

4.8 LAND USE

The land use analysis addresses the project's compatibility with existing land uses in the vicinity except for recreational uses, which are discussed in section 4.5. Other considerations related to land use and the sections in which they are addressed include aesthetics (section 4.5), noise (section 4.6), transportation (section 4.7), and public safety (section 4.12).

4.8.1 Regulatory Setting

The regulatory setting for land use issues includes the locally adopted plans and policies that apply to the project area. Evaluation of effects on land use plans and policies is provided for in CEQ's NEPA regulations, which state that an EIS shall discuss, "Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local ... land use plans, policies, and controls for the area concerned." (40 CFR 1502.16(c)).

Locally adopted plans and policies are discussed in Chapter 3 under section 3.3.4 (Local Regulations). State and federal agencies also have laws and regulations that relate to land use issues; these are included in sections 3.3.1 (Federal Regulations), 3.3.2 (Executive Orders), and 3.3.3 (State Regulations). Land use permits and approvals needed for the project are also part of the regulatory setting and are discussed in section 3.3.5.

4.8.2 Existing Conditions

Agricultural, industrial, commercial, residential, and open space uses exist in the vicinity of the feasibility study area. Residential uses predominate, occupying about 70 percent of the project area. Land uses along the river are described below by reach.

Reach 7. Along the west bank of Reach 7, the land use is predominantly single-family residential except for some commercial uses just south of West Alma Avenue and some multi-family residential uses along the UPRR tracks at the south end of the reach. Along the east bank north of Willow Street, the river is flanked by a mixture of residential, light industrial, and open space. The open space, formerly commercial and now vacant, is on the north side of Willow Street. Along the east bank south of Willow Street is a small but prominent commercial/light industrial area. East of the river between Willow and West Alma Avenue, Lelong Street parallels the river and separates the riparian corridor from the SR 87 corridor. A former golf course (along Lelong Street) is now vacant except just north of West Alma Avenue where the Tamien light rail transit station was constructed. The San Jose Elk's Lodge is on the parcel south of West Alma Avenue on the east bank. The river banks are generally vegetated throughout this reach.

Reach 8. The river is largely bordered by single-family residences in this reach. Homes adjoining the river are well-maintained and occupy 1/8- to 1/4-acre lots. Homes on the east side of the river give the appearance of a residential island bounded by SR 87, the river, the UPRR right-of-way to the north, and commercial uses south of Northern Road.

Reach 9. A combination of residential uses and open space, vacant lots characterize this reach of the river. Single-family residences on 1/4-acre lots line the river's west bank, particularly between Willow Glen Way and Malone Way. South of Malone Way to Curtner Avenue, ten half-acre lots back on the channel. A San Jose Water Company (SJWCo) well field is located at Willow Glen Way on the east bank. An adjacent property is open space that slopes in grassy, tree-covered terraces to the river. Property just south, adjoining the same bank, is also well-vegetated native and ornamental plantings. Farther south along the east bank and adjacent to Almaden Road, a number of bank stabilization improvements have been constructed to control erosion. (Another visually prominent flood control improvement is the sackcrete bank at the lower end of Reach 9, visible from the Willow Glen Way Bridge.) Almaden Road parallels the east bank south of the well field.

Reach 10. Santa Clara County owns land immediately adjacent to the river's east bank between Curtner Avenue and the Almaden Expressway (Reach 10A). The Willow Glen Shopping Center is located on the east side of Almaden Road. The west bank of the river is occupied predominantly by residential properties, with many backyard terraces and decks encroaching up to the river banks. In Reach 10B, the SCVWD owns lands on the west bank adjacent to the Almaden Expressway. The SCVWD property continues south of the expressway on the same side of the river. The land between

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the east bank of the river and the northbound lane of the expressway is also under the jurisdiction of the SCVWD. Beyond this area are residential and commercial uses, while west of the Almaden Expressway are residences and a neighborhood park. An abandoned orchard lies south of Blue Jay Drive. The Valley View Packing Plant complex is south of this open space on the east bank of Reach 10C. A commercial car dealership is adjacent to the east bank between Hillsdale Avenue and the Capitol Expressway. Commercial uses are adjacent to Old Almaden Road, running along the west river bank.

Reach 11. This reach is bound by the Capitol Expressway to the north and Branham Lane to the south. The Almaden Expressway parallels the river along its west bank. The northern section of this reach is dominated by commercial businesses and car dealerships to the east, and retail and commercial development to the west. The east side of the channel includes land and easements owned by the County and SCVWD. More than 75 percent of the east bank to Branham Lane adjoins residential uses. An existing private path parallels much of this side of the river. A SJWCo well field lies along the middle of this reach (11B), between the river and Thousand Oaks Drive. The SJWCo well field extends west across the river to the Almaden Expressway. This land is vacant except for cyclone cages that protect water well pumping equipment. A service road, which fronts the cul-de-sacs along the east side of the river, extends to Branham Lane. Ross Creek enters the river via a concrete culvert about 1,000 feet north of Branham Lane. In Reach 11C, commercial property borders the west bank south of the SJWCo land. Commercial buildings service entrances face the river bank.

Reach 12. Office/commercial property borders the river in the northeast portion of this reach, which is bound by Branham Lane, Tonino Drive, and a narrow strip of land that parallels the river. A river right-of-way managed by the SCVWD runs along both sides of the northern segment and varies from 100 to 350 feet wide. Residential properties are contiguous with the right-of way on the east side of the river for about 30 percent of the reach length. Commercial uses are on both sides of the river along the reach's northern and southern edges. Most of the homes have enclosed back yards, with the exception of a few with landscaped terraces that lead down to informal paths. Midway along this reach, beside both the east and west banks of the river, percolation ponds have been developed for groundwater recharge purposes. The two ponds on the western bank occupy an extensive area approximately 2,000 feet long and up to 350 feet wide. The SCVWD right-of-way in the southern segment of the reach varies from 250 to 1,000 feet wide, beyond which are located residential subdivisions. On the east side of the river, adjacent the percolation pond, is a new multi-unit residential area.

The land bordering the northwestern edge of the reach is principally commercial, with minor industrial/commercial uses. The central two-thirds of the western side of the reach are zoned for agriculture and are in production. This area, which is actively used to grow row crops such as beans, tomatoes, strawberries, and corn, extends from the river to the Almaden Expressway. SR 85, which occupies a 200-foot right-of-way, crosses the reach via a 1,600-foot-long bridge. Continuing south along the west side, Sanchez Drive stretches along the river beyond the commercial activity that fronts on Blossom Hill Road and the length of the percolation ponds beyond it. A number of townhouses and condominiums were recently completed or are under construction beside Sanchez Drive.

Ross Creek and Canoas Creek. Ross Creek enters the river between reaches 11B and 11C. Canoas Creek enters the river between reaches 10A and 10B. The reaches of both creeks within the project area have been channelized by prior flood control efforts. Residential uses are adjacent to both creek banks and homes are generally only 60 to 80 feet from the channel.

4.8.3 Environmental Effects

Impact Significance Criteria

Impacts on land use are considered significant if the project substantially conflicts with existing or planned land uses. Types of land use conflicts could include the following: (1) the conversion of public open space into urban- or suburban-scale uses; (2) disruption or division of the physical arrangement of an established community; or (3) creation of incompatible land use types (Parsons Engineering Science 1997).

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The removal of fences and other property barriers would result in short-term privacy and security impacts on homes adjacent to the construction sites; fence removal could also increase the incidence of pets escaping from yards. Loss of residents' privacy and related security impacts, because of the proximity of the project construction to residential backyards adjacent to the corridor, would be a temporary, less-than-significant impact.

During construction, residences adjacent to the project would be affected by the noise, dust, and increased traffic hazards associated with the widening of the river channel and the construction of flood control facilities. Residential neighborhoods that would be temporarily disturbed are in the following areas:

- Minnesota Avenue and Belmont Way (Reach 7);
- Mackey Avenue (Reach 8);
- El Rio Drive (Reach 10A)
- Old Almaden Road (Reach 10C); and
- Thousand Oaks (Reach 11).

These types of impacts, usually considered "nuisance" impacts, are addressed in the air quality, noise, traffic, and public safety sections of the EIR/S, along with mitigations to reduce their effect to less than significant (see sections 4.1.3, 4.6.3, 4.7.3, and 4.12.3, respectively). Because these impacts would be short-term and would not have a permanent effect on neighborhood character, their long-term effect on land use would be less than significant.

The only structures that would be removed with the Channel Widening Plan would be four commercial businesses in the lower part of Reach 7; these businesses would be relocated under the SCVWD *Relocation Assistance and Last Resort Housing Plan* (see Bypass Channel Plan discussion). Some other business properties, including the Elk's Lodge parking lot in Reach 7, would be altered without a complete disruption and loss of business. With appropriate compensation, these land use impacts would be short-term and less than significant. In some cases, as in Reach 11, the distance from the river channel to residences would be minimized. This would not affect land use patterns and would be an insignificant impact.

The acquisition by the SCVWD of certain properties that are currently designated for commercial and industrial land uses in Reach 10C near the Capitol Expressway would result in a loss of land potentially available for light industrial and commercial uses. This would be an insignificant impact considering the small acreages involved compared to the available supply of land.

Regionally beneficial land use impacts would result from the project by creating a buffer along the river corridor (Parsons Engineering Science 1997). The project would result in the conversion of commercial and industrial land use to open space dedicated to flood control and recreation purposes. The project would consequently reduce the risk of loss of life and property damage during major flood events. This would be a significant, long-term beneficial impact on land use.

Bypass Channel Plan

The impacts described above for the Channel Widening Plan would also occur under the Bypass Channel Plan. The following additional impacts would occur under the Bypass Channel Plan.

Implementation of the Bypass Channel Plan would result in changes in land uses along the river corridor. A total of 63 homes and 20 businesses would be removed. The most substantial impacts on land use would occur along Reaches 7, where 13 businesses would be relocated south of Willow Street between Lelong Street and the existing channel, in Reach 8 where 23 houses would be affected on the west side of Mackey Avenue, and in Reach 9 where six homes would be displaced from Willow Glen Way to Malone Road. The loss of businesses (commercial land uses) is considered an

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adverse but insignificant impact as it would not be sufficient to substantially alter the commercial character or financial integrity.

The loss of housing would substantially fragment and disrupt the cohesive residential character of the neighborhood by introducing flood control improvements and interrupting the neighborhood block. This effect would be greatest in the neighborhood around Mackey Avenue, where 23 residences would be removed. According to significance criterion (2) listed above, this is a significant long-term land use impact. Proposed mitigation would reduce long-term impacts on relocated residents and short-term impacts caused by inconveniences during construction, and the flood protection improvements would provide beneficial public safety and recreational impacts. Long-term land use impacts on residential community cohesion, however, would remain significant and unavoidable.

The SCVWD has developed and implemented a *Relocation Assistance and Last Resort Housing Plan* (SCVWD 1990) that provides for acquisition of properties necessary for constructing the Bypass Channel Plan, including compensation of home owners and relocation of residential and commercial tenants. Since 1990 when the plan was originally devised, it has been revised in 1993 and will shortly be revised again (personal communication, Sally LaMere 1997). Only 12 residences and 15 businesses remain to be acquired by the SCVWD within the feasibility study area (personal communication, Sally LaMere 1997).

Completion of the flood control facilities would protect an estimated 7,200 homes, 230 businesses, 11 public buildings, and an estimated 1,390 automobiles from flood-related damage. The following schools would also be protected from flood hazards: River Glen Elementary, Canoas Elementary, Lincoln Glen Elementary, Washington Elementary, Valley View Elementary, and Scallenberger (Parsons Engineering Science 1997). This is considered a long-term beneficial impact. Compared to the Channel Widening Plan (providing protection against up to a 50-year flood), the Bypass Channel Plan (providing protection against up to a 100-year flood) would have a greater long-term, beneficial impact on land use, because the risk of flooding would be mitigated to a greater extent.

No-Action Alternative

Under the No-Action Alternative, the adverse but insignificant land use impacts that would result from the other alternatives would not occur. The significant impacts associated with the loss of community cohesion due to the removal of residences and the adverse but insignificant impacts from the loss of businesses would not occur. The long-term beneficial impact from increased protection against floods would also not occur. The impacts on land use from periodic flooding of the creek (e.g., damage to residential and commercial property) would continue to occur with roughly the same frequency as they have in the past. Depending on the severity and location of the flooding, such impacts could be greater or less than the impacts described for the project, although their timing would be less predictable. New development in the project area would continue to be subject to floodplain management criteria.

4.8.4 Mitigation Measures

Channel Widening Plan

1. Neighbors in the project area shall be notified of the project by mail and by posted notice of the following: the project's importance, its exact location in their vicinity, and the project's expected timetable. Such notification shall include a map of the affected area and shall occur at least 3 months, and preferably 6 months, before construction begins. This notification is important to minimize the land use impacts on existing residents. Notification shall be coupled with community information meetings on the nature and expected results of the project to reduce the potential impact of abrupt changes on the affected residents in the immediate vicinity of the corridor.
2. Temporary construction fencing shall be installed to replace backyard fences removed during construction. This fencing shall remain in place throughout the duration of construction to provide security and privacy. Permanent fences shall be repaired or replaced after project construction.

3. To minimize the direct and indirect impacts associated with project construction, mitigation measures pertaining to air quality, noise, and traffic during the construction period shall be implemented for the project and included as part of the construction contract documents.
4. Standard "best management" construction measures shall be followed to minimize the disturbance to residents. Examples of such measures include watering the disturbed construction area to minimize windblown dust (see section 4.1.4), and limiting or prohibiting construction-related truck traffic during peak travel times (see section 4.7.4).
5. The four commercial businesses that would be relocated shall be fully compensated for all expenses related to the relocation. Relocation under either plan would be covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).
6. Any residents required to move out of their home temporarily shall be fully compensated for all of their expenses related to the move (e.g., temporary lodging elsewhere).
7. Any physical damage to the homes associated with installation of flood control facilities shall be repaired to pre-damage conditions.

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The mitigation measures for the Channel Widening Plan described above would apply to the Bypass Channel plan. The following additional measures would also apply to the Bypass Channel plan:

1. The notification to affected residents shall include housing removal locations and detailed street maps explaining future changes in traffic flow direction on Mackey Avenue and Guadalupe Avenue.
2. The requirements of the Relocation Assistance and Last Resort Housing Plan, the Relocation Advisory Assistance Program, and the Relocation Assistance Payment Program shall be satisfied for this project, and relocation costs shall be paid to displaced residents.

4.8.5 Unavoidable Significant Adverse Impacts

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There would be no unavoidable significant impacts on land use from implementation of the Channel Widening Plan.

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The Bypass Channel Plan would remove substantial numbers of residences resulting in a loss of community cohesion. This is a long-term unavoidable significant land use impact. This impact would be partially offset by long-term beneficial impacts on land use from reduced flooding risks and increased recreational amenities.