



**Agenda Item No. 12.**

**Staff Report**

**Date:** November 8, 2018

**To:** Mayor Beach Kuhl and Councilmembers

**From:** Richard Simonitch, Public Works Director  
Heidi Scoble, Planning Manager

**Subject:** Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/Environmental Impact Report Comment Letter

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**Recommendation**

Town Council discuss and authorize the Town Manager to sign the attached draft comment letter regarding the Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/ Environmental Impact Report comment letter.

**Purpose and Objective**

The purpose and objective of this staff report is to introduce the Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/Environmental Impact (DEIS/EIR) project and process, provide a staff analysis of the merits of the DEIR/EIS, and to ensure that the Final EIS/EIR includes sufficient information, analysis, and mitigation measures to ensure the project would not have adverse impacts on the community. Staff has prepared a draft comment letter for consideration by the Council based on the review of the DEIS/EIR and the corresponding appendices.

**Background**

Pursuant to the California Environmental Quality Act (CEQA), the preparation of an EIR is required whenever there is substantial evidence that a project may have a significant effect on the environment. An EIS is similar to an EIR and required pursuant to the National Environmental Policy Act (NEPA) for projects involving federal agencies and federal funding. Both environmental documents are required by statute to describe a range of reasonable alternatives which would attain the basic objectives of the project that would avoid or substantially lessen any of the significant effects of the projects.

The U.S. Army Corp of Engineers (USACE) and the Marin County Flood Control and Water Conservation District (MCFCD) have jointly released a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for a project known as the Corte Madera Creek Flood Risk Management Project. Pursuant to local, state, and federal guidelines, MCFCD is the lead agency under the CEQA and the Corps is the lead agency under the NEPA for this project. The purpose of the project is to reduce the frequency and severity of flooding and to protect human life and property within the communities of the Ross and Kentfield along the Corte Madera Creek. The DEIS/EIR is a joint environmental document that has been prepared as required by the California Environmental Quality Act (CEQA) and by the National

Environmental Policy Act (NEPA) for projects involving Federal agencies since the project would include Federal funding.

The primary goal of the Corte Madera Creek Flood Risk Management Project is to reduce the frequency and severity of flooding in the communities of Ross and unincorporated Kentfield by removing the wooden (Denil) fish ladder in Ross that constricts flow, widening the channel to hold more water by removing portions of the concrete channel to create flood plains and riparian corridors, and installing flood walls adjacent to the banks and stabilizing creek slopes to protect properties adjacent to the creek.

The environmental review process for this project was originally initiated in 2008. As part of that effort, the USACE prepared a 2010 Baseline Report that provided initial elements for the EIR/EIS to evaluate and identify preliminary project alternatives. On December 23, 2015, the environmental review process for the project began with the release of the Notice for the Preparation/Intent and Notice of Scoping Meeting of a joint Environmental Impact Statement/Report (EIS/EIR) for the project. A Public Scoping meeting was held on January 28, 2016 to describe the environmental review process, to provide an overview of the project, and to take comments from the community on potential environmental effects to be addressed in the DEIS/EIR. A suite of project alternatives for reducing flood risks, such as the removal of the Denil fish ladder and constructing floodwalls, were presented by the USACE at Public Meetings held at the Ross School on April 25, 2016 and again on August 22, 2016. It is important to note however, that the scoping meetings never discussed the possibility of the Fredrick Allen Park riparian corridor or the Sir Francis Drake culvert-bypass concepts.

Prior to completion of the Draft EIS/EIR, on June 8, 2017, the MCFCD introduced the concept of the Fredrick Allen Park floodplain park project to the Town of Ross Town Council. It was discussed that the MCFCD would utilize a \$7,500,000 grant from the Department of Water Resources (DWR) and Marin County Flood Control Zone 9 (FZ9) funds to remove the fish ladder, build the floodplain park, a floodwall at Granton Park in Kentfield, and stabilize creek banks near the Lagunitas Road bridge. On October 10, 2017, the Town of Ross Town Council conducted a special public meeting to further discuss the concept of the Fredrick Allen Park floodplain project. Subsequent public outreach informational meeting and site tour to certain residents whose properties are contiguous to the Project on Sir Francis Drake Boulevard and Ross Common in the Town of Ross on November 4, 2017 followed by a noticed public outreach site tour for all Town residents on November 18, 2017. On December 14, 2017, the Town Council adopted Resolution No. 2037 supporting the Marin County Flood Control District in proceeding with further project development through the completion of the joint EIS/EIR.

## **Discussion**

The Draft EIR/EIS under consideration provides five project Alternatives (A, B, F, G, J), each with the primary goal of reducing the frequency and severity of flooding, primarily within the Town of Ross and unincorporated Kentfield. All five Alternatives include the removal of the Denil fish ladder and some type of smooth transition back to the concrete channel, the installation of top of bank floodwalls at various locations, and some modifications to the natural channel bed in the vicinity of the Lagunitas bridge. Three of the five alternatives, including Alternative J, the "Tentatively Selected Plan" (i.e. the preferred project alternative), proposes modifications to the Corte Madera Creek between the Sir Francis Drake Bridge in Ross and the end of the concrete channel behind the College of Marin in Kentfield, including the construction of a 2000' long, 12 feet wide by 7' high concrete bypass culvert within Sir Francis Drake Boulevard to provide additional flood-carrying capacity during high flows in the creek, the removal of approximately 750 feet of concrete channel downstream of the fish ladder, construction of flood walls adjacent to the creek, and a recontoured naturalized riparian flood plain area with pedestrian and bike access within the Town of Ross' Frederick Allen Park.

While the Town of Ross supports planning efforts to facilitate flood risk reduction measures in the Ross Valley basin, the Town of Ross, as a major stakeholder, has very significant concerns that the level of information and analysis provided by the DEIS/EIR is deficient and therefore provides insufficient information to adequately evaluate many of the project impacts that would occur within the Town. Therefore, in response to the DEIS/EIR, Town staff has prepared an extensive draft comment letter for consideration of the Town Council regarding the merits of the environmental document.

The Town staff is very concerned that the DEIS/EIR does not provide any project related information to assess and analyze all of the environmental impacts associated with Alternative J. Other than referencing a riparian corridor that would be constructed in Fredrick Allen Park, the DEIS/EIR does not provide any project details, project renderings, project plans, or information regarding grading (quantities of cut and fill and recontouring the topography of the site), drainage, tree removal, tree replacement, landscaping hardscape, and pedestrian and bicycle circulation. The draft letter comments include extensive comments related to the Frederick Allen park impacts and extent of the design for the riparian corridor project. The Town staff is also concerned the DEIS/EIR does not adequately provide information regarding the following project features:

1. Flood Benefits of Alternative J if only the initial portion of the Alternative is constructed (the removal of the Denil fish ladder, the Fredrick Allen Park Riparian Corridor, and Granton Park floodwalls).
2. More detailed and specific information regarding the cost, timing, scope, and impacts of the proposed Sir Francis Drake Boulevard Bypass.
3. Traffic circulation, staging, parking, and noise impacts within the Town related to construction.
4. Construction impacts to residents and temporary displacement and relocation.
5. The Town of Ross role as a landowner, and approval and permitting authority for multiple items within the Town.

#### **Process/Next Steps**

As required by the NEPA and CEQA, the 45-day public review period is open until 4:00 pm on November 27, 2018. Comments will be accepted by mail or email anytime during the comment period. On October 23, the Town sent a letter to the USACE respectively requesting the comment period timeline on the Draft EIS/EIR comment period be extended from November 27 to December 12 (a 15 day extension) to provide members of the public, community stakeholders, and the Town adequate time to review the complex documents and provide comments on this important project. On October 24, the Town received an email from the USACE denying our request for an extension.

After the close of the public comment period, the USACE will begin to prepare a response to all comments received and prepare a Final EIS/EIR. On November 13, 2018 the MCFCD will conduct a Public Hearing at the Civic Center to discuss DEIS/EIR and take additional comments from the public. In September 2019, the USACE and the MCFCD are scheduled to conduct public hearings to discuss the Final EIS/EIR and the Marin County Board of Supervisors acting on behalf of the MCFCD and is expected to certify the environmental document at that time.

Prior to the certification of the Final EIS/EIR, the Town will seek to enter into an agreement with the MCFCD related to the project design, construction, and maintenance of the Fredrick Allen Park Riparian Corridor project, in addition to addressing the likely need for temporary and permanent easements, liability, and indemnity. Prior to certification, the Town will be seeking as part of any agreement a requirement that sufficient project information detailing the scope and design of the Fredrick Allen Park

Riparian Corridor project be analyzed in the Final EIS/EIR, so that the Town could tier subsequent Town land use approvals on the Final environmental document.

After the necessary agreements are in place and certification of the Final EIS/EIR, the Town Council would conduct a public hearing for Design Review to consider the final approval of the Fredrick Allen Park Riparian Corridor project. Prior to or at that hearing, the Town Council would consider the approval of final agreements with MCFCD. The Town will consider approval of agreements with MCFCD including terms addressing maintenance responsibilities, construction plan requirements, easements, liability, and indemnity. After the Town of Ross Town Council has approved project, then the MCFCD would commence with the construction plans of the first phase of the project. Town staff would conduct a plan review of the construction plans within the Ross town limits. The construction project then would need the following Town permits and plans – building, demolition, grading, encroachment, tree removal, and a Traffic Control Plan. The timing of the subsequent phases of the project are dependent on Federal funding. Therefore, the timing of the completion of Alternative J is unknown.

#### **Alternative actions**

Council can modify the proposed draft letter to USACE.

#### **Environmental review (if applicable)**

A project DEIS/EIR is complete and the Town staff will be providing comment on the adequacy of the report. The public review period of the DEIR began on October 12, 2018 and closes on November 27, 2018.

#### **Attachments**

1. Corte Madera Creek Flood Risk Management Project Joint Draft Environmental Impact Statement/Environmental Impact Report Draft Comment Letter
2. December 14, 2017 Staff Report Resolution No. 2037, and Town Council Meeting Minutes
3. October 10, 2017 Town Council Meeting Minutes
4. June 8, 2017 Town Council Meeting Minutes
5. Correspondence

## ATTACHMENT 1



# DRAFT

November XX, 2018

U.S. Army Corps of Engineers, San Francisco District  
ATTN: Cynthia Jo Fowler  
1455 Market Street  
San Francisco, CA 94103-1398

RE: CORTE MADERA CREEK FLOOD RISK MANAGEMENT PROJECT: JOINT DRAFT ENVIRONMENTAL  
IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT

Dear Ms. Fowler:

Thank you for the opportunity to provide comments regarding the Corte Madera Creek Flood Risk Management Project (the Project) Joint Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/EIR). While the Town of Ross supports planning efforts to facilitate flood risk reduction measures in the Ross Valley basin, the Town of Ross, as a major stakeholder and as a described "Partner", has very significant concerns that the level of information and analysis provided by the DEIS/EIR is deficient and therefore provides insufficient information to adequately evaluate many of the project impacts that would occur within the Town. With respect to the aforementioned concerns, the Town provides the following comments by section, on the adequacy of the DEIS/EIR:

## **EXECUTIVE SUMMARY:**

- On page ES-4 under the section Water Quality, in the last sentence of the last paragraph, it states that "the construction of new storm water drainage facilities or expansion of existing facilities could cause significant environmental effects." Please describe in summary form what those "significant environmental effects" would be?
- On page ES-4 under the section Biological Resources, in the last sentence of the third paragraph it states that "Alternatives B, F, G, and J would improve habitat to varying degrees." Please describe how Alternatives B, F, G, and J would improve habitat, what mitigation measures would be necessary to improve the habitat, and would the mitigation measures reduce the impact to a less than significant level.
- On page ES-5, under the section Aesthetics, it appears that only the introduction of floodwalls in Alternatives A, B, and G are considered as significant and unavoidable impacts. However, until a detailed landscape plan is developed, the complete alteration of a level, forested, Town-owned Public park facility into a flood control feature must also be considered a significant and unavoidable impact. As such, please explain the rational and reasoning behind making the determination that Alternative J would not create a significant and unavoidable impact.

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- On page ES-5, under the section Land Use, the environmental document identifies that permanent and temporary easements would be required for all of the Alternatives. What happens if land owner would not provide the necessary easement identified as part of the project? Additionally, the last sentence on page ES-6, under the section Land Use, states that, “Impacts to changes in land use from Alternatives F and J were considered less than significant.” Given that these alternatives will require a public Town park to be transformed, how can that finding be made without review of the improvements made to the Town park, and without having any such design approved by the Town?
  
- On page ES-6 under the section Traffic, Transportation, and Circulation, the environmental document identifies that there would be significant traffic impacts associated with Alternatives F and J and that a “Traffic Control Plan would be implemented to reduce impacts, but would not eliminate traffic impacts.” Can you please provide a response to the following questions?
  - What traffic impacts will not be able to be avoided/mitigated/eliminated?
  - Describe in detail what measures would be required to be implemented to reduce traffic impacts.
  - How would a property owner be able to access their properties during road closures?
  - How would the Town, employees, and citizens coming to the Town Hall facilities complex be impacted as a result of the project Alternatives?
  - What would be the impacts associated with public parking, use, and access relative to the identified staging areas.
  - How would emergency services response times be impacted by the traffic impacts?
  - How would day time and evening construction noise impact property owners and what measures would be put in place to reduce the impacts?
  - Sir Francis Drake is a primary bus route, how would the road closures impact the bus schedules?
  - What utilities will be disrupted and how often?
  
- On page ES-6 under the section Socioeconomics, the environmental document states that under Alternatives F and J, “residents would be temporarily relocated to nearby hotels while utilities are offline.” Please identify which properties would be impacted by temporary relocation, for how long would a property owner be relocated, which hotels would be identified to accommodate temporary housing, would a property owner receive a relocation stipend or required to stay at a designated hotel, how much money is estimated to be allocated for the relocation, and has this line item been included in the cost-benefit ratio that is considered as part of the Alternatives.
  
- On page ES-7 in Table ES-1, Significant and Unavoidable Impacts, the Town disagrees that Alternative J would not create a significant and unavoidable impact relative to AES-1 and AES-2 because the DEIS/EIR provides little information on the aesthetics of the existing Fredrick Allen Park relative to its dense forest canopy, the existing outdoor recreational amenities, and the aesthetic benefits of the park to the community. Based on the vague description of the Allen Park Riparian Corridor project associated with Alternative F, G, and J, it appears as though the existing park will be significantly degraded relative to the removal of all of the existing dense vegetation and mature trees, which in turn will substantially degrade the existing visual character and quality of its surroundings. As such, please explain the rational and reasoning behind why Alternative G would have a significant and unavoidable impact associated with AES-1 and AES-2?

- On page ES-8 under the section Areas of Controversy, the document includes issues that were vetted during the scoping meetings that occurred in 2015-2016. During those scoping meetings, the Fredrick Allen Park Riparian Corridor concept identified in Alternatives F, G, and J was never identified, which is the reason it was not listed as an “Area of Controversy.” The Fredrick Allen Park Riparian Corridor is an area of extreme concern to the Town of Ross and the Project’s significant modification of the corridor, the tree removal and the associated impacts, and the aesthetic impacts to this Town owned park. Please explain why it was not raised as part of the scoping session, and how the lead agency intends to respond to concerns about the Town owned park’s ultimate use as part of any flood control. Under CEQA, the scope of the environmental review conducted for the initial study must include the entire project. Thus, a correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.
  
- On page ES-8 under the section Unresolved Issues, the Town of Ross is extremely concerned with understanding what the extent of impacts would be to Fredrick Allen Park relative to the following:
  - Earth disturbance and quantity of cubic yards of off-haul
  - Number and size of trees to be removed? (Appendix J only shows costs related to removing 26 trees)
  - Number of trees to be replanted? What species of trees are being proposed?
  - Location and amount of pedestrian and multi-purpose paths
  - A project diagram showing the specific locations of the walls within the Allen Park Corridor and the proposed creek streambed that meanders through the Corridor should be provided.
  - Please provide a fencing plan.
  - How will park be designed?
  - Who will be designing and funding the construction of the park?
  - Who will act as a lead agency and when will an application be submitted to the Town for Design Review as required for alterations to any Town owned park?
  - Where will construction staging and storage of materials be located?
  - Who will maintain the park?
  - Related to safety, please describe mechanisms and procedures to keep the public safe during high water events. Have the cost of the park been incorporated into the USACE cost/benefit ratio formula?
  - How much money is anticipated to be allocated to the design, construction, landscaping, and maintenance of the park?
  - How will the tennis courts be impacted and/or protected as a result of the project as it relates to the potential for erosion and ground-sloughing over time?
  - What would be the construction costs for the replanting of the park and future maintenance?
  
- On page ES-9 under the section Vegetation Variance along Floodwalls, it states that there will be a 15-foot riparian habitat buffer, and that a vegetation variance may be granted, however, it will not be known whether a variance would be granted until after the EIS/EIR is certified. The aesthetic impacts to the Fredrick Allen Park are not properly analyzed because the design of the park is not accurately and fully described. This constitutes improper piecemealing under the California Environmental Quality Act (“CEQA”). A consequence of a project must be studied as



part of the project if it is reasonably foreseeable that that consequence is, as a practical matter, sufficiently certain to happen. Under this principle, the Draft EIS/EIR was required to consider the impacts of the “whole of action,” here that would include the redesign of the Frederik Allen Park. Moreover, other details about the park are not fully described.

- On Page ES-9, it is our understanding that the current scope of the “Sir Francis Drake Boulevard Rehabilitation Project” ends at the southerly Town Limits of Ross and except for traffic considerations should not physically be impacted by or impact the construction of the bypass. If future phases of the Sir Francis Drake Boulevard Rehabilitation Project are planned to extend into the Town of Ross, please provide the source for that information.

#### **SECTION 1 INTRODUCTION:**

- Under Section 1.2.4 Study/Project Area, in the first paragraph, Larkspur should be included in the list of Cities/Towns within the Corte Madera Creek watershed.

#### **SECTION 2 PLAN FORMULATION:**

- Under Section 2.3.2, Universal Constraints on page 2-3, shouldn't it include the Americans with Disabilities Act relative to the anticipated, yet undisclosed, impacts to Fredrick Allen Park?
- Under section 2.3.3.2, Other Considerations, Bicycle-Pedestrian Pathway, it states, “Maintaining the existing bike path...” This path is more than just a bike path; the Town suggested describing the path as a pedestrian-bicycle path, or multi-purpose path. Many pedestrians use the path.
- Under Table 2-3, Comparison of alternatives for Corte Madera Creek Flood Risk Management Project, Alternative H on page 2-13, it states that removal of the fish ladder with flood proofing of structures would be cost prohibitive and that many properties would be left in the floodplain. Would there be any adverse impacts to downstream properties relative to significant flooding impacts if only the Denil fish ladder was removed.
- Under Table 2-3, Comparison of alternatives for Corte Madera Creek Flood Risk Management Project, in the “Key Stakeholder Issues” for Alternatives F, G, and J it states that the Allen Park Riparian Corridor is preferred by the Town of Ross. This is an inaccurate statement and the Town of Ross is requesting this statement be removed from the Table. The Town needs more information related to the Allen Park Riparian Corridor before a preference can be made.
- Tables 2-4 and 2-5 provide an analysis of benefit cost of the Alternatives. Please provide more details for the costs estimates for Alternative J, including a detailed breakdown of the construction and utility costs.
- Real estate costs for Alternative J are estimated at \$19,232,000 as shown in Table 2-4 and Table 1 in Appendix J. How many and what is the location of the acres to be purchased? The Appendix J text says “Alternative J will require an estimated 8.72 acres from 66 parcels, 40 landowners (Exhibit A),” while Table 1 in the chapter says “64 parcels/43 landowners, approximately 143 acres”. Please resolve the discrepancy. Appendix J, Exhibit A Project Maps is not included in any DEIS/EIR provided to the Town nor is it in the one shown on the Marin County Flood Control website (also Exhibit B and C are also not included).

- Appendix J, Cost Engineering, only has one page of cost estimates which does not match Tables 2-4 and 2-5? This discrepancy should be addressed.
- Appendix J, Cost Engineering. The Town is concerned that the utility costs have been underestimated, therefore the Town is requesting information providing a line item regarding the costs of the various utilities associated with each phase. In addition, how much is the cost estimate for moving the sewer line in the Allen Park Riparian Corridor? What is the estimated cost in total of moving all the utilities related to the bypass under Sir Francis Drake Boulevard?
- Appendix J, Cost Engineering, does not include the design and landscaping associated with the Allen Park Riparian Corridor. The costs associated with the construction and landscaping of the park should be included in the Cost Engineering.

### **SECTION 3 DESCRIPTION OF ALTERNATIVES:**

- Under Section 3.3.1, The removal of the concrete streambed for 750 feet downstream of the fish ladder is presented as a common feature to all action alternatives, however Alternatives A and B do not have this feature in the plan view or project descriptions. Please clarify.
- Under Section 3.3.2, Floodwall Construction, the second to last sentence in the paragraph on page 3-4 states that a maintenance road would be constructed to allow small vehicles to monitor the creek behind homes through Sylvan Lane properties and that the actual location of the road would not be determined until the PED. In order to assess any potential impacts to properties regarding easement and visual impacts, the Town of Ross is requesting a conceptual diagram to show the possible location of all access roads, how the roads would be constructed, what physical and aesthetic impacts would be required for the roads, and where would possible easements be required?
- Under Section 3.6, the Allen Park Riparian Corridor is generally described. Prior to certification of the environmental document, the Town of Ross is requesting a site plan and details of how the existing Town-owned Fredrick Allen Park will be modified as a result of Alternatives F, G, and J, including, but not limited to a preliminary grading plan, tree removal and replacement plans, and a landscape and hardscape plan. The Town of Ross is also requesting that any proposed temporary or permanent easement be shown.
- Table 3-2 describes “Approximately 950 feet in length, Removes Fish Passage Barrier” associated with the Fish Ladder Removal feature for every alternative. This feature should be clarified so that it is not confused with removal of the concrete channel downstream of the fish ladder.
- Table 3-3 shows “Remove existing Denil fish ladder and replace with a smooth transition between Units 3 and 4” as being included in both Phase 1.3 and Phase 4.5. Explain why the removal of the Fish Ladder happens in 2 different phases.
- Table 3-4, Construction Schedule for Each Phase, on page 3-15 shows that the construction associated with Alternatives F, G, and J would be completed in 4 phases, with the Allen Park Riparian Corridor Station be constructed in the first phase.

- There doesn't appear to be a Phase 1 for Alternatives A and B. Please clarify why this is so.
  - What would be the flooding impacts and benefits associated with Alternatives F, G, and J if the subsequent three phases are not funded to be constructed?
  - Would the project still be able to meet the required Benefit/Cost ratio and meets the described goals of the project if only the Allen Park Riparian Corridor was constructed?
  - Would a supplement to the DEIS/EIR be required to treat these as Cumulative Impacts?
- Table 3-5, It would seem that creation of the Allen Park Riparian Corridor will require some type of concrete removal equipment, such as: 19. Heavy Concrete Cutters or 20. Multi-Processor Concrete Cutter/crusher. Explain why this equipment was not included in the removal of the concrete channel.
  - Table 3-6, Summary of Agencies End Specific Review, Approval, or Other Responsibilities on page 3-18, the Town of Ross should be listed as Land Owner of the Fredrick Allen Park, in addition to Project Planning, Review, and Permitting.
  - Table 3-7, Avoidance and Minimization Measures, shows there are no AMM's for Aesthetic impacts, however, on page 4.8-13 (Section 4.8.3.1 Avoidance and Minimization Measures) there is AMM-AES-1: Aesthetic Treatment of Structures. Should this AMM be listed in in Table 3-7 under Aesthetics?
  - Table 3-7, Avoidance and Minimization Measures (AMM), it is missing AMM-WAT-12: Prepare SWPPP. AMM-WAT-12 should be added to the Table.
  - Table 3-7, Summary of Alternative Impacts, regarding AES-1 and AES-2. The Town of Ross disagrees that the project Alternatives that include the Allen Park Riparian Corridor would have a less than significant impact. The project design for the park has not been presented to the public for consideration and therefore, the Draft EIS/EIR has improperly piecemealed the project. The redesign of the park is a reasonably foreseeable consequence of the project, and should have been analyzed in detail and mitigated in the Draft EIS/EIR, including a discussion of the aesthetic impacts associated with the Allen Park Riparian Corridor design.
  - Table 3-7, Summary of Alternative Impacts, regarding REC-2, the Town of Ross is concerned with any possible impacts to the existing tennis courts located within Fredrick Allen Park and is requesting a mitigation measure be developed to create an adequate setback from the edge of the tennis courts to any future Allen Park Riparian Corridor project element that may be approved and developed.
  - Table 3-7, Summary of Alternative Impacts, The Town of Ross, not The County of Marin, has jurisdictional review of all engineering construction and traffic control related documents for work within the Ross Town Limits.
  - Under Section 3.10.5, Operation and Maintenance Activities, on page 3-30, the maintenance of all aspects of the Allen Park Riparian Corridor, including recreational facilities, should be included.

- Table 3-8, Summary of Alternative Impacts. The Town of Ross would like to put on record that it disagrees that BIO-5, AES-1, and AES-2 would generate “Less than Significant Impacts” and is requesting the rational and reasoning of this designation as it relates to the Town of Ross proper and especially the impacts to the existing Town-owned Fredrick Allen Park relative to the Allen Park Riparian Corridor project.

#### **SECTION 4 AFFECTED ENVIRONMENT, ENVIRONMENTAL CONSEQUENCES, AND CUMULATIVE EFFECTS:**

- Under Chapter 4.1, Hydrology and Hydraulics, in Section 4.1.3.1, Avoidance and Minimization Measures, AMM-HYD-1: Flood Warnings, how would this measure impact the Town of Ross? Please describe where the signs and sirens would be located and what they would look like? Would there also be coordination efforts between the affected communities in terms of the design, size, and location of the size and sirens?
- Appendix I, Civil Design, Attachment 4, in addition to Cross Section B-B, the Town requests to see four more cross sections within the Allen Park Riparian Corridor, including a cross section adjacent to the tennis courts, to better understand the extent of concrete channel removal, grading, excavation, slopes, elevations, and installation of new retaining walls and flood walls in the park. In addition, please provide a grading plan showing the existing and proposed topographical contour elevations for this Corridor.
- Under Section 4.1.3.3, Effects and Mitigation, on page 4.1-26 in the first paragraph, the environmental document states that the construction and operation of the interior drainage system could result in significant impacts, but that the extent of the impacts are unknown since they have not been formally planned or designed. This is conclusory and unsupported by facts or analysis and is improper segmentation under CEQA. The relevant project components are reasonably foreseeable consequences of the project and should have been analyzed in the Draft EIS/EIR.
- Under section 4.1.3.2, Methodology for Impact Analysis and Significance Thresholds, on page 4.1-22 as described in the first two sentences of the second paragraph, it states that all of the project Alternatives, with the exception of Alternative J, was designed to provide a flood protection for 4 percent AEP flood events for the entire study reach. Why was Alternative J only studied for 4 percent AEP flood events upstream from Fredrick Allen Park, what additional measures/project elements would be required to continue the study reach assuming a 4 percent AEP flood events, how would this benefit flooding impacts, and what would the benefit/cost ratio be?
- In Chapter 4.5, on page 4.5-7 the environmental document references a 2010 Greenhouse Gas inventory. This information is outdated. An updated inventory can be found at the following link: <http://marinclimate.org/sites/default/files/documents/Ross%202015%20GHG%20Inventory%20Report.pdf>. The environmental document should be updated accordingly as the Town’s MT have dropped to 13,090 MTCO<sub>2</sub>e in 2015.
- In Chapter 4.6, the environmental document appears to classify the existing Fredrick Allen Park as being “Urban/Developed”. Please reclassify all descriptions of the Fredrick Allen Park as a “Civic District Zoning District or “Open Space/Recreational General Plan Land Use Designation”. Section

4.6.2.2, Habitat Types, starting on page 4.6-3 should be updated accordingly, as well as Tables 4.6-5, 4.6-7, and 4.6-8. Furthermore, the Town of Ross is requesting that all respective Appendices should be updated as well to reference Fredrick Allen Park being a Public Park or Open Space/Recreational instead of being Urban/developed.

- Appendix N, Biological Assessment. Page N-17, second to last sentence in Section 5.3. Specifically, provide details to show what is the 4.66 acres of urban and developed land that is being converted to habitat features? How many acres of existing public park are being converted?
- Appendix N, Biological Assessment. Page N-18, Section 5.5 first paragraph. There is no “urban and developed land” within the current Allen Park; it is Town-owned public park land. The Draft EIS/EIR states there is 0.78 acres of urban and developed land, but does not describe where the location or that land. Please identify.
- In Chapter 4.6 on page 4.6-3, the description of the Town of Ross Tree Removal Permit requirements is misleading. A Tree Removal Permit and tree replacement is required for the removal of trees on both private and public property. Please revise this paragraph to make it more accurate to inform the public of the correct thresholds. Additionally, as previously requested, the Town of Ross is requesting an Arborist Report to include a Tree Survey, Tree Replacement Plan, and Tree Protection Plan for the Fredrick Allen Park Riparian Corridor Project as part of the EIS/EIR.
- Under Chapter 4.8, Aesthetics, in Section 4.8.1.3, Local-Town of Ross General Plan 2007-2025, the Draft EIS/EIR has not included the following General Plan policies that are applicable to Alternatives F, G, and J as follows:
  - 1.1 Protection of Environmental Resources. Protect environmental resources, such as hillsides, ridgelines, creeks, drainage ways, trees and tree groves, threatened and endangered species habitat, riparian vegetation, cultural places, and other resources. These resources are unique in the planning area because of their scarcity, scientific value, aesthetic quality and cultural significance.
  - 1.2 Tree Canopy Preservation. Protect and expand the tree canopy of Ross to enhance the beauty of the natural landscape. Recognize that the tree canopy is critical to provide shade, reduce ambient temperatures, improve the uptake of carbon dioxide, prevent erosion and excess stormwater runoff, provide habitat for wildlife and birds, and protect the ecosystem of the under-story vegetation.
  - 1.3 Tree Maintenance and Replacement. Assure proper tree maintenance and replacement.
  - 1.4 Natural Areas Retention. Maximize the amount of land retained in its natural state. Wherever possible, residential development should be designed to preserve, protect and restore native site vegetation and habitat. In addition, where possible and appropriate, invasive vegetation should be removed.
  - 9.1 Coordination with Other Jurisdictions and Agencies. Ensure that regional, state and federal agencies, nearby cities, Towns, and special districts, College of Marin, County of Marin and LAFCO are aware of and responsive to the goals, policies and programs of the Ross General Plan. Ross’ mystique lies in the beauty of its natural resources: the trees, hillsides, ridgelines and meandering creeks. These features have shaped the growth of Ross and affect how we experience the community. They provide habitat for wildlife, privacy between

neighbors, and create scenic vistas around every bend. The Ross Town Council has taken dramatic steps since our last General Plan to preserve our critical environmental resources, including adopting additional design review requirements for projects with grading, filling, or retaining walls construction, further ensuring the preservation of the Town's hillsides. Creek and drainage way setbacks and an expanded tree protection ordinance have also added to the Town's zoning regulations to protect waterways and vegetation for future generations. Applications to remove or alter trees are carefully scrutinized by the Town as part of any project review.

- On Table 4.8-2 Please explain how it can be determined that the Allen Park Riparian Corridor can provide a “Beneficial” Aesthetic Impact compared to the current Allen Park without providing any level of design detail. There are insufficient details to adequately analyze the scope of the project.
- On Table 4.8-3 Please explain how it can be determined that the Allen Park Riparian Corridor can provide a “Less than Significant” Impact compared to the current Allen Park without providing any level of design detail.
- On page 4.8-18, under Alternative F the first paragraph in the fourth sentence states that tree removal would be required, but that the tree survey would occur after certification of the environmental document and before project implementation. The Draft EIS/EIR improperly defers the tree study to a future time. By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process. Moreover, based on the tenets of the General Plan and policies and regulations regarding Tree Removal, the Town of Ross does not believe that the aesthetic impacts associated with the environmental document can adequately be addressed without a tree survey being conducted and a tree replacement plan being circulated as part of the project EIS/EIR. Therefore, the Town is requesting an arborist report, tree survey, and tree protection plan for Alternatives F, G, and J be prepared for consideration as part of the final EIS/EIR. The Town is also requesting the same for the substantial modification of the Town-owned Fredrick Allen Park to accommodate the Riparian Corridor. Consistent with the Town of Ross zoning ordinance, a Design Review application will be required to be submitted to the Town Council for consideration of any alternations to the park. Please describe when this application will be submitted. If the park design is acceptable to the Town Council and the requisite Design Review findings can be achieved, the Town Council will tier its final CEQA review and project approval after certification of the project EIS/EIR. Therefore, the Town requests that the Design Review application be submitted prior to certification of the project EIS/EIR. In addition, the Town of Ross disagrees with any statement that the Allen Park Riparian Corridor would benefit the scenic integrity because it is unsupported by the analysis in the EIS/EIR. The Town of Ross requests that all references to that statement throughout the document be struck until the design of the Allen Park Riparian Corridor is able to be evaluated by the Town of Ross.
- Under Section 4.9.3.3 Effects and Mitigation, on page 4.9-4, please explain how a finding of impacts to Fredrick Allen Park would be less than significant under Alternatives F, G and J, when there have been no accompanying design details relating to the location of the proposed natural trails, or any design details about any component of a redesigned park. CEQA requires a “general description” of the project’s technical, economic, and environmental characteristics with

sufficient information to understand the environmental impacts of the proposed project. (CEQA Guidelines §§ 15124(c), 15146.) The EIR must achieve a balance between technical accuracy and public understanding. (*Id.* at § 15147.) Here, the EIS/EIR fails to meet the basic requirements under CEQA because there is insufficient information about the redesigned park. Furthermore, as discussed above, this is improper segmentation of the project.

- Under Noise in Section 4.10, Mitigation Measure NOI-1 on page 4.10-14 identifies that sound barriers would be erected around the site. Provide examples of what the sound barriers would look like, where would they be located, and how much noise would be attenuated with the sound barriers?
- Under Noise in Section 4.10 and specifically as described in Table 4.10-6 on page 4.10-8, it shows that the existing sound level averages around 51.3 dba Leq. The Section 4.10 also goes into an extensive description regarding short-term construction impacts. However, the Section does not identify the long-term noise impacts of removing trees from Fredrick Allen Park and the surrounding trees and riparian vegetation that would be cleared away under Alternatives G, F, and J. The existing woody vegetation currently provides a noise buffer and the removal of the woody vegetation may result in a change and possibly increase in noise levels at the park and on surrounding properties adjacent to the project. As such, the Town is requesting an analysis be prepared to demonstrate the long-term impacts of the project if the project removed any number of trees associated with Fredrick Allen Park and other trees from surrounding properties adjacent to the creek.
- Appendix C, Noise Calculations. For concrete channel removal, explain why concrete cutter/crusher is not required in Alternative J but it is required in Alternative F and G.
- Appendix C, Noise Calculations. For replace and improve bike and ped pathway, explain why manual soil compactor is not required in Alternative J but it is required in Alternative F and G.
- Table 4.11-1, Land Uses and Zoning Crosswalk on page 4.11-4 does not state the correct zoning for the Town of Ross. Please correct the tables accordingly.
- Under Section 4.11, Land Use, in subsections 4.11.3.3, on page 4.11-9, when describing Alternatives F, G, and J, there is no reference to the temporary or permanent easements the Town would be required to provide, in addition to the discretionary and/or ministerial permits that would be required, and the fact that the Town Council would be required to approve the final design of elements of the project that would be located within the Town of Ross proper. Furthermore, the verbiage of the text assumes that the Town is acting as a partner, when in fact the Town does not know what the future design and corresponding environmental impacts would be to the Town relative to the General Plan and Municipal Code. As such, the Town of Ross is requesting this section be updated to include the impacts of the aforementioned Alternatives as it relates to the Town's General Plan, Municipal Code, including Zoning Regulations, and land use/process requirements associated with easements.

- 4.13.3.1 Avoidance and Minimization Measures, make note that Traffic Control plans and Staging plans shall be submitted for approval to the Town of Ross Public Works Department, not the County, for construction activities within the Ross Town Limits.
- Section 4.15, Socioeconomic, does not include the Ross zip code (94957) in any of the Tables. Was the Ross zip code 94957 included in the analysis? If so, please update the tables to include 94957. If not, please update the table to include the zip code 94957 and provide an updated analysis accordingly.
- In the first sentence of the second paragraph of Section 4.15.3.4 on page 4.15-5, it states that, “Replacement of the natural stream bed and improvements to Allen Park would increase the aesthetic appeal of Ross Common, which could increase business in the area...” Explain how can that statement be accurate when there has been no project description or design for the subject park improvements that would increase the “aesthetics” of the park. This is a conclusory statement unsupported by the facts and analysis in the EIS/EIR.

#### **SECTION 5 OTHER REQUIRED ANALYSIS**

- The Town of Ross does not agree with Table 5-1 in Section 5.3 on page 5-3 as it relates to AES-1. The Town of Ross is materially concerned with the potential visual and aesthetic impacts related to the Allen Park Riparian Corridor project since there are no diagrams or plans that demonstrate what changes to the park would be required to address Phase 1 of the project. The Town of Ross is requesting the table be updated to demonstrate that a bullet point for Alternatives F and J be checked for AES-1.

#### **9 REGULATORY JURISDICTION AND ENVIRONMENTAL COMPLIANCE**

- Section 9.3.3 should be updated to reflect the legally mandated requirement for Design Review for the Allen Park Riparian Corridor project pursuant to Section 19.41.020 of the Ross Municipal Code.
- Section 9.4.1, Areas of Controversy, should be amended to include the substantial modifications and improvements related to the Allen Park Riparian Corridor project.
- Section 9.5 should be amended to include the Town of Ross as an approval and permitting authority related to the Allen Park Riparian Corridor project as described on page 9-15 in the last paragraph.
- Appendix L, Mitigation Monitoring and Reporting Program. Page L-2 and L-3, Impact BIO-5. Under Mitigation Measures. Text should be added that construction within the Town of Ross will require Design Review approval from the Town. Tree removals will require a tree permit and compliance with Town Ordinances. The text should be changed 1) to state that trees shall be replaced by the time construction is complete and not within the first year after the completion. Mitigation Timing column should be changed to During Construction versus Post Construction. Responsibility column should add Town of Ross as the approval entity of the design of the Allen Park Riparian Corridor prior to construction being allowed to begin in the Corridor.



- Appendix L, Mitigation Monitoring and Reporting Program. AMM-TRF-2. The Responsibility column to be changed to reflect that the Traffic Control Plan should be submitted and approved by the Town of Ross anywhere within Town of Ross limits and to Marin County Department of Public Works within the unincorporated area. This change should be made throughout the DEIS/EIR document and appendices.

#### **GENERAL COMMENTS**

- It has been presented to the Town that the removal of the Denil fish ladder, and the construction of the Granton Park floodwall and Allen Park Riparian corridor may, for a time, be the only elements completed if Federal Funding is not available to construct all aspects of Alternative J. As such, please provide a comparison of the flood risk reduction benefits for the 10%, 4%, and 1% AEP of completing all of Alternative J compared with only completing the County/DWR Phase 1 project?
- The Marin County Flood Control and Water Conservation District (District) has a proposed Phase 1 project which is the same as described above, would the wall heights in the Allen Park Riparian Corridor be the same or different than the 2 feet height included in Alternative J if the Sir Francis Drake Boulevard bypass is not constructed?
- The DEIR/EIS document and appendices continuously disregard the Town of Ross as both an integrated regulatory agency in the review process for design and construction activities, and as a landowner pertaining to Fredrick Allen Park. Please ensure that The Town of Ross Planning, Building, and Public Works Departments are included in the appropriate sections as having regulatory jurisdiction within the Town limits and public street right of ways.
- Appendix H, Real Estate Cost. The sample easement language will need to be negotiated with the Town for any acquisition of Town property, and the sample language, as proposed will not be adequate. Provisions for granting any easement for flood control purposes will need to address multiple issues, including, but not limited to, ongoing maintenance of Town owned property.
- How is the “Equivalent Average Annual Benefit” calculated?

The Town of Ross would like to put on record that the original Notice of Preparation/Notice of Intent never included the concept of the Allen Park Riparian Corridor project nor was the Sir Francis Drake Boulevard bypass included. While the Town of Ross supports the removal of the Denil Fish Ladder, the Town is concerned with the environmental impacts associated with the Allen Park Riparian Corridor project. Without any meaningful design presented or studied as part of this draft EIS/EIR, the Town is concerned that the full environmental effects have not been fully analyzed. The Town is concerned with the lack of information and mitigation measures related to the extent of grading, reduced pedestrian access, extent of tree removal, tree replacement and landscaping, and continued pedestrian and bicycle access. The existing Fredrick Allen Park has established mature vegetation and provides tree covered pedestrian and bicycle access from Kentfield to the Town of Ross along the creek corridor. The Town is concerned that the resultant project will result in an open corridor that has limited vegetation and relief from sun exposure, and could pose health and safety risks. The Town is also concerned that the removal of the trees and vegetation associated with the project would

increase the day-time ambient noise impacts as a result of the existing dense tree and vegetation that currently provides a noise buffer for the park.

Thank you in advance for considering the above comments and incorporating them into the Corte Madera Creek Flood Risk Management Project Joint DEIS/EIR.

Sincerely,

Joe Chinn  
Town Manager

cc: Mayor P. Beach Kuhl and Council Members  
Cynthia Jo Fowler, U.S. Army Corps of Engineers, San Francisco District  
Benjamin Reder, U.S. Army Corps of Engineers, San Francisco District  
Tony Williams, Assistant Director at the Marin County Department of Public Works  
Tonya Redfield, Ross Valley Watershed Flood Risk Reduction Program Manager

*DRAFT*

## **Linda Lopez**

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**From:** Joe Chinn - Town Manager  
**Sent:** Wednesday, November 7, 2018 6:56 PM  
**To:** Beach Kuhl; Elizabeth Brekhus; Elizabeth Robbins; Julie McMillan; Rupert Russell  
**Cc:** Linda Lopez; Richard Simonitch; Heidi Scoble  
**Subject:** Addition to Council Item 12 related to the Flood Project DEIS/EIR  
**Attachments:** DEIR-EIS Addendum to Letter.docx

Mayor and Council Members,

Please see the attached Addendum to the draft letter in the November 8 Council packet related to the flood project Draft EIS/EIR. After we released the Council packet, Town staff received some additional questions or comments from people related to our draft letter. The Addendum includes additional items to include in the letter if the Council agrees to that at the Council meeting tomorrow. We have and may continue to get public correspondence on this issue that we will forward to the Council tomorrow morning.

Please let me know if you have any questions.

Thank you

Joe

### **Addendum Items to be Added to Draft Letter from the November 8, 2018 Council Packet**

- Addition for the letter, prior to the last sentence of the first paragraph start a new paragraph:  
"On October 23, the Town sent a letter to the U.S. Army Corps of Engineers (USACE) respectively requesting the comment period timeline on the Draft EIS/EIR comment period be extended from November 27 to December 12 (a 15 day extension) to provide members of the public, community stakeholders, and the Town adequate time to review the complex documents and provide comments on this important project. On October 24, the Town received an email from the USACE denying our request for an extension. Based on the November 27 deadline, we are submitting the following comments and reserve the right to provide comments later in the process. With respect to the aforementioned concerns, the Town provides the following comments by section, on the adequacy of the DEIS/EIR:"
- Under page ES-6 comment, third to last bullet, add light and night impacts so reads "How would day time, evening, and potential night construction noise and light impact property owners and what measures would be put in place to reduce the impacts?"
- Under ES-7 comment, at end add new question, "Explain the rational and reasoning why Alternatives F and J would not have a significant and unavoidable impact associated with AES-1 and AES-2?"
- Under Section 2, Appendix J, Cost Engineering, add new bullet, "Appendix J, Cost Engineering, a design and cost estimate of potential pump stations should be added as well as a cost range added based on potential temporary shoring needs due to subsurface soil and rock characteristics along the bypass alignment."
- Add "Table 2.4, explain how "benefits" and "annual benefits" values can be derived and evaluated without measuring the actual elevation of the living area finish floor or crawl space of a structure that resides in the areas where flood elevations are modeled and expected to be reduced by the project."
- Add a second Table 3-4 item, "Table 3-4, Phase 4 is shown in Table 3-4 to need 300 days of construction for Alternatives F and J. Are there any seasonal restrictions on when that construction would occur or would it occur in 300 consecutive days?"
- Add "Page 4.6-46, during the long construction of the Sir Francis Drake bypass all traffic in and around Ross will be severely disrupted and some people will avoid coming through Ross if at all possible due to the traffic disruption. What is the likely impact to the real estate market and home sales during this very long construction period? Speculation is that less people will be willing to move to Ross until the project is complete which would lead to reduced home sales and sales prices."
- Add "Page 4.11-9 under Alternative J, what are the addresses of the 7 residential parcels that permanent easements may be needed from?"
- Add "Under Appendix A, Section 7.4.5, describe the potential impacts to the Corte Madera Creek channel bed and bank caused by the re-introduction of a large volume of flow from the bypass channel back into the channel near 19 Sir Francis Drake Blvd. Also, how does that water coming in from the side affect the water flow in the main channel?"
- Add "At the August 22, 2016 "CORTE MADERA CREEK FLOOD RISK MANAGEMENT PROJECT" public meeting, a slide was presented showing that the bypass channel is screened out of the Structural Measures because of "Cost: impacts to utilities and infrastructure". Explain why the bypass channel was reintroduced to the alternatives and how that relates to section 2.6, Table 2-1 "Initial Array of Alternatives" ID #11 where the bypass channel is now listed as "retained"."

## ATTACHMENT 2



## **Agenda Item No. 14.**

### **Staff Report**

**Date:** December 14, 2017

**To:** Mayor Robbins and Council Members

**From:** Richard Simonitch, Public Works Director/Town Engineer

**Subject:** Town Council consideration of adoption of Resolution No. 2037 supporting the Marin County Flood Control District in proceeding with further project development through the completion of the joint Environmental Impact Statement/Environmental Impact Report.

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#### **Recommendation:**

Town Council adopt Resolution No. 2037 recognizing the potential flood risk reduction benefits of the Corte Madera Creek Flood Risk Management Project – Phase 1 ("Ross Project"), and support the Marin County Flood Control District (MCFCD) in proceeding with further development of the Ross Project through the completion of the joint Environmental Impact Statement/Environmental Impact Report.

#### **Background and discussion:**

There is a long history of flooding in Ross. The two most severe floods of record occurred in the winters of 1982 and 2005. Since the construction of the concrete channel and fish ladder in 1971, the Corte Madera Creek has reportedly overflowed its banks in Ross five times; in 1982, 1983, 1986, 1994, and 2005. (Attachment 2) Then, in the winter of 2016-2017, the floodwaters crested overbank at some locations during 3 separate storm events. Although slightly less extreme than the 1982 flood, the flood in December 2005 - January 2006, was nonetheless a federally declared disaster (DR-1628). The current channel provides only a 6-year level of flood protection, meaning overbank flooding will statistically occur once every 6 years. The project being proposed tonight should provide up to a 25-year level of protection from overbank flooding, and remove some parcels from the 100-year flood plain. Overall the Ross Project could provide some level of flood risk reduction benefits to over 300 parcels in Ross and Kentfield.

The first steps in any major construction project is the preparation of a feasibility study to determine project costs and identify financial risks involved with moving a project forward through the design and development phases. A major component of such a study is an early determination of community "buy-in" and support for the project concept. This is especially true with respect to the allocation and expenditure of any grant funding provided by a public agency. The MCFCD is requesting that the Town consider and adopt Resolution 2037 tonight in order to facilitate the approval of grant funding for the Ross Project and reduce the at-risk expenditures of MCFCD Flood Zone 9 (FZ9) tax money. Further, the project being presented tonight is on an extremely short time schedule; the requirement for completion by June, 2020 being established by the terms of the grant funding component. If the project is not completed by that time, the MCFCD risks losing the grant funding, putting the FZ9 tax money at risk as

well. A frequently asked questions (FAQ) sheet prepared by the MCFCD is attached to this staff report (attachment 6).

*Early project history:*

The concrete channel in Ross was constructed in the late 1960's and early 1970's as a part of the US Army Corps of Engineers (USACE) Corte Madera Creek Flood Control project, and the USACE maintains jurisdiction over any creek improvement projects downstream of the Sir Francis Drake Bridge. Pending the future extension of the concrete channel upstream toward San Anselmo, a denil-style fish ladder was constructed at the upstream terminus of the concrete channel as a temporary measure to allow fish passage to the natural channel upstream, however no further improvements have been made in this section of the creek since 1971 due to delays caused by lawsuits, unpopular USACE design alternatives, federal funding difficulties, and the changing environmental regulations. Hydraulic analysis has shown that the fish ladder is both an obstruction to flow and an extremely inefficient transition for water flowing from the natural creek into the concrete channel. The hydraulic deficiencies at the fish ladder structure has been identified as one of the primary causes for flooding in Ross upstream of the structure. It is also generally accepted that the fish ladder fails in its ability to facilitate fish passage, particularly after being heavily damaged in the December 31, 2005 flood. The concrete channel has proved to be less efficient in both the conveyance of flood waters and the passage of fish.

*The need for action:*

In response to the extensive damage caused by the 2005 flood, the Ross Valley Flood Protection and Watershed Program was created by the Marin County Flood Control District (MCFCD) in 2006. The MCFCD must partner with the USACE to implement any flood risk reduction projects in the Corte Madera Creek in Ross and therefore must rely on the unpredictable USACE timeline and availability of congressional funding to make any progress toward flood protection in Ross. A significant opportunity now exists for the MCFCD and the Town to move forward with a flood risk reduction solution that specifically benefits the Town of Ross at a pace that runs almost completely independent of the historically slow USACE project timeline.

*The pieces come together:*

In 2013, MCFCD was awarded a Department of Water Resources (DWR) Proposition 1E grant in the amount of \$7,661,000 to evaluate, design, and construct flood control/detention basin features and water supply improvements at the Phoenix Lake Dam in Ross. The results of the Phoenix Lake IRWMP draft feasibility assessment revealed various challenges that outweighed the flood risk reduction benefit and the decision was made to halt the project.

MCFCD immediately identified the "Ross Project" as an alternative project within the USACE list of potential projects that will allow the utilization of the DWR Prop 1E grant funding by remaining consistent with the primary goals of the Bay Area IRWMP and the DWR Prop 1E guidelines. The primary elements of the Ross Project are the removal of the fish ladder and most of the concrete channel within the Town Limits. The lands where the stretch of concrete channel exists that would be proposed for removal (Exhibit 3) is geographically unique in that a relatively wide expanse of public land (MCFCD and Town of Ross) is available to allow for:

1. Increasing the floodplain cross section area by expanding the creek banks and,
2. constructing a hydraulically efficient transition back to the concrete channel.

Both of these important design elements contribute to the lowering of the water surface elevation during the flood and, consequently, keeping the flood waters contained within the channel. The combination of

the removal of the fish ladder, the widening of the creek bank, and the construction of the smooth transition provide a significant reduction in flood risk to the Town of Ross as is evidenced by the attached "change" maps showing the reduction in inches of water throughout the Town (Attachments 3-a, b, &c.) The area in the Ross Project where the concrete channel is removed and the creek banks slopes are flattened and widened provides an opportunity to expand the limits of Frederick Allen Park to accommodate the reconstructed pedestrian/bike path, add pedestrian access, and re-landscape with native species of trees and shrubs (attachments 4 and 5). Most of the existing trees and vegetation along the creek banks and the bike path would be removed during the excavation to create the restored creek bed. Following construction, the area would be re-landscaped with trees and shrubs to restore a park-like appearance. The other element of the project involves the construction of the Granton Park flood barrier, which mitigates pre-existing flooding issues as well as any minor increases in downstream water surface elevations which could result from more flood waters being contained within the channel and less overbank flooding.

At a regular Ross Town Council meeting on June 8, 2017, the MCFCD introduced the Ross Project as the preferred alternative with which to migrate the DWR Prop 1E Grant funds to. At a Special Town Council meeting on October 10, 2017 the MCFCD presented the project again in detail, highlighting the flood-related benefits of the project and providing additional information, including some answers to specific questions and concerns from Town Council, the public, and Staff from the June 8th, 2017 meeting. The MCFCD held a public outreach informational meeting and site tour to certain residents whose properties are contiguous to the Project on Sir Francis Drake Boulevard and Ross Common and Poplar Avenue in the Town of Ross on November 4, 2017 followed by a duly noticed public outreach site tour for all Town residents on November 18, 2017.

*Timeline and critical path:*

The project is currently in a conceptual design phase. The Town Council is voting tonight to adopt a resolution that supports further development of the project concept by MCFCD. With that support, the MCFCD can accelerate the expenditure of FZ9 and grant funds to develop the project design and associated agreements with reduced risk of losing the funding, albeit along what is becoming a very critical timeline. The project environmental review is being prepared by the USACE, with the draft EIR/EIS due out for comment in Spring, 2018. In order to meet the completed construction deadline of June 2020, the final environmental documents will require adoption by the Marin County Board of Supervisors (MCBOS) by the end of 2018 or early 2019.

The Town will have opportunities to comment on the Draft and Final EIR/EIS but regardless of Ross' comments the Ross Project can still move forward if the MCBOS chooses to adopt the document. At some point soon after the adoption of the Final EIR/EIS by the MCBOS, the Town Council will conduct a public hearing and consider a Design Review application for final consideration of the Ross Project design. The detailed project design will include the location of all elements of the project such as creek channel, pathways, walls, and landscaping. Also at that hearing, the Town will consider approval of agreements with the District including items such as maintenance responsibilities, construction plan requirements, easements, liability, and indemnity. Only after Town approval of these agreements could construction begin.

**Fiscal, resource and timeline impacts:**

No fiscal impact to the Town other than staff time. The project is 100% funded by FZ9 tax revenues and DWR Proposition 1E grant funding.



**Alternative actions**

If the adoption of the resolution is rejected the Town must wait for action by the USACE which could be several years behind the proposed project's schedule. Whether funding would then be available from FZ9 revenue for alternative projects is unknown, and DWR Proposition 1E funding would likely be lost.

If the adoption of the resolution is delayed or continued there is increased risk of loss of all of the Prop 1E grant funding and significant loss of FZ9 tax money.

**Environmental review (if applicable)**

This action is not subject to the California Environmental Quality Act.

**Attachments:**

1. Resolution No. 2037
2. IJ Newspaper Article from 2006
3. Flood change maps: (a)10-yr, (b)25-yr, (c)100-yr
4. Conceptual project 3D perspective
5. Project conceptual layout plan
6. Project FAQ
7. Correspondence

# ATTACHMENT 1

## **TOWN OF ROSS**

### **RESOLUTION NO. 2037**

#### **A RESOLUTION OF THE TOWN OF ROSS RECOGNIZING THE POTENTIAL FLOOD RISK REDUCTION BENEFITS PROVIDED BY THE MARIN COUNTY FLOOD CONTROL DISTRICT ZONE 9 "CORTE MADERA CREEK FLOOD RISK MANAGEMENT PROJECT – PHASE 1" AND SUPPORTS THE DISTRICT IN PROCEEDING WITH FURTHER PROJECT DEVELOPMENT AND COMPLETION OF A JOINT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT**

**WHEREAS**, the primary goal of the Corte Madera Creek Flood Risk Management Project – Phase 1 (the "Proposed Project") as proposed by the Marin County Flood Control District (the "District") is to reduce the frequency and severity of flooding and to protect human life and property in the communities of Ross and Kentfield by enhancing and improving Corte Madera Creek; and

**WHEREAS**, the Town of Ross owns property in fee over which portions of the Proposed Project would be constructed; and

**WHEREAS**, the Proposed Project is currently in a conceptual design phase, wherein the final design and specific features of the Proposed Project as well as any agreements or understandings as to landscape design, land use, easements, maintenance, liability and indemnification will require the approval of Town Council at some future date; and

**WHEREAS**, the Proposed Project as proposed is the first phase of the larger US Army Corps of Engineers (USACE) flood control project; and

**WHEREAS**, as a condition for becoming a part of the Marin County Flood Control and Water Conservation District Zone Nine, the Town of Ross retained the contractual right of final design approval for all elements of the USACE flood control project through its jurisdiction; and

**WHEREAS**, the Proposed Project's ability to reduce the frequency and severity of flooding and to protect human life and property in the communities of Ross and Kentfield has been adequately demonstrated through detailed hydraulic analysis; and

**WHEREAS**, the Town Council held duly noticed public hearings on June 8, 2017, October 10, 2017, and December 14, 2017 wherein the merits of the Proposed Project were discussed; and

**WHEREAS**, the Marin County Flood Control District held public outreach informational meetings and site tours to certain residents whose properties are contiguous to the Proposed Project on Sir Francis Drake Boulevard and Ross Common in the Town of Ross on November 4, 2017 and a duly noticed public outreach site tour for all Town residents on November 18, 2017, wherein the basic concepts of the Proposed Project were discussed; and

**WHEREAS**, the design and construction costs for the Proposed Project are eligible for 100% funding under a State Department of Water Resources grant and Marin County Flood Control District Zone 9 tax revenue.

**NOW THEREFORE BE IT RESOLVED**, the Ross Town Council of the Town of Ross does hereby recognize the potential flood risk reduction benefits of the Proposed Project, and supports the Marin County Flood Control District in proceeding with further project development through the completion of the joint Environmental Impact Statement/Environmental Impact Report.

**NOW THEREFORE BE IT FURTHER RESOLVED**, the approval of this resolution shall not be construed as an agreement, promise, commitment or warranty by the Town to approve any easements or other agreements necessary for the construction, operation or maintenance of the Proposed Project. The future approval of any agreements or other actions required to be taken by the Town for the construction, operation or maintenance of the Proposed Project shall be at the sole and absolute discretion of the Town.

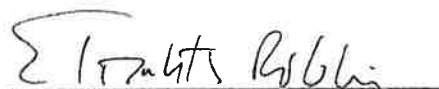
The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 14<sup>th</sup> day of December, 2017, by the following vote:

**AYES:** Council Members Brekhus, Kuhl, Russell, McMillan

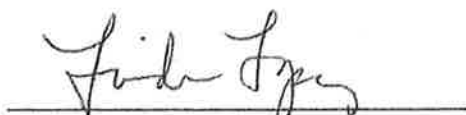
**NOES:** Council Member Robbins

**ABSENT:**

**ABSTAIN:**

  
Elizabeth Robbins, Mayor

**ATTEST:**

  
Linda Lopez, Town Clerk

## ATTACHMENT 2

**marinij.com**

## Doomed from the first drop

Richard Halstead

Article Launched: 01/08/2006 04:28:00 AM PST

As floods surged through the Ross Valley last weekend, Miriam Kuppermann of Ross watched from her window as a deer was swept down Kent Avenue in a 4-foot-deep torrent of water.

Turbid water poured through her basement and garage, submerging her family's four cars.

Now, she and other water-logged residents of the region including Ross, San Anselmo and Fairfax want to know: Why has a flood control project for the area languished for more than 30 years?

"I'm an avid hiker, and I totally appreciate and respect the environment, but you can't turn Kent Avenue into a flood zone," Kuppermann said. "It needs to be fixed right away."

This isn't the first time the Ross Valley has been inundated. The Corte Madera Creek Basin has flooded 14 times over the past 50 years. Floods causing major damage occurred in 1951, 1955, 1958, 1960, 1962, 1963, 1967, 1969, 1982-83 and 1986. The worst floods occurred in 1955 and 1982. Prior to the 1960s, it was not uncommon to see rowboats in use on the College of Marin campus.

In the 1960s, the U.S. Army Corps of Engineers initiated a flood control project on Corte Madera Creek. As originally conceived the project would have reached from the San Francisco Bay into Fairfax, replacing the upper reaches of Corte Madera Creek and much of San Anselmo Creek with a concrete channel extending 6.5 miles.

But the project hit a political brick wall when it

reached the town of Ross in 1971.

Time after time over the next three decades the project would appear about to proceed only to face some new roadblock. The main sticking point has been the Army Corps' design plans. Local environmental activists have rejected more than one version. They say the Army Corps' focus on getting water to move faster through the creek channel is misplaced and question whether it would be effective. Project opponents say more attention needs to be paid to prohibiting building in the flood plain and reducing the amount of impervious surfaces.

The most recent reincarnation of the project stalled in 2000 when representatives from Ross, Kentfield, Larkspur and a local environmental group, Friends of Corte Madera Creek Watershed, failed to agree on a preferred design alternative. The estimated cost for the project continues to spiral upward with every tick of the clock. Even if local consensus was reached, funds would have to be allocated by Congress.

### Channel challenged

In 1971, when the federal government was prepared to pay the lion's share of construction costs, the project ran afoul of Marin's budding environmental movement. At the time, Frank Egger, in the early stage of his more than 40 years on the Fairfax Town Council, compared the proposed concrete channel to the Embarcadero Freeway in San Francisco. The freeway was deplored as an eyesore when built and later torn down. Egger said the concrete channel was an approach that might have been acceptable in 1962 - but not in 1971. Both Fairfax and San Anselmo decided to opt out of the project.

"We didn't want our creeks turned into concrete ditches," said Egger, who played a key role in

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getting both towns to drop out.

The Ross council, however, voted 3-2 to proceed.

"Ross had a gun put to its head," said Peter Brekhus, who was the Ross town attorney in 1971. Brekhus said the Army Corps threatened to build a dam at the town borders between Kentfield and Ross if the town refused.

Nevertheless, construction was halted by a lawsuit filed in December 1971 by Ross resident Peter Valentine, co-chairman of a group calling itself Save Our Creek. In his suit, Valentine insisted a referendum should be placed on the ballot to allow Ross voters to decide the matter. In April 1972, a Marin Superior Court judge ruled in Valentine's favor. The decision was later overturned, however, after the Ross council appealed.

Valentine, who now lives in Kentfield, says it was the Army Corps' refusal to consider a more environmentally friendly design that doomed the original project.

"I told them, 'What we want is a Chevrolet,'" Valentine said. "Their response was 'No. You can have a tank, or you can have a tank.'"

Opponents of the project received support from Marin County supervisors Peter Arrigoni and Gary Giacomini. But the Board of Supervisors gave up an attempt to block the project in November 1974 after a judge ruled that supervisors could be held personally liable for up to \$12 million in damages.

At the beginning of 1975, the project appeared to be back on track. The state Supreme Court had refused to hear an appeal by Valentine. But in February 1975, Congressman John Burton, then the Sixth District's representative in the House of Representatives, stepped in, promising to block

federal funding. In March 1975, Burton announced that the Army Corps had agreed to consider design alternatives.

A compromise plan, which called for building a channel parallel with the creek - a series of stone-covered concrete walls up to 8 feet high - emerged and appeared to garner the support it needed to move forward. Then in 1978, California voters passed Proposition 13, throwing up a new roadblock. The initiative limited the Marin County Flood Control District's ability to raise the \$500,000 in local funds needed to secure federal funding.

It wasn't until after the devastating floods of 1982 that this obstacle was surmounted. In August 1983, Marin Superior Court Judge Henry Broderick ordered the district to impose a special tax to raise the local matching funds. Broderick said the tax would be legal since the funding agreement was reached prior to passage of Proposition 13.

But the 1982 flood revealed new information about the work already completed, a trapezoidal earth channel near the Corte Madera Creek's mouth followed by a 1,500-foot concrete channel farther upstream through Kentfield.

The Corps discovered that the rate at which water flowed through the channel had been slowed substantially because of sediment and barnacles growing on the concrete walls. As a result, the design for the project extension into Ross, once again, had to be rethought.

#### Back from the dead

The project lay dormant until 1996 when the Board of Supervisors requested that the Army Corps proceed with a scaled-down version. The Corps responded with four options. But a local advisory committee formed to choose one failed to reach a

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consensus. The project stalled again.

Joan Lundstrom, who heads the five-member committee that advises the Board of Supervisors on flood matters, has notified the county that she wants to resume discussion of the project this month.

"This is the time to sit down and focus everybody," said the Larkspur councilwoman.

But local environmentalists still oppose any of the construction alternatives.

Jared Huffman, an attorney with the National Resources Defense Council and a Marin Municipal Water District board member, has led a coalition of environmentalists calling for "a serious look at nonstructural strategies for flood management."

"Unfortunately, the Corps of Engineers has continued to focus on 1950s-style channelization and concrete walls, which we now know doesn't work," Huffman said.

Huffman, a candidate for state Assembly, said the work completed so far fails to deliver the amount of flood protection promised. "In fact, it delivers almost no protection," he said.

Huffman contends the major problem is all the construction in the Ross Valley, much of it in the flood plain, that is impervious to water. He said that when the rain comes hard and fast, the water sheets off roofs, concrete sidewalks and asphalt parking lots.

Brekhus said much of the water that flooded Ross in 1982 flowed there from San Anselmo.

"There were actually cars and big Dumpsters floating down San Anselmo Avenue into Ross," Brekhus said.

Any work completed downstream in Ross will provide no flood relief to communities upstream such as San Anselmo and Fairfax, said Jim Miller, the Army Corps' project manager.

But John Woley, a county flood control consultant, said it is inaccurate to say that the flood control project has been a failure. From 1900 through the 1960s, there were property-damaging floods every four years in the Ross Valley; since then there have been four, Woley said.

"There has been a dramatic reduction in the amount of flooding in the lower Ross Valley after construction of the project," Woley said.

#### Rising costs

The cost for the Ross section of the project has ballooned from \$3 million in 1974 to \$11.6 million in 2000. It is unclear whether the Marin County Flood Control District would be required to pay the 1.5 percent local match, which existed when the project was initiated, or the 50 percent match required of projects since 1996.

"The ifs get larger the longer you go," Lundstrom said.

Supervisor Hal Brown, who joined the board in 1983, said one of the problems has been keeping people's attention once the rain stops.

"If there hasn't been flooding for 10 years, nobody's interested," Brown said. "You can't get anybody to come to a meeting."

In the end, Brekhus said people may once again shrug off last weekend's storm and say, "Thank God these 100-year storms only come every 20 years."

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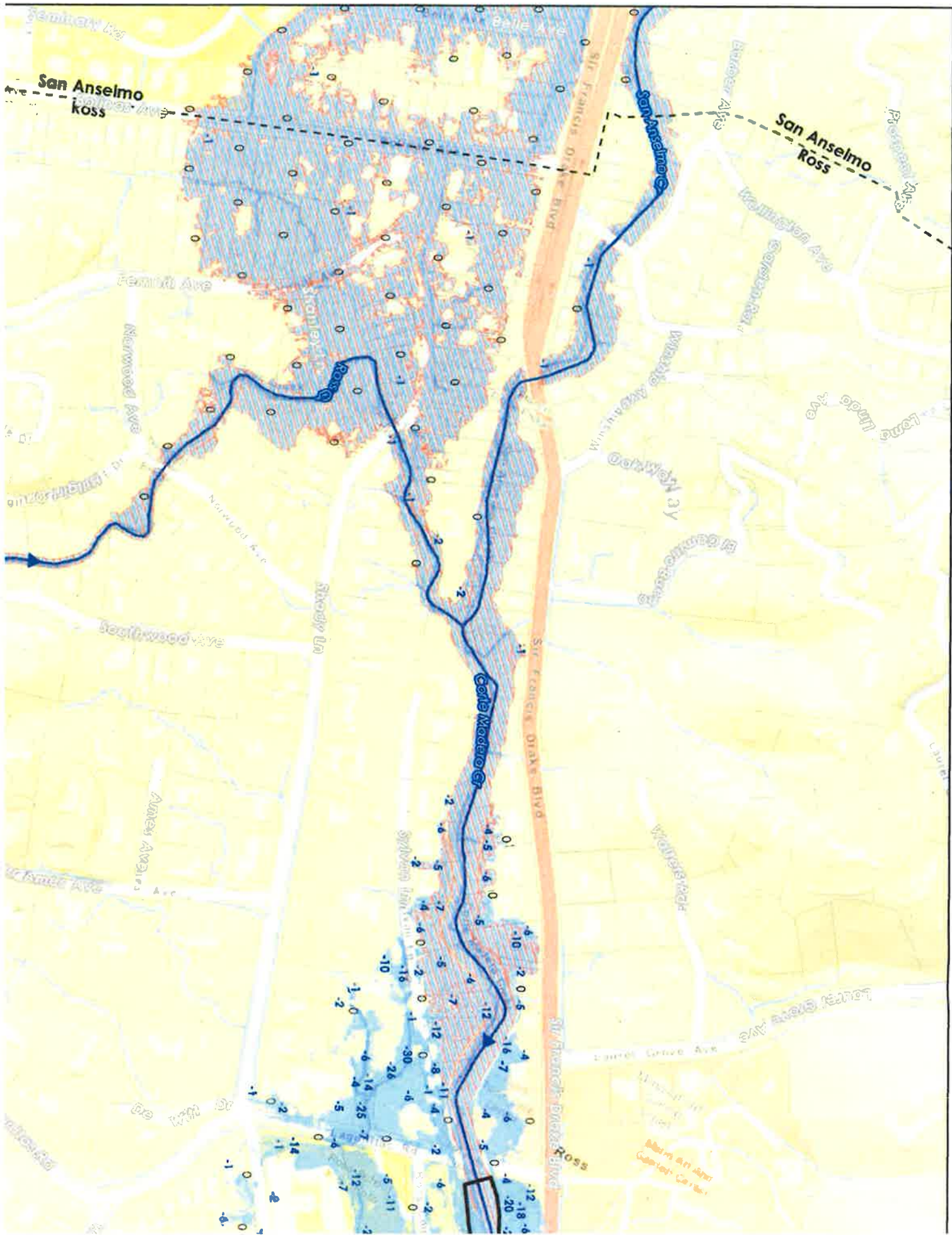
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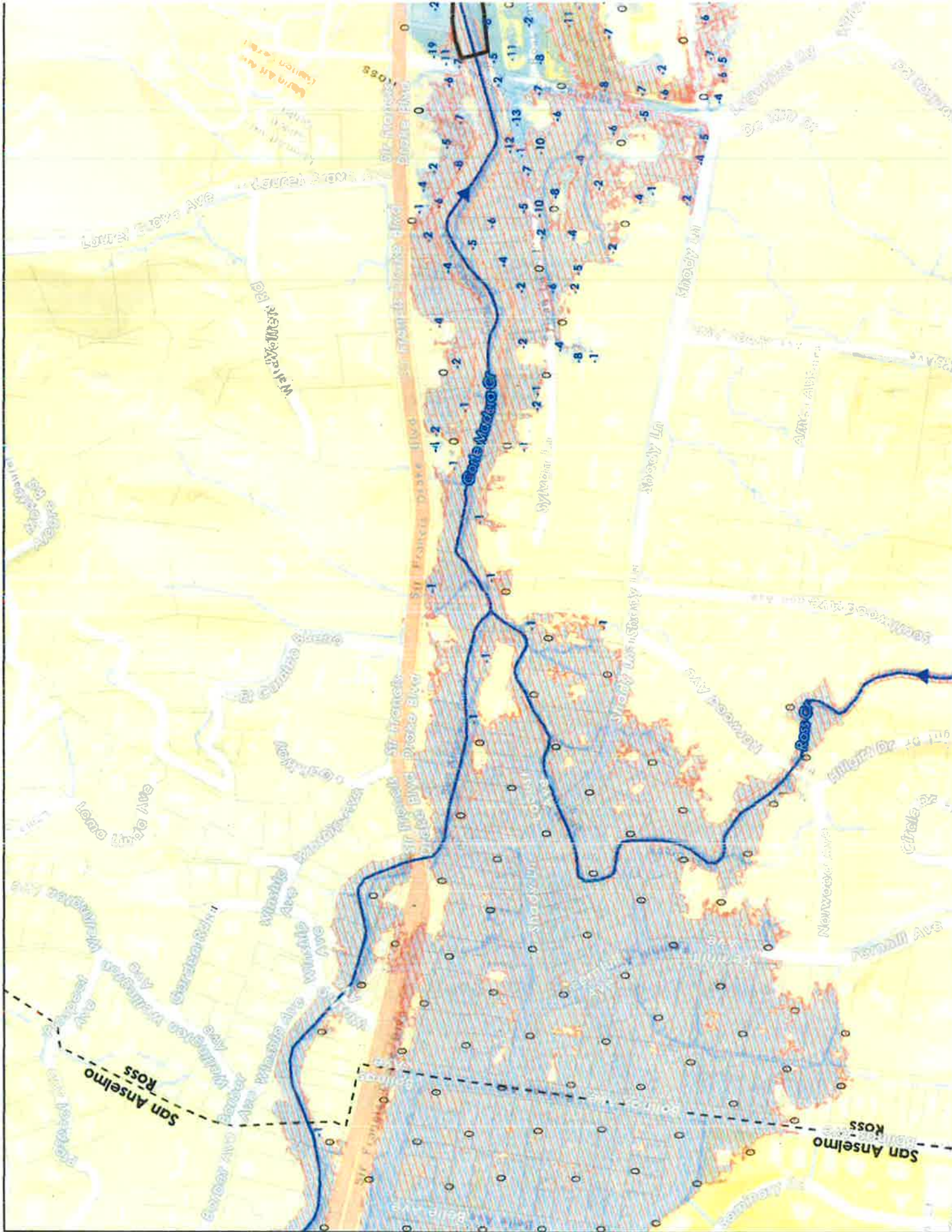
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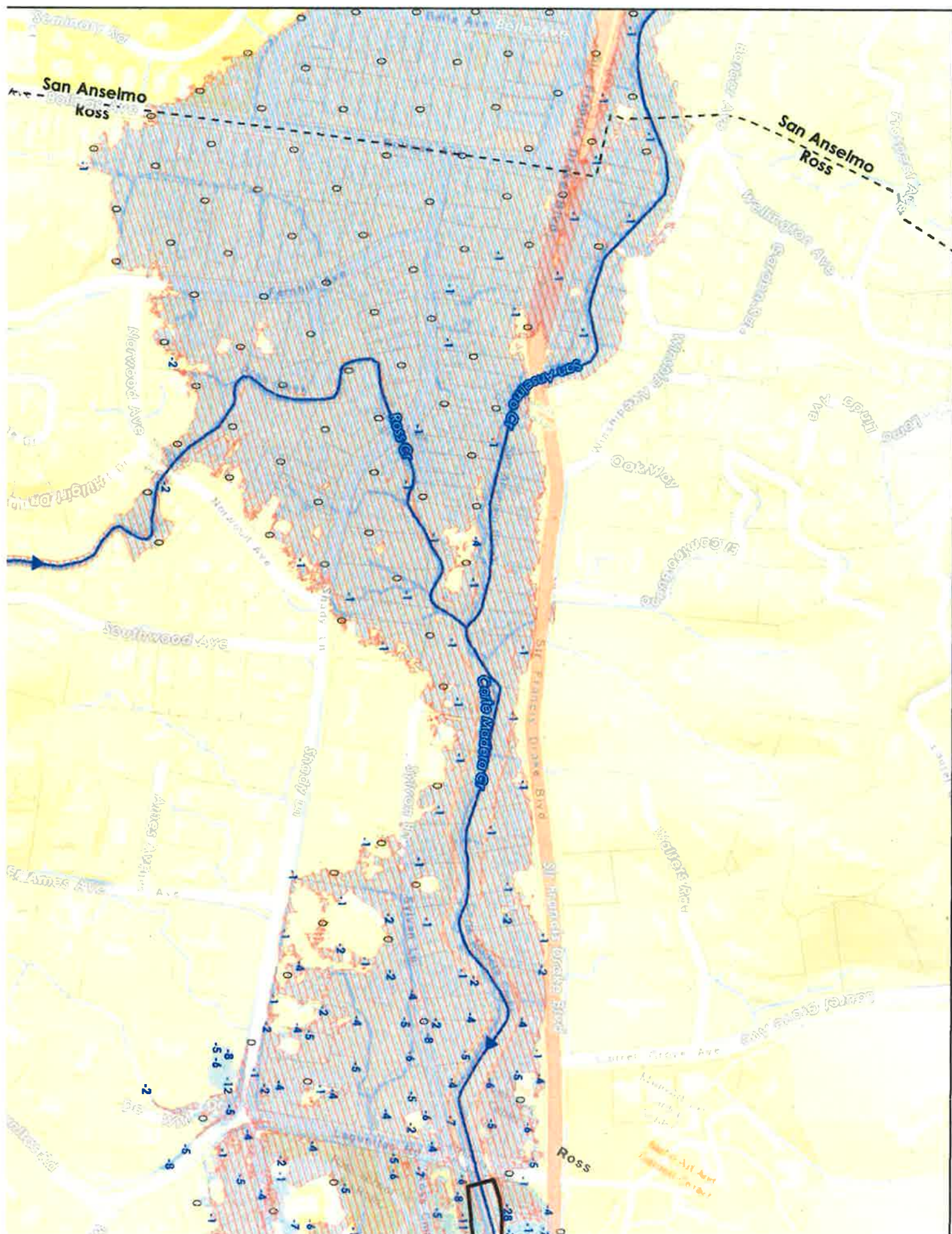
## ATTACHMENT 3







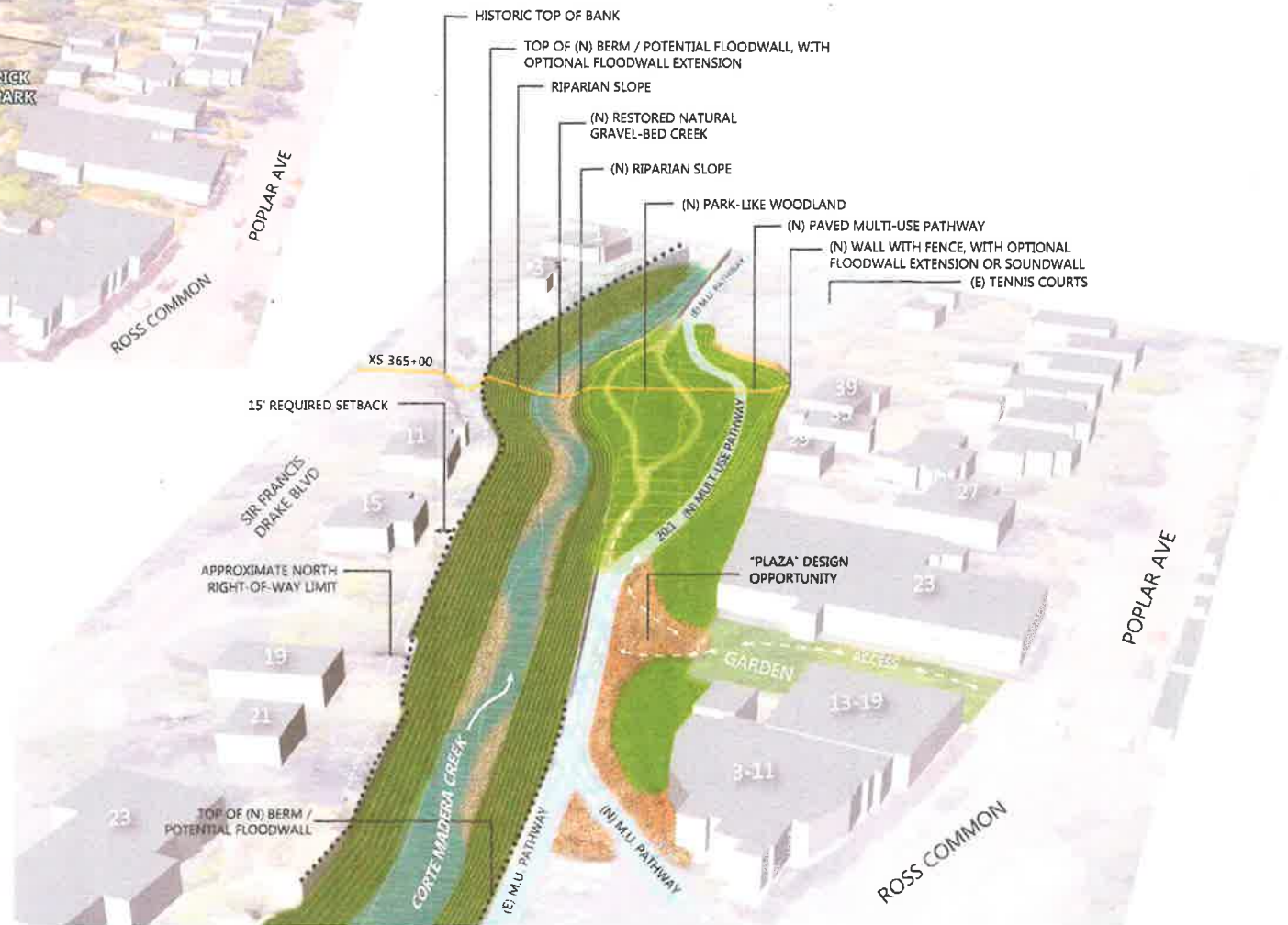




# ATTACHMENT 4



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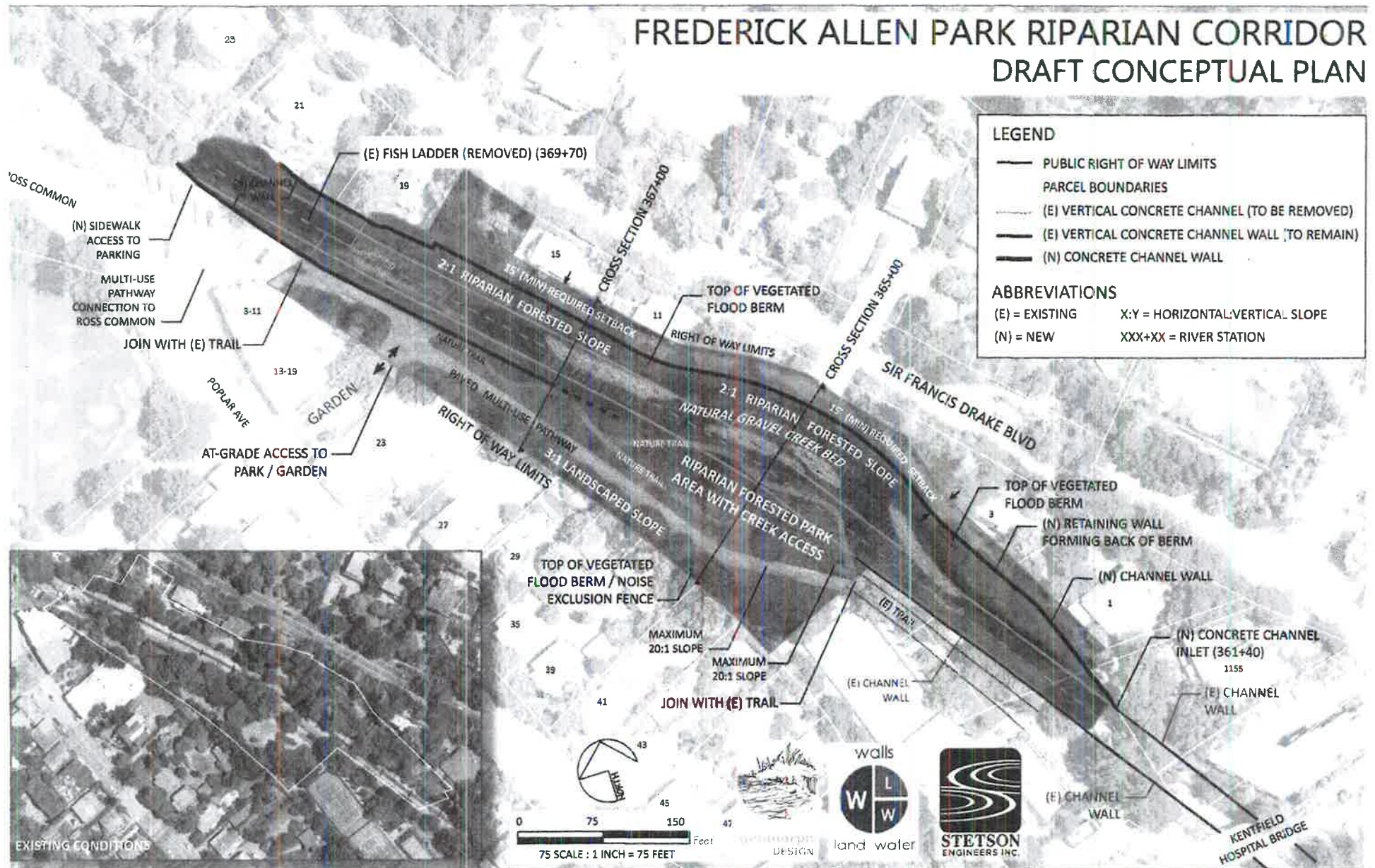


TREE AND SHRUB PLANTINGS FOR ACHIEVING PARK-LIKE TREE DENSITY IN RESTORED RIPARIAN CORRIDOR NOT SHOWN FOR CLARITY AND PENDING PLANTING PLAN DEVELOPMENT



# ATTACHMENT 5

# FREDERICK ALLEN PARK RIPARIAN CORRIDOR DRAFT CONCEPTUAL PLAN



DATE: 12/01/1



# ATTACHMENT 6

# Ross Valley Flood Protection and Watershed Program

## PROJECT: CORTE MADERA CREEK FLOOD RISK MANAGEMENT

FREQUENTLY ASKED QUESTIONS (FAQ) NOVEMBER 29, 2017

### What is the Corte Madera Creek Flood Risk Management Project that is currently under development by the US Army Corps of Engineers (USACE)?

The primary goal of the Corte Madera Creek Flood Risk Management Project (USACE Project) is to reduce the frequency and severity of flooding in the communities of Ross and unincorporated Kentfield. The proposed Project would include;

- removing the wooden fish ladder in Ross that constricts flow,
- widening the channel to hold more water by removing portions of the concrete channel to create flood plains and riparian corridors, and
- installing flood walls adjacent to the banks and stabilizing creek slopes to protect properties adjacent to the creek.

The proposed USACE Project goals and benefits are:

- managing flood risk in a manner that is fully implementable and supportable by the local community by reducing the likelihood and consequences of flooding on human life and safety, and reducing the risk of flood damages, preserving or restoring the natural creekbed and associated riparian habitat, and improving fish passage;
- preserving or improving, to the extent practicable, the recreational experience and aesthetic quality of Corte Madera Creek;
- minimizing future erosion of unprotected creek banks & improving bank stability along the earthen channel in Ross; and,
- minimizing long-term maintenance requirements of the project.

### What is Phase 1 of the USACE Project?

The USACE Project is being divided into two projects in order to move priority flood reduction measures in Ross and Kentfield years ahead of the larger USACE Project's schedule by utilizing a \$7.6 M grant from the Department of Water Resources (DWR). In June 2017, the Flood Zone 9 Advisory Board approved reallocating DWR grant funds from the Phoenix Lake Integrated Regional Water Management Project (determined to be infeasible as proposed due to grant restrictions) to create Phase 1 of the Corte Madera Flood Risk Management Project.

The goal would be to construct Phase 1 by 2020 and includes removing constrictions (such as the Ross fish ladder) and widening the channel (creating a flood plain, a more hydraulically-efficient transition, and a riparian corridor at Frederick Allen Park) to keep more water in Corte Madera Creek during large flood events. Phase 1 also includes making improvements to stabilize the banks of the earthen channel above the fish ladder and adding protective floodwalls along the channel downstream in Kentfield at the Granton Park neighborhood. These measures are being prioritized because residents and business in these areas flood during even smaller flood events, such as experienced in winter 2016-17. This opportunity also leverages state funds to offset the USACE-required local funding share of design and construction of the project. You can learn more about the larger USACE Project (Phase 2) at:

[http://www.marinwatersheds.org/documents\\_and\\_reports/USACECorteMaderaCreekProject.html](http://www.marinwatersheds.org/documents_and_reports/USACECorteMaderaCreekProject.html)





# PROPOSED PROJECT: CORTE MADERA CREEK FLOOD RISK MANAGEMENT

FREQUENTLY ASKED QUESTIONS (FAQ) NOVEMBER 29, 2017

## What are the benefits of the Phase 1 Project?

Phase 1 brings flood risk reduction to many residents and businesses in Ross and Kentfield by 2020, years ahead of the larger USACE Project (Phase 2) schedule. Existing hydraulic modelling indicates that the Project is calculated to reduce the height of flood waters by 2-11 inches in flood-prone areas in Ross, in addition to potentially removing properties from the FEMA 100-year special flood hazard area (SFHA) along Sir Francis Drake Blvd downstream of the Lagunitas bridge and Granton Park in Kentfield. Also, several properties within the existing SFHA that see flooding during a 10-year flood event should experience little to no flooding. Other potential downstream impacts will also be mitigated under the larger USACE project.

## Where is the Phase 1 Project in the development process?

The Phase 1 Project is currently in a conceptual design phase. The final design and specific features of the Project have not been completed at this point. The Marin County Flood Control and Water Conservation District (District) and Town of Ross are working together to conduct an in-depth public engagement process within the Ross community to ensure both directly and indirectly impacted residents have an opportunity to learn about the conceptual design and provide input. The District is also carefully analyzing different scenarios to maximize flood reduction while supporting community interests and environmental benefits. Both the larger USACE Project and Phase 1 Project are in environmental review and a Draft EIR/EIS will be released for public review and comment in Spring 2018. The Final EIR should follow later in 2018, which offers another opportunity for public comment. Then, Phase 1 will progress into final engineering and design, followed by construction, which is projected to be complete by 2020. Community input will continue to be a part of all phases of project development.

## Why not just remove the fish ladder, or are there additional benefits to creating the riparian corridor?


Hydraulic modelling shows that including the proposed Allen Park Riparian Corridor lowers the floodwater elevations an additional 2" to 11" compared to removing the fish ladder alone, mainly within the riparian corridor itself and also in the Sylvan Lane neighborhood upstream of the Lagunitas Road bridge. Reducing the depth of flooding during flood events is the most important goal of this project, which is further achieved by construction of the riparian corridor. The Riparian Corridor is also judged to be a crucial part of the overall USACE Project to mitigate for downstream effects of removal of the fish ladder and to mitigate for environmental effects that may be required to construct any project.

## Why doesn't the Town dredge the creek downstream of the Lagunitas Bridge like they did in the past?

Dredging (sediment removal) for flood risk reduction is mainly used in the slow moving, tidally-influenced reaches of a channel where fine sediment tends to build up over a period of years. In Ross, studies show that the buildup of the gravel bar around the Lagunitas bridge is a phenomenon attributed to the "fish ladder" bulkhead installed downstream by the Corps of Engineers back in 1971. In the past, the removal of the gravel bar around the old Lagunitas Bridge provided only a temporary flood risk benefit and because of the potential environmental impacts on aquatic species, is now only permitted when the creek is dry (naturally or by using expensive dewatering systems). With the higher deck and wider opening of the new Lagunitas bridge, and because it was found that the gravel bar was usually restored by nature during the first few storms of the season, the expenditure of Town funds to dredge this part of the creek is no longer justifiable.

## What is the Town of Ross' role in the Phase 1 Project?

The Town of Ross has multiple roles in the Project ranging from property owner to one of the project's decision makers relative to design and negotiating future agreements, such as maintenance and liability. The Town owns the property west of the current concrete channel, which is Frederick Allen Park. At this time, the Phase 1 Project is a conceptual plan with detailed analysis and design details still to be worked out based on findings from studies and meetings with stakeholders including Ross residents and businesses. As property owner of the Frederick Allen Park, the next step is to



# PROPOSED PROJECT: CORTE MADERA CREEK FLOOD RISK MANAGEMENT

## FREQUENTLY ASKED QUESTIONS (FAQ) NOVEMBER 29, 2017

have the Town Council decide whether to support the conceptual flood risk reduction project, which is scheduled at the Ross Town Council meeting on December 14, 2017.

Additional public workshops for the USACE Project (including Phase 1) will be scheduled for Spring 2018 to offer the community an opportunity to learn more about the Project schedule and gain information to assist with providing informed comments when the Draft EIR/EIS is released in Spring 2018.

Further along in the process, the Town Council will conduct a public hearing on the Phase 1 Project and consider a Design Review application for final consideration of the Phase 1 Project design. The detailed project design will include the location of all elements of the project such as creek channel, pathways, walls, and landscaping. In addition, the Town will consider approval of agreements with the District including items such as maintenance responsibilities, construction plan requirements, liability, and easements. Only after approval of these agreements could construction begin.

### **Will FEMA recognize the flood risk reduction benefit of the Project and reduce our flood insurance premiums?**

After construction is completed, the District and Town of Ross will apply for a Flood Insurance Rate Map Revision through FEMA that could redefine the flood plain to remove areas of Ross to reduce flood insurance premiums for some Ross residents.

### **As an alternative to constructing barriers to contain flows, why not offer no-interest loans to all homeowners in the floodplain to raise their homes?**

An alternative that will also be assessed in the EIR/EIS known as the Non-Structural Alternative, does propose to rely on home raising and flood proofing in the place of structural barriers to flooding. However, this alternative puts the onus on homeowners to raise their homes and would only benefit those homeowners that have the financial means and want to pursue raising or flood proofing their home. This alternative would not reduce hazardous flooding around homes that affect access to emergency services and roadways.

### **How can I learn more about the entire Project?**

You can go to the Ross Valley Watershed Flood Risk Reduction Program (Program) website at [www.RossValleyWatershed.org](http://www.RossValleyWatershed.org) and click on the project name "Corte Madera Creek Flood Risk Management Project" to learn more about the larger USACE Project (Phase 2) and Phase 1. You can also sign up on the website to receive automatic email notifications related to upcoming meetings and other Program updates.





# ATTACHMENT 7

# Margaret Foley Ellis

December 4, 2017

Dear Town Council Members,

I am in full support of the proposed flood risk reduction project at Frederick Allen Park. This plan will not only help minimize the danger of flooding our community but will also improve the Park that is an entrance to our Town. I applaud the members of our community who have devoted years of study, research and discussion of this issue.

I have read all the information and have spoken extensively with members of the community who have spent the last decade working on a solution to the flood problem that we face each year during the winter rains. I have also reviewed the information opposing this plan and I don't agree with this opinion.

This is the first time in years we have had a well researched, viable plan that is fully funded. It is time to take action and I encourage the Council to forward with the development process for the proposed Frederick Allen Park project. Please vote yes to go forward with this plan.

Sincerely,

Margie Ellis

#4 Fernhill Ave, Ross

Post Office Box 1421 Ross California 415-453-5870

## Linda Lopez

---

**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, December 7, 2017 12:32 PM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** FW: Flood control project

-----Original Message-----

**From:** CarolinePrezzano [mailto:caroline.gee@gmail.com]  
**Sent:** Thursday, December 07, 2017 12:30 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Flood control project

We are ALL FOR - fully support the proposed flood control project. We live up stream from the location and welcome any and all relief from the creek backing up.

Thanks for your consideration,

Doug & Caroline Prezzano  
45 SFD

Sent from my iPhone

## **Linda Lopez**

---

**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, December 7, 2017 12:32 PM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** FW: Flood control

-----Original Message-----

**From:** Margaret Partlow [mailto:[mmpartlow@gmail.com](mailto:mmpartlow@gmail.com)]  
**Sent:** Thursday, December 07, 2017 12:20 PM  
**To:** CouncilAll <[towncouncil@townofross.org](mailto:towncouncil@townofross.org)>  
**Subject:** Flood control

Dear Council Members: I share all of Charlie Goodman's concerns about the lack of information and lack of answers about the proposed flood control plan. Please research the issues Goodman has raised and answer these concerns completely before approving this plan. Thank you. Margaret Partlow, 7 Southwood Avenue, Ross.

Sent from my iPhone



**Linda Lopez**

---

**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, December 7, 2017 11:50 AM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** Flood Prevention

**From:** Thomas Harbinson [mailto:Thomas.Harbinson@harbinsonlaw.com]  
**Sent:** Thursday, December 07, 2017 9:00 AM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Flood Prevention

Town of Ross  
Council Members,

Please approve the proposed flood prevention project. It appears to be a step in the right direction to reduce the risk of flooding in Ross.

THOMAS J. HARBINSON

Town of Ross  
TELEPHONE (415) 986-3992

## **Linda Lopez**

---

**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, December 7, 2017 3:26 PM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** flood control plan

**From:** Lisa Williams [mailto:Lisa@WilliamsRoss.net]  
**Sent:** Thursday, December 07, 2017 2:33 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** flood control plan

I am opposed to the proposed floodwater plan that would widen the creek at Allen Park. I am a 22 year resident of Ross, and a 52 year resident of Marin, having grown up in Kentfield, and lived through the flood in the 1980s.

The proposed plan is not the answer.

Lisa Williams  
61 Glenwood Avenue, Ross.

## **Linda Lopez**

---

**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, December 7, 2017 5:50 PM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** FW: flood control

**From:** Marilyn Riede [mailto:MarilynRiede@comcast.net]  
**Sent:** Thursday, December 07, 2017 5:16 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** flood control

Dear Town of Ross Council Members: please do everything you can to stop the flooding in the Town of Ross. We can't be at the meeting as we are out of town.

Very important to deal with this issue.

Thank you.

Marilyn Riede

## Linda Lopez

---

**From:** Joe Chinn - Town Manager  
**Sent:** Friday, December 8, 2017 8:23 AM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** Fwd: Frederick Allen Park Flood Project

Begin forwarded message:

**Resent-From:** Proofpoint Essentials <[do-not-reply@maildistiller.com](mailto:do-not-reply@maildistiller.com)>  
**From:** "B.J. Martin" <[zapmarin@comcast.net](mailto:zapmarin@comcast.net)>  
**Date:** December 7, 2017, 5:41:46 PM PST  
**Resent-To:** <[towncouncil@townofross.org](mailto:towncouncil@townofross.org)>  
**To:** [towncouncil@townofross.org](mailto:towncouncil@townofross.org)  
**Cc:** Joe Chinn - Town Manager <[jchinn@townofross.org](mailto:jchinn@townofross.org)>  
**Subject:** Frederick Allen Park Flood Project

Dear Town Council Members,

I am writing to say how strongly I support the proposed flood control project at Frederick Allen Park.

Having attended two community meetings, where the project was thoroughly explained by the County Flood Control District regarding the removal of the archaic (and non-functioning) fish ladder, and demolition of a portion of the weirdly unnatural concrete channel, and widening of the natural creek basin near Frederick Allen Park, I am in full support of this flood risk reduction project.

Reducing the threat of the floodwaters should be a shared responsibility of all the towns along the Corte Madera Creek. While this one project will not be a fix-all, it will demonstrate (hopefully to other communities) a practical response to the devastating impact of flooding that we have seen in recent years. The fact that the project will receive a \$7.6 million dollar grant from the California Department of Water Resources, only makes this project more attractive. Please seize this opportunity to enhance the natural beauty of this beloved park, including the elimination of a tall chain-link fence and concrete wall, and the replanting of a natural riparian landscape.

When I read the flooding risk reduction calculations for the town of Ross, I was impressed by the number of inches of floodwaters that this project will remedy. The modeling of this project was very timely, thorough and encouraging. The handouts visually laid out the plans in a very accessible format. I love that the multi-use pathway will be maintained and improved. I loved that the natural pathways will meander near the creek in the 11 months of the year when the waterway is minimal.

For those who fear the improvement will endanger their children, or invite public access to the creek, I remain confused. Does Natalie Coffin Greene Park endanger our children or invite unwanted public access to the creek? Does Creekside Park in San Anselmo endanger our children or invite unwanted public access to the creek? Does the park across from Ross Town

Hall or behind Ross Town Hall, endanger our children or invite unwanted public access to the creek? I personally think this argument is ridiculous.

Having chaired the Ross Tree Committee for a couple of years, I feel confident that the town and the county will replant this beloved park with trees that will grow happily in a natural space, unbound by concrete walls and chain-link fences.

Thank you for your volunteer service to the Town of Ross. We are very lucky to have people like you looking out for our best interest.

Warm regards,  
B.J. Martin  
88 Shady Lane, Ross, CA 94957  
(415) 459-6437

**Linda Lopez**

---

**To:** Joe Chinn - Town Manager  
**Subject:** RE: Test Message - HTML Format:Urgent - Ross Residents - Please comment by Dec 12

---

**From:** Charles Goodman [<mailto:charlie@charlesgoodman.com>]  
**Sent:** Thursday, December 07, 2017 10:46 AM  
**To:** [eliz.robins@gmail.com](mailto:eliz.robins@gmail.com); [elizabethb@brekhus.com](mailto:elizabethb@brekhus.com); [beach.kuhl@sedgwicklaw.com](mailto:beach.kuhl@sedgwicklaw.com); Russell, P. Rupert; Julie McMillan  
**Subject:** FW: Test Message - HTML Format:Urgent - Ross Residents - Please comment by Dec 12

Please review, I am sending this out today and wanted to give you an advanced view.  
Charlie

**From:** Charles Goodman [[mailto:Charles\\_Goodman@mail.vresp.com](mailto:Charles_Goodman@mail.vresp.com)]  
**Sent:** Thursday, December 07, 2017 10:37 AM  
**To:** Charles Goodman <[charlie@charlesgoodman.com](mailto:charlie@charlesgoodman.com)>  
**Subject:** Test Message - HTML Format:Urgent - Ross Residents - Please comment by Dec 12



Dear Neighbor,  
Please click on the link below to view a short video with more information regarding Flood Control:  
<https://youtu.be/Os5yFJpmKCo>

Below are 2 photos of the 1987 Flood in Ross, CA.  
The water cannot re-enter the Corte Madera Creek because the road is lower than the channel



These questions still remain unanswered for the December 14, 2017 Council Meeting:

What are the contractual obligations on the Town of Ross, if the Council approves this conceptual plan?  
What is Ross' share of the matching funds tied to this \$7 Million grant?  
What will this cost Ross in:

- ? new annual dredging of this large sediment area in the creek?
- ? expanded insurance coverage to meet the assumed liability of the new park?
- ? staff to police, and maintain this new park?

The existing Frederick S. Allen Park has ample room for both bikes and pedestrians. Will the new paths offer the same amenities and recreational uses?

Will the trees on both sides of the channel be clearly marked so people can see which trees are being removed?  
Is the environmental cost worth the benefit? Who floods less and by how much?

What happens to the local flooding kept from the creek by walls and berms? Does walling in the creek mean walling out local drainage? If pumps are used, where are they, who maintains and operates them?

How is the larger, broader flow of stormwater from the new park funneled into the narrow concrete channel downstream? Does this project create a new "fish ladder" there?

[Click here to see the email I received from Ross Valley Sanitary District](#)

[Click here to see Dick Spotwood's editorial](#)

Here is a link to the letter I sent to all of you on November 3, 2017 (please note, the date the Council will vote on the project is December 14, 2017):

<http://p0.vresp.com/HeOIAM>

Please contact the Ross Town Council with your comments and concerns before December 12, 2017.  
They will be voting on this project December 14, 2017. Their email is: [towncouncil@townofross.org](mailto:towncouncil@townofross.org).

Sincerely,

Charlie Goodman

[charlie@charlesgoodman.com](mailto:charlie@charlesgoodman.com)

---

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Goodman Enterprises  
134 Paul Drive, Suite 102-104  
[penny@goodmanenterprises.us](mailto:penny@goodmanenterprises.us)  
San Rafael, CA 94903  
US

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Response  
Marketing

[Read](#) the VerticalResponse marketing policy.





## Linda Lopez

---

**From:** Joe Chinn - Town Manager  
**Sent:** Friday, December 8, 2017 10:10 AM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** Fwd:  
**Attachments:** image001.png; image002.png

Begin forwarded message:

**From:** "Roeder, Chris" <[Chris.Roeder@am.jll.com](mailto:Chris.Roeder@am.jll.com)>  
**Date:** December 8, 2017 at 9:17:39 AM PST  
**To:** "[towncouncil@townofross.org](mailto:towncouncil@townofross.org)" <[towncouncil@townofross.org](mailto:towncouncil@townofross.org)>  
**Cc:** Stephanie Fazeli <[Fazelis@aol.com](mailto:Fazelis@aol.com)>

My wife Stephanie and I, owners of 15 Fernhill and former owners of 2 Fernhill in Ross, are fully supportive of the passing of the Flood Reduction Measure being voted on next week.

Please call or email me w/ questions or comments.

Thanks,

Chris

**Christopher T. Roeder** – RE Lic. #01190523  
International Director  
Tel: (415) 395-4971  
Mob: (415) 939-4806



Jones Lang LaSalle  
1 Front Street, Suite 2100  
San Francisco, CA 94111  
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**Linda Lopez**

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**From:** Joe Chinn - Town Manager  
**Sent:** Friday, December 8, 2017 10:10 AM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** Fwd: Please Approve Flood Reduction Project

Begin forwarded message:

**From:** Stanley Stern <[stanley@sternplace.com](mailto:stanley@sternplace.com)>  
**Date:** December 8, 2017 at 9:15:12 AM PST  
**To:** "[towncouncil@townofross.org](mailto:towncouncil@townofross.org)" <[towncouncil@townofross.org](mailto:towncouncil@townofross.org)>  
**Subject:** Please Approve Flood Reduction Project  
**Reply-To:** Stanley Stern <[stanley@sternplace.com](mailto:stanley@sternplace.com)>

Dear Members:

We are writing to urge you to support the Flood Reduction Project at Frederick Allen Park. Flooding has been a long-time problem in Ross and our vicinity – this project appears to have a good chance to mitigate the disastrous problem that has affected many of our residents. To us, it's pretty clear that little has been done to solve this problem, and now we have the opportunity to proactively reduce this risk. It appears to be a very easy decision, and doing nothing seems like a less than constructive approach.

We understand the money's in place to do this in the form of a grant, so please approve this project and let's act in the interest of the citizens of Ross.

Thank you for your service to our Town - we know it's not easy.

*Stanley & Karen Stern  
66 Bridge Road, Ross*

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Friday, December 8, 2017 10:14 AM  
**To:** Linda Lopez; Richard Simonitch  
**Subject:** Fwd: Ross Flood Control  
**Attachments:** Ross Town Council Corte Madera Creek Flood Risk Management Project.docx; ATT00001.htm

**From:** Gary Scales <[garrettscales@comcast.net](mailto:garrettscales@comcast.net)>  
**Date:** December 8, 2017 at 7:43:26 AM PST  
**To:** Elizabeth Robbins <[eliz.robbins@gmail.com](mailto:eliz.robbins@gmail.com)>, Elizabeth Brekhus <[elizabethb@brekhus.com](mailto:elizabethb@brekhus.com)>, "Kuhl, Beach" <[Beach.Kuhl@sedgwicklaw.com](mailto:Beach.Kuhl@sedgwicklaw.com)>, "Russell, P. Rupert" <[rrussell@sflaw.com](mailto:rrussell@sflaw.com)>, Julie McMillan <[juliemcmillan@comcast.net](mailto:juliemcmillan@comcast.net)>  
**Subject:** Ross Flood Control

Attached are some thoughts I respectfully ask you consider before voting on the "flood control" issue. I believe it is better to forego the so-called grant than risk making a really bad decision. Regardless, I have the utmost confidence and respect for your collective judgement and will fully support your decision. Thank you for your continued good efforts on behalf of all residents of Ross. Gary Scales

There are several reasons why the Ross Town Council should not approve the Ross Valley Flood Risk Management Project on December 14, 2017. The following are among the most compelling.

- 1) The Army Corps of Engineers, and their counterparts with the County of Marin, unanimously agree the concrete channel adjacent the Frederick S. Allen Park is the only section of the entire flood control culvert that has worked as designed and has never failed to carry all flood waters. Why would you destroy the only section of the culvert that always has protected Ross residents?
- 2) The specifications for removing the existing concrete culvert walls and widening the earthen section of FSA Park are designed for a six-year flood with purported benefit in a ten-year event. When the inevitable 25 or 50-year flood occurs, County staff has not produced meaningful hydraulic projections to indicate the flooding dynamics when the current functioning culvert is removed. What happens when the widened section reaches capacity? Where will the additional water go? Such an occurrence has the potential for a monumental disaster with the Town of Ross holding major liability responsibility for damages. Officials have stated the proposed plan will provide no material relief benefit for flooding that exceeds the 10-year benchmark.
- 3) Sediment build-up occurs each year under the Lagunitas Bridge. With the fish ladder removed, these rocks naturally will move downstream to the proposed earthen section at the Park. They will build up, as they always do, thus raising the water levels and inevitably diminishing the widening effect of the Park. The County has yet to produce documentation previously requested by Ross residents and other interested parties on this important issue. The engineers have acknowledged the silt build-up on the revised Park will resemble the conditions at the mouth of the Corte Madera Creek Culvert in Kentfield at low tide. Even without a six-year event, the County engineers portray a silt-covered Park landscape strewn with "Cheetos bags, plastic bottles" and other such detritus for most of the winter months. Not only would this be a continual eyesore, but will require ongoing maintenance expense. Is that what Ross residents want to see three plus months of the year?
- 4) By any environmental criterion, the proposed destruction of the existing mature trees and natural landscape within the FSA Park cannot be justified. These trees were planted by Ross Town residents and the children of Frederick S. Allen to honor their father's many years of dedicated service. They provide visual aesthetics, habit for wildlife, and serve as an important sound barrier. It will take many decades to restore the beauty and functionality of the existing full-grown trees and vegetation once they have been cut down.
- 5) The Town has been advised the Corps of Engineers is preparing a comprehensive flood control proposal with four alternative schemes. County Flood staff state these plans will be available by April 2018. The goal will be to address solving the major flooding occurring with 25 or 50-year floods, as well as the 6 to 10-year events. Why doesn't the Council delay its vote to allow Ross residents the opportunity to evaluate the Corps of Engineers alternative long-range flood control plans?
- 6) In 1980 the Town Council approved, with significant resident participation and support, a Corps endorsed flood control known as the Royston Plan. This was a relatively simple and economical solution for the section from the fish ladder to the new Lagunitas Road Bridge that embraced all the current objectives for flood control, riparian restoration and enhanced recreational opportunities.

The 1980 Royston Plan was designed to integrated the existing FSA Park section while maintaining proper flow velocity and water transition. Ross residents should be able to compare the benefits and costs of the Royston Plan with the current FSA Park widening proposal as well the April 2018 Corps of Engineers alternatives. Why should the Town Council be pressured into an "up or down" vote that is based solely on the threat of the loss of a partial funding grant for a project still fraught with unknowns and serious future liabilities? Why shouldn't Ross residents be allowed the opportunity to consider alternative plans that will offer more flood protection than a six-year event?

- 7) On December 14, 2017, the Town Council will meet to consider approval of the conceptual plans for the widening of the FSA Park. Two of the votes will be made by appointed Councilmembers whose terms will expire in six months. In June 2018 election for the two appointed seats on the Council will be held. The views and opinions of prospective candidates on flood control plan will play a very important part in the voters' decision. In a real sense, being forced by the County to vote on the flood control issue by December 14, 2017 disenfranchises Ross residents of their rights of representation on this crucial issue.

Ross residents deserve long-term comprehensive flood-control protection rather than stop-gap measures that do not address the realities of 25 and 50-year flood events. Ross residents should be allowed to consider the Army Corps of Engineers alternative options and the 1980 Royston Plan. Ross residents should be represented by a fully elected Council. The Town Council should postpone the flood control vote until after the June 2018 elections are held thus allowing Ross residents to evaluate available alternatives.

Respectfully submitted,

Gary Scales  
4 Berry Lane, Ross

Ross Valley resident since 1940  
Graduate of Ross Grammar School 1953  
Ross Town Council 1978-1982 (Mayor 1982)  
Former Trustee Marin Art & Garden Center (Three terms)  
Current Trustee Moya Library-Ross Historical Society

## **Linda Lopez**

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**From:** Mimi <mimi\_mccarty@msn.com>  
**Sent:** Friday, December 8, 2017 11:04 AM  
**To:** Joe Chinn - Town Manager; Linda Lopez  
**Cc:** Craig  
**Subject:** Flood control proposal

I am strongly in favor of the 3-part proposal for flood mitigation on Corte Madera Creek.

Regards,  
Mimi McCarty (Margaret R. McCarty)  
59 Poplar Avenue  
Ross 94957

Sent from Mail for Windows 10

## Linda Lopez

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**From:** Christopher Martin <zapwharf@comcast.net>  
**Sent:** Friday, December 8, 2017 11:06 AM  
**To:** CouncilAll  
**Cc:** Linda Lopez  
**Subject:** Frederick Allen Park Flood Reduction Project

Dear Town Council Members,

I am writing to express my support for the proposed Flood Risk Reduction Project at Frederick Allen Park.

For too many years, floodwaters from the Corte Madera Creek have menaced our community threatening life and property. The Town's historical inaction to achieve solutions to reduce the severity of flooding is disturbing. Perhaps it was a lack of funding sources or other issues that delayed action for nearly 50 years. This Council finally is in a position to take action to reduce the degree of flooding in Ross and downstream communities. These flood reduction improvements can be achieved by 2020. It is time to take decisive action.

Your vote in favor of the Frederick Allen Park Flood Reduction Project will maintain the \$7.6 Million grant from the California Department of Water Resources. Your inaction will potentially jeopardize this grant.

The Frederick Allen Park Flood Reduction Project along with other alternatives will be considered and evaluated by the US Army Corps of Engineers and other agencies. This is not the Town Council's final vote on this project and this is not the final design.

I urge you to move forward with the project development process for the proposed Frederick Allen Park project. There will be opportunities in the future and throughout the process for public comment and Town Council review the of proposed project before final decisions are made.

Very Sincerely,

Christopher Martin

88 Shady Lane

## **Linda Lopez**

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**From:** Craig McCarty <Craig\_McCarty@msn.com>  
**Sent:** Friday, December 8, 2017 11:14 AM  
**To:** Joe Chinn - Town Manager; Linda Lopez  
**Subject:** I Support Flood control proposal

I am strongly in favor of the 3-part proposal for flood mitigation on Corte Madera Creek.

Regards,  
Craig McCarty  
59 Poplar Avenue  
Ross 94957



## **Linda Lopez**

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**From:** Eileen Thau <eileen.thau@gmail.com>  
**Sent:** Friday, December 8, 2017 11:40 AM  
**To:** Joe Chinn - Town Manager; Linda Lopez  
**Subject:** We support Flood Control Proposal

We are in favor of the 3-part proposal for flood mitigation on Corte Madera Creek.

Kevin and Eileen Thau

65 Poplar Ave #1135

Ross, CA 94957

**Linda Lopez**

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**From:** Tim Hill <t.hill@ggsir.com>  
**Sent:** Friday, December 8, 2017 11:53 AM  
**To:** Linda Lopez  
**Subject:** Flood control

I am strongly in favor of the 3-part proposal for flood mitigation on Corte Madera Creek.

Timothy Hill  
Golden Gate Sotheby's International Realty  
49 Poplar Avenue  
Ross, Ca

15 3662 8580  
[Tim.Hill@SIR.com](mailto:Tim.Hill@SIR.com)  
Sent from my iPhone

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, DECEMBER 14, 2017

### 1. 5:45 p.m. Commencement.

Mayor Elizabeth Robbins; Mayor Pro Tempore Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Rupert Russell; and Attorney Trisha Ortiz for Town Attorney Greg Stepanicich.

### Administrative Agenda.

### 2. Town Council consideration of adoption of Resolution No. 2037 recognizing the potential flood risk reduction benefits of the Corte Madera Creek Flood Risk Management Project – Phase 1, and supporting the Marin County Flood Control District in proceeding with further project development through the completion of the joint Environmental Impact Statement/Environmental Impact Report.

Public Works Director Richard Simonitch summarized the staff report and recommended that the Council adopt Resolution No. 2037 recognizing the potential flood risk reduction benefits of the Corte Madera Creek Flood Risk Management Project Phase 1. ("*Ross Project*"), and support the Marin County Flood Control District (MCFCD) in proceeding with further development of the Ross Project through the completion of the joint Environmental Impact Statement/Environmental Impact Report. He noted that there is nothing in this resolution about Council or staff committing to the approval of anything. The project is currently in the conceptual design phase and there is a long way to go to get even to a point when final plans and agreements can be considered or reviewed. He also noted that staff is in complete agreement that there is no downside to adopting this resolution. He stated that the final EIR/EIS is planned to be released for adoption by the Board of Supervisors in December 2018 and that Council and staff can attend the Board of Supervisors meeting to offer comments. Later, at the point of the final design, the Council will hold a hearing for final consideration of the project and approval of agreements about maintenance, easements, liability, and indemnity.

Matt Smeltzer, hydrologist consultant for Marin County Flood Control, provided the Council with a powerpoint presentation outlining Phase

1 of the Corte Madera Creek flood risk management project and the primary goal is to reduce the frequency and severity of the flooding in the communities of Ross and unincorporated Kentfield. The proposed project would include:

- Removing the wooden fish ladder in Ross that constricts flow;
- Widening the channel to hold more water by removing portions of the concrete channel to create flood plains and riparian corridors; and
- Installing floodwalls adjacent to the banks and stabilizing creek slopes to protect properties adjacent to the creek.

The proposed project goals and benefits are:

- Managing flood risk in a manner that is fully implementable and supportable by the local community by reducing the risk of flood damages, preserving or restoring human life and safety, and reducing the risk of flood damages, preserving or restoring the natural creek bed and associated riparian habitat, and improving fish passage;
- Preserving or improving, to the extent practicable, the recreational experience and

- aesthetic quality of Corte Madera Creek;
- Minimizing future erosion of unprotected creek banks and improving bank stability along the earthen channel in Ross; and
- Minimizing long-term maintenance requirements of the project.

Hydrologist Smeltzer stated that the slopes would be vegetated and that how much of the walls will be exposed depends on the final design. He stated that there is time before they arrive at the final design to collaborate on a design that addresses concerns.

Council Member Russell noted that everyone must understand the ramifications of removing the fish ladder. Hydrologist Smeltzer responded that a project that removes the fish ladder must consider the increase of flow and downstream effects.

Councilmember Russell asked Hydrologist Smeltzer to confirm that there would be no adverse effects on downstream communities. Hydrologist Smeltzer confirmed this as the project is part of a larger Army Corp project and the do no harm principle is in effect. The project is part of a larger rescale comprehensive analysis.

Hydrologist Smeltzer summarized his presentation and indicated that the main points is that the concrete channel would be removed; there would be flood walls on both sides; the park would be made wider with more uses; and the vegetation type would be a park-like woodland setting.

Hydrologist Smeltzer stated that there are areas of flexibility in the design. The example shows a 5' high exposed wall. The slope can be continued up to cover that wall. He stated that the plans show the strictest Army Corps regulations for vegetation but that in practice, they were going to be able to arrive at something that's a little less stark. He also stated that the bike path, which right now is near the top of the channel, is shown moved over towards the south side of the park. He stated that it doesn't have to move that far over and that the elevation of the path can be raised some to keep it from being inundated. There's a lot of flexibility depending on what people would like to achieve.

James Reilly, Stetson Engineers, consultant for Marin County Flood Control, discussed the flood risk reduction that would be achieved using animated modeling depicting different size flood events from an aerial view to better understand how flood waters move into the floodplain in regard to a 10-year flood, 25-year flood and 100-year flood. He also presented static maps to the Council showing how the flooding water surface is lower throughout the Town of Ross and Kentfield for these different size events and how the various properties are affected by a lower water surface.

Tonya Redfield, County Flood Control District, announced that all information is available on their website including all maps and the presentation provided tonight. Should the Council support this resolution moving forward they can move forward with formerly migrating the grant through finalizing their amendment with the Department of Water Resources with the support of the Town. From there they would move forward with hiring a consultant to immediately start getting through the rest of the preliminary design to help support the EIR/EIS process. That consultant will also help with the final design. Then they would put together a community workshop with the Army Corps of Engineers to discuss the alternatives. The draft EIR will be scheduled to be released in the spring.

Town Manager Joe Chinn discussed the cost of the Town for the project is staff time and outside of that the cost is zero. The project is 100% covered by Flood Zone 9 and the Department of Water Resources grant. Related to maintenance cost, they will be looking at County Flood Control to maintain the flood park portion of this project. The Town will still maintain the portion by the tennis courts and trees around that area, but the floodplain park will be the responsibility of County Flood Control. Related to insurance, the Town's insurance representative believes this project will reduce their exposure. In addition, the Town Hall parcel will have 5 to 8 inches lower of water when it rains, which reduces the building risk of flooding and helps the Town operationally. Tied to the insurance component, after the 2005 flood, the Town of Ross and other communities were sued for not doing enough. There was a settlement, which cost the Town \$2.5 million. The Town insurance also covered a \$250,000 loss of Town buildings on the Town owned parcel, so this proposal helps protect the Town now and into the future. This project is about maintaining a safe community. By keeping more water in the channel they will reduce flooding and help protect the residents and properties in this community. He then read a statement into the record from Police Chief Erik Masterson supporting the flood control project since it reduces water leaving the channel and helps prevent flooding making the community safer.

Roger Meagor, Ross Valley Fire Chief, discussed life safety for the public and for first responders. People underestimate the risk even in low water. Floodwaters are very powerful. This project is an incremental improvement and keeps Sir Francis Drake open, which is very important. Anything that can be done to improve the ability to keep the flood waters within the channel and out of the street and yards is a big improvement for public safety.

Town Manager Chinn added that staff believes this project would significantly improve the safety in the community and help to maintain and improve a safer community. The project provides and helps sustain financial responsibility and stability. This project improves their infrastructure and provides a public park space with access to the public. It also provides environmental benefits. Staff received several emails and letters related to the project and of those 20 were in support, seven opposed and one recommended removing the fish ladder only. Staff recommends approval of Resolution 2037 as follows:

*"Resolution No. 2037, a Resolution of the Town of Ross recognizing the potential flood risk reduction benefits provided by the Marin County Flood Control District 9 "Corte Madera Creek Flood Risk Management Project Phase 1" and supports the District in proceeding with further project development and completion of a joint environmental impact statement/environmental impact report. Now, therefore, be it resolved, the approval of this resolution shall not be construed as an agreement, promise, commitment, or warranty by the Town to approve any easements or other agreements necessary for the construction, operation or maintenance of the proposed project. The future approval of any agreements or other actions require to be taken by the Town for the construction operation or maintenance of the proposed project shall be at the sole and absolute discretion of the Town."*

Council Member Brekhus asked whether there would be flexibility to modify elements of the flood design if the Town did not like certain elements, such as the relocation of the creek closer to SFD. She wanted to understand if that happens then what happens to the funding source. County Flood Control District representative Redfield responded that as mentioned before the Phase 1 project the concept is as presented. There are several design features that have a lot of flexibility. They are still exploring and trying to understand since the engineering is not complete. For

example, if the Town wanted to remove the riparian park, in terms of the grant, they would have to go back to the granting agency to determine if the proposed changes are allowable. If they are not meeting the terms of the grant agreement they could potentially lose the grant funding to complete the project. Not knowing what the proposed changes could be, it is hard to say, but there are main basic features critical to the flood benefit.

Council Member Brekhus stated there are elements of the plan that cause her concern. County Flood Control District representative Redfield stated over the next year they will work very closely with Town staff, the Council along with the Advisory Board through the entire design process. She hopes to work collaboratively with everyone. She said that there's a lot of flexibility in the design based on what the town wants.

Russ Eberwein, County Flood Control District Senior Engineer, has been working very closely with DWR on the transfer of the grant from Phoenix Lake project down to this project and so far they have shown a lot of flexibility on how these benefits are achieved. He believed that would continue and allow them to be pretty flexible in how this project is implemented.

Mayor Pro Tempore Kuhl pointed out that what is before the Council is a concept that involves removing the fish ladder and the other is increase the capacity of the area of the creek by the park. That means the area will hold more water so less water will come out no matter what else is done with the project. County Flood Control District representative Redfield responded in the affirmative. Mayor Pro Tempore Kuhl hopes as many people as possible have viewed the staff report because in that staff report there are three diagrams that show the extent of the improvements expected based on the computer modeling. That flooding will be reduced in all the various areas in the downtown areas. County Flood Control District representative Redfield responded in the affirmative.

Council Member McMillan procedurally wanted to know when the Council would review, not in 2019, but in an interim basis. Also, she saw that there is a Board of Supervisor approval and wondered if they approve and then it comes back to the Council what type of backlash will the Council receive if the Council does not approve. County Flood Control District representative Redfield responded that the Town holds authority and final approval of the project. Tony Williams, County Flood Control, stated that they would not present to the Flood District Board of Supervisors before coming to the Council. The Council will have the first blessing. Typically when they have a stakeholder, it is taken to the stakeholder first and then the Board. County Flood Control representative Williams added that the Town passed a resolution several years ago indicating that the Town has final approval of design. Procedurally they typically always go to the stakeholder first and then take it to the Board. The Board is the last piece. There are a series of steps. They must go to the Board prior to construction. There are several procedural steps such as public hearings. Also, the certification of the EIR, it is not a full design, they are analyzing a series of alternatives in a conceptual way. There are still several details that must be worked out.

Mayor Robbins pointed out that the staff report indicated that the Council will have opportunities to comment on the EIR, but that regardless of Ross's comments, the project can still move forward if the Board of Supervisors accepts the document, which sounds as if the Town does not have the ability to re-evaluate the project. She wanted the resolution to state that the Town Council has the right to reconsider and cancel the project at any time up to design review or

whenever the appropriate time would be. As she reads the resolution the Town does not have that leeway. She said that the council had been told that it would have that leeway, that the council was just approving a concept to the EIR stage. She doesn't think that what the council was told fits with what it's seeing. County Flood control district representative Redfield noted that the Town must approve the easements and maintenance agreements, which will be the ultimate backstop. Mayor Robbins stated that that will be so far down the line, that it's sort of a take it or leave it situation. She stated that, as we understand what the Army Corps is proposing, learn more about it, we may say fine, that all the elements provide enough benefit, but we're being told this has to be rushed through right now because the county doesn't want to lose its grant money, but we were also told that it's okay because we're just approving a concept and that in the spring, when the EIR comes out, we'll have another chance to say yes or no. That should be in the resolution because that's what she thinks we went into this meeting thinking. She was expecting we would have a chance to look at it again, not in this rushed environment, to say yes or no. But the resolution doesn't say that. Town staff explained that the council can make comments at the Board of Supervisors meeting but that it can't stop the Board of Supervisors from approving the EIR, but that when the Town receives the final engineering documents and design review, the council has an opportunity to not approve the project at the end. Mayor Robbins pointed out that an opportunity to not continue the project at the point of easements is too far down the line. Mayor Pro Tempore Kuhl stated that they own a large part of the land involved in doing this project. If the Council does not grant an easement on their land, then they are not allowed to move forward with the project. County Flood Control district representative Williams concurred.

County Flood Control District representative Redfield clarified that by providing support now it allows them to continue to develop this concept and show the Department of Water Resources and the Army Corps that the Town is a willing partner. If the Town decides not to support this they will lose the grant funding and it sends a single to the Army Corps that they do not get this opportunity or it may be a diminished evaluation in their scope of alternatives, so they will not have this opportunity to be able to include that. Today shows that the Town is supportive of them to move forward and execute the grant and see that the environmental review is happening in tandem. Unless they are able to move forward to integrate into this process they run the risk of losing this opportunity.

Mayor Robbins wanted the Council to have the ability to reconsider in the spring and wanted such language included in the resolution. She stated that this is more than approving the concept. Unless there's something in the resolution that says that the Council can reconsider in the spring, this is a final approval, and that's not what we were told. County Flood Control District representative Williams added that this is the Town's land. The Board of Supervisors has the ultimate authority to approve the EIR, but if the Council does not approve the use of their land, then County Flood Control is out all that cost. They are assuming the risk and they would lose all that effort, which is an important point.

Council Member Brekhus understands assuming the risk, but if they only want to remove the fish ladder and not willing to do anything more, at that point in time having authorized the concept tonight they will have gone further in exploring the benefits and plans, there is some benefit even if they ultimately decide they do not agree with the full proposal. County Flood Control District representative Williams added that it is a tremendous risk to change at this stage. County Flood



Control District representative Redfield stated they have already put in a lot of science and engineering into this concept to provide reassurance to the District and be able to answer questions and provide a level of confidence to the Town. They feel strongly that this project provides significant flood benefits. Her hope is that the Council will support this resolution and move forward as a partner in the design phase and work through concerns and obstacles. For the Council at the final design phase to not approve and indicate they are out, that would be difficult and the project would go back to the Army Corps of Engineers. The District would have to repay the grant funds to DWR, which would have a huge implication. Council member Brekhus wanted to know that dollar figure. County Flood Control District representative Redfield did not have an exact dollar figure, but believed it would be around one million dollars.

Council Member McMillian felt if they had interim steps with the Council to check in periodically, possibly quarterly to resolve this matter. County Flood Control District representative Redfield responded in the affirmative. She believed that is part of their engagement plan to have regular checkpoints and develop a subcommittee to work together closely. Council Member McMillian desired a schedule to be put in place. County Flood Control District representative Redfield is open to develop that outreach schedule with the Council.

Mayor Robbins indicated if checking in every three months helps that should be part of the resolution that the Council and County will be checking in every three months and up to six months that the Council has the right to not continue with the project.

Council Member Russell suggested allowing members of the public the ability to speak and then the Council can ask questions. Mayor Robbins indicated that she had a few more questions. She felt an indemnification agreement should be in place now, since there is certainly more leverage now than later on. Attorney Trisha Ortiz explained that it would be difficult to negotiate an indemnification not having the details and the scope of the project. The concept is that there will be indemnification, but they need to have all specifics in place. Mayor Robbins inquired what is the County leaning towards in regard to indemnification. Attorney Trisha Ortiz responded that there have been discussions that indemnification is going to be a real key as the project moves forward. Mayor Robbins asked if the town isn't satisfied with the indemnification agreement, can the town say it doesn't want to follow through with the project. Staff attorney replied yes, in that case the town wouldn't enter into the indemnification, easement, or other agreements. The indemnification agreement would be part of the maintenance and easement agreements or operation agreement.

Mayor Robbins asked if there was enough data to show that making the park part of the project adds enough additional benefit to just removing the fish ladder, especially given how much money is going to be spent on the park. The documents that go parcel-by-parcel show the difference between the flood ladder alone and the flood ladder plus the park element, and she didn't think they showed much additional benefit if you add in the park element. She was concerned that no one was able to review the data because the county wouldn't let her share the documents, and asked if there could be more data evaluation before moving forward. County staff explained that the data being discussed is represented in their chart in regard to the benefits and existing conditions. What you are seeing is the incremental benefit with the Allen Park corridor compared to the minimum of just removing the fish ladder. The majority of the benefit from both projects really comes from removing the fish ladder. That's the meat of it. Flood District

Board representative Redfield stated that the data couldn't be shared because it doesn't represent any project that's currently being evaluated.

Council Member Brekhus stated if they just wanted to do the fish ladder then some portion of the concrete channel would need to be removed as well as walls would need to be added. County Flood Control District representative Redfield noted that the concrete channel is at the end of its useful life. The concrete channel will have to be dealt with. There is a concept that has just removal of the fish ladder with floodwalls and in order to contain the floodwater the floodwalls would need to be 8 to 10 feet high.

Mayor Robbins stated that the Council had been told that it would be able to see the Army Corps of Engineer plans in the spring and wanted to know, if the council preferred one of the Corps plans, would it would be able to use the Corps plan instead of the project being proposed. County Flood Control District representative Redfield stated that she didn't want to take time getting into the Corps process. She said that the Corps has been studying four alternatives that were presented over a year ago and that there will be a public workshop before the draft EIR is released where the plans will be presented to the public.

Mayor Robbins asked if ADA access would be required all the way to the waters edge and is that a grant requirement. County Flood Control District representative Redfield stated it depends if the Town desired access to the waters edge. If the Town decided they wanted no public access to the creek bed then that could be designed. The bike path would be maintained and that of course would be ADA accessible. The pedestrian path is to be determined.

Mayor Robbins expressed concern for the relocation of the sewer line. Public Works Director Richard Simonitch responded that there is about 850 ft. of sewer line that must be relocated. Mayor Robbins believed that is a \$2 million expense to relocate the sewer line.

Mayor Robbins is not comfortable with what is being approved since a revised resolution was just presented to the Council an hour before the meeting. She wanted the Town's interest to be put first. She then asked if there is a conflict of interest in regard to the hydrology data and should there be an independent hydrologist since the County and the Town share the same hydrologist. County Flood Control District representative Redfield stated that the Army Corps of Engineers is undergoing a peer review process and in her opinion she did not feel there is a conflict in regard to the data they share.

*The Council took a short recess and then reconvened with public comment.*

Mayor Robbins opened the public hearing on this item.

Christina Toms, San Francisco Water Resource Engineer, will be permitting all work done in Ross Valley. They are grateful that both the Town of Ross and Flood Zone are taking a multi approach to flood prevention. It is disappointing to hear that there is some reluctance on the part of floodplain restoration. It will be unlikely that simply removal of the fish ladder will be adequate mitigation for the flood protection project being proposed. They have been pushing for floodplain mitigation and hopes it is approved, as it is a critical component of the project mitigation.

Peter Barry, Ross resident/former Councilmember, stated that Ross should control this project and investigate the plans and not rush this process.

Kentfield resident expressed concern for the improvements proposed to Fred Allen Park since it is the last park that maintains a natural appearance. She opposed artificial improvements.

Frank Malin, Fernhill resident, stated that this project is an integral part of the overall plan. This project will improve hundreds of lives throughout Ross Valley. He asked the Council to vote to make their lives better.

Eric Young, Shady Lane resident, thanked staff for all their hard work in regard to the resolution and appreciated the information being delivered electronically and by mail. He strongly supports the resolution before Council.

Brad O'Connell, Sir Francis Drake resident, emphasized there will be a serious adverse effect on the property along Sir Francis Drake in regard to livability, privacy and aesthetics. His property has a substantial amount of land between his property and the creek. This project will move the creek substantially closer toward his home. In its current form they look at grown trees and vegetation, as proposed they would look at a concrete wall. He urged the Council to consider the adverse effects before approving this project.

Gary Scales, Berry Lane resident, expressed his views on this subject and has serious doubts about some of the issues raised. He admits to bias removing Fred Allen Park, as Fred was his mentor. They are destroying the only section of the culvert that ever worked. He asked if the Town would be married to the current proposed plan, and wanted to make sure the Town can modify the plan.

Beth Foster, Sir Francis Drake resident, appreciated the efforts of the Town to engage the neighbors asking for input. Addressing flooding is critical and is glad this project is being considered. She expressed concern about the concrete wall and the loss of landscaping and privacy. She is very concerned about the noise from construction. She hoped these concerns would be addressed through the process.

Garil Page, San Anselmo resident, stated that Ross is being given a use it or lose it option. The process is such that if they ultimately say, "no" they want out, then they are demonstrating to the Corps that there is no support that is needed to receive the federal funding, so the Council is not given a choice. She urged the Council to vote more carefully.

Leslie O'Connell, Sir Francis Drake resident, discussed the cross-section diagram and during a 100-year flood that water will build up behind the wall and safety will be in question. She appreciated the County making efforts to speak to residents, but their safety is not guaranteed.

Chris Martin, Shady Lane resident/former Councilmember, for the past eight years he served as the representative for the Town of Ross on the Advisory Board for the Flood Zone 9 District. The Advisory Board recommended ongoing consideration and further development of the proposed flood control alternative being considered tonight. The resolution being voted on furthers refinement and analysis on the flood control measure and preserves the \$7.6 million grant and

lack of funding is one of the reasons flood control improvements have not been accomplished in Ross for nearly 50 years. The proposed alternative has engaged a competent team of hydrologic engineers and respects their expertise, findings and recommendations and hoped the Town does as well. If approved tonight, more efforts will continue with further community engagement. If this does not pass tonight, flood control measures become more limited. This is one of the most important decisions the Council will make. The proposed alternative meets several of the general plan and Town goals including making a safer Town and addressing flood control. He asked the Council to take leadership and make the responsible decision for the long-term future of the Town of Ross.

Conner Kidd, Sir Francis Drake resident, have been engaged with the County and are optimistic they can work with them. They have concerns and hope they are properly documented.

BJ Martin, Shady Lane resident, appreciated the transparency in regard to this project. Her land flooded in 2005, so every inch matters. Trees can be replaced in regard to landscaping the park, but water entering the home is devastating.

Daniel Fredrich, Shady Lane resident, echoed all comments from his neighbors. It is nice to be able to walk down to the creek and enjoy it. There is no access upstream from Lagunitas Bridge. It is a wonderful feature of the plan to be able to walk down to the creek.

Craig McCarty, Poplar resident, submitted a petition of 18 signatures supporting this project. His home has flooded several times. Any reduction in water would be appreciated. This plan makes a lot of sense and recommended that the Council approve. Going back to flood mitigation, six inches of fast moving water can sweep an adult off their feet, so this reduction is significant in regard to public safety. They must help the residents in the Town of Ross as well as the residents downstream.

Katie Rice, Marin County Board of Supervisors, stated if this resolution were passed to further develop this concept, they would only be successful in this collaboration if they work together honestly. They can develop something they can all be proud of and will be a huge benefit to the community. Let's flush out this project and make it happen along with compromise and sacrifice. They need to be in this together around public safety and reducing flood risk and this will be the Town's legacy. There is incredible value in this project and hopes they can all work together on this project.

John Child, Poplar resident, stated that they all want to reduce flood control and have better flood protection. He recommended moving forward since the Council still has the tools in place in regard to easements and maintenance agreements to reconsider.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Council Member Russell stated that they are trying to balance several considerations, but pointed out that there is a substantial benefit to homeowners along Sir Francis Drake as shown on the maps. Mayor Robbins pointed out that it is hard when the data varies. She added that it is hard to receive good hydrology data. Town Manager Chinn added that everyone along Sir Francis

Drake south of Lagunitas would have 100-year flood protection as shown on the diagrams.

Council Member McMillian thanked everyone for their input and passion about this issue. She appreciated all comments. They must address flooding. It has occurred for way too long and they must take steps. This is a unique opportunity for the Town. Momentum must continue moving forward on flood control. Supporting the project now provides the Council and the expert's time to refine the data and design, address neighbors concerns and figure out the landscaping and review Army Corps projects that come out in spring. Also, increase community outreach and improve communications to make sure all residents are informed about the benefits. Encourage Ross citizens to attend meetings. She desired more check in points on the process. A system must be in place to receive updates such as quarterly reports. They have a lot of leverage at the end when that time comes in regard to easements, maintenance and indemnification agreements. She favored moving forward with periodic check-ins.

Council Member Russell believed they have a majority to approve this project and supported moving forward. They have all done a huge amount of work on this project and this is not a decision any of them will take lightly.

Mayor Pro Tempore Kuhl is very much in favor of moving forward. It would be a huge mistake to not take advantage of what is in front of them. This will provide significant opportunities to make things better for people. It is a terrible mistake to assume that the scientific evidence is not correct. He assumes that the information is correct and will in fact improve their situation. There will be some prices to pay, no project of this size will happen without some downside, but that is the price they pay to help mitigate flooding. He is very much in favor of the resolution. They will have a better looking downtown. The concrete walls and chain link fences will be removed along with flood improvements.

Council Member Brekhus supported the resolution as well. She appreciated the various staff members answering all her questions and concerns. There is no perfect plan, but they need to have a little faith moving forward.

Mayor Robbins stated that the Council should approve a project that is in the best interest of the town, and that this project may well be in the best interest of the town, but that we've only had a few months to learn about it and discuss it, and that we keep learning more things about it every week. She would support this resolution if it had the ability of the Town to reconsider the project up until the EIR, which is a fairly early stage and will not be too far along in the decision and building process. Since they do not know that much about this project, and this has been rushed in order to try to preserve the County's grant money, she did not feel the Town should approve this carte blanche, but approve with provisions that the Town can reconsider its approval in the next many months.

Mayor Robbins asked for a motion.

**Mayor Pro Tempore Kuhl moved and Council Member Brekhus seconded, to approve the redlined version of Resolution No. 2037 as presented by staff. Motion carried 4-1. (Robbins opposed)**

*Council Member Russell left the Council meeting at 9:00pm. The agenda order changed moving Item 18 next.*

## ATTACHMENT 3



## SPECIAL MEETING of the ROSS TOWN COUNCIL TUESDAY, OCTOBER 10, 2017

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**1. 7:00 p.m. Commencement.**

Mayor Elizabeth Robbins; Mayor Pro Tempore Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Katie Hoertkorn; and Council Member Rupert Russell.

**2. Marin County Flood Control District presentation of the Corte Madera Creek Flood Risk Management Project – Phase 1.**

Rich Simonitch, Public Works Director, announced that the Council is not being asked to make a decision tonight. This meeting is purely a public outreach effort by the Marin County Flood Control District (*MCFC*D) to input ideas from the residential community and the Council for the benefit of this Town and flood protection.

Tonya Redfield, Marin County Flood Control, presented a detailed overview of a significant flood control project being proposed within the Corte Madera Creek. The project, known as the “*Corte Madera Creek Flood Risk Management Project – Phase 1*” involves removal of the fish ladder, removal of most of the concrete channel from the fish ladder down to the tennis courts and widening and restoring the creek to a more natural state, and constructing a floodwall at Granton Park in Kentfield. Widening the creek would involve removing the existing fence and moving the bike path west, and part of Fredrick Allen Park would be excavated to become part of the widened floodplain park. Trees along the bike path would be removed during the construction and new trees and shrubs would be planted. Park amenities could be expanded incorporating the newly created riparian corridor into the existing Frederick Allen Park.

James Riley, Stetson Engineers, provided hydraulic modeling that showed that flood control and reduction of water flow for numerous properties near the creek that would benefit from the proposed project as well as foreseeable project completion timeline, upcoming meetings and the project schedule:

**Foreseeable Project Completion Timeline:**

- Corte Madera Creek Flood Risk Management Project (*US Army Corps*)
- Corte Madera Creek Flood Risk Management Project – Phase 1 (*Phoenix Lake Grant Migration*)
- San Anselmo Flood Risk Reduction Project
- Lower Corte Madera Creek Improvement Study
- Azalea Ave. Bridge
- Madrone Ave. Bridge
- Nokomis Ave. Bridge
- Winship Ave. Bridge
- Bridge Ave. & Sycamore Ave./Center Blvd. Bridge

**Upcoming Meetings:**

- Town of Ross Neighborhood Outreach – On-going

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- Town of Ross Council Meeting – Dec, 2017
- Flood Zone 9 Advisory Board Meeting – Dec 19, 2017
- Corte Madera Creek Flood Risk Management Project Community Workshop – Spring 2018
- Program EIR Draft Release – Spring 2018
- San Anselmo Flood Risk Reduction Program Draft EIR Public Hearing – Jan 2018

#### **Tentative Project Schedule:**

- DWR Grant Amendment Approved by DWR – Dec 2017
- Draft Project Environmental Impact Report/Statement – June 2018
- Final EIR/EIS – Dec 2018
- Construction – 2019-2020

Council Member Hoertkorn wanted to know the original purpose of the fish ladder and if the fish ladder ever worked. Engineer Riley explained that it was to allow the passage of fish. The Corps project stopped at that location and there was a grade change. They needed a way for the fish to make it over the transition from the concrete channel and it never worked very well.

Council Member Brekhus discussed the foreseeable projects represented in the modeling and asked if they are approved projects or just contemplated projects. Flood Control Representative Redfield indicated that the larger Corps project for Corte Madera Creek is still under design and that project has congressional funds, so it is not approved, but funded and moving along. The rest of the projects captured in the modeling do have funding and can be developed and constructed.

Tony Williams, Marin County Flood Control, explained that none of the projects have been approved yet in regard to environmental impact report (EIR). These projects from Flood Control Zone 9 standpoint have been recommended or approved by the Board of Supervisors to go to that next step. They are all under environmental review, which is what they meant by foreseeable future. These projects are moving forward as best they can through the environmental approval process, design and hopefully to construction. In terms of the nursery site, Fairfax has no jurisdictional boundary that is outside of their town limits and despite their recent initiative for a zoning change it does not affect directly the nursery site. A draft EIR for public review will be released in January.

Council Member Brekhus asked the height of the concrete wall. Scott Walls, Design Consultant, responded that the concrete wall on the right side is about 5 ft. tall looking downstream. It is setback 15 ft. from the property lines. Flood Control Representative Redfield added that it is conceptual at this point and there is variability.

Council Member Brekhus stated that the overlay does not allow the Council to understand what is happening in relation to the properties and the impacted areas. Design Consultant Walls stated it is very conceptual. Anything that is darker than the background is all within flood district owned property. The new setback wall is 15 ft. away or more to those property lines. The appearance of the wall will be discussed at a later date. It is very conceptual at this point. Council Member Brekhus believed it is a no brainer to explain how impacted the backyards of those properties will be from this project. Some of the homes are built on the property line. She felt an architect can layout the changes that are being considered. Design Consultant Walls explained they are not at that stage at this point. There is an entire environmental review process. They will review all kinds of impacts. Flood Control Representative Redfield explained that part of their outreach process is to meet with

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individuals. They just recently received the modeling, so it is very new. It will happen as they move forward in the process.

Council Member Brekhus asked the reason for changing the creek bed, why not leave the creek bed where it is currently located. She wished there was more information to approve. Design Consultant Walls stated it is hard to see, but there is a bend in the channel today. Council Member Brekhus added that nature does a better job flowing water, so they are trying to mimic that as much as possible. The College of Marin project is an example showing how to work with flood control to expand the footprint.

Mayor Pro Tempore Kuhl understood this would increase the amount of water held in the area of the project and the effect of that would be to reduce the area within this project. Design Consultant Walls responded in the affirmative. Mayor Pro Tempore Kuhl added that the wall would protect properties on the left side of the channel from a hundred year flood. Design Consultant Walls responded in the affirmative.

Flood Control Representative Redfield added that some of the modeling suggests that if they contained the same amount of flow the floodwalls could be anywhere between 5 and 11 ft. high, which poses significant safety issues.

Council Member Hoertkorn stated that the idea was to make this as natural as possible and the reason for this plan is to get as much naturalistic advantage as possible. Flood Control Representative Redfield responded in the affirmative.

Mayor Robbins stated that the purpose is to increase the capacity in that area and wanted to know the percent increase. Flood Control Representative Williams stated that in February of this year they had an event that almost flooded. 3,800 cubic feet per second, so ultimately this project with the floodwalls would get them up to at least 5,400 cubic feet per second. Mayor Robbins asked if the increase in the capacity of the creek bed could be expressed in terms of the increase in the volume of water in the widened creek, and not just in terms of the flow rate. County officials confirmed that they could do this.

Mayor Robbins stated that the County maintains up to the bike path and this project moves the creek away from the bike path towards homes. She asked if the County would maintain all the way up to the fences where the bike path will be located. Flood Control Representative Redfield responded that riparian habitat grows very quickly. They would be very much open to speaking with the Town and real estate folks and during those events when the park floods, and the Town is greatly benefitting from the reduced flooding in other areas as a result of this, she feels they could come to some maintenance agreement they could all support.

Mayor Robbins wanted to know the reason the channel is not able to be deepened. Flood Control Representative Williams added that there is not enough fall in the creek bottom to deepen it. That is really not an option. The concrete channel is an integrated system. It is engineered as one u-shaped unit. For the overall change in slope, they must look at the entire slope and those changes may have impact upstream. Deepening the channel would not solve the problem.

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Mayor Robbins asked about the drawing showing the widened creek ending abruptly at the tennis courts. Design Consultant Walls explained that the contours go back into the creek. They follow the paved trail and it is a smooth transition.

Council Member Brekhus recommended a condition of approval that if the Town is sued for creating added flooding downstream that Flood District 9 indemnify the Town. Flood Control Representative Redfield stated there are many steps to avoid downstream harm. If results show this created more flooding downstream, then this would not be a viable project. In terms of indemnification, she is not able to speak on that matter.

Council Member Russell discussed the timeline of completion and asked when the project would start. Flood Control Representative Redfield indicated that Phase 1 construction would begin in 2019. The fish ladder is the worse constriction in the Creek so this is a chance to solve that problem earlier. Same with Granton Park community in Kentfield, they flooded three times. It is hard to exactly state the timeline, but this project is planned to be completed by June 2020, San Anselmo project December 2020 and the bridges by the end of 2020.

Mayor Pro Tempore Kuhl asked if there are time limit requirements to execute this project to maintain their ability to receive the grant funds. Flood Control Representative Williams stated both San Anselmo and Corte Madera projects are tied to water resource grants. They must be constructed by June of 2020 and for some reason the San Anselmo project is December 2020, so the grant funding is driven by those dates.

Mayor Robbins asked if it is an option to approve removing the fish ladder and flood wall in the neighborhood and only studying the Allen Park area at this time. Flood Control Representative Redfield stated without knowing the model implications it would be hard to indicate. They need to take an integrated approach and the regulators are pushing hard for this approach so it would be challenging to push through a project that was just floodwalls and removing the fish ladder at this point, but they could certainly discuss in more detail.

Council Member Brekhus believed it is a great idea to have the flood district survey the locations of the right-of-way and the 15-foot setback in order for everyone to better understand what is proposed.

Mayor Robbins opened the public hearing on this item.

Chris Martin, Board of Directors Flood Zone 9, remembered many years ago when Ross Grocery owner Eddie Ahrens asked residents to help dismantle the fish ladder. The fish ladder obstructed the passage of storm water that ran through the Town's businesses and homes. Also, the fish ladder did a miserable job conveying fish. For several decades the Town of Ross tried to replace the fish ladder and make creek improvements to reduce flooding. Studies were initiated and completed and all concurring that flood control improvements were vital, but nothing happened due to lack of funding and bureaucratic snags. The 2005 flood reached levels only slightly below the 1982 flood. The 2005 flood resulted in over 95 million dollars worth of damages to homes, businesses and public agencies in the Ross Valley. During these flood events fire, police and emergency services are paralyzed. This project will remove part of the concrete channel, and create an enhanced and expanded Frederick Allen Park. It will also allow access to the creek bed during most parts of the

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year and handle greater amounts of storm water when necessary similar to Creekside Park in San Anselmo or Natalie Coffin Greene Park near Phoenix Lake. This has the potential to be a more interesting green space for bikes, pedestrians and residents. He looks forward to working with the County and residents to receive input and incorporate those suggestions into the design. They have the opportunity to move forward and reduce flooding in this community. He added that they have a deadline that must be met and he would not change the project. The details of working with businesses and homeowners must be addressed. It is a potential win for all. He believed people are reasonable and there are solutions.

Loraine Berry, Ames Ave resident, concurred with Mr. Martin's comments. Her first memory was a rowboat in front of the Ross Post Office. She moved to Ross in 1973 and in 1982 they had the highest flood to date. She was present for the 2005 flood and last year. If this work is not completed now, they will continue to face the same flooding issues.

Connor Kidd, Sir Francis Drake Blvd resident, added that he is very impacted from this project and has meaningful concerns and has reached out to the County. The map does not correctly represent his property line. He agreed the County should survey the right-of-ways and property lines. Privacy is also a concern and vegetation is important. He has small children and wants to make sure there is no risk to his small children. With respect to loss of usable space, they want to work with the County to find a solution. He is disappointed to see the large concrete wall on his side of the property and desired a more attractive appearance.

Frank Malin, Fernhill resident, experienced the flood in 2005 and today is an opportunity to get this project finally, finally going. He noted support for the project.

Craig McCarty, Poplar Avenue resident, supported the project and also experienced the flood of 2005. He further added that any mitigation would be greatly welcomed.

Elizabeth Foster, Sir Francis Drake Blvd resident, thanked the group for emphasizing the importance of flood protection. She shares some of the questions and concerns that were discussed.

Glenn Greenberg, Sir Francis Drake Blvd resident, hopes the project is built and stated there is a lot of sediment built up at this time and wanted to know who is responsible for cleaning up the sediment from construction. Also, there was discussion in the past about building a detention basin at Frederick Allen Park and was that to make the project work or does it actually collect water. In regard to the Post Office, nothing is being done in the back of the Post Office and asked why improvements are not being made in that area. Also, he wanted to know why there are no walls proposed around the first five houses along the fish ladder. Flood Control Representative Williams responded that they are not proposing a detention basin. A detention basin holds backwater at the appropriate time and then release back into the creek. In regard to sediment, the flood district has a district wide permit with the Water Board that regulates that type of activity. They must show the Water Board that there is a purpose and value to removing such sediment.

Lisa Armstrong, Granton Park, Kentfield resident, thanked the Town for considering this project that will help Kentfield tremendously.

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Bradley O'Connell, Sir Francis Drake Blvd resident, pointed out that the entire plan proposed would be moving the creek much closer to the houses. In effect it will be bringing the creek to him. He is also concerned about his privacy since his property is more or less across from downtown. He has several trees that is aesthetically pleasing and provides protection from those on the other side. He is concerned whether creating the riparian corridor will eliminate his privacy currently enjoyed.

Ross Resident desired a model depicting just the local project within Ross. She wanted to know the impact for the local project. Engineer Riley agreed to prepare such documentation.

Katie Rice, County Supervisor, noted that during a 10-year storm event they would not be triggering the detention basin and this project standalone will make a difference. Engineer Riley responded that it would make a difference, but a detention basin would bolster the effects. He added that the detention basin would be used for a 10-year storm event.

County Supervisor Rice encouraged flood staff, residents and Council members to do another site visit, especially near the park area to visualize what is being discussed and agreed creating tools to better understand would be helpful for residents. Also, as a model for how staff can work on the design is the bike path reconstruction that was done a couple months ago between the tennis courts down to the College of Marin, numerous property owners fence lines encroached on the land and the engineers worked with the property owners to replace their fences and worked on landscaping, so there is a pretty good model that the flood staff can follow in regard to this project if it indeed moves forward.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

Mayor Robbins felt the local flood impact is the most problematic. The fish ladder seems pretty straightforward. It will be helpful to understand how much benefit removing it will provide and how much restoration of Allen Park can occur.

Council Member Hoertkorn pointed out that the flood control issue for Marin has been very controversial. There have been a lot of setbacks where they thought things were going to happen. She appreciated having ingenuity to come back with something. This project appears to reduce flooding for many homes in this area, which is a positive. Mayor Pro Tempore Kuhl concurred.

Council Member Russell also concurred and noted that a few years ago a survey was conducted and the number one issue that came from that survey was flooding. There will need to be some fine-tuning, but they need to get behind something and keep it moving forward otherwise they will repeat what happened in 1971. If they constantly focus on the impact of one person or property at the cost of the entire community, nothing will happen. They need to do what's in the best interest of the community.

Council Member Brekhus felt community outreach is very important, which should continue between now until December or when staff comes back before the Council, so everyone has a better understanding. Information is very powerful. The more they can do to address community outreach the better.

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The MCFCD will be working with Town staff over the next several weeks to provide more outreach to the residents, including field walks and one-on-one meetings with property owners along the creek. The project will come back to the Town Council likely in December for Council action

**3. Adjournment.**

Mayor Robbins moved to adjourn the meeting at 9:05 p.m.

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk



## ATTACHMENT 4

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JUNE 8, 2017

### 1. 5:15 p.m. Commencement.

Mayor Katie Hoertkorn, Mayor Pro Tempore Elizabeth Robbins, Council Member Elizabeth Brekhus, Council Member Beach Kuhl, Council Member Rupert Russell, and Town Attorney Greg Stepanicich.

### Administrative Agenda

#### 13. Flood Control Update Presentation by Marin County Flood Control.

Tonya Redfield, Ross Valley Programming Manager, provided an update on Phoenix Lake detention basin project and alternative flood risk reduction projects in Ross Valley. The County was awarded a Department of Water Resources (DWR) Proposition IE grant in the amount of \$7,661,000 to evaluate, design, and construct flood control/detention basin features and water supply improvements at the Phoenix Lake Dam in Ross. The project was subsequently included into the adopted Bay Area Integrated Regional Water Management Plan (IRWMP) in October 2014. The Bay Area IR-WMP is a nine-county effort to coordinate and improve water supply reliability, protect water quality, manage flood protection, maintain public health standards, protect habitat and watershed resources, and enhance the overall health of the Bay. The results of the draft feasibility assessment have revealed various operational, environmental, and constructability challenges that potentially outweigh the flood risk reduction benefit and the grant timeline of the Phoenix Lake IRWMP project. The decision to halt the Phoenix Lake IRWMP project provides an opportunity for County staff to transfer or “migrate” the DWR Prop IE grant funding to other projects which may be equally if not more beneficial to the residents of Ross Valley while remaining consistent with the goals of the Bay Area IRWMP.

Russ Eberwein, Project Engineer, noted in the preliminary review landslides have been identified around the lake that would require additional analysis.

Programming Manager Redfield revealed some potential replacement project alternatives, including removal of the damaged fish ladder and replacing portions of the concrete channel with a more natural park like setting. They are in the process of calibrating a watershed model. They have met with a number of stakeholders; they must model the alternatives and they are moving fast because this must be completed this month for approval. Once approved, they will prepare the alternative for environmental review.

Council Member Kuhl understands that they take down the concrete walls, using land on the side of the creek in order to broaden out the area in which water can flow, so it will flow slower and hold more water. Programming Manager Redfield agreed with Council Member Kuhl’s comments. Currently they have creek maintenance that incorporates going into the creeks during the dry season.

Mayor Pro Tempore Robbins wanted to make sure the Town is not responsible for ongoing maintenance. Also, she expressed concern for safety in terms of removing the fence. Programming Manager Redfield explained that it would go through environmental review. Safety will be a consideration in terms of the design. Council Member Brekhus expressed the same concern for liability as Mayor Pro Tempore Robbins.

Mayor Hoertkorn opened the public hearing on this item.

Charles Goodman, Ross resident, submitted a packet to the Council for their consideration. His additional concern is having a wider basin. The fish ladder removal has been in every single project. The data being used is data he collected back in 1988. The creek produces so much sediment. He asked the Town to be very cautious moving forward without any studies.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

Programming Manager Redfield explained that they must submit an amendment to try to retain these funds. They would be happy to come back and provide updates, especially after the modeling is complete. Robbins wants to know the steps for the Town in regard to moving forward. Programming Manager Redfield stated once they receive approval they can move forward with these concepts and they are open to the Council and Town preferences. Town Attorney Greg Stepanicich added that it must come back to the Town if town property is involved. Town Manager Joe Chinn responded that with the concept before the Council there is Town property involved. Council Member Brekhus wanted all residents notified within 500 sq. ft. of any impacted land moving forward.

The Marin County Flood Control and Water Conservation District staff encouraged all to attend the Flood Control Zone 9 Advisory Board Meeting on June 12th at Marin Art & Garden Center Studio, 5:00-7:00 pm, where the Flood Control Advisory Board will consider and select the preferred alternative.

## ATTACHMENT 5

## Heidi Scoble

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**From:** Connor Kidd <connorkidd@gmail.com>  
**Sent:** Tuesday, October 23, 2018 10:05 PM  
**To:** Richard Simonitch  
**Cc:** Heidi Scoble; Joe Chinn - Town Manager  
**Subject:** Corte Madera Creek EIR / EIS Comments

Hi Rich,

As you know, my wife and two small children live at 11 Sir Francis Drake Blvd in Ross. The Army Corps draft EIR / EIS project studied has meaningful impacts on my family and our property. I wanted to share my draft comments with you as you consider the comments from the Town of Ross. For the comments below, I am primarily focusing on the Tentatively Selected plan.

Please let me know if you have any questions on my comments.

Best,  
Connor

### Comments:

- Draft EIR lacks detail of locations of flood walls along the Sir Francis Drake side of the creek near Frederick Allen Park in Ross. Residents will be impacted by the construction and permanent location of these walls and the EIR fails to provide a level of detail for residents to evaluate the impacts.
- Air Quality & Climate change - limit emissions by minimizing dirt off-hauling by working with local residents impacted by the project that would accept dirt on their property.
- Noise - project mentions Vibratory Pile Driver as one of the loudest pieces of equipment to be used. Consider using drilled piles as an alternative to mitigate noise. Pile drivers are now rarely used in large metros such as San Francisco due to their noise impacts and using drilled piles.
- Socioeconomic Impacts - This project disproportionate impacts residents personal environments by asking those homes with the lowest value in the Town of Ross to bear the brunt of the project - both during the construction and potential future impacts by reducing access to personal green spaces with homeowners yards. In fact, in Table ES-1 Significant & Permanent Impacts, alternative J does not have a box checked under alternative "J" for "LND-4 Result in permanent conversion of existing land use". Given the above, the project could permanently impact homeowners along Sir Francis Drake and mitigation measures should be considered. In the same table, SOC-2 - the impacts of the project will take nearly all available green space for residents along Sir Francis Drake and residents with small children will have yards that are unusable and will be temporarily displaced due to lack of access to private green space.
- The Draft EIR identifies the backyards of residents on the North/East side of Corte Madera Creek along Sir Francis Drake as construction staging. Alternatives are suggested to these and the backyards should be removed as a consideration given the alternatives available.
- The proposed staging is in our backyard and we have small children. What safety measures will be undertaken to ensure safety of small children with the construction staging equipment?
- Future drainage of homes along Sir Francis Drake Blvd - currently water drains through the yards of homeowners on Sir Francis Drake Blvd on Corte Madera Creek due to both uphill run-off from across Sir Francis Drake Blvd and run-off from the fish ladder limiting flow in the creek. The EIR needs to study how this water can get to the creek without these yards continuing to be impacted as secondary drainage channels.
- Phasing the project - The project appears to have funding for the Frederick Allen Park portion of the project, but not the bypass and some of the downstream floodwalls. What will be the environmental, social and ecological impact if only the currently funded portion of the project is completed?
- Table 3.6 - Summary of Agencies End Specific Review, Approval or Other Responsibilities - the Town of Ross owns the land of Frederick Allen Park and is also a Land Owner for the project purposes.

- The Real Estate Appendix of the EIR does not contain project maps or identify the parcels that will be impacted. It is imperative to know what parcels and maps are under consideration to identify the impacts.
- Real Estate - homeowners on Sir Francis Drake on the opposite side of Sir Francis Drake will have difficulty selling their home or have suppressed value until the project is completed. How can this be mitigated if a homeowner needs to move?
- Appendix J - Cost Engineering - the cost to remove the Fish Ladder and Frederick Allen Park Riparian Corridor do not seem to match information provided by the County of Marin Flood Control district. The numbers in Appendix J appear to be meaningfully lower - thus there is a concern that the project cost have not been carefully considered.
- Project Description, Real Estate Costs & Appendix M Cultural Resources - Project does not identify parcels that would require permanent easements. Also does not take into consideration that the county owned land along Corte Madera Creek is currently subject to license agreement by the homeowners along Sir Francis Drake and using this land has an impact on those residents.
- Aesthetics - EIR does not provide detailed landscaping plans for stakeholders to evaluate the foliage. This is the case both in Frederick Allen and in the backyards along Sir Francis Drake Residents. The flood wall aesthetics are not provided in detail to evaluate their impact on residents and the habitat.
- Vegetation - request the Army Corp waive the standard 15 ft creek set-back to allow for vegetation to be planted in close proximity of the creek to restore the natural habitat and aesthetics of the creek.
- Creek access - the tentatively selected plan intends to improve creek access to Corte Madera Creek from the Frederick Allen Park side of the project, but does not address access for residents living along Sir Francis Drake Blvd.

**Linda Lopez**

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**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, November 8, 2018 10:14 AM  
**To:** Linda Lopez; Heidi Scoble; Richard Simonitch  
**Subject:** FW: November 8, 2018 Agenda Item 12 - Comment Letter  
**Attachments:** TOWN DEIS COMMENT LETTER.docx

**From:** Hugh Cadden <hjcadden@gmail.com>  
**Sent:** Thursday, November 08, 2018 9:25 AM  
**To:** CouncilAll <towncouncil@townofross.org>; Joe Chinn - Town Manager <jchinn@townofross.org>  
**Subject:** November 8, 2018 Agenda Item 12 - Comment Letter

ATTACHED FOR COUNCIL MEMBERS AND TOWN MANAGER IS COMMENT LETTER FROM  
HUGH AND LUANNE CADDEN ADN KRISTEN AND BEN SWANN RE ITEM 12

TOWN DRAFT DEIS/EIR COMMENT LETTER - PROPOSED COMMENTS FOR INCLUSION RE  
REMOVAL OF DENIL FISH LADDER DATA

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**Hugh J. Cadden**

**Direct: 415-497-0174**



Hugh and Luanne Cadden  
P.O. Box 1198  
Ross, California 94957

November 7, 2018

Ross Town Council

Re: Town Draft DEIS/EIR Comment Letter – Proposed Comments for Inclusion re Removal of Denil Fish Ladder Data

Dear Mayor Kuhl and Council Members:

This letter is being submitted on behalf of myself, a longtime Ross property owner, and my daughter Kristen Swann who owns the property at 3 Sir Francis Drake. We are writing to request that the Town consider including the proposed comments/requests set forth below in its Comment Letter to USACE.

The proposed comments/requests are designed to compare the flood risk reduction benefits associated with Alternative J as proposed with those of Alternative J **excluding** the Riparian Corridor element. This will allow the Town to ascertain, compare and evaluate the relative flood risk reduction benefits relating to the Riparian Corridor element and the removal of the Denil fish ladder element.

The Town is being asked to support and embark on a Project, Alternative J, that is going to change Frederick Allen Park forever; it will directly and negatively impact the use and enjoyment of any number of Ross creek-side homes; it is budgeted at \$46 million and largely unfounded; it calls for a five year construction program that involves summer months and night work; and there is real uncertainty whether an integral element (the by-pass) will ever get funded.

What if it is found that the removal of the Denil fish ladder element results in the same or a higher level of flood risk reduction benefits as the Riparian Corridor? Isn't that important to the Town's decision-making process? Frederick Allen Park could be saved; the Town and creek side homes could have the desired flood protection; the significant impacts arising from the Riparian Corridor could be eliminated; and the cost savings would be huge.

Whether these outcomes might be achieved is unknown. The point here is that the Town, along with everyone else, is in the dark. For over a year now the District has avoided addressing the actual flood mitigation benefits that can be separately attributed to the removal of the Denil fish ladder. Rather, to date, all attention has been on building a riparian corridor park and how this was going to be built with "free" money - a grant that required immediate action and requires a park element. Neither the availability of grant money (which seems to be burning away) nor other agency considerations should be a basis for the Town to forego getting the AEP information being requested. Imagine if it is

discovered after Frederick Allen Park is destroyed and the channel is demolished that the flood mitigation benefits associated with the removal of the Denil fish ladder element were more favorable.

The Denil Fish Ladder removal which is an element of all alternatives is described in Appendix A, Hydraulics and Hydrology, Section 7.4.1 at page 49:

“The Denil Fish Ladder extends from river station 370+00 to 369+70 in Unit 4 downstream from the Lagunitas Road Bridge. The action alternatives include removal of the fish ladder which would help restore fish passage. The fish ladder would be removed and replaced with a smooth transition. The fish ladder was intended to be a temporary structure at the upstream end of Unit 3 until Unit 4 construction which never occurred due to a lawsuit. The fish ladder would be replaced with a combination of natural bed material and biotechnical bank stabilization or stone protection treatments to eliminate the hydraulic jump and create a smooth transition that would also improve fish passage.

As a result of removing the fish ladder, channel modifications would be necessary to accommodate the change in flow dynamics. This would also create the need to modify and lower the channel floor elevations to allow for a smooth transition and geomorphological sustainable channel bed. The channel bed modification would extend from the fish ladder to approximately 110 feet upstream of Lagunitas Bridge. A portion of the natural channel in Unit 4, extending a length of approximately 115 feet, within the reach between Lagunitas Road Bridge and the fish ladder, would be widened to increase hydraulic conveyance capacity.”

Here are the suggested comments/requests that we are proposing for the Town’s inclusion in its Comment Letter at Draft page 12 under the heading General Comments. The wording is suggested and likely can be improved upon by the Council and/or Staff.

- Please provide the flood risk reduction benefits for the 10%, 4% and 1% AEP of Alternative J without the Riparian Corridor element.
- Please provide the flood risk reduction benefits for the 10%, 4% and 1% AEP of Alternative J without the Riparian Corridor element and without the By-Pass element.

We want to emphasize that we are not advocating a specific alternative or outcome. We are simply requesting that the Town do everything possible to seek the information necessary to make a reasonable, informed and transparent decision. We believe that the information relating to the relative flood risk reduction AEP data of Alternative J and Alternative J without the Riparian Corridor (and without the By-Pass assuming not built) is critical to the Town’s decision making. This information is readily available to the USACE and District. Finally, we want to mention that we appreciate the Town Staffs’ work on this draft.

Thank you in advance for your consideration.

Very truly yours, Hugh and Luanne Cadden, Kristen and Ben Swann.

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, November 8, 2018 8:48 AM  
**To:** Linda Lopez  
**Subject:** FW: Proposed Flood Project

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**From:** Leslie OConnell <laoconnell@sbcglobal.net>  
**Sent:** Tuesday, October 16, 2018 11:05 AM  
**To:** Richard Simonitch <rsimonitch@townofross.org>; Joe Chinn - Town Manager <jchinn@townofross.org>; Beach Kuhl <beachkuhl35@gmail.com>; Elizabeth Brekhus <elizabethb@brekhus.com>; Julie McMillan <juliemcmillan@comcast.net>; Rupert Russell <rrussell@sflaw.com>; Elizabeth Robbins <eliz.robbsins@gmail.com>  
**Cc:** Brad O'Connell <jboc@fdap.org>  
**Subject:** Proposed Flood Project

Dear Mayor, Council Members, Public Works Director, and Town Manager:

From the proposed flood project EIR, it appears that there may be an underground "bypass" constructed that will carry water beginning from a point upstream of the Lagunitas bridge and emptying immediately next to our house, at 15 SFD. I don't recall any discussion of this before the EIR draft came out (and in fact, we were told only that the space would probably be used as a staging area for equipment).

What will this entail, and if (as appears likely) it increases our flood risk, who is liable if we flood? Because the "bypass" would channel a high volume of water into the creek, at a spot immediately adjacent to and upstream from our home, it appears that our home may be the single property in this area most adversely affected and threatened by the project.

Also, this significant previously-undisclosed feature of the project will dramatically increase the adverse effects on our property, in both the short- and long-term, in other aspects. Because the "bypass" would apparently involve a major excavation project, lasting several months or possibly years, in the parcel immediately adjacent to our home, that ongoing project would impose severe noise and other disruption (including in the evening). And it would likely block parking anywhere near our house (which doesn't have a driveway or garage).

We are concerned that the project could so severely diminish the value of our property that we would be unable to sell it.

Please let us know what remedies are available to us or any other steps that we should take. Thank you for your consideration.

J. Bradley O'Connell    email: [jboc@fdap.org](mailto:jboc@fdap.org)  
Leslie O'Connell        email: [laoconnell@sbcglobal.net](mailto:laoconnell@sbcglobal.net)

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Thursday, November 8, 2018 8:52 AM  
**To:** Linda Lopez  
**Subject:** Proposed Flood Project  
**Attachments:** O'Connell -- objection to flood management plan.pdf

**From:** Brad O'Connell [mailto:[jboc@fdap.org](mailto:jboc@fdap.org)]  
**Sent:** Friday, October 06, 2017 11:51 AM  
**To:** Richard Simonitch <[rsimonitch@townofross.org](mailto:rsimonitch@townofross.org)>  
**Cc:** Leslie OConnell <[laoconnell@sbcglobal.net](mailto:laoconnell@sbcglobal.net)>  
**Subject:** Comments on Flood Risk Management Project -- Oct 10, 2017, Council Meeting

Dear Mr. Simonitch:

We are submitting the attached letter as our written comments on the Flood Risk Management Project, to be considered at the Oct. 10, 2017, Town Council. Because your email was listed in the written notice mailed to Ross residents, we assume that we can submit our comments through this email to you. Please take whatever steps are necessary to transmit this to the Council and any other relevant officials for consideration at the Oct. 10, meeting. If we need to submit this letter in hard copy form, or if there is anything else we need to do, please let us know. Thanks very much.

Bradley O'Connell & Leslie O'Connell, 15 Sir Francis Drake Blvd.

J. Bradley O'Connell  
Assistant Director  
First District Appellate Project  
475 Fourteenth Street, Suite 650  
Oakland, CA 94612  
415-495-3119 (t)  
415-495-0166 (f)



**JAMES BRADLEY O'CONNELL**  
**LESLIE A. O'CONNELL, Ph.D.**  
**P.O. Box 653**  
**15 Sir Francis Drake Blvd.**  
**Ross, California 94957**  
**(415) 459-9939**

October 6, 2017

Town Council  
Town Hall  
Ross, CA 94957  
By email: [rsimonitch@townofross.org](mailto:rsimonitch@townofross.org)

Re: Corte Madera Creek Flood Risk Management Project, Phase 1  
Public Meeting, Oct. 10, 2017

Dear Members of the Town Council:

We are submitting these comments for consideration at the upcoming October 10 Council meeting, concerning the proposed Flood Risk Management Project, as described in the written notice recently mailed to Ross residents.

As outlined below, we object to the proposed project, as described in the notice, on two grounds. It will substantially increase the likelihood of flooding of our property and residence, and it will likely result in a significant encroachment on our privacy, as well:

**Flooding risk.** Our property is located at 15 Sir Francis Drake (roughly across the creek from the far eastern edge of the Post Office parking lot and the adjacent commercial buildings). We experienced substantial flooding on December 31, 2005. For several hours, we had fast flowing water (including debris) surrounding our home on all sides. Although our living quarters were spared (unlike some homes), the crawlspace/basement was flooded, and we had to engage a professional water damage company to dry it out. Among other clean-up and restoration measures, we had to have the sides of the house water-blasted to remove mud. Although the 2005 flood was bad enough, we realize that it could have been much worse and could have severely damaged or destroyed our living quarters – and it likely would have been worse, were it not for the existing concrete channel.

Although we have not experienced another event like 2005, we had two separate close calls this past winter, 2017. Considering how close the creek level rose on those occasions to its

2005 levels, we think it likely that we would have experienced another catastrophic or near-catastrophic flood, had it not been for the concrete channel.

Our house abuts the concrete channel. That channel did not overload in 2005 or on the more recent occasions. Instead, the 2005 flooding of our property was due to overflow near the Lagunitas bridge, where the creek is *not* channeled. Whenever the creek approaches or reaches flood stage near the bridge, the overflow runs through all the backyards on this portion of Sir Francis Drake. However, without the concrete channel (and the low hill between the channel and our property), our house would be largely unprotected and would likely experience flooding with much greater frequency. And we would likely sustain much greater damage than we did in 2005.

In our view, if anything is to be done about the concrete channel, the solution is to deepen it (so it can accommodate greater water volume) and to extend it further westward to the bridge (in order to prevent the overflow that has exposed us to flooding or near flooding in the past). The proposed removal of the channel altogether will take “flood management” in entirely the wrong direction.

Although we are not familiar with all the details of the “flood management” plan currently under consideration, the contemplated removal of the concrete channel is cause for great concern. Far from mitigate our exposure to flooding, it would likely put us at much greater risk. That greater likelihood of flooding, in turn, would substantially impair the value of our property.

**Privacy.** We are also concerned that the contemplated “reclaimed riparian corridor along the creek” will likely result in a significant impairment of our family’s privacy. As noted earlier, there is currently a low hill or rise between our house and the creek. Additionally, there are several trees on that rise. Especially since we are right across from downtown, those trees provide a vital curtain of privacy for us. We are concerned that the proposed conversion of the area to a “riparian corridor” would likely involve removal of those trees and with it, the removal of our privacy. Without those trees, people on the other side of the creek – in one of the most heavily traversed sections near the Post Office – could look across the creek right into our home.

Ross is a relatively small community. Like most residents, we value the privacy of our home. We believe that our neighbors on Sir Francis Drake do as well.

\*\*\*\*\*

Because the proposed removal of the concrete channel and conversion of the area to a

“riparian corridor” would likely expose our home and others to enhanced risk of flooding and would also result in a reduction of our privacy, we urge the Council to reject the proposal in its current form.

We appreciate the Council’s solicitation of public input on this important matter. Thank you for your consideration of these comments.

Sincerely,

*Bradley O’Connell*

*Leslie O’Connell*

James Bradley O’Connell ([jboc@fdap.org](mailto:jboc@fdap.org))

Leslie A. O’Connell, Ph.D. ([laoconnell@sbcglobal.net](mailto:laoconnell@sbcglobal.net))

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Wednesday, November 7, 2018 1:45 PM  
**To:** Linda Lopez; Heidi Scoble; Richard Simonitch  
**Subject:** FW: EIR/EIS Comment letter

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**From:** Garril Page <obility@comcast.net>  
**Sent:** Wednesday, November 07, 2018 1:20 PM  
**To:** Beach Kuhl <beachkuhl35@gmail.com>; Joe Chinn - Town Manager <jchinn@townofross.org>  
**Cc:** Elizabeth Robbins <eliz.robbsins@gmail.com>; Richard Simonitch <rsimonitch@townofross.org>  
**Subject:** EIR/EIS Comment letter

Dear Mayor Kuhl, Vice-Mayor Robbins, Joe and Richard;

I note that the area of the Lagunitas Bridge is not singled out as a specific area of concern about which the Town requests more information. I believe this omission may affect assumptions, calculations, and eventually future function in this area of the creek. The Corps proposes bed and bank changes, all of which are proceeding without adequate knowledge of conditions at this critical site of hydraulic and hydrologic transition.

I believe sediment patterns ascribed to the fish ladder in fact are influenced by channel path and bridge clearance. Wrongful assumptions in this area should be erased at this early stage of the process. Models created from inadequate or erroneous data result in unreliable performance.

I have photographs from the 1909 bridge forward and also urged Jared Huffman (cc Jas Reilly) to obtain the H.A.E.R. records of the original John Buck Leonard Lagunitas Bridge. Department of the Interior has these records.

My concern stems from the fact that the original bridge with three open bays was approximately 20 feet wider than the current opening, so the channel path differed. Also, the sediment aggregation is estimated by Love/Smelter/Stetson to be *12 inches per decade*. Some of this was removed by Town dredging, but the pattern of aggregation and sediment transport remains critical to channel function through the bridge, especially if dredging and maintenance will be the Town's responsibility. Permitting agencies have become increasingly restrictive in issuing dredging permits.

I hope you will add wording to the Comment Letter to include the entire transition area which will extend through the new Lagunitas Bridge as #6 of: "The Town staff is also concerned the DEIS/EIR does not adequately provide information regarding the following project features:"

Thank you,

Garril Page



**Linda Lopez**

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**From:** Joe Chinn - Town Manager  
**Sent:** Tuesday, November 6, 2018 6:38 PM  
**To:** Linda Lopez; Heidi Scoble; Richard Simonitch  
**Subject:** FW: Comments on Creek EIR/EIS  
**Attachments:** Comments by Skewes Cox on EIR EIS.docx

**From:** Amy Skewes-Cox <amysc@rtasc.com>  
**Sent:** Tuesday, November 06, 2018 6:28 PM  
**To:** CouncilAll <towncouncil@townofross.org>  
**Subject:** Comments on Creek EIR/EIS

Dear Town Council Members:

I have only read a very small portion of the EIR/EIS on the Creek Flood Control Project, but the Town of Ross should have major concerns about this idea of putting culvert under Sir Francis Drake, the preferred alternative. The traffic disruptions for the Town could be horrific. I hope you will be able to review this document and submit comments. My brief comments are attached. Sincerely, Amy Skewes-Cox (carrying on the tradition of my father, Bennet, who battled the creek proposals for many years to protect it as a natural channel). PS I have not yet proofed this letter. Please let me know if you have questions.

While I like the idea that natural channel can be protected, there are real costs of this Alternative J.

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Amy Skewes-Cox, AICP, Environmental Planning  
Cellphone 415-203-0454

AMY SKEWES-COX, AICP  
PO Box 422  
Ross, CA 94957  
[amysc@rtasc.com](mailto:amysc@rtasc.com)

November 6, 2018

Ms. Cynthia Jo Fowler  
US Army Corps of Engineers, San Francisco District  
1455 Market Street  
San Francisco, CA 94103-1398  
Corte [Madera@usace.army.mil](mailto:Madera@usace.army.mil)

**Re: Comments on Corte Madera Creek Flood Risk Management Project Draft EIS/EIR**

Dear Ms. Fowler;

As a resident of the Town of Ross living just slightly east of the Corte Madera Creek channel, and having a lifetime career in preparing CEQA/NEPA documents, I would like to comment on some of the EIR/EIS sections. As a 500+ page document, there was no way I could review all sections of the document (and this doesn't include the multiple appendices).

At the Community Meeting held in Ross on November 1, it was clearly stated that Alternative J was the Preferred Alternative. For that reason, I have focused my comments on that.

**Comment 1:** Table 3-2 clearly shows that Alt. J could have top-of-bank (TOP) floodwalls as high as 6.5 feet. In the text, there is only mention of 2 foot tall floodwalls, a clear obfuscation of the facts. These 6.5 ft. walls on the exhibits at the Community Mtg. showed up near Granton Park and College of Marin. These walls appear to be in the backyards of individual homes. Nowhere in the EIR/EIS is there a cross section of these walls. Such tall walls could have significant visual impacts related to degrading the visual quality of an area. Such aesthetic impacts for Alt. J are not mentioned at all .

Page 4.8-20 does not even mention the height of these walls for Granton Park. The linear distance (Table 3.2) could be as much as 1,083 feet – which is equivalent to about 20 homes that have 50-ft. wide backyards along the creek. How is this not seen as a significant, unavoidable impact that would require Findings to be made?

Where is the safety of such high walls reviewed? During rains, I've known of kids who like to kayak down this creek. What if emergency responders need to reach them and they are barricaded by a 6.5-ft wall?

**Comment 2:** Why is there NO quantification of trees to be removed for Alt. J? Mitigation of “planting trees in the vicinity” is totally inadequate. This project could totally conflict with Town of Ross policies regarding protection of heritage trees. Mature oaks for example could have roots damaged or could be removed, resulting in both aesthetic and biological impacts. Replanting “an another area” (page 4.6-54) is definitely not adequate, and requiring a 15-ft buffer from floodwalls for trees results in completely unnecessary tree removal. Replanting at 3:1 ratio is more appropriate. However, avoiding removing trees is the preferred way to go.

**Comment 3:** The Project Description says nothing about rerouting of traffic while the culvert is placed under Sir Francis Drake Blvd. Is traffic to be routed down Shady Lane in the vicinity of many residences, or along Laurel Grove Avenue – another major residential street? Will flag people be available? How many months will this culvert construction require? At least on page ES-6, you state that impacts on traffic for Alt. J would be significant and unavoidable. That doesn’t eliminate the need to identify mitigation measures.

I am going to stop at this point, as there are many areas where I find the document deficient. An EIR/EIS should NOT be done until the project is adequately defined in a way that allows all impacts to be assessed. Not including cross-sections at either the Community Meeting or in the EIS/EIR was a true deficiency for the public’s understanding. For a person biking or walking along the creek across from Granton Park (which many, many people do), looking at 6 foot tall concrete walls is certainly not the visual experience one has today. It’s bad enough to look at the concrete channel that never should have been constructed. Why does there have to now be a concrete “channel” above the ground?

The USACE should be looking at totally different alternatives that are of equal or less cost – more onsite detention basins along the entire watershed; helping to floodproof buildings that are in the flood inundation area. This is 2018. Concrete is not the answer in today’s world.

Sincerely,

A handwritten signature in cursive script that reads "Amy O. Skewes-Cox". The signature is written in dark ink and is positioned below the word "Sincerely,".

Amy Skewes-Cox, AICP

## Linda Lopez

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**From:** Joe Chinn - Town Manager  
**Sent:** Wednesday, November 7, 2018 12:53 PM  
**To:** Linda Lopez; Heidi Scoble; Richard Simonitch  
**Subject:** FW: Town Staff Report Comments for Corte Madera Creek Flood Project  
**Attachments:** Town Draft Comments.docx

-----Original Message-----

From: Kristen Cadden Swann <kcadz@aol.com>  
Sent: Wednesday, November 07, 2018 11:40 AM  
To: CouncilAll <towncouncil@townofross.org>  
Cc: Joe Chinn - Town Manager <jchinn@townofross.org>; Richard Simonitch <rsimonitch@townofross.org>  
Subject: Town Staff Report Comments for Corte Madera Creek Flood Project

Dear Town Council,

I am attaching a letter for your consideration regarding your Town staff report comments for the Corte Madera Flood Project (EIR). Many of the neighbors on the Sir Francis Drake side also have the same concerns you raised in your letter.

Sincerely,  
Kristen and Ben Swann  
3 Sir Francis Drake Blvd

Kristen and Ben Swann  
3 Sir Francis Drake Boulevard  
Ross, California 94957

November 6, 2018

Re: Town of Ross Draft Comment Letter to USACE

Dear Mayor and Council Members:

We live at 3 Sir Francis Drake. We, along with our immediate neighbors, are at “ground zero” with respect to the proposed Allen Park Riparian Corridor and are immediately opposite Frederick Allen Park. We are all struggling to understand the project impacts and share the concerns raised by the Town in the draft comment letter regarding the DEIS/EIR. We have hit the same wall as the Town. The level of information provided is insufficient to evaluate most, if not all, of the project impacts. To the extent that the Town’s comments seek clarification and details it is appreciated.

With respect to two specific comments/requests which are below, we would respectfully request that they be edited to include the entire Allen Park Riparian Corridor including the Town-owned Frederick Allen Park. The impacts relating to the riparian corridor and Town-owned park are all interrelated so from the Town’s perspective, as well as ours, the Town’s requests for more details – like floodwall locations and elevations, top of floodwall location and elevations, setbacks and so on - should cover the entire proposed corridor area and the park as is the case with the vegetation and arborist survey request. Here are our proposed edits to achieve this end with respect to site plan request and cross sections request.

1. Draft, Page 5.

“Under Section 3.6, the Allen Park Riparian Corridor is generally described. Prior to certification of the environmental document, the Town of Ross is requesting a site plan and details of how the existing **[area that is covered by the proposed Allen Park Riparian Corridor including]** the Town-owned Frederick Allen Park with [sic] be modified as a result of Alternatives F, G and J including, but not limited to a preliminary grading plan, tree removal and replacement plans, and a landscape and hardscape plan. The Town of Ross is also requesting that any proposed temporary or permanent easements **[within the Allen Park Riparian Corridor and the Town-owned Frederick Allen Park]** be shown.” (edits bolded and in brackets)

2. Draft, Page 7

Appendix I, Civil Design, Attachment 4, in addition to Cross Section B-B, the Town requests to see four more cross sections within the Allen Park Riparian Corridor, including a cross section adjacent to the tennis courts, to better understand the extent of concrete channel removal, grading, excavation, slopes, elevations, and installation of new retaining walls and flood walls in the **[Allen Park Riparian Corridor and the Town-owned]** park. In addition, please provide a grading plan showing the existing and proposed topographical contour elevations for this Corridor **[and the Town-owned park]** (edits bolded and in brackets)

Thank you for your consideration. If you have any questions, please do not hesitate to contact us.

Very truly Yours  
Kristen Swann  
Ben Swann

cc: Joe Chinn and Richard Simonitch