

**ADDENDUM TO THE  
PANTAGES BAYS RESIDENTIAL DEVELOPMENT PROJECT  
ENVIRONMENTAL IMPACT REPORT  
(State Clearinghouse #2007-052130)**

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**County File Numbers:**

**GP19-0002, RZ19-3252, SD19-9527, DP19-03024**

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## 1.0 Project Description

### 1.1 PURPOSE

The purpose of this addendum is to evaluate the environmental effects of proposed changes to the Pantages Bays Residential Development Project (project). An Environmental Impact Report (EIR) for the project was certified by Contra Costa County (County) in 2013<sup>1</sup> (2013 Pantages EIR), and an addendum to the EIR was prepared by the County in 2015<sup>2</sup> (2015 Pantages Addendum). This document addresses project modifications proposed by the project Applicant in 2019 to determine if new significant impacts would occur that would necessitate preparation of a subsequent or supplemental EIR per the California Environmental Quality Act (CEQA).

### 1.2 2013 PANTAGES ENVIRONMENTAL IMPACT REPORT

The project site is located in unincorporated eastern Contra Costa County approximately 16 miles west of Stockton, 4.5 miles southeast of Brentwood, and 19 miles north of Livermore. The approximately 171-acre project site is undeveloped except for a few dilapidated structures. The project site is located west of the original Discovery Bay subdivisions at the eastern terminus of Point of Timber Road (**Figure 1**).

The project described in the 2013 Pantages EIR consisted of plans to construct 292 detached single-family residential units within the Discovery Bay community. The 2013 Pantages EIR also included a Sheriff Marine Patrol Substation, roadways and pedestrian facilities, and necessary utilities. Of the 292 residential units, 116 waterfront units included docks with deep water access to Kellogg Creek.<sup>3</sup> The remaining 176 residential lots were located within the project site with no deep water access.

In addition to residential development, the EIR project description included the widening of Kellogg Creek immediately east of the project site, including a portion of Pantages Island northeast of the residential development, would have preserved emergent marsh in the northern portion of the project site and on Pantages Island, and would have created new seasonal wetlands. Bays and coves would have been excavated along Kellogg Creek to create waterfront lots and provide deep water access to residents.

The 2013 project received approval of a General Plan Amendment, Rezoning, Subdivision, and Final Development Plan.

### 1.3 2015 PANTAGES ADDENDUM

After certification of the 2013 Pantages EIR, the Applicant filed an application with the County to modify the approved General Plan Amendment, Rezoning, Subdivision, and Final Development Plan. This application proposed reconfiguring the 292 proposed residential units to modify proposed bays along Kellogg Creek. These modifications would have required widening of the west bank of Kellogg Creek and removal of some of the wetlands in the northern part of the project site. Construction of the shoring wall along Kellogg Creek would have impacted waters of the United States as defined by the US Army Corps of Engineers. The following project modifications were also proposed:

- replacement of cement deep soil mixing shoring wall construction with the sheet pile shoring wall construction method
- maximum bay depth of 33 feet and a minimum bay depth of –11 feet for boat keel clearance
- new cut and fill amounts: 1,305,461 cubic yards of excavated soil and 1,344,237 cubic yards of fill
- reconfiguration of streets, bays, and coves of the site plan

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1 State Clearinghouse: #2007052130; County file numbers: GP99-0008, RZ04-3146, SD06-9010, DP04-3062

2 County file numbers: CDDP 19-03024

3 Kellogg Creek is a creek that branches off from the Indian Slough tributary and makes up the eastern border of the project site

- reduction of waterfront lots to 105 (from 116); increase of non-waterfront lots to 187 (from 176)

The 2015 Pantages Addendum evaluated this modified version of the project against conditions established in the 2013 Pantages EIR. The 2015 Pantages Addendum concluded that the 2015 modified project changes would not result in impacts previously unevaluated in the 2013 Pantages EIR and would not warrant supplemental environmental review.

#### 1.4 PROJECT CHANGES ADDRESSED IN THIS ADDENDUM

In 2019, the Applicant filed a new application with the County for additional modification to its approved General Plan Amendment, Rezoning, Subdivision, and Final Development Plan. The proposed project modifications include a reconfiguration of the residential land uses to avoid impacts to the northern wetland complex and Kellogg Creek, reduction of residential lots from 292 to 277, expansion of the trail network and clubhouse area, and addition of two internal lakes within the project site (**Figure 2**). These key components are briefly described in **Table 1** and in further detail below in **Section 2.1** through **Section 2.16**.

**Table 1 Project Components**

Project Feature	2013 Pantages EIR	2015 Pantages Addendum	2019 Modified Project
Bays and Coves	Yes	Yes	No
Widening of Kellogg Creek	Yes	Yes	No
Deep Water Access	Yes	Yes	No
Internal Lakes	No	No	Yes
Clubhouse	No	Yes	Yes
Sheriff's Patrol Substation	Yes	Yes	No
Number of Housing Units	292	292	277
Impervious Surface (acres)	17.4	18.4	13.4
Trail Length (linear feet)	3,840	3,200	5,200

**Table 3** summarizes the project site's existing land use designations outlined in the *Contra Cost County General Plan 2005-2020* (General Plan), the land uses proposed in the 2013 Pantages EIR, the land uses proposed in the 2015 Pantages Addendum, and the new land use acreages proposed by the 2019 modified project. As shown in **Figure 3**, the General Plan includes designations for Single-Family Residential – Medium-Density (SM) (3.0-4.9 DU/AC), Single-Family Residential – High-Density (SH) (5.0-7.2 DU/AC), Public/Semi-Public (PS), Open Space (OS), and Water (WA) at the project site. However, consistent with the 2013 Pantages EIR, project modifications would require a General Plan amendment to accommodate proposed land uses.

In 2013, ABAG released the Regional Housing Needs Allocation (RHNA), which projects each community's share of the region's future growth and housing demand based on forecasts from San Francisco Bay Area Housing Needs Plan 2015-2023. **Table 2** identifies the projected housing needs for unincorporated areas of the County by income level through 2023. The total projected RHNA for unincorporated areas of the County is 1,367 units, divided among the defined income groups. The greatest need is in the low income category.

**Table 2 Unincorporated Contra Costa County RHNA for 2015-2023**

Income Level	RHNA Allocation	Percent of Total Number of Units Needed
Very Low	374	83
Low	218	16
Moderate	243	47
Above Moderate	532	0
Total	1,367	33

Source: ABAG Final Regional Housing Needs Allocation, 2013

As discussed previously, the greatest need is in the very low income category, where 83 percent of the allotted units for the unincorporated County remains. Of the 277 units, a total of 41 units will be set aside as affordable. Based on unit count, and per the County's Inclusionary Housing Ordinance, the 41 affordable units represent 15 percent of the 277 units in the project. Eighty percent of the 41 affordable units (33 total) would be affordable to Moderate income households and twenty percent of the 41 affordable units (8 total) would be affordable to low income households. The unit mix of the affordable units will be determined once a homebuilder determines the market rate unit mix and prior to issuance of a building permit or first Final Map approval, whichever occurs first. The 41 affordable units would satisfy a portion of the County's RHNA.

As discussed in the Construction Methods section below, construction of the modified project would be conducted in two phases. Phase 1 for construction of the southern portion of the project site, and Phase 2 for construction north of Point of Timber Road, where affordable units would be within the northern block of lots and the lots along the projects western boundary. The affordable units would be delivered in a proportionate amount of all units delivered in each phase of construction, for a total of 41 affordable units. The details of the type, size, design, and lot location to be deferred to the recordation of the first Final Map or the issuance of a building permit for the project, whichever comes first. Required terms will include, but will not be limited to, pacing of the construction of affordable units to exceed or equal the pace of constructing market rate units.

The modified project would decrease the total footprint of the project improvements relative to the 2013 Pantages EIR. The most substantial changes include a reduction of medium-density residential units and land designated for water, and an increase of high-density residential units and parks and open spaces. The total project modifications acreage (161.5 acres) is smaller than the project envisioned in the 2013 Pantages EIR and 2015 Pantages Addendum (171.2 acres each).

**Table 3 Net Acreage by Land Use Type**

Land Use Designation	General Plan	2013 Pantages EIR	2015 Pantages Addendum	2019 Project Modifications
Single-Family Residential – Medium-Density (SM)	42.3	46.3	42.3	0
Single-Family Residential – High-Density (SH)	45.5	34.0	45.5	58.4
Water (WA)	37.6	46.8	37.6	25.0
Public/Semi-Public (PS)	2.6	0.9	2.6	0
Parks and Recreation (PR)	0	0	0	14.8

Land Use Designation	General Plan	2013 Pantages EIR	2015 Pantages Addendum	2019 Project Modifications
Open Space (OS)	43.2	43.2	43.2	63.3
<b>Total Site Acreage</b>	<b>171.2</b>	<b>171.2</b>	<b>171.2</b>	<b>161.5</b>

### Residential Elements

As shown in **Figure 1**, the project site is surrounded by residential land uses. The Ravenswood and Village neighborhoods border the west side of the project site, Discovery Bay to the east and south, and undeveloped open space borders the north. As shown in **Figure 2**, the modified project would include 277 single-family residential housing units. These units would no longer have deep water or waterfront access to Kellogg Creek, and would now include two lakes within the project site (Lake South and Lake North – described in **Section 2.9**). Regarding site access, the modified project no longer proposes gated points of entry and would have points of entry on Point of Timber Road and Wilde Drive. Roads and sidewalks within the residential portion of the modified project would create 13.4 acres of impervious surfaces. The 2013 Pantages EIR and 2015 Pantages Addendum proposed 292 residential units with deep water access for all waterfront units and would have had only one gated point of entry at Point of Timber Road. Road and sidewalks for in the 2013 Pantages EIR created 17.4 acres of impervious surfaces, while the 2015 Pantages Addendum proposed 18.4 acres of impervious surfaces.

### Trail Network

The modified project would now include two trail systems providing 5,200 linear feet of walkways: an internal pedestrian trail adjacent to Lake South, and a multi-purpose trail around the site perimeter providing views of Kellogg Creek, adjacent wetlands, and Lake North (**Figure 2**). The internal pedestrian trail around Lake South would connect to Point of Timber Road and passive park areas throughout the project site. This trail would also provide maintenance and emergency access. The outer multi-purpose trail system would provide access to views of Kellogg Creek, viewing areas of Lake North, and of the wetland features on the northern portion of the project site. The 2013 Pantages EIR included public pedestrian and bicycle access to the open space areas via a 3,840-foot-long public trail/emergency vehicle access road to be constructed through the emergent marsh and proposed wetland mitigation/open space area. The 2015 Pantages Addendum proposed 3,200 linear feet of pedestrian trail and eliminated the emergency vehicle access along the trail.

### Clubhouse

The modified project would include a clubhouse to provide residents with amenities such as exercise facilities, meeting rooms, and a viewing area of the wetlands and Kellogg Creek. The clubhouse would be located at the eastern terminus of Point of Timber Road adjacent to Kellogg Creek. This location would accommodate the clubhouse along with parking, guest parking, and active outdoor spaces to accommodate recreational uses. The 2015 Pantages Addendum included a much smaller clubhouse and the 2013 Pantages EIR did not include a clubhouse project component.

### Internal Lakes

The modified project would include construction of two lakes within the project site, Lake South and Lake North. Lake South, approximately 23 acres in size, would be surrounded by residential units on three sides, along with open space paseos that will provide view corridors; and the northern edge of the lake will be adjacent to the extension of Point of Timber Road, providing views of the entire lake from the trail and road. Lake South includes 5 bio-retention areas along its perimeter. Lake North would encompass approximately 7 acres and would be located in an upland area among the seasonal wetlands

and emergent marsh in the northern part of the project site. The 2013 Pantages EIR and 2015 Pantages Addendum projects did not include internal lakes.

### IMPACTS TO WETLANDS AND KELLOGG CREEK

The modified project avoids or minimizes aquatic resources including wetland complexes and Kellogg Creek. As modified, the project would preserve on-site wetland features, would be set back from Kellogg Creek by approximately 70 feet, and would not increase in boat activity on the Sacramento San Joaquin Delta due to the elimination of bays and coves that would have provided deep water access. The 2013 Pantages EIR evaluated approximately 5.29 acres of wetland impacts and the 2015 Pantages Addendum evaluated approximately 5.55 acres of wetland impacts. These previous projects also required dredging to create bays and coves, that would have resulted in 5,800-6,100 linear feet of impacts or impacts to a 10.75-acre area along Kellogg Creek to facilitate deep water access.

### CONSTRUCTION METHOD

Construction of the modified project would be conducted in two phases; Phase 1 for construction of the southern portion of the project site, which would include construction activities associated with both lakes and the residential units surrounding Lake South, and Phase 2 for construction of the residential units primarily located north of Point of Timber Road. The modified project would no longer require a shoring wall, as the project would be set back from Kellogg Creek. Furthermore, the use of any type of pile driving equipment is not anticipated to be needed.

### Grading

As shown in **Table 4**, the cut and fill amounts required with the reconfigured site plan would not exceed the cut and fill amounts analyzed in the 2013 Pantages EIR. Dirt excavated from the internal lakes would be used to raise the overall site elevation to same levels approved with the 2013 project, which raised portions of the project site out of the 100-year floodplain. Cut material would be balanced on-site; however, there is a potential need to import fill material up to 90,000 cubic yards per year of fill material, if necessary. Haul trucks would access the project site from Highway 4, approximately 1.5 miles away from the project site, then proceed onto Bixler Road, and then turn right onto Point of Timber Road to enter the project site. However, as included in the Conditions of Approval number 79, if the final grading plan and the actual grading is not balanced, then the Applicant shall prepare an off-site dirt hauling plan that would include the pavement analysis and any necessary road repair as required in Conditions of Approval number 102 for submittal to the County for its review and approval.

**Table 4 Grading Balance**

	2013 Pantages EIR	2015 Pantages Addendum	2019 Modified Project
Cut	1,130,000 cubic yards	1,305,461 cubic yards	775,000 cubic yards
Fill	1,250,000 cubic yards	1,344,237 cubic yards	913,000 cubic yards

### MODIFICATION APPROVAL

The County Planning Commission must approve the modified project vesting tentative map. A change in the existing General Plan Amendment map to reflect the revised locations for SH residential designation, OS, PR, and the WA designations would require Board of Supervisors approval.

### OTHER CHANGES SINCE 2013 PANTAGES EIR APPROVAL

Since the project was approved in 2013, the Central Valley Regional Water Quality Control Board (RWQCB) approved a permit for the Town of Discovery Bay (Town) to increase its wastewater discharge

flows into Old River. The increase is necessary to accommodate anticipated new development and the project. The RWQCB permit would allow wastewater discharge from new development to take place prior to construction of certain wastewater infrastructure improvements required by the discharge permit.

Additionally, the 2013 Pantages EIR identified several traffic mitigation measures that would require the Applicant to financially contribute towards proposed road improvement projects throughout the region. At that time, some of these road improvement projects were being considered within the proposed update of the Bridge/Thoroughfare Fee Ordinance for the East County. Since the EIR certification, the 2013 East County Regional Area of Benefit Transportation Mitigation Fee Update was completed and the new fee ordinance was adopted. The changes to the 2013 Pantages EIR mitigation measures were updated accordingly in this addendum.

### **PENDING PROJECT APPROVALS**

Pending project approvals and permits include:

- Annexation into the Town of Discovery Bay Community Services District
- De-annexation from Reclamation District (RD) 800

### **1.5 REQUIRED FINDINGS FOR USE OF AN ADDENDUM**

Section 15164 of the *State CEQA Guidelines* states that an addendum to an earlier EIR shall be prepared if some changes or additions are necessary to the previously certified document, but none of the conditions described in Section 15162 have occurred. Section 15162 of the *State CEQA Guidelines* identifies the conditions that require preparation of a subsequent EIR. A proposed change in a project will require preparation of a subsequent EIR if:

A) The change in the project is substantial.

Substantial changes in the project are those that would require major revisions of the 2013 Pantages EIR due to the involvement of new significant environmental effects, or if a substantial increase in the severity of previously identified significant effects has occurred.

B) The circumstances under which the project is undertaken have substantially changed.

Substantial changes in circumstances are those that would require major revisions of the 2013 Pantages EIR due to the involvement of new significant environmental effects, or any changes that would cause a substantial increase in the severity of the previously identified significant effects.

C) New information of substantial importance, which was not known and could not have been known, with the exercise of reasonable diligence at the time the previous environmental document was approved, shows any of the following.

- The project will have one or more significant effects not discussed in the previous EIR or negative declaration.
- Significant effects previously examined will be substantially more severe than shown in the previous EIR.
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.



Additionally, pursuant to Section 15163 of the *State CEQA Guidelines*, a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- any conditions described in Section 15162 would require the preparation of a subsequent EIR; or,
- only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

### **1.6 MODIFIED ENVIRONMENTAL CHECKLIST FORM**

The purpose of the checklist is to evaluate the categories in terms of any “changed condition” (e.g., changed circumstances, project changes, or new information of substantial importance) that may result in a changed environmental effect (e.g., a new significant impact or substantial increase in the severity of a previously identified significant effect) that would require further environmental review (CEQA Guidelines Section 15162).

The questions posed in the checklist come from Appendix G of the *State CEQA Guidelines*. Answering a question with a “no” response does not necessarily mean that there are no potential impacts relative to the environmental resource category, but that there is no change in the condition or status of the impact since it was analyzed and addressed with mitigation measures in the Final EIR prepared for this project. Likewise, these environmental resource categories may be answered with a “no” in the checklist since the modified project description does not introduce changes that would result in a modification to the conclusion of the certified 2013 Pantages EIR.

The purpose of this addendum is to evaluate the potential for a “changed condition” that may result in a changed environmental effect that would require further environmental review beyond what was analyzed in the 2013 Pantages EIR using the 2013 CEQA Statute and Guidelines. Because the 2015 Pantages Addendum did not identify new impacts or mitigation measures associated with the project, a comparison of the 2019 modified project against the 2013 Pantages EIR represents a comprehensive evaluation to determine if new significant impacts would occur. As such, the 2015 Pantages Addendum is not discussed further.

### **1.7 EXPLANATION OF CHECKLIST EVALUATION CATEGORIES**

#### *A) Do the proposed changes involve new impacts not previously identified?*

Pursuant to Section 15162, subdivision (a)(1), of the *State CEQA Guidelines*, this column indicates whether changes represented by the modified project will result in new significant environmental impacts not previously identified or mitigated by the EIR, or whether the changes will result in a substantial increase in the severity of a previously identified significant impact.

#### *B) New circumstances involving new impacts?*

Pursuant to Section 15162, subdivision (a)(2), of the *State CEQA Guidelines*, this column indicates whether there have been substantial changes with respect to the circumstances under which the project is undertaken, which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

#### *C) New information requirement requiring new analysis or verification?*

Pursuant to Section 15162, subdivision (a)(3)(A-D), of the *State CEQA Guidelines*, this column indicates whether new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the 2013 Pantages EIR was certified as complete, would result in any of the actions described above in Section 4.C.

If the additional analysis completed as part of this environmental review finds that the conclusions of the Final EIR remain the same and no new significant impacts are identified, or identified impacts are not found to be substantially more severe, or additional mitigation is not necessary, then the question would be answered “no” and no additional environmental document (supplemental or subsequent EIR) is required.

*D) Final EIR mitigation measures implemented or address impacts*

This column indicates whether the mitigation measures in the Final EIR would apply to the proposed changes evaluated in this EIR Addendum in order to minimize and reduce impacts.

## **1.8 FINDINGS**

There are no substantial changes proposed by the modified project or in the circumstances in which the project would be undertaken that require major revisions to the existing EIR, or preparation of a new subsequent or supplemental EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As illustrated herein, the project is consistent with the findings of the 2013 Pantages EIR and would have similar construction-related and operational effects (Section 15162, subdivision (a), *State CEQA Guidelines*), but at a reduced scale. Most mitigation measures from the 2013 Pantages EIR would remain in effect and would continue to mitigate proposed project modifications. Project modifications and changes in best practices 2013 resulted in updated mitigation measures for Biological Resources (**Section 2.4**) and Transportation and Traffic (**Section 2.15**). Additionally, project modifications have reduced or eliminated certain impacts, such that mitigation is no longer required.

The impacts of the proposed project remain within the impacts previously analyzed in the 2013 Pantages EIR (Section 15162, subdivision (b)(3), *State CEQA Guidelines*). The proposed project does not require major revisions to the Pantages Bays Project EIR. No new significant information or changes in circumstances surrounding the project have occurred since certification of the EIR. The previous analysis completed for the project remains adequate under CEQA. However, the project Applicant will remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the 2013 Pantages EIR and 2015 Pantages Addendum, unless appropriately added, modified, or removed to reflect the environmental review in this addendum. The County may approve the modified project, as presented, based on this addendum.

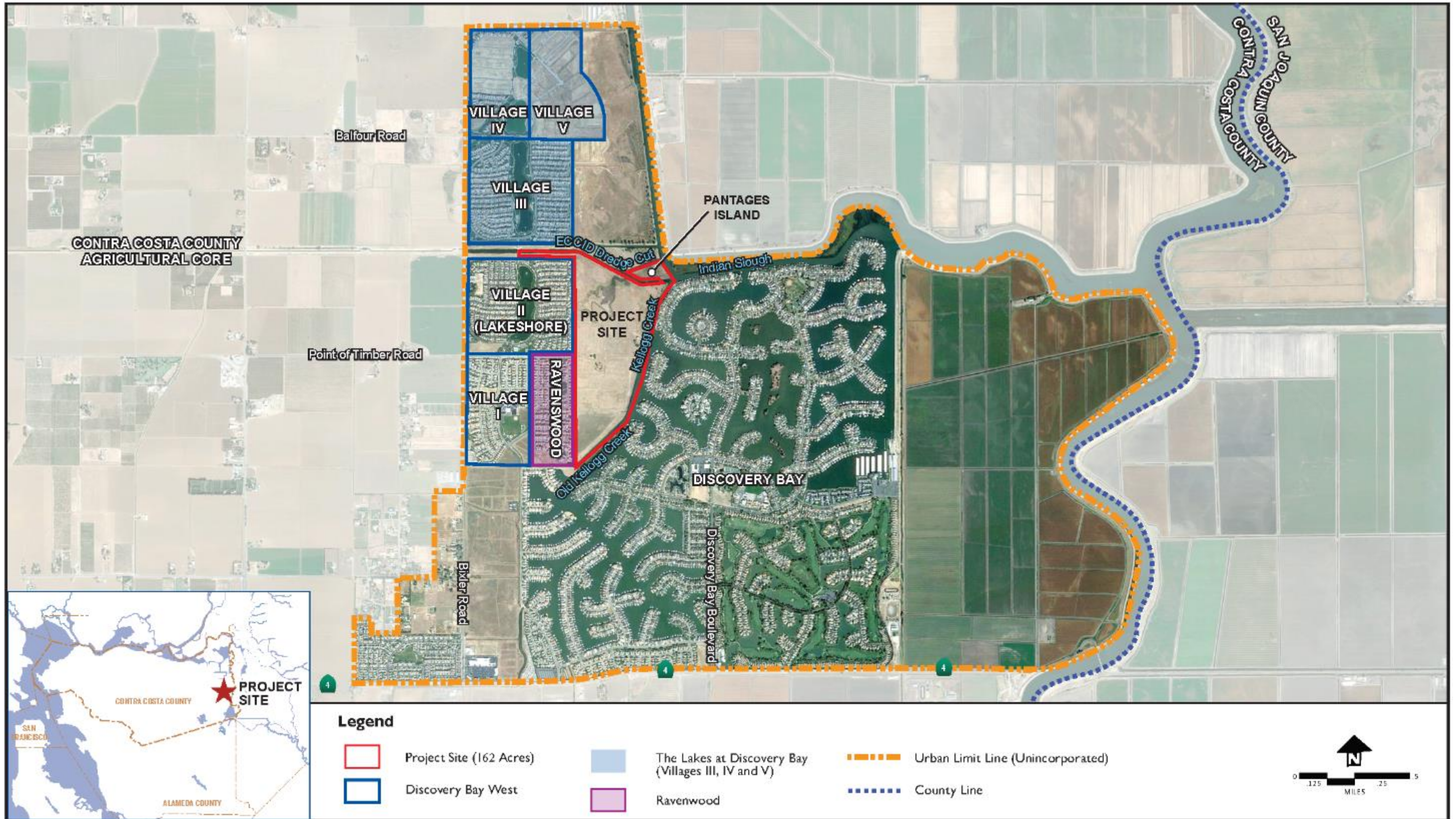


Figure 1 Project Site



Figure 2 Site Plan

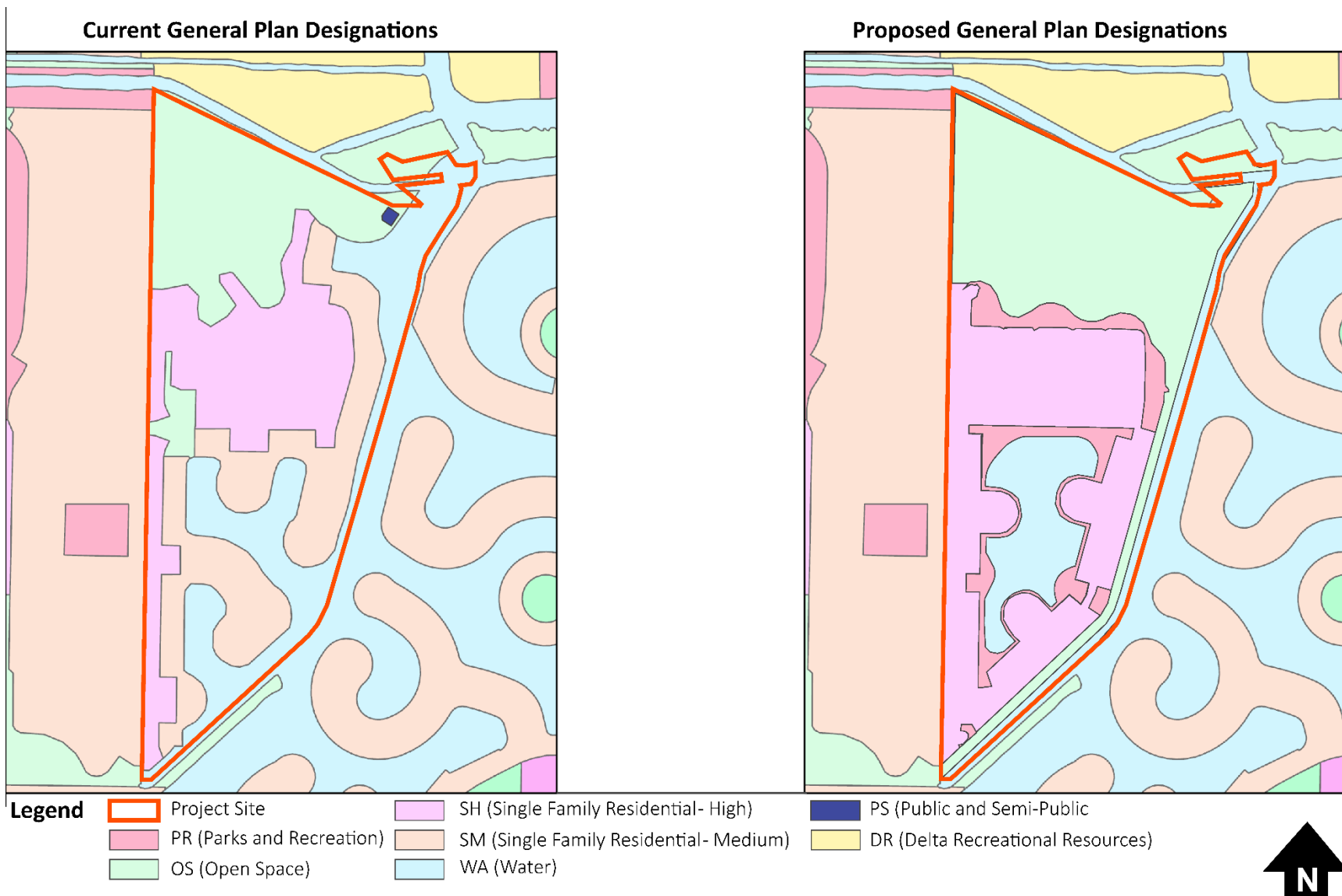


Figure 3 Land Use Designations

## 2.0 Environmental Analysis

### 2.1 AESTHETICS

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	No	No	No	No mitigation required
b) Have a substantial adverse effect on a scenic vista?	No	No	No	No mitigation required
c) Substantially degrade the existing character or quality of public views of the site and its surroundings?	No	No	No	No mitigation required
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	No	No	No	Yes

### DISCUSSION

The 2013 Pantages EIR determined that the project would not impact views from a scenic highway as there are no state-designated scenic highways within proximity of the project site.<sup>4</sup> While the residential development analyzed in the 2013 Pantages EIR may have altered views of scenic vistas, including the Diablo Range, Kellogg Creek, and associated waterways of the Delta estuary systems, such views were already partially obstructed by adjacent development or were not visible in several locations around the project site due to intervening topography.<sup>5</sup> The proposed project modifications would have a similar effect on scenic resources and vistas as determined in the 2013 project. Furthermore, no new scenic resources or vistas have been identified in the project area since certification of the 2013 Pantages EIR. Therefore, consistent with the project analyzed in the 2013 Pantages EIR, development of the modified project would not significantly impact scenic resources or scenic vistas.

The 2013 Pantages EIR determined that the project would not degrade the existing visual character of the surrounding area. As described in the EIR, the project area consisted of mostly single-family medium and high-density residential land uses. The residential development component proposed as part of the project analyzed in the 2013 Pantages EIR resembled the visual character of the surrounding

4 Caltrans. 2020. Scenic Highways. Available: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed: May 12, 2020.

5 Contra Costa County. 2005. Contra Costa County General Plan Open Space Element. Last Revised: 2010. Available: <https://www.contracosta.ca.gov/DocumentCenter/View/30919/Ch9-Open-Space-Element?bidId=>. Accessed: May 15, 2020.

development. Similar to the conclusions in the 2013 Pantages EIR, the modified project would remain visually compatible with the type and intensity of surrounding development. Therefore, the modified project would not result in new significant impacts pertaining to the visual character or quality.

The 2013 Pantages EIR determined that the project would result in new sources of light and glare from the residential development and associated vehicular traffic. Preparation of a lighting plan for the site, **Mitigation Measure VIS-1**, was required to mitigate these impacts to a less-than-significant level. The modified project would still introduce new sources of light and glare from residential development and vehicular traffic. The lighting plan outlined in **Mitigation Measure VIS-1** in the 2013 Pantages EIR, would also apply to the modified project to reduce potential impacts associated with new sources of residential light and glare.

### **CUMULATIVE IMPACTS**

The cumulative setting for aesthetics includes development projects that would affect scenic resources within the County. The General Plan EIR noted three primary areas where scenic quality could be cumulatively degraded:

- development of vacant areas would reduce natural open space and would change the County's character.
- new development that is obtrusive, inconsistent with surrounding development or which is placed on a location of unique scenic value.
- development of hillsides, ridges, and the Bay and Delta shoreline.

The 2013 project included the development of the shoreline along Kellogg Creek, which resulting in a requirement for the applicant to enhance creek bank habitat on Pantages Island. The 2013 Pantages EIR determined that the project would not have a considerable contribution to a cumulative aesthetics impact with the enhancement of creek bank habitat. The modified project would reduce cumulative impacts on visual quality because it would eliminate the widening of Kellogg Creek and would also retain open space in the northern portion of the project site, as opposed to the 2013 project which would have excavated the northern portion of the project site to create bays and coves. Furthermore, the modified project would remain consistent with the type and intensity of surrounding suburban development. As such, the modified project's contribution to cumulative aesthetic resource impacts would not be considerable.

### **DETERMINATION**

The modified project would not substantially damage existing scenic resources, degrade the existing visual character or quality of the area, or create a new permanent source of light or glare. Overall, the modified project would slightly reduce visual impacts relative to the 2013 project by avoiding Kellogg Creek and retaining open space in the northern portion of the project site. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.2 AGRICULTURE AND FOREST RESOURCES**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	No	No	No	No mitigation required
b) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526) or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	No	No	No	No mitigation required
c) Result in the loss of forest land or conversion of forest land to non-forest use?	No	No	No	No mitigation required
d) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	No	No	No	No mitigation required
e) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	No	No	No	No mitigation required

**DISCUSSION**

The 2013 Pantages EIR determined that the project site did not contain Prime Farmland, Unique Farmland, Farmland of Statewide Importance, forest land, or land under Williamson Act contract. Although the project site was not actively used for agricultural production or timber harvesting, the site was zoned as General Agricultural District (A-2) and Heavy Agricultural District (A-3), which required that the applicant submit a rezoning request in order to implement the 2013 project.

Subsequent to certification of the 2013 Pantages EIR, the project site was rezoned as a Planned Unit District (P-1) interspersed with the Urban Farm Animal Exclusion Combining District, which is consistent



with residential development.<sup>6</sup> As such, the proposed uses associated with the modified project are consistent with the County's zoning map. The Urban Farm Animal Exclusion Combining District authorizes all uses designated under P-1 but prohibits farm animals, and as such, the modified project would be consistent with both land use designations. Furthermore, the modified project footprint would remain within the area of effect analyzed in the 2013 Pantages EIR. Therefore, the modified project would not result in new significant impacts to agricultural and forestry resources.

### **CUMULATIVE IMPACTS**

The cumulative setting for agricultural and forest resources is the entire County. None of the land within the County is used for timber harvesting; therefore, the 2013 project, in combination with the other development within the County would not result in cumulative impacts to forest resources. The modified project would not change this conclusion, as land within the County is still not used for timber harvesting.

The General Plan identified a cumulatively significant trend of conversion of agricultural land uses to urban development. The General Plan EIR noted that build-out of the General Plan would result in the loss of agricultural land throughout the County. However, the County adopted overriding considerations as part of the adoption of the General Plan, as the County must designate a certain amount of land for residential uses, as required by State Law, and as the economic welfare of the County and its continued ability to provide for the employment needs of its residents is contingent upon this conversion of land uses.

The 2013 Pantages EIR determined that conversion of the site from agricultural use to non-agricultural use would represent a considerable contribution towards this cumulative impact that is unavoidable. The modified project would eliminate this cumulative impact because the project site is no longer zoned as A-2 and A-3 and would comply with both the P-1 and Urban Farm Animal Exclusion Combining District land use designations.

### **DETERMINATION**

When compared to the 2013 project, the modified project would not substantially change the impacts to agricultural and forest resources within the project site. Overall, the modified project would eliminate the impact to agricultural resources as it would no longer require the rezoning of farmland to urban development. Accordingly, the County finds the following:

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

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<sup>6</sup> Contra Costa County. 2020. CCMAP. Available: <https://ccmap.cccounty.us/Html5/index.html?viewer=CCMAP>. Accessed: May 15, 2020.

## 2.3 AIR QUALITY

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Would the project result in a community risk due to an increased cancer risk of greater than 10 people in a million, an increased non-cancer risk of greater than 1.0 Hazard Index, or increased PM <sub>2.5</sub> of greater than 0.3 micrograms per cubic meter (µg/m <sup>3</sup> ) if the project is within 1,000 feet from a source?	No	No	No	No mitigation required
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	No	No	No	No mitigation required
c) Create objectionable odors affecting a substantial number of people?	No	No	No	No mitigation required
d) Conflict with or obstruct implementation of the applicable air quality plan?	No	No	No	No mitigation required
e) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	No	No	No	Yes
f) Expose sensitive receptors to substantial pollutant concentrations?	No	No	No	Yes

## DISCUSSION

The 2013 Pantages EIR determined that project operation would have a less-than-significant impact from increased community cancer/non-cancer risk as there were no sources of toxic air contaminants (TAC) or particulate matter that are 2.5 microns or less in diameter (PM<sub>2.5</sub>) within 1,000 feet of the project site. The modified project would introduce residents in the same location as the 2013 project

and as such, would not introduce sensitive receptors to an increased risk resulting from a stationary source, consistent with the 2013 Pantages EIR.

The 2013 Pantages EIR determined that the project-related traffic may increase localized carbon monoxide (CO) concentrations. However, the highest estimated CO concentrations over an 8-hour period with project implementation was predicted to be 3.6 parts per million (ppm), well below the California ambient standard of 9.0 ppm. The modified project would include 15 fewer residential lots than the 2013 project, and as such, result in fewer motor vehicle trips and associated mobile emissions. The modified project would contribute to CO concentrations to a lesser extent than the 2013 project, and impacts would remain less than significant.

Odors associated with construction of the 2013 project had the potential to be generated during architectural coating activities; however, the construction activities are required to comply with Bay Area Air Quality Management District (BAAQMD) Regulation 8, Rule 3, which outlines regulations to minimize odor impacts. Furthermore, land uses surrounding the site were found to not constitute a significant odor source. The modified project would be consistent with findings made within the 2013 Pantages EIR and would be required to comply with applicable BAAQMD regulations to minimize odor impacts.

The project as analyzed under the 2013 Pantages EIR was consistent with the Association of Bay Area Governments' regional population forecast and was therefore found to be consistent with applicable air quality plans, which are based upon regional forecasts for growth in population and employment. Furthermore, the 2013 project would have complied with the BAAQMD 2010 Clean Air Plan (CAP) by adhering to transportation control measures (TCM) to improve bicycle and pedestrian access. The CAP was updated in 2017 with new TCM, including TCM TR9, which encourages planning for bicycle and pedestrian access and facilities. The modified project would introduce fewer residents than the 2013 project, well within the Association of Bay Area Governments' current regional growth forecast, and thus would not conflict with any applicable air quality plan. The modified project would also retain project features to improve multi-modal access, including trails for pedestrians and bicyclists providing access to open space areas, consistent with the CAP. Therefore, the modified project would be consistent with findings made in the 2013 Pantages EIR.

The 2013 Pantages EIR determined the project would result in an increase of reactive organic gases (ROG), a criteria pollutant for which the project region is in non-attainment under applicable federal or state ambient air quality standards. **Mitigation Measure AQ-1** would have been applied to the 2013 project to prohibit the installation of wood-burning fireplaces and stoves, reducing ROG emissions during operation of the project below the BAAQMD's applicable threshold. Because the modified project would include fewer residential lots than the 2013 project, operational emissions from energy and water use by residents would be reduced. The modified project would also no longer include deep-water access, resulting in a reduction in emissions from motorboats used by residents of the project site. The impact from increase in criteria air pollutants would be incrementally reduced, but **Mitigation Measure AQ-1** would still be implemented to reduce the impact to a less-than-significant level.

In analyzing TAC emission impacts during construction, the 2013 Pantages EIR found that the use of diesel-powered vehicles and equipment would generate temporary emission of dust and diesel particulate that could adversely affect existing and planned residential sensitive receptors surrounding the project site. However, criteria air pollutant emissions generated during construction of the 2013 project would not have exceeded BAAQMD's applicable thresholds. The 2013 Pantages EIR required implementation of **Mitigation Measures AQ-2a** and **AQ-2b** to further reduce criteria air pollutant emissions, namely nitrogen oxides (NOx) and PM, and implement BAAQMD-recommended best management practices to reduce TAC emissions from diesel exhaust. The modified project would involve

less intensive construction activity than the 2013 project due to the elimination of bays and coves and the construction of fewer residential units, and thus, lower levels of criteria air pollutant and TAC emissions from diesel-powered equipment. Therefore, the overall scale and duration of construction activity would not exceed what was assumed in the 2013 Pantages EIR. **Mitigation Measure AQ-2a** and **AQ-2b** would be required to reduce criteria air pollutant and TAC emissions to a less-than-significant level.

### **CUMULATIVE IMPACTS**

The cumulative setting for air quality includes development within BAAQMD jurisdiction. The General Plan EIR noted that build-out would contribute to a significant and unavoidable impact on regional air quality. The County adopted overriding considerations, citing, in part, the need to balance competing goals such as the need to provide opportunities for jobs and housing, with the goal of preserving open space and agriculture. In balancing the competing goals, the County found that the benefits of the General Plan outweigh the unavoidable environmental impacts.

The 2013 Pantages EIR determined that a project would have a significant cumulative impact on air quality as the BAAQMD CEQA Guidelines state that any project with a significant individual air quality impact would also have a significant cumulative impact. The 2013 project was found to exceed the BAAQMD-recommended operational threshold of significance for ROG, but implementation of **Mitigation Measure AQ-1** would reduce ROG emissions well below the BAAQMD significant threshold. As previously discussed, the modified project would remain consistent with the findings from the 2013 Pantages EIR and maintain emissions below applicable air quality thresholds. As such, the modified project would not considerably contribute to a cumulative air quality impact.

### **DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts to air quality in the 2013 Pantages EIR. The modified project would have a reduced impact on air quality compared to the 2013 project due to the reduction in housing units which would result in fewer residents and motor vehicle trips. The modified project would also eliminate the construction of bays and coves and the widening of Kellogg Creek and as such, would require less construction equipment, resulting in fewer construction emissions. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

## 2.4 BIOLOGICAL RESOURCES

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
<b>Would the Project:</b>				
a) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	No	No	No	No mitigation required
b) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No	No	No	No mitigation required
c) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	No	No	No	Yes
d) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	No	No	No	Yes
e) Have substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	No	No	No	Yes

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
f) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	No	No	No	Yes

**DISCUSSION**

Zentner Planning and Ecology completed a Biological Resources Technical Report (**Appendix B**) to verify the Biological Resources Analysis Report (Monk and Associates 2010) prepared for the 2013 project and assess the project modifications. Zentner Planning and Associates updated several mitigation measures to reflect current practices, which are provided in ~~striketrough~~ and underline in their corresponding sections. Additionally, impacts to federally protected reptiles and amphibians were analyzed in a separate Memorandum prepared by Eric C. Hansen (**Appendix C**).

**Wildlife Corridors**

The 2013 Pantages EIR concluded the project would not interfere with the pathway or corridor of migratory or resident species because the project site does not overlap a wildlife movement corridor. As the modified project is in the same location as the 2013 project, the conclusion in the 2013 Pantages EIR remains the same, and the modified project would not interfere with the pathway or corridor of migratory or resident species.

**Habitat Conservation Plan/Natural Community Conservation Plan**

The 2013 Pantages EIR determined that the project site was not located within the East Contra Costa County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) inventory area and would not conflict with any HCP/NCCP. Consistent with the 2013 project, the modified project would not conflict with an HCP/NCCP as the location of the project has not changed from the 2013 Pantages EIR.

**Waters of the United States**

The 2013 Pantages EIR determined that construction activities associated with the 2013 project, including widening of Kellogg Creek, would significantly impact waters of the United States and waters of the State. Implementation of **Mitigation Measure BIO-12**, which required permits from the USACE and the RWQCB and compensatory mitigation, would reduce this impact to a less-than-significant level. The modified project would remove water access, eliminate proposed bays and coves, and avoid widening Kellogg Creek, which would avoid modifications to waters of the United States and/or State. Furthermore, reconfiguration of the stormwater drainage system to discharge stormwater to the emergent marsh instead of Kellogg Creek would eliminate all fill into waters of the United States and/or State (see **Section 2.9, Hydrology and Water Quality**). The USACE confirmed these findings during an

agency meeting held on November 14, 2019.<sup>7</sup> As such, the modified project would avoid modifying or filling waters of the United States and/or state and **Mitigation Measure BIO-12** is no longer required.

### **Special-Status Wildlife Species**

**Appendix B** evaluated special-status species that could be impacted by the project, including those not previously considered in the 2013 Pantages EIR that are now known to occur in the project region.

#### ***Vernal Pool Fairy Shrimp***

The 2013 Pantages EIR determined that the project would impact the federally threatened vernal pool fairy shrimp and that incorporation of **Mitigation Measure BIO-3** would reduce impacts to this species to a less-than-significant level. The modified project would reconfigure the project layout to preserve wetland features that provide vernal pool fairy shrimp habitat. As such, the modified project would not impact vernal pool fairy shrimp and **Mitigation Measure BIO-3** is no longer required.

#### ***Western Pond Turtle***

The 2013 Pantages EIR determined the project could significantly impact western pond turtles and included **Mitigation Measure BIO-6** to reduce impacts to this species. The widening and excavation of Kellogg Creek is no longer required as part of the project modifications, and the modified project would therefore avoid potential western pond turtle basking and nesting habitat. However, construction activities could still impact western pond turtle in the unlikely event that individuals travel through the construction area. As identified in the 2013 Pantages EIR, **Mitigation Measure BIO-6** (revised below to reflect current best practices) would apply reduce this impact to a less-than-significant level for the modified project.

##### **Mitigation Measure BIO-6: Western Pond Turtle**

~~The applicant shall install turbidity barriers around construction areas in Kellogg Creek and the buffers protecting the preserved emergent marsh to ensure that western pond turtles do not enter the project construction areas.~~

~~The western pond turtle is not a state listed species; therefore, it is not protected pursuant to the California Endangered Species Act. Thus, the resource agencies (CDFG and USFWS) do not have specific mitigation guidelines that must be followed to offset a project's impact to the western pond turtle. Mitigation for this special-status species is determined on a project by project basis. It is likely that any mitigation implemented for the California red-legged frog and the giant garter snake would also mitigate the proposed project's impact on the western pond turtle. The mitigation measure for impacts to these two listed species would be a 1:1 mitigation ratio (that is, for each 1 acre of impact, 1 acre of mitigation land would be acquired offsite or preserved onsite) for impacts to aquatic habitat and a surrounding upland buffer area, or mitigation would be as worked out by the applicant, the USFWS, and the Corps at the time applications for permits/authorizations from these two agencies are submitted. Replacement habitat can be acquired via fee title acquisition of land, contribution into an existing mitigation bank, or, with permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy.~~

Within 5 days of initiating construction activities, a qualified biologist (knowledgeable and experienced in western pond turtle identification) shall conduct preconstruction surveys of all

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<sup>7</sup> Madrone Ecological Consulting. 2019. Memo: Summary of November 14, 2019 Agency Meeting to Discuss the Pantages Project. Sacramento, CA.

areas in these locations that will or could be impacted by construction activities. Any western pond turtles or eggs observed within the construction zone shall be allowed to leave the area on their own accord or they shall be relocated by the qualified biologist to a suitable area outside of the construction zone. A survey report detailing the survey results shall be prepared and submitted to the biological permitting agencies prior to the start of construction.

After the preconstruction survey and prior to construction activities, an exclusion fence shall be placed between the development and the bank habitat and the emergent marsh habitat such that a western pond turtle could not move from these habitats into the development area. A qualified biologist shall be present during trenching activities associated with the exclusion fence installation.

The exclusion fencing will be standard silt fencing, approximately 42 inches in height that will be trenched 6 inches into the soil. The soil will then be compacted against both sides of the fence to prevent wildlife from gaining access underneath. The stakes will be placed on the inside of the fence facing the development. No gaps or holes are permitted in the fencing system, except for pedestrian and vehicle entry points.

The entry/exit points may be constructed in the fencing system for equipment and personnel, but the qualified biologist must ensure no wildlife is capable of entering the fenced off site via the gate. The gate structure must be flush to the ground with no holes or gaps (i.e., plywood gates with silt fencing flaps).

The fence will be inspected occasionally by a qualified biologist for holes, gaps, or access points, which shall be repaired upon discovery. The area inside the fence will also be inspected for trapped wildlife prior to the initiation of construction each day. If wildlife is discovered, the fence shall be opened and monitored until the wildlife has left the fenced area on its own accord and no work shall occur during this period. If the wildlife does not leave on its own accord, CDFW will be contacted before work may continue.

### ***Giant Garter Snake***

As described in the 2013 Pantages EIR, the giant garter snake has not been observed on the project site although emergent marsh and the vegetated edges of Kellogg Creek and East Contra Costa Irrigation District Dredge Cut provides suitable habitat. **Mitigation Measure BIO-5** was included in the 2013 Pantages EIR to reduce impacts to this species to a less-than-significant level. The modified project would avoid widening and excavation of Kellogg Creek and associated bank habitats, thereby avoiding giant garter snake habitat and eliminating potential impacts to this species.<sup>8</sup> As such, the project would not impact giant garter snake and **Mitigation Measure BIO-5** is no longer required.

### ***Fish***

Several special-status fish occur in the project region, including steelhead salmon, Central Valley Chinook salmon, Pacific lamprey, longfin smelt, Delta smelt, green sturgeon, and Sacramento splittail. The 2013 Pantages EIR determined that construction-related turbidity could significantly impact various fish species in the project area, and **Mitigation Measure BIO-7** was implemented to reduce impacts to a less-than-significant level. The modified project would avoid widening and excavation of Kellogg Creek, and would therefore avoid special-status fish habitat. **Mitigation Measure BIO-7** is no longer required.

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<sup>8</sup> Hansen, Eric C. 2020. Memo: Pantages at Discovery Bay: Threatened and Endangered Reptile and Amphibian Reevaluation. Sacramento, CA.



### **California Red-Legged Frog**

The 2013 Pantages EIR determined the project would impact California red-legged frog, a federally-threatened species and a California species of special concern. The project site included suitable California red-legged frog habitat around an emergent marsh that would have been impacted by the 2013 project. The 2013 Pantages EIR included **Mitigation Measure BIO-4** to reduce impacts to this species. The modified project site layout avoids the emergent marsh and includes a buffer between marsh habitat and the planned development, thereby avoiding suitable California red-legged frog habitat and eliminating potential impacts to this species.<sup>9</sup> **Mitigation Measure BIO-4** is no longer required.

### **Swainson's Hawk**

The 2013 Pantages EIR determined that the project site includes suitable nesting and foraging habitat for Swainson's hawk and **Mitigation Measure BIO-9** was included to reduce impacts to this species. The modified project site still contains suitable nesting and foraging habitat for Swainson's hawk, and **Mitigation Measure BIO-9** (updated below to reflect current best practices) is still required.

#### **Mitigation Measure BIO-9: Swainson's Hawk**

To meet the CDFG's mitigation requirements for impacts to Swainson's hawk foraging habitat the applicant shall implement one of the following scenarios:

- ~~Dedicate and preserve 135 acres of habitat<sup>2</sup> (this is a 1:1 impact to mitigation ratio), as approved by CDFG, to a conservation organization. An operating endowment shall be provided to the conservation organization to manage any preserved lands in perpetuity.~~
- ~~With permission from state and federal regulatory agencies and in agreement with the Conservancy, the applicant may make a financial contribution to the Conservancy, commensurate with approximately 135 acres of impacts to Swainson's hawk foraging habitat.~~

The loss of potential foraging hawk habitat shall be mitigated in consultation with the CDFW following the recommendations provided below. The CDFW Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California (CDFG 1994) recommends that projects within 1 mile of an active nest provide:

- One acre of Habitat Management (HM) land (at least 10 percent of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90 percent of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or
- One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on-the HM lands) for each acre of development authorized (0.5:1 ratio).

Prior to site disturbance t~~To ensure that no impacts occur to any nesting Swainson's hawk, preconstruction nesting surveys shall be conducted no more than one month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site~~

<sup>9</sup> Hansen, Eric C. 2020. Memo: Pantages at Discovery Bay: Threatened and Endangered Reptile and Amphibian Reevaluation. Sacramento, CA.

~~are occupied in conformance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee, 2000).~~

~~If an active nest is found on or adjacent to within 0.25 miles of the project site "to avoid potential violation of Fish and Game Code 2080 (i.e., killing of listed species), project-related disturbance at active Swainson's hawk nesting sites should be reduced or eliminated during critical phases of the nesting cycle (March 1-September 15 annually)" (CDFG 1994) and/or in consultation with the CDFW.~~

~~If Swainson's hawk are found nesting on the project site, a qualified raptor biologist shall establish a non-disturbance boundary around the nesting site. The size of this nondisturbance boundary shall be determined by the qualified raptor biologist in the field and in consultation with the CDFW. The buffer shall be based upon the location of the nesting tree, the bird's tolerance of noise, and the type of other disturbance (e.g., ground vibrations). Once the young have fledged from the nest, the buffer can be removed, and all project activities can commence.~~

~~Upon completion of nesting cycle, as determined by a qualified raptor biologist, and in coordination with CDFG, any non-disturbance boundary/nest buffer could be vacated.~~

~~If the nest tree must be removed as part of the project, removal of this tree shall be mitigated in accordance with the mitigation measure prescribed for tree removal impacts in **Mitigation Measure BIO-1**. Tree planting is proposed as mitigation at a 9.5:1 ratio (that is, planting: removal). Replacement nest trees shall be native species (such as oaks or cottonwoods).~~

### ***Western Burrowing Owl***

The 2013 Pantages EIR determined that suitable habitat for the western burrowing owl was found at the project site, and **Mitigation Measure BIO-10** was required to reduce impacts to this species. Given that the modified project would occur on the same project site as the 2013 project, the modified project would result in a potentially significant impact to western burrowing owl and **Mitigation Measure BIO-10** is still required.

### ***Other Nesting Birds and Raptors***

The project site provides suitable nesting and foraging habitat for a variety of nesting raptors and birds including white-tailed kites, northern harriers, red shouldered hawk, red-tailed hawk, loggerhead shrike, and tricolored blackbird. **Mitigation Measures BIO-8** and **BIO-11** were implemented to reduce impacts to these species. The modified project would still affect suitable nesting and foraging habitat for nesting raptors and other nesting birds and mitigation would still be required.<sup>10</sup> **Mitigation Measure BIO-11** has been condensed into **Mitigation Measure BIO-8** for the modified project and the revised **Mitigation Measure BIO-8** is provided below.

#### **Mitigation Measure BIO-8: Tree Nesting Birds**

~~If possible, tree removal shall be completed outside the nesting season (that is, between September 2 and February 28). In an abundance of caution, a preconstruction nesting survey of the tree to be removed shall be conducted within 30 days of the scheduled removal to ensure no birds are nesting.~~

<sup>10</sup> The existing mitigation measures contained in the Conditions of Approval (COA; Contra Costa County 2013) for all nesting birds except Swainson's hawk, have been consolidated below and updated to reflect current practices.

If construction or tree removal would commence between March 1 and September 1 during the nesting season, nesting surveys shall be conducted 30 days prior to grading/construction of the project or any proposed tree removal work. The raptor nesting surveys shall include examination of all trees and shrubs within sphere of influence of the proposed project, and not just of those trees slated for removal.

If nesting raptors are identified during the surveys, the dripline of the nest tree shall be fenced with orange construction fencing (provided the tree is on the project site), and a 300-foot radius around the nest tree shall be staked with bright orange lath or other suitable staking.

If the tree is adjacent to the project site then the buffer shall be demarcated per above where the buffer occurs on the project site. The size of the buffer may be altered if a qualified raptor biologist conducts behavioral observations and determines the nesting raptors are well acclimated to disturbance. If this occurs, the raptor biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting raptors. This buffer may be reduced no smaller than 100 feet from the nest tree.

No construction or earth-moving activity shall occur within the established buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by August 1. This date may be earlier than August 1 or later, and would have to be determined by a qualified raptor biologist. If construction related work would commence anytime during the nesting/breeding season for raptors or other bird species listed in the Migratory Bird Treaty Act (typically February 1 through September 15), a pre-construction survey of the project vicinity for nesting birds shall be conducted. This survey shall be conducted by a qualified biologist (experienced with the nesting behavior of bird species of the region) within 7 days prior to the commencement of construction activities that would occur during the nesting/breeding season. The intent of the survey shall be to determine if active nests are present within or adjacent to the construction zone within approximately 250 feet. The surveys shall be timed such that the last survey is concluded no more than one week prior to initiation of construction. If ground disturbance activities are delayed following a survey, then an additional pre-construction survey shall be conducted such that no more than one week will have elapsed between the last survey and the commencement of ground disturbance activities.

If active nests are found in areas that could be directly or indirectly affected by the project, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones (generally 250 for raptors and 50 for passerines) and types of construction activities restricted within them should be determined through consultation with the CDFW depending on the species, taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;
- Distance and amount of vegetation or other screening between the construction site and the nest; and
- Sensitivity of individual nesting species and behaviors of the nesting birds.

The buffer zone around an active nest shall be established in the field with orange construction fencing or another appropriate barrier and construction personnel shall be instructed on the sensitivity of nest areas. The qualified biologist shall serve as a construction monitor during

those periods when construction activities would occur near active nest areas of special-status bird species to ensure that no impacts on these nests occur.

#### **Mitigation Measure BIO-11**

~~A nesting survey shall be conducted prior to commencing with construction work if this work would commence between March 15 and August 31.~~

~~If special-status birds, such as loggerhead shrike or tricolored blackbird, are identified nesting within the area of affect, a 100-foot non-disturbance radius around the nest must be fenced. No construction or earth-moving activity shall occur within this 100-foot staked buffer until it is determined by a qualified ornithologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by August 1. This date may be earlier than August 1, or later, and would have to be determined by a qualified ornithologist. Similarly, the qualified ornithologist could modify the size of the buffer based upon site conditions and the bird's apparent acclimation to human activities.~~

~~If common (that is, not special-status) passerine birds (that is, perching birds such as northern mockingbirds) are identified nesting in the trees proposed for removal, tree removal would have to be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the project site. Typically, most passerine birds can be expected to complete nesting by August 1, with young attaining sufficient flight skills by this date that are sufficient for young to avoid project construction zones. Unless otherwise prescribed for special-status bird species, upon completion of nesting no further protection or mitigation measures would be warranted for nesting birds.~~

#### ***Song Sparrow - Modesto Population***

The song sparrow (Modesto population) is a California species of special concern that was not previously evaluated in the 2013 Pantages EIR because it was not observed on the project site. However, the site survey conducted for the modified project concluded that emergent marsh and bank habitat on the project site represent potentially suitable habitat for this species. The modified project would not impact emergent marsh and bank habitat and includes a substantial buffer between these habitats and the areas proposed for development. However, if project activities are planned for within 50 feet of the emergent marsh and bank habitat during nesting season, the preconstruction nesting bird survey and buffer zones required by the revised **Mitigation Measure BIO-8** would avoid impacts to this species.

#### **Contra Costa County Tree Ordinance**

The 2013 Pantages EIR determined that the project would significantly impact trees protected under the Contra Costa County Tree Ordinance, as many would be removed to widen Kellogg Creek. Implementation of **Mitigation Measure BIO-1**, which would replace native and non-native trees, reduced the impact to a less-than-significant level. The modified project would involve reconfiguration of the layout of the project and would no longer widen Kellogg Creek, which would reduce the number of trees requiring removal.<sup>11</sup> However, several trees would still require removal to implement the modified project, and **Mitigation Measure BIO-1** would continue to apply to mitigate tree loss. However, the number of trees to be removed by the modified project has been significantly reduced as compared to the 2013 project.

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<sup>11</sup> Zentner Planning & Ecology. 2020. Pantages Modified Project: Biological Report for Peer Review by Rincon. August 2020. Oakland, CA.

## Natural Communities

Development of the 2013 project would significantly impact bank habitat<sup>12</sup>, as it proposed removal of approximately half of the existing bank habitat within the project area along Kellogg Creek, the East Contra Costa Irrigation District (ECCID) Dredge Cut, Old Kellogg Creek, and Pantages Island in order to widen Kellogg Creek, create new bays and coves, and develop waterfront homes. **Mitigation Measure BIO-2** reduced this impact by requiring permits and approved mitigation measures by USACE, the RWQCB, and the Reclamation Board. Proposed modifications to the project would no longer require the widening of Kellogg Creek or removal of low, moderate, or high quality bank habitat. As a result, **Mitigation Measure BIO-2** would no longer be required, and the impact would be less than significant.

The 2013 Pantages EIR determined the project would have the potential to impact the iodine bush scrub, determined by the California Department of Fish and Wildlife to be a sensitive natural community. However, the iodine bush scrub habitats on the property are highly disturbed and contain very few other native plants with an understory dominated by invasive grass species, for both the 2013 project and the modified project. As such, this impact would be less than significant.

## CUMULATIVE IMPACTS

The 2013 Pantages EIR determined that the project, in combination with other regional land use development, could result in cumulative vegetation and wildlife impacts. **Mitigation Measures BIO-3** through **BIO-11** would offset the project's impacts to vegetation and wildlife resources such that the project's contribution to this cumulative impact would not be considerable. The modified project would have a smaller area of disturbance, thereby reducing the magnitude of impact on vegetation and wildlife resources. In addition, the revised **Mitigation Measures BIO-3** through **BIO-10** would still be required to reduce project-level impacts to vegetation and wildlife. Thus, the modified project would not considerably contribute to a cumulative vegetation and wildlife impact.

The 2013 Pantages EIR determined that the project, in combination with other regional land use development, could cumulatively impact wetlands, bank habitat, and waters of the United States. The modified project would now avoid wetlands, bank habitat, and waters of the United States, and as such, would not contribute to this cumulative impact.

## DETERMINATION

The modified project would not substantially increase the severity of the previously identified impacts to biological resources in the 2013 Pantages EIR. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

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<sup>12</sup> For the purposes of this Addendum, bank habitat is the habitat located on the banks of Kellogg Creek, the ECCID Dredge Cut, and Old Kellogg Creek. Bank habitat was characterized by the type of vegetation or lack of vegetation covering the banks. These habitat types were then categorized as low, moderate, or high quality based on the extent of cover they provide fish (Stillwater Sciences 2006).

**2.5 CULTURAL RESOURCES**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the State CEQA Guidelines?	No	No	No	Yes
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 of the State CEQA Guidelines?	No	No	No	Yes
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	No	No	No	Yes
d) Disturb any human remains, including those interred outside of formal cemeteries?	No	No	No	Yes

**DISCUSSION**

Site surveys and archival research conducted for the 2013 Pantages EIR did not identify archaeological or paleontological resources within the project site. Additionally, the project site did not contain structures eligible for listing on the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR). After certification of the 2013 Pantages EIR, a cultural resource was identified in the northeast corner of the project site along Kellogg Creek.

The modified project would be within the original limits of disturbance evaluated in the 2013 Pantages EIR and would have a smaller overall construction footprint. Notably, the modified project layout would avoid the cultural resource site identified at the northeast corner of the project site. The original cultural resource surveys, research, and impacts identified in the 2013 Pantages EIR remain valid because the project modifications do not expand the project footprint into previously unevaluated areas. Although cultural surveys and research conducted for the 2013 Pantages EIR did not identify archaeological or paleontological resources within the project site, there remains the possibility that the modified project could encounter unidentified cultural resources during construction. In the event that any prehistoric, historic, archaeological, or paleontological resources are discovered, **Mitigation Measure CUL-1** through **Mitigation Measure CUL-4** would still apply to halt work and consult with a qualified professional if an unrecorded cultural resource is uncovered.

**CUMULATIVE IMPACTS**

The cumulative setting for cultural resources includes developments within the County that could potentially affect archaeological or historical resources. Development associated with the General Plan

buildout could result in potentially significant impacts to known and unknown historical and archeological resources. As such, development of the project site, in combination with planned projects in the General Plan EIR, would result in a considerable contribution to a cumulative cultural resources impact.

The 2013 Pantages EIR noted that no known historical, archaeological, or paleontological resources were identified on the project site, and therefore the project would not contribute to this cumulative impact. In the event that undiscovered cultural resources were unearthed during construction, **Mitigation Measures CUL-1** through **CUL-4** would ensure proper identification and treatment. The modified project would be in the same location as the 2013 project and **Mitigation Measures CUL-1** through **CUL-4** would be applied in the event an undiscovered cultural resource is encountered. The modified project would not considerably contribute to this cumulative impact.

**DETERMINATION**

The modified project would not cause a substantial adverse change in the significance of a historical or archaeological resource; directly or indirectly destroy a unique paleontological resource, site, or geologic feature; or disturb any human remains from what was previously analyzed in the 2013 Pantages EIR. The modified project would result in reduced cultural resource impacts due to the smaller footprint and avoidance of a known cultural resource. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.6 GEOLOGY AND SOILS**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	No	No	No	No mitigation required
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
ii) Strong seismic ground shaking?	No	No	No	Yes
iii) Seismic-related ground failure, including liquefaction?	No	No	No	Yes
iv) Landslides?	No	No	No	No mitigation required
b) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	No	No	No	No mitigation required
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	No	No	No	Yes
d) Result in substantial soil erosion or the loss of topsoil?	No	No	No	Yes
e) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	No	No	No	Yes

## DISCUSSION

The 2013 Pantages EIR determined the project site was not within an Alquist-Priolo Earthquake Fault Zone and would not subject people or structures to landslides because the project site is generally flat and there is no history of landslides in the vicinity of the Town. Accordingly, the 2013 Pantages EIR determined no impacts would occur regarding fault rupture and landslides. Consistent with the 2013 Pantages EIR, the project site is not located within an Alquist-Priolo Earthquake Fault Zone, the existing topography of the land has not changed, and no new fault rupture or landslide impacts would occur.

The 2013 project would have connected with municipal wastewater collection and treatment systems and did not require septic tanks or alternative wastewater disposal systems. Therefore, there would be no impact related to soil capability of supporting wastewater systems. The modified project would not alter these plans to connect proposed residences to municipal wastewater and treatment systems.

The 2013 Pantages EIR determined that the project site could experience groundshaking, liquefaction, lateral spreading, or expansive soil effects. Implementation of **Mitigation Measure GEO-1** and **GEO-3** required consistency with building codes and implementation of monitoring plans to reduce this impact



to a less-than-significant level. The project site’s underlying soil would still be prone to liquefaction, lateral spreading, and expansion, and therefore could still potentially expose people and structures to these adverse effects as a result of these conditions. As such, **Mitigation Measures GEO-1** and **GEO-3** would still be required.

Development of the project site could result in soil erosion or loss of topsoil because construction would increase the amount of exposed surfaces and increased sedimentation in receiving water bodies. Implementation of **Mitigation Measures GEO-2** reduced these impacts to a less-than-significant level. Soil erosion and topsoil loss during operation would be reduced for the modified project because the area of disturbance would be slightly smaller and less excavation would be required due to the elimination of bays and coves proposed in the 2013 Pantages EIR. However, **Mitigation Measure GEO-2** would still be applied to the modified project to further reduce construction period and long-term erosion and sedimentation.

**CUMULATIVE IMPACTS**

The General Plan EIR notes that buildout would increase the potential for new development in areas subject to seismic shaking, liquefaction, ground failure and land sliding, thereby increasing the associated risks to persons and property. However, geologic impacts are site specific and relate to the type of building and building foundation proposed, as well as the soil composition and slope on the site. Therefore, implementation of the modified project, in addition to other planned projects in the County would not considerably contribute to a cumulative impact.

**DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts related to geology in the 2013 Pantages EIR. The modified project would result in slightly reduced geology and soils impacts because the smaller project footprint would encounter fewer hazards. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.7 GREENHOUSE GAS EMISSIONS**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	No	No	No	Yes

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
b) Conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing the emissions of greenhouse gases?	No	No	No	Yes

**DISCUSSION**

The 2013 Pantages EIR determined that the project would increase per capita CO<sub>2</sub> emissions beyond BAAQMD thresholds and contribute to regional and global increases in greenhouse gas (GHG) emissions. The 2013 project included **Mitigation Measures CUM GCC-1a** and **1b**, which outline energy efficiency measures to reduce project emissions; however, impacts would remain significant and unavoidable. The modified project includes development of fewer residential units compared to the 2013 project, thereby reducing the amount of GHG emissions from on-site sources and motor vehicle trips. Regulatory changes such as motor vehicle fuel economy standards and energy efficiency standards have improved since certification of the 2013 Pantages EIR, which would further reduce GHG emissions generated by residents. While total GHG emissions would be lower than the 2013 project, the emission intensity would not substantially change, and emissions levels would still exceed BAAQMD’s emissions threshold and the State of California’s adopted GHG emissions reduction targets such that impacts would remain significant and unavoidable after implementation of **Mitigation Measures CUM GCC-1a** and **1b**, consistent with the 2013 project. There are no additional cumulative impacts for GHG emission as GHG emissions are inherently cumulative.

**DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts to greenhouse gas emissions in the 2013 Pantages EIR. The modified project would result in slightly reduced GHG impacts due to the smaller footprint and reduced number of proposed residences. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.8 HAZARDS AND HAZARDOUS MATERIALS**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	No	No	No	No mitigation required
b) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	No	No	No	No mitigation required
c) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	No	No	No	No mitigation required
d) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	No	No	No	No mitigation required
e) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	No	No	No	No mitigation required
f) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
g) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	No	No	No	Yes
h) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	No	No	No	Yes

## DISCUSSION

The 2013 Pantages EIR determined that the project site (1) does not contain hazardous material sites pursuant to Government Code Section 65962.5, (2) is not located within an airport land use plan, airport, or private airstrip that would impact safety or represent a hazard, and (3) is not a high-risk zone for wildland fires. These conditions have not changed since 2013 and are not analyzed further.<sup>13,14</sup>

The 2013 Pantages EIR determined that the project would not affect emergency response plans because the project is designed to comply with County standards for emergency vehicle access. The modified project would now allow emergency vehicle access on residential streets rather than through the open space, as originally proposed in the 2013 Pantages EIR. Point of Timber Road and Wilde Drive would serve as the emergency vehicle access roads and would be extended to access residences throughout the project site. As such, the project would provide adequate emergency access to the entire project site.

The 2013 Pantages EIR determined that project construction could mobilize hazardous materials including asbestos and lead. The modified project would continue to require demolition, grading, and construction activities that could potentially cause a release of these hazardous materials such as arsenic, asbestos, and lead based paint. **Mitigation Measures HAZ-1** and **HAZ-2**, as proposed in the 2013 Pantages EIR, would ensure hazardous materials would be removed prior to construction and would mitigate these impacts to a less-than-significant level.

The project analyzed in the 2013 Pantages EIR could involve the release of hazardous materials in proximity to a school; the project site is located within a 0.25 mile from Timber Point Elementary School. **Mitigation Measures HAZ-1** and **HAZ-2** would ensure that potentially hazardous materials would be properly handled to reduce exposure risks to a less-than-significant level. The modified project would

13 Department of Toxic Substances Control. 2020. Hazardous Waste and Substances Site List. Available: [https://www.envirostor.dtsc.ca.gov/public/search.asp?cmd=search&reporttype=CORTESE&site\\_type=CSITES,OPEN,FUDS,CLOSE&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST](https://www.envirostor.dtsc.ca.gov/public/search.asp?cmd=search&reporttype=CORTESE&site_type=CSITES,OPEN,FUDS,CLOSE&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST). Accessed: May 12, 2020.

14 Calfire. 2009. Very High Fire Hazard Severity Zones in LRA. Last Revised: 2009. Available: [https://osfm.fire.ca.gov/media/6660/fhszl\\_map7.pdf](https://osfm.fire.ca.gov/media/6660/fhszl_map7.pdf). Accessed: May 12, 2020.

not change the location of the project site and would not change the determination in the 2013 Pantages EIR. Therefore, with implementation of **Mitigation Measures HAZ-1** and **HAZ-2**, this impact would remain less than significant.

**CUMULATIVE IMPACTS**

The General Plan EIR identified a potentially cumulative impact related to risk of accidental release of hazardous materials associated with heavy industry and other land uses requiring the use, transport, and storage of hazardous materials. The General Plan EIR also notes that new residential and commercial development would increase the number of people in proximity to these uses thereby increasing their risk of exposure. Hazardous materials are strictly regulated by local, state, and federal laws specifically to ensure that they do not result in a gradual increase to toxins in the environment. Implementation of these policies occurs as part of the development review and construction permitting process and was found to not result in cumulative hazardous materials impacts.

**DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts related to hazards and hazardous materials in the 2013 Pantages EIR. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.9 HYDROLOGY AND WATER QUALITY**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
<b>Would the Project:</b>				
a) Violate any water quality standards or waste discharge requirements?	No	No	No	No mitigation required
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
for which permits have been granted)?				
c) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	No	No	No	No mitigation required
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	No	No	No	No mitigation required
e) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	No	No	No	No mitigation required
f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate map or other flood hazard delineation map?	No	No	No	Yes
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	No	No	No	No mitigation required
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	No	No	No	No mitigation required
i) Inundation by seiche, tsunami, or mudflow?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
j) Otherwise substantially degrade water quality?	No	No	No	Yes

**DISCUSSION**

Hydrology associated with implementation of the project has changed substantially from the 2013 project. The 2013 project included bays and coves along Kellogg Creek to allow deep water access. The modified project would remove direct access to Kellogg Creek and eliminate the construction of bays and coves but would add two internal lakes. The modified project would also include a stormwater drainage system designed to accommodate typical stormwater generated on the project site, and would have an elevation exceeding the minimum elevation for a 300-year base flood event.

**Groundwater**

The 2013 Pantages EIR determined that groundwater recharge was not feasible at the project site due to the low permeability of the site’s clay soils, and therefore, the addition of impervious surfaces associated with the project was not expected to significantly affect groundwater recharge. The modified project would similarly avoid depletion or interference with groundwater supplies. The amount of impervious surface introduced at the project site would decrease from 17.4 acres proposed in the 2013 Pantages EIR to 13.4 acres. Therefore, due to the low permeability of the site’s clay soils and the reduction of impervious surfaces, the modified project would not significantly affect groundwater recharge at the project site, consistent with the findings made in the 2013 Pantages EIR.

**Stormwater**

The 2013 project included a storm water drainage and treatment system and would not require connection to an existing or planned water drainage system, and therefore not contribute to or exceed the existing system’s capacity. The project’s proposed drainage system was designed to comply with National Pollution Discharge Elimination System (NPDES) and the County’s C.3 requirements. Adherence to drainage system plan and applicable regulations would reduce operational impacts associated with the 2013 project to a less-than-significant level. All surface water runoff from the project site under the modified project would continue to drain into the approved storm water drainage and treatment system, which would collect runoff from drainage areas into a series of bioretention facilities designed to accommodate stormwater runoff generated within the project site. Although project modifications would involve reconfiguration of the storm water drainage and treatment system, the modified project would still meet NPDES requirements and would be designed to accommodate local system capacity. Therefore, the modified project would be consistent with findings made in the 2013 Pantages EIR, and potential impacts resulting from stormwater runoff would remain less-than-significant.

**Erosion and Water Quality**

The 2013 Pantages EIR identified potential erosion and water quality impacts from construction-related activities, such as excavation and widening of Kellogg Creek. The modified project would have a smaller construction footprint and would no longer affect Kellogg Creek, which would reduce erosion associated with construction activities around Kellogg Creek. Implementation of **Mitigation Measures HYD-1a, 1b, and 1c**, which proposes to monitor water quality, prevent pollution from construction, and ensure

compliance with the SWPPP, would still apply to minimize water quality degradation or erosion. In addition, two abandoned groundwater wells on the project site could act as conduits for hazardous waste and pollutants and impact groundwater, as pollutants may seep into groundwater via the well sites. Consistent with the 2013 project, **Mitigation Measure HYD-2** would be applied to the modified project to survey existing groundwater wells to avoid groundwater contamination.

### **Flooding**

The project site is located within a 100-year flood zone that is not protected by an outside levee. However, the 2013 project met the minimum elevation required to protect against a 300-year base flood event with implementation of **Mitigation Measures HYD-3a** and **HYD-3b**, which included grading plans for minimum floor elevations for residential units and street level elevations to minimize flooding impacts. Potential flooding from failure of a levee or dam was also considered less than significant, as the nearest reservoir, Los Vaqueros, was designed to ensure it could withstand a maximum credible earthquake and can reduce the level of inundation in the event of an emergency. Under the modified project, soil excavated from the construction of the lakes would be used to raise the project site. Although the project site would be raised, **Measures HYD-3a** and **HYD-3b** would still be implemented to further reduce flood risks.

### **Tsunami, Seiches, and Mudflows**

The 2013 Pantages EIR determined the project site would not likely be affected by a tsunami, seiches, or mudflow due to the topography and geography of the project site. There is no evidence of tsunami and seiches sources near the project site and the project site is nearly flat and would not be subject to mudflows. The geography and topography of the site have not changed such that it would alter the project's susceptibility to tsunamis, seiches, or mudflow.

### **CUMULATIVE IMPACTS**

The General Plan EIR notes that an increase in urban runoff due to urban development would release pollutants and sediments into the Delta, resulting in a significant cumulative impact to water quality. The 2013 project, with implementation of General Plan policies, was determined to not result in cumulatively considerable impacts related to water quality as point sources of pollutants would be identified and controlled. The modified project will be consistent with determinations made in the 2013 Pantages EIR by complying with applicable developmental review and construction permitting processes.

The 2013 Pantages EIR determined that, with adherence to applicable General Plan policies, the 2013 project would not considerably contribute to a cumulative flooding and sea level rise impact because the project was designed with building pad elevations to account for floods and future sea level rise. The modified project would be consistent with determinations made in the 2013 Pantages EIR and would not considerably contribute to this cumulative impact.

### **DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts related to hydrology and water quality in the 2013 Pantages EIR. The modified project would reduce hydrology and water quality impacts due to the smaller construction footprint and elimination of deep water access to Kellogg Creek. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.



- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.10 LAND USE AND PLANNING**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Physically divide an established community?	No	No	No	No mitigation required
b) Conflict with any applicable habitat conservation plan or natural community conservation plan?	No	No	No	No mitigation required
c) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	No	No	No	No mitigation required

**DISCUSSION**

The 2013 Pantages EIR determined that the project would continue the pattern of residential development that exists to the east, west, and south of the vacant project site. The modified project would continue this pattern by developing a residential community consistent with the character and intensity of the surrounding area. Therefore, the modified project would not physically divide an existing community.

The 2013 Pantages EIR proposed a General Plan Amendment from the current land use designation to Single-Family Residential – Medium-Density (SM), Single-Family Residential – High-Density (SH), Water (WA), Public/Semi-Public (PS), and Open Space (OS). The 2013 Pantages EIR determined that the project was within the urban limit line and would not conflict with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The modified project would also require a General Plan Amendment and, as outlined in **Table 3**, proposes new acreages of the following land use designations: SH, WA, OS, and PR. Since certification of the 2013 Pantages EIR, the General Plan Land Use Element has not changed. As a result, project modifications would not alter the conclusions of the 2013 Pantages EIR and no new impacts would occur.

As discussed in **Section 2.4 Biological Resources**, the project site is located outside the inventory area of the HCP/NCCP. The modified project would not extend beyond the area of impacts considered in the 2013 Pantages EIR. The project would not conflict with applicable HCP/NCCP.

**CUMULATIVE IMPACTS**

The General Plan EIR noted that implementation of the County’s urban limit line would result in a change in land use patterns within the County. Namely, its implementation would result in a concentration of growth within areas designated for urban development and a preservation of the agricultural core for purely agricultural uses. The 2013 Pantages EIR determined that the project would not contribute to this cumulative land use impact as the project site is located within an area intended for future development. The modified project would not change this determination because it would remain in the same location.

**DETERMINATION**

The modified project would not affect land use and planning within the project site. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.11 MINERAL RESOURCES**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	No	No	No	No mitigation required
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	No	No	No	No mitigation required

**DISCUSSION**

The 2013 Pantages EIR determined that the project site because it is not classified or designated within a mineral resource zone and does not have a history of mining. The project modifications do not expand into previously unevaluated areas and would not encounter new mineral resources.

**CUMULATIVE IMPACTS**

Development of the 2013 project in combination with other projects in the area would have no potential to impact state-designated regionally significant mineral resources and there would be no cumulative impact related to mineral resources. The modified project would not change the location of the project, and as such, would have no cumulative impact on mineral resources.

**DETERMINATION**

The modified project would not affect mineral resources within the project site. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.12 NOISE AND VIBRATION**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
<b>Would the Project:</b>				
a) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	No	No	No	No mitigation required
b) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	No	No	No	No mitigation required
c) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
d) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	No	No	No	No mitigation required
e) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	No	No	No	No mitigation required
f) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	No	No	No	Yes

## DISCUSSION

### Construction

Construction equipment for the project could generate temporary noise for the duration of construction. The 2013 Pantages EIR assessed potential vibration effects and determined that project construction would not include any components that would generate excessive groundborne vibration. The modified project would not use equipment that would generate excessive groundborne vibration levels, consistent with the 2013 project.

The 2013 Pantages EIR determined that site preparation, foundation work, framing, and interior work on new residences would generate noise, as would extensive excavation and dredging to create bay, coves, and waterways. Noise levels from construction equipment were estimated at distances of 50 feet from residences along the western property line and 300 feet from residences to the east in Discovery Bay. The assessment found a temporary and periodic increase in ambient noise levels due to construction as noise levels would exceed 75 dBA at 50 feet (decreases by 6 dBA per doubling distance). This was considered a significant impact in the 2013 Pantages EIR. The 2013 Pantages EIR identified **Mitigation Measures NOI-1a, NOI-1b, and NOI-1c** to reduce this impact to a less-than-significant level by restricting the timing of construction activity, preparing and implementing a detailed construction noise mitigation plan, and erecting temporary noise barrier on the project site. The modified project would no longer require the construction of bays, coves, and waterways, eliminating several sources of construction noise. However, the modified project would use equipment to excavate lakes similar to those in the 2013 project to excavate bays and coves. It is anticipated excavation of lakes and construction of residences would generate temporary noise levels exceeding 75 dBA at residences next to the project site. The impact of the modified project would be reduced compared to the 2013 project, but **Mitigation Measures NOI-1a through NOI-1c** would still be required to further reduce noise.

### Operation

The 2013 Pantages EIR determined the project site is not located within an airport land use plan, within 2 miles of an airport, or within the vicinity of a private airstrip. The modified project would introduce

new residents at the same location as the 2013 project, and therefore potential impacts from aircraft noise would be less-than-significant.

The 2013 Pantages EIR considered noise and vibration effects from operation and construction of the project. Once operational, residential developments associated with the 2013 project were anticipated to increase noise levels as a result of increased traffic and watercrafts but would not exceed 5 dBA and as such, would result in a less-than-significant impact on sensitive receptors. The modified project would introduce fewer residents, resulting in fewer vehicle trips and a slightly reduced impact from traffic noise. The modified project would eliminate deep water access, which would result in a substantial decrease in the noise generated by boat.

As described in the 2013 Pantages EIR, potential boating accidents may require emergency air-lift services from a Medivac helicopter within the project site. This substantial increase in on-site noise was found to be temporary and sporadic and would not result in permanent changes to the ambient noise levels. The modified project would not include water access and therefore would not require emergency helicopter services, resulting in a lower level of ambient noise than the 2013 project.

### **CUMULATIVE IMPACTS**

The General Plan EIR noted that build-out would result in increased ambient noise levels related to roadway traffic and construction, as well as airport activity, industrial activity, and the extension of Bay Area Rapid Transit (BART) services. The project site is not located in the vicinity of an airport, industrial site, or BART extension, and would not contribute noise in these areas.

The 2013 Pantages EIR concluded that the main contribution of noise would be from local roadways. Roadway noise associated with build out of the 2013 project would not exceed the five dBA threshold required to be considerable contribution a cumulative noise impact. The modified project would reduce the number of residential units, thus resulting in reduced noise levels. As such, the modified project is considered consistent with the 2013 Pantages EIR and would not result in a considerable contribution to increases in roadway noise.

### **DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts related to noise and vibration in the 2013 Pantages EIR. The modified project would result in reduced noise and vibration impacts because heavy construction equipment required to excavate bays and coves and would no longer be required. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

## 2.13 POPULATION AND HOUSING

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	No	No	No	No mitigation required
b) Displace substantial numbers of existing housing, necessitating the construction of the replacement housing elsewhere?	No	No	No	No mitigation required
c) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	No	No	No	No mitigation required

### DISCUSSION

The 2013 Pantages EIR determined that the project would not displace existing housing or residents because the project site is vacant. The project site remains vacant and no new housing has been built since certification of 2013 Pantages EIR.

The project, as analyzed under the 2013 Pantages EIR, would have directly increased the population through development of 292 residential units. However, the population generated by the project was within population forecasts for the County as a whole, as outlined in the General Plan Land Use and Housing Element.<sup>15</sup> The modified project would reduce the number of total housing units relative to the 2013 project and would remain consistent with growth anticipated in County population forecasts. Of the 277 units proposed for the modified project, a total of 41 units will be set aside as affordable. Thus, the project modifications would not alter the conclusions of the 2013 Pantages EIR and no new impacts would occur.

Development of the 2013 project was determined to have the potential to indirectly increase growth due to extension of municipal services and roads to a previously undeveloped area, which can often induce growth in adjacent areas. However, the project is an infill development and adjacent lands are either developed with residential uses or located outside the urban limit line, which would prohibit further development. The modified project is consistent with determination made for the 2013 project, because the modified project is in the same location as the 2013 project and as such would not trigger growth in adjacent areas.

15 Contra Costa County. 2014. Contra Costa County General Plan. Last Revised: 2010. Available: <https://www.contracosta.ca.gov/4732/General-Plan>. Accessed: May 20, 2020

**CUMULATIVE IMPACTS**

The General Plan EIR stated that build-out of the General Plan could result in up to 145,206 new residents in the County by the end of the planning period (2020). The General Plan and adoption of the urban limit line identified an intended pattern of residential development that included urban development of the area surrounding the Town. The General Plan EIR also noted that adoption of the General Plan would concentrate population in urban areas and would preclude development and extension of urban services and facilities outside of the urban limit line. As such, the General Plan EIR did not identify a significant impact related to population growth and therefore a considerable contribution to a cumulative population and housing impact.

**DETERMINATION**

The modified project would not substantially change the impacts on population and housing within the project site. The modified project would result in reduced impacts to population and housing due to the reduction in residential units. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.14 PUBLIC SERVICES AND RECREATION**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:?	No	No	No	No mitigation required
i) Fire protection?	No	No	No	No mitigation required
ii) Police protection?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
iii) Schools?	No	No	No	No mitigation required
iv) Parks?	No	No	No	No mitigation required
v) Other public facilities?	No	No	No	No mitigation required
b) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	No	No	No	No mitigation required
c) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	No	No	No	No mitigation required

## DISCUSSION

The 2013 Pantages EIR determined that the 2013 project would generate a small increase in demand for fire protection, emergency services, police services, school services, and public facilities.

### Fire Services

The East Contra Costa County Fire Protection District (ECCCFPD) serves the project area. The increase in population proposed by the 2013 project did not directly trigger the need for additional ECCCFPD staff, equipment, or facilities. The modified project would introduce fewer residents, and consequently, less demand for fire protection and emergency services than what was anticipated under the 2013 Pantages EIR.

### Police Services

The Contra Costa County Sheriff's Office serves the project area. The 2013 project included 116 docks with deep water access that would require additional marine patrol and proposed a marine patrol substation as part of the project to address this need. The modified project would remove the docks and deep water access, eliminating the need for additional marine patrol. In addition, the modified project would decrease the number of housing units and reduce project-related demand for police services concluded in the 2013 Pantages EIR. The 2013 Pantages EIR concluded that the existing police staff, equipment, and facilities would be able to provide adequate police services to the project, but the addition of one part-time sheriff deputy would enhance police services on the project site and in the surrounding area. As a condition of approval, the applicant will be required to form a police services district through the special tax to augment police services. Thus, forming the police services district would reduce potential impacts to police services.



### **School Facilities**

Discovery Bay Elementary School, Timber Point Elementary School, Excelsior Middle School, and Liberty High School serve the project area. The 2013 Pantages EIR determined that these nearby schools would have adequate capacity to serve additional students introduced by the 2013 project, and that the applicant would be required to pay applicable school impact fees per Senate Bill 50. The project modifications would result in fewer residents than proposed in 2013 and would still adhere to the Senate Bill 50 school impact fees. Therefore, the modified project would not result in new impacts related to school facilities.

### **Community Facilities**

The 2013 Pantages EIR determined that the project had the potential to increase demand for library services and health facilities; however, these impacts were considered less than significant. The modified project would reduce the number of residents, reducing demand for community facilities.

### **Park Resources**

The 2013 Pantages EIR determined that sufficient park resources were available for the 2013 project residents. The 2013 project would have provided of 3 acres of parkland per 1,000 people, consistent with the County's parkland requirement, and included **Mitigation Measure PS-1** to provide approximately 2.6 acres of public recreational trail available for use by the new residents and public. The modified project would increase the amount of land designated for open space, and parks and recreational land uses by 63.3 and 14.8 additional acres, respectively, compared to the project evaluated in the Pantages 2013 Pantages EIR. As such, **Mitigation Measure PS-1** would no longer be necessary as project modifications would introduce a new trail network originally prescribed by this measure.

## **CUMULATIVE IMPACTS**

### **Fire and Police Services**

The cumulative impact for emergency services includes any proposed development within the service districts of the County Sheriff's Office Delta Station and the ECCFPD that, in combination with the project, may generate the need for new facilities, equipment, and staffing to maintain acceptable service ratios. Implementation of the 2013 project, in combination with other nearby projects, would increase demands for police and fire services and would result in a considerable contribution to this cumulative impact. The modified project would result in fewer residents, slightly decreasing the demand for police and fire services. As such, the modified project would continue to have a considerable contribution to the cumulative impact identified in the 2013 Pantages EIR.

### **Parks and Recreation**

The cumulative impact to parks and recreation includes any proposed development that could affect parks and recreational facilities within the Town. The 2013 Pantages EIR determined that the project would not have a considerable contribution to a cumulative parks and recreation impacts because it provided public trails and would have contributed applicable park mitigation fees. The modified project would implement a larger trail system while continuing to pay applicable park mitigation fees, thereby reducing the projects contribution to this cumulative impact.

### **Schools**

The cumulative impact to schools includes any proposed development within the Byron Union School District and the Liberty Union High School District. The 2013 project, in combination with other residential projects in the vicinity, would generate new students and would be required to pay development impact fees to both school districts, consistent with the requirements of Senate Bill 50. As

such, the project was determined to not have a considerable contribution to cumulative school impacts. The modified project would decrease the total amount of residential units, thereby reducing the number of students, and would continue to pay applicable school impact fees. Therefore, the project would not considerably contribute to this cumulative impact.

**DETERMINATION**

Project modifications would not alter the conclusions of the 2013 Pantages EIR and no new impacts would occur. When compared to the 2013 project, the modified project would result in less public service and recreation impacts due to the reduced number of residences. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.15 TRANSPORTATION AND TRAFFIC**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
Would the Project:				
a) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	No	No	No	No mitigation required
b) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	No	No	No	No mitigation required
c) Result in inadequate emergency access?	No	No	No	No mitigation required
d) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	No	No	No	No mitigation required
e) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance	No	No	No	Yes

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				
f) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	No	No	No	Yes

**DISCUSSION**

The 2013 Pantages EIR determined that the project would not involve activities that would affect air traffic patterns. The 2013 Pantages EIR also determined that the project would not include hazardous design features, as designated traveling speeds, pedestrian buffers, and compliance with the Caltrans Highway Design Manual would provide adequate safety measures. The proposed modifications would not affect air traffic patterns or include hazardous design features as the project location has not changed from the 2013 project, and these topics are not discussed further.

The 2013 project included an emergency vehicle access road within the project site as well as a 20-foot-wide pedestrian/emergency vehicle access trail. As such, the project was determined to provide adequate emergency access to the project site. Emergency vehicle access through the proposed open space and emergent marsh is no longer necessary for the modified project due to reconfigured street alignments. Project modifications allow for emergency vehicle access vehicles to access residences along Point of Timber Road as well at Wilde Drive. As such, the modified project would provide adequate emergency access.

The project evaluated in the 2013 Pantages EIR did not include plans for transit services but did support pedestrian and bicycle access. Implementation of bicycle paths associated with design of the modified project would be consistent with the Transportation and Circulation Element of the General Plan. Therefore, the modified project would be consistent with the conclusions in the 2013 Pantages EIR and provide adequate multi-modal access for residents.

The 2013 project included one point of entry at Point of Timber Road. The modified Project includes two points of entry at both Point of Timber Road and Wilde Drive, thereby increasing traffic on Wilde

Drive.<sup>16</sup> However, considering the existing level of traffic on Wilde Drive in addition to traffic generated by the modified project, total traffic volumes on Wilde Drive are expected to remain within an appropriate level for a residential street, and the impact would be less than significant.

The 2013 Pantages EIR determined that the project would increase traffic volumes and worsen level of service (LOS) at SR4/Byron Highway and Vasco Road. Impacts to SR4/Byron Highway were determined to be reduced to a less-than-significant level with implementation of **Mitigation Measure TRA-1**, which would add an additional left-turn lane. The impacts at Vasco Road were determined to be significant and unavoidable for the 2013 project, even with implementation of **Mitigation Measure TRA-2**.

Implementation of the modified project would increase traffic volumes on rural roads to a lesser extent than the 2013 project, as the modified project proposes fewer residential lots. Project modifications would not alter the County's projected population such that it would exceed traffic volumes projected under the 2013 Pantages EIR, as fewer residences would generate fewer daily trips. A trip generation assessment was completed in April 2020 (**Table 5**) and found that the modified project would result in 170 fewer daily trips than the 2013 project due to the decrease in residences. **Mitigation Measures TRA-1 through TRA-3** (listed below) would continue to reduce traffic impacts; however, impacts to Vasco Road would remain significant and unavoidable.

**Table 5 Trip Generation Summary**

Scenario	Quantity (Dwelling Units)	Weekday Daily	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Approved Project	292	2,790	55	164	219	186	109	295
Proposed Project	277	2,620	51	154	205	173	101	274
<b>Net Change in Project Trips</b>		<b>-170</b>	<b>-4</b>	<b>-10</b>	<b>-14</b>	<b>-13</b>	<b>-8</b>	<b>-21</b>

Source: Fehr and Peers, 2020

If import of fill materials is required for the modified project, additional truck trips may occur during construction, which may increase traffic volumes on nearby roadways. Haul trucks would access the project site using Highway 4, approximately 1.5 miles away from the project site. Trucks would proceed onto Bixler Road, and then turn right onto Point of Timber Road to enter the project site. However, additional truck trips would only last the duration of construction.

The 2013 Pantages EIR identified several traffic mitigation measures that would require the applicant to financially contribute towards proposed road improvement projects throughout the region. At that time, some of these road improvement projects were being considered within the proposed update of the Bridge/Thoroughfare Fee Ordinance for the East County. Since the 2013 Pantages EIR certification, the 2018 East County Regional Area of Benefit Transportation Mitigation Fee Update was completed, and the new fee ordinance was adopted. Some mitigation measures in the 2013 Pantages EIR were updated accordingly in this addendum and are listed below; those not listed would still apply in their original format. The changes to the mitigation measures are shown in the following format: additions are underlined; deletions are shown in ~~striketrough~~. While such traffic mitigation measures were clarified

<sup>16</sup> Fehr and Peers. 2020. Final Memorandum: Pantages Trip Generation and Site Plan Assessment Update. Last Revised: April 27, 2020. Walnut Creek, CA.

to account for the new information, no proposed project changes would alter the traffic impact findings from the 2013 Pantages EIR.

**Mitigation Measure TRA-1:** Mitigation of the unacceptable traffic conditions at the SR4/Byron Highway (south) can be achieved by adding a second northbound to westbound left-turn lane from Byron Highway onto SR4 and its associated receiving lane. This improvement is included in the 2018 East County Regional Area of Benefit (ECRAOB) Transportation Mitigation Fee Update project list, currently identified in the 2007 Contra Costa County Capital Road Improvement & Preservation Program, although funding has not been identified. If this improvement is not included in a County fee program or other funding program at the time of project approvals, the project applicant shall be responsible for their fair share of the improvement. The project applicant shall pay the required fee prior to the issuance of building permits.

**Mitigation Measure CUM TRA-2 (Option 1):** Mitigation of the unacceptable traffic conditions at the Holway Drive/Byron Highway and Camino Diablo Road/Byron Highway intersections can be achieved by installing a traffic signal at the Camino Diablo Road/Byron Highway and providing left-turn pockets on all approaches. Traffic turning left from eastbound Camino Diablo Road to northbound Holway Drive and left again from Holway Drive to Byron Highway would instead turn left at the signalized Camino Diablo Road/Byron Highway intersection. This mitigation would require modifications to the adjacent railroad crossing west of the intersection to provide the required left turn pocket on the eastbound approach.

This improvement is included in the 2018 ECRAOB Draft East County Regional AOB Transportation Mitigation Fee Update project list. The project applicant shall pay the required AOB fee.

~~**Mitigation Measure CUM TRA-2 (Option 2):** As an alternative to Mitigation Measure CUM TRA-2 (Option 1), mitigation of the unacceptable traffic conditions at the Holway Drive/Byron Highway and Camino Diablo Road/Byron Highway intersections can be achieved by installing traffic signals at both intersections, in addition to adding a northbound left turn lane pocket at the Holway Drive/Byron Highway intersection. Traffic would not be shifted under this mitigation, and a left turn pocket across the railroad crossing at the Camino Diablo Road/Byron Highway intersection would not be needed.~~

~~A signal at the Holway Drive/Byron Highway intersection is not identified in any funding program. Similarly, the installation of a signal at Camino Diablo Road/Byron Highway is not identified in any funding program.~~

~~If these improvements are not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of these improvements to the County's Road Trust account (Fund #8192) prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-15, the project applicant would be required to contribute between 2 percent and 14 percent of the total costs for this improvement.~~

**Mitigation Measure CUM TRA-3:** Mitigation of the unacceptable traffic conditions at the Sellers Avenue/Balfour Road intersection can be achieved by installing a traffic signal and providing left turn lanes at all four intersection approaches.

This improvement is included in the 2018 ECRAOB ~~Draft East County AOB~~ Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB~~AOB~~ fee. Implementation of this mitigation measure would reduce this impact to less-than-significant.

**Mitigation Measure CUM TRA-4:** Mitigation of the unacceptable traffic conditions at the Point of Timber Road/Byron Highway intersection can be achieved by installing a traffic signal. This improvement is included in the 2018 ECRAOB ~~Draft East County AOB~~ Transportation Mitigation Fee Update project list. The project applicant shall pay the required ~~AOB~~ fee.

**Mitigation Measure CUM TRA-6:** Mitigation of the unacceptable traffic conditions at the Marsh Creek Road/Sellers Avenue intersection can be achieved by installing a traffic signal. This improvement is included in the 2018 ECRAOB ~~Draft East County AOB~~ Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB ~~AOB~~-fee.

**Mitigation Measure CUM TRA-8:** Mitigation of the unacceptable traffic conditions at the SR4/Byron Highway (south) intersection can be achieved by adding a second left-turn lane on the Byron Highway approach and a second through lane on the southeast-bound SR4 approach.

The second left-turn lane on the Byron Highway approach improvement is included in the 2018 ECRAOB Transportation Mitigation Fee Update project list, ~~currently identified in the 2007 Contra Costa County Capital Road Improvement & Preservation Program, although funding has not been identified.~~ The second through lane on the southeast-bound SR4 approach is not identified in any funding program.

~~If this improvement is not included in a County fee program at the time of project approvals, the project applicant shall pay its fair share towards the cost of this improvement to the County's Road Trust account (Fund #8192). The project applicant shall pay the required fee prior to the issuance of building permits. This trust fund shall fund improvements to intersections identified as operating unacceptably under cumulative conditions and not identified in a fee program. As indicated in Table 4.16-17, the project applicant would be required to contribute between 9 and 11 percent of the total costs for this improvement.~~

**Mitigation Measure CUM TRA-10:** Mitigation of the unacceptable traffic conditions at the Camino Diablo Road/Vasco Road intersection can be achieved by adding a northbound right turn lane. This improvement is included as one of several improvements at this intersection in the 2013 ECRAOB ~~Draft East County AOB~~ Transportation Mitigation Fee Update project list. The project applicant shall pay the required 2018 ECRAOB ~~AOB~~-fee.

## CUMULATIVE IMPACTS

The cumulative impact area for traffic and transportation includes the forecasted growth in the County and was modeled using the CCTA Decennial Travel Demand Model, which reflects land use assumptions from the Association of Bay Area Governments, with forecasts out to the year 2035. However, the

General Plan EIR determined that the addition of trips under the cumulative scenario would degrade already deficient operations, and would not considerably contribute to this cumulative impact.

The 2013 Pantages EIR determined that the project would result in significant increases in traffic volumes at various locations near the project. Implementation of **Mitigation Measure CUM TRA-1** through **CUM TRA-11**, which would install traffic signals and turn lanes at the impacted areas, would reduce the impacts at most intersections, but the traffic impact along Vasco Road and Marsh Creek Road would remain significant and unavoidable. The modified project would slightly reduce traffic volumes as a result of fewer residences and **Mitigation Measure CUM TRA-1** through **CUM-TRA-11** would still be implemented to reduce impacts, but the modified project would still result in traffic impacts along Vasco Road and Marsh Creek Road that are significant and unavoidable. As described above, many of the intersections analyzed already operate at unacceptable LOS and implementation of the modified project degrades already deficient operations.

**DETERMINATION**

The modified project would not substantially increase the severity of the previously identified impacts related to transportation and traffic in the 2013 Pantages EIR. The modified project would result in slightly reduced transportation and traffic impacts due to the reduced amount of daily vehicle trips introduced by the project. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource.

**2.16 UTILITIES AND SERVICE SYSTEMS**

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
<b>Would the Project:</b>				
a) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	No	No	No	Yes
b) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?	No	No	No	No mitigation required

Issues and Supporting Information Sources	New Impacts Not Previously Identified?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented or Address Impacts?
c) Not comply with federal, state, and local statutes and regulations related to solid waste?	No	No	No	No mitigation required
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	No	No	No	Yes
e) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	No	No	No	Yes
f) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	No	No	No	Yes
g) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	No	No	No	No mitigation required

## DISCUSSION

The 2013 Pantages EIR determined that stormwater would be detained and treated by on-site bio-swales before release into local waterways in compliance with the County's C.3 requirements. As discussed in **Section 2.9, Hydrology and Water Quality**, project modifications include on-site stormwater treatment in bioretention facilities, and as such, would also comply with the County's C.3 requirements.

The 2013 Pantages EIR identified significant effects associated with the project's water supply demands. **Mitigation Measure UTIL-1** addressed the potential for the project to outpace available water distribution by providing documentation to the County that sufficient capacity exists to serve the project. As part of this measure and as a condition of approval, the County would require the project to incorporate indoor and outdoor water conservation measures to reduce consumption, thereby reducing this impact to a less-than-significant level. The modified project would have a slightly lower water supply demand because of the reduction in housing units, but **Mitigation Measure UTIL-1** and the County water conservation measures would still be required to reduce the impact to a less-than-significant level.



The 2013 Pantages EIR also identified significant wastewater treatment impacts because the existing wastewater treatment facility did not have the capacity to serve the project. The 2013 Pantages EIR referenced the Town's Wastewater Master Plan, which outlined improvements required to accommodate the increase in wastewater capacity due to the Town's projected growth. **Mitigation Measure UTIL-2** was created to demonstrate that sufficient funding for the construction of capacity or treatment improvements outlined in the Wastewater Master Plan have been identified and secured. With adherence to **Mitigation Measure UTIL-2** and implementation of the improvements outlined in the Wastewater Master Plan, the Town would have sufficient capacity to serve the project. The modified project slightly decreases the amount of wastewater generated from the project due to the reduced number of housing units, but would not significantly reduce wastewater generation such that mitigation would be no longer required. **Mitigation Measure UTIL-2** would still be required minimize this impact.

The 2013 Pantages EIR determined that Potrero Hills Landfill had capacity to accommodate solid waste generated by the project. As a condition of approval to the 2013 Pantages EIR, a Debris Recovery Plan would be submitted prior to issuance of the building or demolition permit. Therefore, the project was determined to comply with all applicable regulations related to solid waste. As the modified project proposes a reduced number of residential units and would adhere to the established Debris Recovery Plan, the impact to solid waste would be slightly less than the 2013 project and the Potrero Hills Landfill would have capacity to handle solid waste generated by project.

#### **CUMULATIVE IMPACTS**

The cumulative impact for public utilities includes the project area and Town. The General Plan EIR noted that future development would cause an increase in long-term water demand that could not be accommodated by existing water agency plans in high growth areas. The General Plan EIR also noted that future development may not have access to adequate quantities or quality of domestic water supply. The 2013 Pantages EIR determined that implementation of the 2013 project would result in a considerable contribution to cumulative impacts on water supply. **Mitigation Measure UTIL-1** reduced this impact and would continue to apply to the modified project.

The 2013 project, in combination with other projects in the area, could result in a considerable contribution to a cumulative wastewater treatment capacity impact. As determined in the 2013 Pantages EIR, the project would require implementation of **Mitigation Measure UTIL-2** to ensure improvements to the Town's wastewater treatment capacity are applied prior to project construction. The modified project would result in fewer project residents and would generate less wastewater but would still require **Mitigation Measure UTIL-2** to ensure there would not be a considerable contribution to cumulative wastewater impacts.

#### **DETERMINATION**

The modified project would not substantially change the impacts to utilities and services within the project site and no new impacts would occur. The modified project would slightly reduce utility and service system impacts due to the reduction in residences. Accordingly, the County finds the following.

- A) Substantial changes in the project and project circumstances resulting in new significant effects or a substantial increase in the severity of previously identified significant effects would not occur.
- B) New information of substantial importance with respect to this environmental resource resulting in new significant effects or a substantial increase in the severity of previously identified effects has not been identified.
- C) None of the proposed project changes would significantly affect this environmental resource

### **3.0 CEQA – Required Discussion**

#### **3.1 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES**

##### **CHANGES IN LAND USE WHICH WOULD COMMIT FUTURE GENERATIONS**

The 2013 Pantages EIR concluded that the project would not affect future uses at the project site and in the project vicinity because the land use designation of A-2 and A-3 only applies to the specific parcels in which the project is located. The modified project is in the same location as the 2013 project and would not affect future specific uses at the project site as it would still only apply to the specific parcels on which the project is located.

##### **IRREVERSIBLE CHANGES FROM ENVIRONMENTAL ACTIONS**

The 2013 Pantages EIR concluded that the use of fossil fuels required for construction and operation of the project and change in use from undeveloped agricultural land to urban development would result in irreversible changes. The modified project would still require the development of undeveloped land and the use of fossil fuels during construction and operation and would lead to irreversible changes consistent with the 2013 Pantages EIR determination.

##### **CONSUMPTION OF NONRENEWABLE RESOURCES**

The 2013 Pantages EIR determined that the project would result in irreversible commitment to the use of nonrenewable resources as construction and operation would require the use of nonrenewable resources such as electricity, natural gas, and petroleum products. The use of these resources would be typical of the level of investments typically required for a residential development of this size. The modified project would still result in the consumption of nonrenewable resources as it would still require the use of electricity, natural gas, and petroleum products, but would have a slightly smaller impact than the 2013 project as the modified project would have fewer residential units and would no longer require excavating bays and coves.

#### **3.2 GROWTH INDUCEMENT**

##### **ECONOMIC, POPULATION, AND HOUSING GROWTH**

As discussed in **Section 2.18 Population and Housing**, the 2013 Pantages EIR determined that population growth resulting from the project would be within regional growth projections. The modified project would result in fewer residential units than the 2013 project and thus would still be within County growth projections.

The 2013 project would have resulted in a short-term increase in construction related job growth in the East Contra Costa County area, but would be temporary and was not anticipated to induce indirect growth in the region. The modified project would still induce temporary growth in the area due to construction, but would not relocate construction workers to the project area, as workers are expected to be drawn from the existing construction labor force because construction occurs throughout the County and surrounding cities.

##### **REMOVAL OF OBSTACLES TO GROWTH OR EXCEED CAPACITY OF COMMUNITY FACILITIES**

The 2013 Pantages EIR determined that the project would require approval from Contra Costa Local Agency Formation Commission for the Discovery Bay Community Services District to serve the entire site as only a portion of the project site is within the service district. The modified project site is in the same location as the 2013 project, and as such, would still require Contra Costa Local Agency Formation Commission approval.

**PRECEDENT SETTING ACTION**

As discussed in **Section 2.10 Land Use and Planning**, the 2013 project required both a General Plan amendment and rezoning before implementation of the project. The modified project would still require rezoning of the project site to P-1 and would require a General Plan amendment to change the configuration of the land use designations on the project site.

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