



REPORT TO COUNCIL

City of Sacramento

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STAFF REPORT
August 9, 2005

Honorable Mayor and
 Members of the City Council

Subject: Report Back – Fisherman’s Lake Buffer – North Natomas Community Plan
 Amendment

Location/Council District: Fisherman’s Lake, a portion of the West Drain from Del
 Paso to El Centro Roads, District 1

Recommendation:

Adopt the resolution describing how to resolve the 7.7 acre “gap” and other issues
 related to the Fisherman’s Lake Buffer in North Natomas.

Contact: Carol Shearly, New Growth Manager, (916) 808-5893

Presenters: Carol Shearly

Department: Development Services

Division: New Growth

Organization No: 4823

Summary:

On June 28, 2005, the City Council adopted a resolution defining the location and size
 of the Fisherman’s Lake buffer in North Natomas and directed staff to report back on: 1)
 funding options, 2) closure of Del Paso Road, 3) buffer protection measures, and 4)
 buffer restoration and management plan. The City Council also agreed that a maximum
 of one-third of the cost to widen the buffer may be paid for using the General Fund.
 Staff is reporting back on those issues and proposing how to close the 7.7 acre “gap” in
 the adopted resolution.

Committee/Commission Action:

On February 24, 2005, the Planning Commission voted seven to two to approve the
 800-foot wide buffer and forward the recommendation to City Council.

Background Information:

On June 28, 2005, the City Council adopted a resolution defining the location and size of the Fisherman's Lake Buffer. The goal of the Council action was to optimize the buffer area along Fisherman's Lake to protect habitat values. Generally, the buffer is a minimum of 300 feet wide measured from the RD 1000 property line from Del Paso Road to the southern Swainson's hawk nesting tree and is a minimum of 200 feet wide measured from the RD 100 property line from the southern Swainson's hawk nesting tree to El Centro Road. Pursuant to the Natomas Basin Habitat Conservation Plan (HCP), the minimum buffer width must be 250 feet wide measured from the edge of the lake. The 300 foot wide buffer meets that requirement, however, the 200 foot wide portion of the buffer may need to be widened to accommodate that 250 foot wide minimum from the edge of the lake.

Also, the Council directed staff to report to Council on: 1) funding options, 2) closure of Del Paso Road, 3) buffer protection measures, and 4) buffer restoration and management plan. The Council directed staff to work with applicant(s) to redesign adjacent projects to further widen the buffer. And the Council agreed to use the General Fund to fund a maximum of one-third of the cost of the "gap" to provide the buffer.

7.7 Acre Land "Gap"

In response to the Council resolution, staff met with the developer representatives several times to measure and resolve the estimated 7.7 acre "gap." The number of acres for the adopted "300-foot/ 200-foot" buffer is about 52 acres measured from the RD1000 property line. Measured from the edge of the lake, the buffer is about 62 acres.

Using a surveyed plan, the amount of land needed for the buffer is 51.1 acres, including 0.5 acres for the widening of El Centro Road at the east end of the buffer and 0.4 acres for widening Del Paso Road at the north end of the buffer. Therefore, 51.1 acres minus 0.9 acres for the major roads at each end of the buffer equals 50.2 acres that need to be acquired. If the County and City agree to close Del Paso Road, the 0.4 acres will not be needed for the widening and it could be included in the buffer area.

Using the chart entitled "350' Wide Buffer Options" distributed by Councilmember Tretheway during the June 28th hearing as a guide, the developers, Forecast Homes, redesigned their plan, including the following public land uses in the buffer: 10 acres of nature park, 6.9 acres of detention basin, 3.7 acres for the bike trail between Del Paso and El Centro Roads, 2.0 acres for the fire station, 5.8 acres for roads, and 21.8 acres of buffer included in the NNFP.

The following concerns were expressed by staff about the developer's proposal: 1) Is the fire station an acceptable buffer use from the wildlife agencies' perspective? 2) Is the location and shape of the fire station site acceptable to the Fire Department? 3) Are the roads an acceptable buffer use from the wildlife agencies' perspective? 4) How can we provide a functioning bike/pedestrian trail when a segment would be closed for the

hawk's breeding season during the most active bicycling time of the year? Responses to these concerns follow.

Fire Station – Staff proposes the fire station be located as originally proposed at the northwest corner of Arena and El Centro Roads and the station acreage should not be counted in the buffer area “gap” for the following reasons:

- The prototype fire station does not fit easily on the proposed elongated site.
- The fire station is proposed within a residential neighborhood, a sensitive noise receptor, and is not directly on a major street.
- A fire station might not be an appropriate use in a habitat buffer.

Bike/Pedestrian Trail – The City Alternative Modes Coordinator expressed concern about restricting the use of the bike trail during Swainson's hawk nesting season from March 15th through August because that is the busiest time of year for bicycling. Staff proposes to add the following conditions to address this concern: 1) developer should design the on-street “detour” to be as short and direct as possible, and 2) TNBC and City should coordinate annual monitoring of the use of the nesting trees - if no hawks are using the trees for nesting, the bicyclists and pedestrians can use the trail that year.

Roads – The developer proposes to locate some local public roads within the buffer, specifically the extension of Arena Boulevard at the east end of the buffer and some subdivision streets. Allowing the homes to front on the buffer rather than be designed to back-on to the buffer is positive because it promotes “eyes on the buffer” discouraging humans from behaving badly in the buffer and it allows “lot premiums” for homes overlooking the buffer. None of the roads are located within the Swainson's hawk nesting buffer area. Roads are allowable uses in the agricultural buffer in the North Natomas Community Plan and in preserve sites in the Natomas Basin HCP. Also, the road would provide a non-vegetated fire-break between urban uses and the buffer.

Accounting for relocating the fire station back to its originally proposed site at Arena and El Centro Roads, instead of locating it within the buffer, 2.0 acres are still needed to fully resolve the “gap.” The developer has agreed to dedicate the acreage, under specific conditions.

Closure of Del Paso Road

The Natomas Basin Conservancy (TNBC) currently owns preserve sites on both the north and south sides of Del Paso Road, west of the City limit line. Del Paso Road is currently closed past the City limit line for repairs. Closing the road would result in a large contiguous preserve site not divided by a road. In order to keep Del Paso Road closed after the repair work is completed, the following agencies must agree to its closure: County Sheriff, County Public Works, City Police, City Fire, and City Transportation. City Transportation staff has scheduled a meeting with the appropriate agencies in early August to follow up about the closure of Del Paso Road. That meeting will consider whether or not to close the road, where it might be closed, and conditions

that might be applied to provide necessary emergency access, etc. with the road closed. See Attachment 1 from the City Director of Transportation regarding Del Paso Road closure.

Buffer Protection Measures

The Padre Biological Study recommended several measures to provide conditions for successful Swainson's hawk fledging: 1) screening the nests from future urban development, 2) restricting human activity during the critical breeding season, 3) planting additional trees to provide future nesting trees, and 4) providing a non-vegetated, fire break between buffer vegetation and urban development. Recommended protective measures for the giant garter snake have largely been provided by TNBC on the existing preserve sites on the west side of Fisherman's Lake.

Staff has discussed these measures with the Executive Director of TNBC, the likely manager of the buffer. According to TNBC, screening would be provided by the home builder through fencing and landscaping with evergreen trees. Gates would be built and used at the north and south ends of the Swainson's hawk buffer area to inform trail users that the area is restricted from human activity during the critical breeding season. Additional trees have already been planted on the west side of Fisherman's Lake by TNBC – additional groups of trees would be planted on the east side as part of the restoration plan. A non-vegetated fire break could be provided as a bike trail, public road, and/ or maintenance road.

Buffer Restoration and Management Plan

TNBC will likely manage the Fisherman's Lake Buffer as part of the Conservancy's reserve system. From TNBC's perspective, plans for restoration and management of the buffer would include: disking the area, planting additional future nest trees including temporary drip irrigation, and planting native grasses. They would gate the north and south ends of the buffer area and post it with "Restricted Habitat Area" signs. They would generate a fire-break between the homes and native grasses using a bike trail, road, or watered landscaped area. The buffer area would be included in TNBC's Site Specific Management Plan and would be subject to biological effectiveness monitoring per the Natomas Basin Habitat Conservation Plan (HCP).

Funding Options

Land – During the June 28, 2005, hearing, a chart entitled "350' Wide Buffer Options" was used to show what public land uses could be allowed in the buffer area. The chart showed a 7.7-acre "gap." Subsequently, the landowner, Forecast Homes, developed a plan that filled the "gap." As noted above, staff recommends relocating the two-acre fire station to its originally proposed site at the northwest corner of Arena and El Centro Roads. Therefore, a 2-acre gap remains. The landowner has agreed to dedicate the land at no cost to the City, under specific conditions.

Lost Fee Revenue – If no housing units or building square footage are lost in the redesign of the development, there will be minimal negative impact on the fee revenue.

Restoration – The landowner has agreed to provide \$1 million for restoration of the buffer under specific conditions. Also, 10 acres of parkland area are included in the buffer, so conceivably 10 acres of park impact fees would be generated by the development to fund restoration of the buffer area as a passive park area. Also, the North Natomas Financing Plan- Public Facilities Fee Program includes construction of a bike trail along Fisherman's Lake, so the non-vegetated, fire-break could be provided through the funded bike trail.

Maintenance – Long-term maintenance of the buffer area must be provided. To date, the following funding sources could be used to maintain the buffer: 1) North Natomas Landscape Maintenance Community Facilities District (CFD) #3, and 2) Neighborhood Park Maintenance CFD. The development project adjacent to the Fisherman's Lake buffer, Natomas Central, is already in CFD #3. When development occurs, CFD#3 assessments will be collected. CFD #3 would generate about \$38,000 per year in 2005 dollars for the buffer area. Natomas Central would have to be annexed into the Neighborhood Park Maintenance District. Such an annexation would be a condition of approval of the development project. The Park Maintenance District would generate about \$62,000 for the 10 acres of park in the buffer.

Financial Considerations:

The "300 Foot/ 200 Foot" Fisherman's Lake Buffer approved by City Council on June 28, 2005, resulted in a 7.7 acre "gap" of land, loss of associated fee revenue, cost to restore the buffer area, and cost for long-term maintenance of the buffer. During the hearing on June 28, 2005, the Council agreed to use the General Fund to cover a maximum of one-third of the cost to widen the buffer. Now, the landowner has agreed to dedicate the remaining two-acre "gap" of land and pay \$1 million toward the restoration costs, under specific conditions. With this dedication of land and payment of restoration cost, the costs to widen the buffer are fully covered.

Environmental Considerations:

Sections 15307 and 15308 of the CEQA Guidelines provide a categorical exemption from CEQA for actions taken by regulatory agencies to assure the maintenance, restoration, and enhancement of a natural resource or protection of the environment. The proposed buffer has for its primary purpose the protection of natural resources, the environment, and the affected species. The biological study completed by Padre Associates was prepared as part of a process that is directed to identifying and implementing conditions on future activities for the benefit of Swainson's hawk, giant garter snake, and other affected species. As such, the measures considered here fall within the exemptions provided in CEQA Guidelines Sections 15307 and 15308 as measures designed for the protection of natural resources and the environment.

Implementation of the buffer and the associated protective measures occurs following substantial environmental review of the project area and environmental effects of the various actions that have been taken in the vicinity. The processes of consideration of the 1997 HCP, revised 2003 HCP, North Natomas Community Plan, and the North

Natomas Comprehensive Drainage Plan were each, for example, accompanied by full environmental review.

Policy Considerations:

The adopted Fisherman's Lake Buffer resolution is consistent with the 1994 North Natomas Community Plan and the 2003 Natomas Basin HCP related to buffer width, plant materials, tree preservation, limited access to habitat areas, and raptor nesting tree protection.

This policy item also furthers the City of Sacramento's Strategic Plan goal related to "Achieve sustainability and livability".

Emerging Small Business Development (ESBD): Not applicable to this project.

Respectfully Submitted by:



Carol Shearly, Manager
New Growth Division

Recommendation Approved:



ROBERT P. THOMAS
City Manager

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ATTACHMENT 1 – Department of Transportation Letter re Del Paso Road Closure



DEPARTMENT OF
TRANSPORTATION

CITY OF SACRAMENTO
CALIFORNIA

1000 STREET # 170
SACRAMENTO, CA
95814-2702

TRAFFIC ENGINEERING

PH 916-808-5307
FAX 916-808-8404

June 16, 2005

MEMORANDUM

To: Mayor Heather Fargo
Council Members

Through: Marty Hanneman, Director of Transportation *MH*

From: Nicholas Theocharides, Engineering Services Manager *N.T.*
Angie Louie Fong, City Traffic Engineer *ALF*

Subject: Del Paso Road at Fisherman's Lake Report Back

This is a follow-up to comments raised by Council Member Tretheway during the April 14, 2005 Council meeting requesting staff to investigate the permanent closure of Del Paso Road west of El Centro Road at Fisherman's Lake.

Del Paso Road at Fisherman's Lake is under the jurisdiction of the County of Sacramento. Del Paso Road is currently barricaded just west of Wyndview Way due to safety issues related to instability and erosion of the culvert underneath Del Paso Road. The County of Sacramento estimates the repair of the culvert to begin in the next few weeks, and plans to reopen the road shortly thereafter.

A permanent closure of Del Paso Road does not appear to be an issue from a local traffic operations and safety standpoint. However, permanent closure could lead to regional access issues and we anticipate that the County would not support this closure as Del Paso Road provides major access to the western part of the county.

In order to assess the issues related to a permanent closure of Del Paso Road at Fisherman's Lake, staff will facilitate a meeting with appropriate stakeholders including the Planning/Development Department, Police and Fire Department, Sacramento International Airport, and the County of Sacramento.

Please call me at 808-7921 if you have any questions. Thank you.

cc: Robert P. Thomas, City Manager
Ray Kerridge, Assistant City Manager
Kathy McAllister, Administrative Assistant
Ed Williams, Development Engineering & Finance Manager

RESOLUTION NO.

Adopted by the Sacramento City Council on _____

REPORT BACK RELATED TO THE 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 States 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-foot-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.

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

Section 1.

The goal of the City Council is to optimize the buffer area along Fisherman's Lake to protect habitat values.

Section 2.

The provisions in the North Natomas Community Plan that pertain to the Fisherman's Lake buffer are amended as follows, insert following the "Agricultural Buffers" section on page 58:

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.

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 300 feet wide in the northern section and 200 feet wide in the southern section measured from the eastern boundary of RD 1000 property (see Exhibit A for general map of the buffer). Pursuant to the Natomas Basin Habitat Conservation Plan, the buffer will be a minimum of 250 feet wide, measured from the eastern edge of the lake, along the entire length of the lake from Del Paso Road to El Centro Road.

Buffer Uses - The buffer shall include two areas: 1) Nesting Tree Buffer Area around the Swainson's hawk nesting trees, and 2) Other Buffer Area.

Nesting Tree Buffer Area - The uses allowed in the nesting tree buffer area shall be those that provide conditions to support 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. Specifically, uses may include: 1) a nature park, 2) detention

basin, 3) pedestrian and bikeways subject to closure during critical nesting season, and 4) other non-urban open space uses.

Other Buffer Area - The uses allowed 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., detention basin, 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.

Buffer Protective Measures - The following protective measures shall be incorporated in the buffer to provide conditions for successful Swainson's hawk fledging: 1) screening the nests from future urban development through fencing and landscaping with evergreen trees, 2) restricting human activity during the critical breeding season by providing gates at the north and south ends of the applicable Swainson's hawk buffer area and posting it with signs restricting human activity, 3) planting additional trees to provide future nesting trees, and 4) providing a non-vegetated, fire break, such as a bike trail or road, between buffer vegetation and urban development. The protective measures would largely be funded by the land owner/ developer as conditions of approval of the development project. The bike and pedestrian trails through the Nesting Tree Buffer Area are subject to closure during critical nesting season for the Swainson's hawk as determined by a biologist certified by US Fish and Wildlife Service and California Department of Fish and Game. A bike/ ped trail "detour" shall be provided that is short and direct for the segment of the trail that is closed. Use of hawk nesting trees should be monitored annually and if the nesting trees are not used by Swainson's hawks, the trail may stay open through the critical nesting season.

Buffer Restoration and Management Plan - The Natomas Basin Conservancy (TNBC) will likely manage the Fisherman's Lake buffer as part of the Conservancy's reserve system. Plans for restoration and management of the buffer would include: disking the area, planting additional future nesting trees including temporary drip irrigation, and planting native grasses. They would gate the north and south ends of the buffer area and post it with "Restricted Habitat Area" signs. They would generate a fire break between the homes and native grasses using a bike trail, road, or watered landscaped area. The buffer area would be included in

TNBC's Site Specific Management Plan and would be subject to biological effectiveness monitoring per the Natomas Basin Habitat Conservation Plan (HCP). The costs to restore the buffer would be paid for through a developer endowment, park impact fees, Public Facilities Fee and Land Acquisition Program for the bike trail, and other funding sources. The cost of long-term maintenance will be funded through the North Natomas Landscape Maintenance Community Facilities District (CFD) #3, the Neighborhood Park Maintenance CFD, and other funding sources.

Closure of Del Paso Road – In order to promote contiguity between TNBC reserve sites on the north and south sides of Del Paso Road, closure of Del Paso Road west of the City limit line shall be considered by the applicable City and County agencies.

Section 3.

A maximum of one-third of the cost to widen the Fisherman's Lake buffer as described above in Section 2 may be paid for using the General Fund.

PASSED AND ADOPTED on _____, 2005, by the following vote:

Aye:

No:

Abstain:

Absent:

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A – Land Use Summary

300 Foot / 200- Foot Wide Fisherman's Lake Buffer

Per the Council action on June 28, 2005, a minimum 300 foot wide buffer measured from the RD1000 property line is required from Del Paso Road to the southern Swainson's hawk tree and a minimum 200 foot wide buffer measured from the RD 1000 property line is required from the southern Swainson's hawk tree to El Centro Road. Per the 2003 HCP, a minimum of 250 feet from the edge of the lake is required.

The following public land uses are allowed in the buffer area:

<u>Use</u>	<u>Acres</u>
Nature Park	10.0
Detention Basin	6.9
Bike/ Ped Trail	3.7
Buffer in NNFP	21.8
Roads	5.8
<u>Fire Station</u>	<u>2.0</u> (Staff recommends FS at NWc Arena/ El Centro)
Total Buffer	50.2

Notes:

"Total Buffer" excludes 0.5 acres for El Centro Road widening and 0.4 acres for Del Paso Road widening. If Del Paso Road is closed, 0.4 acres would not be needed for the road and could be used for the buffer.

Fisherman's Lake Buffer Map – EXHIBIT B

