

Scenic Corridor Protection Plan

**NILES CANYON ROAD and PALOMA WAY
PORTION OF CALIFORNIA
STATE ROUTE 84**

**Submitted to the California Departmental Transportation Advisory
Committee**

by

**County of Alameda, City of Fremont, City of Union City,
and Other Jurisdictional Agencies**

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SCENIC CORRIDOR PROTECTION PLAN

For the Niles Canyon Road and Paloma Way Portion of California State Highway 84

0.0 INTRODUCTION

On December 18, 2003, the California Departmental Transportation Advisory Committee (DTAC) unanimously approved the application submitted by the County of Alameda, and the cities of Fremont and Union City, submitted as part of the process for obtaining State Scenic Highway designation for the Niles Canyon and Paloma Way portion of State Route (SR) 84 through the Niles Canyon corridor between Mission Boulevard (SR 238) and Interstate 680. The project includes three jurisdictional areas, two of which are incorporated as part of the Cities of Fremont and Union City. The larger, more westerly portion of the area is unincorporated and is under the jurisdiction of Alameda County. In addition, it is to be noted in introducing the elements of the Plan that the area also is subject to jurisdictional action by two regional agencies. One, the Water Supply and Treatment Division, Land and Resource Management Section (LRMS), of the San Francisco Public Utilities Commission (SFPUC), is responsible for management of the Alameda Creek Watershed lands as part of the Hetch Hechy infrastructure through the Canyon. The second, the East Bay Regional Park District (EBRPD) oversees and maintains that portion of the area designated as regional parklands.

In order to proceed with the designation process, Alameda County, as the lead jurisdiction, is now submitting a Corridor Protection Plan consisting entirely of adopted county-wide ordinances and other regulatory mechanisms, as well as those currently in place for the Cities of Fremont and Union City. In addition, the Plan includes policies and practices adopted and currently in practice by the LRMS of the SFPUC and the EBRPD. In addition to addressing protection and enhancement of the recreational uses and historic resources that are unique defining characteristics of the Corridor, the Plan is focused on the five elements required by the *Caltrans Guidelines for the Official Designation of Scenic Highways* and as mandated by Section 261 of the California Street and Highways Code including but not limited to:

- Regulation of land use and intensity (density) of development;
- Detailed land and site planning processes;
- Prohibition of offsite outdoor advertising and control of onsite outdoor advertising;
- Careful attention to and control of earthmoving and landscaping; and
- Design and appearance of structures and equipment.

The three jurisdictions that regulate land use development within the Niles Canyon Scenic Corridor have adopted General Plan policies, area plans, and ordinances that recognize the unique character and importance of the area. They are intended to protect it from development that compromises its visual, historical and cultural integrity. Niles Canyon is a recognized recreational destination and much of the local economy is dependent upon maintaining this character. Moreover, the level of watershed protection and open space management provided by the two special jurisdictional agencies provide an added layer of protection for the watershed and recreational land use areas.

1.0 LAND USE AND DENSITY OF DEVELOPMENT

1.1 *County of Alameda:*

As shown in Figure 1, the zoning classification within the unincorporated portion of the corridor is primarily agricultural, with a mixture of rural residential uses concentrated in the downtown Sunol area (near Main Street, Sunol), which is only minimally visible from the roadway. The unincorporated area constitutes the majority of the land area within the proposed Scenic Corridor.

Development densities in the unincorporated area are characteristically low for the agricultural land uses, one residential unit per 100 acres. The rural residential development in the Sunol township area is limited to one residential unit per five acres and limited agricultural use. The corridor is identified under two County General Plans, bisected at approximately mile marker 14.0. On the east side of mile marker 14.0, the *1994 East County Area Plan* (as amended November 2000 by Alameda County Initiative Measure D, which establishes additional controls on maximum building intensity of 12,000 square feet for residences within a two acre envelope and a maximum 0.01 FAR for non-residential buildings) designates most of the land area on the north side of the roadway as Resource Management and Large Parcel Agricultural with some rural residential north of Main Street in the Town of Sunol and Water Management to the south of the road (See Figure 1). Extending west of mile marker 14.0 to the City of Union City boundary, the *1981 General Plan for the Central Metropolitan Eden and Washington Planning Units* does not specifically establish land use density but has established development controls and policies to protect the aesthetic, biotic, and historical resources of the area.

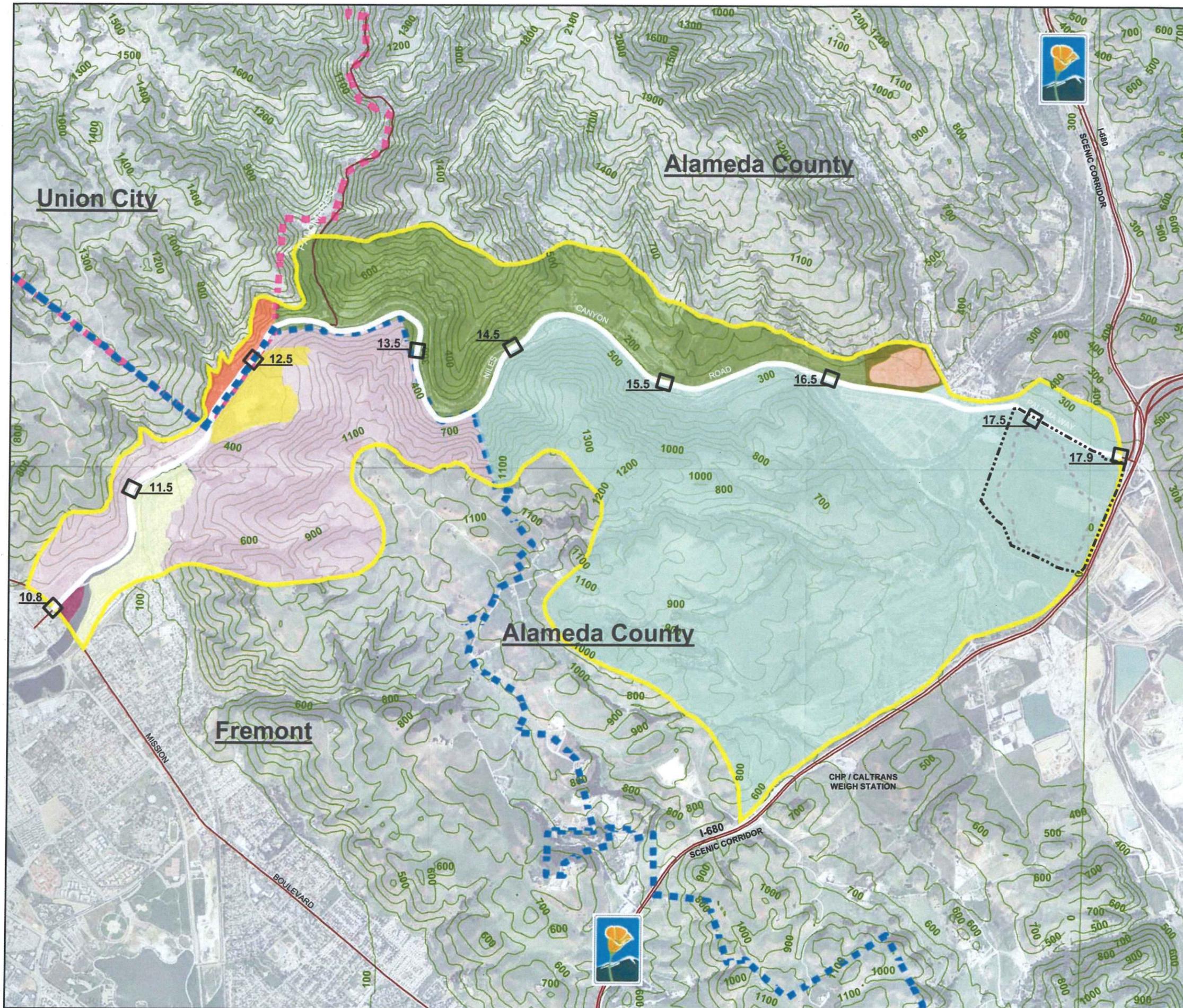
1.2 *City of Fremont*

As shown in Figure 1, approximately one-third of the corridor is in the City of Fremont's jurisdiction. All but a small portion of this area is zoned "Open Space, Development Reserve Overlay." This area is also within the more recently adopted 2002 Hill Area Initiative and is subject to additional development regulations designed to "...*protect scenic hill views, while permitting access to nature and outdoor recreation...*".

Along the southeast corner of Mission Boulevard and Niles Canyon Road, a small segment of land is zoned "Neighborhood Commercial, Historical Overlay, Hillside Combining" which allows a wide range of uses and a minimum area of three (3) acres where analysis of residential population demonstrates that such facilities are required. The "Historical Overlay" is designed to preserve, enhance, promote and enhance the cultural and historical identities, character and environments of those areas by having all new or altered buildings reviewed by the City's Historical Architectural Review Board. Permitted uses include small shops for retail and services, offices, on-site automobile parking and agricultural.

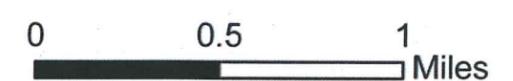
A recently approved "Planned District" rezoning located at the southeast corner of Mission Boulevard and Niles Canyon Road has been created to ensure that development at this intersection will create a Gateway to the City of Fremont and the Niles District that complements the Vallejo Mill Historic Park and preserves the scenic quality of the area. Other designations in the area include, a trailhead for access to the Bay Area Ridge Trail and Alameda Creek Trail, a bicycle, foot, horse trail along the canyon, a primary historic resource (Vallejo Mills ruins), and a neighborhood park (Vallejo Mills Historical Park).

Figure 1
Niles Canyon Scenic Corridor



LEGEND

-  Niles Canyon Scenic Corridor
 -  Niles Canyon Road / Paloma Way
 -  10.8 Mile Marker
- County of Alameda**
-  "R-1-L-B-E"
(Single Family, Limited Agricultural, 5 Acres minimum lot size)
 -  Large Parcel Agriculture
"A" - (Agricultural, 100 Acres minimum lot size)
 -  Resource Management
"A" - (Agricultural, 100 Acres minimum lot size)
 -  Water Management
"A" - (Agricultural, 100 Acres minimum lot size)
 -  Extent of Surface Mining Permit (SMP-32)
 -  Upper Limit of Quarry
- City of Fremont**
-  City of Fremont
 -  "R-1-8 (H-1)"
(Single Family, 8,000 sq. ft. minimum lot size, Hillside Combining District)
 -  "OS"
(Open Space, 0.25 - 1 unit/acre)
 -  "C-N (H) (H-1)"
(Neighborhood Commercial, Historic Overlay, Hillside Combining District)
 -  Measure T (2002) considered 'Toe of the Hill'
"OS" - (Open Space, Reserve Overlay District)
- City of Union City**
-  City of Union City
 -  Union City Hillside Area Plan
"A" - (Agricultural)



1.3 *City of Union City:*

Less than one percent of the Scenic Corridor is within the incorporated limits of the City of Union City. Located along the northwest portion of the roadway in the vicinity of marker 12.5, this land area is designated by the City's 2002 General Plan as Open Space, with a designated minimum lot size of 20 acres. The zoning classification is "Agricultural" and is also included in a *Hillside Area Plan*, approved in November 1996 by City Initiative Measure II, which requires that a detailed specific plan be prepared for all new development proposals. At present the portion of the area visible from the roadway is vacant and development within this segment of the scenic highway corridor would not be allowed.

2.0 DETAILED LAND AND SITE PLANNING

2.1 *Alameda County*

As discussed in the previous section, the passage of Measure D (November, 2000), a citizen-sponsored ballot initiative also known as the Save Agriculture and Open Space Lands Initiative, is structured to be very effective in preserving agricultural land and open space. It amends the Alameda County General Plan and several of the Area Plans applicable to the Niles Canyon Scenic Corridor to further restrict development and provides detailed land and site planning requirements that have the effect of restricting contemporary sprawl development. The portions of the County General Plan that were revised by Measure D may only be amended by voters of Alameda County, except the County can impose more stringent restrictions on development and land use as was done when new restrictions were added to the East County Area Plan and adopted by the Board of Supervisors in May 2002.

As shown in Figure 1, Measure D designated portions of the corridor as Large Parcel Agriculture (LPA), Resource Management (RM), and Water Management (WM). Measure D also enacted numerous amendments to the existing policies as well as added new policies to the 1996 *East County Area Plan (ECAP)* and, by extension, to the Zoning Ordinance. In summary, these amendments address, as previously discussed, Minimum Parcel Size (100 acres) and Maximum Building Intensity (12,000 square feet on no more than 2 acres). It also creates new Minimum Set-Backs (30 feet for front yards; 10 feet for rear and side yards) and makes a Site Development Review process applicable to every new dwelling or addition greater than 500 square feet as well as discretionary review for agricultural caretaker buildings.

Finally, Alameda County has made use of Williamson Act contracts since the State passed the California Land Conservation Legislation to enter into land conservation contracts with owners of agricultural land to maintain that it will be used only for that purpose for a minimum of ten years, with automatic extensions unless non-renewed. The County subjects the contracted land to the restrictions of the Act however, the State allows the County to adopt additional, compatible uses if they are consistent with the principles of the Act in preserving agriculture and natural open space uses. These uses are subject to a conditional use permit or considered accessory when subordinate to a lawful use. In return for keeping the land agricultural, the owner may receive a property tax benefit because of a reduction in the assessed value. Alameda County began participating in the Williamson Act program in 1968. Of those parcels identified within the corridor, there are three contracts totaling 1,453 acres.

Alameda County also has a number of site, building and landscape design criteria that are part of the policy framework of the East County Area Plan (ECAP) and that provide an added layer of protection to the scenic quality of the Niles Canyon Corridor. These include preservation of major visually sensitive ridgelines, such as those in Niles Canyon, visual protection of scenic character in rural areas, protection of large stands of mature, healthy trees that "achieve significant visual effect," the use of landscaping in both rural and urban areas to "enhance scenic character and screen undesirable views," use of native type vegetation, selection of building materials and landscaping to "minimize the visual impact of development" and to make it "blend with and be subordinate to the environment and character of the area," exterior lighting that is located, designed and shielded to confine direct rays, preservation of "oak woodland communities," and protection of riparian woodland habitat, especially along Arroyo de la Laguna and Alameda Creeks.

2.2 *City of Fremont - Hillside Area Initiative Provisions*

Almost all of the Scenic Corridor Area that is within the City of Fremont is subject to the provisions of Measure T, a ballot measure, approved in November 2002, known as the Hillside Area Initiative that has been incorporated into the City's Municipal Code. Development within the designated Hillside Area now must conform to a number of special restrictions, including a more restrictive Minimum Parcel Size (20 acres, except as permitted for an approved concept of "clustering" development of more than one property and 100 acres in the area annexed after January 2002). Maximum Floor Areas must not exceed one percent of the parcel area, or 20,000 square feet, whichever is less, but for any parcel a minimum of 10,000 square feet of shall be permitted. Greenhouses are subject to a maximum aggregate floor area of one percent (1%) or 40,000 square feet, whichever is less. Exemptions are allowed for Government facilities that are necessary to serve important public needs and that they cannot practicably be located outside the Hill Area. The City Council may also authorize a larger area if needed for housing for agricultural workers, or for processing, packaging or storage of agricultural produce or plants, a substantial portion of which were grown in the Hill Area, or for other agricultural purpose.

If feasible, clustering shall be required for residential and other permitted development on contiguous parcels in common ownership to the extent that clustering or partial clustering would reduce overall visibility of development from public places. Clustering, which also may be described as transfer of density or development rights, may be allowed for permitted development on any parcels if the effect is to reduce overall visibility from public places or, consistent with that, to reduce environmental harm. Required or permitted, clustering may be on a single parcel or on separate, adjacent parcels that do not exceed two acres.

In addition to the newly implemented Hillside Area Initiative Provisions, the City of Fremont has other significant land and site planning process requirements that are directly applicable to protection of that portion of the Scenic Corridor. In summary, these include restrictions to development within **Wetlands and Riparian Corridors** (not permitted adjacent to if measurable reduction to quantity or biological quality of the wetlands will be reduced measurably or within a riparian corridor, defined as 200 feet from the center of the stream bed); **Critical Wildlife Habitat** (no development or conversion to agricultural use); **Steep Slopes** (no development sites on slopes of 30% or greater); **Ridgelines and Hilltops** (no structures allowed that project into the ridgeline as viewed from public roads, trails, or other public places); **Lot Line Adjustments** (generally not permitted if the resulting lots do not comply with the General Plan); and **Certificates of Compliance** (not granted, including conditional, except as required by State Law).

The City of Fremont, as part of the voter approved Measure T Initiative, has additional project design regulations that are intended to further protect scenic character. These regulations are applicable to significant portions of the incorporated portion of the Scenic Corridor and include concerns for **Building Envelopes** (all buildings shall be placed within a contiguous "envelope" not to exceed two acres with some exceptions for agricultural uses or security needs); **Visual Safeguards** (siting, lot line adjustments, site grading landscaping, and lighting all to be designed to made development "subordinate to and blend in with the natural and open space of the area where located so as to be as unobtrusive as possible"); and **Maximum Building Height** (30 feet).

There are specific development policies and ordinances regarding tree removal. The City's Tree Preservation Ordinance requires a permit to remove any tree four inches in diameter or more at four feet above ground level. The Hill Area Development Policies discourage tree and natural foliage removal.

Finally, a special **Gateway Area** designation has been established at the southeast corner of Mission Boulevard and Niles Canyon Road (Big Daddy's Planned District). Site Plan and Architectural Review is required for all new construction to consider impacts to the surrounding natural area and the Gateway designation, to take into account site access and impacts to adjacent residential uses. Proposed architectural design is to be of superior quality and determined to enhance the scenic qualities and complement the historic character of the area and be an attractive gateway feature for Fremont, the Niles District and Niles Canyon. Pedestrian connections to nearby features are required and access designed to minimize impacts to adjacent major thoroughfares.

2.3 *City of Union City*

Union City has specific regulations for an Agricultural District, which is the current zoning of the Hillside Area. However, the City's Hillside Area Plan requires the preparation of a specific plan for any development that takes place in portions of the Hillside Area. Moreover, the hillside area visible from the roadway is identified to remain as undeveloped open space

2.4 *San Francisco Public Utilities Commission / Water Department:*

The Alameda Watershed Management Plan, which is administered by the San Francisco Water Department, was prepared for the San Francisco Public Utilities Commission and adopted in April 1998. The goals, policies and actions of the plan are highly protective of natural ecosystems as well as cultural resources and, for Niles Canyon, address the following subject areas in great detail:

1. Water quality
2. Water supply
3. Vegetation
4. Wildlife
5. Aquatic Resources
6. Cultural Resources
7. Fire
8. Safety and Security
9. Watershed Activities, including educational, recreational and scientific
10. Administration and finance
11. Public awareness and Agency participation

3.0 SIGNS: OFF-SITE and ON-SITE OUTDOOR ADVERTISING

Upon the adoption of this Protection Plan by the California Department of Transportation, and ultimate designation of the Niles Canyon Road and Paloma Way portion of State Route 84 as a Scenic Highway, no advertising displays (such as billboards) may be placed along this section of highway as provided in Sections 5271, 5405, 5440.1 and 5442.5 of the Business and Professions Code, Outdoor Advertising Act.

3.1 *Alameda County*

Off site advertising signs (such as billboards, signs not relevant to the main use of the property, obtrusive signs) cannot be located adjacent to or constructed within the Niles Canyon Road Scenic Route as defined in the **Scenic Route Element** and the **Specific Plan for Areas of Environmental Significance** as part of the General Plan.

The Alameda County Zoning Ordinance has a few applicable restrictions of on site signage use in agriculturally zoned lands that help to protect the existing rural character. Illuminated signs are prohibited and there are restrictions on the number (no more than two) and size (not in excess of twenty-four square feet) of sale or lease signs.

3.2 *City of Fremont*

Off site signs including general purpose advertising and billboards are not permitted by the City of Fremont Zoning Code.

Open space and single-family residential zones only allow for small directional signs (1-square foot in size). If the use is an institutional use one sign up to 18-square feet in size may be permitted. The one site along the corridor is designated for commercial use (Southeast corner of Niles Canyon Road at Mission Boulevard). When this site is developed, the City will require a Planned Sign Program as part of the project submittal.

3.3 *City of Union City:*

As stated previously, any development within the Hillside Area would require the preparation of a specific plan. Existing uses would be subject to the City's sign standards, which include a prohibition on Billboards and Off-Premises Signs, as well as signs found to be hazardous to traffic.

4.0 EARTHMOVING

4.1 *Alameda County*

The East County Area Plan (ECAP) provides a number of policies addressing landforms and grading that provide additional protection for the existing scenic character of Niles Canyon. These policies include **Alteration of Landforms** (locate development to conform to rather than change landforms; minimize alteration necessitated by grading, excavating, filling or other development activity; locate access roads to be least visible from public viewpoints); **Grading** (where necessary, minimize off-site visibility of cut and fill slopes, design grade slopes to simulate natural contours and support vegetation to blend with surrounding undisturbed slopes); and **Quarries and Open Pit Mining** (except as required by State law, no approvals for new quarry or open-pit mines unless approved by Alameda County voters; and excavations adjacent to existing quarries also prohibited).

Water Management Areas, which comprise more than half of the Scenic Corridor Area, also are given special protection under the ECAP. Existing quarry operations in Water Management Areas are made subject to policies that require additional permits subject to the Specific Plan prepared for the Sunol Valley/San Francisco Water Department (SFWD) watershed lands. Joint participation by the County and the SFWD is required to ensure that future quarry activity is compatible with Sunol community interests and water management objectives. In addition, the County shall work with the San Francisco Water Department to develop a land use and reclamation master plan for San Francisco Water Department-owned lands in the Sunol Valley. The plan shall insure the compatibility of the quarries with the Sunol Community during active mining and following reclamation. Opportunities for habitat preservation and enhancement and recreational uses should be explored in conjunction with reclaimed uses. While mining expansion in the form of gravel quarry operations is allowed, it is subject to mitigation measures designed to protect the visual integrity of the corridor.

4.2 *City of Fremont*

The Hill Initiative of 2002, along with existing City Ordinances, regulates grading, ridgelines and access roadways. The City's rules generally preclude grading and development on slopes over 30%. Each site is reviewed for conformance with the City's grading requirements (Section 8-4100 through 8-4139) and the California Environmental Quality Act. Overall, the City's policy is to minimize grading to preserve trees and vegetation along with natural land formations.

The city has specific development policies and ordinances to regulate quarries and mining operations. Any mining operation would be required to comply with the development policy for quarries and also the Quarry Combining District Ordinance, which requires that quarries obtain a conditional use permit. Screening of quarries is reviewed on a case-by-case basis within the context of the conditional use permit.

The only quarry in Fremont in the general area of Niles Canyon Road is the Mission Clay Quarry at the end of Old Canyon Road. The quarry site is screened from the view along the corridor by the trees along Alameda Creek. At present, all buildings have been removed, excepting the kiln stacks.

4.3 *City of Union City*

There are no specific regulations regarding grading that apply to *Section 18.48, Agricultural Districts* of the Union City Municipal Code

Applications for development would be subject to Site Development Review, the Hillside Area Plan and the California Environmental Quality Act. Any grading would require a grading permit from the City.

5.0 UTILITY INFRASTRUCTURE

5.1 *Alameda County*

The policy framework of the East County Area Plan (ECAP) requires that utility lines be placed underground “whenever feasible” and requires new development to underground utility lines within the property. However the County currently has no other specific requirements for undergrounding power lines or other types of overhead utility lines in agricultural areas such as Niles Canyon. Currently all PUC and local funding for under-grounding new and existing overhead utility lines within public rights-of-way are designated for urbanized areas.

In 1997, Alameda County adopted “Development Standards for Siting of Telecommunication Facilities.” These Development Standards may be required at the discretion of the Planning Department as part of the approval of the Conditional Use Permit to protect the visual quality. They address general conditions that apply to all telecommunication facilities, such as siting preferences and types of antennae mounting in accordance with the zoning districts, land use compatibility, visual and public safety issues as well as specific types of telecommunication facilities, such as façade-mounted, ground-mounted and free-standing towers.

As discussed in the Resolution Package approved by Caltrans in 2003, one large satellite dish and platform remain on the north side of the road between mile markers 12.5 and 13.5. Although it occupies a very minor portion of the scenic vista, the dish is briefly but highly visible when approaching from the east and west direction. The Conditional Use Permit, approved by the Alameda County Board of Supervisor’s in 1985, will expire in 2010 and given the rapid changes in telecommunications technology; this permit will not be renewed with similar equipment. However, the County reserves the right to evaluate future telecommunication project proposals and provide appropriate conditions to protect the visual quality.

5.2 *City of Fremont*

The City of Fremont requires all new development to underground power lines and other overhead lines. No new overhead lines are permitted.

5.3 *City of Union City*

The City of Union City requires all new development to underground power lines and other overhead lines. No new overhead lines are permitted.

6.0 RECREATIONAL ACTIVITIES

The Scenic Highway Designation will allow motorists to enjoy the view of the canyon's natural and cultural features from the road. The roadside is also used by bicyclists, hikers, railroad enthusiasts, and fishermen due to the ongoing efforts of the East Bay Regional Park District, State Department of Fish and Game, San Francisco Water Department, and Pacific Locomotive Association.

6.1 *Trails: East Bay Regional Park District (EBRPD) Actions*

East Bay Regional Park District Master Plan and Proposed Trails Alignment: EBRPD has already established a one-mile long trail along the seven-mile long scenic route. Further public enjoyment of the canyon is planned by the EBRPD through the establishment of a longer, regional trail and staging areas for interpreting this unique corridor. Both the trail and the creek are accessible and visible from Niles Canyon Road.

The EBRPD *Regional Master Plan* indicates a proposed regional hiking, riding and bicycling multi-use trail along Alameda Creek adjacent to Niles Canyon Road. EBRPD has begun to secure property along both the creek and the ridgeline to establish the trail and protect the scenic corridor. Scenic highway designation of Niles Canyon Road (Route 84) will assist the EBRPD in its ability to obtain grants for acquisition of the abandoned Southern Pacific right-of-way and to fulfill its public recreational goals for the Niles Canyon Trail.

EBRPD completed a trail corridor study and EIR in 1980 for a 5.5-mile section of Niles Canyon from the Niles Staging Area near Mission Boulevard in the west to the mouth of the Sunol Valley in the East. The study and EIR were completed in order to provide a continuous trail link through Niles Canyon to an area one-mile west of the town of Sunol, continuing the existing Alameda Creek Regional Trail.

The existing Alameda Creek Regional Trail (opened in 1973) operated and maintained by EBRPD on Alameda County Flood Control's maintenance levees, follows the banks of Alameda Creek in southern Alameda County from the mouth of Niles Canyon (in the Niles District of Fremont) westward to San Francisco Bay for a distance of 12 miles. The south side of the trail is paved to accommodate bicyclists, hikers, and in-line skaters while the unpaved north side is multi-use, allowing equestrian users, bicyclists, and hikers. Portions of the new regional trail link through Niles Canyon will be for equestrian use and hiking only. To date (March, 2007), the equestrian and hiking portion of the trail runs approximately one mile into Niles Canyon from the Niles Staging Area located near the Mission Boulevard intersection.

The Niles portion of the trail is of regional importance, linking parklands on the west side of the County to those on the East. EBRPD's Trails Master Plan shows the proposed Niles Canyon Trail continuing east towards Shadow Cliffs Regional Recreation Area in Pleasanton and beyond to East Contra Costa County and the Delta as part of the larger San Francisco Bay to San Joaquin River Trail. It also bisects the Calaveras Ridge Trail southward to link to EBRPD's Sunol Regional Wilderness and northward to Pleasanton Ridge Regional Park and the Bay Area Ridge Trail which will connect to Mission Peak Regional Preserves via future parkland in the Vargas Plateau area.

The public currently enjoys and values the Alameda Creek Regional Trail, which is accessible via Niles Canyon Road, as a unique resource and the East Bay Regional Park District is presently working on increasing trail access into Niles Canyon. According to EBRPD, the canyon receives high use by the public at unofficial gathering areas along the creek. EBRPD often sponsors volunteer "Earth Day/California Trail Days" to maintain the trail and clean Alameda Creek. Their advocacy, volunteer maintenance effort, and use of Alameda Creek and Regional Trail demonstrate the strong support by the public of the scenic values and recreational use of the area.

East Bay Regional Park District has also been an active stakeholder in the effort to restore anadromous steelhead to the Alameda Creek watershed for over two decades. The Niles Canyon Scenic Corridor, which contains the lower section of Alameda Creek, is a critical piece of the Alameda Creek watershed, linking the upper Alameda Creek watershed to the San Francisco Bay. The upper watershed currently supports spawning and rearing of native rainbow trout and historically Federally Threatened Steelhead (*Onchorhynchus mykiss*). The Niles Corridor currently supports a native rainbow trout population within Stoneybrook Creek which runs adjacent to Palomares Road.

6.2 *San Francisco Public Utility Commission / Water Department*

Much of the Alameda Creek watershed is owned by the SFWD, including some of the most scenic lands that can be viewed from Niles Canyon Road. Water Department and San Francisco Public Utility Commission has adopted policies that restrict development and protect watershed land help to preserve the Alameda Creek fish habitat as well as the scenic views along the corridor.

San Francisco Water District: Sunol Water Temple is open to the public as a recreational historic resource. The adopted Watershed Management Plan includes policies (section 4.10) that prohibit any activities detrimental to watershed resources. Permitted recreational activities, usually require permits and limit open public access to recreational trails leading to the periphery of the watershed area. These policies are intended to minimize disturbance to sensitive wildlife and vegetation, reduce chance of fire, and minimize spread of weeds, thereby causing the least disruption to wildlife movement that would result from trailside fencing.

6.3 *California Department of Fish and Game (DFG)*

Due to excellent fish habitat in the creek, the DFG stocks Alameda Creek with native fish species during the spring and summer seasons. Several spots along the creek are popular with fishermen and are accessible only by Niles Canyon Road. At mile marker 15.5, a parking area and access point to the Alameda Creek is provided for these recreational enthusiasts.

6.4 *Pacific Locomotive Association, Inc. (PLA) Actions*

The PLA is a non-profit organization which operates and manages the Niles Canyon Railway and historic rail museum along the County-owned railroad right-of-way through Niles Canyon. The PLA entered into a contract agreement with the County of Alameda soon after the land was deeded to the County by the Southern Pacific Railroad and began rebuilding the rail line in 1987. Association volunteers worked for over a year on the first part of the tract reconstruction between Sunol and Brightside. On May 21, 1988, almost 122 years after the first Western Pacific excursion, the PLA brought railroad passenger operations back to life through Niles Canyon. The

historic and recreational railroad line and its scenery attract about 400 passengers per day on weekends to the year round route, which begins at the 1880's depot in Sunol, travels about 6 miles west through the Niles Canyon, and then returns to Sunol. The rail line, including historic bridges and trestles, is visible in many places from Niles Canyon Road and serves to remind motorists of the Canyon's historic role as a transportation corridor and vital link to the Transcontinental Railroad connection through the Bay Area hills.

The County expects to continue the contract agreement with the PLA. Any expansion of services or rehabilitation of the depot, bridges or trestles by the PLA will include review, oversight and permits from the Public Works Agency with the Planning Department acting as a referral to assure compliance with the Protection Plan.

6.5 *Community of Sunol/Alameda County Public Works Agency Beautification Program*

The community of Sunol, located at the east end of the route, has initiated a beautification project that promotes its historic origin as a railroad town. This project was begun in anticipation of increased tourism due to the recreational steam trains, the nearby Livermore Valley Wine Country, and several East Bay Regional Park District trails that begin in Sunol. Alameda County has designated the portion of Niles Canyon Road east of Palomares Road, which runs through Sunol, as an official Wine Trail. Gateways to the town using natural vegetation and locally mined stone materials will be used to establish "gateways" to the town along the scenic route as well as pedestrian walkways where appropriate.

7.0 CULTURAL RESOURCES

7.1 *Alameda County*

Currently, all projects effecting potentially historical sites or buildings are subject to the requirements of the California Environmental Quality Act (CEQA). Although the CEQA provides a clear process for review and decision making in regards to identifying historic and cultural resources, it can only be applied to applications requiring discretionary approval. Section 2.86 of the County Administrative Code establishes the Parks, Recreation and Historical Commission who are generally responsible for overseeing all preservation activities and ensure that all historical resources are recognized as such. The Commission's duties have included oversight of potentially historical projects being negatively affected by development applications. They operate as an advisory body to the Board of Supervisors; their decisions and recommendations are in the form of Resolutions.

For fiscal year 2004/05, the County Board of Supervisors recognized the need to protect its local historical and cultural resources by approving a \$100,000 budget to be used towards the completion of a County-wide historical and cultural resources inventory and development of a Preservation Ordinance defining a process to protect and preserve local resources. Once this Ordinance is adopted, it will be used for all development and demolition projects, including alteration, throughout the unincorporated County.

As of this writing, the county has contracted with a professional historian to conduct a windshield survey of specific subareas in the eastern county. So far, the inventory has been completed for the Sunol subarea which has identified numerous sites, structures and objects as potentially historical. Once this survey is complete, it will be incorporated as part of the Preservation Ordinance described above.

7.2 *City of Fremont*

A City-wide inventory has been completed, including for the Niles community, which includes the easternmost portion of Niles Canyon.

A Historic Overlay Combining District Ordinance provides for Historical Architectural Review Board (HARB) review of proposed moving, removal, or destruction of historical resources.

7.3 *The City of Union City*

The City of Union City also has established, through the zoning ordinance, a Landmark and Historic Preservation Overlay Zone for the protection of historical properties and structures. There are no designated historical properties in the *City of Union City* along Niles Canyon Road, at this time.

7.4 *San Francisco Public Utilities Commission / Water District*

The Watershed Management Plan (2.8) identifies that all of the Niles Canyon Area is within a zone of cultural resource sensitivity. Known historic structures and features include wells, reservoirs, dams, tunnels and the Sunol Water Temple. There are no watershed resources currently listed on the National Register. A cultural resources study for the watershed area has not been completed, but is identified as part of the WMP.

7.5 Caltrans

The California Department of Transportation (Caltrans) has completed a preliminary evaluation of roadway infrastructure, including historic bridges and over-crossings, that identifies several structures worthy of nomination to the National Register.

In addition, in anticipation of future roadway realignment projects, Caltrans will be undertaking further studies of cultural resources and environmental features subject to potential impacts.

8.0 IMPLEMENTATION POLICIES AND RECOMMENDATIONS

The Protection Plan consists of a compilation of existing ordinances, policies and legislation from each of the jurisdictions involved in regulating land use within the Niles Canyon Corridor as well as other jurisdictions who are peripherally involved such as the San Francisco Public Utilities Commission, East Bay Regional Park District and Caltrans. Because the Niles Canyon Corridor is a multi-jurisdictional roadway, coordination at the local level is necessary so information can be shared between each agency to assure a comprehensive and implementable Protection Plan as well as to provide consistent support for the existing Hillside Area Plan of the City of Union City, the Hillside Area Initiative of City of Fremont and Measure D of the County of Alameda. Designation of the Scenic Route will provide the poppy signs along Niles Canyon Road and Paloma Way but it could also allow coordination of local events such as walk or bike-a-thons through the entire canyon. The following policy and program defines how this type of coordination could occur.

8.1 *Recommended Coordination Policies and Programs*

Policy Development IA

The County of Alameda, City of Fremont and City of Union City shall explore the development of a subcommittee that will review and provide comment on all private or public development applications within the corridor delineations. Generally, this subcommittee shall be comprised of one Planning Commissioner from each jurisdiction and shall be appointed by the Board of Supervisor or City Councilor representing that District. Their role will be as an advisory only body that will review all land use development applications within the corridor that may negatively impact the visual quality of the corridor.

Program Implementation IA.1

Within ninety (90) days of the adoption of the Protection Plan, the County and Cities shall determine the development of the Niles Canyon Scenic Corridor Subcommittee and shall direct staff to develop the goals, objective and bylaws of said subcommittee.

During a public meeting with the Sunol Citizens Advisory Committee, a concern was raised with how the Protection Plan could balance the safety of the traveler and protection of the scenic quality with the increasing pressure of commercial trucks using the canyon road in order to bypass the weigh station on northbound I-680. In response to this concern, County staff began a preliminary investigation into the possibility of restricting particular truck sizes and weights from using the Niles Canyon and Paloma Way corridor. However, considerable amount of time and coordination with the City of Fremont and Union City, Caltrans, the California Highway Patrol and other affected parties is necessary before this program can be developed and implemented. Therefore, County staff would like to persist in exploring the possibility of restricting particular truck sizes and weights thru the Niles Canyon Road and Paloma Way corridor through an adopted policy and program included in this Protection Plan. Further, this policy and program shall be included within the Open Space Element Section of the Alameda County ROSA, a portion of the Alameda Count General Plan, document.

Policy Development 2A

The County of Alameda, City of Fremont and the City of Union City shall explore how to restrict particular commercial truck sizes and weights thru the Niles Canyon Road and Paloma Way Scenic corridor with the Department of Transportation, California Highway Patrol and other affected parties.

Program Implementation 2A.2

Within one year of the adoption of the Alameda County ROSA document, the determination of restricting commercial truck sizes and weights thru the Niles Canyon Road and Paloma Way Scenic Corridor shall be concluded.

Adopted by the following jurisdictions:

Alameda County Board of Supervisors on March 3, 2005, Resolution No. R-2005-116

City of Fremont, City Council on December 14, 2004, Resolution No. 2004-99

City of Union City, City Council on November 23, 2004, Resolution No. 2777-04

**THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA,
STATE OF CALIFORNIA**

THE FOLLOWING RESOLUTION WAS ADOPTED:

NO. R-2005-116

**RESOLUTION TO ADOPT THE NILES CANYON ROAD AND PALOMA WAY
PROTECTION PLAN IN ORDER TO ESTABLISH A STATE SCENIC CORRIDOR**

WHEREAS, this Board of Supervisors has considered the Protection Plan for the Niles Canyon and Paloma Way Corridor as part of the process to designate State Route SR-84 from SR-238 (Mission Boulevard) in the City of Fremont to Interstate 680 near the Town of Sunol as a State Scenic Highway; and

WHEREAS, the Protection Plan is comprehensive in that it includes adopted ordinances, policies and programs from each jurisdiction (the cities of Fremont, Union City and Alameda County) addressing the types and extent of land uses that protect and retain the scenic quality as mandated by Section 261 of the California Street and Highway Code; and

WHEREAS, the Protection Plan also includes two new policies and programs: 1) the formation of a three-member advisory committee comprised of a Planning Commissioner from each jurisdiction included in the Scenic Corridor which would review applications for development within the corridor and make recommendations to the appropriate decision making body; and 2) directs the County and City staff to further explore the possibility of restricting certain commercial truck sizes and weights through the corridor with Caltrans and the California Highway Patrol; and

WHEREAS, the Alameda County Planning Commission held a public hearing on February 22, 2005 where it recommended approval of the Protection Plan and nominated a Commissioner to serve on the proposed subcommittee to review development applications occurring within the corridor; and

WHEREAS, the Protection Plan has been adopted by the Cities of Fremont on December 14, 2004 and the City of Union City on November 23, 2004 and each nominated a Commissioner to serve on the subcommittee; and

WHEREAS, on March 3, 2005, the Board of Supervisors approved the Protection Plan and accepted the nomination of a Planning Commissioner to serve on the subcommittee thereby directing staff to submit the document to the State Department of Transportation Advisory Committee for review, consultation with staff and final approval by the Director of Caltrans for official designation of the route and erection of the official state "poppy" signs along the roadway; and

WHEREAS, the adoption of the Protection Plan is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15307 and 15308 in that the project has been authorized by state law to assure maintenance, restoration, or enhancement of a natural resource and of the environment by establishing procedures for protection. No further environmental review is required.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the County of Alameda does hereby adopt the Protection Plan for the Niles Canyon Road and Paloma Way corridor with the proposed policies and programs;

THE FOREGOING was **PASSED** and **ADOPTED** by the following vote of the Alameda County Board of Supervisors this 3rd day of March, 2005, to wit:

AYES: Supervisors Lai-Bitker, Miley, Steele and Vice-President Haggerty - 4

NOES: None

EXCUSED: President Carson - 1

Keith Carson

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Crystal Hishida Graff, Clerk
Board of Supervisors

By: Lita Tachet
Deputy

File: 19654

Agenda No: 10

Document No: R-2005-116



APPROVED AS TO FORM
RICHARD WINNIE, County Counsel

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Supervisors, Alameda County, State of California.

BW

ATTEST:
Crystal Hishida Graff, Clerk
Board of Supervisors

By: Lita Tachet
Deputy

RESOLUTION NO. 2004-99

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FREMONT APPROVING THE NILES CANYON SCENIC HIGHWAY
PROTECTION PLAN**

WHEREAS, the City Council has considered the Protection Plan for the Niles Canyon Corridor (the Protection Plan) as part of the process to designate State Route SR-84 from SR-238 (Mission Boulevard) in the City of Fremont to Interstate 680 near the Town of Sunol (commonly known as Niles Canyon Road and Paloma Road) as a State Scenic Highway; and

WHEREAS, the Protection Plan also includes the formation of a three-member advisory committee comprised of a Planning Commissioner from each jurisdiction (the cities of Fremont and Union City and Alameda County) which would review applications for development along the corridor and make recommendations to the appropriate decision making body; and

WHEREAS, once the Protection Plan is adopted by the three jurisdictions, it will be submitted to the State Department of Transportation Advisory Committee for review, consultation with staff and final approval as a State Scenic Route.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Fremont hereby approves the Protection Plan for Niles Canyon Corridor.

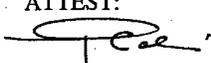
ADOPTED December 14, 2004, by the City Council of the City of Fremont by the following vote, to wit:

AYES:	Mayor Wasserman, Vice Mayor Dutra, Councilmembers Cho and Wieckowski
NOES:	None
ABSTAIN:	None
ABSENT:	Vacant



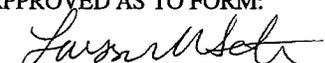
Mayor

ATTEST:



Deputy City Clerk

APPROVED AS TO FORM:



Senior Deputy City Attorney

RESOLUTION NUMBER 2777-04

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY
ADOPTING THE NILES CANYON ROAD, STATE ROUTE 84,
STATE SCENIC HIGHWAY DESIGNATION PROTECTION PLAN IN ORDER TO
ESTABLISH A SCENIC CORRIDOR THROUGH THIS AREA**

WHEREAS, the State Scenic Highway Law of 1963 provides that any state highway included in the State Master Plan for Scenic Highways is eligible for designation as an "Official State Scenic Highway" and may be so designated by the State of California, Director of Transportation, following completion of procedures prescribed by the State; and

WHEREAS, responsibility for initiation of said designation procedures rests with the legislative body of the county or city having jurisdiction over lands adjacent to eligible scenic highways, and initiation may be effected by that body through its notification of the District Director of Transportation of its intention to conduct studies toward qualifying certain highways as official scenic highways; and

WHEREAS, with the passage of Assembly Bill 815 in 1989, the State Legislature qualified State Route (SR) 84 from SR 238 in Fremont to Interstate 680 near Sunol (commonly known as Niles Canyon Road and Paloma Road); and

WHEREAS, said portion of SR 84 is within the jurisdictions of the County of Alameda and the cities of Fremont and Union City (see Exhibit A); and

WHEREAS, this portion of State Route 84, with its vivid and unique natural landscape distinguish it as meeting the criteria established by the State of California regarding visual and scenic qualities; and

WHEREAS, the Alameda County Board of Supervisors adopted a resolution urging the legislative bodies of Union City and Fremont to initiate the state scenic highway designation process and that County of Alameda Planning Department has requested the cities of Union City and Fremont to coordinate in the planning and implementation of the state scenic designation for said portion of SR 84; and

WHEREAS, it is the desire of the City Council that this portion of SR 84 be officially designated as a State Scenic Highway; and

WHEREAS, the City Council is the legislative body having jurisdiction over the lands in incorporated Union City adjacent to SR 84 from SR 238 to I-680; and

WHEREAS, in 1991 the City Council adopted Resolution 7692-91, Intending to Initiate the State Scenic Highway Designation Process for that Portion of State Route 84 Located in Niles Canyon; and

WHEREAS, at the request of Caltrans the City Council reaffirmed the City's support Intending to Initiate the State Scenic Highway Designation Process for that Portion of State Route 84 Located in Niles Canyon through the passage of Resolution 2278-02.

WHEREAS, the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15307 and 15308 in that this project has been authorized by state law to assure maintenance,

restoration, or enhancement of a natural resource and of the environment by establishing procedures for protection. No further environmental review is required.

WHEREAS, the City of Union City Planning Commission held a public hearing on November 4, 2004 and recommended to the City Council that the Council adopt the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan.

WHEREAS, the City of Union City City Council held a public hearing on November 23, 2004 for consideration of adopting the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan.

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby make the following findings in support of adopting the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan (Protection Plan):

1. That the proposed Protection Plan is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15307 and 15308 in that this project has been authorized by state law to assure maintenance, restoration, or enhancement of a natural resource and of the environment by establishing procedures for protection. No further environmental review is required.
2. That the Protection Plan is in the public interest and will further Union City General Plan policies by furthering the protection of major visual features, such as ridgelines and valley sides in the eastern hillsides (NHR-D.1.9) through the establishment of a scenic corridor; and
3. That the Union City lands within the Protection Plan are zoned Agriculture and the Plan has incorporated current Union City Agricultural Zoning District Standards; and
4. That the Protection Plan has incorporated the Union City Hillside Area Plan; and
5. That the proposed Protection Plan will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
6. That the Protection Plan serves the public interest in that it implements existing ordinances, plans and initiative to protect the scenic and visual quality of a historical corridor from encroaching development and coordinates these efforts with the City of Fremont and the County of Alameda.

BE IT FURTHER RESOLVED, that the City Council accepts the Planning Commission's role to appoint a Commissioner to serve on the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan subcommittee, an advisory committee, to review any land use applications that may negatively impact the visual quality of the corridor.

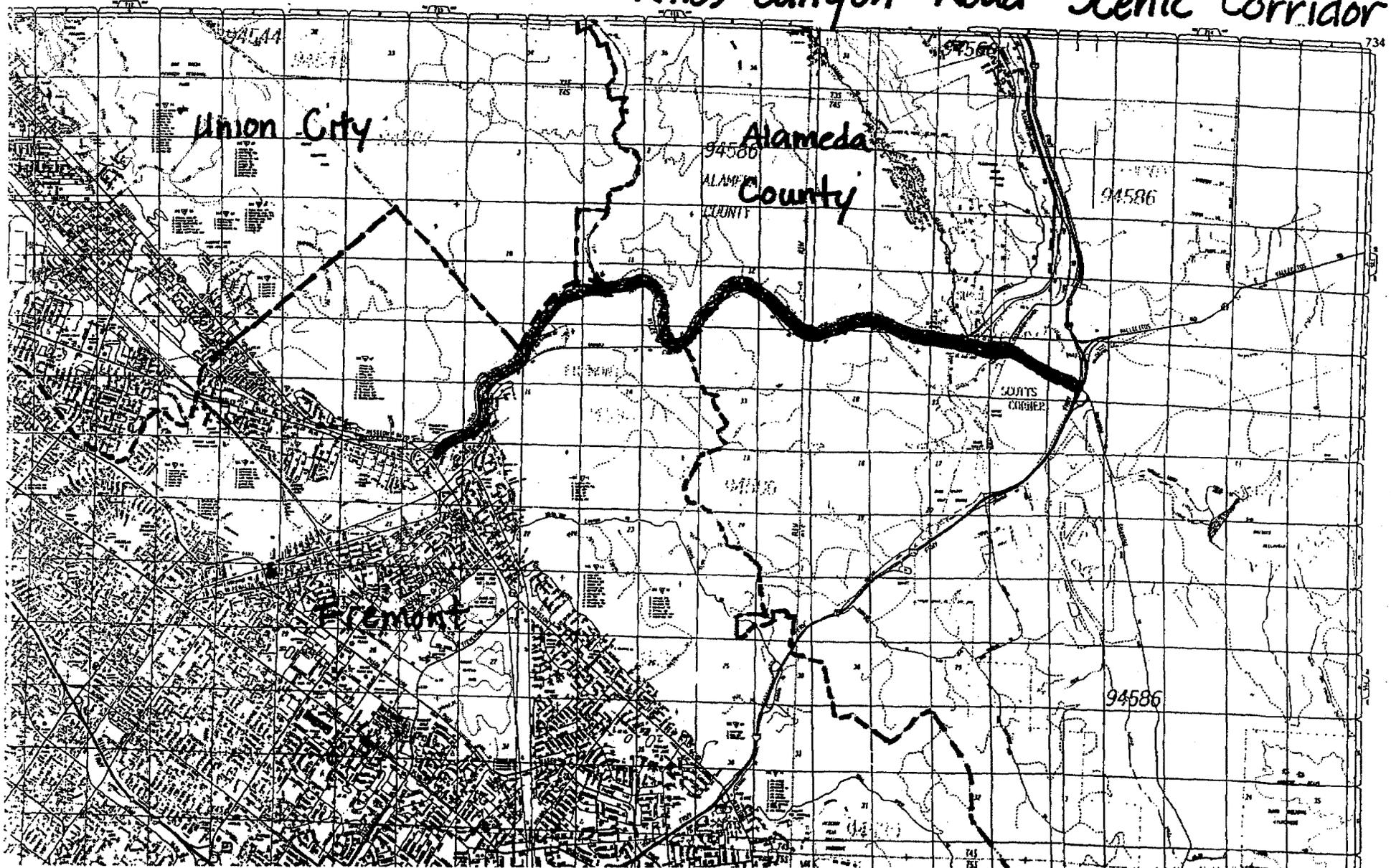
BE IT FURTHER RESOLVED, that the City Council continues to declare its support for the state scenic highway designation process for those incorporated portions of SR 84 within the City of Union City.

BE IT FURTHER RESOLVED, that the City Council continues to support a coordinated effort with Alameda County and the city of Fremont to proceed with the scenic highway designation for said portion of SR 84 and that the Council direct staff to work with staff from both jurisdictions to prepare the necessary documentation for said designation.

BE IT FURTHER RESOLVED, that the City Council adopts the Niles Canyon Road, State Route 84, State Scenic Highway Designation Protection Plan as set forth in Exhibit A with stated modifications to explore limiting truck traffic in the corridor and to provide more explicit language on the use of the Protection Plan.

EXHIBIT A

Niles Canyon Road Scenic Corridor



RESOLUTION NO. 2777-04

I HEREBY CERTIFY that the foregoing resolution was introduced at a regular meeting of the City Council of the City of Union City on November 23, 2004, by Councilmember Valle who moved its adoption and passage by the following vote:

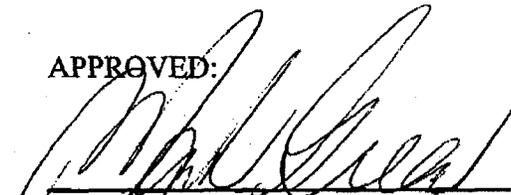
AYES: Councilmembers Dutra-Vernaci, Elias, Valle, Vice Mayor Fernandez, Mayor Green

NOES: None

ABSENT: None

SECONDED: Councilmember Valle

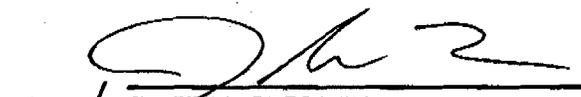
APPROVED:


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


ASST. CITY ATTORNEY