



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1754 Second Street, Suite C
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8a (Action)

TO: Local Agency Formation Commission
PREPARED BY: Dawn Mittleman Longoria, Assistant Executive Officer
MEETING DATE: June 5, 2023
SUBJECT: Proposed Browns Valley Road Reorganization and Associated CEQA Findings

RECOMMENDATION

Adopt the Resolution of the Local Agency Formation Commission of Napa County Making Determinations – Browns Valley Road Reorganization (Attachment One) making California Environmental Quality Act (CEQA) findings and approving the proposed reorganization for annexation to the City of Napa (“City”), annexation to the Napa Sanitation District (NSD), and detachment from County Service Area (CSA) No. 4. Standard conditions are also recommended.

BACKGROUND AND SUMMARY

Applicant: Edenbridge Homes (on behalf of landowner)
Proposed Action: Annexation to City and NSD, detachment from CSA No. 4
Assessor Parcel Numbers: 041-170-009
Location: 3090 Browns Valley Road
Area Size: 3.77 acres
Jurisdiction: County of Napa (County)
Sphere of Influence Consistency: Yes
Policy Consistency: Yes
Tax Sharing Amount: \$13,000 to City, \$0 to NSD
Landowner Consent: 100%
Protest Proceedings: Waived
CEQA: City Negative Declaration
Current Land Uses: Two single family residences (cottage, barn, and sheds)
Purpose: Facilitate construction of single-family home subdivision
Development Plans: Eleven single-family home subdivision
Development Potential: City General Plan would allow up to 11 residential lots subject to City review and approval
Application: Attachment Two
Maps of Affected Territory: Following pages

Margie Mohler, Chair
Councilmember, Town of Yountville

Anne Cottrell, Vice Chair
County of Napa Supervisor, 3rd District

Kenneth Leary, Commissioner
Representative of the General Public

Beth Painter, Commissioner
Councilmember, City of Napa

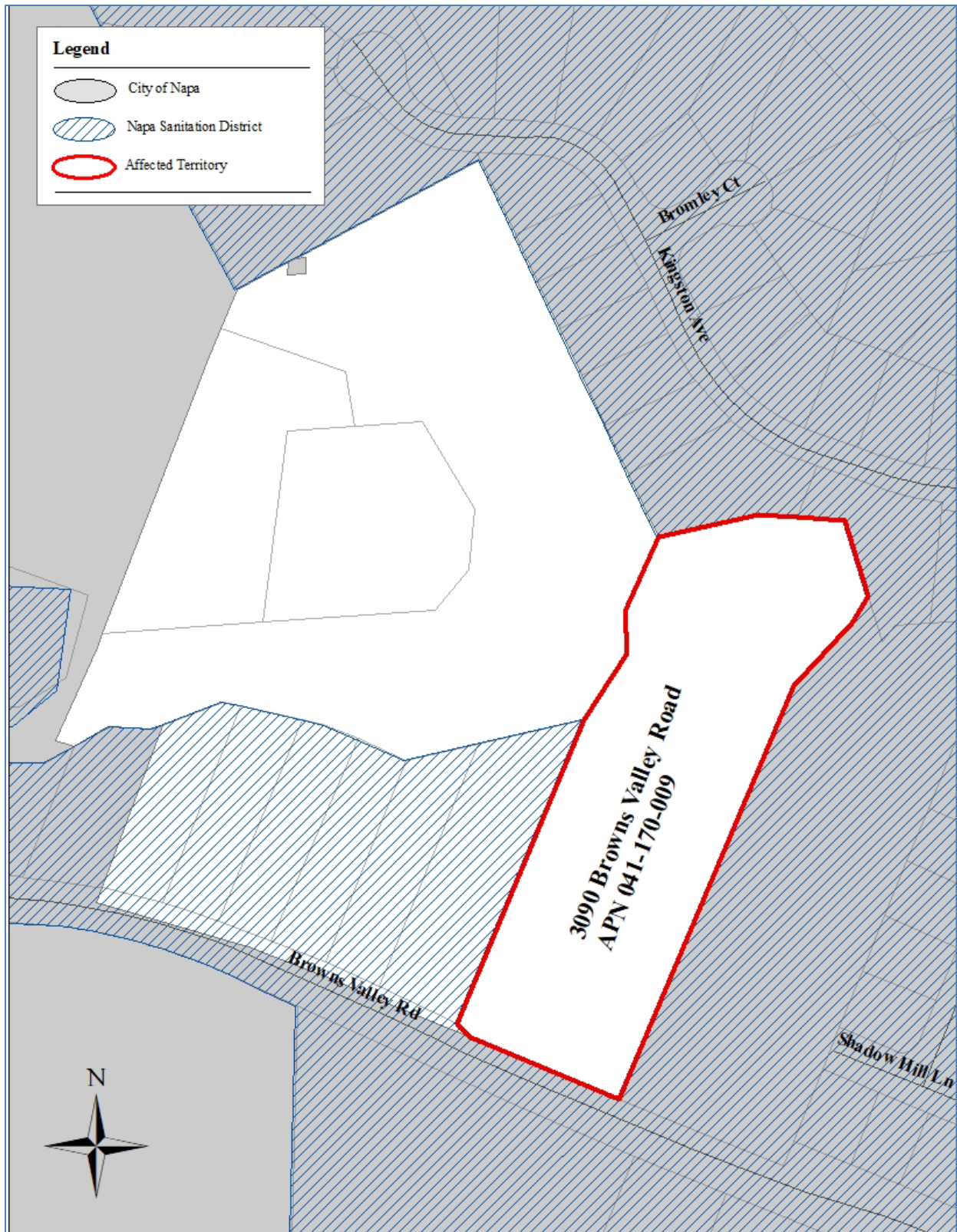
Belia Ramos, Commissioner
County of Napa Supervisor, 5th District

Eve Kahn, Alternate Commissioner
Representative of the General Public

Mariam Aboudamous, Alternate Commissioner
Councilmember, City of American Canyon

Joelle Gallagher, Alternate Commissioner
County of Napa Supervisor, 1st District

Brendon Freeman
Executive Officer









## **DISCUSSION**

### ***Policy on Concurrent Detachment from CSA No. 4***

The affected territory is located in CSA No. 4's jurisdictional boundary.<sup>1</sup> Local policy requires that all annexations to a city also include concurrent detachment from CSA No. 4 unless the affected territory contains, or is expected to contain, vineyards totaling one acre or more. Detaching the affected territory from CSA No. 4 is appropriate.

### ***Unincorporated Island Considerations***

The affected territory is within an unincorporated island surrounded by the City. The island includes 11 unincorporated parcels totaling approximately 14.8 acres with an estimated 26 residents. The Commission has discretion to expand the boundary of the affected territory to include additional parcels. However, the City surveyed neighboring landowners to solicit interest in joining the underlying proposal and none of the other landowners were interested. Staff recommends no modifications to the boundary of the affected territory.

### ***Factors for Commission Determinations***

Mandated Factors: Attachment Three<sup>2</sup>

### ***Property Tax Agreements***

City of Napa: \$13,000 property tax exchange<sup>3</sup>  
NSD: No change in allocation for annexations to NSD

### ***Protest Proceedings***

Waived: Legally uninhabited (fewer than 12 registered voters) and 100% consent of property owners and affected located agencies<sup>4</sup>

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<sup>1</sup> The intent and function of CSA No. 4 is to sponsor a voter-approved special assessment on all parcels in its jurisdiction containing one acre or more of vineyards to fund farmworker housing services.

<sup>2</sup> California Government Code sections 56668 & 56668.3

<sup>3</sup> Master Property Tax Agreements: City of Napa Resolution 80-31; NSD Resolution 80-37

<sup>4</sup> California Government Code section 56662(a): fewer than 12 registered voters; no affected local agency has submitted a written demand for notice and hearing; all owners of land within the affected territory have given their written consent to the proposal.

## **ENVIRONMENTAL REVIEW**

City of Napa (Lead Agency): Initial Study/Mitigated Negative Declaration prepared for the Browns Valley Subdivision Project (PL21-0179) dated September 16, 2022 and adopted by the City Council per CEQA Guidelines section 15074, included as Attachment Four.<sup>5</sup> The Commission has considered the Initial Study/Mitigated Negative Declaration prepared by the Lead Agency in accordance with CEQA Guidelines section 15096.

## **ATTACHMENTS**

- 1) Draft Resolution Approving the Proposal and Making CEQA Findings
- 2) Application Materials
- 3) Factors for Commission Determinations
- 4) Initial Study and Mitigated Negative Declaration for the Browns Valley Subdivision Project

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<sup>5</sup> Reviewed by Napa LAFCO Legal Counsel

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF  
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS**

**BROWNS VALLEY ROAD REORGANIZATION**

**WHEREAS**, an application for a proposed reorganization has been filed with the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 65000, et seq.); and

**WHEREAS**, the application seeks Commission approval to annex approximately 3.7 acres of unincorporated land to the City of Napa and the Napa Sanitation District with detachment from County Service Area No. 4 and represents one entire parcel located at 3090 Browns Valley Road and identified by the County of Napa Assessor’s Office as 041-170-009 (the “Project”); and

**WHEREAS**, the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (“CEQA”) requires the City of Napa to consider the potential environmental impacts of the Project as the Lead Agency (as that term is defined by Public Resources Code section 21067);

**WHEREAS**, on September 14, 2022, the City of Napa posted a Notice of Intent to Adopt a Mitigated Negative Declaration which identified the period from September 16, 2022 to October 17, 2022 for review and comment by the public and public agencies having jurisdiction by law with respect to the Project; and

**WHEREAS**, on January 19, 2023, the City of Napa’s Planning Commission considered the Mitigated Negative Declaration and all written and oral testimony submitted to it at a noticed public hearing on the Project and recommended that the City Council adopt a resolution adopting the Mitigated Negative Declaration;

**WHEREAS**, on February 21, 2023, the City of Napa adopted Resolution R2023-20 approving submittal of an application to the Commission to initiate proceedings for the annexation of the Project site to the City of Napa and adopted Resolution R2023-19 determining that the actions authorized were adequately analyzed by the Project’s Initial Study and Mitigated Negative Declaration; and

**WHEREAS**, the Commission’s Executive Officer has reviewed the proposal and prepared a report with recommendations; and

**WHEREAS**, the Executive Officer’s report and recommendations have been presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented at a public meeting held on the proposal on June 5, 2023; and

**WHEREAS**, the Commission considered all the factors required by law under Government Code sections 56668 and 56668.3 as well as adopted local policies and procedures; and

**WHEREAS**, the proposal is consistent with the spheres of influence established for the City of Napa and the Napa Sanitation District; and

**WHEREAS**, the Project territory is uninhabited (as that term is defined by Government Code section 56046); no affected local agency has submitted a written demand for notice and hearing; and all owners of land included in the Project territory consent to the subject annexation; and

**WHEREAS**, in accordance with applicable provisions of CEQA, the Commission serves as Responsible Agency for the reorganization (as that term is defined by Public Resources Code section 21069) and has considered the Mitigated Negative Declaration prepared by the Lead Agency in accordance with CEQA Guidelines section 15096; and

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. The Factors for Commission Determinations provided in the Executive Officer's written report are hereby incorporated herein by this reference and are adequate.
2. The Commission serves as Responsible Agency for the proposal pursuant to CEQA Guidelines section 15051(b)(2). Pursuant to CEQA Guidelines 15162, the Commission determined that the proposal is within the scope of the Initial Study/Mitigated Negative Declaration prepared for the Browns Valley Subdivision Project (PL21-0179) dated September 16, 2022, and adopted by the City Council per CEQA Guidelines section 15074. The record of the Project's environmental review shall be kept at the Napa City Community Development Department, 1800 First Street, Napa, CA 94559.
3. The proposal is APPROVED, which includes annexation of the affected territory to the City of Napa and to the Napa Sanitation District and detachment of the affected territory from County Service Area No. 4, subject to the conditions specified in item 11 below.
4. This proposal is assigned the following distinctive short-term designation:

**BROWNS VALLEY ROAD REORGANIZATION**

5. The affected territory is shown on the maps in the attached Exhibit "A".
6. The affected territory so described is uninhabited as defined in California Government Code section 56046.
7. The affected territory is to be included on the regular assessment roll of the County of Napa, used by the City of Napa and the Napa Sanitation District.
8. The affected territory will be taxed for existing general bonded indebtedness of the Napa Sanitation District.

- 9. The proposal shall be subject to the terms and conditions of the Napa Sanitation District.
- 10. The Commission waives conducting authority proceedings in accordance with California Government Code section 56662(a).
- 11. Recordation is contingent upon receipt by the Executive Officer of the following:
  - (a) Final maps and geographic descriptions of the affected territory determined by the County Surveyor to conform to the requirements of the State Board of Equalization.
  - (b) Written confirmation from the Napa Sanitation District that it is acceptable to record a Certificate of Completion.
- 12. The effective date shall be the date of recordation of the Certificate of Completion. The Certificate of Completion must be recorded within one calendar year unless an extension is requested and approved by the Commission.
- 13. The Commission hereby directs staff to file a Notice of Determination in compliance with CEQA.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on June 5, 2023, after a motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, by the following vote:

AYES: Commissioners \_\_\_\_\_

NOES: Commissioners \_\_\_\_\_

ABSENT: Commissioners \_\_\_\_\_

ABSTAIN: Commissioners \_\_\_\_\_

\_\_\_\_\_  
 Margie Mohler  
 Commission Chair

ATTEST: \_\_\_\_\_  
 Brendon Freeman  
 Executive Officer

Recorded by: Stephanie Pratt  
 Clerk/Jr. Analyst



EXHIBIT A  
BROWNS VALLEY ROAD  
ANNEXATION TO THE CITY OF NAPA  
GEOGRAPHICAL DESCRIPTION

All that certain property, situated in a portion of Sections 4 and 5, Township 5 North, Range 4 West, Mount Diablo Base Meridian, in the County of Napa, State of California, described as follows:

Beginning at the southwest corner of the Browns Valley Road - Robinson Lane Annexation District as described in the Certificate of Completion recorded on July 21, 1982 in Book 1248 of Official Records, Page 439 in the office of the Napa County Recorded, State of California,

(1) thence along the north line of the Thompson Avenue – Laurel Street Annexation District as described in document recorded on August 27, 1971 in Book 858 of Official Records, Page 525 in the office of the Napa County Recorded, State of California, North 67° 44' 51" West 224.03 feet

(2) thence North 22° 26' 18" East 413.33 feet to the Centerline of South Branch Napa Creek;

(3) thence along Napa Creek South 52° 00' 00" East 4.78 feet;

(4) thence South 71° 00' 00" East 5.00 feet;

(5) thence North 73° 00' 00" East 14.00 feet;

(6) thence North 9° 00' 00" East 26.00 feet;

(7) thence North 38° 30' 00" East 18.00 feet;

(8) thence North 17° 00' 00" East 30.50 feet;

(9) thence North 12° 20' 00" East 86.00 feet;

(10) thence North 5° 10' 00" East 48.00 feet;

(11) thence North 18° 00' 00" East 30.00 feet;

(12) thence North 64° 11' 34" East 26.57 feet to the southern line of Buckingham Park – Hudson Lane Annexation District Napa described in document in Book 595 of Official Records, Page 558 in the office of the Napa County Recorded, State of California,

(13) thence along said southern line North 76° 41' 30" East 124.80 feet;

(14) thence South 86° 13' 30" East 116.00 feet;

(15) thence South 13° 28' 30" East 23.60 feet to the northern prolongation of the western most line of said Browns Valley Road - Robinson Lane Annexation District

(16) thence along said prolongation and west line South 22° 41' 58" West 764.62 feet to the **Point of Beginning**

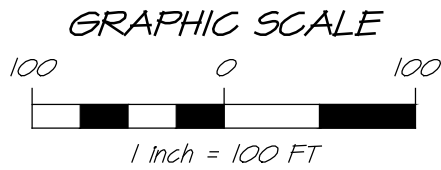
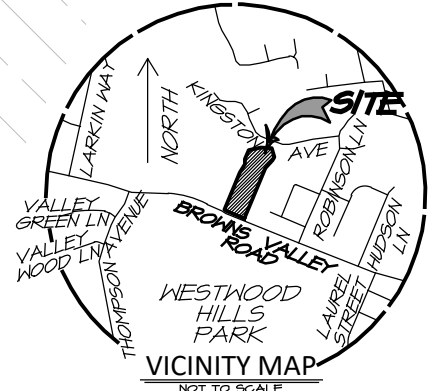
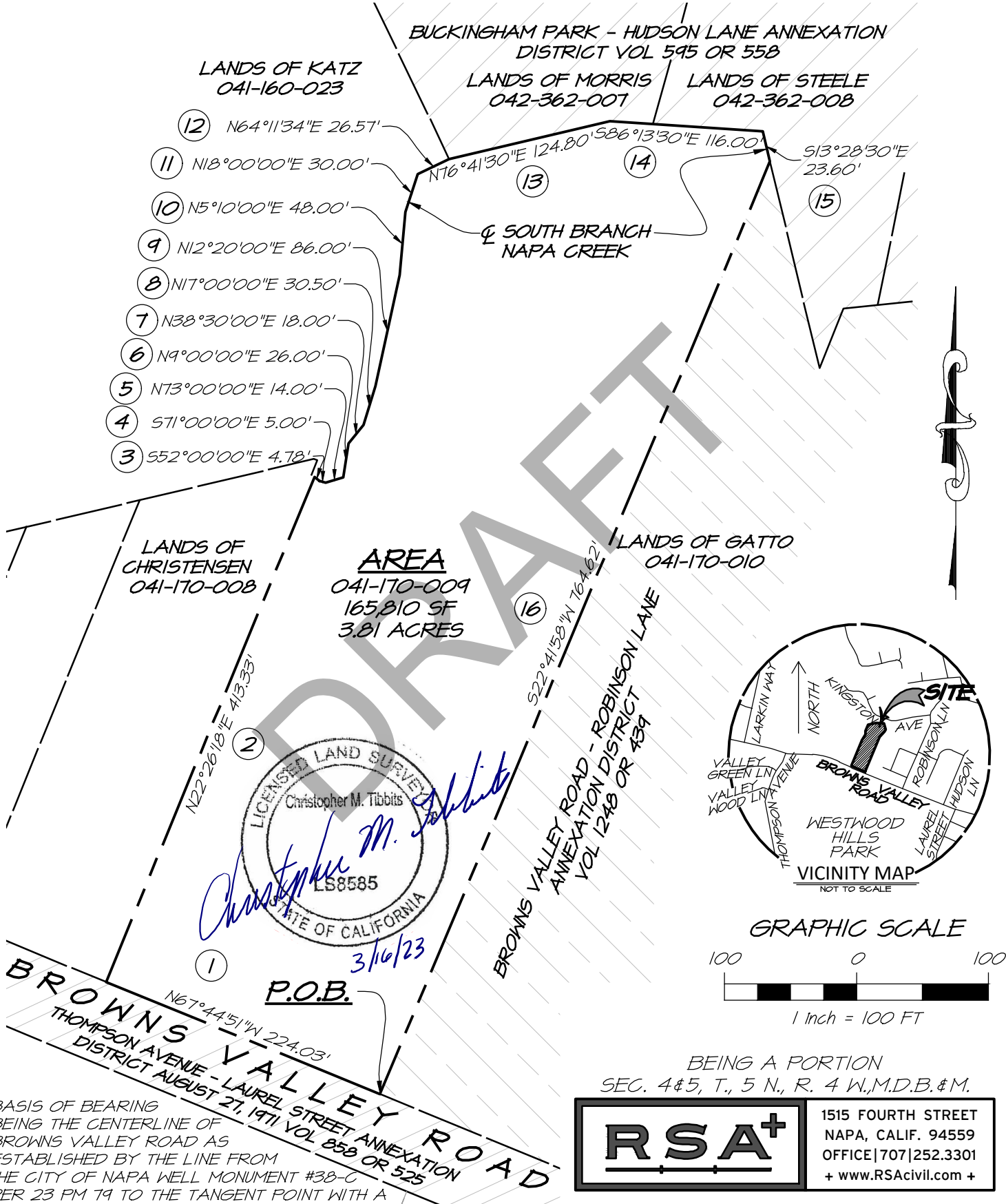
Containing 3.81 Acres, more or less.

Basis of Bearing being the centerline of Browns Valley Road as established by the line from the City of Napa Well Monument #38-C Per 23 PM 79 to the tangent Point with a 42.0-foot radius arc northerly of the 3/4" Iron Pipe at the northeast corner of Parcel A per 23 PM 76. Said line measured as North 67° 44' 51" West.

**For assessment purposes only.** This legal description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described.



# MAP DELINEATING THE BOUNDARY OF BROWNS VALLEY ROAD ANNEXATION TO THE CITY OF NAPA



BEING A PORTION  
SEC. 4&5, T., 5 N., R. 4 W., M.D.B. & M.

<b>RSA<sup>+</sup></b>	1515 FOURTH STREET NAPA, CALIF. 94559 OFFICE   707   252.3301 + www.RSAcivil.com +

BASIS OF BEARING  
BEING THE CENTERLINE OF  
BROWNS VALLEY ROAD AS  
ESTABLISHED BY THE LINE FROM  
THE CITY OF NAPA WELL MONUMENT #38-C  
PER 23 PM 79 TO THE TANGENT POINT WITH A  
42.0-FOOT RADIUS ARC NORTHERLY OF THE 3/4"  
IRON PIPE AT THE NORTHEAST CORNER OF PARCEL A PER  
23 PM 76 Resolution for Browns Valley Road Reorganization  
MAR 2023 5320\_NAPA ANNEXATION Page 5 of 9

**DRAFT**

5320  
Napa Clos  
03-14-2023

North: 1871455.6764' East: 6475942.4754'

Segment #1 : Line

Course: N67°44'51"W Length: 224.03'

North: 1871540.5141' East: 6475735.1303'

Segment #2 : Line

Course: N22°26'18"E Length: 413.33'

North: 1871922.5513' East: 6475892.8937'

Segment #3 : Line

Course: S52°00'00"E Length: 4.78'

North: 1871919.6084' East: 6475896.6604'

Segment #4 : Line

Course: S71°00'00"E Length: 5.00'

North: 1871917.9806' East: 6475901.3880'

Segment #5 : Line

Course: N73°00'00"E Length: 14.00'

North: 1871922.0738' East: 6475914.7763'

Segment #6 : Line

Course: N9°00'00"E Length: 26.00'

North: 1871947.7537' East: 6475918.8436'

Segment #7 : Line

Course: N38°30'00"E Length: 18.00'

North: 1871961.8406' East: 6475930.0488'

Segment #8 : Line

Course: N17°00'00"E Length: 30.50'

North: 1871991.0079' East: 6475938.9662'

Segment #9 : Line

Course: N12°20'00"E Length: 86.00'

North: 1872075.0232' East: 6475957.3356'

Segment #10 : Line

Course: N5°10'00"E Length: 48.00'

North: 1872122.8281' East: 6475961.6582'

Segment #11 : Line

Course: N18°00'00"E Length: 30.00'

North: 1872151.3598' East: 6475970.9287'

Segment #12 : Line

Course: N64°11'34"E Length: 26.57'

North: 1872162.9269' East: 6475994.8487'

Segment #13 : Line

Course: N76°41'30"E Length: 124.80'

North: 1872191.6548' East: 6476116.2973'

Segment #14 : Line

Course: S86°13'30"E Length: 116.00'

North: 1872184.0175' East: 6476232.0456'

Segment #15 : Line

Course: S13°28'30"E Length: 23.60'

North: 1872161.0672' East: 6476237.5449'

Segment #16 : Line

Course: S22°41'58"W Length: 764.62'

North: 1871455.6733' East: 6475942.4802'

Perimeter: 1955.23' Area: 165809.60 Sq. Ft.

Error Closure: 0.0058 Course: S56°56'01"E

Error North: -0.00316 East: 0.00485

Precision 1: 337108.62

EXHIBIT A  
BROWNS VALLEY ROAD NO. 15 DISTRICT  
ANNEXATION TO NAPA SANITATION DISTRICT  
GEOGRAPHICAL DESCRIPTION

All that certain property, situated in a portion of Sections 4 and 5, Township 5 North, Range 4 West, Mount Diablo Base Meridian, in the County of Napa, State of California, described as follows:

Beginning at the southwest corner of the Browns Valley Road No. 14 Annexation to Napa Sanitation District as described in the Certificate of Completion recorded September 01, 2021 as Series Number 2021-0028234, Napa County Records, State of California,

- (1) thence along the north line of the Browns Valley Road District Annexation Napa Sanitation District March 5, 1957 North 67° 44' 51" West 224.03 feet to the southeast corner of Browns Valley Road Goetze-Jamison District Annexation Napa Sanitation District February, 5 1957;
- (2) thence North 22° 26' 18" East 413.33 feet to the Centerline of south Branch Napa Creek;
- (3) thence along Napa Creek South 52° 00' 00" East 4.78 feet;
- (4) thence South 71° 00' 00" East 5.00 feet;
- (5) thence North 73° 00' 00" East 14.00 feet;
- (6) thence North 9° 00' 00" East 26.00 feet;
- (7) thence North 38° 30' 00" East 18.00 feet;
- (8) thence North 17° 00' 00" East 30.50 feet;
- (9) thence North 12° 20' 00" East 86.00 feet;
- (10) thence North 5° 10' 00" East 48.00 feet;
- (11) thence North 18° 00' 00" East 30.00 feet;
- (12) thence North 64° 11' 34" East 26.57 feet to the southern line of Buckingham Park District Annexation Napa Sanitation District Approved July 7 1959;
- (13) thence along said southern line North 76° 41' 30" East 124.80 feet;
- (14) thence South 86° 13' 30" East 116.00 feet;
- (15) thence South 13° 28' 30" East 23.60 feet to the northern prolongation of the western most line of said Browns Valley Road - Robinson Lane Annexation District
- (16) thence along said prolongation and west line South 22° 41' 58" West 764.62 feet to the **Point of Beginning**

Containing 3.81 Acres, more or less.

Basis of Bearing being the centerline of Browns Valley Road as established by the line from the City of Napa Well Monument #38-C Per 23 PM 79 to the tangent Point with a 42.0-foot radius arc northerly of the 3/4" Iron Pipe at the northeast corner of Parcel A per 23 PM 76.  
Said line measured as North 67° 44' 51" West.

**For assessment purposes only.** This legal description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described.





# MAP DELINEATING THE BOUNDARY OF BROWNS VALLEY ROAD NO. 15 DISTRICT ANNEXATION ANNEXATION TO NAPA SANITATION DISTRICT

BASIS OF BEARING BEING THE CENTERLINE OF BROWNS VALLEY ROAD AS ESTABLISHED BY THE LINE FROM THE CITY OF NAPA WELL MONUMENT #38-C PER 23 PM 79 TO THE TANGENT POINT WITH A 42.0-FOOT RADIUS ARC NORTHERLY OF THE 3/4" IRON PIPE AT THE NORTHEAST CORNER OF PARCEL A PER 23 PM 76. SAID LINE MEASURED AS NORTH 67° 44' 51" WEST.

BUCKINGHAM PARK DISTRICT ANNEXATION  
NAPA SANITATION DISTRICT

LANDS OF MORRIS  
042-362-007

LANDS OF STEELE  
042-362-008

N76°41'30"E  
124.80'

S86°13'30"E  
116.00'

S13°28'30"E  
23.60'

♀ SOUTH BRANCH  
NAPA CREEK

- ⑫ N64°11'34"E 26.57'
- ⑪ N18°00'00"E 30.00'
- ⑩ N5°10'00"E 48.00'
- ⑨ N12°20'00"E 86.00'
- ⑧ N17°00'00"E 30.50'
- ⑦ N38°30'00"E 18.00'
- ⑥ N9°00'00"E 26.00'
- ⑤ N73°00'00"E 14.00'
- ④ S71°00'00"E 5.00'
- ③ S52°00'00"E 4.78'

LANDS OF KATZ  
041-160-023

LANDS OF CHRISTENSEN  
041-170-008

**AREA**  
041-170-009  
165,809 SF  
3.81 ACRES

LANDS OF GATTO  
041-170-010

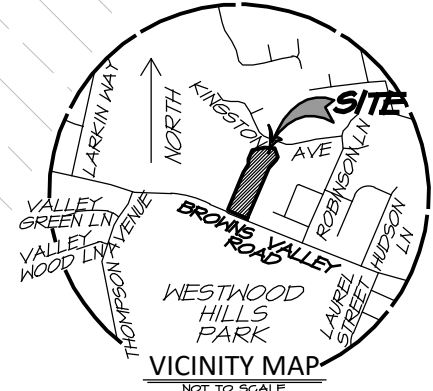
⑬ S22°41'58"W 764.62'

BROWNS VALLEY ROAD NO. 14 ANNEXATION TO NAPA SANITATION DISTRICT 2021-0028234

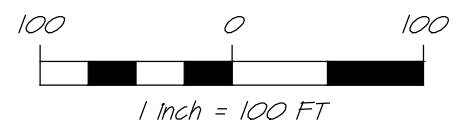


P.O.B.

**BROWNS VALLEY ROAD**  
N67°44'51"W 224.03'  
BROWNS VALLEY ROAD DISTRICT ANNEXATION NAPA SANITATION DISTRICT MARCH 5, 1957  
BROWNS VALLEY ROAD DISTRICT ANNEXATION NAPA SANITATION DISTRICT VOL 1365 PAGE 839



GRAPHIC SCALE



BEING A PORTION  
SEC. 4&5, T., 5 N., R. 4 W., M.D.B. & M.

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5320  
NDS Clos  
03-14-2023

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North: 1871922.5513' East: 6475892.8937'

Segment #3 : Line

Course: S52°00'00"E Length: 4.78'

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Segment #4 : Line

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North: 1871917.9806' East: 6475901.3880'

Segment #5 : Line

Course: N73°00'00"E Length: 14.00'

North: 1871922.0738' East: 6475914.7763'

Segment #6 : Line

Course: N9°00'00"E Length: 26.00'

North: 1871947.7537' East: 6475918.8436'

Segment #7 : Line

Course: N38°30'00"E Length: 18.00'

North: 1871961.8406' East: 6475930.0488'

Segment #8 : Line

Course: N17°00'00"E Length: 30.50'

North: 1871991.0079' East: 6475938.9662'

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North: 1872075.0232' East: 6475957.3356'

Segment #10 : Line

Course: N5°10'00"E Length: 48.00'

North: 1872122.8281' East: 6475961.6582'

Segment #11 : Line

Course: N18°00'00"E Length: 30.00'

North: 1872151.3598' East: 6475970.9287'

Segment #12 : Line

Course: N64°11'34"E Length: 26.57'

North: 1872162.9269' East: 6475994.8487'

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Perimeter: 1955.23' Area: 165809.60 Sq. Ft.

Error Closure: 0.0058 Course: S56°56'01"E

Error North: -0.00316 East: 0.00485

Precision 1: 337108.62

For Staff Use

FORM B

Date Filed: 1/26/22

Proposal Name: Browns Valley Rd Reorg

PETITION FOR PROPOSAL

For Filing with the Local Agency Formation Commission of Napa County

A proposal for a change of organization made by a landowner or registered voter shall be initiated by petition. The petition shall state the nature of the proposal and all associated proposed changes of organization. It shall also state the reason for the proposal and enumerate and include supporting information as required under Government Code Section 56700. The petition must be submitted to the Executive Officer for filing within 60 days after the last signature is affixed. Applicants are encouraged to use this form.

Nature of Proposal and All Associated Changes of Organization:

Annex 3.77-acre parcel at 3090 Browns Valley Rd. (APN 041-170-009) to City of Napa and Napa Sanitation District. Detach parcel from County Service Area No. 4.

Description of Boundaries of Affected Territory Accompanied by Map:

See attached geographical descriptions and plat maps prepared by RSA+ Engineers and dated 12-09-2021 (for City and Sanitation District annexations).

Reason for Proposal and Any Proposed Conditions:

Facilitate City approval of eleven (11) new single family home subdivision on subject parcel and provision of services by City and Sanitation District (City File No. PL21-0179).

Type of Petition:

Landowner


Registered Voter

Sphere of Influence Consistency:

Yes

No

**If Landowner Petition, Complete the Following:**

1) Name: Daniel L. Breit, Successor Trustee of the Henry E. Wigger 2019 Revocable Living Trust  
Mailing Address: 3090 Browns Valley Rd., Napa, CA 94558  
Assessor Parcel: 041-170-009  
Signature:  Date: 1-26-2022

2) Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Assessor Parcel: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

3) Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Assessor Parcel: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**If Registered Voter Petition, Complete the Following:**

1) Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Resident Address: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

2) Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Resident Address: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

3) Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Resident Address: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**FORM D**

**PROPOSAL APPLICATION**  
 Change of Organization/Reorganization

**I. APPLICANT INFORMATION**

---

**A. Name:** Eric Zweig, Director of Planning, Edenbridge Homes  
 Contact Person Agency/Business (If Applicable)

**Address:** 21771 Stevens Creek Blvd., Ste. 200A, Cupertino, CA 95014  
 Street Number Street Name City Zip Code

**Contact:** (669) 231-4240, (669) 231-4250, eric@edenbridgehomes.com  
 Phone Number Facsimile Number E-Mail Address

**B. Applicant Type:** (Check One)

Local Agency     
  Registered Voter     
  Landowner

**II. PROPOSAL DESCRIPTION**

---

**A. Affected Agencies:**

<u>City of Napa, 1600 First St./PO Box 660, Napa, CA 94559</u>	
Name	Address
<u>Napa Sanitation District</u>	<u>1515 Soscol Ferry Rd., Napa, CA 94558</u>
Name	Address
<u>County of Napa</u>	<u>1195 Third St., Napa, CA 94559</u>
Name	Address

*Use Additional Sheets as Needed*

**B. Proposal Type:** (Check as Needed)

<input checked="" type="checkbox"/> Annexation	<input checked="" type="checkbox"/> Detachment	<input type="checkbox"/> City Incorporation	<input type="checkbox"/> District Formation
<input type="checkbox"/> City/District Dissolution	<input type="checkbox"/> City/District Merger	<input type="checkbox"/> Service Activation (District Only)	<input type="checkbox"/> Service Divestiture (District Only)

**C. Purpose Statement:** (Specific)

Annex 3.77-acre parcel at 3090 Browns Valley Rd. (APN 041-170-009) to City of Napa and Napa Sanitation District and detach from County Service Area No. 4 for City subdivision approval.

**III. GENERAL INFORMATION**

<b>A. Location:</b>	3090 Browns Valley Rd.	041-170-009	3.77
	Street Address	Assessor Parcel Number	Acres
	Street Address	Assessor Parcel Number	Acres
	Street Address	Assessor Parcel Number	Acres

Total Location Size (Including Right-of-Ways) 3.77 Acres

**B. Landowners:**

- (1) Assessor Parcel Number : 041-170-009 Name: Daniel L. Breit  
 Mailing Address: 3090 Browns Valley Rd., Napa, CA 94558  
 Phone Number: (707) 738-2945 E-mail: stefan@destinationnapa.com
- (2) Assessor Parcel Number : \_\_\_\_\_ Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_
- (3) Assessor Parcel Number : \_\_\_\_\_ Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_
- (4) Assessor Parcel Number : \_\_\_\_\_ Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

*Use Additional Sheets As Needed*

**C. Population:**

- (1) Total Number of Residents: 1
- (2) Total Number of Registered Voters: 1

**D. Land Use Factors:**

- (1a) County General Plan Designation: Rural Residential
- (1b) County Zoning Standard: RS:UR
- (2a) Applicable City General Plan Designation: SFR-110 (0 to 3 units per acre)
- (2b) Applicable City Pre-zoning Standard: RS-10 (min. lot size 10,000 sf)  
(Required for City Annexations)

**E. Existing Land Uses:**  
(Specific)

Single Family Residential (existing home, cottage, barn, and shed structures)

\_\_\_\_\_

\_\_\_\_\_

**F. Development Plans:**

- (1a) Territory Subject to a Development Project?  Yes  No
- (1b) If Yes, Describe Project: Eleven (11) new single family homes and cul-de-sac street proposed per City File No. PL21-0179.
- (1c) If No, When Is Development Anticipated? \_\_\_\_\_
- \_\_\_\_\_

**G. Physical Characteristics:**

- (1) Describe Topography: Parcel has gentle slopes of 1-6%, rising from Browns Valley Rd. to high point in center at approx. elev. 96, then slopes down 15% to plateau at NE corner with low point approx. elev. 83.
- (2) Describe Any Natural Boundaries: Browns Valley Creek borders parcel to the north and Browns Valley Road borders parcel to the south.
- (3) Describe Soil Composition and Any Drainage Basins: Alluvial fan and stream terrace deposits underlain by weathered bedrock. Bale clay, Cole silt, and Millsholm loams. Parcel drains to Browns Valley Creek in Napa River - Lower Napa City Reach basin.
- (4) Describe Vegetation: Ornamental landscaping and trees around existing single family home, cottage, barn, and shed structures. Riparian vegetation adjacent to creek.

**H. Williamson Act Contracts**  
(Check One)

#### IV. GOVERNMENTAL SERVICES AND CONTROLS

##### A. Plan For Providing Services:

- (1) Enumerate and Describe Services to Be Provided to the Affected Territory:

Water: City of Napa, Fire: City of Napa

Sewer: Napa Sanitation District

Gas/Electric/Telephone/CATV: PG&E, AT&T, Comcast

Solid Waste: Napa Recycling & Waste Services

- (2) Level and Range of Services to Be Provided to the Affected Territory:

Services to be provided as typical for eleven (11)  
new single family homes of 2,770 - 3,937 sf each.

New water and sewer mains to be constructed in new  
project cul-de-sac to City and Sanitation District standards.

- (3) Indication of When Services Can Feasibly Be Extended to the Affected Territory:

City and Sanitation District have indicated there is existing capacity  
to serve the parcel pending development project approvals  
(anticipated in Summer/Fall 2022).

- (4) Indication of Any Infrastructure Improvements Necessary to Extend Services to the Affected Territory:

New water and sewer main extensions in project  
cul-de-sac street will be constructed from existing  
facilities in Browns Valley Rd. along parcel frontage.

- (5) Information On How Services to the Affected Territory Will Be Financed:

Applicant (Edenbridge Homes) will construct new project cul-de-sac street, water and sewer main extensions,

and gas/electric/telephone/catv distribution facilities and pay building permit and connection fees.

Future homeowners in new subdivision will pay property taxes.



**V. ENVIRONMENTAL INFORMATION**

---

**A. Environmental Analysis** (City annexations require pre-zoning.)

(1) **Lead Agency for Proposal:** City of Napa  
Name

(2) **Type of Environmental Document Previously Prepared for Proposal:**

- Environmental Impact Report
- Negative Declaration/Mitigated Negative Declaration
- Categorical/Statutory Exemption: \_\_\_\_\_  
Type
- None

*Provide Copies of Associated Environmental Documents*

**VI. ADDITIONAL INFORMATION**

---

**A. Approval Terms and Conditions Requested For Commission Consideration:**

City of Napa will require LAFCO annexation approval prior to approving proposed subdivision tentative map (City File No. PL21-0179). Anything the Commission can do to expedite review of this application so that the City Council may act on the subdivision application is appreciated.

*Use Additional Sheets As Needed*

**B. Identify Up to Three Agencies or Persons to Receive Proposal Correspondence:**

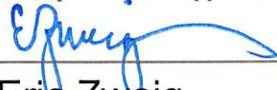
(Does not include affected landowners or residents)

- (1) **Recipient Name:** Bond Mendez, Planner, City of Napa  
**Mailing Address:** PO Box 660, Napa, CA 94559  
**E-Mail:** bmendez@cityofnapa.org
- (2) **Recipient Name:** Andrew Damron, Engineer, Napa Sanitation District  
**Mailing Address:** 1515 Soscol Ferry Rd., Napa, CA 94558  
**E-Mail:** adamron@napasan.com
- (3) **Recipient Name:** County of Napa (for County Service Area No. 4)  
**Mailing Address:** 1159 Third St., Napa, CA 94559  
**E-Mail:** \_\_\_\_\_

**VII. CERTIFICATION**

---

I certify the information contained in this application is correct. I acknowledge and agree the Local Agency Formation Commission of Napa County is relying on the accuracy of the information provided in my representations in order to process this application proposal.

Signature:   
Printed Name: Eric Zweig  
Title: Director of Planning, Edenbridge Homes  
Date: 1/26/2022

5320  
Napa EX-A  
12-08-2021

EXHIBIT A  
BROWNS VALLEY ROAD  
ANNEXATION TO THE CITY OF NAPA  
GEOGRAPHICAL DESCRIPTION

All that certain property, situated in a portion of Sections 4 and 5, Township 5 North, Range 4 West, Mount Diablo Base Meridian, in the County of Napa, State of California, described as follows:

Beginning at the southwest corner of the Browns Valley Road - Robinson Lane Annexation District as described in the Certificate of Completion recorded on July 21, 1982 in Book 1248 of Official Records, Page 439 in the office of the Napa County Recorder, State of California,

(1) thence along the north line of the Thompson Avenue – Laurel Street Annexation District as described in document recorded on August 27, 1971 in Book 858 of Official Records, Page 525 in the office of the Napa County Recorder, State of California, North 67° 44' 51" West 224.44 feet

(2) thence North 22° 06' 09" East 414.07 feet to the Centerline of South Branch Napa Creek;

(3) thence along Napa Creek South 52° 00' 00" East 7.52 feet;

(4) thence South 71° 00' 00" East 5.00 feet;

(5) thence North 73° 00' 00" East 14.00 feet;

(6) thence North 9° 00' 00" East 26.00 feet;

(7) thence North 38° 30' 00" East 18.00 feet;

(8) thence North 17° 00' 00" East 30.50 feet;

(9) thence North 12° 20' 00" East 86.00 feet;

(10) thence North 5° 10' 00" East 48.00 feet;

(11) thence North 18° 00' 00" East 30.00 feet;

(12) thence North 64° 11' 34" East 26.57 feet to the southern line of Buckingham Park – Hudson Lane Annexation District Napa described in document in Book 595 of Official Records, Page 558 in the office of the Napa County Recorder, State of California,

(13) thence along said southern line North 76° 41' 30" East 124.80 feet;

(14) thence South 86° 13' 30" East 116.00 feet;

(15) thence South 13° 28' 30" East 13.71 feet to the northern prolongation of the wester most line of said Browns Valley Road - Robinson Lane Annexation District

(16) thence along said prolongation and west line South 22° 15' 09" West 772.62 feet to the **Point of Beginning**

Containing 3.77 Acres, more or less.

Basis of Bearing being the centerline of Browns Valley Road as established by the line from the City of Napa Well Monument #38-C Per 23 PM 79 to the tangent Point with a 42.0-foot radius arc northerly of the 3/4" Iron Pipe at the northeast corner of Parcel A per 23 PM 76.  
Said line measured as North 67° 44' 51" West.

**For assessment purposes only.** This legal description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described.





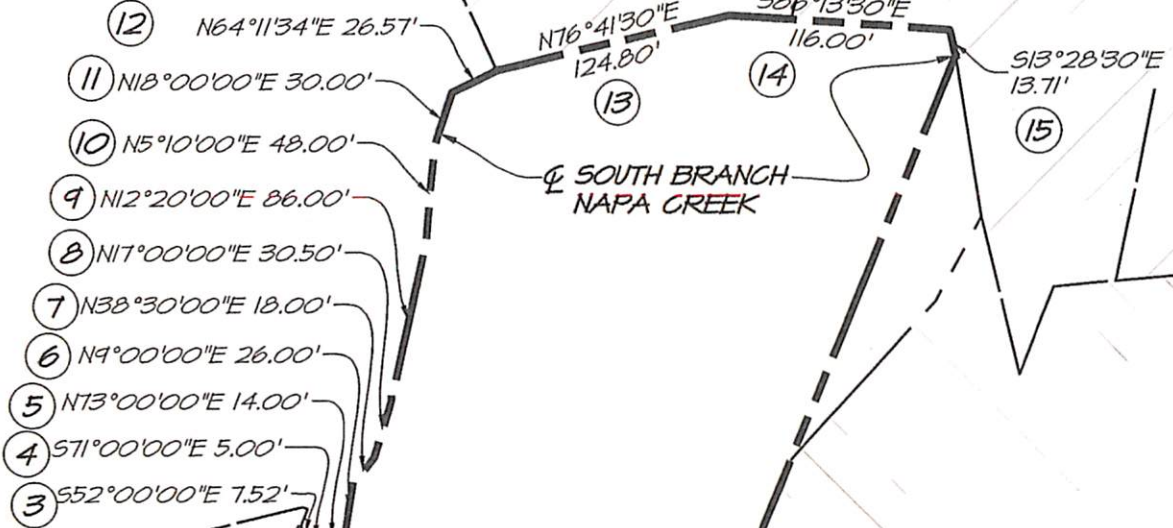
# MAP DELINEATING THE BOUNDARY OF BROWNS VALLEY ROAD ANNEXATION TO THE CITY OF NAPA

BUCKINGHAM PARK - HUDSON LANE ANNEXATION  
DISTRICT VOL 595 OR 558

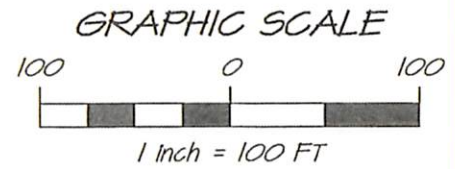
LANDS OF KATZ  
041-160-023

LANDS OF MORRIS  
042-362-007

LANDS OF STEELE  
042-362-008



AREA  
041-170-009  
164,243 SF  
3.77 ACRES



BEING A PORTION  
SEC. 4&5, T. 5 N., R. 4 W., M.D.B. & M.

**RSA<sup>+</sup>**

1515 FOURTH STREET  
NAPA, CALIF. 94559  
OFFICE | 707 | 252.3301  
+ www.RSAcivil.com +

**BROWNS VALLEY ROAD**

THOMPSON AVENUE - LAUREL STREET ANNEXATION  
DISTRICT AUGUST 27, 1971 VOL 858 OR 525

P.O.B.

BASIS OF BEARING  
BEING THE CENTERLINE OF  
BROWNS VALLEY ROAD AS  
ESTABLISHED BY THE LINE FROM  
THE CITY OF NAPA WELL MONUMENT #38-C  
PER 23 PM 79 TO THE TANGENT POINT WITH A  
42.0-FOOT RADIUS ARC NORTHERLY OF THE 3/4"  
IRON PIPE AT THE NORTHEAST CORNER OF PARCEL A PER  
23 PM 76. SAID LINE MEASURED AS NORTH 67° 44' 51" WEST.



5320  
NDS EX-A  
12-09-2021

EXHIBIT A  
BROWNS VALLEY ROAD NO. 15 DISTRICT  
ANNEXATION TO NAPA SANITATION DISTRICT  
GEOGRAPHICAL DESCRIPTION

All that certain property, situated in a portion of Sections 4 and 5, Township 5 North, Range 4 West, Mount Diablo Base Meridian, in the County of Napa, State of California, described as follows:

Beginning at the southwest corner of the Browns Valley Road No. 14 Annexation to Napa Sanitation District as described in the Certificate of Completion recorded September 01, 2021 as Series Number 2021-0028234, Napa County Records, State of California,

(1) thence along the north line of the Browns Valley Road District Annexation Napa Sanitation District March 5, 1957 North 67° 44' 51" West 224.44 feet to the southeast corner of Browns Valley Road Goetze-Jamison District Annexation Napa Sanitation District February, 5 1957;

(2) thence North 22° 06' 09" East 414.07 feet to the Centerline of south Branch Napa Creek;

(3) thence along Napa Creek South 52° 00' 00" East 7.52 feet;

(4) thence South 71° 00' 00" East 5.00 feet;

(5) thence North 73° 00' 00" East 14.00 feet;

(6) thence North 9° 00' 00" East 26.00 feet;

(7) thence North 38° 30' 00" East 18.00 feet;

(8) thence North 17° 00' 00" East 30.50 feet;

(9) thence North 12° 20' 00" East 86.00 feet;

(10) thence North 5° 10' 00" East 48.00 feet;

(11) thence North 18° 00' 00" East 30.00 feet;

(12) thence North 64° 11' 34" East 26.57 feet to the southern line of Buckingham Park District Annexation Napa Sanitation District Approved July 7 1959;

(13) thence along said southern line North 76° 41' 30" East 124.80 feet;

(14) thence South 86° 13' 30" East 116.00 feet;

(15) thence South 13° 28' 30" East 13.71 feet to the northern prolongation of the wester most line of said Browns Valley Road - Robinson Lane Annexation District

(16) thence along said prolongation and west line South 22° 15' 09" West 772.62 feet to the **Point of Beginning**

Containing 3.77 Acres, more or less.

Basis of Bearing being the centerline of Browns Valley Road as established by the line from the City of Napa Well Monument #38-C Per 23 PM 79 to the tangent Point with a 42.0-foot radius arc northerly of the 3/4" Iron Pipe at the northeast corner of Parcel A per 23 PM 76.  
Said line measured as North 67° 44' 51" West.

**For assessment purposes only.** This legal description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described.





# MAP DELINEATING THE BOUNDARY OF BROWNS VALLEY ROAD NO. 15 DISTRICT ANNEXATION ANNEXATION TO NAPA SANITATION DISTRICT

BASIS OF BEARING BEING THE CENTERLINE OF BROWNS VALLEY ROAD AS ESTABLISHED BY THE LINE FROM THE CITY OF NAPA WELL MONUMENT #38-C PER 23 PM 79 TO THE TANGENT POINT WITH A 42.0-FOOT RADIUS ARC NORTHERLY OF THE 3/4" IRON PIPE AT THE NORTHEAST CORNER OF PARCEL A PER 23 PM 76. SAID LINE MEASURED AS NORTH 67° 44' 51" WEST.

BUCKINGHAM PARK DISTRICT ANNEXATION  
NAPA SANITATION DISTRICT

LANDS OF MORRIS  
042-362-007

LANDS OF STEELE  
042-362-008

LANDS OF KATZ  
041-160-023

- ⑫ N64°11'34"E 26.57'
- ⑪ N18°00'00"E 30.00'
- ⑩ N5°10'00"E 48.00'
- ⑨ N12°20'00"E 86.00'
- ⑧ N17°00'00"E 30.50'
- ⑦ N38°30'00"E 18.00'
- ⑥ N9°00'00"E 26.00'
- ⑤ N73°00'00"E 14.00'
- ④ S71°00'00"E 5.00'
- ③ S52°00'00"E 7.52'

N76°41'30"E 124.80'

S86°13'30"E 116.00'

S13°28'30"E 13.71'

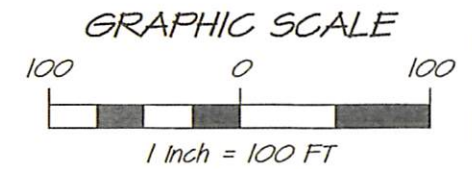
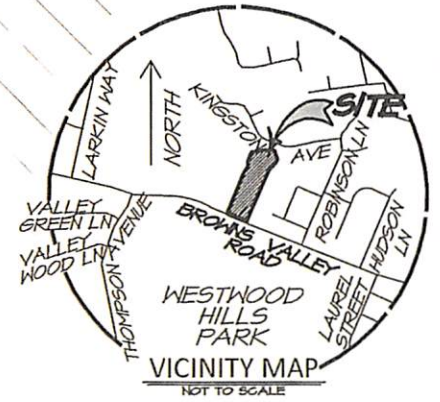
♀ SOUTH BRANCH  
NAPA CREEK

LANDS OF CHRISTENSEN  
041-170-008

**AREA**  
041-170-009  
164,243 SF  
3.77 ACRES

LANDS OF GATTO  
041-170-010

LICENSED LAND SURVEYOR  
Christopher M. Tibbits  
12/9/21  
LB88585  
STATE OF CALIFORNIA



BEING A PORTION  
SEC. 4&5, T. 5 N., R. 4 W., M.D.B. & M.

**RSA+**

1515 FOURTH STREET  
NAPA, CALIF. 94559  
OFFICE | 707 | 252.3301  
+ www.RSAcivil.com +

① P.O.B.  
N67°44'51"N 224.44'  
BROWNS VALLEY ROAD DISTRICT ANNEXATION  
NAPA SANITATION DISTRICT MARCH 5, 1957  
BROWNS VALLEY ROAD DISTRICT ANNEXATION  
NAPA SANITATION DISTRICT  
VOL 1365 PAGE 839

BROWNS VALLEY ROAD  
GOETZE-JAMISON  
DISTRICT ANNEXATION  
NAPA SANITATION  
DISTRICT FEB. 5 1957  
N22°06'04"E 414.07'

⑬ S22°15'09"W 172.62'  
BROWNS VALLEY ROAD NO.  
14 ANNEXATION TO  
NAPA SANITATION DISTRICT  
2021-0028-234

FACTORS FOR COMMISSION CONSIDERATION: **Browns Valley Road Reorganization**

Government Code §56668 & §56668.3 require the review of a proposal to include the following factors:

FACTOR TO CONSIDER	COMMENT
1. Population and density [§56668(a)]	<b>Consistent:</b> Population one (legally uninhabited)
2. Land area and land use [§56668(a)]	<b>Consistent:</b> 3.7 acres, two single-family residences with out-buildings
3. Assessed valuation [§56668(a)]	<b>Consistent:</b> Land: \$918,000 Improvements: \$408,000
4. Topography, natural boundaries and drainage basins [§56668(a)]	<b>Consistent:</b> Gentle slope: 1-3 percent with high point of approximately 96-foot elevation, slopes to 15% to plateau  Drainage basin: <i>Napa River – Lower Napa City Reach</i>
5. Proximity to other populated areas [§56668(a)]	<b>Consistent:</b> Located within an unincorporated island within the City of Napa's SOI, designated for residential infill in the General Plan
6. Likelihood of significant growth in the area, adjacent areas during next 10 years [§56668(a)]	<b>Consistent:</b> County General Plan designation: <i>Rural Residential</i> County Zoning: <i>RS:UR (Residential Single: Urban Reserve – within City SOI &amp; RUL)</i> Development requires City annexation  City General Plan designation: <i>SFR-110 (Single Family Residential, 0-3 lots per acre)</i>  <i>General Plan 2040: Low Density Residential (3 to 8 units per acre) for 11 to 30 units on site.</i> City Pre-Zoning: <i>RS-10 (Residential, minimum lot size 10,000 sq. ft.), Residential Infill District</i>
7. Need for government services [§56668(b)]	<b>Consistent:</b> Approved development will require City services: Water, fire and emergency protection, law enforcement
8. Government services present cost, adequacy and controls in area [§56668(b)]	<b>Consistent:</b> Analysis: <a href="#">Central County Region Municipal Service Review adopted in 2014</a> and <a href="#">Napa Countywide Water Wastewater MSR Updated 10-4-21</a>

<p>9. Government services probable future needs and controls in area</p> <p>[§56668(b)]</p>	<p><b>Consistent:</b> Analysis: <a href="#">Central County Region Municipal Service Review adopted in 2014</a> and <a href="#">Napa Countywide Water Wastewater MSR Updated 10-4-21</a></p>
<p>10. Government services effect of proposal on cost, adequacy and controls in area and adjacent areas</p> <p>[§56668(b)]</p>	<p><b>Consistent:</b> Analysis: <a href="#">Central County Region Municipal Service Review adopted in 2014</a> and <a href="#">Napa Countywide Water Wastewater MSR Updated 10-4-21</a></p>
<p>11. Effects on adjacent areas, on mutual social and economic interests, and on local governmental structure in the County</p> <p>[§56668(c)]</p>	<p><b>Consistent:</b> Minimal effects on adjacent areas given the affected territory is surrounded by existing City and NSD boundaries, included in City’s SOI and RUL, and included in NSD’s SOI</p>
<p>12. Effects on planned efficient patterns of urban development</p> <p>[§56668(d)]</p>	<p><b>Consistent:</b> County General Plan designation: Rural Residential County Zoning: RS:UR (Residential Single: Urban Reserve – within City SOI &amp; RUL) Development requires City annexation</p> <p>City General Plan designation: <i>SFR-110 (Single Family Residential, 0-3 lots per acre)</i></p> <p>General Plan 2040: <i>Low Density Residential (3 to 8 units per acre) for 11 to 30 units on site.</i></p> <p>City Pre-Zoning: <i>RS-10 (Residential, minimum lot size 10,000 sq. ft.), Residential Infill District</i></p>
<p>13. Effects on maintaining physical and economic integrity of agricultural lands</p> <p>[§56668(e)]</p>	<p><b>Consistent:</b> Within City RUL, not designated for agricultural or open space use</p>
<p>14. Boundaries: logical, contiguous, not difficult to serve, definite and certain</p> <p>[§56668(f)]</p>	<p><b>Consistent:</b> One existing parcel, located on city-maintained streets, City approved development plans include streets</p>
<p>15. Conformance to lines of assessment, ownership</p> <p>[§56668(f)]</p>	<p><b>Consistent:</b> One parcel: APN 041-170-009</p>
<p>16. Creation of islands, corridors, irregular boundaries</p> <p>[§56668(f)]</p>	<p><b>Consistent:</b> City annexation would reduce the size of an unincorporated island, but would not create any new islands or irregular service areas.</p>



<p>17. Consistency with regional transportation plan [§56668(g)]</p>	<p><b>Consistent:</b> No specific projects in regional transportation plan (RTP), <i>Plan Bay Area 2050</i></p>
<p>18. Consistency with city or county general and specific plans [§56668(h)]</p>	<p><b>Consistent:</b> County General Plan designation: Rural Residential County Zoning: RS:UR (Residential Single: Urban Reserve – within City SOI &amp; RUL) City General Plan designation: <i>SFR-110 (Single Family Residential, 0-3 lots per acre)</i> General Plan 2040: <i>Low Density Residential (3 to 8 units per acre) for 11 to 30 units on site.</i> City Pre-Zoning: <i>RS-10 (Residential, minimum lot size 10,000 sq. ft.), Residential Infill District</i></p>
<p>19. Consistency with spheres of influence [§56668(i)]</p>	<p><b>Consistent:</b> Within City’s SOI since 1972 and NSD’s SOI since 1975</p>
<p>20. Comments from affected agencies and other public agencies [§56668(j)]</p>	<p><b>Consistent:</b> No comments received</p>
<p>21. Ability of agency to provide service including sufficiency of revenues [§56668(k)]</p>	<p><b>Consistent:</b> Analysis: <a href="#">Central County Region Municipal Service Review adopted in 2014</a> and <a href="#">Napa Countywide Water Wastewater MSR Updated 10-4-21</a></p>
<p>22. Timely availability of adequate water supply [§56668(l)]</p>	<p><b>Consistent:</b> Analysis: <a href="#">Central County Region Municipal Service Review adopted in 2014</a> and <a href="#">Napa Countywide Water Wastewater MSR Updated 10-4-21</a></p>
<p>23. Fair share of regional housing needs [§56668(m)]</p>	<p><b>Consistent:</b> Development of 11 single family homes</p>
<p>24. Information or comments from landowners, voters, or residents in proposal area [§56668(n)]</p>	<p><b>Consistent:</b> 100% consent of landowners</p>



<p>25. Existing land use designations [§56668(o)]</p>	<p><b>Consistent:</b> County General Plan designation: Rural Residential County Zoning: RS:UR (Residential Single: Urban Reserve – within City SOI &amp; RUL)</p> <p>City General Plan designation: <i>SFR-110 (Single Family Residential, 0-3 lots per acre)</i></p> <p>General Plan 2040: <i>Low Density Residential (3 to 8 units per acre) for 11 to 30 units on site.</i></p> <p>City Pre-Zoning: <i>RS-10 (Residential, minimum lot size 10,000 sq. ft.), Residential Infill District</i></p>
<p>26. Effect on environmental justice [§56668(p)]</p>	<p><b>Consistent:</b> No documentation or evidence suggesting the proposal will have any implication</p>
<p>27. Safety Element of GP concerns; identified as very high fire hazard zone [§56668(q)]</p>	<p><b>Consistent:</b> Not located in a high fire hazard zone</p>
<p>28. Special district annexations: for the interest of landowners or inhabitants within the district and affected territory [§56668.3(a)(1)]</p>	<p><b>Consistent:</b> Proposal approval would benefit by providing access to public sewer service for development, developer pays NSD fees and connection charges, new residents pay standard use charges</p>

**Final Initial Study/Mitigated Negative Declaration  
Browns Valley Subdivision Project  
City of Napa, Napa County, California  
State Clearing House Number 2022090306**

Prepared for:  
**City of Napa**  
1600 First Street  
Napa, CA 94559  
707.257.9530

Contact: Michael Allen, Senior Planner

Prepared by:  
**FirstCarbon Solutions**  
2999 Oak Road, Suite 250  
Walnut Creek, CA 94597  
925.357.2562

Contact: Mary Bean, Project Director  
Tsui Li, Project Manager

Date: December 9, 2022

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## SECTION 1: INTRODUCTION

Although not required by the California Environmental Quality Act (CEQA), the City of Napa has prepared the following responses to significant environmental comments received on the Browns Valley Subdivision Project Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND). The Responses to Comments and Errata, which are included in this document, together with the Draft IS/MND, Draft IS/MND appendices, and the Mitigation Monitoring and Reporting Program (MMRP), comprise the Final IS/MND for use by the City of Napa in its review and consideration of the Browns Valley Subdivision Project. All public comments regarding the Draft IS/MND are included for consideration by the City.

This document is organized into three sections:

- **Section 1—Introduction.**
- **Section 2—Responses to Written Comments:** Provides a list of the agencies, organizations, and individuals who commented on the Draft IS/MND. Copies of all of the letters received regarding the Draft IS/MND and responses thereto are included in this section.
- **Section 3—Errata:** Includes an addendum listing refinements and clarifications on the Draft IS/MND, which have been incorporated.

The Final IS/MND includes the following contents:

- Draft IS/MND (provided under separate cover)
- Draft IS/MND appendices (provided under separate cover)
- Responses to Written Comments and Errata (Sections 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

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## SECTION 2: RESPONSES TO WRITTEN COMMENTS

### 2.1 - List of Authors

A list of public agencies, organizations, and individuals that provided comments on the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

**Author** **Author Code**

#### State Agencies

California Department of Fish and Wildlife ..... CDFW

#### Individuals

Morris, Michael ..... MORRIS1

Morris, Michael ..... MORRIS2

### 2.2 - Responses to Comments

#### 2.2.1 - Introduction

Although a lead agency is not required to provide written responses to comments on proposed Negative Declarations (NDs) or Mitigated Negative Declarations (MNDs) under the California Environmental Quality Act (CEQA), the City of Napa has evaluated the comments received on the proposed Browns Valley Subdivision Project (proposed project) Draft IS/MND and has elected to provide responses to the following comments. None of the comments received results in the need to recirculate the Draft IS/MND or to prepare an Environmental Impact Report (EIR).

#### 2.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

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State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

CDFW

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GAVIN NEWSOM, Governor

CHARLTON H. BONHAM, Director



October 12, 2022

Michael Allen, Senior Planner  
City of Napa  
1600 First Street  
Napa, CA 94559  
[mallen@cityofnapa.org](mailto:mallen@cityofnapa.org)

Subject: Browns Valley Subdivision Project, Mitigated Negative Declaration,  
SCH No. 2022090306, City and County of Napa

Dear Mr. Allen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt Mitigated Negative Declaration (MND) from the City of Napa (City) for the Browns Valley Subdivision Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

## CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** Edenbridge Homes

**Objective:** Construct 11 new single-family homes with landscaping and a new public cul-de-sac street with driveways on a 3.77-acre residential infill site. Project activities include demolishing all existing pavement and structures (barn, two residences and sheds), some of which are within the riparian zone, adjacent to Browns Valley Creek.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.



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The Project will also install a bioretention area and stormwater detention that will empty onto a rock energy dissipater within the edge of riparian vegetation.

**Location:** The Project is located at 3090 Browns Valley Road, Napa, CA 94558. The Assessor's Parcel Number is 041-170-009.

**Timeframe:** Construction is anticipated to begin January 2023 and would last approximately 14-18 months.

## REGULATORY REQUIREMENTS

### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to impact California freshwater shrimp (*Syncaris pacifica*), a CESA listed as endangered species, and tricolored blackbird (*Agelaius tricolor*) and Swainson's hawk (*Buteo swainsoni*), both CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

### Lake and Streambed Alteration

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. **The Project would impact Browns Valley Creek and therefore an LSA Notification would be required, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will

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consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

### **Fully Protected Species**

Fully Protected species, such as white-tailed kite (*Elanus leucurus*) and golden eagle (*Aquila chrysaetos*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan.

### **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Attachment 1 Draft Mitigation Monitoring and Reporting Program includes the below recommended mitigation measures. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those recommended below, CDFW concludes that an MND is appropriate for the Project.

- I. Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

### **Environmental Setting and Mitigation Measures**

#### **COMMENT 1: Swainson's Hawk**

**Issue:** The Project may impact nesting Swainson's hawk, which occurs in Napa County. The California Natural Diversity Database (CNDDB) documents a Swainson's hawk mating pair occurrence less than 4 miles from the Project site.

The proposed nesting bird survey mitigation measure would only survey for raptors present within 1,000 feet of the Project, however nesting Swainson's hawks may be impacted up to 0.25 miles from the Project within urban areas and may not be detected using the proposed nesting bird surveys.

**Specific impacts and why they may occur and be significant:** If active Swainson's hawk nests are not detected by the proposed surveys or appropriate buffer zones are not established, Swainson's hawk could be disturbed by Project

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activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species.

Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20<sup>th</sup> century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016).

Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** For an accurate environmental setting, to reduce impacts to Swainson's hawk to less-than-significant, and to comply with CESA, CDFW recommends including an evaluation of Swainson's hawk in the impact analysis and adding the following mitigation measure:

Mitigation Measure (MM) BIO-13 Swainson's Hawk Surveys and Avoidance: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the *Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk* (2000) survey protocol<sup>2</sup>, within 0.25 mile of the Project site each year that Project activities occur. Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a Project's initiation. For example, if the project is scheduled to begin on June 20, the qualified biologist shall complete three surveys in Period III and three surveys in Period V. It is recommended that surveys be completed in Periods II, III and V. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.25 mile no disturbance buffer zone around the nest, unless otherwise approved in

<sup>2</sup> Swainson's Hawk Technical Advisory Committee, 2000.  
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>

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writing by CDFW. Project activities shall be prohibited within the buffer zone between March 1 and August 31, unless otherwise approved in writing by CDFW. If take of Swainson’s hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

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**COMMENT 2: Tricolored blackbird**

**Issue:** The project may impact tricolored blackbird, which occurs in Napa County. The Project sites fall within the range and predicted habitat of tricolored blackbird. CNDDDB documents an occurrence within 5 miles of the Project site.

**Specific impacts and why they may occur and be significant:** If active tricolored blackbird nests are not detected by the proposed surveys or appropriate buffer zones are not established, tricolored blackbird could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species. Tricolored blackbird is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

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**Recommended Mitigation Measure:** For an accurate environmental setting and to reduce impacts to tricolored blackbird to less than significant, CDFW recommends including an impact analysis for tricolored blackbird and including the following mitigation measure:

MM BIO-14: Tricolored Blackbird Avoidance. If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500 feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

**Mitigation Measures**

**COMMENT 3: California freshwater shrimp**

**Issue:** The proposed pre-construction surveys are insufficient to ensure impacts to California freshwater shrimp are avoided, as surveys may not detect this elusive species.

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### **Recommended Mitigation Measure:**

MM BIO-15: California Freshwater Shrimp Avoidance. No Project activities shall occur when standing or flowing water is present in the stream within 500 feet of the project area, unless otherwise approved in writing by CDFW. No streambanks outside of the Project footprint shall be impacted or disturbed. No sediment from the Project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by CDFW. The silt fence shall be checked daily by the Qualified Biologist, including during periods of inactivity, and any necessary repairs shall be made immediately.

If sediment or any other materials from the Project area enter the stream channel, Project activities shall immediately stop and the Qualified Biologist shall immediately notify CDFW. If take of California freshwater shrimp cannot be avoided, the Project shall the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

- II. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?**

### **Environmental Setting and Mitigation Measures**

#### **COMMENT 4: Foothill Yellow-Legged Frog**

**Issue:** The MND does not consider impacts to foothill yellow-legged frog (*Rana boylei*, northwest/north coast clade). The Project site is within the range and suitable habitat for foothill yellow-legged frog and there is a CNDDDB documented occurrence in Redwood Creek, approximately 3.2 miles from the Project site.

**Specific impacts and why they may occur and be significant:** Foothill yellow-legged frogs have been extirpated from about two-thirds of their historical range since 1970 (U.S. Forest Service (USFS) 2016) and is a California Species of Special Concern (SSC).

The main risk factors for the foothill yellow-legged frog are water development and diversion, climate change, habitat loss (including urbanization and fragmentation), and introduced species (USFS 2016). Project location can negatively affect foothill yellow-legged frog based on proximity to suitable habitats. Many post-metamorphic foothill yellow-legged frogs move among a variety of stream habitats throughout the year, including perennial mainstem reaches to highly ephemeral headwater streams

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(Bourque 2008). This species is also documented in uplands near streams (< 300 m; Twitty et al. 1967, Cook et al. 2012). Projects involving the alteration of the bed and/or banks of any stream or adjacent upland habitats could have potentially significant impacts on the species or its habitat. Therefore, if foothill yellow-legged frogs are present on or adjacent to the Project site, the Project would have potentially significant impacts on the species.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including an impact analysis for foothill yellow-legged frog and including the following mitigation measure:

MM BIO-16: Foothill Yellow-Legged Frog Surveys. Prior to starting Project activities, a Qualified Biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. If foothill yellow-legged frogs, their eggs, or any other special-status species are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that surveys for foothill yellow-legged frogs are not necessary.

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## Mitigation Measures

### COMMENT 5: MM BIO-4: Noise and Lighting Restrictions

**Issue:** MM BIO-4 does not provide specific guidance regarding how lighting will be minimized. Artificial lighting may adversely impact special-status species.

**Recommended Mitigation Measure:** To reduce impacts from artificial lighting to less-than-significant, CDFW recommends replacing MM BIO-4 with the following language:

MM BIO-4: Noise and Lighting Restrictions: Construction noise shall be limited to daylight hours. All temporary Project lighting associated with construction staging areas, access routes and construction sites in natural lands must not spill into

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natural areas. Temporary Project lighting on the surface of the road will be directed towards the road surface and will not be directed into natural areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and shielding devices will be required on all temporary lighting systems within the Project limits. All temporary lighting shall be limited to 2,700 kelvins. A photometer shall be used in and around the construction site to ensure light is not being exposed to natural areas.

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**COMMENT 6: MM BIO-7: Construction Monitoring**

**Issue:** MM BIO-7 specifies that a qualified biologist may be on-site for daily monitoring if an aquatic state or federally listed species is present within or near the Project site, depending on the species. It is unclear whether the Project is required to consult with CDFW and/or USFWS in the event a listed species is encountered. MM BIO-7 also does not account for species designated as SSC.

**Recommended Mitigation Measure:** Revise MM BIO-7 to specify that a qualified biologist shall be on-site daily when work occurring within stream or riparian habitat, unless otherwise approved in writing by CDFW. Additionally, if any special-status species are detected, the Project shall consult with CDFW and/or USFWS regarding appropriate steps before proceeding with construction.

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**III. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?**

**Mitigation Measures**

**COMMENT 7: Riparian Habitat**

**Issue:** The MND mentions the need to obtain an LSA Agreement from CDFW; however, this is not included as a mitigation measure. Additionally, on page 65, the MND includes a list of Best Management Practices (BMPs). This includes a BMP specifying that work within the riparian zone would occur between April 15 to October 31; however, CDFW generally considers the dry season to be June 15 to October 15 in Napa County.

Additionally, while the MND states no riparian vegetation will be removed, it is unclear whether the area where structures will be removed within the riparian zone will be restored with native plantings. If demolition areas are left barren of vegetation, this could result in erosion and sedimentation within Browns Valley Creek.

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Furthermore, the MND states that the BMPs listed on page 65 are included to help avoid and minimize potential impacts to critical habitat and essential fish habitat to less than significant levels, yet these BMPs are not included as mitigation measures.

**Recommended Mitigation Measure:** To reduce impacts to riparian habitat to less-than-significant, CDFW recommends including a mitigation measure requiring the Project to submit an LSA Notification to CDFW and comply with the LSA Agreement if issued by CDFW. The LSA Agreement would likely include measures restricting work within the riparian zone from June 15 to October 15, unless otherwise approved in writing by CDFW, and require any areas within the riparian zone left barren of vegetation be restored and planted with native trees, shrubs and grasses. Additionally, permanent impacts, such as from installation of the storm drain outfall structure should be restored at a 3:1 ratio for acreage and linear feet impacted and temporary impacts should be restored on-site, unless otherwise approved in writing by CDFW.

CDFW also recommends that all BMPs that are intended to reduce impacts to riparian and stream habitat to less-than-significant be clearly listed as mitigation measures.

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#### IV. Editorial Comments and Suggestions

**COMMENT 8:** On page 65 of the MND it states, “No trees or other vegetation will be removed in the riparian zone unless it poses a safety hazard as determined by an arborist (for trees).” CDFW recommends revising this sentence for clarity. It is unclear if hazardous vegetation, besides trees, could be removed.

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**If CDFW issues an LSA Agreement for the Project, the above recommended mitigation measures will likely be included in the Agreement, as applicable.**

#### ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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## ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alicia Bird, Environmental Scientist, at (707) 980-5154 or [alicia.bird@wildlife.ca.gov](mailto:alicia.bird@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [melanie.day@wildlife.ca.gov](mailto:melanie.day@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022090306)

## REFERENCES

Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA.

Bourque, R. M. 2008. Spatial ecology of an inland population of the foothill yellow-legged frog (*Rana boylei*) in Tehama County, California. Thesis, Humboldt State University, Arcata, CA, USA.

CDFW. 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.

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Cook, D. G., P. W. White, and E. White. 2012. Natural history notes: *Rana boylei* (foothill yellow-legged frog), upland movement. *Herpetological Review* 43:325–326.

Twitty, V., D. Grant, and O. Anderson. 1967. Amphibian orientation: an unexpected observation. *Science* 155:352–353.

U.S. Forest Service (USFS). 2016. Foothill yellow-legged frog conservation assessment in California. General Technical Report PSW-GTR-248, Pacific Southwest Research Station, U.S. Forest Service, Albany, CA, USA.



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### Attachment 1

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
<b>MM BIO-4</b>	<p><u>MM BIO-4: Noise and Lighting Restrictions:</u>            Construction noise shall be limited to daylight hours. All temporary Project lighting associated with construction staging areas, access routes and construction sites in natural lands must not spill into natural areas. Temporary Project lighting on the surface of the road will be directed towards the road surface and will not be directed into natural areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and shielding devices will be required on all temporary lighting systems within the Project limits. All temporary lighting shall be limited to 2700 kelvins. A photometer shall be used in and around the construction site to ensure light is not being exposed to natural areas.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>
<b>MM BIO-13</b>	<p><u>MM BIO-13 Swainson's Hawk Surveys and Avoidance:</u>            If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk (2000) survey protocol, within 0.25 mile of the Project site each year that Project activities occur. Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a Project's initiation. For example, if the project is scheduled to begin on June 20, the qualified biologist shall complete three surveys in Period III and three surveys in Period V. It is recommended that surveys be completed in Periods II, III and V. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>

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	occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.25 mile no disturbance buffer zone around the nest, unless otherwise approved in writing by CDFW. Project activities shall be prohibited within the buffer zone between March 1 and August 31, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.		
<b>MM BIO-14</b>	<u>MM BIO-14: Tricolored Blackbird Avoidance.</u> If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500 feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant
<b>MM BIO-15</b>	<u>MM BIO-15: California Freshwater Shrimp Avoidance.</u> No project activities shall occur when standing or flowing water is present in the stream within 500 feet of the project area, unless otherwise approved in writing by CDFW. No streambanks outside of the project footprint shall be impacted or disturbed. No sediment from the project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by CDFW. The silt fence shall be checked daily by the Qualified Biologist, including during periods of inactivity, and any necessary repairs shall be made immediately.  If sediment or any other materials from the project area enter the stream channel project activities shall immediately stop and the Qualified Biologist shall immediately notify CDFW. If take of California freshwater shrimp cannot be avoided, the Project shall the Project shall consult with CDFW pursuant to CESA and obtain an ITP.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant
<b>MM BIO-16</b>	<u>MM BIO-16: Foothill Yellow-Legged Frog Surveys.</u> Prior to starting Project activities, a Qualified Biologist	Prior to Ground	Project Applicant

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	<p>shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. If foothill yellow-legged frogs, their eggs, or any other special-status species, are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting Project activities. <b>If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that surveys for foothill yellow-legged frogs are not necessary.</b></p>	<p>Disturbance and continuing over the course of the Project</p>	
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## State Agencies

### **California Department of Fish and Wildlife (CDFW)**

Comments below are reprinted verbatim from the comment letter.

#### *Comment CDFW-1*

Issue: The Project may impact nesting Swainson's hawk, which occurs in Napa County. The California Natural Diversity Database (CNDDDB) documents a Swainson's hawk mating pair occurrence less than 4 miles from the Project site.

The proposed nesting bird survey mitigation measure would only survey for raptors present within 1,000 feet of the Project, however nesting Swainson's hawks may be impacted up to 0.25 miles from the Project within urban areas and may not be detected using the proposed nesting bird surveys.

Specific impacts and why they may occur and be significant: If active Swainson's hawk nests are not detected by the proposed surveys or appropriate buffer zones are not established, Swainson's hawk could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species.

Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016).

Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** For an accurate environmental setting, to reduce impacts to Swainson's hawk to less-than-significant, and to comply with CESA, CDFW recommends including an evaluation of Swainson's hawk in the impact analysis and adding the following mitigation measure:

Mitigation Measure (MM) BIO-13 Swainson's Hawk Surveys and Avoidance: Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31), prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk (2000) survey protocol<sup>1</sup>, within 0.25 mile of the Project site each year that Project activities occur. Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a Project's initiation. For example, if the project is scheduled to begin on June 20, the qualified biologist shall complete three surveys in Period III and three surveys in Period V. It is recommended that surveys be completed in Periods II, III and V. The Project shall

obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.25 mile no disturbance buffer zone around the nest, unless otherwise approved in writing by CDFW. Project activities shall be prohibited within the buffer zone between March 1 and August 31, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

*Response to CDFW-1*

The project-specific biological survey evaluated habitat suitability and nearby CNDDDB records for Swainson's hawk during preparation of the biological resources report for the property at 3090 Browns Valley Road (Appendix B of the Draft IS/MND). The closest CNDDDB record to the project site is about 3.5 miles southwest of the site, where a pair of Swainson's hawks was observed displaying, copulating, and defending territory in 2013, but no nest was found. This occurrence was near Carneros Creek in an open area surrounded by agricultural fields, a preferred habitat for this species. Other CNDDDB records of this species in Napa are concentrated to the south in the open area between Highway 12 and the Napa County Airport, often near riparian habitat such as Suscol Creek. Although the project site has a riparian corridor along Browns Valley Creek, surrounding areas are developed or contain oak woodland (in Westwood Hills Park), and lack open areas preferred by this species. This is reflected in the Cornell Lab of Ornithology's eBird records, as Swainson's hawk has not been recorded at "hot spots" within a mile of the project site. As such, qualified Biologists concluded that protocol-level surveys for nesting Swainson's hawks are not warranted in the project area.

In response to comments, Mitigation Measure (MM) BIO-10 has been revised to include protocol surveys for Swainson's hawks if project construction starts during the Swainson's hawk nesting season (generally March 1 to August 31). The text changes to MM BIO-10 are reflected in Section 3, Errata, of this Final IS/MND.

These changes are based on communication with CDFW during the on-site meeting which took place on November 1, 2022, in which it was clarified that surveys do not need to be repeated every year if construction is continuous, and that "project activities" refers only to construction activities (does not include project operation).

Potential project effects on Swainson's hawk are not new avoidable significant effects since the proposed project was previously found to have a less than significant impact on these species (as disclosed in the Draft IS/MND). The revisions to MM BIO-10 merely amplify and clarify the survey protocols from the Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk,<sup>1</sup> and therefore do not affect the impact analyses and the environmental determination of the Draft IS/MND.

*Comment CDFW-2*

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<sup>1</sup> Swainson's Hawk Technical Advisory Committee. 2000. Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk. Website: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>. Accessed November 30, 2022.

Issue: The project may impact tricolored blackbird, which occurs in Napa County. The Project sites fall within the range and predicted habitat of tricolored blackbird. CNDDDB documents an occurrence within 5 miles of the Project site.

Specific impacts and why they may occur and be significant: If active tricolored blackbird nests are not detected by the proposed surveys or appropriate buffer zones are not established, tricolored blackbird could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species. Tricolored blackbird is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active tricolored blackbird nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** For an accurate environmental setting and to reduce impacts to tricolored blackbird to less than significant, CDFW recommends including an impact analysis for tricolored blackbird and including the following mitigation measure:

**MM BIO-14: Tricolored Blackbird Avoidance.** If nesting tricolored blackbird or evidence of their presence is found during nesting bird surveys within 500 feet of Project activities, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If take of tricolored blackbird cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

*Response to CDFW-2*

It is acknowledged that tricolored blackbird occurs in Napa County, and that the project site is within the range of this species. The CNDDDB documented occurrence of tricolored blackbird is about 4.3 miles southeast of the project site at a freshwater marsh along the Napa River. As part of a United States Fish and Wildlife Service (USFWS) protocol site assessment for California red-legged frog, all wetland and riparian habitat within 1 mile of the project site were identified and evaluated. Although designed for California red-legged frog, the biological survey confirmed that there is no suitable freshwater marsh habitat for tricolored blackbird within 1 mile of the project site (Appendix B of the Draft IS/MND). Therefore, nesting tricolored blackbirds are unlikely to occur in the project area, and the proposed project would not impact this species. Similar to Swainson's hawk, there are no eBird "hot spot" observations of tricolored blackbird within 1 mile of the site.

In response to comments, MM BIO-10 is revised to incorporate the CDFW recommended buffer if nesting tricolored blackbirds are found within 500 feet of the project site. The text changes to MM BIO-10 are reflected in Section 3, Errata, of this Final IS/MND.

Potential project effects on tricolored blackbird are not new avoidable significant effects since the proposed project was previously found to have a less than significant impact on these species (as disclosed in the Draft IS/MND). The revisions to MM BIO-10 merely amplify and clarify the avoidance



protocols for nesting tricolored blackbirds if found during nesting bird surveys, and therefore do not affect the impact analyses and the environmental determination of the IS/MND.

*Comment CDFW-3*

Issue: The proposed pre-construction surveys are insufficient to ensure impacts to California freshwater shrimp are avoided, as surveys may not detect this elusive species.

**Recommended Mitigation Measure:**

**MM BIO-15: California Freshwater Shrimp Avoidance.** No Project activities shall occur when standing or flowing water is present in the stream within 500 feet of the project area, unless otherwise approved in writing by CDFW. No streambanks outside of the Project footprint shall be impacted or disturbed. No sediment from the Project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by CDFW. The silt fence shall be checked daily by the Qualified Biologist, including during periods of inactivity, and any necessary repairs shall be made immediately.

If sediment or any other materials from the Project area enter the stream channel, Project activities shall immediately stop and the Qualified Biologist shall immediately notify CDFW. If take of California freshwater shrimp cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

*Response to CDFW-3*

California freshwater shrimp was evaluated in the biological resources report and the Draft IS/MND, and was found to have a moderate potential to occur in Browns Valley Creek within the project site. It is acknowledged that this species may not be detected during a single preconstruction survey, even if it is present. However, the proposed project is not expected to impact this species because no work is proposed in Browns Valley Creek or below the top of the creek banks, and a silt fence would be installed between the creek and the work area during construction. MM BIO-1 through MM BIO-9 in the Draft IS/MND would also avoid impacts to aquatic species, including California freshwater shrimp. In addition, Best Management Practices (BMPs) would be incorporated into the proposed project to prevent sediment or other pollutants from entering the creek (now part of MM BIO-14, see Response to CDFW-7 below), and a Storm Water Pollution Prevention Plan (SWPPP) would be prepared and implemented during construction, consistent with regulatory requirements.

However, in response to comments, MM BIO-1 is revised to include measures to ensure sediment is prevented from entering the stream. The text changes to MM BIO-1 are reflected in Section 3, Errata, of this Final IS/MND.

The restriction on work within 500 feet of standing or flowing water in Browns Valley Creek was not included in this revised measure. This was based on communication with CDFW personnel during the November 1, 2022 on-site meeting, in which it was understood that standing or flowing water is likely always present in Browns Valley Creek, and agreed that the first sentence of the proposed mitigation measure could be deleted provided that potential impacts to California freshwater shrimp

are avoided. “Or designated construction crew member” was added because a full-time Biological Monitor is not required for the proposed project for work outside of the riparian zone, and a trained crew member could check and maintain the silt fence without assistance from a qualified Biologist.

California freshwater shrimp was evaluated in the biological resources report and the Draft IS/MND, and significant impacts were already avoided by requiring MM BIO-1 through MM BIO-9 and the BMPs incorporated into the proposed project for creek protection. The revisions to MM BIO-1 merely amplify and clarify the avoidance protocols for California freshwater shrimp if found during pre-construction survey, and therefore do not affect the impact analyses and the environmental determination of the Draft IS/MND.

*Comment CDFW-4*

Issue: The MND does not consider impacts to foothill yellow-legged frog (*Rana boylei*, northwest/north coast clade). The Project site is within the range and suitable habitat for foothill yellow-legged frog and there is a CNDDDB documented occurrence in Redwood Creek, approximately 3.2 miles from the Project site.

Specific impacts and why they may occur and be significant: Foothill yellow-legged frogs have been extirpated from about two-thirds of their historical range since 1970 (U.S. Forest Service (USFS) 2016) and is a California Species of Special Concern (SSC).

The main risk factors for the foothill yellow-legged frog are water development and diversion, climate change, habitat loss (including urbanization and fragmentation), and introduced species (USFS 2016). Project location can negatively affect foothill yellow-legged frog based on proximity to suitable habitats. Many post-metamorphic foothill yellow-legged frogs move among a variety of stream habitats throughout the year, including perennial mainstem reaches to highly ephemeral headwater streams (Bourque 2008). This species is also documented in uplands near streams (< 300 m; Twitty et al. 1967, Cook et al. 2012). Projects involving the alteration of the bed and/or banks of any stream or adjacent upland habitats could have potentially significant impacts on the species or its habitat. Therefore, if foothill yellow-legged frogs are present on or adjacent to the Project site, the Project would have potentially significant impacts on the species.

**Recommended Mitigation Measure:** For an adequate environmental setting and to reduce impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including an impact analysis for foothill yellow-legged frog and including the following mitigation measure:

**MM BIO-16: Foothill Yellow-Legged Frog Surveys.** Prior to starting Project activities, a Qualified Biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. If foothill yellow-legged frogs, their eggs, or any other special-status species are found, CDFW shall be notified immediately, and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the

survey shall be submitted to CDFW for written acceptance prior to starting Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that surveys for foothill yellow-legged frogs are not necessary.

*Response to CDFW-4*

It is acknowledged that the project site is within the range of foothill yellow-legged frog. The CNDDDB documented occurrence of foothill yellow-legged frog in Redwood Creek is from 1972 and is listed as “possibly extirpated.” As part of a USFWS protocol site assessment for California red-legged frog, a day- and night-time amphibian survey was conducted on the site, and no amphibians were detected. Habitat suitability in Browns Valley Creek within the project site is low due to urbanization and low flow conditions. Therefore, foothill yellow-legged frogs are unlikely to occur in the project area. Even if the species did occur in the creek, the steep and tall banks between the project site and the creek bed likely provide a barrier for frog movement between the creek and the site.

However, in response to comments, MM BIO-1 has been revised to include foothill yellow-legged frogs in the pre-construction survey, notify CDFW if foothill yellow-legged frogs or other aquatic special-status species are found, and install a wildlife exclusion fence if requested by the CDFW. The text changes to MM BIO-1 are reflected in Section 3, Errata, of this Final IS/MND.

Potential project effects on foothill yellow-legged frog are not new avoidable significant effects since the proposed project was previously found to have a less than significant impact on these species (as disclosed in the Draft IS/MND). The revisions to MM BIO-1 merely amplify and clarify the avoidance protocols for foothill yellow-legged frog if found during pre-construction survey, and therefore do not affect the impact analyses and the environmental determination of the IS/MND.

*Comment CDFW-5*

Issue: MM BIO-4 does not provide specific guidance regarding how lighting will be minimized. Artificial lighting may adversely impact special-status species.

**Recommended Mitigation Measure:** To reduce impacts from artificial lighting to less-than-significant, CDFW recommends replacing MM BIO-4 with the following language:

**MM BIO-4: Noise and Lighting Restrictions:** Construction noise shall be limited to daylight hours. All temporary Project lighting associated with construction staging areas, access routes and construction sites in natural lands must not spill into natural areas. Temporary Project lighting on the surface of the road will be directed towards the road surface and will not be directed into natural areas outside of the road surface to prevent additional light pollution and disruption of nocturnal wildlife activity. Baffles and shielding devices will be required on all temporary lighting systems within the Project limits. All temporary lighting shall be limited to 2,700 kelvins. A photometer shall be used in and around the construction site to ensure light is not being exposed to natural areas.

*Response to CDFW-5*

The applicant confirmed that project construction would be limited to daylight hours and would not include temporary lighting. MM BIO-4 has been revised to clarify that construction shall be limited to

daylight hours to further reduce nighttime noise impacts to wildlife. This revision does not affect the impact analyses and the environmental determination of the Draft IS/MND. The text changes to MM BIO-4 are reflected in Section 3, Errata, of this Final IS/MND.

*Comment CDFW-6*

Issue: MM BIO-7 specifies that a qualified biologist may be on-site for daily monitoring if an aquatic state or federally listed species is present within or near the Project site, depending on the species. It is unclear whether the Project is required to consult with CDFW and/or USFWS in the event a listed species is encountered. MM BIO-7 also does not account for species designated as SSC.

**Recommended Mitigation Measure:** Revise MM BIO-7 to specify that a qualified biologist shall be on-site daily when work occurring within stream or riparian habitat, unless otherwise approved in writing by CDFW. Additionally, if any special-status species are detected, the Project shall consult with CDFW and/or USFWS regarding appropriate steps before proceeding with construction.

*Response to CDFW-6*

As recommended by the CDFW, MM BIO-7 has been modified to specify consultation with the CDFW and/or USFWS if a listed species is found on the site. This revision does not affect the impact analyses and the environmental determination of the Draft IS/MND. The text changes to MM BIO-7 are reflected in Section 3, Errata, of this Final IS/MND.

MM BIO-9 is more relevant to biological monitoring for work in riparian habitat than MM BIO-7. As such, MM BIO-9 has been modified to specify that a Biological Monitor be present for all work in riparian habitat, per CDFW's recommendation. This revision does not affect the impact analyses and the environmental determination of the Draft IS/MND. The text changes to MM BIO-7 are reflected in Section 3, Errata, of this Final IS/MND.

*Comment CDFW-7*

Issue: The MND mentions the need to obtain an LSA Agreement from CDFW; however, this is not included as a mitigation measure. Additionally, on page 65, the MND includes a list of Best Management Practices (BMPs). This includes a BMP specifying that work within the riparian zone would occur between April 15 to October 31; however, CDFW generally considers the dry season to be June 15 to October 15 in Napa County.

Additionally, while the MND states no riparian vegetation will be removed, it is unclear whether the area where structures will be removed within the riparian zone will be restored with native plantings. If demolition areas are left barren of vegetation, this could result in erosion and sedimentation within Browns Valley Creek.

Furthermore, the MND states that the BMPs listed on page 65 are included to help avoid and minimize potential impacts to critical habitat and essential fish habitat to less than significant levels, yet these BMPs are not included as mitigation measures.

**Recommended Mitigation Measure:** To reduce impacts to riparian habitat to less-than-significant, CDFW recommends including a mitigation measure requiring the Project to submit an LSA Notification to CDFW and comply with the LSA Agreement if issued by CDFW. The LSA Agreement

would likely include measures restricting work within the riparian zone from June 15 to October 15, unless otherwise approved in writing by CDFW, and require any areas within the riparian zone left barren of vegetation be restored and planted with native trees, shrubs and grasses. Additionally, permanent impacts, such as from installation of the storm drain outfall structure should be restored at a 3:1 ratio for acreage and linear feet impacted and temporary impacts should be restored on-site, unless otherwise approved in writing by CDFW.

CDFW also recommends that all BMPs that are intended to reduce impacts to riparian and stream habitat to less-than-significant be clearly listed as mitigation measures.

*Response to CDFW-7*

An LSA Notification is in preparation and will be submitted to the CDFW. It was not included as a mitigation measure in the Draft IS/MND because it is a regulatory requirement, and regulatory requirements are not normally considered as mitigation since they are required by law and were considered as part of the regulatory setting for the proposed project. However, the CDFW indicated that there have been issues in the past with project applicants not submitting required LSA Notifications to the CDFW. As such notification of lake or streambed alteration requirements have been added as MM BIO-13 to specify that an LSA Notification shall be submitted to CDFW.

The applicant shall comply with the work period restrictions and revegetation requirements as specified by the CDFW through a Streambed Alteration Agreement or Operation of Law. During the on-site meeting, CDFW agreed that demolition of the structures in the riparian zone and revegetation of the disturbed areas would be sufficient to offset the rock energy dissipator; the removal of structures exceeds a 3:1 ratio for impact offsets.

CDFW has also requested that the BMPs related to preparation of the SWPPP be incorporated in the proposed project and be listed as mitigation measures. As such, MM BIO-14 clarifies that the BMPs required by the SWPPP would be incorporated into the proposed project (Page 65 of the Draft IS/MND) and required as part of the Mitigation Monitoring and Reporting Program (MMRP). The new MM BIO-14 is shown in Section 3, Errata, of this Final IS/MND. As discussed in the Draft IS/MND, a SWPPP is required by Clean Water Act Section 402 and therefore incorporation of the new MM BIO-14 amplifies the requirements of applicable regulations and would not affect the impact analyses and the environmental determination of the Draft IS/MND.

*Comment CDFW-8*

On page 65 of the MND it states, “No trees or other vegetation will be removed in the riparian zone unless it poses a safety hazard as determined by an arborist (for trees).” CDFW recommends revising this sentence for clarity. It is unclear if hazardous vegetation, besides trees, could be removed.

*Response to CDFW-8*

As recommended by CDFW, the sentence has been revised to state: “No tree shall be removed in the riparian zone unless it poses a safety hazard as determined by an arborist. The proposed location of the rock energy dissipator generally lacks understory vegetation, therefore removal of riparian vegetation would be minimal.” This text change is reflected in Section 3, Errata, of this Final IS/MND. This revision merely provides clarification and does not affect the impact analyses and the environmental determination of the Draft IS/MND.

In conclusion, the recommended edits to the Draft IS/MND address requests for clarification and do not represent any new significant impacts or a “substantial revision” to the Draft IS/MND that would trigger recirculation of the document pursuant to CEQA Guidelines Section 15073.5. Revisions enhance existing mitigation and make no changes to the project description or the discussion of environmental setting. CEQA Guidelines Section 15073.5(c) specifies that recirculation is not required when:

- (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
- (2) New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.

No new avoidable significant effects were identified in CDFW’s letter or are addressed by recommended new or revised mitigation measures. Potential project effects on Swainson’s hawk, tricolored blackbird, and foothill yellow-legged frog are not new avoidable significant effects since the proposed project was previously found to have a less than significant impact on these species (during preparation of the biological resources report and Draft IS/MND). California freshwater shrimp was evaluated in the biological resources report and the Draft IS/MND, and significant impacts were already avoided by MM BIO-1 through MM BIO-9 and the BMPs incorporated into the proposed project for creek protection. Existing MM BIO-1 and MM BIO-10 have been updated with additional requirements that provide equal or more effective measures pursuant to Section 15074.1 in order to respond to CDFW’s comments. MM BIO-13 reflects a regulatory requirement to avoid a significant impact but was added as a mitigation measure in response to a request from the CDFW. MM BIO-14 also incorporates a regulatory requirement (SWPPP is required by Clean Water Act Section 402) that was previously included in the Draft IS/MND as BMPs incorporated into the proposed project. All other recommended edits are minor changes to existing mitigation measures in response to recommendations by the CDFW or are wording changes for clarification.



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**From:** Michael Morris <[hkmmorris47@gmail.com](mailto:hkmmorris47@gmail.com)>  
**Sent:** Monday, October 3, 2022 11:38 AM  
**To:** Angela Alvarez-Cendejas <[acendejas@cityofnapa.org](mailto:acendejas@cityofnapa.org)>  
**Subject:** Re: PL21-0179 \_ Browns Valley Subdivision

You don't often get email from [hkmmorris47@gmail.com](mailto:hkmmorris47@gmail.com). [Learn why this is important](#)

[EXTERNAL]

Angela a Few Questions;

- Has CA Fish & Game had a site review. If so did they review my notes? | 1
- The wild life assessment is not correct. Has my wild life notes with pictures been reviewed? | 2  
Supervisor Painter was given copies of my notes hopefully she can provide the wild life photos and notes.
- The project's topo maps misleading. Has any Napa Planning staff made a site visit? | 3
- On projects I have designed with unstable banks like PL21-0179 I have found it most important to use sub-surface drainage to reduce weight of water during high rain events. This project doesn't to address bank conditions-trying to avoid a 1603 permit? | 4
- When the Robinson Ln Bridge was replaced in 1998 RWQCB stopped the project until Napa City secured their permit. This project a few hundred feet upstream, has RWQCB reviewed the project? | 5
- I question the outfall design of the storm water discharge pipe dissipater. It appears to allow concentrated flows over unprotected creek bank. The discharge flow needs to be better broken up. | 6

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## Individuals

### **Michael Morris (MORRIS-1)**

Comments below are reprinted verbatim from the comment letter.

#### *Comment MORRIS-1-1*

Has CA Fish & Game had a site review. If so did they review my notes?

#### *Response to MORRIS-1-1*

Public comments are addressed in the Final IS/MND and included in the City's Planning Commission and City Council staff reports. The proposed project is expected to require a Section 1602 Agreement from the CDFW. CDFW has reviewed the Draft IS/MND and coordination with the CDFW would be required pursuant to the Section 1602 Agreement.

This comment does not identify any new environmental issues related to Biological Resources. Therefore, no further analysis is warranted.

#### *Comment MORRIS-1-2*

The wild life assessment is not correct. Has my wild life notes with pictures been reviewed? Supervisor Painter was given copies of my notes hopefully she can provide the wild life photos and notes.

#### *Response to MORRIS-1-2*

Aquatic and avian wildlife movement is discussed in the project Biological Resources Report (Appendix B of the Draft IS/MND). It was stated that Browns Valley Creek could provide a movement corridor for aquatic and avian wildlife and is connected to Napa Creek and the Napa River downstream. Roads and culverts could be partial movement barriers along Browns Valley Creek, but there are no apparent complete barriers to movement through the creek. Low water flows, particularly during the dry season and/or during drought conditions, may also present a movement barrier to aquatic wildlife in Browns Valley Creek.

The creek likely provides a corridor for aquatic and avian wildlife movement; however, there is no evidence that the project site supports a major wildlife corridor. This is not surprising due to surrounding suburban development that includes barriers (roads, fences, and other structures) to wildlife movement.

There are no known wildlife nursery sites on or near the parcel. Browns Valley Creek is generally too shallow to provide fish spawning habitat, and more suitable spawning habitat is available elsewhere in the Napa River watershed. There are no known nesting bird colonies such as heron rookeries or blackbird colonies in the project area, and no known bat maternity roosts or mammal denning sites in the area.

This comment does not identify any new environmental issues related to Biological Resources. Therefore, no further analysis is warranted.

#### *Comment MORRIS-1-3*

The project's topo maps misleading. Has any Napa Planning staff made a site visit?

*Response to MORRIS-1-3*

The proposed project's topography maps are created using available topography geospatial information and survey reports. This comment does not identify any new environmental issues related to Biological Resources. Therefore, no further analysis is warranted.

*Comment MORRIS-1-4*

On projects I have designed with unstable banks like PL21-0179 I have found it most important to use sub-surface drainage to reduce weight of water during [sic] high rain events. This project doesn't [want] to address bank conditions-trying to avoid a 1603 permit?

*Response to MORRIS-1-4*

Stormwater drainage is analyzed as part of the proposed project. As discussed in the project Biological Resources Report, the stormwater drainage outfall is proposed to be located outside of the top of bank in the northeast corner of the project site. The stormwater control plan directs site stormwater first to two bioretention areas that could overflow to a detention pipe. Stormwater is then directed to a rock energy dissipator and coir log configuration that is 6 feet wide and 15 feet long for a permanent impact area of 90 square feet. An 18-inch storm pipe would direct stormwater from the detention pipe onto the dissipator. From there water would sheet flow toward the creek. Because the rock energy dissipator and a portion of the pipe are within the riparian zone it is expected to require a Section 1602 Agreement from the CDFW.

This comment does not identify any new environmental issues related to Biological Resources. Therefore, no further analysis is warranted.

*Comment MORRIS-1-5*

When the Robinson Ln Bridge was replaced in 1998 RWQCB stopped the project until Napa City secured their permit. This project [is] a few hundred feet upstream, has RWQCB reviewed the project?

*Response to MORRIS-1-5*

The rock energy dissipator and a portion of the pipe do not extend below the top of bank or the ordinary high water mark; therefore, it is not expected to require authorization from the Regional Water Quality Control Board (RWQCB). This comment does not identify any new environmental issues. Therefore, no further analysis is warranted.

*Comment MORRIS-1-6*

I question the outfall design of the storm water discharge pipe dissipator. It appears to allow concentrated flows over unprotected creek bank. The discharge flow needs to be better broken up.

*Response to MORRIS-1-6*

See Response to MORRIS-1-4. In addition, as stated in the project Preliminary Detention Calculation (Appendix F of the Draft IS/MND), the proposed project's storm drain system is designed such that the proposed post-development flow discharge would not exceed pre-developed levels in accordance with the City of Napa Drainage Design Standard Section 2.10.02. This comment does not identify any new environmental issues. Therefore, no further analysis is warranted.



Mike Morris, CPESC #768  
October 5, 2022

Development over the last 50 years has significantly increased runoff upstream of the project. This has resulted in increase channel velocities and a decrease in "Time of Travel". The result on this reach of Browns Valley Creek has been channel down cutting and bank destabilization. The cultural practices of the previous owner has accreted bank destabilization by removing native vegetation from channel slopes as well as from top of bank areas to the south. As shown in the attached picture the banks are now unstable have been under cut or having a vertical slope. During the storm season of 2017 80ft of the pictured bank along with 7 mature redwood and oak trees slid into the pictured main channel. High velocity flows were then directed towards my bank. The result was repaid erosion along the toe of my property. Only with quick work by me and the former owner was the problem corrected. This type of bank failure can cause damage to my property costing into the 100's of thousands of dollars.

This project does nothing to correct the degraded banks. The project actually has the potential to accelerate the problem by allowing for an increase in surface and subsurface water created by the addition of impervious surfaces.

When I have designed repairs to unstable banks I have placed subsurface drainage systems to reduce ground water adjacent to the problem area. I have required a much wider vegetative setback zone. The activities in these zones are greatly limited. Human activities in the reach of the creek can cause major damage and must be considered in the design of the project.

If this project was taking place in the County of Napa a much wider setback would be required.

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2

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**Michael Morris (MORRIS-2)**

Comments below are reprinted verbatim from the comment letter.

*Comment MORRIS-2-1*

Development over the last 50 years has significantly increased runoff upstream of the project. This has resulted in increase[d] channel velocities and a decrease in "Time of Travel." The result on this reach of Browns Valley Creek has been channel down cutting and bank destabilization.

The cultural practices of the previous owner has accreted bank destabilization by removing native vegetation from channel slopes as well as from top of bank areas to the south. As shown in the attached picture the banks are now unstable have been under cut or having a vertical slope. During the storm season of 2017 80ft of the pictured bank along with 7 mature redwood and oak trees slid into the pictured main channel. High velocity flows were then directed towards my bank. The result was repaid erosion along the toe of my property. Only with quick work by me and the former owner was the problem corrected. This type of bank failure can cause damage to my property costing into the 100's of thousands of dollars.

*Response to MORRIS-2-1*

The commenter offers anecdotal information on the increased runoff upstream of the proposed project and the resulting erosion and bank destabilization of Browns Valley Creek adjacent to the commenter's property. This comment does not identify any new environmental issues. Therefore, no further analysis is warranted.

*Comment MORRIS-2-2*

This project does nothing to correct the degraded banks. The project actually has the potential to accelerate the problem by allowing for an increase in surface and subsurface water created by the addition of impervious surfaces.

When I have designed repairs to unstable banks I have placed subsurface drainage systems to reduce ground water adjacent to the problem area. I have required a much wider vegetative setback zone. The activities in these zones are greatly limited. Human activities in the reach of the creek can cause major damage and must be considered in the design of the project.

*Response to MORRIS-2-2*

Slope stability was analyzed in the project preliminary Geotechnical Exploration (Appendix D of the Draft IS/MND). According to the report, the creek bank revealed slope inclinations ranging from 1H:1V (horizontal to vertical) to near vertical. Localized areas were partially undercut. Signs of past sloughing and erosions were apparent. Therefore, a minimum structure setback defined by a 2H:1V line extending up from the toe of the existing creek bank is recommended. This recommendation has been incorporated into the design of the proposed project. This comment does not identify any new environmental issues. Therefore, no further analysis is warranted.

*Comment MORRIS-2-3*

If this project was taking place in the County of Napa a much wider setback would be required.

*Response to MORRIS-2-3*

The project set back is appropriately sized based on geotechnical investigation and recommendations. In addition, the creek structural setback is incorporated consistent with the City of Napa Municipal Code, including Chapter 17.52, Section 110 Creeks and Other Setbacks. No new buildings would be built within the creek structural setback, riparian zone, or below the top of bank. This comment does not identify any new environmental issues. Therefore, no further analysis is warranted.

## SECTION 3: ERRATA

The following are revisions to the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND) for the proposed Browns Valley Subdivision Project (proposed project).

These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Draft IS/MND. The revisions are listed by page number. All additions to the text are underlined (underlined) and all deletions from the text are stricken (~~stricken~~).

### 3.1 - Changes to the Draft IS/MND

#### Section 1.4.6: Utilities

##### Page 5

The proposed project ~~would~~could include an all-electric design and would include Tier 2 electric vehicle (EV) charging. Utility connections would include tie-ins to existing water and sewer facilities in Browns Valley Road and construction of on-site bioretention basins and a new storm drain outfall at Browns Valley Creek (Exhibit 11). There is an existing 0.75-inch water service to the property that would be required to be abandoned as part of the proposed project. The parcel is required to annex into the City of Napa for the proposed project to be served by the City of Napa Water Division. The proposed project fronts a 24-inch transmission main, a 6-inch distribution main with an 8-inch tie-in to the transmission main. If existing well(s) are to be abandoned, they would be required to be abandoned per the Napa County Environmental Health requirements. The site is currently served by septic tank and the proposed project would be annexed to Napa Sanitation District (NapaSan). For solid waste/recycling, the current site would be served by Napa County Recycling and Waste Services (NCRWS), and by Napa Recycling and Waste Services (NRWS).

#### Section 1.5: Required Discretionary Approvals

##### Page 5-6

As mentioned previously, the City of Napa has discretionary authority over the proposed project and is the CEQA Lead Agency for the preparation of this Draft IS/MND. In order to implement the proposed project, the project applicant would need to secure the following permits/approvals:

- Annexation to City and Napa Sanitation District (City, NapaSan, and Local Agency Formation Commission [LAFCo] approval)
- Tentative Subdivision Map–Vesting
- Design Review Permit–Subdivision and Homes
- Use Permit–Small Lot Development
- Design Exception Request for the proposed attached sidewalk and cross slope of the new street

- California Department of Fish and Wildlife review or permitting approval of the proposed stormwater detention system within the edge of the project's riparian vegetation
- ~~Regional Water Quality Control Board review or permitting approval of the proposed stormwater detention system within the edge of the project's riparian vegetation~~

## Section 2.4: Biological Resources

### Page 63

The proposed project would comply with Section 402 of the Clean Water Act (see BRR, Section 3.1.3 in Chapter 3 Regulatory Setting), including preparation of a SWPPP and implementation of BMPs for erosion control and water quality protection during and following construction. These BMPs are listed as MM BIO-14. ~~The BMPs included in the proposed project that would protect biological resources are listed at the end of this section and would be required by the City as Conditions of Approval.~~

### Page 63

Implementation of MM BIO-1 through MM BIO-9, and MM BIO-14 ~~BMPs defined below~~ to protect California red-legged frog and other aquatic species would prevent significant impacts to aquatic special-status species during project construction.

### Page 64

The proposed project includes stormwater bioretention and detention, and a rock dissipator for stormwater flows, which would prevent significant impacts to water quality in Browns Valley Creek over the long term. The SWPPP BMPs as listed in MM BIO-14 would also provide erosion control and water quality protection. ~~BMPs incorporated into the proposed project to protect biological resources are listed in the BRR, Table 1 and Chapter 2.~~

### Page 64 and 65

#### Impacts on Critical Habitat and Essential Fish Habitat

As described in BRR Section 6.3 of Chapter 6 Special-Status Species and Sensitive Habitats, Browns Valley Creek is designated as critical habitat for steelhead Central California Coast DPS for rearing and migration habitat. Browns Valley Creek and the project site are also within the Essential Fish Habitat (EFH) for Chinook salmon and coho salmon. Potential short-term and long-term impacts to critical habitat and EFH are the same as for aquatic special-status species; see BRR Section 7.1 above for a detailed discussion of potential impacts, and compliance with applicable regulations to help avoid and minimize potential impacts. MMs BIO-1 through MM BIO-9, MM BIO-13 (Notification of Lake or Streambed Alteration), and MM BIO-14 (SWPPP BMPs) ~~and BMPs defined below~~ would further reduce potential impacts to critical habitat and EFH to less than significant levels.

**Page 65****Best Management Practices**

- ~~Construction or demolition in the riparian zone will be restricted to the dry season from April 15 to October 31, or as otherwise specified in the Lake and Streambed Alteration Agreement with CDFW.~~
- ~~Construction and demolition will not occur in the riparian zone during or within 24 hours following rain events of 0.25-inch of rain or more, or when the 72-hour National Weather Service forecast is for 40 percent chance of rain or greater, or as otherwise specified in the SWPPP and the Lake and Streambed Alteration Agreement with California Department of Fish and Wildlife (CDFW).~~
- ~~No trees or other vegetation will be removed in the riparian zone unless it poses a safety hazard as determined by an arborist (for trees).~~
- ~~Travel and parking of vehicles and equipment will be limited to pavement, existing roads, and previously disturbed areas.~~
- ~~Temporarily impacted areas will be restored to preexisting contours and revegetated.~~
- ~~All potential pollutants, including solid wastes, petroleum products, chemicals, wastewater, sediment, and non-stormwater discharges will be controlled and will not be discharged to Browns Valley Creek or other waterways.~~
- ~~Cleaning, fueling, or maintaining vehicles/equipment on property will be avoided except in designated areas in which runoff is contained and treated.~~
- ~~Soils and other materials will be removed from the site promptly and stockpiling material will be avoided when rain is forecast. If rain threatens, stockpiles, soils, and other materials will be covered with a tarp or other material to minimize erosion.~~
- ~~A hazardous spill plan will be developed prior to the start of construction. The plan will describe what actions will be taken in the event of a spill. The plan will incorporate preventive measures to be implemented, such as vehicle and equipment staging, cleaning, maintenance, and refueling; and contaminant (including fuel) management and storage. In the event of a contaminant spill, work at the site will immediately cease until the contractor has contained and mitigated the spill. The contractor will immediately prevent further contamination and notify appropriate authorities. Adequate spill containment materials, such as oil diapers and hydrocarbon cleanup kits will always be available on site. Containers for storage, transportation, and disposal of contaminated absorbent materials will be provided on the project site.~~
- ~~All materials and equipment will be removed from the work site immediately after completion of construction.~~

**Page 67**

A creek structural setback is incorporated in the proposed project consistent with the Napa Municipal Code, including Section 17.52. 110 Creeks and other watercourses; the setback is shown in Exhibit 10. This setback protects the riparian zone. The proposed project would also comply with



Napa Municipal Code Chapter 12.45 Trees on Private Property, which protects larger sized native trees (see BRR Section 7.1.2 above and Section 3.3.1 of Chapter 3 Regulatory Setting for more information). By complying with the creek structural setback requirement, the proposed project would protect sensitive riparian habitat. The proposed location of the rock energy dissipator generally lacks understory vegetation, therefore removal of riparian vegetation would be minimal.

### Page 68

The proposed project includes a bioretention area and stormwater detention outside of the creek structural setback and the edge of the riparian zone. The stormwater detention empties onto a 15-foot by 6-foot (90 square feet) rock energy dissipator that is within the edge of riparian vegetation, but is set back from the top of bank by about 55 feet (see Chapter 2 Project Location and Description). The rock energy dissipator falls within the jurisdiction of the CDFW, ~~and may be within the jurisdiction of the RWQCB.~~

The proposed project would be required to comply with Section 402 of the CWA (see BRR Section 3.1.3 in Chapter 3 Regulatory Setting), including preparation of a SWPPP and implementation of BMPs for erosion control and water quality protection during and following construction, and incorporation of Low Impact Development (LID) design features such as green roofs, pervious surfaces, tree planters, grassy swales, and bioretention and/or detention basins, among other methods. Recommended BMPs for the SWPPP to protect biological resources are incorporated as MM BIO-14. ~~are listed in BRR Section 2.1 of Chapter 2 Project Description.~~

### Page 70

**MM BIO-1** **Aquatic Species Pre-construction Survey and Avoidance.** No more than twenty-four (24) hours prior to the date of initial ground disturbance, a qualified biologist shall perform a pre-construction survey for the California freshwater shrimp, steelhead, foothill yellow-legged frog, California red-legged frog, and western pond turtle. The survey shall consist of walking the project boundary and within the project site to ascertain the possible presence of the species. The qualified biologist shall investigate all potential areas that could be used by aquatic special-status species for feeding, breeding, sheltering, movement, and other essential behaviors. Results of the survey shall be documented. Comply with MM BIO-8 if species are detected.

If any of the special-status species listed above, or their eggs, are found, the qualified biologist shall request guidance from California Department of Fish and Wildlife (CDFW) on avoiding impacts. No work shall occur in the creek channel of Browns Valley Creek or below the tops of the creek banks without written authorization from the CDFW. In the event adult foothill yellow-legged frogs or California red-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by the CDFW, to prevent frogs and/or other special-status species from entering the work site.

No streambanks outside of the project footprint shall be impacted or disturbed. No sediment from the project area shall be allowed to enter the stream channel. Flowing water and standing pools of water shall be completely avoided. Silt fencing

and any other necessary erosion controls shall be installed between the work area and the stream channel to ensure sediment is prevented from entering the stream, unless otherwise approved in writing by the CDFW. The silt fence shall be checked daily by the qualified biologist or a designated construction crew member, including during periods of inactivity, and any necessary repairs shall be made immediately.

If sediment or any other materials from the project area enter the stream channel, project construction shall immediately stop and the qualified biologist shall immediately notify the CDFW.

If take of California Endangered Species Act (CESA) Listed species cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an Incidental Take Permit (ITP).

### Page 71

#### MM BIO-4

**Noise and Lighting Restrictions.** ~~Construction noise shall be limited to daylight hours to prevent nighttime construction noise impacts to wildlife, and construction lighting shall be minimized and directed away from the riparian corridor and no construction site flood lighting shall be utilized.~~

#### MM BIO-7

**~~Construction Monitoring~~ Listed Species.** ~~If an aquatic special status species listed under the federal or State endangered species act(s) is confirmed to be present in or near the parcel, a qualified biologist shall be on-site during all construction activities, depending on the species. The qualified biologist shall be given the authority to freely communicate verbally, by telephone, electronic mail, or in writing at any time with construction personnel, any other person(s) at the project site, otherwise associated with the project, consult with the California Department of Fish and Wildlife (CDFW) and/or the United States Fish and Wildlife Service (USFWS) and/or the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries), or their designated agents depending on the species. The qualified biologist shall have oversight over implementation of all the conservation measures recommended by the CDFW and/or the USFWS and/or NOAA Fisheries and shall have the authority and responsibility to stop project activities if they determine any of the associated requirements are not being fulfilled.~~

### Page 72

#### MM BIO-9

**Biological Monitor during ~~Demolition~~ Work in the Riparian Zone.** ~~A biological monitor shall be present during the removal of structures all work within the riparian zone. (Figure 6). The monitor shall ensure that silt fencing, snow fencing, or equivalent is installed to prevent debris from entering the creek during demolition activities work in the riparian zone. If debris falls into the creek, demolition shall stop and additional methods shall be employed to prevent debris from falling into the creek. The biological monitor shall have the authorization to stop demolition activities work in the riparian zone.~~

**Page 72**

**MM BIO-10 Pre-construction Survey for Nesting Birds.** To avoid impacts to nesting birds and violation of State and federal laws pertaining to birds, all vegetation removal, use of heavy equipment, and ground disturbance should occur outside the avian nesting season (that is, prior to February 1 or after September 15). At a minimum, removal of trees and other woody vegetation outside of the nesting bird season is strongly recommended. If tree removal or ground disturbance occurs within the avian nesting season (from February 1 to September 15), all suitable habitats located within the project's area of disturbance including maintenance areas, staging and storage areas, and access routes plus a 250-foot (passerines) and 1,000-foot (raptor nests) buffer around these areas shall be thoroughly surveyed, as feasible, for the presence of active nests by a qualified biologist no more than five days before commencement of any site disturbance activities and equipment mobilization. If project activities are delayed by more than five days, an additional nesting bird survey shall be performed. Active nesting is present if a bird is building a nest, sitting in a nest, a nest has eggs or chicks in it, or adults are observed carrying food to the nest. The results of the surveys shall be documented.

If pre-construction nesting bird surveys result in the location of active nests, no vegetation removal or maintenance activities shall take place within 250 feet of non-raptor nests and 1,000 feet of raptor nests, or as determined by a qualified biologist in consultation with the CDFW, as appropriate, until the chicks have fledged. Monitoring shall be required to ensure compliance with relevant California Fish and Game Code requirements. Monitoring dates and findings shall be documented.

If construction is scheduled to begin after March 1 (the start of the March 1–August 31 nesting season for Swainson's hawk), Swainson's hawk surveys shall be conducted by a qualified biologist pursuant to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk (2000) survey protocol, within 0.25 mile of the project site. Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a project's initiation. It is recommended that surveys be completed in Period II (March 20 to April 5), Period III (April 5 to April 20), and Period V (June 10 to July 30); surveys are not recommended in Period IV (April 21–June 10). If no nests are detected, construction can start. If a nest is detected, the qualified biologist shall request guidance from the CDFW on avoiding impacts to the nest. This may include a 0.25 mile no disturbance buffer zone around the nest, and restriction of project activities between March 1 and August 31. If take (i.e., physical harm) of Swainson's hawk cannot be avoided, the project applicant shall consult with the CDFW pursuant to the California Endangered Species Act (CESA) and obtain an Incidental Take Permit (ITP).

If nesting tricolored blackbird or evidence of its presence is found during nesting bird surveys within 500 feet of the project site, the qualified biologist shall request

guidance from the CDFW on avoiding impacts. Construction shall not occur within 500 feet of an active nest unless otherwise approved in writing by the CDFW. If take of tricolored blackbird cannot be avoided, the project shall consult with the CDFW pursuant to CESA and obtain an ITP.

**Page 73**

**MM BIO-13 Notification of Lake or Streambed Alteration.** The applicant shall submit a Notification of Lake or Streambed Alteration to the California Department of Fish and Wildlife (CDFW) for the portions of the project in the riparian zone, including the rock energy dissipator and the building demolition in the riparian zone. Work in the riparian zone shall not start until a signed Streambed Alteration Agreement is issued by the CDFW, CDFW indicates that a Streambed Alteration Agreement is not required, or the project is approved by the CDFW under Operation of Law.

**MM BIO-14 Best Management Practices for Water Quality Protection.** Prior to the recordation of a final map or issuance of any grading or building permits, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented for the project consistent with Section 402 of the Clean Water Act. At a minimum, the SWPPP shall include the following Best Management Practices (BMPs) to protect water quality and avoid impacts to biological resources:

- Construction or demolition in the riparian zone shall be restricted to the dry season from April 15 to October 31, or as otherwise specified in the Lake and Streambed Alteration Agreement with the California Department of Fish and Wildlife (CDFW).
- Construction and demolition shall not occur in the riparian zone during or within 24 hours following rain events of 0.25-inch of rain or more, or when the 72-hour National Weather Service forecast is for 40 percent chance of rain or greater, or as otherwise specified in the SWPPP and the Lake and Streambed Alteration Agreement with the CDFW.
- No trees shall be removed in the riparian zone unless it poses a safety hazard as determined by an arborist.
- Travel and parking of vehicles and equipment shall be limited to pavement, existing roads, and previously disturbed areas.
- Temporarily impacted areas shall be restored to preexisting contours and revegetated.
- All potential pollutants, including solid wastes, petroleum products, chemicals, wastewater, sediment, and non-stormwater discharges shall be controlled and shall not be discharged to Browns Valley Creek or other waterways.
- Cleaning, fueling, or maintaining vehicles/equipment on property shall be avoided except in designated areas in which runoff is contained and treated.
- Soils and other materials shall be removed from the site promptly and stockpiling material shall be avoided when rain is forecast. If rain threatens, stockpiles, soils,

and other materials shall be covered with a tarp or other material to minimize erosion.

- A hazardous spill plan shall be developed prior to the start of construction.
- The plan shall describe what actions shall be taken in the event of a spill.
- The plan shall incorporate preventive measures to be implemented, such as vehicle and equipment staging, cleaning, maintenance, and refueling; and contaminant (including fuel) management and storage.
- In the event of a contaminant spill, work at the site shall immediately cease until the contractor has contained and mitigated the spill.
  - The contractor shall immediately prevent further contamination and notify appropriate authorities.
- Adequate spill containment materials, such as oil diapers and hydrocarbon cleanup kits shall always be available on-site.
- Containers for storage, transportation, and disposal of contaminated absorbent materials shall be provided on the project site. All materials and equipment shall be removed from the work site immediately after completion of construction.

## Section 2.6: Energy

### Page 87

The proposed project would include several sustainable design features, ~~including utilization of an all electric building design; therefore, the proposed project is assumed to not consume natural gas during operations.~~ As previously discussed, the proposed project would be considered to result in a potentially significant impact if it would result in wasteful, inefficient, or unnecessary consumption of energy resources. Considering the guidance provided by Appendix F of the CEQA Guidelines and the Appellate Court decision in *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) 75 Cal.App.5th 63, 164-168, the proposed project would ~~not be considered to~~ result in wasteful, inefficient, or unnecessary consumption of energy resources if it would not conflict with the following energy conservation goals:

- Decreasing overall per capita energy consumption;
- Decreasing reliance on fossil fuels such as coal, natural gas, or oil; and
- Increasing reliance on renewable energy sources.

### Page 88

#### *Decreasing Reliance on Fossil Fuels*

The proposed project would be considered to conflict with this criterion if it did not take steps to decrease the reliance on fossil fuels. The proposed project would include EV charging infrastructure meeting the Tier 2 requirements of the Residential Voluntary Measures of CALGreen. The inclusion of these features would contribute to an acceleration of EV adoption and facilitate an increase in EV and clean air and high occupancy vehicle use by residents, employees, and visitors of the proposed project, though they cannot guarantee a reduction in energy usage. Moreover, the proposed project would be built according to the latest building code standards and could include an all-electric

building design, decreasing the proposed project's reliance on natural gas for space and water heating. Therefore, the proposed project would be consistent with this criterion.

#### *Increasing Reliance on Renewable Energy Sources*

As previously discussed, ~~the proposed project would utilize an all electric building design, eliminating the use of natural gas and allowing~~ the proposed project to would utilize renewable energy sources as its primary energy supply. In addition, the proposed project would include EV charging infrastructure meeting the Tier 2 requirements of the Residential and Nonresidential Voluntary Measures of CALGreen, which would accelerate the region's and proposed project's adoption of EVs and allow the future transportation energy supply necessary for residents, employees, and visitors to be substituted with renewable energy sources. The proposed project would also include solar photovoltaic systems capable of generating approximately 30,000 kWh of electricity per year. As such, the proposed project would facilitate a greater dependence on renewable energy sources for building and transportation energy demands compared to the status quo. Therefore, the proposed project would be consistent with this criterion.

## Section 2.8: Greenhouse Gas Emissions

### **Page 98-99**

**a-b) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? Conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

**Less than significant impact.** CEQA Guidelines define a significant effect on the environment as “a substantial, or potentially substantial, adverse change in the environment.” To determine if a project would have a significant impact on GHG emissions, the type, level, and impact of emissions generated by the project must be evaluated. To determine significance, the proposed project is assessed for consistency with applicable plans adopted for the purpose of reducing GHG emissions. The analysis first quantifies project-related GHG emissions for the purposes of providing full disclosure.

~~Less than significant impact.~~ Both construction and operational activities have the potential to generate GHG emissions. The proposed project would generate GHG emissions during temporary (short-term) construction activities such as demolition and grading, running of construction equipment engines, movement of on-site heavy-duty construction vehicles, hauling materials to and from the project site, asphalt paving, and construction worker, vendor, and haul truck motor vehicle trips.

Long-term, operational GHG emissions most often result from project-generated vehicular traffic, on-site combustion of natural gas, operation of any landscaping equipment, off-site generation of electrical power over the life of the proposed project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling, and disposal of solid waste from the project site.

~~In April 2022, the BAAQMD adopted updated GHG thresholds of significance that represent what is required of new land use development projects to achieve California's long-term climate goals of~~



carbon neutrality by 2045. The BAAQMD has found that new land use development projects being built today need to incorporate the following design element thresholds shown in Table 10 to do their “fair share” of implementing the goal of carbon neutrality by 2045:

**Table 10: BAAQMD Climate Change Thresholds for Land Use Projects**

<b>Project Must Include A or B, as Outlined Below:</b>
<p><b>Projects must include, at a minimum, the following project design elements:</b></p> <p><b>Buildings</b>  <del>The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).</del></p> <p>The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.</p> <p><b>Transportation</b>  <b>Achieve a reduction in project generated</b> Vehicle Miles Traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 target, reflecting the recommendations provided in the Governor’s Office of Planning and Research’s Technical Advisory on Evaluating Transportation Impacts in CEQA:</p> <ul style="list-style-type: none"> <li>● <del>Residential projects: 15 percent below the existing VMT per capita</del></li> <li>● <del>Office projects: 15 percent below the existing VMT per employee</del></li> <li>● <del>Retail projects: no net increase in existing VMT</del></li> <li>● <del>Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.</del></li> </ul>
<p><del>Projects must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b)</del></p> <p>Source: Bay Area Air Quality Management District (BAAQMD). Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans. April 2022.</p>

The proposed project would satisfy the Threshold A design elements. Regarding building design, the proposed project would not include natural gas appliances or natural gas plumbing. Further, as determined under Energy Impact(a), the proposed project would not result in any wasteful, inefficient, or unnecessary energy usage during construction or operations.

Regarding transportation, the vehicle trip analysis prepared by Kimley-Horn determines that the proposed project would be assumed to cause a less than significant VMT impact, pursuant to OPR screening thresholds. This means that the proposed project would not interfere with regional or locally adopted VMT reduction targets and is presumed to achieve at least a 15 percent reduction in per capita VMT from the regional average. Further, the proposed project would be built in accordance with CALGreen Tier 2 off-street EV requirements, meaning that each dwelling unit would include a raceway with a dedicated 208/240-volt branch circuit for EV chargers.

Given these considerations, the proposed project would be consistent with the building design and transportation elements of the BAAQMD’s Threshold A. As such, the proposed project would contribute its portion of what the BAAQMD deems necessary to achieve California’s long-term

~~climate goals, and the proposed project would not result in a cumulatively considerable impact to global climate change. This impact would be less than significant.~~

For informational purposes, the following section provides quantitative estimates of the proposed project's GHG emissions from construction and operations.

**Page 101**

**Table 12: Operational GHG Emissions**

Emission Source	Year 2024 Total Emissions (MT CO <sub>2</sub> e per year)
Area	<1
Energy	22
Mobile (Vehicles)	91
Waste	7
Water	1
<b>Total Annual Project Emissions</b>	<b>122</b>

~~As previously discussed, the proposed project would contribute its portion of what the BAAQMD deems necessary to achieve California's long term climate goals, and the proposed project would not result in a cumulatively considerable impact to global climate change. This impact would be less than significant.~~

**b) ~~Conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?~~**

~~Less than significant impact.~~ The following discusses project consistency with applicable plans adopted for the purpose of reducing GHG emissions, which include ARB's Scoping Plan, Metropolitan Transportation Commission/Association of Bay Area Governments (MTC/ABAG) Plan Bay Area 2050, and City of Napa's General Plan.

**Section 2.18: Utilities and Service Systems**

**Page 150**

**Electric Power, Natural Gas, and Telecommunications Facilities**

There are telecommunications companies who operate and maintain transmission and distribution infrastructure in the project vicinity and currently serve the existing uses on the project site. ~~The proposed project would be all electric, and no natural gas would serve the project site.~~ Impacts associated with the proposed project's electricity demand are discussed in Section 2.6, Energy.

The site is currently served by telecommunications and natural gas infrastructure, and the proposed project would connect to the existing infrastructure. Therefore, the proposed project would not require the installation or development of new or improved telecommunications facilities such that environmental impacts would occur. Impacts would be less than significant.

## Section 2.28: Mandatory Findings of Significance

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**Less than significant with mitigation incorporated.** Short- and long-term impacts to special-status species, nesting birds, roosting bats, sensitive habitats, jurisdictional features, and wildlife movement would be reduced to less than significant levels through implementation of MMs BIO-1 through BIO-~~11~~14, and/or compliance with applicable regulations and agency requirements. In addition, a creek structural setback is incorporated in the proposed project consistent with the City of Napa Municipal Code, including Section 17.52.110 Creeks and other watercourses; the setback is shown in Exhibit 10. Therefore, the proposed project would not conflict with any other local policies or regulations protecting biological resources.

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**Less than significant impact with mitigation incorporated.** The proposed project would result in potentially significant project-level impacts related to air quality, biological resources, cultural resources, and geology and soils. MM AIR-1, MM AIR-2, MM BIO-1 through ~~11~~MM BIO-14, MM CUL-1, MM CUL-2, MM CUL-3, and MM GEO-1 would be implemented as part of the proposed project. The mitigation measures would, among other things, reduce air pollutants, damage to cultural resources, and risks to wildlife. The mitigation measures would reduce each impact to a level of less than significant.

**Less than significant with mitigation incorporated.** The previous sections of this Draft IS/MND reviewed the proposed project's potential impacts related to air quality, biological resources, cultural resources, and geology, among other environmental issue areas. As concluded in these previous discussions, the proposed project would result in less than significant impacts with implementation of MM AIR-1, MM AIR-2, MM BIO-1 through ~~11~~BIO-14, MM CUL-1, MM CUL-2, MM CUL-3, and MM GEO-1. Therefore, with implementation of the specified mitigation and standard BMPs and conditions of approval, the proposed project would cause less than significant adverse effects on human beings.

Implement MM AIR-1, MM AIR-2, MM BIO-1 through MM BIO-~~11~~14, MM CUL-1, MM CUL-2, MM CUL-3, and MM GEO-1.