

RESOLUTION NO. 2005-598

Adopted by the Sacramento City Council

August 9, 2005

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

BACKGROUND:

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

to which the City has agreed to comply, and it includes protections for Fisherman's Lake. According to FWS and DFG, the east-side protections provided for Fisherman's Lake in the 2003 HCP include a minimum 250-foot-wide buffer measured from the east shore of the lake. This buffer is essentially the same as the NNCP's 200-foot-wide buffer measured from the eastern boundary of RD1000.

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

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

Section 1.

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

Section 2.

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

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

Buffer Area - A buffer a minimum of 300 feet in radius around each Swainson's hawk nesting tree will be provided (known nesting trees as of 2004). The width of the buffer outside the 300-foot radius around the nesting trees shall be a minimum of 300 feet wide in the northern section and 200 feet wide in the southern section measured from the eastern boundary of RD 1000 property (see Exhibit A for land use summary and Exhibit B- Option B for general map of the buffer). Pursuant to the Natomas Basin Habitat Conservation Plan, the buffer will be a minimum of 250 feet wide, measured from the eastern edge of the lake, along the entire length of the lake from Del Paso Road to El Centro Road.

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

Nesting Tree Buffer Area - The uses allowed in the nesting tree buffer area shall be those that provide conditions to support the likely success of the Swainson's hawk in continuing to use the existing nesting trees, as well as providing open space for other special-status species. Specifically, uses may include: 1) a nature park, 2) detention basin, 3) pedestrian and bikeways subject to closure during critical nesting season, and 4) other non-urban open space uses.

Other Buffer Area - The uses allowed in the other buffer area shall provide open space for special-status species, as well as other purposes. The uses may include: 1) all those uses allowed in the nesting tree buffer area, 2) pedestrian and bikeways not subject to closure, 3) public and maintenance roadways, and 4) other public

uses, e.g., detention basin, fire station. The other buffer area is defined as the open space buffer extending from El Centro Road north to the southernmost nesting tree radius on the east side of Fisherman's Lake.

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

Buffer Restoration and Management Plan - The Natomas Basin Conservancy (TNBC) will likely manage the Fisherman's Lake buffer as part of the Conservancy's reserve system. Plans for restoration and management of the buffer would include: disking the area, planting additional future nesting trees including temporary drip irrigation, and planting native grasses. They would gate the north and south ends of the buffer area and post it with "Restricted Habitat Area" signs. They would generate a fire break between the homes and native grasses using a bike trail, road, or watered landscaped area. The buffer area would be included in TNBC's Site Specific Management Plan and would be subject to biological effectiveness monitoring per the Natomas Basin Habitat Conservation Plan (HCP). The costs to restore the buffer would be paid for through a developer endowment, park impact fees, Public Facilities Fee and Land Acquisition Program for the bike trail, and other funding sources. The cost of long-term maintenance will be funded through the North Natomas Landscape Maintenance Community Facilities District (CFD) #3, the Neighborhood Park Maintenance CFD, and other funding sources.

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

Section 3.

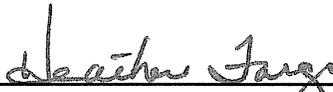
A maximum of one-third of the cost to widen the Fisherman’s Lake buffer as described above in Section 2 may be paid for using the General Fund.

Table of Contents

- Exhibit A: Land Use Summary
- Exhibit B: Natomas Central Map

Adopted by the City of Sacramento City Council on August 9, 2005 by the following vote:

- Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Mayor Fargo.
- Noes: None
- Abstain: None
- Absent: None



Mayor Heather Fargo



Shirley Concolino, City Clerk

EXHIBIT A – Land Use Summary

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

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

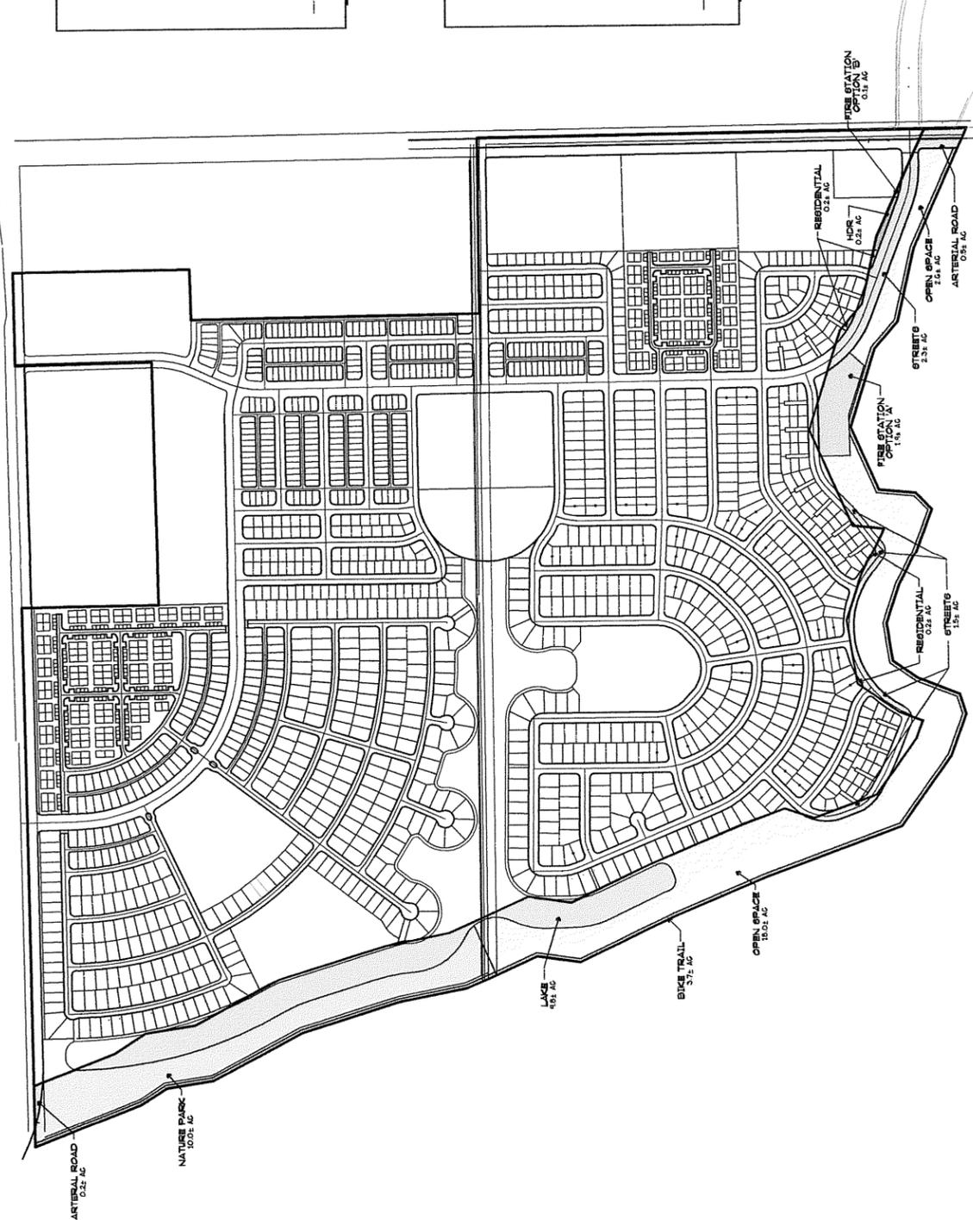
The following public land uses are allowed in the buffer area:

<u>Use</u>	<u>Acres</u>	
Nature Park	10.0	
Detention Basin	9.8	
Bike/ Ped Trail	3.7	
Buffer in NNFP	22.5	(North Natomas Financing Plan funds 21.8 acres)
Roads	3.7	
<u>Fire Station</u>	<u>0.1</u>	(Staff recommends FS at NWc Arena/ El Centro)
Total Buffer	49.8	

Notes:

“Total Buffer” excludes 0.7 acres for El Centro Road and Del Paso widening. If Del Paso Road were to be closed, 0.4+/- acres would not be needed for the road and could be used for the buffer.

BUFFER EXHIBIT
NATOMAS CENTRAL
 CITY OF SACRAMENTO, CALIFORNIA
 AUGUST 3, 2005

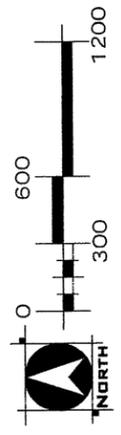


OPTION 'A'
LAND USE SUMMARY

USE	ACRES (±)
LAKE	9.8
NATURE PARK	10.0
OPEN SPACE	20.6
BIKE TRAIL	3.7
FIRE STATION	1.9
RESIDENTIAL	0.4
HDR	0.3
ARTERIAL ROADS	0.7
STREETS	3.7
TOTAL	51.1

OPTION 'B'
LAND USE SUMMARY

USE	ACRES (±)
LAKE	9.8
NATURE PARK	10.0
OPEN SPACE	22.5
BIKE TRAIL	3.7
FIRE STATION	0.1
RESIDENTIAL	0.4
HDR	0.2
ARTERIAL ROADS	0.7
STREETS	3.7
TOTAL	51.1



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