

**RESPONSES TO COMMENTS ON THE
CAVALLO HIGHLANDS RESIDENTIAL PROJECT INITIAL STUDY**

**A. RESPONSES TO COMMENTS FROM BRIAN CHAN, DATED MARCH 28,
2019**

COMMENT A-1: Dear Mr. Golubics,

I live in Stonebrae and I am opposed to the proposed Cavallo Highlands project. While there are many reports on the city website, I do not see actual plans or renderings of the project itself. Specifically, are there elevations and drawings for where the new homes will be situated on the lots and what sort of grading will occur? Previously, they had proposed removing the hill and flattening the entire lot which would dramatically alter the view for the Stonebrae community. What are their plans now? If they still propose to do this, then I believe removing an entire hill would be much more than "low impact site grading" and would be a significant deviation from the Hayward General Plan (Policy NR-8.2) which is to keep everything as natural as possible.

RESPONSE A-1: The Initial Study was based on the available plans, which includes a site plan (included as Figure 3.0-1 of the Initial Study), as well as grading and drainage plan and utility plan. These plans are on file with the City. The grading plan indicates cuts up to twenty feet at the top of the knoll on the site, retaining wall heights up to six feet, and maximum 2:1 slopes. The overall profile of the hillside will be retained, although the slopes will be reduced in some areas to provide suitable lots.

Conceptual architecture plans for individual homes were not available at the time the Initial Study as those are not yet on file, and the applicant will be required to submit a Precise Plan should the project be approved by the City. The focus of a Precise Plan application is for City staff to look at the finer details of a project, including new home architecture. The precise locations of the homes on the lots was not available at the time the Initial Study was prepared, and proposed homes would be placed within setbacks established in the site's zoning regulations.

COMMENT A-2: There are also several issues that were not addressed in the reports:

Cell Tower

The large stand of trees on the Carden property currently help to camouflage the Verizon cell tower on the golf course immediately adjacent to the property. This cell tower is poorly disguised as a pine tree. If this stand of trees are removed from the Carden property, then this cell tower will be standing alone in the skyline -- one giant fake pine tree on this skyline would be very ugly and significantly impact the view from the Stonebrae community. This was not addressed in the initial study published online.

RESPONSE A-2: The City of Hayward contains policies in the General Plan Natural Resources element that enhance, preserve and increase the aesthetic qualities of Hayward's undisturbed natural hillsides and shoreline, and designated scenic transportation corridors. As described in the Initial Study, the project site is not located in the vicinity of any designated scenic vistas or corridors. Additionally, CEQA protects views from public vantage points, rather than private views and a project's impact on private views is not considered a significant impact. Therefore, the cell tower's increased visibility from private vantage points as a result of proposed tree removal on an adjacent property is not a significant impact under CEQA.

COMMENT A-3: Migratory Bird Habitat Destruction

In addition, these large trees on the Carden property, especially those with cavities, have provided a nesting ground for the hundreds of migratory swallows (protected species) that come to this area each year. Removal of these trees would have a negative impact on the habitat for Migratory Birds, which was not addressed in this initial study.

RESPONSE A-3: A Biological Constraints analysis (Initial Study Appendix B) was prepared for this project and did not identify migratory swallows on the property during the reconnaissance-level survey. There is potential for two species of swallow (Violet-green Swallow and Tree Swallow) to nest in cavities in trees. Many other species of migratory birds could nest in the trees, shrubs, on the ground and even in or on the buildings. The nests of these birds are protected under the federal Migratory Bird Treaty Act and Section 3503 of the California Fish and Game Code. Therefore, any nesting birds that are present on the property would be protected under the MBTA and implementation of MM BIO-2.1 and -2.2 will further protect nests during all stages of construction. Therefore, the Initial Study has adequately addressed this issue to protect potential nesting swallows or any other birds.

COMMENT A-4: Landscaping with tall trees will obstruct views

In a past meeting, Cavallo Highlands developers also proposed planting a row of trees to grow up to 50 feet tall along its property line along Stonebrae Country Club Drive -- this is not mentioned in this report -- is this still their plan for landscaping? If so, this would dramatically alter the scenic vistas from Stonebrae as it would completely obstruct everyone's views.

RESPONSE A-4: Thank you for your comment. Nothing in the plans indicate, and the applicant/developer has confirmed that the project will not be planting a row of trees on the property line along Stonebrae Country Club Drive and therefore not obstruct views.

COMMENT A-5: Traffic congestion blocking emergency vehicles

There is also significant traffic congestion at the intersection of Carden Lane, Stonebrae Country Club Drive and Hayward Boulevard during peak school drop off hours which really needs to be solved before any additional homes are added to Carden Lane. Even though the impact study says

it won't change the LOS, the traffic impact report states that the LOS analysis is already at LOS E, which is "very long traffic delays", yet they consider this acceptable? The "very long queues" along Hayward Boulevard obstructs the road and can prevent emergency vehicles from reaching their destination during an emergency. This doesn't make any sense and should be addressed.

RESPONSE A-5: The project prepared a traffic study that assessed impacts on the existing traffic network from Stonebrae Elementary School. The peak school drop off hours occur during the AM peak hour with dominant traffic flow being inbound (southbound) on Carden Lane. The estimated dominant project traffic is outbound (northbound) on Carden Lane during that time. Therefore, the majority of project traffic is not in the same peak school drop-off traffic. As shown on Table 5 (Appendix E, page 12) in the traffic report, estimated additional queuing contributed by the project is less than half a car length in the southbound at the intersection of Carden Lane/School Driveway. That is not considered significant.

The intersection of Stonebrae Road/Hayward Boulevard is estimated to operate at LOS C. Since the majority of the project vehicles are outbound, it would not have a significant impact on the inbound school traffic during school drop-off which typically lasts less than 30 minutes. Emergency vehicles will continue to navigate traffic conditions in the area as they have, by utilizing available lanes based on current conditions, and the addition of project traffic would not substantially alter existing conditions.

COMMENT A-6: Economic impact on property values

Finally, I am opposed to this project because it will add to the excess housing supply in the Hayward Hills, making it very difficult for existing homeowners in Stonebrae to sell their homes. In addition, these new homes will diminish the view for all the homes on Arundel Drive cause an additional drop in property value for existing homeowners, which will negatively affect the entire community. This economic impact really needs to be addressed before any additional new homes are allowed to be built in the Hayward Hills.

As a result, I disagree with the conclusions of the initial study that say that there is "less than significant impact" on Aesthetics, Visual Impacts, Environment, and Traffic.

RESPONSE A-6: This comment has been acknowledged. CEQA mandates the evaluation of environmental impacts and does not address social or economic impacts of a project unless they are a result of a project's environmental impacts. In this case, the commenter is speculating about the project's effects on property values for reasons unrelated to environmental impacts. Therefore, the expressed concerns about potential economic impacts are not environmental concerns to be reviewed under CEQA.

B. RESPONSES TO COMMENTS FROM SABINA ALI, DATED APRIL 8, 2019

COMMENT B-1: I have lived in Stonebrae since 2008 and I am opposed to the proposed Cavallo Highlands project.

Where can I find actual plans of the project itself? In specific there elevations and drawings for where the new homes will be situated. Is there a plan to flatten the entire lot which would dramatically alter the view for the Stonebrae community? If so will that be in compliant with Hayward General Plan (Policy NR-8.2) which is to keep everything as natural as possible.

RESPONSE B-1: This comment is very similar to Comment A-1 above. As explained above, the Initial Study was based on the available plans, which includes a site plan (included as Figure 3.0-1 of the Initial Study), as well as grading and drainage plan and utility plan. These plans are on file with the City. The grading plan indicates cuts up to twenty feet at the top of the knoll on the site, retaining wall heights up to six feet, and maximum 2:1 slopes. The overall profile of the hillside will be retained, although the slopes will be reduced in some areas to provide suitable lots.

Conceptual architecture plans for individual homes were not available at the time the Initial Study as those are not yet on file, and the applicant will be required to submit a Precise Plan should the project be approved by the City. The focus of a Precise Plan application is for City staff to look at the finer details of a project, including new home architecture. The precise locations of the homes on the lots was not available at the time the Initial Study was prepared, and proposed homes would be placed within setbacks established in the site's zoning regulations.

COMMENT B-2: There are also several issues that were not addressed in the reports:

Cell Tower

The large stand of trees on the Carden property currently help to camouflage the Verizon cell tower on the golf course immediately adjacent to the property. This cell tower is poorly disguised as a pine tree. If this stand of trees are removed from the Carden property, then this cell tower will be standing alone in the skyline -- one giant fake pine tree on this skyline would be very ugly and significantly impact the view from the Stonebrae community. This was not addressed in the initial study published online.

RESPONSE B-2: Thank you for your comment, which is very similar to Comment A-2 above. Please see Response A-2, above.

COMMENT B-3: My biggest concern which I have brought to the Hayward planning is Traffic congestion blocking emergency vehicles. I am a physician and when I see the long lines at the intersection it makes me worry how the emergency vehicles will get through this if need be.

Has anyone done a mock trial of trying to get through the area in congested time There is a significant traffic congestion at the intersection of Carden Lane, Stonebrae Country Club Drive and Hayward boulevard during peak school drop off hours which really needs to be solved before any additional homes are added to Carden Lane.

Even though the impact study says it won't change the LOS, the traffic impact report states that the LOS analysis is already at LOS E, which is "very long traffic delays", yet they consider this acceptable? The "very long queues" along Hayward Boulevard obstructs the road and can prevent emergency vehicles from reaching their destination during an emergency. This doesn't make any sense and should be addressed immediately before passing the project.

My neighbor had an emergency and called 911 there was a 20 min delay for the emergency services to get to his home which is not acceptable and I am worried this will create more delays.

RESPONSE B-3: Thank you for your comment which is very similar to Comment A-5 above. Please see Response A-5, above.

COMMENT B-4: Also I am opposed to this project because it will add to the excess housing supply in the Hayward Hills, making it very difficult for existing homeowners in Stonebrae to sell their homes. In addition, these new homes will diminish the view for all the homes on Arundel Drive cause an additional drop in property value for existing homeowners, which will negatively affect the entire community. This economic impact really needs to be addressed before any additional new homes are allowed to be built in the Hayward Hills.

I disagree with the conclusions of the initial study that say that there is "less than significant impact" on Aesthetics, Visual Impacts, Environment, and Traffic.

RESPONSE B-4: Thank you for your comment which is very similar to Comment A-6 above. Please see Response A-6, above.

C. RESPONSES TO COMMENTS FROM NATIVE AMERICAN HERITAGE COMMISSION, DATED APRIL 11, 2019

COMMENT C-1: Dear Mr. Golubics:

The Native American Heritage Commission (NAHC) has reviewed the Mitigated Negative Declaration prepared for the above referenced project. The review included the Introduction and Project Description; and the Environmental Checklist and Impact Discussion, section 4.5, Cultural Resources and Tribal Cultural Resources, prepared by David J. Powers & Associates, Inc. for the City of Hayward. We have the following concern(s):

There are no mitigation measures specifically addressing Tribal Cultural Resources separately and distinctly from Archaeological Resources. Mitigation measures must take Tribal Cultural Resources into consideration as required under AB-52, with or without consultation occurring. Mitigation language for archaeological resources is not always appropriate for measures specifically for handling Tribal Cultural Resources. If mitigation is being addressed without tribal input, sample mitigation measures for Tribal Cultural Resources can be found in the CEQA guidelines at http://opr.ca.gov/docs/Revised_AB_52_Technical_Advisory_March_2017.pdf

RESPONSE C-1: As stated in *Section 4.5 Cultural Resources* of the Initial Study, the City of Hayward received a formal request in March 2016 from the Ione Band of Miwok Indians for notification of future projects to allow for the opportunity to request tribal consultation on individual projects. Notification of the project pursuant to AB52 was provided by the City of Hayward for a 30-day review period from August 27, 2018 to September 27, 2018, during which time the Ione Band of Miwok Indians could request consultation. The tribe did not request consultation.

Additionally, the archaeologist contacted three tribes about the proposed project. The tribes did not identify the potential for tribal cultural resources to be present on the project site. The tribes recommended that the construction crew receive cultural sensitivity training and any archaeologists on the project are experienced in northern and central California archaeology. The retention of a qualified and trained Native American Monitor is required in the event of a discovery of Native American cultural materials. According to the conversations with the tribes, there is not substantial evidence to believe that tribal cultural resources may be present on-site and would warrant additional mitigation beyond what is stated in the Initial Study.

COMMENT C-2: Mitigation for inadvertent finds of human remains is incomplete or inaccurate. Archaeologists are not authorized to remove human remains from a discovery site. Please refer to California Health and Safety Code § 7050.5 and Public Resources Code § 5097.98 for the processes related to finds of Native American human remains.

RESPONSE C-2: As stated in MM CUL-1.4 (which references both California Health and Safety Code § 7050.5 and Public Resources Code § 5097.98), the project sponsor shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The Initial Study includes this information and is factually accurate in stating the process of inadvertent human remains discoveries.

COMMENT C-3: Cultural and Tribal Cultural Resource assessments are not documented (literature search only). These should adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources. The lack of documented resources does not preclude inadvertent finds, which should be addressed in the mitigation measures.

Agencies should be aware that AB 52 does not preclude them from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/A>. Additional information regarding AB 52 can be found online at <http://nahc.ca.gov/wp->

[content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf](#), entitled “Tribal Consultation Under AB 52: Requirements and Best Practices”.

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC’s recommendations for conducting cultural resources assessments is also attached.

RESPONSE C-3: As part of the project’s Cultural Resources study on file with the City, Mr. Christopher Canzonieri (M.A.), an archaeologist meeting the Standards of the Secretary of the Interior, conducted a field inventory of the approximately 8.8 acre parcel on June 3, 2016 to determine if any indicators of potential surface and/or subsurface archaeological material were present. No evidence of prehistoric or historically significant archaeological resources (artifacts or culturally affected soils) or built environment features was observed during the survey of the proposed project. As noted in prior Response C-2, the City did notify the tribe of the project, and no request for consultation was received.

D. RESPONSES TO COMMENT FROM EAST BAY REGIONAL PARK DISTRICT, DATED APRIL 22, 2019

COMMENT D-1: The East Bay Regional Park District (Park District) appreciates the opportunity to provide comments on the Cavallo Highlands Residential Project Initial Study (project). The Park District has twice communicated similar comments to the City. The proposed project, which would construct a development on approximately 8.8 acres, includes 22 lots comprised of 19 single-family residential lots, two open space lots, and a private roadway. The project is located just north of Garin Regional Park’s Carden Lane Trailhead.

The Park District identified a potential off-street staging area location at the terminus of Carden Lane in the Garin Regional Park’s 2012 Land Use Plan Amendment. In 2014, the Park District signed a Parking License Agreement with Stonebrae, L.P. allowing for the construction of a parking lot/staging area at this same location. The Park District has invested significant public funds and has worked for decades to protect and provide access into Garin Regional Park to serve the City of Hayward and entire East Bay community. The Park District would like to work with the City and any future development projects in this area to provide for public improvements to the park entrance and staging for Garin Regional Park.

The current conditions at the Carden Lane Trailhead allow for on-street parking for approximately 60 vehicles on Carden Lane and a shared use agreement with the Stonebrae Elementary School for parking for trail users. Currently, however, the street parking quickly fills during games at the adjacent Hayward Area Recreation and Park District (HARD) soccer fields and the school closes the gates to their parking during non-school hours, leaving Garin park users fewer parking options.

The Park District continues to be interested in building or having a staging area built off of Carden Lane and would like to work collaboratively with the project proponent and the City of Hayward to identify opportunities to improve public access to Garin Regional Park from Carden Lane. The Park District requests that the city require the project proponents to provide for shared access into the residential development and the Garin park staging area, by redesigning the driveway of “Via del Corso” as it meets Carden Lane, to allow access for both residents and park users. In addition, the Park District requests that the project be required, as a condition of approval, to build the staging area during grading and construction of the residential development. Development of the proposed project, with its projected 60 net new residents entering and existing “Via Del Corso,” a private street adjacent to the future Garin staging area, has the potential to exacerbate the current traffic congestion condition on weekends, during games at the HARD sports fields, which was not fully analyzed in the Initial Study. Providing a dedicated staging area for recreational trail users will address the currently impacted parking problems and the potentially exacerbated impacts the development presents.

RESPONSE D-1: Thank you for your comment. The City of Hayward has no nexus to mandate, require, or condition the Cavallo Highlands applicant/property owner to construct and acquire adjacent property not owned by the Cavallo Highlands applicant/owner for the desired staging area/parking lot. In addition, this comment does not address any environmental concerns related to the project and therefore does not warrant an analysis under CEQA.

The comment mentions weekend traffic conditions during events at the HARD sports fields. The focus of the City’s level of service policy is the weekday AM and PM commute hour, when traffic conditions are heaviest and when projects generate their most trips. Given the minimal amount of traffic produced by the project during the weekday commute hours, there would be even less traffic produced on weekends. Pursuant to recent changes to CEQA contained in SB 743 that became effective at the end of 2018, level of service is no longer considered an impact on the environment.