

**CITY COUNCIL MEETING
CLOSED SESSION**

DECEMBER 7, 2020

**DOCUMENTS RECEIVED AFTER
PUBLISHED AGENDA**

**CALTRANS PARCEL GROUP 6
CARLOS BEE BLVD AND
OVERLOOK AVENUE**

PUBLIC COMMENTS

CARL GORRINGE

PETER REIMER

CHAZNOEL

JOHN GILES

DEBBIE FREDERICK

WILLIAM HOPPES

Dear Hayward City Council:

I heard that you may be discussing the quarry / Rose Hills housing and Foothill Trail this Tuesday. I agree with Sherman Lewis & HAPA that the trail surrounding this development really should connect to the existing trail along the creek (that begins at Memorial Park). There needs to be a bridge to cross the creek and up to Highland Blvd. Should also support bikes. It'd make sense to require the developer pay for it.

I also wish the housing development could at least include a cafe. Something folks living there could walk to instead of having to get in a car all the time. Don't believe it when the developers say mixing some retail in isn't financially viable. Try to design housing as a small village. Manor Shopping Center in San Leandro is an example.

Thanks,

Carl Gorringe
Hayward resident

Mayor and Council Members,

I strongly favor the unbroken Foothill Trail plan recommended to you by HAPA and adopted by HARD to reach Highland Blvd.

Please 1) make very public your individual and shared-by-two-or-more members OBJECTIONS to HAPA's and HARD's proposals, 2) enter them into the public record, and, 3) send me a copy of the same.

Peter D. Reimer
Hayward, CA .

Foothill trail. keep to general plan!!!

Chaznoel

Please honor the General Plan and permit a continuous trail across the creek. The HARD design should be honored.

Thank you,
John Giles

Honorable Mayor & Council members,

I cannot say it any better- PLEASE consider having the Foothill Trail be continuous, as advocated below by Mr Lewis.

The continuous trail would be a much heightened asset to our local & greater community.

Respectfully,

Debbie Frederick, (hiker, bicyclist, & community ambulatory!)

[.....]

This Tuesday at 5:30, the City Council will have a closed session to consider HAPA's anticipated litigation concerning whether or not to have the Foothill trail cross the creek to reach Highland Boulevard or be severed.

[.....]

A few days ago, the Hayward Area Recreation and Park District (HARD) adopted a trail plan crossing the creek to reach Highland, which is the right alignment.

[.....] what the zoning requires is a trail along the old 238 corridor up to Highland Boulevard and north from there mostly in a nature environment.

The City Council has three choices: [\[optimally\]](#) tell staff to require the developer to include the creek crossing as required by zoning.

We believe that honoring the zoning

- serves the best interests of the people of Hayward,
- is affordable to the developer,
- can be implemented in a way that minimizes environmental impacts,
- can be managed within the riparian protection in the Hayward GHAD

(Geological Hazards Abatement District),

- has been environmentally cleared in the program EIR of 2014,
- is consistent with city zoning and HARD's Foothill Trail Master Plan, and

- in no way jeopardizes the development of the quarry.



The quarry property is on the left. It goes a short distance to the PG&E property and turns left. The creek is in a crevice and will require a bridge to cross. On the north side, the trail comes out from under the trees and crosses the grass up to Highland Boulevard. The distance is about 500 feet.

The Rose Hills application has a site plan that violates the City plan and zoning. It shows a circle trail not crossing the creek. That needs to be changed.



Sherman Lewis
Sherman@csuhayward.us

Ohlone Audubon Society, Inc.

1922 Hillsdale Street
Hayward, CA 94541
Serving Southern & Eastern Alameda County



December 7, 2021

City of Hayward
c/o Elizabeth Blanton, AICP, Senior Planner
City of Hayward Planning Division
777 B Street, First Floor
Hayward, CA 94541

Re: Comments on Parcel 6 Rose Hills Site Plan Review (SPR) and Tentative Tract Map #8604 (TTM) Application No. 202101471

Dear Ms. Blanton and Members of the Hayward City Council and Planning Commission:

Ohlone Audubon Society (OAS) does not recommend approval of the Rose Hills Site Plan Review and Tentative Tract Map, or any proposed development, at the former Carlos Bee Quarry/Caltrans 238 Parcel 6 site in Hayward due to the significance of biological resources at this site. We are aligned with the Ohlone People in the protection of the water and caretaking of their Ancestral land we all walk on.

The proposed project site is a natural landscape despite being damaged by the former quarry. The project is inconsistent with the goals, policies, implementation programs and zoning regulations of the City of Hayward General Plan. We believe the proposed project does not adequately protect the creek, wildlife species, and habitat. We request there to be preparation of an adequate EIR and consideration of alternative sites.

Specifically, this site includes a third-mile of a USGS Ward Creek tributary; the tributary is at the bottom of a very steep, 100-foot deep ravine with pristine oak-bay woodland habitat. This site is therefore, at minimum, partly riparian and does not meet the requirements of the existing zoning regulations associated with protections of the biological resources. The proposed 300 dwellings, parking spaces, tree removal, and trail plans on this site would irreversibly damage the soil, air, and water quality, habitat, and support of wildlife at a significant level. The proposed project adds further damage and reduces capacity for enhancement and restoration.

Riparian Buffer Needs Protection

Several bird species are dependent on mature trees and riparian buffers (vegetated areas near a stream that are usually forested) that are both long and wide. For example, eagles, herons,

ospreys, and fishers rely on woodland adjacent to creeks. The stream provides food and adjacent trees serve as resting places and habitat. It is essential to preserve, enhance, and restore this stretch of riparian buffer to allow these birds and other animals to travel where their survival needs can be met. The protection of the riparian buffer is not only essential to the health of the Creek and wildlife, but also to humans as it plays a key role in increasing water quality. The proposed project is not appropriate as it is located along the riparian oak woodland corridor. The disturbance and degradation to the natural landscape removes the trees needed to protect the stream from adjacent land uses. The project threatens the stability of the creek bank, increases flood risk and damage, and adversely affects plants and animals requiring cooler water temperatures and more shade from trees.

A draft Stream Protection Policy prepared by the San Francisco Bay Regional Water Quality Control Board (Water Board) includes the following objectives for riparian buffer zones (https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_wetland/bufferreport0704.pdf):

Buffer zones shall be maintained or enhanced to protect stream functions. Examples of ways in which buffer zones protect stream functions include: removing agricultural and urban stormwater pollutants, reducing sediment from upland sources, stabilizing stream banks, minimizing changes to the hydrograph by infiltrating stormwater runoff, metering stream baseflow, and supporting vegetation which provides nutrients and shade.

The *Plan for California's Nonpoint Source Pollution Control Program* (Plan) indicates that the Water Board supports local agency efforts to "reduce erosion and sedimentation and protect riparian areas." The Plan asks local agencies to "develop a technical assistance program for project design that will include guidelines for designing projects that avoid wetlands and riparian areas." As part of the aim to support local agencies in protecting and restoring natural stream function, the Water Board published *A Primer on Stream and River Protection for the Regulator and Program Manager* (April 2003). The publication describes the association between channel stability and water quality, as well as how to avoid excessive erosion and sediment deposition.

Oak Woodlands Are in Danger

Of any habitat in California, oak woodlands contain the richest abundance of wildlife species. There are over 330 species of birds, mammals, reptiles, and amphibians that depend on oak woodlands at some stage in their life cycle (Verner, 1980; Barrett, 1980; Block & Morrison, 1998). Researchers (Wilson et al., 1991) have ranked them among the top three habitat types for bird richness in North America. Protecting the riparian oak woodland corridor located at the proposed Rose Hills project site is essential for bird species that are dependent on oak woodlands. Focal species representative of the range of oak habitats in the state of California include the Acorn Woodpecker, Blue-gray Gnatcatcher, Lark Sparrow, Oak Titmouse, Western Bluebird, Western Scrubjay, and Yellow-billed Magpie (<http://www.prbo.org/calpif/>). Please refer to *The Oak Woodland Bird Conservation Plan: A Strategy for Protecting and Managing Oak Woodland Habitats and Associated Birds in California* (California Partners in Flight and

PRBO Conservation Science, 2002) on habitat conservation recommendations based on the latest scientific monitoring and research data (<http://www.prbo.org/calpif/>). .

Urbanization and intensive agriculture (i.e., vineyards) have been the major contributors to the loss of oak woodlands in California. The proposed Rose Hills project represents an example of an urbanization threat. The proposed project does not factor into their plans the need for these specific trees and their level of maturity. It also does not factor in the problem that many of today's existing oak woodlands are experiencing, which is a loss of ability to regenerate naturally; young trees are not establishing to replace older trees as they senesce and die. Research has shown that fire suppression (Biswell 1989; Stephens 1997) and overgrazing (Fleischner, 1994; Belsky et al., 1999) contribute to the lack of natural regeneration. With the recent acceleration of climate change, these woodlands are needed more than ever to ensure clean air, clean water, species diversity, and cooler temperatures. Therefore, it makes no sense to destroy them with this proposed project considering their ecological, public health, and aesthetic benefits.

California AB242 enacted in 2001, also known as the Oak Woodlands Conservation Act, defines oak woodland as “an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 per cent canopy cover.” AB242 “encourages local land use planning that is consistent with the preservation of oak woodlands...” We can say with confidence that the proposed Rose Hills project site, like much of the Hayward area, was historically oak woodland because this is the native plant community for our area. The oak trees at the site are large diameter and most likely very old. The Rose Hills project’s planned removal of trees also removes any chance of restoring this area to the native state.

California Species of Special Concern

Four species of bats have been identified at a similar site at the border of Hayward and unincorporated Castro Valley from experts using acoustic monitoring. The Western Red Bat, a California Species of Special Concern and high conservation priority species for the Western Bat Working Group, is one of these identified species. Mature trees are needed for tree roosting and foraging by these bats. The riparian corridor adjacent to the quarry could be wide enough to support the needs of these bats. There are few remaining spaces along the watershed with these supportive conditions in the Hayward urban area.

Bats are very important to the ecosystem as pollinators, seed dispersers, and keeping insect populations at sustainable levels. Red bats may be particularly significant to agriculture as a natural, non-toxic form of pest control. They are documented to be found in habitats and agricultural areas adjacent to streams and rivers at some distance from known roosting habitats. Removing the conditions needed for these bats to survive would be a detriment to the whole ecosystem in our community.

Noncompliance with CEQA

CEQA requires the consideration of past, present and foreseeable future impacts. As stated in CEQA, Title 14, Section 21083(b), “a project may have a significant effect on the environment if the possible effects of a project are individually limited but cumulatively considerable.” Section

15130 of the CEQA Guidelines requires that an EIR evaluate potential environmental impacts that are individually limited, but cumulatively significant. Cumulative impacts are defined in the State CEQA Guidelines as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (California Code of Regulations [CCR], Title 14, Section 15355.). As established in the CEQA Guidelines, a cumulative impact from several projects is “the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonable foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (California Code of Regulations [CCR], Title 14, Division 6, Chapter 3, Section 15355).

Considering the project alone and the lack of forested buffer along the rest of the watershed due to existing development located near or at the top-of-bank areas of the Creek, the Rose Hills project requires an unbiased EIR to evaluate its potential environmental impacts. There is an obvious change in the environment due to poor planning along the entire San Lorenzo Creek Watershed where there was historically a continuous, densely forested riparian corridor. For example, the recent destruction of forested buffer at other parcels of the previous state Route 238 should also be factored, such as at 4th and B Streets as well as damage inside of and beyond the conservation easement area at the proposed Rockaway Lane project site. Deer, birds, and other wildlife species had occupied these areas more frequently prior to the tree removal at these sites. Thorough EIRs must be required to evaluate the effects of development on open spaces at or near watersheds.

Inconsistency with Zoning and General Plan

It is evident from an aerial view that abundant common and special-status wildlife species spend so much time in specific pockets due to the fact that they have been cut off from the rest of their migratory path on the riparian corridor. Habitat exists in small pockets woven throughout residential neighborhoods, primarily along creeks. Development, asphalt, and parking lots cover the majority of the urban riparian oak woodland corridor, which interferes with their ability to obtain food, shelter, and protection. The proposed Rose Hills project, including plans for the creek and trail-related areas, is inconsistent with the goals, policies, implementation programs and zoning regulations of the City of Hayward General Plan. The Hayward General Plan aims to evaluate and avoid or reduce the potential impacts of development on biological resources.

In the City of Hayward General Plan adopted in 2014, Goal NR-1.1 Native Wildlife Habitat Protection states, “The City shall limit or avoid new development that encroaches into important native wildlife habitats; limits the range of listed or protected species; or creates barriers that cut off access to food, water, or shelter of listed or protected species.” [Existing Policy, modified] (RDR).

In addition, Policy NR-1.12 Riparian Corridor Habitat Protection states the following:

The City shall protect creek riparian corridor habitats by: Requiring sufficient setbacks for new development adjacent to creek slopes, requiring sensitive flood control designs to minimize habitat disturbance, maintaining natural and continuous creek corridor vegetation, protecting/replanting native trees, and protecting riparian plant communities

from adverse effects of increased stormwater runoff, sedimentation, erosion, and pollution that may occur from improper development in adjacent areas.

Furthermore, Goal NR-1.7 Native Tree Protection states, “The City shall encourage protection of mature, native tree species to the maximum extent practicable, to support the local eco-system, provide shade, create windbreaks, and enhance the aesthetics of new and existing development.” [Existing Policy, modified] (RDR).

Recent studies indicate that hot days correlate with poor air quality days, and air pollution is contributing to more annual deaths and cases of respiratory illness and asthma (Jacobson, 2008). In other areas of the Bay Area, sea level rise and the resulting potential for intermittent flooding and gradual inundation is a concern that must be addressed. Riparian habitats have been identified as priority areas for conservation under climate change by the federal government. The explanation is that “they span climatic gradients and have cool, moist microclimates relative to surrounding areas.” Since preserving riparian areas help protect against biodiversity loss, climate change, flooding, air and water pollution, it only makes sense to protect this site against development and further degradation from human activity. Also, adding several paved parking spaces and additional pavement in what should be a natural landscape increases the urban heat island effect and adds a significant amount of greenhouse gases from cars. In addition, carbon stored in tree canopies gets released back into the air upon their removal or death.

In urbanized areas such as Hayward, continuous wildlife corridors (i.e., creeks) are particularly important. Even in the Castro Valley General Plan, it states the following:

All areas supporting native vegetation or providing suitable habitat for special-status species are considered sensitive habitat areas, including oak riparian woodland and naturalized native trees that provide potential nesting habitat for bird species. Sensitive habitat areas also include creeks and wetlands with the potential to be considered jurisdictional by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or by the California Department of Fish and Game under California Fish and Game Code Sections 1600- 1607. In addition, Alameda County has a Tree Ordinance (Chapter 12.11 of the County General Code), which provides protection for any tree in a public right-of-way that is at least ten feet in height and has a trunk that is at least two inches in diameter.

It is clear that this proposed project is inconsistent with the goals and policies of the Hayward General Plan. The proposed project destroys sensitive habitat and specifically, a riparian oak woodland corridor potentially supporting special-status species. The proposed project is therefore not congruent with the above statements in the Hayward General Plan or jurisdictions in adjacent areas of the corridor lands (i.e., Castro Valley of Alameda County).

Summary

Ohlone Audubon Society does not recommend the proposed Rose Hills project, or any development, at this site. We believe the project is inconsistent with the goals and policies of the Hayward General Plan. Despite the damage from previous development of the quarry, the site remains a riparian oak-bay woodland and wildlife corridor along a tributary of Ward Creek.

As such, the site has the potential to support special-status or sensitive plant and animal species and to provide enhancement of wildlife corridors. The land is all interconnected and therefore any development near the Creek affects the whole Creek.

The proposed paved parking spaces and access road, significant human activity from high density housing, and degradation and human disturbance from a trail will irreversibly affect the natural environment to a significant degree. A large range of birds, mammals, reptiles, and amphibians live in riparian areas, making them biodiverse ecosystems. It is critical to preserve this habitat as it meets the needs for food, shelter, protection, nesting/birthing, open areas to raise young, and helps fight against climate change. Destroying it would further disrupt its connection to other habitat along the Creek.

We request City of Hayward to honor the intent of AB242 and start protecting the remaining oak trees in our urban areas at this critical point in time. We request City of Hayward to protect this site and not allow development, because development at and adjacent to the riparian area will damage and disturb the wildlife species and habitat. We request City of Hayward to support restoration of the whole site and to stop permitting development in green open spaces altogether. We request that City of Hayward only considers development proposals in the paved vacant lots, abandoned buildings, and blight throughout Hayward that does not disturb an ecosystem. We are aligned with the Ohlone People in the protection of the water and caretaking of their Ancestral land we all walk on.

Sincerely,

Sincerely

A handwritten signature in cursive script that reads "William G. Hoppes".

President, Ohlone Audubon Society

Our Mission: To celebrate and protect birds and their habitats in Southern and Eastern Alameda County