

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

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MEMORANDUM

DATE: February 18, 2015
TO: Board of Supervisors' Transportation and Planning Committee
FROM: Albert Lopez, Planning Director
SUBJECT: **Transfer of Title of Station #8 to Fairview Fire Protection District (FFPD)**

BACKGROUND

The Planning Department was requested to assemble the following information regarding the transfer of title of Fire Station #8 located at 25862 Five Canyons Parkway, Castro Valley. The topic of transferring the title of Station #8 to the FFPD has been raised before, most recently in May of 2004 when the Alameda County Planning Commission considered this issue. At that time it was not acted upon and the request was withdrawn to allow for more study and evaluation.

Currently, the FFPD contracts with the City of Hayward for all of its fire protection services, working out of station #8 (the subject station), station #9 (located at 24912 Second Street, Hayward) and the "old" Fairview Fire Station at 24200 Fairview Avenue.

In April of last year, the FFPD Board President (Catherine Ortiz-Carden) submitted a letter to the Alameda County Board of Supervisors requesting that the Board once again consider this issue. Before the Board of Supervisors can consider the request, a review of the conditions of approval creating the fire station (as part of the Five Canyons development) is necessary.

DISCUSSION

In 1997, through a rezoning action, the final location of fire station #8 was approved by the County, but that approval included several conditions (termed the Provisions of Reclassification), including that the County would hold title to the new station and lease the station to the FFPD for \$1 a year. The condition also required that the title be transferred to the FFPD once (1) a new Emergency Vehicle Access (EVA) was installed by the FFPD to connect East Avenue/Hackamore Dr. to Star Ridge Rd. and (2) a satellite fire station was provided during high fire season (see attachment for complete wording of Provisions of Reclassification #4).

The FFPD has not complied with the Provisions of Reclassification; the EVA has not been installed nor has a satellite station been established. However, the basic premise of the April 2014 letter from the FFPD requesting transfer of title is that the requirements to install the EVA

and the satellite station are no longer necessary, and that the intent behind the conditions have been met or exceeded through alternative means.

Specifically, another fire station, station #9 has been in operation since 1998 which is within the FFPD and, through a contract, is staffed by the Hayward Fire Department. Station #9 provides service to the lower portions of the FFPD (including the Hackamore area for which the EVA was originally intended to serve), and the FFPD claims its response time throughout the District is at or above the industry standard.

According to the FFPD, the costs associated with the EVA are near \$1,000,000, the terrain is too steep to be effective, and many adjacent homeowners object to it being installed. On this basis, the FFPD believes the County should transfer title of fire station #8 as required by the original Provision of Reclassification #4.

Staff believes that since the Provisions of Reclassification have not strictly been met, the County is not obligated to transfer title, and the County could continue to hold title to station #8 until the EVA/Satellite station requirements are met. Also, there may be public policy reasons to maintain ownership of the station as the FFPD was recently reviewed by LAFCO (Local Agency Formation Commission) as part of their required municipal service review, given a coterminous provisional sphere of influence, and required to submit a strategic plan for approval by the LAFCO board. At its most recent meeting in November, the Commission reviewed the strategic plan, and maintained the provisional, coterminous sphere with a condition that FFPD report back in a year on implementation of its strategic plan. The Commission also established an ad hoc committee to guide FFPD in its efforts. It may be prudent as well as good public policy to wait until the FFPD strategic plan is approved and the provisional nature of their sphere of influence changed, before giving them title to station #8.

Alternatively, the County could determine that the FFPD has met the intent of the Provisions of Reclassification, and direct staff to begin the process of eliminating or amending the original conditions so that the transfer could take place. This would acknowledge that the EVA is likely infeasible or no longer necessary (or both) and the County agrees that fire protection services today represent best practices, and a seasonal satellite station is unnecessary. These findings would have to be made at a Planning Commission hearing to modify the original approval, with the Board of Supervisors making the final determination (see attachment from ACFD Chief Rocha that speaks to these findings).

Finally, whether the ownership of the station changes now or at some point in the future, any agreement to transfer title of the station to the FFPD could contain a clause that would allow the County to regain ownership of the station in the event it becomes necessary; this would protect the County and its constituents and ensure the station remain within the County to service County residents.

Attachments:

1. April 21st 2014 letter from FFPD to Board of Supervisors
2. May 3rd 2004 Staff analysis
3. Undated memo from Mike Preston (consultant to FFPD) to Planning Director
4. Email from ACFD Chief Rocha to Planning Director

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BOARD OF DIRECTORS

AUDIE BOCK
ANGELO COSTANZO
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CHARLES L. SNIPES

Fairview Fire Protection District

25862 FIVE CANYONS PARKWAY
CASTRO VALLEY, CALIFORNIA 94552
(510) 583-4900

FIRE CHIEF

GARRETT CONTRERAS

April 21, 2014

Alameda County Board of Supervisors
County of Alameda Administration Building
1221 Oak Street, #536
Oakland, CA 94612

Subject: Transfer of Title for 25862 Five Canyons Parkway

Honorable Members:

This letter is being written on behalf of the Fairview Fire Protection District Board of Directors to request the transfer of title for the fire station and the parcel of real property located at 25862 Five Canyons Parkway (the "Property") from the County of Alameda (County) to Fairview Fire Protection District (FFPD). We believe that changed circumstances, as described below, have rendered the preconditions imposed by the County on such transfer unnecessary. We are confident that the County will agree that steps taken to date by the FFPD meet the spirit and intent of the original preconditions and therefore, it is no longer necessary for the County to hold title to the Property. As the FFPD Board of Directors will soon begin engaging in strategic planning to guide the work and operations of the FFPD, it is of critical importance that we address these preconditions at this time in order to avoid diverting significant resources in areas that will not address actual needs of our constituents.

BACKGROUND:

In 1997, in connection with the rezoning approval required for the Five Canyon's development by the Board of Supervisors of the County of Alameda, the developer constructed a fire station upon the Parcel. As part of the zoning process, the County provided that uses of the Property unrelated to the statutory purpose of the FFPD (or its successor agency) are prohibited unless approved by the appropriate zoning mechanism. At a public hearing held by the Alameda County Planning Commission in connection with the zoning approval on September 15, 1997, and subsequently on a letter dated September 29, 1997, the FFPD committed to:

- A) Install an Emergency Vehicle Access (EVA) from East Avenue to Hackamore Drive to provide emergency access to that portion of the Fairview area from the new fire station at Five Canyons and Fairview Blvd.
- B) Pursue operation of a satellite fire station as funding becomes available. For the purposes of this condition, a satellite fire station is a station from which fire protection and emergency medical services are provided on a part time basis during fire season (generally the months of June through October) and at other critical times determined by the FFPD or its successor agency.

Subsequently, pursuant to the 2058th Zoning Unit Provisions for Reclassification (the "Zoning Conditions"), the County of Alameda committed to transfer the title to the Property to the FFPD when "the EVA is installed and a satellite fire station is fully equipped and a budget appropriating funds for staffing the station has been approved by the FFPD...". In February of 2000, the County and the FFPD executed and delivered a "Lease Agreement Between the County of Alameda and Fairview Fire Protection District" generally referred to as the "License" or the "Lease" and pursuant to which the parties agreed that the FFPD would occupy and use the Property in exchange for the payment of rent to the County in the amount of \$1.00 per year.

After leasing the Property, the FFPD determined that it would be cost efficient and beneficial for its constituents to continue to contract with the City of Hayward Fire Department (HFD) to continue to provide the required fire protection and emergency medical services. The FFPD has contracted for such services with the HFD since 1993. The current Fire Protection Services Contract, entered into by FFPD and HFD as of May 15, 2012, will be in effect until June 30, 2017 and has an option for the parties to extend for an additional five years (the "Fire Services Contract").

DISCUSSION:

Since 2000, pursuant to the Fire Services Contract, the FFPD has requested on several occasions that the Fire Chief of the HFD investigate the viability of installing the EVA. On each occasion, the HFD has informed the FFPD that the cost of the EVA would be prohibitive (over \$1,000,000) due to severe grade and close proximity to existing homes. Furthermore, we were informed that the residents of the Castle Homes area, adjacent to the Five Canyons area, were staunchly opposed to the proposed installation of the EVA. In the meantime, the HFD has made commitments to increase the availability of services within the FFPD and has done so.

The HFD believes that it has made significant improvements to fire protection and response times in the area of East Avenue and Hackamore Drive. One example, in particular, is the addition of Hayward Fire Station #9 at Campus and Second Street in 1998. Response times have been reduced to target goals, and the community now receives full time service from Station #9 which is clearly better than the proposed seasonal satellite fire station. ATTACHMENT I depicts the area in question with the location of the two fire stations. ATTACHMENT II depicts the response routes of responding fire apparatus to the area in question. Over 30% of Station #9's emergency responses are within the FFPD response area. In fact, with Fire Station #9, HFD believes that it now meets and exceeds on a full time basis the intent of the EVA and County's Zoning Conditions.

The HFD is committed, both pursuant to the Fire Services Contract (which contains strict response time requirements to be maintained throughout the Fairview Fire Protection District), and as an internal goal, to provide all of the fire protection and emergency medical services required by the FFPD at all times, including during fire season and other critical times at the request and direction of the FFPD. The FFPD believes that the services it receives from the HFD pursuant to the Fire Services Contract meet or exceed the requirements of the Zoning Conditions such that title to the Property should be transferred from the County to the FFPD.

Additionally, the FFPD Board has consistently demonstrated its commitment to outstanding service to all of its constituents while ensuring responsible use of their tax dollars. For example, the FFPD Board established a Capital Improvement Program within its annual budget. This has allowed for cash payment of large purchases and has permitted the FFPD to follow best practices in the replacement and maintenance of its equipment without incurring debt. This has also allowed for the FFPD to purchase a Type IV Wildland firefighting apparatus that is housed at Station 9, providing additional apparatus and services to the entire district. Most recently, due to FFPD's foresight and planning, FFPD purchased a new Type I engine. This allowed for the old Type I engine to be sold for fair market value to the City of Hayward, where FFPD will benefit by having a quality reserve apparatus available to the district whenever the front line apparatus is in for service.

The FFPD also consistently takes pro-active measures to ensure maximum response readiness. This is evidenced by the annual funding for increased staffing for "Red Flag High Fire Danger Days" in which the district pays to staff additional wildland firefighting apparatus. This additional staffing is on an as needed basis based on fire weather or severe weather in general. Additionally the district provides for an exceptional wildland fire prevention program through HFD. Annual weed abatement surveys as well as fuel mitigation programs prevent many potential large fires each year through responsible regulation. Annual efforts to prevent the use of illegal fireworks through signage and patrols have proved very beneficial, in conjunction with the, "high fire danger" signs posted throughout the District.

Finally, it should be noted that FFPD still makes good use of Old Station 8 for the benefit of Fairview residents and taxpayers. Among other things, Old Station 8 is used to store medical supplies that can be used in a major catastrophe, such as an earthquake, as well as surplus vehicles. Firefighters make use of it as a work station to, for example, trade out old hose for new hoses on the fire engines and it is also frequently used as a polling station.

CONCLUSION:

On the grounds discussed above, the Board of Directors of the FFPD hereby requests that the County take action this fiscal year to make a determination that the Zoning Conditions have been satisfied and that it transfer title to, and ownership of, the Property to the FFPD.

Respectfully,



Catherine Ortiz-Carden, Board President

**STAFF ANALYSIS – MAY 3, 2004
PD MODIFICATION - 2058TH ZONING UNIT
FAIRVIEW FIRE PROTECTION DISTRICT**

P.D. MODIFICATION - 2058TH - FAIRVIEW FIRE PROTECTION DISTRICT - Request for a determination by the Planning Commission that the proposed changes in the approved PD (Planned Development) District are minor, to allow transfer of the Fire Station title from Alameda County to the Fairview Fire Protection District, on one site containing approximately 1.15 acres, in a PD (Planned Development, 2058th Zoning Unit) District, located at 25862 Five Canyons Parkway, unincorporated Fairview area of Alameda County, bearing County Assessor's designation: 0417-0289-008-00.

STAFF RECOMMENDATION

That the Planning Commission determine whether: a) the proposed modification is minor, in which case the conditional use permit procedure should be followed to consider implementation of the change, pursuant to General Ordinance Code sections 17.18.130 and 17.54.135; or b) the proposed modification is major, in which case the proposed modification would necessitate a change in zoning.

PERTINENT FACTS

Proposed PD Modification: Request to modify the approved Planned Development by eliminating or determining that the Fairview Fire Protection District has complied with Provision #4 of the Provisions of Reclassification for the 2058th Zoning Unit, thus allowing the transfer of title from Alameda County to the Fairview Fire Protection District (FFPD). If the Planning Commission determines the modification to be minor, then the Conditional Use Permit (CUP) procedure is to be used to determine whether to approve the requested modification. Approval of the determination that the change is minor does not prejudice action on the CUP, which may be approved, conditionally approved, or denied.

Background: In 1989, Alameda County approved a development plan for the Rancho Palomares project proposed by the William Lyon Company, under the 1727th Zoning Unit. That project became the Five Canyons project by Centex Homes, subject to Exhibit B (Land Use and Development Plan) for the 1985th Zoning Unit as approved in 1993, which showed the general design for the Five Canyons project and a new fire station to be located well towards the southern end of the project (about 2,150 feet from Fairview Avenue). One of the provisions of reclassification included a phasing plan regarding the time of completion for the fire station.

In 1994, the FFPD selected a station site along Fairview Avenue (Lot 1 in the Blackstone subdivision) as its preferred site which was not consistent with the original land use plan; the District had an understanding with the developer that the site would still need approval by the County. In 1997, as the necessary phasing deadline was approaching and based on concerns of the Five Canyons

**PD MODIFICATION - 2058TH ZONING UNIT
MAY 3, 2004
PAGE 3**

station has been approved by the FFPD or its successor agency. The County shall then transfer title of the new station and site to the FFPD or its successor agency. Transactional expenses shall be borne by the FFPD or its successor agency. While the County holds title to the new fire station and site at Lot 201, it shall lease the station and site to the FFPD or its successor agency for \$1.00 per year. The FFPD or its successor agency shall be required to maintain the station and site in good repair and shall indemnify the County against any claims by third parties arising out of the maintenance and operation of the station. The EVA referred to above shall be designed to preclude access to all motor vehicles other than emergency vehicles, but consideration shall be given to accommodating the needs of local residents for foot and horse access, as well as the security and privacy of the fronting property owners.

This Provision was the result of an extensive public review process and negotiation. The basic premise of having the County retain ownership and require certain actions on the part of the Fairview Fire Protection District was that the change in land use plan for the Five Canyons project would affect the community at large (Five Canyons and Fairview), and that the District had previously volunteered to implement the requirements as part of its strategy of addressing community concerns about response times if the contract with the City of Hayward were to cease.

The FFPD has provided the following reasons for requesting the elimination of or finding of compliance with Provision #4 and the transfer of title from the County to the District:

1. The Five Canyons Fire Station (Station 8) was opened on May 20, 2000 and has been in continuous operation since then.
2. The District has contracted with the City of Hayward Fire Department since 1993 to provide fire protection services within the District. On June 19, 1999, the City opened its Fire Station 9 at 24912 Second Street, Hayward. This station is physically located within the boundaries of the FFPD. It is staffed year round with a Type I engine company and crew. Station 9's first due area includes the southwestern portion of the FFPD and a recent study showed that about 30% of Station 9's calls went to addresses within the District's boundaries. The average response time was about 4 1/2 minutes. The contract between the District and the City runs through June, 2008. Should the contract be terminated, there is a requirement for the City to provide a management employee to the District to assist the District in reestablishing its own fire department, if required to do so.
3. The District believes that the presence of this additional fire station has not only met, but exceeded the requirement for a seasonal fire station. The City does not charge the District anything extra for services from Station 9. The funding of the seasonal fire station would be a duplication of services and unnecessary expenditure of taxpayers' dollars.

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PD MODIFICATION - 2058TH ZONING UNIT

MAY 3, 2004

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4. The proposed EVA would have connected upper East Avenue (now Star Ridge Drive) and Hackamore Drive. The District extensively researched this requirement, including holding a public hearing in September 2001. We found limited public support and considerable opposition to the installation of an EVA, particularly from persons living along upper East Avenue. They expressed concern about damage to the private road from fire engines, as well as fear that the gate system would be compromised, and the street would become a thoroughfare for commuters taking a shortcut to I-580.

5. In July, 2001, the Hayward Fire Department prepared a report on the EVA. With the new Station 8 above the EVA location, and Station 9 in the area below the EVA, the FFPD believes that the EVA is no longer necessary or justifiable. There could be a small saving in travel distance for the second and third companies responding from Hayward to fire incidents above the EVA, but because of the severe uphill grade on Hackamore and the potential need to slow for the EVA gate to open, these units would probably go up Fairview Avenue, anyway. The funding of the proposed EVA would be a duplication of services and unnecessary expenditure of taxpayers' dollars. The presence of Hayward's Fire Station 9 clearly both fulfills the requirement for a seasonal fire station and eliminates the need for an EVA.

However, the requested change to the Provisions of Reclassification involves questions of policy and land use, including the required improvement of land and circulation at the EVA location, operation of the seasonal fire station on Fairview Avenue near D Street, and the provision of services to land throughout the Fairview area. Therefore, there may be questions about whether the transfer of title would result in a substantial change in the Planned Development district as it was conceived in 1997. In essence, the FFPD is requesting that the County find that the contract with Hayward and the development of a new fire station on Second Avenue, complies with the intent of the original Provisions of Reclassification, and that Provision #4 be deleted and/or that the District be found in compliance, so that the FFPD may petition the Board of Supervisors to transfer title to the station.

Staff recommends that the Planning Commission determine whether: a) the proposed modification is minor, in which case the conditional use permit procedure should be followed to consider implementation of the change, pursuant to General Ordinance Code sections 17.18.130 and 17.54.135; or b) the proposed modification is major, in which case the proposed modification would necessitate a change in zoning.

Staff Planner: Phil Sawrey-Kubicek, Senior Planner
Reviewed by: Steven Buckley, Assistant Planning Director

PD MODIFICATION - 2058TH ZONING UNIT

MAY 3, 2004

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Homeowners Association and others, the FFPD revised its preferred site to one near Fairview Avenue and Five Canyons Parkway. After considerable site analysis by the FFPD, the Hayward Fire Department, a professional fire station architect, and the developer, the FFPD adopted Lot 201 on Five Canyons Parkway in the Five Canyons project as its preferred site. This site is located about 1,850 feet more southerly of the station site shown on the original Exhibit B.

The FFPD indicated at that time that, based on its service contract with the City of Hayward, it could provide adequate coverage of the Fairview area from this site. Likewise, according to the County Fire Chief, if the County Fire Department were to become the fire protection authority for the Fairview area, it could better serve the Fairview area and Five Canyons project from the new location than from the originally approved location. The appropriateness of the proposed location was debated at the Planning Commission and the Board of Supervisors. The Board and Commission determined that the proposed location would adequately serve the District based on the considerations discussed in more detail below. Therefore, Planned Development District (2058th Zoning Unit) was approved by the Board of Supervisors on December 4, 1997, modifying the location of the fire station.

The fire station site consists of a 1.15 acre parcel, and has been developed and used as a fire station since the year 2000. Immediately adjacent lots are approximately one-acre in size and are occupied by semi-custom homes. Other existing residences in the area are similarly on large lots; the area is also developed with park lands of the Hayward Area Recreation and Park District and East Bay Regional Park District. The vicinity is hilly and heavily vegetated in areas. Primary access routes are Fairview Avenue and Five Canyons Parkway.

PLANNING CONSIDERATIONS

The request of the applicant is to modify the PD District to allow the elimination of or finding of compliance with Provision # 4 of the Provisions of Reclassification, thus allowing the transfer of title from Alameda County to the Fairview Fire Protection District (FFPD). Provision #4 states as follows:

The FFPD has stated at the September 15, 1997 public hearing of the Alameda County Planning Commission and in its letter dated September 29, 1997 that it would a) install an Emergency Vehicle Access (EVA) from East Avenue to Hackamore Drive to provide emergency access to that portion of the Fairview area from the new fire station, and b) pursue operation of a satellite fire station as funding becomes available. For purposes of this condition, a satellite fire station is a station from which fire protection and emergency medical services are provided on a part time basis during fire season (months of June through October) and at other critical times determined by the FFPD or its successor agency. Title to the new fire station and site at Lot 201 shall be held by the County of Alameda until the EVA is installed and a satellite fire station is fully equipped and a budget appropriating funds for staffing the

To: Albert Lopez, Planning Director
County of Alameda

From: Mike Preston
Retired Fire Chief and consultant to FFPD

Re: Conditions of Approval for property at 25862 Five
Canyons Parkway, Castro Valley, CA 9/15/97

The Directors of the Fairview Fire Protection District (FFPD) petition the Alameda County Planning Commission to deem that conditions of development for the above parcel have been met.

The above parcel houses Fire Station 8 serving the FFPD and staffed by Hayward Fire Department (HFD) under a contract for service.

In 1997, the Planning Commission approved the development of a Fire Station on the parcel with two conditions. When the FFPD met the conditions, the title to the property would revert to the FFPD.

The conditions were:

- A. Install an Emergency Vehicle Access (EVA) from East Avenue to Hackamore Dr. to provide emergency access to that portion of the Fairview area from the new fire station at Five Canyons and Fairview Blvd.

- B. Pursue operation of a satellite fire station as funding becomes available. For the purposes of this condition, a satellite fire station is a station from which fire protection and emergency medical services are provided on a part time basis during the fire season (generally the month's

of June through October) and at other critical times determined by the FFPD or its successor agency.

The original conditions were imposed to deliver service from one Fire Station on Five Canyons Parkway near Fairview Ave. The EVA would facilitate emergency response from Station 8 more quickly to the Hackamore Dr., area. HFD now operates Fire Station #9 in the FFPD on Second St. near Campus Dr. This Station can respond to Hackamore Dr. in less than 4 minutes, much faster than the 6 minutes needed from Station 8 on Five Canyons Parkway.

The establishment of the Fire Station 9 enables the FFPD to meet and exceed both conditions. Timely emergency service to the Hackamore Dr. area and a second staffed fire Station all year long, not just during the fire season June-October. With these two Fire Stations, FFPD is able to deliver emergency equipment with paramedics anywhere in the District in 5 minutes 90% of the time and in the event of a structure fire additional units on scene in less than 8 minutes 90% of the time. This is the industry standard established by the Fire Service nationwide and is the standard required in the Contract for Service with HFD. This standard could not be met year round if conditions A & B only were implemented. Citizens of Fairview receive excellent service without the EVA and it has a second station year round.

Lopez, Albert, CDA

From: Rocha, David, ACFD
Sent: Tuesday, July 15, 2014 5:54 PM
To: Lopez, Albert, CDA; Swanson, Bob, BOS Dist 4
Subject: RE: Fairview Fire Station #8

I believe FFPD has met the intent of the two conditions included in the letter.

The EVA was intended to connect Hackamore Drive to Star Ridge Road. With the addition of the HFD fire station on 2nd Street, I believe the concern was mitigated by alternative means.

The satellite fire station is unnecessary based on HFD relocating a City fire station to Second Street. Also, they indicate that HFD has adopted a practice of increasing staffing during high fire severity periods.

Sincerely,
David A. Rocha, Fire Chief
Alameda County Fire Department
6363 Clark Avenue, Dublin CA 94568
(510) 632-3473 or (925) 833-3473 Office | (925) 875-9387 Facsimile

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

From: Lopez, Albert, CDA
Sent: Tuesday, July 15, 2014 2:01 PM
To: Swanson, Bob, BOS Dist 4; Rocha, David, ACFD
Subject: RE: Fairview Fire Station #8

Ok got it. Chief Rocha, see below and let's talk about your take on whether the conditions have been met. Attached is the letter from the Fairview Fire Protection District in case you don't already have it, the letter explains what the FFPD is asking for.

Take care,

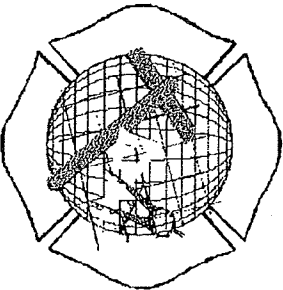
Albert V. Lopez, MCP
Planning Director
County of Alameda

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

From: Swanson, Bob, BOS Dist 4
Sent: Tuesday, July 15, 2014 1:49 PM

MAP #1
FAIRVIEW DIST



CDF FIRE DEPT
(SRA)

Seasonal
Station Site

#2 Fairview Fire Station
PROPOSED
EVA

Fairview Fire
District Boundary

#11
HAYWARD FIRE
DEPT

ALCO FIRE DEPT

