

Susan Harris

From: mandy spitzer [mandyspit@yahoo.com]
Sent: Thursday, April 13, 2006 11:58 AM
To: Susan Harris
Cc: City Council
Subject: Arana Gulch

I am a resident of Santa Cruz City and a neighbor of Arana Gulch.

I am extremely upset that the city is considering the possibility of paving over one of the last pristine green spaces in the city. We need open areas for children to run and play in without structures, speeding bikes and pavement. We need space for our beloved native plants to thrive, for the local fauna as well. We need the oxygen produced by the trees and plants that thrive there now.

We, the citizens, authorized the purchase of the greenbelt with the intention of leaving it GREEN.

Cutting down trees for a paving for a route and bridge effectively cancel out the voters mandate. And don't even think of selling off the 6+ acres by Park. That is necessary land for the beauty and health of Santa Cruz.

I agree that a bike path is desperately needed on Soquel Ave. Don't not let Arana Gulch become an excuse for ignoring the commuting population. There is already a good bike route over the East Cliff bridge close by.

Thank you for listening and respecting the people of Santa Cruz.

Mandy Spitzer

152 Hagemann Ave., Santa Cruz, CA 95062
831-457-2157

C23-1

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LETTER C23
Mandy Spitzer

Response C23-1: No trees are proposed for removal, as discussed on page 4.2-38 (Impact BIO-1). Refer to Master Response No. 5. No residential development is proposed, as discussed on page 4.1-9. This acreage has been incorporated into the boundaries of the Arana Gulch Master Plan.

Susan Harris

From: izzy [rainbow_izzy@yahoo.com]
Sent: Thursday, April 13, 2006 1:50 PM
To: Susan Harris
Subject: Izzy Sands and Patti McCarron, concerned residents

Attn: Susan Harris:

We are writing this letter to you as concerned residents for the wellbeing and future of Arana Gulch. This is a time in history that we need to be especially careful with our environment. It is critical for all living things that we leave a natural space. It pains me and many others on a soul level to be a part of the destruction of our beautiful environment and home. There will be so many displaced critters if this huge asphalt path is put in, and why? It is totally unnecessary and sad. There is already too much sadness in the world. Why contribute to more?
So Please take this small letter to heart.

C24-1

We, Patti McCarron, and Izzy Sands, strongly oppose the path and Hagemann Bridge. PLEASE do not kill the beautiful trees! They are older than us and were here first. Isn't it illegal to remove oak trees.

C24-2

In kindness and hope,
Izzy Sands
Patricia McCarron

Love cheap thrills? Enjoy PC-to-Phone calls to 30+ countries for just 2¢/min with Yahoo! Messenger with Voice.

LETTER C24
Izzy Sands

Response C24-1: Comment noted.

Response C24-2: Refer to Master Response No. 5 regarding no removal of trees.

Susan Harris

From: don fong (dfong@dfong.com)
Sent: Thursday, April 13, 2006 7:39 PM
To: Susan Harris
Subject: comments on arana gulch DEIR

To Whom It May Concern:

I have a number of concerns regarding the Arana Gulch Draft Master Plan and the associated Draft Environmental Impact Report. This DEIR misleads the public; it understates the magnitude of some impacts; and it completely neglects others.

1) Lighting:

The DEIR and the master plan are inconsistent regarding the issue of pathway lighting.

The master plan states: "No lighting would be installed along the trails within the meadow area of Arana Gulch. If deemed necessary for public safety, low level lighting may be installed at the Hagemann Gulch bridge and Upper Harbor area." [AGMP sec 3.4.2]

In contrast, the DEIR states: "Mitigation Measure BIO-8(d): While no lighting is proposed at this time any future lighting should study limited. Any trail lighting shall consist of low-intensity lights, no higher than 3 feet off the ground, that would focus light on the trail and minimize lighting of natural areas adjacent to the trail and bridge." [DEIR sec 4.2]

The master plan says no lighting will be installed in the meadow area; while the DEIR says that no lighting will be installed *at this time*. This discrepancy deceives the public regarding the magnitude of the project's environmental impact. Clearly, an assessment of the "impact" of the project must be based on the worst case rather than wishful thinking.

Moreover, it is highly likely that lighting will be required both to prevent crime and for the sake of bike/ped safety.

In 1999, an EIR/EA was issued for the earlier version of this project (Broadway-Brommer Bicycle/Pedestrian Path Connection EIR/EA). That report identified public safety as a major impact of the project.

"PUB-1: People using the path alignment after daylight hours could be more vulnerable to crime or other incidents." [Table 1, page 29]

The primary mitigation measure identified in the EIR was general pathway lighting.

Furthermore, common sense says that a narrow, steep, and curving bikeway will be unsafe at night unless lighting is provided.

If a "neutral color" is used for the paving, as is suggested in mitigation measure AESTHETICS-1 [DEIR sec 4.5], the lack of visual contrast with the surrounding earth could make the path more hazardous for bicyclists and pedestrians at dusk, unless lighting is provided.

Thus, lighting will very likely be required for the project. The master plan document is misleading on this point.

2) Lighting:

The DEIR taken alone also understates the environmental impact of lighting, thru the subterfuge of considering only the impact on avian species. [Mitigation measure BIO-8(d), DEIR sec 4.2]

Recent scientific research reported in Science News, 2006.03.18, shows that artificial light can have significant disruptive effects on the lives of non-avian species. ("Light all night")

<http://sciencenews.org/articles/20060318/bob10.asp>

1

C25-1

C25-2

The DEIR is inadequate in that it failed to even mention these impacts, let alone propose mitigations.

3) Public Services:

This DEIR is inadequate in that it fails to consider the public services impacts PUB-1 and PUB-2 identified in the 1999 Broadway-Brommer EIR/EA.

The 1999 Broadway-Brommer EIR/EA states:

PUB-1: People using the path alignment after daylight hours could be more vulnerable to crime or other incidents.

PUB-2: Implementation of the bike pathway could result in increased use of Arana Gulch, which in turn could result in increased fire hazards due to user negligence." [Table 1, page 29]

The project currently under consideration does not differ in any significant way from the project considered in the 1999 EIR/EA, insofar as these impacts are concerned. They were considered then and required mitigation then; and they still require consideration and mitigation now.

The Master Plan would create a long, isolated path which even if lit at night would constitute a tempting site for criminal activity. Increased staffing would probably be required to deal with the problems. The impact on public safety, and public services must be weighed.

4) Invasive species:

This DEIR is inadequate in that it fails to consider the potential impact of "edge effects" in fostering the growth of competing, invasive species that could harm the endangered tarplant.

Every gardener knows that weeds thrive at the edge of a concrete walkway. Weeds send down roots and it's nearly impossible to get them out. The concrete protects their roots, collects and delivers water to them. It also interferes with mowing.

If fenceposts or railings are required, the posts may have a similar effect of encouraging non-native weeds, and of interfering with mowing, grazing, and other mitigation measures.

Soil disturbance has been mentioned as a possible mitigation measure. But how will the soil be disturbed adjacent to the pavement itself, and next to the fenceposts?

5) Altered runoff patterns:

The DEIR fails to consider the effect of changed runoff patterns due to the path.

Since the decision was made to pave the path, it will present a large relatively impermeable collector for water. Rainfall that would otherwise have soaked into, and flowed through the ground, will now be delivered downhill --- where? the plan doesn't say.

A changed runoff pattern could radically change the distribution of soil moisture, making some areas too dry for the tarplant and some areas too wet.

Meanwhile, the diverted runoff will be an erosive force that could contribute to siltation of Arana Creek.

6) ADA compliance:

This Master Plan promises that the bike path will be ADA compliant; yet the specific description of the trail parameters, as well as the cross-section diagrams in the DEIR, are inconsistent with ADA requirements.

For the purposes of the ADA, the bike trail is a series of ramps. ADA requirements state that any ramp with a rise of more than 6' must have handrails on both sides. [item 4.8.5 at URL given below.]

<http://www.access-board.gov/adaag/html/adaag.htm#4.8>

Yet, handrails are not shown in any of the cross-section diagrams, nor mentioned in the

C25-3

C25-4

C25-5

C25-6

text.

[http://www.ci.santa-cruz.ca.us/pr/parksrec/parks/aranapdfs/DEIR/Figures/Figure%203-7%20Prelim%20Cross%20Sections3%20\(A-D\).pdf](http://www.ci.santa-cruz.ca.us/pr/parksrec/parks/aranapdfs/DEIR/Figures/Figure%203-7%20Prelim%20Cross%20Sections3%20(A-D).pdf)

Handrails will require supports. The supports could worsen the invasive species impacts noted above under point #4.

Handrails will also constitute safety hazard to bicyclists, especially on a trail of minimal width. Mitigating this hazard may require widening the trail, which would increase its environmental impact.

Taken together, these factors --- minimal trail width, handrails, and a lack of lighting --- will reduce the utility of this facility as a transportation corridor. Mitigating these problems will undoubtedly increase the project's environmental impact.

Handrails and their supports will also increase the visual and aesthetic impact of the project.

The DEIR is inadequate in that it fails to consider the direct and indirect effects of the handrail requirement.

7) ADA compliance:

DEIR figure 3-6 shows an alignment that seemingly will not comply with ADA grade restrictions.

This can be seen by inspection, counting the number of topo lines that the alignment crosses over a distance equal to the length of the scale at the left of the diagram.

<http://www.ci.santa-cruz.ca.us/pr/parksrec/parks/aranapdfs/DEIR/Figures/Figure%203-6%20Prelim%20Trail%20Align.pdf>

Starting at the junction near the northernmost point of the trailer yard, the path crosses at least 14 topo lines over the scale distance, meaning that a path following the existing topography would rise 28' over a run of 350'. This implies an average grade of at least 1:12.5.

The maximum achievable average slope under ADA requirements is 1:14.

Although a slope of 1:12 is allowed for a single ramp 30' in length, ADA requires a level landing 6' long, between ramps. [Item 4.8.4 at the ADA-related URL given above.]

In order to rise by 28', the path will need a run of at least 392'. Unless switchbacks are introduced, the extra 42' of distance will force the alignment farther away from the targeted bridge crossing point, meaning that the trail will require lengthening by about another 42' to get back to where it needs to go.

The upshot is that the length of the steeply ascending/descending portion of the trail need to be about 100' longer than is depicted in Fig 3-6, in order to meet ADA requirements.

This extra length would increase the amount of time required by bicyclists to take this route, and thus decrease the transportation value of the project.

The extra length would also increase the area covered by pavement. More area covered by pavement means less habitat for the endangered tarplant.

8) Caltrans bikeway standards:

DEIR figure 3-7 (meadow trail cross-section diagrams) shows trail cross-sections that are inconsistent with Caltrans bikeway standards for a class 1 bikeway.

Caltrans chapter 1000 bikeway standards require that a class 1 bike path have a 2' graded margin on each side. Thus, even for a minimal 8' wide paved bikeway, the minimum disturbed width is 12'. [sec 1003.1(2) at the URL given below.]

<http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp1000.pdf>

C25-7

These graded margins are not shown in the relevant cross-sections, which in some cases claim the path's "footprint" of only 8'8".

Caltrans also requires a "clear width" of 2' on each side of the path. Thus, if handrails are provided as part of the project, their supports will have to be outside the 2' graded margin, further increasing the disturbed width of the path.

Meeting Caltrans requirements for a class 1 bikeway will increase the environmental impacts beyond what is considered in the DEIR.

9) Caltrans bikeway standards:

DEIR figure 3-8 (harbor area cross-section diagrams) also shows cross-sections that are inconsistent with Caltrans standards for a class 1 bikeway.

The cross-sections show an 8' wide path. Although 8' is the minimum width for a class 1 bike path, Caltrans also requires a 2' margin clear of obstructions on each side of the path. The effective width is 12'.

Achieving this 12' width for the elevated pathway shown in cross-sections E and F would increase the project's environmental impact, especially considering how steeply the terrain slopes near Arana Creek.

Failure to meet Caltrans standards, especially over a long section of the connection, would reduce the transportation value of the project.

10) Infeasibility of the proposed alignment:

DEIR figure 3-6 proposes an alignment that is highly incompatible with existing site topography near Arana Creek.

The DEIR does not show how an 8' wide path could be built in what is perhaps the most difficult stretch, as it nears and crosses over Arana Creek. The eastern bank of the creek is very steep, with no room for an 8' wide path, let alone the 12' level width as would apparently be required by Caltrans bikeway standards (see point #9).

Thus, it is only reasonable to assume that the path will require a huge amount of earth-moving here, with a retaining wall, and a massive concrete berm. This design combines the worst aspects of cross-sections H and F [DEIR figure 3-8].

The path will have to descend steeply in order to go from the elevation of the roadway between H and G, to the level of the ground adjacent to the trailer yard.

The DEIR does not provide any cross-section diagrams depicting a solution for this very difficult terrain. Cross-sections E and F do show the path atop an elevated concrete berm to the east, but the terrain is less challenging there.

It is deceptive to claim that the plan does not involve a bridge over Arana Creek. Although this elevated berm may not technically qualify as a "bridge", it is still a major construction job that would have to be done virtually on top of Arana Creek -- with all the potential for damage that implies.

Another technical challenge is the narrowness of the ground adjacent to the northeast corner of the trailer yard. On one side, of the proposed alignment, there's the 8' high fence. On the other side, there's a steep dirt embankment that slopes down to the culvert. The strip of level ground in between is only about 2.5' wide.

Again, it seems an elevated pathway would have to be required, whose construction, in direct proximity to Arana Creek, would constitute a significant environmental impact.

11) Inconsistent selection criteria:

Over the years, the project's goals have changed; in order to ensure that the best alternative is chosen, alternative alignments that were discarded as "not meeting project goals" at the time should be reconsidered now in light of the current project's changed goals.

When the public process first began, the primary goal was to create a high-speed commuter bikeway that would be more direct and would require less climbing than does the current

C25-8

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C25-10

proposal. Emergency vehicle access was another goal that has fallen by the wayside.

Many public comments from the earlier phases of the public process supported consideration of alignments similar to "Alternative B", alignments which would avoid cutting across the meadow of Arana Gulch. Such an alignment would provide a bike and pedestrian connection while avoiding the most serious environmental impacts of the current preferred alternative.

The B-like alignments would have leveraged the existing harbor road and Frederick Street, thus greatly reducing construction costs vis a vis the current proposal. The city's current fiscal position is less able to support high-cost and high-maintenance projects, another factor that now weighs more heavily in favor of a B-like alignment.

The B-like alignments would also have avoided the public safety and public services impact of a long, dark, isolated, path thru the meadow.

The B-like alternatives were excluded then for "not meeting project goals". Yet now that the goals have changed, a B-like alignment might be the best solution.

A selection process that uses one set of criteria to eliminate some alternatives, but later uses a different set of criteria to favor a particular alternatives that wasn't even considered earlier, is a flawed process.

12) Lack of a management-only alternative:

The DEIR considers a no-project alternative with no tarplant management program, and several alternatives with both trail construction and tarplant management.

What's missing is what may well be the best option for the environment: to manage the tarplant with no trail construction. The lack of such an alternative creates a stilted comparison.

In general, if one is searching for the best solution, it makes perfect sense to consider a combination of the best elements from different proposals. Not just a set of arbitrary combinations each containing some good and some bad elements.

An EIR that excludes from consideration what seems to be the best environmental option, is a deeply flawed EIR.

Sincerely,

Don Fong
227 Alta Ave
Santa Cruz, CA 95060

C25-11

LETTER C25**Don Fong**

- Response C25-1: Refer to Master Response No. 1 regarding lighting. The project has been changed since the original writing of the EIR/EA on the Broadway-Brommer Bicycle/Pedestrian Pathway project.
- Response C25-2: No lighting would be located in the meadow area, and low level lighting may (emphasis added) be installed at the Hagemann Gulch Bridge. While low-level lighting was proposed in the Upper Harbor area, it appears there is sufficient existing lighting. Since the project does not include any significant lighting, no related impacts on wildlife are expected. Refer to Master Response No. 1. The mitigation measures included in the EIR to ensure that any lighting on the Hagemann Gulch Bridge is shielded and low intensity would be adequate to protect both avian species and other wildlife species.
- Response C25-3: The Arana Gulch Master Plan does not propose lighting along the multi-use trails within the meadow area of Arana Gulch. Thus, the project as proposed will not encourage use of the trails after daylight hours. The City's greenbelt properties, including Arana Gulch, are open to public use from sunrise to sunset daily. Specific trails can be designated to be open to public use after daylight hours, but this has not yet been determined. In any event, the courts have held that CEQA documents need not address the issue of crime that might result from proposed projects, since crime is not an "environmental" issue. (See *City of Pasadena v. State of California* (1993) 14 Cal.App.4th 810, 829-834.)
- Response C25-4: The paved multi-use trails avoid the Santa Cruz tarplant population areas, except for subpopulation Area C (see new Figure 4.2.3a). The paved trail alignment through Area C follows an existing earthen road/trail that has existed for many years, as evidenced by aerial photographs. No plants have been observed in Area C since 1989, except for a reported survey of 20 plants in 1998. The problem of invasive species exists presently and the addition of paved trails would not exacerbate this. Fencing is not proposed along the multi-use pathways, except for the possibility of limited fencing as needed if unauthorized trails cannot be closed through other measures. Fence posts will not be located within the tarplant population areas.
- Response C25-5: The effects of runoff are clearly addressed in the Hydrology section of the DEIR (Section 4.4). Impact HYDROLOGY-2 on page 4.4-12 addresses increased erosion from paved trails and includes recommended mitigation measures to minimize concentration of discharges in the design of the paved trails. In addition, a special sub-base material for the paved trails is recommended in the mitigation measure to reduce erosion or siltation.
- Response C25-6: The proposed multi-use trails within Arana Gulch are trails within a natural outdoor setting. Therefore, the appropriate accessibility guidelines are the

Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas (1999), Section 16.2, which pertains to trails. The Negotiation Committee Final Report states that "... Because the terrain in outdoor environments is often steep, the committee realized that applying current Americans with Disability Act Accessibility Guidelines (ADAAG) slope and ramp requirements was not feasible. The proposed running slopes and maximum distances represent a compromise reached among committee members and balances accessibility with the constraints imposed by the natural topography."

The maximum slope for the multi-use trails proposed within Arana Gulch is 1:12, which meets the requirements of the Regulatory Negotiation Committee on Accessibility Guidelines for Outdoor Developed Areas. In sections of sustained 1:12 slope on Creek View Trail, rest platforms are provided at intervals exceeding the 200 foot requirement (Section 16.2.7.2.2). Handrails are not required for trails developed in compliance with section 16.2 of these Accessibility Guidelines for Outdoor Developed Areas. The California State Parks Accessibility Guidelines also utilize these requirements for trails within natural settings. Handrails are not required for the proposed multi-use trails, and therefore, no handrails will be constructed.

- Response C25-7: The multi-use trails proposed within Arana Gulch are interpretive shared use facilities and are not required to adhere to Caltrans Chapter 1000 of the Highway Design Manual (HDM). The HDM allows variations to Class I Bikeway Standards for multi-purpose trails (HDM Section 1003.5). Two-foot-wide trail shoulders are not proposed for the multi-use trails at Arana Gulch because they would significantly increase the trail width and associated impacts. The "trail footprint" referred to in the DEIR refers to the paved width of the trail and disturbance caused during grading for construction of the trail itself. Grassland vegetation would return to disturbed areas along the trails, and would be mowed annually similar to other trails within Arana Gulch.
- Response C25-8: See Response to Comment C25-7. Additionally, Caltrans HDM Chapter 1000, Section 1003.1; Section 2, "clearance to obstructions" states the minimum clear width of structures between railings shall be not less than 8 feet. The proposed Creek View Trail is consistent with these requirements.
- Response C25-9: The proposed alignment for Creek View Trail along the northern edge of the Upper Harbor dry storage area is feasible and meets Caltrans Standards. The turning radii of the trail centerline are 35 feet, which meets the curve radii requirements for a 12 mph bicycle design speed. The distance from the northern fence line of the Upper Harbor dry storage area to the top of bank of Arana Gulch Creek at the culverts is a minimum of 14 feet. This distance is sufficiently wide to accommodate the proposed multi-use trail. A retaining wall would be required.
- Response C25-10: The project addressed in this DEIR is the Master Plan for the 67.7-acre Arana Gulch property. These comments regarding Alternative B refer to previously-

proposed bicycle/pedestrian projects not located within Arana Gulch. Refer to Master Response No. 7 regarding off-site alternatives.

Response C25-11: Refer to Master Response No. 4 regarding alternatives and the Santa Cruz tarplant management. The No Project alternative does include tarplant management and no new trail construction.

Susan Harris

From: Kit Birkovich [kitb@baymoon.com]
Sent: Thursday, April 13, 2006 8:44 PM
To: Susan Harris
Subject: DEIR for Arana Gulch

Ms. Harris,

I am appalled at the highly flawed DEIR. The care and concern for the Santa Cruz Tarplant is minimized by the Broadway-Brommer bikepath plans, not to mention the understated impact it would have on the woodrat, monarch butterflies, and other wildlife habitat.

I am extremely confused as to why Santa Cruz Parks and Rec. Dept. and the city of Santa Cruz continue with plans to pave this lovely greenbelt, why time and money is being spent, when the Coastal Commission has clearly demonstrated in the past they are against such a plan.

Public sentiment against the Broadway-Brommer bike path has been grossly underestimated. The people simply do not want it! It is time to reject the folly of that plan once and for all, and to work toward developing a real Master Plan for the care and conservation of this jewel of the east side of Santa Cruz.

Sincerely,
Kit Birkovich
528 Windham Street
Santa Cruz

C26-1

LETTER C26**Kit Birskovich (No. 2)**

Response C26-1: Comment noted. The comments do not specifically address the DEIR and therefore no response is required.

Susan Harris

From: pattijaz@cruzio.com
Sent: Friday, April 14, 2006 7:45 AM
To: Susan Harris
Cc: pattijaz@cruzio.com
Subject: Arana Gulch DEIR/MP comments

Please find my comments below on the Arana Gulch Draft Master Plan and DEIR.

Regards,
Patti Jazanowski

Project Objectives (Master Plan)

1. P. 30 of the Master Plan states the following goals (among others) "Protect and enhance sensitive habitat areas" and "implement an adaptive management program to ensure the long-term viability of the Santa Cruz tarplant within Arana Gulch." However, the DEIR does not allow for this management unless the bikepath project is selected with the paved paths. Please show how these goals can be addressed within the scope of the other alternatives.
2. If it's the case that the development of paved paths causes additional stress on the biotic resources, then additional monies should be allocated for those additional stresses. Please state that explicitly so the budgets estimates, when created, can reflect this. Also, please list the basic management of resources in a separate section of the document, and list the additional management required if the City chooses the bike path development project.
3. P. 30 of the Master Plan states a Public Use goal: "Provide a trail system that allows public access in a manner that does not result in significant degradation of habitat values." However, the Proposed Project and the Alternatives with paved paths will create a significant and unmitigable damage to the endangered tarplant. How does the proposed project meet the goal of "not resulting in significant degradation of habitat?"

Table 2-1

1. BIO-1) Monarch butterflies could be impacted. Please note that residents of the area have seen monarchs on many occasions (including April 2006) What studies have been done to understand the monarch population in this area, and its relationship to the overall flyway? As you know, the monarch population has been severely impacted in recent years, so any new disturbances will further impact the current loss. What studies have been done to identify the impact to the overall flyway if part of the monarch habitat is destroyed or removed?
2. Table 4.2.2 erroneously states that the occurrence of monarchs is unlikely. What studies have been completed to substantiate this claim, in light of the fact that many neighboring residents see frequent occurrences of monarch butterflies?
3. GEO-2(b) All grading shall be conducted during the dry season, defined at April 15 through October 15. In light of the unusual rain activity, can this be amended to included qualitative conditions of the soil, to reduce any impact of erosion?

Identification of alternatives:

1. Alternative Uses of Greenbelt Land: During many public forums there have been a significant number of comments from the public requesting for Arana Gulch Greenbelt to remain undeveloped Open Space land, free from development and paved paths. Many voters further believe this was their statement when they voted for Measures O and Measures I. How has this public input for undeveloped Open Space been incorporated during the planning process and the identification of alternatives?
2. Alternative Location of Bikepath Routes: Many members of the public have requested alternative routes that do not cross Arana Gulch Greenbelt Meadow. They have cited a ramp at Frederick Street Park and the Rail Trail. The California Coastal Commission has also cited those alternatives because they have much less environmental impact. How have those alternatives been incorporated into the design of this project?
3. Impact of improved bikelanes on existing roads: Some members of the public have requested a bike path through Arana Gulch Greenbelt due to the poor status of the cycling lanes on Soquel Avenue and Murray Street. However, both of these issues are due to the Public Works Department failing to maintain and improve its existing roads. The

C27-1

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Soquel Avenue bike lanes will be completed later this year, which will improve the East-West cycling corridor. What studies have been done to determine the need for a new bike path when those existing roads are corrected to include proper bike lanes?

4. Table 5-2 is not correct. It erroneously states that the Proposed Project will provide access without significantly impacting the habitat values. (See comment above, Project Objectives).

C27-9

Description of Alternatives

1. Funding for Santa Cruz Tarplant Adaptive Management Program The document states that this funding is currently uncertain unless the City procures monies to build the paved path and bridge system. This is outrageous.

The Master Plan is intended to a document that describes the visions and goals of the land. The residents of the City have clearly stated the goal of managing this endangered species. Therefore, this excuse for "lack of funding" is not acceptable. The tarplant adaptive Management Program should be implemented regardless of other development projects.

C27-10

2. Alternative 1 "No Project" and Alternative 4 "Unpaved Trail System without Hagemann Gulch Bridge" would not require a bridge to be built over Hagemann Gulch. If one of these Alternatives is approved, it means the City can sell their right-of-way to the Santa Cruz Bible Church. Can the document please be updated to include this fact? Can it further mention that this income can be used to cover the cost of the Tarplant Adaptive Management Program?

C27-11

3. Section 5.6 Environmentally Superior Alternatives. Currently this section is erroneous because it does not allow the Tarplant Adaptive Management Program to be implemented *unless* the paths are paved. Please update this to reflect that fact that Tarplant Management will be implemented first and foremost, and that Alternative 1 and Alternative 4 are Environmentally Superior.

C27-12

State and Federal Considerations

1. The document states that the paved paths would create "direct impact (that) cannot be fully mitigated and would be significant and unavoidable." How does this comply with the Coastal Act's prohibition against development of environmentally sensitive habitat areas?

C27-13

2. Since developing a paved path system across Arana Gulch Greenbelt will cause workers to knowingly kill individual plants, how does this comply with ESA, which prohibits the "take" of a federally listed wildlife species?

C27-14

Table 6-1

1. The County of Santa Cruz has received a proposed to build a large hotel complex at the corner of 7th and Brommer. Shouldn't this be listed in Table 6- 1? How has the impact of that development project and its increased usage (traffic, foot traffic) been factored into this project, especially its impact on birds and animals in Arana Gulch Greenbelt?

C27-15

Safety:

1. The bridge across Hagemann Gulch is the first development structure that will cross Hagemann Gulch, an otherwise wild and wooded area. Since no other access is available, installing the bridge will create a new exposure to residents whose homes back up on Hagemann Gulch. What studies have been done to this specific area to estimate the increased safety risk for homeowners in that area? For example, what information has been gained on the incidents of transients living the wooded areas off Frederick Street? How will the bridge (and adjoining areas) be constructed to deter people from accessing Hagemann Gulch?

C27-16

2. The current plan does not allow for the lighting of the bridge or path. How will the safety needs of the users be met in low-light or no-light conditions? If lighting is to be adding in the future, please explain the studies that have been done to understand the environmental impact to the natural resources (animals, plants) that inhabit the area.

C27-17

ADA trails

1. In numerous spots, these documents state that a goal of the project is to develop paths that will be ADA compliant. However, no other Greenbelt in the City of Santa Cruz has begun a development project to construct ADA complaint paths. Why must the first paths be developed in the City's smallest Greenbelt?

C27-18

How does this comply with Measures O and I and continued public requests to preserve Arana Gulch Greenbelt as Open Space free from development and paved paths?

2. Do the paved paths actually meet ADA requirements, in terms of slope and other characteristics? If not, then the mention of ADA compliance should be removed from the document.

Required Approvals

1. The California Coastal Commission has strongly and repeatedly stated that they do not approve of a bike path that crosses Arana Gulch Greenbelt and harms its natural resources. They have stated that there are alternatives nearby which will meet the objectives of building an East-West bike route without damaging the fragile habitat. Please explain why their preferred alternatives have not been included in this process. Please explain why it's feasible to think the City would receive the permits when the Coastal Commission has clearly and repeatedly stated their preference for an Alternative that has less environmental impact.

2. Please explain how the City can obtain a FONSI (Finding of No Significant Impact) when the proposed project creates a "direct impact (that) cannot be fully mitigated and would be significant and unavoidable."

C27-19

C27-20

C27-21

LETTER C27**Patti Jazanowski**

- Response C27-1: Refer to Master Response No. 4.
- Response C27-2: Funding of Master Plan implementation is addressed in the Master Plan but is not required to be addressed in the EIR. The comments address the Master Plan, rather than the EIR, and therefore no response is necessary.
- Response C27-3: The comment addresses both the Master Plan and the DEIR. The trail alignment has been specifically chosen to minimize impacts on the Santa Cruz tarplant. Refer to Response to Comment A2-1.
- Response C27-4: Monarch butterflies are addressed under Impact BIO-10 on page 4.2-47 of the DEIR and mitigation measures are recommended to ensure that any potential impacts are reduced to less-than-significant levels.
- As stated on page 4.2-48, no formal surveys for monarch butterflies have been completed at the site. For this reason, the mitigation measure addresses completion of pre-construction surveys and appropriate follow-up measures should monarch butterflies be encountered.
- Response C27-5: The recommended timing for construction work is a standard condition for many construction projects to ensure that excessive erosion does not occur. It is not considered necessary to amend this mitigation measure. Measuring qualitative conditions of the soil would be a highly subjective undertaking and difficult to administer.
- Response C27-6: Refer to Master Response No. 10.
- Response C27-7: The off-site alternative is addressed in Master Response No. 7. Also, refer to the responses to Coastal Commission comments in Letter A2.
- Response C27-8: This comment does not relate to the DEIR or to the Arana Gulch Master Plan that is the subject of the DEIR. Therefore, no response is necessary.
- Response C27-9: Table 5-2 is changed as shown in Master Response No. 4 with new text shown in **underline and bold**. While the proposed project could affect tarplant habitat, mitigation measures have been recommended to minimize the impact.
- Response C27-10: Refer to Master Response No. 4 regarding alternatives and the Santa Cruz Tarplant Adaptive Management Program.
- Response C27-11: The DEIR is not required to address the specifics of funding mechanisms. Comment noted.

- Response C27-12: Refer to Master Response No. 4.
- Response C27-13: Refer to Master Response No. 3 about development in Environmentally Sensitive Habitat Areas (ESHAs).
- Response C27-14: Refer to Master Response No. 8.
- Response C27-15: As of the date of the DEIR, the hotel proposal for the corner of 7th Street and Brommer had not been proposed. In follow-up research work, it was found that there was an application for a large-scale visitor accommodation use on that site. However, the County General Plan/Local Coastal Program designates the property as a future park site and the City Redevelopment Agency is in the process of trying to acquire the site for such use. For this reason, no changes to the DEIR are considered necessary.
- Response C27-16: The construction of the bridge across Hagemann Gulch is not expected to result in increased illegal camping in Hagemann Gulch. In fact, it could be just the opposite since the increased usage of the area by the public would deter illegal camping that bridge users could see. No specific studies have been completed on illegal camping. However, it is known that illegal camping does occur in some of the City's open space areas, primarily in areas that are not visible to the public on a daily basis. The DEIR did not identify illegal camping as a significant impact because the Arana Gulch Master Plan would increase visibility into areas that have historically been out of view.
- Response C27-17: Refer to Master Response No. 1. Mitigation Measure BIO-8(d) would minimize impacts on wildlife.
- Response C27-18: This comment addresses the Master Plan rather than the DEIR, so no response is necessary.
- Response C27-19: Refer to Response to Comment C74-6 regarding ADA compliance.
- Response C27-20: Refer to the Coastal Commission letter responses (Letter A2) and Master Response No. 3.
- Response C27-21: This comment addresses the National Environmental Policy Act (NEPA), which does not apply to the DEIR.

Comments on the Draft Master Plan for Arana Gulch
and the Draft EIR for the Proposed Project included in the Master Plan

Submitted by Michael Lewis & Jean Brocklebank, on behalf of Friends of Arana Gulch
<http://members.cruzio.com/~arana/>

14 April 2006

Introduction

The Master Plan is improperly conceived and executed and the EIR is unnecessary as a part of a **properly** conceived MP. The Feb. 2006 DEIR ultimately confuses the entire Master Plan process and vice versa.

The Draft Master Plan and the DEIR are flawed, deliberately misleading, duplicitous, factually inaccurate, internally inconsistent and self-contradictory. The Master Plan should be amended, clarified, and resubmitted for review by the public and for consideration by the City Council. The City Council should not certify the CEQA/EIR, waiting instead for the NEPA/EIS that the current DEIR properly says will be needed to complete the proposed Broadway-Brommer connection through Arana Gulch. The DEIR can not be fixed by printing comments received by the public and public agencies. It should be tabled and processed no further.

The Master Plan itself is poorly conceived because, unfortunately, it was driven by an inappropriate City Council directive to Parks & Recreation to include the Broadway-Brommer Bicycle/Pedestrian Path Connection (B-B) project. The entire Master Plan (MP) was molded around a specific project. The Master Plan, therefore, serves as a platform for the justification of a previously conceived project, not as a "vision and goals" document.

Furthermore, a significant part of that MP project is outside the boundary of the Arana Gulch MP project area. This confusion creates misleading statements such as that there is no bridge over Arana Gulch Creek in the MP project, even though a steel bridge is described in the EIR. The continuation of the B-B connection, beginning at the boundary of the greenbelt and Harbor Property is a separate project, needing its own EIR/EIS. Furthermore, this separate project was not included in the Cumulative Impacts section of the EIR.

If the MP project is contained within the boundaries of the Arana Gulch greenbelt property, then the Proposed Project, as described in both documents, is spurious. The real project, as described, and **within the greenbelt boundaries** is Alternative 2, not the Proposed Project. More confusion!

Caveat

Since the process for this Master Plan is flawed and the resultant DEIR is spurious, Friends of Arana Gulch (FOAG) is hesitant to comment on the DEIR because doing so legitimizes both the process and the DEIR. For example, commenting on alternatives is useless because the Proposed Project and Alternative 2 are identical within the boundaries of the MP project area.

Also, if the Master Plan had been formulated without the inclusion of a pre-conceived project, then a DEIR would not now be necessary. And no comments would be required.

The only reason FOAG hereby submits commits on the AG Draft Master Plan DEIR is for a **legal record**.

C28-1

C28-2

LETTER C28

Master Plan Process

The Draft Arana Gulch Master Plan states that the "the intent of this Master Plan is to establish a **vision and goals** that will shape the future of Arana Gulch as a unique open space within the City of Santa Cruz." However, these words of intent ring hollow because "a vision and goals" were never developed, not even at the only Public Scoping Session of last year. Instead, at that Scoping session, the public was told that a paved bicycle route and its bridge over Hagemann Creek would be included in the Master Plan.

The purpose of a Master Planning process is to analyze the resources of the area under study and develop goals and objectives for its use based on public input. The proposed Arana Gulch Draft Master plan has substituted a **project** for a **process**. Instead of the Master Planning process, the City has produced a project (the Broadway-Brommer Bicycle/Pedestrian Path Connection) around which the entire Master Plan has been developed.

In a letter dated January 11, 2000, from the California Coastal Commission, the City's Dept. of Public Works was advised of the proper planning process for the Arana Gulch greenbelt, as directed by the City's own Local Coastal Program (LCP). **The "preferred planning approach would be to prepare a specific management plan "for the greenbelt" prior to consideration of a Broadway-Brommer Bicycle Pedestrian Project."**

A Bridge Over Troubled Water

The most glaring misrepresentation of both documents is their statement that there is no longer a bridge over Arana Creek in the proposed project. This is simply not true. The project includes a ramped and steel bridge over Arana Creek.

The MP (p.4) states that "There is no longer a bridge over Arana Gulch Creek..."

The DEIR states (p. 3-17): "Where the trail rises in the floodplain/floodway area, a small steel bridge span would be designed to achieve the change in grade." In point of fact, there is no way to bring the paved bike roadway up to Brommer St. without crossing Arana Creek.

Even if the bridge crosses the creek mostly over the existing culverts of the Harbor, it still crosses the creek and it is still a bridge per the DEIR.

Legally Feasible Alternatives

Only the Proposed Project/Alternative 2 is identified as providing money that can be used for a Tarplant Adaptive Management Plan. The other alternatives claim "uncertain" funding status for management for the tarplant. Therefore, the City is proposing alternatives which will violate the Endangered Species Act. These **alternatives do not meet the "feasibility" test according to CEQA**, which stipulates that when an alternative does not comply with "other plans or regulatory limitations," it is **not** a feasible alternative.

The City is required by law to manage for the tarplant. It must provide such management even if there is No Project. It may not consider an "uncertain" funding project.

C28-3

C28-4

C28-5

Interim Management Plan

The MP document (p. 46) states that "the *Arana Gulch Interim Management Plan* limits existing maintenance responsibilities to annual fuel break and trail mowing, emptying trash containers, and clean-up of refuse and illegal campsites."

However, in the City's Creeks & Wetlands Management Plan document a different statement about the Arana Gulch IMP is made. It specifically allows for "resource protection, including management of the Santa Cruz Tarplant." No management limitations are identified.

Therefore, the interpretation of the DEIR (page 5-1) that the No Project Alternative provides no Adaptive Management Program for the endangered tarplant is misleading.

C28-6

Environmentally Sensitive Habitat Areas

"The site is considered an environmentally sensitive habitat area (ESHA) by the Coastal Commission (under Coastal Act Section 30240) and as such is required to have resource-dependent uses. The proposed interpretive trails that are identified in the Arana Gulch Master Plan are resource-dependent and would allow a diversity of visitors to the project area. With development of the proposed multi-use and pedestrian trails, the resources of Arana Gulch could be viewed and experienced by visitors on foot, in wheelchairs, and on bicycles." (DEIR, Page 4.2-38)

ESHA development restrictions specify that "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values." The Draft EIR states, "Construction of trails through these areas would result in permanent loss of tarplant habitat within the width of the trail; additional habitat for 1 to 2 feet outside the trail footprint could also be disturbed if pedestrians and bicyclists do not stay strictly within the trail width." "Loss of tarplant habitat would be relatively greater with the multi-use trails (Canyon Trail, Arana Meadow Trail, and Creek View Trail) because these trails would be 8 feet wide, as compared to the pedestrian-only trails which would be 18 to 24 inches wide. To the extent that these trails cannot be routed to avoid the tarplant habitat (see Mitigation Measure BIO-5, below), this would be an impact that cannot be fully mitigated."

C28-7

With regard to proposed mitigation measures, the Draft EIR states, "The combination of the above measures would reduce this impact, but the impact would **remain significant and unavoidable** because it cannot be fully ensured that all tarplant habitat would be protected. (Significant Unmitigated)"

The paved, ADA compliant bicycle/pedestrian/wheelchair "trails" cannot be considered "resource dependent uses" in the ESHA area, and furthermore will not be permitted by the California Coastal Commission and the California Department of Fish and Game because of the significant unmitigatable impacts to the resource on which the ESHA is based.

The so-called "multi-use interpretive trail" is really the non-resource dependent Broadway-Brommer project dressed in funny nose and glasses. Refer to the letter (Appendix A-59, repeated on A-69) from the SC Regional Transportation Commission, dated August 5, 2005, from Acting Executive Director Pat Dellin:

"The Bicycle/Pedestrian Path Connection proposed in the Arana Gulch Park Master Plan will help fill a critical gap in the east-west bicycle and pedestrian network and will increase the ease and safety of bicycle and pedestrian trips for **transportation purposes** in and between our communities."

"Providing a complete and convenient regional bicycle and pedestrian network increases the opportunity and attractiveness of bicycle and pedestrian trips for **transportation purposes...**"

Broadway-Brommer Connection or Not?

Interestingly, the preliminary phasing portion of the DEIR (pps. 3-25/26) says that only the part of the west-east bike route within the greenbelt will be constructed in Phase I (2006 - 2009) and that the segment through the Port District Property (and presumably the rest of the connection over Arana Gulch Creek and up to Brommer Street Extension) **may be constructed in Phase II depending on available funding.**"

But such construction is **not** mentioned in the Phase II listing. Which is it? Yes or no?

So even if the City Council wrongly stipulated that they wanted a Broadway-Brommer connection incorporated in the Master Plan document, they are not getting what they wanted.

Most importantly, bringing the B-B connection "trail" only to the Harbor property means that the continuation through the upper Harbor toward the existing steep, non-ADA compliant Brommer Street Extension would have to be on a non-ADA compliant pathway currently running along the west fence of the Harbor property. This existing path is eroded, with deep gullies. So the ADA compliance portion of the goal of the MP projects is moot.

This obvious inconsistency is yet another reason why the Draft MP must be redone, without any specific development projects included. In the MP there can be goals for restoration and maintenance of habitat, including addressing erosion of current foot paths, for example, as well as a variety of ways to meet goals for providing access for residents. The Adaptive Management Program for the tarplant, of course, has to happen with or without a formal Master Plan.

Monarch Butterflies

Although the connection of the Broadway to Brommer bike/ped paved route via non-greenbelt Master Plan property continues on Harbor and County properties, the City must not abrogate its own General Plan directives just because its proposed MP project involves non-City property adjacent to one-half of a proposed project. The City should work in collaboration with County planners who are currently promulgating Monarch butterfly protection strategies for other County properties.

Where the paved project, designed for 13' wide (8' for bikes and 5' for pedestrians), rises in grade towards 7th Avenue, it will have to cut into the existing vegetated slope. On that slope is found eucalyptus, oak, pine and willow. At least 5 eucalyptus trees (as well as oak and willow) will have to be removed for the paved route. **Monarch butterflies have been observed at these specific trees, especially this winter (2005-6) and as recently as April 12th.**

General Plan direction for the Monarch butterfly is found on page 28, Volume I:

4.5.3 "Protect monarch butterfly overwintering sites and ensure adequate buffering of these sites from development."

C28-8

C28-9

4.5.3.1 "Require development in the vicinity of designated monarch sites to undergo environmental impact analysis and for development affecting sites prepare a management plan addressing preservation of the habitat that includes such as:

"Prohibiting the cutting, thinning, pruning or removal of any tree except as necessary for safety of homes or persons..."

These General Plan directives also include the Hagemann bridge project which the DEIR claims will require some tree pruning.

At the very least, this monarch butterfly habitat, which must be destroyed to continue the B-B connection has to be included as a **cumulative impact** in the EIR. No part of the B-B bike/ped route beyond the greenbelt boundary is identified in the Cumulative Impacts section of the DEIR.

Project Non-compliance with Other General Plan and Local Coastal Program elements

1. (page 1, Vol. I) Environmental Quality Goal 4: "Protect and enhance natural vegetation communities and wildlife habitats throughout the City." This Goal stands alone and it cannot be superceded by Goal 5, which calls for "...transportation strategies that reduce consumption of fossil fuels..." Besides, the so-called "multi-use interpretive trail" proposed in the MP EIR, is no longer called an alternative transportation project, since such a project would conflict with the requirement that development in an ESHA be resource dependent.

C28-10

2. (page 27, Vol. I, 4.2.4): "Preserve riparian and wetland vegetation by minimizing removal and allowing only for uses dependent on the resources..."

C28-11

A bridge over and through Hagemann Creek habitat is part of the historical Broadway-Brommer connection route, even though it is now spuriously called a "multi-use interpretive trail." The goal of the B-B project is on record for over 15 years as an **alternative transportation project**. The City Council's requirement that the B-B alternative project (to get people out of their cars) be incorporated in the Arana Gulch MP was made with transportation, **not resource dependency**, in mind.

3. (page 27, Vol I 4.3): "Preserve the character and quality of grassland habitats...by minimizing disturbance and removal of native grasslands..."

C28-12

Although there are now many invasive species of grasses on the coastal prairie habitat of Arana Gulch, the City is required by law to **manage for native grasslands**, including restoration and enhancement of such natural areas. **Grading and paving a transportation route through this grassland violates the 4.3 element.**

4. (page 27, Vol. I, 4.5): "Continue the protection of rare, endangered, sensitive and limited species and the habitats supporting them..."

C28-13

The DEIR contains a letter dated August 9, 2005 (p. A-65) from the CA Dept. of Fish & Game, in response to the Notice of Preparation for the MP DEIR, in which the Dept. reiterates its ongoing concerns about the City's plans to develop a paved trail/path/route through **critical habitat** of the Santa Cruz tarplant. In point of fact, **the entire AG management area called Coastal**

Prairie/Tarplant (DEIR, p. 3-11, figure 3-4) has been designated by the USFWS (Oct. 2002) as "critical habitat" for the tarplant.

Fish & Game continues: "The fragmentation of the populations within the proposed alignment, and the effects of the impervious path on local drainage patterns, contradict the AMP goals of ensuring long-term population and subpopulation viability. **The currently proposed hardened alignments do not appear to be impacts that can be mitigated given the other commitments currently already being made for tarplant conservation within the critical habitat zones in the AMP.**"

In other words, as FOAG has stipulated since well before the USFWS Oct. 2002 Federal Register publication, the City may not pave an alternative transportation path on critical habitat of a "threatened" and "endangered" species.

Parks & Rec responded to the Fish & Game encouragement "to include an alternative(s) which would avoid the population (including all subpopulations) of tarplant entirely, including an appropriate buffer" by providing a No Project alternative! However, the No Project alternative DEIR, p. 5-1) would provide "No Master Plan and no Santa Cruz Tarplant Adaptive Management Program would be adopted." This is hardly responsive to Fish & Game's goal.

Interestingly, Parks & Rec had a Restoration Alternative presented to it by Friends of Arana Gulch, during the Scoping session (July 21, 2005). The Restoration Alternative has been on the FOAG website at http://members.cruzio.com/~arana/curr_status.html and it included a way to bring disabled residents part way into the greenbelt, without infringing on tarplant subpopulations. We asked that the FOAG Restoration Alternative (RA) be analyzed as one of the project alternatives. It was not. **FOAG's AR would have met the CA Fish & Game's alternative goals.**

5. (p.116, Vol. I 2.2.7) Although the Proposed Project (which contains the B-B bike connection route) does specify an Adaptive Management Program for the tarplant, three other alternatives that do not include the west-east bike connection do not provide such a plan because of questionable funding (per the EIR) and therefore those alternatives are in non-compliance with the GP element that states: **"Protect the Tar Plant (sic) habitat through an on-site management program established by a professional biological study."**

In point of fact, the No Project alternative (or the FOAG Restoration Alternative) **could** provide such an Adaptive Management Program, responsive to both the GP element and the Interim Management Plan.

6. (p. 125, Vol. I, 3.4.5): "Require preparation of and documentation of a management plan for Arana Gulch in accordance with policy L 2.2.7..."

MP DEIR Alternatives 1, 3 and 4 do not provide for this element of the General Plan.

7. (p.116, Vol. I, 2.2.7) "Prohibit exceptions to the setback and buffer requirements of the Zoning Ordinance conservation regulations."

The applicability of the riparian 100 foot setback required by the CA Coastal Act, the City's LCP and the Citywide Creeks and Wetlands Management plan is not clearly addressed and is confusing as it is stated in the DEIR. Does it apply or doesn't it? FOAG says it does.

C28-14

C28-15

C28-16

The "ramped" portion of the Creek View Trail on the Harbor Property's 100' riparian setback would require an exception to the General Plan. Furthermore, the encroachment on Arana Gulch Creek, where the steel bridge (DEIR) is built and the portion across Arana Creek where the "trail" bears left along Arana Creek's stream bank would require an exception to the General Plan element 2.2.7.

Even though this portion of the proposed B-B route is **not technically on City property**, for the City to abrogate its own General Plan restrictions and encourage inappropriate development on private and County property is shameful and duplicitous.

Conclusion

The Arana Gulch Master Plan must be rewritten without inclusion of any specific project.

After the MP is re-written and accepted as a "vision and goals" planning document, if specific development projects are proposed and if an EIR is then required for any such projects, then the only alternative that Friends of Arana Gulch would support is our own Restoration Alternative, which was submitted to the Parks & Recreation Department in the summer of 2005. Our alternative recognizes Federal, State and local laws. It provides for a handicapped compliant trail south from Agnes Street (stopping before reaching the tarplant subpopulation C area) into the greenbelt, so that disabled residents may be engulfed in the essence of the area's unique biological diversity and tranquility. It acknowledges the value of some interpretive signage. And it calls for continuous, ongoing management for all endangered, threatened and special species of the greenbelt, as well as erosion control and restoration of current footpaths.

Arana Gulch is a sensitive natural area. It is time to finally treat it that way.

C28-17

LETTER C28**Michael Lewis and Jean Brocklebank for Friends of Arana Gulch (No. 2)**

- Response C28-1: Most of this comment speaks to the Master Plan process rather than the DEIR. The very nature of the multi-use trail, which is proposed to pass through Arana Gulch, requires that the off-site, unconstructed portions be addressed in the DEIR as CEQA requires that the whole of the action be addressed. A steel bridge across Arana Gulch is not proposed as is addressed in Master Response No. 2. Text changes have been recommended for clarification.
- Response C28-2: Comment noted. It is true that Alternative 2 is the same as the proposed project within the Arana Gulch property, but the difference is found in the absence of any trail on Port District property.
- Response C28-3: The scoping session was not intended to address changes to the Master Plan but was held to hear comments on environmental issues of concern related to the DEIR. Refer to Master Response No. 10. The Arana Gulch Master Plan, which addresses all uses within the Master Plan area, is exactly what the Coastal Commission had requested in their January 2000 letter.
- Response C28-4: Refer to Master Response No. 2.
- Response C28-5: Refer to Master Response No. 4.
- Response C28-6: Refer to Master Response No. 4.
- Response C28-7: Refer to Master Response No. 3.
- Response C28-8: Refer to Master Response No. 4 regarding the Santa Cruz Tarplant Adaptive Management Program. The phasing of the portion of the Port District trail is not entirely known and for this reason the trail is mentioned only once under Phase I, with the caveat that this part of the project may occur under Phase II.
- Response C28-9: Potential impacts on monarch butterflies are addressed under Impact BIO-10 on page 4.2-47 and mitigation measure are recommended. The potential impact is related to the project only and therefore is addressed again under Cumulative Impacts. The City would be required to mitigate this potential impact for any portion of the trail, both within and outside of Arana Gulch.
- Response C28-10: Refer to Master Response No. 3 dealing with development of trails allowing bicycle use within Environmentally Sensitive Habitat Areas (ESHAs). The Arana Gulch Master Plan includes resource management guidelines to protect and enhance natural vegetation and wildlife and thus would not conflict with adopted General Plan policies. The Master Plan also identifies three Resource Management Areas in order to more effectively focus resource management and enhancement efforts.

- Response C28-11: This comment addresses an opinion about the intentions of the project rather than a specific DEIR element. Therefore, no further response is necessary.
- Response C28-12: The proposed multi-use trail through the grassland habitat is a maximum of 8 feet in width. Impacts on native grasslands are addressed on page 4.2-45 (Impact BIO-6) and a mitigation measure is recommended. Also, the Santa Cruz Tarplant Adaptive Management Program would aim to reduce invasive non-native species.
- Response C28-13: No comments on the DEIR were received from the California Department of Fish and Game. Refer to the responses to the letter from the U.S. Fish and Wildlife Service (Letter A3). Also, refer to Master Response No. 4 regarding tarplant management and alternatives.
- Response C28-14: Refer to Master Response No. 4.
- Response C28-15: The Arana Gulch Master Plan serves as the management plan for Arana Gulch Alternative 1. The No Project alternative is the only alternative that does not include the Master Plan.
- Response C28-16: Refer to Master Response No. 6 regarding riparian setbacks. Also, refer to Master Response No. 3 regarding the crossing of Arana Gulch Creek.
- Response C28-17: Comment noted.

Jonathan Wittwer
William P. Parkin
Shandra D. Handley
Brett W. Bennett

WITTWER & PARKIN, LLP

147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4055
FACSIMILE: (831) 429-4057
E-MAIL: office@wittwerparkin.com

PARALEGAL
Miriam Celia Gordon

April 14, 2006

DELIVERED VIA E-MAIL AND U.S. MAIL

Ms. Susan Harris
City of Santa Cruz
Parks and Recreation Department
323 Church Street
Santa Cruz, CA 95060
sharris@ci.santa-cruz.ca.us

Re: Comments on Draft Environmental Impact Report for Arana Gulch Master Plan

Dear Ms. Harris:

This office submits the following comments on the above referenced Draft Environmental Impact Report (DEIR) on behalf of the California Native Plant Society. There are a number of inaccuracies and defects in the DEIR. Moreover, as will be discussed below, the alternatives analysis is legally deficient. Accordingly, the DEIR must be revised and recirculated for public comment. The following are specific comments on the DEIR.

1) The DEIR states that in 1997, the City Council approved an Interim Management Plan for Arana Gulch. Does the Interim Management Plan call for management, maintenance, restoration, and/or rehabilitation of the Santa Cruz tarplant onsite? If the answer is "yes," please describe.

2) If the answer to the question above is "yes," does the management include the use of techniques to maintain and/or restore the population of the Santa Cruz tarplant to its historical levels?

3) Page 4.2-29 of the DEIR describes what efforts have been done to manage tarplant on the site. The DEIR also states that no management has been conducted since 1999. What is the reason that management was discontinued?

4) Page 3-16 of the DEIR describes the actions City Council took to designate a trail and

C29-1

C29-2

C29-3

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maintenance/emergency access. Did the City require mitigations as part of this approval to minimize impacts and manage tarplant on the Arana Gulch property? If not, how has the City justified taking action without appropriate mitigations?

C29-4

5) The Project Objectives have been described too narrowly. See, for instance, page 3-1 of the DEIR. This, in turn, results in a skewed alternatives analysis. The DEIR narrowly tailors objectives, such as inclusion of an ADA trail and multi-use trails, and connections to the coastline and the Monterey Bay National Marine Sanctuary Trail, which are assumed to be an essential part of the Project. When agencies have excluded consideration of, or dismissed a project alternative on the basis of such a narrow project description, the courts have found such a position untenable. See, for instance, *Save the Niobara River Association, Inc. v. Andrus* (D. Neb. 1977) 483 F.Supp. 844¹, where an agency attempted to rely on a narrow project description for "irrigation" to exclude consideration of an alternative that included water conservation. See also, *Kings County Farm Bureau v. City of Hanford, supra*, 221 Cal.App.3d at 735-737 [respondent agency could not be freed of obligation to prepare a detailed analysis of an alternative using natural gas as a power plant fuel simply because the applicant, prior to commencing CEQA review, contracted with a utility to generate power with coal]. By narrowly defining the Project objectives, instead of simply defining the Project objective as the development of a Master Plan for Arana Gulch, the DEIR has ensured that only the proposed Project would fit the criteria outlined in the DEIR. Accordingly, the Project Objectives and Alternatives Sections of the DEIR must be revised.

C29-5

6) Assuming, for the sake of argument, that it is appropriate for an DEIR to list a set of narrowly defined project objectives, the DEIR fails to set forth a range of feasible alternatives that would meet the narrowly tailored objectives. CEQA requires an EIR to:

C29-6

"[D]escribe a range of reasonable alternatives to the project, or to the location of the project, **which would feasibly attain most of the basic objectives of the project** but would avoid or substantially lessen any of the significant effects of the project, and

¹ California courts have looked to federal cases interpreting the latter statute as "strongly persuasive" authority, because CEQA was modeled on NEPA. *Environmental Defense Fund, Inc. v. Coastside Water District* (1972) 27 Cal.App.3d 695, 701; Remy, et al., *Guide to CEQA* 10th ed. (1996) Ch. II, p. 35. Because CEQA is viewed as more protective of the environment, NEPA cases should be considered the "floor" for interpretation, rather than a ceiling. Remy, et al., *Guide to CEQA* 10th ed. (1999) Ch. II, p. 35, citing *San Francisco Ecology Center v. City and County of San Francisco* (1976) 48 Cal.App.3d 584, 590-591.

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evaluate the comparative merits of the alternatives.” 14 CCR Section 15126.6(a) [emphasis added].

“The range of potential alternatives to the proposed project shall include those that could feasibly accomplish *most of the basic objectives* of the project and could avoid or substantially lessen one or more of the significant effects.” 14 CCR Section 15126.6(b); *see also, Goleta II, supra*, 52 Cal. 3d at 556.

In other words, the DEIR is required to include alternatives capable of achieving most of the project objectives. Otherwise, the alternatives analysis would be pointless. Agencies can always include projects that would not be capable of achieving project objectives so that the agency had no choice but to accept the proposed project. But, CEQA requires that the City Council be given the ability to make a reasoned choice among the alternatives. *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751.

Alternatives 3 and 4 in the DEIR fail to achieve most of the purported Project Objectives. A review of the table set forth at page 5-4 of the DEIR shows the list of project objectives and the inability of Alternative 3 and 4 to achieve them. There are nine project objectives set forth. But, according to the table at page 5-4, it is immediately obvious that the proposed project satisfies all nine project objectives while Alternative 3 and 4 fail to satisfy three or four of the objectives. The DEIR nearly condemns Alternatives 3 and 4 for not meeting the Project’s objectives. Accordingly, the Alternatives analysis must be revised.

7) The DEIR concludes that funding for tarplant management is uncertain for Alternatives 3 and 4. This is clearly a ruse. The fact that there will still be development associated with these proposals means that mitigations will have to be proposed to mitigate for significant environmental impacts, including impacts to the tarplant. Accordingly, the DEIR must set forth these alternatives with management of the tarplant included. In any event, it is clear that there are less impacts to the tarplant under Alternative 4. Therefore, to suggest that the City must allow greater harm to the tarplant to fund its management is fallacious.

8) The DEIR concludes at page 5-7 that the No Project Alternative would not be the environmentally superior alternative because the site would be left without an effective management plan. What about the current management plan? The DEIR must disclose that there is an Interim Management Plan in place.

9) Why is the Interim Management Plan ineffective to protect the tarplant?

10) The Master Plan clearly includes the Broadway-Brommer Bicycle/Pedestrian Path Connection. Yet, the DEIR fails to address off-site alternatives for this connection. If this is a

C29-7

C29-8

C29-9

C29-10

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Project Objective as stated, then in order for the DEIR to be legally sufficient, it must address off-site alternatives for this connection.

11) The DEIR, p. 3-13, states that trails will "avoid smaller, isolated wetlands where feasible." How does the City reconcile "avoidance where feasible" with the Coastal Act's prohibition against development of environmentally sensitive habitat areas ("ESHA")?

C29-11

12) The DEIR continually refers to the multi-use trail as being "ADA compliant." While it is a noble goal to provide for ADA trail access, the DEIR makes it sound like compliance with the ADA is mandatory. Is there a requirement that there be an "ADA compliant" trail on the Arana Gulch property? If so, what law requires that there be an ADA compliant trail?

C29-12

13) If a multi-use trail is not constructed on the Arana Gulch property, would an ADA trail be required to be constructed? What law would require the construction of such a trail?

14) With reference with the Coastal Act's requirements that ESHA be protected, page 4.1-6 of the DEIR states that "The Arana Gulch Master Plan is a resource management plan." This is not entirely accurate. It may include a resource management component, but the plan as set forth in the DEIR is also a development plan for recreation and access. Please include a complete description in this regard.

C29-13

15) The DEIR takes liberties with the Coastal Act's requirements that only resource dependent uses are permitted within ESHA. The DEIR on page 4.1-14 states "With the development of the proposed multi-use and pedestrian trails, the resources of Arana Gulch could be viewed and experienced by visitors on foot, in wheelchairs, and on bicycles." (See also, page 4.2-38). Such an approach would eviscerate the requirement that only resource dependent uses be permitted. Indeed, a developer of a hotel could argue that its development is "resource dependent" because the balcony of the hotel's rooms and restaurant would allow visitors to view wildlife and resources. Clearly, providing a major bikeway connection through the project is not a resource dependent use.

C29-14

16) Page 4.2-4 and 5, fail to mention the California Coastal Commission with respect to the "Regulatory Setting." This DEIR must be revised to include approvals required by the Coastal Commission.

C29-15

17) Page 4.2-40 of the DEIR states that the Creek View Trail would result in indirect impacts to seasonal wetlands and that wetlands may be directly impacted based on ADA-compliant gradient. How does the City reconcile these wetlands impacts with the requirement for protection of ESHA?

C29-16

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18) The DEIR defines ESHA on the site as "tarplant areas, riparian wetlands, and wetlands." Does native coastal terrace prairie, including the native grasses on the site constitute ESHA? If so, the DEIR must be revised to include this habitat.

C29-17

19) Are riparian areas, other than what the City narrowly defines as "riparian wetlands", constitute ESHA? If so, the DEIR must be revised to include this habitat.

C29-18

20) A letter from the Coastal Commission staff on the Notice of Preparation indicates that the Commission staff has made extensive comments on the Arana Gulch area. Yet, nowhere does the DEIR address these extensive comments. Please provide analysis of the Commission staff's previous comments and how the Management Plan and DEIR address the Commission staff's concerns.

C29-19

Thank you for the opportunity to comment on the DEIR. I look forward to receiving responses to the above referenced comments.

Very truly yours,
WITTWER & PARKIN, LLP

William P. Parkin

cc: client

Susan Craig, California Coastal Commission
Serge Glushkoff, California Department of Fish and Game
Connie Rutherford, USFWS, Ventura Office
Julie Niceswanger, USFWS, Ventura Office

LETTER C29**Wittwer & Parkin, LLP on behalf of California Native Plant Society**

- Response C29-1: The responses address issues raised in relation to the DEIR but recirculation is not considered necessary. The specific issues are addressed in responses that follow for this letter. The Interim Management Plan does call for Santa Cruz tarplant management but does not have any of the complexity and thoroughness of the recently-prepared Santa Cruz Tarplant Management Program. The Interim Management Plan includes a Memorandum of Understanding (MOU) between the City and the California Department of Fish and Game regarding tarplant recovery and management. While the actual signed agreement has since expired, the Management Guidelines in Exhibit 1 to the MOU regarding the Santa Cruz tarplant Recovery and Management Program still apply. Refer to Master Response No. 4.
- Response C29-2: The Arana Gulch Interim Management Program (July 1997) includes Interim Management Goals to "Recover and manage coastal prairie habitat" and "Increase Santa Cruz tarplant populations." The Interim Plan does not specifically state that the tarplant population would, or could, be restored to historic levels. Refer to Appendix A of the Draft Arana Gulch Master Plan for information regarding historic tarplant populations. Appendix B of the Interim Management Plan includes a Santa Cruz Tarplant Recovery and Management Program for Arana Gulch (Exhibit 1 to MOU) which identified possible management actions, including Mowing and Raking, Scraping, Controlled Burn, and Grazing. The Tarplant Management Area identified in the Interim Management Plan is approximately 17 acres, and includes the historic populations of Areas A, B, C and D.
- Response C29-3: The DEIR, on page 4.2-29, explains that primarily small-scale experimental treatments have been done in Areas A and D since 1999. Annual mowing has also been conducted in Areas B and C. The intent of the experimental treatments was to ascertain how the tarplant would respond to a particular management action, prior to conducting the management action on a larger scale. As explained in the Santa Cruz Tarplant Adaptive Management Program (Appendix A of the Master Plan), management actions can have adverse as well as beneficial effects. By "no management," the DEIR was referring to widespread catastrophic forms of disturbances such as controlled burns or scraping. Pages 55 through 67 of Appendix A further explain that catastrophic forms of disturbance should be used infrequently through time. During the past two years, there has been some discussion between City staff and botanists regarding grazing with goats or sheep, but there has not been consensus yet on this particular management action; thus, it has not been implemented as of this date.
- Response C29-4: The Arana Gulch Interim Management Plan (1997) outlines specific management actions based on existing conditions at that time. No new trails

were proposed in the Interim Management Plan. The only "designated" bicycle/pedestrian trail in the Interim Management Plan was an earthen trail/ranch road that existed prior to the City's ownership of the property. The only maintenance allowed under this Interim Management Plan was erosion control on the earthen trail itself and mowing along the existing trail/earthen road to reduce fire hazard and allow for public access. Mowing is one of the recommended management actions for coastal prairie and Santa Cruz tarplant habitat. No new trails have been constructed since the City's acquisition of the property.

Response C29-5: The objectives outlined in the DEIR are not considered so narrow that they preclude the development of reasonable alternatives. If only one objective of "developing a Master Plan" were identified, the EIR could be challenged on being far too vague. The objective of developing multi-use trails and trail connections allows a variety of means for such trails to be provided within Arana Gulch. For example, such objectives allow a multitude of alignments to be selected within the 67-acre property. Providing a trail system for public access within a public greenbelt area is common for numerous open space areas throughout the City, region, and State of California.

As stated in Section 151249(b) of the CEQA Guidelines, "A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary." Here, because the nature of the project at issue – a Master Plan – is legislative in character, the City enjoys especially broad discretion in defining its project objectives.

Minor revisions to Chapter 5 have been made. See Master Response No. 4 regarding Table 5-2 changes.

Response C29-6: The four alternatives evaluated in Chapter 5 of the DEIR are considered to be a reasonable range of alternatives. While each alternative does not necessarily achieve all of the identified project objectives, the City's decision makers can easily select any of the alternatives rather than the proposed project, and each alternative would still provide the City with a Master Plan for Arana Gulch. Only the "No Project" alternative fails to achieve most of the identified project objectives which is quite common in CEQA documents. (See DEIR, pages 5-5, 5-6, and 5-7.)

Response C29-7: Table 5-2 on page 5-4 of the DEIR makes it clear that, except for No Project, each alternative meets "most" of the project objectives. Alternative 3, for example, would satisfy six out of nine, and Alternative 4 would meet five out of nine. Alternative 2 would meet eight out of nine. Refer to Master Response No. 4 regarding the Alternatives and tarplant management.

Response C29-8: The following sentence is added to the bottom of page 5-7 of the DEIR:

"....to protect on-site resources. However, the Interim Management Plan would stay in effect for Arana Gulch."

The Santa Cruz Tarplant Adaptive Management Program was proposed to mitigate impacts to historic tarplant habitat due to paved trails. The Adaptive Management Program must be fully implemented as a mitigation measure if the paved multi-use trails are included in the project. Without the paved multi-use trails, the City may choose to establish the organizational framework in the Adaptive Management Program, but it would not be required as mitigation. Given City funding constraints in recent years, it cannot be guaranteed the Adaptive Management framework would be fully funded if it is not required as mitigation. As explained in Master Response No. 4, under all alternatives the City would continue to be responsible for management of tarplant habitat, but it may not include the comprehensive organizational structure and adaptive management framework.

Response C29-9: See Response to Comment C29-8 above and Master Response No. 4. The Interim Management Plan is not as comprehensive and does not include the "adaptive management element" including in the recently prepared Santa Cruz Tarplant Adaptive Management Program.

Response C29-10: Refer to Master Response No. 7 regarding an off-site alternative.

Response C29-11: Refer to Master Response No. 3 about trails in ESHAs.

Response C29-12: There is not a "requirement" or specific law that the trail be ADA accessible within Arana Gulch. This was a decision by the City decision makers to include such a trail in the preparation of the Master Plan for Arana Gulch. The existing grant funding has requirements to make the trail accessible.

Response C29-13: Refer to Response A2-2, which identifies changes to text on page 4.1-6 of the DEIR.

Response C29-14: Providing public access via trails within an open space area is entirely different than constructing a hotel within an open space area. For obvious reasons, the impacts of a hotel would be far different, and far worse, than those of a trail. The analogy regarding "resource dependency" is entirely mistaken. As explained in Master Response No. 3, a number of trails have been permitted within ESHAs in the Santa Cruz and Monterey Bay areas. The "major bikeway" that the commentor refers to is an 8-foot-wide trail.

Response C29-15: The Coastal Commission is mentioned on page 3-27 of the DEIR as a permitting agency. The issue of ESHAs is addressed on page 4.1-6 and 4.1-14 of the DEIR. No change to pages 4.2-4 and 4.2-5 are considered necessary.

Response C29-16: Refer to the Responses to Comments A2-1 and C29-11 regarding wetlands.

Response C29-17: The DEIR acknowledges that the central portion of the property is proposed as a Coastal Prairie/Tarplant Management Area. Santa Cruz tarplant is one species associated with coastal prairie habitat. Tarplant areas and coastal prairie habitat areas are not considered to be mutually exclusive.

Response C29-18: The text on page 4.2-10, paragraph 2, should be corrected as follows:

“ESHAs within Arana Gulch include the tarplant areas, riparian ~~wetlands~~
habitat, and wetlands.”

Response C29-19: Earlier comments from the Coastal Commission can be viewed at the City's Parks and Recreation Department. Their concerns regarding tarplant, the bike path, and other issues were addressed briefly in the Initial Study (see Appendix A of DEIR). Also, refer to the responses the Coastal Commission comments (Letter A2).



SANTA CRUZ COUNTY GROUP
-----Of The Ventana Chapter-----
P.O. Box 604, Santa Cruz, CA 95061 • phone (831) 426-4453
www.ventana.org • e-mail: scscrg@cruzio.com

14 April, 2006

Ms. Susan Harris
City of Santa Cruz
Parks and Recreation Department
323 Church Street
Santa Cruz, CA 95060

Re: Sierra Club Comments on the Draft Master Plan for Arana Gulch Greenbelt
and on the Draft EIR for the Proposed Project included in the Master Plan

Dear Ms. Harris:

Please accept the following comments on the above referenced documents.

These documents contain innumerable defects, ambiguities, GP and LCP violations, deficiencies and inaccuracies, as well as legally insufficient alternatives. Consequently, we request that the DEIR be revised and recirculated for public comment.

The following comments specify some of the deficiencies in both the process and the DEIR.

The City's Greenbelt Master Plan clearly calls for a Master Plan to be developed for each open space property BEFORE any use or project is proposed or imposed. A Master Planning process is essential to assess the resources of the study area and develop goals and objectives for its use based on the sensitivity of those resources and public input. This process was followed for Pogonip and for the Moore Creek Preserve but has been violated on Arana Gulch though the acquisition of all open space properties was authorized under the same municipal legislation.

In the Draft Arana Gulch Master Plan, the language reads: "the intent of this Master Plan is to establish a **vision and goals** that will shape the future of Arana Gulch as a unique open space within the City of Santa Cruz." Such a public process has never been convened. The only Public Scoping Session was held last year and the public was told that a paved bicycle route and its bridge over Hagemann Creek would be included in the Master Plan. The proposed Arana Gulch Draft Master plan has substituted a **project** for a **process**.

In a letter dated January 11, 2000, from the California Coastal Commission, the City's Dept. of Public Works was advised of the proper planning process for the Arana Gulch greenbelt, as directed by the City's own Local Coastal Program (LCP). The "preferred planning approach would be to prepare a specific management plan "for the greenbelt" prior to consideration of a Broadway-Brommer Bicycle Pedestrian Project."

While the Sierra Club actively supports alternative transportation and has supported efforts to

C30-1

C30-2

C30-3

LETTER C30

improve east-west bicycle connections within the city and into county areas, i.e., support for acquisition of the rail right-of-way, Soquel Ave. improvements for pedestrian and cyclists and the completion of the seismic retrofit of the Murray Street bridge, which will include CalTrans compliant bike lanes and pedestrian walkways, it is our opinion that the funds for this Arana Gulch project were obtained under false pretenses. When highway mitigation funds were sought for this project, this was described as a "high-speed bike commuter connection"; in these documents, the trail project no longer meets that description or the criteria for those funds.

C30-4

The documents do not fully describe the project and consequently do not fulfill their responsibility to describe the direct and cumulative impacts to areas within the Coastal Zone nor propose meaningful alternatives. The documents describe only the only the portion of the route owned by the City and the riparian setback owned by the Port District; they fail to describe how a connection to the Brommer-7th Avenue intersection is to be achieved, the route, dimensions or impacts.

C30-5

The project as described in the draft Master Plan and project DEIR violates multiple sections of the City's General Plan, among them, multiple sections protecting overwintering sites for Monarch butterflies; these impacts are not included.

C30-6

Other relevant sections of the General Plan and LCP that are ignored in this proposed plan are:

1. (page 1, Vol. I) Environmental Quality Goal 4: "Protect and enhance natural vegetation communities and wildlife habitats throughout the City." This Goal stands alone and it cannot be superseded by Goal 5, which calls for "...transportation strategies that reduce consumption of fossil fuels..."

C30-7

2. (page 27, Vol. I, 4.2.4): "Preserve riparian and wetland vegetation by minimizing removal and allowing only for uses dependent on the resources..."

3. (page 27, Vol I 4.3): "Preserve the character and quality of grassland habitats...by minimizing disturbance and removal of native grasslands..."

Although there are now many invasive species on the coastal prairie habitat of Arana Gulch, the City is required by law to manage for native grasslands, including restoration and enhancement of such natural areas.

4. (page 27, Vol. I, 4.5): "Continue the protection of rare, endangered, sensitive and limited species and the habitats supporting them..."

The DEIR contains a letter dated August 9, 2005 (p. A-65) from the CA Dept. of Fish & Game, in response to the Notice of Preparation for the MP DEIR, in which the Dept. reiterates its ongoing concerns about the City's plans to develop a paved trail/path/route through critical habitat of the Santa Cruz tarplant. In point of fact, the entire AG management area called Coastal Prairie/Tarplant (DEIR, p. 3-11, figure 3-4) has been designated by the USFWS (Oct. 2002) as "critical habitat" for the tarplant.

C30-8

The Fish & Game letter continues: "The fragmentation of the populations within the proposed alignment, and the effects of the impervious path on local drainage patterns, contradict the AMP goals of ensuring long-term population and subpopulation viability. The currently proposed hardened alignments do not appear to be impacts that can be mitigated given the other

commitments currently already being made for tarplant conservation within the critical habitat zones in the AMP."

Parks & Recreation responded to the Fish & Game encouragement "to include an alternative(s) which would avoid the population (including all subpopulations) of tarplant entirely, including an appropriate buffer" by providing a No Project alternative which would provide "No Master Plan and no Santa Cruz Tarplant Adaptive Management Program would be adopted." This is not responsive to Fish & Game's goal.

5. (p.116, Vol. I 2.2.7). GP element: "Protect the Tar Plant (sic) habitat through an on-site management program established by a professional biological study."

Although the Proposed Project (which contains the proposed B-B bike connection route) does specify an Adaptive Management Program for the tarplant, three other alternatives that do not include the east-west bike connection, do not provide such a plan because of questionable funding (per the EIR); therefore those alternatives are in non-compliance.

6. (p. 125, Vol. I, 3.4.5): "Require preparation of and documentation a management plan for Arana Gulch in accordance with policy L 2.2.7..."

7. (p.116, Vol. I, 2.2.7) "Prohibit exceptions to the setback and buffer requirements of the Zoning Ordinance conservation regulations."

The applicability of the riparian 100 foot setback required by the CA Coastal Act, the City's LCP and the Citywide Creeks and Wetlands Management plan is not clearly addressed and is confusing as it is stated in the DEIR.

The "ramped" portion of the Creek View Trail, on the Port District's property 100' riparian setback, would require an exception to the General Plan as well as violating the Coastal Commission's directive that this area be kept from of development and replanted with riparian vegetation. Furthermore, the encroachment on Arana Gulch Creek, where the steel bridge (DEIR) is built and the portion across Arana Creek where the "trail" bears left along Arana Creek's stream bank would require an exception to the General Plan element 2.2.7.

In conclusion, it is our assessment that the draft Master Plan and DEIR for the proposed Project documents contain innumerable defects, ambiguities, GP and LCP violations, deficiencies and inaccuracies, as well as legally insufficient alternatives. Consequently, we request that the DEIR be revised and recirculated for public comment.

Yours Truly,

Aldo Giacchino

Aldo Giacchino
Chair
Executive Committee

Patricia Matejcek

Patricia Matejcek
Chair
Conservation Committee

C30-9

C30-10

C30-11

LETTER C30**Sierra Club, Santa Cruz County Group**

- Response C30-1: Specific comments are addressed below.
- Response C30-2: The purpose of the Draft Arana Gulch Master Plan is to address the long-term public uses and management of the 67.7-acre Greenbelt property. Similar to the Pogonip Master Plan, the Draft Arana Gulch Master Plan includes specific uses such as trails. The Pogonip Master Plan includes specific uses as well such as trails and rehabilitation of the historic Clubhouse. The Greenbelt Master Plan Planning and Feasibility Study specifically recommends the following: "Once each Greenbelt land is acquired, evaluate and plan the public use program in more detail." Thus, no violation of the Greenbelt Master Plan has occurred.
- Response C30-3: The Arana Gulch Master Plan is exactly the plan that was addressed by the Coastal Commission in their earlier comments. Coastal Commission staff recommended that the City prepare the plan for the entire property rather than addressing the bicycle/pedestrian path connection between Broadway and Brommer as a separate project. The proposed project does just this.
- Response C30-4: The multi-use Creek View and Canyon trails could be used for commuting as well as recreational uses and therefore meet the criteria of the grant funds. No documents have been found that specifically state the "high-speed bike commuter connection" as mentioned by the commentor.
- Response C30-5: The connection at 7th Avenue at Brommer is just outside the area shown in Figure 3-6 of the DEIR. The following text is added to the end of the last paragraph on page 3-17 of the DEIR to more clearly address how the trail would continue east to Brommer Street at 7th:
- "...backwater conditions. The multi-use trail would continue southeast along the Upper Harbor access road until it meets 7th Avenue and then joins with the existing bicycle lanes along Brommer Street and 7th Avenue. As shown in Figure 3-8, Section H, the Upper Harbor access road would include a bike lane and a sidewalk adjacent to the roadway."
- Response C30-6: A potential impact related to monarch butterflies is included as "Impact BIO-8" in the DEIR. With the recommended mitigation measure, no conflicts with General Plan policy would occur.
- Response C30-7: The Arana Gulch Master Plan includes policies to preserve riparian, wetland and grassland habitats. Refer to the Land Use section of the DEIR that addresses the project's relationship to City General Plan and LCP policies. The Santa Cruz Tarplant Adaptive Management Program is specifically aimed at reducing invasive species that would compete with the tarplant.

A problem with the commenter's arguments about alleged general plan inconsistencies is that the commenter invokes policies in isolation, and then relies on subjective interpretations of them. This approach is disfavored by case law interpreting the Planning and Zoning Law. That body of law makes it clear that "[a]s with the interpretation of statutes in general, portions of a general plan should be reconciled if reasonably possible" (*No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 244 (*No Oil*)). Furthermore, "[a] general plan must try to accommodate a wide range of competing interests, including those of developers, neighboring homeowners, prospective homebuyers, environmentalists, current and prospective business owners, jobseekers, taxpayers, and providers and recipients of all types of city-provided services and to present a clear and comprehensive set of principles to guide development decisions" (*Sequoia Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719). For these reasons and others, courts have employed a "reasonableness" standard of review in considering a local agency's decision that a project is consistent with its general plan. "This finding will be reversed only if, based on the evidence before the City Council, a reasonable person could not have reached the same conclusion" (*No Oil, supra*, 196 Cal.App.3d at p. 243).

- Response C30-8: See Master Response No. 3 regarding the tarplant and Environmentally-Sensitive Areas (ESHAs). No comment letter was received on the DEIR from the California Department of Fish and Game. Also, see the new Figures 4.2-3a, 4a and 5a contained in this Final EIR that show the alignment of the multi-use trail in relation to historic populations and 2004 and 2005 surveys. As explained in Master Response No. 4, tarplant management would occur with all alternatives, including the No Project Alternative.
- Response C30-9: Refer to Master Response No. 4 and Response to Comment C29-8.
- Response C30-10: Refer to Master Response No. 6 regarding setbacks and riparian areas. The area near Arana Gulch Creek has been disturbed already by Port District development. Refer to Mitigation Measure BIO-3 (b) and (c) that addresses protection of the Arana Gulch Creek area and buffer zone. The Coastal permit issued to the Port District for development in this area allows for a path behind (north of) the dry storage yard.
- Response C30-11: With the changes to the text to the DEIR as addressed throughout this Final EIR, combined with responses to comments, recirculation is not considered necessary.

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