

# Supplemental Material

For

## City of Sacramento

City Council

Housing Authority

Redevelopment Agency

Economic Development Commission

Sacramento City Financing Authority

## Agenda Packet

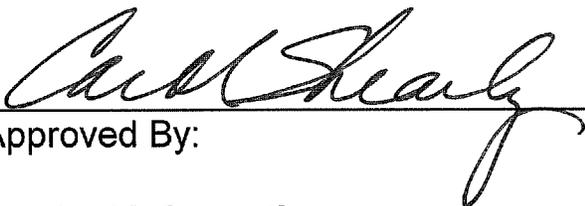
**Submitted:** June 27, 2005

**For the Meeting of: June 28, 2005**

Additional Material

Revised Material

**Subject:** Amend the North Natomas Community Plan to require the following elements related to the **Fisherman's Lake Buffer Width**, located at North Natomas. (Continued from 5-10-05, item 10.2 ; 5-24-05, item 10.2) (Noticed on 4-28-05; Re-noticed on 6-20-05) (D-1)

  
Approved By:

**Contact Information:**

Name, Carol Shearly, New Growth Manager, 808-5893

# RESOLUTION NO.

Adopted by the Sacramento City Council on \_\_\_\_\_

## AMENDMENT TO PROVISIONS IN THE NORTH NATOMAS COMMUNITY PLAN THAT PERTAIN TO THE AGRICULTURAL BUFFER ADJACENT TO THE EAST SIDE OF FISHERMAN'S LAKE

### BACKGROUND:

- A. The City Council adopted the North Natomas Community Plan (NNCP) on May 3, 1994 (Resolution No. 94-259). The City Council subsequently amended the NNCP on April 16, 1996 (Resolution No. 96-156). The NNCP sets forth the land-use designations and policies related to land use, circulation, infrastructure and community facilities, and public lands, including the designation of an agricultural buffer along the northern and western edges of the plan area. Fisherman's Lake is a portion of the West Drain along the western edge of the plan area. The NNCP requires a 200-foot-wide agricultural buffer along the east side of Fisherman's Lake, measured from the eastern boundary of Reclamation District 1000 (RD1000).
- B. The City Council adopted the North Natomas Financing Plan (NNFP) on August 9, 1994 (Resolution No. 94-495). The City Council updated the NNFP in 1999 and 2002. The NNFP sets forth the methods by which public land and infrastructure required by the NNCP will be funded, including the acquisition of land for the agricultural buffer.
- C. In December 1997, the United State Fish and Wildlife Service (FWS) and the California Department of Fish and Game (DFG) issued incidental-take permits to the City based on the 1997 Natomas Basin Habitat Conservation Plan. The incidental-take permits were challenged in both federal and state court. The parties in both cases negotiated an Agreement to Settle Litigation that allowed limited development to occur under certain conditions. One of the conditions required the City to initiate and consider an amendment to the NNCP that widened the buffer along Fisherman's Lake from 200 to 800 feet.
- D. Fisherman's Lake is defined in the settlement agreement to include a portion of the West Drain between its "bend" at the north and El Centro Road at the south.
- E. On May 13, 2003, the City Council adopted the revised 2003 Natomas Basin Habitat Conservation Plan (2003 HCP). The HCP is the conservation plan upon which the FWS relied to issue the City an incidental-take permit on June 27, 2003, and upon which the DFG relied to issue the City an amended incidental-take permit on July 10, 2003. The HCP defines the operating conservation plan to which the City has agreed to comply, and it includes protections for Fisherman's Lake. According to FWS and DFG, the east-side protections provided for Fisherman's Lake in the 2003 HCP include a minimum 250-

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feet-wide buffer measured from the east shore of the lake. This buffer is essentially the same as the NNCP's 200-foot-wide buffer measured from the eastern boundary of RD1000.

- F. In February 2002, a stakeholder group was formed consisting of the environmental plaintiffs, property owners, FWS, and DFG, The Natomas Basin Conservancy, Reclamation District 1000, and City staff. The group selected Padre Associates, a biological consultant, to complete the biological-resource analysis necessary to evaluate the biologically appropriate width of the Fisherman's Lake buffer. No consensus was reached by the stakeholder group regarding a recommendation for the NNCP amendment.
- G. The City contracted with Padre Associates to complete a biological analysis entitled the Fisherman's Lake Buffer Zone Study and dated January 2005. Among other things, the analysis concludes that the buffer's configuration should be based on conditions that have resulted in successful nesting and fledging of young Swainson's hawk in the Natomas Basin, rather than simplistically reflect an arbitrary geographical or political boundary. Specifically, the report recommends a 300-foot-wide buffer around existing Swainson's hawk nesting trees, plus other protective measures such as screening, restrictions on human activity, etc.
- H. The City contracted with Economic and Planning Systems, Inc. (EPS) for an analysis of how widening the Fisherman's Lake buffer would affect the NNFP. EPS completed the analysis on August 30, 2004, and subsequently revised it on April 15, 2005. The analysis concludes that widening the buffer would require expenditures to acquire land not covered by NNFP fees while at the same time decreasing the revenues generated by development because fewer acres would be developed for urban use.
- I. Based upon the requirements of the 2003 HCP and the 1994 NNCP, the recommendations in the Padre biological study, and the information provided in the EPS financial analysis, City staff proposed an amendment of the NNCP that requires the Fisherman's Lake buffer to include the following: (1) a minimum 300-foot-radius buffer around the known Swainson's hawk nesting trees; (2) a minimum 250-foot-wide buffer elsewhere, measured from the east shore of Fisherman's Lake (which, as noted, is essentially the same as a 200-foot-wide buffer measured from the eastern boundary of the RD1000 property); and (3) other protective measures, including but not limited to screening the trees from human activity, planting additional trees, and restricting human activity.
- J. Staff's proposed amendment does not widen the buffer to 800 feet because (1) such a buffer is not biologically justified by the evidence in the 2003 HCP or the Padre biological study; (2) requiring dedication of such a buffer arguably would be considered a "taking" of property for which the City would be required to pay the owner fair-market value; and (3) the cost to fund the acquisition of such a buffer, whether by dedication or by negotiation, is not provided for by the NNFP or by any other funding source.

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Acquisition of a widened buffer would require a new source of funding and reduction of fee revenues to the NNFP would result in reduced ability for the fee program to pay for necessary public infrastructure and community facilities.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

The provisions in the North Natomas Community Plan that pertain to the Fisherman's Lake buffer are amended as follows:

1. *The paragraph titled "Agricultural Buffers" (beginning on the bottom of page 58, under the heading "Implementing Policies") is deleted and replaced with the following:*

**Agricultural Buffers:** The plan calls for an agricultural buffer along the north and west boundaries of the plan area. The north buffer along Elkhorn Boulevard includes a 250-foot-wide strip of land along the south side of Elkhorn Boulevard, the 136-foot-wide public right-of-way of Elkhorn Boulevard, and any maintenance road or irrigation canal on the north side of Elkhorn Boulevard. The uses allowed in the buffer include pedestrian and bike ways, linear parks and open space, drainage canals or detention basins, irrigation canals, public roads, and maintenance roads. The buffer along the west side of the plan area is 200 feet wide, except for the Fisherman's Lake buffer defined below, and allows the same uses as the northern buffer, except for the Fisherman's Lake buffer defined below.

**Fisherman's Lake Buffer:** The buffer along **the east side of** Fisherman's Lake from Del Paso Road to El Centro Road is designed to optimize the value of the buffer and its features for special-status species.

- 1) **Buffer Area** - A buffer **a minimum of 300 feet** in radius around each Swainson's hawk nesting tree will be provided (known nesting trees as of 2004). The width of the buffer outside the 300-foot radius around the nesting trees shall be a minimum of 250 feet wide, measured from the eastern shoreline of Fisherman's Lake, which is essentially the same as a buffer 200-foot-wide measured from the eastern boundary of RD 1000 property. The eastern shoreline is the "**average annual high water mark**" of Fisherman's Lake as defined by the City Utilities Department.
- 2) **Buffer Uses** - **The buffer shall include two areas: 1) the nesting tree buffer area around the Swainson's hawk nesting trees, and 2) the rest of the buffer area. The uses will differ between these two buffer areas.**
  - a. **Nesting Tree Buffer Area** - The uses allowed in the nesting tree buffer area shall be those that provide the conditions to support

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the likely success of the Swainson's hawk in continuing to use the existing nesting trees, as well as providing open space for other special-status species. The uses include: 1) detention basins (i.e., lakes, channels), and other storm water/ drainage facilities, 2) passive park uses, including picnic tables and benches, pedestrian and bikeways, and other low impact uses – subject to closure during the critical breeding activity, and 3) other open space uses, including habitat land. The nesting tree buffer area is defined as the Fisherman's Lake buffer extending from Del Paso Road south to the southernmost nesting tree radius on the east side of Fisherman's Lake.

b. **Other Buffer Area** - The allowable uses in the other buffer area shall provide open space for special-status species, as well as other purposes. The uses include: 1) all those uses allowed in the nesting tree buffer area, 2) pedestrian and bikeways not subject to closure, 3) public and maintenance roadways, and 4) other public uses, e.g., fire station. The other buffer area is defined as the open space buffer extending from El Centro Road north to the southernmost nesting tree radius on the east side of Fisherman's Lake.

- 3) **Screening** - Screening of the nests from human disturbance shall be accomplished with a row of non-deciduous trees and/or shrubs between each nest tree and the developed lots. To minimize the risk of fire in the buffer, a non-vegetative, defensible space **at least a minimum of 16 feet wide** between the developed lots and the vegetation shall be provided.
- 4) **Restrict Human Access** - Restrict human access within 300 feet of nest trees during critical breeding activity, as defined by the Swainson's Hawk Technical Advisory Committee or, if the committee is not operational, by California Department of Fish and Game. Critical breeding activity generally includes nest selection to hatching of young. Human access shall be restricted by providing a gate at the north and south ends of the access road that will be closed and posted during critical breeding activity. Access from the developed lots will be restricted by constructing a wrought-iron fence, stockade fence, masonry wall, or other suitable fencing along the developed lots prior to occupancy of those lots. Any pedestrian or bike recreation trails built within the 300-foot radius of the nesting trees shall be closed and posted during critical breeding activity.
- 5) **Water Quality** - To the extent practicable, the City shall ensure that water from the detention basin and other drainage facilities shall meet water quality standards before it is put into Fisherman's Lake.

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6) Future Annexations - If the area adjacent to the northern portion of Fisherman's Lake is annexed into the City, the same buffer size and other requirements shall apply.

2. *The section titled "Agricultural Buffer Area" (on the bottom third of page 82) is deleted and replaced with the following:*

Agricultural Buffer Area

**Greenbelt Along Northern and Western Boundaries:** Develop a greenbelt along the northern and western boundaries of the plan area to create a strong edge between the community and adjacent areas of permanent agriculture.

**Greenbelt Width:** The northern greenbelt will be a minimum of 250 feet in width, not including the Elkhorn Boulevard right-of-way and irrigation canals and maintenance roads on the north side of Elkhorn, which brings the total width to 500± feet. The western greenbelt will be a minimum of 200 feet in width except for the Fisherman's Lake buffer provided for in the Open Space section on page 58.

**Purpose of Greenbelt:** The northern and western greenbelts are intended to provide a low-maintenance, limited-access open space that does not encourage active recreational use and that defines and preserves the urban limits of North Natomas. Limited access would be available from the subdivisions via pedestrian and bike ways and not from Elkhorn Boulevard.

**Plant Materials:** Suitable plant materials for the greenbelts include primarily fast-growing, non-deciduous species that will provide a wind/shelterbelt to protect residential areas from prevailing winds and agricultural spraying. Plant materials used in the Fisherman's Lake buffer also include fast-growing, non-deciduous species to provide screening between special-status species, specifically the Swainson's hawk, and human activity.

3. *The section titled "Vegetation and Wildlife" (on the top third of page 83) is deleted and replaced with the following:*

Vegetation and Wildlife

**Tree Preservation:** Valley oaks and other large trees should be preserved wherever possible. Preserve and restore stands of riparian trees used by Swainson's hawks and other animals for nesting, particularly adjacent to Fisherman's Lake.

**Native Plants:** Improve the wildlife value of landscaped parks, buffers, and developed areas by planting trees and shrubs that are native to the North

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Natomas area and therefore used by many native animals. Simulate natural riparian and valley oak woodlands by planting larger stands.

**Limited Access to Habitat Areas:** Riparian and wetland areas are more valuable as wildlife habitat when they are located where human use is limited, such as along agricultural and freeway buffers and other large open-space areas. Access to the Fisherman's Lake buffer will be restricted during the critical breeding season of the Swainson's hawk; see page 58 in the Open Space section.

**Protect Raptor Nests:** Avoid the raptor nesting season when scheduling construction near nests.

**Special Status Plants/Animals:** Search for special-status plants during flowering season prior to construction and special-status animals during the appropriate season.

**PASSED AND ADOPTED** on \_\_\_\_\_, 2005, by the following vote:

**Aye:**

**No:**

**Abstain:**

**Absent:**

\_\_\_\_\_  
MAYOR

ATTEST:

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CITY CLERK

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