County of Santa Clara

Parks and Recreation Department

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Reservations (408) 355-2201
www.parkhere.org

August 8, 2014

Rebecca Tolentino, Senior Planner
City of Cupertino, Community Development Department
10300 Torre Ave
Cupertino CA 95014

Subject: Intent to Adopt Mitigated Negative Declaration

Project Title: Parkside Trails Residential Project

Dear Ms. Tolentino,

The County of Santa Clara Parks and Recreation Department (County Parks) has reviewed the MND for the Parkside Trails Residential Project and offers the following comments to be considered:

Project Description

The project description includes a proposed "pedestrian access easement and improvements (e.g., stairs and/or path) to maintain pedestrian access through the Residential parcel." (p 18). If pedestrian access through the Residential Parcel is to be included in the proposed project, it should be clearly described, depicted on the site plan, and analyzed in the IS/MND. However, please note that County Parks has expressed no interest in providing pedestrian access from the Residential Parcel's private road to County Park land.

Aesthetics

While impacts to Aesthetics are considered less than significant, County Parks finds that the project would create a noticeable alteration to the sight lines from within the adjacent Stevens Creek County Park, which would reduce the rural character of the park. Specifically, the views from the Chestnut Picnic Area, Rim Trail, and adjacent staging area would be impacted by the removal of existing mature trees and the construction of the nine-foot retaining wall along the

Residential Parcel's entrance road. The project would alter these views from this high-use area within the County Park as shown in Figure 4.1-3 and all new structures associated with the proposed project would be clearly visible. County Parks suggests that additional mitigation measures be included to mitigate the impacts to the views from the park. These measures could include screen plantings of trees of appropriate species at property lines and adjacent to the proposed retaining wall in sufficient quantities and sizes to mitigate impacts to aesthetic resources from the County Park.

Biology

The proposed development of the residential parcel could impact the riparian habitat along the creek, as indicated in PD Impact BIO-1. Additionally, construction and public access to the proposed Stevens Creek Trail, as described in the Parkside Trails Feasibility Study (Appendix A), would have potential impacts to the riparian habitat along the creek as indicated in DA Impact BIO-2.

This riparian corridor is adjacent to Stevens Creek County Park, and extends continuously through the park. Impacts to this riparian corridor could potentially affect the continuity and quality of the riparian corridor as a whole, including impacts to the portion within Stevens Creek County Park.

With the included mitigation measures, the biological impacts are considered less than significant. Mitigation measures PD MM BIO-1.1 through PD MM BIO-1.11 adequately address impacts related to invasive weeds, erosion and sedimentation, and contamination of water quality. However, these measures do not mitigate the direct loss of 0.02 acres of identified riparian habitat, and do not mitigate all of the indirect impacts as a result of increased human activity and disturbance related to development immediately adjacent to the riparian zone. Mitigations for these impacts should be included.

Land Use

The Residential Parcel is in an area identified by the City of Cupertino's General Plan as a hillside area (Cupertino General Plan, Figure 2-B). The project proposes a General Plan amendment from a land use designation of *Very Low Density Residential (5-20 Acre Slope Density Formula)* to *Low Density Residential (1-5 Dwelling Units per Acre)*. The City of Cupertino has policies of preserving the rural character of hillside areas (General Plan Policy 2-52); balancing development with the need to conserve natural resources in hillside areas (Cupertino Municipal Code Table 19.40.050); and ensuring that new construction follows natural contours, avoids mass grading, and retains significant specimen trees and integrates them into the developed site (General Plan Policy 2-52). The City of Cupertino's existing policies for hillside areas are consistent with the County of Santa Clara's policies for park development that balance recreational activities with the conservation of natural resources (General Plan Policy C-PR9). These County policies apply to the adjacent Stevens Creek County Park.

Given site's hillside location, proximity to Stevens Creek County Park, riparian habitat, and mature coast live oak woodland, a development proposal that follows the existing City policies for hillside areas would be more compatible with the land use and policies for conservation of natural resources at the adjacent County Park. A residential development more consistent with the existing land use designations and General Plan policies for hillside areas could conform to the existing topography, integrate the mature trees on the site, and include a buffer between development and both the County Park and the riparian corridor. A residential development more consistent with the existing land use designations would reduce impacts to the environment as a result of mass grading, tree removal, subsurface retaining walls adjacent to the creek, and loss of the natural character of the area.

Other

The following two topics are also relevant to the proposed project.

Grading

In accordance with the grading setback requirement in Cupertino's Municipal Code Section 16.08.200, all grading should be set back an appropriate distance from the property line. To be consistent with this provision, the property owner should complete a survey of the property line, clearly demarcate the property line, and keep all debris and construction activities within the boundaries of the Residential Parcel and provide the appropriate setbacks as determined by the City of Cupertino's grading ordinances.

Park Parcel Acquisition

As described in the project description, the Park Parcel would have an irrevocable offer of dedication to the City of Cupertino or its designee for use as public open space. The Park Parcel is an abandoned, un-remediated gravel quarry site, and contains a cliff edge that shows active signs of erosion and sediment load into the quarry floor and unnamed tributary to Stevens Creek. As stated in previous correspondence with the City, County Parks staff would not recommend County acquisition of the Park Parcel to the County Board of Supervisors until the City can certify that the cliff edge has been stabilized and that there would be no further needed quarry remediation, slope stability, regulatory agency requirements or other restoration/ mitigation expenses associated with slope stability, quarry closure/remediation for the entire quarry site.

Sincerely,

Will Fourt
Park Planner

CC: Ivana Yeung, County Roads & Airports Department
Elish Ryan, Acting Senior Planner, County Parks
Tim Heffington, Senior Real Estate Agent, County Parks

Rebecca Tolentino

From: Kern Peng [kpeng@scu.edu]
Sent: Friday, August 08, 2014 11:25 AM
To: Rebecca Tolentino
Subject: Environmental Review Committee for Parkside Trails

Dear Rebecca Tolentino,

I am a resident in the Rancho Deep Cliff community. I would like to raise concerns on the significant groundwork required for the Parkside project. As you know, the work required for putting 18 homes is far from a typical housing project: estimation of moving 200,000 cubic yards of earth movement, removal of 250+ trees, sewer system that required pumps, etc. All these pose significant risks in the environment. Please consider doing a thorough environmental review to ensure the risks are minimized.

Best Regards,
Kern Peng

Regional OpenSpace | Midpeninsula Regional Open Space District

August 9, 2014

Rebecca Tolentino
Senior Planner
City of Cupertino, Community Development Division
10300 Torre Ave.
Cupertino, CA 95014

Re: Comments regarding Draft Initial Study/Mitigated Negative Declaration for the Parkside Trails Residential Project

Dear Rebecca Tolentino,

On behalf of the Midpeninsula Regional Open Space District (District), I would like to submit the following comments regarding the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Parkside Trails Residential Project (Project), adjacent to Fremont Older Open Space Preserve.

The District owns and manages approximately 62,000 acres of open space land on the San Francisco Bay Peninsula, including Fremont Older Open Space Preserve (Preserve), which is located adjacent to the proposed project property. The District's mission is:

> *To acquire and preserve a regional greenbelt of open space land in perpetuity; protect and restore the natural environment; and provide opportunities for ecologically sensitive public enjoyment and education.*

Given this mission, the District has the following overall concerns:

- While the District supports the expansion of regional trail connections such as the Stevens Creek Trail, there are significant issues associated with the proposed Park Parcel and adjoining old quarry parcels that would need to be addressed before the District can collaborate with the City and other partners on the proposed trail connection associated with the project.

- While the District is supportive of the continued collaboration with the County of Santa Clara, Parks and Recreation Department (County Parks), the City of Cupertino and other partners on the completion of the regional trail connection, the District has not agreed to any remediation work that would be required for the old quarry site nor the mitigation measures associated with the implementation of the proposed off-site easements and trail improvements for the Coyote Ridge Trail Extension (Preserve).

- The IS/MND proposes mitigation measures identifying an offer of land dedication to a public agency which would not be feasible if a public entity does not accept the offer of the land

dedication. To our knowledge, no public agency would accept the offer of land dedication at this time. The Project's environmental analysis should evaluate the following alternatives, where (a) there would be an entity other than a public land management agency to receive the offer of land dedication for either or both of the Park parcel and Corridor parcel, and (b) there would be no entity, private or public, to accept the land dedication, and how the Project would subsequently be able to mitigate its potentially significant impacts with these two scenarios.

- The IS/MND identifies a loss of riparian habitat along Stevens Creek that is not adequately mitigated to address impacts to Stevens Creek, which is a listed creek with one of the last remaining steelhead trout runs in Santa Clara County.

- The IS/MND has not adequately addressed the proposed take of the Valley Oak Woodland Alliance (Alliance) present on the project site, which is a locally and globally rare oak woodland community and designated as a highly imperiled habitat by the California Department of Fish and Wildlife.

Furthermore, the District shares the following specific concerns on the Draft IS/MND:

3.0 PROJECT DESCRIPTION

3.4 Rezoning – Park Parcel

The IS/MND discusses the proposed rezoning of an approximate 30-acre parcel from RHS (Residential Hillside) to OS (Open Space) for the protection of open space on the parcel from future development. At this time, the District is not interested in acquiring ownership of, or management authority over the Park Parcel. District Staff cannot recommend acquisition or management of the Park Parcel to the District Board of Directors until the City of Cupertino (City) can certify that all outstanding geotechnical issues associated with the parcel and abandonded quarry site have been fully analyzed, remediated, and no further restoration, mitigation, or remediation actions are required on the property. Until a public agency accepts ownership or management of the Park Parcel, designation of the Park Parcel as protected open space should not be considered an accepted or appropriate mitigation measure for the proposed development project.

Specifically the IS/MND states: "...the steep creek banks located along the southern portion of the Residential parcel and the north side of Stevens Creek are potentially unstable during seismic loading and have a moderate to high susceptibility to earthquake-induced landslides along the creek." (p. 111, Section 4.6 Geology and Soils) Prior to the City or designee's decision to accept the offer of land dedication, the geotechnical issues associated with the old quarry should be analyzed and the site remediated prior to its rezoning from OS zone (as privately-owned open space) to PR (Parks and Recreation) for publicly-owned open space. A public land management agency should not bear the burden and associated costs of remediating the old quarry site, if the parcel were rezoned as public open space.

3.5 Offsite Dedications, Easements, and Land Trades

As part of the Project Description, the IS/MND discusses the future trail connections to Stevens Creek County Park and Fremont Older Open Space Preserve via a proposed trail route through the old quarry site ("old quarry site regional trail"). As referenced in the Parkside Trails Feasibility Study, June 2014 (Appendix A), "[a]n approximately 0.50 mile 8 to 10 foot-wide natural surface, shared-use trail is proposed to extend the Coyote Ridge Trail from the existing gate at the border of Fremont Older Open Space Preserve to Villa Maria picnic area to Stevens Creek County Park." The District would not accept a

trail easement over the Park Parcel until outstanding geotechnical issues associated with the parcels are remediated.

Since the specific locations for the easements of the proposed trails within the old quarry site have not been determined, the City, Santa Clara County Parks and the District would need to further evaluate the specific trail alignments as they are developed for the proposed connection to Stevens Creek County Park and Fremont Older Open Space Preserve. All potential partners would need to gain a better understanding of the subsurface geotechnical investigations and remediation measures that would be needed for the old quarry site.

4.1 AESTHETICS

4.1.1.3 Scenic Views

The Project proposes removal and replacement of 264 existing trees within the Project site, which is located off of Stevens Canyon Road, a designated Scenic Rural Route. The IS/MND does not adequately assess the potential aesthetic and visual impacts associated with the removal of a significantly large number of mature trees on the property on the scenic views from Stevens Canyon Road and on the visual character of the surrounding natural environment.

In particular, the project has not adequately addressed the scenic impacts associated with the removal of 258 trees that include mature, native species such as Blue oak, California bay, Coast love oak, Fremont cottonwood, Valley oak and other native trees on the Residential Parcel (Table 4.4-1, Trees Proposed for Removal). While the IS/MND provides a photo-simulation illustrating a different visual character of the Residential Parcel from Stevens Canyon Road with the proposed removal of the existing mature trees and the new landscaping (Figure 4.1-1), there is no discussion regarding the environment impacts of the modified visual character and scenic corridor views with the removed trees on the subject parcel, under Section 4.1.3.2.

Aesthetics and Open Space

Given that the property is visible from the neighboring County Park, and is situated in an existing riparian corridor, the proposed residential development may potentially have a visual impact when seen from the County Park by recreational users. The selection of exterior color schemes, materials, and landscaping elements for the proposed development should reflect the natural surroundings of the area. Earth tone exterior colors and the use of native vegetation are preferred, and highly reflective surfaces should be avoided.

Vegetation Screening

The District recommends the planting of native vegetation in the area surrounding the proposed development to screen views of the residential development from visitors recreating in the adjacent County Park. Additionally, screening should be put in place to prevent light pollution from reaching the adjacent riparian corridor. New vegetation for screening purposes should be located along the southern border of the project area, where it would screen the views of Park users and hikers at Stevens Creek County Park. Because of the close proximity of the project site to surrounding open space lands, new vegetation should be carefully selected, ensuring that the species are locally native and pose minimal fire hazard. The District further recommends that any new plantings be arranged in a natural and clustered arrangement to prevent a "manicured" and unnatural look that is characteristic of linear row plantings.

4.14 PUBLIC SERVICES

4.14.1.4 Parks

The IS/MND states: "[e]xamples of regional facilities include Rancho San Antonio and Stevens Creek County Parks and Fremont Older Open Space Preserve managed by the Midpeninsula Open Space District." The IS/MND should clarify that Stevens Creek County Park is owned and managed by the County of Santa Clara, Parks and Recreation Department (Santa Clara County Parks). The Midpeninsula Regional Open Space District owns and manages Rancho San Antonio Open Space Preserve and Fremont Older Space Preserve. Through a management agreement with Santa Clara County Parks, the District manages Rancho San Antonio County Park.

4.4 BIOLOGICAL RESOURCES

4.4.3.1 Impacts to Upland Habitats

The IS/MND identifies significant impacts to the riparian habitat and buffers with a temporary disturbance of 0.02 acre of riparian habitat adjacent to Stevens Creek as a result of grading associated with construction of the bioretention basin, where encroachment into the buffers around these habitats both during and after construction would be a significant impact. There is a direct loss of riparian habitat acreage that is not adequately addressed by the proposed mitigation measures which propose control of invasive species, interim erosion and sediment control plan/slope stabilization and revegetation plans, and other measures.

There is substantial remedial grading that would take place on the slope above the creek, as shown in Figure 3.2-3 (limit of remedial grading), as well as civil grading below the proposed bio retention area. The extensive level of grading on the slope may not be consistent with the City's Policy 5-19: "Require that site design respect the natural topography and drainages to the extent practicable to reduce the amount of grading necessary and limit disturbance to natural water bodies... "

As indicated in the IS and soils report, the creek bank soils are alluvial, or quarry fill. The IS indicates that "The steep creek banks below the Residential parcel could become unstable during seismic events and are considered moderately to highly susceptible to earthquake induced landslides." (IS pg. 108) Also "The creek bank is steeply incised with eroded vertical banks at multiple locations."(IS pg 110) No mitigation measures have been developed to address these issues for the Corridor Parcel below the Residential Parcel and immediately adjacent to the creek. The creek at this location is an outside bend, subject to creek scour (eroded vertical banks) as noted above. This should be of particular concern to the City since the proposal is to gift the Corridor parcel to the City. As stated in section 3.3 (IS pg 19) "creek maintenance" of this parcel will be the City's responsibility. This area of responsibility will be between the creek and the main access road to the development. The District has observed that this often leads to rip-rap or other costly bank protection measures that also significantly degrade riparian habitat.

Impacts on Stevens Creek and Habitat for Steelhead

The Santa Clara Valley Water District (SCVWD) is in the process of completing their Three Creeks Habitat Conservation Plan (HCP), and lists Stevens Creek as one of the last remaining steelhead trout runs in Santa Clara County. Additionally, steelhead populations have been increasing in recent years (Attachment B), and the loss of existing steelhead habitat should be avoided in order to support the species migration along Stevens Creek. The District is concerned with the potential negative affects on steelhead habitat resulting from the degredation and permanent loss of riparian habitat associated with

the proposed project. The IS/MND does not adequately mitigate for the loss of this riparian habitat, and the City should be coordinating with the SCVWD on the mitigations.

Loss of Valley Oak Woodland Alliance

The District is concerned with the significant loss of native Oak trees proposed for removal because the tree removal would be a proposed take of the Valley Oak Woodland Alliance (Alliance) present on the project site (Attachment A). The United States Department of Agriculture and the United States Forest Service have indicated that the Alliance is present on the project parcel in the location of the proposed residential development. The California Department of Fish and Wildlife has also designated the Alliance as a highly imperiled habitat. The Alliance is designated as both globally and locally rare, with a ranking of G3-S3, which is defined as accounting for a total of 3,000 – 10,000 individuals, or 10,000-50,000 acres.

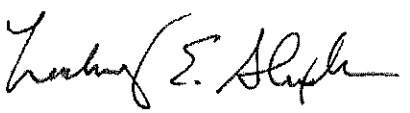
Vegetation Removal

The IS/MND indicates that a tree removal permit will be sought for the removal of 264 trees on the Project site (Section 3.6.4). Appendix D of the project documents indicates that 267 trees are schedule for removal from the Project site. The District requests that a correction is made to the Project documents to clearly indicate the number of trees proposed for removal.

The Project specifies that either 264 or 267 trees will be removed, specifically 135 individual protected trees (Table 4.4-2). Oaks proposed for removed should be evaluated prior to removal to determine if any qualify as a heritage oak, specifically oaks that are 12 inches or larger in size. Steps should be taken to ensure that the existing oak trees that are not scheduled for removal be protected from potential impacts associated with construction activities on the project site. Trees that are removed or negatively impacted during the construction process should be replaced at the recommended replacement ratio. Though it is not known if the trees or vegetation on the site are hosts or carriers of known plant diseases, attention is needed during the removal process to reduce the potential risk to the surrounding environment. In order to minimize the potential spread of Sudden Oak Death Syndrome (SODS) and other pathogens during the removal process of vegetation from the project site, all vegetative material approved for removal should be transported to an approved waste disposal site within the same County. SODS materials cannot be moved outside of regulated areas without a Compliance Agreement from the appropriate County Agricultural Commissioner. All vegetation removal should follow the "Sanitation Methods to Avoid Pathogen Spread" adopted by the California Oak Mortality Task Force, available on the internet at http://www.suddenoakdeath.org/diagnosis-and-management/sanitation-reducing-spread/

We appreciate the opportunity to comment on the proposed development. Should you have any questions, please feel free to contact me at (650) 691-1200, or zalexander@openspace.org.

Sincerely,

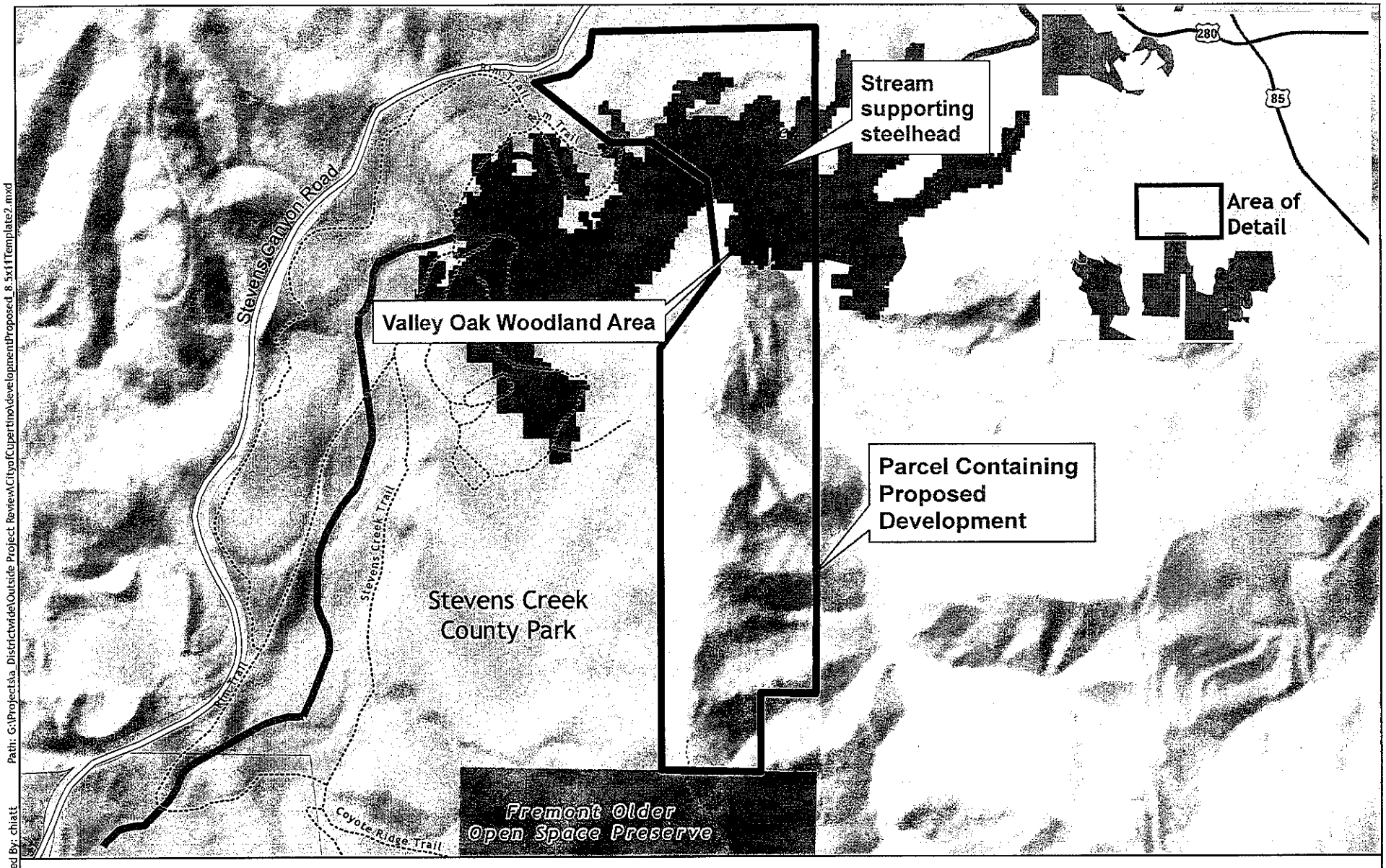


Zachary Alexander
Planner II
Midpeninsula Regional Open Space District

cc: MROSD Board of Directors

Attachments

Attachment A – Valley Oak Woodland Alliance Map
Attachment B – Center for Ecosystem Management and Restoration's Report on "Historic distribution and current status of steelhead/rainbow trout in streams of the San Francisco Estuary, California"



City of Cupertino, Parkside Trails Residential Development

- Valley Oak Woodland (CalVeg)
- Steelhead supporting stream
- Parcel Proposed for Development
- MROSD Preserves
- Other Protected Open Space or Park Lands
- Watershed Land
- Private Property

Midpeninsula Regional Open Space District *(MROSD)*

August, 2014

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While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

Historical Distribution and Current Status of Steelhead/Rainbow Trout *(Oncorhynchus mykiss)* in Streams of the San Francisco Estuary, California

Robert A. Leidy, Environmental Protection Agency, San Francisco, CA
Gordon S. Becker, Center for Ecosystem Management and Restoration, Oakland, CA
Brett N. Harvey, John Muir Institute of the Environment, University of California, Davis, CA

This report should be cited as:

Leidy, R.A., G.S. Becker, B.N. Harvey. 2005. Historical distribution and current status of steelhead/rainbow trout *(Oncorhynchus mykiss)* in streams of the San Francisco Estuary, California. Center for Ecosystem Management and Restoration, Oakland, CA.

Center for Ecosystem Management and Restoration

Calabazas Creek Watershed

Calabazas Creek drains a 21 square mile area of the Santa Clara Valley that is mostly urbanized in its lower portions. The headwaters are in rural and/or relatively undeveloped areas on the eastern slopes of the Santa Cruz Mountains. The creek consists of approximately 13 miles of channel that enters the San Francisco Estuary via Guadalupe Slough (SCBWMI 2001). According to a 1987 DFG memo, four substantial fish barriers are found downstream of Comer Drive on Calabazas Creek (Ulmer 1987). Drop structures at Bollinger Road and Rainbow Drive are believed to be absolute barriers to upstream fish movement, as is a 12 foot inclined dam downstream of Comer Drive (HSA and Smith 1987).

Calabazas Creek

According to an account by Ian Gilroy, *O. mykiss* were present in Calabazas Creek in the early 1970s (J. Abel pers. comm.). As part of a fish distribution study, four Calabazas Creek sites were sampled between the Bayshore Freeway and Cox Avenue in August 1981. No *O. mykiss* were found (Leidy 1981-1984, 1984). A survey of the creek performed on behalf of SCVWD in May and August 1987 found no native fish (HSA and Smith 1987).

Prospect Creek

Prospect Creek is the uppermost tributary of Calabazas Creek and drains an area of approximately 1.4 square miles. It contains approximately with 1.4 miles of channel (SCBWMI 2001).

Prospect Creek was sampled by dip net upstream from Prospect Road in August 1981 as part of a fish distribution study. No fish of any kind were encountered (Leidy 1981-1984, 1984).

Assessment: The lower portion of Calabazas Creek was extensively altered for flood control purposes between the 1960s and the early 1980s, leaving most of the channel in the form of box culvert or earthen constructed channel. According to a study of fisheries values of Calabazas Creek, the stream is unsuitable for steelhead because of a lack of pools, good hiding cover, and suitable streamflows (HSA and Smith 1987).

Stevens Creek Watershed

Stevens Creek drains an area of about 29 square miles and originates in the Santa Cruz Mountains. The creek drops into the western edge of the Santa Clara Valley where it drains into the South San Francisco Bay. There is one major impoundment, Stevens Creek Reservoir. Several tributaries including Gold, Deer and Indian creeks were surveyed by DFG in 1946 and were found to be too steep to support trout (Shapovalov 1946c). During periods of high runoff, water from Permanente Creek is diverted into Stevens Creek.

Stevens Creek

Stevens Creek consists of approximately 20 miles of channel, and enters the San Francisco Estuary near Long Point, north of Moffett Field Naval Air Station (SCBWMI 2001). A 1905 report notes *O. mykiss* in Stevens Creek (Snyder 1905).

In 1947, no hatchery origin *O. mykiss* were identified in angler catch reports from Stevens Creek Reservoir, although 3,520 were planted the previous summer. The Department of Fish and Game concluded that hatchery *O. mykiss* showed negligible survival in this system (CDFG 1947).

According to a DFG summary report, 6,865 fingerling steelhead were rescued from Stevens Creek in 1954 (Pintler 1956). Rescued fish apparently were moved to other areas within the Stevens Creek watershed that had wetted stream channel throughout the dry season.

Sampling as part of a fish distribution study found *O. mykiss* at four of eight Stevens Creek locations in August 1981. Four *O. mykiss* (65-110 mm FL) were caught in a ten-meter reach downstream from Stevens Creek Road and two *O. mykiss* (60, 192 mm) were caught in a 30.3-meter reach in Stevens Creek County Park downstream from Stevens Creek Reservoir (Leidy 1981-1984, 1984). Upstream from Stevens Creek Reservoir, two *O. mykiss* (48, 58 mm) were caught in a seven-meter reach at the first bridge upstream from Mount Eden Road and 15 *O. mykiss* (58-72 mm) were found in a ten-meter reach approximately 5.9 miles upstream from the reservoir (Leidy 1981-1984, 1984).

The Department of Fish and Game surveyed Stevens Creek for migrating salmonids in December 1985. One steelhead (650 mm) was seen at the base of the fishway 100 yards upstream of the Highway 101 bridge (Bordenave 1986). Scale analysis indicated that the fish was age 6+ and had previously spawned and returned to the ocean.

Prior to 1996, SCVWD routinely constructed seasonal spreader dams in the Stevens Creek channel to increase percolation. As part of a five-year study (1989-1994) of the impact of spreader dams on fisheries, SCVWD sponsored a study of habitat and passage conditions in Stevens Creek from 1990 to 1994. In 1994, SCVWD found fish ladders at the Central Expressway and Highway 101 often had insufficient flow and/or were clogged with debris and sediment (HRG 1995). In addition, the drop structure at L'Avenida Avenue was impassable in all five years of the study. Electrofish, gillnet and seine sampling upstream and downstream from spreader dams and downstream from the Stevens Creek Reservoir is reported in Table V-3.

Table V-3. Number of O. mykiss sampled on Stevens Creek, 1990-1994

Location	1990	1991	1992	1993	1994
Stevens Ck. Country Park	*	6-14	2-5	6-14	1
Downstream Stevens Ck. Blvd.	*	*	2-5	30+	*
Spreader-dam pond downstream I-280	*	*	2-5	*	*
Homestead Rd.	*	*	0	0	6-14
Dam pond upstream Fremont Ave.	*	0	0	2-5	6-14
Downstream Fremont Ave. Dam	0	*	0	0	*
L'Avenida Ave.	0	*	0	0	0

(Source: HRG 1995)

*Not sampled.

Additional monitoring conducted as part of the SCVWD spreader dam studies was summarized in 1994. Of five locations electrofished in 1992-1993 surveys, *O. mykiss* were found to be "abundant" (30 or more individuals) near Stevens Creek Boulevard and "common" (15-30 individuals) at Stevens Creek County Park (HRG 1994). Fish ladders at Central Expressway and Moffett Boulevard were checked as part of the monitoring program and were found to be non-functional due to maintenance and flow issues.

Leidy electrofished Stevens Creek between McClellan Ranch Park and Monte Bello Preserve in September 1994, finding *O. mykiss* at all four locations sampled (Leidy 2002). He caught 23 *O. mykiss* (55-240 mm FL) in a 30-meter reach within McClellan Ranch Park, and seven *O. mykiss* (140-235 mm) in the Chestnut Picnic Area just downstream from the reservoir (Leidy 2002). Just upstream from the reservoir, he caught 12 *O. mykiss* (50-140 mm) in the Cooley Picnic Area. Further upstream, at the end of Stevens Creek Canyon Road, Leidy caught 16 *O. mykiss* (46-170 mm) (Leidy 2002). In April 1996, Leidy electrofished Stevens Creek downstream of East Middlefield Road and found no *O. mykiss* (Leidy 2002).

In 1996, sampling for a genetic study found *O. mykiss* in the lower reach of Stevens Creek (J. Abel pers. comm.). The study found these *O. mykiss* to be primarily of hatchery origin, although some native, Central Coast ESU steelhead were present. In 1997, steelhead smolts and YOY were rescued by SCVWD staff from reaches of the stream where it was drying due to seasonal releases rates and stream flow conditions (J. Abel pers. comm.). In 1998 and 1999, SCVWD electrofishing surveys found *O. mykiss* throughout the entire reach from the Central Expressway to Fremont Road. Staff noted the presence of *O. mykiss* to be atypical since the lower reach was usually dry during the season (when sampling occurred). Also in 1998 and 1999, out-migrant traps caught steelhead smolts in Stevens Creek (J. Abel pers. comm.).

As of 2001, SCVWD had identified multiple potential passage barriers on Stevens Creek of which zero completely precluded passage. Five were rated passable only under a small range of flow conditions and included: the gaging station between Central Avenue and Hwy 85 with its three associated drop structures; the Moffett fish ladder downstream of the gaging station; fish ladders at Evelyn and Fremont Avenues; and a low-flow vehicle crossing at Blackberry Farm (Entrix Inc. 2001).

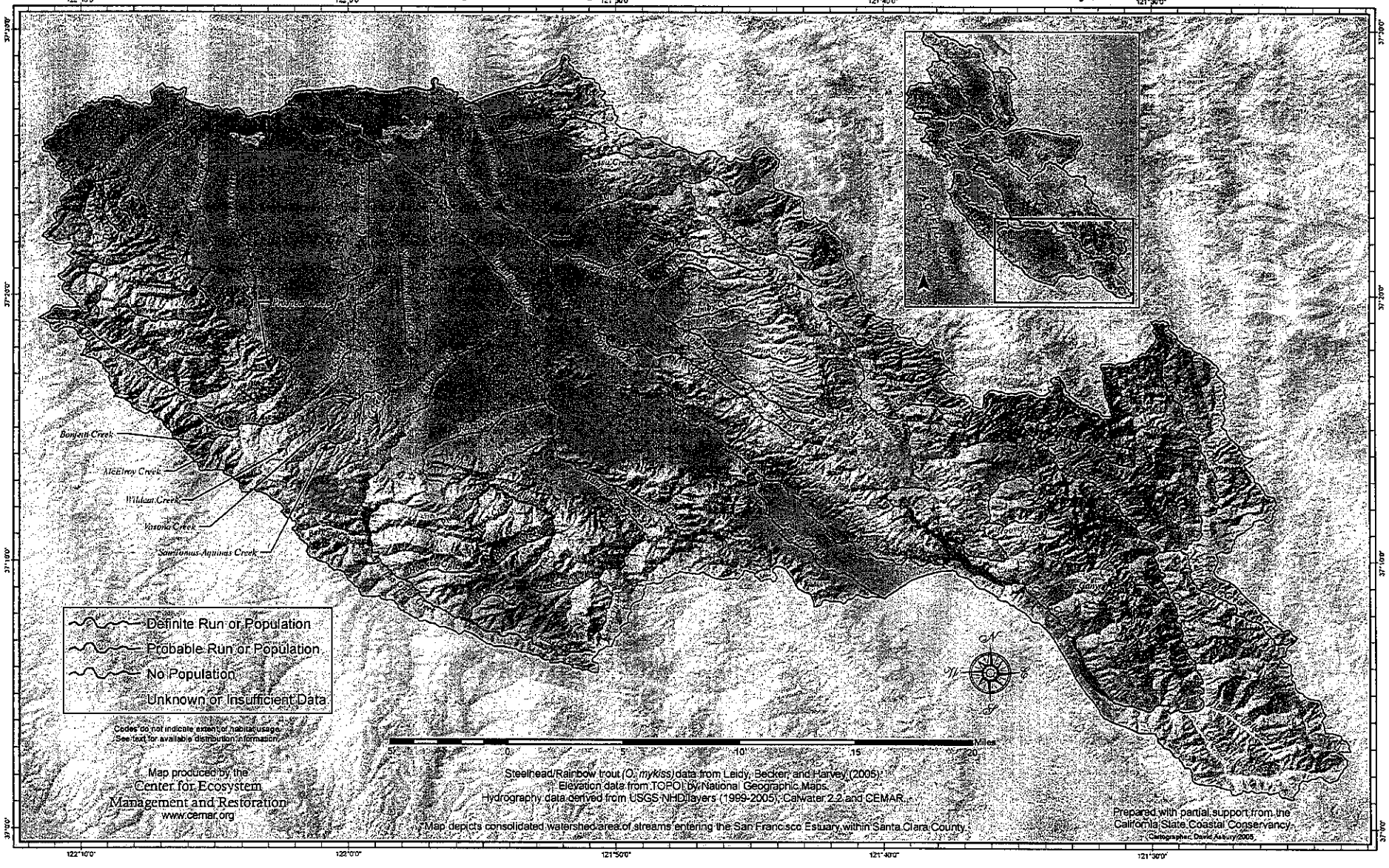
Swiss Creek

Swiss Creek is tributary to Stevens Creek Reservoir. It consists of approximately 1.7 miles of channel (SCBWMI 2001).

In August 1981, two Swiss Creek locations were sampled as part of a fish distribution study. No *O. mykiss* were found (Leidy 1981-1984, 1984). According to SCWVD staff, the creek rarely maintains sufficient water throughout the dry season to support an *O. mykiss* population (J. Abel pers. comm.).

Assessment: Stevens Creek historically supported a steelhead run, though the population has been reduced by alterations to the watershed, particularly construction of Stevens Creek Reservoir. Stevens Creek currently supports resident *O. mykiss* that appears to produce smolts (SCBWMI 2001; Smith 1997). A 1994 DFG memo stated that Stevens Creek had good potential for sustaining steelhead (Roper 1994).

Current status of *Oncorhynchus mykiss* in streams of Santa Clara County, California*



5750 Almaden Expressway, San Jose, CA 95118-3614 | (408) 265-2600 | www.valleywater.org

Santa Clara Valley Water District

File: 28395
Stevens Creek

August 8, 2014

Ms. Rebecca Tolentino
Community Development Department
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Subject: Mitigated Negative Declaration of Parkside Trails Residential Project

Dear Ms. Tolentino:

Santa Clara Valley Water District staff has reviewed the Notice of Intent to Adopt a Mitigated Negative Declaration for the Parkside Trails Residential Project along with the preliminary plans prepared for the Tentative Map. The project consists of the development of 18 residential lots and two common lots homes on 8.5 acres. The remainder of the 42.4 acre site will be designated as riparian corridor and park.

PD Impact BIO-1. The document identifies a significant impact to the riparian habitat along Stevens Creek associated with the construction and occupation of project residences. The mitigation measures cited to minimize this impact to a less than significant level include several measures to limit the spread of invasive weeds, mitigation to avoid the spread of sudden oak death and a variety of measures to address construction impacts. The project buffer from the riparian corridor is approximately 40 feet to the edge of the road. This buffer area is significantly less that commonly used and recommended for riparian buffer areas.

The document fails to address post construction impacts associated with the occupation of the residences in close proximity to the riparian habitat. The habitation of additional residences and additional trails along this reach of creek will increase the potential for human and domestic animal access to the creek and riparian corridor.

PD MM BIO-1.1. In addition to the eradication and monitoring of invasive species, post construction weed control measures should include planting of additional understory watershed specific native shrubs and grasses to replace and preempt reestablishment of the invasive species. In addition to protecting the existing riparian corridor and providing a buffer we urge the enhancement and expansion, where feasible of this important habitat.

PD MM BIO-9.1. The project would result in the removal of 126 coast live oaks, many of which are directly adjacent to the identified riparian corridor. It is not clear from the information provided as to how the corridor was delineated to omit all of these adjacent coast live oaks. The project proposes to replace the trees with 24" to 36" box trees both on and off site. To mitigate for the loss of trees at this site, a majority of the replacement trees should be replaced on site

and in kind. In addition, native species should be replaced with watershed specific native species. This site is at the upper end of the urban area of the stream corridor making the importance of tree replacement with watershed specific species critical.

Watershed specific species are propagated from field collected seeds or cuttings on a contract basis and are not available in the larger box size specimens. Box size trees would be appropriate for ornamental trees within the residential area of the project.

Hydrology and Water Quality-The project includes a bio retention basin which appears to be designed for water quality treatment and as a holding basin from which storm water will be pumped to the upstream outfall . Treatment basins require a retention period to allow for the settlement and removal of pollutants. To discharge from the basin at a rate to meet capacity restrictions, water will need to be removed from the basin at a more rapid rate (0.9 to 4.5 cfs). It is not clear that the water quality treatment / bio retention function will be effective.

The overflow spillway terminates mid bank at the edge of the riparian corridor. Discharge of water over this spillway without slope protection on the bank will likely result in erosion to the creek bank. Extension of the rock to the creek bed would address this erosion potential which would require regulatory permits. The inclusion of the rock lining in the project in close proximity to the creek may also have impacts not addressed in the document, including the introduction of hardscape that will preclude the establishment of replacement vegetation.

While the storm water management plan states that the basin will be operated to mimic pre development flow rates, it should be noted that with a pump operated system it may be difficult to achieve this goal. Changes in flow rate and volume may increase the potential for erosion at the outfall. Measures should be included in post development conditions to monitor the site and include requirements to make repairs if erosion occurs. Similarly, the responsibility for the operation and management of the storm water pump system is not apparent. This responsibility is typically failure prone when assigned to a homeowners group. The potential for spillway discharges is fairly high with a pump operated storm water discharge system and should be considered in the development of operational responsibilities and backup power supply requirements.

I may be reached by phone at (408)630-2253 or by email at stippets@valleywater.org .

Sincerely,

Sue A Tippets

Sue A. Tippets, P.E.
Engineering Manager
Community Projects Review Unit

cc: C. Elias, L. Lee, L. Porcella, S. Katric, U. Chatwani, S. Tippets, File

28395_57024st08-08

21346 Rumford Drive
Cupertino, CA 95014
August 9, 2014

Rebecca Tolentino
Senior Planner
City of Cupertino
Community Development Department
10300 Torre Avenue
Cupertino, CA 95014
rebeccat@cupertino.org

Subject: Comments to Initial Study/Mitigated Negative Declaration, Parkside Trails Residential Project

Dear Ms. Tolentino:

Below are comments on the Parkside Trails development IS/MND. As a long time Cupertino resident who frequents Stevens Creek County Park for birding, nature study and exercise, and who prior to the construction of barrier fencing prohibiting entrance to the former landfill and quarry areas immediately north of the county park has observed the project site over time, I am very familiar with these areas. I have also attended a tour of the residential site and part of the open space area provided by the developer. My comments are brief because I think that **the environmental analysis of possible impacts to biological resources is fundamentally flawed.**

The developer has presented to the city a project with three main components: the residential development, the dedication of land as public open space, and prospects of a trail project through the dedicated land. They are hoping that the incentive to retain one section of the property as permanent open space and to build a linkage trail through it will persuade the city to approve the overall project. For a CEQA compliant document, it is correct that the IS/MND includes all three components as together they will have cumulative impacts on biological resources. The flaw is that the biological resources of the land to be dedicated as permanent open space and that will include a trail has not undergone a thorough investigation of biological resources present and the specific impacts that the use of a trail may have on them.

Thus the IS/MND Summary of Impacts and Mitigation Measures is filled with language such as:

DA Impact BIO-2: Future trail construction on the Corridor or Park parcels and offsite trail and parking lot easements could result in direct and indirect impacts to sensitive riparian, aquatic and/or wetland habitats.

These possible impacts due to trail construction, etc. are followed by very general comments about what will be done in the future to assess biological resources, to fulfill regulatory requirements and to apply mitigation measures if this and if that is found to be present. The list of impacts and mitigations are boilerplate and most could apply to any project in similar habitat types. For an understanding of whether the trail project will have unavoidable impacts, it is necessary to know more specifically what species are present on the entire project property. It is also necessary to know what the alternatives are. This can only be accomplished by a thorough assessment of the

biological resources present at different times of the year (as species diversity varies according to the season) in both components of the project likely to product negative impacts: residential development and trail development. **To adequately fulfill the letter and the intent of the CEQA law, this project requires a full Environmental Impact Report to reveal all of the facts necessary to evaluate it's impacts and it's alternatives.**

There are other comments that I could make which point out errors and omissions and that offer additional information and I will await the production of a full EIR to make those.

At this time I urge decision-makers to consider the ecological importance of aquatic, woodland and upland habitat associated with creeks given their destruction over the decades of urban development in our area. The city of Cupertino has been admirable in it's restoration efforts along the Stevens Creek corridor under its jurisdiction in an attempt to reverse the diminishment of habitat value and to serve as a model of what other cities and counties can and should do. While restoration of creek corridors is needed to restore ecological function upon which we and a great number of wildlife species all depend, it is also important to realize that much of Stevens Creek is heavily impacted by the alignment of roads, trails, golf courses as well as unauthorized human use (in particular on lands that are fenced off from public access but are used by kids on bicycles and even motor bikes) from it's headwaters in Monte Bella Open Space Preserve to where it enters San Francisco Bay. There is very little left of Stevens Creek that is not impacted by nearby human activity. Reputable scientific studies show that human presence and activity close to creeks reduce presence and usage for feeding, roosting and breeding of the otherwise rich habitat resources of the riparian corridor. The subject project area is one section of Stevens Creek that has not been subject to this kind of disturbance. **It is the responsibility of the city leaders to proceed carefully in evaluating this project, no matter what its attractiveness for offering trail easements, and to require complete and detailed information that a well-prepared Environmental Impact Report can provide.**

Thank you for your attention to my comments for the Initial Study/Mitigated Negative Declaration for Parkside Trails Residential Project.

Sincerely,

Deborah Jamison

Rebecca Tolentino

From: Judith Elaine Bush [judith@grey-cat.com]
Sent: Saturday, August 09, 2014 11:01 AM
To: Rebecca Tolentino
Cc: City Clerk
Subject: IS/MND Parkside Trails

Dear Friends:

As a downstream resident near Stevens Creek, I have great concerns about development close to the creek. I believe to protect the environment we all share, an EIR for the "Possible Future Trails, Offsite Dedications, Easements, and Land Trade Measures" would provide the substantial understanding needed to mitigate this project's impact. It seems that before the city agrees to the rezoning for the Planned development, the plans for the the land trade measures should be clear.

Reviewing the Biological resources report for the planned development, based on a survey done one day in winter, I have several comments:

No mitigations for the bat communities are described. The project should place replacement bat habitat within the new subdivision (http://www.batmanagement.com/Ordering/batboxes/batcan/batcan.html).

Coast live oaks should be replaced with coast live oaks endemic to the area, not generic trees of a certain size (PD Impact BIO-9).

Also, I suggest requiring that the landscaping be drought suitable through use of endemic species. (PD Impact GEO-2)

Note that in the Draft Mitigated Negative Declaration Attachment A sections PD Impact BIO-2 & PD Impact BIO-3 are absent and PD Impact BIO-5 is duplicated. These issues should be resolved, minimally by noting that the two sections are absent intentionally, before the draft is accepted.

Sincerely,

judith bush

--
Judith Bush * judith@grey-cat.com
500 W Middlefield Rd #35
Mountain View, CA 94043 USA

Rebecca Tolentino

From: Sadie Carlson [sadie.c.carlson@gmail.com]
Sent: Saturday, August 09, 2014 11:39 AM
To: Rebecca Tolentino
Subject: IS/MND Parkside Trails.

I would like to support Actera in demanding adequate research on the impacts of this development, however I do not know sufficient science or law to make any comments. If there is any other way I can give my support (i will be out of town during the meeting) please let me know.
-Sadie

Rebecca Tolentino

From: Gary Bailey [tigergary@earthlink.net]
Sent: Saturday, August 09, 2014 4:10 PM
To: Rebecca Tolentino
Subject: Comments Re: Parkside Trails Residential Project
Attachments: Cupt creek comments 2014.doc

Importance: High

Atached are my comments on the MItigated Negative Declaration for the "Parkside Trails Residential Project".
Gary Bailey

Gary Bailey
tigergary@earthlink.net

***Comments on Mitigated Negative Declaration for* Parkside Trails Residential Project**

An EIR is warranted for this proposed project because of the significant environmental impacts, which are not adequately studied or mitigated with the negative declaration. Numerous comments below show the need for an EIR. Furthermore, the negative declaration gives no consideration to impacts to wildlife and wildlife habitats, including those within the riparian area, except for listed species. Perhaps the impact which most justifies an EIR is green house gas release from vegetation and tree removal, and from soil disturbance and removal, and from construction equipment operating at the site, and from transportation of workers and equipment to and from the site. And future residents of the site will have to drive farther to work, to stores and restaurants, and for other purposes, causing significantly increased green house gas releases compared to residents of other parts of Cupertino. New trees will not be able to replace the green house gas protection of mature trees for many decades. Green house gas release is a major environmental impact, and is not addressed at all in the negative declaration.

I suggest that appropriate city staff should be tasked with monitoring and enforcement of mitigation measures, even if through consultants that report to the city, not to the contractor.

Comments on specific sections follow:

PD Impact
BIO-1:

"PD MM BIO-1.3: Any contractors working within 100 feet of Stevens Creek will implement the following measures to minimize any potential construction effects on aquatic habitat and water quality:"

Working within 200 feet of Stevens Creek, a stream hosting threatened steelhead trout, will risk damage that cannot be mitigated, and should not be allowed.

"To the maximum extent practicable, all grading adjacent to the riparian habitat will occur during the dry season (15 May – 15 October). If grading is to occur during the rainy season the primary BMPs selected will focus on erosion control. End-of-pipe sediment control measures (e.g., basins and traps) will be used only as secondary measures."

Grading during the rainy season should not be allowed at all. The suggested mitigation cannot eliminate risk of significant unmitigated damage to the watershed and to threatened steelhead trout.

"No equipment will be operated in the live stream channel, nor within the jurisdiction of the U.S. Army Corps of Engineers, Department of Fish and Wildlife, SWRCB or RWQCB, unless applicant has secured permits from such agencies and adheres to all applicable conditions and requirements."

Cupertino should never allow equipment to be operated within the stream channel of

Stevens Creek. Even if permits are obtained, that does not mean Cupertino should allow activities such as this which will seriously degrade the stream channel to the detriment of aquatic life, including threatened steelhead trout.

"Machinery will be refueled at least 60 feet from any aquatic habitat, and a spill prevention and response plan will be prepared and submitted to City for approval prior to issuance of any permits and its elements will be implemented."

60 feet is not a safe distance from aquatic habitat for refueling. Surely it is not too much hardship to refuel at least 200 feet away.

PD MM BIO-1.4: "The following measures for onsite hazardous material management shall be implemented:"

Regarding the discussion of how to respond to a contamination of the creek with a hazardous substance, a substantial bond should be required in advance, and should be forfeited in case of such contamination.

PD MM BIO-6.1:

The impacts of moving wood rat nests is not less than significant.

PD Impact BIO-9:
"Development of the residential portion of the project would result in the removal of protected trees, including 126 coast live oaks."

Removing 135 trees is a significant impact on migrating and resident birds and much other wildlife. Newly planted trees will take many many years to replace the habitat value of removed mature trees. This impact is not adequately mitigated.

Release of GHG from tree removal and from soil removal is significant and an EIR is needed to review the impacts and consider what mitigation for GHG is appropriate, and whether to allow it.

DA Impact BIO-2:
"Future trail construction on the Corridor or Park parcels and offsite trail and parking lot easements could result in direct and indirect impacts to sensitive riparian, aquatic and/or wetland

habitats."

Cupertino should be a responsible steward of sensitive riparian, aquatic, and wetland habitats, and not allow trail construction in a location where those habitats could be negatively impacted. Trails should be located elsewhere. Risk of damage should be avoided, not mitigated.

DA MM BIO-2.3: "Avoidance, Protection, and Riparian Tree Replacement Measures.
Possible impacts to riparian or seasonal wetland habitats shall be avoided to the greatest extent feasible by using free span bridges or boardwalks where trail crossings over these habitats cannot feasibly be avoided."

Trail crossings over these habitats CAN and should be avoided by locating the trail away from these habitats. If necessary, the trail can be located outside this project area.

"The amount of riparian vegetation trimmed, removed, or disturbed shall be minimized."

The trail should be located where no riparian vegetation will be disturbed. Trimming and removal of riparian vegetation will decrease shading of the creek to the detriment of threatened steelhead trout, which require cool water for reproduction, and even for survival. New planting which will not provide equivalent shading for years is not adequate mitigation.

"Possible impacts to riparian or seasonal wetland habitats shall be avoided to the greatest extent feasible by using free span bridges or boardwalks where trail crossings over these habitats cannot feasibly be avoided."

" to the greatest extent feasible" is not acceptable. Locate the trail where there is no impact to these habitats. If necessary, the trail can be located outside this project area.

DA MM BIO-2.5:
"All contractors working within 100 feet of Stevens Creek will implement the following measures to minimize potential construction effects on aquatic habitat and water quality:"

No work should be within 200 feet of the creek. The mitigation cannot eliminate risk of damage to the habitat, water quality, and to threatened steelhead trout.

"To the maximum extent practicable, all grading and ground disturbance adjacent to the riparian habitat will occur during the dry season (15 May – 15 October)."

The opening phrase " To the maximum extent practicable " makes this section meaningless and not enforceable. Such practices should never be allowed outside the dry season, with no exceptions.

'Machinery will be refueled at least 60 feet
from any aquatic habitat, "

60 feet is not a safe distance from aquatic habitat for refueling. Surely it is not too much hardship to refuel at least 200 feet away.

"Silt fencing and/or fiber rolls will be installed between activities conducted within 100 feet of the top-of-bank to prevent dirt or other materials from entering the channel."

No work should be within 200 feet of the creek. The mitigation cannot eliminate risk of damage to the habitat, water quality, and to threatened steelhead trout.

DA MM BIO-8.1: Special-Status Animal Surveys.

"Based on these surveys, the City shall adjust the design of the trails and/or parking lot to the extent feasible. If direct and indirect impacts to habitat and individual special-status species cannot be fully avoided, ..."

Why would Cupertino accept damage to special status species? Be good citizens of the earth and do not place a trail or parking lot where impacts cannot be avoided.

DA MM BIO-8.3: "Construction Timing and Preconstruction Surveys for Nesting Birds. Impacts to nesting birds will be avoided by removing all potential nesting habitat (vegetation) during the non-nesting season from September 1 to March 1. If vegetation will be removed or otherwise impacted during the nesting season, pre-construction surveys will be conducted by a qualified ornithologist; if active nests are found, disturbance-free buffer zones (typically 250 feet for raptors and 50-100 feet for other birds) will be established until young birds have fledged."

The first sentence of this section requiring removal of nesting habitat during non nesting season becomes meaningless when followed by "If vegetation will be removed or otherwise impacted during the nesting season,...". Do we have a requirement or not? There should be no exception.

DA Impact BIO-10:
"Construction of new trails, if located in woodland areas, could result the loss of mature native trees. "

The trail should be located where loss of mature native trees is avoided, even if the trail has to be outside this project area.

DA MM HYD-1.1: "The trail shall be constructed so that runoff from the trail is not concentrated, but diffused into buffer area adjoining the trail."

Why not construct a permeable trail surface, as Cupertino has done in McClellan Ranch Park?

Rebecca Tolentino

From: JLucas1099@aol.com
Sent: Saturday, August 09, 2014 6:53 PM
To: Rebecca Tolentino
Subject: Parkside Trails Residential Project- Stevens Canyon Road

Rebecca Tolentino, Senior Planner
Community Development
City of Cupertino, California

August 9, 2014

RE: Parkside Trails Residential Project

Dear Rebecca Tolentino,

In regards a General Plan Amendment and Rezoning, with Tentative Map, for 42.4 acres of the Parkside Trail Residential Project I find this a sufficiently serious departure from hillside development criteria to merit an EIR rather than the Mitigated Negative Declaration that is proposed by the proponent.

A most critical impact of this project will be to Santa Clara County Stevens Creek Park's Stevens Canyon Road cycling element with its through county Scenic Bike Route to skyline recreation areas. The project's entry road will be at a blind corner where cyclists will be speeding downhill to keep pace with auto traffic. Such a design should be avoided at all costs.

There is considerable quarry truck traffic on this section of Canyon Road which will make left turns into the project even more challenging. The project's proposed retaining walls, one with 15' elevation drop.and the more southerly wall retaining county road with drop down side of canyon to creek tributary(?) will make right of way or off road accidents quite lethal. Such an alteration in road safety cannot be ignored or mitigated.

The other major consideration is storm water drainage down canyon walls, both from southern and western foothills. The project site used to be a canyon so under-ground as well as surface runoff will still persist. This cannot be controlled by retaining walls. A full hydrology analysis is needed in this regard.

A record Pacific storm system that came in at Ana Nuevo was recorded to drop 24 inches of rain in 24 hours at Stevens Creek Reservoir on December 24, 1955 and should be 100-year storm to design for in watershed.

Extensive tree removal that project proposes is also a serious concern for any assurance of slope stability, especially in consideration of safety of residences that border Stevens Creek downhill and below project site.

The Santa Clara County setback criteria for Stevens Creek used to be 150', I thought, which needs review for this project. Then lastly do not find 4.1 acres of riparian corridor lands, or 29.8 acres of parkland, would be asset to Santa Clara County recreation use in this area or can compensate for loss of vista to 18, 28' two storey houses and project's inevitable impacts to integrity of foothill watershed wildlife habitat and corridors.

Eight homes on parcel under existing very low density formula might be feasible but not proposed eighteen.

Thank you for consideration of these concerns.

Libby Lucas
174 Yerba Santa Ave., Los Altos, CA
(formerly on Trails and Pathways Subcommittee, Santa Clara County, & IGC)

Rebecca Tolentino

From: Lynn Fennema [lynnfennema@gmail.com]
Sent: Saturday, August 09, 2014 9:31 PM
To: Rebecca Tolentino; City of Cupertino Planning Dept.
Cc: City Clerk
Subject: IS/MND Parkside Trails

My name is Lynn Fennema; I hold a MS in Entomology from the University of Illinois Champaign-Urbana. I currently live in San Antonio, TX, but for years worked in Cupertino teaching science and nature classes to elementary students. As an Entomologist and teacher, I wish to comment on the proposed IS/MND for the new housing project.

In the Biological Resources Report, I found no comments on how the project will impact the invertebrate life in the creek adjacent and downstream of the site. However, the report does describe how it will mitigate damage to the creek by attempting to limit the amount of debris that enters the water as well as prevent equipment from coming into direct contact with the creek. Sediments, chemicals, and equipment will not just impact the various larger creatures mentioned in the report, but the invertebrates as well, which provide food for many animals, including the western pond turtle and steelhead. Loss of invertebrates can be severe: in Illinois, nearly 30% of stoneflies (an insect that spends its nymph stage in water) are extinct or extirpated, the most of any aquatic group. Pre-1950s, the *Acroneuria* genus made up over half of the records from the Perlidae order; after, it made up only 6.5% of those records, as they are especially sensitive to changes in water quality. (DeWalt, 2005). The many species of aquatic invertebrates are impacted by changes in their environment to varying degrees; some will prosper, many will not. But which? There is nothing in the report to account for this.

Aquatic invertebrates are also indicators of water quality; their presence (or absence) can tell you a lot about the creek's health and should not be ignored. It is unacceptable that an entire class of important animal has been left out. A study on this important group is needed!

I also speak as a teacher. As part of the Cupertino's Creek Education Program, I lead students through McClellan Ranch, pointing out the different animals and plants along the way. At the creek, they explored and identified the many invertebrates that make their home there: crawling stoneflies, slippery flatworms, and net-building caddisflies. As Barbara Banfield, a naturalist with the City of Cupertino, once eloquently put it, each rock in the stream is its own planet, with different plants and insects inhabiting each one.

A large part of the program was to educate the students on the importance of riparian habitats. These vanishing areas provide a great diversity of wildlife. They also help to filter water going into the creek and prevent soil erosion. I also explained the many factors that can negatively impact the creek's health, such as:

-Pesticides, oil, and fertilizers from residential areas can drain into the water, harming wildlife

-Sediments clog the gills of small insects, killing them (and therefore reducing the food supply of many other creatures)

-Loss of trees in the riparian means a loss of shade; warm water holds less oxygen than cooler water, making it unsuitable for some species.

-Human activity, such as playing in and around the creek, disrupts nests and hiding places (many times, I have personally had to de-construct 'dams' made by kids that blocked the flow of the water).

The kids went home joyful and inspired to take care of the water; it would be remiss of me not to speak up if I feel that this habitat is being threatened.

After reading the proposed plan and various comments, I agree that a more thorough study is needed, one that takes into account the proposed trail as well as the cumulative effects this and other projects may have on the health of the creek and surrounding area. A study should be done on how the project will affect the invertebrates

of Steven's Creek. As has been pointed out, to simply say that animals of special concern can simply find a new place to live is not acceptable, nor in my opinion feasible in some cases (how easy would this be for a turtle?) The human impacts as well as the loss of plant and animal life that would occur as a result of this project requires a more in-depth analysis.

Thank you for your time; if you have any questions or concerns, please feel free to contact me.

Sincerely,
Lynn Fennema

Literature Cited:

DeWalt, R. E., C. Favret, D. W. Webb. 2005. Just How Imperiled Are Aquatic Insects? A Case Study of Stoneflies (Plecoptera) in Illinois. *Annals of the Entomological Society of America*. 98 (6): 941-950.

Rebecca Tolentino

From: JLucas1099@aol.com
Sent: Sunday, August 10, 2014 9:12 AM
To: Rebecca Tolentino
Subject: Parkside Trails Residential Project - Stevens Canyon Road - cont. comment

Rebecca Tolentino, Senior Planner
Community Development
City of Cupertino, California

August 10, 2014

RE: Parkside Trails Residential Project

Dear Rebecca Tolentino,

In continuance of yesterday's comment on the proposed development on Stevens Canyon Road, there is a second major area where this development could have a significant effect on the environment which I do not believe would be possible to mitigate for or to adequately remedy degradation as a critical public resource.

Stevens Creek as it runs downstream from Stevens Creek Reservoir is a high percolation stream that is a major source of water for Santa Clara Valley underground aquifers. To achieve maximum benefit from natural percolation, its gravels can not be overloaded with sediment and woody debris. A wide riparian corridor is an aid to buffer stream from undue clogging in high storm water events but stability of surrounding hillsides is an essential element. Integrity of valley water sources is critical and an EIR should prove if such protection from degradation is assured.

From what I understand, extensive excavating and grading that is proposed by Parkside Trails Residential Project, with removal of some 264 trees, can only result in a ragged, unstable western watershed. Also, the existence of an historic tributary to Stevens Creek in the filled in canyon almost guarantees substantial flow in underground gravels and rock.

This project needs full hydrological evaluation and substantial remediation measures if proposed excavation is to be considered. An EIR might satisfy such criteria, but believe a mitigated negative declaration cannot.

Also, there is a steelhead trout fishery resource that needs consideration in that this reach of Stevens Creek, just below the dam, would be a viable spawning site and creek gravels need to be clear of sediment overload and debris. A 150 to 200 foot buffer of riparian corridor would help to assure this but not if hillside sloughs off.

In my earlier contention that it is unsafe to shift entry way for proposed development from its present location to a blind corner of Stevens Canyon Road, one feasible solution could be to create Canyon Road underpass to enter site at existing gate but at proposed 15 foot lower elevation.

Such an underpass, however, would turn into river of sediment and debris if historic conditions are to persist. To design to existing 'natural' watershed dynamics it might seem feasible to direct flows in landscaped curve to south, away from residences directly downhill, along Stevens Creek, on Canyon Vista Drive. This concept would entail use of both corridor and park acreage of property but might result in a more suitable site design. Also it might adhere to existing hillside density formula criteria.

These observations are based on briefest overview from Stevens Canyon Road but in time of observation did note continuous use of road by cyclists to degree that find recreation corridor safety is of critical importance.

Thank you again for kind consideration of my concerns.

Libby Lucas
174 Yerba Santa Ave.,
Los Altos, CA 94022

August 10, 2014

Rebecca Tolentino
Senior Planner
City of Cupertino
Community Development Department
10300 Torre Avenue
Cupertino, CA 95014

Subject: Comments to Initial Study/Mitigated Negative Declaration, Parkside Trails Residential Project, Part 2.

Dear Ms. Tolentino:

I had previously reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Parkside Trails Residential Project in the City of Cupertino and submitted comments. Since then, I have revisited the property with Jeffrey Caldwell and interviewed James Guidotti who lives on Stevens Canyon Road at Ricardo Road, immediately adjacent to the Residential Parcel of the proposed Parkside Trails Residential Project. Mr. Guidotti has lived in his house since the 1940s and provided historical information and photos which I have included in the following comments. Mr. Caldwell is a horticultural consultant and land manager who grew up in Cupertino and knows the Stevens Creek Canyon well; his valuable comments are also included below. My apologies for the oddness of submitting comments mostly based on what others say. Each of these men is an expert in his own right with very valuable and pertinent information on the proposed development site, but the deadline for submitting comments is hours away and I wanted to make sure their insights were a part of the official record so I am submitting these additional comments myself. Plus, I very much wanted Mr. Guidotti's historical photos to be a part of the record.

Comments

1) Page 67: Section 4.4.3.1, Impacts to Upland Habitats, Residential Parcel

The Residential Parcel, in comparison to what remains in the area, is a rare, relatively extensive patch of oak savanna. Potentially, at least, the oaks there can be maximally productive of acorns, since they are not too crowded and are illuminated from all sides. The Residential Parcel may be the closest thing to an acorn-productive "oak savanna" remaining in the city limits. Likely its oaks are included in the foraging ranges of a great many mast and insect-eating birds roundabout. And the "ruderal annual grassland" includes some fairly large patches of native perennial foothill needlegrass.

With the destruction of the existing oaks, to truly "mitigate" the loss of habitat value and connectivity for birds (and oak-associated insects such as the California Sister and Mournful Duskywing butterflies) in a parcel so intimately associated with the creek and preserved areas, it would be appropriate to landscape the development exclusively with locally native woody plants. Even if it were landscaped with native trees it will be many decades before lost values can be even partially recaptured.

Realistically, the "trees to be preserved" at the edges of the upland areas of the Residential Parcel will inevitably be severely damaged by the excavation and grading (with whatever steps taken to limit that damage laudable). The typical root footprint for such trees is about 5X the extent of their canopy, so all

are likely to be damaged and their lives shortened, if nothing else.

2) Page 68, Impacts to Riparian, Aquatic and Wetland Habitats

As in the upland habitat, here too in the riparian habitat, the "trees to be preserved" will inevitably be severely damaged by the excavation and grading in the immediately adjacent development area. Whatever steps are taken to limit damage, with a root footprint of 5X the canopy, many trees with the riparian corridor will be damaged or killed.

3) Page 111, Landslides

According to James Giudotti, who has lived adjacent to the Residential Parcel since the 1940's, small to medium landslides into the channel of the ephemeral creek in the upper watershed to the west of Stevens Canyon Road have not been uncommon during storm events and have contributed to flooding in the area of the Residential Parcel.

4) Page 125, Landfill

The discussion here in the IS/MND fails to mention that the "one-acre portion of the Residential parcel located near the Stevens Canyon Road entrance [which] operated as an unregistered landfill during the 1960s and 1970s" was the channel of the ephemeral creek which flowed through the property. The photos in Figures 4-9 which follow these comments show the creek channel during the excavation prior to installing engineered fill, waters from the ephemeral creek flowing over the surface of the property both before and after the remediation, and how those same sites on the property look now.

5) Page 135, Hydrology and Drainage, Surface Water and Groundwater Sections

The IS/MND fails to mention that during large storm events not all water from the ephemeral creek is carried through the Residential parcel in an 18-inch drain line to the existing outfall. Much of the water from the creek is carried across Stevens Canyon Road and then surficially across the Residential parcel. Please refer to the photos in Figures 1-9 following these comments.

I urge the production of a graphic showing the full extent and topography of the 28-acre watershed of the tributary to Stevens Creek that flows through the property. As James Guidotti has noted, upstream are very steep slopes that inevitably will result in mudslides with production of a massive amount of sediment and woody debris resulting in messy flooding in extreme rain events.

Likely underground aquifers associated with the now-filled channel on the Residential parcel have been "tapped" quite a bit by the giant eucalyptus trees that have now been present for many decades, but which will be removed. They probably have served to "dry up" the area. The drainage topography there for millennia probably produced that "liquefaction" sort of subsurface zone mentioned elsewhere in the IS/MND.

It is likely that the project's drainage design will create a "reservoir" under their luxury housing development. The comparison between the "feed in" and the "feed out" is ludicrous, especially in view of the amount of water and debris an extreme rain event could easily mobilize in the watershed. A design that may have been somewhat appropriate (especially in the currency of the times) for the dirt haul road that was Stevens Canyon Road decades ago, seems hardly appropriate for access to a highly engineered

luxury housing development. Originally it was cheap and effective enough to simply bulldoze over the creek channel and install a little culvert. If it flooded out or even washed out once in a while, little consequence, bring back the bulldozer. But now Stevens Canyon Road is becoming more important as a "lifeline" to many residences. The sustainable solution would be to restore the entire channel from the hilltops to the Stevens Creek, removing that poorly placed residence on the west side of Stevens Canyon Road and constructing a roadway bridge spanning its full width so that it could "flood" harmlessly. "Let's fill in this inconveniently placed portion of the channel and build here" is not sustainably smart.

6) Page 178: Traffic Hazards Impacts-Residential Parcel

Keeping trees and shrubs pruned back and relocating the sidewalk and parking can improve safety to only a limited degree. PD MM TRAN 1.1 and PD MM TRAN 1.2 will not make the curve less curvy; drivers entering or leaving the property will not be able to see farther around the curve and the intersection will still not meet Caltrans CSD sight distance standards. The proposed roadway access configuration is nearly certain to result in accidents and possibly even fatalities.

Thank you for this opportunity to review the IS/MND for the Parkside Trails Residential Development. The twelve photos on the next five pages are an integral part of these comments and in the way of photos, speak many thousands of words.

Sincerely,
Joanne McFarlin

Figure 1 – Photo is taken from the Guidotti driveway, looking south on Stevens Canyon Road and the Residential Parcel. There is hump visible in the road here; approaching cars are seen to be downhill from the driveway. Due to an inadequate culvert/drain system, water from the ephemeral creek comes across the road and floods the Guidotti driveway during some storm events. Unless the hump in the road is reengineered, it seems very likely the Guidotti property will continue to flood during large storm events. Even with a new culvert/drain, the system is likely to be overwhelmed by the woody debris which the Guidottis say is common-

Figure 2 – House on west side of Stevens Canyon Road across from Residential Parcel. There had been 2-3 days of continuous rain, with 1-1.5 inches the previous night. Most of the flow had been during the night; this photo showing the flooded road was taken the next day. February 1998

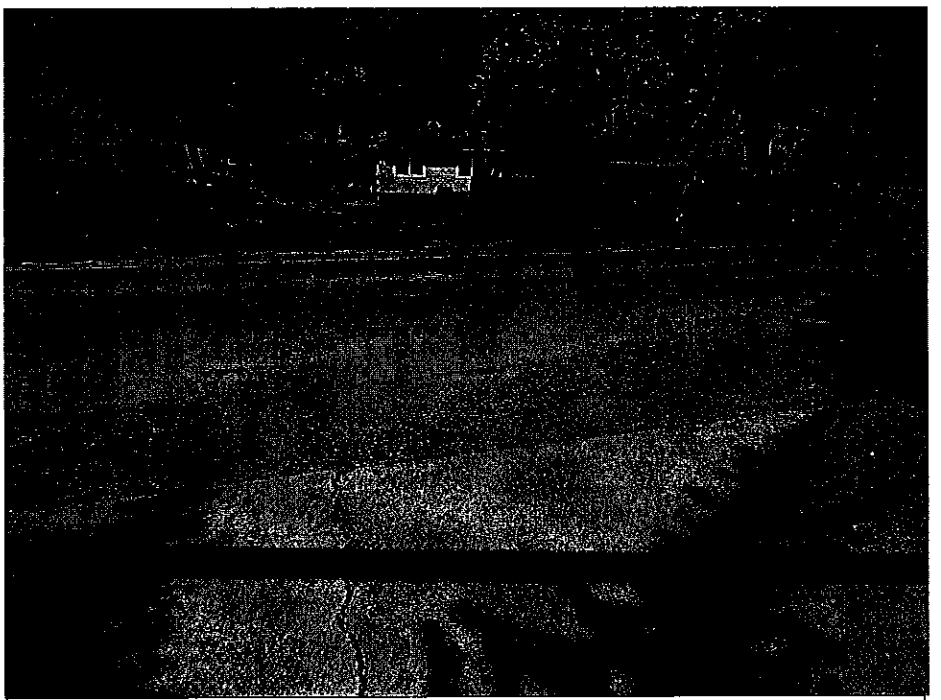


Figure 3 – House on west side of Stevens Canyon Road across from Residential Parcel. August 2014

Figure 4 – Looking southeast across the Residential Parcel during a remediation procedure in November of 1998. The natural canyon through which a stream used to run across the property had been used as a landfill; during the remediation, the landfill was removed as seen in this photo. The canyon was then refilled with engineered fill.

Figure 5 – Looking southeast across the Residential Parcel at the same site.

Figure 6 – Looking west across the Residential Parcel in 1998 prior to remedial excavation and fill. Stormwater in the ephemeral creek has exceeded the capacity of the culvert/drains and is running across the Residential Parcel.

Figure 7 – This is the same area as in Figure 6, but later in the year. The landfill from the natural canyon has been removed, later to be replaced with engineered fill.

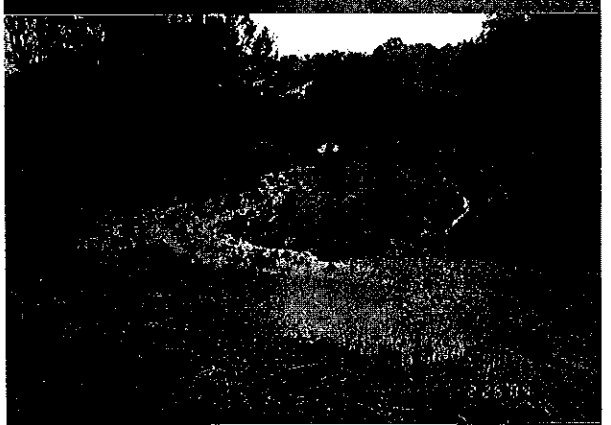


Figure 8 – This is the same area several years later in February 2004. The storm was the previous night; the photo shows water running across the property the next day.

Figure 9 – More fill was added to the site about five years before the present creating the raised area visible in this photo. August 2014

Figures 10, 11, 12 – Current outfall carrying storm water from ephemeral creek to Stevens Creek. The cement structure visible in bottom photo was installed circa 1946 and no longer carries water. The metal structure seen in the top and middle photos was installed sometime in the 1960's as part of system to drain the Residential Parcel after neighbors complained about the lake which had formed due to inadequate drainage.

August 10, 2014 *via email*

Rebecca Tolentino, Senior Planner
City of Cupertino

Re: Initial Study and Mitigated Negative Declaration for the Parkside Trails Residential Project

Dear Ms. Tolentino,

Santa Clara Valley Audubon Society (SCVAS) has reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) for the Parkside Trails Residential Project (Project) located on open space off of Stevens Canyon Road. The Project includes a General Plan Amendment, Rezoning and Tentative Map to subdivide a 42.4-acre site into three parcels, the Residential (8.5 acres), Corridor (4.1 acres), and Park (29.8 acres) parcels, and further subdivide the Residential parcel into 18 residential lots and two common area lots for a proposed 18-unit single-family residential Planned Development.

SCVAS' mission is to preserve, to enjoy, to restore and to foster public awareness of native birds and their ecosystems, mainly in Santa Clara County. As stewards for avian species and their environmental resources, we are always concerned with any development that may consume wildlife habitat and/or impact river and riparian ecosystems, encroach into stream setbacks and floodplains, or potentially result in the eventual conversion of natural creek banks and riparian ecosystems to costly reinforced structures at the project site or beyond.

After review of IS/MND and associated documents, SCVAS concluded that the documents, as currently presented, are inadequate and do not fully describe the project and its setting, nor do they adequately evaluate and mitigate the environmental effects that this project may impose on environmental resources. A full Environmental Impact Report (EIR) is required.

1. The baseline to the Project is not the zoning of the property, but instead, it is the environmental conditions on the property as they exist today. The existing condition on the property includes 319 of trees, including 135 protected trees on the 8.5-acres proposed for residential development. Stevens Creek meanders through 4.1 acres of lush riparian vegetation that provides habitat to numerous threatened and endangered species, and many avian species that are in decline throughout the western United States. There are no trails, and no bridges over the creek. Riparian vegetation has taken over an abandoned maintenance road by the creek, and there are no parking lots on the property. Biologically diverse meadows and seasonal wetlands exist within the remaining 29.8 acres area, and provide habitat to additional listed species.

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For many years, current zoning (Very Low Density) and Residential Hillside maintained this baseline due to complex topography, lack of access, and environmental risks and regulations that rendered development infeasible on the property, except for the flat 8.5 acres.

The Project, by rezoning the land to "corridor" and "park" does not actually protect environmental resources, but instead opens the door to invasive uses that can be expected to cause significant, permanent and unavoidable degradation of these habitats and the species that depend on them. After these rezonings and the additional offsite components, (land dedications, trail and parking lot easements, and land trades) take place, the creek corridor, meadows and wetlands would be repurposed to support recreational and operational projects and activities, including paved hardscapes such as trails, service roads by the creek, parking, and "to be determined" open-space uses. Constructions of these likely future projects, as well as the expected increased use for human activities, are likely to significantly and permanently alter and degrade the aquatic and the riparian ecosystem as well as the meadows and seasonal wetlands and can be expected to have significant and unavoidable impacts on listed species that currently persist there.

Therefore, the proposed *"intent of both the proposed project and the options to the proposed project is to restrict the use of the land within the Park parcel to open space uses"* does not mean that *"the impacts of the proposed project compared to those that could occur under the possible options would be identical"*. We maintain that changing the zoning can be expected to adversely affect the physical environment on and adjacent to the parcels differently and the use of a Program MND for the identified uses is inappropriate under CEQA.

The IS/MND claims, "*The trail connections shown in the Parkside Trails Feasibility Study were identified for initial planning and scoping purposes and may not reflect ultimate trail alignments...the intent of the trails feasibility study was for the City to assess the potential cost and process for developing trails. Preparation of the trails feasibility study should not infer actual construction of the trails described in the report.*" While the exact alignments are not defined, it is clear that the purpose of the land dedication in the Development Agreement is to allow the completion of a proposed trail project between Stevens Creek County Park, Linda Vista Park, and McClellan Ranch. Indeed, the "*dedications of land in fee title* " (IS, page 23) provides Cupertino with the option of "*accepting only the trail easements without having to accept the entire Park parcel in fee title.*" A 2002 feasibility study commissioned by the City of Cupertino identifies the project and states that a method to gain access would be through easements or land dedicated in the Development Agreement. The Project Proponent also provided the City with a new Feasibility study that contains many of the same elements identified in the 2002 study. The Park and Recreation Department also stated in a 2012 Mercury News article that the next step after completion of the McClellan Ranch project was to complete the proposed trail, and a recent Midpeninsula Regional Open Space bond measure (Measure AA) identified it as a high priority project for funding.

CEQA requires complete analysis for foreseeable impacts –and these should include the trails

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and bridges (Figure 3.5-1, IS page 21). A full and detailed analysis of impacts from the proposed trail segment cannot be deferred to a later date, but must be prepared prior to approval of the Project. The ruling on CA Supreme Court case Stand Tall on Principals v. Shasta Union High School District (2007) states, "*Just as CEQA itself requires environmental review before a projects approval, not necessarily it's final review (Pub. Resource Code 2100, 21151), so the guideline defines "approval" as occurring when the agency first exercises its discretion to execute a contract or grant financial assistance, not when the last such discretionary decision is made.*"

Therefore, full environmental analysis of the proposed trail project cannot be deferred to a later time as the Development agreement constitutes a contract. The Program Level analysis in the IS only examines "*zoning, conservation easement, and lot line adjustment options*" and does not examine impacts related to completion of the trail segment as required under CEQA.

CEQA Guidelines section 15378 requires an environmental review to study "the whole of an action" which has the potential to result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Santa Clara Valley Audubon believes that a full EIR must be prepared for the whole Project (Residential, Corridor, and Park areas), and the EIR must include full disclosure, evaluation and mitigation of the potentially significant and unavoidable impacts of trails, bridges, service roads for creek maintenance, and parking lots on creek and riparian ecosystems, meadows and wetlands, as required under CEQA. The IS/MND cannot a-priori assume that these impacts would be less than significant.

CEQA requires that the Lead Agency evaluate potential environmental effects based to the fullest extent possible on scientific and factual data. In the absence of defined thresholds, significance conclusions must be based on substantial evidence, which includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts (CEQA Guidelines § 15064). The methodology for evaluating biological resources, including threatened, endangered, or other special-status species that could occur in the study area was collected from databases such as CNDDB, with no actual surveys of ANY of special-status species. Impact BIO-3 (IS page 83) provides no city-wide biological analysis to support the assertion that "*it is not anticipated that the effects of new trail and parking lot construction would substantially reduce populations of special-status plants in Cupertino or the region.*" In fact, the distribution of several endangered species in Cupertino City limits are found only on the project footprint and its vicinity, and intrusion into their precarious habitat may indeed have a significant impact on their populations in Cupertino and beyond.

The IS identifies potentially significant impacts to localized populations of special-status species which may be present along a particular easement, in which case trail construction could potentially cause a significant impact to those species. No biological surveys are provided to identify the exact locations of such "localized populations of special-status species" and no trail alignment is provided. Instead, DA MM BIO-8.1 defers Special-Status Animal Surveys, and proposes that "at minimum, potential habitat and impacts shall be assessed by qualified biologist for California red-legged frog, Western pond turtle, yellow warbler, white-tailed kite, nesting

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raptors, roosting bats, and San Francisco dusky-footed woodrat." We ask for an EIR that would include protocol surveys for the endangered species, with survey methodology as recommended by government wildlife agencies.

Without surveys and without trail alignment, the finding that "*implementation of Program Mitigation Measures and measures in the Development Agreement would reduce potential impacts to a less than significant level*" is not supported by facts, is not a reasonable assumption predicated upon facts, and cannot support any expert opinion. Protocol surveys for endangered species are needed, and specific avoidance and mitigation measures must be developed to ensure that significant impacts are reduced to the below-significance level.

Rather than postpone and defer analysis of the impacts of a specific alignment of trails, specific siting of bridges, and placement of parking under a Program MND, the Project as a whole should be analyzed in an EIR, and provide alternative alignments, alternative bridge locations, and alternative parking locations so that the public and responsible government agencies may be able to make informed comments, and decision makers can make informed decisions.

2. Initial Study Page 14 – "*Except for a four-foot section of the existing outfall pipe that **may** need to be replaced, the existing outfall will not be modified*". Please provide information on whether or not the outfall needs to be replaced, as well as analysis of potential impacts from such replacement. Please specify regulatory permitting that would be associated with this replacement.

3. Initial Study Pages 22-23 - Offsite BMR mitigation. The proposed mitigation has intent, but it is not clear that it will be required since "*specific site has not been selected*" and the city may (or may not) require additional commitments, such as monetary or physical improvements from the applicant to ensure appropriate BMR mitigation is provided. Please explain how this mitigation measure will be enforced, and how "physical improvements" would mitigate BMR requirements. If a "specific site" does not become available, lack of BMR mitigation would remain a significant, unavoidable impact.

4. Initial Study Page 61 – "*Permits may be required from both the CDFW and USFWS if activities associated with a proposed project will result in the take of a species listed as threatened or endangered.*" – please specify that that permits are required due to the potential "take" of endangered species. This is especially critical since PD MM BIO-1.3 on page 74 states "*Multiple and concurrent BMPs may be appropriate to address the steep terrain and the creek channel which comprised designated Critical Habitat for steelhead.* " The responsible agencies should be the ones to determine whether the proposed BMP's are sufficient to protect Steelhead individuals and their habitat as a result of erosion of exposed soil into the bed and banks of the creek. Furthermore, PD MM BIO-1.3 on page 74 states, "No equipment will be operated in the live stream channel, nor within the jurisdiction of the U.S. Army Corps of Engineers, Department of Fish and Wildlife, SWRCB or RWQCB, **unless** applicant has secured permits from such agencies and adheres to all applicable conditions and requirements".

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Please provide a comprehensive and detailed project description that includes exact jurisdictions of the above-mentioned agencies and describe the project in sufficient detail so that the applicant, the public, government agencies and decision makers have a clear understanding of the project and the permits that are required.

5. The IS/MND defers the preparation of mitigation plans until after the project is approved. For example, MM HYD-1.1 states that impacts to water quality and erosion through "*standard measures may not be sufficient*" for both the Residential and Park parcels. The mitigation measure calls for the "*applicant to prepare and submit an Interim Erosion Control and Sediment Control Plan/Slope Stabilization and Vegetation Plan to the City for review and approval to ensure the measures are acceptable and meet all applicable resource agency standards.*" The MND goes on to state that the purpose of the plan is to stabilize soil, reduce raindrop impact, reduce surface runoff velocity, prevent erosion and ensure re-vegetation success. It is impermissible under CEQA law to defer any mitigation or avoidance strategy until after approval of a MND. Until the plan is complete, there can be no certainty that it can reduce impacts to less than significant levels.

6. DA MM BIO-2.2 defers the preparation of a Habitat Mitigation and Monitoring Plan to mitigate potential impacts within sensitive riparian or seasonal wetland habitats. The IS/MND proposes to mitigate using replacement ratios for mitigation of impacts to sensitive riparian or seasonal wetland habitat, based upon the results of deferred surveys for sensitive habitats (DA MM BIO-2.1). The IS/MND did not provide delineation of seasonal wetlands on the project site, and did not provide surveys for special status species, but proposes to mitigate temporary and permanent impacts at a minimum replacement-to-loss ratio of 1:1 (one acre of wetland created for each acre filled) and impacts to riparian habitat at a minimum replacement-to-loss ratio of 2:1 in accordance with a deferred riparian and/or seasonal wetland mitigation plan. Formal wetland delineation and waters of the U.S. analysis is needed prior to approval of the Project.

Wetlands and waterways are regulated under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7), both administered by the CA Regional Water Quality Control Board (RWQCB). The Porter-Cologne Water Quality Control Act regulates isolated and seasonal wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high water mark.

Because of the steep terrain along the residential project site, we disagree with the IS/MND finding that standard BMP's are sufficient to reduce project impacts to Stevens Creek to a less than significant level. Furthermore, the IS/MND expects temporary disturbance of 0.02 acre of riparian habitat during construction of the bio-retention basin (The Stevens Creek riparian corridor is defined as the top of bank of the creek or the edge of the existing riparian vegetation, whichever is greater). Therefore, the applicant may be required to obtain a CWA Section 401 water quality certification from the RWQCB for impacts to waters of the State and a Section 602 streambed alteration agreement from the CDFW for impacts to natural watercourses supporting a defined bed and bank.

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The IS/MND proposes to mitigate impacts to waterways and wetlands using replacement-to-loss ratios. At this time, we are not aware of a mitigation bank with wetland credits that includes the Project location in its service area. Thus, MM BIO-2.2 is not feasible mitigation, and does not meet CEQA standards.

7. The IS/MND does not provide a list of Project Objectives. CEQA requires a reasonable range of alternatives, and we ask for the development of alternatives such as fewer homes or different configuration of homes, no bridge crossing of the creek, different trail alignments, and other alternatives that could potentially reduce the impacts to Stevens Creek and it riparian corridor as well as meadows and wetlands.

8. The project does not adequately delineate the boundaries of the riparian habitat along Stevens Creek. Instead of delineating the riparian corridor as the top of bank of the creek or the edge of the existing riparian vegetation, whichever is greater (IS, page 110), the Project relies on the zoning alignment of the proposed Corridor Parcel. Impacts to the riparian habitat cannot be properly assessed and mitigated if it has not been identified.

The zoning alignment is designed to accommodate the residential development and its associated infrastructure, and should not be used in lieu of a biologically based delineation of the riparian ecosystem. Indeed, Figure 4.4-1 indicates that Permanent [Project] Impacts occur immediately adjacent and even within the Mixed Riparian Forrest.

There is no proposed creek setback for the Project MND. We recommend setbacks similar to what is generally required in the region to mitigate impacts to unimproved streams (County of Santa Clara (150-ft) City of San Jose (100-ft) and the Santa Clara Valley Habitat Plan (100-ft plus 35-ft from riparian vegetation)). We ask the City of Cupertino for an alternative that implements a minimum of 150-ft of no development from the riparian corridor of Stevens Creek for all of the development associated with the residential development, including homes, roads, landscaping and parking.

9. Please provide in-depth hydrological study of runoff from the unnamed tributary that flows through the Project residential development site. Please identify surface flows and flows that drain into the existing outfall, and calculate how the proposed bio- retention basin can effectively attenuate not only runoff from the residential Project development, but also runoff from the larger drainage watershed. Please include details to show that flow duration controls be designed such that post-project stormwater discharge rates and durations match pre-project discharge rates and durations from 10 percent of the pre-project 2-year peak flow up to the pre-project 10-year peak flow, as well as 100-year storms.

10. The project proposes to remove 264 trees, including 132 oaks and few other native species (big leaf maple, California bay, deodar cedar.) PD Impact BIO-9 recognizes this loss as a significant impact that the IS/MND proposes to mitigate by planting new trees on and off site. Oak woodlands are an important ecosystem in California, and support a wide range of birds and wildlife. The MND fails to address the specific and cumulative impact on biological resources resulting from the removal of protected oak trees.

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The site supports a rich community of native and non-native trees that create a rich, three-dimensional habitat for avian species. Of special interest to SCVAS is the diversity of tree species, the presence of valley oaks and of coast live oaks as well as other native trees of great habitat value throughout the project site. In addition, tree "age and health diversity" are important aspects of wildlife habitat and especially avian habitat, with sick or dead tree limbs and old or dead trees providing food resources (insects) and nesting cavities.

• The loss of known and established foraging, wintering and breeding habitat due to the loss of trees and open landscape, change in development density, intensity and configuration, is not addressed in the IS, and not mitigated in the MND.

• The habitat loss associated with the loss of tree age structure and "tree health diversity" due to the replacement of old trees with new, healthy trees is not addressed in the IS, and not mitigated in the MND.

• The planting of trees in alternative site(s) or the donation of funds not does mitigate the impact of the loss of existing tree habitat for the avifauna at the project site.

11. The analysis of Soil Removal fails to analyze the impacts of possible soil removal due to contamination from undocumented dumping while the site was being used as a City landfill, and impacts of soil removal on air quality, dust, importation of soil, water quality.

12. Finally, where substantial questions are raised as to whether a project will have significant adverse impacts, it is hardly reasonable for an agency to conclude, prior to study, that an EIR is not required. The CEQA test for determining the necessity of an EIR is similar. Public Resources Code § 21100 requires an EIR whenever a proposed project "may have a significant effect on the environment." The California Supreme Court has indicated that the threshold for application of this requirement is low: an EIR must be prepared "whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact." No Oil, Inc. v. City of Los Angeles, 1974, 13 Cal.3d 68, 75, 82-86, 118 Cal.Rptr. 34, 38, 43-46, 529 P.2d 66, 70, 75-78. Also, "the existence of serious public controversy concerning the environmental effects of a project in itself indicates that preparation of an EIR is desirable." Id. 13 Cal.3d at 86, 118 Cal.Rptr. at 46, 529 P.2d at 78. We strongly believe that an EIR is required to resolve the controversy regarding the impacts of the Project to the biological resources of the Stevens Creek riparian corridor.

***

In conclusion, a comprehensive EIR should be prepared for this project, so that government agencies and the public can provide comments, and so that Cupertino City Council can accept public comments, evaluate alternatives, consider project-specific and cumulative impacts, and make an informed decision that includes a determinations of overriding consideration as needed. **We believe that we can fairly argue, based on substantial evidence (please refer also to the letter by Acterra), and in light of the whole record, that this project may have a significant environmental effect and that an EIR must be prepared.**

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Thank you for the opportunity to comment on the proposed project. Please keep SCVAS on the notification list for the proposed project site and any updates or public meetings related to this project.

Sincerely,

Shani Kleinhaus, PhD.
Environmental Advocate

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August 9, 2014

Ms. Rebecca Tolentino, Senior Planner
City of Cupertino
Community Development Department
10300 Torre Avenue
Cupertino CA 95014

Re: Parkside Trails Residential Project Initial Study/Mitigated Negative Declaration Environmental Review Committee Meeting August 11, 2014

Dear Ms. Tolentino:

Parkside Trails understands that our public outreach efforts were very successful in educating the neighbors about our project and that the City of Cupertino received many comment letters from our neighbors raising the following general categories of public comments on the Initial Study/Mitigated Negative Declaration (IS/MND). Following each comment category, we identified the corresponding letter in which the comment was raised, and outlined our perspective to assist the ERC in its review of these comments:

Concerns about Potential Traffic Impacts (Letters #2, #5, #6, #10, #12, #15):

- *Traffic Hazards on Stevens Canyon Road/Parkside Trails Entrance (Letter #2, #10, #12)* – The Initial Study/MND addresses potential traffic hazards in Section 4.16.2.2 and evaluates the traffic conditions at Stevens Canyon Road and its proposed intersection with "A" Street. The Initial Study evaluated the potential for accidents, and specifically accidents associated with the poor views of oncoming cars at the proposed intersection. The Initial Study/MND recommends mitigation measures on page 178-179 and identifies two options for the mitigation measure to address visibility of the proposed intersection in order to address potentially significant impacts to a less than significant level.

- *Expansion of Foothill Boulevard (Letter #5, #15)* – The IS/MND traffic analysis evaluated the Project's increase in traffic levels and determined that the Project trip generation would not result in an increase in the level of service at the Stevens Creek/Foothill Blvd. intersection or in any associated traffic impacts (see page 177). Consequently, as you noted in your prior response to Ms. Meng, widening of Foothill Boulevard is not required of the Parkside Trails Project. The City can only require a project to make improvements where the City can show "there is a direct correlation between the project and the need for the improvement" (Email from Rebecca Tolentino Dated August 4, 2014 to Tracey Meng).

- *Bike Safety (Comment #6)* – As noted in the IS/MND and your email to Urs Mader, the project would not significantly impact pedestrians. The Project also includes offsite dedications, easements and land trades which allow the City

to construct trails in the future which would not conflict with local policies related to bicycle or pedestrian facilities (see p. 182 of the IS/MND).

Comments About the Sidewalk (Letter #3, #18)

The comments correctly state that Parkside Trails is not proposing the sidewalk. The City's possible request for a sidewalk is intended to address existing pedestrian circulation within existing neighborhoods. The need for a sidewalk is not generated by the project as City Staff indicated in their responses to similar comments from other commenters and as reflected on page 182 of the Initial Study/MND. The City's 1 million dollar cost estimates for the sidewalk do not take into consideration engineering, right-of-way, and legal factors which are expected to further increase the costs of this City project. The Initial Study states that the project would not affect pedestrian crossings (see e.g., p. 182). Consequently, the Initial Study did not identify any project-generated pedestrian impacts which would require mitigation.

Concerns that the Project's Increased Density would impact wildlife and riparian habitat (Letter #4, #10)

Chapter 4.4 Biological Resources, pages 51-100, contains an extensive analysis of the Project's potential impacts to biological resources, including native habitat, riparian habitat, special status plant and wildlife species and trees. The Initial Study/MND identifies recommended mitigation measures PD MM BIO-1.1 through PD MM BIO-1.11, DA Program Mitigation and Avoidance Measures including policies and DA MM BIO-2.1 through DA MM BIO-10.1. In all instances, potentially significant impacts would be mitigated to a less than significant level. In many instances, the mitigation measures reflect standard City of Cupertino conditions and requirements, and no evidence has been provided by any of the commenters that the mitigation will not be effective in eliminating significant environmental impacts.

Requests that the City Prepare an EIR (Letter #7, #9, #11, #12, #16, #17)

Commenters requested that the City conduct environmental review, or prepare an environmental impact report, or prepare an environmental impact study. – The City conducted environmental review in the form of an initial study and mitigated negative declaration and prepared extensive technical analyses which evaluated short-term and long-term, individual and cumulative impacts determined that the Project would not result in any significant and unavoidable impacts which would necessitate the preparation of an EIR. The IS/MND evaluated sanitary sewer impacts, water quality and hydrology impacts, water supply impacts, impacts to special status species, tree removal impacts, and visual impacts. All potentially significant impacts will be mitigated to a less-than-significant level.

Comments about the 200,000 yards of material (Letter #8)

Commenters expressed concern about the potential impacts associated with project grading activities. According to the IS/MND, project grading will balance with approximately 30,000 cubic yards of cut and fill across most of the Residential parcel to construct the entrance road, cul-de-sacs, building pads, driveways and stormwater bioretention basin. Grading on the Residential parcel will be required to overexcavate and reuse areas of undocumented fill and to stabilize slopes along Stevens Creek for approximately 100,000 cubic yards (see IS/MND, page 109-110). The IS/MND evaluated secondary impacts associated with grading such as air quality impacts, noise impacts, visual impacts, biological resources impacts, safety, and other associated impacts.

Analyze Development of all 3 Parcels (Comment Letter #13, #14)

Commenters suggested that the entire project includes development of Parcels 1, 2 and 3 and that the environmental document should evaluate the Residential Project in conjunction with future development of New Parcel 2 and New Parcel 3. Although the Project proposes to divide the property into 2 additional parcels, these parcels will be protected from all future residential development as part of this project. The purpose of environmental review under CEQA is to analyze project impacts to determine if the Project would result in any significant and unavoidable impacts. The City conducted environmental review in the form of an initial study and mitigated negative declaration and prepared extensive technical analyses which evaluated short-term and long-term, individual and cumulative impacts of the Project and determined that all potentially significant impacts will be mitigated to a less-than-significant level.

We appreciate the opportunity to provide our perspective on the comments received and look forward to the ERC's review of our project. Please feel free to contact us if you have any questions regarding this letter.

Very truly yours,

Bridgit Koller
Standard Pacific Homes

Darcelle Pruitt
Parkside Trails, LLC

Cc:
Geoff Etnire
Alicia Guerra

Rebecca Tolentino

From: Gs2invest@aol.com
Sent: Sunday, August 10, 2014 6:51 PM
To: Rebecca Tolentino
Subject: Full EIR for Parkside Trails Development

Dear Ms. Tolentino,

A few of the problems associated with the Parkside Trails Development:

Removing 264 of 309 (85%) of the old growth trees from the hillside, leading to potential hillside stability risk, especially during the 3 to 5 year construction period.

Moving 200,000 square yards of dirt (equivalent to 15 feet per Square foot of the development), probable negative effect on Stevens Creek.

Proposed intersection for new street doesn't meet Cal Trans requirements.

These and other concerns make not performing a complete EIR totally irresponsible.

Thank you for your time,

Geoffrey H. Sherman
11123 Canyon Vista Drive
Cupertino, Ca.

Rebecca Tolentino

From: Gary Latshaw [glatshaw@gmail.com]
Sent: Sunday, August 10, 2014 9:32 PM
To: Rebecca Tolentino
Subject: Parkside Trails Residential Development

To Environmental Review Committee-

I am a resident of Cupertino and I belong to several environmental groups, including the Sierra Club. I strongly believe that this development requires a full environmental impact review. It is one of the last remaining undeveloped properties in Cupertino, and its development should reflect the strongest possible consideration of environmental issues.

There will be a substantial impact of greenhouse gas emissions due to the tons of soil that will be overturned, over 100 large trees will be removed, and auto traffic will increase along Stevens Canyon Road/Foothill Expressway.

Much of the ecology along Stevens Creek will be disrupted either by interfering with the habitat around the Creek (called the Riparian Corridor) or direct compromise of the Creek itself. In particular, both sides of the Creek have not been fully analyzed for biological impact.

The project will actually negatively impact the Creek both upstream and downstream of the development. Also, the development, as proposed, will interfere with migration along the Creek.

The development itself might impair the stability of the ground to nearby existing homes.

The official description on the Cupertino website is at:

http://www.cupertino.org/index.aspx?page=1139

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Fight for Renewable Energies! Save the global ecology; create jobs; eliminate dependence on foreign oil; reduce military requirements

Gary Latshaw, Ph.D.
408-499-3006

Rebecca Tolentino

From: Keith Wandry [keith@lobstershack.com]
Sent: Sunday, August 10, 2014 11:27 PM
To: Rebecca Tolentino
Subject: Urgent Input Regarding Parks Meeting August 11th

Hi Rebecca,

Here is my input regarding the IS/MND Parkside Trails. Curiously, when I put that name in the subject line of the mail it is rejected and tells me you don't exist.

Please pass my attached input to the Environmental Review Committee for their Monday meeting.

Thank you!

Keith Wandry
kwandry@ucsc.edu
keith@lobstershack.com
(408) 859-0974

I would like to make some comments regarding the request for development proposed for the narrow section of canyon along Stevens Creek just downstream from Stevens Creek County Park.

- This development should not be considered until a proper EIR is done. I understand the desire of involved parties to deal with this with a mere IS/MND, however, this is justifiably inadequate and inappropriate in this matter. Let's face it, the Developer wants to push this through and make a quick buck in todays market…
- Construction of housing in a zone which could be catastrophically affected by failure of Stevens Creek Dam opens up the City for legal action should such a catastrophe occur. This would far outweigh the tax benefits to the City.
- Construction of 18 homes in an area with limited access and a high fire danger also seems quite negligent on the City's part and should such an event occur, the City could be held accountable if this is not handled thoroughly.
- Based on Stevens Creek being critical habitat for the endangered Steelhead, proper involvement of the Department of Fish and Wildlife, and a biological assessment of the current habitat in this location, is required by law.
- You currently have City Code which protects trees in the City and penalizes citizens who remove or adversely affect the health of trees on their property or City property. Justifying to the citizens a decision which would allow destruction of 7.7 acres of trees and vital natural habitat which directly has impact on the Parks and Preserves you just spent years of time and money to develop might prove a daunting task.
- My feeling is that if this endeavor is approved in an inappropriate manner, there is great potential for legal action to be taken.
- Creeks are wildlife corridors. Wildlife uses these to travel to different natural areas and preserve diversity. Diverse and healthy wildlife contribute to a healthy natural habitat. The City along with a great many other organizations restored Stevens Creek at Blackberry Farm and at the Stocklmeir property with great results and at a great expense.

August 8, 2014

Rebecca Tolentino
Senior Planner
City of Cupertino
Community Development Department
10300 Torre Avenue
Cupertino, CA 95014
rebeccat@cupertino.org

Subject: Comments to Initial Study/Mitigated Negative Declaration, Parkside Trails Residential Project

Dear Ms. Tolentino:

I have reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Parkside Trails Residential Project. I grew up in this area, roaming the Stevens Creek Canyon as a kid and then dedicating much of my adult life to protecting and enhancing both the aquatic and streamside habitat of the Stevens Creek Corridor. I am quite concerned that the IS/MND does not adequately protect the resources of that area. At the very least, an EIR should be prepared to provide a better understanding of the biological resources on both the east and the west sides of the creek, the needed project alternatives, and a meaningful cumulative impacts analysis of what this further development in the corridor would mean.

Specific Comments

1. Sections 4.4.2 and 4.4.3, beginning on page 66. The IS/MND discusses impacts and mitigations to biological resources for both the area where the residential development is to go in on the west side of the creek and the area where the trail may or may not go in on the east side of the creek. However, a biological resources report was only prepared for the west side. Without a similar biological resources report for the east side of the creek, it is inappropriate to present an analysis of impacts and mitigations for this area; there simply is not enough evidence to know what the impacts will be, let alone how they can be mitigated to a less than significant level.

2. Section 4.18.2, page 188, Cumulative Impacts. There was no discussion of the synergistic effect of biological impacts within the two proposed development areas – residential housing and trail – nor between these projects and other projects near the Stevens Creek Corridor. Such a discussion is a vital part of understanding the effects of any project, but is especially important for protecting the regionally important resources of the Stevens Creek Corridor.

Thank you for the opportunity to review this IS/MND.

Sincerely,

Mondy Lariz

Rebecca Tolentino

From: shani kleinhaus [shani@scvas.org]
Sent: Monday, August 11, 2014 11:57 AM
To: Rebecca Tolentino
Subject: Parkside Trails - one more comment on the IS/MND

Hi Rebecca,
In addition to the comments I submitted yesterday,

NOAA Fisheries has primary regulatory authority over steelhead, they should be consulted about potential impacts of both Project and Program MND to this threatened fish species,
Shani

Shani Kleinhaus, Ph.D.
Environmental Advocate
Santa Clara Valley Audubon Society
(650) 868 2114
shani@scvas.org

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Francisco Bay Regional Water Quality Control Board

August 11, 2014
CIWQS Place ID No. 808401

Sent via electronic mail: No hardcopy to follow

City of Cupertino
Department of Planning, Building, and Code Enforcement
10300 Torre Avenue
Cupertino CA 95014

Attn: Rebecca Tolentino, Senior Planner (RebeccaT@cupertino.org)

Subject: Initial Study / Mitigated Negative Declaration for the Parkside Trails Residential Project, City of Cupertino, Santa Clara County
SCH No. 2014072025

Dear Ms. Tolentino:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff has reviewed the *Initial Study / Mitigated Negative Declaration for the Parkside Trails Residential Project, City of Cupertino, Santa Clara County* (ISMND). The ISMND assesses potential impacts associated with implementing the Parkside Trails Residential Project (Project). The Project proposes to subdivide the 42.4-acre site into three parcels, the Residential (8.5 acres), Corridor (4.1 acres), and Park (29.8 acres) parcels, change the General Plan land use designation and zoning on each of these parcels, and construct 18 single-family residences on the Residential parcel. The undeveloped 42.4-acre Project site (APN Numbers 351-10-028 and 351-10-043) is located off of Stevens Canyon Road, and is bounded by residences to the north, residences and the old quarry site to the east, Fremont Older Open Space to the south, and Stevens Canyon Road and Stevens Creek County Park to the west. Stevens Creek and two ephemeral creek channels are present on the Project site. Water Board staff have the following comments on the ISMND.

Comment 1. Section 4.4, Biological Resources
Water Board staff is concerned that the ISMND does not provide sufficient detail to assess the full extent of impacts to riparian habitat. Several figures show the extent of riparian habitat at the site. But the ISMND does not appear to provide the protocol that was used to establish the outer boundary of the riparian habitat for Stevens Creek and the two ephemeral creek channels on the Project site. It would be easier to assess the significance of potential impacts to riparian habitat if the ISMND provided a more clear explanation of the protocol used to establish the extent of riparian habitat, as well as the rationale used to establish buffers along the riparian habitat.

The ISMND includes maps that show the layout of the proposed housing and roads in relation to the channel of Stevens Creek and the two ephemeral creek channels. However, it appears that impacts associated with stabilizing site soils and the creek banks will extend well beyond the footprints of the new homes and roads. Appendix E, *Geotechnical Investigation*, summarizes the geotechnical work that will be necessary to stabilize soils beneath the future homes and roads

and to stabilize the banks of Stevens Creek and the ephemeral creek channels. Based on some of the cross sections (e.g., 4-4', 5-5', and 6-6') on Sheet 6 in Appendix E, it appears that geotechnical stabilization work may impact the riparian corridor along Stevens Creek and the ephemeral creek channels on the Project site. It is not clear from the text of the ISMND or the Biological Resources Report in Appendix C to the ISMND whether or not the persons that prepared the assessment of biological impacts were aware of the full extent of ground disturbance, and associated vegetation disturbance, that is necessary to stabilize the site for future residential development. The ISMND's assessment of impacts to riparian habitat could probably be improved by ensuring that the preparers of the Biological Resources Report were fully aware of the geotechnical assessment.

The assessment of biological impacts assumes that distances of 20 to 30 feet up the bank from the active channel of Stevens Creek are sufficient to buffer the creek channel from Project impacts. However, this assumption may not be correct if riparian vegetation that contributes to the creek's shade canopy is impacted by Project implementation. If trees that contribute shading or allochthonous input to the channel are removed, their removal will impact the habitat value of the creek, and that impact should be mitigated on site and in kind. In addition, the riparian corridor may extend 30 or more feet up the bank from Stevens Creek. The California Department of Fish and Wildlife (CDFW) regulates riparian vegetation extending past the top of bank to the outer dripline of riparian vegetation. Water Board staff recommend that the Project proponent contact CDFW staff to verify the extent of riparian vegetation subject to CDFW oversight at the Project site.

There may also be impacts to waters of the State associated with the proposed, armored outfall from the bioretention cell overflow discharge. The information provided in the ISMND is not sufficient to assess the extent of any impacts on waters of the State associated with the armoring of the overflow channel. If the outfall will impact waters of the State, then the ISMND should have included mitigation for that impact.

Section 4.4.3.2 of the ISMND states that the Project would impact 0.02 acres of riparian habitat. But it is difficult to tell from the ISMND where this impact would occur and what it would consist of. And it is not clear how that impact is defined, and whether or not it includes indirect impacts, like the loss of trees providing shade and allochthonous input to the creek channel. In addition, impacts to the ephemeral stream channels at the Project site are difficult to assess in the current version of the ISMND.

Comment 2. Section 4.4, Biological Resources, Mitigation

The only mitigation project proposed for the Project's impacts to riparian habitat (PD MM BIO-1.1) is an invasive species control program in the riparian corridor, which appears to be an extension of the invasive species control program proposed for uplands at the site. This program of invasive species control is proposed to last for three years. Three years may be insufficient to control invasive species, since there is a large seed stock of invasive plants (e.g., French broom) in the project vicinity and the upstream watershed. In addition to controlling invasive species, the program should also include active planting of native species to minimize opportunities for invasives to become established in Project site soils.

Also, while invasive plant species control is often a component of mitigation for riparian impacts, it is rarely sufficient to provide all of the required mitigation. The Project proponent

should develop a riparian mitigation project for the Project. The upstream ephemeral creek channel at the Project site may provide an opportunity for an on-site riparian mitigation project.

Based on Figure 1 in Appendix H, *Stormwater Management Infrastructure Modeling*, to the ISMND, Drainage Area 2 (DA-2) appears to provide flow to a significant seasonal creek that discharged to Stevens Creek, but is now diverted under Stevens Canyon Road in a culvert that that carries flow directly to the channel of Stevens Creek. This impression was confirmed by a comment letter form Joanne McFarlin on the ISMND that was provided to Water Board staff. The Project proponent is encouraged to consider options for daylighting the portion of the seasonal creek channel between Stevens Canyon Road and Stevens Creek. According to the comment letter from Ms. McFarlin, the culvert under Stevens Canyon Road is undersized, which has resulted in upstream flooding during large storm events. It may be feasible to replace the culvert under the road with a larger diameter culvert as part of a creek daylighting project. Opportunities for creek daylighting are very rare. Since the Project site is currently undeveloped, there may be unique opportunities for revising the Project design to allow for creek daylighting. Perhaps the Project could be implemented in combination with another project that results in unavoidable creek channel fill, since a daylighting project would provide in-kind mitigation for channel fill.

Comment 3. Section 4.4, Biological Resources, Impacts and Mitigation Associated with Future Trail Construction.
Water Board staff is concerned that the future impacts and mitigation for impacts associated with constructing trails are undefined at this time. While it is true that any impacts to waters of the State associated with the trails would require permit(s) from the Water Board, compliance with regulatory requirements is not in itself a mitigation measure. CEQA documents should identify impacts associated with a project and propose specific mitigation measures in sufficient detail for persons reviewing the CEQA document to assess the feasibility and adequacy of the proposed mitigation measures. This kind of assessment is not possible for the future trails on the basis of the information provided in the current ISMND.

Comment 4. The ISMND is described as a Program Level and Project Level ISMND.
According to text in Section 1.1 of the ISMND, "[T]his IS provides both "program level" and "project level" environmental review for the proposed project." While Water Board staff is familiar with program level review in the context of an Environmental Impact Report, we have not previously encountered a program level ISMND. By its nature, a mitigated negative declaration provides sufficiently detailed information with respect to both impacts and mitigation measures to adequately demonstrate that all of a project's impacts can be mitigated to less than significant levels. With respect to future trial construction in the riparian corridor, including potential bridges over Stevens Creek, and through wetlands, the ISMND does not demonstrate that sufficient mitigation has been identified.

In a CEQA document, a project's potential impacts and proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation

measures would be improperly exempted from the process of public and governmental scrutiny which is required under the California Environmental Quality Act. While it is true that any impacts to waters of the State associated with the trails would require permit(s) from the Water Board, compliance with regulatory requirements is not in itself a mitigation measure. CEQA documents should identify impacts associated with a project and propose specific mitigation measures in sufficient detail for persons reviewing the CEQA document to assess the feasibility and adequacy of the proposed mitigation measures. This kind of assessment is not possible for the future trails on the basis of the information provided in the current ISMND.

Please contact me at (510) 622-5680 or brian.wines@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the CIWQS Place ID Number indicated at the top of this letter.

Sincerely,

Brian Wines

Brian Wines
Water Resources Control Engineer
Watershed Division

cc: State Clearinghouse (state.clearinghouse@opr.ca.gov)

Rebecca Tolentino

From: Beth Ebben on behalf of City of Cupertino Planning Dept.
Sent: Tuesday, August 12, 2014 9:40 AM
To: Planning Dept.
Subject: FW: Comments regarding APN#356-05-005 Parkside Trails project

From the Planning Department's general mailbox:

-----Original Message-----
From: JD [mailto:aduba7@gmail.com]
Sent: Monday, August 11, 2014 3:48 PM
To: City of Cupertino Planning Dept.
Cc: Ping Chen
Subject: Comments regarding APN#356-05-005 Parkside Trails project

Dear Directors of Community Development, and Members of City Planning:

We are residents and owners of properties that are located next to the Haul Road and the Deep Cliff golf course. From the letter you sent a couple weeks ago, We came to know about the Parkside Trails Project (Bridget Koller) that includes the proposed development on the parcel #356-05-005 to reconstruct the Haul Road. We would like to send our comments on the potential environmental impact and our objections to this part (APN #356-05-005) of the development plan in writing.

The Haul Road is a historical trail with natural surface that connects McClellan Ranch Preserve and Linda Vista park. It is located inside the Deep Cliff golf course. There are gates on both ends of the road to McClellan Road and the Linda Vista park. For many years, the gates remain closed to public. If the reconstruction project is approved, we see immediate impact to the environment and community as stated below:

1) There are several herds of deers have taken home on the west side slope of the road at the edge of the golf course. They are beautiful and peaceful creatures. With the incremental growth of the population in the city of Cupertino, it will be extremely hard for them to find a new range. The reconstruction project will undoubtedly drive them away and possibly have detrimental impact on their generations.

2) Due to lack of foot traffic, there are also many different type of wild animals now live in the east side of the woods on the golf course. The reconstruction project will likely bring damage to the balance of the wilderness and unavoidably cause wild lives to be lost.

3) There are many homes along the east side the Haul Road. Most homes have low rise fence, or fence that are not secured enough for public traffic. Some do not have retention walls on the slope below the fence. By opening the gate on either side of the road and allow pedestrians to cut through between McClellan Road and Linda Vista Drive, the security risk and privacy issues would be a major concern. There have been several incidents reported to the police late night in the vicinity of Linda Vista park. The gate between Linda Vista park and the Haul Road has helped keep them away from the residences on the golf course side of the gate so far. All these will change if the project on APN #356-05-005 is approved.

4) The golf course can also be a risk to pedestrians on Haul Road after the construction. We've seen golf balls landed in our back yard some times in rare incidents. Because the road is so close to the golf course, allowing pedestrians on the Haul Road will very likely increase the risk of injuries and concerning public safety.

Please be kindly review the above comments. We would appreciate if you could confirm you have received these comments in this email. Please also help clarify the exact time of the public hearing, as we are not able to find the agenda on your website as instructed. You can reach me at 408-505-8898 if you need more information. Thank you and have a good day.

-Jun Du
And residents on Baxley Court
aduba7@gmail.com