

A P P E N D I X L

C O M M E N T L E T T E R S



Castro Valley Unified School District

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Parvin Ahmadi

P.O. BOX 2146 • CASTRO VALLEY, CALIFORNIA 94546 • (510) 537-3000

January 18, 2024

Dear Mr. Lopez,

We are excited to see the recently released Mosaic Project's Recirculated Draft EIR. Given the environmentally sustainable design and the environmental education component, our students will learn to appreciate and care for nature through the project.

I write this letter on behalf of our governance team to share our enthusiastic support for the Mosaic Project. The Mosaic Project's mission is aligned with our school district's vision and mission. We are extremely excited about our students being able to take full advantage of the programs the Mosaic Project offers right here in Castro Valley. The Mosaic Project serves as a model center fostering empathy, equity and effective communication by bringing young people of diverse backgrounds together in a peaceful, natural setting.

Castro Valley is the perfect home for The Mosaic Project, because it provides students in Alameda County and neighboring counties a unique opportunity. The Mosaic Project's mission and work could not be more vital than at this critical moment in history. The Mosaic Project has already provided extraordinary resources and programs to our schools through professional development, sharing materials, and internships for our high school students. We are excited to work side by side with the Mosaic Project to create a better future for the children of Castro Valley and beyond.

The Castro Valley Community Alliance, a collaborative group of Castro Valley community and educational leaders, students, and families advocating for compassion, understanding and acceptance outlines in his vision the following: "Castro Valley is a diverse community that is welcoming and inclusive where everyone is safe, respected and valued. In our schools, staff and families experience and value diversity as a catalyst for unity." This again is fully aligned with the mission of the Mosaic Project.

We look forward to having the Mosaic Project in Castro Valley where students from various school districts have the opportunity to learn how to work together, communicate effectively, have compassionate dialogues and hold space for one another's opinion in order to create a better world.

Sincerely,
Parvin Ahmadi
Superintendent

GOV1-01



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 23, 2024

Albert Lopez, Planning Director
 Alameda County
 224 W. Winton Avenue, Suite 111
 Hayward, CA 94544
Albert.Lopez@acgov.org

Subject: The Mosaic Project, Recirculated Draft Environmental Impact Report,
 SCH No. 2021110301, Alameda County

Dear Mr. Lopez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of The Mosaic Project Recirculated Draft Environmental Impact Report (RDEIR) from Alameda County for the Outdoor Project Camp (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. In an email from you dated January 17, 2024, CDFW received an extension to provide comments on the RDEIR from January 19 to January 24, 2024.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may

¹ 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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GOV2-02

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need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by state law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

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PROJECT DESCRIPTION SUMMARY

Proponent: The Mosaic Project

Objective: The objective of the Project is to develop an outdoor recreation facility in unincorporated Alameda County for use as a youth educational camp.

Project activities include demolition of existing infrastructure; improvement of trails and miscellaneous dirt or gravel roads (pedestrian and vehicle access); and construction of multiple structures including cabins, a meeting and dining hall, a restroom/shower building, a dwelling, and parking to accommodate 15 cars. The proposed Project also includes replacement of a private water system; expansion of a private wastewater system; installation of stormwater bio-retention basins to capture surface runoff and storage tanks to provide graywater for irrigation; goat and chicken husbandry; installation and operation of an organic garden and orchard space; installation of associated lighting, fencing, signage, and landscaping/planting; and vegetation maintenance with goats for fuels reduction. Project activities may include potential reroute of a 24-inch diameter drainage culvert on a tributary to Cull Canyon Creek.

GOV2-03

At peak operation, the approximately two-acre facility would provide overnight accommodation for up to 95 fourth- and fifth-grade campers and 10 staff, operating year-round, with short breaks between sessions.

Location: The proposed Project is located on a 37-acre property at 17015 Cull Canyon Road, near the unincorporated Community of Castro Valley in Alameda County, approximately three miles north of Interstate-580.

Timeframe: unclear (construction and operation).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Alameda County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on

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GOV2-04
cont.

biological resources, CDFW concludes that an Environmental Impact Report (EIR) is appropriate for the Project.

I. Project Description and Related Impact Shortcoming

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 species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT #1: The CEQA Guidelines (§§15124 and 15378) require that the draft EIR incorporate a full Project description that contains sufficient information to evaluate and review the Project's environmental impact.

Sections: Chapter 3 Project Description, Pages 3-1 through 3-25.

Issue: The RDEIR includes inconsistencies in its provision of relevant details of the Project Description across sections including the summaries in Chapter 1 and Chapter 2 and the various subsections of Chapter 4 Environmental Analyses. Related to this, the RDEIR does not clearly present a Project timeline for construction and duration for operation.

For example, the Project Description does not describe in sufficient detail and Figure 3-4 does not clearly depict several components of the proposed Project outside the identified "contiguous two-acre building envelope" (two-acre "developed area" referred to in RDEIR text) on the 37-acre property such as the footprint of the pedestrian trail and road upgrades, vegetation maintenance buffers, landscaping/ plantings, upgrades to water and sewer lines (or other necessary piped infrastructure), and to water tank foundations. The Project Description also lacks sufficient detail related to vegetation management (fuels maintenance), potential culvert reroute, planting plan, and agricultural activities for CDFW to assess impacts to sensitive wildlife and plant resources that may be present in the Project area. Some of these Project components such as installation of a culvert could potentially affect the bed, bank and/or flow of Cull Canyon Creek and its underground tributary. The Project Description does not present a construction schedule tied to Project construction activities or provide an estimated duration of construction.

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Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

Mitigation Measure #1: The Project Description and Project plans (Figures 3-3 and 3-4) should be revised to provide more detail about all components of the Project as well as timing (start and end dates of Project construction and operation activities) and location of each major Project activity.

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COMMENT #2: The RDEIR does not describe and define temporary and permanent Project impacts to the environment.

Section: Chapter 3 Project Description, Pages 3-1 through 3-25.

Issue: Lack of categorization of Project impacts in the RDEIR as temporary or permanent affects CDFW's ability to assess and recommend avoidance, minimization, or mitigation measures to reduce the Project's impacts on sensitive biological resources to less than significant levels.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Project Description and Related Impact Shortcoming)

Mitigation Measure #2: The EIR should provide accurate acreages of temporary and permanent impacts resulting from implementation of the Project for each habitat type. CDFW recommends presenting the impact amounts in tabular form and clearly depicting areas of each type of impact in figures representing the 37-acre Project area.

II. Environmental Setting and Related Impact Shortcoming

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 species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT #3: The Environmental Analysis determines a low probability of occurrence of state-threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*) within the Project area.

Sections: Section 4.3.1.2 Existing Conditions of Section 4.3 Biological Resources, Pages 4.3-7 through 4.3-9; and Figure 4.3-2 Special-Status Animals and Critical Habitat, Page 4.3-11.

Issue: The Project area contains habitat features (scrub intermixed with woodland and small patches of grassland) in close proximity to Alameda whipsnake sightings, including, less-than one mile based on Figure 4.3-2 with some sightings as recent as 2017 based on the California Natural Diversity Database (CNDDB) review, and is within a few hundred feet of federally-designated Alameda whipsnake Critical Habitat (Page 4.3-9).

The Biological Resources summary (Subsection 4.3) of the RDEIR concludes low ("remote") potential for occurrence of Alameda whipsnake within the Project footprint due in part to presence of ruderal grasses and existing low-impact development as well as dense oak-bay woodland described as separating the development area from

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adjacent scrublands and ongoing vegetation maintenance activities. However, department records indicate that Alameda whipsnake can use and move through similar habitat features and have shown at least some tolerance of vegetation treatment (USFWS 2020). Similar Alameda whipsnake behavior is documented more generally in other literature (for example, Hammerson 1979; Swaim 1994; USFWS 2002; Alvarez and Miller 2016).

Additionally, Alameda whipsnake can move substantial distances within home ranges which have been reported to encompass between at least 1.9-8.7 hectares depending on sex and length of tracking (Swaim 1994; USFWS 2002).

Given close proximity of recent, known occurrences (i.e., CNDDDB AWS Occurrence Nos. 135, 178 and 179, shown unlabeled to northwest and southeast of the Project footprint on Figure 4.3-2, Page 4.3-11) and close proximity of Critical Habitat for this species, it is likely that Alameda whipsnake are present within dispersal distance of the Project area.

Furthermore, throughout the year, Alameda whipsnake may be present but difficult to detect in a given area due to their secretive behavior. During their inactive season (roughly November through February/March, dependent on weather conditions), Alameda whipsnakes will use rodent burrows or crevices in rock outcrops for brumation (Hammerson 1979; Swaim 1994; USFWS 2002). During their active season (roughly February/March through October, dependent on weather conditions; Swaim 1994; USFWS 2002; Alvarez et al. 2021), Alameda whipsnake will utilize rodent burrows and other refugia (e.g., rocks, rock outcrops, logs, vegetation piles, or cracks between cement foundation and native substrate) to oviposit, thermoregulate, estivate and/or evade potential threats including people. Alameda whipsnakes will also use vegetation structure (e.g., shrubs or other similar vegetation), rocks and open soil to bask on the ground or within the shrub layer (Swaim and McGinnis 1992; Swaim 1994; Miller and Alvarez 2016; Alvarez and Murphy 2022). Alameda whipsnake have also been observed on a few documented occasions in trees (e.g. 15 feet up, Shafer and Hein 2005 in Alvarez and Murphy 2022). Analysis of existing data has found that a minimum of 30-days focused drift-fence funnel trapping during peak activity (typically April-May, though dependent on weather conditions) may be necessary to assess presence/absence of this species (Richmond et al. 2015). For these reasons, single-day visual surveys are not adequate to detect or determine absence from a location for this species.

Therefore, for the reasons stated above, Alameda whipsnake may be more likely to occur within the Project area than currently indicated in the RDEIR and therefore likely to be impacted by Project activities. The RDEIR biologist's recommendation to utilize wildlife exclusion fencing as an Avoidance and Minimization Measure to reduce potential for take of this species (as well as state Species of Special Concern (SSC)

**GOV2-07
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GOV2-08

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California red-legged frog [*Rana draytonii*], state SSC western pond turtle [*Emys marmorata*], and state-endangered foothill yellow-legged frog [*Rana boylei*] by the Project appears to acknowledge risk of impacts to this (and other) sensitive reptile and amphibian species by Project activities.

Specific impact: Potential take of Alameda whipsnake under CESA (Fish & G. Code § 2081).

Why impact would occur: Take of Alameda whipsnake may occur directly or indirectly through ground-disturbing activities, including grubbing, grading, excavation (including for wildlife exclusion fence installation and planting/landscaping), removal of existing concrete pads and/or other foundation materials, vehicle passage, vegetation removal (shrubs and trees from the root or above-ground structure), and from changes to physical habitat structure (e.g., changes in refuge or basking resource availability) including to vegetation structure through introduction of non-native species. Non-native plant species may be introduced through transport of seeds inadvertently in contaminated dirt or erosion control materials (e.g., straw), from goat defecation, disturbance to the ground which can favor germination and colonization by opportunistic non-native invasive species, or directly by introduction of horticultural varieties during construction and operation.

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cont.

Potential impacts to Alameda whipsnake due to increased human (and pet) activity and noise levels during both construction and operation (in particular by the large number of campers and staff anticipated consistently onsite) include effects to behavior and spatial use of habitat that could affect survival and reproduction/recruitment. These same activities, as well as physical changes to the site, may reduce availability of prey to Alameda whipsnake, thereby also affecting Alameda whipsnake behavior and spatial use of habitat that could affect survival and reproduction/recruitment.

Evidence impact would be significant: Take of a listed species is a significant impact.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

Mitigation Measure #3: The EIR should include a more robust and thorough habitat assessment for Alameda whipsnake and impacts analysis within the 37-acre Project area based on a more accurate description and quantification of acreage of habitat types the species is known to use. The evaluation should use an established and effective survey methodology to accurately determine presence or absence within the Project area, or the EIR should assume presence of the species within the Project area.

GOV2-09

Mitigation Measure #4: The EIR should specify in its wildlife exclusionary fencing measure that a Wildlife Exclusion Fence Plan will be developed for review and approval by CDFW and USFW prior to installation to incorporate appropriate temporary fencing

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with exit funnels around the Project impact area(s) (including access roads) prior to Project construction and to be maintained throughout construction.

GOV2-10
cont.

Mitigation Measure #5: Employment on-site of a USFWS and CDFW-approved qualified biologist to monitor and report on Project activities and impacts each day of Project ground-breaking, vegetation disturbing and restoration activities, and throughout the period that wildlife exclusion fencing is in place.

GOV2-11

Mitigation Measure #6: The EIR should include effective and feasible compensatory mitigation measures to offset all permanent and temporary impacts of the Project on Alameda whipsnake and its habitat. To ensure impacts to Alameda whipsnake are mitigated to less-than-significant levels, CDFW recommends inclusion of compensatory mitigation at a minimum of a 3:1 mitigation ratio (conservation to loss) for permanent impacts to habitat, and a 1:1 ratio for temporary impacts to the species' habitats. Conservation lands should be placed under a conservation easement, an endowment should be funded for managing the lands for the benefit of the conserved species in perpetuity, and a long-term management plan should be prepared and implemented by a land manager. The Grantee of the conservation easement should be an entity that has gone through the due diligence process for approval by CDFW to hold or manage conservation lands.

GOV2-12

Mitigation Measure #7: The Project Proponent should apply for an Incidental Take Permit (ITP) to cover impacts of the Project to Alameda whipsnake. Through the ITP, CDFW will work with the Project Proponent to develop adequate measures to minimize and mitigate potential for take of this species due to Project activities.

GOV2-13

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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.

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(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 RDEIR to assist Alameda County in identifying and mitigating Project impacts on biological resources. Due to the issues presented in this letter, CDFW concludes that the RDEIR does not adequately identify or mitigate the Project's significant, or potentially significant, impacts on biological resources. Deficiencies in the Lead Agency CEQA document can affect later project approvals by CDFW in its role as a Responsible Agency. In addition, because of these issues, CDFW has concerns that Alameda County may not have the basis to approve the Project or make "findings" as required by CEQA unless the environmental document is modified to eliminate and/or mitigate significant impacts, as reasonably feasible (CEQA Guidelines, §§ 15074, 15091 & 15092).

Questions regarding this letter or further coordination should be directed to Ricka Stoelting, Senior Environmental Scientist (Specialist), at (707) 815-8610 or Ricka.Stoelting@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 339-0334 or Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

B77E9A6211EF486...
Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021110301)
Craig Weightman, CDFW Bay Delta Region - Craig.Weightman@wildlife.ca.gov
Marcia Grefsrud, CDFW Bay Delta Region - Marcia.Grefsrud@wildlife.ca.gov
Ryan Olah, USFWS - Ryan.Olah@fws.gov

REFERENCES

- Alvarez, J.A., D.S. Jansen, C. Shaffer, and J. DiDonato. 2021. Observations on the phenology of the threatened Alameda whipsnake. *California Fish and Wildlife Special CESA ISSUE*:258-263.
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December 18, 2023

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Re: Notice of Availability of a Recirculated Environmental Impact Report for the
Mosaic Project (PLN2020-00093), Alameda County

Dear Mr. Lopez:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Recirculated Draft Environmental Impact Report (EIR) for the proposed Mosaic Project located at 17015 Cull Canyon Road in unincorporated Alameda County. EBMUD commented on the Draft EIR for the project on November 15, 2022. EBMUD's original comments (see enclosure) still apply regarding water service and wastewater planning.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,

A handwritten signature in blue ink that reads 'David J. Rehnstrom'.

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:WTJ:kn
wdpd23_316 The Mosaic Project REIR

Enclosure: EBMUD's November 15, 2022 Comment Letter

ORG1-01



COPY

November 15, 2022

Sonia Urzua, Senior Planner
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Re: Notice of Availability of a Draft Environmental Impact Report for the Mosaic Project, Alameda County

Dear Ms. Urzua:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the proposed Mosaic Project located at 17015 Cull Canyon Road in unincorporated Alameda County. EBMUD has the following comments.

WATER SERVICE

The proposed project would rely on groundwater obtained on-site to supply potable water to the project; therefore, EBMUD has no comments regarding water service.

WASTEWATER SERVICE

The project proposes to discharge backwash and Reverse Osmosis waste to the EBMUD Resource Recovery Trucked Waste Program (RRTWP). EBMUD requires submittal of permitting application materials that may be found on EBMUD's website at <https://www.ebmud.com/wastewater/commercial-waste/trucked-waste>. Acceptance of waste discharges to the RRTWP are not guaranteed and the project sponsor should contact EBMUD's Resource Recovery section (rrwaste@ebmud.com) to discuss the application and approval process.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:WTJ:djr
sb22_341 The Mosaic Project DEIR

ORG1-02

ORG1-03

ORG1-04

COMMENT LETTER # ORG2

From: bruceking8@gmail.com
To: [Lopez, Albert, CDA](#)
Cc: [Jewell Spalding](#); [ciprox@sbcglobal.net](#); [Seibert, Rex Warren](#); [Dick Schneider](#); [Diana Hanna](#); [Ann Maris](#); [sifrost983@gmail.com](#); [abrfar-eb@yahoo.com](#); [Bob Fusinati](#); [Linda Fusinati](#); [Martha Kreeger](#); [Janet Benz](#); [Brian Wines](#); [marcia.greftsud](#); [Mulgrew, Bill, Castro Valley MAC](#); [zzzUrzuu, Sonia, CDA](#); [Cho, Andy Hyun-Jae](#); [Henninger, Tona, BOS Dist4](#)
Subject: The Mosaic Project Recirculated Draft EIR (PLN2020-00093) - FSLC Comments
Date: Wednesday, January 17, 2024 8:28:46 PM
Attachments: [Mosaic Project FSLC Comments Creek Setbacks 2022 Oct 18.pdf](#)
[17015 Cull Canyon Rd Comments FSLC 2020 July 16.pdf](#)
[17015 Cull Canyon Rd Comments FSLC 2021 Dec 17 NOP of IS.pdf](#)

This email, its attached email string, and three attached files all provide the comments from Friends of San Lorenzo Creek (FSLC) on the Mosaic project *recirculated draft EIR*. In Oct 2022, FSLC provided similar comments on the draft EIR.

GENERAL OVERVIEW COMMENTS

Friends of San Lorenzo Creek (FSLC) does not recommend approval of this project.

The current proposed plans and documents (e.g., Project Description and dEIR) add to and do not address noncompliant and/or unmitigated impacts to Cull Creek and the riparian corridor. These noncompliant and/or unmitigated impacts are detailed in the October 22 FSLC initial comments on the dEIR in the email below along with attachments to this email.

Creek setbacks are obviously not calculated correctly and unallowed WPO-defined "developments" are within the minimum 20-foot creek setback. When the creek setback line shown on the plan is less than 20 feet from the top-of-bank, it's obvious the min creek setback is not correctly calculated. When proposed and unpermitted developments are within the minimum creek setback, it's obvious the WPO is being violated.

In 2018, 2020, 2021, and 2022 FSLC requested that the county and project address and respond to these impacts, noncompliances, and incorrect creek setback calculations. FSLC. FSLC also made email and public records requests for copies of or posting of county and public comments on this project and Initial Study. The county has not responded with copies of comments.

MORE SPECIFIC COMMENTS

The topics of most of the below comments were also provided in previous FSLC comments in 2018, 2020, and 2021.

Project Not Recommended

FSLC does not recommend approval of this project. The current proposed plans and documents add to and do not address noncompliant and/or unmitigated impacts to the creek and riparian corridor. The creek banks and corridor have been damaged by past development and human activity, proposed development will cause further impacts, and there are no proposed environmental enhancements and protections for the creek and riparian corridor. The project also involves substantial human activity very close to the creek system with significant stress on the land and habitat (e.g., water pumping, leach field, human and animal damage to soils and plants).

Non-Compliant Creek Setbacks

20-foot minimum creek setbacks shown in the plans are still not correctly calculated and developments that are not allowed under the Watercourse Protection Ordinance (WPO) are within the creek setbacks. Excerpts of WPO requirements along with site plans with my

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conclusions and notes are attached to this email. My notes on the site plan indicate proposed (P) and existing (E) WPO-defined "developments" that are not allowed within creek setbacks. These unallowed developments include: all proposed grading needed for developments, camp-area roadway (P & E), campfire area (P), demolition of nine trees along roadway (P), four gray and wastewater storage tanks (P), parking area between Cull Canyon Road and bridge (P), unpermitted caretaker mobile-home dwelling & sheds & propane tanks (E), unpermitted barn and storage containers (E), and proposed yard and fences for goats and chickens (P). The WPO does not generally allow the Director of ACPWA to issue WPO permits for these developments because they do not meet the purposes of the WPO and they are not in the public interest.

**ORG2-06
cont.**

Developments Without Permits that are Non-Compliant

Developments and structures (including developments and structures as defined in the WPO) that do not have proper permits through the county and other agencies in the past should not be permitted in this new development when they are not compliant with standards (e.g., WPO has been in effect since ~1982). Listed below are developments without permit documentation that are non-compliant and impact the creeks.

- Caretakers Mobile Home. Existing caretakers mobile home & sheds & propane tanks & fences are wholly or partially within the minimum creek setback. The mobile home was reportedly constructed sometime after 1993, but no construction permits are listed in the documents. The county did grant a CUP for the agricultural caretaker dwelling in 1996 and 2000, but those CUPs have expired.
- Barn and Storage Containers. The existing barn and adjacent storage containers are within the minimum creek setback, but no construction permits are listed in the documents.
- Camp Roadway. A portion of the roadway to the existing garage and the proposed camp is within the minimum creek setback. The garage was reportedly constructed sometime after 1993, but no construction permits are listed in the documents.
- Culvert. There is an existing 24-inch culvert that runs west to east on the southern edge of the project site under the graded pad of the existing garage, undergrounds an ephemeral stream that is protected by State and Federal laws (e.g., Clean Water Act), and has an outfall in the bank of Cull Creek. The garage was reportedly constructed sometime after 1993, but no construction, grading, or stream-alteration permits are listed in the documents. The proposed project states that this culvert may need to be re-routed with required county, CDFW, Water Board, and/or Corps permits. But if this culvert was never appropriately permitted, then the project cannot assume that the existing culvert design and outfall will be allowed, does not need modification, and/or does not need a mitigation plan for hard-scape "fill" in the waters of the U.S.

ORG2-07

Unpermitted Creek Bank Hardscaping

The project and county need to assess unpermitted hardscaping of the creek banks and require some restoration of creek banks, bed, and flow. The dEIR states that a previous property owner did extensive hardscape modifications to the creek banks. There is no record that this hardscaping was permitted by the county, Water Board, and CDFW. Such hardscaping is typically not allowed since it is considered "fill" into the waters of the U.S. If approved by agencies, such hardscaping would require unkind restorative mitigations. More specifically, this project proposes continued use of the (permitted?) vehicle bridge that is depending on unpermitted concrete rubble for bank/bed stability. The dEIR states the following:

"...the banks of Cull Creek have undergone extensive modifications as part of past erosion control efforts by a previous property owner. Much of the western creek bank is armored by a post and open cable system that was presumably installed to help prevent severe erosion. Concrete rubble has been installed along the creek bed in some locations, particularly near the existing bridge crossing."

ORG2-08

Wildfire and Vegetation Management

Vegetation management plans and operations should not significantly impact habitat and must not include the riparian corridor. The WPO does not generally allow removing natural materials (i.e., development that is not allowed) from the creek and setback areas. Vegetation management plans and required fuel reduction areas are reportedly not yet developed and approved by the Fire Department. On-site goats (5) are proposed for use in vegetation, but there is no plan for where the goats will and will not be allowed to graze and how their movement into native habitat and the riparian corridor will be prohibited (e.g., fencing). So, impacts, mitigations, and/or required plan changes cannot be determined until vegetation management, goat, and riparian corridor protection planning is coordinated and completed.

ORG2-09

Pedestrian Management In Riparian Corridor

The project describes more than 100 staff and students at the site throughout the year. Without pedestrian controls (e.g., fences, designated paths), the creek top-of-bank, bank, and bed areas are likely to be eroded and habitat trampled by some of the people who will want to enter these areas. No pedestrian controls are included in the plans.

ORG2-10

Trees

The project's conceptual tree plan provides insufficient detail, quality, and quantity for habitat replacement and restoration. The project's conceptual tree plan proposes replacing existing trees at a minimal ratio of 1.3 planted for every 1 removed. In addition, half of the proposed species to be replanted are not locally native trees. An effective restoration plan needs to: a) replant at a ratio of 3 planted for every 1 removed with a maintenance and monitoring plan over a period of years, b) replant with locally native trees, and c) replant in areas where trees have been removed or disturbed in the past or part of this project. In addition, trees proposed for removal within the minimum creek setback (i.e., along the road to the camp area) must not be allowed. Lastly, tree coverage and tree conditions within the creek corridor were not assessed and there is no plan for tree restoration in these areas.

ORG2-11

Written Comments not Published

The county has not provided the public copies of written comments submitted by the public, county staff, and other jurisdictions on this project. The NOA of a dEIR for the Mosaic Project states that "...Appendix A of the Draft EIR contains the NOP, and written comments received on the NOP." But no written comments have been provided. FSLC requested that these written comments be made available on Oct 7, 2022 with no response from the Planning Department.

ORG2-12

Bruce King

Friends of San Lorenzo Creek

----- Forwarded message -----

From: **Bruce King** <bruceking8@gmail.com>

Date: Tue, Oct 18, 2022 at 4:55 PM

Subject: Fwd: Mosaic Project Incorrect Creek Setbacks

To: Daniel Woldesenbet <danielw@acpwa.org>

Cc: Andy Cho <andyhjc@acpwa.org>, Hank Ackerman <Hank@acpwa.org>, CDA <sonia.urzua@acgov.org>, Albert Lopez <Albert.Lopez@acgov.org>, Maria Palmeri <maria.palmeri@acgov.org>, Roxann Lewis <cjrox@sbcglobal.net>, Jewell Spalding <Jewell.Spalding@acgov.org>, Teddy Seibert <teddy@twiningvine.com>

Director Woldesenbet,

Here's an update.

It appears that the Mosaic Project draft EIR has a proposed project site plan (Fig 3-4) that I assume is more current (i.e., than the 2020 site plans that I was recently provided). So, I just assessed the creek setback lines and developments as shown on the dEIR Fig 3-4 site plan. An excerpt of this site plan with my conclusions and notes is attached to this email. Some creek setback line locations are still incorrect and there are many WPO-defined "developments" that are not allowed because they are within the 20-foot minimum creek setback. Here is the text of my conclusions:

Figure 3-4 Proposed Project Site Plan in the dEIR might show correct creek setbacks when the bank slope is greater than a 2:1 slope, but this site plan does not show correct setbacks in many locations when the bank slope is less than 2:1. There are at least ten WPO-defined "developments" that are not allowed within creek setbacks.

- Black dots I added to the site plan indicate locations where the proposed creek setback line is less than 20 feet from the creek top of bank (TOB). When setback lines are correctly calculated using WPO criteria, the setback lines are always 20 feet or more from the TOB. The actual WPO creek setback line is therefore further back from the location shown on this plan.
- Asterisks I added to the site plan indicate proposed (P) and existing (E) WPO-defined "developments" that are not allowed within creek setbacks. These unallowed developments include: all proposed grading needed for developments, camp-area roadway (P), campfire area (P), demolition of nine trees along roadway (P), four gray and wastewater storage tanks (P), parking area between Cull Canyon Road and bridge (P), unpermitted caretaker dwelling & propane tanks (E), unpermitted barn and storage containers (E), and proposed yard and fences for goats and chickens (P).

ACPWA review is still needed.

Bruce King
Friends of San Lorenzo Creek

----- Forwarded message -----

From: **Bruce King** <bruceking8@gmail.com>

Date: Sun, Oct 16, 2022 at 5:29 PM

Subject: Mosaic Project Incorrect Creek Setbacks

To: Daniel Woldesenbet <danielw@acpwa.org>

Cc: Andy Cho <andyhjc@acpwa.org>, Hank Ackerman <Hank@acpwa.org>, Urzua, Sonia, CDA <sonia.urzua@acgov.org>, Albert Lopez <Albert.Lopez@acgov.org>, Maria Palmeri <maria.palmeri@acgov.org>, Roxann Lewis <cjrox@sbcglobal.net>, Jewell Spalding <Jewell.Spalding@acgov.org>, Teddy Seibert <teddy@twiningvine.com>

Director Daniel Woldesenbet,

This is a request for ACPWA to review the creek setbacks and proposed developments within these setbacks for the proposed Mosaic Project. I recommend that ACPWA conduct this creek setback review and issue some findings before the draft EIR for this project is heard at the WBZA on November 9.

Friends of San Lorenzo Creek (FSLC) finds that the creek setbacks shown in the plans are not correctly calculated and developments that are not allowed under the WPO are within the creek setbacks. This concern has been expressed and detailed in FSLC comments on this project in

ORG2-13

ORG2-14

2018, 2020, and 2021. The following bullets summarize how creek setbacks shown in the plans are not consistent with the WPO and what needs to be corrected.

- The WPO requires a 20-foot-minimum creek setback from the actual top-of-bank when the creek bank slope is less than 2:1 (26.6 degrees) and a 20-foot-minimum setback from an imaginary 2:1 slope line when the bank slope is greater than 2:1.
- The Mosaic project plans incorrectly calculate and display the 20-foot-minimum creek setback lines. The project plans a) did not add a 20-foot creek setback to the imaginary 2:1 slope line when the creek bank slope was greater than 2:1, b) inappropriately used a 20 or 25-foot setback from the actual creek top-of-bank even when the creek bank slope was greater than 2:1
- The 2:1 +20 foot creek setback lines required in the WPO are actually further back from the creek than what is shown on the plans.
- Significant existing and proposed WPO-defined developments are within the creek setback, do not meet the purposes of the WPO, are not in the public interest, and therefore are not allowed under the WPO.
- The project plans should include frequent cross sections of the creek bed, creek toe, creek bank, creek top-of-bank, minimum creek setback, and location of proposed developments. For example, these cross sections should show the difference in the location of minimum creek setback in locations where the actual creek bank slope is greater and less than a 2:1 slope.

**ORG2-14
cont.**

The documents listed below are attached and provide additional detail. The first document that is listed provides a specific example FSLC developed to show how the creek setbacks are not correctly shown in the Mosaic Project plans.

- 2022 Oct 16 FSLC Mosaic Project Creek Setback Example and Corrections
- 2022 Oct Mosaic Project Plans used for the draft EIR and dated 2020 May
- 2021 Dec 17 FSLC Comments on Mosaic Project Notice of Preparation (NOP) of the Initial Study (IS)
- 2020 July 3 FSLC Comments on Application to Allow an Outdoor Recreation Facility and Caretaker Dwelling
- 2018 Nov 4 FSLC Comments on Application to Allow a Caretakers Dwelling

ORG2-15

Planning documents for this project are

at <http://www.acgov.org/cda/planning/landuseprojects/currentprojects.htm>. Sonia Urza is the planner.

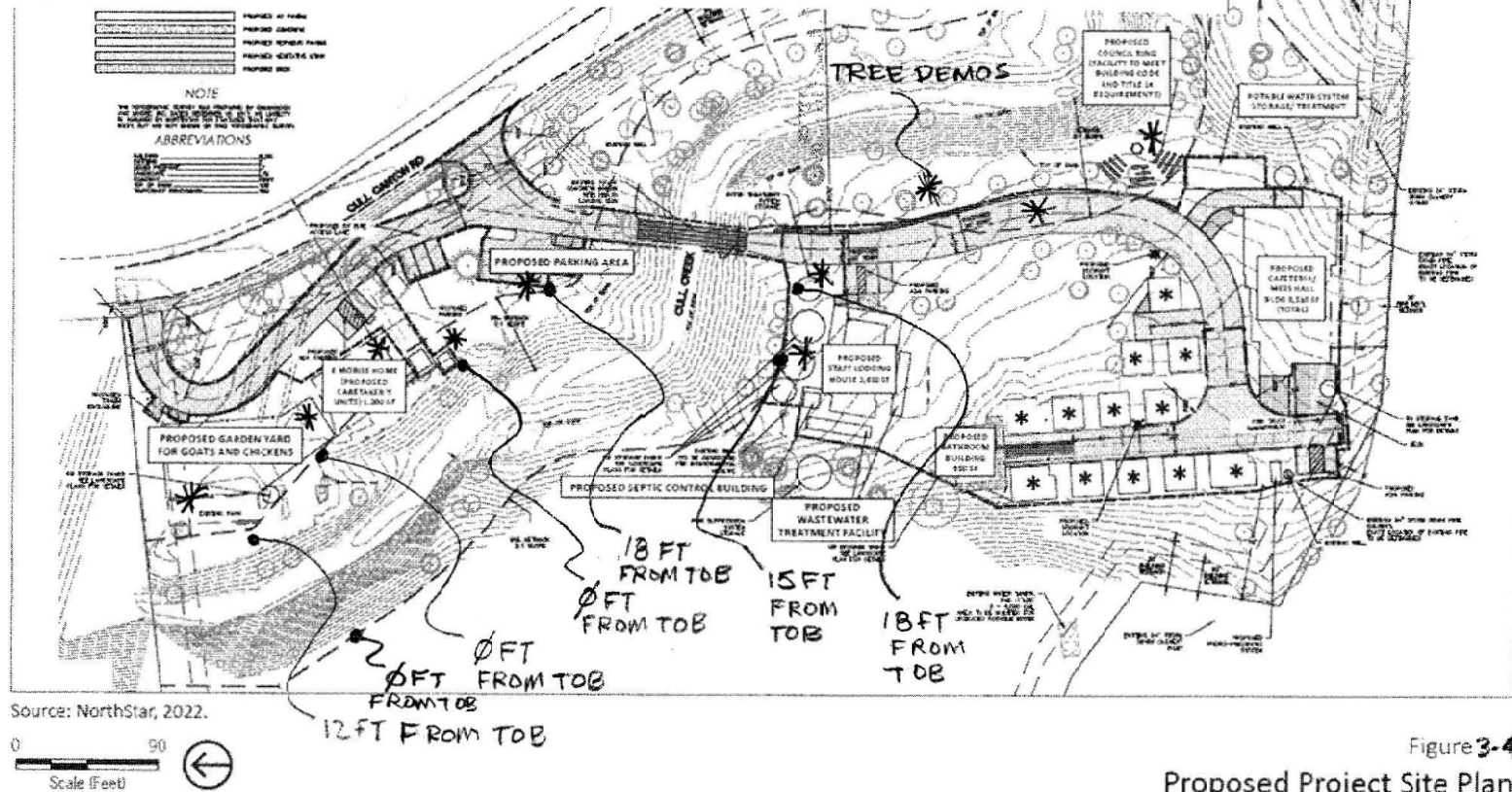
This is a request for ACPWA to review the creek setbacks and proposed developments within these setbacks for the proposed Mosaic Project and issue some findings before the draft EIR for this project is heard at the WBZA on November 9.

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

Mosaic Project - Friends of San Lorenzo Creek Updated Creek Setback Assessment - October 18, 2022

Figure 3-4 Proposed Project Site Plan in the dEIR might show correct creek setbacks when the bank slope is greater than a 2:1 slope, but this site plan does not show correct setbacks in many locations when the bank slope is less than 2:1. There are at least ten WPO-defined "developments" that are not allowed within creek setbacks.

- Black dots indicate locations where the proposed creek setback line is less than 20 feet from the creek top of bank (TOB). When setback lines are correctly calculated using WPO criteria, the setback lines are always 20 feet or more from the TOB. The actual WPO creek setback line is therefore further back from the location shown on this plan.
- Asterisks indicate proposed (P) and existing (E) WPO-defined "developments" that are not allowed within creek setbacks. These unallowed developments include: all proposed grading needed for developments, camp-area roadway (P), campfire area (P), demolition of nine trees along roadway (P), four gray and wastewater storage tanks (P), parking area between Cull Canyon Road and bridge (P), unpermitted caretaker dwelling & propane tanks (E), unpermitted barn and storage containers (E), and proposed yard and fences for goats and chickens (P).



Mosaic Project
Example Creek Setback Calculations and Corrections on Excerpt of Plan C2
Friends of San Lorenzo Creek
October 16, 2022

Watercourse Protection Ordinance Requirements. The WPO requires a 20-foot-minimum creek setback from the actual top-of-bank when the creek bank slope is less than 2:1 (26.6 degrees) and a 20-foot-min setback from an imaginary 2:1 slope line when the bank slope is greater than 2:1. See diagram of setback criteria from the WPO on the next page.

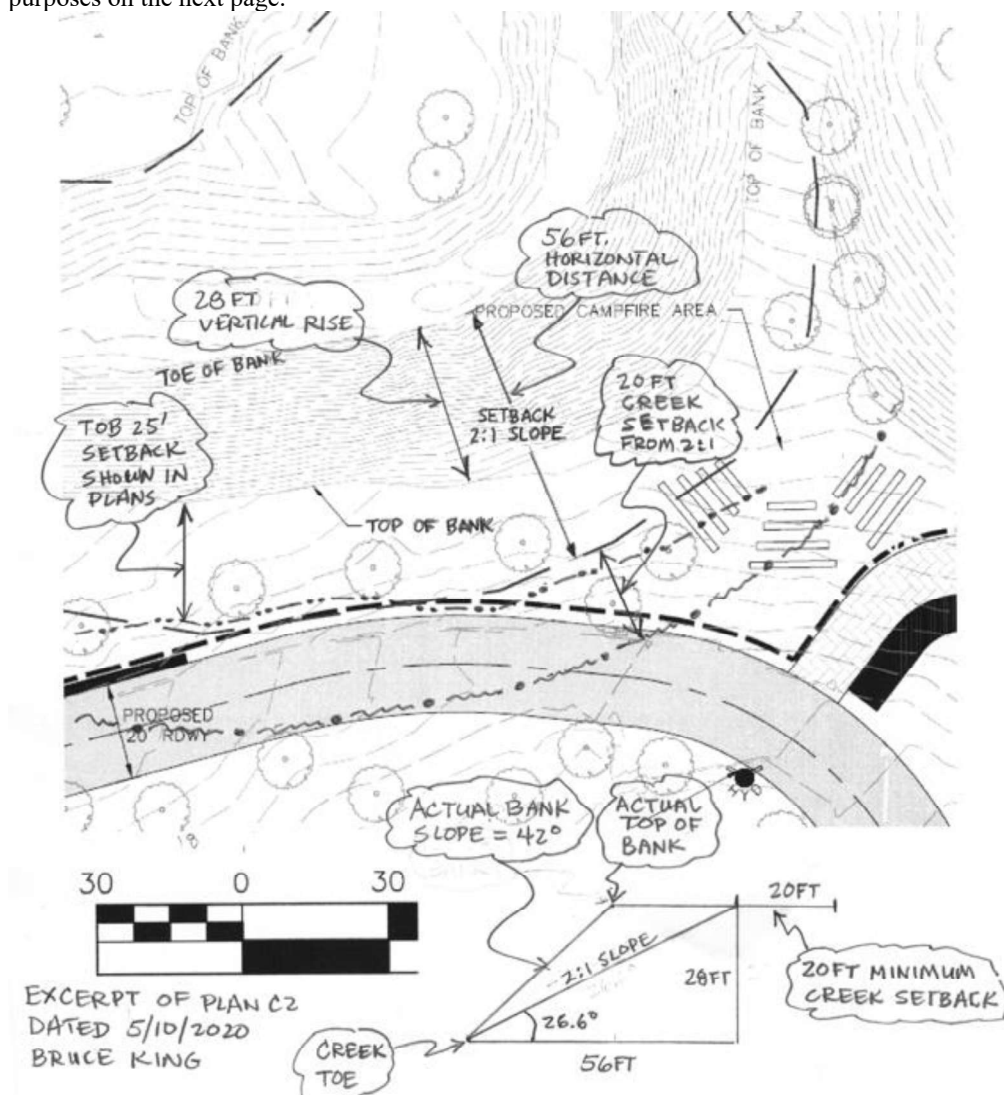
ORG2-16
cont.

The Mosaic project plans incorrectly calculated and displayed the 20-foot-minimum creek setback lines.

See example below. The project plans:

- Did not add a 20-foot creek setback to the imaginary 2:1 slope line when the creek bank slope was greater than 2:1, and
- Inappropriately used a 20 or 25-foot setback from the actual creek top-of-bank even when the creek bank slope was greater than 2:1

What needs to be corrected? Creek setbacks must be corrected on Mosaic project plans. In addition, existing unpermitted and proposed “developments” and “structures” that are defined in the WPO must be removed from the creek setback. The “developments” and “structures” shown on the project plans that are within the creek setback are not allowed under the WPO requirements and cannot be permitted because they are not in the public interest and are not consistent with the purposes of the WPO (e.g., riparian area protection and restoration). See excerpts of WPO requirements, definitions, and purposes on the next page.



ORG2-17

Excerpts of the Watercourse Protection Ordinance
Setback and Development Requirements
Friends of San Lorenzo Creek

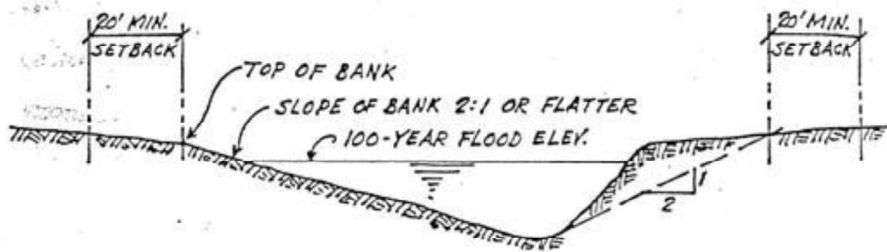
Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction

This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)

Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD [Water Course Permit](#)]

See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at:
https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT13PUSE_CH13.12WAPR
- The Set Back Criteria diagrams can be found at: <http://friendsofsanlorenzocreek.org/ord13-12-320.htm>

ORG2-17
cont.

**Friends of San Lornezo Creek Comments on Mosaic Project
Notice of Preparation (NOP) of the Initial Study (IS)
December 17, 2021**

----- Forwarded message -----

From: **Bruce King** <bruceking8@gmail.com>

Date: Fri, Dec 17, 2021 at 9:38 PM

Subject: Mosaic Project NOP & IS - FSLC Comments

To: Urzua, Sonia, CDA <sonia.urzua@acgov.org>

Cc: Albert Lopez <Albert.Lopez@acgov.org>, Alana Koski <the4ks@yahoo.com>, Ann Felix <annfelix44@gmail.com>, Bob Fusinati <bfusinati@gmail.com>, Carol Tichenor <datich@aol.com>, Carson Ahlquist <ceahlquist@gmail.com>, Cheryl Miraglia <cherylmiraglia@gmail.com>, Chuck Shipman <cashipman420@gmail.com>, Dick Schneider <richs59354@aol.com>, Doug Tegner <dtegnor@redwoodchapel.org>, Jewell Spalding <jewellspalding@mac.com>, Jody Culver <jody.s.culver@gmail.com>, Joseph Grcar <jfgrcar@comcast.net>, Kathleen Hunt <tomandkathyhunt@gmail.com>, Kristy Peixoto <thekristypeixototeam@gmail.com>, Linda Fusinati <lfusinati@gmail.com>, Minda Berbeco <minda.berbeco@sierraclub.org>, <pahmadi@cv.k12.ca.us>, Rex Warren <rgwarren1@comcast.net>, rlorenzw <rlorenzw@gmail.com>, Robert Phillips <phillipsrp@aol.com>, Shirley Carroll <shirleyacarroll@yahoo.com>, Teddy Seibert <teddy@twiningvine.com>, Terry Preston <mtmpreston@comcast.net>, <ktwoodell@yahoo.com>, ACFD <countyfp@acgov.org>, PWA <alant@acpwa.org>, Andy Hyun-Jae <andyhjc@acpwa.org>, Env. Health <Dilan.Roe@acgov.org>, Rosemarie L. <Roseld@acpwa.org>, Jannet Benz <jannetbenz@yahoo.com>, Martha Kreeger <marthakreeger@gmail.com>, Kelly Abreu <abrfa-eb@yahoo.com>, Ann Maris <ann0000@gmail.com>

Sonia,

This email contains a response and comments from Friends of San Lorenzo Creek (FSLC) on the Notice of Preparation (NOP) of an Initial Study (IS) for the Mosaic Project that you emailed on November 19, 2021.

Previous 2020 FSLC Comments

Please refer to FSLC Comments on this project dated July 16, 2020 (attached to this email) for additional explanation regarding the comments FSLC is now providing on this NOP in this email. Also, please include the FSLC July 16, 2020, comment letter in the record of comments responding to this NOP. Note that the County and project have not responded to or addressed previous FSLC comments on this project.

Conflicting Project Plans with Insufficient Detail

The "Project Description" provided in Planning's Nov 19 email contains a washed out site plan in Fig 3-4 that does not provide sufficient detail to comment on this NOP, is not consistent with the more-detailed site plans proposed in 2020, and contains an unexplained and significant "50 Creek Setback Top of Bank." On Nov 28 and Dec 13 FSLC made a public records request for copies of current proposed site plans, but this request was not addressed by the County. FSLC and the public cannot properly comment on the preparation of the IS with plans that lack sufficient detail and setback criteria. FSLC protests this lack of County response and provision of insufficient and conflicting site plans.

I. Aesthetics

All of the existing site developments and activities between Cull Canyon Road and Cull Creek that required permits to construct but did not get permits at the time of construction are visible from the road and should be considered potentially significant aesthetic impacts. Example permits include building permits and Water Course Protection Ordinance (WPO) permits. Note the WPO's broad definition of "development" that cannot generally be permitted under the purposes of the WPO. Unpermitted developments including removal of native vegetation within the riparian areas and creek setback is a significant visual impact that is seen from the road. Mitigation for unpermitted developments that do not meet requirements (e.g., WPO since 1980) should be removal of the development and plant restoration. Examples of unpermitted and existing structures and

ORG2-18

developments include the caretakers dwelling, dwelling fence, LP gas tank, barn, barn attachments (e.g., shipping storage containers behind the barn), sheds near bridge (212 ft²), gravel/dirt parking areas, the chain link fence along the road, and possibly the bridge. In addition, new proposed developments such as bus and car driveways and parking in this area are also potentially significant aesthetic impacts. Lastly, the following statement in the draft IS is not true and should be deleted from the IS: "Public views from Cull Canyon Road towards the project site are generally obstructed by existing ground vegetation and trees along the roadway."

IV. Biological Resources

This project will have potentially significant impacts on biological resources. These impacts need to be eliminated and mitigated.

- IV.1 WPO and Unpermitted Developments. This project will have a substantial adverse impact on riparian habitat (IV.b) and the creek/wetlands (IV.c) and will conflict with the WPO (IV.e) . Existing unpermitted developments and proposed new developments (developments as defined in the WPO) within the creek setback have and will remove native vegetation and impact the creek. The creek setback is still not correctly calculated or shown on any site plan. When the setback is correctly determined, these developments need to be eliminated and mitigated. Developments within the creek setback should not be allowed and existing unpermitted disturbances and removal of native vegetation need mitigation with native plant restoration.
- IV.2. Water Pumping, Creek, and Riparian Habitat. This IS needs to qualitatively and quantitatively assess the potentially significant impact this project will have on creek flows, summer creek pools, and riparian habitat and wildlife by pumping substantially more groundwater than other activities in the Cull Creek watershed (IV.b and IV.c). The creek and well water supplies in the watershed are already limited and stressed. Impacts to creek flow are not an acceptable impact.
- IV.3. Special Status Species. This IS needs to assess the presence of special status species and potentially significant impacts (IV.a)
- IV.4. Pedestrian Impacts on Habitat. This IS needs to assess and mitigate potentially significant impacts on habitat of a large number of people (e.g., children) walking around and exploring the site and possibly within the creek and setback areas (IV.a and IV.b). Mitigations are needed to control movement of people (e.g., designated paths, wild-life friendly fencing, signs).
- IV.5. Goat Impact on Habitat. This IS needs to assess and mitigate potentially significant impacts grazing goats will have on habitat, the creek, and runoff/erosion. Goats can be useful for fuel load management, but they are also very destructive to native habitat. Goat limits, management, and control is required. Goats should not be allowed in riparian, creek setback, and any other sensitive habitat areas (IV.a, IV.b, and IV.e).
- IV.6. Gray Water Irrigation and Septic System Impacts on Habitat. This IS needs to assess and mitigate potentially significant impacts on habitat of significant gray water irrigation and septic system use on native trees, habitat, and the creek. Watering may impact native habitat/trees.

**ORG2-18
cont.**

VII. Geology and Soils

This IS needs to assess and mitigate for potentially significant impacts resulting in soil erosion and loss of topsoil (VII.b), especially within creek setback areas. Uncontrolled pedestrian, goat, and vehicle movements are examples of impacts provided previously.

VIII. Greenhouse Gas Emissions

This IS and project should seriously consider (require if appropriate) no use of LP gas (e.g., the proposed 449 gallon LP tank). Electrical appliances and equipment are appropriate to reduce carbon emissions and climate impacts.

IX. Hazards and Hazardous Materials

This IS needs to assess and mitigate for potentially significant impacts resulting from the presence of a 449 gallon LP tank that could be involved in a wildfire incident.

XX. Hydrology and Water Quality

- XX.1. Water Pumping, Creek, and Riparian Habitat. This IS needs to qualitatively and quantitatively assess the potentially significant impact this project will have on creek flows, summer creek pools, and riparian habitat and wildlife by pumping substantially more groundwater than other activities in the Cull Creek watershed (IV.b and IV.c). The creek and well water supplies in the watershed are already limited and stressed. Impacts to creek flow are not an acceptable impact.
- XX.2. Septic and Gray Water Systems in Proximity to Creek. This IS needs to assess any impacts resulting from a septic system and gray water irrigation system in proximity to the creek.

XX. Wildfire

This IS needs to assess and mitigate for potentially significant impacts resulting from a wildfire in Cull Canyon. How would a large group of camp occupants escape an advancing wildfire in a dead-end canyon? What transportation would be available to escape?

This is the end of FSLC comments on the NOP and draft IS. Also see attached FSLC Comments on this project dated July 16, 2020.

Bruce King
Friends of San Lorenzo Creek

----- Forwarded message -----

From: **Bruce King** <bruceking8@gmail.com>
Date: Mon, Dec 13, 2021 at 8:16 AM
Subject: Mosaic Project NOP & EIR - Public Records Request
To: Urzua, Sonia, CDA <sonia.urzua@acgov.org>, Albert Lopez <Albert.Lopez@acgov.org>
Cc: Bob Fusinati <bfusinati@gmail.com>, Andy Cho <andyhjc@acpwa.org>

Sonia or Albert:

This is a second request for: a) copies of the current Mosaic project plans; and b) copies of comments the County has provided the developer on the project. I requested these copies on November 28. Please consider this urgent public records request.

As I described in my November 28 email...

The public is expected to have its comments on the EIR by December 19, but It appears the project plans were revised (e.g., as shown in Fig 3-4, Proposed Project Site Plan in project description) since July 2020 and the revised plans were not distributed to the community. For example, Fig 3-4 now shows a "50' creek setback top of bank" which I don't understand. I need to see the current plans and understand how the County is directing the applicant.

Bruce King

----- Forwarded message -----

From: **Bruce King** <bruceking8@gmail.com>
Date: Sun, Nov 28, 2021 at 9:59 AM
Subject: Re: Notice of Preparation of and Environmental Impact Report (EIR) - PLN2020-00093
To: Urzua, Sonia, CDA <sonia.urzua@acgov.org>
Cc: Alana Koski <the4ks@yahoo.com>, Ann Felix <annfelix44@gmail.com>, Bob Fusinati <bfusinati@gmail.com>, Carol Tichenor <datic@iol.com>, Carson Ahlquist <ceahlquist@gmail.com>, Cheryl Miraglia <cherylmiraglia@gmail.com>, Chuck Shipman <cashipman420@gmail.com>, Dick Schneider <richs59354@aol.com>, Doug Tegner <dtegnr@redwoodchapel.org>, Jewell Spalding <jewellspalding@mac.com>, Jody Culver <jody.s.culver@gmail.com>, Joseph Grcar <jfgrcar@comcast.net>, Kathleen Hunt <tomandkathyhunt@gmail.com>, Kristy Peixoto <thekristypeixototeam@gmail.com>, Linda Fusinati <lfusinati@gmail.com>, Minda Berbeco <minda.berbeco@sierraclub.org>, <pahmadi@cv.k12.ca.us>, Rex Warren <rgwarren1@comcast.net>, rllorenz <rllorenz@gmail.com>, Robert Phillips

**ORG2-18
cont.**

<phillipsrp@aol.com>, Shirley Carroll <shirleyacarroll@yahoo.com>, Teddy Seibert <teddy@twiningvine.com>, Terry Preston <mtmpreston@comcast.net>, <ktwoodell@yahoo.com>, CountyFP, ACFD <countyfp@acgov.org>, Tam, Alan, PWA <alant@acpwa.org>, Cho, Andy Hyun-Jae <andyhjc@acpwa.org>, Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>, DeLeon, Rosemarie L. <Roseld@acpwa.org>, Jannet Benz <jannetbenz@yahoo.com>, Martha Kreeger <marthakreeger@gmail.com>

Sonia,

Friends of San Lorenzo Creek (FSLC) and the community provided comments on this project in July 2020 (see attached). The County or developer does not appear to have addressed or responded to most of the comments that FSLC provided that should be approaching resolution at this point in the project. Addressing comments is often done by distributing revised plans and project descriptions. It appears the project plans were revised (e.g., Fig 3-4, Proposed Project Site Plan in project description) since July 2020 but were not distributed to the community. *This is a request for you to email copies of the current project plans. I am also requesting copies of comments the County has provided the developer on the project as proposed in 2020.*

Some key issues that FSLC noted in July 2020 include defining the correct creek setback on the plans, removing development from the setback that did not get original construction permits, and not allowing new development within the creek setback.

The NOP and EIR documents you provided do not provide sufficient detail or criteria to determine how the creek setback was determined and its correct location. The updated project plan that was provided is Figure 3-4 that shows washed-out images on the plan and a dashed line on some (not all) of the project site that is labeled a "50' creek setback top of bank." What County ordinance criteria was used to define this "50' creek setback top of bank" and what development is not allowed within this unusual setback? The ordinance and criteria for which I am most familiar is in the Watercourse Protection Ordinance (WPO). Attached are the Setback Criteria diagrams from the WPO. Which WPO setback criteria are being applied on this project? Why has the County not addressed the list of unpermitted "developments" and "structures" as defined in the WPO that are on this site, are within the creek setback, and are proposed to remain as described in this project?

Bruce King
Friends of San Lorenzo Creek

From: Urzua, Sonia, CDA <sonia.urzua@acgov.org>

Sent: Friday, November 19, 2021 3:16 PM

To: Alana Koski <the4ks@yahoo.com>; Ann Felix <annfelix44@gmail.com>; Bob Fusinati <bfusinati@gmail.com>; bruceking8@gmail.com; Carol Tichenor <datich@aol.com>; Carson Ahlquist <ceahlquist@gmail.com>; Cheryl Miraglia <cherylmiraglia@gmail.com>; Chuck Shipman <[cashionman420@gmail.com](mailto:cashipman420@gmail.com)>; Dick Schneider <richs59354@aol.com>; Doug Tegner <dtegnor@redwoodchapel.org>; Jewell Spalding <jewellspalding@mac.com>; Jody Culver <jody.s.culver@gmail.com>; Joseph Grcar <jfgrcar@comcast.net>; Kathleen Hunt <tomandkathyhunt@gmail.com>; Kent Woodell <ktwoodell@yahoo.com>; Kristy Peixoto <thekristypeixototeam@gmail.com>; Linda Fusinati <lfusinati@gmail.com>; Minda Berbeco <minda.berbeco@sierraclub.org>; pahmadi@cv.k12.ca.us; Rex Warren <rgwarren1@comcast.net>; rlorenzw <rlorenzw@gmail.com>; Robert Phillips <phillipsrp@aol.com>; Shirley Carroll <shirleyacarroll@yahoo.com>; Teddy Seibert <teddy@twiningvine.com>; Terry Preston <mtmpreston@comcast.net>

Subject: Notice of Preparation of and Environmental Impact Report (EIR) - PLN2020-00093

Attached please find the Notice of Preparation, the Project Description, and the Initial Study for the proposed Outdoor Camp Project located at 17015 Cull Canyon Road in Castro Valley. The Notice of Preparation contains information about the Scoping meeting to be held for this project.

The attachments are also available on the Alameda County Planning Department website. Click [here](#) for easy access.

ORG2-18
cont.

FRIENDS OF SAN LORENZO CREEK

Date: July 3, 2020

To: Sonia Urza, Planner
Alameda County Planning Department
224 West Winton Avenue, Suite 111
Hayward, CA 94544

From: Bruce King
Friends of San Lorenzo Creek
BruceKing8@gmail.com



Cc: John Rogers (ACPWA) and Hank Ackerman (ACFCWCD)

Subject: Friends of San Lorenzo Creek Comments on Application to Allow an
Outdoor Recreation Facility and Caretaker Dwelling at 17015 Cull Canyon Road

Dear Planning,

This letter provides comments made on the behalf of the Friends of San Lorenzo Creek (FSLC) on a project referral (PLN2020-00093 dated 7/3/20) for an application to allow construction and operation of an outdoor recreation facility, including camping cabins, shower/restroom facilities, a multi-use building, and an agricultural caretaker dwelling located at 17015 Cull Canyon Road.

FSLC comments focus on environmental concerns including ensuring the creek and riparian areas are protected from development and restored to a healthier riparian corridor.

- Primary comments are provided in the body of this letter.
- Attachment A discusses general riparian area concerns and requirements.
- Attachment B provides excerpts of the Watercourse Protection Ordinance setback and development requirements.
- Attachment C shows excerpts from the application's site plans.

PROJECT MISSION

FSLC appreciates the mission and work of the Mosaic Project. Bringing together children of diverse backgrounds, providing them with essential community building skills, empowering them to become peacemakers, and doing this in a setting that exposes them to the natural world is a worthy mission.

PROJECT IMPACTS

This project proposes significant human activity and development in a Resource Management area that has some limited resources and ability to deal with impacts and concerns related to this proposed development. These FSLC comments (and the comment letter from Dick Schneider, Jewell Spalding, Glenn Kirby) detail many such impacts and concerns that the County and applicant need to address. The project scope and impacts need to be assessed to determine if this project is appropriate for this site and Cull Canyon.

ORG2-19

EXPIRED PERMIT

It appears there are no current, conditional use permits. Permits have expired. Existing structures and developments such as the caretakers dwelling, dwelling fence, LP gas tank, barn, barn attachments (e.g., shipping storage containers behind the barn), sheds near bridge (212 ft²), gravel/dirt parking areas, and possibly the bridge do not have permits.

TWO-ACRE DEVELOPMENT ENVELOPE

Buildings and structures that are not shown in the plans as being within the required, two-acre development envelope include: three ADA parking spots near Cull Canyon Road, existing barn and any barn attachments, shipping storage containers near or behind the barn that are not shown on the plans, reported sheds near bridge (212 ft²), and campfire area. Measure D may require such developments to be included within the two-acre development envelope.

CREEK SETBACKS AND DEVELOPMENT

No Developments in Creek Setback

Existing and new “developments” should not be permitted in the minimum, 20-foot, creek setback area as defined and required in the Watercourse Protection Ordinance (WPO). Note definitions and requirements in Attachment B.

Creek Setback Calculation

The minimum creek setback does not appear to be calculated correctly in at least some locations. In some places (e.g., near caretakers unit) the minimum creek setback line shown on the plans appears to be very close (e.g., less than 20 feet) to the top-of-bank. When calculated in accordance with the WPO, the minimum creek setback should always be 20 feet or more from the top-of-bank. Note: the setback is calculated differently depending whether the actual creek bank slope is greater or less than a 2:1.

Creek and Setback Cross Sections

The project plans need to include frequent cross sections of the creek bed, creek toe, creek bank, creek top-of-bank, minimum creek setback, and location of proposed developments. For example, these cross sections should show the difference in the location of minimum creek setback in locations where the actual creek bank slope is greater and less than a 2:1 slope.

Proposed Developments Not Allowed in the Setback

The following is an example list of developments that should not be allowed in their existing or proposed locations if they are within the properly-calculated, minimum creek setback:

- Existing caretaker dwelling (1,220 ft²)
- Existing caretaker dwelling fence and LP tank
- Existing barn (967 ft²) and any attachments to the barn such as shipping storage containers
- Existing sheds (212 ft²) near the bridge
- Proposed parking areas near caretakers dwelling
- Propose garden yard for goats and chickens
- Propose campfire area

**ORG2-19
cont.**

OTHER ENVIRONMENTAL CONCERNS

Habitat Protection and Fences

- Goats
The project description proposes having a herd of goats and allowing the goats to graze on about 50% of the site for their food and fire vegetation management. The impact of goats on habitat should be assessed and prevented/controlled. If goats are allowed, it seems their numbers and range of grazing should be controlled to protect habitat and creek areas. Grazing areas, habitat protection areas, and creek areas should be identified.
- Fences for Creek Areas
Allowing camp participants and goats into the creek setback areas will damage the riparian vegetation, creek banks, and creek bed. Creek setback areas should be protected from human and domestic animal activity, while allowing the passage of and not creating a hazard to wild animals. Fences and signage designed to control people and domestic animals, and allow safe wild animal movement, should be installed to protect creek areas. Consult fence standards and experts to achieve these objectives.

Landscaping and Restoration

- Landscape Plan
No landscape plan was provided. The landscape plan should include significant use of local and endemic native plants and replacement of trees to be cut down with significantly more new native trees. Plan C1 shows the proposed cutting of roughly 50 or more trees.
- Gray Water Irrigation
The plan proposes to irrigate areas near the cabins with gray water. Impact of this quantity of water on the existing thirteen native trees in this area should be assessed.
- Creek Area Restoration
Native vegetation on some creek banks and top-of-bank areas has been damaged or removed (e.g., near bridge and caretaker's dwelling) by past human activity and current development. In addition, new developments such as a wider bridge or stormwater outfalls in the creek areas will require Stream Bed Alteration permits and mitigation. The project should include a plan to restore creek bank and top-of-bank areas with appropriate native and riparian plants for the creek areas.
- Vegetation Fire Management
Any required fire-break areas should be shown on the plans. Creek setback areas should not be used as fire-break areas. Riparian and native vegetation in creek areas should be conserved.

**ORG2-19
cont.**

Ground Water Use and Creek Flow

This camp operation will use ground water from onsite wells. This project application should assess the sufficiency of this water source for the camp operation and ensure that there will not be an impact on the flow of Cull Creek which is an intermittent stream. Note Appendix A of the Castro Valley General Plan provides excerpts of Measure D pertaining to the Castro Valley canyonlands. This appendix includes “Policy 236: The County shall approve new development only upon verification that an adequate, long-term, sustainable, clearly identified water supply will be provided to serve the development, including in times of drought.”

**ORG2-19
cont.**

ATTACHMENT A

GENERAL CONCERNS AND REQUIREMENTS

Cull Creek, Riparian Areas, and Setbacks

The science behind healthy creeks, plants & animals, watersheds, and water quality shows the need for a healthy, wider, riparian area and corridor along creeks. If you look at a Google satellite image of our local creeks and Cull Creek you will typically see heavily vegetated areas in and surrounding the natural creeks, and the extent of this vegetation is typically in proportion to the lack of current development or past human disturbance. At this site, significant natural riparian vegetation has been removed over time by previous human activity on the site. But there is a continuous natural riparian corridor that extends up and down stream.

This site needs to protect and restore Cull Creek, including its aquatic and terrestrial ecosystems. The terrestrial ecosystem includes the riparian area, riparian corridor, and determined creek setback area.

- The **riparian area** is the area bordering the watercourse where surface or subsurface hydrology directly influence the ecological processes and plant and animal community structure in that area. Riparian areas are transitional areas between the aquatic and terrestrial ecosystems that influence the exchange of energy and materials between those ecosystems.
- The **riparian corridor** is the contiguous, prescribed management area along both sides and the length of the creek where riparian areas are present or may be restored. Note that breaks in riparian corridor continuity (e.g., fences or buildings) reduce the riparian area's ecological value.
- In unincorporated Alameda County, the **Watercourse Protection Ordinance (WPO)** is used to determine a creek **setback** area. See Attachment B for excerpts of WPO setback and development requirements. Note that under the WPO, "development" (e.g., filling, depositing, excavating or removing any natural material) and constructing "structures" (e.g., fences) are not permitted within the setback distance of 20-or-more feet and within riparian areas. The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration.

ORG2-19
cont.

ATTACHMENT B

Excerpts of the Watercourse Protection Ordinance Setback and Development Requirements

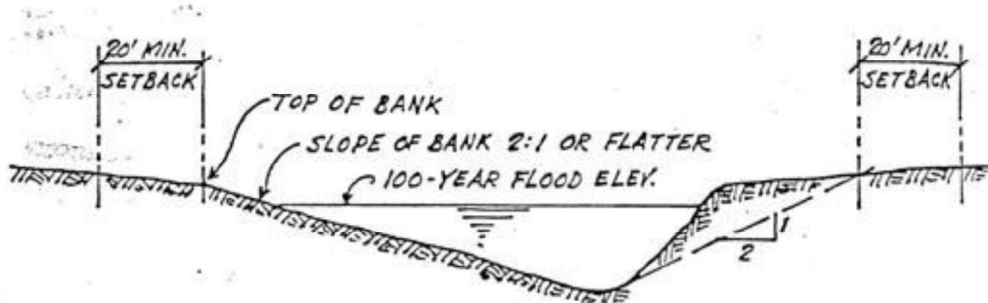
Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction

This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)

Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

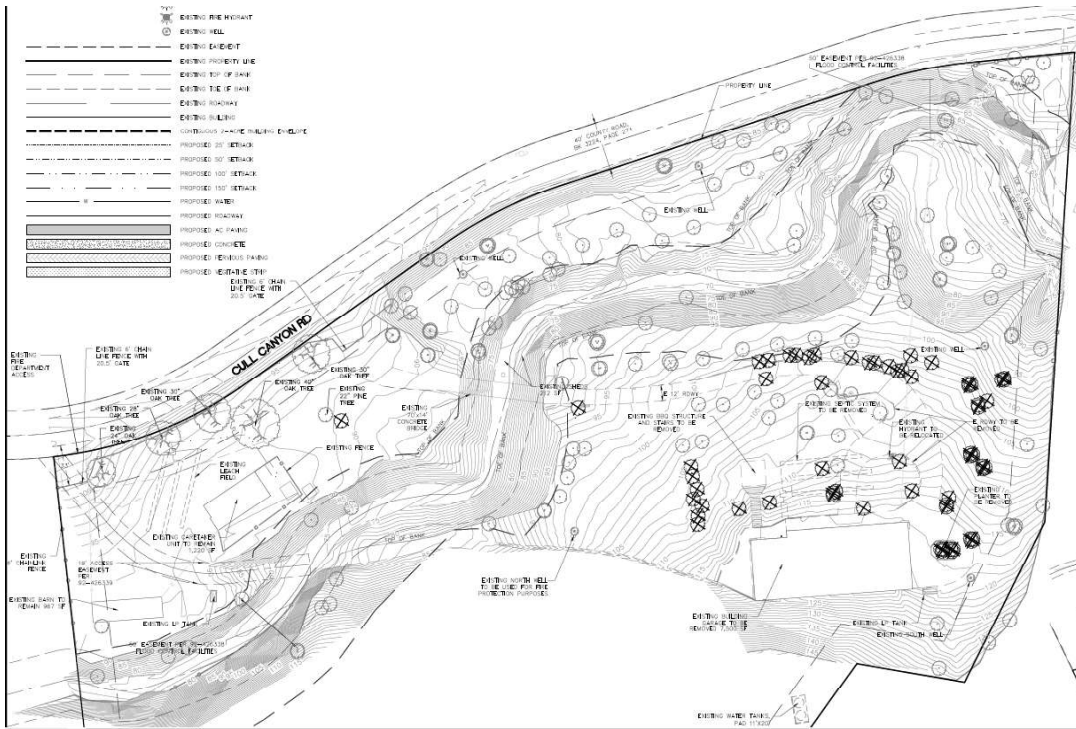
- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD [Water Course Permit](#)]

See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at:
https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodeId=TIT13PU_SE_CH13.12WAPR
- The Set Back Criteria diagrams can be found at: <http://friendsofsanlorenzocreek.org/ord13-12-320.htm>

**ORG2-19
cont.**

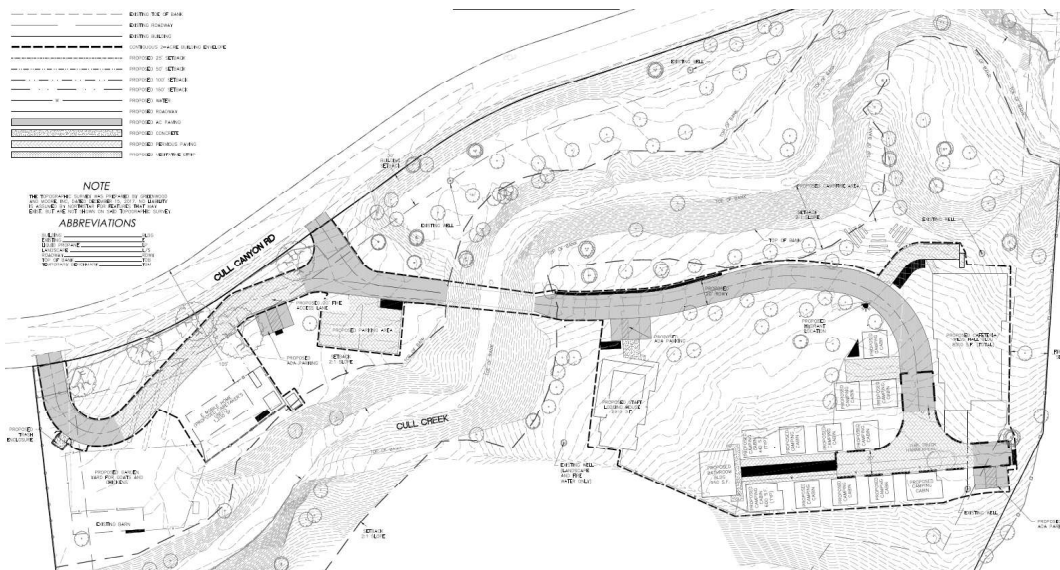
ATTACHMENT C
Excerpts of Site Plans Taken from the Application



Plan C1 Existing Site Layout

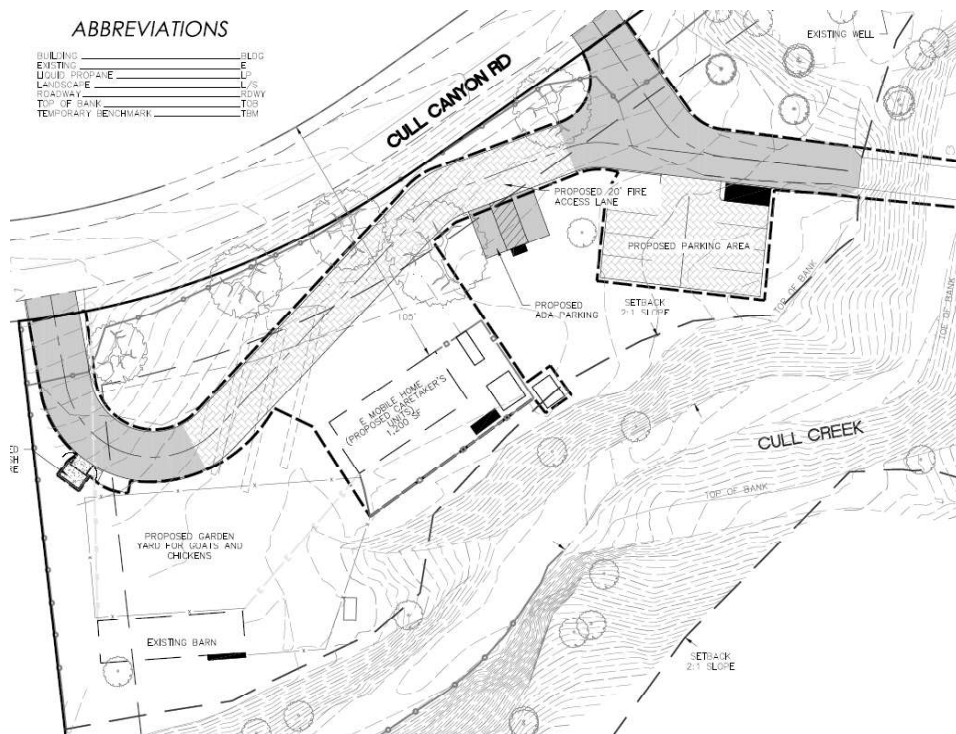
ORG2-19
cont.

ATTACHMENT C
(continued)
Excerpts of Site Plans Taken from the Application



Plan C2 Proposed Site Layout

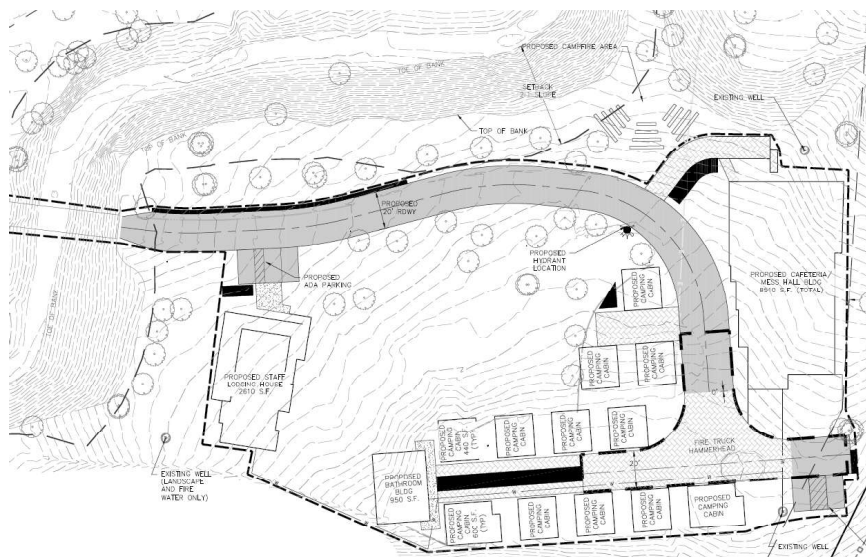
ATTACHMENT C
(continued)
Excerpts of Site Plans Taken from the Application



Plan C2 Proposed Site Layout (Northern Section)

ORG2-19
cont.

ATTACHMENT C
(continued)
Excerpts of Site Plans Taken from the Application



Plan C2 Proposed Site Layout (Southern Section)



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January 19, 2024

By Electronic Mail

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544
Email: albert.lopez@acgov.org

RE: Public Comment on The Mosaic Project Recirculated Draft EIR [PLN2020-00093].

Dear Director Lopez, et al:

Thank you for the opportunity to comment on The Mosaic Project Recirculated Draft Environmental Impact Report (R-DEIR). The following comments are submitted on behalf of Friends of Castro Valley Canyonlands (FCVC). FCVC is an association of concerned citizens and Alameda County residents who advocate for the protection and preservation of the agricultural character and unique qualities of the Castro Valley Canyonlands.

FCVC is extremely concerned that Cull Canyon is an unsuitable location for the Mosaic Project's proposed Outdoor Project Camp ("the Project") due to risks and constraints of the geographical setting. The Project is likely to have significant impacts on the environment, expose children and residents to significant health and safety risks, and is also inconsistent with planning and zoning restrictions and other legal requirements. Moreover, none of these issues are adequately evaluated in the R-DEIR and the majority of impacts cannot be adequately mitigated due to constraints of the physical setting. Proceeding with this location in spite of its serious limitations threatens to cause significant damage to natural resources, harm existing residents and businesses, and jeopardize the health and safety of children and other Project participants.

This comment letter supplements previous comments submitted by FCVC concerning deficiencies of the October 2022 Draft Environmental Impact Report (DEIR).¹ Because many of the issues identified in the previous comments have not been addressed and also apply to the R-DEIR, that letter is appended and incorporated herein as **Appendix A**. This comment also

ORG3-01

¹ See Greenfire Law, PC (Nov. 21, 2022), Public Comment; The Mosaic Project Draft EIR (October 2022), SCH No. 2021110301.

identifies additional deficiencies of the R-DEIR, including new inaccuracies stemming from outdated information and issues overlooked in our previous comments.

The R-DEIR, like the preceding DEIR, fails to provide an analysis sufficient to inform decision-makers and the public of the potentially significant environmental impacts of the proposed Outdoor Project Camp (“the Project”). The R-DEIR also fails to consider important site restrictions, omits supporting evidence for several conclusions, downplays or misrepresents inconsistencies with applicable land use plans, ordinances and other legal restrictions, fails to evaluate safety risks related to the proposed site, and fails to provide a meaningful analysis of alternatives.

**ORG3-01
cont.**

I. The R-DEIR Fails To Provide an Adequate Analysis of the Proposed Project’s Potential Environmental Impacts.

Pursuant to the California Environmental Quality Act (CEQA), the purpose of preparing an Environmental Impact Report (EIR) is to “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.” CEQA Guidelines § 15002(a)(1).² In order to achieve this, an “EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.”³ *Cleveland Natl. Forest Found. v. San Diego Ass’n of Gov’ts*, 3 Cal. 5th 497, 511 (2017). As explained below, the R-DEIR fails to provide adequate information in several subchapters of its assessment of potential environmental impacts.

ORG3-02

A. The analysis of the Project’s potential impacts to water resources is inadequate.

The R-DEIR fails to support its conclusion that the project’s proposed water use will have no significant impact on area groundwater and surface water, fails to provide an accurate estimate of water demand, and fails to analyze the adequacy of proposed fire flows.

ORG3-03

1. The R-DEIR fails to show that the proposed water source is reliable and will not impact Cull Creek or neighboring water users.

The R-DEIR fails to provide evidence that the Project has an adequate and reliable water supply. *See Appendix B*, Water Supply Comments by Roux Associates. Like the previous draft, the R-DEIR asserts that the project has an ample water source consisting of two on-site wells, but provides no data or analysis to support the conclusion that heavy use of these wells will not adversely impact flow levels in Cull Creek or impair groundwater levels affecting other wells in Cull Canyon. R-DEIR, § 4.14.1.2. This issue was also raised in previous comments addressing the DEIR, which included comments by a certified hydrogeologist who examined the record and found no evidence that potential groundwater impacts and groundwater-surface water interconnection had been adequately evaluated. *See App. A*, Attachment (Roux Associates, Inc. (Nov. 17, 2022)). Despite FCVC’s repeated requests that this information be released, the R-DEIR makes the same exact claims, and again provides no supporting data or analysis. *App. A*, at pp. 1-2; R-DEIR, § 4.14, pp 5-6. The R-DEIR does not acknowledge these prior requests, and

ORG3-04

² 14 Cal. Code Regs., §15000-15387 are herein referred to as the “CEQA Guidelines.”

³ *Cleveland Nat. Forest Foundation*, 3 Cal. 5th 497, 511 (2017).

does not explain why this information continues to be withheld from public review.

**ORG3-04
cont.**

Like the previous draft, the R-DEIR states only that Balance Hydrologics conducted groundwater exploration and well testing for the Project and asserts on this basis the water supply is adequate. R-DEIR, § 4.14.1.2. But as explained in Appendix B, this is not adequate because neither the R-DEIR nor any of its Appendices provides sufficient information to support its conclusions. App. B at p. 1, 4. For example, there is no indication as to when the wells were tested, how seasonal variations were assessed, or whether the existing draw on the aquifer was evaluated. *Id.* at pp. 2-3. There is also no indication that potential contamination from the nearby septic system and proposed grey water irrigation system, both upstream from the source wells, was at all evaluated. *Id.* Without more detail, there is no way to assess whether the proposed water supply will be reliable. *Id.*

ORG3-05

Notably, while the R-DEIR adds more pages to Appendix G: Hydrology Reports (formerly titled *Wastewater Basis of Design*), these additions do not provide additional substantive information to remedy the lack of substantial evidence concerning when and how the hydrologic analysis was conducted. The added pages include a cover letter from Balance Hydrologics, which merely asserts that the work was completed in compliance with 22 C.C.R. § 64554, and states that the results were accurately reported. R-DEIR App. G, *1.⁴ No further details regarding the actual data, well reports, or test results are provided. There is also no indication that seasonal variations in the water supply were at all examined. Nor does the R-DEIR provide any information concerning the rationale for the well-test used, historical use of the aquifer, or data from monitoring of other local wells -- all of which are required by § 64554. Notably, such documentation should be available, since it is supposed to be reported to the State Water Board pursuant to § 64554 (e) and (g).

ORG3-06

R-DEIR Appendix G also adds a 13-page excerpt of a March 2022 report by SRT Consultants (“SRT Report”), which appears to be the source of information contained in DEIR and R-DEIR sections 4.14.1.2 through 4.14.1.4. This report again references work conducted by Balance Hydrologics but provides no additional data or information about the testing and results than what was already stated in the DEIR and repeated in the R-DEIR. *See* R-DEIR App. G, *2-14. Thus, the additions to Appendix G provide no transparency as to the test results and hydrological information that informed the R-DEIR’s conclusion that the proposed use will have no impact on adjacent creek flows or other nearby water users.

Further, as explained in FCVC’s previous comments, incorporated herein, one of the project’s proposed water sources, well 20-1, is only 100-feet from Cull Creek at places, which may allow well draw-down to impact creek flows. *See* R-DEIR, Fig. 4.8-4; App. A, § I.A.2. There is no evidence in the R-DEIR that this was adequately examined. In addition, Cull Canyon is a terminal canyon with many water users already relying on a limited aquifer for well water for residential use, agricultural use, and some commercial uses. *Id.* In fact, comments submitted by local residents indicate that well-water is already at risk in the canyon and subject to seasonal variations that can adversely impact agricultural uses.⁵ For example, local landowner Rex

ORG3-07

⁴ An asterisk identifies PDF page numbers for documents without citations to pages of documents that do not have page numbers.

⁵ *See e.g.,* Public Comment by Keith Seibert (Jan. 18, 2024), noting frequent groundwater water shortages throughout Cull Canyon.

Warren reported drilling two new wells recently that both came up dry, which forced him to reduce the number of cattle he produces.⁶ *Id.* There is no evidence in the R-DEIR that impacts on neighboring wells was adequately examined. Accordingly, the R-DEIR is inadequate to support the conclusion that the project's proposed water use is sufficient to meet the needs of the project.

**ORG3-07
cont.**

Failure to disclose the basis for the R-DEIR's conclusion that the proposed project – a residential camp serving 108 people in addition to caretakers and residents, plus new agricultural uses – would have no impact on other water users and creek flows is inconsistent with the purposes of CEQA.

ORG3-08

2. The R-DEIR fails to provide an accurate estimate of the project's water demand.

The R-DEIR also fails to provide an accurate estimate of the project's expected water demand. The estimate set forth in section 4.14 and Appendix G appears to underestimate the water demand from the camp operations, and completely omits any water use estimate for the proposed agricultural activities, which includes livestock, chickens, and a production garden sufficient to supply a Community Supported Agriculture (CSA) program and provide the camp program with eggs and seasonal produce. R-DEIR App. K. There is also no analysis of how much water is necessary to maintain adequate fire flows for the facility.

ORG3-09

Pursuant to California Department of Health regulations, an organized camp is required to provide "[a] dependable supply of potable water adequate to furnish 50 gallons of water per person per day." 17 C.C.R. § 30710. The R-DEIR acknowledges this but nevertheless calculates the project's water demand based on only 25 gpd per person. R-DEIR § 4.14-6; App. G (SRT Report, p. 2). This much lower demand rate is based on a report by NorthStar consulting and an EPA wastewater treatment manual. *Id.* These sources do not focus on water demand but examine the capacity required for an onsite waste treatment (septic) system. App. G at *18-19 (NorthStar Report pp. 2-3). While the NorthStar report includes an anecdotal description of the average water use based on ten days of meter readings at another unspecified camping facility, no details are provided from which to assess the degree of similarity. *Id.* However, even if the facilities are similar, this estimate is wholly inadequate: the adequacy of the water supply is not based on average flows but requires sufficient reliable source capacity to meet the Maximum Daily Demand (MDD). 22 C.F.R. § 64554. The regulation requires MDD estimates based on averages from a similar facility to calculate average daily usage based on the most recent ten *years* of data from that source – not ten days – and then to "multiply [that average] by a peaking factor of 2.25." *Id.*, subd. (b)(3) and (4). NorthStar gave a rough estimate based on ten days that does not account for seasonal and annual variations, and clearly does not comply with the water supply regulation.⁷ Neither the R-DEIR nor the SRT Report explains this discrepancy – or the decision to disregard the 50 gpd per person requirement set forth in 17 C.C.R. § 30710.

ORG3-10

The NorthStar report also cites tables from an EPA OWTS manual, which states that the typical wastewater flow for children's camps with central toilet/bath facilities, like the proposed project, is 45 gpd per person. App G. at *73. However, instead of adopting this figure, NorthStar

ORG3-11

⁶ Rex Warren, Public Comment Re: Notice of Preparation of and Environmental Impact Report (EIR) - PLN2020-00093 (Dec. 19, 2021).

⁷ Notably, even if 19 gpd per person was an accurate estimate of average daily usage, the peaking factor would result in an MDD of 42.75 gpd per person.

averages this rate with a lower rate (25 gpd) listed for “pioneer type” camps, and then reduces this average further, assertedly to adjust for water-saving fixtures. App. G at *18-19, 73.

NorthStar provides no explanation for its assumption that the Mosaic Project is operated like a pioneer type camp, which is undefined but commonly refers to primitive camping.⁸ And again, there is no calculation of MDD or consideration of peaking factors.

**ORG3-11
cont.**

In addition, neither the R-DEIR nor Appendix G provides any estimate of water demand necessary to operate livestock and gardening operations. The DEIR assumes without analysis that collected rainwater and greywater will be adequate to support the proposed agricultural uses throughout the growing season. R-DEIR at 4.14-10. There is no estimate of how much water is necessary to raise goats and chickens, and operate a production garden sufficient to fill CSA boxes, bottle fresh goats’ milk, and also provide the camping program with vegetables. *See* R-DEIR App. K. Moreover, since greywater is unsuitable for vegetables and livestock watering, these activities would need to rely solely on rainwater or be abandoned, which seems contradictory to the proponent’s assertion that agricultural use is the “primary purpose” of the proposed project. R-DEIR App. K. There is also no analysis of how goats’ milk will be handled and provided to customers, and whether health standards require the animals to be cleaned regularly, and bottles to be sanitized. Nor is there any analysis of how much rainwater can be reasonably anticipated based on average local rainfall, and whether this will even fill the proposed irrigation tanks.

ORG3-12

The R-DEIR also provides no analysis of water demand necessary to maintain adequate fire flows. For example, the 2016 California Fire Code recommends fire flow capacity of 1,500 gpm (gallon per minute) for a duration of two hours for buildings with (multi-level) floor area between 3600 sq. ft. and 22,700 sq. ft. *See* Cal. Fire Code (2016), App. B, § B105. The R-DEIR indicates only that “[o]ne 38,000-gallon tank would be provided for fire protection,” and that this “has been sized to support a fire flow demand of 1,000 gpm.” R-DEIR, 4.14-10. The R-DEIR conjectures that this tank would be filled between camping programs and then generate little demand. However, it provides no analysis to establish the adequacy of this quantity of water to provide for the project’s 14 residential buildings and 8500 sq. ft. multi-purpose building. There is no description of how the proposed 1,000 gpm flow rate will be achieved – and no consideration of what happens after this tank empties in 38 minutes. *Id.* At minimum, some analysis is needed to assess the adequacy of the proposed water supply to provide for fire flows, but this is lacking.

ORG3-13

The R-DEIR’s water supply calculations also fail to factor in the high volume of wastewater generated by the onsite water treatment system. The report estimates that backwash and brine from the reverse osmosis (RO) system will total nearly 20,000 gallons of water every two weeks. R-DEIR at 4.14-9. Assuming the estimates are correct, this comes out to an average of 1,415 gallons per day, or nearly a gallon per minute, that will be unusable. Thus, even supposing optimistically that the two wells do reliably produce 7.7 gpm, an estimated 13% of this water will not be available to meet the Project’s demand.⁹ This water is completely omitted from the R-DEIR’s estimate of peak water demand. *Id.*, at 4.14-7, Table 4.14-3. The plan to haul

ORG3-14

⁸ *See e.g.*, “What is Pioneer Camping? (The answer and Supply and Setup Tips),” <https://glampingorcamping.com/home/what-is-pioneer-camping/>.

⁹ This estimate may also be low, as many RO systems average 15-30% brine water, and efficiency may vary with temperature and pressure. *See* EPA, “Overview of Drinking Water Treatment Technologies” (last updated April 13, 2023), <https://www.epa.gov/sdwa/overview-drinking-water-treatment-technologies>.

wastewater away from the site is also problematic due to weight restrictions on Cull Canyon Road. Even a small tanker truck is likely to exceed the road's 7-ton weight limit, since 2000 gallons of water weighs more than 8-tons, not including the vehicle weight. *See supra* § I.C.

**ORG3-14
cont.**

As a result of these errors, the R-DEIR's conclusion that the two on site wells have sufficient capacity to meet the project's water demand is also incorrect. The R-DEIR proposes that the Project's MDD is only 3,975 gpd, but this is simply the sum of the average residential use (1,275 gpd) and the estimated campground use (2700 gpd), when based on average daily usage of only 25 gpd per person. R-DEIR, at 4.14-6. If the projected campground usage is increased to 50 gpd, as required by 17 C.C.R. § 30710, the MDD estimate increases to 6,675 gpd, or 4.64 gpm. Thus, even without factoring in water for agricultural use and fire flows, or applying a peaking factor, the *average* water demand exceeds the capacity of well 17-1 (3.0 gpm), and nearly equals that of well 20-1 (4.7 gpm).¹⁰ And, if we also factor in the average daily volume of treatment system waste flows, this comes up to 8090 gpd, or 5.6 gpm, which exceeds the capacity of either well individually. Thus, contrary to the R-DEIR (*see* 4.8-23, 4.14-7, -10), neither well has sufficient capacity to *individually* meet the Project's MDD, or peak demand, as required by 22 C.C.R. § 64554(c), which states that community water systems "shall be capable of meeting MDD *with the highest capacity source offline*." The proposed water supply is thus inadequate to meet the Project's demand, even without factoring in water for fire flows and agricultural production.

ORG3-15

There is also no analysis of cumulative impacts to the area water supply to evaluate how the proposed level of groundwater pumping will augment the total burden on the aquifer from existing groundwater pumping for agricultural, residential, and commercial uses that draw on the same aquifer. The R-DEIR concludes that there will be no cumulative impacts but provides no supporting evidence concerning the locations of neighboring wells or the existing water budget of the Cull Creek Canyon aquifer. But without a detailed water balance, there is no support for this conclusion. *See App. B*, at p.3.

ORG3-16

In sum, the R-DEIR's analysis of the project's potential impacts on water resources is inadequate because the estimated water demand is inaccurate, violates 17 C.C.R. § 30710, and omits agricultural activities and fire flows, and because the MDD is not calculated correctly, and the source wells are inadequate to meet MDD with the highest-capacity source offline, per 22 CCR § 64554. As a result, the analyses of standards HYD-2, UTIL-1, UTIL-2 and UTIL-7 are inadequate and the conclusions are not supported by substantial evidence.

ORG3-17

3. The analysis of the proposed onsite wastewater treatment system (OWTS) is inadequate.

As with the DEIR, the R-DEIR's analysis of potential impacts related to the project's proposed septic system, or OWTS, is also inadequate. *See* Previous comments, App. A, §§ I.A.3 and I.C. In addition to issues raised in previous comments, the OWTS analysis also relies on incorrect water demand estimates, as discussed above. That is, the proposed OWTS was designed to meet system capacity based on average daily water usage of 25 gpd instead of 45 gpd, as indicated for children's camps with central facilities. R-DEIR, App. G at *73 (EPA manual). As a result, the current design has insufficient capacity to meet the actual flows from

ORG3-18

¹⁰ These estimates may not be reliable since neither well appears to have been examined for seasonal variations.

the project. In addition, the R-DEIR does not examine potential environmental impacts due to system overflow, such as inadequate filtration or impairment to water quality.

**ORG3-18
cont.**

Moreover, the proposed location for the septic system is less than 150 feet from Cull Creek and the two drinking water wells. R-DEIR App. G, p. *35. The appended Geotech Report, also indicates that the water table is only 30-40 feet below the surface, increasing the risk that contaminated wastewater could impact the shallow aquifer. R-DEIR Appendix E, p.13. The proposed septic field is also located up-stream from the wells, especially well 20-1, which raises additional concern that wastewater will flow in that direction and percolate into the water table feeding the well, thereby contaminating the proposed water supply. App. B, p.2. Additional analysis is needed to ensure that the wastewater treatment system is adequately sized and to identify potential impacts related to overflow and site hydrology. *Id.* However, because the actual waste flows may be significantly greater than projected, the proposed site may not have a feasible location for a septic adequate to meet the needs of the facility.

ORG3-19

In addition, new information included in Appendix J of the R-DEIR reports that excavations conducted in the area of the proposed staff residence for archaeological surveys identified “the presence of hydric soils indicat[ing] that the area is regularly saturated by water.” R-DEIR App. J, pp. 5-6. This area is adjacent to the proposed septic site, raising additional concerns that the proposed location for the OWTS may impair or be affected by perennial water features. This also appears to conflict with the soil analysis prepared for the OWTS, reported in Appendix G, which does not mention hydric soils. R-DEIR App. G., *36-38. The Geotech analysis also examined two soil trenches in this area and noted high moisture content in some samples. App. E, pp. 5, 10-11, 15, and App. C (*76-77), Exploratory Trench Log T19-3, T19-4. More information is needed to reconcile these several soil analyses and to verify whether hydric soils are present and, if so, to examine the risk that this could cause the proposed OWTS to impair water resources.

ORG3-20

The R-DEIR also no provides no analysis addressing whether plans to extend the project’s driveway/access road over the top of the existing septic field for the caretaker residence could impact the functioning of that system. Moving the road to avoid this issue is also problematic due to the adjacent riparian area and proximity of Cull Canyon Road. This too requires further analysis. Likewise, there is no analysis of the risk of building over the existing culvert, or potential impacts of moving it.

ORG3-21

Accordingly, the analyses of standards HYD-1 and UTIL-3 are inadequate and the conclusions are not supported by substantial evidence.

ORG3-22

B. The R-DEIR provides an inadequate analysis of potential impacts on wildfire risk.

The Project’s potential impacts on wildfire risk were previously addressed in the previous FCVC comments on the DEIR, which are incorporated herein. See App. A § I.B. The R-DEIR makes no substantive changes in response to those comments and continues to ignore the increased risk of human caused wildfires associated with bringing a large number of additional people into a High Risk Fire Zone.

ORG3-23

In addition, the proposed evacuation plan, which relies on offsite buses to be called to pick-up children in event of emergency, fails to address vehicle weight restrictions on Cull

ORG3-24

Canyon Road and potential contract limitations restricting school bus drivers from entering hazardous areas. R-DEIR § 4.15-17. Notably, Cull Canyon Road is not suitable for school bus travel due to vehicle weight restrictions prohibiting vehicles over 7 tons. *See Appendix C, Flooding and Road Hazards*, p. 3. Most standard (Type C) school buses exceed this limit, particularly when loaded with passengers.¹¹



Weight limit sign at intersection of Cull Canyon Road and Columbia Drive.

ORG3-24
cont.

The use of overweight buses may pose additional hazards for fire fighters and other residents relying on Cull Canyon Road as the sole evacuation route for the entire canyon. Further, because the road is narrow and lacks shoulders and turnouts, it is easily blocked by other large vehicles as well, increasing the risk that evacuation could be blocked or delayed in an emergency. *See App. C*, at 3(a). Emergency vehicles have also blocked the road when responding to emergencies, as in the case of a structure fire in 2019, where fire trucks completely obstructed traffic in both directions. *Id.* at (b). The alternative of using smaller vehicles also poses danger, as this would increase congestion with more vehicle traffic entering a hazardous zone, which could also obstruct outgoing traffic during an evacuation emergency, given the narrow road with no turnouts. It is also unclear that school bus drivers would be allowed to enter hazardous zones under their current contract and OSHA restrictions. Accordingly, the plan to employ buses for evacuation needs further evaluation.

ORG3-25

The proposal to rely on the proposed site's existing, below-standard bridge is also extremely concerning, particularly where large number of children could be affected by bridge failure.¹² The project envisions several vehicle parking spaces across the bridge from Cull Canyon Road, and relies on the bridge for pedestrian crossing and fire truck access to the site, should this be necessary. The potential for congestion during an emergency is not evaluated. The R-DEIR suggests that the substandard 14-foot bridge is not a problem, asserting incorrectly that a 20-foot access lane would extend all the way to the cabins. R-DEIR, p. 4.15-17. There is also no evidence that the local fire authority has signed off on this. *See* 14 C.C.R. §§ 1273, *et seq.*

ORG3-26

¹¹ *See e.g.*, “How much does a school bus weigh?”, <https://weights.guide/school-bus-weight> (last visited Jan. 12, 2024).

¹² In fact, FCVC members can attest that a previous bridge at the same site failed and was replaced by the current bridge.

(Fire Safety standards). The R-DEIR's further discussion of road capacity cites a "highway manual" and completely disregards the fact that Cull Canyon Road is not a highway, lacks shoulders and turnouts, and is not suitable for buses and large vehicles. R-DEIR, p. 4.15-17. The analysis is completely inadequate and fails to support the conclusion of no impact.¹³

**ORG3-26
cont.**

In addition, the R-DEIR also provides no supplemental analysis to examine the condition of the bridge and its moorings in the wake of the extreme rainfall and atmospheric rivers of winter 2022-23. Cull Canyon experienced extreme flooding and erosion, as well as road damage in January 2023, as a result of severe weather. Some pictures of this damage are provided in Appendix C, at 1.¹⁴ The river channel also eroded in many places, including at the proposed Mosaic site, as shown in Appendix C, at 2. The analysis of the stability and reliability of this structure is based on a Geotechnical report dated September 16, 2019, and has not been updated to ensure the bridge's condition and moorings remain stable. This report also states that it should not be relied on without further review if a period of 24 months has elapsed since the report date and the commencement of construction. R-DEIR App. E, p. *4 (cover letter), and p. 44 (*51). More than four years has elapsed since the report was prepared, indicating that it should not be relied on without further review.

ORG3-27

Importantly, the issue of wildfire risk affects the health and safety of everyone who lives and works in Cull Canyon. There is only one evacuation route for all of the residents, making fire season an exercise in trust and shared responsibility. It is well-established that wildfire risk increases when more humans are present in the area, as "nearly 85% of wildland fires in the United States are caused by humans."¹⁵ Campers may not fully appreciate the seriousness of this risk to lives and property. A fire at the Mosaic site would be devastating and likely would travel quickly due to steep hillsides and Canyon winds. The Columbia subdivision at the top of the ridge would also be at risk, which has not been evaluated. The risk to the entire community, and the children, demands a thorough analysis and weighs heavily against the wisdom of placing children in a high risk environment with limited options for evacuation.

ORG3-28

C. The R-DEIR fails to provide an adequate analysis of transportation impacts.

As noted above, the R-DEIR fails to address vehicle weight restrictions on Cull Canyon Road. R-DEIR § 4.15-17; Appendix C, at 1. This issue also underscores the inadequacy of the R-DEIR's transportation analysis. § 4.12. Neither the transportation analysis nor Appendix I: Focused Traffic Study identifies the vehicle weight restrictions or provides any analysis of alternatives to school busses for transporting children to and from the project or for emergency evacuation plans. Accordingly, more analysis is needed to address these issues and examine the potential impacts of alternatives to using standard, full size school buses.

ORG3-29

Notably, this issue also affects water trucks. The weight restrictions in the road, greatly limits the option of trucking out wastewater. A gallon of water weighs 8.33 lbs., which means a

ORG3-30

¹³ See also, Public Comment by Carolyn Millen (Jan. 18, 2024), noting fire hazards and lack of analysis.

¹⁴ See also, Castro Valley Vibe, "Current road conditions" (Jan. 11, 2023),

<https://youtu.be/8sJLcXRiAew?feature=shared>

¹⁵ See e.g., Nat'l Park Service, "Wildfire Causes and Evaluations," <https://www.nps.gov/articles/wildfire-causes-and-evaluation.htm> (citing 2000-2017 data based on Wildland Fire Management Information (WFMI) and U.S. Forest Service Research Data Archive (<https://www.fs.usda.gov/rds/archive/catalog/RDS-2013-0009.4>)).

trick hauling 2000 gallons of water would weigh over 8 tons, exceeding the 7-ton weight restriction on Cull Canyon Road. The R-DEIR overlooks this restriction completely and fails to examine the limiting aspects of the narrow winding road, which is a significant obstacles to the feasibility of the project as currently designed.

**ORG3-30
cont.**

More analysis is also needed to address wait time and emergency response in the event of a medical emergency. The narrow road could cause delays, which is not evaluated. It's also not clear if potential helicopter landing sites have been identified in the event that a life flight was needed. Improved emergency planning is needed to protect the health and safety of the campers.

ORG3-31

D. The R-DEIR provides an inadequate analysis of potential impacts on site geology and soils.

The Project's analysis of potential impacts on geology and soils was also addressed in the previous FCVC comments on deficiencies of the DEIR, which are incorporated herein with one exception. See App. A § I.D. The R-DEIR does respond to one issue raised in previous comments; namely, the omission of supporting documents from the Geotech report. The R-DEIR supplements Appendix E: GeoTech by including the previously omitted data from nine soil trenches that informed portions of the 2019 geotechnical analysis. R-DEIR, App. E, pp. *74-82 (App. C to the GeoTech Report). The R-DEIR's analysis is otherwise unchanged.

ORG3-32

In addition to comments raised previously, the R-DEIR fails to analyze the GeoTech reports recommendation that significant quantities of subsoil may need to be replaced to provide stable building footings for the project. In addition to expansive soils that would need to be replaced or compressed, the soil trench data also reveals a layer of unknown concrete and asphalt debris located at a depth of 3-5 feet below the surface in trenches 7-9, located at or near the site of the proposed multi-purpose building R-DEIR App. E, pp. 18, *80-82. The report recommends replacing expansive soils and excavating the debris layer, for removal or other treatment, to ensure a stable building surface. Id. at 18, 19-20, 23-25. The R-DEIR does not identify how the project proponents intend to address these issues and provides no analysis of whether soil replacement and treatment will cause additional impacts to soil erosion or loss of topsoil. R-DEIR at 4.5-13, -14 (GEO-2). There is also no discussion as to whether additional soil will be brought in, and if so, where this will be obtained and whether this will cause additional impacts.

ORG3-33

As noted above, the 2019 geological report is also outdated and provides no analysis of site changes that may have occurred as a result of the extreme rain events during winter 2022-23, such as landslides and changes to the creek channel. Notably, these types of changes are documented by pictures and videos and also reported in other public comments, which show without doubt that the extreme rain events caused mudslides and channel modifications in other parts of Cull Canyon. Appendix C, at 1-2. There is also no analysis of the risk that children could fall down the steep banks along Cull Creek, or that banks could give way due to overhangs or erosion from flooding. The R-DEIR also fails to examine the possibility that children could be swept into the creek. Recent flooding also raises concerns about construction impacts along the creek, which could further destabilize soils, increasing potential erosion during future flood events.

ORG3-34

The R-DEIR, however, downplays risks of flooding and landslides, but provides no updated information concerning the condition of the proposed site after the 2023 floods. The

ORG3-35

stability of the steep hillsides above the proposed residential cabins, as well as proposed construction sites bordering both sides of Cull Creek, requires additional surveys to evaluate potential risks and to assess the adequacy of proposed setbacks and stormwater drainage plans. Evidence of landslides or changes to the creek channel may require substantial modification of the current site plan, squeezed between a steep hillside and a riparian zone.

**ORG3-35
cont.**

Because the Geotechnical report was prepared in September 2019 and cannot be relied upon without further review after 2 years, an updated analysis is necessary to confirm that no significant changes to the site have occurred and the report's conclusions are still valid. R-DEIR App. E, pp. *4, and 44. The current analysis of Geology and Soils is thus inadequate.

ORG3-36

E. The R-DEIR provides an inadequate analysis of potential impacts to Biological Resources.

The R-DEIR's analysis of biological impacts is inadequate because it fails to address potentially significant impacts to sensitive and protected species, including Crotch's Bumble Bee and Mountain lions. It also provides no information concerning the methodology used for site surveys to identify sensitive native plants and animals, or the location and distribution of sensitive plant species. The impact analysis also fails to address potential impacts stemming from the operation of the project, impacts of grading and soil replacement, vegetation and tree removal, and additional impacts of clearing 100-foot fire breaks around the new structures.

ORG3-37

1. The R-DEIR fails to examine potential impacts to threatened and endangered species.

a. Crotch's Bumble Bee.

The R-DEIR states incorrectly that Crotch's Bumble Bee, Western bumble bee, and obscure bumble bee are not protected under state or federal Endangered Species Acts. R-DEIR at 4.3-15, -16. In fact, these bumble bee species are currently protected as candidate species under the California Endangered Species Act (CESA), Fish & Game Code §§ 2050 *et seq.*, as of September 30, 2022.¹⁶ Under CESA, species classified as a candidate species are afforded the same protection as listed species. 14 C.C.R. § 783.1.

ORG3-38

While the R-DEIR acknowledges that occurrences of one or more of these endangered Bumble Bees have been reported in the Castro Valley area, it then concludes without supporting evidence that the presence of such bees at the project site is "highly unlikely" due to the absence of grassland or scrub habitat. R-DEIR at 4.3-16. However, the R-DEIR elsewhere indicates that some grassland and scrub species are present at the site. *Id.* at 4.3-7. In addition, guidance published by the California Department of Fish and Wildlife (CDFW), states that suitable nesting habitat for *bombus* species can include bare ground, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs, as well as manmade structures, and "leaf litter and woody forest edge" provide overwintering habitat.¹⁷ In addition range maps for Crotch's Bumble Bee indicates that it could occur in this area, and that Western Bumble Bee historically occurred in

ORG3-39

¹⁶ CDFW, California Natural Diversity Database (CNDDB) (Oct. 2023), p. 5.

¹⁷ CDFW, Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (June 6, 2023), p. 3, and n.2.

this area.¹⁸ CDFW’s Bumble Bee survey guidance also cautions that the “[a]bsence of occurrence records should not be interpreted as absence of the species at or near a given site” and surveys “should be conducted” when there is suitable habitat in the area.¹⁹ Moreover, “[i]t is important to assess habitat both within the proposed project area and in the surrounding landscape . . . [to] help predict whether candidate species could be nesting in adjacent areas and foraging within the project site” or vice versa.²⁰

**ORG3-39
cont.**

Here, the R-DEIR indicates that no site surveys were conducted to assess the presence of Crotch’s Bumble Bee, or any other endangered bumble bee, or to assess the presence of suitable foraging or nesting habitat within the site and surrounding landscape. The R-DEIR should be updated to address this omission by conducting surveys in accordance with CDFW guidelines.

b. Mountain Lion.

The R-DEIR recognizes that Mountain Lions in the project vicinity are a protected species under CESA, and acknowledges that lions may use the project site, but nevertheless fails to examine the Project’s potential impacts on Mountain Lions. R-DEIR § 4.3-15. Mountain Lion populations in Southern California and the Central Coast region, including the Central Coast Northern (CC-N) population which includes Alameda County, have been recognized as a candidate species under CESA since April 2020.²¹ The R-DEIR affirms that Mountain Lions are known to forage in the area and “most likely forages and moves across the project site and surrounding areas,” but provides no impact analysis, instead concluding without evidence that the site and surrounding natural areas are unsuitable for denning and not essential habitat. *Id.*

ORG3-40

Given that Mountain Lions are likely to use the site and surrounding area, the Project’s potentially significant impacts on Mountain Lions should be examined and mitigated. This includes potential impacts related to increased risk of human-lion conflicts, increased noise and human presence, and impacts to wildlife habitat corridors. Notably, the Project’s proposed agricultural activities pygmy goats and chickens could attract mountain lions to the area and lead to conflicts or damage that requires nonlethal or lethal removal of such mountain lions. Pygmy goats released to graze the site, in particular, could be attractive to lions seeking an easy meal. Mature lions, once attracted to the area, could also pose a risk to children and adults; although attacks on humans are rare, they do occur, and generally require the destruction of the animal. These impacts require further analysis to evaluate the risk that lions will be attracted to livestock and develop appropriate mitigation measures. reduce the risk that livestock will attract predators and cause lion conflicts.

ORG3-41

In addition, there is also a risk that increased noise and human activity could deter Mountain Lions from using the site as a foraging area or travel corridor. The extent to which Mountain Lions currently use the site is unknown, since no surveys have been conducted. Cull Creek is also “an important corridor for wildlife movement.” R-DEIR § 4.3-17. More analysis is

ORG3-42

¹⁸ *Id.* at p. 11.

¹⁹ *Id.* at p. 2.

²⁰ *Id.* at p. 3.

²¹ Cal. Fish and Game Comm’n, Notice of Findings: Mountain Lion (Apr. 21, 2020); *see also* Center for Biological Diversity, et al., Mountain Lion Petition (June 25, 2019), <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=171208&inline>.

needed to evaluate whether the noise and impacts from construction, and increased noise and human activity from the operation of the Project, will adversely impact the movement of Mountain Lions through the area. Further, the removal of trees and vegetation for grading, and the construction of fuel breaks around structures will also eliminate the cover available to wildlife, which could also impact wildlife movement through the area. The R-DEIR fails to examine these potentially significant impacts to mountain lions, or to evaluate feasible mitigation measures.

**ORG3-42
cont.**

c. American Badger.

The R-DEIR concludes on the basis of undisclosed survey methods that badgers are unlikely to occur in the area, reasoning that “suitable grassland foraging habitat is absent from the proposed development area on the site and no evidence of dens or diggings by this species were observed during the field surveys.” R-DEIR 4.3-15. However, many surrounding properties do have grasslands and local residents have reported sightings of badgers in the area to CDFW. One canyon resident also found skeletal remains of badger last year. See Appendix D. Accordingly, additional consideration is needed to evaluate whether badgers may use this area for foraging and to assess the need for appropriate mitigation. In addition, wildlife survey methodology, timing, and data should be fully disclosed.

ORG3-43

d. Additional Inadequacies.

The R-DEIR also fails to provide any detailed information concerning the scope and methodology used for habitat assessment and plant surveys. The R-DEIR states that native plants were identified through a field reconnaissance survey conducted in March 2021, with follow-up surveys in April and May 2022, but does not disclose the actual data from these surveys showing the dates, locations, and frequency or distribution of the species that were observed. R-DEIR § 4.3-12. There is also no discussion concerning the rationale for the dates selected and whether any of the species screened for would have been difficult to observe at these times. *Id.* Appendix D provides a summation of results consisting of a list of plants that were screened for that indicates whether or not they were observed, but provides no details concerning frequency or distribution. R-DEIR App. D, pp. *3-6. As a result, it is impossible to determine which species are likely to be affected by the grading and clearing activities required by the Project. Notably, in addition to the grading required for building and road construction within the proposed building envelope, fire protection requires additional vegetation clearing extending 100 feet from the structures into surrounding habitat. R-DEIR, § 4.15-20. The Geotech report also indicates that grading required for construction should extend at least ten feet beyond the actual building areas to provide for drainage, also increasing the impact area. R-DEIR, App. E, § 6.1.13. The extent to these additional clearings will impact sensitive species or extend into riparian areas is also not disclosed or otherwise mitigated.

ORG3-44

In addition, there is no evaluation of the potentially significant impacts of the proposed activity of grazing pygmy goats on 25 acres of the site. R-DEIR, Appendix K. Goats are relatively unselective herbivores, and grazing may impact sensitive native plants as well as weeds and invasive species. The potential impacts of grazing on native plant communities, sensitive species, and wildlife habitat are not examined anywhere in the R-DEIR.

ORG3-45

Similarly, the R-DEIR also provides inadequate information concerning how and when

ORG3-46

wildlife surveys were conducted. The R-DEIR states only that “[a] habitat assessment was conducted by the EIR biologist as part of the field surveys of the proposed development area.” R-DEIR § 4.3-12. However, no documentation is provided concerning the dates, methodology, or data collected. Appendix D provides only a print-out of species information from the CNNDDB database. R-DEIR App. D, pp. *7-16. There is no information from which to ascertain the scope of surveys or whether they were conducted at a time or times when species were likely to be present and observable. The CNNDDB print-out also indicates that the reported information expired on Dec. 3, 2022, and is thus no longer reliable. *Id.* at *16.

**ORG3-46
cont.**

The R-DEIR also fails to evaluate or mitigate the impacts of tree removal and increased noise on wildlife and birds using the area. The R-DEIR states that approximately 44 trees will need to be removed to make way for project construction, 32 of which are native oaks and redwoods. R-DEIR § 4.3-27. There is no analysis of whether this will impact migratory birds, or endangered birds, bats, or raptors using of the area. The R-DEIR also indicates that the project will generate significant noise, both during construction and as a result of the Project’s activities bringing groups of 75-95 kids to the site for camping programs. R-DEIR § 4.10.3. However, there is no discussion of the potential impacts of noise on wildlife use of the area. The potential for large groups to further impair biological resources through trampling and incidental damage is not addressed.

ORG3-47

In addition, the DEIR fails to evaluate the presence plants and wildlife that may pose a safety hazard to children. This includes wild pigs, which may use the site for foraging or grubbing. Given that pigs can be aggressive, often travel in groups, and forage at night, this could be a safety risk for children attending camp. Certain plant species also pose risks. Poison hemlock, in particular, is common in this area and can be fatal if ingested.²² The absence of fences along site boundaries and waterways, while beneficial for wildlife, could also pose risks for children who encounter animals like wild pigs or lions when walking alone or in small groups.

ORG3-48

F. The R-DEIR provides an inadequate analysis of noise impacts.

Deficiencies of the Project’s analysis of impacts from noise was addressed in FCVC’s previous comments on the DEIR. *See* App. A, § I.E. The DEIR failed to support its conclusion that noise generated by the project and its construction would have a less than significant impact on the environment, utilized an incorrect standard, and omitted key details from the impact analysis. *Id.* The proposed site also sits in a bowl that causes sound to amplify and echo. Because the R-DEIR makes no substantive changes to the analysis provided in the DIER (*see* R-DEIR § 4.10.3), those comments also apply to the R-DEIR, and are incorporated herein.

ORG3-49

G. The R-DEIR fails to provide an adequate analysis of agricultural impacts.

FCVC’s previous comments on the DEIR emphasized the Project’s failure to comply with the Williamson Act, inconsistency with agricultural zoning and potential impacts on neighboring agricultural land uses. *See* App. A, §§ I.F and VI. Those comments also apply to the R-DEIR and are hereby incorporated.

ORG3-50

²² See “Poison Hemlock,” <https://www.inaturalist.org/taxa/52998-Conium-maculatum> (last visited Jan 18, 2024.)

While the R-DEIR supplements the DEIR analysis with a new Appendix K that purports to establish the Project’s compatibility with the Williamson Act, the addition provides surprisingly little detail concerning an activity here characterized as the primary purpose of the Project. R-DEIR, App. K. In fact, the primary purpose of the project is to build a residential camp to house the Mosaic Project’s Outdoor Camp program, which is a well-established educational program that has never involved a significant agriculture component. Adding a garden and few goats and chickens does not make agriculture the primary purpose of the project. Rather, it appears that the proposal to sell CSA shares has been tacked on solely as a means to generate agricultural income in the effort to meet the requirements of the Williamson Act.

**ORG3-50
cont.**

These deficiencies are further elaborated in section III, below.

H. The R-DEIR fails to provide adequate analysis of the Project’s inconsistencies with zoning and land use policies.

The Project’s analysis of impacts pertaining to land uses also overlooks key provisions of the applicable zoning code provisions and planning documents. R-DEIR § 4.9.3. This includes failure to comply with building requirements of Measure D, failure to comply with residential density restrictions, failure to comply with the riparian buffer zone, and inconsistencies with other general plan policies. These deficiencies were previously noted in FCVC’s comments on the DEIR and also apply to the R-DEIR, and are therefore incorporated by reference. *See* App. A, §§ I.G, II.B, and III. These issues are also further elaborated in section IV, below.

ORG3-51

In addition, the R-DEIR’s analysis of land use impacts fails to evaluate the proposed Project’s need for a variance. That is, while the project description notes that the site’s existing single family home, the caretaker residence, required a variance due to restrictions on building density in Agricultural zoning districts. R-DEIR, p. 3-3. The variance was necessary because the parcel is only 37 acres rather than 100 acres, which is the minimum building site required in the Agricultural (“A”) zoning district. *Id.* Accordingly, the Project’s proposed plan to add an additional 8-bedroom residence, is likely subject to the same restriction and will require an additional variance. In other words, the proposed use is inconsistent with the A district’s building density requirements. However, the R-DEIR fails to identify this issue, noting only that the existing house will require a site development review, while the Project will require a conditional use permit (“CUP”).

ORG3-52

The R-DEIR also fails to acknowledge that the previous variance and CUP for the site expired in 2003. R-DEIR at p. 3-3; LUP-2. This is detailed in a Zoning Verification Letter for the property, which notes that Variance V-11293 and CUP C-7540 expired in January 2003, and “the subject use does not have continued conditions of approval [and] is not a conforming use.”²³ However, the Land Use analysis omits this information completely and suggests that the proposed use complies with local planning and zoning requirements. It also fails to explain whether an additional variance will be necessary, or why the additional residential building would be exempted from this requirement. There is also no discussion of Measure D, Section 19(c), which prohibits variances for uses inconsistent with Measure D.

ORG3-53

²³ Alameda County Community Devlpt. Agency, Revised PLN2018-00027 – Request for a Zoning Verification Letter (for the property at 17015 Cull Canyon Road, APN 085-1200-001-16) (March 15, 2018).

For the above reasons, the R-DEIR fails to provide sufficient evidence and analysis to inform decision-makers and members of the public of the Project's potentially significant environmental impacts, as required by CEQA.

ORG3-54

II. The R-DEIR Fails to Provide an Adequate Description of the Environmental Setting.

Under CEQA Guidelines section 15125(a), an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. 14 Cal. Code Regs. § 15125(a). An EIR's description of this environmental setting should be sufficiently comprehensive to allow the project's significant impacts "to be considered in the full environmental context." 14 Cal. Code Regs. § 15125(c). This should also highlight "environmental resources that are rare or unique to that region and would be affected by the project."²⁴ The environmental setting should also address "any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans." 14 Cal. Code Regs. § 15125(d).

ORG3-55

Here, like the DEIR, the R-DEIR's description of the environmental setting fails to describe significant features of the regional setting that have a bearing on the project's potentially significant impacts. For this reason, FCVC's previous comments addressing these deficiencies of the DEIR are also applicable to the R-DEIR and are incorporated herein. *See* App. A. § II. This includes the failure to adequately describe the project's physical setting and important limitations of Cull Canyon as well as failure to adequately describe how the project is situated amidst existing land uses.

ORG3-56

FCVC's previous comments identified four physical limitations affecting the project setting that are not clearly addressed in the DEIR or R-DEIR: (1) Steep terrain and lack of secondary access roads increases fire risk; (2) Limited water sources and a confined aquifer that have already caused water shortages in the area; (3) Cull Creek is subject to flash floods, which may pose safety hazards; and (4) Risk of liquefaction and seismic features throughout the canyon may impair access/evacuation routes independent of risks on the project site. App. A. § II.A. In addition, Cull Canyon Road is narrow, lacks shoulders or turnouts, and is prone to flooding and landslides, which affects ingress and egress for the canyon's entire population. App. C. These limitations affect the lands surrounding the project site, as well as the project site, and are not adequately addressed in the R-DEIR.

ORG3-57

The previous comments also address the DEIR's, and R-DEIR's, failure to adequately describe the rural and the agricultural character of the environmental setting, including legal protections enacted to preserve this character, including: (1) Alameda County's agricultural zoning designation; and (2) Measure D. App. A. § II.B. These zoning and land use restrictions are inconsistent with a high density residential camp involving more than 100 people. Notably, the existing caretaker residence had to be approved under a variance because even a single residential home violates the applicable zoning requirements, which only allows residential use on parcels of 100 acres. The proposed Project would add another larger residence as well as facilities to house and feed 108 campers. While the proponents seek to pass this off as a

ORG3-58

²⁴ *Id.*

“recreational use” allowed under the Agricultural zoning designation, this ignores the distinction between low-intensity and high-intensity recreation. For example, playing ball in a field is distinguishable from building an indoor stadium. Similarly, building hiking trails and tent campsites would retain the natural character of the land, while in contrast, building a large, 8-bedroom home, with twelve permanent cabins, and a large multi-purpose building would not preserve the land.

**ORG3-58
cont.**

Thus, much like the earlier DEIR, the R-DEIR, fails to provide a full and informative description of the environmental setting that recognizes and addresses these important limitations.

ORG3-59

III. The Project Fails to Comply with the Williamson Act.

As noted above with respect to Agricultural impacts inadequately addressed in the R-DEIR, the Project fails to comply with the Williamson Act.

ORG3-60

A. The Project’s primary purpose is not commercial agriculture.

Pursuant to Uniform Rule 1 of Alameda County’s Eligibility Requirements for Agricultural Preserves and Williamson Act Contracts for Agriculture, “the contracted land must be devoted to commercial agriculture as the primary use of the land.” Uniform Rule 1, § I.C. In addition, for parcels under 40 acres, “if compatible use is proposed, at least 50% of the parcel must be used for commercial agriculture to ensure that any development is incidental to the agricultural use.” *Id.* § I.C.3.(b)(3).

ORG3-61

Here, although R-DEIR Appendix K purports to establish otherwise, the Project’s primary purpose is not commercial agriculture. Notably, the Mosaic Project’s mission has nothing to do with agriculture. The Mosaic Project website describes their actual mission, which is focused on developing skills of community building, empowerment, and peacemaking.²⁵ The Outdoor Project is described as “immersive, experiential education program” with an “evidence-based, social-emotional learning curriculum is designed to address issues of difference, build self-esteem, and inspire inclusion.”²⁶ There is no mention of agriculture. While the DEIR and R-DEIR include an agricultural element, there is no serious question that the primary purpose of the project is educational, and the overriding goal of the Proposed Project is to establish a permanent site for the Outdoor Project, by building an Outdoor Project Camp. The Project’s founder has also stated publicly that the Outdoor Camp is a school and not a summer camp.²⁷

ORG3-62

Notably, the R-DEIR provides no analysis of how agricultural products will be processed and prepared for distribution, and no discussion of a sanitary facility for preparing goats’ milk and cheese for CSA boxes and consumption by children attending camp.²⁸ There is also no analysis of the water supply required for the Project’s agricultural component. In fact, the R-DEIR’s impact analysis states that the Project proposes to rely entirely on gray water and rainwater for irrigation and agricultural activities, but provides no analysis of rainwater

ORG3-63

²⁵ Mosaic Project, “Mission,” <https://mosaicproject.org/about/mission/> (last visited Jan 14, 2024).

²⁶ Mosaic Project, “Outdoor Project,” <https://mosaicproject.org/outdoor-project/> (last visited Jan 14, 2024).

²⁷ See e.g., Public Comment by Cull Canyon Resident Teddy Seibert (Jan. 18, 2024),

²⁸ *Id.*, noting the R-DEIR’s failure to include a serious analysis of the facilities, equipment, and procedures needed to conduct the proposed commercial agricultural activities.

catchment or quantity needed to accomplish these objectives. Moreover, there appears to be no contingency plan for drought years where sufficient water may not be available, suggesting that the agricultural purpose would need to be abandoned if not adequately supported by rainwater. These omissions would appear to be highly unusual if the primary purpose of the project was in fact agricultural production, and not an educational children's camp in keeping with the applicant's mission.

**ORG3-63
cont.**

Further, the decision to use at least 50% of the land for grazing goats is also accompanied by no rationale or analysis of potential impacts to native plants or wildlife habitat. Appendix K simply states that 25 acres of the 37-acre site will be grazed, but provides no analysis to support this arbitrary figure. Again, this appears to be devised solely for the purpose of tacking on an agricultural component in the effort to shoehorn an educational project into the constraints of the Williamson Act.

ORG3-64

B. The Project does not meet the Williamson Act's building restrictions.

Compatible uses under the Williamson Act must also meet the requirements of Uniform Rule 2, which requires buildings to comply with maximum building intensity and 2-acre building envelope requirements, consistent with Measure D and the A-Designation. Uniform Rule 2, § I.B. That is, all residential and residential accessory buildings "shall have a maximum floor space of 12,000 square feet" and all buildings "shall be located on a contiguous rectangular building envelope not to exceed 2 acres." *Id.* Residential units on contract lands are also restricted to habitation by owners, immediate family members, agricultural employees, seasonal laborers, or caretakers. *Id.* § II.A.1. In addition, passive recreational use "is limited to land in its agricultural or natural state." *Id.* § II.C.2.a.

ORG3-65

Here, the Project's proposed buildings are not fully contained within a contiguous *rectangular* 2-acre proposed buildings requirements. As shown in Figure 3-4 of the R-DEIR, the purported building envelope is shaped more like a guitar than a rectangle. While the main cluster of buildings on the west side of the creek appears to be laid out in a more or less rectangular pattern, the "envelope" boundary then traces the road across Cull Creek and widens again to encompass the mobile home site and parking areas on the east side of the creek. This requirement therefore is not met.

ORG3-66

In addition, if the cafeteria/mess hall building is recognized as a residential accessory building, as the sole kitchen and dining hall for guests residing in the cabins, then the total residential floor area is 18,173 sq. ft., which exceeds the allowable floor space of 12,000 sq. ft.

ORG3-67

It also appears highly unlikely that the Project can comply with the further requirement that all residential buildings be occupied by the property owner, an immediate family members, or agricultural caretakers, or agricultural workers or laborers. Neither the R-DEIR nor Appendix K addresses this issue. While the caretaker residence may meet this requirement, the Project description indicates that the staff residence will be occupied by Mosaic Project staff, at least some of whom are more likely to be educators or Outdoor Project staff rather than agricultural workers. In addition, the cabins provide temporary housing for students and educational support staff or volunteers that are not agricultural workers. Therefore, the Project fails to comply with the Williamson Act.

ORG3-68

IV. The Proposed Project is Inconsistent with Applicable Zoning Requirements and Land Use Plans.

As noted in FCVC’s comments on the DEIR, the proposed Project fails to comply with important zoning code provisions and applicable land use plan policies. This includes the building intensity restrictions imposed by the A District zoning designation and Measure D. *Supra* §§ I.G, III.B. Additional inconsistencies identified in the DEIR also apply to the R-DEIR and are incorporated here by reference. *See* App. A. § III.

ORG3-69

Pursuant to Government Code section 65860, zoning and land use approvals must be consistent with the policies and requirements of the applicable general plan. Land use approvals must also comply with the applicable zoning ordinances.

ORG3-70

As noted previously, the Castro Valley General plan designates Cull Canyon as an area where special planning efforts are needed to address unique features, including biological resources and steep terrain. The plan states that “development in this area should be limited to protect these sensitive areas.” Castro Valley General Plan at 3-12 (March 2012).

ORG3-71

Notably, the proposed Project is still inconsistent with Alameda County General Plan (“ACGP”) policies concerning fire safety. In particular, Countywide Safety Element, Policy 8, provides that “[t]he County shall limit residential development to very low densities in high fire hazard zones identified in Figure 5.,” which clearly includes Cull Creek Canyon and the proposed site. Countywide Safety Element, pp. 25, 30. The East County Area Plan (“ECAP”) states similarly that “[t]he County shall limit residential development to very low densities in high fire hazard zones as identified by the Fire Hazard Severity Scale.” ECAP, p. 76. Because the proposed project is not low-density it conflicts with these general plan policies.

ORG3-72

In addition to those points incorporated by reference, the proposed Project also appears to violate the County’s Watercourse Ordinance, by including road construction within the riparian setback, or buffer zone. Alameda Cty. Code § 13.12.310-320. This is evident in R-DEIR Figure 3-4, where the road appears to cross more than 15 feet into the setback area. Notably, this fails to address additional impacts from grading to prepare the roadbed and stabilize the shoulders of the proposed road. The proposed parking area on the east side of the creek near the bridge also appears to touch or cross the setback boundary, indicating that construction activities may cross into this area. These violations increase risk of soil erosion and sediment pollution, which is also contrary to Castro Valley General Plan Policy 7.1-5 Riparian Habitat: “New development shall not disturb any riparian habitat.” Castro Valley General Plan, at 7-11.

ORG3-73

Thus, the updated Project remains inconsistent with multiple zoning ordinances and general plan policies.

ORG3-74

V. The R-DEIR Fails To Consider an Adequate Range of Alternatives.

The R-DEIR fails to consider an adequate range of alternatives to the proposed project. It not only fails to consider any alternative locations, but also fails to support its conclusion as to the Environmentally Superior Alternative.

ORG3-75

Pursuant to CEQA Guidelines, the “key question and first step in analysis is whether any

ORG3-76

of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.” 14 Cal. Code Regs. § 15126.6(f)(2)(A). If the lead agency concludes that no feasible alternative locations exist, “it must disclose the reasons for this conclusion, and should include the reasons in the EIR.” 14 Cal. Code Regs. § 15126.6(f)(2)(B).

Notably, “[t]he process of selecting the alternatives to be included in the EIR begins with the establishment of project objectives by the lead agency. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings.” *In re Bay-Delta*, 43 Cal.4th 1143, 1163 (2008) (internal citations omitted). Project objectives may not be so narrowly defined that no other alternatives can be considered. *We Advocate Thorough Envtl. Review v. Cty. of Siskiyou*, 78 Cal. App. 5th 683, 692-93 (2022). Rather, the failure to consider any other site is prejudicial because “it dismissively rejected anything other than the proposed project . . . [thereby] prejudicially prevent[ing] informed decision-making and public participation.” *Id.* at 693.

Here, although the R-DEIR considers one additional alternative as compared to the DEIR, it still fails to evaluate any alternative location for the project. R-DEIR, 5-3. As with the DEIR, the only rationale offered for rejecting an alternative location states: “An alternative location for the proposed project was considered infeasible due to availability of sites that would support the project’s objectives.” *Id.* Again, there is no indication of any effort to identify alternative locations or identification of sites that were considered but found infeasible. Instead, the possibility of an alternative location is dismissed without evidence of due consideration.

Accordingly, the failure to examine alternative sites, as elaborated in FCVC’s comments on the DEIR also applies to the R-DEIR, and are incorporated here by reference. *See* App. A, § V.

In addition to the “No Project Alternative,” the R-DEIR considers the Reduced Capacity Alternative”(formerly called the “Reduced Development Alternative”) and adds an additional option called the “Reduced Building Footprint Alternative.” R-DEIR, 5-3. While the Reduced Capacity would reduce the building footprint and lower the number of students in each program from 95 to 50, the Reduced Building Footprint Alternative would modify the site plan by moving the council ring out of the riparian setback and reducing the building size but still maintain 95 students in each camp program. *Id.*

The analysis of alternatives concludes that the Reduced Building Footprint Alternative is the Environmentally Superior Alternative, because it would allow the same number of students to attend the program. Notably, this fails to consider the potential benefits of the Reduced Capacity Alternative in relation to water supply and hydrology, or limitations on using large buses for transportation and emergency evacuation plans. Fewer participants could also reduce potential noise impacts on neighbors and wildlife. Clearly, a smaller population intensity could reduce a variety of potential impacts. However, despite admitting that both alternatives would meet *all* of the Project’s objectives, the Reduced Capacity Alternative was rejected solely because it would not serve as many students. R-DEIR, 5-22. The R-DEIR fails to explain how a larger number of students using water and creating waste, for example, would not result in

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greater environmental impacts than a smaller number. Accordingly, the conclusion appears to be illogical and arbitrary.

In sum, none of the alternatives considered address the larger issues of housing the camp in a box canyon with high fire risk, no secondary evacuation routes, and a limited water supply. Nor does the analysis of alternatives explain why no alternative sites were considered. As a result, the analysis of alternatives is inadequate and prejudicial.

VI. CONCLUSION

For the foregoing reasons, the R-DEIR is inadequate. It fails to disclose critical information or to provide supporting evidence for its conclusions, and fails to provide an adequate evaluation of potentially significant environmental impacts, as well as hazardous conditions that could affect the health and safety of Project participants and area residents. The Mosaic Project's educational programs merit a better location with adequate access routes, adequate water supply, fewer safety hazards, and fewer environmental impacts.

Sincerely,



Susann M. Bradford
Greenfire Law, PC

Enclosures:

Appendix A: FCVC Public Comment on The Mosaic Project Draft EIR (Nov. 21, 2022)

Appendix B: Water Supply Comments by Roux Associates, Inc.

Appendix C: Flooding and Road Hazards

Appendix D: Appendix D: Evidence of Badger Activity in Area

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cont.

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Appendix A

FCVC Public Comment on The Mosaic Project Draft EIR (November 21, 2022)

ORG3-82



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November 21, 2022

By Electronic Mail

Sonia Urzua, Senior Planner
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224 W. Winton Avenue #111
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RE: Public Comment; The Mosaic Project Draft EIR (October 2022), SCH No. 2021110301

Dear Ms. Urzua, et al.,

**ORG3-82
cont.**

Thank you for the opportunity to comment on The Mosaic Project Draft EIR (“DEIR”). The following comments are submitted on behalf of Friends of Castro Valley Canyonlands (“FCVC”). FCVC is an association of concerned citizens and Alameda County residents who advocate for the protection and preservation of the agricultural character and unique qualities of the Castro Valley Canyonlands.

In this comment, FCVC identifies significant deficiencies in the DEIR’s analysis of the proposed project, multiple inconsistencies with applicable planning documents, and potential violations of state and local law. The DEIR fails to inform decision-makers and the public of all the potentially significant environmental impacts the project is likely to have, fails to provide substantial evidence supporting several of its conclusions, fails to identify inconsistencies with the Alameda County General Plan (“General Plan”), Castro Valley Area Plan (“Area Plan”), East County Area Plan (“ECAP”), and fails to address restrictions imposed by state law and County ordinances. The DEIR also fails to provide for alternative sites, including potential sites within the Urban Growth Boundary applicable to the Castro Valley Canyonlands.

In addition, FCVC previously requested that the County release the proponent’s hydrological study prepared by Balance Hydrologics, which is referenced in the DEIR at Section 4.14.1.2 but not included in the DEIR as an attachment or within the appendices.¹ FCVC and this

¹ DEIR at 4.14-5.

firm formally request that the County extend public comment to allow public review and comments on this critical document, which has yet to be released. Because California Environmental Quality Act (“CEQA”) requires that a DEIR must “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities,”² omitting “material necessary to informed decision making and informed public participation” subverts the purposes of CEQA and is a fundamental and prejudicial error.³ There can be no doubt that the County’s failure to produce a complete Draft EIR for public review and comment renders any future decision approval of a final EIR vulnerable to vacatur and reversal upon judicial review.⁴

I. The DEIR fails as an informational document because it fails to provide sufficient analysis and supporting evidence from which to evaluate the project’s potential environmental impacts.

An “EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.”⁵ The present DEIR fails to provide key information in several subchapters of its assessment of potential environmental impacts.

A. The DEIR omits key information concerning the proposed site’s hydrology and available water supply.

The DEIR omits key information concerning the proposed site’s hydrology. The DEIR states that “Balance Hydrologics was retained to conduct groundwater exploration and identify potential water supply sources for the project.”⁶ However, only conclusions are described and the actual study on which these are based is not provided. As a result, the proponent’s claim to have secured an adequate water supply for the project is not supported by substantial evidence.

Moreover, due to the County’s failure to produce the Balance Hydrologics report with the Draft EIR, FCVC’s environmental consultant, Dr. Andrew Zdon with Roux Consulting Services, could not complete his review of the Draft EIR before the comment deadline ended on November 21, 2022. I am attaching a letter Dr. Zdon prepared highlighting the information the Draft EIR appears to have failed to consider, while lamenting the fact that he could not complete his review of the Draft EIR due to the missing report.⁷ Indeed, the hydrology report would have contained several pieces of critical information related to well depth, groundwater levels, and hydrologic connections between groundwater and surface water that are necessary to inform any analysis on water availability for both routine and emergency uses and pollution pathways. The County simply must release the report and allow the public time to review and consider the information within it before it can close the comment period on the Draft EIR.

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² 14 Cal. Code Regs, § 15002(a)(1) (14 Cal. Code Regs., §15000-15387 are referred to hereafter as the “CEQA Guidelines”).

³ *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (citations omitted).

⁴ *Id.*

⁵ *Cleveland Nat. Forest Foundation*, 3 Cal. 5th 497, 511 (2017).

⁶ DEIR at 4.14-5.

⁷ Attachment A: Andy Zdon, Roux Associates, Inc. Memorandum Re: Water Supply Comments (Nov. 17, 2022).

1. A transparent analysis of site hydrology is necessary to identify whether the project has identified a sufficient water supply.

Before approving any project, the County must determine that sufficient water is available to support the proposed use and satisfy all public health and safety mandates, including fire flow requirements.⁸ The County also has an affirmative duty to protect the health and safety of existing residents, as well as the public rights to drinking water and the protection of public trust resources.⁹ The DEIR fails to provide sufficient information to make these determinations.¹⁰

The DEIR states that the two existing onsite wells have the combined capacity to produce 7.7 gallons per minute (gpm), which equals 462 gallons per hour.¹¹ The DEIR concludes that these wells, combined with storage tanks, limited rainwater catchment, and seasonal greywater, are sufficient to provide an adequate water supply for the proposed project. However, these conclusions are not adequately explained due to the omission of supporting documentation.

The DEIR also fails to provide clear support for its estimates of projected daily water use associated with the project. The DEIR is consistent with County guidelines in estimating 150 gallons per day (gpd) per bedroom for the 9-11 bedrooms of the proposed residences but adopts a much lower estimate of 25 gpd per person for the 108 cabin occupants.¹² The reason for this is unclear but references the sewage outflow estimates utilized in Appendix G, the wastewater treatment system analysis.¹³ A close inspection of this source shows that the estimate is not for daily water demand at all, but is based on estimated wastewater flows for a “pioneer type” campground,¹⁴ which is not defined, but appears to refer to rustic campsites that may have toilets and a spigot for water, but no other plumbing or access to showers or kitchens.¹⁵ Because the proposed project includes flush toilets and showers for all of the camp participants, as well as access to a community kitchen, this estimate is outrageously low.

Because the cabins are essentially additional dormitory-style bedrooms that each sleep up to ten people, whereas a standard bedroom would typically sleep 1-2 people, it would appear more reasonable to estimate water use based on an equivalence of each cabin to 4-5 bedrooms. Even a conservative estimate that equates each cabin to only 2 bedrooms per 10 people would increase the estimated daily water demand by 180 gpd, while treating each cabin as the equivalent of 3 bedrooms per 10 people would double the DEIR’s current estimate from 2700 gpd to 5400 gpd, not including the additional 1360 gpd estimated for nine bedrooms in the permanent residences.¹⁶

In addition, the water supply calculations make no mention of fire flows. While the DEIR suggests that rainwater and graywater would offset demand for irrigation water, this has no

⁸ Cal. Water Code § 10910; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 433 (2007).

⁹ See Water Code § 106.3; *Env’tl. Law Found. v. State Water Res. Control Bd.*, 26 Cal. App. 5th 844, 859 (2018).

¹⁰ Attachment A: Andy Zdon, Roux Associates, Inc. Memorandum Re: Water Supply Comments (Nov. 17, 2022).

¹¹ DEIR at 4.14-5.

¹² DEIR at 4.14-6 to 4.14-7.

¹³ *Id.*

¹⁴ USEPA, Onsite Wastewater Treatment Systems Manual, Table 3-6, at p. 3-9.

¹⁵ See e.g., Georgia Dept. of Natural Resources, State Parks and Historic Sites, “Primitive Camping,” <http://explore.gastateparks.org/primitive-camping> (last visited Nov. 18, 2022).

¹⁶ 108 x 25 gpd = 2700 gpd; whereas 24 x 150 gpd = 2880 gpd; and 36 x 150 gpd = 5400 gpd.

bearing on the overall demand from the wells, which does not appear to include irrigation water for the garden or stock water for livestock. Given that rainwater is unlikely to last for the entire dry season, and neither food crops nor animals can use graywater, the overall demand estimates also appears to omit agricultural uses altogether.¹⁷

Overall, the DEIR's numbers appear to be completely unreliable and to egregiously underestimate the average daily demand as well as peak demand, or maximum daily demand, which the DEIR inexplicably asserts is just 3975 gpd.¹⁸ Notably peak demand is the critical factor for ascertaining the adequacy of the water supply. The DEIR goes on to base its conclusions concerning the adequacy of the water supply on these extremely low estimates of actual water use. In addition, the DEIR appears to omit any consideration of how many hours a day the water pumps would operate and whether this would limit the overall daily supply.

In sum, the DEIR is inadequate because it fails to provide sufficient information from which to determine whether the onsite wells comprise an adequate water supply. Without a hydrologic analysis or a reasonable estimate of peak demand, there is no way to tell if the water supply is sufficient to meet the public health and safety requirements, including fire flows.¹⁹

2. A transparent analysis of site hydrology is necessary to evaluate the potential impacts of proposed wells on underlying groundwater, other water users, and Cull Creek.

The proposed use of well-water as a primary water supply for more than a hundred additional residents, or guests equivalent to residents, will inevitably have some impact on available groundwater. Cull canyon has a limited aquifer that is shared and relied on by the other valley residents and agricultural water users. Previous comments submitted by residents indicate that well-water is already at risk in this canyon and subject to seasonal variations that can adversely impact agricultural uses. For example, local landowner Rex Warren reported drilling two new wells recently that both came up dry, which forced him to reduce the number of cattle he produces.²⁰ The amount of water necessary to support the project may further impair the availability of groundwater and exacerbate these types of problems. The DEIR lacks sufficient analysis of the aquifer and site hydro-geology from which to assess the likely impact on neighboring water users and residential wells.

A transparent analysis of site hydrogeology is also necessary to assess the interconnection between the site's groundwater wells and surface waters.²¹ Depleting groundwater by pumping thousands of gallons per day may have a direct impact on surface waters in Cull Creek. Wells located near creeks, and in shallow water tables, can create cones of depression that draw in

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¹⁷ Failure to consider agriculture in the context of water supply also suggests that the proposed agricultural use is not a primary objective of the project.

¹⁸ DEIR at 4.14-7.

¹⁹ **Attachment A:** Andy Zdon, Roux Associates, Inc. Memorandum Re: Water Supply Comments (Nov. 17, 2022).

²⁰ Rex Warren, Public Comment Re: Notice of Preparation of and Environmental Impact Report (EIR) - PLN2020-00093 (Dec. 19, 2021).

²¹ USGS California Water Science Center, Sustainable Groundwater: Interconnected Surface-Water Depletion, <https://ca.water.usgs.gov/sustainable-groundwater-management/interconnected-surface-water-depletion.html> (last visited Nov. 18, 2022).

subterranean creek waters causing reduced surface flows.²² The U.S. Geological Survey's Circular on "Streamflow Depletion by Wells" is provided as Attachment B.²³ One of the project's proposed wells is within one hundred feet of Cull Creek, and the other is within a few hundred feet.²⁴ Decreased surface flows could have a significant adverse impact on wildlife and downstream surface water users. This watershed also feeds the County's urban water supply. An adequate analysis of site hydrology is therefore critical to protecting the health and safety of existing residents, as well as the public rights to drinking water and the protection of public trust resources.

3. A transparent analysis of site hydrology is necessary to evaluate the potential impacts of the project's proposed septic system.

The proposed project also includes plans for a septic system to treat wastewater from more than 100 people per day. The proposed location of the septic system is within two hundred feet of Cull Creek.²⁵ Based on the DEIR's Geotechnical Engineering Investigation Report, localized groundwater data indicates that the water table is very high, only 30-40 feet.²⁶ This suggests a potential risk that contaminated wastewater could come in contact with the shallow aquifer. If the drainage area is connected to the creek by underground flows, this could also bleed into surface waters. Cull Creek is also subject to seasonal flooding, which further increase the risk that flood water could contaminate wells or cause wastewater to become exposed to groundwater.²⁷ The proponent's analysis of the proposed septic system evaluated soil samples but did not examine subsurface flows or hydrogeology.²⁸ Given the proximity of the septic system to the creek, a thorough analysis of the site's hydrogeology is necessary to assess potentially significant impacts of the proposed onsite septic system on groundwater and surface waters.

Accordingly, the DEIR is inadequate because failure to disclose hydrologic studies undermines the sufficiency of the DEIR as an informational document. Without this information, neither decision-makers nor members of the public can make informed determinations concerning whether the project has sufficient available water, whether the proposed use will deplete groundwater causing significant adverse impacts on other water uses, or whether the proposed septic system will threaten water quality. Unless this information is provided promptly and the current comment period extended to allow for adequate review, as requested by FCVC, the DEIR should be amended with this information and recirculated for additional public comment to address this substantial omission.

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cont.**

²² *Id.*

²³ **Attachment B:** USGS Groundwater Resources Program Circular 1376, *Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow* (2012).

²⁴ DEIR, Figure 3-4, Proposed Project Site Plan.

²⁵ Proposed Site Plan, DEIR Figure 3-4.

²⁶ DEIR at 4.8-11; DEIR Appendix E: Geotechnical Engineering Investigation Report, at 12-13.

²⁷ EPA, Septic System Impacts on Water Sources, <https://www.epa.gov/septic/septic-system-impacts-water-sources> (Aug. 23, 2022).

²⁸ DEIR Appendix G: Wastewater Basis of Design, at 9.

B. The conclusion that the proposed project would have less than significant impacts on fire risk and public services is not evident from the DEIR.

The DEIR includes a fire plan that consists of drills and training but fails to fully examine the substantial increase in fire risk that the project would impose,²⁹ both on the camp participants and staff and on surrounding residents. The location of the site is in a high fire risk zone in a terminal box canyon with a single access road,³⁰ which currently constitutes the sole evacuation route for approximately 140 residents. Bringing another 119 people into this canyon, the majority of whom are children, will substantially increase the risk to the entire community.

The project relies on a training program and fire drills to reduce the risk, and a plan to bring busses to the site if and when an evacuation is required.³¹ The busses would not be stationed at the site but would need to travel several miles from a local school to arrive at the site in the event of an emergency. This plan fails to account for potential traffic hazards, including emergency vehicle traffic, other residents evacuating, large vehicles evacuating livestock, livestock or debris in the road, and the possibility that the road could be blocked by fire. There are many factors that could delay or prevent school busses from reaching the site promptly. Even if there was sufficient parking space to keep dedicated busses onsite when children are present, a smooth evacuation could still be impaired by potential road obstructions. The proposed plan also fails to address the speed with which wildfires can travel through steep woody areas such as the proposed site and surrounding areas. Placing children in this situation in the belief that fire drills would be adequate to reduce the risk of fire danger is irresponsible.

The DEIR also fails to provide evidence that the proposed water supply would be adequate to meet fire flow standards.³² This requires a sufficient volume and higher water pressure than standard plumbing. While the DEIR asserts that these standards will be met, this is impossible to verify without access to a detailed hydrologic analysis of well capacity, that addresses seasonal variations, peak flows, and possible impacts related to wells on neighboring properties. Notably, the County Environmental Health Department has identified Cull Canyon as an area of concern for groundwater replacement due to steep rocky terrain,³³ and the proposed site and wells are situated at the base of a steep hillside.

The impact analysis also fails to support its conclusion that the proposed project would have less than significant impact on public services. The DEIR acknowledges that the project would have as many as 119 people on site during programs, but nevertheless concludes that this would have a less than significant impact on existing Fire Department resources.³⁴ This conclusion is not supported by any substantive analysis. The DEIR recites some facts about average response times and the distance to the nearest station, and then asserts without explanation that the proposed fire plan will be adequate because the residential camp programs are not continuous.³⁵ There is no analysis of how this substantial increase in population could impact the larger community or potentially strain fire department resources in event of a wildfire

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²⁹ DEIR, Appendix F: Draft Fire Safety and Emergency Response Plan.

³⁰ Castro Valley General Plan, Figure 10-1.

³¹ DEIR at 3-24 to 3-26.

³² See DEIR section 4.14.1.4.

³³ LAMP, Table 2-4, at 27.

³⁴ DEIR at 4.11-6 to 4.11-7.

³⁵ DEIR at 4.11-7.

emergency. There is also no analysis to explain how the short gaps between programs, and change in participants from week to week, would reduce or eliminate the potentially significant impact on emergency services during the periods when the residential programs are in session.³⁶ The DEIR's conclusion that the project would have a less than significant impact on fire department services is unsupported by substantial evidence.

The DEIR is similarly dismissive of any potential impact on local police services.³⁷ The DEIR provides no analysis of the potential need for additional police services in the Canyon due to the influx of 119 people. Instead, the report asserts that any impact would be less than significant because the children and staff live somewhere in the County. This fails to consider the potential need for police response to issues that could arise from bringing a large number of children into a concentrated area at a remote site with no medical or security facilities. The report also fails to consider potential safety issues related to siting a residential camp for children next to a drinking establishment, such as drunk driving. There is no discussion as to whether this might warrant additional patrols or other measures that would impact police services. Accordingly, the DEIR fails to provide a reasoned basis for its conclusions that the project would have less than significant impacts on fire risk and public services.

C. The DEIR's conclusion that the proposed waste treatment system would have less than significant effect on the environment is not evident from the DEIR.

The sufficiency of the project's proposed septic system is not supported by substantial evidence. The project proposes to upgrade the existing septic system with an onsite waste treatment system ("OWTS") that would be designed to accommodate a flow of 3525 gallon per day ("gpd"), based on an estimated average daily flow of 2820 gpd.³⁸ Although this flow capacity is based in part on a site investigation, the estimates for daily flow appear to be significantly less than those recommended in the Alameda County Local Management Program for OWSTs ("LAMP"). An adequate justification for the lower estimates is not explained in the supporting documents of the DEIR.

As discussed above, the sewage outflow estimates are based on DEIR Appendix G, the wastewater treatment system analysis.³⁹ Appendix G indicates that the estimates used in the report are based on average wastewater flows for a "pioneer type" campground, which is only 25 gpd per camper.⁴⁰ As noted above in Section I.A.1, pioneer camping typically refers to a rustic campsites with limited amenities such as pit toilets and a spigot for water, but no showers or kitchens.⁴¹ Because the proposed project includes flush toilets and showers for all of the camp participants, as well as access to a community kitchen, this estimate is outrageously low. Notably, the EPA source document that Appendix G relied on estimates wastewater flows for boarding schools at the much higher rate of 75 gpd per student,⁴² which would be 8100 gpd for 108 campers. The DEIR fails to explain why the lower estimate was used and fails to show that the estimates are reasonable or based on substantial evidence. As a result, the DEIR fails to show

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³⁶ *Id.*

³⁷ DEIR at 4.11-8

³⁸ DEIR at 4.8-18; Appendix G: Wastewater Basis of Design at 9.

³⁹ Appendix G: Wastewater Basis of Design at 9.

⁴⁰ *Id.*

⁴¹ USEPA, Onsite Wastewater Treatment Systems Manual, Table 3-6, at p. 3-9.

⁴² *Id.* Table 3-5, at p. 3-8.

that the proposed septic system is sufficient to meet the needs of the proposed project.

In addition, the LAMP indicates that Cull Creek Canyon is a potential area of concern due to “[d]evelopment in steep-sided canyon, rocky soils, steep terrain, encroachment within stream terraces, [and] limited replacement area.”⁴³ It also estimates the combined discharge from 36 other existing OWTS units in Cull Creek Canyon is approximately 5400 gpd, based on 150 gpd per residence.⁴⁴ The proposed project thus may generate more waste than all of the other properties in the canyon combined, which further illustrates that the project is a high-density use with potentially significant impacts on water use and groundwater quality. As discussed above in section I.A.3, this concentrated waste would be dispersed through a septic system that is located within 200 feet of Cull Creek and above a shallow aquifer that is only 30-40 feet below the surface.⁴⁵ The DEIR fails to assess the potential risk to water quality and fails to support its conclusion that the impacts would be less than significant with substantial evidence.

D. The DEIR omits information necessary to evaluate risks related to liquefaction.

The DEIR’s conclusion that the risk of liquefaction is minimal is not supported by substantial evidence. While the DEIR bases this conclusion on a geotechnical report that assessed site stability for the proposed buildings, including risk of seismic activity and liquefaction, the detailed data on which this conclusion was based is not included in the DEIR.⁴⁶ In particular, the report concludes that liquefaction risk is extremely low for the type of clay soils observed in the site investigation.⁴⁷ While the geotechnical report is attached to the DEIR as Appendix E, the report provides only a generalized profile of soil rock and groundwater conditions.⁴⁸ It states that detailed descriptions of information collected from soil trenches is provided in exploratory trench logs, which are said to be attached to the report as Appendix B or Appendix C to the Geotechnical Report.⁴⁹ However, only the cover page for this information is actually included.⁵⁰

While additional tests were conducted to assess liquefaction risks at the proposed building site, the omission of detailed soil profile data is significant for two reasons: (1) because the generalized information provided in the report appears to conflict with the results of an independent soil analysis conducted for the proposed OWST report, and (2) the geotechnical report’s conclusion that risk of liquefaction is extremely low for the proposed site conflicts with geological survey data that identifies the Canyon’s bottomlands as relatively high risk for liquefaction.⁵¹ While the Geotechnical report concluded that the soils in the building area were predominantly clay soils and relatively stable, the OWTS evaluation found loam soils as well as

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⁴³ Alameda County Dept. of Env’t Health, Alameda County Local Management Program for Onsite Waste Treatment Systems (“LAMP”), Table 2-4, at p. 27 (June 5, 2018).

⁴⁴ *Id.*, Table 2-5, at p. 28.

⁴⁵ DEIR Figure 3-4; DEIR Appendix E: Geotechnical Engineering Investigation Report, at 12-13.

⁴⁶ DEIR at 4.5 - 10.

⁴⁷ DEIR Appendix E, at 16-17.

⁴⁸ *Id.* at 11.

⁴⁹ *Id.*

⁵⁰ *Id.* at 48.

⁵¹ Castro Valley General Plan at 10-25, citing California Division of Mines and Geology, Seismic Hazard Zones, Hayward Quadrangle (July 2003); *See also* California Department of Conservation, California Geological Survey, Earthquake Zones of Required Investigation (2016), <https://maps.conservation.ca.gov/cgs/EQZApp/>.

clay soils in the adjacent area where the septic system would be located.⁵²

Without detailed information from the various trenches that were located at different site around the property, it is impossible to assess whether the generalized soil findings are representative of the whole site or whether those trenches located at lower elevations corroborate the Geological Survey findings, in which case structures near the creek, including the one lane bridge that constitutes the sole access to the proposed campground could be at risk for instability. Because impairment of the bridge would impede emergency vehicle access and evacuation routes, as well as normal ingress and egress, this is critical information. The possibility of unstable soils surrounding the proposed septic system could also be a factor on its proper functioning. The DEIR also fails to respond to comments by local residents concerning the potential risk of liquefaction or landslides occurring on the steep hillside above the cabins and causing trees or debris to slide into the cabins.⁵³ The DEIR fails to explain these discrepancies or to provide data that would enable decision-makers to assess whether there is a greater risk of liquefaction in the site's uplands or lowlands that could impact critical site infrastructure, including the sole access route and OWTS.

E. The DEIR fails to show that noise from the project would have a less than significant effect on the environment.

The DEIR fails to support its conclusion that the noise generated by the project and its construction would have a less than significant impact on the environment. Although the DEIR includes projections of the noise likely to be generated from construction and project activities, there are critical details omitted from both of these analyses.

The DEIR's estimates of construction noise were based on a Roadway Construction Noise Model and the Federal Highway Administration Construction Noise Handbook (August 2006) using CalEEMod default values for the mix of equipment.⁵⁴ Based on these sources, the noise level for heavy equipment, such as haul truck and dozers, was estimated to be 85 decibels (dBA) at 50 feet.⁵⁵ The model was then used to calculate how much this would diminish over the distance between the grading, paving and building sites and the nearest sensitive receptors, including a winery to the north and residences to the east and south.⁵⁶ These values were then compared to the Federal Transit Administration's standard of significance, which was identified as 80 dBA at the sensitive receptor property lines.⁵⁷ The DEIR states that it used federal standards because Alameda County does not have an established standard for construction noise, beyond restricting time of day.⁵⁸ However, the DEIR does not mention the Castro Valley General Plan's Noise Element, which notes that Association of Bay Area Governments identified any level above 70 dBA as a significant impact on residential land uses, and adopts this level as a

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⁵² DEIR Appendix G: Wastewater Basis of Design, at 22-24.

⁵³ Dick Schneider, Jewell Spaulding, and Glenn Kirby, Public Comment Re: Project Referral Case No. PLN2020-00093-Conditional Use Permit and Site Development Review, at 7 (July 16, 2020) (citing Castro Valley General Plan, Figure 10-4).

⁵⁴ DEIR at 4.10-10.

⁵⁵ DEIR at 4.10-11.

⁵⁶ *Id.*

⁵⁷ DEIR at 4.10-9; the modeling data for construction noise is attached to DEIR Appendix E at PDF p. 32-40.

⁵⁸ *Id.* at 4.10-7 and 4.10-9; Alameda Cty. Code § 6.60.070 (E).

threshold for determining whether mitigation is needed when siting noise sensitive uses.⁵⁹

With respect to the anticipated noise to be generated by the proposed project, or stationary noise, the DEIR refers to an Environmental Noise Assessment that it includes as Appendix H.⁶⁰ This document provides data for the assessment of baseline noise levels from Cull Canyon Road, which were tested at two onsite locations on April 9-10, 2020.⁶¹ The Noise Assessment explains that its predictions were generated using the “SoundPLAN noise prediction model” based on inputs for the anticipated “sound power levels for noise-generating outdoor activity areas, existing and proposed buildings, topography, terrain type, and locations of sensitive receptors.”⁶² However, none of the specific input values are identified or included with this document. The results provide sound projections for anticipated noise from two onsite locations, a “Sports Field Area” located along the east side of the cabins just south of the staff residence, and the Campfire Area located to the east of the driveway near the creek.⁶³ The assessment concludes that the projected noise levels will not exceed county standards for the nearest sensitive receptor, the residence located across the road to the east of the proposed project. Based on noise contour graphs generated by the models it appears that the noise level of the Sports Area was estimated to have a median value near 60 dBA and a maximum value near 80 dBA, while the noise level at the campfire area was estimated to have a median value near 55 dBA and a maximum value near 75 dBA.⁶⁴ The assessment concludes that the projected noise levels will not exceed county standards for the nearest sensitive receptor, the residence located across the road to the east of the proposed project.⁶⁵ Notably, although the County noise standards identify specific time limits for different noise levels that impact residential and commercial receptors, with acceptable time limits inversely proportional to the magnitude of the noise,⁶⁶ the report includes no information as to how long or how often the anticipated noise levels would be expected to occur.⁶⁷

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Here the DEIR is inadequate for multiple reasons. First, with respect to construction noise, there is no discussion of the Castro Valley General Plan’s Noise Element and no explanation of why the 80 dBA federal standard was used as the threshold of significance rather than the local standard of 70 dBA. Notably, the modelling results show that construction noise from site preparation, grading, and construction would be likely to exceed 70 dBA at the residential receptors located to the north of the project.⁶⁸ This implies that there would be a similar impact on the adjacent commercial winery. Even in the absence of a specific county standard for construction noise, the impact on residential receptors and a neighboring business warrants some evaluation. There is also no indication that the modelling projections considered whether the location of the site at the base of a steep hill would cause noise to be reflected and amplified into the valley, or how the sound would echo throughout the canyon. Without this information, the evaluation of sound impacts on valley residents is incomplete and insufficient to

⁵⁹ Castro Valley General Plan (CVGP) at 11-3, 11-9.

⁶⁰ DEIR Appendix H: Environmental Noise Assessment (Saxelby Acoustics LLC, May 21, 2020).

⁶¹ DEIR at 4.10-12; DEIR Appendix H: Environmental Noise Assessment at 8.

⁶² DEIR Appendix H: Environmental Noise Assessment at 8.

⁶³ *Id.* at 9-12.

⁶⁴ *Id.*

⁶⁵ *Id.* at 13-14.

⁶⁶ Exterior Noise Standards, CVGP at 11-4; Alameda Cty. Code § 6.60.040.

⁶⁷ DEIR Appendix H: Environmental Noise Assessment.

⁶⁸ DEIR at 4.10-12, Table 4.10-6.

determine whether mitigation measures are warranted.

Second, with respect to anticipated project noise, the Noise Assessment provides no specific data on the inputs used to generate the projections. There is also no information concerning how often or how long the noise from activities would occur. The DEIR Project Description does not mention the Sports Area but suggests that the Campfire Area would be used in the evening when programs are in session and possibly also in the morning. The Noise Assessment provides no information from which to determine whether the length or frequency of noise was factored into the projections. It also provides no information concerning how the noise levels for these activities were determined, stating only that it made the assumption that noise from the sports field “shall not exceed 61 dBA L50 and 80 dBA Lmax at a distance of 50 feet to the east of the sports field boundary,” and noise from the campfire area “shall not exceed 58 dBA L50 and 77 dBA Lmax at a distance of 50 feet to the east of the campfire area as measured from the rear of the campfire area stage.”⁶⁹ The sufficiency of these assumptions is never examined. Notably, research on actual noise generated by crowds of 10-100 people has found that the noise generated by a group of one hundred people can exceed 100 dBA, and maximum levels can exceed 110 dBA.⁷⁰ This study is included as Attachment C. While crowd noise can vary based on factors including vocal effort (i.e., whether the people are talking or shouting), direction, age, and synchronization, even random crowd noise without music or amplification was found to exceed 100dBA.⁷¹ Accordingly, it’s quite possible that coordinated activities during the evening will lead to noise levels significantly greater than those levels assumed by the DEIR. In the absence of any clear analysis explaining how the DEIR’s assumptions were selected, this is impossible to determine.

In addition, the DEIR’s Noise Assessment fails to correlate its predicted noise levels to the time limits set forth in the County Standards. The document projects that noise from the sports field would range from 40.4 dBA to 61.4 dBA at the site of residential receptors, and that noise from the campfire area would range from 42.8 dBA to 61.8 dBA at the site of residential receptors.⁷² The County Standards limit maximum continuous daytime noise at 50 dBA for 30 minutes, 55 dBA for 15 minutes, 60 dBA for 5 minutes, 65 dBA for 1 minute and 70 dBA for 0 minutes.⁷³ Even if supporting evidence were to show that the Assessment’s assumptions were reasonable, there is no information from which to determine whether these time limits would be exceeded. There is also no information as to whether the calculations considered the size of the crowds or whether the activities would include synchronized chants or songs, or amplification. Therefore, the DEIR’s analysis of the proposed project’s noise impacts is inadequate because it fails to consider the Castro Valley General Plan or the potential effect of terrain on amplification, fails to address time limits in applicable County’s external noise standards, and fails to disclose key assumptions and inputs on which the noise projections were based.

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⁶⁹ DEIR Appendix H: Environmental Noise Assessment at 13.

⁷⁰ **Attachment C:** M.J. Hayne, J.C. Taylor, et al., *Prediction of Noise from Small to Medium Sized Crowds*, 5-6. Paper No. 133, Proceedings of Acoustics 2011 (Nov. 2-4, 2011).

⁷¹ *Id.*

⁷² DEIR Appendix H: Environmental Noise Assessment at 13.

⁷³ Exterior Noise Standards, CVGP at 11-4; Alameda Cty. Code § 6.60.040.

F. The DEIR is inadequate because it fails to identify significant impacts to agriculture.

The DEIR concludes that the proposed project for a residential school would have no significant impacts on agricultural uses.⁷⁴ This conclusion is contrary to substantial evidence.

The applicable county zoning designation for the entirety of Cull Canyon is Agricultural. This designation is intended to preserve and protect existing agricultural uses and allows other “nonurban” uses “where more intensive development is not desirable or necessary.”⁷⁵ The permitted land uses in such zones are uniformly low density. Residential buildings are limited to one single-family dwelling, and up to one secondary dwelling allowed for parcels exceeding 25 acres.⁷⁶ Any secondary dwelling must also be within the same building envelop as the primary unit and may not to exceed 2000 square feet for parcels under 100 acres.⁷⁷ These requirements underscore the clear intent to restrict any new housing unless it is extremely low density. While limited exceptions exist for higher density housing for agricultural workers,⁷⁸ this exception is clearly tied to an agricultural purpose and would not apply to the proposed project.

Here the proposed project would add 16,967 square feet of additional housing and support facilities to a 37-acre site that already has one residential building, for use as a residential school facility.⁷⁹ Adding a few goats and chickens does not make this an agricultural use. The proposed new construction is also not located within the existing residential building envelope but would be located across the creek on a hillside that would require extensive grading and vegetation removal that would disrupt the existing landscape.⁸⁰ This would provide residential accommodations for 119 people and thus constitutes a high-density use. The DEIR fails to seriously acknowledge these restrictions or the larger purpose behind these zoning restrictions -- to protect agricultural areas from encroachment by high-density urban development. It also fails to assess how the project’s reliance on groundwater could potentially stress existing water supplies for the true agricultural uses that already exist in the surrounding Canyonlands.

The DEIR also fails to address the proposed project’s inconsistency with Measure D, which established an Urban Growth Boundary (UGB) to prevent urban development “in most of the rural areas of the county, including the canyonlands surrounding Castro Valley.”⁸¹ Under Measure D, the proposed site is classified as Resource Management area.⁸² The Resource Management designation requires a minimum parcel size of 100 acres, with only one single family home per parcel.⁸³ The proposed fails to meet this parcel-size requirement and already had to seek a variance to allow the one existing residence.⁸⁴ In addition, permitted uses within Resource Management areas are restricted to “agricultural uses, recreational uses, habitat

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⁷⁴ DEIR at 4.1-3 to 4.1-6. *See also* Great Nonprofits, “The Mosaic Project” profile (explaining that project is an outdoor school), <https://greatnonprofits.org/org/the-mosaic-project> (last visited Nov. 21, 2022).

⁷⁵ Alameda Cty. Code § 17.060.010.

⁷⁶ *Id.* at § 17.060.030 (A), (H).

⁷⁷ *Id.* at § 17.060.030 (H).

⁷⁸ *Id.* at § 17.060.030 (K).

⁷⁹ DEIR at 3-21;

⁸⁰ DEIR Appendix E: Geotechnical Engineering Investigation Report, at 19-32.

⁸¹ Castro Valley General Plan at 1-2.

⁸² *Id.* at Figure 1-2.

⁸³ Castro Valley General Plan Appendix A at A-1.

⁸⁴ DEIR at 3-3.

protection, watershed management, public and quasi-public uses, areas typically unsuitable for human occupation due to public health and safety hazards such as earthquake faults, floodways, unstable soils, or areas containing wildlife habitat and other environmentally sensitive features, secondary residential units, active sand and gravel and other quarries, reclaimed quarry lakes, and similar and compatible uses.”⁸⁵ The physical features of the Canyonlands and Cull Canyon in particular, make the area susceptible to risks that are unsuitable for high-density development. While outdoor recreation, such as hiking or fishing, would be in no conflict, building a residential school campus for 119 people would be a direct violation of the Measure D prohibition on high-density residential development outside of the UGB.

The DEIR also concludes incomprehensibly that there would be no conflict with Williamson Act. The Williamson Act was enacted by the California Assembly in 1965 to protect farmland by creating tax incentives for restricting non-agricultural development.⁸⁶ Here, the proposed property is subject to a Williamson Act Contract that was entered into in 2016.⁸⁷ While the DEIR attempts to claim that the proposed use is consistent with the preservation of farmland because it plans to include a few goats and chickens and outdoor activities, the project would not only conflict with agricultural building restrictions but would destroy the natural character of the building site by removing existing soil and vegetation to make way for an intensive use that would also potentially threaten surrounding agricultural lands as a result of increased water extraction and fire risk. There is no question that the intended construction of housing and dormitories with event spaces for 120 people and a new road and parking areas would exceed the applicable restrictions. Because the DEIR fails to identify these substantial conflicts and inconsistencies between the proposed use and measures intended to protect the agricultural character of the area, it is inadequate as an informational document.

G. The DEIR is inadequate because it fails to identify significant inconsistencies with existing land use and zoning requirements.

The DEIR also concludes that the proposed project for a residential outdoor school would have no significant impacts on existing land use restrictions.⁸⁸ This conclusion is contrary to substantial evidence.

As noted above, the DEIR fails to identify direct conflicts between the proposed use as a residential school facility and the site’s existing planning and zoning designations. The proposed project is inconsistent with zoning requirements and other provisions contained in Alameda County General Plan, the Castro Valley General, and the East County Area Plan. These conflicts are discussed in greater detail below in sections II.B and III. Because the DEIR fails to identify or address these conflicts it is inadequate.

By reason of these many deficiencies, the DEIR fails as an informational document.

⁸⁵ Castro Valley General Plan Appendix A at A-1.

⁸⁶ Cal. Dept. of Conservation, Williamson Act Overview, https://www.conservation.ca.gov/dlrp/wa/Pages/wa_overview.aspx.

⁸⁷ DEIR at 4.1-3 (referencing Williamson Act Contract No. 2015-56); DEIR at 4.9-3 (referencing Williamson Act contract No. 2016-56 (May 3, 2016)).

⁸⁸ DEIR at 4.9-4, 4.9-5. See also Great Nonprofits, “The Mosaic Project” profile (explaining that project is an outdoor school), <https://greatnonprofits.org/org/the-mosaic-project> (last visited Nov. 21, 2022).

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II. The DEIR fails to adequately describe the environmental setting.

Under CEQA Guidelines section 15125(a), an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective.⁸⁹ An EIR's description of this environmental setting should be sufficiently comprehensive to allow the project's significant impacts "to be considered in the full environmental context."⁹⁰ This should also highlight "environmental resources that are rare or unique to that region and would be affected by the project."⁹¹ The environmental setting should also address "any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans."⁹²

Here, the DEIR's description of the environmental setting fails to describe significant features of the regional setting that have a bearing on the project's potentially significant impacts. The DEIR also fails to identify several inconsistencies between the proposed project and local planning documents. The DEIR's discussion of environmental setting is also distributed across the project description and each subsection of the environmental analysis, resulting in a segmented description that limits consideration of some features to specific potential impacts. This structure ultimately supports a false narrative that the proposed use would not have significant impacts on Cull Canyon residents and would be fully compatible with the low-density agricultural character of the valley, which is not the case. This also obscures the importance of examining alternative sites.

A. Physical limitations of the proposed site make it inappropriate for the proposed project and other uses that would be facilitated by its approval.

The project description fails to address several important physical features of the site and the surrounding area that are necessary to understand the proposed project's potentially significant impacts on the surrounding community.

1. Lack of secondary access roads and steep terrain increases high fire hazard risk to all residents.

There is no question that the proposed site is located on a terminal access road in a box canyon or that the entire area is designated as High Risk State Response Area. While these facts are clear from site maps, the DEIR never examines the existing fire risk or adequacy of evacuation routes within the canyon surrounding the proposed site. This is a critical aspect of the setting that needs to inform the baseline for determining whether the addition of a high-density residential camp for children would significantly increase the fire risk to area residents or impact the sufficiency of evacuation routes and other fire response resources.

The DEIR also fails to consider whether the steep terrain would increase fire risk or whether a high concentration 10-12 year-olds would place the community at greater risk of human caused fires. The DEIR also fails to identify any proximate safe zones for children in the

⁸⁹ 14 Cal. Code Regs. § 15125(a).

⁹⁰ 14 Cal. Code Regs. § 15125(c).

⁹¹ *Id.*

⁹² 14 Cal. Code Regs. § 15125(d).

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event of a fast-moving fire sweeping through the area with little notice.

2. Limited water sources and a confined aquifer has already caused water shortages in this area.

The environmental setting fails to consider the geology of the Cull Creek Canyon as it relates to other water users. There is no discussion of the number of wells that exist or whether these tap the same aquifer as those the project proposes to use. There is also no discussion of the number of residents that rely on these wells or the number of agricultural operations that rely on these wells. While the document acknowledges that the area is zoned for Agricultural use and designated as a Resource Management area subject to Measure D restrictions, this is never discussed as an important feature of the proposed location and surrounding community. Water use is fundamental to the preservation of agriculture, as well as the domestic use by existing residents, and therefore needs to inform the baseline for determining the potential impact of the proposed project on the surrounding community.

3. Cull Creek is subject to flash floods that pose increase health and safety risks to children.

The DEIR's analysis of potential flood risk is cursory and fails to address public comments submitted on the NOP, that indicate Cull Creek has a propensity for seasonal flooding. Comments by area residents expressed concerns that the steep rocky canyon is subject to flash flood events that could inundate parts of the proposed site seasonally.⁹³ The DEIR fails to acknowledge these concerns or to provide any information on seasonal water levels and flood events in Cull Creek Canyon. This is important information for evaluating health and safety risks, as well as potential impacts on water quality and proposed parking sites adjacent to the creek, potential impacts to the sole access bridge, and potential implications for emergency services.

4. Risk of liquefaction from seismic activity

The DEIR also fails to address potential seismic activity as a feature of the canyon. While the document provides some analysis of the immediate area surrounding the proposed building site, there is no considered discussion of the area's potential seismic risks or whether this could impact the limited access road or septic system stability. According to the Castro Valley General Plan: "The areas susceptible to liquefaction in Castro Valley are, for the most part, low-lying lands along the creeks that flow into San Lorenzo Creek. These include lands within areas that are also in the FEMA-mapped flood plains along Chabot, Castro Valley, Cull, and Crow Creeks and in Eden and Hollis Canyon in the eastern part of the planning area."⁹⁴ The nature and extent of this risk merits broader consideration.

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⁹³ Diana Hanna & Dick Schneider, Public Comment Re: [NOP] The Outdoor Project Camp, PLN2020-00093, at 5 (Dec 19, 2021).

⁹⁴ CVGP at 10-25, citing California Division of Mines and Geology, Seismic Hazard Zones, Hayward Quadrangle (July 2003).

B. The DEIR fails to adequately describe the rural character and existing land uses in Cull Canyon.

The DEIR fails to adequately address the agricultural character of the environmental setting, which includes legal protections enacted to preserve this character. The DEIR is very dismissive of the community's interests in maintaining this character by limiting the density of new developments. The DEIR asserts that the proposed use is consistent with this because it includes plans for a few goats and chickens and a garden, and because "outdoor recreation" is a potential use that could be allowed under conditional use permit for such areas. The DEIR glosses over the fact that the proposed building footprint exceeds allowable limits, and the proposed "outdoor recreation" activities involve construction of housing for up to 119 people. The proposed use as a high-density residential outdoor school conflicts with the agricultural character of the surrounding community. While the DEIR acknowledges some surrounding land uses and access issues, the analysis of significant effects is mostly limited to immediately adjacent properties. The potential for the project to conflict with the agricultural character of the canyon or to impact this by substantially increasing water use, fire risk, traffic, and noise, is an important aspect of the analysis that needs to begin with adequate consideration of how this informs the environmental setting.

1. Alameda County's agricultural zoning designation for the proposed location is inconsistent with the proposed use.

The DEIR fails to develop a considered discussion of the existing zoning requirements that are intended to protect agricultural uses by prohibiting high density developments in these areas. The applicable county zoning designation for the entirety of Cull Creek Canyon is Agricultural. This designation is intended to preserve and protect existing agricultural uses and allows other "nonurban" uses "where more intensive development is not desirable or necessary."⁹⁵ The permitted land uses in such zones are uniformly low density. Residential buildings are limited to one single-family dwelling, and up to one secondary dwelling allowed for parcels exceeding 25 acres.⁹⁶ Any secondary dwelling must also be within the same building envelop as the primary unit and may not to exceed 2000 square feet for parcels under 100 acres.⁹⁷ These requirements underscore the clear intent to restrict any new housing unless it is extremely low density. While limited exceptions exist for higher density housing for agricultural workers, this exception is clearly tied to an agricultural purpose and would not apply to the proposed project.

Here the proposed project is on a 37-acre site that already has one residential building and 16,967 square feet of additional housing and support facilities to accommodate residential camping by as many as 119 people when camp is in session. The proposed new construction is also not located within the existing residential building envelope, but would be located across the creek on a hillside that would require extensive grading and vegetation removal that would disrupt the existing landscape. The DEIR fails to seriously acknowledge these restrictions or the larger purpose behind these zoning restrictions -- to protect agricultural areas from encroachment

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⁹⁵ Alameda Cty. Code § 17.060.010.

⁹⁶ *Id.* at § 17.060.030 (A), (H).

⁹⁷ *Id.* at § 17.060.030 (H).

by high-density urban development.

2. The Castro Valley General Plan incorporates Measure D to protect agricultural areas from high density developments.

The DEIR also fails to discuss how the setting is informed by deliberate policies and zoning restrictions enacted in the Castro Valley General Plan (“CVGP”). The CVGP was amended in 2000 when County voters enacted Measure D, which established an Urban Growth Boundary (UGB) to prevent urban development “in most of the rural areas of the county, including the canyonlands surrounding Castro Valley.”⁹⁸ Cull Canyon, including the proposed site is located outside of the UGB on lands that were intended to be protected by passage of Measure D. As a direct decision of the voters, this must not be lightly waived.

Under Measure D, the proposed site is classified as Resource Management area.⁹⁹ While the DEIR notes that the site is not designated a high value farming land, this does not mean that high density residential development should be allowed there. The Resource Management designation requires a minimum parcel size of 100 acres, with one single family home per parcel – so long as all other County standards are met for adequate road access, sewer and water facilities, building envelope location, visual protection, and public services.”¹⁰⁰ Residential development and accessory buildings must also be limited to maximum floor space of 12,000 square feet and “shall be located on a contiguous development envelope not to exceed 2 acres.”¹⁰¹ Permitted uses are restricted to “agricultural uses, recreational uses, habitat protection, watershed management, public and quasi-public uses, areas typically unsuitable for human occupation due to public health and safety hazards such as earthquake faults, floodways, unstable soils, or areas containing wildlife habitat and other environmentally sensitive features, secondary residential units, active sand and gravel and other quarries, reclaimed quarry lakes, and similar and compatible uses.”¹⁰²

By failing to explain that Measure D is an important feature of the environmental setting, the DEIR effectively trivializes the fact that the proposed site is located in an area that has been protected by voters. The physical features of the Canyonlands and Cull Canyon in particular, make the area susceptible to risks that are unsuitable for high-density development. While outdoor recreation, such as hiking or fishing, would be in no conflict, building a residential campus for 119 people would be a direct violation of the Measure D development restrictions. Measure D makes clear that high-density development outside of the UGB is not to be allowed, except perhaps under exceptional circumstances where this is found to be necessary for the public interest.

III. The Proposed Project is Inconsistent with Applicable Planning Documents and would violate the State Planning and Zoning Law if Approved.

Pursuant to Government Code section 65860, all zoning and land use approvals are required to be consistent with an adopted general plan. Here the proposed site is subject to

⁹⁸ Castro Valley General Plan at 1-2.

⁹⁹ *Id.*, Figure 1-2.

¹⁰⁰ Castro Valley General Plan, Appendix A at A-1.

¹⁰¹ *Id.* at A-2.

¹⁰² *Id.*

provisions of the Alameda County General Plan, the Castro Valley General Plan, and the East County Area Plan. As discussed above in section II.B.1 and II.B.2, the proposed project is inconsistent with several zoning requirements contained in these plans. The project would also conflict with several other mandatory policies articulated in these plans.

Notably, the Castro Valley General plan incorporates Measure D, which means that any approval of a project that is inconsistent with Measure D could expose the County to risk of litigation. The Castro Valley General plan also designates Cull Canyon as an area where special planning efforts are needed to address unique features, including biological resources and steep terrain. The plan states that “development in this area should be limited to protect these sensitive areas.”¹⁰³

The proposed project is inconsistent with General plan policies concerning fire safety. The Alameda County General Plan provides that “[t]he County shall limit residential development to very low densities in high fire hazard zones identified in Figure 5.,” which clearly includes Cull Creek Canyon and the proposed site.¹⁰⁴ The East County Area Plan states similarly that “[t]he County shall limit residential development to very low densities in high fire hazard zones as identified by the Fire Hazard Severity Scale.”¹⁰⁵ Because the proposed project is not low-density it conflicts with these general plans.

The proposed project is also inconsistent with the following Castro Valley General Plan policies, enumerated below:

Policy 7.1-1 Major Wildlife Corridors Protection. “Protect the major wildlife corridors that run through or are adjacent to Castro Valley: (2) along creeks.”¹⁰⁶ The proposed project would locate a high-density activity with significant noise impacts and livestock in the middle of an important riparian wildlife corridor.

Policy 7.1-5 Riparian Habitat. “New development shall not disturb any riparian habitat.”¹⁰⁷ Here the proposed project would potentially allow new construction to extend into the riparian zone. Scraping and grading of native soils could also encroach into riparian habitat.

Policy 9.2-5 Reduce Fire Risk. “Plan new public and private buildings to minimize the risk of fires and identify measures to reduce fire hazards to persons and property in all existing development.”¹⁰⁸ Here the best way to reduce fire risk is to comply with existing zoning restrictions and by refraining from siting high density uses and vulnerable populations within a high risk fire zone.

Policy 9.2-4 Defensible Space. “Incorporate defensible space principles for fire protection in new development.”¹⁰⁹ The DEIR would place a residential camp next to a steep wooded area. Incorporation of defensible space requires additional consideration and might

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¹⁰³ Castro Valley General Plan at 3-12 (March 2012).

¹⁰⁴ Alameda Cty. Gen. Plan, Safety Element, Policy No. 8 and Figure 5 (map, p. 25) .

¹⁰⁵ East County Area Plan (“ECAP”), Policy 318, p. 76. (May 2002)

¹⁰⁶ Castro Valley General Plan at 7-11.

¹⁰⁷ *Id.*

¹⁰⁸ Castro Valley General Plan at 9-12.

¹⁰⁹ *Id.*

require substantial tree removal, increasing the project footprint and causing significant disturbance of the site's values as a Resource Management area.

Policy 10.2-1 Groundwater. “Reduce the use of groundwater and facilitate additional recharge opportunities.”¹¹⁰ Here, the proposed project does the opposite by introducing a substantial new use of groundwater that could significantly impact other area water users.

Accordingly, the DEIR is inadequate because it fails to examine several inconsistencies between the proposed project and applicable general plans.

IV. The proposed project would violate the Williamson Act.

The Williamson Act was enacted by the California Assembly in 1965 to protect farmland by creating tax incentives for restricting non-agricultural development.¹¹¹ The program utilizes contracts between landowners and local governments, to restrict development in exchange for a reduction in property taxes.¹¹² “Private land within locally-designated agricultural preserve areas is eligible for enrollment under contract. The minimum term for contracts is ten years. However, since the contract term automatically renews on each anniversary date of the contract, the actual term is essentially indefinite.”¹¹³ Exiting contracts is more complicated.

Exiting contracts can be initiated at the option of the landowner or the local government by issuing a Notice of Nonrenewal.¹¹⁴ This starts a nine-year process or count-down to the expiration of the contract, or nineteen-year countdown in the case of Farmland Security Zone contracts.¹¹⁵ Each year the taxes increase until they are fully reinstated at the end of the nonrenewal period.¹¹⁶ The land remains subject to all the requirements of the contract until it expires.¹¹⁷ “Under a set of specifically defined circumstances, a contract may be cancelled without completing the process of term nonrenewal. Contract cancellation, however, involves a comprehensive review and approval process, and the payment of a fee by the landowner equal to 12.5 percent of the full market value of the property in question.”¹¹⁸

Failure to comply with Williamson Act contracts can constitute a material breach. “Government Code section 51250(b) defines a material breach on land subject to a Williamson Act contract as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act, contract, local uniform rules or ordinances, and which was permitted or built after January 1, 2004. If the city or county determine a material breach exists, one option for correcting the breach is termination of the portion of the contract that is not in compliance, and a monetary penalty of 25% of the unrestricted fair market value of

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¹¹⁰ Castro Valley General Plan at 10-16.

¹¹¹ Cal. Dept. of Conservation, Williamson Act Overview, https://www.conservation.ca.gov/dlrp/wa/Pages/wa_overview.aspx.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Cal. Dept. of Conservation, Williamson Act Contract Removal, https://www.conservation.ca.gov/dlrp/wa/Pages/removing_contracts.aspx.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*; Cal. Gov't Code § 51245.

¹¹⁸ Cal. Dept. of Conservation, Williamson Act Overview, https://www.conservation.ca.gov/dlrp/wa/Pages/wa_overview.aspx.

the affected portion of the land.”¹¹⁹

Here, the proposed property is under a Williamson Act Contract that was entered into in 2016.¹²⁰ This means that the initial ten-year contract period is still accruing and nonrenewal is not yet an option. Moreover, even if nonrenewal was initiated, the contract would still remain in effect for at least nine years. While the DEIR attempts to claim that the proposed use is consistent with the preservation of farmland because it plans to include a few goats and chickens and outdoor activities, on this rationalization an urban apartment complex would be permissible on such lands as long as it included a few goats and chickens and a walking trail. The proposed project is a residential outdoor school, the construction of which would not only exceed the residential limit, it would destroy the natural character of the building site by removing existing soil and vegetation to make way for an intensive use that would potentially threaten surrounding agricultural lands as a result of increased water extraction and fire risk. There is no question that the intended construction of housing and dormitories with event spaces for 120 people and a new road and parking areas would exceed the applicable restrictions.

The DEIR’s conclusion that there is no conflict with the Williamson Act contract appears to be a case of wishful thinking. This is not a low-density use and would not be consistent with the intent and purpose of protecting agricultural lands. The DEIR completely fails to address the fact that approval of the project would expose the County to a breach of contract claim.

V. The DEIR fails to consider a reasonable range of alternatives.

Under CEQA Guideline section 15126.6(f)(2)(A), the “key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.”¹²¹ If the lead agency concludes that no feasible alternative locations exist, “it must disclose the reasons for this conclusion, and should include the reasons in the EIR.”¹²²

“The process of selecting the alternatives to be included in the EIR begins with the establishment of project objectives by the lead agency. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings.”¹²³ Project objectives may not be so narrowly defined that no other alternatives can be considered.¹²⁴

Here, the DEIR considered no alternative locations for the project.¹²⁵ The only rationale offered for this decision states simply that “[a]n alternative location for the proposed project was considered infeasible due to availability of sites that would support the project’s objectives.”¹²⁶

¹¹⁹ Cal. Dept. of Conservation, Williamson Act Contract Removal, https://www.conservation.ca.gov/dlrp/wa/Pages/removing_contracts.aspx; Cal. Gov’t Code § 51250(b).

¹²⁰ DEIR at 4.9-3 (referencing Williamson Act contract No. 2016-56 (May 3, 2016)).

¹²¹ 14 Cal. Code Regs. § 15126.6(f)(2)(A).

¹²² 14 Cal. Code Regs. § 15126.6(f)(2)(B).

¹²³ *In re Bay-Delta*, 43 Cal.4th 1143, 1163 (2008) (internal citations omitted).

¹²⁴ *We Advocate Thorough Envtl. Review v. Cty. of Siskiyou*, 78 Cal. App. 5th 683, 692-93 (2022).

¹²⁵ DEIR at 5-3.

¹²⁶ *Id.* at 5-4.

There is no indication that the lead agency or project proponents made any actual effort to identify alternative locations but then found these to be infeasible. Rather, the report makes general observations about *potential issues* with other locations but then ultimately explains that the proponents made no serious effort to examine alternatives because they thought the preferred site would meet their objectives.¹²⁷ The only reason offered is the proponent's view that "the current proposed project site achieves the project objectives of supporting small agricultural uses and providing recreational trails in a way that would not conflict with allowed land use or surrounding uses."¹²⁸ But this only explains why no serious effort was made to identify alternatives – not why alternative sites were infeasible.

The failure to examine alternative sites also appears to ignore or downplay several actual conflicts between the proposed project and the proponents desired location, such as inconsistency with Measure D, the Williamson Act, and agricultural zoning restrictions. The DEIR appears to downplay and dismiss these conflicts in order to justify the desired location, effectively stacking the deck against other possible locations by leaving them out of the running. The County's failure to consider any other site is prejudicial because "it dismissively rejected anything other than the proposed project . . . [thereby] prejudicially prevent[ing] informed decision-making and public participation."¹²⁹

In addition, some of the project objectives appear to be tailored to the current site rather than the project's primary educational purposes, e.g., selling produce, converting roads to trails,¹³⁰ replacing utilities, installing a greywater system.¹³¹ To the extent that secondary or non-essential objectives could serve to restrict consideration of otherwise reasonable alternative locations, the project objectives should be reconsidered and revised as needed to eliminate any prejudicial effect and "help the lead agency develop a reasonable range of alternatives."¹³²

The DEIR's remaining evaluation of alternatives considered two options: the Reduced Development Alternative, which consists of building a somewhat smaller project on the same site, and the No Project Alternative.¹³³ After a brief comparison to the proposed project, based on its previous impact analysis the report concludes that both alternatives are "environmentally superior" to the proposed project.¹³⁴ The report also concludes that the Reduced Development Alternative, which would reduce the size of the project's educational programs from 100 to 50, would still meet all of the projects objectives.¹³⁵ However, while this alternative would require fewer cabins and result in less intensive impacts, it would not resolve conflicts between the proposed use and the site's zoning designations or the Williamson Act. Placing a somewhat smaller camp on the same site would also still raise serious health and safety concerns due to limited access, high fire risk, questionable water supply, and other factors. This alternative thus

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¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *We Advocate Thorough Envtl. Review v. Cty. of Siskiyou*, 78 Cal. App. 5th 683, 693 (2022).

¹³⁰ Whether the proposed site actually has roads that could be converted to trails is also questionable due to the steep terrain.

¹³¹ DEIR at 3-6, 3-7 and 5-12, 5-13.

¹³² *In re Bay-Delta*, 43 Cal.4th 1143, 1163 (2008).

¹³³ DEIR at 5-3.

¹³⁴ DEIR at 5-13; 14 Cal. Code Regs. § 15126.6.

¹³⁵ DEIR at 5-13

does not offset the prejudicial effect of failing to examine any other possible location.

Accordingly, the DEIR is inadequate because it fails to consider any other locations for the proposed project, thereby preventing informed decision-making and frustrating the purpose of CEQA. The DEIR should be revised to include one or more reasonable alternative locations that would meet the project's primary objectives and recirculated for additional public comment.

CONCLUSION

For the foregoing reasons, the DEIR is inadequate.

Sincerely,

A handwritten signature in cursive script that reads "Jessica L. Blome". The signature is written in dark ink and is positioned above the printed name.

Jessica L. Blome
Susann Bradford
Greenfire Law, PC

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ATTACHMENT A

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Date: November 17, 2022

To: Jessica L. Blome, Greenfire Law, LLC

From: Andy Zdon, P.G., C.E.G., C.Hg.

Subject: **Water-supply Comments
Mosaic Project DEIR
Cull Canyon Road, Alameda County, California**

Roux Associates, Inc. (Roux) is pleased to provide the following information regarding our review of groundwater conditions/water-supply for the proposed Mosaic Project (Mosaic) as described in the Mosaic Project Draft Environmental Impact Report (DEIR, County of Alameda, 2022). The DEIR summarizes the wells present on site, those being five groundwater wells of which two will be used for project water-supply purposes. The remaining three wells would be abandoned per California well regulations. The wells are reportedly completed in the Miocene-aged Monterey Formation and therefore rely on fractures in the bedrock for groundwater flow. Fractured-rock aquifers are generally of low porosity, and groundwater levels may fluctuate widely based on seasonal and annual precipitation conditions and groundwater use in the catchment watershed.

Based on the above detailed information relating to well construction, aquifer parameters, and overall watershed hydrology including estimates of precipitation/recharge and existing water usage in the watershed are important for evaluating a sustainable water-supply for a given project. The DEIR on Page 4.14-5 notes that *"Balance Hydrologics was retained to conduct groundwater exploration and identify potential water supply sources for the project. Two wells were identified as potential production sources. Both wells are screened in consolidated sedimentary bedrock and were constructed in accordance with the requirements of Title 22 of the California Code of Regulations (CCR). A description of the wells is provided in Table 4.14-1, Production Well Description."* The text continues to describe the results of aquifer testing of those wells and makes statements at various locations in the DEIR that well interference was not identified.

At this time, Roux cannot evaluate the analysis and assertions related to water-supply as a report by Balance Hydrologics describing their work, conclusions and recommendations does not appear in the DEIR or its appendixes. Methodologies used for aquifer testing including location of well discharge relative to monitored wells, groundwater-level hydrographs of monitoring wells used during aquifer testing, and other information to evaluate the completeness and accuracy of the water-supply analysis are not provided. Additionally, it is unclear if an evaluation of the existing watershed groundwater usage and the incremental changes in groundwater budget for the watershed has been prepared.

Beyond the review of specific water-supply/hydrogeology aspects related to the DEIR, we are unable to comment on the potential water-supply available for fire-flows to be supplied by the wells if required by Alameda County and if sufficient flow would be available to meet those requirements either for instantaneous fire flows or to support any on-site storage that may be required. Additionally, absent the Balance Hydrologics report, we cannot comment if we believe additional groundwater wells may be required in the future and the implications of those needs relative to the 2022 Drought Executive Order N-7-22 issued by the State of California, and its implications relating to the drilling of new water-supply wells. Although the site is outside of the area of a Groundwater Sustainability Agency, it is Roux's experience that counties are adhering to the 2022 Drought Executive Order for permitting or denying permits for new groundwater-supply wells.

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Based on the above, we, or any other consultant, are unable to provide further substantive review relative to water-supply and the proposed Mosaic Project based on the information provided in the DEIR. We appreciate the opportunity to comment on the DEIR. Should you need further assistance, please contact me at (925) 640-7807, or by email azdon@rouxinc.com.

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TECHNICAL SPECIALTIES

Providing services for governmental agencies (federal, state, and local), non-profit and for-profit corporations, and private individuals. Providing services ranging from water resource/supply investigations, impact analyses related to NEPA and CEQA analyses, groundwater modeling, water sourcing investigations, water supply management plans, mine hydrology investigations, minerals remoteness assessments, restoration project management, and environmental investigations.

EXPERIENCE SUMMARY

Mr. Zdon has more than 30 years of experience in a variety of geology and hydrogeology-related projects. He is a California Professional Geologist, Certified Hydrogeologist and Certified Engineering Geologist. Mr. Zdon is a recognized subject matter expert in numerical groundwater flow modeling and has been an instructor at California State University, Los Angeles in Groundwater Models and Management (1995).

Mr. Zdon was also appointed in 2013 by the Inyo County Superior Court as Watermaster for a surface water system in the Owens Valley. His specialties include basin analyses and relationships with spring systems, numerical groundwater modeling including, flow, groundwater/surface water interactions including spring flow, contaminant transport and dual-phase flow in both basin fill and fractured rock environments. Investigations in these areas can be in support of CEQA/NEPA analyses, water resource development evaluations, or providing third party review, supervision of UST identification, abandonment and removal.

He has served as an expert witness on many cases and has provided both depositions and court testimony. Mr. Zdon was appointed to serve on the first Technical Advisory Committee for the newly combined California Board for Engineers, Land Surveyors and Geologists. He also received Certificates of Commendation and Appreciation for his volunteer service as a Subject Matter Expert for the former California Board for Geologists and Geophysicists.

CREDENTIALS

State of California, Professional Geologist (No. 6006)

State of California, Certified Engineering Geologist (No. 1974)

State of California, Certified Hydrogeologist (No. 348)

State of Arizona, Registered Geologist (No. 33686)

State of Utah, Professional Geologist (No. 11907683-2250)

B.S., Geology, Northern Arizona University, Flagstaff, Arizona, 1984

Assessment, Use and Management of Groundwater in Areas of Limited Supply, 2006, Groundwater Resources Association of California

Introduction to ArcGIS9 and Environmental Applications of GIS, 2005, Northwest Environmental Training

Application of Risk Assessment for Environmental Decision Making at Contaminant Release Sites, 2005, University of California, Riverside – University Extension

Conceptual Site Models and the Data Necessary to Make Technical Decisions Regarding Cleanup and Site Closure, University of California, Riverside – University Extension

Model Calibration and Uncertainty Analysis Using PEST, 2003, Groundwater Resources Association of California

KEY PROJECTS

Environmental Forensics related to Desert Riparian Habitats. Principal investigator on forensic evaluations of spring water sources for multiple locations in Mono, Inyo, San Bernardino and Kern Counties, California. Methodologies used in these analyses have included stable isotope analysis of waters, water age-dating (using tritium and carbon-dating methods), noble gas analysis, general chemistry, and remote sensing techniques inclusive of Landsat imagery time-series analysis associated with Normalized Difference Vegetation Index (NDVI) signals, and changes in NDVI over time. The results of these studies have been published in the peer-reviewed journals Hydrology, Environmental Forensics and the International Journal of Water Resources and Environmental Management.

Spring Survey, Mojave and Sonoran Deserts, San Bernardino, Los Angeles, Kern and Inyo Counties, California. Principal investigator for Mojave Desert-wide spring survey for the Barstow, Needles and Ridgecrest U.S. Bureau of Land Management Districts. Also included lands owned by project partner land trusts. Work consisted of records search (inclusive of technical data, water rights information, BLM records search, and cultural historic information), field inspection of more than 300 springs, and preparation of a comprehensive report and catalog of springs that serves as the most comprehensive and temporally consistent investigation of springs ever to occur in the region. Field data included refining location information, field water quality parameters and flow, collection and analysis of water samples for stable isotope analysis, identification of vegetation present including invasive species, identification of wildlife use including use by non-native animals, types of spring disturbance, and general geological observations. Subsequent work has included extensive isotopic characterizations including stable isotope, tritium and radiocarbon analyses to evaluate regional aquifer connections with springs and working cooperatively with biologists conducting vegetation mapping and environmental DNA analyses on selected springs. This project was reported on in several publications including USA Today.

Technical Expert, Pine Valley and Wab Wab Valley Groundwater Basins, Utah. Serving as technical expert to the Beaver County Board of Commissioners regarding proposed groundwater export project by the Central Iron County Water District. The project proposes to export groundwater from proposed wells on public lands managed by the U.S. Bureau of Land Management to

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alleviate overdraft and related subsidence issues in the Cedar City area. Work involves evaluating the effects of proposed groundwater production on springs and other resources in Beaver County, and to prepare comments to upcoming environmental impact statement.

Technical Expert, Orange County Groundwater Basin, California. Served as an expert witness and provided deposition regarding hydrogeologic conditions and numerical groundwater flow and transport modeling associated with the shallow, principal and deep aquifers of the Orange County Groundwater Basin. Focus was on groundwater flow, Irvine Ranch Water District well field-caused hydraulic gradient changes, and the potential for shallow contamination to reach the principal and deep aquifers.

Technical Expert – Hydrogeology of Proposed Yucca Mountain Nuclear Waste Repository, Nevada. Technical expert representing the County of Inyo, California relating to potential impacts to water resources in the County of Inyo including downgradient groundwater/spring water users in the communities of Shoshone and Tecopa and ecological resources associated with springs and the federally designated Amargosa Wild and Scenic River and Death Valley National Park. Work has included reviewing existing numerical groundwater flow and transport modeling for the region, and running the carbonate-aquifer model (which covers portions of California, Nevada and Utah) developed by the U.S. Geological Survey to evaluate the effect of pumping related to Southern Nevada Water Authority water rights and applications on vertical hydraulic gradients beneath Yucca Mountain and preparation of comments to Supplemental Environmental Impact Statement for Groundwater (prepared and submitted during 2015).

Project Management and Water-Supply Well, Feather River Basin, Plumas County, California. Project management and hydrogeological services related to a restoration of the historic Heart K Ranch project along Indian Creek in the Feather River headwaters for the Feather River Land Trust. Work included organizing hydrogeological (including production well drilling) and engineering and irrigation subcontractors to complete infrastructure for the project in a brief timeframe (less than six months). Successful siting of the well resulted in yield more than two times greater than client expectations.

Groundwater Recharge Operations, San Joaquin Valley, California. Technical and operational review of groundwater recharge/replenishment operations throughout the San Joaquin Valley, California. Work included identifying all non-private groundwater replenishment facilities in the San Joaquin Valley, providing technical review of operations including periodicity of use, spreading-basin geometry, and reviewing surrounding environment (including potential liabilities) associated with the potential use of the operations as water-bird habitat.

Hydrogeologic Evaluation, Amargosa River Basin, California and Nevada. Principal in Charge and project manager for ongoing basin-wide investigation of the resources of the

California-portion of the Amargosa River basin. Investigations have ranged from baseline data collection efforts to wide-ranging geochemical investigations (including isotope studies) of groundwater issuing from springs, from the Amargosa River, and from existing wells. Results have been groundbreaking and have resulted in ongoing reevaluation of the conceptual model of this part of the basin (more than 2,000 square miles) that had been held for nearly 50 years. Being a spring-fed river, the investigations along the Amargosa River highlight the evaluation interactions between surface water and groundwater. These data have been incorporated into multiple peer-reviewed journal articles and in U.S. Geological Survey report on the Lower Amargosa River Valley (Scientific Investigations Report 2018-5151).

Hydrogeologic Characterization and Flow Modeling, Big Valley Groundwater Basin, Lake County, California. Conducted numerical modeling analysis of the Big Valley Groundwater Basin (inclusive of Soda Bay) in Lake County, California as part of environmental review/feasibility study related to using the Kelseyville water system as an alternative water supply review for the Soda Bay area. The Soda Bay area is in complex volcanic terrain and has been previously served primarily by surface water from Clear Lake which is seasonally problematic due to water quality issues. Additionally, the numerical modeling provided estimates of streamflow depletion in Kelsey Creek due to groundwater pumping addressing concerns related to the Clear Lake Hitch, a California-state listed threatened species fish (also under federal review).

Hydrogeologic Characterization and Flow and Transport Modeling in Volcanic Terrain, Mono County, California. Served as expert witness and manager of environmental activities at 7,000-gallon gasoline release that occurred in faulted, volcanic terrain upgradient of a town water-supply well field. Work conducted at the site also included characterization of rock units including the use of rotary drilling and oriented-core drilling, surface and down-hole geophysical surveys, and extensive vapor and groundwater sampling. Developed a conceptual model and follow-up numerical groundwater flow and transport model to evaluate potential timing and magnitude of impacts to down-gradient town water-supply wells and associated remediation scenarios both to evaluate on-site remedial effectiveness and risk reduction associated with water supply.

Well Siting along the San Andreas Fault Zone, Lake Elizabeth area, Los Angeles County, California. Provided technical review and recommendations for future well siting in the Lake Elizabeth area. The Lake Elizabeth area is situated along the San Andreas Fault Zone, the lake being a manifestation of the fault zone (sag pond). Groundwater in this complex area is highly compartmentalized, and differences in well yields and groundwater quality can vary substantially in short distances. This work successfully informed the Lake Elizabeth Mutual Water Company in new well siting after previous well construction attempts.

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Watershed Assessment, Flow Modeling and Impact Analysis for Potential Well-field, Sierra Nevada, Mono County, California. Consultant to Mammoth Mountain Ski Area in a joint project with the Mammoth Community Water District regarding water resources issues associated with a proposed land transfer with the Inyo National Forest, and the potential development of a water supply in an eastern Sierra watershed. Work involved developing conceptual model and associated preliminary numerical groundwater flow model of an eastern Sierra watershed, conducting field investigations to evaluate hydrogeologic parameters (including aquifer testing of potential water-supply wells) identified to be sensitive in the numerical model, and finalizing the numerical groundwater flow model through updating parameters and boundary conditions based on data obtained from the field investigations and performing a transient calibration. The final numerical model was used to evaluate potential groundwater impacts of the proposed project.

Seepage Modeling, Multiple Projects, New Zealand. Provided technical oversight for finite element groundwater seepage modeling (SEEP/W) and hydrogeologic evaluation of tailings mitigation, Coeur Golden Cross Mine Tailings Impoundment, New Zealand. Modeling was conducted to evaluate practicability of tailings dam dewatering schemes. Additionally, conducted seepage modeling to evaluate effects and feasibility of dewatering for the Mangere Waste Treatment Plant Upgrade. This would ultimately lead to the biggest environmental restoration program to be undertaken in New Zealand including removing 500 hectares of oxidation ponds (the subject of the modeling) and restoring 13 kilometers of coastline.

Numerical Flow Modeling, Owens Valley, Inyo County, California. Hydrogeologic consultant for the Owens Valley Indian Water Commission through the development of hydrogeologic data gathering, development of conceptual models for the Lone Pine Reservation, Big Pine Reservation and Bishop Reservation areas of the Owens Valley, and development of numerical groundwater models for each of these areas. The models developed provide these Paiute/Shoshone tribes with tools to evaluate the impacts on local reservations of water resource activities conducted by outside agencies. This U.S. Geological Survey – peer reviewed modeling effort provided strong water management tools for the tribal community of the Owens Valley.

Water-Supply Feasibility Study, Inyo County, California. Principal in Charge for hydrogeologic services associated with a feasibility study for a potable water supply and fire-flow system for the community of Tecopa in Inyo County, California. Work was conducted under a California Department of Water Resources grant (Integrated Regional Water Management Planning – Proposition 84). Waters in the area typically have elevated dissolved solids and metals such as arsenic and residents routinely obtain water from distant sources. The study was being conducted under a grant from the California Department of Water Resources, and because of this work, a grant to

implement the water system has been received and the facility constructed and operational.

Water Resource Assessments, Mono County, California. Served as consultant to Mono County conducting groundwater availability assessments for several Mono County communities including: Antelope Valley (West Walker River); Mono City and Lee Vining (Mono Basin), Crowley and the Tri-Valley areas (Owens River). Work included conducting field reconnaissance activities, developing groundwater recharge estimates, evaluating local groundwater budgets, identifying potential future impacts due to regional growth, water quality issues, etc. He has also provided hydrogeologic support to the County of Mono with respect to reviewing and evaluating groundwater modeling conducted to evaluate potential impacts caused by expansion of a geothermal plant in Mono County.

Groundwater-Supply Feasibility Study, San Mateo County, California. Currently conducting a feasibility/well siting study related to the development of a groundwater supply for the La Honda area in the northern Santa Cruz Mountains of San Mateo County. The area has relied on surface water for its water supply and groundwater is being considered as a supplemental source of water for the San Mateo County Community Service Area No. 7 water system.

Vineyard Water Resource Assessment, Lake County, California. Served as consultant to Shannon Vineyards to evaluate water supply for existing and future development of vineyards in Lake County, California. Investigation identified a previously unidentified aspect to the hydrologic conceptual model indicating that more groundwater may be available to support future development and potentially alleviate long-term concerns for local impacts to springs. Additional data collection and analysis was recommended to support these new findings.

Well Siting Analysis, Los Angeles County, California. Conducted analyses including fracture trace analysis to identify potential production well sites for the Elizabeth Lake Mutual Water Company. The area of the well will be within the trace of the San Andreas Fault Zone, resulting in a complex fracture analysis and review of existing of wells and springs.

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PROFESSIONAL AFFILIATIONS

National Ground Water Association

Geological Society of America

Society for Mining, Metallurgy and Exploration

SPEAKING ENGAGEMENTS

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ORG3-82
cont.

Appendix B

Water Supply Comments by Roux Associates, Inc.

Date: January 18, 2024

To: Jessica L. Blome, Greenfire Law, LLC

From: Andy Zdon, P.G., C.E.G., C.Hg.

Subject: **Water-supply Comments**
Mosaic Project Recirculated DEIR
Cull Canyon Road, Alameda County, California

Roux Associates, Inc. (Roux) is pleased to provide the following information regarding our review of the groundwater conditions/water-supply for the proposed Mosaic Project (Mosaic), as described in the Mosaic Project Recirculated Draft Environmental Impact Report (RDEIR, County of Alameda, 2023). The Mosaic Project is proposed as an “Outdoor Project Camp,” a recreational facility including twelve 400-square foot cabins, an 8,500-square foot dining and meeting facility, a restroom/shower building, a 2,600-square foot dwelling, and 1200-square foot caretaker’s unit. Two water-supply groundwater wells would be used to support the facility including a waste treatment system. Water uses would include domestic, agricultural, livestock and recreational uses. Three other wells on-site would be destroyed/abandoned.

ORG3-83

Due to the absence of key hydrogeologic data and report(s), there are substantial data gaps that must be addressed for a reliable evaluation of water-supply, and project impact and feasibility to be presented. Absent that, the Recirculated RDEIR presents an inadequate account of water resource conditions and related project impacts.

Water-Supply Wells and Conditions

The RDEIR summarizes the several wells present on site, which includes five groundwater wells, only two of which will be used for the project water-supply, for the purposes described above. The remaining three wells will be abandoned per California-state well regulations. The two active wells are reportedly completed in the Miocene-aged Monterey Formation and therefore rely on fractures in the bedrock for groundwater flow. Fractured-rock aquifers are generally of low porosity, and groundwater levels may fluctuate widely based on seasonal and annual precipitation conditions and groundwater use within the catchment watershed.

ORG3-84

The project site is next to Cull Canyon Creek, a stream that flows north to south. The RDEIR does not describe the characteristics of Cull Canyon Creek beyond its surface features and does not describe whether the stream “gains” streamflow from groundwater (is a gaining stream) or is a “losing” stream that recharges the aquifer. The water-supply wells are found in the lowermost, downgradient portions of the property. Waste-water treatment, gray-water use for agriculture or other purposes, agricultural and livestock operations, and other functions would occur upgradient of the two source wells.

ORG3-85

The RDEIR provides limited information, such as well depth, and yield. However, more data relating to well construction, aquifer parameters, and overall watershed hydrology, including estimates of precipitation/recharge and existing water usage in the watershed, are necessary for evaluating the sustainability of water-supply for the given project.

The RDEIR on Page 4.14-5 notes that “*Balance Hydrologics was retained to conduct groundwater exploration and identify potential water supply sources for the project. Two wells were identified as potential production sources. Both wells are screened in consolidated sedimentary bedrock and were constructed in accordance with the requirements of Title 22 of the California Code of Regulations (CCR). A description of the wells is provided in Table 4.14-1, Production Well Description.*” The text continues to

ORG3-86

describe the results of aquifer testing of those wells and makes statements at various locations in the RDEIR that well interference was not observed, but the basis for these statements cannot be determined from the RDEIR.

At this time, Roux cannot evaluate the accuracy of the analysis and assertions related to water-supply as the RDEIR-referenced report by Balance Hydrologics describing their work, conclusions and recommendations does not appear in the RDEIR or its appendices. The Balance Hydrologic report serves as a foundational document, a basis for the design and feasibility of the project. Methodologies used for aquifer testing, including location of well discharge relative to monitored wells, groundwater-level hydrographs of well monitoring data recorded during aquifer testing, and other information required to evaluate the completeness and accuracy of the water-supply analysis are not provided. Understanding the timing of the testing, and whether and to what extent the wells have been used since those tests, are all important for understanding the condition and potential yield of those wells in current time.

**ORG3-86
cont.**

Additionally, it is unclear if an evaluation of the existing watershed groundwater usage and the incremental changes in groundwater budget for the watershed has been prepared. As described in a Local Climate Change Snapshot (Cal-adapt, 2024) increasing ambient temperatures will occur in the coming decades. Increasing temperatures will also result in greater evaporation and decreased groundwater recharge despite relatively constant precipitation conditions.

ORG3-87

Groundwater Conditions

Groundwater levels in fractured-rock aquifers can vary widely seasonally and year to year. Two important limiting factors on well output are interactions between groundwater and surface water, and conditions that may buffer those effects. The RDEIR provides undated point in time groundwater levels for each of the two water-supply wells. Point in time groundwater levels are of little purpose for this analysis, as it ignores natural seasonal and annual fluctuations associated with changes in precipitation and groundwater recharge. This is particularly difficult to interpret if the date of the groundwater level is of substantial age and bears little relevance to current conditions. Further, when groundwater levels drop (e.g., during drought periods), the transmissivity (a parameters describing the aquifer's ability to transmit water) of the water-bearing zone will also drop, as that parameter is a function of saturated thickness of the zone. Decreased transmissivity will result in greater drawdown for a given well yield. Therefore, hydrographs of groundwater levels and/or elevation over time in each of the wells should be provided to assure that sufficient water is present in the wells to sustain the project. Further, the water-well logs should be attached to the report (and are likely in the Balance Hydrologics Report) to enable the implications of groundwater level to well depth and construction to be independently evaluated. Well logs are not proprietary information in California.

ORG3-88

Additionally, based on the provided comments, it is unclear if an evaluation of the existing watershed groundwater usage and the incremental changes in groundwater budget for the watershed has been previously prepared. This is important to assess whether there is sufficient groundwater present to accommodate added stress on the bedrock aquifer being pumped.

ORG3-89

Hydrology

The Balance Hydrologics report is not referenced in RDEIR Section 4.8, assessing impacts on hydrology and water quality. This appears to be an oversight, as the interactions between groundwater and surface water in an environment such as this is critical to understanding project impacts to water quantity and quality. For example, as described earlier, the wells are located along the downgradient section of the project site. Absent an understanding of groundwater and surface water interactions, including septic systems and gray-water use, there is considerable uncertainty concerning potential impacts to groundwater quality within the area of the water-supply wells' groundwater capture zone as a capture analysis does not appear to have been conducted.

ORG3-90

Water Use

Correlating groundwater availability to projected water-supply needs is critical. The Balance Hydrologic report that is referenced in the RDEIR may provide key information for this determination. For example, what are the assumptions behind the “rated capacity” of each well as presented in Table 4.14-1? Based on our experience in water-supply related projects and given the low well yields (less than 5 gallons per minute) we do not believe that one of these single low-capacity wells could be relied upon to provide for all uses (particularly during drought periods) inclusive of maintaining sufficient water in storage for fire flows, while the other well is simply used as a backup supply. Are there alternatives for backup supply inclusive of trucking in water? Were there limitations or recommendations noted by Balance Hydrologics that do not appear in the RDEIR? These are questions that the RDEIR leaves unanswered. Additionally, wells are not designed to run 24 hours per day, 365 days per year. Periods of downtime for well maintenance, power interruptions, and other events can all affect overall well production.

ORG3-91

A more-detailed project water balance is necessary but lacking here. The water balance is needed to provide an adequate accounting of the projected water supplies and uses, and the assumptions behind them. Such a water balance would not only include inflow and outflows (supplies and uses) for the project, but for the Cull watershed as well. If the groundwater in the watershed is already in a stressed condition, how the cumulative effects of the additional groundwater used by the project effects the watershed water balance is important for evaluating the project impacts.

ORG3-92

Fire Flows

Based on the limited data provided in the RDEIR, and absence of the Balance Hydrologics report as an appendix, we are unable to evaluate the potential water-supply available for fire-flows to be supplied by the wells, or whether sufficient flow would be available from wells to meet those requirements. More detail is needed to evaluate the robustness of the water use estimates, and if the usage values provided may be underestimated. If so, greater reliance on storage for domestic and other uses would limit the volume of water stored to support fire flows, and impact whether the existing wells have sufficient yield to support sufficient water storage for all uses.

ORG3-93

This is likely to be an increasingly critical part of the water-supply infrastructure. Based on the Cal-Adapt Climate Change Snapshot for Castro Valley, California (2024), by 2060, the average annual burned acreage in the area is predicted to double from current conditions. Absent the Balance Hydrologics report, and a review of the data related to the aquifer testing, the ability for the wells to maintain an adequate fire-flow water supply is wholly speculative.

Closing

Given the absence of detailed data, we are unable to provide further substantive review to assess the proposed water-supply for the proposed Mosaic Project based on the information provided in the RDEIR. Methodologies used for aquifer testing, including the location of well discharge relative to the monitored wells, groundwater-level hydrographs of monitoring wells used during aquifer testing, and other information necessary to evaluate the completeness and accuracy of the water-supply analysis are not provided. Additionally, the presence of detailed information concerning testing of the site for septic system use, while not providing the same standard of detail for water-supply indicates a substantial data gap that should be addressed to provide for a reliable water-supply, project impact, and feasibility evaluation. In its present form the Recirculated RDEIR presents an inadequate review of water resource conditions and related project impacts.

ORG3-94

We appreciate the opportunity to comment on the RDEIR. Should you need further assistance, please contact Andy Zdon at (925) 640-7807, or by email azdon@rouxinc.com.

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Local Climate Change Snapshot



Castro Valley

California 94552, United States

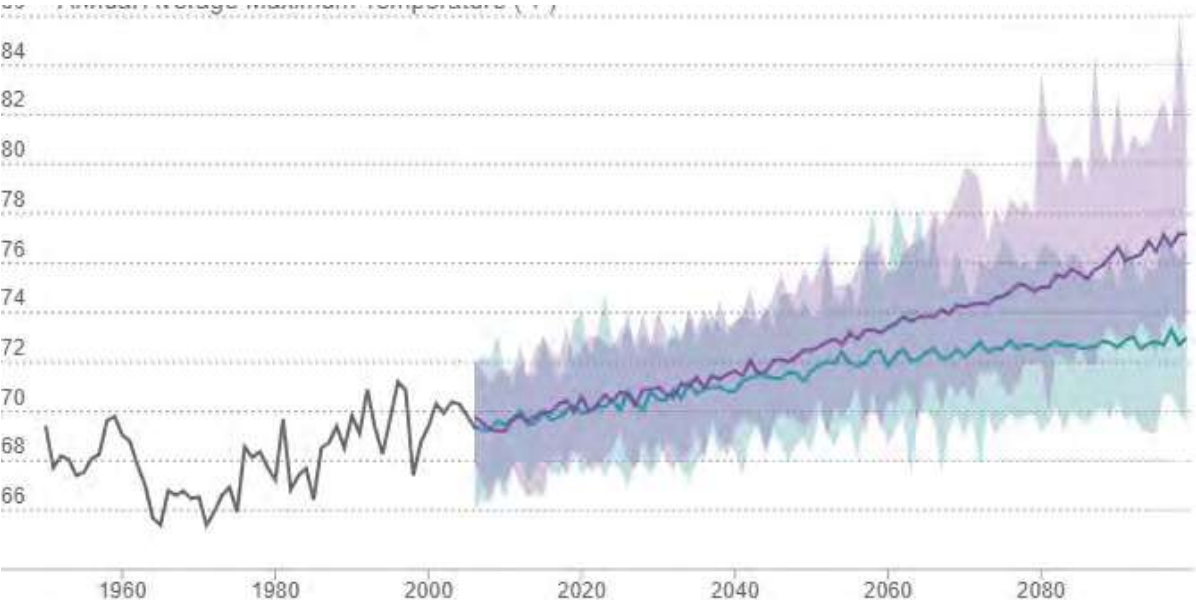
Temperature

Overall temperatures are projected to rise in California during the 21st century. While the entire state will experience temperature increases, the local impacts will vary greatly with many communities and ecosystems already experiencing the effects of rising temperatures.

Annual Average Maximum Temperature

Average of all the hottest daily temperatures in a year.

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



Observed (1961-1990) 30yr Average: 67.4 °F

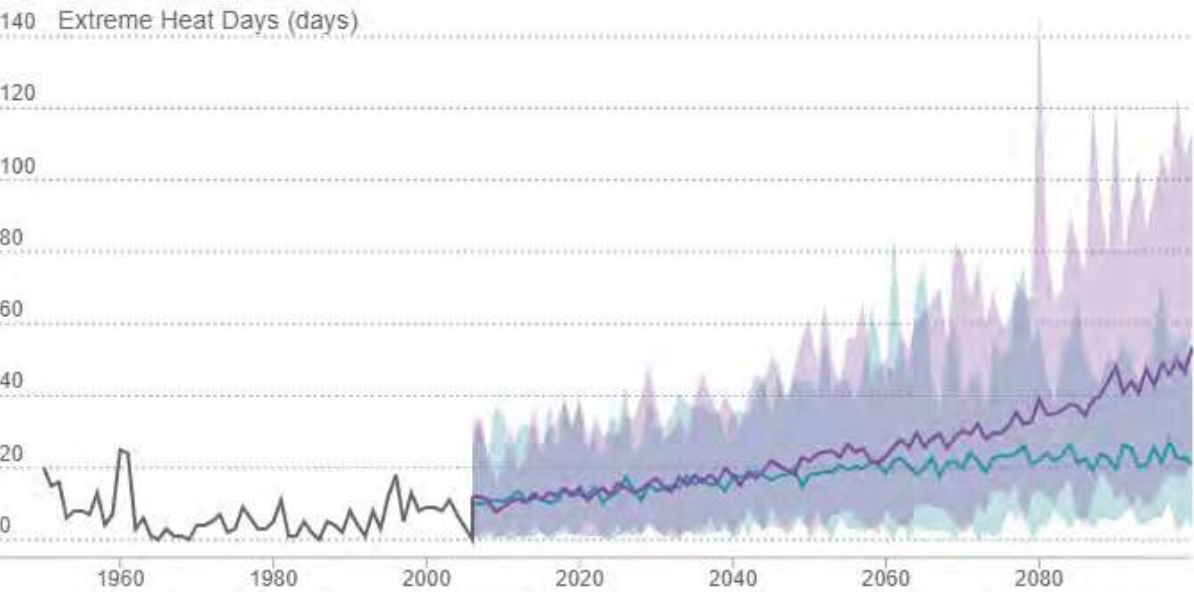
	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	68.1 °F	67.9 - 68.4 °F
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+3.5 °F	71.6 °F	70.2 - 73.1 °F
HIGH EMISSIONS (RCP 8.5)	+4.3 °F	72.4 °F	70.7 - 74.3 °F
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+4.6 °F	72.7 °F	70.9 - 75.0 °F
HIGH EMISSIONS (RCP 8.5)	+7.5 °F	75.6 °F	72.9 - 79.6 °F

1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

Extreme Heat Days

Number of days in a year when daily maximum temperature is above a threshold temperature

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



Observed (1961-1990) 30yr Average: 4 days

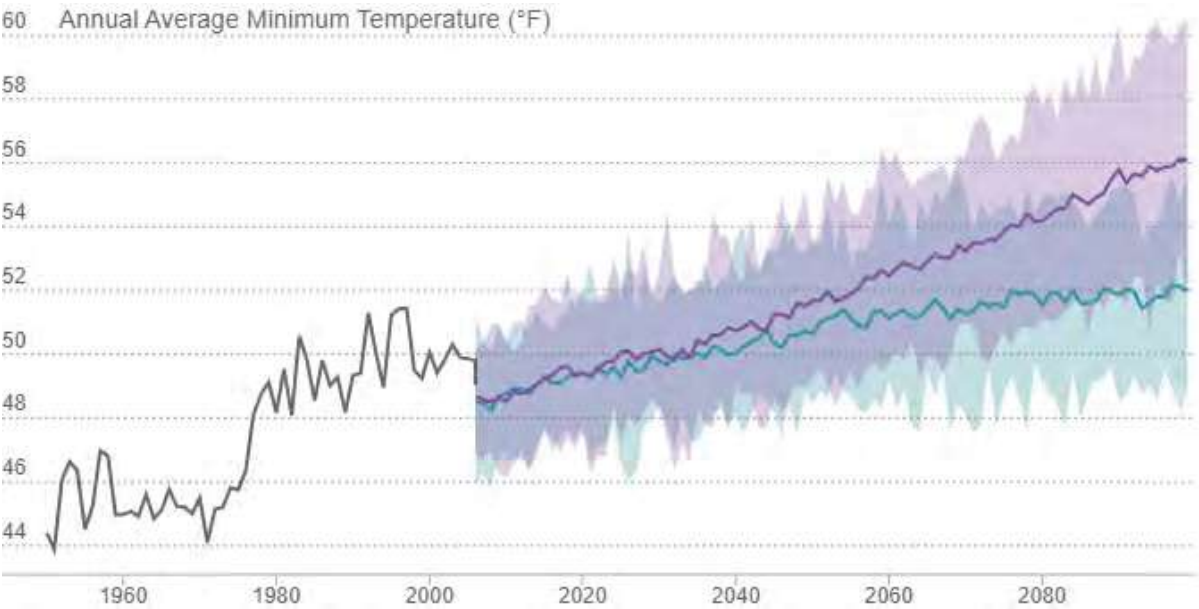
	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	6 days	4 - 7 days
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+12 days	18 days	12 - 29 days
HIGH EMISSIONS (RCP 8.5)	+16 days	22 days	14 - 33 days
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+17 days	23 days	15 - 38 days
HIGH EMISSIONS (RCP 8.5)	+32 days	38 days	23 - 73 days

1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

Annual Average Minimum Temperature

Average of all coldest daily temperatures in a year. of 91.2 °F

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



Observed (1961-1990) 30yr Average: 47.0 °F

	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	47.4 °F	47.2 - 47.7 °F
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+3.3 °F	50.7 °F	49.1 - 52.1 °F
HIGH EMISSIONS (RCP 8.5)	+4.2 °F	51.6 °F	49.9 - 53.1 °F
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+4.4 °F	51.8 °F	49.4 - 53.9 °F
HIGH EMISSIONS (RCP 8.5)	+7.4 °F	54.8 °F	51.9 - 57.8 °F

1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

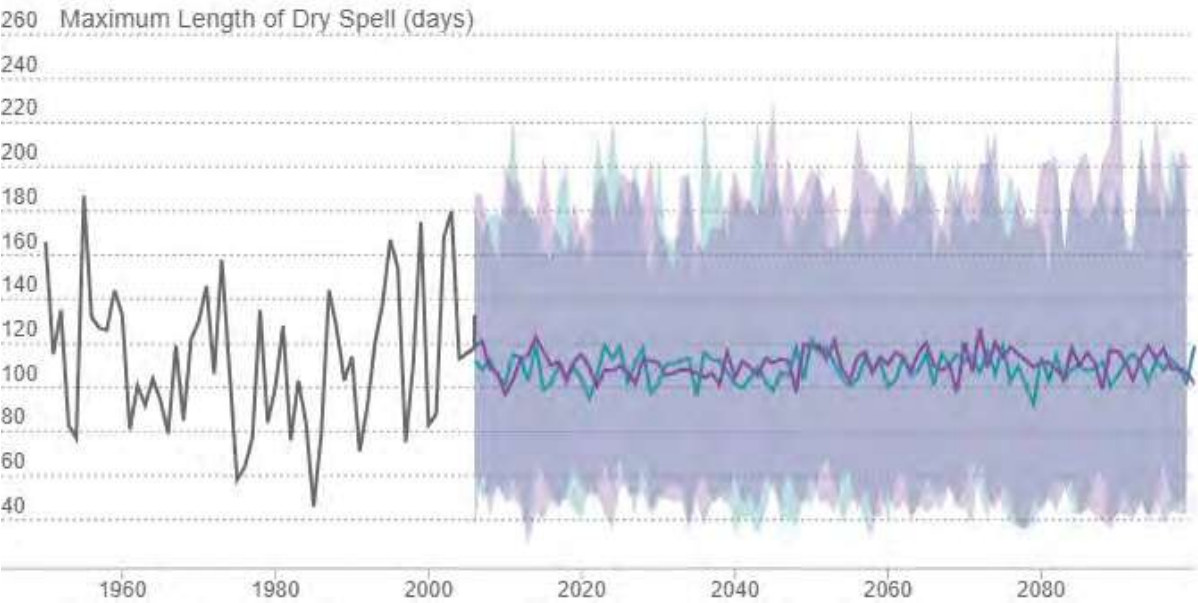
Precipitation

California's climate varies between wet and dry years. Research suggests that for much of the state, wet years will become wetter and the dry years will become drier. Dry years are also likely to be followed by dry years, increasing the risk of drought. While California does not see the average annual precipitation changing significantly in the next 50-75 years, precipitation will likely be delivered in more intense storms and within a shorter wet season. We are already seeing some of the impacts from a shift towards larger year to year fluctuations.

Maximum Length of Dry Spell

The maximum length of dry spell for each year. In other words, the maximum number of consecutive days with precipitation < 1mm for each year.

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



Observed (1961-1990) 30yr Average: 102 days

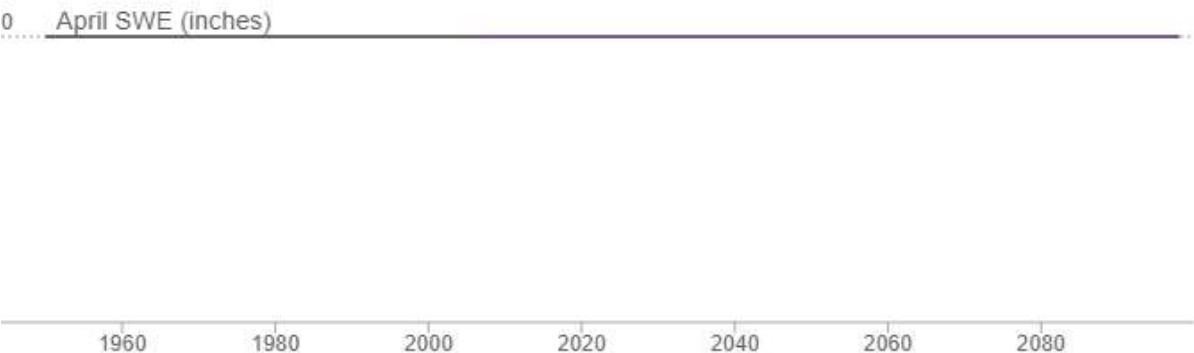
	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	103 days	90 - 120 days
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+5 days	108 days	83 - 131 days
HIGH EMISSIONS (RCP 8.5)	+8 days	111 days	86 - 129 days
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+5 days	108 days	86 - 132 days
HIGH EMISSIONS (RCP 8.5)	+10 days	113 days	86 - 155 days

1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

April SWE

Snow Water Equivalent (SWE), is a commonly used measurement used by hydrologists and water managers to gage the amount of liquid water contained within the snowpack.

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



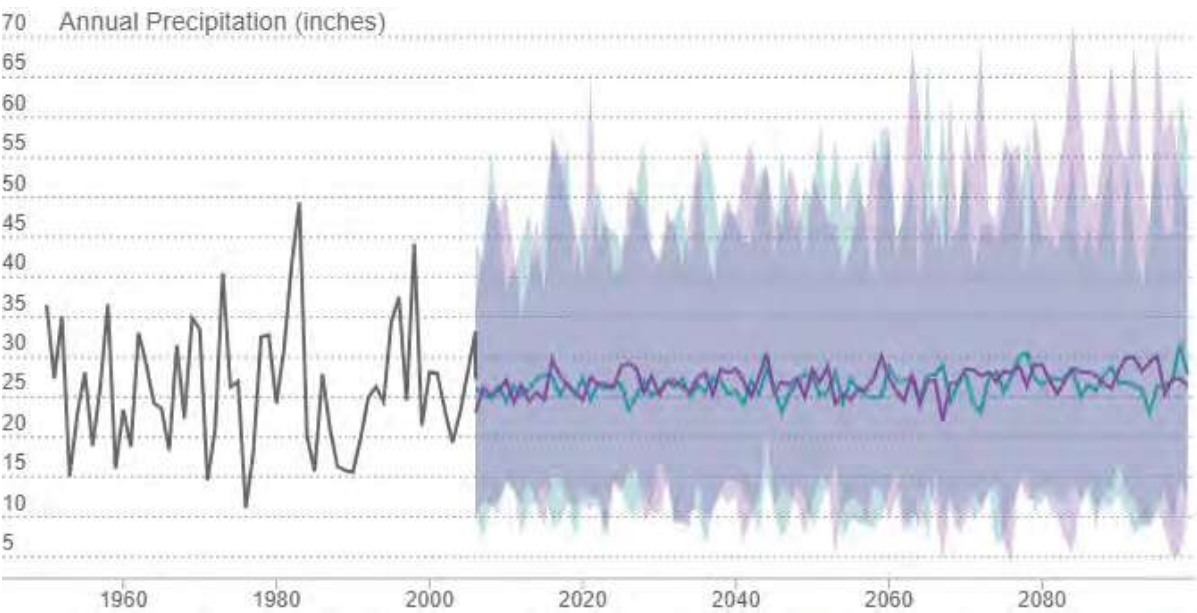
Observed (1961-1990)		30yr Average: 0.0 inches	
	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	0.0 inches	0.0 - 0.0 inches
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	-	0.0 inches	0.0 - 0.0 inches
HIGH EMISSIONS (RCP 8.5)	-	0.0 inches	0.0 - 0.0 inches
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	-	0.0 inches	0.0 - 0.0 inches
HIGH EMISSIONS (RCP 8.5)	-	0.0 inches	0.0 - 0.0 inches

1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

Annual Precipitation

Total precipitation projected for a year

Observed Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



Observed (1961-1990) 30yr Average: 25.7 inches

	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	26.4 inches	24.2 - 28.7 inches
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	-0.2 inches	26.2 inches	22.8 - 35.3 inches
HIGH EMISSIONS (RCP 8.5)	+0.4 inches	26.8 inches	22.0 - 34.4 inches
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+0.6 inches	27.0 inches	22.3 - 34.1 inches
HIGH EMISSIONS (RCP 8.5)	+1.5 inches	27.9 inches	19.2 - 37.7 inches

1. Data derived from 32 LOCA downscaled climate projections generated to support California's Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

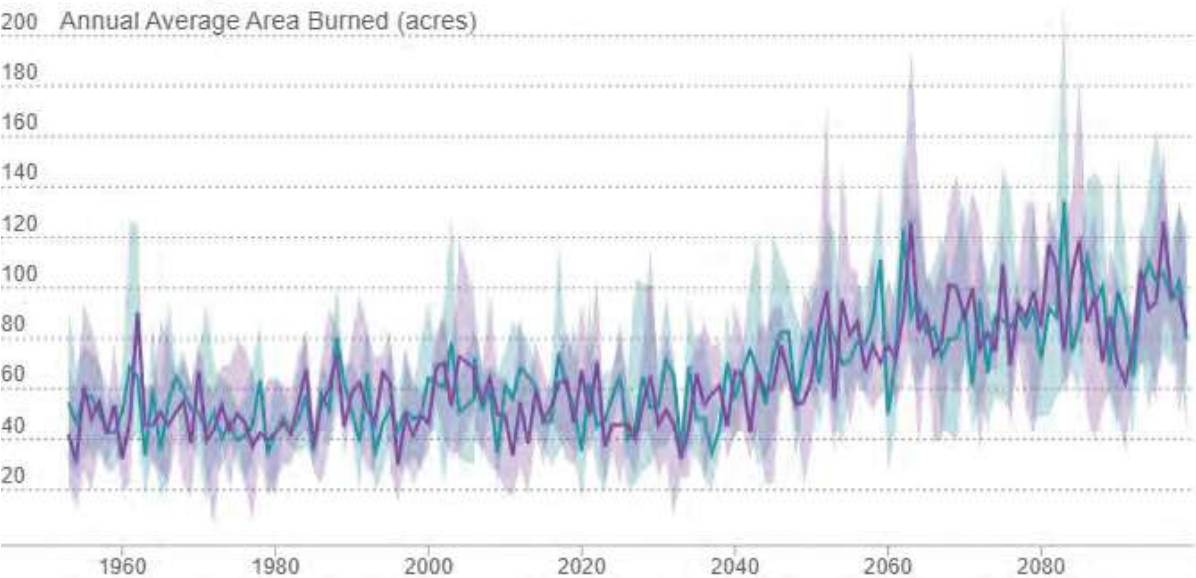
Wildfire

The frequency, severity and impacts of wildfire are sensitive to climate change as well as many other factors, including development patterns, temperature increases, wind patterns, precipitation change and pest infestations. Therefore, it is more difficult to project exactly where and how fires will burn. Instead, climate models estimate increased risk to wildfires. The Annual Average Area Burned can help inform at a high level if wildfire activity is likely to increase. However, this information is not complete - many regions across the state have no projections (such as regions outside combined fire state and federal protection responsibility areas), and more detailed analyses and projections are needed for local decision-making. These projections are most robust for the Sierra Nevada given model inputs. However, as we have seen in recent years, much of California can expect an increased risk of wildfire, with a wildfire season that starts earlier, runs longer, and features more extreme fire events. Fire danger is complex. It is impacted by human activity, vegetation, wind, temperature, relative humidity, atmospheric stability, etc. The Keetch-Byram Drought Index (KBDI) represents a simplified proxy for favorability of occurrence and spread of wildfire but is not itself a predictor of fire.

Annual Average Area Burned

Average of the area projected to be at risk to burning in a year.

Medium Emissions (RCP 4.5) High Emissions (RCP 8.5)



	Change from baseline ⓘ	30yr Average	30yr Range
Baseline (1961-1990)			
MEDIUM EMISSIONS (RCP 4.5)	-	50.8 acres	48.2 - 53.0 acres
HIGH EMISSIONS (RCP 8.5)	-	50.5 acres	49.1 - 53.4 acres
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+21.4 acres	72.2 acres	67.9 - 76.2 acres
HIGH EMISSIONS (RCP 8.5)	+20.3 acres	70.8 acres	68.9 - 73.6 acres
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+39.6 acres	90.4 acres	80.8 - 106.0 acres
HIGH EMISSIONS (RCP 8.5)	+40.7 acres	91.2 acres	86.9 - 99.3 acres

- 1. Data derived from 32 LOCA downscaled climate projections generated to support California’s Fourth Climate Change Assessment. Details are described in Pierce et al., 2018.
- 2. Observed historical data derived from Gridded Observed Meteorological Data. Details are described in Livneh et al., 2015.
- 3. Data presented is for LOCA grid cell (~ 6km x 6km resolution) at -122.038548,37.701431.

Appendix C: Flooding and Road Hazards

1. Images of flooding on Cull Canyon Road (January 2023).



2. Cull Creek flooding at proposed Mosaic site.

- (a) Photo showing erosion of bank and erosion barrier fence submerged; as viewed from road (January 2023).



- (b) Link to video showing road hazards and flooding at Mosaic site and adjacent properties to north (January 2023): <https://app.box.com/s/kb5npc83s9xh7zp1krbhsa6io0873cub>.

3. Cull Canyon Road Restrictions and Additional Hazards.

- (a) Vehicle weight restrictions and no secondary access routes or shoulder and turnouts above intersection with Columbia Drive.



- (b) Emergency vehicles blocking road during fire emergency response in 2019.



- (c) Link to video of school bus attempting to make turn into swimming area at wide section of road (below Columbia Drive): <https://app.box.com/s/umvxcfr2zc126av5wjpgnv037vo8sk5s>.

Appendix D: Evidence of Badger Activity in Area

Badger skull found in Cull Canyon by local resident (November 2022).





January 19, 2024

Albert Lopez, Planning Director
Alameda Co. Community Development Agency
224 West Winton Ave, Room 111
Hayward, CA 94544

DELIVERED VIA ELECTRONIC MAIL ONLY

RE: Recirculated Draft EIR for the Mosaic Project

Dear Mr. Lopez:

Thank you for producing a very thorough, comprehensive, and transparent Draft Environmental Impact Report (DEIR) for our Cull Canyon Road project. We have the following comments on the document for the County's consideration:

ORG4-01

1. There are minor inconsistencies with respect to the size of the various buildings throughout the document. The table at the top of Figure 3.3-4 in the Recirculated Draft EIR provides the correct figures. Those figures are:

Caretaker's Unit:	1,206 sq. ft.
Restroom/Shower Building:	1,025 sq. ft.
Staff House:	2,636 sq. ft.
Multi-Use Building:	8,506 sq. ft.
Cabins:	400 sq. ft., each

ORG4-02

We would ask that the Final EIR include only these correct numbers.

2. The Recirculated Draft retained the original estimated construction dates of June, 2023, to December 2024. We would estimate those dates to now be June, 2025, to December 2026, and ask that the document be updated accordingly.

ORG4-03

Thank you again for the opportunity to comment on the Recirculated Draft EIR.

ORG4-04

Sincerely,

A handwritten signature in blue ink that reads 'Mark Wolfe'.

Mark W. T. Wolfe,
AICP Principal Planner

From: [Lois Ingellis](#)
To: [Lopez, Albert, CDA](#)
Subject: Mosaic Project Review
Date: Saturday, January 6, 2024 7:24:29 PM

Dear Mr. Lopez;

I am an early childhood educator and college professor who has chosen Castro Valley for my semi-retirement since 2016. I am currently adjunct lecturer for Empire State University as well as consultant for the Castro Valley School District as they plan for and provide Free Pre-school for All.

I have viewed the impact report and Mosaic's plans for the Cull Canyon property. I served on the planning board of the small New York State community in Ulster County named Saugerties N.Y in the 80's. In a small way I understand your position and responsibilities. I am very impressed with the efforts that are being put into the review of this plan so that it is done correctly on all the fronts you have listed.

My response is to Land use, noise and recreation specifically.

The mission of Mosaic is wonderful on many levels but this site is going to add a component many have not mentioned as equally important to the children. That is the opportunity for these 4th and 5th graders to engage with and be surrounded by the deep nature of this canyon site. They will hear the noises of the night, feel the wind, see animals and birds, smell the air as they enjoy the peaceful bliss that will envelop them as they take walks and hikes on this property. Many will not have had opportunities to be this close to nature that is sorely needed by all of us. We will not learn to be good stewards of the environment if we don't fall in love with our local environment first. They will not know coming in, but the site itself will impact them as they participate in the bonding activities during their few weeks at this engaging camp experience.

Personal connection to and care for the earth and our environment will be a side effect of their time at camp which may, in a small way, highlight the fact that our earth and all our people matter!

Lois M. Ingellis, M. Ed,
Pronouns she, her
Adjunct Lecturer
Early Childhood Education
Lois.ingellis@sunyempire.edu
(510) 398-8242, Ca. PT zone



[Empire State University](#) | Street Address | City, State 11111

PUB1-01

COMMENT LETTER # PUB2

From: [Sandra Schnieder](#)
To: [Lopez, Albert, CDA](#)
Subject: Mosaic Project EIR comments
Date: Saturday, January 6, 2024 10:31:28 AM

Although I am not an expert in the matters addressed by the EIR, I skimmed through it and am impressed with the thoroughness with which this project was assessed. I concluded that the findings of potential harm to the environment are completely offset by the potential for good from this Project. The increase in our culture of violence as a way to solve problems demands that we invest in programs like the Mosaic Project to build a livable environment for our future. I fully support approval of this EIR and the county's support of moving this project forward.

Sandra Schnieder

PUB2-01

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

From: [terry britt](#)
To: [Lopez, Albert, CDA](#)
Subject: The Mosaic Project - EIR Review & Planning Permit
Date: Wednesday, January 10, 2024 8:31:25 AM

January 10, 2024

Mr. Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Dear Mr. Lopez,

I've reviewed the published EIR concerning the development of the Mosaic Project site in Castro Valley and I find it exceptionally thorough and impressive. As a construction professional of 40+ years, the concepts of adaptive systems for solar power and the rain water retention systems are as advanced and creative as I ever seen in the industry. This project far exceeds the sustainability programs promoted by the construction experts that I've worked with over the years and it demonstrates the level of thoughtful detail that has been embedded in the design. It continues to amaze me how the advances in technology for solar power and water conservation methods continue to raise the bar on what can be accomplished with creative applications.

I've followed the contributions of the Mosaic Project organization for over 8 years and as a Castro Valley resident of 30 years, I'm thrilled with the prospect of having their campus in our neighborhood. The emersion program that they've developed for kids of all walks of life is outstanding and a model for the community. The opportunity for kids to experience nature in this environment is an extraordinary one and gives them a chance to appreciate a world beauty and tranquility. The contribution that this organization will make to Castro Valley will be immeasurable.

Many of my colleagues on the Castro Valley Chamber of Commerce, members of the CV Woman's Club and neighbors have also expressed their support of Mosaic and have asked me repeatedly why it's taking so long for them to get a public hearing on the merits of their permit application. I beseech you to give them a fair hearing and let the proper municipalities decide on the project.

Respectfully

Terry C. Britt

PUB3-01

To: Sonia Urzua, Planner
Alameda County Planning Department
224 W. Winton Ave, Suite 111
Hayward, CA 94552

From: Sheikh Ellahi
17123 Cull Canyon Rd
Castro Valley, CA 94552

Mail: 1777 S Vintage Ave
Ontario, CA 91761

Dear Planning Department,

This letter is in response to Courtesy Notice received June 23, 2020 regarding PLN2020-00093, Conditional use permit – SDR Cull Canyon Properties, LLC / Brian Lowe, The Mosaic Project.

The application is for construction and operation of an outdoor recreation facility, including camping cabins, shower/restroom facilities, multi-use building and agricultural caretaker unit in the “A” district located at 17015 Cull Canyon Road, Castro Valley, CA 94552

PUB4-01

The comments in this response relate to the proposed lease of land to The Mosaic Project.

My property is immediately adjacent to 17015 Cull Canyon Rd (south and west borders) and will be negatively impacted by the proposed Mosaic Project.

My home is approximately 500 ft. or less from the proposed primary structures and multiple cabin sites as well as the proposed campfire ring. Open campfires in a zone 3 extreme fire zone causes great

PUB4-02

concern. Should a fire occur, I believe our home would be compromised which presents a major concern to the safety and well-being of my family and surrounding environment.

PUB4-02
cont.

I'm concerned about the number of young people that could potentially be trespassing and being a huge danger to themselves and our property. During rainy season there are very dangerous mud slides and falling trees and kids from the colonies already trespass across the top portion, smoking and drinking, littering and having fires.

PUB4-03

Additionally, the proposed daily activities and evening ceremonies of 100 + minors and 20-30 staff and counselors would be particularly disruptive to the immediate surrounding neighbors. I believe general county standards would allow these activities to begin at 8am until 9pm. I don't believe this area is zoned for a school which seems to be the objective of this project.

PUB4-04

Their proposal mentions roads and trails on their property, however none currently exist. There are roads and trails on my property, so perhaps they have mistaken their property boundary line or assume they will be able to use my property. Note, however, that there is already evidence that someone has trespassed on my property on the trails. Someone from the subject property has already taken down fencing between our two parcels, so it is concerning to me what they might do next. The Mosaic folks have also asked me whether they could use my property for their school. Due to concerns about liability and to protect my privacy, I have told them, in no uncertain terms, that they are not allowed on my property and have put up no trespassing signs.

PUB4-05

I am particularly concerned about the amount of water needed to sustain the 130-150 individuals for a minimum of 26 weeks per

PUB4-06

year. This does not take into consideration the additional water requirements for the proposed farming of goats, chickens and organic garden. Farm animals will bring in dangerous wild predators such as bobcats and mountain lions, putting children at further risk. As of July 1, 2020 my well is already showing a decreased water flow due to the low water table. There is no adequate, long-term, sustainable water supply available to serve the proposed development.

**PUB4-06
cont.**

The proposed 40 foot tall multi-purpose building would overlook our house, will not blend with the surrounding forested land, will be one of the tallest buildings in Castro Valley (would be taller than the new Marketplace, and will not be subordinate with the current visual requirements as stated in Measure D. This massive structure will rise above the tree-line making the building visible to the surrounding neighborhood which will detract from the natural and visual qualities of the forested land.

PUB4-07

Another major concern is devaluation of all the properties in the canyon. And also a huge massive concern of mine is the traffic. The roads are dangerous, narrow, eroding and young people and counselors that are less experienced can cause major accidents and dangers. There are cyclist also that use that road.

PUB4-08

PUB4-09

We were led to believe when we paid millions of dollars for our property that it would remain protected agricultural land. To allow a different purpose and potentially zoning changes, for a rehabilitation school that doesn't even serve our community, is completely unfair.

PUB4-10

Sincerely,

Shiekh Ellahi

January 15, 2024

Albert Lopez
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544
albert.lopez@acgov.org

Re: **Comments on the Recirculated Draft Environmental Impact Report (DEIR)** for the proposed Mosaic Project located at 17015 Cull Canyon Road, Castro Valley.

Albert,

While we believe that the Mosaic project is a worthy cause, we are extremely concerned about the proposed location. Below please find some of our comments and concerns regarding the DEIR on the Mosaic School and the project as a whole.

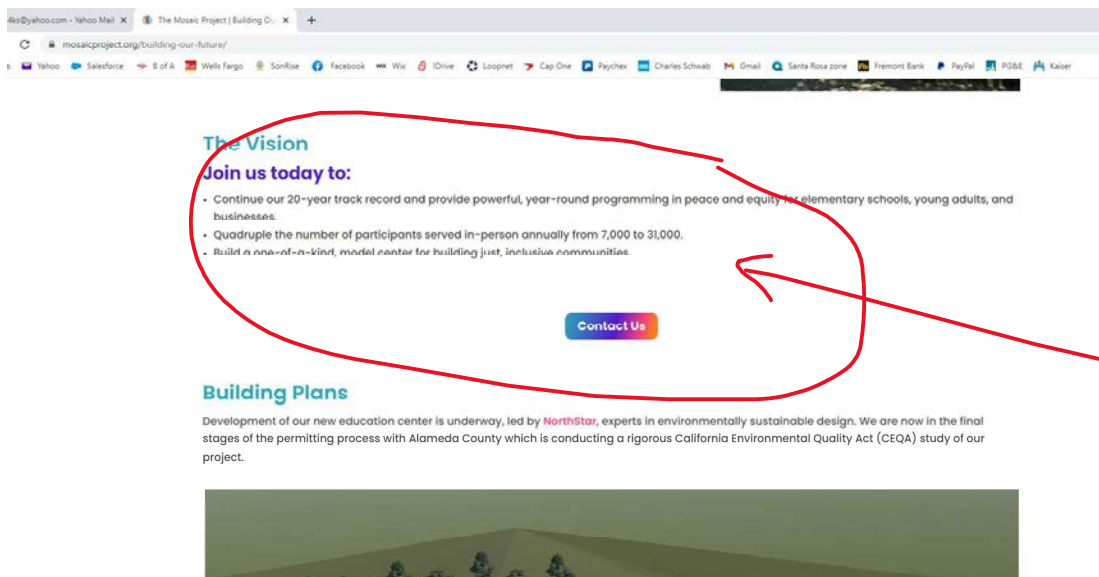
PUB5-01

1. The DEIR has been prepared based on inaccurate information and assumptions.

According to Mosaic's own website, they state that their goal is to serve 31,000 kids annually. This is not what is portrayed in the DEIR. All calculations should be based on the number of children they expect to be serving once they are ramped up to full capacity and not the minimum initial capacity of the school.

3.3 PROPOSED PROJECT The Outdoor Project Camp would facilitate several classes of 4th- or 5th-grade students, approximately 75- 95 students total (not to exceed 95), who will be transported by bus to the project site from their schools for a five-day, four-night outdoor recreation program in nature.

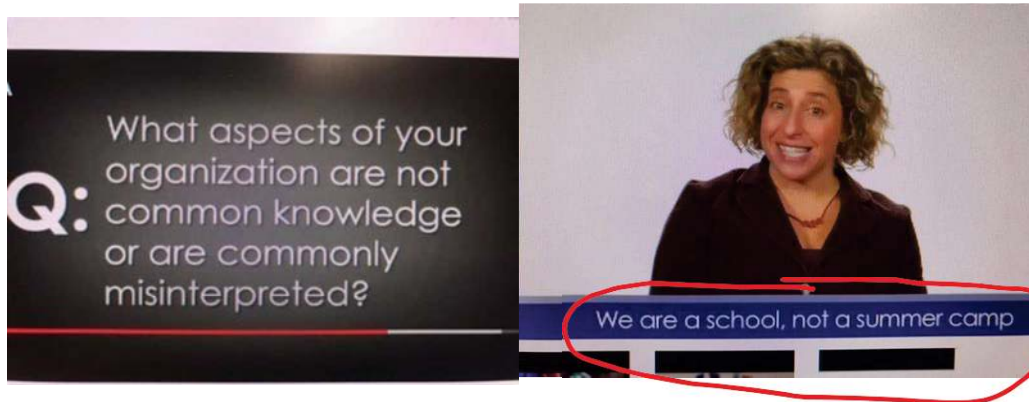
<https://mosaicproject.org/building-our-future/>



PUB5-02

Additionally, they originally considered themselves a school and yet have now renamed the project in hopes of building according to the standards of an Outdoor project or recreational site vs. a school. Even though the name of the project type has changed their plans for operation has not.

<https://greatnonprofits.org/org/the-mosaic-project>

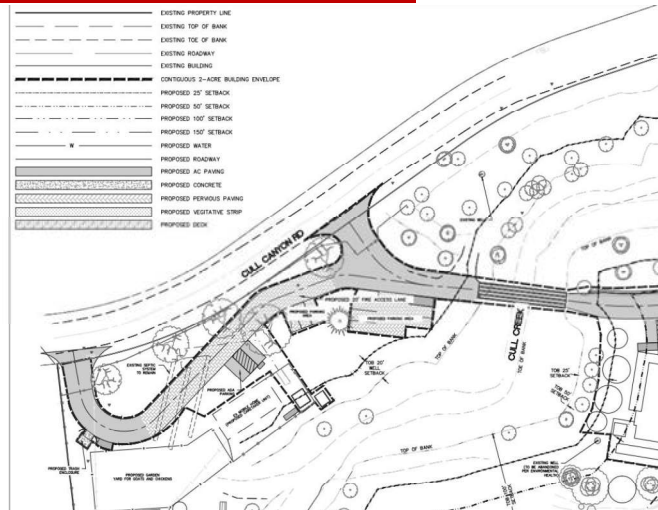


PUB5-02
cont.

The application is for an Outdoor Project Camp, but **The Mosaic Project Director/Co- Founder herself, confirms “we are a school, not a summer camp”.**

Information on Growth to 31,000 per year at 3:30 minutes into video and stating, “it’s a school” at 8:00 minutes into the video.

2. The DEIR does not adequately take into account parking and the turnaround/exit area needed for the buses and emergency vehicles.



PUB5-03

According to the Transportation section of the DEIR:

- The roadway carries an average of about 210 daily vehicles in both directions, for a total of 420 vehicles per day.
- The project would generate a peak of 51 daily trips.

This is a 12% increase in traffic on the canyon road alone.

According to page 283 of the DEIR:

TRAN-3 The proposed project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

Cull Canyon Road is a narrow, winding road with many blind turns and small hills that make navigating dangerous. Each year I have observed buses full of children on their way to Cull Canyon reservoir. Often times, despite signage, the buses pass the parking entrance and end up on the winding part of Cull Canyon Rd. I have observed multiple times a school bus or semi-truck trying to back out of the canyon. On 2 other occasions, I have observed delivery trucks “stuck” in the canyon with no where to turn around. One such truck made it to the very end of the road where he attempted to turn around and jack knifed his truck across the road. He was unable to move the truck and it blocked the road for hours while a specialized tow truck was called to remove it.

I can only imagine how many trucks, buses and other large delivery vehicles will venture down the road and not be able to navigate the sharp turns, will venture into oncoming traffic over blind corners/hills and get “stuck” with no way to turn around. This road was not designed for large vehicles.



PUB5-03
cont.

The county has signs posted advising “No vehicles over 7 tons”. Buses are on average 10-15 tons.



According to Page 284 in the Transportation section of the DEIR:

Based on the posted speed limit of 30 mph, the sight distances at both the northerly and southerly driveways are adequate.

While the speed limit on areas of the road is posted at 30 mph, this is not the actual rate of speed that most vehicles travel. The rate of speed is much higher and a bus pulling out into the roadway is not going to be safe if a vehicle comes around the turn at a high rate of speed.

According to Page 284 in the Transportation section of the DEIR:

“The proposed project would provide 15 parking spaces at various locations around the site. The maximum number of parking spaces needed on site would be during the mid-week period, after student drop-off and prior to student pick-up, and does not include the buses or vans that would drop off students and staff on site and then leave the site. During this time, there would typically be 13 staff on site. Assuming one employee per vehicle and two teacher and aid private vehicles, the estimated parking demand would be 15 spaces. If the parking demand exceeded parking supply, motorists likely park on the shoulder of Cull Canyon Road or in tandem with other vehicles on-site. Parking on the shoulder of Cull Canyon Road would limit sight distance and increase hazards. However, the proposed parking supply on-site would meet demand.”

If parking demand exceeds parking supply, motorists would be anticipated to park on the shoulder of Cull Canyon Road or in tandem with other vehicles on-site. Tandem parking could limit circulation and obstruct emergency vehicle access and impacts could potentially be significant.

WHAT?!?!?!? There are “No Parking” signs all along Cull Canyon Rd and there is no shoulder on the road where it is safe to park. Bottom line – this site is not large enough to support the demands of this project.



This is a picture of the roadway in front of the proposed site. There is no shoulder for parking. Has anyone actually tried to pull a bus through this drive way? And exit onto the road?

3. The DEIR states the following, which is absolutely FALSE.

UTIL-2 The proposed project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years.

According to the DEIR, the 2 main wells produce 7.7 gallons per minute. If the wells can produce this much water year-round, which is highly unlikely, they would extract over 4 million gallons of water from the canyon each year! This would have a SIGNIFICANT impact on the other residents of the canyon.

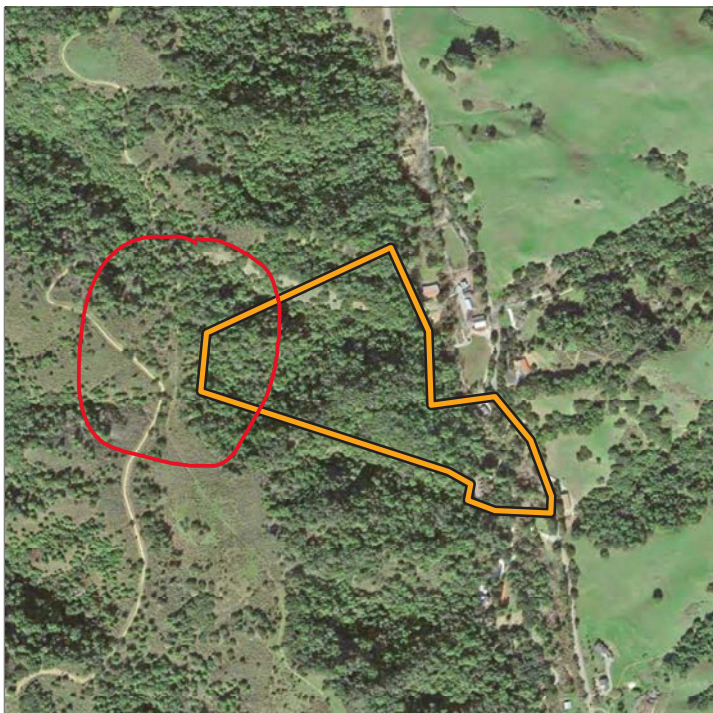
Based on the experience of the local residents, there is not sufficient ground water supplies available to serve this project. The wells will not be able to keep up with demand. Additionally, the amount of water needed per student is grossly underestimated. Further in-depth study is necessary.

PUB5-06

4. The DEIR again is based on inaccurate information. The Mosaic property is not adjacent to the Eastbay Regional Parkland but is bordered by the neighboring property to the west.

According to page 47 of the DEIR:

3.1 The site is bounded by Cull Canyon Road to the east, Twining Vine Winery to the north, Cull Canyon Regional Recreational Area to the west, and residential property to the south. Figure 3-1, *Regional Location*, shows the location of the project site.



PUB5-07

5. The DEIR does not reflect the massive impact that the school will have on the environment and local species.

According to page 140 of the DEIR:

BIO-2 The proposed project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

PUB5-08

How can thousands of children annually, living for a week at a time within a 2-acre parcel, and hiking or playing on the adjacent 35 acres NOT have a substantial adverse effect on the sensitive wildlife in the area???

We have on multiple occasions seen the Alameda Whip Snake in different locations within this canyon, in locations NOT within the boundaries shown on the DEIR Special-Status Animals and Critical Habitat map.

6. The DEIR does not accurately reflect the actual amount of wastewater that will be generated, especially in light of the increased number of students served over the years. Additionally, how will the creek and riparian area be affected by this volume of wastewater being dispersed into the ground adjacent to the creek?

PUB5-09

7. The DEIR does not accurately reflect real life fire scenarios.

In October 2019 our neighbor directly to the south had a fire. Their barn and in law unit were completely destroyed. The fire department brought a huge response team and completely blocked the road. Our neighbor came to help and arrived before the fire department and was unable to leave due to multiple engines and trucks blocking both lanes of the road. Even when he asked to leave he was told no.



PUB5-10

The trucks used all the water available to them and ended up just letting the structures burn due to lack of water to fight the fire. They eventually ended up trucking in water in order to make sure the fire was completely out.

There are no fire hydrants on Cull Canyon Rd and based on other fires that have occurred in the canyon, it is common practice for the fire department to block the road in both directions with their apparatuses.

The huge increase in people in the canyon from the project, the number of juveniles and the “camp fire” pose an extreme increased risk of fire and if the road was blocked by the fire department, there would be no way for the residents to escape.

As previously mentioned, there is not adequate parking for the project. Can you image if there were tandem parked cars, cars on the shoulder and the parking lot was full and a fire broke out? There would not be adequate emergency access.

Additionally, there is NO place for the students and staff to “shelter in place”.

**PUB5-10
cont.**

According to page 211 of the DEIR:

HAZ-2 The proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

According to page 284 of the DEIR:

TRAN-4 The proposed project would not result in inadequate emergency access. - FALSE

PUB5-11

How will they be able to ensure the safety of the students and the residents of the canyon? This is already considered a high-risk location, let alone adding 31,000 kids annually. Many of the residents have already lost their home owners insurance due to the high fire location of the properties.

8. The DEIR does not fully address the potential for Human/Wildlife interactions.

The canyon area is home to many dangerous animals including:

Mountain Lions

Bobcat

Fox

Rattlesnakes

And Wild Boar which are spreading rapidly and destroying property throughout the canyon, even along the side of the road and creek bed at the south entrance to the canyon.

The potential for dangerous and life-threatening interactions with young children is significant, ESPECIALLY rattlesnake bites.

PUB5-12

9. How can a school be allowed to be directly adjacent to a winery, where wine is stored and served? And what will the potential impact be on students, neighbors and police forces?

PUB5-13

10. There are MANY discrepancies in the DEIR. For example, it says the students will be bused in, but it also states that some parents may drop off students. Why is there housing built for 120 students and a dining hall that can seat 450 if there are only going to be a maximum of 95 students?

PUB5-14

11. Why have no alternate sites been considered in the DIER?

PUB5-15

12. The storms of the last winter of 2023 have significantly changed the buildable area of the proposed project. Visible from the road, is the loss of creek bank all along the site. Many of the properties along the creek have lost “real estate” due to the significant landslides. The site should be re-surveyed and measured based on the current status.

PUB5-16

The above-mentioned items are just a few of the problems associated with this project.

In conclusion, this DEIR and the planning for the project as a whole, seems to have been conducted by people who are NOT familiar with Cull Canyon.

This project should never have been allowed to reach this stage and is completely inappropriate for this site.

PUB5-17

Allowing this project would set a dangerous precedent that would lead to further development and destruction of the agricultural lands of Castro Valley. Once the land and animals are gone there is no getting them back.

While we are completely in support of such programs meant to serve the children of the area, Cull Canyon is not the right location for this project.

Thank you for your consideration of these concerns,

Sincerely,

Jon & Alana Koski

Cull Canyon and longtime Castro Valley residents

January 16, 2024

Albert Lopez
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544
albert.lopez@acgov.org

RE: Public Comment; The Mosaic Project Draft EIR located at 17015 Cull Canyon Rd. Castro Valley

Mr. Lopez

My name is Jon Koski and I have lived on Cull Canyon Rd for the last 12 years. I have also been a General Contractor since 1992 doing both commercial and residential construction/development.

While we appreciate the idea of the program, this project is not appropriate for Cull Canyon or legal for this site.

My comments below are based on both Site Plan sheets provided by Mosaic within the DEIR.

1. The Site plans within the DEIR have little detail and misinformation. Many reports are not included.
2. The goat, chicken, and garden areas, partially covers the septic area that is adjacent to the caretaker's house and also encroaches on the Creek.
3. The existing barn, parking, and campfire area should be shown as part of the "two acre building envelope".
4. The pervious areas are subject to high, heavy, continuous traffic usage which will cause compaction & contamination issues by cars, buses, delivery vehicles, maintenance, transports, water trucks, etc. which will not allow water to penetrate as designed and is not addressed within the DEIR.
5. Measure D and the Williamson Act require that the building envelope be rectangular in shape. As proposed, it is not rectangular and exceeds the allowable 2 acre maximum.
6. The entire length of the Creek bank is very steep and extremely hazardous. During normal rains, the creek will flow at a high rate of speed and up to 8 feet deep. This is a life safety issue for the students. Furthermore, the fragile creek bank environment and it's migrating, and residence inhabitations will certainly be negatively impacted by thousands of visiting students throughout the year.

PUB6-01

PUB6-02

PUB6-03

PUB6-04

PUB6-05

PUB6-06

PUB6-07

7. DEIR calls out for potentially up to 45 parking stalls but only around 16 are identified on the site plan. Where all the buses to park? Not in the drive lane we hope. Also, we should not encourage bike riding to the site via narrow, blind cornered Cull Canyon Rd with "Bike Parking". Again, a life safety issue. As California moves to no more gas/diesel motor vehicles, where will the charging stations be for the cars, trucks, buses? How will power for these chargers be supplied? Does PG&E know about this potential upgrade needed, miles down the canyon road?

PUB6-08

8. Two water wells are showing on the plan. Data on demand usage for the project not clear and misinformation. How can a new school development create no impact on ground water? If newly drilled wells are going to be abandoned, it is probably due to inadequate production and recovery rates. I know that most homes in the canyon have had a significant lack of water and require water to be trucked in weekly. A project of this size would significantly impact the natural water resources of the canyon not to mention deliveries of water and off haul of any spoils produced. This is far from a slam dunk on suppling sufficient water while not affecting the resource.

PUB6-09

Also, it is likely that the Well labeled for Landscaping and Fire Protection is grossly inadequate for real life emergencies. Would more tanks push the envelope on the 2-acre maximum footprint?

9. There is an extreme upslope with no topography shown on the Western side. How will the steep western wooded area be accessed without substantial grading for roads and trails without increasing the risk of slides. Will it be ADA accessible? Will mud slide down into sleeping cabins? I can attest to the frequency of large mudslides in the area and specifically with the type of soil found in this canyon.

PUB6-10

Also mentioned several times is access to the Juan Baptista de Anza trail by way of a multi-use trail on the proposed property. My understanding is the site does not have a legal gate to access the trail system behind it and is not directly adjacent to the trail but would have to cross the neighbor's property. Again...misinformation.

PUB6-11

10. The Fire pit and assembly area are within creek set back without any fencing or protection next to the steep slope. A Fire pit is an extreme fire danger and a major concern in the canyon. Integrating pre-teen/teens students into a fire pit scenario is a disaster waiting to happen, and greatly increases the likelihood of an accident.

PUB6-12

11. The only open area for students to run and play is in the septic field & grey water area.

PUB6-13

12. There are a total of 12 separate residential living units proposed. Maximum allowed by measure D and zoning code is 2. As proposed the project likely will be the highest density developed residential living area in all of Cull Canyon. Mosaic population will significantly increase the total population of the Canyon.

PUB6-14

13. A minimum of approximately 50 trees will be removed from the site for this development, which does not take into account the trees that have already been removed for the drilling of the new wells.

PUB6-15

14. At approximately 40 feet in height the main building will be the tallest habitable building in all of Cull Canyon. How is this no impact??

PUB6-16

15. The caretaker septic is partially within the 100 foot of creek top of bank set back requirement.

PUB6-17

16. The properties agricultural area, to meet the requirements of the Williamson Act, Measure D and AG zoning, is approximately only 5000 square feet and to be occupied by goats, chickens and garden at same time, to produce enough product for domestic use and resale? Yard area partially over caretaker septic area, encroaches within 5 feet of the Creek top of bank.

PUB6-18

PUB6-19

17. The caretaker's home is within the required 25-foot top of bank setback.

PUB6-20

18. Parking areas are within the required 25-foot top of bank setback.

PUB6-21

19. The plans are unclear as to the relevance of note "T.O.B. 20'well setback.

PUB6-22

20. No impact of ongoing maintenance crews factored into the DEIR. Tree maintenance, pest control, cleaning, on going grading/drainage repairs, landscape maintenance, road maintenance, wildlife control & maintenance, etc. These will increase traffic, noise, air quality, etc.

PUB6-23

21. Several times the surrounding properties are labeled "residential properties". The fact of the matter is they are agricultural properties ranch homes and agricultural facilities. This is not a residential neighborhood.

PUB6-24

In conclusion, there are numerous concerns for both code requirements and life safety issues.

While we all would like students to have unique and different experiences, I believe we can all agree that it should be done in a manner that puts the student's safety first and that fits the environment and fits the requirements by State, County, and local governing bodies. Why haven't existing facility sitting empty in Alameda County been a consideration? This is not good stewardship of the environment to develop this school on Cull Canyon Road.

PUB6-25

Again, we can appreciate the work of educational programs, but this is not an appropriate site for this school development to be squeezed on to.

January 16, 2024

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
510-670-5400
Albert.lopez@acgov.org

Re: **Notice of Availability** of the Draft Environmental Impact Report (DEIR)
for the proposed Mosaic Outdoor Camp Project located at 17015 Cull Canyon
Road in Castro Valley.

This is a worthy Project but Cull Canyon Road is the wrong location for this
intensive of a development.

PUB7-01

1. Regarding The Williamson Act compliance. The EIR states in “ The proposed project would not conflict with existing zoning for agricultural use or a Williamson Act Contract.” The property does not meet the minimum parcel size for a Recreational exemption as stated in the Uniform Rule 4 Sec.1 C.2.b which requires that a minimum of 40 acres in a single legal parcel. For the Agricultural exemption the property must be considered prime agriculture soil and have a viable commercial agricultural operation as it's primary operation. The property must meet land coverage and agricultural revenue requirements under Section II.C.3.b in the Uniform Rule 1. To verify this I recommend that the project goes before the Alameda County Ag Advisory Board. Please see the attached Uniform Rule 1 Eligibility Requirements and please answer the Hi-Lighted Sections.

PUB7-02

2. Regarding The Project Site Location and Characteristics section describes the project site as being bounded a t the western boundary with the Cull Canyon Regional Recreation Area. This is incorrect as the western property boundary is bounded by the same property owner as the southern boundary which is the Shiekh property. Mr. Shiekh has stated to us that he has no present or future plans to grant a easement thru his property and will not allow anyone to use existing trails on his property. The fact remains that this 37 acre project site is landlocked from any adjoining Park property or access to the Juan Bautista De Anza Trail. Why was this important fact not correctly identified in the NOP/ Staff Report. Please see the attached parcel map and trail map attachment.

PUB7-03

3. Regarding the conditional use mobile home is it allowable to have a gravel parking area and gravel road for trucks and busses over the leach field? Page 26 under Standard Leach field Requirements: Reads (3) **Trench Construction** - level trenches, on contour, drainage and grading to promote runoff away from field, **no paving or soil compaction that may impair functioning.** Also why isn't the whole leach field included in the 2 acre building envelope as "developed area" and where in the ordinance would we find the exclusion to that?

PUB7-04

4. Regarding the Water wells and Water System. I have concerns with the water system for the property owners in Cull Canyon. The EIR states in HYD-2 that the proposed project would not substantially decrease ground water supplies. In ULT-2 states that the proposed project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. In the County Local Agency Management Program for Onsite Wastewater Treatment Systems it describes on page 12 the Castro Valley Groundwater Basin. It states "Well yields are low, and considered suitable mainly for garden and lawn irrigation. The high permeability and near surface proximity of the thin alluvial deposits make them susceptible to contamination and should eliminate consideration as a source of drinking water." Will the SWRCB Division of Drinking Water comment on the EIR since the project water system will be classified as a Public Water System? We would like this issue addressed as property owners in Cull Canyon are concerned about water issues. Also is there another system like this in the County and how has it performed? We are also concerned with the amount and truckloads of off haul treatment process wastes 4000-5000 gallons a week. With this much off haul how much water will they be pumping out of the ground per week? Also is this constrained site the best location to test a new greywater irrigation system in Alameda County as described in the EIR?

PUB7-05

Thank you,

Rex Warren,
Cull Canyon Property Owner and Cattle Rancher

UNIFORM RULE 1

Eligibility Requirements for Agricultural Preserves and Williamson Act Contracts for Agriculture

In order to enter land into a Williamson Act contract and maintain continued eligibility during the life of the contract, the contracted land must be in an agricultural preserve, meet minimum parcel size requirements, be devoted to a commercial agricultural use, and be restricted to additional uses that are compatible with the agricultural use of the land. Williamson Act contracts, also known as Land Conservation contracts, run with the land and are binding upon any heir, successor, or assignee.

I. AGRICULTURAL PRESERVES

A. Location of Preserves

Agricultural Preserves and Williamson Act contracts shall be established in areas having the following General Plan Designations:

- Large Parcel Agriculture
- Resource Management
- Water Management

B. Minimum Preserve Size

1. Minimum Agricultural Preserve size shall consist of no less than 100 acres of land except as provided below.
2. Agricultural Preserves of less than 100 acres may be established if, on the recommendation of the Planning Department, the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area, such as small areas of prime land.
3. For purposes of this section, contiguous park and other open space area in public ownership may be used to make up the 100-acre minimum preserve size.
4. For purposes of this section, the Vineyard Area of the South Livermore Valley Area Plan shall be considered an established Agricultural Preserve.

C. General Preserve Requirements

1. An application to establish, or annex to, an agricultural preserve and enter into a land conservation contract shall be made to the Board of Supervisors by the interested landowner. **Preserve and contract approval** shall be made simultaneously by the Board

of Supervisors provided that preserve and contract requirements established in these Rules can be met.

2. Parcels under separate ownership may be combined into one agricultural preserve if needed to meet the minimum preserve size of 100 acres. Each landowner in an agricultural preserve shall have an **individual contract** and shall meet the contract requirements on their own merit. An exception shall be made for landowners under a Joint Management Agreement, in which case all signatories shall be under the same contract.
3. An agricultural preserve shall generally be comprised of one parcel or two or more **contiguous parcels**. However, parcels under Joint Management Agreement and parcels under one ownership that are part of one agricultural operation may be discontiguous and still comprise an agricultural preserve.
4. Only **legally-created parcels**, or a portion of a legally-created parcel, shall be established in, or annexed to, an agricultural preserve. If a property owner chooses to **exclude a portion** of an existing legal parcel from a Williamson Act contract, the portion of the parcel to go under contract must meet all contract requirements including the minimum parcel size requirement.
5. An application to establish, or annex to, an agricultural preserve shall be denied if an **incompatible use** exists on the land proposed for inclusion in the preserve.
6. The ownership of a portion of land currently designated as an agricultural preserve may be **transferred from one immediate family member to another** if the proposed transfer meets all of the conditions from California Government Code Section 51230.1, including the following: (a) the transfer parcel must conform to the applicable provisions of the County Zoning and Subdivision Ordinance; (b) the transfer parcel must be at least 10 acres in size for prime land and 40 acres if non-prime land; and (c) the transfer parcel must be operated under a Joint Management Agreement between the family members that are parties to the proposed transfer.

II. WILLIAMSON ACT CONTRACTS FOR AGRICULTURE

A. Duration of Contract

1. Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract, established as January 1st, a year shall be added automatically to the initial term unless notice of non-renewal is given as provided in Uniform Rule 6 of this document. (*California Government Code Section 51244*)

B. Minimum Parcel Size and General Contract Requirements

1. For parcels of land defined as **prime land**, the minimum parcel size within a Williamson Act contract is 10 acres. An exception shall be made for land that can meet the revenue and land coverage thresholds for substandard size prime parcels established in Section II.C.3.a. of this Rule.
2. For parcels of land defined as **non-prime land**, the minimum parcel size within a Williamson Act contract is 40 acres. An exception shall be made for land that can meet the revenue and land coverage thresholds for substandard size non-prime parcels established in Section II.C.3.b. of this Rule.
3. More than one existing legal parcel may be included in a single contract, including parcels located in different preserves, as long as they are part of one agricultural operation under one ownership or under a Joint Management Agreement.
4. A parcel too small for inclusion in the program may be included if: (a) it is used as **part of a larger agricultural operation** either on non-contiguous parcels under the same ownership or by means of a Joint Management Agreement with other contracted landowners; or, (b) it is an island surrounded by agriculture preserve lands and all of an individually-owned property is included in the preserve and all other eligibility criteria other than parcel size is met.
5. Contiguous parcels under common ownership and which are under the minimum size required by the zoning district shall not be considered for a Williamson Act contract unless they are **merged through a lot line adjustment** so as to create one or more legal parcels that meets or more closely meets the minimum size of the zoning district.
6. A landowner of non-prime land who **leases his or her property for agricultural use** may be considered as eligible for a Williamson Act contract provided that the parcel is included in a preserve and that one of the commercial agriculture thresholds established in Section II.C.3.b. can be met.

C. Commercial Agricultural Use Requirements

Contracted land must be devoted to commercial agriculture as the primary use of the land (see *Government Code Section 51242*).

1. Definition of Agricultural Use

Commercial agricultural use means the production and sale of agricultural commodities. Agricultural commodities mean unprocessed plant and animal products of farms, ranches, production nurseries and forests.

Agricultural commodities include, but are not limited to, the following: fruits, nuts, and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and

peas; animal feed and forage crops, such as grain hay and alfalfa; seed crops; fiber and oilseed crops, such as safflower and sunflower; biofuels; production nursery stock; aquaculture; trees grown for lumber and wood products; turf grown for sod; poultry, such as chickens, ostriches, and emus; livestock such as cattle, sheep, goats and swine and similar animals; rangeland and pasture for livestock production; and, commercially-bred horses (see definition below).

2. Definition of the Commercial Breeding and Training of Horses as an Agricultural Use

For purposes of this Rule, the commercial breeding and training of horses shall be considered as constituting a commercial agricultural use of contracted property if the commercial threshold for such an operation can be met as established under Section II.C.3.b.(1) of this Rule.

- a. The commercial breeding and training of horses is defined as the breeding and training of horses, such as race horses, competition horses, and ranch horses, for the purpose of commercial sale.
- b. Any equine facility will be considered as a compatible agricultural use if its horse population consists of at least 50 percent, by number of horses, that are categorized as breeding horses plus those in training plus ranch horses used in commercial cattle production.
- c. Ancillary uses shall include veterinary activities and rehabilitation of injured horses and any other uses demonstrated to the satisfaction of the Planning Director to be necessary to the commercial operation. Ancillary uses or buildings cannot significantly compromise the long-term productive agricultural capability, or significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted land, or cause significant removal of adjacent land from agricultural use, as provided by *Government Code Section 51238.1*.
- d. The commercial breeding and training of horses as a commercial agricultural operation shall be allowed only on parcels of non-prime soils 40 acres or larger in size. Non-prime soils are soils other than a Natural Resource Conservation Service land capability rating of Class I or Class II.
- e. The breeding and training of horses as part of ranch or farm operations shall be considered an accessory use to the primary agricultural use of the land. Boarding stables, riding stables, riding academies, and private stables shall be considered as compatible recreational uses if the standards for these uses can be met (see Rule 2 Section II.C.)

3. Thresholds for Commercial Agriculture

For a landowner to qualify as devoted to the commercial production of agriculture and maintain eligibility under the contract, the contracted land must meet minimum annual

revenue requirements and in some cases land coverage requirements. Land coverage means the amount of land, as a percentage of the contracted land, required to be in commercial agricultural use. (*See the Endnotes to the Guidelines for Commercial Agriculture in Appendix 1 for more detailed information on agricultural production and land coverage requirements.*)

a. Definition and Thresholds for Prime Land

Prime land means land planted in annual or perennial crops that can meet one of the following thresholds:

- (1) Land that is at least 10 acres in size, has a Natural Resource Conservation Service (NRCS) land capability rating of Class I or Class II, and is planted in annual and/or perennial crops:
 - agricultural production must yield “some” gross annual revenue as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - at least 60% of the property under contract must be used for commercial agriculture
- (2) Land that is at least 10 acres in size and is planted in annual and/or perennial crops:
 - agricultural production must yield an annual gross revenue equal to or exceeding \$200 per acre per year as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - at least 60% of the property under contract must be used for commercial agriculture
- (3) Land that is less than 10 acres in size and is planted in annual and/or perennial crops:
 - agricultural production must yield an annual gross revenue equal to or exceeding \$3,500 as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - at least 75% of the property under contract must be used for commercial agriculture
- (4) Land that is less than 10 acres in size and is planted in annual and/or perennial crops:
 - agricultural production must yield an annual gross revenue equal to or exceeding \$10,000 as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - no planting coverage is required unless compatible use development is proposed, in which case at least 50% of the parcel under contract must be used

for commercial agriculture to ensure that any development is incidental to the agricultural use

b. Definition and Thresholds for Non-Prime Land

Non-prime land means land that is engaged in dry-land farming, grazing of livestock or livestock production, the commercial breeding or training of horses, or other types of similar agricultural pursuits and that can meet one of the following thresholds:

- (1) Land that is at least 40 acres in size and is being used for dryland farming, grazing of livestock or livestock production, the breeding or training of horses, and/or other types of agricultural pursuits:
 - agricultural production must yield “some” gross annual revenue as substantiated by Schedule F (and/or Form 4797 for a horse breeding operation) of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - at least 60% of the property must be used for commercial agriculture
- (2) Land that is less than 40 acres in size and is being used for dryland farming, livestock production, and/or other types of agricultural pursuits:
 - agricultural production must yield an annual gross revenue equal to or exceeding \$2,000 as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - at least 75% of the property must be used for commercial agriculture
- (3) Land that is less than 40 acres in size and is being used for dryland farming, grazing of livestock or livestock production, and/or other types of agricultural pursuits:
 - agricultural production must yield an annual gross revenue equal to or exceeding \$10,000 as substantiated by Schedule F of the federal tax returns or other relevant tax form filed in 3 of the past 5 years, if requested by the County.
 - if compatible use is proposed, at least 50% of the parcel must be used for commercial agriculture to ensure than any development is incidental to the agricultural use

4. Joint Management Agreement

If the agricultural use on the land does not meet the required minimum income requirements or the parcel is too small for inclusion in the program, the property owner may enter into a Joint Management Agreement with the owner(s) of contiguous or non-contiguous properties in one or more preserves so that jointly the commercial agricultural thresholds established in Section II.C.3.a. or Section II.C.3.b. of this Rule may be met. A Joint Management Agreement requires that the joint properties be under one contract and

be **operated collectively** and under the joint management of all the property owners (see Appendix 2 for the Joint Management Agreement Form).

5. Annual Declaration of Commercial Agricultural Use

All contract holders shall annually document the past year's commercial agricultural activity on the contracted land by filling out and returning to the Planning Department the Declaration of Commercial Agricultural Use form (see Appendix 7) that shall be mailed out to all contract holders on a yearly basis. Failure to return the questionnaire in the time period allotted may, at the option of the County, result in the non-renewal of the contract.

D. Compatible Use Requirements

See Uniform Rule 2.

E. Boundary Line Adjustments

1. The provision for a boundary (lot) line adjustment, as outlined under Government Code Section 51257 and supplemented under *Government Code Section 66412(d)*, is intended to facilitate minor adjustments to parcel boundaries that will improve the agricultural use or management of the land.
2. A boundary line adjustment shall only be approved provided the Board of Supervisors makes all of the following findings:
 - a. There is **no net decrease** in the amount of the acreage under contract as a result of the boundary line adjustment. In cases where two parcels under separate contracts are involved in a boundary line adjustment, and are therefore subject to the rescinding and re-entering of contracts pursuant to Uniform Rule 5, Section III this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
 - b. If replacement contracts are required pursuant to Uniform Rule 5, Section III, the new contract will restrict the adjusted boundaries of the parcel for an initial term at least as long as the un-expired term of the rescinded contract but for **not less than 10 years**.
 - c. If replacement contracts are required pursuant to Uniform Rule 5 Section III, at least **90 percent of the land** under the former contract(s) remains as located under the new contract(s).
 - d. After the boundary adjustment, the parcels of land subject to contract will be **large enough to sustain** their agricultural use.
 - e. The lot line adjustment will **not compromise the long-term agricultural productivity** of the parcel or other agricultural lands subject to a contract(s).

- f. The boundary line adjustment is not likely to result in the **removal of adjacent land** from agricultural use.
- g. The boundary line adjustment does not result in a **greater number of developable parcels** than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.
- h. The boundary line adjustment is between **4 or fewer existing adjoining parcels**.

F. Division of Land

The division of contracted land by means of a tentative map or a parcel map for which a tentative map is not required is governed by the Subdivision Map Act (*see Government Code Section 66474.4*) and by the County's General Plan, Zoning Ordinance and Subdivision Ordinance.

1. Williamson Act **contracts run with the land** and are binding upon any heir, successor, or assignee (*see Government Code Section 51243(b)*). To this end, when a property or a portion of a property under contract is sold or the ownership otherwise transferred, the contract shall be rescinded and new contracts reentered to reflect the boundaries of each contract and the new ownership. Each new contract must meet the contract requirements of these Uniform Rules, the Williamson Act, and state statutes
2. A subdivision of contracted land shall be approved by the Board of Supervisors only if the Board can make both of the following **findings**:
 - a. The resulting parcels will be large enough to sustain a commercial agricultural use (see the commercial agriculture thresholds established in Rule 1); or, the resulting new parcels will be owned and jointly managed by immediate family members under a joint management agreement and will aggregate into the presumptive minimum parcel sizes of 10 acres for prime land and 40 acres for non-prime land (*see Government Code Section 51222*).
 - b. Residential development resulting from the division of land is incidental to the continued commercial agricultural use of the land (see Rule 2, Section II. A. for residential development that is considered "incidental" to the commercial agricultural use of the land).
3. **Acquisition by a public agency** of land that is within a preserve is not a subdivision of land for purposes of these Rules and Procedures, and the minimum parcel size requirements described in Section II. B. of this Rule shall not apply either to the land acquired by the public agency or to the remainder parcel. If no use may be made of the remainder parcel, the contract on the land may be cancelled without penalty. *See Government Code Sections 51291 and 51295.*

G. Treatment of Contracts Existing Prior to the Adoption of these New Rules

1. Landowners of contracts signed prior to the adoption of these New Rules on October 11, 2011 shall be required to meet one of the thresholds established for commercial agriculture or else the contract shall be non-renewed. Or, if the agricultural use on the contracted property is unable to meet one of the thresholds for commercial agriculture, the property owner may enter into a Joint Management Agreement as outlined under Section II.C.4., above.
2. Landowners of contracts signed prior to the adoption of these New Rules shall be required to fill out and return to the Planning Department the Annual Declaration of Commercial Agricultural Use form as described in Section II.C.5., above.
3. As a procedural matter, landowners of contracts signed prior to the adoption of these New Rules and who share a contract with other landowners other than that shared under a Joint Management Agreement shall be required to rescind and re-enter into individual replacement contracts at the time of an application for a use permit, development permit, Site Development Review, or subdivision by any one of the contract holders. No compatible use listed in Exhibit “B” of the original contract shall be excluded from the list of compatible uses in Exhibit “B” of the replacement contract unless the compatible use is inconsistent with state law or the County Zoning Ordinance at the time of the rescission and reentry.

2-24-82ST
2-21-84K.T.
4-10-85K.T.
1-12-93BV
6-9-97PB
2-02-05CSL
0-20-06CC
2-06-15CC
5-14-19JL

Scale: 1" = 600'



Albert Lopez, Planning Director
County of Alameda, Planning Department
224 W. Winton Avenue #111, Hayward, CA 94544

Dear Mr. Lopez,

My name is Brooke Kasl-Godley and I'm writing to you today concerning the updated Environmental Impact Report for the Mosaic Project. I've been involved with the Mosaic Project since 2021, both as a member of the Youth Leadership Project Cohort and as a Outdoor School Cabin Leader. Originally from Castro Valley, I'm now a sophomore at Scripps College studying environmental science. Evidently, the health of the environment is of utmost concern to me, so I was excited to learn to see the completed EIR. After considering the content of the thorough report, I remain steadfast in my support of the Mosaic Project and am eager to see the project move forward. I can confidently assure Castro Valley residents that the Mosaic Project will bring nothing but good to our community. Being involved in the Youth Leadership Project was one of the most impactful experiences I had in high school: I gained conflict management skills, a new perspective on the value of diversity, and friends that I'll have for the rest of my life. The Mosaic Project doesn't just give kids an awesome outdoor education: it also brings them lessons in active communication, acceptance, and open perspectives that will aid them in our ever-changing world. Additionally, I've seen firsthand that the Mosaic curriculum fosters love and care towards the natural world. Fourth and Fifth grade students, and youth leaders alike, return home from Mosaic with a transformed perspective towards themselves, their peers, and the environment. I understand that community members have very real environmental concerns, but I fear we are overlooking the environmental stewardship that Mosaic fosters in their students. Through daily nature walks, journaling, storytelling, and lessons in environmental science topics, Mosaic reaches hundreds of students each year, many of whom cannot access regular outdoor experiences. Mosaic nurtures a new generation of environmental stewards who understand the value of diversity and justice are essential to the health of the environment, to the mitigation of the disproportionate impacts of climate change, and to the overall success of our communities. *This* is The Mosaic Project's true environmental impact, and it is one for the better. As an environmental science major, I understand the importance of adhering to CEQA regulations providing mitigation strategies. However, rejecting The Mosaic Project's plans would deny a generation of children a life changing experience that transforms them into conscious environmental stewards, which would be in opposition with the EIR process's intention of protecting the environment. I know Alameda County prides itself on being an inclusive, diverse, and environmentally conscious community: let's act on those values and welcome the Mosaic Project into Castro Valley.

PUB8-01

Sincerely,



Brooke Kasl-Godley of Castro Valley, CA

COMMENT LETTER # PUB9

From: [Guy Warren](#)
To: [Lopez, Albert, CDA](#)
Subject: Notice of Availability of a Recirculated Draft Environmental Impact Report (EIR) for The Mosaic Project (PLN2020-00093) in compliance with California Code of Regulations, Title 14, Section 15087.
Date: Wednesday, January 17, 2024 2:38:47 PM

Albert,

My name is Guy Warren. I reside at 14563 Cull Canyon Rd., Castro Valley. I have a couple comments to the recirculated draft EIR for the Mosaic project.

PUB9-01

1. Transportation: The applicant did a traffic study using large busses to travel up and down Cull Canyon Road during various business hours. I encountered these busses on numerous occasions while driving on Cull Canyon Rd. Each time I encountered them I had to pull over and drive on the dirt shoulder of the road. The busses were taking up both lanes of the two-lane road. Cull Canyon Road is very narrow and winding. One time I encountered a bus on the winding part of the road and had to slam my brakes on so I wouldn't run into the bus, or the bus wouldn't run into me. Driving large busses on a continual basis on Cull Canyon Road is a very unsafe situation. Also, a couple of times the bus missed its turnoff into the Mosaic project and had to drive up the road and pull into my driveway to turn around. I allowed the bus driver to do so approximately four times but in the future I won't.

PUB9-02

2. Water: Residents of Cull Canyon are dependent on well and springs for a water supply. The water supply is limited. An operation the size of the Mosaic project will deplete the water supply for downstream neighbors.

PUB9-03

3. Septic: Septic works great for most of the uses in a rural setting however, an operation as large as the Mosaic project, septic needs to be thoroughly studied. It would be a problem to pollute the downstream ground water.

PUB9-04

4. Location: I feel the Mosaic project is needed in Alameda County but this location, for a project this size, is terrible and dangerous. The property is on a blind turn which will create a disaster for Cull Canyon Road drivers and occupants. Driver accidents are guaranteed. There are much better properties and locations in Alameda County for this project.

PUB9-05

Sincerely,
Guy Warren

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

COMMENT LETTER # PUB10

Ruth A. Bley
11425 Cull Canyon Road
Castro Valley, CA 94552
510-557-1505

January 18, 2024

Albert Lopez, Planning Director
ATTN: The Mosaic Project recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Dear Mr. Lopez::

Again, I have attempted to read most of the documents that are posted on your website and have the following comments and questions. These are basically the same questions and concerns expressed two years ago that the revised Draft EIR is again not addressing

PUB10-01

- 1) ZONING: How is this project allowed under the current zoning – Agricultural District (A) which currently allows one main resident and one auxiliary (caretaker) house? There is a reason that the zoning is 100 acres – it's not arbitrary! The existing care taker dwelling on this property is under a conditional use permit and there is no main dwelling only a garage structure which will be torn down. How does this allow for an 8,500 sf meeting and dining hall, a 2,600 sf two story staff housing and numerous “non-permanent” housing structures? Will this project be a precedence for others or is the Mosaic Project receiving “special consideration” because the GOOD – arbitrarily measured out ways the BAD – not measured at all? The EIR report states the following:

LUP-1: The proposed project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. LTS N/A N/A

PUB10-02

LUP-2: The proposed project would/would not, in combination with past, present, or reasonably foreseeable projects, result in a significant cumulative impact with respect to land use and planning.

WHAT!!!! How can you just say this? If anyone wanted to build a “family compound” or a “corporate retreat” or a “dude ranch” with this same footprint on 7 acres could we do it? Zoning is there for a purpose and those of us living here accept and appreciate the zoning. Will this set a precedence?

Williamson Act Compliance: Williamson compliance is based on growing crops on irrigated land and using grey water irrigation (which I do not believe is allowed in most areas). These will be sold to the public to achieve the minimum \$10,000 gross receipts.

AG-1: The proposed project would not conflict with existing zoning for agricultural use or a Williamson Act contract.

PUB10-03

AGAIN CONCERN FOR THE QUANTITY OF WATER THAT WILL BE USED.

- 2) SEPTIC: The old document infers that the project will use an onsite sewer infrastructure. The new document doesn't even address the sewer issues which are huge!

GEO-5: The proposed project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. (So badly written)

UTIL-3: The proposed project would not require or result in the construction of new wastewater facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.

HOW CAN YOU NOT BUILD A WASTEWATER/SEPTIC SYSTEM? Please explain.

- 3) WATER USAGE: What is the anticipated water usage? Will 90+ people be taking showers, flushing toilets, etcetera? What will be the toll on our ground water system which is already stressed? If the existing wells in the canyon run dry because of this additional usage which far exceeds what would be allowed under current zoning, will we be allowed to drill deeper? Drilling deeper may not even be a solution and therefore what will be our recourse. Apparently according to the EIR report there are no issues! Where is the science! The EIR report states the following:

UTIL-1: The proposed project would not require or result in the construction of new water facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.

UTIL-2: The proposed project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years. LTS N/A N/A

HYD-1: The proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality. LTS N/A N/A HYD-2: The proposed project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.

HYD-2: The proposed project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.

HYD-5: The proposed project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. LTS N/A N/A HYD-6: Implementation of the proposed project would not result in impacts relating to hydrology and water quality that are cumulatively considerable when viewed in connection with the effects of past, current, and reasonably foreseeable projects.

AGAIN – WHAT!!! Where is the science? This is BS and anyone living in the canyon knows water quantity is an issue. Drilling two wells and measuring production during the wettest seasons we've had in a very long time (current measurement 7.7 gpm). The usage calculation factors 25 gpd for campers which is severely understated. Additionally there will be 20,000 gallons of wastewater

PUB10-04

PUB10-05

created every two weeks which I don't see factored into the calculations of demand. What percentage of production is this. Adding over 100 people to a 30 acre site means they are going to use more than their fair share of groundwater and impact the ground water availability for everyone in the canyon.

PUB10-05
cont.

- 4) FIRE HAZARD: Many of us canyon dwellers can no longer get homeowners insurance and have to use California Care which is extremely expensive and basically unaffordable. Adding a potentially hazardous "camp" to our canyon will only compound difficulties.

PS-1: The proposed project would not result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, or the need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services.

PUB10-06

Again, the issue that evacuation may not be an option is not addressed. There is only one way in or out and that route may not be accessible.

- 5) TRAFFIC: How much traffic is anticipated? Busses, individual cars, what will the mode of transportation be. Even though Cull Canyon has no shoulder, it is a popular biking road especially on the weekends

PUB10-07

Didn't see anything addressing traffic issues or additional wear and tear on the roadway/infrastructure.

Other issues not addressed include:

- A. Close proximity to alcohol sales (winery)

PUB10-08

I wish I wrote EIR reports for a living because they are boiler plate and nonsensical. The biggest concern/mitigation write-up is for red legged frogs, whip snakes etc. which I'm pretty sure don't exist there and if they do will not survive this development regardless of what you implement.

PUB10-09

I look forward to answers to the above questions at your earliest convenience.

Sincerely,

Ruth Bley

January 18, 2023

albert.lopez@acgov.org

Albert Lopez

Development Planning Division

Alameda County Community Development Agency

224 West Winton Ave, Room 110

Hayward, California 94544

Re: Project Referral Case No. PLN2020-00093 DEIR Comments:

Dear Mr. Lopez:

As a neighboring property to the proposed project site, directly to the east, this letter provides comments in response to the Recirculated DEIR (R-DEIR) for the Mosaic Project, Project Referral Case No. PLN2020-00093 to construct and operate a school/weekly overnight camp for 95+ students in 4th/5th grade plus support staff. We have also attached our response to the county's original request for ideas on how to scope the EIR with the areas highlighted that we believe were ignored in the EIR and R-DEIR. Further, as stated in our comments on the last draft EIR, and echoed by the MAC board on their review during their October, 2022 meeting, the project needs to start over with their EIR because it was not accurate and, in our view, to attempt to maintain some independence from the Mosaic School. It is obvious to anyone who reads the current DEIR and R-DEIR that it has not been independently prepared.

PUB11-01

Independence of Report:

There has been a compromise of the independence of the report, either from the county or Place Works, the preparer of the DEIR and R-DEIR, or the DEIR and R-DEIR is so deficient that a new preparer of a DEIR needs to be engaged. The report consistently reads like an advertising tool for the Mosaic school as opposed to being a truly independent Environmental Impact Report. The compromises are evident in the following areas:

PUB11-02

1. The Hydrology report referred to in the R-DEIR is not a hydrology report. It is missing critical data around refresh rates and sustained use. Somehow, they determined that the water issues are Less Than Significant/Minor and mitigatable, however, we know water is a significant factor for the entire canyon. Two years ago ½ of the wells went dry at the end of the summer yet somehow they will have a magical set of wells that produce millions of gallons of water (the amount needed if code is followed) that will be needed for the school. Please note that all the surrounding properties have struggled with water issues and they all have less than 10 people on properties with much more acreage to pull from, with most parcels being 100+ acres. In fact, the well sighted in the report that will produce 4.7 gallons per minute (GPM) during sustained periods would be the highest producing well in the entire canyon. It also does not match any sanity test and the county needs to independently verify this claim beyond those currently involved.
2. Misrepresenting the true purpose of this project by not stating this is a school as shared by the Mosaic's Executive Director, Lara Mendel (video of her stating this was provided to the county and is referenced once again in this document) thus avoiding multiple major issues such as additional safety requirements, location next to a winery, location next to pesticide spraying, proximity to creek drop offs, fire escapes on the buildings, playground obstacles, additional fire sprinkler systems, etc.
3. Not highlighting that there is no provision for a project like this within the Measure D and Williamson act. The project's primary objective is not Agriculture, which is a requirement for being in the Williamson Act. The placement of the buildings would actually, directly, interfere with the ability to do agriculture on the property.
4. Calling the adjacent winery an "Event Center," ignoring their CUP provision of only allowing 12 wine related events a year that must end by 9pm. Event center is not part of Twining Vine Winery's title and their events are directly related to agriculture.

PUB11-03

PUB11-04

PUB11-05

5. No research seems to have been done on related attempts to build structures in Castro Valley Canyon lands that are not related to agriculture, like the Mosaic School, that have been consistently denied for the area (i.e. the MA Center on Crow Canyon Road in Castro Valley. The report cites examples, none of which have been approved or built so are not true examples.
6. Using data provided by the Mosaic School to justify operating requirements such as water consumption instead of stating code and what is required to be available to meet code.
7. Not using Code requirements for the new Septic design and sizing it to handle all waste waters which is required by the code. Further, allowing other activities to occur on the septic leach field even though the septic leach fields are typically fenced off from any other activities.
8. Allowing the building envelope to not use a rectangular shape as stated in the Williamson act and not highlighting this violation in the report.
9. Not using all of the community's concerns in the EIR scoping requests that were prepared to help improve the quality of the EIR. We have resubmitted our notes on the NOP highlighting in red all areas still ignored in the DEIR.
9. Not highlighting the fact that the planned trails cross neighbor's property lines, thus requiring trespassing to use the area referred to in the report. Further, not highlighting the fact that the neighbor has consistently denied access to their property for such use prompting them to install no trespassing signs.
10. Not stating that the current buildings on the property are in code violation. They are planning concrete pours and permanent foundations yet are referred to as temporary as would be required to fit under the recreational use provision of measure D.
11. The ability for the Mosaic School to show that the R-DEIR was complete on their web sight before the county was able to give notice to residents to review the R-DEIR thus showing the R-DEIR preparers are in direct communication with the Mosaic School organization.

PUB11-06

PUB11-07

PUB11-08

PUB11-09

PUB11-10

PUB11-11

PUB11-12

PUB11-13

Hydrology and Water Quality

The draft R-DEIR report referenced by Balance Hydrologies is NOT a hydrology report. The lack of data about refresh rates which are critical to the determination of sufficient water supply are not present in the hydrology report. There simply is not enough water to support a project of this size and scope, not to mention the impact it would have on neighboring properties. The estimates for water use per person is grossly underestimated when compared against building code.

PUB11-14

Additionally, they propose using a reverse osmosis system, water for their garden, emergency water for fire suppression, and water needed to take care of animals, which are not adequately factored into their totals. We know, from personal experience, that water is in limited supply in this canyon. The removal of the waste water from the reverse osmosis system is to be handled on premise according to code because the temptation to dump this water in the creek is compelling as opposed to using water trucks that would exceed the road weight limitation. The waste water amounts from the OWTS system are not included in the septic calculations. The water needed to produce the 3500 gallons of clean water is somewhere between 2 to 4 times the desired clean water because of the OWTS process.. Further, when the OWTS output is compared to the needs, it falls short in its production ability. If their solution requires trucking in water, it is not a viable solution because the weight limitation for cull canyon road is 7 tons, they would also have to dispose of waste water with those same trucks. Supplying water by truck is not to code but also impractical given the huge amounts of water needed for this project. No summation totals were provided to be able to determine sufficient water supply and septic capability calculations in the current version of the R-DEIR.

PUB11-15

Fire Risk

The whole canyon is a tier 3 fire risk, which is the highest the fire department has. Presently, 152 people across 3000 acres live in the canyon which is consistent with agriculture and is managed by experienced people who understand the risk. There is only one road in and out of our box canyon. The proposed project would have 150 people on 37

PUB11-16

acres which is consistent with urban development. It doubles the population in the canyon, but raises the risk of fire by more than double. According to a Homeland security report, 70% of outdoor arson fires are started by Children 14 years old and younger. The very age that the Mosaic project wishes to house at their school. The Homeland Security report is further backed up by research done by the NFPA (National Fire Protection Agency) dated March 2014 which states "38% of outside fires are started by kids aged 10-12." The risk factor for fire in the canyon will increase by almost 1.4 times or 140% greater.

**PUB11-16
cont.**

Currently, there is approximately one fire in the canyon every 3 years that is reported. The last 3, starting from oldest to newest, 8 years ago there was a small brush fire on grazed land that died out because of lack of material. 5 years ago, a barn that was growing organics and had no trees near it within 200 feet burned down and 3 years ago the Zweifel home at 12000 Cull Canyon Rd. which had no trees close to the house burned. We set this background because they are not just proposing to double the number of people who can potentially start a fire, they are doing it at the base of a heavily forested hill that has no such clearance distances and a 30-degree sloped hill that once a fire gets going cannot be stopped. When it crests the hill, it will begin to burn the Columbia housing development.

PUB11-17

Further, tempting the risk of fire is that the school plans to put in place a large fire pit that may for the first time show kids a fire. What young kid would not want to emulate the wonderful experience they had just had the night before by starting their own fire? How can you possibly control the natural tendency to want to recreate the experience? No amount of warning or control could stop this and the more you try and control the kids to do it, the farther up the hill they will go before starting the fire.

PUB11-18

The Draft R-DEIR that reads as though it was written as a paid for advertisement for the school, spent some time talking about a fire plan and training. The fire concern was appreciated but also made it obvious to anyone who really cares and understands the risk how completely useless the plan is in Appendix F: Fire safety and emergency response plan is when it will really matter. If there is time, almost all plans work and we are all safe. When there is no time, their plan puts the whole canyon at risk. It proposes buses come from another nearby school. Once the fire starts the buses would not be allowed down the one access road by the fire department. Further, they are going to tell the parents not to come to the canyon and try and rescue their child. That is not going to work and now we have 100 new cars in the way during the evacuation along with two stranded buses. The road does not have turn outs or turn around access or even good places to push a bus or car out of the way so now, if we could have gotten out, the exit will be blocked by buses and parents trying to go the wrong way.

PUB11-19

I know the risk is real and so does the fire department. That is why they try to help us cut and create second paths for emergency exit but all of these alternatives only work if you have a 4-wheel drive truck, tractor or recreational vehicle ready to go. Further, none of these paths can handle more than 20 people or so. I myself spend thousands a year recutting an emergency escape route which is only addressable by our off road vehicle and we have things ready to go.

PUB11-20

In conclusion, I see a school trying to call itself a temporary campsite in order to skirt safety regulations put in place for students.

PUB11-21

Fire Risk Calculation:

Change in fire risk calculation: The students proposed to stay at the facility create a significant fire

danger $90 \text{ kids} \times .7 + 10 \text{ teachers} \times .30 = 66$ (new additional risk).

Existing risk $10 \text{ kids} \times .7 + 134 \times .3 = 47.2$

New additional risk/ existing risk = Added new risk of fire $66/47.2 =$ Risk goes up by 140%

PUB11-22

This is a school.

As previously commented on and not addressed by the R-DEIR, I will restate the position: this is a school. It may also be a camp ground, but it is primarily a school. Their executive director sat in my home at the beginning of this process and told us it was a school. All Mosaic literature stated it was a school. Lately, they have substituted the word learning in place of school, which we do not believe is a coincidence, however, they have not changed the curriculum, just the title. The schools that provide students call it a school and it counts for school time and meets the compulsory education law of the state. Mosaic calls it a camp because it skirts all kinds of safety regulations that have been put in place to keep students safe. Fortunately, in this regard, Alameda County has a definition for school. The current definition of a school is as follows: "2. School, attendance at which satisfies the requirements of the compulsory education law of state." Since the weeks are proposed to be held during school time, Mosaic School either meets the education requirement of school or the students are truant since they plan on holding classes during the school year. This is using the County of Alameda Definitions document 17.04.010. If you still want to just call it a campground, I have a video of the Executive Director, Lara Mendel, in her own words, telling an audience that what they may not know is that it is really a school. The link for the second time Lara Mendel, the Executive Director of the Mosaic project outdoor school, stating this: https://www.youtube.com/watch?v=pSlGhnJ_lvU at the 10:52 mark, though she discusses their students and their curriculum throughout. Video link 2: <https://www.youtube.com/watch?v=ZL65oTDNEo8> just past the 1 minute mark they say it's an outdoor school. Video link 3: <https://greatnonprofits.org/org/the-mosaic-project> Information on Growth 3:30 min into video and clarifying "it's a school 8:00 min into video".

PUB11-23

By not calling it a school you not only try and sidestep clear proclamations that schools cannot be part of Williamson Act or Measure D but also ignore Safety regulations such as the spraying of pesticides by adjacent properties, the winery directly next door, offsets maintained on the creek given the drop offs, establishing clear fire safety which Schools are held to. Please do not discount this last concern as the County needs to take responsibility for the potential deaths caused by fire if this concern is ignored.

PUB11-24

Williamson Act Infringement not addressed in the R-DEIR

The draft R-DEIR does not address that the project is in direct conflict with the Williamson act, which the property is under. Further, if the property at any time was actually trying to be compliant with the Williamson act, they would have done something on the property to produce agriculture as is required by the contract they agreed with. Below we sight the parts of Alameda County policy on how to apply the Williamson act on properties for consideration on development and eligibility and then the specific guidelines the policy sights that show this project would be in violation:

PUB11-25

Alameda county guideline in applying the Williamson Act.

Compatible use determination process-

"Williamson Act contracts in Alameda County are intended to promote agricultural productivity and to preserve agricultural land from premature and unnecessary conversion to uses other than agriculture and open space. The presence of commercial agriculture is a precondition to compatible development on land restricted by a Williamson Act contract"

PUB11-26

What the Williamson Act states:

Uniform Rule number 1

"In order to enter land into a Williamson Act contract and maintain continued eligibility during the life of the contract, the contracted land must be in an agricultural preserve, meet minimum parcel size requirements, **be devoted to a commercial agricultural use, and be restricted to additional uses that are compatible with the agricultural use of the land. Williamson Act contracts**, also known as Land Conservation contracts, run with the land and are binding upon any heir, successor, or assignee."

"1. Definition of Agricultural Use Commercial agricultural use means the production and sale of agricultural commodities. Agricultural commodities mean unprocessed plant and animal products of farms, ranches, production nurseries and forests. Agricultural commodities include, but are not limited to, the following: fruits, nuts, and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and Uniform Rule 1- Eligibility Requirements Alameda County Uniform Rules and Procedures 1-4 October 11, 2011 peas; animal feed and forage crops, such as grain hay and alfalfa; seed crops; fiber and oilseed crops, such as safflower and sunflower; biofuels; production nursery stock; aquaculture; trees grown for lumber and wood products; turf grown for sod; poultry, such as chickens, ostriches, and emus; livestock such as cattle, sheep, goats and swine and similar animals; rangeland and pasture for livestock production; and, commercially-bred horses (see definition below)."

Uniform Rule number 2

"The County shall not approve applications for non-agricultural uses on contracted land, including use permits, development permits, Site Development Review, or subdivisions, unless there is an existing agricultural use that meets one of the commercial agricultural thresholds established in Rule 1 of this document."

- A. **Principles of Compatibility Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:** 1. The use will not significantly compromise the long-term productive agricultural capability of the contracted property or on other contracted lands in agricultural preserves (Government Code Section 51238.1). 2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted property or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the contracted property may be deemed compatible if they relate directly to the production of commercial agricultural products on the contracted property or neighboring lands, including activities such as harvesting, processing, or shipping (Government Code Section 51238.1). 3. The use will not result in the significant removal of adjacent contracted land from agricultural use or open-space use (Government Code Section 51238.1). 4. The use will not result in the significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted property (Government Code Section 51220.5)

Under Uniform Rule number 4: if this is an attempt to claim this is camping, no construction would be allowed and only temporary tents would be allowed for up to a 2-night stay. Further the planned construction would significantly hinder if not prevent any possible future commercial Agriculture. All buildable space would be used in the building of permanent structures that would directly interfere with possible future agricultural use.

Parts of Uniform Rule number 4

d. Passive recreation uses on non-prime land may occur anywhere on the contracted property except where and when that activity would interfere with the primary agricultural. The Winery directly neighboring the planned school holds special events. Their CUP is in line with the rules by having the events last no more than a single evening, helping to sell the wine and are terminated by 9PM. The Mosaic property proposes a four-night stay which is a direct violation of the Williamson act. Section provided below:

**PUB11-26
cont.**

PUB11-27

PUB11-28

"G. Special Events Temporary uses (special events), as may be permitted by the County under Section 17.52.490 of the Zoning Ordinance, shall be considered compatible on contracted land provided that: 1. The event is consistent with the Principles of Compatibility set forth in Section I.A. of this Rule. 2. The event is directly related to the promotion or sale of commodities produced on the contracted land, or to an existing compatible use. Alameda County Uniform Rules and Procedures Uniform Rule 2 - Compatible Uses October 11, 2011 2-13 3. There is no stand-alone permanent structure dedicated to such events. 4. The event lasts no more than 2 consecutive days and does not provide overnight accommodations."

PUB11-29

The drawing shows the buildings are over a 4-acre area not a 2-acre area. The contrived shape of the area in order to claim all buildings are within the 2-acre improvement site is not allowed under the Williamson act. See details below:

PUB11-30

Williamson Act general Rule 2 explaining building space:

"2. General Building Location a. Each legal/buildable parcel, whether under its own contract or as one of two or more legal/buildable parcels under the same contract, shall have a building envelope, **generally rectangular in shape**. In accordance with the East County Area Plan and Measure D, all buildings shall be located on a contiguous rectangular building envelope not to exceed 2 acres except that they may be located outside the envelope if necessary for security reasons or, if structures for agricultural use, necessary for agricultural use."

PUB11-31

Further, as currently planned, the building of the structures would actually make agricultural production impossible on the land. The 4 acres of relatively flat land would be used up with nonagricultural use and cut off access to the remaining 33 acres from agricultural use.

PUB11-32

Misuse of Terminology and our missing minor items throughout the R-DEIR.

1. Calling the Bedrooms that use Concrete pours and permanent structures temporary housing in order to act like those are similar to tents that are erected and taken down after each use at a camp sight in order to appear like this is a camping facility and not Hotel or permanent residence for more then 100 people.

PUB11-33

2. Not including concerns about height of buildings that would be the tallest buildings in Castro Valley at 40 foot tall, while the adjacent property was denied the ability to go to 30 feet on their property.

PUB11-34

3. Under the Parking calculations not stating that there is not parking allowed on Cull Canyon road in order to handle overflow. Having some of the driving and parking areas over existing septic system.

PUB11-35

4. It appears figure 4.8.4 and figure 4.8-1 from their submission show clearly that the proposed buildings are within the offsets that are required from the Creek. Further, no accurate study has been shown to calculate where the riparian actually is with true offsets. This is strikingly obvious after the rains of last year where the creek on the property moved significantly but no updates to drawings have been provided.

PUB11-36

5. School buses exceed the road's 7 ton load restriction.

PUB11-37

6. Restating word for word the Mosaic Schools claims about trails that provide access to open areas even though the property is locked in by private properties on all sides and would require trespassing on the neighbors property in order to get to the open space. Further claiming that the school will improve walking trails on the property yet no such trails exist on the property and the only trail they could possibly be referencing is on the neighbor's property to the south.

PUB11-38

Appendix A

PUB11-39

Community comments and issues were not folded into the DEIR or R-DEIR statement of work and the resulting DEIR and R-DEIR did not address community concerns and issues that were submitted following the Notice of Preparation that was sent December 17, 2021 via email to Ms. Sonia Urzua of Alameda County Planning.

**PUB11-39
cont.**

It is unclear what the maximum capacity and thus design criteria that needs to be used for the facilities. 108 people are used as the maximum capacity in several areas. If this is the case, why have a dining hall for 272 people, sleeping for 160 people, and reference of events that may total 500 people. Pick one number and use it throughout the DEIR/R-DEIR. All designs, water use, septic use, traffic calculations, parking capacities should reflect this number and anything above this in literature or planning should be stopped.

PUB11-40

Appendix G

Wastewater basis of design: Beginning assumptions for sizing the facilities are grossly understated. The project itself states 95 students and 50 permanent staff, along with weekend events that can total up to 500 individuals which matches the construction capacities. Yet, the calculations are all based on only 108 people at a reduced load from required design capacities to meet code in Alameda County. Further, the calculations ignored the location and use of the existing septic system which is not in code and is no longer permitted. As an engineer myself, it is apparent to me that Northstar Engineering, at no time, used a hydrologist for calculations and assumptions are all based on best case scenarios. Further, the slope of the land area used for the waste disposal and proximity to the creek riparian were not taken into consideration. Does code allow for kids and animals playing over the leach fields? I know our leach field had to be fenced off from animals and people. Is this no longer the requirement?

PUB11-41

Appendix H

Noise increase will be significant and will disturb residences who currently have very little noise exposure. This would normally not be a problem, however, the Canyon acts as a sound bowl and this will be amplified as they clear existing trees and covered areas to make room for all the buildings. From a personal standpoint, because of the bowl effect, you can hear a conversation from across the way at normal voice level where if it was normally traveling through trees and buildings the sound would dissipate.

PUB11-42

The greatest problem with the whole analysis is no such testing was actually done at the buildings shown in the diagrams. I know this because the location on the drawing is on our property, our gate is locked, and no one asked for permission to come onto our land to run the test, unless they trespassed. Had they asked for permission to run the testing we would have happily agreed. Since they stated they took measurements from what is a locked out building I can only state they ignored trespassing signs or did not take measurements. Further, the noise created is not due to agriculture (as permitted under Williamson Act) and would consistently be noise beyond typical construction or work times of the day, Dawn to Dusk limitations. Either use residential sound limits which they would exceed or use time of day sound limits, but do not pick a combination of both which would somehow allow increased sound late into the evening.

PUB11-43

Further, it is clear that precedents in the area, such as the winery only being able to have 12 events until 9 pm, are not being applied to this non-agriculture activity that seeks to permit noise until 10 pm for 100 plus nights a year, created by 100 plus people in an agriculture zone.

PUB11-44

Conclusion

The R-DEIR is inadequate for all the reasons stated above and items in our previous letter, attached, that we prepared in order to help scope the DEIR were not properly addressed. Further, as the planning office clearly laid out in their March 15, 2018 letter on the feasibility of this project, attached, it is not possible without clearly first making sure it is campsite with none of the physical buildings and a CUP that limits activity to the summer months. It also states that the development of the proposed use is not a compatible use under the Williamson Act contract.

PUB11-45

Respectfully submitted,

Robert (Bob) Fusinati

Linda Fusinati

15282 Cull Canyon
Castro Valley, CA 94552

Attachments:

NOP Scoping Comment
Zoning Verification letter

Sent via email

December 17, 2021 Resubmitting this letter November 21, 2022 with red highlight on items not incorporated and not covered in the Draft EIR.

PUB11-46

sonia.urzua@acgov.org

Sonia Urzua

Development Planning Division

Alameda County Community Development Agency

224 West Winton Ave, Room 110 Hayward, California 94544

Re: Project Referral Case No. PLN2020-00093 EIR Scoping suggestions:

Dear Sonia:

As a neighboring property to the proposed project site, directly to the east, this letter provides comments in response to the NOP-EIR Scoping Session for Project Referral Case No. PLN2020-00093 to construct and operate a school/weekly overnight camp for up to 95 students in 4th/5th grade and some, as yet to be determined, support staff. This request comes without having accurate drawings or what is really planned for the sight. We have no idea what the max allowable amount of people will be and that the septic and water systems are sized to such capacity. We also do not know how often the facility will operate. What will be the hours operation and how all of this is safely integrated into an agricultural area?

PUB11-47

Overarching concerns that should be addressed in the EIR are as follows:

1. An accurate map of the creek heights, location, riparian, along with creek mandated offsets, planned and current location of all buildings. Number of trees already removed and how much more of the natural landscape will be removed for this project. Current plans do not show the correct creek placement relative to existing and planned structures, and flood areas. Part of the EIR should be to produce an accurate, signed, and stamped site plan. This will show that all buildings East of Cull Canyon Creek are not and cannot be made legal structures without violating current code. Further, an accurate map will show if the new buildings built on the west bank can, in fact, be done with a 2-acre rectangular lay out as required in measure D.
2. Recognizing that the proposed plan is for a school and may also act as an "outdoor project", certainly two things can be true at once but by not recognizing the school aspect and all the students that will be there, you risk not following code that has been put in place to help guarantee the safety of the children and instructors at the school. When you read Alameda county's definition of a school, it is clear this facility, if operating during school time either has truant students, which no one wants, or it acts as a school and, as such, shouldn't it follow all safety procedures for a school? Does this create a zoning problem that is trying to be averted by mislabeling the facility? This plan for a rural application in an agricultural setting has multiple safety risks.
3. Address all risk concerns as we move away from agriculture to an urbanized setting. RoMi, the business that operates on my property, currently uses commercial herbicides and pesticides. Given that our property is directly East of the proposed school, how will the kids be made safe? Fire is a real concern as we average a fire every other year and with the new school and more than doubling the population in the canyon, it stands to reason that risk would rise to over one every year and, if started at the school, cannot be put out like the ones we currently have. What is the correct fire mitigation risk? What are the evacuation procedures and codes that need to be followed? Can you have a school or students next to a winery? Is there state or local code this would violate? Will the winery be guaranteed a right to operate even as it would be violating license agreements with the state? The creek runs thru the property, so how do you safely have kids near a creek that has 8 foot and

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greater drop offs? What plan do you put in place for floods, as an accurate sight map will show they are in a flood area? The parcel is in an earthquake zone, so what will be the evacuation risks for students and large groups at the facility? We have multiple power outages in this canyon because of the fire risks. What is the mitigation for no power and a large group of students coupled with possible fire? This is a slide zone and immediate neighbor to the North and South were refused the ability to build on the west side of the creek due to the risk of slides and soil liquification? People hunt in this valley. If homeowners lose this ability because of the presence of students, how will the wild pig population be controlled?

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4. An accurate and complete operating plan needs to be in place before we are fully able to comment on what should be included in an EIR. Obtain an accurate operating plan that includes all people at the site and how those limits will be maintained. The plan should include expected activities, in depth drawings, and safety procedures, times no activities will be occurring on the property and exactly how they are going to control noise outside of normal business operating hours. What costs will be incurred by the neighbors as they have to change the way they operate to meet the needs of the school?

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I Aesthetics

Planned structures will remove a 26-foot-tall barn which is at the tree line and replace it with a 40-foot-tall structure that will be above the tree line and visible by the street and all adjoining neighbors. Given that each adjoining property considers their view scenic and this will adversely affect them, wouldn't this impact need to be studied? This rural construction in an agriculture area will bring significant light, activity, and noise. Current density in the area is 30 acres per person which is on par with agriculture. The new rural application will have 1 person per .3 acres or 100 times denser, which will substantially degrade the existing visual, and quality of the area. Does this not affect the aesthetics? Does the 40-foot-tall structure follow zoning code? The neighbor directly north was turned down for wanting to build to a height of 30 feet. Has the code changed? Is there an exception the neighbor should have applied for? The planned construction is over 18000 square feet of living space. Does this not conflict with measure D limits? Further, the plan today shows the removal of many trees making any structure in the area visible from the road. To recap, all aspects of this project, seem to bring potentially significant impact to the aesthetics of the area and to make the false claim that it will not be observable is factually incorrect.

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II. Agriculture and Forestry resources:

How does this application work with existing zoning for agriculture use, both measure D and the Williamson act? This is a rural application in an agriculture zone. Do we not need to rezone the area to allow for a school? Cull Canyon is the number one concern for OWTS and in table 2-4 under cull canyon it states "Development in steep sided canyon rocky soils, steep terrain encroachment within stream terraces and stream-bank areas" with specific reference to any construction on the west bank. Adjoining neighbors to the North and South were turned down to build on the west bank. Did the risk disappear between these two areas? Alameda County history is to not allow construction on the west bank. Has this now changed? Will permits for the neighbors now be allowed?

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Under the Williamson act, it appears to conflict with Rule 1 and Rule 2. Rule 1 says any activity has to be secondary to agriculture. How is this the case when the only real activity is not agriculture? Rule 2 principles of compatibility item 1. States "The use will not significantly compromise the long-term productive agricultural capability of the contracted property or on other contracted lands in agricultural preserves (Government Code section 51238.1)". Are there other areas of the Williamson act that may be in violation? Is the goal of the Williamson act to help keep certain lands as agriculture and would this not alter the land permanently away from agriculture? I realize it is only 37 acres but the waiver on the less than 100 acres was already granted to the smaller lot now it feels like a misstep to allow most if not all the usable land to be given up to construction.

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Table 2-4. Potential and Designated Areas of Concern for OWTS in Alameda County

No.	Area of Concern Status	Area Name	Nearest City or Community	Affected Watercourses or Groundwater Basin	OWTS Issues
1	Potential	Cull Canyon	Castro Valley	Cull Creek, San Lorenzo Creek	Development in steep-sided canyon, rocky soils, steep terrain, encroachment within stream terraces, limited replacement area
2	Potential	Crow Canyon/Norris Canyon	Castro Valley	Crow Creek, San Lorenzo Creek	Development in steep-sided canyon, rocky soils, steep terrain, encroachment within stream terraces and stream-bank areas (Norris Canyon); limited replacement area
3	Potential	Palomares Road	Castro Valley	Palomares Creek, San Lorenzo Creek	Dense development within steep-sided canyon, steep terrain, encroachment within stream terraces, limited replacement area
4	Potential	Fairview	Hayward	Ward Creek, Sulphur Creek, San Lorenzo Creek	100+ homes on ridge-top area; OWTS constrained by shallow soils over bedrock, limited replacement area; some steep slope and stability hazards
5	Designated	Oakland Hills	Oakland	East Bay Plain GW Basin, Sausal Creek	High number of failing systems, public sewer connection available using low pressure sewage systems (grinder pumps or STEP systems)
6	Potential	Downtown Sunol	Sunol	Sinbad Creek, Arroyo de la Laguna, Alameda Creek, Sunol GW Basin	Large concentration of residences (150+) and small commercial district at confluence of several drainages; generally suitable lot sizes and favorable soils for OWTS; cumulative wastewater loading impacts on groundwater a potential issue
7	Designated	Kirkham Woods	Sunol	Sinbad Creek	Historical development dating to 1920s; summer cabins converted over the years to full-time residences; very small lot sizes, densely developed in steep, wooded terrain and stream terraces with minimal setbacks; many antiquated and non-conforming OWTS.
8	Designated	Happy Valley	Pleasanton	Livermore Valley GW Basin	Moratorium area established in 1973; high density of OWTS in area of localized nitrate-impacted groundwater.
9	Designated	Tesla Ave/Greenville Rd	Livermore	Livermore Valley GW Basin	Area with generally gravelly basin soils overlying localized nitrate-impacted groundwater
10	Designated	Buena Vista Ave	Livermore	Livermore Valley GW Basin	Area with generally gravelly basin soils overlying localized nitrate-impacted groundwater
11	Designated	Mines Rd	Livermore	Livermore Valley GW Basin	Area with generally gravelly basin soils overlying localized nitrate-impacted groundwater
12	Designated	May School	Livermore	Livermore Valley GW Basin	Area with generally gravelly basin soils overlying localized nitrate-impacted groundwater

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It should be noted that the drawing for the project is incorrect in a number of aspects. The most significant inaccuracies we have observed is the proximity of the proposed project to the creek. The existing barn in relation to the creek shows a distance of over 80 feet when an observation from the southern neighbor's property shows a steep drop at less than 20 feet from the barn. The number of trees shown in the plan are less than half of the number we are able to observe currently living on the property, which leads one to believe they will continue to remove trees from the property. How does this change the risk to liquification? A large number of trees have already been removed on the west bank. Will that not increase sediment into the creek? The proposed project site is on both sides of Cull Creek and goes well beyond (estimated to be +4 acres) the 2-acre rectangular envelope described for allowable development in measure D that "...all building shall be located on a contiguous rectangular building envelope not to exceed 2 acres." Does Measure D not apply in this case? Based on NorthStar Engineering's drawing, this proposed development is not rectangular and consists of two development areas covering approximately 4+ acres. Is there a change proposed to meet D or is a waiver allowed?

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IV Biological Resources:

Already several papers by Bruce King and others have been submitted on this subject, so it is assumed a study on habitat and sensitive species will proceed and it is expected that an expert, recognized in the field, on the subject matter will be used for this section. How has Bruce King's letters into the county been folded into or weighed when thinking about this development? Will the EIR study group have Bruce King as a reference/local expert? If the county is looking for

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recognized experts, I would be happy to conduct a search for such talent. In this particular arena, it seems reasonable to expect that an expert would be licensed in this area and carry a PHD. Is this not the type of expert one should expect for such a critical area?

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cont.

VI Energy:

I believe the new construction will be done as energy efficiently as possible, but given that the current plan shows 12 separated bedrooms on top of the other 2 houses and it will double the number of people in the canyon, it seems that energy effects must be looked at. Because it is a rural use in an agricultural area, there may be significant energy impacts, especially when put in the context of energy use for the space provided compared to surrounding areas. What is the energy use plan? Additional attention should be given to the planned septic and water handling will be placed between a steep hill and the creek below. Will energy assurance be needed to make sure that such a system does not spill over into the creek during stressed periods?

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VII Geology and Soils:

Neighbor to the south and neighbor to the North were both turned down for construction on the west side of the creek because of concerns for landslides and liquefaction of the soil. It is unimaginable that it is suddenly OK between those two spots to build a school. Shouldn't we have an expert in this field assigned to this for an intense study? If, in fact, construction is allowed, should there be a release to allow construction by the adjoining neighbors?

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IX Hazards and Hazardous Materials.

Under hazards a., b., and c., shouldn't the septic system have to be looked at in detail for this project? Will the county require the system to be sized for exactly the number of people the septic system is designed for? The location of the septic system? How people, automobiles, and activity will be restricted from this area per code on the septic area? It seems Code makes it very clear; system needs to be in the two-acre envelope, is that incorrect? Even in the 2 acres I thought the septic system has to be set aside and not built on. Is this incorrect? What is the COP for the septic system? What is the capacity for the septic system? Is there a waiver that can be granted to go below the required 150 gallons per person assumption? Since the current plans show for over 600 people occupancy, does the system need to be designed for that or is it designed for the number of people that can eat in the dinning hall at one time 170 people? Number of beds and bedrooms to sleep also around 170 people? What are the correct design criteria for the septic system such that it does not become a hazard in a liquification zone?

PUB11-60

Sections f. and g. of hazards. The Resource Management designation mentions areas "unsuitable for human occupation due to public health and safety hazards." The designation does not specifically mention wildfire or seismic hazards, but shouldn't we consider these hazards given the students present? The Canyonlands Issue Paper notes for Cull Canyon in its description of land uses in the various canyons (P. 21), "Like Eden and Hollis Canyons, Cull has only single-entry access and therefore evacuation for wildfire and other natural catastrophes is a concern." Given the deadly wildfires that have consumed thousands of acres of California in recent years, this issue seems understated for Cull Canyon. Cull Canyon is designated as a High Fire Hazard, State Responsibility Area in the Castro Valley General Plan. More recently, the California Public Utilities Commission designated Cull Canyon as a Tier 3 - Extreme Fire Threat District, the highest tier and PG&E has sent notices to residences to that effect. Power can and will be cut if there is threat of fire. Is this not an extreme concern for a large number of students and other people at the facility should a shelter in place be a requirement? If so, how do you remove all the trees near the facility and not dramatically change the risk of slide and effects to the creek?

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In addition to fire, Cull Canyon hillsides are designated as an Earthquake Induced Landslide Zone and the canyon bottom along Cull Creek is designated as a Liquefaction Zone according to the Castro Valley General Plan, (Figure 10-4, Soils and Seismic Hazards). Maps prepared by the California Geological Survey show the Mosaic parcel to be 100% within these high seismic hazard zones. Historically, permits for single family homes have been denied because of this on the west bank. How would all this be possible now? Only one escape route out of the canyon, which could be blocked by landslide, liquefaction, or wildfire, seems like an unsafe location for a large number of students and adults to be residing at outdoor school, even temporarily. Buses that dropped the children off even if they remain at the camp within the

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cont.

2-acre area would not allow escape if the one main road is blocked. Shouldn't another site be considered for this project? Given that the number of people in the canyon would double if needed to escape what assurance can be offered to the existing residences that the school does not put current residences at risk in an emergency?

Another concern is that the submitted project plans show a "Proposed Campfire Area". The students proposed to stay at the facility create a significant fire danger in themselves and the campfire is the perfect setting to spark their imagination about a better fire. According to a Homeland security report, 70% of outdoor arson fires are started by Children 14 years old and younger. This is the very demographic that the Mosaic project wishes to house at their school. The Homeland Security report is further backed up by research done by the National Fire Protection Association (NFPA) dated March 2014 which states, "38% of outside fires are started by kids age 10-12 (4th-6th grade) The risk factor for fire in the canyon will increase by almost 1.4 times or 140% and at a location where the fire cannot be stopped. The school is backed up against a 500-foot rise at a 45-degree angle fully forested. **The addition of the school more than doubles the risk of fire in the canyon in the worst possible location in the canyon. A location that cannot be contained once started in the canyon.** Given the data, it is easy to calculate the existing fire risk and the additional, conservative, fire risk as follows:

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$90 \text{ kids} \times .7 + 10 \text{ (adults)} \times .30 = 66 \text{ (new additional fire risk)}$

Existing fire risk $10 \text{ kids} \times .7 + 134 \text{ (adults)} \times .3 = 47.2$

New additional fire risk/existing risk = Added new risk of fire $66/47.2 =$ Risk goes up by 140%

Please understand that some form of fire occurs in the canyon every other year and this is with only 144 people across the 4000 acres but, thankfully, these fires have been in flat areas that have been contained. Who will take the liability for the canyon when the fire starts at the school? How can this extreme risk be mitigated?

X. Hydrology and Water Quality:

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a. A complete clear public showing of the riparian, setbacks, and sizing of the septic system will answer the question as to whether the proposed project violates any water quality standards or waste discharge requirement or otherwise substantially degrade surface or ground water quality. This must be studied.

b. Neighbor's to the East, South, and North all have had water concerns in the last 5 years. The area in question is a shallow basin not a deep Aquaphor that relies on recharge during the rainy season. The proposed project would use over 10 times more water than the 3 adjoined neighbors, explanation below:

Adjoined neighbors all practice low water use. The winery, property to the North, survives on rain and shallow recharge for the winery. RoMi, property to the East, has fruit trees that are watered 5 times during the dry season practicing deep water irrigation and cattle watering is restricted to a small pond near the ridge coupled with supplemental water trucked in during the dry season. The ranch, to the south and west, uses the land as a nature preserve inviting limited number of guests at the facilities. All 3 places use no more water than average head count of the area for comparison:

11 people for the 3 sites over 312 acres compared to adding 120 people over 37 acres or approximately 10 times greater use and 100 times greater density

PUB11-65

This change can only be listed as a significant impact without any clear mitigation that follows existing code. Further, code requires proof of long-term water supply to meet total number of people which has yet to be stated by any report. How can a consistent and sufficient water supply be guaranteed? I would expect an expert in the field to look at the situation and report on this. Are you aware the USGS has made recent seismic study that cut thru this property? Why are there 3 abandoned wells on the property. If they are not to be used, why are they sleeved and ready to go instead of filled in? What is the production of the current well system in dry season? Who warrants water will not be trucked in for the facilities? What is the effect of taking 10 times more water out at the facility to all neighbors?

c. The addition of an area right before the creek of over 15000 square feet of building and more than double that of hardscape/less porous or more impervious surfaces at the only fairly level area near the creek on the west bank alters drainage pattern of the site. This will substantially increase the rate of and amount of surface runoff. How will the additional runoff be prevented? What other effects might this hardscaping do to the environment?

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XIII Noise:

Due to the nature of our canyon, when there is talking of even just a handful of people, music, or any noise at all, it echoes through the canyon. The Mosaic Project has videos on the internet that show amplified music at their camp locations, though they told us they do not use amplification and that we would only hear the “singing and giggling children.” We love children and have two ourselves, but 75 – 100 children, unknown staff numbers and unknown number of additional adults would, potentially, be quite loud. Whether or not they use amplification, the amount of people contemplated at any given time will be very disruptive and loud on an ongoing basis, not just a few times a year, for a private house party or a wedding reception such is currently permitted at the winery. This is where a clear operating procedure needs to be in place and at no time should it violate local noise ordinances for rural areas. Will this not be a lot like having a construction zone permanently in place? When properties such as ours to the east were purchased, a strong consideration for the location was because it was protected from major development by Measure D, this is for large parcels with agricultural uses, and were quiet. Does this development violate prevailing land use laws? Is this the intent of measure D? Will neighbors be allowed to do similar construction?

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XIV. Population and Housing:

This has to be considered in the EIR. Although Mosaic has gone out of its way to be unclear about how many people may be at the site at once, it appears to double the current number of people in the canyon (144) over 4000 acres. It cannot be overstated that this rural use of agriculture area has a significant change to the environment of the area. What will this do to evacuation risks? What is the plan when the road is no longer in use because of an emergency?

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XX Wildfire:

The Resource Management designation mentions areas “unsuitable for human occupation due to public health and safety hazards.” The designation does not specifically mention wildfire or seismic hazards, but these hazards must be considered relevant in Cull Canyon. The Canyonlands Issue Paper notes for Cull Canyon in its description of land uses in the various canyons (P. 21), “Like Eden and Hollis Canyons, Cull has only single-entry access and therefore evacuation for wildfire and other natural catastrophes is a concern.” Given the deadly wildfires that have consumed thousands of acres of California in recent years, this issue seems understated. Cull Canyon is designated as a High Fire Hazard, State Responsibility Area in the Castro Valley General Plan. More recently, the California Public Utilities Commission designated Cull Canyon as a Tier 3 - Extreme Fire Threat District, the highest tier and PG&E has sent notices to residences to that effect. Power can and will be cut if there is threat of fire. This would not be a good scenario for a camp full of school children. Please take a comprehensive look at the fire risk with known experts. Can the risks be properly mitigated? Why is a 12-foot-wide bridge now allowed for the property verses the code at 20 feet? Will there be a fire expert used for this section trained in this arena? What is the fire truck maneuvering plan across this small existing unpermitted bridge?

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In addition to fire, Cull Canyon hillsides are designated as an Earthquake Induced Landslide Zone and the canyon bottom along Cull Creek is designated as a Liquefaction Zone according to the Castro Valley General Plan, (Figure 10-4, Soils and Seismic Hazards). Maps prepared by the California Geological Survey show the Mosaic parcel to be 100% within these high seismic hazard zones. With only one escape route out of the canyon, which could be blocked by landslide, liquefaction, or wildfire, this seems like an unsafe location for a large number of children to be residing at outdoor school even temporarily. Buses that dropped the children off will they be required to remain at the camp during their stay? Will they need to be part of the 2-acre area on an impermeable surface?

PUB11-70

XXI Mandatory Findings of Significance

The Williamson Act is designed for the preservation of the State's limited agricultural lands. The act states "the use will not result in the significant increase of the density of temporary or permanent human population that could hinder or impair agricultural operations on the contracted property". This use permit would significantly increase the population density by an estimated 100% (as earlier stated, there are currently an estimated 144 residents in Cull Canyon). The Mosaic team's vision is to operate their programs year-round. They stated this during discussions we had with them prior to the Forstall Family's purchase of the property and is also stated on their website. The only agricultural use in the proposal mentions, almost as a side note, that they intend to raise goats and chickens for food and weed abatement. This seems to us like an attempt to try to fit into an agricultural definition. The animals may cause other environmental issues, disturb the winery visitors as they are proposed to be immediately adjacent to the winery and next to the creek, disturb their eastern neighbors, and further strain the challenged water supply the canyon already faces.

PUB11-71

Proposed Living Space exceeds Measure D and Williamson act limits:

Measure D and The Williamson act allow up to 12,000 square feet of living space. Current plans show 18,000 is this even possible? Does this meet the intent of measure D? Or is this just some unique way to try and skirt a voter mandated requirement?

"One single family home per parcel is allowed provided that all other county standards are met for adequate road access, sewer and water facilities, building envelope location, visual protection, and public services. Residential and residential accessory buildings shall have a maximum floor space of 12,000 square feet." What other measure D requirements are being violated?

Current living quarters calculations show 18,191 planned living area as follows:

Caretaker Unit	1220 sq. ft
12 in excess of 400 sq. ft per cabin/bedroom	4800 sq. ft
Bathroom/Shower building	1025 sq. ft
Cafeteria	8510 sq. ft
Staff housing	2636 sq. ft

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Measure D allows for up to 6 bedrooms (current plans show more than 19 some of which will act as rooms for more than one person) for the main residence and a smaller caretaker's unit. The current proposed plan is 12 cabins/bedrooms that sleep in excess of 10 people each which exceeds limits. Note that Measure D allows for tents that are removed after each use, not permanent cabins or any other form of structure for housing.

It should be noted that a school facility built for one purpose could easily be used for other purposes in the future once the project is complete. Doesn't this development set a precedent for other intensive uses in Resource Management designated area? Both in the Canyonlands and in East County, because it stands to reason that you cannot simply grant an exception to the prevailing land use in effect and not expect others to desire to develop other similar projects because they would expect equal rights. Would this not be the only fair application? Shouldn't these factors be taken into consideration by all parties reviewing and evaluating the project?

1. Environmental Impact

Per experts with Friends of the San Lorenzo Creek in their 2018 response to a proposed project, there are numerous environmental impacts that are of concern. Once again, if they are allowed to disregard the prevailing county code/guidelines, it puts the protections voted on by county residents in disarray, opens the door for other

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canyon residents to reasonably expect the same type of exception, or, worse, zoning changes. The experts reference such issues as Sedimentation and erosion, Water Quality, and Water Supply

Planning and Land Use – When approved in 2000, Measure D applied the East County Area Plan's Resource Management land use designation to the Canyonlands. Our understanding is that this was done because of the susceptibility of the Canyonlands to damage, because, according to experts, damage was already occurring as documented in the 1996 Castro Valley Canyonlands Issue Paper, and because significant additional harm was foreseeable unless strong protections were enacted. The overall purpose of the Resource Management designation is set forth as follows:

"This designation is intended mainly for land designated for long-term preservation as open space but may include low intensity agriculture, grazing, and very low-density residential use." While various uses are permitted under the Resource Management designation, including agricultural and recreational uses, the designation also encompasses "areas typically unsuitable for human occupation due to public health and safety hazards such as earthquake faults, floodways, unstable soils, or areas containing wildlife habitat and other environmentally sensitive features...." all of which are potential on this parcel.

Building a private school/outdoor recreation/hotel facility/camp with 95 young occupants and unknown number of adults residing in the same area as protected species needs to be carefully examined. The parcel that the Mosaic project is leasing from the property owners, Scott & Molly Forstall, is under a 2016 Williamson Act contract that provides for lower property taxes in exchange for maintaining the property in agriculture or open space uses. The County previously advised the applicant that the principal rule with the Williamson Act for recreational uses is that "The use is limited to land in its agricultural or natural state." The County also noted in connection with an earlier project concept that "the development of the commercial kitchen, the 12 cabins, and other necessary amenities – along with wastewater treatment infrastructure and a water supply – while beneficial to the program and activities envisioned now, the development of the site as a commercial retreat center has to be considered as the 'real' consequence of the project proposal." (Andrew Young, memo dated October 4, 2016, to various County and project recipients). Even if this is never the goal of the Mosaic Project, they are not the land owners and will simply be a tenant on the property. Their long-term future is not guaranteed on this site. In addition, as mentioned, this development will set a precedent for other intensive uses in Resource Management designated areas both in the Canyonlands and in East County. The reviewers of this project should take these issues into consideration when evaluating the project.

The current proposed use as a school is directly prohibited in measure D. The stated intent of Mosaic is an outdoor school and although they have gone to great lengths to try and relabel the school as a public recreational area, it is not and we do not believe they have any intent of actually changing to a recreational facility. Alameda County has a clear definition of a school and is as follows: "2. School, attendance at which satisfies the requirements of the compulsory education law of state." The Mosaic project either meets the education requirement of school or the students are truant if they hold classes during the school year. This is using the County of Alameda Definitions document 17.04.010. An attempt to label it as a camp ground is false and appears is only being done to attempt to fit the law. The very act of requesting to hold classes during the school year makes it a school. If interested, we can forward multiple papers and interviews where the executive director of the school talks about the education and how it is core to the Mosaic charter.

2. Negative Impact to Surrounding Properties

A winery lies immediately adjacent to the proposed project site to the north and has operated, happily, for many years according to a very prescribed set of rules outlined by the county. Allowing a project that is, essentially, a school to be built next to a winery puts an existing business at risk because the (ABC) law states "ABC may deny any retail license located (a) within the immediate vicinity of churches and hospitals, or (b) within at least 600

feet of schools, public playgrounds, and non-profit youth facilities”, which would put TwiningVine out of business. This seems quite unfair especially since the risk is completely avoidable.

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Additionally, as noted earlier, due to the nature of our canyon, when there is talking of even just a handful of people, music, or any noise at all, it echoes through the canyon. The Mosaic Project has videos on the internet that show amplified music at their camp locations, though they told us they do not use amplification and that we would only hear the “singing and giggling children.” We love children and have two ourselves, but 75 – 100 would, potentially, be quite loud. Whether or not they use amplification, the amount of people contemplated at any given time will be very disruptive and loud on an ongoing basis, not just a few times a year, for a private house party or a wedding reception. When properties such as ours to the east were purchased, a strong consideration for the location was because it was protected from major development by Measure D, were large parcels with agricultural uses, and were quiet. To allow this kind of development that violates prevailing land use laws seems inconceivable and wrong.

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Given the fact that this one project on less than 37 acres will double the number of people living in the 4000 acres of the canyon, sending a card for comment to only 3 residents that happen to be immediately next to the project seems incomplete as this project will affect all the residents in the Canyon, even if the county is only required to notify immediate neighbors.

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Currently, many homes are trucking in water and will be trying to make it to the next rainy season. Water depletion has become a major issue for the canyon. All water depends on no one user taking more than what measure D building limits allows. The closed aquifer, as stated in the Core of Engineers original survey and reconfirmed by USGS testing by Professor Luther Strayer (Hayward seismic tests dated 2018) cannot sustain the density increase they are proposing. Further, the change in use away from measure D while the rest of the residents adhere to measure D would, likely, drive down the associated property values much the same way an airfield would affect a residential community.

PUB11-78

The planned septic system is on the steep side of the canyon in Rocky soils. This particular area is listed as the number one concern in Alameda County OWTS (Onsite Wastewater Treatment Systems) issues. Potential and designated areas of concern for OWTS in Alameda County after page 16, See Attachment 1. With regard to development of a septic system on the west side of the creek: “development in steep-sided canyon, rocky soils, steep terrain encroachment within stream terraces, limited replacement area”. The strictest interpretation of the septic sizing should be used, and, if at all possible, no septic system should be added on the west side of the creek. The current load on the west side of Cull Canyon creek across the 2000 acres the creek covers is estimated at 5,400 gpd using the standard of 150 gpd per day per person. Reference table 2.5 alameda County Potential and designated areas of Concern, OWTS discharges and loading estimates. The Local Agency Management Program for Onsite Wastewater treatment Systems for Alameda County, Attachment 4, further calls for a completion of a geotechnical study, including assessment of hydrogeologic conditions, water movement and slope stability before any such septic system should be considered on the west side of Cull Canyon Creek. Looking at the plans, it appears that the housing will handle 130 people that will be on the 37-acre site, the load would be $130 \times 150 \text{ gpd} = 19,500 \text{ gpd}$ per day or a 361% increase ($19,500/5,400$) in GPD for the 2000 acres all from 37 acres of land for this project. The study’s highest concern in Alameda County for OWTS discharge is this west bank of Cull Canyon. The Williamson Act, Measure D, and historical ways to calculate loads has been to assume if the lodging is built, the calculations must include the loads. No matter how great the cause, no one gets to build a 6-bedroom house in the canyon and then say but only 2 people will live there.

PUB11-79

Conclusion

PUB11-80

Many of the issues noted in this letter are unable to be mitigated by the applicant for the proposed use of the land. It seems a tremendous waste of everyone's time and hard to work make a "square peg" project fit into a round hole, no matter how wonderful the applicant's intentions may be. There are impacts that are cumulatively considerable when you review what is being contemplated for this small 37-acre parcel. Please consider the many potentially significant impacts a project like this would be for Cull Canyon. Try and imagine as we stretch the definition of agriculture and allow all the properties down Cull Canyon to pursue similar projects.

Respectfully submitted,

Robert (Bob) Fusinati
Linda Fusinati

15282 Cull Canyon Rd.
Castro Valley, CA 94552

Sent via email

**PUB11-80
cont.**



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

Chris Bazar
Agency Director

March 15, 2018

Albert Lopez
Planning Director

224
West Winton Ave.
Room 111

Hayward
California
94544

phone
510.670.5400
fax
510.785.8793

www.acgov.org/cda

Bock&Clark Zoning
Attn: Kayla Cook
3000 S. Berry Road, Suite 150
Norman, OK 73072

REVISED: PLN2018-00027 – Request for a Zoning Verification Letter for the property located at 17015 Cull Canyon Road, Castro Valley area of unincorporated Alameda County, Assessor's Parcel Number: 085-1200-001-16, with total lot size of 36.96 acres.

Dear Applicant,

This is to confirm that the above-referenced property and the proposed use as a campground (the Mosaic Project) requires an approved conditional use permit, and is subject to the following rules and regulations:

General Plan Designation

1. The Castro Valley General Plan adopted by the Board of Supervisors in March 2012, shows the property as currently being located within the Measure D (Urban Growth Boundary) as Castro Valley Canyonlands, which are subject to the same restrictions with respect to minimum parcel size, amount and nature of development, development envelopes, floor area ratios and maximum floor areas, and permissible uses as are imposed in the Resource Management Description of Land Use Designations in the East County Area Plan.

Zoning District

2. The current Alameda County Zoning Ordinance lists the subject parcel and surrounding lots in an A (Agricultural) Zoning District, to promote implementation of general plan land use proposals for agricultural and other nonurban uses, to conserve and protect existing agricultural uses, and provide space for and encourage such uses in places where more intensive development is not desirable or necessary for the general welfare.

Also the Ordinance, Section 17.06.040 – Conditional uses – Board of zoning adjustments, an outdoor recreation facility in an A (agricultural) Zoning District is subject to an approved Conditional Use Permit development process:

17.06.040 - Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by

PUB11-81

the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

A. Additional dwellings for persons employed in the agricultural use of subject property and the families of those persons, and/or living quarters for farm laborers, when found by the board of zoning adjustments to be necessary to the farming operation;

B. Outdoor recreation facility;

3. Adjacent property zoning designations:

North: A (Agricultural);

South: A (Agricultural);

East: A (Agricultural) and A-BE (Agricultural, 100 acre Minimum Building Site Area); and

West: A (Agricultural).

Zoning and Development History

4. The 141st Zoning Unit, approved on August 8, 1957, established the site and surrounding parcels into the R-1-B-5 (Single Family Residence with as specified on the sectional district map designating any such district) and A (Agricultural) Zoning District. There was no zoning designation for this property or surrounding area prior to 1957.
5. The 935th Zoning Unit, approved on September 3, 1970, rezoned the portion of property into a R-S-D-3 (Suburban Residence, 22,000 sq.-ft. Minimum Building Site Area per Dwelling Unit) Zoning District.
6. The 1159th Zoning Unit, approved on August 27, 1974, rezoned the property into an A (Agricultural) Zoning District.
7. Conditional Use Permit, C-2778, approved on June 12, 1974, allowed utilizing a mobile home for one year during construction of a permanent dwelling on a 145 acre parcel, in an A (Agricultural), R-1-B-E (Single Family Residence, 22,000 sq.-ft. Minimum Building Site Area) and R-S-D-3 (Suburban Residence, 22,000 sq.-ft. per Dwelling Unit) Zoning District.
8. Tentative Parcel Map, PM-3879, approved on September 24, 1982, allowed a subdivision of one lot into three parcels, in an A-B-E (Agricultural, 100, Acres Minimum Building Site Area) Zoning District.
9. Variance, V-10452, approved on February 17, 1993, allowed a boundary adjustment resulting in a parcel having 36.96 acres where 100 acres is the minimum, in an A-B-E (Agricultural, 100 Acres Minimum Building Site Area) Zoning District.

PUB11-81
cont.

ZONING VERIFICATION LETTER

PLN2018-00027

March 15, 2018

Page 3 of 4

10. Variance, 10880 and Conditional Use Permit, C-6930, approved on December 18, 1996, allowed occupancy of a mobile home by an agricultural caretaker on a property containing 36.96 acres where 100 acres is the minimum, in an "A" (Agricultural) Zoning District.
11. Variance, V-11293 and Conditional Use Permit, C-7540, approved on January 26, 2000, allowed continued occupancy of a mobile home by an agricultural caretaker on a property containing 36.96 acres in area where 100 acres is the minimum building site area required, in an "A" (Agricultural) Zoning District.
12. Site Development Review, S-1862, was received on April 2, 2003, however was never approved, which would have allowed continued occupancy of an agricultural caretaker unit, in an "A" (Agricultural) Zoning District.
13. Pre-Application, PLN2015-00039, requested for a pre-application meeting of a proposed kennel including boarding, daycare, grooming & training, in an "A" (Agricultural) Zoning District.
14. Pre-Application, PLN2016-00164, requested for a pre-application meeting of a proposed outdoor school and retreat center for The Mosaic Project, an "A" (Agricultural) Zoning District.

Building Permit

15. There are building permit records on file with the Public Works Agency, Building Inspection Department (BID). Please contact the BID, at 399 Elmhurst Street, Suite 141, Hayward, CA 94544 or (510) 670-5440 for information of the building permit records.

Rebuild

16. The previous approved Variance, V-11293 and Conditional Use Permit, C-7540, allowed continued occupancy of a mobile home by an agricultural caretaker on a property containing 36.96 acres in area where 100 acres is the minimum building site area required, in an "A" (Agricultural) Zoning District, expired on January 26, 2003. Therefore, the subject use does not have continued conditions of approval, it is not a conforming development project.

Williamson Act

17. Currently, the parcel is under the Williamson Act (WA) contracts. The WA for recreational uses is that the use is limited to land in its agricultural or natural state. The development of the proposed use, Mosaic Project is not a compatible use under the contract. Please see attached, Land Conservation Agreement, attachment Exhibit B, Compatible Uses.

Current Violations on Site

18. The Site Development Review, S-1862, has expired and need to re-apply for a continued occupancy of an agricultural caretaker unit, in an "A" (Agricultural) Zoning District.

PUB11-81
cont.

ZONING VERIFICATION LETTER

PLN2018-00027

March 15, 2018

Page 4 of 4

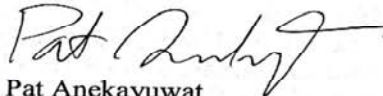
19. There are no known building code violations on the property. Please contact the Alameda County Fire Department at (510) 670-5853 regarding a fire code violations record on the property.
20. The site is currently under the Williamson Act which could restrict uses allowed. Please see attached letter.

Any exterior modifications to the building or to the site that modify the original development approved per the above information will require discretionary review for conformance with the regulations of the Alameda County Zoning Ordinance.

Any modifications to the building or the site should be reviewed with the Building Inspection Department to determine any Site Permits or Building Permits that may be necessary. The Building Inspection Department can be reached at the Alameda County Public Works Building, 399 Elmhurst Street, Room 141, Hayward, CA 94544, with telephone number (510) 670-5440.

I hope that the above information answers your request for a Zoning Verification Letter. Please feel free to contact this office with any questions or comments by telephone at (510) 670-5400.

Sincerely,



Pat Anekayuwat
Development Planning

cc: file

**PUB11-81
cont.**

January 18, 2024

To: Planning Director, Albert Lopez
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

Re: The Mosaic Project Recirculated Draft EIR

Re: Public comment pursuant to Recirculated Draft EIR... PLN2020-00093
“The Mosaic Project”...missing or failed analysis.

Location: 17015 CULL CANYON ROAD, CASTRO VALLEY CA APN 85-1200-1-16

I am extremely concerned that proper attention is not being given in the analysis presented in the recirculated Draft EIR... (R-DEIR)

I believe the questions posed here are significant and non-mitigatable. They also remain unaddressed by the RDEIR.

The County as well as the RDEIR investigator, Placeworks have inaccurately and casually applied the “No Impact” designations to two specific categories, Hydrology and Water Quality.

I believe water resources and the proposed wastewater processing will have significant environmental impact which are non-mitigatable and thorough analysis has not been performed to show otherwise.

PUB12-01

#1. Classification of Facility.

The first step to performing this analysis is to correctly define what the proposed development is, and then apply the appropriate guidelines to measure the potential impact on the surrounding environment. As it is currently written Placeworks is applying the standards of a “Pioneer Camp” (appendix G Wastewater Basis of Design) to determine potential water use as well as wastewater assumptions. Pioneer camps are rustic in design and concept, primitive by nature with “haul-in, haul-out” philosophy. Brief overnight or 2- night stays without facilities (eating halls, permanent structures etc.) Certainly, this proposed camp/school is NOT a “Pioneer type”...18 structures including a commercial eating hall, large meeting rooms

PUB12-02

and sleeping cabins, over a dozen water tanks (as large as 20,000 gal.) in addition to an existing barn and house.

Possible classifications which they conveniently chose to not use include: “Children’s Camp with Central Toilets”, or “Dormitory/Bunkhouse”, or a “Boarding School”.

I believe the study chose the misclassification in order to purposely underestimate the water usage and the wastewater discharge in order to “fit” the restrictive nature of this rural site. It should be considered a school with housing... capable of multiple overnight stays by its students.

The County and Placeworks need to first justify and then apply the correct definition to this project before any other analysis is studied.

**PUB12-02
cont.**

#2. Actual population numbers

The RDEIR needs to apply an accurate count of the assumed population potential. Although Mosaic has *promised* to only have 108 students and counselors as well as staff residences for 16, the occupancy listings of the buildings are 273 and 173... plus staff. Thus, the definition of “peak demand” has to be questioned and shown why a number of 500+ should not be used as opposed to the stated 124.

PUB12-03

#3. Fresh Water resources.

The canyon has about 140 residents, effectively “metered” by Measure D development limits and it’s AG designation. The Mosaic proposal suggests, at a minimum, doubling that population and doing so year-round. The accompanying water demands caused by doubling the Canyon population will far outstrip the limited resource virtually every year.

Canyon residents regularly run low, and in many years run out of well-water on their properties. This is regardless of whether there is a drought. The residents depend on a closed, shallow-basin underground reservoir bounded by the surrounding hills and not attached to the aquifer outside of the canyon in the Castro Valley and San Lorenzo flatlands. This basin periodically runs “dry” and is only refilled from annual rainfall. Some years the rainfall is plentiful, other years not so much. But either way there is only a limited capacity to store the water.

PUB12-04

The effect on the surrounding community and environment would be profound. It would not simply affect the Mosaic school/camp but would also force all canyon residents to supplement their water by purchasing, trucking and storing it for many months of the year.

Is this really “non-significant”?

Put simply....

Hydrology studies have still not been provided in the RDEIR to evidence that the Mosaic Project would not impact the existing canyon residents. Pumping tests were performed to determine *flow*, however no study was evidenced to determine quantity and duration to be expected.

PUB12-05

The RDEIR states that “the area surrounding the site is sparsely populated, with scattered residential properties ... the site and surrounding area are not in a designated groundwater basin and...are not subject to the requirements of a groundwater sustainability plan.”

The area is sparsely populated, but should the project be approved, it could no longer be deemed “sparse” as the canyon’s current population would instantly double, and the surrounding area of 2- and 3-bedroom homes would be dwarfed by a 125+ person, 18 structure, 23 bedroom facility.

Additionally, the water-use calculations used in the RDEIR are inherently **flawed and biased**. California code (17 CCR 30700 section 30710) require 50 gal. per person per day for organized camps (although this project more closely aligns with a School/Dormitory designation). Mosaic and the EIR instead *decided* the State standards do not apply, using their own “Pioneer Camp” logic to determine that only 25 gal. per person per day would be required (see footnote 1 of table 4.14-2). This being based upon “similar camp operations”. Thus, in effect attempting to minimize the water requirements by over HALF.

PUB12-06

If, however, it is determined that this is actually a school with boarding facilities then the required water grows to 75 gallons per person per day. Three times the RDEIR’s assumptions.

Additionally, the Project/School will be utilizing a reverse-osmosis (RO) system to generate potable water for the site, which they estimate will generate 40,000 gal. of unusable brine water every month. However, if the prescribed State-standards for camps are utilized (50 gal/per person per day), this brine water **doubles** to 80,000 gal. of wasted water every month.

If the project is considered to be a school the wasted brine water becomes 120,000 gal. per month.

PUB12-07

This water demand then needs to be included in the total water needed to support the project. The DRAFT EIR does not include this wasted water in their calculations, and thus is purposely misleading the potential environmental impact.

Therefore, their assumed annual water usage of 786,000 gallons (4.14-7) *actually* becomes closer to **2,000,000 gal.** removed from the water basin annually.

Again, non-significant?

PUB12-08

#4. Wastewater generation.

Let's not forget that "What goes in must come out". Whether a school, a camp or a recreation facility, the 50 to 150 gal/day per occupant of water used will produce a commensurate discharge of black and grey water.

The RDEIR however, again adopted an arbitrary standard of 25 gal. of wastewater per occupant per day. Other possible classifications which they conveniently chose to not use include;

"Children's Camp with Central Toilets" (35-50 gal. per person per day) ...

"Dormitory/Bunkhouse" (20-50 gal. per person per day) ...

or "Boarding School" (50-100 gal. per person per day).

Rather than adhering to existing guidelines, they RDEIR literally created their own set of guidelines, ignoring State standards.

In addition, the study decided to reduce their projected flows of wastewater claiming Green Code construction and diversion of Grey Water for irrigation. Alameda County has repeatedly explained that the County has not adopted any County codes for greywater designs, instead they are guided by the California Plumbing Code to regulate greywater systems.

Are other environmental agencies (CA fish and Wildlife, FSLC, Bay Area Clean Water Agencies etc.), willing to allow an experimental grey-water dispersal system in an eco-sensitive area upstream of a water source for the Bay?

What if the listed occupancy limits (500+) were utilized? Has the Alameda County Environmental Health Department considered the size of the facility and the potential occupancy, rather than the promised population when determining the feasibility of any OWTS?

It has not been determined that there is a sufficient water supply to support the proposed development and there has been no evidence of any reasonable calculation to the wastewater demands that would accompany such a project.

The Mosaic Project's principals should be applauded, however their site-selection on which to pursue those principals is sadly lacking. Cull Canyon simply cannot support such a development due to lack of resources.

I believe water resources and the proposed wastewater processing will have a significant **negative** impact to residents and the environment which are non-mitigatable. Thorough analysis has **not** been performed nor provided to allow the County and its residents to make educated decisions otherwise.

PUB12-09

PUB12-10

PUB12-11

PUB12-12

PUB12-13

This RDEIR is flawed and inadequate. It should not be used to make any decisions or recommendations. It should be rejected as such.

Thank you for your attention to this matter.

Keith Seibert
16851 Cull Canyon Road
Castro Valley, CA

**PUB12-13
cont.**

From: [Teddy](#)
To: [Lopez, Albert, CDA](#)
Cc: "Teddy"
Subject: dEIR response
Date: Thursday, January 18, 2024 2:14:30 PM
Attachments: [image001.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)

Jan 18, 2024

Response to Mosaic Project Recirculated dEIR (PLN2020-00093)

Significant errors and omissions continue to be evident in the Outdoor Project recirculated dEIR. The recirculated dEIR fails to base calculations off actual figures of the project and appears to be loosely based on canned figures, false and misleading calculations and many significant impacts have been completely ignored. The recirculated dEIR has not addressed most of the public's concerns expressed during the response period and MAC meeting a year ago.

It is an obligation for the applicant and representatives to present accurate, honest, and reliable information based on studies that are pertinent to the dEIR. Calculations in the proposed plans are incorrect, proposed developments for the farming activities are missing from the plans and the project qualifications and violations have been glossed over.

Specific to the dEIR:

The Williamson Act: Primary use of land to qualify for the Williamson ACT is **agriculture**; The proposal has not produced *anything* that remotely resembles agriculture. The applicant has stated over and over that the primary program is an "Outdoor School". The project name has changed multiple times in an attempt to conform to zoning.

The proposal, "**Project Description**" clearly states that the Mosaic Project is requesting approval for "The Outdoor Project Camp", an outdoor educational facility.

The proposal stated the project is for 75-95 students. The fact that the "Outdoor Camp" is presenting a potential occupancy load of almost 600 people has not been questioned. It would behoove Alameda County to determine that agricultural activity is the true primary use of the property to qualify for the Williamson Act. Granting erroneous approvals negatively impacts the tax paying public.

The project description does not include a legitimate agricultural business model. There are no documented buildings or proposed construction of buildings on the plans submitted that are slated to be used for agriculture business or any legitimate farming practices.

A far-reaching attempt to add 6 goats, 40 chickens, a garden and public subscription box sales to the proposal to justify qualifying for The Williamson Act is disrespectful to legitimate agricultural producers within the farming community. Agriculture is not the primary use for this proposed project.

3.3.1.9 AGRICULTURAL AND FARMING ACTIVITIES:

Not addressed at all in the applicant's proposal:

PUB13-01

PUB13-02

PUB13-03

PUB13-04

PUB13-05

PUB13-06



**PUB13-06
cont.**

The stated farming location is not suitable for any farming activity as this is the main driveway, documented flood control easement and where the septic leach fields are positioned.

Animals specific to EIR:

Missing from the plans are agriculture drawings, structures and accurate calculations for;

Goat and chicken housing, enclosures and roaming area; the dairy processing plant, milk barn, bottling facility, goat sanitation station for milking, refrigeration containers, hen laying barn, egg processing facility, goat milk storage tanks, goat feed racks, goat food storage tanks, chicken egg processing station, chicken egg cleaning station, cold storage refrigeration for milk and eggs, transportation plan of products for retail sale and any proposed activity related to the stated agriculture business activity. A toilet needs to be installed in the Milk House or Milk Barn. At what point in the dEIR will these issues be addressed, and why are they missing? Any farm practice is directly related to the EIR and FAR also needs to be included.

PUB13-07

The recirculated dEIR does not even present the farming aspect of the project or how this farm will be allowed to be placed over existing documented flood control easement, main driveway and septic and leach lines. This issue has not been addressed and is directly related to zoning requirements.

PUB13-08

The proposal states that raw milk, eggs and produce will be sold to consumers, as well as given to the children and program participants for consumption from this location. There are no plans for potential bacterial reactions and issues related to human raw milk consumption. Needed are calculations for mitigation of soil, manure, animal waste drainage, animal coral ground slopes, fly management, bacteria and sanitation, product processing waste, run off from animal wash area, water requirements for the water troughs, parasite & mosquitoes management, lighting, gutter run off, equipment noise, creek setbacks and elevations.

PUB13-09

The cdfa (California Department of Food and Agriculture) would require that the facility meets environmental standards including information on building, sanitation, food safety and health requirements which is missing from the recirculated dEIR. This information is necessary and needs to be addressed and included in the dEIR report.

PUB13-10

In Addition: An existing barn is too close to the creek and cannot be used! How/why is this STILL completely ignored in the Recirculated dEIR report?

PUB13-11

Transporting farm goods will need a refrigeration vehicle to transport the produce, milk and eggs to Oakland. Where will the truck be stored? Missing are the calculations for traffic patterns for delivery and pickup of produce and animal transportation. In addition to the refrigeration vehicle, there is no mention in the Recirculated dEIR of the size or type of transport vehicle that will be used to transport animals used for business purposes, produce, milk, eggs, vegetables and goats for vegetation management.

PUB13-12

The applicant states that 50% of the land will be used for agriculture. Other than stating the animals will graze on 26 acres, there is no indication in the plans showing containment or barrier fencing, environmental management of natural habitat, wild animal encounters, animal and human handler safety, etc. The plans submitted do not have any calculations to the effect of 50% land use for agriculture as the majority of the property is densely forested and sub-prime agriculture land. There are no plans, diagrams, statistical calculations for the proposed onsite primary use agriculture business other than the mention of the area in the above photo with a non-suitable proposed location being approx. 1000sf.

PUB13-13

The Alameda County Zoning Verification Letter sent to the applicant Dated March 15, 2018 #17. States:

PUB13-14

"The Development of the proposed use, Mosaic Project is not a compatible use under the contract".

By Alameda County standards, the project is NOT a compatible use of land.

Mosaics Co-Founders own words. "We are a School not a Summer Camp":

It is clear the proposal is for urban use of agricultural designated land. The applicant's primary goal is to put in a school (urban use) with a potential occupancy of approx. 600 people on the approx. 37 acre leased parcel.

The Mosaic's co-founder posted an interview clarifying "we are a school, not a summer camp"!



The potential occupancy alone for this project is approx. 600 people. NO Agricultural farming of any kind is mentioned ANYWHERE within the "Building our Future" Mosaic build plan.

"The Mosaic Project, the project sponsor, proposes to develop The Outdoor Project Camp (proposed project PLN2020-00093), an outdoor educational facility in unincorporated Alameda County.

Proposal claims are inaccurate:

3.3.1.2 CAMPING CABINS "Twelve 400-square-foot camping cabins"... "to be placed within the footprint of the existing garage building"

Plans have inaccurate and inconsistent figures throughout the proposal. The factual information has been manipulated to show there will be minimal impact to the environment and surrounding properties. The plans state 12 cabins at 400sf each. However, the certified drawings clearly show larger cabins, and those figures have now been xxx'd out. The cabin sizes on the DEIR originally submitted plans are as follows: (9 at 400qf) (1 at 600sf) (1 at 440sf) & (1 unlabeled; appears to be 600sf). 3 proposed cabins are out of compliance as 400ft is maximum size.

It appears that great lengths have been taken to conceal the actual facts and figures of this proposal. Clarification is needed; why are the reported cabin sizes inconsistent to the actual certified drawings and why have they been XXX'd out in the Recirculated DEIR?

Per the submitted plans, cabins are spread out throughout the property and NOT on the footprint of the garage as stated in the proposal.

The calculations in the Recirculated dEIR are based off inaccurate calculations including envelope size, compatible land use, zoning, water, septic, environmental impact, parking, road traffic, delivery vehicles, emergency vehicles, cars, busses, utility and ancillary vehicles. The potential project

occupancy load is in excess of 500+ people. This proposal continues to be inaccurate, misleading and fails to address issues by simply glossing over them.

3.1 PROPOSED PROJECT BUILDOUT *"No alterations are proposed"* **This is an inaccurate statement.**

Per Alameda County Zoning Verification Letter Dated March 15th 2018: "The Variance V-11293 and Conditional Use Permit C-7540.... **Expired** on January 26, 2003. ***"Therefore, the subject use does not have continued conditions of approval, it is not a conforming development project."***

3.3.4.3 SANITARY AND SEWER SERVICE

The following was presented in the proposal, represents inaccurate information:

"The existing septic system at the Caretaker site would not be modified"

How is this even possible, per Alameda County the CUP and Variance expired in 2003 and is now nonconforming. Since the Caretaker unit is un-permitted and people are still allowed to live in it how is this being allowed without requiring zoning, variances, CUP permits?

The unpermitted modular has been allowed to remain onsite and occupied however the unit was to be removed per zoning years ago.

The existing septic system is not up to current standards and is within a 100 year documented flood plain easement which has not been addressed in the Recirculated DEIR although it was brought up during the MAC call and via response submittal a year ago.

Septic leach lines that run under the main entrance driveway also have not been addressed in the Recirculated dEIR and this was also brought up during MAC call and via response submittal a year ago.

Septic leach lines are under a flood control easement road used for flood control and have been drastically compacted by vehicle traffic. This entrance is used (and according to the plans will continue to be used) as the main driveway and farm site to the property and driven over by:

- Cars
- Busses
- Produce vehicles
- Animal transport vehicles
- Refrigeration vehicles
- fuel tank vehicles
- fire trucks and emergency service vehicles
- septic trucks
- water trucks
- construction trucks
- tree service trucks
- utility trucks

It will be impossible to enter the driveway as vehicles will drive directly into a farm consisting of garden vegetables, 6 goats, 40 chickens, farming and dairy structures, corrals, water troughs, manure piles, water systems, fencing. None of this has been addressed in the dEIR.

3.3.4.1 STORMWATER *"a culvert was identified" "if conflict is found between the location of any proposed buildings, the project would re-route the culvert between the culvert and location of any proposed buildings"*

The solution for the creek would be to reroute the culvert? Has common sense left the building here? This would need to be engineered, approved and would be a huge undertaking with calculations! This has not been addressed in the Recirculated dEIR and would need to be included. You don't simply re-route a culvert coming down a steep grade.

**PUB13-18
cont.**

PUB13-19

PUB13-20

PUB13-21

PUB13-22

PUB13-23

PUB13-24

PUB13-25



**PUB13-25
cont.**

Build Envelope is not accurate: Alameda County needs to accurately address the true build envelope. This project is not within a 2 acre continuous rectangle as areas have been conveniently left off or not included at all. The farming structures do not exist on the plans, nor are calculated into the systems requirement calculations.

PUB13-26

The fire pit, the chicken coop, milk house, milk barn, all other farm related structures, have not been included and need to be added to FAR.

PUB13-27

As clearly represented on the plans, this Outdoor Project Camp proposal is not only for an Outdoor Recreation Facility for 75-95 people; it's a complex with potential to host approx 600 people.

PUB13-28

The following items were publicly addressed and clarified to be incorrect statements on the original dEIR proposal provided by Placeworks, however the recirculated proposal continues to issue inaccurate information.

PUB13-29

Pg 3-1 Cull Canyon Regional Area is NOT bounded to the West. No access to parks, landlocked by land owners on three sides Cull Canyon Rd is East.

Pg 3-2 There is NO access to any parkland, Regional or otherwise. 3.1.2 is incorrect.

PUB13-30

The project efforts are to overbuild in a rural canyon. The following is the layout of the proposed Project... **There is no agricultural use listed OR mentioned anywhere in this design.** This proposal is for an educational facility, it's a school!

PUB13-31

Mosaics own words.... *"We are creating our permanent home—an environmentally sustainable center for equity, empathy, and effective communication across differences! Conveniently located in Castro Valley in the heart of the San Francisco Bay Area, our new site will ensure that future generations have year-round access to our unique experiential education programs. Our site plan (architectural, landscape, water system including grey water, and septic designs) and the **Environmental Impact Report are all complete!** We are continuing to move through the intensive permitting process with Alameda County. Check out the 3-D videos of our architect's renderings of the future cabins, dining hall, and staff house!"*

PUB13-32



PUB13-32
cont.

The Outdoor Project is one of many “programs” being offered: Tell me, why would 75-95 campers staying in simple cabins need access to four (EV) charging stations a dining hall with a stated occupancy of approx. 300 people?(pg4.6-24) The proposed project is for approximately 600 people occupancy, not simply 75-95 people as stated in the application.

PUB13-33

Setbacks are out of date and inaccurate: Due to the severe flooding December 31, 2022, the setbacks noted in the plans have drastically changed. The Recirculated DEIR is incomplete with incorrect figures and is not up to date with correct calculations.

PUB13-34

The project does not conform to zoning or the surrounding landscape and would be detrimental to the environment and natural state of Cull Canyon.

PUB13-35

Teddy Seibert

Cull Canyon Resident

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

From: cashipman420@gmail.com
To: [Lopez, Albert, CDA](#)
Subject: "ThMosaic Project Recirculated Draft EIR (PLN2020-00093)
Date: Thursday, January 18, 2024 1:08:42 PM

Albert Lopez
Alameda Board of Directors, MAC BOARD,
Good Day,

Please find my E-Mail input as a response to the Subject Line.

We have read your completed Recirculated Draft of over 377 pages.

Seems like our first original responses we not enough
Whereas the DEIR focuses on all components required.

Let me talk to the Human, Habituality and its Impacts

We will focus my Concerns on several areas/ concerns of incomplete information that was identify in the Draft.

First I would like to state the Mosaic Project again does merit an educational program the Cull Canyon community does not question, it mission and it statement, but still we "Cull Canyon Resident have concerns which you as the "Planning Director" fail to address to support your community as a Official of Alameda and it's Residents.

We were advised that The Project looked at several other locations, example the one on Crow Canyon Road that was better suited to the needs, already established with requirements but were dismissed by the Projector Coordinator. **I WILL ASK WHY?**

Is it that "money talk" scenario... I hope not..

List of Challenges

Challenge / Legality of DEIR

Ownership of Property, I believe is incorrect and should not be allowed to proceed with an EIR by State requirements.

Your responding e-mail to my original question

Attached is the application as well which shows the same ownership information, but with a different contact address. As far as I can tell, the Mosaic operation and Cull Canyon Properties LLC are the same entity. I hope that provides you the information you need, please let me know if you have any other questions.

NOTE THIS IS VAGUE AND SHOULD BE CONFIRMED WITH BACK UP DOCUMENTATION.

"Not as far as you can tell." Is what you responded

A leasee can not apply for this type of request from the State of California or the County of Alameda.

I have many concerns that the application is not complete and actually has been falsified by the originators.

With a Project of this statues, Reviewing all aspect must be complete and thoroughly accurate.

The DEIR is still Incomplete and Very Inaccurate, not telling the full impact and untrue statements in their filing.

PUB14-01

PUB14-02

PUB14-03

PUB14-04

PUB14-05

Challenge PROJECT DESCRIPTIONS:

PROJECT DESCRIPTION: -The Mosaic Project, the project sponsor, proposes to develop The Outdoor Project Camp (proposed project PLN2020-00093), an outdoor educational facility in unincorporated Alameda County. The Mosaic Project's mission with the Outdoor Project Camp is to work toward a peaceful future by uniting children of diverse backgrounds, providing them with community building skills, and empowering them to become peacemakers through a multi-day nature-oriented experience. The proposed project would consist of demolishing an existing 7,500-square-foot garage, improving trails and miscellaneous dirt or gravel roads, and constructing components critical to the proposed project's mission. These components include twelve 400-square-foot camping cabins; an 8,500-square-foot central meeting and dining hall; a 1,025-square-foot restroom/shower building; a two-story 2,600-square-foot staff housing building; and sewer infrastructure that includes an on-site septic tank with a leach field dispersal system. An existing 1,200-square-foot caretaker's unit would continue to be utilized, as well as on-site groundwater wells. The proposed project, including all recreational facilities and caretaker residences, would encompass an area totaling 2 acres. The remaining 35 acres of the project site would remain undeveloped, aside for existing trails that would be maintained. SIGNIFICANT ENVIRONMENTAL EFFECTS

PUB14-06

Note from above "The Project Sponsor as The Mosaic Project. Again they can sponsor all they want but legally they can not request the DEIR by legality of the State of Calif or the County of Alameda and you should be aware of that."

PUB14-07

Challenge / Existing Business at Risk

You are requesting this Project Next to a Business that has an Valid ABC License from the State of California.

There is no Clearance of space from said business "TwiningVines Winery" their License could be revoked or non renewed due to proximity of said School "The Mosaic Project"
Thus affecting a business, putting the Established Business out of Business.

PUB14-08

"TwiningVines Winery" also has agricultural operations that requires a buffer zone around schools and youth camps.

These laws and zoning requirements are enforceable and would be detrimental to any and all existing neighboring business also.

Reference the following link

https://www.cdpr.ca.gov/docs/enforce/school_notify/guidance.pdf

Mainly identifies a school or non profit youth camp as unfeasible next to an Ag Business such as "Twining Vines Vineyards"

Note

The law says ABC may deny any retail license located (a) within the immediate vicinity of churches and hospitals, or (b) within at least 600ft of schools, public playgrounds and nonprofit youth facilities.

However there are no rulings as far, for said churches, hospitals, school, public playgrounds and nonprofit facilities "being built next to a business that has an established ABC for their business."

We were advised that the State of California would listen to request from the Mosaic Project to remove existing license.

How would you Spell "Reverse discrimination."

PUB14-09

Challenge the Water Resources

The report notes that the current statewide median indoor residential water use is 48 Gals per capita per day, and that a quarter of California households already use less than 42 gallons per capita per day.

TABLE 4.14-2 WATER DEMAND ASSUMPTIONS Water Use Category Per Capita Water Demand Type Peak Occupancy Campers and Counselors 25 gpd per person1 Temporary stay 108 persons Facility Type Daily Water Demand Per Bedroom Demand Type No. of Bedrooms Caretaker House 150 gpd/bedroom2 No. of bedrooms 3 Permanent Dwelling Residence (up to 3 bedrooms) 150 gpd/bedroom No. of bedrooms 3 Permanent Dwelling (up to 5 additional bedrooms) 150 gpd/bedroom No. of bedrooms 5 Notes: 1. Based on previous estimate by Northstar for similar camp operations and EPA's OWTS manual for camps. 2. Conservative estimate of 150 gpd/bedroom based on the ACDEH standards for dwellings. Source: SRT Consultants, March 2022, The Mosaic Project – Water System Conceptual Design Report (see Appendix G, Hydrology Reports, of this Draft EIR).

TABLE 4.14-3 PEAK DAILY WATER DEMAND Water Usage Scenario Peak Water Demand (gpd) Baseline Usage 1,275 Outdoor and Summer Programs 3,975 Outdoor and Summer Program – First day 3,075 Outdoor and Summer Program – Last day 2,400 Weekend Program 3,975 Source: SRT Consultants, March 2022, The Mosaic Project – Water System Conceptual Design Report (see Appendix G, Hydrology Reports, of this Draft EIR)

As the Canyons depended on Well Water for existence Human, Animal and Farming I find their findings are less than factual.

With all of Cull Canyon Wells/ Residents depending on annual rainfall, water availability changes from year to year. We have had to purchase water thorough the latest Drought (Years 2020 2021 and 2022) (All of the Cull Canyon residents have experienced this)

The Project does not have enough data to support that their wells would be able to produce and provide the needed requirement of Water.

They do factor in irrigation of the Agricultural need with Greywater. (but this has a concern also)

Water usage for the Project has been grossly underestimated

In Mosaic's declaration they stated a use of water

UTILITIES AND SERVICE SYSTEMS UTIL-1: The proposed project would not require or result in the construction of new water facilities or expansion of existing facilities, the construction of which would cause significant environmental effects

Challenge Septic System

Does the Project have approval and or Plans from State and Local Environmental Health Agencies to proceed.

We know that Redwood Tanks are no longer approved in our County and plans must be submitted accordingly through the Local Environmental Health Agencies.

We would like to see the request and plans in place.

Challenge to WILDFIRE

Wildland Fire Hazard CAL FIRE evaluates fire hazard severity risks according to areas of responsibility (i.e., federal, State, and local). According to CAL FIRE, the project site is not located within a very high fire hazard severity zone. The project site is located within a high fire hazard severity zone in the State Responsibility Area. The nearest very high fire hazard severity zone is within

PUB14-10

PUB14-11

PUB14-12

PUB14-13

a Local Responsibility Area 1.6 miles southwest of the project site

This Statement is incorrect The Canyons are identified as a High Risk Area by the CALFIRE / CA STATE and PG&E, placing a Project like this would be an additional Fire Risk to our Community

**PUB14-13
cont.**

Challenge to the DRAFT FIRE SAFETY AND EMERGENCY RESPONSE PLAN

APPENDIX F

DRAFT FIRE SAFETY AND EMERGENCY RESPONSE PLAN

I did not see the attached letter from the Castro Valley School District that they would provide School Bus assistance in evacuation.

PUB14-14

The Mosaic Project has established an emergency evacuation agreement with the Castro Valley Unified School District (**see attached letter from Superintendent Parvin Ahmadi**). - In case of the need for emergency evacuation, the District will provide two available school buses, each of which holds 50 individuals, to bring the campers to Canyon Middle School which is seven minutes away from the property. If Canyon Middle School is not a safe evacuation site, another District facility will be used. - To communicate a need for the buses, work and cell phone numbers of our primary contact person, as well as a backup contact and the Superintendent, will be maintained on site.

Challenge your access to Property Traffic

APPENDIX I FOCUSED TRAFFIC STUDY

Access Analysis Buses and other vehicles are expected to enter the site via the northerly driveway and exit the site from the southerly driveway. The two driveways are located approximately 240 feet apart on Cull Canyon Road. Vehicles would park on-site in the gravel area adjacent to these driveways.

***NOTE Unless something has changed from Alameda County, the Project does not have Right Away on the suggested exit roadway they are describing above.**

PUB14-15

This would be a Violation Impact to Measure D

The Save Agriculture and Open Space Lands Initiative (Measure D) was approved by Alameda County voters in November 2000. The Initiative made many changes to the County General Plan to place limits on the type and amount of development allowed in the rural areas of the County. The East County Area Plan (ECAP) and Castro Valley General Plan (CVGP) are parts of the County General Plan that were amended by Measure D in 2000 to effectively lock in limits on the amount of development allowed on parcels with general plan designations of Large Parcel Agriculture (LPA) or Resource Management (RM)

(The Amendment approved in Nov 2022)

Measure D 2022 would amend Measure D 2000 (and concurrently the East County Area Plan and Castro Valley General Plan) to apply the additional .025 FAR now allowed for greenhouses in the LPA designation to all types of agricultural buildings, including greenhouses, only on properties designated LPA. In addition, on parcels designated LPA and RM in East County and the Castro Valley Canyonlands, the ballot measure would allow a .025 FAR for covered equestrian arenas up to a maximum of 60,000 square feet. At least 20,000 square feet would be allowed for covered arenas on smaller parcels. The ballot measure would not change the 12,000 square feet currently allowed for residential buildings on parcels of all sizes in both land use designations. The .01 FAR currently allowed for non-residential buildings (including agricultural buildings) would also remain unchanged

PUB14-16

Are you going to change Measure D or circumvent it?

This would be a Violation Impact of the Williamson Act

From the <https://www.conservation.ca.gov/dlrp/wa/Pages/contracts.aspx>

Agricultural Preserves

An agricultural preserve defines the boundary of an area within which a city or county will enter into Williamson Act contracts with landowners. The boundary is designated by resolution of the board or city council having jurisdiction. Agricultural preserves must generally be at least 100 acres in size.

The Property footprint is approx. 37 Acres

Are you going to change the Williamson Act or circumvent it?

**We will submit a Safety concern for the Kids/Campers.

The Canyon has a Big problem with “Wild Pigs”. I know this first hand residing here in the Canyon They are “Very Aggressive” and will attacked a human without notice (destruction of property)

Oh did I mention the presence of Foxes who by the way love Chicken as food. Just joking (not really)

In my conclusion:

I have only touch on areas of the DEIR that relate to as stated to Human, Habituality and its Impacts Reading and reviewing the additional DEIR on all other areas can be questioned and there are way to many vague statements in the DEIR for this project to even be considered at the location identified.

It seems all of the Executive Summary Statements findings appear to be Rubber Stamped as LTS = Less than Significant

That is scary....

My challenges are valid and a request that they be responded to as to “Action items or Rebuttals”.

With Regards
Chuck Shipman
Cull Canyon Resident

Sent from [Mail](#) for Windows

PUB14-17

PUB14-18

PUB14-19

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January 18, 2024

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
510-670-5400
Albert.lopez@acgov.org

Re: **Notice of Availability** of the Draft Environmental Impact Report (DEIR) for the proposed Mosaic Outdoor Camp Project located at 17015 Cull Canyon Road in Castro Valley.

Dear Planning Director,

Question: Do the proposed cabins qualify as **non permanent Camping cabins**?

There is a question on foundation of camping cabins and how they will they be set up? In rendering it looks like a concrete slab?

Per the Mosaic Project Overview the project will include:

Twelve 400-square-foot **non-permanent camping cabins** are proposed to be placed within the footprint of the existing garage building on the southwestern portion of the site. These cabins, shown on Figure 3-5, would be simple, light-footprint construction with access from a 20-foot-wide fire road in compliance with the cabin code section of the California Code of Regulations (CCR) Title 25, Div 1, Chapter 2.2.5

California Code of Regulations

Title 25 - Housing and Community Development
Division 1 - Housing and Community Development
Chapter 2.2 - Special Occupancy Parks

Article 1 - Administration and Enforcement
Section 2002 - Definitions

Universal Citation: [25 CA Code of Regs 2002](#)

Current through Register 2022 Notice Reg. No. 25, June 24, 2022

Definition of Camping Cabin:

(9) Camping Cabin. A relocatable hard-sided shelter, for use by a camping party, as defined in **Health and Safety Code section 18862.5**. All camping cabins are dependent units

More:

2016 California Code
Health and Safety Code - HSC
DIVISION 13 - HOUSING

PUB15-01

PUB15-02

PUB15-03

PART 2.3 - SPECIAL OCCUPANCY PARKS ACT

CHAPTER 2 - Definitions

Section 18862.5.

Universal Citation: [CA Health & Safety Code § 18862.5 \(2016\)](#)

18862.5. Camping cabin means a relocatable hard sided shelter with a floor area less than 400 square feet (37 square meters) without plumbing that is designed to be used within a recreational vehicle park only by a camping party. A camping cabin may contain an electrical system and electrical space conditioning equipment complying with the electrical and mechanical regulations adopted pursuant to this part and supplied by the lot service equipment. A camping cabin may be installed or occupied only in special occupancy parks, as defined by Section 18862.43, or in state parks and other state property pursuant to Chapter 1 (commencing with Section 5001) of Division 5 of the Public Resources Code.

2016 California Code

Health and Safety Code - HSC

DIVISION 13 - HOUSING

PART 2.3 - SPECIAL OCCUPANCY PARKS ACT

CHAPTER 2 - Definitions

Section **18862.43**.

Universal Citation: [CA Health & Safety Code § 18862.43 \(2016\)](#)

18862.43. **Special occupancy park** means a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

Section 18862.43 - "Special occupancy park" defined

"Special occupancy park" means a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

Ca. Health and Saf. Code § 18862.43

Amended by Stats 2002 ch 1038 (SB 1821), s 6, eff. 1/1/2003. Added by Stats 2001 ch 434 (SB 325), s 39, eff. 1/1/2002, op. 1/1/2003.

Chapter 2. Definitions :: California Health and Safety Code

<https://law.justia.com/hsc/18862-18862.49.html>

18862.19. "Incidental camping area" is **any area or tract of land where camping is incidental to the primary use of the land for agriculture, timber management, ...**

PUB15-03
cont.

It is quite unclear whether or not the proposed structures qualify as camping cabins per definition under California code.

PUB15-04

Thank you,

Kathy Warren,
Cull Canyon Property Owner

From: [Justin Filan](#)
To: [Lopez, Albert, CDA](#)
Subject: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Date: Friday, January 19, 2024 3:32:34 PM

Here are my concerns with the Mosaic Project which are not addressed in the EIR.

1. There is absolutely not enough water to supply the scope of their project. One quote from the EIR says it all - "The project site and surrounding area are not in a designated groundwater basin and therefore are not subject to the requirements of a groundwater sustainability plan". They have no data to show the size of our groundwater basin and no data to show what sort of draw it can support beyond a single basic 10 day pumping test - because they are not required to do that. If they were required to follow a groundwater sustainability plan I am 100% certain they would fail, and so is every well driller in the east bay (us east bay canyon residents who are all on wells are very familiar with the well drillers in the area).

PUB16-01

The only analysis they did was checking the ground water depth and then a 10 day pumping test that was performed immediately after a historic rainy season, where Cull Canyon was flooded so badly the road was impassible without 4 wheel drive for 2 weeks. I would bet they would even fail the basic 10 day pumping test if they performed it during a multi-year drought like we experienced in 2020, when many wells in Cull Canyon ran dry.

There was no analysis done of the size of the aquifer and what it could support long term, none of the standard testing that would be required in a groundwater sustainability program. Groundwater sustainability programs were put into California law specifically because of cases like this where someone with big pockets and big water requirements would come in and deplete the groundwater to the point all their neighbors wells would dry up. There is no doubt in my mind that when the Mosaic wells dry up after a few drought years they will drill them deeper - because there is no regulation against that because we are not a "designated groundwater basin" - and then everyone else in the canyon will be forced to drill deeper (which is not affordable to most) or be forced out of their home and livelihood due to having no water.

PUB16-02

The Sustainable Groundwater Management Act was passed to protect people like the residents of Cull Canyon, but we are not being given the protection we deserve simply because the government neglected to designate us as a groundwater basin, even though that is exactly what we are.

Everyone in the area understands how absurd their plan for water usage is. Three or four years ago when we were at the peak of a multi year draught multiple people in Cull Canyon had their wells run dry. My neighbor had two wells run dry, and had to pay thousands of dollars to get water trucked in for their cattle until the rainy season replenished ground water levels - it helped that the next rainy season was the most rain we have gotten in Cull Canyon in at least 40 years, and caused road flooding worse than lifelong Cull Canyon residents had ever seen.

PUB16-03

The EIR states they plan to draw 3,975 gallons per day, and will draw over 1,000,000 gallons out of the ground every year - and keep in mind they themselves claim their estimate of 25 gpd for campers and 150 gpd for staff is a "conservative estimate", so likely actual usage will be well over 4,000 gallons per day according to their own hydrology report. No one in the canyon draws anywhere close to that, the existing wells on their property are only being utilized by a single caretaker right now, yet in the report they basically say that because the wells already exist it won't be any additional strain on our groundwater. During the wettest period on record they were able to meet 7 gpm for 10 days, so that means there will never be an impact on anyone because it was OK for 10 days. It's a joke. Almost everyone in the canyon has experienced our

PUB16-04

wells running dry, and they are telling us “yes we are going to pump an extra ~1.4 million gallons per year but don’t worry it will have no effect at all because the wells are already there, and we don’t have to do any testing at all to prove the groundwater is sustainable long term because you’re not a designated groundwater basin ;)”

**PUB16-04
cont.**

We do not know what to do, the law will not protect us simply because the government failed to classify us as a groundwater basin, so now it looks like we will suffer the same fate as all the other communities that were destroyed by groundwater overuse and caused the Sustainable Groundwater Management Act to get passed in the first place.

PUB16-05

2. The bounds stated by the Mosaic Project are wrong, and it’s clearly visible in figure 3-2. On the westernmost side you can see where the Mosaic Project property ends at the orange line, then there is a gap between their property and the fence line. That fence line is the Cull Canyon Regional Recreation Area which Mosaic claims to be bounded by, and between that fence line and the Mosaic property is a small piece of land that is owned by the neighbors. That means the Mosaic property is NOT bounded by the Cull Canyon Regional Recreation Area and would NOT have access to it from their property. It’s worth noting that the owner of the strip of land separating the two has stated they will NOT allow access through their land, as they (and everyone in the canyon) are extremely upset with the Mosaic Project for refusing to communicate with any of us. They have been totally unwilling to even talk to any canyon residents and hear our concerns, which is somewhat comical when you consider they teach conflict resolution but in their business dealings will not even talk to people who are afraid their project will negatively impact their livelihood and ability to live.

PUB16-06

They were previously touting access to the CCRRA, but it looks like they are not advertising that anymore - still the bounds they list are incorrect.

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COMMENT LETTER # PUB17

From: [Norma E. Lopez, Albert, CDA](#)
To: [Lopez, Albert, CDA](#)
Subject: Fw: The Mosaic Project Recirculating Draft EIR (PLN2020-00093)
Date: Friday, January 19, 2024 12:13:10 AM

I am forwarding to you my first letter regarding the proposed Mosaic Project dated Nov-2022. Having read all the revisions, I believe the project is still NOT a good match for the rural Cull Canyon location. It should really be a "no brainer" considering the scope of demolition and the major building of a kid's camp. The whole site plan/infrastructures are not compatible with the site. The proposed demolition of the 7500-foot garage would be quite a feat. It is constructed of concrete blocks. The area is hilly and deeply vegetated with large tree canopies. Not ideal for proposed organic gardens. Chickens won't last long either with all the predators. I see or hear coyotes almost daily. Water will always remain an issue in the canyon. Wells can dry up. 75-90 kids plus adults can use a lot of water-toilets, showers, laundry, cooking/washing, etc. Will this wastewater have enough storage? Ground water contamination? I see that the 'fire pit' is now being called a "council ring". Doesn't change anything. A fire is a fire. Kids camp noise will be audible quite some distance in the quiet canyon. Not fair to nearby residents. It will be like living in a school yard at recess. If there is a fire in the canyon it will be awful for evacuees. Especially ones hauling horses/livestock. The road has always been a winding narrow two lane road with no shoulder and drop offs to the creek. I can't imagine meeting a bus on the road or driving one. The road itself took a beating from last winter. Heavy equipment going back and forth will only deteriorate it more. Not to mention all the emissions pollution, dirt and dust. All in all, this proposed project is NOT suited for this location. The Mosaic Project should look for another suitable property that is more compatible and ZONED for what they are trying to accomplish. Thank you.

Sincerely, Norma Franchi

From: Mike Franchi <appytrls2u@gmail.com>
Sent: Wednesday, January 17, 2024 9:15 PM
To: appytrls@msn.com <appytrls@msn.com>
Subject: Fwd: The Mosaic Project EIR

----- Forwarded message -----

From: Mike Franchi <appytrls2u@gmail.com>
Date: Mon, Nov 14, 2022 at 12:29 PM
Subject: The Mosaic Project EIR
To: <Sonia.urzua@acgov.org>

I am writing in response to the "proposed" Mosaic Project located at 17015 Cull Canyon Rd. Castro Valley. The enormity and scale of this project would have a negative impact and is NOT suited at all for this site. Agriculture zoning is supposed to be 100 acres per house/caretaker unit. This law exists for a reason and should be adhered to. The proposed project site is only 37 acres. The proposal of an 8,500 sf meeting/dining hall, a 2,600 sf 2-story staff housing and 12 housing structures for the "campers" is FAR out of line for this location. Not to mention a bathroom/shower facility. The existing (conditional use) mobile home ("caretaker's house") on

PUB17-01

PUB17-02

PUB17-03

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PUB17-05

PUB17-06

PUB17-07

PUB17-08

PUB17-09

PUB17-10

PUB17-11

PUB17-12

PUB17-13

the property is currently "caretaking" what?? There is no existing home on said property. There is just a huge 7,500 sf concrete block garage building that used to house a car collection. The Mosaic Project has it slated for demolition. Having a few goats/chickens does not really qualify for Ag use. Besides, the canyon is host to a lot of wildlife-mountain lion, bobcats, coyotes, fox, wild pigs, skunks, turkeys, etc. Goats and chickens are just a snack. If a new septic system is allowed will the leach line be far enough away from the creek to prevent any groundwater contamination? Water is a major issue in the canyon. Residents/ranchers know how to conserve. They have been doing it for a long time. Some have to haul in water for their livestock as water is a precious commodity. What will be the impact of many week long 75-90 "campers" using the limited groundwater resources for showers, toilets, laundry, kitchen use, etc.?? The groundwater system will be severely taxed. Cull Canyon Rd. is a narrow winding 2-lane road which dead-ends in 7 miles. Only one way IN and OUT. In case of a major fire or medical emergency what are the evacuation plans for that many "campers"/staff? Fire danger would be of utmost concern as the project plans to have a firepit. NOT GOOD!!! Besides, Alameda County has restrictions on when you can or if you can burn. Many residents will be trying to evacuate themselves and or their livestock on that road. Add to that fire trucks, buses, horse trailers and other cars. I have been driving this road (almost daily) for over 25 plus years. You have to be very mindful of speeders or people driving over the midline. Plus the road is used by bicyclists. Just in the last few months two cars have driven off the road. What about noise pollution on the environment? Sound travels VERY far in these quiet canyons. Peace and quiet should remain in keeping with the rural atmosphere. Also, how is all the generated trash going to be handled? We all know "money talks" but what about plain old common sense?? In my opinion (and others) the Mosaic Camp Project is definitely NOT suited for this location. I know this letter is quite lengthy, but all aspects of this "proposed" project should be addressed when it comes to the environment. I am sure there are other properties that would be much more suitable for the magnitude of such a project without putting such a strain on existing resources. Not to mention the zoning requirements. Thank you for your time. Norma Franchi

**PUB17-13
cont.**

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PUB17-19

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January 19, 2024

By Electronic Mail

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
County of Alameda, Planning Department
224 W. Winton Avenue #111
Hayward, CA 94544
Email: albert.lopez@acgov.org

RE: Public Comment; The Mosaic Project Recirculated Draft EIR for Alameda County (December 2023)

Dear Mr. Lopez:

Diana Hanna and Dick Schneider submit the following comments on The Mosaic Project Recirculated Draft EIR (December 2023). For the record, we associate ourselves with the comment letter submitted by Susann M. Bradford of Greenfire Law on behalf of Friends of Castro Valley Canyonlands (FCVC) dated January 2024. We are members of FCVC. We also associate ourselves with comments made by members of the public at the November 14, 2022, Castro Valley Municipal Advisory Council meeting. Many of those commenters are Cull Canyon residents and also members of FCVC, including Diana Hanna who spoke at the meeting. For the most part, we will not repeat in this letter the afore-mentioned comments. We will do so only when necessary to emphasize certain points.

PUB18-01

In addition and for the record, we note that we submitted a comment letter dated December 19, 2021, for the Notice of Preparation for the original Draft EIR. Most of the comments we made were not addressed in the DEIR or in this Recirculated Draft EIR. Some of those points we repeat in this letter with the hope that they will be addressed in the Final EIR.

PUB18-02

As an initial matter, we object to the characterization in the Project Description that this is an Outdoor Project Camp rather than a school. The children attending the Mosaic Project outdoor program will be satisfying their compulsory education requirements under California law. They are attending school in an outdoor setting. As the attached document clearly shows, this is an outdoor school. The title of the document is The Mosaic Project “Our Outdoor School Curriculum.” The document plainly states that this is an “evidence-based social-emotional learning curriculum [that] emphasizes building empathy, resilience and community... to create a peaceful future.” While this is a noble purpose, the school curriculum described in the document belies the assertion that this is a camp whose primary purpose is outdoor recreation or agriculture, purposes that might be consistent with the land use designation of the subject property.

PUB18-03

The Recirculated Draft EIR focuses almost exclusively on impacts within the 2-acre development envelope and to a much lesser degree on impacts to Cull Creek adjacent to the development envelope.

PUB18-04

However, the Project Objectives (P. 3-6) include

“Provide improved pedestrian trail and site maintenance. Dirt roads and trails exist on the property and extend within the bay/oak woodland habitat that covers the slopes on the western side of the project site. These existing roads/trails would be repurposed to serve as a recreational pedestrian trail system, with undergrowth maintained by the goats housed on the property.”

As noted in our 2021 NOP comment letter, “[S]ome activities are likely to take place outside the 2-acre development envelope. Will additional grading be required to facilitate these activities? If so, where will additional grading take place? Will it be on the steep western slope above the camp? Will the grading increase erosion or affect land stability of the slope? What hillside stabilization will be required to enable the activities to take place safely? Will a grading permit be required?”

**PUB18-04
cont.**

None of these potential environment impacts is addressed in the Recirculated Draft EIR. What will be the width of proposed improved trails? What will be the slope of the trails? Will trails need switchbacks to accommodate the ability of young children to safely ascend and descend the steep slopes? Will guardrails be installed for safety on steep slopes? Will platforms be built for resting or activities? Will so-called improvements require native trees to be removed? Will the proposed improved pedestrian trail system satisfy Americans with Disability Act requirements for trails? Will trails be wheelchair accessible? If so, will they be paved? Will improvements lead to erosion or destabilization of the steep slope? Will engineering designs and permits be required? The Recirculated Draft EIR is silent on all these potential environmental impacts.

It is our understanding that current trails are not contained only within the 37-acre subject property. Rather, they pass through neighboring properties. It is also our understanding that neighboring property owners will not give permission to cross their properties on such trail segments. Will trespass occur by using those trail segments, or will new trail segments be required to avoid trespass? What will be the environmental impacts of creating new trail segments on the subject property?

PUB18-05

In addition, the trail system might be considered an emergency escape route under certain circumstances. If this possibility is contemplated, then the trails might have other requirements for safe use including nighttime lighting, which would require electrical service. Again, the Recirculated DEIR is silent on potential impacts of improving the trail system, which is part of the project.

PUB18-06

The Recirculated DEIR notes that goats on site will graze the understory of the slopes for vegetation management. What will be the environmental impact of this practice? Is this vegetated area habitat for native species or special status species? Is the vegetation that the goats will graze food for native species? Will grazing affect habitat for Alameda whipsnakes that almost certainly use this area since designated Critical Habitat for the species is merely hundreds of yards away? Will school staff have to climb cross-country on steep slopes to manage where the goats will graze or to round them up? Will school staff be qualified to recognize whether significant impacts to native species are occurring under this grazing regime? None of this is addressed in the Recirculated DEIR.

PUB18-07

Transportation Impacts

TRAN-3: Road hazards due to a geometric design feature.

The Recirculated DEIR concludes that sight distances along Cull Canyon Road are sufficient to avoid hazards of leaving the project driveways and entering onto Cull Canyon Road. The assumption for this conclusion is that drivers obey the posted speed limit of 30 MPH. This assumption is false. Drivers on Cull Canyon Road routinely drive much faster than the posted speed limit and will pass slower cars on blind curves. One of us (Dick Schneider) in fact observed this exact behavior on Saturday, November 19, 2022, at 1:55 pm, when driving to a Friends of Castro Valley Canyonlands meeting to discuss the Draft EIR. Dick was driving north on Cull Canyon Road at 30 MPH near the project site when a car came speeding up behind him and passed on his left side around a blind curve using the southbound (on-coming) lane. This is the lane that drivers exiting the project site use, except they will be looking north (left) to see if traffic is approaching in the lane into which they will be turning. They will not see cars coming around the blind curve on their right in the southbound lane that are speeding while passing slower vehicles or bicyclists in the northbound lane.

PUB18-08

It is unreasonable to simply assume that drivers obey posted speed limits in Cull Canyon. Instead, radar cameras should be installed temporarily, but for a sufficient period of time, to ascertain whether the speed assumptions used for adequately safe sight lines for this impact are accurate.

TRAN-4: Adequacy of emergency access.

The Recirculated DEIR concludes that the proposed project would not result in inadequate emergency access because there will be 15 parking spaces on the project site and the estimated parking demand would be 15 spaces.

The number of parking spaces planned (15) and the number of vehicles assumed to be present (15) is so carefully calibrated that one has to question the veracity of the assumption. A couple of extra vehicles, perhaps service vehicles to repair facility features, or delivery vehicles, or persons visiting residents or to pick up a sick child will result in tandem parking. (There are no shoulders on Cull Canyon Road for overflow parking.) Tandem parking renders project circulation inadequate for emergency vehicles. This is a very high hazard zone for several potential threats where adequate emergency vehicle access is critical at all times. The analysis of the adequacy of emergency access is implausible and therefore the impact is significant.

PUB18-09

Land Use and Planning Impacts

Williamson Act: The subject parcel has been under a Williamson Act contract since 2016. Under the Williamson Act statutes, an outdoor recreational use must be open to the public with or without charge. (Gov. Code § 51201(n)) Nowhere in the project description is there any discussion of the project site being open to public use. Not allowing public access for proposed recreational uses is a violation of the property's Williamson Act contract. This is a significant impact.

PUB18-10

Our NOP comment letter asked several questions related to the Williamson Act. To the best of our knowledge, those questions have not been addressed in the Recirculated DEIR or elsewhere. Those questions and requests, which are renewed now, are:

What is the existing commercial agricultural use of the property? Is there a Commercial Application Determination form on file? Has a Compatible Use Determination application and supporting materials been filed? If any filings have been made, please post them to the county website so they may be evaluated and notify commenters of their availability.

PUB18-11

Is the proposed Mosaic Project Outdoor School Camp at an appropriate scale compared with the primary agricultural use of the property so as to be considered incidental to the primary use, or is the Mosaic Outdoor School Project going to be in fact the primary use of the property?

PUB18-12

Could the Mosaic Project Outdoor School Camp result in the removal of the adjacent contracted land from agricultural use (a vineyard and winery with alcoholic beverage license)?

PUB18-13

Will the Mosaic Project Outdoor School Camp result in a significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted property?

PUB18-14

Will the grading and repurposing of existing roads and trails on the property proposed to be done in order to create a “recreational pedestrian trail system” be consistent with Uniform Rule 2 II. C. 2. Passive Recreation, a. “The use is limited to land in its agricultural or natural state.”

PUB18-15

Is the main project site itself – the components within the 2-acre development envelope – consistent with the above Uniform Rule?

PUB18-16

Can all of the findings of compatibility be made under Uniform Rule 2 III. B. 4, especially findings a. and b. (there is an existing commercial agricultural use on the parcel that meets one of the thresholds established in Uniform Rule 1, and conditions imposed on the permit will avoid or mitigate impacts to agriculture that could occur on contracted lands or adjacent lands)?

PUB18-17

The stated purpose of the Mosaic Project is “to work toward a peaceful future by uniting children of diverse backgrounds, providing them with community building skills, and empowering them to become peacemakers through a multi-day nature-oriented experience.” It does not appear that the stated purpose of the Mosaic Project Outdoor School Camp is actually agriculture at all. Rather, it appears that agriculture will become the incidental use of the subject property, rather than its primary use. This is a significant impact.

PUB18-18

Resource Management land use designation:

The project site is located in an area designated Resource Management by the Castro Valley Area Plan. The RM land use designation is designed to protect natural resources and permits only very low intensity uses. (“This designation is intended mainly for land designated for long-term preservation as open space but may include low intensity agriculture, grazing, and very low density residential use.”) The Mosaic Project School Camp would be an intensive use of the land. At least 120 students and staff will be living on the site for a week at a time when school is in session. Most of the time at the project site, the students and staff will be within the 2-acre development envelope where the common buildings, bathrooms, bunkhouses, and other facilities

PUB18-19

are located. This means the population density will be 60 people per acre when the school is in session, and the school's goal is to operate year round. This is three to four times denser than most of the Castro Valley Urban Area. This intensity of use is not consistent with the Resource Management land use designation. This is a significant impact.

PUB18-19
cont.

Hazards, Hazardous Materials, and Wildfire

We comment on these subjects together.

Approximately 140 people live in Cull Canyon, three-quarters of whom live north of the project, and will need to evacuate in case of an emergency (wildfire, landslide, liquefaction event). How can adding at least another 120 individuals to the canyon, mostly young school children who very well might receive priority for rescue, not interfere significantly with the evacuation of current residents? There is only one road leading south out of the canyon to safety, and virtually everyone in the Canyon will be trying to get out. At the same time, first responders will be trying to get in. This is a recipe for disaster. Should the winding canyon narrows at the south end be obstructed, the number of people at risk will effectively be doubled with the addition of the school population.

PUB18-20

It goes without saying that the greater the number of people in a CPUC Tier 3 - Extreme Fire Threat District, the greater the number of potential victims in a wildland fire. What is not widely appreciated, however, is that ignition of wildland fires is increasingly related to human activity. Wildland fire experts Jon Keeley and Alexandra Syphard, writing in the March 2020 issue of *Fremontia*, the Journal of the California Native Plant Society, explain:

“Wind-dominated fires occur in densely populated landscapes, and these fires are responsible for the greatest loss of lives and property...

.....

Although all fires are a threat if fuels around homes have not been reduced, there are five points to consider with respect to the catastrophic [autumn] wind-dominated fires:

1) **People:** On these landscapes, fire is more of a people problem than a fuel problem. More people translates into a greater probability of an ignition during a severe wind event, and more development in highly-fire prone landscapes inevitably results in greater losses of lives and homes.

...

3) **Planning:** Community planning needs to devote similar attention and resources to fire as to other hazards. Since we have limited ability to control earthquakes and floods, some urban planners have utilized zoning restrictions to reduce the impacts of these hazards. Yet, zoning restrictions are largely lacking when it comes to fire hazards, in large part because fires have been perceived as controllable. However it is increasingly obvious that this is not always the case and many communities are currently very vulnerable. Fire zoning needs to be given more consideration as well as urban planning that insures adequate ingress for fire fighters and egress for residents during extreme fire events....”¹

PUB18-21

¹ Jon E. Keeley and Alexandra D. Syphard, “Nexus Between Wildfire, Climate Change, and

At present, Alameda County does not have fire zoning to reduce wildland fire risk. Doubling the Cull Canyon population for most weeks of the year, especially during peak fire season, increases risk to life and property, probably disproportionately. What urban planning is proposed to insure adequate ingress for fire fighters and egress for residents, including temporary residents, during extreme fire events?

PUB18-22

The Recirculated Draft EIR relies on a long bulleted list of procedures to ensure safety in the event of a wildfire emergency. These may look good on paper, but in real life, it is highly unlikely that ordinary people will respond as described. Perhaps cadets at West Point can be schooled to respond calmly and methodically to a potential catastrophic event, but that is not likely for 100 young school children. Many will undoubtedly panic with unpredictable behaviors. Some of the adults might react the same way. The only way to ensure safety is to not put people in harm's way, especially not young children.

PUB18-23

In several places, the Recirculated Draft EIR states that in case of the need for emergency evacuation, "the Castro Valley Unified School District will provide two available school buses." (p. 4.15-19, fourth bullet; p. 3-25, second bullet under Evacuation Preparation and Procedures) This statement is ambiguous. Does it mean that the School District will always have available two school buses and their drivers in case emergency evacuation is needed, or does it mean that the School District will provide two school buses and drivers for evacuation if two buses and drivers are available? What if two school buses and their drivers are not available? What is the back-up plan for emergency evacuation in that situation?

PUB18-24

If a wildfire were to ignite in Cull Canyon south of the Mosaic School Project, it could block access for evacuation buses to reach the school site. What is the alternative evacuation plan for upwards of 100 young children and school staff? How will the attempt to evacuate upwards of 100 young children and school staff complicate the ability of Cull Canyon residents to evacuate the canyon in an emergency? Most Cull Canyon residents live north of the School Project site. The 1991 Oakland Hills Fire killed 25 people and injured 150 more because the only emergency egress was blocked.

PUB18-25

The DEIR's statement on p. 4.15-19 that the proposed project would not alter the existing area in a way that could result in emergency evacuation impairment, "such as with adding a significant permanent population to the area" is disingenuous at best. For much of the year, the population of Cull Canyon will effectively be doubled, especially if the school fulfills its goal of operating in all four seasons.

PUB18-26

Alternatives

No alternative locations were considered in the Recirculated DEIR. The reason given is that "an alternative location was considered infeasible due to availability of sites that would support the project's objectives." This categorical statement does not describe the process used to consider and reject potential alternative sites. In fact, in our NOP comment letter, we suggested two

PUB18-27

alternative locations, one in Livermore and the other in the El Sobrante Valley of Richmond. The latter location was described as follows:

This location could meet most if not all the Mosaic Project objectives. The site is adjacent to the East Bay Regional Park District's Wildcat Canyon Regional Park, has ready access to municipal water and sewer, multiple escape routes in an emergency, and is permitted by current zoning. Moreover, some neighbors to this site are familiar with the Mosaic Project and would support its locating in the area, unlike the currently proposed location which is opposed by the neighbors.

If the County and the applicant were sincere about looking for a potential alternative site to evaluate, they could have inquired about the Richmond El Sobrante Valley location. Obviously, there was no honest attempt to consider an alternative location. It is remarkable that the County would fail to undertake this step given the many obvious problems with the currently proposed location for the Mosaic Project Outdoor School Camp program.

In conclusion, we believe the Recirculated Draft Environmental Impact Report is seriously inadequate. This project should be rejected out of hand and an alternative safe location sought. They do exist.

Sincerely,

s/ Diana Hanna
10142 Cull Canyon Road
Castro Valley, CA 94552
510-581-0932

s/ Dick Schneider
6867 Wilton Drive
Oakland, CA 94611
510-926-0010

**PUB18-27
cont.**

PUB18-28



THE **mosaic**
PROJECT®

OUR OUTDOOR SCHOOL CURRICULUM

The Mosaic Project's evidence-based, social-emotional learning curriculum emphasizes building empathy, resilience, and community as well as empowering students to create a peaceful future. In particular, we focus on four themes:

- 1) The celebration of diversity and awareness of stereotyping, prejudice, and discrimination
- 2) Respect for and appreciation of self and others
- 3) Teamwork and cooperation
- 4) Assertive communication and conflict resolution
(including listening skills, expressing feelings productively, and empathy)

Our innovative curriculum is experiential. Learning at Mosaic becomes a magical adventure as the curriculum comes to life through hands-on activities, art projects, playful games, interactive theatre, role-plays, discussions, stories, and, perhaps most importantly, original songs. Our musical curriculum has received rave reviews and is available on CD. (The CD has won both a Children's Music Web 2004 Award and a Parents' Choice 2004 Approved Award, has been featured in the Teaching Tolerance magazine, and has been played on the popular Bay Area radio stations, KFOG and KPFA.)

Our curriculum is based on research in child development, education, and methods of combating prejudice. We capitalize on the children's imaginations, natural openness, and willingness to play. Laughter and fun are a major part of the learning process, helping our students enter wholeheartedly into a setting that is equally unfamiliar to all and is likely the most demographically diverse they have ever encountered. Direct, skill-building experiences with different groups empower children to overcome natural anxieties and interact with others confidently and justly.

Every part of each highly structured day is infused with Mosaic's infectious creativity and imagination as well as with thought-provoking learning opportunities. For example, breakfast each morning includes a visit from the "Future People," imaginary descendants of a few staff members who arrive in costume representing alternative future societies. Each day the "Future People" present a problem in their society that the children solve together using tools relating to the four themes. During the campfire each night, students share what they learned during the day, listen to stories, and sing our original songs, also pertaining to the four themes.

Exciting surprises are balanced with routine. Students and staff are assigned to diverse, yet small, cabin groups and learning groups for the entire week. Many activities take place in these small groups, helping the students to feel noticed, well cared for, and safe. We work to build community within these small groups as well as within the largest group. By the end of the week, the children have simultaneously experienced diversity and unity.

When the students first arrive at the residential session, they are introduced to The Mosaic Project's values:

M is for mutual respect
O is for open mindedness
S is for self-respect
A is for attitude (a positive attitude)
I is for individuality
C is for community

These values are reinforced by everything we do, even in our approach to behavioral management. They are the core of our theme song, which the students love and remember well after the program has ended – in fact many siblings of

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PUB18-29

Mosaic participants know this song well. We also use a fun tool, called the “buzz ring,” to play a game which teaches these values.

The following are other examples of activities we consider to be essential to our program:

- ***Sessle Circle***: A game in which players discover ways in which they can help everyone in a group to feel welcome.
- ***Diversity Lists***: An activity in which participants celebrate differences and then identify how and why people use these differences to hurt others.
- ***Dots***: A simulation game in which players are encouraged to consider the process by which people identify and group themselves and others.
- ***Put Myself in Your Shoes***: An empathy role-play game that inspires the children to put themselves in someone else’s shoes, both literally and figuratively.
- ***Numerous Group Challenges***: Games in which a group of students must work together to solve a problem or accomplish a task.

**PUB18-29
cont.**

From: [Carolyn Millen](#)
To: [Lopez, Albert, CDA](#)
Cc: [Susann Bradford; Mom](#)
Subject: DEIR Comments Mosaic Project PLN2020-00093
Date: Friday, January 19, 2024 8:44:35 AM

January 18th, 2024

Dear Albert Lopez, Planning Director
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544

Please include our comments in the DEIR and eventually in the new EIR for the Mosaic Project PLN2020-00093, Located at 17015 CULL CANYON ROAD, CASTRO VALLEY CA APN 85-1200-1-16

There has been very little change or expanded information in the recirculated DEIR; many new words yet, no real substance to the new DEIR. Our remarks from the past DEIR and EIR were overlooked, ignored last time around and we ask for our comments, as legally required, to be addressed adequately in the DEIR and then the EIR. ■

PUB19-01

1.

The **fire risk** to the canyon has been overlooked on the report. As it is increasingly dangerous for canyon residents in these times, doubling the population of the canyon on a regular basis also doubles the chance of fire, as most fires are started by humans. 85% of wildfires have human causes. No amount of cutting back trees around the buildings as planned will protect the rest of the canyon from wildfire risk from this outdoor school. Our increased risk is not being taken into account on the DEIR. There is no adequate study attached or included on the water supply onsite, for fire protection. Evacuation plans are inadequate, this is one way in and out road, evacuation of the camp will likely impede the evacuation of the rest of the canyon in the case of fire. Busses cannot be relied upon for evacuation as they are likely not allowed to drive into danger situations due to contract. Sheltering in place if there is actual fire nearby is insanity. Thus has not been evaluated properly. The proposed tanks will run out of water within a few hours of fire fighting and cannot fill at a substantial rate to refill for firefighting capabilities. Can the massive water tank as proposed even be delivered to this property? I'd imagine a wide load semi truck would have to deliver one of this size and likely not be allowed to cross the bridge of the property. Is this being accounted for? Studied? No, the report is void of any details as to how this would be accomplished. Wells in this canyon are unpredictable and should be studied particularly in dry seasons, as they can appear to be enough in the wet season until the dry season hits and they're actually being stressed. We have no provable aquifer underground, just pockets of water that are refilled by rain each year. We need to see much more information in the hydrological section of the report. Actual DATA from flow tests needs to become available to us (where the groundwater has been run for days before

PUB19-02

PUB19-03

running the tests). Please include USGS groundwater analysis and Alameda County data within the report, along with well reports from one mile up and down the canyon from the proposed site. The residents in the canyon will likely be at risk of losing their fire insurance due to the added risk of this facility. Please include a study by CAL Fire of this site and the exact risks of this type of facility and another study by Alameda County Fire.

PUB19-03
cont.

PUB19-04

2.

Wildlife Risk is being overlooked. Simply, there are no studies of animal movement across the property, there is no documentation, nor data on the species that do exist here in the canyon. Specifically, the ones we have seen with our own eyes and have video and pictures of, including mountain lions, badgers, weasels, condors and bobcats. Wildlife danger is also not being included in the DEIR including the herds of wild pigs which have tusks up to 4 inches, the herd size in our canyon ranges from 8 to 30 pigs in any given time running at high speeds through our properties. We have seen the condor flock within the local canyon community marked with their badges. Removing more trees to this greenbelt will impact these endangered creatures. This **MUST** be included within the report. We request that a study from CDFW be conducted to make sure that the impact of this large facility will not be an impact to our beloved critters.

PUB19-05

3.

Farming suggestions in the DEIR are preposterous. Who can farm under the heavy canopy of oak and bay trees? That site gets less than 6 hrs of sunlight per day. What substantial amount of produce can be grown, with greywater (which is illegal in the state of California) with little to no sunlight? The idea of raising goats for milk is also the most fantastical idea. The property will not be allowed to have fencing on it, yet there is no projection in the DEIR as to how these goats would be kept safe from mountain lion predation, from wandering onto other properties or kept from the creekbed. Also, where are the milking facilities, the extensive barn facilities, for bedding, for breeding/birthing? They do not account for the extra water that livestock use, nor the extra water used in the bottling/sanitation of the milking facility. It takes about 4.5 gallons of water to produce one gallon of bottled milk. The impact of the livestock must be proven by report and factually within the DEIR, which it currently is not. It is clear that the ideas are dreamed up by people who have not farmed. Please provide the documentation for the farming plans as these will affect the usage of the property and the environment. Please prove the impact of the water to the size of the breeding program for the pigmy goats. Breeding program is required to keep the animals pregnant and in milk. This means many, many baby goats, this is of no little impact. Please provide details of where animal fencing and facilities will be on a map.

PUB19-06

4.

The **Land Use** of the property, if it is already in Williamson Act, is not being used properly per state guidelines. If the property is not in the Williamson Act already, the primary use of the property would not be farming; it would mainly be used as an outdoor school. Is this a School or a Camp or a Farm? Proof of this must be recorded in the DEIR. Please provide the documentation of the Williamson Act application and plan.

PUB19-07

5.

Road conditions have not been taken into account in the DEIR and we demand that they be looked at by structural engineers and a report must be made for their usage for the amount of traffic that would be added to the canyon. It is simply not just bus traffic that will add to the road maintenance and traffic. The road has not been maintained properly, the last chip seal job resulted in multiple car crashes in 2023 due to the amount of loose gravel left on the road and not sealed. How is the road going to withstand food trucks, animal trucks/trailers in and out, sewage trucks, water trucks, more utility trucks, construction trucks, vans, employees and of buses? The road is sloping into the creek between mile marker 1 and mile 1.3, the road occasionally floods there also and becomes impassable. At Mile marker 2.45 the road floods and can also become impassable. How has the road not been studied to the extent of the heavy trucks that would be required for building the facility? The county recently put up signs that limit truck size to under 7 tons for this section of the canyon north of Columbia Drive. How will the tanker trucks that are to dispose of the filtered rejection water even be allowed to drive on the road since they vastly outweigh the restriction? Each of those trucks are around 8-10 tons without water in them. Please include this in the road/traffic study. Also, Sewage trucks will be regularly emptying the septic tank, this needs to be studied also. We also saw no substantial study of the existing bridge with the weight of construction trucks, & concrete trucks. Please include these, because if a sewage truck accidently breaks the bridge and it runs into our creek ruining our creek and it was not studied, we will all pay the cost to our fragile environment. If a bus, which is 14 tons in weight (illegal in our canyon), misses its turn as frequently happens, where will it turn around in the canyon? This summer we had a number of school and tour buses miss the Cull Lagoon and struggle in turning around, damaging people's property and the buses. The road clearly needs traffic studies and proper analysis of the amount of increased traffic on the road and projection of traffic incidents and how this proposed traffic will affect bicycle use. CHP must also report on conditions and prior accidents, and what to expect with increase of large vehicles.

PUB19-08

PUB19-09

6.

The increase in demand of our local **police and fire** have not been adequately addressed in the DEIR either. We have had an increase in need of ALCO Sheriff's Deputies in the past few years, mostly due to crime, both from foot traffic of the unhoused population who become disoriented in our canyon, from theft, and the murdered body found in the barrel in our canyon. This came after OPD was looking for another body said to have been buried in a shallow grave in our canyon. How will the addition of more than 100 (caretakers, Staff and children) people not add to the need for an increase in our emergency resources. Especially at a facility with sheer drop offs into rapid flowing creeks, 30% incline hillslopes, wildlife encounters (ie. rattlesnake bites as dogs get often here in this canyon) and poisonous plants such as poison hemlock, poison oak (think anaphylactic allergies), fire pit (burns) and trees here which on steep slopes fall down more often than one would imagine. Let alone the human impacts of things that will cause injury and crime. I worked at an inner city camp in the sierras in which I had to confiscate many lighters and drug paraphernalia. We also had to evacuate 200 kids from a wildfire and buses were not onsite for evacuation. Eventually when the buses came we raced down the mountain as the forest behind us was

PUB19-10

engulfed in flames, the camp came within 2 miles of burning. To say that facilities like this have little to no emergency impact is absurd. Please give much more study to the safety of the environment of the camp and the demand of local agencies. We want to see the reports of similar facilities and how often police/ ambulance & fire are needed.

PUB19-10
cont.

7.

The **water** report as stated in the DEIR is inadequate. We need the data, we need to know that these wells are actually not going to suck the neighbors wells dry. We need to know that flow tests were performed AFTER running the wells for days straight. We need these tests to be done late summer when everyone's wells are stressed. We need to know that the outdoor school can in fact sustain itself without draining the wells of residents around it. OUR FIRE PROTECTION, PROPERTY VALUES AND LIVES DEPEND ON THE GROUNDWATER. If the Mosaic project is basing their sustainability on well records that they will not provide for us, how are we to be in support of the project? Perhaps somehow they have the magical well of the canyon as they suggest, imagine that, one tiny property amongst thousands of other acres that has the fountain of life well, that can just fill and fill without ever stressing the groundwater out. They will then be taking this water and running it through an Reverse Osmosis system that will reject 50-70% of the water to filter it, then they will have to dispose of this water via toxic waste trucks (which are also illegal in our canyon due to weight). This is not sustainable living, this is not environmentally friendly. This is a misuse of our groundwater. This use needs to be studied much more extensively as to the impact that it will have on our underground supply. USGS MUST be brought in for a study of the surrounding areas and this property in order to have more insight for the DEIR. The residents of the canyon are extremely careful with our usage of water, we typically under use per person, what the average person in town is using. We have learned to live with less in order to maintain our water and not abuse the underground pockets. The abuse of water that will happen at this camp due to needs of dishwashing, showering, toilet flushing and filtration rejection are astounding and disheartening for those of us who have had well issues (more than 50% of the canyon).

PUB19-11

8.

The **creek widened** in the storms of 2022/2023 resulting in the change of topography of the property to be used for the project. The property lost 5-10 feet that can be seen from the road, one can see the retaining wall fence that used to hold the bank of the creek is now out in the middle of the water flow, not at the creek edge. The flooding carved a new path for the creek. This does affect the plans, the drawings and the maps being used for the project. The area where the wells are at the front of the property flooded over, water was over the well heads. The area that is being planned to be used as an orchard is actually at some points of the season is part of the creek and cannot be used as such according to state watershed guidelines. Please include the change of plans with new drawings after the storm changed the property measurements.

PUB19-12

9.

The DEIR still suggests that way couldn be made to get to the EBMUD land that is nearby. No such connection is made from the property without trespassing on surrounding properties. No trail connections exist legally. This property is landlocked.

PUB19-13

10.

The trails made on property will be unhikeable during rainy season. We all have the same clay. Trails on EBRPD in our canyon have to close for the season. Clay becomes slick and unhikable at these steep inclines. Where are the children to have recreation? In the buildings? Isn't this to be an outdoor school? If it is not an outdoor school, any number of alternative buildings and facilities can host indoor activities outside this location. There is no outdoor play area suitable for children's activities, especially during rainy season where hiking is impossible. If the plan is for the kids to play primarily on the septic leach field, there is a problem in the planning of the project and priorities. This needs to be assessed by a parcel accessor and re-drawn.

PUB19-14

11.

This project is a school, clearly. If it were not, kids would be delinquent for their school days, the program has curriculum, and will be meeting during school hours. The Mosaic Project school needs to re-propose the project under this banner, as it once did and re-assess state standards for a school location. Palomares Canyon Elementary School would be a perfect example as to what the standards on the property would be. Please re-assess for the DEIR.

PUB19-15

More than anything, we care about the safety of the children, pertaining to the environment. We wouldn't want a catastrophe that could have been avoided and improper study could fully affect their safety.

PUB19-16

Thank you,
Tom & Kathy Hunt
Jim & Carolyn Millen

Sent from my iPhone

**** This email was sent from an external source. If you do not know the sender, do not click on links or attachments. ****

January 19, 2024

Albert Lopez, Planning Director
ATTN: The Mosaic Project Recirculated Draft EIR (PLN2020-00093)
Alameda County Community Development Agency
224 W. Winton Avenue, Suite 111
Hayward, CA 94544

Dear Mr. Lopez,

I am writing you to express my concerns about the Mosaic Project development in Castro Valley. As a resident and homeowner in Castro Valley since 1996 I came to this area because of the rural nature of the community. I am opposed to this development going forward for many reasons, the nature of which is both technical and environmental. As a Civil Engineer I see many issues with locating this type of facility in the proposed location. I am quite familiar with the area as I have visited the TwiningVine Estate Winery many times. As I am sure you know the area is quite pristine and the drive down that rural road is something very special. TwiningVine Estate Winery is the last remaining winery in Castro Valley and as such deserves to be protected from a development that could potentially impact their ability to continue as a functioning business. It is my understanding that they do not directly water their vines by pumping water from the ground but that they rely on the water in the soil and this in itself is admirable as the area relies on ground water that is replenished by rain that lies in a natural underground basin. As we are all aware California is and has been in a drought and the future is not predictable, so adding this project will most certainly stress the available water for all current residents of the area. Also, my concern is that licensing of the winery can be affected by having a "school" next to it as licensing is issued on a yearly basis. It is truly unfair to place the burden on them every year to wonder if their license will be renewed. They have been good stewards of the land and deserve to be treated fairly.

PUB20-01

PUB20-02

I have read through the available documentation that is provided by the county and I have concerns about issues which include potential Fire Hazards, Sewage, Water Resources, Zoning laws and questions about the usage levels that are specified in the documents.

PUB20-03

I have a particular concern with using propane tanks, certainly they can use the one for the existing structure, but as the EIR states new construction must use renewable energy and they want to mitigate the use with offsets which may be legal but not environmentally friendly, as electricity is available to them. They should really remove both tanks and use electricity.

PUB20-04

The sewer infrastructure is also a concern. Nothing is guaranteed to work properly if it is not properly maintained. The EIR includes a statement from the company that makes the water treatment equipment, Orenco Systems Inc, that they cannot guarantee that it works properly if it is not properly maintained.

PUB20-05

"It is important to note that even though the AdvanTex Treatment System has the capability to meet or exceed the required treatment parameters, there is no way that Orenco can guarantee that a particular system will be operated or maintained in a manner consistent with the Preliminary Design reviewed."

**PUB20-05
cont.**

Who is going to make sure that is done? I do not see the county doing oversight or any statement to that fact.

Fire hazard is always a concern, but in that area, it is a big concern. You have potentially 150 students and say 8 staff members, there are no fire escape routes indicated in the plan, let alone training for the staff.

PUB20-06

I read carefully the Mosaic project description about usage and that is not controlled by any legal restrictions. But they include the usage numbers to minimize all things related to the project use of water, noise, transportation, etc. Like anything else I am sure over time they will increase the usage, more people more classes, more cars. They plan to teach training classes for teachers, so do they plan to bus them in as they stated for the students or are all attendees going to drive their own cars? No way the county is going to monitor the use. In fact, if the camp closes for financial reasons in the future, what happens to the infrastructure and what happens if another organization wants to use it. Are they bound by the limited use claims by the Mosaic organization? Too many issues for the residents of that area and they deserve to be treated fairly, they have been there for decades.

PUB20-07

Regarding environmental issues, they are adding 2 EV stations to charge cars, but they state that gasoline will be used to transport students, so how many electric vehicles are going to be coming to that site. Are they going to require the staff to drive electric vehicles?

PUB20-08

I have no objection to their educational ideas and motives, but I believe this is not the place to build a large facility.

PUB20-09

Regards,

Wayne L. Mindle, Ph.D.
4717 Sorani Way, Castro Valley, CA 94546
510-688-8969 M
waphle2000@yahoo.com

COMMENT LETTER # PUB21

To: Albert Lopez

January 19, 2024

Email: albert.lopez@acgov.org

Development Planning Division

Alameda County Community Development Agency

224 West Winton Ave., Room110

Hayward, California 94544

RE: Project Referral Case No. PLN 2020-00093 DEIR Comments:

Dear Mr. Lopez:

My name is James C. Panico. I live at 16874 Cull Canyon Road Castro Valley (at the 3.15-mile marker), which is almost directly across from the proposed Mosaic Project. I have owned my property for over 20 years and built my family home. I have also built other homes in Castro Valley and Hayward along with multifamily dwellings.

I am concerned with the Mosaic proposed development on the Cull Canyon site. This would bring over 100 young children along with approximately 50 teachers and supervisors to this property daily. This would remove children from their current school location and move them to the Mosaic property which would continue their required school day but, in this case, they would be living on the Mosaic property. This raises many concerns but I want to focus on the sewage that this project would generate.

One hundred fifty students and staff would generate about 50 gallons each day of sewage which includes showering, toilets, sink washing and potential laundry. This adds up to a minimum of 7500 gallons of sewage per day which is a reasonable conservative estimate. This means the septic leach field system would handle 52,500 gallons minimum per week. I don't believe there is any system in the canyon that handles this amount of capacity. The average home in Cull Canyon (approximately 150 people in 3,000 acres) probably handles around 1,400 to 2,000 gallons per week on average. There is no public sewage system in Cull Canyon.

The proposed mitigation solution would be to use tanker trucks to remove the sewage waste water from the Mosaic project. That would mean tanker trucks moving through the Cull Canyon two-lane windy road with blind turns for three miles in order to remove the sewage from the site. Take note that Cull Canyon Road is currently used by 150 residents who are living on approximately 3,000 acres within Cull Canyon, as well as runners, hikers, and bicyclists who use this road for recreation. The

PUB21-01

PUB21-02

PUB21-03

environmental impact report should analyze and include the impact of the additional traffic and use on the Cull Canyon Road for this Mosaic school site.

**PUB21-03
cont.**

The septic field is within the two-acre envelope for the project. The draft report is suggesting parking and a playground on top of the septic field. Is this permitted? With the amount of waste water being produced and located close to the vicinity of wells is this an issue worth discussion. Would there be a potential problem due to a septic system overflow that could result in ground water contamination. Also, the septic system is very near to Cull Canyon Creek could a septic system overflow cause harm to the Cull Canyon Creek and wild life who use this creek for drinking water.

PUB21-04

PUB21-05

Bottom line is that current Cull Canyon residents have been held to certain requirements due to the limitations of the land resulting from limited water supply, preservation of open space and animal life, and extreme fire danger management. The DEIR is inadequate and I agree with the Castro Valley MAC's recommendations.

PUB21-06

Please include my comments into the Mosaic Property draft EIR report.

Respectfully submitted,

James Panico

16874 Cull Canyon Rd.

Castro Valley, CA 94522

January 19, 2024

Albert Lopez
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544
albert.lopez@acgov.org

Re: **Comments on the Recirculated Draft Environmental Impact Report (DEIR)** for The Mosaic Project
located at 17015 Cull Canyon Road, Castro Valley

As a 30+ year resident of Cull Canyon, we live on a 30-acre parcel of land, located approximately 1 ½ miles north of the proposed Mosaic project. Since our land configuration and conditions are quite similar to the Mosaic property I thought it appropriate to mention a few of the real-life environmental hazards we have experienced.

PUB22-01

The Revised Draft EIR seems to avoid any mention or methods to mediate the everyday risk of Environmental hazards as they may apply to the 120+ Mosaic children/staff.

Following are a few of the Environmental hazards we have experienced:

PUB22-02

*We encounter an average of about 6-8 Rattlesnakes per year with our dogs bitten a total of 8 times.

*The Canyon is within a High Fire Hazard Zone and in fact, numerous fires have occurred in the canyon within the last couple of years. High risk of fire, together with restricted one road access, would likely result in the Fire Department requiring a "Shelter in Place Area." The R-DEIR fails to even mention the concept, possibly because there is no suitable land available on their property.

PUB22-03

*Our dogs and other small animals have regular conflicts with coyotes including nearly losing one dog to a pack of six coyotes. There is no mention of coyote/child environmental risk in the revised Draft.

PUB22-04

* One evening my wife observed a mountain lion laying within 15 yards of our deck next to our house.

PUB22-05

* During 2023, we killed/removed over a dozen wild boar from our property. During the same period, over 400 pigs were killed/removed from the EBMUD lands which are adjacent to both our land and the Mosaic property. On Christmas day 2023, within 50 yards of our house, one of our dogs was gored by a wild boar. The presence and rapid expansion of wild boar population is one of the major current environmental hazards, threatening both our canyon and much rural lands throughout the United States. Viewed from Cull Canyon Road, Wild Boar damage can be observed on the Mosaic property. The R-DEIR fails to even mention the presence of wild boar on the property and the high potential risk to the children.

PUB22-06

*Every year a dozen or so major limbs or trees fall on our property. This environmental hazard and potential risk of injury or death to children is obvious.

PUB22-07

*There have been Hundreds of Canyon Landslides. Major slides on our property include knocking down retaining walls and Solar system, upending the concrete driveways, erosion of creek banks and loss of mature oak and bay trees, destroying our emergency fire road exit, etc.

PUB22-08

In closing, I bring to your attention the most alarming unacknowledged Environmental hazard which is actually created by the Draft mandate: The Project Plan does not designate a suitable area for 100+ children to play on the Mosaic property. To allow the free flow of wildlife throughout the property, the R-DEIR mandates that “no fencing shall be installed which form as a barrier between the creek and the woodlands to the west...” Considering the continual close proximity of the children to the creek and its near vertical banks, this Draft EIR mandate, which restricts fencing or other barriers, is an absolute Environmental risk which cannot be denied.

PUB22-09

PUB22-10

We believe R-DEIR is exceptionally biased and fails to mention or consider the environmental hazards which expose the children to unacceptable risk. Both the revised Draft and the project should be denied.

PUB22-11

Sincerely,
Kent Woodell
510-247-1416

January 19, 2024

Albert Lopez
Alameda County Community Development Agency
224 W. Winton Avenue, Rm 111
Hayward, CA 94544
albert.lopez@acgov.org

Re: Mosaic Project, 17015 Cull Canyon Road, Castro Valley - **Comments on the Recirculated Draft Environmental Impact Report (DEIR)**

Dear Albert,

Our family of 4, plus our farm animals, reside on Cull Canyon Road, approximately one mile north of the proposed Mosaic Project. We take major exception to the Proposed Draft EIR and believe the Applicants Environmental Consultants have vastly understated the potential for serious environmental conditions which subject the Mosaic children and staff to major life threatening safety issues.

PUB23-01

Examples of a few of our concerns are:

After over 30 years with the same Fire Insurance Company, we just got notice that they will not renew our fire insurance policy. Stated reason is "High risk of wildfire" combined with single access road which could easily become impassible in the event of an emergency.

PUB23-02

Due to the Environmental threat of wild fires we took the advice of a Local Battalion Fire Chief and installed on our property a "Shelter In Place Area" which can provide a safe haven for people and livestock in the event of fire, if the exit road is impassible. The Draft Environmental Report does not even mention benefit or need for such a Shelter. Could it be that this "biased" report fails to recommend or require this as a safety mediation measure because there is no available space for such a shelter on the Mosaic property?

PUB23-03

To help mediate and reduce some of the constant potential environmental threats to our children and guests, we provide constant adult supervision of our children when they are outside. We have installed a large enclosed fenced area and we also have a large protective dog. On several occasions our dog has challenged the coyotes and wild boar which show up in the immediate vicinity of our house and barn. Nearby sightings of both bobcats and mountain lions regularly occur.

PUB23-04

Again, no mention in the Draft of these potential environmental threats to the children, and the Mosaic plan offers none of these types of safeguards.

In order reduce the Environmental risk rating from Serious (S) to Less than Serious (LTS), the following is an example of how the EIR Consultant recommends mediation related to the wild fire hazard:

PUB23-05

"The applicant shall submit a revised landscape plan, as well as a vegetation management plan, to Alameda County Fire Department for review and approval. The project site plan shall be revised as necessary, to conform to the landscape plan and vegetation management plan."

**PUB23-05
cont.**

Like magic, due to the Consultants mediation recommendation the risk of wild fire is reduced to "less than significant" and shall no longer be of major concern.

These are but a few of the examples of the EIRs Consultant's biased nature expressed in this Draft EIR.

In the whole 374 page DEIR, there is not one single environmental issue which is deemed Serious (S) that cannot be mitigated away.

PUB23-06

Are we to presume that the environmental risks to the children should not even be worth mentioning?

It is amazing, that with a few flowery words and trendy "feel good" statements, the Consultant has the guts to submit such a biased, one-sided EIR Draft and even more unbelievable that the Alameda County authorities would even consider recommending approval of the same.

PUB23-07

In our opinion this Draft EIR is a complete one-sided worthless document sham and both it and the proposed project should be denied.

Respectfully submitted,

The Zhrebnenkov Family
Cull Canyon Rd, Castro Valley

From: Mark Wolfe <mwolfe@northstarae.com>
Sent: Tuesday, February 27, 2024 10:05:34 AM
To: Lopez, Albert, CDA <Albert.Lopez@acgov.org>
Cc: Lara Mendel <Lara@mosaicproject.org>; Brian Lowe <Brian@mosaicproject.org>; Nicole Ledford <nledford@northstarae.com>; Smith, David <DCSmith@manatt.com>
Subject: Another comment on Mosaic DEIR

Hi Albert—

Below is an email commenting on the EIR which apparently didn't make it to your in box.

Can this please be added to the list of comments, and included in the Final?

“From: **Albert Chan** <alby.chan@gmail.com>
Date: Sun, Dec 31, 2023 at 1:11 AM
Subject: The Mosaic Project Recirculated Draft EIR (PLN2020-00093) - submitted comments
To: <albert.lopez@acgov.org>

Dear Albert,

My name is Albert Chan and as a current Castro Valley resident, a Mosaic board member who's served for more than a decade, and a sustainability professional who's dedicated my 15+ year career working to sustainability (with graduate degrees at Stanford and MIT on sustainability and a current clean energy expert at Apple), I am very excited to see the release of the EIR for the Mosaic Project.

First, I am proud of the rigor of the EIR, the results, and the vision described in the EIR.
Mosaic and its consultants have worked for years to make sure its new home meets local and state regulations while achieving a new standard for environmental stewardship. Its sections on water and solar energy are especially ambitious and exciting given my own interests/expertise. I believe it will be an excellent shining example in the local community for environmental best practices.

Second, Mosaic will be a great gift to the Castro Valley community.
As a Castro Valley parent with two young children, I cannot imagine a better and more positive neighbor as the Mosaic Project. Mosaic's work with students will allow them to develop the needed tools to combat rising discrimination in our schools and our communities. Mosaic has nearly 25 years of community-building experience and its contributions to build human connection and teach empathy is one of the most important things that we can support in the world right now. I hope that all parties can come with an open heart to work together in earnest for the good of our community.

*Best regards,
Albert Chan”*

PUB24-01

All the best,

Mark

Mark Wolfe, AICP

Principal Planner (530)

893-1600 ext. 213 (530)

815-9164 (cell)



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