SANTA CLARA VALLEY

HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN

Stakeholder Group Meeting | May 22, 2007 | Morgan Hill Community & Cultural Center

IN ATTENDANCE:

Stakeholder Group Members:
Keith Anderson (South Valley Streams for Tomorrow)
Nancy Bernardi (Guadalupe-Coyote Resource Conservation District)
Jack Bohan (Representative of general public)
Kevin Bryant (California Native Plant Society)
David Collier (Sierra Club)
Craige Edgerton (Silicon Valley Land Conservancy)
Jan Hintermeister (Santa Clara County Parks and Recreation Commission)
Virginia Holtz (League of Women Voters)
Rick Hopkins (Home Builders Association of Northern California)
Kenn Reiller (Pajaro River Watershed Council)
Bob Rohde (Natural Resources Conservation Service, San Benito & Santa Clara Counties)
Brian Schmidt (Committee for Green Foothills)
Carolyn Tognetti (Save Open Space Gilroy)
Lloyd Wagstaff (The Nature Conservancy)

I. WELCOME, INTRODUCTIONS & OBJECTIVES

Joan Chaplick welcomed the group and gave a brief agenda overview. She noted that Ken Schreiber would not be in attendance, nor would Bob Loveland or Bob Power. A replacement for Tim Steele has not yet been identified.

II. STATUS OF DRAFT CHAPTERS 1-3

David Zippin introduced the Jones & Stokes presentation for the day, which would introduce much of the work that lies ahead.

All changes in the draft chapters 1, 2, 3, and Appendix D (species accounts) will be in "track changes," so group members will be able to see exactly what is new and what has changed. These files are available on the website as PDF files. Comments on the first three chapters are due on July 15th to ensure that there will be time to review other forthcoming chapters. Comments should go to Joan, as in the past and she will forward them to Jones & Stokes.

David Collier noted that he felt that he needed the biological goals and objectives in order to evaluate the chapters. David Zippin replied that the BGOs would be in table format at the end of chapter 5.

Four new chapters will also be coming soon, though the date is unknown since these must go through the local agencies first. These include the impact analysis chapter (Chapter 4), the conservation strategy (Chapter 5), the conditions on covered activities (Chapter 6), and the literature cited chapter for all chapters to date (Chapter 12).

III. INITIAL DISCUSSION OF IMPACTS (CHAPTER FOUR)

The impacts section is broken down into permanent impacts (lands that are gone for good) and temporary impacts (short-term impacts). Permanent impacts are spread very differently across each land type, although the calculation of exactly what this means for the covered species has not yet been done. Some areas like

chaparral and oak woodland bear much of the impact of development. Much of this impact comes from the urban development of Morgan Hill and Gilroy.

One group member asked what the methodology for this was. David Zippin responded that Jones & Stokes had been working with the local partners to identify footprints of expected development and growth over the coming years. This information was then mapped in GIS and overlaid on the land cover map. In some cases, this information wasn't exact because a location was not identified, so in these cases the impact was approximated based on expected impact.

David Collier asked about the percent column and whether it could be used in Table 4.2. David Zippin agreed and observed that there was only so much space but said he would see what he could do.

David Collier also requested that the team check to make sure the HCP/NCCP is consistent with recent agricultural protections passed by LAFCO to ensure that nothing is doubled up. Agricultural easements will not be a huge component of the HCP/NCCP, though, so there shouldn't be too much overlap. Keith asked why riverine areas weren't included. These impacts are still being calculated based on new data from partner agencies.

One group member asked what the "Other" category was. Much of this is areas like ornamental woodland, golf courses, etc. that is not as significant for habitat.

Total permanent impacts are about 25,000 acres. About 15,000 acres of this come from Gilroy/Morgan Hill growth. Although San Jose is bigger, it has much less greenfield development—hence the difference. There may also be some impact from plan implementation, but this is estimated to be quite low. Temporary impacts are roughly 1,800 acres per year. However, since most of these impacts occur annually (e.g., road maintenance or staging areas), this will probably be treated as if it were a permanent impact since it is consistent. The temporary impacts do not include the Water District's stream maintenance activities since these are not covered by the HCP/NCCP.

One group member noted that the team should be cautious not to fund the plan too heavily from impact fees, since it seems clear that this would place an undue burden on Morgan Hill and Gilroy, as the two cities that are currently growing. Other funding mechanisms should be introduced to ensure that the other urban areas also help fund the plan.

The impact area is comparable to those of other plan areas in northern California. However, southern California growth tends to have much more significant impact. There is some flexibility on the ground to respond to specific impacts and other changes.

Rural development impacts are more difficult to predict, so these impacts were estimated using trends seen in the last 10 years. Broadly, impact was estimated by taking random parcel samples across the study area to identify what types of impacts and footprints could reasonably be expected from future development, based on the patterns seen in the last 10 years.

IV. CONSERVATION STRATEGY

David Zippin introduced the discussion of the conservation strategy for the plan.

Pat Showalter wondered if the team planned to differentiate between the HCP requirements (mitigation) and the NCCP requirements (restoration) in terms of impact and activities. David Zippin noted that developed areas were not likely to be a part of the conservation strategy unless a rare plant occurred on the site.

Val shared an example about a subdivision approved in Santa Barbara just as the tiger salamander was being listed. There was a conflict between property rights and take of the salamander. With funding assistance, building envelopes were developed for each house to allow for corridors between the houses. This seemed to

satisfy the requirements for the species, and avoided a lawsuit. He wondered whether there might be intermediate solutions like this that could permit development but protect specific species.

Val noted that the cost for development in the hills is much higher, which has been a deterrent.

This is meant to be an estimate for planning purposes, so there will not be a cap per zone, for instance. The conservation strategy will also attempt to address development threats accordingly.

Impact to Covered Plants

Habitat distribution models have been developed for most of the covered plants. These maps are a coarse tool, however, and are less helpful for habitat protection. Known occurrences of the plants are the most important piece of information and therefore what is used as the unit of conservation.

David Collier asked what would happen if, in the planning survey, we discover that our estimates are very far off, and in fact there are many occurrences of a protected plant on a site. David Zippin noted that this was unlikely to occur, but in some cases, all occurrences of a species will be protected as they are discovered. David Collier wondered how it would be possible to tell if this was likely or not since no error figures are given.

David Zippin also noted that the text outlines the general rule for this. There is a process defined to ensure that populations that are lost are of lower quality than populations that are protected. There are multiple criteria to ensure that this is the case.

Another group member asked about the sampling in the tables, noting that in the open space lands, some of these species have actually been counted, so this should be compared to the estimates and sampling error information.

Craige asked what the definition of an occurrence was—for instance, is every instance of a species on Coyote Ridge a separate occurrence, or one large occurrence? Right now, these are defined based on the Fish and Game database. Really, we want to be preserving populations, but occurrences are the closest approximation to that. This may not exactly correlate to population, but the plan will combine closely related occurrences to reflect populations. (For instance, a plant may occur multiple times in a drainage area, which is many occurrences—but a single population.)

This table outlines predicted impacts. One guest asked whether there would eventually be tables of actual impact, and what might happen if this number was significantly bigger than the prediction. At that point, there will be rules in place to dictate how to accommodate this impact. However, the plan largely sets limits for take—so if many more occurrences surface, the limit will be quickly met. This ensures that the take permits err on the side of species protection rather than on the side of take.

Val noted that there are also several new technology gadgets that may support this research, including a GPS camera that will take polygon photographs.

Use of Maps

David Zippin discussed the use of maps in the HCP/NCCP. Maps are used in different ways for different plans, and it's important that they include enough information—but not so much that people get alarmed. Virginia was surprised that there were as many gaps as there were in the sample map.

David Collier noted that while willing sellers were a concern, most sellers are willing at the right price, so prioritization is important. Lloyd asked about the stars on the sample map. David Zippin explained that they indicated potential restoration areas.

Buffers are also a controversial issue, particularly with respect to distance from urban development.

David Zippin also brought up the issue of rough proportionality, a requirement of the NCCP Act. The timing and extent of impact affect what is required. Essentially, you must make progress towards your conservation targets as you make progress towards your development predictions. A ten percent deviation is permitted, however.

David Zippin clarified that for the purposes of measuring rough proportionality, conservation includes both mitigation and contribution to recovery..

David Collier asked to be sure that the East Contra Costa County model, which permitted the plan to stay ahead only in grassland conservation, not be used for this plan. David Zippin agreed, noting that in the East Contra Costa case, that was a very high and appropriate bar, but that each plan was different.

Kenn Reiller wondered whether a quantitative measure of "staying ahead" was really appropriate. Some new lands might not serve a conservation purchase for many years to come, and it might be most important to get acreage as early as possible and focus on restoration in later years.

David Collier noted that the acreage measure doesn't take into consideration the health of a population, or factors like which willing sellers will come into the picture with available lands—this might come into play well after a permit is issued. There is a two-year grace period in some plans, however, to allow for this. David Collier noted that it might make sense to work this in reverse—look at what's protected before deciding whether to grant a permit or not, rather than granting a permit and then building the reserve system.

The next section deals with how species are protected before impact occurs.

What happens if you wildly over or underestimate impact? Ratios are used to help approximate this for aquatic land cover types.

Lloyd asked if a pond was a sag pond or a stock pond. A pond is a stock pond, and is easy to map—it's just hard to predict impact on these, including whether they'll be filled or not. Preservation and restoration requirements will be set accordingly.

Lloyd also asked whether developers might provide their own land or do their own restoration. Yes, there will certainly be an option for this, but it will be evaluated on a case-by-case basis to ensure that conservation goals are being met.

Kenn Reiller wondered if different zones might have performance criteria to determine how well each was achieving its potential.

David Collier asked about the role of the science advisors and their comfort levels in the conservation strategy. Their views certainly influenced the strategy development, though they may not have been asked to comment specifically on ponds, etc.

Some species are fully protected—you can take habitat, but you can't take individuals. Migratory bird take also requires special permits. Regional avoidance is also allowed on biologically low-value areas. Any set aside is permanent.

Keith asked what would happen if the landowner said he was willing to set aside some portion of the property as an easement. Yes, this is allowed and even encouraged in some cases, even though the area might not be contiguous to the rest of the reserve system. In other cases—e.g., the case of a pond with red-legged frog—this would probably not be accepted, since the pond can't function in isolation. In that case, a fee would be paid in lieu of actual land preservation.

Val noted that there were also many obstacles to be overcome in policy—for instance, there are existing grading and subdivision ordinances that specify what people can and can't do when they develop land.

There are also potential dilemmas around areas that can't avoid impact, like a bridge construction that must go through specific lands. Surveys are designed to verify land cover and identify key resources that may require avoidance or mitigation. If protected species are found, this can trigger a pre-construction survey. The idea is to make the surveys and requirements clear and predictable.

David Collier asked what covered species the surveyors were required to survey for. They survey for specific covered species including covered plants, no take species, and the covered wildlife listed in chapter 6. It's important to remember that the majority of the projects affected by the HCP/NCCP would not pay anything for conservation right now, while a few would bear a significant burden—what the plan does is spread the cost of preservation more equitably across all parties.

V. COVERED ACTIVITY CONDITION OF APPROVAL ISSUES

David Zippin introduced key covered activity condition of approval issues and outlined the general approach to getting coverage under the plan. A full discussion of these issues was tabled until the June meeting due to time constraints.

VII. PUBLIC COMMENT AND NEXT STEPS

The next meeting will be June 26th. David Zippin will not be in attendance, but Troy Rahmig of Jones & Stokes will be there instead.

The next meeting will be at the usual time, 4 pm to 6:30 pm, on June 26, 2007.