
FINAL ENVIRONMENTAL IMPACT REPORT FOR THE VISTA DEL MAR PROJECT

SCH Number: 2004012097

Prepared by the
CITY OF PITTSBURG

and

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APPROVED ☒

DENIED ☐

APPLICATION NO. AP-03-033

(CIP, RZ, SUB. B44B, VA, PR)

12/16/04
DATE

[Signature]
SIGNATURE

September 2004

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CITY OF PITTSBURG
PLANNING DEPARTMENT
65 CIVIC AVE PITTSBURG 15202

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1. INTRODUCTION

1.1 RELATIONSHIP BETWEEN DEIR AND FEIR

The final environmental impact report (Final EIR) for the proposed Vista Del Mar project has been prepared by the City of Pittsburg in keeping with state environmental documentation requirements set forth in the California Environmental Quality Act (CEQA). The City has prepared the Final EIR pursuant to the CEQA Guidelines, including sections 15086 (Consultation Concerning Draft EIR), 15088 (Evaluation of and Response to Comments) and 15132 (Contents of Final Environmental Impact Report). In conformance with these guidelines, the Final EIR consists of the following **two volumes**:

- (1) the **Draft EIR**, dated June 22, 2004, which was distributed for public review and comment on June 23, 2004; and
- (2) this **Final EIR document**, which includes a summary listing of all comments submitted to the City in public testimony, letters, memoranda, and e-mails during and immediately after the public review period on the Draft EIR; minutes from the July 27, 2004 public hearing on the Draft EIR conducted by the City of Pittsburg Planning Commission; verbatim versions of the letters, memoranda, and e-mails received during and immediately after the Draft EIR review period; the responses of the EIR authors to environmental issues raised in these oral and written comments; and associated revisions to the Draft EIR.

The summary listing of all comments received and the associated responses in this Final EIR document are correlated to the public hearing minutes and verbatim letters, memoranda, and e-mail by code numbers, which have been posted in the right hand margin of the public hearing minutes and verbatim letters, memoranda, and e-mails.

Both volumes of the Final EIR are available for public review at the City of Pittsburg Planning Department, Pittsburg City Hall, 65 Civic Avenue, First Floor, Pittsburg, California; telephone: (925) 252-4920.

Certification of this Final EIR by the City must occur prior to any formal action by the City on the proposed project.

1.2 PROPOSED PROJECT SUMMARY

This summary should not be relied upon for a thorough understanding of the details of the project, its individual impacts, related mitigation needs, and possible alternatives. Please refer to chapter 3 for a complete description of the project, chapters 4 through 16 for a complete description of identified impacts and associated mitigation measures, chapter 17 for a description of project relationships to adopted plans and policies, including the City of Pittsburgh General Plan, and chapter 18 for an evaluation of alternatives to the project.

1.2.1 Proposed Development Plan

The project applicants, William Lyon Homes, Inc., and Alves Ranch LLC, have submitted a plan to the City of Pittsburgh for development of the approximately 293-acre Alves Ranch property located west of the current terminus of West Leland Road in southwest Pittsburgh, approximately one-half mile from the Pittsburgh/Bay Point BART station. The proposed development plan includes a mix of residential, business commercial, park, school, and permanent open space land uses. The proposed plan would provide for development of a total of 1,100 housing units, including 563 multi-family (high density) units and 537 single-family units (102 courtyard units, 132 medium density/4,000-square-foot-lot units, 286 low density/6,000-square-foot lot units, and 17 estate lots), plus approximately 257,500 square feet of commercial floor space, an 11.33-acre school/park site, approximately 117.68 acres of permanent hillside open space, and associated landscaped buffers, public and private roadways (including the extension of West Leland Road through the site), detention basin, water tank site, and water pump station site.

The proposed project development plan is generally consistent with the land use designations for the project site shown on the General Plan's "*General Plan Diagram*" (General Plan Figure 2-2) and more detailed Southwest Hills planning area diagram (Figure 2-4k). The proposed project residential total, overall residential density, business commercial component, and school site component, are also all generally consistent with the specific General Plan text provisions pertaining to the project site.

Construction of the first project residential phase is scheduled to commence in spring 2005; buildout would occur over an estimated period of 6 to 15 years.

1.2.2 Required Approvals from the City of Pittsburgh

The project applicants are currently requesting the following approvals from the City of Pittsburgh:

- (a) Notice of Determination (indicating completion of environmental review pursuant to CEQA),
- (b) General Plan Amendment to change the distribution of residential densities within the project, relocate the school site within the project, and add a park site (consolidated with the proposed school site),

- (c) Corresponding rezoning and associated Planned Development Plan,
- (d) Vesting tentative subdivision map,
- (e) Development agreement, and
- (f) Site and design review approval for the portion south of West Leland Road.

Implementation of the project will also eventually require the following additional City approvals:

- (g) Final subdivision map and associated improvement plans,
- (h) Site and design review approval for the portion north of West Leland Road,
- (i) Encroachment permit(s) (for various grading and infrastructure extension activities within the West Leland Road and other rights-of-way),
- (j) Onsite and offsite development permits (grading, driveways/roadway/emergency vehicle access construction, water and sewer line extensions, storm water/drainage facilities, and telecommunication extension), and
- (k) Building permits (for structures).

1.2.3 Required Approvals From Other Jurisdictional Agencies

Implementation of the project is also expected to require approvals from the following other local, state, and federal responsible agencies:

Local Agencies:

- (a) Bay Area Rapid Transit (BART) (encroachment permit approval for sanitary sewer crossing of BART facilities);
- (b) Contra Costa County Flood Control and Water Conservation District (storm drainage design approval);
- (c) Contra Costa County Public Works Department (encroachment permit approval for construction of offsite sanitary sewer extension in Willow Pass Road and Enes Avenue);
- (d) Contra Costa Water District (encroachment permit approval for water, storm drain, and sanitary sewer line crossings of the Contra Costa Canal);
- (e) Delta Diablo Sanitation District (approval of project connection to existing sewer trunk line);

(f) East Bay Municipal Utility District (EBMUD) (encroachment permit approval for water and sanitary sewer line crossings of an EBMUD pipeline);

(g) San Francisco Bay Regional Water Quality Control Board (National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit approval);

State Agencies:

(h) Caltrans (encroachment permit approval for sewer line extension under Highway 4);

(i) California Department of Fish and Game (Standard Streambed Alteration Agreement approval and Endangered Species Act consultation);

(j) Regional Water Quality Control Board (Section 401 water quality certification);

Federal Agencies:

(k) U.S. Army Corps of Engineers (Nationwide Permit or Section 404 Permit approval);

(l) U.S. Bureau of Reclamation (approval of use of Central Valley Project water to serve the project site and approval of one sewer line and two storm drain line crossings of the Contra Costa Canal); and

(m) U.S. Fish and Wildlife Service (USFWS) (acceptance of special status plant survey and site assessment for California red-legged frog).

2. RESPONSES TO COMMENTS ON THE DRAFT EIR

After completion of the Draft EIR, the Lead Agency (the City) is required under CEQA Guidelines sections 15086 (Consultation Concerning Draft EIR) and 15088 (Evaluation of and Response to Comments) to consult with and obtain comments from other public agencies having jurisdiction by law with respect to the project, and to provide the general public with an opportunity to comment on the Draft EIR. Under CEQA Guidelines section 15088, the Lead Agency is also required to respond in writing to substantive environmental points raised in this Draft EIR review and consultation process.

The Draft EIR, dated June 22, 2004, was distributed for public review and comment on June 23, 2004. The required 45-day public review period (for state review) on the Draft EIR also began on June 23, 2004. A public hearing to consider the adequacy of the Draft EIR was conducted by the City of Pittsburg Planning Commission on July 27, 2004. The state-mandated 45-day public review period on the Draft EIR ended on August 6, 2004.

Comments on the Draft EIR were submitted in the form of public testimony received at the July 22, 2004 Planning Commission public hearing and letters, memoranda, and e-mails received by the City during and immediately after the Draft EIR public review period. Three Planning Commissioners and three individuals from the public commented on the Draft EIR at the July 22, 2004 Planning Commission meeting. Thirteen (13) letters and memoranda were received, including eleven (11) received during, and two received after the close of, the 45-day public review period.

CEQA Guidelines section 15132 (Contents of Final Environmental Impact Report), subsection (b), requires that the Final EIR include the full set of "comments and recommendations received on the Draft EIR either verbatim or in summary"; section 15132, subsection (c), requires that the Final EIR include "a list of persons, organizations, and public agencies commenting on the Draft EIR"; and section 15132, subsection (d), requires that the Final EIR include "the responses of the Lead Agency to significant environmental points raised in the review and consultation process." In keeping with these guidelines, this Responses to Comments chapter includes the following sections:

- a **list of commenters** (section 2.1) which lists alphabetically each Commissioner and individual that testified during the July 22, 2004 Planning Commission meeting or submitted written comments to the City during and immediately after the Draft EIR public review period;
- a **summary of the Draft EIR comments by commenter** (section 2.2) that summarizes the environmental topics addressed by each Draft EIR commenter, and identifies the

comment by a code number that is keyed to the City's response to the comment in sections 2.3 and 2.4 of this chapter; and

- the **responses to Draft EIR comments** sections (sections 2.3 and 2.4), which: repeat the summary of each oral comment from the July 22, 2004 Planning Commission meeting on the Draft EIR, followed by the written response of the City to each oral comment (section 2.3); and repeat the summary of each written comment (letters and memos) received followed by the written response of the City to each written comment (section 2.4).

2.1 LIST OF DRAFT EIR COMMENTERS

The public agencies, organizations, individuals, and Planning Commission members who commented on the Draft EIR at the July 22, 2004 Planning Commission meeting, and in written form during and immediately after the Draft EIR public review period, are listed below alphabetically (each Planning Commission meeting commenter and each letter or memo received are identified by a code (e.g., PC 3, PC 7; letter 12, 13, etc.--in parentheses).

2.1.1 Planning Commissioners

Commissioner Garcia (PC2, PC3, PC4, PC6, PC26)
Commissioner Gordon (PC1)
Commissioner Ohlson (PC5, PC23, PC24, PC25)

2.1.2 Individuals and Organizations

(Note: All street addresses are in Pittsburgh, unless otherwise noted.)

Lee Burks, 133 Green Meadow Circle (PC12, PC13, PC14, PC15, PC16, PC17, PC18, PC19)
Michael Devereaux, Law Offices of Gregory D. Thatch, representing Seecon Financial & Construction Co., Inc. (letter 9)
Larry C. Larsen, Law Offices of Gregory D. Thatch, representing Seecon Financial & Construction Co., Inc., and West Coast Home Builders, Inc. (letter 7)
Brian and Doris Loescher, 131 Green Meadow Circle (letter 3)
Dottie Lozier, Green Meadow Circle (PC20, PC21, PC22)
Dave Maxin, 123 Green Meadow Circle (PC7)
Sonia Maxin, 123 Green Meadow Circle (PC8, PC9, PC10)
Richard D. Sestero, Project Manager, Seecon Financial & Construction Co., Inc. (letter 8)

2.1.3 Responsible and Interested Agencies

John Greitzer, TRANSPLAN staff, TRANSPLAN Committee, East Contra Costa Transportation Planning (letter 2)
Alfredo Hurtado, Civil Engineer III, City of Pittsburgh (letter 1)

Timothy Sable, District Branch Chief, State of California Department of Transportation (letters 5 and 13)

John Templeton, Transportation Manager, City of Concord Public Works-Maintenance Services Department (letter 6)

Hannah S. Wong, Engineering Staff, Flood Control Engineering, Contra Costa County Flood Control and Water Conservation District (letters 4 and 11)

2.1.4 Applicant

David A. Gold, Morrison & Foerster, LLP, representing William Lyon Homes and Alves Ranch LLC (letter 10)

2.2 SUMMARY OF DRAFT EIR COMMENTS BY COMMENTER

Planning Commission Regular Meeting of July 22, 2004:

A public hearing on the Draft EIR was held at the regular meeting of the City of Pittsburg Planning Commission on July 22, 2004. All comments made at the meeting pertaining to the EIR are coded, listed, and summarized below.

<u>Name/Agency</u>	<u>Response Code</u>	<u>Issues and Concerns</u>
Commissioner Gordon	PC1	Infrastructure and Public Services--Police Service--deterioration of police response times and emergency evacuation abilities noted.
Commissioner Garcia	PC2	Drainage and Water Quality--onsite ground water and well conditions noted.
	PC3	Land Use--open space management--question regarding City agreement with proposed GHAD approach.
	PC4	Transportation and Circulation--Leland Road extension--developer responsibility questioned.
Commissioner Ohlson	PC5	Transportation and Circulation--bicycle facilities--possible DEIR errors noted.
	PC6	Transportation and Circulation--transit--question regarding whether applicant has discussed project bus stop locations with Tri Delta Transit.
Commissioner Garcia	PC26	Air Quality--construction period dust control--water required.

Dave Maxin, 123 Green Meadow Circle	PC7	Project Description--information on project construction scheduling and project map (site plan) requested.
Sonia Maxin, 123 Green Meadow Circle	PC8	Land Use--land use compatibility impact concerns expressed, especially related to proposed school site.
	PC9	Infrastructure and Public Services--parks--concerns expressed regarding City abilities to maintain parks.
	PC10	Transportation and Circulation--concern expressed regarding project traffic impacts.
	PC11	Transportation and Circulation--BART parking impacts--concern expressed regarding peak period BART parking adequacy.
Lee Burks, 133 Green Meadow Circle	PC12	Visual Factors/Economic Impacts--concern expressed regarding project visual impacts on adjacent residential area views and associated property value impacts.
	PC13	Infrastructure and Public Services--parks--concern expressed regarding City ability to maintain proposed additional parkland, and with park vandalism impacts.
	PC14	Transportation and Circulation--BART parking impacts--concern expressed regarding peak period BART parking adequacy.
	PC15	Air Quality--construction dust--concern expressed regarding effect of construction period dust on health of residents.
	PC16	Biological Resources--general concern expressed regarding project wildlife displacement impacts.
	PC17	Land Use--open space preservation--desire expressed to preserve site as permanent open space; opposition to use of barbed wire fencing expressed.
	PC18	Transportation and Circulation--pedestrian facilities--question asked whether pathway connections between Oak Hills and Vista Del Mar project have been considered.

	PC19	Population, Housing, and Employment--housing--desire expressed for affordable low-income housing.
Dottie Lozier, Green Meadow Circle	PC20	Visual Factors--concern expressed regarding project visual impacts on adjacent residential area views and associated property value impacts.
	PC21	Air Quality/Noise--construction period--concern expressed regarding construction period noise and dust.
	PC22	Biological Resources--general concern expressed regarding project wildlife impacts.
Commissioner Ohlson	PC23	Transportation and Circulation--pedestrian and bicycle facilities--lack of pedestrian or bicycle connections to Oak Hill property noted.
	PC24	Transportation and Circulation--DEIR discussions of Leland Road traffic and Bailey Road/Leland Road intersection impacts noted.
	PC25	Transportation and Circulation--general comment noting that development would worsen traffic conditions, and added that Measure C would address such parking impacts starting in 2009 if extended by the voters.
Commissioner Garcia	PC26	Air Quality--construction period dust--water truck dust control need noted and encouraged.

Review Period Written Comments:

The eleven (11) letters and memos received during the Draft EIR public review period are listed below, with all comments pertaining to the EIR coded and summarized.

1. Alfredo Hurtado, Civil Engineer II, City of Pittsburgh Public Works Department; undated note	1.01	Public Health and Safety--section omitted; issue of possible EMF exposure not addressed; no PG&E transmission line setback recommendations. Is there a maximum number of units allowed in close proximity to lines?
2. John Greitzer, TRANSPLAN staff, TRANSPLAN Committee, East Contra Costa Transportation Planning; July 22, 2004	2.01	Transportation and Circulation--trip distribution and assignment--DEIR p. 7-27--clarify why was 1990 rather than 2000 Census information used.
	2.02	Transportation and Circulation-mitigations involving other jurisdictions--Mitigations 7-3 and 7-6 both require participation by other jurisdictions; Pittsburgh staff should ensure that mitigations are consistent

- with cost-sharing discussions underway among three jurisdictions.
- 2.03 Transportation and Circulation--bike lanes and BART parking demand--Mitigation 7-8, DEIR p. 7-47, calls for construction of bus turnouts and transit amenities; should also be noted that bike lanes planned for W. Leland Rd. (DEIR p. 7-3) could also reduce BART parking demands.
- 2.04 Transportation and Circulation--TRANSPLAN description--description of TRANSPLAN on DEIR p. 7-19 should indicate that elected officials and planning commissioners from each jurisdiction serve on TRANSPLAN.
3. Brian and Doris Loescher, 131 Green Meadow Circle; August 2, 2004
- 3.01 Air Quality/Noise--construction period--concerns expressed regarding construction period dust and noise impacts.
- 3.02 Biological Resources--general concern expressed regarding destruction and displacement of wildlife.
- 3.03 Economic Impacts--concern regarding property value impacts expressed.
4. Hannah S. Wong, Engineering Staff, Flood Control Engineering, Contra Costa County Flood Control and Water Conservation District; August 4, 2004
- 4.01 Drainage and Water Quality--Mitigation 9-2--added sentence proposed re: developer drainage improvement responsibilities.
- 4.02 Drainage and Water Quality--footnote on DEIR p. 9-22--DEIR needs to be updated to reflect latest Vista Del Mar Detention Basin Study indication that 45-acre-foot detention basin (not 63-acre-foot) is required.
- 4.03 Drainage and Water Quality--DEIR p. 9-6--added paragraph proposed regarding District independent authority to collect drainage fees, with fee rate based on fee in effect at time of fee collection.
- 4.04 Drainage and Water Quality--general District agreement with applicant's June 14, 2004 detention basin report expressed; comments on report being sent under separate cover.
- 4.05 Drainage and Water Quality--general requirement--all storm waters entering or originating within project site should be conveyed with diversion to nearest

- natural watercourse or adequate man-made drainage facility.
- 4.06 Drainage and Water Quality--Drainage Permit need cited for storm drain work; Roadway Encroachment Permit required for work within Bay Point (unincorporated Contra Costa County). Two permit processes can be linked at applicant request.
- 4.07 Drainage and Water Quality--District will send comments on project drainage improvement plans to City separately.
5. Timothy C. Sable, District Branch Chief, State of California Department of Transportation; August 6, 2004
- 5.01 Summary--Population, Housing, and Employment--this section missing from summary; copy of section requested.
- 5.02 Transportation and Circulation--Table 7.3 on DEIR p. 7-10--Why is Maylard/Shopping Center/Bailey Road intersection excluded from list of 16 study intersections? May explain/affect DEIR conclusion that impact on eastbound SR 4 ramps at Bailey Rd. is LOS A during PM peak hour.
- 5.03 Transportation and Circulation--Table 7.5 on DEIR p. 7-15--number of trips generated by Empire Business Park should be revised to reflect ITE Trip Generation Manual, 6th Edition.
- 5.04 Transportation and Circulation--Table 7.7 on DEIR p. 7-25--daily trip rate used for "Retail" category questioned.
- 5.05 Transportation and Circulation--Impact 7-1, DEIR p. 7-32--mitigation implementation prior to the development of this project is not proposed, which is unacceptable to Caltrans.
- 5.06 Transportation and Circulation--Table 7.10 on DEIR p. 7-38--queue length data requested for southbound Bailey Rd. at Leland Rd., and southbound San Marco Rd. at Leland Rd., in order to assess impacts on SR 4 ramp operation at these locations.
- 5.07 Transportation and Circulation--Impact 7-7, DEIR p. 7-45--lack of mitigation for related project impact on SR 4 unacceptable to Caltrans.
- 5.08 Transportation and Circulation--signalized intersection LOS--DEIR methodology questioned.

- 5.09 Transportation and Circulation--right-of-way acquisition--EIR should indicate that project proposes to acquire r-o-w from Caltrans and that this is subject to approval through the decertification process.
- 5.10 Transportation and Circulation--encroachment permit--any work or traffic control within Caltrans r-o-w will require an encroachment permit from Caltrans; encroachment permit process procedures described in comment.
6. John Templeton,
Transportation Manager,
City of Concord; August
6, 2004
- 6.01 Transportation and Circulation--Concord intersection impact analysis--DEIR does not adequately address project impacts at the three analyzed Concord intersections.
- 6.02 Transportation and Circulation--Table 7.5--traffic generated by Pittsburg/Bay Point BART Station Area Specific Plan not shown in table. FEIR has been completed for this project; trips should be included in this traffic analysis.
- 6.03 Transportation and Circulation--Table 7.5--Bailey Estates project should also be included.
- 6.04 Transportation and Circulation--DEIR findings inconsistent with traffic impacts and mitigations identified in Pittsburg/Bay Point BART Station Area Specific Plan EIR and Bailey Estates Project EIR--also see comment 6.05.
- 6.05 Transportation and Circulation--cumulative impacts--inappropriate to include traffic generated by Pittsburg/Bay Point BART Station Specific Plan and Bailey Estates only in 2025 cumulative analysis.
- 6.06 Transportation and Circulation--Mitigation 7-3--cumulative-plus-project impacts at Bailey Rd./Concord Blvd. intersection (in Concord)--reasons explained why DEIR-proposed mitigation details unacceptable to City of Concord--City of Concord willing to accept lesser mitigation measure. Cities of Concord and Pittsburg and Contra Costa County have had recent discussion regarding developing a funding plan for this intersection.
- 6.07 Transportation and Circulation--Impact 7-5--cumulative-plus-project impacts on Bailey Rd./Myrtle Dr. intersection--DEIR assumption that W. Leland

Rd. will be extended to Avila Rd. and ultimately connect to Willow Pass Rd. in Concord is incorrect. City of Concord opposed to this connection. The assumed connection needs to be deleted. If not deleted, intersection should be re-evaluated assuming no signal, right-turns only permitted from Avila onto Willow Pass, and a prohibition on left-turns from Willow Pass onto Avila during the PM peak hour.

6.08 Transportation and Circulation--Impact 7-6--cumulative-plus-project impacts on Bailey Rd./Myrtle Dr. intersection--no comments on proposed mitigation; cities of Concord and Pittsburg and Contra Costa County have had recent discussions towards developing a funding plan for this project.

6.09 Transportation and Circulation--general concerns regarding adequacy of mitigations--do not adequately address City of Concord's concerns; meeting with Pittsburg staff and its DEIR transportation consultants requested.

7. Larry C. Larsen, Law Offices of Gregory D. Thatch, representing Seecon Financial & Construction Co., Inc., and West Coast Home Builders, Inc.; August 6, 2004

7.01 Transportation and Circulation--Bailey Rd./W. Leland Rd. intersection--Table 7.8, DEIR p. 7-31--table indicates LOS change to F, but does not identify a significant impact. Table 7.10 indicates year 2025 LOS rating of F, and includes appropriate mitigations to reduce impact to less-than-significant level, but indicates mitigations may be infeasible without appropriate justification for reaching this conclusion.

7.02 Transportation and Circulation--San Marco Blvd./W. Leland Rd. intersection (in San Marco development)--Mitigation 7-4 (DEIR p. 7-43) improperly proposed project fair share; project creates the need for, and should construct, the required intersection improvements.

7.03 Transportation and Circulation--W. Leland Rd. extension--Willow Pass Rd./Avila Rd. link and intersection--Impact 7-5, DEIR p. 7-43--DEIR assumes Phase 2 extension of W. Leland Rd. to Avila Rd., which then connects to Willow Pass Rd., but omits analysis of project impacts on Phase 2 extension and associated mitigation requiring the project applicant to construct this Phase 2 extension. EIR should include this analysis and should identify mitigation requiring project applicant to construct necessary road improvements, including but not

limited to, road construction, widening and signalization. Also, Mitigation 7-5 requires applicant fair-share contribution for Willow Pass/Avila intersection; applicant should be responsible for constructing needed intersection improvements here, including signalization.

- 7.04 **Transportation and Circulation--SR 4 Bypass Corridor (San Marco Blvd. extension to Bailey Rd.)--**
DEIR fails to identify General Plan inconsistencies associated with locating proposed onsite wetland preserve in location designated in General Plan for placement of portion of SR 4 Bypass and for failing to address legal constraints associated with moving this portion of the alignment onto adjacent property encumbered by recorded road restrictions. DEIR also fails to address project impacts on this bypass. Section 7.1 should include discussion of project impacts on this General Plan designated bypass, regardless of its ultimate location. Project should be required to pay its fair share of the roadway.
- 7.05 **Infrastructure and Public Services--Water Service--**
SB 221 does not contemplate City adoption of a Statement of Overriding Considerations in conjunction with an EIR in order to approve a project not in compliance with the water supply requirements of SB 221. DEIR improperly suggests that water supply verification requirement can be disregarded by adoption of a Statement of Overriding Considerations. Necessary verification must be required to ensure availability of water service. City should not defer analysis of water supply impacts to final map stage; rather, City should require this analysis now before certifying this EIR.
- 7.06 **Infrastructure and Public Services--water system--**
DEIR glosses over impacts associated with physical construction of project water delivery system. DEIR assumes compliance with normal City construction period mitigation procedures, with inadequate specificity. DEIR needs to identify and mitigate where appropriate such water system construction impacts as air quality, noise, traffic interruption, and viewshed impacts associated with water pumps and water tanks.
- 7.07 **Infrastructure and Public Services--water system--**
DEIR woefully inadequate in providing meaningful analysis of proposed project water delivery system;

impact assessment limited to construction of proposed system. Impacts associated with operation of offsite water system improvements (i.e., pump station noise impacts, etc.) not identified. No environmental analysis of reservoirs, pumping stations, or major 24-inch main. Vague reference to City's Water Master Plan meaningless. DEIR cannot defer analysis of environmental impacts or suggest future studies or plans to determine true extent of impacts; must identify all environmental impacts of project now.

7.08 Infrastructure and Public Services--water system--
Seeno has reserved capacity in existing water transmission facilities, pumps, and reservoirs in southwest Pittsburg and objects to interim or permanent project connection to existing 20-inch and 16-inch lines or associated water reservoirs and pump stations. These facilities were constructed by Seeno for Oak Hills and San Marco developments; Alves property owners elected not to participate when given opportunity to have these facilities sized to accommodate Alves property; therefore, existing facilities are not adequately sized in the Seeno/City Reservation Agreement for the Oak Hills, San Marco, and San Marco Meadows developments, and project is legally constrained from using any of these reserved facilities. DEIR must therefore address how water will be delivered to project on both an interim and permanent basis to satisfy CEQA requirements.

7.09 Biological Resources--DEIR Figure 3.6 is misleading and inaccurate in showing relocation of SR 4 Bypass alignment between Bailey Rd. and San Marco Rd./SR 4 interchange as relocated off the project site, without any associated General Plan Amendment request. General Plan designated alignment would preclude implementation of applicant-proposed onsite wetlands mitigation preserve (would be in path of the General Plan designated bypass alignment). Proposed location of wetlands mitigation preserve raises host of issues regarding General Plan consistency and environmental impacts that are not addressed in DEIR. During City's General Plan update process, staff rejected relocation of the planned SR 4 Bypass location because of federal restrictions recorded against adjacent property that prohibit construction and use of such a roadway on such property.

Accordingly, project proposal to relocate roadway off project site as shown on DEIR Figure 3.6 not legally possible. DEIR should address all impacts associated with keeping roadway on project site, and should identify mitigations to mitigate impacts.

7.10 Land Use--DEIR p. 4-3--"Seecon" property improperly described--not under Williamson Act contract; Notice of Non-Renewal of Williamson Act filed in November 1990; contract expired in February 2000. In addition, 231 acres of Seecon property designated in General Plan as Low Density Residential, not Hillside Low Density Residential as depicted by several DEIR figures.

7.11 Visual Factors--water system--DEIR fails to analyze visual impacts associated with construction of project water system (i.e., water reservoirs, pumping stations, etc.). Impacts must be analyzed and mitigations for significant impacts identified.

7.12 Visual Factors--Mitigation 5-1--mitigation requires substantial project redesign, including incorporating natural creeks into design, using single-load peripheral residential streets, and aligning streets along natural grades. New environmental effects of this redesign not addressed, in violation of CEQA. Such analysis can only be deferred when impacts are already known and it is certain that impacts can be adequately mitigated; not the case here.

7.13 Soils and Geology--Mitigation 10-1--DEIR recommended design-level project geotechnical study must include recommendations to assure that homes in adjacent Oak Hills, San Marco, and San Marco Meadows are not affected by project grading.

8. Richard D. Sestero,
Project Manager,
Seecon Financial &
Construction, Inc.;
February 26, 2002

8.01 Land Use--DEIR p. 4-3--"Seecon" property improperly described--not under Williamson Act contract; Notice of Non-Renewal of Williamson Act filed in November 1990; contract expired in February 2000. In addition, 231 acres of Seecon property designated in General Plan as Low Density Residential, not Hillside Low Density Residential as depicted by several DEIR figures.

8.02 Transportation and Circulation--Bailey Rd./W. Leland Rd. intersection--Table 7.8, DEIR p. 7-31--table indicates LOS change to F, but does not identify a significant impact. Table 7.10 indicates year 2025

LOS rating of F, and includes appropriate mitigations to reduce impact to less-than-significant level, but indicates mitigations may be infeasible without appropriate justification for reaching this conclusion.

- 8.03 Transportation and Circulation--Mitigation T-3, W. Leland Road, DEIR p. 7-31 (referring to previous 2002 DEIR)--W. Leland Rd. needs to be widened to four lanes as soon as it is opened to traffic from San Marco Blvd. Project should be required to construct all four lanes through the project site with occupancy of first unit in the project.
- 8.04 Transportation and Circulation--Avila Rd. from San Marco Blvd. to Willow Pass Rd.--project impacts on this segment not analyzed; should be addressed; project should be required to participate in associated traffic studies, widening, improvements, and signalization of Avila Rd.
- 8.05 Transportation and Circulation--San Marco Blvd./SR 4 ramps intersection and W. Leland/San Marco Blvd. intersection not analyzed; should be discussed and project participation in associated traffic studies, improvements, and signalization should be required.
- 8.06 Infrastructure and Public Services--water system--DEIR woefully inadequate in providing meaningful analysis of proposed project water delivery system; impact assessment limited to construction of proposed system. Impacts associated with operation of offsite water system improvements (i.e., pump station noise impacts, etc.) not identified. No environmental analysis of reservoirs, pumping stations, or major 24-inch main. Vague reference to City's Water Master Plan meaningless. DEIR cannot defer analysis of environmental impacts or suggest future studies or plans to determine true extent of impacts; must identify all environmental impacts of project now.
- 8.07 Infrastructure and Public Services--Water Service--DEIR p. 8-10 (referring to 2002 EIR for previous Alves project)--City's Water Master Plan Update specifically requires project to construct 24-inch line from City's water treatment plant to project site, plus additional adequately-sized pumping and storage facilities. All Water Master Plan Update requirements should be satisfied prior to any project connection to or use of City water.

- 8.08 Soils and Geology--Mitigation 10-1--DEIR recommended design-level project geotechnical study must include recommendations to assure that homes in adjacent Oak Hills, San Marco, and San Marco Meadows are not affected by project grading.
- 8.09 Land Use--Seecon property to the west of Alves Ranch has recorded easement through project site to W. Leland Rd. Add mitigation measure that requires project to at all times (before, during, and after development) provide equivalent, all-weather access to existing entry point to Seecon property.
9. Michael Deveraux, Law Offices of Gregory D. Thatch, representing Seecon Financial Construction Co., Inc., September 25, 2004
- 9.01 Biological Resources--DEIR Figure 3.6 is misleading and inaccurate in showing the SR 4 Bypass alignment between Bailey Rd. and San Marco Rd./SR 4 interchange as relocated off the project site, without any associated General Plan Amendment request. The General Plan designated alignment would preclude implementation of applicant-proposed onsite wetlands mitigation preserve (the proposed preserve would be in path of the General Plan designated bypass alignment). Proposed location of wetlands mitigation preserve raises host of issues regarding General Plan consistency and environmental impacts that are not addressed in DEIR. During City's General Plan update process, staff rejected relocation of the planned SR 4 Bypass location because of federal restrictions recorded against adjacent property that prohibit construction and use of such a roadway on such property. Accordingly, project proposal to relocate roadway off project site as shown on DEIR Figure 3.6 is not legally possible. DEIR should address all impacts associated with keeping roadway on project site, and should identify mitigations to address impacts.
- A 90-acre wetland mitigation preserve in a designated highway corridor is manifestly incompatible. Proposed onsite wetlands preserve at this location is inappropriate. Proposed location of preserve could lead to impacts of bypass on California tiger salamander and California red-legged frog. Bypass grading, etc., would diminish size of bypass and alter its hydrology. Bypass will result in isolated "island" of wetlands habitat.
- 9.02 Biological Resources--onsite wetland preserve--Union Oil Company pipeline easement will have

- superior rights to any wetland preserve conservation easement. Mitigation ponds need to be designed to avoid pipeline easement area. Public notice (DEIR) fails to mention pipeline easement, so public unable to determine if proposed wetlands conflict with pipeline easement. Diagram showing easement location attached.
- 9.03 Public Health and Safety--blast zone--proposed project wetland preserve area located in Concord Naval Weapons Depot blast zone. Public unable to determine from DEIR whether any roads or mitigation ponds will be constructed within blast zone. Diagram showing blast zone attached.
10. David Gold, Morrison & Foerster, representing applicant; August 6, 2004
- 10.01 Project Description--rezoning--clarification of project's rezoning application requested/suggested.
- 10.02 Transportation and Circulation--traffic mitigation measures and City Traffic Impact Fee (TIF)--clarifications requested regarding applicant implementation responsibilities for offsite non-TIF mitigation needs.
- 10.03 Transportation and Circulation--timing of mitigation measure implementation--revised language recommended for Mitigation 7-3.
- 10.04 Transportation and Circulation--timing of mitigation measure implementation--revised language recommended for Mitigation 7-5.
- 10.05 Transportation and Circulation--trip distribution assumptions--clarification requested regarding basis of Table 7.5 trip distribution calculations.
- 10.06 Transportation and Circulation--cumulative traffic impact assumptions--confirmation regarding treatment of project on cumulative-plus-project impact assumptions--did General Plan based cumulative-without-project assessment discount assumptions in General Plan EIR regarding project site development, and did cumulative-plus-project assessment then add back in correct current proposed project numbers?
- 10.07 Transportation and Circulation--cumulative traffic assumptions--Impact 7-6--with or without project traffic signal warrant confirmation requested.

- 10.08 Transportation and Circulation--cumulative traffic assumptions--Impact and Mitigation 7-7--clarification requested that significant unavoidable impact would occur with or without project. DEIR gives incorrect impression that project alone causes this impact to be significant and unavoidable.
- 10.09 Biological Resources--definition of natural creeks--Impacts 5-1 and 11-1--conflict with applicant understanding that no natural creeks exist on the project site and there are no project impacts to "natural creeks" requiring mitigation.
- 10.10 Biological Resources--definition of natural creeks--DEIR assumes terms intermittent and ephemeral are interchangeable and as a result describes onsite ephemeral drainages and intermittent natural creeks or streams (e.g., DEIR p. 5-18).
- 10.11 Biological Resources--definition of natural creeks--General Plan EIR suggests that term "natural creeks" as used in General Plan refers to perennial or intermittent creeks or streams. Project site is in General Plan EIR identified minor watershed and accordingly, is drained by small natural channels rather than perennial or intermittent creeks. Also, project does not contain intermittent wetlands. Project should not be subject to General Plan creek setback and creek preservation policies.
- 10.12 Biological Resources--definition of natural creeks--DEIR interpretation that all ephemeral drainages in the City's planning area qualify as "natural creeks" subject to the General Plan creek setback and preservation policies, would result in City inability to satisfy its land use and housing goals--DEIR interpretation would result in de facto prohibition against filling of all ephemeral drainages, preventing development of significant portion of City's vacant land, and would render project and, perhaps, other market rate and affordable housing projects infeasible.
- 10.13 Biological Resources--definition of natural creeks--Impact 11-1--General Plan inconsistencies do not represent a potentially significant impact.
- 10.14 Biological Resources--regulatory permit application submittals--DEIR description of pending project applications with state and federal resources

agencies should be updated--suggested updates described.

- 10.15 Biological Resources--illustrative descriptions of potential mitigation actions--Mitigations 11-4, 1--5, 11-7, 11-8--supplemental text describing type of mitigation often required is confusing--difficult to determine what is required and what is illustrative.
- 10.16 Biological Resources--illustrative descriptions of potential mitigation actions--confirm that all biological mitigations are subject to reasonable interpretations by qualified biologist in manner consistent with state and federal law.
- 10.17 Biological Resources--wetland mitigation--Mitigation 11-2 on DEIR p. 11-41--"updated" language suggested regarding status of resource agency reviews.
- 10.18 Biological Resources--California red-legged frog--clarify that this species is anticipated in area by General Plan and that site supports any minimal dispersal habitat and not breeding habitat; therefore DEIR-stated 2:1 mitigation ratio is appropriate. Clarify that stock pond now functions as seep and confirm whether pond is located in main drainage (LSA says no). Also, confirm that project implementation will not impact stock pond; rather, stock pond will be restored as part of proposed mitigation.
- 10.19 Biological Resources--California tiger salamander--confirm that project site wetland habitat "does not exhibit a sufficient hydroperiod...to support California tiger salamander breeding habitat."
- 10.20 Biological Resources--burrowing owl--re: DEIR p. 11-21 discussion, confirm that if owls are located within proposed project development area, offsite replacement may be provided in project's preserve area. Also, re: Mitigation 11-7 on DEIR p. 11-51, confirm that applicant will conduct pre-construction surveys for burrowing owl between December 1 and January 31 for any construction activity proposed to occur from February to August. Also, confirm that if nests are identified, applicant will consult with CDFG to provide buffer zones and appropriate mitigation. Also, confirm that buffer zones need be maintained only until birds have fledged, unless otherwise

required by CDFG. Also, confirm that as noted on DEIR p. 11-51, habitat mitigation plan or agreement for burrowing owls is described as an illustrative mitigation option rather than a requirement.

- 10.21 Biological Resources--raptors--Mitigation 11-3, DEIR p. 11-53--confirm that spring nesting surveys required only if grading or other construction activity that may affect raptor nesting habitat is expected to occur in nesting season (April 1 through July 31). Also, confirm that the described 1,000-foot buffer is but one example of range of buffer sizes and actual buffer sizes will be determined by CDFG-approved biologist. Also, confirm that any buffer need only be maintained around any identified raptor nest until young have fledged, unless otherwise required by CDFG.
- 10.22 Biological Resources--loggerhead shrike--Mitigation 11-9, DEIR p. 11-55--confirm that spring nesting surveys required only if construction activity that may impact nesting habitat is expected to occur during nesting season (April 1 through July 31). With regard to required 250-foot buffer around each identified nest tree, please add phrase "or as otherwise determined by CDFG-approved biologist."
- 10.23 Biological Resources--California horned lark--Mitigation 11-10, DEIR p. 11-56--confirm that spring nesting survey required only if construction activity that may impact nesting habitat is expected to occur during nesting season (April 1 through July 3).
- 10.24 Biological Resources--mitigation program description--DEIR p. 11-3--specific clarification language recommended.
- 10.25 Biological Resources--DEIR p. 11-43--specific revision to language at bottom of page requested.
- 10.26 Soils and Geology--DEIR p. 10-7--confirm boundaries of Landslide E.
- 10.27 Soils and Geology--DEIR p. 10-10--confirm that groundwater was found in four of 225 test pits.
- 10.28 Soils and Geology--DEIR p. 10-22--confirm that January 30, 2004 BGC report represents final design-level project geotechnical study.

- 10.29 Soils and Geology--DEIR p. 10-23--confirm that cited information need has been met by January 30, 2004 BGC report.
- 10.30 Soils and Geology--DEIR pp. 10-23 and 10-24--confirm that cited information need has been met by January 30, 2004 BGC report.
- 10.31 Geology and Soils--DEIR p. 10-24--confirm that stabilization measures described will not warrant deleting lots from the layout or stabilizing landslides downslope of lots.
- 10.32 Geology and Soils--DEIR p. 10-24--confirm related findings of January 30, 2004 BGC report--i.e., that potential for creep and debris flow impacts on project "are very low." Also confirm that City-retained geologist reviewer will have opportunity to identify specific locations which warrant closer evaluation, in which case BGC will provide needed specific evaluation.
- 10.33 Geology and Soils--DEIR p. 10-28--confirm that importation of non-expansive fill material from offsite is unlikely and that sufficient quantities will be available onsite.
- 10.34 Infrastructure and Public Services--water supply--DEIR subsection 8.1.1(a)--current CCWD contract with USBR is for 195,000 af/y. Clarify whether DEIR reference to 174 mgd should be removed or qualified by indicating that average daily demand of 175 mgd equals to approx. 195,000 af/y.
- 10.35 Infrastructure and Public Services--water supply--Impact 8.1--confirm that Water Supply Assessment indicates that project does not "result in need for new or expanded water supply entitlements" (underline added) and confirm that use of currently projected project water supplies, water conservation efforts, and short term purchases does not equate to the need for new or expanded water supply entitlements.
- 10.36 Infrastructure and Public Services--water supply--Mitigation 8-1--confirm that City's water system is a public water system which will serve the subdivision and that City has provided written verification, in form of WSA, that system is able to provide sufficient supply to meet demands of subdivision at the time of final map filing.

- 10.37 Infrastructure and Public Services--Sewer Service--
DEIR subsection 8.2.1(d)--confirm that deficiencies
and modifications identified here do not serve or
affect the project.
- 10.38 Infrastructure and Public Services--Sewer Service--
Impact 8.3--DEIR subsection 8.2.1(d)--confirm that
current sewage treatment capacity should be
adequate for currently proposed project and
adequate plans have been adopted to ensure
adequate capacity beyond 2010.
- 10.39 Infrastructure and Public Services--Sewer Service--
Mitigation 8.3--clarify whether preparation of sewage
treatment adequacy evaluation is required in light of
current DDSD treatment plant capacity and phased
implementation of adopted Master Plan expansions.
- 10.40 Infrastructure and Public Services--Sewer Service--
Impact 8.4--clarify whether DEIR flow data supports
DEIR finding that demand from anticipated
cumulative development may exceed treatment
capacity.
- 10.41 Infrastructure and Public Services--water system--
DEIR p. 8-13--suggested language revision
regarding project water connection fee and/or water
system construction requirements.
- 10.42 Project Description--DEIR p. 3-13, subsection
3.4.2(b)--confirm that project does not include EVA
connections.
- 10.43 Project Description--DEIR p. 3-13, subsection
3.4.2(d)--confirm that project does not include linear
park.
- 10.44 Project Description--DEIR p. 3-13, subsection 3.4.2--
clarify that applicants anticipate 4.6 mcy of grading
volume rather than 4.1 mcy.
- 10.45 Project Description--DEIR p. 3-16, subsection
3.6.1(b)--inconsistency between numbers in text and
footnote; correct footnote.
- 10.46 Project Description--DEIR p. 3-17, subsection
3.6.1(e)(2)--clarify that applicant will dedicate 100-
foot r-o-w and construct four, rather than two, lanes
of W. Leland Rd. extension, subject to fee credits to
compensate applicant for non-nexus costs.

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|---|-------|--|
| | 10.47 | Project Description--DEIR p. 3-17, subsection 3.6.1(e)(4)--clarify that applicant will not dedicate school site, but rather will offer it for sale to the MDUSD. |
| | 10.48 | Project Description--DEIR p. 3-2, subsection 3.6.2(h)--clarify that project will also require Caltrans approval of encroachment permit for grading activities. |
| | 10.49 | Project Description--Figures 3.5, 3.6, 4.1, and 4.2--revise to show PG&E easement extending across project site. |
| | 10.50 | Transportation and Circulation--Figures 7.5, 7.7, and 7.8--clarify that figures are consistent. Some trip and volume figures appear to be inconsistent; e.g., at critical Willow Pass Rd./San Marco Blvd./SR 4 Eastbound Ramps intersection. |
| | 10.51 | Biological Resources--Figure 11.1--clarify stock pond location. |
| | 10.52 | Population, Housing, and Employment--Housing Element date--confirm that City adopted new Housing Element in 2003. |
| | 10.53 | Biological Resources--mitigation bank--DEIR p. 11-49--statement that project will be purchasing mitigation credits "from Ohlone Conservation Bank" should be changed to "from a qualified mitigation bank." |
| 11. Hannah S. Wong,
Engineering Staff, Flood
Control Engineering,
Contra Costa County
Flood Control and Water
Conservation District;
August 9, 2004 | -- | District comments from their review of applicant's post-DEIR preliminary Detention Basin Study (revised June 9, 2004). |
| 12. Terry Roberts, Director,
State Clearinghouse,
State of California
Governor's Office of
Planning and Research;
August 18, 2004 | -- | Letter indicates that Clearinghouse submitted DEIR to selected state agencies for review and acknowledges City compliance with State Clearinghouse review requirements for draft environmental documents. |

13. Timothy C. Sable, -- Department comments on potential visual impacts
District Branch Chief, of proposed project.
State of California
Department of
Transportation; August
26, 2004

2.3 RESPONSES TO JULY 27, 2004 CITY OF PITTSBURG PLANNING COMMISSION MEETING COMMENTS ON THE DRAFT EIR

The following section includes the minutes for the segment of the July 27, 2004, City of Pittsburgh Planning Commission meeting devoted to the Draft EIR on the Vista Del Mar Subdivision Project, including Commissioner comments and public hearing comments from members of the public, immediately followed by the EIR authors' response to substantive comments therein pertaining to the adequacy of the EIR. The comments and responses are correlated by code numbers added to the right margin of the minutes.

PC

**MINUTES
OF THE REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

July 27, 2004

A regular meeting of the Pittsburg Planning Commission was called to order by Chairperson Jack Garcia at 7:00 P.M. on Tuesday, July 27, 2004 in the City Council Chambers of City Hall at 65 Civic Avenue, Pittsburg, CA.

ROLL CALL:

Present:	Commissioners Dolojan, Gordon, Ohlson, Tumbaga, Williams, Chairperson Garcia (Commissioner Tumbaga arrived after roll call)
Absent:	Commissioner Ramirez
Staff:	Director of Planning and Building Randy Jerome; Planning Manager Melissa Ayres; Associate Planner Ken Strelo; Associate Planner Noel Ibalio; Assistant Planner Christopher Barton; Senior Civil Engineer Alfredo Hurtado; Director of the Redevelopment Agency Garrett Evans; and City Engineer Joe Sbranti.

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, July 23, 2004.

PLEDGE OF ALLEGIANCE:

Commissioner Williams led the Pledge of Allegiance.

DELETIONS/WITHDRAWALS/CONTINUANCES:

There were no deletions, withdrawals or continuances.

COMMENTS FROM THE AUDIENCE:

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The motion was seconded by Commissioner Williams and carried by the following vote:

Ayes:	Commissioners Dolojan, Gordon, Williams, Garcia
Noes:	Commissioner Ohlson
Abstain:	None
Absent:	Commissioners Ramirez, Tumbaga [Recused]

Commissioner Tumbaga returned to the dais at this time.

COMMISSION CONSIDERATIONS:

Item 4: Vista Del Mar. AP-03-33 (GP, PDRZ, SUBDIVISION and DR)

This is a study session and request for comments on the Draft EIR and plans associated with applications filed by William Homes and Alves Ranch LLC requesting 1) to amend the General Plan to relocate the Public/Institutional classification farther south on the site 2) to rezone the site to PD (Planned Development), 3) approval of a vesting tentative map of a 293 acre site into 543 residential lots, (in the form of estate lots, single-family, and clustered homes), four high density residential lots, one business commercial lot (approximately 257,500 square feet), one school site, open space lots (GHAD) one lot for a detention basin, one water pump station site, and one water tank site, 4) and related design review. Development of this site will eventually yield 1,100 residential units. The site is currently zoned RS-P, RE-P, OS-P. The site has multiple General Plan classifications. Low Density Residential, Medium Density Residential, High Density Residential, Business Commercial, Public/Institutional, and Open Space. APNs 097-122-004, 097-160-013, 097-160-014, 097-160-015, 097-160-047, and 097-180-004.

Noel Ibalio presented the staff memorandum dated July 27, 2004.

Chairperson Garcia commented that the site had originally been zoned Low Density Residential Single Family and had been approved by a former City Council. The property owner had filed a lawsuit and a judge had decided the proper zoning for the property. He requested clarification from staff as to how the current request to rezone the property would impact that decision. He questioned whether or not the judge must become involved with the matter again since he understood that there was no resolution of the City Council accepting the zoning designated by the courts.

Director of Planning and Building Randy Jerome explained that the issue was not the zoning as much as the General Plan. Action taken by the City Council in November 2001 had to do with the area south of Leland Road as to whether it should be Low or Medium Density Residential. The judgment had designated the property as Medium Density Residential as shown in the existing General Plan. The General Plan amendments would be minor, although the project would pretty much follow the judgment made by the courts, with the judge clarifying what the Council had done.

The matter before the Commission was what the judgment had been for the various land uses for the property as interpreted by the Council action in November 2001. The request to rezone the property would allow the property to be consistent with the Development Plan and the General Plan. The issue before the Commission at this time was the Draft Environmental Impact Report (DEIR).

SCOTT HANKS identified himself as a Consultant representing both Alves Ranch and William Lyon Homes, the applicants. He commented that he was well aware of the litigation and its settlement. He stated that there was every intention to remain consistent with the rezoning to the original intent of that litigation. The minor modifications that had been proposed would not substantially change any decision in the court decree.

Mr. Hanks provided a description and outline of the Vista Del Mar project and presented the Commission with a handout describing the proposal. The property was located in the southwest area of the City, a quarter of a mile west of the Pittsburg/Bay Point BART station, an infill project between the Oak Hills to the east and San Marco development to the west. Within the development, the original General Plan had recognized 1,100 total units. The commercial component allowed for a variation between 15 and 20 acres with the project to be below 15 acres, representing approximately 257,000 square feet.

Mr. Hanks identified the location of the 568 High-Density Residential units, to be a combination of for rent and for sale products. The area of West Leland Road was also identified as was the connectivity point from the east to the west. Access from Oak Hills, San Marco and the new elementary school would be via that road.

Mr. Hanks spoke to the corner of the site with dense trees that would be the area of more detailed design drawings of the individual communities. Plan L5 plans illustrated the area across from Leland Road on the east, a community of cluster home product, a for sale project which would be a Higher Density and which would be more affordable to the buyers within the community.

Mr. Hanks also pointed out a future school site. He reported that the applicant had discussions with the Mt. Diablo Unified School District (MDUSD). The applicants had determined, with the cooperation of the MDUSD, the acreage of the K-8 grade school site. Also in discussions with the MDUSD and City staff, the intent was to make the playground a joint use with the City which would save money for the City and the MDUSD.

Mr. Hanks also described the location of upscale homes in response to the strong need identified by City officials and as reflected on Plans L9 and L11. The lots would be a minimum of 6,000 square feet and would be intended for a more upscale buyer.

Mr. Hanks identified the area of the proposed estate homes and explained that the plans were basically a smart growth development/community intended to provide a full spectrum for potential buyers, located close to mass transit and with the higher volume of home located closer to the mass transit corridor. The area identified as permanent Open Space was also pointed out. He noted that as of July 23, 2004, the California Tiger Salamander had been deemed an endangered species in the area. The developer was in application with the U.S. Fish and Wildlife Service and the Department of Fish and Game to ensure that area was a permanent and protected habitat for the Tiger Salamander.

Mr. Hanks advised that the project would provide water infrastructure from a water treatment plant to the site with water provided in excess of the project need, to also serve the southwest area.

The sewer would be solely and exclusively for the proposed community and extend north all the way to Willow Pass Road. The storm system for the proposed community would handle the entire water outfall to a detention basin and a water quality basin to hold the flooding for the community sufficient to meet a 100-year storm event. The outfall would go to Willow Pass Road and eventually into Suisun Bay. A second outfall on the site would address the drainage water, a portion of which was currently coming off of the San Marco development. Two storm drain lines would be improved into the Town of Bay Point and out into Willow Pass Road, over land and then to Suisun Bay.

Mr. Hanks added that the developer had been informed by the Contra Costa Flood Control District that the installation of the new lines would eliminate a 30 year period when Bay Point had flooded as a result of the hills.

Speaking to West Leland Road, Mr. Hanks noted that through negotiations with staff, the developer had agreed to construct the entire width of West Leland Road and would deed the land for a 100 foot right-of-way, with grading and improvement for four lanes plus a median curb and gutter for that roadway as it traveled through the property. Bicycle lanes would also be provided with the main arterial accessing the project all the way to the end of the project. Four points of connectivity would be provided from the project to Oak Hills to the east and San Marco to the west.

Mr. Hanks explained that he fully intended to return to the Commission with more specifics. The purpose of the workshop was to introduce the project and to solicit comments on the DEIR. Once the comment period for the DEIR had been completed, he would return with a request to approve a Tentative Map, Zoning and General Plan Amendments, primarily for the relocation of the school site away from West Leland Road to ensure that it would not interfere with traffic speeds and that it would offer a safer location for students.

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In response to Commissioner Tumbaga, Mr. Hanks explained that the MDUSD had indicated that with San Marco, Oak Hills and the subject development, it would generate the need for a new school site. While he could not control the MDUSD, he understood that the MDUSD was prepared to move forward with the school site. The developer planned to improve the playground/park area prior to the start of construction of that school site.

Commissioner Gordon referenced Section 8.3 of the DEIR, specifically as it related to Police Services. He asked for a clarification of that issue.

RAY PENDRO, Senior Planner, Wagstaff and Associates, Urban and Environmental Planning, 2512 Ninth Street, Suite 5, Berkeley, advised that Wagstaff and Associates was under contract with the City to prepare the DEIR. He noted that the transcript from the meeting would become part of the Final EIR (FEIR) with responses provided to any questions.

Mr. Pendro identified the EIR, which was required by the California Environmental Quality Act (CEQA). He advised that copies of the DEIR were available at City Hall and in the local library. He identified the State EIR requirements, content, process, scope, impacts, alternatives and next steps, along with CEQA law which described how to determine the scope, content, preparation, public participation, Final EIR and how to implement the mitigation measures in the EIR. Chapter headings in the document included a project description, growth inducing impacts, significant and unavoidable impacts, irreversible environmental changes, cumulative impacts, effects found not to be significant, relationship to adopted plans and policies, alternatives to the project, and the CEQA required EIR conclusions in terms of significant or unavoidable impacts.

The DEIR was dated June 2004 with the last day for public review to be August 6, 2004. Written comments would be accepted until the identified deadline, with the Final EIR to include all responses to any written or verbal comments on the DEIR along with any changes to the DEIR as a result of those comments. Responses would be made in writing to anyone submitting the written comments.

Mr. Pendro explained that the Planning Commission would recommend to the City Council whether or not to certify the FEIR, which was not the same thing as approving the project. Once the City Council certified the FEIR, the next step would be to consider approving the actual project.

Mr. Pendro identified the environmental issues in the DEIR as listed in the CEQA checklist and guidelines. Each item had a chapter in the DEIR, including a requirement that by law the EIR would not assess the economic or social effects of a project. It was an environmental document only.

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Once each chapter had been evaluated, the DEIR had identified a number of impacts, including potential land use impacts regarding the electrical lines currently on-site, adjoining agricultural uses on the Seecon property, and the density the applicant proposed for higher density housing adjacent to lower density housing in the Oak Hills development. Mitigation measures had been identified to reduce the level of impacts to less than significant.

Mr. Pendro stated that significant and unavoidable impacts would be required to be described in the Council's Statement of Overriding Considerations if the project was approved. The significant and unavoidable impacts included visual impacts, traffic including increased delays at some intersections in the vicinity and along State Route 4 adjacent to the project, and insufficient BART parking. The BART property had been evaluated for its use. When the project was added to the vicinity, the traffic engineers had concluded that the BART parking lot would not have sufficient parking spaces for those who desired to use the station. Water supply impacts had also been identified as significant and unavoidable impacts. For all other items, mitigation measures had been identified to result in less than significant impacts.

Mr. Pendro reported that noise impacts which had been identified as significant and unavoidable were due to construction noise and since the project was large enough where it would take six to ten years or more to construct. Air emissions had also been identified as significant and unavoidable as a result of the traffic from the project which would exceed the thresholds defined by the Bay Area Air Quality Management District (BAAQMD).

The DEIR had evaluated project alternatives, including a no project alternative. Alternative Two related to a development according to the existing entitlements or with the current General Plan totaling 1,100 units. Alternative Three referred to a reduced density of 911 units. Alternative Four considered a reduction in the density to 595 units. The reductions resulted in a lowering of the densities by removing the High-Density components and spreading the larger home lots out along larger portions of the site. Alternative Five represented a reconfiguration of the project layout retaining the 1,100 units but placing those units in a different series of locations. Alternative Six, as required by CEQA law, considered alternative sites. In this instance, no alternative sites had been identified.

Mr. Pendro reiterated that the review period would end on August 6, 2004. The FEIR would have written responses to all written comments on the DEIR.

Commissioner Gordon again spoke to police services and commented that Chapter 8.3 had shown that the existing police coverage with police response times and evacuation abilities would deteriorate based on the project.

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Commissioner Gordon noted that a mitigation measure was required by CEQA if the project would impair the implementation of or physically interfere with the adopted Emergency Response Plan or the Emergency Evacuation Plan. There was no mitigation measure in the DEIR even though a potentially significant impact had been identified.

Mr. Pendro explained that CEQA law was based on physical changes in the environment. If the Police Department identified to the City Council a need for a new police substation or station in the project vicinity, that would be a physical change triggering environmental review by City staff. Unless a physical change resulted, it would not be considered an environmental impact. If a new police facility were identified as necessary for the project, San Marco or adjacent projects, the building of that facility would trigger an environmental review.

Commissioner Gordon respectfully disagreed in that in the DEIR, specifically Chapter 8.3 had shown that CEQA described significant criteria as either "resulting in the need for a new or physically altered facility" or "impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan."

Mr. Hanks explained that the San Marco project had agreed to a Police Mello Roos District. The developer had negotiated in its Development Agreement with staff to do the same thing to meet all of the police needs for the community.

Commissioner Gordon asked that that be identified in the DEIR as well since one in the DEIR the developer could be held to that as a mitigation measure.

Mr. Hanks added that as part of the Development Agreement, the Planning Commission would have an opportunity for review which would be binding to the City and the developer. He was not opposed to that inclusion in the EIR.

Mr. Pendro also added that the information would be included as part of the proposed project, already in place, if agreed to between the Police Department and the applicant. He expressed the willingness to place that mitigation measure in the EIR.

Chairperson Garcia spoke to ground water and the fact that the DEIR gave the impression that the water was almost on top of the ground. He understood that there was a well on the property at 28 feet which would be covered.

PC 2

Mr. Pendro stated that shallow ground water would seep through the upper layers of bedrock between 40 and 80 feet below the surface of the site. Some of the discussions also referenced rain water seeping through the ground and percolating down to the level where the ground water would accumulate.

PC

Mr. Hanks explained that the Alves Ranch property had an old quarry that had been used several years ago and during rain fall the water would go down to a certain point and then creep out into the rock.

Chairperson Garcia also spoke to the open space and the Geological Hazard Abatement District (GHAD), which would take control of that property and maintain it. He inquired if the City was in agreement with that GHAD.

PC 3

Mr. Hanks clarified that the GHAD would allow that issue to be resolved and negotiated with the City. The terms of the GHAD were continuing to be negotiated in the Development Agreement with the City.

As to the school site, Mr. Pendro explained that during the process of the DEIR relating to the electrical lines when the school site had been proposed to be changed the site plan had changed and the school site was now farther away from the electrical lines.

Chairperson Garcia spoke to Page 7-1 related to the extension of Leland Road to Avila Road. He questioned the developer's responsibility for the completion of the road from San Marco up the hill to Avila Road.

PC 4

Mr. Pendro commented that if the road had been identified by the City as a probable further project, it would be included in the EIR.

Mr. Ibalio noted that as shown on Page 7-43, Impact 7-5 Cumulative Plus Project Impacts, a mitigation measure had been attached to address the extension of Leland Road to Avila Road.

Commissioner Ohlson spoke to Pages 7-11 and 7-12, and the discussion of local bicycle facilities. The document had shown the closest existing off-street bicycle path as being located along the nearby Contra Costa Canal, when it was actually located on the East Bay Municipal Utility District (EBMUD) right-of-way. It was also located on the other side of the freeway from the project and was useless to the subject project. On Page 7-12 (c), a discussion of existing local bicycle pedestrian activity was noted. He pointed out that the Fehr and Peers study which had analyzed the West Leland Road entrance to the BART Station was also in error in that was not where the bicyclists originated.

PC 5

Commissioner Ohlson stated that bicyclists came from the Delta DeAnza Trail from south Pittsburg and into the Bailey Road entrance. From north Pittsburg or from Bay Point, bicyclists would travel up Bailey Road and enter the Bailey Road entrance to the BART Station.

Mr. Pendro advised that he would forward the information to Fehr and Peers to ensure that the information was corrected.

PC

Commissioner Ohlson also commented that he had spoken to the Seeno organization as to the lack of bicycle lanes on San Marco Boulevard. That developer had worked with the City and had created a bicycle/pedestrian path on the west side of San Marco Boulevard from Leland Road to the school site. That developer had also indicated that there would be a similar 8 to 10 foot wide asphalt path with trees on each side that would run along the north side of Leland Road from San Marco Boulevard to the edge of the BART parking lot.

Mr. Hanks explained that the City had employed Harris and Associates to design all of West Leland Road which would have a normal sidewalk, 5 feet in width, intended to run the full length but which would not be a widened path and would not meander. There would be bicycle lanes on the street.

Commissioner Ohlson requested the inclusion of bicycle lanes a few hundred feet at the entrance since the entrance area had shown one lane entrance and three lanes exiting and it appeared that there was insufficient room to stripe the lanes.

Mr. Hanks advised that it was intended that the bicycle lanes would continue, wrap and run through the entire project, along West Leland Road and along the backbone primary road of the entire project to the top. While the small neighborhood streets would not have a bike path, once it hit the backbone road, bicycle paths would be provided.

Chairperson Garcia inquired whether or not the developer had discussions with Tri Delta Transit to install bus stops in the community, to which Mr. Pendro advised that had been addressed as a mitigation measure in Chapter 7 of the DEIR.

PC 6

Chairperson Garcia opened the discussion to PUBLIC COMMENT.

DAVE MAXIN, 123 Green Meadow Circle, Pittsburg, identified his property as adjacent to the Alves Ranch property in the Oak Hills neighborhood. As a new homeowner in the City, he inquired when the construction for the project would commence and when approvals would be given by the City. He also inquired whether or not a map of the project could be provided to the public to better inform the public of the details of the project.

PC 7

The Chair provided a copy of the map for review.

SONIA MAXIN, 123 Green Meadow Circle, Pittsburg, stated that this was the first notice of a large project literally in her rear yard. She and her husband had moved to the City to start a family and she was concerned with the potential impact on her first child, particularly as it related to the potential school site. She was also interested in the concerns she understood with the inability of the City to maintain its parks. Additionally, she expressed concerns with traffic in the area.

PC 8
PC 9
PC 10

PC

PC 11

As a BART user, Ms. Maxin emphasized that parking during peak periods was a real concern, although she understood that there were future plans for a BART extension to the City of Antioch. She otherwise inquired how the public could have access to a copy of the EIR.

The Consultant reported that the school in San Marco was due to open for the upcoming school year. He advised that copies of the EIR were also available at City Hall and in the Library.

PC 12-
PC 16

LEE BURKS, 133 Green Meadow Circle, Pittsburg, stated that she had been aware that something would be built on the property although it would impact her views of the hills and her property values. She was also concerned with the proposed park land. She noted that Oak Hills had little parkland and she wanted to protect that as much as possible. She understood that it was difficult for the City to maintain existing park spaces given vandalism problems. With more people, she suggested there could be more vandalism in the parks. She added that the parking at the BART station was at a limit. Further, dust during construction could impact the health of residents and the wildlife displaced as a result of the development.

PC 17-
PC 19

Ms. Burks preferred that the property be preserved as open space. She expressed her hope that barbed wire fencing would not be used to secure the open space area as had been done elsewhere in the Oak Hills development which had generated a great deal of opposition by the residents. She questioned whether or not pathways would be considered between the adjoining projects. Lastly, she would like to see affordable low-income housing considered as part of the project in that she did not find the proposed homes to be affordable.

PC 20-
PC 22

DOTTIE LOZIER, a resident of Green Meadow Circle, Pittsburg, and a resident of the Oak Hills development, commented that she had paid additional money for a view of the hills and with the development of San Marco she had been impacted by the equipment, noise and dust associated with the construction of that development. She too spoke to the concerns related to reduced property values and impacted wildlife and she asked the Commission to consider all comments.

Commissioner Williams asked staff to ensure that residents and other interested citizens had information and were kept up to date on the proposal.

Commissioner Ohlson commented that there were no bike or pedestrian trail connections into the Oak Hills property whereby someone living in the subject development whose fence abutted the Oak Hills development would have to bicycle all the way down to Leland Road and back up the hill. He added that the concerns with Leland Road traffic had been identified on Pages 7-40 and 7-41. Also the Bailey/West Leland Roads intersection had a Level of Service (LOS) F, which was a significant and unavoidable impact.

PC 23
PC 24

PC

PC 25

Commissioner Ohlson commented that the development of the project would only make traffic worse and that nothing could be done to correct that. He added that Measure C would eliminate the LOS starting in 2009 if Measure C was extended by the voters.

Mr. Hanks pointed out the existing paths of connectivity with an 8 foot wide asphalt trail that would double as a fire access road, a 20 foot wide paved surface road, and another access road on the west side which would be provided to the property line.

Chairperson Garcia added that any development required that water trucks work to keep the dust down. He encouraged the City Engineer to ensure that water trucks would be utilized to reduce the dust impacts during construction. He otherwise acknowledged that the area was very breezy which would make it difficult during periods of construction.

PC 26

Ms. Ayres explained that no action was being asked of the Commission. The discussion was only intended to present the project and solicit feedback and public comments on the DEIR. The deadline for the comment period for the DEIR was again identified as August 6, 2004.

Chairperson Garcia declared a recess at 11:30 P.M. The meeting reconvened at 11:32 P.M. with all Commissioners initially shown as present and absent.

Item 5: Comprehensive Zoning Code Update

This is a staff update on the Zoning Ordinance work program

Associate Planner Noel Ibalio presented the staff report dated July 27, 2004.

In response to Commissioner Tumbaga, Ms. Ayres clarified that the zoning code update would not include the Inclusionary Housing Ordinance, since that involved a separate study.

The Commission acknowledged the receipt of the comprehensive zoning code update.

**Item 6: Planning Commission Goals, Objectives, Issues and Concerns –
FY 2004-2005**

The City Council requests that the Planning Commission develop and submit a plan identifying its goals, objectives, issues and concerns for fiscal year 2004-2005.

Planning Manager Melissa Ayres presented the staff report dated July 27, 2004. She recommended that the Commission review and approve the draft list of goals and objectives identified in Attachment 1 and provide additional direction with respect to other planning issues and concerns it would like addressed this year.

Commissioner Gordon

- PC1 Infrastructure and Public Services--Police Service--deterioration of police response times and emergency evacuation abilities noted.

Response: Draft EIR *Impact 8-5 (Emergency Response and Evacuation Impacts Due to Traffic Congestion)* (p. 8-24) and *Impact 8-6 (Emergency Access Impacts)* (p. 8-30) identify potential project impacts on emergency response and evacuation plans, and corresponding Draft EIR *Mitigation 8-5* (p. 8-24) and *Mitigation 8-6* (p. 8-30) identify mitigation measures that would reduce these impacts to less-than-significant levels.

Information regarding the Mello-Roos Community Facilities District Act has been added to EIR section 8.3 (Police Service).

Commissioner Garcia

- PC2 Drainage and Water Quality--onsite ground water and well conditions noted.

Response: Draft EIR subsection 9.1.6 (Groundwater, p. 9-9) discusses the issue addressed in the comment. Groundwater in the Pittsburg hills generally occurs as: (1) shallow groundwater that saturates the upper five to ten feet of surface soil and underlying bedrock during the rainy season, then slowly drains into streams and natural drainage channels; or (2) shallow groundwater that seeps through the upper layers of bedrock and remains year round between 40 and 80 feet below the surface.

Due mainly to salt water intrusion, there is no significant use of groundwater within Pittsburg, which obtains the vast majority of its drinking water from the Contra Costa Water District. The existing wells on the project site serve only the existing onsite buildings and operations; City water lines have not been installed on the site. The proposed project would not use the onsite wells, but would obtain its water supply from the Contra Costa Water District, as described in Draft EIR 8.1 (Water Service).

- PC3 Land Use--open space management--question regarding City agreement with proposed GHAD approach.

Response: This issue is discussed on p. 4-26 and in chapter 11 (Biological Resources) of the Draft EIR. The text has been updated to state that the project applicants anticipate that approximately 90 acres of the proposed onsite open space area would be included in a conservation easement to be deeded to a management entity approved by a relevant state (e.g., CDFG) or federal (e.g., USFWS) resource agency for purposes of onsite mitigation of project impacts on biological resources, including wetlands and special- status species. The terms of the conservation easement are being negotiated as part of the Development Agreement with the City, which would be subject to City Council approval.

- PC4 Transportation and Circulation--Leland Road extension--developer responsibility questioned.

Response: The project developers would not be responsible for completing the extension of West Leland Road from San Marco Boulevard to Avila Road. The Draft EIR (p. 7-13) explains that the extension of West Leland from its current terminus near Woodhill Drive to the existing stub at San Marco Boulevard (which was subject to its own Mitigated Negative Declaration adopted by the Pittsburg City Council earlier this year) is a currently scheduled local roadway improvement expected to be completed within the next 12 to 24 months (i.e., prior to proposed Vista Del Mar project occupancy). In addition, the Draft EIR (p. 7-33) explains that the extension of West Leland Road from San Marco Boulevard to Avila Road is a planned improvement included in the City of Pittsburg General Plan and is expected to be completed by 2025 (i.e., after proposed Vista Del Mar project occupancy). The project applicants would pay a fair share contribution toward intersection improvements at San Marco/West Leland as part of the City's Traffic Mitigation Fee Program, as described in *Mitigation 7-4*.

Commissioner Ohlson

- PC5 Transportation and Circulation--bicycle facilities--possible DEIR errors noted.

Response: In response to this comment, the text of EIR subsection 7.1.2(a) on pp. 7-11 and 7-12 has been revised as follows:

There are currently no formal public bicycle facilities immediately adjacent to the project site. As described in the Draft *Contra Costa Countywide Bicycle and Pedestrian Plan* (2003), the closest existing off-street bicycle path is located along the nearby East Bay Municipal Utility District (EBMUD) corridor, known as the Delta DeAnza Trail. East of Bailey Road, this trail is located south of SR 4; west of Bailey Road, the trail is north of the freeway. On-street bicycle routes are provided north of SR 4 along Bailey Road and Willow Pass Road, and an additional on-street route is planned for the entire length of West Leland Road. Bicycle parking is provided at the Pittsburg/Bay Point BART station.

- PC6 Transportation and Circulation--transit--question regarding whether applicant has discussed project bus stop locations with Tri Delta Transit.

Response: Construction of bus stops are included as part of *Mitigation 7-8*. The EIR authors are unaware of any discussions between the applicant and Tri Delta Transit regarding sub stop locations within the project site; however, applicant coordination with Tri Delta Transit would be required to implement the mitigation.

Dave Maxin, 123 Green Meadow Circle

- PC7 Project Description--information on project construction scheduling and project map (site plan) requested.

Response: The proposed project construction schedule is described on p. 3-15 of the Draft EIR. The applicants anticipate that the project would be developed over a period of approximately 6 to 15 years; however, market forces could delay portions of the project. The Final EIR for the Vista Del Mar project would need to be certified by the City of Pittsburgh before any project approvals could be granted.

Sonia Maxin, 123 Green Meadow Circle

- PC8 Land Use--land use compatibility impact concerns expressed, especially related to proposed school site.

Response: The comment does not specifically cite or question a Draft EIR finding. Draft EIR section 8.5 (beginning on p. 8-31) discusses school issues, and *Impact and Mitigation 4-1* discuss potential electromagnetic field (EMF) health hazards.

- PC9 Infrastructure and Public Services--parks--concerns expressed regarding City abilities to maintain parks.

Response: The comment does not specifically cite or question a Draft EIR finding. Draft EIR section 8.6 (beginning on p. 8-39) discusses parks and recreation issues.

- PC10 Transportation and Circulation--concern expressed regarding project traffic impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. The Draft EIR contains a comprehensive transportation analysis (chapter 7) that was specifically conducted to evaluate the transportation impacts of the project, including traffic in the project vicinity and in Pittsburgh. The analysis evaluated 16 intersections and six roadway segments.

- PC11 Transportation and Circulation--BART parking impacts--concern expressed regarding peak period BART parking adequacy.

Response: *Impact 7-8* and the discussion on p. 7-46 of the Draft EIR address project impacts on BART parking. The Draft EIR identifies the project's impact on parking at the Bay Point/Pittsburgh BART Station as a significant and unavoidable impact.

Lee Burks, 133 Green Meadow Circle

- PC12 Visual Factors/Economic Impacts--concern expressed regarding project visual impacts on adjacent residential area views and associated property value impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. Draft EIR chapter 5 (Visual Factors) discusses views and visual issues associated with the proposed project.

As discussed on Draft EIR p. 1-3, the California Environmental Quality Act (CEQA) Guidelines stipulate that an EIR explain the effects of a proposed project on the *environment* (i.e., a physical change in the environment). Economic effects of a proposed project (e.g., property values) in themselves are not considered *environmental* effects under CEQA (Guidelines section 15131) unless those effects result in a physical change in the environment. However, the Pittsburg City Council is free to consider economic effects *when deciding whether to approve the proposed project*.

- PC13 Infrastructure and Public Services--parks--concern expressed regarding City ability to maintain proposed additional parkland, and with park vandalism impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. Draft EIR section 8.6 (beginning on p. 8-39) discusses parks and recreation issues. Section 8.3 (beginning on p. 8-20) discusses police service.

- PC14 Transportation and Circulation--BART parking impacts--concern expressed regarding peak period BART parking adequacy.

Response: The comment reiterates a Draft EIR finding; see chapter 7 (Traffic and Circulation), pp. 7-13 and 7-47 (*Impact 7-8: Cumulative Impacts on BART Parking*). Please also see the response to related comment PC 11.

- PC15 Air Quality--construction dust--concern expressed regarding effect of construction period dust on health of residents.

Response: The comment reiterates a Draft EIR finding; see chapter 15 (Air Quality), *Impact and Mitigation 15-1 (Construction Emissions)*, beginning on p. 15-8.

- PC16 Biological Resources--general concern expressed regarding project wildlife displacement impacts.

Response: The potential displacement of wildlife by project development is discussed in Draft EIR chapter 11 (Biological Resources).

- PC17 Land Use--open space preservation--desire expressed to preserve site as permanent open space; opposition to use of barbed wire fencing expressed.

Response: The comment does not specifically cite or question a Draft EIR finding. "Open space" is discussed throughout the Draft EIR, including extensively in chapter 3

(Project Description) and chapter 11 (Biological Resources). The Draft EIR does not recommend the use of barbed wire fencing.

- PC18 Transportation and Circulation--pedestrian facilities--question asked whether pathway connections between Oak Hills and Vista Del Mar project have been considered.

Response: See Draft EIR p. 7-46. To encourage pedestrian and bicycle activity between the Vista Del Mar project site, San Marco subdivision, and Oak Hills, four connecting trails would be provided from the project site to the property lines of those adjacent properties.

- PC19 Population, Housing, and Employment--housing--desire expressed for affordable low-income housing.

Response: The comment does not specifically cite or question a Draft EIR finding. Draft EIR chapter 6 (Population, Housing, and Employment) discusses housing needs in Pittsburg by income category (very low, low, moderate, above moderate), as well as General Plan policies pertaining to the variety of housing types encouraged in Pittsburg.

Dottie Lozier, Green Meadow Circle

- PC20 Visual Factors--concern expressed regarding project visual impacts on adjacent residential area views and associated property value impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. The project site is currently designated for residential development in the Pittsburg General Plan (e.g., see Draft EIR Figure 3.5--Existing General Plan Designations). Draft EIR chapter 5 (Visual Factors) discusses views and visual issues associated with the proposed project.

As discussed on Draft EIR p. 1-3, the California Environmental Quality Act (CEQA) Guidelines stipulate that an EIR explain the effects of a proposed project on the *environment* (i.e., a physical change in the environment). Economic effects of a proposed project (e.g., property values) in themselves are not considered *environmental* effects under CEQA (Guidelines section 15131) unless those effects result in a physical change in the environment. However, the Pittsburg City Council is free to consider economic effects *when deciding whether to approve the proposed project*.

- PC21 Air Quality/Noise--construction period--concern expressed regarding construction period noise and dust.

Response: The comment does not specifically cite or question a Draft EIR finding. Construction period noise and dust issues are discussed in Draft EIR chapters 14

(Noise, *Impact and Mitigation 14-3: Project Construction Noise*) and 15 (Air Quality, *Impact and Mitigation 15-1: Construction Emissions*), respectively.

- PC22 Biological Resources--general concern expressed regarding project effects on property values and project wildlife impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. Project effects on wildlife are comprehensively addressed in chapter 11 (Biological Resources) of the Draft EIR.

As discussed on Draft EIR p. 1-3, the California Environmental Quality Act (CEQA) Guidelines stipulate that an EIR explain the effects of a proposed project on the *environment* (i.e., a physical change in the environment). Economic effects of a proposed project (e.g., property values) in themselves are not considered *environmental* effects under CEQA (Guidelines section 15131) unless those effects result in a physical change in the environment. However, the Pittsburg City Council is free to consider economic effects *when deciding whether to approve the proposed project*.

Commissioner Ohlson

- PC23 Transportation and Circulation--pedestrian and bicycle facilities--lack of pedestrian or bicycle connections to Oak Hill property noted.

Response: Please see the response to similar comment PC18.

- PC24 Transportation and Circulation--DEIR discussions of Leland Road traffic and Bailey Road/Leland Road intersection impacts noted.

Response: Project effects on Leland Road are identified on Draft EIR pp. 7-40 and 7-41 (*Impact and Mitigation 7-2*). The Bailey Road/West Leland Road intersection operates at LOS F during both the AM and PM peak hours. Draft EIR *Impact 7-2* identifies this impact as significant and unavoidable.

- PC25 Transportation and Circulation--general comment noting that development would worsen traffic conditions, and adding that Measure C would address such parking impacts starting in 2009 if extended by the voters.

Response: Comment noted. Measure C is discussed on Draft EIR p. 7-19.

Commissioner Garcia

- PC26 Air Quality--construction period dust--water truck dust control need noted and encouraged.

Response: Construction dust control measures, including the need by water truck dust control, are addressed in the Draft EIR under *Mitigation 15-1* (p. 15-9).

2.4 RESPONSES TO WRITTEN COMMENTS RECEIVED DURING AND IMMEDIATELY AFTER THE DRAFT EIR PUBLIC REVIEW PERIOD

The following section includes copies of the thirteen (13) letters and memoranda received by the City pertaining to the Draft EIR, including eleven (11) received during and two received after the close of the 45-day public review period, each immediately followed by the EIR authors' written response to comments therein pertaining to the content and adequacy of the Draft EIR. The comments and responses are correlated by code numbers added to the right margin of the letters, memoranda, and e-mails.

THE SECTION REGARDING PUBLIC
HEALTH AND SAFETY WAS OMITTED.
PARTICULARLY, THE ISSUE OF
POSSIBLE EMF EXPOSURE WAS
NOT ADDRESSED. THE LAND USE
SECTION BRIEFLY ADDRESSED THE
LOCATION OF THE PG&E TRANSMISSION
LINES, BUT THERE IS NO SETBACK
RECOMMENDATIONS. IS THERE A
MAXIMUM # OF UNITS ALLOWED
IN CLOSE PROXIMITY TO THESE LINES?

**1. Alfredo Hurtado, Civil Engineer II, City of Pittsburgh Public Works Department:
undated note**

- 1.01 Public Health and Safety--section omitted; issue of possible EMF exposure not addressed; no PG&E transmission line setback recommendations. Is there a maximum number of units allowed in close proximity to lines?

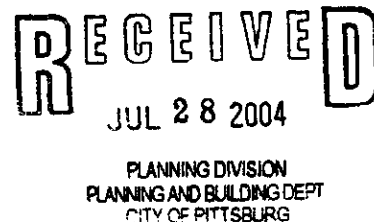
Response: "Public Health and Safety" is Draft EIR chapter 13. EMF exposure is discussed in Draft EIR *Impact 4-1 (Project Residential Development Relationships to Existing PG&E Overhead Electrical Transmission Lines)* and *Mitigation 4-1* in chapter 4 (Land Use). Draft EIR p. 4-29 states, "PG&E easement provisions require that the area within the transmission line easement be kept free of structures and other permanent physical obstructions to maintenance access. PG&E has not adopted any additional guidelines or criteria with respect to residential or other land use setbacks from transmission lines." *Mitigation 4-1* recommends a combination of landscaping, berms, and written notification to all prospective residents as a means to reduce this potential land use incompatibility.

2

TRANSPLAN Committee
East Contra Costa Transportation Planning
Antioch • Brentwood • Oakley • Pittsburg • Contra Costa County

July 22, 2004

Noel M. Ibalio, Associate Planner
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565



Dear Mr. Ibalio:

Thank you for sending us a copy of the Draft Environmental Impact Report on the Vista Del Mar Project. I have reviewed the Draft EIR and offer the following comments for your consideration.

1. **Trip distribution and assignment.** Page 7-27 of the Draft EIR states the 1990 Census Transportation Planning Package was the source of data used for trip distribution. It would be helpful to clarify why the 2000 Census information wasn't used instead, since it is much more recent.

2.01

2. **Mitigations involving other jurisdictions.** Mitigation 7-3 (at the Bailey/Concord intersection) and Mitigation 7-6 (at the Bailey/Myrtle intersection) both would require the participation of other jurisdictions (the City of Concord and Contra Costa County). Pittsburg staff should ensure these proposed mitigations – which call for the project applicant to pay a fair share – are consistent with the cost-sharing discussions underway among the three jurisdictions in regard to these projects.

2.02

3. **Bike lanes and BART parking demand.** On page 7-47, Mitigation 7-8 calls for construction of bus turnouts and transit amenities to enable Tri Delta Transit to run buses between the project site and the Pittsburg/Bay Point BART Station. This is proposed as a way of minimizing the project's impact on BART parking, which is significant and unavoidable. It should be noted the bike lanes planned for West Leland Road between Bailey Road and San Marco Boulevard (page 7-3) also could help reduce the project's demand for BART parking. The project is located a half-mile west of the BART station, so bicycle access to BART is feasible, especially given the planned bike lanes.

2.03

4. **Description of TRANSPLAN.** Although this doesn't pertain to the environmental analysis, the description of TRANSPLAN on page 7-19 should indicate elected officials and planning commissioners from each jurisdiction serve on TRANSPLAN. The document only mentions elected officials.

2.04

If you have questions about this letter, please feel free to contact me at (925) 335-1201.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Greitzer".

John Greitzer
TRANSPLAN staff

cc: Paul Reinders, City of Pittsburg
TRANSPLAN Committee
TRANSPLAN Technical Advisory Committee

2. John Greitzer, TRANSPLAN staff, TRANSPLAN Committee, East Contra Costa Transportation Planning; July 22, 2004

- 2.01 Transportation and Circulation--trip distribution and assignment--DEIR p. 7-27--clarify why was 1990 rather than 2000 Census information used.

Response: The Notice of Preparation (NOP) was distributed on January 16, 2004 (see Appendix 22.1 of the Draft EIR). The 1990 data was used because the 2000 census data was not available at that time.

- 2.02 Transportation and Circulation-mitigations involving other jurisdictions--Mitigations 7-3 and 7-6 both require participation by other jurisdictions; Pittsburg staff should ensure that mitigations are consistent with cost-sharing discussions underway among three jurisdictions.

Response: Comment noted. *Mitigations 7-3 and 7-6* shall be implemented consistent with ongoing cost-sharing discussions between the affected jurisdictions.

- 2.03 Transportation and Circulation--bike lanes and BART parking demand--Mitigation 7-8, DEIR p. 7-47, calls for construction of bus turnouts and transit amenities; should also be noted that bike lanes planned for W. Leland Rd. (DEIR p. 7-3) could also reduce BART parking demands.

Response: It is agreed that the Leland Road bike lanes would be helpful, as they would support bicycling as an alternative access mode to the BART station. However, the BART station parking impact would continue to be a significant and unavoidable impact, as identified in Draft EIR *Mitigation 7-8*.

- 2.04 Transportation and Circulation--TRANSPLAN description--description of TRANSPLAN on DEIR p. 7-19 should indicate that elected officials and planning commissioners from each jurisdiction serve on TRANSPLAN.

Response: Comment acknowledged. In response to this comment, the text of the third sentence in subsection 7.2.19(c) on p. 7-19 has been corrected as follows:

One elected official and one planning commissioner from each of these jurisdictions serves on the TRANSPLAN Regional Transportation Planning Committee.

3

August 2, 2004

Mr. Noel Ibalio,

I which to embellish on my comments to commission considerations on the Vista Del Mar project AP-03-33. I felt that due to the lateness of the hour, my plea to the commission may not have been as well received had it been presented in an earlier time frame. Realizing we had the smallest of representation, we felt that we were speaking for the entire neighborhood of which there are 28 homes that will be directly affected detrimentally and environmentally by this ensuing project. Being one of just a handful of original home owners at the conception of the first level in Oak Hills subdivision where our home borders the hills themselves, we are the most vulnerable to the conditions of several years of breathing in and living with outrageous amounts of dust and ear splitting noise from the heavy equipment as much as 6 days a week. The few of us who already experienced this for nearly 2 years just from the top of the hills behind us from the San Marco project know how awful that was and now to have it just behind our fences is unthinkable. There are many new residents who have moved into said homes who have no idea what this is going to be like, therefore they are probably reluctant to come forward or even attend the commission meetings. As Commissioner Williams so aptly remarked, and I thank her for her concern the people need to be made aware of exactly the impact of what will be forth coming from a project of this magnitude and we need to be kept informed also on the environmental impact it will have on all of our lives having to breath the air and all the pollution caused by this totally despicable and unsafe life we will have to endure for the years to follow. Personally I foresee selling our home and leaving the area. This would be a very costly and heartbreaking decision to make. We have labored extensively to constantly upgrade and beautify our lovely home to the show place it is today. Certainly many other residents have done the same. There is considerable wild life that will be destroyed or displaced. Our property as we know it today will certainly lose its value once a prospective buyer is subjected to the way we are forced to live. We are as much for progress as the next person, but as one commissioner put it - "Not in my back yard." Again we ask for your help and consideration in this very serious matter.

3.01

3.02

Sincerely,

Brian and Doris Loescher

Brian and Doris Loescher
131 Greenmeadow Circle
Pittsburg, CA 94565

RECEIVED
AUG 4 2004

PLANNING DIVISION
PLANNING AND BUILDING DEPT
CITY OF PITTSBURG

3. Brian and Doris Loescher, 131 Green Meadow Circle; August 2, 2004

- 3.01 Air Quality/Noise--construction period--concerns expressed regarding construction period dust and noise impacts.

Response: The comment does not specifically cite or question a Draft EIR finding. The Draft EIR addresses project construction period air quality (dust, etc.) impacts on pages 15-8 through 15-9. The Draft EIR addresses project construction period noise impacts on pages 14-16 and 14-17.

- 3.02 Biological Resources--general concern expressed regarding destruction and displacement of wildlife.

Response: The comment does not specifically cite or question a Draft EIR finding. The Draft EIR includes a comprehensive analysis and discussion of project impacts on wildlife in chapter 11 (Biological Resources).

- 3.03 Economic Impacts--concern regarding property value impacts expressed.

Response: The comment does not specifically cite or question a Draft EIR finding. As discussed on Draft EIR p. 1-3, the California Environmental Quality Act (CEQA) Guidelines stipulate that an EIR explain the effects of a proposed project on the *environment* (i.e., a physical change in the environment). Economic effects of a proposed project (e.g., property values) in themselves are not considered *environmental* effects under CEQA (Guidelines section 15131) unless those effects result in a physical change in the environment. However, the Pittsburg City Council is free to consider economic effects *when deciding whether to approve the proposed project*.



Contra Costa County
FLOOD CONTROL
& Water Conservation District

Maurice M. Shiu
ex officio Chief Engineer

255 Glacier Drive, Martinez, CA 94553-4825
Telephone: (925) 313-2000
FAX (925) 313-2333

Noel Ibalio
City of Pittsburg
Planning and Building Dept.
65 Civic Center
Pittsburg, CA 94565

RECEIVED
AUG 06 2004

PLANNING DIVISION
PLANNING AND BUILDING DEPT
CITY OF PITTSBURG

Our File(s): 1002-8448
97-48B

Dear Mr. Ibalio:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Subdivision 8448 (Vista Del Mar Project). We received the DEIR on June 28, 2004, and offer the following comments:

1. Mitigation Measure 9-2: at the end of the first paragraph, please add the following sentence: "The developer shall be responsible to design and construct the final improvements for sections of DA 48B Lines B and B-1 as CCCFCWCD identifies and determines is necessary from the review of the hydrology report." 4.01
2. Page 9-22: The footnote on this page mentions that the "basin layout depicted on the April 2004 site plan indicates it would have a total storage volume of approximately 63 acre feet below the maximum, 100-year water surface elevation." Please note that the Subdivision 8448 Vista Del Mar Detention Basin Design Study (revised June 9, 2004) by RJA indicates that a 45 acre-foot detention basin is required. The EIR should be updated to reflect the most current Detention Basin Study. 4.02
3. Page 9-6: The following paragraph should be added near the end of section (b) Drainage Area 48B: "The District is not the approving local agency for this project as defined by the Subdivision Map Act. As a special district, the District has an independent authority to collect drainage fees that is not restricted by the Subdivision Map Act. The District reviews the drainage fee rate every year the ordinance is in effect, and adjusts the rate annually on January 1 to account for inflation. The drainage fee rate does not vest at the time of tentative map approval. The drainage fees due and payable will be based on the fee in effect at the time of fee collection." 4.03
4. We have reviewed the Detention basin report by Ruggeri, Jensen, and Azar, which we received on June 14, 2004. Although there are some minor technical discrepancies in the report, we agree with the report that the proposed detention basin is adequately sized to reduce project flow rates required by the DA 48B Plan. We will send our comments on the detention basin improvement plans and detention basin study under separate cover. We look forward to working with the developer's engineer and offering our comments on the more detailed design of the basin, which includes outfall structure, emergency spillway, fencing, access roads, slopes, etc. 4.04

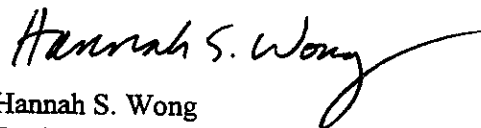
4

Noel Ibalio
August 4, 2004
Page 2

5. All storm waters entering or originating within the subject property should be conveyed (without diversion of the watershed) to the nearest natural watercourse or adequate man-made drainage facility. 4.05
6. A Drainage Permit will be needed for storm drain work and a Roadway Encroachment Permit will be needed for work within Bay Point (unincorporated Contra Costa County). At the applicant's request, the County Permit Center can link the Drainage Permit and Roadway Permit so the applicant receives single invoices for both permits. Applications for the Flood Control Permit may be obtained on the County's website at www.co.contra-costa.ca.us/depart/pw or from Bob Hendry (925) 335-1375 of our Permit Center at 651 Pine Street, 2nd Floor, North Wing, Martinez, CA 94553. 4.06
7. We have received the improvement plans for the onsite and offsite drainage system and will send our comments to the City of Pittsburg under separate cover. 4.07

We appreciate the opportunity to review plans involving drainage matters and welcome continued coordination. We look forward to receiving a copy of the Final EIR (FEIR) addressing our comments for our files, and the revised hydrology report for our review. If you have any questions, you may reach me at (925) 313-2381 or Tim Jensen at (925) 313-2396.

Very truly yours,



Hannah S. Wong
Engineering Staff
Flood Control Engineering

HSW:cw:gpp
G:\GrpData\FldCtl\CurDev\CITIES\Pittsburg\Sub 8448 (Vista Del Mar)\DEIR.doc

cc: G. Connaughton, Flood Control
B. Faraone, Flood Control
T. Jensen, Flood Control
B. Hendry, Permit Center
Mike Taylor
RJA
1111 Civic Dr., Ste. 110
Walnut Creek, CA 94596

4. Hannah S. Wong, Engineering Staff, Flood Control Engineering, Contra Costa County Flood Control and Water Conservation District; August 4, 2004

- 4.01 Drainage and Water Quality--Mitigation 9-2--added sentence proposed re: developer drainage improvement responsibilities.

Response: Mitigation 9-2 has been revised as follows to further clarify the developer's responsibility for the design and construction of offsite storm drain facilities: "The developer would then be responsible for design and construction of all improvements within the appropriate sections of Drainage Area 48B, Lines B and B-1 (as well as for any modifications required to also increase the volume of onsite detention storage), as may be identified by CCCFCWCD, based on their review of the hydrology report."

- 4.02 Drainage and Water Quality--footnote on DEIR p. 9-22--DEIR needs to be updated to reflect latest Vista Del Mar Detention Basin Study indication that 45-acre-foot detention basin (not 63-acre-foot) is required.

Response: The referenced footnote on Draft EIR p. 9-22 has been revised as follows, in accordance with information provided in the most recent Detention Basin Study: "Ruggeri-Jensen-Azar & Associates, *Subdivision 8448, Vista Del Mar, Detention Basin Design Study*, revised June 9, 2004. According to the Study's storage calculations, the basin would have a total storage volume of approximately 48 acre-feet below the top of bank adjacent to Highway 4."

The following revisions have also been made in other parts of Draft EIR chapter 9 (Drainage and Water Quality) to incorporate the new information contained in the project's *Detention Basin Design Study*:

- The sentence at the end of the second paragraph in subsection 9.3.3(a), Proposed Project Grading, on p. 9-21: "These basin slope characteristics would apply to all four sides of the basin, except there would be no 2.5-to-1 upper slope along the northern edge adjoining Highway 4, since existing highway grades are only approximately two feet higher than the four-to-one slope limit."
- The footnote contained in the second paragraph under subsection 9.3.3(a), Proposed Project Grading, on p. 9-21: "The 7.3-acre basin area includes the surrounding embankment slopes from the basin floor up to the highway and to the raised development areas. The bottom of the proposed basin would measure approximately six tenths of an acre."
- The third sentence under the fourth paragraph of subsection 9.3.3(b), Proposed Project Drainage Provisions, on p. 9-22: "According to the project's *Detention Basin Design Study*, the basin would have a bottom elevation of 120.0 MSL, a maximum, 10-year water storage elevation of approximately 136.0 MSL, and a peak discharge of 40 cubic feet per second (cfs) to the east highway culvert."

- The area of "Multi-Family/Business Commercial" use presented in Table 9.1 (p. 9-26) has been revised from 39.7 acres to 41.6 acres, and the area of "Open Space" has been revised from 74.75 acres to 72.85 acres, to reflect changes in the size of the proposed detention basin. These minor revisions did not affect the average developed condition runoff coefficient calculated in the table, which remains at 63 percent.

None of the above changes substantially affects any Draft EIR impact or mitigation finding.

- 4.03 Drainage and Water Quality--DEIR p. 9-6--added paragraph proposed regarding District independent authority to collect drainage fees, with fee rate based on fee in effect at time of fee collection.

Response: The following paragraph has been added to Draft EIR subsection 9.1.3(b), Drainage Area 48B (p. 9-6), to further clarify the CCCFCWCD's levying of drainage impact fees:

"CCCFCWCD is not the approving local agency for this project, as defined by the Subdivision Map Act. As a special district, the District has an independent authority to collect drainage fees that is not restricted by the Map Act. The District reviews the drainage fee rate every year the ordinance is in effect, and adjusts the rate annually on January 1 to account for inflation. As a result, the drainage fee rate does not vest at the time of tentative map approval; the drainage fees due and payable for a proposed project will be based on the fee in effect at the time of fee collection."

The above changes does not affect the environmental analysis.

- 4.04 Drainage and Water Quality--general District agreement with applicant's June 14, 2004 detention basin report expressed; comments on report being sent under separate cover.

Response: Comment acknowledged. The fifth paragraph in Draft EIR subsection 9.3.3(b), Proposed Project Drainage Provisions (p. 9-22), has been replaced as follows to clarify the CCCFCWCD's position on review and approval of the proposed storm water detention basin:

"The Flood Control District has reviewed the Project's *Detention Basin Design Study* and preliminarily confirmed that the basin, as now designed, would provide adequate storage volume to reduce post-development discharge rates in accordance with the plan for Drainage Area 48B. The study did not fully address all aspects of the basin design (for instance, details for the outfall structure, emergency spillway, fencing requirements, access roads, etc., remain to be determined), but, since it demonstrated that the desired attenuation of peak flow rates could be achieved

within the area currently reserved for a detention basin, the District feels these ancillary issues can be resolved during final project design."

- 4.05 Drainage and Water Quality--general requirement--all storm waters entering or originating within project site should be conveyed with diversion to nearest natural watercourse or adequate man-made drainage facility.

Response: Comment acknowledged. As currently proposed, all storm water runoff entering or originating within the project boundaries would be conveyed to one of the two existing culverts under Highway 4 or to the existing storm drain system in the adjoining Oak Hills subdivision.

- 4.06 Drainage and Water Quality--Drainage Permit need cited for storm drain work; Roadway Encroachment Permit required for work within Bay Point (unincorporated Contra Costa County). Two permit processes can be linked at applicant request.

Response: Comment acknowledged. The project applicants would be responsible for obtaining all County permits required for the construction of offsite storm drain facilities.

- 4.07 Drainage and Water Quality--District will send comments on project drainage improvement plans to City separately.

Response: Comment acknowledged. No additional comments from the District were received during the Draft EIR public review period; however, see letter 11 which was received after the close of the comment period.

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STATE OF CALIFORNIA — BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER Governor

DEPARTMENT OF TRANSPORTATION

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August 6, 2004

CC004643
CC-4-R20.10
SCH # 2004012097

Ms. Noel Ibalio
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Dear Ms. Ibalio:

Vista Del Mar – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review for the above-referenced project. We submit the following comments, based on our review of the Draft Environmental Impact Report:

Summary Section (Yellow pages)

Reference is made to Table 2.1, Summary of Impacts and Mitigation Measures. The section discussing Population, Housing and Employment was missing from our copy. Please provide this information.

5.01

Section 7. Traffic and Circulation

Refer to Table 7.3 on p. 7-10. Why is the Maynard/Shopping Center/Bailey Road intersection not included in the 16 study intersections listed on p. 7-4? This may explain why the level of service (LOS) at the eastbound State Route (SR) 4 ramps at Bailey Road is "A" during the existing PM peak hour. This "A" LOS does not accurately reflect the existing level of service at this location.

5.02

Refer to Table 7.5 on p. 7-15. For the Empire Business Park, the number of trips generated should be revised to reflect the rates calculated by using the Institute of Transportation Engineers *Trip Generation Manual*, 6th Edition, which is referenced as the source for this table. Please see the following comparison:

5.03

Reference	ADT	AM Trips	PM Trips
Table 7.5	518	47	54
ITE 6 th Ed.	1340 (105 x 12.76)	150 (105 x 1.43)	136 (105 x 1.29)

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Ms. Noel Ibalio
August 6, 2004
Page 2

Refer to Table 7.7 on p. 7-25. For the Retail category, we could not find in the ITE Manual the peak hour trip generation rate used in the table. Is the specialty retail or some other specific combination of rates most suited to this case? The daily trip rates for the specialty retail is roughly similar to that used in the table:

5.04

Reference	Daily Rate	AM Trip Rate	PM Trip Rate
Table 7.7	42.92	1.03	3.74
ITE 6 th Ed.	40.67	6.41	4.93

Refer to Impact 7.1, p. 7-32. This is disclosed to be a significant impact. The completion of mitigation measures for this impact is not proposed either as part of this project or separately prior to the development of this project. This is unacceptable to the Department.

5.05

Refer to Table 7-10 on p. 7.38. The Volume-to-Capacity (V/C) ratios at the Bailey Rd./W. Leland Rd. intersection are 1.18 AM and 1.05 PM respectively. At the San Marco/W. Leland Rd. intersection the V/C ratios are 0.86 AM and 0.88 PM respectively. Please provide queue length data for southbound Bailey Road at Leland and southbound San Marco Blvd. at Leland so that we may assess possible impacts to the operation of SR-4 ramps at these locations.

5.06

Refer to Impact 7.7, p. 7-45. The project will cause a significant cumulative impact on SR-4. For the proposed project to not mitigate these impacts is unacceptable to the Department.

5.07

Signalized Intersection LOS

Since the report was prepared in 2004, please explain why signalized intersection LOS is determined from V/C ratio threshold based upon 1997 Contra Costa Transportation Authority (CCTALOS) methodology rather than control delay per vehicle, the criteria used in *Highway Capacity Manual 2000*. V/C is one of several input parameters in calculating control delay per vehicle. The CCTALOS implies that 1997 or older methodologies were used while comparing them to new ones in *HCM 2000*.

5.08

Right-of-Way Acquisition

The document should indicate that the project proposes to acquire right-of-way from the Department, and that this is subject to approval through the decertification process.

5.09

Encroachment Permit

We reiterate a previous comment that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation and five (5) sets of plans (in metric units) that clearly indicate State ROW to the following address:

5.10

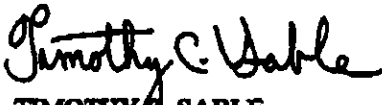
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Ms. Noel Iballo
August 6, 2004
Page 3

Mr. Sean Nozzari, District Office Chief
Office of Permits
California Department of Transportation, District 4
P. O. Box 23660
Oakland, CA 94623-0660

Should you require further information or have any questions, please call me at (510) 286-5505.

Sincerely,



TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c. State Clearinghouse

5. Timothy C. Sable, District Branch Chief, State of California Department of Transportation; August 6, 2004

- 5.01 Summary--Population, Housing, and Employment--this section missing from summary; copy of section requested.

Response: Draft EIR chapter 6 (Population, Housing, and Employment) contains the requested information. As described on p. 2-4, the EIR summary table (Table 2.1) lists "significant" impacts. No significant population, housing, or employment impact has been identified, so the table does not list any.

- 5.02 Transportation and Circulation--Table 7.3 on DEIR p. 7-10--Why is Maylard/Shopping Center/Bailey Road intersection excluded from list of 16 study intersections? May explain/affect DEIR conclusion that impact on eastbound SR 4 ramps at Bailey Rd. is LOS A during PM peak hour.

Response: The Bailey Road/Maylard Street-Shopping Center driveway intersection was not included in the Vista Del Mar project analysis because prior studies have indicated that this location does not experience significant congestion. Other recent EIRs (*Pittsburg/Bay Point BART Station Area Specific Plan EIR*, July 2001, and *Bailey Estates Revised Draft EIR*, August 2003) indicate that this location currently operates at LOS A during both AM and PM peak hours. These EIRs also indicate that LOS A conditions would continue through 2010. It was determined that the Vista Del Mar project would not add sufficient amounts of traffic to this intersection to cause it to change from LOS A to an unacceptable level, due to the intersection's substantial amount of projected available capacity. Therefore, no further analysis was conducted.

With regard to the existing conditions cited for the Bailey Road/SR 4 eastbound ramps intersection, the existing conditions in the Vista Del Mar Draft EIR are based on traffic counts conducted in September 2003. The AM peak hour conditions are very comparable to conditions cited in the *Bailey Estates Revised Draft EIR* and *Pittsburg/Bay Point BART Station Area Specific Plan EIR*. The PM peak hour conditions are better than those cited in the two previous EIRs, reflecting 2003 volumes which are somewhat lower than the 2000 volumes used in the previous analyses. However, unlike the Vista Del Mar Draft EIR, these previous analyses did not account for the additional receiving lane on southbound Bailey Road that can be used by the eastbound right-turn movement. CCTA's *2000 Traffic Service Objective Monitoring Report* cites LOS B at this intersection during the PM peak hour, which is more consistent with the Vista Del Mar Draft EIR.

- 5.03 Transportation and Circulation--Table 7.5 on DEIR p. 7-15--number of trips generated by Empire Business Park should be revised to reflect ITE Trip Generation Manual, 6th Edition.

Response: The Empire Ranch Business park will be a manufacturing facility. Therefore, rates from the Institute of Transportation Engineers (ITE) *Trip Generation* 6th Edition for a manufacturing use, not a business park, were used to estimate its traffic. These rates reflect the actual use and therefore the estimates do not require revisions.

- 5.04 Transportation and Circulation--Table 7.7 on DEIR p. 7-25--daily trip rate used for "Retail" category questioned.

Response: ITE average rates for shopping centers were used.

- 5.05 Transportation and Circulation--Impact 7-1, DEIR p. 7-32--mitigation implementation prior to the development of this project is not proposed, which is unacceptable to Caltrans.

Response: The City of Pittsburg has stated that this improvement will be added to its Traffic Mitigation Fee Program and that this project will be subject to that fee. By adding this improvement to the City's Traffic Mitigation Fee Program, a measure which is assured, there would be reasonable assurance that full funding of the mitigation would be provided. By paying the Traffic Mitigation Fee, the project would be providing its fair share contribution toward this mitigation. This is the accepted fair share responsibility implementation practice in the City of Pittsburg.

- 5.06 Transportation and Circulation--Table 7.10 on DEIR p. 7-38--queue length data requested for southbound Bailey Rd. at Leland Rd., and southbound San Marco Rd. at Leland Rd., in order to assess impacts on SR 4 ramp operation at these locations.

Response: In Pittsburg, project impacts are evaluated at intersections and on freeway and major roadway segments. Intersection operations are evaluated using volume-to-capacity ratios, and freeway and roadway segments are evaluated using delay indices, both calculated with methods adopted by the City of Pittsburg and the Contra Costa County congestion management agency. Queuing is not used to assess impacts, and there are no queuing impact criteria. Therefore, a queuing analysis has not been performed as part of this EIR. Data provided in the traffic technical appendix, available for review at the City of Pittsburg Community Development Department, can be used by Caltrans to estimate queue lengths.

- 5.07 Transportation and Circulation--Impact 7-7, DEIR p. 7-45--lack of mitigation for related project impact on SR 4 unacceptable to Caltrans.

Response: The Draft EIR identified that the project would contribute to the cumulative significant impact on westbound SR 4 between Willow Pass Road in Pittsburg and Willow Pass Road in Concord during the AM peak period. The project sponsor would contribute to all applicable development impact fee programs to finance improvements on regional facilities. However, it must be noted that additional capacity improvements for this section of SR 4 have not been identified by Caltrans nor by the East Contra Costa Regional Fee and Finance Authority. Also, neither the project sponsor nor the City of

Pittsburg can guarantee completion of improvements to SR 4, resulting in a Draft EIR statement that the impact is significant and unavoidable. Therefore, payment of applicant's fair share of the Regional Traffic Mitigation Fee is the only available feasible mitigation.

- 5.08 Transportation and Circulation--signalized intersection LOS--DEIR methodology questioned.

Response: The Vista Del Mar Draft EIR analysis is based on the LOS methodology as prescribed by the Contra Costa Transportation Authority (CCTA), and adopted by the City of Pittsburg. This methodology is used for all signal-controlled intersection analyses in Contra Costa County, and is consistent with recently completed EIRs in the City of Pittsburg.

- 5.09 Transportation and Circulation--right-of-way acquisition--EIR should indicate that project proposes to acquire r-o-w from Caltrans and that this is subject to approval through the decertification process.

Response: Comment noted. Comment acknowledged. In response to this comment, the Draft EIR text on page 3-21 has been revised to indicate that any proposal to acquire Caltrans r-o-w (see Draft EIR *Mitigation 7-1*) would require Caltrans approval through the decertification process.

- 5.10 Transportation and Circulation--encroachment permit--any work or traffic control within Caltrans r-o-w will require an encroachment permit from Caltrans; encroachment permit process procedures described in comment.

Response: Comment noted. The Draft EIR does indicate on page 3-21 that an encroachment permit from Caltrans would be required.

City of Concord
1455 Gasoline Alley
Concord, California 94520-4805
FAX: (925) 680-1660

Public Works-Maintenance Services Department
Qamar Khan, Director

Telephone: (925) 671-3129



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Edward R. James, City Manager

August 6, 2004

Noel Ibalio, Assistant Planner
City of Pittsburg
Pittsburg City Hall
65 Civic Avenue
Pittsburg, CA 94565

**RE: City of Concord's Comments on the Vista Del Mar Project, Draft
Environmental Impact Report, State Clearing House #2004012097**

Dear Mr. Ibalio:

The City of Concord has received the above referenced Draft Environmental Impact Report (DEIR) that describes the environmental impacts of the proposed Vista Del Mar Project located on the 293-acre Alves Ranch property near the Pittsburg/Bay Point BART station. The proposed project consists of a mixed-use community with 1,100 housing units consisting of 537 single-family lots and courtyard houses, and 563 multi-family residential units, plus approximately 257,000 square feet of commercial floor space, a school/park site, water quality control basin, public roads, and open space.

The DEIR provides an analysis of the potential significant environmental impacts as well as recommended mitigation measures for the proposed project. The City has evaluated this environmental document and is providing written comments. The DEIR provides a traffic study examining several key intersections in Concord that includes Bailey Road/Myrtle Drive, Bailey Road/Concord Boulevard and Willow Pass Road/Avila Road. The traffic analysis does not adequately address the traffic impacts at the three intersections. The traffic generated by the proposed projects in the Pittsburg/Bay Point BART Station Area Specific Plan is not shown in Table 7.5, "Approved Development in Project Vicinity - Trip Generation." The Final Environmental Impact Report (FEIR) has been completed for this project and the traffic trips should be included in the traffic analysis. The Bailey Estates housing development should have also been included. The project was known to be in the pipeline and now has an approved EIR. Without the inclusion of these two projects, appropriate mitigation measures for Vista Del Mar cannot be identified. **The findings in the Vista Del Mar DEIR are inconsistent with traffic impacts and mitigation measures identified in the FEIR for the Pittsburg/Bay Point BART Station Area Specific Plan and Bailey Estates.** It is inappropriate to include the traffic generated in these nearby approved projects only in the 2025 cumulative analysis.

vista del mar DEIR.doc

6.01

6.02

6.03

6.04

6.05

City of Concord
Vista Del Mar Project Draft Environmental Impact Report
Letter to the City of Pittsburg
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Page 2 of 3

The DEIR as it relates to Concord intersections are Impact 7-3: Cumulative-Plus-Project Impacts at the Bailey Road/Concord Boulevard Intersection; Impact 7-5 Cumulative-Plus-Project Impacts at the Willow Pass Road/Avila Road Intersection; and Impact 7-6: Cumulative-Plus-Project Impacts on the Bailey Road/Myrtle Drive Intersection. We have the following comments:

Impact 7-3: Cumulative-Plus-Project Impacts at the Bailey Road/Concord Boulevard Intersection - the DEIR proposes to mitigated the traffic impacts by construction of exclusive right-turn and left-turn lanes and a second through lane on the northbound Bailey Road approach; construction of two exclusive left-turn lanes on the southbound Bailey Road approach; and construction of a third through lane on both the eastbound and westbound Concord Boulevard approaches. The proposed mitigation measures are excessive and not acceptable to the City of Concord. The proposed measures would severely impact a recently constructed park along Bailey Road and would remove several houses along Concord Boulevard. Concord has previously expressed a willingness to accept a lesser mitigation measure that would construct left-turn lanes on both approaches of Bailey Road and no widening on Concord Boulevard. This is contingent on the responsible parties in Pittsburg and Contra Costa County paying for the improvements in a timely manor. Concord does not contemplate the construction of any housing or commercial projects that would have adverse impacts at this intersection. The Cities of Concord and Pittsburg and Contra Costa County have had recent discussions on developing a funding plan for this project.

Impact 7-5 Cumulative-Plus-Project Impacts at the Willow Pass Road/Avila Road Intersection - the traffic analysis is flawed because the assumptions for the roadway network are not correct. The DEIR assumes that West Leland Road will be extended to Avila Road and ultimately to connect with Willow Pass Road in Concord. The City of Concord is opposed to this connection. It is not in the City of Concord's General Plan. The connection will cause significant impacts on Willow Pass Road at both Avila Road and the nearby on/off ramps to SR 4. The assumed connection needs to be deleted, the trips reassigned on the network, and the Level-of-Service recalculated for all intersections. If the connection is not deleted, the intersection should be reevaluated assuming there would be no traffic signal, right-turns only would be permitted from Avila Road onto Willow Pass Road, and left-turns from Willow Pass Road onto Avila Road would be prohibited during the PM peak hours.

Impact 7-6: Cumulative-Plus-Project Impacts on the Bailey Road/Myrtle Drive Intersection - no comments on the proposed mitigation measures. The Cities of Concord and Pittsburg and Contra Costa County have had recent discussions on developing a funding plan for this project.

We again want to state that the proposed mitigation measures identified for traffic/transportation in the DEIR for the Vista Del Mar Project does not adequately

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City of Concord
Vista Del Mar Project Draft Environmental Impact Report
Letter to the City of Pittsburg
August 3, 2004
Page 3 of 3

address our concerns. We would like to meet with the appropriate DEIR consultants and Pittsburg staff to discuss these concerns.

Thank you for the opportunity to review and comment on the DEIR. If you have any questions regarding these comments, or would like to discuss them further, please contact me at (925) 671-3129.

Very truly yours,



John Templeton,
Transportation Manager

cc: Concord City Council
Pittsburg City Council
Edward R. James, Concord City Manager
Marc Grisham, Pittsburg City Manager
Lydia Du Borg, Assistant City Manager
Qamar Khan, Director of Public Work – Maintenance Services
Jim Forsberg, Director of Planning and Economic Development
Deborah Raines, Planning Manager
Phillip Woods, Principal Planner
Bob McCleary, Executive Director of Contra Costa Transportation Authority
Steve Goetz, Deputy Director Transportation Planning, Contra Costa County
TRANSPAC
File

6. John Templeton, Transportation Manager, City of Concord; August 6, 2004

- 6.01 Transportation and Circulation--Concord intersection impact analysis--DEIR does not adequately address project impacts at the three analyzed Concord intersections.

Response: Standard traffic engineering practice and the Contra Costa Transportation Authority (CCTA) guidelines were followed to address project impacts at these intersections. See responses to comments 6.06, 6.07, and 6.08, which follow.

- 6.02 Transportation and Circulation--Table 7.5--traffic generated by Pittsburg/Bay Point BART Station Area Specific Plan not shown in table. FEIR has been completed for this project; trips should be included in this traffic analysis.

Response: The Pittsburg/Bay Point BART Area Specific Plan EIR is a program-level EIR. The individual development projects in the Specific Plan Area would require further CEQA clearance. Therefore, they are not considered approved developments.

The traffic generated by the Pittsburg/Bay Point BART Area Specific Plan development is included in the cumulative traffic analysis (see Draft EIR subsection 7.3.5).

- 6.03 Transportation and Circulation--Table 7.5--Bailey Estates project should also be included.

Response: Draft EIR Table 7.5 contains all projects that were approved at the time of the issuance of the Notice of Preparation (NOP) for the Vista Del Mar EIR. Per CEQA Guidelines section 15125 (Environmental Setting), publication of the NOP is considered the cut-off date for inclusion of approved projects as part of the "baseline physical conditions" (section 15125); this requirement is described in Draft EIR subsection 7.1.4 (Baseline-Plus-Approved Development Conditions). The release date of the NOP has been corrected in the text (see dated NOP in Draft EIR appendix 22.1). Bailey Estates was not an approved project at that time and was therefore not included in the approved projects list. Buildout of the Bailey Estates project is included in the cumulative traffic analysis (see Draft EIR subsection 7.3.5).

- 6.04 Transportation and Circulation--DEIR findings inconsistent with traffic impacts and mitigations identified in Pittsburg/Bay Point BART Station Area Specific Plan EIR and Bailey Estates Project EIR--also see comment 6.05.

Response: Differences between the traffic studies reflect several factors. First, the Bailey Estates and BART Area Specific Plan analyses were based on traffic counts conducted in 2000, while the Vista Del Mar analysis is based on new counts conducted in 2003. In addition, the Bailey Estates and BART Area Specific Plan analyses include a part of the Vista Del Mar project in the short-term 2005 scenario, while Vista Del Mar is considered an unapproved project in the Vista Del Mar analysis. Although the Bailey Estates and BART Area Specific Plan developments are not included in the Vista Del Mar short-term analysis, they are included in the long-term cumulative analysis.

Furthermore, the mitigation measures for the Bailey Road/Myrtle Drive and Bailey Road/Concord Boulevard intersections included in the BART Area Specific Plan and Bailey Estates EIRs are included in *Mitigations 7-3 and 7-6* of the Vista Del Mar Draft EIR. Thus, the proposed mitigations for the Concord intersections in the Vista Del Mar Draft EIR are consistent with the previously noted environmental documents.

- 6.05 Transportation and Circulation--cumulative impacts--inappropriate to include traffic generated by Pittsburg/Bay Point BART Station Specific Plan and Bailey Estates only in 2025 cumulative analysis.

Response: Please see the responses to comments 6.02 and 6.03 for the explanation of why these projects are not included in the baseline-plus-approved condition analysis.

- 6.06 Transportation and Circulation--Mitigation 7-3--cumulative-plus-project impacts at Bailey Rd./Concord Blvd. intersection (in Concord)--reasons explained why DEIR-proposed mitigation details unacceptable to City of Concord--City of Concord willing to accept lesser mitigation measure. Cities of Concord and Pittsburg and Contra Costa County have had recent discussion regarding developing a funding plan for this intersection.

Response: The proposed mitigation takes a conservative CEQA approach and identifies the improvements needed to assure full mitigation of impacts. The Draft EIR recognizes continuing efforts of the cities of Concord and Pittsburg and the County to develop an acceptable mitigation measure and to develop an improvement-funding mechanism. In light of the ongoing discussions, the Draft EIR takes a conservative position by stating that *Impact 7-3* is significant and unavoidable. The project applicants will be required to pay their fair share of whatever improvements are ultimately agreed upon by the jurisdictional parties.

- 6.07 Transportation and Circulation--Impact 7-5--cumulative-plus-project impacts on Bailey Rd./Myrtle Dr. intersection--DEIR assumption that W. Leland Rd. will be extended to Avila Rd. and ultimately connect to Willow Pass Rd. in Concord is incorrect. City of Concord opposed to this connection. The assumed connection needs to be deleted. If not deleted, intersection should be re-evaluated assuming no signal, right-turns only permitted from Avila onto Willow Pass, and a prohibition on left-turns from Willow Pass onto Avila during the PM peak hour.

Response: While the connection is not in the City of Concord's General Plan, it is in the City of Pittsburg's and Contra Costa County's General Plans. The connection is located mostly within the City of Pittsburg and was therefore included in the cumulative conditions analysis. The proposed extension of Leland Road is included in the City of Pittsburg's current traffic mitigation fee program and is under consideration for inclusion in the proposed update of the regional traffic mitigation fee program.

The Willow Pass Road/Avila Road intersection has been reanalyzed for cumulative conditions with and without the project using the City of Concord's proposed lane

configuration without signalization. The recalculated LOS results are summarized in Table 1, which follows. Based on this analysis, the reconfigured intersection would operate at overall LOS A during both AM and PM peak hours regardless of the proposed Vista Del Mar project. The stop-controlled westbound right-turn movement would operate at LOS C during both peak hours for cumulative-without-project conditions. The movement would operate at LOS D during the AM peak hour and LOS C during the PM peak hour with the addition of the Vista Del Mar project trips. The additional project trips at the reconfigured Willow Pass Road/Avila Road intersection would not cause a significant impact because the intersection would continue to not meet peak hour signal warrants.

TABLE 1
Cumulative (Without and With Project) LOS Results
Reconfigured Willow Pass Road/Avila Road Intersection

<u>Intersection</u>	<u>Control</u>	<u>Peak Hour</u>	<u>Cumulative Without Project</u>		<u>Cumulative With Project</u>	
			<u>Delay¹</u>	<u>LOS</u>	<u>Delay¹</u>	<u>LOS</u>
Willow Pass Road/Avila Road	Side-Street Stop-Controlled	AM	8	A	9	A
			(WB 25)	C	(WB 28)	D
		PM	2	A	2	A
			(WB 20)	C	(WB 22)	C

Notes:

1. Unsignalized intersection level of service based on weighted average delay per vehicle. Delay shown in parenthesis is for the critical side street movement, according to the *Highway Capacity Manual*, Transportation Research Board, 2000.

Source: Fehr & Peers, 2004.

- 6.08 Transportation and Circulation--Impact 7-6--cumulative-plus-project impacts on Bailey Rd./Myrtle Dr. intersection--no comments on proposed mitigation; cities of Concord and Pittsburg and Contra Costa County have had recent discussions towards developing a funding plan for this project.

Response: Comment noted. No response is required.

- 6.09 Transportation and Circulation--general concerns regarding adequacy of mitigations--do not adequately address City of Concord's concerns; meeting with Pittsburg staff and its DEIR transportation consultants requested.

Response: See responses to comments 6.01 through 6.08.

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August 6, 2004

VIA HAND DELIVERY

Noel M. Ibalio
Associate Planner
City of Pittsburg
65 Civic Avenue
Pittsburg, California 94565
Facsimile #: (925) 252-4814

Re: June, 2004 Draft Environmental Impact Report for the Vista Del Mar Project
State Clearinghouse #2004012097

Dear Mr. Ibalio:

This office represents Seecon Financial & Construction Co., Inc. and West Coast Home Builders, Inc. with respect to their several property interests in Southwest Pittsburg. We have been provided with a copy of the June, 2004 Draft Environmental Impact Report for the Vista Del Mar Project ("DEIR") and herein provide our clients' comments to the DEIR. Although our clients have identified numerous deficiencies in the DEIR that directly impact them, the purpose of this letter is to address the problems that are of paramount importance to them, which focus on identified areas of concern - primarily on the analysis contained in two portions of the DEIR: Section 7 - Traffic and Circulation; and Section 8 - Infrastructure and Public Services (specifically, Section 8.1 - Water Service).

The California Environmental Quality Act ("CEQA") demands that a DEIR identify the significant effects on the environment of a project, identify alternatives to the project and indicate the manner in which those significant effects can be mitigated or avoided. Pub. Res. Code §21002.1; CEQA Guidelines §15126.4. As explained below, the DEIR has failed to satisfy this criterion in a number of respects.

TRAFFIC AND CIRCULATION

1. Bailey Road/West Leland Road Intersection

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In Table 7.8 (p. 7-31), the DEIR sets forth the Intersection Levels of Service (LOS) for Baseline-Plus-Approved Development-Plus-Project Conditions for the Project and establishes that the Bailey Road/West Leland Road Intersection will operate at an unacceptable LOS E level during AM Peak Hours. The DEIR, however, overlooks this significant impact and provides no analysis of proposed mitigation for the impacts caused by the Project at this busy intersection. This deficiency is amplified by the fact that, without the Project, the Bailey Road/West Leland Intersection operates at an acceptable, LOS D, level.

7.01

This deficiency in the DEIR concerning the Bailey Road/West Leland Intersection becomes even more troubling when the DEIR analyzes the LOS for cumulative conditions (Year 2025). Table 7.10 establishes that, both with and without the Project, the cumulative conditions in Year 2025 will leave the Bailey Road/West Leland Intersection at an unacceptable LOS F condition. Here, however, the DEIR does identify appropriate mitigation measures (provided such measures include necessary traffic signal improvements) to reduce the impacts to a less-than-significant level. In this regard, Mitigation Measure 7-2 (p.7-41) identifies the mitigation as follows:

- Create a westbound shared through/right-turn lane on West Leland Road;
- Create a second eastbound left-turn lane on West Leland Road;
- Create a second eastbound through lane on West Leland Road; and
- Create an exclusive eastbound right-turn lane on West Leland Road.

However, the DEIR indicates that these mitigation measures may be infeasible but *without appropriate justification for reaching such a conclusion*. Public Resources Code section 20161.1 defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." The DEIR fails to support its finding of infeasibility under the above criteria and therefore inappropriately concludes that the impacts at this crucial intersection are "significant and unavoidable." The DEIR cannot cavalierly turn a blind eye to the foreseeable gridlock at this intersection that will be created by and with this Project in the short term and in the 2025 cumulative analysis by finding that the mitigation measures are infeasible - without any justification for such a finding - and then fail to identify other mitigation measures to mitigate this severe impact.

2. San Marco Boulevard/West Leland Road Intersection

The DEIR notes that Cumulative-Plus-Project impacts at the San Marco Boulevard/West Leland Road Intersection would result in operations at unacceptable levels. (Impact 7-4, p.7-42). Significantly, Impact 7-4 notes that, without the Project, this intersection would operate at acceptable levels under Cumulative Conditions.

7.02

To address this Project impact, Mitigation Measure 7-4 (p.7-43) proposes that the Project Applicants contribute their fair share to a list of improvements at the San Marco Boulevard/West

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Leland Road Intersection. Such fair-share mitigation is improper in circumstances, such as these, where it is the Project that creates the need for the additional intersection improvements. Accordingly, the EIR should require that the Project Applicants construct the required improvements itemized in Mitigation Measure 7-4 (p. 7-43) along with the necessary traffic signal modifications:

- Convert the northbound shared through/right turn lane to an exclusive right-turn lane; and
- Convert one of the northbound left-turn lanes to a northbound through lane.

3. **West Leland Road Extension - Willow Pass Road/Avila Roadway and Intersection**

7.03

As the DEIR notes, a previous DEIR was prepared for a previous project on the Project site in 2002 (p. 7-1, n1). At that time, our clients raised concerns about the failure of the previous DEIR to evaluate impacts of the prior project on the West Leland Road extension.¹ This DEIR assumes the Phase 2 extension of West Leland Road to connect with Avila Road, which then connects to Willow Pass Road. DEIR Impact 7-5 (p. 7-43). Again, however, conspicuously absent from the DEIR is any analysis of the Project's impact on the Phase 2 extension and any Mitigation Measures requiring the Project Applicant to construct this Phase 2 extension. The DEIR must determine the nature of the impact on this roadway extension, both from the Project and cumulatively, and identify appropriate mitigation requiring the Project Applicants to construct the necessary roadway improvements, including, but not limited to, road construction, widening and signalization.

In addition, Mitigation Measure 7-5 requires fair share contributions from the Project Applicants for needed improvements at the Willow Pass Road/Avila Road intersection. As with the road extension, itself, the Project should be conditioned on construction of the required intersection improvements: configuring the intersection with two left-turn lanes and a through lane on the southbound Willow Pass Road approach, and one right-turn lane and one through lane on the northbound Willow Pass Road approach and installation of the necessary signalization.

4. **Highway 4 Bypass Corridor (San Marco Blvd. Extension to Bailey Road).**

7.04

As discussed below, the DEIR is deficient in failing to identify the blatant General Plan inconsistencies associated with locating the proposed on-site wetland mitigation preserve in a location that is currently designated in the City General Plan for the placement of a portion of the Highway 4 Bypass corridor and for further failing to identify and analyze the legal constraints associated with moving that portion of the Bypass onto adjacent property encumbered by recorded road restrictions. In addition to such deficiencies, the DEIR completely fails to analyze the Project's impact on the

¹ A copy of our clients' February 26, 2002 letter is attached and the comments contained therein, to the extent they are applicable to the Project, are incorporated herein by reference.

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Bypass. Section 7.1 of the Traffic Section identifies only State Route 4, West Leland Road, Bailey Road, Willow Pass Road and secondary local roads as key roadway links associated with this Project. There is no discussion whatsoever of the Project's impact on this *General Plan Designated Bypass*, regardless of its ultimate location. This is clearly a traffic route that will be utilized by and impacted by residents of the Vista Del Mar project. The DEIR must discuss those impacts now and identify mitigation measures to be imposed upon this Project. Now is the time to require this Project to pay its fair share of the impacts it is creating on City streets. A failure to do so will result in the City of Pittsburg being caught with a shortfall when it comes time to build the Bypass - a shortfall that could and should be avoided by ensuring that the Project Applicant pay its fair share of this significant roadway.

INFRASTRUCTURE AND PUBLIC SERVICES

2. Cumulative Municipal Water Service Demand.

7.05

The DEIR concludes that the City's projected water supply may not meet projected demands in the latter years of a multi-year drought. To address this problem, Mitigation Measure 8-1 provides that "no final map shall be approved for the project until the City concludes, based on a written verification prepared in compliance with SB 221 and on the availability of other water supplies, as demonstrated by substantial evidence in the record, that sufficient water will be available to serve the proposed project need, in addition to planned future uses, during normal, single dry, and multiple dry years within a 20-year projection." (p. 8-10).

Notwithstanding this limitation on final approval, the DEIR then suggests that the City could make a finding of unavoidable impact and adopt a Statement of Overriding Considerations if the water supplies are not achievable. SB 221 does not contemplate that a City can utilize a Statement of Overriding Considerations in conjunction with an EIR to approve a project not in compliance with the water supply requirements of SB 221. In short, although Mitigation Measure 8-1 identifies the required water supply verification contemplated by SB 221, it improperly suggests that such a requirement can be disregarded by adoption of a Statement of Overriding Considerations.

The City must require the Project Applicant to provide the necessary verification to ensure availability of water to service the Project *before* project approval and EIR certification. Therefore, without the analysis in this DEIR that such water is available, the DEIR is deficient. Indeed, this situation is no different from the one presented in the case of *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, where the Court of Appeal set aside an EIR for failure to properly analyze a long-term water supply for the proposed development. In rejecting the county's deferral of project impacts to a later time, the Court of Appeal in *Stanislaus* held that "[t]o defer any analysis whatsoever of the impacts of supplying water to this project until after the adoption of the specific plan calling for the project to be built would appear to be putting the cart before the horse." Similarly, here, the City should not defer analysis of the project's impacts on water supply until the final map stage but, rather, should require it now *before* certifying the EIR for this project.

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3. Water Delivery System.

The DEIR glosses over the impacts associated with the physical construction of the Project's Water Delivery System (p.8-13). In this regard, the DEIR assumes that compliance with normal City construction period mitigation procedures will mitigate any construction-related impacts. The DEIR does not identify with any specificity the impacts or the City's mitigation procedures, leaving the reader to guess as to the environmental impacts associated with construction of the water delivery system. Indeed, without identifying and analyzing the impacts, there is no basis upon which the City can conclude that the construction of the water delivery system to service the Project will have no significant environmental impacts. The DEIR needs to identify, analyze and mitigate where appropriate, the environmental impacts associated with construction of the water delivery system. These impacts include such things as air quality, noise, traffic interruption, and viewshed impacts associated with the pumps and water tanks.

7.06

In addition, the DEIR is woefully inadequate in providing any meaningful analysis of the proposed water delivery system for the Project. As noted above, the only analysis in the DEIR concerning the water delivery system for the Project focuses on the impacts at *construction* of the proposed water delivery system. However, the DEIR fails to identify any environmental impacts associated with the operation of the off-site water system improvements themselves (i.e. pump station noise impacts, etc.) Nowhere in the DEIR is there any environmental analysis of the reservoirs, the pumping stations or the major 24-inch transmission main. The vague reference to the City's Water Master Plan is meaningless. The DEIR cannot defer analysis of the environmental impacts or suggest the adoption of future studies or plans to determine the true extent of impacts. It must identify all environmental impacts associated with development of the Project now.

7.07

The City is well aware that our clients have reserved capacity in the existing water transmission facilities, pumps and reservoirs in the southwest Pittsburg area. Our client objects to any interim or permanent connection to the existing 20-inch and 16-inch diameter water lines or the associated water reservoirs and pump stations. Those facilities were constructed by our clients as a requirement of their Oak Hills and San Marco developments. The owners of the Alves Ranch property were given the opportunity to have these facilities sized to also accommodate their property, but elected not to participate. The existing water facilities are therefore not adequately sized for the development of the Vista Del Mar project, even on an interim basis, and are the subject of a Capacity Reservation Agreement between our clients and the City of Pittsburg for the benefit of our clients' southwest properties (San Marco, Oakhills, San Marco Meadows, etc.) Therefore, the Vista Del Mar project is legally constrained from using any of the reserved facilities and the DEIR must address how water will be delivered to the Project, on both an interim and permanent basis, to satisfy the requirements of CEQA.

7.08

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BIOLOGICAL RESOURCES

Figures 3.5 and 3.6 of the DEIR are included to depict the difference between the current General Plan designations on the Project Site and the proposed designations as proposed by the Project Applicant. Figure 3.6 is *misleading* and *inaccurate*. The City General Plan currently depicts a portion of the Highway 4 Bypass Corridor between Bailey Road and the San Marco Road/Highway 4 interchange as being located on the southern portion of the Vista Del Mar project as show on Figure 3.5. However, Figure 3.6 shows that it has been relocated off the property without any associated General Plan Amendment request. If the roadway is constructed as planned in the City's current General Plan, the Project Applicant's proposed wetlands mitigation preserve would be in the path of the Highway 4 Bypass. The General Plan designated route would go through the southern portion of the Vista Del Mar project where the Project Applicant proposes to locate its wetlands mitigation area. Such a location of the wetlands mitigation area raises a host of general plan inconsistencies and environmental impacts, none of which have been addressed in this DEIR. During the 2000 General Plan Update process and to date, the City of Pittsburg staff has refused to recommend moving the planned location of the Highway 4 Bypass because there are restrictions recorded against the adjacent property by the federal government that prohibit the construction and use of a road on such property. Accordingly, the Project Applicants' proposal to relocate the road off the Vista Del Mar project as shown on Figure 3.6 would not be legally possible and the DEIR should analyze all impacts associated with keeping the road on the Property and recommend feasible measures to mitigate all impacts, including biological, of developing a mitigation preserve in the path of a major traffic roadway. (Enclosed for your reference is our letter of September 25, 2003 to the U.S. Army Corps of Engineers outlining these concerns, which we incorporate herein by reference).

7.09

LAND USE, OPEN SPACE, AND AGRICULTURE

On Page 4-3 of the DEIR, the "Seecon" property is improperly described. It is not under a Williamson Act contract. A Notice of Non-Renewal of the Williamson Act for the property was filed on November 12, 1990 and the contract expired on February 29, 2000. In addition, approximately 231 acres of the Seecon property is designated as Low Density Residential under the current City General Plan and not Hillside Low Density Residential as depicted in several figures in the DEIR.

7.10

VISUAL FACTORS

Section 5 (Visual Factors) completely fails to analyze the visual impacts associated with the construction of the proposed water delivery system improvements (i.e. water reservoirs and pumping stations). These impacts must be analyzed and mitigation measures identified for any such impacts found to be of significance.

7.11

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Mitigation 5-1 requires that the project design be refined to include a combination of changes including incorporating natural creeks into the design, using single-loaded peripheral residential streets and aligning project residential streets along natural grades. The Project proposes the destruction of a major creek traversing the center portion of the site, proposes very few single-loaded streets and does not, in general, align project streets along natural grades. In order to comply with these mitigation measures, the Project Applicant will have to redesign a significant portion of the Project, which may cause new, unidentified environmental impacts. This violates CEQA, which only allows deferring analysis and selection of mitigations under limited circumstances, the key being that the impacts already are known and it is certain that the impacts can be adequately mitigated. That is not the case here. There is no guarantee that all the impacts can be mitigated once the project is redesigned. The City cannot defer identification of impacts to a time and process outside of public scrutiny.

7.12

SOILS AND GEOLOGY

Mitigation 10-1 calls for a final, design-level project geotechnical study to be prepared and incorporated into project grading and site preparation plans. In addition to the items listed in the DEIR that the study must address, the study should also include recommendations that will assure that existing and future homes in adjacent properties such as Oak Hills, San Marco and San Marco Meadows are not affected by the grading of the project site.

7.13

CONCLUSION

On behalf of our clients, we thank you for the opportunity to comment on the DEIR. In our view, in the absence of appropriate modification of the Project's impacts analysis and mitigation measures and project conditions referenced above, the City should refuse to certify the DEIR and the Vista Del Mar Project approvals should be denied.

Very truly yours,

LAW OFFICES OF
GREGORY D. THATCH


LARRY C. LARSEN

LCL:ll
L7835.ltr
enclosures

cc: Jeanne C. Pavao, General Counsel

7. Larry C. Larsen, Law Offices of Gregory D. Thatch, representing Seecon Financial & Construction Co., Inc., and West Coast Home Builders, Inc.; August 6, 2004

- 7.01 Transportation and Circulation--Bailey Rd./W. Leland Rd. intersection--Table 7.8, DEIR p. 7-31--table indicates LOS change to F, but does not identify a significant impact. Table 7.10 indicates year 2025 LOS rating of F, and includes appropriate mitigations to reduce impact to less-than-significant level, but indicates mitigations may be infeasible without appropriate justification for reaching this conclusion.

Response: The DEIR-stated significance criterion for Bailey Road intersections (p. 7-23 of the Draft EIR) indicates that "a significant impact would be a decline from LOS E or better to LOS F." A change from LOS D to LOS E is not considered a significant impact at this location and, therefore, a significant impact does not occur and was not identified.

The identified mitigation measure at this intersection for year 2025 cumulative conditions (*Mitigation 7-2*) would require substantial right-of-way acquisition on adjacent developed properties, as stated in Draft EIR *Mitigation 7-2*. The right-of-way is not available, and acquisition of the right-of-way cannot be guaranteed. Therefore, the mitigation measure is considered infeasible. The Draft EIR therefore appropriately concludes that the impacts would remain significant and unavoidable.

- 7.02 Transportation and Circulation--San Marco Blvd./W. Leland Rd. intersection (in San Marco development)--Mitigation 7-4 (DEIR p. 7-43) improperly proposed project fair share; project creates the need for, and should construct, the required intersection improvements.

Response: The projected poor operating conditions at this intersection are a result of the combined, *or cumulative*, effect of future development in the study area; the project is not the sole cause of the impact. Accordingly, fair share mitigation is appropriate.

The recommended mitigation (*Mitigation 7-4*) will be added to the City of Pittsburg Traffic Mitigation Fee Program, as these improvements would serve all development accessing the western gateway to Pittsburg.

- 7.03 Transportation and Circulation--W. Leland Rd. extension--Willow Pass Rd./Avila Rd. link and intersection--Impact 7-5, DEIR p. 7-43--DEIR assumes Phase 2 extension of W. Leland Rd. to Avila Rd., which then connects to Willow Pass Rd., but omits analysis of project impacts on Phase 2 extension and associated mitigation requiring the project applicant to construct this Phase 2 extension. EIR should include this analysis and should identify mitigation requiring project applicant to construct necessary road improvements, including but not limited to, road construction, widening and signalization. Also, Mitigation 7-5 requires applicant fair-share contribution for Willow Pass/Avila intersection; applicant should be responsible for constructing needed intersection improvements here, including signalization.

Response: The Phase 2 extension of West Leland Road is not anticipated to be completed in the near-term condition, and, therefore, near-term project impacts on it should not and were not evaluated. The Draft EIR correctly assumes that the extension will occur in the year 2025 cumulative scenario. Cumulative project impacts were evaluated using Delay Indices, as presented in Draft EIR Table 7.11. The Delay Index does not exceed 2.0, the Traffic Service Objective for West Leland Road according to the *East County Action Plan*. Therefore, the project does not have a significant impact on this roadway under cumulative conditions, and no mitigation is required.

The projected poor operating conditions at the Willow Pass Road/Avila Road intersection are a result of the combined, *or cumulative*, effect of future development in the study area; the project is not the sole cause of the impact. The conditions of approval for the San Marco Project (developer: North State Development Company and SEECON Financial and Construction Co., Inc.) indicate that the San Marco Project would also significantly affect this intersection and require the developer to install a signal at the intersection, "pending the direction and approval of the Concord City Engineer," and indicate that "the signal shall be in operation at the time of completion of the West Leland Road connection to Avila Road. (As per MOU project scope of improvements.)" (City of Pittsburg Planning Commission Resolution No. 8658, condition #21). Accordingly, fair share mitigation is appropriate.

It should also be noted that this intersection is under the jurisdiction of the City of Concord and that Concord does not concur with the identified mitigation measures (see comment and response 6.07). The ultimate improvement project, and therefore its cost, will be determined jointly by the City of Concord, the City of Pittsburg, Contra Costa County, and perhaps TRANSPLAN.

- 7.04 Transportation and Circulation--SR 4 Bypass Corridor (San Marco Blvd. extension to Bailey Rd.)--DEIR fails to identify General Plan inconsistencies associated with locating proposed onsite wetland preserve in location designated in General Plan for placement of portion of SR 4 Bypass and for failing to address legal constraints associated with moving this portion of the alignment onto adjacent property encumbered by recorded road restrictions. DEIR also fails to address project impacts on this bypass. Section 7.1 should include discussion of project impacts on this General Plan designated bypass, regardless of its ultimate location. Project should be required to pay its fair share of the roadway.

Response: The proposed extension of San Marco Boulevard is not anticipated to be completed in the near-term condition, and, therefore, near-term projects impacts on the extension were not evaluated.

Although the extension is generally proposed in the Pittsburg General Plan, the City has not prepared the requisite studies to determine the feasibility or alignment of the proposed roadway, as mandated by the General Plan (see General Plan Policy 7-P-18). Since the feasibility of the connection is not assured, the Draft EIR appropriately does not

assume construction of the planned connection. In fact, by assuming that the San Marco Boulevard extension will not be constructed, the Draft EIR sets forth a conservative analysis of the project's cumulative traffic impacts on other roadways.

- 7.05 Infrastructure and Public Services--Water Service--SB 221 does not contemplate City adoption of a Statement of Overriding Considerations in conjunction with an EIR in order to approve a project not in compliance with the water supply requirements of SB 221. DEIR improperly suggests that water supply verification requirement can be disregarded by adoption of a Statement of Overriding Considerations. Necessary verification must be required to ensure availability of water service. City should not defer analysis of water supply impacts to final map stage; rather, City should require this analysis now before certifying this EIR.

Response: The comment is incorrect. Senate Bill 221 (SB) requires a City to obtain or prepare a water supply verification *as a condition of final map approval*. Final map approval cannot occur until after the Final EIR is certified. However, the final map cannot be recorded until the water supply verification is obtained from the water supplier to the project site (i.e., the City of Pittsburgh). Pursuant to SB 610, the City of Pittsburgh has approved a Water Supply Assessment for the proposed project, as summarized under Draft EIR *Impact 8-1 (Project-Related and Cumulative Municipal Water Service Demand)*. Also pursuant to SB 610, the entire *City of Pittsburgh Final Water Supply Assessment, Alves Ranch-Vista Del Mar Development* (dated January 28, 2004; approved by City Council on February 2, 2004) is included as Draft EIR appendix 22.2. Also see response to comment 10.36.

- 7.06 Infrastructure and Public Services--water system--DEIR glosses over impacts associated with physical construction of project water delivery system. DEIR assumes compliance with normal City construction period mitigation procedures, with inadequate specificity. DEIR needs to identify and mitigate where appropriate such water system construction impacts as air quality, noise, traffic interruption, and viewshed impacts associated with water pumps and water tanks.

Response: Draft EIR p. 8-13 (Impacts of Project Water Delivery System Construction Activities) describes the construction process. The text refers to the noise and air quality mitigation measures already included in the Draft EIR (chapters 14 and 15, respectively) and applicable to all construction activities. In addition, the Draft EIR (pp. 8-13 and 8-14) references sections of the Pittsburg Municipal Code applicable to construction activities (Title 17), as well as the project's requirement to obtain all necessary encroachment permits.

The permit applications would be subject to review and approval by the City Engineering Department and must incorporate *traffic control plan* (TCP) measures consistent with City Engineering Department guidelines, which include but are not limited to the following:

- lane closures scheduled outside of weekday peak-hour commute travel times;
- details of measures for traffic safety (including flagging traffic, flashing arrow signs, and a performance standard for street sweeping);
- specific measures for work at intersections and in front of driveways to minimize disruptions;
- measures for protection of work areas left open overnight;
- geotechnical criteria for backfilling trenches, base rock, and pavement; and
- provision of safe pedestrian and bicycle access through or around the construction area.

Visual impacts of the project's water delivery system would be less-than-significant. All transmission lines and water reservoirs/tanks would be located primarily underground in conformance with City of Pittsburgh standard regulations, with minimal, if any, public views.

Although a precise location has not yet been approved, in its *2000 Water System Master Plan, Amendment No. 2 Draft* (July 2004, Figure 2), the City has identified a preliminary location for the new, 3.0-mg West Leland Zone II storage tank, which would serve the project site, on an extension of an existing road that already serves a reservoir. Once a final location for the storage tank has been determined, the City and project applicant would be required to consult with responsible resource agencies (e.g., USFWS, CDFG) and implement their required mitigation measures.

Subject to City review and approval, the onsite water pump station would be housed in a 500 to 2,000 square-foot, one-story structure similar in design to the residences, as described under Draft EIR *Impact 14-2 (Water Pump Station Noise Impacts)*. The pump generator would operate a few hours each month for emergency testing only. Noise mitigation for this pump station is described under Draft EIR *Mitigation 14-1*.

The new pump station at the City's water treatment plant would be located within the existing 21-acre existing development area of the treatment plant compound, all of which is either currently dirt area that is disced annually or already paved with asphalt. No new significant environmental impact, or increase in the severity of an environmental impact already identified in the Draft EIR, would result from the construction and operation of the new pump station at the City's water treatment plant.

- 7.07 Infrastructure and Public Services--water system--DEIR woefully inadequate in providing meaningful analysis of proposed project water delivery system; impact assessment limited to construction of proposed system. Impacts associated with operation of offsite water system improvements (i.e., pump station noise impacts, etc.) not identified. No

environmental analysis of reservoirs, pumping stations, or major 24-inch main. Vague reference to City's Water Master Plan meaningless. DEIR cannot defer analysis of environmental impacts or suggest future studies or plans to determine true extent of impacts; must identify all environmental impacts of project now.

Response: See response to comment 7.06. In addition, Draft EIR references to the City of Pittsburg Water System Master Plan (adopted August 2000, amended December 2001, pending Amendment No. 2) are neither "vague" nor "meaningless." As an adopted City document intended to avoid or mitigate potential impacts on the City water system, the Water System Master Plan is precisely relevant to assessing water service impacts. Impact significance criterion #3 on p. 8-8 in section 8.1 (Water Service) of the Draft EIR states, "Based on the CEQA Guidelines, the project would be expected to have a *significant impact* on water service if it would...[r]esult in a public service condition that is inconsistent with pertinent adopted local plans and policies, including the City of Pittsburg General Plan, adopted for the purpose of avoiding or mitigating an environmental effect"; this significance criterion is derived directly from CEQA Guidelines Appendix G (Environmental Checklist Form), item IX(b). The Water System Master Plan is further identified on Draft EIR p. 8-7 under subsection 8.1.2, Pertinent Plans and Policies. Therefore, under CEQA, project proposals inconsistent with the Water System Master Plan would be considered to result in potentially significant impacts on water service.

The Draft EIR does not "defer analysis of the environmental impacts or suggest the adoption of future studies or plans to determine the true extent of impacts." Rather, the Draft EIR identifies the specific mitigation measures that the project must implement, and the performance standards that the project must meet (e.g., water supply verification, consistency with Water System Master Plan), in order to mitigate impacts consistent with CEQA (see, for example, CEQA Guidelines section 15126.4) and applicable environmental law.

- 7.08 Infrastructure and Public Services--water system--Seeno has reserved capacity in existing water transmission facilities, pumps, and reservoirs in southwest Pittsburg and objects to interim or permanent project connection to existing 20-inch and 16-inch lines or associated water reservoirs and pump stations. These facilities were constructed by Seeno for Oak Hills and San Marco developments; Alves property owners elected not to participate when given opportunity to have these facilities sized to accommodate Alves property; therefore, existing facilities are not adequately sized in the Seeno/City Reservation Agreement for the Oak Hills, San Marco, and San Marco Meadows developments, and project is legally constrained from using any of these reserved facilities. DEIR must therefore address how water will be delivered to project on both an interim and permanent basis to satisfy CEQA requirements.

Response: The interpretation of the Capacity Reservation Agreement is a legal issue, not a CEQA issue. The City of Pittsburg believes that the Agreement *does not* restrict the use of existing water facilities as long as additional facilities are constructed consistent with the City Water System Master Plan to provide for additional future water

demand in the Southwest Hills. Draft EIR section 8.1 (Water Service) describes the facilities required to provide adequate water infrastructure for the proposed project without resulting in cumulative water infrastructure impacts on the City of Pittsburg.

- 7.09 Biological Resources--DEIR Figure 3.6 is misleading and inaccurate in showing relocation of SR 4 Bypass alignment between Bailey Rd. and San Marco Rd./SR 4 interchange as relocated off the project site, without any associated General Plan Amendment request. General Plan designated alignment would preclude implementation of applicant-proposed onsite wetlands mitigation preserve (would be in path of the General Plan designated bypass alignment). Proposed location of wetlands mitigation preserve raises host of issues regarding General Plan consistency and environmental impacts that are not addressed in DEIR. During City's General Plan update process, staff rejected relocation of the planned SR 4 Bypass location because of federal restrictions recorded against adjacent property that prohibit construction and use of such a roadway on such property. Accordingly, project proposal to relocate roadway off project site as shown on DEIR Figure 3.6 not legally possible. DEIR should address all impacts associated with keeping roadway on project site, and should identify mitigations to mitigate impacts.

Response: There is no General Plan inconsistency to identify associated with the project relationship to the Highway 4 Bypass Corridor alignment shown on the General Plan Diagram (General Plan Figure 2-2). The bypass designation shown on the diagram represents a "general," conceptual illustration and has not been fixed. The General Plan includes a clear explanation on page 2-10 that "The General Plan Diagram designates the proposed general location...of land uses throughout buildout." General Plan Policy 7-P-18 more specifically explains the General Plan intent to determine a more precise alignment for the bypass in the future, stating the City's intention to: *Ensure preparation of a feasibility and environmental impact study to determine the precise alignment, costs, mitigation measures, and impacts on adjacent uses. Evaluate topographic and geologic constraints, and projected traffic generation rates.*

Typically, a General Plan diagram is not regulatory in nature as is a zoning ordinance map. At best, such diagrams are approximations and are meant to be merely illustrative in nature. Indeed, the General Plan refers to the illustration depicting the subject future new connection as a General Plan "Diagram" meaning that it is not exact or rigid; rather, it represents a broad view and is not intended to pinpoint the site of various activities including the precise alignment of future roadways. The diagram does not portray preciseness, exact locations or detailed plan lines. Given the long-term nature of a general plan, such diagrams are intended to be general enough to allow a degree of flexibility in decision-making as times change. In this example, the General Plan has recognized the need for and desirability of a future connection between San Marco Boulevard and Bailey Road, but the precise location of the connection was not established when the plan was adopted. The General Plan illustration represents a generalized diagram of this connection. Please also see response to similar comment 9.01.

This point is noted in the commenter's February 12, 2002 letter to the City Planning Commission commenting on the Bailey Estates DEIR, which indicated that the General Plan anticipated the need for determining the future a more precise alignment for the Bypass in Policy 7-P-18. This February 12, 2002 letter from the commenter also argued that the Bypass alignment shown on the General Plan Diagram "is not safe, efficient, or cost-effective" and that "[s]ufficient information exists to indicate that a safer, less costly alignment that would cause much less environmental impact can be located south of the proposed alignment." The subject Vista Del Mar DEIR Figure 3.6 as well as the identical DEIR Figure 4.2 illustrate such a roadway alignment shift to the south.

- 7.10 Land Use--DEIR p. 4-3--"Seecon" property improperly described--not under Williamson Act contract; Notice of Non-Renewal of Williamson Act filed in November 1990; contract expired in February 2000. In addition, 231 acres of Seecon property designated in General Plan as Low Density Residential, not Hillside Low Density Residential as depicted by several DEIR figures.

Response: The text on DEIR p. 4-3 has been revised to indicate that the Williamson Act contract on the Seecon property expired on February 29, 2000, and that approximately 231 acres of the property are designated Low Density Residential rather than Hillside Low Density Residential. Please see revisions to DEIR p. 4-3 in section 3 of this report (Revisions to the Draft EIR). The changes do not substantially affect any DEIR impact or mitigation finding, including the traffic impact analysis (the traffic impact analysis modeling included the correct General Plan based land use assumption).

- 7.11 Visual Factors--water system--DEIR fails to analyze visual impacts associated with construction of project water system (i.e., water reservoirs, pumping stations, etc.). Impacts must be analyzed and mitigations for significant impacts identified.

Response: Please see response to Comment 7.06.

- 7.12 Visual Factors--Mitigation 5-1--mitigation requires substantial project redesign, including incorporating natural creeks into design, using single-load peripheral residential streets, and aligning streets along natural grades. New environmental effects of this redesign not addressed, in violation of CEQA. Such analysis can only be deferred when impacts are already known and it is certain that impacts can be adequately mitigated; not the case here.

Response: Please see response to Comment 10.09 regarding revisions and clarifications made to *Mitigation 11-1*.

CEQA Guidelines section 15126.4(a) states that an EIR must identify any significant adverse effects associated with implementation of the EIR mitigation measure. The project already includes protection of approximately 3,300 feet of stream channel. Implementation of *Mitigation 11-1* (as revised). There is no evidence that implementation of *Mitigation 11-1* would fundamentally change the project design, with adverse

environmental implications. On the contrary, actions proposed under Mitigation 11-1 (implementation of *Mitigations 11-3* through *11-12*, reseeding of cut-and-fill slopes, and incorporation of high-valued creek segments into the project design), would serve to substantially lessen project environmental impacts. The intent of CEQA is to encourage project improvements which would reduce environmental impacts, such as the improvements identified in *Mitigation 11-1*, rather than to discourage such improvements by requiring additional rounds of CEQA review.

- 7.13 Soils and Geology--Mitigation 10-1--DEIR recommended design-level project geotechnical study must include recommendations to assure that homes in adjacent Oak Hills, San Marco, and San Marco Meadows are not affected by project grading.

Response: In response to this comment, the text on Draft EIR pp. 2-33 and 10-22 has been revised to include reference to this consideration--i.e., that the more detailed geotechnical study include adequate consideration of project geotechnical implications for adjacent properties, including the Oak Hills, San Marco, and San Marco Meadows subdivisions. Please see the revisions in section 3 herein (Revisions to the Draft EIR) to DEIR pp. 2-33 and 10-22. The revisions do not substantially change any DEIR impact or mitigation finding.

A complete geotechnical investigation of the entire site has been prepared since release of the NOP for this EIR (Berlogar, January 2004). The investigation included consideration of these issues. City staff will determine whether the investigation adequately implements this mitigation.



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Concord, California 94524-4113
(925) 671-7711

February 26, 2002

Chairman Thaddeus Holmes
and Members of the Planning Commission
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Re: Alves Ranch Project Draft Environmental Impact Report

Dear Chairman Holmes and Members of the Planning Commission:

This letter is submitted on behalf of Seecon Financial & Construction Co., Inc. and its affiliated entities (collectively "Seecon") and consists of Seecon's written comments on the draft Environmental Impact Report ("DEIR") for the Alves Ranch Project which is scheduled to be considered by you at your meeting of February 26, 2002. Seecon is the owner of the San Marco project located to the west of the Alves Ranch and is also the owner of the 442-acre property located to the west and south of the Alves Ranch.

For your convenience, our comments are provided below by subject matter.

Land Use, Open Space, and Agriculture

1. Page 4-6 - The "Seecon" property referenced in section 4.1.2(b) is not under a Williamson Act (agricultural preserve) contract. A Notice of Non-Renewal of the Williamson Act contract was filed on November 12, 1990 and therefore, the contract expired on February 29, 2000. In addition, approximately 231 acres of the Seecon property is designated as Low Density Residential under the recently adopted City General Plan.

Traffic and Circulation

1. Page 7-28 - Table 7.7 indicates that the project will push the intersection of Bailey Road and West Leland Road well beyond LOS D which is the highest acceptable level of congestion during the peak hours as established in the Pittsburg General Plan. With the addition of the Alves Ranch Project, the AM Peak would be LOS E and the PM Peak would be LOS F. The project should be required to mitigate that impact by completing West Leland Road from its current terminus in Oak Hills to San Marco Boulevard prior to the occupancy of the first home. This should be a required mitigation of this project, not just an assumption in the analysis.

8.01

8.02

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Chairman Thaddeus Holmes
and Members of the Planning Commission
February 26, 2002
Page 2

2. Page 7-31: Mitigation T-3 requires the applicant to "conduct ongoing monitoring of traffic conditions at the project access intersections along West Leland Road at intervals to be determined by the City, ..." and furthermore, "the project shall contribute its fair share towards widening West Leland Road to four lanes, ..." Given the current backup of P.M. traffic on State Route 4 at the eastbound Bailey Road exit, four lanes will be needed on West Leland Road as soon as it is opened to traffic from San Marco Boulevard. Since it takes many months to design and construct road widening projects, the project should be required to complete construction of all four lanes of West Leland Road through the Alves property with the occupancy of the first unit of this development.
3. The Draft EIR fails to analyze the impacts of the project on Avila Road from its intersection with San Marco Boulevard west to Willow Pass Road. This impact should be discussed and this project should be required to participate in the traffic studies, widening, improvements and signalization of Avila Road.
4. The Draft EIR fails to analyze the impacts of this project on the San Marco Boulevard/ State Route 4 Ramps and the intersection of the extension of West Leland Road and San Marco Boulevard. These impacts should be discussed and this project should be required to participate in the traffic studies, improvements and all signalization at these intersections.

8.03

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8.05

Infrastructure and Public Services

Page 8-10 – Seecon objects to any interim connections to the existing 20-inch and 16-inch diameter water lines or the associated water reservoirs and pump stations. Those facilities were constructed by Seecon as a requirement of its Oak Hills and San Marco developments. The owners of the Alves Ranch were given the opportunity to have these facilities sized to also accommodate their property, but elected not to participate. The existing water facilities therefore are not adequately sized for development of the Alves Ranch Project, even on an interim basis, and are the subject of a "Capacity Reservation Agreement" between Seecon and the City.

8.06

The City's recently adopted Water Master Plan Update specifically requires that the Alves Ranch project construct a new 24-inch diameter line from the City's water treatment plant to the project site as well as additional, adequately-sized pumping and storage facilities. All of the requirements of the Water Master Plan Update, including cross connections to the existing water system as appropriate for public health and safety and redundancy, should be satisfied prior to any connection to or use of City water on the Alves Ranch.

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Chairman Thaddeus Holmes
and Members of the Planning Commission
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Page 3

Soils and Geology

Page 10-15: Mitigation SG-1 calls for a design-level geotechnical investigation to guide the design of all project grading and stabilization activities. In addition to the items listed which the investigation shall address, the investigation should include recommendations which will assure that adjacent properties such as San Marco are not affected by the grading of the project site.

8.08

Miscellaneous

The DEIR fails to address the fact that Seecon owns property to the west of the Alves Ranch which has a recorded access easement through the Alves property to West Leland Road. A mitigation measure should be added which requires the Alves Ranch Project at all times before, during, and after development to provide equivalent, all-weather access to the existing entry point to the Seecon property.

8.09

We appreciate the opportunity to comment on this Draft EIR and reserve the right to submit additional comments prior to the expiration of the public comment period.

Sincerely,


Richard D. Sestero
Project Manager

RDS:ldj

8. Richard D. Sestero, Project Manager, Seecon Financial & Construction, Inc.:
February 26, 2002

- 8.01 Land Use--DEIR p. 4-3--"Seecon" property improperly described--not under Williamson Act contract; Notice of Non-Renewal of Williamson Act filed in November 1990; contract expired in February 2000. In addition, 231 acres of Seecon property designated in General Plan as Low Density Residential, not Hillside Low Density Residential as depicted by several DEIR figures.

Response: Comment acknowledged. Please see response to similar comment 7.10.

- 8.02 Transportation and Circulation--Bailey Rd./W. Leland Rd. intersection--Table 7.8, DEIR p. 7-31--table indicates LOS change to F, but does not identify a significant impact. Table 7.10 indicates year 2025 LOS rating of F, and includes appropriate mitigations to reduce impact to less-than-significant level, but indicates mitigations may be infeasible without appropriate justification for reaching this conclusion.

Response: This comment pertains to the previous January 2002 Alves Ranch Draft EIR, which is not under consideration here. See responses to similar comments 7.01 through 7.04.

- 8.03 Transportation and Circulation--Mitigation T-3, W. Leland Road, DEIR p. 7-31 (referring to previous 2002 DEIR)--W. Leland Rd. needs to be widened to four lanes as soon as it is opened to traffic from San Marco Blvd. Project should be required to construct all four lanes through the project site with occupancy of first unit in the project.

Response: This comment pertains to the previous January 2002 Alves Ranch Draft EIR, which is not under consideration here. See responses to similar comments 7.01 through 7.04.

- 8.04 Transportation and Circulation--Avila Rd. from San Marco Blvd. to Willow Pass Rd.--project impacts on this segment not analyzed; should be addressed; project should be required to participate in associated traffic studies, widening, improvements, and signalization of Avila Rd.

Response: This comment pertains to the previous January 2002 Alves Ranch Draft EIR, which is not under consideration here. See responses to similar comments 7.01 through 7.04.

- 8.05 Transportation and Circulation--San Marco Blvd./SR 4 ramps intersection and W. Leland/San Marco Blvd. intersection not analyzed; should be discussed and project participation in associated traffic studies, improvements, and signalization should be required.

Response: This comment pertains to the previous January 2002 Alves Ranch Draft EIR, which is not under consideration here. See responses to similar comments 7.01 through 7.04.

- 8.06 Infrastructure and Public Services--water system--DEIR woefully inadequate in providing meaningful analysis of proposed project water delivery system; impact assessment limited to construction of proposed system. Impacts associated with operation of offsite water system improvements (i.e., pump station noise impacts, etc.) not identified. No environmental analysis of reservoirs, pumping stations, or major 24-inch main. Vague reference to City's Water Master Plan meaningless. DEIR cannot defer analysis of environmental impacts or suggest future studies or plans to determine true extent of impacts; must identify all environmental impacts of project now.

Response: See response to comment 7.08.

- 8.07 Infrastructure and Public Services--Water Service--DEIR p. 8-10 (referring to 2002 EIR for previous Alves project)--City's Water Master Plan Update specifically requires project to construct 24-inch line from City's water treatment plant to project site, plus additional adequately-sized pumping and storage facilities. All Water Master Plan Update requirements should be satisfied prior to any project connection to or use of City water.

Response: See response to comment 7.08 regarding the use of existing water facilities prior to the construction of additional facilities. Water system infrastructure serving the proposed project would be designed and constructed in accordance with the City of Pittsburgh Water System Master Plan (adopted August 2000, amended December 2001, pending Amendment No. 2).

- 8.08 Soils and Geology--Mitigation 10-1--DEIR recommended design-level project geotechnical study must include recommendations to assure that homes in adjacent Oak Hills, San Marco, and San Marco Meadows are not affected by project grading.

Response: Please see response to comment 7.13.

- 8.09 Land Use--Seecon property to the west of Alves Ranch has recorded easement through project site to W. Leland Rd. Add mitigation measure that requires project to at all times (before, during, and after development) provide equivalent, all-weather access to existing entry point to Seecon property.

Response: The access easement issue raised in this comment would be resolved outside the scope of the CEQA process; the matter does not represent a physical environmental issue or "environmental point" and need not be addressed in the Draft EIR.

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September 25, 2003

Via Mail and Email

Regulatory Branch
U.S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105-2197
Attn: Bob Smith, Project Manager

Re: Alves Ranch Property
Clean Water Act Section 404 Permit Application
Public Notice No. 27934S

Dear Mr. Smith:

On September 12, 2003, our office provided comments on behalf of Seecon Financial & Construction Co., Inc., concerning the above-referenced Section 404 Permit Application. Since that time it has come to our attention that the location of the Applicant's proposed 90-acre mitigation preserve would be in the path of the proposed Highway 4 Bypass corridor between Bailey Road and the San Marco Road/Highway 4 interchange designated in the City of Pittsburgh's General Plan.

The City of Pittsburgh's adopted General Plan contains a map that designates the corridor in which the Highway 4 Bypass is to be constructed. We enclose a copy of that map. The City of Pittsburgh has already Master Planned this area by designating the Highway 4 Bypass corridor in order to prevent incompatible development. As you can see from that map, the proposed route for the Highway 4 Bypass would go through the southern portion of the Alves Ranch Property where the applicant proposes to locate its wetlands mitigation area. In fact, the Bypass as shown on the General Plan would go through one of the proposed mitigation ponds.

A 90-acre wetland mitigation preserve in a designated highway corridor is manifestly incompatible. This is just another reason which demonstrates that an on-site wetlands preserve in this location is not appropriate. As noted in our earlier letter, the proposed mitigation preserve is within the City of Pittsburgh's urban boundary. It is not in the public interest to locate a preserve in

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the future path of the Highway 4 Bypass project, as well as being in an area designated for urban development. Moreover, it could lead to increased mortality of the listed and candidate amphibian species known to use the types of habitat proposed for creation in this preserve due to road kills. The California Tiger Salamander and Red-Legged Frog will undoubtedly try to cross over the Highway 4 Bypass in order to get from the habitat on one side of the preserve to the other. In addition, construction of the Bypass will entail extensive cuts and fills, as well as slide repair work, which will diminish the size of the preserve and alter its hydrology. Moreover, the Bypass will result in at least one isolated "island" of wetlands habitat surrounded by urban development in the northern part of the preserve. Please see the enclosed map of the preserve with the Highway 4 Bypass superimposed on it.

Another factor that the Corps needs to take into account when judging the merits of the proposed onsite preserve is the presence of a pipeline easement held by the Union Oil Company. The holder of that easement will obviously have superior rights to any conservation easement subsequently recorded for the preserve. The mitigation ponds need to be designed to avoid that pipeline easement area. The Public Notice fails to mention the pipeline easement, so the public is unable to determine if the proposed wetlands conflict with the easement. We enclose a diagram showing the location of that Union Oil pipeline easement.

9.02

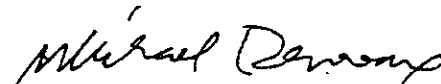
Our previous letter also noted that a portion of the Alves Ranch preserve area was in the blast zone of the Concord Naval Weapons Depot. The public is unable to tell from the Public Notice whether any roads or mitigation ponds will be constructed in that blast zone. We enclose a diagram that shows these impacts on the proposed preserve.

9.03

Given all of this new information, we once again reiterate our request that a public hearing be held on this Section 404 Permit Application. Placing a wetlands preserve in the direct path of a significant highway project is a poor choice from a biological standpoint, as well as a public interest and public policy standpoint. It makes little sense to do so.

Very truly yours,

LAW OFFICES OF
GREGORY D. THATCH



MICHAEL DEVEREAUX

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cc: Seecon Financial & Construction Co., Inc.
Chief, Endangered Species Division, USFWS
Chief, Endangered Species Division, Calif. Dept. of Fish and Game
San Francisco Bay Regional Water Quality Control Board
Environmental Protection Agency, Region 9

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CORD NAVAL WEAPONS STATION

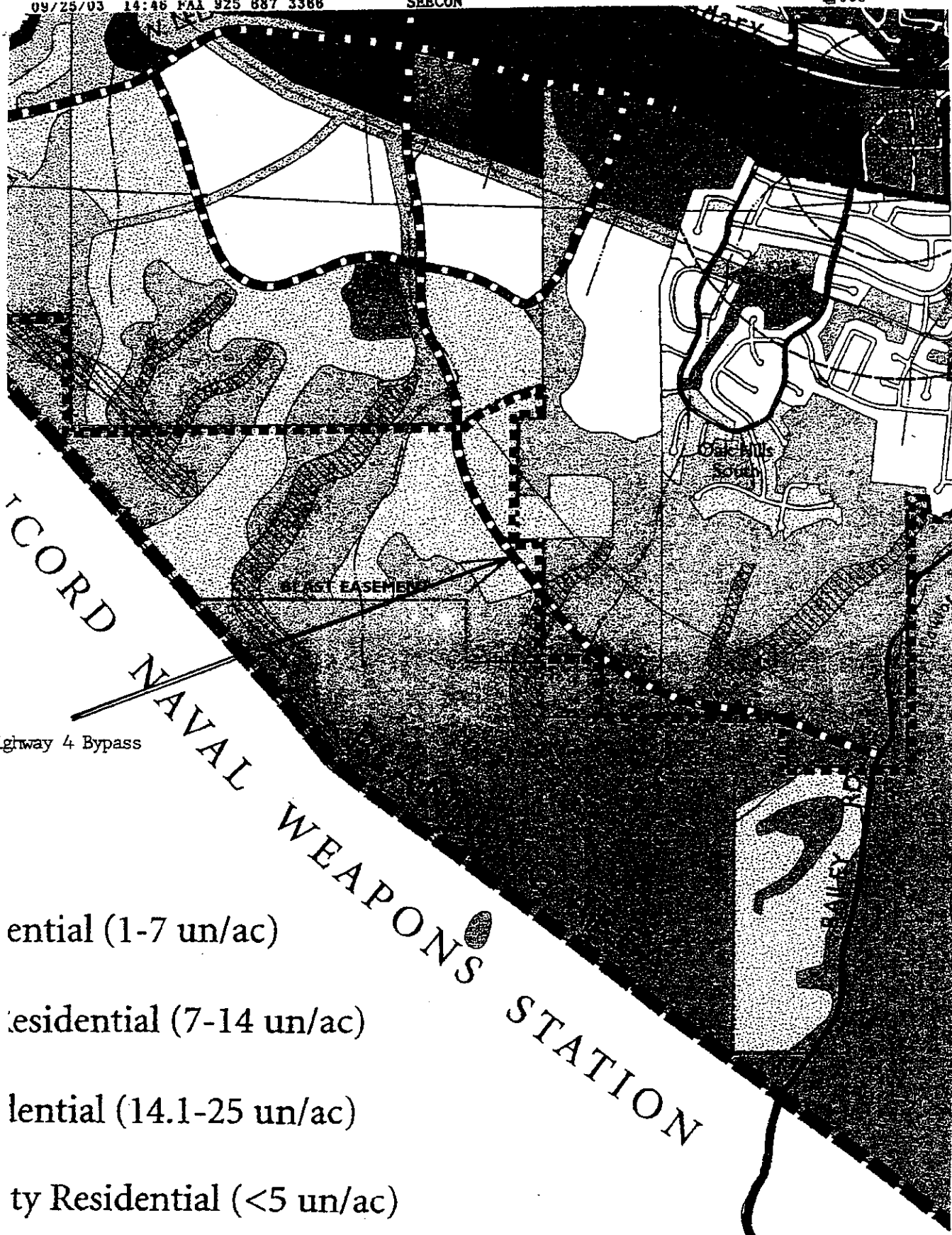
Highway 4 Bypass

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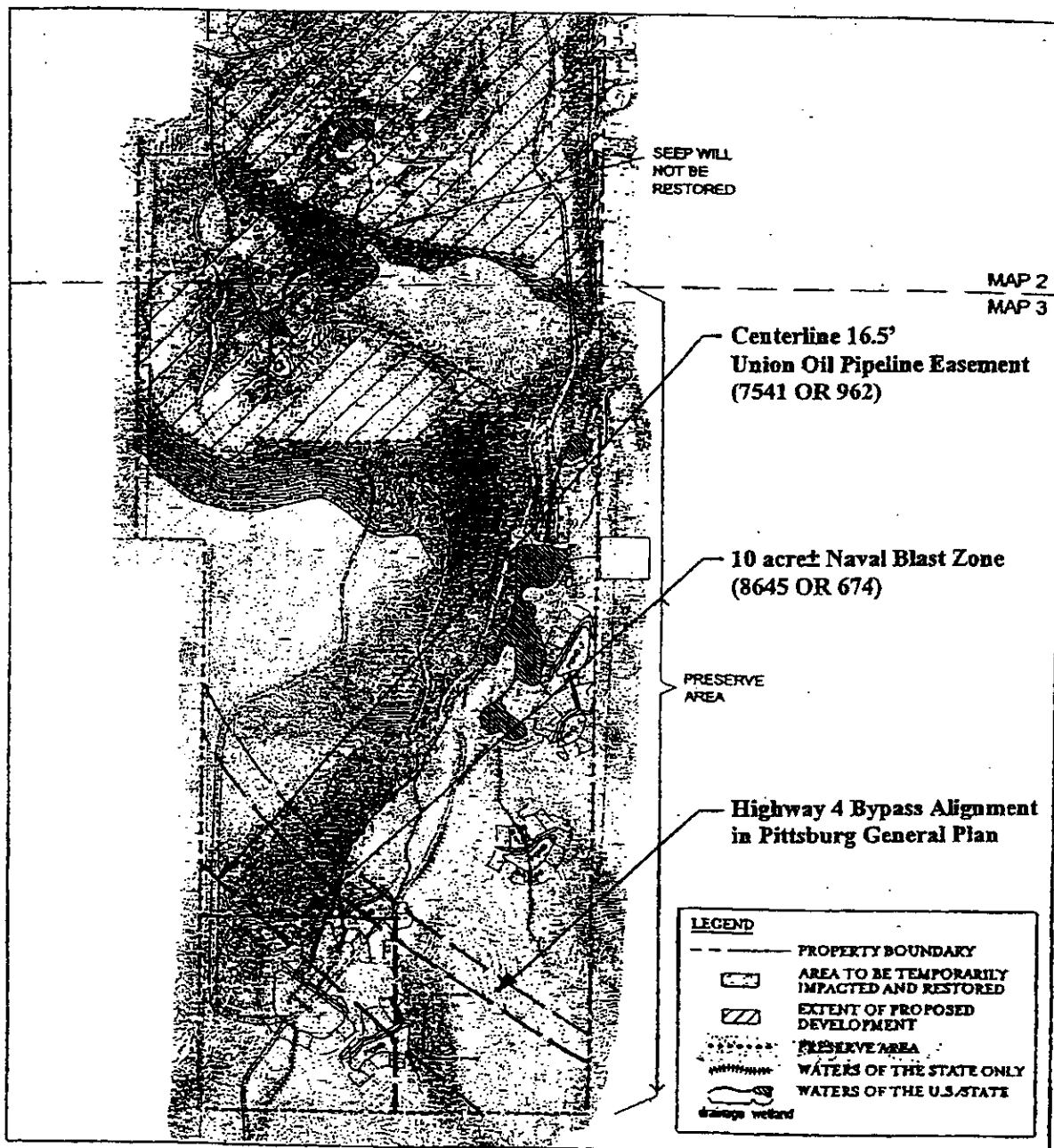


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Purpose: Mixed-use Development
Datum: NGVD

Alves Ranch Development
Pittsburg, Contra Costa County

Plan View of Proposed Mitigation

FIGURE 9 OF 11

Near: Suisun Bay
County of: Contra Costa

Application by:
William Lyon Homes, Inc./
Alves Ranch LLC
2603 Camino Ramon, Ste. 150
San Ramon, CA 94583



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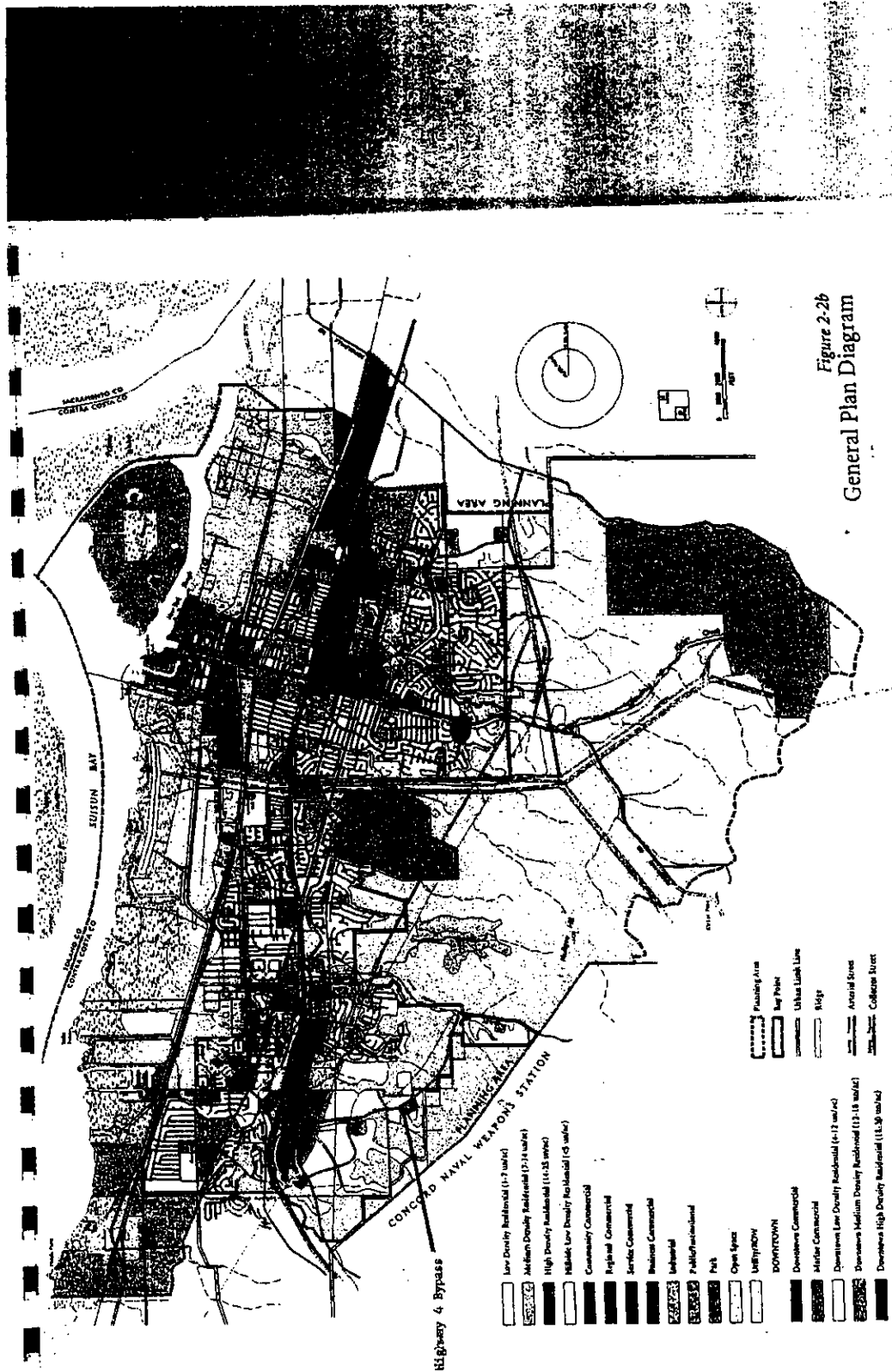


Figure 2-2b
General Plan Diagram

9. Michael Deveraux, Law Offices of Gregory D. Thatch, representing Seecon Financial Construction Co., Inc., September 25, 2004

- 9.01 Biological Resources--DEIR Figure 3.6 is misleading and inaccurate in showing the SR 4 Bypass alignment between Bailey Rd. and San Marco Rd./SR 4 interchange as relocated off the project site, without any associated General Plan Amendment request. The General Plan designated alignment would preclude implementation of applicant-proposed onsite wetlands mitigation preserve (the proposed preserve would be in path of the General Plan designated bypass alignment). Proposed location of wetlands mitigation preserve raises host of issues regarding General Plan consistency and environmental impacts that are not addressed in DEIR. During City's General Plan update process, staff rejected relocation of the planned SR 4 Bypass location because of federal restrictions recorded against adjacent property that prohibit construction and use of such a roadway on such property. Accordingly, project proposal to relocate roadway off project site as shown on DEIR Figure 3.6 is not legally possible. DEIR should address all impacts associated with keeping roadway on project site, and should identify mitigations to address impacts.

A 90-acre wetland mitigation preserve in a designated highway corridor is manifestly incompatible. Proposed onsite wetlands preserve at this location is inappropriate. Proposed location of preserve could lead to impacts of bypass on California tiger salamander and California red-legged frog. Bypass grading, etc., would diminish size of bypass and alter its hydrology. Bypass will result in isolated "island" of wetlands habitat.

Response: As explained in response to similar comment 7.09, this comment is incorrect that the referenced General Plan Diagram is a "map." When the state legislature codified the statutory requirements for general plans in 1965, it specifically substituted the word "diagram" for the term "map" to emphasize that the General Plan is "general." The term "map" implies exactness and rigidity; the modern state code uses the term "diagram" to indicate a broader, conceptual, approximation. Please also see the response to similar comment 7.09. As noted in that response, the commenter in previous comments submitted on the Bailey Estates EIR recommended that the Bypass alignment "be located south of the proposed alignment," to achieve "a safer, less costly alignment that would cause much less environmental impact..." Such an alignment is assumed on Vista Del Mar DEIR Figures 3.6 and 4.2.

As indicated in the Vista Del Mar DEIR under *Mitigation 11-2*, the ultimate location, size and management aspects of any project *Mitigation and Monitoring Plan* for wetlands and special status species, including the location, size, character and acceptability of any proposed mitigation (replacement ponds), will be determined by the appropriate jurisdictional agencies (USACOE, RWQCB, and CDFG). The stringent permitting procedures of these agencies, including their associated, well-established mitigation and monitoring requirements and protocols, provide reasonable assurance that any project-related mitigation preserve will be adequate and effective.

Also, there may be adequate land area within the proposed approximately 87-acre preserve area to accommodate an arterial road and/or pipeline easement with substantial separation (100 to 750 feet) from re-created and/or enhanced wetland areas, which at this preliminary point are expected to total approximately 3.6 to 4.6 acres (1.92 to 2.98 acres of mitigation ponds, approximately 1.68 acres of existing jurisdictional seeps, and approximately 0.8 acres of unvegetated jurisdictional waters).

- 9.02 Biological Resources--onsite wetland preserve--Union Oil Company pipeline easement will have superior rights to any wetland preserve conservation easement. Mitigation ponds need to be designed to avoid pipeline easement area. Public notice (DEIR) fails to mention pipeline easement, so public unable to determine if proposed wetlands conflict with pipeline easement. Diagram showing easement location attached.

Response: The location of re-created and restored wetland areas (approximately 3.6 to 4.6 acres) within the 87-acre southern "Preserve Area" portion of the project site can be well-separated (100 to 750 feet) from the 16.5-foot-wide Union Oil Company pipeline easement described by the commenter. And, as indicated in response to comment 9.01 above and in the Vista Del Mar DEIR under *Mitigation 11-2*, the ultimate location, size, management aspects and other characteristics of any project *Mitigation and Monitoring Plan* for wetlands and special status species, including the location, size, character and acceptability of any proposed mitigation (replacement) ponds, will be determined by the appropriate jurisdictional agencies (USACOE, USFWS, RWQCB and CDFG) through the various applicable resource agency permitting procedures. The rigid and stringent permitting procedures of these resources agencies, including their associated, well-established mitigation and monitoring requirements and protocols, provide reasonable assurance that any project-related mitigation preserve will be adequate and effective, and will take into adequate consideration the location of any established pipeline easements.

- 9.03 Public Health and Safety--blast zone--proposed project wetland preserve area located in Concord Naval Weapons Depot blast zone. Public unable to determine from DEIR whether any roads or mitigation ponds will be constructed within blast zone. Diagram showing blast zone attached.

Response: The DEIR notes on pp. 13-1 and 13-2 that "Transport of military explosives associated with Concord Naval Weapons Station also is of concern." In addition, in response to this comment, the DEIR text has been revised on page 4-33 (see revision to page 4-33 in section 3 herein, "Revisions to the Draft EIR") as follows:

Concord Naval Weapons Station Blast Zone. A portion of the proposed 87-acre permanent open space area at the end of the project site falls within the "blast zone" of the Concord Naval Weapons Station and is contained within a designated "blast easement." The inland portion of the Concord Naval Weapons Station is located southwest of the project site and the San Marco subdivision, beyond the Ridge Farm, DeBonneville and Seecon properties. The largest single use on this 5,272-acre military

facility is ammunition storage. The ammunition storage uses (bunkers) are located west of (on the opposite side of) the Southwest Hills from the Vista Del Mar project. Blast easements have been established to provide desired separation between inhabited buildings and explosive operations facilities. The blast easements encompass a designated "Explosive Safety Quantity Distance (ESQD) beyond which the Navy has determined that no direct impacts to individuals would occur.¹ The easements restrict intensive land use, but can continue to be used as open space and grazing land.

The proposed layout of the Vista Del Mar project does not place any residential or other intensive uses within this blast easement boundary; rather, the project area within the easement boundary would be restricted to permanent open space use, including the proposed habitat preserve. ***No significant project-related land use compatibility impact*** related to this easement or the Concord Naval Weapons Station is anticipated.

The implications of the easement will warrant consideration in the future if and when an alignment for the San Marco/Bailey Road SR 4 Bypass is established (see General Plan Policy 7-P-18).

¹Wagstaff and Associates and the City of Pittsburg, Final Subsequent Environmental Impact Report for the San Marco Subdivision, SCH #91073029, October 1992; pp. 95 and 105.

MORRISON & FOERSTER LLP

SAN FRANCISCO
LOS ANGELES
DENVER
PALO ALTO
WALNUT CREEK
SACRAMENTO
CENTURY CITY
ORANGE COUNTY
SAN DIEGO

ATTORNEYS AT LAW

PLEASE RESPOND TO:

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August 6, 2004

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Noel M. Ibalio
City of Pittsburg
Planning and Building Department
65 Civic Avenue
Pittsburg, CA 94565

Re: Vista Del Mar Draft EIR

Dear Mr. Ibalio:

As applicants, William Lyon Homes and Alves Ranch, LLC, are pleased to have this opportunity to review and comment on the Vista Del Mar Draft Environmental Impact Report (SCH # 2004012097) ("Project DEIR"). As you know, the Project DEIR has been prepared in anticipation of the development of a transit oriented mixed use community (the "Project") to be located on the Alves Ranch property (the "Project Site"). Consistent with Section 15183 of the CEQA Guidelines, William Lyon Homes, Alves Ranch and other technical consultants for the Project team have reviewed this tiered project-level CEQA document in the context of the Pittsburg 2020 General Plan (the "General Plan") and the certified programmatic-level City of Pittsburg 2020 General Plan Environmental Impact Report (the "General Plan EIR") (SCH # 1999072109) and have determined that the Project DEIR provides a comprehensive, detailed examination of those environmental impacts that are peculiar to the Project or the Project Site. However, our review indicates that a number minor clarifications are recommended to complete the document. Our comments on the Project DEIR are provided below.

1. Proposed Rezoning.

Although the Project EIR assumes the correct land uses for the entire Project Site and, in general, adequately analyzes related impacts, please clarify the Project's

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proposed rezoning application. We note that the applicant is not requesting a rezone to PD - Planned Development for the *entire* Project Site but, rather, for that portion of the Project Site located south of the proposed West Leland Road extension. North of the West Leland Road, the applicant is requesting a rezone to RH-P (Residential High Density - Master Plan Overlay) and CO-P (Commercial Office - Master Plan Overlay), consistent with land uses assumed in the General Plan EIR and the Project DEIR. Please revise the Project DEIR's description of the proposed rezone (and Figure 3.7) to clarify the rezone and to note that all associated impacts with the rezone have already been appropriately analyzed.

2. Project DEIR Traffic Impact Analysis Comments.

We have the following comments on the Project DEIR Traffic Impact Analysis:

Traffic Mitigation Measures and City TIF. Many of the traffic impact mitigation measures (e.g., Mitigation Measures 7-1, 7-2, 7-3, 7-4, 7-5 & 7-6) call for the implementation of several offsite improvements that have not been included in the City's Traffic Impact Fee (the "TIF"). Applicant agrees that it will pay its fair share of the cost of proposed traffic improvements and applicant agrees that its fair share contribution to such improvements is an appropriate method to mitigate the traffic impacts associated with the Project. As you know, the applicant's proposed development agreement requires the applicant to pay at least its fair share of the City TIF in an amount commensurate with the traffic impacts generated by the Project. Please confirm our understanding that the offsite non-TIF mitigation improvements cited above will either be included in the TIF or, in the event such improvements are not included in the TIF, applicant will only be required to pay its fair share of the cost of these improvements and will not be required to construct such improvements or incur non-nexus traffic improvement costs. For example, Mitigation Measure 7-5 states that if the traffic improvements discussed in Mitigation Measure 7-5 are not included in the City TIF, then "the project applicants shall be responsible for these improvements before development proceeds." Please confirm our understanding that the phrase "applicants shall be responsible for these improvements," as such phrase is used in Mitigation 7-5, means that applicant shall be responsible to pay its fair share of such improvements and is not intended to mean that applicant shall be responsible for constructing such improvements, subject to reimbursement from other benefiting properties.

Timing of Mitigation Measure Implementation. Mitigation Measure 7-3 contains the following sentence: "This fee shall be paid prior to recordation of a project final map, in an amount determined by the City Council in cooperation with the affected jurisdiction." To track with State law and ensure that applicant is not required to

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mitigate project impacts before the impacts can reasonably occur and to ensure that the Project is not subject to a de facto moratorium in the event the City and other affected jurisdictions are unable to timely determine the appropriate fee amount, we recommend this sentence be revised to read: "Applicant shall pay its fair share of the cost to construct the improvements set forth above in amount determined by the City Council in cooperation with the affected jurisdiction." Similarly, Mitigation Measure 7-5 states that "the project applicants shall be responsible for these improvements before development proceeds." To ensure that applicant is only required to mitigate Project impacts at the time such impacts are reasonably likely to occur, this sentence could be revised to read as follows: "Otherwise, the project applicants shall be responsible to pay its fair share of the cost of these improvements."

10.04

Trip Generation Assumptions. Please confirm that the trip generation figures shown in Table 7.5 of the Project DEIR were calculated in accordance with Institute of Transportation Engineers (ITE) trip generation equations. The use of average rates overstates the trip generation of larger residential developments.

10.05

Cumulative Traffic Impact Assumptions.

The Project DEIR's discussion of cumulative plus Project traffic impacts appear to treat the Project as an addition over the cumulative scenario analyzed in the General Plan EIR, rather than merely being a part of that cumulative scenario. Please confirm that the Project DEIR's analysis of cumulative plus Project impacts (i) first discounted the cumulative impacts analyzed in the General Plan EIR in an amount equal the buildout of the Project Site anticipated in the General Plan, and then (ii) imported the traffic models prepared for the Project in order to determine overall cumulative impacts. Again, it is our belief that the Project's share of cumulative traffic impact mitigation would be fulfilled through payment of the City's TIF, as anticipated in the programmatic General Plan EIR.

10.06

Impact 7-6 concludes that cumulative plus Project impacts on the Bailey Road/Myrtle Drive intersection represent a significant cumulative impact. However, the cumulative volumes at this intersection appear to be such that a traffic signal would be warranted (assuming 40 mph speeds on Bailey Road) whether or not the proposed Project is approved. Please confirm that our understanding is correct.

10.07

Impact 7-7 and Mitigation 7-7 should be clarified to indicate that the cumulative impact on SR 4 would be significant and unavoidable whether or not the Project's trips are factored into the analysis. The SR 4 delay index is expected to be exceeded even without the Project. The Project is merely a part of the General Plan buildout assumed in the General Plan EIR (actually, the Project is less intense than that assumed in the

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General Plan and General Plan EIR). As currently drafted, these sections give the impression that the Project alone causes this impact to be considered significant and unavoidable. Please clarify that the cumulative impacts discussed in Impact 7-7 would exist even if the Project is not approved.

3. Biological Impact Analysis Comments.

We have the following comments on the Project DEIR's Biological Impact Analysis:

Definition of Natural Creeks. Impacts 5-1 and 11-1 suggest that the General Plan's policies related to "natural creeks" should apply to the Project although it is our understanding that no natural creeks (i.e., Kirker Creek or Lawlor Creek) exist on the Project Site. For example, proposed Mitigation 11-1 requires the applicant to "[m]odify the proposed development so that existing creeks are incorporated into its design, and sufficient setbacks occur on both sides," citing General Plan policies related to natural creeks (Lawlor Creek or Kirker Creek), rather than ephemeral drainages. As discussed below, we believe that the City did not intend the term "natural creeks," as such term is used in the General Plan, to include the type of ephemeral drainage channels located on the Project Site, but, rather intended such term to apply only to vegetated riparian corridors like Kirker Creek and Lawlor Creek. Accordingly, we believe that there are no Project impacts to "natural creeks" requiring mitigation.

10.09

Creeks and streams are typically intermittent or perennial (i.e., they have water for a portion of the year or year-round). In contrast, the natural drainage features on the Project Site are ephemeral (i.e., they only carry water immediately following rainfall events).¹ The Project DEIR, however, inadvertently conflates these hydrogeomorphic classifications by assuming that the term "intermittent" and "ephemeral" are interchangeable and, as a result, the Project DEIR inaccurately describes the ephemeral drainages located on the Project Site as intermittent natural creeks or streams. For example, page 5-18 of the Project DEIR states that "[n]one of the streams that flow through or begin on the Project Site are named, and all appear to be *ephemeral (intermittent)*" (emphasis added). By assuming that Project Site's ephemeral drainages

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¹ The United States Army Corps of Engineers' regulations (Fed. Reg. Vol. 67, No. 10, 1/15/2002) define streams in terms of how much water is present on an annual basis as follows: a perennial stream has flowing water year-around primarily from groundwater with rainfall runoff as a supplemental water source; an intermittent stream has flowing water during certain times of the year from groundwater with rainfall runoff as a supplemental water source and may not have flowing water during dry periods; an ephemeral water course has flowing water only during and for a short duration after precipitation, with rainfall being the primary source of water flows.

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are intermittent streams, the Project DEIR, in our view, inaccurately determines that such features are subject to the General Plan's creek setback and preservation policies.²

Although the General Plan does not define the term "natural creeks," the General Plan EIR suggests that the term "natural creeks," as used in the General Plan, refers to perennial or intermittent creeks or streams (i.e., Kirker Creek, Lawlor Creek), rather than natural ephemeral drainages. For example, section 4.1.3 of the General Plan EIR describes Pittsburg's watersheds in a manner that distinguishes between creeks (which are not located on the Project Site) and natural drainage channels (which are located on a portion of the Project Site):

The developed portions of the Pittsburg Planning Area are within two major watersheds: Kirker and Lawlor creeks. ... [T]here are five minor watersheds in addition to Kirker and Lawlor Creek Watersheds. ... Most of the Lawlor Creek watershed south of Bay Point is undeveloped, though some residential development exists south of State Route 4. Most runoff is conveyed by *natural channels*, except for storm drains located in developed areas and culverts under State Route 4. Minor watersheds are located west of Lawlor Creek, between Lawlor and Kirker Creeks, and adjacent to the northeastern boundary of the Kirker Creek watershed north of State Route 4. The minor watersheds are drained by small *natural channels* with no official names.

See *General Plan EIR*, pg. 4-133 (emphasis added). As shown on Figure 4.13-1 of the General Plan EIR, the Project Site is located in a "minor watershed." Accordingly, the Project Site (and the minor watershed within which the Project Site is located) is drained by small natural channels, rather than the perennial or intermittent creeks which drain the major Lawlor Creek watershed. We also note that the General Plan EIR indicates that the intermittent wetland areas planned for urban development under the General Plan are located in almost every planning subarea identified in the General Plan, with the noted exception of the southwest hills subarea where the Project is located. See *General Plan EIR*, pp. 4-87, 4-88. Given the General Plan EIR's distinction between creeks and natural drainage channels and since the Project Site does not contain creeks

² It should be noted that our interpretation of the General Plan term "natural creek" is consistent with similar terms and policies contained in the County's general plan. For example, Policy 8-78 of the County's general plan states that "[w]here feasible, existing natural waterways shall be protected and preserved in their natural state, and channels which already are modified shall be restored." The County's general plan defines the term "natural waterway" as "a waterway which can support its own environment of vegetation, fowl, fish and reptiles, and which appears natural." Accordingly, the ephemeral drainages located on the Project Site would not meet the County general plan's definition of the term "natural waterway," because such drainages do not support vegetation, fowl, fish and reptiles.

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or other intermittent wetlands (as defined in the General Plan EIR), the Project should not be subject to the creek setback or creek preservation policies of the General Plan (e.g., 2-P-26, 4-G-4, 4-P-9, 4-P-82, 9-P-9, 9-P-10, 9-P-11).

As set forth in the General Plan, most of the Southwest Hills planning area is to be developed with a mix of residential, commercial, office and other uses. However, most of this land is characterized by ephemeral natural drainage channels (although little, if any, of this area contains perennial creeks). If, as the Project DEIR suggests, all ephemeral drainages located in the City's planning area qualify as "natural creeks" subject to the General Plan's creek setback and preservation policies, the City would be unable to satisfy the General Plan's land use and housing goals because such an interpretation would amount to a de facto prohibition against filling all ephemeral drainages. This fill prohibition prevents the development of a significant portion of the City's vacant land. Such an interpretation would also render the Project and, perhaps, other market-rate and affordable housing projects physically and economically infeasible.

Finally, we note that Impact 11-1 of the Project DEIR concludes that "possible General Plan inconsistencies would represent a potentially significant impact." However, we do not believe that such inconsistencies represent an *environmental* impact of the Project and, therefore, it should not be analyzed in the Project DEIR. In any case, please confirm that the General Plan term "natural creeks" does not include ephemeral drainages of the type that exist on the Project Site and that there are no Project impacts to natural creeks requiring mitigation.

Regulatory Permit Application Submittals. Please update the Project DEIR's descriptions of applicant's pending permit applications with State and Federal agencies as follows: an Individual Permit Application Package (including a Wetland Mitigation and Monitoring Plan) was submitted to the United States Army Corps of Engineers on June 17, 2003. A Section 404(B)(1) Alternatives Analysis for the Project was submitted to the Corps on February 20, 2004. All documents that the applicant is required to submit in conjunction with an Individual Permit application have been provided to the Corps. A Request for Water Quality Certification (including a Wetland Mitigation and Monitoring Plan) for the Project was submitted to the San Francisco Bay Regional Water Quality Control Board on June 17, 2003. Subsequent submittals to the RWQCB include a grading plan, Stormwater Quality and Hydrograph Management Plan, and a Section 404(B)(1) Alternatives Analysis. Per the Request of the RWQCB, the applicant has prepared and submitted a plan showing the location of all proposed stormwater

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BMPS to the RWQCB.³ An application for a Streambed Alteration Agreement was submitted to the CDFG on June 17, 2003. The applicant will provide any additional information that may be requested by CDFG. Finally, a comprehensive Wetland Mitigation and Monitoring Plan has been designed to mitigate for wetlands and other impacts subject to Corps, RWQCB, and CDFG jurisdiction. A Biological Assessment was prepared to address potential impacts to special-status species as a result of Project implementation. Please revise the Project DEIR to reflect this process and please confirm that compliance with federal and state requirements will satisfy the City's mitigation requirements related to biological impacts.

Illustrative Descriptions of Potential Mitigation Measures. The Project DEIR appropriately requires the applicant to consult with CDFG or other relevant resource agencies to determine the extent and type of mitigation to be implemented at the Project Site in the event a particular species is identified in pre-construction surveys. These requirements are found in the boxes surrounding the various proposed mitigation measures (e.g., Mitigation 11-4, Mitigation 11-5, Mitigation 11-7, Mitigation 11-8). However, following the text located within these boxes, there is often text outside of the boxes that describe the type of mitigation often required by CDFG or other jurisdictional entity for the species being discussed. This supplemental text is somewhat confusing because it is often difficult to determine what is a mitigation requirement and what is simply illustrative text describing potential State or Federal agency requirements. Please clarify that the text outside the specific mitigation box is merely illustrative and that the actual species mitigation required for the Project will be those mitigation requirements developed by CDFG, USFWS or other relevant resource agency in the event preconstruction surveys identify a protected species onsite. In addition, please confirm that all mitigation measures related to biological resources are subject to the reasonable interpretations of a qualified biologist in a manner consistent with State and Federal Law.

Wetland Mitigation. Please update the text on page 11-41 that describes Mitigation 11-2 so that it includes the following: "The applicant will implement the agency-approved Wetland Mitigation and Monitoring Plan within the time period stipulated by the agencies. A Wetland Mitigation and Monitoring Plan (dated June 17, 2003) was submitted to the USFWS, CDFG, RWQCB and the Corps. The mitigation plan proposed to be implemented on the Project Site includes the creation of at least 1.92 acres of seasonal ponds to compensate for the loss of 0.96 acre of jurisdictional area, representing a compensation ratio of 2:1 (new to filled). The ponds have been

³ Page 11-33 of the Project DEIR inadvertently states that applicant is "currently preparing a plan showing the location of all proposed storm water Best Management Practices." As noted above, the applicant has already submitted this plan to the RWQCB.

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over-designed to create 2.1 acres of seasonal ponds to ensure that at least 1.92 acres of ponds are successfully created. The applicant will modify the Wetland Mitigation and Monitoring Plan as required by the agencies during the course of the permit review process."

California Red-legged Frog. Please revise the Project DEIR's discussion of this species to clarify that the red-legged frog is listed as a special-status species known to occur, or potentially occur, within the Pittsburg Planning Area in Table 9-1 of the General Plan. This fact should be noted in the Project DEIR at Section 11.1.3(b). Please confirm that the Project Site supports only minimal California red-legged frog *dispersal* habitat and does not support *breeding* habitat. A 3:1 mitigation ratio is generally required by USFWS and CDFG as compensation for impacts to moderate to high quality red-legged frog breeding habitat. As the Project Site does not support red-legged frog breeding habitat, the Project DEIR should require a 2:1 mitigation ratio as currently stated. In addition, please clarify that the berm on the historic stock pond has failed and the area now functions as a seep. Furthermore, please confirm whether the historic stock pond is, in fact, located in the main drainage (LSA suggests otherwise). Finally, please confirm that the stock pond will not be impacted as a result of Project implementation. Instead, the Project DEIR should note that the stock pond will be restored as part of the proposed mitigation for the Project.

California Tiger Salamander. Please confirm that the wetland habitat on the Project Site does not exhibit a sufficient hydroperiod (i.e., being ephemeral, it does not hold water for a sufficient period of time) to support California tiger salamander breeding habitat.

Burrowing Owl. The Project DEIR, at page 11-21, states that preconstruction surveys for burrowing owls should be conducted "to determine [the burrowing owls] onsite presence or absence." Please confirm that if owls are located within the proposed development area on the Project Site, offsite replacement habitat may be provided in the Project's preserve area. In addition, the Project DEIR states, at page 11-51 (Mitigation 11-7), that the applicant will be required to prepare a Habitat Mitigation Plan and a Mitigation Agreement for any burrowing owls identified on the Project Site. Please confirm our understanding that the applicant will conduct pre-construction surveys for burrowing owl between December 1 and January 31 for any construction activity proposed to occur from February through August. In addition, please confirm that if occupied burrowing owl nests are identified, then the applicant will consult with CDFG to provide the proper buffer zones and appropriate mitigation. Also, please confirm that buffer zones need only be maintained until the birds have fledged, unless otherwise required by CDFG. Finally, please confirm our understanding that a habitat mitigation plan or mitigation agreement for burrowing owls (as noted at the bottom of page 11-51)

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is not a required mitigation measure but merely illustrates one of many mitigation options that CDFG may determine to be appropriate.

Raptors. The Project DEIR, at page 11-53 (Mitigation 11-8), states that the applicant shall retain a qualified raptor biologist to conduct spring nesting surveys the year grading is proposed. Please confirm our understanding that the applicant shall retain a qualified raptor biologist to conduct spring nesting surveys if grading or other construction activity that may impact raptor nesting habitat is expected to occur during the nesting season (April 1 through July 31). In addition, Mitigation 11-8 of the Project DEIR contains a requirement that applicant shall establish "a fenced buffer of 1,000 feet around any survey-identified active raptor nest, or as otherwise determined by a qualified, CDFG-approved raptor biologist." Please confirm our understanding that a 1,000 foot buffer is but one example out of a range of possible buffer sizes and that actual buffers sizes will determined by a CDFG-approved biologist. Furthermore, please confirm that any buffer so established need only be maintained around any survey-identified active raptor nest until the young have fledged, unless otherwise required by CDFG.

10.21

Loggerhead Shrike. The Project DEIR, at page 11-55 (Mitigation 11-9), states that the applicant shall retain a qualified biologist to conduct spring nesting surveys for loggerhead shrike, coordinated with CDFG, the year grading is proposed. Please confirm our understanding that the applicant will be required to retain a qualified biologist to conduct spring nesting surveys for active loggerhead shrike nests, coordinated with CDFG, if construction activity that may impact loggerhead shrike nesting habitat is expected to occur during the nesting season (April 1 through July 31). In addition, on page 11-55 of the Project DIER, it is stated that, "[i]f loggerhead shrikes are identified nesting on the project site, a 250-foot-wide buffer shall be established around each nest tree, and a biological monitor shall be present when grading activity is scheduled in that portion of the project site to make sure that no work occurs within the fenced buffer area." Please add the phrase "or as otherwise determined by a CDFG-approved biologist" to the end of the quoted sentence.

10.22

California Horned Lark. The Project DEIR, at page 11-56 (Mitigation 11-10), states that the applicant shall retain a qualified biologist to conduct spring nesting surveys for California horned lark, coordinated with the CDFG, the year grading is proposed. Please confirm our understanding that the applicant will be required to retain a qualified biologist to conduct spring nesting surveys for active California horned lark nests if construction activity that may impact California horned lark nesting habitat is expected to occur during the nesting season (April 1 through July 31).

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Mitigation Program Description. The mitigation program description (page 11-3) should be clarified as follows (additions are underlined): "Mitigation proposed in the applicant's Mitigation and Monitoring Plan would consist of: 1) onsite creation of at least 1.92 acres of seasonal pond habitat; 2) restoration of a 0.5 acre former stock pond; 3) preservation and enhancement of approximately 3,300 linear feet of onsite drainages; 4) preservation of approximately 1.68 acres of onsite seeps; and 5) offsite enhancement of approximately 3,300 linear feet of Kirker Creek." The remainder of the text need not be revised.

10.24

Page 11-43. At the bottom of page 11-43 of the Project DEIR it is stated that "[a]ll pond side slopes should be no steeper than 3:1 (currently the mitigation plan has some 2:1 and some 3:1)." Please revise this sentence to read as follows: "All pond side slopes should be no steeper than 3:1, unless otherwise determined by a CDFG-approved biologist (currently the mitigation plan has some 2:1 and some 3:1)."

10.25

4. Soils and Geology Impact Analysis.

We have the following comments on the Project DEIR's soils and geology impact analysis:

Project DEIR Page 10-7. Please confirm our understanding that the boundaries of Landslide E should be depicted as shown on Plate 3 of Berloger Geotechnical Consultants' (BGC) report dated 1/30/04.

10.26

Project DEIR Page 10-10. Please confirm our understanding that groundwater was found in four of the 225 test pits excavated by BGC as part of our various studies of the Project Site.

10.27

Project DEIR Page 10-22. Please confirm our understanding that BGC's report dated January 30, 2004, represents a final, design-level project geotechnical study. The Project DEIR, on Page 10-1, refers to the BGC report as such.

10.28

Project DEIR Page 10-23. The Project DEIR states on page 10-23 that "the study did not definitively confirm whether the offsite portion of Landslide A was stabilized" and, on page 10-24, that "[t]he project geotechnical engineer shall obtain all relevant information regarding the San Marco development as needed to confirm that the upslope, offsite portions of Landslide A have been fully remediated and present no risk to homes proposed for construction at the base of slope on the Vista Del Mar project site." Please confirm our understanding that BGC obtained the needed information regarding the remediation of Landslide A for the San Marco development and that such

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information is reflected in Cross Sections A1-A1' and A2-A-2' (as summarized on Page 6 of BGC's 1/30/04 report).

Project DEIR Page 10-23 and 10-24. The Project DEIR states on page 10-23 that "the study did not definitively confirm whether ... the offsite portion of Landslide D can safely be left undisturbed" and, on page 10-24, that "[t]he project geotechnical engineer shall also determine the potential for future instability within the offsite portions of Landslide D and recommend appropriate remediation measures as may be necessary to fully stabilize the existing slide." Please confirm our understanding that the recommended remediation is shown in Cross Section D-D' of BGC's 1/30/04 report. The offsite portion of Landslide D appears dormant and exhibits a low level of activity. large-scale reactivation of the offsite portion of landslide at depth is unlikely, owing to future drainage and buttressing provided by the onsite landslide report BGC recommended. The recommended repair is shown in Cross Section D-D of BGC's 1/30/04 report. Small scale reactivation of shallow portions of the landslide offsite are possible. However, it is unlikely such masses will cross a distance of 330 feet on a gentle (less than 10 degrees) slope onsite to reach the project graded slopes and improvements.

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Project DEIR Page 10-24. On page 10-24, the Project DEIR, it is stated that "[t]he project geotechnical engineer shall propose specific measures for stabilization of the existing landslide below the estate homesites at the east end of the upper terrace road. These measures should not rely on setbacks that anticipate the loss of usable property to future slope failures, and they should include assurances for prospective property owners that the slope below their homes would be no more likely to fail than any other natural or constructed slope on the project site. If such assurances cannot be given, the proposed estate home layout shall be reconfigured so as to remove all homesites from areas of potential instability." According to BCG, it is commonplace for estate lots to include building setbacks or engineered mitigation from slopes. It is anticipated that the estate lots will be large enough to accommodate both buildable envelopes and setbacks from slopes (or engineered mitigation within the lots." Of course, applicant will provide the suggested preliminary evaluation and assurances if needed, but please confirm our understanding that deleting lots from the layout or stabilizing landslides downslope of lots should not be warranted.

10.31

Project DEIR Page 10-24. On page 10-24 of the Project DEIR, it is stated that "[t]he project geotechnical engineer shall perform a supplemental geotechnical investigation to evaluate the potential for both soil creep and debris flows on existing and newly constructed slopes on the project site. Mitigation measures shall be set forth. ... Expected principal mitigation would include identification of construction practices designed to reduce the likelihood that either soil creep or debris flows would occur,

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primarily through identification and replacement of soils prone to these types of failure." Please confirm our understanding that the potential for creep and debris flows to impact the proposed Project are very low, as implied in BGC's 1/30/04 report. We note that our understanding is based on the characteristics of the proposed Project grading plan: properly graded slopes at appropriate gradients, with drainage benches where needed, exposing strong material (cut slopes) or built of strong material under engineering controls (fill slopes) lack significant susceptibility to creep and debris flows. We also note that no structures are planned on or near slopes. It is our understanding that the Project area is not one where known debris flows have been documented. Finally, please confirm that a City-retained geologist reviewer will have the opportunity to point out any specific Project locations where potential debris flows are believed to occur and which should receive closer evaluation, in which case BGC will provide the needed specific evaluation.

Project DEIR Page 10-28. Please confirm our understanding that the importation of nonexpansive fill material from offsite is unlikely. It may be expected that sufficient quantities (native siltstone and sandstone) will be available onsite.

10.33

5. Infrastructure and Public Services Impact Analysis.

We have the following comments on the Project DEIR's infrastructure and public services impact analysis:

Section 8.1.1(a) - Existing Water Supply. The current CCWD contract with the USBR is for 195,000 af/y. Please clarify whether reference to 174 million gallons per day (MGD) should either be removed or qualified by indicating that an average daily demand of 174 MGD equates to approximately 195,000 af/y.

10.34

Impact 8.1. The Water Supply Assessment (WSA) approved and adopted by the City on February 2, 2004 did not identify a water supply shortfall or potential shortfall. To the contrary, the WSA concluded that "the City will be able to meet all of its anticipated demands over the 20-year projection period, including in the latter years of a multi-year drought, through a combination of its currently projected water supplies, reasonable attainable water conservation efforts, and short term purchases." The impact fails to meet the requirement of criterion 2 in subsection 8.1.3(a) in that it does not "result in the need for new or expanded water supply entitlements" (emphasis added). Please confirm our understanding that use of currently projected Project water supplies, water conservation efforts, and short term purchases does not equate to the need for new or expanded water supply entitlements.

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Mitigation 8-1. Please confirm our understanding that the City's water system is public water system which will serve the subdivision and that the City has provided written verification, in the form of the WSA, that the system is able to provide a sufficient supply to meet the needs of the subdivision at the time of the filing of the final map for the subdivision.

10.36

Section 8.2.1(d). Please confirm our understanding that the deficiencies and modifications identified in this section of the DEIR do not serve or affect the Project.

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Impact 8.3. The Project DEIR (i) indicates, in Section 8.2.1(c), that current treatment capacity is 16.5 MGD, (ii) indicates, in Section 8.2.1(d), that the flow in 2010 is expected to 16.02 MGD and (iii) indicates, in Section 8.2.1(c), that the Delta Diablo Sanitation District (DDSD) has adopted a phased master plan to increase the capacity to 24 MGD to meet the anticipated buildout for the cities of Antioch and Pittsburg. Moreover, the flows anticipated in the DDSD Master Plan attributed to the Project are greater than currently proposed. Please confirm our understanding that the current sewage treatment capacity should be adequate for the currently proposed Project and that adequate plans have been adopted to ensure adequate capacity beyond 2010.

10.38

Mitigation 8.3. Please clarify whether the preparation of a sewage treatment adequacy evaluation is required in light of the current DDSD treatment plant capacity and adopted phased implementation of Master Plan expansions.

10.39

Impact 8.4. Please clarify whether flow data provided in the Project DEIR supports the conclusion that "demand from development pending, approved, or under construction" may exceed treatment capacity.

10.40

Page 8-13. On page 8-13 of the Project DEIR, it is stated that "[t]he project applicant would be required to pay all applicable City of Pittsburg development and connection fees, and construct the following: [list of anticipated improvements]". We understand City is processing an amendment to its water master plan which may or may not include some of the improvements listed on page 8-13 of the Project DEIR and which may include a phased construction schedule that will identify construction timing of some of the listed improvements. To accommodate applicant's compliance with the amended water master plan, please revise the above sentence to read as follows: "The project applicant would be required to pay all applicable City of Pittsburg development and connection fees, and/or construct some or all of the following: [list of improvements]."

10.41

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6. Miscellaneous Comments.

- Section 3.4.2(b), pg. 3-13 - Please confirm that the Project does not include EVA connections. 10.42
- Section 3.4.2(c), pg. 3-13 - Please confirm that the Project does not include a linear park. 10.43
- Section 3.4.3, pg. 3-13 - Please clarify that applicants anticipate a total grading volume of 4,600,000 cubic yards of earth, rather than 4,100,000 cubic yards. 10.44
- Section 3.6.1(b), pg. 3-16 - Housing unit figures in main text and in footnotes appear inconsistent. Please correct footnotes to show correct figures. 10.45
- Section 3.6.1(e)(2), pg. 3-17 - Please clarify that applicant will dedicate a 100-foot right-of-way and construct *four*, rather than two, lanes of the West Leland Road extension project, subject to fee credits to compensate applicant for non-nexus costs. 10.46
- Section 3.6.1(e)(4), pg. 3-17 - Please clarify that applicant will not dedicate the school site, but rather offer it for sale to the Mount Diablo Unified School District. 10.47
- Section 3.6.2(h), pg. 3-21 - Please clarify that applicant will also require Caltrans approval of an encroachment permit for grading activities. 10.48
- Figures 3.5, 3.6, 4.1 & 4.2 - These figures should be revised to show the PG&E easement extending across the entire Project Site. 10.49
- Figures 7.5, 7.7 & 7.8 - Please clarify whether these figures are inconsistent. There are instances where the combined Project trips (Figure 7.7) and baseline volumes (Figure 7.5) are not consistent with the baseline + Project traffic volumes shown in Figure 7.8. In particular, there appear to be discrepancies at the critical Willow Pass Road-San Marco Boulevard/SR 4 Eastbound Ramps intersection. 10.50
- Figure 11.1 - Please clarify whether this figure incorrectly identifies the location of the historic stock pond. It is our understanding that the arrow 10.51

10

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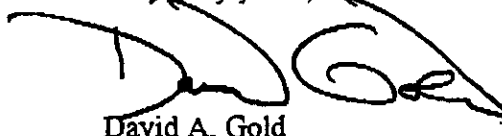
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should point to the historic stock pond located immediately north of the seep (which is currently incorrectly labeled as the historic stock pond).

- 2003 Housing Element - The Project DEIR only references the General Plan Housing Element adopted by the City in 2001. Please confirm our understanding that the City adopted a new Housing Element in 2003. 10.52
- Mitigation Bank - Please note that the Project DEIR, at page 11-49, incorrectly states that the applicant will be purchasing mitigation credits from the Ohlone Conservation Bank. This reference should be changed to "a qualified mitigation bank." 10.53

Thank you for the opportunity to comment on the Project DEIR. As noted above, we believe that this tiered project-level CEQA document provides a complete and thorough analysis of all the significant environmental impacts associated with the Project. However, we believe the FEIR will be more complete with the clarifications in this letter, together with your responses. Please forward your responses to our comments to the address listed above.

Very truly yours,



David A. Gold

cc: Greg Mix
Scott Hanks
Doug Eikenbary
Peter Hellmann
Gerry Alves
Randy Jerome

10. David Gold, Morrison & Foerster, representing applicant; August 6, 2004

10.01 Project Description--rezoning--clarification of project's rezoning application requested/suggested.

Response: In response to this comment, these zoning clarifications (edits) have been made to DEIR pp. ii, 2-2, 3-16 and Figure 3.7. Please see these changes in section 3, Revisions to the Draft EIR, herein.

10.02 Transportation and Circulation--traffic mitigation measures and City Traffic Impact Fee (TIF)--clarifications requested regarding applicant implementation responsibilities for offsite non-TIF mitigation needs.

Response: On the one hand, the lead agency has authority to impose conditions only on those situations where there is a clear "nexus" between the impact and the mitigation measures; on the other hand, the DEIR mitigations for traffic and other impacts must include adequate reasonable assurance that the mitigation will be implemented in order to make a finding of mitigation effectiveness (i.e., avoidance, minimizing of, rectifying, compensating for, or reducing the impact to a less-than-significant level). For EIR-identified baseline-plus-project and cumulative impacts which are contributed to by more than one project, the mitigation language must either demonstrate full implementation of the mitigation (e.g., reasonable assurance of full funding for the mitigation through an impact fee, special assessment district, reimbursement agreement or some other full-funding mechanism) or, where full implementation is not demonstrated, include a determination of significant unavoidable impact.

For those DEIR-identified cumulative traffic improvement needs that have not yet been included in the City's Traffic Mitigation Fee Program, full mitigation is not demonstrated. Therefore, for *Mitigations 7-1* and *7-4* which involve mitigations for cumulative impact which are not yet included in the City's TMFP, it was the City's intent to include a reasonable means of full funding of the mitigation in the *Mitigation Implementation and Monitoring Program* description to be included with the Final EIR.

In response to this and similar comments pertaining to those DEIR mitigations that involve "fair share" contribution by the project towards baseline-plus-project and cumulative traffic improvements not yet included in the City's Traffic Mitigation Fee Program and include an indication that the mitigation will reduce the impact to a less-than-significant level--i.e., *Mitigations 7-1*, *7-4*, and *7-5*--such clarification has also been added to the mitigation language in the DEIR for each of these three mitigations as follows:

For *Mitigations 7-1* and *7-4*:

The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation fee Program) and developer

commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.

For Mitigation 7-5:

The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation fee Program), interjurisdictional (East County Subregional Impact Fee), and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.

10.03 Transportation and Circulation--timing of mitigation measure implementation--revised language recommended for Mitigation 7-3.

Response: Comment acknowledged. Please see revisions made to DEIR page 7-4 (*Mitigation 7-3*) in section 3 (Revisions to the Draft EIR) herein.

10.04 Transportation and Circulation--timing of mitigation measure implementation--revised language recommended for Mitigation 7-5.

Response: Please see response to related comment 10.02.

10.05 Transportation and Circulation--trip distribution assumptions--clarification requested regarding basis of Table 7.5 trip distribution calculations.

Response: Average Institute of Transportation Engineers (ITE) rates were used to estimate the trip generation for all of the projects in Table 7.5. Using average rates is a conservative assumption for large residential developments. It was determined that the average rates are more appropriate for the larger developments given the low number of surveys for residential developments over 1,000 units presented in the ITE Trip Generation Manual.

10.06 Transportation and Circulation--cumulative traffic impact assumptions--confirmation regarding treatment of project on cumulative-plus-project impact assumptions--did General Plan based cumulative-without-project assessment discount assumptions in General Plan EIR regarding project site development, and did cumulative-plus-project assessment then add back in correct current proposed project numbers?

Response: The East County Travel Demand Model was used to develop traffic projections for the cumulative analysis. The project site was assumed to be vacant for the cumulative-no project condition. The model was then rerun with the proposed project land uses on the project site to develop traffic volumes for the cumulative-with-project condition.

10.07 Transportation and Circulation--cumulative traffic assumptions--Impact 7-6--with or without project traffic signal warrant confirmation requested.

Response: The Bailey Road/Myrtle Drive intersection would meet peak hour signalization warrants whether or not the proposed Vista Del Mar project is constructed. However, that conclusion does not negate the need for the project to pay its fair share of the entire improvement package.

10.08 Transportation and Circulation--cumulative traffic assumptions--Impact and Mitigation 7-7--clarification requested that significant unavoidable impact would occur with or without project. DEIR gives incorrect impression that project alone causes this impact to be significant and unavoidable.

Response: The text of *Impact 7-7* (p. 7-45) clearly states that poor operating conditions on Highway 4 would occur under cumulative conditions without the project: "Projected peak period traffic congestion levels on the segment of Highway 4 between Willow Pass Road (Pittsburg) and Willow Pass Road (Concord) are expected to violate the *East County Action Plan* Traffic Service Objectives (TSOs) Delay Index under Cumulative Conditions without the project." According to the significance criterion b.2 on p. 7-23, the project is considered to create a significant impact if it would "contribute one percent or more of the total future traffic volume to an external roadway or freeway with inadequate capacity to meet future cumulative demand." As further stated in *Impact 7-7*, "The addition of project traffic would increase total volumes by more than one percent, representing a significant cumulative impact." Therefore, the project alone causes a significant impact to this section of Highway 4 due to the amount of traffic it adds. While it is true that the section of Highway 4 would require widening to provide acceptable operations under cumulative conditions with or without the project, it is also true that the project causes a significant impact that cannot be mitigated because "no further improvements are included in the *Strategic Plan* of the East Contra Costa Regional Fee and Finance Authority" (*Mitigation 7-7*). Therefore, the DEIR appropriately states that the cumulative impact is significant and unavoidable.

10.09 Biological Resources--definition of natural creeks--Impacts 5-1 and 11-1--conflict with applicant understanding that no natural creeks exist on the project site and there are no project impacts to "natural creeks" requiring mitigation.

Response: For regulatory purposes, the U.S. Army Corps of Engineers and other resource agencies define stream types in terms of how much water is present on an annual basis using the following hierarchy:

- *perennial streams*--streams which have flowing water year-round primarily from groundwater, with rainfall runoff as a supplemental source;
- *intermittent streams*--streams which have flowing water during certain times of the year primarily from groundwater, with rainfall as a supplemental source; and

- *ephemeral streams or water courses*--which have flowing water only during and for a short duration after precipitation, with rainfall being the primary source of water flows.

The commenter has stated that no natural creeks exist on the project site. The DEIR *Impact 11-1* findings and *Mitigation 11-1* requirements pertain exclusively to the issue of project consistency with the City of Pittsburg General Plan, and interpretation of the General Plan use of the word "creek" in its policy terminology. The DEIR *Impact 11-1* findings and *Mitigation 11-1* requirements do not pertain to the "creek" terminology and related policies of other jurisdictional agencies--i.e., such resource agencies as the California Department of Fish and Game, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Regional Water Quality Control Board, etc. The policies and concerns of these other jurisdictional agencies with regard to "creeks" are fully addressed in the DEIR under *Impact 11-2* and *Mitigation 11-2* and elsewhere in Chapter 11.

At the time the DEIR was prepared, the City of Pittsburg General Plan did not provide a definition of the terms "creek," "natural creek," or "creek corridor" as used in General Plan policy language. As a result, for purposes of conservative "worst case" environmental impact assessment, the *Impact 11-1* findings and *Mitigation 11-1* requirements in the DEIR were based on the conservative, most stringent assumption that the term "creek" as used in General Plan policy language applied to all three stream types--i.e., "perennial streams" that flow year-round, "intermittent streams" that flow only during certain times of the year, and "ephemeral drainages" that flow only during or immediately after precipitation.

The DEIR *Impact 11-1* language acknowledged that all of the onsite streams cited under the impact (all onsite streams within the project grading area) appeared to be ephemeral--i.e., appeared to be the lowest of the drainage course hierarchy, flowing only during and for a short duration after precipitation. Nevertheless, DEIR *Impact 11-1* indicated that the proposed filling of these particular drainages may not be consistent with General Plan Policies 4-P-4, 4-P-82, and 4-P-10 calling for preservation of "natural creeks and drainages courses" and adequate "creek setbacks." Accordingly, one of the various measures listed under *Mitigation 11-1* called for modifications to the project to incorporate these existing ephemeral drainages into the project design with sufficient setbacks on both sides.

Since release of the DEIR, City staff and the Planning Commission have formulated a clarification regarding the subject General Plan creek protection policies. The Planning Commission has approved and forwarded to the City Council a revision to the General Plan to incorporate by ordinance the identification of "creeks" in the Contra Costa County Watershed Atlas--2003, recently completed by the Contra Costa County Community Development Department. Funding for the Atlas preparation was provided by the State Water Resources Control Board, CALFED Bay-Delta Program, Contra Costa County

Fish and Wildlife Committee, Contra Costa Community Development Department, and Contra Costa County Flood Control and Water Conservation District.

The Contra Costa County Watershed Atlas--2003 shows no "creeks" on the project site. Based on the Atlas, City staff has determined that there are no "creeks" on the project site as referenced in the Atlas and City General Plan. The *Impact 11-1* and *Mitigation 11-1* language has been revised to incorporate this staff clarification--see the revisions to DEIR pp. 11-38 through 11-40 in section 3 herein, "Revisions to the Draft EIR."

- 10.10 Biological Resources--definition of natural creeks--DEIR assumes terms intermittent and ephemeral are interchangeable and as a result describes onsite ephemeral drainages and intermittent natural creeks or streams (e.g., DEIR p. 5-18).

Response: The comment regarding incorrect indications in the EIR Biological Resource chapter text that the terms "intermittent" and "ephemeral" are interchangeable apparently pertains to the previous Administrative Draft version of the EIR where such confusion did exist in the text as a result of an editing error by the EIR prime authors. The EIR biologist report upon which the Admin. DEIR Biological Resources chapter was based did not include this error. All such errors were removed from the Biological Resources chapter before release of the Draft EIR. Under *Mitigation 11-1*, the chapter clearly states with respect to the main valley stream and the two tributary streams that join the main valley stream that "**All appear to be ephemeral**" (emphasis added) (see DEIR p. 11-38).

Please also see response to related comment 10.09.

- 10.11 Biological Resources--definition of natural creeks--General Plan EIR suggests that term "natural creeks" as used in General Plan refers to perennial or intermittent creeks or streams. Project site is in General Plan EIR identified minor watershed and accordingly, is drained by small natural channels rather than perennial or intermittent creeks. Also, project does not contain intermittent wetlands. Project should not be subject to General Plan creek setback and creek preservation policies.

Response: Please see response to comment 10.09.

- 10.12 Biological Resources--definition of natural creeks--DEIR interpretation that all ephemeral drainages in the City's planning area qualify as "natural creeks" subject to the General Plan creek setback and preservation policies, would result in City inability to satisfy its land use and housing goals--DEIR interpretation would result in de facto prohibition against filling of all ephemeral drainages, preventing development of significant portion of City's vacant land, and would render project and, perhaps, other market rate and affordable housing projects infeasible.

Response: Please see response to comment 10.09.

- 10.13 Biological Resources--definition of natural creeks--Impact 11-1--General Plan inconsistencies do not represent a potentially significant impact.

Response: Please see response to comment 10.09.

- 10.14 Biological Resources--regulatory permit application submittals--DEIR description of pending project applications with state and federal resources agencies should be updated--suggested updates described.

Response: The applications the commenter is referring to are already referenced in the Draft EIR (see pp. 11-33 and 11-34). In response to this comment, Draft EIR p. 11-34 has been updated to state that "the applicant has prepared and submitted a plan to the RWQCB showing the location of all proposed storm water BMPs." Regarding the applicant's submittal of an application for a Streambed Alteration Agreement, this is already noted in the Draft EIR; please see p. 11-35. Finally, on p. 11-37 of the Draft EIR, Summary of Mitigation Measures Incorporated into Project Design, the text already correctly notes that the applicant submitted a Biological Assessment to the resource agencies.

As indicated in the Draft EIR, the applicant's compliance with federal and state requirements will satisfy the City's mitigation requirements (performance standards) related to the following biological impacts. *Impact 11-2* (one of the three mitigation actions requires compliance with resources agency permit requirements, *11-4, 11-5, 11-6, 11-7, 11-8, 11-9, 11-10, and 11-11.*

- 10.15 Biological Resources--illustrative descriptions of potential mitigation actions--Mitigations 11-4, 11-5, 11-7, 11-8--supplemental text describing type of mitigation often required is confusing--difficult to determine what is required and what is illustrative.

Response: The text "outside the mitigation boxes" has been carefully worded to distinguish between identified resource agency (e.g., California Department of Fish and Game permit compliance requirements (e.g., "shall," "will be required") and typical examples of mitigation approaches often taken to meet these requirements (e.g., "CDFG would also typically require," "should") to provide adequate information to decision-makers and the general public. The City of Pittsburg is free to require mitigations above and beyond the minimal requirements of resource agencies as conditions of project approval, as long as such conditions are consistent with resource agency requirements. Also see response to comment 10.17 below.

- 10.16 Biological Resources--illustrative descriptions of potential mitigation actions--confirm that all biological mitigations are subject to reasonable interpretations by qualified biologist in manner consistent with state and federal law.

Response: As indicated in response to comment 11-15, the text for biological resources *Mitigations 11-1 through 11-11* has been carefully worded to clearly indicate those

mitigation requirements that are absolute ("shall") and those that anticipate discretionary action ("such as," "as necessary," "if necessary," "to the satisfaction of...," "the following or similar measures," etc.). All mitigation approaches related to biological resources in the Draft EIR were developed using mitigation guidelines and standard mitigation requirements developed by resource agency personnel either in the recent past or specifically in connection with the proposed development project. For *Mitigations 11-2 through 11-11*, unless the applicant receives written concurrence from the appropriate resource agencies (e.g., California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, or California Regional Water Quality Control Board) that deviation from these mitigation measures is acceptable and would not jeopardize species or sensitive habitats, these mitigations must be implemented as written in the EIR and included as conditions of project approval.

- 10.17 Biological Resources--wetland mitigation--Mitigation 11-2 on DEIR p. 11-41--"updated" language suggested regarding status of resource agency reviews.

Response: The wetland mitigation text on p. 11-41 represents standard wetland mitigation language. The EIR authors believe that the language as written in the EIR represents common practice, is not too onerous, and does not place any unreasonable expectations on the applicant. The commenter's reference to the applicant's Wetland Mitigation and Monitoring Plan is already referenced in the Draft EIR on p. 11-43.

- 10.18 Biological Resources--California red-legged frog--clarify that this species is anticipated in area by General Plan and that site supports only minimal dispersal habitat and not breeding habitat; therefore DEIR-stated 2:1 mitigation ratio is appropriate. Clarify that stock pond now functions as seep and confirm whether pond is located in main drainage (LSA says no). Also, confirm that project implementation will not impact stock pond; rather, stock pond will be restored as part of proposed mitigation.

Response: The Draft EIR adequately acknowledges General Plan EIR findings with regard to biological resource impacts, including impacts on sensitive habitats (see DEIR p. 11-35). The General Plan EIR generally anticipates that cumulative "expansion of urban land uses under the General Plan may result in the loss of sensitive habitat areas" and that designated development in the Southwest Hills may have significant impacts on "California annual grassland habitat." With regard to the California red-legged frog, the species is listed in General Plan EIR Table 4.9-1 ("Special Status Species Known to Occur or Potentially Occurring within the Pittsburgh Planning Area"), with the following explanation:

"The Planning Area's wetlands provide only limited habitat for this species. No occurrences of red-legged frog have been reported from the Planning Area."

The General Plan EIR does not specifically indicate that General Plan designated development in the Southwest Hills planning area or on the project site would or may affect the California red-legged frog habitat.

With regard to the quality of onsite California red-legged frog habitat (minimal dispersal habitat, no breeding habitat), this specific information is correctly conveyed in DEIR section 11.1.3(b) on DEIR pp. 11-15 and 11-16.

With regard to whether a 2:1 or 3:1 replacement ratio would be appropriate, the DEIR under *Mitigation 11-3* is intentionally nondefinitive, deferring to appropriate resources agencies. However, in response to this comment, the text on DEIR p. 11-46 under *Mitigation 11-3* has been changed to eliminate reference to a possible 3:1 compensation ratio. Please see this revision to p. 11-46 in section 3 (Revisions to the Draft EIR) herein.

Monk & Associates' (EIR consulting biologists) experience with the U.S. Fish and Wildlife Service has been that mitigation at a 3:1 ratio for California red-legged frog is standard policy, regardless of the quality of the habitat. However, if during the Corps' formal consultation with the U.S. Fish and Wildlife Service this agency only requires 2:1 mitigation for impacts to red-legged frog habitat, then as long as the 2:1 requirement is spelled out in the Biological Opinion issued for the project, this CEQA condition will be satisfied. As currently stated in *Mitigation 11-3*: "Resolution of California red-legged frog issues with the USFWS shall occur prior to the City of Pittsburg issuing a grading permit for the project. A copy of a 'non-jeopardy' Biological Opinion for California red-legged frog issued by the USFWS for this project shall be submitted to the City prior to issuance of a grading permit."

Regarding the historic stock pond, p. 11-16 of the Draft EIR notes the failed berm along with the fact that it is a "historic stock pond/seep area." Also p. 11-11 of the Draft EIR notes that the historic stock pond "is a perennial seep that provides wildlife with saturated soils and some standing water, but no longer functions as an open water aquatic habitat."

Since the drainage with the historic stock pond supports the largest wetland and freshwater seep area on the project site, we thought it appropriate to call this the "main drainage" on the site. However, in terms of geographic location on the project site, and hydrologic connectivity to other drainages, it would not appear to be correct to call the historic stock pond drainage the main drainage.

On p. 11-18, the Draft EIR states: "the applicant proposes to set aside approximately 87 acres of land in the southern portion of the project site (the portion with the failed stock pond), and acquire additional offsite acreage or purchase credits in an approved mitigation bank, in order to mitigate project-related impacts to waters and wetlands, and special-status species, including the California red-legged frog and California tiger salamander."

- 10.19 Biological Resources--California tiger salamander--confirm that project site wetland habitat "does not exhibit a sufficient hydroperiod...to support California tiger salamander breeding habitat."

Response: On p. 11-18 of the Draft EIR, it is stated that Sycamore Associates (the previous project applicant's biologists) did not complete a second year of larval surveys in 2001 because no ponded water remained on the site in March. California tiger salamander larvae need ponded water until at least the month of May for the larvae to metamorphose.

- 10.20 Biological Resources--burrowing owl--re: DEIR p. 11-21 discussion, confirm that if owls are located within proposed project development area, offsite replacement may be provided in project's preserve area. Also, re: Mitigation 11-7 on DEIR p. 11-51, confirm that applicant will conduct pre-construction surveys for burrowing owl between December 1 and January 31 for any construction activity proposed to occur from February to August. Also, confirm that if nests are identified, applicant will consult with CDFG to provide buffer zones and appropriate mitigation. Also, confirm that buffer zones need be maintained only until birds have fledged, unless otherwise required by CDFG. Also, confirm that as noted on DEIR p. 11-51, habitat mitigation plan or agreement for burrowing owls is described as an illustrative mitigation option rather than a requirement.

Response: The text on p. 11-21 of the EIR has been modified to read: "surveys for burrowing owls should be conducted following CDFG's survey protocol to determine this species' presence or absence. If owls are located within the proposed development area, offsite replacement habitat may be provided in the project's preserve area. However, this would need to be coordinated with CDFG. Please see *Impact and Mitigation 11-7*."

Surveys for burrowing owls should be conducted according to the CDFG protocol methodology cited in *Mitigation 11-7*. If burrowing owl nesting activity is identified either on the project site or within 250 feet of the project site, then typically no construction is allowed within a 250-foot radius of the occupied nesting burrow until August 31. Typically a 250-foot protective buffer must be established with the placement of a barrier fence which must remain in place for the duration of the breeding season. In response to this comment, the DEIR language under *Mitigation 11-7* has been revised to include: "Once the young have fledged, are foraging independently, and are capable of independent survival, the fence may be removed. A qualified ornithologist will monitor the owls a minimum of once a week to determine when it is safe to remove the fencing, typically August 31." Additional mitigation shall also occur as prescribed in *Mitigation 11-7*.

Finally, preparation of a Habitat Mitigation Plan and Mitigation Agreement for burrowing owls will need to be prepared and submitted to CDFG prior to this agency authorizing passive relocation activities. This is a standard, required CDFG mitigation.

- 10.21 Biological Resources--raptors--Mitigation 11-3, DEIR p. 11-53--confirm that spring nesting surveys required only if grading or other construction activity that may affect raptor nesting habitat is expected to occur in nesting season (April 1 through July 31). Also, confirm that the described 1,000-foot buffer is but one example of range of buffer sizes and actual buffer sizes will be determined by CDFG-approved biologist. Also,

confirm that any buffer need only be maintained around any identified raptor nest until young have fledged, unless otherwise required by CDFG.

Response: Yes, the applicant shall retain a qualified raptor biologist to conduct spring nesting surveys if grading or other construction activity that may impact raptor nesting habitat is expected to occur during the nesting season (April 1 through July 31).

It is also correct that "a fenced buffer of 1,000 feet around any survey-identified active raptor nest, or as otherwise determined by a qualified, CDFG-approved raptor biologist" is "one example out of a range of possible buffer sizes and that actual buffers sizes will [be] determined by a CDFG-approved biologist."

A number of factors--where the raptor nest is located on the project site, if the nest in the line of site of construction, if the topography blocks the raptors' view, how sensitive is this particular nesting pair to noise and vibration, etc.--are typically considered in determining how large the nesting buffer should be. The more sensitive the birds, and the more likely they are to abandon the nest during grading/construction activities, the larger the buffer size should be. It is up to the qualified, CDFG-approved raptor biologist to determine an adequate buffer size that would protect the nesting raptors and nesting attempt.

The commenter also requested confirmation that any buffer established need only be maintained around any survey-identified active raptor nest until the young have fledged, unless otherwise required by CDFG.

According to *Mitigation 11-8*, the "nest site shall be protected until it is determined by a qualified raptor biologist that the young have fledged and attained sufficient flight skills to be able to avoid project construction zones." To determine when this is, the biological monitor should frequently monitor the raptor nest(s).

- 10.22 Biological Resources--loggerhead shrike--Mitigation 11-9, DEIR p. 11-55--confirm that spring nesting surveys required only if construction activity that may impact nesting habitat is expected to occur during nesting season (April 1 through July 31). With regard to required 250-foot buffer around each identified nest tree, please add phrase "or as otherwise determined by CDFG-approved biologist."

Response: In response to this comment, the text has been revised to add "other otherwise as determined by the CDFG" rather than "by the CDFG-approved biologist." In any event, ultimate approval of the setback must be determined by the CDFG. The DEIR biologist does believe that if the nesting buffer were reduced, nest failure could result. This shy, sometimes secretive nesting bird can be susceptible to disturbance if it is used to nesting in remote locations (such as the project site). The EIR biologist does not believe that requiring a 250-foot buffer for an approximately 3 to 3.5 month period is too onerous. This would be a temporary restriction, and the nesting season ends in July, which would leave the applicant enough time to grade and work within this 250-foot buffer area before the construction season ends in October.

- 10.23 Biological Resources--California horned lark--Mitigation 11-10, DEIR p. 11-56--confirm that spring nesting survey required only if construction activity that may impact nesting habitat is expected to occur during nesting season (April 1 through July 3).

Response: It is correct that the applicant would be required to retain a qualified biologist to conduct spring nesting surveys for active California horned lark nests, coordinated with CDFG, only if construction activity that may impact California horned lark nesting habitat is expected to occur during the nesting season (April 1 through July 3).

- 10.24 Biological Resources--mitigation program description--DEIR p. 11-3--specific clarification language recommended.

Response: We believe the commenter is referring to p. 11-37 of the Draft EIR, not 11-3. The mitigation program factual description on p. 11-37 has been revised according to the applicant's comments.

- 10.25 Biological Resources--DEIR p. 11-43--specific revision to language at bottom of page requested.

Response: In response to this comment, the text has been revised to add "other otherwise as determined by the CDFG" rather than "by the CDFG-approved biologist." In any event, ultimate approval of the setback must be determined by the CDFG. If a biologist is approved by CDFG, this does not necessarily mean that that biologist has experience designing mitigation wetlands suitable for use by California tiger salamanders and California red-legged frogs. Most biologists do not have the appropriate training or experience to design mitigation pond side slopes. This is more of an engineering task. The 3:1 side slopes required in the Draft EIR are based on the design of numerous California red-legged frog mitigation wetlands that have been designed and approved by USFWS. Since USFWS has approved 3:1 side slopes in the past, and this shallow grade is appropriate for these special-status amphibians, the EIR biologists believe that limiting the side slopes to 3:1 is appropriate.

- 10.26 Soils and Geology--DEIR p. 10-7--confirm boundaries of Landslide E.

Response: The illustrative boundaries of Landslide E have been revised on Draft EIR Figure 10.1 (Landslide Areas and Proposed Grading Subareas on the Project Site) to be consistent with the cited Berlogar Design-Level Geotechnical Investigation. The change does not affect the environmental analysis.

- 10.27 Soils and Geology--DEIR p. 10-10--confirm that groundwater was found in four of 225 test pits.

Response: The text on Draft EIR p. 10-10 in section 10.1.6 (Groundwater) has been revised and a footnote has been added to reflect the fact that 190 (not 225) test pits were excavated as part of Berlogar's geotechnical investigation of the project site. In addition,

the reference to Berlogar's investigations as "preliminary" in the first sentence under subsection 10.1.6 has been deleted. The changes do not affect the environmental analysis.

- 10.28 Soils and Geology--DEIR p. 10-22--confirm that January 30, 2004 BGC report represents final design-level project geotechnical study.

Response: Comment acknowledged. The first three sentences of *Mitigation 10-1* on Draft EIR p. 10-22 have been revised as follows to differentiate between the subsequent study being recommended as a mitigation measure and the final, design-level study already prepared by Berlogar Geotechnical Consultants: "The project geotechnical engineer shall prepare a *subsequent final, design-level project geotechnical study* subject to review and approval by an independent engineering geologist retained by the City at applicant expense. The subsequent study shall evaluate if the design-level study and all of its conclusions are consistent with generally accepted geotechnical engineering practice and in agreement with the approved site development plan. Relevant provisions of the subsequent geotechnical study shall be incorporated into project grading and site preparation plans."

- 10.29 Soils and Geology--DEIR p. 10-23--confirm that cited information need has been met by January 30, 2004 BGC report.

Response: It is acknowledged that Sections A1-A1' and A2-A2' of the Berlogar geotechnical study depict the remediation of offsite landside deposits on the San Marco property. However, the Berlogar study also states that Berlogar staff "... have not been shown details regarding the San Marco remedial grading." As a result, the recommendation set forth in Draft *Mitigation 10-2* that the project geotechnical engineer confirm that this remedial grading was designed and constructed in a manner that will adequately protect new homes on the Vista Del Mar project site is appropriate.

- 10.30 Soils and Geology--DEIR pp. 10-23 and 10-24--confirm that cited information need has been met by January 30, 2004 BGC report.

Response: It is acknowledged that it appears unlikely the offsite portions of Landslide D would reactivate and place homes or public improvements at risk on the Vista Del Mar project site. However, no borings or test pits were excavated in this area as part of the Berlogar geotechnical investigations to confirm these assumptions, and the proposed slope remediation ends at what appears to be a geologically arbitrary point--the property line. Given the well-documented instability of the hills in this part of the county, it is only prudent that the project's geotechnical investigations be extended across the site boundary wherever necessary to confirm that no potential slope instability hazards exist that might adversely affect the project site.

- 10.31 Geology and Soils--DEIR p. 10-24--confirm that stabilization measures described will not warrant deleting lots from the layout or stabilizing landslides downslope of lots.

Response: The recommendation set forth in the second paragraph of Draft EIR *Mitigation 10-2--to reconfigure* the proposed estate homesites in the event the existing hillside cannot be effectively stabilized--has been revised as follows, to emphasize a reliance on either engineered remediation or the use of properly established setbacks from areas that may be subject to future instability: "The project geotechnical engineer shall propose specific measures for stabilization of the existing landslide below the estate homesites at the east end of the upper terrace road which would prevent the loss of usable property to future slope failures, or, alternatively, construction setbacks shall be established to ensure that future slope failures would not affect privately owned improvements. In addition, prospective home buyers shall be made fully aware, through the use of deed restrictions or other means acceptable to the City Engineer, that future slope failures may render portions of their properties unusable."

- 10.32 Geology and Soils--DEIR p. 10-24--confirm related findings of January 30, 2004 BGC report--i.e., that potential for creep and debris flow impacts on project "are very low." Also confirm that City-retained geologist reviewer will have opportunity to identify specific locations which warrant closer evaluation, in which case BGC will provide needed specific evaluation.

Response: As noted on Draft EIR p. 10-25, at the end of the discussion under *Impact 10-3*, soil creep and debris flow were not addressed in the project geotechnical study. Since the subject property includes expansive soils and there is evidence of tilted fences throughout the site, the possibility of both soil creep and debris flow cannot be discounted. As a result, the recommendation to include an evaluation of the potential for these types of long-term soil movement, after completion of site grading operations, in the *subsequent final, design-level project geotechnical study* is appropriate.

- 10.33 Geology and Soils--DEIR p. 10-28--confirm that importation of non-expansive fill material from offsite is unlikely and that sufficient quantities will be available onsite.

Response: The possibility that imported, non-expansive soil materials would be used to remediate expansive soil conditions on individual lots or in the area of deferred public improvements cannot be discounted, although it is recognized there are no plans at this time for the importation of soils as part of the overall site development plan. It is expected that sufficient quantities of non-expansive material would be generated onsite to meet all grading and site stabilization requirements.

- 10.34 Infrastructure and Public Services--water supply--DEIR subsection 8.1.1(a)--current CCWD contract with USBR is for 195,000 af/y. Clarify whether DEIR reference to 174 mgd should be removed or qualified by indicating that average daily demand of 175 mgd equals to approx. 195,000 af/y.

Response: The sentence on p. 8-1 referring to 174 mgd has been revised to clarify that the contract is for 195,000 af/y.

- 10.35 Infrastructure and Public Services--water supply--Impact 8.1--confirm that Water Supply Assessment indicates that project does not "result in need for new or expanded water supply entitlements" (underline added) and confirm that use of currently projected project water supplies, water conservation efforts, and short term purchases does not equate to the need for new or expanded water supply entitlements.

Response: CEQA Guidelines Appendix G (Environmental Checklist Form) (see "Significance Criteria" on pp. 8-7 and 8-8) has not been updated to include "compliance with SB 610 and SB 221" as a significance threshold; however, since SB 610 and SB 221 are now state laws that apply specifically to environmental impact reports, the project has been evaluated pursuant to these new laws. Significance threshold #2 regarding "new or expanded water supply entitlements" (Appendix G, item XVI.d) has been listed as the criterion that most closely aligns with the new state laws, especially since the proposed project site is not currently within the contractual service area of the Contra Costa Water District's contract with the U.S. Bureau of Reclamation for water from the Central Valley Project (see *Impact and Mitigation 8-2*). Therefore, the proposed project is not currently "entitled" to the water supply which it will need.

- 10.36 Infrastructure and Public Services--water supply--Mitigation 8-1--confirm that City's water system is a public water system which will serve the subdivision and that City has provided written verification, in form of WSA, that system is able to provide sufficient supply to meet demands of subdivision at the time of final map filing.

Response: The City's water system is the public water system that will serve the project. The Water Supply Assessment (WSA), however, indicates that the City's projected water supply may not meet projected demands in the latter years of a multi-year drought (see *Impact 8-1*). Therefore, pursuant to SB 221, a *subsequent water supply analysis*, as described in *Mitigation 8-1*, would be required prior to City approval of a final map.

The conclusion regarding implementation of *Mitigation 8-1* has been clarified by incorporating information available in the *City of Pittsburg Final Water Supply Assessment* (included in its entirety in Draft EIR appendix 22.2) and its associated reference documents. The WSA (p. 6) states, "The [Contra Costa Water] District [CCWD] does not anticipate any supply deficits in normal and regulatory restricted years due to the effect of the District's long-term conservation program and the use of water purchases from East Contra Costa Irrigation District (ECCID) under a 1999 agreement." This existing program and agreement provide reasonable assurance that water will be available to the City of Pittsburg (including the proposed project), even during the latter years of a multi-year drought.

The WSA (p. 7) also recognizes that CCWD deliveries, combined with CCWD short-term purchases from ECCID and Western Water Company, will meet all the projected demands, including the demands of the project and other anticipated development, and including during multi-year drought conditions, provided the City implements short-term voluntary conservation measures. Such citywide, voluntary water conservation measures

have been implemented in previous drought years in Pittsburg (e.g., 1977, 1983) and have reduced water consumption citywide by approximately 23 percent (source: Noel Ibalio, Associate Planner, City of Pittsburg).

In addition, the City is currently in the design stage of a Reclaimed Water Irrigation Project (CIP Project No. PK35). This project will replace the potable water used for the golf course and citywide parks projects with reclaimed water from the Delta Diablo Sanitation District. The reclaimed water project will enable reclaimed water to replace over 100 million gallons of potable water use per year.

This information regarding the anticipated results of citywide conservation measures and the anticipated Reclaimed Water Irrigation Project provides reasonable assurance that water will be available to the City of Pittsburg (including the proposed project), even during the latter years of a multi-year drought. Please see revisions to *Mitigation 8-1* in section 3 of this Final EIR.

- 10.37 Infrastructure and Public Services--Sewer Service--DEIR subsection 8.2.1(d)--confirm that deficiencies and modifications identified here do not serve or affect the project.

Response: As described on Draft EIR p. 8-15 (letter d), the City's General Plan existing conditions report does identify potential future deficiencies in the existing wastewater *collection system* by 2005, including a projection that ten percent of the City's total sewage collection system, mostly in the portion of the system south of Highway 4 *that would serve the project site*, "will not have adequate capacity to carry these projected buildout design flows." The existing conditions report also identifies deficiencies "in the capacity, safety and reliability of existing sewer lift stations." The planned system-wide improvements identified on the same Draft EIR page (letter e) have been proposed "to ensure that the sewage collection system will be able to adequately handle General Plan buildout wastewater flows." In addition, *Mitigation 8-3* would reduce the project's potential impact on sewage treatment service to a less-than-significant level (see also the response to comment 10.38 below).

- 10.38 Infrastructure and Public Services--Sewer Service--Impact 8.3--DEIR subsection 8.2.1(d)--confirm that current sewage treatment capacity should be adequate for currently proposed project and adequate plans have been adopted to ensure adequate capacity beyond 2010.

Response: *Impact 8-3 (Project Impacts on Sewage Treatment Capacity)* correctly states that, despite anticipated adequate sewage treatment capacity, "by the time of full project buildout, DDSD [Delta Diablo Sanitation District] treatment facilities may not have adequate capacity due to other cumulative development demands." For example, the timing, extent, and phasing of future development proposals and possible General Plan amendments within DDSD's service area (which extends beyond the City of Pittsburg) cannot be known at this time. Therefore, *Impact 8-3* has been identified as potentially significant.

- 10.39 Infrastructure and Public Services--Sewer Service--Mitigation 8.3--clarify whether preparation of sewage treatment adequacy evaluation is required in light of current DDSD treatment plant capacity and phased implementation of adopted Master Plan expansions.

Response: Mitigation 8-3 pertaining to the sewage treatment adequacy evaluation needs to be implemented. Also see the response to comment 10.38.

- 10.40 Infrastructure and Public Services--Sewer Service--Impact 8.4--clarify whether DEIR flow data supports DEIR finding that demand from anticipated cumulative development may exceed treatment capacity.

Response: Impact 8-4 (Cumulative-Plus-Project Impacts on Sewage Treatment Capacity) is closely tied to Impact 8-3 (Project Impacts on Sewage Treatment Capacity). Please see the response to comment 10.38.

- 10.41 Infrastructure and Public Services--water system--DEIR p. 8-13--suggested language revision regarding project water connection fee and/or water system construction requirements.

Response: The sentence on p. 8-13 has been revised accordingly.

- 10.42 Project Description--DEIR p. 3-13, subsection 3.4.2(b)--confirm that project does not include EVA connections.

Response: The identified Draft EIR text is a typographical error; the project would not contain emergency vehicle access (EVA) connections off West Leland Road. The text has been corrected to describe the two EVAs within the project site. The text change does not affect the environmental analysis.

- 10.43 Project Description--DEIR p. 3-13, subsection 3.4.2(d)--confirm that project does not include linear park.

Response: The identified Draft EIR text is a typographical error; the project would not contain a linear park. The text has been corrected; the change does not affect the environmental analysis.

- 10.44 Project Description--DEIR p. 3-13, subsection 3.4.2--clarify that applicants anticipated 4.6 mcy of grading volume rather than 4.1 mcy.

Response: The Draft EIR typographical error has been corrected to reflect the total approximate excavation volume of 4.4 million cubic yards (mcy) (not the comment's 4.6 mcy) as described on Draft EIR p. 10-19 in chapter 10 (Soils and Geology). The text change does not affect the environmental analysis.

- 10.45 Project Description--DEIR p. 3-16, subsection 3.6.1(b)--inconsistency between numbers in text and footnote; correct footnote.

Response: The typographical errors in the footnote have been corrected; the changes do not affect the environmental analysis.

- 10.46 Project Description--DEIR p. 3-17, section 3.6.1(e)(2)--clarify that applicant will dedicate 100-foot r-o-w and construct four, rather than two, lanes of W. Leland Rd. extension, subject to fee credits to compensate applicant for non-nexus costs.

Response: The Draft EIR text has been updated; the change does not affect the environmental analysis.

- 10.47 Project Description--DEIR p. 3-17, subsection 3.6.1(e)(4)--clarify that applicant will not dedicate school site, but rather will offer it for sale to the MDUSD.

Response: The Draft EIR text has been revised; the change does not affect the environmental analysis.

- 10.48 Project Description--DEIR p. 3-2, subsection 3.6.2(h)--clarify that project will also require Caltrans approval of encroachment permit for grading activities.

Response: The Draft EIR text has been revised accordingly; the change does not affect the environmental analysis.

- 10.49 Project Description--Figures 3.5, 3.6, 4.1, and 4.2--revise to show PG&E easement extending across project site.

Response: The figures have been revised; the changes do not affect the environmental analysis.

- 10.50 Transportation and Circulation--Figures 7.5, 7.7, and 7.8--clarify that figures are consistent. Some trip and volume figures appear to be inconsistent; e.g., at critical Willow Pass Rd./San Marco Blvd./SR 4 Eastbound Ramps intersection.

Response: Draft EIR Figure 7.7 (Project Turning Movement Volumes) included some typographical errors; the figure has been revised. The changes do not affect the environmental analysis.

- 10.51 Biological Resources--Figure 11.1--clarify stock pond location.

Response: Draft EIR Figure 7.7 (Project Turning Movement Volumes) included some typographical errors; the figure has been revised. The changes do not affect the environmental analysis.

- 10.52 Population, Housing, and Employment--Housing Element date--confirm that City adopted new Housing Element in 2003.

Response: The City Council adopted a new Housing Element in 2003. However, as stated on Draft EIR p. 6-8 (6.2.2 Draft Housing Element Update), the draft Element is currently under review by the state Department of Housing and Community Development (HCD); the City cannot implement the Element until HCD approves it. The 2001 Housing Element is the version currently being implemented.

- 10.53 Biological Resources--mitigation bank--DEIR p. 11-49--statement that project will be purchasing mitigation credits "from Ohlone Conservation Bank" should be changed to "from a qualified mitigation bank."

Response: The text on Draft EIR p. 11-49 has been changed to reflect the commenter's comment.



Contra Costa County
FLOOD CONTROL
& Water Conservation District

Maurice M. Shiu
ex officio Chief Engineer

255 Glacier Drive, Martinez, CA 94553-4825
Telephone: (925) 313-2000
FAX (925) 313-2333

August 4, 2004

Noel Ibalio
City of Pittsburg
Planning and Building Dept.
65 Civic Center
Pittsburg, CA 94565

Our File(s): 1002-8448
97-48B

Dear Mr. Ibalio:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Subdivision 8448 (Vista Del Mar Project). We received the DEIR on June 28, 2004, and offer the following comments:

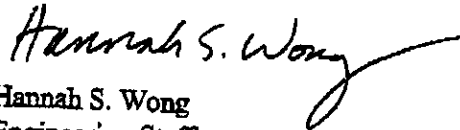
1. Mitigation Measure 9-2: at the end of the first paragraph, please add the following sentence: "The developer shall be responsible to design and construct the final improvements for sections of DA 48B Lines B and B-1 as CCCFCWCD identifies and determines is necessary from the review of the hydrology report."
2. Page 9-22: The footnote on this page mentions that the "basin layout depicted on the April 2004 site plan indicates it would have a total storage volume of approximately 63 acre feet below the maximum, 100-year water surface elevation." Please note that the Subdivision 8448 Vista Del Mar Detention Basin Design Study (revised June 9, 2004) by RJA indicates that a 45 acre-foot detention basin is required. The EIR should be updated to reflect the most current Detention Basin Study.
3. Page 9-6: The following paragraph should be added near the end of section (b) Drainage Area 48B: "The District is not the approving local agency for this project as defined by the Subdivision Map Act. As a special district, the District has an independent authority to collect drainage fees that is not restricted by the Subdivision Map Act. The District reviews the drainage fee rate every year the ordinance is in effect, and adjusts the rate annually on January 1 to account for inflation. The drainage fee rate does not vest at the time of tentative map approval. The drainage fees due and payable will be based on the fee in effect at the time of fee collection."
4. We have reviewed the Detention basin report by Ruggeri, Jensen, and Azar, which we received on June 14, 2004. Although there are some minor technical discrepancies in the report, we agree with the report that the proposed detention basin is adequately sized to reduce project flow rates required by the DA 48B Plan. We will send our comments on the detention basin improvement plans and detention basin study under separate cover. We look forward to working with the developer's engineer and offering our comments on the more detailed design of the basin, which includes outfall structure, emergency spillway, fencing, access roads, slopes, etc.

Noel Ibalio
August 4, 2004
Page 2

5. All storm waters entering or originating within the subject property should be conveyed (without diversion of the watershed) to the nearest natural watercourse or adequate man-made drainage facility.
6. A Drainage Permit will be needed for storm drain work and a Roadway Encroachment Permit will be needed for work within Bay Point (unincorporated Contra Costa County). At the applicant's request, the County Permit Center can link the Drainage Permit and Roadway Permit so the applicant receives single invoices for both permits. Applications for the Flood Control Permit may be obtained on the County's website at www.co.contra-costa.ca.us/depart/pw or from Bob Hendry (925) 335-1375 of our Permit Center at 651 Pine Street, 2nd Floor, North Wing, Martinez, CA 94553.
7. We have received the improvement plans for the onsite and offsite drainage system and will send our comments to the City of Pittsburg under separate cover.

We appreciate the opportunity to review plans involving drainage matters and welcome continued coordination. We look forward to receiving a copy of the Final EIR (FEIR) addressing our comments for our files, and the revised hydrology report for our review. If you have any questions, you may reach me at (925) 313-2381 or Tim Jensen at (925) 313-2396.

Very truly yours,



Hannah S. Wong
Engineering Staff
Flood Control Engineering

HSW:cw:gpp
G:\GpData\FldCtl\CorDev\CITIES\Pittsburg\Sub 8448 (Vista Del Mar)\DEIR.doc

cc: G. Connaughton, Flood Control
B. Faraone, Flood Control
T. Jensen, Flood Control
B. Hendry, Permit Center
Mike Taylor
RJA
1111 Civic Dr., Ste. 110
Walnut Creek, CA 94596

11. Hannah S. Wong, Engineering Staff, Flood Control Engineering, Contra Costa County Flood Control and Water Conservation District; August 9, 2004

- District comments from their review of applicant's post-DEIR preliminary Detention Basin Study (revised June 9, 2004).

Response: Comments acknowledged. Received after the Draft EIR public review period, the comments address particular design issues that are subsumed under Draft EIR *Mitigations 9-1* and *9-2*, both of which require review and approval of drainage facilities by the Contra Costa County Flood Control and Water Conservation District (CCCFCWCD). The design details addressed in the comments would be finalized in the project development agreement, which itself is subject to review and approval by the Pittsburg City Council.



Arnold
Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Jan Boel
Acting Director

August 26, 2004

RECEIVED
AUG 27 2004

PLANNING DIVISION
PLANNING AND BUILDING DEPT
CITY OF PITTSBURG

Noel Itallo
City of Pittsburg
65 Civic Avenue
PO Box 1518
Pittsburg, CA 94565

Subject: Vista Del Mar Subdivision
SCH#: 2004012097

Dear Noel Itallo:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on August 6, 2004. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2004012097) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

12. Terry Roberts, Director, State Clearinghouse, State of California Governor's Office of Planning and Research; August 18, 2004

- Letter indicates that Clearinghouse submitted DEIR to selected state agencies for review and acknowledges City compliance with State Clearinghouse review requirements for draft environmental documents.

Response: Comment acknowledged; no response necessary.

STATE OF CALIFORNIA—BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARTZENBERGER

13

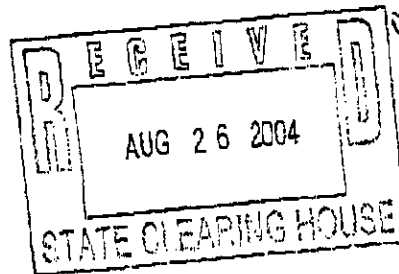
DEPARTMENT OF TRANSPORTATION

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OAKLAND, CA 94623-0660
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August 26, 2004



CC004643
CC- 4-R20.10
SCH # 2004012097

Ms. Noel Ibalio
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Dear Ms. Ibalio:

Vista Del Mar – Draft Environmental Impact Report (DEIR)

This letter supplements our letter of August 6, 2004 and is based on the Department's continuing review of the Vista Del Mar project.

Visual Impact

The Department notes that no site plans have yet been developed for the areas north of West Leland Road.

Based on the visual simulation of Figure 5.1B, future development will change the character of the visual setting as seen by the motoring public traveling directly north of the development on State Route (SR) 4. The views of the rolling hills will be lost and the predominant view will become the commercial development in the areas north of West Leland Road.

The construction of office buildings and parking garages could result in impacts of light and glare as seen from SR-4.

Visual Mitigation

The visual simulation shows a minimal amount of buffer landscaping on the north boundary of the development north of West Leland Road. The Department has no future plans to provide freeway landscaping at this location. In addition, future Maintenance resources within the Department may be limited and future planting may reflect this resource limitation, resulting in minimal planting within the Department's right-of-way. Therefore, there is no certainty that future highway planting within the Department's right-of-way will effectively serve as a landscape buffer or mitigation measure for the possible visual impact of this development.

13.01

13

Ms. Noel Itallo
August 26, 2004
Page 2

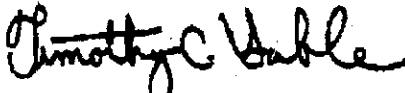
The sponsors of future development north of West Leland Road should consider configuring building heights and massing to provide intermittent views of the hills for the motoring public traveling directly north of the development.

The landscaping within the development north of West Leland Road should mitigate the impacts of light and glare as seen from SR-4.

Planting within the development should meet the design goals promulgated in the City of Pittsburg General Plan as well as any Contra Costa County criteria in regards to views from SR-4.

Should you require further information or have any questions concerning this letter, please call me at (510) 286-5505.

Sincerely,



TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c. State Clearinghouse

13. Timothy C. Sable, District Branch Chief, State of California Department of Transportation; August 26, 2004

13.01 Department comments on potential visual impacts of proposed project.

Response: Received after the Draft EIR public review period, the comments address visual issues that are discussed in Draft EIR chapter 5 (Visual Factors), in particular *Impact 5-2* (Impacts on Views from Highway 4) and *Mitigation 5-2*.

3. REVISIONS TO THE DRAFT EIR

The following section includes all revisions to the Draft EIR made in response to comments received during and immediately after the Draft EIR public review period. All text revisions are indicated by an "r" in the left margin next to the revised line. All of the revised pages supersede the corresponding pages in the June 2004 Draft EIR. None of the criteria listed in *CEQA Guidelines* section 15088.5 (Recirculation of an EIR Prior to Certification) indicating the need for recirculation of the June 2004 Draft EIR has been met as a result of the revisions which follow. In particular:

- no new significant environmental impact due to the project or due to a new mitigation measure has been identified;
- no substantial increase in the severity of an environmental impact has been identified; and
- no additional feasible project alternative or mitigation measure considerably different from others previously analyzed in the Draft EIR has been identified that would clearly lessen the significant environmental impacts of the project.

Table 1.1

PROJECT SUMMARY DATA--PROPOSED VISTA DEL MAR DEVELOPMENT

PROJECT NAME:	<i>Vista Del Mar Project</i>
SITE LOCATION:	South of State Highway 4 and west of the current westerly terminus of West Leland Road in the City of Pittsburg.
SITE SIZE:	Approximately 293 acres.
ASSESSOR'S PARCEL NUMBERS:	097-160-013 (13 acres), 097-160-014 (1 acre), 097-160-015 (86 acres), 097-160-047 (18 acres), 097-180-004 (87 acres), 097-210-004 (60 acres), and 097-122-004 (28 acres). (Acreages are approximate.)
EXISTING LAND USE:	Hillside rangeland used for cattle ranch (grazing); two single-family houses for cattle ranch operation; grading and paving operation facilities near two houses, including single-story office building, maintenance garage, warehouse structure, and equipment/materials storage yards; small rock quarry (abandoned); electrical transmission lines.
PROPOSED LAND USE:	Residential and commercial subdivision including 1,100 housing units consisting of 537 single-family lots and courtyard houses, and 563 multi-family residential units, plus approximately 257,500 square feet of commercial floor space, a school/park site, water tank/pump station sites, a detention/water quality control basin, public roads, and open space.
CIRCULATION:	Primary vehicular access to the site would be provided via a proposed extension of West Leland Road westward to serve both the Alves Ranch and the San Marco subdivisions.
EXISTING (2001) GENERAL PLAN DESIGNATIONS:	<i>Hillside Low Density Residential, Low Density Residential, Medium Density Residential, High Density Residential, Business Commercial, Public/Institutional, and Open Space.</i>
EXISTING ZONING:	A City-adopted "Interim Zoning Ordinance" designates the site with zoning consistent with current General Plan land use designations.
REQUIRED APPROVALS:	<p>The project applicants are currently requesting the following approvals from the City of Pittsburg: (a) approval of a Notice of Determination pursuant to CEQA; (b) approval of a General Plan Amendment to add a park site, relocate the school site away from West Leland Road, and transfer residential densities to create higher densities north of the existing onsite PG&E electrical transmission line easement and lower densities south of the easement (these General Plan changes would result in the same overall maximum permissible residential total of 1,100 units); (c) approval of a corresponding rezoning to change the project site zoning classifications south of the West Leland Road extension from the current zoning designations to PD (Planned Development) and an associated PD Plan, and to change the zoning north of the West Leland Road extension to RH-P (Residential High Density--Master Plan Overlay) and CO-P (Commercial Office--Master Plan Overlay) consistent with land use designations in the current General Plan; (d) approval of a corresponding vesting tentative subdivision map; (e) approval of a corresponding development agreement between the project applicant and the City; and (f) site and design review approval for the portion of the project south of West Leland Road. Project implementation will also eventually require the following additional City approvals: (g) final subdivision map and associated improvement plan approvals; (h) site and design review approval for the portion of the project site north of West Leland Road; (i) encroachment permit approvals for (1) grading operations within the West Leland Road and Caltrans rights-of-way, and (2) extension and construction of water, sanitary sewer, storm drainage, and joint trench (dry utilities) within the West Leland Road and other rights-of-way; (j) offsite and onsite development permit approvals for grading, driveway/roadway/emergency vehicle access construction, water and sewer line extensions, stormwater/drainage facilities, and telecommunication extensions; and (k) building permit approvals for structures. In addition, the project is expected to require approvals from the following other responsible agencies: (a) Bay Area Rapid Transit (BART); (b) Contra Costa County Flood Control and Water Conservation District; (c) Contra Costa County Public Works Department; (d) Contra Costa Water District; (e) Delta Diablo Sanitation District; (f) East Bay Municipal Utility District; (g) San Francisco Bay Regional Water Quality Control Board; (h) Caltrans; (i) California Department of Fish and Game; (j) U.S. Army Corps of Engineers; (k) U.S. Bureau of Reclamation; and (l) U.S. Fish and Wildlife Service.</p>
PROJECT SPONSORS:	William Lyon Homes, Inc.; Alves Ranch LLC.
SOURCE:	Wagstaff and Associates, 2004.

Construction of the first project residential phase is scheduled to commence in spring 2005; buildout would occur over an estimated period of 6 to 15 years.

2.1.2 Required Approvals from the City of Pittsburgh

The project applicants are currently requesting the following approvals from the City of Pittsburgh:

- (a) Notice of Determination (indicating completion of environmental review pursuant to CEQA),
- (b) General Plan amendment to change the distribution of residential densities within the project, relocate the school site within the project, and add a park site (consolidated with the proposed school site),
- r (c) Rezoning to change the project site zoning classifications south of the West Leland Road
r extension from the current designations to PD (Planned Development) with an associated
r PD Plan, and to change the zoning north of the West Leland Road extension to RH-P
r (Residential High Density--Master Plan Overlay) and CO-P (Commercial Office--Master
r Plan Overlay) consistent with the land use designations in the current General Plan,
- (d) Vesting tentative subdivision map,
- (e) Development agreement, and
- (f) Site and design review approval for the portion south of West Leland Road.

Implementation of the project will also eventually require the following additional City approvals:

- (g) Final subdivision map and associated improvement plans,
- (h) Site and design review approval for the portion north of West Leland Road,,
- (i) Encroachment permit(s) (for various grading and infrastructure extension activities within the West Leland Road and other rights-of-way),
- (j) Onsite and offsite development permits (grading, driveways/roadway/emergency vehicle access construction, water and sewer line extensions, storm water/drainage facilities, and telecommunication extension), and
- (k) Building permits (for structures).

2.1.3 Required Approvals From Other Jurisdictional Agencies

Implementation of the project is also expected to require approvals from the following other local, state and federal responsible agencies:

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		and prominence of the existing tower lines, would not be fully concealed or reduced to a less-than-significant level and would therefore represent a significant unavoidable impact .		
Impact 7-1: Baseline-Plus-Approved-Development-Plus-Project Impacts at the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps Intersection. During the evening (PM) peak hour, the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps intersection (study intersection #12) is projected to operate at an unacceptable level of service (LOS E). This intersection was projected to operate at an unacceptable level ("high" LOS; V/C ratio greater than 0.85) under Baseline-Plus-Approved-Development conditions without the project. The addition of project traffic would increase the total intersection volume by more than one percent, representing a significant impact .	S	<p>Mitigation 7-1. The project applicants shall contribute their fair share to the needed improvements at the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps intersection, which include the following:</p> <ul style="list-style-type: none"> Re-striping of the southbound approach to reduce the lane configuration to one through lane, which creates an opportunity for a free right-turn lane at the eastbound off-ramp; and Creation of a free right-turn lane on the eastbound off-ramp, in addition to two dedicated left-turn lanes, for a total of three approach lanes on the off-ramp. <p>The additional eastbound lane may require acquisition of right-of-way and the design would require approval from Caltrans. These improvements are not included in the current list of improvements to be funded by the existing City and East County traffic mitigation fee programs. The City/applicant development agreement proposed as</p>	Applicant	LS

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SU = Significant unavoidable impact
NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
r r r r		part of this project shall include a combination of City (Traffic Mitigation Fee Program) and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
r r r		occupancy for any residential or commercial office space within the project. Implementation of these measures would reduce this impact to a <i>less-than-significant level</i> .		
Impact 7-2: Cumulative-Plus-Project Impacts at the Bailey Road/West Leland Road Intersection. The 2001 General Plan EIR anticipated that the future urban development scenario under the land use policies of the plan, including anticipated development of the Alves Ranch site, would cause the intersection of Bailey Road and West Leland Road to operate at an unacceptable LOS F during the PM peak hour (Draft General Plan EIR Impact 4.3-4, page 4-39). The 2001 General Plan EIR did not evaluate AM peak hour traffic impacts. The project-specific intersection analysis conducted for this Vista Del Mar project EIR indicates that, in the AM peak hour, this intersection would operate at LOS F with or without the project, but the addition of project traffic would increase the total traffic volume by more than one percent, which would represent a <i>significant cumulative impact</i> . In the PM peak hour, the project would	S	Mitigation 7-2: In order to achieve an acceptable LOS at this intersection under future General Plan based cumulative conditions, the following improvements would be necessary: <ul style="list-style-type: none"> ▪ Create a westbound shared through/ right-turn lane on West Leland Road; ▪ Create a second eastbound left-turn lane on West Leland Road; ▪ Create a second eastbound through lane on West Leland Road; and ▪ Create an exclusive eastbound right-turn lane on West Leland Road. <p>However, the creation of such additional capacity on the eastbound approach to this intersection would require substantial acquisition of additional</p>	Applicant	SU

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NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>cause operational conditions to deteriorate from an acceptable LOS E to an unacceptable LOS F, which would represent a significant cumulative impact.</p>		<p>right-of-way on land that has already been developed, which is not considered to be feasible given current constraints.</p> <p>Alternatively, the morning (AM) peak hour operations at this intersection could be improved by adding a second eastbound left-turn lane and right-turn lane on West Leland Road, either or both of which might be physically feasible. Either or both of these measures shall be required if feasible. However, with either or both of these improvements, the intersection would still operate at LOS F during both the AM and PM peak hour; so this measure would not reduce this impact to a less-than-significant level. Therefore, this cumulative impact is considered significant and unavoidable. The project applicants shall pay their fair share contribution towards any of these improvements deemed feasible by the City.</p>		
<p>Impact 7-3: Cumulative-Plus-Project Impacts at the Bailey Road/Concord Boulevard Intersection. The Bailey Road/Concord Boulevard intersection is projected to operate at an unacceptable LOS during both the morning (AM) and evening (PM) peak hours under Cumulative Conditions without the project. The addition of project traffic would increase the total</p>	S	<p>Mitigation 7-3: The project applicants shall pay their fair share of the improvements needed to adequately serve projected cumulative morning (AM) and evening (PM) peak hour traffic volumes at the Bailey Road/Concord Boulevard intersection in the City of Concord in an amount determined by the City of Pittsburgh City Council in cooperation with the affected jurisdiction (the City of Concord and/or TRANSPLAN). These improvements include:</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
intersection traffic volume by more than one percent, which would represent a significant cumulative impact .		<ul style="list-style-type: none"> construction of exclusive right-turn and left-turn lanes and a second through lane on the northbound approach; construction of two exclusive left-turn lanes on the southbound approach; and construction of a third through lane on both the eastbound and westbound approaches. <p>Implementation of this measure would reduce this cumulative impact to a less-than-significant level; however, this impact will remain a significant and unavoidable cumulative impact until the improvements are installed by responsible jurisdiction that is to receive this fair share fees.</p>		
Impact 7-4: Cumulative-Plus-Project Impacts at the San Marco Boulevard/West Leland Road Intersection. The intersection of San Marco Boulevard/West Leland Road would operate at acceptable levels under Cumulative	S		Mitigation 7-4: The project applicants shall contribute their fair share to the following needed improvements at the San Marco Boulevard/West Leland Road intersection:	

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Conditions without the project, but the LOS would deteriorate to unacceptable levels during both morning (AM) and evening (PM) peak hours with the addition of project traffic. This effect would represent a significant cumulative impact.</p> <p>r r r r r r r r</p>		<ul style="list-style-type: none"> Convert the northbound shared through/right-turn lane to an exclusive right-turn lane; and Convert one of the northbound left-turn lanes to a northbound through lane. <p>Implementation of these improvements would involve changing the lane configuration at the intersection. Additional right-of-way acquisition would not be required. These improvements are not included in the current list of improvements to be funded by the existing City or East County traffic mitigation fee programs. The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation Fee Program) and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.</p> <p>Implementation of these measures would reduce this impact to a less-than-significant level.</p>		
<p>Impact 7-5: Cumulative-Plus-Project Impacts at the Willow Pass Road/Avila Road Intersection. As described above, this scenario assumes the Phase 2 extension of West Leland Road to connect with Avila Road, which then connects to Willow Pass Road (Concord). Because the West Leland Road/Avila Road</p>	S	<p>Mitigation 7-5: The project applicants shall contribute their fair share to needed improvements at the Willow Pass Road/Avila Road intersection, as shown in Figure 7.9, that include configuring the intersection with two left-turn lanes and a right-turn lane on the westbound Avila Road approach, two left-turn</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>connection will necessarily carry higher traffic volumes than Avila Road carries today, the intersection analysis conducted here assumes that the necessary improvements would be ultimately made to the Willow Pass Road/Avila Road intersection as part of the West Leland Road Phase 2 extension project. The intersection configuration shown in Figure 7.9 was determined to be necessary to accommodate the projected future traffic volumes at an acceptable LOS. Under both Cumulative and Cumulative-Plus-Project Conditions, this intersection will require a traffic signal (the current intersection configuration is unsignalized). This intersection improvement need represents a significant cumulative impact.</p>		<p>lanes and a through lane on the southbound Willow Pass Road approach, and one right-turn lane and one through lane on the northbound Willow Pass Road approach. The City shall work with other affected jurisdictions to develop an interjurisdictional funding mechanism for these improvements. These improvements are not included in the current list of improvements to be funded by existing City or East County traffic impact fee programs. The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation Fee Program), interjurisdictional (East County Subregional Impact Fee), and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.</p> <p>Implementation of this measure would reduce this impact to a less-than-significant level.</p>		
<p>Impact 7-6: Cumulative-Plus-Project Impacts on Bailey Road/Myrtle Drive Intersection. While the overall average delay at this intersection is expected to be quite low, the delay for westbound traffic is estimated to reach LOS E during both morning (AM) and evening</p>	S	<p>Mitigation 7-6: The project applicants shall pay a traffic mitigation fee equal to their fair share of the improvements needed to adequately serve projected cumulative morning (AM) and evening (PM) peak hour traffic volumes at the Bailey Road/Myrtle Drive intersection in Contra Costa</p>	Applicant and City	SU

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SU = Significant unavoidable impact
NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
(PM) peak hours, with and without the project, and the project is expected to add more than one percent to the total intersection volume, representing a significant cumulative impact .		County and the City of Concord. These improvements include: <ul style="list-style-type: none"> installation of a traffic signal; 		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		improvement projects, this cumulative impact is considered significant and unavoidable .		
Impact 7-8: Cumulative Impacts on BART Parking. Residents of the single-family residential development areas of the project can be expected to drive to the Pittsburgh/Bay Point BART station, thus exacerbating existing problems of insufficient BART parking lot capacity and overflow parking into neighboring areas. This effect would represent a significant impact .	S	<p>Mitigation 7-8: The project shall construct bus turnouts and related transit amenities along the project frontage on West Leland Road and on internal roadways as needed.</p> <p>The placement and design of these amenities shall be determined in consultation with the City and Tri-Delta Transit. The purpose of these amenities would be to encourage transit use to the BART station. It is unlikely, however, that such improvements would entirely mitigate the identified cumulative impacts on BART parking. Therefore, in the absence of additional parking, this project impact is considered significant and unavoidable.</p>	Applicant	SU
INFRASTRUCTURE AND PUBLIC SERVICES				
Impact 8-1: Project-Related and Cumulative Municipal Water Service Demand. The project would increase the demand for municipal water service in the project vicinity. Preliminary estimates indicate that the project could generate a demand for approximately 624,000 gallons of domestic water demand (approximately 1.9 acre-feet) per average day, or 694 acre-feet per year.	S	<p>Mitigation 8-1. As required by State SB 221, prior to City approval of a final map for the proposed project, the City of Pittsburgh Community Development Department shall undertake a <i>subsequent water supply analysis</i>, which shall describe the citywide water supply situation at that future time (including valid water rights, infrastructure financing, permits, and</p>	City and Applicant	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>As required by California SB 610, the Pittsburg City Council approved the Water Supply Assessment (WSA) for the Vista Del Mar project on February 2, 2004. That assessment approval pertained to the adequacy and reliability of the WSA itself and was not intended as an approval or disapproval of the Vista Del Mar project. Based on the WSA and associated reference documents (e.g., the City's <u>Urban Water Management Plan</u> and <u>Water System Master Plan Update</u>, the Contra Costa Water District's <u>Urban Water Management Plan</u> and <u>Future Water Supply Study</u>), <i>"the City has determined that the total projected water supplies available to the City's public water system during normal and single dry water years during a 20-year projection will meet the City's projected demands over the same period, including the demands associated with the City's existing uses, the anticipated demands of the proposed project, and the City's other anticipated future uses"</i> (WSA, page 1). The WSA also indicates that the City's projected water supply may not meet projected demands in the latter years of a multi-year drought. Despite this potential shortfall, the WSA indicates that the City will be able to meet all of its anticipated <u>water demands</u> over the 20-year projection period, including in the latter years of a multi-year drought, through a combination of its currently</p>		<p>approvals), including the status of (i.e., City progress on) current City studies and plans for expanding its reclaimed water program and conservation efforts and finding opportunities for future short-term water purchases. As required by SB 221, no final map shall be approved for the project until the City concludes, based on a written verification prepared in compliance with SB 221 and on the availability of other water supplies, as demonstrated by substantial evidence in the record, that sufficient water will be available to serve the proposed project needs, in addition to existing and planned future uses, during normal, single dry, and multiple dry years within a 20-year projection.</p> <p>The project applicant shall also be required to comply with all applicable current and future City of Pittsburg water demand performance standards, including standards included in the <u>City of Pittsburg Urban Water Management Plan</u>, the City's reclaimed water project, and the City's water conservation program.</p> <p>Implementation of this measure would reduce potential project-related and cumulative impacts on water supply to a <i>less-than-significant level</i>.</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>r projected water supplies, reasonably attainable water conservation efforts, and short-term water purchases. Nonetheless, the identified potential <u>water supply</u> shortfall would represent a <i>potentially significant project and cumulative impact.</i></p>				
<p>Impact 8-2: Need for Contra Costa Water District (CCWD) to Complete Inclusion Process with U.S. Bureau of Reclamation for Use of Central Valley Project Water. The project site is not yet within the contractual service area of CCWD's contract with the U.S. Bureau of Reclamation (USBR) for water from the Central Valley Project (CVP). Before the CCWD can provide water to the City for use on the project site, the CCWD must amend its contract with the USBR to include the project site within the contractual service area. The CCWD would need to submit a request to the USBR (an "inclusion request") to specifically add the project site to the CVP contractual service area. Before the USBR can grant this CCWD request,</p>	S	<p>Mitigation 8-2. The project applicant shall submit the information to the CCWD necessary to complete an inclusion request from the CCWD to the USBR to specifically add the Vista Del Mar project site to the CVP contractual service area (see the specific listing of required additional information below). Prior to City approval of a Final Subdivision Map for the project, the applicant shall submit written evidence to the City that demonstrates to the City's satisfaction the CCWD's ability to supply the project based on USBR approval of the inclusion request. Implementation of this measure would <i>avoid</i> this impact.</p>	Applicant	SU

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>increased runoff from the project site, even with the proposed detention basin in place, could worsen the extent and/or the duration of downstream flooding, particularly where the CCCFCWCD has already determined that existing culvert and channel sections are undersized. These possible downstream flooding impacts represent a potentially significant impact.</p> <p>r r r r r r r</p>		<p>culverts to be installed downstream of Highway 4 would have sufficient capacity to accommodate post-development flows from the project site in addition to existing and future flows from the surrounding neighborhoods, and (b) identifies which, if any, existing Line B and B-1 segments located farther downstream might also need upgrades to accommodate higher flow rates and/or alternatively, what interim or permanent increase in onsite detention storage volume should be provided to lower the rate of discharge during all storms to a level that does not cause new or more widespread flooding within neighborhoods located north of Highway 24. The developer would then be responsible for design and construction of all improvements within the appropriate sections of Drainage Area 48B, Lines B and B-1 (as well as for any modifications required to also increase the volume of onsite detention storage), as may be identified by CCCFCWCD, based on their review of the hydrology report.</p> <p>The applicant shall also pay all applicable drainage fees, as determined by the CCCFCWCD (see details below). The project's Area 48B drainage fees would be used to fund construction of the proposed downstream drainage improvements. If the fees are not sufficient to cover the cost of these improvements, all additional costs would be paid by the applicant under the terms of a development</p>		
<p>r r</p>				

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
r r r r		<p>agreement with the CCCFCWCD. This agreement would provide for repayment of these extra costs as additional fees are collected on future development projects, under the terms of the Flood Control District's reimbursement policy.</p> <p>Implementation of these measures would reduce this identified impact to a less-than-significant level.</p>		
<p>Impact 9-3: Increased Soil Erosion and Sedimentation Impacts During Project Construction. Clearing and mass grading activities required to prepare the project site for development would increase onsite soil erosion, which could lead to increased sedimentation within downstream drainage facilities. Because these facilities consist of either culverts or maintained drainage channels, it is not expected that this sedimentation would significantly affect existing wildlife habitat. Sedimentation could, however, increase turbidity in the Suisun Bay discharge channel and reduce flow capacities if it settles out within the flood control system, creating a need for increased maintenance. These possible effects would represent a potentially significant impact.</p>	S	<p>Mitigation 9-3. In accordance with National Pollution Discharge Elimination System (NPDES) regulations, prepare a <i>Storm Water Pollution Prevention Plan</i> (SWPPP) consistent with State and RWQCB design standards, for implementation throughout project construction to control erosion on the project site, subject to the approval of the City Engineer (see details below). Implementation of this measure would reduce construction-related soil erosion impacts to a less-than-significant level.</p>	Applicant	LS
<p>Impact 9-4: Long-Term Water Quality Effects. The quality of storm water runoff from the</p>	S	<p>Mitigation 9-4. To help reduce the long-term accumulation of non-point source pollutants from</p>	Applicant	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
developed project site would be expected to decline in comparison to current runoff from the undeveloped site, due to the production by the project of non-point source urban pollutants. The resulting incremental degradation of quality within downstream receiving waters would be a potentially significant impact .		the project within downstream surface waters, incorporate long-term source control and pre-discharge treatment measures into the <i>Storm Water Pollution Prevention Plan</i> (SWPPP) described in <i>Mitigation 9-3</i> above, in accordance with the Contra Costa Countywide Clean Water Program, subject to the approval by the City Engineering Division (see details below). Implementation of this measure would reduce this identified impact to a less-than-significant level .		
SOILS AND GEOLOGY				
<p>Impact 10-1: Geotechnical Hazards Associated with Project Design. The interaction of existing geotechnical conditions on the site with proposed grading and surface modifications, and their combined effect on slope stability, surface settlement, seismic hazards, and soil erosion, have the potential to result in significant adverse impacts. The project geotechnical study prepared by Berlogar Geotechnical Consultants set forth recommendations and construction guidelines expected to adequately address these impacts, but, at this time, there is no assurance that the results of the study would be fully incorporated into project development plans. In addition, it</p>	S	<p>Mitigation 10-1. The project geotechnical engineer shall prepare a <i>subsequent final, design-level project geotechnical study</i> subject to review and approval by an independent engineering geologist retained by the City at applicant expense. The subsequent study shall evaluate if the design-level study and all of its conclusions are consistent with generally accepted geotechnical engineering practice and in agreement with the approved site development plan. The review shall include adequate consideration of project geotechnical implications for adjacent properties, including the Oak Hills, San Marco, and San Marco Meadows subdivisions. Relevant provisions of the subsequent geotechnical study shall be</p>	Applicant and City	LS

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		incorporated into project grading and site preparation plans. All earthwork and site preparation shall be performed under the direct supervision of a State-certified geotechnical engineer or		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>a steep hillside above a complex of existing surficial slides.</p> <p>If not properly stabilized, public and private improvements constructed on or near such areas of potential instability could be subject to substantial damage in the event of future landslides. This possibility represents a potentially significant impact.</p>		<p>remediation measures as may be necessary to fully stabilize this existing slide.</p> <p>The project geotechnical engineer shall propose specific measures for stabilization of the existing landslide below the estate homesites at the east end of the upper terrace road which would prevent the loss of usable property to future slope failures, or, alternatively, construction setbacks shall be established to ensure that future slope failures would not affect privately owned improvements. In addition, prospective home buyers shall be made fully aware, through the use of deed restrictions or other means acceptable to the City Engineer, that future slope failures may render portions of their properties unusable.</p> <p>Implementation of these measures to the satisfaction of the City-retained independent engineering geologist and City Engineer would reduce these potential impacts to a less-than-significant level.</p>		
<p>Impact 10-3: Soil Creep and Debris Flows. Existing slopes steeper than 30 percent could be subject to long-term soil creep, and both newly constructed and existing slopes steeper than 20 percent could be subject to debris flows during</p>	S	<p>Mitigation 10-3. The project geotechnical engineer shall perform a <i>supplemental geotechnical investigation</i> to evaluate the potential for both soil creep and debris flows on existing and newly constructed slopes on the</p>	Applicant	LS

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NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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potentially unstable slopes shall be fully explained to potential buyers at the time of purchase. Implementation of these measures to the satisfaction of the City-retained engineering geologist and City Engineer would reduce this potential impact to a ***less-than-significant level***.

BIOLOGICAL RESOURCES

r **Impact 11-1: City of Pittsburg General Plan**
r **Policies.** The project, as currently proposed by
r the applicant, may be inconsistent with City of
r Pittsburg General Plan policies 9-P-1 and 9-P-8
r pertaining to the protection of biological
r resources.

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Mitigation 11-1. The ultimate determination whether the proposed project, after implementation of the mitigations identified in this EIR, is or is not inconsistent with one or more General Plan goals or policies, would be the responsibility of City officials assigned such authority. In particular, interpretation of project consistency with City of Pittsburg General Plan policy is the ultimate responsibility of the City of Pittsburg Planning Commission and City Council.

In order to comply with City of Pittsburg General Plan policies 9-P-1 and 9-P-8, the project shall incorporate the following changes and mitigations into the project:

- (1) Implement Mitigations 11-3 through 11-12 which are discussed on the following pages (see Policy 9-P-1); and

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
r r r r r r r		(2) Reseed cut-and-fill slopes or other graded/disturbed areas on the project site with a native herbaceous seed mix. No non-native or invasive species shall be included in the mix (see Policy 9-P-8).		
		(3) The current preliminary version of the applicant's Mitigation and Monitoring Plan formulated for review by the resources agencies proposes preservation of approximately 3,300 linear feet of onsite drainages and onsite enhancement of approximately 1,000 linear feet of drainages.		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		<p>The City of Pittsburg shall make the above items conditions of project approval and shall not approve grading plans until the above mitigations have been incorporated into the project to City satisfaction.</p> <p>During the local development review process, the City shall determine whether the applicant-proposed onsite drainage preservation program achieves project consistency with General Plan goals and policies related to creeks, or whether additional design measures are warranted.</p> <p>Implementation of these measures would reduce this potential impact to a <i>less-than-significant level</i>.</p>		

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
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RCE Policy 9-P-1. Resource Conservation Element (RCE) Policy 9-P-1 calls for the City to ensure that development does not substantially affect special status species. As described herein under Impacts 11-3 through 11-12, the project as proposed would have potentially significant impacts on a number of state- and federally-listed special status species unless mitigation measures proposed in this EIR, and mitigation measures required by state and federal resource agencies with permits necessary for the project, are implemented.

RCE Policy 9-P-8. RCE Policy 9-P-8 calls for ensuring revegetation of cut-and-fill slopes with native species as a condition of project approval. The mitigation plan prepared by the applicant's biologist prescribes planting native trees along the created wetlands and restored drainages, and the seeding of cut-and-fill slopes with a mix primarily of native grasses and forbs. If this seed mix were changed to consist entirely of native species, then this General Plan policy would be satisfied.

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Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
		Implementation of this measure would reduce this potential impact to a <i>less-than-significant level</i> .		
Impact 11-3: California Red-Legged Frog. The project proposes development on approximately 0.96-acre of seeps and drainages that constitute potential California red-legged frog habitat. The California red-legged frog is a federal-listed threatened species and a California species of special concern. Possible impacts to the California red-legged frog from implementation of the proposed project include loss of habitat and death of individual frogs due to ground disturbance. These possible effects represent a <i>potentially significant impact</i> .	S	Mitigation 11-3. The City of Pittsburg shall not issue a grading permit for the project until adequate demonstration to the City that California red-legged frog issues have been resolved to the satisfaction of the USFWS. To satisfy the USFWS, the applicant will need to: (1) instruct the U.S. Army Corps of Engineers (Corps) to initiate formal consultation, pursuant to section 7 of the Federal Endangered Species Act, with the USFWS regarding the California red-legged frog; and (2) implement mitigation as necessary (see details below). A copy of a "non-jeopardy" Biological Opinion issued by the USFWS shall be submitted to the City prior to issuance of a grading permit. Implementation of these measures would reduce this potential impact to a <i>less-than-significant level</i> .	City and Applicant	LS
Impact 11-4: California Tiger Salamander. The California tiger salamander has been identified on the project site. On August 4, 2004, the USFWS issued a final rule in the Federal Register announcing its decision to list the California tiger salamander statewide as a federal listed threatened species. Thus,	S	Mitigation 11-4. The City of Pittsburg shall not issue a grading permit for the project until adequate demonstration to the City that mitigation for impacts to California tiger salamander habitat will be implemented to the satisfaction of the CDFG (and the USFWS since the species has recently been federally listed).		

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 NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>r effective September 3, 2004, the California tiger</p> <p>r salamander receives protection under the</p> <p>r Federal Endangered Species Act (USFWS</p> <p>r 2004). The California tiger salamander is also a</p> <p>r California species of special concern. It is also</p> <p>a "protected amphibian" under Title 14 of the</p> <p>California Code of Regulations.</p>				

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NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>Implementation of the project as proposed would directly affect the California tiger salamander and its habitat. Impacts on California tiger salamander from the proposed project would include loss of approximately 200 acres of upland aestivation (i.e., summer retreat) habitat (that is, 178 acres of impacted grassland plus isolation of 22 acres of hillside due to surrounding development), and approximately 0.84-acre of wetlands (0.62-acre of seeps and 0.22-acre of seasonal wetland) which provide potential breeding habitat for the salamander. Possible impacts on the California tiger salamander from implementation of the proposed project include death of individual California tiger salamanders due to ground disturbance and loss of habitat, representing a potentially significant impact.</p>		<p>To satisfy the CDFG and USFWS, the applicant will need to: (1) consult with the CDFG and the USFWS; and (2) redesign the project as much as possible to avoid aestivation and potential breeding habitat; or (3) where avoidance is not feasible, replace affected habitat in accordance with CDFG and USFWS requirements, and in accordance with specifications discussed in <i>Mitigation 11-1</i>; and (4) salvage adults and/or larvae. Implementation of these measures would reduce this potential impact to a less-than-significant level.</p>		
<p>Impact 11-5: Pallid Bat and Yuma Myotis Bat The project proposes fill/removal of the existing onsite rock quarry, which currently provides potentially suitable roosting habitat for the pallid bat and Yuma myotis bat, federal "species of concern" and state "species of special concern." Possible project effects on these species include loss of roosting habitat, and possibly death during fill/removal of the old quarry, both representing a potentially significant impact</p>	S	<p>Mitigation 11-5. The City shall not issue a grading permit for the impacted area (i.e., rock quarry) until bat preconstruction surveys and, if necessary, required mitigation, have been completed to the satisfaction of the CDFG. To satisfy the CDFG, the applicant will need to: (1) hire a qualified biologist to conduct <i>CDFG-protocol preconstruction surveys</i> for pallid bat and Yuma myotis, and (2) coordinate these surveys with the CDFG. If such surveys demonstrate that special-status bats do not occur</p>	City and Applicant	LS

S = Significant
LS = Less than significant
SU = Significant unavoidable impact
NA = Not applicable

Impacts	Potential Significance Without Mitigation	Mitigation Measures	Mitigation Responsibility	Potential Significance With Mitigation
<p>areas that provide suitable nesting habitat for the loggerhead shrike, a federally listed "species of concern" and state-listed "species of special concern." This species has been observed hunting on the site. Possible project impacts on this species include loss of foraging and nesting habitat and possible death of nesting birds and young, representing a potentially significant impact.</p>		<p>CDFG-approved mitigation for any survey-identified active nests shall be a condition of project approval. The applicant shall retain a qualified biologist to conduct spring nesting surveys for loggerhead shrike, coordinated with the CDFG, the year grading is proposed. If nest(s) are found, the applicant shall complete the following measures:</p> <p>(1) Establish a 250-foot fenced buffer zone around each active nest location or as otherwise determined by the CDFG; and</p> <p>(2) Have a biological monitor present during all grading activity near the buffer zone.</p> <p>If appropriately timed nesting surveys demonstrate that loggerhead shrikes do not nest on the project site, no further requirements for this bird shall be required by the City.</p> <p>Implementation of this mitigation would reduce this potential impact to a less-than-significant level.</p>		
<p>Impact 11-10: California Horned Lark. The project proposes development on approximately 178 acres of non-native grassland that provide suitable nesting habitat for the California horned lark, a state-listed "species of special concern"</p>	S	<p>Mitigation 11-10. Completion of California horned lark nesting surveys and establishment of CDFG-approved mitigation for any identified active nests shall be a condition of project approval. The applicant shall retain a qualified</p>	Applicant	LS

S = Significant
LS = Less than significant
SU = Significant unavoidable impact
NA = Not applicable

3.4, a "minor collector" road would connect to the south side of West Leland Road within the project site near its western boundary to provide a second, "right-turn-in" and "right-turn-out," access to the residential and school/park areas south of West Leland Road.

- r (b) Emergency Vehicle Access. Two emergency vehicle access lanes within the project site
- r would be provided as depicted on Figure 3.4.

- (c) Pedestrian and Bicycle Circulation. The project applicants state that the would conform to City of Pittsburg requirements for provision of sidewalks and bike paths, lanes, and routes.
- r Onsite pedestrian and bicycle circulation would be routed through the internal public streets. Additionally, four trails connecting to adjacent offsite properties are proposed to encourage pedestrian and bicycle travel to adjoining areas.

3.4.3 Proposed Grading

- The project site would be graded to prepare the proposed development areas for construction.
- r The applicants anticipate a total grading volume of approximately 4.4 million cubic yards of earth. The applicants also indicate that cut and fill would be balanced on the site, so that no import or export of material is anticipated. Project grading aspects are described in more detail in chapter 10 (Soils and Geology) of this EIR.

3.4.4 Proposed Infrastructure Modifications

The project would require the following water, sewer, storm drain, and road extensions and modifications:

- (a) Water Facilities. The project would require construction of onsite and offsite water facilities to serve the proposed development areas. The applicants propose to carry out portions of the City of Pittsburg Water Master Plan by constructing necessary water transmission lines (including a new line to the City's water treatment plant), constructing an on-site "Zone III" one-million gallon reservoir, construction or assisting in the construction of an off-site Zone II three-million gallon reservoir (as defined by the Master Plan), and constructing an associated pumping station. The tanks would have a total storage capacity of approximately four million gallons, of which 1.8 million gallons would be reserved to serve the project. The proposed on-site one-million-gallon tank would be located on a 0.57-acre parcel created in the southwestern portion of the site off the estate residential access road, and would be partially below grade. In addition, a proposed water pump station (comprised of two, 1,500 gallon-per-minute pumps) would be located on an approximately 0.25-acre parcel adjacent to the existing on-site PG&E easement where it intersects with the proposed westerly minor collector road (see Figure 3.4).

The City obtains a majority of its raw water supply from the Contra Costa Water District (CCWD). The primary source of CCWD water is the Contra Costa Canal, which is a

Plan "General Plan Diagram" (General Plan Figure 2-2) and more detailed Southwest Hills planning area land use diagram (General Plan Figure 2-4k).

The applicant is requesting a General Plan amendment to add a park site, relocate the school site away from West Leland Road, and transfer residential densities to create higher densities north of the existing onsite PG&E electrical transmission line easement (towards West Leland Road, Highway 4, and the BART station) and lower densities south of the easement. Figure 3.5 illustrates the existing General Plan land use designations for the project site. Figure 3.6 illustrates the proposed amended General Plan land use designations for the project site. Table 3.2 summarizes the proposed residential breakdown, including proposed amended General Plan residential designations, associated Preliminary Development Plan residential designations and densities, and corresponding unit totals.

Implementation of the proposed density transfer would require a text revision to the General Plan *Land Use Element* Policy 2-P-89 regarding the distribution of residential units on the Alves Ranch property. The proposed text amendment would effectively transfer density from the south of the existing PG&E transmission line easement to the north of the easement by reducing the maximum combined unit total for the *Hillside Low Density Residential* and *Low Density Residential* areas from 560 (as currently stipulated under Policy 2-P-89) to 303,¹ and by increasing the maximum combined unit total for the *Medium Density Residential* and *High Density Residential* areas from 540 (as currently stipulated under Policy 2-P-89) to 797 units.² This General Plan text change would result in the same overall maximum permissible residential total of 1,100 units (see Table 3.2).

(c) Approval of a corresponding rezoning to change the project site zoning classifications from the current zoning designations, which are consistent with current General Plan designations and with the provisions of the Interim Zoning Ordinance, for the area south of the West Leland Road extension, and to RH-P (Residential High Density--Master Plan Overlay) and CO-P (Commercial Office--Master Plan Overlay) for the area north of the West Leland Road extension. Figure 3.7 illustrates the proposed rezoning.

(d) Approval of a corresponding vesting tentative subdivision map, including site and design review for the portion south of West Leland Road.

(e) Approval of a corresponding development agreement between the project applicant and the City providing for:

¹The 303 units include the 17 estate residential lots and 286 6,000-square-foot minimum lot size from Table 3.1 herein.

²The 797 units include the 102 courtyard houses, 132,400-square-foot minimum lot size lots, and 563 multi-family residential units from Tables 3.1 and 3.2 herein.

- (1) The vested right to build out the project site in accordance with the City of Pittsburgh General Plan as amended or other project approvals;

(2) The dedication of a 100-foot graded right-of-way and construction of all four lanes of the West Leland Road extension, subject to fee credits to compensate the project applicants for non-nexus costs (i.e., costs not attributed to mitigating project impacts);

(3) Specific applicant fair share contributions toward necessary onsite and offsite roadway and water improvements;

(4) Creation of a fully improved, approximately 11.33-acre combined (joint use) school/park site (approximately 6-acre school offered for sale to the Mount Diablo Unified School District and 5-acre park dedicated to the City);

(5) The installation of major water infrastructure onsite to serve the needs of the project and the southwestern portion of the City of Pittsburgh;

(6) Payment of all applicable fees to the City of Pittsburgh;

(7) Agreement to and approval of the creation of a project-financed assessment district to fund project-serving onsite and offsite improvements;

(8) Creation of a City revenue bond and fee program (or other financing mechanism) for the installation of and reimbursement for water infrastructure;

(9) The ownership transfer of permanent open space to a management entity approved by a relevant state (e.g., CDFG) or federal (e.g., USFWS) resource agency; and

(10) Implementation of a drainage improvement solution for existing downstream Bay Point area flooding potentials, as described in the applicant's proposed development agreement.

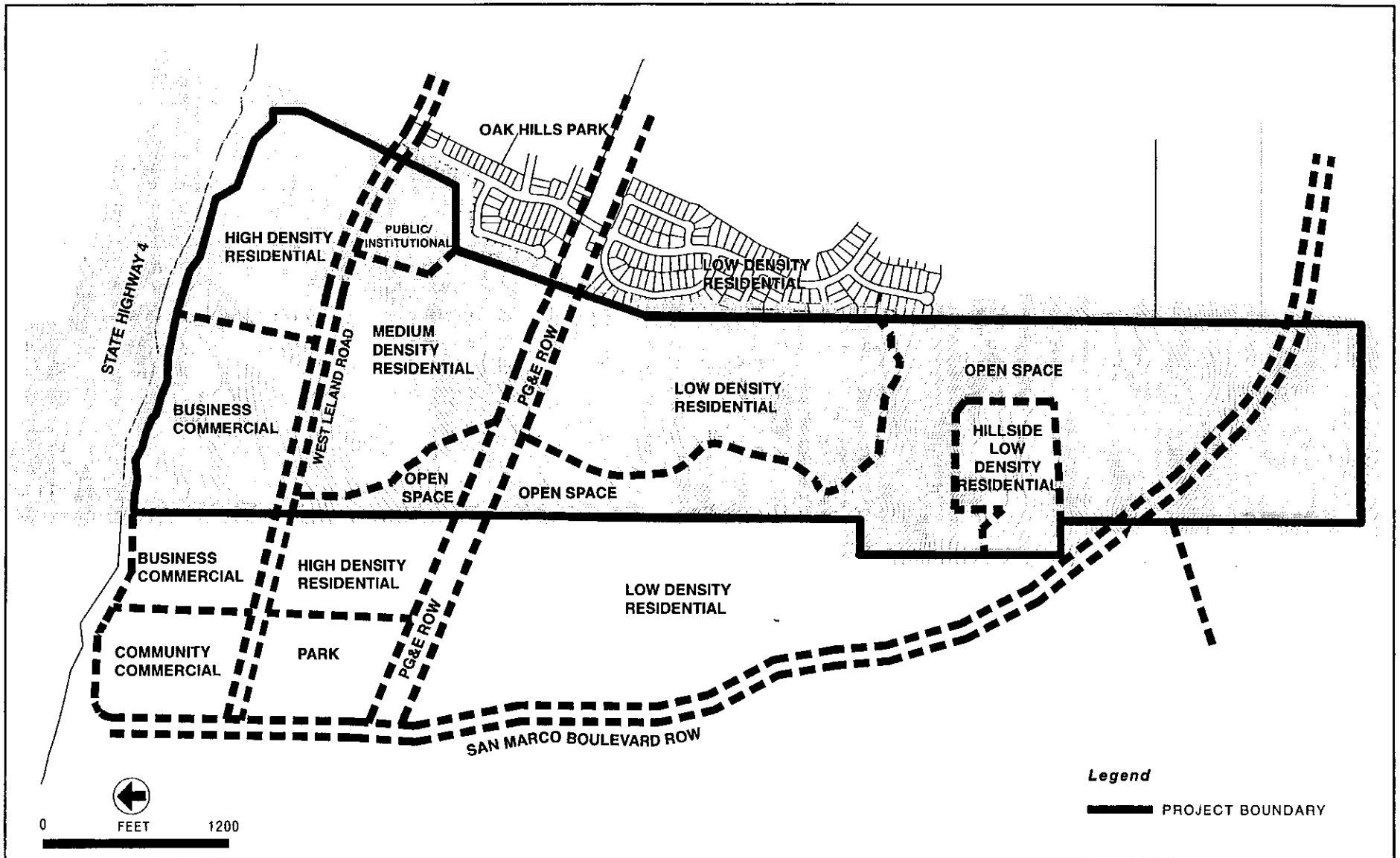
The details of these proposed development agreement provisions are discussed in appropriate subsequent chapters of this EIR, including but not limited to, chapter 4 (Land Use, Open Space, and Agriculture) for provision 1; chapter 7 (Transportation and Circulation) for provisions 2 and 3; chapter 8 (Infrastructure and Public Services) for provisions 3, 4, 5, 6, 7, 8 and 9; and chapter 10 (Soils and Geology) for provision 10.

(f) Site and design review approval (by the Planning Commission) for the portion of the project south of West Leland Road.

Implementation of the project will also eventually require the following additional City approvals:

(g) Final subdivision map and associated improvement plan approvals.

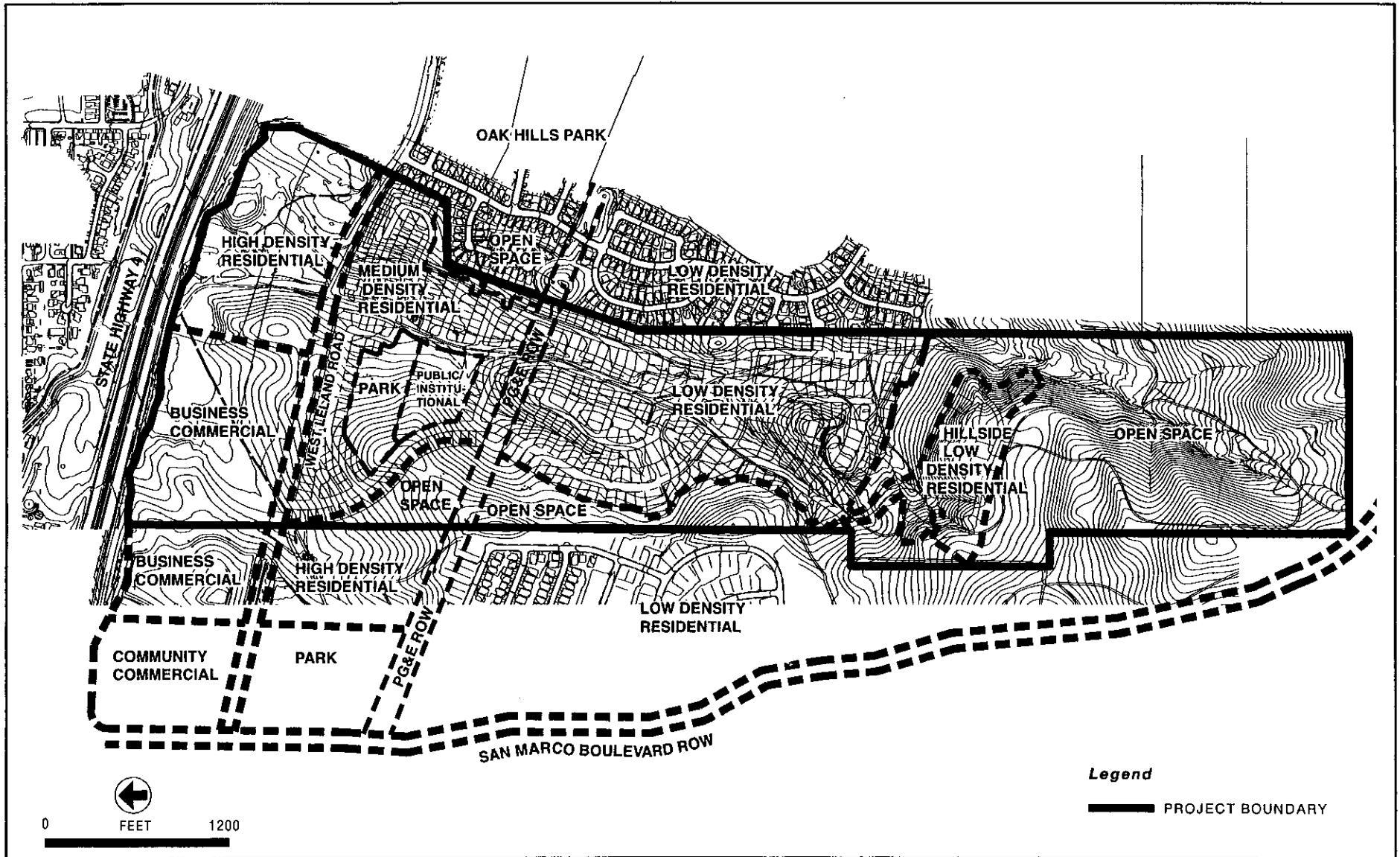
(h) Site and design review approval (by the Planning Commission) for the portion of the project site north of West Leland Road.



SOURCE: Ruggieri-Jensen-Azar and Associates

Figure 3.5

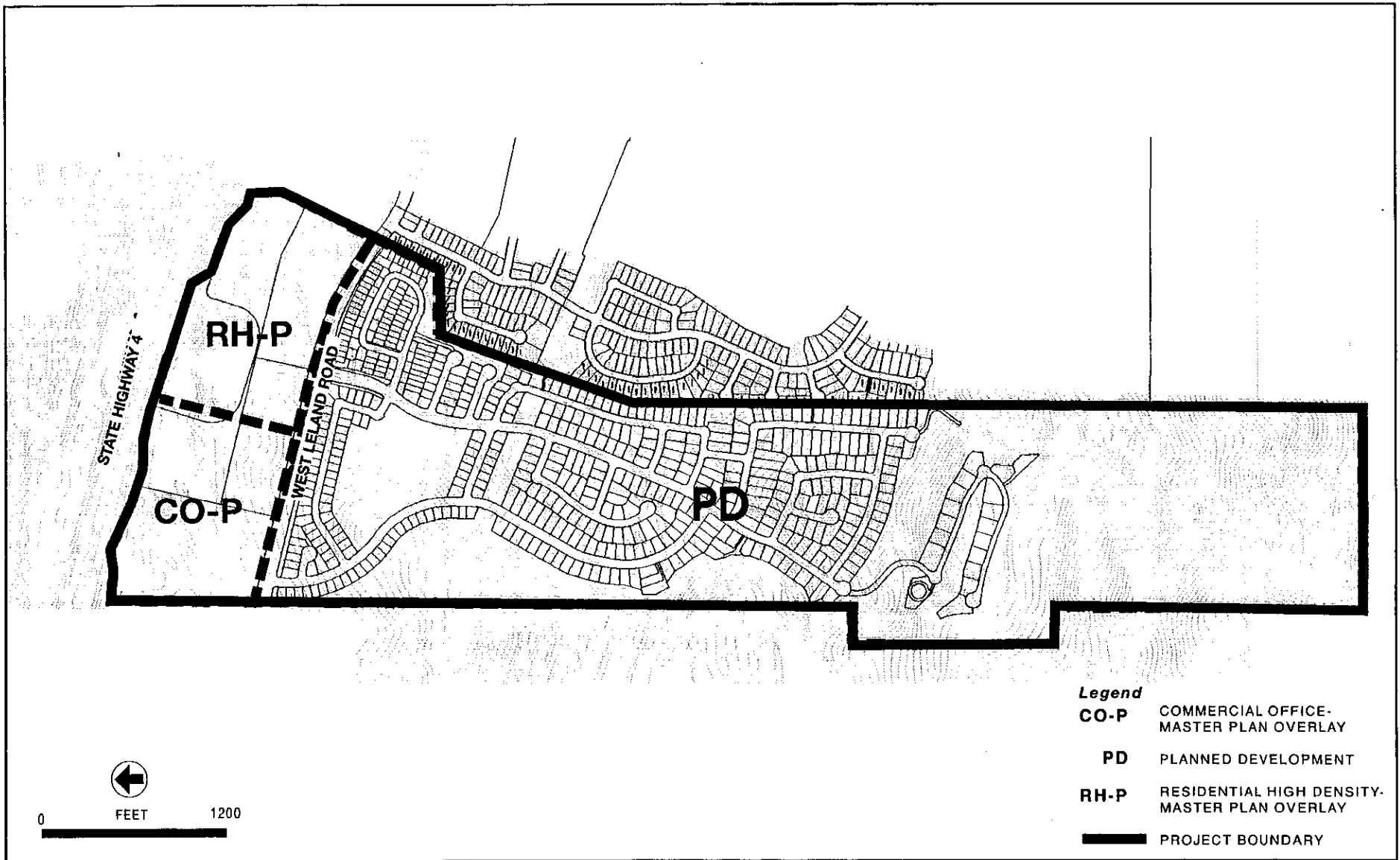
EXISTING GENERAL PLAN DESIGNATIONS



SOURCE: Ruggieri-Jensen-Azar and Associates

Figure 3.6

PROPOSED GENERAL PLAN AMENDMENT



SOURCE: Ruggieri-Jensen-Azar and Associates

Figure 3.7

PROPOSED REZONING

- r (i) Encroachment permit approvals for (1) grading operations within the West Leland Road right-of-way, (2) grading operations within Caltrans right-of-way, and (3) extension and construction of water, sanitary sewer, storm drainage, and joint trench (dry utilities) within the West Leland Road and other rights-of-way.
- (j) Offsite and onsite development permit approvals for grading, driveway/roadway/emergency vehicle access construction, water and sewer line extensions, stormwater/drainage facilities, and telecommunication extensions.
- (k) Building permit approvals for structures.

3.6.2 Other Required Approvals

In addition, the project is expected to require approvals from the following other responsible agencies:

Local Agencies:

- (a) Bay Area Rapid Transit (BART) (encroachment permit approval for sanitary sewer crossing of BART facilities);
- (b) Contra Costa County Flood Control and Water Conservation District (storm drainage design approval);
- (c) Contra Costa County Public Works Department (encroachment permit approval for construction of offsite sanitary sewer extension in Willow Pass Road and Enes Avenue);
- (d) Contra Costa Water District (encroachment permit approval for water, storm drain, and sanitary sewer line crossings of the Contra Costa Canal);
- (e) Delta Diablo Sanitation District (approval of project connection to existing sewer trunk line);
- (f) East Bay Municipal Utility District (EBMUD) (encroachment permit approval for water and sanitary sewer line crossings of an EBMUD pipeline);
- (g) San Francisco Bay Regional Water Quality Control Board (National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit approval);

State Agencies:

- (h) Caltrans (encroachment permit approval for sewer line extension under Highway 4);
- (i) California Department of Fish and Game (Standard Streambed Alteration Agreement approval and Endangered Species Act consultation);

(g) Agricultural Land Values. The project site and immediately surrounding area are classified as "grazing land" by the California Department of Conservation.¹ The Department of Conservation does not consider its "grazing land" classification to represent a significant agricultural land resource. No portion of the project site has been designated by the State of California Resources Agency as Prime Farmland, Unique Farmland, or Farmland of Statewide importance pursuant to the state's Farmland Mapping and Monitoring Program. No portion of the project site is currently zoned for agricultural use. No portion of the project site is under a current Williamson Act (agricultural preserve) contract.²

(h) Southwest Boundary Reorganization. The Alves property is part of the so-called Southwest Boundary Reorganization, an assembly of approximately 1,122 acres that was annexed to the City in 1990 (Annexation 109).

4.1.2 Surrounding Land Uses

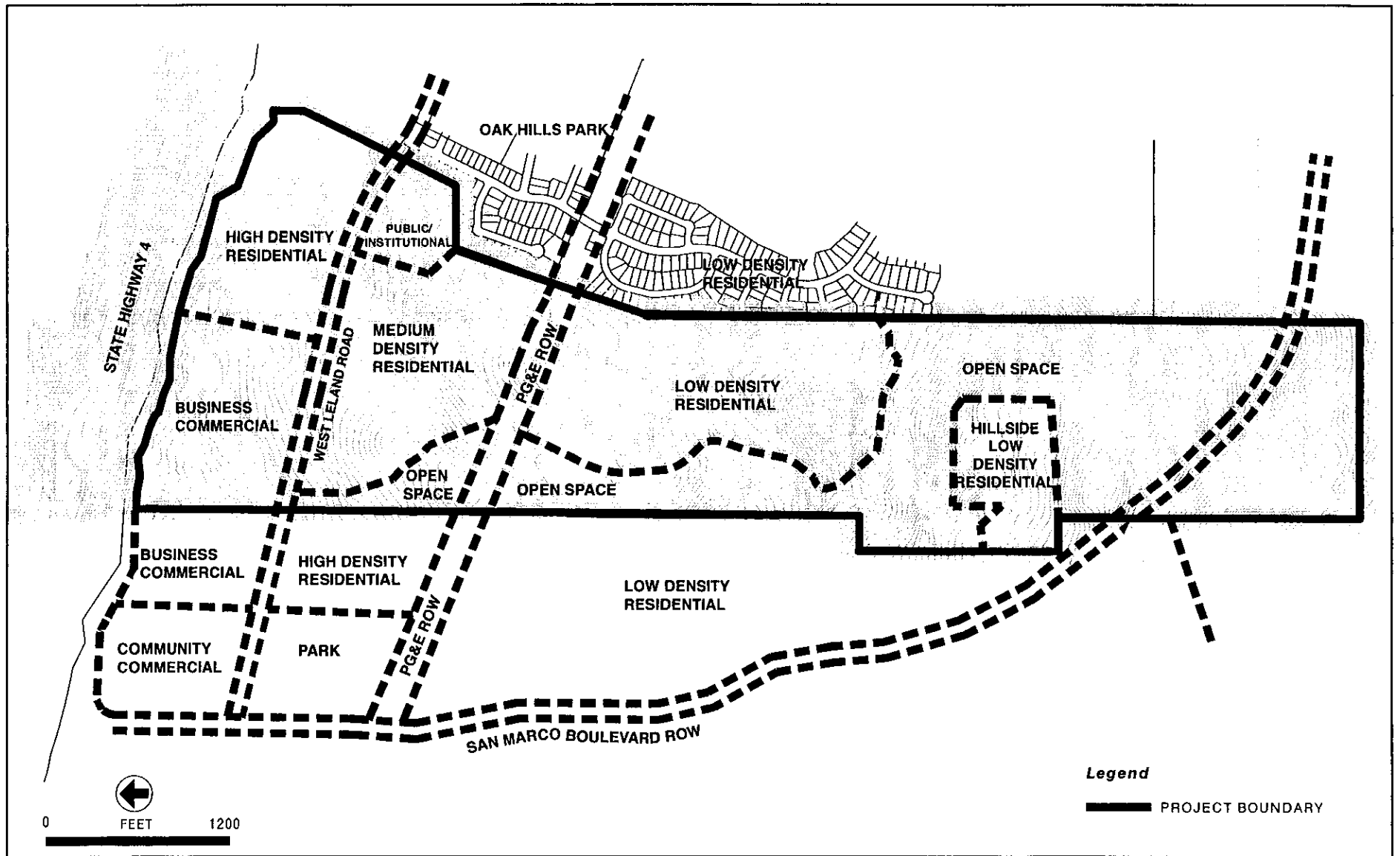
Figures 4.3 and 4.4 illustrate the local land use setting in the site vicinity. Figure 4.5 shows Contra Costa County General Plan land use designations for the unincorporated Bay Point community located north of the project site on the north side of Highway 4. Figures 4.6 through 4.8 illustrate adjacent Draft Pittsburg/Bay Point BART Station Area Specific Plan development areas, land use designations, and building height limits for areas immediately northeast of the project site.

(a) San Marco Subdivision. The west side of the project site adjoins the 639-acre San Marco subdivision approved by the City of Pittsburg in 1993 and now under construction (see Figure 4.3 and Figure 3.2). The Vista Del Mar property shares almost 1,400 feet of common boundary with the San Marco development. Primary east-west arterial access to the San Marco subdivision will be provided via the General Plan designated extension of West Leland Road from its current terminus at the eastern boundary of the Vista Del Mar property, through the Vista Del Mar property, to the eastern edge of the San Marco site.

(b) Seecon Property. The Seecon property is an approximately 442-acre parcel abutting the southern portion of the Vista Del Mar site west boundary (see Figure 4.3 and Figure 3.2). The Seecon property is primarily open rangeland and currently contains one rural residence. The property is located within the planning area of the City of Pittsburg, but is not within the city limits. Approximately 231 acres of the Seecon property are currently designated *Low Density Residential, Park and Open Space* on the Pittsburg General Plan Land Use Map. A Williamson Act agricultural preserve contract for the property expired on February 29, 2000.

¹Dyett & Bhatia, Pittsburg General Plan Update: Existing Conditions and Planning Issues, June 1998, Figure 12-4 (Agricultural Land).

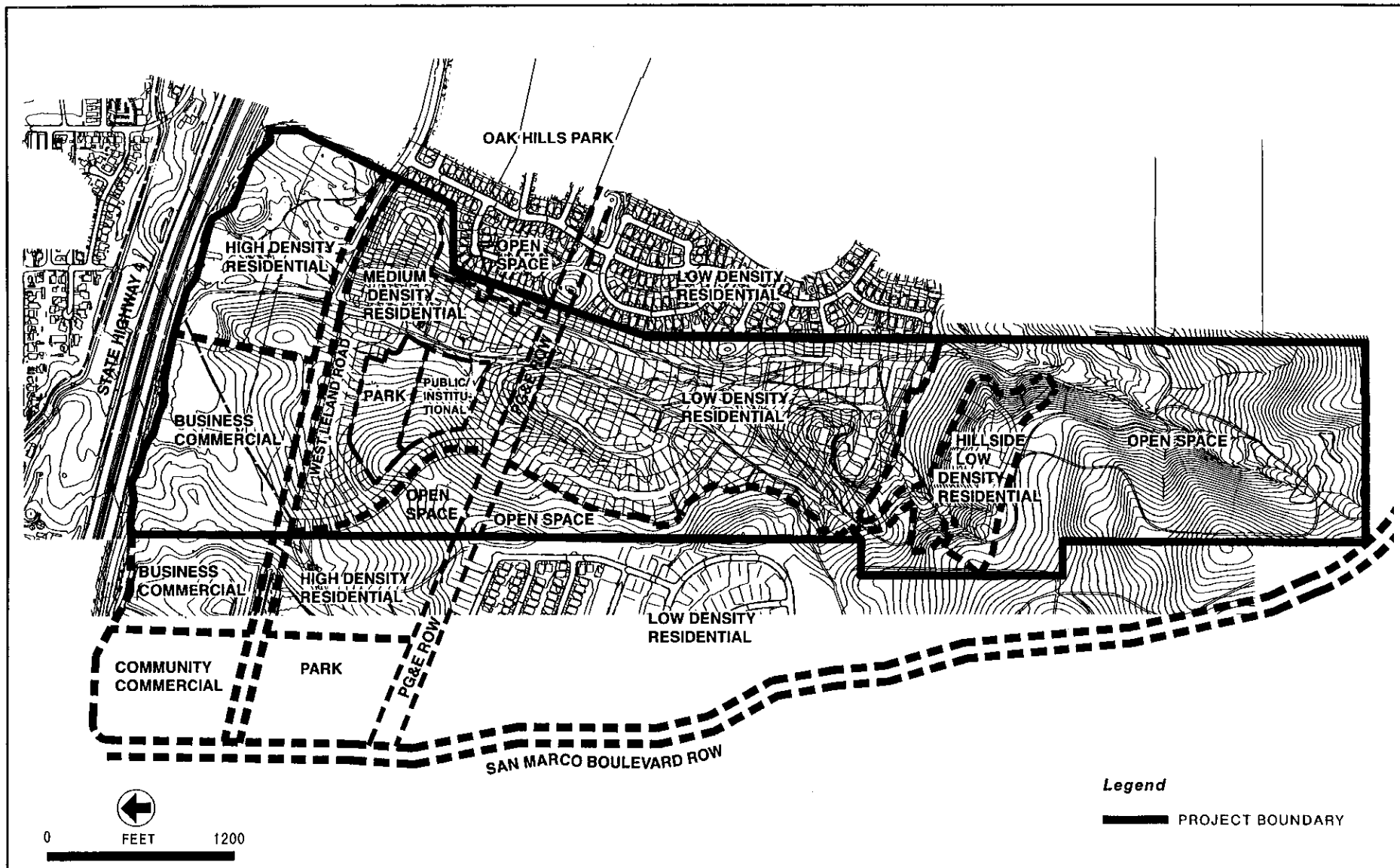
²Williamson Act contracts are standard state-authorized agreements that can be made between agricultural property owners and the county (the local property tax authority) to create "agricultural preserves" in exchange for property tax adjustments.



SOURCE: Ruggieri-Jensen-Azar and Associates

Figure 4.1

EXISTING GENERAL PLAN DESIGNATIONS



SOURCE: Ruggieri-Jensen-Azar and Associates

Figure 4.2

PROPOSED GENERAL PLAN AMENDMENT

the San Marco residential subdivision; (2) the area extending along the eastern boundary of the site immediately adjacent to the Oak Hills subdivision; and (3) the area around the estate residential lots and in the southern portion of the project site. The applicant anticipates that approximately 90 acres of the proposed open space area would be included in a conservation easement to be deeded to a management entity approved by a relevant state (e.g., CDFG) or federal (e.g., USFWS) resource agency for purposes of onsite mitigation of project impacts on biological resources, including wetlands and special status species (the California tiger salamander and California red-legged frog) (see chapter 11, Biological Resources, of this EIR).

As shown in Table 3.1 in chapter 3 herein, the project would implement the City's 2001 General Plan land use diagram designations for the project site by converting approximately 175.62 acres of the 293.30-acre site to urban uses (293.30 total acres minus 117.68 acres of designated permanent open space = 175.62 acres). This open space loss would be considered a ***less-than-significant land use impact*** because:

- (1) The proposed urbanization of approximately 60 percent of the site is generally consistent with the adopted City of Pittsburg General Plan. General Plan Figures 2-2, "General Plan Diagram," and 2-4k, "Southwest Hills," call specifically for such urban development in the Southwest Hills planning area.
- (2) The project, including the proposed General Plan Amendment providing for certain internal land use variations, would not present any significant inconsistencies with any other adopted General Plan policies related to land use and open space.
- (3) The project site is located within the Contra Costa County-designated *Urban Limit Line*.
- (4) The project would not convert prime agricultural land (state-designated Prime Farmland, Unique Farmland, or Farmland of Statewide Importance) to urban use.

(Please refer to chapter 5, Visual Factors, and chapter 11, Biological Resources, for discussion of the aesthetic and biological resource implications of this project-related open space loss.)

Mitigation. No significant impact has been identified; no mitigation is required.

Project Consistency with City and Regional "Smart Growth" Goals and Policies. "Smart growth" concepts, policies, and criteria set forth in adopted local (City of Pittsburg General Plan) and regional (ABAG) land use policy documents (see section 4.2.2 herein) are particularly applicable to intensive, large-scale residential and commercial developments like the proposed project. The proposed project embodies a number of fundamental "smart growth" characteristics. It includes a compact, medium- and high-density residential and business commercial mixed use area in the north portion of the site that is pedestrian-oriented and located within one-half mile of the Pittsburg/Baypoint BART station. It is an infill project--

small portion of the overall rangeland inventory in Contra Costa County; (4) the project site is located within the Contra Costa County-designated *Urban Limit Line*; (5) the project would not contribute significantly to the countywide cumulative decline in agricultural productivity; and (6) project buildout may reduce countywide agricultural productivity impacts by reducing development pressures on more isolated, outlying rangeland.

Mitigation. No significant impact has been identified; no mitigation is required.

Impact 4-1: Project Residential Development Relationships to Existing PG&E Overhead Electrical Transmission Lines.

Project-proposed single-family residential development relationships to the existing PG&E electrical transmission line easement in the north-central portion of the project site present land use compatibility concerns. The existing 137.5-foot-wide easement contains two parallel, overhead, electrical transmission tower lines--a 230-kV line and a 115-kV line. Approximately 57 single-family residential lots are located within 150 feet of the easement. No specific buffering provisions or uses (landscaping, berms, parking, storage facilities, etc.) between the transmission lines and these residential uses are described in the current application.

This project-introduced residential/electrical transmission line relationship could result in nuisance (visual and noise) and health and safety (electromagnetic field exposure) concerns and complaints. This proposed land use relationship raises questions of consistency with City of Pittsburg General Plan Policy 2-P-7, which calls for consideration of project compatibility with existing surrounding land uses and ensuring "that sensitive uses--such as residences...are not subject to hazardous or unhealthy conditions," and Policy 2-P-13, which calls for use of landscaping, berms, parking areas and storage facilities as buffers to separate potentially incompatible activities.

These possible nuisance and complaint factors, and the potential inconsistency with specific General Plan policies, represent a ***potentially significant land use compatibility impact*** (see criteria [4] and [6] in subsection 4.3.1, "Significance Criteria," above).

(1) *Proposed Project Land Use Relationships.* The existing 137.5-foot-wide PG&E easement contains two existing parallel electrical transmission lines--a 230-kV line and a 115-kV line. No project residential structures or yards would be located within the easement (see Figure 3.4 in chapter 3).

Mitigation 4-3. Develop *detailed design guidelines* for the transitional edges of the proposed 4,000-square-foot minimum lot size and courtyard home areas for review and approval by the City of Pittsburg Planning Commission (through its design review process) which, to the satisfaction of the Planning Commission, will minimize land use incompatibilities with adjoining Oak Hill Park subdivision single-family uses through incorporation of landscape buffering and other techniques. The design guidelines shall be formulated by a licensed landscape architect, architect, or qualified urban design professional. Alternatively, relocate such higher density residential components (e.g., the 4,000-square-foot minimum lot size and courtyard home areas) in the central or western portion of the site, away from the existing Oak Hills Park subdivision. Implementation of either of these measures would reduce this potential land use conflict to a ***less-than-significant level***.

Concord Naval Weapons Station Blast Zone. A portion of the proposed 87-acre permanent open space area at the end of the project site falls within the "blast zone" of the Concord Naval Weapons Station and is included in an associated "blast zone easement." The inland portion of the Concord Naval Weapons Station is located southwest of the project site and the San Marco subdivision, beyond the Ridge Farm, DeBonneville and Seecon properties. The largest single use on this 5,272-acre military facility is ammunition storage. The ammunition storage uses (bunkers) are located west of (on the opposite side of) the Southwest Hills from the Vista Del Mar project. The blast easements have been established to provide desired separation between inhabited buildings and explosive operations facilities. The blast easement encompasses a designated "Explosive Safety Quantity Distance (ESQD) beyond which the Navy has determined that no direct impacts to individuals would occur.¹ The easement restricts intensive land use, but permits use as open space and grazing land.

The proposed layout of the Vista Del Mar project does not place any residential or other intensive uses within this blast easement boundary; rather, the project area within the easement boundary would be restricted to permanent open space use, including the proposed habitat preserve. ***No significant project-related land use compatibility impact*** related to this easement or the Concord Naval Weapons Station is anticipated.

The implications of the easement will warrant consideration in the future if and when an alignment for the San Marco/Bailey Road SR 4 Bypass is established (see General Plan Policy 7-P-18).

Mitigation: No significant impact has been identified; no mitigation is required.

¹Wagstaff and Associates and the City of Pittsburg, Final Subsequent Environmental Impact Report for the San Marco Subdivision, SCH #91073029, October 1992; pp. 95 and 105.

(e) Cumulative Land Use Impacts. The proposed project, along with other planned and anticipated development in the immediate vicinity and elsewhere in Pittsburg (see Table 4.1) and the East County subregion, would contribute to cumulative losses in open space and rangeland in the Pittsburg area. The project's contribution to these cumulative effects would be considered a ***less-than-significant impact***, however, for the reasons cited above (i.e., the project would be consistent with Pittsburg General Plan goals for urban development in the Southwest Hills planning area, would not present any significant inconsistencies with General Plan land use policies, would not convert prime agricultural land to urban use, would be located within the Contra Costa County-designated *Urban Limit Line*, and would not contribute significantly to the cumulative decline in the county's rangeland inventory and agricultural productivity). Associated cumulative impacts on traffic and circulation, municipal services, and other impact categories are addressed in corresponding chapters of this EIR.

Table 7.4
AVERAGE DAILY TRAFFIC (ADT) VOLUMES ON HIGHWAY 4

<u>Segment on Highway 4</u>	<u>2002 ADT Volumes</u>
Railroad Avenue to Bailey Road	101,000
Bailey Road to Willow Pass/San Marco Boulevard	112,000
Willow Pass/San Marco Boulevard to Willow Pass Road (Concord)	124,000

SOURCE: Fehr & Peers, December 2003, from published Caltrans data.

r East Bay Municipal Utility District (EBMUD) corridor, known as the Delta DeAnza Trail. East of
r Bailey Road, this trail is located south of SR 4; west of Bailey Road, the trail is north of the
r freeway. On-street bicycle routes are provided north of SR 4 along Bailey Road and Willow
Pass Road, and an additional on-street route is planned for the entire length of West Leland
Road. Bicycle parking is provided at the Pittsburg/Bay Point BART station.

(b) Local Pedestrian Facilities. Local pedestrian facilities in Pittsburg include sidewalks, pedestrian paths, pedestrian bridges, crosswalks, and pedestrian signals. Most local streets in the vicinity of the project site have sidewalks on both sides and pedestrian signals and crosswalks at signalized intersections. Pedestrian paths are also provided to link the nearby Pittsburg-Bay Point BART station to the neighboring retail center, and to provide direct pedestrian access between the Oak Hills Apartments at the southwest corner of Bailey Road/West Leland Road and the BART station.

(c) Existing Local Bicycle and Pedestrian Activity. Observations of pedestrian and bicycle activity were conducted by Fehr & Peers in 2001 at the West Leland Road access to the BART station. The data collected indicated limited pedestrian activity during both the morning and evening peak hours (approximately 25 pedestrians during each of the peak periods). Very little bicycle activity was observed at the station access points. However, pedestrians and bicyclists may access the station at other locations that were not monitored as part of this study.

Transit service providers in the area, such as BART and Tri-Delta Transit have jurisdiction over their respective services.

These various jurisdictional agencies, their responsibilities and associated funding, are more specifically described below.

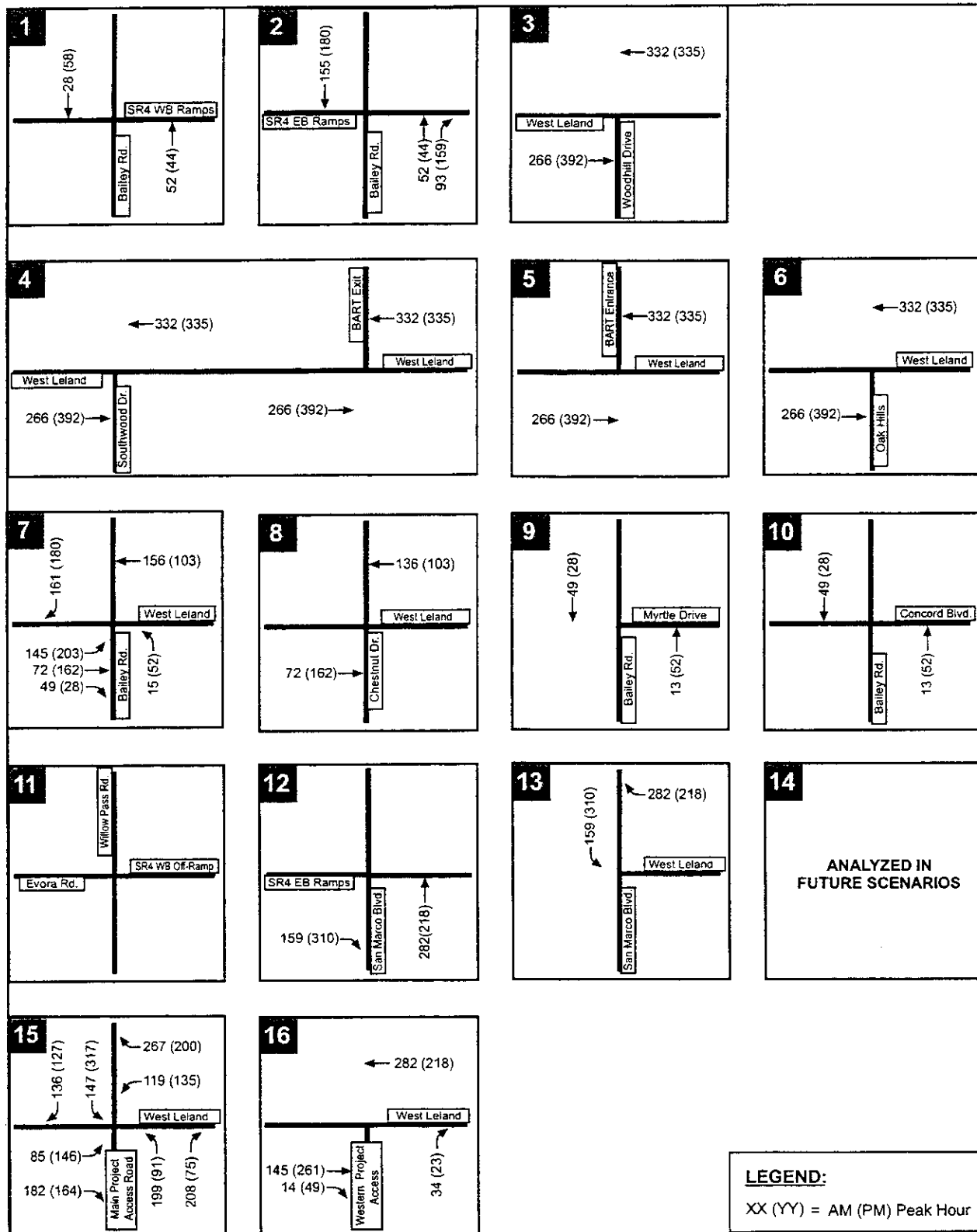
(a) City of Pittsburg. The City of Pittsburg is responsible for planning, constructing, and maintaining local public transportation facilities, including City streets, City-operated traffic signals, City sidewalks, and City bicycle facilities. These transportation local services are funded primarily by gas-tax revenue and developer fees.

(b) Contra Costa Transportation Authority (CCTA). In 1988, voters in Contra Costa County passed the Measure C Growth Management Program, increasing the county sales tax by 1/2 percent for 20 years to finance construction of a specified set of public transit and highway improvement projects. This ballot measure also created the Contra Costa Transportation Authority (CCTA) to oversee implementation of the improvements contained in Measure C, including the recently completed extension of BART to Pittsburg/Bay Point.

CCTA has also been assigned responsibility as the state-mandated Congestion Management Agency (CMA) that sets state and federal funding priorities for improvements affecting the Contra Costa County Congestion Management Program (CMP) roadway system. CCTA-designated CMP roadway system components in Pittsburg include Highway 4, Railroad Avenue and Kirker Pass Road. Under state CMP provisions, any improvements to these CMP components that are to receive state or federal funding must be adopted by the CCTA and included in the Capital Improvement Program (CIP) component of the CCTA-prepared CMP document, which must be updated biennially. While congestion management programs are no longer required by state law, Contra Costa County, along with most other counties in the Bay Area, has opted to continue with its CMP. To carry out the policies and actions of Measure C and the CMP, CCTA has established specific procedures for analyzing impacts of traffic from new development.

(c) TRANSPLAN. Measure C also requires all Contra Costa County jurisdictions to participate in the preparation of Action Plans for Routes of Regional Significance in order to determine the appropriate measures and programs for mitigation of regional traffic impacts. TRANSPLAN is the regional transportation planning committee for eastern Contra Costa County, comprised of the cities of Antioch, Brentwood, Oakley, Pittsburg, and unincorporated Contra Costa County.

r One elected official and one planning commissioner from each of these jurisdictions serves on the TRANSPLAN Regional Transportation Planning Committee. This committee provides a forum for carrying out the requirements of Measure C, and is responsible for developing and adopting an *East County Action Plan* for Routes of Regional Significance. The Action Plans from each Regional Committee are combined to form the CCTA Countywide Comprehensive Transportation Plan.



SOURCE: Fehr & Peers, Transportation Consultants

Figure 7.7

PROJECT TURNING MOVEMENT VOLUMES

The project will be required to contribute to all applicable development impact fee programs, including the existing, periodically adjusted, City of Pittsburg Traffic Mitigation Fee and the East County Subregional Impact Fee. In addition, the following project-specific impacts and supplemental or additional mitigation needs have been identified for the Baseline-Plus-Project scenario. Table 7.9 presents the expected levels of service at the affected study intersections under the Baseline-Plus-Project scenario after the recommended mitigations are implemented.

Impact 7-1: Baseline-Plus-Approved-Development-Plus-Project Impacts at the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps Intersection. During the evening (PM) peak hour, the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps intersection (study intersection #12) is projected to operate at an unacceptable level of service (LOS E). This intersection was projected to operate at an unacceptable level ("high" LOS; V/C ratio greater than 0.85) under Baseline-Plus-Approved-Development conditions without the project. The addition of project traffic would increase the total intersection volume by more than one percent, representing a **significant impact** (see criteria [b][1] and [b][2] under subsection 7.3.1, "Significance Criteria").

Mitigation 7-1. The project applicants shall contribute their fair share to the needed improvements at the Willow Pass Road/San Marco Boulevard/SR 4 Eastbound Ramps intersection, which include the following:

- Re-striping of the southbound approach to reduce the lane configuration to one through lane, which creates an opportunity for a free right-turn lane at the eastbound off-ramp; and
- Creation of a free right-turn lane on the eastbound off-ramp, in addition to two dedicated left-turn lanes, for a total of three approach lanes on the off-ramp.

The additional eastbound lane may require acquisition of right-of-way and the design would require approval from Caltrans. These improvements are not included in the current list of improvements to be funded by the existing City and East County traffic mitigation fee programs. The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation Fee Program) and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.

Implementation of these measures would reduce this impact to a **less-than-significant level**.

r Under the proposed project/City development agreement, the City may have certain obligations
r to take affirmative steps to amend its citywide Traffic Mitigation Fee Program (TMFP) to include
r those traffic improvement projects that will mitigate, among other things, traffic impacts
r associated with the project. The City has recently issued a request for proposals pursuant to
r which the City would engage a qualified traffic engineering firm to prepare, among other things,
r those nexus studies that state law requires before the existing City TMFP can be amended.
r Once the required nexus studies have been approved by the City, the City may amend the City
r TMFP to include those traffic improvements identified in this mitigation. In addition, the
r proposed project development agreement would require the applicant to pay the amended City
r TMFP amount.

Mitigation 7-2: In order to achieve an acceptable LOS at this intersection under future General Plan based cumulative conditions, the following improvements would be necessary:

- Create a westbound shared through/right-turn lane on West Leland Road;
- Create a second eastbound left-turn lane on West Leland Road;
- Create a second eastbound through lane on West Leland Road; and
- Create an exclusive eastbound right-turn lane on West Leland Road.

However, the creation of such additional capacity on the eastbound approach to this intersection would require substantial acquisition of additional right-of-way on land that has already been developed, which is not considered to be feasible given current constraints.

Alternatively, the morning (AM) peak hour operations at this intersection could be improved by adding a second eastbound left-turn lane and right-turn lane on West Leland Road, either or both of which might be physically feasible. Either or both of these measures shall be required if feasible. However, with either or both of these improvements, the intersection would still operate at LOS F during both the AM and PM peak hour; so this measure would not reduce this impact to a less-than-significant level. Therefore, this cumulative impact is considered **significant and unavoidable**. The project applicants shall pay their fair share contribution towards any of these improvements deemed feasible by the City.

Impact 7-3: Cumulative-Plus-Project Impacts at the Bailey Road/Concord Boulevard Intersection. The Bailey Road/Concord Boulevard intersection is projected to operate at an unacceptable LOS during both the morning (AM) and evening (PM) peak hours under Cumulative Conditions without the project. The addition of project traffic would increase the total intersection traffic volume by more than one percent, which would represent a **significant cumulative impact** (see criterion [b][2] under subsection 7.3.1, "Significance Criteria").

Mitigation 7-3: The project applicants shall pay their fair share of the improvements needed to adequately serve projected cumulative morning (AM) and evening (PM) peak hour traffic volumes at the Bailey Road/Concord Boulevard intersection in the City of Concord in an amount determined by the City of Pittsburg City Council in cooperation with the affected jurisdiction (the City of Concord and/or TRANSPLAN). These improvements include:

- construction of exclusive right-turn and left-turn lanes and a second through lane on the northbound approach;
- construction of two exclusive left-turn lanes on the southbound approach; and
- construction of a third through lane on both the eastbound and westbound approaches.

Implementation of this measure would reduce this cumulative impact to a less-than-significant level; however, this impact will remain a **significant and unavoidable cumulative impact** until the improvements are installed by responsible jurisdiction that is to receive this fair share fees.

Impact 7-4: Cumulative-Plus-Project Impacts at the San Marco Boulevard/ West Leland Road Intersection. The intersection of San Marco Boulevard/West Leland Road would operate at acceptable levels under Cumulative Conditions without the project, but the LOS would deteriorate to unacceptable levels during both morning (AM) and evening (PM) peak hours with the addition of project traffic. This effect would represent a **significant cumulative impact** (see criterion [b][1] under subsection 7.3.1, "Significance Criteria").

Mitigation 7-4: The project applicants shall contribute their fair share to the following needed improvements at the San Marco Boulevard/West Leland Road intersection:

- Convert the northbound shared through/right-turn lane to an exclusive right-turn lane; and
- Convert one of the northbound left-turn lanes to a northbound through lane.

Implementation of these improvements would involve changing the lane configuration at the intersection. Additional right-of-way acquisition would not be required. These improvements are not included in the current list of improvements to be funded by the existing City or East County traffic mitigation fee programs. The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation Fee Program) and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.

Implementation of these measures would reduce this impact to a ***less-than-significant level***.

Under the proposed project/City development agreement, the City may have certain contractual obligations to take affirmative steps to amend its citywide Traffic Mitigation Fee Program (TMFP) to include those traffic improvement projects that will mitigate, among other things, traffic impacts associated with the project. The City has recently issued a request for proposals pursuant to which City would engage a qualified traffic engineering firm to prepare, among other things, those nexus studies that state law requires before the existing City TMFP can be amended. Once the required nexus studies have been approved by the City, the City may *[intends to?]* amend the City TMFP to include those traffic improvements required by this mitigation. In addition, the proposed project development agreement would require the applicant to pay the amended City TMFP amount, even if the City TMFP is not amended until after the project development agreement becomes effective.

Impact 7-5: Cumulative-Plus-Project Impacts at the Willow Pass Road/Avila Road Intersection. As described above, this scenario assumes the Phase 2 extension of West Leland Road to connect with Avila Road, which then connects to Willow Pass Road (Concord). Because the West Leland Road/Avila Road connection will necessarily carry higher traffic volumes than Avila Road carries today, the intersection analysis conducted here assumes that the necessary improvements would be ultimately made to the Willow Pass Road/Avila Road intersection as part of the West Leland Road Phase 2 extension project. The intersection configuration shown in Figure 7.9 was determined to be necessary to accommodate the projected future traffic volumes at an acceptable LOS. Under both Cumulative and Cumulative-Plus-Project Conditions, this intersection will require a traffic signal (the current intersection configuration is unsignalized). This intersection improvement need represents a ***significant cumulative impact*** (see criterion [b][1] under subsection 7.3.1, "Significance Criteria").

Mitigation 7-5: The project applicants shall contribute their fair share to needed improvements at the Willow Pass Road/Avila Road intersection, as shown in Figure 7.9, that include configuring the intersection with two left-turn lanes and a right-turn lane on the westbound Avila Road approach, two left-turn lanes and a through lane on the southbound Willow Pass Road approach, and one right-turn lane and one through lane on the northbound Willow Pass Road approach. The City shall work with other affected jurisdictions to develop an interjurisdictional funding mechanism for these improvements. These improvements are not included in the current list of improvements to be funded by existing City or East County traffic impact fee programs. The City/applicant development agreement proposed as part of this project shall include a combination of City (Traffic Mitigation Fee Program), interjurisdictional (East County Subregional Impact Fee), and developer commitments that ensure that this improvement will be fully funded prior to issuance of any certificate of occupancy for any residential or commercial office space within the project.

Implementation of this measure would reduce this impact to a ***less-than-significant level***.

Impact 7-6: Cumulative-Plus-Project Impacts on Bailey Road/Myrtle Drive Intersection. While the overall average delay at this intersection is expected to be quite low, the delay for westbound traffic is estimated to reach LOS E during both morning (AM) and evening (PM) peak hours, with and without the project, and the project is expected to add more than one percent to the total intersection volume, representing a ***significant cumulative impact*** (see criterion [b][2] under subsection 7.3.1, "Significance Criteria").

Mitigation 7-6: The project applicants shall pay a traffic mitigation fee equal to their fair share of the improvements needed to adequately serve projected cumulative morning (AM) and evening (PM) peak hour traffic volumes at the Bailey Road/Myrtle Drive intersection in Contra Costa County and the City of Concord. These improvements include:

- installation of a traffic signal;
- provision of a left-turn lane on the southbound Bailey Road approach; and
- widening of the westbound Myrtle Drive approach to provide an exclusive left-turn lane.

Implementation of this measure would reduce this cumulative impact to a less-than-significant level; however, this impact will remain a ***significant and unavoidable cumulative impact*** until the improvements are installed by responsible jurisdictions that are to receive these fair share fees.

8. INFRASTRUCTURE AND PUBLIC SERVICES

This EIR chapter describes public services provided in Pittsburg, the impacts of the project on these services, and any measures necessary to mitigate significant impacts.

8.1 WATER SERVICE

8.1.1 Setting

(a) Existing Water Supply. Pittsburg obtains the majority of its raw water from the Contra Costa Water District (CCWD). The source of the CCWD water is the Contra Costa Canal, which is a component of the Central Valley Project (CVP). Figure 8.1 illustrates CCWD boundaries and the location of the Contra Costa Canal. CVP water originates from the San Joaquin Delta, from which CCWD obtains water through a contract with the U.S. Bureau of Reclamation (USBR). The current contract is for a maximum of 195,000 acre-feet per year (af/y) (which equals approximately 174 million gallons per day/mgd), subject to regulatory or other temporary restrictions that may be imposed due to drought or other conditions.

Currently, demand throughout the CCWD system is estimated at 157,158 af/y, while total supply is estimated at 201,000 af/y under normal conditions.¹ The City of Pittsburg's demand for CCWD water was estimated at 10,343 acre-feet for the year 2000 and projected to be 14,546 acre-feet by the year 2020 (including projected demand for a previously proposed, more intensive development on the project site).²

In addition to its CVP contract, CCWD has negotiated water rights with local districts and private entities, including the East Contra Costa Irrigation District. CCWD also receives minor supplies from pumped diversions at Mallard Slough.

The CCWD operates the recently constructed Los Vaqueros Project, an off-stream reservoir located in southeast Contra Costa County (see Figure 8.1). The reservoir captures winter and spring runoff from the San Joaquin Delta for blending to reduce higher chloride levels found in

¹Contra Costa Water District, Future Water Study 2002 Update, Table ES2, page 4.

²Ibid., Table 1, page 19.

combination of its projected supplies, implementation of specific water conservation measures described in the City's Urban Water Management Plan, and short-term water purchases.

The second water planning bill adopted by the State in 2001, SB 221, requires all cities and counties to include, as a condition of approval of any tentative subdivision map creating 500 or more residential units, a requirement that a sufficient water supply be available to serve the subdivision. This requirement may be satisfied by obtaining a written verification of available water supplies from the public water system that will serve the subdivision. If the public water system's written verification indicates that the system is unable to provide a sufficient supply to serve the subdivision, the city or county may make a finding, that alternative water supplies not accounted for in the public water system's verification are or will be available prior to completion of the subdivision to meet the anticipated demands of the subdivision. Therefore, under SB 221, a subsequent water supply analysis must be completed before the City of Pittsburg approves a final map for the Vista Del Mar project. This subsequent analysis will include an updated description of the citywide water supply situation at that future time (including valid water rights, infrastructure financing, permits, and approvals), describing the status of (progress on) any City plans for expanding its reclaimed water program and water conservation efforts, as well as opportunities for future short-term water purchases.

Mitigation 8-1. As required by State SB 221, prior to City approval of a final map for the proposed project, the City of Pittsburg Community Development Department shall undertake a *subsequent water supply analysis*, which shall describe the citywide water supply situation at that future time (including valid water rights, infrastructure financing, permits, and approvals), including the status of (i.e., City progress on) current City studies and plans for expanding its reclaimed water program and conservation efforts and finding opportunities for future short-term water purchases. As required by SB 221, no final map shall be approved for the project until the City concludes, based on a written verification prepared in compliance with SB 221 and on the availability of other water supplies, as demonstrated by substantial evidence in the record, that sufficient water will be available to serve the proposed project needs, in addition to existing and planned future uses, during normal, single dry, and multiple dry years within a 20-year projection.

The project applicant shall also be required to comply with all applicable current and future City of Pittsburg water demand performance standards, including standards included in the City of Pittsburg Urban Water Management Plan, the City's reclaimed water project, and the City's water conservation program.

Implementation of this measure would reduce potential project-related and cumulative impacts on water supply to a ***less-than-significant level***.

The *City of Pittsburg Final Water Supply Assessment* (WSA)--included in its entirety in Draft EIR appendix 22.2--states (p. 6), "The [Contra Costa Water] District [CCWD] does not anticipate any supply deficits in normal and regulatory restricted years due to the effect of the District's long-term conservation program and the use of water purchases from East Contra Costa Irrigation District (ECCID) under a 1999 agreement." This existing program and agreement provide reasonable assurance that water will be available to the City of Pittsburg (including the proposed project), even during the latter years of a multi-year drought.

The WSA (p. 7) also recognizes that CCWD deliveries, combined with CCWD short-term purchases from ECCID and Western Water Company, will meet all the projected demands, including the demands of the project and other anticipated development, and including during multi-year drought conditions, provided the City implements short-term voluntary conservation measures. Such citywide, voluntary water conservation measures have been implemented in previous drought years in Pittsburg (e.g., 1977, 1983) and have reduced water consumption citywide by approximately 23 percent (source: Noel Ibalio, Associate Planner, City of Pittsburg).

In addition, the City is currently in the design stage of a Reclaimed Water Irrigation Project (CIP Project No. PK35). This project will replace the potable water used for the golf course and citywide parks projects with reclaimed water from the Delta Diablo Sanitation District. The reclaimed water project will enable reclaimed water to replace over 100 million gallons of potable water use per year.

This information regarding the anticipated results of citywide conservation measures and the anticipated Reclaimed Water Irrigation Project provides reasonable assurance that water will be available to the City of Pittsburg (including the proposed project), even during the latter years of a multi-year drought. Please see revisions to Mitigation 8-1 in section 3 of this Final EIR.

Impact 8-2: Need for Contra Costa Water District (CCWD) to Complete Inclusion Process with U.S. Bureau of Reclamation for Use of Central Valley Project Water. The project site is not yet within the contractual service area of CCWD's contract with the U.S. Bureau of Reclamation (USBR) for water from the Central Valley Project (CVP). Before the CCWD can provide water to the City for use on the project site, the CCWD must amend its contract with the USBR to include the project site within the contractual service area. The CCWD would need to submit a request to the USBR (an "inclusion request") to specifically add the project site to the CVP contractual service area. Before the USBR can grant this CCWD request, the USBR must comply with the National Environmental Policy Act, federal Endangered Species Act, and other federal legislation, including the National Historic Preservation Act (NHPA). Until the USBR meets these requirements and approves the inclusion request, the CCWD is contractually prohibited from providing water to the City to serve the project site. The CCWD's current inability to provide water to the City to serve the project site is considered a ***potentially significant impact*** (see criteria [1] and [2] in subsection 8.1.3[a], "Significance Criteria," above).

Water service for the project would be provided by the City of Pittsburg, which would obtain the necessary raw water from CCWD or from City wells. Regarding CCWD water, the CCWD's Central Valley Project (CVP) water contract with the U.S. Bureau of Reclamation (USBR) stipulates that USBR approval is necessary prior to inclusion of additional territory within CCWD's contractual service area. USBR consent is contingent upon project compliance with requirements of the National Environmental Policy Act (NEPA), the federal Endangered Species Act (ESA), and other federal legislation, including the National Historic Preservation Act (NHPA). An application for expansion of the contractual service area to include Pittsburg's Southwest Hills area (including the project site) will need to be submitted to the USBR (see further discussion in subsection 8.1.1[e] above).

Until the USBR meets these requirements and approves this inclusion request, the CCWD cannot provide water to the City for use in the Southwest Hills area or on the project site.

In addition, the Final EIR and City-approved Final Development Plan should be forwarded to the CCWD to complete the application to the USBR.¹

Impacts of Project Water Delivery System Construction Activities. The project applicant would be required to pay all applicable City of Pittsburg development and connection fees, and/or construct some or all of the following:

- Zone II pumping station at the City's water treatment plant, including building, piping manifold, controls, and installation of one 2,500-gpm pump and standby generator;
- Zone II West Leland Road 24-inch transmission main extending from the east side of Bailey Road approximately 1,340 feet west of the end of the existing 12-inch main;
- Zone II 3.0-mg reservoir together with a 16-inch inlet/outlet line and access road on a site to be acquired by the City of Pittsburg;
- Zone III pumping station on the project site, including dedication of the pumping station parcel to the City, construction of the building, piping manifold, and controls, and installation of two 1,500-gpm pumps and standby generator; and
- Transmission mains of various sizes in the project streets and West Leland Road extension.

The project applicant must submit all final project water system design specifications and construction documents for approval by the City of Pittsburg. The applicant would be reimbursed by the City for costs in excess of the project's equitable share.

The project-related local onsite and offsite water system construction activities would be temporary and for the most part would occur within existing public rights of way and recorded easements. Through its water wells, the City would supply the water required for grading and construction activities.

Construction period traffic interruption, noise, and air emission (dust) effects typically associated with such infrastructure construction would be adequately mitigated through normal City construction period mitigation procedures, including, but not limited to, the noise and air quality mitigation measures described in this EIR (chapters 14 and 15, respectively) and the requirements of Pittsburg Municipal Code Title 17 (Subdivisions) pertaining to required

¹Seedall.

officers would be required to maintain desired levels of service and response consistent with General Plan policies and performance standards.

This increased staffing need does not represent a significant "environmental" impact under CEQA. The increased staffing need would not meet the significance criteria suggested in Appendix G (Environmental Checklist Form) item XIII (Public Services), of the CEQA Guidelines--i.e., "result in a significant adverse physical impact associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services."

- r Consistent with other recent residential developments in the Southwest Hills, the project
- r applicants shall contribute their fair share of the cost of establishing a fully staffed Southwest
- r Hills Area police beat through the creation of a Mello-Roos assessment district.

Mitigation. No significant environmental impact has been identified; no mitigation is required for CEQA purposes.

Impact 8-5: Emergency Response and Evacuation Impacts Due to Traffic Congestion. Project-related traffic increases would create additional traffic congestion on West Leland Road, possibly delaying emergency response and limiting the Police Department's ability to evacuate the project area safely during an emergency or major disaster. These possible project effects on emergency response and evacuation in the project area would represent a **potentially significant impact** (see criterion [2] in subsection 8.3.3[a], "Significance Criteria," above).

The project would provide for emergency vehicle access to the project site via West Leland Road and via various onsite, internal emergency vehicle access lanes (see Figure 3.4, Proposed Site Plan, herein).

Mitigation 8-5. Implement mitigation measures identified in chapter 7, Traffic and Circulation, of this EIR to reduce the impacts on project-related traffic on West Leland Road and other local roads. In addition, require Police Department review and approval of project-proposed emergency access provisions prior to Tentative Subdivision Map approval. Implementation of these measures would reduce project impacts on emergency response and evacuation to a **less-than-significant level**.

Cumulative Demands for Police Services. Buildout of the project in combination with other anticipated cumulative (pending, recently approved, or under constructed) residential

development in the City would increase the demand for police services. The approximately 6,469 residential units (including the 1,100 proposed project units) pending, recently approved, or under constructed in the city (see Table 4.1 herein) would result in a projected 20,700 new residents in Pittsburg, and associated substantive cumulative increases in the demand for

two 24-inch railroad culverts at the upstream end of the Suisun Bay discharge channel. Because these systems are all tied together at the railroad, runoff generated within widely separated parts of the drainage basin can potentially affect flooding conditions within downstream sections of other, seemingly unconnected areas.

The City of Pittsburg maintains all publicly owned drainage facilities within the city limits, while maintenance of the remaining portions of the Area 48B system outside the city limits is funded by the Unincorporated County Clean Water Assessment. The periodic upgrading and improvement of main line facilities is funded through new development fees levied by the CCCFCWCD pursuant to Flood Control Ordinance Number 2002-28. These improvements are needed to accommodate the additional runoff generated by the creation of new, impervious surfaces within a watershed, so the fee is proportional to development densities and the average amount of anticipated impervious surface on each parcel.

In Area 48B, the fee rate is currently \$0.36 per square foot of newly created impervious surface, which results in the following general range of fees for various land uses:¹ \$11,965 to \$15,685 per acre for office, commercial, and industrial properties; \$695 to \$1,375 per unit for multi-family residential properties; and \$1,550 to \$3,845 per unit for single-family residential properties. Developments south of Highway 4 (including the subject Vista Del Mar project) are eligible for a credit equal to 35 percent of the calculated drainage fee, as compensation for the cost of onsite drainage improvements that are not included in the adopted Drainage Area 48B Plan.² The City of Pittsburg currently requires developers/project applicants to furnish proof that these fees have been paid to the District prior to the approval of final subdivision maps.

r CCCFCWCD is not the approving local agency for this project, as defined by the Subdivision
r Map Act. As a special district, the District has an independent authority to collect drainage fees
r that is not restricted by the Map Act. The District reviews the drainage fee rate every year the
r ordinance is in effect, and adjusts the rate annually on January 1 to account for inflation. As a
r result, the drainage fee rate does not vest at the time of tentative map approval; the drainage
r fees due and payable for a proposed project will be based on the fee in effect at the time of fee
r collection.

(c) Design Requirements. CCCFCWCD typically uses a 10-year recurrence interval storm as the basis of design for drainage areas smaller than one square mile, and a 25-year storm for areas between one and four square miles. The two drainage basins that begin on the project site and run downstream into Lines B and B-1 are both smaller than one square mile, so a

¹Fees are based on the per square foot rate in effect at the time of collection. Computation of a particular project's fee is based on worksheets submitted to the CCCFCWCD by the project engineer.

r ²Paul R. Detjens, Associate Civil Engineer, Flood Control Engineering, Contra Costa County Flood
r Control and Water Conservation District, written communication (file 1002-8448), November 4, 2003; and
r Hannah Wong, Contra Costa Flood Control and Water Conservation District, personal communication,
r May 11, 2004.

10-year storm recurrence interval was used by the CCCFCWCD to calculate the required buildout capacity of main line culverts and open channels. These calculations indicated that the existing Line B and Line B-1 systems would both require substantial upgrading south of the railroad to carry the 10-year design flow. District plans indicate the most significant capacity constraints on Line B are located a short distance downstream of Highway 4, in the area between Virginia Drive and Alves Lane. On Line B-1, virtually the entire reach between the highway and Willow Pass Road needs to be either upgraded to a larger pipe size or an existing open channel needs to be enclosed within a buried culvert.

and the northeast corner of the site. Along most of the property's northerly boundary, a three-to-one slope with a maximum height of approximately 40 feet would transition down from higher ground on the project site, into the south (project) side of the highway right-of-way and intersecting with the existing grade just below the southside roadway shoulder. Near the center of this area along the site's northerly boundary, in the vicinity of the existing east highway culvert, a 7.3-acre detention basin would be constructed to control peak storm water discharges into Line B (see Figure 3.4).¹ The bottom of this basin would be depressed approximately 25 feet below Highway 4 and as much as 60 feet below the adjoining development areas of the project. Slopes within the lower, water storage portion of the basin, would be constructed at four-to-one slope, in accordance with CCCFCWCD criteria, while slopes above this level would be steepened to 2.5-to-1. These basin slope characteristics would apply to all four sides of the basin, except there would be no 2.5-to-1 upper slope along the northern edge adjoining Highway 4, since existing highway grades are only approximately two feet higher than the four-to-one slope.

At the opposite end of the main valley, 17 level building pads and a water tank site would be created on the face of the hill that rises at the south end of the valley (see "Estate Lots" on Figure 3.4). A single road would wind up from the end of "Road N" to the water tank and a first tier of seven lots, approximately 120 feet above the homes on the south side of "Street S." The road would then switch back and climb to a second tier of ten lots, ending in a cul-de-sac approximately 50 feet above the tank site.

Grading at the south end of the site, beyond these hillside homesites, would be limited to that necessary for creation of six seasonal wetland ponds and stabilization of a historic stock pond as mitigation for habitat loss within the development area. These ponds would be located on the slopes of the valley in the southeast corner of the property, which drains to the culvert system at the south end of the neighboring Oak Hills development. As currently designed, the total footprint of these ponds and the immediately-surrounding graded slopes would be approximately 7.5 acres, although it is likely that additional areas would have to be disturbed during construction of the ponds on these relatively steep hillsides.

(b) Proposed Project Drainage Provisions. The above-described earthwork program would obliterate all existing onsite stream channels located north of the limits of grading. An underground storm drain system would be constructed to replace these natural channels. As now proposed, a main line culvert would be installed the entire length of Road F, discharging directly into the proposed east highway culvert stormwater detention basin adjacent to Highway 4. Tributary drain lines would collect runoff from catch basins on the many side roads that branch off Road N. These tributary lines would also extend to the back side of parcels along the west edge of the project, to pick up runoff from concrete interceptor ditches that would be constructed at the base of the adjoining hillsides. An additional tributary line would

¹The 7.3-acre basin area includes the surrounding embankment slopes from the basin floor up to the highway and to the raised development areas. The bottom of the proposed basin would measure approximately six tenths of an acre.

be extended west of the limits of development to pick up the flow from an existing gully that runs east out of the adjoining San Marco subdivision.

The concrete ditches and hillside drain lines would prevent runoff from flowing into private yards at the base of the hills. They would also help stabilize the hills by picking up groundwater collected by subsurface drains installed as part of the mass grading operation.

The calculations used to size the project's storm drain lines and channels were not reviewed for this report, but it is noted that all storm drain facilities must be designed and constructed in accordance with current City regulations and, where applicable, Contra Costa County Flood Control and Water Conservation District (CCCFCWCD) standards.

The storm drain system would convey runoff from virtually the entire project site (except for the undeveloped southeast corner, which would continue to drain to Oak Hills) to the previously described east highway culvert detention basin on the north side of West Leland Road. This basin would store a portion of the site's runoff during major storms, until capacity becomes available within the downstream drainage system. According to the project's *Detention Basin Design Study*, the basin would have a bottom elevation of 120.0 feet above mean sea level (MSL), a maximum, 10-year water storage elevation of approximately 136.0 feet MSL, and a peak discharge of 40 cubic feet per second (cfs) to the east highway culvert. Peak discharges to the east highway culvert during a 100-year storm would increase to 50 cfs, and the maximum water surface would rise to 143.0 feet MSL, which is approximately three feet lower than the minimum proposed top-of-bank elevation alongside Highway 4. In the event the basin outlet becomes blocked or the runoff from an exceedingly large storm exceeds the maximum storage capacity, the runoff would spill over the north bank, onto the highway shoulder and pavement.¹

The Flood Control District has reviewed the project's *Detention Basin Design Study* and preliminarily confirmed that the basin, as now designed, would provide adequate storage volume to reduce post-development discharge rates in accordance with the plan for Drainage Area 48B. The study did not fully address all aspects of the basin design (for instance, details for the outfall structure, emergency spillway, fencing requirements, access roads, etc., remain to be determined), but since it demonstrated that the desired attenuation of peak flow rates could be achieved within the area currently reserved for a detention basin, the District feels these ancillary issues can be resolved during final project design.²

In accordance with CCCFCWCD's plans for Line B-1, a detention basin would not be constructed in the northwest corner of the site at the entrance to the west highway culvert. The existing culvert's 67 cfs design capacity would be reserved mainly for runoff from offsite areas within the adjoining San Marco subdivision. Any remaining capacity would be used to

¹Ruggeri-Jensen-Azar & Associates, *Subdivision 8448, Vista Del Mar Detention Basin Design Study*, revised June 9, 2004. According to the Study's storage calculations, the basin would have a total storage volume of approximately 48 acre-feet below the top of bank adjacent to Highway 4.

²Hannah Wong, written comments on the Vista Del Mar Draft EIR, August 4, 2004.

The anticipated specific project-generated increase in storm water runoff is directly related to the change in land use and, to a lesser extent, to the higher efficiency of the project-proposed underground storm drain systems (which would increase peak flows). Table 9.1 summarizes proposed specific land use changes on the approximately 230-acre project site that would continue to drain to Lines B and B-1 through the existing west and east highway culverts, and illustrates the effect of these specific changes on the site's overall runoff coefficient.¹

As previously noted, roughly 63 acres of steep hillsides in the southeast corner of the property drain to the neighboring Oak Hills development, and would remain in a natural, undeveloped condition. As a result, this area is excluded from the analysis of project-specific downstream drainage impacts.

Table 9.1 indicates that implementation of the proposed project development plan would result in a significant increase in the site's runoff coefficient, from approximately 41 percent existing to 63 percent after development. In 2001, the CCCFCWCD prepared a detailed hydrologic model for the area located upstream of Highway 4, assuming an earlier (2001) Alves Ranch development plan which had a runoff coefficient essentially equal to the runoff coefficient for the current proposed project development plan. The 2001 model results indicated that peak rates of storm water runoff to the east highway culvert during a three-hour, 10-year recurrence interval storm would increase from 120 cfs under existing conditions to 220 cfs following project development.

Capacity limitations within this culvert would have prevented the entire flow from reaching the north side of the highway, thereby mitigating the downstream impacts, but the resulting flow would still be substantially higher than under existing conditions, and substantially higher than permitted under CCCFCWCD's plans for buildout of Area 48B.

The CCCFCWCD hydrologic model also looked at existing and proposed runoff conditions for the west highway culvert. The model concluded that peak, three-hour, 10-year flow rates would increase from 60 cfs to 68 cfs. The increase was considerably less for this area because the size of the contributing watershed on the adjoining San Marco property is to be reduced and because there would be a lower overall percentage of impervious surfaces. As noted in subsection 9.3.2 (Proposed Onsite Grading and Drainage Provisions), runoff from the project site would only be added to runoff from San Marco up to the 67 cfs maximum for

¹The runoff analysis presented in the table is based on the Rational Method, as explained in subsection 9.1.2 above. However, CCCFCWCD only uses the Rational Method when the contributing drainage area is less than 200 acres. For larger areas, like the project site, the District uses the more detailed and accurate Unit Hydrograph Method. Preparation of the unit hydrographs needed to model the effects of the proposed project is beyond the scope of this EIR. As a result, the Rational Method will be used to approximate the expected increase of runoff, and to roughly illustrate the significance of this increase as compared with existing conditions.

Table 9.1
RUNOFF CHARACTERISTICS FOR LINE B AND LINE B-1 DRAINAGE AREA--EXISTING VS.
PROJECT CONDITION

<u>Land Use</u>	<u>Area (acres)</u>	<u>Estimated Runoff Coefficient</u>	<u>Area x Coefficient</u>
Existing Condition¹			
Mostly Undeveloped ²	230.0	41%	94.30
Project Condition³			
Estate	5.1	45%	2.30
Single-Family	59.5	65%	38.67
Courtyard	7.5	75%	5.62
r Multi-Family/Business Commercial	41.6	85%	35.36
School/Park	11.15	60%	6.69
r Open Space ⁴	72.85	40%	29.14
Roads ⁵	31.8	85%	27.03
Water Tank	<u>0.5</u>	70%	<u>0.35</u>
r Proposed Condition Total	230.0		145.16
r			
r Proposed Condition Average Runoff Coefficient: $145.16 \div 230 = 63\%$			
r SOURCE: Andrew Leahy, P.E., September 2004.			

¹ Existing condition areas are based on topographic surveys prepared by Ruggeri-Jensen-Azar & Associates and by the U.S. Geological Survey.

² The "Mostly Undeveloped" designation for the existing site deducts the small area covered by impervious surfaces around the Alves Ranch complex.

³ "Project Condition" areas are taken from the proposed project development plan map prepared by Ruggeri-Jensen-Azar & Associates, dated May 2004. Depending on the actual internal drainage characteristics for the various designated land use areas, the acreage totals represent from 70 to 95 percent of the gross General Plan designation boundary areas (acreages) shown in Table 3.1 of this EIR (Proposed Project Land Use Summary).

⁴ The "Open Space" designation includes the detention basin, transition slopes between neighboring parcels, hillside slopes and fill embankments on the developed site, plus approximately 25 acres of undeveloped open space at the south end of the site. For this reason, acreages in this table do not correspond exactly with those in Table 3.1 (Proposed Project Land Use Summary), which are based on proposed General Plan land use designation boundaries.

⁵ The runoff coefficient for roads assumes approximately 80 percent of the right of way would be paved and 20 percent would be landscaped. The runoff coefficient for multi-family/business commercial assumes that the developed area (acreage) north of West Leland Road would be 1/3 multi-family and 2/3 business commercial.

The hydrologic analyses would also need to examine potential changes in the timing of any project-related flooding, since the addition of new impervious surfaces would significantly increase the total volume of runoff and lengthen the duration of higher than normal flow rates. This effect is illustrated by CCCFCWCD's previously discussed hydrologic model, which concluded that under existing conditions, discharge rates during a three-hour, 10-year storm would exceed 50 cfs for approximately 48 minutes, while under proposed project conditions, the rate would exceed 50 cfs for 85 minutes, and total runoff would be 54 percent higher. This means that back-ups would last longer at existing downstream flow restrictions along Line B, and they could spread over wider areas. This project effect might not cause a problem if an open channel simply overflows onto vacant, adjoining ground, but it could significantly worsen nuisance flooding if it occurs at a street intersection or within an easement where the main line culvert runs between existing homes.

Higher runoff volumes could also worsen existing flooding at the downstream end of Drainage Area 48B, where several main line drainage systems converge at the existing twin 24-inch culverts under the railroad. If additional runoff from the project site reaches this point before flows from other areas begin to subside, in particular the discharges from the San Marco project's detention basin, project-related runoff could worsen the flooding already documented on FEMA maps along the downstream reaches of Shore Acres Creek.

Mitigation 9-2. The existing rate and volume of storm water discharges from the project site shall not be increased until the proposed downstream drainage improvements on Lines B and B-1 have been completed and it has been confirmed that project-related discharges would not worsen either the extent or duration of downstream flooding. The applicant shall prepare a *hydrology study* that (a) confirms that the proposed new culverts to be installed downstream of Highway 4 would have sufficient capacity to accommodate post-development flows from the project site in addition to existing and future flows from the surrounding neighborhoods, and (b) identifies which, if any, existing Line B and B-1 segments located farther downstream might also need upgrades to accommodate higher flow rates and/or alternatively, what interim or permanent increase in onsite detention storage volume should be provided to lower the rate of discharge during all storms to a level that does not cause new or more widespread flooding within neighborhoods located north of Highway 24. The developer would then be responsible for design and construction of all improvements within the appropriate sections of Drainage Area 48B, Lines B and B-1 (as well as for any modifications required to also increase the volume of onsite detention storage), as may be identified by CCCFCWCD, based on their review of the hydrology report.

(continued)

Mitigation 9-2 (continued):

The applicant shall also pay all applicable drainage fees, as determined by the CCCFCWCD (see details below). The project's Area 48B drainage fees would be used to fund construction of the proposed downstream drainage improvements. If the fees are not sufficient to cover the cost of these improvements, all additional costs would be paid by the applicant under the terms of a development agreement with the CCCFCWCD. This agreement would provide for repayment of these extra costs as additional fees are collected on future development projects, under the terms of the Flood Control District's reimbursement policy.

Implementation of these measures would reduce this identified impact to a ***less-than-significant level***.

The project's Area 48B drainage fees, which the CCCFCWCD has preliminarily estimated at approximately \$900,000 (including the 35 percent credit for improvements south of Highway 4)¹, would be used to fund construction of downstream drainage improvements in accordance with Area 48B's adopted drainage plan.

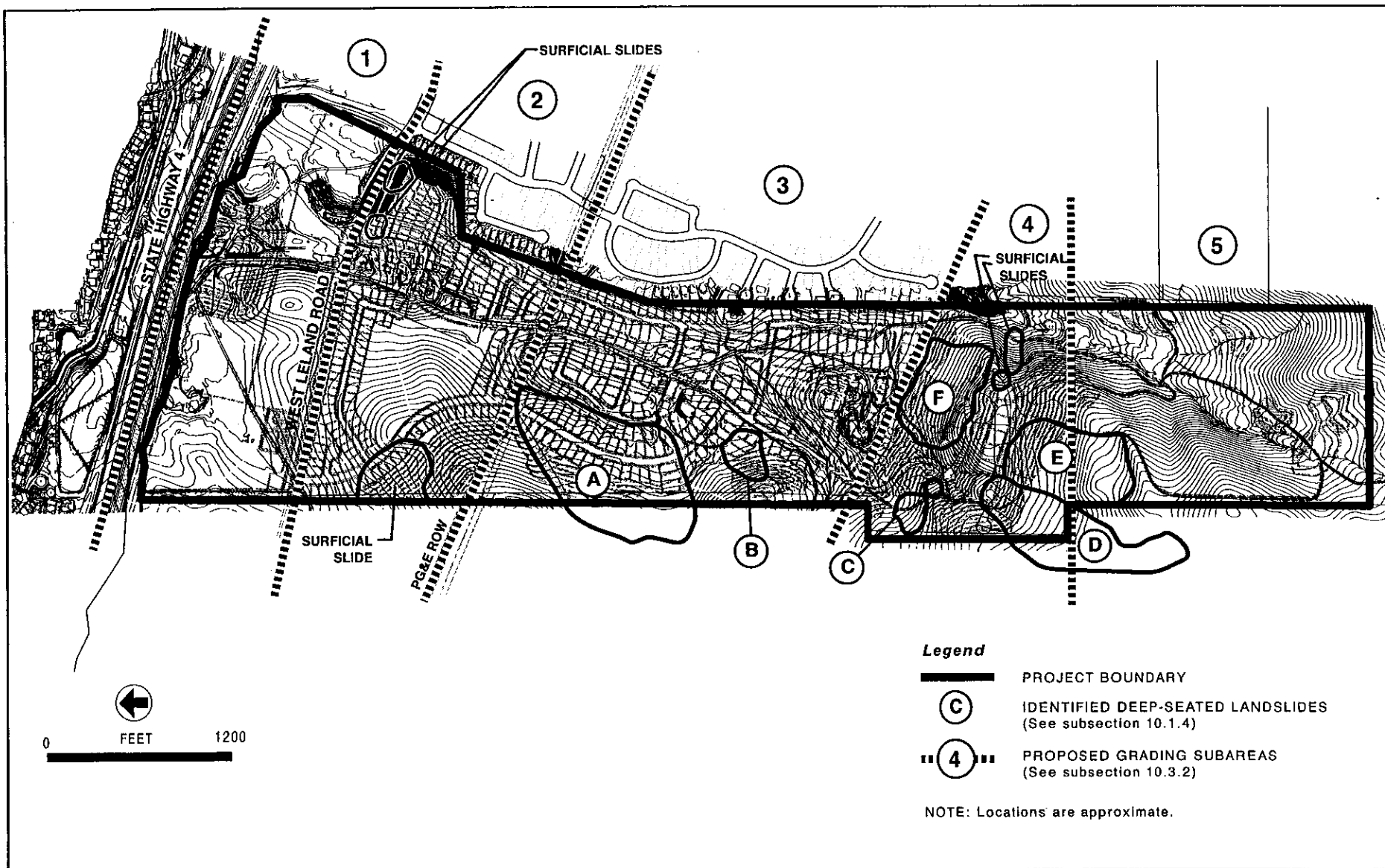
It is noted that, if the required *hydrology study* concludes that some sections of Lines B and B-1 as designed in the current Area 48B drainage plan would not have sufficient capacity to prevent downstream flooding following project development, the additional cost to install larger or more extensive pipe lines would be funded by the applicant. These additional costs would not be subject to reimbursement.²

Because the proposed project would be developed over a period of several years, it may be possible to phase the construction of needed downstream improvements. Capacity would be added on an as-needed basis as runoff gradually increases, in accordance with a schedule set forth in the required *hydrology study*. Any phasing proposals would have to clearly identify both funding and construction responsibilities, and the entire program would be subject to approval by the CCCFCWCD.

As an alternative to the construction of additional downstream drainage facilities that may be identified by the required *hydrology study*, the volume of detention storage to be provided on the project site could be increased to lower the rate of discharge during all storm events to a

¹Detjens, August 25, 2003.

²Detjens, August 25, 2003.



SOURCE: Berlogar Geotechnical Consultants; and Andrew Leahy, RCE

Figure 10.1

LANDSLIDE AREAS AND PROPOSED GRADING SUBAREAS ON THE PROJECT SITE

greater, respectively, than would result from maximum credible earthquakes on the Hayward and San Andreas Faults.¹

(c) Earthquake Hazards. Hazards that can result from an earthquake include landsliding, violent ground shaking, surface rupture, differential settlement, liquefaction, and lateral spreading. Landsliding entails sudden slope failure, as described in the previous section. Ground shaking is caused by the seismic waves that radiate out from an earthquake's epicenter. The severity of ground shaking at a particular location is primarily determined by distance from the epicenter of the earthquake and by the local soil profile. Loose, unconsolidated sedimentary deposits can transform the relatively high frequency (back and forth) motion of underlying bedrock into lower frequency but higher amplitude motion at the surface.

Surface rupture occurs along active fault traces, or where compressed and distorted soils break open to relieve earthquake-induced stress. Everything built across the trace or line of the fracture is generally destroyed. As noted above, no active or potentially active fault traces have been identified on the project site.

Ground shaking can also result in differential settlement of unconsolidated soils in response to unequal surface loading. Movement of the ground causes an additional compaction of the soil that is proportional to the soil's pre-existing density and to the magnitude of imposed surface loads. These conditions often result in unequal settlement, which can cause the failure of poorly stabilized cut-and-fill embankments and of foundations that cannot span areas of discontinuous support.

Liquefaction and lateral spreading are similar losses of foundation support that can occur in saturated granular soils. The general absence of granular soils in the project vicinity makes these two types of earthquake-induced ground failure unlikely. The City of Pittsburg General Plan determined that the entire site has a moderately low to low liquefaction potential.

10.1.6 Groundwater

- r Groundwater was found in four of the 190 test pits excavated by Berlogar Geotechnical
- r Consultants as part of their geotechnical study of the project site,² and in five of the 26 borings drilled as part of the draft and final design-level studies (groundwater results were inconclusive

¹Contra Costa County, Keller Canyon Landfill Draft Environmental Impact Report, October 1989. It is noted that this EIR also estimated that the potentially active Clayton Fault could produce peak ground accelerations at the landfill site as much as 55 percent greater than the accelerations generated by the Concord Fault.

r ²Seventy-three test pits were excavated as part of the Preliminary Geotechnical Investigation dated
r December 20, 1999, and 117 were excavated for the Design-Level Geotechnical Investigation dated
r January 30, 2004.

for 15 of the 26 borings). The four test pits that contained groundwater were grouped in two locations: in the bottom of a small ravine, south of the quarry and close to the westerly project boundary, and in a depression adjacent to Highway 4 near the east highway culvert. In all four of these test pits, groundwater was found between eight and 11 feet below

General Plan EIR also identifies the various policies included in the General Plan *Health and Safety Element* to mitigate this impact (which are also listed in section 10.2.1(c) above).

10.3.5 Project-Specific General Geotechnical Impacts

The Berlogar preliminary geotechnical study (December 20, 1999), draft design-level study (November 17, 2003), and final design-level study (January 30, 2004) were peer-reviewed by the EIR consulting civil engineer. The recommendations of the EIR consulting engineer concerning these studies are addressed in the impacts and mitigations which follow.

Impact 10-1: Geotechnical Hazards Associated with Project Design. The interaction of existing geotechnical conditions on the site with proposed grading and surface modifications, and their combined effect on slope stability, surface settlement, seismic hazards, and soil erosion, have the potential to result in significant adverse impacts. The project geotechnical study prepared by Berlogar Geotechnical Consultants set forth recommendations and construction guidelines expected to adequately address these impacts, but, at this time, there is no assurance that the results of the study would be fully incorporated into project development plans. In addition, it has not been confirmed that all of the Berlogar analyses findings and recommendations are correct, and some recommended measures may no longer apply if additional changes to the current project site plan are proposed. If there are deficiencies in the Berlogar study and/or if its recommendations and guidelines are not sufficiently adhered to throughout the course of construction, the geotechnical hazards described above would represent a ***potentially significant impact*** (see criteria [1] through [4] in subsection 10.3.1, "Significance Criteria," above).

Mitigation 10-1. The project geotechnical engineer shall prepare a *subsequent final, design-level project geotechnical study* subject to review and approval by an independent engineering geologist retained by the City at applicant expense. The subsequent study shall evaluate if the design-level study and all of its conclusions are consistent with generally accepted geotechnical engineering practice and in agreement with the approved site development plan. The review shall include adequate consideration of project geotechnical implications for adjacent properties, including the Oak Hills, San Marco, and San Marco Meadows subdivisions. Relevant provisions of the subsequent geotechnical study shall be incorporated into project grading and site preparation plans. All earthwork and site preparation shall be performed under the direct supervision of a State-certified geotechnical engineer or engineering geologist. Implementation of these measures to the satisfaction of the independent engineering geologist and the City Engineer would reduce this potential impact to a ***less-than-significant level***.

If the City-retained independent engineering geologist determines that any modifications to the currently proposed site plan warrant additional geotechnical study, the project geotechnical engineer shall prepare a subsequent study or studies that specifically address all areas in which development conditions have changed since preparation of the January

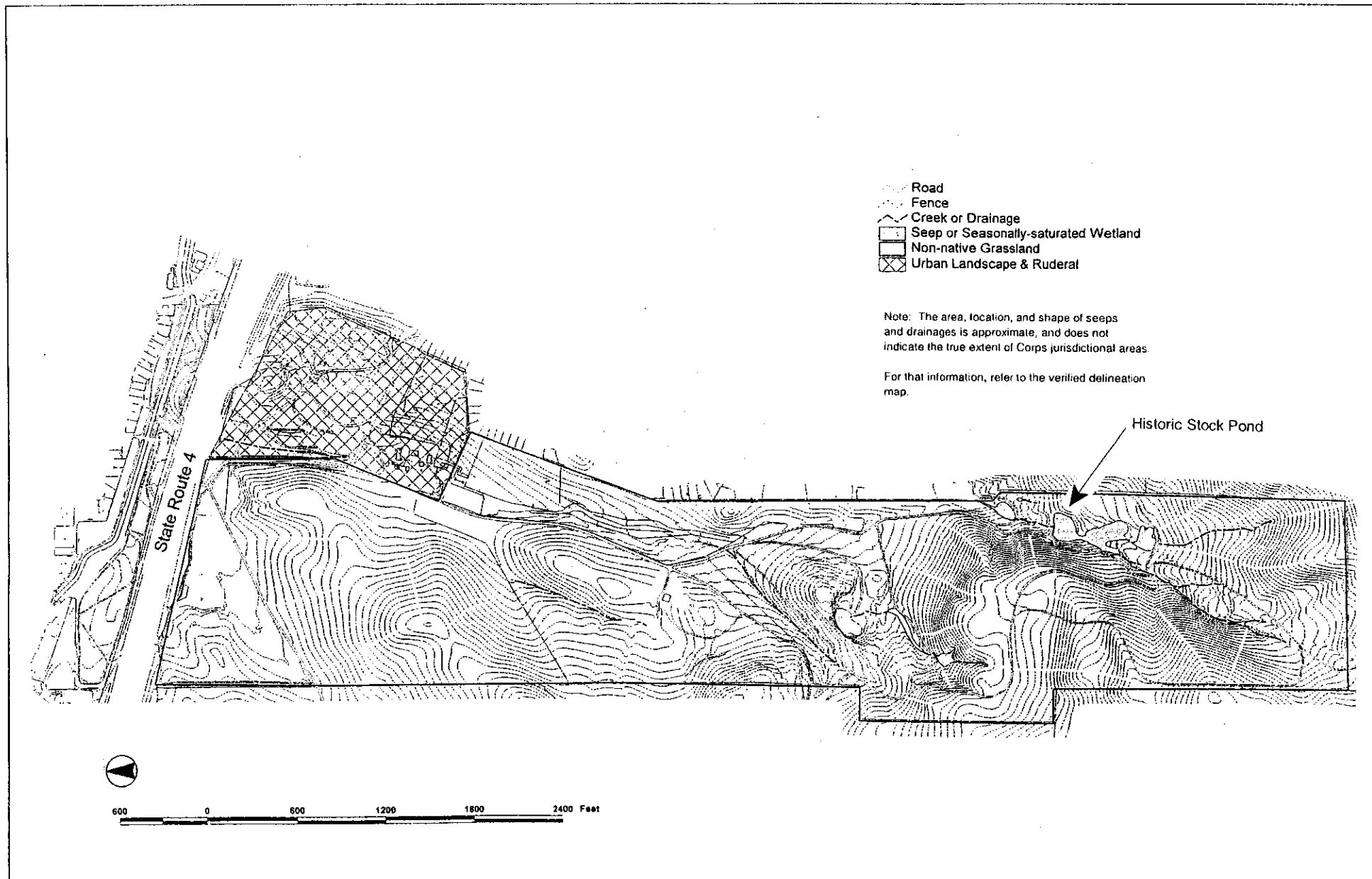
Mitigation 10-2. The extent of all landslide remediation shall be determined in the field by the project geotechnical engineer, who shall also direct all remediation activities during project construction, to ensure that all existing landslides are fully stabilized. The project geotechnical engineer shall obtain all relevant information regarding the San Marco development as needed to confirm that the upslope, offsite portions of Landslide A have been fully remediated and present no risk to homes proposed for construction at the base of slope on the Vista Del Mar project site. The project geotechnical engineer shall also determine the potential for future instability within the offsite portions of Landslide D and recommend appropriate remediation measures as may be necessary to fully stabilize this existing slide.

The project geotechnical engineer shall propose specific measures for stabilization of the existing landslide below the estate homesites at the east end of the upper terrace road which would prevent the loss of usable property to future slope failures, or, alternatively, construction setbacks shall be established to ensure that future slope failures would not affect privately owned improvements. In addition, prospective home buyers shall be made fully aware, through the use of deed restrictions or other means acceptable to the City Engineer, that future slope failures may render portions of their properties unusable.

Implementation of these measures to the satisfaction of the City-retained independent engineering geologist and City Engineer would reduce these potential impacts to a ***less-than-significant level***.

Impact 10-3: Soil Creep and Debris Flows. Existing slopes steeper than 30 percent could be subject to long-term soil creep, and both newly constructed and existing slopes steeper than 20 percent could be subject to debris flows during periods of heavy rain. These conditions would place project buildings and other site improvements at risk of future structural damage, and the potential for high velocity debris flows would represent a safety hazard. These conditions represent a ***potentially significant impact*** (see criterion [3] in subsection 10.3.1, "Significance Criteria," above).

After grading, none of the proposed improvements in Areas 1, 2, and 3 would be constructed on slopes steeper than about seven percent. However, some roadways and rear yards in Areas 2 and 3 would abut natural and cut or fill slopes steeper than 30 percent. If plastic, highly expansive onsite soils are left in place or used to surface remediated or newly constructed slopes, these areas could be subject to soil creep and debris flows. In addition, there would be steep slopes located above and immediately below all of the lots in Area 4. Even if repaired or remediated in accordance with *Mitigation 10-2* above, these slopes might still be subject to soil creep.



SOURCE: Monk & Associates

Figure 11.1

PLANT COMMUNITIES ON THE PROJECT SITE

(*Aphelocoma californica*), northern flicker (*Colaptes auratus*), yellow-rumped warbler (*Dendroica coronata*), and killdeer. Many other wildlife species are also expected to use these drainages (see Table 11.2).

(e) Seeps and Seasonally Saturated Wetlands. Areas that have seasonally-saturated soils occur along several of the onsite creeks and drainages and on some slopes where groundwater comes to the surface. Several other smaller seeps are also present on the project site which also provide saturated soils and some standing water habitat. These areas are dominated by plant species tolerant of long periods of saturated soil, including two or more species of rush (*Juncus* spp.). One of the main seeps on the project site was historically maintained as a stock pond (see the USGS Honker Bay quad), but over time the berm was breached and not repaired. Due to large land movements in the area, this pond is now filled with soil.

At the time of M&A's March 2000 survey, the former stock pond/seep supported broad-leaved cattails, rush (*Juncus* spp.), spike-rush (*Eleocharis* sp.), and willows. At the time of the December 2003 survey, it was apparent that land slumping had occurred in this area over the last few years. Uneven soils and large deposits of sediment were clearly visible where the pond used to be, and the aquatic and wetland plant species that were once present and visible in March 2000, had been replaced with upland grasses, forbs, and thistles, although small patches of rush were still evident.

(f) Wildlife Associated With Seeps and Seasonally Saturated Wetlands. The historic stock pond is a perennial seep that provides wildlife with saturated soils and some standing water, but no longer functions as an open water aquatic habitat. Several other smaller seeps are also present on the project site; these seeps also provide saturated soils and some standing water habitat. Wildlife observed at the seeps during M&A's surveys included Pacific tree frog, western meadow lark, and raccoon (tracks). It is expected that snipe (*Gallinago gallinago*), mallard (*Anas platyrhynchos*), killdeer, great blue heron (*Ardea herodias*), greater yellowlegs (*Tringa melanoleuca*), and many other wildlife species would also use these seep and seasonally-saturated wetlands on a regular basis.

(g) Urban Landscape. Approximately five acres of the project site contain the two existing houses, sheds, parking lots, and other ranch and construction equipment yard facilities. This area has a small amount of urban landscape vegetation, particularly a windbreak of eucalyptus. Ruderal (i.e., weedy) vegetation, such as bristly ox-tongue, prickly lettuce (*Lactuca serriola*), and mustards (*Brassica* sp., *Hirschfeldia* sp., and *Sinapis* sp.), occurs around the parking lot, equipment yard, and other areas that have been graded.

(h) Wildlife Associated With Urban Landscape. Wildlife observed or expected in forage in the landscape plantings around the ranch and construction operation complex include such urban-adapted species as Brewer's blackbird (*Euphagus cyanocephalus*), European starling (*Sturnus vulgaris*), house sparrow (*Passer domesticus*), northern mockingbird (*Mimus polyglottos*), and house finch (*Carpodacus mexicanus*). The mature eucalyptus trees also provide habitat for other bird species such as lesser goldfinch (*Carduelis psaltria*), American kestrel, loggerhead shrike, and red-tailed hawk. Several loggerhead shrikes, kestrels, and red-tailed hawks were observed on the project site in December 2003.

r **California tiger salamander** (*Ambystoma californiense*). On August 4, 2004, the USFWS
r issued a final rule in the Federal Register announcing its decision to list the California tiger
r salamander statewide as a federal listed threatened species. Thus, effective September 3,
r 2004, the California tiger salamander receives protection under the Federal Endangered
r Species Act (USFWS 2004). The tiger salamander is also a CDFG-identified California
"species of special concern" and is identified as a "protected amphibian" under Title 14 of the
California Code of Regulations. The tiger salamander is listed in Table 9-1 of the City of
Pittsburg General Plan as a special-status species known to occur, or potentially occur, within
r the Pittsburg Planning Area. The California tiger salamander has been identified on the project
r site.

The California tiger salamander occurs in grasslands and open oak woodlands that provide suitable aestivation (i.e., summer retreats) and/or breeding habitats. California tiger salamanders spend the majority of their lives underground in California ground squirrel (*Spermophilus beechyi*) burrows, Botta's pocket gopher (*Thomomys bottae*) burrows, and other subterranean refugia. This salamander has also been found in areas with no apparent underground retreats. In these areas it may use cracks in the ground or may burrow into loose soil, or seek refuge in and under rotting logs or fallen branches.

The California tiger salamander emerges from its aestivation sites for only a few nights each year during the rainy season to migrate to its breeding ponds. Seasonal wetlands, vernal pools, or artificial impoundments such as stock ponds which typically do not support fish, bullfrogs, red swamp crayfish, or signal crayfish, provide suitable breeding habitat. Suitable breeding ponds and streams typically hold water until the month of May to allow time for larvae to fully metamorphose. Since the tiger salamander may migrate up to 0.62-mile from its underground retreats to breeding ponds (Brode 1997), unobstructed migration corridors are also required.

During M&A's March 8, 2000 field survey, two adult California tiger salamanders were identified underneath a piece of wood on the south end of the project site. Sycamore Associates, the previous applicant's biologists, conducted two years of nocturnal surveys (2000 and 2001) and one year of larval surveys (2000) for California tiger salamander on the

project site (Sycamore Associates 2000b and 2001). Sycamore Associates did not complete a second year of larval surveys on the project site in 2001 because no ponded water remained on the site past March (Sycamore Associates 2001). During the 2001 nocturnal surveys, one adult salamander was observed within the central portion of the site on February 9, 2001. The individual was emerging from a burrow east of the quarry area (Sycamore Associates 2001).

As previously indicated, the applicant proposes to set aside approximately 87 acres of land in the southern portion of the project site (the portion with the failed stock pond), and acquire additional offsite acreage or purchase credits in an approved mitigation bank, in order to
r mitigate project-related impacts to "waters" and "wetlands," and special-status species including
r the California red-legged frog and California tiger salamander. LSA Associates, the applicant's
r consulting biologists, have discussed this mitigation with CDFG biologists, and the CDFG is in general concurrence overall with the mitigation proposal; however, the specifics of the mitigation still need to be finalized¹ (see section 11.3 which follows herein, Impacts and Mitigation Measures, for further details).

San Joaquin kit fox (*Vulpes macrotis mutica*) is federally listed as endangered and state-listed as threatened. In addition, the San Joaquin kit fox (kit fox) is listed in Table 9-1 of the City of Pittsburg General Plan as a special-status species known to occur, or potentially occur, within the Pittsburg Planning Area. The kit fox is the smallest fox species in North America, typically weighing between four and six pounds. It has large ears, long legs, and is generally a buffy tan color with a black-tipped tail. Kit fox live primarily in the lowlands of the San Joaquin Valley of California, but are also known to occur in several counties in the coast mountain ranges, including portions of Contra Costa and Alameda Counties.

This fox species is usually found in open grassland and shrubland communities. Kit fox are carnivorous, usually feeding on small rodents such as San Joaquin pocket mice (*Perognathus inornatus inornatus*), deer mice (*Peromyscus maniculatus*), western harvest mice (*Reithrodontomys megalotis*), kangaroo rats (*Dipodomys* spp.), and larger rodents such as California ground squirrel. Kit fox also prey upon lagomorphs such as black-tailed hare and desert cottontail (*Sylvilagus audubonii*).

The kit fox relies on dens for breeding, and to provide escape cover from potential predators. Kit fox are reputedly poor diggers, so dens are excavated in loose-textured soils, generally in areas with low to moderate relief; or the fox will use holes left by other species, such as burrows dug by rabbits, ground squirrels, and on occasion, badgers (*Taxidea taxus*). Man-made structures, such as well-casings, culverts, and abandoned pipelines, are also occasionally used for dens. Typically, dens are small enough to discourage easy predation by coyotes.

Populations of kit fox are thought to be related to the availability of denning sites, particularly natal denning sites, which are often moved several times throughout the season. The closest

¹Ibid.

for signs of burrowing owls. In addition, burrowing owls were not observed on the project site by M&A biologists during site surveys. However, burrowing owls can be transitory and could move onto the project site prior to its development. Thus, surveys for burrowing owls should be conducted following CDFG's survey protocol to determine this species' presence or absence. If owls are located within the proposed development area, offsite replacement habitat may be provided in the project's preserve area. However, this would need to be coordinated with CDFG. Please see *Impact and Mitigation 11-7*.

Northern harrier (*Circus cyaneus*). This raptor is a California "species of special concern." Its nest, eggs, and young are also protected under the California Fish and Game Code (sections 3503, 3503.5, and 3800). In addition, the northern harrier is protected from direct take under the federal Migratory Bird Treaty Act (50 CFR 10.13). This raptor is listed in Table 9-1 of the City of Pittsburg General Plan as a special-status species known to occur, or potentially occur, within the Pittsburg Planning Area.

Northern harriers build grass-lined nests on the ground within dense, low-lying vegetation in a variety of habitats, though they are typically found nesting in grassland or marsh habitats. They usually nest on level to near-level ground. This species is particularly vulnerable to ground predators while nesting, and is subject to disturbance by agricultural practices. The project site's grassland habitat adjacent to the freshwater seeps may provide suitable nesting habitat for the northern harrier. Northern harriers have been observed foraging onsite (Sycamore Associates 1999, and M&A pers. obs.). Spring nesting surveys would be necessary to confirm or negate the presence of active nests on the project site.

White-tailed kite (*Elanus leucurus*). This raptor is Fully Protected under the California Fish and Game Code. Fully Protected birds may not be "taken" or possessed (i.e., kept in captivity) at any time (section 3511). Its nest, eggs, and young are also protected under the California Fish and Game Code (sections 3503 and 3503.5). In addition, it is protected from direct "take" under the federal Migratory Bird Treaty Act (50 CFR 10.13). This raptor is listed in Table 9-1 of the City of Pittsburg General Plan as a special-status species known to occur, or potentially occur, within the Pittsburg Planning Area.

The white-tailed kite is typically found foraging in grassland, marsh, or cultivated fields where there are dense-topped trees or shrubs for nesting and perching. They nest in a wide variety of trees of moderate height and sometimes in tall bushes, such as coyote bush (*Baccharis pilularis*). Native trees in which kites nest include live and deciduous oaks (*Quercus* spp.), willows, cottonwoods (*Populus* spp.), sycamores (*Platanus* spp.), maples (*Acer* spp.), toyon (*Heteromeles arbutifolia*), and Monterey cypress (*Cupressus macrocarpa*). Kites often reside near water sources, where prey is more abundant. The particular characteristics of the nesting site do not appear to be as important as its proximity to a suitable food source (Shuford 1993). Kites primarily hunt small mammals, with California meadow voles (*Microtus californicus*) accounting for between 50 and 100 percent of their diet (Shuford 1993). M&A biologists observed white-tailed kites hunting on the project site. The project site also provides suitable nesting habitat for the white-tailed kite. Surveys during the nesting season would be necessary to confirm or negate the presence of active nests on the project site.

Red-tailed hawk (*Buteo jamaicensis*). This bird is protected under the federal Migratory Bird Treaty Act (50 CFR 10.13) and under the California Fish and Game Code (section 3503.5),

10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an incidental take permit can be issued.

Responsible Agency. FESA gives regulatory authority over terrestrial species and non-anadromous fish (i.e., fish that do not migrate from sea to fresh water to breed) to the USFWS. The NMFS has authority over marine mammals and anadromous fish.

Applicability to the Proposed Project. There are no stream channels or waterways on the project site that could provide habitat for anadromous fish species. Therefore, the NMFS would not be involved with this project. Two federal-listed terrestrial species (the California red-legged frog and the California tiger salamander) must be addressed for this project. It will be necessary for the Corps to initiate Formal Consultation with the USFWS pursuant to section 7 of FESA to address these species.

(b) California Endangered Species Act. In 1984, the state legislated the California Endangered Species Act (CESA) (California Fish and Game Code section 2050). The basic policy of CESA is to conserve and enhance endangered species and their habitats. State agencies will not approve private or public projects under their jurisdiction that would jeopardize threatened or endangered species if reasonable and prudent alternatives are available.

Basic CESA Provisions. CESA requires that all state lead agencies (as defined under CEQA) conduct an endangered species consultation with the CDFG if their actions could affect a state-listed species. The state lead agency and/or project applicants must provide information to the CDFG on the project and its likely impacts. The CDFG must then prepare written findings on whether the proposed action would jeopardize a listed species. Because CESA does not have a provision for "harm" (see discussion of FESA, above), CDFG considerations pursuant to CESA are limited to those actions that would result in the direct take of a listed species.

If the CDFG determines that a proposed project could affect a state-listed threatened or endangered species, the CDFG will provide recommendations for "reasonable and prudent" project alternatives. The CEQA lead agency can only approve a project if these alternatives are implemented, unless it finds that the project's benefits clearly outweigh the costs, reasonable mitigation measures are adopted, there has been no "irreversible or irretrievable" commitment of resources made in the interim, and the resulting project would not result in the extinction of the species. In addition, if there would be threatened or endangered species impacts, lead agencies typically require project applicants to demonstrate that they have acquired "incidental take" permits from the CDFG and/or USFWS (if it is a federal-listed species) prior to allowing/permitting impacts to such species.

Prior to filling "waters of the United States" on the project site, it would be necessary to receive a permit from the Corps. Filling "waters of the United States" without prior authorization from the Corps would be a violation of section 404 of the Clean Water Act. In addition, in accordance with the Corps' "no net loss" policy, any impacts to "waters of the United States" would have to be mitigated. Potential project impacts on "waters of the United States" are discussed further in section 11.3, Impacts and Mitigation Measures, below (see *Impact and Mitigation 11-2*).

Pursuant to section 404 of the Clean Water Act, since impacts to "waters of the United States" on the project site would be greater than 0.5-acre of wetland and more than 300 linear feet of stream channel, the project does not qualify for use of a Nationwide Permit (NWP). Therefore, the applicant must apply to the Corps for an Individual Permit (33 CFR section 235.5[2][b]). The application process for Individual Permits includes public and multi-agency review procedures (i.e., public notice and receipt of public comments), and must contain an "alternatives analysis" prepared pursuant to the 404(b)(1) guidelines found at 40 CFR 230. The Individual Permit application would demonstrate avoidance of "waters of the United States," would provide mitigation for unavoidable impacts, and would provide an analysis demonstrating there are no other practicable alternatives for the proposed project. Any endangered species issues would also be addressed in the Individual Permit application.

The applicant submitted an Individual Permit application package (including a Wetland Mitigation and Monitoring Plan) to the Corps on June 17, 2003. A Section 404(b)(1) Alternatives Analysis for the project was submitted to the Corps on February 20, 2004 (LSA 2004b).

(b) State Water Resources Control Board and Regional Water Quality Control Board Jurisdiction. State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB) regulations applicable to the proposed project, including RWQCB project-specific water quality certification requirements, are described in section 9.2.1(a) of this EIR.

On June 17, 2003, LSA Associates, on behalf of the project applicant, submitted a request for water quality certification to the RWQCB for the proposed development project. A wetlands mitigation and monitoring plan was included with this submittal. On July 21, 2003, the RWQCB replied that since a complete application for the project had not been submitted (e.g., a grading plan and detailed storm water management plan were not provided), a water quality certification could not be issued.¹ Subsequent submittals to the RWQCB include a grading plan, *Storm Water Quality and Hydrograph Management Plan*, and Section 404(B)(1) Alternatives Analysis. Per the request of the RWQCB, the applicant has also prepared and submitted a plan to the RWQCB that shows the location of all proposed storm water BMPs.

¹W. Hurley, Senior Water Resources Control Engineer, RWQCB, written communication to D. Mills, William Lyon Homes, Inc./Alves Ranch LLC, July 21, 2003 (File No. 2118.03).

A Habitat Conservation Plan for East Contra Costa County is currently in preparation. However, assessment of potential conflicts with provisions of the Habitat Conservation Plan is not necessary under CEQA because the plan has not yet been adopted.

11.3.3 Summary of Mitigation Measures Incorporated into Project Design

A *Wetland Mitigation and Monitoring Plan* has been designed by the applicant's consultant, LSA Associates, to mitigate project-specific impacts on wetlands and other waters subject to Corps, RWQCB, and CDFG jurisdiction. A Biological Assessment was also prepared by LSA Associates to address potential impacts on special-status species as a result of project implementation. The mitigation plan would be implemented onsite within an 87-acre preserve proposed at the southern end of the project site. The Mitigation Plan may need to be revised to comply with the conditions of project approval (mitigation measures) stipulated in this CEQA document. The *Wetland Mitigation and Monitoring Plan* and the *Biological Assessment* are summarized below.

Mitigation proposed in the applicant's *Mitigation and Monitoring Plan* would consist of: (1) onsite creation of at least 1.92 acres of seasonal pond habitat, (2) restoration of a 0.5-acre former stock pond, (3) preservation and enhancement of approximately 3,300 linear feet of onsite drainages, (4) onsite enhancement of approximately 1,000 linear feet of drainages, and (5) preservation of approximately 1.68 acres of onsite seeps. The mitigation plan proposes to create at least 1.92 acres of seasonal ponds to compensate for the loss of 0.96-acre of state and federal jurisdictional area, representing a compensation ratio of 2:1 (new to filled). The ponds would be created at six locations on the project site to expand California red-legged frog and California tiger salamander reproduction and rearing habitat. The ponds would be constructed in locations with suitable topography and profiles and sufficient watershed area to ensure prolonged ponding in normal rainfall years. These proposed seasonal ponds should exhibit greater habitat values in comparison to the less persistently saturated seasonal wetlands, seeps, and drainages presently onsite.

As discussed in the applicant's *Biological Assessment* (LSA 2003e), additional mitigation requirements for special-status species (i.e., upland impacts to California red-legged frog and California tiger salamander habitat) would be addressed through the preservation of 87 acres of upland habitat in an onsite mitigation preserve (conservation easement). The remaining mitigation requirements for upland habitat impacts would be addressed at an offsite mitigation area and/or by purchasing credits from a suitable, agency-approved conservation bank.

11.3.4 Project-Specific Inconsistencies with General Plan Policies

Impact 11-1: City of Pittsburg General Plan Policies. The project, as currently proposed by the applicant, may be inconsistent with City of Pittsburg General Plan policies 9-P-1 and 9-P-8 pertaining to the protection of biological resources.

RCE Policy 9-P-1. Resource Conservation Element (RCE) Policy 9-P-1 calls for the City to ensure that development does not substantially affect special status species. As described herein under Impacts 11-3 through 11-12, the project as proposed would have potentially significant impacts on a number of state- and federally-listed special status species unless mitigation measures proposed in this EIR, and mitigation measures required by state and federal resource agencies with permits necessary for the project, are implemented.

(continued)

Impact 11-1 (continued):

RCE Policy 9-P-8. RCE Policy 9-P-8 calls for ensuring revegetation of cut-and-fill slopes with native species as a condition of project approval. The mitigation plan prepared by the applicant's biologist prescribes planting native trees along the created wetlands and restored drainages, and the seeding of cut-and-fill slopes with a mix primarily of native grasses and forbs. If this seed mix were changed to consist entirely of native species, then this General Plan policy would be satisfied.

These possible General Plan policy inconsistencies would represent a ***potentially significant impact*** (see criteria [2] and [5] in subsection 11.3.1, "Significance Criteria," above).

Apparent project inconsistencies with certain current City of Pittsburg General Plan policies pertaining to biological resources are described above. The project appears to be consistent with the following other key General Plan policies pertaining to biological resources:

RCE Policy 9-P-2. Resource Conservation Element Policy 9-P-2 calls for preventing the re-establishment of invasive species and the restoration of native species as part of development approval for sites involving ecologically sensitive habitat. The applicant's mitigation and monitoring plan prepared by LSA Associates proposes using native plants to revegetate areas disturbed by project grading and construction. Also, the proposed 87-acre mitigation preserve would be monitored for a minimum five-year period. During this time, invasive plants would be removed.

RCE Policy 9-P-7. Resources Conservation Element Policy 9-P-7 calls for the clustering of housing in hillside residential projects to preserve large, unbroken blocks of open space, particularly within sensitive habitat areas, and the provision of wildlife corridors to ensure the integrity of habitat linkages. The proposed 113-acre hillside open space area, including the 87-acre conservation easement, would preserve an unbroken block of open space with sensitive habitat areas. Highway 4 immediately to the north of the project effectively removes any regional wildlife corridor that may have existed in the area connecting the project site with habitats to the north. However, the project site currently serves as a local wildlife corridor and a regional wildlife corridor with habitats to the south. The proposed preservation of approximately 87 acres in the southern portion of the project site (the proposed mitigation preserve), would maintain some of the site's existing local wildlife corridor and its regional connectivity to southern habitats.

RCE Policy 9-P-9. Resource Conservation Element Policy 9-P-9 calls for establishment of creek setbacks along riparian corridors, and suggests that setback buffers for protecting special status species habitat areas and wetlands may be expanded as needed to preserve ecological resources. There are no riparian corridors on the project site. Most wetland areas on the project site would be protected in the 87-acre onsite preserve (approximately 1.68 acres of wetland habitats would be protected in the preserve). Also, at least 1.92 acres of seasonal ponds would be constructed in the preserve to compensate for the loss of 0.96-acre of jurisdictional area in other areas of the site (i.e., a 2:1 mitigation ratio).

RCE Policy 9-P-12. Resource Conservation Element Policy 9-P-12 calls for protection and restoration of threatened natural resources, including wetlands and waterfowl habitat. Approximately 1.68 acres of wetland habitats (i.e., seeps and seasonally saturated areas) would be protected in the proposed 87-acre mitigation preserve. Some of this acreage would be restored to improve habitat and wetland functions. Also, an additional 1.92 acres of seasonal ponds would be constructed in the mitigation preserve to compensate for the loss of wetland habitats within the proposed development area. If these wetlands are created in an area of stable ground that would ensure that these wetland habitats will remain functioning in perpetuity, then Policy 9-P-12 would be satisfied.

Mitigation 11-1. The ultimate determination whether the proposed project, after implementation of the mitigations identified in this EIR, is or is not inconsistent with one or more General Plan goals or policies, would be the responsibility of City officials assigned such authority. In particular, interpretation of project consistency with City of Pittsburg General Plan policy is the ultimate responsibility of the City of Pittsburg Planning Commission and City Council.

In order to comply with City of Pittsburg General Plan policies 9-P-1 and 9-P-8, the project shall incorporate the following changes and mitigations into the project:

- (1) Implement Mitigations 11-3 through 11-12 which are discussed on the following pages (see Policy 9-P-1); and
- (2) Reseed cut-and-fill slopes or other graded/disturbed areas on the project site with a native herbaceous seed mix. No non-native or invasive species shall be included in the mix (see Policy 9-P-8).
- (3) The current preliminary version of the applicant's Mitigation and Monitoring Plan formulated for review by the resources agencies proposes preservation of approximately 3,300 linear feet of onsite drainages and onsite enhancement of approximately 1,000 linear feet of drainages.

The City of Pittsburg shall make the above items conditions of project approval and shall not approve grading plans until the above mitigations have been incorporated into the project to City satisfaction.

r During the local development review process, the City shall determine whether the
r applicant-proposed onsite drainage preservation program achieves project
r consistency with General Plan goals and policies related to creeks, or whether
r additional design measures are warranted.

Implementation of these measures would reduce this potential impact to a ***less-
than-significant level***.

The *Mitigation and Monitoring Plan* prepared by LSA Associates proposes creating six mitigation ponds totaling at least 1.92 acres (a 2:1 mitigation ratio) in the approximately 87-acre proposed preserve, where the existing, non-functional stock pond is currently located. Although the landowner has reported that this stock pond is no longer functioning due to berm failure, it is also apparent that the stock pond failed, in part, due to massive land slumping which filled in the pond.

Because of apparent land slumping and failure in the proposed mitigation area, and the associated threat of catastrophic loss of one or more of the six proposed mitigation ponds and resulting damage to downstream (developed) properties, a licensed geotechnical engineer shall prepare a report for the proposed mitigation ponds, demonstrating that they would be stable and otherwise would not be subject to massive failure, nor would result in a greatly increased risk of downstream property damage. This report must be independently reviewed by a qualified geotechnical engineer selected by the City of Pittsburg. If this report determines that the location sited for one or more of the ponds is subject to catastrophic failure or massive sliding, a mitigation site alternative shall be proposed and submitted to the City and the resource agencies (Corps, RWQCB, CDFG, and U.S. Fish and Wildlife Service) prior to ground breaking.

More stable hilltops, either within or outside the proposed preserve area, as opposed to potentially slumping side slopes and drainage bottoms, may be more appropriate for stable pond creation on the project site. Direct precipitation into a pond created with an impermeable substrate, such as compacted native clays, should provide all the water necessary to support breeding habitats for special-status amphibians such as the California tiger salamander and the California red-legged frog. Ponds created at the nearby Keller Canyon Landfill (stock ponds created historically by a cattle rancher and mitigation ponds designed by engineers), with very restricted watershed areas, have succeeded in creating wetlands that provide optimal California tiger salamander and California red-legged frog breeding habitat. Hence, the project site's hilltops, with comparatively more gentle terrain and stable soils, may provide the best location for mitigation pond creation. A licensed geotechnical engineer shall be hired to assist in determining stable pond creation locations.

Additionally, while the LSA-prepared *Mitigation and Monitoring Plan* describes the number and location of created ponds, the plan does not describe pond design specifics. More specific pond design details and engineering drawings should be included in the mitigation plan. The plan should include the following or similar specifications:

- (1) All pond side slopes should be no steeper than 3:1 (currently the mitigation plan has some 2:1 and some 3:1 slopes), or as otherwise determined by the CDFG.
- (2) Valves/drains should be installed on all created ponds to allow for pond drainage in case predators (for example, bullfrogs or non-native fish) become established in the ponds. While there is a mention of engineered outlets in the current mitigation plan, no engineering drawings of the ponds or outlets are included in the plan.

The applicant shall record the conservation easement prior to the time that greater than 50 percent of the proposed homes are constructed (prior to the 551st residential unit). Upon providing proof that the wetlands are preserved in a recorded perpetual conservation easement, the City shall allow the remaining residential units to be constructed.

(b) Section 401 Permit. Before the Corps issues any Section 404 permit to place fill into "waters of the United States," the applicant must receive a Section 401 Clean Water Certification from the RWQCB. Before the RWQCB will issue a Certification, it would require measures to offset impacts to wetlands. Measures developed for the Corps permit may be sufficient for the RWQCB, but the RWQCB can attach additional measures to the Certification that shall become conditions of project approval. Additionally, before the RWQCB will issue a Certification, the RWQCB "must receive a final copy of valid CEQA compliance documentation before taking a certification action."¹

On June 17, 2003, the applicant's biological resource consultant sent a request for water quality certification to the RWQCB (LSA Associates 2003a). A copy of the *Wetlands Mitigation and Monitoring Plan* was included with this submittal. The mitigation plan should be modified to include the additional recommendations in *Mitigation 11-2*, above.

- r (c) 1602 Streambed Alteration Agreement. The project proponent will need to obtain a 1602 Streambed Alteration Agreement with the California Department of Fish and Game (CDFG). This agreement requires that the proposed project be in compliance with CEQA, and the CEQA documentation must be included with the permit application. CDFG may attach additional measures to offset impacts to the creek channels and drainages that will also be considered conditions of project approval.

On June 17, 2003, the applicant's consultant sent an application for a Section 1602 Agreement to CDFG (LSA Associates 2003b). A copy of the *Wetlands Mitigation and Monitoring Plan* was included with this submittal. In September of 2003, the applicant placed their SBAA application on hold pending the release of the final CEQA document (i.e., Final EIR). The applicant will reinitiate contact with the CDFG once the CEQA review is closer to completion². The mitigation plan should be modified to include the additional recommendations in *Mitigation 11-2*, above.

Once the CDFG and the applicant come to an agreement on the mitigation necessary to offset the project's impact on stream channels onsite, and the project has been reviewed pursuant to CEQA (i.e., a Notice of Determination has been released by the City of Pittsburg), then the CDFG will likely enter into an SBAA with the applicant.

¹Hurley, RWQCB, July 21, 2003.

²J. Sisco, LSA Associates, April 6, 2004.

11.3.6 Project-Specific Impacts on Special-Status Species

Impact 11-3: California Red-Legged Frog. The project proposes development on approximately 0.96-acre of seeps and drainages that constitute potential California red-legged frog habitat. The California red-legged frog is a federal-listed threatened species and a California species of special concern. Possible impacts to the California red-legged frog from implementation of the proposed project include loss of habitat and death of individual frogs due to ground disturbance. These possible effects represent a ***potentially significant impact*** (see criterion [1] in subsection 11.3.1, "Significance Criteria," above).

The California red-legged frog is a federal-listed threatened species and a California species of special concern. While the frog has not been found on the site, suitable habitat has been identified. Approximately 2.76 acres of freshwater seeps, seasonal wetlands, and drainages on the site provide suitable habitat for the California red-legged frog.

Mitigation 11-3. The City of Pittsburg shall not issue a grading permit for the project until adequate demonstration to the City that California red-legged frog issues have been resolved to the satisfaction of the USFWS. To satisfy the USFWS, the applicant will need to: (1) instruct the U.S. Army Corps of Engineers (Corps) to initiate formal consultation, pursuant to section 7 of the Federal Endangered Species Act, with the USFWS regarding the California red-legged frog; and (2) implement mitigation as necessary (see details below). A copy of a "non-jeopardy" Biological Opinion issued by the USFWS shall be submitted to the City prior to issuance of a grading permit. Implementation of these measures would reduce this potential impact to a ***less-than-significant level***.

Prior to impacting California red-legged frog habitat, formal consultation between the Corps and the USFWS pursuant to section 7 of the Federal Endangered Species Act (FESA) would be necessary. If impacts to California red-legged frog habitats cannot be avoided by the project, USFWS-required mitigation may include preservation of onsite habitat, preservation of offsite habitat, creation of onsite or offsite habitat, or a combination of the above. In accordance with USFWS policy, impacts to California red-legged frog dispersal habitat, such as the main drainage (that is, the drainage where the stock pond is located), would require a mitigation. Currently, the applicant is proposing 2:1 creation mitigation (i.e., for each square foot of impacted wetlands, the applicant would create two square feet of wetlands) within the proposed 87-acre preserve at the south end of the property. This will have to be negotiated to the satisfaction of the USFWS. Additionally, all created ponds would have to meet the specifications stated in *Mitigation 11-2*, above.

Resolution of California red-legged frog issues with the USFWS shall occur prior to the City of Pittsburg issuing a grading permit for the project. A copy of a "non-jeopardy" Biological

Opinion for California red-legged frog issued by the USFWS for this project shall be submitted to the City prior to issuance of a grading permit.

Impact 11-4: California Tiger Salamander. The California tiger salamander has been identified on the project site. On August 4, 2004, the USFWS issued a final rule in the Federal Register announcing its decision to list the California tiger salamander statewide as a federal listed threatened species. Thus, effective September 3, 2004, the California tiger salamander receives protection under the Federal Endangered Species Act (USFWS 2004). The California tiger salamander is also a California species of special concern. It is also a "protected amphibian" under Title 14 of the California Code of Regulations. Implementation of the project as proposed would directly affect the California tiger salamander and its habitat. Impacts on California tiger salamander from the proposed project would include loss of approximately 200 acres of upland aestivation (i.e., summer retreat) habitat (that is, 178 acres of impacted grassland plus isolation of 22 acres of hillside due to surrounding development), and approximately 0.84-acre of wetlands (0.62-acre of seeps and 0.22-acre of seasonal wetland) which provide potential breeding habitat for the salamander. Possible impacts on the California tiger salamander from implementation of the proposed project include death of individual California tiger salamanders due to ground disturbance and loss of habitat, representing a **potentially significant impact** (see criterion [1] in subsection 11.3.1, "Significance Criteria," above).

On August 4, 2004, the USFWS issued a final rule in the Federal Register announcing its decision to list the California tiger salamander statewide as a federal listed threatened species. Thus, effective September 3, 2004, the California tiger salamander receives protection under the Federal Endangered Species Act (USFWS 2004). The California tiger salamander is also a California species of special concern. This salamander is also a "protected amphibian" under Title 14 of the California Code of Regulations.

During a March 2000 field survey by the EIR biologist, two adult California tiger salamanders were identified at the south end of the project site. In February 2001, Sycamore Associates, biologists for the previous applicant, identified one adult tiger salamander in the central portion of the project site. These sightings indicate that other tiger salamanders could be present on the project site, possibly within the development footprint.

Approximately 286 acres of grassland habitat occurs on the project site; this community provides suitable aestivation (i.e., summer retreat) habitat for the California tiger salamander. Additionally, approximately 2.55 acres of wetland habitat occurs on the project site. This provides suitable breeding habitat for the California tiger salamander. Approximately 200 acres of grassland habitat and 0.84-acre of wetlands that provide California tiger salamander habitat would be affected by the project as currently proposed (178 acres of grassland would be graded or otherwise disturbed and 22 acres of grassy hillside would be isolated due to surrounding development, totaling 200 acres).

Mitigation 11-4. The City of Pittsburg shall not issue a grading permit for the project until adequate demonstration to the City that mitigation for impacts to California tiger salamander habitat will be implemented to the satisfaction of the CDFG (and the USFWS since the species has recently been federally listed). To satisfy the CDFG and USFWS, the applicant will need to: (1) consult with the CDFG and the USFWS; and (2) redesign the project as much as possible to avoid aestivation and potential breeding habitat; or (3) where avoidance is not feasible, replace affected habitat in accordance with CDFG and USFWS requirements, and in accordance with specifications discussed in *Mitigation 11-1*; and (4) salvage adults and/or larvae. Implementation of these measures would reduce this potential impact to a ***less-than-significant level***.

(a) Consultation with the CDFG and USFWS. Since adult California tiger salamanders have been identified on the project site, CDFG has been contacted regarding the presence of this "protected amphibian" (which is also a state "species of special concern"). Additionally, since this salamander was proposed for federal listing as a threatened species at the time the applicant planned its mitigation (it is now a federal listed threatened species), the USFWS was also contacted regarding the presence of this species. On January 15, 2004, the Corps requested that the USFWS initiate a "formal conference" on the California tiger salamander pursuant to section 7 of FESA. By initiating a formal conference for this species, if the tiger salamander is listed during the life of the project, this species would already be addressed and its mitigation measures implemented. Copies of correspondence with the CDFG (and the USFWS since this species is now federally listed) regarding California tiger salamander shall be submitted to the City of Pittsburg. Mitigation for impacts to California tiger salamander habitat shall be implemented to the satisfaction of the CDFG and the USFWS prior to the City of Pittsburg issuing a grading permit for the project.

(b) Project Redesign and Habitat Replacement. Optimally, the project should be redesigned to avoid as much aestivation and potential breeding habitat as possible within 1.2 miles of where the salamanders were found onsite. Since it will not be possible to avoid affecting all potential aestivation habitat on the project site, mitigation for habitat loss would be necessary. In accordance with the CDFG's mitigation requirement, 1:1 replacement shall be required for any impacts to this species' habitat (i.e., one acre or fraction thereof of replacement habitat for each acre or fraction thereof of habitat affected); or, in the event that this species is federally listed prior to completion of the project, 2:1 mitigation, or as otherwise determined by the USFWS, is expected to be required.

The mitigation plan prepared by LSA Associates, biologists for the applicant, proposes creating six mitigation ponds totaling at least 1.92 acres (a 2:1 mitigation ratio) on an approximately 87-acre proposed preserve at the south end of the property. This 87-acre area currently supports approximately 1.68 acres of jurisdictional seeps and approximately 0.8-acre of unvegetated jurisdictional waters. Any mitigation ponds created for California tiger salamander breeding habitat should incorporate the recommendations in *Mitigation 11-2*.

At this time, the project applicant proposes to meet the remaining mitigation requirements for upland aestivation habitat by purchasing credits from an approved conservation bank, preferably in the Pittsburg area.

(c) Salvage of California Tiger Salamanders. The CDFG requires "salvage" of California tiger salamanders (i.e., mitigation for take) from proposed development sites prior to affecting the property. The salvaged salamanders should be relocated to suitable offsite mitigation property determined in consultation with the USFWS and the CDFG.

Impact 11-5: Pallid Bat and Yuma Myotis Bat. The project proposes fill/removal of the existing onsite rock quarry, which currently provides potentially suitable roosting habitat for the pallid bat and Yuma myotis bat, federal "species of concern" and state "species of special concern." Possible project effects on these species include loss of roosting habitat, and possibly death during fill/removal of the old quarry, both representing a **potentially significant impact** (see criterion [1] in subsection 11.3.1, "Significance Criteria," above).

Both pallid bat and Yuma myotis are federal "species of concern" and state "species of special concern." These bats are protected pursuant to CEQA (14 CCR section 15380). The rock walls of the old rock quarry provide suitable roosting habitat for pallid bat and Yuma myotis. To date, no surveys for bats have been conducted on the project site.

Mitigation 11-5. The City shall not issue a grading permit for the impacted area (i.e., rock quarry) until bat preconstruction surveys and, if necessary, required mitigation, have been completed to the satisfaction of the CDFG. To satisfy the CDFG, the applicant will need to: (1) hire a qualified biologist to conduct *CDFG-protocol preconstruction surveys* for pallid bat and Yuma myotis, and (2) coordinate these surveys with the CDFG. If such surveys demonstrate that special-status bats do not occur on the project site, no further requirements for bats shall be required by the City. If special-status bats are found during surveys, the applicant shall mitigate for any impacts that would occur to special-status bats to the satisfaction of the CDFG (see details below). Implementation of these measures would reduce this potential impact to a **less-than-significant level**.

Within 60 days prior to the removal of the old rock quarry, preconstruction bat surveys shall be conducted to determine if pallid bat, Yuma myotis, or any other special-status bat species reside in the quarry. Surveys shall be conducted by a biologist with experience surveying for and identifying bat species. Provided bats are not found at maternity sites, any special-status bats identified shall be evicted in a manner that does not harm the bats. If maternity sites are identified, they shall not be disturbed until young are free-flying. Evicted bats can

Mitigation Plan. Once passive relocation activities are authorized, these activities are typically required to follow the Burrowing Owl Consortium's standard guidelines (BOC 1993). Repeat surveys are also typically required to be conducted not more than 30 days prior to initial ground disturbance to inspect for re-occupation and the need for additional protection measures.

- If December-through-January surveys are not conducted, pre-construction surveys are typically required to be conducted not more than 30 days prior to initial ground disturbance. If nesting activity is identified either on the project site or within 250 feet of the project site, then typically no construction is allowed within a 250-foot radius of the occupied nesting burrow until August 31. Typically, a 250-foot protective buffer must be established with the placement of a barrier fence which must remain in place for the duration of the breeding season. Once the young have fledged, are foraging independently, and are capable of independent survival, the fence could be removed. A qualified ornithologist would typically monitor the owls a minimum of once a week to determine when it is safe to remove the fencing, typically by August 31.

(b) Habitat Replacement. If burrowing owls are observed during surveys, the CDFG typically requires that the extent of burrowing owl habitat on the site would be delineated by a qualified ornithologist. Six-and-a-half acres (6.5 acres) of replacement habitat per pair of burrowing owls, or unpaired resident bird, is typically required by the CDFG to off-set permanent impacts to burrowing owl habitat. For example, if two pairs of burrowing owls are identified on the project site, 13 acres of mitigation land would be acquired. Or, if one pair and one resident bird are identified, 13 acres of mitigation land would be acquired.

The CDFG would also typically require that land identified to offset impacts to burrowing owls be protected in perpetuity either by a conservation easement or fee title acquisition. The CDFG would also typically requires that such burrowing owl mitigation lands be identified in the general vicinity of the project site. Lands set aside to protect California tiger salamander aestivation habitat would probably be credited towards any mitigation requirements for burrowing owl.

The CDFG would also typically require that the *Mitigation Plan* identify the mitigation site and any activities necessary to enhance the site, including possible construction of artificial burrows. The plan will also be required to include a description of monitoring and management methods proposed at the mitigation site. Monitoring and management of any lands identified for mitigation purposes is typically the responsibility of the applicant for at least five years. Preparation of an annual report is typically required for submittal to the CDFG by December 31 of each year. Contingency measures for any anticipated problems are identified in the plan.

Mitigation 11-9. Completion of loggerhead shrike nesting surveys and establishment of CDFG-approved mitigation for any survey-identified active nests shall be a condition of project approval. The applicant shall retain a qualified biologist to conduct spring nesting surveys for loggerhead shrike, coordinated with the CDFG, the year grading is proposed. If nest(s) are found, the applicant shall complete the following measures:

- (1) Establish a 250-foot fenced buffer zone around each active nest location or as otherwise determined by the CDFG; and
- (2) Have a biological monitor present during all grading activity near the buffer zone.

If appropriately timed nesting surveys demonstrate that loggerhead shrikes do not nest on the project site, no further requirements for this bird shall be required by the City.

Implementation of this mitigation would reduce this potential impact to a ***less-than-significant level***.

The year grading is proposed for the project site, spring nesting surveys for loggerhead shrikes shall be conducted by a qualified biologist in trees that would be affected by the project. These surveys shall be a condition of project approval. If loggerhead shrikes are identified nesting on the project site, a 250-foot-wide fenced buffer shall be established around each nest tree, and a biological monitor shall be present when grading activity is scheduled in that portion of the project site to make sure that no work occurs within the fenced buffer area. After the young fledge, typically by July 1 in the project region, it is expected that the CDFG would allow grading within the buffer area.

Impact 11-10: California Horned Lark. The project proposes development on approximately 178 acres of non-native grassland that provide suitable nesting habitat for the California horned lark, a state-listed "species of special concern" and a protected species under the federal Migratory Bird Treaty Act. This species has been observed foraging on the project site. Possible project impacts to this species include loss of nesting habitat and possible death of nesting birds and young, representing a ***potentially significant impact*** (see criterion [1] in subsection 11.3.1, "Significance Criteria," above).

The California horned lark is a state "species of special concern." It is also protected under the federal Migratory Bird Treaty Act and California Fish and Game Code. Any project-related impacts to this species would be considered a significant adverse impact. The CDFG is primarily concerned with protecting this species while it nests. While the California horned lark has been observed foraging on the project site, it is not known to nest on the project site. However, no nesting surveys have been conducted and approximately 178

Sycamore Associates. 2000b. California tiger salamander surveys on Alves Ranch, Contra Costa County. Letter-report prepared for Ruggeri Jensen Azar & Associates. 8 pp.

Sycamore Associates. 2000c. Early evaluation for the San Joaquin kit fox at the Alves Ranch, Contra Costa County, California. May 25, 2000. 9 pp.

Sycamore Associates. 2000d. Botanical assessment of the Alves Ranch, Pittsburg, Contra Costa County, California. November 29, 2000. 7 pp. plus tables.

Sycamore Associates. 2000e. CEQA review of the administrative draft environmental impact report on the Alves Ranch project. Letter to Mr. John Compaglia, Ruggeri Jensen Azar & Associates. September 15, 2000. 6 pp.

Sycamore Associates LLC. 2001. Focused surveys for California tiger salamander at the Alves ranch, Pittsburg, Contra Costa County. 4 pp. plus figures.

U.S. Fish and Wildlife Service (USFWS). 1994. Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding for the California Tiger Salamander. Federal Register, Vol. 59, No. 74, pp. 18353-18355.

U.S. Fish and Wildlife Service (USFWS). 1997a. Guidance onsite assessment and field surveys for California red-legged frogs. February 18, 1997. 6 pp.

U.S. Fish and Wildlife Service (USFWS). 1997b. San Joaquin kit fox survey protocol for the northern range. April 1997. 13 pp.

U.S. Fish and Wildlife Service (USFWS). 1997c. U.S. Fish and Wildlife Service standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance. Sacramento Field Office. April 1997. 9 pps.

U.S. Fish and Wildlife Service (USFWS). 1998. Recovery plan for upland species of the San Joaquin Valley, California. Region 1, Portland, OR. 319 pp.

U.S. Fish and Wildlife Service (USFWS). 2000. Species list for environmental impact report, Alves Ranch, Pittsburg, Contra Costa County, California. March 17, 2000. 1-page letter plus attachments.

r USFWS (U.S. Fish and Wildlife Service). 2004. Endangered and threatened wildlife and plants;
r determination of threatened status for the California tiger salamander; and special rule
r exemption for existing routine ranching activities; Final Rule. Federal Register. Vol. 69, No.
r 149. pps. 47212-47248. August 4, 2004.

Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White. 1988. California's wildlife, volume I, amphibians and reptiles. State of California, the Resources Agency, Department of Fish and Game, Sacramento, California.

Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White. 1990a. California's wildlife, volume II, birds. State of California, the Resources Agency, Department of Fish and Game, Sacramento, California.