

Attachment 20

City Council Agenda Report dated September 3, 1999

Meeting Date: 9-14-99

- Council
- Agency
- SOSA

City of Santa Clara, California



DATE: September 3, 1999

TO: City Manager/Executive Director for Council/Redevelopment Agency Action

FROM: Assistant City Manager

SUBJECT: Final Approval -- Burrowing Owl Mitigation Agreement

APPROVED BY COUNCIL
Date: 9-14-99

EXECUTIVE SUMMARY:

By direction of the City Attorney's Office, staff had postponed bringing forward the Burrowing Owl Mitigation Agreement between the City and the State of California Department of Fish and Game (DF&G) for final approval until the North Bayshore Environmental Impact Report was certified by the Planning Commission. On August 25, 1999, the Planning Commission reviewed and certified the North Bayshore EIR.

A copy of the Mitigation Agreement and the extensive Agenda Report from August 24, 1999 have been left in Council Offices for review. Additionally, a summary of the major points contained in the Mitigation Agreement is attached to this report (Exhibit A).

ADVANTAGES/ DISADVANTAGES:

Approval of the Mitigation Agreement will allow development to proceed on a number of City-owned parcels in the North Bayshore Area. These projects are intended to enhance the City's General Fund revenue, upgrade the Electric Utility's infrastructure and provide additional youth recreational activities in the community.

ECONOMIC/FISCAL IMPACT:

The Mitigation Agreement requires a deposit of \$702,000 to be put into an escrow account to the benefit of DF&G. Additional funding will be required for the acquisition and habitat creation on 58.5 acres of land. Once land acquisition and habitat creation is complete, the deposit will be returned to the City. Funds for this project have been appropriated in the Redevelopment Agency budget.

RECOMMENDATION:

Staff recommends that Council:

1. Approve the Burrowing Owl Mitigation Agreement between the City of Santa Clara and the State of California Department of Fish & Game; and
2. Direct the City Manager to pursue completion of the Mitigation Agreement requirements in a timely manner.

Ronald E. Garratt
Assistant City Manager

Certified as to Availability of funds: ^{OK}
Acct. No. 939-1011-9048 (\$702,000)

A. Kristin Machnick
Director of Finance

APPROVED BY:

Jennifer Sparacino
City Manager/Executive Director

SUMMARY
BURROWING OWL MITIGATION AGREEMENT

Parties: City of Santa Clara and the State Department of Fish and Game (DF&G)

Term: Twenty-four months

Cost: The City will deposit in an escrow account \$702,000 (mutually naming DF&G). An additional \$3,000 may be payable to DF&G for Agreement processing costs.

Particulars:

- City must deposit funds in a holding account within sixty (60) days of Council approval.
- City intends to pursue development opportunities in the six project areas upon deposit of the funds.
- No burrowing owls will be evicted from burrows during the nesting season (February 1, through August 31).
- A 250-foot buffer must be maintained between project activities and nesting owls, as identified by the City's contract biologist.
- If accidental take occurs, the City will notify DF&G immediately.
- City agrees to acquire 58.5 acres of existing owl habitat or lands suitable for owl habitat. Acreage is based on 6.5 acres for each of the nine (9) pair of owls nesting in the project area.
- Acquired habitat land will be transferred to DF&G, or their designee, in fee title or by conservation easement.
- If the City defaults on any material obligations, DF&G shall have all rights with respect to any cash security and all available remedies.
- The City's contractual commitment is not satisfied by just the acquisition of land, but rather by the creation of a sustainable owl population on the land. This could take far longer than the two year window allowed in the Agreement. DF&G has indicated their willingness to extend the timeframe if the City was acting with due diligence.

MITIGATION AGREEMENT

between the

CITY OF SANTA CLARA

and the

CALIFORNIA DEPARTMENT OF FISH AND GAME

Ref. No. 1802-1999-024-3

This Mitigation Agreement ("Agreement") is made and entered into by and between the City of Santa Clara, California, a chartered California municipal corporation ("City") and the California Department of Fish and Game (the "Department"), a Department of the State of California, collectively "the Parties."

The purpose of this Agreement is to mitigate significant environmental impacts to the Western Burrowing Owl (*Speotyto cuniculara*), caused by the build out of the Bayshore North Redevelopment Plan ("BNRP") in Santa Clara, California, and as identified in an Environmental Impact Report (EIR) dated May, 1998, prepared by the City pursuant to the California Environmental Qualifications Act ("CEQA"). The Western Burrowing Owl is a State designated Species-of-Special-Concern.

RECITALS

A. WHEREAS, the City proposes development of six parcels with hotel, office/R&D, soccer field complex, support parking, and golf course uses within the existing Bayshore North Redevelopment Area. An electrical receiving station is also proposed adjacent to the southeasterly boundary of the Bayshore North Redevelopment Area (refer to **Exhibit A**). The total project acreage is 110 acres ("Project Area"). The sites are located within the corporate boundaries of the City generally bounded by State-Highway 237 to the north, Lafayette Street to the east, the Hetch Hetchy aqueduct to the south and Great America Parkway to the west. The City proposes to mitigate for impacts to burrowing owl and habitat essential for their survival which occurs on each of the parcels proposed for development (refer to **Exhibit C**); and

B. WHEREAS, the City has prepared a draft EIR regarding the project; and the City has circulated the EIR for public review and comment; and the City has identified significant environmental impacts to Western Burrowing Owl habitat in the EIR; and whereas the Department is a trustee agency under the CEQA and has provided written comments on the EIR;

and

- C. WHEREAS, the City and Department have reached agreement on one acceptable way to mitigate the significant environmental impacts to Western Burrowing Owl habitat identified in the draft EIR; and
- D. WHEREAS, the City will mitigate Western Burrowing Owl habitat at ratio of 6.5 acres of owl habitat for every pair of owls located in the Project Area; and
- E. WHEREAS, the Department is trustee for the fish and wildlife resources of the State of California and has jurisdiction over the conservation and protection of fish, wildlife, and native plants, and the habitat necessary for biologically sustainable populations thereof pursuant to California Fish and Game Code Section 1802; and
- F. WHEREAS, Western Burrowing Owls and/or their habitat occurs on each of the parcels identified for development; and
- G. WHEREAS, the BNRP will result in permanent impacts to approximately one hundred ten (110) acres of burrowing owl foraging and breeding habitat combined; and
- H. WHEREAS, the BNRP will not result in the take of individual burrowing owls; and
- I. WHEREAS, the Department desires, consistent with the policies of California Fish and Game Code Section 1802, that there is permanent protection for burrowing owls and their habitat to assure the conservation, restoration, and long-term survival of this species; and
- J. WHEREAS, the City agrees to undertake the mitigation measures set forth in this Agreement to offset the adverse impacts to burrowing owls caused by the BNRP; and
- K. WHEREAS, the Project will not result in the take of individual burrowing owls, which is prohibited by Fish and Game Code Section 3503.5, and whereas measures will be implemented to assure that no take will occur through the eviction of burrowing owls from the proposed construction site during the non-nesting season (August 31 to February 1),

NOW THEREFORE, the Parties agree as follows:

1. NOTIFICATION.

The City intends to pursue development opportunities upon execution of this Agreement. This Agreement serves as notification that the City intends to commence ground disturbing activities on some or all of the 110 acres.

2. RESPONSIBLE PARTY.

By execution of this Agreement, the City is notifying the Department that the City Manager, or her designee, is responsible for overseeing compliance with this Agreement.

3. EVICITION OF OWLS, BUFFER ZONES AND REPORTING OF TAKE

The City agrees to comply with the following restrictions during construction of the Project:

- A. No burrowing owls will be evicted from burrows during the nesting season (February 1 through August 31).
- B. A 250-foot buffer will be maintained between Project activities and nesting burrowing owls, as identified by a qualified biologist, until the young owls are foraging independently.
- C. If accidental take occurs, the Applicant will contact the Department immediately.

4. ACQUISITION OF HABITAT LANDS.

A. The City agrees to acquire and preserve a combination of 58.5 acres of existing burrowing owl foraging and breeding habitat management (HM) lands or suitable habitat and not currently sustaining a burrowing owl population but that, at City expense, can be suitably modified to become HM lands. This acreage is based on 6.5 acres of habitat for each existing pair of owls in the Project Area as described in **Exhibit A**.

B. HM lands acquired by the City shall be transferred to the Department in fee title or preserved through a conservation easement or a declaration of deed restriction that is approved by the Department. In lieu of transfer to the Department, the HM lands may be transferred to a non-profit corporation or public entity approved by the Department under terms approved by the Department. The City agrees to obtain the Department's approval of the HM lands for their biological suitability prior to any transfer.

5. LAND RATIO REQUIREMENT.

The required HM lands acreage amount is based upon the agreement between the City and the Department that 110 acres within the BNRP are utilized for burrowing owl foraging and/or breeding habitat and that one acceptable method of mitigating impacts to burrowing owls and their habitat is off-site preservation of existing burrowing owl habitat at a ratio sufficient to sustain the displaced birds (refer to **Exhibit B**).

6. CONDITIONS OF HABITAT ENHANCEMENT.

A. The HM lands must have existing burrowing owl habitat, or the City must undertake habitat enhancement measures. The City agrees to demonstrate that the HM lands are suitable for burrowing owl mitigation by providing information that shows burrowing owl distribution in the vicinity. The total acreage of HM lands protected through this Agreement may exceed the 58.5 acres required, because areas of the HM lands that are not suitable for burrowing owls will not count towards the mitigation requirement. Any HM lands protected for the purposes of this Agreement must include areas on-site where burrowing owls can breed successfully. The City will be responsible for creating breeding habitat (artificial burrows) on the HM lands if it is determined to be necessary by the Department. The City agrees to provide the Department a recent preliminary title report and Level I environmental report for the HM lands. All documents conveying HM lands and all conditions of title are subject to the approval of the Department, the Department of General Services and, if applicable, the Fish and Game Commission.

B. The City agrees to acquire 58.5 acres of HM lands within 24 months of the execution of this Agreement. This requirement will mitigate impacts to burrowing owl habitat caused by grading and development activities from the BNRP.

C. If the City fails to complete the acquisition of 58.5 acres of HM lands within 24 months, or fails to perform other duties identified in this Agreement within the time periods specified, the Department, at its option, may demand that the City cure its breach forthwith. The Department may draw upon the security to complete the required acquisition, enhancement and management of HM lands and may pursue other remedies if the City fails to cure its breach upon demand.

7. FUNDING REQUIREMENTS FOR MITIGATION LANDS.

A. The City shall enhance burrowing owl habitat on the HM lands if the species is not already found on the HM lands. In addition, the City shall be responsible for initial protection and enhancement measures on the HM lands; these measures may include fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any necessary habitat restoration. Alternatively, the City may fund the Department's initial protection and enhancement activities on the HM lands by providing the Department a check in the amount of \$58,500 drawn from a banking institution located with California. Any unobligated funds for initial protection and enhancement of the HM lands shall be returned to the City upon completion of all such activities.

B. The City agrees to provide the Department (or non-profit corporation or other public entity, as applicable) with a check in the amount of \$58,500 to establish an endowment for

the long-term management of the HM lands. The City shall transfer these funds to the Department, or its designee, upon the Department's approval of the biological suitability, exceptions and conditions of title, and acquisition by the Department or an agent approved by the Department of HM lands as provided herein. The funds shall be in the form of a check drawn from a banking institution located within California. Such funding shall be used as principal for a permanent capital endowment. Interest from this amount shall be available for operations, management and protection of the HM lands acquired pursuant to this Agreement. Operation, management and protection activities may include reasonable administrative overhead, biological monitoring, improvements to biological carrying capacity, law enforcement measures, and any other actions designed to protect or improve the habitat values of the HM lands. Money received by the Department pursuant to this provision shall be deposited in a special account established pursuant to Government Code Section 16370. The Department may pool the endowment with other endowments for the operation, management and protection of HM lands for local populations of the Western Burrowing Owl.

C. The City agrees to reimburse the Department for reasonable expenses incurred as a result of the approval and implementation of this Agreement, including costs of title and documentation review, expenses incurred from other state agency reviews and reasonable overhead directly related to this agreement. The Parties estimate that this Agreement will create an additional cost to the Department of up to \$3,000 per HM lands acquisition transaction processed regardless of the number of acres in each transaction.

D. The City plans to proceed with the Project prior to fully performing the mitigation described in this Agreement. The City therefore agrees to secure the performance of its mitigation duties by providing the Department with security in the amount of \$702,000 within sixty (60) working days from the date of execution of this Agreement. If the City has not fully performed its duties and obligations under this agreement within 24 months of the execution of this Agreement, the City shall pay the Department the estimated cost of performing any unperformed obligation. In the event that the City does not pay such a sum to the Department within 10 days' written notice of such an amount being due, the Department may draw upon the deposit provided pursuant to this Agreement and use such funds to acquire, protect, enhance and manage HM lands. The security shall be approved by the Department and shall be in the form of a trust account, irrevocable letter of credit, cash payment, or other security approved by the Department. The City agrees to provide security in the amount of \$702,000 including (1) \$58,500 for initial protection and enhancement of the HM lands, (2) \$585,000 (58.5 acres at an estimated \$10,000 an acre) for the acquisition and/or preservation of the HM lands, and (3) \$58,500 for an endowment for the long-term management of the HM lands.

E. The parties estimate that the City's costs for the acquisition and transfer of suitable HM lands totaling 58.5 acres of burrowing owl habitat will be \$585,000, at an estimated cost of \$10,000 an acre. Notwithstanding the above estimate, in the event that acquisition costs

exceed the projected amount, the City shall not be released from performance of the requirements unless the Department and the City agree to modify this Agreement to provide for alternate effective burrowing owl mitigation measures acceptable to the Department. In the event that acquisition costs are less than estimated, the City's obligation shall be the actual acquisition cost and associated expenses described in the Agreement.

F. The Department will authorize the release or return of security to the City as mitigation duties are completed by the City. Upon timely request and upon presentation of documentary evidence of full compliance with the terms and conditions of this Agreement, the Department shall release or request the release of the remaining security.

OTHER PROVISIONS

8. The Department, its designee or successor shall hold title to and protect all HM lands conveyed in fee title under this Agreement solely for the purposes of conservation, protection, restoration, and enhancement of the western burrowing owl. This covenant shall run with the land and no use of such land shall be permitted by the Department or any subsequent title holder or assignee which is in conflict with the stated conservation purposes of this Agreement. The Department, its designee or successor may allow some limited grazing on the HM lands if said uses or the management of said uses do not conflict in any way with the conservation goals for burrowing owls.

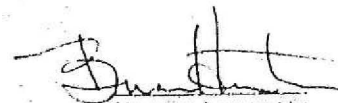
9. The Department, its designee or successor shall record on each deed a statement that the HM lands described in the deed of record have been conveyed to the Department, its designee or successor for purposes of conservation, protection, restoration and enhancement of the burrowing owl and its habitat. Such statement shall be substantially as provided in **Exhibit C**.

10. In the event the City defaults on any of its material obligations under this Agreement, the Department shall have all rights with respect to any cash security and all other available remedies, including without limitation all rights of a secured party pursuant to the California Uniform Commercial Code. Notwithstanding any provision of this Agreement, the Department waives any right to seek injunctive relief against development of the Project Area as substantially described in Exhibit C, as a means of enforcing the terms of this Agreement.

11. All notices and other communications required or permitted under this Agreement shall be in writing and addressed to the parties at the following addresses, or at substitute addresses subsequently provided to any of the parties:

CITY OF SANTA CLARA:

Jennifer Sparacino, City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
(408) 615-2210



Mitigation Agreement for
Bayshore North Redevelopment
B.H./Rev. 8-12-99/City of Santa Clara

DEPARTMENT:

General Counsel
Legal Affairs Division
Department of Fish and Game
1416 Ninth Street, Twelfth Floor
Sacramento, CA 95814
(916) 654-5295

AND

Mr. Carl Wilcox
Region 3
California Department of Fish and Game
P.O. Box 47
Yountville, CA 94599
(707) 944-5525

12. Any sale or assignment of this Agreement or any of the rights or obligations thereunder is void absent the written consent of the Parties; provided, however, that no consent shall be required for assignment or pledge made by the City (a) to any company that shall succeed by purchase, merger or consolidation to the properties of the City; or (b) as security for a debt under the provision of any mortgage, deed of trust, indenture, bank credit agreement, or similar instrument.

13. This Agreement comprises the entire agreement and understanding between the Parties concerning the BNRP, the mitigation of significant environmental impacts identified in the EIR regarding western burrowing owls and their habitat and adjacent Electric Receiving Station. This Agreement supersedes all prior and contemporaneous agreements, representations or understandings, whether oral or written.

14. This Agreement shall be governed by the laws of the State of California. Actual or threatened breach of this Agreement may be prohibited or restrained by a court of competent jurisdiction.

15. This Agreement is solely for the benefit of the People of the State of California, by and through the Department or its designated representative, and the City.

16. From time to time, the Parties shall by mutual agreement execute such instruments and other documents, and take such other actions, as may be reasonably necessary to carry out the terms of this Agreement. This Agreement cannot be amended or modified in any way except by a written instrument duly executed by the Parties. In any action requiring the agreement or approval of either of the Parties, such agreement or approval shall not be unreasonably denied or withheld, so long as it does not substantially alter the Agreements, duties and remedies of the Parties.

17. This Agreement shall terminate upon completion of all terms and conditions. In the event this Agreement terminates by law or judicial action prior to the full performance of the management duties and obligations, title to any security provided by the City shall inure the Department by operation of law on the date of the termination.

18. It is acknowledged that the purpose of this Agreement is to set forth the obligations and rights of the Parties with respect to the BNRP and the mitigation of significant environmental impacts on the western burrowing owl and its habitat, as identified in the Project's environmental impact report. The Department will not seek further mitigation or compensation for the western burrowing owl or its habitat from the City for impacts within the BNRP project area and the adjacent Electric Receiving Station.

19. This Agreement shall be immediately effective upon execution by the Parties.

20. This Agreement includes and incorporates the following:

EXHIBIT A - Regional, Vicinity and Site Maps

EXHIBIT B - Census of Existing Owls

EXHIBIT C - Project Description

EXHIBIT D - Certificate of Public Purpose

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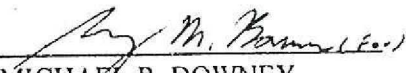
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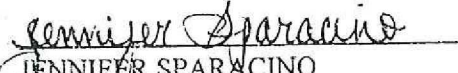
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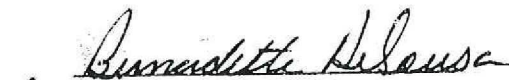
The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the last date written below.


**CITY OF SANTA CLARA, CALIFORNIA,
a Chartered California Municipal Corporation:**

Approved as to Form:

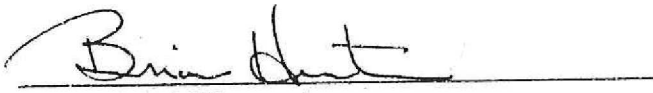

MICHAEL R. DOWNEY
City Attorney
Date: Sept. 16, 1999
Attest:


JENNIFER SPARACINO
City Manager
Date: September 14, 1999


for Bernadette Helouso
J. E. BOCCIGNONE
City Clerk
Date: 9-21-99

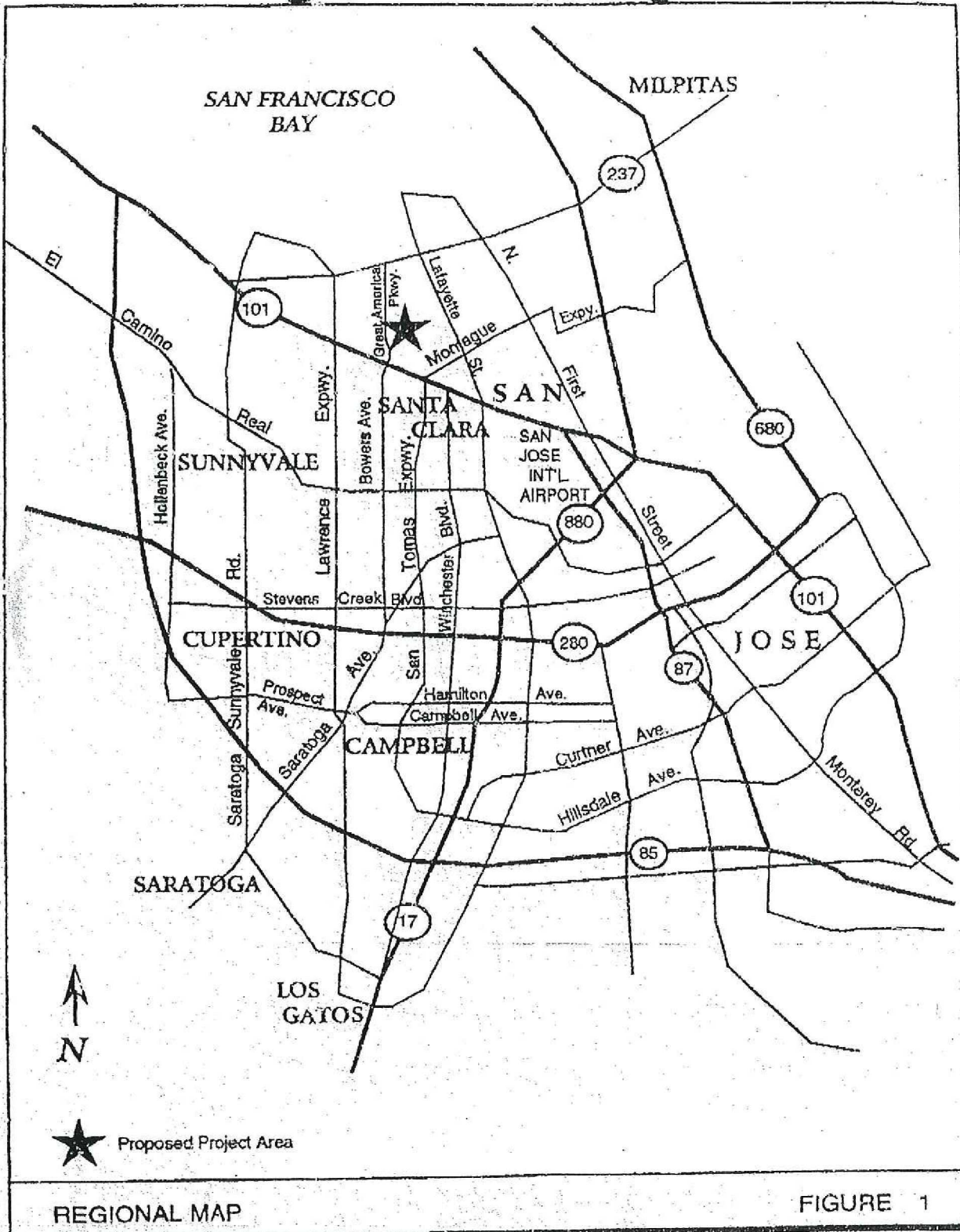

Mayor

CALIFORNIA DEPARTMENT OF FISH AND GAME


BRIAN HUNTER
Regional Manager, Region 3
Date: 6-15-99

Approved as to Form:

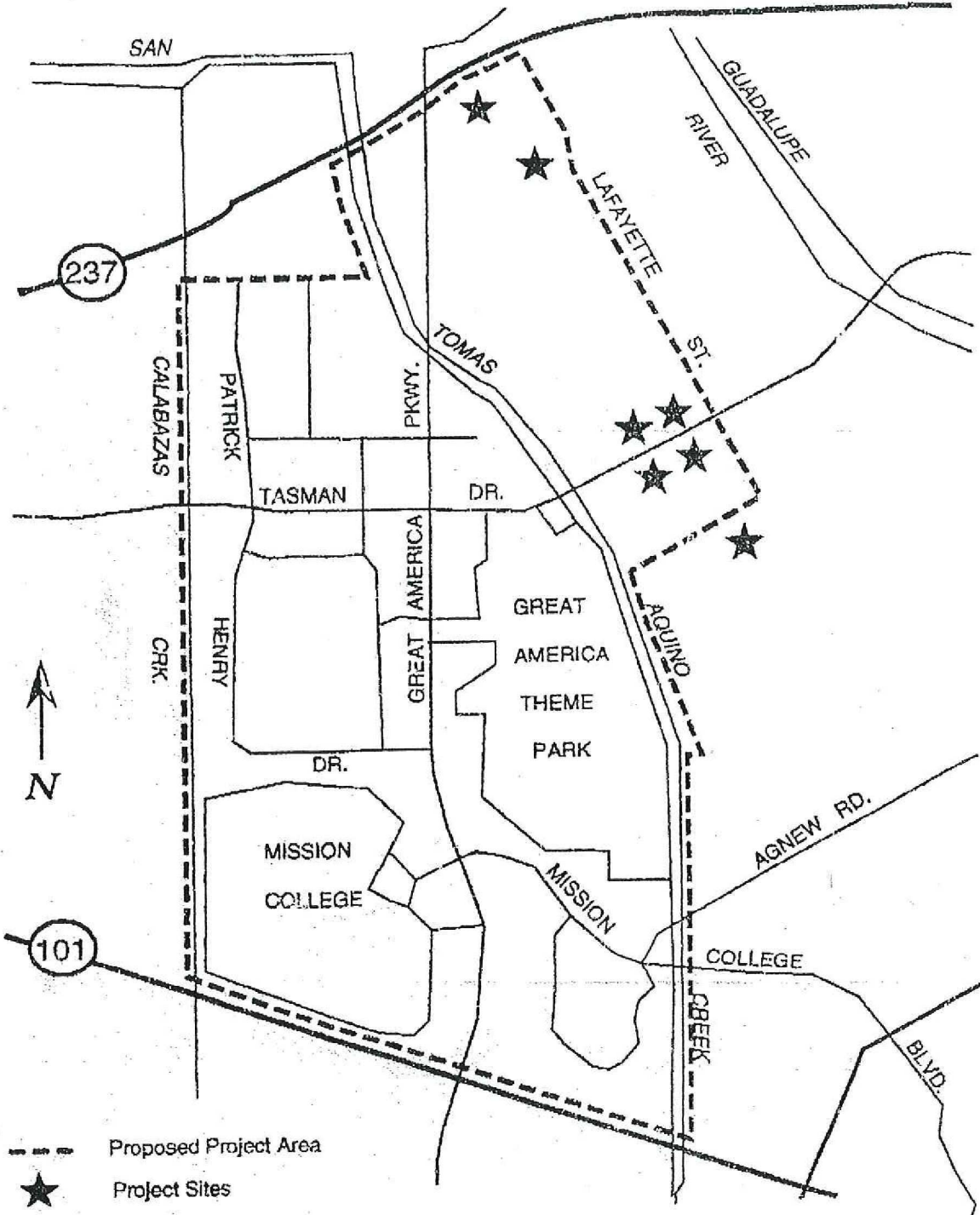

ANN S. MALCCLM
Deputy General Counsel



REGIONAL MAP

FIGURE 1

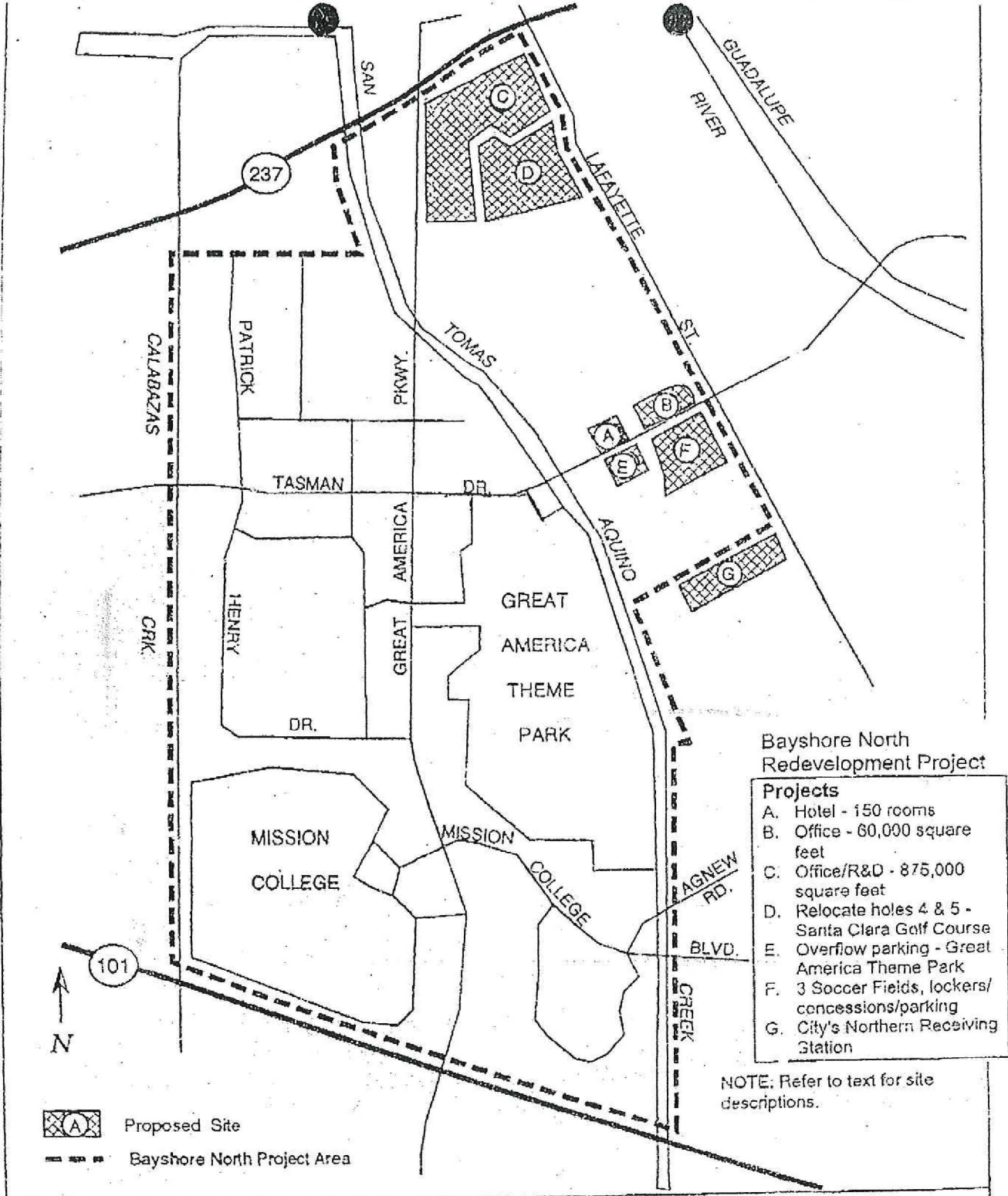
EXHIBIT A



--- Proposed Project Area
★ Project Sites

VICINITY MAP

FIGURE 2



PROJECT SITE MAP

FIGURE 3



H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

1 December 1998

RECEIVED

DEC 03 1998

Office of the City Manager
City of Santa Clara

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RE: North of Bayshore Burrowing Owl nests.

Dear Mr. Garratt:

Per your request, enclosed is a graphic depicting approximate locations of known Burrowing Owl (*Athene cunicularia*) nests in the North of Bayshore redevelopment area (Figure 1). The sources of this information were my own observations during the summer of 1998, and those of Dr. Lynne Trulio. Please note that the locations are approximations only, and are intended to show the specific parcel in which the nest was found, rather than precise nest locations.

Dr. Trulio's data are the result of her ongoing study of the demographic characteristics of the local Burrowing Owl population. Her census followed recognized methods, and in all likelihood, the 9 nests detected represent a complete count. My own observations match Dr. Trulio's, providing confirmation of sorts that the count is accurate and complete.

Please phone if you would like to discuss this further, or if you require additional information. Thanks very much.

Sincerely,

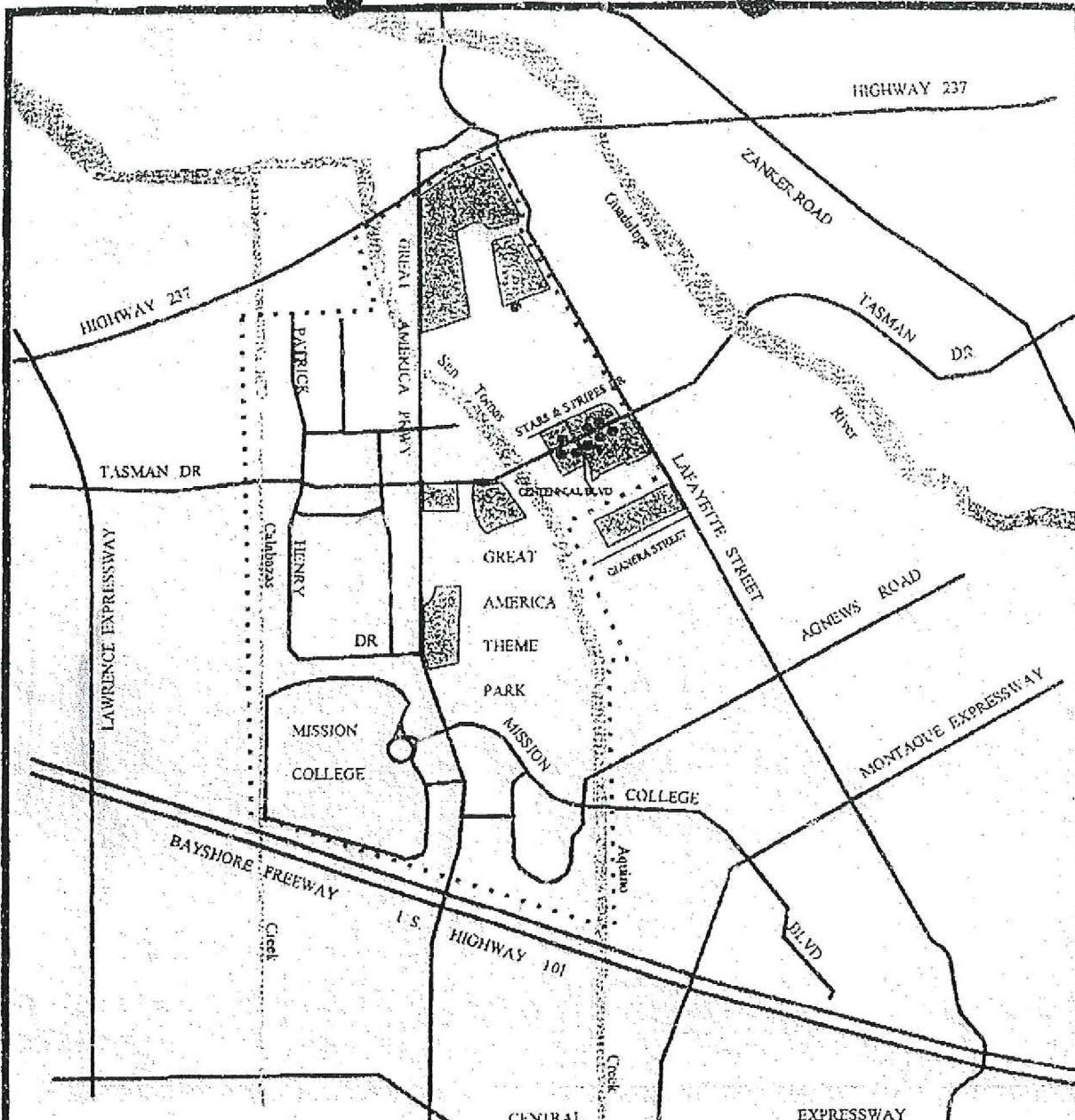
David L. Plumpton
Senior Ecologist - Raptor Specialist

Enclosure: figure




proj. no. 1300-02

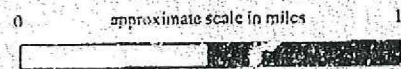
Alviso Office
906 Elizabeth Street • P.O. Box 1160
Alviso, CA 95002 • (408) 263-1814 • Fax: (408) 263-3823

Fresno Office
423 W. Fallbrook Suite 200 • Fresno, CA 93711
(559) 449-1423 • Fax: (559) 449-8248



Legend

-  Proposed Redevelopment Site
-  North of Bayshore project area
-  Burrowing Owls nests - 1998 (locations approximated)



H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

North of Bayshore Redevelopment area

File No 1300-02 Date 12/1/98 Figure 1

EXHIBIT C

PROJECT DESCRIPTION

The proposed project includes the development and redevelopment of six parcels within the Redevelopment Project area, and one parcel adjacent to the Redevelopment Project Area which support the continued implementation of the previously approved Bayshore North Redevelopment Plan. For the purpose of clarity, each of the projects will be referred to as "Project A", "Project B", etc. The location of Projects A through G are shown in Figure 3 - Exhibit A. These projects include:

- A. Construction of a 150 room mid-rise limited service hotel with commercial uses on 2.5 acres located on the northwest corner of Tasman Drive and Centennial Drive;
- B. Construction of 60,000 square feet of office development, and related parking of 4.4 acres at the northeast corner of Tasman Drive and Centennial Drive;
- C. Construction of approximately 875,000 square feet of research and development and/or uses in up to six story buildings on 42.03 acres generally located southeast of the SR 237/Great America Parkway interchange near Yerba Buena;
- D. Relocation of Holes 3 and 4 of the Santa Clara Golf Course to 35 acres on the closed All Purpose Landfill to accommodate "Project C" referenced above;
- E. Development of overflow parking spaces for the Great America Theme Park on 3.2 acres located at the southwesterly corner of Tasman Drive and Centennial Drive;
- F. Construction of three soccer fields and supporting parking, lockers, and concessions on approximately 11.1 acres located at the southeasterly corner of Tasman Drive and Centennial Drive;
- G. Construction of the City's Northside Receiving Station, an electrical substation, on 12.3 acres located on the westerly side of Lafayette Street southerly of Tasman Drive to support existing and future development in the Bayshore North Redevelopment Plan Area.

EXHIBIT D

CERTIFICATE OF PUBLIC PURPOSE

This is to certify that the interest in real property conveyed by the deed or grant of the following property _____

_____ , dated _____ ,
from _____ , to the California Department of Fish
and Game (the "Department"), grantee, a governmental agency (under section 27281 of the
Government Code) is hereby accepted by the undersigned officer on behalf of the Department,
pursuant to authority conferred upon him by resolution of the _____
on _____ .

The public purpose of this real property conveyance and the recordation hereof is being
accomplished pursuant to the terms and conditions of the Mitigation Agreement ("Agreement")
entered into on _____ by and between _____ and the
Department.

The Agreement, among other terms and conditions not relevant here, provides at paragraph 8:

"The Department, its designee or successor shall hold title to and protect all HM
lands conveyed in fee title under this Agreement solely for the purposes of
conservation, protection, restoration, and enhancement of the western burrowing
owl. This covenant shall run with the land and no use of such land shall be
permitted by the Department or any subsequent title holder or assignee which is in
conflict with the stated conservation purposes of this Agreement. The
Department, its designee or successor may allow some limited grazing on the HM
lands if said uses or the management of said uses do not conflict in any way with
the conservation goals for burrowing owls."

A copy of this Agreement in its entirety may be obtained by interested parties by sending a
request to the Director of the Department at the address below.

DEPARTMENT OF FISH AND GAME
OF THE STATE OF CALIFORNIA
1416 Ninth Street
Sacramento, California 95814

By: _____
Title: _____
Authorized Representative
Date: _____

Meeting Date: 12-14-99

- Council
- Agency
- SOSA

AGENDA REPORT

City of Santa Clara, California



DATE: December 9, 1999 NOTED & FILED

TO: City Manager for Council Information

FROM: Assistant City Manager

SUBJECT: Burrowing Owls – Passive Relocation Efforts


Overview:
 Based on Council reaffirmation last week of its September 14, 1999, approval of the Burrowing Owl Mitigation Agreement with the State Department of Fish and Game, staff is proceeding with passive relocation of burrowing owls on six (6) project area sites:

- The Yerba Buena (Irvine Company) Project
- The Northern Receiving Station Site
- The northwest corner of Tasman/Centennial (Hotel Site)
- The southwest corner of Tasman/Centennial (Parking Lot Site)
- The southeast corner of Tasman/Centennial (Soccer Park)
- The northeast corner of Tasman/Centennial (specific project not yet designated)

These sites are all covered by the Mitigation Agreement. While a specific project for the northeast corner of Tasman/Centennial has not been identified as yet, staff has received development proposals for various recreational/retail activities that potentially could encumber all or just a portion of this site. Again, it is staff's understanding that Council wishes to have all of the above sites available for possible development this coming year. Staff will be requesting a closed session in January to discuss a development proposal for the northeast corner of Tasman/Centennial.

While the execution of the Mitigation Agreement in mid-September provided formal notice to the State Department of Fish and Game (DF&G) that the City was prepared to passively relocate owls, staff has recently communicated with DF&G, both at its regional Yountville office and its legal office in Sacramento, that the City would commence and complete passive relocation on these sites over the next six weeks.

APPROVED:


 Ronald E. Garratt
 Assistant City Manager


 Jennifer Sparacino
 City Manager

REG:efd