by any party before the approving agency prior to approval of the project may not be challenged in

court; the exhaustion requirement is jurisdictional. (See, *Coalition for Student Action v. City of Fullerton* (1984) 153 Cal. App. 3d 1194, 1197.) The essence of the exhaustion doctrine is that the public agency should have the opportunity to take action to correct the claimed defect(s) if appropriate and thereby render the litigation unnecessary. (See, *Resource Defense Fund v. Local Agency Formation Commission* (1987) 191 Cal. App. 3d 886, 894.)

The Court determines whether an issue has been preserved for judicial review by reference to the material in the administrative record, specifically, the written comments submitted by members of the public and government agencies with regard to the project, and statements made orally, on the record, at the public hearings and meetings involving the project. In its review of the record, the Court is guided by two broad principles that have emerged from the case law on the exhaustion doctrine as applied to CEQA cases. One is that less specificity is required to preserve an issue for review in an administrative proceeding than in a judicial proceeding, so a comment or objection need not be phrased in terms of specific statutory language, or identify the precise legal inadequacy involved, as long as it fairly apprises the agency of what must be done to meet it. (See, for example, *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal. App. 4th 1745, 1750; *East Peninsula Education Council, Inc. v. Palos Verdes Peninsula Unified School District* (1989) 210 Cal. App. 3d 155, 176-177.) The other is that generalized environmental comments will not suffice to preserve an issue for review. (See, *Coalition for Student Action v. City of Fullerton* (1984) 153 Cal. App. 3d 1194, 1198.)

To demonstrate that administrative remedies were indeed exhausted as to the issues set forth in its pleading, petitioner points to two documents in the administrative record.

The first source is a five-page letter, dated December 1, 2005, that petitioner sent to the City's Environmental Coordinator with its general and specific comments on the Draft EIR for the Preserve project. (7 A.R. 02480-0284.) As relevant to this action, the letter contained comments on the proposed mitigation plan as it related to impacts on vernal pools, specifically, Mitigation Measures 4.9.1b and 4.9.5. Those measures required the developer to mitigate the impact of the project on vernal pools by developing a habitat conservation and mitigation plan, to be approved by responsible federal agencies with jurisdiction over the matter, that would compensate for the loss of on-site vernal pools by construction of replacement pools off-site, resulting in no net loss of habitat. (See, 1 A.R. 00034-00035; 00040-00041.)

The critical portion of petitioner's letter for purposes of analyzing whether administrative remedies were exhausted is the following (see, 7 A.R. 02482-02483):

"Mitigation Measure 4.9.1b: [...]

"The proposed mitigation and monitoring plan will also have environmental impacts but these are not addressed in the DEIR. Additionally, committing to the preparation of a document does not constitute mitigation. In order for the public to be fully informed of the environmental consequences (both positive and negative) of this proposed project, the DEIR should identify the proposed mitigation site and discuss the environmental impacts associated with the proposed mitigation and monitoring plan.

"CNPS believes that creation of artificial vernal pools within an existing intact vernal pool grassland ecosystem is actually a negative environmental impact upon that natural system. Additionally, we are concerned that creation or restoration of mitigation vernal pools could have significant negative impacts upon the ecosystem as a whole. [...]

"Without adequate disclosure of the mitigation and monitoring plan including its potential environmental impacts, we do not believe the implementation of MM 4.9.1.b will reduce impacts to listed vernal pool crustaceans to less than significant."

"Mitigation Measure 4.9.5a: Again, the potential impacts of the wetland mitigation and monitoring plan have not been disclosed. Without this information it is impossible to tell whether or not the mitigation measure will actually reduce impacts to wetlands to less than significant."

The second source petitioner cites on the exhaustion issue is a paragraph addressing the issue of "groundwater supply" that appears in a discussion of "Cumulative Impacts" that is part of a document entitled "Detailed USEPA Concerns" that is attached to a letter dated December 7, 2001 from the United States Environmental Protection Agency to the U.S. Army Corps of Engineers, that in turn was attached to a letter from the USEPA to the City's Environmental Coordinator, dated October 5, 2004, commenting on the City's issuance of a Notice of Preparation for the current project. (2 A.R. 00406-00425, and particularly 00423.)

The relevant portion of the document reads as follows (see, 2 A.R. 00423):

"*Groundwater Supply*

"The FEIR's water supply plan proposes sole reliance on groundwater to meet the demands generated in the short-term by anticipated build-out within the Specific Plan area, with reliance on 'conjunctive use' to meet demands that grow over the long-term. Initially, it appears that groundwater will be drawn from a well field in the North Vineyard area, and the proposed project would draw groundwater from the Elk Grove area aquifer – an aquifer where overdraft already appears to be a serious problem. We expect that further draw-down of this aquifer will have severe, adverse impacts on the aquatic resources of the Cosumnes River watershed and, therefore, the Bay/Delta ecosystem."

Based on the cited sources, the Court finds that petitioner's comment letter preserved the following issues for judicial review: 1) whether mitigation of impacts on vernal pools, wetlands, and associated animal species, improperly was being deferred; and 2) whether the finding that proposed off-site mitigation measures would reduce the impacts on vernal pools to a "less than significant level" was supported by substantial evidence. Both issues fall within the scope of petitioner's comments as quoted above, which tendered the issues of timing of mitigation and whether the proposed mitigation would actually be effective, and which were detailed and specific enough to be more than merely "generalized environmental comments".

Petitioner's comments were not sufficient, however, to preserve the remaining non-water supply issues.

First, nothing in those comments alerted respondent to the contention that it was improper to amend the earlier-adopted Mitigation Measures BR-2 and BR-4 from the Sunrise Douglas Community Plan EIR. Amendment of those measures was proposed in the Draft EIR as Mitigation Measure 4.9.10 (see, 1 A.R. 00041-00042), but petitioner's comments simply do not mention this issue.

Nor did petitioner's comments alert respondent to the contention that its handling of proposed off-site mitigation made the EIR deficient in its description of the project, in its description of the environmental background of the project, or in the sense that the project was

being improperly "piecemealed". These claimed deficiencies are more than merely alternative legal theories arising from the allegation that off-site mitigation was being deferred improperly or would not actually reduce the impact of the project on vernal pools to "less than significant"; they are also separate factual issues that, if accepted and acted upon, would have required restructuring and rewriting sections of the EIR entirely distinct from those addressing the mitigation measures at issue here. Nothing in petitioner's comments made that clear in a way that would have given respondent the opportunity to address the issue prior to approval of the project.

Finally, nothing in petitioner's comments alerted respondent to the contention that it was required to recirculate the Draft EIR because significant new information regarding the environmental impacts of the proposed off-site mitigation measures, and a corresponding new mitigation measure to address them, allegedly had been added after circulation of the Draft EIR. Of course, petitioner's December 2005 letter could not have addressed these issues, because the new environmental impact and the new mitigation measures (MM 4.9.2b and 4.9.2c) related to off-site mitigation were announced in the responses to petitioner's comment. (See, 7 A.R. 02489-02495.) But petitioner still could have addressed the issue prior to respondent's final decision to certify the Final EIR and approve the project. No evidence is cited that it did so.

Petitioner has not cited any evidence in the record demonstrating that any other party raised these issues in a manner that could preserve them for judicial review. Judicial review of mitigation-related issues in this action will therefore be limited to the following two issues, as stated above: 1) whether mitigation improperly was being deferred; and 2) whether the finding that proposed off-site mitigation measures would reduce the impacts on vernal pools to a "less than significant level" was supported by substantial evidence.

With regard to water supply issues, petitioner's substantive contention in this action is that portions of the EIR for the Preserve project explicitly relied upon portions of the EIR for the larger SDCP related to water supply that have been ruled invalid by the California Supreme Court in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412. Thus, petitioner argues, any portions of the Preserve EIR that rely on invalid portions of the SDCP EIR are, *ipso facto,* invalid.

It is not altogether clear that an issue of this type is subject to the exhaustion requirement. The issue present here is unlike most exhaustion issues, in that the approving agency clearly had notice of the potential problem with its EIR regardless of whether specific comments raised the issue. None of the cases cited by the parties deal with a situation in which the exhaustion requirement was applied to a claim that one EIR was invalid because it relied upon an earlier EIR that had been declared invalid by a court. In the single case that has been cited for the proposition that invalidation of an earlier EIR thereby invalidates a subsequent EIR that explicitly relies upon it, exhaustion of administrative remedies was not an issue, or any part of the holding of the case, because it was clear from the facts that a commenter had raised the issue in a timely fashion, complaining that the subject EIR expressly "tiered" on an earlier EIR that was questionable because it was in litigation in the Court of Appeal (where it eventually was ruled to be invalid). (See, *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2002) 95 Cal. App. 4th 1373, 1381.)

The essence of the exhaustion doctrine is notice: that the public agency should be given "...the opportunity to receive and respond to articulated factual issues and legal theories before its actions are subjected to judicial review." (*Coalition for Student Action v. City of Fullerton* (1984) 153 Cal. App. 3d 1194, 1198.) The key issue here, then, is whether respondent had notice that the

EIR for the Preserve was questionable insofar as it relied upon portions of the EIR for the SDCP that were in litigation and might eventually be ruled invalid.

In this case, USEPA comment upon which petitioner relies (2 A.R. 423) did not, unlike the comment in the *Friends of the Santa Clara River* case, complain that the Preserve EIR relied on the SDCP EIR, or mention that the earlier EIR was questionable because it was in litigation. No mention at all was made of such issues, evidently because the comment, which dates back to 2001, pre-dates the *Vineyard Area Citizens* litigation. No evidence is cited of any other written or oral comment on the Preserve EIR mentioning such issues. The USEPA comment did, however, raise the issue of the impact of groundwater extraction for the project on the Cosumnes River, which, as described below, was one of the issues involved in the *Vineyard Area Citizens* case.

Regardless of whether any commenter specifically objected to any aspect of the Preserve project EIR on the basis of the matters at issue in the *Vineyard Area Citizens* litigation, as petitioner points out, respondent was fully aware of that on-going challenge to the SDCP EIR. As all parties here agree, the matter was in litigation in the *Vineyard Area Citizens* case at the time respondent certified the EIR for the Preserve and approved the project. At that point (July 2006), the *Vineyard Area Citizens* case had been litigated before the trial court and the Third District Court of Appeal, and was pending before the California Supreme Court after that Court granted a petition for review. Respondent City was also the respondent in the *Vineyard Area Citizens* case. Moreover, as petitioner has demonstrated here, the issues in the *Vineyard Area Citizens* case had been raised before respondent in its proceedings involving the earlier EIR (as they had to have been in order to preserve them under the exhaustion doctrine). Thus, respondent had actual notice that, to the extent that the Preserve EIR expressly relied upon portions of the earlier EIR that were the subject of litigation, such reliance was questionable. It also had the opportunity to avoid any problems arising out of such reliance before approving the Preserve and its EIR.

The Court therefore finds that the purpose of the exhaustion doctrine has been served in this case, notwithstanding the lack of any comments referencing the SDCP EIR or the *Vineyard Area Citizens* litigation, because respondent had actual notice of the issue and the opportunity to address it. On that basis, the Court finds that judicial review of the water-supply related claims contained in petitioner's First Cause of Action is not barred for failure to exhaust administrative remedies.

V. Standard of Review Applicable to CEQA Claims

The standard of review applicable to claims under CEQA, which is the same in the trial court as in the reviewing appellate courts, was described in detail in the California Supreme Court's decision in the *Vineyard Area Citizens* case:

"In reviewing an agency's compliance with CEQA in the course of its legislative or quasi-legislative actions, the courts' inquiry 'shall extend only to whether there was a prejudicial abuse of discretion.' (Pub. Resources Code, § 21168.5.) Such an abuse is established 'if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.' [...]

"[A]n agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence. (§ 21168.5.) Judicial review of these two types of error differs significantly: While we determine de novo whether the agency has employed the correct procedures, 'scrupulously enforc[ing] all legislatively mandated CEQA requirements' [citation omitted], we accord greater deference to

the agency's substantive factual conclusions. In reviewing for substantial evidence, the reviewing court 'may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable,' for, on factual questions, our task 'is not to weigh conflicting evidence and determine who has the better argument.' [Citation omitted.]

"In evaluating an EIR for CEQA compliance, then, a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts. For example, where an agency failed to require an applicant to provide certain information mandated by CEQA and to include that information in its environmental analysis, we held the agency 'failed to proceed in the manner prescribed by CEQA.' [Citation omitted.] In contrast, in a factual dispute over 'whether adverse effects have been mitigated or could be better mitigated' [citation omitted] the agency's conclusion would be reviewed only for substantial evidence."

(*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 426-427, 435.)

Petitioner has raised several different claims under CEQA, some of which involve issues of law and others issues of fact. Under the general standard set forth above, petitioner's CEQA claims thus implicate different standards of review according to the nature of the particular claim. Accordingly, the Court will address the specific standard of review applicable to each claim in its discussion of that claim.

VI. Petitioner's Contention Regarding Improper Deferred Mitigation

As noted above, petitioner contends that respondent violated CEQA by improperly deferring mitigation of the project's impacts on vernal pool and wetland habitats and associated animal species.

The Draft EIR for the Preserve project identified significant direct and indirect adverse impacts of the project on biological resources in the project area. Specifically, the Draft EIR found that implementation of the project would result in a direct loss of the habitat and individuals of endangered, threatened and rare animal species, specifically, vernal pool fairy shrimp and vernal pool tadpole shrimp, and in indirect adverse effects on the habitat and individuals of such species. (See, DEIR, Impact 4.9.1, 4 A.R. 01124; Impact 4.9.2, 4 A.R. 01131).

The direct impacts of the project arise from the fact that development in the project area will result in the loss of vernal pools and other wetland areas which serve as the habitat for the identified species. In all, 15.65 of the 21.26 acres of aquatic habitat on the project site (which includes vernal pools, other seasonal wetlands, and ephemeral drainage areas), will be "removed", while 5.61 acres of wetlands, primarily vernal pools, will be preserved in an on-site preserve in the southwestern corner of the project site. (See, DEIR, Table 4.9-5, 4 A.R. 01125; Figure 4.9-3, 4 A.R. 01127.) In the case of the vernal pool fairy shrimp, building the project will result in the loss of 14.1 acres of habitat, which represents a 72% loss of on-site resources and a 5% loss of resources in the larger "Laguna Formation" area within the city limits. In the case of the vernal pool tadpole shrimp, building the project will result in the loss of 15.65 acres of habitat, which represents a 74% loss of on-site resources and a 5% loss of resources in the larger "Laguna Formation" area within the city limits. (See, DEIR, 4 A.R. 01124-01129.)

The indirect impacts of the project arise from the effects of construction activities and the ultimate change in the natural landscape on both off-site vernal pools and wetlands and those in the on-site preserve. The Draft EIR describes the indirect impacts as follows: "The proposed project will result in grading, paving (creation of impervious surfaces), and redirection of stormwater flows in the sub watersheds that support vernal pool branchiopod habitat. Vernal pool communities survive along a rigid set of soil, water and climatic conditions. Alteration of current inundation and dessication regimes due to altered hydrology could substantially alter the characteristics of vernal pool habitat, resulting in loss or degradation of vernal pool habitat in the on-site preserve and adjacent off-site habitat areas." (See, DEIR, 4 A.R. 01131.)

To cope with these identified impacts, the Draft EIR proposed several mitigation measures. Mitigation Measure 4.9.1b relates to the direct impacts. It states: "The project applicant shall mitigate the impacts to vernal pools and other seasonal habitats that supports [sic] vernal pool fairy shrimp and vernal pool tadpole shrimp in such a manner that there will be no net loss of habitat (acreage and function) for these species in the Laguna Formation following implementation of the project."

To accomplish this goal, the project applicant "...shall complete and implement a habitat mitigation and monitoring plan that will compensate for the loss of acreage, function and value of the impacted resources." The plan is to be consistent with the guidance provided in a federal government environmental document entitled *Programmatic Formal Endangered Species Act Consultation on Issuance of 404 Permits for Projects with Relatively Small Effects on Listed Vernal Pool Crustaceans Within the Jurisdiction of the Sacramento Field Office, California*, or provide an alternative approach that is acceptable to the City and accomplishes no net loss of habitat. Table 4.9-6 of the Draft EIR identifies the standards of that federal government document and the "potential resultant mitigation responsibility" of the project applicant. Where the "mitigation action" is the preservation of existing habitat, the "compensatory rate" for mitigation purposes is preservation of 2 "wetted" acres for every 1 "wetted" acre impacted. Where the "mitigation action" is the creation of new or restoration of non-functioning habitat, the "compensatory rate" for mitigation purposes is 1 "wetted" acre for each "wetted" acre impacted. (See, DEIR, 4 A.R. 01130; no citation to the record has been provided for the document entitled *Programmatic Formal Endangered Species Act Consultation, etc.*)

The Draft EIR further sets out the required elements of the mitigation and monitoring plan, as follows: a schedule; target areas for creation, restoration and preservation; a complete biological assessment of the existing resources on the target areas; specific creation and restoration plans for each target area; and performance standards for success that will illustrate that the compensation ratios are met.

The project applicant is required to submit the proposed mitigation and monitoring plan to the City for endorsement prior to grading plan approval or any groundbreaking activity and engaging in mitigation activities (including mitigation land acquisition), and is required to ensure that "...sufficient upland habitat is present within the target areas for vernal pools and vernal pool complexes creation and restoration to provide ecosystem health." Mitigation monitoring is to be continuous until the performance standards identified in the mitigation and monitoring plan are consistently met for five consecutive years.

The Draft EIR concludes its discussion of this mitigation measure by stating: "Implementation of mitigation measure...MM4.9.1b and [sic] would reduce direct impacts to endangered, threatened, and rare species within the project area to **less than significant.**" (See, DEIR, 4 A.R. 01129-01131 (emphasis in original).)

Mitigation Measures 4.9.2a and 4.9.2b in the Draft EIR were aimed at the identified indirect impacts of the project.

Mitigation Measure 4.9.2a essentially incorporates the requirements of Mitigation Measure 4.9.1b, requiring the project applicant to mitigate indirect impacts so that there is no net loss of habitat, specifically, by preserving two "wetted" acres for each acre of indirectly affected habitat. The mitigation and monitoring plan identified with Mitigation Measure 4.9.1b "...shall address, in all elements, the required preservation acreage that will satisfy this mitigation measure." (See, DEIR, 4 A.R. 00131-00132.)

Mitigation Measure 4.9.2b addresses impacts caused by construction activities. It requires the project applicant to employ a "standard set of best management" practices when working within 250 feet of vernal pools, and to develop a Stormwater Pollution Prevention Plan for use during construction, including a set of required measures set forth in the Draft EIR.

As was the case with Mitigation Measure 4.9.1b, the Draft EIR stated that implementation of Mitigation Measures 4.9.2a and 4.9.2b would "...reduce impacts to endangered, threatened, and rare species within the project area to **less than significant.**" (See, DEIR, 4 A.R. 01132-01133 (emphasis in original).)

When the Draft EIR was made available for public inspection and comment, petitioner lodged a comment raising the issue of whether the implementation of the mitigation measures would have environmental impacts not addressed in the Draft EIR. (See, 7 A.R. 02482.) In response to that comment, respondent identified additional environmental impacts that could result from creation of off-site vernal pools and wetlands, in the areas of water quality, traffic/circulation, noise, air quality, and biological impacts. (See, Response 2-10, 7 A.R. 02489.)

To address these additional identified impacts, respondent added a new mitigation measure to the Final EIR. This new measure, designated as MM 4.9.2c, required the project applicant to submit a Wetland Avoidance/Mitigation Plan to mitigate impacts to vernal pool and seasonal wetland habitat. The plan would be required to describe the specific method(s) to be implemented to avoid and/or mitigate any off-site project related impacts, and should be prepared in accordance with U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service regulations, as well as the City of Rancho Cordova's Grading and Erosion Control Ordinance.

Mitigation Measure 4.9.2c sets forth some of the specific elements that the plan would be required to provide to the satisfaction of respondent. Among the most important are the following:

---"The location of the proposed vernal pool and seasonal wetland habitat site(s) and a detailed map showing the acreage, distribution, and type of wetlands to be created to ensure no net loss in wetland habitat acreage, values and function. The compensation wetlands shall be designed to, at a minimum, meet or exceed the hydrophytic conditions and operating functions of the existing wetlands proposed for impact."

---"Include a monitoring plan to assess whether the compensation wetlands are functioning as intended. Specific performance standards for hydrologic, floral, and faunal parameters shall be proposed to determine success of the created wetlands. The monitoring plan shall specify the corrective measures/modifications to be implemented in the event that monitoring indicates that the performance standards are not being met."

---"Include a maintenance plan for the wetland preservation/mitigation areas describing the measures to be implemented to insure that they are maintained as wetland habitat in perpetuity."

Mitigation Measure 4.9.2c also sets forth a number of measures to address impacts from construction activities. (See, City of Rancho Cordova Resolution No. 105-2006, p. 37 of 60, 1 A.R. 00037.)

The Draft EIR further identifies a significant impact of the project in the form of a substantial adverse effect on "state and federally protected waters" through "direct removal, filling, hydrological interruption, or other means" (designated as Impact 4.9.5), and sets forth a mitigation measure, MM 4.9.5a, to cope with this impacts. The "state and federally protected waters" are, essentially, the vernal pools and wetlands that are the subject of Impact 4.9.1, and the proposed mitigation measure is based upon the mitigation and monitoring plan set forth in MM 4.9.1b, and requires that the project applicant ensure "no net loss" of such waters. (See, DEIR, 4 A.R. 01134-01135.)

Petitioner attacks this mitigation regime as invalid under CEQA because it improperly defers mitigation of habitat loss until after approval of the project. In essence, petitioner's argument is that no real mitigation plan exists at this point, because essential details of the mitigation plan have not yet been formulated. As noted above, petitioner raised this issue in its comments on the project. The United States Environmental Protection Agency also raised the issue in a comment that stated, in pertinent part: "The applicant has not indicated where the proposed mitigation would be accomplished." (See, 7 A.R. 02457.)

In their briefing on this issue, both respondent and real party in interest concede that they do not know where the off-site mitigation will be implemented. (See, Respondent's Opposition Brief, p. 20:9-10; Real Party in Interest's Opposition Brief, p. 40:18-19.) Moreover, respondent's briefing states that "[c]oncrete proposals put forth by real party in interest to date have not won federal approval." (See, Respondent's Opposition Brief, p. 20:13-14, citing 23 A.R. 8218-8219, a biological assessment prepared for federal agencies describing a plan to compensate for loss of vernal pools on-site through a combination of preservation of habitat at a location known as "Borden Ranch" and the construction or restoration of 10.71 acres of vernal pools at a location known as "Silva Ranch". The cited evidence does not explain why proposals put forth to date have not been approved, state what those proposals were, or give any information on the current status of the Borden and Silva Ranch plans or any other mitigation proposal.)

Based upon these facts, petitioner's claim regarding improper deferred mitigation is, in essence, a claim that the environmental review of the Preserve failed to include required information, specifically, the details of the projected off-site mitigation activities. If viewed in that manner, petitioner's deferred mitigation claim is predominantly one of improper procedure in which respondent has acted "contrary to law". (See, *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 306-307.) The issue is therefore an issue of law. The Court is persuaded that the issue is properly viewed in this manner; therefore, under the standard of review set forth above, the Court has exercised its independent judgment on the issue.

Both respondent and real party in interest argue that the deferred mitigation issue should be treated as a factual dispute, in which the essence of the matter is whether the significant impacts of the project have been mitigated adequately, and in which the EIR's conclusion regarding off-site mitigation should be upheld if it is supported by substantial evidence. The

Court does not find this view to be entirely persuasive. Nevertheless, some case law indicates that the standard of review applicable to CEQA cases is that an EIR should be upheld if there is any substantial evidence in the record to support the agency's decision that the EIR is adequate and complies with CEQA. (See, *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777, 794.) Under that view, it may be possible to characterize respondent's action here, in which it approved off-site mitigation without settling many of the essential details of the mitigation efforts, as, in effect, as approval of the EIR as adequate and in compliance with CEQA, based upon an implied finding that it was not practical, reasonably feasible, or meaningfully possible to provide more details regarding the location or performance standards applicable to off-site mitigation efforts at the time of certification of the EIR. Because of the potential uncertainty regarding the applicable standard of review that may arise out of the varying ways in which petitioner's claim, and respondent's action, may be characterized, the Court will also analyze the issue under the substantial evidence standard of review.

The legal principles regarding deferred mitigation may be summarized as follows. CEQA requires that information relevant to mitigation measures which substantially reduce the effects of a project shall be made available as soon as possible. (Public Resources Code section 21003.1(b).) Generally, CEQA does not permit a public agency and a project proponent to defer the determination of appropriate mitigation of identified significant environmental effects into the future, because doing so violates the rule that members of the public and other agencies must be given an opportunity to review and comment upon mitigation measures before a determination on the project is made. (See, *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359, 1393.) The goal is to identify mitigation measures at the earliest possible time. (See, *Laurel Heights Improvement Association v. Regents of the University of California* (1994) 6 Cal. 4th 1112, 1129.)

On the other hand, deferral of the specifics of mitigation is permissible where devising more specific mitigation measures early in the planning process is impractical; in that case, the agency should, while acknowledging the impacts, list the alternatives to be considered, analyzed and possibly incorporated into the mitigation plan, commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval, specify the standards or criteria to be met in the plan, and make further approvals contingent upon finding a way to meet them. (See, for example, *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 377; *Sacramento Old City Association v. City Council* (1988) 229 Cal. App. 3d 1011, 1028-1030; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777, 793-794.) The sufficiency of an EIR, in this respect as in others, is to be judged in light of what is reasonably feasible at the time it is prepared (see, *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal. App. 4th 1018, 1032), as well as whether obtaining more detailed useful information on mitigation is meaningfully possible at that time. (See, *Riverwatch v. County of San Diego* (1999) 76 Cal. App. 4th 1428, 1448.)

The key point to be distilled from these general principles, and from other case law in this area, appears to be that, in order to be valid, a proposed mitigation measure that is intended to be carried out at some time after project approval must be sufficiently detailed that the public and the approving agency may make an informed decision about whether it will actually work as advertised, and that it must be realistically foreseeable that the measure will actually be carried out as outlined. If the success of a proposed mitigation measure is uncertain, the approving agency cannot reasonably determine that significant effects will be mitigated below the level of significance. (See, *Sacramento Old City Association v. City Council* (1988) 229 Cal. App. 3d 1011, 1028.) And if there is no information at hand demonstrating that a proposed mitigation solution can or will actually be carried out, the approving agency does not have meaningful

information reasonably justifying an expectation of compliance with the condition. (See, *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 308-309.)

In this case, viewing the question of deferred mitigation as an issue of law, and applying its independent judgment to the issue, the Court finds that the proposed mitigation plan for addressing the loss of vernal pool and wetlands habitat on the project site, which relies heavily on the construction of replacement vernal pools and wetlands off-site, suffers from flaws in two areas which prevent it from complying with the rules for acceptable deferred mitigation.

The first flaw is fundamental: the mitigation plan does not identify any particular locations in the Laguna Formation area at which replacement vernal pools and wetlands may be constructed, or give any reasonable assurance, or even expectation, that such locations can and will be acquired and used for such purposes. The analysis in the Draft EIR appears to beg the question on this issue, the lack of any discussion of the availability or location of alternate sites revealing that it is based on the bare assumption that appropriate locations for replacement wetlands do exist and can be acquired as needed. At the same time, however, the Draft EIR itself suggests that not just any location will do, stating, among other things, that : "Vernal pool communities survive along a rigid set of soil, water and climatic conditions." (See, DEIR, 4 A.R. 01131.) Nothing in the Draft EIR that has been cited by the parties indicates that it is known to anyone whether other sites satisfying such rigid conditions exist. And even if such sites exist, as perhaps they may, nothing in the Draft EIR indicates whether it is reasonably foreseeable that the project applicant will be able to acquire enough of them (at all, or for a price it considers to be reasonable and feasible under the circumstances), or acquire access to enough of them, to comply with the mitigation goals in terms of raw "wetted" acreage, not to mention the "sufficient upland habitat" necessary "to provide ecosystem health." (See, DEIR, 4 A.R. 01130.) Perhaps even more significantly, nothing in the Draft EIR indicates that locations for mitigation activities have been or can be identified that will satisfy the federal and state agencies with jurisdiction over such matters. Indeed, the statement in respondent's briefing, cited above, that concrete proposals put forth to date have not won federal approval, raises concerns about whether the proposed mitigation activities can ever be carried out.

The second flaw in the mitigation measures is also significant: as set forth in the Draft EIR, the mitigation plan lacks appropriate standards and criteria applicable to its goal of replacing lost habitat with functioning new vernal pools and wetlands. There do not appear to be any standards in the plan as to how properly functioning replacement pools and wetlands are to be constructed, and no obvious reference is made to any outside source containing such information. In addition, there are no present standards or criteria for determining whether the replacement vernal pools and wetlands, once constructed, are actually functioning as viable habitat. Such matters are explicitly deferred to the future. Mitigation Measure 4.9.1b states that the mitigation and monitoring plan to be prepared in the future shall contain "[p]erformance standards for success that will illustrate that the compensation ratios are met" (see, DEIR, 4 A.R. 01130), and Mitigation Measure 4.9.2c states that the Wetland Avoidance/Mitigation Plan, also to be prepared in the future, shall include "[s]pecific performance standards for hydrologic, floral, and faunal parameters...to determine the success of the created wetlands." (See, City of Rancho Cordova Resolution No. 105-2006, p. 37 of 60, 1 A.R. 00037.) The mitigation plan as it stands thus lacks the kind of specific performance criteria that are necessary for proper deferred mitigation.

These flaws exist in the following mitigation measures: 4.9.1b; 4.9.2a; a portion of 4.9.2c (introductory paragraph and first three bullet points only); 4.9.4; 4.9.5a.

Of course, to find the mitigation plan under review here to be flawed is not to say that off-site mitigation is improper *per se,* or improper simply on the ground that it will be implemented sometime after project approval. Off-site mitigation is an accepted strategy for the loss of vernal pool habitat to development, as demonstrated by the federal agencies' "Conceptual Level Strategy for Avoiding, Minimizing and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area", which states: "Excellent opportunities exist in or near the [Sunrise Douglas Community Plan Area] for the establishment of a vernal pool conservation bank(s) and a wetland compensatory (i.e., restoration/creation) mitigation bank(s)." (See, 2 A.R. 00409, par. 9; see also, Draft Vernal Pool Habitat Account and Conservation Goals for the South Sacramento Habitat Conservation Plan, pp. 72-73, 43 A.R. 16414-16415; U.S. Fish and Wildlife Service letter dated November 16, 2005 regarding re-initiation of formal consultation on the issuance of a 404 permit for the project, pp. 5 and 26, 44 A.R. 16586, 16607.))

Moreover, California appellate cases have approved off-site mitigation of on-site impacts. See, for example, *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777, 794, in which the court approved an EIR that described off-site preservation of habitat at a ratio of two-to-one as one of several alternative mitigation measures for impacts on gnatcatcher habitat from construction activities, and *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal. App. 4th 1018, 1032, which approved a mitigation measure for habitat loss that included a provision for purchase of one-half acre of habitat reserves for every acre of habitat lost to development. Such cases demonstrate the validity of the off-site mitigation approach as a general proposition.

Even so, "the devil is in the details". Neither of the two above-cited cases, nor any other appellate case cited by respondent or real party in interest, dealt with or resolved the issue present here, which is whether proposed off-site mitigation is valid where the locations for such activity have not been identified, and the performance standards applicable to it have not been developed. Such information is critical to an informed determination as to whether off-site mitigation will indeed occur, and work. As currently formulated, the mitigation plan under review here lacks these essential details and thus does not provide a reasonable assurance that it will actually be carried out, or, if it is carried out, that it will work as advertised. Respondent thus did not have meaningful information reasonably justifying an expectation of compliance with the explicit condition imposed upon approval of the project that there be no net loss of vernal pool and wetland habitat in the Laguna Formation. (See, *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 308-309.) Moreover, because the proposed mitigation plan lacked critical details, the public, and other interested agencies, were deprived of a realistic opportunity to comment on it. In these respects, respondent's certification of the EIR and approval of the project violated CEQA.

As discussed above, an alternative view of the mitigation issue is possible, under which respondent's action here, seen as the approval of off-site mitigation without settling many of the essential details of the mitigation efforts, may be characterized, in effect, as approval of the EIR as adequate and in compliance with CEQA, based upon an implied finding that it was not practical, reasonably feasible, or meaningfully possible to provide more details regarding the location or performance standards applicable to off-site mitigation efforts at the time of certification of the EIR. If the issue is seen in this manner, the appropriate standard of review would be to determine whether that finding was supported by substantial evidence.

The Court finds that it was not. Neither respondent nor real party in interest has cited to any evidence in the record that tends to demonstrate that it was not practical, reasonably feasible or meaningfully possible to identify locations for construction of replacement vernal pools and

wetlands at the time the EIR was certified, or to set forth specific performance standards for the construction of replacement vernal pools and wetlands. Instead, the evidence in the record tends to demonstrate the contrary. As cited above, the federal agencies' "Conceptual Level Strategy for Avoiding, Minimizing and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area", which pre-dates the approval of the project, states: "Excellent opportunities exist in or near the [Sunrise Douglas Community Plan Area] for the establishment of a vernal pool conservation bank(s) and a wetland compensatory (i.e., restoration/creation) mitigation bank(s)." (See, 2 A.R. 00409, par. 9.) And respondent itself cites to a biological assessment prepared for federal agencies describing a plan to compensate for loss of vernal pools on-site through a combination of preservation of habitat at a location known as "Borden Ranch" and the construction or restoration of 10.71 acres of vernal pools at a location known as "Silva Ranch". (See, 23 A.R. 8218-8219.) Thus, the only substantial evidence in the record that has been cited to the Court tends to suggest that mitigation sites could have been identified when respondent certified the EIR and approved the project. That same evidence, by demonstrating that construction of replacement vernal pools is a recognized form of mitigation, also suggests that specific performance standards could have been set forth in the EIR.

As noted above, respondent has stated in its briefing that efforts to identify mitigation sites acceptable to responsible federal agencies have been unsuccessful to date. On that basis, respondent argues: "The City would not be furthering the purposes of CEQA by arbitrarily picking a hypothetical mitigation site for purposes of the EIR, with no sound basis for believing that site or sites would prove optimal or be approved by the state and federal resource agencies that will inevitably have the final say." (See, Respondent's Opposition Brief, p. 20:15-18.)

This contention is not persuasive. Respondent's assertion that efforts to locate sites acceptable to federal agencies are not succeeding is not supported by the citation of any evidence in the record demonstrating the refusal of such agencies to approve any proposed sites prior to the certification of the EIR. The only evidence cited in support of that assertion is the biological assessment that suggests that mitigation sites are available at Borden Ranch and Silva Ranch. But even if evidence of a federal refusal to approve proposed mitigation sites, either before or after certification of the EIR, were to be offered, it very likely might prove too much. Depending upon the reason why it is occurring, such a refusal could tend to demonstrate, not merely that acceptable mitigation sites could not be identified at the time of project approval, but that they might never be identified successfully. In that case, the relevant question would be whether the proposed plan of mitigation was feasible at all. This is an issue that, under the general principles of CEQA law cited above, should be determined at the earliest possible time. (See, Public Resources Code section 21003.1(b); *Laurel Heights Improvement Association v. Regents of the University of California* (1994) 6 Cal. 4th 1112, 1129.)

One of the key reasons mitigation measures should be settled at the earliest possible time is that there is a risk that, if consideration of such measures is postponed to a later phase, project momentum will have built to the point that it reduces or eliminates an agency's flexibility to change its course of action and require new mitigation measures. (See, *Sacramento Old City Association v. City Council* (1988) 229 Cal. App. 3d 1011, 1028.) As recognized in the applicable case law, studies conducted after approval of a project (and, by the same token, mitigation measures considered at that point) have "a diminished influence on decision-making". (See, *Sundstrom v. County of Mendocino* (1988) 202 Cal. App 3d 296, 307.) As to the proper time for consideration of mitigation measures, at least one reported case suggests that there is no improper deferral of mitigation where determination of habitat values, consultation with state and federal agencies and the obtaining of necessary permits must occur prior to approval of a tentative tract map. (See, *Defend the Bay v. City of Irvine* (2004) 119 Cal. App. 4th 1261, 1276.)

The manner in which respondent has proceeded with this aspect of the project raises the concerns described in the case law. Respondent has approved the project, and has approved a tentative map for the project, while the essential details of mitigation for the significant loss of vernal pool and wetland habitat remain unsettled. Yet there is no assurance that the mitigation measures that are envisioned today might not someday turn out to be impractical or even impossible, perhaps because no suitable land for wetland and vernal pool construction is available for acquisition within the Laguna Formation, or because such land cannot be acquired at what the project applicant considers to be a reasonable or affordable price under the circumstances, or because the federal and state agencies with jurisdiction over the matter will not approve the details of the plan. (Indeed, respondent's argument suggests that the last possibility may well occur here.) If any of those possibilities comes to pass, there is really no assurance that mitigation of the loss of vernal pool and wetland habitat will occur at all. One possible result is that the current plan of off-site mitigation and "no net loss" of habitat might simply be abandoned as "infeasible" under the authority of *Napa Citizens for Honest Government v. County of Napa* (2001) 91 Cal. App. 4th 342.

If that occurs, with the project and its tentative map already approved, the reasoning behind the principle of CEQA law that mitigation should be settled at the earliest possible time does not permit the Court to assume or expect that respondent would decide at that late point in the process to completely disapprove the project, or even require that the project be significantly recast at that juncture to significantly reduce or avoid on-site impacts to vernal pools and wetlands. The risk is high that project momentum will have built to the point that it reduces or eliminates respondent's flexibility to change its course and reshape the project or require new mitigation measures, and that any further consideration of the impacts of the project on vernal pool and wetland habitat will have a diminished influence on decision-making. Meanwhile, why the approval of a tentative map for this project could not have been deferred until the many important unresolved issues present here had been settled is unexplained.

Thus, even though the amendments to those measures are beyond challenge in this action, little assurance can be drawn from the fact that the revised Sunrise Douglas Community Plan Mitigation Measures BR-2 and BR-4 still require a mitigation plan to be complete, including complete information regarding proposed replacement vernal pool and wetland locations, "[p]rior to approval of any improvement plans or grading permits or any groundbreaking activity (whichever comes first)..." (See, City of Rancho Cordova Resolution No. 105-2006, pp. 41-42 of 60, 1 A.R. 00041-00042.) This provision also could be abandoned or amended to reflect the new situation; at the very least, project momentum has built to a significant degree once a grading plan is on the table. In any event, a provision that arguably precludes further development does not properly substitute for proper identification and analysis of a project's effects: "While it might be argued that not building a portion of the project is the ultimate mitigation, it must be borne in mind that the EIR must address the project and assumes the project will be built." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 444, citing *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal. App. 4th 182, 206.)

While the mitigation measures listed above (4.9.1b; 4.9.2a; a portion of 4.9.2c; 4.9.4; 4.9.5a), are flawed as they relate to the plan to replace habitat lost to development of the project, Mitigation Measures 4.9.2b and 4.9.2c (all portions except the introductory paragraph and the first three bullet points), do not amount to improper deferred mitigation. Both of those measures are aimed at so-called "indirect" construction-related impacts to on and off-site vernal pools and wetlands that will not be lost to development. These mitigation measures meet the requirements

of CEQA by virtue of the fact that they contain specific measures designed to avoid and minimize the "indirect" impact of nearby construction activities on vernal pools and wetlands. (See, 1 A.R. 00036-00038.)

On the basis of the foregoing, the Court therefore finds that the EIR for the Preserve project does not treat the mitigation of direct impacts on vernal pool and wetland habitat, and associated animal species, in the manner required by CEQA. Whether the issue is seen as a failure to proceed in the manner required by law or as an action that is not supported by substantial evidence, the mitigation measures in the EIR lack essential details regarding the location of the proposed mitigation activities and the specific performance standards to be applied to such activities, and therefore amount to improper deferred mitigation. The Court finds that this defect exists in the following mitigation measures: 4.9.1b; 4.9.2a; 4.9.2c (introductory paragraph and first three bullet points only); 4.9.4; 4.9.5a. The petition for writ of mandate is therefore granted on this issue.

VII. Petitioner's Challenge to Respondent's Findings Regarding Mitigation

In addition to challenging the mitigation measures related to impacts of the project on vernal pool and wetland habitat, and associated animal species, petitioner challenges respondent's findings that the project's impacts on biological resources (specifically, wetlands and vernal pools) have been mitigated to "less than significant" levels, on the ground that such findings are not supported by substantial evidence.

As a consequence of the Court's ruling that Mitigation Measures 4.9.1b; 4.9.2a; 4.9.2c (introductory paragraph and first three bullet points only); 4.9.4; and 4.9.5a amount to improper deferred mitigation under CEQA, it follows that respondent's findings that impacts have been reduced to the level of "less than significant" based on those measures are not supported by substantial evidence. The Court therefore finds that the following findings in respondent's Resolution No. 105-2006 are invalid under CEQA: Finding re Impact 4.9.1, insofar as it is based upon Mitigation Measure 4.9.1b (1 A.R. 00035); Finding re Impact 4.9.2, insofar as it is based upon Mitigation Measure 4.9.2a and the introductory paragraph and first three bullet points of Mitigation Measure 4.9.2c (1 A.R. 00039); Finding re Impact 4.9.4 (1 A.R. 00039); and Finding re Impact 4.9.5, insofar as it is based upon Mitigation Measure 4.9.5a (1 A.R. 00041). The petition for writ of mandate is also granted on this ground.

VIII. Petitioner's CEQA Claims Relating to Water Supply Analysis and the *Vineyard Area Citizens* Case

As described above, petitioner alleges that the EIR for the Preserve is invalid as a matter of law in its analysis of the environmental impacts of supplying water for the project because it incorporates the analysis of those issues contained in the EIR that was prepared in connection with the approval of the SDCP ("the SDCP EIR"), which the California Supreme Court has ruled violated CEQA and are therefore invalid. There is case authority for the proposition that invalidation of an earlier EIR thereby invalidates a subsequent EIR that explicitly relies upon it. (See, *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2002) 95 Cal. App. 4th 1373, 1381.)

Because this issue involves the application of a ruling of law by the State's highest court to the content of the Preserve project EIR, and because (as described more fully below) the holding in the *Vineyard Area Citizens* case involves the City's failure to comply with the procedural requirements of CEQA, the issue is one of law on which the Court has exercised its

independent judgment. (See, *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 312, 435.)

Petitioner's contention that the Preserve project EIR relies on invalid portions of the SDCP EIR is based on the fact that the current EIR explicitly relies on the earlier EIR and incorporates it by reference. Section 1.7 of the Draft EIR for the Preserve project is entitled "Continuing Relevance of the Master EIR for the Sunrise Douglas Community Plan and Sunridge Specific Plan", and states that the EIR for the Preserve project will "...rely substantially on the Master EIR for information on a variety of topics", and that "...the City, through incorporation by reference, is using the Master EIR in a manner similar to what would be accomplished through tiering: relying largely on existing information about broad, area wide or regional issues and impacts, while updating that information where necessary and focusing on specific issues not addressed previously." (See, Draft EIR, section 1.7, 3 A.R. 00710-00711.) From these citations, it is clear that the Preserve project EIR did, indeed, rely upon the SDCP EIR in some respects. The critical issue here is whether it relied on the portions of the SDCP EIR that the Supreme Court held were invalid.

In *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, the Supreme Court addressed two main issues: the adequacy of the SDCP EIR's analysis of the sources of water supplies for the project at full build-out, and the general environmental impacts of using water from those sources; and the specific impact providing water for development would have on fish migration in the Cosumnes River.

In its holding on the SDCP EIR's analysis of water supplies, the Court distinguished between near-term and long-term water supplies, holding that, while the SDCP EIR "...adequately informed decision makers and the public of the County's plan for near-term provision of water to the development, it failed to do so as to the long-term provision and hence failed to disclose the impacts of providing the necessary supplies in the long term. While the EIR identifies the intended water sources in general terms, it does not clearly and coherently explain, using material properly stated or incorporated in the EIR, how the long-term demand is likely to be met with those sources, the environmental impacts of exploiting those sources, and how those impacts are to be mitigated." (*Id.*, 40 Cal. 4th at 421.)

On the second issue, the Court held that the final SDCP EIR disclosed a substantial, or at least potentially substantial, new impact of the project on fish migration in the Cosumnes River, and that the draft SDCP EIR therefore had to be revised and recirculated for public comment on that newly disclosed potential impact. (*Id.*, 40 Cal. 4th at 421.)

Based upon this summary of the *Vineyard Area Citizens* holding, the EIR for the Preserve project potentially could be invalid to the extent that it explicitly relied upon, or contained the same flaws as, those portions of the SDCP EIR that were held to be invalid, i.e., the analysis of long-term water supplies and the impact of the Preserve project's water supply plans on fish migration in the Cosumnes River.

As the Supreme Court explained in its opinion, near-term and long-term water supplies for the SDCP area were planned to come from different sources. Near-term water supplies were to be provided by extraction of groundwater from a set of wells known as the North Vineyard Well Field ("NVWF"), while long-term supplies would be provided through diversion of surface water from the American River. (*Id.*, 40 Cal. 4th at 423, 436.)

The Preserve project falls within the category of projects that will draw on near-term supplies. As the EIR for the Preserve project states, water demand for the project is estimated to be approximately 1,319 acre-feet/year, to be supplied by the NVWF, which will have sufficient capacity to meet the estimated demands. (See, Draft EIR, discussion of Water Supply Impact 4.7.3, 4 A.R. 01074-01075.) Because the Preserve project is expected to receive groundwater from the NVWF, it was made subject to the adopted mitigation measures associated with the original approval of the SDCP. (See, Draft EIR, discussion of Water Supply Impact 4.7.3, 4 A.R. 01076-01077.) In its discussion of the project impacts and mitigation measures, the Draft EIR refers to the SDCP EIR in a section entitled "Previous Environmental Review in the SDCP/SRSP EIR" and summarizes the "...water supply impacts, addressed and identified as significant in the SDCP/SRSP Final EIR and Findings that are applicable to the [Preserve] project." That discussion, however, does not contain any reference to the impacts of long-term water supply plans as discussed in the SDCP EIR, and the mitigation measures adopted from the SDCP EIR do not relate to the provision of long-term supplies. At least with regard to the direct impacts of supplying water for the project through the NVWF, then, the Preserve project EIR does not rely on those portions of the SDCP EIR that the Supreme Court found to be invalid.

The Preserve project EIR also contains a discussion of cumulative water supply impacts that touches on the issue of long-term water supplies. Impact 4.7.7 states: "The project, when considered with other development projects, would increase the demand for surface and groundwater supplies and would contribute to regional water supply impacts. The project's contribution to cumulative water supply impacts would be **less than cumulatively considerable**." (See, Draft EIR, 4 A.R. 01084.)

The Court finds that the holding in the *Vineyard Area Citizens* case does not render the Preserve project EIR's discussion of long-term water supply impacts invalid. This finding is based on two factors.

The first factor is that the discussion of cumulative water supply impacts in the Preserve project EIR does not appear to be based on the discussion of that issue in the SDCP EIR. Instead, estimates of long-term water supply and demand have been derived from other sources, including the so-called Zone 40 Water Supply Master Plan of the Sacramento County Water Agency (which post-dates the SDCP EIR), and the final EIR that was certified in connection with the so-called Water Forum Agreement (which has not been challenged and is therefore presumed to be valid under Public Resources Code section 21167.2). Similarly, the summary of impacts is drawn from the Water Forum Agreement EIR, and not the SDCP EIR. (See, Draft EIR, 4 A.R. 01084-01089.) Since the Preserve project EIR does not rely on the SDCP EIR in this area, it cannot be found invalid simply because the discussion of the same issue in the latter was found to be invalid. Petitioner has not demonstrated that the sources relied upon here were invalid, or that the Preserve project's treatment of this issue was invalid on any other basis.

The second factor is that the Preserve project EIR concludes that the contribution of the project to cumulative water supply impacts is, by itself, inconsiderable, representing less than 1% of the total deliveries that are expected to be made from the American River for the SDCP area. (See, Draft EIR, 4 A.R. 01086, 01088.) In fact, given the fact that the project is planned to draw its water from the NVWF and not from future diversions from the American River, its contribution to the impacts of long-term water supplies might even be described as essentially non-existent. Petitioner has not challenged the Preserve project EIR's conclusion regarding this negligible impact. The current project thus has no real relationship to long-term water supply impacts. The present EIR therefore does not suffer from the flaws the Supreme Court found in the SDCP EIR with regard to long-term water supply impacts. The petition for writ of mandate is

therefore denied as to petitioner's claim regarding the treatment of long-term water supply impacts in the Preserve project EIR.

The issue regarding potential impacts on migratory fish species in the Cosumnes River does relate directly to the Preserve project, because it is an impact caused by the extraction of groundwater from the NVWF to supply the project. This specific issue, as noted above, was raised at an early stage of the Preserve project environmental review process in a letter submitted by the U.S. Environmental Protection Agency. (See, 2 A.R. 00406-00425, and particularly 00423.)

As described in the *Vineyard Area Citizens* opinion, the problem with the SDCP environmental review was that the final SDCP EIR, for the first time in that process, disclosed a "substantial, or at least potentially substantial, new impact" of development in the SDCP area: that extraction of groundwater from the NVWF could, during periods of low river flow, "...change the timing and areal extent of the dewatering of the stream invert, potentially impacting aquatic and riparian-dependent species and habitat." (SDCP Final EIR, quoted in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 448.) Because this impact had not been disclosed in the SDCP Draft EIR, the Court found that the public had been deprived of a meaningful opportunity to participate in the environmental review process, and held that the SDCP Draft EIR must be revised and recirculated for public comment on that issue. (*Id.*, 40 Cal. 4th 421, 449.)

The EIR for the Preserve project suffers from the same defect in that it explicitly relies on the SDCP EIR in its analysis of potential impacts on the Cosumnes River and does not disclose the impact identified in the SDCP Final EIR.

The Hydrology and Water Quality section of the Preserve project Draft EIR contains a detailed discussion of "Cosumnes River Studies". Referring explicitly to the Comment and Responses for the SDCP/SRSP Draft EIR as well as the CEQA Findings of Fact and Statement of Overriding Considerations for the SDCP/SRSP and "groundwater modeling and expert testimony associated with the consideration of the SDCP/SRSP", the Preserve project Draft EIR states the following conclusion: "Given the current condition of the groundwater aquifer underlying southern Sacramento County, the available data suggests groundwater extraction at the North Vineyard Well Field (NVWF) will not significantly impact flows in the Cosumnes River." (See, Draft EIR, 4 A.R. 01045.)

The Preserve project Draft EIR went on to cite the SDCP EIR's conclusion that there was no biological impact that needed to be disclosed:

"The SDCP/SRSP FEIR concluded that implementation of the Community Plan would not significantly impact flows in...the Cosumnes River. Based upon the substantial evidence and data presented to the Board of Supervisors at the public hearings, the Board further concluded that implementation of the Community Plan would not adversely affect flows on the Cosumnes River [...]. [Citing to CEQA Findings of Fact for SDCP/SRSP.] Because groundwater extraction from the NVWF would have very small or insignificant impacts on depletions from the Cosumnes River, there was no need to assess the associated biological impacts. [...]

"Based upon detailed groundwater modeling, the SDCP/SRSP EIR states that the aquifer is not in direct connection with the Cosumnes River except at two places, upstream of Dillard Road and downstream of Twin Cities Road. Where there is no hydraulic connection, groundwater pumping would not affect Cosumnes River flows or impact special-status species or

habitat. The SDCP/SRSP indicated that at the two locations where there is a hydraulic connection, groundwater modeling evidence has shown that changes in groundwater elevations are less than 2 feet (and typically less than 1 foot); therefore, concluded that the resulting impacts of provision of the Community Plan's water supply on...the Cosumnes River would be very small and insignificant." (See, Draft EIR, 4 A.R. 01046.)

Much of the quoted language is strikingly similar to the language from the SDCP EIR quoted in the *Vineyard Area Citizens* opinion, but notably, the Preserve project EIR does not include the disclosure of the potential impact on the Cosumnes River that appeared in the SDCP Final EIR. (See, *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 425-426.) Also, neither the Hydrology and Water Quality nor the Biological Resources sections of the Preserve project Draft EIR mention any potential impact on the Cosumnes River caused by extraction of groundwater from the NVWF, notwithstanding the fact that such impact was disclosed in the SDCP Final EIR. The Preserve project EIR therefore suffers from the same defect that was found in the *Vineyard Area Citizens* case, that of failing to disclose this impact to the public for comment. The remedy should also be the same: granting the petition for writ of mandate to require the Draft EIR to be revised and recirculated with regard to this issue.

IX. Petitioner's Claims Arising Under the Planning and Zoning Law

In addition to its claims arising under CEQA, petitioner also alleges that respondent's approval of the Preserve project is invalid because the project is inconsistent with, and actually frustrates the accomplishment of, certain policies and goals in the city's General Plan.

In general, state law provides that the propriety of virtually any local decision involving land use and development depends upon consistency with the applicable general plan and its elements. (See, *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 570.) A project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. (See, *Corona-Norco Unified School District v. City of Corona* (1993) 17 Cal. App. 4th 985, 994.) A given project need not be in perfect conformity with each and every general plan policy, but must be compatible with the objectives, policies, general land uses and programs specified in the general plan. (See, *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal. App. 4th 704, 717-719.) The local agency may weigh and balance competing policies in the general plan and has discretion to approve a project even if it is not consistent with all of the plan's policies. (See, *Sierra Club v. County of Napa* (2004) 121 Cal. App. 4th 1490, 1509-1511.)

In deciding whether a particular project is consistent with general plan policies, the Court generally defers to the local agency's interpretation of its own general plan unless that interpretation is patently unreasonable, arbitrary, capricious or entirely lacking in evidentiary support. (See, *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal. App. 3d 223, 244.) Such deference is based on the principle that the agency which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies. (See, *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99, 142.)

On the other hand, a project that is inconsistent with a fundamental, mandatory and specific land use policy in the general plan is invalid. (See, *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal. App. 4th 1332, 1342.) An outright conflict with the general plan, however, need not exist for a project to be found fatally inconsistent with the plan. The proper question is whether development of the project is

compatible with and will not frustrate the general plan's goals and policies. If the project will frustrate such goals and policies, it is inconsistent with the general plan unless it also includes definite affirmative commitments to mitigate the adverse effect or effects. (See, *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal. App. 4th 342, 379.)

Review of the issue of whether a particular development approval is consistent with the applicable general plan is by mandate under Code of Civil Procedure section 1085. A governing body's conclusion that a particular project is consistent with the governing general plan carries a strong presumption of regularity that can be overcome only by a showing of abuse of discretion. An abuse of discretion is established only if the governing body has not proceeded in the manner required by law, its decision is not supported by the findings, or the findings are not supported by substantial evidence. (See, *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal. App. 4th 342, 357.) With regard to the substantial evidence test, case law provides that a determination of general plan consistency will be reversed only if, based on the evidence before the local governing body, a reasonable person could not have reached the same conclusion. (See, *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal. App. 4th 1332, 1338.)

In this case, petitioner alleges that respondent's approval of the Preserve project is inconsistent with, and frustrates the implementation of, a number of policies and required actions contained in respondent's General Plan related to the protection of special status species. As was the case with petitioner's CEQA claims, its general plan claims focus on the effect of the project on vernal pool and wetland habitats and associated animal species. Unlike the CEQA claims discussed above, however, petitioner's general plan claims are not limited to the validity of the mitigation measures that were approved to ameliorate the impact of the project on vernal pools and wetlands, but go beyond that to more broadly challenge the overall shape and scope of the project, on its own and as it fits into the overall proposed plan of development for the SDCP area.

Petitioner's claims arising out of the General Plan focuses on both the specifics of mitigation and the overall shape and scope of the project, and are based on General Plan Policies NR. ("Natural Resources") 1.1 and NR.1.7 and General Plan Actions NR.1.1.2, NR.1.1.3 and NR.1.7.1.

Policy NR.1.1 states a guiding principle: that the City shall "[p]rotect rare, threatened and endangered species and their habitats in accordance with State and federal law." (See, 55 A.R. 19326.)

Policy NR.1.7 expands upon that general principle, stating that, "[p]rior to project approval, the City shall require a biological evaluation for development projects in areas identified to contain or possibly contain listed plant and/or wildlife species based upon the City's biological resource mapping provided in the General Plan EIR or other technical materials." (See, 55 A.R. 19328.)

With regard to Policy N.R.1.7, the record demonstrates, and petitioner does not dispute, that complete biological evaluations were performed for the project site, which identified the vernal pool and wetland species discussed above. (See, for example, 23 A.R. 08123-08170 (Special Status Plan Report dated August 8, 2002; 23 A.R. 08171-08199 (Focused Sensitive Species Surveys dated August 12, 2002); A.R. 08202-08331 (Section 7 Biological Assessment); 43 A.R. 16314-16337 (Wetland Delineation Report); 4 A.R. 01103-01145 (Biological Resources section of Draft EIR).) At least as to this mandatory requirement of the General Plan, respondent did what was required.

Actions NR1.1.2, NR.1.1.3 and NR.1.7.1 provide specifics for the implementation of the Policies described above.

Action NR.1.1.2 requires respondent to "[r]eview projects through the entitlement process and CEQA analysis, to ensure that they comply with [Policy NR.1.1] if the site contains unique habitat, creeks, and/or wooded corridors." (See, 55 A.R. 19326.)

Actions NR.1.1.3 and NR.1.7.1 set the standards for respondent's actions, putting the focus on maintaining the viability of special status species and their habitats.

Action NR1.1.3 states: "As part of the consideration of development applications for individual Planning Areas containing habitats that support special-status plant and animal species that are planned to be preserved, the City shall require that these preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserve habitat to support the special-status species identified. The determination of the design and size of the 'interconnections' shall be made by the City, as recommended by a qualified professional, and will include consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service." (See, 55 A.R. 19326.)

Action NR.1.7.1 provides: "For those areas in which special status species are found or likely to occur or where the presence of such species can be reasonably inferred, the City shall require mitigation of impacts to those species that ensure that the project does not contribute to the decline of the affected species population in the region to the extent that their decline would impact the viability of the regional population. Mitigation shall be designed by the City in coordination with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), and shall emphasize a multi-species approach to the maximum extent feasible. This may include development or participation in a habitat conservation plan." (See, 55 A.R. 19328.)

The manner in which these General Plan Actions are phrased, stating that "the City shall require" habitat interconnection and a given degree of mitigation, indicates that these Actions are mandatory requirements of the General Plan. (See, *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal. App. 4th 1332, 1341.)

As noted above, petitioner's challenge based on the above-cited sections of the General Plan goes beyond the specifics of the mitigation plan. More broadly, petitioner argues that the shape and scope of the project as a whole are fatally inconsistent with these portions of the General Plan and fail to comply with its mandatory requirements. By eliminating so much of the vernal pool and wetland acreage on the project site; by relocating and changing the essential features of Morrison Creek, which provides vital interconnection of habitat, from a natural to a channelized stream; and more generally by altering the hydrology of the entire area by covering most of it with development, petitioner argues, the project fails to provide the minimum level of protection necessary to prevent a decline in affected species that would impact the viability of the regional populations of those species.

Petitioner's contention is based largely on the opposition to the project that was expressed by various state and federal agencies with jurisdiction over vernal pools, wetlands, and associated animal species, such as the United States Environmental Protection Agency, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game. All of these agencies presented objections to the form of the project, and the

scope of its impact on vernal pools and wetlands, either in formal written comments on the Draft EIR or in consultation at earlier stages of the planning process. These objections focused not only on the Preserve project itself, but also on the project as one part of the larger plan for development of the SDCP area. (See, for example, 3 A.R. 583-584; 587-608; 616-617; 618-619; 624-625; 7 A.R. 02448-02458.)

To address their concerns regarding the impact of development in the SDCP area, which includes the project site, representatives of the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service met in the spring of 2004 and developed what they called a "Conceptual Level Strategy for Avoiding, Minimizing, and Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area". Based on their "best professional judgment" and information regarding "site-specific biology and hydro-geomorphology", and while recognizing that development was planned in the area, these agencies mapped recommended "Preserve Areas" with a "particular focus [on] the preservation of vernal pool complexes and corridors for Morrison Creek and Laguna Creek." The designated preserve areas "...are the smallest that would be acceptable to the Agencies and are predicated on ten principles and standards that would be followed by developers and planners as each element of the overall development proceeds." Those principles included maintaining natural (existing) watershed integrity and flows to downstream reaches, and maintaining corridors and large areas for wildlife and the propagation of flora and, specifically, preserving "vernal pool hydrology and integrity to benefit listed plants and invertebrates". ("A Conceptual Level Strategy for Avoiding, Minimizing, & Preserving Aquatic Resource Habitat in the Sunrise-Douglas Community Plan Area, June, 2004, 3 A.R. 646-648.)

It is not disputed that the Preserve project as ultimately embodied in the tentative map that respondent approved is not consistent with the terms of the Conceptual Level Strategy or the mapping of Preserve Areas attached thereto. But the evidence in the record tends to demonstrate that the problem with the project as approved is not just that it is inconsistent with the Conceptual Level Strategy, but that, in the context of all the development planned for the area, such inconsistency actually threatens the viability of the regional population of vernal pool and wetland dependent animal species, thus frustrating the objectives of the General Plan.

This problem is posed most starkly in the October, 2004 letter of the U.S. Fish and Wildlife Service commenting on the Notice of Preparation for the project. In that letter, the Service states: "The [Sunrise Douglas Community Plan Area] includes the highest density of high quality vernal pool wetlands that occur on Laguna formation soils left in the state. Laguna formation wetlands are important due to the high density of federally listed species that occur on them including the vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), and two endemic plants, slender Orcutt grass (*Orcutta tennuis*) and Sacramento Orcutt grass (*Orcutta viscida*). Over 33% of all known occurrences of the tadpole shrimp occur in the south county area and we estimate that up to 20% of all known occurrences would be impacted by development in the [Sunrise Douglas Community Plan Area]. [...] Cumulatively, the projects proposed would result in the loss of over 70% of the vernal pool wetlands in the [Sunrise Douglas Community Plan Area]. *Conservation/minimization measures currently proposed by some the [sic] project proponents are insufficient to assure long term viability of vernal pool dependent species.*" (See, 3 A.R. 00655 [emphasis supplied].)

The U.S. Environmental Protection Agency's Detailed Concerns, submitted as formal written comments on the Draft EIR for the project (see, 7 A.R. 02448-02458), provide further detail about how the project will impact vernal pool and wetland species and thus threaten the viability of regional populations.

The EPA's concerns emphasize the importance of Morrison Creek to the overall viability of vernal pool and wetland habitats: "Morrison Creek and adjacent aquatic habitats are special aquatic sites under the Federal Guidelines because they comprise riverine riffle and pool complexes and wetlands (40 C.F.R. sections 230.41 and 230.45). Under [Clean Water Act] regulations, special aquatic sites are recognized for their important role in maintaining the health of aquatic ecosystems. The special aquatic sites threatened by the proposed project possess the special ecological characteristics of high food-web productivity, physical habitat for fish and wildlife, water quality, and other important and easily disrupted ecological functions. In short, the creek and associated wetlands contribute to the overall environmental health and functional capacity of the regional ecosystem." (7 A.R. 02450.) As stated elsewhere in the concerns, vernal pool crustaceans in particular are benefited by an intact watershed through the possibility of "transportation and gene-pool interactions". (7 A.R. 02451.)

In addition, the EPA's concerns address the adverse effects of development on vernal pools and wetlands even where that development does not actually eliminate them: "Vernal pools are susceptible to impacts from changes in the surrounding uplands. Alterations in hydrology can occur from modifying drainage patterns, creating roads and other impermeable surfaces, creating new vernal pools, installing drains, destroying vernal swales, removing vegetation, altering the natural topography, and constructing detention basins. These impacts can affect both ground and surface water flows, resulting in significant changes to vernal pool hydrology, which, in turn, will affect the pools and the organisms they support." (7 A.R. 02451.)

The potential for the viability of regional populations of affected species to be threatened is described in the following terms: "All of these wildlife species listed above have complex survival strategies, which depend on [sic] varying degrees on streams, vernal pools, vernal swales, and associated upland habitats. Hydromodifications, truncated or severely diminished preserve sizes, and human disturbances associated with development will have negative effects on these animals. Under the...development scenario, these animals would be essentially displaced from the area." (7 A.R. 02452.)

Thus, the size of preserved areas matters: "By creating fewer, larger core preserves (as opposed to numerous smaller preserves) it is more likely to establish and maintain hydrological buffers, protect dispersal dynamics, ensure multiple species conservation opportunities, vernal pool functions and values, and to satisfy the needs and practicalities of annual grassland-vernal pool vegetation management." (See, 43 A.R. 16415 (Draft Vernal Pool Habitat Account and Conservation Goals for the South Sacramento Habitat Conservation Plan, p. 73.)

As a result of such concerns, "[t]he federal agencies have stressed that the preserve sizes shown on the map associated with the June 2004 Conceptual Level Strategy are minimally protective of the functions necessary for the preservation of the flora and fauna currently found in the project area. The mere surrounding of these remaining areas in the preserves with urban or suburban development will greatly stress these organisms and alter their natural environment. Further reducing these preserves in size, truncating them, or making them more linear than shown in the agencies' conceptual preserve map will put more stress on the natural ecosystem by increasing the edge-to-area ration and by placing the core of the preserves in closer contact stressors [sic] caused by human activity." (7 A.R. 02452.)

Even the findings respondent made when approving the project recognize the profound impact the planned development will have on vernal pool and wetland habitat when seen in the overall context of development in the area. Biological Resources Impact 4.9.11 states:

"Implementation of the Project together with past, present, and probable future projects will result in a cumulative loss of biological resources in the region." The corresponding Finding states: "Even with the implementation of the above mitigation measure, which is incorporated into the Project as a condition of approval, the impact remains a cumulatively considerable significant impact because the Project, when considered with past, present and probable future projects will result in the temporal loss of 5 percent of vernal pool habitat in the Laguna Formation, the permanent loss of 70% of annual grassland habitat within a 10-mile radius of the Project site and fragmentation of the regional resource and there are no feasible mitigation measures or alternatives that would reduce this impact to a less than cumulatively considerable significant level." (See, City of Rancho Cordova Resolution No. 105-2006, p. 43 of 60, 1 A.R. 00043.)

There is thus substantial evidence in the record that could support a finding that the project as approved, and seen in the context of all the development expected to occur in the Sunrise Douglas Community Plan Area, will not mitigate impacts on vernal pool and wetland dependent species sufficiently "to ensure that the project does not contribute to the decline of affected species populations in the region to the extent that their decline would impact the viability of the regional population" (General Plan Action NR.1.7.1), or provide the interconnections necessary to maintain such viability (General Plan Action NR1.1.3).

Of course, the proper test is whether there is substantial evidence in the record to support respondent's determination that the project is consistent with the General Plan. As relevant to the issues presented here, the critical questions therefore are: 1) whether there is substantial evidence in the record to support a finding that mitigation of impacts to special-status species has been performed to ensure that the project does not contribute to the decline of the affected species population in the region to the extent that their decline would impact the viability of the regional population, such mitigation having been designed by the City in coordination with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), and 2) whether there is substantial evidence in the record to support a finding that "preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserve habitat to support the special-status species identified", with the design and size of the interconnections having been recommended by a qualified professional, in consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

Respondent cites limited evidence on these issues. (Real party in interest does not cite any evidence on these issues or address them in its briefing, leaving such issues to respondent. See, Real Party's Opposition Brief, p. 3, footnote 1.) The evidence respondent does cite, however, does not appear to be substantial evidence to support either finding.

As evidence that the impacts of the project have been mitigated so that they will not threaten the regional viability of vernal pool and wetland dependent species, respondent cites the mitigation measures which have been discussed above in connection with petitioner's CEQA claims. As a consequence of the Court's ruling that the mitigation measures adopted to address impacts on vernal pools and wetlands are invalid under CEQA, because they constitute improper deferred mitigation, there is, in effect, no valid mitigation measure for such impacts which complies with the requirements of the General Plan. Respondent's finding that the project complies with the General Plan in this regard is therefore unsupported by substantial evidence and invalid.

As evidence that the project provides required interconnections between preserved habitat areas, respondent cites three facts.

The first fact is that Morrison Creek is being realigned to flow along a power line corridor, but is being preserved as a natural drainage channel, which respondent contends presumably will provide the necessary interconnection of habitat areas. (See, 4 A.R. 01107 (map showing the existing course of Morrison Creek through the project site, along with other wetland areas); 4 A.R. 01127 (map showing development plan superimposed upon the existing course of the Creek); and 3 A.R. 804 (map showing the realigned Creek, described as a "proposed drainage channel").)

The cited evidence, however, merely shows the new alignment of the creek on a project map. It does not demonstrate that the design and size of habitat interconnections through the realigned Morrison Creek was recommended by a qualified professional, in consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service. Even more significantly, it does not address whether the realigned (and, as the cross-sections on the map show, reconstructed) creek will still perform the functions relating to interconnection of vernal pool and wetland habitats that it performs in its natural state, particularly as those functions have been described in the objections to the project cited above. Indeed, the objections described above suggest it will not.

The Draft EIR, in a portion not cited by the parties, seems to confirm this problem. Biological Resources Impact 4.9.6, entitled "Effect to [sic] Movement Corridor", states: "Implementation of the project will interfere substantially with the movement of vernal pool tadpole shrimp. This is a **significant** impact. [¶] The ephemeral drainage on the project site disperses vernal pool tadpole shrimp throughout the landscape. This movement allows for the species to exploit new habitat and provides a mechanism for genetic exchange of material. As organisms and their eggs are carried with high velocity flow, they can move outside of the bank area into the surrounding landscape when banks are overtopped. Genetic exchange of material is an important element of population health. As designed, the engineered drainage channel will not provide an opportunity for vernal pool tadpole shrimp to move outside the channel." (4 A.R. 01136, emphasis in original.) This evidence therefore does not support a finding that the project is consistent with the relevant portions of the General Plan regarding interconnection of habitats.

The second fact is that 92.4 acres in the southwestern corner of the project site have been set aside as a wetlands preserve, which, according to respondent, not only preserves approximately 25% of the existing wetland and vernal pool habitat on the site (see, 2 A.R. 320-321; 4 A.R. 1126-1127, 1129), but also means that "...it is available for connection to preserve areas on adjacent lands, which are currently undeveloped." (See, Respondent's Opposition Brief, p. 39:18-19.)

The mere fact that there is a preserve designated for one corner of the project site does not, however, demonstrate compliance with the requirements of the General Plan. There is at least one map in the record that suggests that wetland areas to the west of the proposed preserve are not within the boundaries of "existing, approved and proposed projects within the Laguna formation" and thus potentially could be available for connection to the preserve area. The same map shows that an area of proposed development identified as "Suncreek Specific Plan" lies on adjacent land to the south of the preserve. (See, Draft EIR, Figure 4.9-4, 4 A.R. 01128.) Respondent has not cited any evidence, however, demonstrating that any preserves either have been, or are likely to be, established on those adjacent lands. Thus, any interconnection to such preserves is purely speculative at this point, let alone whether such interconnections will be sufficient to maintain the viability of the preserved habitat.

Moreover, no evidence is cited of any scientific or professional opinion holding that the planned preserve, either alone or in connection with preserves that may be established on adjacent lands, is sufficient to provide the necessary degree of habitat interconnection to ensure the viability of the preserved areas. Again, the objections posed by federal and state agencies suggest that it is not. Even the Draft EIR recognizes this problem, stating: "In addition to the direct loss of habitat, the proposed project with the existing plans of the Sunrise Douglas Community Plan Area will result in the fragmentation of the regional vernal pool resources of the Laguna Formation, completely disconnecting proposed preserves of the project site with vernal pool resources west and east of the Sunrise Douglas Community Plan." (See, Draft EIR, section 4.9.4, entitled "Cumulative Setting, Impacts and Mitigation Measures", 4 A.R. 01142.) There thus does not appear to be substantial evidence to support a finding that the project is consistent with the relevant portions of the General Plan.

The third fact is that the project is generally consistent with the General Plan Land Use Element map of the project area showing what areas were contemplated to be preserved at the time of enactment of the Plan. (See, Rancho Cordova General Plan, Figure LU-28, "Conceptual Land Use Plan for the Suncreek/Preserve Planning Area", 54 A.R. 19150.) This map does generally indicate the position of areas designated as "natural resources" preserves, but lacks sufficient specific detail for the Court to conclude anything more than that the project is generally consistent with the map. In any event, however, the critical issue here is consistency with the specific requirements of the General Plan regarding maintaining the viability of regional populations of special-status species, not consistency with a generalized map. By itself, the generalized conceptual land use map is not substantial evidence that the project is consistent with those requirements.

Finally, respondent argues that it was entitled to weigh and balance competing General Plan objectives, and to reject as infeasible the Aquatic Resource Habitat Alternative, the proposed alternative that most closely matched the recommendations of the Conceptual Level Strategy, on the ground that it conflicted with other important objectives in the General Plan. (See, 1 A.R. 00051-00053 (respondent's findings regarding the infeasibility of the Aquatic Resource Habitat Alternative); 4 A.R. 01262-01276 and 01308 (Draft EIR discussion of the alternative); 9 A.R. 02999-03000 (Planning Commission Staff Report dated May 25, 2006).) As a general proposition this is unassailable, but it neither proves that the adopted plan meets the specific mandatory General Plan requirements, either by ensuring the viability of regional populations of special-status species or by ensuring necessary habitat interconnections, nor, without more than the bare assertions made here, that compliance with those requirements should be excused because it would not have been possible to comply with those requirements while upholding other important General Plan objectives.

Based on the evidence discussed above, the situation presented here is similar to that found in *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal. App. 3d 738, 753. In that case, the court invalidated the county Board of Supervisors' finding that a cemetery project was consistent with the county General Plan. The General Plan conservation element contained a policy requiring protection of "beneficial, rare or endangered animals and plants with limited or specialized habitats". The record before the court showed that the county planning staff had prepared a report finding the project to be inconsistent with the General Plan because it would have an "adverse impact on biota...which cannot be mitigated", and recommending denial of the project. No contrary evidence was cited in the opinion. The court therefore concluded that the record did not contain substantial evidence to support the Board's consistency determination.

In this case, as discussed above, there is no substantial evidence supporting a finding that the Preserve project is consistent with, or complies with, the applicable mandatory requirements of the General Plan. At the same time, there is considerable evidence that tends to demonstrate that the project violates those requirements by having an adverse impact on vernal pool and wetland habitat and associated species which has not been mitigated.

The Court therefore concludes that respondent's finding that the project was consistent with General Plan objectives regarding interconnection of habitats and mitigation of impacts on special-status species is not supported by any substantial evidence that has been identified in the record. The project therefore fails to comply with mandatory General Plan requirements. Based on the evidence cited here, and taking into account the lack of a proper mitigation plan, the Court finds that a reasonable person could not have reached the same conclusion that respondent did regarding the project's consistency with these mandatory General Plan requirements. (See, *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal. App. 4th 1332, 1338.) Respondent's approval of the project was therefore invalid, and the petition for writ of mandate is granted on that ground.

X. Conclusion

Based on the foregoing, the Court grants the petition for writ of mandate on the following grounds:

1. Approval of the Preserve project and certification of its EIR violated CEQA by improperly deferring mitigation of impacts on vernal pool and wetland habitat and associated animal species, either on the ground that the EIR omitted required information regarding mitigation or on the ground that any finding that the EIR was in compliance with CEQA in this regard is not supported by substantial evidence;

2. Approval of the Preserve project and certification of its EIR violated CEQA because respondent's findings that impacts on vernal pool and wetland habitat and associated animal species had been mitigated to less than significant levels are not supported by substantial evidence;

3. Approval of the Preserve project and certification of its EIR violated CEQA because the EIR failed to disclose the potentially significant impact of the water supply plans for the project on fish migration in the Cosumnes River, thus depriving the public of the opportunity to comment on that impact;

4. Approval of the Preserve project violated the State Planning and Zoning Law because the project is not consistent with, and does not comply with, mandatory requirements of respondent's General Plan regarding interconnection of preserved habitat areas that support special-status plant and animal species, and regarding mitigation of impacts on such species to ensure that the project does not contribute to the decline of the affected species population, i.e., there is no substantial evidence to support a finding that the project is consistent with, and complies with, such mandatory requirements of the General Plan.

The petition for writ of mandate is denied as to the remainder of petitioner's claims.

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In the event that this tentative ruling becomes the final ruling of the Court, counsel for petitioner is directed to prepare the formal order, judgment and writ of mandate in accordance with the Court's ruling under the procedures set forth in Rule of Court 3.1312.

EXHIBIT 4

LAW OFFICE OF
J. WILLIAM YEATES

3400 COTTAGE WAY, SUITE K
SACRAMENTO, CALIFORNIA 95825
TELEPHONE: (916) 609-5000
FACSIMILE: (916) 609-5001
www.enviroqualitylaw.com

J. WILLIAM YEATES

KEITH G. WAGNER
JASON R. FLANDERS

May 15, 2006

Ms. Pam Johns
General Plan Manager
City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Mr. Pat Angell
Environmental Manager
City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova CA 95670

Re: Comments on Rancho Cordova General Plan and Draft EIR.

Dear Ms. Johns and Mr. Angell:

This letter comes on behalf of Habitat 2020 and the Environmental Council of Sacramento ("ECOS"), to provide comments on the City's proposed general plan and its Draft Environmental Impact Report for that document.

Habitat 2020 is a coalition of conservation organizations whose membership includes Sacramento Audubon Society, Sierra Club Mother Lode Chapter, Friends of the Swainson's Hawk, California Native Plant Society, Save the American River Association, Sacramento Urban Creeks Council, and ECOS. Habitat 2020 was formed in 1997, and its mission is to protect and preserve the lands and waters where Sacramento County's wildlife and native plants live, including the habitats and agricultural lands north of Galt along the Cosumnes River corridor. Habitat 2020 also serves as the ECOS habitat committee.

ECOS is a coalition of environmental and civic organizations with a combined membership of more than 12,000 citizens throughout the Sacramento region. ECOS supports coordinated land use and transportation planning that discourages urban sprawl and that encourages preservation and enhancement of Sacramento County's remaining habitats and open spaces.

As the following comments note, ECOS and Habitat 2020 are concerned that the City's proposed general plan lacks meaningful protection to sensitive natural resources that exist within the City's identified planning area. The general plan's build out scenario also appears to lack adequate commitments to mitigate already congested traffic patterns in the City and the Highway 50 corridor, and proposes development on a scale that substantially exceeds allowable air quality standards and identified, available water supply sources. For these reasons, the proposed general plan and the Draft EIR should be revised accordingly and recirculated for public review and comment before adoption by the City.

I. RENEWED REQUEST FOR EXTENSION OF EIR COMMENT PERIOD.

As an initial matter we request an extension of the time for public review and comment on the Draft EIR and general plan. Under CEQA, even a complex draft EIR is not supposed to exceed 250 pages in length.[1] CEQA's *minimum* time for circulating an EIR for a project that has state-agency involvement, such as this one, is 45 days.[2] Despite this minimum, CEQA requires lead agencies to "provide adequate time for other public agencies and members of the public to review and comment on a draft EIR . . . that it has prepared."[3]

The Draft EIR for the City's general plan, with appendices, exceeds 1,000 pages in length, or more that 4 times CEQA's page limit for complex EIRs. While it is true that the City did grant a two-week time extension for comments, that extension was necessitated by the fact that the documents that were originally circulated for review by the public and responsible and trustee agencies were incomplete. In other words, no actual extension of the 45-day comment has been granted from the time at which the entire text of the documents was made publicly available.

Absent a true, and substantial, extension of the comment period (at least 30 days) to allow for meaningful public and agency comment, the City has failed to meet the spirit or the letter of CEQA by not providing *adequate* time for fair and full consideration of the City's EIR, especially where that document is four times longer than the page limits established in the CEQA Guidelines.[4]

II. THE CITY'S PROPOSED GENERAL PLAN DOES NOT CONTAIN SUFFICIENTLY CLEAR AND MANDATORY POLICIES REGARDING THE ACQUISITION, PRESERVATION, AND PROTECTION OF SENSITIVE SPECIES AND HABITATS.

A. ONLY GENERAL PLAN POLICIES THAT ARE CLEAR AND MANDATORY ARE ENFORCEABLE.

California's Planning and Zoning Law requires that every city have a general plan.[5] A general plan's purpose is to set forth an "integrated, internally consistent and compatible statement of policies" that will guide "the physical development of the . . . city, and of any land outside its boundaries" which bears a relation to the city's planning.[6]

California's Supreme Court has referred to the general plan as the "constitution for all future developments" within a city, because any subordinate land use decision must be consistent with the general plan or be declared invalid.[7] The California Supreme Court has consistently rejected

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[1] CEQA Guidelines, § 15141.
[2] CEQA Guidelines, § 15105, subd. (a).
[3] CEQA Guidelines, § 15203.
[4] CEQA Guidelines, § 15203.
[5] Gov. Code, § 65300.
[6] Gov. Code, § 65300, 65301.
[7] *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531; *Citizens of Goleta Valley v. board of Supervisors v. Board of Supervisors* (1990) 52 Cal.3d 553.

interpretations of general plan policies that would reduce the general plan, as a practical matter, to little more than an "an interesting study."[8] However, the public can only directly hold a city or county legally responsible for general plan policies that are stated in *clear* and *mandatory* language (i.e., using the words "will" or "shall," rather than "may" or "should").[9]

B. THE PROPOSED RANCHO CORDOVA GENERAL PLAN DOES NOT CONTAIN ADEQUATELY CLEAR AND MANDATORY POLICIES REGARDING NATURAL RESOURCE PROTECTION AND CONSERVATION.

The most notable feature of the City of Rancho Cordova's proposed general plan is that practically none of its proposed policies involving protection of open space, or sensitive species and their habitats, are stated in 1) clear and 2) mandatory language. None of the general plan's policies state that "The City will...," or "The City shall...." In many instances the policies (and their implementing actions) state that some sort of ordinance or program should be implemented, but provide no clear guidance as to what the measure of success for such ordinances or programs will be. Instead, the policies 1) avoid commitments to defined, quantifiable and measurable outcomes, or 2) include ambiguous words and phrases that render the Policy's meaning subject to myriad interpretations.

Just as an example, the general plan's first two natural resources policies are recited below, followed by questions demonstrating the inherent ambiguity in the policy, as proposed, and then a possible example of how the policy might be modified to be an *enforceable* statement of how the City *will* treat sensitive species and their habitats in subordinate land use decisions.[10] The same or similar criticisms apply to all of the general plan's natural resources policies.

- **Policy NR.1.1** - Incorporate large and interconnected wildlife corridors in new development areas to provide ample space for animal movement.

What area is sufficiently "large" or "interconnected" to satisfy the terms of this policy? Who judges what constitutes "ample space" for animal movement? And why is habitat only incorporated as an adjunct to new development? At a minimum, it would seem that the location, configuration, and dimensions of such "corridors," and permissible activities therein, should be approved by the relevant, trustee agency, the California Department of Fish and Game ("CDFG"), as being adequate to *actually* serve as appropriate habitat for animals and birds, or specific special status species.

> **Possible revision**: The City shall not approve projects within the Planning Area where substantial evidence indicates that the project may substantially reduce the number or restrict the range of the wildlife species listed on general plan table

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[8] *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772; *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.

[9] *Families Unafraid to Uphold Rural El Dorado County v. County of El Dorado* (1998) 62 Cal.App.4th 1332, 1341-1342 ("*FUTURE*").

[10] For consideration, a distilled listing of all of the General Plan's Natural Resources Policies is attached to this letter as Exhibit A.

NR-1 (Special Status Species Occurring Within the Rancho Cordova Planning Area). within the City's Planning Area.

- **Policy NR.1.2** - Conserve Swainson's hawk habitat.

What does "conserve" mean? And, if it means "protect from development," is "conserving" one acre in the city enough? Or one-hundred acres? What is the metric to determine how much habitat is to be "conserved"? Does the land have to be conserved within the Planning Area?

> **Possible revision**: The City shall mitigate for the loss of Swainson's hawk foraging habitat caused by the direct and cumulative effects of the City's. expansion. For any development project that would convert open-space, agricultural or similar lands to urban uses, the City shall minimally require a permanent dedication of Swainson's Hawk foraging habitat on an acre-by-acre basis, in proximity to nesting territories affected by the City's development, and an endowment sufficient to manage the property for such purposes in perpetuity. Such dedications and endowments shall not be accepted as mitigation unless they are first reviewed and approved by the California Department of Fish and Game, and must be made before the issuance of grading permits or any other project-related land-disturbance is authorized by the City.[11]

We do wish to make it clear that this criticism is *not* a rejection of the many of the laudable, concepts that the City has attempted to address in the general plan's natural resource policies. The general plan proposes natural resources policies that "promote" environmental education, "discourage" the planting of invasive plants, "coordinate" with local environmental organizations on land use decisions, and "encourage" the use of treated water for golf course and landscape irrigation. Many of these policy goals are ones that Habitat 2020 and ECOS support, including the concepts that Swainson's hawk habitat should be conserved, and that environmental groups, such as the Urban Creeks Council, should be consulted regarding the preservation of creeks in the City.[12]

However, the general plan's failure to include any *enforceable* natural resources policies leaves it highly unlikely that this document will serve its statutory purpose and function as a "constitution for future development," with regard to those resources.[13] Absent revision of the general plan to give "teeth" to at least some of its natural resources protection provisions by making them 1)

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[11] On March 27, 2006, James P. Pachl, representing Sierra Club – Mother Lode Chapter and Friends of the Swainson's Hawk, submitted to the City a comment letter on the proposed "Preserve at Sunridge" project. Mr. Pachl's letter proposes a revised mitigation measure 4.9.1a for that project which contains a detailed prescription for appropriate Swainson's Hawk mitigation. Mr. Pachl's letter is attached as Appendix C to this letter, and is hereby incorporated in its entirety to the extent that his observations in that letter apply to Swainson's Hawk and vernal pool resources not only located at the "Preserve at Sunridge" project site, but found throughout the City's expansive, proposed planning area.

[12] General Plan Policies NR.1.2 and NR.3.1.

[13] *Lesher*, *supra*, 52 Cal.3d 531; *Citizens of Goleta Valley*, *supra*, 52 Cal.3d 553.

clear, and 2) mandatory (*i.e.*, direct and quantifiable statements of what the City "shall" or "shall not" do in making land use decisions), none of the presently proposed policies appear to *prevent* private or public action that is contrary to the City's "promotion," "coordination," or "encouragement," of protection of special status species and their habitats.

III. THE GENERAL PLAN LACKS A LEGALLY ADEQUATE OPEN SPACE "ACTION PROGRAM."

Another important part of the Rancho Cordova general plan that affects how wildlife and habitat will be managed within the Planning Area is the general plan's Open Space Parks and Trails element. Under the Planning and Zoning Law the open space element of a general plan must meet a variety of enumerated statutory requirements.[14] The Legislature has stated that, in light of anticipated population increases in cities across the state, an open space element must contain "definite plans" for preserving such areas in order to affirmatively guide decisions about where urbanization should occur:

> the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make *definite* plans for the preservation of valuable open-space land and take *positive action* to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations *as authorized by this chapter* or by other appropriate methods.[15]

In order to achieve the goals of this policy, the Planning and Zoning law mandates that a general plan's open space element must "contain an *action program* consisting of specific programs which the legislative body intends to pursue in implementing its open space plan."[16] Once the open space element's action program is adopted, "any action" in which open-space land may be "acquired or disposed of or its use restricted or regulated . . . must be consistent with" that program in the general plan, and no building permit, subdivision map or open space zoning ordinance may be adopted, unless such approvals or activities are consistent with the City's open space plan.[17] The government code also indicates that, an adequate open space plan must contain "conservation measures" based on an actual inventory of open space resources that may be affected by the plan.[18]

With regard to all forms of open space other than parks, the City's proposed general plan fails to contain any "specific programs" that the City will implement to preserve open space, as required by the Planning and Zoning Law.[19] Instead, the general plan contains a policy and action item,

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[14] Gov. Code, § 65560 et. seq.
[15] Gov. Code, § 65561, subd. (c).
[16] Gov. Code, § 65564.
[17] Gov. Code, §§ 65566-65567.
[18] Gov. Code, § 65563, subd. (b).
[19] Gov. Code, § 65564. The Open Space Parks and Trails element of the general plan *almost* begins to set such standards for city parks, by, for example, stating in mutually inconsistent sections that developers will be required to dedicate either 1.75 or 5 acres of parkland for each 1,000 residents in a development project. (*Compare* General Plan, Open Space Element Action

that unlawfully *defers* the development of the "action program" mandated by the Planning and Zoning Law until *after* the general plan is adopted:

> **Policy OSPT.2.2** - Create a plan for identifying and maintaining open space.
>
> • **Action OSPT.2.2.1** - Adopt a comprehensive Open Space Preservation Action Plan, which clearly defines the City's open space vision and provides clear direction for the inclusion of open space lands within new development.

The Planning and Zoning Law recognizes that, due directly to population growth pressure, open space *will not* be adequately protected if a specific and defined plan for its conservation is not clearly spelled out *in* the document that serves as the "constitution" for the city's development: its general plan. The City's proposed general plan would "grow" the city from a population of 50,000 to 300,000 in the year 2050, but defers the formulation of the plans for acquiring and protecting open space until after the general plan is adopted. The failure to include the mandated "action program" for identifying and protecting open space is not consistent with the Planning and Zoning Law, and effectively precludes implementation of the Legislature's mandates that all transactions, regulations, or permits involving open space lands comply with the action program set forth *in* the City's general plan open space element.[20]

Before it can lawfully adopt its proposed general plan, the City must formulate an open space element that contains a substantive plan for the future, so that urban development does not simply pave over important open space resources before anybody realizes what has been lost.

IV. THE DRAFT EIR MUST BE RECIRCULATED, IN LIGHT OF THE SIGNIFICANT, NEW INFORMATION THAT MUST BE ADDED TO THE PROPOSED GENERAL PLAN'S OPEN SPACE ELEMENT.

In addition, once the general plan's Open Space element is amended to include the statutorily mandated "action program" for identifying and protecting open space, the City's Draft EIR for the general plan will have to also be revised and recirculated, so that the public and interested agencies have the proper opportunity to review and comment on this critical aspect of the City's general plan.

In *Mountain Lion Coalition v. California Fish and Game Commission*, the Court of Appeal was faced with a similar situation regarding a proposal to authorize the so-called "sport" hunting of the state's mountain lions.[21] In *Mountain Lion Coalition*, the lead agency, the Fish and Game Commission, did not develop or release important, relevant information regarding the proposed hunting season's cumulative impacts on mountain lion populations until *after* the comment period on its Draft EIR had closed. Instead of revising its Draft EIR to include the new

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OSPT.1.1.1 [5 acres of parkland per 1,000 residents], *with* General Plan Open Space Element Action OSPT.2.1.2 [1.75 acres of parkland per 1,000 residents].) The general plan cannot be lawfully adopted until the direct inconsistency in these sections is resolved.

[20] Gov. Code, § 65564.

[21] *Mountain Lion Coalition v. California Fish and Game Comm.* (1989) 214 Cal.App.3d 1043.

information, and then recirculating that revised analysis for public review and comment, the Fish and Game Commission simply published a Final EIR with its response to comments, added the new information it had developed on cumulative effects to its Final EIR, and then approved the proposed hunting season.

On appellate review, the Court ruled that the Fish and Game Commission's process of adding substantial new information to the EIR had violated CEQA's public participation purposes and mandate, and ordered the agency to rescind its decision, and recirculate its substantially revised EIR for public review and comment:

> The cumulative impact analysis contained in the final [EIR] *has never been subjected to public review and criticism*. If we were to allow the deficient analysis in the draft [EIR] to be *bolstered* by a document *that was never circulated for public comment*, we would not only be allowing appellants to follow a procedure which deviated substantially from the terms of the writ, but we would be subverting the important public purposes of CEQA. Only at the stage when the draft [EIR] is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment. No such right exists upon issuance of a final [EIR] unless the project is substantially modified or new information becomes available. (See Cal. Code Regs., tit. 14, § 15162.) To evaluate the draft [EIR] in conjunction with the final [EIR] in this case would only countenance the practice of releasing a report for public consumption that hedges on important environmental issues while deferring a more detailed analysis to the final [EIR] that is insulated from public review.[22]

The appellate court's ruling on this point in *Mountain Lion Coalition* was subsequently cited with approval and applied by the California Supreme Court in 1993, in *Laurel Heights Improvement Association v. Regents of the University of California* ("*Laurel Heights II*"):

> recirculation is required . . . when the new information added to an EIR discloses . . . that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless (*Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, . . .).[23]

In the aftermath of the *Mountain Lion Coalition* and *Laurel Heights II* decisions, California's Resources Agency amended its guideline on recirculation of EIRs to embrace the courts' holding:

> A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review . . . . "Significant new information" requiring recirculation include[s], for example, a disclosure showing that: . . . The draft EIR was so

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[22] *Mountain Lion Coalition*, *supra*, 214 Cal.App.3d at p. 1052.

[23] *Laurel Heights Improvement Assn., Inc. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.

> fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.[24]

The considerations that required recirculation of the EIR in *Mountain Lion Coalition*, and that led to the Supreme Court's confirmation of *Mountain Lion Coalition*'s guidance in *Laurel Height II*, are analogous to the City's failure to include the required open space "action program" in the general plan that it has circulated for public review. In this case, the EIR for the City's general plan does not (and cannot) evaluate how the mandated open space action program may or may not ameliorate the effects of the massive urban expansion proposed in the City's general plan.

The addition of the required open space "action program" after the close of the EIR comment period might satisfy the Planning and Zoning Law's content requirements for an open space element. However, such action would constitute reversible error under CEQA, because failing to provide this information during the public comment period would constitute "noncompliance with the information disclosure provisions of [CEQA] which precludes relevant information from being presented to the public agency" by the concerned public and by other agencies that have jurisdiction over resources affected by the City's proposed general plan.[25] The effect of such an addition after the close of public comment would result in a situation analogous to that in the *Mountain Lion Coalition* case: significant new information will have been added to the project that renders the Draft EIR's analysis and conclusions "so fundamentally and basically inadequate and conclusory in nature, that meaningful public comment and review were precluded."[26]

V. THE GENERAL PLAN ACKNOWLEDGES THE EXISTENCE OF NUMEROUS SPECIAL STATUS SPECIES IN ITS PLANNING AREA, BUT CONTAINS NO NATURAL RESOURCE POLICIES FOR THEIR PROTECTION.

In its introductory pages, the general plan's Natural Resources section notes that the expansive Planning Area that the City has staked out contains "unique an valuable habitats" that host a list of thirty-seven "special-status species that occur within the Rancho Cordova Planning Area." Some of these species, such as the Sacramento orcutt grass, are found all but exclusively within the City's claimed planning area:

> A variety of unique and valuable habitats are found within the Planning Area, including, but not limited to, oak and cottonwood woodlands, various grasslands, vernal pool areas, and open water and rivers. The habitats of the Planning Area contain numerous special status plant and animal species. A comprehensive list of the habitats and species in the Planning Area is provided in the Background Report that accompanies the General Plan.

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[24] CEQA Guidelines, § 15088.5, subd. (a)(4), *citing Mountain Lion Coalition*, *supra*, 214 Cal.App.3d 1043.
[25] Pub. Resources Code, § 21005, subd. (a).
[26] CEQA Guidelines, § 15088.5, subd. (a)(4), *citing Mountain Lion Coalition*, *supra*, 214 Cal.App.3d 1043.

> Table NR-1 at the end of this Element includes a current list of special-status species that occur within the Rancho Cordova Planning Area.[27]

Despite its recognition and enumeration of special status species in the Planning Area, the general plan's Natural Resource element does not contain policies that reference this list, or otherwise directly state how the City will protect and conserve these species. In fact, the only specific species on Table NR-1 that appears to be mentioned in the general plan's natural resources policies is the Swainson's Hawk.[28] And, even in that case, the general plan's policy of "[c]onserv[ing] Swainson's hawk habitat," is too vague to have any meaningful force or effect.[29]

Having formally recognized that at least thirty-seven special status plant and animals exist within the City's planning area, the general plan should contain clear and enforceable policies that explain how these sensitive species and their habitats will be protected as the City expands to a proposed population of over 300,000 people by the year 2050.

VI. THE MITIGATION MEASURES PROPOSED IN THE DRAFT EIR FAIL TO MEANINGFULLY MITIGATE OR AVOID IMPACTS TO SENSITIVE SPECIES IN THE PLANNING AREA.

One of CEQA's most fundamental purposes is to ensure that agencies investigate and incorporate feasible mitigation measures or alternatives for a project's potentially significant adverse environmental effects when taking discretionary action, which includes the formulation and adoption of a general plan.[30] A "mitigation measure" is sufficient to meet CEQA's standards if 1) it modifies the project or its location in such a way that the identified impact will be clearly prevented or avoided; or, 2) measurable performance standards that would clearly avoid the project impacts are established, and the mitigation measure(s) to be implemented are clearly capable of meeting that standard.[31]

The Draft EIR for the general plan asserts that a wide range of general plan's policies provide "mitigation" for the general plan's impacts to sensitive species and their habitats. However, none of the policies in the general plan constitute CEQA "mitigation," because none of them establishes measurable performance standards or is sufficiently 1) clear in meaning, or 2) mandatory in application, to decide whether the policy will, in fact, "mitigate" the general plan's impacts to sensitive wildlife and habitats within the Planning Area.[32]

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[27] General Plan, Natural Resources Element at p. 5.
[28] General Plan Policy NR.1.2.
[29] See discussion at Part II.B, *supra*.
[30] Pub. Resources Code, § 21002, 21002.1.
[31] *Sacramento Old City Association v. City Council* (1991) 229 Cal.App.3d 1011, 1019-1022 ("*SOCA*").
[32] CEQA Guidelines, § 15370 (mitigation means avoiding impact; minimizing impact by limiting its degree or magnitude; rectifying the impact through reparation, rehabilitation or restoration; preservation; or, compensation). As explained above, the General Plan's natural resource policies are stated in such vague and unenforceable language, that it is far from clear that any of those policies will in fact constitute actions meeting the foregoing definition.

Moreover, the EIR's assertion that the policies and implementing actions in the proposed general plan will purportedly mitigate the project's impacts is a conundrum.[33] In this case, the CEQA "project" that is being analyzed *is* the collection of policies and implementing actions that form the City's general plan. The impacts identified in the EIR are the impacts caused by those policies and actions. Thus, it cannot be said that these same policies and actions mitigate the very same potentially significant, adverse effects that their adoption may cause.

The Draft EIR does propose five additional mitigation requirements to be added to the general plan, Mitigation Measures MM 4.10.1a through e. The Draft EIR claims that these mitigation measures could mitigate the general plan's impacts to sensitive species and their habitats by 1) requiring biological studies and evaluations before the approval of individual projects; 2) requiring "mitigation" for project level impacts to sensitive species; 3) "encouraging" habitat preserves to be located next to each other; 4) adopting a future noxious weed ordinance; and 5) requiring that, to the extent feasible, stormwater discharge not be routed into wetlands.[34]

Unfortunately, the proposed mitigation measures suffer from the same infirmities and ambiguities as the general plan policies that they claim to mitigate:

- The requirement in Mitigation Measure 4.10.1a of conducting biological studies for individual projects may help inform decisionmakers of what they are about to destroy, but such studies are, essentially, inventories, and of themselves, offer no substantive protection to sensitive species or their habitats.

- The requirement in Mitigation Measure 4.10.1b of "mitigati[ng] for impacts to [sensitive] species" as a way to mitigate for impacts to sensitive species is circular, and adds no meaningful substance to the general plan's requirements.

- The requirement in Mitigation Measure 4.10.1c of "encouraging" habitat preserves to be located next to each other does not mean that it will actually happen.

- The requirement in Mitigation Measure 4.10.1d of adopting a noxious weed ordinance contains no measurable standards and is not sufficiently defined in the EIR to make any determination of whether such an ordinance, once adopted, can or will mitigate impacts to special status species.

- The requirement in Mitigation Measure 4.10.1e directing that post-development surface runoff flows into wetlands should mimic pre- existing flows to the "extent feasible," still would allow such impacts to be incurred upon a finding that avoiding such impacts is not "feasible."

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[33] CEQA Guidelines, §§ 15124,15378 (project is the "whole" of the activity which is being approved; CEQA Guidelines, §§ 15126, 15126.2 (EIR must contain discussion of significant, adverse environmental impacts of proposed project).
[34] EIR Mitigation Measures MM 4.10.1a - MM4.10.1 e.

VII. THE DRAFT EIR FAILS TO PROPOSE OR CONSIDER POTENTIAL MITIGATION MEASURES THAT COULD FEASIBLY MITIGATE THE PROJECT'S IMPACTS ON SENSITIVE SPECIES AND THEIR HABITATS.

Given the unenforceable nature of the general plan's natural resources policies, the Draft EIR reaches the unremarkable conclusion that identified impacts to a broad range of biological resources are considered "significant and unavoidable" even with all feasible mitigation measures or alternatives implemented.

In fact, of the eight categories of biological resources impacts that the EIR identifies, it concludes that impacts to all but one of those categories are "significant and unavoidable."[35] The only biological resource impact which is rated as having "less than significant" adverse effects is Impact 4.10.7 – which finds that the project will have "no impact" due to conflicts with "provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or any adopted biological resources recovery or conservation plan of any Federal or State agency."[36] The EIR reaches this conclusion based on the fact that no such plans exist *yet* within the City's planning area.

The EIR does note, however, that a habitat conservation plan ("HCP") that would cover the City's Planning Area *is* presently being prepared by the United States Fish & Wildlife Service, and that the City is actively involved in that planning process, and intends to participate in that HCP when it is completed.[37] The EIR also acknowledges that "the USFWS is currently finalizing a Vernal Pool Recovery Plan that includes a portion of the Planning Area in its scope" and that this plan would protect 33 sensitive species "that occur exclusively or primarily within the California and southern Oregon vernal pool ecosystem."[38]

Under the CEQA Guidelines, *if* a project has the potential to substantially reduce the number or restrict the range of an endangered, rare or threatened species, then the lead agency for the project *must* make a "mandatory finding of significance" for such impacts.[39] However, in 2005, the Resources Agency amended this CEQA Guideline to provide that a mandatory finding of significance for such impacts need not be made if 1) "the project proponent is bound to implement mitigation requirements related to such species and habitat pursuant to an approved habitat conservation plan or natural communities conservation plan," 2) an EIR or EIS was prepared in support of the HCP or NCCP's adoption, and 3) the provisions of the HCP or NCCP require avoidance of the impact, or otherwise preserve, restore, or enhance sufficient habitat to reduce effects for the loss of sensitive species to less than significant levels.[40]

In light of the foregoing, it would appear that the City's Draft EIR has failed to consider a potentially feasible mitigation measure for its general plan that would avoid the need for

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[35] Draft EIR, pp. 7.0-9 to 7.0-10.
[36] Draft EIR, p. 4.10-62.
[37] Draft EIR, pp. 4.10-30, 4.10-62.
[38] Draft EIR, p. 4.10-63.
[39] CEQA Guidelines, § 15065.
[40] CEQA Guidelines, § 15065, subd. (b)(2).

mandatory findings of significance for impacts to sensitive species and their habitats to be made within the City's entire Planning Area. Specifically, the Draft EIR should consider whether the City can and should adopt a general plan policy along the lines of the following:

> The City shall not approve any projects within the City Limits or the Planning Area that would convert open space, agricultural and other non-urban landscapes to urban uses unless and until an approved HCP or NCCP meeting the requirements of CEQA Guidelines section 15065, subdivision (b)(2), is adopted for the Planning Area.

Arguably, the formulation and inclusion of such a policy in the City's general plan could allow the City to make a finding that impacts to special status species covered by such an HCP or NCCP have been mitigated to "less-than-significant" levels under section 15065, because 1) under the general plan, no impacts to these species or their habitats could be permitted until after an HCP or NCCP meeting the CEQA Guidelines' requirements has been approved, and 2) after such an HCP or NCCP has been adopted, the CEQA Guidelines expressly provide that compliance with the that HCP or NCCP constitutes mitigation to "less-than-significant" levels.

It should also be noted that the potential feasibility of such a measure is demonstrated by the similar mitigation measures already incorporated into the City's Draft EIR with regard to other environmental resources. For example, Impact 4.9.4 in the EIR notes that the general plan's proposed development patterns could result in a shortage of over 50,000 acre-feet/year of water.[41] In order to mitigate this acknowledged and substantial shortage of available water to serve full build out under the proposed general plan, the EIR proposes to add Mitigation Measure MM 4.9.4, which requires, among other things, that no development be approved until it is demonstrated that "[a]n assured water supply and delivery system shall be available at the time of project approval."[42] The inclusion of this mitigation measure for water supply demonstrates that the City understands and accepts the fact that moratoria on development approvals until certain planning requirements are met is a valid method of mitigating the general plan's potentially significant, adverse environmental effects.

VIII. The Draft EIR Is Informationally Inadequate With Regard to What Information is Actually Incorporated From Other EIRs, and How Such Unidentified Information is Relevant to the Draft EIR's Analysis.

The Draft EIR claims that it "utilizes technical information and analyses from previously prepared EIRs that are relevant to the consideration of environmental effects of the proposed General Plan," and that, "[i]n addition to materials cited," several, enumerated EIRs "have been utilized in" the City's Draft EIR for its general plan.[43]

The CEQA Guidelines generally allow the "incorporation by reference" of other documents into an EIR. But the Guidelines require that any incorporated part of such referenced documents "be

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[41] Draft EIR, p. 4.9-43, and Table 4.9-7, p. 4.9-44 to 4.9-45.
[42] Draft EIR, p. 4.9-56.
[43] Draft EIR, p. 4.1-10.

briefly summarized where possible, or briefly described if the data or information cannot be summarized," and that "[t]he relationship between the incorporated part of the referenced document and the EIR shall be described."[44]

In this case, the Draft EIR lists seven other EIRs as having purportedly been "utilized" in the preparation of the Draft EIR for the City's proposed general plan, but the Draft EIR fails to summarize what data or information from those other EIRs is 1) relevant to the Draft EIR's analysis, or 2) the relationship between the unidentified "incorporated part" of those documents and the analysis and conclusions in the City's general plan Draft EIR.

The Draft EIR asserts that the City has copies of these seven additional EIRs on file for public review. However, this offer of inspection is meaningless as a practical matter, where the public is provided with no information about what part of those EIR's is actually relevant to or considered an incorporated part of the Draft EIR's analysis.

As noted above, a violation of CEQA's information disclosure provisions that precludes relevant information from being presented to the public agency constitutes a prejudicial abuse of discretion, regardless of whether a different outcome would have resulted, had the relevant information been made available.[45] In this case, the Draft EIR violates this provision, because there is no way for the public or the decisionmakers to know what parts of these seven other EIRs are incorporated in, or even considered relevant to, the Draft EIR's analysis and conclusions.

These shortcomings are particularly notable in the Draft EIR's Hydrology and Water Quality analysis. The Draft EIR topically lists numerous, significant and unavoidable impacts from these prior EIRs, but provides absolutely no summary of the facts in those EIRs related to these findings, or how those findings are relevant to the Draft EIR's analysis and conclusions.[46] Perhaps more importantly, the Draft EIR, after acknowledging this wide range of unmitigated impacts from prior projects, contains absolutely no discussion or analysis of whether any mitigation measures or alternatives might be incorporated into its proposed general plan to reduce or avoid the identified, adverse effects, which is CEQA's most basic purpose.[47]

IX. LACK OF ANY RECOGNIZED WATER SUPPLY FOR NATURAL RESOURCES

The Draft EIR's table that allocates water supply "zeroes-out" all allocations of water for "natural resources" areas, which comprise over 11,000 acres of the planning area.[48] Yet, the Draft EIR allocates over 14,539 afy of water to open space and parks, which comprise just over 4,000 acres of the planning area.[49] In fact, the "demand factor" for supplying adequate water for

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[44] CEQA Guidelines, § 15150, subd. (c).
[45] Pub. Resources Code, § 21005.
[46] Draft EIR, p. 4.9-50.
[47] Pub. Resources Code, § 21002, 21002.1.
[48] Draft EIR, Table 4.9-6, at p. 4.9-43.
[49] Draft EIR, Table 4.9-6, at p. 4.9-43.

open space areas is one of the largest on the chart.[50] It would seem that maintaining "natural resource" areas in their desired state would also require some allocation of water by the City, especially where the land use maps on the general plan predominantly propose to surround these areas with residential and other urban development. Is it clear that no water will have to be delivered to these areas from local supplies, as the expansive development proposed by the general plan is implemented?

X. FAILURE TO IDENTIFY, DISCUSS OR ANALYZE MITIGATION MEASURES OR ALTERNATIVES REGARDING WATER SUPPLY IMPACTS.

Another concern with the Draft EIR's water supply analysis is that it fails to discuss mitigation measures or alternatives that could feasibly reduce or avoid a long list of identified, potentially significant, adverse environmental effects associated with the general plan's acknowledged 50,000+ afy water supply shortfall.

As noted above, the Draft EIR recites numerous findings of "significant and unavoidable" impacts associated with the approval of prior water supply projects that are identified as potential sources of water supply for the City's projected growth to 300,000+ residents.[51] In addition, Table 4.9-8 identifies nineteen additional "related and potential" impacts that may be caused by new water supply projects, water rights transfers and related infrastructure required to serve the general plan's projected growth.[52]

Yet, despite these three pages of identified, potentially significant adverse effects that will be caused by the general plan, not a single mitigation measure is proposed or analyzed for these impacts before the Draft EIR summarily concludes that impacts associated with 1) the general plan's cumulative contribution to impacts of various water supply projects that have already been approved, and 2) securing as-yet unidentified new sources of water to make up for the general plan's 50,000+ afy water supply shortfall, are "significant and unavoidable."[53]

The Draft EIR does propose one mitigation measure, MM 4.9.4 regarding water supply, but that mitigation measure is narrowly targeted at making sure that the individual project being considered can be supplied with water.[54] Even the Draft EIR reaches the conclusion that

> Implementation of the above proposed General Plan policies and action items and Mitigation Measure **MM 4.9.4** would ensure that the new development under the General Plan would not proceed without verification and determination that an adequate water supply exists. As noted above, it is speculative that additional water supply sources would be available to serve buildout of the entire Planning Area. In addition, the proposed General Plan would contribute to identified significant environmental impacts associated with planned water supply projects

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[50] Draft EIR, Table 4.9-6, at p. 4.9-43.
[51] Draft EIR, p. 4.9-50 to 4.9-52.
[52] Draft EIR, Table 4.9-8, at pp. 4.9-50 to 4.9-51.
[53] Draft EIR, p. 4.9-57.
[54] Draft EIR, p. 4.9-56-4.9-57.

> as well as potential future other water supply sources. Given these conditions, this impact is considered **significant and unavoidable.**[55]

First, it is not correct for the Draft EIR to claim that the policies and implementing actions in the proposed general plan would assist in "reducing water supply impacts," because these policies and implementing actions are a part of the "whole" of the project that is being analyzed, and thus are the policies and actions that are *causing* the identified and acknowledged impacts.[56] In other words, as explained above, it is circular to assert that the activities that constitute a project that is being analyzed under CEQA "mitigate" the impacts of engaging in those activities.[57]

Second, the above statement from the Draft EIR concludes that the general plan (including its policies and actions, *and with MM 4.9.4 incorporated*) would contribute to significant effects "associated with planned water supply projects as well as potential future other water supply sources." Accordingly the Draft EIR should, but does not, discuss potential mitigation measures or alternatives that could reduce or avoid water supply impacts (including, perhaps, substantially scaling back the City's expansive planning area) before summarily concluding that such impacts are "significant and unavoidable."

XI. THE GENERAL PLAN AND DRAFT EIR'S PROPOSED LAND USE DEVELOPMENT PATTERNS, PROJECTED POPULATION GROWTH, AND MITIGATION MEASURES ARE BASED ON UNRELIABLE WATER SUPPLY ESTIMATES.

The EIR's acknowledgement of a 50,000+ afy shortfall in water supply after all potential sources of water are exhausted also causes the City's proposed general plan to be internally inconsistent. The general plan calls for expansion of the City from a current population of 50,000 persons to over 300,000 persons in the City's planning area. Yet after considering all identifiable, anticipated sources of water that might be able to serve that growth, the Draft EIR concludes that there is a 50,000+ afy shortfall.[58]

Even the identified shortfall is probably overly optimistic, because the Draft EIR's water demand calculations for the general plan incorporates a 25.6% water demand management factor based on the so-called Water Forum Agreement ("WFA").[59] But the WFA is not binding on any of the signatory parties, and the WFA's provisions have no enforcement mechanism. Accordingly, to the extent that the water demand identified in the EIR has been reduced by reference to provisions in the WFA, such reductions in demand are not reliable.

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[55] Draft EIR, p. 4.9-57.

[56] CEQA Guidelines, §§ 15124,15378 (project is the "whole" of the activity which is being approved; CEQA Guidelines, §§ 15126, 15126.2 (EIR must contain discussion of significant, adverse environmental impacts of proposed project).

[57] See discussion at footnote 33, *supra*.

[58] Draft EIR, Table 4.9-7, pp. 4.9-44 to 4.9-45.

[59] Draft EIR, Table 4.9-6, p. 4.9-43 to 4.9-44.

Moreover, as the Draft EIR itself acknowledges, the WFA is based on projected land uses and patterns that were in place in 2000, and bears no relation to the massive urbanization proposed in the City's general plan:

> The WFA *did not* . . . account for new incorporations for the cities of Elk Grove and Rancho Cordova. Rather, the WFA analysis was based on existing land use plans that were available at the time it was prepared (*i.e.*, the County of Sacramento General Plan [1994] and other relevant agency general plans). Since the WFA was adopted in 2000, the cities of Elk Grove and Rancho Cordova have incorporated and pursued development and implementation of long-term land use plans. For [water supply] demands that exceed those accounted for and evaluated in the WFA and EIR, the City may need to consult with regional water purveyors and stakeholders to the WFA (*e.g.*, environmental and business interests) to determine how its proposed water demands fit within the overall regional water supply planning context.[60]

On its own terms, this statement in the EIR admits that the WFA EIR *did not* consider or analyze the water supply impacts associated with the massive urbanization contemplated by the City's proposed general plan, and that any disclosure of such impacts or "consultation" with affected "environmental and business interests" has not yet occurred. In doing so, the City Draft EIR improperly defers disclosure, analysis and mitigation of the water supply impacts associated with its proposed general plan – in violation of CEQA's mandate that the impacts of the "whole" of a CEQA project be disclosed and analyzed before project approval.

As stated in the draft EIR: "As noted under Impact 4.9.4, there is currently not adequate existing and planned water supplies identified to serve full buildout of the proposed General Plan (51,089 afy shortfall)."[61] Or, as stated later in the EIR, "it is speculative that additional water supply sources would be available to serve buildout of the entire Planning Area . . . ."[62] In other words, the general plan, as drafted, establishes proposed land use and urbanization patterns for population growth that cannot possibly be supported by any existing or even reasonably anticipated water supply.

The shortfall of water to support the land uses patterns and population growth proposed in the general plan is quite substantial, in light of the fact that total demands for water within the planning area (if development is carried out as proposed in the general plan) is 128,709 afy, but the City can only account, at most, for a *potential* water supply through 2030, of 77,620 acre feet of water.[63] This represents a *40% shortfall* of water supply for build out of the planning area as a "whole," and a *71.5% shortfall* of water supply for the portion of the general plan's planning area that is outside of the City's current limits, if it is assumed, pursuant to the City's commitment to "smart growth" principles, that the City would require full build out within its

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[60] Draft EIR, p. 4.9-30 to 4.9-31.
[61] Draft EIR, p. 4.9-62.
[62] Draft EIR, p. 4.9-66.
[63] Draft EIR, Table 4.9-7, p. 4.9-45.

current city limits, before seeking permission from LAFCo to expand into adjacent, rural landscapes.[64]

In sum, this *substantial* shortfall of identifiable sources of water in the Draft EIR renders the City's proposed general plan assumptions and policies regarding land use and water supply internally inconsistent. The expansive urbanization proposed in the general plan's land use maps, and especially that part in the "planning area" that is beyond the City's existing limits, has no relationship to what can reasonably be expected to occur in the future, because there is no available, or even potentially available, water source to serve the development that these maps envision. While it is true that the Draft EIR proposes a mitigation measure requiring "will serve" letters before individual projects are approved, the result of this measure is that build out of the City's will occur on a random, patchwork basis that is not, ultimately, consistent with the City's land use maps or its commitment to implementing "smart growth" principles.

A moratorium on development due to lack of available water supply after just 60% buildout, will also impact the City's ability to implement other policies in the general plan and mitigation measures in the Draft EIR, several of which rely on continued development approvals (and the taxes, land dedications, and developer fees that come with such development) as the method for implementing their provisions.

In *Planning and Conservation League v. Department of Water Resources*, the Court of Appeal struck down a Draft EIR for a water transfer agreement (and, thus, the approval of the agreement itself) because the Draft EIR relied on "paper water" from the State Water Project as a fiction that could never be implemented in the real world.[65] The situation faced by City due to the substantial shortfall of identifiable water supply for the City's proposed general plan is similar. General plans are supposed to ensure the orderly development of communities, by serving as a "constitution" for development.[66] In this case, only a random two-thirds of the general plan proposed by the City can be implemented (depending on who gets the required "will serve letters" first), because every available indication is that 40% of the water required to fully implement the general plan does not exist.

XII. Failure to Adequately Disclose, Analyze or Mitigate Cumulative Water Supply Impacts

The Draft EIR never substantively discloses, analyzes or mitigates the admittedly "cumulatively considerable" water supply impacts that would result from the City's approval of its proposed general plan, when considered in combination with the massive urbanization that is presently occurring throughout the region. Under its "cumulative setting" discussion for hydrology and water quality, the EIR states:

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[64] Draft EIR, Table 4.9-7, p. 4.9-45.

[65] *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892.

[66] *Lesher, supra*, 52 Cal.3d 531; *Citizens of Goleta Valley, supra*, 52 Cal.3d 553.

> Reducing and mitigating the cumulative water impacts from development within the Sacramento Valley groundwater basins was the premise behind the preparation of the Water Forum Agreement. The reader is referred to Section 4.0 regarding a description of development activities within the region that contribute to cumulative water resource impacts.[67]

Section 4.0 contains a five-page table, constituting a summary list of approved and proposed projects in the region. This table (and the rest of section 4.0) contains no discussion of the water supply demands for these projects or how they might interact with this project to result in cumulatively significant, adverse effects on regional water supply.

Section 4.0 does assert, at one point, that Section 5.0 of the Draft EIR "provides a summary of the cumulative impacts associated with the General Plan."[68] However, Section 5.0 contains nothing more than a rote recitation of the cumulative impacts identified in each of the prior section's analyses, and contains no new information regarding how the City's general plan may contribute to cumulatively significant, adverse environmental effects when taken in combination with the table of projects at Section 4.0 of the EIR.[69]

In sum, the Draft EIR's entire "analysis" of cumulative impacts associated with inadequate water supplies reads as follows:

> As noted under Impact 4.9.4, there is currently not adequate existing and planned water supplies identified to serve full buildout of the proposed General Plan (51,089 afy shortfall). Future growth in the region (e.g., as identified in the Sacramento Area Council of Government's Region Blueprint process and City of Folsom Sphere of Influence) would further contribute to the need for additional sources of water supply currently not planned for. This could result in further direct and indirect environmental effects associated with the development of new water supply sources.[70]

The Draft EIR then recites a number of policies and implementing actions in the general plan, and then contains the following discussion, in its entirety, of mitigation measures for cumulative water supply impacts:

> Implementation of the above proposed General Plan policies and action items and Mitigation Measure **MM 4.9.4** would ensure that the new development under the General Plan would not proceed without verification and determination that an adequate water supply exists. As noted above, it is speculative that additional water supply sources would be available to serve buildout of the entire Planning Area or development beyond. In addition, the proposed General Plan would contribute to identified significant environmental impacts associated with

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[67] Draft EIR, p. 4.9-57.
[68] Draft EIR, p. 4.0-10.
[69] Draft EIR, p. 5.0-7.
[70] Draft EIR, p. 4.9-62 to 4.9-63.

> planned water supply projects as well as potential future other water supply sources. Given these conditions, this impact is considered **cumulatively considerable** and thus is **significant and unavoidable**.[71]

The discussion then abruptly ends without any discussion of proposed mitigation measures or alternatives to reduce or avoid this recognized, significant adverse environmental effect.

The Draft EIR's "discussion" of cumulative water supply impacts is so basically and fundamentally inadequate that it precludes meaningful public review or comment. The EIR expressly acknowledges that such impacts are "cumulatively considerable."[72] Accordingly, the EIR must substantively disclose and discuss the sources and nature of such impacts, and propose mitigation measures or alternatives that could feasible reduce or avoid such impacts.[73]

CEQA Guideline section 15130 expressly sets forth the details of what is required in a legally adequate cumulative impacts analysis. A full and complete copy of CEQA Guideline section 15130, and the accompanying "discussion" by the Resources Agency in promulgating this guideline, is attached as Appendix B to this letter, and incorporated by reference at this point in this letter as if set forth in full.[74]

The City's cumulative impacts analysis for water supply violates CEQA, because CEQA Guideline section 15130 does not authorize a lead agency to summarily conclude in its Draft EIR that an "impact is considered **cumulatively considerable** and thus is **significant and unavoidable**." CEQA Guideline section 15130, instead, sets forth very specific investigatory and information disclosure requirements regarding other projects and their cumulative contributions to the cumulative effects that are identified in an EIR as "cumulatively considerable."[75] This section also states that "An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects."[76]

None of this required information is presented, or even summarized, in the Draft EIR. The cross reference to Section 4.0 simply provides a list of other past, present and future projects in the region, but contains no information regarding cumulative water supply demands or impacts. Section 5.0, which purports to address "Cumulative Impacts," contains no new analysis or information from that presented in the Draft EIR's hydrology and water quality section.

The Draft EIR's implied reliance on the WFA as having addressed the proposed general plan's cumulative water supply impacts is also misplaced.[77] First, the WFA is not a binding agreement between the signatories, and is not legally enforceable. Second, even if the WFA could be

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[71] Draft EIR, p. 4.9-66.
[72] Draft EIR, p. 4.9-66.
[73] CEQA Guidelines, § 151626, 15126.2, 15126.4, 15126.6, 15130.
[74] See Appendix B: CEQA Guideline § 15130 and accompanying "discussion" by the California Resources Agency.
[75] CEQA Guidelines, § 15130, subd. (b)(5).
[76] CEQA Guidelines, § 15130, subd. (b)(5).
[77] Draft EIR, p. 4.9-57.

enforced, the EIR that was prepared for the WFA concluded with a laundry list of "significant and unavoidable" impacts that would result from implementation of the WFA.[78] The City's Draft EIR must, therefore, address the question of whether there are any mitigation measures or alternatives available that could reduce or avoid the proposed general plan's contribution to the significant and unavoidable effects identified in the WFA EIR.[79] Finally, the WFA was completed in 2000 based on land use assumptions under the County's general plan that are radically different than those in the City's proposed general plan, a fact that is admitted in the Draft EIR.[80] For all these reasons, the mere existence of the WFA and its EIR do not relieve the City of its duty under CEQA to prepare and circulate for public review, a Draft EIR that discloses, analyzes and mitigates or avoids, where feasible, the acknowledged, "cumulatively considerable" water supply impacts associated with its proposed general plan.

XIII. THE GENERAL PLAN AND DRAFT EIR LACK ADEQUATE CONSIDERATION OF POLICIES, MITIGATION MEASURES AND ALTERNATIVES THAT COULD REDUCE OR AVOID "SIGNIFICANT AND UNAVOIDABLE" AIR QUALITY IMPACTS

As with its Natural Resource element, the general plan's Air Quality element contains numerous policies that topically address important air quality issues associated with the City's proposed, future development. Unfortunately, once again, these policies are not worded in sufficiently 1) clear, or 2) mandatory terms to actually be enforceable.[81] Policies that "promote" land uses that reduce vehicle travel, "encourage" infill development, and that "coordinate" planning with other jurisdictions to improve air quality all represent laudable goals. Absent enforceable language, however, these policies are inadequate to ensure that the City will not exacerbate already deteriorated air quality in the region as its general plan is implemented.

In fact, this is what the Draft EIR concludes, in determining that implementation of the general plan, as proposed, will result in noncompliance with the 1994 SMAQMD Regional Ozone Attainment Plan:

> The above General Plan policies and action items would assist in the improvement of air quality conditions. However, they do not require the City to reduce future land uses to be more inline with the Blueprint projections used in the Attainment Plan update. As such, implementation of this policy would not fully mitigate the conflict between the proposed General Plan buildout projections and those used in the update Attainment Plan. In addition, there are no feasible methods to completely offset air pollutant emission increases from land uses under the proposed General Plan. Thus, this impact is considered **significant and unavoidable**.[82]

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[78] Draft EIR, p. 4.9-50.
[79] CEQA Guidelines, § 15130, subd. (b)(5).
[80] Draft EIR, p. 4.9-30 to 4.9-31. See discussion at note 60, *supra*.
[81] See discussion at Part II, *supra*, titled, "The City's Proposed General Plan Does Not Contain Sufficiently Clear and Mandatory Policies Regarding the Acquisition, Preservation, and Protection of Sensitive Species and Habitats."
[82] Draft EIR, p. 4.6-17.

The Draft EIR's summary assertion that "there are no feasible methods to completely offset air pollutant emission increases from land uses under the proposed General Plan," again misses one critical, mandatory step in the CEQA process: mitigation measures and alternatives must at least be *proposed* and *analyzed* before they can be summarily dismissed as "infeasible." The Draft EIR violates CEQA by summarily declaring all mitigation infeasible without any discussion or investigation of what measures or alternatives might actually be available to reduce or avoid the general plan's significant and unavoidable air quality impacts.

For example one potentially feasible mitigation measure might be a mandatory requirement of phasing future development to performance goals in meeting air quality standards, unless an individual project can be demonstrated to have no adverse air quality impacts, or the project's direct and indirect air emissions are fully mitigated. At minimum, the Plan should prohibit development outside the current city boundary until full compliance with state and federal ozone attainment plans can be affirmed. The potential of incorporating such a measure into the general plan is not identified or discussed in the Draft EIR. Given that the federal Clean Air Act requires new air quality plans be adopted in 2007, it would be appropriate for the City of Rancho Cordova to align its general plan with the new federal ozone attainment plan.

Another potentially feasible mitigation measure might be a general plan policy requiring compliance with future, adopted air quality plans that are designed to attain state and federal air quality standards. A number of air quality plans will have to be updated or adopted over the life of the City's proposed general plan, and there should be no impression that the City's adoption of this general plan before those air quality plans are formulated or revised creates some form of "precedent," or "grandfathered" land uses, that can violate those future attainment plans.

Other mitigation measures that might have been, but were not, considered in the Draft EIR include establishing a clear and mandatory policy that development will not be approved that would interfere with attainment of any air quality standard, or the establishment of mandatory policies requiring the avoidance of air pollution impacts on sensitive receptors located near sources of diesel particulate, as recommended by the California Air Resources Board in its publication "Air Quality and Land Use Impacts."

The failure of the Draft EIR to even *consider* mitigation measures for the general plan's noncompliance with the 1994 SMAQMD Regional Ozone Attainment Plan is of particular concern, due to the recognized consequences of such noncompliance:

> In the early 1990's the Sacramento area had the fifth worst ozone air quality in the United States. The Federal CAA set new deadlines for attaining the federal ozone standards. In 1994, the Sacramento Metropolitan Air Quality Management District adopted a plan to attain this standard called the Regional Ozone Attainment Plan (also called the State Implementation Plan, or SIP). Currently, SMAQMD is in the process of updating the Attainment Plan. This update uses SACOG's Sacramento Region Blueprint: Transportation/Land Use Study as a basis for projected growth in the area (per. comm. Borkenhagen). SACOG's Blueprint has projected population of 332,000 persons, 112,290 housing units,

> and 144,406 jobs for the area by the year 2050. While the area defined as the Rancho Cordova Community by SACOG does not precisely match the General Plan Planning Area, it is within range to approximate the SACOG anticipated growth for the area. The proposed Rancho Cordova General Plan projects a total buildout population of 310,568, 126,241 housing units and 195,021 jobs. The differences in population, housing units and employment between these two growth scenarios is substantial resulting in an exceedance of the data used to formulate the Regional Ozone Attainment Plan and its ozone reduction predictions and mitigations. Conflicts with the Regional Ozone Attainment Plan may result in the non-attainment of air quality standards for the SMAQMD area. *This would be in direct disagreement with the California Clean Air Act resulting in the potential loss of transportation funding for the Sacramento area.* This is considered a significant impact.[83]

In addition it appears that the Draft EIR, while considering ozone standards in the regional context under the 1994 SMAQMD Regional Ozone Attainment Plan, fails to adequately disclose or analyze the general plan's potential to directly result in significant, adverse impacts on the attainment of the *state* ozone standard. It is not sufficient to analyze the operational air quality impacts of one city's general plan in the context of compliance with a regional conformity process. A federal conformity determination (which addresses cumulative air quality impacts on a regional scale on the federal ozone standard) cannot serve as a threshold of significance under CEQA to establish that this general plan's air quality impacts would be insignificant with respect to attainment of the state ozone standard. Alternative significance criteria and methodology must be used to specifically address these air quality impact issues with respect to the state standard.

Finally, with regard to cumulative air quality impacts, the Draft EIR suffers from similar procedural and substantive defects as identified above in our comments on the general plan's potentially significant, adverse cumulative water quality impacts. The methodology of this section of the EIR is practically identical to its cumulative water supply impact analysis, and leads to a similar conclusion:

> Implementation of the above proposed General Plan policies and action items and mitigation measures MM 4.6.2 and MM 4.6.4a and b identified above would assist in reducing the General Plan's contribution to cumulative regional and local air quality impacts; however, this contribution is still considered **cumulatively considerable** and thus a **significant and unavoidable impact**. No feasible mitigation is available to completely mitigate this impact.[84]

As noted above, the Draft EIR violates CEQA because the CEQA guidelines do not authorize a lead agency to make a finding that cumulative impacts are significant and unavoidable because they are cumulatively considerable.[85] Rather, upon its determination that air quality impacts are

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[83] Draft EIR, p. 4.6-16.
[84] Draft EIR, p. 4.6-38.
[85] CEQA Guidelines, § 15130 (attached at Appendix B). See discussion at Part XII, titled "Failure to Adequately Disclose, Analyze or Mitigate Cumulative Water Supply Impacts," *supra*.

cumulatively considerable, the Draft EIR must 1) disclose and describe how this project, when considered in combination with other past, present and future projects, is resulting in the cumulatively considerable impact, and 2) investigate and analyze potentially feasible mitigation measures or alternatives to reduce or avoid the proposed general plan's contribution to those cumulatively considerable impacts.[86]

XIV. The General Plan and Draft EIR Lack Adequate Consideration of Policies, Mitigation Measures and Alternatives That Could Reduce or Avoid "Significant and Unavoidable" Circulation Impacts.

With regard to traffic, the City's proposed general plan acknowledges that the City is challenged by regional congestion on Highway 50 and Sunrise Boulevard and by lack of connectivity. However it fails to adequately acknowledge and build on the light rail and heavy rail connections they do have, or to incorporate and expand on existing County and SACOG MTP projects. As presented, the circulation element and land use elements of the general plan appear to depict an auto-oriented plan that calls for the construction of a major network of four and six lane expressways across the City's planning area to facilitate sprawling residential subdivisions at the edges of the City's current limits and beyond.

Rancho Cordova presently has a large stock of multi-family housing with people in need of mobility who are likely in the future to be constrained by low or modest incomes, unable to afford the $8,500 + per auto, and unable to afford $4.00 to $6.00 per gallon gasoline. The general plan's circulation element would be greatly strengthened if there were a section that focused on the transportation needs of present residents, maintenance, and retrofitting streets in the older urban and suburban areas for infill and more livable communities.

Also, while the general plan's circulation element uses many key "smart growth" words, several key issues seem to be missing in this element including the following:

- Discussion of the current and projected increase in the price of gasoline, global warming and other energy issues for a sustainable future.
- Policies requiring the reuse of parking lots for infill.
- Policies requiring parking maximums, rather than minimums.
- More focus on integrating into this element provisions regarding urban form, and retrofitting and enhancing existing older commercial areas.
- Policies requiring, as a priority, maintenance and retrofitting of older roads.
- Policies that do not use new roads and roadway widening/expansion to facilitate leap frog development.

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[86] CEQA Guidelines, § 15130.

Unfortunately, the General plan does not adequately address such policies, and the discussion in the Draft EIR does not go far enough in evaluating mitigation measures that would move the City in such positive directions. As just one example, after recognizing that growing the City from 50,000 to 300,000+ residents will have substantial, adverse traffic and circulation impacts on key intersections within the City, the Draft EIR declares impacts are not mitigable based on a finding that key intersections cannot be adequately widened.[87] Instead the EIR should be considering and discussing mitigation measures that could feasibly stabilize or reduce demand at these existing intersections, by promoting 1) alternative means of transportation, and 2) development patterns and policies, such as those above, that reduce the need for auto travel.

XV. CONCLUSION

The public review period that has been allotted by the City for its Draft EIR is too short, and should be extended to allow adequate time for public comment and review. Even with the submittal of these Draft EIR comments by the City's chosen deadline, our review and analysis of the Rancho Cordova general plan and EIR is ongoing.

However, even this initial review of the Draft EIR and general plan indicates that these documents should be substantially revised and recirculated for public review before their adoption. As noted above, among other things, the general plan fails to adequately set forth an "action program" for the acquisition and preservation of open space. The general plan contains no enforceable policies to protect special status species and their habitats. And, impacts to a broad range of special status species and their habitats are declared significant and unavoidable in the Draft EIR, despite the availability of potentially feasible mitigation measures in the form of requiring an HCP or NCCP to be adopted before future development projects are approved.

With regard to water supply, the general plan is internally inconsistent, because it proposes sprawling development and growth patterns that exceed by 40% all known or identifiable future water supplies, while the Draft EIR declares that finding the remaining 50,000 afy needed to fully implement the general plan is "speculative." The Draft EIR also fails to adequately disclose, analyze or consider potentially feasible mitigation measures or alternatives for direct and cumulative water supply and air quality impacts. And, with regard to traffic, the Draft EIR declares impacts to numerous intersections to be significant and unavoidable, yet fails to consider mitigation measures in the form of general plan policies and actions that would promote transit or otherwise stabilize or reduce demand at the affected locations.

On behalf of Habitat 2020 and ECOS, we thank the City for this opportunity to comment on its Draft EIR and General Plan.

Sincerely,

Keith G. Wagner

Keith Wagner

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[87] Draft EIR, p. 4.5-52 to 4.5-54.

APPENDIX A

RANCHO CORDOVA GENERAL PLAN POLICIES

This Appendix recites each of the Rancho Cordova general plan's Policies regarding Natural Resources. As noted in the attached comment letter by Habitat 2020 and ECOS, none of these policies is worded in sufficiently clear and mandatory language to be enforceable, as a practical matter.

- **Policy NR.1.1** - Incorporate large and interconnected wildlife corridors in new development areas to provide ample space for animal movement.

- **Policy NR.1.2** - Conserve Swainson's hawk habitat.

- **Policy NR.1.3** – Promote educational programs that inform the public about natural resources.

- **Policy NR.1.4** - Discourage the planting of invasive species.

- **Policy NR.1.5** - Ensure the protection of wildlife through the establishment of programs to control feral pet populations.

- **Policy NR.2.1** – Require mitigation that provides for "no net loss" of wetlands.

- **Policy NR.2.2** - Ensure that direct and indirect effects to wetland habitats are minimized by environmentally sensitive project siting and design, to the maximum extent feasible.

- **Policy NR.2.3** – Works with private and non-profit conservation organizations to ensure competitive pricing for mitigation bank credits by allowing government agencies, non-profit organizations, and private landowners to establish vernal pool preserves, designate mitigation areas, create and restore vernal pools, and sell credits to developers for off-site mitigation.

- **Policy NR.3.1** - Coordinate with groups such as the Sacramento Urban Creeks Council to restore, enhance, and preserve creeks in Rancho Cordova.

- **Policy NR.3.2** - Create or retain the natural topographic relief and meandering alignment of natural creek corridors in the construction of new channels and the modification of existing channels, and discourage the placement of concrete within creeks and channels.

- **Policy NR.3.3** - Encourage the creation of secondary flood control channels where the existing channel supports extensive riparian vegetation.

- **Policy NR.3.4** – Encourage projects that contain wetland preserves or creeks, or are located adjacent to wetland preserves or creeks, to be designed for maximum visibility and, as appropriate, access.

- **Policy NR.4.1** - Conserve native oak and landmark tree resources for their historic, economic, aesthetic, and environmental value.

- **Policy NR.4.2** - Improve overall landscaping quality and sustainability in all areas visible to the public.

- **Policy NR.4.3** - Promote trees as economic and environmental resources for the use, education, and enjoyment of current and future generations.

- **Policy NR.5.1** - Promote water conservation within existing and future urban uses.

- **Policy NR.5.2** - Encourage the use of treated wastewater to irrigate parks, golf courses, and landscaping.

- **Policy NR.5.3** - Protect surface and ground water from major sources of pollution, including hazardous materials contamination and urban runoff.

- **Policy NR.5.4** - Prevent contamination of the groundwater table and surface water, and remedy existing contamination to the extent practicable.

- **Policy NR.5.5** – Minimize erosion to stream channels resulting from new development in urban areas.

- **Policy NR.6.1** – Ensure that the environmental effects of mining and reclamation on aquifers, streams, scenic views, and surrounding residential uses are prevented or minimized.

- **Policy NR.6.2** – Eliminate residual hazards to the public health and safety.

- **Policy NR.7.1** - Increase energy conservation Citywide.

- **Policy NR.7.2** - Promote the development and use of advanced energy technology and building materials in Rancho Cordova.

- **Policy NR.7.3** - Encourage the development of energy efficient buildings and subdivisions.

- **Policy NR.7.4** - Promote energy rebate programs offered by local energy providers (e.g., SMUD, PG&E) as a way to bring energy efficiency into older neighborhoods and developments.

- **Policy NR.8.1** - Support recycling efforts by developing a set of programs to educate residents on recycling and provide recycling services.

- **Policy NR.8.2** - Encourage all companies that do business in Rancho Cordova to recycle and reuse construction scraps, demolition materials, concrete, industrial waste, and green waste.

- **Policy NR.8.3** - Promote the use of rubberized asphalt on all public roadways in an effort to recycle old tires and reduce noise impacts. Implementation of this policy will help to preserve aggregate resources.

- **Policy NR.8.4** - Encourage the use of recycled materials and source reduction (also known as waste prevention) by governmental agencies and local businesses.

- **Policy NR.8.5** - Meet state mandates for solid waste reduction and recycling. Increase recycling efforts beyond those required by state law through supporting businesses that buy and sell re-used materials, such as materials exchange centers.

- **Policy NR.8.6** - Encourage the use of recycled-content products and construction materials.

- **Policy NR.8.7** - Maintain contact with Sacramento County and BFI regarding the capacity projections of Kiefer Landfill and Lockwood Landfill to ensure an adequate capacity for the long-term disposal needs of Rancho Cordova.

APPENDIX B

This appendix sets forth the full text of CEQA Guidelines § 15130 and the California Resources Agency's "discussion" following this Guideline. The City's Draft EIR fails to follow the procedures set forth in this section for consideration of the project's cumulative impacts, including, but not limited to, cumulative water supply impacts.

CEQA GUIDELINE § 15130. DISCUSSION OF CUMULATIVE IMPACTS

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(c). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or areawide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f)~~(e)~~, in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

Note: Authority cited: Sections 21083 and 21087, Public Resources Code. Reference: Sections 21083(b), 21093, 21094 and 21100, Public Resources Code; *Whitman v. Board of Supervisors,* (1979) 88 Cal. App. 3d 397; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692; *Laurel Heights Homeowners Association v. Regents of the University of California* (1988) 47 Cal.3d 376; *Sierra Club v. Gilroy* (1990) 220 Cal.App.3d 30; *Citizens to*

Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421; *Concerned Citizens of South Cent. Los Angeles v. Los Angeles Unified Sch. Dist.* (1994) 24 Cal.App.4th 826; *Las Virgenes Homeowners Fed'n v. County of Los Angeles* (1986) 177 Cal.App.3d 300; *San Joaquin Raptor/Wildlife Rescue Ctr v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Fort Mojave Indian Tribe v. Cal. Dept. Of Health Services* (1995) 38 Cal.App.4th 1574; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98.

Discussion: This section is necessary to explain how to discuss cumulative impacts in an EIR. The section limits the discussion to situations where the cumulative effects are found to be significant. Further, the section codifies the requirements for analysis of cumulative effects as spelled out in *Whitman v. Board of Supervisors*, cited in the note, but the section allows the alternative approach of summarizing projections from a planning document. The options allow the Lead Agency to choose the method of analysis that may be best suited to the situation at hand. Essential guidance is also provided on approaches to mitigating cumulative effects, since cumulative effects can rarely be mitigated in the same way as the primary effects of an individual project.

When analyzing the cumulative impacts of a project under 15130 (b)(1)(A), the Lead Agency is required to discuss not only approved projects under construction and approved related projects not yet under construction, but also unapproved projects currently under environmental review with related impacts or which result in significant cumulative impacts. This analysis should include a discussion of projects under review by the Lead Agency and projects under review by other relevant public agencies, using reasonable efforts to discover, disclose, and discuss the other related projects. The cumulative impact analysis requires a discussion of projects with related cumulative impacts which required EIRs, Negative Declarations, or were exempt from CEQA. (See: *San Franciscans for Reasonable Growth v. City and County of San Francisco*, (1984) 151 Cal. App. 3d 61.) The court in SFFRG took note of the problem of where to draw the line on projects undergoing environmental review since application of new projects are constantly being submitted. A reasonable point might be after the preparation of the draft EIR. Additional project information could be included in the final EIR if cumulative impacts were originally analyzed in the draft EIR and if the new project information doesn't warrant the preparation of a subsequent or supplemental EIR as required by Section 15162 of the Guidelines.

Subsection (b)(1)(B) authorizes a lead agency to limit its analysis of probable future projects to those which are planned or which have had an application made at the time the NOP is released for review. This describes a reasonable point in time at which to begin the cumulative impact analysis. Without this guideline, the cumulative impact analysis may suffer frequent revision as new, incremental projects are identified. If additional projects are identified later, they may be addressed during completion of the final EIR.

Cumulative impacts analysis must include reasonably anticipated future activities of a project or associated with the project. Whether these activities are addressed in the cumulative impact analysis section or in the impacts associated with the project, as defined, if there is substantial evidence indicating reasonable foreseeable future projects or activities, an EIR must analyze the impacts of those future activities. The Court in *Laurel Heights* set forth the following two pronged test to determine whether an EIR must include an analysis of the environmental effects

of future activities: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, potential future expansion need not be considered. *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376.

Consistent with the holding in *Antioch v. Pittsburg* (see discussion with Section 15126), a cumulative impact analysis should address the most probable development patterns.

This section describes the analysis necessary where a project will make a considerable contribution to a cumulative effect (see also section 15064). Based on the holding in San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1996) 42 Cal.App.4th 608, subdivision (a) provides that when the lead agency determines that a project makes only a de minimus contribution to a cumulative effect no analysis of the cumulative effect is needed. This subsection also provides that an EIR may determine that a project's contribution, originally thought to be considerable, is less than considerable with mitigation. Any such conclusion must be documented in the EIR.

Subsection (b) discusses the elements necessary for an adequate discussion of significant cumulative impacts. It recommends that the discussion focus on the particular cumulative impact to which other projects contribute rather than on the non-contributing aspects of those projects. This subsection offers further guidance on focusing the discussion on impacts rather than on other projects per se.

Subsection (d) links cumulative impact analysis to tiering and other similar approaches which seek to limit redundant analyses. Where cumulative impacts have been adequately addressed in the EIR certified for a general plan or other programmatic plan, and the project is consistent with that plan, the discussion contained in the prior EIR may be incorporated by reference. No further cumulative impact analysis would be necessary.

APPENDIX C

Letter from James P. Pachl to City of Rancho Cordova Planning Commission re: Comments of Friends of the Swainson's Hawk and Sierra Club on proposed recommendation for approval of "The Preserve at Sunridge" (March 27, 2006).

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

March 27, 2006

Ermest Vance, Chair, and Commissioners
Rancho Cordova Planning Commission
William Campbell, Principal Planner
Hilary Anderson, Environmental Coordinator
2729 Prospect Park Drive
Rancho Cordova, CA 95670

RE: Planning Commission Meeting, **April 13, 2006.**
Comments of Friends of the Swainson's Hawk and Sierra Club on proposed recommendation for approval of "The Preserve at Sunridge"

Dear Chairman Vance, Planning Commissioners, Mr. Campbell, and Ms. Anderson,

The following comments are on behalf of Sierra Club - Mother Lode Chapter, and Friends of the Swainson's Hawk. Please see my comment letter for Friends of the Swainson's Hawk, December 5, 2005 (at p. 3.0-81 of the FEIR), and my letter to this Commission dated March 9, 2006. We are requesting changes in Mitigation Measure 4.9.1a.

A. Mitigation for Impacts on Swainson's Hawk Foraging Habitat (revised MM 4.9.1a)

This letter responds to staff's proposed revised MM 4.9.1a as it existed on March 24, 2006 (attached EXHIBIT A.). I am on vacation through April 12, 2006, and will not be able to submit timely written comment on the staff report for that meeting. Possibly staff's proposed revised MM 4.9.1a will be further modified prior to April 13.

1. Suggested Alternative MM 4.9.1a. (by Friends of the Swainson's Hawk and Sierra Club)

As discussed below, there are some issues with staff's proposed MM 4.9.1a. My clients respectfully suggest the following alternative wording for MM 4.9.1a, which incorporates some of the language of the Sacramento County SWH Mitigation Ordinance:

"a. Prior to the approval of grading and improvement plans, or any ground-disturbing activities, whichever occurs first, the project applicant shall acquire and preserve, through transfer of fee title or perpetual conservation easement, in the manner stated below, 1 acre of suitable SWH foraging habitat for each acre impacted by the project. Prior to committing to the preservation of any particular parcel pursuant to this measure, the project proponent must obtain approval of the mitigation parcel by DFG and City. The mitigation parcel shall be located in Sacramento County within ten miles of the project site and within reasonable proximity of SWH nest trees, as determined by City and DFG. If the land's suitability for SWH foraging habitat is related to agricultural use on the land, the Conservation Easement or related document shall retain and protect any existing water rights necessary to maintain agricultural use of the land."

"b. The project applicant shall transfer said SWH conservation easement, or fee title subject to such SWH conservation easement, to the City, DFG, and a third party conservation organization (Conservation Operator"), acceptable to City and DFG. The Conservation Operator shall be a nonprofit organization having IRC § 501c(3) status. The conservation easement shall be recordable and shall prohibit any activity which substantially impairs or diminishes the land's capacity as suitable SWH foraging habitat. The content and form of the conservation easement must be acceptable to City, DFG, and Conservation Operator. The Conservation Operator, DFG, and City shall each have the power to enforce the terms of the conservation easement. The Conservation Operator shall monitor the easement in perpetuity to assure compliance with the terms of the easement."

"c. The project applicant shall pay to City an endowment fee in an amount which will produce sufficient interest in perpetuity to operate, maintain, monitor, and enforce such conservation easement. The amount of the O and M fee shall be determined by mutual agreement of City and the Conservation Operator charged with such activity, not to exceed $3,500 per acre. The actual amount will be calculated by use of the Property Analysis Record (PAR) software program or other generally accepted, attribute based, site specific method for calculating endowment for managing, monitoring, and enforcing conservation easements or operating preserves."
(NOTE: Sacramento County's and Elk Grove's fee for endowing O and M is approximately $2,300 per acre, using The Nature Conservancy as Conservation Operator.)

"d, The Conservation Operator shall not sell, lease, or transfer any interest in any conservation easement or mitigation land which it acquires without prior written approval of the City and DFG. If the Conservation Operator ceases to exist, the duty to hold, administer, monitor, and enforce the interest shall be transferred to another entity acceptable to County and DFG, or transferred to City itself."

OR
"The Project Applicant may participate in a future City SWH ordinance (once adopted) as an alternative to the measure above."

OR
"The project applicant may participate in a future South County HCP (once adopted) as an alternative to the above measures."

2. Staff's Proposed MM 4.9.1a (March 24, 2006) Is Noncompliant with CEQA

The staff's current proposed MM 4.9.1a is certainly a commendable improvement over the version presented at the March 9, 2006, Planning Commission meeting, but problems remain.

City staff's proposed MM 4.9.1a requires preservation of sufficient land to ensure a 1 to 1 mitigation ratio of "habitat value" lost due to the project, as determined by City in consultation with DFG. Staff intends this to mean that the actual area of SWH habitat preserved will be less than the area of land developed if City staff determines that the land preserved has greater habitat value than the land developed. The mitigation land is not identified, and there is no objective standard for determining relative "habitat values". City does not have the expertise to determine relative "habitat values." City must consult with DFG, but may disregard DFG's expert advice, even though DFG is the Trustee agency having jurisdiction over threatened and endangered species. (Pub Res Code §21070, CEQA Guideline 15386)

Determination of the actual mitigation measure (protection of an identified parcel of land of a certain size) is deferred until later. Deferred mitigation is acceptable under the California Environmental Quality Act (CEQA) ONLY if the adopted mitigation measure includes performance standards which must be met by the mitigation measure, (e.g.: one acre of land to be preserved for every acre impacted by development). However, staff's proposed MM 4.9.1a contains no quantifiable standard for determining whether a 1 to 1 ratio of "habitat values" has been achieved, and City has no biological expertise and are free to disregard DFG's advice.

MM 4.9.1a is so loosely worded that City can do whatever it wants and assert that it meets the criteria of MM 4.9.1a. Deferred mitigation without quantifiable standards about what that mitigation shall be is improper under CEQA and exposes the City and Applicant to potential CEQA litigation which could led to revocation of project approval.

Moreover, 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, which is yet another violation of CEQA, which requires that Findings be supported by substantial evidence.
All other SWH mitigation programs in the region (Sacramento County, Elk Grove, Yolo JPA , San Joaquin County HCP) require a 1 to 1 mitigation ratio. The one exception is the Natomas Basin HCP, which 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 optimistically assumes that such active management for SWH benefits will result in higher habitat value than simply retaining

private agriculture by a conservation easement. The NBHCP's program also relies on the assumption that new development in the Basin will not exceed 17,500 acres for 50 years after 1997, and that the remaining 29,000 acres of the Basin will remain in agriculture for 50 years and 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 where there were formerly two acres of habitat. There is no evidence that MM 4.7.1a contemplates converting non-habitat land to habitat; nor does MM 4.7.1a contemplate managing the mitigation habitat land to increase its habitat value twofold (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, as intended by City staff, is clearly inadequate.

Determination of the suitability of the site of the mitigation land and the terms of the conservation easement are at City's discretion, with no standards established by staff. Again, City must consult with DFG but may disregard DFG's advice. There is a requirement that the mitigation land be within ten miles of the project site, but no requirement that the mitigation land be within the foraging radius of any SWH nesting area. There is plenty of land that is suitable SWH foraging habitat, except that there are no SWH nests or SWH within miles of it.

As a practical matter, DFG's expert biologists recommend that SWH foraging habitat acquired for mitigation be within several miles of a SWH nests.

If DFG approval of all aspects of implementation of MM 4.9.1a was required, then it could be argued that there are sufficient standards because MM 4.9.1a must at least meet the requirements of the State Trustee agency with expertise. However, staff's proposal doesn't even do that

Finally, staff's proposed MM 4.9.1a states that City shall ensure that mitigation habitat is functioning as such by conducting regular monitoring for ten years after establishment of the easement. There is no provision for monitoring after ten years. CEQA requires that mitigation measures be enforceable and feasible. Staff's MM 4.9.1a does not meet CEQA's requirement for enforceability or feasibility of accomplishing its purpose of preservation of SWH mitigation habitat in perpetuity, because there is no provision for regular monitoring of the mitigation easement for landowner compliance with the easement conditions after ten years. Monitoring must be perpetual to ensure that the landowner (or the original landowner's successor) complies with the easement's requirement to avoid activities detrimental to SWH foraging. Courts have repeatedly voided project approvals which rely upon CEQA mitigation measures which are not feasible or enforceable.

As you know, this project is controversial. It is possible that opponents will file a lawsuit challenging project approval. The City would be well-advised to remove inadequacy of SWH mitigation as a potential issue for such litigation, by correcting the deficiencies of MM 4.9.1a as suggested by my clients.

Staff will argue that mitigation for impacts to SWH arising from Rancho Cordova's development should be less than one acre of SWH foraging habitat preserved for each acre impacted by development, asserting that Rancho's SWH habitat has less value than SWH habitat elsewhere. However, such an argument fails to take into account the cumulative effects of ongoing large-scale reduction of SWH foraging habitat in Elk Grove, San Joaquin County, Sacramento County, Natomas Basin, and Yolo County due to urban growth and conversion to vineyards. SWH foraging habitat in Rancho Cordova supports survival of nesting SWH and its loss must be fully mitigated under CEQA and the California Endangered Species Act.

B. Vernal Pools and Wetlands

Please review the letters of U.S. Fish and Wildlife Service, FEIR pp. 3.0-8, 3.0-10, 3.0-11 through -14, (October 27, February 22, 2005, October 14, 2004); and U.S. Environmental Protection Agency, FEIR pp. 3.0-31, 3.0-33 through -46, (December 5. 2005 November 11, 2005). This project in its present form would sabotage the "Conceptual Level Strategy for Avoiding, minimizing, and Preserving Aquatic Resource Habitat I the Sunrise Douglas Community Plan Areas", June 2004, which was developed by USFWS, EPA, and the Corps to serve as the permitting strategy for Sunrise-Douglas Community Plan Area. The "Conceptual Strategy" was the result of intensive negotiations involving the Federal agencies, landowners, County, and City of Rancho Cordova.

This project appears have to been designed by landowner AKT Development and Applicants to create an ugly confrontation between City and the U.S. Fish and Wildlife Service and Environmental Protection Agency, (See attached EXHIBIT B, FEIR p. 3.0-36, USEPA letter, November 11, 2005, p. 4) AKT Development is well-known for repeated - and unnecessary -confrontations with Federal and State environmental agencies, and repeated violations of the Federal and California clean water laws.

AKT could have chosen a different project design that would have accommodated its needs and been compliant with the Conceptual Strategy developed by the agencies. Instead AKT and Applicants have deliberately chosen a strategy that is clearly intended to create yet another confrontation with the Federal agencies, but with the City of Rancho Cordova being maneuvered into the defending the unreasonable demands of AKT and River West Investments.

Rancho's approval of the project "as is" would destroy its credibility as negotiating partner and likely result in substantial additional mitigation requirements on future project applicants who can no longer rely upon the Conceptual Strategy to mitigate for the impacts of their projects. It would also undermine the strategy being developed for the South Sacramento HCP.

It is clear from the Federal comment letters in the FEIR that the U.S. Army Corps of Engineers will not issue Federal Clean Water Act permits for this project in its present form. The City will then either expend substantial staff time and public resources working with the Applicant to re-design the project, or initiate litigation challenging denial of Federal permits. The latter would likely attract numerous intervenors and generate a negative public image of Rancho Cordova being controlled by anti-environmental developers with a "pave-over-everything" mentality. If the Corps were to grant a permit, it is possible that citizen organizations would challenge that decision in Federal court, and would likely prevail due to the ample evidence in the Federal agencies' records that such a Permit would violate the Federal Clean Water Act and Federal Endangered Species Act. Again, Rancho's public image would needlessly suffer, and huge amounts of City staff time and resources would be consumed.

We urge the Planning Commission to recommend that Council reject this project and direct staff and applicant to redesign it to be consistent with the Conceptual Strategy, at minimum. Rancho should not allow itself to be manipulated into an ugly confrontation with the Federal regulatory agencies by private development interests seeking to use Rancho as a "front" for their ongoing disputes with the Federal environmental agencies. Such a confrontation will only have negative effects on the City of Rancho Cordova and will consume City staff time and resources.

Thank you for the opportunity to comment.

Very Truly Yours,

James P. Pachl

cc: clients

EXHIBIT 5

No. C057018

COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT

CALIFORNIA NATIVE PLANT SOCIETY,

Plaintiff and Appellant,

v.

CITY OF RANCHO CORDOVA, et al.

Defendants and Appellants,

and

JAEGER ROAD 530, LLC,

Real Party in Interest and Appellant.

APPELLANT'S OPENING BRIEF

Appeal from the Superior Court of Sacramento County
Sacramento County Superior Court Case No. 06CS01311
The Honorable Patrick Marlette

Adam U. Lindgren, SBN: 177476
Julia L. Bond, SBN: 166587
Edward Grutzmacher, SBN: 228649
MEYERS, NAVE, RIBACK,
SILVER & WILSON
555 12th Street, Suite 500
Oakland, CA 94607
Telephone: (510) 808-2000
Facsimile: (510) 444-1108

Attorneys for Defendants and Appellants
CITY OF RANCHO CORDOVA,
CITY OF RANCHO CORDOVA CITY COUNCIL

Preserve Project's use of groundwater would not significantly impact the Cosumnes River. (4 AR 1046–1047, 1055.)

The trial court should have examined the record to determine whether there was substantial evidence to support the City's conclusion rather than finding that, as a matter of law, because the SDCP EIR disclosed a potentially significant impact, the Preserve EIR should have done the same. The substantial evidence relied on by the City, including the Zone 40 Master Plan EIR, was sufficient to support the City's decision that the Preserve EIR would not have the short-term water supply impacts to the Cosumnes River highlighted as potential impacts in the SDCP Final EIR.

V. THE TRIAL COURT ERRED IN SETTING ASIDE THE CITY'S DETERMINATION THAT THE PROJECT WAS CONSISTENT WITH THE CITY'S OWN GENERAL PLAN.

Finally, the trial court concluded that the City's approval of the Project violated State Planning and Zoning Law because the Project was inconsistent with several policies in the City's recently adopted General Plan. The trial court's decision should be reversed because the trial court applied the wrong standard of review, and erroneously concluded that the Project was inconsistent with the City's General Plan.

A. The Trial Court Applied the Wrong Standard of Review.

First, the trial court erred by using the incorrect standard of review. As discussed above, general plan consistency determinations are reviewed under the "arbitrary and capricious standard." (*Endangered Habitats League, supra,* 131 Cal.App.4th at 782.) The proper analysis under this standard "is whether the decision is arbitrary, capricious, *entirely lacking in evidentiary support*, unlawful, or procedurally unfair." (*Id.* at 782,

emphasis added.) A city's determination that the Project is consistent with its General Plan "comes to this court with a strong presumption of regularity." (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717; *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1338 ["*FUTURE*"].) "A determination of general plan consistency will be reversed only if, based on the evidence before the local governing body,... 'a reasonable person could not have reached the same conclusion.'" (*Ibid.*)

Rather than apply this deferential "arbitrary and capricious" standard, however, the trial court here mistakenly applied CEQA's "substantial evidence" test. (4 JA 1061 ["Of course, the proper test is whether there is substantial evidence in the record to support respondent's determination that the project is consistent with the General Plan"].) In applying the wrong "substantial evidence" test, the trial court concluded that "there is no substantial evidence to support a finding that the project is consistent with, and complies with, such mandatory requirements of the General Plan." (4 JA 1064.) The proper test would have been for the trial court to determine whether there was *any* evidentiary support for the City's conclusion that the Project was consistent with the General Plan, not whether the evidence the City offered met CEQA's standard of "substantial evidence." However, even under the substantial evidence test, the City's decision should be upheld.

B. The Trial Court Erred In Finding the Project Inconsistent with the General Plan.

All land use decisions made by a city must be consistent with its general plan. (*Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406-08.) "A project is consistent with the general plan if, considering

all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." (*FUTURE, supra*, 62 Cal.App.4th at 1336.) Moreover, "a given project need not be in perfect conformity with each and every general plan policy." (*Ibid.*; *Sequoyah, supra*, 23 Cal.App.4th at 719.) Rather, the requirement is only that the project be "in agreement or harmony with" the applicable general plan. (*Id.* at 717-718.) To be consistent, a proposed development must be "compatible with" the objectives, policies, general land uses and programs specified in the general plan. (*Ibid.*)

Here, the trial court found that the Project was inconsistent with General Plan Policy NR.1.1 and General Plan "actions" NR.1.1.2, NR.1.1.3, and NR.1.7.1. (4 JA 1057 – 1058, 1064.) General Plan Policy NR.1.1 requires the protection of "rare, threatened and endangered species and their habitats in accordance with State and federal law." General Plan actions NR.1.1.2 and NR.1.1.3 are specific steps the City should take in implementing Policy NR.1.1. (55 AR 19326.) Action NR.1.1.2 requires that the City "[r]eview projects through the entitlement process and CEQA analysis to ensure that they comply with this policy if the site contains unique habitat, creeks, and/or wooded corridors." (*Id.*) Action NR.1.1.3 requires that the City:

> As part of the consideration of development applications for individual Planning Areas containing habitats that support special-status plant and animal species that are planned to be preserved, the City shall require that these preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserved habitat to support the special-status species identified. The determination of the design and size of 'interconnections' shall be made by the City, as recommended by a qualified professional, and will include consultation with the California Department of Fish and Game and U.S. Fish and Wildlife Service.

(*Id.*)

Though the trial court found that the Project is consistent with Policy NR.1.7, the court held that the Project was inconsistent with Action NR.1.7.1, which was designed to implement Policy NR.1.7. (4 JA 1057 – 1058, 1061.) It is unclear how the Project can be both consistent with a General Plan policy, but inconsistent with a provision intended to implement that policy. In any event, Policy NR.1.7.1 requires that

> For those areas in which special status species are found or likely to occur or where the presence of species can be reasonably inferred, the City shall require mitigation of impacts to those species that ensure that the project does not contribute to the decline of the affected species populations in the region to the extent that their decline would impact the viability of the regional population. Mitigation shall be designed by the City in coordination with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), and shall emphasize a multi-species approach to the maximum extent feasible. This may include development or participation in a habitat conservation plan.

(55 AR 19328.) Collectively, the trial court held that these General Plan provisions established two requirements which the City must meet in order for the Project to be consistent with the General Plan. Under the trial court's analysis, the City must show substantial evidence establishing that

> (1) "mitigation of impacts to special-status species *has been performed* to ensure that the project does not contribute to the decline of the affected species population in the region to the extent that their decline would impact the viability of the regional population" and that such mitigation has been designed in coordination with the appropriate resource agencies; and that
>
> (2) "preserved habitats have interconnections with other habitat areas in order to maintain the viability of the preserve habitat to support the special-status species identified" and that the interconnections have been designed in coordination with the applicable resource agencies.

(4 JA 1061, emphasis added.)

First, the trial court erred by reading into the General Plan specific requirements not supported by the plain language of the General Plan itself. The Court's requirement that mitigation must be "performed" in order to satisfy the General Plan is in conflict of the plain language of action NR.1.7.1 – the only General Plan provision cited that deals with mitigation – which states only that the City shall "require" mitigation, not that the mitigation actually be performed prior to a finding of General Plan consistency.[13] (See 4 JA 1061; 55 AR 19328.) The difference is critical, because the trial court goes on to find that the City has not presented "substantial evidence" that the Preserve Project will sufficiently mitigate the impacts to special-status species and provide the necessary "connectivity" based largely on the trial court's previous conclusions that the City's proposed mitigation measures are infeasible. (See 4 JA 1062 (trial court rejection of the City's evidence of nearby available land for mitigation and connectivity on the basis that the evidence does not demonstrate "that any preserves either have been, or are likely to be, established on those adjacent lands. Thus, any interconnection to such preserves is purely speculative at this point, let alone whether such interconnections will be sufficient to maintain the viability of the preserved habitat.").)

The imposed mitigation measures clearly meet the General Plan provisions directive to "require" that projects not threaten the regional viability of species and address the need for interconnectivity through the requirement that mitigation wetlands meet a "no net loss" standard to either

[13] Similarly, Action NR.1.1.3, concerning interconnections, states that the City shall "require" such interconnections. (55 AR 19326.)

acreage *or habitat value*. The trial court, however, rejected the mitigation measures as the necessary evidence of General Plan compliance, stating that "[a]s a consequence of the Court's ruling that the mitigation measures adopted to address impacts on vernal pools and wetlands are invalid under CEQA, because they constitute improper deferred mitigation, there is, in effect, no valid mitigation measure for such impacts which complies with the requirements of the General Plan." (4 JA 1061.) Thus, the trial court's determination of General Plan consistency is largely based on its erroneous rulings concerning the Project's mitigation measures. Properly considered, the wetland and vernal pool mitigation measures demonstrate the City's satisfaction of the General Plan directives to "require" mitigation and connectivity to ensure the regional viability of the species dependent on these habitats.

In addition, the City expressly concluded that the Project would be consistent with the General Plan's Natural Resource Element Policies, including Policy NR 1.1. The City's analysis included the following:

> The 92.4-acre wetland preserve included in the proposed project is part of a contiguous open space preserve area *that connects to the Anatolia preserve to the southwest*. This preserve would be designed such that people are kept out and wildlife is allowed to traverse and move about the area freely. All fencing is wildlife passable and signage identifies off-limits areas to pedestrians to preserve the natural conditions in the preserve area. The on-site preserve would provide ample space for wildlife movement on-site and to adjacent developments and ensure that the project is consistent with the General Plan policy. (1 AR 118, emphasis added.)

Thus, the City's determination that the Project is consistent with the General Plan was not arbitrary, capricious or entirely lacking in evidentiary support, and was also supported by substantial evidence.

Finally, the trial court appeared to be concerned with the fact that the Project was not consistent with the federal agencies' Conceptual Level Strategy, and that "such inconsistency actually threatens the viability of the regional population of vernal pool and wetland dependent animal species, thus frustrating the objectives of the General Plan." (4 JA 1059.) But this determination is for the City Council, not the federal resources agencies and not the trial court. The City disagreed with the federal agencies, and its decision is not arbitrary, capricious or entirely without evidentiary support. Moreover, the City expressly considered this disagreement and, indeed, included an alternative in the EIR that would implement the Conceptual Level Strategy. However, after consideration, the City rejected this alternative on the grounds of infeasibility, finding that it "would not be consistent with the land uses designated for the project site in the City's general plan." (1 AR 52.) The City is entitled to weigh and balance competing policies in deciding whether a project is consistent with its General Plan, and this decision is entitled to deference.

The City's General Plan expressly provided that the Preserve Project area was designated for urban development, and that there would be impacts to vernal pools from that development. (54 AR 19149-19151.) Indeed, between the County's General Plan and the City's General Plan, the Preserve project (and the larger SDCP area) have been designated for urban development since 1993, and both public agencies recognized the balance of competing concerns for incorporating development and protection of natural resources. That the federal agencies have come up with a conceptual strategy that is at odds with the local agencies' land use planning decisions in the area is not reason to find that the City acted arbitrarily or capriciously in finding that the Preserve Project is consistent

with its General Plan. Rather, it is clear that the City balanced the competing interests of allowing development and protecting natural resources when it designated the Preserve site for development in its General Plan and when it approved the Project.

CONCLUSION

This Court should reverse the judgment, and order that the petition for writ of mandate be denied in its entirety.

Dated: April 17, 2008

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: _____

Julia L. Bond
Edward Grutzmacher
Attorneys for Defendants and Appellants
CITY OF RANCHO CORDOVA, CITY OF RANCHO CORDOVA CITY COUNCIL

Supplemental Report
Agenda Item 11.2

February 23, 2008

Caltrans District 3
Environmental Branch M1
P.O. Box 911
Marysville, CA 95901

Attention: Susan D. Bauer, Chief

Dear Susan,

I am writing in reference to the International Drive Extension Project that will run from Kilgore Road to Sunrise Boulevard. I am extremely worried about the impact this project will have upon the residences on Oselot Way that back up to the proposed project. In the letter sent out on February 1, 2008, there was no mention of the proposed removal and rebuilding of the block wall behind all these residences. In the meeting that was held at the Rancho Cordova City Hall on December 12, 2007, it was clearly mentioned that all the homeowners/occupants of the homes on Oselot Way would be contacted regarding the issue with the block wall. I was disappointed to see that no mention of the block wall and the proposed removal and rebuilding of it were in the letter sent out. Already, I see a lack of clear, honest communication between the agencies involved and the residents and homeowners of Oselot Way.

I am also very concerned about the proposed extension being 6 lanes. The amount of traffic and noise from a 6 lane extension as opposed to a 4 lane will, in my opinion, have a significant impact on the environment. Looking at the amount of space between the Delta Dental office buildings and the block wall, leads me to suspect that with 6 lanes of traffic, the outer lanes will be very close to the block wall. The noise and disturbance to all the homes on Oselot Way will greatly hinder any enjoyment the residences would have in their backyards. If we didn't want to have nice, relaxing backyards, we would have bought townhouses. We bought our home because of the location and the backyard space. In the almost 4 years of living here, my husband and I have only enjoyed our backyard for 1 summer. The other 2 were ruined because of the "Bradshaw Sewer Project" and now we have nothing to look forward to in the way of a peaceful backyard. First, there will be the enormous noise, dirt and lack of privacy, not to mention the ruination of our backyard due to your project, but then there will be the constant noise from all that traffic. How the "experts" came up with 'the project will not have a significant effect on the environment' is beyond me. Obviously none of them live on Oselot Way.

In a nutshell, I vehemently opposed this project in its entirety. I am opposed to the extension being 6 lanes and I oppose the removal and rebuilding of the block wall. If the extension project were to be 4 lanes as opposed to 6 lanes, the noise would be reduced and there might be the possibility that the current block wall would be sufficient. In the meeting at the Rancho Cordova City Hall, I made the suggestion of building a second, higher wall behind the existing wall (on the International Drive side). If, as I suspect, this project will proceed as planned, with no regard to the impact it will make on the homeowners on Oselot Way, what are the chances of those who are making the decision considering the second wall being built?

I would appreciate hearing back from you regarding this project. I was told in the meeting at RC City Hall, that we would be kept informed of everything, but I already see a lack in communication.

Sincerely,

Patti Murphy

Patti Murphy

3213 Oselot Way
Rancho Cordova, CA 95670
916-635-3260

Supplemental Report
Agenda Item 11.3

California Native Plant Society

April 21, 2008

Hon. Linda Budge and City Councilmembers
City of Rancho Cordova
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Hand Delivered

RE: Notice of Public Hearing on April 21, 2008
Amendment to the General Plan Natural Resources Element, and
Adoption of an Addendum to the Final EIR for the General Plan

Dear Council Members,

The California Native Plant Society (CNPS) is a statewide non-profit organization of some 10,000 scientists, educators, and laypeople dedicated to the conservation and understanding of the California native flora. As a science-based conservation organization, we believe that good land use decisions must be accompanied by a thorough assessment of the environmental impacts as required by the state and federal Endangered Species Acts, the Clean Water Act, the National Environmental Policy Act, the California Environmental Quality Act, and other resource protection laws. Members of CNPS actively participated in the General Plan update process and comment upon proposed projects within the City of Rancho Cordova.

General Comments

Judge Marlett did not misinterpret the plain language of the General Plan for the City of Rancho Cordova in *California Native Plant Society v. City Of Rancho Cordova, et al.*, Case No. 06 CS 01311. The City just failed to justify their deviation from those policies and actions. All of the Natural Resources Element policies and actions currently proposed for changes were listed in both the draft and final Environmental Impact Reports (EIR) for the General Plan. Had the newly proposed language been in the environmental review documents, the City would have received substantive comments about their inadequacy to at least partially mitigate impacts to the environment. To substantially weaken the Natural Resources Element now by trying to sneak it through under the radar of city residents and regional environmental groups totally ignores the public disclosure mandate of the California Environmental Quality Act (CEQA).

The apparent purpose of the proposed General Plan Amendment (GPA) is an attempt to eliminate mitigation measures contained in the EIR for the City of Rancho Cordova General Plan. That EIR specifically states that the policies and actions (currently being proposed for amendment) would partially mitigate any direct or indirect impacts. The proposed changes will substantially weaken these mitigation measures and eliminate the partial mitigation they provide. This will lead to *a substantial increase in the severity of previously identified significant effects* that was not addressed in the original EIR. For the above reasons, the California Native Plant Society believes that the use of an Addendum to the EIR is a clear violation of CEQA.

Specific Comments

Changes in Action NR 1.7.1 effectively eliminates Mitigation Measure 4.10.1b which was found to be feasible when the General Plan was adopted. The City has failed to show how this mitigation measure has suddenly become infeasible instead of merely inconvenient. The new wording of NR 1.7.1 would allow the City to essentially eliminate the regional population of a special status species provided that it does not impact the viability of the species as a whole and over its entire range. The current General Plan provides some partial mitigation by requiring that the regional population remain viable while the amendment strips that requirement. This is a substantial increase in the severity of the environmental effects.

Changes in Action NR 1.1.1 and Action NR 1.1.3 effectively eliminate Mitigation Measure 4.10.1f which was found to be feasible when the General Plan was adopted. The City has failed to show how this mitigation measure has suddenly become infeasible instead of merely inconvenient. The new wording of NR 1.1.1 would essentially allow the City to disregard any need for preserves and corridors especially since NR 1.7.1 would no longer require the City to maintain viable regional populations of special status species. This is a substantial increase in the severity of the environmental effects.

Changes in Policy NR 1.10, Policy NR 1.11 Policy NR 2.2 and Policy NR 3.2 also show that the City Council has no real commitment to even token efforts at minimizing impacts to natural resources. A perfect example is the recently released Notice of Preparation for the "Heritage Falls" project in which it appears that the City *is not going to discourage* the realignment of Morrison Creek *and has not encouraged* any environmentally sensitive project siting and design. This is despite the fact that the site contains a population of the federal and state endangered Sacramento Orcutt Grass which is wholly endemic to Sacramento County and occurs in only a few small populations. The proposed changes in these policies essentially eliminate any partial mitigation provided by the current policies. This constitutes a substantial increase in severity of the environmental effects.

Changes in Action NR 1.1.3 and Action NR 1.7.1 with respect to the wildlife agency involvement is only *going to create conflict and delays*. It makes no sense from a planning perspective for the City to grant entitlements for a project that may be required to undergo changes in order to obtain necessary federal and state authorizations. It also clearly shows that the City Council is only paying lip service, and has no real commitment, to conserving natural resources despite them being amenities to the city and its residents.

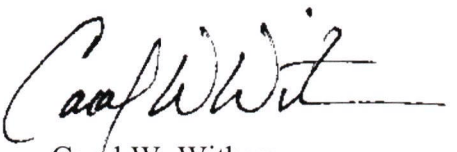
Summary

The South Sacramento Habitat Conservation Plan is far enough along so that the City should be using it as a template for understanding where preservation needs to take place. That information could be used to make more informed decisions about project siting and design. But instead the City chooses to let the developers, regulators and the environmental community butt heads (in the courts if necessary). By failing to embrace the public trust responsibilities related to natural resources conservation, the City has essentially delegated the planning of Rancho Cordova to others.

There are many other ways that the City might balance the elements of its General Plan without totally gutting the Natural Resources Element. Balance could be achieved by scaling back the ambitious development goals in order to conserve an appropriate level of natural resources through preserves and corridors that would satisfy federal regulations and the pending SSHCP.

CNPS urges the City Council to reject this Natural Resources Element General Plan Amendment and Addendum of the EIR. We also encourage you to achieve balance in your General Plan elements by weighing all elements. The citizens of the City of Rancho Cordova are depending upon you to ensure that they will have viable natural resources to enjoy into the future.

Sincerely,



Carol W. Witham
Board of Directors
California Native Plant Society
1141 37th Street
Sacramento CA 95816
(916) 452-5440

Cc: Interested parties



GODBE RESEARCH
Gain Insight

City of Rancho Cordova

2008 Resident Satisfaction Survey

April 2008

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GODBE RESEARCH
Gain Insight

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Overview and Research Objectives

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- Assess resident perceptions of living in the City of Rancho Cordova, including quality of life, most and least liked features, and desired features in next five years
- Gauge resident satisfaction with city's performance and with various city services, and derive potential priorities for improvement and maintenance
- Gather resident feedback on public safety, public works, customer service, civic engagement, public information and local school districts
- Identify differences in opinions due to demographic, geographic and behavioral characteristics

Methodology Overview

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➢ Data Collection	Telephone Interviewing
➢ Universe	39,440 Adult residents in the City of Rancho Cordova
➢ Fielding Dates	March 6 to March 16, 2008
➢ Interview Length	20 minutes
➢ Sample Size	506
➢ Margin of Error	± 4.3%

Note: The data have been weighted by respondent age, ethnicity and geographic area of residence to reflect the actual population characteristics of the adult residents in the City of Rancho Cordova (Based on 2000 US Census Population Data).

Methodology Overview II

GODBE RESEARCH
Gain Insight

	Sample Size	Percentage
West Rancho Cordova Residents of zip code 95827	88	17%
Northeast Rancho Cordova Residents of zip code 95670 who live North of Folsom Boulevard	208	41%
Southeast Rancho Cordova Residents of zip code 95670 who live South of Folsom Boulevard Residents of zip code 95742 who live North of Douglas Boulevard or west of Sunrise Boulevard	85	17%
Anatolia Residents of zip code 95742 who live South of Douglas Boulevard and East of Sunrise Boulevard	53	11%
Unclassified Residents of 95670 and 95742 who did not know if they live North or South of Folsom or Douglas Boulevard, and East or West of Sunrise Boulevard	71	14%



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Gain Insight

Executive Summary

Executive Summary: Living in Rancho Cordova

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Gain Insight

- 79 percent reported being satisfied with their quality of life in the City of Rancho Cordova (39% very and 40% somewhat satisfied)
  - Higher satisfaction among Caucasians, Hispanics and African-Americans and among residents of Northeast Rancho Cordova
  - Higher dissatisfaction among city residents for more than 15 years
- 93 percent considered it important to have a sense of community (22% extremely, 46% very and 25% somewhat important)
- 62 percent reported feeling a sense of community in the city
  - Especially residents of Northeast Rancho Cordova and those with annual household income of $50,000 to $74,999
- 78 percent reported feeling a sense of community in their neighborhood
  - Especially homeowners

Executive Summary: Likes, Dislikes & Desires

GODBE RESEARCH
Gain Insight

- Most-liked features of living in Rancho Cordova were:
  - Location (49%)
    - Convenient location or centralized near places of interest (28%), close to work or school (11%)
  - Neighborhood and community (35%)
    - Nice or quiet neighborhood (15%), community/small town feeling (12%)
  - Resident facilities and services (17%)
    - Local stores and services are plentiful (10%, up from 4% in 2006)
- Least-liked features of living in Rancho Cordova were:
  - Resident facilities and services (23%)
  - Crime and safety (22%)
  - Look and image of the city (21%)
- Desired features in the next five years include:
  - More shopping options (22%)
  - More parks and recreation options (10%)
  - Improvement in the city's look (10%)

Executive Summary: City Performance

GODBE RESEARCH
Gain Insight

- 82 percent reported satisfaction with City performance in providing resident services (38% very and 44% somewhat satisfied)
  - Significant improvement from 2006 (76% total satisfaction)
  - Higher satisfaction among the Hispanic residents
- Top rated City services were:
  - Garbage, yard waste and curb-side recycling pick-up
  - Providing police protection in neighborhood
  - Removing graffiti from buildings (higher ratings than in 2006)
  - Removing abandoned vehicles
  - Enforcing traffic laws to protect safety of drivers, bikers and pedestrians (higher ratings than in 2006)
  - Providing animal services

Executive Summary: Priorities

GODBE RESEARCH
Gain Insight

- Services to improve (relatively high derived importance and low resident ratings) include:
  - Redeveloping a portion of the city as an attractive and economically viable city center
  - Programs to retain, expand and attract businesses
  - Enforcing building codes to keep residential neighborhoods attractive
- Services to maintain (relatively high derived importance and high resident ratings) include:
  - Planning for Rancho Cordova's future growth
  - Enforcing traffic laws to protect safety of drivers, bikers and pedestrians
  - Keeping neighborhood safe
  - Providing police protection in neighborhood

Executive Summary: Public Safety and Public Works

GODBE RESEARCH
Gain Insight

- On public safety, concerns about speeding or unsafe driving increased since 2006, while overall perceptions toward crimes dropped:
  - Speeding or unsafe driving (27%, up from 21% in 2006)
  - Crime in general (8%, up from 0% in 2006)
  - Drug abuse (5%, down from 15% in 2006)
  - Car theft (4%, down from 11% in 2006)
- 44 percent have used the on-call bulky items pick-up service
  - 96 percent total satisfaction (77% very and 19% somewhat satisfied)
  - Convenience (52%) and on-demand (28%) were most liked features
  - Better pick-up times was top suggested improvement (14%)
- 54 percent have not used the on-call bulky items pick-up service
  - Mainly due to having no need to use service (73%)
- Residents rated themselves knowledgeable of hazardous household waste:
  - 78 percent know which household items are considered hazardous waste
  - 72 percent know the proper way to dispose of hazardous waste
  - 67 percent know where to get information about hazardous waste

Executive Summary: Contacting the City

GODBE RESEARCH
Gain Insight

- 24 percent reported contacting a City department in the past 12 months
  - Mainly to report a problem (34%, up from 23% in 2006) or to obtain information (31%)
  - Change from 2006 to reporting issues without necessarily expecting resolution (18% getting a problem resolved, vs. 31% in 2006)
  - Diverse range of problems or issues prompted contact
    - Abandoned vehicles on streets (12%)
    - City's general plan (8%)
    - Building inspections, codes or permits (7%)
    - Garbage recycling or illegal dumping (7%)
- 76 percent reported satisfied with the customer service received, and 72 percent satisfied with getting the problem resolved or the question answered
- While contacting the City by phone is still the most preferred medium (56%), there has been a shift since 2006 to using more electronic means
  - Visiting the City's website (20%, up from 9% in 2006)
  - Sending and email (12%, same as 10% in 2006)
  - Visiting a City office in person (9%, down from 15% in 2006)

Executive Summary: Civic Engagement

GODBE RESEARCH
Gain Insight

- 64 percent thought they have at least some opportunity to voice their concerns on major community issues (28% a great deal and 36% some)
  - Unchanged from 2006
  - Higher ratings from those ages 50 to 64, and from Asians
  - Lower ratings from those ages 18 to 29, from residents for less than 5 years, and from those with annual household income of under $30,000
- 67 percent reported being satisfied with the City's responsiveness to residents' interests and concerns (25% very and 42% somewhat satisfied)
- 40 percent reported being interested in getting involved in what the City is doing to serve residents
  - Attending city council meetings (32%)
  - Attending special community meetings or public hearings (30%)
  - Participating in a neighborhood organization (25%)

Executive Summary: Public Information

GODBE RESEARCH
Gain Insight

- 58 percent gave an excellent (17%) or good rating (41%) to the City's efforts in providing information to residents about priorities, programs and services
- Top information sources on local issues, used at least occasionally, were:
  - Television news (68%)
  - City View, the city newsletter (61%, up from 51% in 2006)
  - The Sacramento Bee newspaper (57%)
  - Word of mouth (58%)
  - A newspaper other than the Sacramento Bee like "The Grapevine" (52%)
- City newsletter and website were well received by residents
  - 91 percent of the City newsletter users found the information useful (40% very, 51% somewhat useful)
  - 60 percent found the frequency of the newsletter to be about right
  - City website usage increased from 2006 (33% occasional or frequent use, up from 22% in 2006)
  - 85 percent of the City website users found the information useful (34% very useful, 51% somewhat useful)

Executive Summary: School Districts

GODBE RESEARCH
Gain Insight

- On average, among the Rancho Cordova residents who had an opinion about the local school districts, it was shy of somewhat favorable
  - Only 38 percent have school-aged children at home, leading to 39 to 55 percent no opinion
  - Folsom Cordova Unified School District (29% favorable)
  - Elk Grove Unified School District (16% favorable)
  - San Juan Unified School District (16% favorable)
  - Sacramento Unified School District (15% favorable)



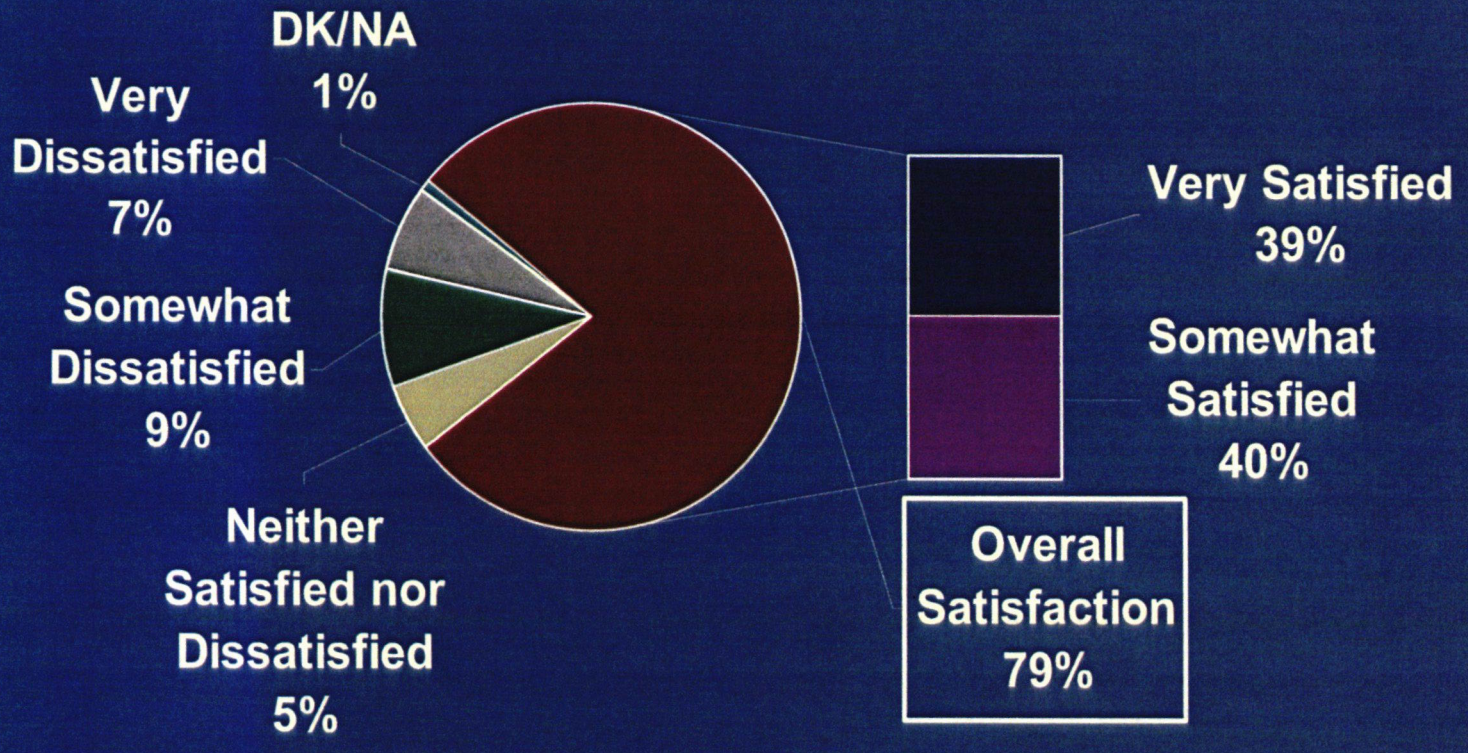
GODBE RESEARCH
Gain Insight

Key Findings

Overall Satisfaction with Quality of Life

GODBE RESEARCH
Gain Insight

The first substantive question in the survey assessed resident satisfaction with quality of life in the City of Rancho Cordova. Overall, 79 percent of the respondents were either very (39%) or somewhat satisfied (40%) with the quality of life in the city. Conversely, 16 percent reported their dissatisfaction with it (7% "Very Dissatisfied" and 9% "Somewhat Dissatisfied"), while the remaining six percent were neutral or did not provide an answer.



Overall Satisfaction with Quality of Life
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

In terms of subgroups differences, proportionally more of the Caucasian, Hispanic and African-American residents were "Very Satisfied" with the quality of life in the city, whereas more of the Asian residents were "Somewhat Satisfied." In addition, substantially more of the residents who have lived in the city for more than 15 years were "Very Dissatisfied" with the quality of life in Rancho Cordova, when compared to those who have lived in the city for 5 to 15 years.

	Ethnicity					Length of Residence		
	Caucasian	Hispanic	Asian	African-American	Other/ Refused	Less than 5 years	5 to 15 years	More than 15 years
Total	326	57	41	45	37	170	157	173
Very Satisfied	**41.5%**	**54.2%**	**14.8%**	**42.9%**	**19.5%**	37.3%	42.7%	39.5%
Somewhat Satisfied	**36.9%**	**28.9%**	**62.7%**	43.4%	47.6%	38.5%	41.3%	37.1%
Neither Satisfied nor Dissatisfied	5.7%	7.5%	0.0%	0.0%	5.3%	7.0%	3.9%	3.8%
Somewhat Dissatisfied	9.0%	8.2%	17.0%	0.0%	12.7%	10.5%	9.1%	7.4%
Very Dissatisfied	5.9%	1.2%	5.5%	13.7%	14.9%	6.7%	**3.0%**	**10.3%**
DK/NA	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.9%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Overall Satisfaction with Quality of Life
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

The proportion of "Very Satisfied" residents was significantly higher in Northeast Rancho Cordova than in Anatolia. By contrast, the proportions of "Very Dissatisfied" residents was significantly lower in West or Northeast parts of the city and Anatolia, when compared to those who could not be classified into the four areas of the city.

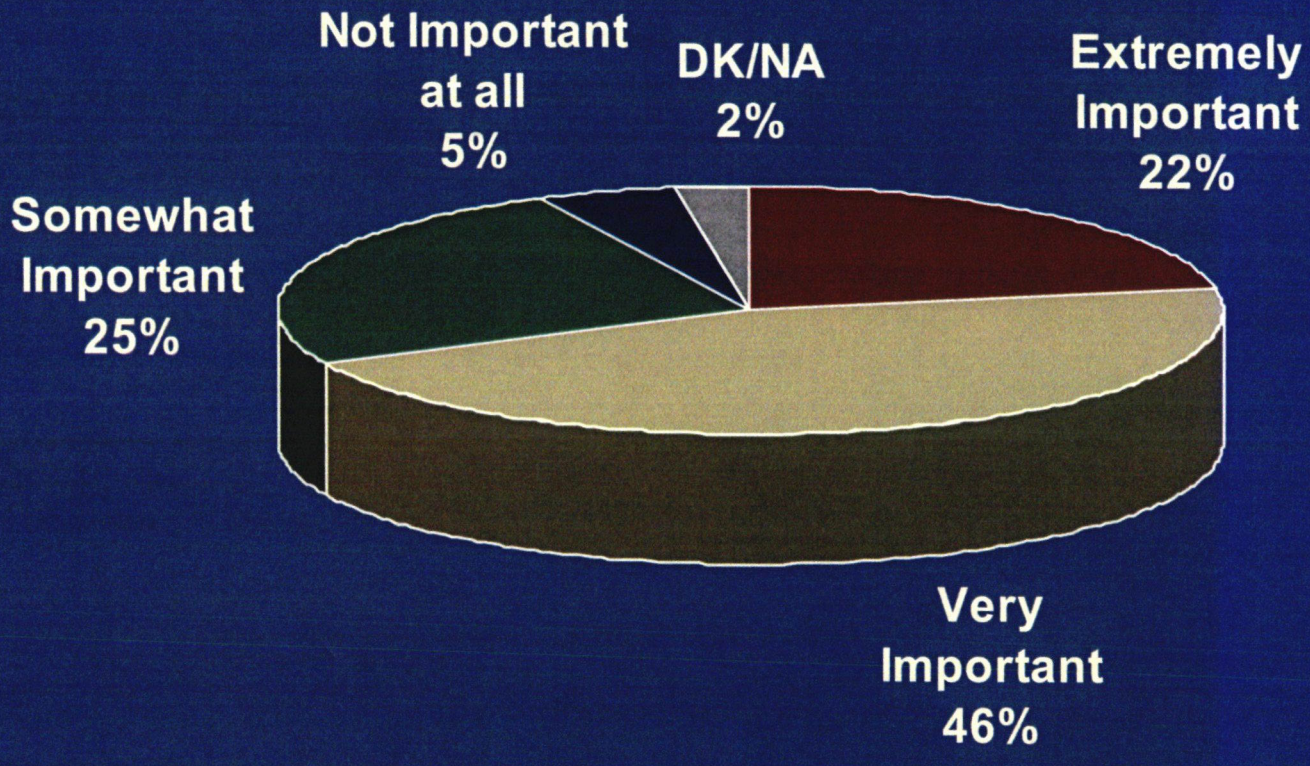
	Area of Residence				
	West RC	Northeast RC	Southeast RC	Anatolia	Unclassified
Total	88	208	85	53	71
Very Satisfied	41.0%	**47.4%**	35.9%	**22.9%**	29.9%
Somewhat Satisfied	42.2%	34.9%	43.9%	50.6%	35.8%
Neither Satisfied nor Dissatisfied	5.8%	4.4%	4.5%	7.2%	3.8%
Somewhat Dissatisfied	6.8%	8.4%	7.0%	18.2%	9.0%
Very Dissatisfied	**2.4%**	**4.0%**	8.7%	**1.1%**	**21.5%**
DK/NA	1.7%	0.8%	0.0%	0.0%	0.0%

Note: The "unclassified" respondents did not answer the questions used to classify their geographic location in the city.
Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Importance of Sense of Community

GODBE RESEARCH
Gain Insight

Having a sense of community is important to the Rancho Cordova residents, with 93 percent stating that a sense of community was at least somewhat important to them (22% "Extremely Important," 46% "Very Important," and 25% "Somewhat Important"). Only five percent of the respondents stated that having a sense of community was not important to them, while another two percent did not give an opinion.



Importance of Sense of Community
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Having a sense of community was not important to a higher percentage of the men than the women. Moreover, this having a sense of community was "Somewhat Important" to a higher percentage of the Caucasian residents and to those of other or undeclared ethnic backgrounds than to the African-American residents.

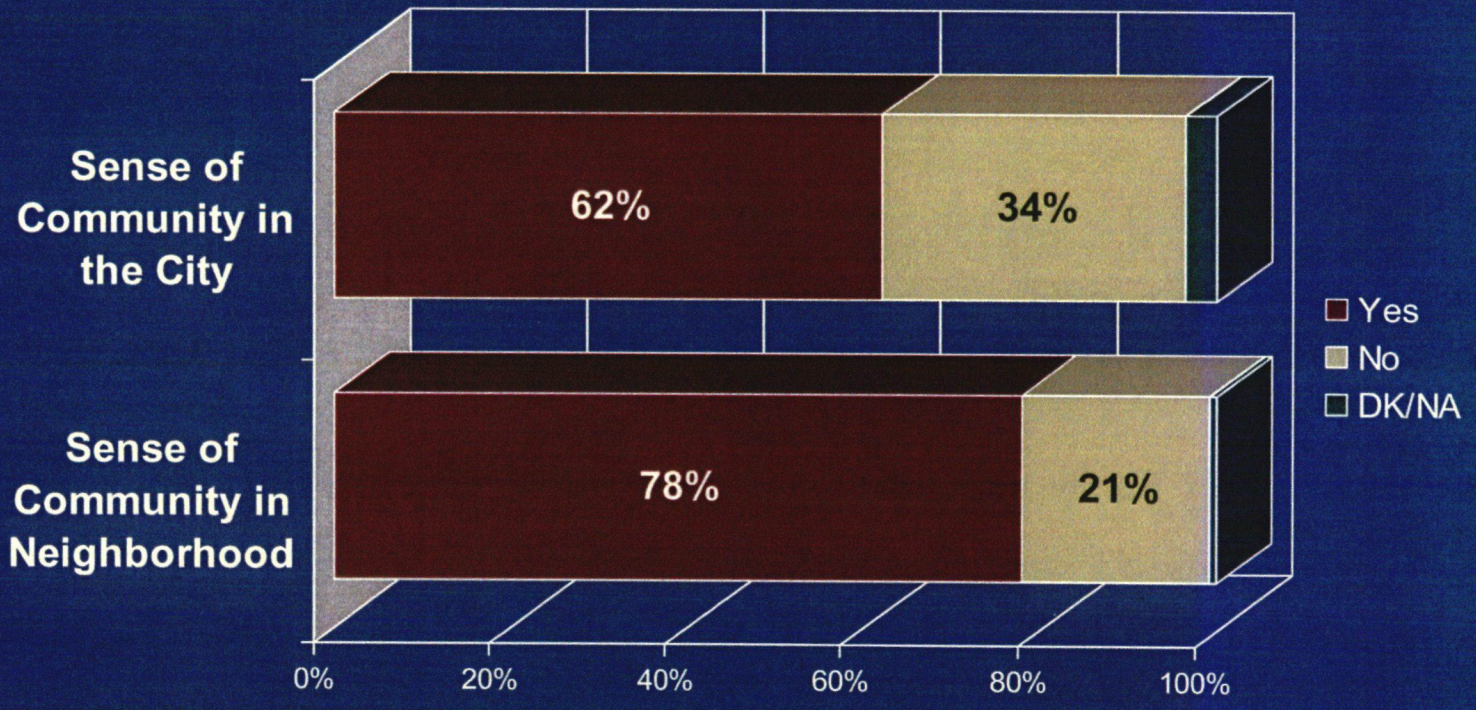
	Gender		Ethnicity				
	Male	Female	Caucasian	Hispanic	Asian	African-American	Other/ Refused
Total	237	268	326	57	41	45	37
Extremely Important	20.9%	23.5%	21.0%	20.9%	23.4%	30.0%	24.7%
Very Important	45.2%	46.0%	42.5%	53.1%	49.1%	62.2%	37.5%
Somewhat Important	23.5%	26.0%	**28.3%**	17.5%	21.3%	**6.1%**	**31.7%**
Not Important at all	**7.0%**	**3.1%**	5.1%	8.5%	2.6%	1.7%	4.4%
DK/NA	3.6%	1.3%	3.1%	0.0%	3.5%	0.0%	1.6%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Feeling Sense of Community

GODBE RESEARCH
Gain Insight

Next, the 469 respondents who rated having a sense of community as at least somewhat important were asked if they felt a sense of community in the City of Rancho Cordova and in their neighborhood. As shown in the following chart, substantially more residents reported feeling a sense of community in their neighborhood than at the city level. More specifically, 78 percent of the respondents felt a sense of community in their neighborhood, as opposed to 62 percent who had this feeling in the broader city.



n = 469

Feeling Sense of Community in the City
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Substantially more of the residents in Northeast Rancho Cordova than those in Anatolia felt a sense of community in the city. In addition, the respondents from households with an annual income of $50,000 to $74,999 had this feeling in the city, whereas proportionally more of those in the $75,000 to $99,999 annual household income group reported not feeling a sense of community in Rancho Cordova.

Feeling a Sense of Comm-unity in Rancho Cordova	Area of Residence					Annual Household Income				
	West RC	North-east RC	South-east RC	Anatolia	Uncla-ssified	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	82	197	81	49	61	81	72	109	55	64
Yes	62.3%	**69.7%**	55.9%	**45.9%**	59.1%	58.8%	70.2%	**70.6%**	**45.4%**	57.2%
No	35.0%	**25.2%**	41.4%	**54.1%**	36.6%	38.7%	**26.3%**	**22.8%**	**54.6%**	39.1%
DK/NA	2.8%	5.1%	2.7%	0.0%	4.3%	2.4%	3.5%	6.7%	0.0%	3.7%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Feeling Sense of Community in Neighborhood
Differences in Subgroups

GODBE RESEARCH
Gain Insight

When compared to the Hispanic residents, proportionately fewer of those from other or undeclared ethnic backgrounds reported feeling a sense of community in their neighborhood. Otherwise, perhaps not surprisingly, feeling a sense of community in the neighborhood was stronger among the homeowners than the renters.

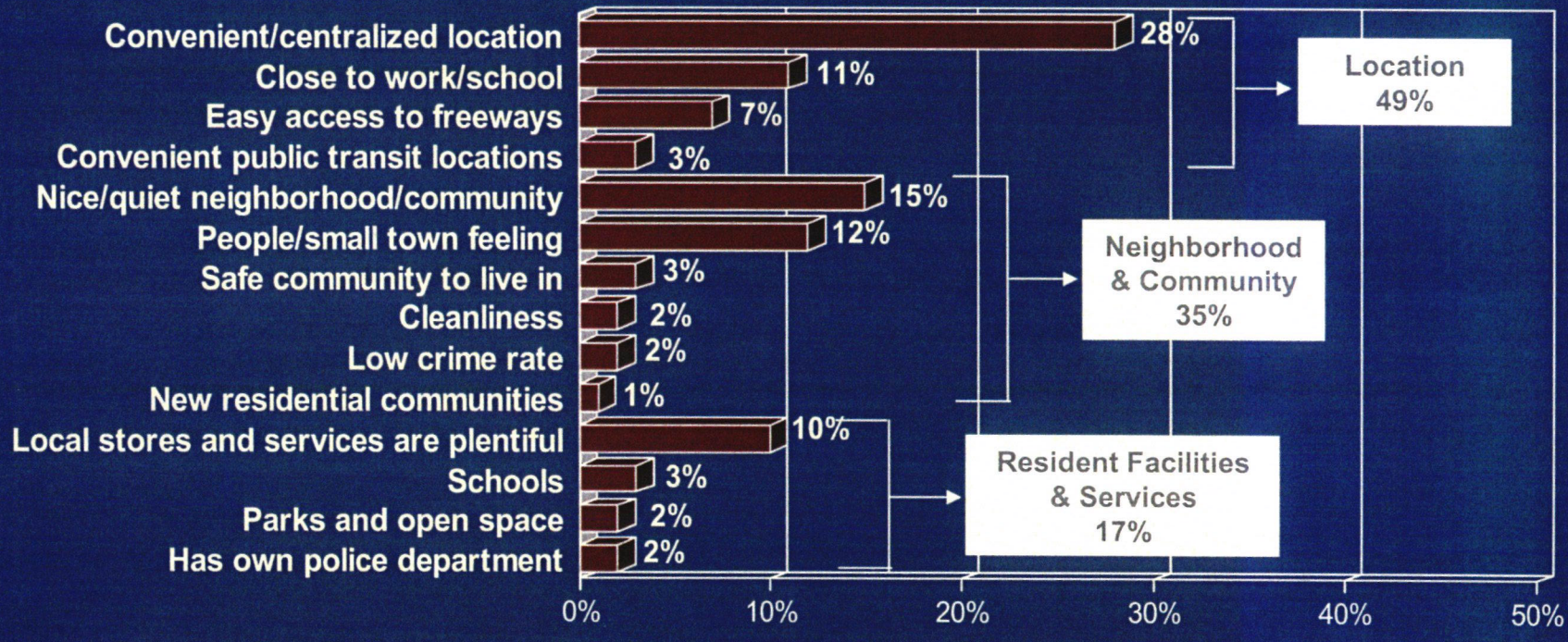
Feeling a Sense of Community in the neighborhood	Ethnicity					Homeownership Status	
	Caucasian	Hispanic	Asian	African-American	Other/ Refused	Own	Rent/ Other
Total	299	52	39	44	35	293	162
Yes	79.4%	88.2%	74.3%	69.0%	63.4%	**81.3%**	**73.3%**
No	19.6%	**10.0%**	25.7%	31.0%	**36.6%**	**17.7%**	**26.1%**
DK/NA	1.0%	1.7%	0.0%	0.0%	0.0%	1.0%	0.6%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Most Liked Features I

GODBE RESEARCH
Gain Insight

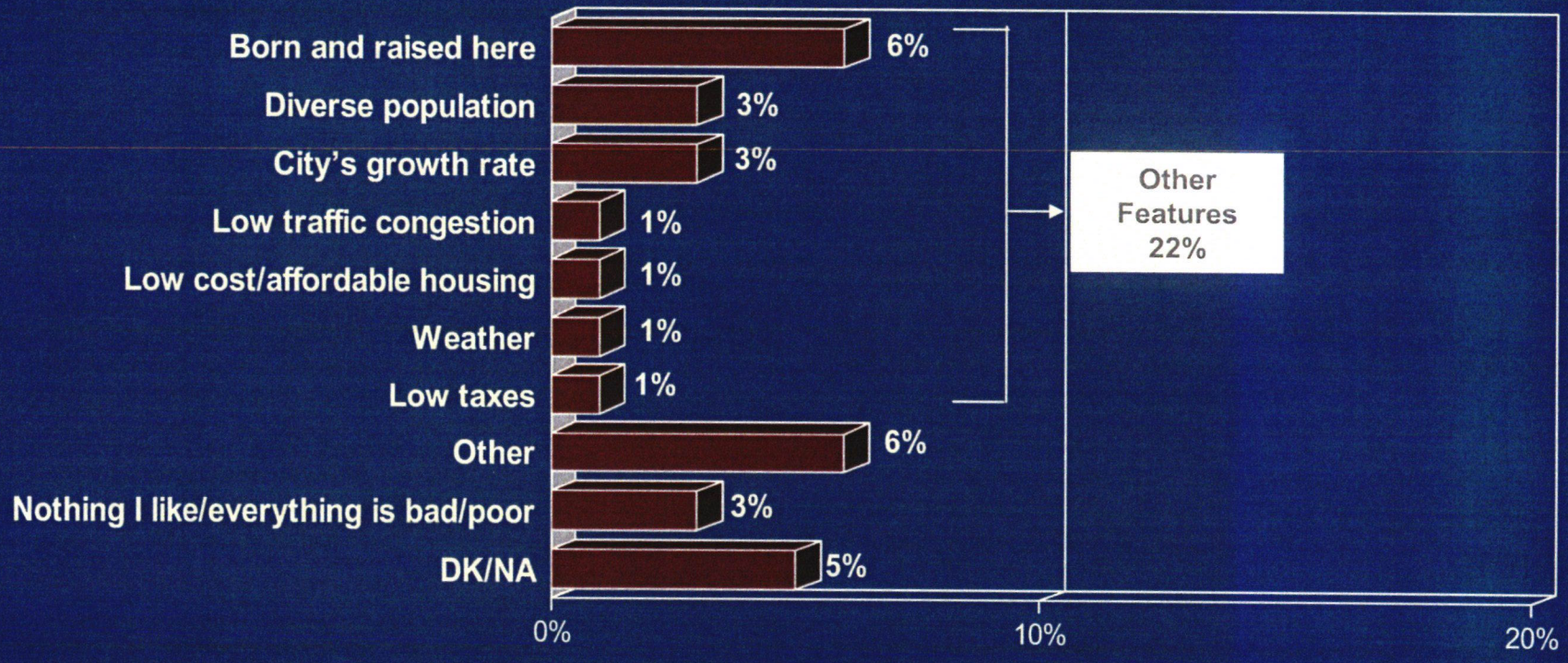
When asked to name a feature that the residents liked most about living in the City of Rancho Cordova, convenient or centralized location emerged as the top response cited by 28 percent of the respondents. This response, along with the mentions like close to work or school, convenient to public transportation, and easy access to freeways, add up to 49 percent who liked Rancho Cordova for its location. Otherwise, 35 percent reported liking the neighborhood and community, with responses like nice and quiet neighborhood or community (15%) and like the people in the community (12%). Moreover, some 17 percent liked the city for the availability of resident services, such as plenty of local stores and services (10%).



Most Liked Features II

GODBE RESEARCH
Gain Insight

Continued from the previous page, the chart below shows the rest of the answers to the question about most liked features in Rancho Cordova. These responses were mentioned by 6 percent or fewer of the respondents.



Most Liked Features
Comparison with 2006

GODBE RESEARCH
Gain Insight

Overall, responses to this question are similar to those offered by the 2006 survey participants. The only exceptions are that there is a significant increase in those who mentioned local stores and services being plentiful and in those who said they were born and raised in the area.

	2006	2008
Location	46%	49%
Convenient/centralized location	28%	28%
Close to place of work/school	10%	11%
Convenient light rail/public transit locations	2%	3%
Easy access to freeways	6%	7%
Neighborhood and community	34%	35%
Nice/quiet neighborhood/nice community	20%	15%
People in community/small town feeling	9%	12%
Safe community to live in	4%	3%
Cleanliness	n/a	2%
Low crime rate	1%	2%
New residential communities	n/a	1%
Resident facilities and services	6%	17%
Local stores and services are plentiful	4%	10%
Schools	n/a	3%
Parks and open space	n/a	2%
Has own police department	2%	2%

	2006	2008
Other features	16%	22%
Born and raised here	0%	6%
Diverse population	1%	3%
city's growth rate	4%	3%
Low traffic congestion	2%	1%
Low cost/affordable housing	4%	1%
Weather	n/a	1%
Low taxes	1%	1%
Other	4%	6%
Nothing/everything is bad/poor	5%	3%
DK/NA	4%	5%

Most Liked Features
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Proportionally more women and those between 18 and 29 years of age stated that plentiful local stores and services was the best thing that they liked about living in Rancho Cordova.

	Gender		Age				
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older
Total	237	267	110	121	77	104	73
Convenient location/centralized near places of interest	26.6%	28.5%	18.1%	33.0%	31.7%	29.3%	29.2%
Nice/quiet neighborhood/nice community	14.5%	15.1%	21.5%	11.9%	18.5%	15.6%	8.5%
Like the people in the community/small town feeling	9.6%	14.7%	11.2%	11.8%	10.4%	11.5%	19.5%
Close to place of work/school	10.5%	12.2%	11.9%	14.0%	15.5%	8.2%	8.2%
Local stores and services are plentiful	5.1%	14.3%	24.6%	3.4%	8.4%	6.8%	5.2%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Most Liked Features
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

When compared to the Caucasian residents, proportionally more of the Hispanic and the African-American residents stated that nice and quiet neighborhood or nice community was the best thing about living in Rancho Cordova. Furthermore, having plenty of local stores and services were more appealing to the Hispanic than the Caucasian residents. Otherwise, more city residents for less than 5 years liked their nice and quiet neighborhood, more residents for 5 to 15 years cited the plentiful local stores and services, while liking the people in the community or the small town feeling was cited more by residents of 5 years or longer.

	Ethnicity					Length of Residence		
	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused	Less than 5 years	5 to 15 years	More than 15 years
Total	326	57	41	45	36	169	157	173
Convenient location/centralized near places of interest	30.6%	21.8%	35.8%	13.4%	17.8%	26.0%	27.8%	29.9%
Nice/quiet neighborhood/nice community	10.9%	30.0%	0.0%	35.8%	17.4%	20.0%	16.9%	8.3%
Like the people in the community/small town feeling	14.4%	9.3%	12.3%	7.6%	3.8%	6.0%	14.9%	16.4%
Close to place of work/school	10.9%	9.9%	19.1%	8.3%	12.9%	13.6%	13.9%	7.3%
Local stores and services are plentiful	7.9%	24.1%	9.0%	6.1%	11.9%	8.4%	17.1%	4.9%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Most Liked Features
Differences in Subgroups III

GODBE RESEARCH
Gain Insight

When compared to the West Rancho Cordova residents, a significantly higher percentage of the Northeast residents stated that convenient or centralized location was the best feature of Rancho Cordova. In addition, proportionally more renters than homeowners mentioned plentiful local stores and services as the best feature of the city.

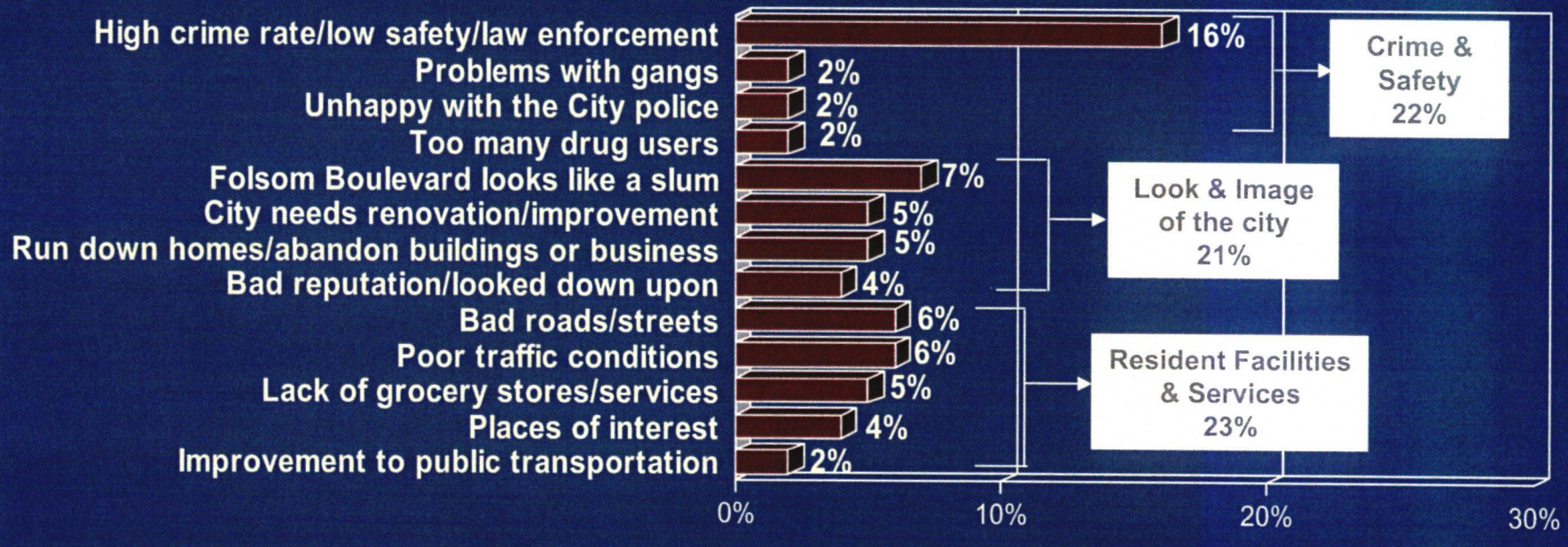
	Area of Residence					Homeownership Status	
	West RC	North-east RC	South-east RC	Anatolia	Uncla-ssified	Own	Rent/ Other
Total	88	208	85	53	70	320	171
Convenient location/centralized near places of interest	13.8%	35.6%	27.7%	31.7%	17.8%	30.0%	24.9%
Nice/quiet neighborhood/nice community	13.6%	13.2%	13.3%	24.1%	16.0%	14.9%	13.7%
Like the people in the community/small town feeling	16.8%	12.7%	12.0%	2.0%	13.6%	12.6%	10.9%
Close to place of work/school	10.4%	12.1%	15.6%	5.9%	9.6%	11.8%	9.7%
Local stores and services are plentiful	7.6%	8.9%	11.8%	4.4%	18.4%	5.0%	17.8%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Least Liked Features I

GODBE RESEARCH
Gain Insight

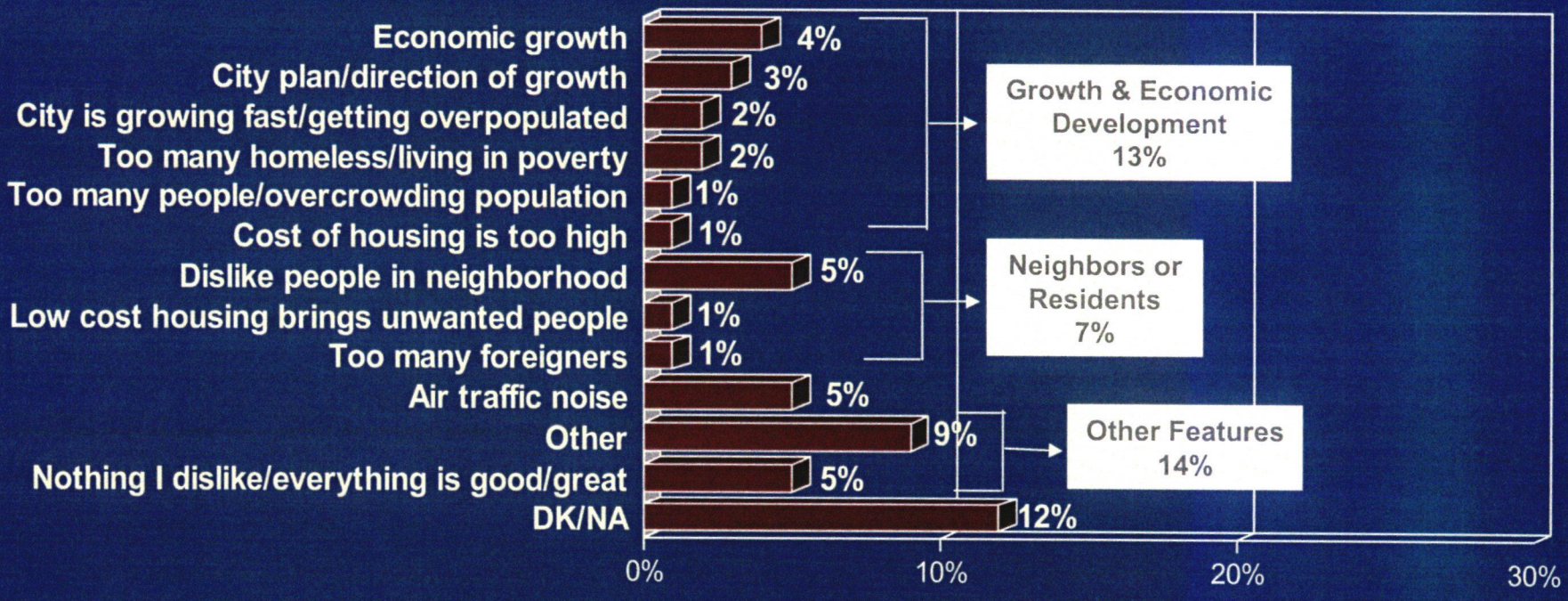
With respect to the things that Rancho Cordova residents liked the least about living in the city, 22 percent gave responses related to crime and safety including high crime rate or low safety (16%) and problem with gangs (2%). Some 21 percent did not like the look of the city (7% "Folsom Boulevard looks like a slum" or 5% "city needs improvement or renovation") or cited something about its bad reputation (4%). Another 23 percent mentioned that lack of resident services, including bad roads and streets (6%), poor traffic conditions (6%) , and lack of grocery stores (5%) were the least liked feature of the city.



Least Liked Features II

GODBE RESEARCH
Gain Insight

Continuing from the previous page, growth and economic development issues constitute another 13 percent of the respondent comments, while another 7 percent spoke to issues related to their neighbors or city residents in general. Some 12 percent, did not provide an answer to this question.



Least Liked Features
Comparison with 2006

GODBE RESEARCH
Gain Insight

The only statistically significant change since 2006 is the five percent increase in mentions on air traffic noise.

	2006	2008		2006	2008
Crime and Safety	27%	22%	Growth & economic development	10%	13%
High crime rate/low safety/lack of law enforcement	16%	16%	Economic growth	0%	4%
Problems with gangs	2%	2%	city plan/direction of growth	1%	3%
Unhappy with the city police	4%	2%	city is growing too fast/getting overpopulated	3%	2%
Too many drug users	5%	2%	Too many homeless/living in poverty	3%	2%
Look and Image of the city	16%	21%	Too many people/overcrowding	2%	1%
Folsom Boulevard looks like a slum	4%	7%	Cost of housing is too high	1%	1%
city needs renovation/improvement	6%	5%	Neighbors/residents	5%	7%
Run down homes/abandon buildings or business	3%	5%	Dislike neighbors/people in neighborhood	1%	5%
Bad reputation/looked down upon	3%	4%	Too many low cost housing units bring unwanted people	2%	1%
Resident facilities and services	23%	23%	Too many foreigners	2%	1%
Bad roads/streets	2%	6%	Other features	7%	14%
Traffic conditions are poor/getting worse	10%	6%	Air traffic noise	0%	5%
Lack of grocery stores/services	3%	5%	Other	7%	9%
Places of interest are too far away	5%	4%	Nothing, everything is good/great	10%	5%
Public transportation needs improvement	3%	2%	DK/NA	6%	12%

Least Liked Features
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Proportionally more men cited high crime rate, while a higher percentage of the women stated that Folsom Boulevard looking like a slum was the one thing they liked least about Rancho Cordova. The look of Folsom Boulevard was also the least liked feature by Rancho Cordova residents for less than 5 years than by those who have lived in the city for 5 to 15 years. In addition, a higher percentage of the Anatolia residents than those living in Southeast RC mentioned bad roads or streets as the least liked feature in the city.

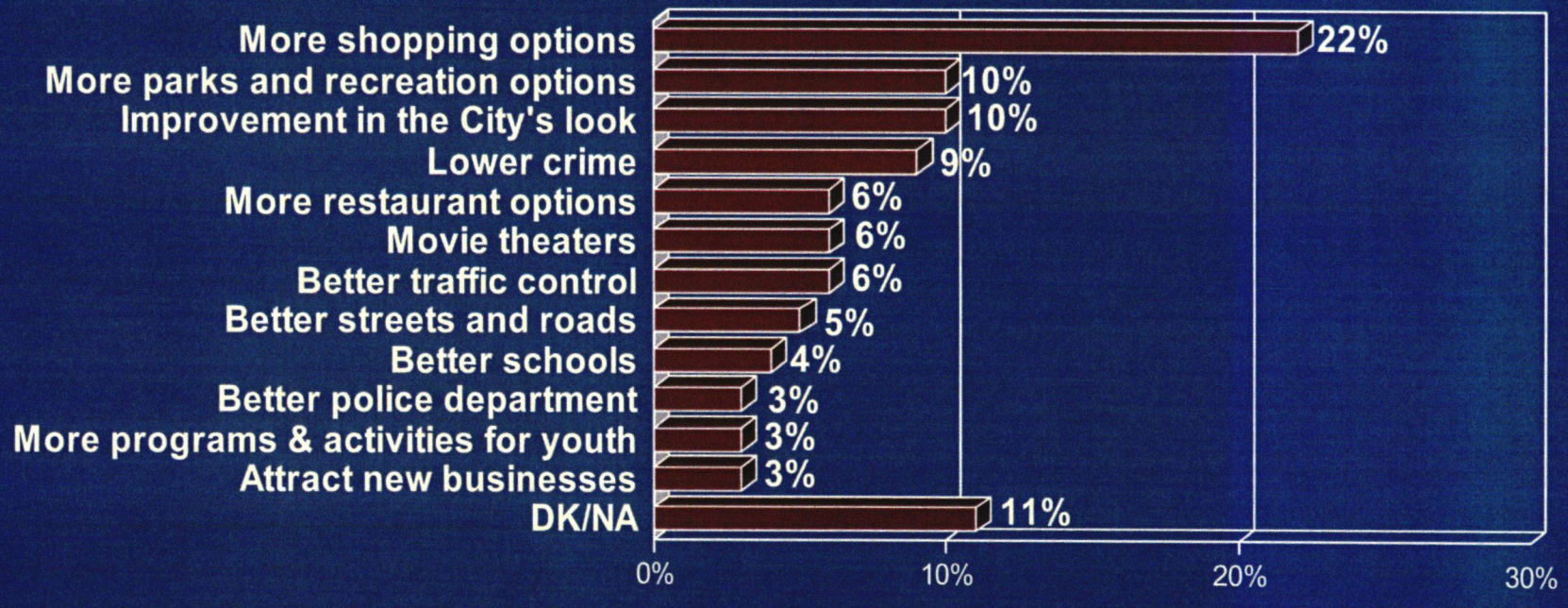
	Gender		Length of Residence			Area of Residence				
	Male	Female	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Unclassified
Total	237	267	169	157	173	88	208	85	53	70
High crime rate/lack of law enforcement	19.3%	12.9%	12.7%	17.0%	17.6%	12.7%	15.0%	22.1%	19.6%	12.5%
Folsom Blvd. looks like a slum	4.2%	8.8%	11.6%	3.5%	4.9%	11.9%	3.9%	9.5%	0.0%	9.7%
Bad roads/ streets	7.5%	5.0%	8.6%	2.5%	6.9%	8.3%	6.8%	1.4%	15.8%	0.0%
Traffic conditions are poor/getting worse	5.0%	6.0%	3.0%	7.5%	6.4%	4.1%	7.0%	5.4%	2.0%	5.9%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Desired Features in Next Five Years

GODBE RESEARCH
Gain Insight

In the next question, the respondents were asked what they would like to see in the City of Rancho Cordova that is currently not there. As shown in the following chart, 22 percent of the respondents mentioned that they would like to see more shopping options in the city. The responses, "More parks and recreation options" and "Improvement in the city's look" were each mentioned by 10 percent of the respondents, while another 9 percent would like lower crime in the next five years. Few of the other responses mentioned were more restaurant options (6%), movie theater (6%), better traffic control (6%), and better streets and roads (5%).



Note: Answers with fewer than 3 percent mentions are not shown above

Desired Features in Next Five Years
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

When compared to the men, proportionally more women would like to see improvement in the city's look in the next five years. Otherwise, a significantly higher percentage of the 18- to 29-year-old than the 30- to 39-year-old residents stated that they would like to see lower crime in the next five years.

	Gender		Age				
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older
Total	237	268	110	122	77	104	73
More shopping options	18.7%	24.7%	20.8%	28.9%	22.7%	20.2%	17.8%
More parks and recreation options	8.8%	11.1%	12.6%	10.3%	12.5%	5.5%	9.9%
Improvement in the city's look	6.4%	12.5%	10.6%	10.3%	5.2%	16.1%	3.7%
Lower crime	9.6%	8.3%	14.9%	3.9%	9.1%	9.1%	3.6%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Desired Features in Next Five Years
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

Relative to their respective counterparts, significantly more of the city residents for less than 5 years, Anatolia residents and homeowners stated that they would like to see more shopping options in the city in the next five years. Meanwhile, a higher percentage of the renters than the homeowners would like to have more parks and recreation options available in the city.

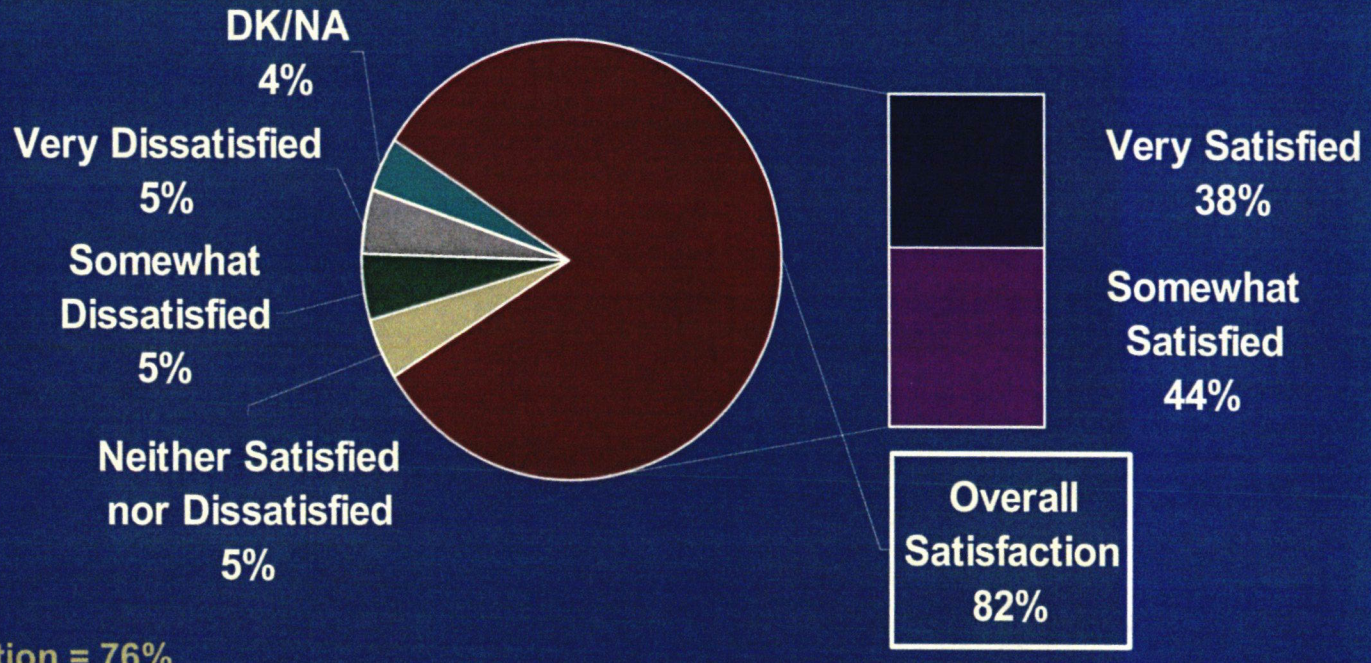
	Length of Residence			Area of Residence					Homeownership Status	
	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Unclassified	Own	Rent/ Other
Total	170	157	173	88	208	85	53	71	320	172
More shopping options	**32.9%**	**19.6%**	**13.9%**	**12.0%**	**14.3%**	**21.9%**	**68.6%**	**21.3%**	**26.1%**	**15.8%**
More parks and recreation options	10.0%	10.7%	9.9%	5.3%	7.2%	14.6%	11.5%	17.7%	**7.7%**	**15.3%**
Improvement in the city's look	11.0%	10.3%	8.0%	7.7%	10.9%	4.5%	11.3%	13.5%	10.8%	8.4%
Lower crime	8.9%	10.7%	6.1%	9.4%	10.2%	12.3%	1.3%	6.3%	7.8%	9.3%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Satisfaction with City Performance

GODBE RESEARCH
Gain Insight

The next section in the survey focused on getting resident feedback on Rancho Cordova government. First, the respondents were asked to rate their overall satisfaction with the job the City was doing to provide services to residents. As shown in the chart below, 82 percent of those surveyed were satisfied with the City's performance (38% "Very Satisfied" and 44% "Somewhat Satisfied"). This represents a significant increase in total satisfaction of 76 percent from 2006. Otherwise, 10 percent of the respondents reported being somewhat (5%) or very dissatisfied (5%), while another nine percent were neutral (5%) or did not give an answer (4%).



2006
Total Satisfaction = 76%
Very Satisfied = 33% Somewhat Satisfied = 43%
Very Dissatisfied = 6% Somewhat Dissatisfied = 8%

Satisfaction with City Performance
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Looking at subgroup differences, proportionally more of the Hispanic residents were "Very Satisfied," while more of the African-American residents were "Very Dissatisfied" with the job the City of Rancho Cordova was doing to provide services to residents.

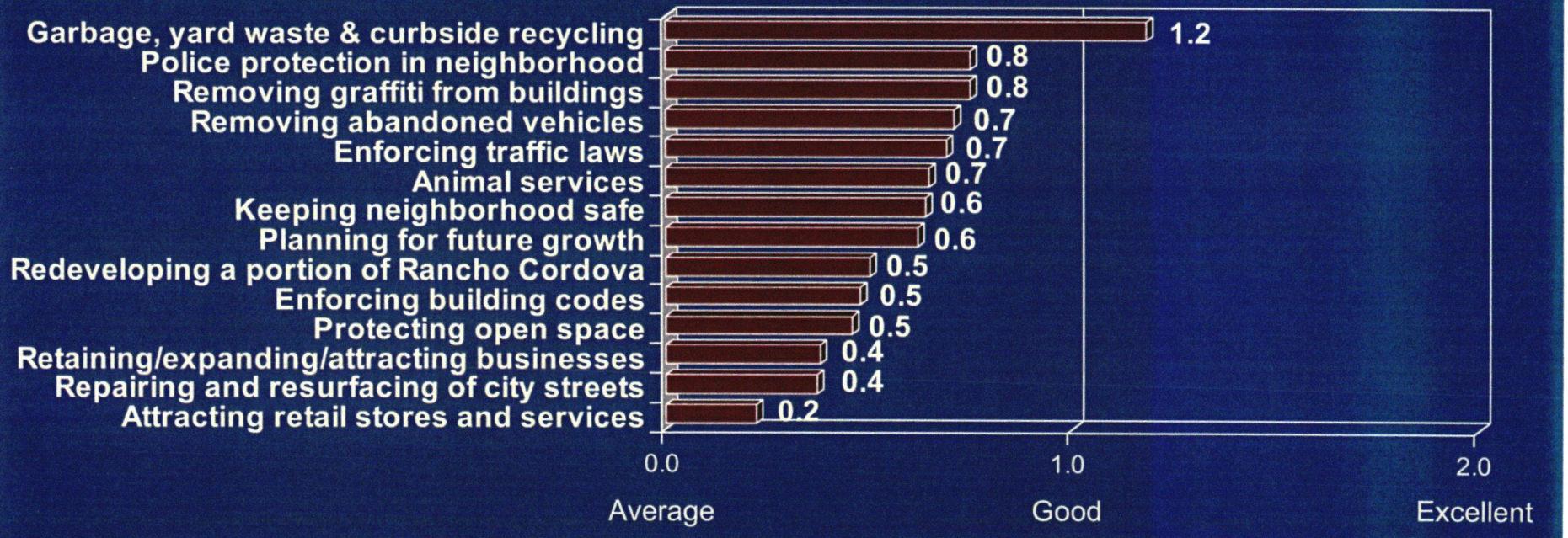
	Ethnicity				
	Caucasian	Hispanic	Asian	African-American	Other/ Refused
Total	326	57	41	45	37
Very Satisfied	37.9%	**49.6%**	36.4%	40.5%	**17.6%**
Somewhat Satisfied	44.1%	32.5%	48.2%	41.0%	56.7%
Neither Satisfied nor Dissatisfied	4.5%	9.7%	2.6%	0.0%	5.2%
Somewhat Dissatisfied	5.5%	2.6%	6.6%	2.6%	3.1%
Very Dissatisfied	**4.3%**	0.0%	0.0%	**15.8%**	9.3%
DK/NA	3.7%	5.6%	6.2%	0.0%	8.1%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Ratings of City Services

GODBE RESEARCH
Gain Insight

In the next question, the respondents were presented with a list of 14 resident services and were asked to rate the City's performance in each of the areas. Overall, the residents gave the most positive ratings to the City's garbage, yard waste and curbside recycling pick-up, with about 80 percent rating the service as excellent or good. In the second tier were such services as police protection, removing graffiti from buildings, removing abandoned vehicles, enforcing traffic laws, and animal services, each of which garnered positive ratings from at least half of the respondents in the survey. By contrast, the residents rated the City's performance in attracting retail stores and services as the lowest, with only 39 percent giving it a good or an excellent rating.



Note: The above rating questions have been abbreviated for charting purposes. For the exact wording, please see Appendix D. The responses were recoded to calculate mean scores: "Excellent" = +2, "Good" = +1, "Average" = 0, "Poor" = -1, and "Extremely Poor" = -2.

Ratings of City Services
Comparison with 2006

GODBE RESEARCH
Gain Insight

From 2006, there was a significant increase in the percentage of respondents who gave positive ratings (Excellent or Good) to the City's performance in enforcing traffic laws and removing graffiti from buildings. The ratings given for the rest of the services were statistically comparable across the two years.

	Survey Year	Excellent	Good	Average	Poor	Extremely Poor	DK/NA
9A. Protecting open space in Rancho Cordova	2006	9%	29%	27%	8%	2%	26%
	2008	**9%**	**34%**	**26%**	**11%**	**2%**	**18%**
9B. Redeveloping a portion of Rancho Cordova as an attractive and economically viable city center	2006	12%	35%	25%	10%	2%	16%
	2008	**12%**	**38%**	**21%**	**14%**	**2%**	**13%**
9C. Planning for Rancho Cordova's future growth	2006	15%	33%	21%	6%	1%	23%
	2008	**13%**	**37%**	**24%**	**8%**	**2%**	**16%**
9D. Enforcing traffic laws to protect the safety of drivers, bikers, and pedestrians	2006	13%	39%	28%	11%	3%	6%
	2008	**18%**	**45%**	**21%**	**10%**	**3%**	**4%**
9E. Removing graffiti from buildings	2006	14%	35%	21%	8%	1%	21%
	2008	**15%**	**43%**	**20%**	**6%**	**1%**	**15%**
9F. Programs to retain, expand and attract businesses to Rancho Cordova	2006	10%	31%	22%	7%	1%	30%
	2008	**9%**	**32%**	**26%**	**11%**	**4%**	**18%**

Ratings of City Services
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Compared to the male residents, the women gave more positive ratings to police protection in the neighborhood and graffiti removal from buildings. Otherwise, garbage, yard waste, and curbside recycling pick-up service garnered more positive ratings from the residents 65 years and older, and from the homeowners.

	Gender		Age					Homeowner-ship Status	
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Own	Rent/ Other
9H. Garbage, yard waste, and curbside recycling pick-up	1.1	1.2	1.0	1.2	1.2	1.3	1.4	1.3	1.0
9L. Police protection in neighborhood	0.6	0.9	0.7	0.8	0.8	0.8	0.9	0.8	0.7
9E. Removing graffiti from buildings	0.6	0.8	0.6	0.8	0.6	0.8	1.0	0.8	0.8
9N. Removing abandoned vehicles	0.7	0.7	0.6	0.7	0.8	0.9	0.7	0.7	0.8
9D. Enforcing traffic laws	0.6	0.8	0.6	0.9	0.6	0.6	0.8	0.7	0.8
9I. Providing animal services	0.6	0.7	0.5	0.7	0.7	0.7	0.8	0.7	0.7

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Ratings of City Services
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

In terms of ethnic differences, the Caucasian and Hispanic residents gave more positive ratings to the City's animal services, when compared to the ratings given by the African-American residents. Additionally, the City residents for more than 15 years gave more positive ratings to garbage, yard waste and curbside recycling pick-up service, while the residents for 5 to 15 years had a more positive opinion of the City's performance in enforcing traffic laws.

	Ethnicity					Length of Residence		
	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused	Less than 5 years	5 to 15 years	More than 15 years
9H. Garbage, yard waste, and curbside recycling pick-up	1.2	1.1	1.2	1.1	1.0	1.1	1.1	1.3
9L. Police protection in neighborhood	0.8	0.8	0.6	0.7	0.5	0.8	0.8	0.7
9E. Removing graffiti from buildings	0.8	0.8	0.8	0.6	0.4	0.7	0.9	0.7
9N. Removing abandoned vehicles	0.8	0.7	0.7	0.4	0.7	0.8	0.7	0.7
9D. Enforcing traffic laws	0.7	0.9	0.8	0.7	0.5	0.7	0.9	0.6
9I. Providing animal services	0.7	0.8	0.6	0.2	0.4	0.7	0.6	0.6

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Importance - Performance Matrix I

GODBE RESEARCH
Gain Insight

To derive the relative importance of the various city services to residents, Godbe Research correlated the respondent ratings of each city service with their answers to the quality of life in the city. In other words, we looked at how much each city service corresponds to the residents' perceived quality of life. As such, the higher the correlation, the more important a particular city service is to the residents.

In the figure on the next page, the derived importance for each of the 14 city services tested are plotted along the vertical axis, such that the services that have a relatively high relationship with respondent-rated quality of life are near the top, while the services with lower derived importance appear toward the bottom of the graph. Respondents' ratings of the services are plotted along the horizontal axis, ranging from "Extremely Poor" on the left to "Excellent" on the right. By plotting importance and service ratings scores together, the 14 tested services are classified into four quadrants, which are described in turn below.

Please note that the chart displays importance and satisfaction in *relative terms*. For example, an item in the low importance/low satisfaction quadrant should not be read as being unimportant or garnering no resident satisfaction in absolute terms. Instead, it has *relatively* low importance and low ratings *in comparison to* the other services and programs.

Quadrant A: The services in this quadrant were rated relatively low in terms of the City's performance but had a relatively high relationship with respondent-rated quality of life; they are the **highest priorities for improvement**. Classified in this quadrant are redeveloping a portion of the city as an attractive and economically viable city center, programs to retain, expand and attract businesses, and enforcing building codes to keep residential neighborhoods attractive.

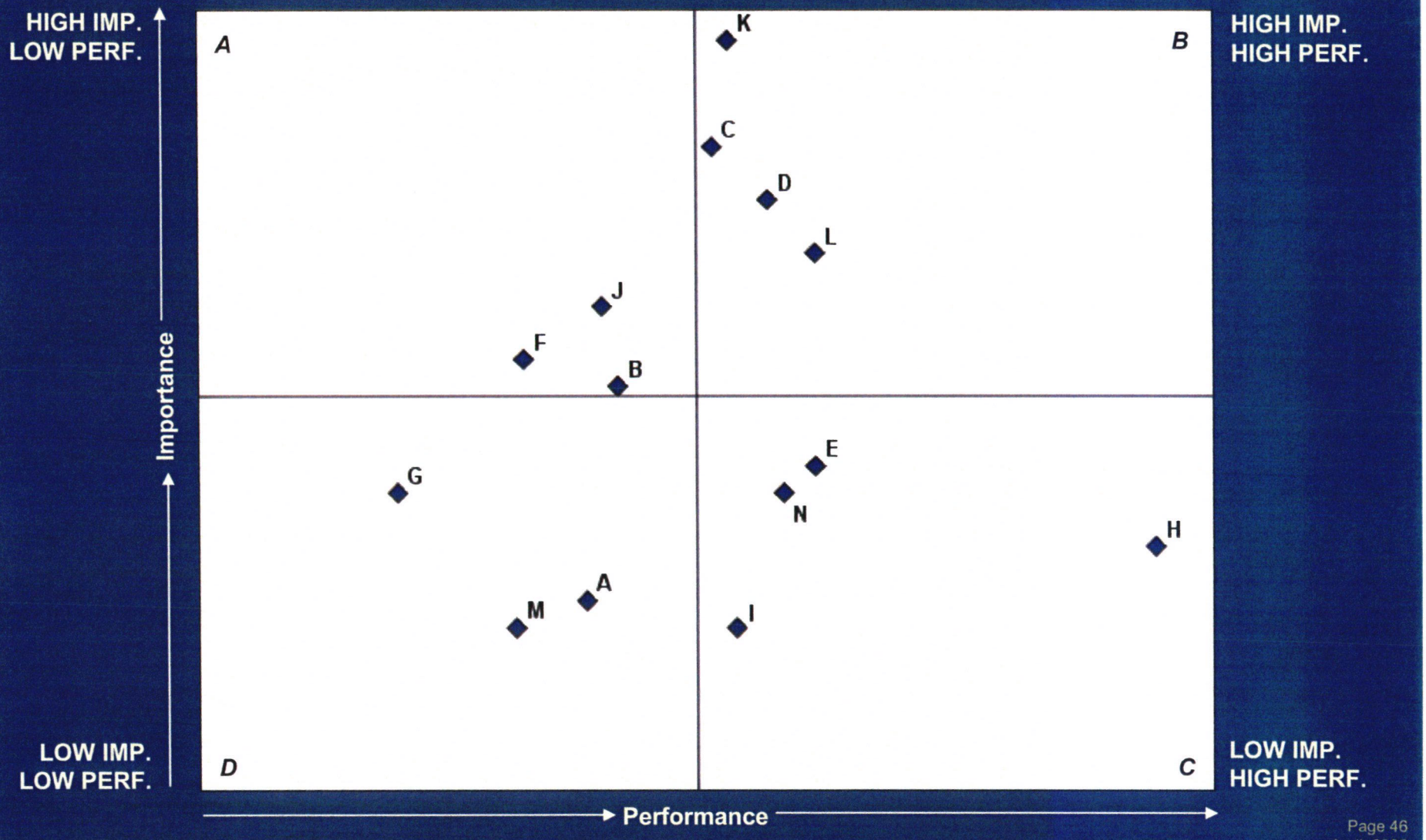
Quadrant B: Items in this quadrant, i.e., planning for future growth, enforcing traffic laws, keeping the neighborhood safe, and police protection in the neighborhood, garnered relatively high resident ratings, and are also relatively important to them. As such, the City of Rancho Cordova **should maintain its good work** in these areas.

Quadrant C: Items in this quadrant have relatively low importance and high resident ratings, and **do not require urgent improvement**. They include removing graffiti from buildings, garbage, yard waste and curbside recycling pick-up, providing animal services, and removing abandoned vehicles.

Quadrant D: Finally, protecting open space, attracting retail stores and services, and repairing and resurfacing city streets received relatively low resident ratings and also have low correlations with the resident-perceived quality of life, when compared to the other city programs and services. Therefore, these would be the **lowest priorities for improvement**.

Importance - Performance Matrix II

GODBE RESEARCH
Gain Insight



Importance - Performance Matrix III

GODBE RESEARCH
Gain Insight

Service items in **RED** are priorities for improvement efforts.

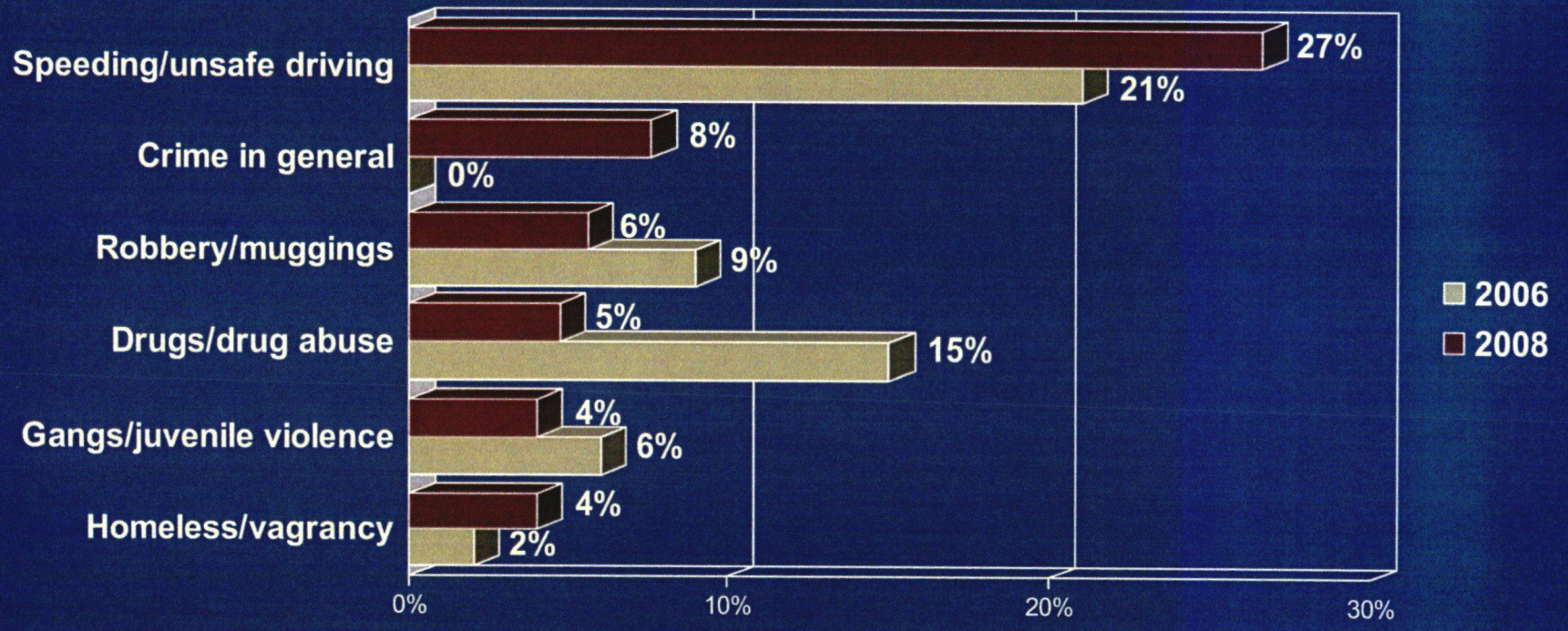
Service items in **BLUE** are priorities for maintenance.

Service Item	Imp.	Sat.	Service Item	Imp.	Sat.
A. Protecting open space in Rancho Cordova	0.24	0.46	H. Garbage, yard waste, and curbside recycling pick-up	0.26	1.18
B. Redeveloping a portion of Rancho Cordova as an attractive and economically viable city center	**0.32**	**0.50**	I. Providing animal services, such as stray animal catching and animal licensing	0.23	0.65
C. Planning for Rancho Cordova's future growth	**0.41**	**0.62**	**J. Enforcing building codes to keep our residential neighborhoods attractive**	**0.35**	**0.48**
D. Enforcing traffic laws to protect the safety of drivers, bikers, and pedestrians	**0.39**	**0.69**	**K. Keeping your neighborhood safe**	**0.45**	**0.64**
E. Removing graffiti from buildings	0.29	0.75	**L. Providing police protection in your neighborhood**	**0.37**	**0.75**
F. Programs to retain, expand and attract businesses to Rancho Cordova	**0.33**	**0.38**	M. Repairing and resurfacing of city streets	0.23	0.37
G. Attracting retail stores and services to Rancho Cordova	0.28	0.22	N. Removing abandoned vehicles	0.28	0.71

Most Serious Public Safety Problem I

GODBE RESEARCH
Gain Insight

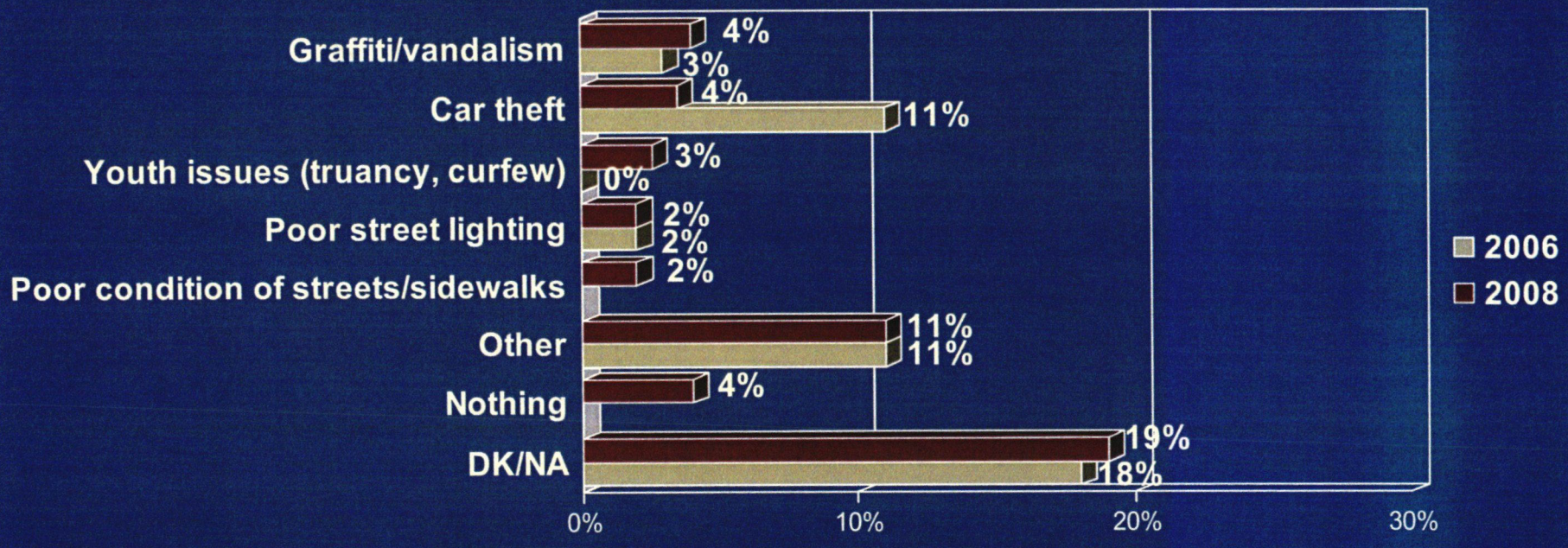
The next question in the survey aimed at identifying the most serious public safety problems as perceived by the Rancho Cordova residents. The results are plotted below and on the next page. By a wide margin, "Speeding and unsafe driving" emerged as the top response cited by 27 percent of the respondents, which represents a significant increase from the 21 percent in 2006. Also, there are some notable changes in perceived crime compared to 2006. Specifically, crime in general was cited by eight percent, when it was not an issue in 2006. However, drug abuse (5%) and car theft (4%, see next page) were all reported by significantly fewer respondents than in 2006 (10% and 11%, respectively).



Most Serious Public Safety Problem II

GODBE RESEARCH
Gain Insight

Continuing from the previous page, it is also important to note that about 23 percent of the respondents could not think of a public safety problem in the city (4%), or did not provide an answer (19%).



Most Serious Public Safety Problem
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Robbery or muggings constituted a serious public safety problem for proportionally more of the Hispanic than the Caucasian residents. Besides this, a higher percentage of the Southeast than the Northeast Rancho Cordova residents mentioned that "Crime in general" was a serious public safety problem in their neighborhood.

	Ethnicity					Area of Residence				
	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused	West RC	North-east RC	South-east RC	Anatolia	Unclassified
Total	326	57	41	45	37	88	208	85	53	71
Speeding/unsafe driving	31.0%	16.7%	25.4%	12.0%	21.7%	26.8%	31.7%	20.5%	31.5%	15.0%
Crime in general	5.6%	14.1%	13.6%	12.5%	2.9%	8.0%	3.8%	19.6%	4.1%	6.7%
Robbery/muggings	4.7%	14.2%	7.7%	0.0%	4.5%	2.5%	7.6%	3.9%	6.7%	4.7%
Drugs/drug abuse	6.1%	0.7%	2.7%	2.6%	4.1%	7.2%	4.4%	7.6%	2.1%	1.3%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Most Serious Public Safety Problem
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

To the homeowners, speeding and unsafe driving was more of a public safety issue, whereas the renters were more concerned about crime in general. Otherwise, a higher percentage of the respondents from households with annual income of $75,000 to $99,999 stated that speeding and unsafe driving was a serious public safety problem in their neighborhood, when compared to those with household income of less than $30,000 a year.

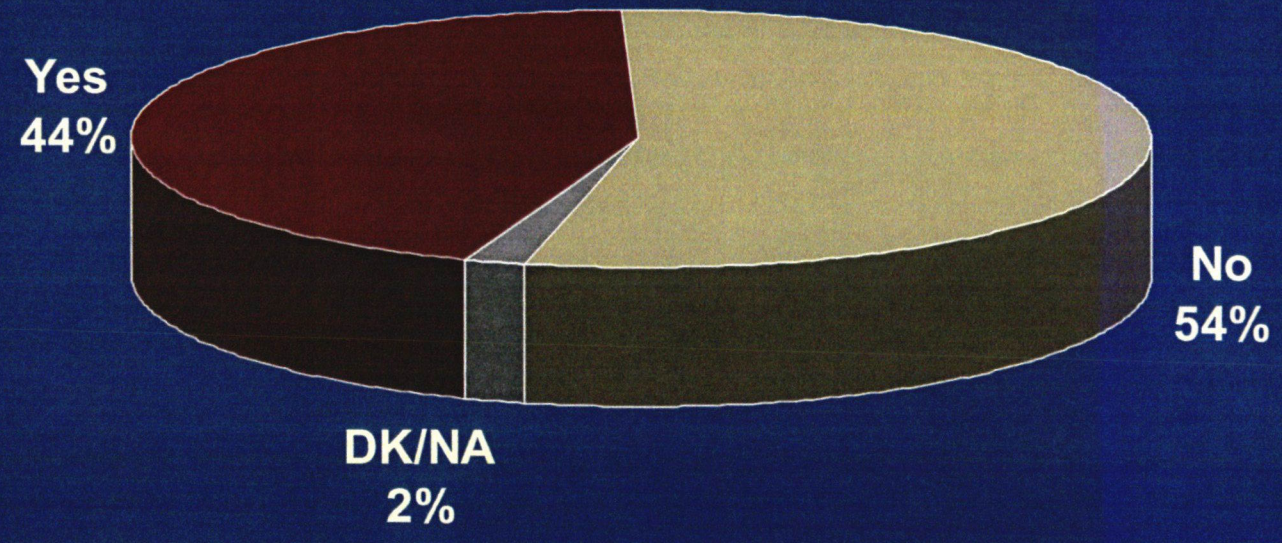
	Homeownership Status		Annual Household Income				
	Own	Rent/ Other	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	320	172	86	81	116	60	66
Speeding/unsafe driving	**33.3%**	**14.6%**	**17.1%**	23.9%	27.5%	**40.4%**	29.3%
Crime in general	**5.4%**	**11.8%**	8.5%	2.8%	7.1%	12.5%	7.0%
Robbery/muggings	5.5%	6.3%	11.1%	5.9%	3.9%	0.5%	10.6%
Drugs/drug abuse	4.1%	5.8%	1.8%	4.0%	5.0%	4.2%	6.7%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Use of Bulky Item Pick-up Service

GODBE RESEARCH
Gain Insight

The next section in the survey focused on getting resident feedback on garbage and waste management in Rancho Cordova. The first question in this series asked the respondents if they had used the on-call city service for picking up bulky items from their homes. As shown in the chart, 44 percent reported having used this service, while 54 percent had not used it.



Use of Bulky Item Pick-up Service
Differences in Subgroups

GODBE RESEARCH
Gain Insight

The proportions of the users of this on-call bulky items pick-up service were higher among the residents for more than 5 years, those living in Northeast Rancho Cordova, and the homeowners. By contrast, the non-users of this service were mostly between 18 and 29 years of age, residents for less than 5 years, renters, and those who lived in Southeast parts of the city.

	Age					Length of Residence		
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Less than 5 years	5 to 15 years	More than 15 years
Total	110	122	77	104	73	170	157	173
Yes	34.2%	47.4%	44.2%	42.7%	54.2%	30.6%	43.5%	58.1%
No	62.6%	52.6%	55.8%	56.0%	40.9%	68.6%	53.5%	40.5%
DK/NA	3.2%	0.0%	0.0%	1.3%	4.9%	0.7%	3.0%	1.4%

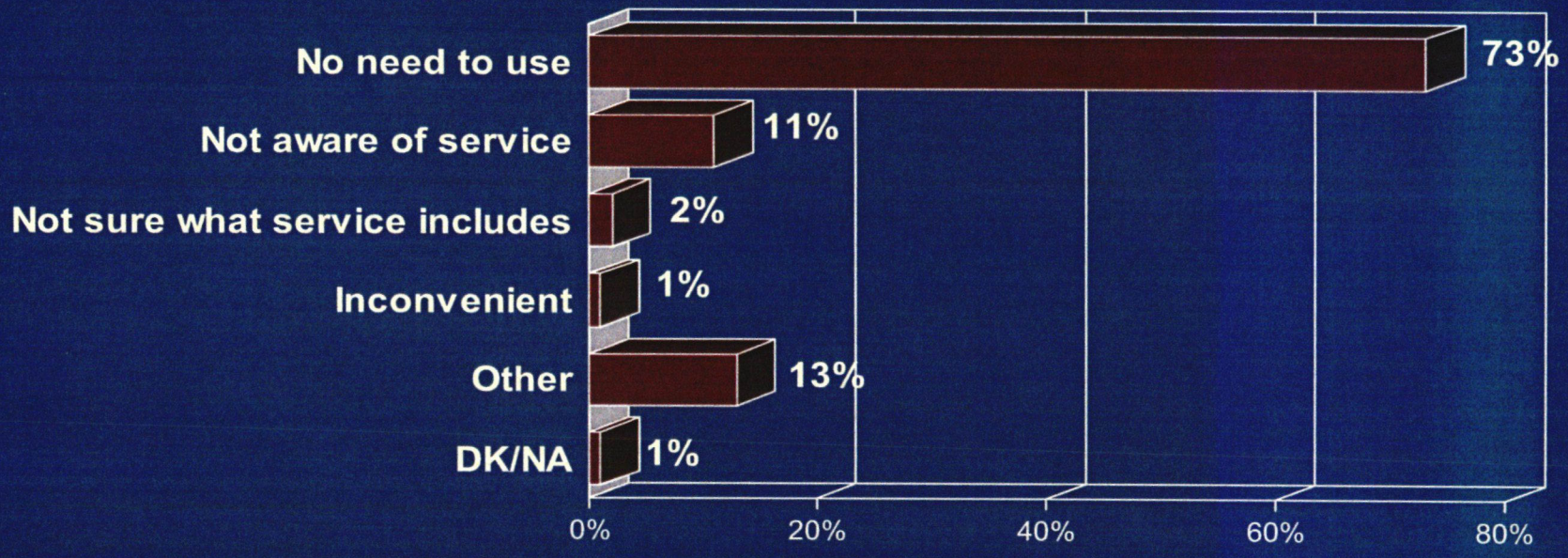
	Area of residence					Homeownership Status	
	West RC	Northeast RC	Southeast RC	Anatolia	Unclassified	Own	Rent/ Other
Total	88	208	85	53	71	320	172
Yes	49.6%	52.3%	32.9%	40.0%	31.4%	56.5%	23.1%
No	45.5%	46.5%	67.1%	57.9%	66.7%	42.0%	76.2%
DK/NA	5.0%	1.2%	0.0%	2.0%	1.9%	1.5%	0.7%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Reasons for Non-Use

GODBE RESEARCH
Gain Insight

The 272 respondents who reported not having used the on-call bulky item pick-up service were asked to indicate the reasons for non-use. About three-quarters of the respondents stated that they had no reason to use the on-call service, whereas another 13 percent were not aware of this service (11%) or were not sure of what the service included (2%).



n = 272

Reasons for Non-Use
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Proportionally more of the renters than the homeowners cited "No need to use" as the main reason for not using the on-call bulky items pick-up service.

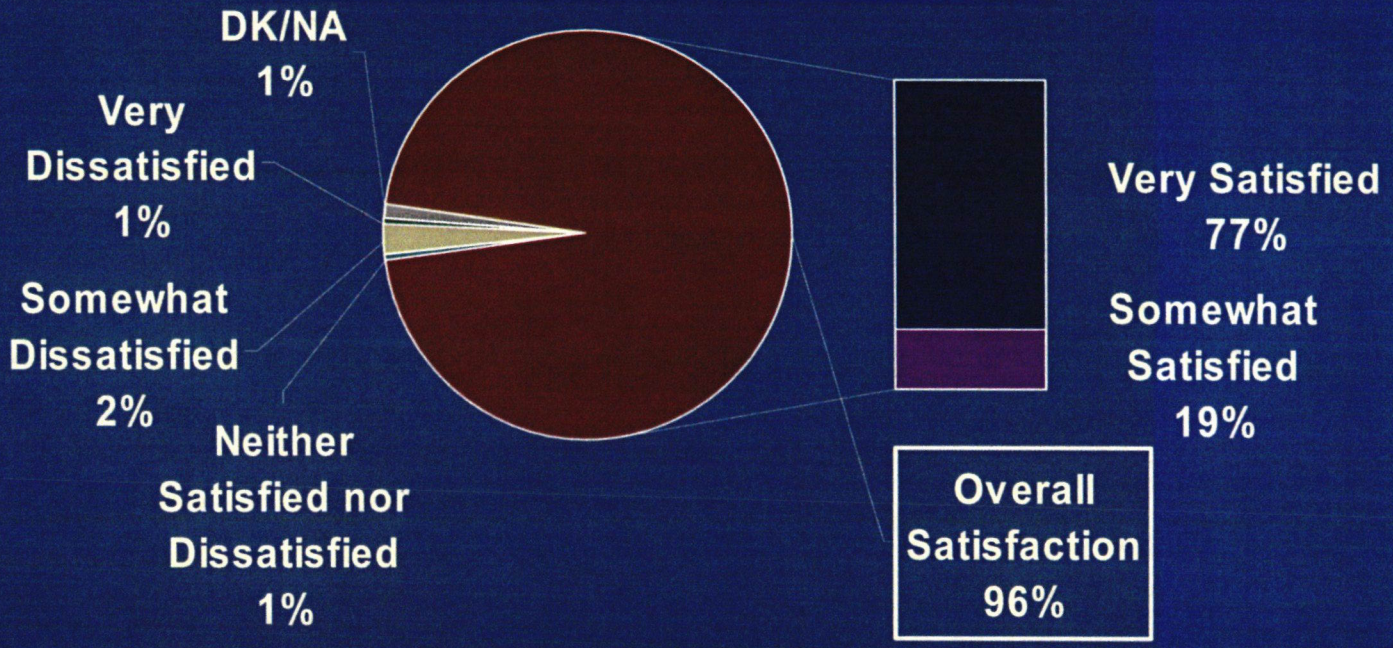
	Homeownership Status	
	Own	Rent/ Other
Total	134	131
No need to use	68.5%	79.1%
Not aware of service	11.9%	9.3%
Use some other ways for picking it up	4.5%	3.2%
Not sure what service includes	2.9%	2.5%
Inconvenient	1.7%	0.5%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Satisfaction with Bulky Items Pick-up Service

GODBE RESEARCH
Gain Insight

The 224 respondents who reported having used the bulky items pick-up service were asked to rate their satisfaction with this service. An overwhelming majority of these respondents were very (77%) or somewhat satisfied (19%) with this service. On the other hand, only three percent of the respondents reported their dissatisfaction, and another two percent were neutral or did not render an opinion.



n = 224

Satisfaction with Bulky Items Pick-up Service
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Overall, the proportions of respondents who were "Very Satisfied" with the on-call bulky items pick-up service were significantly higher among the residents 30 or older and among the Caucasians. In addition, the residents who were "Somewhat Satisfied" with this services were between 18 and 29 years of age. Otherwise, when compared to the Caucasian residents, a significantly higher percentage of the Hispanic residents were "Somewhat Satisfied." To a smaller extent, proportionately more Hispanic than Caucasian residents were also "Somewhat Dissatisfied."

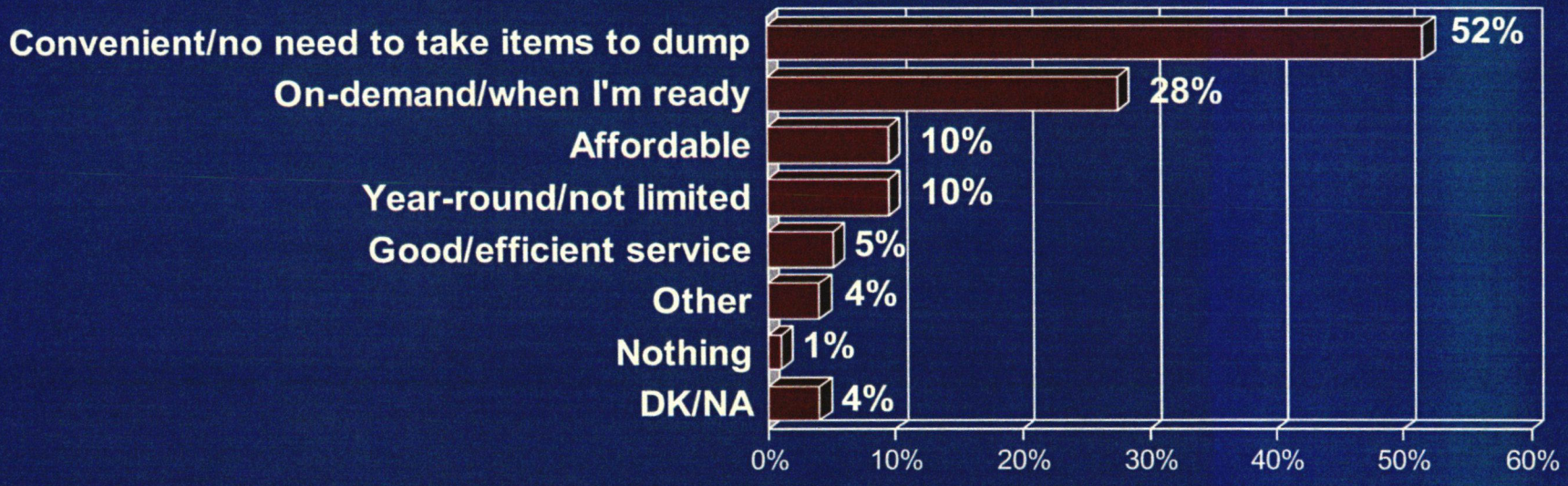
	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused
Total	38	58	34	44	40	153	22	14	16	17
Very Satisfied	51.0%	79.3%	87.8%	86.5%	81.3%	82.3%	50.4%	86.5%	71.9%	62.8%
Somewhat Satisfied	41.6%	18.9%	9.5%	7.0%	13.2%	13.4%	40.7%	13.5%	28.1%	29.4%
Neither Satisfied nor Dissatisfied	3.7%	0.0%	0.0%	0.0%	0.0%	0.9%	0.0%	0.0%	0.0%	0.0%
Somewhat Dissatisfied	3.7%	1.9%	0.0%	2.9%	2.4%	0.9%	8.9%	0.0%	0.0%	7.8%
Very Dissatisfied	0.0%	0.0%	2.7%	1.6%	0.0%	1.0%	0.0%	0.0%	0.0%	0.0%
DK/NA	0.0%	0.0%	0.0%	2.0%	3.2%	1.4%	0.0%	0.0%	0.0%	0.0%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Most Liked Service Features

GODBE RESEARCH
Gain Insight

With respect to the features that the users liked most about the on-call bulky items pick-up service, "Convenient or no need to take items to dump" emerged as the top response cited by 52 percent. Furthermore, 28 percent liked the service for being on-demand, and another 10 percent each cited that its affordability and year-round unlimited availability as the best feature of this service.

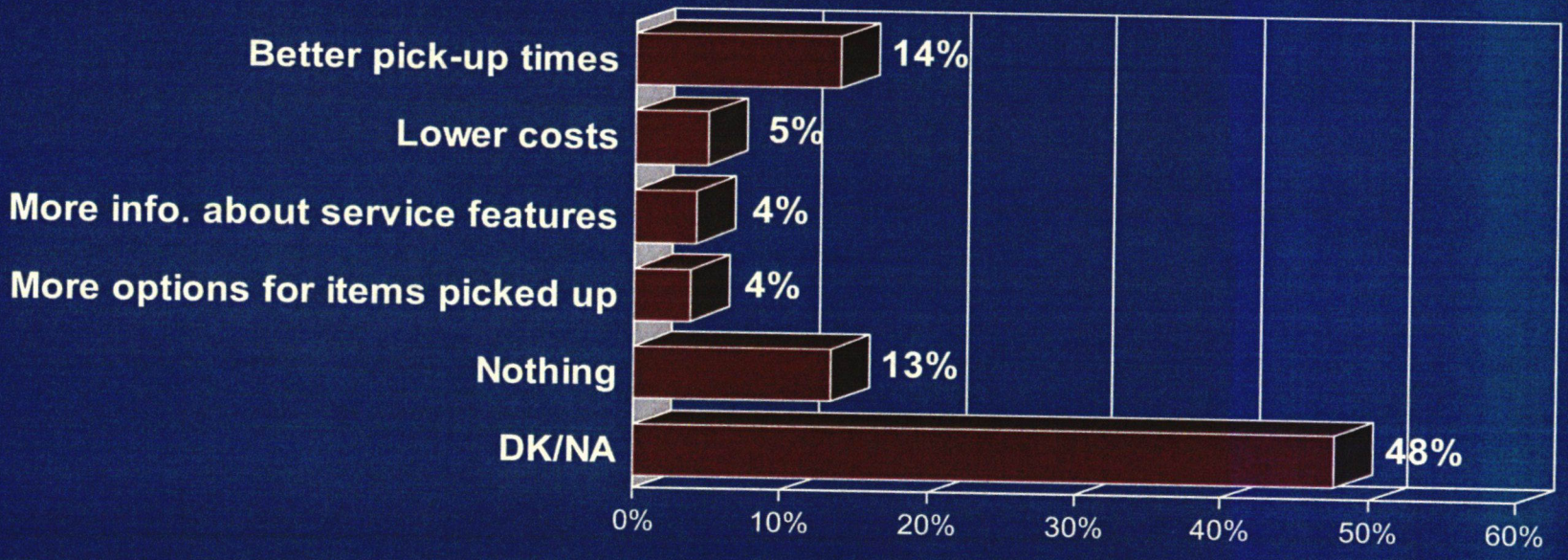


n = 224

What One Thing to Change

GODBE RESEARCH
Gain Insight

When asked to indicate one thing that the users would like to change about this service, six out of every ten respondents either could not think of anything (13%) or did not give an answer (48%). Some 14 percent would like the service to have better pick-up times, whereas five percent or fewer respondents would like it to cost less (5%), have more information about its features (4%), and more options for the items picked up (4%).



n = 224

What One Thing to Change
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Proportionally more of the 18- to 29-year-old residents than those between 30 and 39 years of age and those 65 years and older would like the service to have better pick-up times. This response was also cited by a significantly higher percentage of the Asian than Caucasian respondents in the survey.

	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused
Total	38	58	34	44	40	153	22	14	16	17
Better pick-up times	34.4%	9.6%	12.0%	11.9%	8.4%	11.3%	14.9%	44.2%	18.6%	6.4%
Lower costs	8.5%	4.6%	1.8%	3.6%	4.4%	3.2%	14.2%	7.6%	8.4%	3.5%
More information about service features	3.7%	5.3%	1.0%	9.0%	2.1%	3.7%	12.6%	0.0%	0.0%	6.6%
More options for items picked up	0.0%	7.4%	6.3%	2.8%	1.5%	3.6%	0.0%	8.7%	8.8%	2.4%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

What One Thing to Change
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Substantially more of the residents in the Western parts of Rancho Cordova, those who have lived in the city for less than 5 years, and those who rent their place of residence stated that they would like the on-call bulky items pick-up service to have better pick-up times.

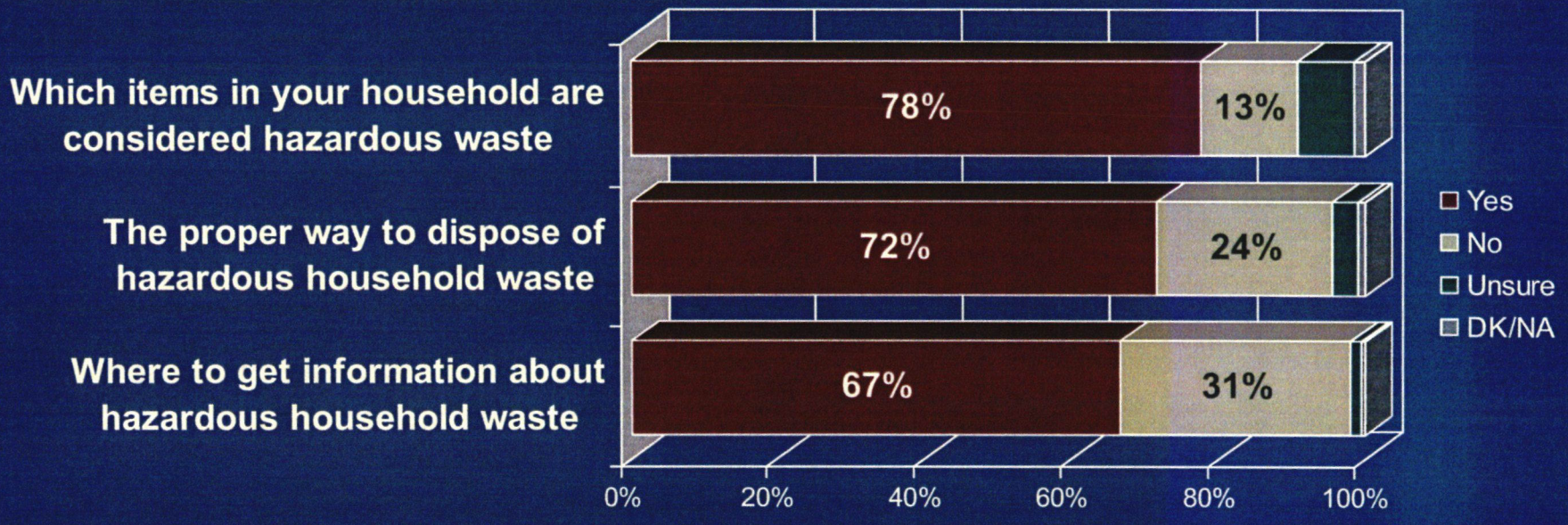
	Length of Residence			Area of Residence					Homeownership Status	
	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Unclassified	Own	Rent/ Other
Total	52	68	100	44	109	28	21	22	181	40
Better pick-up times	26.2%	14.8%	7.4%	31.6%	12.4%	9.4%	5.2%	1.1%	11.5%	26.2%
Lower costs	1.2%	8.6%	3.3%	2.8%	4.4%	4.9%	2.9%	14.3%	5.4%	0.0%
More information about service features	2.1%	6.4%	4.2%	3.1%	4.9%	6.0%	5.1%	1.2%	4.0%	6.3%
More options for items picked up	2.8%	6.0%	3.1%	7.0%	3.4%	0.0%	6.8%	1.8%	3.9%	3.1%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Knowledge of Hazardous Household Waste

GODBE RESEARCH
Gain Insight

The next question in the survey gauged resident awareness of different aspects of hazardous household waste. As shown in the following chart, 78 percent of the respondents in the survey knew which items in the household are considered to be hazardous waste, 72 percent knew of the proper way to dispose of this waste, and 67 percent were knowledgeable of where to obtain information about hazardous household waste.



Knowledge of Hazardous Household Waste
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Overall, knowledge about hazardous household waste in all three tested categories was significantly higher among the residents ages 40 years or older, and among the Caucasians. Conversely, the residents who were not knowledgeable in all these areas were more likely to be between 18 and 29 years of age and of Hispanic descent. Additionally, a higher percentage of the Asian and the African-American residents were not knowledgeable about the items considered as hazardous household waste, when compared to their Caucasian counterparts.

		Age					Ethnicity				
		18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused
16A.Which items are considered hazardous waste	Total	110	122	77	104	73	326	57	41	45	37
	Yes	63.7%	78.9%	86.6%	86.1%	81.4%	83.8%	67.0%	61.2%	68.4%	68.9%
	No	22.2%	14.6%	5.0%	5.8%	12.0%	9.1%	14.1%	28.1%	26.7%	14.5%
16B. The proper way to dispose of hazardous waste	Yes	57.4%	73.6%	70.5%	79.0%	85.2%	77.2%	53.3%	61.7%	69.6%	63.8%
	No	41.1%	23.4%	24.8%	16.5%	6.8%	18.4%	41.3%	32.7%	30.4%	26.4%
16C. Where to get information about hazardous waste	Yes	38.3%	68.7%	75.1%	79.8%	82.3%	72.9%	44.4%	66.2%	64.4%	49.8%
	No	59.5%	28.1%	22.9%	19.5%	17.7%	26.6%	51.5%	33.8%	31.4%	38.6%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Knowledge of Hazardous Household Waste
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

When compared to the respondents who have lived in the city for more than 15 years, proportionally more of the residents for 5 to 15 years were not knowledgeable about the proper way to dispose of hazardous household waste, and the residents for less than 5 years did not have knowledge of where to get information about hazardous household waste. Likewise, the Northeast residents were more knowledgeable in all three areas, the Southeast residents were more knowledgeable about the proper way to dispose of hazardous household waste, while those in West Rancho Cordova were not as knowledgeable about which household items were considered hazardous waste or the proper way to dispose of hazardous waste. Additionally, significantly more of the homeowners than the renters were knowledgeable about each of these areas.

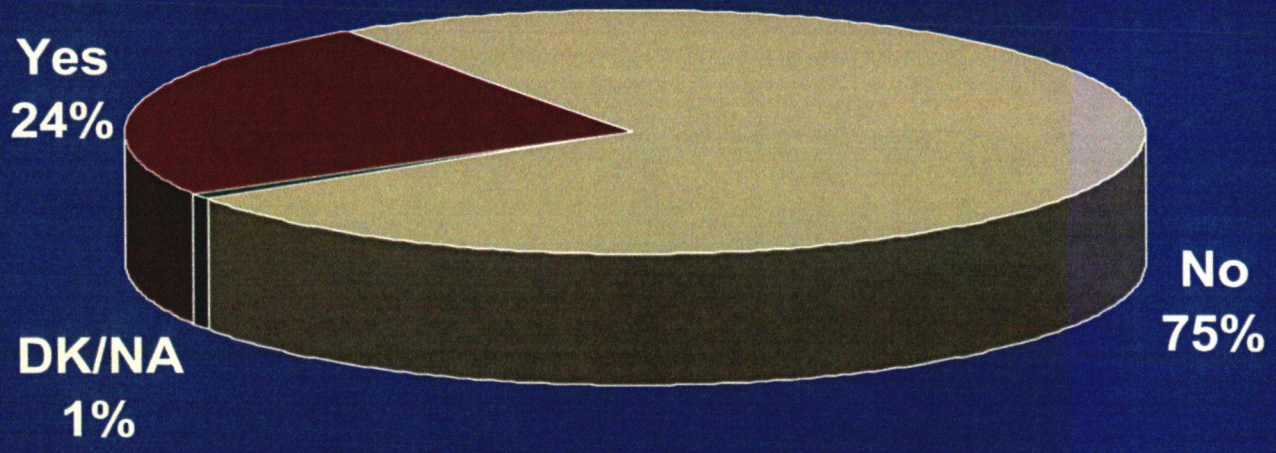
		Length of Residence			Area of Residence					Homeownership Status	
		Less than 5 yrs	5 to 15 yrs	More than 15 yrs	West RC	North-east RC	South-east RC	Anatolia	Uncla-ssified	Own	Rent/ Other
16A.Which items are considered hazardous waste	Total	170	157	173	88	208	85	53	71	320	172
	Yes	74.3%	76.7%	83.3%	65.0%	86.0%	79.2%	79.9%	65.0%	82.5%	71.4%
	No	16.6%	12.0%	9.4%	19.7%	6.3%	14.1%	13.9%	23.3%	9.4%	19.0%
16B. The proper way to dispose of hazardous household waste	Yes	70.8%	67.5%	76.8%	62.4%	77.8%	77.1%	74.6%	55.9%	77.3%	63.1%
	No	26.3%	28.9%	16.3%	34.7%	16.0%	20.3%	19.6%	40.3%	17.9%	32.8%
16C. Where to get information about hazardous waste	Yes	62.2%	65.0%	73.7%	67.2%	77.9%	62.1%	64.3%	40.9%	73.6%	55.8%
	No	36.7%	32.6%	24.7%	28.2%	21.2%	37.1%	34.6%	55.2%	25.8%	41.3%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

City Contact in Last 12 Months

GODBE RESEARCH
Gain Insight

A section in the survey was devoted to gather resident feedback on contacting the City and its customer service. Overall, 24 percent of the respondents in the survey reported having contacted a City of Rancho Cordova department during the previous 12 months, while 75 percent had not.



City Contact in Last 12 Months
Differences in Subgroups

GODBE RESEARCH
Gain Insight

The residents who have contacted a City of Rancho Cordova department for any non-emergency reason in the last 12 months were mostly between the ages of 40 and 64, of Caucasian descent, owned their place of residence, and from households with an annual income of $100,000 or more.

	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused
Total	110	122	77	104	73	326	57	41	45	37
Yes	11.2%	25.3%	37.2%	29.8%	18.2%	27.4%	10.0%	24.4%	16.3%	24.3%
No	86.6%	74.7%	62.8%	70.2%	80.2%	72.2%	90.0%	75.6%	83.7%	66.9%
DK/NA	2.2%	0.0%	0.0%	0.0%	1.6%	0.4%	0.0%	0.0%	0.0%	8.9%

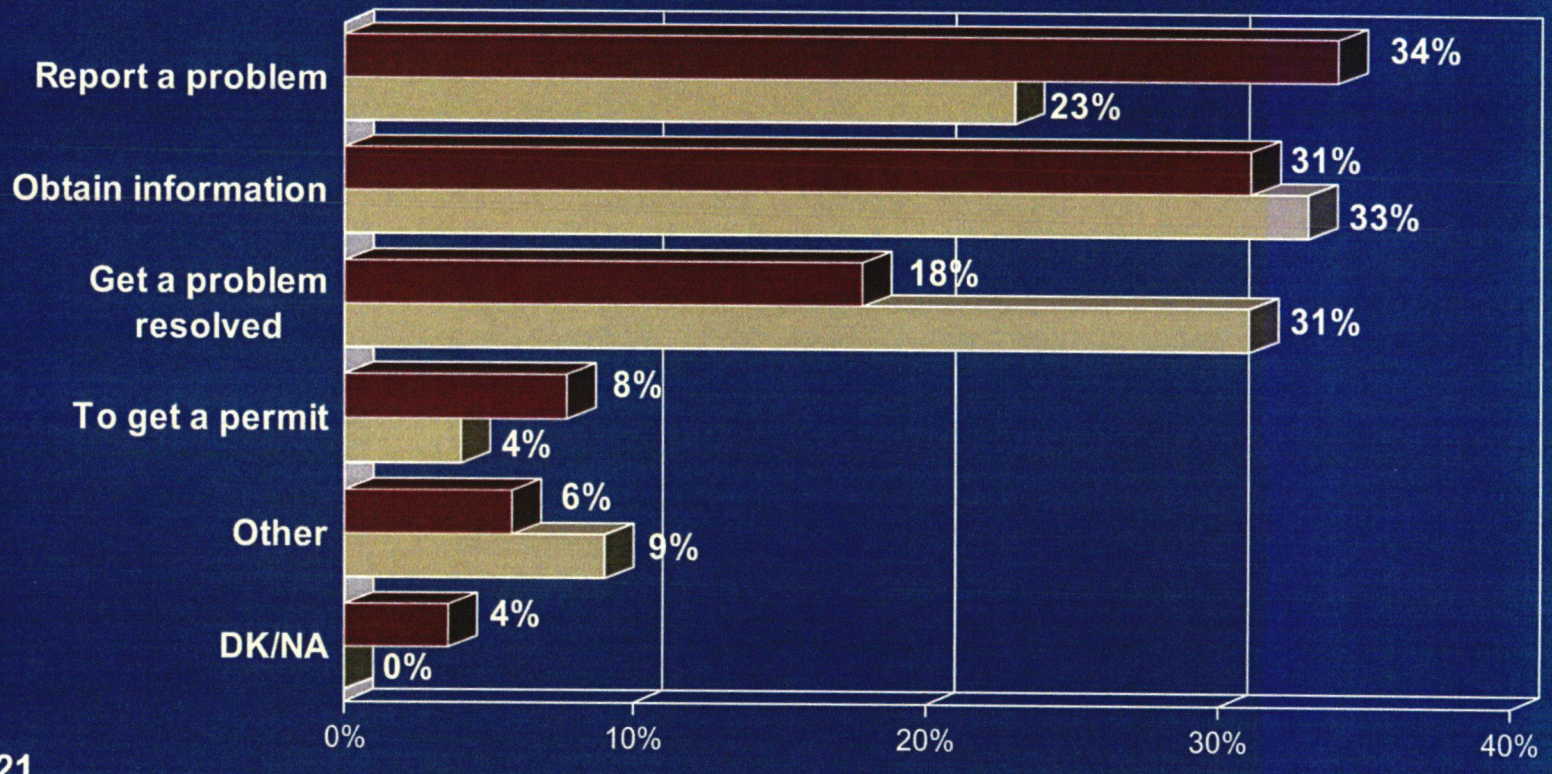
	Homeownership Status		Annual Household Income				
	Own	Rent/Other	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	320	172	86	81	116	60	66
Yes	29.2%	15.6%	15.4%	14.3%	27.7%	34.0%	39.3%
No	70.6%	84.1%	84.6%	82.7%	72.3%	66.0%	60.7%
DK/NA-	0.2%	0.3%	0.0%	3.0%	0.0%	0.0%	0.0%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Reason for City Contact

GODBE RESEARCH
Gain Insight

Reporting a problem (34%) or obtaining information (31%) were the two top reasons why the 121 respondents in the survey contacted a City department for non-emergency purposes during the past 12 months. Some 18 percent contacted the City to get a problem resolved, and another eight percent to obtain a permit. Compared to 2006, there was a significant increase in those who contacted the City to report a problem, while getting a problem resolved was less of a reason. These patterns suggest a shift in more residents bringing issues to the City's attention, not necessarily expecting resolution.

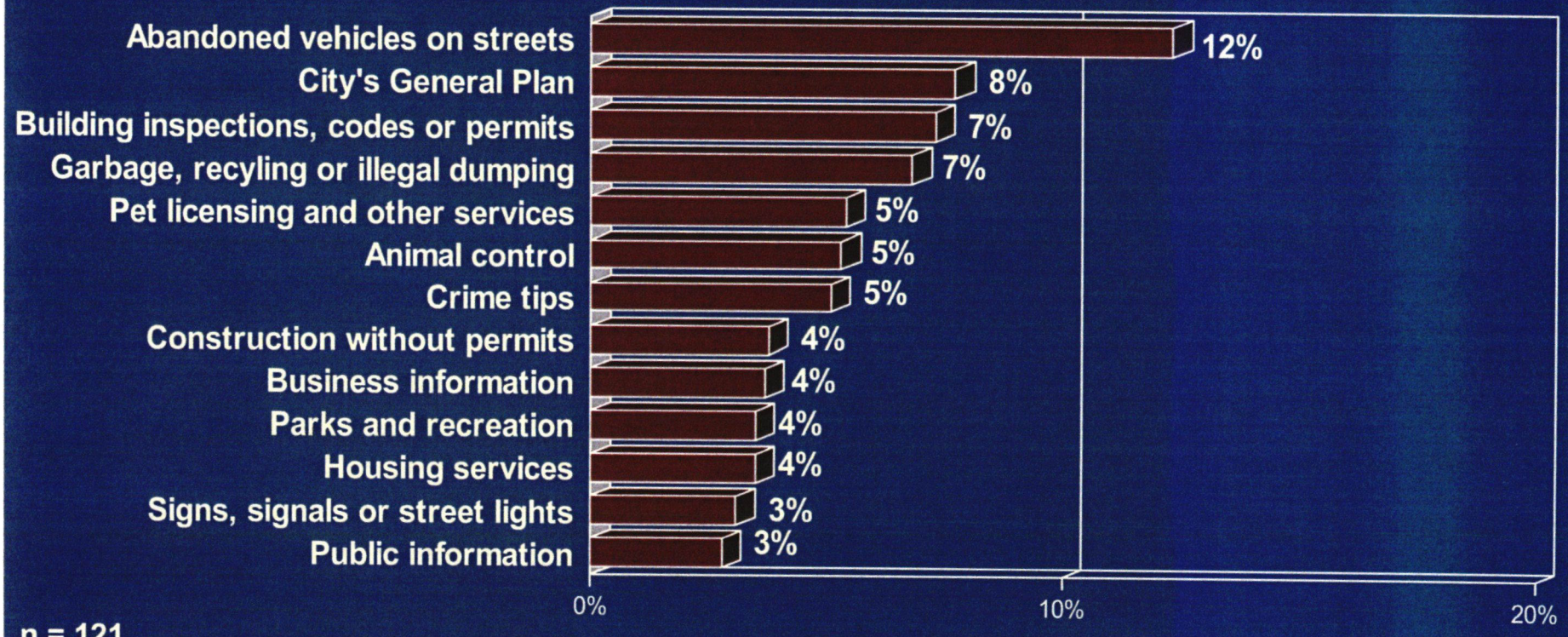


n = 121

Nature of Problem or Issue

GODBE RESEARCH
Gain Insight

When asked about the problem or information sought prompting contact with the City, answers given by the 121 respondents were overall very diffused (see Topline Report in Appendix C for the complete list). Otherwise, as shown in the chart below, 12 percent reported contacting the City to report abandoned vehicles on the streets, eight percent to get information on the City's general plan, and another seven percent each for information on building inspections, codes or permits and for garbage, recycling or illegal dumping.



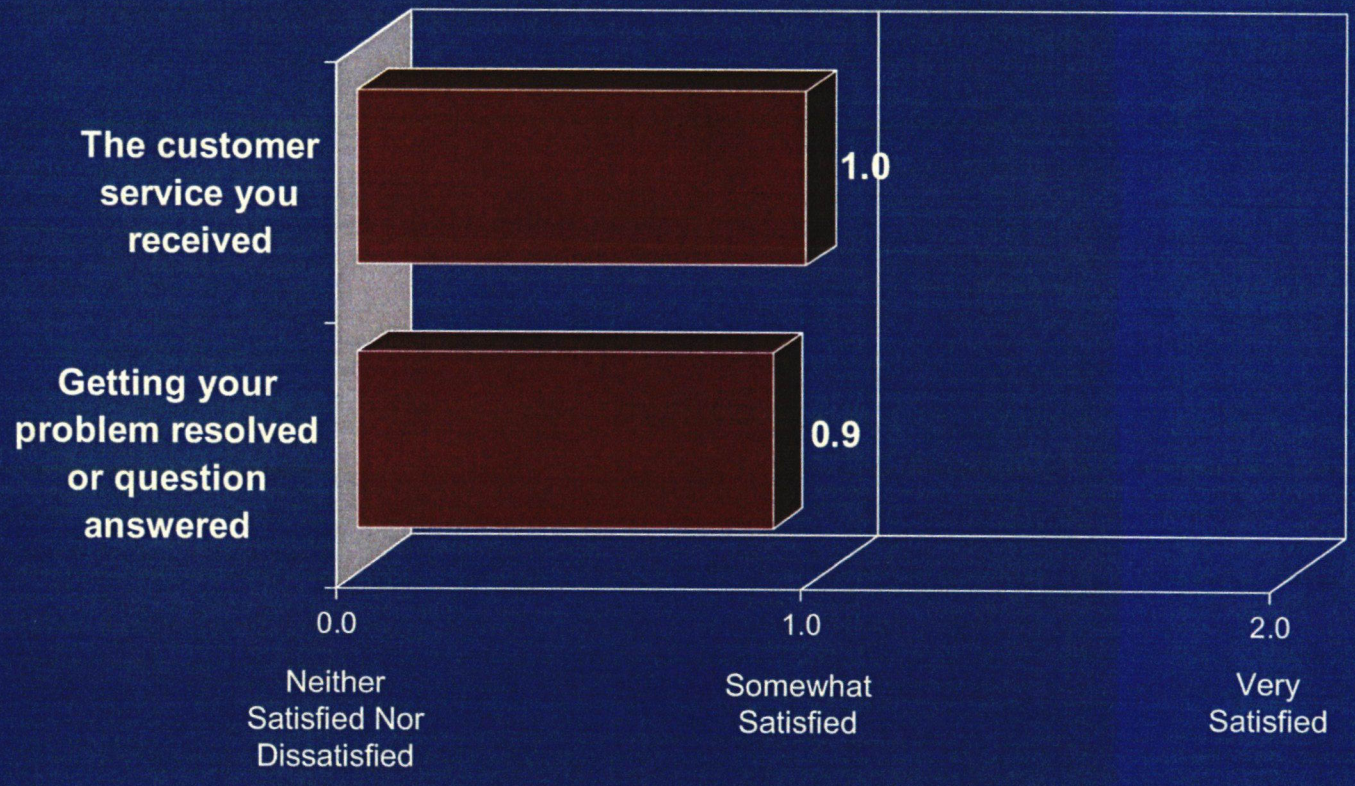
n = 121

Note: Answers with fewer than 3 percent mentions are not shown above

Satisfaction with City Contact

GODBE RESEARCH
Gain Insight

When asked to rate their satisfaction with the City contact, the average respondent was somewhat satisfied with the customer service he or she received. Expressed differently, 76 percent of the respondents who contacted the City were either very or somewhat satisfied with customer service. Besides this, 72 percent of the respondents were at least somewhat satisfied in terms of getting their problem resolved or their question answered, resulting in an average satisfaction score of 0.9.

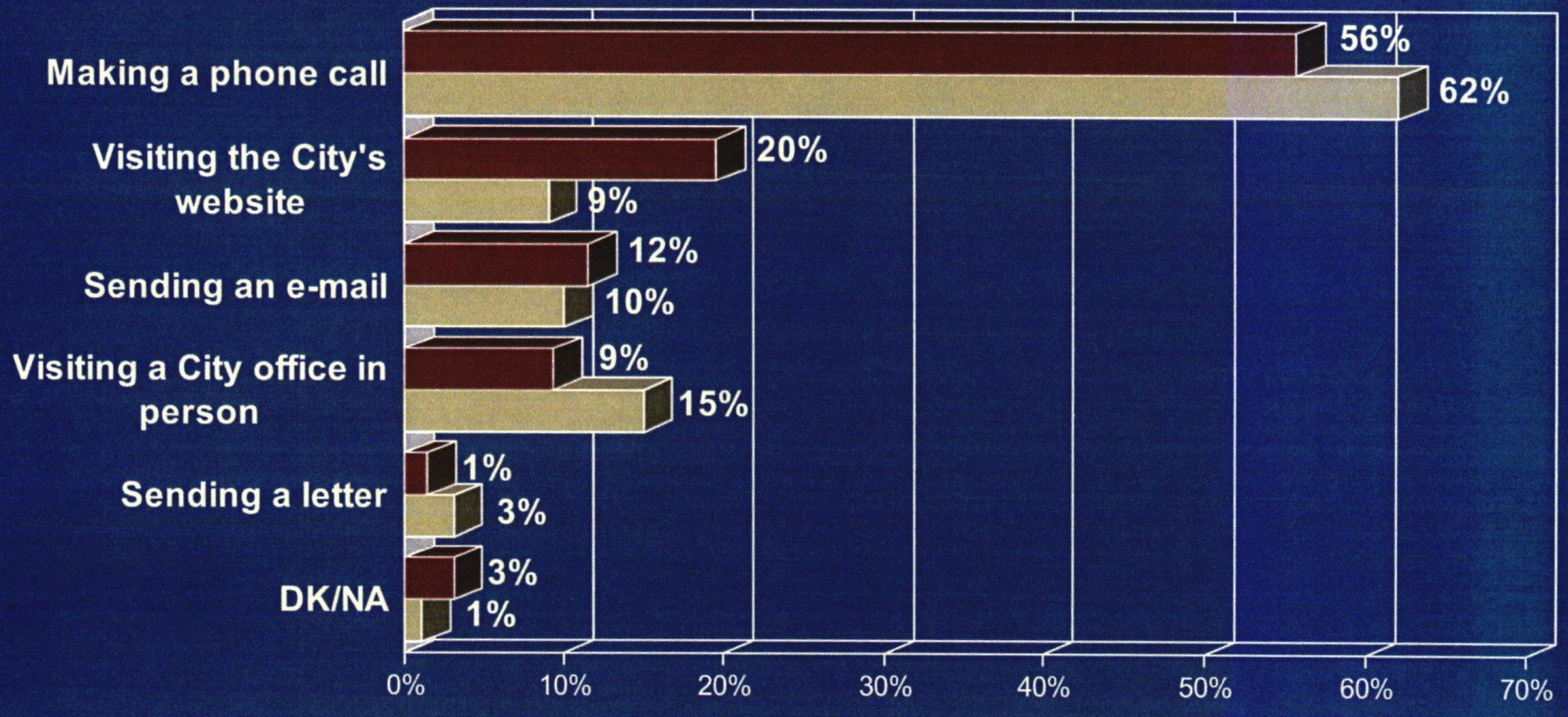


Note: The responses were recoded to calculate mean scores: "Very Satisfied" = +2, "Somewhat Satisfied" = +1, "Somewhat Dissatisfied" = -1, and "Very Dissatisfied" = -2.

Preferred Method of Contacting City

GODBE RESEARCH
Gain Insight

Next, the respondents were asked to indicate their preferred methods for contacting the City in non-emergency situations. By a wide margin, making a phone call to the specific City department was the most preferred contact method, reported by over half of the survey respondents. Otherwise, 20 percent reported their preference for visiting the City's website, which was a significant increase from the 11 percent in 2006. The collective increase in resident preference for electronic means of contact from 19 percent in 2006 to 32 percent (20% City website and 12% email), along with a simultaneous decline in in-person contact from 15 percent to 9 percent, reflects overall trends observed in general population communication preferences.



Preferred Method of Contacting City
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Compared to their respective counterparts, proportionally more men and renters preferred visiting a City office in person for non-emergency purposes. Making a phone call was a preferred method of contacting the City reported by more of the senior citizens and the homeowners. By contrast, more of the 30- to 49-year-old residents preferred visiting the City's website, when compared to those 65 or older.

	Gender		Age					Homeownership Status	
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Own	Rent/ Other
Total	237	268	110	122	77	104	73	320	172
Making a phone call to a specific city department	51.3%	59.4%	53.0%	47.3%	50.0%	62.4%	75.4%	61.4%	46.3%
Visiting the city's website, www.cityofranchocordova.org	20.3%	18.8%	18.6%	28.0%	27.2%	15.7%	5.7%	18.5%	22.5%
Sending an e-mail	10.2%	12.6%	12.6%	15.3%	14.2%	9.8%	3.4%	10.4%	12.2%
Visiting a city office in person	12.9%	6.0%	13.3%	5.5%	5.0%	9.0%	11.2%	6.5%	14.5%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Preferred Method of Contacting City
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

With respect to the length of residence, more of the respondents who have lived in Rancho Cordova for more than 15 years preferred contacting the City by making a phone call, while more of the residents for less than 5 years preferred visiting the City's website. Additionally, when compared to those living in West Rancho Cordova, Anatolia residents preferred contacting the City by visiting its website.

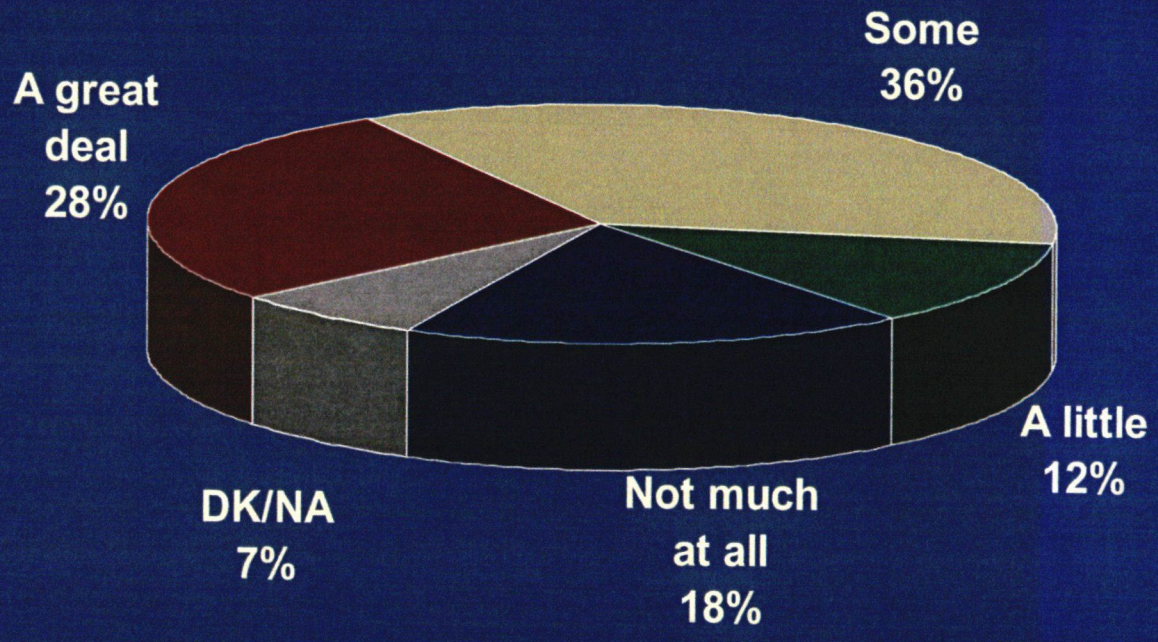
	Length of Residence			Area of Residence				
	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Unclassified
Total	170	157	173	88	208	85	53	71
Making a phone call to a specific city department	50.4%	52.0%	65.4%	57.9%	55.2%	54.9%	49.1%	59.6%
Visiting the city's website, www.cityofranchocordova.org	25.5%	19.8%	13.6%	11.9%	20.5%	17.7%	34.6%	17.0%
Sending an e-mail	12.3%	14.5%	8.3%	4.9%	11.9%	13.3%	11.8%	15.8%
Visiting a city office in person	8.2%	10.1%	8.7%	15.0%	9.0%	12.4%	1.3%	5.1%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Opportunity to Voice Concerns

GODBE RESEARCH
Gain Insight

In the following question, the respondents were asked if they had an opportunity to voice their concerns on major community issues. As the following chart shows, 64 percent of the respondents believed that they had at least some opportunity to voice their concerns (28% "A great deal" and 36% "Some"), whereas 30 percent thought that they had little (12%) or no such opportunity (18%). The remaining seven percent did not provide an answer to the question. These results are statistically comparable to the 2006 survey findings.



2006
A great deal = 31% Some = 33%
Not much = 16% A little = 12%

Opportunity to Voice Concerns
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Proportionally more of the 50- to 64-year-old residents thought that they had a great deal of opportunity to voice their concerns on major community issues, whereas the 18- to 29-year-old residents thought that they had no such opportunity. Apart from this, proportionally more of the Asian residents than those from other or undeclared ethnic backgrounds mentioned that they had some opportunity to voice concerns on important community issues.

	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Caucasian	Hispanic	Asian	African-American	Other/ Refused
Total	110	122	77	104	73	326	57	41	45	37
A great deal	17.0%	26.6%	27.6%	39.3%	29.8%	30.2%	18.7%	16.3%	28.7%	28.6%
Some	30.3%	43.5%	40.5%	30.1%	36.0%	35.8%	31.3%	57.5%	31.0%	24.9%
A little	18.7%	12.0%	10.3%	7.6%	9.9%	10.1%	16.1%	4.8%	23.5%	18.7%
Not much at all	30.2%	12.0%	15.2%	16.9%	15.5%	15.9%	31.4%	17.9%	15.2%	18.5%
DK/NA	3.8%	5.9%	6.5%	6.1%	8.7%	7.9%	2.5%	3.5%	1.7%	9.3%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Opportunity to Voice Concerns
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

Relative to their respective counterparts, more of the residents in the city for less than 5 years and those from households with annual income of less than $30,000 believed that they had little opportunity to voice concerns on important community issues. On the contrary, when compared to those in the lowest annual household income group, the respondents with annual household income of $50,000 to $74,999 and $100,000 or more were more likely to report having had some opportunity for voicing their concerns on important community issues.

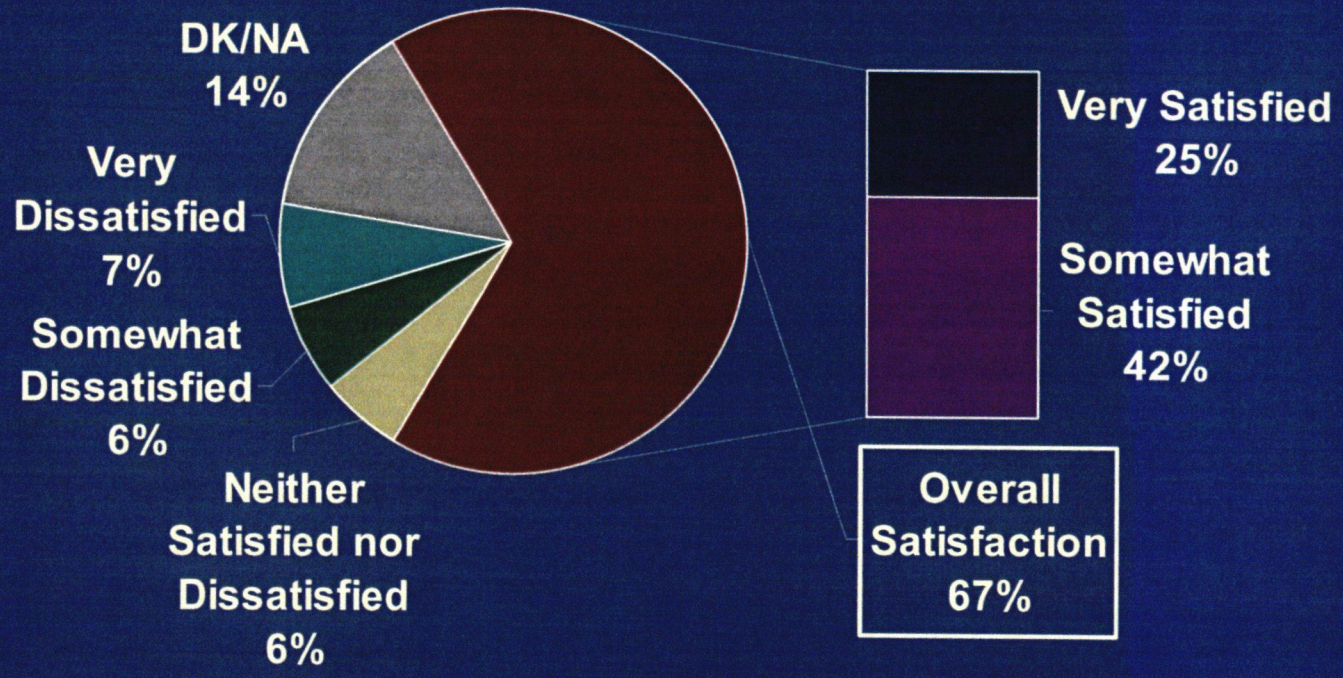
	Length of Residence			Annual Household Income				
	Less than 5 years	5 to 15 years	More than 15 years	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	170	157	173	86	81	116	60	66
A great deal	21.9%	31.5%	28.7%	22.5%	32.5%	29.9%	26.6%	31.4%
Some	37.5%	36.9%	33.8%	21.3%	40.3%	41.3%	36.3%	44.3%
A little	19.4%	8.0%	9.1%	23.7%	8.9%	6.6%	15.8%	6.4%
Not much at all	15.7%	16.1%	22.0%	26.4%	12.4%	19.7%	17.6%	13.4%
DK/NA	5.5%	7.4%	6.4%	6.2%	5.8%	2.6%	3.8%	4.6%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Satisfaction with City's Responsiveness

GODBE RESEARCH
Gain Insight

Two-thirds of the respondents in the survey reported their satisfaction with the City's responsiveness to residents' interests and concerns, with 25 percent saying "Very Satisfied" and 42 percent saying "Somewhat Satisfied." By contrast, 13 percent of the respondents reported their dissatisfaction with the City's responsiveness, and another 20 percent either remained neutral (6%) or did not render an opinion (14%).



Satisfaction with City's Responsiveness
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

When compared to the women, proportionally more men were "Very Dissatisfied" with the City's responsiveness to resident interests and concerns. Otherwise, a higher percentage of the residents 65 or older were "Very Satisfied" with the City's performance in this area, when compared to their 18- to 29-year-old counterparts.

	Gender		Age				
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older
Total	237	268	110	122	77	104	73
Very Satisfied	22.5%	26.6%	15.8%	25.3%	17.3%	31.0%	35.9%
Somewhat Satisfied	39.9%	44.2%	41.1%	43.1%	49.8%	40.7%	37.0%
Neither Satisfied nor Dissatisfied	6.7%	5.0%	4.9%	6.4%	7.3%	6.0%	4.5%
Somewhat Dissatisfied	6.8%	5.6%	11.7%	3.7%	2.4%	3.0%	9.6%
Very Dissatisfied	9.8%	5.1%	11.9%	8.0%	8.3%	5.6%	1.8%
DK/NA	14.4%	13.5%	14.7%	13.4%	14.8%	13.8%	11.1%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Satisfaction with City's Responsiveness
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

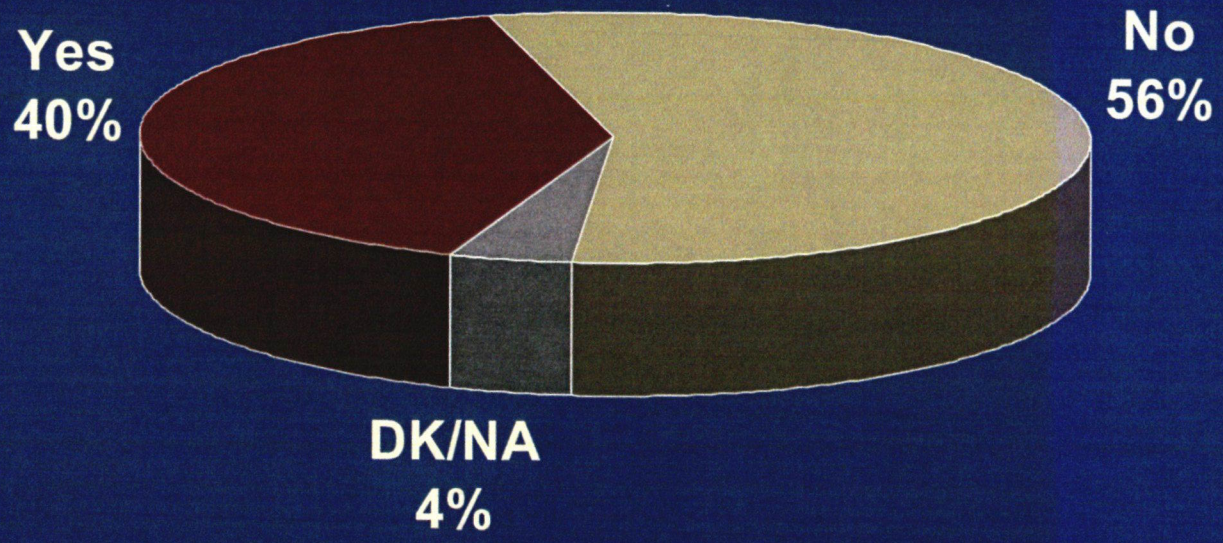
The proportions of residents who were "Somewhat Satisfied" with the City's responsiveness to their interests and concerns were significantly higher among the Asians and among those with household income of $50,000 to $99,999 a year. In addition, proportionally more of the Hispanics and those of other or undeclared ethnic backgrounds were "Somewhat Dissatisfied" with the City's responsiveness, when compared to their Caucasian counterparts.

	Ethnicity					Annual Household Income				
	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	326	57	41	45	37	86	81	116	60	66
Very Satisfied	27.7%	21.2%	11.6%	26.6%	15.4%	24.6%	36.4%	21.4%	18.4%	22.3%
Swt. Satisfied	42.8%	42.6%	**61.6%**	31.7%	**27.6%**	41.4%	**30.5%**	**51.8%**	**57.0%**	40.8%
Neither Satisfied nor Dissatisfied	5.5%	5.5%	7.1%	4.1%	9.8%	5.3%	5.0%	4.6%	3.5%	4.9%
Swt Dissatisfied	**4.6%**	**16.8%**	2.3%	0.0%	**15.2%**	8.2%	3.5%	3.7%	7.6%	4.1%
Very Dissatisfied	7.5%	2.5%	1.4%	16.1%	9.2%	5.5%	8.7%	6.6%	10.0%	6.3%
DK/NA	12.0%	11.5%	16.0%	21.5%	22.8%	15.0%	15.9%	12.0%	**3.5%**	**21.5%**

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Interest in Community Involvement

About two out of every five respondents (40%) in the survey were interested in getting more involved in what the City is doing to serve the residents, whereas 56 percent were not interested. The remaining four percent did not render an opinion.



Interest in Community Involvement
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Proportionately more of those between 30 and 39 years of age, as well as of African-American descent, reported being interested in getting more involved in the City's efforts to provide resident services. By contrast, proportionally more of the 65-years-and-older residents and those of Caucasian descent were not interested in such involvement.

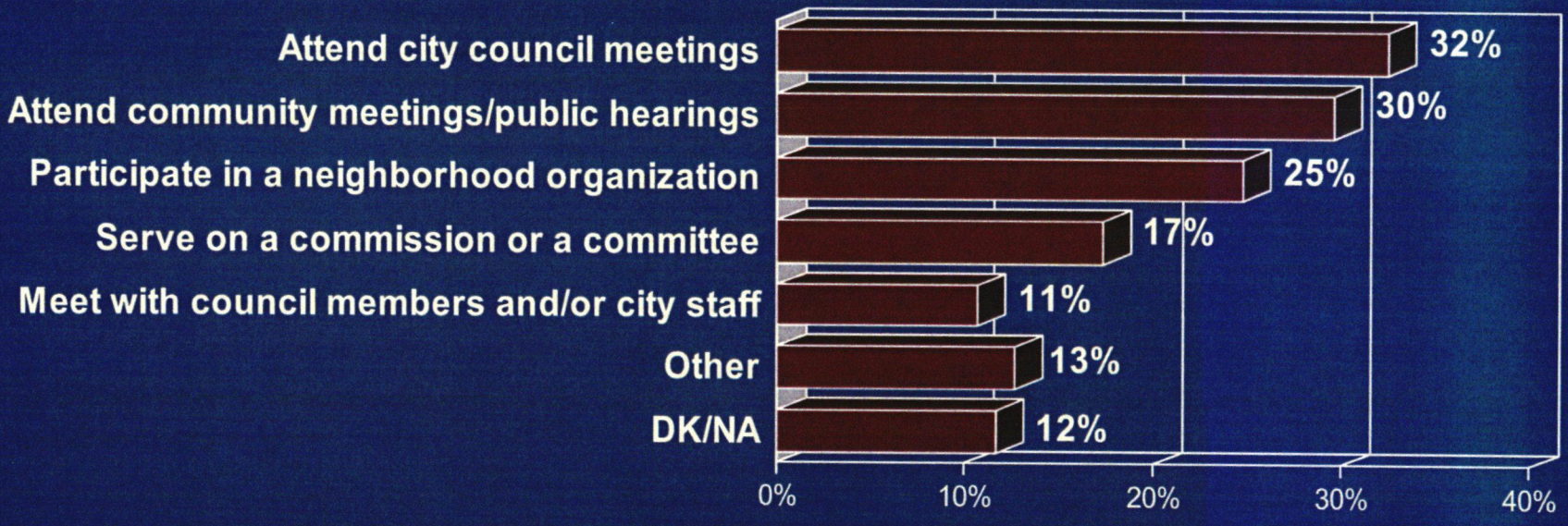
	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Caucasian	Hispanic	Asian	African-American	Other/ Refused
Total	110	122	77	104	73	326	57	41	45	37
Yes	42.3%	**53.1%**	**32.4%**	39.0%	**26.4%**	**35.5%**	43.7%	53.5%	**57.8%**	39.9%
No	53.5%	**44.5%**	62.1%	54.7%	**70.8%**	**60.7%**	56.3%	**37.5%**	42.2%	45.7%
DK/NA	4.2%	2.4%	5.5%	6.2%	2.8%	**3.8%**	0.0%	9.0%	0.0%	**14.4%**

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Types of Community Involvement

GODBE RESEARCH
Gain Insight

Of the 198 respondents who expressed interest in community involvement, 32 percent stated that they would like getting more involved by attending council meetings, and another 30 percent by attending special community meetings or public hearings. Few of the other responses include participation in a neighborhood organization (25%), serving on a commission or a committee (17%), and meeting with council members or city staff (11%). Some 12 percent did not render an opinion.



n = 198

Types of Community Involvement
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

When compared to the women, proportionally more men expressed interest in getting involved in the community by attending city council meetings or by serving on a commission or a committee. Additionally, a higher percentage of the city residents for more than 15 years were interested in community involvement by serving on a commission or a committee, when compared to the newer residents.

	Gender		Length of Residence		
	Male	Female	Less than 5 years	5 to 15 years	More than 15 years
Total	100	98	71	66	57
Attend city council meetings	**40.5%**	**24.1%**	28.1%	29.2%	42.2%
Attend special community meetings / public hearings	30.5%	28.7%	27.8%	31.8%	28.9%
Participate in a neighborhood organization	21.4%	28.0%	17.3%	25.3%	34.7%
Serve on a commission or a committee	**23.7%**	**10.7%**	**13.1%**	**8.5%**	**33.9%**
Meet with council members and/or city staff	13.1%	8.0%	7.9%	6.7%	19.2%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Types of Community Involvement
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

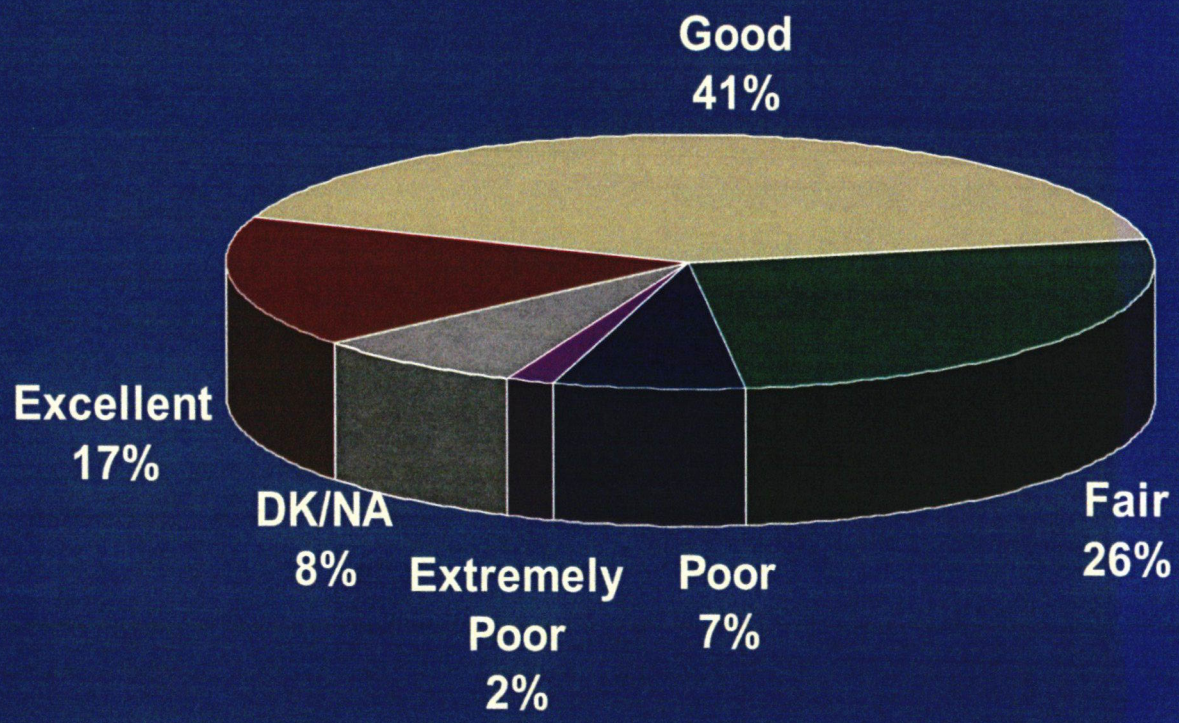
Compared to the residents in the lowest annual household income group, those with household income of $100,000 or more a year stated that they would like to get involved in what the City is doing to serve its residents by serving on a commission or a committee.

	Annual Household Income				
	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
Total	29	33	48	26	31
Attend city council meetings	19.6%	39.0%	32.2%	25.9%	46.1%
Attend special community meetings / public hearings	38.1%	14.9%	30.8%	43.3%	39.7%
Participate in a neighborhood organization	22.1%	25.6%	25.8%	14.4%	33.0%
Serve on a commission or a committee	2.4%	20.8%	24.1%	9.2%	34.5%
Meet with council members and/or city staff	4.1%	12.2%	8.8%	9.8%	26.5%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Rating of Public Information Efforts

The next section in the survey was designed to gather resident feedback on the City's public information efforts. The first question in this section gauged resident perception of the City's job in providing information to the residents about priorities, programs and services. Overall, 58 percent of the respondents rated the City's job in this area as "Excellent" (17%) or "Good" (41%), 26 percent rated it as "Fair," and another nine percent gave it a negative rating (7% "Poor" and 2% "Extremely Poor"). The remaining eight percent did not know or did not provide an answer to the question.



Rating of Public Information Efforts
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Significantly more men than women rated the City's public information efforts as "Extremely Poor." Otherwise, proportionately more of the senior citizens gave the City a "Good" rating in this area, whereas a higher percentage of the 18- to 29-year-old respondents gave it a "Fair" rating.

	Gender		Age				
	Male	Female	18 to 29	30 to 39	40 to 49	50 to 64	65 and older
Total	237	268	110	122	77	104	73
Excellent	16.1%	17.1%	11.8%	17.2%	9.0%	23.2%	24.4%
Good	40.2%	42.3%	28.1%	40.8%	44.2%	46.1%	51.4%
Fair	27.3%	25.3%	34.4%	29.9%	31.3%	18.8%	14.1%
Poor	6.6%	6.6%	13.1%	4.3%	6.6%	4.6%	3.7%
Extremely poor	3.0%	0.4%	3.9%	1.1%	0.9%	1.7%	0.0%
DK/NA	6.9%	8.3%	8.8%	6.7%	8.0%	5.6%	6.4%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Rating of Public Information Efforts
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

In terms of ethnic differences, proportionally more of the Hispanic than the Caucasian residents rated the City's public information efforts as "Poor." Moreover, residents for 5 to 15 years were more critical of the City's public information efforts than those living in Rancho Cordova for more than 15 years.

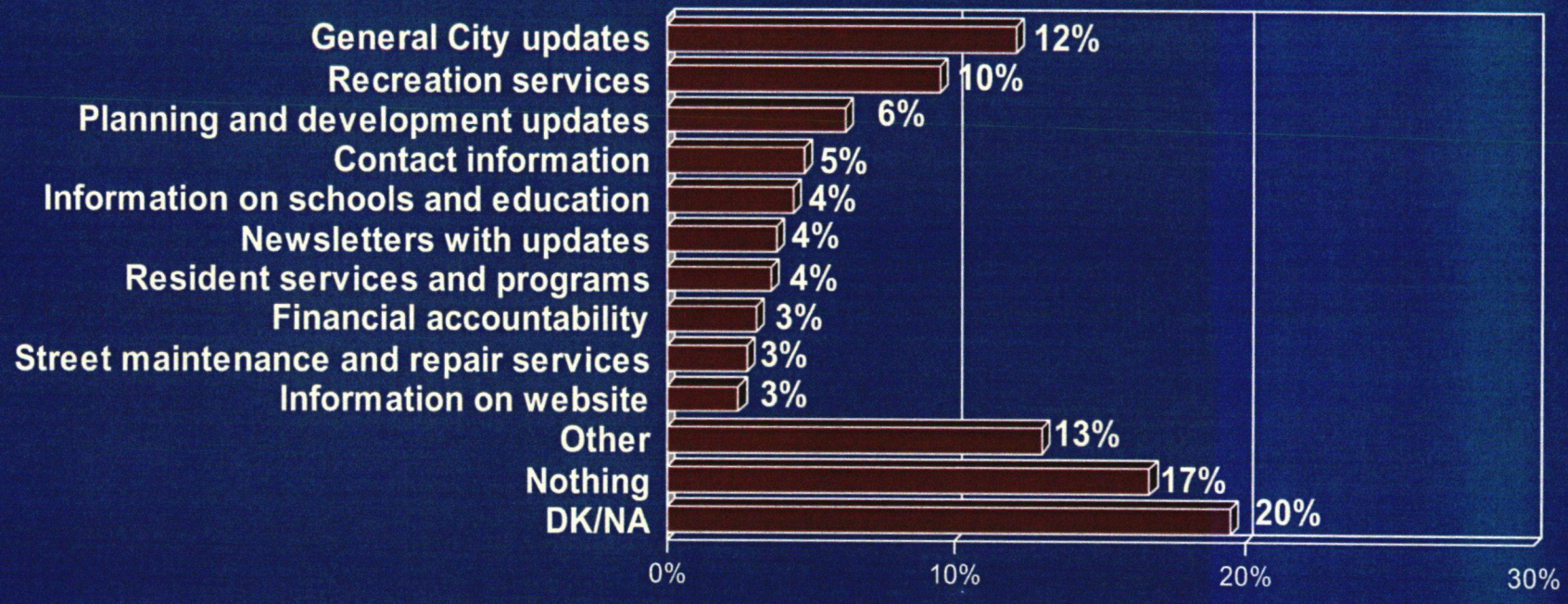
	Ethnicity					Length of Residence		
	Caucasian	Hispanic	Asian	African-American	Other/ Refused	Less than 5 years	5 to 15 years	More than 15 years
Total	326	57	41	45	37	170	157	173
Excellent	18.2%	16.4%	9.2%	19.6%	8.1%	14.0%	14.4%	21.1%
Good	44.6%	29.0%	45.7%	33.7%	36.3%	42.7%	42.6%	39.7%
Fair	22.3%	33.7%	31.7%	35.2%	32.1%	28.1%	22.1%	27.7%
Poor	4.7%	15.2%	4.3%	8.2%	10.0%	8.1%	9.7%	2.4%
Extremely poor	1.9%	0.0%	0.0%	3.3%	1.6%	0.9%	0.9%	3.1%
DK/NA	8.4%	5.6%	9.0%	0.0%	11.9%	6.1%	10.2%	6.1%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Desired Information on City Priorities

GODBE RESEARCH
Gain Insight

The 181 respondents who did not give a positive rating to the City's efforts in communicating about priorities, programs and services, were asked to indicate what they would like to know. As shown in the following chart, 37 percent of the respondents could not think of anything specific (17%) or gave no answer (20%). Otherwise, 12 percent expressed interest in getting general City updates, and another ten percent in getting information on recreation services. Few of the other responses include planning or development updates (6%), contact information (5%) information on schools and education (4%), and resident services and programs (4%).

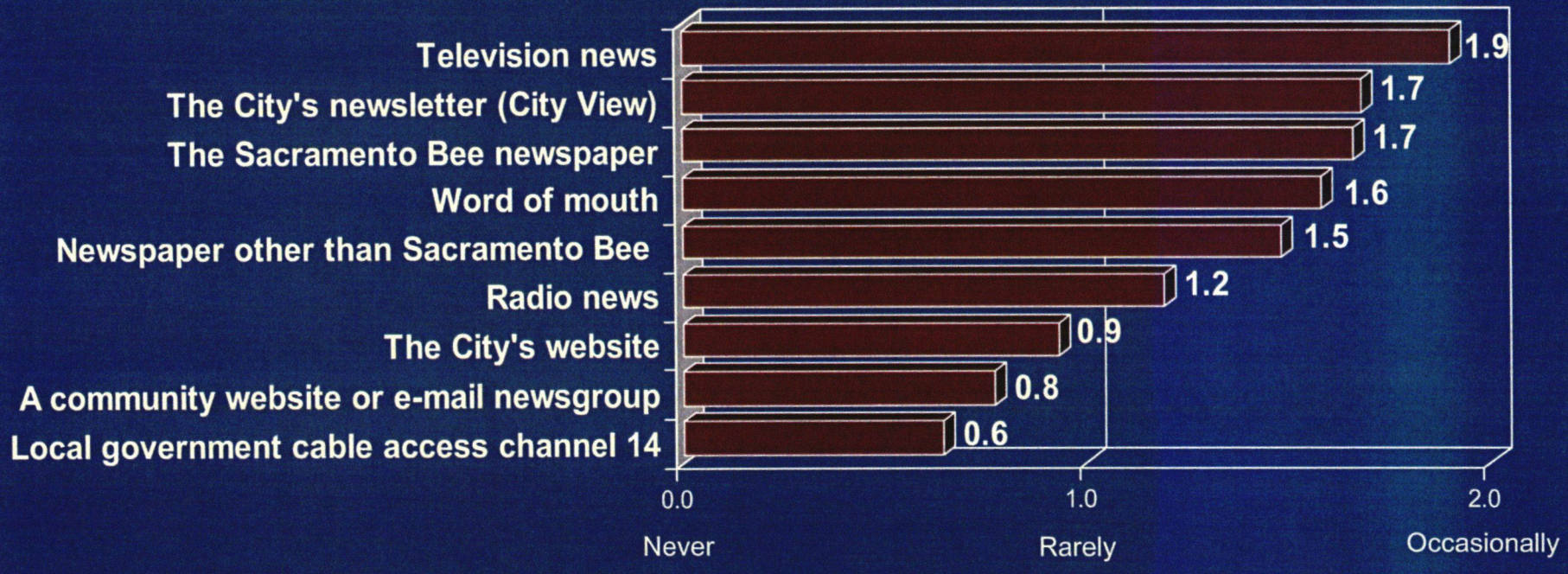


n = 181

Frequency of Using Information Sources

GODBE RESEARCH
Gain Insight

In the next question, the respondents were asked to rate the frequency of using nine sources for getting information about issues affecting the city. Overall, television news was the most frequently used information source that average Rancho Cordova resident used almost occasionally (1.9). In other words, 68 percent stated that they obtained information from this source frequently or occasionally. In the second tier were the City's newsletter (City View) and the Sacramento Bee, which 57 and 61 percent of the respondents, respectively, reported using at least occasionally. On the flip side, local government cable access channel 14 was the least frequently used information source with 61 percent never using this source.



Frequency of Using Information Sources
Comparison with 2006

GODBE RESEARCH
Gain Insight

When compared to 2006, more respondents in the current survey reported higher frequency of using the City website, the City newsletter and a community website or e-mail group. Meanwhile, there was a decrease in frequent and an increase in occasional TV news users, suggesting an overall decline in reliance on TV news.

	Survey Year	Frequently	Occasionally	Rarely	Never	DK/NA
28A. Television news	2006	51%	21%	16%	11%	0%
	2008	40%	28%	14%	18%	1%
28B. The Sacramento Bee newspaper	2006	40%	20%	12%	27%	1%
	2008	35%	22%	14%	28%	2%
28C. Radio news	2006	26%	26%	20%	29%	0%
	2008	18%	24%	15%	42%	1%
28D. The City's website, www.cityofranchocordova.org	2006	4%	18%	8%	67%	2%
	2008	9%	24%	19%	48%	2%
28E. The City's newsletter (City View)	2006	25%	26%	11%	35%	2%
	2008	32%	29%	11%	26%	3%
28F. A community website or e-mail newsgroup	2006	8%	11%	8%	72%	1%
	2008	9%	18%	14%	58%	2%
28G. Word of mouth	2006	25%	38%	13%	24%	0%
	2008	22%	36%	18%	23%	1%
28H. Local government cable access channel 14	2006	7%	14%	12%	66%	1%
	2008	5%	17%	15%	61%	3%
28I. A newspaper other than the Sacramento Bee (The Grapevine)	2006	29%	20%	10%	40%	1%
	2008	29%	23%	10%	35%	2%

Frequency of Using Information Sources
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Overall, the older Rancho Cordova residents used television news and the Sacramento Bee more frequently, while the younger residents used the City website more frequently. In particular, more of the senior residents reported watching TV news, more of the residents 30 and older used the City newsletter, those 50 and older were more likely to use the Sacramento Bee, and the adults under 65 were more frequent users of the City website. Otherwise, the Hispanic residents reported using the City newsletter and the Sacramento Bee less frequently to obtain information on city issues than their Caucasian, Asian and African-American counterparts.

	Age					Ethnicity				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Cauc-asian	Hisp-anic	Asian	African-American	Other/ Refused
28A. Television news	1.7	1.8	1.8	2.0	2.2	1.9	1.7	1.9	2.2	2.0
28E. The city's newsletter (city View)	1.1	1.8	1.7	2.0	1.9	1.7	1.1	1.7	2.0	1.6
28B. The Sacramento Bee newspaper	1.3	1.4	1.8	1.9	2.1	1.7	1.1	1.9	2.0	1.5
28G. Word of mouth	1.4	1.7	1.7	1.7	1.4	1.6	1.4	1.5	1.7	1.4
28I. A newspaper other than the Sacramento Bee	1.4	1.5	1.7	1.5	1.3	1.5	1.4	1.4	1.6	1.8
28C. Radio news	1.2	1.4	1.0	1.1	1.2	1.3	1.0	1.1	1.2	1.0
28D. The city website	0.9	1.3	1.1	0.8	0.3	0.9	0.8	1.1	1.3	1.1

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Frequency of Using Information Sources
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

More of the city residents for more than 15 years reported using the City newsletter to obtain information on local issues affecting Rancho Cordova, when compared to the residents for less than 5 years. Additionally, the Northeast residents used the City newsletter and the Sacramento Bee more, while the Anatolia residents reported a more frequent use of newspapers other than the Sacramento Bee. Similarly, more homeowners used the City newsletter and newspapers, including the Sacramento Bee, more frequently than renters.

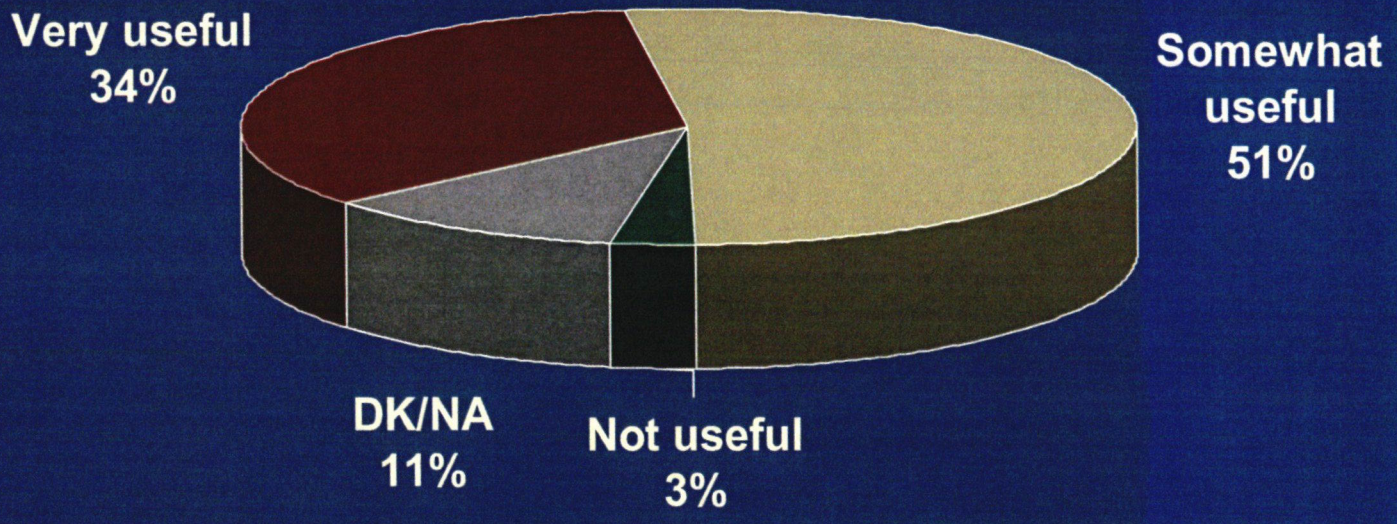
	Length of Residence			Area of Residence					Homeowner-ship Status	
	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Uncla-ssified	Own	Rent/ Other
28A. Television news	1.9	1.8	2.0	1.8	1.9	1.9	1.9	1.9	1.9	1.9
28E. The city's newsletter (city View)	1.5	1.7	1.8	1.8	1.8	1.5	1.7	1.3	1.8	1.4
28B. The Sacramento Bee newspaper	1.6	1.8	1.6	1.7	1.8	1.3	1.7	1.7	1.8	1.4
28G. Word of mouth	1.5	1.5	1.7	1.4	1.6	1.5	1.7	1.8	1.6	1.5
28I. A newspaper other than the Sacramento Bee	1.6	1.3	1.6	1.1	1.6	1.2	2.3	1.4	1.7	1.1
28C. Radio news	1.3	1.2	1.1	1.3	1.1	1.2	1.4	1.1	1.2	1.1
28D. The city website	1.0	1.0	0.8	0.7	1.0	1.0	1.2	0.7	1.0	0.9

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Usefulness of City Website

GODBE RESEARCH
Gain Insight

Eighty-five percent of the 258 respondents who reported using the City website at some frequency found the information presented to be useful (34% "Very Useful" and 51% "Somewhat Useful"). Only three percent thought that the information was not useful, while another eleven percent did not provide an answer.

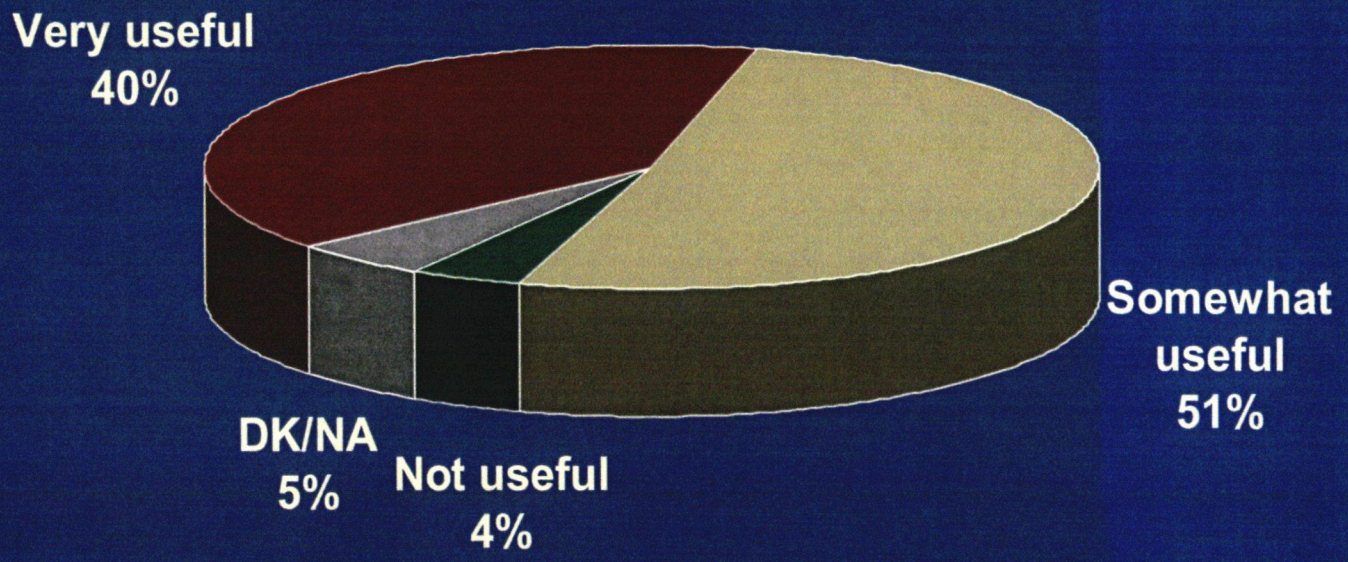


n = 258

Usefulness of City Newsletter

GODBE RESEARCH
Gain Insight

An overwhelming majority of the 361 respondents who reported having used the City newsletter as an information source found it to be useful. More specifically, 40 percent rated the newsletter to be "Very Useful" and 51 percent as "Somewhat Useful." Only four percent of the respondents thought that the newsletter was not a useful information source, while five percent did not give an opinion.



n = 361

Usefulness of City Newsletter
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Substantially more of those between 30 and 49, compared to those between 18 and 29 and 65 or older, found the City newsletter to be "Somewhat Useful." Likewise, a higher percentage of the Anatolia residents than those living in West Rancho Cordova found the newsletter to be "Somewhat Useful."

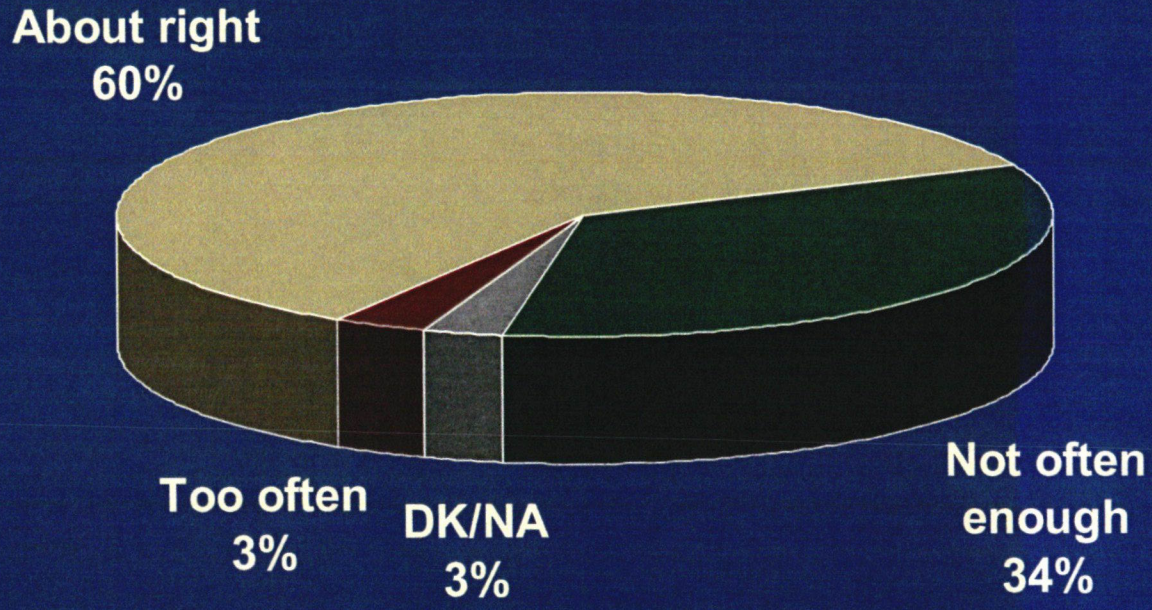
	Age					Area of Residence				
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	West RC	North-east RC	South-east RC	Anatolia	Unclassified
Total	56	96	58	83	56	68	155	56	42	41
Very useful	40.7%	39.1%	27.6%	47.4%	42.0%	36.4%	45.7%	40.1%	26.2%	36.8%
Somewhat useful	40.4%	58.0%	68.4%	36.8%	48.5%	55.3%	42.0%	56.0%	69.9%	48.3%
Not useful	9.0%	0.0%	1.6%	8.3%	3.6%	5.7%	3.3%	1.7%	0.0%	13.2%
DK/NA	9.9%	2.9%	2.5%	7.5%	5.9%	2.6%	9.0%	2.2%	3.9%	1.7%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Frequency of City Newsletter

GODBE RESEARCH
Gain Insight

When asked about the frequency of receiving the City newsletter, 60 percent stated that its frequency was about right, whereas 34 percent thought that its frequency was not often enough. Otherwise, only three percent of the respondents stated that they received the newsletter too often.



n = 361

Frequency of City Newsletter
Differences in Subgroups

GODBE RESEARCH
Gain Insight

Overall, compared to their respective counterparts, the residents 65 and older, those who have lived in the city for 5 years or more, and the homeowners found the frequency of receiving the City newsletter to be about right. By contrast, the 18- to 39-year-old residents, those who have lived in the city for less than 5 years, and the renters stated that they do not receive the newsletter often enough.

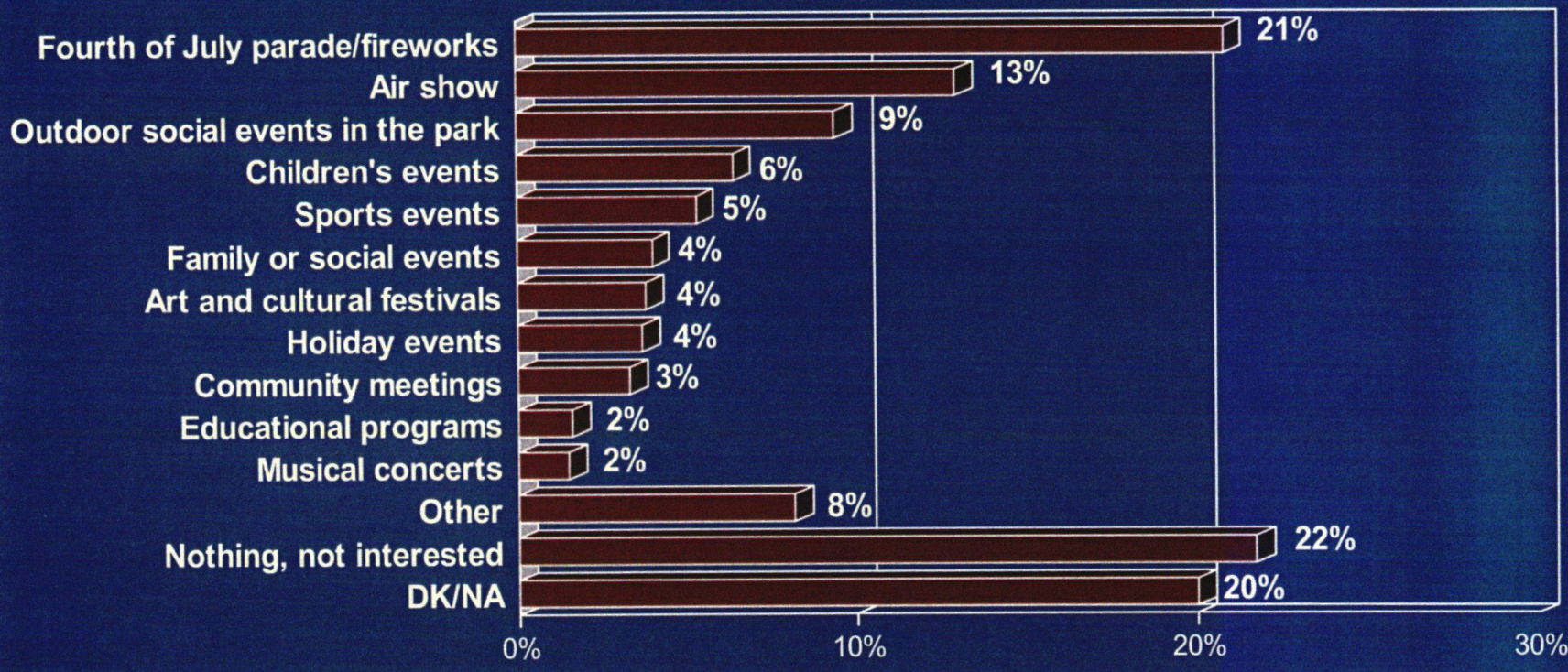
	Age					Length of Residence			Homeownership Status	
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Less than 5 years	5 to 15 years	More than 15 years	Own	Rent/ Other
Total	56	96	58	83	56	115	110	132	249	107
Too often	3.9%	1.3%	3.1%	2.7%	4.8%	3.0%	1.2%	4.1%	4.1%	0.0%
About right	51.7%	51.4%	60.1%	64.1%	75.5%	49.0%	65.6%	65.8%	64.1%	50.5%
Not often enough	42.5%	42.8%	36.7%	31.1%	17.2%	46.6%	29.3%	27.8%	30.1%	45.5%
DK/NA	1.9%	4.5%	0.0%	2.2%	2.4%	1.4%	3.9%	2.3%	1.7%	4.0%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Top Community Events

GODBE RESEARCH
Gain Insight

With respect to the community events in which the Rancho Cordova residents were most interested, the Fourth of July parade or fireworks received the most number of citations (21%), followed by the air show (13%) and outdoor social events in the park (9%). Some of the less prominent responses include children's events (6%), sports events (5%), family or social events (4%), art and cultural festivals (4%), and holiday events (4%). Otherwise, 22 percent of the respondents were not interested in community events, and another 20 percent did not know or gave no answer.



Top Community Events
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

Looking at subgroup differences, the 40- to 49 year-old residents were more interested in the Fourth of July parade or fireworks and the air show, when compared to those in the youngest and oldest adult age groups. Additionally, when compared to the residents for less than 5 years, those who have lived in Rancho Cordova for more than 15 years expressed more interest in the Fourth of July parade and fireworks.

	Age					Length of Residence		
	18 to 29	30 to 39	40 to 49	50 to 64	65 and older	Less than 5 years	5 to 15 years	More than 15 years
Total	110	122	77	104	73	170	157	173
Fourth of July parade/fireworks	12.7%	18.7%	39.8%	21.7%	17.7%	11.9%	21.3%	29.7%
Air show	7.2%	15.0%	16.5%	19.3%	6.2%	14.9%	11.2%	12.5%
Outdoor social events in the park	2.9%	11.6%	18.2%	9.2%	6.3%	6.5%	10.4%	11.2%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

Top Community Events
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

A higher percentage of the Anatolia residents than those living in other parts of Rancho Cordova were interested in the air show. Additionally, a higher percentage of the Northeast residents than those living in Southeast Rancho Cordova were interested in the Fourth of July parade or fireworks. Similarly, the top two community events were of interest to a higher percentage of the homeowners than the renters.

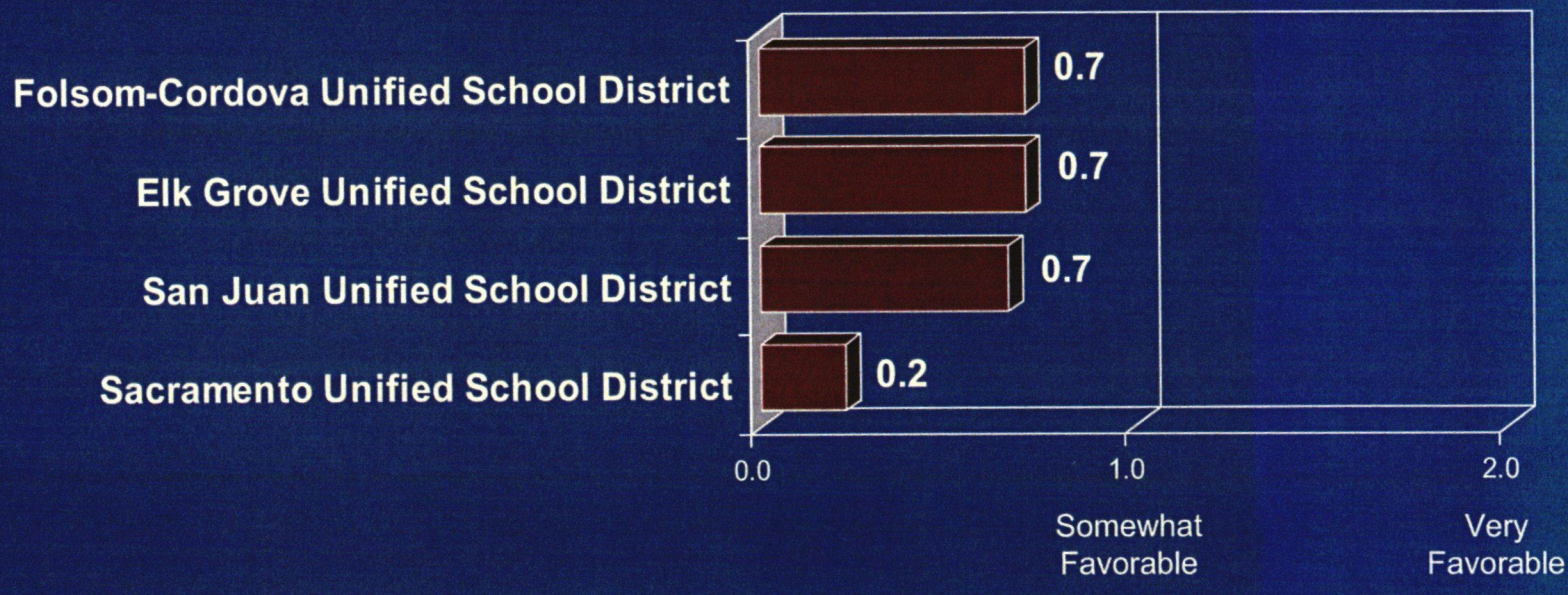
	Area of Residence					Homeownership Status	
	West RC	Northeast RC	Southeast RC	Anatolia	Unclassified	Own	Rent/ Other
Total	88	208	85	53	71	320	172
Fourth of July parade/fireworks	13.7%	**28.2%**	**12.6%**	19.9%	18.3%	**25.5%**	**13.3%**
Air show	**11.5%**	**12.8%**	**8.7%**	**30.5%**	**7.0%**	**16.2%**	**7.5%**
Outdoor social events in the park	11.1%	8.2%	12.1%	8.7%	7.8%	9.0%	10.4%

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

School District Ratings

GODBE RESEARCH
Gain Insight

With the final substantive question, the respondents were asked if they had a favorable or unfavorable opinion of the four school districts in the area. Between 39 to 55 percent of the respondents did not or could not provide an answer. This is reflective of the fact that only some 38 percent of the respondents had school-age children living in their households at the time of the survey. Otherwise, among those who did express opinions about the four school districts, overall, the average respondent did not even have a somewhat favorable opinion (lower than 1.0 mean score). In particular, Sacramento Unified School District garnered almost a neutral rating from those who had an opinion about it.



School District Ratings
Differences in Subgroups I

GODBE RESEARCH
Gain Insight

The female respondents in the survey had a more favorable opinion of Folsom-Cordova and Elk Grove Unified School Districts than the male respondents. In addition, the residents for 15 years or less had a more favorable opinion of Elk Grove Unified School District, when compared to the residents for a longer period. Otherwise, the residents of Southeast Rancho Cordova had a more favorable opinion of Folsom-Cordova Unified School District than the Anatolia residents.

	Gender		Length of Residence			Area of Residence				
	Male	Female	Less than 5 years	5 to 15 years	More than 15 years	West RC	North-east RC	South-east RC	Anatolia	Unclassified
33A. Folsom-Cordova Unified School District	0.5	0.9	0.7	0.7	0.7	0.6	0.7	1.1	0.2	0.7
33B. Elk Grove Unified School District	0.3	1.1	1.0	0.9	0.1	0.5	0.5	1.1	1.0	0.6
33D. San Juan Unified School District	0.6	0.8	0.8	0.7	0.4	0.7	0.6	1.1	0.3	0.7
33C. Sacramento Unified School District	0.1	0.4	0.4	0.2	0.1	0.6	0.0	0.3	-0.1	0.7

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.

School District Ratings
Differences in Subgroups II

GODBE RESEARCH
Gain Insight

Folsom-Cordova Unified School District garnered more favorable ratings from the renters, and from those with household income of less than $50,000 a year. Additionally, the respondents with household income of less than $50,000 a year had a more favorable opinion of Sacramento Unified School District than those with higher annual household income.

	Homeownership Status		Annual Household Income				
	Own	Rent/ Other	Less than $30,000	$30,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000 or more
33A. Folsom-Cordova Unified School District	0.5	1.1	1.2	0.9	0.7	0.4	0.0
33B. Elk Grove Unified School District	0.6	0.8	0.9	0.8	0.6	0.5	0.7
33D. San Juan Unified School District	0.6	0.9	1.0	0.9	0.5	0.4	0.5
33C. Sacramento Unified School District	0.1	0.5	0.9	0.7	0.0	-0.2	-0.6

Note: Significant differences at the 95% confidence level between subgroups on any given survey item are denoted by colors: a **blue** mean score or percentage figure is statistically higher than a **red** number between comparative groups, e.g., male vs. female, different age groups etc.