



104267

**DATE:** February 9, 2021

**TO:** Board of Supervisors

**FROM:** Jacqueline R. Onciano, Director, Dept. of Planning and Development

**SUBJECT:** Coyote Valley Climate Change Overlay Zone and Moratorium Report

### **RECOMMENDED ACTION**

Under advisement from December 15, 2020 (Item No. 16): Consider recommendations relating to options for a Climate Change Overlay Zone and Moratorium on development in unincorporated Coyote Valley. (Department of Planning and Development)

Possible action:

- a. Receive report relating to options for a Climate Change Overlay Zone and Moratorium on development in unincorporated Coyote Valley.
- b. Direct Administration to prepare a Climate Change Overlay Zone for Coyote Valley.

### **FISCAL IMPLICATIONS**

There are no fiscal impacts from receiving this report.

### **REASONS FOR RECOMMENDATION**

The Administration, in consultation with County Counsel, has prepared this report in response to the Board referral (Referral) from December 15, 2020 presented by Supervisor Chavez (Item No. 16), requesting options relating to a Climate Change Overlay Zone and a moratorium on development for unincorporated Coyote Valley, to protect agricultural and open space lands, incorporating community outreach.

### **Executive Summary**

#### 1. Climate Action Overlay Zone

As requested by the Referral, this report provides regulatory and procedural options concerning a Climate Change Overlay Zone (hereinafter referred to as a Climate Action Overlay Zone) and Moratorium intended to preserve Coyote Valley for agricultural use and open space. The Administration recommends pursuit of a Climate Action Overlay Zone as a means of introducing protections in Coyote Valley and recognizing its unique environmental

characteristics and relationship to climate action (i.e., efforts to address climate change and its impacts). An overlay could provide tools to move toward the permanent preservation of Coyote Valley and its recognition as a landscape critical to climate change resilience. In so doing, this action would help effectuate the recently adopted County Sustainability Master Plan priority, Climate Protection and Defense, by establishing a path forward that would lead to continued greenhouse gas (GHG) sequestration and promote climate defense. The report explains the unique characteristics of Coyote Valley and options for developing a Climate Action Overlay Zone.

## 2. Moratorium

The Referral requested that the Administration and County Counsel return to the Board with additional facts regarding the development threat in Coyote Valley and examine whether it creates a current and immediate threat to the public health, safety, or welfare, and therefore necessitates the adoption of a Moratorium, pending the preparation of updated land use regulations and the Climate Action Overlay Zone.

Government Code Section 65858 authorizes the adoption of interim ordinances that prohibit development while a legislative body is studying changes to its zoning and General Plan. Interim ordinances—also referred to as moratorium ordinances—prohibit a property owner from developing their property for a specified use for a limited period of time, and are intended to protect and promote the planning process by preventing the introduction of potentially nonconforming land uses that could conflict with a general plan or zoning ordinance amendment that the local agency is contemplating.

The legislative body must make two findings prior to enacting an interim ordinance. First, that there is a current and immediate threat to the public health, safety, or welfare. Second, that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement process by which a use is permitted, would result in a threat to public health, safety, or welfare.

As further explained below, the Administration has not identified any trend or characteristics in development activity in unincorporated Coyote Valley that—at this time—present a current and immediate threat to public health, safety, or welfare, and thus does not recommend a Moratorium be adopted by the Board of Supervisors at this time.

The Department will closely monitor any development applications for unincorporated Coyote Valley, provide a semi-annual report to the Housing, Land Use, Environment and Transportation (HLUET) Committee, and recommend a Moratorium should a trend or characteristics in development applications emerge that present a current and immediate threat to public health, safety, or welfare before the County can implement appropriate protections.

If adopted, a Moratorium could cover all of unincorporated Coyote Valley, or only a portion of it. A Moratorium could apply to prohibit County action on all land use entitlement applications or could be limited to certain types of entitlements such as action on an application for a subdivision or use permit. A Moratorium can only prohibit an entitlement for use; it may not prohibit the filing and processing of development applications. A

Moratorium may be initially adopted for a 45-day period and then extended for up to a total period of two years, subject to a four-fifths vote of the Board for initial adoption and any extension.

### 3. Next Steps

The Department will closely monitor future Certificate of Compliance and development applications in Coyote Valley and will return to the Board with a recommendation for a Moratorium should a development application trend or characteristics emerge prior to implementing appropriate land use protections.

Should the Board provide direction to the Administration to prepare a Climate Action Overlay Zone for Coyote Valley, the Department will continue to conduct research, develop regulatory and incentive options, and solicit stakeholder input. In continuing outreach on the subject, the Administration will focus on four particular stakeholder groups: (1) residents and property owners in Coyote Valley; (2) current and future potential agricultural operators; (3) open space access and environmental stakeholders; and (4) the City of San José administration. The Department has also begun and will continue to employ scenario-modelling tools to support understanding how components of an Overlay could impact residential density, VMT, carbon sequestration, and other goals related to climate change, sustainability, and environmental protection.

Once the Administration has conducted outreach and drafted overlay program components and Zoning Ordinance amendments, it would bring a proposal to the Planning Commission for recommendation, and to the Board for final consideration.

### **Climate Action Overlay Zone**

For the purposes of exploring a potential Climate Action Overlay Zone, the Administration evaluated a study area characterized by natural and jurisdictional boundaries: the valley floor region delineated by the city limits of San José and Morgan Hill to the north and south, respectively, and by the extent of the County's Exclusive Agriculture zoning to the east and west (Attachment A – Coyote Valley Study Area).

Within this study area, unincorporated Coyote Valley is comprised of two sub-areas: Mid-Coyote and South Coyote. The former represents the area currently zoned for 40-acre minimum lots and within the City of San José Urban Growth Boundary. The City of San José General Plan has historically designated Mid-Coyote as an "Urban Reserve", which the City's General Plan Task Force has proposed to remove in favor of a new "Coyote Valley Agricultural Overlay". South Coyote represents the area currently zoned for 20-acre minimum lots and within the City of San José Sphere of Influence. San José has historically designated South Coyote as its "Coyote Greenbelt" and the eastern portion has also been proposed for the City's "Coyote Valley Agricultural Overlay". North Coyote Valley, which is shown on Attachment A, is within the City of San José's boundaries and not within the County's land use jurisdiction.

## Natural Characteristics of Coyote Valley

Coyote Valley possesses many natural characteristics that are particularly well-suited to support the County's efforts in addressing climate change, sustainability, and other environmental protection issues. Many of these characteristics are individually present throughout the County's unincorporated agricultural areas; however, their combined presence in Coyote Valley make it a landscape unique in its potential to contribute to all of these efforts.

A brief overview of these natural characteristics and the ecosystem services they provide are:

a) *Groundwater level and aquifer health* – Nearly the entire area of Coyote Valley has a shallow groundwater table with an average depth to groundwater of less than 10 feet. The rest of Santa Clara Valley has on average a deeper groundwater level, mostly between 10 to 100 feet. Coyote Valley has a comparatively healthy groundwater aquifer, providing regional drinking water resilience as California faces greater water security challenges, expected to be exacerbated by climate change. However, Coyote Valley's high groundwater also makes it more vulnerable to contamination from failed leach fields and on-site wastewater treatment systems.

b) *Prime farmland soils and food security* – The majority of Coyote Valley has underlying soil characteristics that the Natural Resources Conservation Service (NRCS) classifies as prime farmland. It is characterized by some of the largest contiguous tracts of prime farmland adjacent to its metropolitan population center, unique in the greater San Francisco Bay Area. These prime soils, in combination with a healthy groundwater supply and an ideal growing climate, contribute to Coyote Valley's significant potential to provide ongoing fresh produce to a growing regional market. These characteristics also contribute to Coyote Valley's potential ability to protect against food supply chain disruptions resulting from climate change.

c) *Flood attenuation and recharge* – Due to the large, uninterrupted areas of undeveloped land with a permeable valley floor, Coyote Valley has the potential to mitigate the impacts of riverine flooding and downstream flood events. Irregular and destructive rainfall is projected to increase in frequency and intensity as a result of climate change. The ability of the Coyote Valley landscape to hold rainwater also results in important habitat and groundwater aquifer recharge. In northern Coyote Valley, Laguna Seca is the county's largest seasonal freshwater lake and wetlands, providing critical wildlife habitat while mitigating downstream impacts of large rain events.

d) *Carbon sequestration via perennial vegetation* – Perennial orchards and tree crops are well-suited on Coyote Valley's farmland, historically a world-famous center of stone fruit cultivation and distribution, and more recently home to new plantings of large walnut orchards. In addition, the riparian areas adjacent to Coyote Valley's many uninterrupted creeks and streams are naturally suitable places for native trees and perennial vegetation restoration. The planting of

additional orchards and riparian vegetation in Coyote Valley would provide significant opportunities for atmospheric carbon sequestration in the woody biomass of this perennial vegetation.

e) *Wildlife habitat and landscape linkages* – Coyote Valley provides essential habitat to a variety of threatened wildlife species as well as landscape linkages, also known as wildlife corridors, by connecting important habitat areas. Protection of this critical habitat and linkage corridors ensures continuity and genetic diversity of the wildlife population, especially threatened species, providing resilience from the impacts of climate change. Climate change is expected to stress local and global biodiversity and threaten the overall ecosystem stability. Mitigating the climate-induced loss of habitat and linkages for a diversity of species will in turn provide long-term ecological resilience for the human population of the county as well.

f) *Peri-urban greenbelt* – Coyote Valley serves as a critical greenbelt buffer preventing sprawl development of San José and the greater Bay Area. Greenbelts curb greenfield development (i.e., development on land that has not previously been developed) on agricultural lands and open space, encouraging infill development near jobs, services, and public transportation. A protected greenbelt preventing sprawl reduces regional traffic and vehicle miles travelled (VMT), lowering GHG emissions. One of the conclusions of the County’s Santa Clara Valley Agricultural Plan (2018) was that the development of each acre of farmland in the County would, on average, multiply GHG emissions by a factor of 77 compared with typical agricultural uses.

In addition to constraining increased traffic and emissions, peri-urban greenbelts (i.e., preserved natural and working lands immediately adjacent to a city or urban area) provide open space and recreational activities for nearby urban residents, and in some cases direct cooling effects on urban areas. Protecting open space adjacent to large metropolitan areas can also offer physical and psychological reprieve to a growing urban population.

A Climate Action Overlay Zone in Coyote Valley could protect this unique combination of natural characteristics and invest in this landscape as natural infrastructure for the County’s climate resilience.

## Moratorium on New Development in Coyote Valley

In order to determine the nexus for the County to adopt a moratorium as a means of curbing the threat of development, the Department evaluated development applications within the Coyote Valley study area to identify any potential trends. The Department specifically looked at applications for Building Site Approval and Pre-Applications for new Use Permits and Special Permits in order to identify any indication of increased development activity. These application totals are shown below, by year:

YEAR	2015	2016	2017	2018	2019	2020	TOTAL
APPLICATIONS	3	4	2	8	5	5	27

Although there was an increase in applications between 2017 and 2018, the six-year date range (2015-2020) does not show a significant overall increase in applications. Coyote Creek flooded in early 2017, causing over \$100 million in damage within the City of San José, leading to significant public policy shifts by the City and public mobilization for Coyote Valley to be preserved. The campaign for Measure T and City infrastructure funding for preservation of certain lands in Coyote Valley took place in 2018.

Another indicator of potential future development is the number of applications for Certificates of Compliance. A Certificate of Compliance is a process by which a property owner requests verification of a lot's legality, and is usually used to determine if underlying, substandard lots are legal and can be sold or developed. In the six years between January 1, 2015 and December 31, 2020, only two Certificates of Compliance were applied for within the Coyote Valley study area. In comparison, there were a total of 59 applications for Certificates of Compliance across all unincorporated areas during the same period.

On October 29, 2020, the City of San José General Plan Task Force overwhelmingly supported City staff recommendations to take efforts to preserve mid-Coyote Valley's agricultural and open space lands by removing the City's "Urban Reserve" designation for this area. This shift could result in an imminent change in land use dynamics and an increase in applications to develop under the County's current rules. At this time, however, the Department's analysis does not find that such a shift in land use dynamics has yet resulted in any increase in development applications.

Due to the lack of supporting evidence suggesting that there is a trend or characteristic in applications for Certificates of Compliance or development within the Coyote Valley study area that is creating an immediate and current threat to public health, safety, or welfare, the Department does not currently recommend the use of a Moratorium.

## Development in Coyote Valley

Nevertheless, the potential for development in the County's agricultural lands has been well-documented during the process of developing the Santa Clara Valley Agricultural Plan and a report by the Food System Alliance of Santa Clara County, entitled *Small Farms, Big Potential*, which describes the particular development potential facing smaller agricultural parcels (Attachment C).

The potential for development in Coyote Valley has long been related to expected annexation and rezoning by the City of San José for large-scale corporate campus development. As referenced in the Referral, the City of San José is now expected to remove its General Plan "Urban Reserve" designation from Coyote Valley, which could result in land owners seeking to maximize their financial return on property in Coyote Valley by pursuing development to the extent possible under the County's existing Exclusive Agriculture zoning.

The potential for development in Coyote Valley today is no less than that of other agricultural areas in Santa Clara County and could be greater, due to the recent change in planning direction by the City of San José. Of particular note, as identified by the Santa Clara Valley Agricultural Plan and *Small Farms, Big Potential* report, is that a majority of existing parcels in Coyote Valley are nonconforming due to their substandard parcel sizes.

### Substandard Parcels

The Coyote Valley study area (shown in Attachment A) is divided into three subareas: North Coyote, Mid-Coyote, and South Coyote. Mid-Coyote and South Coyote are under County jurisdiction and are predominantly zoned Exclusive Agriculture, with 40- and 20-acre minimum lot sizes, respectively. North Coyote is under City of San José jurisdiction and is also predominantly zoned for agriculture, with 20-acre minimum lot sizes, under the City's Zoning Ordinance. These minimum lot sizes and the County's Exclusive Agriculture designation are meant to preserve agriculture and open space. Rural ranchette and estate home development on substandard parcels in Exclusive Agriculture zones comprise the single greatest threat to Coyote Valley under the current County zoning standards. Other types of development are also allowed in Exclusive Agriculture zones, including industrial and commercial uses related to agriculture.

Due to historical land divisions, a large number of parcels in Mid-Coyote and South Coyote are smaller than the 20- and 40- acre minimum lot sizes now required by the County's current Exclusive Agriculture zoning. These smaller parcels are commonly referred to as substandard, nonconforming parcels. Under the County's current regulations, the owner of a legal lot may develop a single-family home, Accessory Dwelling Unit (ADU), and Junior ADU (JADU), irrespective of whether the parcel size is conforming or substandard in size. A more extensive breakdown of substandard parcels in Coyote Valley and the development implications can be found in the Background section below and in Attachment B – Substandard Parcels in Coyote Valley.

## Impacts of Substandard Parcel Development

The development of substandard, nonconforming parcels will impact each of the natural characteristics of Coyote Valley.

- a) *Groundwater level and aquifer health* – Rural septic drain fields have failed in many agricultural areas throughout California, resulting in groundwater that is unsafe for agricultural irrigation and for drinking water. State policies increasingly discourage rural water systems in these areas. Failed septic systems resulting from higher density development can lead to the extension of urban services into agricultural areas to provide property owners with safe water and sewer connections, which in turn can lead to increased development density in the area.
- b) *Prime farmland soils and food security* – Rural ranchette estates and other non-agricultural uses pose a well-documented and significant threat to agricultural viability, fracturing the landscape, introducing incompatible uses that interfere with agricultural operations, and permanently converting prime soils.
- c) *Flood attenuation and recharge* – Increased impermeable surfaces from development lead to diminished area capable of accommodating large rain and flood events, which reduces the ability of this natural infrastructure to attenuate destructive riverine flooding and, by extension, limits the ability to recharge the aquifer.
- d) *Carbon sequestration via perennial vegetation* – Active agricultural lands and preserved open spaces can provide a consequential volume of opportunities to sequester carbon that are not afforded by other areas and land uses, particularly those that cover or otherwise compromise the soil through development.
- e) *Wildlife habitat and landscape linkages* – The increased human presence, fencing, lighting, contaminated runoff, pesticide use, and car traffic that come with new development can be harmful to wildlife movement and reproduction, destroying habitat and fracturing range linkages and otherwise harming wildlife.
- f) *Peri-urban greenbelt* – Rural development on the edges of urban service areas undermines the utility of a greenbelt, introducing conflicting uses, increasing VMT, and compromising the open space values of the area.



## County's Actions to Address Impacts

The Administration is currently preparing two updates to the County Zoning Ordinance addressing zoning standards for development in the rural areas and mitigating its impacts. Adoption and implementation of these zoning standards would address some of the identified development threats in Coyote Valley.

### Rural Zoning Update

Some specific development concerns in Coyote Valley are expected to be mitigated through the Administration's proposed updates to rural zoning standards. This update includes: (1) the creation of development standards restricting the building footprint and other developed land area coverage in rural areas; and (2) preventing uses and development permitted in the Exclusive Agriculture zone that are unrelated to and incompatible with agriculture. The Administration is presently preparing Zoning Ordinance amendments for a Rural Zoning Update to address these areas that would affect all rural zoning districts, including lands in Coyote Valley.

Through the Rural Zoning Update, areas like Coyote Valley that are zoned Exclusive Agriculture would become more restrictive for non-agricultural development, and uses that are supportive of ongoing farmland viability and open space will be incentivized through permit streamlining.

### Nurseries Update

The Administration is also preparing Zoning Ordinance amendments addressing the unpermitted use of Coyote Valley properties for contractor's yards, which are not allowed in the County's agricultural areas. Unpermitted contractor's yards usually import large quantities of gravel or decomposed granite onto farmland parcels, which permanently compromises the ability of that soil to cultivate crops in the future. The Department has documented approximately two dozen such violations, half of which are in the Coyote Valley study area, mostly South Coyote. Many of these unpermitted contractor's yards attempt to use the *Nurseries* land use classification to allow their activities. The Administration is preparing amendments to the Zoning Ordinance for *Nurseries* to remedy this ongoing issue.

### Climate Action Overlay Zone Requirements and Incentives

In evaluating the potential threats of development on substandard lots within Coyote Valley, which could impact its natural characteristics that serve as infrastructure for climate resilience, and in considering the current rural zoning updates under development, staff has identified potential components that could characterize a Climate Action Overlay Zone for the area. These components fall into two categories: (a) Overlay *requirements* with possible regulatory protections, and (b) Overlay *incentives*, opportunities for investment in ecosystem services and increasing climate resilience.

Each of these possible components has a direct nexus to the combination of natural characteristics that make Coyote Valley unique.

Potential **requirements** for **new development** within a Climate Action Overlay Zone include:

- a) Enhanced development standards for parcels that are legal nonconforming in size (i.e., smaller than the designated minimum parcel size), building from the countywide Rural Zoning Update. For example, if a property is under 20 acres within the area zoned for 20-acre minimum parcels, new development coverage could be restricted to a certain percentage of the parcel, and/or with a building footprint limitation.
- b) Greater zoning setbacks for new development near riparian corridors and mapped wildlife corridors, with specific limitations on fencing and lighting; and/or a new development requirement to establish appropriate perennial vegetation for the benefits of carbon sequestration, wildlife habitat, aesthetic screening, and riparian restoration.

Potential overlay **incentives** to explore could, for example, be **priority consideration or limited eligibility** for Coyote Valley property owners to access:

- a) Tax incentives – under State law, the County can use its discretion in how to administer a Farmland Security Zone (FSZ) program, or “Super Williamson Act”, through which property owners may voluntarily enter into a contract to maintain their property in a commercial agricultural use and limit incompatible development for 20 years, in exchange for a tax incentive that substantially reduces property tax (35% below the agricultural rate afforded to Williamson Act properties). Allowing all properties of all sizes within an overlay zone to be eligible for an FSZ contract could provide a strong financial incentive for property owners to maintain their farmland in agricultural use. This incentive could even be applied to smaller parcels, and especially those with higher property taxes due to a recent sale. The Administration is currently preparing Ordinance amendments for the FSZ program countywide and could explore piloting FSZ contracts for substandard parcels within a Coyote Valley Overlay Zone.
- b) Preservation funding – in the form of an agricultural conservation easement (ACE) or a more cost-effective and term-limited restriction on development rights. The Administration has been exploring the temporary restriction of development rights as tied to its potential climate action value, as an alternative to ACE acquisition. Negotiating and acquiring a large number of ACEs could be prohibitively time-consuming and costly. Such a program to compensate landowners for a temporary restriction on development rights could be piloted in Coyote Valley and would offer property owners a term-limited voluntary incentive tied to the climate action value of minimizing sprawl development. The value would be calculated by the length of the term and the parcel-specific level of avoided emissions and carbon sequestration potential.
- c) Transfer of Development Rights (TDR) – credits for urban infill development, or mitigation for certain development impact. As the City of San José looks to re-allocate planned development from Coyote Valley to other areas within the City, the County could work in partnership with the City to establish either a TDR or impact offset program that links increased infill development in urban areas with the preservation of agricultural lands in Coyote Valley. A TDR program could allow developers who fund

actions to preserve agricultural lands to achieve a density bonus for a development project within the City. Under an offset program, any projects in the city that have identified development impacts could mitigate these impacts by funding conservation efforts with an appropriate nexus in Coyote Valley, like the abovementioned pilot program, explicitly tied to lowering emissions by preserving Coyote Valley agricultural lands and preventing sprawl development.

- d) Conservation funding – in the form of small grants for natural infrastructure investments. This incentive could include work to restore and enhance riparian areas and wildlife habitat, managed aquifer recharge projects, and/or regenerative agricultural practices. This could build off of the County’s pilot Agricultural Resilience Incentive (ARI) program—funded by the Board in January 2019, with program guidelines adopted by the Board in 2020—that provides farmers and ranchers with voluntary financial incentives to support the stewardship of farm and ranch lands based on 27 pre-approved agricultural resource management practices, including funds to develop and implement Carbon Farm Plans, and for property owners to install bat boxes, raptor poles, and perennial hedgerows.

Should the Board choose to pursue a Climate Action Overlay Zone for Coyote Valley, the Administration can work with community stakeholders and subject matter experts to fully develop these components for consideration by the Board.

### **CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

### **SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

### **SUSTAINABILITY IMPLICATIONS**

Based on direction by the Board, the recommended action could have positive sustainability implications by protecting and enhancing the natural characteristics and ecological functions of Coyote Valley, and by reducing GHG emissions and increasing regional resilience against catastrophic climate change.

### **BACKGROUND**

#### **Substandard Parcel Development**

The County does not have a comprehensive record of the existing number of legal lots in Coyote Valley. The existence of an Assessor’s Parcel Number (APN) does not necessarily mean the parcel is a separate legal lot. Of the 228 total parcels in Mid-Coyote, **the average parcel size is 8 acres and the median size is 2.27 acres**, which is far below the currently required 40-acre minimum. Of the 379 total parcels in South Coyote, **the average parcel size is 8 acres, and the median size is 2.79 acres**, which is also far below the currently-required

20 acres. By contrast, North Coyote, which is under City of San José jurisdiction, has only 56 parcels with an average size of 28 acres.

The statistical grouping of parcels, also known as “natural breaks”, show where and how the parcels are clustered. In Mid-Coyote and South Coyote, the natural breaks demonstrate just how many parcels are significantly below the currently required minimum lot sizes. For example, in Mid-Coyote, where the Exclusive Agriculture zoning requires a minimum lot size of 40 acres, the natural breaks reveal that most parcels are well under the minimum.

<i>Natural Breaks in Mid-Coyote</i>	
Acreage Range per Parcel	Parcel Count
0.01 - 5.57	154
5.58 - 15.01	40
15.02 - 36.84	22
36.85 - 79.89	12
TOTAL	228

This can in part be attributed to the trickle of “underlying” lots in Coyote Valley that were created by grant deed transfer or other means prior to the establishment of subdivision standards. Over time, these underlying lots are “perfected” through a Certificate of Compliance and become legal lots of record irrespective of the current zoning and minimum lot sizes.

If all 607 existing parcels with APNs in Mid-Coyote and South Coyote are legal lots of record, a full build-out of the existing substandard lots could result in the development of up to 1,821 residences. In contrast, theoretically, if all legal lots in South- and Mid-Coyote had been created in conformance with the County’s Exclusive Agriculture zoning minimum lot sizes of 20 and 40 acres, the total build-out potential would be 600 units—one third of the development potential associated with the substandard and underlying lots.

**Government Partners**

Coyote Valley is designated an area of statewide significance under Assembly Bill 948 – “Coyote Valley Conservation Program”, which was enacted in 2019. This bill, introduced by Assemblymember Ash Kalra, also authorizes the Santa Clara Valley Open Space Authority (OSA) to:

*[E]stablish and administer the Coyote Valley Conservation Program to address resource and recreational goals of the Coyote Valley, as defined. The bill would authorize the authority to collaborate with state, regional, and local partners to help achieve specified goals of the program. The bill would authorize the authority to, among other things, acquire and dispose of interests and options in real property. The bill would require a proponent or party to a certain proposed*

*development project within Coyote Valley to provide notice to the authority of the proposed project, and would authorize the authority to provide analysis of the environmental values and potential impacts of the proposed project.*

The Department has a long-standing and productive working collaboration with OSA on preservation efforts in Coyote Valley and elsewhere in the unincorporated areas. The Department will continue to work with OSA staff as critical partners and stakeholders during the development of a potential County overlay. The Department is working administratively to provide OSA notice of and a referral to comment upon applications for development projects in Coyote Valley. The Coyote Valley study area being used by staff aligns with the same area under County jurisdiction that is used in AB 948.

On October 29, 2020, the City of San José General Plan Task Force overwhelmingly supported City staff recommendations to remove the “Urban Reserve” designation in Mid-Coyote and to adopt a new “Coyote Valley Agricultural Overlay” for Mid-Coyote and the eastern portion of South Coyote. The motion specifically recommended that the City Council:

- *Amend the General Plan to remove the Mid-Coyote Valley Urban Reserve designation and designate properties in Mid-Coyote Valley to either Agriculture, Private Recreation, Public/Quasi-Public, or Combined Industrial Commercial. Properties in Mid-Coyote Valley within the City’s jurisdictional boundary would also be rezoned as needed to align with the appropriate General Plan land use designations.*
- *Create and apply a new Coyote Valley Agriculture Overlay that increases the minimum lot size from 20-acres to 40-acres on certain properties (see Attachment G) with an existing or proposed Agriculture land use designation that are:*
  - *Within North, Mid- and South Coyote Valley and are inside the City’s jurisdictional boundary; and*
  - *Within Mid- and South Coyote Valley that are outside of the City’s jurisdictional boundary and are zoned Exclusive Agriculture under the County’s Zoning Ordinance, which sets a minimum lot size of 40-acres (A-40ac).*

The Task Force also recommended that the City request that the County impose protections in Coyote Valley that match or exceed the City’s.

County staff has begun to collaborate with City staff in aligning long-term planning goals for Coyote Valley and introducing new protections that are appropriate and supportive of one another. Additionally, County and City staff are discussing possible inter-jurisdictional efforts related to another Task Force recommendation, to:

- *Explore a credits program in parallel with proposed land use designation changes to support further conservation actions in Coyote Valley and facilitate development in urbanized areas of San José.*

These recommendations and other City of San José General Plan Task Force materials are included as Attachment D.<sup>1</sup>

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<sup>1</sup> Further materials at <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/envision-san-jos-2040-general-plan/general-plan-4-year-review/meeting-materials>

## **Feedback from Stakeholder Groups**

Since the December 15, 2020 Referral, the Administration has begun outreach to Coyote Valley stakeholder groups on the subject of a potential Climate Action Overlay Zone, including:

- City of San José Planning Department
- Santa Clara Valley Open Space Authority
- Peninsula Open Space Trust (POST)
- Land Trust of Santa Clara Valley
- SPUR
- Farm Bureau County Chapter
- UC Cooperative Extension
- Santa Clara Valley Water District (Valley Water)
- Regional Water Quality Control Board
- Santa Clara Valley Habitat Agency
- Guadalupe Coyote Resource Conservation District
- Sierra Club, Loma Prieta Chapter
- Greenbelt Alliance
- Green Foothills
- Santa Clara Valley Audubon Society
- Santa Clara Valley Chapter, California Native Plant Society
- The Nature Conservancy
- San Francisco Estuary Institute

Many of the groups responded with general support for a climate overlay and enthusiasm for continuing to participate in the process to develop it. No groups voiced opposition to the proposal. Department staff held six virtual meetings to discuss possible incentives and restrictions with community representatives and subject matter experts in more detail.

## **Regional Housing Needs Allocation and Coyote Valley**

During discussion of the Coyote Valley Climate Change Overlay Zone Board Referral at the December 15, 2020 meeting, the Board referenced the potential relationship between the Regional Housing Needed Allocation (RHNA) assigned to the County from the Association of Bay Area Governments (ABAG) and future development in Coyote Valley. On January 21, 2021, the ABAG Executive Board adopted the RHNA Distribution Methodology used to assign RHNA to all cities and counties within the ABAG area. During preparation of this RHNA Distribution Methodology, ABAG staff previously notified County staff that the

initial RHNA assigned to the County unincorporated area included an assumption that Coyote Valley would be annexed and developed by the City of San José. Based on feedback from City and County staff to ABAG in December 2020 concerning updated plans by the City not to annex and develop Coyote Valley, ABAG has revised its RHNA assigned to the County unincorporated areas reflecting this information.

### **CONSEQUENCES OF NEGATIVE ACTION**

This report would not be received, or it would be revised at the Board's direction. A Climate Action Overlay Zone for Coyote Valley would not be prepared, which would reduce the regulatory tools at the County's disposal to constrain development and mitigate climate change impacts in the area.

### **STEPS FOLLOWING APPROVAL**

The Department does not request any steps from the Clerk of the Board following approval.

### **LINKS:**

- Linked To: 102144 : 102144
- Linked To: 103761 : 103761

### **ATTACHMENTS:**

- Attachment A - Coyote Valley Study Area (PDF)
- Attachment B - Substandard Parcels in Coyote Valley (PDF)
- Attachment C - Food System Alliance Report: Small Farms, Big Potential (PDF)
- Attachment D - City of San Jose General Plan Task Force Materials (PDF)