



AGENDA

SPECIAL MEETING OF THE CITY COUNCIL (not televised)
JANUARY 21, 2020 – 6:15 p.m.
Hillside Conference Room

**CONCURRENT SPECIAL MEETING OF THE
EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY
AND REGULAR MEETING OF THE CITY COUNCIL**
JANUARY 21, 2020 – 7:00 p.m.
City Council Chambers

Meeting Location:
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Members:
Mayor Gregory B. Lyman

Mayor Pro Tem Paul Fadelli • Councilmember Janet Abelson
Councilmember Rochelle Pardue-Okimoto • Councilmember Gabriel Quinto

6:15 ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items on the special meeting agenda only.

2. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Action Proposed: Staff requests that City Council confer with staff regarding the ongoing recruitments, any remaining vacancies, consider pending applicants, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

Contact: Holly M. Charléty, City Clerk, City Management

3. CLOSED SESSION CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Karen Pinkos, City Manager; Glenn Berkheimer, Labor Negotiator; Sky Woodruff, City Attorney; Alexandra Orologas, Assistant City Manager; and Kristen Cunningham, Human Resources Manager.

Employee Organizations: El Cerrito Police Employees Association; Public Safety Management Association - Battalion Chief Unit; Public Safety Management Association - Police Management Unit; and Service Employees International Union (SEIU) Local 1021.

Contact: Sky Woodruff, City Attorney, City Management

4. ADJOURN SPECIAL CITY COUNCIL MEETING

7:00 ROLL CALL – CONVENE CONCURRENT SPECIAL MEETING OF THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY AND REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE - *Councilmember Quinto*

2. COUNCIL/STAFF COMMUNICATIONS

Reports of closed session, commission appointments and informational reports on matters of general interest which are announced by the City Council and staff.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the City Council or staff request separate consideration.

A. Approve the 2020 Regular Meeting Schedule for City Council

Action Proposed: Pass a motion to approve the regular meeting schedule for 2020, which includes reducing to the third Tuesday only for the months of March and November due to elections; and the third Tuesday only for the summer months of July, August and September.

Contact: Holly Charl  ty, City Clerk, City Management

B. CCTA Transportation Expenditure Plan Measure J

Action Proposed: At the request of Mayor Pro Tem Fadelli, Receive and file a brief report of details regarding Measure J on the March 3, 2020 Ballot.

Contact: Holly M. Charl  ty, City Clerk, City Management

C. Hillside Natural Area Trail Naming

Action Proposed: Adopt a resolution confirming historical trail names and adding names to newer trails in the Hillside Natural Area as recommended by the El Cerrito Park and Recreation Commission.

Contact: Christopher Jones, Recreation Director, Recreation Department

D. Consulting Services Agreement with Zoon Engineering for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078

Action Proposed: Adopt a resolution authorizing the City Manager to execute a consulting services agreement with Zoon Engineering to provide construction management services for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 in the amount of \$66,000 and approve a contingency amount not to exceed \$7,000.

Contact: Ana Bernardes, Senior Engineer/Engineering Manager
Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

E. Construction Contract Award for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078

Action Proposed: Adopt a resolution approving plans and specifications for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 (Project); accepting the eight bids submitted for the Project; authorizing the City Manager to execute a contract in the amount of \$452,825 with GradeTech Inc. and to approve change orders in an amount not to exceed \$50,000 for the construction of the Project; and amending the Fiscal Year (FY) 2019-20 Adopted Budget and Capital Improvement Program, including the Annual Program of Maintenance and Improvement pursuant to the Measure A, to appropriate \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund for the Project.

Contact: Ana Bernardes, Senior Engineer/Engineering Manager
Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

F. REDEVELOPMENT AGENCY SUCCESSOR AGENCY ITEM Review and Authorization to Submit the Draft Annual Recognized Obligations Payment Schedule 20-21 (July 1, 2020 - June 30, 2021)

Action Proposed: Adopt a Redevelopment Agency Successor Agency Resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule (ROPS) 20-21.

Contact: Shannon Collins, Finance Supervisor, Finance Department

5. PRESENTATIONS

A. El Cerrito Police Department Drone (UAS) Policy

Action Proposed: Receive and file a presentation reviewing the Unmanned Aerial Systems (UAS) Operations Policy for the El Cerrito Police Department.

Contact: Paul Keith, Chief of Police, Police Department

B. Urban Forest Committee Update

Action Proposed: Receive and file.

Contact: Mary Torrusio, Chair of Urban Forest Committee

C. Fiscal Update

Action Proposed: Receive and file a brief update on the City's financial position, overview of upcoming strategic plan, and biennial budget process.

Contact: Karen Pinkos, City Manager, City Management
Mark Rasiah, Finance Manager, Finance Department

6. PUBLIC HEARINGS

A. 7952 Terrace Drive Tentative Parcel Map (*Public Hearing Noticed 1/11/2020*)

Action Proposed: Conduct a public hearing, and upon conclusion: (1) Adopt a resolution adopting an Addendum to the Initial Study/Mitigated Negative Declaration (IS/MND) for the 7952 Terrace Drive Subdivision Map; and (2) Adopt a resolution approving a Tentative Parcel Map for a two-lot subdivision and an exception to Title 18 of the City's Municipal Code for a minor subdivision proposing a lot without frontage on a public street at 7952 Terrace Drive.

Contact: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager, Community Development Department

B. Extension of Urgency Ordinance Amending Accessory Dwelling Unit Regulations (*Interim Urgency Ordinance Extension, 4/5 Vote Required, Public Hearing Noticed 01/11/2020*)

Action Proposed: Conduct a public hearing and upon conclusion adopt the attached interim urgency ordinance making findings and extending urgency Ordinance 2019-10 regarding accessory dwelling unit regulations. A four-fifths vote of the City Council is necessary to extend an interim urgency ordinance.

Contact: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager, Community Development Department

C. Purchase and Sale Agreement 6111 Potrero Avenue and 11335-41 San Pablo Avenue (*Public Hearing Noticed 1/11/2020*)

Action Proposed: Staff recommends the City Council conduct a public hearing and adopt a resolution authorizing execution of a Purchase and Sale Agreement with Potrero Ave Partners, LLC (“Buyer”) for the disposition and subsequent development of 6111 Potrero Avenue and 11335-41 San Pablo Avenue (APNs 513-372-018 and -015).

Contact: Melanie Mintz, Community Development Director; Aissia Ashoori, Housing and Economic Development Analyst, Community Development Department

7. POLICY MATTERS

A. Study Session on Project Stabilization Agreement for the City of El Cerrito with the Contra Costa Building and Construction Trades Council

Action Proposed: Discuss and provide direction to staff regarding negotiation of a Project Stabilization Agreement for the City of El Cerrito.

Contact: Karen Pinkos, City Manager, City Management

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, February 4, 2020 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, 510-215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- **The Deadline for agenda items and communications** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 510-215-4305 Fax: 510-215-4379, email cityclerk@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.



AGENDA BILL

Agenda Item No. 2.

Date: January 21, 2020
To: El Cerrito City Council
From: Holly M. Charl  ty, City Clerk, City Management
Subject: Commission Interviews, Status And Appointments

ACTION PROPOSED

Staff requests that City Council confer with staff regarding the ongoing recruitments, any remaining vacancies, consider pending applicants, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

Interviews that have been previously conducted and are still under consideration for appointment are as follows:

George Gager	Arts & Culture Commission	Interviewed 1/7/2020
Thomas Minter	CC Mosquito and Vector Control District	Interviewed 12/17/2019

BACKGROUND /ANALYSIS

City staff continues to publicize board, commission and committee vacancies as they occur. Vacancies are published on the City's website and in the West County Times, and posted at City Hall, the Community Center and Library. Staff is also utilizing social media outlets to increase awareness and opportunities for citizens to participate by attending meetings and/or serving on a board, commission or committee.

STRATEGIC PLAN CONSIDERATIONS

This section is not applicable to this agenda item.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This section is not applicable to this agenda item.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:



Holly Charléty, City Clerk

Attachments:

Application(s) on file with the City Clerk's Office.

1. Commission Matrix CURRENT

Commission Vacancies/Application Status

AM = Attending Meetings

* = Upcoming Vacancies

Advisory Body (Current Vacancies)	CC Mosquito & Vector Control (1)	Arts & Culture Commission (1)	Committee on Aging (3)	Crime Prev. Committee (11)	Economic Dev. Committee (7)	Financial Advisory Board (1)	Human Relations Commission (1*)	Park & Recreation Commission (1)	Planning Commission (1*)	Urban Forest Committee (10)	Date Application Received	Notes/Status	Council Interview Date
Pending Applicants													
Ramsey AlQaisi				AM							10/8/2019	No meetings attended	
Viviona Dhillon					AM					AM	11/12/2019	1 EDC meeting attended, no UFC	
George Gager		X		AM							12/11/2019	Current ACC Member seeking second term, pending council decision . EDC & TPC member; 1 CPC meeting attended	1/7/2020
Erica Hennes					AM						12/19/2019		
Dorothy Herzberg			AM	AM							12/3/2019	1/7 Interviewed for ACC, not appointed; 2 CPC meetings attended	
Kirsten Meder					AM					AM	8/13/2019	1 UFC meeting attended, no EDC	
Rachel Melby					AM						1/7/2020	1/8 declined interview for ACC , pending EDC vote to appoint.	
Thomas Minter	X				AM						10/21/2019	12/17/19 - Interviewed for DRB (not appointed). Confirmed interest in CCMVCB	1/7/2020
Susan Russell										AM	4/15/2019	1 UFC meeting attended	
Frederick Shaw			AM	AM							4/22/2019	1 COA meeting attended, no CPC	
Mark Sifling					AM					AM	10/16/2019	1 EDC meeting attended, 1 UFC meeting attended	
David Van Etten			AM		AM						7/16/2019	2 COA meetings attended, no EDC	
Bruce Yow			AM			X					12/10/2019 /2/2020	Current member of CSC and CPC, appointed to CCTA CAC	



2020 Regular Meeting Schedule for City Council

Agenda Item No. 4.A.

City Holiday/Closed

Budget Town Hall Meeting

Council Meeting

Regular start time at 7:00 p.m.

City Hall Council Chambers

10890 San Pablo Avenue

JANUARY 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
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FEBRUARY 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
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23	24	25	26	27	28	29

MARCH 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
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29	30	31				

APRIL 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
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MAY 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
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24	25	26	27	28	29	30
31						

JUNE 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
	1	2	3	4	5	6
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14	15	16	17	18	19	20
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28	29	30				

JULY 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
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AUGUST 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
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SEPTEMBER 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

OCTOBER 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
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NOVEMBER 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
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29	30					

DECEMBER 2020

Sun	Mon	Tue	Wed	Thur	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Notes: 3/3 and 11/3 cancelled due to elections, reduced to 3rd Tuesday only for summer months.



AGENDA BILL

Agenda Item No. 4.B.

Date: January 21, 2020
To: El Cerrito City Council
From: Holly M. Charléty, City Clerk, City Management
Subject: CCTA Transportation Expenditure Plan Measure J

ACTION PROPOSED

At the request of Mayor Pro Tem Fadelli, Receive and file a brief report of details regarding Measure J on the March 3, 2020 Ballot.

BACKGROUND/ANALYSIS

The Contra Costa Transportation Authority (Authority) has placed a one-half of one percent sales tax measure to fund transportation improvements in Contra Costa on the March 3, 2020 Ballot. The Contra Costa County Election Department has assigned it as Measure J.

On October 1, 2019 the City Council passed Resolution 2019-61 in support of placing the measure on the ballot and the adoption of the proposed 2020 Transportation Expenditure Plan (TEP). Subsequently, on October 30, 2019, the Authority Board approved the TEP and accompanying ordinance to impose a sales tax if approved by two-thirds of voters, and requested that the Contra Costa County Board of Supervisors place the measure on a special election ballot in March 2020. All of the city councils in the County supported the action.

The proposed sales tax increase for transportation purposes would be for a period of 35 years starting July 1, 2020 through June 30, 2055. The proposed TEP would guide the use of the proposed sales tax revenues, and includes a revised Growth Management Program, a new Complete Streets Policy, a new Road Traffic Safety Policy, a new Transit Policy, and a new Advance Mitigation Program to help the Authority achieve its goals to reduce future congestion, manage the impacts of growth, and expand alternatives to the single-occupant vehicle.

Currently, transportation needs significantly exceed projected revenues. Over the next 35 years, Contra Costa County population will continue to grow, resulting in new demands on the transportation infrastructure and additional mobility needs. The new sales tax measure is needed to keep Contra Costa County moving and to create livable and sustainable communities.

The proposed sales tax measure is expected to generate \$3.6 billion (current dollars). The TEP includes stable and reliable funding (17.4% of overall funding) to each city and town and Contra Costa County for maintenance and improvement of local roads. This is equivalent to 18% of the sales tax revenues for the Central, East, and

Southwest subregions and 15.2% of sales tax revenues for the West subregion of Contra Costa County, which includes El Cerrito.

El Cerrito residents could benefit from the additional community-based funding including bus and public transit, pedestrian and bicycle improvements on trails and streets, safe transportation for students, seniors and people with disabilities, and technology solutions to reduce emission and improve air quality.

Information regarding the March 3, 2020 election can be found at <https://www.cocovote.us/current-and-past-elections/>

Information regarding the Transportation Expenditure Plan can be found at www.ccta.net/theplan

STRATEGIC PLAN CONSIDERATIONS

The City's support of Measure J is consistent with the following El Cerrito Strategic Plan Goals:

- Goal B – Achieve long-term financial sustainability by continuing to pursue and support opportunities for new funding, including outside grants and ballot measures; and
- Goal D – Develop and rehabilitate public facilities as community focal points by helping to develop a plan to address ongoing and deferred maintenance of facilities and infrastructure; and
- Goal F – Foster environmental sustainability citywide by encouraging alternative modes of transportation to the single occupancy vehicle.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

If adopted and approved by the voters, the new sales tax measure can be expected to have a positive fiscal benefit to the City, by providing an additional and extended source of revenue for transportation projects and programs. The City would receive approximately \$386,000 per year in return to source funds from the measure. Additional funds will be available through grants for future transportation projects.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos". The signature is fluid and cursive, with the first name "Karen" and last name "Pinkos" clearly distinguishable.

Karen Pinkos, City Manager

Attachments:

1. Adopted Resolution of Support

RESOLUTION 2019-61

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO SUPPORTING THE COUNTYWIDE IMPOSITION OF ONE-HALF OF ONE PERCENT SALES TAX TO FUND TRANSPORTATION IMPROVEMENTS IN CONTRA COSTA COUNTY AND ADOPTING THE PROPOSED TRANSPORTATION EXPENDITURE PLAN (TEP) CONDITIONALLY AMENDING THE GROWTH MANAGEMENT PROGRAM (GMP), WHICH INCLUDES ATTACHMENT A: PRINCIPLES OF AGREEMENT FOR ESTABLISHING THE URBAN LIMIT LINE (ULL) IN THE MEASURE J TEP TO MATCH THAT FOUND IN THE 2020 TEP

WHEREAS, the Contra Costa Transportation Authority (hereinafter "Authority") proposes the countywide imposition of a one-half of one percent sales tax for transportation purposes for a period of 35 years effective July 1, 2020 through June 30, 2055; and

WHEREAS, the Authority has administered a one-half of one percent sales tax for transportation purposes since its inception on April 1, 1989; and

WHEREAS, the Authority conducted extensive consultations with local governments and conducted outreach to a wide variety of interest groups and the public in order to develop a TEP proposing a potential mix of projects and programs to be funded by the proposed sales tax; and

WHEREAS, on August 28, 2019, the Authority authorized the release of a proposed TEP reflecting the results of that consultation and outreach, and seeking concurrence on the proposed TEP from Contra Costa County and the cities/towns within Contra Costa County; and

WHEREAS, on August 28, 2019, the Authority adopted Ordinance 19-01 to conditionally amend the GMP, which includes Attachment A: Principles of Agreement for Establishing the ULL in the Measure J Transportation Expenditure Plan ("Measure J TEP") to match that found in the 2020 TEP. This amendment would only apply if the one-half of one percent local transportation sales tax is placed on the ballot and successfully approved by the electors on the March 2020 ballot; and

WHEREAS, the proposed TEP includes measures that help reduce future congestion, manage the impacts of growth, and expand alternatives to the single-occupant vehicle; and

WHEREAS, if the proposed TEP is ultimately adopted by the Authority and approved by the voters, the TEP would guide the use of the proposed sales tax revenues; and

WHEREAS, pursuant to Public Utilities Code § 180206(b), a TEP may not be adopted by the Authority until and unless the proposed TEP has received the approval of the County Board of Supervisors and city/town councils representing both a majority of the cities/towns in Contra Costa County and a majority of the population residing in the incorporated areas of Contra Costa County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby finds that the proposed TEP is not subject to the California Environmental Quality Act of 1970 ("CEQA") because the proposed TEP is not a project within the meaning of CEQA, and the Council's adoption of this resolution does not commit the Council to a definite course of action with regard to any specific transportation improvements set forth in the proposed TEP (See 14 California Code of Regulations (CCR), § 15378, 15352). Specifically, the Council's adoption of this resolution does not constitute the approval of a CEQA project for reasons that include, but are not limited to: (1) the proposed TEP does not authorize the construction of any projects that may result in any direct or indirect physical change in the environment; (2) the proposed TEP is a mechanism for funding potential future transportation projects, the timing, approval, and construction of which may be modified or not implemented depending on a number of factors, including future site-specific CEQA environmental review; and (3) the proposed TEP is subject to further discretionary approvals insofar as it may not be adopted until and unless the pre-conditions set forth in the Public Utilities Code are satisfied. (See 14 CCR, § 15378, 15352; Public Utilities Code § 180206(b)).

BE IT FURTHER RESOLVED, that the City Council of the City of El Cerrito hereby approves, for the limited purpose identified in Public Utilities Code, § 180206(b), the proposed TEP released by the Authority on August 28, 2019.

BE IT FURTHER RESOLVED, that the City Council of the City of El Cerrito urges the Authority, consistent with the provisions of Public Utilities Code § 180206, to adopt the proposed TEP.

BE IT FURTHER RESOLVED, that the City Council of the City of El Cerrito urges the County Board of Supervisors, consistent with Public Utilities Code, § 180203, to place the one-half of one percent local transportation sales tax on the March 3, 2020 ballot.

BE IT FURTHER RESOLVED, that the City Council of the City of El Cerrito approves of the conditional amendment to the GMP, which includes Attachment A: Principles of Agreement for Establishing the ULL in the Measure J TEP to Match that Found in the proposed TEP, acknowledging that this amendment would only apply if the one-half of one percent local transportation sales tax is placed on the ballot and successfully approved by the electors on the March 3, 2020 ballot.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on October 1, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman and Quinto
NOES:	None
ABSTAIN:	None
ABSENT:	None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October 3, 2019.



Holly M. Charléty, City Clerk

APPROVED:



Rochelle Pardue-Okimoto, Mayor



AGENDA BILL

Agenda Item No. 4.C.

Date: January 21, 2020
To: El Cerrito City Council
From: Christopher Jones, Recreation Director, Recreation Department
Subject: Hillside Natural Area Trail Naming

ACTION PROPOSED

Adopt a resolution confirming historical trail names and adding names to newer trails in the Hillside Natural Area as recommended by the El Cerrito Park and Recreation Commission.

BACKGROUND AND ANALYSIS

In 2015 the El Cerrito Trail Trekkers received a technical assistance grant from the National Park Service to develop a Citywide Trails Signage Plan. In January of 2016 the El Cerrito Park and Recreation Commission voted to recommend that funding from Measure WW, approved by voters in the East Bay Regional Park District in November 2008, be set aside to finance the installation of wayfinding signs in the Hillside Natural Area (HNA). This recommendation was confirmed by the City Council with the adoption of the 2016-17 Fiscal Year City Budget as part of the Capital Improvement Plan (CIP). In July of 2017, the Park and Recreation Commission endorsed the final version of the Trails Signage Plan produced by the National Park Service in consultation with the Trail Trekkers and City Staff. Part of this plan included Gateway and Trail Entry Point Signs with a map of the Hillside Natural Area including trails and trail names. There is no indication that the City Council has ever taken action to formally name the trails in the HNA and the informal names in use today were derived a few different ways that are mostly historical or descriptive in origin.

Historical Names

1. Forest Brown Trail: Named after the owner of the Brown and Hutchison Quarry whose donation of property led to the creation of the Hillside Natural Area.
2. Ken Smith Trail: Was City Manager for many years in the 1950s and 60s who wrote the plan that led to the parks ballot measure that built most of the City's parks.
3. Motorcycle Hill Trail: Built and named by members of the El Cerrito Trail Trekkers in recognition of this part of the HNA's historical usage as a venue for motorcycle competitions.
4. Navellier Trail: named after the historical Navellier Family in El Cerrito; begins on the street that shares its name and extends to the Regency Court Gateway

Descriptive Names

1. Julian Steps: staircase from Julian Drive that leads east to Madera Circle and west into the Madera Open Space.
2. Live Oak Trail: Oak trees line and, in many areas, cover this trail
3. Lower Trail: Begins 100 feet into the Hillside Natural Area from the Schmidt Lane entrance; runs along neighboring properties' fences
4. Lower and Upper Snowden Trails: Connects Motorcycle Hill to former EBMUD reservoir site and Snowden Avenue
5. Madera-Julian Trail: Connects the Madera Open Space with the steps to Julian Drive
6. Ridge Trail: Highest trail in park, runs along a ridge
7. Wildwood Creek Trail: Short, level trail that runs along the partially channelized Wildwood Creek

Prior to the installation of the wayfinding signs in the HNA, staff determined that the trail names should be reviewed by the Park and Recreation Commission and then submitted to the City Council in order to comply with the City's Administrative Policy/Procedure I A 4: Naming or Memorializing of City Facilities or Resources. In April 2019, the Park and Recreation Commission discussed the naming of trails and determined to keep most of the informal names but to also find new names for more recent connector trails and for trails named after the streets that they connect with (i.e. Upper and Lower Snowden, Madera-Julian Trail, etc.). The Commission appointed an ad-hoc subcommittee consisting of Commissioners La Force and (now former Commissioner) Sunseri. Their task was to engage various stakeholders to develop a list of names that represented El Cerrito's History. Commissioners reached out to the public including to members of the El Cerrito Trail Trekkers, El Cerrito Historical Society, various Native American Tribes with historical ties to modern day El Cerrito, a local historian, and some park professionals. The Commission held regular updates and discussion at their meetings in May, June and July and finalized their recommendation in August 2019 (see Table 1 below). During this time the City Council received a request from the Confederated Villages of Lisjan on July 2019 for additional time to formulate a recommendation, but ultimately no comments were received.

Table 1 - Trail Name Recommendations

Original/Informal Trail Name	Recommended Trail Name	Context Of New Names
1. Forest Brown Trail	Keep Name	
2. Ken Smith Trail	Keep Name	
3. Motorcycle Hill Trail	Keep Name	
4. Navellier Trail	Keep Name	

5. Julian Steps	Keep Name	
6. Live Oak Trail	Keep Name	
7. Lower Trail	Huchiun Trail	Name of the tribe of Ohlone who occupied the land that is in El Cerrito and surrounding cities.
8. Lower Snowdon Trail	Castro Trail	Present day El Cerrito, and surrounding communities, were once part of Don Victor Castro's Rancho San Pablo, a land grant from the Mexican government to the Castro Family.
9. Upper Snowden Trail	Peralta Trail	Modern day Motorcycle Hill was often referred to as Peralta Hill in the early 20th Century
10. Madera-Julian Trail	Chochenyo Trail	Chochenyo is the name of the language spoken by the Huchiun people
11. Ridge Trail	Keep Name	
12. Wildwood Creek Trail	Keep Name	
13. Unnamed Connector Trail	Little Hill Trail	The English translation of "El Cerrito"
14. Unnamed Connector Trail	Madera Trail	Acknowledges area that the trail connects: Madera Open Space, Madera School and Madera Circle

The trail locations are shown on the attached map (Attachment 2).

The City Administrative Policy/Procedure I A 4: Naming or Memorializing of City Facilities or Resources states that "It is the policy of the City of El Cerrito to encourage the dedication of land or funds for public use in recognition of achievements by community member, to identify area or facilities according to geographic location and function, to ensure the enhancement of the City's values and heritage or for other reasons that the City Council determines". The trail names recommended for City Council approval by the El Cerrito Park and Recreation Commission largely reflect El Cerrito's heritage as well as identifying geographic location and function.

STRATEGIC PLAN CONSIDERATIONS

The naming of the trails in the Hillside Natural Area will help achieve Goal C - Deepen a sense of place and community identity - by memorializing different aspects of modern day El Cerrito's history and preserving this knowledge on the wayfinding signs that will be installed in the Hillside Natural Area.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

Formalizing and creating new trail names in the Hillside Natural Area will have no direct financial impact on the City. This project, recommended by the Park and Recreation Commission and adopted by the City Council in the Capital Improvement Project (CIP) budget represents the final project funded by Measure WW, a measure based by voters in the East Bay Regional Park District. The new names will be incorporated on to the HNA wayfinding signs. The total Measure WW budget for the HNA is \$48,000 of which \$16,352.50 has been spent on the entry stairs to Motorcycle Hill and wayfinding sign design leaving \$31,647.50 for sign purchase and installation.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Hillside Natural Area Map with Proposed Names
3. Administrative Policy-Procedure I A 4 with completed application

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO NAMING THE TRAILS IN THE HILLSIDE NATURAL AREA PER EL CERRITO ADMINISTRATIVE POLICY/PROCEDURE I A 4

WHEREAS, the City of El Cerrito Administrative Policy/Procedure I A 4 allows for the naming of City facilities and resources to, amongst other reasons, recognize El Cerrito's heritage and identify geographical locations and functions; and

WHEREAS, the need to formally name the trails in the Hillside Natural Area came about thanks to the successful application for a grant from the National Parks Service to the El Cerrito Trail Trekkers to develop a citywide wayfinding signage program; and

WHEREAS, the El Cerrito Park and Recreation Commission voted in January of 2016 to recommend the allocation of funds from Measure WW to develop, create, and install the wayfinding signs in the Hillside Natural Area and this project was later adopted into the City's Capital Improvement Program (CIP) by the City Council; and

WHEREAS, the Park and Recreation Commission, in April of 2019, decided to seek out some new trail names for the Hillside Natural Area that reflected the history of the land of modern day El Cerrito and in August of 2019 voted to approve the names below whose locations are referenced on Attachment 2 to the staff report.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby names the trails in Hillside Natural Area as listed below and as demonstrated on Attachment 2 to the staff report.

1. Forest Brown Trail	6. Live Oak Trail	11. Ridge Trail
2. Ken Smith Trail	7. Huchiun Trail	12. Wildwood Creek Trail
3. Motorcycle Hill Trail	8. Castro Trail	13. Little Hill Trail
4. Navellier Trail	9. Peralta Trail	14. Madera Trail
5. Julian Steps	10. Chochenyo Trail	

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on January 21, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

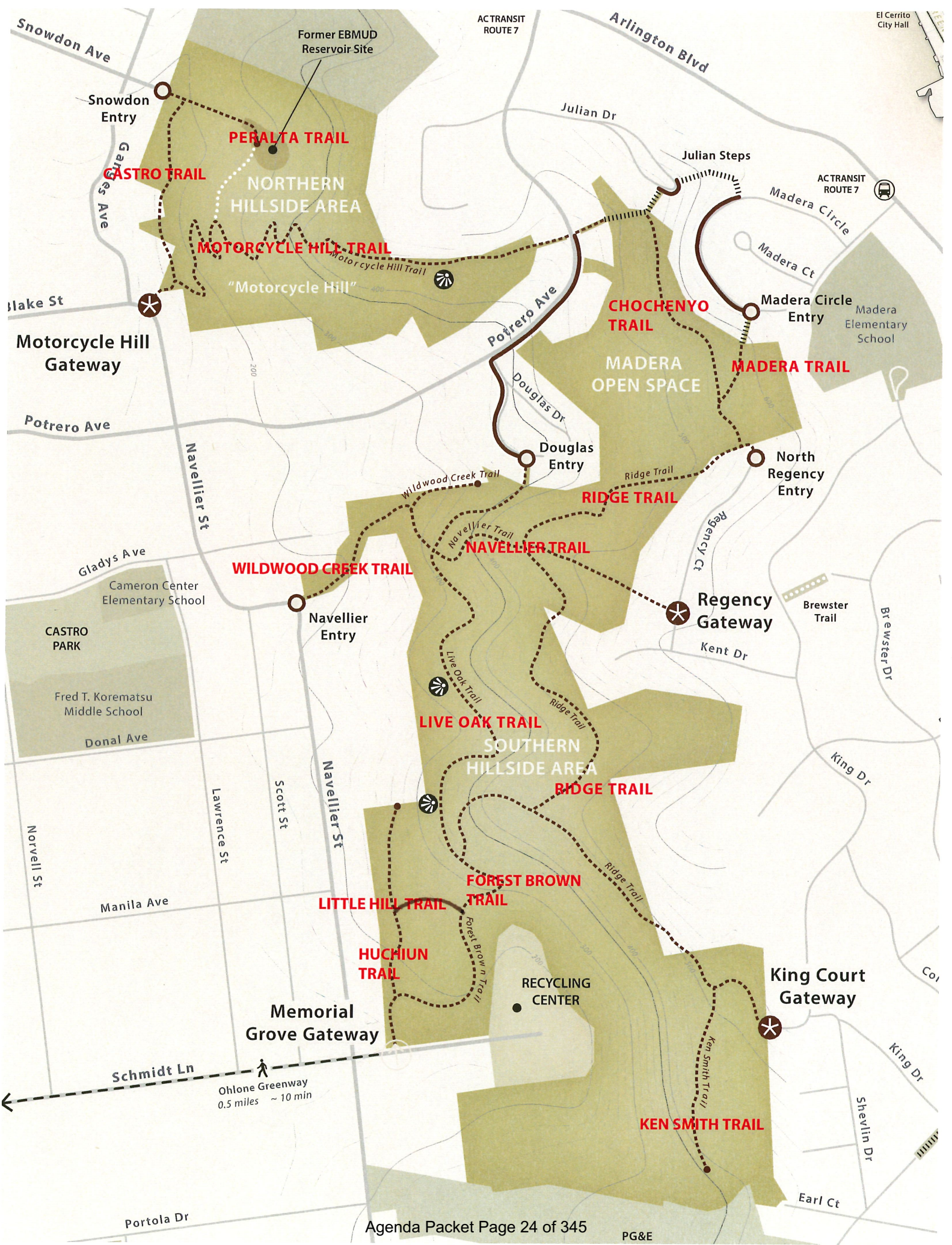
AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charléty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



CITY OF EL CERRITO

ADMINISTRATIVE POLICY/PROCEDURE

SUBJECT: NAMING OR MEMORIALIZING OF CITY FACILITIES OR RESOURCES

NUMBER: I A 4

DATE: August 2005

AUTHORITY: City Manager

PURPOSE: To specify the City's objectives and procedures in the naming or memorializing of public facilities and/or resources.

POLICY: It is the policy of the City of El Cerrito to encourage the dedication of land or funds for public use in recognition of achievements by community members, to identify areas or facilities according to geographic location and function, to ensure the enhancement of the City's values and heritage or for other reasons that the City Council determines.

- A. Service Recognition – A facility, section of facility or City resource might be named in recognition of important services provided by individuals, groups and organizations. Typically, the contribution would have had a recognized direct, positive impact on the community; been outside the normal profit-making function of the individual or organization; and taken place over a period of years.
- B. Monetary, Capital or Material Contributions – A facility, section of facility or City resource may be named for a person, group or organization if the monetary contribution exceeds 50 percent of the capital cost of the facility or section; the honoree has a record of good citizenship; and the request for the specific name is made at the time of the donation.
- C. Nominations – Nominations for the naming or memorializing of City facilities or resources may come from any source. The City Council may itself propose the naming. Commissions, community groups and individuals may all submit requests for the naming of facilities (see attached "naming" form).

- D. Council Consideration - Nominations and any related stipulations are considered by the City council at a regular meeting. Public testimony is permitted. Approval of a naming request requires a City Council majority.
- E. Name Change – A facility may be renamed when the current name is deemed inappropriate or when an event of national or great local significance occurs. Generally, a change of name shall not occur within two years of the original naming.
- F. Plaques and Markers – Plaques and markers may be used to honor individuals, groups or organizations or to designate historical locations. Plaques and markers will be appropriately designed and placed in a manner serving the best interests of the community.
- G. Rejection of Request – The City reserves the right to reject any request for memorializing a City facility or property or for a plaque or marker.

PROCEDURE:

- A. Individuals, groups or organizations that want the City to approve a specific name for a City facility or property or in some way memorialize a contribution shall complete the attached application unless an alternate procedure has been established.
- B. The City Clerk shall review the application, unless routine action is requested such as a marker or plaque for purchase and placement of a park bench or tree, to ensure that it is complete and generally in line with guidelines specified herein. The City Clerk shall include the nomination in the Council agenda for consideration.
- C. The City Council shall review and approve or deny all requests for dedication of a facility, property or major resource to an individual, group or organization.
- D. The Public Works Department shall select plaques and markers for routine use in dedication of City resources or property, such as park benches and trees. The Public Works Department shall also identify and maintain a list of locations in which park benches and park trees would be most useful.

- E. Individuals, groups or organizations seeking to sponsor the placement of a park bench or park tree should contact the Public Works Department, which will provide them with the appropriate paperwork, a list or map of available locations and designs of benches, types of trees and the like.
- F. Upon receipt of all completed documents and payment for a marker or plaque, Public Works shall order the item and insure its installation.

CITY OF EL CERRITO

APPLICATION FOR MEMORIALIZING OR NAMING OF CITY FACILITIES, PROPERTY OR RESOURCES; PLAQUES AND MARKERS

Individual or Organization: El Cerrito Park & Recreation Commission Date: January 21, 2020

Address: 10890 San Pablo Ave, El Cerrito, CA 94530 Phone: (510) 559-7005

Proposed Name or Commemoration: Hillside Natural Area Trail Names (see staff report for details)

Location: Hillside Natural Area (HNA)

Description of Action Sought (naming, dedication, marker, plaque, etc.): _____

Formalize and create trail names in the HNA in advance of wayfinding signage placement

Reason for Proposed Name, if proposed: _____

To implement the wayfinding signage in the HNA developed by the El Cerrito Trail Trekkers and the National Park Service and funded by Measure WW, the El Cerrito Park and Recreation Commission recommends that the City Council adopt the trail names listed in the Staff Report and Resolution. There is no indication that they City Council has taken previous action to formalize the names of the trails in the HNA.

Current Name, if any: There is no indication that the City Council has formally named any of the trails in the HNA.

If the name commemorates a person, please provide the full name of the person, date of death, last residence, person's association with the facility and a brief biography:

If the name commemorates a group or organization, provide the name, community connection and contribution:

Please see staff report for details.

If a plaque or marker is sought for purchase of a park bench, park tree or similar City property, please state the name or dedication as you wish it to appear on the plaque or marker:



AGENDA BILL

Agenda Item No. 4.D.

Date: January 21, 2020
To: El Cerrito City Council
From: Ana Bernardes, Senior Engineer/Engineering Manager
Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Consulting Services Agreement with Zoon Engineering for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078

ACTION PROPOSED

Adopt a resolution authorizing the City Manager to execute a consulting services agreement with Zoon Engineering to provide construction management services for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 in the amount of \$66,000 and approve a contingency amount not to exceed \$7,000.

BACKGROUND

Project Description

The Eureka Avenue and Lexington Avenue Street Improvements Project will rehabilitate the roadway pavement; reconstruct sections of sidewalk, curb, and gutter that have been damaged by the existing trees; reconstruct storm drain facilities; install new and modified curb ramps; and install new traffic signing and pavement markings. The project is located on Eureka Avenue from Kearney Street to Liberty Street and Lexington Avenue from Eureka Avenue to one block north where it ends in a cul-de-sac directly serving Fairmont Elementary School. This project will also install an on-street disabled parking space, curb ramps, and high-visibility crosswalk to serve the recently renovated Centennial Park at the intersection of Liberty Street and Eureka Avenue.

The pavement on these roadways is currently in poor conditions, two of the lowest in the City. In addition, trees have severely displaced sections of pavement, sidewalk, curb and gutter, and shallow storm drain facilities within the roadway are damaged. The project will benefit school-age children, residents, and the community in general by providing safe and accessible walking, biking, and driving routes to important destinations in this area.

The project is funded by the City's Measure A Street Improvement funds with additional funding from the SB 1 Local Partnership Program (LPP). Additional information on the SB 1 LPP is contained in the 'Financial Considerations' section of this report.

Construction Contract Bidding

The construction of the project was originally advertised for bid in April 2019, and the City received a sole bid that was significantly above the Engineer's Estimate and funding for the project. As a result, in July 2019, the City Council (Resolution 2019-45) rejected the bid and authorized City staff to amend the scope of the project, as necessary, and rebid the project. The project was rebid in November 2019. For additional information on the rebidding process, please see the Agenda Bill for the award of the construction contract, also scheduled to be on the City Council's January 21, 2020 Meeting Agenda.

ANALYSIS

City staff released the Request for Proposals (RFP) for Construction Management Services related to the project on April 24, 2019. The RFP was posted on the City's website and emailed to construction management firms on the City's consultant list. In total, the RFP was emailed to 39 consulting firms.

Two proposals were received by the due date of May 15, 2019. The proposal from K&B Construction Services, Inc. (San Francisco) was rejected by City staff due to incompleteness. The proposal did not meet the RFP requirements. Specifically, the work plan did not identify the proposed project team member assigned to each task and their estimated hours per task. In addition, the cost proposal did not include a breakdown of the fee by task, identifying employees, classification and billing rate. The other proposal from Zoon Engineering (Emeryville) met the RFP requirements and demonstrated Zoon Engineering's understanding of the work to be done, experience and past performance on similar kinds of work including a recent project in the City of Albany, and a comprehensive approach to delivering the project including work plan, schedule, and cost proposal.

City staff negotiated with Zoon Engineering to agree on a contract amount that will deliver the services required at a fair and reasonable cost to the City. The negotiation phase was delayed due to the rebidding of the construction contract as described above. The construction management services include daily inspection; coordination with the contractor, Fairmont Elementary School, utility companies and the general public; project documentation including submittal review, requests for information, change orders and test results; review of contractor's progress payments; and construction engineering.

STRATEGIC PLAN CONSIDERATIONS

The Project is consistent with the following El Cerrito Strategic Plan Goals:

- Goal D – Develop and rehabilitate public facilities as community focal points by addressing ongoing and deferred maintenance of facilities and infrastructure;
- Goal E – Ensure the public's health and safety by maintaining streets and sidewalks in a state of good repair.

ENVIRONMENTAL CONSIDERATIONS

The Project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 because the Project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA.

FINANCIAL CONSIDERATIONS

The construction of the project is largely funded by the City's Measure A Street Improvement funds with additional funding from the SB 1 Local Partnership Program (LPP). LPP is distinct from the Local Streets and Road Funding Program, for which the City adopts a list of projects on an annual basis in the spring, and is structured to reward municipalities and agencies in which voters have approved fees or taxes solely dedicated to transportation improvements (self-help agencies). The City receives \$100,000 per year in LPP funds. Given the delay in the project schedule due to rebidding of the project, City staff requested a one-year time extension for construction contract award from the California Transportation Commission (CTC), which oversees the LPP program. The CTC approved this request and the deadline for award is now September 14, 2020.

The estimated expenditures for the construction phase of the project total \$591,875 as summarized below in Table 1.

Table 1: Project Expenditures – Construction Phase	
Construction Contract	\$452,825
Construction Contract Contingency	\$50,000
Construction Management	\$73,000
Materials Testing	\$12,000
Miscellaneous (printing, postage, etc.)	\$4,000
Total	\$591,875

As indicated in the July 2019 Agenda Bill regarding this project, previously approved funding for construction phase of the project is as summarized below in Table 2.

Table 2: Project Funding – Construction Phase			
Fund Source	FY 2018-19	FY 2019-20	Total
City Measure A Street Improvements (Fund 211)	\$353,000	\$50,000	\$403,000
SB 1 LPP (Fund 301)	\$200,000	-	\$200,000
Total	\$553,000	\$50,000	\$603,000

Because City staff had anticipated the construction award would occur in June 2019, most of the construction funding was included in the FY 2018-19 Adopted Budget and Capital Improvement Program (CIP), including the Annual Program of Maintenance and Improvement pursuant to Measure A. As such, an amendment to the FY 2019-20 Adopted Budget and CIP is required to appropriate the \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund. This is a requested action in the Agenda Bill for the construction contract award, which is also on the City Council's January 21, 2020 Meeting Agenda. The Finance Department has reviewed the request for the appropriations and determined that there is sufficient fund balance in the Measure A Street Improvement Fund, which is projected to be just over \$688,000 at the end of FY 2019-20 including this additional appropriation as summarized below in Table 3. The Capital Improvement Fund is used for expenditures that will be reimbursed by external sources, which in this case is the SB 1 LPP so fund balance is not applicable.

Table 3: Measure A Street Improvement Fund Balance	
Estimated Fund Balance as of 6/30/2019	\$1,197,347
FY 2019-20 Budget	
Revenues	\$1,610,801
Expenses	\$1,766,890
<i>Additional Appropriation</i>	<i>\$353,000</i>
Projected FY 2019-20 Fund Balance	\$688,258

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos". The signature is fluid and cursive, with the first name "Karen" and last name "Pinkos" clearly distinguishable.

Karen Pinkos, City Manager

Attachments:

1. Resolution

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTING SERVICES AGREEMENT WITH ZOON ENGINEERING TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE EUREKA AVENUE AND LEXINGTON AVENUE STREET IMPROVEMENTS PROJECT, CITY PROJECT NO. C3078 IN THE AMOUNT OF \$66,000 AND APPROVE A CONTINGENCY AMOUNT NOT TO EXCEED \$7,000.

WHEREAS, the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 (Project) will rehabilitate the roadway pavement on Eureka Avenue from Kearney Street to Liberty Street and on Lexington Avenue from Eureka Avenue to one block north where it ends in a cul-de-sac directly serving Fairmont Elementary School, and also reconstruct sections of sidewalk, curb, and gutter that have been damaged by existing trees, reconstruct storm drain facilities, install new and modified curb ramps, and install new traffic signing and pavement markings on these roadway segments; and

WHEREAS, the project will directly benefit school-age children, residents, and the community in general by providing safe and accessible walking, biking and driving routes to Fairmont Elementary School, Centennial Park, the Ohlone Greenway, and El Cerrito Public Library; and

WHEREAS, the Project was originally advertised for bid in April 2019, and the City received a sole bid that was significantly above the Engineer's Estimate and funding for the Project; as a result, in July 2019, the City Council (Resolution 2019-45) rejected the bid and authorized City staff to amend the scope of the project, as necessary, and rebid the project; and the project was rebid in November 2019; and

WHEREAS, City staff released a Request for Proposals (RFP) for Construction Management Services related to the Project on April 24, 2019; and

WHEREAS, the RFP was posted on the City's website, emailed to construction management firms on the City's consultant list, and in total, the RFP was emailed to 39 consulting firms; and

WHEREAS, two proposals were received by the due date of May 15, 2019, and the proposal from K&B Construction Services, Inc. (San Francisco) was rejected by City staff due to incompleteness for not meeting the RFP requirements; and

WHEREAS, the other proposal from Zoon Engineering (Emeryville) met the RFP requirements and demonstrated Zoon Engineering's understanding of the work to be done, experience and past performance on similar kinds of work including a recent project in the City of Albany, and provided a comprehensive approach to delivering the project including work plan, schedule and cost proposal; and

WHEREAS, City staff negotiated with Zoon Engineering to agree on a contract amount that will deliver the services required at a fair and reasonable cost to the City; and

WHEREAS, the estimated expenditures for the construction phase of the Project total just under \$592,000; and previously approved funding for this phase consists of \$353,000 in FY 2018-19 and \$50,000 in FY 2019-20 from City Measure A Street Improvement funds with an additional \$200,000 in FY 2018-19 from the SB 1 Local Partnership Program (LPP); and

WHEREAS, an amendment to the FY 2019-20 Adopted Budget and Capital Improvement Program, including the Annual Program of Maintenance and Improvement pursuant to Measure A, is required to appropriate the prior fiscal year funding into this current year including \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund; and

WHEREAS, the amendment to the FY 2019-20 Adopted Budget and Capital Improvement Program will be requested as part of the construction contract award; and

WHEREAS, the project work is an appropriate use of Measure A Street Improvement funds; and

WHEREAS, the Project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute a consulting services agreement with Zoon Engineering in the amount of \$67,000 and to approve a contingency amount not to exceed \$7,000.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on January 21, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charl  ty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 4.E.

Date: January 21, 2020
To: El Cerrito City Council
From: Ana Bernardes, Senior Engineer/Engineering Manager
Yvetteh Ortiz, Public Works Director/City Engineer, Public Works
Department
Subject: Construction Contract Award for the Eureka Avenue and Lexington
Avenue Street Improvements Project, City Project No. C3078

ACTION PROPOSED

Adopt a resolution approving plans and specifications for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 (Project); accepting the eight bids submitted for the Project; authorizing the City Manager to execute a contract in the amount of \$452,825 with GradeTech Inc. and to approve change orders in an amount not to exceed \$50,000 for the construction of the Project; and amending the Fiscal Year (FY) 2019-20 Adopted Budget and Capital Improvement Program, including the Annual Program of Maintenance and Improvement pursuant to the Measure A, to appropriate \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund for the Project.

BACKGROUND

Project Description

The Eureka Avenue and Lexington Avenue Street Improvements Project will rehabilitate the roadway pavement; reconstruct sections of sidewalk, curb, and gutter that have been damaged by the existing trees; reconstruct storm drain facilities; install new and modified curb ramps; and install new traffic signing and pavement markings. The project is located on Eureka Avenue from Kearney Street to Liberty Street and Lexington Avenue from Eureka Avenue to one block north where it ends in a cul-de-sac directly serving Fairmont Elementary School. This project will also install an on-street disabled parking space, curb ramps and high-visibility crosswalk to serve the recently renovated Centennial Park at the intersection of Liberty Street and Eureka Avenue.

The pavement on these roadways is currently in poor conditions, two of the lowest in the City. In addition, trees have severely displaced sections of pavement, sidewalk, curb and gutter, and shallow storm drain facilities within the roadway are damaged. The project will benefit school-age children, residents and the community in general by providing safe and accessible walking, biking and driving routes to important destinations in this area.

The project is funded by the City's Measure A Street Improvement funds with additional funding from the SB 1 Local Partnership Program (LPP). Additional information on the SB 1 LPP is contained in the 'Financial Considerations' section of this report.

Construction Contract Bidding

The construction of the project was originally advertised for bid in April 2019, and the City received a sole bid that was significantly above the Engineer's Estimate and funding for the project. As a result, in July 2019, the City Council (Resolution 2019-45) rejected the bid and authorized City staff to amend the scope of the project, as necessary, and rebid the project. Following completion of an EBMUD water main replacement on Lexington Avenue, City staff amended the project scope to reflect the work completed by EBMUD and Avila Project Management updated the Plans, Specifications and Engineering Estimate (PS&E).

The Project was rebid in early November of 2019. The Notice Inviting Bids for the Project was advertised in the West County Times on November 13 and 18, 2019 and posted on the City's website. Additionally, the notice and complete set of Contract Documents were sent to eight Builder and Construction Exchanges in the Bay Area and Northern California and were available for purchase through the BPXpress website, an online planroom. A non-mandatory pre-bid conference was held on November 26, 2019. No addenda were issued.

ANALYSIS

Eight bids were received on the advertised bid opening date of December 10, 2019. At the bid opening by the City Clerk, the apparent lowest bid was from ERA Construction Inc.; however, City staff found variations between the item unit price extension and the item total shown by the bidder for many items. In the case of a discrepancy in the total bid amount and unit prices, the Contract Documents require that the unit price listed in the bid serve as the basis for calculating the bid price, and thus the item total and total bid amount reflected in the ERA Construction Inc. bid must be conformed accordingly. When City staff conformed the totals, the total bid amount was found to be much higher than the amount shown at the time of the bid opening. As such, City staff has determined that the bid from ERA Construction Inc. is not the lowest bid, rather the bid from GradeTech Inc. is the lowest as shown in Table 1.

Table 1: Bid Results	
Bidder	Bid Amount
GradeTech Inc.	\$452,825.00
HM Construction	\$482,005.00
Redgwick Construction Co.	\$514,157.00

Ghilotti Bros. Inc.	\$544,002.00
Kerex Engineering Inc.	\$723,121.00
Ray's Electric	\$724,041.00
CF Contracting Inc.	\$727,022.00
ERA Construction Inc.	\$786,940.00
Engineer's Estimate	\$525,136.00

The bid from GradeTech Inc. of \$452,825 is 14 percent lower than the Engineer's Estimate. City staff recommends that the City Council award a construction contract in the amount of \$452,825 to GradeTech Inc. as the lowest responsive and responsible bidder.

STRATEGIC PLAN CONSIDERATIONS

The Project is consistent with the following El Cerrito Strategic Plan Goals:

- Goal D – Develop and rehabilitate public facilities as community focal points by addressing ongoing and deferred maintenance of facilities and infrastructure; and
- Goal E – Ensure the public's health and safety by maintaining streets and sidewalks in a state of good repair.

ENVIRONMENTAL CONSIDERATIONS

The Project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 because the Project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA.

FINANCIAL CONSIDERATIONS

The construction of the project is largely funded by the City's Measure A Street Improvement funds with additional funding from the SB 1 Local Partnership Program (LPP). LPP is distinct from the Local Streets and Road Funding Program, for which the City adopts a list of projects on an annual basis in the spring, and is structured to reward municipalities and agencies in which voters have approved fees or taxes solely dedicated to transportation improvements (self-help agencies). The City receives \$100,000 per year in LPP funds. Given the delay in the project schedule due to rebidding of the project, City staff requested a one-year time extension for construction contract award from the California Transportation Commission (CTC), which oversees

the LPP program. The CTC approved this request and the deadline for award is now September 14, 2020.

The estimated expenditures for the construction phase of the project total \$591,875 as summarized below in Table 2.

Table 2: Project Expenditures – Construction Phase	
Construction Contract	\$452,825
Construction Contract Contingency	\$50,000
Construction Management	\$73,000
Materials Testing	\$12,000
Miscellaneous (printing, postage, etc.)	\$4,000
Total	\$591,875

As indicated in the July 2019 Agenda Bill regarding this project, previously approved funding for the construction phase of the project is as summarized below in Table 3.

Table 3: Project Funding – Construction Phase			
Fund Source	FY 2018-19	FY 2019-20	Total
City Measure A Street Improvements (Fund 211)	\$353,000	\$50,000	\$403,000
SB 1 LPP (Fund 301)	\$200,000	-	\$200,000
Total	\$553,000	\$50,000	\$603,000

Because City staff had anticipated the construction award would occur in June 2019, most of the construction funding was included in the FY 2018-19 Adopted Budget and Capital Improvement Program (CIP), including the Annual Program of Maintenance and Improvement pursuant to Measure A. As such, an amendment to the FY 2019-20 Adopted Budget and CIP is required to appropriate the \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund. The Finance Department has reviewed the request for the appropriations and determined that there is sufficient fund balance in the Measure A Street Improvement Fund, which is projected to be just over \$688,000 at the end of FY 2019-20 including this additional appropriation as summarized below in Table 4. The Capital Improvement Fund is used for expenditures that will be reimbursed by external sources, which in this case is the SB 1 LPP so fund balance is not applicable.

Table 4: Measure A Street Improvement Fund Balance	
Estimated Fund Balance as of 6/30/2019	\$1,197,347
FY 2019-20 Budget	
Revenues	\$1,610,801
Expenses	\$1,766,890
<i>Additional Appropriation</i>	<i>\$353,000</i>
Projected FY 2019-20 Fund Balance	\$688,258

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING PLANS AND SPECIFICATIONS FOR THE EUREKA AVENUE AND LEXINGTON AVENUE STREET IMPROVEMENTS PROJECT, CITY PROJECT NO. C3078 (PROJECT); ACCEPTING THE EIGHT BIDS FOR THE PROJECT; AND; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT IN THE AMOUNT OF \$452,825 WITH GRADETECH, INC. AND TO APPROVE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED \$50,000 FOR THE CONSTRUCTION OF THE PROJECT; AND AMENDING THE FISCAL YEAR (FY) 2019-20 ADOPTED BUDGET AND CAPITAL IMPROVEMENT PROGRAM, INCLUDING THE ANNUAL PROGRAM OF MAINTENANCE AND IMPROVEMENT PURSUANT TO THE MEASURE A, TO APPROPRIATE \$353,000 IN THE MEASURE A STREET IMPROVEMENT FUND AND \$200,000 IN THE CAPITAL IMPROVEMENT FUND FOR THE PROJECT.

WHEREAS, the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 (Project) will rehabilitate the roadway pavement on Eureka Avenue from Kearney Street to Liberty Street and on Lexington Avenue from Eureka Avenue to one block north where it ends in a cul-de-sac directly serving Fairmont Elementary School, and also reconstruct sections of sidewalk, curb, and gutter that have been damaged by existing trees, reconstruct storm drain facilities, install new and modified curb ramps, and install new traffic signing and pavement markings on these roadway segments; and

WHEREAS, the project will directly benefit school-age children, residents, and the community in general by providing safe and accessible walking, biking and driving routes to Fairmont Elementary School, Centennial Park, the Ohlone Greenway, and El Cerrito Public Library; and

WHEREAS, the Project was originally advertised for bid in April 2019, and the City received a sole bid that was significantly above the Engineer's Estimate and funding for the project; and as a result, in July 2019, the City Council (Resolution 2019-45) rejected the bid and authorized City staff to amend the scope of the project, as necessary, and rebid the project; and

WHEREAS, following completion of an EBMUD water main replacement on Lexington Avenue, City staff amended the project scope to reflect the work completed by EBMUD and the City's on-call project management and engineering consultant updated the Plans, Specifications and Engineering Estimate (PS&E); and

WHEREAS, the Notice Inviting Bids for the Project was advertised in the West County Times on November 13 and 18, 2019 and posted on the City's website; and

WHEREAS, the notice and complete set of Contract Documents were sent to eight Builder and Construction Exchanges and the Contract Documents were made available to contractors through an online planroom; and

WHEREAS, eight bids were received by the advertised bid opening date of December 10, 2019; and

WHEREAS, GradeTech Inc. submitted the lowest responsible and responsive bid in the amount of \$452,825, which is fourteen (14) percent below the Engineer's Estimate; and

WHEREAS, the estimated expenditures for the construction phase of the Project total just under \$592,000; and previously approved funding for this phase consists of \$353,000 in FY 2018-19 and \$50,000 in FY 2019-20 from City Measure A Street Improvement funds with an additional \$200,000 in FY 2018-19 from the SB 1 Local Partnership Program (LPP); and

WHEREAS, an amendment to the FY 2019-20 Adopted Budget and Capital Improvement Program, including the Annual Program of Maintenance and Improvement pursuant to Measure A, is required to appropriate the prior fiscal year funding into this current year including \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund; and

WHEREAS, the project work is an appropriate use of Measure A Street Improvement funds; and

WHEREAS, the Project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby:

- 1) Approves plans and specifications for the Eureka Avenue and Lexington Avenue Street Improvements Project, City Project No. C3078 (Project); and
- 2) Accepts the eight submitted bids for the Project; and
- 3) Authorizes the City Manager to execute a contract in the amount of \$452,825 with GradeTech Inc. and to approve change orders in an amount not to exceed \$50,000 for the construction of the Project; and
- 4) Amends the FY 2019-20 Adopted Budget and Capital Improvement Program, including the Annual Program of Maintenance and Improvement pursuant to Measure A, to appropriate \$353,000 in the Measure A Street Improvement Fund and \$200,000 in the Capital Improvement Fund for the Project.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on January 21, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January __, 2020.

Holly M. Charl  ty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 4.F.

Date: January 21, 2020
To: El Cerrito City Council
From: Shannon Collins, Finance Supervisor, Finance Department
Subject: REDEVELOPMENT AGENCY SUCCESSOR AGENCY ITEM Review and Authorization to Submit the Draft Annual Recognized Obligations Payment Schedule 20-21 (July 1, 2020 - June 30, 2021)

ACTION PROPOSED

Adopt a Redevelopment Agency Successor Agency Resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule (ROPS) 20-21.

BACKGROUND

ABx1 26 (Dissolution Act) dissolved the El Cerrito Redevelopment Agency (RDA) and established the El Cerrito Redevelopment Successor Agency (Successor Agency) on February 1, 2012. Under the Dissolution Act, the portion of property tax revenues collected in the City of El Cerrito Redevelopment Project Area (Project Area) that was considered Tax Increment prior to the RDA's dissolution are called Redevelopment Property Tax and are deposited by the County Auditor-Controller (Auditor-Controller) into the Redevelopment Property Tax Trust Fund (RPTTF). The Auditor-Controller distributes the funds in the RPTTF with the following priority:

1. Auditor-Controller's administrative costs
2. Pass-through payments to the taxing entities affected by the Redevelopment Plan for the Project Area, calculated the same as prior to RDA dissolution
3. Distribution to the Successor Agency to retire the former RDA's obligations
4. Repayment of loans from the Housing Fund (starting in FY 2014-15)
5. Distribution of residual funds to taxing entities

Beginning with the previous ROPS period, the Successor Agency must review and authorize submittal of a Recognized Obligation Payment Schedule (ROPS) for each fiscal year. Each ROPS must then be approved by the Oversight Board to the Successor Agency (Oversight Board) and the California Department of Finance (DOF) before the Auditor-Controller disburses funding for payments on the approved ROPS.

The attached schedule is the draft ROPS 20-21 covering payments due during the period of July 2020 to June 2021. The Successor Agency must submit ROPS 20-21

approved by the Countywide Oversight Board to the DOF no later than February 1, 2020. The Countywide Oversight Board is scheduled to consider ROPS 20-21 at its upcoming special meeting. After submittal, the DOF then has until April 15th to review the ROPS and approve or disapprove of any items. The Successor Agency can request additional review by the DOF and an opportunity to meet and confer on disputed items and must make that request within five business days of receiving a DOF determination. The DOF is required to notify the Successor Agency and Auditor-Controller of its final determination of the approved payments at least 15 days prior to the first distribution date of RPTTF for the ROPS, which is June 1st. RPTTF will continue to be distributed twice annually, on June 1st and January 2nd of each year. The annual ROPS can be amended once per year as long as the amendment is received by the DOF before October 1st of the applicable fiscal year.

ANALYSIS

The proposed ROPS 20-21 is Exhibit A to the attached Successor Agency resolution, authorizing its submittal. It includes: 1) A summary of the funding request; 2) An itemized listing of obligations ("ROPS Detail"); 3) A report of cash balances. Obligations with remaining outstanding balances are included on ROPS 20-21, as follows:

- Tax Allocation Bond Debt Service: In August of 2016 former items 1, 3, and 5 on the ROPS were refinanced into the 2016 Tax Allocation Bonds. This is shown as item 29. Debt service on the 2016 Bonds had been deferred in order to create savings that can flow to the City and the taxing entities in the form of additional residual revenues. The first debt service payment for this fiscal year is due as part of ROPS 20-21 A in the amount of \$999,227.
- Union Bank Administrative Fee (\$5,000): This fee is to cover the fiscal agent service fees charged by Union Bank for the trust administration of the 2016 Series A and B Bonds.
- FY 2020-21 Administrative Allowance (\$250,000): One half of the Successor Agency's administrative allowance is included in each six-month period on the ROPS.

The total amount of RPTTF funding required for ROPS 20-21 is estimated to be \$2,320,624.

STRATEGIC PLAN CONSIDERATIONS

The amended ROPS supports Goal B of the City's Strategic Plan to "Achieve long-term financial sustainability".

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

It is estimated that the total amount of RPTTF funding required for ROPS 20-21 is \$2,320,624. In order to repay the obligations of the Successor Agency, the ROPS must be approved and submitted to the DOF.

LEGAL CONSIDERATIONS

All actions being requested are consistent with the Dissolution Act, as amended and have been reviewed by the Agency attorney.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos", is written over a faint, illegible background.

Karen Pinkos, City Manager

Attachments:

1. RASA Resolution
2. Exhibit A to the Resolution

SUCCESSOR AGENCY RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ACTING AS THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY AUTHORIZING SUBMITTAL OF THE DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE 20-21, AS REQUIRED UNDER THE DISSOLUTION ACT

WHEREAS, pursuant to the California Community Redevelopment Law (the "Redevelopment Law"), the City Council (the "City Council") of the City of El Cerrito (the "City") adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the "Redevelopment Plan"); and

WHEREAS, the El Cerrito Redevelopment Agency (the "RDA") was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the "Dissolution Act") was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment of successor agencies to wind down the former redevelopment agencies' affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the "Successor Agency"), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency's Redevelopment Obligation Retirement Fund (the "RORF"), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, pursuant to the Dissolution Act, the Contra Costa County Auditor Controller (the "Auditor-Controller") established the Redevelopment Property Tax Trust Fund (the "RPTTF") to hold Redevelopment Property Tax collected from the City of El Cerrito Redevelopment Project Area to be disbursed to the Successor Agency for payment of its enforceable obligations and to taxing entities affected by the Redevelopment Plan; and

WHEREAS, SB 107 was enacted on September 22, 2015 modifying the Dissolution Act to require the Successor Agency to form an Oversight Board; and submit an Oversight Board approved annual Recognized Obligations Payment Schedule to the Department of Finance (the "DOF"); and

WHEREAS, the Oversight Board to the Successor Agency to the El Cerrito Redevelopment Agency (the "Oversight Board") was formed on April 4, 2012; and was dissolved on June 30, 2018 by the County, and a Countywide Oversight Board came into being on January 1, 2019; and

WHEREAS, the Successor Agency has reviewed the draft ROPS 20-21 that was prepared pursuant to the Dissolution Act, which is attached and incorporated as Exhibit A to this Resolution, for submittal to the Countywide Oversight Board, the Auditor-Controller, and DOF; and

WHEREAS, the Successor Agency has determined that the amounts owed to the City constitute enforceable obligations pursuant to Section 34171(d)(2) to be listed on the ROPS 20-21; and

WHEREAS, the Successor Agency wishes to authorize Successor Agency staff to amend the ROPS 20-21 administratively to account for any additional changes made by the DOF to the ROPS form or changes made by the Countywide Oversight Board that occur after the Successor Agency's consideration.

NOW THEREFORE, BE IT RESOLVED that the City El Cerrito Redevelopment Agency Successor Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the El Cerrito Redevelopment Agency Successor Agency authorizes the submittal of the draft Recognized Obligation Payment Schedule 20-21 as required under the Dissolution Act, subject to such changes as may be necessary to accommodate changes in the DOF approved form and any changes made by the Oversight Board any such changes to be approved by the City Manager.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

I CERTIFY that at the regular meeting on January 21, 2020, the City Council of the City of El Cerrito acting as the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charlety, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

Recognized Obligation Payment Schedule (ROPS 20-21) - Summary
Filed for the July 1, 2020 through June 30, 2021 Period

Successor Agency: El Cerrito

County: Contra Costa

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	20-21A Total (July - December)	20-21B Total (January - June)	ROPS 20-21 Total
A Enforceable Obligations Funded as Follows (B+C+D)	\$ -	\$ -	\$ -
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	\$ 1,129,227	\$ 1,191,397	\$ 2,320,624
F RPTTF	1,129,227	1,191,397	2,320,624
G Administrative RPTTF	-	-	-
H Current Period Enforceable Obligations (A+E)	\$ 1,129,227	\$ 1,191,397	\$ 2,320,624

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/ _____
Signature Date

El Cerrito
Recognized Obligation Payment Schedule (ROPS 20-21) - ROPS Detail
July 1, 2020 through June 30, 2021

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 20-21 Total	ROPS 20-21A (Jul - Dec)					20-21A Total	ROPS 20-21B (Jan - Jun)					20-21B Total
											Fund Sources						Fund Sources					
											Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
								\$13,666,523		\$2,320,624	\$-	\$-	\$-	\$1,129,227	\$-	\$1,129,227	\$-	\$-	\$-	\$1,191,397	\$-	\$1,191,397
6	2009-10 SERAF Loan	SERAF/ ERAF	02/16/ 2010	11/24/2024	City L&M Housing Fund	Funds advanced for SERAF payment	El Cerrito	-	Y	\$-	-	-	-	-	-	\$-	-	-	-	-	-	\$-
9	Valente Promissory Note	Third-Party Loans	03/05/ 2009	03/05/2024	George Valente	Loan for land acquisition	El Cerrito	-	Y	\$-	-	-	-	-	-	\$-	-	-	-	-	-	\$-
21	Litigation Cost/Cash Flow Loan Agreement	Legal	10/01/ 2013	06/30/2015	City of El Cerrito	Successor Agency litigation costs funded by ROPS 14-15B RPT and/ or by City of El Cerrito Cash Flow Loan pursuant to H&S Code Section 34173(h).	El Cerrito	-	N	\$-	-	-	-	-	-	\$-	-	-	-	-	-	\$-
25	Administrative Allowance	Admin Costs	06/01/ 2014	09/01/2025	City of El Cerrito	Annual allowance	El Cerrito	1,125,000	N	\$250,000	-	-	-	125,000	-	\$125,000	-	-	-	125,000	-	\$125,000
29	2016 Tax Allocation Bonds	Bonds Issued After 12/ 31/10	08/04/ 2016	09/01/2025	Union Bank	Refunding of items 1, 3, and 5 with private placement issue.	El Cerrito	12,481,523	N	\$2,060,624	-	-	-	999,227	-	\$999,227	-	-	-	1,061,397	-	\$1,061,397
30	Fiscal Agent Fees	Bonds Issued After 12/	08/04/ 2016	09/01/2025	Union Bank	Fees for fiscal agent	El Cerrito	60,000	N	\$10,000	-	-	-	5,000	-	\$5,000	-	-	-	5,000	-	\$5,000

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 20-21 Total	ROPS 20-21A (Jul - Dec)					20-21A Total	ROPS 20-21B (Jan - Jun)					20-21B Total
											Fund Sources						Fund Sources					
											Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
		31/10																				

El Cerrito
Recognized Obligation Payment Schedule (ROPS 20-21) - Report of Cash Balances
July 1, 2017 through June 30, 2018
 (Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.							
A	B	C	D	E	F	G	H
	ROPS 17-18 Cash Balances (07/01/17 - 06/30/18)	Fund Sources					Comments
		Bond Proceeds		Reserve Balance	Other Funds	RPTTF	
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	
1	Beginning Available Cash Balance (Actual 07/01/17) RPTTF amount should exclude "A" period distribution amount.	-		302,782	176	-	
2	Revenue/Income (Actual 06/30/18) RPTTF amount should tie to the ROPS 17-18 total distribution from the County Auditor-Controller					788,216	
3	Expenditures for ROPS 17-18 Enforceable Obligations (Actual 06/30/18)					788,216	
4	Retention of Available Cash Balance (Actual 06/30/18) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)			302,782			Used during 19-20
5	ROPS 17-18 RPTTF Prior Period Adjustment RPTTF amount should tie to the Agency's ROPS 17-18 PPA form submitted to the CAC		No entry required				
6	Ending Actual Available Cash Balance (06/30/18) C to F = (1 + 2 - 3 - 4), G = (1 + 2 - 3 - 4 - 5)	\$-	\$-	\$-	\$176	\$-	

El Cerrito
Recognized Obligation Payment Schedule (ROPS 20-21) - Notes
July 1, 2020 through June 30, 2021

Item #	Notes/Comments
6	
9	
21	
25	
29	
30	



Urban Forest Committee

FISCAL YEARS 2020 and 2021 WORK PLAN

AND

FISCAL YEARS 2018 AND 2019 ACCOMPLISHMENTS

*Members: Mary Torrusio Chair, Robert Hrubes Vice-Chair, Cathy Bleier,
Yan Linhart, Robin Mitchell, Steve Price, Michael Srago*

MISSION STATEMENT:

Resolution No. 2007-96:

The Urban Forest Committee serves in an advisory capacity to the City Council, other commissions, and the citizens of the City with regard to the growth, maintenance, and location of trees within the City:

- To recommend programs, policies, and ordinances to implement and promote the City's Master Street Tree Plan and Urban Forest Management Plan and coordinate with Public Works Department staff regarding management and maintenance efforts;
- To promote and foster public awareness, education, interest and support for urban forestry efforts, foster volunteer opportunities for tree planting and irrigation along the city's streets and in residential front yards, and educate El Cerrito residents regarding selecting, planting and maintaining trees; and
- Promote and foster public awareness and education about potential hazards of trees near underground and above ground utilities and the appropriate tree species for avoiding such hazards.

HISTORICAL BACKGROUND:

The Tree Committee (later renamed to Urban Forest Committee) was established by Council Resolution 2007-96. The Committee's first five members (Ralph Boniello, Sheauching Cheng, Janet Hittle, Steve Price and Mike Srago) were appointed to terms starting 9/11/12 through 1/1/2016. Since that time, additional members included Karen Christian, Shannon Lee-Rutherford, Cathy Bleier, Michael Charlton, Yan Linhart, Robert Hrubes, Mary Torrusio and Robin Mitchell.

TWO YEAR 2020–2021 WORK PLAN

GOAL/OBJECTIVE	PROPOSED ACTIVITIES	PRIORITY RANKING	TIMELINE FOR COMPLETION	PROGRESS
A. Become a Tree City USA	Complete application to receive the Tree City USA designation.	High	December 2019-annually	Application submitted 12/2019
B. Develop and establish volunteer tree care corps for EC residents	Identify and work with interested residents and provide necessary trainings. Work with residents to identify tree planting, tree care and funding priorities and opportunities	High	June 2020-ongoing	2 ad-hoc mtgs w/recommendation; action pending.
C. Work with community, EC Fire Department and others to address fire hazard and risks in our urban forest	Consider fire hazard mitigation options for protecting Hillside Natural Area and surrounding urban forest, including workshops, films and editing Master Tree List for fire prone trees, as needed.	High	Spring 2020-ongoing	1 ad-hoc mtg. w/recommendation; action pending.
D. Enhance Urban Forest Committee web presence to promote public engagement and education	1) Work with staff to develop and add content to EC web site, e.g. FAQs, links to arboricultural and urban forest research web sites. 2) Improve public use of tree inventory 3) Develop capacity for a searchable Approved City Tree List including all categories, e.g. pollinator attractant trees.	Medium	September 2020-ongoing	Ad-hoc meetings have resulted in recommendations to staff implementation

E. Collaborate and coordinate with other El Cerrito committees, boards and commissions, as appropriate	Establish contacts/liaisons with appropriate committee to facilitate future collaboration, and review agendas and minutes to identify policies and activities relevant to Urban Forest Committee.	Medium	December 2019-ongoing	UFC members rotating attendance to EQC, PRC,
F. Recruit more Urban Forest Committee members	Develop outreach strategy to inform public about ECUFC and recruit more members.	High	Spring 2020-ongoing	
G. Educate residents on urban forestry topics.	1) Inform public about new Tree and Shrub ordinance. 2) Put on tree care workshop, e.g. pruning or disease. 3) Host a film on a current urban forestry topic.	High High Medium	June 2020 Autumn, 2020 Spring / Summer, 2020	

PRIOR YEARS ACCOMPLISHMENTS

GOAL/OBJECTIVE	ACTIVITIES SUPPORTING GOAL	STATUS
A. Revised El Cerrito's Master Tree List.	Developed and used criteria to identify suitable tree species for parking strips and other public green spaces. Arborist also secured input and review by outside experts.	Done, approved by City, and posted.
B. Promoted and provided input to new Tree Ordinance to protect and enforce City street trees.	UF Committee identified objectives and practices to support increased tree protection, provided input and reviews to City's development of ordinance, and recommended its adoption to Council.	Ordinance adopted June 2019.
C. Participated in community events	● March 2019, Arbor Day tree planting in Poinsett Park. ● April 2019, Earth Day clearing of Eucalyptus debris and duff at Hillside Natural Area. ● Ivy clearing at Canyon Trail park for Earth Day, 2018. ● Cerrito Vista Park planting for Arbor Week, 2018. ● Held table at July 4th EC festival. ● Tree Circus at Harding After School Enrichment Program, March 2018. ● Planted memorial tree for EC Centennial in fall, 2017.	Complete

	● Participated in Centennial parade and held table at community event ● Provided table at 2017 July 4th EC festival.	
D. Provided input to EC policies affecting trees.	Developed comments on Parks and Recreation Plan.	Complete
E. Educated Urban Forest Committee on tree health and urban forest care and management	● Several committee members trained and participated in walking survey of EC Hillside Natural Area to visually identify and collect samples of potential Sudden Oak Death (SOD) infestation. ● City arborist made presentations on pruning, planting and other tree care issues. ● Committee members Bleier, Linhart, Price, and Srago attended a seminar entitled <i>The Impact of Climate Change on Urban Forest Trees</i> presented by Dr. Joe McBride (Professor Emeritus, UC Berkeley), hosted by the East Bay Municipal Utility District. ● Committee member Srago attended the California Forest Pest Council annual meeting, focusing on “Tree Mortality in Urban and Rural Communities.” ● PG&E Vegetation Program Manager, Matthew McLane, gave a presentation about the Urban Forest and Utility Delivery Interface in El Cerrito. ● Battalion Chief David Gibson provided a presentation to the UFC on Wildfire Prevention and Preparedness: “Mega-Fire, The New Norm” and answered questions. He also described recent progress on the City’s fire prevention work in the Hillside Natural Area. ● PRESENTATION: A HISTORY OF THE FRIENDS OF EL CERRITO TREES - El Cerrito resident Ann Thrupp gave the committee background information, and shared photographs and memorabilia related to the formation and activities of the Friends of El Cerrito Trees.	Complete

Developed and/or provided educational materials and outreach to community	● Provided guidance to City for updating website tree and urban forest materials. ● Provided information at 2019 July 4th EC festival, including summary handouts about Master Tree List.	Complete
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ONGOING PROJECTS

PROJECT	ACTIVITIES
Provide care for tree planting projects	Schedule and implement watering for 3 yrs. to establish trees, and other activities as needed
Secure funding and public support for urban forestry activities	Evaluate and respond to various state, federal and private grant opportunities, such as Caltrans Environmental Enhancement and Mitigation Program (EEMP), CALFIRE Urban Forestry and Air Resources Board grant application opportunities.
Input on El Cerrito policies and plans affecting trees	Review and comment on City land use and planning documents relevant to urban forestry concerns.
Provide and participate in educational outreach to community	● Develop and distribute materials related to Master Tree List, tree inventory, tree care, etc. ● Participate in community events (e.g. March Arbor Day, April Earth Day, July 4th).
Enhance Committee expertise and understanding through educational opportunities	● Invite public, Council, agency and technical speakers to address issues of current interest. ● Attend urban forestry related workshops, presentations, conferences, etc. to enhance technical expertise.
Update El Cerrito approved tree species list as needed	Keep apprised of community concerns, related to invasive species, nuisance plants and fire-related issues.
Invest From the Ground Up informational brochure follow-up	● Identify businesses and contact businesses that were missed in first distribution effort. ● Consider additional strategic uses for brochure. ● Incorporate brochure distribution into business permit distribution by City, if possible.



AGENDA BILL

Agenda Item No. 5.C.

Date: January 21, 2020
To: El Cerrito City Council
From: Karen Pinkos, City Manager, City Management
Mark Rasiah, Finance Manager, Finance Department
Subject: Fiscal Update

ACTION PROPOSED

Receive and file a brief update on the City's financial position, overview of upcoming strategic plan, and biennial budget process.

BACKGROUND/ANALYSIS

During the December 17, 2019 City Council meeting, Mayor Lyman reported on his meeting with the team from the California State Auditor's office during their initial assessment of the City of El Cerrito, and discussed the City's budget and financial position including providing an update to the City Council on the City's fiscal condition. City staff will brief the City Council on the following items:

- Status of FY 2018-19 annual audit, preliminary results, and timeline for completion of the City's Comprehensive Annual Financial Report (CAFR)
- Update on status of State Auditor initial assessment
- Schedule of upcoming meetings to address the City's budget and financial position
 - February 1, 2020 (Saturday): Community Budget Town Hall Meeting
 - February 4, 2020: City Council study session on FY 2019-20 Budget and upcoming biennial budget process for FY 2020-21 and 2021-22
 - February 18, 2020: City Council Mid-year Budget adjustments and final CAFR
- Strategic Plan process
 - Prioritization of strategic goals to enhance the upcoming biennial budget process for FY 2020-21 and 2021-22
 - Online survey and public participation
 - February, 2020: Community Open House
 - March 14, 2020 (Saturday): Community workshop with City Council

STRATEGIC PLAN CONSIDERATIONS

This fiscal update is consistent with Strategic Plan Goal A: Deliver exemplary government services and Goal B: Achieve long-term financial sustainability.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This item is informational and no action is requested at this time.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:



Alexandra Orologas , Assistant City Manager

Attachments:

1. Mayor Lyman December 17, 2019 Remarks

Mayor Greg Lyman's Interview with the State of California Auditor

At the December 17, 2019 City Council meeting, I provided a verbal update on my time spent with the State Auditor during their visit to El Cerrito last month. This memo provides a summary of the questions that were asked of me and the responses I provided during that visit as well as next steps on remedying our structural budget issues.

As you are aware, based on the release of the ranking of California cities by the State Auditor in late October 2019, a team from the State Auditor's office visited the City of El Cerrito to discuss our rating of "high risk." The team conducted a preliminary assessment to determine whether or not the State Auditor should conduct a full audit of the City's finances. The team spoke to the City Manager, Assistant City Manager, Finance Director, Department Heads, and every City Councilmember. In totality, a majority of their questions generally focused on the story of our financial situation – how we got there, the reasons why, when were we aware of our reserve levels, what measures have we done in the past and our plans for future action to ensure fiscal sustainability. I told El Cerrito's story as I know it and below is a summary of my responses:

What is your understanding of the City's reserve?
What were past decisions that increased the City's costs with no clear revenue source?

Our City's reserve has been fluctuating for the last decade due to a variety of decisions made by the City Council in order to preserve City services to residents. For example, the City's reserves went from \$3.4 million in 2008 down to \$1 million in 2019 primarily because of the need to pull funds from reserve to plug unfunded budget gaps as a result of policy decisions that have had on-going budget implications. These costs have included:

- Implementing no layoffs of City staff during the recession of 2009 and 2010;
- Implementing no layoffs when the El Cerrito Redevelopment Agency was dissolved by Governor Brown in 2012;
- Affirming Sanctuary City values and the City's opposition of ICE contracts by Contra Costa Sheriff in 2016 which resulted in a dispatch contract with the City of Richmond that cost the City more than anticipated; and,
- Building the MidTown Activity Center in 2018 due to the West Contra Costa Unified School District (WCCUSD) unexpected decision to terminate the City's use of the Senior Center building.

In addition, there are other City Council policy decisions that have impacted our costs with no clear on-going revenue source:

- Establishing a Minimum wage for El Cerrito in 2015, which increased the cost of summer part time workers;
- Increasing library hours;
- Ongoing compliance with State Stormwater Pollution laws;
- Maintaining Citywide street lights beyond what the City receives in revenue from the Lighting and Landscape Assessment District (LLAD);

- Implementing implicit bias and de-escalation training in response to growing homelessness and mental health issues; and,
- Funding School Resource Officers at 100% level, while the City is only reimbursed by WCCSD at 80%.

How long have you known the reserves were in trouble?
What have been the past and recent efforts to increase revenues?

The decline of the City's revenue began in 2010 as a result of the nationwide recession. The City Council at the time debated intently whether to use reserves or make cuts. While we decided to use the reserve to preserve services and retain staff, the following reductions were still implemented:

- Eliminating vacant positions in 2010 and 2012 to balance the budget which caused the City to have an almost 20% vacancy rate;
- Renegotiating Police and Fire labor contracts in 2012 resulting in public safety employees deferring pay increases and increasing the amount they pay for retirement up to 12%. Non-public safety employees also picked up the full employee cost of their retirement, which had been previously paid by the City; and,
- Changing the City's health insurance broker to reduce costs in 2014.

In 2010 and 2014, sales tax revenue measures were passed to help with growing costs of health care, wages and unfunded retirement liabilities. Also in 2014, the City Council passed the San Pablo Avenue Specific Plan (SPASP) to spark property development along the economically depressed San Pablo Avenue (Avenue). In 2016, the City's reserves continued to decline and be a great concern as the previous reductions implemented were still not enough. In turn, the City refinanced some of its debt to reduce costs and increased the amount collected from the 2000 Measure A Pool and Park Measure for the swim center and park capital projects to the maximum allowable amount.

In 2017, the City began exploring becoming a Charter City. In 2018, the City Council put forward and residents passed Measure V which changed El Cerrito from a General Law to a Charter City. The passage of this measure gave El Cerrito greater local control and the ability to benefit from revenue options, including the implementation of the Real Property Transfer Tax (RPTT). The City Council continues to express great desire for revenue from RPTT to go into our reserve.

Most recently in 2019, the City Council put forward and residents passed Measure H to continue our existing revenue stream for pools and parks (Measure A). The passage of Measure H can now reduce costs against the General Fund as maintenance is performed on the facilities that Measure A helped make possible to build.

The City was also making efforts to increase revenue prior to the recession. In 2006, the City attempted to increase the amount collected from the LLAD to offset the approximate \$400,000 per year of General Fund revenue to pay streetlights, etc. Given that the ballot measure fell within the jurisdiction of Proposition 218, votes were cast based on the square footage of lots.

This proposed increase failed due to large landowners along the Avenue being opposed. The LLAD assessment rates have not been increased since the creation of the LLAD over 30 years ago in 1988.

In 2008, the City Council put forward Measure A which improved the City's pavement condition index (PCI) ranking without having to dip into the City's General Fund. Through that ballot measure, El Cerrito went from having one of the worse pavement condition rankings to currently having one of the best in the Bay Area.

What have been the City's revenue assumptions?
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There are a variety of factors beyond the City's control that have contribute to why revenue assumptions have not always been realized in the anticipated amounts, including:

- Dissolution of the El Cerrito Redevelopment Agency – this statewide action caused City redevelopment revenue to disappear in 2012. As a result, the City has sued the State to return \$1.4M back to our City;
- Insufficient Stormwater Assessment Fees – the stormwater assessment fee has never been increased and the City has unfunded state mandates to comply with clean water regulations;
- Change of Home Depot Tax Revenue – the State Tax Assessor changed how Home Depot's tax revenues were split with the City of Richmond, reversing several years of tax revenue which caused El Cerrito to have to pay Richmond the difference;
- Decline in User Utility Tax Revenues – this decline is a statewide trend accelerated by the increase of people canceling landlines and cable TV subscriptions;
- Change of Assessed Home Values – the County Assessor vastly reduced property values in 2010 and these were not restored until 2014. This coincided with both his re-election efforts;
- Slow Development of San Pablo Avenue – based on when the SPASP was passed we expected the development on the Avenue was originally expected to start in 2016, but only started to make great progress in the last year; and,
- Marijuana Tax Revenue – the City made the assumption in this fiscal year's budget that a proposed marijuana dispensary would open in El Cerrito, netting approximately \$500,000 in General Fund revenue. This marijuana dispensary has yet to open and is not expected to open before the fiscal year end in June 2020.

Has the City Council considered cutting services?

As mentioned earlier, we have decreased our reserves so that the General Fund can continue to support programs desired by residents. It is difficult to end essential safety services and services that make El Cerrito distinctly better.

For example, in 1988 there were no street lights in the City of El Cerrito. As a result, residents voted to tax themselves, implementing the LLAD. The LLAD tax generates about \$750,000, however, the cost exceeds \$1.2M. The City could save money if we eliminated the street lights

Citywide, however, this is a service our residents expect and deserve. Few residents remember the time before we had street lights and turning off the lights would be a shock.

The City could also save money eliminating the School Resource Officers currently at El Cerrito High School and Korematsu Middle School. Our reimbursement from WCCUSD is currently 80% or \$300,000 of the \$360,000 cost. Few parents of current WCCUSD students remember the time before SROs were placed on those campuses. However, the City is responsible to provide a safe educational experience in our community even when the school district cannot.

The City could save money eliminating the extra hours we have the library open, at a cost of approximately \$100,000 per year. However, demand for library services in our community is on the rise and residents frequently line up to enter the library just before opening.

What about firefighter overtime?

For many years, overtime has been cheaper than the fixed costs that come with hiring a new employee given that overtime hours are not calculated as part of an employee's pension earnings for retirement. This calculation was true in 2010 and needs to be revisited in 2020. With the recent wildfires the last two years, this has been a strain on our budget. While we are fully reimbursed by the state office of emergency services for any overtime relating to fires that our crews are sent to through the state, we do have minimum staffing requirements here and in Kensington associated with providing services here at home, and our overtime costs are increasing. This is something that staff will need to analyze carefully.

What about revisiting increasing the LLAD?
--

The auditor asked if the City should put forward a Proposition 218 election again to increase the LLAD. Given the extensive changes along San Pablo Avenue, new property owners who own parcels proposed mostly for residential may have a different perspective on paying for safe street lighting.

State Auditor Assistance

I asked the State Auditor what help they could provide our City. We talked about how an audit might be a huge drain on our staff, when we most need them to help with our efforts to resolve our financial issues and prepare a budget. The State Auditor said they could decide to do a focused audit on just costs, or just revenues. In the month of January, they will be developing a scope to recommend to the State Legislature. I requested a focused audit as it sounded like the best balance between accessing their expertise and managing our staff workload during the next six months. Unfortunately, the timing of their audit will not be ideal. If the State Auditor were to do some type of audit, they would need to seek authorization on February 19, potentially conduct their field work in March, April and May, and possibly generate their final report in August/September. Their report would be well after our budget is adopted and, if the community supports a revenue measure, would be after the deadline for putting forward a

measure on the November 2020 ballot. Ultimately, their timing could undermine our efforts this year to address our issues.

Anticipated City Council Action This Year

As we discussed in December, the City Council will focus on fiscal stability this year. The City will be undergoing an update to our strategic plan and we will revisit our current strategic goals and determining how to prioritize the services we provide. This will not be a wish list this time around, but a reality check as to how to best allocate resources to our community. Our current strategic goals include:

- Deliver Exemplary Services;
- Achieve Long-Term Financial Sustainability;
- Sense of Place and Community Identity;
- Develop Public Facilities;
- Ensure Health and Public Safety; and,
- Foster Environmental Sustainability.

Staff will need to consider cuts across the board. Residents will consider what their priorities are through the strategic plan and budget processes.

Residents may again decide to increase revenues to maintain our services. I know that sounds like a broken record, however, some of our revenues, like LLAD, Storm Drain Assessment and the Utility Users Tax, are not keeping up with the increase of labor or project costs. Staff retention has resulted in approximately 3% increases per year since the recession ended, pension costs continue to increase, and our revenues have not kept up.

Residents see the median house price climbing and assume that covers the cost of inflation, however, the median price only impacts 2.6% of our housing stock per year – 200 home sales out of 7,500. If none of the homes sold in the last ten years were resold during that time, that would mean 2,000 homes (only a quarter of our housing stock) would be assessed since the recession. With over a quarter of our homes assessed at pre-1990 levels, the City's tax revenues do not climb as fast as is commonly thought when you look at the climbing median home value.

The City expects to receive our annual audited financial statements for the close of Fiscal Year 2018-19 sometime this month. Staff will be providing the City Council and the public with this information and an update on our financial position shortly thereafter. Many residents have suggested a community meeting to discuss the budget, and staff would also like to host a series of meetings to discuss budget priorities. We are holding a town hall meeting on Saturday, February 1st from 10:00 a.m. to 1:00 p.m. in Council Chambers and will send out further details soon.



AGENDA BILL

Agenda Item No. 6.A.

Date: January 21, 2020
To: El Cerrito City Council
From: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager,
Community Development Department
Subject: 7952 Terrace Drive Tentative Parcel Map (*Public Hearing
Noticed 1/11/2020*)

ACTION PROPOSED

Conduct a public hearing, and upon conclusion: (1) Adopt a resolution adopting an Addendum to the Initial Study/Mitigated Negative Declaration (IS/MND) for the 7952 Terrace Drive Subdivision Map; and (2) Adopt a resolution approving a Tentative Parcel Map for a two-lot subdivision and an exception to Title 18 of the City's Municipal Code for a minor subdivision proposing a lot without frontage on a public street at 7952 Terrace Drive.

BACKGROUND

The California Government Code and the El Cerrito Municipal Code include relevant sections regarding the requirements of Parcel Maps and the role of the City Council regarding purview of a Parcel Map requiring an exception to Title 18 of the City's Municipal Code. California Government Code Sections 66444-66450 contain requirements for the preparation and filing of tentative parcel maps. Chapter 18.12 of the El Cerrito Municipal Code (ECMC) regulates tentative maps and Chapter 18.32 ECMC regulates subdivision maps which require an exception to the Subdivision Ordinance (Title 18). The role of the City Council with regard to this action is to verify that the Tentative Parcel Map complies with requirements in Title 18, ECMC (Subdivision Ordinance).

Section 18.32.050 ECMC specifically includes requirements for minor subdivisions (4 or fewer lots) in which frontage on a public street is not provided for all parcels. For instance, a private access road serving two or less dwelling sites shall be at least 16 feet wide and shall be approved by the City Engineer with regard to improvements and turn around provisions to permit forward driving in both directions. This Section also requires that parcels in the historical R-1 zone (which historically applied to the project site) not fronting on a public street shall be a minimum of 6,000 square feet. Finally, this Section requires that the subdivision shall conform to the general pattern of the neighborhood and that additional variances relating to yard requirements shall not be granted.

The project site is located on Terrace Drive, slightly northeast of where Terrace Drive intersects Hancock Way. The parcel is 22,392 square feet and slopes upward toward the east. The site has the Low Density Residential General Plan designation and the

RS-5, Single Family Residential zoning designation. The rear property line is coterminous with the El Cerrito City limits and the adjacent properties to the rear are in Kensington (unincorporated Contra Costa County).

On August 4, 2004, the El Cerrito Planning Commission adopted Resolution PC04-27 (Application No. 5977) approving a subdivision of a 30,486 square foot lot into two residential lots of 22,392 square feet and 8,094 square feet at 7952 Terrace Drive. This subdivision allowed for the construction of a new single-family house at 7950 Terrace Drive. In addition, this subdivision created two easements on the project site for the benefit of 7950 Terrace Drive for the purposes of access and utility lines (see Attachment 3), as 7950 Terrace Drive utilizes a curb cut for the driveway that serves 7952 Terrace Drive

On June 17, 2017, Tom Zhang submitted an application for a Tentative Parcel Map to subdivide the 22,392 square foot parcel at 7952 Terrace Drive into two parcels. On May 15, 2019, the Planning Commission reviewed the application and continued the item to a date uncertain. As part of the motion, the Planning Commission directed City staff to conduct additional research into the environmental analysis required for this application. Upon further review, City staff determined an Addendum to the previously adopted Initial Study/Mitigated Negative Declaration (IS/MND) for the tentative parcel map approved for this site in 2004 was appropriate. See Environmental Considerations section, below, for a more detailed discussion of the IS/MND and Addendum.

On November 20, 2019 the Planning Commission reviewed the Tentative Parcel Map and recommended its approval to the City Council (Resolution PC2019-13) as included in Attachment 5. As part of the recommendation, the Planning Commission added conditions of approval requiring that a notice of limitation be placed on the property maintaining that the Fire Department Turnaround never be impeded and that signage be installed indicating that parking is not allowed in the Fire Department Turnaround.

ANALYSIS

The requested entitlements for consideration by the City Council are a Tentative Parcel Map for a two-lot minor subdivision and an exception to Title 18 of the City's Municipal Code for minor subdivisions because one of the proposed lots does not have frontage on a public street. The proposed two-lot subdivision would allow the creation of a single-family house on the proposed Parcel B. Proposed Parcel A is developed with an existing single-family house and would be 11,886 square feet. Proposed Parcel B is vacant and would be 10,506 square feet.

The proposed parcels are similar in size and dimensions to the immediately surrounding parcels that generally range in size from 5,000 to 15,000 square feet. The surrounding parcels vary in shapes as well with long, narrow parcels; small rectangular parcels; triangular parcels; and numerous unique undefined shapes. The proposed parcels are relatively rectangular and consistent with many of the surrounding rectangular parcels. In addition, there are parcels without frontage on a public street in the vicinity of the project site at 8058 Terrace Drive; 712 Sea View Drive; 716 Balra

Drive; and at 704, 706, 714, and 772 Colusa Avenue. In addition, the RS-5 district allows lots with a minimum size of 5,000 square feet, and Section 18.32.050 requires that lots without street frontages are a minimum of 6,000 square feet. The proposed parcels comply with these minimum area requirements.

New residential construction on proposed Parcel B will require that the existing driveway on the project site that serves 7952 Terrace Drive will also serve proposed Parcel B and will be improved to 16 feet wide, will support the load of a fire truck, and will include a fire truck turnaround. The applicant will also be required to install a fire hydrant at the driveway entrance.

The future single-family residence on proposed Parcel B would be required to conform with all development standards of the RS-5 zoning district. Pursuant to Section 18.32.050 (E), variances to the development standards are not permitted on lots that are granted an exception to Title 18, ECMC.

Staff members, including the Public Works Department and the Fire Department, have reviewed the proposed Tentative Parcel Map (Attachment 3) and have found that it conforms with Section 18.32.050 ECMC.

FINDINGS

The City Council must make the following findings as outlined in Chapter 18.32 (Exception to the Subdivision Ordinance) and Section 18.12.030 (Tentative Maps) of the El Cerrito Municipal Code in order to approve the Tentative Parcel Map:

Chapter 18.32 Findings

1) That there are special circumstances or conditions affecting said property.

The existing parcel is a large deep lot that is significantly larger than surrounding parcels, and sufficient in size to allow the creation of two parcels. It is not feasible nor desirable to require a public street be constructed such that both proposed parcels will have frontage entirely along a public street. The proposed Tentative Parcel Map includes improving an existing driveway within an existing easement to meet the standards described in Section 18.32.050, ECMC.

2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

The exception will allow the applicant to subdivide an existing 22,392 square foot parcel into two parcels of 11,886 square feet and 10,506 square feet. These proposed parcel sizes are consistent with the standards of the RS-5 zoning district and with the surrounding properties, and would allow the applicant to develop the proposed vacant parcel in a manner similar to surrounding properties.

3) That the granting of the exception will not be detrimental to the public welfare or

injurious to other property in the vicinity of which said property is situated.

As described in the two findings above, the proposed Tentative Parcel Map includes a driveway that complies with City requirements (including Section 18.32.050, ECMC). In addition, the proposed parcel sizes are consistent with the surrounding properties. Development on the proposed vacant parcel will be required to conform with all development standards of the RS-5 zoning district and will not negatively impact other properties.

4) When vehicular access for two or less dwelling sites is provided by way of a private access road, such road shall be of a minimum width of 16 feet of pavement.

The proposed new driveway is 16 feet wide and will be surfaced with asphalt, concrete, or other approved surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

5) Design for private access roads shall be subject to approval of the city engineer. The city engineer shall require curb and gutter and drainage facilities as may in his or her opinion be needed. A cul-de-sac, with a paved radius of twenty-five feet, or an approved Y-turnaround shall be required to permit forward driving in both directions on private roads.

The City Engineer and the Fire Department have reviewed and approved the proposed private access road, including a proposed fire truck turnaround.

6) Area minimum and frontage minimum for sites fronting on a public street shall be as required by the zoning ordinance. For each site not fronting on a public street in the R-1 zone, the minimum area shall be six thousand square feet; in the R-1-B-1 zone, eight thousand square feet; and in the R-1-B-2 zone, ten thousand square feet. Private roads shall not be included in the building site area computations. Setbacks shall be as required in the zoning ordinance, and no part of the private road may be within the setback area.

The zoning designations cited in this finding existed until 2008, when the current Zoning Ordinance was adopted. The references in the Subdivision Ordinance have not been updated to reference the current zoning designations. The project site was designated as R-1 on the previous Zoning Map. The proposed Parcel B does not have the required frontage on a public street and this parcel complies with the minimum required lot size of 6,000 square feet. Proposed Parcel B is 10,506 square feet.

7) All large and deep lot subdivisions shall conform to the general pattern of the neighborhood.

Parcels in the immediately surrounding area predominantly range in size from 5,000 square feet to 15,000 square feet, and the proposed Parcels A and B are similar in size to these surrounding parcels with 11,886 square feet and 10,506 square feet,

respectively. The surrounding parcels vary in shapes as well with long, narrow parcels; small rectangular parcels; triangular parcels; and numerous unique undefined shapes. The proposed parcels are relatively rectangular and consistent with many of the surrounding rectangular parcels. In addition, there are parcels without frontage on a public street in the vicinity of the project site at 8058 Terrace Drive; 712 Sea View Drive; 716 Balra Drive; and at 704, 706, 714, and 772 Colusa Avenue.

8) Since the above procedure involves exceptions to the subdivision ordinance, additional variances relating to yard requirements shall not be granted.

The applicant does not propose any additional variances relating to yard requirements beyond the exception to the subdivision ordinance described above and additional variances relating to yard requirements will not be allowed.

Section 18.12.030 Finding

9) The proposed lots are in conformity with the requirements of Chapter 18; the proposed parcels comply with the necessary size and shape; and the lots will have the proper and sufficient access to a public street.

The proposed Tentative Parcel Map is in conformity with Chapter 18 excluding the exception described above for frontage on a public street. The proposed parcels also comply with the minimum 5,000 square feet in area and minimum 50 feet lot width for interior lots in the RS-5 zoning district pursuant to Table 19.06-B in Section 19.06.030 ECMC, in addition to the minimum area requirements described in Finding 6 above.

STRATEGIC PLAN CONSIDERATIONS

The following goal of the Strategic Plan is addressed by this action: *Goal C: Deepen a sense of place and community identity.*

The proposed tentative parcel map will allow for future development of a single family house on proposed Parcel B and will allow for new development on an underutilized property. The future single-family residence on proposed Parcel B would be required to conform with all development standards of the RS-5 zoning district.

ENVIRONMENTAL CONSIDERATIONS

An Initial Study/Mitigated Negative Declaration (IS/MND) was adopted in 2004 for a tentative parcel map at 7952 Terrace Drive. Subsequent to the adoption of the IS/MND and approval of the subdivision that created a new lot at 7950 Terrace Drive, the applicant submitted an application to subdivide the resulting parcel at 7952 Terrace Drive into two parcels. Pursuant to CEQA Guidelines Section 15164, an Addendum to the 2004 IS/MND was prepared for the project. The Addendum determined that the proposed project would not result in new or substantially more adverse significant effects nor would it require new mitigation measures not identified in the 2004 IS/MND (see Attachment 6). Mitigation Measures in the IS/MND address building aesthetics;

tree protection and mitigation; light glare; geotechnical analysis; stormwater treatment; and drainage. These Mitigation Measures are included as Conditions of Approval #29 through #37 in the draft resolution in Attachment 1.

An Arborist Report for the project site was prepared on March 12, 2018 (see Attachment 8). This report identifies six Blackwood Acacia trees on proposed Parcel B to be removed, and a Coast Live Oak to be preserved. The report also includes recommendations for protecting the Coast Live Oak. These measures will be required as part of Condition of Approval #9 in the draft resolution in Attachment 1. In addition, the applicant will be required to plant two new trees on the eastern portion of proposed Parcel B as provided in Conditions of Approval #10 and #30 in the draft resolution.

A Geotechnical Investigation for the project site was prepared on August 9, 2001, and subsequently updated on April 9, 2014 and on January 31, 2018 (see Attachment 7). The 2018 update determined that, with updated recommendations to address requirements in the 2016 California Building Code, the findings and recommendations in the 2001 report are still valid. This report found that the eastern portion of the project site is underlain by the active Blakemont Landslide and the western portion of the project site is underlain by the inactive Blakemont Landslide. The active Blakemont Landslide is likely to continue to move at the historical average rate of about one inch per year. One recommendation in the report is that any proposed house be situated at least 15 feet from the mapped landslide margin, where the active and inactive landslides intersect. The proposed Tentative Parcel Map in Attachment 3 shows the landslide margin and the 15-foot setback. Additional recommendations include measures for site preparation and earthwork; surface drainage; structural mat foundation; retaining walls; and construction observation. These recommendations are included as requirements, pursuant to Condition of Approval #7 in the draft resolution in Attachment 1.

FINANCIAL CONSIDERATIONS

There are no costs to the City associated with this action.

LEGAL CONSIDERATIONS

The resolutions have been reviewed and approved by the City Attorney.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution (Tentative Parcel Map)
2. Tentative Parcel Map
3. Resolution (IS-MND Addendum)
4. Exhibit A to Resolution (IS-MND Addendum)
5. Preliminary Grading and Drainage Plan
6. Resolution PC 2019-13
7. Geotechnical Report
8. Arborist Report

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING A TENTATIVE PARCEL MAP FOR A TWO-LOT SUBDIVISION AND AN EXCEPTION TO TITLE 18 OF THE CITY'S MUNICIPAL CODE FOR A MINOR SUBDIVISION PROPOSING A LOT WITHOUT FRONTAGE ON A PUBLIC STREET AT 7952 TERRACE DRIVE WITH ASSESSOR'S PARCEL NUMBER 505-243-021

WHEREAS, on June 17, 2017, Tom Zhang (the "Applicant") submitted an application for a Tentative Parcel Map to subdivide a parcel of 22,392 square feet into two parcels. Proposed Parcel "A" would be 11,886 square feet and is developed with a single-family house, and proposed Parcel "B" would be 10,506 square feet and is vacant; and

WHEREAS, the current address of the site is 7952 Terrace Drive; and

WHEREAS, the current Assessor's Parcel Number of the site is 505-243-021; and

WHEREAS, the General Plan land use classification of the site is Low Density Residential; and

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential); and

WHEREAS, on August 4, 2004, the El Cerrito Planning Commission adopted the Initial Study/Mitigated Negative Declaration (IS/MND) for the 7952 Terrace Drive Subdivision Map pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code, section 21000 et seq.) and the California Code of Regulations, title 14, section 15000 et seq. ("State CEQA Guidelines"); and

WHEREAS, an Addendum to the IS/MND was prepared pursuant to State CEQA Guidelines Section 15164 to evaluate the potential environmental impacts that could result from modifying the Project and the El Cerrito City Council adopted the Addendum on January 21, 2020 which is incorporated herein by reference; and

WHEREAS, approval of a Tentative Parcel Map is governed by Sections 66444 - 66450 of the State of California Government Code (Subdivision Map Act) and Title 18 Divisions of Land of the El Cerrito Municipal Code; and

WHEREAS, on November 20, 2019 the El Cerrito Planning Commission adopted Resolution PC 2019-13, finding that the Tentative Parcel Map is in conformity with the requirements of Section 18.32.050 of the El Cerrito Municipal Code. Based on its findings, the Planning Commission recommended approval of the Tentative Parcel Map to the City Council; and

WHEREAS, the City Council held a properly noticed public hearing on the Project on January 21, 2020 at which time all interested parties had the opportunity to be heard; and

WHEREAS, the administrative record, including the Agenda Bill prepared in support of this Resolution and submitted to the City Council at its January 21, 2020, meeting and incorporated herein by reference, establishes that the Tentative Parcel Map is in conformity with the requirements of Chapter 18.32 of the El Cerrito Municipal Code including all changes permitted and all requirements imposed as a condition to its acceptance.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of El Cerrito, after due consideration of all testimony, recommendations, evidence and reports offered for review, does find and determine, using independent judgement, the following pursuant to Sections 18.32.010, 18.32.050, and 18.12.030, ECMC:

- 1) That there are special circumstances or conditions affecting said property.

The existing parcel is a large deep lot that is significantly larger than surrounding parcels, and sufficient in size to allow the creation of two parcels. It is not feasible nor desirable to require a public street be constructed such that both proposed parcels will have frontage entirely along a public street. The proposed Tentative Parcel Map includes improving an existing driveway within an existing easement to meet the standards described in Section 19.32.050 ECMC.

- 2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

The exception will allow the applicant to subdivide an existing 22,392 square foot parcel into two parcels of 11,886 square feet and 10,506 square feet. These proposed parcel sizes are consistent with the standards of the RS-5 zoning district and with the surrounding properties, and would allow the applicant to develop the proposed vacant parcel in a manner similar to surrounding properties.

- 3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of which said property is situated.

As described in the two findings above, the proposed Tentative Parcel Map includes a driveway that complies with City requirements (including Section 18.32.050 ECMC). In addition, the proposed parcel sizes are consistent with the surrounding properties. Development on the proposed vacant parcel will be required to conform with all development standards of the RS-5 zoning district and will not negatively impact other properties.

- 4) When vehicular access for two or less dwelling sites is provided by way of a private access road, such road shall be of a minimum width of 16 feet of pavement.

The proposed new driveway is 16 feet wide and will be surfaced with asphalt, concrete, or other approved surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

5) Design for private access roads shall be subject to approval of the city engineer. The city engineer shall require curb and gutter and drainage facilities as may in his or her opinion be needed. A cul-de-sac, with a paved radius of twenty-five feet, or an approved Y-turnaround shall be required to permit forward driving in both directions on private roads.

The City Engineer and the Fire Department have reviewed and approved the proposed private access road, including a proposed fire truck turnaround.

6) Area minimum and frontage minimum for sites fronting on a public street shall be as required by the zoning ordinance. For each site not fronting on a public street in the R-1 zone, the minimum area shall be six thousand square feet; in the R-1-B-1 zone, eight thousand square feet; and in the R-1-B-2 zone, ten thousand square feet. Private roads shall not be included in the building site area computations. Setbacks shall be as required in the zoning ordinance, and no part of the private road may be within the setback area.

The zoning designations cited in this finding existed until 2008, when the current Zoning Ordinance was adopted. The references in the Subdivision Ordinance have not updated to reference the current zoning designations. The project site was designated as R-1 on the previous Zoning Map. The proposed Parcel B does not have the required frontage on a public street and this parcel complies with the minimum required lot size of 6,000 square feet. Proposed Parcel B is 10,506 square feet.

7) All large and deep lot subdivisions shall conform to the general pattern of the neighborhood.

Parcels in the immediately surrounding area predominantly range in size from 5,000 square feet to 15,000 square feet, and the proposed Parcels A and B are similar in size to these surrounding parcels with 11,886 square feet and 10,506 square feet, respectively. The surrounding parcels vary in shapes as well with long, narrow parcels; small rectangular parcels; triangular parcels; and numerous unique undefined shapes. The proposed parcels are relatively rectangular and consistent with many of the surrounding rectangular parcels. In addition, there are lots without frontage on a public street in the vicinity of the project site at 8058 Terrace Drive; 712 Sea View Drive; 716 Balra Drive; and at 704, 706, 714, and 772 Colusa Avenue.

8) Since the above procedure involves exceptions to the subdivision ordinance, additional variances relating to yard requirements shall not be granted.

The applicant does not propose any additional variances relating to yard requirements beyond the exception to the subdivision ordinance described above and additional variances relating to yard requirements will not be allowed.

9) The proposed lots are in conformity with the requirements of Chapter 18; the proposed parcels comply with the necessary size and shape; and the lots will have the proper and sufficient access to a public street.

The proposed Tentative Parcel Map is in conformity with Chapter 18 excluding the exception described above for frontage on a public street. The proposed parcels also comply with the minimum 5,000 square feet in area and minimum 50 feet lot width for interior lots in the RS-5 zoning district pursuant to Table 19.06-B in Section 19.06.030 ECMC, in addition to the minimum area requirements described in Finding 6 above.

BE IT FURTHER RESOLVED that, based on the foregoing findings and information presented related to the Tentative Parcel Map at its January 21, 2020 meeting, it hereby approves the Tentative Parcel Map for a two-lot subdivision at 7952 Terrace Drive with Assessor's Parcel Number 505-243-021, subject to the following conditions:

Planning Division:

1. The project shall be developed and maintained substantially in compliance with the Tentative Parcel Map dated as received by the City on September 25, 2019 except as amended by subsequent conditions of this Resolution. Minor changes may be approved by the Zoning Administrator.
2. The scope of this approval shall be limited to a Tentative Parcel Map for a two-lot minor subdivision.
3. If not recorded, the approval of this Tentative Parcel Map shall expire two years from the date of approval.
4. No variance relating to yard requirements for proposed Parcel B shall ever be considered or approved.
5. When new residences are constructed, they will be subject to the zoning regulations in place at the time that the building permit is issued.
6. Prior to the issuance of a building permit, a construction staging plan shall be submitted to the Zoning Administrator for review. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit.
7. Prior to issuance of building permit, building plans shall incorporate recommendations included in the August 9, 2001 Geotechnical / Geologic Investigation for 7952 Terrace Drive, and the April 9, 2014 and January 31, 2018 updates to this report. The Building Official may request an additional update to this report, depending on date of any future building permit application.
8. Prior to any site improvements, temporary construction fencing shall be installed at the northern property line to separate the driveways for 7952 Terrace Drive and 7962 Terrace Drive and to minimize impacts to the driveway for 7962 Terrace Drive.

9. Prior to and during site improvements on proposed Parcel B, the applicant shall comply with the tree protection requirements on page 4 of the Arborist Report dated March 12, 2018 for the existing Oak tree on proposed Parcel B.

10. Prior to issuance of Certificate of Occupancy, the applicant shall plant two new trees on the eastern portion of proposed Parcel B, with tree species to be reviewed and approved by the Zoning Administrator.

11. The fire turnaround shall be maintained in perpetuity, unless express written approval from the Fire Department and the Zoning Administrator to make any changes to the fire truck turnaround is obtained.

Public Works Department:

12. Applicant shall submit a Stormwater Operations & Maintenance Agreement to the Public Works Department to review and approve prior to issuance of a building permit.

13. Prior to the issuance of a building permit, applicant shall provide an Easement recorded by the County, for the proposed driveway and for all proposed storm water drainage management facilities.

14. Applicant shall provide a detailed civil plan for off-site work for the Public Works Department to review and approve prior to the issuance of a building permit.

15. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.

16. Applicant shall provide detailed drainage plan including rain leaders, roof slopes, downspouts, etc. for the Public Works Department to review and approve prior to issuance of building permit.

17. Applicant shall submit an Erosion and Sediment Control Plan for construction for review and approval by the Public Works Department prior to issuance of a building permit.

18. Before the start of ANY work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant must obtain a Public Works Encroachment Permit and pay all associated fees.

19. Removal of any trees within a public right-of-way shall comply with the procedures in Chapter 13.28: Public Tree and Shrub Ordinance of the El Cerrito Municipal Code.

20. Any new street trees are required to have irrigation and an establishment period of 3 years prior to acceptance by the City.

Fire Department:

21. Building Construction

A. Building construction shall meet current California Building, Fire, and Residential Codes and the El Cerrito Fire Code.

B. Door from the dwelling to an attached garage shall be self-closing, self-latching, 1 3/8 inch solid core, 1 3/8 inch steel or 20 minute rated door.

C. All electrical breakers shall be labeled.

22. Fire Apparatus Access

A. With the exception of the width which shall not be less than 16 feet wide fire apparatus access from the street to the structure shall meet the requirements of Appendix D of the 2016 California Fire Code.

B. Fire apparatus access shall include a 120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac or acceptable alternative to 120-foot Hammerhead in accordance with Figure D103.1 of Appendix D of the 2016 California Fire Code.

C. Buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

D. Per previous discussions, one fire hydrant will be added at the entrance to the EVA.

23. Carbon Monoxide Detectors

A. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.

B. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.

C. Carbon Monoxide alarms shall be 120 v Powered with battery backup and be interconnected with the smoke detectors.

24. Smoke Detection

A. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).

B. Smoke detectors shall be 120v powered with battery backup.

C. Smoke detectors shall be interconnected.

25. Automatic Fire Sprinklers
- A. NFPA 13D Automatic Fire Sprinklers are required throughout.
 - B. Plans shall be submitted for review and approval under separate cover.
26. Premises Identification
- A. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
 - B. Address shall be either internally or externally illuminated.
27. Emergency Egress
- A. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue.
 - B. Escape or rescue windows shall be installed in accordance with California Residential Code R310.2.1 & R310.2.2.
28. Wildland-Urban Interface
- A. Area is located within designated Very High Fire Hazard Severity Zone (VHFHSZ) and is subject to the requirements of the Wildland-Urban Interface. Building construction shall meet all applicable codes and requirements including those in CRC Section R337.
 - B. El Cerrito Vegetation Management Standards shall be strictly enforced.
 - C. State Law and City Ordinance require that all roofing within the VHFHSZ be Class B or better in new construction.
 - D. Spark arresters with a maximum of ½" openings in the mesh are required over the outlet of chimney shall be installed.

Mitigation Measures (2004 Initial Study /Mitigated Negative Declaration):

29. Mitigation Measure 1. Prior to issuance of any building permit of any structure on the project site, such structure shall have neutral, earth tone exterior colors and, to the fullest extent feasible, use low reflectivity glass. If metal roofs are used, they shall be painted a neutral or earth tone color. Graded areas shall be re-vegetated as soon as possible after completion of grading.
30. Mitigation Measure 2. Prior to the issuance of a grading permit by the City, the project developer shall submit an arborist report prepared by a qualified arborist identifying specific methods to protect existing on-site trees. If protection of trees is not possible, the arborist report shall include a tree mitigation plan acceptable to the City. Recommendations for tree protection shall be incorporated into project grading plans and specifications.
31. Mitigation Measure 3. Exterior light fixtures shown on final building plans shall be equipped with cut-off lenses to ensure that light is directed downward.

32. Mitigation Measure 4. The following measures shall be incorporated into project conditions and grading plans and specifications:

- A. Idling time for all construction equipment used on the site shall not exceed 5 minutes.
- B. Frequent watering of the site to minimize fugitive dust.
- C. Limitations shall be imposed on the hours of operation of heavy equipment and/or the amount of equipment in use.
- D. All equipment shall be properly tuned and maintained in accord with manufacturer specifications.
- E. Gasoline powered equipment shall be fitted with catalytic converters, where feasible.

33. Mitigation Measure 5. In the event any prehistoric material is discovered on the site, work shall be halted in the immediate vicinity of the site until a qualified archeologist inspects the discovery, and, if necessary, implements plans consistent with CEQA Guidelines 15064.5 for further evaluative testing and/or retrieval of endangered materials.

34. Mitigation Measure 6. Construction plans for any future dwellings on the site shall comply with the California Building Code and recommendations contained in all site-specific geotechnical reports for this property, including minimum property setbacks and foundation construction.

35. Mitigation Measure 7. The project developer shall prepare a Stormwater Pollution Prevention Plan (SWPPP), listing Best Management Practices to reduce construction and post-construction activities to a less than significant level. Measures may include, but shall not be limited to revegetation of graded areas, placement of silt fencing and other measures. The SWPPP shall conform to standards adopted by the Regional Water Quality Control Board and City of El Cerrito and shall be approved by the City of El Cerrito City Engineer prior to issuance of grading permits. Erosion control measures included in the SWPPP shall be incorporated into grading contractor specifications, including but limited to installation of silt fences.

36. Mitigation Measure 8. Prior to any significant future development, such as a new dwelling, the project developer's registered civil engineer shall prepare a drainage and hydrology study for the approval of the City Engineer. The study shall include a discussion of existing and proposed off-site public or private drainage facilities intended to convey project stormwater discharge, the capacity of downstream facilities to accommodate project discharges and a discussion of drainage deficiencies. The project's contribution to reduce any drainage impacts to a less-than significant level shall also be included.

37. Mitigation Measure 9. Construction operations, including grading, shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 8:00 am to 5:00 pm on Saturdays. Construction work is prohibited on Sundays and holidays.

Planning Commission:

38. Prior to issuance of a building permit, a notice of limitation on the property, subject to review and approval of the Zoning Administrator, shall be recorded with the Contra Costa County Clerk-Recorder's Office that indicates that access to the "Fire Department Turnaround" shown on Tentative Parcel Map dated as received by the City on September 25, 2019 shall never be impeded. For example, vehicles shall never be parked and materials or equipment shall never be stored in a manner that would impede access to the Fire Department Turnaround located west of the existing house at 7952 Terrace Drive.

39. Prior to issuance of any Certificate of Occupancy for proposed Parcel B, signage approved by the Planning Division shall be installed at the "Fire Department Turnaround" shown on Tentative Parcel Map dated as received by the City on September 25, 2019, informing vehicles that parking is not allowed in the Fire Department Turnaround.

I CERTIFY that at a regular meeting on January 21, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

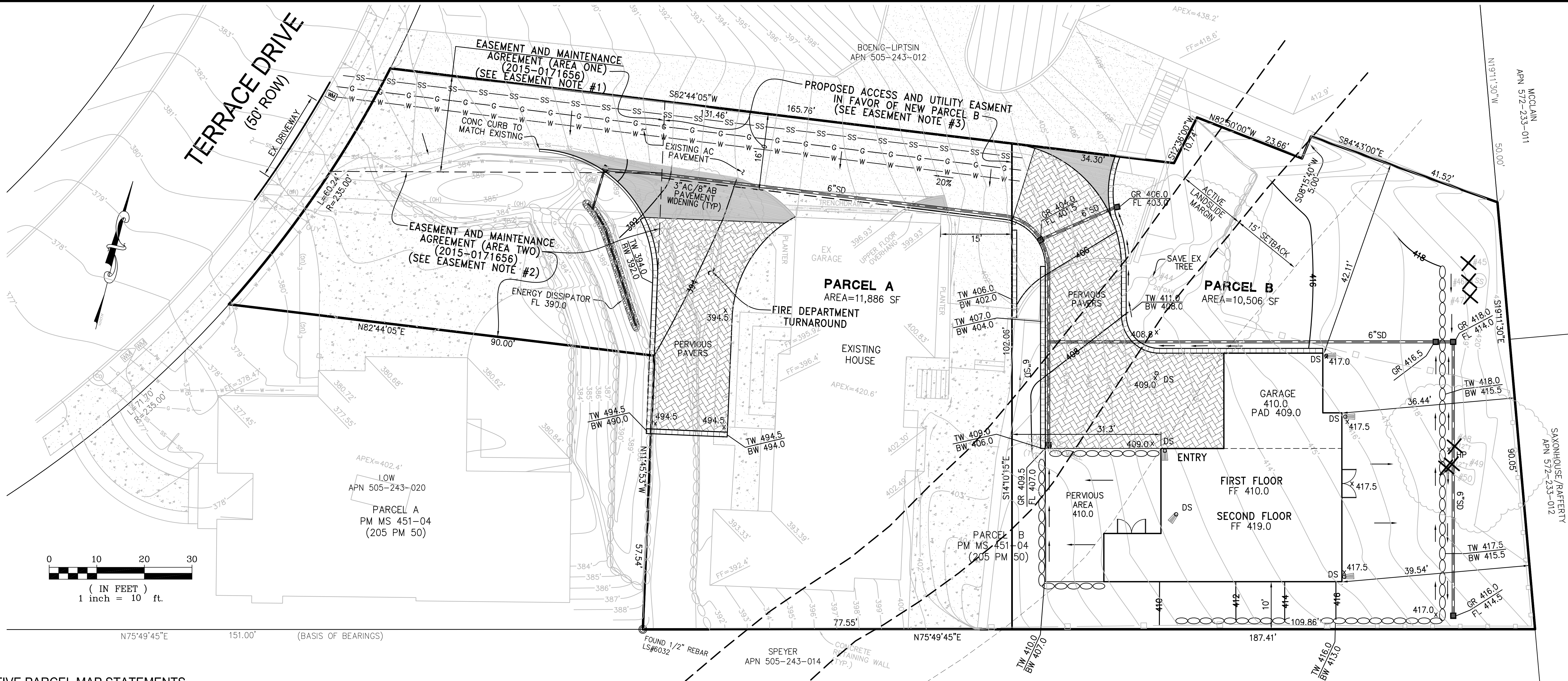
AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charléty, City Clerk

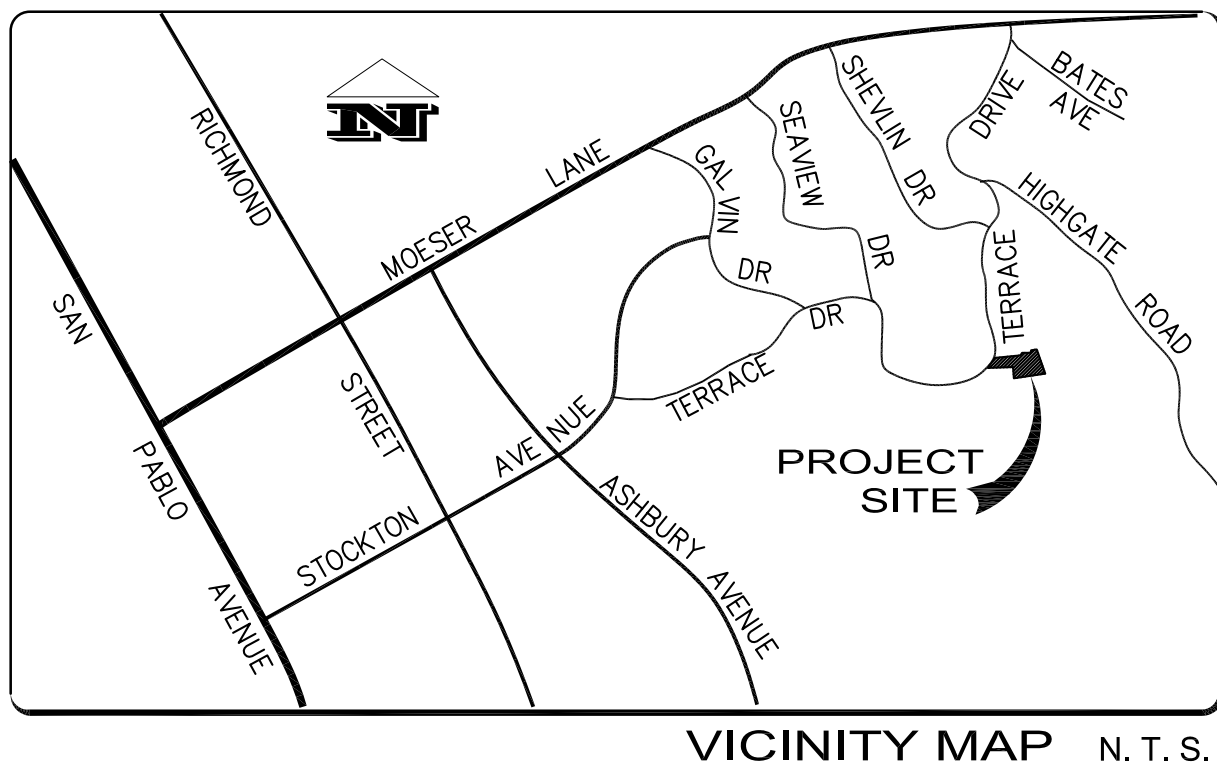
APPROVED:

Gregory B. Lyman, Mayor



TENTATIVE PARCEL MAP STATEMENTS

1. RECORD PROPERTY OWNER: JORDAN, DOWDAN AND DAVID LOW
7952 TERRACE DRIVE
EL CERRITO, CA 94530
(925)826-2278
2. APPLICANT: JORDAN, DOWDAN AND DAVID LOW
7952 TERRACE DRIVE
EL CERRITO, CA 94530
(925)826-2278
3. ENGINEER/SURVEYOR: HUMANN COMPANY, INC.
1021 BROWN AVENUE
LAFAYETTE, CA 94549
(925)283-5000
4. APN: 505-243-021
5. AREA OF PROPERTY: 22,392 SF (0.514 ACRES)
6. PROPOSED NO. OF LOTS: 2
7. EXISTING UTILITIES:
WATER: EAST BAY MUNICIPAL UTILITY DISTRICT
GAS AND ELECTRIC: PACIFIC GAS AND ELECTRIC COMPANY
STORM DRAINAGE: CITY OF EL CERRITO
SANITARY SEWER: CITY OF EL CERRITO
FIRE: CITY OF EL CERRITO
TELEPHONE: AT&T, COMCAST
CABLE TV: COMCAST
8. TOPOGRAPHIC SURVEY: ACKLAND INTERNATIONAL INC.
333 HEGENERGER ROAD
OAKLAND, CA 94621
(510)633-1797
9. EXISTING ZONING: R2 (RESIDENTIAL)
10. EXISTING USE: RESIDENTIAL
11. PROPOSED USE: RESIDENTIAL
12. FLOOD ZONE: FEMA FLOOD ZONE "X"
- BASIS OF BEARINGS:**
THE SOUTH BOUNDARY-LINE OF PARCEL "A" BETWEEN THE FOUND 1/2IN. REBARS W/TAG LS#6032. TAKEN AS N75°49'45"E.
- REFERENCE DATA:**
ELEVATIONS ARE BASED ON TENTATIVE PARCEL MAP ENTITLED BERKLEY COUNTRY CLUB TERRACE NO. 2 BK.1 PG. 25 BM TOP CURB @ CB AT HANCOCK AND TERRACE DRIVE (371.59)
- FEMA NOTE:**
PROPERTY IS LOCATED IN ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS SHOWN ON FEMA FIRM MAP NUMBER 0613C0241G, EFFECTIVE 09/30/2015.



UTILITY NOTE:

THE SURFACE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY A FIELD SURVEY. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM RECORDS OF THE VARIOUS AGENCIES. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THEIR INDICATED LOCATION, SIZE, OR TYPE. RECORD UTILITY INFORMATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.

LEGEND:

- EXTERIOR BOUNDARY LINE
PROPOSED NEW LOT LINE
EASEMENT LINE
TREE TRUNK
FIRE HYDRANT
WATER VALVE
WATER METER
FENCE
FOUND 1/2" REBAR LS#6032
ROCK WALL

ABBREVIATIONS:

- EP EDGE OF PAVEMENT
MON MONUMENT
IP IRON PIPE
WV WATER VALVE
ROW RIGHT-OF-WAY
(#)2" T # OF 2" T TREES
FD FOUND
HYD FIRE HYDRANT
AC ASPHALT CONCRETE
P.U.E. PUBLIC UTILITY EASEMENT

PROPOSED LOT AREAS

LOT	AREA (SF)
PARCEL A	11,886
PARCEL B	10,506
TOTAL	22,392

ADDED/REPLACED IMPERVIOUS AREAS

LOT	APPROXIMATE AREA (SF)
PARCEL A	363
PARCEL B	1,700
TOTAL	2,063

EASEMENT NOTES:

1. AREA ONE (2015-0171656) GRANTED TO APN 505-243-020 FOR INGRESS AND EGRESS AND TO BE GRANTED TO NEW PARCEL B FOR THE SAME PURPOSES UNDER A SEPARATE DOCUMENT.
2. AREA TWO (2015-0171656) GRANTED TO APN 505-243-020 FOR INGRESS & EGRESS, WATER & GAS, UTILITIES & LANDSCAPING, AND RELATED USES. THIS AREA IS TO BE GRANTED TO NEW PARCEL B FOR THE SAME PURPOSES UNDER A SEPARATE DOCUMENT.
3. PROPOSED ACCESS AND UTILITY EASEMENT FOR THE BENEFIT OF NEW PARCEL B TO BE GRANTED UNDER A SEPARATE DOCUMENT.

Z:\P\0\18038\PM.dwg 9/13/2018 9:17:32 AM PDI

NO.	DATE	BY	REVISIONS
	9/12/19	PE/IN	ADDED ACTIVE LANDSLIDE MARGIN/REVISE HOUSE LOCATION

SCALE	1" = 10'
DATE	02/22/19
DRAWN	PE
CHECKED	IN
JOB NO.	18038



IZZAT S. NASHASHIBI R.C.E. 29528

TENTATIVE PARCEL MAP
A RESUBDIVISION OF PARCEL B, PARCEL MAP MS 451-04 (205 PM 50)
7952 TERRACE DRIVE (APN 505-243-021)
EL CERRITO CONTRA COSTA COUNTY CALIFORNIA



SHEET 1
OF 1 SHEET

JOB NO. 18038

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING AN ADDENDUM TO THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR A MINOR SUBDIVISION AT 7952 TERRACE DRIVE WITH ASSESSOR'S PARCEL NUMBER 505-243-021

WHEREAS, on August 4, 2004, the El Cerrito Planning Commission adopted the Initial Study/Mitigated Negative Declaration (IS/MND) for the 7952 Terrace Drive Subdivision Map pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code, section 21000 et seq.) and the California Code of Regulations, title 14, section 15000 et seq. ("State CEQA Guidelines"); and

WHEREAS, subsequent to the adoption of the IS/MND and the approval of the subdivision map that created a new lot at 7950 Terrace Drive, the Applicant submitted an application to subdivide the resulting parcel at 7952 Terrace Drive into two parcels; and

WHEREAS, this modification was not addressed in the IS/MND; and

WHEREAS, an Addendum to the IS/MND was prepared pursuant to State CEQA Guidelines Section 15164 to evaluate the potential environmental impacts that could result from modifying the Project; the Addendum is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, Section 15164 of the State CEQA Guidelines requires the City Council of the City of El Cerrito to make one or more of the following findings prior to approval and adoption of the Addendum:

Finding 1. Minor technical changes or additions to the original project are necessary;

Finding 2. None of the following conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a subsequent negative declaration have occurred:

A. Substantial changes are proposed in the Project which will require major revisions of a previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

B. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

C. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was adopted, shows any of the following:

(1) The project will have one or more significant effects not discussed in the previous Mitigated Negative Declaration;

(2) Significant effects previously examined will be substantially more severe than shown in the previous Mitigated Negative Declaration;

(3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(4) Mitigation measures or alternatives which are considerably different from those analyzed in the previous Mitigated Negative Declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

- 1) The City Council hereby finds the foregoing recitals to be true and correct, and incorporated herein by reference.
- 2) As the decision-making body for the Project, the City Council of the City of El Cerrito has reviewed and considered the information contained in the Addendum and related administrative record. The City Council of the City of El Cerrito finds that the Addendum contains a complete and accurate reporting of the environmental impacts associated with the proposed changes to the Project. The City Council of the City of El Cerrito further finds that the Addendum has been completed in compliance with CEQA and the State CEQA Guidelines.
- (3) The City Council of the City of El Cerrito finds that none of the conditions set forth in State CEQA Guidelines Section 15162 requiring a subsequent mitigated negative declaration have occurred.
- (4) The Addendum prepared for the Project reflects the independent judgement and analysis of the City of El Cerrito.
- (5) On the basis of the whole record before it, the City Council of the City of El Cerrito finds there is no substantial evidence that the revised Project will have a significant effect on the environment.

- (6) The City Council of the City of El Cerrito hereby adopts the Addendum to the Initial Study/Mitigated Negative Declaration for the 7952 Terrace Drive Subdivision Map.

I CERTIFY that at a regular meeting on January 21, 2020, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charléty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

**ADDENDUM TO THE EDMOND LOW TENTATIVE
PARCEL MAP INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION**

**7952 TERRACE DRIVE PROJECT
EL CERRITO, CALIFORNIA**



October 2019

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**ADDENDUM TO THE EDMOND LOW TENTATIVE
PARCEL MAP INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION**

**7952 TERRACE DRIVE PROJECT
EL CERRITO, CALIFORNIA**

Submitted to:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530

Prepared by:

LSA
157 Park Place
Richmond, California 94801
510.236.6810

Project No. CEC1905



October 2019

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1.0 INTRODUCTION

This document, prepared pursuant to the California Environmental Quality Act (CEQA) and the regulations and policies of the City of El Cerrito (City), is an Addendum to the Edmond Low Tentative Parcel Map (2004 project) Initial Study/Mitigated Negative Declaration (2004 IS/MND)¹ which was adopted by the City of El Cerrito in 2004. Per CEQA Section 15164, this Addendum evaluates whether modifications and refinements to the proposed 7952 Terrace Drive Project (proposed project) would result in new or substantially more adverse significant effects or require new mitigation measures not identified in the 2004 IS/MND. The City of El Cerrito is the CEQA Lead Agency for environmental review of the proposed project.

For purposes of this review, the City has identified the proposed project evaluated in this Addendum as the subdivision of the existing 7952 Terrace Drive Parcel into two roughly equally sized parcels. Parcel A, which would include an existing residence, would be approximately 11,886 square feet in size. Parcel B would be located east of Parcel A, and would include a total of 10,506 square feet. Although not a part of this application, the proposed project would allow for the construction of a new single-family dwelling unit to be built on Parcel B. Section 2.0 of this Addendum provides a detailed project description and summary of the project history, background, location, and existing site characteristics.

As discussed in this Addendum, the proposed revisions to the 2004 project resulting from approval of the proposed project would not cause new significant environmental effects not identified in the IS/MND, nor would impacts associated with the project revisions be substantially more severe. The analyses in this Addendum also shows that no substantive changes have occurred with respect to current circumstances under which the project would be undertaken that would cause new or substantially more severe significant environmental effects than were identified in the 2004 IS/MND. In addition, no new information has become available that shows that the project would cause new or substantially more severe significant environmental effects which have not already been analyzed in the 2004 IS/MND.

1.1 PURPOSE OF THIS ADDENDUM

The purpose of this Addendum is to evaluate whether the proposed revisions to the 2004 project resulting from the proposed project would result in any new or substantially more severe significant environmental effects or require any new mitigation measures not identified in the 2004 IS/MND for the 2004 project. This Addendum, together with the 2004 IS/MND, will be used by the City when considering approval of the proposed project. The 2004 IS/MND is hereby incorporated by reference.

¹ El Cerrito, City of, 2004. *Edmond Low Tentative Parcel Map Initial Study/Mitigated Negative Declaration*.

1.2 CEQA FRAMEWORK FOR USE OF AN ADDENDUM

CEQA Guidelines Section 15164 allows for the preparation of an Addendum to an adopted MND “if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR (or MND) have occurred.” CEQA Guidelines Section 15164 identifies the following conditions that would require preparation of a subsequent MND:

- Substantial changes in the project are proposed which require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which require major revisions to the MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of MND adoption, shows any of the following:
 - The project will have one or more significant effects not discussed in the MND,
 - The project will result in impacts substantially more severe than those disclosed in the MND,
 - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measure or alternative, or
 - Mitigation measures or alternatives that are considerably different from those analyzed in the MND would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

Pursuant to CEQA Guidelines Section 15164(e), this Addendum summarizes the revisions to the 2004 project resulting from the proposed project, the less-than-significant impacts associated with the proposed project, and the reasons for the City’s conclusion that proposed changes to the project and associated environmental effects do not meet the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent MND. The following chapters provide a description of the proposed revised project and provides substantial evidence to confirm that the proposed revisions to the project do not result in any new or more severe impacts and the mitigation measures included in the 2004 IS/MND are adequate for the current project, per CEQA Guidelines Section 15164, and that no further CEQA review is required.

Section 2.0 provides a complete project description of the project history, current application, location, existing site characteristics, proposed development, and a comparison of the original and proposed project.

Section 3.0 provides an analysis of the potential environmental effects for each CEQA Initial Study Checklist topic to evaluate the changes to the project and identify the mitigation measures identified in the 2004 IS/MND that are required for the proposed project.

Section 4.0 provides a conclusion and statement that an Addendum is the appropriate CEQA document to identify and evaluate the changes to the 2004 project, in accordance with CEQA Sections 15162 and 15164.

Section 5.0 provides a description of the report preparers and the references cited in this Addendum.



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2.0 PROJECT DESCRIPTION

The following describes the proposed 7952 Terrace Drive Project, which includes a request for a Tentative Parcel Map (project). This section includes a summary description of the project's location and existing site characteristics, required approvals, and entitlements.

2.1 PROJECT SITE

The following section describes the location and characteristics of the project site and provides a brief overview of the existing land uses within and in the vicinity of the site.

2.1.1 Location

The approximately 0.51-acre (22,392-square-foot) project site is located at 7952 Terrace Drive in the City of El Cerrito, Contra Costa County. The site is bounded by Terrace Drive and a single-family residence to the west (7950 Terrace Drive), and single-family residences to the north, south, and east.

Regional vehicular access to the project site is provided by San Pablo Avenue, which is State Route 123. In addition, Interstate 80 (I-80) is located approximately 1.4 miles west of the site. The El Cerrito Plaza Bay Area Rapid Transit (BART) Station is located approximately 0.86 miles southwest of the site.

Figure 1 shows the regional and local context of the project site. Figure 2 depicts an aerial photograph of the project site and surrounding land uses.

2.1.2 Site Characteristics and Current Site Conditions

The project site consists of one parcel, Assessor's Parcel Number (APN) 505-243-021. The eastern boundary of the project site has an elevation of approximately 420 feet above sea level, and the site slopes downward to the west, with an elevation of 380 feet at the western border. The project site is currently developed with a single-family residence approximately 3,465 square feet in size. The project site includes a driveway along the northern border that provides vehicular access to the existing residence. The western portion of the project site also includes two easements for access to the adjacent parcel to the west at 7950 Terrace Drive, via the driveway, and for utilities and landscaping.

Aside from the footprint of the existing residence and driveway, the project site is covered with grasses and contains six mature trees, including a coast live oak (*Quercus agrifolia*) and blackwood acacias (*Acacia melanoxylon*).

A geotechnical report prepared for the project site in 2001 (2001 Geotechnical Report)² indicates that the site is underlain by the Blakemont landslide. The Blakemont landslide, which began more than 10,000 years ago, was a large, deep-seated landslide extending from near the top of the

² Alan Kropp & Associates, Inc., 2001. *Geotechnical Investigation, 7952 Terrace Drive Subdivision, El Cerrito, California*. August 9.

Berkeley Hills, above Arlington Boulevard, down the alluvial plain to the west. The three sliding episodes included: 1) an ancient large bedrock landslide of late Pleistocene to early Holocene age; 2) a smaller old landslide of late Holocene to historic age; and 3) the actively moving Blakemont landslide.³ Updates to the 2001 Geotechnical Report prepared in 2014⁴ and 2018⁵ (Geotechnical Updates) indicate that existing site conditions are similar to those observed in 2001.

A margin of the active Blakemont landslide cuts through the project site from northeast to southwest just east of the existing residence. The rate of earth movement since the 1940's ranges between one-half to one inch per year. The older partially dormant slide in the eastern and central portion of the project site is characterized as creeping. Structures located along the margins and internal shear zones of the active landslide experience the greatest amount of damage.

2.1.3 Regulatory Setting

The project site is designated Low Density Residential in the City's General Plan, and is within the RS-5 (Single-Family Residential) zoning district.⁶ In 2001, the City's Planning Commission approved a tentative parcel map to subdivide the original parcel, which resulted in the creation of 7950 and 7952 Terrace Drive.

2.1.4 Surrounding Land Uses

The project site is located in eastern El Cerrito, which is characterized by single-family residential uses, with intermittent institutional and open space uses. As noted previously, the project site is surrounded by single-family residential uses on all sides. Northwest of the project site is Huber Park, an approximately 2.6-acre City-owned park. Further south of the project site is the Sunset View Cemetery & Mortuary.

2.2 PROPOSED PROJECT

The proposed project would include the subdivision of the existing 7952 Terrace Drive parcel into two roughly equally-sized parcels. Parcel A, which would include the existing residence, would be approximately 11,886 square feet in size. Parcel B would be located east of Parcel A, and would include a total of 10,506 square feet. In addition, an access and utility easement is proposed on Parcel A for the benefit of Parcel B that would be an extension of the existing easement along the northwestern border of the project site that includes the driveway. Figure 3 shows the proposed parcel map.

Although not a part of this application, the proposed project would allow for the construction of a new single-family dwelling to be built on Parcel B. Prior to construction, a new single-family house would require issuance of a building permit and any other relevant City or agency approvals.

³ Ibid.

⁴ Alan Kropp & Associates, 2014. *Geotechnical Update, 7952 Terrace Drive Subdivision, El Cerrito, California*. April 9.

⁵ Alan Kropp & Associates, Inc., 2018. *Geotechnical Update, 7954 Terrace Drive, El Cerrito, California*. January 31.

⁶ El Cerrito, City of, 2012. El Cerrito CommunityView. Website: <http://maps.digitalmapcentral.com/production/VECommunityView/cities/ElCerrito/index.aspx> (accessed August 22, 2019).

As shown on Figure 3, construction of a new single-family home could result in the addition of approximately 1,700 square feet of impervious surfaces on Parcel B. In addition, a total of approximately 150 cubic yards of soils would be excavated from the project site, 75 cubic yards of which would be balanced on the project site and used as fill, and the other 75 cubic yards of which would be hauled offsite. Construction would also include removal of the blackwood acacias on the project site.

2.3 APPROVALS/PERMITS

The following approvals and permits would be required for the project:

- Tentative Parcel Map



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LSA

LEGEND

Parcel

FIGURE 1



0 750 1500
FEET

SOURCE: ESRI World Maps (07/2019).

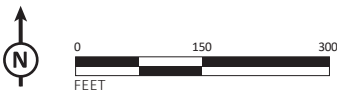
I:\CEC1905\GIS\Maps\Figure 1_Project Vicinity Map.mxd (8/22/2019)

7952 Terrace Drive Project
Project Vicinity Map



FIGURE 2

LSA



Project Site

7952 Terrace Drive Project

Aerial Photograph of Project Site and Surrounding Land Uses

SOURCES: GOOGLE EARTH, 4/2/18; LSA, 2019.

I:\CEC1905 7952 Terrace Drive\PRODUCTS\Figures\Figure_2.ai (8/22/19)

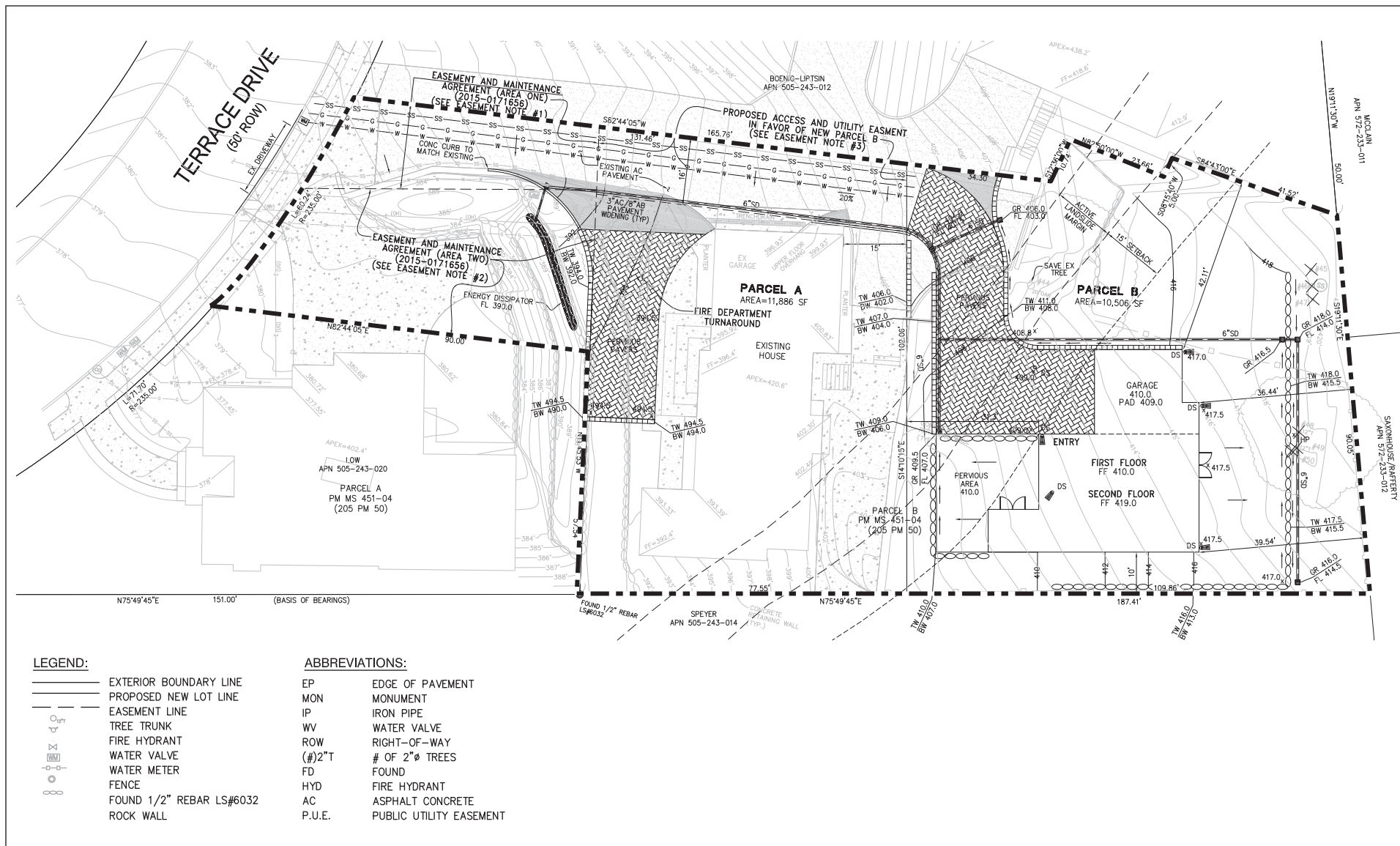
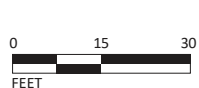


FIGURE 3

LSA



Project Site

7952 Terrace Drive Project
Proposed Parcel Map

SOURCE: HUMANN COMPANY, INC., SEPTEMBER 2019.

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3.0 ANALYSIS OF POTENTIAL ENVIRONMENTAL EFFECTS

CEQA Guidelines 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in an original project's IS/MND. The focus of this analysis is on the identified changes and whether there would be any difference in identified impacts or required mitigation measures from those identified in the 2004 IS/MND.

The following analysis is used to: (1) compare the environmental impacts of the revised project changes with impacts expected to result from development of the 2004 project and evaluated in the 2004 IS/MND; (2) to identify whether the proposed project would result in new or more severe significant environmental impacts; and (3) to identify if there have been substantial changes with respect to the circumstances under which the revised project would be undertaken since the 2004 IS/MND was adopted that would result in new or more severe significant environmental effects.

Mitigation measures are measures that would minimize, avoid, or eliminate a significant impact. The analysis contained herein evaluates each topic to identify whether additional mitigation measures beyond those identified in the 2004 IS/MND would be warranted. As discussed for each topic in the following analysis, no new mitigation measures would be required for the proposed project.

This analysis confirms that the revised project is within the scope of the 2004 IS/MND, and the project would cause no new or more severe significant effects and no new mitigation measures are required.

The following discussion has been undertaken pursuant to the provisions of CEQA Guidelines Sections 15162 and 15164 to provide the City of El Cerrito with the factual basis for determining whether any changes in the project, any changes in circumstance, or any new information since the 2004 IS/MND was certified requires additional environmental review.

3.1 AESTHETICS

The 2004 IS/MND identified potential impacts to aesthetics and visual resources associated with development of the 2004 project. The proposed project would not result in additional impacts to aesthetic resources beyond those identified in the 2004 IS/MND. The 2004 IS/MND determined that the 2004 project would not result in any significant impacts to visual character or quality of the site.

The 2004 IS/MND identified potentially significant impacts related to substantial adverse impacts on scenic vistas. Specifically, approval of the 2004 project would allow the eventual construction of one additional dwelling in the El Cerrito Hills. The new dwelling would add to cumulative development of the hill area that can be seen from Terrace Drive and other parks, playgrounds and public gathering places within the community. However, the 2004 IS/MND found that this impact would be less than significant with implementation of Mitigation Measure 1, which requires future structures on the project site to have neutral, earthtone colors, and, to the fullest extent feasible, use low reflectivity glass. In addition, if metal roofs are used, they shall be painted a neutral or earthtone color and graded areas shall be revegetated as soon as possible after completion of grading.

The 2004 IS/MND also identified potentially significant impacts related to the removal of mature trees that could be considered scenic resources. However, the 2004 IS/MND found that this impact would be less than significant with implementation of Mitigation Measure 2, which required the project developer to submit an arborist report prepared by a qualified arborist identifying specific methods to protect existing on-site trees. If protection of trees was not possible, the arborist report was required to include a tree mitigation plan acceptable to the City. These recommendations for tree protection were to be incorporated into project grading plans and specifications.

Finally, the 2004 IS/MND identified potentially significant impacts related to an increase in the amount of light and glare related to new building security and yard lighting. However, the 2004 IS/MND found that this impact would be less than significant with implementation of Mitigation Measure 3, which required exterior light fixtures shown on final building plans for the dwelling constructed on Parcel A to be equipped with cut-off lenses to ensure that light is directed downward.

The proposed project includes the subdivision of the project site into two roughly equally-sized parcels, which would allow for the construction of a new single-family dwelling unit to be built on Parcel B. Implementation of the proposed project would result in the same potentially significant impacts related to scenic vistas, scenic resources, and light and glare as those identified in the 2004 IS/MND. However, implementation of Mitigation Measures 1, 2, and 3 would ensure that these impacts would be reduced to a less-than-significant level. Therefore, no new or substantially more severe significant effects related to aesthetics would occur associated with proposed project and no additional mitigation measures are required.

3.2 AGRICULTURE AND FORESTRY RESOURCES

The analysis in the 2004 IS/MND determined that there were no potentially significant impacts to agricultural resources associated with development of the 2004 project. Implementation of the proposed project would not result in the conversion of agricultural or forest land, nor would it conflict with existing zoning or Williamson Act contract. The proposed project would be located on the same site analyzed as part of the 2004 project and the site and vicinity are not zoned for agricultural or forestry production. Therefore, no new or substantially more severe significant effects in regards to agricultural and forestry resources would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.3 AIR QUALITY

The 2004 IS/MND identified potential impacts to air quality associated with development of the 2004 project. The proposed project would not result in additional impacts to air quality beyond those identified in the 2004 IS/MND. The 2004 IS/MND determined that the 2004 project would not result in any significant impacts to the implementation of an air quality plan, cumulatively considerable air pollutants, or objectionable odors. Similar to the 2004 project, the proposed project would not result in any new or more severe impacts since the proposed amount of development on the project site is the same as what is assumed in the General Plan.

The 2004 IS/MND identified a potentially significant impact related to temporary, short-term construction-related effects that could result in increased dust generation. However, it was determined that implementation of Mitigation Measure 4, which required dust-reducing measures to be incorporated into project conditions and grading plans and specifications, would reduce this impact to a less-than-significant level. Implementation of this mitigation measure would ensure that the proposed project would also not result in any new or more significant impacts than were evaluated in the 2004 IS/MND. Therefore, no new or substantially more severe significant effects in regards to air quality would occur associated with the minor changes to the revised project and no additional mitigation measures are required.

3.4 BIOLOGICAL RESOURCES

The 2004 IS/MND concluded that there were no potentially significant impacts to biological resources associated with development of the proposed project. The proposed project would be located on the same site analyzed as part of the 2004 project, and therefore implementation of the proposed project would not result in substantial adverse impacts on special-status plant or wildlife species, riparian habitat or federally protected wetlands, wildlife movement, local policies protecting biological resources, or any adopted Habitat Conservation Plans or Natural Community Conservation Plans. Therefore, no new or substantially more severe significant effects on biological resources would occur associated with the minor changes to the revised project and no additional mitigation measures are required.

3.5 CULTURAL RESOURCES

The 2004 IS/MND concluded that the 2004 project would not have an impact related to built historic resources, as the project site contained one single-family dwelling that did not qualify as a historical resource. Similarly, the current project site also contains one single-family dwelling that was constructed after approval of the 2004 project, and therefore is less than 50 years old and has not been identified as eligible for listing in the California Register of Historical Resources.

The 2004 IS/MND did identify potentially significant impacts related to archaeological resources and human remains. Specifically, grading and construction activities associated with the proposed project could uncover previously unknown resources. However, the 2004 IS/MND found that these impacts could be reduced to a less-than-significant level with the implementation of Mitigation Measure 5, which requires work to be halted in the event that any prehistoric material is discovered on the site until a qualified archaeologist inspects the discovery, and, if necessary, implements plans consistent with CEQA Guidelines Section 15064.5. Implementation of the proposed project would result in the same potentially significant impacts related to archaeological resources and human remains. However, implementation of Mitigation Measures 5 would ensure that these impacts would be reduced to a less-than-significant level. Therefore, no new or substantially more severe significant effects related to cultural resources would occur associated with proposed project and no additional mitigation measures are required.

3.6 ENERGY

The 2004 IS/MND did not quantify energy or natural gas demand associated with the proposed project; however, a brief discussion of energy use and conservation was included in the Air Quality and Mandatory Findings of Significance sections. The 2004 IS/MND determined that the 2004 project would result in an increase in emissions and energy use as a result of construction, but because of the project site's location in an urbanized area the project inherently furthers energy conservation by focusing development in areas of existing infrastructure and services, thereby potentially reducing energy consumption related to construction of infrastructure.

Construction associated with the single-family dwelling unit that would be allowed with approval of the proposed project would require energy for the manufacture and transportation of building materials, preparation of the site for demolition and grading activities, and building construction. Petroleum fuels (e.g., diesel and gasoline) would be the primary sources of energy for these activities. The proposed project would be required to implement Mitigation Measure 4, described in Section 3.3, Air Quality, of this Addendum, which includes a requirement that idling times for all construction equipment shall not exceed 5 minutes, which would increase energy efficiency. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the State's available energy sources. Therefore, construction energy impacts would be less than significant, and no mitigation would be required.

The expected energy consumption during operation of the proposed project would be consistent with typical usage rates for residential uses; however, energy consumption is largely a function of personal choice and the physical structure and layout of buildings. Similar to the 2004 project, since the proposed project would be located in a developed urban area, the proposed project would not result in wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. Therefore, no new or substantially more severe significant effects in regards to energy would occur associated with the minor changes to the revised project and no additional mitigation measures are required.

3.7 GEOLOGY AND SOILS

The 2004 IS/MND concluded that the 2004 project would have less-than-significant impacts related to ground rupture, seismic ground shaking, ground failure, and landslides due to adherence to the California Building Code (CBC), and a less-than-significant impact related to alternative wastewater disposal as it would connect to existing local wastewater facilities. Similarly, the proposed project would be required to adhere to the current CBC and would connect to existing local wastewater facilities, and these impacts would be less-than-significant.

The 2004 IS/MND identified a potentially significant impact related to substantial erosion or the loss of topsoil related to construction activities, including grading, on the project site. However, the 2004 IS/MND determined that this impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 7, which is described in Section 3.10, Hydrology and Water Quality, of this Addendum. The proposed project would also be required to implement Mitigation Measure 7, and this impact would be less than significant.

The 2004 IS/MND also identified a potentially significant impact related to unstable or expansive soils that could result in lateral spreading, liquefaction, landslide or collapse, associated with the project site's location above the Blakemont landslide, especially during a major seismic event.⁷ However, the 2004 IS/MND determined that this impact would be reduced to a less-than-significant level with implementation of Mitigation Measure 6, which requires construction plans for any future dwellings to comply with the CBC and recommendations contained in all-site specific geotechnical reports for the project site.

The 2001 Geotechnical Report included recommendations for construction of the foundations for the 2004 project. Updates to the 2001 Geotechnical Report determined that existing site conditions do not appear to be significantly different from those documented in 2001. The Geotechnical Updates include supplemental recommendations, including ground motion parameters that should be used for seismic design of the buildings and retaining wall design.^{8,9} Mitigation Measure 6 would require the proposed project to implement recommendations from the 2001 Geotechnical Report and Geotechnical Updates, and therefore this impact would be less than significant.

Impacts related to paleontological resources were evaluated in Section 5, Cultural Resources, of the 2004 IS/MND. The 2004 IS/MND concluded that construction associated with the 2004 project could uncover a previously unknown paleontological resource. However, the 2004 IS/MND determined that this impact could be reduced to a less-than-significant level with implementation of Mitigation Measure 5, as described in in Section 3.5, Cultural Resources, of this Addendum. Implementation of the proposed project would result in the same potentially significant impacts related to paleontological resources. However, implementation of Mitigation Measures 5 would ensure that these impacts would be reduced to a less-than-significant level. Therefore, no new or substantially more severe significant effects in regards to geology and soils would occur associated with the minor changes to the revised project and no additional mitigation measures are required.

3.8 GREENHOUSE GAS EMISSIONS

The 2004 IS/MND evaluated greenhouse gas emissions in Section 3, Air Quality. At the time, the 2004 IS/MND was prepared, no numeric significance thresholds had been formally adopted. The State CEQA Guidelines indicate that a project would normally have a significant adverse greenhouse gas emission impact if the project would:

- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reduction the emissions of greenhouse gases.

⁷ Alan Kropp & Associates, Inc., 2001. Op. cit.

⁸ Alan Kropp & Associates, Inc., 2014. Op. cit.

⁹ Alan Kropp & Associates, Inc., 2018. Op. cit.

The Bay Area Air Quality Management District (BAAQMD) has further defined these criteria of significance to indicate the project would result in a less-than-significant greenhouse gas impact if it would:

- Result in operational-related greenhouse gas emissions of less than 1,100 metric tons of CO₂e¹⁰ a year, or
- Result in operational-related greenhouse gas emissions of less than 4.6 metric tons of CO₂e per service population (residents plus employees).

The BAAQMD does not have an adopted threshold of significance for construction-related greenhouse gas emissions. Implementation of Mitigation Measure 4, as described in Section 3.3, Air Quality, of the Addendum would reduce greenhouse gas emissions during the construction period. The United States Environmental Protection Agency estimates that the average household generates approximately 35 metric tons of CO₂e,¹¹ which would be well below the BAAQMD's numeric threshold of 1,100 metric tons of CO₂e. Therefore, no new or substantially more severe significant effects related to greenhouse gas emissions would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.9 HAZARDS AND HAZARDOUS MATERIALS

The 2004 IS/MND concluded that the 2004 project would have no impact, or a less-than-significant impact, related to hazards and hazardous materials. The project site is located within a high wildland fire risk area due to its location at the base of the El Cerrito Hills. However, the 2004 IS/MND concluded that adherence to the building and fire code requirements imposed by the El Cerrito Fire Department, including but not limited to use of appropriate exterior building materials, providing adequate fire flow and water pressure, adherence to vegetation management standards, and similar provisions would reduce this risk to a less-than-significant level. The proposed project is located on the same site as the 2004 project and would be subject to the same impact and code requirements. Therefore, no new or substantially more severe significant effects related to hazards and hazardous materials would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.10 HYDROLOGY AND WATER QUALITY

The 2004 IS/MND concluded that the 2004 project would have no impact or less-than-significant impacts related to groundwater recharge, drainage patterns, flood hazard zones, and inundation by seiche, tsunami, or mudflow. The proposed project would be located on the same site as that evaluated in the 2004 IS/MND, and therefore would also result in these less-than-significant impacts.

¹⁰ Note: Greenhouse gas emissions are typically measured in terms of pounds or tons of "CO₂ equivalents" (CO₂e).

¹¹ United States Environmental Protection Agency, 2016. Carbon Footprint Calculator. Website: <https://www3.epa.gov/carbon-footprint-calculator/> (accessed September 18, 2019). July 14.

The 2004 IS/MND identified a potentially significant impact related to waste discharge requirements associated with the potential for grading to result in soil erosion into nearby streets and drainage channels. However, the 2004 IS/MND determined this impact could be reduced to a less-than-significant level with implementation of Mitigation Measure 7, which requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP). Because it is located on the same site as the 2004 project and would include a similar amount of grading, construction associated with the proposed project could result in a similar impact related to soil erosion, and therefore Mitigation Measure 7 would be required to ensure this impact would be less than significant.

The 2004 IS/MND also identified a potentially significant impact related to increased quantities of stormwater runoff associated with construction of a new single-family dwelling. However, the 2004 IS/MND determined this impact could be reduced to a less-than-significant level with implementation of Mitigation Measure 8, which requires a drainage and hydrology study to be submitted and approved by the City Engineer. Because it is located on the same site as the 2004 project, and would include a similar amount of impervious surfaces, construction associated with the proposed project could result in a similar impact related to storm drain capacity, and therefore Mitigation Measure 8 would be required to ensure this impact would be less than significant.

3.11 LAND USE AND PLANNING

The 2004 IS/MND concluded that the 2004 project would have no impact related to land use and planning. Specifically, the 2004 project would not result in the removal of a means of access and therefore would not physically divide an established community, would be consistent with and further the goals and policies contained in the El Cerrito General Plan and Zoning Ordinance, and would not be located within a Habitat Conservation Plan or Natural Community Conservation Plan. The proposed project would not result in the removal of any means of access, and would result in similar development as that associated with the 2004 project. Therefore, no new or substantially more severe significant effects in regards to land use and planning would occur associated with the minor changes to the revised project and no additional mitigation measures are required.

3.12 MINERAL RESOURCES

The 2004 IS/MND concluded that the 2004 project would have no impact related to mineral resources. More specifically, no known mineral resources were identified on the site associated with the project. As such, the revised project would not result in the loss of availability of a known mineral resource. Therefore, no new or substantially more severe significant effects related to mineral resources would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.13 NOISE

The 2004 IS/MND concluded that the 2004 project would have a less-than-significant impact related to noise levels in excess of standards, increases in permanent noise levels, and airport noise levels. Specifically, the project site lies outside of any major noise areas identified in the General Plan, would not produce a significant amount of trips per day (as noted in Section 3.17, Transportation, of this Addendum), and would not include any equipment (i.e., HVAC) that would exceed the City's

noise standards for residential areas. Additionally, the project site is not located near any public or private airports, airfields, or airstrips.

The 2004 IS/MND identified potentially significant impacts related to groundborne vibration and temporary increases in ambient noise levels associated with construction activities. However, the 2004 IS/MND determined that these impacts could be reduced to less-than-significant levels with implementation of Mitigation Measure 9, which requires construction activities to be limited to between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 8:00 a.m. and 5:00 p.m. on weekends and holidays. In addition, Section 16.03.060 of the El Cerrito Municipal Code prohibits construction work on Sundays and holidays. The proposed project would result in a similar level of temporary noise and groundborne vibration associated with construction activities. However, implementation of Mitigation Measure 9 would ensure this impact would be less-than-significant. Therefore, no new or substantially more severe significant effects related to noise would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.14 POPULATION AND HOUSING

The 2004 IS/MND concluded that the 2004 project would have a less-than-significant impact related to population and housing, as the project would result in approximately 3 new residents and would not displace any housing units. Similarly, the proposed project would not induce substantial growth as development on the project site is consistent with development assumed in the General Plan, would not displace any existing housing units or people, and would not necessitate the construction of replacement housing elsewhere. Therefore, no new or substantially more severe significant effects related to population and housing would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.15 PUBLIC SERVICES

The 2004 IS/MND concluded that the 2004 project would have a less-than-significant impact related to public services. The proposed project would be located on the same site as that evaluated in the 2004 IS/MND and, like the original project, would not result in the need for increase public services. In particular, the proposed project would be required incorporate the same standard fire protection measures into project design. Therefore, no new or substantially more severe significant effects related to public services would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.16 RECREATION

The 2004 IS/MND concluded that the 2004 project would have no impact related to recreation. Similar to the 2004 project, the proposed project would result in the construction of one new dwelling unit and would be required to pay in-lieu park fees at the time of building permit issuance. Therefore, no new or substantially more severe significant effects related to recreation would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.17 TRANSPORTATION

The 2004 IS/MND concluded that the 2004 project would have less than significant impacts related to transportation. Specifically, the 2004 IS/MND assumed that the 2004 project would result in the addition of 9 net new daily trips, which would not result in any new impacts related to level of service on area roadways. The proposed project would result in a similar addition of vehicle trips to local roadways, and therefore would also result in no impact. The proposed project would utilize the existing driveway on the project site, and therefore would not result in a substantial increase in hazards due to design features.

The 2004 IS/MND did not include an evaluation of potential impacts associated with CEQA Guidelines Section 15064.3(b), which require the evaluation of VMT as the criteria for analyzing transportation for land use projects, as the 2004 IS/MND was adopted prior to December 2018, when this requirement became effective. As noted in CEQA Guidelines Section 15064.3(c), the provisions of CEQA Guidelines Section 15064.3 shall apply prospectively as described in CEQA Guidelines Section 15007. A lead agency may elect to be governed by the provisions of CEQA Guidelines Section 15064.3 immediately; however, beginning on July 1, 2020, the provisions of this section shall apply Statewide. The City of El Cerrito, as lead agency, has not yet elected to be governed by the provisions of CEQA Guidelines Section 15064.3. Therefore, the proposed project would neither conflict nor be inconsistent with CEQA Guidelines Section 15064.3, and there would be no impact.

Therefore, no new or substantially more severe significant effects related to transportation and traffic would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.18 TRIBAL CULTURAL RESOURCES

The 2004 IS/MND analyzed impacts related to tribal cultural resources in Section 5, Cultural Resources. As noted in Section 3.5, Cultural Resources, of this Addendum, grading and construction activities associated with the proposed project could uncover previously unknown resources. However, the 2004 IS/MND found that these impacts could be reduced to a less-than-significant level with the implementation of Mitigation Measure 5. Implementation of the proposed project would result in the same potentially significant impacts related to archaeological resources and human remains. However, implementation of Mitigation Measures 5 would ensure that these impacts would be reduced to a less-than-significant level. Therefore, no new or substantially more severe significant effects related to tribal cultural resources would occur associated with proposed project and no additional mitigation measures are required.

3.19 UTILITIES AND SERVICE SYSTEMS

The 2004 IS/MND concluded that the proposed project would have less-than-significant impacts related to water and wastewater capacity and facilities and the disposal of solid waste. Specifically, these impacts would be less than significant because the 2004 project would be consistent with the development assumed for the project site under the General Plan. Similarly, the proposed project would be consistent with the General Plan, and these impacts would be less than significant.

The 2004 IS/MND identified a potentially significant impact related to storm drain capacity. However, this impact could be reduced to a less-than-significant level with implementation Mitigation Measure 8, which is described above in Section 3.10, Hydrology and Water Quality. Implementation of the proposed project would result in the same potentially significant impacts related to storm drain capacity. However, implementation of Mitigation Measures 5 would ensure that these impacts would be reduced to a less-than-significant level. Therefore, no new or substantially more severe significant effects related to utilities and service systems would occur associated with proposed project and no additional mitigation measures are required.

3.20 WILDFIRE

The 2004 IS/MND analyzed impacts related to wildfire in Section 7, Hazards and Hazardous Materials. As noted in Section 3.9, Hazards and Hazardous Materials of this Addendum, the project site is located within a high wildland fire risk area due to its location at the base of the El Cerrito Hills. However, the 2004 IS/MND concluded that adherence to the building and fire code requirements imposed by the El Cerrito Fire Department would be required and that potential impacts associated with wildfire risks would be less than significant. Therefore, no new or substantially more severe significant effects related to wildfire would occur associated with the minor changes to the 2004 project and no additional mitigation measures are required.

3.21 COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTIONS 15162 AND 15164

The following discussion summarizes the reasons that a new IS/MND or EIR, pursuant to CEQA Guidelines Sections 15162 and 15163, is not required to evaluate the environmental effects of the proposed project. The analyses prepared for each CEQA topic in the previous sections demonstrate that the proposed project is addressed within the scope of the 2004 IS/MND, and no new impacts are identified, no impacts are more severe, no new mitigation measures are required, and no substantial changes to the existing environmental circumstances have occurred leading to new or more severe previously identified impacts.

3.21.1 Substantial Changes to the Project

As discussed in Section 2.0, Project Description, the proposed project has not substantially changed from the project identified and evaluated in the 2004 IS/MND. Additionally, the changes identified for the proposed project do not substantially change the assumptions concerning the future development of the project site and evaluated in the 2004 IS/MND. As such, an Addendum is the appropriate document to address these minor modifications rather than a Subsequent IS/MND or EIR.

3.21.2 Substantial Changes in Circumstances

As described for each CEQA topic in the previous sections, the existing environmental conditions or circumstances in and around the project sites have not changed such that implementation of the proposed minor modifications to the project would result in new significant environmental effects or a substantial increase in the severity of environmental effects identified in the 2004 IS/MND, and thus major revisions to the 2004 IS/MND are not required.

3.21.3 New Information

No new information of substantial importance, which was not known and could not have been known when the 2004 IS/MND was adopted, has been identified to show that the proposed minor modifications to the project would be expected to result in: 1) new significant environmental effects not identified in the 2004 IS/MND; 2) substantially more severe environmental effects than shown in the 2004 IS/MND; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation measure or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the 2004 IS/MND would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative. In addition, the proposed minor modifications to the project would require no new mitigation measures because no new or substantially more severe impacts are expected beyond those identified in the 2004 IS/MND.

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4.0 CONCLUSION

On the basis of the evaluation presented in Section 3.0, the minor modifications to the 2004 project evaluated in the 2004 IS/MND associated with subdivision of Parcel A into two equally-sized parcels that would allow for the construction of a new single-family dwelling unit, would not trigger any of the conditions listed in Section 1.2 of the Addendum requiring preparation of a subsequent or supplemental IS/MND.

Overall, the proposed project would result in similar effects to those of the 2004 project with similar uses as those which were originally proposed and would therefore generate comparable effects. The proposed project would not result in new significant effects or effects that would be substantially more severe than those identified in the 2004 IS/MND. As stated in Section 3.0, for the topics of aesthetics; agricultural and forestry resources; air quality; biological resources; cultural resources; energy; geology and soils; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; land use and planning; mineral resources; noise; population and housing; public services; recreation; transportation; tribal cultural resources; utilities and service systems; and wildfire, the proposed project would not result in any new or more severe significant environmental impacts. The mitigation measures included in the 2004 IS/MND would remain applicable to the proposed project.

The analyses and conclusions in the 2004 IS/MND remain current and valid. The proposed revisions to the project, would not cause new or substantially more severe significant effects than identified in the 2004 IS/MND. No change has occurred with respect to circumstances surrounding the revised project that would cause new or substantially more severe significant environmental effects than identified in the 2004 IS/MND, and no new information has become available that shows that the project would cause significant environmental effects not already analyzed in the 2004 IS/MND. Therefore, no further environmental review is required beyond this Addendum to the 2004 IS/MND, and the Addendum satisfies the requirements of CEQA Guidelines Section 15162 and 15164.

This Addendum demonstrates that no major revisions are necessary to the 2004 IS/MND to include the proposed project; none of the conditions described above are triggered by the proposed project, and an Addendum to the 2004 IS/MND is the appropriate CEQA document.

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5.0 REPORT PREPARATION

5.1 REPORT PREPARERS

LSA Associates, Inc.

157 Park Place

Richmond, CA 94801

Theresa Wallace, AICP, Principal in Charge

Matthew Wiswell, Project Manager

Patty Linder, Graphics and Production

Charis Hanshaw, Document Management

Ameara Martinez, Document Management

5.2 REFERENCES

Alan Kropp & Associates, Inc., 2018. Geotechnical Update, 7954 Terrace Drive, El Cerrito, California. January 31.

Alan Kropp & Associates, 2014. Geotechnical Update, 7952 Terrace Drive Subdivision, El Cerrito, California. April 9.

Alan Kropp & Associates, Inc., 2001. Geotechnical Investigation, 7952 Terrace Drive Subdivision, El Cerrito, California. August 9.

El Cerrito, City of, 2004. Edmond Low Tentative Parcel Map Initial Study/Mitigated Negative Declaration.

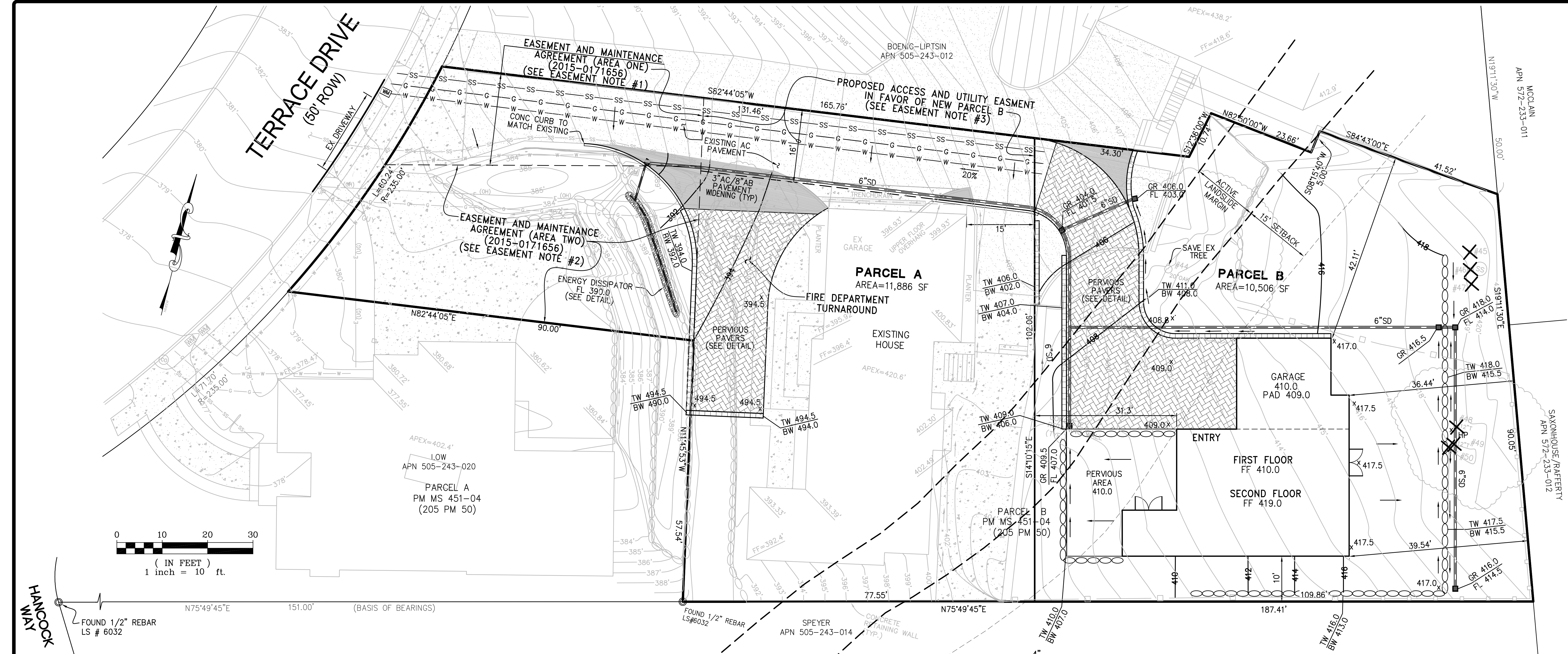
El Cerrito, City of, 2012. El Cerrito CommunityView. Website:

<http://maps.digitalmapcentral.com/production/VECommunityView/cities/ElCerrito/index.aspx> (accessed August 22, 2019).

United States Environmental Protection Agency, 2016. Carbon Footprint Calculator. Website:

<https://www3.epa.gov/carbon-footprint-calculator/> (accessed September 18, 2019). July 14.

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BASIS OF BEARINGS:

THE SOUTH BOUNDARY—LINE OF PARCEL "A" BETWEEN THE FOUND 1/2IN. REBARS W/TAG LS6032. TAKEN AS N75°49'45"E.

REFERENCE DATA:

ELEVATIONS ARE BASED ON TENTATIVE PARCEL MAP ENTITLED BERKLEY COUNTRY CLUB TERRACE NO. 2 BK.1 PG. 25 BM TOP CURB @ CB AT HANCOCK AND TERRACE DRIVE (371.59)

TREE REPORT DATA:

TREE NUMBERS SHOWN WERE TAKEN FROM AN ARBORIST REPORT PREPARED BY JENNIFER TSO OF TRAVERSO TREE SERVICE, DATED MARCH 12, 2018. TREE REMOVAL SHOWN CORRESPONDS TO RECOMMENDATIONS FROM SAID REPORT.

FEMA NOTE:

PROPERTY IS LOCATED IN ZONE X (AREA OF MINIMAL FLOOD HAZARD) AS SHOWN ON FEMA FIRM MAP NUMBER 0613C0241G, EFFECTIVE 09/30/2015.

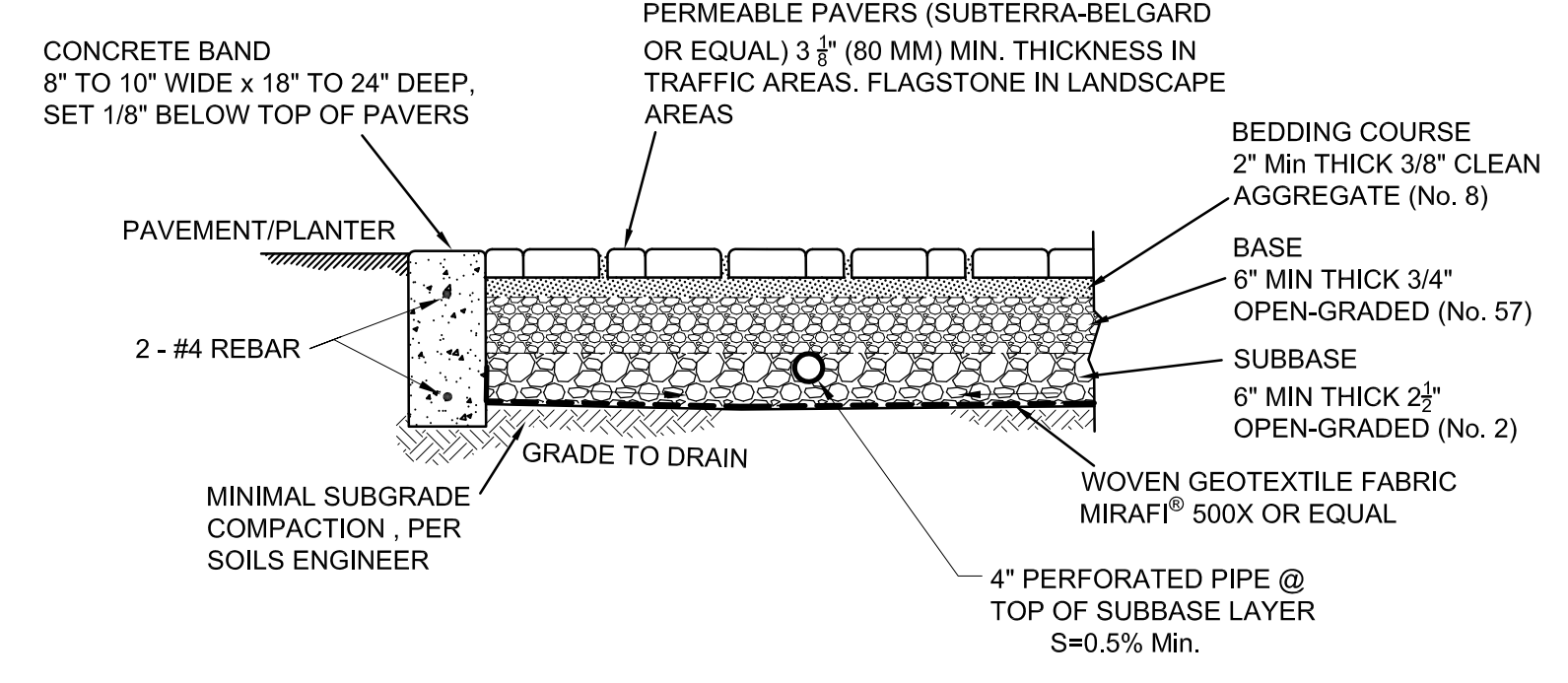
LEGEND:

- EXTERIOR BOUNDARY LINE
- PROPOSED NEW LOT LINE
- EASEMENT LINE
- EXISTING TREE WITH SIZE AND TREE NO.
- REMOVE EXISTING TREE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- FENCE
- FOUND 1/2" REBAR LS#6032
- ROCK WALL

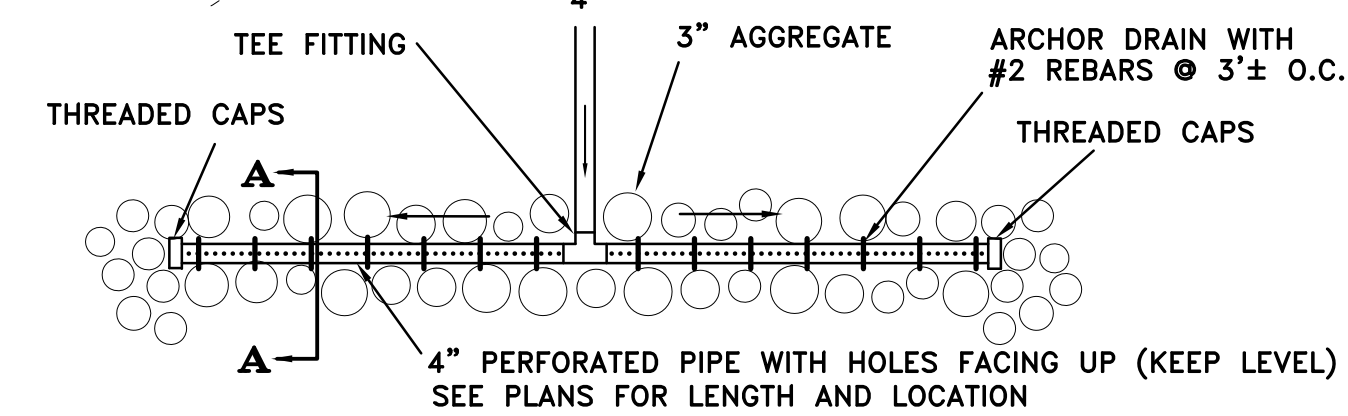
ABBREVIATIONS:

- EP EDGE OF PAVEMENT
- MON MONUMENT
- IP IRON PIPE
- WV WATER VALVE
- ROW RIGHT-OF-WAY
- (#)2"T # OF 2"Ø TREES
- FD FOUND
- HYD FIRE HYDRANT
- AC ASPHALT CONCRETE
- P.U.E. PUBLIC UTILITY EASEMENT

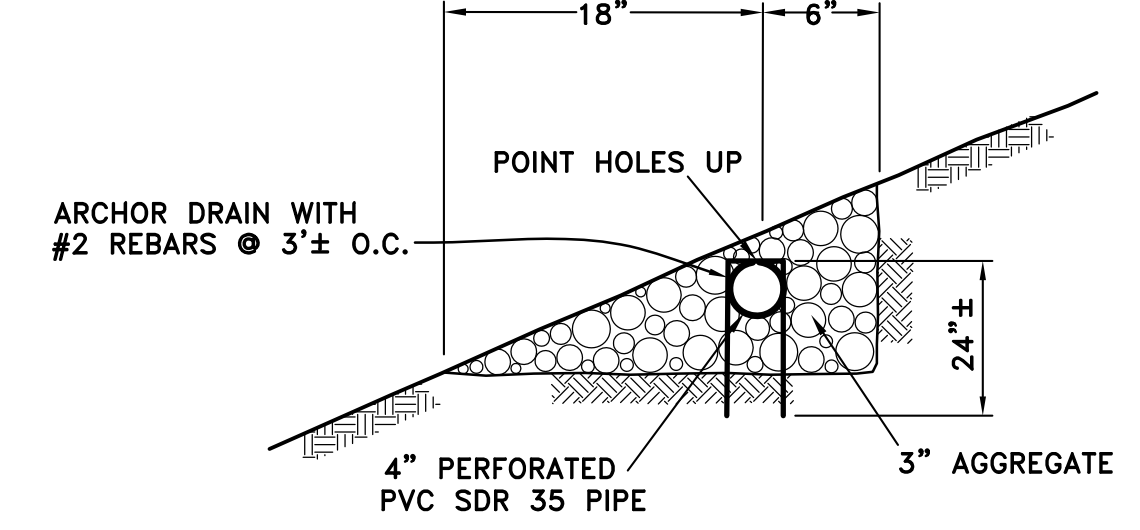
ADDED/REPLACED IMPERVIOUS AREAS	
LOT	APPROXIMATE AREA (SF)
PARCEL A	363
PARCEL B	1,700
TOTAL	2,063



PERVIOUS PAVERS DETAIL
N. T. S.



ENERGY DISSIPATOR PLAN
N. T. S.



ENERGY DISSIPATOR SECTION A-A
N. T. S.

EARTH QUANTITIES

APPROXIMATE EARTH QUANTITIES TO BE VERIFIED BY CONTRACTOR

CUT	150± CU. YDS.
FILL	75± CU. YDS.

NOTE: EARTH QUANTITIES SHOWN ARE APPROXIMATE. CONTRACTOR SHALL COMPUTE QUANTITIES INDEPENDENTLY TO VERIFY. ENGINEER IS NOT RESPONSIBLE FOR DISCREPANCIES.

EASEMENT NOTES:

- AREA ONE (2015-0171656) GRANTED TO APN 505-243-020 FOR INGRESS AND EGRESS AND TO BE GRANTED TO NEW PARCEL B FOR THE SAME PURPOSES UNDER A SEPARATE DOCUMENT.
- AREA TWO (2015-0171656) GRANTED TO APN 505-243-020 FOR INGRESS & EGRESS, WATER & GAS, UTILITIES & LANDSCAPING, AND RELATED USES. THIS AREA IS TO BE GRANTED TO NEW PARCEL B FOR THE SAME PURPOSES UNDER A SEPARATE DOCUMENT.
- PROPOSED ACCESS AND UTILITY EASEMENT FOR THE BENEFIT OF NEW PARCEL B TO BE GRANTED UNDER A SEPARATE DOCUMENT.

NO.	DATE	BY	REVISIONS
	9/12/19	PE/IN	ADDED ACTIVE LANDSLIDE MARGIN/REVISE HOUSE LOCATION

SCALE	1" = 10'
DATE	02/22/19
DRAWN	PE
CHECKED	IN
JOB NO.	18038

ICCAT S. NASHASHIBI R.C.E. 29528

PRELIMINARY GRADING AND DRAINAGE PLAN

A RESUBDIVISION OF PARCEL B, PARCEL MAP MS 451-04 (205 PM 50)

7952 TERRACE DRIVE (APN 505-243-021)

EL CERRITO CONTRA COSTA COUNTY CALIFORNIA

HUMANN COMPANY INC.

ENGINEERING - SURVEYING
1021 BROWN AVE. LAFAYETTE, CA 94549
PH (925)283-5000 FAX (925)283-3578

SHEET 1 OF 1 SHEET

JOB NO. 18038

Planning Commission Resolution No. PC2019-13

APPLICATION NO. PL17-0095

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVAL OF A TENTATIVE PARCEL MAP FOR A TWO-LOT SUBDIVISION AND AN EXCEPTION TO TITLE 18 OF THE CITY'S MUNICIPAL CODE FOR A MINOR SUBDIVISION PROPOSING A LOT WITHOUT FRONTAGE ON A PUBLIC STREET AT 7952 TERRACE DRIVE

WHEREAS, the existing address of the site is 7952 Terrace Drive; and

WHEREAS, the existing Assessor's Parcel Number of the site is 505-243-021; and

WHEREAS, the General Plan land use classification of the site is Low Density Residential; and

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential); and

WHEREAS, on June 17, 2017, the applicant submitted an application for a Tentative Parcel Map to subdivide a parcel of 22,392 square feet into two parcels.

WHEREAS, proposed Parcel "A" would be 11,886 square feet and is developed with a single-family house, and proposed Parcel "B" would be 10,506 square feet and is vacant; and

WHEREAS, an Initial Study/Mitigated Negative Declaration (IS/MND) was adopted in 2004 for a tentative parcel map at 7952 Terrace Drive; and

WHEREAS, per CEQA Guidelines Section 15164, an Addendum to the IS/MND determined that the proposed project would not result in new or substantially more adverse significant effects nor would it require new mitigation measures not identified in the 2004 IS/MND; and

WHEREAS, approval of the Tentative Parcel Map is governed by Sections 66444 - 66450 of the State of California Government Code (Subdivision Map Act) and Title 18 Divisions of Land of the El Cerrito Municipal Code; and

WHEREAS, on May 15, 2019, the Planning Commission conducted a public hearing and continued the application to a date uncertain; and

WHEREAS, on November 20, 2019, the Planning Commission of El Cerrito, conducted a duly-noticed public hearing and after due consideration of all evidence, reports, and public testimony offered for review, does find and determine the following pursuant to Sections 18.32.010 and 18.12.030, ECMC:

1. The existing parcel is a large deep lot that is significantly larger than surrounding parcels, and sufficient in size to allow the creation of two parcels. It is not feasible nor desirable to require a public street be constructed such that both proposed parcels will have frontage entirely along a public street. The proposed Tentative Parcel Map includes improving an

existing driveway within an existing easement to meet the standards described in Section 19.32.050 ECMC.

2. The exception will allow the applicant to subdivide an existing 22,392 square foot parcel into two parcels of 11,886 square feet and 10,506 square feet. These proposed parcel sizes are consistent with the standards of the RS-5 zoning district and with the surrounding properties, and would allow the applicant to develop the proposed vacant parcel in a manner similar to surrounding properties.
3. As described in the two findings above, the proposed Tentative Parcel Map includes a driveway that complies with City requirements (including Section 18.32.050 ECMC). In addition, the proposed parcel sizes are consistent with the surrounding properties. Development on the proposed vacant parcel will be required to conform with all development standards of the RS-5 zoning district and will not negatively impact other properties.
4. The proposed new driveway is 16 feet wide and will be surfaced with asphalt, concrete, or other approved surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.
5. The City Engineer and the Fire Department reviewed and approved the proposed private access road, including a proposed fire truck turnaround.
6. The zoning designations cited in this finding existed until 2008, when the current Zoning Ordinance was adopted. The references in the Subdivision Ordinance have not updated to reference the current zoning designations. The project site was designated as R-1 on the previous Zoning Map. The proposed Parcel B does not have the required frontage on a public street and this parcel complies with the minimum required lot size of 6,000 square feet. Proposed Parcel B is 10,506 square feet.
7. Parcels in the immediately surrounding area predominantly range in size from 5,000 square feet to 15,000 square feet, and the proposed Parcels A and B are similar in size to these surrounding parcels with 11,886 square feet and 10,506 square feet, respectively. The surrounding parcels vary in shapes as well with long, narrow parcels; small rectangular parcels; triangular parcels; and numerous unique undefined shapes. The proposed parcels are relatively rectangular and consistent with many of the surrounding rectangular parcels. In addition, there are lots without frontage on a public street in the vicinity of the project site at 8058 Terrace Drive; 712 Sea View Drive; 716 Balra Drive; and at 704, 706, 714, and 772 Colusa Avenue.
8. The applicant does not propose any additional variances relating to yard requirements beyond the exception to the subdivision ordinance described above and additional variances relating to yard requirements will not be allowed.
9. The proposed Tentative Parcel Map is in conformity with Chapter 18 excluding the exception described above for frontage on a public street. The proposed parcels also comply with the minimum 5,000 square feet in area and minimum 50 feet lot width for interior lots in the

RS-5 zoning district pursuant to Table 19.06-B in Section 19.06.030 ECMC, in addition to the minimum area requirements described in Finding 6 above.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission recommends City Council approval of Application No. PL17-0095, subject to the following conditions:

Planning Division:

1. The project shall be developed and maintained substantially in compliance with the Tentative Parcel Map dated as received by the City on September 25, 2019 except as amended by subsequent conditions of this Resolution. Minor changes may be approved by the Zoning Administrator.
2. The scope of this approval shall be limited to a Tentative Parcel Map for a two-lot minor subdivision.
3. If not recorded, the approval of this Tentative Parcel Map shall expire two years from the date of approval.
4. No variance relating to yard requirements for proposed Parcel B shall ever be considered or approved.
5. When new residences are constructed, they will be subject to the zoning regulations in place at the time that the building permit is issued.
6. Prior to the issuance of a building permit, a construction staging plan shall be submitted to the Zoning Administrator for review. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit.
7. Prior to issuance of building permit, building plans shall incorporate recommendations included in the August 9, 2001 Geotechnical / Geologic Investigation for 7952 Terrace Drive, and the April 9, 2014 and January 31, 2018 updates to this report. The Building Official may request an additional update to this report, depending on date of any future building permit application.
8. Prior to any site improvements, temporary construction fencing shall be installed at the northern property line to separate the driveways for 7952 Terrace Drive and 7962 Terrace Drive and to minimize impacts to the driveway for 7962 Terrace Drive.
9. Prior to and during site improvements on proposed Parcel B, the applicant shall comply with the tree protection requirements on page 4 of the Arborist Report dated March 12, 2018 for the existing Oak tree on proposed Parcel B.

10. Prior to issuance of Certificate of Occupancy, the applicant shall plant two new trees on the eastern portion of proposed Parcel B, with tree species to be reviewed and approved by the Zoning Administrator.
11. The fire turnaround shall be maintained in perpetuity, unless express written approval from the Fire Department and the Zoning Administrator to make any changes to the fire truck turnaround is obtained.

Public Works Department:

12. Applicant shall submit a Stormwater Operations & Maintenance Agreement to the Public Works Department to review and approve prior to issuance of a building permit.
13. Prior to the issuance of a building permit, applicant shall provide an Easement recorded by the County, for the proposed driveway and for all proposed storm water drainage management facilities.
14. Applicant shall provide a detailed civil plan for off-site work for the Public Works Department to review and approve prior to the issuance of a building permit.
15. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.
16. Applicant shall provide detailed drainage plan including rain leaders, roof slopes, downspouts, etc. for the Public Works Department to review and approve prior to issuance of building permit.
17. Applicant shall submit an Erosion and Sediment Control Plan for construction for review and approval by the Public Works Department prior to issuance of a building permit.
18. Before the start of ANY work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant must obtain a Public Works Encroachment Permit and pay all associated fees.
19. Removal of any trees within a public right-of-way shall comply with the procedures in Chapter 13.28: Public Tree and Shrub Ordinance of the El Cerrito Municipal Code.
20. Any new street trees are required to have irrigation and an establishment period of 3 years prior to acceptance by the City.

Fire Department:

21. Building Construction

- A. Building construction shall meet current California Building, Fire, and Residential Codes and the El Cerrito Fire Code.
- B. Door from the dwelling to an attached garage shall be self-closing, self-latching, 1 3/8 inch solid core, 1 3/8 inch steel or 20 minute rated door.
- C. All electrical breakers shall be labeled.

22. Fire Apparatus Access

- A. With the exception of the width which shall not be less than 16 feet wide fire apparatus access from the street to the structure shall meet the requirements of Appendix D of the 2016 California Fire Code.
- B. Fire apparatus access shall include a 120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac or acceptable alternative to 120-foot Hammerhead in accordance with Figure D103.1 of Appendix D of the 2016 California Fire Code.
- C. Buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).
- D. Per previous discussions, one fire hydrant will be added at the entrance to the EVA.

23. Carbon Monoxide Detectors

- A. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.
- B. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
- C. Carbon Monoxide alarms shall be 120 v Powered with battery backup and be interconnected with the smoke detectors.

24. Smoke Detection

- A. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
- B. Smoke detectors shall be 120v powered with battery backup.
- C. Smoke detectors shall be interconnected.

25. Automatic Fire Sprinklers

- A. NFPA 13D Automatic Fire Sprinklers are required throughout.

B. Plans shall be submitted for review and approval under separate cover.

26. Premises Identification

A. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.

B. Address shall be either internally or externally illuminated.

27. Emergency Egress

A. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue.

B. Escape or rescue windows shall be installed in accordance with California Residential Code R310.2.1 & R310.2.2.

28. Wildland-Urban Interface

A. Area is located within designated Very High Fire Hazard Severity Zone (VHFHSZ) and is subject to the requirements of the Wildland-Urban Interface. Building construction shall meet all applicable codes and requirements including those in CRC Section R337.

B. El Cerrito Vegetation Management Standards shall be strictly enforced.

C. State Law and City Ordinance require that all roofing within the VHFHSZ be Class B or better in new construction.

D. Spark arresters with a maximum of ½" openings in the mesh are required over the outlet of chimney shall be installed.

Mitigation Measures (2004 Initial Study /Mitigated Negative Declaration):

29. Mitigation Measure 1. Prior to issuance of any building permit of any structure on the project site, such structure shall have neutral, earth tone exterior colors and, to the fullest extent feasible, use low reflectivity glass. If metal roofs are used, they shall be painted a neutral or earth tone color. Graded areas shall be re-vegetated as soon as possible after completion of grading.

30. Mitigation Measure 2. Prior to the issuance of a grading permit by the City, the project developer shall submit an arborist report prepared by a qualified arborist identifying specific methods to protect existing on-site trees. If protection of trees is not possible, the arborist report shall include a tree mitigation plan acceptable to the City. Recommendations for tree protection shall be incorporated into project grading plans and specifications.

31. Mitigation Measure 3. Exterior light fixtures shown on final building plans shall be equipped with cut-off lenses to ensure that light is directed downward.

32. Mitigation Measure 4. The following measures shall be incorporated into project conditions and grading plans and specifications:

- A. Idling time for all construction equipment used on the site shall not exceed 5 minutes.
 - B. Frequent watering of the site to minimize fugitive dust.
 - C. Limitations shall be imposed on the hours of operation of heavy equipment and/or the amount of equipment in use.
 - D. All equipment shall be properly tuned and maintained in accord with manufacturer specifications.
 - E. Gasoline powered equipment shall be fitted with catalytic converters, where feasible.
33. Mitigation Measure 5. In the event any prehistoric material is discovered on the site, work shall be halted in the immediate vicinity of the site until a qualified archeologist inspects the discovery, and, if necessary, implements plans consistent with CEQA Guidelines 15064.5 for further evaluative testing and/or retrieval of endangered materials.
34. Mitigation Measure 6. Construction plans for any future dwellings on the site shall comply with the California Building Code and recommendations contained in all site-specific geotechnical reports for this property, including minimum property setbacks and foundation construction.
35. Mitigation Measure 7. The project developer shall prepare a Stormwater Pollution Prevention Plan (SWPPP), listing Best Management Practices to reduce construction and post-construction activities to a less than significant level. Measures may include, but shall not be limited to revegetation of graded areas, placement of silt fencing and other measures. The SWPPP shall conform to standards adopted by the Regional Water Quality Control Board and City of El Cerrito and shall be approved by the City of El Cerrito City Engineer prior to issuance of grading permits. Erosion control measures included in the SWPPP shall be incorporated into grading contractor specifications, including but limited to installation of silt fences.
36. Mitigation Measure 8. Prior to any significant future development, such as a new dwelling, the project developer's registered civil engineer shall prepare a drainage and hydrology study for the approval of the City Engineer. The study shall include a discussion of existing and proposed off-site public or private drainage facilities intended to convey project stormwater discharge, the capacity of downstream facilities to accommodate project discharges and a discussion of drainage deficiencies. The project's contribution to reduce any drainage impacts to a less-than significant level shall also be included.
37. Mitigation Measure 9. Construction operations, including grading, shall be limited to between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 8:00 am to 5:00 pm on Saturdays. Construction work is prohibited on Sundays and holidays.

Planning Commission:

38. Prior to issuance of a building permit, a notice of limitation on the property, subject to review and approval of the Zoning Administrator, shall be recorded with the Contra Costa County Clerk-Recorder's Office that indicates that access to the "Fire Department Turnaround" shown on Tentative Parcel Map dated as received by the City on September 25, 2019 shall never be impeded. For example, vehicles shall never be parked and materials or equipment shall never be stored in a manner that would impede access to the Fire Department Turnaround located west of the existing house at 7952 Terrace Drive.

39. Prior to issuance of any Certificate of Occupancy for proposed Parcel B, signage approved by the Planning Division shall be installed at the "Fire Department Turnaround" shown on Tentative Parcel Map dated as received by the City on September 25, 2019, informing vehicles that parking is not allowed in the Fire Department Turnaround.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on November 20, 2019 upon motion of Commissioner Mendez, second by Commissioner Navarrete:

AYES: Mendez, Gillett, Hansen, Lucas, Navarrete

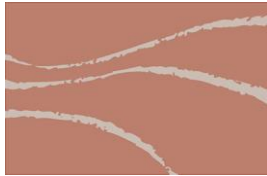
NOES: None

ABSTAIN: None

ABSENT: Bloom, Crump



Sean Moss, AICP
Planning Manager



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS

ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JEROEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE
ALMA G. LUNA, CE

January 31, 2018
2113-1C, L-31250

Mr. Edmund Low
7952 Terrace Drive
El Cerrito, CA 94530

RE: Geotechnical Update
7954 Terrace Drive
El Cerrito, California

Dear Mr. Low:

This letter is an update of our August 9, 2001 geotechnical investigation of the subject site. It is our understanding that the project consists of subdividing the site for development of three parcels (one parcel to include the existing house near the center of the property at 7952 Terrace Drive) as anticipated at the time of preparation of our 2001 report. The proposed residence on the western portion of the site at 7950 Terrace Drive was recently constructed. This geotechnical update is for the proposed residence to be constructed on the eastern portion of the site at 7954 Terrace Drive.

SCOPE OF SERVICES

The scope of our geotechnical update included the following:

1. A reconnaissance of the site and portions of the immediate surrounding properties to confirm current site conditions. Site reconnaissance performed on January 17, 2018;
2. A review of our August 9, 2001 geotechnical investigation report prepared for the site;
3. A review of relevant published geologic materials that may have been published since the time of our 2001 investigation; and
4. Preparation of this update letter for the project.

FINDINGS

- The site conditions as observed at the time of our January 17, 2018 site visit did not appear to be significantly different from those documented at the time of preparation of our August 9, 2001 report.
- As part of our review of relevant geologic materials published since the time of preparation of our August 9, 2001 report, we reviewed processed InSAR data plotted on GoogleEarth which shows interpreted movement of large scale creeping landslide masses in the Berkeley Hills in the time period

between 1992 and 2001. This data is generally referred to as the Hilley data (Hilley, et al., 2004). InSAR is a satellite-based remote sensing methodology that allows detection of deformation of slow moving geologic features (earthquake faults, volcanoes, large scale creeping landslide masses, etc.) over time. In the area of the subject property, the Hilley InSAR data was in generally good agreement with the active margin of the Blakemont Landslide as identified in our August 9, 2001 report.

- Based on our update evaluation, it is our opinion that, with inclusion of the updated recommendations as given below, in order to address the current version of the California Building Code (CBC, 2016), the findings and recommendations as given in our August 9, 2001 report are still valid.

SUPPLEMENTAL RECOMMENDATIONS

California Building Code Seismic Design Parameters

Based on our review of the site location, geology, and the 2016 California Building Code (CBC), we recommend the following parameters be used for seismic design of the building:

- Latitude = 37.9124 Degrees
- Longitude = -122.2885 Degrees
- Risk Category of Building and Other Structures = II (assumed)
- Site Class = D
- Mapped Spectral Response Acceleration at Short Period (S_s , Site Class B) = 2.476g
- Mapped Spectral Response Acceleration at 1-Second Period (S_1 , Site Class B) = 1.029g
- Maximum Considered Earthquake Spectral Response Acceleration for Short Period (S_{MS} , Site Class D) = 2.476g
- Maximum Considered Earthquake Spectral Response Acceleration for 1-Second Period (S_{M1} , Site Class D) = 1.544g
- Design Spectral Response Acceleration at Short Period (S_{DS} , Site Class D) = 1.650g
- Design Spectral Response Acceleration at 1-Second Period (S_{D1} , Site Class D) = 1.029g

Retaining Wall Seismic Design Increment

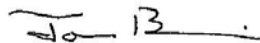
Building and site walls greater than 6 feet in height should be designed for a temporary seismic load in addition to the lateral earth pressure and surcharge loads (if applicable) as outlined in our August 9, 2001 report. The temporary seismic load can be modeled as a uniform pressure applied over the height of the wall of $8H$ psf, where H is the wall height in feet. The provisional recommendations for seismic earth pressures on building basement walls, as provided by Lew, et al. (2010), were considered in development of the seismic load criteria given above.

REPORT LIMITATIONS AND CLOSURE

Our services have been performed in accordance with generally accepted geotechnical engineering principles and practices. This warranty is in lieu of all other warranties, either expressed or implied.

We are pleased to have been of service to you on this project. If you have any questions in regards to the matters discussed in this update letter, please do not hesitate to contact the undersigned.

Very truly yours,



Thomas M. Brencic, C.E.
Project Engineer



TB/jc

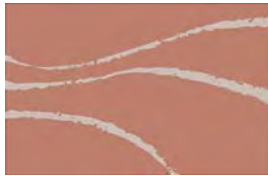
Copies: Addressee (PDF) – bayjor2009@gmail.com
LZI International (PDF) – tomzhang89@yahoo.com
New Century Marble & Granite (PDF) - Jason@nckb.com

2113-1C 7954 Terrace Drive - Geot Update.docx

REFERENCES

Hilley, et al., June 25, 2004, Science Magazine, "Dynamics of Slow-Moving Landslides from Permanent Scatter Analysis."

Lew, Marshall, Sitar, Nicholas, Al Atik, Linda, Pourzanjani, Mehran, Martin, Hudson, 2010, "Seismic Earth Pressures on Deep Building Basements," SEAOC 2010 Convention Proceedings.



ALAN KROPP
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GEOTECHNICAL
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April 9, 2014
2113-1A, L-29938

Edmund Low
7952 Terrace Drive
El Cerrito, CA 94530

RE: Geotechnical Update
7952 Terrace Drive Subdivision
El Cerrito, California

Dear Mr. Low:

This letter is an update of our August 9, 2001 geotechnical investigation of the subject site. It is our understanding that the project still consists of subdividing the site for development of three parcels (one parcel to include the existing house near the center of the property) as anticipated at the time of preparation of our 2001 report.

SCOPE OF SERVICES

The scope of our geotechnical update included the following:

1. A reconnaissance of the site and portions of the immediate surrounding properties to confirm current site conditions. Site reconnaissance performed on March 7, 2014;
2. A review of our August 9, 2001 geotechnical investigation report prepared for the site;
3. A review of relevant published geologic materials that may have been published since the time of our 2001 investigation; and
4. Preparation of this update letter for the project.

FINDINGS

- The site conditions as observed at the time of our March 7, 2014 site visit did not appear to be significantly different from those documented at the time of preparation of our August 9, 2001 report.
- As part of our review of relevant geologic materials published since the time of preparation of our August 9, 2001 report, we reviewed processed InSAR data plotted on GoogleEarth which shows interpreted movement of large scale creeping landslide masses in the Berkeley Hills in the time period between 1992 and 2001. This data is generally referred to as the Hilley data (Hilley, et al., 2004). InSAR is a satellite-based remote sensing methodology that allows detection of deformation of slow

moving geologic features (earthquake faults, volcanoes, large scale creeping landslide masses, etc.) over time. In the area of the subject property, the Hilley InSAR data was in generally good agreement with the active margin of the Blakemont Landslide as identified in our August 9, 2001 report.

- Based on our update evaluation it is our opinion that, with inclusion of the updated recommendations as given below, in order to address the current version of the California Building Code (CBC, 2013), the findings and recommendations as given in our August 9, 2001 report are still valid.

SUPPLEMENTAL RECOMMENDATIONS

Ground Motion Parameters

Based on our review of the site location, geology, and the 2013 California Building Code (CBC), we recommend the following parameters be used for seismic design of the buildings:

- Risk Category of Building and Other Structures = II (assumed)
- Site Class = D
- Mapped Spectral Response Acceleration at Short Period (S_s , Site Class B) = 2.478g
- Mapped Spectral Response Acceleration at 1-Second Period (S_1 , Site Class B) = 1.030g
- Maximum Considered Earthquake Spectral Response Acceleration for Short Period (S_{MS} , Site Class D) = 2.478g
- Maximum Considered Earthquake Spectral Response Acceleration for 1-Second Period (S_{M1} , Site Class D) = 1.545g
- Design Spectral Response Acceleration at Short Period (S_{DS} , Site Class D) = 1.652g
- Design Spectral Response Acceleration at 1-Second Period (S_{D1} , Site Class D) = 1.030g

Retaining Wall Seismic Design Increment

Building and site walls greater than 6 feet in height should be designed for a temporary seismic load in addition to the lateral earth pressure and surcharge loads (if applicable) as outlined in our August 9, 2001 report. The temporary seismic load can be modeled as a uniform pressure applied over the height of the wall of $8H$ psf, where H is the wall height in feet. The provisional recommendations for seismic earth pressures on building basement walls, as provided by Lew, et al. (2010), were considered in development of the seismic load criteria given above.

REPORT LIMITATIONS AND CLOSURE

Our services have been performed in accordance with generally accepted geotechnical engineering principles and practices. This warranty is in lieu of all other warranties, either expressed or implied.

We are pleased to have been of service to you on this project. If you have any questions in regards to the matters discussed in this update letter, please do not hesitate to contact the undersigned.

Very truly yours,



James R. Lott, G.E.
Associate Engineer



JRL/sa

Copies: Addressee (1)
Jason Zheng (1+PDF) – Jason@nckb.com
Bayfront Architecture (3+PDF) – pgolze@hotmail.com
Attn: Peter Golze

2113-1A Terrace Drive - Geot Update

REFERENCES

Hilley, et al., June 25, 2004, Science Magazine, "Dynamics of Slow-Moving Landslides from Permanent Scatter Analysis."

Lew, Marshall, Sitar, Nicholas, Al Atik, Linda, Pourzanjani, Mehran, Martin, Hudson, 2010, "Seismic Earth Pressures on Deep Building Basements," SEAOC 2010 Convention Proceedings.

GEOTECHNICAL / GEOLOGIC INVESTIGATION
7952 TERRACE DRIVE SUBDIVISION
EL CERRITO, CALIFORNIA



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS

ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
MARLENE K. JACKSON, CE

August 9, 2001
2113-1, L-24390

Mr. Edmund Low
7952 Terrace Drive
El Cerrito, CA 94530

RE: Geotechnical/Geologic Investigation
7952 Terrace Drive Subdivision
El Cerrito, California

Dear Mr. Low:

In accordance with your request, the team of Alan Kropp & Associates (AKA) and William Lettis & Associates (WLA) has performed a geotechnical/geologic investigation for the proposed subdivision of your property at 7952 Terrace Drive in El Cerrito, California. The site location is shown on Figure 1, Site Location and Regional Landslide Map.

1.00 PROPOSED CONSTRUCTION

As shown on Figure 2, Site Plan, the site is currently occupied by a single-family home near the center of a 30,000± square foot lot. Based on our discussions with you and our review of your preliminary plans, it is our understanding that the lot is to be subdivided into three parcels. The proposed parcel boundaries are shown on the Site Plan. The existing house is to be located on a new 11,800± square foot parcel near the center of the current lot. New parcels will be located east (10,100± square feet) and west (8,100± square feet) of the existing house, respectively. We understand no plans have yet been developed, but it is likely a new home will be developed on each of the new parcels east and west of the existing house and, the new houses will likely be two-story, wood-frame structures with enclosed garages.

Earthwork operations at each new parcel will primarily consist of grading for the driveways and creating building pads. It is possible some cuts and fills will need to be supported by retaining walls.

As shown on Figure 1, the site area straddles the margin of the active Blakemont landslide. In particular, the proposed house on the eastern parcel of the site is located entirely within the active landslide margin. Consequently, a significant focus of our site investigation included identifying the active landslide margin and characterizing the nature and amount of potential future active landslide movement.

2.00 PURPOSES

The two purposes of our investigation were to evaluate the suitability of the site for the proposed residences from geotechnical engineering and geologic standpoints, and to provide geotechnical design and construction criteria for the following aspects of the work:

1. Site preparation and earthwork;
2. Surface and subsurface drainage;
3. House foundations;
4. Building code seismic design parameters;
5. Slabs-on-grade; and
6. Retaining walls.

3.00 SCOPE

As outlined in our proposal dated February 12, 2001, the scope of our services to accomplish the stated purposes included:

1. Reviewing existing geotechnical data;
2. Reviewing previous data from other geotechnical consultants;
3. Examining aerial photographs;
4. Performing a site reconnaissance;
5. Exploring subsurface conditions with trenches;
6. Exploring subsurface conditions with borings;
7. Laboratory testing;
8. Engineering analyses of the collected data; and
9. Preparing this report.

Our investigation focused on the proposed subdivision of the site and the proposed new residential structures, but did not include an evaluation of the existing house, retaining walls or other improvements. The scope of our services did not include an environmental assessment or investigation for the presence of hazardous or toxic materials in the soil, groundwater, or air on, below, or around this site. In addition, an asphalt pavement design for possible new driveways was not within our scope of services.

AKA and WLA performed the geotechnical and geologic portions of this investigation, respectively. WLA logged the conditions encountered in the trenches and borings, obtained soil and rock samples from the trenches and borings, provided descriptions of the geologic site conditions and developed geological conclusions and recommendations regarding the planned improvements. AKA reviewed the field trench and boring logs, drafted the trench and boring logs, performed geotechnical testing of the soil and rock samples, provided descriptions of the geotechnical site conditions, performed analysis, and developed geotechnical conclusions and recommendations regarding the planned improvements.

This report has been prepared for the exclusive use of Mr. Edward Low and his consultants for specific application to the proposed residences in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event that the nature, design, or location of the homes differs significantly from what has been noted above, or if any additions are proposed, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

The findings of this report are valid as of the present date. However, the passing of time will likely change the conditions of the existing property due to natural processes or the works of man. In addition, due to legislation or the broadening of knowledge, changes in applicable or appropriate standards may occur. Accordingly, the findings of this report may be invalidated, wholly or partly, by changes beyond our control. Therefore, this report should not be relied upon after three years without being reviewed by this office.

4.00 SITE INVESTIGATION

4.10 Existing Geotechnical Data Review

A variety of published and unpublished sources was reviewed to evaluate geotechnical data relevant to the subject parcel. These sources included geotechnical literature, reports, and maps published by various public agencies. Maps which were reviewed included topographic, geologic, and preliminary photointerpretive landslide maps prepared by the United States Geological Survey and fault maps prepared by the California Division of Mines and Geology.

4.20 Review of Data from Consultants

A foundation investigation of this site was previously performed by Alexei F. Lukban, P.E. (AFL). A geotechnical investigation of the Blakemont landslide, which crosses part of the site, was previously performed by Seidelman Associates (SA). A geologic study of the Blakemont area (which includes the subject site) is currently being performed by the team of AKA and WLA. We reviewed the published reports by AFL and SA and the draft report by AKA and WLA for data relevant to our current investigation. A more detailed citation of these reports is presented in the references at the end of this report.

4.30 Examination of Aerial Photographs

Four sets of black and white aerial photographs were examined with a stereoscope to assist in our evaluation of the site conditions. The photographs were taken in 1939, 1946, 1957 and 1983. The photographs have scales of 1:12,000 (1957 and 1983), 1:20,000 (1939) and 1:23,600 (1946). Further details regarding the photographs are presented at the end of this report.

4.40 Surface Reconnaissance

A surface reconnaissance of the site was performed on April 4, 2001, to make observations of the surficial conditions present and to note whether any obvious geotechnical concerns were exposed. Our surface reconnaissance did not include entering the existing house at the site.

4.50 Subsurface Exploration with Trenches

Our subsurface exploration with trenches was performed on April 4, 2001, to investigate the margin of the active Blakemont landslide and sample the subsurface materials. Two trenches were excavated at the site with a wheel-mounted backhoe at the approximate locations shown on the Site Plan, Figure 2. The trenches were about 3 feet wide, 8 feet deep, and 30 feet long.

4.60 Subsurface Exploration with Borings

Our subsurface exploration with borings was performed on April 12, 2001, to investigate and sample the subsurface materials. Four borings were drilled at the site to depths ranging from about 21½ to 29 feet at the locations shown on the Site Plan, Figure 2.

Continuous flight auger drilling equipment was employed to advance the borings. Samples of the materials encountered were obtained using a 140-pound hammer and conventional sampling equipment.

4.70 Laboratory Testing

Water content, Atterberg Limits, and dry density tests were performed on soil and/or rock samples obtained during our field investigation. The water content and Atterberg Limits tests were performed to evaluate the variations in soil moisture and the soil's expansive potential, respectively. The dry density tests were used to evaluate the soil density. The results of these tests are presented on the boring logs at the appropriate sample depths.

5.00 SITE CONDITIONS

5.10 Geotechnical Setting

5.11 State and Federal Government Agency Data

The primary topographic map for the area (USGS, 1980) has a scale of 1:24,000 and a contour interval of 20 feet. This map shows the site is located on the southwest face of a prominent southeast-trending ridge (the Berkeley Hills). Elevations range from about 370 feet (Mean Sea Level Datum) at the west end of the site (along Terrace Drive) to about 420 feet at the east end of the site.

Several maps have been published covering the site area and surrounding vicinity. A geologic map by Bishop, et al (1973) shows the surface soils at most of the site to be underlain by Quaternary age "alluvium and undifferentiated deposits of undetermined age." The exception is an isolated outcrop of Cretaceous Franciscan "metamorphic rocks" along Terrace Drive. A geologic map by Dibblee (1980) shows most of the site is underlain by landslide debris. The exception is an outcrop of the "Jurassic and/or Cretaceous age Franciscan assemblage" along Terrace Drive, described as "sheared greenstone, sandstone and chert in a sheared shale matrix." A geologic map by Graymer et al (1994) shows the site to be underlain by landslide deposits

(Holocene or Pleistocene). Our field mapping confirmed the presence of Franciscan complex melange bedrock along the west side of Terrace Drive (across the street from the site), and translated blocks of bedrock within the landslide mass. Bedrock encountered in our exploratory trenches and/or borings consisted of sheared shale, metavolcanic rock, and serpentinite that represents translated melange bedrock. The bedrock in the trenches and/or borings appears to be translated by past slope movements.

The reviewed published maps show a landslide or a landslide complex at the site. The landslide map by Bishop et al (1973) and the geology map by Dibblee (1980) show a landslide crossing most of the site, with the exception of the northwest corner (along Terrace Drive). A preliminary photointerpretive landslide map by Nilsen (1975) shows that the entire site is located within a large regional landslide. The active landslide margin at the site, determined by our detailed geologic and aerial photograph mapping, and trench and boring evaluation, is shown on the Site Plan.

The Hayward fault lies about 1200 feet northeast of the site. The site is also located about 19 miles northeast and 12 miles southwest of the active San Andreas and Concord faults, respectively (Jennings, 1994).

Recent studies by the United States Geological Survey's Working Group on California Earthquake Probabilities (United States Geological Survey, 1999) has estimated a 70 percent probability of at least one magnitude 6.7 or greater earthquake striking the San Francisco Bay Region before the year 2030. As part of their prediction, they estimated the probability to be 32 percent for a magnitude 6.7 or greater earthquake to occur on the northern segment of the Hayward fault by the year 2030.

5.12 Data from Consultants

AFL (1998) previously performed a geotechnical investigation of the subject site. As part of the investigation, AFL explored subsurface conditions with six borings extending to depths ranging from 8.7 to 18 feet below the ground surface. The 1-inch-diameter borings were sampled using a modified piston sampler driven by an impact rammer. The locations of these borings are shown on the Site Plan. Copies of the boring logs are presented in Appendix A. AFL stated that "entire site was found to be underlain by possible ancient slide debris below 5 to 7 feet from the existing ground surface. These deposits typically consisted of serpentine sand and gravel and grey lenses to a mix of tan and green serpentine clay. The slide debris was generally 'stiff' to 'hard' in consistency. Above the slide debris, surface soils consisted of a dark brown clay. Moisture contents in these strata varied between 16.4% to 32.5%. This clay strata is considered to be potentially expansive at low moisture contents however the current moisture content indicates that this strata is relatively wet. 'Medium dense' fill consisting of black/brown clayey sand and gravel with random tan sand and gravel was encountered in the northeast corner of the existing building. No ground water was encountered in any of the borings during the field sampling operations."

SA (1994) previously performed an 8-year-long geotechnical investigation of the Blakemont landslide. The investigation included review of damage questionnaires completed by homeowners, surface observations, 18 borings, 17 inclinometer casings installed in the boreholes, and land survey measurements of surface monuments. The three borings and two inclinometer casings closest to the site were drilled and installed along Hancock Way (about 100 to 200 feet to the southwest). Data from these two inclinometers indicated shallow creep type movements outside of the active Blakemont landslide (near the intersection of Hancock Way and Terrace Drive) and abrupt landslide type movements at depths of about 8 feet and 14 feet within the active Blakemont landslide (at the southeast end of Hancock Way).

AKA and WLA (draft 2001) performed a geologic study of the Blakemont area in which the subject site is located. As part of their study, they performed detailed field mapping of the Blakemont landslide. AKA and WLA concluded that at least three major episodes of landsliding have occurred in the Blakemont area, each forming a distinctive landslide landform. The three sliding episodes included: (1) an ancient large bedrock landslide of late Pleistocene to early Holocene age; (2) a smaller old landslide of late Holocene to historic age; and (3) the actively moving Blakemont landslide. Each of these areas as mapped by AKA and WLA are shown on Figures 1 and 2, and described below.

The oldest (ancient) phase of landslide activity was a very large, deep-seated landslide that completely encompasses the active Blakemont landslide and extends from near the top of the Berkeley Hills (above Arlington Boulevard) down onto the alluvial plains. The ancient landslide translated large bedrock blocks and spur ridges downslope, forming hummocky topography and isolated hills that extend well beyond the toe of the hills, Figure 1. The subdued geomorphic expression of the ancient landslide headscarp and deposit suggest that it occurred thousands to tens of thousands of years ago, likely in the late Pleistocene or early Holocene. Erosion has reduced the inclination and sharpness of the ancient landslide headscarp, locally obscured the lateral landslide margins, and rounded the translated blocks within the landslide deposit. It is likely that the ancient landslide is quite deep, probably on the order of many tens or hundreds of feet. Sheared shale, serpentinite, greenstone, and metavolcanic bedrock encountered in exploratory borings drilled through the active Blakemont landslide during the previous study (Figure 1) appear to be translated or disturbed ancient landslide debris. The subdued geomorphic expression of the ancient landslide suggests that it is inactive, and probably has reached a stable configuration under the present environmental conditions. It is possible, however, that partial or localized reactivation or deformation within the ancient landslide could occur during future large earthquakes on the northern Hayward fault.

A smaller, nested earthflow-debris landslide complex is present within the outline of the ancient landslide. The nested landslide complex includes the active Blakemont landslide, and a somewhat larger, less-active older landslide. The active Blakemont landslide is currently experiencing a higher degree of activity than the older landslide; however, portions of the older landslide appear to be undergoing localized or distributed slow creeping movements as well.

Both the older and active Blakemont landslides involve remobilized ancient landslide debris and clayey colluvial soils and fill that developed on, or were placed on top of, older landslide debris. The landslide deposits consist of a mixture of clayey soil and highly weathered, sheared bedrock fragments within a clayey matrix. Boring and inclinometer data from previous studies in the area show that the uphill part of the active Blakemont landslide is sliding over ancient translated bedrock, with a clayey failure surface along the bedrock contact. In the uphill part of the Blakemont landslide, the failure plane for the active and older landslide appears to be coincident. However, in the lower toe portion of the Blakemont landslide (where the subject site is located), active landslide deposits appear to be underlain by deeper older landslide deposits, and the active basal failure plane does not occur at the bedrock interface.

The headscarp and toe regions of the older landslide have been rounded or subdued by erosion, suggesting that the rate of movement of this landslide has decreased to a slow creep and/or is locally not active. Portions of the toe of the older landslide appear to have reached, or are approaching a stable configuration, and are likely not subject to future large-scale translation under static conditions. In contrast, the margins and headscarps in the central and upper portions of the active Blakemont landslide are well-defined by sharp scarps, narrow zones of deformation, and displaced cultural features (roads, pavements, pipeline breaks, distressed house frames). The outline of the active Blakemont landslide lies entirely within and mimics the outline of the older landslide, suggesting that the active landslide involves remobilized landslide debris within the least-stable portions of

the older landslide. Both the active and older landslides have two distinct head lobes that coalesce downhill into a single landslide mass in the central and toe regions. The headscarp of the north lobe of the active Blakemont landslide is advancing progressively uphill into older landslide debris as a series of slumps. The central part of the active landslide (where the subject site is located) consists of a relatively cohesive landslide mass with well-defined lateral margins. Some internal deformation and differential movement in the central landslide mass is accommodated by block rotation and internal shears, but the mass appears to generally be moving downslope as a coherent block. The greatest amount of damage to structures occurs along the margins and internal shear zones of the active landslide. Many homes and streets constructed in the mid-portion of the landslide show little evidence of distress, and are being translated downslope with little differential distortion.

Recent landslide movement is concentrated along the margin of the active Blakemont landslide which appears to undergo pulses of movement on the order of inches during winter months in high rainfall years, and slow creeping movements in dry years and during the dry season. Displaced roads show that total movements in the Blakemont landslide have been on the order of 3 to 4 feet since the early 1940's. This relates to an average displacement rate on the order of 1/2- to 1-inch per year.

AKA and WLA showed the margin of the active Blakemont landslide to be well defined at the site in their study. As part of their investigation, AKA located the nearby inclinometer casings along Hancock Way. Measurement of the inclinometer casing located near the intersection of Hancock Way and Terrace Drive (outside of the active Blakemont landslide) indicated shallow creep type movements. Measurement of the inclinometer casing located at the southeast end of Hancock Way (within the active Blakemont landslide) indicated that the casing had likely sheared at a depth of about 9 feet.

5.13 Aerial Photograph Information

The 1939 aerial photographs show that a ranch house was located at the eastern part of the site. Vegetation at the site was lush compared to the surrounding area. A hummocky topography and linear bulge indicated the margin of the active Blakemont landslide crossing the eastern part of the site. The landslide margin was well-defined and at a similar location as at present.

The 1946 aerial photographs show conditions similar to those of 1939. The photographs show a ranch house and at least one out-building at the site on the landslide margin.

The 1957 aerial photographs show the previous ranch house and out-building to have been removed and the existing house at the site to have been constructed. The landslide margin was not as well-defined as in the previous aerial photographs.

The 1983 aerial photographs show similar conditions as in 1957.

5.20 Surface

The roughly rectangular site has average plan dimensions of about 300 feet by 100 feet. The site is bordered by Terrace Drive to the west, and residential properties to the north, east and south. The site is currently developed with a single-family house, driveway, patio, and retaining walls. The house is located near the center of the site. The driveway runs from Terrace Drive along the north property boundary to the house. The patio is located along the east side of the house. Retaining walls are located west of the house, east of the driveway and patio, and along the east property boundary.

The site generally slopes down to the southwest at average inclinations on the order of 3:1 (horizontal to vertical). However, local areas along the landslide margin shown on the Site Plan have slopes as steep as 2:1. Past grading at the site appears to have included minor cuts and fills to create the existing building pad and driveway at the site. Rock retaining walls up to a few feet high are located along the downhill (west) side of the building pad. Reinforced concrete retaining walls up to about 4 feet high are located along the uphill (east) side of the building pad.

The house, patio slab, and reinforced concrete retaining wall show indications of differential movement in the area of the landslide margin shown on the Site Plan. These indications include cracks in the concrete retaining wall, slab, and foundations showing both vertical and lateral movement. The asphaltic concrete driveway pavement contains numerous cracks that run parallel to the pavement edges.

Vegetation at the site consists mostly of forbs and grasses. Significant trees are located along the east and south property boundaries and in the northeast part of the site.

The active Blakemont landslide in the east end of the site is defined by a geomorphic break-in-slope, hummocky bulged area, and linear zone of damaged retaining walls and walkways adjacent to the east side of the existing house. This zone of deformation corresponds to the lateral landslide margin previously mapped in the draft AKA/WLA Blakemont landslide study.

5.30 Subsurface

Subsurface materials encountered in the exploratory borings varied across the site. Borings B-1 and B-2, located in the east parcel within the active Blakemont landslide, encountered active landslide debris overlying older and ancient landslide debris. Borings B-3 and B-4, located in the west parcel and outside of the active Blakemont landslide, encountered colluvium and older slide debris overlying ancient landslide debris.

Two exploratory trenches (Trenches T-1 and T-2) were excavated across the margin of the active Blakemont landslide in the eastern part of the site (as shown on Figure 2) to confirm the location of the active landslide margin. Both trenches exposed shallow slide planes believed to represent the active failure plane and margin of the active landslide. In both trenches, the slide plane was oriented at low angles (about 10° to 20°), and consisted of soft to stiff, gray, serpentized clay that separated translated bedrock above the slide plane from younger soil or colluvium below the slide plane. It was not possible to measure the amount of displacement along the failure plane in the trenches, and multiple older failure planes were observed in the eastern trench (Trench T-1) that have accommodated past displacement of an unknown magnitude. The older slide planes consisted of stiff clay, and juxtaposed old, carbonate-rich soils. In both trenches, the active slide plane was overlain by fill and/or modern soil that did not exhibit evidence of a shear plane. The slide margin exposed in the trenches exhibited evidence of overthrusting and deformation appears to be distributed and involve both translational shearing and broadly distributed bulging. This distributed deformation likely has not resulted in an obvious shear plane in the relatively recent fill and/or modern soil exposed at the trenches.

As an aid to help present our interpretation of subsurface conditions at the site, we have prepared Figure 3, Geologic Cross Section. The trenches and borings encountered successively deeper layers of fills, colluvium, active landslide debris, translated bedrock—older landslide debris and/or Franciscan complex bedrock—ancient landslide materials to the depths explored (7 to 8 feet at the trenches, and 21.5 to 29 feet at the borings). Based upon our interpretation of the borings and trenches, we estimated that the active Blakemont

landslide at the site is up to approximately 15 feet thick in the southeast corner of the site, and is underlain by older slide debris and landslide shear planes.

The materials encountered in the borings and in the trenches at the site are summarized below:

- Fill soils were encountered to depths ranging up to about 2 feet in scattered areas around the site. The fill materials consisted of soft, highly plastic clays with varying amounts of sand and gravel.
- Colluvium (Qc) was encountered both at the ground surface in the area outside of the margin of the active Blakemont landslide and beneath the active landslide debris within the margin of the active Blakemont landslide at the trenches. The colluvium extended to the depths explored (7 to 8 feet) at the trenches and to depths of 7.5 and 9 feet at Borings 3 and 4, respectively. The colluvium consisted of soft to firm, highly plastic clays with abundant intermixed rock fragments (predominantly serpentinite, greywacke, sandstone and chert), and carbonate stringers and zones.
- Active Blakemont landslide debris (Qlsb) was encountered to depths ranging up to 5.5 feet at the trenches, and to depths of 11 and 13 feet at Borings 2 and 1, respectively. The active landslide debris consisted of clays with sands and gravel, and weathered serpentinite/greenstone. The materials with the active landslide debris varied with location such that weathered rock was encountered in the trenches, clays and weathered rock were encountered in Boring B-1, and clays were encountered in Boring B-2. The clays were generally firm and highly plastic. Layers of slide plane materials (less than about 1 foot thick) were encountered within and at the bottom of the active landslide debris. The slide plane material consisted of soft to firm, highly plastic clay and gravelly clay.
- Translated bedrock—older landslide debris (Qlso) was encountered beneath the colluvium outside of the margin of the active landslide, and beneath the active landslide debris within the margin of the active Blakemont landslide. The translated bedrock—older landslide debris extended to depths ranging from 15 to 27.5 feet (at Borings 3 and 2, respectively) and consisted of serpentinite that had low hardness and was mostly weathered to clay.
- Franciscan complex bedrock—ancient landslide materials (Kjf-Qpls) were encountered beneath the older landslide debris to the depths explored at the borings. The ancient landslide debris/bedrock consisted mostly of Franciscan formation serpentinite that had moderate hardness and was weathered and foliated.

Detailed descriptions of the materials encountered in the trenches and borings are found on the trench logs and boring logs which are presented at the end of this report. A Key to Exploratory Boring Logs, Figure 4, and Physical Properties Criteria for Rock Descriptions, Figure 5, are also presented. The attached logs and related information depict subsurface conditions only at the specific locations shown on the Site Plan and on the particular date designated on the logs. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the trenches and borings were approximately determined by pacing, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

- Free water was encountered at depths of 12 feet and 15 feet at Borings 2 and 3, respectively. No free groundwater was encountered in the exploratory trenches and Borings 1 and 4 at the time of excavating and

drilling. The trenches and borings were backfilled immediately after excavation and drilling. In accordance with requirements of the Contra Costa County Environmental Health Division, the borings were backfilled with lean concrete grout at the completion of drilling. It should be noted that groundwater measurements in the borings or trenches may not have been made after a sufficient period of time to allow equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature and other factors not evident at the time the measurements were made. Due to the sloping nature of the terrain, it is our opinion that seepage could occur in excavations and behind retaining walls, particularly after prolonged rains during a relatively heavy rainy season.

6.00 EVALUATIONS AND CONCLUSIONS

6.10 General Site Suitability

Based upon our investigation, it is our opinion that the site is suitable for the planned development from a geotechnical standpoint as long as the owners accept the risk for possible future landslide movements, and accept performance that requires careful maintenance and possible future repairs or remediation. Furthermore, all of the conclusions and recommendations presented in this report should be incorporated in the design and construction of the project to minimize other possible soil and foundation problems.

The primary considerations for foundation design at the site include:

- The actively moving Blakemont landslide on the east part of the site;
- The presence of the older and ancient landslide deposits under the entire site;
- The behavior of the surficial soils when saturated;
- The presence of existing fill soils at the site; and
- Strong ground shaking.

Each of these conditions is discussed below.

6.20 Landslide Movements

The east part of the site including the entire proposed east parcel, and part of the existing house and central parcel (Figure 2), is underlain by the active Blakemont landslide. The active Blakemont landslide is likely to continue to move at the historical average rate of about one inch per year. However, depending upon the amount of seasonal rainfall and/or earthquake loading, the landslide movement rate may be less than or greater than this average. Figure 2 shows our best interpretation of the location of the Blakemont landslide and slide margin across the site based on our subsurface investigation and observed patterns of damage to existing structures. The proposed west parcel appears to be outside of the active Blakemont landslide, but is generally underlain by older landslide deposits.

Future landslide movement could damage existing and new structures located on, or adjacent to, the landslide in the proposed center and east parcels. Active and continuing movement of the Blakemont landslide has

damaged retaining walls and pavement adjacent to the east side of the existing house in the central parcel, and has damaged numerous homes and other improvements east of the site (AKA and WLA, draft 2001). Although the Blakemont landslide moves generally in the southerly direction, the slide mass at the site moves more westerly in response to the local west-trending topographic slope. The localized deviation of the slide mass movement produces both southward-directed translational shearing, and westward-directed compression or bulging. As a result, the landslide margin is complex and difficult to define, and the ground is undergoing both lateral shearing and vertical bulging. It is possible that future slide movement could cause both translational and vertical movements, and ground cracking, anywhere on the eastern parcel, and extending onto the portion of the existing house parcel adjacent to the landslide. You should be aware of the potential risks associated with possible future slide movements, and notify future owner(s) of homes on the two new proposed parcels of these potential risks.

Because the active Blakemont landslide is large, it is not considered practical to construct a buttress to mitigate the landslide movement at the site, or to support the planned house on the new eastern parcel on a foundation (such as drilled piers) designed to resist the active landslide movement. We recommend that the proposed house in the east parcel be sited at least 15 feet away from the mapped landslide margin shown on Figure 2 to reduce the potential for concentrated differential movement. The house foundation should be specifically designed to minimize structural damage from slide movement.

The west part of the site is underlain by colluvium, which is in turn underlain by the older landslide. Although the older landslide has moved in the past, no evidence of active movement was noted during this investigation. However, there is risk that the older landslide could reactivate due to high rainfalls and/or earthquake loading. This risk is common to large parts of the Berkeley Hills, and in the site vicinity. In addition, significant expansive soil volume changes and creep are expected (as discussed in Section 6.30, "Wetted Surficial Soils"). It is not considered practical to construct a buttress to mitigate potential older landslide movements. Movements associated with creep and expansive soil volume changes can be mitigated with a drilled pier foundation. However, it would not be practical to support the planned house on a drilled pier foundation capable of resisting older landslide movements, should they occur. Therefore, the proposed house on the western parcel should also be designed to minimize structural damage from slide movement.

We recommend that both houses be supported by foundations designed to accommodate the slope movements and expansive soil volume changes. In order to minimize future distress resulting from differential ground movements and to minimize possible distress or damage associated with major landslide movements, we recommend that each house foundation consist of a thick, reinforced concrete mat. The purpose of the mat is to connect the entire foundation together so that if any local movements occur below one portion of the home, the foundation will have the capability of spanning across such areas. In addition, if the ground moves over a broad area, then each structure will also move as a unit, and the mat foundation will minimize differential movements between portions of the structure and associated distress. It should be noted that the mat system is designed so that if ground settlement occurred over a broad area under one end of the home, the mat may rotate and the floors would no longer be level. However, if such tilting occurs, concrete grout may be injected to re-level the mat foundation.

The bottoms of the mat foundations should be constructed level (without steps) if possible. Accordingly, retaining walls will likely be required at the upper and/or lower sides of the building pads outside the structure. These retaining walls should be designed to resist relatively high lateral loads due to anticipated and potential landslide movements. The retaining walls can be constructed on deepened spread footing foundations supported on firm native soils and/or bedrock. These retaining walls are likely to move differentially due to the active landslide, creep and expansive soil volume changes. Accordingly, the retaining walls should not be

structurally connected to the houses. Retaining walls may require periodic replacement if they become excessively damaged or tilted.

6.30 Wetted Surficial Soils

The surficial clay soils at the site are expansive, and are prone to significant volume changes (shrinkage and swelling) due to seasonal fluctuations in soil moisture. The surface soils also tend to lose strength after prolonged rains, and when they are located on moderate slopes, they have a tendency to creep. Such shrink/swell and creep behavior can damage shallow foundation elements such as footings that are supported by these soils. The shrink/swell and creep behavior of the surface soils can be accommodated for by supporting the planned houses on thick reinforced concrete mats designed to span and/or cantilever over areas of differential movement.

The shrinkage and swelling behavior of the expansive soils can also damage other improvements such as exterior concrete slabs, pool decking and pavements. To help minimize tilting and cracking, we recommend that these elements not be structurally connected to the houses, and be underlain by a layer of imported, non-expansive material.

6.40 Existing Fill Soils

Based on the results of our subsurface exploration, it appears that portions of the site are underlain by fill soils. These materials were probably placed during the construction of former and existing building pad and sand driveways. Given the eras during which the fill soils were placed (estimated to be 70 and 40 years ago) and the evolution of the standards of practice which have occurred since those times, it is likely that these fill materials were not placed according to currently accepted modern standards. These standards include keying and benching the fill into underlying bedrock or stiff native soils, proper compaction of the fill, and the installation of drainage measures. When improperly placed fill soils are located on moderate slopes, they have a tendency to creep downhill. In addition, these materials could settle if loads were applied directly to them from shallow foundations (such as footings) or slabs. Therefore, we recommend that the existing fills be removed to their full depth and replaced with properly compacted fills, then keyed and benched into firm materials and provided with subsurface drains (where appropriate).

6.50 Earthquake Hazards

As noted earlier, the subject site is located in the highly seismic San Francisco Bay Area, and there is a strong probability that a moderate to severe earthquake will occur during the lives of the structures. The site is not mapped in the immediate proximity of any active or inactive faults; therefore, the likelihood of fault rupture directly below either of the proposed homes is very remote.

During strong earthquakes, various forms of ground failure can occur, such as liquefaction, lateral spreading, and lurch cracking. Based upon our limited site exploration and geotechnical analysis, we believe that the potential for liquefaction or lateral spreading is low and do not require special construction measures or mitigation. The existing active, older and/or ancient landslide deposits can undergo renewed movements as the result of the earthquake shaking, resulting in lurch cracking or slide translation/bulging. The risk for this is detailed in Section 6.70 of this report.

The proposed homes will almost certainly experience strong ground shaking during a major earthquake in the life of the buildings. Recently, the Uniform Building Code has adopted provisions for incorporation of strong

ground shaking into the design of all structures. Our recommendations for geotechnical parameters to be used in the structural seismic design of the home are presented in Section 7.40, "Building Code Seismic Design Parameters."

6.60 Site Drainage

To minimize infiltration of surface runoff and subsequent weakening and swelling of the soils underlying the houses, drainage should be carefully controlled at the site and discharge to the common driveway or the street by a network of drainage pipes.

6.70 Future Slope Performance

As described above, the site straddles the margin of the Blakemont landslide. The landslide is active and currently moving. The slide margin crosses the center of the site near the existing house. The proposed house site in the eastern parcel lies entirely within the landslide. Existing and new structures located on, or adjacent to, the landslide are susceptible to damage from continued landslide movement. The potential for damage is greatest for structures that extend across the slide margin, because of the potential for differential movement. Numerous homes in the site vicinity that span across, or are adjacent to, the landslide margin have been severely damaged by differential movement. The proposed new home on the eastern parcel must be designed to minimize damage from future slide movement. We recommend that the proposed home on the east parcel be sited so it does not span across, or encroach within 10 feet of the landslide margin, and the foundation consist of a reinforced concrete mat. As noted previously, the older landslide deposits on the proposed western parcel may also undergo significant future movement and the new house on that parcel should also be supported on a mat foundation.

In our opinion, stabilization of the Blakemont landslide on the site would require major and extensive remedial grading and installation of drainage systems that would need to extend offsite onto adjacent properties. We therefore do not find this approach to be viable for the scale of the proposed project. We have developed special foundation and onsite drainage provisions as an alternative to minimized future damage to the proposed new home on the east parcel. Similarly, future landslide movements dictate special design measures also be employed in the design of the house on the west parcel. The recommendations presented in this report for building foundations, drainage improvement, and maintenance should substantially reduce the risk and magnitude of future structural damage to the proposed new homes. However, it is possible that future movements of the active Blakemont landslide and other older landslide deposits could still eventually affect the proposed new homes and improvements in the east parcel, and require repairs or frequent maintenance. All drainage and maintenance recommendations in this report should be followed to minimize the potential for future damages.

7.00 RECOMMENDATIONS

This report is issued with the understanding that it is the responsibility of you or your representative to ensure that the information and recommendations contained in this report are called to the attention of all concerned parties and incorporated into the plans and that the necessary steps are taken to see that the contractors or subcontractors carry out such recommendations in the field.

7.10 Site Preparation and Earthwork

Each building site should be cleared of the existing improvements. These include the foundations of the former house at the east end of the site (if they are encountered) and subsurface utilities. These materials should be removed from the site. The sites should then be stripped to sufficient depth to remove any surface vegetation and weeds and these materials should be removed from the sites. Existing fills that are encountered should be removed to their full depth. The excavated fill materials should either be removed from the site or placed and compacted at the site as engineered fill.

After the areas to be graded are cleared and stripped, any excavation and/or filling operations required for the project development can be made. Any filling operations on slopes steeper than 6:1 should be keyed and benched into competent soils and/or the weathered bedrock materials. We should note that loose soils resulting from excavations should either be removed from the site or placed and compacted as engineered fill. Fill should not be placed within the active Blakemont landslide.

All on-site soils below the stripped layer having an organic content of less than 3 percent by volume are suitable for use as fill. However, we should note that because of the high plasticity of these clayey soils, they would probably be difficult to moisture condition and compact, particularly when they have excessive moisture from winter rains. In addition, due to the expansive nature of the clayey surface soils, minor cracking of asphalt pavements (requiring periodic maintenance) should be anticipated.

Any fill placed in the building areas should not contain rocks or lumps greater than 6 inches in greatest dimension with not more than 15 percent larger than 2.5 inches. In addition, imported fill material used at the site should be a non-expansive material with a plasticity index of 12 or less. The fill should be compacted to at least 90 percent relative compaction by mechanical means only as determined by ASTM Test Designation D1557-91 for fills less than 5 feet in height. Fill should be compacted to at least 95 percent relative compaction for fill greater than 5 feet in height. Fill should be placed on a firm, unyielding base surface in lifts not exceeding 8 inches in uncompacted thickness.

We recommend that all new cut or fill slopes have a maximum inclination of 3:1. At this inclination, the cut and fill slopes will probably be subjected to some minor erosion and/or sloughing, thus requiring periodic maintenance of the slopes. We recommend that the existing fill slopes and any new cut or fill slopes be planted with erosion resistant vegetation and that an erosion control netting system be installed. A landscape architect experienced in erosion control planting should be consulted prior to selection of the type of vegetation.

7.20 Surface Drainage

Positive surface drainage should be provided adjacent to the residences to direct surface water away from the foundations of the building into closed pipes that discharge onto the common driveway or onto Terrace Drive. Flexible drain pipe (flexline), 2000-pound crush pipe, leachfield, and ASTM F810 pipe are not recommended for use in the surface water drainage system because of the likelihood of damage to the pipe during installation due to the weak strength of these pipes. In addition, these drainpipes are sometimes difficult to clean with mechanical equipment without damaging the pipe. We recommend the use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system. Ponding of surface water should not be allowed in any areas adjacent to the structure. Concentrated flows of water should not be allowed across any slopes as erosion or weakening of surface soils could occur.

We also recommend that rainwater collected on the roofs of the houses be transported through gutters, downspouts, and closed pipes that discharge onto the common driveway or onto Terrace Drive. We should note that suitable discharge facilities do not include so called "dry wells" and these should be avoided.

Some nominal maintenance of the drainage facilities should be expected after the initial construction has been completed. To assist in maintaining proper drainage and erosion control measures for the site, we have included a "Guide to the Maintenance of Hillside Home Sites" in Appendix B.

Should ownership of either property change hands, the new owner should be informed of the existence of this report, not adversely change the grading or drainage facilities, and understand the importance of maintaining proper surface drainage.

7.30 Foundations

7.31 House Structural Mats

We recommend that the proposed houses be supported on reinforced concrete mat foundations. The bottoms of the mats should be at least 18 inches below the adjacent ground surface and the mat should be at least 24 inches in thickness. The mats should be designed assuming an allowable (factored) bearing capacity of 500 pounds per square foot for dead plus live loads (factor of safety ≈ 2). This allowable bearing pressure is a net value; therefore, the weight of the mat can be neglected for design purposes. The mats should be integrally connected to all portions of the structures so that the entire foundation system moves as a unit. The mats should be reinforced with top and bottom steel in both directions to allow the foundation to span local irregularities that may result from potential differential settlements. As a minimum, we recommend that the mats be reinforced with sufficient top and bottom steel to span as a simple beam an unsupported distance of at least 10 feet and to cantilever an unsupported distance of 5 feet.

Lateral loads on the structures may be resisted by passive pressures acting against the sides of the mats. We recommend an allowable passive pressure equal to an equivalent fluid weighing 200 pounds per square foot per foot of depth (factor of safety ≈ 2). Alternatively, an allowable friction coefficient of 0.20 (factor of safety ≈ 2) can be used between the bottom of the mats and the subgrade soils. If the perimeters of the mats are poured neat against the soils, the passive pressure and friction coefficient may be used in combination.

In areas where floor wetness would be undesirable, 4 inches of free draining gravel should be placed beneath the mat to serve as a capillary barrier between the subgrade soil and the mat. In order to minimize vapor transmission, an impermeable membrane should be placed over the gravel. The membrane should be covered with 2 inches of sand to protect it during construction. The sand should be lightly moistened just prior to placing the concrete.

We also recommend that the specifications for the mat require that moisture emission tests be performed on the mat prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

Based upon historical movement of the active Blakemont landslide, it is possible that the house foundation within the landslide could experience long-term movements on the order of 1 inch per year.

Due to the possibility of localized differential movements between the ground around the house and the foundation, flexible utility connections should be installed to reduce the likelihood of any utility pipes shearing

off over the years or during severe movements. We should note that some possible distress might occur at the junction of slabs upslope of either house and the mat foundation. A structural separation or gap, preferably at least 6 inches in width, should be provided at this junction. It may also be desirable to design an architectural masking for this separation, and a drainage grate would likely be required at this location.

7.32 Retaining Wall Footings

We recommend that exterior retaining walls be supported by deepened spread footing foundations bearing on firm native soil and/or bedrock. Future movements and distress to the walls are likely, so we recommend the use of modular block systems to accommodate as much movement as possible.

All footings should extend at least 24 inches below the lowest adjacent finished grade. In addition, any footings located adjacent to utility trenches should also have their bearing surfaces below an imaginary 1:1 (horizontal to vertical) plane projected upward from the edge of the bottom of the adjacent trench.

At the above depths, the footings may be designed for an allowable (factored) bearing pressure of 2000 pounds per square foot due to dead loads (factor of safety ≈ 3), 3000 pounds per square foot due to dead plus live loads (factor of safety ≈ 2), and 4000 pounds per square foot for all loads including wind or seismic (factor of safety ≈ 1.5). These allowable bearing pressures are net values; therefore, the weight of the footings can be neglected for design purposes. However, all footing should have a minimum width of 14 inches, and all continuous footings should be tied together with reinforcing steel.

Lateral load resistance for these portions of the buildings may be developed in friction between the foundation bottom and the supporting subgrade. An allowable friction coefficient of 0.35 is considered applicable (factor of safety ≈ 1.5). As an alternative, an allowable passive resistance equal to an equivalent fluid weighing 300 pounds per cubic foot (factor of safety ≈ 2) acting against the foundation may be used. If the foundations are poured neat against the soil, friction and passive resistance may be used in combination.

7.40 Building Code Seismic Design Parameters

Based on our review of the site geology and the 1997 Uniform Building Code (UBC), we recommend a S_D soil profile for seismic design of the houses. The nearest active fault is the Hayward fault, located about 1200 feet to the northeast. It is a type A fault as identified in Table 16-U of the 1997 UBC. The site is located within Seismic Zone 4 as determined from Figure 16-2 of the 1997 UBC. We recommend near-source factors of $N_A=1.5$ and $N_V=2.0$.

7.50 Exterior Slabs-on-Grade

We recommend that any exterior slabs-on-grade be supported on a minimum of 12 inches of imported, compacted, non-expansive fill. In areas of existing fill, we recommend that all of the old, existing fill underlying any proposed slabs be removed and recompacted to the requirements of structural fill.

In order to minimize volume change of the subgrade soils, these materials should be scarified to a depth of 6 inches, moisture conditioned to slightly above optimum water content, and compacted to the requirements for structural fill. Prior to the construction of the slabs, the subgrade surface should be proof-rolled to provide a smooth, firm surface for slab support.

The slabs should be structurally independent from the building foundations and be free floating. Score joints should be provided at a maximum spacing of 10 feet in both directions. The slabs should be appropriately reinforced according to structural requirements; concentrated loads may require additional reinforcing. Minor movement of the concrete slab with resulting cracking should be expected. Therefore, partition walls or doorway trim boards should not be supported directly on the concrete slab and steps to the house from the slab area should be created with a void between the steps and the house foundations. The recommendations presented above, if properly implemented, should help minimize the magnitude of this cracking. It has been our experience that the installation of wire mesh for slab reinforcement is often not performed properly during construction of the slab. Therefore, we recommend that steel bar reinforcement be used to reinforce any proposed slabs.

7.60 Retaining Walls

Retaining walls must be designed to resist both ultimate (non-factored) lateral earth pressures and any additional lateral loads caused by surcharge loads on the adjoining ground surface. Due to anticipated and potential slope movements at the site, we recommend that retaining walls be designed to resist an equivalent fluid pressure of 100 pounds per cubic foot (pcf). The retaining walls should be assumed to not be restrained. The walls are likely to lean significantly with time, and should not be structurally connected to the planned houses.

For surcharge loads, increase the ultimate (non-factored) design pressures behind the wall by an additional uniform pressure equivalent to one-half (for restrained condition) or one-third (for unrestrained condition) of the maximum anticipated surcharge load applied to the surface behind the wall.

The above pressures assume that sufficient drainage will be provided behind the walls to prevent the build-up of hydrostatic pressures from surface and subsurface water infiltration. Adequate drainage may be provided by a subdrain system (see Typical Retaining Wall Subdrain Detail, Figure 6) consisting of a 4-inch, rigid, perforated pipe, bedded in $\frac{3}{4}$ -inch, clean, open-graded rock. As shown on Figure 6, the recommended location of the subdrain pipe is behind the heel of the footing. Although we have observed that the subdrain pipe is often placed on top of the heel of the footing, it has been our experience that this may lead to moisture seeping through the wall resulting in dampness and staining on the opposite wall face despite the application of waterproofing. However, if such seepage or dampness is acceptable (in front of landscape walls, for example), then the subdrain pipe may be placed on top of the heel of the footing. To prevent ponding of water on top of the heel of the footing, we recommend that the top of the heel be sloped to drain away from the wall with a minimum positive gradient of 5 percent. The perforated drainpipe should be sloped to drain with a minimum positive gradient of 2 percent. The entire rock/pipe unit should be wrapped in an approved, non-woven, polyester geotextile such as Mirafi 140N or 140NL, or a 4-ounce equivalent. The rock and fabric placed behind the wall should be at least one foot in width and should extend to within one foot of finished grade. The upper one foot of backfill (6 inches for walls less than 5 feet in height) should consist of on-site, compacted, relatively impervious soils (an impermeable plug). We should note that flexible, perforated pipe (flexline), 2000-Pound Crush, Leachfield, and ASTM F810 pipe are not acceptable for use in the subdrain because of the likelihood of damage to the pipe during installation and the difficulty of future cleaning with mechanical equipment without damaging the pipe. We recommend the use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system. The subdrain pipe should be connected to a system of closed pipes (non-perforated) that lead to suitable discharge facilities. At the location where the perforated subdrain pipe connects with the solid discharge drainpipe, drainrock backfill should be discontinued. A "clay plug" should be constructed out of relatively impervious soils to direct collected water into the perforated pipe and minimize the potential for water collecting around the solid drainpipe and

saturating the adjacent soils. We recommend that waterproofing be applied to any proposed retaining walls where applicable. The specification of the type of waterproofing and the observation of its installation should be performed by the architect and/or structural engineer.

In addition, the "high" end and all 90-degree bends of the subdrain pipe should be connected to a riser, which extends to the surface and acts as a cleanout. The number of cleanouts can be reduced by installing "sweep" 90-degree bends or pairs of 45-degree bends in succession instead of using "tight" 90-degree bends. "Sweep" 90-degree bends are similar to those used in sanitary sewer pipe connections.

Lined surface ditches with a minimum width of 18 inches should be provided behind any walls that will have an exposed sloping surface steeper than 4:1 behind them. These ditches, which will collect runoff water from the slopes, should be sloped to drain (minimum 2 percent positive gradient) to suitable discharge facilities. If the lined surface ditches consist of reinforced concrete, expansion joints should be provided every 10 feet. The top of the walls should extend at least one foot above the ditch (6 inches for walls less than 5 feet in height). Structural backfill placed behind retaining walls should be compacted in accordance with the requirements provided in Section 7.10, "Site Preparation and Earthwork."

Retaining walls should be supported on deepened spread footing foundations designed in accordance with Section 7.32, "Retaining Wall Footings."

7.70 Plan Review

We recommend that our firm be provided the opportunity for a general review of geotechnical aspects of the final plans and specifications for this project in order that the geotechnical recommendations may be properly interpreted and implemented in the design and specifications. Specific items which we recommend our firm review and which the plans should contain include, but are not limited to, the following:

1. General: a citation of this geotechnical investigation report (in the general notes);
2. House Foundations: mat dimensions and depth of embedment, drainrock depths, vapor barrier and sand, as applicable;
3. Slabs: import fill depth, recompaction of subgrade, as required;
4. Retaining walls: footing dimensions and depths, wall drain system, impermeable plug above drain, surface ditch and freeboard, as needed; and
5. Drainage: gradient away from structures, downspout collector pipes, surface collector system, discharge location.

If our firm is not accorded the privilege of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations.

7.80 Construction Observation

- The analysis and recommendations submitted in this report are based in part upon the data obtained from the two trenches and four borings. The nature and extent of variations across the site may not become evident until

construction. If variations then become apparent, it will be necessary to re-evaluate the recommendations of this report.

We recommend that our firm be retained to provide geotechnical engineering services during the earthwork, foundation construction, and drainage phases of the work. This is to observe compliance with the design concepts, specifications, and recommendations and to allow design changes in the event that subsurface conditions differ from that anticipated prior to the start of construction. Specifically, we recommend that a representative of our firm observe the following aspects of the construction:

1. Earthwork: site clearing and debris removal, excavations, subgrade preparation for slabs or filling, compaction operations including retaining wall or trench backfill, as applicable;
2. Foundations: mat excavations, footing excavations; and
3. Drainage: retaining wall subdrains, downspouts, area drains, surface ditches, positive surface gradients adjacent to the home, discharge location.

In order to effectively accomplish these observations, we recommend that a pre-construction meeting be held to develop a mechanism for proper communications throughout the project. We also request that the client or the client's representative (the contractor) contact our firm at least two working days prior to the commencement of any of the items listed above. If our representative makes a site visit in response to a request from the client or the client's representative and it turns out that the visit was not necessary, our charges for the visit will still be forwarded to the client.

7.90 Wet Weather Construction

Although it is possible that construction can proceed during or immediately following the wet winter months, a number of geotechnical problems may occur which may increase costs and cause project delays. The water content of on-site soils may increase during the winter and rise significantly above optimum moisture content for compaction of subgrade or backfill materials. If this occurs, the contractor may be unable to achieve the recommended levels of compaction without using special measures and would likely have to:

1. Wait until the materials are dry enough to become workable;
2. Dispose of the wet soils and import dry soils; and
3. Use lime or cement on the native materials to absorb water and achieve workability.

If utility trenches, mat foundation excavations or footing excavations are open during winter rains, then caving of the trenches or excavations may occur. Also, if the trenches or excavations fill with water during construction, or if saturated materials are encountered at the anticipated bottom of the excavations, the trenches or excavations may need to be extended to greater depths to reach adequate support capacity than would be necessary if dry weather construction took place.

We should also note that it has been our experience that increased clean-up costs will occur, and greater safety hazards will exist, if the work proceeds during the wet winter months. Furthermore, engineering costs to observe construction are increased because of project delays, modifications, and rework.

7.100 Future Performance

All people who own or occupy homes on hillsides should realize that landslide movements are always a possibility. The active Blakemont landslide is likely to continue to move, and the older landslide has a low to moderate likelihood of movement. Homes constructed on, or adjacent to, the Blakemont landslide will likely experience some degree of movement during the next 30 years. Our recommendations are intended to minimize damage to the home from such movement; but future repairs and maintenance may still be necessary. To help reduce the possible magnitude of differential movement the proposed homes should not span across the landslide margin. The probability that landsliding will occur is substantially reduced by the proper maintenance of drainage measures at the site (see detailed discussion in Appendix B). Therefore, the homeowner should recognize their responsibility for performing such maintenance. Consequently, we recommend that a copy of our report be provided to any future homeowners of the property if the home is sold, so they will also be aware of their maintenance responsibilities.

If you have any questions concerning this letter, please call us.

Very truly yours,

Alan Kropp

Alan Kropp, G.E.
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William K. Wikander

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WKW/AK/sn

Copies: Addressee (5)

Attachments: References

- Figure 1 - Site Location Map and Regional Landslide Map
- Figure 2 - Site Plan
- Figure 3 - Geologic Cross Section
- Figure 4 - Key to Exploratory Boring Logs
- Figure 5 - Physical Properties Criteria for Rock Descriptions
- Figure 6 - Typical Retaining Wall Subdrain Detail
- Logs of Trenches T-1 and T-2
- Logs of Borings 1, 2, 3 and 4

Appendix A - Copies of the Logs of Borings from the Geotechnical Investigation Report by
Alexei F. Lukban, P.E., dated September 6, 1998.

Appendix B - Guide to the Maintenance of Hillside Home Sites

Report.doc

REFERENCES

A. Published Data

Bishop, Charles C., et al, 1973, "Geological and Geophysical Investigations for Tri-Cities Seismic Safety and Environmental Resources Study," California Division of Mines and Geology Preliminary Report 19.

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U.S. Geological Survey, 1999, "Earthquake Probabilities in the San Francisco Bay Region: 2000 to 2030 -- A Summary of Findings," Open File Report 99-517.

B. Documents of Public Record

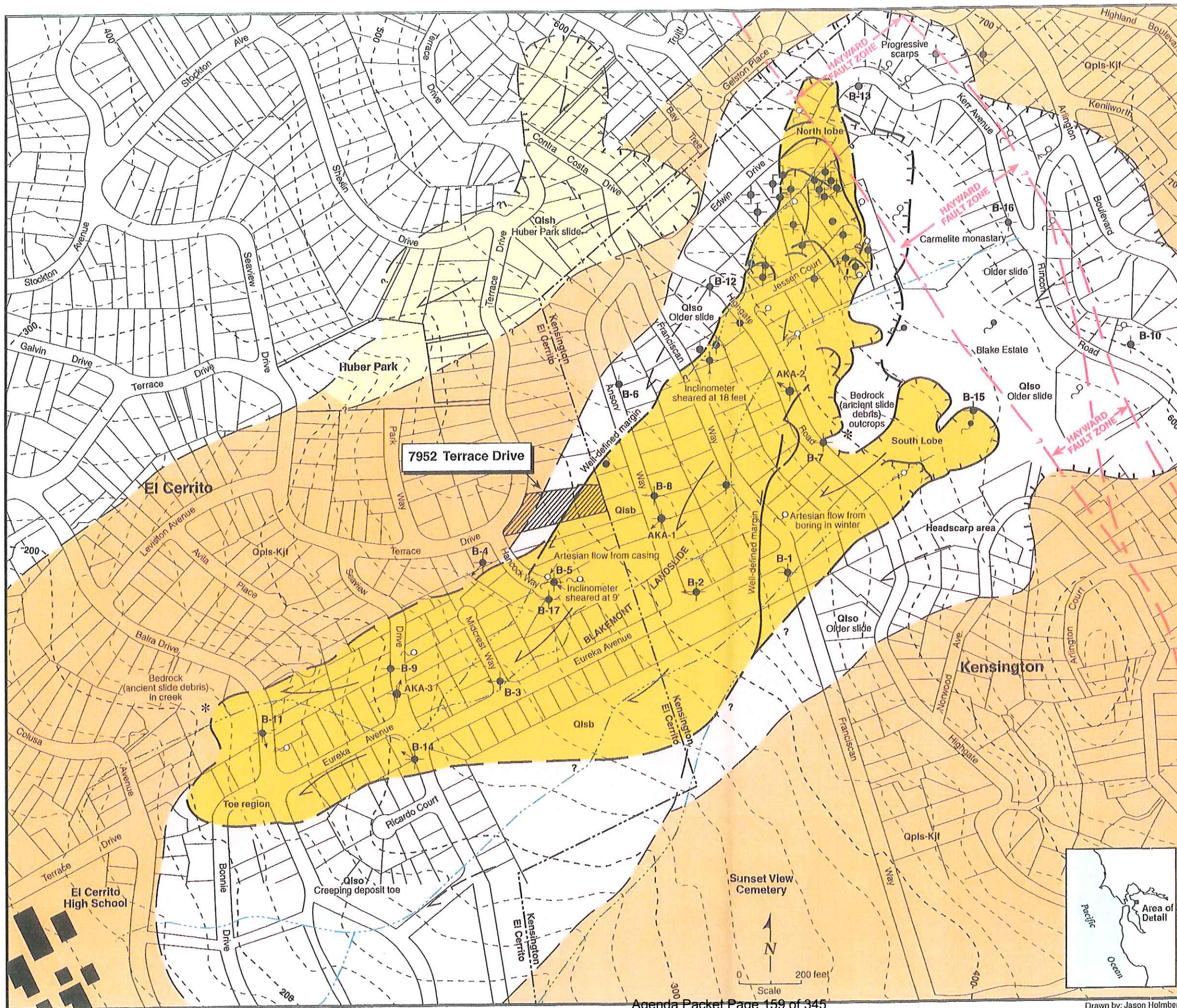
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Seidelman Associates, Inc., January 26, 1994, "Geotechnical Investigation of the Blakemont Landslide Located in Kensington & El Cerrito, California."

C. Aerial Photographs

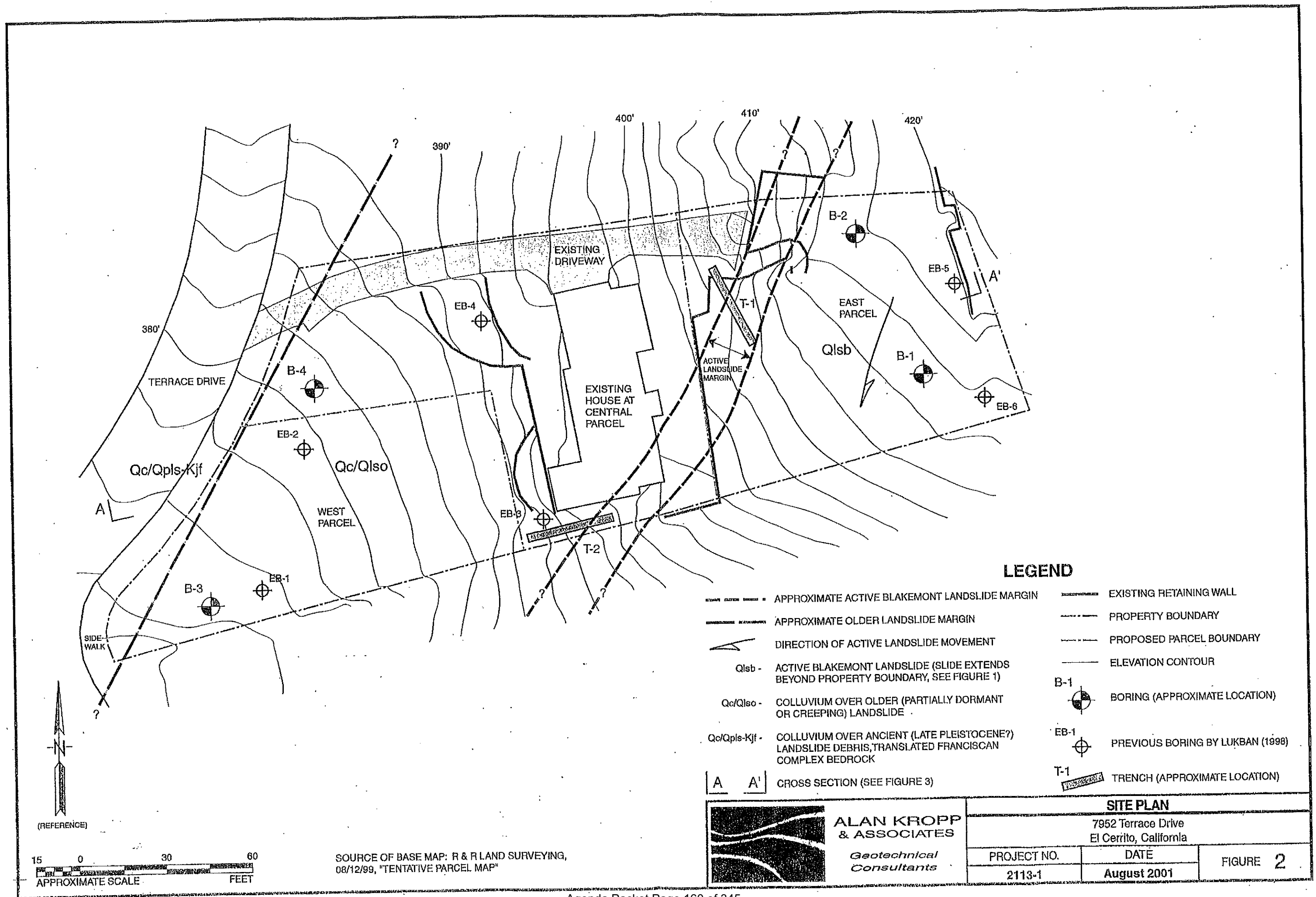
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Black and White, Stereo Pair	8/2/39	1:20,000	BUT-BUU-289- 95, 96	United States Soil Conservation Service
Black and White, Stereo Pair	09/06/46	1:23,600	GS-CP-5- 35, 36	United States Geological Survey
Black and White, Stereo Pair	05/03/57	1:12,000	AV 253-07- 12, 13	Pacific Aerial Surveys
Black and White, Stereo Pair	06/24/83	1:12,000	AV 2300-09- 14, 15	Pacific Aerial Surveys



- Explanation**
- Active landslide scarp
 - Older landslide scarp
 - Landslide lateral margin and movement direction estimated by surface feature displacements. Solid line where well-constrained, dashed where approximate, queried where uncertain
 - Approximate landslide movement direction as measured by inclinometer deflection
 - AKA-1 AKA/WLA Boring (this study)
 - B-3 Seideman boring (1994)
 - Other borings noted in text
 - Direction of landslide movement (active landslide)
 - Direction of landslide movement (older landslide)
 - Mapped trace of the Hayward fault (Lienkaemper, 1992; CDMG, 1982)
 - Former creek channel
 - Spring
 - Spring reported by others
 - Qlsb Active Blakemont landslide
 - Qlsh Active Huber Park landslide (based upon aerial photograph interpretation, has not been confirmed)
 - Qlso Older (partially dormant or creeping) landslide
 - Qpls-Kjf Ancient (late Pleistocene?) landslide debris, translated franciscan complex bedrock

Note: All locations are approximate

THE BLAKEMONT LANDSLIDE STUDY	
Site Location and Regional Landslide Map for 7952 Terrace Drive	
WLA	William Lettis & Associates, Inc.
ALAN KROPP & ASSOCIATES, INC.	
Figure 1	



SOIL CLASSIFICATION CHART

PRIMARY DIVISIONS			SECONDARY DIVISIONS		
			CRITERIA *	GROUP SYMBOL	GROUP NAME
COARSE-GRAINED SOILS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 200 SIEVE	GRAVELS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS LESS THAN 5% FINES	$C_u \geq 4$ AND $1 \leq C_c \leq 3$ A	GW	Well-graded gravel
			$C_u < 4$ AND/OR $1 > C_c > 3$	GP	Poorly-graded gravel
		GRAVELS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	GM	Silty gravel
			FINES CLASSIFY AS CL OR CH	GC	Clayey gravel
	SANDS 50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE	CLEAN SANDS LESS THAN 5% FINES	$C_u \geq 6$ AND $1 \leq C_c \leq 3$	SW	Well-graded sand
			$C_u < 6$ AND/OR $1 > C_c > 3$	SP	Poorly-graded sand
		SANDS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	SM	Silty sand
			FINES CLASSIFY AS CL OR CH	SC	Clayey sand
FINE-GRAINED SOILS 50% OR MORE PASSES THE NO. 200 SIEVE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%	INORGANIC	$PI > 7$ AND PLOTS ON OR ABOVE "A" LINE	CL	Lean clay
			$PI < 4$ OR PLOTS BELOW "A" LINE	ML	Silt
		ORGANIC	$\frac{LIQUID\ LIMIT - OVEN\ DRIED}{LIQUID\ LIMIT - NOT\ DRIED} < 0.75$	OL	Organic Clay & Organic Silt
			PI PLOTS ON OR ABOVE "A" LINE	CH	Fat clay
	SILTS AND CLAYS LIQUID LIMIT 50% OR MORE	INORGANIC	PI PLOTS BELOW "A" LINE	MH	Elastic silt
			$\frac{LIQUID\ LIMIT - OVEN\ DRIED}{LIQUID\ LIMIT - NOT\ DRIED} < 0.75$	OH	Organic Clay & Organic Silt
		ORGANIC	$\frac{LIQUID\ LIMIT - OVEN\ DRIED}{LIQUID\ LIMIT - NOT\ DRIED} < 0.75$		
			PT	Peat	
HIGHLY ORGANIC SOILS					

REFERENCE: Unified Soil Classification System (ASTM D 2487-83)

* Criteria may be done on visual basis, not necessarily based on lab testing

$A = C_u = D_{60}/D_{10}$ & $C_c = (D_{30})^2 / (D_{10} \times D_{60})$

GRAIN SIZES

U. S. STANDARD SERIES SIEVE

20040104

CLEAR SQUARE SIEVE OPENINGS

3/4"3"12"

SILTS AND CLAYS

SAND

FINEMEDIUMCOARSE

GRAVEL

FINECOARSE

COBBLES

BOULDERS

ABBREVIATIONS

INDEX TESTS

LL - Liquid Limit (%) (ASTM D 4318-84)

PI - Plasticity Index (%) (ASTM D 4318-84)

-200 - Passing No. 200 Sieve (%) (ASTM D 1140-92)

STRENGTH TESTS

PP - Field Pocket Penetrometer test of unconfined compressive strength (kips/sq.ft.)

TV - Field Torvane test of shear strength (kips/sq.ft.)

UC - Laboratory unconfined compressive strength (kips/sq.ft.) (ASTM D 2166-91)

TXUU - Laboratory unconsolidated, undrained triaxial test of undrained shear strength (kips/sq.ft.) (ASTM D 2850-87)

MISCELLANEOUS:

ATOD - At time of drilling

ksf - kips per square foot

psi - pounds per square inch (indicates relative force required to advance Shelby tube sampler)

SYMBOLS

Standard Penetration Test Split Spoon (2-inch O.D.)

Modified California Sampler (3-inch O.D.)

Thin-walled Shelby Tube Sampler (3-inch O.D.)

Groundwater Level

ALAN KROPP & ASSOCIATES

Geotechnical Consultants

KEY TO EXPLORATORY BORING LOGS

7952 Terrace Drive
El Cerrito, California

PROJECT NO. 2113-1

DATE August 2001

FIGURE 4

Agenda Packet Page 162 of 345

BEDDING OF SEDIMENTARY ROCKS

Splitting Property	Thickness	Stratification
Massive	Greater than 4.0 feet	very thick bedded
Blocky	2.0 to 4.0 feet	thick-bedded
Slabby	0.2 to 2.0 feet	thin-bedded
Flaggy	0.05 to 0.2 feet	very thin-bedded
Shaly or Platy	0.01 to 0.05 feet	laminated
Papery	less than 0.01 feet	thinly laminated

FRACTURING

Intensity	Size of Pieces in Feet
Very little fractured	Greater than 4.0
Occasionally fractured	1.0 to 4.0
Moderately fractured	0.5 to 1.0
Closely fractured	0.1 to 0.5
Intensely fractured	0.05 to 0.1
Crushed	Less than 0.05

HARDNESS

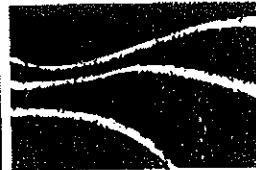
1. **Soft** - Reserves for plastic material alone.
2. **Low hardness** - Can be gouged deeply or carved easily with a knife blade.
3. **Moderately hard** - Can be readily scratched by a knife blade: scratch leaves a heavy trace of dust and is readily visible after the powder has been blown away.
4. **Hard** - Can be scratched with difficulty: scratch produces little powder and is often faintly visible.
5. **Very hard** - Cannot be scratched with knife blade: leaves a metallic streak.

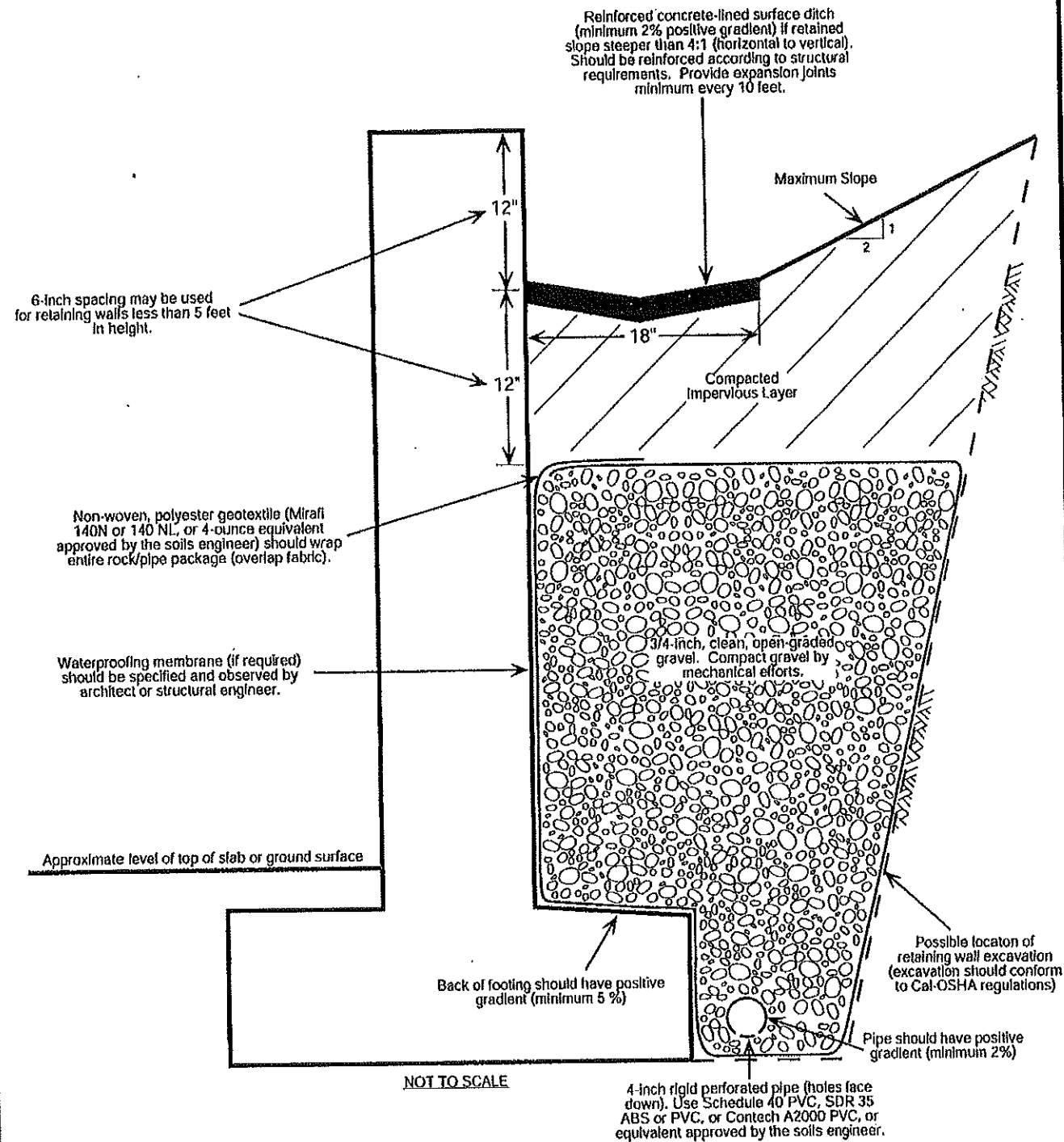
STRENGTH

1. **Plastic** or very low strength.
2. **Friable** - Crumbles easily by rubbing with fingers.
3. **Weak** - An unfractured specimen of such material will crumble under light hammer blows.
4. **Moderately strong** - Specimen will withstand a few heavy hammer blows before breaking.
5. **Strong** - Specimen will withstand a few heavy ringing blows and will yield with difficulty only dust and small flying fragments.
6. **Very strong** - Specimen will resist heavy ringing hammer blows and will yield with difficulty only dust and small flying fragments.

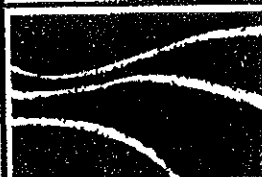
WEATHERING - The physical and chemical disintegration and decomposition of rocks and minerals by natural processes such as oxidation, reduction, hydration, solution, carbonation, and freezing and thawing.

- D. **Deep** - Moderate to complete mineral decomposition: extensive disintegration: deep and thorough discoloration: many fractures, all extensively coated or filled with oxides, carbonates and/or clay or silt.
- M. **Moderate** - Slight change or partial decomposition of minerals: little disintegration: cementation little to unaffected. Moderate to occasionally intense discoloration. Moderately coated fractures.
- L. **Little** - No megascopic decomposition of minerals: little or no effect on normal cementation. Slight and intermittent, or localized discoloration. Few stains or fracture surfaces.
- F. **Fresh** - Unaffected by weathering agents. No disintegration or discoloration. Fractures usually less numerous than joints.

 ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i>	PHYSICAL PROPERTIES CRITERIA FOR ROCK DESCRIPTIONS		
	7952 Terrace Drive El Cerrito, California		
	PROJECT NO.	DATE	FIGURE 5
	2113-1	August 2001	



- Notes:
1. Not a structural drawing
 2. All dimensions should be considered minimums
 3. See text for further discussion of detail



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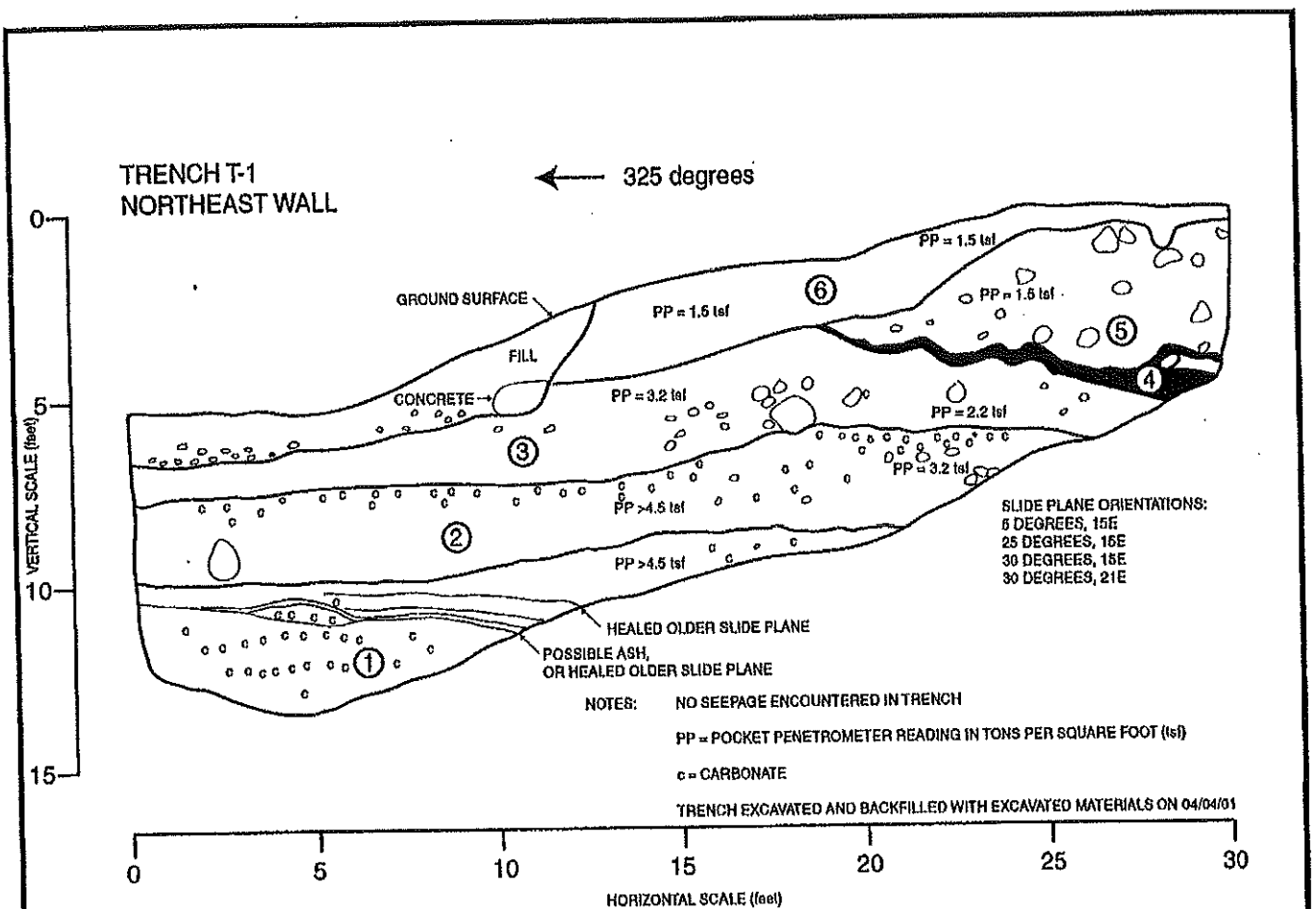
TYPICAL RETAINING WALL SUBDRAIN DETAIL

7952 Terrace Drive
El Cerrito, California

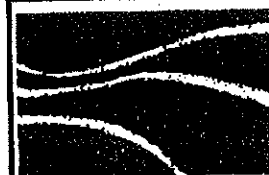
PROJECT NO.
2113-1

DATE
August 2001

FIGURE **6**



- FILL Very Dark Gray Clay (CL), with some sand and gravel, serpentinite clasts (Fill)
- ⑥ Dark Blackish Brown Clay (CL), with sand and gravel, serpentinite clasts (Modern Soil)
- ⑤ Orange sandy gravelly weathered Serpentinite/Greenstone (Active Blakemont Landslide)
- ④ Gray Clay (CH), gravelly, serpentine clasts (Slide Plane Material)
- ③ Brown Clay (CL), with many small orange clasts (Colluvium)
- ② Olive-Brown Clay (CL), with carbonate, angular blocky structure (Colluvium)
- ① Alternating layers of Olive -Brown Clay and white carbonate layers and Reddish Orange Clay. The reddish orange clay may be part of old soil profile. Carbonate is throughout unit. (Colluvium)



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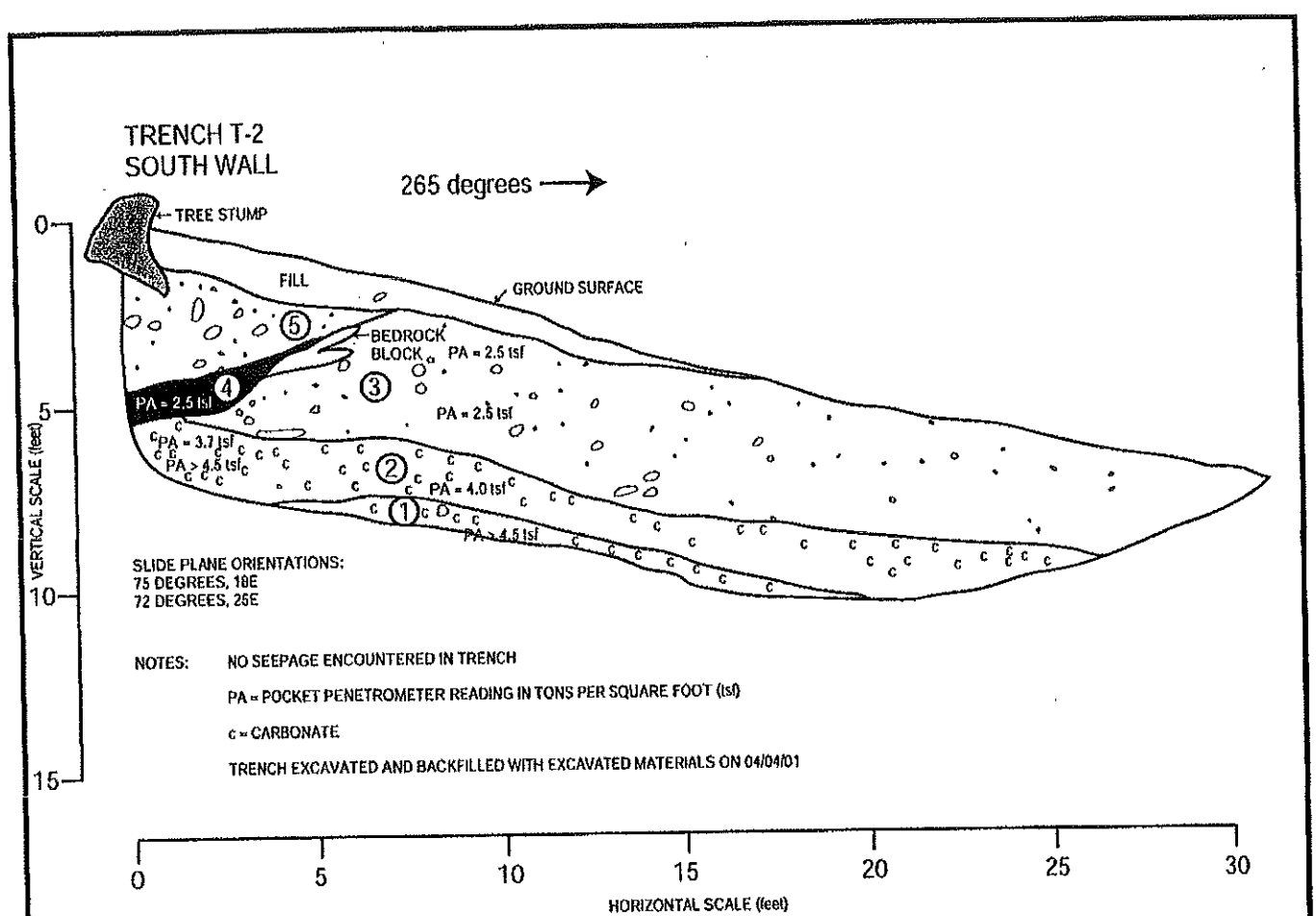
TRENCH LOG

7952 Terrace Drive
El Cerrito, California

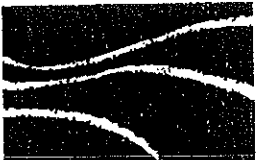
PROJECT NO.
2113-1

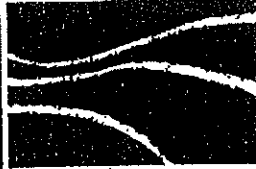
DATE
August 2001

TRENCH
NO. **T-1**



- FILL Very Dark Gray Clay (CL), with some sand and gravel, serpentinite clasts (Fill)
- ⑤ Orange sandy gravelly weathered Serpentinite/Greenstone (Active Blakemont Landslide)
- ④ Gray Clay (CH), gravelly, serpentine clasts (Slide Plane Material)
- ③ Brown Clay (CL), with many small orange clasts (Colluvium)
- ② Olive-Brown Clay (CL), with carbonate, angular blocky structure (Colluvium)
- ① Alternating layers of Olive -Brown Clay and white carbonate layers and Reddish Orange Clay. The reddish orange clay may be part of old soil profile. Carbonate is throughout unit. (Colluvium)

TRENCH LOG			
 ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i>	7952 Terrace Drive El Cerrito, California		
	PROJECT NO.	DATE	TRENCH NO.
	2113-1	August 2001	T-2

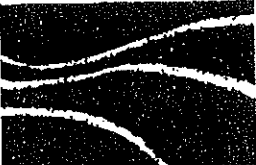
DRILL RIG: Continuous Solid Flight Auger			SURFACE ELEVATION: ± 415 feet			LOGGED BY: RDK (WLA)			
DEPTH TO GROUNDWATER: See Notes			BORING DIAMETER: 4.5 inches			DATE DRILLED: 04-12-01			
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
CLAY, moist; with some sand and gravel, serpentinite clasts (Active Blakemont Landslide)	Very Dark Gray	Soft	CH	1					Liquid Limit = 66 Plasticity Index = 47 PP = 2.0 tsf
		Firm	2						
			3		[10]	26	93		
			4						
			5		16				
			6		[11]	20	107		
			7						
			8		9				
CLAY, moist; (Active Slide Plane)	Gray	Soft	CH	9					PP = 1.7 tsf
CLAY, gravelly, sandy, moist; serpentinite clasts (Weathered Bedrock/Active Slide Debris?)	Red-Brown	Firm	CL	9		[19]	6	112	Liquid Limit = 59 Plasticity Index = 37 PP = 2.7 tsf
				10					
				11		18			
CLAY, gravelly, moist; serpentinite clasts (Slide Plane?)	Olive-Gray	Firm	CH	12			23		Liquid Limit = 59 Plasticity Index = 37 PP = 2.7 tsf
13		[25]	17	109					
CLAY, gravelly, moist; serpentinite clasts (Slide Plane?) (ACTIVE SLIDE DEBRIS)	Very Dark Gray	Soft	CH	14					SERPENTINITE, mostly weathered to clay (Translated Bedrock - Older Slide Debris)
Light Green, Dark Green, Black and White Greenish Olive-Brown	Low Hardness	BED ROCK	14		13				
			15		[26]	20	91		
			16						
			17		23				
			18						
			19						
			20						
(continued on next sheet)									
 ALAN KROPP & ASSOCIATES Geotechnical Consultants			EXPLORATORY BORING LOG						
			7952 TERRACE DRIVE El Cerrito, California						
			PROJECT NO.	DATE	SHEET	BORING NO. B1			
			2113-1	August 2001	1 of 2				

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 415 feet					LOGGED BY: RDK (WLA)		
DEPTH TO GROUNDWATER: See Notes		BORING DIAMETER: 4.5 Inches					DATE DRILLED: 04-12-01		
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SERPENTINITE, mostly weathered to clay (Translated Bedrock - Older Slide Debris)	Light Olive-Green	Low Hardness	BED ROCK	21		[48]	10	121	PP > 4.5 tsf
				22					
	Yellowish Olive-Green			23					
				24					
SERPENTINITE, weathered (Franciscan Complex Bedrock - Ancient Slide Debris?)	Dark Green	Moderate Hardness	BED ROCK	25		[82] 11"			PP ≈ 2.5 tsf

Bottom of boring at 26 feet

NOTES

1. No groundwater was encountered at the time of drilling, and the boring was grouted following drilling in accordance with Contra Costa County requirements. (See text for discussion.)
2. Stratification lines represent the approximate boundaries between material types, and the transitions may be gradual.
3. Penetration resistance values (blow counts) enclosed in brackets ([]) were recorded with a 3.0-inch O.D. Modified California sampler, and are not standard penetration resistance values.
4. An explanation of the datum used for the (boring/test pit) elevations is presented on Figure 2.
5. Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs following the symbol "PP".

	EXPLORATORY BORING LOG			
	PROJECT NAME			
	City, California			
	PROJECT NO.	DATE	SHEET	BORING NO.
	2113-1	August 2001	2 of 2	B1

DRILL RIG: Continuous Solid Flight Auger			SURFACE ELEVATION: ± 418 feet				LOGGED BY: RDK (WLA)		
DEPTH TO GROUNDWATER: See Notes			BORING DIAMETER: 4.5 inches				DATE DRILLED: 04-12-01		
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
CLAY, moist; with gravel, serpentine clasts	Dark Brown-Black	Soft	CH	1					
		Firm		2					
				3		[24]	29	84	PP = 2.5 tsf
	Very Dark Grayish Brown			4					
				5		25			
				6		[39]	31	88	PP = 4.0 tsf PP > 4.5 tsf
				7					
				8		20			
CLAY, moist; serpentine clasts (Slide Plane?)	Olive Gray	Firm	CH	9		[51]	20	92	PP = 3.0 tsf
CLAY, gravelly, moist; serpentine clasts (ACTIVE SLIDE DEBRIS ↑)	Dark Grayish Brown	Firm	CL	10					
				11		13			
SERPENTINITE, weathered to clay (Translated Bedrock - Old Slide Debris)	Light Olive-Green	Low Hardness	BED ROCK	12		[31]	25	96	PP = 3.0 tsf ∇ ATOD
				13					
	Light Green, Olive Greenish Brown and White			14		30			
				15		[33]			
				16					
				17		16			
	Olive Gray to Yellowish Brownish Green			18		[51]	19	109	PP = 4.5 tsf
				19					
				20					

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EXPLORATORY BORING LOG

7952 TERRACE DRIVE
El Cerrito, California

PROJECT NO.	DATE	SHEET	BORING NO.
2113-1	August 2001	1 of 2	B2

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 418 feet		LOGGED BY: RDK (WLA)					
DEPTH TO GROUNDWATER: See Notes		BORING DIAMETER: 4.5 inches		DATE DRILLED: 04-12-01					
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SERPENTINITE, weathered to clay (Translated Bedrock - Old Slide Debris)	Yellowish Olive-Brown	Low Hardness	BED ROCK	21		[45]	34.4		
	22								
	23								
	24								
	25								
	26								
	27								
SERPENTINITE, weathered, foliated (Franciscan Complex Bedrock - Ancient Slide Debris?)	Dark Green and White	Moderate Hardness	BED ROCK	28		[80] 10"		PP = 4.5 tsf	
Bottom of boring at 29 feet									
NOTES									
1. Groundwater was encountered at approximately 12 feet at the time of drilling, and the boring was backfilled immediately after drilling. (See text for discussion.) 2. Stratification lines represent the approximate boundaries between material types, and the transitions may be gradual. 3. Penetration resistance values (blow counts) enclosed in brackets ([]) were recorded with a 3.0-inch O.D. Modified California sampler, and are not standard penetration resistance values. 4. An explanation of the datum used for the (boring/test pit) elevations is presented on Figure 2. 5. Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs following the symbol "PP".									
ALAN KROPP & ASSOCIATES Geotechnical Consultants		EXPLORATORY BORING LOG							
		7952 TERRACE DRIVE El Cerrito, California							
		PROJECT NO.	DATE	SHEET	BORING NO. B2				
		2113-1	August 2001	2 of 2					

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 374 feet				LOGGED BY: RDK (WLA)			
DEPTH TO GROUNDWATER: See Notes		BORING DIAMETER: 4.5 inches				DATE DRILLED: 04-12-01			
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
CLAY, moist; with sand and gravel	Dark Brown to Dark Gray	Soft	CH	1					
CLAY, moist; with gravel, serpentine clasts, carbonate stringers and color variations (Colluvium)	Very Dark Gray	Firm	CH	2		[29]	28	88	PP = 2.2 tsf
				3					PP = 2.2 tsf
				4					PP = 2.2 tsf
	Dark Gray to Very Dark Gray Dark Grayish Brown			5		[22]	29	92	PP = 1.7 tsf
				6					PP = 2.2 tsf
				7					PP = 2.0 tsf
				8					
				9					
				10					
SERPENTINITE, weathered to clay (Translated Bedrock, Old Slide Debris)	Red	Low Hardness	BED ROCK	11		18			
				12					
				13					
				14					
				15					
SERPENTINITE, weathered (Franciscan Complex Bedrock - Ancient Slide Debris?)	Whiteish Green to Dark Greenish Gray	Moderate Hardness	BED ROCK	16		[50]	50		PP = 4.0 tsf
				17					
				18					
				19					
				20					

ATOD

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Geotechnical Consultants

EXPLORATORY BORING LOG

7952 TERRACE DRIVE
El Cerrito, California

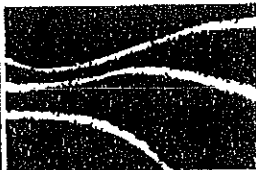
PROJECT NO.	DATE	SHEET	BORING NO.
2113-1	August 2001	1 of 2	B3

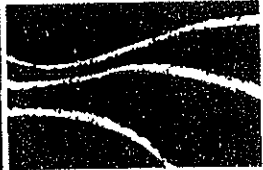
DRILL RIG: Continuous Solid Flight Auger			SURFACE ELEVATION: ± 374 feet					LOGGED BY: RDK (WLA)	
DEPTH TO GROUNDWATER: See Notes			BORING DIAMETER: 4.5 inches					DATE DRILLED: 04-12-01	
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SERPENTINITE, weathered (Franciscan Complex Bedrock - Ancient Slide Debris?)	Light Green to Dark Greenish Gray	Moderate Hardness	BED ROCK	21		68 11"			

Bottom of boring at 21.5 feet

NOTES

- Groundwater was encountered at approximately 15 feet at the time of drilling, and the boring was backfilled immediately after drilling. (See text for discussion.)
- Stratification lines represent the approximate boundaries between material types, and the transitions may be gradual.
- Penetration resistance values (blow counts) enclosed in brackets ([]) were recorded with a 3.0-inch O.D. Modified California sampler, and are not standard penetration resistance values.
- An explanation of the datum used for the (boring/test pit) elevations is presented on Figure 2.
- Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs following the symbol "PP".

	EXPLORATORY BORING LOG			
	7952 Terrace Drive El Cerrito, California			
	PROJECT NO.	DATE	SHEET	BORING NO.
	2113-1	August 2001	2 of 2	B3

DRILL RIG: Continuous Solid Flight Auger		SURFACE ELEVATION: ± 381 feet		LOGGED BY: RDK (WLA)					
DEPTH TO GROUNDWATER: See Notes		BORING DIAMETER: 4.5 inches		DATE DRILLED: 04-12-01					
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS / FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
CLAY, dry, becoming moist with depth	Dark Brown to Black	Soft	CH	1					
CLAY, moist; with gravel and sand, serpentinite clasts, carbonate stringers, color layering (Colluvium)	Very Dark Gray	Firm	CH	2					PP = 2.0 tsf
				3					
	Very Dark Grayish Brown Olive-Brown			4	[23]	21	98	PP = 1.5 tsf Liquid Limit = 47 Plasticity Index = 32	
				5		15		PP = 2.5 tsf	
				6	[25]	26	96	PP = 2.2 tsf	
				7				PP = 2.2 tsf	
				8		19			
SERPENTINITE, weathered to clay (Translated Bedrock - Old Slide Debris?)	Pink with Green and White	Low Hardness	BED ROCK	9					
				10					
				11		26			
	Pinkish Rust-Brown Olive-Green			12					
				13					
				14					
				15					
	Pink, Light Green, Olive and Black			16	[52]	18	117	PP = 2.5 tsf PP = 2.7 tsf	
				17					
				18		18			
SERPENTINITE, weathered (Franciscan Complex Bedrock - Ancient Slide Debris?) (continued on next sheet)	Orange-Rust	Moderate Hardness	BED ROCK	19					
20									
EXPLORATORY BORING LOG									
 ALAN KROPP & ASSOCIATES Geotechnical Consultants		7952 TERRACE DRIVE El Cerrito, California							
		PROJECT NO.	DATE	SHEET	BORING NO. B4				
		2113-1	August 2001	1 of 2					

DRILL RIG: Continuous Solid Flight Auger			SURFACE ELEVATION: ± 381 feet					LOGGED BY: RDK (WLA)	
DEPTH TO GROUNDWATER: See Notes			BORING DIAMETER: 4.5 inches					DATE DRILLED: 04-12-01	
DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (feet)	SAMPLER	BLOWS /FT	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SERPENTINITE, weathered (Franciscan Complex Bedrock - Ancient Slide Debris?)	Orange-Rust	Moderate Hardness	BED ROCK	21		42			

Bottom of boring at 21.5 feet

NOTES

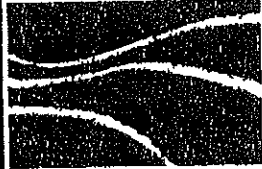
1. No groundwater was encountered at the time of drilling, and the boring was grouted following drilling in accordance with Contra Costa County requirements. (See text for discussion.)

2. Stratification lines represent the approximate boundaries between material types, and the transitions may be gradual.

3. Penetration resistance values (blow counts) enclosed in brackets ([]) were recorded with a 3.0-inch O.D. Modified California sampler, and are not standard penetration resistance values.

4. An explanation of the datum used for the (boring/test pit) elevations is presented on Figure 2.

5. Approximate unconfined compressive strength values were recorded in the field using a pocket penetrometer. These values are shown on the logs following the symbol "PP".



ALAN KROPP
& ASSOCIATES

Geotechnical
Consultants

EXPLORATORY BORING LOG

7952 TERRACE DRIVE
El Cerrito, California

PROJECT NO.	DATE	SHEET	BORING NO.
2113-1	August 2001	2 of 2	B4

APPENDIX A

Copies of the Logs of Borings from the Geotechnical Investigation Report
by Alexei F. Lukban, P.E., dated September 6, 1998.

PROJECT				Low		BORING NC 1		Figure 1			
BORING SUPERVISOR		A. L.		TYPE OF BORING		N/A		DATE OF BORING		18-Aug-98	
HAMMER WEIGHT				SURFACE ELEVATION				GROUND WATER DEPTH		None	
DESCRIPTION OF MATERIALS		DEPTH IN FT.	SAMPLE	SAMPLE NUMBER - SAMPLE DIAMETER	DRIVING RESISTANCE BLOWS PER FT.	DRY DENSITY P.C.F.	MOISTURE CONTENT %	UNCONFINED COMPRESSIVE STRENGTH K.S.F.	OTHER TESTS		
Black Brown Clay (stiff-medium stiff) Possible fill above 3'		1.0		1-1	21	98.20	18.1	4.0			
					14						
		3.0			22						
					1-2	7	22.2	2.5			
	5										
	5										
6.0											
Brown Clay (medium stiff)				1-3	4	25.2	3.0				
					14						
Grey Serpentine Sand & Gravel (dense)		9.0			45						
		10.0			46						
Refusal @ 10.1				1-4	46/1	19.8	4.5				
AFL-G133-7-98		Alexei F. Lukban P.E.									

PROJECT				Low		BORING NC 2		Figure 2					
BORING SUPERVISOR		A. L.		TYPE OF BORING		N/A		DATE OF BORING		18-Aug-98			
HAMMER WEIGHT				SURFACE ELEVATION				GROUND WATER DEPTH				None	
DESCRIPTION OF MATERIALS				DEPTH IN FT.	SAMPLE	SAMPLE NUMBER - SAMPLE DIAMETER	DRIVING RESISTANCE BLOWS PER FT.	DRY DENSITY P.C.F.	MOISTURE CONTENT %	UNCONFINED COMPRESSIVE STRENGTH K.S.F.	OTHER TESTS		
Black Brown Clay (medium stiff) Possible fill above 1'				1.0		2-1	7		19.2	4.0			
							3						
				3.0			8						
					2-2	4	23.0	4.5					
				6.0		8			18				
Reddish brown Clayey sand & gravel (stiff)						2-3	11		20.7	2.2			
							9						
				9.0			15						
Green Serpentine Sand & Gravel (medium dense-very dense)				10.0		2-4	20		36.0	4.5			
				11.0			97						
Bottom @ 11'													
AFL-G133-7-98				Alexei F. Lukban P.E.									

PROJECT				Low		BORING NC 3		Figure 3			
BORING SUPERVISOR		A. L.		TYPE OF BORING		N/A		DATE OF BORING		18-Aug-98	
HAMMER WEIGHT		SURFACE ELEVATION				GROUND WATER DEPTH				None	
DESCRIPTION OF MATERIALS		DEPTH IN FT.	SAMPLE	SAMPLE NUMBER - SAMPLE DIAMETER	DRIVING RESISTANCE BLOWS PER FT.	DRY DENSITY P.C.F.	MOISTURE CONTENT %	UNCONFINED COMPRESSIVE STRENGTH K.S.F.	OTHER TESTS		
Black Brown Clayey sand & gravel w/ tan sand & gravel (medium dense)		1.0		3-1	6	91.30	19.2	4.0			
					16						
		3.0			28						
Black Clay (stiff)		5.0		3-2	16		23.0	4.5			
		6.0			18						
		8.0			10						
Green Serpentine Sand & Gravel (medium dense-very dense)		9.0		3-3	26		20.7	3.7			
					39						
					13						
Bottom @ 12'		12.0		3-4	60/4		36.0	4.5			
AFL-G133-7-98		Alexei F. Lukban P.E.									

PROJECT				Low		BORING NC 4		Figure 4			
BORING SUPERVISOR		A. L.		TYPE OF BORING		N/A		DATE OF BORING		18-Aug-98	
HAMMER WEIGHT		SURFACE ELEVATION				GROUND WATER DEPTH		None			
DESCRIPTION OF MATERIALS		DEPTH IN FT.	SAMPLE	SAMPLE NUMBER - SAMPLE DIAMETER	DRIVING RESISTANCE BLOWS PER FT.	DRY DENSITY P.C.F.	MOISTURE CONTENT %	UNCONFINED COMPRESSIVE STRENGTH K.S.F.	OTHER TESTS		
Black Brown Clay (medium stiff-very stiff)		1.0		4-1	2		32.5	3.5			
		4									
		6									
3.0		4-2	18	20.4	4.5						
5.0			21								
6.0			23								
Weathered white chert (medium stiff)				4.3	15		18.6	4.5			
					20						
Refusal @ 8.7'		9.0			64/7						
AFL-G133-7-98		Alexei F. Lukban P.E.									

[illegible]

PROJECT		Low		BORING NC 6		Figure 6									
BORING SUPERVISOR		A. L.		TYPE OF BORING		N/A		DATE OF BORING		18-Aug-98					
HAMMER WEIGHT				SURFACE ELEVATION				GROUND WATER DEPTH		None					
DESCRIPTION OF MATERIALS		DEPTH IN FT.		SAMPLE		SAMPLE NUMBER - SAMPLE DIAMETER		DRIVING RESISTANCE BLOWS PER FT.		DRY DENSITY P.C.F.		MOISTURE CONTENT % UNCONFINED COMPRESSIVE STRENGTH K.S.F.		OTHER TESTS	
Black Brown Clay (medium stiff-stiff)		1.0				6-1		19				15.1		4.0	
								15							
		3.0						11							
								14							
						6-2		14				16.9			
								14							
		6.0						24							
Grey Claystone to Shale (stiff)						6-3		11				12.0		3.7	
								10							
		9.0						9							
								11							
						6-4		15				12.7		4.5	
								9							
		12.0													
								11							
Serpentine sand & gravel (loose-very dense)						6-5		9				13		4.5	
								15							
		15.0													
								8							
Bottom @ 18'						6-6		9				18.0		4.5	
								72							
		18.0													
AFL-G133-7-98		Alexei F. Lukban P.E.													

APPENDIX B

GUIDE TO THE MAINTENANCE OF HILLSIDE HOME SITES

During the wet winter season, home owners, particularly those living in houses placed on fill (man-placed earth) or in the vicinity of excavated (cut) slopes, become concerned about the condition of their building site. In general, modern design and construction practice minimizes the probability of serious landsliding (slope failure). The grading codes of the local jurisdictions (cities and counties) in California concerning filled land, excavation, terracing and slope construction are among the most stringent in the country and, if followed, are adequate to meet almost any natural occurrence. Therefore, the concern of the home owner should be directed toward maintaining slopes, drainage provisions and facilities so that they will perform as designed.

The following discussion, general recommendations and simple precautions are presented to help the home owner maintain his hillside building site.

The general public often regards the natural terrain as stable--"terra firma." This is, of course, an erroneous concept. Nature is always at work altering the landscape. Hills and mountains are worn down by mass wasting (erosion, sliding, creeping, et cetera) and the valleys and lowlands collect these products. Thus the natural process is toward leveling the terrain. Periodically (over tens of millions of years) major land movements rebuild mountains and hills, and these processes begin over again. In some areas these processes are very slow, and in others they are more rapid.

Development of hillsides for residential use is carried out, as far as possible, to enhance the natural stability of the site and to minimize the probability of instability resulting from the grading necessary to provide home sites, streets, yards, and other improvements. This has been done by the developer and designers on the basis of geologic and soil mechanics investigations. In order to be successful, the slope, drainage provisions and facilities must be maintained by the home owner.

Home owners are accustomed to maintaining their homes; they expect to paint their houses periodically, replace wiring, clean out clogged plumbing, and repair roofs. Maintenance of the home site, particularly on hillsides should be considered on the same basis, or even on a more serious basis, because neglect can result in serious consequences. In most cases, lot and site maintenance can be taken care of along with landscaping, and can be carried out more economically to the home owner than repair after neglect.

Most slope and hillside lot problems are associated with water. Uncontrolled water from a broken pipe, cesspool or wet weather causes most damage. Wet weather is the largest cause of slope problems, particularly in California where rain is intermittent, but may be torrential. Therefore, drainage and erosion control are the most important aspects of home site stability, and these provisions must not be altered without competent professional advice. Further, maintenance must be carried out to assure their continued operation.

As geotechnical engineers concerned with the problems of building sites in hillside developments, we offer the following list of recommended "Do's and Don'ts" as a guide to home owners.

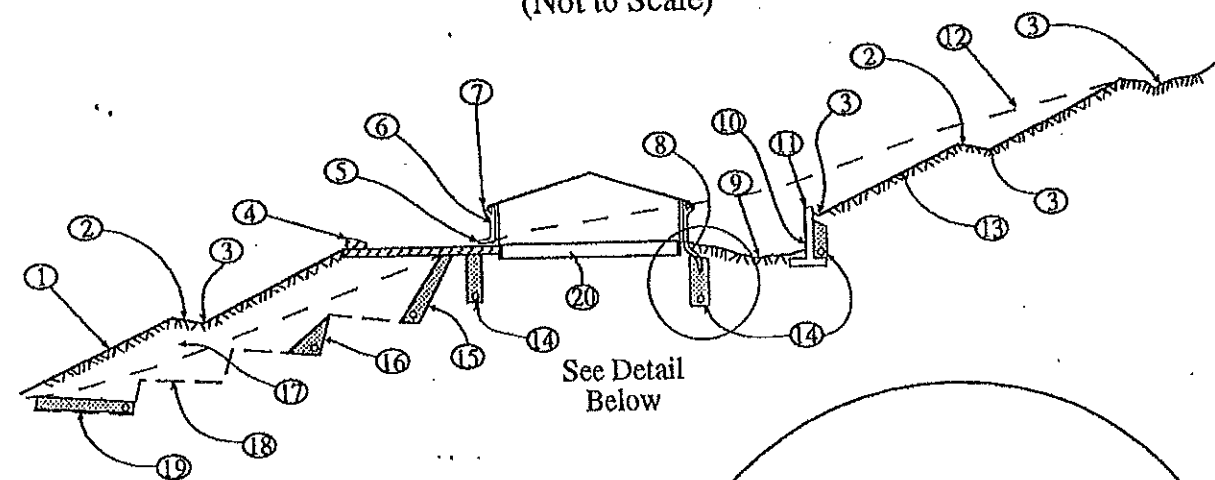
1. DO check roof drains, gutters and down spouts to be sure they are clear. Depending on your location, if you do not have roof gutters and down spouts, you may wish to install them because roofs and their wide, flat space can shed tremendous quantities of water. Without gutters or other adequate drainage, water falling from the eaves collects against foundation and basement walls, which can be undesirable.
2. DO clear surface and terrace drainage ditches, and check them frequently during the rainy season. Use a shovel, if necessary. Ask your neighbors to do likewise.
3. DO be sure that all drainage ditches have outlet drains that are open. This should be tested during dry weather. Usually this can be done simply with a hose. If blockage is evident, you may have to clear the drain mechanically.
4. DO check all drains at top of slopes to be sure that they are clear and that water will not overflow the slope itself, causing erosion.
5. DO keep subsurface drain openings (weep-holes) clear of debris and other material which could block them in a storm.
6. DO check for loose fill above and below your property if you live on a slope or terrace.
7. DO watch hoses and sprinklers. During the rainy season, little, if any, irrigation is required. Over-saturation of the ground is not only unnecessary, and expensive on the water bill, but can cause subsurface drainage.
8. DO watch for water backup of drains inside the house and toilets during a rainy season, since this may indicate drain or sewer blockage.
9. DO exercise ordinary precaution. Your house and building site were constructed to meet certain standards which should protect against any natural occurrence if you do your part in maintaining them.

1. DON'T block terrace drains and brow ditches on slopes or at the tops of cut or fill slopes. These are designed to carry away runoff to a place where it can be safely distributed. Generally, a little shovel work will remove any accumulation of dirt and other debris which may clog the drain.
If several homes are located on the same terrace, it is a good idea to check with your neighbors. Water backed up on their property may eventually reach you. Water backed up in surface drains will tend to overflow and seep into the terraces, creating less stable slopes. Maintain the ground surface upslope of lined ditches to ensure that surface water is collected in the ditch and is not permitted to be trapped behind or under the lining.
2. DON'T permit water to collect or pond on your home site. Water gathering here will tend to either seep into the ground (loosening fill or natural ground), or will overflow into the slope and begin erosion. Once erosion is started, it is difficult to control and severe damage may result rather quickly.
3. DON'T connect roof drains, gutters or down spouts to subsurface drains. Rather, arrange them so that water either flows off your property in a specially designed pipe or flows out into a paved driveway or street. The water then may be dissipated over a wide surface or, preferably, may be carried away in a paved gutter or storm drain. Subdrains are constructed to take care of ordinary subsurface water and cannot handle the overload from roofs during a heavy rain.
4. DON'T permit water to spill over slopes, even where this may seem a good way to prevent ponding. This tends to cause erosion and, in the case of fill slopes, can eat away carefully designed and constructed sites.
5. DON'T drop loose soil or debris over slopes. Loose soil soaks up water more readily than compacted fill. It is not compacted to the same strength as the slope itself and will tend to slide when laden with water; this may even affect the soil beneath the loose soil. The sliding may clog terrace drains below or may cause additional damage in weakening the slope. If you live below a slope, try to be sure that loose fill is not dumped above your property.
6. DON'T discharge water into subsurface blanket drains close to slopes. Trench drains are sometimes used to get rid of excess water when other ways of disposing of water are not readily available. Overloading these drains saturates the ground and, if located close to slopes, may cause slope failure in their vicinity.
7. DON'T discharge surface water into septic tanks or leaching fields. Not only are septic tanks constructed for a different purpose, but they will tend, because of their construction, to accumulate additional water naturally from the ground during a heavy rain. Overloading them artificially during the rainy season is bad for the same reason as subsurface subdrains, and is doubly dangerous since their overflow can pose a serious health hazard. In many areas the use of septic tanks should be discontinued as soon as sewers can be made available.

8. DON'T over-irrigate slopes. Naturally, ground cover of ice plant and other vegetation will require some moisture during the hot summer months, but during the wet season, irrigation can cause ice plant and other heavy ground cover to pull loose. This not only destroys the cover, but also starts serious erosion. In some areas, ice plant and other heavy cover can cause surface sloughing when saturated due to the increase in weight and weakening of the near-surface soil. Planted slopes should be planned where possible to acquire sufficient moisture when it rains.
9. DON'T let water gather against foundations, retaining walls and basement walls. These walls are built to withstand the ordinary moisture in the ground and are, where necessary, accompanied by subdrains to carry off excess. If water is permitted to pond against them, it may seep through the wall, causing dampness and leakage inside the basement. Further, it may cause the foundation to swell up, or the water pressure could cause structural damage to walls.
10. DON'T try to compact behind walls or in trenches by flooding with water. Not only is flooding the least efficient way of compacting fine-grained soil, but it could damage the wall foundation or saturate the subsoil.
11. DON'T leave a hose and sprinkler running on or near a slope, particularly during the rainy season. This will enhance ground saturation which may cause damage.
12. DON'T block ditches which have been graded around your house or the lot pad. These shallow ditches have been put there for the purpose of quickly removing water toward the driveway, street or other positive outlet. By all means, do not let water become ponded above slopes by blocked ditches.

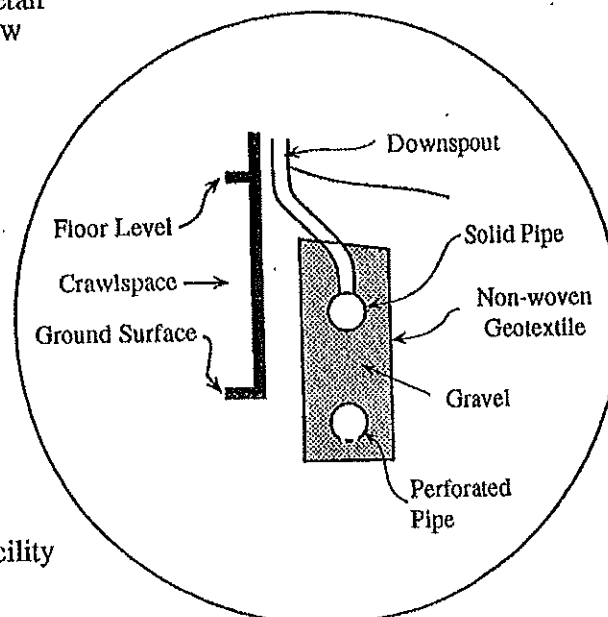
A typical slope section showing various grading and drainage requirements as well as terms used for hillside developments is attached.

TYPICAL SLOPE SECTION (Not to Scale)



CONDITIONS:

- ① Fill Slope
- ② Drainage Terrace
- ③ Lined Ditch
- ④ Curb to Prevent Slope Erosion
- ⑤ Drain Pipe Provided with Positive Outlet on Paved Surface
- ⑥ Downspout
- ⑦ Roof Gutter
- ⑧ Drain Pipe Connected to Solid Pipe and Discharged to an Approved Drainage Facility
- ⑨ Drainage Swale
- ⑩ Weep Holes Through Retaining Wall
- ⑪ Retaining Wall
- ⑫ Original Ground Surface
- ⑬ Cut Slope
- ⑭ Subdrain
- ⑮ Curtain Drain
- ⑯ Wedge Drain
- ⑰ Fill Compacted to Engineering Specifications and Benched into Competent Material
- ⑱ Bench
- ⑲ Blanket Drain
- ⑳ Crawlspace



DETAIL
(Not to Scale)

Note: Acknowledgment is hereby made to the San Diego Chapter of the California Council of Civil Engineers and Land Surveyors

ALAN KROPP & ASSOCIATES
Geotechnical Consultants

TYPICAL SLOPE DETAIL

FIGURE A-1



March 12, 2018

Tom Zhang
Lzi.architect@gmail.com

Re: Arborist Report for 7954 Terrace Drive, El Cerrito

Dear Tom,

This arborist report addresses the proposed project at 7954 Terrace Drive. Per email communication with Elizabeth Dunn of Planning, the scope of work includes:

- Tag, identify, and measure trees on or overhanging property.
- Identify dripline locations and tree numbers on site plan.
- Assess individual tree health and structural condition.
- Assess proposed improvements for potential encroachment.
- Based on proposed encroachment, tree health, structure, and species susceptibility, make recommendations for preservation and mitigation planting (location, species, quantity).

Project Discussion

The property proposed for development is an open lot east of 7952 Terrace Drive. Proposed construction consists of a proposed house, driveway, and retaining walls along the south and east property lines. Additional work is also proposed on adjacent lots (7952 & 7950 Terrace) for improved fire access.

On-site trees consist of a coast live oak at the top of the existing driveway and blackwood acacias along the east property line. Grading is minimal by the oak (#44), with proposed stairs to be built on grade to the south. The majority of the work occurs on the outer edge of the dripline, with half the dripline remaining undisturbed. Overall encroachment is low.

I recommend removal of the rest of the trees. The three larger acacias have been dead for some time. The live acacias are young volunteers in or immediately adjacent to a proposed retaining wall. Blackwood acacia is a weedy species that tends to seed and sprout prolifically, as observed on the subject property. At maturity, they are large massive trees with dense canopies that will obstruct neighbors' views of the bay. I recommend replacing them with native species of a moderate height, such as toyon, western redbud, California buckeye, or elderberry. The City does not have a standard replacement ratio, Elizabeth & I originally discussed a 3:1 ratio. I feel this ratio is appropriate for desirable native species, but not dead/weedy trees such as these acacias. At most, I recommend two replacement plantings so the new trees can grow to their full potential.

It is my opinion that a total of six (6) trees will need to be removed to accommodate the proposed project, and the oak can be retained given that the protection measures within this report are followed.

Assumptions & Limitations

This report is based on my site visit on 9/19/17 and the site plan provided by Tom Zhang (undated). It was assumed that the proposed improvements and trees were accurately surveyed on the plans. Trees along the back property line that were not surveyed are approximately located on the tree protection plan.

The health and structure of the trees were assessed visually from ground level. No drilling, root excavation, or aerial inspections were performed. Internal or non-detectable defects may exist, and could lead to part or whole tree failures. Due to the dynamic nature of trees and their environment, it is not possible for arborists to guarantee that trees will not fail in the future.

Tree Inventory & Assessment Table

#s: Each tree was given a numerical tag from #44-50. Their locations are given in the tree protection plan.

DBH (Diameter at Breast Height): Trunk diameters in inches were calculated from the circumference measured at 4.5' above average grade.

Health & Structural Condition Rating

Dead: Dead or declining past chance of recovery.

Poor (P): Stunted or declining canopy, poor foliar color, possible disease or insect issues. Severe structural defects that may or may not be correctable. Usually not a reliable specimen for preservation.

Fair (F): Fair to moderate vigor. Minor structural defects that can be corrected. More susceptible to construction impacts than a tree in good condition.

Good (G): Good vigor and color, with no obvious problems or defects. Generally more resilient to impacts.

Very Good (VG): Exceptional specimen with excellent vigor and structure. Unusually nice.

Age

Young (Y): Within the first 20% of expected life span. High resiliency to encroachment.

Mature (M): Between 20% - 80% of expected life span. Moderate resiliency to encroachment.

Overmature (OM): In >80% of expected life span. Low resiliency to encroachment.

DE: Dripline Encroachment (X indicates encroachment)

CI: Anticipated Construction Impact (L = Low, M = Moderate, H = High)

#	Species	DBH	Health	Structure	Dripline				Age	DE	CI	Comments	Action
					N	E	S	W					
44	Coast Live Oak (<i>Quercus agrifolia</i>)	22	G	F	10	20	20	15	M	X	L-M	Significant sprouting along trunk. Lopsided canopy due to removed pine that was 2' away. Grade raised. Moderate wound closure. 30° corrected lean to west over parking. 13' from proposed driveway and proposed stairs (on grade). 19' from proposed house.	Install 6' chain-link fencing as close to dripline as possible. If needed, hand grade for stairs within dripline. Cleanly prune roots $\geq 2"$ in diameter.
45	Blackwood Acacia (<i>Acacia melanoxylon</i>)	9.5	Dead		10	15	0	0				Dead. 1' from proposed rock wall.	Remove.
46	Blackwood Acacia	12	Dead		0	15	20	15				Has one small sprout from base of trunk, also in decline. Essentially dead.	Remove.
47	Blackwood Acacia	7	Dead		0	10	15	0				Dead.	Remove.
48	Blackwood Acacia	7, 5	F	F	5	10	5	0	Y	X	H	Volunteer tree; not surveyed. Sparse canopy. Co-dominant trunks. 6" from fence. Leaning away from house. 1' from proposed rock wall.	Remove.
49	Blackwood Acacia	5.5	F	F	8	8	0	0	Y	X	H	Volunteer tree; not surveyed. Canopy lopsided due to shade. 1' from proposed rock wall.	Remove.
50	Blackwood Acacia	5.5	G	G-F	8	8	8	0	Y	X	H	Volunteer tree; not surveyed. In proposed rock wall.	Remove.

Trees that will need to be removed: 45-50 (6 trees, 3 of which are dead)

Trees to be saved that will be subjected to dripline encroachment: 44

Recommendations (to be printed on site plans)

Pre-construction

- Remove trees #45-50.
- Prior to construction or grading, contractor shall construct a temporary 6' chain-link fence to set up a Tree Protection Zone (TPZ) around tree #44 indicated on the tree protection plan. TPZ fencing shall remain in an upright sturdy manner from the start of grading until the completion of construction. Fencing shall not be adjusted or removed without consulting the project arborist (PA).

Foundation, Grading, and Construction Phase

- If needed, hand grade for steps within dripline of tree #44. If roots ≥ 2 " in diameter are encountered, they shall be cleanly pruned.
- If needed, pruning shall be coordinated through the PA and shall be performed by personnel certified by the International Society of Arboriculture (ISA). All pruning shall adhere to ISA and American National Standards Institute (ANSI) Standards and Best Management Practices.
- Should TPZ encroachment be necessary, the contractor shall contact the PA for consultation and recommendations.
- Should there be a need for additional area to store equipment or supplies, contact the PA to locate areas and provide protection for trees that may be encroached.
- Contractor shall keep TPZs free of all construction-related materials, debris, fill soil, equipment, etc. The only acceptable material is mulch spread out beneath the trees.
- Should any damage to the trees occur, the contractor shall promptly notify the PA to appropriately mitigate the damage.

Landscaping Phase

- Contractor shall avoid trenching and grade changes within oak driplines.
- All planting and irrigation shall be kept a minimum of 10' away from native oaks. All irrigation within the driplines shall be targeted at specific plants, such as drip emitters or bubblers. No overhead irrigation shall occur within the driplines of native oaks.
- All planting within oak driplines shall be compatible with oaks, consisting of plant material that requires little to no water after two years' establishment. A list of oak-compatible plants can be found in a publication from the California Oak Foundation, available at: <http://californiaoaks.org/wp-content/uploads/2016/04/CompatiblePlantsUnderAroundOaks.pdf>.
- I recommend having the landscape architect and contractor contact the PA with questions regarding tree preservation.

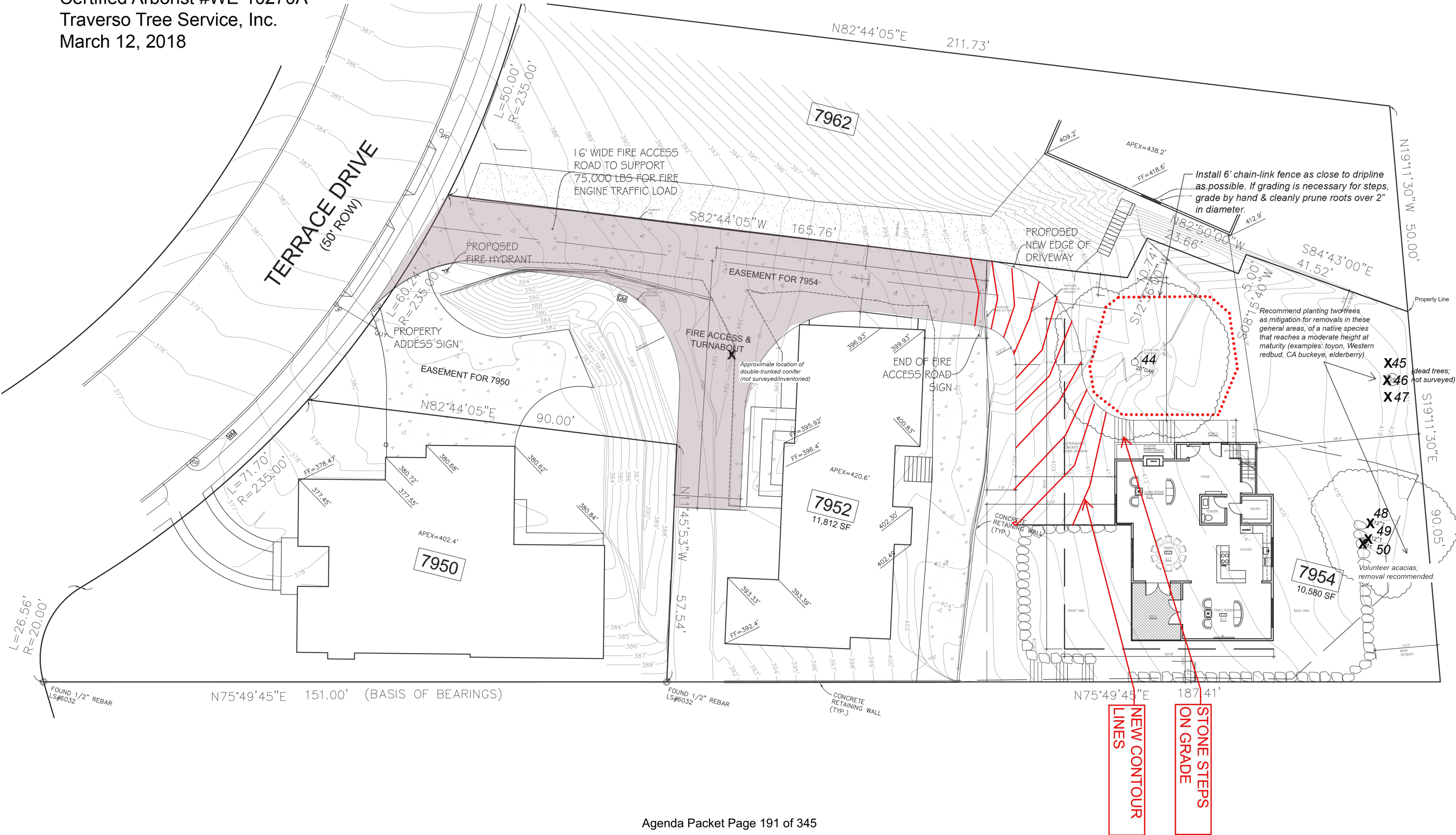
Thank you for the opportunity to provide this report, and please do not hesitate to contact me if there are any questions or concerns.

Sincerely,



Jennifer Tso
Certified Arborist #WE-10270A
Tree Risk Assessor Qualified

TREE PROTECTION PLAN
By: Jennifer Tso
Certified Arborist #WE-10270A
Traverso Tree Service, Inc.
March 12, 2018





AGENDA BILL

Agenda Item No. 6.B.

Date: January 21, 2020
To: El Cerrito City Council
From: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager,
Community Development Department
Subject: Extension of Urgency Ordinance Amending Accessory Dwelling Unit
Regulations (*Interim Urgency Ordinance Extension, 4/5 Vote Required,
Public Hearing Noticed 01/11/2020*)

ACTION PROPOSED

Conduct a public hearing and upon conclusion adopt the attached interim urgency ordinance making findings and extending urgency Ordinance 2019-10 regarding accessory dwelling unit regulations. A four-fifths vote of the City Council is necessary to extend an interim urgency ordinance.

BACKGROUND

On December 17, 2019, City Council adopted an interim urgency Ordinance No. 2019-10 repealing and replacing Section 19.20.190 (Accessory Dwelling Units), adding Section 19.20.195 (Junior Accessory Dwelling Units), and approving amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code. Interim urgency ordinances are effective for 45 days, unless extended pursuant to the Government Code. Pursuant to Government Code Section 65858, the City may extend an interim urgency ordinance, by a four-fifths vote, when the ordinance contains legislative findings that there still exists a threat to the public health, safety and welfare. When an initial interim ordinance is adopted following a duly-noticed public hearing, as was done here, the interim urgency ordinance may be extended for up to 22 months and 15 days.

Unless extended, the interim urgency Ordinance No. 2019-10 will expire on January 31, 2020. Staff plans to bring the permanent version of the ADU ordinance to City Council for introduction and a first reading on February 4, 2020. If so introduced, the second reading and a vote for adoption would occur on February 18, 2020. If so adopted under this proposed scheduled, the City's permanent ADU regulations would become effective on March 19, 2020.

If the City's interim urgency Ordinance No. 2019-10 is not extended, the City's ADU regulations would become null and void on January 31, 2020 and the City would have to follow the state's default ADU standards. To prevent this, and to ensure that the City has appropriate ADU regulations in effect until the permanent ordinance becomes effective, staff recommends that the City Council now extend the interim urgency ordinance to provide additional time to permanently adopt the proposed ADU

regulations through the zoning ordinance adoption process.

All provisions of Ordinance No. 2019-10 shall remain in full force and effect during the term of this extension ordinance. This extension of the interim urgency ordinance will be effective on January 31, 2020 (the expiration date of Ordinance No. 2019-10) and shall expire when the City Council adopts the permanent ordinance, but no later than December 15, 2021 (22 months and 15 days following the effective date).

ANALYSIS

As explained in the staff report discussing the initial urgency ordinance, the Governor signed several bills in the fall of 2019 that amended California Government Code 65852.2 and 65852.22 to provide greater allowance for accessory dwelling units (ADUs) and Junior Accessory Dwelling Units (JADUs), and to limit the requirements that cities can impose on their development. These bills include SB 13 and ABs: 68, 587, 670, 671, and 881. The bills become effective January 1, 2020.

California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state laws shall be null and void unless and until the local agency adopts a new ordinance complying with the new legislation. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs. This went into effect on January 1, 2020.

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and is generally a detached unit separated from the primary structure or an attached unit that is attached to or included in the primary structure. A Junior ADU is no more than 500 square feet in size and contained entirely within a single family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the primary residence. A Junior ADU shall also include an efficiency kitchen with a cooking facility and a counter and cabinets of reasonable size in relation to the size of the Junior ADU. ADUs are currently regulated by Section 19.20.190 of the El Cerrito Municipal Code.

To comply with the changes in State law, the urgency ordinance repeals and replaces Section 19.20.190 (Accessory Dwelling Units); add Section 19.20.195 (Junior Accessory Dwelling Units); and approve amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code.

The following is an analysis of primary changes which are proposed as part of this ordinance:

1. Automatic approval of certain ADUs/JADUs

Consistent with the requirements of AB 881, certain types of ADUs and JADUs would be permitted without any type of zoning permit. These ADUs and JADUs could proceed directly to the building permit process. These categories include:

On lots with an existing or proposed single family dwelling:

- One Interior ADU or JADU located entirely within an existing primary dwelling or existing accessory structure.
- One ADU that is detached from the primary dwelling unit with no more than 800 square feet, at least 4 foot rear and side setbacks, and no more than 16 feet tall.

On lots with an existing multifamily dwelling or duplex:

- At least one ADU within the portion of an existing multifamily dwelling structure not used as livable space. The number of ADUs allowed on a lot shall not exceed twenty-five percent of the existing multifamily dwellings on a lot.
- Two ADUs detached from the primary dwelling units with at least 4 foot rear and side setbacks and no more than 16 feet tall.

ADUs not included in these categories would be subject to the development standards of the proposed ordinance.

2. Maximum floor area

The current ordinance allows a maximum floor area for ADUs of up to fifty percent of the habitable floor area of the primary residence or 1,200 square feet, whichever is less. The proposed ordinance contains the following floor area provisions, as required by AB 881:

- Studio and one-bedroom ADUs may be a maximum of 850 square feet
- ADUs with more than one bedroom may be a maximum of 1,000 square feet
- Attached ADUs are subject to the above standards or may be up to 50% of the floor area of the existing primary dwelling unit, whichever is less.

3. Minimum Setbacks and Maximum Height

As required by AB 881, the proposed ordinance permits a minimum side and rear setbacks of 4 feet for detached and attached ADUs and a maximum height of 16 feet for detached ADUs. This is a reduction from the standards in the existing ordinance, which permit a maximum height of 15 feet for ADUs and require setbacks consistent with requirements of the applicable zoning district (5- to 6-foot side setbacks and 15- to 25-foot rear setbacks).

Additionally, pursuant to AB 881, the City may not consider unit size, lot size, lot coverage, or open space for ADUs that meet these standards and are no larger than 800 square feet.

4. Replacement Parking

Although local jurisdictions may require off-street parking spaces for ADUs in certain instances, at the City Council's request, the ADU ordinance adopted in 2017 does not require any parking spaces for ADUs. This provision is also included in the proposed ordinance. In addition, consistent with the requirements of AB 881, the proposed ordinance eliminates the existing requirement that off-street parking spaces be

replaced when a garage, carport, or covered parking is converted to an ADU or is demolished in conjunction with the construction of an ADU. Similarly, no parking spaces nor replacement parking shall be required for JADUs.

5. Deed Restriction – Owner Occupancy Requirement

Consistent with the requirements of AB 881, the proposed ordinance removes requirement for owner occupancy of a property for ADUs and JADUs developed between January 1, 2020 and December 31, 2024. This provision allows both the primary residence and any ADU and/or JADU to be rented.

6. Short term rentals

Pursuant to the requirements of AB 881, the proposed ordinance provides that the ADUs and Junior ADUs that require automatic approval shall not be rented for a term less than 30 days.

7. Windows

Although not required by State legislation, in order to address potential impacts to adjacent properties, staff has included a development standard related to windows on ADUs. The proposed ordinance would require all Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located closer than 5 feet to the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height). City staff recommend this requirement to minimize privacy impacts of proposed ADUs upon neighboring properties.

STRATEGIC PLAN CONSIDERATIONS

This action is consistent with the El Cerrito Strategic Plan Goal A - Deliver exemplary government services by allowing additional design flexibility, lower cost and swifter service to community members that would like to construct an ADU or JADU.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), the adoption of an ordinance regarding accessory dwelling units and junior accessory dwelling units in a residential or mixed-use zone by a city to implement the provisions of Sections 65852.1, 65852.2, and 65852.22 of the Government Code is statutorily exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a “project” for CEQA purposes, and environmental review would not be required prior to approving individual applications. (Individual ADU and JADU applications would be categorically exempt under Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).)

FINANCIAL CONSIDERATIONS

The costs of implementing the proposed ordinance would be recovered through existing application fees. ADUs and JADUs subject to automatic approval would no longer require zoning permits and the City would not collect fees to review ADUs outside of the building permit process.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the ordinance and found that legal considerations have been addressed.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos". The signature is fluid and cursive, with the first name "Karen" and last name "Pinkos" clearly distinguishable.

Karen Pinkos, City Manager

Attachments:

1. Ordinance

ORDINANCE NO. 2020–XX

AN URGENCY ORDINANCE OF THE CITY OF EL CERRITO PURSUANT TO
GOVERNMENT CODE SECTION 65858 EXTENDING URGENCY ORDINANCE NO.
2019-10 REGARDING ACCESSORY DWELLING UNITS REGULATIONS

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, a severe housing crisis exists in the State of California; and

WHEREAS, accessory dwelling units (ADUs) are an effective way to increase housing options without changing neighborhood character; they can provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others; they represent a form of infill development that can be relatively affordable to construct and/or rent and offer innovative housing choices within existing neighborhoods; and

WHEREAS, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 became effective on January 1, 2017, adding sections 65852.1 and 65852.2 to the Government Code and modifying the requirements for second units or ADUs related to unit size, parking, and fees; and

WHEREAS, on June 6, 2017, the El Cerrito City Council adopted Resolution 2017-04 amending various section of the El Cerrito Municipal Code related to ADUs in order to comply with SB 1069 and AB 2299; and

WHEREAS, the 2017 amendments resulted in an increase in ADU applications, as the number of applications went from four in 2015, four in 2016 and one in 2017, to eighteen in 2018 and twenty-two in 2019 (thus far); and

WHEREAS, on October 9, 2019, Governor Newsom signed into law a series of bills intended to further increase the state's supply of affordable housing by facilitating the construction of ADUs (AB 68, AB 587, AB 670, AB 671, AB 881 and SB 13) (the "new ADU laws"); and

WHEREAS, effective January 1, 2020, California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new ADU laws shall be null and void unless and until the local agency adopts a new ordinance complying with the new ADU laws; and

WHEREAS, in the absence of a valid local ordinance, the new ADU laws instead provide a set of default standards governing local agencies' regulation and approval of ADUs; and

WHEREAS, the new ADU laws are expected to trigger an increase in the number of inquiries related to the permitting of ADUs and the number of applications for ADU permits; and

WHEREAS, California Government Code Section 65858 authorizes a city to adopt an interim urgency measure by a four-fifths (4/5ths) vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, notice of a public hearing was duly published on December 7, 2019 and the City Council held a duly noticed hearing on December 17, 2019; and

WHEREAS, on December 17, 2019, pursuant to Section 65858 of the California Government Code, the City Council adopted Ordinance No. 2019-10, an interim urgency ordinance, which temporarily amended the Zoning Ordinance for the purpose of amending its local regulatory scheme pertaining to ADUs in a manner that complies with the new state laws; and

WHEREAS, any interim urgency measure adopted pursuant to Government Code Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the City Council; and

WHEREAS, Section 65858(b) of the California Government Code provides that prior to the expiration of Ordinance No. 2019-10, the City Council may extend the ordinance for up to an additional twenty-two (22) months and fifteen (15) days after providing notice pursuant to Section 65090 of the California Government Code and conducting a public hearing; and

WHEREAS, notice of a public hearing was duly published on January 11, 2020 and the City Council held a duly noticed hearing on January 21, 2020; and

WHEREAS, the City Council has determined that the circumstances and conditions that led to the adoption of Ordinance No. 2019-10, which are set forth in the recitals of Ordinance No. 2019-10 and are fully incorporated herein by this reference, have not been alleviated as of the date of this Ordinance and continue to create the concerns described in Ordinance No. 2019-10; and

WHEREAS, the City Council now seeks to extend the temporary amendment to the Zoning Ordinance adopted by Ordinance No. 2019-10 and pertaining to the regulation of ADUs in a manner that complies with the new state laws, in order to continue the study and implementation of permanent amendments to the City's zoning regulations to regulate ADUs; and

WHEREAS, the purpose of extending Ordinance No. 2019-10 is to avoid the potentially significant adverse impacts to the public's health, safety, and welfare described in Ordinance No. 2019-10; and

WHEREAS, the City Council has determined there is a need to extend Ordinance No. 2019-10 for up to an additional twenty-two (22) months and fifteen (15) days as authorized under section 65858(b) of the California Government Code, although it is the present intention of the City Council to keep this urgency interim ordinance in effect only until the adoption of an ordinance establishing permanent ADU regulations; and

WHEREAS, adoption of this urgency interim ordinance shall constitute an extension of Ordinance No. 2019-10 pursuant to section 65858 of the California Government Code.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. **Incorporation of Recitals.** The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. **Amendment of the El Cerrito Municipal Code.** Section 19.46.030(A) of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.46.030 Residential Use Classifications

A. Residential Housing Types

1. ***Single Family Dwelling.*** One dwelling unit, attached or detached, located on a single lot. This use includes manufactured housing but not mobile homes
2. ***Accessory Dwelling Unit.*** An Attached, Detached, or Interior residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling, and/or as otherwise defined in California Government Code Section 65852.2, as amended from time to time.
 - (a) ***Attached Accessory Dwelling Unit*** or ***Attached ADU.*** An Accessory Dwelling Unit that is constructed as a physical expansion (i.e. addition) of a proposed or existing primary dwelling and shares a common wall with the primary dwelling .
 - (b) ***Detached Accessory Dwelling Unit*** or ***Detached ADU.*** An Accessory Dwelling Unit that is constructed as a separate structure and fully detached from a proposed or existing primary dwelling.

- (c) **Interior Accessory Dwelling Unit** or **Interior ADU**. An Accessory Dwelling Unit located within an existing structure. An existing structure means an existing permitted or otherwise legal dwelling unit, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.
2. **Junior Accessory Dwelling Unit** or **JADU**. A unit that is no more than 500 square feet in size and contained entirely within a single family residence, and may include separate sanitation facilities or share sanitation facilities with the existing structure, or as otherwise defined in California Government Code Section 65852.22, as amended from time to time.
3. **Duplex - Two-Family Dwelling**. A single building that contains two primary dwelling units, or a single lot with two freestanding buildings, each of which is designed for occupancy by one household.
4. **Multiple Family Residential**. Three or more dwelling units on a single lot. Types of multiple-family dwellings include: townhouses, garden apartments, and other apartment buildings.

Section 3. Amendment of the El Cerrito Municipal Code. The terms Efficiency Unit, Living Area, and Passageway and their corresponding definitions shall be added to Sections 19.47.010 and 19.47.020 of the El Cerrito Municipal Code as follows:

Section 19.47.010 List of Terms

Efficiency Unit

Living Area

Passageway

Section 19.47.020 Definitions

Efficiency Unit. Shall have the same meaning as defined in Section 17958.1 of the Health and Safety Code, as amended from time to time.

Living Area. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Passageway. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Section 4. Amendment of the El Cerrito Municipal Code. Section 19.20.190 of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.20.190 Accessory Dwelling Units

- A. Purpose. The following regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 (or as otherwise amended), and implement the General Plan by allowing Accessory Dwelling Units subject to the standards and requirements herein.
- B. Applicability. An Accessory Dwelling Unit Permit shall be required for all Accessory Dwelling Units, subject to the following exceptions:
 - 1. ADUs on Single-Family Dwelling Lots. The following Accessory Dwelling Units shall be allowed on a parcel with a proposed or existing single family dwelling, consistent with state law:
 - (a) One Interior ADU or Junior ADU subject to the following standards:
 - (i) The Interior ADU or JADU shall have exterior access.
 - (ii) The Interior ADU or JADU shall have side and rear setbacks sufficient for fire safety as determined by the Fire Marshal.
 - (iii) A Junior ADU shall be consistent with Section 19.20.195.
 - (iv) The Interior ADU or JADU shall not be rented for a term less than 30 days.
 - (b) One Detached ADU subject to the following standards:
 - (i) The Detached ADU shall not exceed 800 square feet in size.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.
 - (iii) The height of the Detached ADU shall not exceed 16 feet.
 - (iv) The Detached ADU shall not be rented for a term less than 30 days.

2. ADUs on Multifamily Dwelling and Duplex Lots. The following Accessory Dwelling Units shall be allowed on a parcel with an existing multifamily dwelling or a duplex, consistent with state law.
 - (a) At least one ADU within the portion of an existing multifamily dwelling structure or a duplex not used as livable space subject to the following standards:
 - (i) The number of ADUs allowed on a lot shall not exceed twenty-five percent of the existing multifamily dwellings on a lot.
 - (ii) The space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - (iii) The ADU shall not be rented for a term less than 30 days.
 - (b) Two Detached ADUs subject to the following standards:
 - (i) The height of the Detached ADU shall not exceed 16 feet.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.
 - (iii) The Detached ADU(s) shall not be rented for a term less than 30 days.

C. Where Allowed

1. Accessory Dwelling Units may be established on any lot in a RS, RD or RM zoning district, as identified in Chapter 19.06, or any lot in the TOHIMU or TOMIMU district as identified in San Pablo Avenue Specific Plan, incorporated by reference in Section 19.15.020.

D. General Requirements. Accessory Dwelling Units shall conform to the following:

1. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, type of windows, and trim details of an Accessory Dwelling Unit shall be substantially the same as, and visually harmonious and or compatible with the primary dwelling, as determined by the Zoning Administrator.

2. Windows. All Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located less than 5 feet from the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height).
3. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted to an Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
4. Building Code Compliance. Notwithstanding any other provision of this section, Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
5. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Accessory Dwelling Unit, as the owner's primary residence, except that owner occupancy shall not be required for any Accessory Dwelling Unit permitted between January 1, 2020 and December 31, 2024, in accordance with Government Code section 65852.2(a)(6) or as otherwise amended.
6. Sale Prohibited. An Accessory Dwelling Unit may be rented, but shall not be sold or otherwise conveyed separately from the primary dwelling.
7. Deed Restriction. Before obtaining a building permit for an Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:
 - (a) The Accessory Dwelling Unit shall not be sold separately.
 - (b) Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property.
 - (i) This section shall only be required in accordance with Government Code section 65852.2(a)(6).

- (c) An Accessory Dwelling Unit shall be maintained as a separate living unit and shall not be converted as an addition to a primary dwelling unit.
- (d) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner.

E. Development Standards

1. Setbacks.

- (a) Detached ADUs and Attached ADUs. Side and rear setbacks shall be no less than 4 feet. Detached and Attached ADUs shall comply with the front setback requirements applicable to the primary dwelling unit(s) in the zoning district where the respective ADU is proposed, and with the Lot Location requirements below.
- (b) Interior ADUs. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted or partially converted to an Accessory Dwelling Unit.

2. Floor Area.

- (a) Accessory Dwelling Units shall be subject to the following maximum floor area:

Studio or One Bedroom	850 square feet
More than One Bedroom	1000 square feet

- (b) An Accessory Dwelling Unit must have a floor area of at least 150 square feet and shall not preclude an Efficiency Unit.
- (c) Attached ADU. The total floor area of an Attached ADU shall not exceed 50% of the existing primary dwelling unit(s). In the event of a conflict between this subsection and the maximum floor areas in subsection (a), the Attached ADU shall be subject to the lower square footage requirement.

3. Height.
 - (a) The maximum height of a Detached ADU shall be 16 feet.
 - (b) The maximum height of an Attached ADU shall comply with daylight plane, building height, and any other provisions relevant to building height applicable to the primary dwelling unit in the zoning district where the Accessory Dwelling Unit is proposed.
4. Entries/Access. An Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway shall be required in conjunction with the construction of an ADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
 - (a) Attached ADUs. The exterior access to an Attached ADU shall be located at least 10 feet behind the exterior access to the primary unit, or shall be located on the side or rear of the dwelling.
5. Lot Location.
 - (a) Detached ADUs - Interior Lots. A Detached ADU shall be located behind the primary dwelling(s) in relation to the front lot line. For the purpose of this regulation, "behind" shall mean that at least one of the following criteria is met:
 - (i) All portions of the ADU are located behind all portions of the primary unit(s).
 - (ii) The ADU is located partially behind the primary dwelling unit(s), and the front façade of the ADU is at least 20 feet farther from the front lot line than is the front facade of the primary unit(s).
 - (iii) The ADU is located entirely in the rear half of the lot.
 - (b) Detached ADUs - Corner Lots. On corner lots, the Interior Lot standard of Subsection (a) above shall be met on the front of the property. In addition, a Detached ADU shall not be located closer than the primary dwelling unit(s) to the street-facing side lot line.
 - (c) Attached Units. If an Attached ADU is created through an addition to an existing single-family dwelling at the second or higher story of

the dwelling, such ADU shall be located in the rear half of the structure.

6. Exceptions. Exceptions to the above standards shall require an Administrative Use Permit, according to the procedures of Chapter 19.34, Use Permits. In addition to the findings for approval of Section 19.34.040, the decision-making authority shall only grant approval if it finds the Accessory Dwelling Unit is compatible with, and preserves, the applicable residential character of the primary dwelling and the surrounding neighborhood. Additionally:
 - (a) The hearing shall be publicly noticed not less than twenty-one days in the local newspaper and to all property owners located within a three hundred-foot radius.
 - (b) Any decision of the Zoning Administrator may be appealed directly to the Planning Commission.
7. Limitations. Notwithstanding any local development standards pertaining to unit size, lot size, lot coverage, floor area ratio, and/or open space; an Accessory Dwelling Unit that is no more than 800 square feet with minimum four-foot side and rear yard setbacks, and a maximum height of 16 feet, shall be allowed provided the unit will be constructed in compliance with all other local development standards.

Section 5. Amendment of the El Cerrito Municipal Code. Section 19.20.195 of the El Cerrito Municipal Code is added to read in full as follows:

Section 19.20.195 Junior Accessory Dwelling Units

- A. Applicability. This section applies to Junior Accessory Dwelling Units. Junior Accessory Dwelling Units in compliance with this section shall be allowed pursuant to Section 19.20.190(B)(1)(a).
- B. Where Allowed. Junior Accessory Dwelling Units may be established on any lot in a RS zoning district, as identified in Chapter 19.06, with a proposed or existing primary single-family dwelling. Only one Junior Accessory Dwelling Unit is permitted per lot.

C. General Requirements. Junior Accessory Dwelling Units shall conform to the following:

1. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a Junior Accessory Dwelling Unit or converted to a Junior Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
2. Short-term Rentals. Junior Accessory Dwelling Units may not be rented for less than 30 days.
3. Building Code Compliance. Notwithstanding any other provision of this section, Junior Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
4. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Junior Accessory Dwelling Unit, as the owner's primary residence. Prior to the issuance of a building permit for a Junior Accessory Dwelling Unit, the applicant shall record notice of this requirement as a deed restriction.
 - (a) Exception. This section shall not apply if the owner is a governmental agency, land trust, or housing organization.
5. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold, transferred, or assigned separately from the primary dwelling.
6. Deed Restriction. Before obtaining a building permit for a Junior Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:
 - (a) The Junior Accessory Dwelling Unit shall not be sold separately; and
 - (b) The Junior Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property; and

- (c) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against any property owner; and
- (d) The Junior Accessory Dwelling Unit shall be restricted to the size and attributes in accordance with this section.

D. Development Standards

- 1. Location. A Junior Accessory Dwelling Unit shall be constructed entirely within the walls of the proposed or existing single-family residence.
- 2. Entries/Access. A Junior Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway is required in conjunction with the construction of a JADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
- 3. Efficiency Kitchen. A Junior Accessory Dwelling Unit shall include an efficiency kitchen, which shall include all of the following:
 - (a) A cooking facility with appliances; and
 - (b) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

Section 6. **Amendment of the El Cerrito Municipal Code.** The Required Off-Street Parking Spaces for Accessory Dwelling Unit in Table 19.24-A within Section 19.24.040 of the El Cerrito Municipal Code is amended as follows: No parking spaces are required for ADUs.

Section 7. **Urgency Extension Findings.** Adoption of this urgency ordinance shall constitute an extension of Ordinance No. 2019-10 pursuant to the authority set forth in Section 65858 of the California Government Code. All provisions of Ordinance No. 2019-10 shall remain in full force and effect during the term of this ordinance. The City Council finds and determines pursuant to California Government Code Section 65858 that adoption of this urgency ordinance is necessary for the immediate preservation of the public health, safety, and welfare, and to prohibit uses in conflict with zoning regulations pertaining to ADUs currently being considered by the City.

Section 8. Compliance with the California Environmental Quality Act. The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code is statutorily exempt from the requirements of CEQA.

Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 10. Publication and Effective Date. Within fifteen (15) days from and after adoption, this Ordinance or a summary thereof shall be published in accordance with California Government Code Section 36933.

Following adoption by at least a four-fifths vote of the City Council, this Ordinance shall take effect and be enforced on January 31, 2020 and shall remain in effect for up to twenty-two (22) months and fifteen (15) days, unless repealed earlier by the City Council.

THE FOREGOING ORDINANCE was introduced, adopted, and ordered published at a regular meeting of the City Council on January 21, 2020 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

APPROVED:

Gregory B. Lyman, Mayor

ATTEST:

Holly M. Charl  ty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charléty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2020–XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the 21st day of January, 2020; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this _____ day of January, 2020.

Holly M. Charléty, City Clerk



AGENDA BILL

Agenda Item No. 6.C.

Date: January 21, 2020
To: El Cerrito City Council
From: Melanie Mintz, Community Development Director; Aissia Ashoori, Housing and Economic Development Analyst, Community Development Department
Subject: Purchase and Sale Agreement 6111 Potrero Avenue and 11335-41 San Pablo Avenue (*Public Hearing Noticed 1/11/2020*)

ACTION PROPOSED

Staff recommends the City Council conduct a public hearing and adopt a resolution authorizing execution of a Purchase and Sale Agreement with Potrero Ave Partners, LLC ("Buyer") for the disposition and subsequent development of 6111 Potrero Avenue and 11335-41 San Pablo Avenue (APNs 513-372-018 and -015).

BACKGROUND

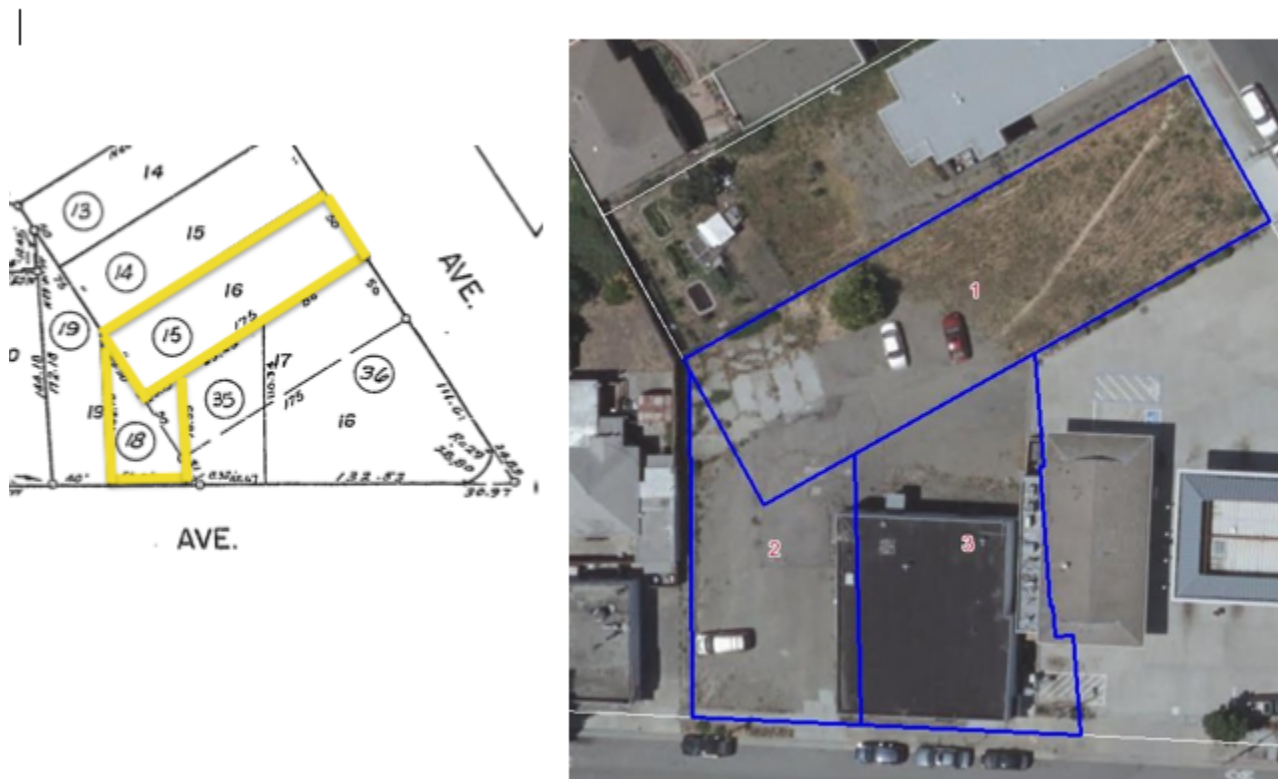
The former El Cerrito Redevelopment Agency ("Agency") previously owned the properties located at 6111 Potrero Avenue and 11335-41 San Pablo Avenue. The Agency acquired the small "Eastshore Triangle" properties in 1991 with the goal of assembling a larger development site to assist in the redevelopment of the Del Norte area consistent with the goals and objectives of the El Cerrito Redevelopment Plan, including the alleviation of blighting conditions and the stimulation of development. As a result of dissolution of the Redevelopment Agency, and in accordance with Health and Safety Code section 34191.5, the Successor Agency to the El Cerrito Redevelopment Agency prepared a Long Range Property Management Plan (LRPMP), which was approved by the Oversight Board to the Successor Agency and the State Department of Finance. As directed by the LRPMP, the properties were transferred to the City for future development (Resolution No. 2016-39). Under redevelopment dissolution laws, the City has the obligation to sell the properties and distribute the sales proceeds to the various taxing entities that serve the City. Consistent with the LRPMP, the City entered into an Exclusive Negotiating Rights Agreement (ENRA) with the proposed developer in February 2019 (Resolution 2019-02) and the ENRA was extended by Council to allow additional time for site environmental analysis (Resolution 2019-53).

The subject City owned parcels are small (6111 Potrero Avenue is 3,612 square feet and 11335-41 San Pablo Avenue is 8,750 square feet; Figure 1 and Figure 2, Parcels 1 and 2) and roughly in an L-Shape, likely difficult to develop alone. Potrero Ave Partners, LLC, includes the owner of the adjacent 5,863 square foot property (1615 Potrero Avenue, Figure 2, Parcel 3). The combined properties are 18,225 square feet and form a more developable site. Potrero Avenue Partners, which includes an established East Bay restaurateur, aims to build a mixed-use building consisting of an approximately 4,250 square feet ground floor brewery on the Potrero Avenue frontage, a 3,200 square foot beer

garden/restaurant and outdoor plaza along San Pablo Avenue, and approximately 60 units of residential. (Attachment 4) The development will be subject to the City's Inclusionary Zoning Ordinance, resulting in either 10% of the units being below-market rate or in payment of Affordable Housing In-Lieu fees.

Completion of this proposed mixed-use development would significantly advance the City's goals for economic development in the Uptown area and build upon other upcoming development. It would assist in ameliorating blighting influences, serve as a catalyst for continued pedestrian-oriented commercial development, help create an active gateway to the City on Potrero Avenue, and serve as an amenity to attract additional residential and commercial development to the Uptown area. Taxing entities would receive their one-time portion of the sales proceeds and benefit from the increased ongoing property tax assessment. In a parallel and complementary effort and in fulfillment of the original Eastshore Triangle property acquisition goals, the City also entered into a Purchase and Sale Agreement for an additional former RDA owned Eastshore Triangle property for development of a hotel in 2018. (Resolution No. 2018-27) That property was subsequently purchased, and a proposed hotel was brought for consideration to a joint Design Review Board and Planning Commission Study Session in November of this year. A full application for entitlement of that project will likely be submitted in the next couple of months.

Figures 1 and 2



SOURCE: CITY GIS. PARCEL BOUNDARIES NOT PRECISE.

ANALYSIS

The ENRA established procedures and standards for the negotiation by the City and the developer and provided time for pre-purchase and pre-development tasks. These tasks included determination of purchase price, site investigations and time to determine financial feasibility of the acquisition and proposed development. Negotiation tasks included:

1. Establishment of Purchase Price: The developer funded, and the City commissioned, obtaining an appraisal to determine Fair Market Value (FMV) for the subject property. The FMV for the two subject parcels totaling 12,362 square feet (0.28 acres) was determined to be \$350,000.
2. Feasibility: The ENRA provided time for the developer to conduct financial feasibility work, perform further site analysis and required the developer to submit a Schedule of Performance to the City (Attachment 4). The City and the developer partnered with the Association of Bay Area Governments through their Brownfields Community Wide Assessment grant from the Environmental Protection Agency to conduct a Phase I Environmental Site Assessment and Phase II sampling and testing. The results from these assessments did identify Recognized Environmental Conditions (RECs) and the need for mitigations. The recommended mitigations did not affect the negotiated purchase price and the developer will be assuming the responsibility to incorporate required mitigations at the property through the entitlement process and as property owner/developer.
3. Schedule of Performance: See Attachment 4.
4. Due Diligence Regarding Physical Condition and Title: The ENRA providing the Developer time to conduct any and all other investigations necessary to satisfy their due diligence requirements.

With an established purchase price and the due diligence requirements satisfied, the City and Developer negotiated the terms of the Purchase and Sale Agreement, which is before the City Council for consideration.

Owner Participation

The process proposed for the subject properties is consistent with the process used for the disposition of 1718 Eastshore for development of a hotel. This process, similar to what the prior redevelopment plan allowed, encourages an owner of property in the project area to acquire and develop property in a non-competitive process. The reasons for this recommendation to sell the property to the adjacent property owner are: 1) the parcel sizes and shape make the parcel difficult to develop on its own; 2) the City parcel is more developable in combination with the proposed buyer-owned adjacent parcel; and 3) the Proposed Purchaser is an established East Bay restaurateur with demonstrated success, whose experience will help advance the goals for the Uptown area. Further, the proposed Purchase and Sale Agreement (PSA) contains a clause (Section 5.c) that should the Buyer transfer the property prior to commencing construction of the proposed development, the Buyer shall pay to the City fifty percent of the net proceeds of such sale.

Purchase Price

The proposed PSA establishes the purchase price of \$350,000, which represents Fair Market Value established by an appraisal prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) by Valbridge Property Advisors. The proposed PSA requires that the buyer deposit \$35,000 as an earnest money deposit within five days of the effective date of the agreement which would be applicable to the purchase price at the close of escrow. Subject to the conditions specified in the PSA, the deposit may be fully or partially refunded if either the Seller (the City) or the Buyer (Potrero Partners, LLC) default per conditions set forth in the PSA. Per the Compensation Agreement (Resolution No. 2018-49) at the Close of Escrow for the property, the County Auditor-Controller will distribute proceeds to the taxing entities, less customary transaction costs, in accordance with their applicable share of property tax. The City could expect to receive a one-time payment of 22.23% of the purchase price, or approximately \$77,000.

Project Timeline and Entitlement

The timeline currently anticipates the Buyer submitting a complete application to the Planning Division within the next three months and being brought to public hearings for consideration by the Design Review Board and, as needed, the Planning Commission in Year 1, with the goal of entering the construction phase in Year 2 (Attachment 4). Although numerous economic factors affect real estate development, due to the developers' ownership interest in the adjacent property and to their partnership with the operator of the ground floor retail/commercial component, this project is well positioned to move forward.

STRATEGIC PLAN CONSIDERATIONS

The proposed action support several Strategic Plan goals, including:

Goal B: Achieve long-term financial sustainability by maximizing opportunities for existing and expanding businesses and exploring opportunities for public/private partnerships.

Goal C: Deepen a sense of place and community identity by developing a vision for underdeveloped and underutilized properties through advanced planning efforts that encourage investment and/or new development.

The proposed Agreement also implements the Economic Development Action Plan Goal 3 D: Proceed with the disposition and development of former redevelopment assets, by negotiating purchase and sale agreement based on the development objectives of the San Pablo Avenue Specific Plan and Long-Range Property Management Plan.

ENVIRONMENTAL CONSIDERATIONS

The negotiation for the sale of the parcel does not require environmental analysis under the California Environmental Quality Act (CEQA). CEQA analysis will be required at the point where the developer is seeking permit approvals for a specific development.

FINANCIAL CONSIDERATIONS

Outside costs associated with negotiating the Purchase and Sale Agreement and the costs of the Appraisal were covered by the Buyer's deposit to the City. The costs of environmental analysis associated with the due diligence were paid for by a grant-partnership with the Association of Bay Area Governments and the Environmental Protection Agency.

Revenues to the City – Revenues will consist of one-time sales proceeds from sale of the property (approximately 22.23% of the proceeds, in accordance with the City's applicable property tax share) of approximately \$77,000, on-going property taxes from the new development, and sales tax from the commercial components. In the near-term, because the property is within the former Redevelopment Area, a significant portion of the property tax growth or "increment" will be directed to pay for the former Redevelopment Agency's obligation, including bond repayment. When the bond repayment is complete in 2025, property tax proceeds to the General Fund will increase.

LEGAL CONSIDERATIONS

Pursuant to Government Code Section 52201, development of the Project on the Property will assist in the creation of an economic opportunity by providing increased property tax revenues and sales tax. This finding is based on the facts and analysis set forth in the the Section 52201 Summary accompanying the Resolution. The Resolution has been review and approved by Counsel.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Government Code Section 52201 Summary
3. Purchase and Sale Agreement
4. Project Description Packet

RESOLUTION 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING EXECUTION OF AN PURCHASE AND SALE AGREEMENT WITH POTRERO AVENUE PARTNERS, LLC FOR THE DISPOSITION OF 6111 POTRERO AVENUE AND 11335-41 SAN PABLO AVENUE

WHEREAS, the former El Cerrito Redevelopment Agency ("Agency") acquired those certain properties located at 6111 Potrero Avenue (APN 513-372-018) and 11335-41 San Pablo Avenue (APN 513-372-015) (the "Property") for the purposes of facilitating development of the Property consistent with the El Cerrito Redevelopment Plan; and

WHEREAS, the former Agency was dissolved in accordance with State law effective February 1, 2012; and

WHEREAS, the Successor Agency to the El Cerrito Redevelopment Agency ("Successor Agency"), in accordance with Health and Safety Code Section 34191.5 approved a long range property management plan ("LRPMP") dealing with the disposition of all of the former Agency owned property; and

WHEREAS, the LRPMP was approved by the Oversight Board to the Successor Agency and subsequently approved by the California Department of Finance; and

WHEREAS, the LRPMP calls for the Property to be transferred to the City for future development; and

WHEREAS, the adjacent property owner, Potrero Street Partners ("Proposed Developer") has expressed interest in acquiring the Property for purposes of constructing a mixed-use development; and

WHEREAS, the disposition of the Property to the Proposed Developer for purposes of development of residential and commercial space would be consistent with the Redevelopment Plan and the purposes for which the former Redevelopment Agency acquired the Property and would also further the owner participation goals of the Redevelopment Plan; and

WHEREAS, the Proposed Developer entered into an Exclusive Negotiating Rights Agreement with the City to negotiate a Purchase and Sale Agreement ("PSA") in February 2019 (Resolution 2019-02) for the development of the Property whereby the City would convey the Property on terms to be determined by the parties but not less than the fair market value of the property; and

WHEREAS, the ENRA was extended in August 2019 (Resolution 2019-53) to allow additional time for environmental site analysis; and

WHEREAS, the pre-purchase and pre-development tasks identified in the ENRA to be completed, including the negotiation of a fair market value purchase price, financial feasibility and site analysis, have been completed, and

WHEREAS, an appraisal prepared in conformity with the Uniform Standard of Professional Appraisal Practice (USPAP) by Valbridge Property Advisors established the purchase price to be \$350,000; and

WHEREAS, development of the site would result in ameliorating blighting influences, serve as a catalyst for continued transit-oriented development, create an active pedestrian-oriented gateway to the City, and provide 60-units of housing and commercial amenities; and

WHEREAS, the development would contribute one-time revenue from the sale of the property and ongoing revenue in the form of increased property and sales tax; and

WHEREAS, the City has placed on file a copy of the Purchase and Sale Agreement, and the summary called for in Government Code Section 52201 (the "Section 52201 Summary"), and has made the Purchase and Sale Agreement and the Section 52201 Summary available for public inspection and copying pursuant to Government Code Section 52201. The Section 52201 Summary is incorporated in this Resolution by this reference; and

WHEREAS, the City Council has conducted a duly noticed public hearing on the Purchase and Sale Agreement pursuant to Government Code Section 52201 for the purpose of receiving the input and comments of the public on the DDA; and

NOW, THEREFORE, BE IT RESOLVED, pursuant to Government Code Section 52201, the City Council hereby finds that the purchase price for the Property in the Purchase and Sale Agreement of \$350,000 is not less than the fair market value of the Property at its highest and best use. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby finds that the development of the Project on the Property will assist in the creation of an economic opportunity by providing increased property tax revenues and sales tax. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, that the City authorizes and directs the City Manager to execute the Purchase and Sale Agreement with the Proposed Developer on behalf of the City, substantially in the form on file with the City Clerk, with such modifications as the City Manager determines appropriate to effectuate the purposes of this Resolution, such determination to be conclusively evidenced by the City Manager's execution of the Purchase and Sale Agreement.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute such other documents as are necessary to effectuate the purposes of the Purchase and Sale Agreement including but not limited to grant deeds, assignment agreements, escrow instructions and any other documents necessary to complete the transaction.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

I CERTIFY that at a regular meeting on January 21, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ____, 2020.

Holly M. Charléty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

**SUMMARY REPORT PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 52201
IN CONNECTION WITH THE SALE OF PROPERTY BY AND BETWEEN THE CITY OF EL
CERRITO AND POTRERO AVE PARTNERS, LLC**

6111 Potrero Avenue and 11335-41 San Pablo Avenue, El Cerrito, California 94530

The following Summary Report has been prepared pursuant to California Government Code Section 52201. The report sets forth certain details of the proposed Purchase and Sale Agreement (Agreement) to convey City-owned property in El Cerrito, referred to as 6111 Potrero Avenue and 11335-41 San Pablo Avenue (Property). The Agreement is proposed between the City of El Cerrito (City) and Potrero Partners, LLC, a California limited liability company (Buyer).

The former El Cerrito Redevelopment Agency acquired the Property in 1991 for \$682,297 to assist in the redevelopment of the Del Norte area consistent with the goals and objectives of the El Cerrito Redevelopment Plan, including the alleviation of blighting conditions and the stimulation of development.

The Property consists of two vacant parcels of land located at 6111 Potrero Avenue and 11335-41 San Pablo Avenue, El Cerrito, Contra Costa County, California 94530 and is further identified as Assessor Parcel Number (APN)s 513-372-015 and 018. The Property is an aggregate 0.28-acre or 12,362-square-foot parcel in an L-Shape, likely difficult to develop alone. The Property is zoned in the Transit-Oriented Higher-Intensity Mixed Use (maximum building height of 65'), as defined by the *San Pablo Avenue Specific Plan*.

The Fair Market Value Appraisal Report, prepared by Valbridge Property Advisors on March 29, 2019, established the Property value at \$350,000. The property will be conveyed to the Buyer as-is.

The Buyer owns the adjacent parcel located at 1615 Potrero which consist of 5,863 square foot. The combined properties are 18,225 square feet and form a more developable site. The Buyer is an established East Bay restaurateur and aims to build a mixed-use building assembled with the Property.

The immediate economic benefit upon transfer will result in increased property taxes based on the fair market value of \$350,000. The property currently does not generate any property taxes so the estimated property taxes after the sale of the property of \$3,500 represents more than 15% increase in the property taxes currently generated by the property. The Buyer ultimately intends to develop the Property into a mixed-use project of an approximately 4,250 square feet ground floor brewery on the Potrero Avenue frontage, a 3,200 square foot beer garden/restaurant and outdoor plaza along San Pablo Avenue, and approximately 60 units of residential, in accordance with the *San Pablo Avenue Specific Plan*. Once the Property submits and receives its Planning approvals/entitlements, it will be reassessed upon construction completion which will result in further increases in the property taxes. The proposed development plans are aligned with the goals of the *San Pablo Avenue Specific Plan* which supports housing near transit and increased economic development by revitalizing the underutilized site in the City's Uptown area. Other public benefits required by the *San Pablo Avenue Specific Plan* include:

- **Inclusionary Zoning:** All projects with 9 or more rental dwelling units, 10 or more for-sale dwelling units or any combination of 9 or more for-sale and rental dwelling units are

required to provide between 10%(rental) - 12% (for-sale) of units at below market rate or the option of paying an in-lieu fee earmarked for future affordable housing development opportunities.

- **Art in Public Places:** All projects with development costs that exceed \$250,000 are required to contribute either public art on-site or an in-lieu fee. The required in-lieu fee is 1% of development costs, not to exceed \$150,000. The Arts and Culture Commission is tasked with determining program requirements and the use of public art funds.
- **Public and Private Open Space:** The *San Pablo Avenue Specific Plan* requires new residential and commercial projects to provide new private, common and public open space. Projects that are 25,000 square feet or greater are required to provide 25 square feet per 1,000 square feet of a building. Developers have the option of applying to pay a fee in-lieu of the open space.
- **West Contra Costa Unified School District:** New residential and commercial development is required to pay a Developer Fee to WCCUSD that is earmarked for the construction or reconstruction of school facilities to accommodate growth resulting from development.
- **Transportation Impact Fee:** Established to pay for transportation improvements to accommodate development.
- **Other Fees:** New development pays other fees, including the Subregional Transportation Mitigation Program fee, to help mitigate regional development related congestion.

The project is also aligned with the goals of the State's *Regional Housing Needs Assessment*, the City's *Affordable Housing Strategy*, *Climate Action Plan* and *Economic Development Plan*.

**PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(6111 Potrero Avenue and 11335-41 San Pablo Avenue, El Cerrito, California)**

This Purchase and Sale Agreement and Joint Escrow Instructions (the "Agreement") is dated, for reference purposes only, as of _____, 2020 (the "Execution Date"), by and between the City of El Cerrito, a municipal corporation (the "Seller" or the "City"), and Potrero Ave Partners, LLC a California limited liability corporation (the "Buyer"), with reference to the following facts and purposes.

RECITALS

A. The City and the Buyer are parties to that certain Exclusive Negotiating Rights Agreement, dated as of February 11, 2019 (as further amended, modified, or supplemented, the "ENRA"), regarding that certain real property as more particularly described in Exhibit A attached to this Agreement, and commonly known as 6111 Potrero Avenue and 11335-41 San Pablo Avenue, El Cerrito, California (the "Property"). In accordance with Section 1.2 of the ENRA, the ENRA is terminated as of the Execution Date.

B. The Property was formerly owned by the El Cerrito Redevelopment Agency (the "Former Agency"). As of February 1, 2012, the Former Agency was dissolved pursuant to California Health & Safety Code Section 34172. Prior to the Execution Date, pursuant to California Health & Safety Code Section 34191.5, the successor agency to the Former Agency transferred and conveyed the Property to the Seller. As of the Execution Date, the City is the fee owner of the Property.

C. The City desires to sell the Property to the Buyer upon the satisfaction of certain conditions precedent as more particularly described in Section 2, below. In accordance with California Government Code Section 52201, the city council of the City (the "City Council") conducted a duly noticed public hearing regarding the sale of the Property pursuant to this Agreement on January 11, 2020, and, following such public hearing, the City Council authorized the sale of the Property to the Buyer.

D. The Buyer desires to purchase the Property from the Seller, subject to the terms and conditions of this Agreement. In accordance with the ENRA, the Buyer desires to acquire the Property for the proposed development of a mixed-use building consisting of approximately 4,250 square feet of ground floor brewery, a 3,200 square foot beer garden and approximately 60 units of upper floor residential on the Property and adjacent real property under the Buyer's control located at 6115 Potrero Avenue (the "Proposed Development"). This Agreement sets forth the terms and conditions under which the City may sell, and the Buyer may purchase, the Property. Nothing in this Agreement shall be deemed to permit the Proposed Development to be developed on the Property.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual covenants contained in this Agreement, the Buyer and the Seller (each a "Party", and, collectively, the "Parties") agree as follows:

Section 1. Purchase and Sale of the Property. Subject to the terms and conditions set forth below, the Seller agrees to sell, and the Buyer agrees to purchase, the Property.

Section 2. Independent Consideration. Within three (3) business days after the Execution Date, Buyer shall pay the Seller the amount of One Hundred Dollars (\$100) (the "Independent Consideration"). The Independent Consideration shall be non-refundable to the Buyer, and shall not be credited towards the payment of the Purchase Price (defined below). The Independent Consideration shall constitute separate, independent, and good and valuable consideration provided by the Buyer to the Seller for the rights extended to the Buyer under this Agreement.

Section 3. Opening Escrow. Prior to the Execution Date, the Parties opened an escrow account (the "Escrow") with Old Republic Title Company, 555 12th Street, Suite 2000, Oakland, California (the "Escrow Holder" or the "Title Company"). The account number for the Escrow is [•].

Section 4. Purchase Price. The purchase price for the Property shall be three hundred fifty thousand dollars (\$350,000) (the "Purchase Price"). The Purchase Price was established by that certain appraisal of the Property dated as of March 29, 2019 prepared by Valbridge Property Advisors.

Section 5. Payment of Purchase Price. The Purchase Price shall be paid by the Buyer as follows:

(a) Deposit. Within five (5) days after the Effective Date the Buyer shall deposit with the Escrow Holder the amount of thirty-five thousand dollars (\$35,000) as an earnest money deposit (the "Deposit"). The Deposit and all accrued interest shall be fully refundable to the Buyer in the event that this agreement terminates as a result of a Seller default as set forth in Section 17 or as a result of termination of this Agreement pursuant to Section 6 or Section 15. If Buyer terminates this Agreement pursuant to Section 9, one-half of the Deposit shall be refundable to the Buyer. The Deposit, and all accrued interest, shall be credited against the Purchase Price on the Closing Date, as defined below.

(b) Balance of the Purchase Price. The Buyer shall deposit with the Escrow Holder the balance of the Purchase Price in lawful money of the United States of America, together with all of the Buyer's closing and other costs as set forth in Section 19, no later than one (1) business day prior to Close of Escrow, as defined below, for the purchase of the Property.

(c) Additional Consideration. As additional consideration for the conveyance of the Property, the Buyer agrees that in the event the Buyer transfers the Property prior to commencing construction of the Proposed Development, the Buyer shall pay to the City, fifty percent (50%) of the Net Proceeds of such sale, as defined below. For purposes of this Section 5(c), the Net Proceeds shall mean the amount by which the purchase price received by the Buyer for the Property exceeds the Purchase Price minus reasonable closing costs, fees and commissions, the Buyer's verifiable and documented holding costs incurred during the time that the Buyer held the Property and the cost paid by the Buyer for any construction plans or specifications, entitlements and other soft costs incurred in connection with the Property.

Section 6. Buyer's Physical Inspection Contingency.

(a) Physical Inspection Contingency Period. The Buyer's obligation to purchase the Property is subject to the contingency set forth in this Section. Such contingency is solely for the benefit of the Buyer, and may be waived by the Buyer in the Buyer's sole and absolute discretion. The Buyer, in the Buyer's sole and absolute discretion, shall approve or disapprove the condition of the Property (the "Physical Inspection Contingency") anytime during the period after the Execution Date; provided, however that the Buyer must approve or waive the Physical Inspection Contingency no later than 5:00 p.m. (California time) on the date that is sixty (60) days after the Effective Date (such period shall be referred to herein as the "Physical Inspection Contingency Period"). On, or before, expiration of the Physical Inspection Contingency Period, the Buyer shall deliver written notice to the Seller either approving or disapproving the physical condition of the Property. The Buyer's failure to deliver such notice shall be deemed approval. If the Buyer timely disapproves the physical condition of the Property in accordance with this Section, then: (1) the Deposit shall be returned to the Buyer immediately upon the written request of the Buyer to Title Company (2) the Buyer shall pay all of the cancellation charges of the Title Company ("Cancellation Charges"), if any; and (3) this Agreement shall automatically terminate and be of no further force or effect and neither Party shall have any further rights or obligations hereunder, other than pursuant to any provision hereof that expressly survives the termination of this Agreement. Following the Buyer's satisfaction of, or the deemed approval, of the Physical Inspection Contingency, the Buyer shall have no further right to terminate this Agreement pursuant to this Section.

(b) Right of Entry. As of the Execution Date, the City hereby grants the Buyer the right to enter onto the Property, for purposes of the Physical Inspection Contingency. In connection with such entry and investigation, the Buyer shall: (1) give the City reasonable advance written notice (at least five (5) days for invasive testing and at least two (2) Business Days, as defined below, for all other purposes); and (2) prior to entry, cause the City to be named as an additional insured on a Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Personal Injury, Broadform Property Damage, and Products and Completed Operations, and deliver evidence of such insurance to the City. The required insurance shall be provided under an occurrence form by an insurer authorized and licensed to provide such insurance in the State of California. The Buyer shall promptly repair and restore any damage the Buyer (or any of its agents) may cause to the Property. The Buyer shall deliver to the City, within ten (10) days after receipt thereof, a complete copy of any investigation, test, report or study which the Buyer conducts, or causes to be conducted, with respect to the Property (except confidential or proprietary information). In addition to the obligations set forth in Section 14, below, the Buyer shall indemnify, defend and hold the City and its directors, officers, employees and agents harmless from any and all claims, liabilities, damages, losses, expenses, costs and fees (including attorneys' fees and costs) to the extent arising out of the Buyer's (or any agent of the Buyer's) entry upon the Property, or the investigation(s) and test(s) which the Buyer (or its agents) may conduct; provided, however, that this indemnity shall not apply to matters to the extent arising from the results of the Buyer's investigations, tests and inspections (including the discovery of existing environmental conditions on the Property), or due to the negligence or willful misconduct of the City or its directors, officers, employees, or agents. Such indemnity obligation shall survive the termination or expiration of this Agreement.

Section 7. Reserved.

Section 8. Reserved.

Section 9. Proposed Development Subject to CEQA and Applicable Land Use Approvals.

(a) No City Obligation; Buyer at Risk. Notwithstanding any provision of this Agreement to the contrary, as more particularly set forth in this Section, the Buyer agrees and acknowledges that nothing in this Agreement shall be construed to compel the City to: (a) approve or make any particular findings with respect to any approval or documentation required for the Proposed Development pursuant to the California Environmental Quality Act, or its implementing regulations and guidelines (collectively, "CEQA"); or (b) approve or make any particular findings with respect to the any permits, approvals and authorizations from the City (acting in its capacity as a regulatory authority) ("Applicable Land Use Approvals".) The Buyer assumes all risks regarding CEQA and the Applicable Land Use Approvals, including, but not limited to, the risk that the Proposed Development may not be approved by the City, and that the City may impose mitigation measures on the Proposed Development, and all risks regarding the Applicable Land Use Approvals.

(b) Buyer Acknowledgement regarding City Discretion.

(1) CEQA. The Buyer acknowledges that the environmental review process under CEQA: (A) may involve the preparation and consideration of certain information by the City, as well as consideration of input from third parties; (B) that approval or disapproval of the Proposed Development following completion of the environmental review process pursuant to CEQA is within the sole and absolute discretion of the City without limitation by or consideration of the terms of this Agreement; and (C) that the City makes no representation regarding the ability or willingness of the City to approve the Proposed Development at the conclusion of the environmental review process required by CEQA, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed by the City. The Buyer further acknowledges that the City retains, to maximum extent permitted under applicable law, its full discretion under CEQA to: (A) make such modifications to any entitlements, permits or approvals as may be reasonably necessary to impose reasonable measures to mitigate any significant environmental impacts of the Proposed Development; (B) select other reasonable alternatives to avoid significant environmental impacts of the Proposed Development; (C) balance the benefits against any significant environmental impacts of the Proposed Development (if any) prior to taking final action if such significant impacts cannot otherwise be reasonably avoided; (D) determine not to proceed with the Proposed Development in the event there are substantial environmental impacts that cannot be reasonably mitigated so the Proposed Development can be approved without a statement of overriding considerations; or (E) take such other actions to approve or not approve the Proposed Development as determined by the City. In addition, the Buyer further acknowledges that any required approvals by any other local, state or federal agency (or any other required approvals under any applicable local, state, or federal law) may require additional environmental review, and that approval by the City pursuant to CEQA (if any) shall not bind any other local, state or federal agency to approve the Proposed Development (or otherwise satisfy any requirements of any other applicable local, state, or

federal law, to the extent such laws may be applicable to the Proposed Development), or bind any other local, state, or federal agency to impose mitigation measures that are consistent with the terms of this Agreement or with the terms of any mitigation measures that may be required by the City pursuant to the City's environmental review in accordance with CEQA.

(2) Applicable Land Use Approvals. In addition, the Buyer acknowledges that the process to obtain the Applicable Land Use Approvals: (A) involves the preparation and consideration of certain information by the City, as well as consideration of input from third parties; (B) that approval or disapproval of the Proposed Development following completion of such process is within the sole and absolute discretion of the City without limitation by or consideration of the terms of this Agreement; and (C) that the City makes no representation regarding the ability or willingness of the City to approve the Proposed Development, grant the Applicable Land Use Approvals, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed by the City. The Buyer further acknowledges that the City retains, to the maximum extent permitted under applicable law, its full discretion under all applicable planning and zoning laws (including, but not limited to, the City's municipal code) to: (i) make such modifications to any entitlements, permits or approvals as may be reasonably necessary to impose reasonable measures to mitigate any impacts of the Proposed Development; (ii) select other reasonable alternatives to avoid significant impacts of the Proposed Development; (iii) balance the benefits against any significant impacts of the Proposed Development (if any) prior to taking final action if such significant impacts cannot otherwise be reasonably avoided; (iv) determine not to proceed with the Proposed Development in the event there are substantial impacts that cannot be reasonably mitigated; or (v) take such other actions to approve or not approve the Proposed Development as determined by the City. In addition, the Buyer further acknowledges that any required approvals by any other local, state or federal agency (or any other required approvals under any applicable local, state, or federal law) may require additional review, and that approval by the City of the Applicable Land Use Approvals (if any) shall not bind any other local, state or federal agency to approve the Proposed Development (or otherwise satisfy any requirements of any other applicable local, state, or federal law, to the extent such laws may be applicable to the Proposed Development), or bind any other local, state, or federal agency to impose measures that are consistent with the terms of this Agreement or with the terms of any mitigation measures that may be required by the City.

(c) Termination. The Buyer may terminate this Agreement if the Buyer determines that the implementation of any required environmental mitigation measures required by the City, or any other mitigation measures imposed in conjunction with the Applicable Land Use Approvals, would cause development of the Proposed Development to become economically infeasible. To effectuate such termination of this Agreement, the Buyer shall deliver a written notice to the City setting forth that this Agreement is terminated pursuant to this Section within ten (10) days following the City's final action under CEQA, or the final action on the Applicable Land Use Approvals. In the event this Agreement is terminated pursuant to this Section, then: (1) the City shall have no obligation to convey any portion of the Property, or any other interest in the Property, to the Buyer; (2) the City shall have no further obligation or duty under this Agreement (except for any provisions that expressly survive the termination of this Agreement); (3) if such termination is prior to the expiration of the Physical Inspection Contingency Period, then one-half of the Deposit shall be returned by the City to the Buyer; and

(4) if such termination is after the expiration of the Physical Inspection Contingency Period, then the full amount of the Deposit shall be retained by the City.

(d) Buyer Release. In the event of such termination of this Agreement, then the Buyer shall have no further duties or obligations under this Agreement (except for any provisions that expressly survive the termination of this Agreement). The Buyer further acknowledges that due to the termination of this Agreement as set forth above, the Buyer shall have no right, pursuant to this Agreement, to acquire the Property, and, therefore, may suffer economic loss or other consequences, including, but not limited to, economic loss or other consequences due to the Buyer's inability to obtain ownership of the Property, develop the Proposed Development, or to operate, or to permit the operation of, any particular form of business at the Property. The Buyer, on behalf of itself and anyone claiming by, through or under the Buyer specifically releases and waives any claim against the City for such loss or economic consequences in connection with: (1) the termination of this Agreement following completion of all applicable requirements of CEQA; and (2) the failure to obtain the Applicable Land Use Approvals. The Buyer, on behalf of itself and anyone claiming by, through or under the Buyer, hereby assumes the above-mentioned risks and hereby expressly waives any right related to such risks that the Buyer and anyone claiming by, through or under the Buyer, may have under Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Buyer's Initials: _____

(e) Conflict with Other Provisions. In the event of any conflict between the terms of this Section, and the terms of any other provision of this Agreement, the terms of this Section shall control.

Section 10. Condition of Title. At Close of Escrow the Seller shall deliver insurable title to the Property, free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession except for taxes and assessments not yet due and payable and exceptions _____ as set forth on that certain Preliminary Report dated _____, issued by the Escrow Holder, a copy of which is attached hereto as Exhibit B (the "Title Report") provided, however, if the Buyer fails to obtain a survey of the Property prior to Close of Escrow the Buyer shall take title subject to exceptions _____ of the Title Report, and if the Buyer obtains a survey, the Buyer shall either take title subject to any exceptions shown on such survey or approve or disapprove such exceptions as part of its Physical Inspection Contingency. The Seller shall have no obligation to obtain a survey.

Section 11. Condition of the Property.

(a) **"AS IS" PURCHASE. THE BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE CITY ACQUIRED THE PROPERTY FROM THE FORMER AGENCY IN CONNECTION WITH THE DISSOLUTION OF**

THE FORMER AGENCY UNDER APPLICABLE STATE LAW. THEREFORE, THE BUYER SPECIFICALLY ACKNOWLEDGES THAT THE CITY IS SELLING AND THE BUYER IS BUYING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT THE BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT) OR IMPLIED, FROM THE CITY AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (1) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (2) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER; (3) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE PROPERTY; (4) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, AND THE PROPERTY'S USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE; (5) THE ZONING OR OTHER LEGAL STATUS OF THE PROPERTY OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE PROPERTY; (6) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (7) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE PROPERTY OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (8) THE CONDITION OF TITLE TO THE PROPERTY. THE BUYER AFFIRMS THAT THE BUYER HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT THE CITY MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE. THE BUYER ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE PROPERTY AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, WHETHER THE PROPERTY IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). THE BUYER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE PROPERTY'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE,

HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

Buyer's Initials: _____

(b) Survival. The terms and conditions of this Section shall expressly survive the Close of Escrow, shall not merge with the provisions of the Grant Deed (defined below), or any other closing documents and shall be deemed to be incorporated by reference into the Grant Deed. The City is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property furnished by any contractor, agent, employee, servant or other person. The Buyer acknowledges that the Purchase Price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Property. The Buyer has fully reviewed the disclaimers and waivers set forth in this Agreement with the Buyer's counsel and understands the significance and effect thereof.

(c) Acknowledgment. The Buyer acknowledges and agrees that: (1) to the extent required to be operative, the disclaimers of warranties contained in this Section hereof are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements, and (2) the disclaimers and other agreements set forth in such sections are an integral part of this Agreement, that the Purchase Price has been adjusted to reflect the same and that the City would not have agreed to sell the Property to the Buyer for the Purchase Price without the disclaimers and other agreements set forth in this Section.

(d) Buyer's Release of the City. The Buyer, on behalf of itself and anyone claiming by, through or under the Buyer, hereby waives its right to recover from and fully and irrevocably releases the City, and its council members, employees, officers, directors, representatives, and agents (the "Released Parties") from any and all claims, responsibility and/or liability that the Buyer may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (1) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability or utility of the Property, or its suitability for any purpose whatsoever; (2) any presence of hazardous or toxic materials or substances; and (3) any information furnished by the Released Parties under or in connection with this Agreement.

(e) Scope of Release. The release set forth in Section 11(d) hereof includes claims of which the Buyer is presently unaware or which the Buyer does not presently suspect to exist which, if known by the Buyer, would materially affect the Buyer's release of the Released Parties. The Buyer specifically waives the provision of any statute or principle of law that provides otherwise. In connection with and to the extent permitted by law, the Buyer agrees, represents and warrants that the Buyer realizes and acknowledges that factual matters now unknown to the Buyer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and the Buyer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Buyer nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, the Buyer, on behalf of itself

and anyone claiming by, through or under the Buyer, hereby assumes the above-mentioned risks and hereby expressly waives any right related to such risks that the Buyer and anyone claiming by, through or under the Buyer, may have under Section 1542 of the California Civil Code, which reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Buyer's Initials: _____

Notwithstanding the foregoing, this release shall not apply to, nor shall the Released Parties be released from, the Released Parties' actual fraud or misrepresentation.

Section 12. Representations and Warranties of the Seller. The Seller makes the following representations and warranties to the Buyer, as of the Execution Date and the Effective Date:

(a) No Condemnation. To the best of the Seller's knowledge, there is no pending or threatened condemnation or similar proceeding affecting the Property, nor does the Seller have any knowledge that any such action is contemplated.

(b) No Proceedings. To the best of the Seller's knowledge, there are no notices of any code violation, legal actions, or other legal proceedings or threatened against or affecting the Property or the Seller's title to the Property, and the Seller has not received notice from any public entity with respect to any future proceeding or basis for any future proceeding against or affecting the Property, or concerning any existing or potential, past, present or future toxic or hazardous material or conditions at or within the Property.

(c) Clear Title and Authority. The Seller is the sole owner of the Property, free of restrictions, leases, liens, easements, covenants, conditions and restrictions, and other encumbrances, except as set forth in the Title Report. Subject only to the terms of this Agreement, the Seller also represents that the Seller has the legal power, right and authority to enter into this Agreement and the documents referenced herein and to consummate the transaction contemplated hereby.

(d) Occupants. There are no tenants occupying at the Property, and no third party has any right to use or occupy any portion of the Property.

(e) Warranty. Seller warrants that there are no undisclosed oral or written leases or licenses on all or any portion of the Property.

Section 13. Representations and Warranties of the Buyer. The Buyer makes the following representations and warranties to the Seller, as of the Execution Date and the Effective Date, and the Buyer will deliver to the Seller at close of Escrow an estoppel certificate representing the following:

(a) Authority. The Buyer has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(b) No Default. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby shall result in a breach of or constitute a default under any agreement, instrument, or other obligation to which the Buyer is a party or by which the Buyer may be bound.

Section 14. Indemnification.

(a) By Seller. The Seller hereby agrees to defend, indemnify and hold the Buyer harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith (including without limitation actual attorneys' fees and costs of experts and consultants) arising from: (1) any personal injury or property damage relating to the Property which occurred prior to the date of Close of Escrow and not caused by the acts or omissions of the Buyer or the Buyer's agents, employees, or invitees; and (2) the breach of any of the Seller's representations made hereunder. The indemnity contained in this Section shall survive the termination of this Agreement.

(b) By Buyer. The Buyer hereby agrees to defend, indemnify and hold the Seller harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith (including without limitation actual attorneys' fees and costs of experts and consultants) arising from: (1) any personal injury or property damage relating to the Property which occurred after the date of Close of Escrow and not caused by the acts or omissions of the Seller or Seller's agents; (2) the breach of any of the Buyer's representations made hereunder; and (3) the City's approval of this Agreement, or any approval or action taken by the City in connection with the Proposed Development, including, but not limited to, any claim arising under CEQA or the Applicable Land Use Approvals. The indemnity contained in this Section shall survive the termination of this Agreement.

(c) No Limitation. The Parties further agree and understand as follows: a Party does not, and shall not be deemed to, waive any rights against the other Party which it may have by reason of the aforesaid indemnity and hold harmless agreement because of any insurance coverage available; the scope of the aforesaid indemnity and hold harmless agreement is to be construed broadly and liberally to provide the maximum coverage in accordance with their terms; no specific term or word contained in this Section shall be construed as a limitation on the scope of the indemnification and defense rights and obligations of the Parties unless specifically so provided.

Section 15. Casualty or Condemnation. If, prior to Close of Escrow, the Seller becomes aware that all or any material portion of the Property has been destroyed, substantially damaged, or subjected to a threat of condemnation, or has become the subject of any proceedings, judicial, administrative, or otherwise with respect to a taking by eminent domain or condemnation, then the Seller shall promptly give the Buyer notice thereof and the Buyer, at its

sole option, may, within ten (10) days following such notification elect to terminate this Agreement by giving the Seller written notice thereof, in which event the Parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder and the Deposit shall be released to the Buyer. For the purposes of this Section, the term "material portion" refers to fifty percent (50%) or more of the Property. If the Buyer chooses not to terminate this Agreement and elects to complete the transaction contemplated hereunder, then this Agreement shall remain in full force and effect and the transfer of the Property, less any portion taken by eminent domain or condemnation, shall be consummated as contemplated by this Agreement, with such adjustment in the Purchase Price as shall be mutually agreed upon by the Parties, provided, however, in the event that the Parties cannot mutually agree on the amount of the adjustment in the Purchase Price within sixty (60) days of such damage, then the Seller shall be entitled to terminate this Agreement by giving written notice to the Buyer setting forth that this Agreement is terminated pursuant to this section. In the event this Agreement is terminated pursuant to this Section, then (1) the Seller shall have no obligation to convey any portion of the Property, or any other interest in the Property to the Buyer; (2) the Seller shall have no further obligation or duty under this Agreement (except for any provisions that expressly survive the termination of this Agreement; and (3) the Deposit shall be returned by the Seller to the Buyer. If this Agreement is not terminated pursuant to this Section at the Close of Escrow, the Seller shall transfer to the Buyer all of its right, title, and interest in and to any insurance proceeds, if any, resulting from any casualty or any awards that have been or may thereafter be made for any taking or condemnation.

Section 16. **LIQUIDATED DAMAGES UPON BUYER DEFAULT.** IN THE EVENT THAT THE ESCROW AND THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT FAIL TO CLOSE AS A RESULT OF THE DEFAULT OF THE BUYER IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, THE BUYER AND THE SELLER AGREE THAT THE SELLER WILL SUSTAIN DAMAGES, AND THAT THE SELLER'S ACTUAL DAMAGES WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO DETERMINE. THE PARTIES THEREFORE AGREE THAT IN THE EVENT THAT ESCROW AND THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT FAIL TO CLOSE AS A RESULT OF DEFAULT OF THE BUYER, AND THE SELLER IS READY, WILLING AND ABLE TO PERFORM ITS OBLIGATIONS HEREUNDER, THE SELLER, AS THE SELLER'S SOLE AND EXCLUSIVE REMEDY, SHALL BE ENTITLED TO THE DEPOSIT, AND INTEREST EARNED THEREON, AS LIQUIDATED DAMAGES AND AS CONSIDERATION FOR ENTERING INTO THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE RESULTING DAMAGES WILL BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ASCERTAIN, AND, THEREFORE, THE PARTIES AGREE AFTER NEGOTIATION BETWEEN THEM THAT RETENTION OF THE DEPOSIT, AND ALL THE INTEREST EARNED THEREON, AS LIQUIDATED DAMAGES WILL BE AN APPROPRIATE FORM OF COMPENSATION TO THE SELLER. BY PLACING THEIR INITIALS IN THE SPACES BELOW, BOTH PARTIES AGREE TO LIQUIDATE DAMAGES AS SET FORTH ABOVE. IN THE EVENT ESCROW FAILS TO CLOSE AS A RESULT OF THE BUYER'S DEFAULT AND THE SELLER IS READY, WILLING AND ABLE TO PERFORM ITS OBLIGATIONS HEREUNDER, THEN (A) FOLLOWING THE SELLER'S RECEIPT OF THE DEPOSIT, AND ALL INTEREST EARNED THEREON, THIS AGREEMENT AND THE RIGHTS

AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THE ESCROW CREATED HEREBY SHALL TERMINATE, AND (B) THE ESCROW HOLDER SHALL, AND IS HEREBY AUTHORIZED AND INSTRUCTED TO, RETURN PROMPTLY TO THE PARTIES ALL DOCUMENTS AND INSTRUMENTS TO THE PARTY WHO DEPOSITED THE SAME. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION, AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

SELLER'S INITIALS:

BUYERS' INITIALS:

Section 17. Seller Default. In the event that the escrow and the transaction contemplated by this Agreement fail to close as a result of the default of the Seller in the performance of its obligations under this Agreement, and the Buyer is not in default of any obligation under this Agreement, then the Buyer may either: (1) terminate this Agreement; or (2) prosecute an action for specific performance. The Buyer hereby covenants and agrees that in no event shall the Buyer be entitled to claim, or obtain, any monetary damages following the City's default under this Agreement, with the exception of the return of the Deposit to the Buyer. The Buyer hereby further covenants and agrees that the Buyer shall be estopped from asserting any claim for damages, including, but not limited to, actual damages, compensatory damages, consequential damages, damages for restitution, or damages in any other form. The Parties hereby acknowledge and agree that the prohibition on the Buyer's ability to recover, and the City's liability for, monetary damages arising out of a City default under this Agreement have been separately negotiated by the Parties, and that the City would not have agreed to convey the Property to the Buyer without such prohibition. In the event of conflict between the terms of this Section, and any other provision of this Agreement, the terms of this Section shall control.

Section 18. Close of Escrow. Subject to the other provisions of this Agreement, Escrow shall close on a date mutually agreeable to the parties but in no event later than the thirty days after expiration of the Physical Inspection Contingency Period. Upon Close of Escrow, the Seller shall convey the Property to the Buyer by grant deed in form reasonably acceptable to the Buyer (the "Grant Deed"). The "Closing Date" or "Close of Escrow" hereunder shall be the date that the Grant Deed is recorded with the office of the Recorder of Contra Costa County. The City may determine to submit escrow instructions to Escrow Holder in addition to this Agreement, but which in no event may be inconsistent with this Agreement.

Section 19. Costs of Escrow and Closing. The Buyer shall pay all transfer taxes, and all other title costs and escrow costs (including, but not limited to the Buyer's title insurance policy). All such costs to be paid by the Buyer in this Section shall be in addition to the Purchase Price. The Seller shall not be responsible for any costs necessary for Close of Escrow.

Section 20. Title Insurance. As a condition to the Close of Escrow, the Escrow Holder shall be ready to issue to the Buyer a 2006 ALTA owner's title insurance policy with exceptions 2 (survey matters), 3 (easements), 4 (mechanics liens) and 5 (taxes or special assessments not shown as existing liens) deleted, and including an endorsement to delete the arbitration provision, in an amount no less than the Purchase Price, insuring fee title to the Property vested in the Buyer, subject to only taxes not yet due and payable and those exceptions _____ described in the Title Report.

Section 21. No Changes. Following the Execution Date, the Seller shall maintain the Property until the Closing Date in a condition consistent with its current condition (reasonable wear and tear excepted).

Section 22. Assignments/Possession. The Buyer shall not transfer its rights under this Agreement to any person or entity without the prior written approval or consent of the Seller which may be granted or denied in the City's sole discretion. Possession of the Property shall be delivered to the Buyer at the Close of Escrow.

Section 23. Broker's Commission. The Buyer represents to the Seller that it has not engaged or used the services of any person, firm or corporation that may claim a broker's commission or finder's fee upon execution of this Agreement. The Seller represents to the Buyer that it has not engaged or used the services of any person, firm, or corporation that may claim a broker's commission or finder's fee upon execution of this Agreement. The Buyer and the Seller (each, reciprocally, as an "Indemnitor") agree to indemnify and hold the other (as "Indemnatee") harmless from all expense, loss, damage and claims, including the Indemnatee's attorneys' fees, if necessary, arising out the Indemnitor's breach of the foregoing representation.

Section 24. Notices. All notices required or permitted hereunder shall be in writing. Unless otherwise provided herein, any notice, tender or delivery to be given pursuant to this Agreement by either Party may be accomplished by personal delivery, by first class certified mail, return receipt requested, or by delivery via an overnight courier which guarantees next day delivery. Any notice delivered by certified mail, return receipt requested shall be deemed received on the date of delivery reflected on the return receipt. Any notice delivered by overnight shall be deemed received one (1) business day after deposit thereof with the overnight courier. Notices shall be addressed as set forth below, but each Party may change its address by written notice in accordance with this Section, on not less than ten (10) days prior written notice.

To City: City of El Cerrito
 10890 San Pablo Avenue
 El Cerrito, CA 94530
 Attention: City Manager

with a copy to: Goldfarb & Lipman LLP
 1300 Clay Street, 11th Floor
 Oakland, CA 94612
 Attention: Karen Tiedemann

To Buyer: Potrero Ave Partners LLC
[•]

with a copy to: [•]

Section 25. General Provisions.

(a) Interpretation. The use in this Agreement of the words "including", "such as" or words of similar import when used with reference to any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific statements, terms or matters, unless language of limitation, such as "and limited to" or words of similar import are used with reference thereto. The headings of this Agreement are for convenience only and do not in any way limit or amplify the terms or provisions hereof. All pronouns and variations thereof shall be deemed to refer to the masculine, feminine, or neuter, and to the singular or plural, as the identity of the Party or Parties may require.

(b) Invalidity. If any provision of this Agreement shall be found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected thereby, and every provision hereof shall be valid and enforceable to the fullest extent permitted by law.

(c) Entire Agreement. The Recitals set forth above, and all exhibits attached hereto, are hereby incorporated into this Agreement by this reference. This Agreement supersedes all prior negotiations and agreements between the Parties, and is intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitute the final and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceedings involving this Agreement. No provision of this Agreement may be amended except by an agreement in writing signed by the Parties.

(d) No Drafting Party. The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including but not limited to Civil Code Section 1654 as may be amended from time to time) shall not apply to the interpretation of this Agreement.

(e) Successors. Subject to the requirements of Section 22, this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto.

(f) Time of the Essence. Time is of the essence in this Agreement. If the last day of any period to give or reply to a notice, meet a deadline or undertake any other action occurs on a day that is not a day of the week on which the City is open to the public for carrying on substantially all business functions (a "Business Day"), then the last day for giving or replying to such notice, meeting such deadline or undertaking any such other action shall be the next succeeding Business Day. In no event shall a Saturday or Sunday be considered a Business Day.

(g) Force Majeure. Any deadline herein shall be subject to extensions due to events of Force Majeure. The term "Force Majeure" means a delay in performance caused by: (1) war, terrorist acts, insurrection or riots; (2) earthquakes, fires, floods, other casualties or acts of God; (3) restrictions or delays imposed or mandated by government agencies, or the actions or inactions of government agencies that are outside the control of a Party or the enactment of laws or regulations that prevent or preclude compliance by a Party with its obligations under this Agreement; (4) litigation brought by persons other than a Party or an affiliate of a Party; (5) acts of one Party, or failure of such Party to act when action is required, which to the extent in and of itself prevents or precludes compliance by the other Party with any material provision of this Agreement; or (6) other similar basis for excused performance that is not within the reasonable control of the Party whose performance is sought to be excused. The term "Force Majeure" does not include delays associated with: (i) economic or market conditions; (ii) the unavailability of financing; or (iii) the financial inability or insolvency of a Party.

(h) Cooperation of Parties. The Buyer and the Seller shall, during the Escrow period, execute such further escrow instructions and any and all other documents reasonably necessary or appropriate to close the purchase and sale pursuant to the terms of this Agreement so long as all such documents are consistent with this Agreement. All obligations of the Buyer under this Agreement, or otherwise arising under this Agreement, are joint and several obligations of the individuals constituting the Buyer.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(j) Attorneys' Fees and Costs. In the event any action or proceeding in court or other dispute resolution mechanism permitted under this Agreement is commenced by either Party to interpret or enforce the terms of this Agreement, the prevailing Party therein shall be entitled to recover from the non-prevailing Party all of the prevailing Party's reasonable costs and expenses in connection therewith, including on any appeal and including expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and reasonable attorneys' fees and costs for the services rendered to the prevailing Party in such action or proceeding (which shall include, without limitation, the reasonable costs for services of the City's in-house counsel).

(k) City's Regulatory Authority. The Buyer acknowledges that the City is entering into this Agreement solely in its capacity as the fee owner of the Property. Therefore, the Buyer agrees and acknowledges that nothing in this Agreement (including, but not limited to, the execution of this Agreement, or the execution of the Grant Deed in accordance with this Agreement) shall limit, waive, or otherwise impair the authority and discretion of: (1) the City in connection with the review and approval of any proposed construction plans for the Property (or any change to such plans), or any use, or proposed use, of the Property; (2) any office or department of the City acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Property; or (3) any approval required by the City. This Section shall survive the termination or expiration of this Agreement, and the recordation of the Grant Deed.

(1) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Execution Date.

SELLER:

CITY OF EL CERRITO, a municipal corporation

By: _____
Karen Pinkos, City Manager

BUYER:

POTRERO AVE PARTNERS, LLC, a California
limited liability company

By: _____
[•]

NOTE: Buyer must initial Sections 9; 11(a); 11(e); and 16.

NOTE: Seller must initial Section 16.

EXHIBIT A

The land referred to is situated in the County of Contra Costa, City of El Cerrito, State of California, and is described as follows:

PARCEL ONE:

Lot 16 in Block 18, Map of Alta Punta Tract, on April 22, 1905 in Book D of Maps, at Page 90, Contra Costa County Records.

APN: 513-372-015

PARCEL TWO:

Portion of Lots 17, 18 and 19 in Block 18 on April 22, 1905 in Book D of Maps, at Page 90, Contra Costa County Records, described as follows:

Beginning on the North line of Potrero Avenue, distant thereon North 87° 06' West, 214.49 feet from the most Easterly corner of Lot 18 in Block 18, as designated on said Map; thence from said point of beginning North 87° 06' West along said North line, 50 feet to the East line of the Parcel of land described in the Deed from Joseph Lavigne, et ux, to Giulie Giudici, dated December 19, 1905 and recorded December 28, 1905, in Book 114 of Deeds, at Page 244; thence North along said East line, 102.50 feet to the West line of Lot 16 in said Block 18; thence South 28° 59' East along said line 49.30 feet to the most Southerly corner of said Lot 16; thence North 61° 01' East along the South line of said Lot, 29.75 feet; thence South, 76.35 feet to the point of beginning.

APN: 513-372-018

EXHIBIT B
TITLE REPORT

B-1

December 11, 2019

Potrero Avenue Partners LLC
 740 San Luis Road
 Berkeley, CA 94707

Honorable Members of the El Cerrito City Council
 10890 San Pablo Ave
 El Cerrito, CA 94530

Re: Introducing 6115 Potrero and 11335-41 San Pablo Avenues

After many months of diligent work, we are pleased to present the City Council with Potrero Partners' initial vision for the redevelopment of 6115 Potrero Avenue and 11335-41 San Pablo Avenue. The project is grounded by the successful frame of the San Pablo Avenue Specific Plan – transit oriented, designed to a pedestrian scale, and catalytic for street life all to advance upper San Pablo as a shopping and dining destination. More specifically, the project's in its current state envisions:



Contributing to greater economic vitality:

- 3,200 sq. ft. beer garden with outdoor seating fronting San Pablo Ave.
- 4,250 sq. ft. microbrewery on Potrero Ave
- Anchoring the revitalization of this corner of El Cerrito
- \$30MM+ of direct spending in construction
- Dozens of ongoing operations jobs, sales tax revenue and increased property tax revenue

Furthering transit-oriented development:

- 60 units of housing immediately adjacent to transit. Mix of studio, 1-bedroom and 2-bedroom units.
- 10% of the housing units (6 units – half affordable to low-income and half affordable to moderate-income households)

Graceful density furthering San Pablo Ave Specific Plan goals:

- Five floors stepping back from the street to center most of the density mid-block
- Multiple roof gardens and a ground floor courtyard.

- Pedestrian walkway linking ground floor commercial uses

Included in this package are supporting materials to demonstrate our commitment to moving this project forward including a) high level project schedule and b) a conceptual plan set. We look forward to continued discussion with City Staff and yourselves to realize this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Rhodes', is written over a horizontal line. The signature is stylized with a large 'M' and 'R'.

Mark A. Rhodes, AICP
Rhodes Planning Group

6115 Potrero/11335-41 San Pablo Timeline

Tasks	Year 1				Year 2				Year 3				Year 4			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Pre-Entitlement																
Entitlement																
Building Permit																
Financing																
Construction																

EL CERRITO FIELD STUDIES

CONSTRAINTS AND OPPORTUNITIES

DESIGN PRINCIPLES

INITIAL MASSING

PLAN STUDIES

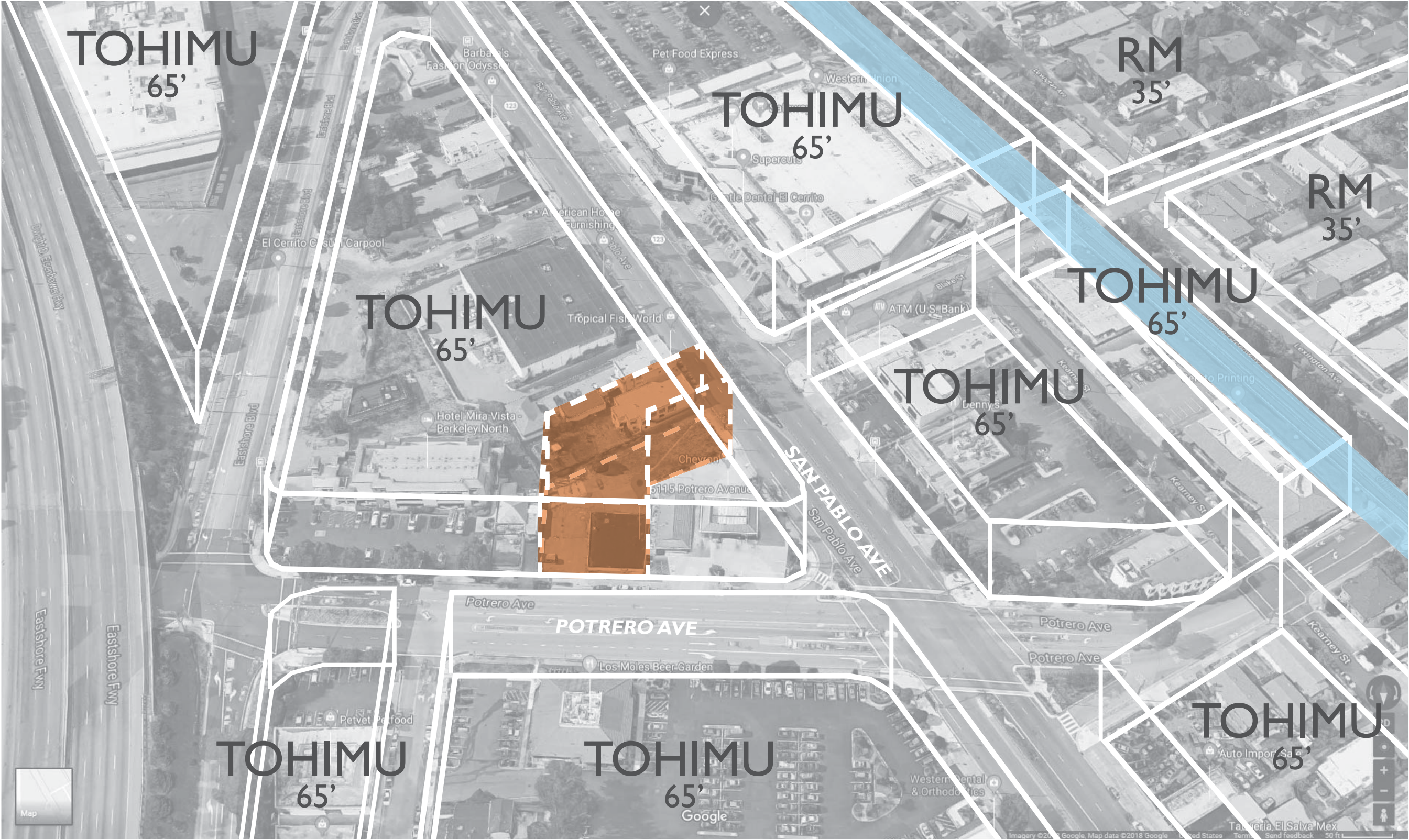
CONCEPT FOR BEER GARDEN

POTRERO & SAN PABLO AVE. EL CERRITO ,CA



MAY, 2019

PS
PUBLIC/SEMI-PUBLIC

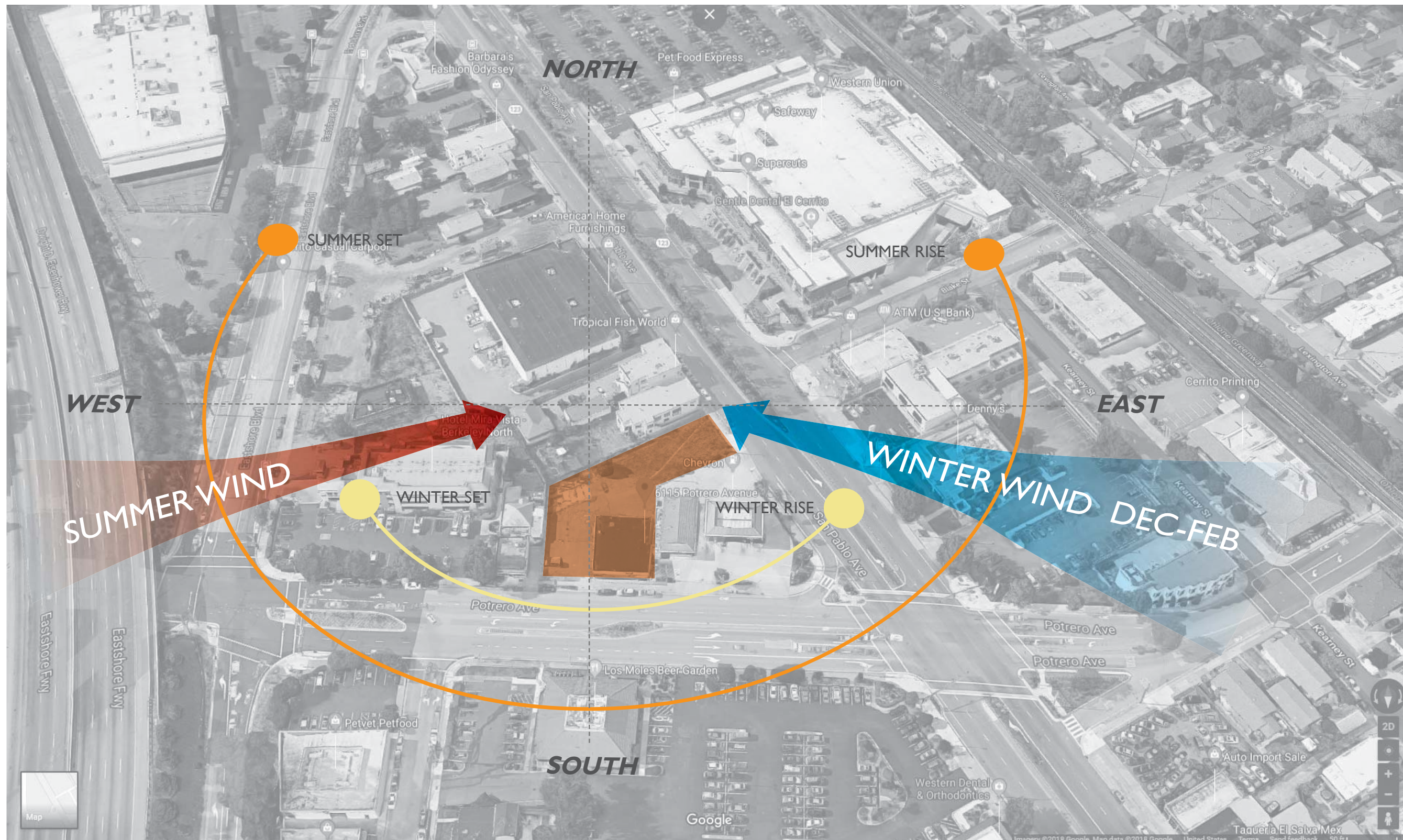


POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019
YIELD STUDIES

CONSTRAINTS AND OPPORTUNITIES :ADJACENT HEIGHTS





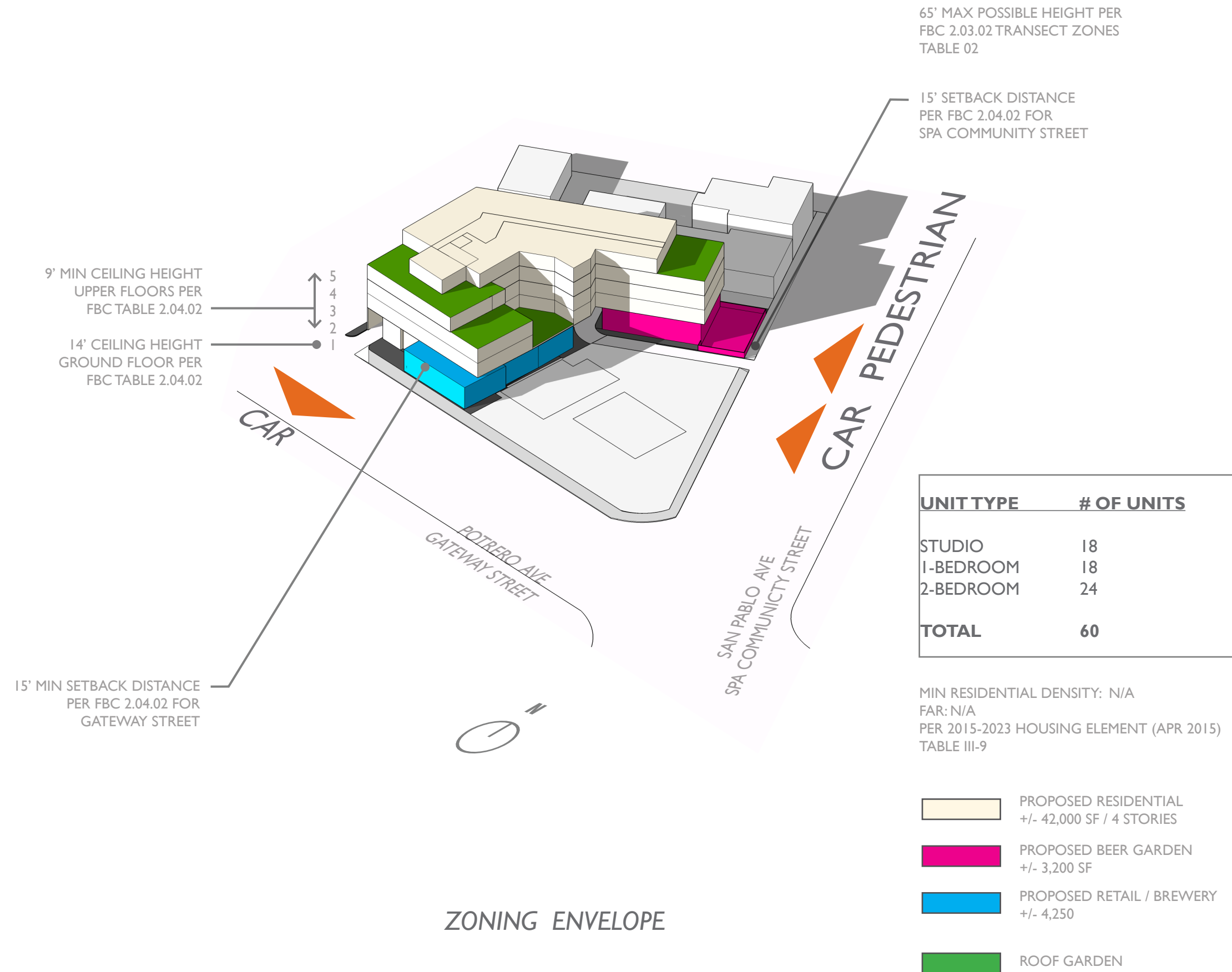


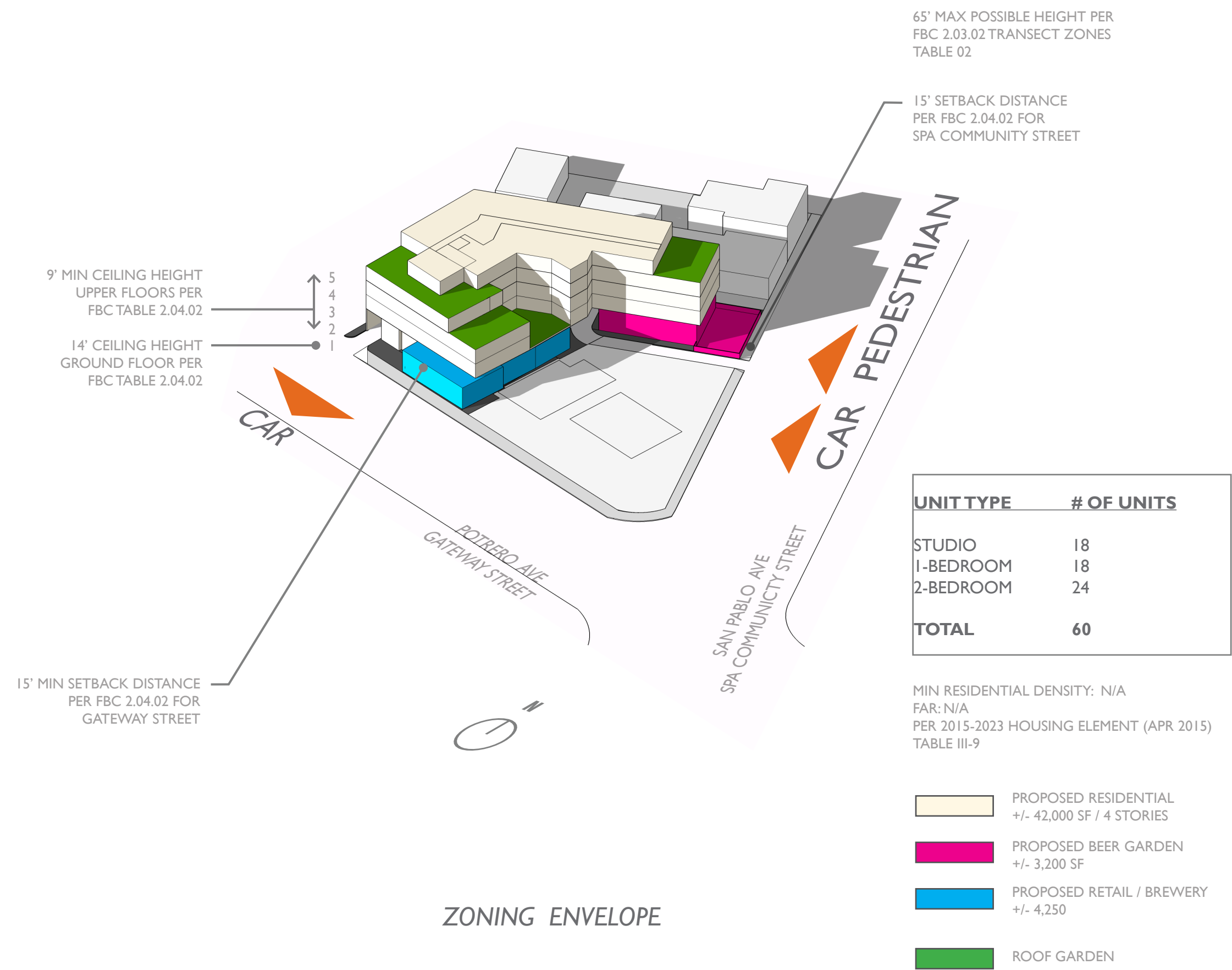
POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019
YIELD STUDIES

CONSTRAINTS AND OPPORTUNITIES : CLIMATE

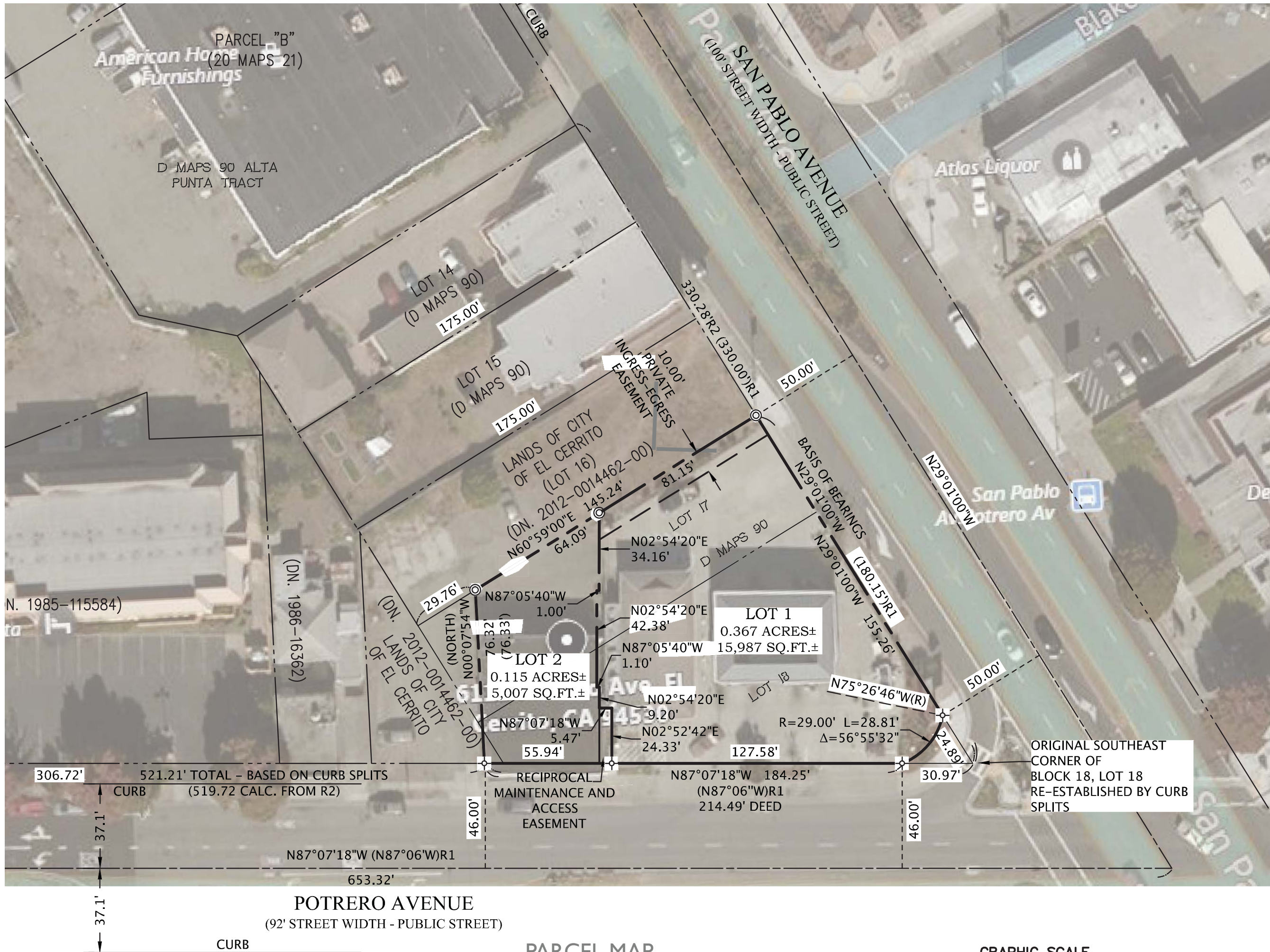


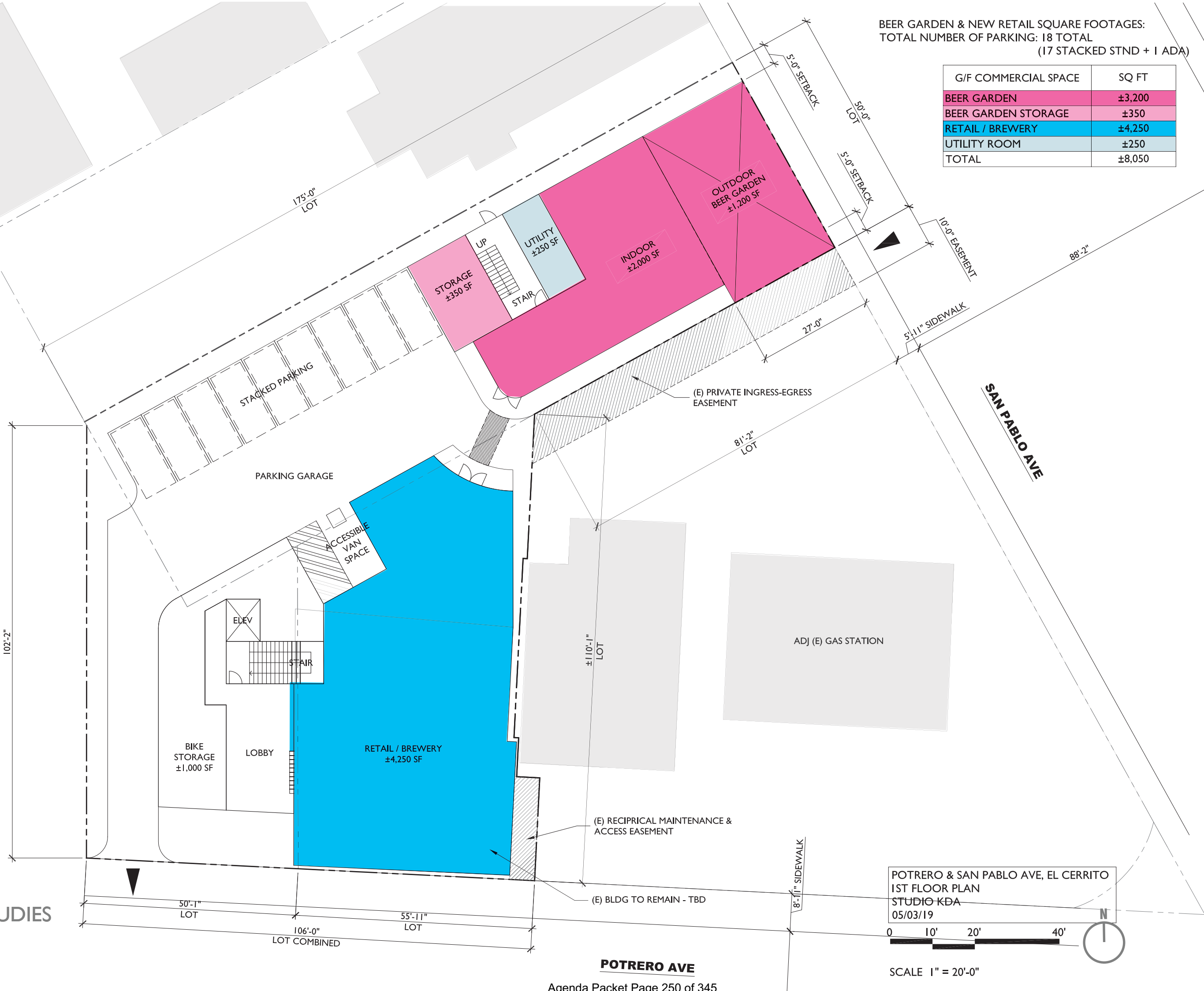
04





YIELD STUDIES





BEER GARDEN & NEW RETAIL SQUARE FOOTAGES:
TOTAL NUMBER OF PARKING: 18 TOTAL
(17 STACKED STND + 1 ADA)

G/F COMMERCIAL SPACE	SQ FT
BEER GARDEN	±3,200
BEER GARDEN STORAGE	±350
RETAIL / BREWERY	±4,250
UTILITY ROOM	±250
TOTAL	±8,050



POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019

YIELD STUDIES



UNIT / BEDROOM COUNT & SQUARE FOOTAGE:
TOTAL NUMBER OF UNITS (2ND & 3RD FLOORS): 36 TOTAL

UNIT TYPE	% OF PROJECT	# OF UNITS	AVERAGE SQ FT
STUDIO	±20%	12 (6 × 2)	±350
1 BDRM	±20%	12 (6 × 2)	±600
2 BDRMS	±20%	12 (6 × 2)	±800
SUB-TOTAL 2/F & 3/F	60%	36	
TOTAL	100%	60 UNITS	





POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019

YIELD STUDIES



UNIT / BEDROOM COUNT & SQUARE FOOTAGE:
TOTAL NUMBER OF UNITS (5TH FLOOR): 8 TOTAL

UNIT TYPE	% OF PROJECT	# OF UNITS	AVERAGE SQ FT
STUDIO	±2%	1	±350
1 BDRM	±2%	1	±600
2 BDRMS	±10%	6	±800
SUB-TOTAL 5TH FLOOR	14%	8	
TOTAL	100%	60 UNITS	



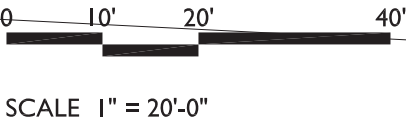
POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019

YIELD STUDIES



PLAN STUDIES

POTRERO & SAN PABLO AVE, EL CERRITO
FLOOR PLAN (5TH FLOOR)
STUDIO KDA
05/03/19





POTRERO AVE & SAN PABLO AVE
EL CERRITO, CA
MAY, 2019

YIELD STUDIES

CONCEPT FOR BEER GARDEN ALONG SAN PABLO AVE



AGENDA BILL

Agenda Item No. 7.A.

Date: January 21, 2020
To: El Cerrito City Council
From: Karen Pinkos, City Manager
Subject: Study Session on Project Stabilization Agreement for the City of El Cerrito with the Contra Costa Building and Construction Trades Council

ACTION PROPOSED

Discuss and provide direction to staff regarding negotiation of a Project Stabilization Agreement for the City of El Cerrito.

BACKGROUND/ANALYSIS

A Project Stabilization Agreement (PSA), commonly known as a Project Labor Agreement (PLA), is a pre-hire collective bargaining agreement between one or more labor organizations (often negotiated by the local Building Trades Council) and the owner of a project, which establishes the terms and conditions of employment on the project work. The purpose of a PSA is to facilitate the delivery of the project with minimal labor-related disruptions which would adversely impact the public and/or delay the project.

Generally, the terms of the agreement apply to all contractors and subcontractors who are awarded contracts on the project and supplement or supersede any existing collective bargaining agreements. PSAs typically include provisions that prohibit workers from engaging in strikes, work stoppages, and slowdowns for the duration of the term of the agreement. In exchange for the commitment not to engage in such activities, PSAs generally require that contractors hire workers who are referred from union hiring halls and that nonunion workers pay dues or fees to the applicable union while employed on the project. Furthermore, contractors must pay the workers prevailing wage, contribute to union trust funds, and abide by certain dispute and grievance resolution procedures.

Advocates of PSA/PLAs in public sector construction say that they reduce the risk of construction delays and increased costs caused by worker shortages or labor disputes, due to the no-strike provisions and the use of centralized referral systems or hiring halls to obtain workers. Advocates also maintain that PSA/PLAs foster positive communication channels to address worker concerns, grievances or disputes and resolve them quickly, thereby creating workforce continuity and stability at the job site. Opponents of PSA/PLAs say that they limit competition, raise costs, and favor union over non-union contractors and workers, which could make it more difficult for non-union workers to gain employment. Non-union contractors tend to prefer not to be bound by PSA/PLAs because these agreements require the non-union contractor to essentially act as a union contractor for the duration of a project by requiring the

contractor to pay union wages and contribute to union benefit plans, rather than funding their own plan.

In Contra Costa County, the cities of Brentwood, Concord, Martinez, Pittsburg, and Richmond have adopted Project Stabilization Agreements with the Contra Costa Building and Construction Trades Council. The City of Antioch City Council provided direction to staff to negotiate with the Trades Council to develop a PSA in October 2019. Further, the Building Trades Council also has Project Stabilization Agreements for projects throughout the County with various school districts, public agencies, and BART.

At the request of Councilmember Pardue-Okimoto, staff is presenting this item for the City Council to consider whether or not the City should have a Citywide PSA in place for municipal projects. In 2019, staff met with the CEO of the Contra Costa Building and Construction Trades Council with then-Mayor Pardue-Okimoto and Councilmember Quinto to discuss the concept of a Citywide PSA in broad terms, and determined the best process would be for the City Council to discuss this item in a study session and then provide direction to staff as to whether or not they should work with the Building Trades Council to negotiate an agreement. Attachment 1 is a draft template of a PSA provided by the Building Trades Council as an example of what such an agreement might contain.

STRATEGIC PLAN CONSIDERATIONS

Consideration of a Citywide Project Stabilization Agreement with the Contra Costa Building and Construction Trades Council is consistent with the City of El Cerrito Strategic Plan Goal A: Deliver exemplary government services.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

The Building Trades Council has requested that a PSA with the City would apply to municipal projects exceeding \$1 million in project costs. The PSA would also have a provision for the duration of the agreement, which would likely be for a five year term, consistent with other Contra Costa cities. These items would be subject to negotiation.

At this time, there are no projects planned this fiscal year that would meet the \$1 million threshold. Future projects, such as municipal buildings or large scale capital improvement projects, will be considered within the upcoming biennial budget process within the Capital Improvement Plan (CIP) and would need to factor in the criteria of a PSA, if approved by the City Council.

Costs associated with negotiating a PSA will include City Attorney costs and staff time, which will depend upon the length of the negotiation period.

LEGAL CONSIDERATIONS

Should the City Council direct staff to negotiate with the Contra Costa Building and Construction Trades Council to develop a Project Stabilization Agreement, the City Attorney will be involved in reviewing the agreement.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Alexandra Orologas".

Alexandra Orologas , Assistant City Manager

Attachments:

1. Trades Council Draft Project Stabilization Agreement Template

**PROJECT STABILIZATION AGREEMENT
FOR THE [CITY/COUNTY/DISTRICT] OF _____**

INTRODUCTION/FINDINGS

This Project Stabilization Agreement is entered into this ____ day of _____, 20____, by and between the [CITY/COUNTY/DISTRICT] of _____ (hereinafter the “[CITY/COUNTY/DISTRICT]”), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the **“Agreement to be Bound” (Addendum A)** (referred to collectively herein as the “Contractors/Employers”), and the Contra Costa County Building & Construction Trades Council (hereinafter the “Council”) and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the “Union” or “Unions”).

The purpose of this Agreement is to promote the efficiency of construction operations for the [CITY/COUNTY/DISTRICT] of _____ through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to meet the needs of the [CITY/COUNTY/DISTRICT] and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work and will be represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on a Project of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the [CITY/COUNTY/DISTRICT], the Unions and the Contractors/Employers would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and encourage close cooperation among the Contractors/Employers and the Unions so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and nonunion workers of different employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractors/Employers and the Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, the [CITY/COUNTY/DISTRICT] places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable pathways to careers in the construction industry; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Project;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I **DEFINITIONS**

1.1 "Agreement" means this Project Stabilization Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor(s)/Employer(s) as a condition of working on the Project.

1.3 "[CITY/COUNTY/DISTRICT]" means the [CITY/COUNTY/DISTRICT] of _____ and its governing board, officers, agents and employees, including managerial personnel.

1.4 "Completion" means that point at which there is Final Acceptance by the [CITY/COUNTY/DISTRICT] of a Construction Contract and the [CITY/COUNTY/DISTRICT] has filed a Notice of Completion. For purposes of this definition, "Final Acceptance" means that point in time at which the [CITY/COUNTY/DISTRICT] has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the [CITY/COUNTY/DISTRICT] has executed a written acceptance of the work.

1.5 “Construction Contract” means the public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of the Project is done) awarded by the [CITY/COUNTY/DISTRICT] that are necessary to complete the Project.

1.6 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with the [CITY/COUNTY/DISTRICT] with respect to the construction of any part of the Project, under contract terms and conditions that are approved by the [CITY/COUNTY/DISTRICT] and that incorporate this Agreement, and all contractors and subcontractors of any tier.

1.7 “Council” means the Contra Costa County Building & Construction Trades Council.

1.8 “Master Agreement” or “Schedule A” means the Master Collective Bargaining Agreement of each craft Union signatory hereto.

1.9 "Project" means [EITHER: the [CITY/COUNTY/DISTRICT] public works construction projects identified on **Addendum B** hereto OR: all [CITY/COUNTY/DISTRICT] public works construction projects, subject to the Public Contract Code, where either the engineer’s estimate of the total cost of the project, or the cumulative bid amounts submitted by all contractor(s) awarded Construction Contracts for the Project, exceeds _____. All Construction Contracts required to complete an integrated Project shall be considered in determining whether this threshold is met.] The [CITY/COUNTY/DISTRICT] and the Council may mutually agree in writing to add additional projects or components to be covered by this Agreement. The term “Project” applies to each and all projects as defined in this section, whether used in the singular or plural herein.

1.10 “Project Manager” means the person(s) or entity(ies) designated by the [CITY/COUNTY/DISTRICT] to oversee all phases of construction on the Project and the implementation of this Agreement.

1.11 “Union” or “Unions” means the Contra Costa Building and Construction Trades Council and its affiliated Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

2.1 **Parties:** This Agreement applies to and is limited to all Contractors/Employers performing Construction Contracts on the Project (including subcontractors at any tier), and their successors and assigns, the [CITY/COUNTY/DISTRICT], the Council and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on the Project. For purposes of this Agreement, Construction Contracts shall be considered Completed as set forth in Section 1.4, except when the [CITY/COUNTY/DISTRICT] directs a Contractor to engage in repairs, warranty work, punch list work, or modifications under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and that is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed to supply materials to the Project.

2.3.1 This Agreement applies to any start-up, calibration, commissioning performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion, unless performed by [CITY/COUNTY/DISTRICT] employees.

2.3.2 This Agreement covers all on-site fabrication work over which the [CITY/COUNTY/DISTRICT], Contractor(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by any of the Unions and is directly or indirectly part of the Project, provided such work is covered by a Master Agreement or local addenda to a national agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the [CITY/COUNTY/DISTRICT] within ten (10) days of written request or as required by the bid specifications.

2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIII and XIV of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement.

2.4.1 This Agreement shall not apply to a Contractor/Employer's non-construction craft executives, managerial employees, supervisors above the level of general foreman (except those covered by existing Master Agreements), and administrative personnel.

2.4.2 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.3 This Agreement shall not apply to off-site maintenance of leased equipment and on-site supervision of such work.

2.4.4 The [CITY/COUNTY/DISTRICT] shall not be required to comply with this Agreement for any work performed with its own forces as permitted by the Public Contract Code.

2.5 Award of Contracts: It is understood and agreed that the [CITY/COUNTY/DISTRICT] has the right to select any qualified bidder for the award of Construction Contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project. A copy of all invitations to bid shall be provided at time of issuance to the Council.

ARTICLE III **EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Council, the Unions and the [CITY/COUNTY/DISTRICT] agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, all Contractors/Employers agree to be bound by each and every provision of this Agreement and agree that they will evidence their acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a condition of accepting the award of a construction subcontract, to

agree in writing by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on the Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule As incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement is inconsistent with a Schedule A, the provisions of this Agreement shall prevail. Where a provision of a Schedule A is not inconsistent with this Agreement, the provision of the Schedule A shall apply.

ARTICLE IV

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1. The Unions, [CITY/COUNTY/DISTRICT], and Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or at any other facility of [CITY/COUNTY/DISTRICT] because of a dispute on the Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other [CITY/COUNTY/DISTRICT] projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement shall continue in full force and effect for work covered under

this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Project during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the [CITY/COUNTY/DISTRICT] and the Contractor/Employer(s) three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer(s)' or their subcontractor's workforce, during which time the Contractor/Employer(s) may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the [CITY/COUNTY/DISTRICT] contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the worker(s) of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred:

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 13.4. Notice to the arbitrator shall be by the most expeditious means available, with notices by email and telephone to the [CITY/COUNTY/DISTRICT] and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the [CITY/COUNTY/DISTRICT] will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise

agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with an arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a proceeding for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the [CITY/COUNTY/DISTRICT] and the Council shall mutually agree to a replacement.

ARTICLE V

PRE-CONSTRUCTION CONFERENCE

5.1 Timing: The Project Manager shall convene and conduct, at a location and time mutually agreeable to the Council, a pre-job conference with the Unions and with representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and discuss in detail the scope of work and other issues as set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on each subsequently awarded Construction Contract.

5.2 The pre-construction conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and [CITY/COUNTY/DISTRICT] may attend at their discretion.

5.3 The pre-construction conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 Review Meetings: In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the [CITY/COUNTY/DISTRICT], the Unions and the Contractors are addressed, the Project Manager, General Contractor and Senior Executive of the Council, or designated representatives thereof shall meet on a periodic basis during the term of construction. The [CITY/COUNTY/DISTRICT] and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

ARTICLE VI

NO DISCRIMINATION

6.1 The Contractors/Employers and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Project.

ARTICLE VII

UNION SECURITY

7.1 The Contractor/Employers recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All employees who are employed by Contractors/Employers to work on the Project will be required to become members and maintain membership in the appropriate Union on or before eight (8) days of consecutive or cumulative employment on the Project. Membership shall be satisfied by the tendering of periodic dues and fees that are uniformly required, to the extent allowed by law.

7.3 Authorized representatives of the Unions shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE VIII **REFERRAL**

8.1 The Contractor(s)/Employer(s) performing construction work on the Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 The Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such person(s) being referred by the Union(s), unless covered by a Master Agreement.

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain the worker(s) from any source. A Contractor/Employer who hires a worker(s) to perform Covered Work on the Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

8.4 It is in the interest of the parties to this Agreement to facilitate employment of Local Area residents and to use resources in the Local Area in construction of the Project. The "Local Area" shall be defined as _____. It is the objective of the parties that not less than twenty-five percent (25%) of all hours worked on the Project will be worked by residents of the Local Area. The Unions will exert their utmost efforts to recruit sufficient numbers of craft persons to fulfill the referral requirements of the Contractor(s)/Employer(s). To the extent allowed by law, and consistent with the Unions' hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents of the Local Area, including journeymen and apprentices, shall be referred for Project work covered by this Agreement.

ARTICLE IX **WAGES AND BENEFITS**

9.1 The Contractors/Employers agree to pay contributions to the vacation, pension and/or other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project in the amounts designated in the Master Agreement(s) of the applicable Unions.

9.2 By signing this Agreement, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, which may from time to time be amended, specifying the detailed basis on which payments

are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if made by the Contractors/Employers. The Contractors/Employers agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

9.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE X **APPRENTICES**

10.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s)/Employer(s) shall employ apprentices from a state-approved Joint Apprenticeship Training Program in the respective crafts to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured.

10.2 The apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

10.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

ARTICLE XI **HELMETS TO HARDHATS**

11.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractor(s)/Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment ("Center"), and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XII **COMPLIANCE**

12.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of Article IX of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractors/Employers on the Project. Because the Project is a public work subject to the California Labor Code, the [CITY/COUNTY/DISTRICT] shall monitor and enforce compliance with state prevailing wage requirements as well as the Contractors/Employers' compliance with this Agreement.

ARTICLE XIII **GRIEVANCE ARBITRATION PROCEDURE**

13.1 Project Labor Disputes: All disputes involving the application or interpretation of a Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article IV and Article XIV, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

13.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or discharged without just cause.

13.3 No grievance shall be recognized unless the grieving party (Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

13.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Union or District Council, or his/her designee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting or the conclusion of efforts to resolve the grievance at Step 1, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. This time limit may be extended by mutual consent of both parties. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2

meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not resolved at Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting or the conclusion of efforts to resolve the grievance at Step 2. This time limit may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to arbitration, the representatives shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Carol Vendrillo
3. Morris Davis

13.5 The decision of the arbitrator shall be final and binding on all parties. The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties. The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator.

13.6 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

13.7 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this grievance procedure, the parties agree that such settlements shall not be precedent setting.

13.8 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the [CITY/COUNTY/DISTRICT] withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be retained by the [CITY/COUNTY/DISTRICT] until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

13.9 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the [CITY/COUNTY/DISTRICT] and the Council shall mutually agree to a replacement.

ARTICLE XIV

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

14.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

14.5 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and the [CITY/COUNTY/DISTRICT] will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XV

MANAGEMENT RIGHTS

15.1 Consistent with the Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVI
DRUG AND ALCOHOL TESTING

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A.

ARTICLE XVII
SAVINGS CLAUSE

17.1 The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent.

17.2 The parties agree that in the event a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the [CITY/COUNTY/DISTRICT] from complying with all or part of its provisions and the [CITY/COUNTY/DISTRICT] accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XIX
TERM

18.1 This Agreement shall be included in the bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for the Project.

18.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.4 and 2.2.

18.3 This Agreement shall become effective on the day it is executed by the [CITY/COUNTY/DISTRICT] and the Council. Prior to each five (5) year anniversary of the effective date of this Agreement, the [CITY/COUNTY/DISTRICT] and the Council shall meet to discuss proposed changes, if any, to the Agreement. Absent changes, the Agreement will roll over for an additional five (5) years.

ARTICLE XVII
MISCELLANEOUS PROVISIONS

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

19.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

19.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

19.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

[CITY/COUNTY/DISTRICT] OF _____

By: _____

Date: _____

CONTRA COSTA COUNTY BUILDING AND
CONSTRUCTION TRADES COUNCIL

By: _____
Bill Whitney, CEO

Date: _____

DRAFT

[UNION SIGNATURES]

DRAFT

Addendum A
AGREEMENT TO BE BOUND

[Date]
[Addressee]
[Address]

Re: [CITY/COUNTY/DISTRICT] of _____ Project Stabilization Agreement
Agreement to be Bound

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the [CITY/COUNTY/DISTRICT] of _____ Project Stabilization Agreement (“Agreement”) as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 9.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by the Agreement shall extend to all work covered by the [CITY/COUNTY/DISTRICT] of _____ Project Stabilization Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of the Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

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SUPPLEMENTAL AGENDA MATERIALS

CITY COUNCIL MEETING January 21, 2020

ORAL COMMUNICATIONS FROM THE PUBLIC

1. Public Comments

AGENDA ITEM 5(A) – El Cerrito Police Department Drone (UAS) Policy

1. Presentation
2. Public Comments

AGENDA ITEM 5(B) – Urban Forest Committee Update

1. Presentation

AGENDA ITEM 5(C) – Fiscal Update

1. Presentation

AGENDA ITEM 6(A) – 7952 Terrace Drive Tentative Parcel Map (*Public Hearing Noticed 1/11/2020*)

1. Presentation

AGENDA ITEM 6(C) – Purchase and Sale Agreement 6111 Potrero Avenue and 1133541 San Pablo Avenue (*Public Hearing Noticed 1/11/2020*)

1. Presentation

From: Marlene George < >

Sent: Tuesday, January 21, 2020 2:33 PM

To: Paul Fadelli; Greg Lyman; Rochelle Pardue-Okimoto; Gabe Quinto; Janet Abelson

Cc: Karen Pinkos

Subject: Priorities for 2020/22 and Financing Options

Good afternoon, I will be attending the council meeting tonight but unfortunately I will be unable to speak during public comment; for some reason I have laryngitis. If I were to speak these are the comments I would make.

I realize El Cerrito has a serious budget problem long time in the making for a lot of different reasons, some beyond the council's control. I read the mayor's summary report of his interview with state auditors. Serious actions will need to be taken.

As you all know, the threat of a wildfire in El Cerrito is real with several power shut off's last Fall and a pre-evacuation notice last October during the Martinez and Crockett fires. Approximately one half of the geography of El Cerrito is in the Very High Fire Hazard Severity Zone and according to Cal Fire almost one third of the El Cerrito population reside in the high fire zone.

Regardless of the dire budget situation police and fire, public safety, must always be a priority. The wildfire threat needs a special designation because the dynamics of a wildfire differ greatly from structure fires and as a community we need to be prepared in the event of a catastrophic fire.

The wildfire threat is no longer an abstract ethereal concept, because of Paradise, Kincaid, Coffeey Park, Tubbs and other catastrophic Northern California fires, PGE and the State of California are making funds available to prevent wildfires and El Cerrito should position itself to capture funding. PGE has a proposal, that more than likely will be approved that assesses every ratepayer in California an average of \$6.00 for a "wildfire prevention" fee. The purpose of this fee is to inspect lines more frequently, insulate the electrical wires and reinforce the old wood poles. These are all good things that need to be done and greatly reduce fire risk. This proposal is still in the public comment phase and we have time to influence the proposal that the fees paid in El Cerrito and the East Bay Hills stays in our area and it is not up to PGE where they spend it. Many of you have powerful contacts at the state level that should be used to lobby to have the wildfire fees paid by El Cerrito residents be used to make improvements in our high fire zone.

The Governor in his 2020 budget is earmarking billions of funds for wild fire protection. We need to have a forum or a community conversation on how we can capture these funds for El Cerrito. Diablo Fire Safe Council at their last meeting had this topic on the agenda. We do not have a forum to have a serious discussion on Cal Fire Grants and how we position ourselves to receive funding. The state usually releases fire funding through Cal Fire.

As you know much of the Fire Department budget is spent on non fire related calls, most are 911 emergency medical calls. Many cities bill residents for emergency response calls. If a resident is low income, has no medical insurance they would not have to pay. We want our neighbors to have medical care regardless of ability to pay. But many in El Cerrito have medical insurance. This is why we have medical coverage in case of a medical emergency. Residents who have medical insurance should be billed and the insurance companies required to pay. The insurance companies are flush with cash, we are not.

Finally, there are many El Cerrito residents who would like to pay to have the eucalyptus trees in the HNA cut because it is interfering with their views of the Bay. If these residents are willing to pay to cut these deadly flammable trees down, why should we stand in their way. We kill two birds with one stone, improved views and maintenance of the HNA.

I am sure I went over my three minutes. Thank you for your time and careful consideration.

Marlene George
Resident of El Cerrito

JAN 21 2020

CITY OF EL CERRITO
CITY CLERK

El Cerrito Trail Trekkers' 2020 goals:

Trail Trekkers ends 2019 and starts 2020 at our annual meeting January 19, 2020, featuring a talk about creek restoration by the esteemed pioneer in the field, Ann Riley. We will open the meeting by remembering Mollie Hazen, the longtime Trekker board member who passed away in 2019 after contributing so much to the community for many years.

Trail Trekkers celebrates its 10th anniversary in 2020. Trail Trekkers' first ever hike occurred March 10, 2010 – before the group actually formed. The public meeting that formed the group, sponsored by the Environmental Quality Committee and El Cerrito Historical Society, almost filled the city council chambers on July 15, 2010. Throughout 2020 we will celebrate our anniversary through hikes and other events.

Rotary Interpretive Walk will be installed in 2020. Plans for installation in 2019 were delayed. We thank the El Cerrito Rotary Club for initiating and funding this project – and for the patience of our friendly Rotarians, especially Lee Prutton. Thanks due also to sign illustrator Adam Prost, designer Jan Byers, and to all the authors of text: Susan Schwartz, Tara McIntire, Keli Hendricks, Gary Prost, Zara McDonald, Bev Ortiz, Eddie Dunbar, and Dave Weinstein. Tom Gehling and Linda Yamane contributed additional illustrations.

Directional trail signs to be installed in the Hillside Natural Area. These were designed for us by the National Park Service (thank you park planner Patrick Johnston!) but installation has been delayed, most recently as city officials ponder renaming trails. But – 2020 will be the year!

Fund-raising for the urban path signs. The city is providing funding for the National Park Service-designed signs in the Hillside Natural Area. But no funds have been provided for the many public paths, stairways and walks that are outside of the Hillside – even though many are obscure. The Park Service has designed all the signs. Treasurer Pam Austin leads fund-raising efforts to pay for these signs and installation, a process that may take several years.

Preserving Open Space. We will continue to organize opposition to a proposed tract of mini-mansions on Fairview Open Space. The area is just to the north of Motorcycle Hill, bordered by Fairview Drive and Tamalpais Avenue and by houses that are on Arlington Boulevard.

Trail Trekkers is forming an Activities and Planning Council to get more people active in our 10-year-old organization. Advisory council members would provide input as needed, and energy, as available. Council members would be asked to meet once a year – at a “strategic planning retreat” with the Trekkers board. Refreshments provided of course! Wade Huntley came up with the plan. Let us know if you want to learn more or join.

Trail work. Besides continuing our existing efforts, Trekkers plans to develop shovel-ready trail projects in conjunction with the city, so work can move ahead expeditiously as volunteers – Scouts for example – become available.

The seventh Annual Hillside Festival will benefit from lessons we learned in previous years. No longer will hikes overlap, for example, so people can go on every hike if they wish. As always, it will be the first weekend of May 1-3 this year, with most events on Saturday and Sunday. The schedule will be final at the start of March.

Other hikes, new hike leaders. Trekkers is always looking for new hike leaders. We have found that hikes that feature nature, geology and history are a good draw. But we also love putting on hikes that are simply about walking and talking and enjoying the sights. Interested in

leading a hike? Leaders provide subject expertise and/or enthusiasm. Trekker “ambassadors” go on all hikes and handle all else, logistics, paperwork, publicity, safety. Let us know.

Trail Trekkers’ 2019 accomplishments:

Trail work and habitat improvement. Trekkers put on about a dozen trail work parties and broom pull events, on our own or with Friends of Five Creeks and the Environment Quality Committee. We worked at Madera Open Space, and improved such trails as Motorcycle Hill, the Live Oak, and Madera-Julian. We also joined the EQC at several cleanups at Baxter and Cerrito creeks.

Our map to all the trails in El Cerrito was published. We finished this long promised map just as the year ended. It will be distributed free to all member and sold to others for \$6. Steve Bowes, an El Cerrito resident, designed the trail map on behalf of the National Park Service and Jan Byers designed the final map package. Tom Gehling and Carol Langhuaser saw it to completion. Dozens of volunteers throughout the years charted all of the trails.

The Sixth Annual Hillside Festival continued to attract naturalists and would-be naturalists, families and children, to learn about nature, geology and history in the Hillside Natural Area – and simply to have fun. We continue to attract 300-plus people every year – a good number for this event. One favorite hike focused on insects, led by Eddie Dunbar.

Hikes. Trail Trekkers put on more than a dozen hikes this year, not counting those at the festival. These included a Wildcat Canyon Ramble, a Wonderful Waterfalls Hike. Ralph Boniello and Ann Harlow’s Trees and Paths of Kensington, a Tree and Climate hike by climate scientist David Ackerly, an Easy Shoreline Walk, a San Francisco Pier to Pier Hike, a Three Parks Stroll, and others.

Fire prevention. Trekkers focused on fire prevention in and around the Hillside this year. One activity was at our annual meeting with presentations by Cheryl Miller, executive coordinator of the Diablo Fire Safe Council, and Dave Gibson, El Cerrito’s fire marshal. We have posted Ann’s talk on our website.

In addition, Dave Gibson led a walk about fire prevention in the Hillside during the Hillside Festival.

Advised the city on protecting native plants during road grading in the Hillside. Crews hired by the city repaired and re-graded some fire roads that provide access to the Hillside Natural Area for hikers and fire emergency equipment. Trekkers (Tom Gehling) and Friends of Five Creeks (Susan Schartz) worked with the city to successfully ensure that native habitat was preserved during construction.

Co-sponsored with the El Cerrito Library a library exhibit about Trekkers and a program by Eddie Dunbar, “Insects of the San Francisco Bay Area,” with stimulating discussion among people who are fascinated by these tiny critters. Barbara Lass made it happen.

Trekkers welcomed many volunteers. Throughout the year we gained new volunteers, Susan Kuchinskas, our webmaster, Clare Sheridan to handle publicity, all of our hike leaders, all those who have turned out for work parties. We also appreciate our longtime volunteers, like Jim and Andia Rasmussen, and Jenny Hammer who is leading work parties. It is all of these people who make Trekkers the dedicated organization it has remained for 10 years.

Our members appreciation barbecue helped foster community. Every year we put on annual or semi-annual parties for members. Also in 2019, we added a purely social gathering – open to all -- during the Hillside Festival. The late Mollie Hazen spearheaded these efforts as a

board member. Trekkers does more than fight for trails and open space. We serve an important role in building local social engagement in and around El Cerrito.

Provided encouragement to trail groups in neighboring towns. Trail and urban living advocates in two nearby or not-so-far-away unincorporated communities sought out Trail Trekkers for our input as they worked to restore trails and otherwise improve things. We met with the Kensington Pathskeepers as they strive to restore the network of trails just alongside ours. We provided input to a new group in Crockett that hopes to use the arts, historic buildings, and their own network of urban paths to improve quality of life there. These discussions are continuing.

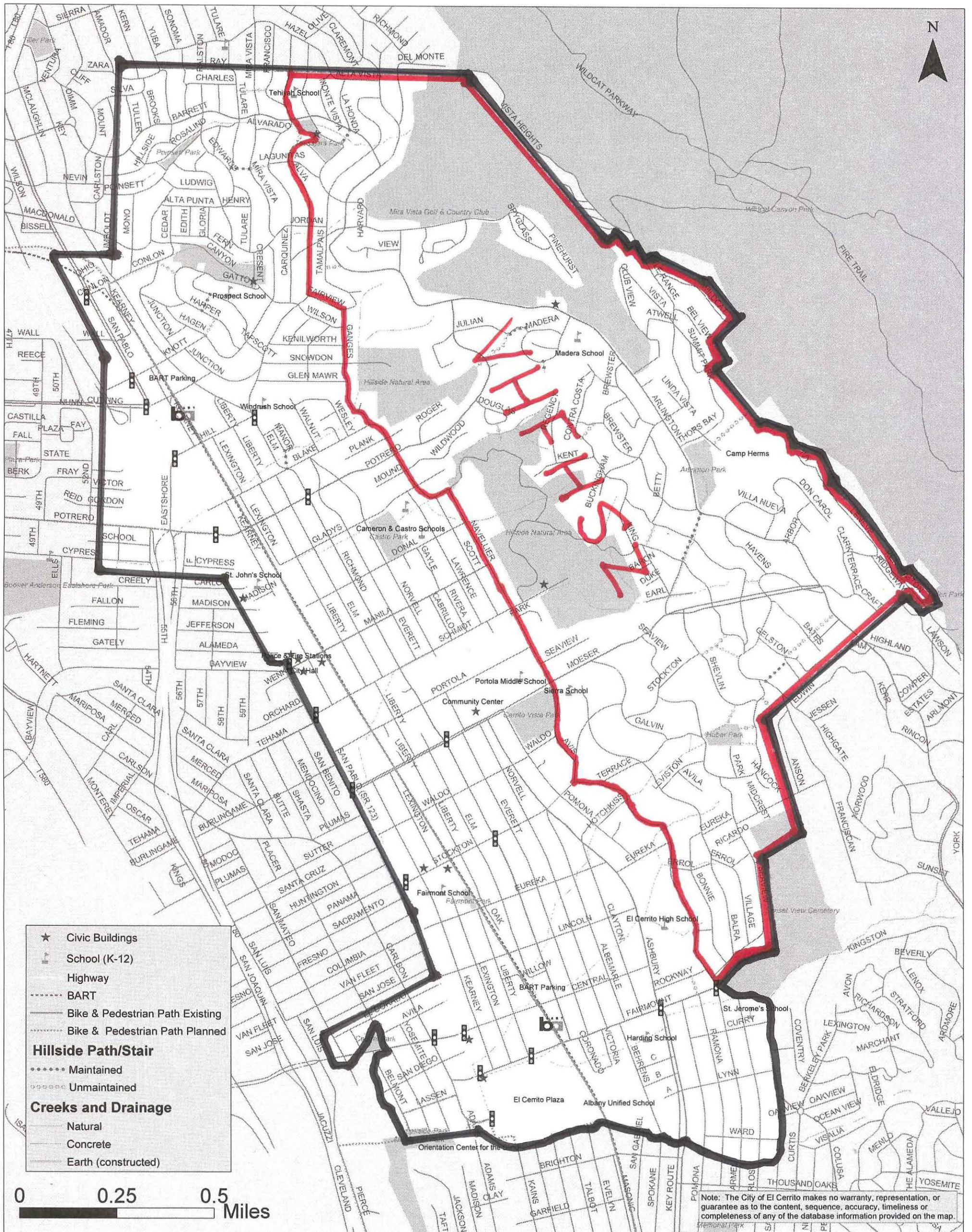
And of course we remain in close touch with Berkeley Path Wanderers, the group that inspired our own formation and continue to provide us with so inspiration and information.

Supported El Cerrito's Measure H. Trail Trekkers strongly supported Measure H on the November ballot, which passed with about 70 percent of the vote. The measure extends an existing \$58.46 per property annual charge that pays for recreation and parks, including trails and open space.

We helped develop the city's Park and Recreation Master Plan by attending many meetings in 2018 and 2019, providing other comments, and encouraging others to do the same.

Trail Trekker T-shirts. Barbara Lass and Wade Huntley oversaw production of the first ever Trekker T-shirts, emblazoned with the logo designed for us six years ago by Sue Labouvie.

You can now order a Trail Trekkers t-shirt at Copy Central at 1553 Solano Ave. in Berkeley. Ask the manager to have a Trail Trekkers shirt printed. It takes about 48 hours. You can bring your own shirt or have Copy Central supply the shirt.





ECPD Drone (UAS) Program

El Cerrito City Council Meeting
January 21, 2020

1



Civilian Uses of Drones

Frequent Uses:

- US Forest Service
- Fire fighting
- Real Estate
- Security
- Inspection
- Photography
- Transportation
- Recreation / Hobbyists
- News Reporters
- Vector Control



2



Law Enforcement Uses for a Drone

Frequent Uses

- Post incident, evidence photography
- Search for missing persons
- Search for dangerous suspects
- Fire Prevention – ‘Red Flag’ days
- Public demos, outreach
- Training

Infrequent but possible uses

- Active shooter situations
- Bomb incidents
- Hazardous materials
- Barricaded suspects

3



Law Enforcement Drones

Used by:

Richmond Police
 Contra Costa Sheriff
 Alameda Sheriff
 Fremont Police
 Pittsburg Police
 El Cerrito/Kensington Fire



4



Drone Program Features

- Drone (UAS) Coordinator
- Authorization required
- Guidelines for use
- Identified prohibited uses
- Public transparency

5

Usage Authorization

Usage

- Only authorized operators shall be permitted to operate the UAS.
- Each use will be approved by a Lieutenant and/or Watch Commander.

Prohibited Uses

- To conduct random surveillance activities.
- To target a person based solely on individual characteristics.
- To harass, intimidate or discriminate against any individual or group.
- To conduct personal business of any type.
- The UAS shall not be weaponized.

6



ECPD Drone (UAS) Program

El Cerrito City Council Meeting
January 21, 2020



CAMPAIGN ZERO



FIGHT FOR THE FUTURE



DEMAND PROGRESS



National Network for Arab American Communities

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MILLIONHOODIES
MOVEMENT FOR JUSTICE



JAN 21 2020

CITY OF EL CERRITO
CITY CLERK

Community Control Over Police Surveillance – Guiding Principles

The Community Control Over Police Surveillance effort, including the legislation being sponsored in connection with it, is guided by the below principles. Legislation may vary from city to city to reflect local concerns and circumstances.

Surveillance technologies should not be funded, acquired, or used without express city council approval: Surveillance technologies should not be funded, acquired or used without the knowledge of the public and the approval of their elected representatives on the city council. Agencies seeking to use a previously acquired surveillance technology in a new manner must also receive specific city council approval of the new use(s).

Local communities should play a significant and meaningful role in determining if and how surveillance technologies are funded, acquired, or used: When used indiscriminately, surveillance technologies create oppressive, stigmatizing environments, especially for communities that are disproportionately targeted by their use, such as communities of color, low income communities, and politically active communities. Rather than allowing the police to unilaterally decide if and how surveillance technologies may be acquired and used, we believe local communities and their elected officials should be empowered to make those determinations.

The process for considering the use of surveillance technologies should be transparent and well-informed: The city council should not approve the funding (including submitting applications), acquisition, or deployment of any surveillance technologies without holding a public hearing. To facilitate a well-informed public debate, far in advance of the hearing, the police or other agency seeking to use the surveillance technology shall publically report on, among other things, the technology to be acquired, its capabilities, how precisely it would be used, how its data would be preserved and protected, its acquisition and operational costs, and how potential adverse impacts on civil rights and civil liberties will be prevented.

The use of surveillance technologies should not be approved generally; approvals, if provided, should be for specific technologies and specific, limited uses: Prior to the public hearing, the police or other agency seeking to acquire and/or use a surveillance technology must identify the technology and its proposed uses with specificity, so they can be debated with specificity. It should be unlawful for the police or any other agency to use a

surveillance technology that has not been expressly approved, or to deploy an approved surveillance technology in a manner that has not been expressly and precisely approved.

Surveillance technologies should not be funded, acquired, or used without addressing their potential impact on civil rights and civil liberties: Historically, government surveillance has had a significant, detrimental impact on civil rights and civil liberties, including those guaranteed by the First, Fourth and Fourteenth Amendments to the United States Constitution. In recognition of this fact, prior to holding a public hearing, the police or other agency seeking to fund, acquire, or use a surveillance technology should expressly identify the potential adverse impacts the technology may have on civil rights and civil liberties and what specific measures it will undertake to prevent such adverse impacts.

Surveillance technologies should not be funded, acquired, or used without considering their financial impact: Prior to holding a public hearing, the police or other agency seeking to fund, acquire, and/or use a surveillance technology should provide information on the surveillance technology's financial benefits and costs, including its acquisition and annual operational costs.

To verify legal compliance, surveillance technology use and deployment data should be reported publically on an annual basis: A public approval process for the acquisition and use of surveillance technology will be of limited value unless the city council and public can verify the legal requirements pertaining to its use, including those regarding the protection of civil rights and civil liberties, have been adhered to. Annual reporting requirements will empower the city council and public to monitor the use and deployment of approved surveillance technologies.

City council approval should be required for all surveillance technologies and uses; there should be no "grandfathering" for technologies currently in use: The same public approval process for the acquisition and use of new surveillance technologies should be applied to surveillance technologies that are currently in use. Any technologies and existing uses that are not expressly approved pursuant to a transparent, community-focused process should have to be discontinued.

JAN 21 2020

CITY OF EL CERRITO
CITY CLERK

Model Surveillance & Community Safety Ordinance

A. KEY PRINCIPLES OF THE MODEL ORDINANCE

- **Informed Public Debate at Earliest Stage of Process:** Public notice, distribution of information about the proposal and public debate prior to seeking funding or otherwise moving forward with surveillance technology proposals.
- **Determination that Benefits Outweigh Costs and Concerns:** Local leaders, after facilitating an informed public debate, expressly consider costs (fiscal and civil liberties) and determine that surveillance technology is appropriate or not before moving forward.
- **Thorough Surveillance Use Policy:** Legally enforceable Surveillance Use Policy with robust civil liberties, civil rights, and security safeguards approved by policymakers.
- **Ongoing Oversight & Accountability:** Proper oversight of surveillance technology use and accountability through annual reporting, review by policymakers and enforcement mechanisms.

B. MODEL ORDINANCE TEXT

The [Council/Board of Supervisors] finds that any decision to use surveillance technology must be judiciously balanced with the need to protect civil rights and civil liberties, including privacy and free expression, and the costs to [City/County]. The [Council/Board] finds that proper transparency, oversight and accountability are fundamental to minimizing the risks posed by surveillance technologies. The [Council/Board] finds it essential to have an informed public debate as early as possible about whether to adopt surveillance technology. The [Council/Board] finds it necessary that legally enforceable safeguards be in place to protect civil liberties and civil rights before any surveillance technology is deployed. The [Council/Board] finds that if surveillance technology is approved, there must be continued oversight and annual evaluation to ensure that safeguards are being followed and that the surveillance technology's benefits outweigh its costs.

NOW, THEREFORE, BE IT RESOLVED that the [Council/Board] of [City/County] adopts the following:

Section 1. Title

This ordinance shall be known as the Surveillance & Community Safety Ordinance.

Section 2. [Council/Board] Approval Requirement

- 1) A [City/County] entity must obtain [Council/Board] approval at a properly-noticed public hearing prior to any of the following:
 - a) Seeking funds for surveillance technology, including but not limited to applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;
 - b) Acquiring new surveillance technology, including but not limited to procuring such technology without the exchange of monies or consideration;
 - c) Using new surveillance technology, or using existing surveillance technology for a purpose, in a manner or in a location not previously approved by the [Council/Board]; or
 - d) Entering into an agreement with a non-[City/County] entity to acquire, share or otherwise use surveillance technology or the information it provides.
- 2) A [City/County] entity must obtain [Council/Board] approval of a Surveillance Use Policy prior to engaging in any of the activities described in subsection (1)(b)-(d).

Section 3. Information Required

- 1) The [City/County] entity seeking approval under Section 2 shall submit to the [Council/Board] a Surveillance Impact Report and a proposed Surveillance Use Policy at least forty-five (45) days prior to the public hearing.
- 2) The [Council/Board] shall publicly release in print and online the Surveillance Impact Report and proposed Surveillance Use Policy at least thirty (30) days prior to the public hearing.

Section 4. Determination by [Council/Board] that Benefits Outweigh Costs and Concerns

The [Council/Board] shall only approve any action described in Section 2, subsection (1) of this ordinance after making a determination that the benefits to the community of the surveillance technology outweigh the costs and the proposal will safeguard civil liberties and civil rights.

Section 5. Compliance for Existing Surveillance Technology

Each [City/County] entity possessing or using surveillance technology prior to the effective date of this ordinance shall submit a proposed Surveillance Use Policy no later than ninety (90) days following the effective date of this ordinance for review and approval by [Council/Board]. If such review and approval has not occurred within sixty (60) days of the submission date, the [City/County] entity shall cease its use of the surveillance technology until such review and approval occurs.

Section 6. Oversight Following [Council/Board] Approval

- 1) A [City/County] entity which obtained approval for the use of surveillance technology must submit a Surveillance Report for each such surveillance technology to the [Council/Board] within twelve (12) months of [Council/Board] approval and annually thereafter on or before November 1.
- 2) Based upon information provided in the Surveillance Report, the [Council/Board] shall determine whether the benefits to the community of the surveillance technology outweigh the costs and civil liberties and civil rights are safeguarded. If the benefits do not outweigh the costs or civil rights and civil liberties are not safeguarded, the [Council/Board] shall direct that use of the surveillance technology cease and/or require modifications to the Surveillance Use Policy that will resolve the above concerns.
- 3) No later than January 15 of each year, the [Council/Board] shall hold a public meeting and publicly release in print and online a report that includes, for the prior year:
 - a. A summary of all requests for [Council/Board] approval pursuant to Section 2 or Section 5, including whether the [Council/Board] approved or rejected the proposal and/or required changes to a proposed Surveillance Use Policy before approval; and
 - b. All Surveillance Reports submitted.

Section 7. Definitions

The following definitions apply to this Ordinance:

- 1) "Surveillance Report" means a written report concerning a specific surveillance technology that includes all of the following:
 - a. A description of how the surveillance technology was used;
 - b. Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s);

- c. A summary of community complaints or concerns about the surveillance technology;
 - d. The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response;
 - e. Information, including crime statistics, that help the community assess whether the surveillance technology has been effective at achieving its identified purposes;
 - f. Statistics and information about public records act requests, including response rates; and
 - g. Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year.
- 2) "[City/County] entity" means any department, bureau, division, or unit of the [City/County].
 - 3) "Surveillance technology" means any electronic device, system utilizing an electronic device, or similar used, designed, or primarily intended to collect, retain, process, or share audio, electronic, visual, location, thermal, olfactory or similar information specifically associated with, or capable of being associated with, any individual or group.
 - 4) "Surveillance Impact Report" means a publicly-released written report including at a minimum the following: (a) information describing the surveillance technology and how it works, including product descriptions from manufacturers; (b) information on the proposed purpose(s) for the surveillance technology; (c) the location(s) it may be deployed and crime statistics for any location(s); (d) an assessment identifying any potential impact on civil liberties and civil rights and discussing any plans to safeguard the rights of the public; and (e) the fiscal costs for the surveillance technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding.
 - 5) "Surveillance Use Policy" means a publicly-released and legally-enforceable policy for use of the surveillance technology that at a minimum specifies the following:
 - a. **Purpose:** The specific purpose(s) that the surveillance technology is intended to advance.
 - b. **Authorized Use:** The uses that are authorized, the rules and processes required prior to such use, and the uses that are prohibited.
 - c. **Data Collection:** The information that can be collected by the surveillance technology.
 - d. **Data Access:** The individuals who can access or use the collected information, and the rules and processes required prior to access or use of the information.
 - e. **Data Protection:** The safeguards that protect information from unauthorized access, including encryption and access control mechanisms.
 - f. **Data Retention:** The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond that period.
 - g. **Public Access:** How collected information can be accessed or used by members of the public, including criminal defendants.
 - h. **Third Party Data Sharing:** If and how other [City/County] or non-[City/County] entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information.
 - i. **Training:** The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology, including any training materials.
 - j. **Auditing and Oversight:** The mechanisms to ensure that the Surveillance Use Policy is followed, including internal personnel assigned to ensure compliance with the policy, internal recordkeeping of the use of the technology or access to information collected by the technology, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the legally enforceable sanctions for violations of the policy

Section 8. Enforcement

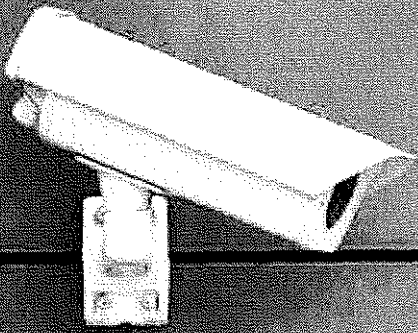
- 1) Any violation of this Ordinance constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this Ordinance.
- 2) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought to enforce this Ordinance.
- 3) In addition, for a willful, intentional, or reckless violation of this Ordinance, an individual shall be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$1,000 per violation, imprisonment in the county jail for not more than six months, or both such a fine and imprisonment.

Section 9. Severability

The provisions in this Ordinance are severable. If any part of provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 10. Effective Date

This Ordinance shall take effect on [DATE].



RECEIVED
AT THE MEETING OF

JAN 21 2020

CITY OF EL CERRITO
CITY CLERK

MAKING SMART DECISIONS ABOUT SURVEILLANCE

A GUIDE FOR COMMUNITY
TRANSPARENCY,
ACCOUNTABILITY
& OVERSIGHT

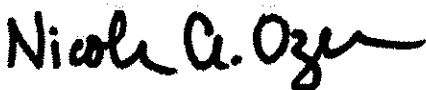
THE ACLU
OF CALIFORNIA

Surveillance is on the rise in our communities, but basic transparency, oversight, and accountability remain the exception, not the rule. Police are spending billions of dollars on very sophisticated and invasive surveillance technology from license plate readers and cell phone trackers to facial recognition and drones. Too many of these programs are moving forward without public conversation, careful consideration of the costs and benefits, or adequate policies in place to prevent misuse and protect rights. As a result, surveillance may enable high-tech profiling, perpetuate systems of abusive policing, and undermine trust in law enforcement, particularly in communities of color where police misconduct has been rampant and community relationships have been strained. It's time for change.

Communities must be equal partners in any decision about the use of surveillance technology. They need to know when and why surveillance is being considered, what it is intended to do, and what it will really cost — both in dollars and in individual rights. They need to be certain that any proposal includes strong mechanisms for transparency, accountability, and oversight. Otherwise, public trust can be easily damaged, and communities can end up saddled with systems that are too invasive, very expensive, and much less effective at accomplishing community safety goals than initially imagined.

This guide provides a step-by-step framework to approach surveillance proposals, properly evaluate their true costs, and develop policies that provide transparency, oversight, and accountability. Its checklist walks community members, policymakers, and law enforcement officials through essential questions to ask and answer about surveillance proposals, and includes dozens of case studies highlighting smart approaches and missteps to avoid. The guide concludes with model language for policymakers to adopt to make sure the right process is used every time a surveillance proposal is considered.

We hope you will find this document and its supporting materials (available online at aclunc.org/smartabouts-surveillance) useful in ensuring your community is making informed decisions about surveillance.



Nicole A. Ozer
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TECHNOLOGY OVERVIEW

AUTOMATIC LICENSE PLATE READERS ("ALPRS"): Sophisticated camera systems mounted to police cars or light posts that scan license plates that come into view. They are often used to look for vehicles of interest, such as stolen cars, but in the process may record the time and place of every single vehicle that drives by.

BODY CAMERAS: Small cameras worn by police that record audio and video. These cameras can record anything from typical public interactions with police to sounds and images at rallies or even lewd banter in a squad car. Some body cameras are always on, others are controlled by the wearer.

DRONES: Unmanned aerial vehicles that may carry cameras, microphones, or other sensors or devices. Drones range from small "quadcopters" that can maneuver near ground level to high-altitude planes with extremely powerful cameras. Drones are often quieter than traditional aircraft, making it possible to use them for surreptitious surveillance.

VIDEO SURVEILLANCE: Camera systems that allow remote observation or recording of activity in public spaces. Video feeds may be actively monitored in hopes of spotting crime as it happens or recorded for potential use for investigation and prosecution. Studies have repeatedly shown cameras are costly and of limited use in preventing or solving serious crime.

FACIAL RECOGNITION: Software that identifies a person in photos or videos based on various characteristics of the person's face. The accuracy of facial recognition can vary widely.

LOCATION TRACKING: A range of techniques used to remotely track a person's location. GPS (Global Positioning System) devices, ranging from modern cell phones to "darts" that can be fired at a moving car, determine their own location based on satellite signals. Electronic communications devices including phones can also be tracked by identifying the cell towers or wireless networks the device uses. Location information can be obtained every few seconds and may be accurate to within a few feet.

AUTOMATED SOCIAL MEDIA MONITORING: Software tools that collect posts and other information on sites such as Twitter and Facebook. These tools may also analyze the collected data in order to derive information such as social connections or political views.

INTERNATIONAL MOBILE SUBSCRIBER IDENTITY ("IMSI") CATCHERS: A device that emulates a cell phone tower in order to interact with nearby cell phones. IMSI catchers, commonly known as Stingrays (the brand name of one such device), identify nearby devices and can also be configured to intercept and capture the contents of communications including calls, text messages, or Internet activity. Many IMSI catchers operate in dragnet fashion, scooping up information about every phone in range.

DATA MINING: Techniques to discover statistical patterns, trends and other information in a collection of data. For example, analysis of connections on social networks can reveal hidden, sensitive information such as sexual orientation.

KEY QUESTIONS TO ANSWER BEFORE MOVING FORWARD WITH ANY SURVEILLANCE PROPOSAL

WHY ARE YOU CONSIDERING SURVEILLANCE?

- ☐ What specific problem is your community trying to address?
- ☐ How effective will surveillance be in addressing this concern?
- ☐ Are there alternatives that would be more effective, less expensive, or have less impact on civil liberties?

WHAT ARE THE COSTS AND RISKS?

- ☐ What are the financial costs of surveillance, including long-term training, operation and maintenance?
- ☐ What impact would surveillance have on privacy, free speech, and civil rights?
- ☐ How could surveillance affect trust in law enforcement?
- ☐ Have you completed a Surveillance Impact Report?

IS THE ENTIRE COMMUNITY ENGAGED IN EVALUATING THE PROPOSAL FROM THE OUTSET?

- ☐ Have you sought input on priorities, costs and risks from all segments of your community?
- ☐ Is there a Surveillance Impact Report and Surveillance Use Policy for the community to review?
- ☐ Will there be public hearings and debate before seeking any funds or purchasing any technology?

IS SURVEILLANCE THE RIGHT CHOICE?

- ☐ Have elected policymakers reviewed the Surveillance Impact Report and Surveillance Use Policy? Have they had an opportunity to hear public concerns?
- ☐ Will local policymakers specifically vote to approve the project moving forward? Will this happen before seeking any funds or purchasing any technology?
- ☐ Will your community re-evaluate any surveillance program annually and determine whether the program should be continued, modified, or abandoned?

WILL THESE QUESTIONS BE ANSWERED EVERY TIME?

- ☐ Has your community passed a Surveillance & Community Safety Ordinance to make sure these questions are consistently asked and answered every time surveillance is considered and to ensure proper transparency, oversight and accountability?

Why It Matters: The Costs and Consequences of Surveillance

Surveillance technology is often proposed as an efficient public safety tool. But too often, proposals ignore not only the true financial costs of surveillance technology but also their potential to infringe on civil rights and undermine public trust and effective policing. Communities should identify and assess all of the harms and costs of surveillance as early in the consideration process as possible in order to determine whether moving forward with a surveillance technology is really the right choice.

A. SURVEILLANCE IMPACTS CIVIL RIGHTS AND COMMUNITY TRUST

The community at large can pay a heavy price if surveillance technology is acquired and deployed without evaluating its impact on civil rights and its potential for misuse. Surveillance can easily intrude upon the individual rights of residents and visitors, perpetuate discriminatory policing, or chill freedom of expression, association, and religion — freedoms that public officials are sworn to protect.¹ As a result, surveillance can erode trust in law enforcement, making it harder for officers and community members to work together to keep the community safe.

"[S]urveillance programs follow a long history of law enforcement targeting African American and other minority groups.... We need ... a future in the city where our police department and other public institutions have true community oversight and accountability."

The Rev. B.T. Lewis and Taymah Jahsi,
Organizers, Faith in Community in Fresno²

1. SURVEILLANCE CAN INTRUDE UPON COMMUNITY MEMBERS' RIGHTS

The greatest cost of surveillance technology may not be financial but personal: the invasion and infringement of civil rights. Various types of surveillance technology are capable of capturing and storing vast amounts of information about community members and visitors: the political rallies and religious services they attend, the health services they use, the romantic partners they have, and more. Just the perceived threat of surveillance has the potential to harm community members by discouraging individuals from participating in political advocacy, opposing police misconduct, evaluating reproductive choices, exploring their sexuality, and engaging in other activities that are clearly protected by the federal and California constitutions. And, too often, this perception is grounded in reality, as demonstrated by Fresno's use of social media monitoring software that flagged "#blacklivesmatter" as an indicator of criminal activity.³

Civil Rights Principles in an Era of Big Data, signed by fourteen of the nation's leading civil and human rights groups, sounds the alarm on how surveillance technology often disproportionately affects communities of color and religious and ethnic minorities. It calls for technology to be "designed and used in ways that respect the values of equal opportunity and equal justice" and urges users to "stop high-tech profiling" and "preserve constitutional principles." The document further calls for search warrants and other independent oversight of law enforcement and "clear limitations and robust audit mechanisms to make sure that if these tools are used it is in a responsible and equitable way."⁴

There are many examples of the misuse of surveillance to target individuals based on their race, ethnicity, associations, or religious or political activities. Police in Santa Clara used a GPS device to track a student due to his father's association with the local Muslim Community Association.⁵ Police in Michigan sought "information on all the cell phones that were congregating in an area where a labor-union protest was expected."⁶ The NSA specifically monitored the email of several prominent Muslim-Americans with no evidence whatsoever of wrongdoing.⁷ In Britain, where video surveillance is pervasive, a European Parliament

study showed that “the young, the male and the black were systematically and disproportionately targeted not because of their involvement in crime or disorder, but for ‘no obvious reason.’”⁸

Surveillance programs that do not focus on individual targets can be particularly problematic. Tracking entire groups or communities extends “guilt by association” to those who have done nothing wrong, discourages participation in local activities, and alienates community members. And once members of the group are tainted with such suspicion, it becomes easy to justify prying into their private lives, or even threatening them with further consequences if they do not cooperate with additional surveillance efforts.⁹

SURVEILLANCE OF POLITICAL AND SOCIAL ACTIVISTS

The government has a long and troubled history of abusing surveillance powers to target political and social activists. From the “Red Squads” of the early 20th century to the FBI’s efforts to infiltrate and discredit antiwar and civil rights activists in the 1960s, to recent surveillance of the Black Lives Matter movement:

- The Department of Homeland Security monitored the social media accounts of Black Lives Matter members and collected details about the locations of members and plans for peaceful protests in Ferguson, Baltimore, and New York City. This led many to question why the DHS — formed to combat terrorism — was surveilling members of a peaceful domestic social justice movement.¹⁰
- Police in Fresno, California, secretly acquired and tested multiple social media surveillance tools that encouraged surveillance of hashtags like #BlackLivesMatter, #dontshoot, and #wewantjustice and assigned individuals a “threat level.” This led to nationwide negative press attention and calls for reform from community members, all of which forced the police chief to issue a public apology.¹¹
- Authorities in the Oregon Department of Justice came under fire when it was revealed that a senior investigator had used software to conduct surveillance of hashtags including #BlackLivesMatter, which returned results for civil rights advocates, including the president of the Urban League of Portland. The story triggered a public apology by Oregon’s Attorney General and led to an internal investigation.¹²

Intelligence reforms born from lawsuits and congressional inquiries have led many law enforcement agencies to bar the collection of information about political activism and other First Amendment-protected activities without a justifiable suspicion of criminal activity. But surveillance of Black Lives Matter demonstrates a need for similar restrictions on the use of surveillance technology today to ensure that it is not used to chill or undermine political and social activism.

“Dragnet” surveillance often targets communities of color: for example, in Oakland, the police have disproportionately used license plate readers in African-American and Latino neighborhoods.¹³ In Compton, police flew a plane rigged with high-powered surveillance cameras overhead for weeks without the public’s knowledge or consent.¹⁴ Because it involves collecting vast amounts of information, dragnet surveillance also creates the potential for all sorts of abuse, from NSA analysts tracking romantic partners¹⁵ to a Washington, D.C. police lieutenant blackmailing patrons of a gay bar.¹⁶

“One of the most alarming parts of that history has been the ways that surveillance has been misused against Black people who have been advocating for their justice. It’s been used to discredit, abuse, and incarcerate.”

Opal Tometi, Black Lives Matter co-founder¹⁷

Surveillance carries privacy and free speech threats even if it is conducted solely in public places. This is particularly true when surveillance information is aggregated to build a robust data profile that can “reveal

“Those of us from marginalized communities grew up in environments very much shaped by surveillance, which has been utilized to ramp up the criminal justice system and increase deportations....”

Steven Renderos, Center for Media Justice¹⁸

much more in combination than any isolated record.”¹⁹ As Supreme Court Justice Sonia Sotomayor has noted, “a precise, comprehensive record of a person’s public movements ... reflects a wealth of detail about her familial, political, professional, religious, and sexual associations.” In addition, “[a]wareness that the Government may be watching chills associational and expressive freedoms.”²⁰

2. SURVEILLANCE CAN ERODE TRUST IN LAW ENFORCEMENT

When law enforcement fails to fully engage with community members about the impact of surveillance — or, worse, entirely skirts the democratic process by acquiring and deploying surveillance technology without public discussion at all — it erodes trust even further, making it even harder for law enforcement officers to work with the community to solve crimes and protect public safety.

In the years after the September 11th attacks, the New York Police Department created a secretive intelligence wing that infiltrated Muslim neighborhoods with undercover officers, where they monitored the daily lives of and compiled dossiers about Muslim-Americans engaging in constitutionally protected activities in cafes, bookstores, and private residences with no evidence of illegal activity.²¹ These activities gravely harmed the community’s trust in law enforcement and led to a multi-year lawsuit and settlement that barred the NYPD from conducting investigations on the basis of race, religion, or ethnicity, and mandated implementation of a series of reforms designed to deter warrantless surveillance.

“The effects of surveillance on New York Muslim communities have been devastating.... Community members’ ties to local police precincts have deteriorated due to distrust and fear.”

Hina Shamsi, ACLU National Security Project Director²²

In Compton, news broke about an aerial surveillance program that watched the whole community and was intentionally kept “hush-hush” by the Sheriff’s Department to deter civil rights complaints. Both citizens and lawmakers were up in arms that they had been kept in the dark about such intrusive surveillance. Angry community members rightly questioned, “Why are we the target? As citizens we deserve [to know]. We are not all criminals.... It’s an invasion of privacy.” The Mayor called for a “citizen private protection policy,” ensuring that the community would be notified before any new surveillance equipment was deployed or used.²³

B. SURVEILLANCE CARRIES BOTH IMMEDIATE AND ONGOING FINANCIAL COSTS

In addition to the costs to civil rights and civil liberties, the fiscal impact of surveillance can be extensive. Modifying current infrastructure, operating and maintaining systems, and training staff can consume limited time and money, even if federal or state grants fund initial costs. Surveillance technologies may also fail or be misused, resulting in costly lawsuits. To calculate the full financial cost of surveillance technology, communities must look beyond the initial sticker price.

1. SURVEILLANCE REQUIRES INFRASTRUCTURE, STAFFING, TRAINING, AND MAINTENANCE

The hidden costs of infrastructure, training and staffing, operations and maintenance, and the potential for budget overruns, can dwarf the cost of acquiring surveillance technology in the first place. Communities that have failed to accurately estimate the full financial cost of a surveillance system have dealt with massive cost overruns and programs that failed to accomplish their stated purpose. For example, Philadelphia planned to

“When you’re considering a new technology, it’s important to evaluate not only the upfront costs but also the costs of maintenance and upgrades that will occur down the road.”

Captain Michael Grinstead, Newport News (VA) Police Department²⁴

spend \$651,672 for a video surveillance program featuring 216 cameras. Instead, it spent \$13.9 million on the project and wound up with only 102 functional cameras after a year, a result the city controller described as “exceedingly alarming, and outright excessive — especially when \$13.9 million is equivalent to the cost of putting 200 new police recruits on our streets.”²⁵ To avoid a similar incident in your community, it is essential to identify all of the costs required to install, use, and maintain surveillance technology before making a decision about whether to do so.

2. SURVEILLANCE CAN CREATE FINANCIAL RISKS INCLUDING LITIGATION AND DATA BREACH

Surveillance programs that fail to include proper safeguards to prevent errors or misuse and protect freedom of expression, association, and religion, or that inadequately enforce such safeguards, can lead to expensive litigation that diverts resources from other public services. For example, Muslim residents in Orange County filed a discrimination lawsuit when it was revealed that state agents were sending informants into mosques to collect information on the identities and activities of worshippers.²⁶ The NYPD paid \$2 million in attorney fees for spying on New York’s Muslim communities.²⁷ Even technical glitches can create the potential for costly lawsuits and other expenses: the City of San Francisco was embroiled in a multi-year civil rights lawsuit after wrongly pulling over, handcuffing, and holding at gunpoint an innocent woman due to an error by its ALPR system.²⁸

“After public backlash about Oakland’s proposed Domain Awareness Center, we really had to regroup and think about how we needed to proceed.”

Renee Domingo, former Oakland Emergency Services Coordinator²⁹

The collection of surveillance data also creates the risk of data breaches that can incur significant public costs as well as endanger residents’ privacy and economic security. Even following best practices (which itself can entail significant expense) is not enough to prevent every breach. California law requires that a local agency notify residents about a security breach.³⁰ And the fiscal costs of a breach of sensitive surveillance data could be very high: a 2015 report found that companies spent an average of \$3.7 million to resolve a data security breach.³¹ The more information your community collects and retains, the greater the risk and potential cost of a breach.

3. LACK OF PROPER PROCESS CAN WASTE TIME AND MONEY

Failing to thoroughly discuss surveillance proposals and listen to community concerns early in the process can result in massive backlash and wasted time and funds when plans are suspended or ultimately cancelled. Oakland was forced to scrap most of the planning for its ill-fated Domain Awareness Center and scale the project back considerably after community members protested the misleading mission statement and lack of transparency for the project.³² In Santa Clara County, a secretive process to purchase a Stingray cell surveillance device was derailed by the County Executive after it sidestepped necessary community debate and county oversight.³³

Community members grounded San Jose's secret drone purchase and the police were forced to apologize for the lack of transparency and community input.³⁵ Engaging with the community before taking steps to go forward with a surveillance proposal is essential to avoiding similar mistakes that spark widespread community outrage and waste time and resources.

"SJPD should have done a better job of communicating the purpose and acquisition of the UAS (Unmanned Aerial System) device to our community....The community should have the opportunity to provide feedback, ask questions, and express their concerns before we move forward with this project."

San Jose Police Department³⁴

C. SURVEILLANCE MUST TAKE EVOLVING PRIVACY LAW INTO ACCOUNT

The use of surveillance technology is facing increased scrutiny and limits. Courts and lawmakers at the state and federal level, driven by increased public concern about privacy, are acting to protect individual rights and civil liberties. As a result, your community needs to consider both the existing laws and the potential for legal change, including the policy and individual rights concerns that are driving that change, when evaluating a surveillance proposal.

In recent years, federal courts have repeatedly reinforced legal protections for individual rights in the context of today's technology. In 2015, the U.S. Supreme Court unanimously told law enforcement to "get a warrant" to search an arrestee's cell phone. In another unanimous decision, the Court also ruled a warrant is required

"The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought."

Riley v. California, U.S. Supreme Court³⁶

to use a GPS beeper to track a suspect's vehicle, with a majority of the Court suggesting that using technology to track an individual's location — even in public — over an extended period of time triggers constitutional scrutiny.³⁷ Finally, multiple federal courts declared the NSA's warrantless collection of telephone metadata unlawful, with one criticizing its "almost Orwellian" scope.³⁸ Surveillance programs that fail to account for this trend may well be held unconstitutional, and criminal investigations based on evidence from those programs could be jeopardized.

The California Constitution is even more protective of community members' privacy, including in public spaces. The state right to privacy expressly gives Californians a legal and enforceable "right to be left alone" that protects interests in privacy beyond the home.³⁹ The California Supreme Court has held that covertly "infiltrating" and monitoring the activities of students and professors at classes and public meetings without any indication of criminal activity violated the California Constitution,⁴⁰ as did warrantless aerial surveillance of a resident's backyard.⁴¹ Californians' right to free expression also extends outside of the home, even to privately owned areas like shopping centers.⁴²

Numerous laws and regulations also place limits or requirements on the use of surveillance technology. The federal Wiretap Act and its California counterpart limit the use of surveillance technology capable of

intercepting the contents of live communications. And in 2015, California lawmakers enacted three separate laws that specifically address issues related to surveillance technology:

- **Collection of Electronic Information:** The California Electronic Communications Privacy Act requires a search warrant when collecting electronic information with surveillance technology like cell phone tracking technology. It also requires a warrant for searching electronic devices or compelling email, location information, or other metadata from service providers. The law creates additional procedural safeguards, including notice to the suspect, and allows for suppression or court-mandated deletion of information obtained or retained in violation of the law.⁴³
- **Automated License Plate Readers:** Newly enacted California law requires an opportunity for public comment, a written, publicly available use policy that is “consistent with respect for an individual’s privacy and civil liberties,” and reasonable security safeguards for any use of automated license plate readers. Individuals can sue for harms due to a security breach or other unauthorized disclosures.⁴⁴
- **Cell Phone Tracking Technology:** Newly enacted California law requires public process, local legislative approval for all agencies other than sheriffs, a public use and privacy policy that is “consistent with respect for an individual’s privacy and civil liberties,” and the disclosure of agreements with other agencies concerning the use of IMSI catchers and other cell phone tracking technology. The law also allows an individual to sue an agency for violating these provisions.⁴⁵

There have also been bipartisan legal changes at both the federal and state level to rein in surveillance. In 2016, federal lawmakers adopted reforms related to NSA spying.⁴⁶ Eighteen other states have enacted laws restricting law enforcement access to location information,⁴⁷ and a majority of states have introduced legislation aimed at curbing the use of drones for surveillance purposes.⁴⁸

These state and federal changes are driven by a clear shift in public attitudes towards surveillance. Community members want and expect reform at both the state and local level to increase transparency, accountability, and oversight for surveillance technology. Two thirds of California voters want to see local elected officials like City Councilmembers or County Supervisors approve new surveillance technologies before they can be used. Similarly, a strong majority of voters want to see both local (65 percent) and state (64 percent) policies

SURVEY OF LIKELY 2016 CALIFORNIA VOTERS FINDS STRONG SUPPORT FOR REFORMS TO SURVEILLANCE TECHNOLOGY USE BY LAW ENFORCEMENT

Likely 2016 voters polled in a California statewide survey strongly favor local and state level reforms of law enforcement surveillance technology practices.⁴⁹ A summary of key findings from the survey:

Reform Proposal	Support
Require the local City Council or Board of Supervisors to vote to approve new surveillance technology before it is used by local police.	67%
Develop and enforce local policies to set limits on surveillance technology used by police.	65%
Develop and enforce statewide policies to set limits on surveillance technology used by police.	64%
Require law enforcement agencies to publicly report how often they are using surveillance.	62%
Provide public notification prior to local police buying new technology for surveillance.	58%

developed and enforced that set limits on police use of surveillance technology. Voters also want to see steps taken to require public reporting from law enforcement agencies regarding the frequency of use of surveillance technologies (62 percent) as well as public notification before the purchase of any new surveillance technologies (58 percent).⁵⁰

All of these factors have led many communities to move forward with local ordinances that ensure transparency, accountability, and oversight for all surveillance technologies.⁵² Your community should follow their lead and thoroughly evaluate any surveillance proposal in order to protect the rights of your community members, identify hidden costs and financial risks, and ensure that you comply with existing laws and are consistent with increasing public concerns about privacy.

"With a surveillance equipment ordinance, any of the existing equipment that Oakland might already have or any that is soon to come out will have to go through the vetting process."

Brian Hofer, Chair, Oakland Domain Awareness Center Privacy Committee⁵¹

ENACT A SURVEILLANCE & COMMUNITY SAFETY ORDINANCE TO MAKE SURE THE RIGHT PROCESS IS FOLLOWED EVERY TIME

Passing the Surveillance & Community Safety Ordinance included in the Appendix to this guide will help your community avoid problems down the line by following the right process every time. It ensures that there is community analysis of surveillance technology whenever it is considered, that local lawmakers approve each step, and that any surveillance program that is approved includes both a Surveillance Use Policy that safeguards individual rights and transparency and accountability mechanisms to ensure that the Policy is followed.

Necessary Steps when Considering a Surveillance Proposal

Surveillance can be misused in ways that harm community members, undermine public safety goals, and saddle taxpayers with unnecessary costs. That's why it is essential to publicly and thoroughly evaluate surveillance proposals. The following section will help your community — including diverse residents, public officials, and law enforcement — work together to determine whether surveillance really makes sense and put in place robust rules to ensure proper use, oversight, and accountability if your community decides to move forward with a surveillance proposal.

The Department of Homeland Security (DHS) Privacy Office and Office for Civil Rights and Civil Liberties issued *CCTV: Developing Privacy Best Practices*, a report that encourages government agencies to build privacy, civil rights, and civil liberties considerations into the design, acquisition, and operations of video surveillance systems. An appendix highlights the need to follow the Fair Information Practice Principles of Transparency, Individual Participation, Purpose Specification, Data Minimization, Use Limitation, Data Quality and Integrity, Security, Accountability, and Auditing.⁵³

A. COLLECTIVELY EVALUATE THE EFFECTIVENESS, COSTS AND ALTERNATIVES BEFORE MAKING DECISIONS ABOUT SURVEILLANCE

Surveillance should only be a means to an end, never an end in itself. That means that your community should have an actual purpose in mind or problem that needs to be addressed before even considering surveillance technology. Once you have that, you can collectively evaluate whether surveillance is likely to effectively accomplish your goals, as well as estimate the costs to both your community's budget and to individual rights.

1. DECIDE AS A COMMUNITY: INVOLVE THE ENTIRE COMMUNITY FROM THE START

The best way to consider whether surveillance is the right choice and to avoid costly mistakes is to engage the entire community — including law enforcement, local lawmakers, and members of the public — in a thorough discussion about any surveillance proposal.

Different segments of your community are likely to bring valuable perspectives to the process of evaluating whether to acquire and use surveillance technology. And the time to engage with your community is at the very beginning of the process, *before* any funding is sought, technology is acquired, or system is used.

Several cities considering proposals to introduce or expand surveillance have found it useful to actively engage community members through working groups and ad-hoc committees to shape policy and provide oversight. The Redlands Police Department convened a Citizens' Privacy Council, open to any city resident of the city, to provide advice on surveillance-camera policies and oversee police use of the cameras.⁵⁵ Richmond formed an ad-hoc committee to evaluate policies for its video

Fewer than 15 percent of California communities publicly debated surveillance programs before moving forward. (ACLU 2014)⁵⁴

"The public debate that the surveillance ordinance will require on new technologies and their uses will be beneficial for everyone, including city officials, to help them learn more about how these programs work and what they mean to the public."

Joe DeVries, Oakland Assistant to the City Administrator⁵⁶

surveillance program.⁵⁷ And in 2014, following community backlash and the vote not to expand Oakland's Domain Awareness Center, the City Council created a Privacy and Data Retention Ad Hoc Advisory Committee comprised of diverse community members to create safeguards to protect privacy rights and prevent the misuse of data for a scaled-back system to be used at the Port of Oakland.⁵⁹ Oakland now has a formal Privacy Commission, which will provide advice to the City of Oakland on best practices to protect privacy rights in connection with the City's purchase and use of surveillance equipment and other technology that collects or stores data.⁶⁰

"Technology can only serve democracy to the degree that it is democratized."

Malkia Cyril, Director, Center for Media Justice⁵⁸

➤ *Is the community engaged in an informed debate about any surveillance proposal?*

It is never too early for a public debate about a surveillance proposal. Community members should know what kind of surveillance is being considered, what it is intended to do and how it will affect them at the earliest stages of the process, when their input can bring out important information, highlight community concerns, and help avoid unforeseen problems and community backlash.

CASE STUDY: SANTA CLARA COUNTY CANCELS STINGRAY BUY DUE TO TRANSPARENCY CONCERNS

In 2015, the Santa Clara County Executive rejected the Sheriff's proposal to purchase a Stingray after the Board of Supervisors questioned the expense and secrecy of the project. The Board questioned how they could be asked to spend more than \$500,000 of taxpayer money to approve a purchase that was shrouded in secrecy even from the Board itself. The County Executive ultimately rejected the purchase because the company providing the Stingray refused to "agree to even the most basic criteria we have in terms of being responsive to public records requests... We had to do what we thought was right."⁶¹

The public should be given effective notice that surveillance is being considered. Effective notice means more than a line item in a public meeting agenda. Law enforcement should proactively contact community groups, including those representing ethnic and religious communities, and local media to increase public awareness early in the process and engage the entire community with the issue.

CASE STUDY: OAKLAND'S "DOMAIN AWARENESS CENTER" FORCED TO SCALE BACK AFTER KEEPING COMMUNITY IN THE DARK

In 2013, the City of Oakland tried to expand its "Domain Awareness Center," originally focused on the Port of Oakland, into a citywide surveillance network linking together video cameras from local streets and schools, traffic cameras, and gunshot microphones. Instead of soliciting early public input about the expanded system, Oakland tried to move forward without any meaningful engagement with the community. Residents were outraged, and the City Council voted against expanding the system.⁶²

An informed debate also requires that your community have access to a wide range of information in order to assess how surveillance would work in practice and whether it would advance local goals. Community meetings with various speakers representing different perspectives (not just law enforcement and the technology vendor) can help the community understand how the surveillance technology actually works and its potential implications. The entity seeking to acquire new surveillance technology should also prepare and release a Surveillance Impact Report and a

Surveillance Use Policy to help everyone understand how a technology will work, its potential costs, and the safeguards that will prevent its misuse if the proposal were approved. Your community may also consider convening an ad-hoc committee of local residents, experts and advocates who can work together to make recommendations or help complete these documents.

"It is critical to our judicial system and our democracy that the public and our elected representatives be informed about the use of these devices so that we can have a discussion about their privacy implications and make informed decisions about policies for their use."

Joe Simitian, Santa Clara County Supervisor⁶³

USE A SURVEILLANCE IMPACT REPORT TO MAKE AN INFORMED DECISION

The scope and potential costs of a surveillance technology should be assessed and made available to the community through a Surveillance Impact Report. This report should include:

- o Information describing the technology, how it works, and what it collects, including technology specification sheets from manufacturers;
- o The proposed purposes(s) for the surveillance technology;
- o The location(s) it will be deployed and crime statistics for any location(s);
- o An assessment identifying any potential impact on civil liberties and civil rights and discussing any plans to safeguard the rights of the public; and
- o The fiscal costs for the surveillance technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding.

A worksheet to help your community prepare a Surveillance Impact Report is available at aclunc.org/smartaboutsurance.

CASE STUDY: SANTA CRUZ COUNCILMEMBERS LACK INFORMATION FOR ALPR DECISION

After the Santa Cruz City Council approved the use of federal funds to purchase ALPRs for the police department, councilmembers noted that they did not have a lot of information about the technology or its impact on the community at the time of its decision. When one councilmember was asked what effect the scanners might have on community members, he replied, "I don't know enough about the technology." Another was unaware of privacy issues, admitting, "The council didn't get much correspondence about the potential for the erosion of civil rights that these kinds of devices can cause...."⁶⁴

➤ *How will the community decide whether to proceed with a surveillance proposal?*

Community members deserve more than just information about surveillance proposals: they need the opportunity to help determine whether the proposal actually benefits the community and how or whether it should move forward, either by giving input to local policymakers at public hearings or by casting their own ballot on the issue.

In either case, initial community approval should be obtained before any steps towards acquiring surveillance technology are taken, including applying for funding from outside entities. This ensures that external grants do not circumvent the proper democratic process and cut community members out of the loop. Local policymakers or the community as a whole should be given additional opportunities to weigh in if the proposal changes or as more details become available.

CASE STUDY: SAN JOSE'S DRONE GROUNDED UNTIL COMMUNITY APPROVES

San Jose residents were outraged when they learned that their police department had purchased a drone without any public debate. Amid critical media coverage and protests from community groups, civil-rights advocates, and local residents, police apologized and said they would ground the drone until they could conduct adequate public outreach.⁶⁵

2. DEFINE THE PURPOSE: ASK HOW AND WHETHER THIS TECHNOLOGY WILL AID YOUR COMMUNITY

Your community cannot determine whether surveillance is an appropriate solution if you have not first identified the problem. Defining the specific purpose or issues that surveillance is intended to address is essential to evaluate the likely effectiveness of surveillance and to identify alternatives that might provide a better fit for your community's needs and budget. It can help highlight the individuals or communities who are likely to be most impacted by surveillance and ensure that their thoughts and concerns are fully understood. It also provides a starting point for crafting a Surveillance Use Policy by defining specific objectives for which surveillance is appropriate and barring its use outside of those purposes.

➤ *What specific community purposes will be aided by adopting this technology?*

A well-defined community purpose should include a specific problem and a measurable outcome that the community desires. Vague purposes such as "protecting our city from criminals" make it difficult for the community to understand how surveillance might be used or how its effectiveness might be measured. In contrast, a purpose such as "increase recovery of stolen vehicles" succinctly identifies an outcome desired by community members and helps frame public discussion. That discussion may in turn lead you to narrow or alter the purposes for which surveillance should be used, if you decide to use it at all.

CASE STUDY: OAKLAND SPENDS \$2M ON "HARDLY USED" POLICE TECHNOLOGY

The cash-strapped city of Oakland learned the hard way that acquiring new police technology without a clearly defined purpose can be a waste of time and money. A city audit revealed that the city had squandered almost \$2 million on hardly used police technology between 2006 and 2011. The auditor recommended steps to ensure that technology purchases were intended to fulfill specific strategic objectives and regular evaluation of their effectiveness.⁶⁶

➤ *Will this surveillance technology help your community achieve that purpose?*

After your community identifies the purposes that surveillance technology might be able to address, you should evaluate whether the proposed technology would actually achieve them. Manufacturer's claims should not be taken at face value, and certainly not in isolation. Instead, your community should look at all of the evidence or arguments suggesting that surveillance will or will not effectively help you achieve your defined purpose.

**CASE STUDY: SAN FRANCISCO RECONSIDERS PLANS TO EXPAND
SAFETY CAMERA PROGRAM THAT FAILS TO IMPROVE COMMUNITY SAFETY**

In 2005, San Francisco set out to deter violent crime and provide police with an investigative tool by installing video cameras in the City's high-crime, high-traffic areas. However, post-installation crime statistics published by mandate under a city ordinance revealed that the cameras neither reduced crime nor assisted in solving them in any meaningful way. In fact, the cameras only led to six suspects being charged by the SFPD between 2005 and 2008. As a result, the Police Commission reconsidered its plans to expand the program.⁶⁷

➤ *Are there better alternatives to achieve your purpose?*

Even if the proposed surveillance technology does seem likely to help your community achieve its purpose, there still may be alternatives that are just as (or more) effective, less expensive, and/or less likely to be misused or otherwise negatively impact your community members.

In particular, you should compare the effectiveness and costs of technology-based solutions with non-technology-oriented approaches to address the problem. For example, multiple studies have shown that traditional approaches such as increased lighting and foot patrols significantly reduce crime.⁶⁸ You should not automatically assume that surveillance technology will be more effective.

CASE STUDY: CITIES REPLACE RED LIGHT CAMERAS WITH LONGER YELLOW LIGHTS

California cities are increasingly shutting down red light cameras as evidence mounts that the cameras increase, rather than decrease, traffic accidents. For example, in Walnut, CA, a study found that red light cameras resulted in dramatic increases in "red light running collisions" (400%), "rear end collisions" (71%) and "broadside collisions" (100%) and that "no argument can be made that photo enforcement has improved safety . . . within the city of Walnut. In fact, the use of red light cameras appears to have decreased safety and put roadway users at increased risk." In light of this evidence, more than half of the California cities that once used red light cameras have ended their programs, turning instead to alternatives that have proven more effective at preventing accidents such as longer yellow lights at dangerous intersections.⁶⁹

3. IDENTIFY THE COSTS AND RISKS: EXAMINE FINANCIAL, LEGAL, AND PRACTICAL CONSEQUENCES

Even if a specific technology is appropriate for your community's purposes, there still may be financial, legal and practical concerns that may make adopting it undesirable. This section will help you measure the likely costs of surveillance so that you can determine whether they are truly outweighed by the expected benefits.

➤ *How much will the technology cost your community to acquire and operate?*

Deciding how to allocate funds is one of your community's most important tasks. Every dollar your community spends on surveillance technology is a dollar it cannot spend on some other community need. Costs related to surveillance technology will include personnel time, training costs, maintenance and upkeep, as well as any network and storage costs for the data your community may collect. Potential costs associated with risks of data breach or lawsuits based on abuse of surveillance also need to be recognized.

"One more question to ask ourselves is whether we are carefully considering the infrastructure that is needed to support technology — the costs of monitoring it and of staffing technology units at a time when departments are laying off civilians. We really need to think about all of the aspects of technology when initial investments are being made."

Police Executive Research Forum, "How Are Innovations in Technology Affecting Policing?"⁷⁰

Questions about costs cannot be dismissed solely because your community is seeking grant funding to pay for the technology. These grants are attractive for obvious reasons: they appear to allow your community to buy a technology without having to spend local taxpayer dollars. But outside grants may not cover the costs that follow a technology's adoption, particularly the long-term costs of operation, repairs, and personnel. Estimating these costs as accurately as possible — and making sure those estimates are shared with the community and made part of the debate about adopting surveillance — is key.

➤ *What are the legal risks and associated potential costs of the surveillance proposal?*

Surveillance technology can carry a number of significant legal risks and requirements, in part because of rapid changes to privacy and surveillance law. Even under current law, misuse of surveillance systems or data, or technical glitches outside of your control could subject your community to potential legal liability. And as courts and lawmakers continue to reassess how privacy and free speech rights should apply in the digital age, there is a risk that your community's investment in surveillance technology could leave it saddled with equipment that can no longer be legally used as intended. These factors need to be accounted for when performing a cost-benefit analysis of any surveillance proposal.

CASE STUDY: FBI REMOVES GPS TRACKERS AFTER SUPREME COURT RULES THAT WARRANTLESS TRACKING IMPLICATES FOURTH AMENDMENT

The FBI had installed approximately 3,000 GPS trackers on cars throughout the United States, without a warrant, when the U.S. Supreme Court ruled in 2012 that their use implicated the Fourth Amendment. As a result, the FBI deactivated the warrantless trackers, and its agents had to physically retrieve them. Obtaining warrants before using those GPS trackers would have ensured the constitutionality of obtained evidence and saved the FBI considerable time and effort.⁷¹

➤ *How could the surveillance proposal negatively impact public safety or individual rights?*

A surveillance proposal designed to benefit your community may carry side effects that undermine that objective. Insecure systems can present a tempting target for hackers, potentially making your community less safe in the process. Surveillance programs that target or disproportionately impact communities of color or other marginalized groups can make it harder for law enforcement to work cooperatively with those groups to investigate crimes. And surveillance can chill political and social engagement such as attendance at political rallies, gun shows, or religious ceremonies if community members fear that their lives are constantly being monitored. Identifying the harms as well as benefits of surveillance is an important part of evaluating any proposal.

CASE STUDY: REDLANDS DEPLOYS INSECURE CAMERA NETWORK

The surveillance camera network in the city of Redlands made the news for the wrong reasons when computer security experts demonstrated how easily they could take control of the cameras. Although the police department expressed concern about “people with criminal intent using the public camera feed to case homes or businesses or track the police force,” the network was deployed with no security at all. Even after the story broke, the network was secured with an outdated encryption protocol that a researcher described as “putting a diary lock on your front door.”⁷²

B. ESTABLISH A SURVEILLANCE USE POLICY TO MITIGATE HARMS AND PROTECT RIGHTS

If after careful consideration and public debate your community decides that a particular surveillance technology is worth adopting, you need to ensure that policies are in place so that it is used properly. A clear, legally enforceable Surveillance Use Policy that provides guidance about when and how to use surveillance can safeguard individual rights while protecting local law enforcement and your entire community from costly lawsuits, bad press, loss of community trust, and more. Recognizing the necessity of use policies, Seattle and Spokane, Washington, recently passed ordinances requiring police to develop use guidelines for new surveillance equipment before using it.⁷³

CASE STUDY: ALAMEDA COUNTY SOLICITS PUBLIC INPUT FOR STINGRAY POLICY

Before upgrading its cell phone surveillance technology, the Alameda County District Attorney publicly released its draft use policy and solicited feedback from the community. In response to feedback, the District Attorney made changes that resulted in a policy requiring a warrant for the use of the device and strict limits on how data could be used. This transparent and democratic process helped build community trust and ensured a stronger set of safeguards would be in place from the start.⁷⁴

Here are some of the key elements of a robust, legally enforceable Surveillance Use policy:

1. *USE APPROPRIATELY: PLACE CLEAR LIMITS ON SURVEILLANCE*

If your community has been following this guide, you've already defined community purposes that justify a particular technology. Now it's time to use those purposes to decide and codify both the acceptable uses that will benefit the community and those that are simply prohibited. Doing so safeguards against use of the technology in a manner the community never intended.

➤ *When is surveillance permitted or prohibited?*

The first step is straightforward but essential: defining how and when the technology may be used. Every entity in your community that conducts surveillance should have a policy that clearly specifies appropriate uses of each technology and bars all other uses.

Publicly available use policies were found for less than 1 in 5 local California surveillance programs (ACLU 2014 research).⁷⁵

In order to benefit from and reflect community input and oversight, technology should only be used for the particular purposes for which it was acquired. Any proposed new uses should be subject to the same public discussion as the acquisition of new technology, allowing the community to weigh in on the appropriateness of any expanded purpose.

Your policy needs to be consistent with constitutional guarantees of privacy, equal protection, freedom of speech, and freedom of religion. In fact, your use policy should not only address clearly unlawful but also potentially unlawful uses of surveillance technology. If there are questions about the legality of a specific practice, your use policy should prohibit that practice until there is a definite answer.

The police need to "have more of a dialog with the council, because we are the ones that . . . approve funding decisions and we want to make sure . . . that you are hearing everything that we hear as well."

Seattle Councilmember Bruce Harrell ⁷⁶

➤ *What legal or internal process is required to use surveillance?*

It is also important to ensure that all legally required and internal processes are followed each time surveillance is used. These processes help to prevent unauthorized or outright illegal uses and also make sure that even appropriate uses of the surveillance technology minimize the impact on individual rights.

In many cases, the best way to ensure that legal requirements are satisfied is to require a search warrant prior to conducting surveillance, allowing the court system to play a role in overseeing the program. With the streamlined modern warrant process, officers can seek a judge's approval quickly and easily by simply placing a phone call or using a mobile device.⁷⁷

Internal recordkeeping, including recording the reason for each use of surveillance, can also help ensure compliance with the appropriate use policy and create an audit trail for ongoing feedback and oversight.

➤ *How are officers trained before they conduct surveillance?*

Having clear policies is not helpful if the people using the technology or the data it collects lack the underlying knowledge to comply with those policies. Training programs for anyone involved with surveillance must be comprehensive, encompassing not just the technology and Surveillance Use Policy but the purposes and legal rules that inform the Policy. Training should spell out both the obligations of anyone using the technology and the consequences for policy violations.

➤ *Are you only collecting necessary data?*

Ensuring that surveillance technology is used in a way that accomplishes its stated purpose without collecting additional data is a straightforward way to reduce the risk of privacy invasions. That's why the federal statute authorizing wiretaps has from its inception required "minimization" — an effort to make sure that even after a warrant has been issued and collection is underway, police only intercept communications relevant to the investigation, not every communication made by the target.⁷⁸

The same principle should be applied to other forms of surveillance, requiring a reasonable effort to avoid collecting superfluous information. For example, a police department that deploys drones to an accident scene to quickly identify any need for police or emergency intervention does not need to record and retain video footage.

CASE STUDY: OHIO STATE HIGHWAY PATROL RETAINS ONLY ALPR HITS

The Ohio State Highway Patrol policy for automated license plate readers (ALPRs) states, "all 'non-hit' captures shall be deleted immediately." The ALPR program is intended to detect stolen vehicles, Amber Alerts, and persons with outstanding warrants. As a result, retaining data about "non-hit" vehicles does not further that purpose, and a policy of deleting that data immediately protects the community from unnecessary risks.⁷⁹

2. *PREVENT MISUSE OF DATA: LIMIT WHEN DATA CAN BE USED AND WHO CAN ACCESS IT*

Even data collected for a legitimate purpose can be put to illegitimate uses. It is essential that your community establish clear rules so that surveillance data is used only for approved purposes. Doing so not only prevents outright abuses of the data that can erode public trust but also keeps "mission creep" from altering the balance that you have already worked out between government actions and individual liberties.

➤ *How will surveillance data be secured?*

The first step in preventing misuse of data is ensuring that it is stored securely. Technical safeguards are necessary to help protect community members' data from accidental disclosure and misuse. You should consult with experts and implement safeguards at multiple levels that protect data at all points in its lifespan.

Your community may already possess secure storage space separated from other databases and computer systems. This provides you with an obvious level of control. If you choose to store data elsewhere, you must ensure that it is secure and subject to your safeguards. Your community should also designate someone as an authority or custodian with responsibility over community members' data and your storage systems.

**CASE STUDY: MONTEREY COUNTY SUFFERS DATA BREACH
DUE TO "TOTALLY OBSOLETE" DATA PRACTICES**

Monterey County's computer systems were breached in 2013 and the personal information of over 140,000 local residents was stolen. A subsequent grand jury investigation concluded that the breach stemmed from "totally obsolete" data practices and a failure to follow privacy laws. The grand jury warned of "serious financial consequences" if the county failed to change its practices.⁸⁰

➤ *Under what circumstances can collected data be accessed or used?*

In addition to technical safeguards to protect data, you should also limit the circumstances under which it can be legitimately accessed or used. These limits should be based on the specific purposes your community agreed to when it adopted the technology. For example, if the purpose of the technology is to address specific violent crimes, your policy might allow database searches only as part of an official investigation of a violent crime, and only for data that is related to that investigation. Data access and use policies that are consistent with the articulated purposes for the system will provide guidance to operators and engender community trust by deterring abuses that can follow unfettered access to surveillance data.

Your community's goal of balancing privacy and security will be easier to achieve if particular data access and use limits are accompanied by steps to ensure the rules are followed. Database access should be limited — for example, by only allowing junior staff to access data with the permission and guidance of a more senior officer, or by limiting data access solely to senior officers. As explained earlier, training is a must. Restricting data access to a limited set of trained employees decreases the potential that community members' data can be misused. To ensure targeted use of data, it may be appropriate to require a search warrant or similar external process before the data can be accessed at all.

CASE STUDY: LAX POLICIES LEAD TO "LOVEINT" ABUSE

Without strong policies limiting access to data, the temptation to misuse government databases for personal interests can be hard to resist. The NSA even has a specific term, LOVEINT, for employees who monitor their significant others. Two Fairfield, CA, officers could face criminal charges after using a statewide police database to screen women from online dating sites.⁸¹

➤ *What limits exist on sharing data with outside entities?*

Placing limits on how data use is a great step, but third parties that receive the collected data may not have the same limits in place. To protect residents' privacy and prevent uses of information contrary to community desires, it is important to articulate when — if ever — the technology's purposes justify sharing any collected information. During the public debate over your Surveillance Use Policy, the community should decide when sharing is permissible and when it is prohibited.

If data can be shared, your community must also determine how to ensure that the entity receiving the data lives up to your community's standards. This may require contractual language binding the third party to your data policies and safeguards. For example, the city of Menlo Park, California, specifically requires by ordinance that any agreement with Northern California's fusion center demand compliance with the City's own retention policy.⁸² If a potential recipient of your data cannot agree with your policies or conditions, the best choice is to not share your data.

3. LIMIT DATA RETENTION: KEEP INFORMATION ONLY AS LONG AS NECESSARY

The longer you retain information, the greater the potential privacy and security risks. The easiest way to minimize these risks is to retain only necessary information and to delete it after the purpose for its collection is achieved.

➤ *Does retaining data help accomplish the purpose for which the technology was acquired?*

To maximize the usefulness of your technology and minimize civil liberties concerns, a retention period should not be longer than necessary to directly advance community purposes. For instance, deploying automated license plate readers to

locate stolen or Amber Alert vehicles is not aided by the collection of historical data. Retaining data “just in case it becomes useful” increases the risk that data will be used contrary to the purpose agreed upon by the community or wind up in the hands of

a bad actor. Retaining data can also increase the costs of surveillance by requiring expensive storage solutions and making it harder to effectively use the system. Focusing on the specific objective that surveillance is intended to accomplish can help you determine a retention period that balances that objective with the costs and risks associated with data retention.

“If there’s anything of a criminal nature recorded on video, it’s grabbed and inventoried within hours. Most everything else is never looked at again, so it’s purged automatically.”

Commander Steven Caluris, Chicago Police Department⁸³

➤ *Are there other legal or policy reasons that inform your data retention policy?*

There may be other legal and policy issues that affect your data retention policy, informed by legal concerns unrelated to your community’s purposes. For example, your community should choose a retention period that balances a desire to be responsive to public records requests with residents’ civil liberties, including privacy. Responsiveness to records requests should not be a primary justification for an extended retention period, however, since community concerns about surveillance are better addressed by retaining less information in the first place.

➤ *What happens when the data retention period expires?*

To prevent misuse of data after your community’s desired retention period has lapsed, ensure that data is regularly deleted after that time. This can be accomplished via automated technical measures or periodic audits.

Before data is collected, your community should also decide whether there are any specific circumstances that justify the retention of data beyond your community’s chosen retention period. For instance, it might be appropriate to preserve data relevant to a specific ongoing investigation, data necessary to complete an investigation of internal data misuse, and data relevant to a criminal defendant’s case. Any such conditions should be informed by your community’s purposes and clearly articulated in your Surveillance Use Policy.

C. ENSURE ACCOUNTABILITY BY ENFORCING POLICIES AND ENCOURAGING ONGOING PUBLIC ENGAGEMENT

Even if your community has already deployed surveillance technology, the community as a whole has a crucial role in ensuring that the public interest is promoted through its use. One key question is whether your Surveillance Use Policy is effectively safeguarding individual rights and preventing abuses. A second is whether the assumptions you made when you approved surveillance in the first place still hold true after actual experience with the technology and its impact. Revamping or even cancelling an ineffective or imbalanced program is better than wasting time, money, and community trust on a tool that does more harm than good.

1. IDENTIFY AND ADDRESS ABUSES: AUDIT USE OF TECHNOLOGIES AND DATA AND ADDRESS ANY MISUSE

The safeguards in your Surveillance Use Policy are only worthwhile if the policy is actually followed. But given the secretive nature of many forms of surveillance, ensuring compliance takes conscious effort. Strong internal and external oversight and auditing can help identify isolated or systemic abuses of surveillance technology, and legally enforceable sanctions can deter both.

➤ *How are operators supervised?*

Personnel management and technical measures both facilitate internal oversight of your technology and data. Designating a chain of command for a given surveillance technology helps specific personnel understand what responsibilities they have over the equipment or data and makes it easy to trace where misuse occurred. All of this helps your community deter abuses and guarantee that resources are used wisely.

"As stewards of the public's interests, we know the government doesn't get to simply say 'trust us' and carry on: we have to earn that trust on a daily basis. We have to be accountable and transparent...."

Former Oakland Mayor Jean Quan⁸⁴

➤ *How will misuses of the technology be identified?*

The best way to identify misuse of surveillance is to "watch the watchers" by keeping thorough records of each time surveillance is deployed or surveillance data is called up. The person or persons with oversight responsibility should be independent, given full access to the technology and database, and empowered to receive complaints about misuse and draw conclusions that can lead to legally enforceable consequences. To catch what human oversight misses, your community should ensure that technical measures including access controls and audit logs are in place. Placing the oversight authority with a third party such as the City Council or a citizen panel may also increase the likelihood that the misuses are accurately identified.

CASE STUDY: FRESNO ADOPTS ANNUAL AUDIT OF VIDEO SURVEILLANCE

When the Fresno Police Department proposed a citywide video-policing program using live-feed cameras, the city council required an annual independent audit to ensure that all of the privacy and security guidelines for the system's use were being followed. Fresno Police Chief Jerry Dyer said he supported the audit: "I have no doubt the audit will be very helpful to our ongoing video policing operations." The city appointed a retired federal district court judge as auditor, who then examined current use of the system and made specific policy recommendations.⁸⁵

➤ *What legally enforceable sanctions exist to deter misuse and abuse of this technology?*

By establishing consequences for violations of the guidelines, your community encourages proper use of the technology and sends a message that community values apply to everyone. Depending on the circumstances, sanctions ranging from retraining to fines, suspensions, or termination may be appropriate for violations of your Surveillance Use Policy. In addition, your community should provide an appropriate remedy for anyone harmed by an abuse. Legally enforceable sanctions discourage misuse and guarantee that aggrieved community members will be made whole.

2. KEEP THE DIALOG OPEN: ENCOURAGE PUBLIC OVERSIGHT AND ONGOING DISCUSSION

Community oversight and feedback plays two essential roles in ensuring that any current surveillance program actually benefits your community. First, transparency about abuses of surveillance allows the community to determine whether the Surveillance Use Policy or any associated sanctions need to be revised to address the issue. Second, as your community learns first-hand whether surveillance is effective and how it impacts different individuals and groups, you may wish to reassess the purposes for which surveillance should be used or even whether it should still be used at all. Surveillance should be under the control of the community at all times, not just when it is initially being considered.

➤ *How will the community continue to be informed about the surveillance program?*

It is important that your community's oversight mechanisms not only are in place before surveillance is used but also remain available as long as the surveillance program continues or any collected data remains. This allows the community to continue to learn about and provide feedback on the effectiveness and impact of surveillance, and provides the information you will need to evaluate any changes going forward.

One of the most effective ways to keep your community informed is to produce an annual report about each surveillance technology that has been used in the past year. This report should include:

- A description of how and how often the technology was used;
- Information, including crime statistics, that indicate whether the technology was effective at accomplishing its stated purpose;
- A summary of community complaints or concerns about the technology;
- Information about any violations of the Surveillance Use Policy, data breaches, or similar incidents, including the actions taken in response, or results of any internal audits;
- Whether and how data acquired through the use of the technology was shared with any outside entities;
- Statistics and information about Public Records Act requests, including responses; and
- The total annual costs for the technology, including personnel and other ongoing costs, and any external funding available to fund any or all of those costs in the coming year.

In addition, there may be other ways to provide your community with information about the operation and effectiveness of the surveillance program. Responding to Public Records Act requests with as much information as possible, taking into account factors such as the privacy rights of individuals whose information may be included in the requested data, is one way to allow interested community members access to concrete information about the program. Creating standing committees of community members, regularly holding public events and forums, and establishing open inspection periods for the technology can also help keep the community informed.

➤ *How will local officials and the public re-evaluate the decision to engage in surveillance or the existing policies and safeguards?*

The community's decision to approve surveillance should be reconsidered on an annual basis. If there is evidence that calls into question the conclusion that the benefits of surveillance outweigh costs and concerns, or that there are better ways to achieve the same purpose with fewer costs or risks, policymakers should seek community input and take whatever action is appropriate to address these concerns. That may involve narrowing the purpose or scope of surveillance, requiring modifications to the Surveillance Use Policy, or exploring alternatives that better address community needs.

Conclusion

Communities increasingly understand the need to make smart choices about surveillance technology and ensure that time, energy, and resources are not spent on systems that cost more, do less, and threaten the rights of community members. Community members demand — and deserve — a voice in any decisions about surveillance technology. Proper transparency, accountability, and oversight must be the rule in considering any surveillance technology proposal. We hope the recommendations in this guide help you work to enact local and state policies to ensure consistent public process each time surveillance technology is considered.



January 13, 2019

VIA EMAIL

Honorable Mayor Greg Lyman and Members of the El Cerrito City Council: Janet Abelson, Paul Fadelli, Rochelle Pardue-Okimoto, Gabriel Quinto

cc: El Cerrito City Clerk,

Re: Community Support for the Surveillance Equipment and Community Safety Ordinance

Honorable Council Members,

The undersigned coalition urges the El Cerrito City Council, as it reviews a new policy for the use of unmanned aerial vehicles, to adopt a *Surveillance Equipment and Community Safety Ordinance*. This coalition represents diverse EL Cerrito residents who are concerned with law enforcement's secretive and unaccountable use of technologies that can facilitate discriminatory policing and undermine public safety goals. This ordinance provides the El Cerrito public with the information and opportunity to participate in important decisions about surveillance technology. We urge you to adopt it without delay.

The Transparency Ordinance presented to you by El Cerrito Progressives is the result of a robust and open debate among the City's residents, civil society organizations, and government stakeholders. This debate began with conversations about body worn cameras and it has continued through the drone use policy process which has solicited the input of both community members and law enforcement. As a result, this Ordinance represents the civil rights and civil liberties values of El Cerrito. The City Council now has the opportunity to enshrine these values into local law.

The Ordinance is straightforward: it requires essential transparency, accountability, and oversight for all surveillance technology use and equipment, and it ensures the public has the opportunity to learn about the civil rights and civil liberties impact of surveillance technologies before local officials acquire them. If acquired, technologies must be reexamined to ensure any benefits outweigh the civil liberties and civil rights costs.

As the Trump Administration signals that it will focus its surveillance and enforcement powers on immigrants and Muslim Americans, local leaders have a special responsibility to enact strong measures that protect vulnerable residents from suspicionless monitoring and the creation of databases exploitable for discriminatory ends.

This Ordinance helps protect the civil liberties and civil rights of all El Cerrito residents. Given the rapid development of new technology, the discussions about the balance between security and personal freedom and privacy will only get more complex over time.

A legally required process allows us to institutionalize best practices and El Cerrito values for future city officials and serves as a backstop against system failure. We urge the City Council to adopt it without delay.

ACLU of Northern California

American Friends Service Committee

Asian Americans Advancing Justice – Asian Law Caucus

CAIR California

Center for Media Justice

Coalition for Police Accountability

Code Pink

Color of Change
Courage Campaign
Courage to Resist
Defending Dissent
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Greenlining Institute
Media Alliance
National Lawyers Guild - Committee on Democratic Communications
Oakland Privacy
Off Now
Restore the 4th – Bay Area
Tenth Amendment Center
TURN – The Utility Reform Network
Veterans for Peace - East Bay
War Resisters League West
Wellstone Democratic Renewal Club



1



2

Urban Forest Management Plan

The purpose of the plan is to build an extensive, healthy forest that provides the city with **social**, **environmental** and **economic** benefits.

- Social benefits: creating a sense of place, connections to the natural world, memorable nodes or entry points, sense of community
- Environmental benefits: reducing heat, pollutants, and sequestering carbon dioxide
- Economic benefits: increase in property values, attraction of businesses and shoppers

3

Accomplishments Master Tree List

- 100+ tree species
- Common and scientific names
- Water/space requirements
- Height and spread
- Potential bird use



4

Accomplishments

Public Tree & Shrub Ordinance

Adopted July 2019

- Establishes clear guidelines for planting, maintenance and removal
- Includes public right-of-way, parks, and planting strips



5

Accomplishments

Local Fire Hazard & Risk Education



Urban forestry and utility delivery
PG&E Vegetation Program Manager, Matthew McLane



Progress/priorities in wildfire prevention
El Cerrito Fire Marshal and Battalion Chief, Dave Gibson



Working to address citizen concerns
Make El Cerrito Fire Safe

6

Accomplishments

Community Events & Plantings

- 2019 Arbor Day tree planting at Poinsett Park
- 2019 Earth Day clearing of French broom, Eucalyptus debris and duff in the HNA
- 2018 Arbor Day planting at Cerrito Vista Park
- 2018 Earth Day ivy clearing at Canyon Trail Park
- 2018/2019 El Cerrito 4th of July Festival
- 2018 Arbor Day Tree Circus at Harding After School Enrichment Program
- 2017 El Cerrito Centennial tree planting Ashbury Ave

7

2019 Arbor Day Planting

Poinsett
Park



8

**2019
Earth Day Fuel Clearing**

Hillside
Natural
Area



9

**2018 & 2019
4th of July Festival**

Cerrito Vista
Park



10

**2018
Arbor Day Planting**

Cerrito Vista
Park



11

**2018
Earth Day Ivy Clearing**

Canyon
Trail Park



12

2018 Arbor Day Tree Circus

Harding Elementary
after school program



13

2017 Centennial Tree Planting

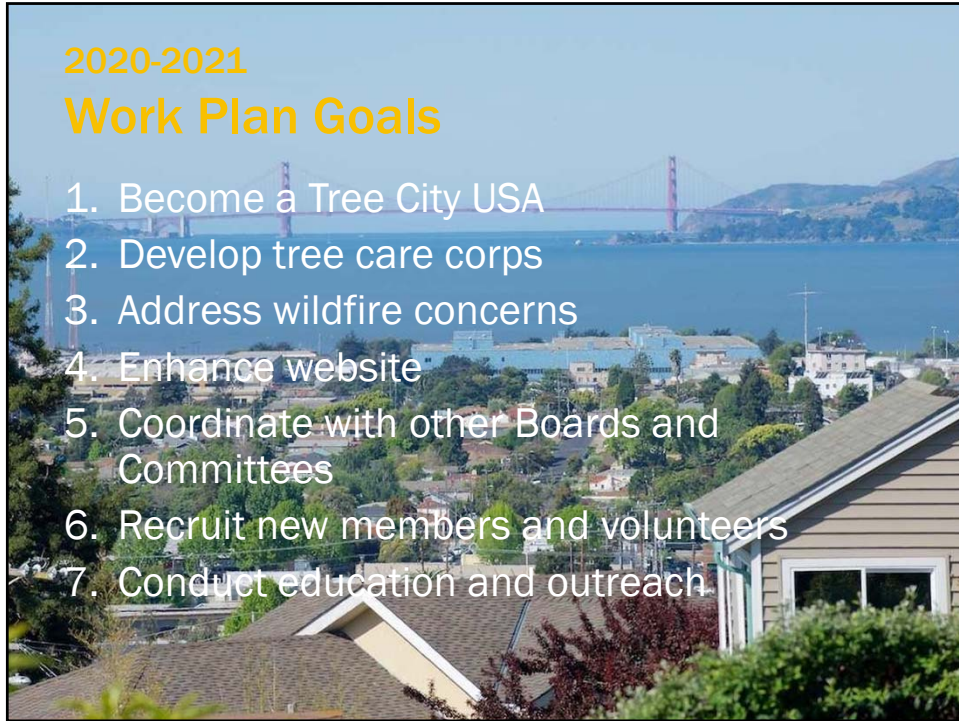
Ashbury Avenue



14

2020-2021
Work Plan Goals

1. Become a Tree City USA
2. Develop tree care corps
3. Address wildfire concerns
4. Enhance website
5. Coordinate with other Boards and Committees
6. Recruit new members and volunteers
7. Conduct education and outreach



15

Work Plan Goal
Become a Tree City USA

Requirements:

- A tree board or department
- A tree care ordinance
- A community urban forestry program
- Arbor Day observance and proclamation



16

Work Plan Goal

Develop a Volunteer Tree Care Corps

Education and hands-on training sessions for interested residents:

- Small tree planting, watering & maintenance



17

Work Plan Goal

Advise on Wildfire Concerns

- Consider fire mitigation options related to City trees
- Educate the UFC and residents on fire issues
- Evaluate Master Tree List for fire resilience



18

Work Plan Goal Coordinate with El Cerrito Boards

- Park and Recreation Commission
- Environmental Quality Committee



19

Work Plan Goal Recruit Members

- 10 open UFC positions
- Develop and implement outreach strategies



20

Work Plan Goal

Education & Web Presence

- Develop both general tree-related materials and information specific to El Cerrito
- Clear, helpful web information and interfaces



21

2013 El Cerrito

Tree Inventory & Benefit Analysis

- El Cerrito's public trees provide annual benefits of \$1.3M.
- For every \$1 spent on public trees, the residents of El Cerrito receive \$4.28 in benefits.
- El Cerrito's public trees are reducing annual electric energy consumption by 797-megawatt hours and annual natural gas consumption by 16,859 therms.
- City trees remove 1.1 tons of pollutants from the air and they reduce annual storm-water runoff volume by 9 million gallons.
- They sequester 551 tons of atmospheric CO₂ per year.

22



23

Urban Forest Committee

Mary Torrusio
Chair

Robert Hrubes
Vice Chair

Cathy Bleier

Yan Linhart

Robin Mitchell

Janet Abelson
Council Liaison

Stephen Prée
Staff Liaison



Pictured L - R: Steve Price (term), Mary Torrusio, Robert Hrubes, Mike Srago (term), Robin Mitchell

24

Fiscal Update

El Cerrito City Council Meeting

January 21, 2020

1

Status Update

- Status of FY 2018-19 annual audit, preliminary results, and timeline for completion of the City's Comprehensive Annual Financial Report (CAFR)
 - Unqualified opinion

General Fund	2019 Actuals
Revenues	\$39,353,732
Expenditures	\$40,202,753
Proceeds from Sale of Land	\$800,755
Other Financing Sources	\$(95,996)
Change in Fund Balance	\$(144,262)
Beginning Fund Balance	\$87,570
Ending Fund Balance	\$(56,692)

- Update on status of State Auditor initial assessment

2

Upcoming Meetings

- February 1, 2020 (Saturday): Community Budget Town Hall Meeting
- February 4, 2020: City Council study session on FY 2019-20 Budget and upcoming biennial budget process for FY 2020-21 and 2021-22
- February 18, 2020: City Council Mid-year Budget adjustments and final CAFR

3

Strategic Plan Process

- Prioritization of strategic goals to enhance the upcoming biennial budget process for FY 2020-21 and 2021-22
- Online survey and public participation
- February 12, 2020 (Wednesday): Community Open House
- March 14, 2020 (Saturday): Community workshop with City Council

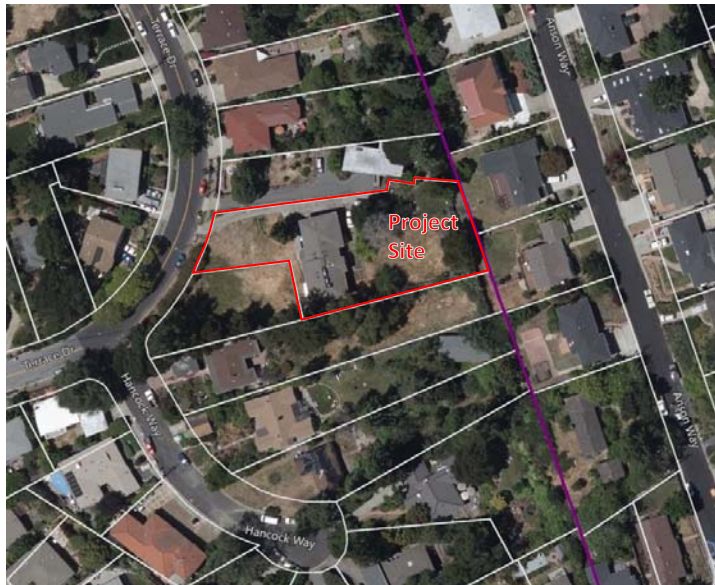
4

7952 Terrace Drive Tentative Parcel Map

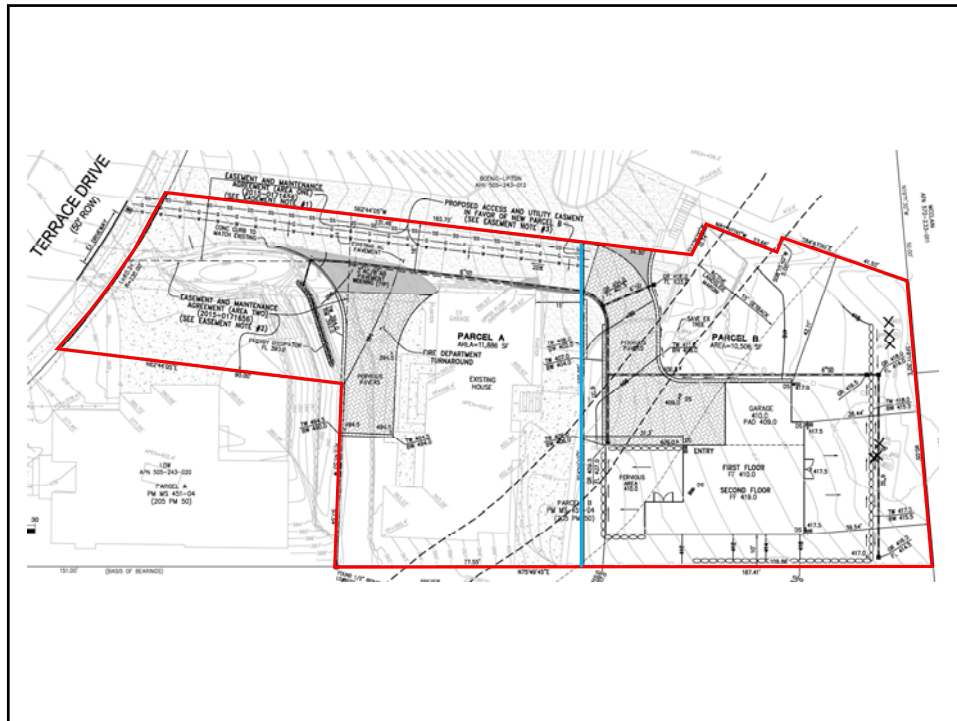
City Council
January 21, 2020



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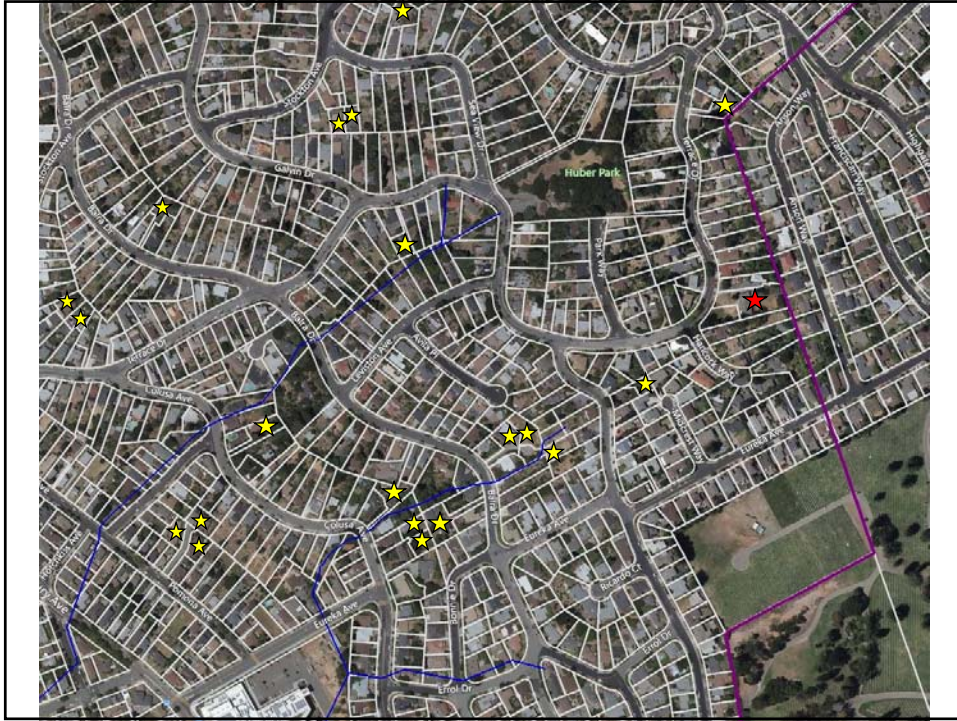


3

IS/MND ADDENDUM

- No substantial changes in the proposed project, or in circumstances, and no new information, which would require major revisions to the 2004 IS/MND
- Arborist Report
- Geotechnical Investigation

4



5



6



7



8

PURCHASE AND SALE AGREEMENT

6111 POTRERO AVENUE & 11335-41 SAN PABLO AVENUE

1

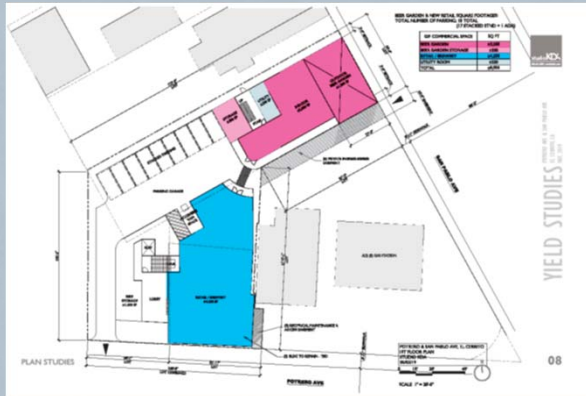
6111 POTRERO AVENUE & 11335-41 SAN PABLO AVENUE

- City Parcels: 12,362 sf
- Buyer Owned Parcel: 5,863 sf
- ENRA: February 2019
- ENRA Extension: August 2019
- Environmental Site Analysis
- Fair Market Value Appraisal

2

2

6111 POTRERO AVENUE & 11335-41 SAN PABLO AVENUE



- Combined
Parcels: 18,225
sf
- Groundfloor
Beer Garden &
Brewery
- 60-Residential
Units
(Inclusionary
Zoning)

3

3

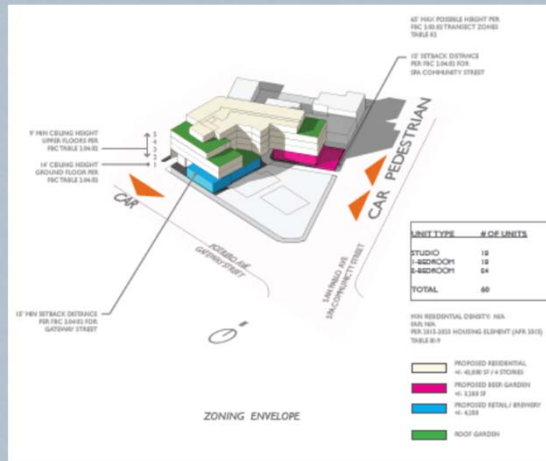
LONG RANGE PROPERTY MANAGEMENT PLAN & COMPENSATION AGREEMENT

1. Redevelopment Agency Dissolution (2011)
2. Long Range Property Management Plan (2015):
 - Sell development properties for Fair Market Value for future development
 - Distribute proceeds to taxing entities per terms of Compensation Agreement

4

4

BENEFITS



- ✓ Residential & Retail/Commercial Amenity
- ✓ One-Time: ~ 22% of Sales Price
- On-Going
- ✓ Property Tax @ Transfer and Upon Redevelopment
- ✓ Sales Tax

5

5

BENEFITS

- Owner Participation with Adjacent Property Owner
- Strategic Plan Goals
 - ✓ Achieve long term financial sustainability
 - ✓ Explore opportunities for public/private partnerships
 - ✓ Deepen a sense of place & community identity
 - ✓ Develop a vision for underdeveloped/undeveloped properties that encourage investment &/or new development

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TERMS OF ENRA

- Good Faith Deposit
 - ✓ Fair Market Value appraisal to determine cost
 - ✓ Legal/External costs
- Development Schedule of Performance
- Physical Inspections
- Negotiate Terms of Purchase & Sale Agreement
 - ✓ Anticipate similar terms to 1718 Eastshore

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TERMS OF PURCHASE & SALE

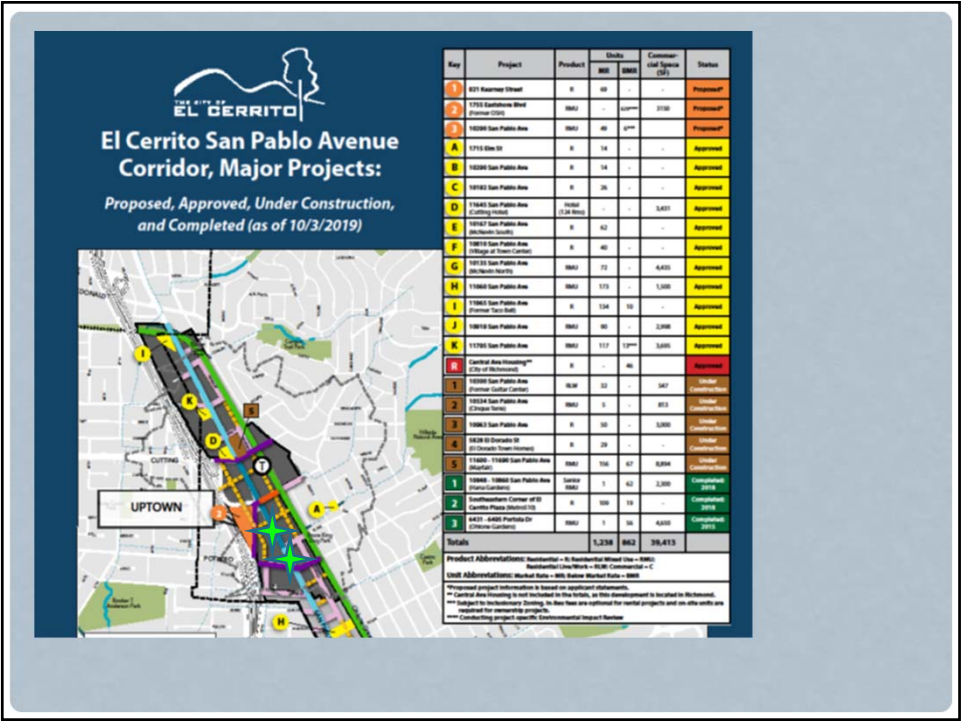
- \$350,000 (\$28.31/sf): Fair Market Value
- \$35,000 deposit (5 days)
- 60-Day Physical Inspection Contingency
- 50% of net proceeds if sale of property prior to commencing construction

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