

URBAN PLANNING, ENVIRONMENTAL ANALYSIS & PROJECT MANAGEMENT | 510.535.6690

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RP Draft EIR Introduction

Purpose of the EIR and Recirculated Partial Draft

The California Environmental Quality Act and the Guidelines promulgated thereunder (together “CEQA”) require an Environmental Impact Report (EIR) be prepared for any project which may have a significant impact on the environment. An EIR is an informational document, the purposes of which, according to CEQA are “to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”

As discussed in more detail under the Background heading below, prior EIR documents evaluated the potential environmental impacts that may be associated with the Garaventa Hills Project (“Project”) in Livermore, California. The Project proposes a 44-unit single-family residential subdivision on a vacant, approximately 32-acre site. A westerly extension of Bear Creek Drive would provide access to the internal residential street circumscribing the site’s two prominent knolls. Proposed single-family detached lot sizes range from 8,740 to 13,160 square feet, with homes between 2,390 to 3,150 square feet in size, excluding garages. Lots and roadways would comprise approximately 40 percent of the site, with the remaining land reserved for open space buffers on the site’s edges, undeveloped knolls with pedestrian trails, and a storm water detention basin with outfall pipe to Altamont Creek. A homeowner’s association would be responsible for the maintenance of the private street, detention basin, project landscaping, and all open space areas (including trails). The informal trails currently found on the privately owned knolls would be formally designated for public access. A community facilities district would fund maintenance of the emergency vehicle access (EVA), pedestrian, and bicycle bridge. As a development project within city limits, the “lead agency” for environmental review of the proposed Project under CEQA is the City of Livermore.

This document is a Recirculated Partial (RP) Draft EIR pursuant to CEQA Guidelines Section 15088.5 (relevant subsections excerpted below):

(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review under Section 15087 but before certification...

(c) If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.

(f)(2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions...

(g) When recirculating a revised EIR, either in whole or in part, the lead agency shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

“Recirculation” means that the public is provided an opportunity to comment on the new or revised sections of the Draft EIR.¹ As authorized under Section 15088.5(c), this document is only a “partial” recirculation of the previously circulated Draft EIR; its content is limited to the portions of the original Draft EIR that have been modified, consistent with State law (CEQA Guidelines Section 15088.5[c]). In accordance with the Court of Appeal holding in *Save the Hill Group v. City of Livermore*,² the recirculated portion of this document solely focuses on discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development. There are no other changes to the information or conclusions in the prior EIR documents. Recirculation of an EIR to address a specific issue is not grounds to revisit other issues addressed in the prior analysis. As discussed under the Environmental Review Process header below, the reader should refer to the previously circulated Draft EIR, Final EIR, and Re-Issued Final EIR (as described below) for the parts that are not included in this RP Draft EIR.

Background

Prior EIR Documents

The City of Livermore circulated a Draft EIR for the Project in November 2012 (SCH#2011112045) for public review and comment and public comment was received between November 18, 2012, and December 26, 2012. The City received public comments on the Draft EIR and prepared a Final EIR that was released to the public in June 2014. The applicant then revised the Project to be consistent with the Reduced Density Alternative analyzed in the Draft EIR. To document the changes in the Project that reflected the Reduced Density Alternative and to evaluate the impacts of those changes, the City prepared a Re-Issued Final EIR that was released to the public for review in August 2018. Together, the Draft EIR, Final EIR, and Re-Issued Final EIR are referred to in this document as the “prior EIR documents”. The Re-Issued Final EIR was certified by the Livermore City Council on April 22, 2019, and the City Council approved the Project as a 44-unit single family subdivision.

Copies of the prior EIR documents listed above are incorporated by reference and are available for review during normal business hours at the Livermore Planning Division, 1052 South Livermore Avenue, Livermore Public Library Main Branch, 1000 South Livermore Avenue, and on the City’s website at <https://www.livermoreca.gov/departments/garaventa-hills-project>.

Legal Challenge and Decision

On May 23, 2019, Save the Hill Group, a group of residents, filed a lawsuit challenging the City’s certification of the EIR and approval of the Project. The Superior Court of the County of Alameda denied Save the Hill Group’s challenge. Save the Hill Group appealed, and the Court of Appeals reversed the Superior Court’s decision. The appellate court ruled that the EIR was inadequate because the EIR failed to include information regarding the potential availability of funding for open space acquisition and preservation of the Project site in the no project alternative analysis.³

¹ CEQA Guidelines Sections 15088.5(c)-(d).

² *Save the Hill Group v. City of Livermore* (2022) 76 Cal.App.5th 1092, review denied (July 13, 2022). Available at: <https://www.livermoreca.gov/home/showpublisheddocument/10739/638297013821830000>

³ *Save the Hill Group v. City of Livermore* (2022) 76 Cal.App.5th 1092, review denied (July 13, 2022). Available at: <https://www.livermoreca.gov/home/showpublisheddocument/10739/638297013821830000>

In accordance with the appellate court's order in November 28, 2022, the Livermore City Council rescinded certification of the EIR and approval of the Project.

The applicant has exercised their right to bring the Project back for review by the City, which requires revising the EIR to address the inadequacy identified by the Court of Appeal.

Environmental Review Process

The RP Draft EIR will be available for a 45-day public review period, from July 30, 2024 through September 13 2024. During the review period for this RP Draft EIR, interested individuals, organizations, and agencies may offer their comments on the document. The comments received during this public review period will be compiled and presented together with responses to these comments in the RP Final EIR. This RP Draft EIR, together with the RP Final EIR and the prior EIR documents will constitute the complete EIR for the proposed Project.

Comments should be submitted in writing during the public review period to:

Steve Stewart, Special Projects Coordinator
City of Livermore
Planning Division
1052 South Livermore Avenue
Livermore, CA 94550
925-960-4468
SCStewart@livermoreca.gov

This RP Draft EIR focuses only on additional discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development. Only comments received on this RP Draft EIR that address the topic included in this RP Draft EIR will be responded to in the RP Final EIR, per CEQA Guidelines Section 15088.5(f)(2).

Summary of Revisions to the Draft EIR

In the discussion of the No Project, No Development Alternative, the Draft EIR indicated that it was not necessarily feasible to assume the site would remain undeveloped in the long term because the Project site is zoned for residential development and there was no proposal by the City or other party to purchase or otherwise preserve it. The court ruled that the analysis of the No Project, No Development Alternative was inadequate because it failed to include information about existing funding sources that could possibly be used to purchase the Project site and conserve it as open space. Open space funds from Altamont Landfill Settlement Agreement and Dougherty Valley Settlement Agreement are two funding sources specifically mentioned in the decision.⁴

Consistent with the court's decision, this RP Draft EIR is limited to recirculation of the discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under the No Project, No Development Alternative, such as the Altamont Landfill Settlement Agreement Fund, Dougherty Valley Settlement Agreement Fund, as well as other potential sources.

⁴ Save the Hill Group v. City of Livermore (2022) 76 Cal.App.5th 1092, review denied (July 13, 2022). Available at: <https://www.livermoreca.gov/home/showpublisheddocument/10739/638297013821830000>

This RP Draft EIR adds or revises the following chapters from the Draft EIR:

DRAFT EIR	→	RECIRCULATED PARTIAL DRAFT EIR
Not applicable	addition of	Chapter RP1: <i>RP Draft EIR Introduction</i>
Chapter 2: <i>Executive Summary</i>	partial update	Chapter RP2: <i>RP Draft EIR Executive Summary</i>
Chapter 19: <i>Alternatives</i>	partial update	Chapter RP3: <i>RP No Project Alternative – Potential Funding Sources</i>
Not applicable	addition of	Chapter RP4: <i>RP Draft EIR Report Preparers and References</i>

There are no other revisions being made to the prior EIR documents. An Executive Summary has been included in this RP Draft EIR (Chapter RP2) to provide an easy reference to the Project description and summarize the recirculated elements of the Draft EIR. Again, while the Executive Summary provides a brief reference to information from the prior EIR documents, the only revisions in this RP Draft EIR are to the discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development.

RP Draft EIR Executive Summary

Summary of the Project History

The applicant submitted a development application to the City in 2011 and the Project was evaluated in the 2012 Draft EIR. The applicant made subsequent revisions to the application that were evaluated in 2014 and 2018 EIR documents summarized below:

2012 Draft EIR – included environmental analysis of a project that proposed 76 residential units and a vehicular bridge connecting to Hawk Street. The Draft EIR considered all environmental topic areas, evaluated the Project impacts, and identified two alternatives to the project.

2014 Final EIR – responded to comments on the Draft EIR and presented information to conclude that a revised project proposing 47 residential units and no bridge over Hawk Street was covered by the prior 2012 EIR analysis.

2018 Re-Issued Final EIR - presented information and analysis to conclude that a revised project proposing 44 residential units and a pedestrian bridge connection to Hawk Street was within the prior analysis and updated responses to comments as necessary to reflect the revised 44-unit project.

In December 2018, the Planning Commission considered the Project and voted unanimously to recommend the City Council certify the EIR and approve the Project.

In April 2019, the Livermore City Council certified the EIR and approved the Project.

In May 2019, a lawsuit was brought by Save the Hill Group, a group of residents, challenging the City's certification of the EIR and approval of the Project.

In September 2020, the Superior Court for the County of Alameda denied the Save the Hill Group's lawsuit, finding 1) they failed to exhaust their administrative remedies regarding their claims that the no-project alternative analyzed in the EIR was inadequate, and 2) denying the remainder of their claims that the EIR was inadequate. The Superior Court rejected all challenges to the EIR's impact analysis.

In March 2022, the Court of Appeal of the State of California ruled that the EIR was inadequate because it failed to include sufficient information regarding the potential availability of funding for open space acquisition and preservation of the Project site in the no project alternative analysis. The Court of Appeal denied all other challenges, including to the EIR's biological resources impact analysis and mitigation measures and hydrological impacts on the Springtown Alkali Sink. In accordance with the appellate court's direction, the City Council rescinded the certification of the EIR and approval of the Project in November 2022.

The applicant has exercised their right to bring the Project back for review by the City, which requires revising the EIR to address the inadequacies identified by the Court of Appeals.

Summary of Purpose and Revisions to the Draft EIR

Recirculation of an EIR to address a limited issue is not grounds to revisit issues laid to rest in prior analysis upheld by the Court. Therefore, consistent with the Court of Appeal's decision, this RP Draft EIR is limited to recirculation of the discussion of the potential for the acquisition and preservation of the Project site as open space under the No Project, No Development Alternative. The analysis in Chapter RP3 of this RP Draft EIR concludes on the basis of substantial evidence that:

The property owner is not a willing seller. Without a willing seller, the Project site has been determined not to be eligible for funding through the Altamont Landfill Open Space Fund or the Dougherty Valley Settlement Agreement funds.

Use of eminent domain to acquire the property from an unwilling seller, if it could be defended legally, would be costly (over \$17-25 million) and contrary to the City's past practice. There are other funding sources available for an eminent domain approach, including the Open Space Acquisition and Management Fund, Transferable Development Credits Fund, and/or General Fund allocation (if authorized by voters through ballot initiatives/bond measures); however, these funds are either not eligible to be used for the Project site or are prioritized elsewhere.

Additionally, the Project site has a long-established residential designation, and is identified in the current Livermore General Plan Housing Element site inventory as a site for residential development. Under the No Net Loss provisions of state housing laws, additional process would be required to remove the Project site from the Housing Element's residential development site inventory, which could add additional cost to the acquisition of the site for open space preservation.

Alternative A: No Project, No Development represents the possibility that the Project site would be preserved as open space. As discussed above, the potential funding sources for such open space acquisition and preservation have been explored and it has been concluded that the site is either ineligible for use of those funds due to an unwilling seller or would require legally-complicated and cost-prohibitive fair market value eminent domain proceedings and use of funds prioritized elsewhere.

The analysis and evidence cited above can support a conclusion by the lead agency that Alternative A: No Project, No Development involving site acquisition and preservation as open space is not a "feasible" alternative the lead agency is compelled to adopt.^{1, 2} The lead agency will take this evidence and analysis into account when making the findings required by CEQA regarding the feasibility of Alternative A: No Project, No Development.

¹ CEQA Guidelines Sections 15126.6(f)(i); 15091(a)(3).

² See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (assessing alternatives feasibility, "involves a balancing of various 'economic, environmental, social, and technological factors'; "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" [internal citations omitted]).

There are no other changes to the information or conclusions in the prior EIR documents. Introductory text, summary information from the prior EIR documents, and information regarding the preparation of this document are provided for reference and context and do not constitute “significant new information” pursuant to 15088.5 of the CEQA Guidelines addressing Recirculation of an EIR.

This RP Draft EIR will be circulated for public review and comments received during this public review period will be compiled and presented together with responses to these comments in the RP Final EIR. Because this RP Draft EIR focuses only on additional discussion of funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development, only comments received on this RP Draft EIR that address this topic will be responded to in the RP Final EIR, per CEQA Guidelines Section 15088.5(f)(2).

Summary of the Proposed Project

The following project summary information has not been modified from prior EIR documents because the Project is the same Project and requires the same Project approvals. It is provided for reference and context. A more detailed project description is included in Chapter 3 of the Draft EIR, with revisions listed in Chapter 21 of the Final EIR and further revisions listed in Chapter 26 of the Re-Issued Final EIR.

The 31.7-acre Project site is located north of Interstate-580 and east of Vasco Road and west of Laughlin Road in the City of Livermore and is an undeveloped parcel consisting predominantly of non-native grassland habitat. The topography of the site is moderately steeply sloping, having a predominantly 15% to 20% slope. Altamont Creek, an intermittent stream channel, forms the southern boundary of the site. There are two prominent knolls in roughly the center of the site. See Figure 3.1 [from the Draft EIR] on page RP2-4 showing the project location.

The previous Maralisa development is located to the south, across Altamont Creek. This is a largely residential development with Altamont Creek Elementary and the connected Altamont Creek Park also adjacent to the other side of the creek. Existing residential uses border the Project site to the east.

The 24-acre Garaventa Wetlands Preserve, owned and managed by the Livermore Area Recreation and Park District, borders the Project site to the west. Along with undeveloped land to the north of the Project, the Garaventa Wetlands Preserve contains sensitive alkali wetlands and vernal pools which support special status species.

The Project proposes 44 residential units on an internal looped circulation plan that circumscribes the prominent knolls and connects to the planned extension of Bear Creek Drive. A pedestrian-only bridge would connect over Altamont Creek to Hawk Street that would also serve as a secondary emergency vehicle access. The average lot size would be 9,337 square feet with a minimum of 8,712 square feet. Six units would be attached as pairs, and the remaining 38 would be detached single family homes. See Figure 26.1 [from the Re-Issued Final EIR] on page RP2-5 showing the development plan.

Less than half of the site would be developed with roadways and lots. The knolls would remain undeveloped with informal public-access trails for hiking and vista views. The remaining area would include a stormwater detention basin at the southeast corner and natural areas surrounding development to buffer the nearby creek, wetlands, and other sensitive habitat.

The following approvals would be required to develop the Project: a Tentative Subdivision Map, Planned Development, Site Plan Design Review (including architecture and landscaping), Grading and Dirt Haul Permit, Stormwater Pollution Prevention Plan, Permits from both the US Army Corps of Engineers (Corps) and from the Regional Water Quality Control Board (RWQCB) relating to potential impacts to Corps jurisdictional wetlands/waters associated with the wetland swale, and approval of Mitigation Plans from the US Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW).



Figure 3.1: Site Location [from Draft EIR]

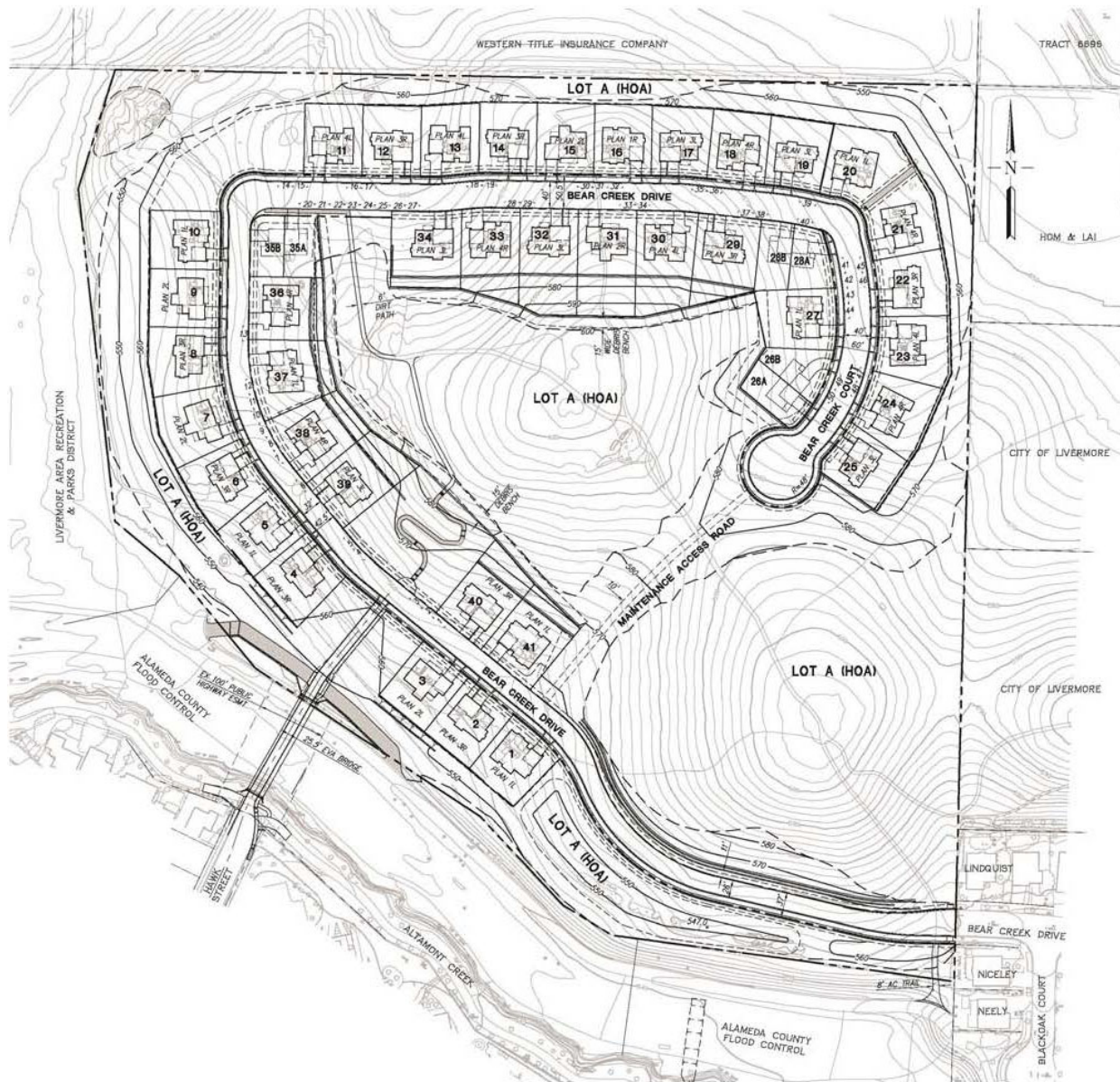


Figure 26.1: Project Development Plan [from Re-Issued Final EIR]

RP Alternative A: No Project, No Development Alternative – Potential Funding Sources

Introduction

Chapter 19 of the Draft EIR included an analysis of Alternative A: No Project, No Development on pages 19-4, and 19-6 through 19-12. This chapter of the RP Draft EIR is limited to discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development.

For ease of reference and context, this chapter includes the Project objectives and summarizes the Project impacts as described in Chapter 19 of the Draft EIR. This information has not been changed since the prior EIR documents because the Project objectives and Project impacts have not changed. In addition, the original analysis and feasibility discussion for Alternative A: No Project, No Development is provided as presented in the Draft EIR. New text added to the feasibility discussion is shown in *italics*.

Project Objectives from the Prior EIR Documents

Project Objectives were presented in Chapters 3 and 19 of the Draft EIR. Because they are considered in a discussion of Alternatives, they have been included below. There have been no changes made to the Project Objectives since the City prepared and circulated the prior EIR documents because the applicant is proposing the same Project with the same Project Objectives as detailed in the Draft EIR.

The following objectives have been identified for the Project.

1. Complete implementation of current Planned Development zoning designation that reflects the Project site's inclusion in the Planned Unit Development Permit (PUD 115-A) for the Maralisa development, which indicated development with a maximum of 76 single-family homes.
2. Contribute to housing availability to accommodate Livermore's growing population and to help satisfy Livermore's share of regional housing needs.
3. Provide housing near Livermore and Tri-Valley employment centers within the existing City Boundary and North Livermore Urban Growth Boundary.
4. Provide a high-quality residential neighborhood that is compatible and integrated with existing nearby residential, park, school and open space uses.

5. Provide adequate access to the site for safety purposes while minimizing environmental impacts and satisfying natural resource and flood control regulatory agencies.
6. Provide buffers as a separation and natural transition from adjacent open space and habitat to urban development.
7. Conserve the two prominent knolls as visual resources for the community.
8. Retain public access to trails around the knolls as a public amenity for hiking and vista views.

Summary of Project Impacts from the Prior EIR Documents

Project impacts were detailed in Chapters 4 through 18 and summarized in Chapters 2 and 19 of the Draft EIR, as revised by Chapters 22 and 23 of the Final EIR and Chapter 26 of the Re-Issued Final EIR. Because they are considered in a discussion of Alternatives, the summary of Project impacts has been included below. There have been no changes made to the Project impacts since the prior EIR documents because the applicant is proceeding with the same Project that the prior EIR documents evaluated and nothing in the following analysis constitutes new information requiring recirculation or a supplemental EIR (See, e.g. Public Resources Code section 21166, CEQA Guidelines sections 15088.5., 15166, etc.)

Significant and Unavoidable Impacts

The prior EIR documents concluded that there were no impacts due to the Project that were determined to be significant and unavoidable.

Potentially Significant Impacts and Mitigation Measures

Potentially significant Project impacts include construction-period disturbance, including impacts and mitigation related to construction period dust and emissions (Mitigation Measure Air-1); potential disturbance of unknown archaeological, paleontological, or tribal cultural resources (Culture-1a, 1b, 1c); appropriate construction given site characteristics in a seismically-active region (Geo-2), potential erosion and siltation (Geo-5); potential existing oil contamination (Haz-2); and potential impacts to traffic from construction vehicles (Traf-7).

Potentially significant impacts to habitats and special status species would be mitigated through mitigation measures Bio-2, Bio-3a, 3b, 3c, 4a, 4b, 4c, 5a, 5b, and 5c, 6a, 6b, 7a, 7b, 8a, 8b, 9, 10, 11a, 11c and Geo-5.

Potentially significant impacts related to greenhouse gas emissions would be mitigated through energy efficient design (GHG-1) and compliance with the City's Climate Change Element (GHG-2).

Potentially significant impacts of internal roadway designs would be mitigated through design review by the City (Traf-5 and Traf-6). Additionally, the Project would contribute its fair share amount to improvements at the intersection of Laughlin Road & Northfront Road (Traf-10).

The impacts listed in this subsection would be reduced to less than significant levels through implementation of the mitigation measures identified in the prior EIR documents. All other impacts would be less than significant without the need for mitigation.

Discussion of Alternative A: No Project, No Development from the Prior EIR Documents

The No Project, No Development Alternative was discussed in Chapter 19 of the Draft EIR as excerpted below. No changes have been made to these excerpts because the applicant is proposing the same Project as that covered in the prior EIR documents and the court found the EIR analysis adequate in that regard.¹ Per the court’s decision, an updated discussion of the potential funding sources available for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development is included in the section after this.

Alternative Description

Alternative A is a “no project” alternative. It assumes the proposed Project is not approved and the site would remain in an undeveloped state, with no development of roadways or residences.

Impact Summary

Under a “no development” alternative, the Project site would remain in an undeveloped state. There would be no impacts on the environment associated with development, because no new development would occur.

Ability to Accomplish Project Objectives and Feasibility

A No Project/No Development alternative would not meet any of the project objectives, except for separating adjacent habitats from development activity (objective 6) and preserving the knolls (objective 7). With no development, this alternative would not complete implementation of the Maralisa development, would not contribute to housing availability, and would not provide housing near employment centers. It is assumed the existing informal trails would remain on site.

This alternative represents the possibility that no project is approved on this site. However, there is no current proposal for the City or other agency to purchase this site or otherwise preserve it in an undeveloped state. This site is zoned for and previously indicated under the Maralisa plan for residential development. Therefore, while this alternative analyzes a no development scenario, it is not necessarily feasible to assume the site would remain undeveloped in the long term.

Environmentally Superior Alternative

In addition to the discussion and comparison of impacts of the proposed Project and the alternatives, Section 15126.6 of the CEQA Guidelines requires that an “environmentally superior” alternative be selected and the reasons for such a selection disclosed. In general, the environmentally superior alternative is the alternative that would be expected to generate the least amount of significant impacts.

Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of the City. Table 19.1, [on pages 19-8 through 19-12 of the Draft EIR], provides a summary comparison of the environmental impacts of the alternatives compared to the proposed Project for each of the topic areas in which a potentially significant impact was identified under the Project.

¹ *Save the Hill Group v. City of Livermore* (2022) 76 Cal.App.5th 1092, review denied (July 13, 2022). Available at: <https://www.livermoreca.gov/home/showpublisheddocument/10739/638297013821830000>.

No significant and unavoidable impacts were identified under the proposed Project. All Project impacts are either less than significant or can be reduced to those levels through implementation of the mitigation contained in this Draft EIR. Because of the low impact of the proposed Project, differences between it and the Alternatives are marginal and confined to reductions in already less than significant impacts. Alternative A, the No Project, No Development Alternative, has no impacts as it does not propose any change to the site. Alternative A would be the environmentally superior alternative.

Additional Discussion of Funding Sources for Alternative A: No Project, No Development

As excerpted above, under the “Ability to Accomplish Project Objectives and Feasibility” section of the Alternative A: No Project, No Development discussion, the Draft EIR had indicated (on page 19-4), “However, there is no current proposal for the City or other agency to purchase this site or otherwise preserve it in an undeveloped state.” Pursuant to the court’s decision,² the discussion of the potential for the acquisition and preservation of the Project site as open space under Alternative A: No Project, No Development has been updated below in italics. These are the only substantive changes to prior EIR documents.

To reiterate, there are no changes to the description of the Project, Project objectives, or Project impacts since the prior EIR documents. With respect to Alternative A: No Project, No Development, there are no changes to the Alternative Description, Impact Summary, Ability to Accomplish Project Objectives, or Environmentally Superior Alternative discussions since the prior EIR document.

The likelihood of the site remaining undeveloped under Alternative A: No Project, No Development rests on the potential funding sources available for the acquisition and preservation of the Project site as open space.

The following sections provide the information and analysis that supports the RP Draft EIR discussion of available funding sources for potential use in acquiring the Project site as open space, including: 1) communications between the City of Livermore and the Project site owners to acquire the Project Site; 2) consideration of the funding sources potentially available to acquire the Project site for the purposes of preservation as open space; 3) a consideration of eminent domain to acquire property from an unwilling seller; 4) considerations for rezoning a residential site; and 5) an updated discussion of the feasibility of Alternative A: No Project, No Development related to funding sources for acquisition of the site as open space.

Summary of Acquisition Offers

The City of Livermore sent an offer letter to the Project site property owners on February 2, 2024, offering to purchase the land at an open space value of \$868,480. The City received a reply letter from the property owners on February 5, 2024, declining the offer.

² *Save the Hill Group v. City of Livermore* (2022) 76 Cal.App.5th 1092, review denied (July 13, 2022). Available at: <https://www.livermoreca.gov/home/showpublisheddocument/10739/638297013821830000>.

The City of Livermore then sent a follow up letter to the Project site property owners on February 8, 2024, inquiring whether the owner would consider selling the property if a fair market value for the Project site property could be negotiated. The City received a reply letter on February 13, 2024, stating that the owners were not willing to discuss selling the property to any entity other than Lafferty Communities because of their existing contract and legal obligation.

The City of Livermore sent a second offer letter to the Project site property owners on February 29, 2024, offering to purchase the land for \$1,736,960. This increased offer was in response to direction from the Altamont Landfill Open Space Committee that the previous offer was too low, as discussed further in the Altamont Open Space Committee subsection below. The City received a reply letter on March 1, 2024, declining the offer and asking that the City not send any more offers to buy the property.

Offer letters and responses are included in Appendix RP-A.

Altamont Landfill Open Space Fund

The Altamont Landfill Open Space Fund is made up of funding from two sources including the Altamont Landfill Settlement Agreement (ALSA) and the Vasco Road Landfill open space fees as detailed in the paragraphs below.

In 1999, the lawsuit parties (Alameda County, Cities of Livermore and Pleasanton, Sierra Club, Northern California Recycling Association, Altamont Landowners Against Rural Mismanagement, and Waste Management of Alameda County) entered into a Settlement Agreement relating to the proposed expansion of the Altamont Landfill.³ Results of the Altamont Landfill Settlement Agreement (ALSA) include substantial reductions in the landfill expansion and waste imports and a requirement for the operator to collect a \$0.75 per ton fee for open space acquisition.

Eighty percent of the ALSA Open Space Fee is for open space expenditures in the eastern area of East Alameda County and 20 percent is for expenditures in the western area of East Alameda County. The Project site is within the eastern area.

Vasco Road Landfill Open Space Fees

On May 4, 2006, the Alameda County Board of Supervisors upheld the County Planning Commission's approval amending the Conditional Use Permit for the Vasco Road Landfill to continue landfill and recycling activities. Consistent with the language in the ALSA, the approval requires the Vasco Road Landfill operator (Republic Services, Inc.) to collect the same per-ton fees for open space, recycling/diversion education, and host community impact, as the Altamont Landfill operator (Waste Management of Alameda County, Inc.).

Vasco Road Landfill Conditions of Approval require the collection and expenditures from the fee accounts to be identical to that under the ALSA.

Altamont Landfill Open Space Fund Status

The funds from the ALSA and Vasco Road Landfill open space fees are combined and managed by Alameda County as the Altamont Landfill Open Space Fund.

³ Full Settlement Agreement available at:
https://www.acgov.org/cda/planning/AltamontOpenSpace/documents/ALOSF_SettlementAgree.pdf.

As reported to the Livermore City Council on July 8, 2024, there was about \$21.6 million in the Altamont Landfill Open Space Fund as of July 8, 2024 and \$6.5 million had been distributed for nine acquisitions in the eastern acquisition priority area totaling 1258 acres.⁴

Altamont Landfill Open Space Fund Grant Criteria

Funding allocations are recommended by the voting members of the Altamont Landfill Open Space Committee. The current voting members on the Altamont Landfill Open Space Committee for east county acquisitions in which the Project is located include the City of Livermore (Vice Mayor Carling), Alameda County (Shawn Wilson for David Haubert), and the Sierra Club (David Furst).

The Altamont Landfill Open Space Fund includes two priorities for acquiring open space in East Alameda County:

- 1. Preservation of Native Biological Diversity and/or Wildlife Habitat*
- 2. Land with Significant Value for Visual Character and/or Non-Motorized Recreation*

Additional adopted criteria to evaluating acquisition applications include:

- 3. Strategic Value in Land Protection*
- 4. Additional Funding Sources*
- 5. Willing Sellers*

Altamont Landfill Open Space Committee Meetings

This section summarizes the meetings of the Altamont Landfill Open Space Committee at which the Project site was discussed. A more complete summary of these Altamont Landfill Open Space Committee meetings is included as Appendix RP-B.

On September 16, 2016, the “Save the Hill Group” made a presentation to the Altamont Landfill Open Space Committee on their efforts to preserve the Project site.⁵

On September 15, 2023, the Project site (Garaventa Hills property) was first presented to the Altamont Landfill Open Space Committee by Steve Stewart, Planning Manager, City of Livermore as an Informational Item at this meeting.^{6,7} No action is taken on informational items.

⁴ City Council Staff Report for the July 8, 2024 City Council meeting, item no. 5.5 is available on page 116 of the City Council Agenda Packet at: <https://d3n9y02raazwpg.cloudfront.net/livermore/f7de6095-bee5-11ee-8fe8-0050569183fa-56f8d3ad-798a-46fd-809a-185221d02021-1720640519.pdf>.

⁵ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for September 16, 2016 meeting, available at: <https://www.acgov.org/cda/meetings/documents/09-16-16.pdf>.

⁶ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for September 15, 2023 meeting, available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_378b59d88116fc47141794581e2beffc.pdf&view=1.

⁷ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Minutes for September 15, 2023 meeting, available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_d2bffb9fdbf2efe5535b906b93878aac.pdf&view=1.

On February 16, 2024, the City of Livermore Acting Planning Manager Steve Riley made a presentation to the Altamont Landfill Open Space Committee for a grant to acquire the 32-acre Project site.^{8,9,10}

The presentation detailed that the grant application was in response to the appellate court ruling in March 2022. The lawsuit history and court's ruling were reviewed.

Acquisition of the Project site was considered by the Committee using the five Altamont Landfill Open Space Fund grant criteria, as follows. The Land Conservation Prioritization Mapping Tool ("Mapping Tool") mentioned in the analysis below was funded in part by the Committee in contract with University of California, Berkeley. The Mapping Tool scores sites on grant criteria metrics on a scale of 0.00 (worst) to 1.00 (best).¹¹ The Mapping Tool continues to be refined and is one reference metric the Committee utilizes to inform grant decision making. The following summarizes the Project site's consistency with the grant criteria.

1. Preservation of Native Biological Diversity and/or Wildlife Habitat

Based upon the environmental analysis completed for the Project site over the years (especially Chapter 7 and Appendix G of the Draft EIR and Appendix J of the Final EIR), there are documented occurrences of California tiger salamander and California red-legged frog nearby, and the Project site consists of non-native grasslands that have the potential to serve as dispersal and/or aestivation (animal dormancy during hot and dry conditions) habitat for both species. Burrowing owls were observed on or near the Project site in the past and they are expected to forage and nest on the Project site.

The seasonal wetland (0.004 acre) in the western portion of the Project site is potentially suitable habitat for Vernal Pool Fairy Shrimp (VPFS) because VPFS occur in alkaline pools of varying depths, there are recorded occurrences of the species nearby, and the Project site lies within designated critical habitat for VPFS. The wetland is likely the result of a hole dug to create a dirt bike jump.

Acquiring the property would be consistent with this criterion.

2. Land with Significant Value for Visual Character and/or Non-Motorized Recreation

This Project site includes a couple of knolls with varying elevations between approximately 537 and 607 feet above mean sea level. It is visible to a smaller, more localized area of the surrounding homes, from Altamont Creek Park, and from Vasco Road. The Project site is private property and does not have formal public trails, but the public does access the site and has worn informal trails across the site.

⁸ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for February 16, 2024 meeting, attached as Appendix RP-C, and available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_2e395407e90d8ff2ef29d875e8c42a10.pdf&view=1.

⁹ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Minutes for February 16, 2024 meeting, attached as Appendix RP-C, and available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_733af3ee222b949fb9ce86c3a17cf0b7.pdf&view=1.

¹⁰ Riley, Steve, Altamont Landfill Open Space Committee Presentation, February 16, 2024, available as Appendix RP-C.

¹¹ Land Conservation Prioritization Mapping Tool, developed for Altamont Landfill Open Space Committee by University of California, Berkeley, July 2021, available at: <https://geoportal.ucanr.edu/alosac/>.

Acquiring the property would be consistent with this criterion.

3. Strategic Value in Land Protection

The Project site is within the City's North Livermore Urban Growth Boundary and City boundary. The City typically seeks to strengthen the Urban Growth Boundary by acquiring properties beyond to control and stabilize the land use. According to the Mapping Tool, the Project site is not within the top 100 parcels for land conservation prioritization (see Appendix RP-B).

The Project site is directly north of Altamont Creek and east of the Garaventa Wetlands Preserve owned and managed by the Livermore Area Recreation and Park District (LARPD) and the Project site is adjacent to the Garaventa Wetlands Preserve and the parcels to the north where drainage flows to the greater Springtown Alkali Preserve. However, the Project site gets a 0 (lowest possible score) in the three connectivity categories from the Mapping Tool because the Project site is disconnected from the highest priority sites identified in the Mapping Tool.

4. Additional Funding Sources

City staff worked in parallel to explore the possibility of utilizing funds from the Dougherty Valley Settlement Agreement to contribute half of the acquisition and transaction costs, approximately \$440,000.00. Use of the Dougherty Valley Open Space Funds is subject to review and approval by the Livermore City Council. (See the Dougherty Valley Settlement Agreement section below for additional information.)

5. Willing Sellers

The owners are not willing to sell the Project site to the City for open space value or discuss the sale of the site at values based on residential uses. City staff provided copies of a series of recent communications between the Project site owners and the City regarding their intentions with the property.

All open space acquisitions to date from the Altamont Landfill Open Space Fund have met all five of the above criteria.

City staff concluded the presentation stating that the proposal before the Committee was whether to contribute \$440,000 in open space funds toward the acquisition of the Project site for preservation as open space.

Following the presentation, the Committee confirmed that offers were made to the property owners of the Project site.¹² One voting member of the Committee stated this was not a legitimate grant request because the City knows there is not a willing seller, and the City is only fulfilling the court's request. Some members of the public also stated this was a farce application. One member recollected a previous grant request for a property within the Livermore Urban Growth Boundary that had a value of \$41,000 per acre. If applied to the Garaventa Hills Property, then an appropriate offer would be \$1,784,000.

¹² Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Minutes for February 16, 2024 meeting, attached as Appendix RP-C, and available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_733af3ee222b949fb9ce86c3a17cf0b7.pdf&view=1.

The voting representative for the City of Livermore then made a motion to offer the Garaventa Hills property owner \$1.7 million. The Committee Chair said if the Project site property owner accepts the value, then the application would return to the Committee for consideration.

On March 15, 2024, the City of Livermore Acting Planning Manager Steve Riley made a presentation to the Altamont Landfill Open Space Committee regarding the Garaventa Hills grant application that was continued from the February 16 meeting.^{13,14,15}

Consistent with Committee direction, the City of Livermore had offered \$1,736,000 to the Project site property owners. In response, the property owner declined the offer and requested that the City not send any further offer letters.

Some members of the public were curious why the proposal was before the Committee if the property owner is not a willing seller. City of Livermore staff reminded the Committee that the matter is before them following the decision of the appellate court that said the “No Project” alternative in the EIR should include a discussion of acquisition and preservation of the site as open space utilizing the Altamont Landfill Open Space Fund.

The Committee voted unanimously (3-0) to recognize the owners of the Project site are not willing sellers and therefore the Project site does not meet the funding criteria and the Committee will not approve a grant of the Altamont Landfill Open Space Fund for the purchase of the Project site.

Dougherty Valley Settlement Agreement

In 1992, the Contra Costa County Board of Supervisors approved the Dougherty Valley Specific Plan for the development of over 5,000 units on approximately 6,000 acres owned in part by Windemere Ranch Partners and Shapell Industries, Inc. Windemere and Shapell then undertook efforts to secure water service to approximately 4,400 acres from the Dublin San Ramon Services District (DSRSD) and Zone 7.

Zone 7 and DSRSD amended their water supply agreements to expand DSRSD’s service area to include the Dougherty Valley and utilize water from Zone 7 to serve the development area. The Citizens for Balanced Growth and the City of Livermore filed suit against Zone 7, DSRSD, Windemere, and Shapell, alleging that the water agreement amendment with DSRSD was not authorized under Zone 7’s enabling legislation and not in conformance with CEQA.

In 1999, the lawsuit parties entered into the Dougherty Valley Settlement Agreement (DVSA), which required Windemere and/or its successors to pay the City of Livermore \$1,000 per residential unit as an open space conservation fee. The fee was subject to an annual consumer price index adjustment and averaged approximately \$1,056 per residential unit over the 10-year buildout. All 5,170 units have been built and the Dougherty Valley project areas have been annexed into the City of San Ramon.

¹³ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for March 15, 2024 meeting, attached as Appendix RP-D, and available at: https://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_7e7b82a78ca2faa6d1350744a3c38fc6.pdf&view=1.

¹⁴ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Minutes for March 15, 2024 meeting, attached as Appendix RP-D.

¹⁵ Riley, Steve, Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee Presentation, March 15, 2024, attached as Appendix RP-D.

As reported to the Livermore City Council on July 8, 2024, there was approximately \$5.03 million in the DVSA Fund as of July 8, 2024.¹⁶ In 2011 and 2013, the City Council authorized expenditures of \$1 million and \$250,000 from this account for the East Bay Regional Park District's acquisition of the Farber Property on Laughlin Road and Eddies Flat off of North Vasco Road. There have been no other expenditures from this account.

Dougherty Valley Settlement Fund Expenditure Priorities and Process

The DVSA Fund is for Livermore or its designee exclusively for purchase from willing sellers of permanent easements or fee title for conservation or agricultural preservation purposes. Priorities for funding are for acquisitions, including permanent trails, open space, or agricultural preservation easements in areas north of I-580 and east of Collier Canyon Road within Alameda County. The Project site is within the acquisition priority area.

The DVSA requires Livermore staff to develop recommendations concerning proposed acquisitions of permanent easements or fee title for conservation or agricultural preservation purposes. It also requires staff to meet and confer with Citizens for Balanced Growth before formulating and presenting acquisition recommendations to the Livermore City Council. Should staff recommendations differ from those preferred by Citizens for Balance Growth, the staff report shall specify and explain the differences. Following receipt of the staff report, the City Council will place proposed acquisitions on its agenda for public discussion. The City Council may render an expenditure decision after public discussion.

Summary of Interaction between City Staff and Citizens for Balanced Growth

Consistent with the DVSA, City staff and representatives from Citizens for Balanced Growth have been meeting for over 20 years to discuss the open space funds generated under the DVSA and their use for acquiring open space. City staff and Citizens for Balanced Growth held 16 meetings from 2003 to the present. The first meeting was on March 26, 2003. The most recent meeting was on May 15, 2020.

City staff are currently negotiating several acquisitions for open space conservation purposes in northern Livermore that are eligible to utilize DVSA funds. Staff have sought to meet and confer with Citizens for Balanced Growth to formulate recommendations for these acquisitions to the Livermore City Council. In response to the March 2022 appellate court decision, City staff also sought to meet and confer with them regarding use of the DVSA funds for acquiring the Project site even though the property owner was not a willing seller.

City staff have made numerous attempts to meet and confer with Citizens for Balanced Growth since late 2023 and the first quarter of 2024. On April 9, 2024, City staff sent a letter to representatives for Citizens for Balanced Growth after over four months of attempting unsuccessfully to meet with them, summarizing the attempts to meet and confer with them and making one last attempt to meet and confer with them prior to formulating recommendations to the City Council. Further, the letter stated that staff would formulate specific recommendations if they did not meet and confer with City staff by April 24, 2024. Regarding the Project site, the stated recommendation would be that "Citizens for Balanced Growth does not support the expenditure of Dougherty Valley settlement funds for the City of

¹⁶ City Council Staff Report for the July 8, 2024 City Council meeting, item no. 5.5 is available on page 116 of the City Council Agenda Packet at: <https://d3n9y02raazwpg.cloudfront.net/livermore/f7de6095-bee5-11ee-8fe8-0050569183fa-56f8d3ad-798a-46fd-809a-185221d02021-1720640519.pdf>.

Livermore to acquire the Garaventa Hills property,” and the other properties. Citizens for Balance Growth did not meet with City staff following the April 9, 2024 letter from City staff.

Therefore, acquisition of the Project site for open space conservation purposes is ineligible for use of the DVSA funds because the property owners are not willing sellers, which is an explicit criterion for funding eligibility. Because neither City staff nor Citizens for Balanced Growth are recommending use of the funds to acquire the property, the matter is considered closed and does not proceed to City Council.

Other Open Space Funding Sources

The City evaluated two other funding sources dedicated to acquiring, conserving and managing open space as a potential source of funding to acquire the Project site as open space. One source is the Open Space Acquisition and Management Fund, and the other is the Transferable Development Credits Fund.

Additionally, ballot initiatives/bond measures can be used for Livermore voters to authorize General Fund allocation (and fund raising) for acquisition of a property for open space preservation.

Transferable Development Credits Fund

In 2002, the City Council adopted the North Livermore Urban Growth Boundary Initiative (Initiative) to protect agricultural land and other open space in North Livermore from excessive and irretrievably harmful development. The Initiative created the North Livermore Urban Growth Boundary, required the City to develop a Transferable Development Credits (TDC) Program, and included the basis for granting credits to properties in North Livermore and utilizing credits to build residential units that would otherwise not be permitted by the General Plan. The TDC Program (Livermore Municipal Code Chapter 3.27) includes provisions to pay a fee in lieu of utilizing credits in North Livermore to exceed baseline density.

The TDC Program is designed to be part of a multiple-component approach to open space preservation. It allows revenue from TDC in-lieu fees to be used in conjunction with other funds for acquisition and/or preservation of open space and/or agricultural lands in North Livermore. The use of TDC in-lieu fees in conjunction with other funds is subject to retiring TDC credits on the acquisition property. Other than TDC acquisition, revenue from TDC in-lieu fees may be used for costs incurred in administering the TDC Program including, but not necessarily limited to, facilitating TDC transactions, preparing/recording TDC easements, monitoring/enforcing easements, and maintaining records. One of the stated aspects of open space preservation through the TDC Program is to avoid government expenditure of taxes for extended facilities and services.

The TDC Program applies solely to lands beyond the Urban Growth Boundary and within North Livermore as defined by the Initiative. The Project site is located within the Urban Growth Boundary and is not within North Livermore as defined by the Initiative. Further, participation in the TDC program is stated as a choice available for willing property owners. The Project site property owners are not willing sellers. For these reasons, acquisition of the Project site is ineligible for the use of revenue from the TDC program.

Open Space Acquisition and Management Fund

Since 2015, the City has entered into sales agreements to sell conservation easements on City-owned property for development projects in the City of Dublin and Discovery Bay. On December 14, 2015, the Livermore City Council adopted Resolution 2015-182, committing revenue from these and subsequent transactions for open space acquisition, maintenance and management activities on City-owned open

space lands.¹⁷ As reported to the Livermore City Council on July 8, 2024, there was \$2.93 million in the account set aside for open space acquisition and management activities as of July 8, 2024.¹⁸

The City is responsible for the maintenance and management of properties it owns. Funds from this account contribute to covering the costs of such open space maintenance and management activities. For example, funds from the Open Space Acquisition and Management Fund were used for maintenance to a large stand of eucalyptus trees to minimize future damage to roadways and the biologically sensitive stretch of Cottonwood Creek on the City-owned Doolan Canyon property.

On July 8, 2024, the Livermore City Council approved a contribution of \$856,000 from the Open Space Acquisition and Management Fund toward the acquisition of approximately 125.5 acres located approximately 1/2 mile east of Greenville Road, south of Interstate-580 in the Altamont Hills. The City would own and manage the property for open space conservation.¹⁹

The remaining funds, approximately \$2.07 million, could be utilized to contribute toward acquiring the Project site. However, the Project site owners are not willing sellers, and acquisition by the City would require the use of eminent domain. For the reasons discussed below, acquisition would exhaust the fund balance and require maintenance and management activities of the city's open space properties to rely upon the city's General Fund.

Ballot Initiatives/Bond Measures

The City could place the question of utilizing city General Funds to acquire the Project site as a ballot measure before Livermore voters. Voters would be asked to approve or deny proposed spending on the acquisition. Such an initiative could include raising funds for the acquisition through increases in sales or property taxes.

The City has used ballot initiatives and bond measures in the past to fund critical infrastructure and community-serving projects. For example, in November 2022, Livermore voters passed Measure P to enable the city to provide sanitary sewer service for wine country uses beyond the South Livermore Urban Growth Boundary. The City has also issued bonds in the past to fund public and community serving purposes like funding library construction and renovations to the Civic Center.

On September 16, 2016, the Save the Hill Group made a presentation to the Altamont Landfill Open Space Committee to consider granting funds to acquire the Project site.²⁰ The Altamont Landfill Open Space Committee recommended the Save the Hill Group pursue a ballot measure initiative to raise funds for acquiring the property. Such an initiative has not been sponsored to date.

¹⁷ Resolution 2015-182 available at: <https://portal.laserfiche.com/Portal/DocView.aspx?id=228223&repo=r-2ba0e88a&searchid=62df63e7-58d8-4459-bf32-ce29c9361161>.

¹⁸ City Council Staff Report for the July 8, 2024 City Council meeting, item no. 5.5 is available on page 116 of the City Council Agenda Packet at: <https://d3n9y02raazwpg.cloudfront.net/livermore/f7de6095-bee5-11ee-8fe8-0050569183fa-56f8d3ad-798a-46fd-809a-185221d02021-1720640519.pdf>.

¹⁹ Ibid

²⁰ Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for September 16, 2016, available at: <https://www.acgov.org/cda/meetings/documents/09-16-16.pdf>.

The City's cost per acre for previous open space acquisitions ranges from below \$10,000 per acre to a more recent acquisition at \$16,800 per acre.²¹

The Project site owners are not willing sellers, and acquisition by the City would require the use of eminent domain at a cost upwards of one half to one million dollars per acre. See below for additional discussion of eminent domain. Utilizing eminent domain would require paying the property owners fair-market value. The General Plan designates the Project site UL-1 (Urban Low Residential 1-1.5 dwelling units per acre). The Project site's current zoning is "PD" (Planned Development). The current zoning designation reflects the Project site's inclusion in the "PUD" (Planned Unit Development) for the "Maralisa" project, which has otherwise been developed to the south of Altamont Creek (see Chapter 13 of the Draft EIR). Consequently, the fair market value is for residentially zoned property, which is at a higher price than the previously discussed open space offers. Paying residential values to preserve the property as open space would require the City to use General Funds that are allocated to other priorities like public health and safety to cover the acquisition. It would also adversely increase comparable sales for other organizations seeking to acquire open space on the open market. While utilizing General Funds and/or proceeds from bond issuance are technically possible, the use of these funds to acquire the property via eminent domain would be contrary to the City's past practice and would likely face rejection by Livermore voters.

Eminent Domain for Acquiring the Property from Unwilling Sellers

The City typically acquires open space land in fee simple interest from willing sellers. The market-based transactions follow good-faith negotiations and are based upon an appraisal to establish the fair market value. However, as detailed under "Offer Letters and Responses" above, the property owner is not a willing seller. A property can be acquired from an unwilling seller through the use of eminent domain.

The government's power to condemn private property for a public use is known as eminent domain, as defined in the United States Constitution (Fifth Amendment), the California Constitution (Article 1, Section 19), and the California Code of Civil Procedure section 1230.010, et seq. for California Eminent Domain. There are two constitutional limitations on the power of eminent domain: 1) just compensation must be paid for the property condemned and 2) the property must be necessary for a public use.

Historically, the City's use of eminent domain has been to acquire portions of private property for public right-of-way purposes (roadways, sidewalks, trails, etc.). The City utilizes eminent domain as a last resort when acquisition of a property is necessary for a public use and all other attempts to acquire a property through negotiation have failed. Utilizing eminent domain to acquire the Project site would be contrary to the City's past practice and may not withstand legal scrutiny. Additionally, such an eminent domain acquisition, if successful, would set a precedent and establish unrealistic expectations for the City to acquire property in order to prevent a development project opposed by some members of the public even though the Project is consistent with the City's General Plan and zoning.

Acquiring the Project site through eminent domain would require the City to pay fair-market value reflecting its current residential General Plan and zoning designations, estimated to be between \$17-35 million (\$536,277 to \$1,104,100 per acre) based upon an estimated market value between \$385,000 to \$795,000 per residential lot.²² Given costs associated with the legal proceedings and duration of the

²¹ This range is based on City staff review of Grant Agreements and/or escrow documents from recent open space acquisitions by the City.

²² Estimated market value per residential lot was based upon City staff conversations with local land/real estate brokers/developers in the spring/summer of 2023.

eminent domain process, the actual cost to acquire the property through eminent domain would be higher than the fair-market value paid to the property owner. The City could also face legal challenges from the Project site developer and property owner that would increase total costs to the City.

Considerations for Rezoning a Housing Element Residential Site

The Project site has been designated for residential uses since at least the 1976 Livermore General Plan, including in the Maralisa plan. Consistent with this long-established residential designation, the Project site is identified in the current Livermore General Plan Housing Element site inventory as a site for residential development (44 units) that would help to meet the city's Regional Housing Needs Assessment (RHNA).²³

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. This is commonly referred to as the Housing Element Law.²⁴ California's Housing Element Law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development. California's local governments meet this requirement by adopting Housing Elements as part of their General Plan (also required by the state). As a result, housing policy in California rests largely on the effective implementation of local General Plans and, in particular, local Housing Elements.

To expand the supply of housing, including affordable housing, and to ensure jurisdictions do not take actions to reduce the potential capacity for new residential development, the No Net Loss Law was adopted in 2002 and amended in 2017.²⁵ The No Net Loss Law requires that a jurisdiction maintains a sufficient supply of adequate sites in the Housing Element sites inventory to meet a jurisdiction's remaining unmet housing needs for each income category at all times throughout the RHNA planning period. To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use or development occurs, jurisdictions must assess their ability to accommodate new housing on the remaining sites in their Housing Element site inventories. A jurisdiction must add adequate sites if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category.

If the Project site were to be preserved as open space as discussed in Alternative A: No Project, No Development, it would represent the loss of a residential development site identified in the Housing Element's sites inventory. As explained by the California Department of Housing and Community Development, to take such an action, the City of Livermore would need to make findings under the Housing Element Law and the No Net Loss Law, supported by substantial evidence, that:²⁶

²³ City of Livermore, 2023-2031 Housing Element, adopted March 13, 2023, Figure ES-2: Sites Inventory Map and Appendix A, Table A: Housing Element Sites Inventory, Assessor's Parcel Number displayed as 099B530001000, available at <https://www.livermoreca.gov/departments/community-development/planning/housing-element>.

²⁴ California Government Code, § 65584, available at https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65584.

²⁵ California Government Code, § 65863, available at https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65863.

²⁶ California Division of Housing Policy Development, Memorandum for Planning Directors and Interested Parties: No Net Loss Law, October 2, 2019, available at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>.

- *The reduction is consistent with the jurisdiction’s adopted general plan, including the Housing Element. For example, this finding could be made if the downzone does not change the land use and zoning designation.*
- *The remaining sites identified in the Housing Element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction’s remaining share of the RHNA for the planning period. The finding must include a quantification of the remaining unmet need for the jurisdiction’s RHNA at each income level and the remaining capacity of sites identified in the Housing Element to accommodate that need by income level.*

If a jurisdiction cannot make these findings, it may take action to reduce the residential density of a parcel only if it identifies or rezones additional sufficient adequate sites with an equal or greater residential density in the jurisdiction so that there is sufficient residential unit capacity appropriate to accommodate the RHNA by income level. Actions to identify additional sites or rezone must occur before or concurrently with any action or approval to reduce a parcel’s density. Sites identified or rezoned must meet the following criteria:

- *Must be considered an adequate site pursuant to the requirements of Government Code section 65583.2.*
- *If the capacity to be replaced was on a site that was zoned by-right pursuant to Government Code section 65863.2 (h) and (i), then the replacement site must also satisfy those requirements.*

As these actions taken by the jurisdiction represent a fundamental alteration to the Housing Element, the Housing Element sites inventory must then be amended and, pursuant to Government Code section 65585(b), be submitted to the Department for review to ensure the compliance with state Housing Element Law, prior to, or concurrently with, any action or approval to reduce a parcel’s density.

Alternative A: No Project, No Development would represent the loss of an identified residential development site from the Housing Element’s sites inventory. Additional process as outlined above would be required under the No Net Loss Law to approve such a change, which could further increase the costs of property acquisition and preservation.

Feasibility of Alternative A: No Project, No Development Related to Potential Funding Sources for Open Space Acquisition and Preservation

This section summarizes conclusions from the information included above and presents an updated discussion of the feasibility of the Alternative A: No Project, No Development given the conclusions related to potential funding sources for open space acquisition and preservation of the Project site and related considerations.

The property owner is not a willing seller. Without a willing seller, the Project site has been determined not to be eligible for funding through the Altamont Landfill Open Space Fund or the Dougherty Valley Settlement Agreement funds.

Use of eminent domain to acquire the property from an unwilling seller, if it could be defended legally, would be costly (over \$17-25 million) and contrary to the City’s past practice. There are other funding sources available for an eminent domain approach, including the Open Space Acquisition and Management Fund, Transferable Development Credits Fund, and/or General Fund allocation (if

authorized by voters through ballot initiatives/bond measures); however, these funds are either not eligible to be used for the Project site or are prioritized elsewhere.

Additionally, the Project site has a long-established residential designation, and is identified in the current Livermore General Plan Housing Element site inventory as a site for residential development. Under the No Net Loss provisions of state housing laws, additional process would be required to remove the Project site from the Housing Element's residential development site inventory, which could add additional cost to the acquisition of the site for open space preservation.

Alternative A: No Project, No Development represents the possibility that the Project site would be preserved as open space. As discussed above, the potential funding sources for such open space acquisition and preservation have been explored and it has been concluded that the site is either ineligible for use of those funds due to an unwilling seller or would require legally-complicated and cost-prohibitive fair market value eminent domain proceedings and use of funds prioritized elsewhere.

The analysis and evidence cited above can support a conclusion by the lead agency that Alternative A: No Project, No Development involving site acquisition and preservation as open space is not a "feasible" alternative the lead agency is compelled to adopt.^{27, 28} The lead agency will take this evidence and analysis into account when making the findings required by CEQA regarding the feasibility of Alternative A: No Project, No Development.

²⁷ CEQA Guidelines Sections 15126.6(f)(i); 15091(a)(3).

²⁸ See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 (assessing alternatives feasibility, "involves a balancing of various 'economic, environmental, social, and technological factors'; "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" [internal citations omitted]).

RP Draft EIR Report Preparers and References

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Rebecca Auld (formerly Gorton), Vice President
Jenna Sunderlin, Environmental Planner
4100 Redwood Road, STE 20A - #601
Oakland, CA 94619
510-535-6690

City of Livermore

This document was prepared in consultation with City of Livermore staff, including Shannon Pagan, Assistant Planner, Steve Stewart, Special Projects Coordinator, and Steve Riley, Acting Planning Manager.

References

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8. Altamont Landfill & Resource Recovery Facility Open Space Advisory Committee, Agenda for February 16, 2024 Meeting, February 16, 2024, available at:
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PROJECT SITE OFFER LETTERS AND OWNER RESPONSES

APPENDIX RP-A

to the
Garaventa Hills Project Recirculated Partial Draft EIR



February 2, 2024

Sharon Albright & Karen Elk Trust
c/o Lisa Quisito, Executor of the Estate 740
Richmond Street
El Cerrito, CA 94530
(Transmitted via email)

Re: Letter of Offer
APNs: 099B-53-0-1 (the "Garaventa Hills Property")

Dear Ms. Albright and Ms. Elk,

I am writing to make an offer on behalf of the City of Livermore for the Garvaventa Hills Property, comprising of one parcel of 31.67 acres, Assessor's Parcel Number: 099B-53-0-1. Below are the City's principal terms for inclusion in a Purchase and Sale Agreement by and between you ("Seller") and the City of Livermore ("Buyer"):

1. Single lump sum payment of \$868,480, contingent on receipt of clear title;
2. All closing costs to be paid by the buyer;
3. Close of escrow no later than thirty (30) days following execution of a Purchase and Sale Agreement.

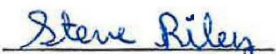
Please note that this offer is contingent upon final approval and funding allocation by the Livermore City Council and the allocation of funding from at least one outside source such as the Altamont Landfill Open Space Committee.

To accept the City's contingent offer, please sign this offer letter and send back to me. If you do not accept the offer, please provide in writing your reason(s) for not accepting the offer. **We need your response by 5 p.m. Wednesday, February 7, 2024.**

If we receive your signature to accept this offer, we will initiate our formal purchase and sale process, which includes sending you the City's standard Purchase and Sale Agreement, to be signed digitally via DocuSign.

If you would like to further discuss terms, conditions, and considerations for the sale of the property or have any questions, please contact me at (925) 960-4461 or spriley@livermoreca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Steve Riley". The signature is written in a cursive style and is positioned above a horizontal line.

Steve Riley
Acting Planning Manager
City of Livermore

Sharon Albright & Karen Elk Trust
c/o Lisa Quisito, Executor of the Estate
Property Owner

cc: Paul Spence, Assistant City Manager/Community Development Director
Kim Cilley, Senior Assistant City Attorney

From: Lisa Quisito [REDACTED]
Sent: Monday, February 5, 2024 9:24 AM
To: Stephen Riley <spriley@LivermoreCA.gov>; David Ragland [REDACTED]
Cc: Paul Spence <prspence@LivermoreCA.gov>; Kimberly Cilley <kdcilley@LivermoreCA.gov>; Mary Anne Rozsa [REDACTED]; Rich Garchar [REDACTED]; Lisa Quisito [REDACTED]
Subject: Re: Offer Letter

Exercise Caution: This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Mr. Riley,

Responding to your February 2, 2024 letter, the owners of the Garaventa Hills Property hereby reject the City of Livermore's low-ball, highly contingent \$868,480 "offer" for the purchase of this property. Although the owners have no duty to comply with the City's demand that the owners provide reasons for rejecting the City's offer, the reason is pretty simple. The owners have a pending contract with Lafferty to sell the property for 400% of the City's offer price.

Moreover, even if the owners tried to accept the City's offer (and there is zero interest in doing so), the owners are pretty sure that Lafferty would sue both the owners and the City for breach of contract and interference with contract. Lafferty has a wonderful plan for preserving the unique features of the Garaventa Hills Property while providing badly needed homes for Livermore residents.

The City should fulfill its legal duty and approve the Lafferty plan without any further delay.

Lisa Quisito

[REDACTED]



February 8, 2024

Sharon Albright & Karen Elk Trust
c/o Lisa Quisito, Executor of the Estate 740
Richmond Street
El Cerrito, CA 94530
(Transmitted via email)

Re: Follow up to Letter of Offer
APN: 099B-53-0-1 (the "Garaventa Hills Property")

Dear Ms. Quisito,

Thank you for your prompt response to the City's February 2, 2024, contingent offer letter to acquire the Garaventa Hills Property, which includes one parcel of 31.67 acres identified by APN: 099B-53-0-1. Based upon your response, the City understands the Trust rejects the City's contingent offer to acquire the property for \$868,480.00, which represents the City's highest value for open space.

In response to your email dated February 5, 2024, please let me know if the owners are interested in discussing a potential acquisition by the City that considers the fair market value of the property based on its residential use, in accordance with the City's General Plan and zoning designations. If you could provide a written response no later than February 14, 2024, that would be appreciated.

If you would like to discuss the terms and timing for an acquisition based on the property's residential value, please contact me at (925) 960-4461 or spriley@livermoreca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Steve Riley".

Steve Riley
Acting Planning Manager
City of Livermore

cc: Paul Spence, Assistant City Manager/Community Development Director
Kim Cilley, Senior Assistant City Attorney

From: Lisa Quisito [REDACTED]
Sent: Tuesday, February 13, 2024 3:52 PM
To: Stephen Riley <spriley@LivermoreCA.gov>
Cc: David Ragland [REDACTED]; Kimberly Cilley <kdcilley@LivermoreCA.gov>; Paul Spence <prspence@LivermoreCA.gov>; Alicia C. [REDACTED] Rich Garchar [REDACTED]; Mary Anne Rozsa [REDACTED]
Subject: Re: Garaventa Hills Interest Letter

Exercise Caution: This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mr. Riley,

Thank you for your February 8, 2024 letter acknowledging the Garaventa Hills Property owners' response to the City of Livermore's prior contingent offer to acquire their property.

In response to your February 8th letter, the owners of the Garaventa Hills Property are not interested in discussing the potential acquisition by the City of their Property at a fair market value of the property based on its designation and zoning for residential uses. As we previously indicated, the owners of the Garaventa Hills Property are in contract with Lafferty Communities, and are committed to honoring their legal obligations under that contract.

We appreciate the City's further interest but the Garaventa Hills Property owners decline to negotiate the terms of an acquisition in light of their existing legal obligations. We look forward to the City's release of the environmental impact report for the residential project in the near future.

We think Lafferty Communities has a beautiful plan to preserve the best elements of the property and provide much needed housing in Livermore. We'd like to see the City approve this project at the earliest possible date.

Sincerely;

*Lisa Quisito
Executor of the Sharon Albright and Karen Elk Trust*



February 29, 2024

Sharon Albright & Karen Elk Trust
c/o Lisa Quisito, Executor of the Estate 740
Richmond Street
El Cerrito, CA 94530
(Transmitted via email)

Re: Letter of Offer
APNs: 099B-53-0-1 (the "Garaventa Hills Property")

Dear Ms. Albright and Ms. Elk,

I am writing to make an offer on behalf of the City of Livermore for the Garvaventa Hills Property, comprising of one parcel of 31.67 acres, Assessor's Parcel Number: 099B-53-0-1. Below are the City's principal terms for inclusion in a Purchase and Sale Agreement by and between you ("Seller") and the City of Livermore ("Buyer"):

1. Single lump sum payment of \$1,736,960, contingent on receipt of clear title;
2. All closing costs to be paid by the buyer;
3. Close of escrow no later than thirty (30) days following execution of a Purchase and Sale Agreement.

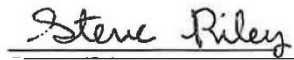
Please note that this offer is based on a recommendation made by the Altamont Landfill Open Space Committee at its February 16, 2024, meeting. This offer is also contingent upon final approval and funding allocation by the Livermore City Council and the allocation of funding from at least one outside source such as the Altamont Landfill Open Space Committee.

To accept the City's contingent offer, please sign this offer letter and send back to me. If you do not accept the offer, please provide in writing your reason(s) for not accepting the offer. We would like your response by 5 p.m. Wednesday, March 6, 2024.

If we receive your signature to accept this offer, we will initiate our formal purchase and sale process, which includes sending you the City's standard Purchase and Sale Agreement, to be signed digitally via DocuSign.

If you would like to further discuss terms, conditions, and considerations for the sale of the property or have any questions, please contact me at (925) 960-4461 or spriley@livermoreca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Steve Riley". The signature is written in dark ink and is positioned above a horizontal line.

Steve Riley
Acting Planning Manager
City of Livermore

Sharon Albright & Karen Elk Trust
c/o Lisa Quisito, Executor of the Estate
Property Owner

cc: Paul Spence, Assistant City Manager/Community Development Director
Kim Cilley, Senior Assistant City Attorney

From: Lisa Quisito [REDACTED]
Sent: Friday, March 1, 2024 3:41 PM
To: Stephen Riley [REDACTED]
Cc: David Ragland <[REDACTED]> Kimberly Cilley
[REDACTED] Paul Spence [REDACTED] Guerra, Alicia C.
[REDACTED] Rich Garchar [REDACTED] Mary Anne Rozsa
[REDACTED] Lisa Quisito [REDACTED]
Subject: Re: New Offer Letter

You don't often get email from [REDACTED] [Learn why this is important](#)

Exercise Caution: This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mr. Riley,

I am responding your inquiry of February 29, 2024 as to whether the Garaventa Hills Property owners are interested in a very contingent offer from the City of Livermore to buy their property for \$1,736,960. They are definitely not interested. The owners are not interested in selling this property to the City of Livermore for reasons largely explained in response to your prior February 8, 2024 inquiry.

The owners are in a contract to sell the property to Lafferty Communities. They don't want to break that contract. They like the Lafferty development plan for their property. The owners would like to see the Lafferty project approved by the City. The owners do not want to receive any more purchase offers from the City as they are not in a position to sell their property to the City.

Moreover as was previously pointed out, even if the owners wanted to sell to the City (they do not), this could not be legally done. Both the owners and the City would probably get sued by Lafferty Communities if the current contract was broken.

We respectfully request that the City not send us any more offers to buy the property. We look forward to City's approval of the Lafferty project. Thank you.

Lisa Quisito

Sent from AT&T Yahoo Mail on Android

On Thu, Feb 29, 2024 at 8:35 AM, Stephen Riley
[REDACTED] wrote:

Hi Ms. Quisito,

Please see attached offer letter from the City of Livermore as recommended by the Altamont Landfill Open Space Committee. Please contact me with any questions or concerns you may have. Thanks for your consideration.

Steve

Stephen Riley
Acting Planning Manager
Community Development
City of Livermore
(925) 960-4461


www.cityoflivermore.net



ALTAMONT LANDFILL OPEN SPACE COMMITTEE
MEETING SUMMARIES

APPENDIX RP-B

to the
Garaventa Hills Project Recirculated Partial Draft EIR

Open Space Funds: Altamont Landfill Settlement Agreement Open Space Fund

Background

Established by 1999 Altamont Landfill Settlement Agreement. The Settlement Agreement includes two priorities for acquiring open space in East Alameda County (east of the Dublin SOI):

1. First priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

Additional criteria developed and utilized by the Open Space Committee since 2004 include Strategic Value in Land Protection, Additional Funding Sources, and Willing Sellers.

The voting members on the Open Space Committee for east county acquisitions are the City of Livermore (Vice Mayor Carling), Alameda County (Shawn Wilson for David Haubert), and the Sierra Club (David Furst).

Currently there is about \$20.6 million in the Altamont Landfill open space account.

Summary of September 15, 2023, Altamont Open Space Committee Meeting

Agenda, PowerPoint Presentation and Minutes are Attached.

Zoom Recording: 1:50 minute mark to 20:15 minute mark.

Agenda Item IV. Review Committee's Criteria for Acquiring Open Space - Steve Stewart, Planning Manager, City of Livermore – Informational Item

On September 15, 2023, the City of Livermore Planning Manager made a presentation to the Open Space Committee to review the Settlement Agreement Criteria for acquiring open space, and the criteria adopted by the Committee in 2004. Below is a summary of the presentation:

The following two criteria are written in the Settlement Agreement:

Settlement Agreement Criteria

1. First priority is for the preservation of significant native biodiversity value.
2. The second priority is for land with significant visual and/or non-motorized recreation value.

The following criteria developed and adopted by the Open Space Committee in 2004 are included on the Open Space Fund's grant application and utilized by the Open Space Committee for evaluating acquisition applications:

3. Strategic Value in Land Protection
4. Additional Funding Sources
5. Willing Sellers

The Committee developed and discussed the specific aspects below that would help clarify how properties would meet Settlement Agreement Criteria and Committee's Criteria:

Settlement Agreement Criteria

1. *Significant Native Biodiversity Value*
 - a) Are native flora or fauna present on the property?

- b) Are flora or fauna of special concern present? (e.g., biota listed on federal, or state endangered species lists or other comparable lists; species at the end of their natural range; unusual assemblages of species; rare plant communities; etc.)
- c) Does the property contain important wildlife habitat or is it valuable for protecting nearby wildlife habitat, especially for species of special concern? (e.g., Is the property designated as critical habitat or does it serve to protect critical habitat; is it valuable for protecting hydrologic flows or watersheds on which native species depend?)
- d) Is the property a corridor that links wildlife habitats?
- e) Is the quality of the habitat good for native species? (e.g., Is it relatively intact; should it be acquired for restoration purposes?)
- f) Is the habitat at risk from inappropriate (but permissible) uses if not protected?

2. *Significant Visual and/or Non-motorized Recreational Value*

- a) Is the property identified as a scenic resource in city or county general plans?
- b) Is the property identified as important for non-motorized recreation in city, county or park district plans?
- c) Is the property identified as an important acquisition target by trail users?

Additional Criteria Adopted by the Altamont Landfill Open Space Committee

3. *Strategic Value in Land Protection*

- a) Is the property at risk of development if not acquired or protected?
- b) Can acquisition of the property protect a larger area from development (e.g., by securing an urban growth boundary or an existing greenbelt)?
- c) Is the property contiguous to existing protected lands or does it link protected lands?
- d) Does the property fit into a long-term strategic plan for land protection in Alameda County?
- e) Does the property fit into a city's land protection goals?

4. *Additional Funding Sources*

- a) Are other agencies, conservancies, conservation organizations or jurisdictions interested in helping protect the property?
- b) Are there other sources of funds to tap?
- c) Will collaboration on acquisition of a particular property forge relationships that will be valuable for future acquisitions?

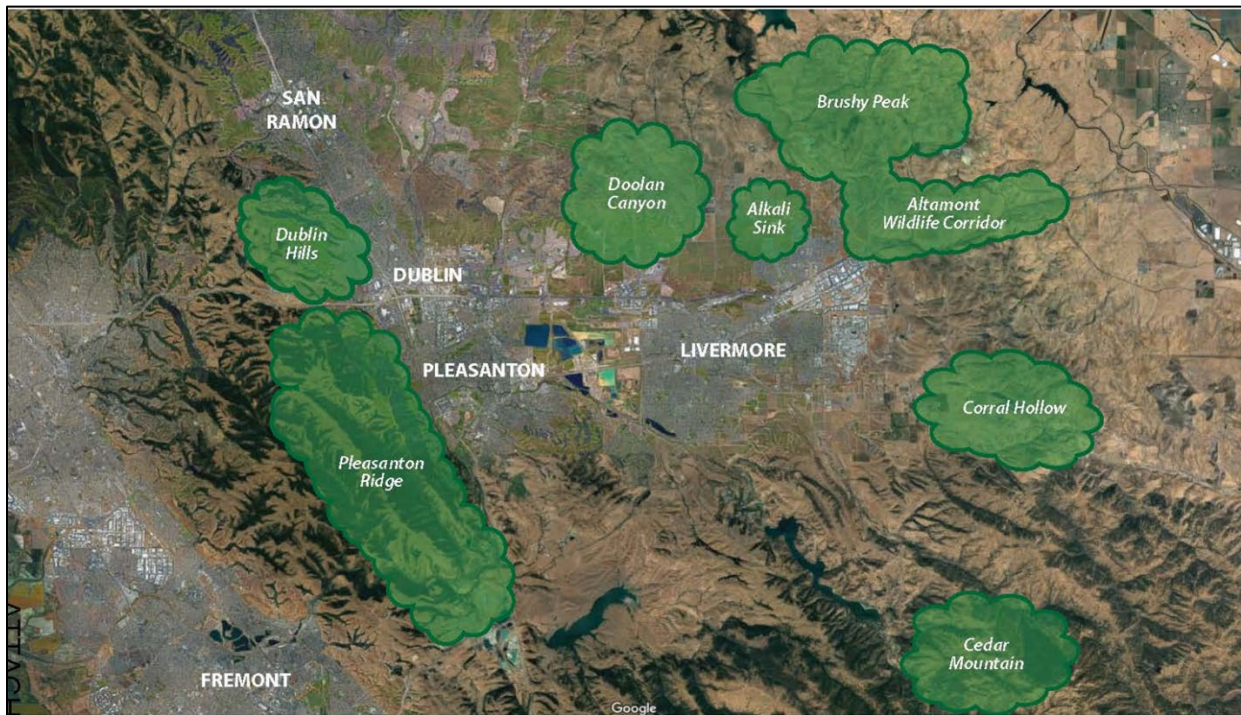
5. *Willing Sellers*

- a) Is the property currently on the market?

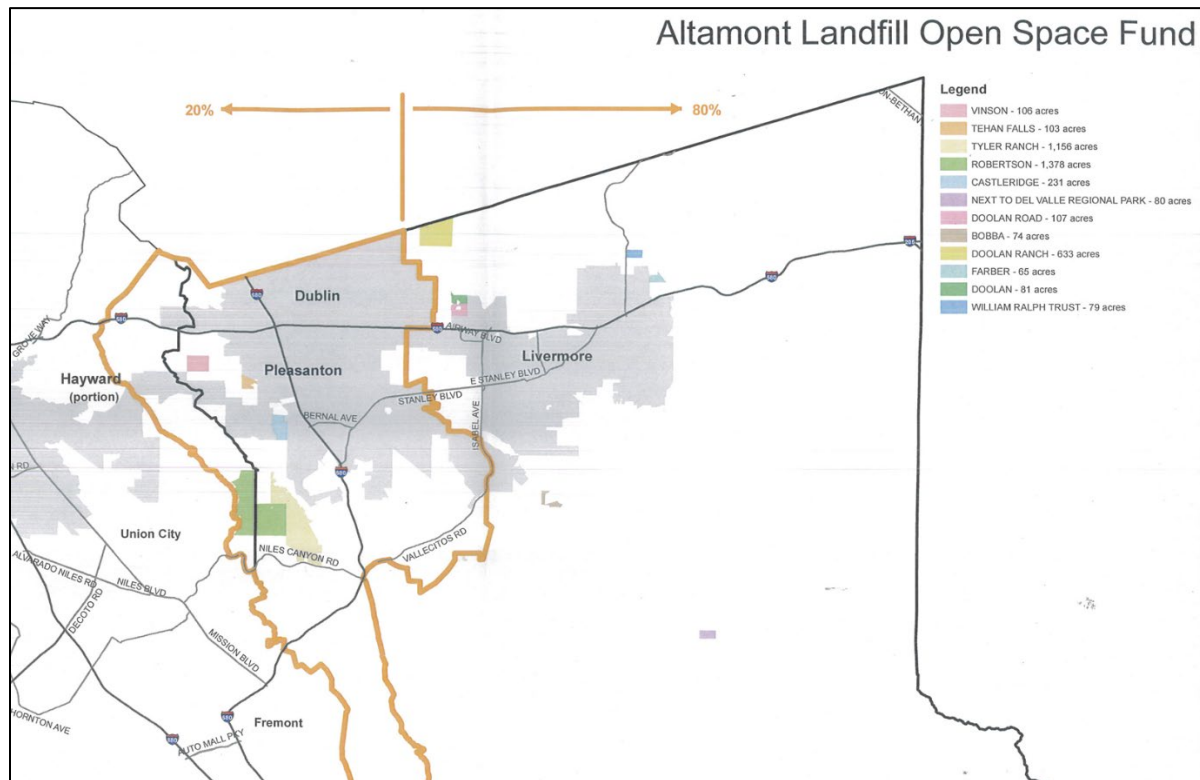
- b) Are the property owners willing to sell the land or willing to sell conservation easements?
- c) Have the owners expressed an interest in conservation values?
- d) Are the owners aware of the concept of conservation easements and the availability of funds for their purchase?
- e) What is the cost of the property compared to the benefit received?

On September 16, 2016, the Committee adopted acquisition priority areas that are illustrated on the map below:

Altamont Landfill Settlement Agreement Open Space Acquisition Priority Areas



The Committee then reviewed the following figure and table as part of the September 15, 2023, presentation showing acquisitions over time:



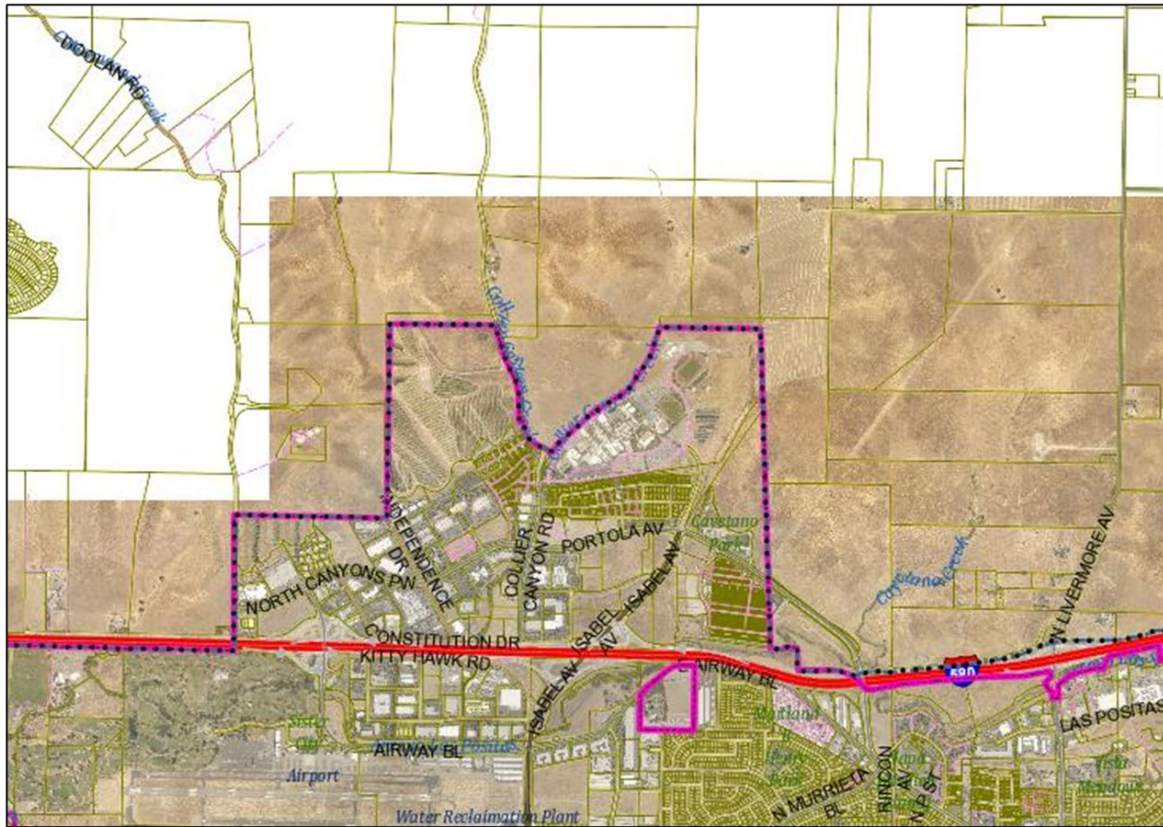
Altamont Landfill Settlement Agreement – East County Acquisitions

City Council Date	Grant Amount	Acres	Acquisition Entity	Location
February 25, 2008	\$200,000	80	East Bay Regional Park District	Adjacent to Del Valle Regional Park (Newbury Property).
July 13, 2009	\$1,040,465	107	City of Livermore	Doolan Road adjacent to UGB and City Boundary
September 27, 2010	\$300,000	74	Tri-Valley Conservancy	Bobba Property off Arroyo Road near the Veterans' Hospital
October 25, 2010	\$2,000,000	633	East Bay Regional Park District	Doolan Ranch
June 27, 2011	\$1,000,000	65	East Bay Regional Park District	Farber Property
October 28, 2013	\$420,000	81	City of Livermore	Doolan Road north of City-owned properties
December 9, 2013	\$500,000	79	East Bay Regional Park District	Eddie's Flat between Vasco and Laughlin Road
October 27, 2017	\$132,200	2	East Bay Regional Park District	Gosselin Property (staging area and trail easement for access to Doolan Ranch)
December 10, 2018	\$1,000,000	137	City of Livermore	Doolan Road adjacent to Dublin and in proximity to Doolan Ranch
January 29, 2019	\$500,000	0	Tri-Valley Conservancy	Shadow Cliffs to Del Valle Trail Bridge
Total	\$7,092,665	1,258		

In conclusion, the Committee was reminded that all of these acquisitions were made utilizing the criteria in the Settlement Agreement and criteria adopted by the Open Space Committee. The Committee did not have any questions or further discussion.

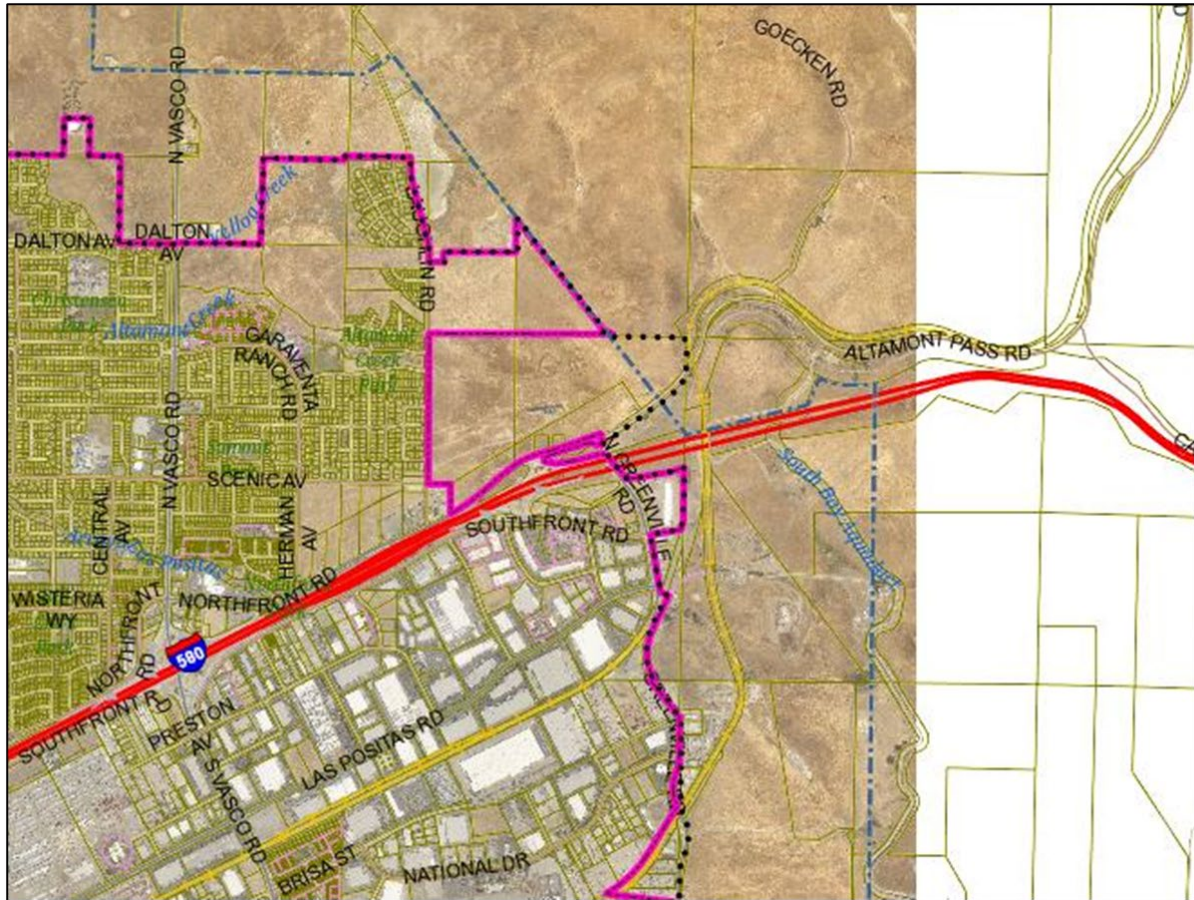
Agenda Item V. Update on open space/habitat acquisition activities - Steve Stewart, Planning Manager, City of Livermore – Informational Item

The Planning Manager displayed the following image and discussed the City of Livermore's open space and habitat acquisition activities:



The Committee was reminded that over the last 20 years since the Open Space Committee has been meeting, there have been occasional updates regarding acquisition activities of various organizations. The Planning Manager informed the Committee that city staff is engaging with a real estate broker for a property in the area north of Las Positas College and east of the existing vineyards along Collier Canyon Road. The City will continue engaging with the property owner, get authorization from the City Council to negotiate, and hopefully return with a grant application for the Open Space Committee to consider.

The following image was shown to continue the update:



The Livermore City Council recently authorized staff to conduct negotiations for a couple of properties north and south of I-580 and east of Greenville Road. These properties have the potential for wildlife corridors. Livermore hopes to return with grant requests for those properties.

The Garaventa Hills property was then referred to and stated that the Committee may have heard there is a push by some groups and neighbors for the city to buy the property. However, the property owner is not a willing seller. Therefore, based upon inconsistency with the Committee's acquisition criteria the property is not eligible for Altamont Landfill Settlement Agreement Open Space funds.

Generally, the Committee appreciated the update and looked forward to reviewing grant applications if they moved forward. See minutes recorded by Alameda County staff for additional information regarding these items.

Summary of February 16, 2024, Altamont Open Space Special Committee Meeting

Agenda, PowerPoint Presentation and Minutes are Attached.

Zoom Recording: 1:19:50 minute mark to 01:56:00 minute mark.

Agenda Item VII. Presentation and consideration of \$440,000 Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive) (APN: 99B-5300-10). The City of Livermore is seeking to acquire the parcel in-fee title for open space preservation. – Steve Riley, Acting Planning Manager- City of Livermore – Action Item.

On February 16, 2024, the City of Livermore Acting Planning Manager made a presentation to the Open Space Committee for a grant to acquire the 32-acre Garaventa Hills property. Below is a summary of the presentation:

The grant proposal was in response to the appellate court ruling in March 2022. The Court ruled that the Garaventa Hills Recirculated Final Environmental Impact Report (RFEIR) no-project alternative analysis was inadequate because the RFEIR “failed to disclose and analyze information regarding the availability of funding sources that could have been used to purchase and permanently conserve the Project Site.” (Court of Appeal, Published 3/30/2022).

The 32-acre site was shown outlined in blue. It lies north of I-580 and between North Vasco Road and Laughlin Road. The images showed the Garaventa Hills property context including the city boundary, and the North Livermore Urban Growth Boundary, the city’s General Plan designation which is UL-1 that stands for Urban Low Residential – 1-1.5 units per acre, and the proximity to the Garaventa Wetlands Preserve owned and managed by the Livermore Area Recreation and Park District. Informal trails worn into and over the site visible on the aerial photograph are from people accessing the site.

Three images from different vantage points were shown, including the end of Bear Creek Drive looking west, looking north from Altamont Creek Park, and looking directly west from North Vasco Road.

As mentioned during the September 2023 presentation, the site has an extensive history, including the Livermore City Council approving a 44-unit single family subdivision on the site in 2019.

Later in 2019 Save the Hill Group filed a lawsuit challenging the Environmental Impact Report certification and approval of the project. The Superior Court denied the group's challenge.

Save The Hill Group appealed, and in 2022 the Court of Appeal reversed the Superior Court's decision because the no project alternative in the EIR should have considered preserving the project site as open space, instead of developing it, using potential funding from the Altamont Landfill Open Space Account and open space funds from the Dougherty Valley Settlement Agreement.

The project applicant, Lafferty Communities, and the property owners for the Garaventa property have exercised their right to modify the EIR and bring the project back for review by the City. Consistent with the Court findings, the no- project alternative analysis in the EIR will be modified to evaluate the potential to preserve the site as open space with funds from the Altamont Landfill Settlement Agreement Fund and Dougherty Valley Settlement Agreement Fund. Thus, the city is presenting this application to follow a process identified by the Appellate Court to address deficiencies in the EIR for a residential development on the property.

Based upon the environmental analysis done on the property over the years, and included in the application, acquiring the property would be consistent with the following Settlement Agreement criteria:

1. The first priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

There are documented occurrences of California tiger salamander and California red-legged frog nearby, and the site consists of non-native grasslands that have the potential to serve as dispersal and/or aestivation habitat for both species. Burrowing owls were observed on or near the site in the past and they are expected to forage and nest on the site.

The seasonal wetland (0.004 acre) in the western portion of the Project is potentially suitable habitat for Vernal Pool Fairy Shrimp (VPFS) because VPFS occur in alkaline pools of varying depths, there are recorded occurrences of the species nearby, and the property lies within designated critical habitat for VPFS. The wetland is likely the result of a hole dug to create a dirt bike jump.

This site includes a couple of knolls with varying elevations between approximately 537 and 607 feet above mean sea level. It is visible to a smaller, more localized area of the surrounding homes, from Altamont Creek Park, and from Vasco Road. It has a 0.24 rating for viewshed on the Mapping Tool. The private property does not have formal public trails, but the public does access the site and has worn informal trails across the site which is likely the result in a 1.0 Recreation rating on the Mapping Tool.

The other criteria adopted by the Committee for evaluating open space grant request includes the following:

3. Strategic Value in Land Protection
4. Additional Funding Sources
5. Willing Sellers

Strategic Value in Land Protection.

The property is within the City North Livermore Urban Growth Boundary and City boundary. The City typically seeks to strengthen the Urban Growth Boundary by acquiring properties beyond to control and stabilize the land use. According to the mapping tool, this property is not within the top 100 parcels for land conservation prioritization.

However, the property is directly north of Altamont Creek and east of the Garaventa Wetlands Preserve owned and managed by the Livermore Area Recreation and Park District (LARPD) so the property would be strategic in terms of its adjacency to the Garaventa Wetlands Preserve and the parcels to the north where drainage flows to the greater Springtown Alkali Preserve.

The subject property gets a 0 in the three connectivity categories from the mapping tool.

Additional Funding Sources

City staff would meet and confer with Citizens for Balanced Growth to utilize open space funds from the Dougherty Valley Settlement Agreement to contribute half of the acquisition and transaction costs, approximately \$440,000.00. Use of the Dougherty Valley Open Space Funds is subject to review and approval by the Livermore City Council.

Willing Sellers

The owners are not willing to sell the property to the City for open space value or discuss the sale of the property for residential value.

City staff provided copies of a series of recent communications between the property owners and the city regarding their intentions with the property. These copies include:

- February 2 offer letter at open space value sent to Garaventa family
- February 5 response from the property owners declining the offer
- February 8 follow-up letter from the city asking if they would be interested in negotiating acquisition at fair market value
- February 13 response from the property owners stating they are not willing to discuss selling the property to any entity other than Lafferty Communities.

All of the open space acquisitions to date utilizing this funding have met all five of these criteria and all 5 criteria are included in the Committee's standard grant application to illustrate the point that if it is included in the application, it should be considered by the Committee.

City staff concluded the presentation stating that the proposal before the Committee today is whether to contribute \$440,000 in Altamont Landfill Settlement Agreement open space funds toward the acquisition.

Following the presentation, the Committee confirmed that offers were made to the property owners. One voting member of the Open Space Committee stated this was not a legitimate grant request because the city knows there is not a willing seller, and the city is only fulfilling the court's request. Some members of the public also stated this was a farce application. One member recollected a previous grant request for a property within the Livermore Urban Growth Boundary that had a value of \$41,000 per acre. If applied to the Garaventa Hills Property, then an appropriate offer would be \$1,784,000.

The voting representative for the City of Livermore then made a motion to offer the Garaventa Hills property owner \$1.7 million. The Committee Chair said if the property owner accepts the value, then the application would return to the Committee for consideration.

See minutes recorded by Alameda County staff for additional information regarding this item.

Summary of March 15, 2024, Altamont Open Space Committee Meeting

Agenda, PowerPoint Presentation and Minutes are Attached.

Zoom Recording: 37:47 Minute Mark to 1:06:28

VI. Presentation and consideration of \$850,000 Revised Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive) (APN: 99B-5300-10). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation. – Action Item Steve Riley, Acting Planning Manager- City of Livermore – Action Item

On March 15, 2024, the City of Livermore Acting Planning Manager made a presentation to the Open Space Committee regarding the Garaventa Hills grant application that was continued from the February 16 meeting.

Consistent with Committee direction, the City of Livermore offered \$1,736,000 to the Garaventa Hills property owners. In response, the property owner declined the offer and requested that the City not send any further offer letters.

Some members of the public were curious why the proposal was before the Committee if the property owner is not a willing seller. City of Livermore staff reminded the Committee that the matter is before them following the decision of the appellate court that said the "No Project" alternative in the Environmental Impact Report should include preserving the property as open space utilizing the Settlement Agreement funds.

The Committee voted unanimously (3-0) to recognize the owners of the property are not willing sellers and therefore do not meet the funding criteria and therefore the Committee will not approve funding for the purchase.

See minutes recorded by Alameda County staff for additional information regarding this item.

Top 100 Parcels for Land Conservation Prioritization as Ranked by the Land Conservation Prioritization Mapping Tool

APN	Acres	Score	rank
99A-2160-1-4	860.60	0.539038618	1
99A-2150-1-1	810.85	0.533927951	2
99A-2540-7-1	2.97	0.523412432	3
99A-2180-3	942.72	0.499667979	4
99A-2220-2	597.36	0.498235339	5
99A-2150-2-2	645.17	0.497594515	6
96-110-12	41.77	0.495096807	7
99A-2570-1	1025.51	0.493635935	8
99A-2580-1	552.69	0.493140924	9
96-100-15	9.11	0.492738038	10
99A-2180-2-6	470.20	0.491040865	11
99A-2220-1-19	473.67	0.490304939	12
99A-2540-3	1190.51	0.48862193	13
99A-2581-3-1	63.83	0.487832305	14
99A-2150-2-1	601.89	0.486035591	15
99A-2900-2	306.11	0.485114057	16
99A-2580-10	1323.05	0.485014013	17
99A-1800-4	669.94	0.484540946	18
99A-2900-1	121.12	0.48251878	19
99A-2580-9	282.71	0.482221443	20
99A-2150-1-2	383.08	0.482114453	21
96-460-12	1132.91	0.482112496	22
99A-2520-1-2	90.81	0.481999061	23
99A-1840-2	153.36	0.481823475	24
99A-2730-2	795.20	0.479709033	25
96-420-18-2	319.81	0.479640055	26
99A-2110-10-4	138.33	0.479004301	27
99A-2540-1	740.45	0.478574626	28
99A-1840-1-8	500.53	0.478231714	29
99A-2600-1-1	1153.14	0.477560621	30
99A-2800-2	683.84	0.477376911	31
96-100-8	737.23	0.477328439	32
99A-2130-2-5	280.57	0.477162926	33
96-100-7	807.65	0.476783604	34
96-420-15	169.12	0.47559782	35
96-420-16	305.24	0.475251504	36
99A-2110-7-4	97.77	0.475182976	37
99A-2540-4	323.89	0.475137325	38
96-100-4	685.22	0.474396012	39
99B-5610-1	319.18	0.474221538	40

99B-5680-1	335.73	0.474193994	41
99A-2485-2	642.52	0.473901797	42
99A-2200-1-33	520.94	0.473305983	43
99B-5650-2-1	70.52	0.472692428	44
99A-2630-2	655.42	0.472070125	45
99B-5650-2-4	83.35	0.472039048	46
96-420-19-2	316.42	0.471989995	47
96-460-8-3	199.63	0.471863214	48
99A-2630-1	1924.70	0.471654097	49
99A-2630-3	611.58	0.471214254	50
85A-6401-1-19	219.47	0.471000314	51
85A-3250-3-6	48.75	0.470834071	52
99A-2540-7-2	1304.39	0.470622999	53
99A-2180-1-3	311.36	0.470578577	54
99A-2470-5	193.62	0.470251429	55
96-100-3-2	474.30	0.469630703	56
99A-2570-2	211.35	0.468925445	57
99A-2110-10-7	100.23	0.468871884	58
96-110-11	41.01	0.468583722	59
99B-5680-15	208.61	0.468517049	60
99A-2190-1	1382.61	0.468272436	61
99A-2180-4-5	309.15	0.467611082	62
99A-2630-8	728.95	0.467126936	63
99A-2160-1-3	30.66	0.466006581	64
99A-2200-1-25	338.01	0.464030293	65
99A-2210-1-2	598.47	0.462035437	66
99B-6100-3-11	57.31	0.461657633	67
99A-2110-5	100.00	0.461507315	68
99A-2170-1-6	256.97	0.461494762	69
96-460-8-2	186.82	0.461416867	70
99A-1830-3-2	99.46	0.461142257	71
99A-2800-3	162.61	0.460440808	72
99A-2581-7	26.62	0.460239488	73
99A-1760-1-4	112.79	0.460143325	74
99A-1760-1-5	112.85	0.458976105	75
99A-2110-8	100.07	0.458701494	76
99A-2630-7	1250.85	0.458600177	77
99A-1830-3-4	99.97	0.457947629	78
99A-2100-8-1	100.09	0.457400512	79
99A-1840-3	100.01	0.457155009	80
941-2600-1-3	304.09	0.457023326	81
99A-2170-1-5	648.34	0.456924508	82
99A-2720-3	266.59	0.456786174	83
99A-1830-1-13	102.28	0.456771087	84

99A-2200-5	92.07	0.456704475	85
99B-5600-2-3	62.63	0.456219497	86
96-460-14	147.13	0.455951269	87
99A-2530-1-2	637.65	0.455801971	88
99A-2200-1-12	19.66	0.455723541	89
99A-2200-3	25.44	0.455524276	90
99A-2800-13	639.11	0.454433157	91
96-110-6-1	19.47	0.454365062	92
96-460-13	35.74	0.454220109	93
99A-2800-4	163.49	0.454073676	94
99A-2480-1-3	299.03	0.45404435	95
99B-5600-2-5	105.79	0.453506764	96
99A-2730-1-1	210.81	0.452818836	97
99A-1760-2	80.14	0.452624166	98
99B-5685-4	147.19	0.452333436	99
99B-5680-14	74.11	0.452269724	100

Data from the Land Conservation Prioritization Mapping Tool, developed for Altamont Landfill Open Space Committee by University of California, Berkeley, July 2021, available at: <https://geoportal.ucanr.edu/alosac/>.

Parcels are scored in the areas of habitat for special status species, wildlife connectivity, recreation and scenic views.

ALTAMONT LANDFILL OPEN SPACE COMMITTEE
FEBRUARY 16, 2024 MEETING AGENDA, MINUTES, AND
GARAVENTA PRESENTATION

APPENDIX RP-C

to the
Garaventa Hills Project Recirculated Partial Draft EIR

**ALTAMONT LANDFILL & RESOURCE RECOVERY FACILITY
OPEN SPACE ADVISORY COMMITTEE**

Shawn Wilson, Chair – Alameda County
Councilmember Robert Carling – City of Livermore
Councilmember Jeff Nibert – City of Pleasanton
David Furst – Sierra Club

SPECIAL MEETING AGENDA

**Regional Meeting Room, Dublin City Hall – 100 Civic Plaza, Dublin, CA
February 16th, 2024 12:30 p.m. – 2:30 p.m.**

IN-PERSON PARTICIPATION: The meeting site is open to the public. All in-person participants must adhere to posted health and safety protocols while in the building. If attending in-person and you wish to speak on a matter, please fill out a speaker card and submit to the Secretary as soon as possible. Before speaking, please state your name.

REMOTE/TELECONFERENCE PARTICIPATION: Members of the public may observe and participate in meetings by following the instructions in the teleconferencing guidelines posted on-line with the agenda at:

<http://acgov.org/cda/planning/documents/TeleconferencingGuidelinesforPublicHearings.pdf>

AT THE NOTICED DATE AND TIME LISTED ABOVE THE ZOOM WEBINAR IS ACCESSIBLE AT THIS WEB ADDRESS: <https://us02web.zoom.us/j/87632096647>

BY PHONE ONLY: (669) 900-9128 or (346) 248-7799 **Webinar ID:** 876 3209 6647

- I. Call to order/Roll Call**
- II. Approval of Minutes** – January 19, 2024 – *Continued to March 15th, 2024 Meeting*
- III. Public Comment** – Any member of the public may address the committee on a matter not on the regular agenda. No discussion or action may be taken on these items.
- IV. Presentation and consideration of \$980,000 Grant Proposal for 82-Acres at the “Hartford Hills Property”** (APNs: 902-9-3-1 and 902-9-3-2). The City of Livermore is seeking to acquire in fee title for open space preservation – Jake Potter, Senior Planner - City of Livermore – *Action Item*
- V. Presentation and consideration of \$1,740,000 Grant Proposal for 125-Acres at 18 Greenville Road** (APN: 099B-5685-01200). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner - City of Livermore – *Action Item*
- VI. Presentation and consideration of \$520,000 Grant Proposal for 32-Acres, commonly referred to as the “Cross Property”** (APN: 099B-5680-00400). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner - City of Livermore – *Action Item*
- VII. Presentation and consideration of \$440,000 Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive)** (APN: 99B-5300-10). The City of Livermore is seeking to acquire the parcel in-fee title for open space preservation. – Action Item Steve Riley, Acting Planning Manager- City of Livermore – *Action Item*
- VIII. Update on available funding** – County CDA Staff
- IX. Future Agenda Items/Speakers**

X. Next Meeting – March 15th, 2024, at a different location:

Alameda County's Public Works Building in Dublin
Address: 4825 Gleason Drive, Dublin, CA 94568

XI. Committee Questions / Comments / Adjournment

ALTAMONT LANDFILL OPEN SPACE ADVISORY COMMITTEE

February 16, 2024

12:30p.m. to 2:30p.m.

APPROVED MEETING MINUTES

- I. Call to order** – The meeting was called to order by Shawn Wilson at 12:32 p.m.
Present: Chair Wilson, City of Livermore Robert Carling, City of Pleasanton Councilmember Jeffrey Nibert, David Furst representing the Sierra Club.
- II. Approval of the minutes of January 19, 2024** – Continued to March 15th.
- III. Public Comment** – Any member of the public may address the committee on a matter not on the regular agenda. No discussion or action may be taken on these items.

Doug Mann, representing Citizens for Balance Growth, gave an overview of the organization. He said the funds from this organization are used the same way as the Altamont Open Space funds. He said this committee in the past has had only one request per agenda. about one per year. Today an unprecedented four applications representing 25% increase of all proposals over the last 25 years. He said City of Livermore hastily put together 4 grant applications last Thursday, putting these on the agenda as a special meeting so soon is a big mistake. He asked that the meeting be cancelled and continue the items to a future agenda. These projects should not be mishandled or compromised.

Karen Gouveia said she runs a non-profit for animals and said there is always a hidden agenda when items are put on an agenda so fast. She has learned that people who are in these positions constantly have people in their ears that want funds. There is an agenda tonight. She spoke on battery storage, toxicity of battery storage, and energy crisis. She told the commission that they have the right to say no.

Chair Wilson asked county counsel if items 4, 5 and 6 could be presented at the same time. County Counsel said yes. Member Furst asked about procedure and the timeline for when the meeting was called, the City informed the committee in January that they planned to submit grant applications. He asked why a special meeting and is there some politics involved in this. Liz said it is not the committee's role to consider political issues when considering grant proposals. The criteria in the settlement agreement for habitat value, scenic value, and value for non-motorized recreation are very specific.

The Chair said in the past the applicant has been a special district or land trust, and not sure if this committee has considered an application from the City. He asked County Counsel if he is allowed to vote for grants that are located in the community he serves. County Counsel said there have been grant applications from the City of Livermore in the past. These items are on the agenda for discussion and action. The committee has discretion on actions on the items.

- IV. Presentation and consideration of \$980,000 Grant Proposal for 82-Acres at the “Hartford Hills Property”** (APNs: 902-9-3-1 and 902-9-3-2). The City of Livermore is seeking to acquire in fee title for open space preservation –Jake Potter, Senior Planner - City of Livermore – *Action Item*

Jack Porter, City of Livermore, spoke on the general plan policy, open space policy programs and preservation and conservation purposes. The city intends to acquire the approximately 82-acre

property in fee title for conservation and open space purposes. It is west of Spring Town. He shared photos of the property. The City of Livermore was contacted by the property owner. The city has worked with the property owner and the total cost will be close to \$2 million and the grant application is for \$980,000. He spoke on how the property meets the criteria of the settlement agreement. The property would be purchased for open space in perpetuity.

Member Furst asked about the T-6 trail and how committed the city is to building the trail. He said the city checked the box for recreational value but he has not seen any historic commitment from the city. The city has had this trail on their plans for twenty years. Steve Riley said the purchase will help facilitate the building of the trail. Member Furst asked about the price increase in the cost per acre of \$23,000. The normal range would have been \$9,000 to \$10,000. He asked why the city is buying land outside the city limit. Steve Riley spoke on the appraisal and that the goal is to preserve the land for open space and that the city has bought land outside of city limits before. Member Nibert said this grant is only asking for 50% of the purchase price. Steve Riley spoke about city funding and that just like the committee, they want to get the most bang for the buck. It all depends on funds the city has available. Member Nibert asked County staff if there are any guidelines about the percentage of purchase price the committee will fund. Liz said historically the committee has favored applications where applicants have other funds available, matching funds for the purchase, but there is no set percentage required. Member Nibert said regarding this property, it looks like there are quite a few species identified. Jack Porter said staff used a number of resources to determine species at this location.

Member Carling said the grant proposal is for half of the purchase price. Dick Schneider said in the past this committee has given 50% of the funds in most cases. Chair Wilson said there are costs for maintenance, costs affiliated with the purchase and how will the costs for maintenance be addressed in perpetuity. Steve Riley said they did not include maintenance costs in the purchase price, the city does have funds for maintenance and operations for the property. Chair Wilson said the reason he wanted to hear the items together was to have them all side by side to compare them. He asked city staff if there is another buyer interested in the property. Steve Riley said he has not heard of another potential buyer and the city has negotiated with the owner of the property.

Member Furst said the Tri-Valley Conservancy places easements on properties to keep them for open space in perpetuity. He asked if the city contacted them. Steve said no. Member Furst said the city is buying it for open space preservation, but what if a future mayor decides to develop it, what is the guarantee in writing to keep it as open space? County Counsel said any grant given by this committee is subject to a grant agreement which requires that the property stay as open space and if not the funds are to be returned to the committee. The Chair asked if the property is in Measure D. Steve said yes, and in the city's general plan is designated as open space.

Liz asked about the City's open space funds that are being applied to this purchase. Steve said the city has two types of funds, one comes from transferable development credit program and other additional funds from easements. Liz asked if the property will be used for mitigation. Steve said the city could sell conservation easements. Liz said there was a transaction in the past where the city did sell conservation easements and in that case the city returned some of the funds to the committee. County Counsel said the requirement in the settlement agreement is that the funds not be used to acquire property where it is used for mitigation and in that case, this may not be suitable use for the funds. Jack Porter said the city at this time has no projects associated with this property.

Member Furst said his understanding is that the city is saying that this meets the recreation criterion because of the T-6 trail. He spoke on the original plans not including this parcel and there is no recreational value to this property without the trail. The trail is included in the scoring on how it meets the criteria. Steve said it is the city's plan to build the T-6 trail.

Public comment was open.

Doug Mann said there are Native American groups interested in buying the property and they sent letters to the city. His group asked the city if they had taken into consideration the letter from the Native American groups. Livermore's role is to manage the city and what they should not do is abuse the grant process to land grab and urged the committee to deny the grant and informed the committee that there will be another grant proposal soon for this property.

Kelly Abreu said this committee is doing what they are supposed to do and asking important questions. If applicants are required to give the funds back, is that with interest? This committee has the ability to say no and make a wise decision. There is no proof that it will be used for conservation.

Dick Schneider spoke on the inflated per acre price and how this will set a precedent for future grant proposals. He pointed out that the application says recreational is the second use and that and the primary use is habitat, and recreation and protection of biodiversity sometimes are in conflict. He said sometimes people go off a trail. How is this land going to be policed to prevent the recreational value from damaging biological value.

Jean King asked about the condition of refunding the money if the property is not kept as open space. County Counsel explained the process. Jean King said if the city decides to use the property for something else then the only thing they have to do is to return the funds. She said it might be a good idea to have a guarantee that it will be kept for open space. She spoke on another piece of property the City owns that is not being managed well. It is important that the city take care of the habitat.

Brian Sheehan, resident of Livermore, representing multiple properties as well as religious institutions, said he is concerned with the process regarding the applications. He is here specifically for the cross on the hill. There are other buyers interested and it could stay in private ownership. This will set a precedent and it takes away the opportunity for someone else to buy it. Would like to have a month to review the application. He asked about the Brown Act and the noticing requirement for this meeting. County Counsel said the noticing requirement is 24 hours. He asked the committee to give people time to review, there are thousands of people interested and they all vote. He said he does not like government taking over property that one of the residents could buy.

Carol Silva lives on Ponderosa Drive, and ever since the beginning of COVID, a lot of people use this path. This process is going too fast. She spoke on her ranch conservation easement and there were several meetings for the easement. This special meeting had very little notice. She is concerned with the habitat. She said the indigenous community should have a voice in this, the Europeans colonized this land and took ownership when there were tribes here.

Andy Ross, staff for the City of Livermore, addressed Jean King's comments about a property the city owns. He said the city is working with Tri-Valley Conservancy to address those issues. Funds from this committee were used to purchase Doolan Canyon properties, there were two properties, about 100 acres and adjacent to the city limits. It was fully funded including funding for maintenance and preservation.

Member Nibert asked if this is a conservation easement purchase and will it be in perpetuity. Steve said the city holds the conservation easements in perpetuity. Sometimes they have to partner with a land trust, and it takes time and funding for the easement maintenance. In order to ensure proper stewardship, it takes funding. Member Nibert noted that he is sensing a lot of distrust towards the city, and asked what is the alternative? Have someone else buy the property? Chair Wilson said the concern is the process and if there is another alternative, it should be vetted. Do not want to lose the opportunity, but there is a question regarding the process and waiting is a reasonable approach. If there is another buyer, it should be fully vetted.

Member Carling said it has been six years since the last grant was approved. The committee has

been talking about how to spend the money and preserve open space and this is exactly what the city has brought to the committee today. Not sure that waiting another month, the committee will have more information than it has today. City staff said it takes a vote of the people to change the urban boundary. He heard that the owner of this property had looked for a developer. The property owner approached the city to annex the property. The property owner is looking for ways to sell. The open space committee has funds to purchase the property and this is the right time. Waiting is not going to add more information.

Member Furst said the city does not need this property to build T-6 trail. There is some suspicion. Someone mentioned that there is someone else interested in buying the property to preserve it in perpetuity. The city potentially could buy the property with help from the Open Space fund and then sell to a developer and build housing. There is a worry that the city has other ideas and the city could sell the land, give back the money and T-6 is not dependent on this purchase.

The Chair said he would feel more comfortable if there are other options out there and that they are fully vetted before making a decision. As of now, he is not ready to vote. Member Nibert asked if he would be voting on these applications since he represents the City of Pleasanton. Liz said only the County, City of Livermore, and Sierra Club would vote since the grants are for properties in the eastern area.

Member Carling moved to approve the grant proposal. Motion failed for lack of a second. The Chair moved to table the item for thirty days and asked staff to look for other options and bring it back to this committee. Member Furst seconded the motion. Motion carried 3/0.

- V. Presentation and consideration of \$1,740,000 Grant Proposal for 125-Acres at 18 Greenville Road (APN: 099B-5685-01200).** The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner - City of Livermore – *Action Item*

Item continued to March 15, 2024 meeting.

- VI. Presentation and consideration of \$520,000 Grant Proposal for 32-Acres, commonly referred to as the “Cross Property” (APN: 099B-5680-00400).** The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner - City of Livermore – *Action Item*

Item continued to March 15, 2024 meeting.

- VII. Presentation and consideration of \$440,000 Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive) (APN: 99B-5300-10).** The City of Livermore is seeking to acquire the parcel in fee title for open space preservation. – Action Item Steve Riley, Acting Planning Manager- City of Livermore – *Action Item*

Steve Riley presented the staff report. He said in 2019 the City approved a 44 unit single family subdivision. The Save the Hill Group filed a lawsuit challenging the approval of the project. In 2022 the trial court directed the City to vacate and set aside its certification of the RFEIR and approval of the project. The city is seeking funding from this committee to preserve this property as open space. He expanded on how this project meets the funding criteria. The property owners are not willing to sell the property to the city for open space value.

Member Furst said on the grant application it says that the property is to be kept as open space. He asked if the city is going to rezone. Is the city willing to raise the funds to buy it at market value? If the value is \$16 to \$20 million and then it is rezoned to open space the value will be

lower. Steve Riley said it is up to City Council. The city is following the direction of the court to preserve it as open space. From staff's perspective, the funds could go much further for other acquisitions because the cost of this land is at suburban value, even though property owner is not interested in selling to the city.

Member Furst said this is not a legit grant request, because the city knows there is not a willing seller and the city is only fulfilling the court's request. Member Nibert asked about the zoning in the housing element. Steve said it is housing. He said the property owner has the right to move the project forward. The applicant would like to revise the EIR and move forward with the project. It is his right and he may go before City Council.

Public comment was open.

Doug Mann said this is a farce application. The site will not be urbanized. The city has to do some things per the court's direction. This is going to be another process for years as long as the developer is as delusional as they are. If this committee grants this, then this committee will have a liability. If denied the city still got what they needed.

Dick Schneider said he does not think this is a serious proposal. This property is inside the urban growth boundary and could be developed and it should have a higher value. This committee funded the purchase of the Farber property in 2011, it is inside the urban growth boundary, the value per acre was \$41,000. If applied to this property would get a bid of \$1,784,000. If this was the proposal, this would be a serious proposal. This would be fair.

Karen Gouveia said should not be in a hurry to spend the funds. Need to use discretion and get things clarified.

Carol Silva said she supports preserving the Garaventa property. She agrees with the previous speaker that this is not enough to incentivize the sale. The city just wants to say they made an offer.

Kelly Abreu said he agrees regarding the value. He said this property is just like the Cayetano hills next to Las Positas. This idea of WA contracts is a scam. He spoke on other properties under WA contract in Fairview and Sunol with uses that are not allowed. He said WA contracts are supposed to protect ag land, structures are not allowed, or industrial sites or storage yards or airports, but it is okay because the County does not enforce the contracts.

Jean King said she supports easements for Tri-Valley Conservancy. This is a great property and if important should pay the money.

Public comment was closed.

Steve Riley noted that the property owner wants to move forward with the development even if this committee doubles the property value. Member Carling moved to offer \$1.7 million. County Counsel asked clarification on the motion. The Chair said if the property owner accepts the value, then the application will come back to this committee for consideration.

Member Carling asked that the remaining two grant applications be continued.

VIII. Update on available funding – County CDA staff – None

IX. Future Agenda Items/Speakers – None

X. Next meeting – The Chair said the next meeting will take place on March 15th.

XI. Committee Questions/Comments



Altamont Landfill Open Space Committee

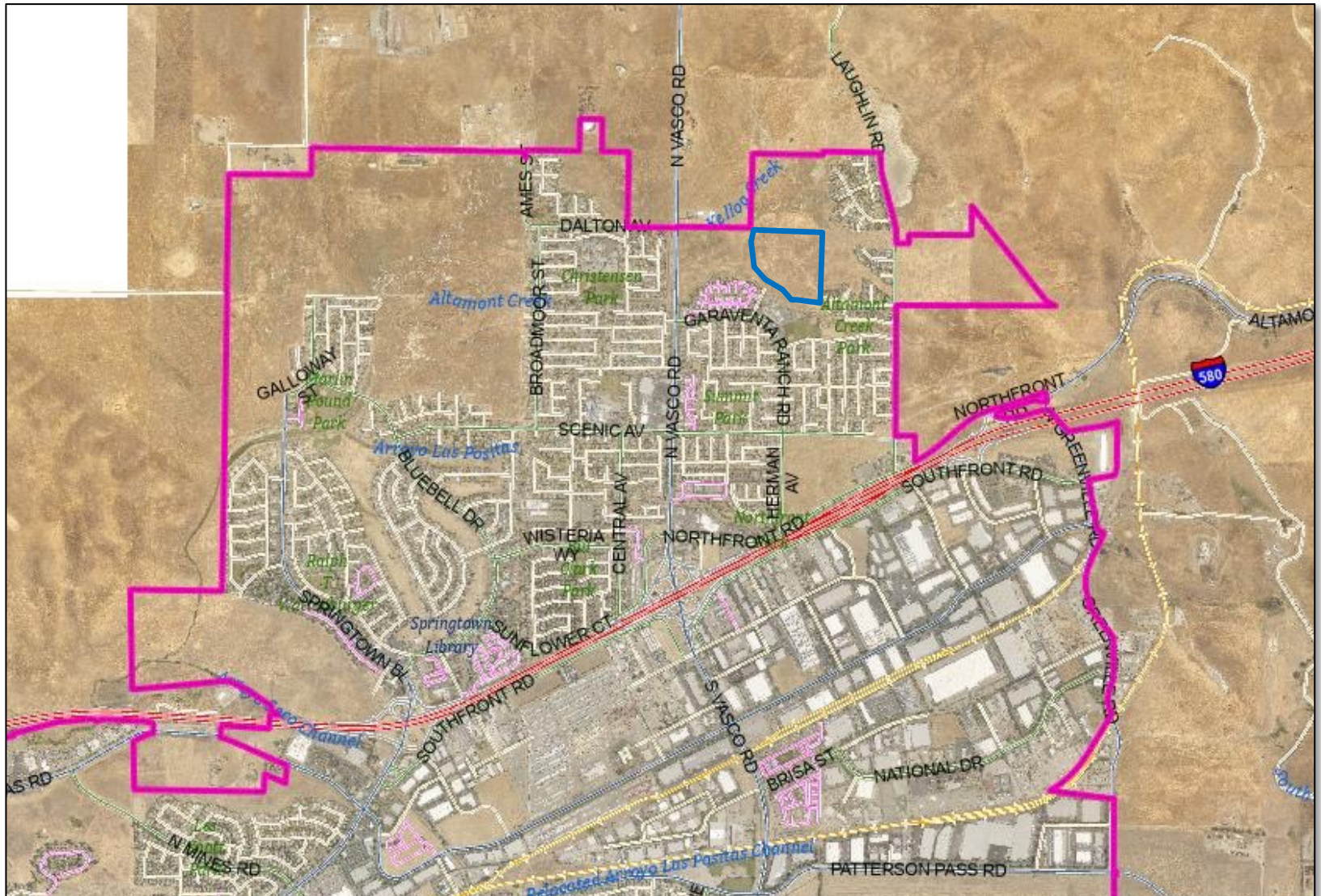
Garaventa Property

February 16, 2024

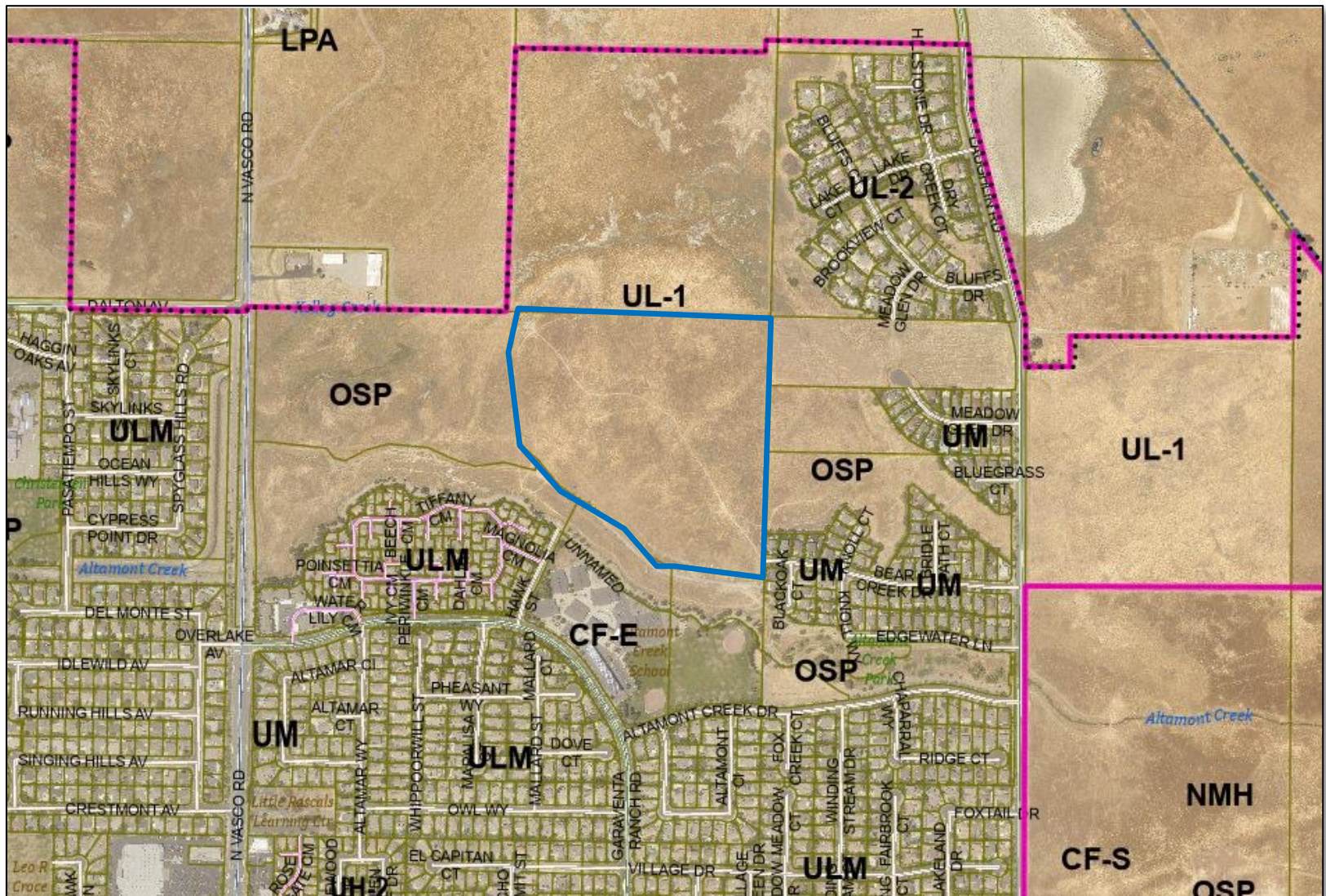
Steve Riley, Planning Manager

Context

N



Site



Site and Context



Looking west from Bear Creek Drive



Looking north from Altamont Creek Park



Looking east from Vasco Road

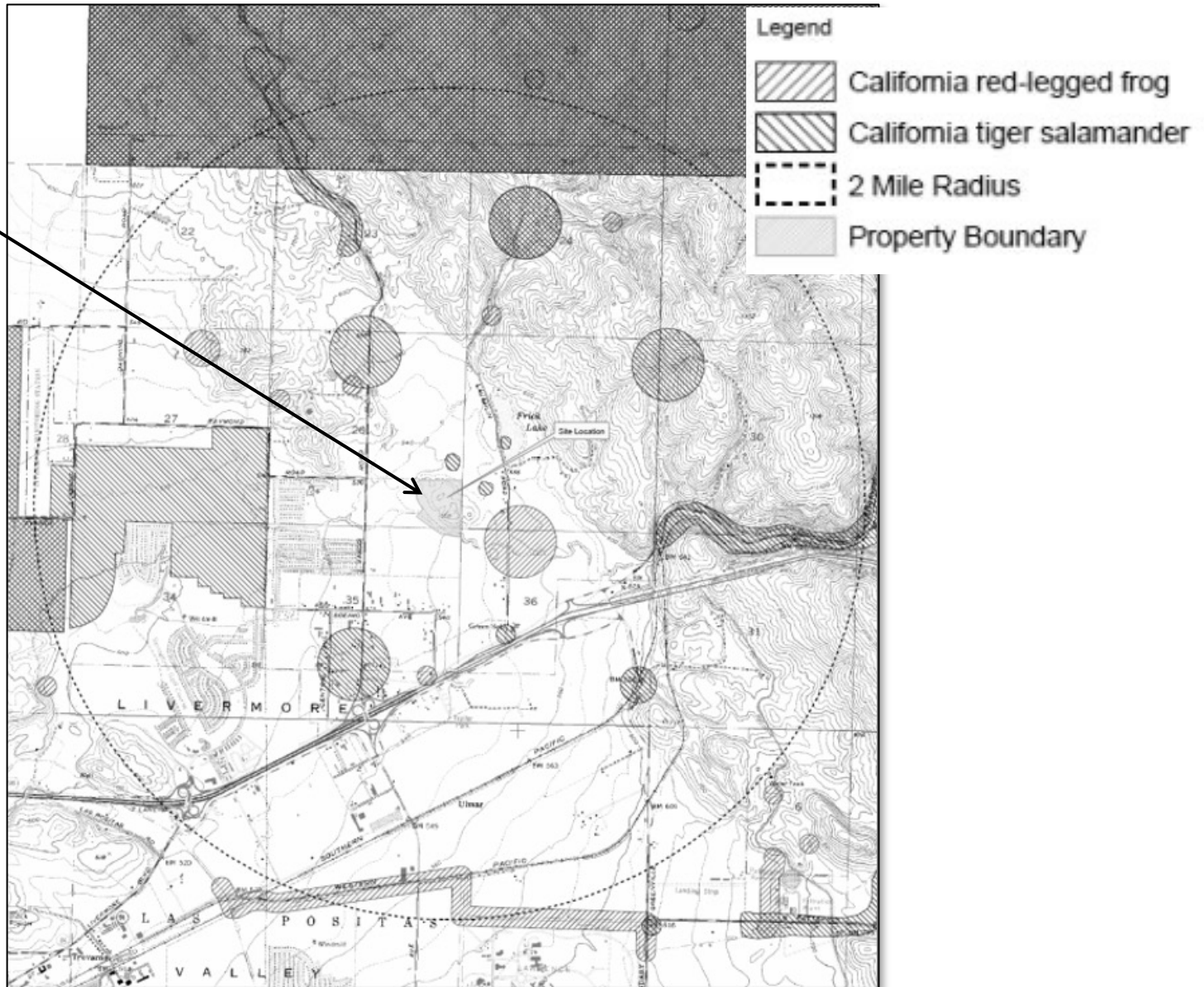
ALOSC Funding Criteria

Settlement Agreement Priorities for Open Space Acquisitions:

1. The first priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

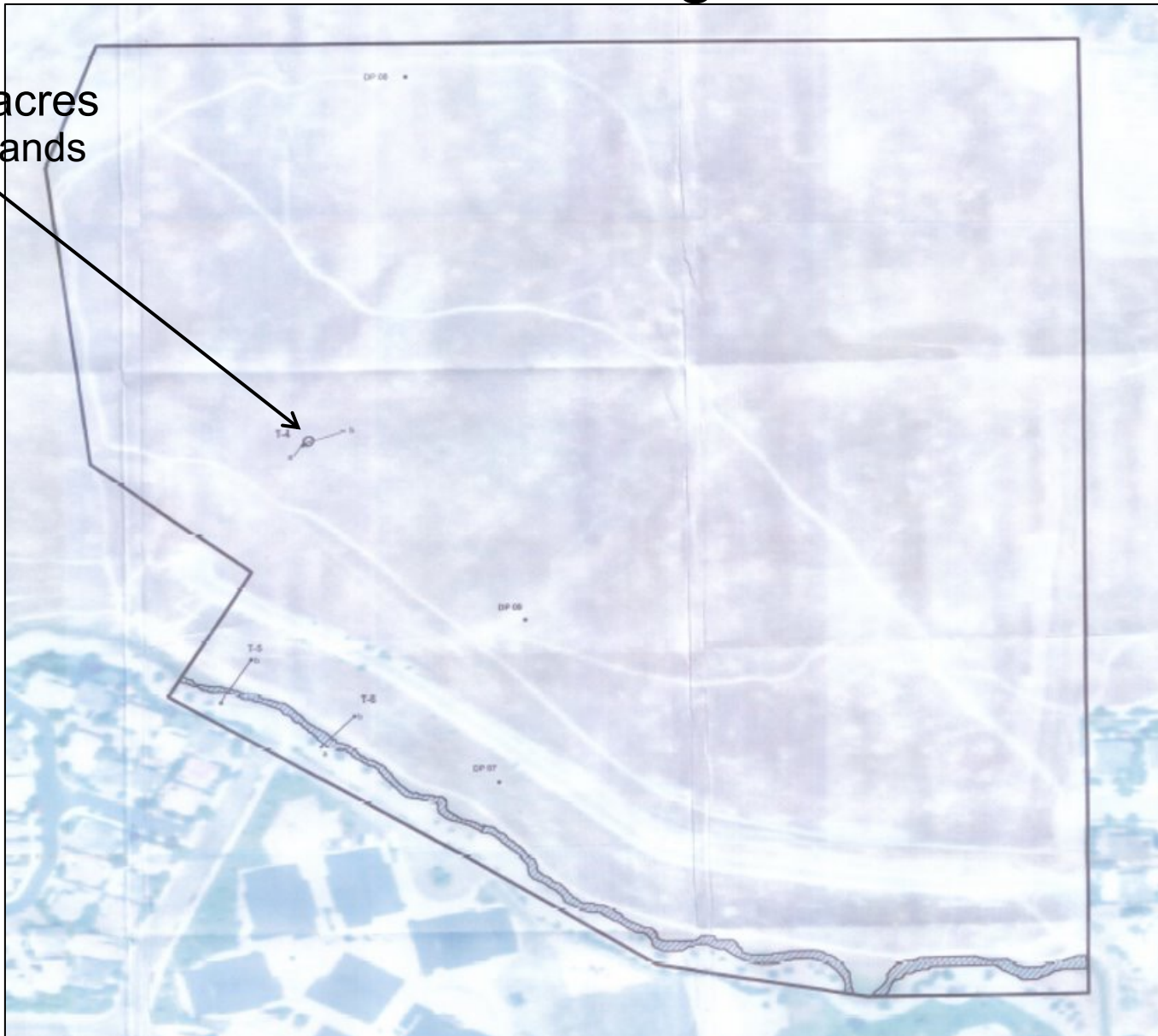
ALOSC Funding Criteria

Project Site

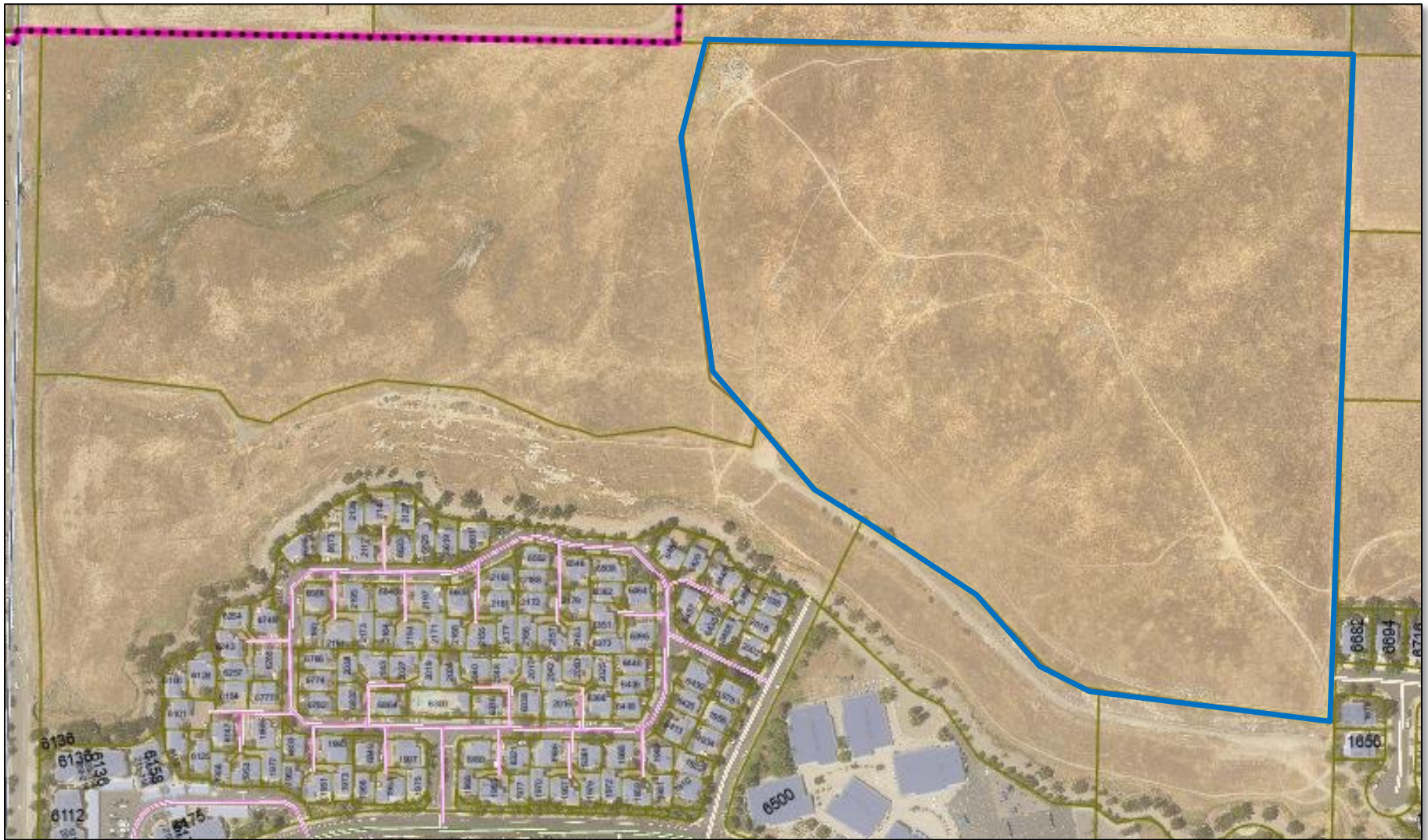


ALOSC Funding Criteria

0.004 acres
of wetlands



ALOSC Funding Criteria



ALOSC Funding Criteria

Settlement Agreement Priorities for Open Space Acquisitions:

1. The first priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

Additional Criteria Adopted by the Altamont Landfill Open Space Committee:

3. Strategic Value in Land Protection
4. Additional Funding Sources
5. Willing Sellers

Project Costs

•

Itemized Expenses (Estimated)

<i>Proposed Purchase Price</i>	<i>\$868,480 (\$27,140/acre)</i>
<i>Transaction Costs</i>	<i>\$11,520</i>
<i>Total Project Cost</i>	<i>\$880,000</i>
<i>Funding from ALOSC</i>	<i>\$440,000</i>
<i>Funding from Dougherty Valley Settlement Agreement Fund</i>	<i>\$440,000</i>

ALTAMONT LANDFILL OPEN SPACE COMMITTEE
MARCH 15, 2024 MEETING AGENDA, MINUTES, AND
GARAVENTA PRESENTATION

APPENDIX RP-D

to the
Garaventa Hills Project Recirculated Partial Draft EIR

**ALTAMONT LANDFILL & RESOURCE RECOVERY FACILITY
OPEN SPACE ADVISORY COMMITTEE**

Shawn Wilson, Chair – Alameda County
Councilmember Robert Carling – City of Livermore
Councilmember Jeff Nibert – City of Pleasanton
David Furst – Sierra Club

SPECIAL MEETING AGENDA

Please note different location

Alameda County Public Works Building, 4825 Gleason Drive, Dublin

March 15, 2024

12:30 p.m. – 2:30 p.m.

IN-PERSON PARTICIPATION: The meeting site is open to the public. All in-person participants must adhere to posted health and safety protocols while in the building. If attending in-person and you wish to speak on a matter, please fill out a speaker card and submit to the Secretary as soon as possible. Before speaking, please state your name.

REMOTE/TELECONFERENCE PARTICIPATION: Members of the public may observe and participate in meetings by following the instructions in the teleconferencing guidelines posted on-line with the agenda at:

<http://acgov.org/cda/planning/documents/TeleconferencingGuidelinesforPublicHearings.pdf>

AT THE NOTICED DATE AND TIME LISTED ABOVE THE ZOOM WEBINAR IS

ACCESSIBLE AT THIS WEB ADDRESS: <https://us02web.zoom.us/j/87632096647>

BY PHONE ONLY: (669) 900-9128 or (346) 248-7799 Webinar ID: 876 3209 6647

I. Call to order/Roll Call

II. Approval of Minutes – January 19 and February 16, 2024

[Attachment](#) [Attachment](#)

III. Public Comment – Any member of the public may address the committee on a matter not on the regular agenda. No discussion or action may be taken on these items.

IV. Presentation and consideration of \$980,000 Grant Proposal for 82 Acres at the “Hartford Hills Property” (APNs: 902-9-3-1 and 902-9-3-2). The City of Livermore is seeking to acquire the parcels in fee title for open space preservation – Jake Potter, Senior Planner, City of Livermore – Action Item (continued from February 16, 2024)

[Attachment](#) [Attachment](#) [Attachment](#) [Attachment](#) [Attachment](#)

V. Presentation and consideration of \$1,740,000 Grant Proposal for 125 Acres at 18 Greenville Road (APN: 099B-5685-01200). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner, City of Livermore – Action Item (continued from February 16, 2024) [Attachment](#) [Attachment](#)

VI. Presentation and consideration of \$850,000 Revised Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive) (APN: 99B-5300-10). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation -Steve Riley, Acting Planning Manager, City of Livermore – Action Item (continued from February 16, 2024)

This meeting is open to the public. Please contact Maria Palmeri, Alameda County Planning Department at (510) 670-5400 if you have any questions regarding this meeting.

[Attachment](#) [Attachment](#)

VII. Presentation and consideration of two grant proposals for a 32-acre parcel commonly referred to as the “Cross Property” (APN: 099B-5680-00400).

- A. \$510,000 Grant Proposal from Capstone Christian Ministries to acquire the parcel in fee title for open space preservation – Bill Turnquist, Capstone Christian Ministries – *Action Item* [Attachment](#)
- B. \$520,000 Grant Proposal from City of Livermore to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner, City of Livermore – *Action Item (continued from February 16, 2024)* [Attachment](#)

VIII. Update on available funding – County CDA Staff

IX. Future Agenda Items/Speakers

X. Next Meeting – May 17, 2024

XI. Committee Questions / Comments / Adjournment

ALTAMONT LANDFILL OPEN SPACE ADVISORY COMMITTEE

March 15, 2024

12:30p.m. to 2:30p.m.

APPROVED MEETING MINUTES

- I. Call to order** – The meeting was called to order by Shawn Wilson at 12:33 p.m.
Present: Chair Wilson, City of Livermore Robert Carling, City of Pleasanton Councilmember Jeffrey Nibert, David Furst representing the Sierra Club.
- II. Approval of the minutes of January 19 and February 16, 2024** – Dick Schneider asked for corrections. On January 19th, first page, there is a typo on paragraph 4, third line down, starting with Member Carling, it says "...If a structure is not built..." the word "not" should be removed. Member Carling moved to approve the minutes of January 19th as amended and the minutes of February 16th as submitted. Member Nibert seconded the motion. Motion carried 4/0
- III. Public Comment** – Any member of the public may address the committee on a matter not on the regular agenda. No discussion or action may be taken on these items.

Doug Mann thanked staff for supplying him with a list of all grant proposals submitted to this committee. He noted when City of Livermore applies, it says that the funds are from the City of Livermore and the funds are usually from the Dougherty Valley Settlement funds and not the City. The City is not the best entity to purchase the land. The parcels are not within City limits and the City can't afford to take on these extracurricular activities. This is County land. Normally the Parks Department would steward these kinds of things. These parcels are not in danger. He said he is not sure that a lot of people know about these parcels being available and if they knew, they purchase them and protect it for open space. The City is trying to expand the urban growth boundary even though the City has said they are not. This committee should look at other buyers.

- IV. Presentation and consideration of \$980,000 Grant Proposal for 82-Acres at the "Hartford Hills Property"** (APNs: 902-9-3-1 and 902-9-3-2). The City of Livermore is seeking to acquire in fee title for open space preservation –Jake Potter, Senior Planner - City of Livermore – *Action Item*

Jack Potter, City of Livermore, spoke on the general plan policy, open space policy programs and preservation and conservation purposes. He said this parcel will be preserved in perpetuity for biological and recreational purposes. He said the City will work with other entities in preserving the parcels on the agenda today. He spoke on other parcels that the City has purchased for preservation of open space. The City intends to acquire the approximately 82-acre property in fee title for conservation and open space purposes. He shared photos of the property. This parcel is not being considered for housing development and none of the parcels today are included in the Housing Element sites for the City. This parcel has been identified as a priority area and close to the Spring Town area. This property meets all the criteria for the Altamont Open Space Settlement agreement. This parcel scored high for recreational value. The City of Livermore was contacted by the property owner. The City has worked with the property owner and the total cost will be close to \$1.96 million and the grant application is for 50% of the purchase price which is \$980,000. The City has the support of other entities for the purchase of this parcel. The City has multiple funds from various sources that can be used for the purchase of open space.

Public comment was opened.

Dick Schneider said his concern at the last meeting was about the protection of biological values and recreational values and the City's ability to protect and handle it. He called it a balancing act. The City is spread too thin. What about the LARPD as a landowner and giving it to them since that is their mission.

Chad Wall said he is a resident of Livermore and is in full support of the City of Livermore.

Member Carling said he appreciates Mr. Mann's concern related to the City's responsibility. The City Council has to deal with these issues and the funds do not come from general funds. He said the City balances different issues all the time.

Member Carling moved to approve the grant to purchase of Hartford Hills property in the amount of \$980,000. The Chair asked that City staff take seriously the cultural opportunity related to tribes. It would be a great opportunity for the County and the City. Jack Porter said they contacted the Confederation of the Ohlone People but they did not have interest on this property but staff will contact them again and look at opportunities for cultural resources.

Member Furst said if the property is open to the public, how will the City preserve it as open space and what plans does the City have to protect this property. Staff said open space does not mean it would be accessible to the public, the trails will be available but they will have elements to keep the public away from sensitive areas. Member Furst spoke about trail T-6 and commitment to build it. He asked about access point. Jake spoke about multiple points of access. Member Furst said at the last meeting some people spoke about the City buying this property and selling it to a developer. What assurance does this committee have that this property will stay as open space. The Chair said this property is under Measure D and that would have to be changed in order for development to occur. He said if the City sells it then the funds will have to be refunded. Kathy Lee said the agreement requires that funds be returned if there is a breach of the agreement. It is a contractual agreement that any grant funds has to be used for open space. Member Carling said the City is required to build a certain number of housing units. The City has plenty of vacant land. He said there is no reason for the City to sell this property for development.

The Chair seconded the motion. Motion carried 2/1. Member Furst voted no.

V. Presentation and consideration of \$1,740,000 Grant Proposal for 125-Acres at 18 Greenville Road (APN: 099B-5685-01200). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner - City of Livermore – *Action Item*

Kam Purewal, City of Livermore staff, presented the staff report. The presentation was for both properties, Cross property and this property located at 18 Greenville Road. He shared an exhibit showing the location of the properties. The properties are located on opposite sides of I-580 and adjacent to the freeway. Both properties are strategically located as a wildlife movement area. This opportunity to purchase these properties will offer a safe place for wildlife crossing. The City's goal is for open space conservation and preserving the greenbelt in the Altamont corridor. The City partners and other interest groups are supportive of the purchase and vision for these properties. Both properties meet the criteria of the Altamont Open Space Agreement.

Dr. Fraser Shilling spoke on the study that was done about the wildlife in the area.

Kam Purewal said the City is asking for \$1,740,00 for the purchase of the Greenville Road and \$520,000 for the Cross property. The Chair asked if this includes the recreational dirt bike track. Staff said no.

Member Nibert asked if the easements for both properties will facilitate the wildlife corridor. Staff said there is unofficial trail for the wildlife between the two areas. Andy said the acquisition of these properties will protect the corridor.

Member Furst said he is uncomfortable with the City's request to fund more than 50% of the funds. He asked that the City rearrange the request to lower the percentage.

Public comment was opened.

Lori Souza, Tri-Valley Conservancy, spoke as a Livermore resident and said she supports the City's application of the grants. These purchases are important to protect the wildlife and provide a vital wildlife corridor. The City has a good track record in identifying parcels and taking the necessary steps to protect open space for current and future residents. The residents of the City have given high marks for the City's efforts in preservation of natural areas, open space and recycling services. The environment plays a vital role in the health and well being of residents. She urged the committee to approve the grant applications.

Steve Stewart, a retired city employee and Livermore resident, said he is interested in regional conservation. In the past as City staff he worked with this committee in preserving 1000 acres as open space. Livermore has a good track record in preserving properties for open space. Livermore's general plan helps promote and implement a regional trail system and preserve open space. These applications check all of the boxes. Once the property is acquired, the City works with a number of partners on a management plan to keep these properties as open spaces in perpetuity. He expanded on the work in getting these properties ready for the public. He is in support of the grant applications from the City.

Dick Schneider said he has not heard the City's long-term intent for recreational value, use and how it will be managed. The land is pretty much intact and animals are not disturbed. Andy said the City will address these issues by inviting other partners to see how they will be managed.

Juan Martinez, Save Mt. Diablo, said he supports the City's purchase of these properties and supports the grant applications.

Doug Mann said everyone wants the wildlife corridor. He does not think that the City of Livermore is the best to do this. Save Mount Diablo sent a letter to the City following a contract of an Environmental firm in the amount of \$308,000 to expand the urban growth boundary and urbanize other areas that right now are largely private properties and open space. Right after the letter was received, there was a land grab and all these applications came into place and the intent is crystal clear. The Save Mount Diablo letter said they do not want expand the urban boundary, but if they did the City needs to expand this corridor. And this is what the City is doing, they will have the corridor but just destroy another area. They are not going to tell anyone that, and their goal is to expand the urban growth boundary. Why should Livermore be so concerned with this land outside of the City when someone else can buy it and do better and it will not cost the City any money. Not talking about the cost of the land, but operation costs. They do these projects and end up with expenses every year and have a 20 to 30 million deficit. Let's have somebody else maintain the corridor.

Farley Connelly, a biologist for RCD, said this is important for the wildlife crossing and a perfect spot. Preserving it for open space is great and it could do wonders for the wildlife. This is a great opportunity.

Chad Wall said he supports the applications, listened to the pros and cons. He strongly supports the City in saving these properties. This is a no-brainer. Need to do the right thing.

Member Furst said he is concerned by the percentage split. The usual break down is 50 and 50 and the City is asking for 80/20. The recreational value is very, very high and how could it be high if the property on one side is canal, on the north side is 580 and the east and south side is bound by private property. There is no public access. Andy Ross said the Altamont tool looks for opportunity for recreational value. The City will have to work with partners on what is the best way to get people access to this property. Steve said it is a good opportunity to get animals and

people across the freeway, this would be a key connection and could work with partners to look for ways to connect people to regional parks and the trail system. Member Furst said the crossing is not part of this property and there is a property that is Caltrans property. Andy said there is an existing access road that is owned by Caltrans. Member Furst asked if Caltrans is the owner and are they creating a pass under the freeway. Andy said most likely RCD is already working with Caltrans. Andy said could reduce the percentage for this funding.

County Counsel Kathy Lee said this would typically come in as a proposal from the applicant then the committee would have more concrete information to approve. Andy said if could present a number right now. County Counsel said it would be okay to present a revised number. The committee went into a recess so the City could work on a revised number.

After recess, Andy Ross asked that the committee provide 60% of the funds totaling, \$1,284,000 and the City would provide 40% which is equal to \$856,000.

Member Carling moved to approve this breakdown and the Chair seconded the motion. The motion carried 3/0.

VI. Presentation and consideration of \$850,000 Revised Grant Proposal for a vacant, approximately 32-Acre parcel commonly referred to as the Garaventa Hills Parcel (west of Laughlin Road at terminus of Bear Creek Drive) (APN: 99B-5300-10). The City of Livermore is seeking to acquire the parcel in fee title for open space preservation. – Action Item Steve Riley, Acting Planning Manager- City of Livermore – *Action Item*

The Chair said the City decided to make a larger offer to the property owner. Steve Riley said this property is within the City of Livermore's boundary and it is zoned residential. The property owner is under contract with Lafferty Homes. The project for 44 homes was approved by City Council. Staff shared photos of the property. The property did meet the criteria of the settlement agreement. There is a seasonal wetland on the western portion of the property. There is not a willing seller for this property. Staff has sent a formal request to the property owner to buy the property as open space value. Staff has offered \$1,736,000 and the City also made an offer at the suburban residential values and the property owner declined. The property owner has requested that City staff not send anymore offer letters.

Member Nibert asked if the committee approved the grant, where would the funds be held until such time there is a willing seller. County Counsel Kathy Lee said there are some specific terms in the settlement agreement. The condition that if the sale is not finalized the funds need to be refunded to the County. Member Nibert said this project started back in 2014 and at that point it was proposed for 70 to 80 homes and the city council asked that the property owner reconsider and they came back with a project of 40 homes. There was also concern for egress in case of a fire.

Public comment was opened.

Doug Mann said he does not know how the County manages its money, but the wisdom of allocating these funds and waiting around and then getting it back if the property not bought.

Shelly agreed with the previous speaker. She said met during the last meeting. These planners are just doing what they are told to do. She spoke on a hidden agenda and misappropriation of funds and that when everyone knows what is going, everyone is liable.

Dick Schneider said the property owner made clear that they do not want to sell to the City, so why is Livermore here. Steve said once the housing project was approved there was a lawsuit against the City from Save the Hill group challenging the EIR certification and approval of the project, then the superior court denied the group's challenge. The group appealed then the court of appeals reversed the superior court's decision and the appellate court said the no project alternative should have been considered to save the property as open space. Staff is coming here

to full fill the direction of the court and to allow the applicant to move forward. The court said the City had to come to this committee and ask for funds for the open space alternative.

Chad wall said he is familiar with the area. Just listening to the discussion, and it sounds that the City has done its due diligence. The committee needs to cut bait and focus on the other properties.

Brian Daniel spoke on the Cross property. He said should use the funds from the Cross property on the Garaventa property. He said he is not against open space and not against what this committee is doing. Livermore has done a great job with trails and open space and urban growth boundary. The Cross property has been there for thirty years and unless there is a contingency that the cross stay, it will not stay. He said there is a proposal for a animals pathway, it will cost hundreds of millions to come across 580. He proposed not to move on the Cross property and double the offer on the Garaventa property. He asked the committee to vote no on the Cross property.

Member Carling said there is no hidden agenda. The City approved it for housing for forty plus houses. This would not be a saving of funds and the only saving of funds is that the open space will not have to spend the funds on this property. The owners are not willing to sell to the City. There is not a willing seller.

Member Carling moved that this committee recognize that the owners of the property are not a willing seller and therefore do not meet the criteria and therefore this committee will not approve funding for the purchase. There is not a willing seller so it does not meet the criteria. Member Furst seconded the motion. Motion carried 3/0.

VII. Presentation and consideration of two grant proposals for a 32-acre parcel commonly referred to as the “Cross Property” (APN: 099B-5680-00400).

- A.** \$510,000 Grant Proposal from Capstone Christian Ministries to acquire the parcel in fee title for open space preservation – Bill Turnquist, Capstone Christian Ministries – *Action Item*
- B.** \$520,000 Grant Proposal from City of Livermore to acquire the parcel in fee title for open space preservation – Kam Purewal, Associate Planner, City of Livermore – *Action Item (continued from February 16, 2024)*

NOTE: Kam Purewal presented the staff report for item VII.B under item V.

Bill Turnquist spoke on their proposal to buy the property. He gave a background of the Capstone Christian Ministries. The cross was started by the daughter of the property owner. They would rather have Capstone Christian Ministries buy the property. It is a well known landmark. He said there is no cost to maintain it, the lights are powered by solar. They are not part of any organized church and the maintenance is done by volunteers. He said there is a website if anyone wants to check it. The City of Livermore and the County will have no maintenance or insurance cost if the Capstone purchases it. They will maintain it. They are able to access the property thru a Zone 7 road. They keep the property clean and protect the wildlife. This property is landlocked. The property owner wants to sell it. If they bought the property they would agree on the placement of easements and have a contract to keep it open space in perpetuity. The long-term goal is preservation, keep it as open space as it is, and environmentally clean. He spoke on cleaning up a junk yard close to this property. He also spoke on some people living in a trailer close to the creek and he thinks that the sewage is being thrown in the creek. He said the thing that concerned him at the last meeting is that the property could be sold to a developer. The Chair said the long-term use is to have the cross. He said he is not sure if this gets this committee in a place that they should not be. Need to

keep the separation of church and state. He asked if the funds may be used for this and would this create a precedent. County Counsel said there is no barrier, but whoever owns the property is responsible for maintenance and the committee will have to look at who would be better to manage the property. It is the property owner to manage the property. The committee funds is only for the purchase of open space. The Chair asked if they have the additional funds to purchase the property. Mr. Turnquist said they currently do not have it but if the committee chooses they could come back with some options.

The Chair asked if the City is willing to negotiate with Mr. Turnquist. Andy said if the City owns the property they are willing to work with this group, but the City could also work with other entities. County Counsel said the conservation easement must be funded and it would include consideration of the cost of the easement such as operation plans, and it would have to be some assurance that the funds would cover the operation costs in perpetuity. The settlement agreement allows a variety of entities to maintain and management of the land and make sure that the open space committee requirements are realized. The committee may deny the application based on the concerns expressed about any of the issues mentioned or request additional information.

Public comment was opened.

Juan Pablo said he wants the land acquired for preservation. He is opposed to the expansion of the urban growth expansion. He spoke on stability of the proposals. The City has shown that they have the capacity and expertise to maintain this property.

Dick Schneider said he is not sure that this proposal fulfills the criteria based on the cross and it does not meet the visual criteria. If this is a subsidy for a religious symbol on a hill, this will set a precedent for future applications. This raises a lot of questions regarding separation of church and state.

Diana Roberts, Tri-Valley Conservancy, supports the City's application. The City has been a very responsible and have partnered with the City on prior projects.

Lori Souza it is important for this committee to consider the financial viability of both applications.

Steve Stewart said he supports preservation in perpetuity of the property.

Doug Mann asked if the committee wants to consider a 60/40 split for this application. Livermore needs to save funds. In general an endowment is a normal part of preservation, and the reason if because there are no volunteers and they have to be maintained by paid staff. This is an opportunity for this committee to have volunteers and it helps everyone and save costs.

Kelly said she hopes God is in the room, not meant to have separation of church and state.

Chad Wall said he disagrees with previous speaker. He supports City's ownership, not comfortable having two parties owning two separate properties, it should be under own ownership and recommends the City to own both properties.

Brian Daniel said Capstone has taken care of this property for the last 30 years. Everyone is worried about funding but have done this for the last 30 years with no problems. Do not

count this group out. This property can be maintained without the City's money. There is no hidden agenda.

Member Furst said he feels uncomfortable giving fund to a religious entity that provides a religious symbol. He suggested Capstone and the City work together and have this committee step out of this deal. Andy said if this committee will not fund this, the City will have to look for funds somewhere else.

Member Carling moved to approve the grant application from the City of Livermore. The Chair seconded the motion. Motion carried 2/1. Member Furst voted no.

- VIII. Update on available funding** – County CDA staff – Liz said the funds for the East County is \$21,616,272 and for the West County is \$2,821,690
- IX. Future Agenda Items/Speakers** – The Chair said he is still trying to get a hold of the N3 property owner. Dick Schneider gave an update on the Tesla Park.
- X. Next meeting** – Meeting adjourned at 3:01p.m. The Chair May 17th.
- XI. Committee Questions/Comments**



Altamont Landfill Open Space Committee

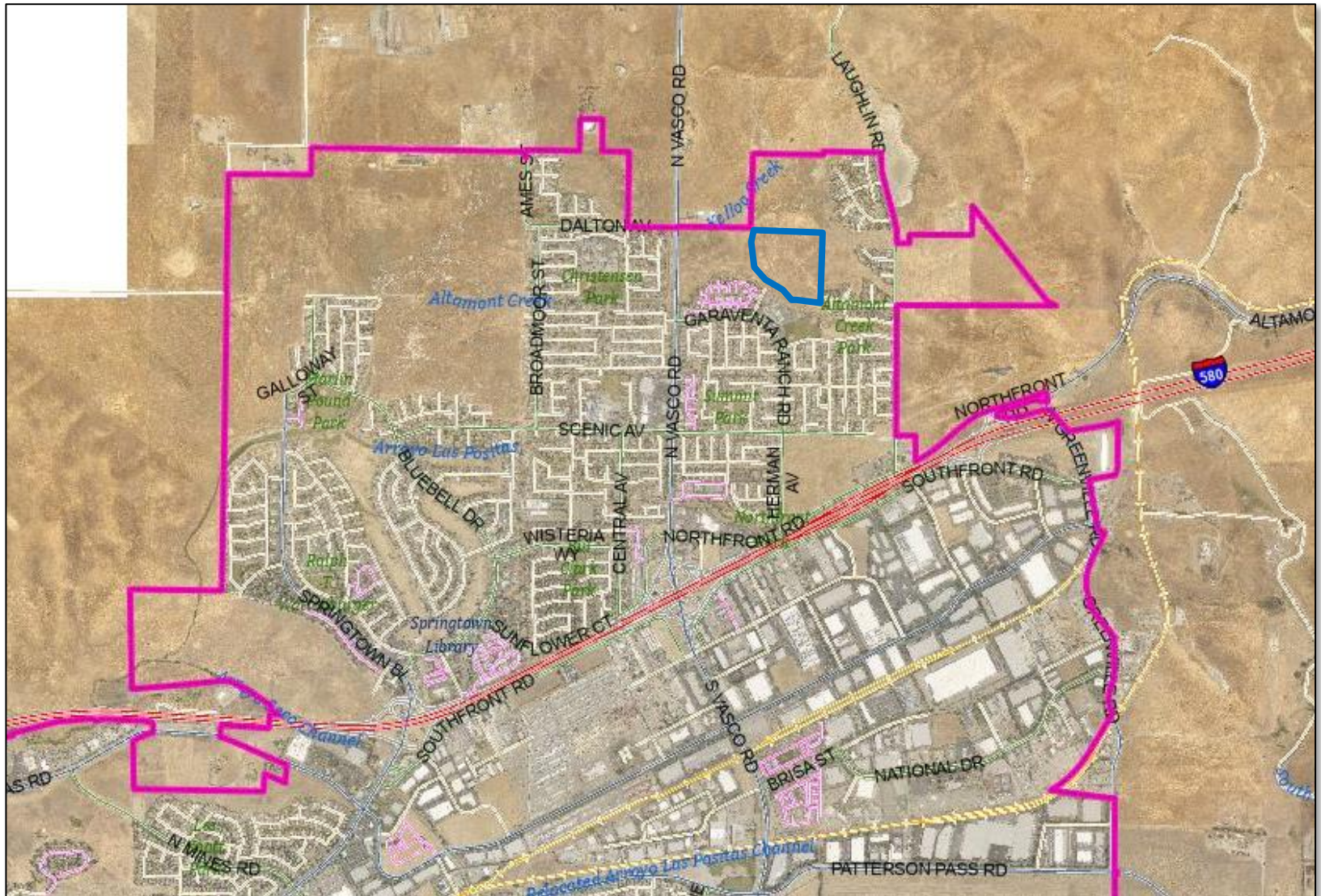
Garaventa Property

March 15, 2024

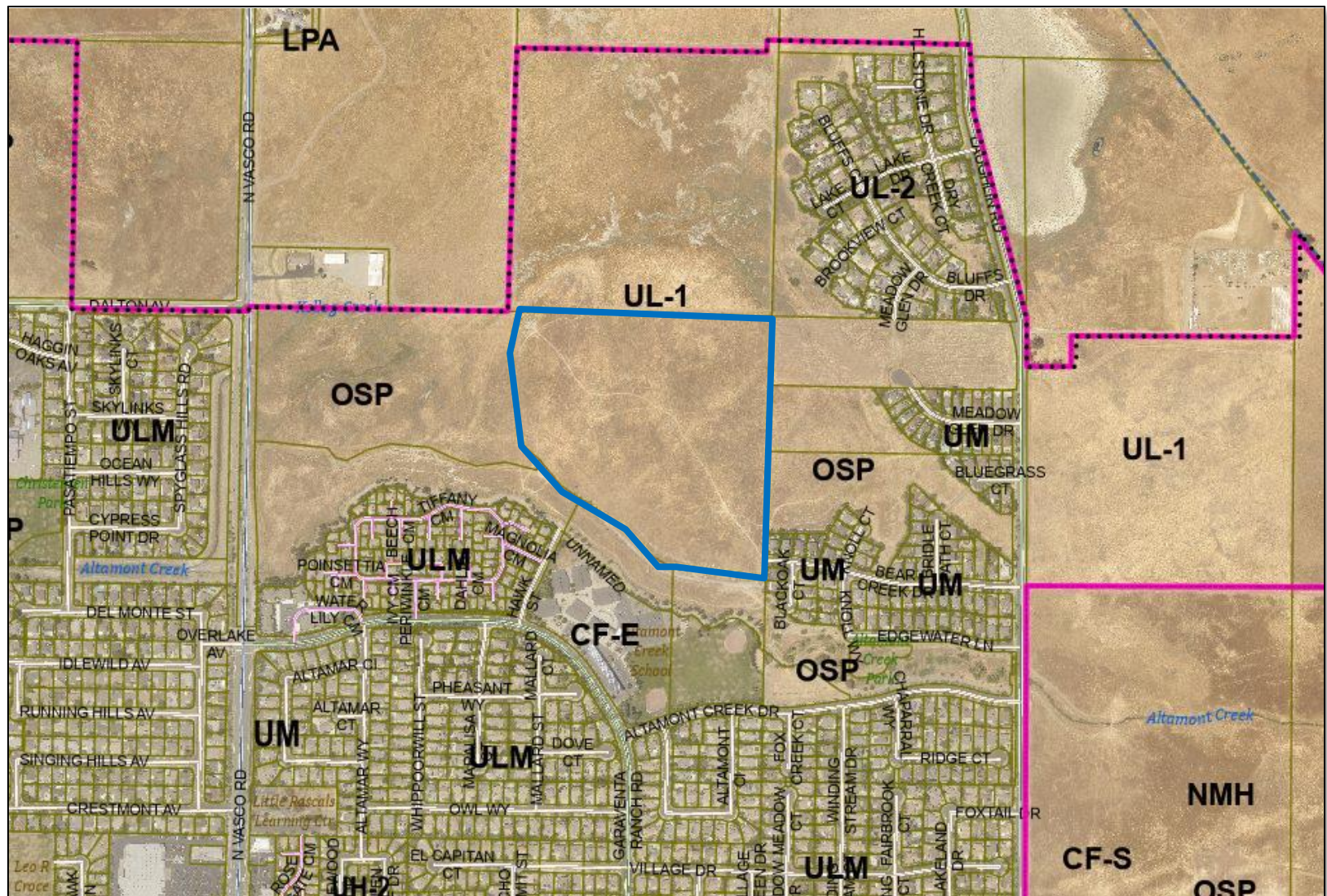
Steve Riley, Acting Planning Manager

Context

N



Site



Site and Context



Looking west from Bear Creek Drive



Looking north from Altamont Creek Park



Looking east from Vasco Road

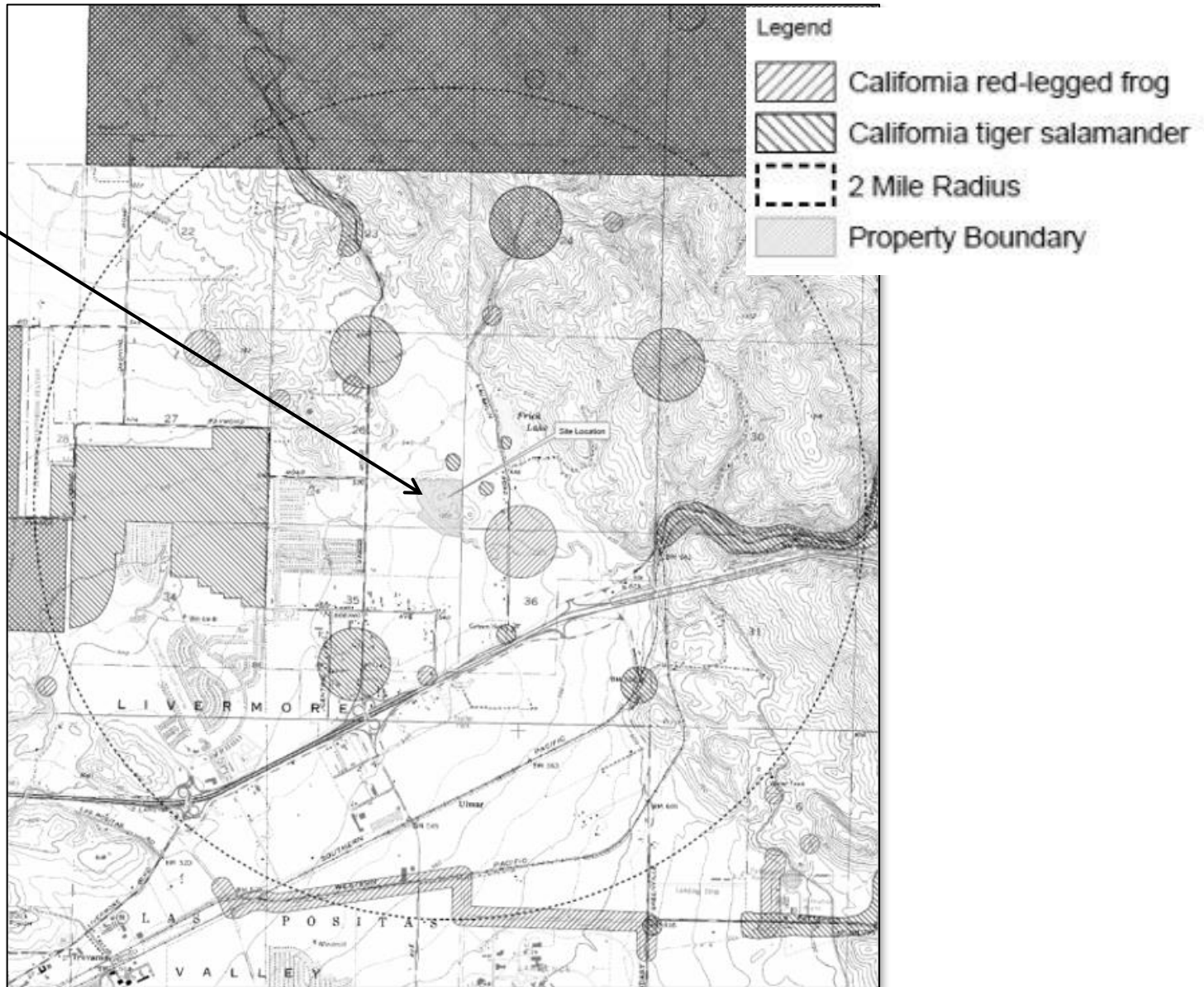
ALOSC Funding Criteria

Settlement Agreement Priorities for Open Space Acquisitions:

1. The first priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

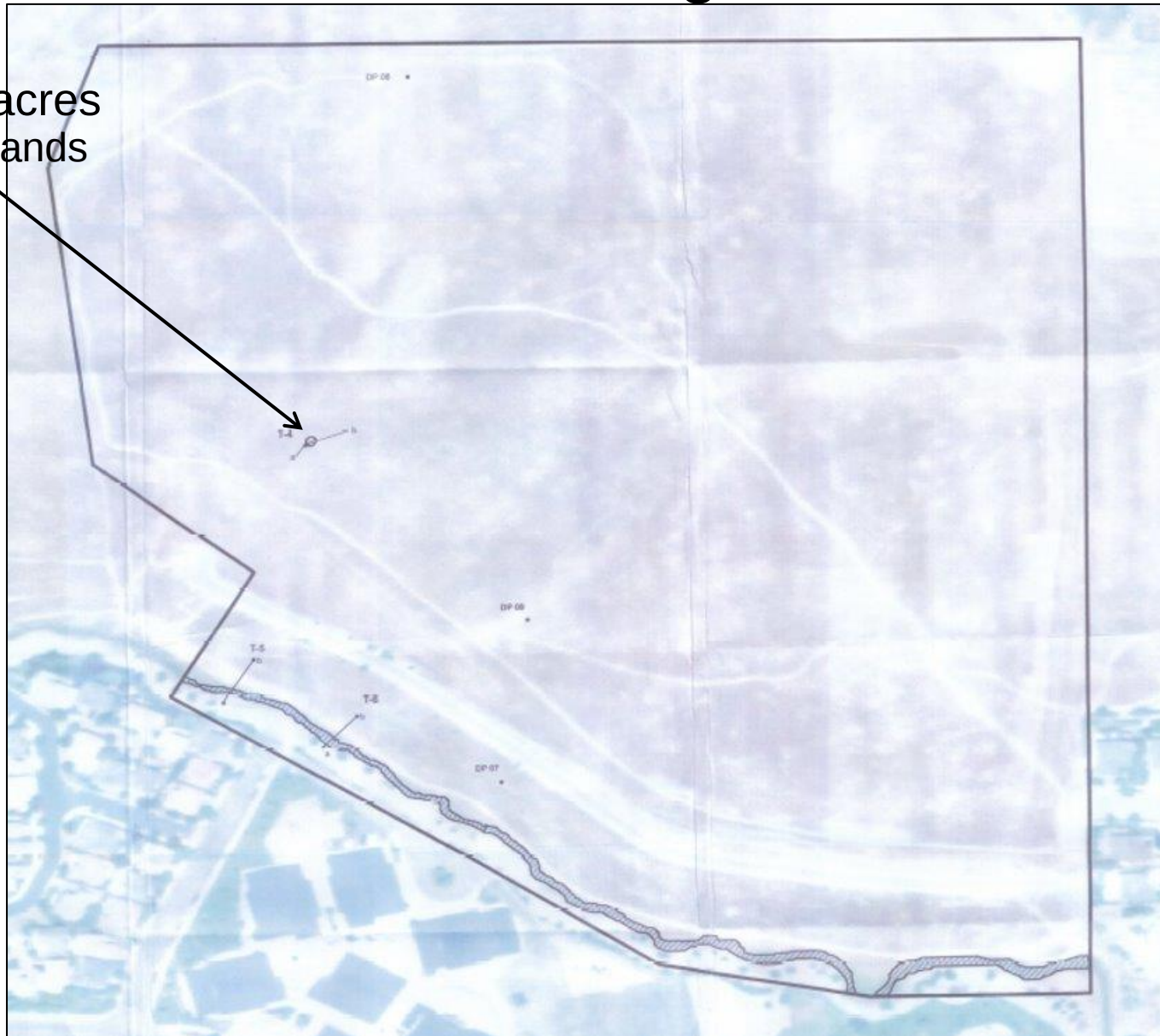
ALOSC Funding Criteria

Project Site

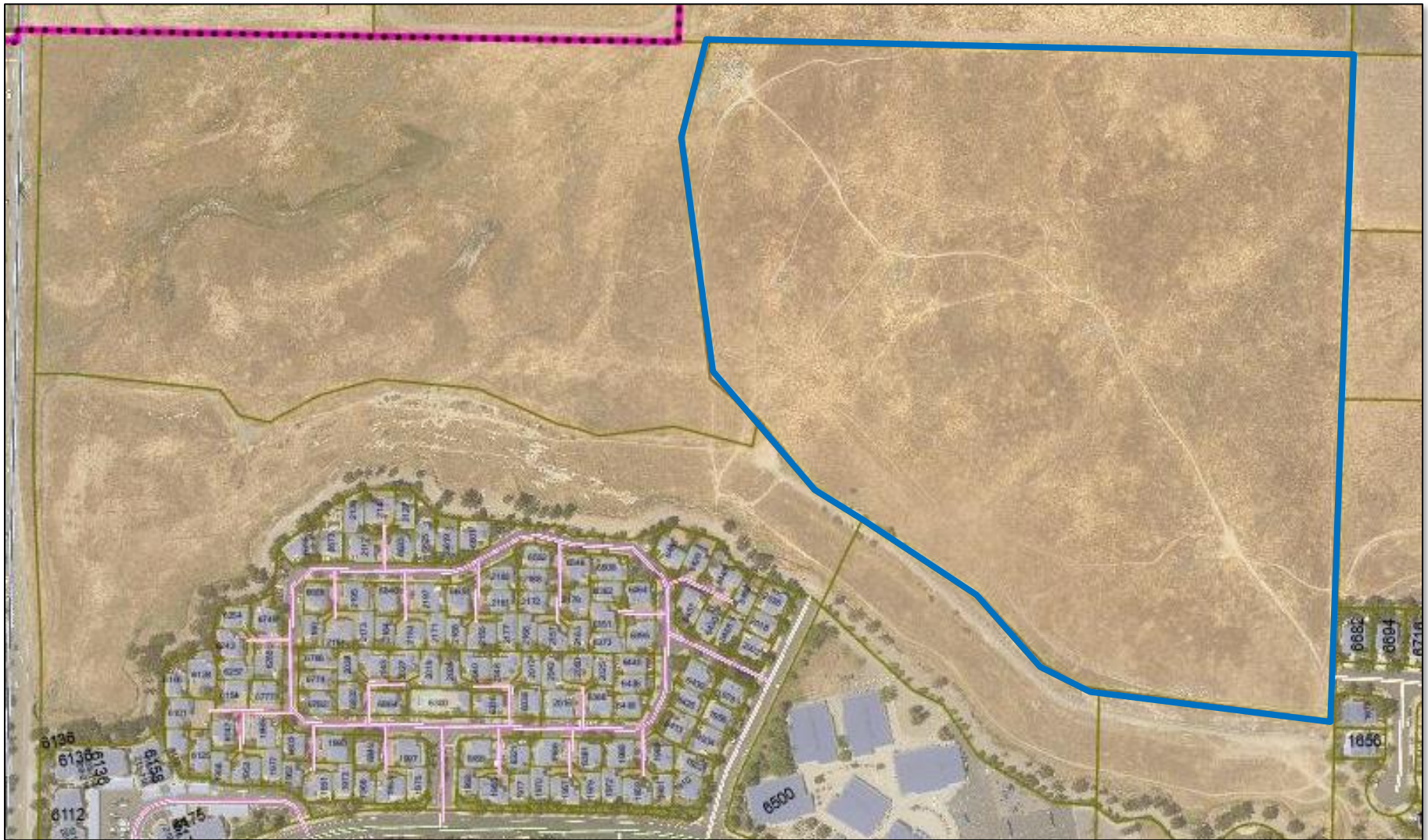


ALOSC Funding Criteria

0.004 acres
of wetlands



ALOSC Funding Criteria



ALOSC Funding Criteria

Settlement Agreement Priorities for Open Space Acquisitions:

1. The first priority is for the preservation of native biological diversity and/or wildlife habitat.
2. The second priority is for land with significant value for visual character and/or non-motorized recreation.

Additional Criteria Adopted by the Altamont Landfill Open Space Committee:

3. Strategic Value in Land Protection
4. Additional Funding Sources
5. **Willing Sellers**

Not A Willing Seller

Summary of the recent City correspondence to owner

- **February 2, 2024:** City offer letter at open space value (\$868,480) sent to owners.
- **February 5:** Owners reply declining the offer.
- **February 8:** City letter asking owner if interested in negotiating acquisition at fair market value.
- **February 13:** Owners reply they are not willing to discuss selling the property to any entity other than Lafferty Communities because of their existing contract and legal obligation.
- **February 29:** Second City offer letter at open space value (\$1,736,960) sent to owners. Offer was doubled consistent with direction from ALOSC at the Feb. 16 meeting.
- **March 1:** Owners reply declining the offer and asking City to not send them any more offers to buy the property.

Project Costs

<i>Itemized Expenses (Estimated)</i>	
<i>Proposed Purchase Price</i>	<i>\$1,736,960 (\$54,280/acre)</i>
<i>Transaction Costs</i>	<i>\$35,000</i>
<i>Total Project Cost</i>	<i>\$1,771,960</i>
<i>Funding from ALOSC</i>	<i>\$850,000</i>
<i>Funding from Dougherty Valley Settlement Agreement Fund</i>	<i>\$921,960</i>



Altamont Landfill Open Space Committee
18 Greenville Road & Cross Property Acquisitions

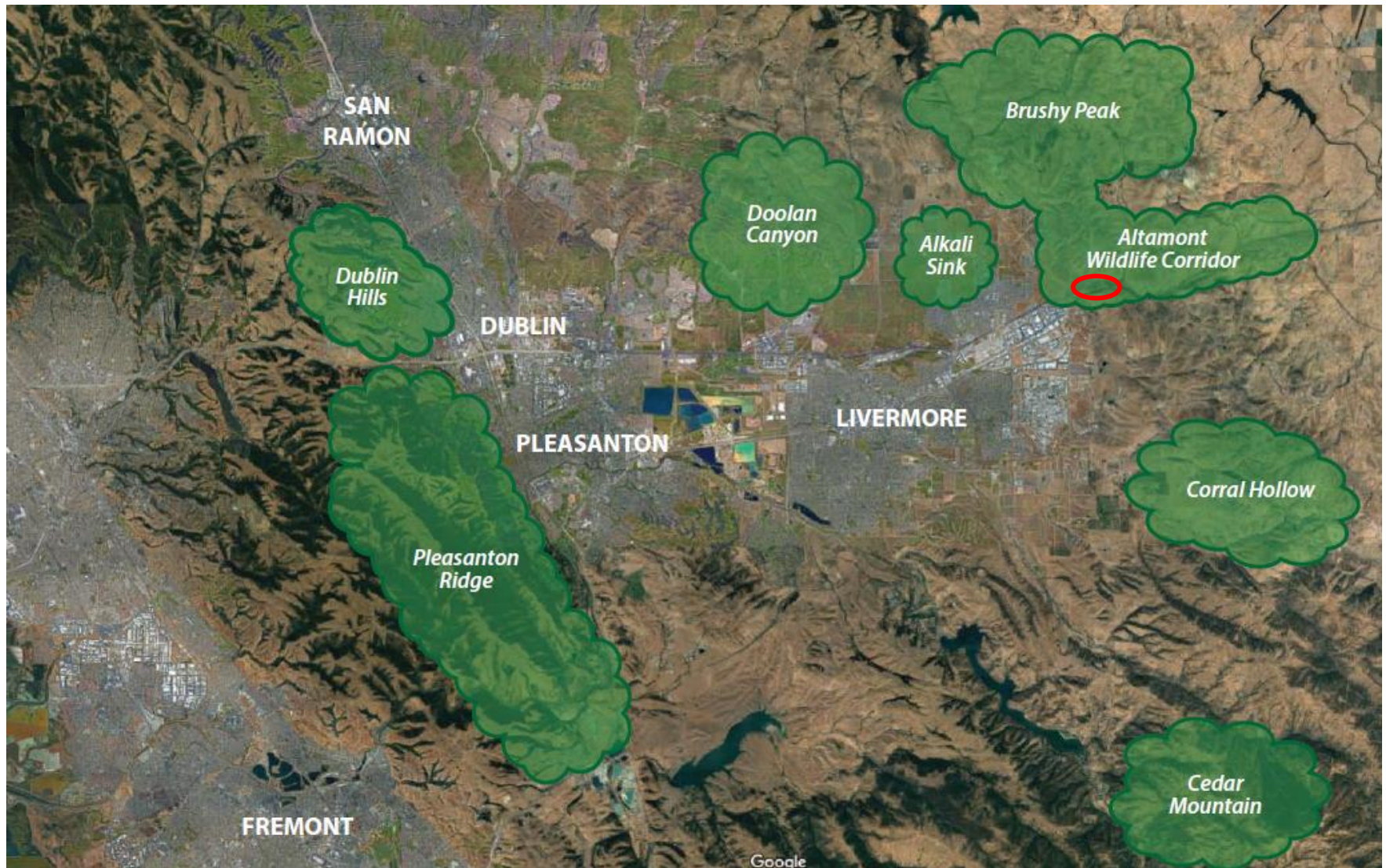
March 15, 2024

Kam Purewal – Associate Planner

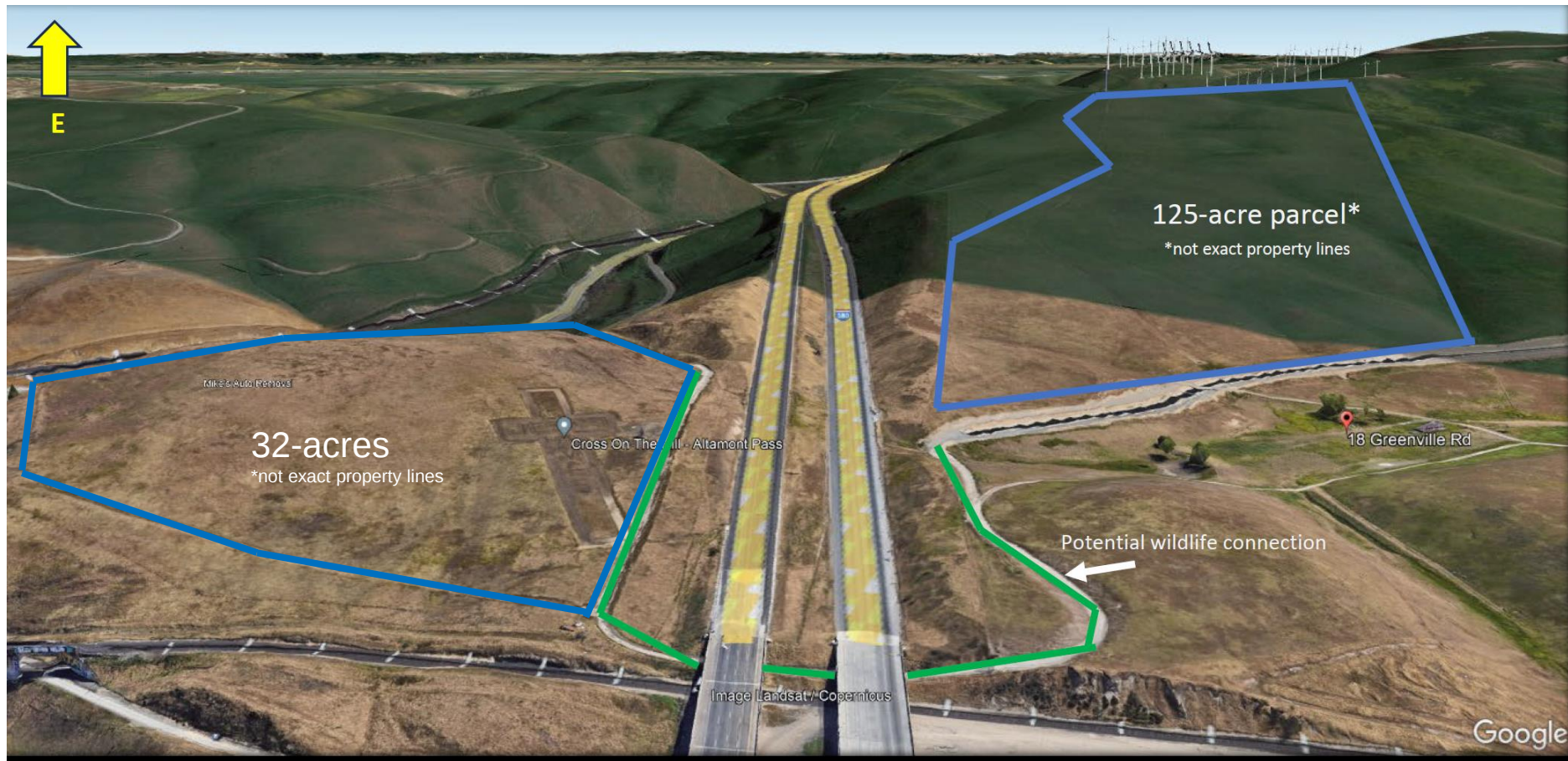
Proposed Acquisition Properties



Site and Context



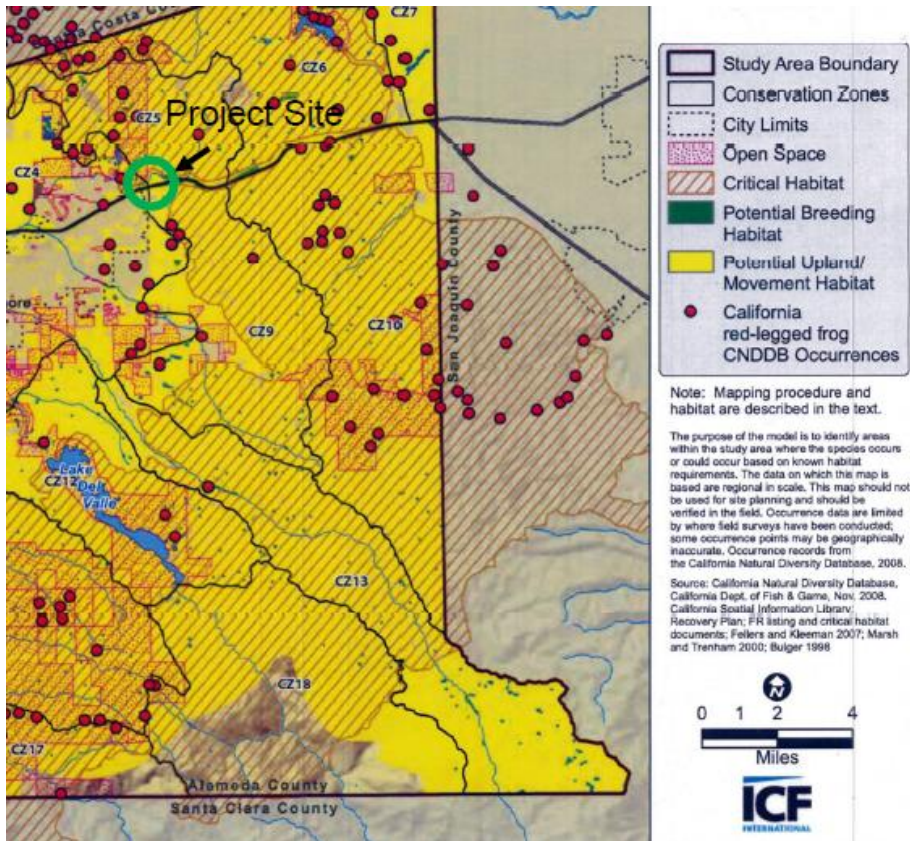
Site and Context



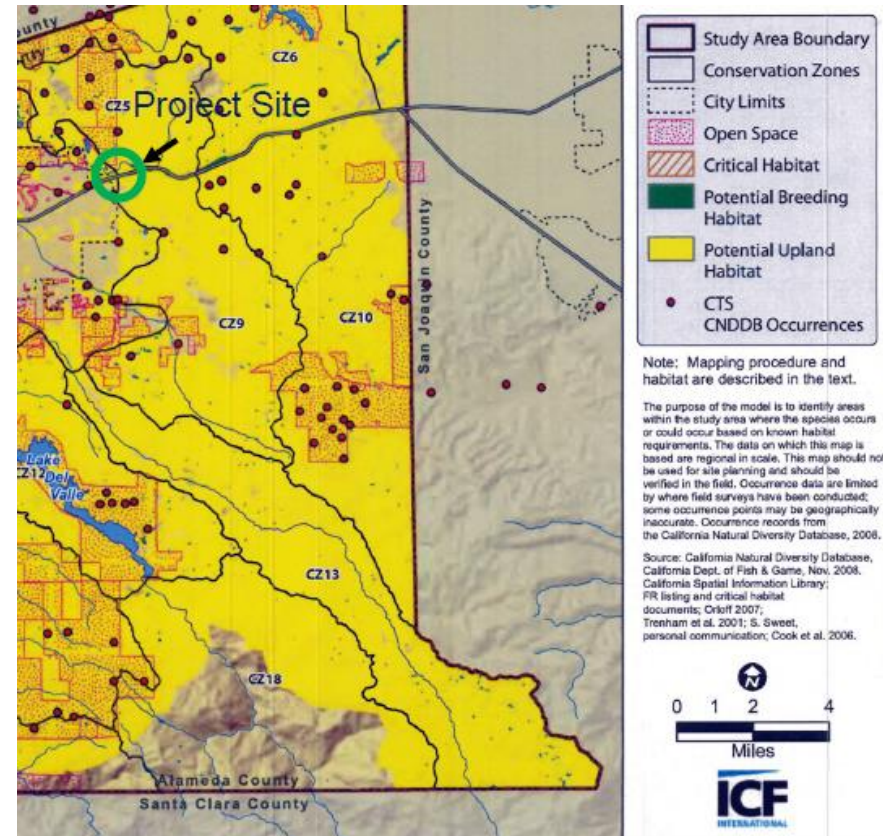
ALOSC Funding Criteria

Biodiversity

CA Red-Legged Frog



CA Tiger Salamander



ALOSC Funding Criteria Recreation

ALOSC - Prioritization Mapping Tool

Subject Property - "Cross Property"

APN: 99B-5680-4

Acres	33.92
Bird Areas	1.00
Wetland	0.00
Whipsnake	0.00
Red Legged Frog	0.00
Tiger Salamander	0.00
Delta Smelt	0.00
Fairy Shrimp	0.00
Critical Link	1.00
Intensified Connectivity	0.47
Diffuse Connectivity	0.64
Channelized Connectivity	0.00
Recreation	0.99
Viewshed	0.52

Subject Property - 18 Greenville Road Livermore, CA

APN: 99B-5685-12

Acres	124.37
Bird Areas	1.00
Wetland	0.00
Whipsnake	0.00
Red Legged Frog	0.37
Tiger Salamander	0.00
Delta Smelt	0.00
Fairy Shrimp	0.00
Critical Link	1.00
Intensified Connectivity	0.62
Diffuse Connectivity	0.07
Channelized Connectivity	0.26
Recreation	0.96
Viewshed	0.73

Protected Area Parcel Ranking

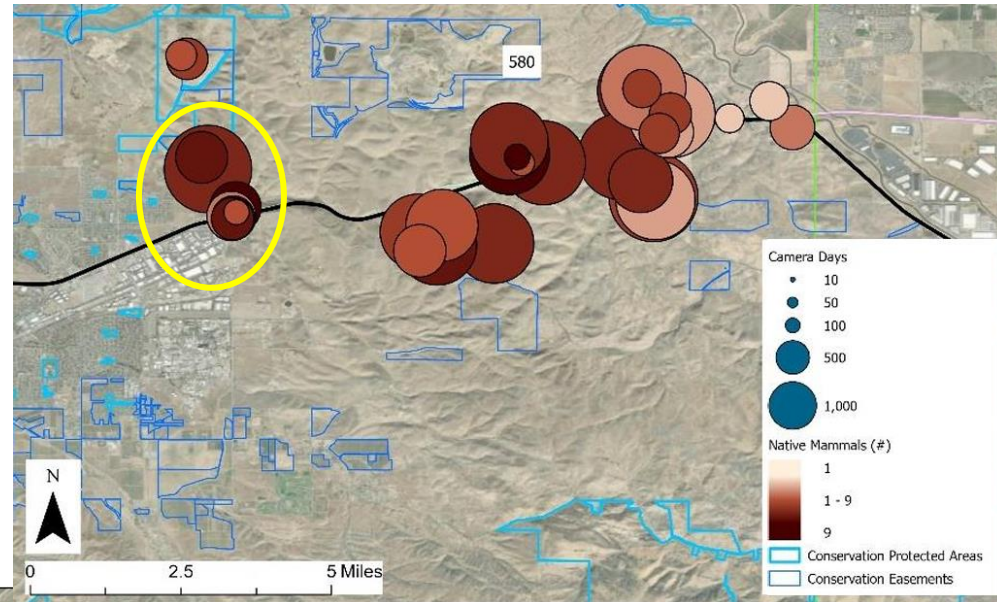
Range: 0 - lowest ranking
1 - highest ranking

ALOSC Funding Criteria

Critical Linkage

ACRCD & UC Davis Road Ecology Center - Wildlife Presence Final Research Report

- Presented to ALOSC 1/19/2024



Project Costs

Cross Property

<i>Itemized Expenses (estimated)</i>	
<i>Purchase Price</i>	<i>\$1,000,000</i>
<i>Transaction Costs (appraisal/ staff/ legal/title/ escrow)</i>	<i>\$20,000</i>
Total Project Cost	\$1,020,000
<i>Funding from ALOSC</i>	<i>\$520,000</i>
<i>Funding from City of Livermore - Livermore Open Space Funds</i>	<i>\$500,000</i>

18 Greenville Road

<i>Itemized Expenses (estimated)</i>	
<i>Purchase Price</i>	<i>\$2,100,000 (\$16,800/acre)</i>
<i>Transaction Costs (appraisal/ staff/ legal/title/ escrow)</i>	<i>\$40,000</i>
Total Project Cost	\$2,140,000
<i>Funding from ALOSC</i>	<i>\$1,740,000</i>
<i>Funding from City of Livermore – Livermore Open Space Funds</i>	<i>\$400,000</i>

ALOSC Request



PROTECTING OPEN SPACE FOR YOU, WILDLIFE AND FUTURE
GENERATIONS TO ENJOY!



AN INDEPENDENT SPECIAL DISTRICT
MAKING MEMORIES, CHANGING LIVES.



Funding Request

ALOSC Funding Criteria:

- Willing Seller ✓
- Additional Funding ✓
- Native Biodiversity Value ✓
- Visual/ Non-motorized Recreation Value ✓
- Strategic Land Protection Value ✓

Funding Request

ALOSC Funding Criteria:

- Willing Seller ✓
- Additional Funding ✓
- Native Biodiversity Value ✓
- Visual/ Non-motorized Recreation Value ✓
- Strategic Land Protection Value ✓

ALOSC Request:

- Correspond with potential land stewards ✓

Funding Request

ALOSC Funding Criteria:

- Willing Seller ✓
- Additional Funding ✓
- Native Biodiversity Value ✓
- Visual/ Non-motorized Recreation Value ✓
- Strategic Land Protection Value ✓

ALOSC Request:

- Correspond with potential land stewards ✓

The City of Livermore requests the Altamont Landfill Open Space Committee expend a total of \$2,260,000 to assist the City with the following acquisitions for conservation and open space purposes:

- \$520,000 for the “Cross Property”
- \$1,740,000 for 18 Greenville Road