

# City Council Hearing

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August 9, 2022



*Planning, Building and  
Code Enforcement*

# Item 10.5

Administrative Hearing on the Environmental Appeal of the Planning Director's Adoption of the Initial Study and Mitigated Negative Declaration for the Alviso Hotel Project (Planned Development Permit No. PD19-031).

Presenter: Christopher Burton, Director, Planning, Building and Code Enforcement

# Project

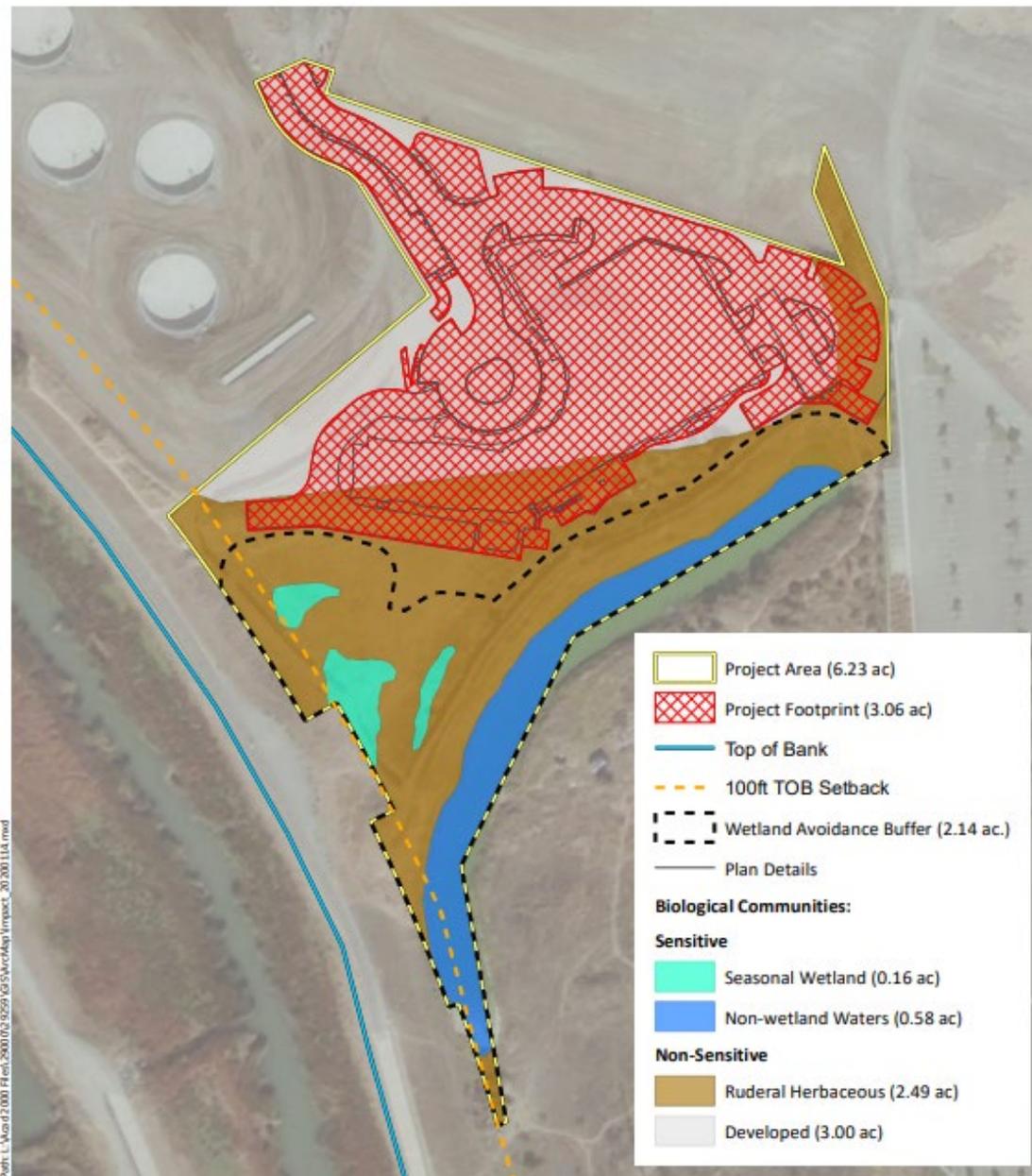
**Proposal:** 214 room, 5-story hotel with 4-story parking garage on a 6.23 acre site with 26' wide access road

**Location:** Vacant land south of N 1st and east of Guadalupe River, adjacent to TopGolf

**CEQA:** Initial Study/Mitigated Negative Declaration - identified significant impacts to biological resources, cultural resources, and hazards

Found impacts can be reduced to a less than significant level with mitigation.

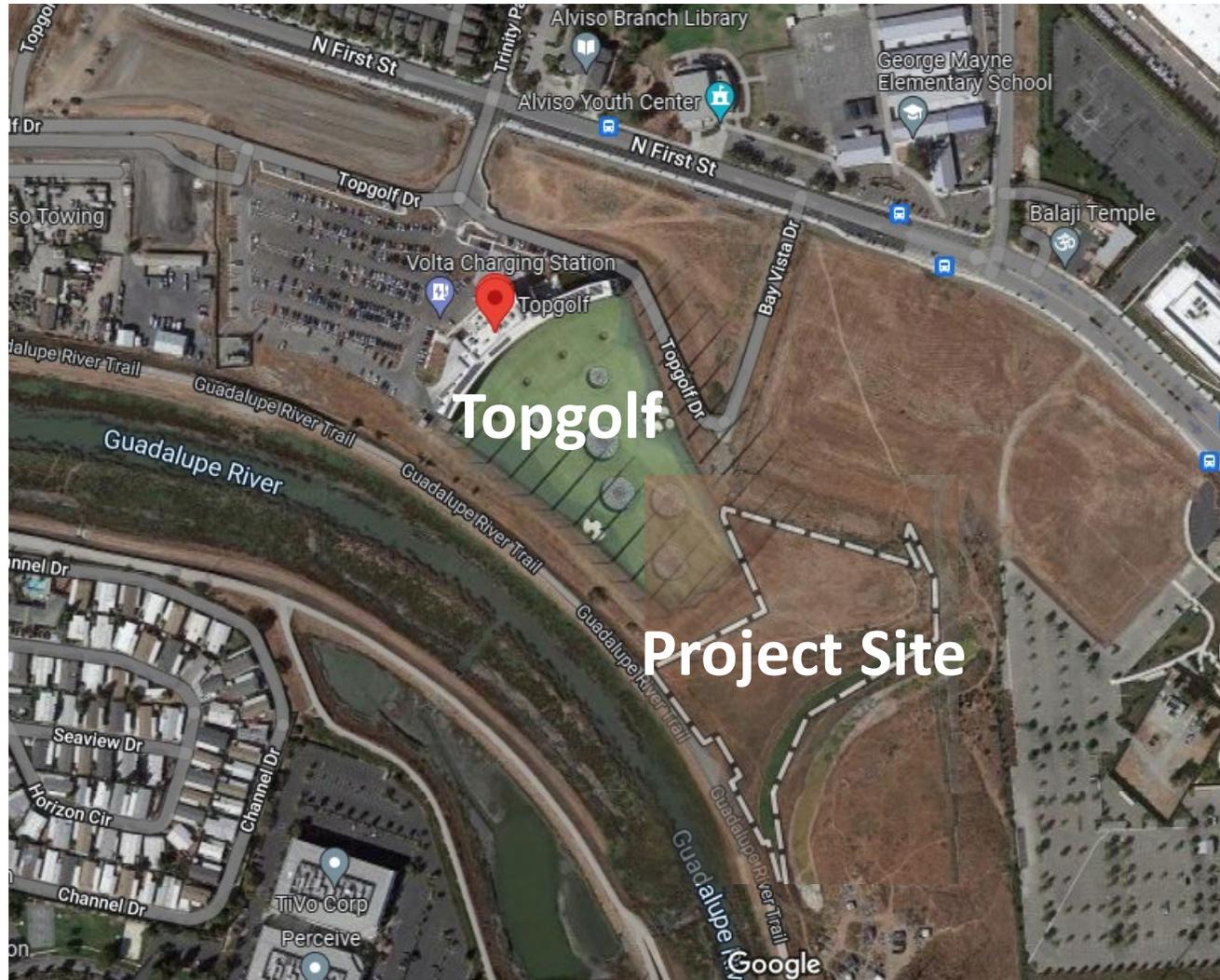
Source: Biological Resources Assessment, February 2020, WRA Environmental Consultants



Path: L:\Map of 2000 Feet, 2000\02\0299\0299\Map\Impact\_20200114.mxd

Sources: Esri World Imagery, WRA | Prepared By: pkobylarz, 4/26/2021

# Aerial



# Environmental Review Background

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- The Alviso Hotel Project IS/MND was circulated October 12, 2021 - November 10, 2021
- Response to Comments posted on the City's website on March 24, 2022
- Director's Hearing deferred from April 6, 2022 to April 20, 2022 so staff could respond to additional comments submitted prior to original hearing
- Responses to additional comments posted prior to April 20, 2022 hearing
- At April 20, 2022 Director's Hearing, 5 people spoke against the project approval citing concerns with the project and adequacy of the IS/MND. Hearing Office adopted the IS/MND and approved the project.
- Staff received 3 timely appeals of the Director's environmental determination from: Santa Clara Valley Audubon Society; Lozeau Drury, LLP representing Laborers International Union of North America; and Mark Espinoza

# Environmental Appeals

Stated reasons for the appeals include concerns about:

- Segmentation of CEQA review with prior TopGolf project;
- Mischaracterization site's baseline conditions as developed land;
- Inadequate reconnaissance-level surveys;
- Inadequate analysis of impacts to biological resources including special status species (i.e. Western Pond Turtles, burrowing owls, and other avian species), and habitat loss;
- Failure to analyze and mitigate the project's impacts on wildlife movement;
- Impacts of direct and indirect biological impacts of lighting; cumulative impacts analysis to biological resources and to open space;
- Inadequate mitigation measures;
- Inconsistency with the City's General Plan Policies, such as those related to environmental resources and bird safe design.

# Environmental Appeals – City Response

As presented in the Council memorandum and supporting responses, appellants did not raise new issues about the project's environmental impacts, nor provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the supporting Initial Study

- Biological resources: Impacts disclosed in IS/MND, and mitigation follows best management practices and HCP conditions to avoid impacts
- Not segmentation because no project anticipated on site when Top Golf IS/MND prepared in 2016
- Baseline condition of site considered developed due to observed conditions and prior disturbance
- Wildlife movement not significantly impacted as site is not corridor between core habitats due to existing development, height of hotel will prohibit bird movement, and additional traffic will not result in significant wildlife fatalities

# Staff Recommendation

Adopt a resolution denying the Environmental appeal and upholding the Planning Director's adoption of the Alviso Hotel Project Initial Study/Mitigated Negative Declaration, associated Mitigation Monitoring and Reporting Program, and Planned Development Permit, and finding that:

- (1) The City Council has read and considered the Initial Study and Mitigated Negative Declaration (IS/MND) for the Alviso Hotel Project and related administrative record related to Planned Development Permit No. PD19-031; and
- (2) The Initial Study and Mitigated Negative Declaration for the Alviso Hotel Project was prepared and completed in full compliance with the California Environmental Quality Act of 1970, as amended, together with state and local implementation guidelines; and
- (3) Adoption of the Initial Study and Mitigated Negative Declaration reflects the independent judgment and analysis of the City of San José; and
- (4) Preparation of a new environmental document is not required because Initial Study and Mitigated Negative Declaration thoroughly and adequately analyzed the project and the environmental appeal does not raise any new significant impacts that have not already been analyzed or addressed in the Initial Study and Mitigated Negative Declaration in accordance with Public Resources Code (PRC) Section 21083 or CEQA Guidelines Sections 15073 and 15185.

End

Presenter: Christopher Burton, Director, PBCE